**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION**
**SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH**

**Petition No. 33 of 2020**
**Date of Order:22.12.2020**

Petition for Annual Performance Review of 2X270 MW Goindwal Sahib Thermal Power Plant at Goindwal Sahib, Punjab for the FY 2019-20 in terms Punjab State Electricity Regulatory Commission (Terms and Conditions for Determination of Generation, Transmission, Wheeling and Retail Supply Tariff) Regulations, 2014 (PSERC MYT Regulations 2014).

AND

In the matter of: GVK Power (Goindwal Sahib) Limited, Paigarh House,156-159, Sardar Patel Road, Secundrabad-540003.

….Petitioner

Versus

Punjab State Power Corporation Limited. The Mall, Patiala.

....Respondent

Present : Ms. Kusumjit Sidhu, Chairperson
Ms. Anjuli Chandra, Member

**ORDER**

1.0 GVK Power (Goindwal Sahib) Limited (GVK) is maintaining and operating a 2X270 MW (540 MW) coal based thermal power station at Goindwal Sahib in the state of Punjab for generation and sale of Electricity from the project and has filed the present petition for Annual Performance Review for the FY 2019-20. It has been submitted that, vide order dated 05.08.2020 in petition No. 69 of 2017,the Commission has determined the Annual Revenue Requirement for FY 2017-18 and

FY 2018-19 and True up for FY 2017-18 and FY 2018-19 has been done by the Commission vide Order dated 17.09.2020 in petition No. 34 of 2019. GVK has submitted a sum of Rs. 1207.90 Crore as the annual revenue requirement for FY 2019-20 and has prayed to:

a) Approve the Annual Performance Review for FY 2019-20 as detailed in the petition.
b) Pass any such further order as this Commission may deem necessary in the interest of justice.

1.1 The petition was admitted vide Order dated 30.09.2020. GVK was directed to issue a public notice inviting objections/suggestions from the general public/stakeholders and notice was issued to PSPCL to file its reply to the petition. GVK was directed to file rejoinder, if any, and the petition was fixed for hearing as well as public hearing on 28.10.2020. PSPCL filed its reply to the petition vide memo No. 5042 dated 26.10.2020 and GVK filed rejoinder thereto alongwith copy of the audited accounts for 2019-20 vide letter dated 07.11.2020.

1.2. The public notice inviting objections/suggestions from the general public/stakeholders was published in Hindustan Times (English), Ajit (Punjabi) & Ajit Samachar (Hindi) on 06.10.2020 however, no objection was received from public. The petition was taken up for hearing as well as public hearing on 28.10.2020 however, nobody appeared from the public in the public hearing. The petition was taken up for hearing on 10.11.2020 and after hearing, both the parties were allowed to file their written arguments and the order was reserved. GVK filed submissions dated 17.11.2020 submitting that interest on working capital be allowed on normative basis in terms of Regulation 34 of the PSERC Tariff

Regulations 2014 considering the fuel cost and receivables on the basis of normative availability of 75%.

**Observations and Decision of the Commission**

The Commission has examined the petition, the reply submitted by PSPCL, rejoinder filed by GVK and the other documents adduced on the record and after hearing the counsel for the parties, decides as under:

**2.0 Capital Expenditure**

**GVK's Submissions**

2.1 GVK submitted that it has incurred a capital expenditure of Rs. 0.698 Crore in FY 2019-20 on account of setting up the Coal Testing laboratory pursuant to this Commission's Order dated 06.03.2019 in Petition No. 68 of 2017. The said expenses have already been approved by this Commission by way of Order dated 30.07.2020 in Petition No.70 of 2019 and that the same may be considered for the purposes of the present Petition.

2.2 GVK submitted that the vouchers/bills towards the additional capital expenditure of Rs. 0.70 Crore for FY 2019-20 were submitted before the Commission in petition no. 70 of 2017 alongwith the certificate of the statutory auditor certifying the said expenditure. The said expenditure had not been objected by PSPCL at the time of hearing of petition no. 70 of 2017, accordingly the same has attained finality. The additional capital expenditure towards construction of coal testing lab has been incurred by it prudently and the same be allowed while determining AFC for FY 2019-20.

**PSPCL's submission:**

2.3 PSPCL stated that this Commission had approved Capital Investment Plan (CIP) of Rs.0.70 Crore for GVK for FY 2019-20 in its Order dated 05.08.2020 passed in Petition No.69 of 2017, based on its earlier Order dated 30.07.2020. However, the said provisional approval is liable to be finally approved by this Commission based upon the actual capital expenditure incurred by GVK in FY 2019-20 as per its audited statement of accounts. In absence of the same, the approval of Rs.0.70 Crore is liable to remain provisional in nature, with no ensuing benefit to GVK in its AFC, till the submission of audited statement of account for FY 2019-20 certifying the said expenditure.

**Commission's Analysis**

2.4 The Commission has approved capital cost of Rs. 3072.11 Crore as on 31.03.2019 in its Order for True-up of FY 2018-19 in Petition No. 34 of 2019. In the present Petition GVK has claimed additional capital expenditure of Rs. 0.698 crore towards setting up of the Coal Testing laboratory as directed by the Commission in its Order dated 06.03.2019 in Petition No. 68 of 2017. The Commission in its Order dated 30.07.2020 in Petition No. 07 of 2020 has observed as under:

*"d) The Commission also provisionally allows investment of Rs. 1.5386 crore for setting up of the Coal Testing Laboratory in FY 2018-19 (0.84 crore) and FY 2019-20 (0.6986 crore) by GVK (as additional capital investment) as the Commission had directed GVK to set up coal testing laboratory in its Order dated 06.03.2019 in petition No. 68 of 2017 subject to submission of the audited accounts including invoices/bills of the expenditure incurred and payment receipts at the time of true-up."*

2.5 **In view of the above, the Commission provisionally allows additional capital expenditure of Rs. 0.6986 Crore in FY 2019-20 subject to prudence check at the time of true-up. Accordingly, the total capital cost provisionally approved by the Commission for FY 2019-20 (i.e. as on 31.03.2020) works out to Rs. 3072.81 Crore.**

**3.0 Operation and Maintenance Expenses**

**GVK's Submission**

3.1 GVK submitted that Regulation 26 of the PSERC Tariff Regulations, 2014 provides for the Operation & Maintenance expenses along with its subsequent amendment dated 03.02.2016.

3.2 GVK further submitted that it has incurred an amount of Rs. 15.12 Crore towards the employee cost for the FY 2019-20. GVK submitted that a competent salary hike is necessary for retention of employees. Further, Note 6 to Regulation 26 of PSERC Tariff Regulations 2014 provides that an increase in employee cost on account of pay revision etc. would be considered separately by this Commission. GVK prayed that this Commission may be pleased to approve the Employee Expenses claimed above.

3.3 GVK further submitted that the A&G and R&M Expenses for the FY 2019-20 are as follows:

**Table No.1: A&G and R&M Expenses submitted by GVK for FY 2019-20 (Rs. Crore)**

| Sr. No | Particular | Amount |
|---|---|---|
| 1 | A&G Expenses | 46.84 |

| | | |
|---|---|---|
| 2 | R&M Expenses | 33.70 |
| **3** | **Total** | **80.54** |

3.4 GVK prayed to approve the O&M Expenses of Rs.95.66 (80.54+ 15.12) Crore for the FY 2019-20.

3.5 GVK vide its rejoinder dated 07.11.2020 submitted that Employee Costs incurred by it is on the higher side as GVK is required to pay competitive remuneration to employees in order to match industry standards. Regulation 8.1(b) of PSERC Tariff Regulations 2014 provides that approval of employee costs shall be based in industry benchmarks. However, the increase in employee cost based only on account of variation in Wholesale Price Index (WPI) and Consumer Price Index (CPI) is neither adequate nor reflective of the industry standard. GVK further submitted that it is a private company and pay revision such as in Government organization/Companies are not applicable to it. It has to provide regular increments to employees which in FY 2019-20 was 6%.GVK submitted that its O&M expenses are very low as compare to O&M expenses of PSPCL.

**PSPCL's Submission**

3.6 PSPCL stated that GVK has submitted that during FY 2019-20 ,it has incurred,

(a) a sum of Rs.15.12 Crore towards employee cost;

(b) a sum of Rs.46.84 Crore towards A&G expenses; and

(c) a sum of Rs.33.71 Crore towards R&M expenses.

Accordingly, GVK has prayed for a sum of Rs.95.66 Crore as O&M expenses for its generating station during FY 2019-20. Whereas, vide its Order dated 05.08.2020, this Commission has provisionally approved,

(a) a sum of Rs.11.41 Crore towards employee cost;
(b) a sum of Rs.28.47 Crore towards A&G and R&M expenses.

Thus, a total of Rs.39.88 Crore towards O&M expenses has been allowed by this Commission. However, in the present Petition, GVK has claimed highly escalated O&M expenses of Rs.95.66 Crore without any justification on the sole ground (regarding high employee cost only) that competent salary hike was necessary for retention of employees. Towards this end, it was submitted that as per Note 3 of Regulation 26 of the PSERC Tariff Regulations 2014, O&M expenses are required to be allowed to a generating station on normative basis based upon the formula prescribed under Regulation 26.1 and are to be trued-up only to the account of variation in Wholesale Price Index and Consumer Price Index. As such, GVK is only entitled to normative O&M expenses based upon the prescribed formula proscribed under Regulation 26.1 of the PSERC Tariff Regulations 2014. Further, since GVK has failed to provide any ‘exceptional’ reasoning for pay revision of its employees, except the submission that competent pay hikes are required to retain the employees GVK is not entitled to any separate increase in employee cost. If GVK wishes to retain its employees by granting *“competent”* pay hikes, the same is liable to be borne by GVK itself and cannot be allowed to be passed through in tariff as an unnecessary burden on the consumers of the Respondent.

**Commission’s Analysis**

**Employee cost**

3.7 GVK in Petition no 69 of 2017 claimed an employee cost of Rs 20.61 Crore FY 2019-20. The Commission in its Order dated 05.08.2020 had approved employee cost of Rs 11.41 Crore for FY 2019-20.

3.8 GVK has claimed Rs. 15.12 Crore as employee cost in the Annual Performance Review for FY 2019-20 which includes Terminal benefit of Rs 1.05 Crore. The employee cost is considered in two parts -Terminal benefits and other employee cost. GVK has argued that it has to retain its employees by granting competent pay hikes

3.9 The Commission approved 'Other Employee Cost' of Rs. 9.26 Crore for FY 2017-18 and Rs. 9.71 Crore for FY 2018-19 in Order dated 17.09.2020 in Petition no 34 of 2019.

3.10 However,the Employee Costs are to be determined as per Regulation 26.1 of PSERC MYT Regulations, 2014 (as amended from time to time). Relevant sections of Regulation 26 of MYT Regulations, 2014 are reproduced below for reference:

*(ii) EMPn = (EMPn-1)*(INDEX n/INDEX n-1)*

- *INDEXn - Inflation Factor to be used for indexing the Employee Cost.*
- *This will be a combination of the Consumer Price Index (CPI) and the Wholesale Price Index (WPI) of nth year and shall be calculated as under:-INDEXn = 0.50*CPIn + 0.50*WPIn*
- *'WPIn' means the average rate (on monthly basis) of Wholesale Price Index (all commodities) over the year for the nth year.*
- *'CPIn' means the average rate (on monthly basis) of Consumer Price Index (Industrial workers) over the year for the nth year.*

3.11 Accordingly, the Commission has calculated the INDEXn for FY 2019-20 as under:

**Table No. 2: WPI and CPI Increase considered for FY 2019-20**

| Sr. No. | Particulars | FY 2018-19 | FY 2019-20 | Increase (%) over FY2018-19 |
|---|---|---|---|---|
| 1 | CPI | 299.92 | 322.50 | 7.53 |
| 2 | WPI | 119.79 | 121.80 | 1.68 |

**INDEX n/INDEX n-1 = (0.5*7.53) +(0.5*1.68) = 4.60%**

3.12 The Commission considers the escalation of 4.60% to determine other employee cost for FY 2019-20. The other employee cost approved by the Commission for FY 2019-20 is as under:

**Table No.3: Other Employee Cost approved by the Commission for FY 2019-20** **(Rs. Crore)**

| Sr. No. | Particulars | Amount |
|---|---|---|
| 1. | Other Employee Cost (FY 2018-19) | 9.71 |
| 2. | Escalation Factor | 4.60% |
| 3. | **Other Employee Cost** | **10.16** |

3.13 The Commission allows terminal benefits of Rs.1.05 Crore for FY 2019-20 which shall be reviewed at the time of True up of FY2019-20. The employee cost approved by the Commission for FY 2019-20 is as under:

**Table No.4: Employee Cost approved by the Commission for FY 2019-20** **(Rs. Crore)**

| Sr. No. | Particulars | Amount |
|---|---|---|
| 1. | **Other Employee Cost** | **10.16** |
| 2. | **Terminal Benefits** | **1.05** |
| 3. | **Total Employee Cost** | **11.21** |

**Repair & Maintenance and Administrative & General Expenses**

**Commission's Analysis**

3.14 R&M and A&G expenses are a part of O&M expenses. The Commission had provisionally approved O&M expenses for FY 2019-20 as Rs.28.47 Crore vide its Order dated 05.08.2020 in Petition no 69 of 2017.

3.15 As per 26.1 Regulation of PSERC MYT Regulations,2014(as amended from time to time), R&M and A&G expenses are to be determined as under:

***(i) R&Mn + A&Gn = K*GFA*(WPIn/WPIn-1)***

*Where,*

*'K' is a constant (expressed in %) governing the relationship between R&M and A&G expenses and Gross Fixed Assets (GFA) for the nth year. The value of "K" will be specified by the Commission in the MYT order.*

*'GFA' is the average value of the Gross Fixed Assets of the nth year.*

*'WPIn' means the average rate (on monthly basis) of Wholesale Price Index (all commodities) over the year for the nth year.*

Note7: Any expenditure on account of license fee, initial or renewal, fee for determination of tariff and audit fee shall be allowed on actual basis, over and above the A&G expenses approved by the Commission."

3.16 The opening value of approved Gross Fixed Assets for the purpose of R&M and A&G Expenses of FY 2019-20 is considered from closing GFA of FY 2018-19.Gross Fixed Assets as on 01.04.2019 is Rs. 3072.11 Crore as determined in the para 3.24 of Petition no 34 of 2019. The Commission has also considered the capitalization of Rs. 0.70 Crore for FY 2019-20 as approved vide order 30.07.2020 in petition no.70 of 2017.

3.17 “K” has been determined during True-up of FY 2017-18. R&M and A&G expenses for FY 2019-20 are determined by multiplying K factor with their respective values of average Gross Fixed Assets.The Commission considers WPI increase of 1.68% as mentioned in table 2.

3.18 The Commission determines R&M and A&G expenses for FY 2019-20 including Audit and Licensee fee as under:

**Table No.5: R&M and A&G expenses for FY 2019-20 based on K factor and indexation determined by the Commission**

**(Rs.Crore)**

| Sr.No | Particulars | Amount |
|---|---|---|
| 1 | Opening GFA for the purpose of R&M and A&G | 3072.11 |
| 2 | Addition during the year | 0.70 |
| 3 | Closing GFA for the purpose of R&M and A&G | 3072.81 |
| 4 | Average GFA | 3072.46 |
| 5 | K factor* | 0.909% |
| 6 | R&M and A&G expenses after K factor increase | 27.93 |
| 7 | WPI increase | 1.68% |
| 8 | R&M and A&G expenses after WPI increase | 28.40 |
| 9 | Audit Fee | 0.12 |
| 10 | **R&M and A&G expenses** | **28.52** |

* As determined in Petition no.34 of 2019

**Accordingly, the Commission approves R&M and A&G expenses of Rs.28.52 Crore for FY 2019-20.**

3.19 The total O&M expenses for GVK for FY 2019-20 are given in the table below:

**Table No.6: O&M expenses approved by the Commission for FY 2019-20** **(Rs.Crore)**

| Sr.No | Particular | Amount |
|---|---|---|

| | | |
|---|---|---|
| 1 | Employee Expenses | 11.21 |
| 2 | R&M and A&G Expenses | 28.52 |
| **3** | **Total** | **39.73** |

## 4.0 Depreciation:

4.1 GVK submitted that Regulation 21 of the PSERC Tariff Regulations, 2014, as amended by Notification dated 03.02.2016, provides for calculation of Depreciation in respect of Coal Based Thermal Generating Plants.

4.2 GVK has worked out the depreciation for FY 2019-20 in terms of the foregoing as under:

**Table No. 7: Depreciation for FY 2019-20 submitted by GVK**
**(Rs. Crore)**

| Sr.No | Particulars | Amount |
|---|---|---|
| 1. | Opening Capital Cost | 3,072.11 |
| 2. | Less: Undischarged liabilities included in above | - |
| 3. | Opening Capital Cost excluding undischarged liabilities | 3,072.11 |
| 4. | Additional capitalization during the year | 0.70 |
| 5. | Less: Undischarged liabilities included in additional capitalization | - |
| 6. | Add: Liabilities discharged during the year | - |
| 7. | Closing Capital Cost | 3,072.81 |
| 8. | Average Capital Cost | 3,072.46 |
| 9. | Freehold land | 96.75 |
| 10. | Rate of depreciation | 4.77% |
| 11. | Remaining depreciable value | 2,678.14 |
| 12. | Depreciation (annualized) | 146.55 |
| **13.** | **Depreciation (for the period)** | **146.55** |
| **14.** | **Cumulative depreciation at the end of the period** | **579.03** |

4.3 GVK further submitted that this Commission by way of order dated 05.08.2020 in Petition no.69 of 2017 has allowed depreciation as Rs. 142.83 Crore for FY 2019-20. GVK prayed to approve the depreciation for the FY 2019-20 as Rs.146.55 Crore.

4.4 GVK vide its rejoinder dated 07.11.2020 submitted that PSPCL has wrongly considered the value of which depreciation is to be computed as Rs. 2678.14 Crore. GVK further submitted that in terms of Regulation 21.4 of the PSERC Tariff Regulations 2014, depreciation is to be computed on straight line method basis i.e. an average of the Opening GFA and Closing GFA.

4.5 GVK further submitted that the weighted average rate of depreciation that ought to be considered is 4.77% and once the weighted average rate has been arrived at by considering the Freehold land at 0% depreciation, there should not be further deductions of Freehold land from the Average Capital Cost as this would lead to double deduction.

**PSPCL's Submission**

4.6 PSPCL in its submission 26.10.2020 submitted that based upon Regulation 21 of PSERC Tariff Regulations, 2014, GVK has submitted a figure of Rs.146.55 Crore as annualised depreciation for FY 2019-20 under Table-3 of the Petition. It is submitted that as per the above said Regulation,

(a) the value base for the purpose of depreciation shall be the capital cost of the assets admitted by the Commission (Regulation 21.1); and

(b) depreciation for generation stations is required to be calculated annually as per straight line method over the useful life of the asset at the rate of depreciation specified by the CERC from time to time. (Regulation 21.3).

PSPCL further submitted that while computing the depreciation,GVK has considered Rs.0.70 Crore as additional capitalization during FY 2019-20 which, in view of the submissions made hereinabove, liable to be admitted by this Commissions only upon submission of the audited statement of accounts by GVK. As such, without admission of the said cost by this Commission, the same cannot form the basis of calculation of permissible depreciation for GVK's project. Secondly, as per the calculation furnished by GVK under Table 3, the remaining depreciable value of assets has been considered by GVK at 90% of the average capital cost (net of cost of land) computed by GVK whereupon the weighted average rate of depreciation seems to have been applied. However, this Commission, while passing its Order dated 05.08.2020 and allowing a depreciation of Rs.142.83 Crore for FY 2019-20, has considered the full remaining depreciable value of average capital cost (net of cost of land). Further, even if the remaining depreciable value of assets is presumed to be correct, the calculation provided by GVK under Table 3 i.e. depreciation of 4.77% of the stated value of Rs.2678.14 Crore also does not seem to be correct in as much as 4.77% of Rs.2678.14 Crore turns out to Rs.127.74 Crore as against the figure of Rs.146.55 Crore. It is therefore submitted that before any approval of depreciation, GVK is liable to justify the erroneous calculation of depreciation under Table 3 of the Petition.

**Commission's Analysis**

4.7 The Commission has considered Regulation 21 of the PSERC MYT Regulations,2014(as amended from time to time) for determine the depreciation for FY 2019-20 as stated below:

*21.1. The value base for the purpose of depreciation shall be the capital cost of the assets admitted by the Commission:*

*Provided that land other than the land held under lease and the land for reservoir in case of hydro generating station shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset;*

*Provided further that depreciation shall be calculated after deduction of consumer contributions, capital subsidies/ Government grants.*

*Provided further that Govt. grants and consumer contribution shall also be recognized as defined under Indian Accounting Standard 20 (IND AS 20) notified by the Ministry of Corporate Affairs.*

*21.2. The cost of the asset shall include additional capitalization.*

*21.3. The cost shall include foreign currency funding converted to equivalent rupees at the exchange rate prevalent on the date when foreign currency shall actually be availed but not later than the date of commercial operation.*

*21.4. Depreciation for generation and transmission assets shall be calculated annually as per straight line method over the useful life of the asset at the rate of depreciation specified by the Central Electricity Regulatory Commission from time to time.*

*21.5. Depreciation for distribution assets and other assets not specified by CERC shall be at the rates notified by the Commission:*

*Provided that the total depreciation during the life of the asset shall not exceed 90% of the original cost;*

*Provided that the remaining depreciable value as on 31st March of the year closing after a period of 12 years from date of commercial operation/ put in use of the asset shall be spread over the balance useful life of the assets;*

*Provided further that in case of hydro generating stations, the salvage value shall be as provided in the agreement signed by the developers with the State Government for creation of the site.*

*21.6. Depreciation shall be chargeable from the first year of commercial operation/asset is put in use. In case of commercial operation of the asset/put in use of asset for part of the year, depreciation shall be charged on pro rata basis.*"

4.8 The opening GFA (net of land and land rights) of FY 2019-20 is considered as Rs.2975.36 (3072.11 – 96.75) Crore. The depreciation has been computed as per Regulation 21 of PSERC MYT Regulation 2014.The Commission has considered rate of depreciation as 4.77% as claimed by GVK in this petition. The Commission determines depreciation for FY 2019-20 as under:

**Table No.8: Depreciation approved by the Commission for FY 2019-20**

**(Rs. Crore)**

| Sr.No | Particulars | Amount |
|---|---|---|
| 1 | Opening GFA (net of land and land rights) | 2975.36 |
| 2 | Addition during the year | 0.70 |
| 3 | Closing GFA(net of land and land rights) | 2976.06 |

| | | |
|---|---|---|
| 4 | Average GFA | 2975.71 |
| 5 | Weighted Average rate of depreciation | 4.77% |
| **6** | **Depreciation for FY 2019-20** | **141.94** |

**Thus, the Commission approves depreciation charges of Rs 141.94 Crore for FY 2019-20.**

**5.0 Return on Equity**

5.1 GVK submitted that Regulations 19 and 20 of PSERC Tariff Regulations, 2014 provide for Debt Equity Ratio and Return on Equity.

5.2 GVK further submitted that the actual equity invested in the project amounts to Rs. 1251.00 Crore which is more than the 30% of the Capital Cost of Rs. 3058.37 Crore, as approved by this Commission by way of Order dated 17.01.2020 in Petition 54 of 2017. Hence a normative debt equity ratio of 70:30 has been considered for calculation of Return on Equity.

**Table No.9: Return on Equity for FY 2019-20 submitted by GVK**
**(Rs. Crore)**

| Sr. No | Particulars | | Amount |
|---|---|---|---|
| 1. | Opening Gross Block (excluding undischarged liabilities) | (a) | 3,072.11 |
| 2. | Equity percentage in Opening Gross Block | (b) | 30.00% |
| 3. | Normative Opening Equity (= a x b) | (c) | 921.63 |
| 4. | Normative Equity addition @ 30% due to additional capitalization during the year | (d) | 0.21 |
| 5. | Normative Equity addition considered for ROE computation | (e) | 0.21 |
| 6. | Normative Closing Equity (= c + e) | (f) | 921.84 |
| 7. | Average Equity (= Average of c and f) | (g) | 921.74 |
| 8. | Normative Rate of ROE as per PSERC 2014 Tariff Regulations | (h) | 15.50% |
| **9.** | **Return on Equity (= h x g)** | | **142.87** |

5.3 GVK prayed this Commission to approve Rs. 142.87 Crore as the Return on Equity for FY 2019-20.

**PSPCL's Submission**

5.4 PSPCL in its submission dated 26.10.2020 submitted that GVK has submitted a return on equity of Rs.142.87 Crore for the FY 2019-20 based upon Regulation 19 and 20 the PSERC Tariff Regulations, 2014. Further, GVK has not claimed any deviation from return of equity as provisionally approved by this Commission in its Order dated 05.08.2020. In view of the same it is submitted that this Commission may allow the return on equity as claimed by the Petitioner, subject to GVK submitting its audited statement of accounts to support its equity addition of Rs.0.21 Cr. as submitted by it.

**Commission's Analysis**

5.5 Regulation 20 of PSERC MYT Regulations, 2014 provides for recovery of Return on Equity which is reproduced hereunder:

*"20. RETURN ON EQUITY*

*Return on Equity shall be computed at the rate of 15.5% on the paid up equity capital determined in accordance with regulation* 19:

*Provided that assets funded by consumer contributions, capital subsidies/Govt. grants shall not form part of the capital base for the purpose of calculation of Return on Equity."*

5.6 Regulation 19 of PSERC MYT Regulations, 2014 provides for Debt-Equity Ratio which is reproduced hereunder:

***"19. DEBT EQUITY RATIO***

*19.1. Existing Projects - In case of the capital expenditure projects having Commercial Operation Date prior to the effective date, the debt-equity ratio shall be as allowed by the Commission for determination of tariff for the period prior to the effective date:*

*Provided that the Commission shall not consider the increase in equity as a result of revaluation of assets (including land) for the purpose of computing return on equity.*

*…………………..”*

*19.2. New Projects – For capital expenditure projects declared under commercial operation on or after the effective date:*

*a. A Normative debt-equity ratio of 70:30 shall be considered for the purpose of determination of Tariff;*

*b. In case the actual equity employed is in excess of 30%, the amount of equity for the purpose of tariff determination shall be limited to 30%, and the balance amount shall be considered as normative loan;*

*c. In case, the actual equity employed is less than 30%, the actual debt-equity ratio shall be considered;*

*d. The premium, if any raised by the Applicant while issuing share capital and investment of internal accruals created out of free reserve, shall also be reckoned as paid up capital for the purpose of computing return on equity subject to the normative debt-equity ratio of 70:30, provided such premium amount and internal accruals are actually utilized for meeting capital expenditure of the Applicant’s business.*

*19.3. Renovation and Modernization: Any approved capital expenditure incurred on Renovation and Modernization including the approval in the Capital Investment plan shall be considered to be financed at normative debt-equity ratio of 70:30. If the actual equity* *employed is less than 30% then the actual debt equity ratio shall be considered."*

5.7 The Commission in its MYT Order dated 05.08.2020 in petition no.69 of 2017, approved Return on Equity of Rs.142.87 Crore for FY 2019-20 against GVK's claim of Rs 193.91 Crore. Further, the Commission in its Order dated 17.09.2020 in Petition no 34 of 2019 approved equity of Rs. 921.63 Crore as on 31.03.2019 which is considered as opening balance for FY 2019-20. As per Regulation 19 of PSERC MYT Regulations, 2014, Debt Equity ratio of 70:30 has to be considered. Equity of Rs. 0.21(30% of Rs.0.70 Crore of assets addition of FY 2019-20) Crore has been considered for determining return on equity for FY 2019-20.

5.8 The Commission worked out Return on Equity @ 15.50 % on the average paid up equity capital as under:

**Table No.10: Return on Equity for FY 2019-20 determined by the Commission (Rs Crore)**

| Sr. No | Particulars | Amount |
|---|---|---|
| 1 | Opening Equity for the year | 921.63 |
| 2 | Addition of Equity during the year | 0.21 |
| 3 | Closing Equity for the year | 921.84 |
| 4 | Average Equity for the year | 921.74 |
| 5 | Rate of Return on Equity (%) | 15.50% |
| **6** | **Return on Equity** | **142.87** |

**Accordingly, the Commission approves Return on Equity of Rs.142.87 Crore for FY 2019-20.**

**6.0 Interest Charges**

6.1 GVK submitted that Regulation 24 of the PSERC Tariff Regulations, 2014 provides for Interest and Finance Charges on Loan Capital.

6.2 GVK further submitted that the interest payable by it towards Long Term Loans has been calculated on the outstanding loan amounts and prevailing interest rates on the said amounts on the basis of the Completed Capital Cost of the Project as determined by this Commission by way of Order dated 17.01.2020 in Petition No. 54 of 2017. The interest expenses have been computed taking into account repayment towards outstanding loan amounts and applicable interest rates in line with the PSERC Tariff Regulations, 2014.

6.3 GVK submitted that in terms of the PSERC Tariff Regulations, 2014, the computation of interest on term loans is based on the following:

(a) The opening gross normative loan on the Completed Capital Cost as approved by this Commission.

(b) The rate of interest has been considered at the actual applicable advance rate of State Bank of India as on 01.04.2019.

(c) The repayment during the year has been considered equal to the depreciation allowed for that year.

6.4 GVK submitted that it has considered 70% of the capital cost as normative loan for the purpose of calculation of interest on loan. The actual rate of interest of the term loans has been 13.22% for the FY 2019-20. The SBI Benchmark rate as on 01.04.2019 was 13.7% which is higher than the actual rate of interest. GVK submitted that it has considered actual rate of interest of 13.22% for the calculation of Interest on Loan.

**Table No. 11: Interest on Loan submitted by GVK for FY 2019-20**

**(Rs. Crore)**

| Sr. No | Particulars | Amount |
|---|---|---|

| | | |
|---|---|---|
| 1 | Gross Normative Loan – Opening | 2150.48 |
| 2 | Cumulative Repayment up to Previous Year (Cumulative Depreciation up to previous year) | 432.49 |
| 3 | Net Loan Opening | 1717.99 |
| 4 | Less: Repayment During the Year (Considering Depreciation as Principal Repayment) | 146.55 |
| 5 | Loan Addition due to Additional Capitalization during the year (= Actual Additional Capitalization - Normative Equity Addition considered for ROE computation) | 0.49 |
| 6 | Net Loan Closing | 1571.93 |
| 7 | Average Loan | 1644.96 |
| 8 | Weighted Average Rate of Interest on Loan (Normative) | 13.22% |
| **9** | **Interest on Loan** | **217.50** |

6.5. However, GVK submitted that during the FY 2019-20, it had paid a sum of Rs. 98.32 Crore towards the interest on long term borrowings and thus prayed this Commission to consider the amount paid towards the loan for the purpose of determination of Annual Fixed Cost for FY 2019-20. A copy of the certificate issued by a Chartered Accountant was annexed with the petition.

6.6 GVK vide its rejoinder dated 07.11.2020 submitted that while it has actually incurred an amount of Rs. 98.32 Crore towards interest payment, Regulation 24 of the PSERC Tariff Regulations 2014, provides that interest ought to be computed considering the opening gross normative loan on the completed capital cost approved by the Commission and the actual rate of interest paid by GVK.

6.7 GVK has computed the interest taking into account repayment towards outstanding loan amounts and applicable interest rates in line with PSERC Tariff Regulations 2014.

6.8 GVK further submitted that the Commission in Order dated 17.01.2020 has worked out average long-term loan as Rs. 2070.22 Crore based on normative parameters in terms of PSERC Tariff Regulations 2005. GVK submitted that once normative approach has been adopted by the Commission, there cannot be any further adjustments on the basis of actual expenses on account of it being less. This position of law has been upheld by the Hon'ble Appellate Tribunal for Electricity ("Hon'ble Tribunal") in Haryana Power Generation Co. Ltd. v. Haryana Electricity Regulatory Commission, Judgment dated 31.07.2009 in Appeal No. 42 & 43 of 2008.

Evidently, as the average long-term loan has been calculated on normative basis, the interest paid by it ought to be considered on normative basis. Accordingly, computation of interest on actuals instead of normative loan amount as claimed by PSPCL, is contrary to the PSERC Tariff Regulations 2014, as well as the settled position of law as laid down by the Hon'ble Tribunal.

**PSPCL's Submission**

6.9 PSPCL in its submission dated 26.10.2020 submitted that GVK has prayed for approval of a sum of 98.32 Crore towards the interest on long-term borrowings based upon actual interest paid by it during FY 2019-20. In support of the same GVK has furnished the Certificate issued by its Chartered Accountant certifying the same. In this regard, it is submitted that since the Petitioner's claim of Rs.98.32 Crore as interest on loan capital has been supported by the Certificate issued by its Chartered Accountant, the same may be approved by the Commission subject to the necessary prudence check.

**Commission's Analysis**

6.10 Regulation 24 of PSERC MYT Regulations, 2014 provides for Interest on Loan Capital, which is reproduced hereunder:

***"24. INTEREST ON LOAN CAPITAL***

*24.1. For existing loan capital, interest and finance charges on loan capital shall be computed on the outstanding loans, duly taking into account the actual rate of interest and the schedule of repayment as per the terms and conditions of relevant agreements. The rate of interest shall be the actual rate of interest paid/payable (other than working capital loans) on loans by the licensee or the State Bank of India Advance Rate as on April 1 of the relevant year, whichever is less.*

*24.2. Interest and finance charges on the actual loan capital for new investments shall be computed on the loans, duly taking into account the actual rate of interest and the schedule of repayment as per the terms and conditions of relevant agreements. The rate of interest shall be the actual rate of interest paid/payable (other than working capital loans) on loans by the licensee or the State Bank of India Advance Rate as on April 1 of the relevant year, whichever is less.*

*24.3. The repayment for each year of the tariff period shall be deemed to be equal to the depreciation allowed for the corresponding year. In case of de-capitalisation of assets, the repayment shall be adjusted by taking into account cumulative depreciation made to the extent of de-capitalisation.*

*24.4. The Commission shall allow obligatory taxes on interest, finance charges (including guarantee fee payable to the Government) and any exchange rate difference arising from foreign currency borrowings, as finance cost.*

*24.5. The interest on excess equity treated as loan shall be serviced at the weighted average interest rate of actual loan taken from the lenders."*

6.11 The Closing loan balance of Rs.1725.73 Crore as on 31.3.2019 was determined by the Commission vide order dated 17.09.2020 in petition no. 34 of 2019, which is considered as the opening loan balance for FY 2019-20. Asset addition of Rs.0.70 Crore for FY2019-20 has been approved in petition no 70 of 2017. 70% of asset addition has been considered to be sourced from debt i.e. Rs.0.49 (0.70*70%) Crore as loan. Repayment of loan has been considered equal to depreciation allowed as per Regulation 24.3 of PSERC MYT Regulations, 2014. GVK has claimed the weighted average rate of interest 13.22% for FY 2019-20 in this petition which has been considered by the Commission for calculating interest on long term loan. The State Bank of India advance rate as on 1.04.2019 was 13.80% and since rates at which loan has been taken by GVK are less than SBI advance rate, the same have been considered to calculate the interest. The interest on long term loans is calculated as under:

**Table No.12: Interest charges on Long Term Loans determined by the Commission for FY 2019-20 (Rs. Crore)**

| Sr. No | Particulars | Amount |
|---|---|---|
| 1. | Opening balance of loan | 1725.73 |
| 2. | Add: Receipt of loan during the year | 0.49 |

| Sr. No | Particulars | Amount |
|---|---|---|
| 3. | Less: Repayment of loan during the year equivalent to the depreciation determined in Table no.7 | 141.94 |
| 4. | Closing balance of loan | 1584.28 |
| 5. | Average Loan | 1655.00 |
| 6. | Rate of interest | 13.22% |
| **7.** | **Interest Charges** | **218.79** |

6.12 As per the Annual Audited Accounts for FY 2019-20, GVK has liability of Rs. 1449.51 Crore towards interest accrued and due on borrowings. GVK has defaulted in payment of interest on long term loans. GVK has submitted a certificate of Chartered Accountant regarding actual payment of interest of Rs.98.32 Crore on long term loans during FY 2019-20 and the same is allowed by the Commission.

**The Commission allows interest of Rs.98.32 Crore actually paid by GVK for FY 2019-20 as stated by them in the submission. The balance amount of interest i.e. Rs.120.47 (218.79- 98.32) Crore will be considered in the year in which the interest already due will actually be paid by GVK.**

7.0 **Interest on Working Capital**

7.1 GVK submitted that Regulation 34 of the PSERC Tariff Regulations, 2014 provides for components of Interest on Working Capital in respect of Coal Based Thermal Generating Plants.

7.2 GVK further submitted that it has calculated the Working Capital in line with the above regulations as follows:

**Table No. 13: Working Capital for FY 2019-20 submitted by GVK**
**(Rs. Crore)**

| Sr. No | Particulars | Amount |
|---|---|---|
| **A** | **For Coal Based Generating Stations** | |
| 1 | Cost of Fuel for 2 months corresponding to Normative Annual Plant Availability Factor. | 272.93 |
| 2 | O&M expenses for 1 month | 7.97 |
| 3 | Receivables equivalent to 2 months of fixed & variable charges for sale of electricity calculated on the normative annual plant availability factor | 383.62 |
| 4 | Maintenance Spares (@15% of O&M Expenses) | 14.35 |
| 5 | **Total** | **678.87** |
| **B** | **Rate of interest on Working Capital** | 12.25% |

7.3 GVK further submitted that rate of interest on working capital is determined in terms of Regulation 25.1 of PSERC Tariff Regulations 2014 and the actual rate of interest on working capital loan has been 12.25% which is lower than the prevalent SBI rate of 13.7% on 01.04.2019. Hence the interest rate of 12.25% has been considered for the purpose of calculation of interest on working capital calculated above.

**Table No.14: Interest on Working Capital submitted by GVK for FY 2019-20 (Rs. Crore)**

| Sr.No | Particular | Amount |
|---|---|---|
| 1 | Total Working Capital | 678.87 |
| 2 | Rate of Interest on Working Capital | 12.25% |
| **3** | **Interest** | **83.16** |

7.4 GVK vide its rejoinder dated 07.11.2020, submitted that interest on working capital is payable on normative basis notwithstanding that the generating company has not taken working capital loan from any outside agency or has exceeded the working capital loan amount worked out on normative basis. GVK further submitted that as the PSERC Tariff Regulations, 2014 specifically provide that the interest on working capital is to be determined based on normative working capital. Once normative approach has been used to arrive at completed capital cost of the Project, then the same ought to continue.

7.5 GVK further submitted that PSPCL while computing Fuel Cost component under the Working Capital head, has considered the same on the actual Energy Charges paid by PSPCL to it for FY 2019-20. Such a calculation is erroneous and contrary to the PSERC Tariff Regulations 2014. GVK submitted that the Hon'ble Tribunal in the various judgments has held that when the applicable Tariff Regulations provide that working capital is to be assessed on normative basis then the interest on working capital also has to be determined on normative working capital calculated in accordance with the Regulations.

7.6 GVK in its submission dated 17.11.2020 submitted that the amount of Rs. 83.16 Crore has been computed on the basis of the components of fixed charges approved by the Commission in Petition No. 54 of 2017 and normative fuel costs in accordance with the parameters of Regulation 34 of the PSERC Tariff Regulations 2014. GVK further submitted that it has filed Appeal No. 41 of 2020 challenging Order dated 17.01.2020 and the same is pending adjudication. Furthermore, Hon’ble Tribunal vide Order dated 26.02.2020 and 10.07.2020 has directed that there shall be no recovery of past dues from GVK till the pendency of the said Appeal.

7.7 GVK submitted that during the hearing on 10.11.2020, the Commission raised a query as to how GVK could claim Rs 83.16 Crore towards interest on working capital on normative basis given that GVK had been paid on the basis of interim tariff of Rs 2.20 per kWh in terms of order dated 28.03.2018 in Petition No. 54 of 2017 for the period between April 2018 till March 2020. The Commission observed that the interim tariff paid to GVK for FY 2016-17 to FY 2019-20 was more than the tariff determined by the Commission vide Order dated 17.01.2020 for FY 2016-17 (Petition No. 54 of 2017),Order dated 05.08.2020 for FY 2017-18 to FY 2019-20 (Petition No. 69 of 2017), Order dated 07.09.2020 in Petition No. 32 of 2019 (True-up for FY 2016-2017) and Order dated 17.09.2020 in Petition No. 34 of 2019 (True-up for FY 2018-19).

7.8. GVK further submitted that a query had been posed to it that since it had been paid in excess amounts as tariff for the period prior to 26.02.2020, it may not be correct to permit interest on working capital on normative basis. It was further posed that since GVK has already recovered excess amounts from PSPCL on account of the interim tariff, the same may be adjusted against the normative working capital to be paid to GVK for FY 2019-20.

7.9. In this context, GVK submitted that vide Order dated 26.02.2020 and Order dated 10.07.2020, the Hon'ble Tribunal has granted interim protection to GVK against adjustment/recovery of past amounts paid in excess of the tariff determined by the Commission till the final disposal of Appeal No. 41 of 2020. Therefore, in terms of the Orders dated 26.02.2020 and 10.07.2020, there can be no adjustment against the interim tariff paid by PSPCL till 26.02.2020. GVK submitted that any such adjustment / recovery towards interest on working capital on account of the tariff paid prior to 26.02.2020 would be in violation of the

Hon'ble Tribunal's orders dated 26.02.2020 and 10.07.2020. Furthermore, any reduction/computation of interest on working capital basis the past amounts paid to it also be contrary to the aforementioned orders of the Hon'ble Tribunal.

7.10 GVK submitted that the normative availability for the Plant as per the PPA dated 26.05.2009 is 80%. GVK further submitted that PSPCL has also claimed and recovered penalties based on normative availability of 80%. Therefore, permitting PSPCL to recover penalties on normative availability and computing interest on working capital on actual basis ought not to be permitted. GVK submitted that for normative components and parameters, no true up or adjustment is contemplated. In light of the foregoing, GVK submitted that:-

a) Interest to be allowed on working capital on normative basis in terms of Regulations 34 of the PSERC Tariff Regulations 2014 considering the fuel cost and receivables on the basis of normative availability of 75%; and
b) Any adjustment or computation of interest on working capital on actuals or considering the tariff paid to GVK prior to 26.02.2020 would be contrary to the PTC judgment as well as orders of the Hon'ble Tribunal dated 26.02.2020 and 10.07.2020 in Appeal No. 41 of 2020.

**PSPCL's Submission**

7.11 PSPCL in its submission dated 26.10.2020 submitted that as per Regulation 34 of the PSERC Tariff Regulations, 2014, the components of working capital for a coal-based thermal generating plants are as under:

> *"i. Fuel Cost including cost of limestone/other reagent for 2 months corresponding to the normative annual plant availability factor;*
>
> *ii. Operation and maintenance (O&M) Expenses for 1 month;*
>
> *iii. Maintenance spares @ 15% of the O&M expenses;*
>
> *iv. Receivables equivalent to two (2) months of fixed and variable charges for sale of electricity calculated on the normative annual plant availability factor."*

PSPCL further submitted that under Petition No.69 of 2017, GVK has placed the following projections before this Commission:

(a) Rs. 227.26 Crore as Fuel Cost – primary fuel & secondary fuel (for 2 months);

(b) Rs.14.52 Crore as O&M expenses for one month;

(c) Rs.2.18 Crore as maintenance spares (15% of O&M expenses); and

(d) Rs.397.90 Crore as its 2 months receivables.

As such, GVK has projected a working capital requirement of Rs.641.86 Crore and an interest component of Rs.78.63 Crore @ Rs.12.25%.However,this Commission, vide its Order dated 05.08.2020, has only approved a provisional working capital requirement of Rs.215.46 Crore with an interest of Rs.26.39 Crore @ 12.25 % for FY 2019-20. It is submitted that during FY 2019-20, a sum of Rs.438.69 Crore has been paid by the Respondent to GVK as energy charges, details whereof are annexed hereto and marked as Annexure "R-1"**.** Considering the above, fuel cost of 2 months works out to Rs.73.115 Crore as against Rs.272.93 Crore as has erroneously been claimed by GVK under Table 7 of the Petition. In so far as one month's O&M expenses and maintenance spares are concerned, it is submitted that the same are subject to approval of normative O&M expenses in terms of the formula prescribed under Regulation 26.1 as stated above. With respect to the highly escalated claim of Rs.383.62 Crore towards receivables for 2 months during FY 2019-20, it is submitted that the Respondent has paid a total sum of Rs.1,191.57 Crore (Rs.438.69 Crore as energy charges + Rs.752.88 Crore as fixed charges) [as detailed in Annexure "R-1"]. Based on the same, the average receivables for 2 months for the Petitioner's generating station works out to Rs.198.595 Crore only. It is therefore submitted that the highly inflated cost for fuel and receivables as claimed by GVK are liable to be rejected by this Commission. With the revision of working capital requirement based upon the above stated cost for fuel and receivables and O&M expense as per Regulation 26.1, the computation of interest on working capital is also liable to be revised by the Petitioner.

**Commission's Analysis**

7.12 Regulation 34 of PSERC MYT Regulations, 2014 provides for Interest on Working Capital which is reproduced hereunder:

***"34.1. Components of Working Capital***

*a. Coal-based Thermal Generating Plants: The Working Capital shall cover the following:*

*i. Fuel Cost for 2 months corresponding to the normative annual plant availability factor;*

*ii. Operation and maintenance (O&M) Expenses for 1 month;*

*iii. Maintenance spares @ 15% of the O&M expenses;*

*iv. Receivables equivalent to two (2) months of fixed and variable charges for sale of electricity calculated on the normative annual plant availability factor.*

*b. …….*

*c. …….”*

7.13 Rate of Interest on Working Capital shall be as per Regulation 25.1 which is reproduced hereunder:

> ***25.1*** *The rate of interest on working capital shall be equal to the actual rate of interest paid on working capital loans by the licensee/generating company/SLDC or the State Bank of India Advance Rate as on April 1 of the relevant year, whichever is less. The interest on working capital shall be payable on normative basis notwithstanding that the licensee/generating company/SLDC has not taken working capital loan from any outside agency or has exceeded the working capital loan amount worked out on the normative figures. In case, the licensee/generating company/SLDC has not availed any working capital loan during the year, the rate of interest shall be weighted average of the interest rates on working capital loan of the previous three years.”*

7.14 As per PSERC Regulations, the rate of interest on working capital shall be equal to the weighted average rate of interest paid/ payable on loans by the generating company or the State Bank of India Advance rate as on April 1 of the relevant year, whichever is less. The Weighted Average Rate of Interest has been considered @12.25% for FY 2019-20 p.a as claimed by GVK in this petition. The State Bank of India Advance Rate as on 01.04.2019 is 13.80 % p.a.

7.15 The energy charges paid by PSPCL during FY 2019-20 were Rs. 438.69 Crore. Thus, fuel cost of Rs. 438.69 Crore has been considered for the determination of receivables for FY 2019-20.

7.16 Interest on working capital for FY 2019-20 has been calculated as per PSERC MYT Regulations 2014 as given below:

**Table No.15: Interest on Working Capital approved by the Commission for FY 2019-20 (Rs. Crore)**

| Sr. No. | Particulars | Amount |
|---|---|---|
| 1 | Fuel Cost for two months | 73.12 |
| 2 | Maintenance spares @15% of O&M | 5.96 |
| 3 | O&M Expenses for one month | 3.31 |
| 4 | Receivables for two months | 145.05 |
| 5 | **Total Working Capital** | **227.44** |
| 6 | Rate of Interest (%) | 12.25% |
| **7** | **Interest on Working Capital** | **27.86** |

**Thus, the Commission approves working capital requirement of Rs.227.44 Crore and interest thereon of Rs.27.86 Crore for FY 2019-20.**

**8.0 Other Income**

**GVK's Submission**

8.1 GVK submitted that the other income for the FY 2019-20 is as follows and that the same may be approved by this Commission:

**Table No.16: Other Income for FY 2019-20 submitted by GVK (Rs. Crore)**

| Sr.No | Particular | Amount |
|---|---|---|
| 1 | Interest on Bank FD | 2.57 |
| 2 | Interest on Delayed Payments | 19.01 |
| 3 | Sale of Scrap | 0.05 |
| **4** | **Total** | **21.63** |

**PSPCL's Submission**

8.2 PSPCL in its submission dated 26.10.2020 submitted that in terms of Regulation 28 of the PSERC Tariff Regulations, 2014, 'Non-Tariff

Incomes/Other Incomes' are liable to be deducted from the Aggregate Revenue Requirement (ARR) of a generating station. Since GVK has disclosed a sum of Rs.21.59 Crore as other income, the same is liable to be deducted from the ARR of GVK, subject to any changes as may be brought before this Commission as and when the audited statement of accounts is submitted by the Petitioner.

**Commission's Analysis**

8.3 The Non-Tariff Income has been determined as per Regulation-28 of PSERC MYT Regulations-2014(amended from time to time).

8.4 As per para 20.3.4 of the Order dated 17.01.2020 in Petition no 54 of 2017, the Commission had observed that GVK had diverted funds meant for capital expenditure out of the loan taken from financial institutions by investing the same in Mutual Funds. The Commission has neither considered interest paid on loans used for such other investments nor income earned from such other business/investment as part of the capital expenditure. Other income includes non-operating income of Rs. 0.05 Crore on account of sale of scrap. GVK has claimed Rs. 19.01 Crore under Interest on delayed payments for FY 2019-20 being non tariff income. Accordingly, the Commissions determines Non-Tariff Income as Rs. 19.06 Crore for FY 2019-20

**Accordingly, the Commission approves Non-Tariff Income as Rs. 19.06 Crore for FY 2019-20.**

## 9.0 Annual Fixed Charges for FY 2019-20

9.1 The Annual fixed charges for FY 2019-20, as projected by GVK and approved by the Commission are summarized in the following table:-

**Table No.17**: **Annual fixed charges for FY 2019-20 (Rs Crore)**

| Sr. No. | Particulars | Approved in Petition no. 69 of 2017 | Submitted by GVK | Approved by the Commission |
|---|---|---|---|---|
| 1 | O&M Expenses | 39.88 | 95.66 | 39.73 |
| 2 | Depreciation | 142.83 | 146.55 | 141.94 |
| 3 | Interest charges | 0.13 | 217.50 | 98.32 |
| 4 | Return on Equity | 142.87 | 142.87 | 142.87 |
| 5 | Interest on Working Capital | 26.39 | 83.16 | 27.86 |
| 6 | Income tax | 0.00 | 0.00 | 0.00 |
| **7** | **Total** | **352.10** | **685.74** | **450.72** |
| 8 | Less: Non-Tariff Income | 0.05 | 21.63 | 19.06 |
| **9** | **Annual Fixed Charges** | **352.05** | **664.11** | **431.66** |

9.2 GVK shall be entitled for payment of capacity charges in accordance with Regulation 30 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (as amended) where the same is not specified in the PSERC Tariff Regulations.

## 10.0 Generation for FY 2019-20

10.1 The plant performance during the FY 2019-20 has been as follows:

**Table No.18: Plant Operational Parameters submitted by GVK**

| Sr. No. | Particular | Unit | FY 2019-20 |
|---|---|---|---|
| 1. | Plant Capacity | MW | 540 |
| 2. | PLF | % | 27.73% |
| 3. | Plant Availability | % | 99.31% |
| 4. | Station Heat Rate | Kcal/kWh | 2358 |
| 5. | Gross Generation | MU | 1311.52 |
| 6. | Auxiliary Consumption | % | 9.26% |
| 7. | Net Generation | MU | 1190 |

10.2 GVK submitted that the plant had achieved a PLF of 27.73% as the entire power generated from the plant is sold to PSPCL and therefore the generation is as per the instructions issued by PSPCL from time to time.

10.3 GVK vide its rejoinder dated 07.11.2020, submitted that Regulation 76 of the CERC Tariff Regulations, 2019 permits CERC to exercise its power to relax any provision of the Regulations. Further, Regulation 87 of the PSERC Tariff Regulations, 2014 permits the Commission to relax any provision. As such there is no bar on the Commission from relaxing the provisions and allowing the auxiliary consumption and SHR as claimed. The deviation in auxiliary consumption and SHR is on account of part load operations of the plant for most of the year based on the dispatch instructions of PSLDC as per the requirement for management of power demand in the State Grid, which is beyond the control of GVK.

**PSPCL's submission:**

10.4 PSPCL submitted that as per Regulation 36 of the PSERC Tariff Regulations, 2014, the Commission has specified that the norms for performance parameters for generating company i.e. availability, load factor, station heat rate, specific all consumption, auxiliary consumption etc. shall be as per the CERC norms or as determined by the Commission. Under the applicable CERC (Terms and Condition of Tariff) Regulations, 2019 normative Auxiliary Power Consumption (APC) and SHR for a thermal power station at that of the Petitioner have been prescribed under Regulation 49 (E)(a) and (C)(b)(i) to be 8.50% (+ 0.50%) and 1.05 x Design Heat Rate (kCal/kWh). As such, for FY 2019-20, as per the prescribed norms, the Petitioner is entitled to an APC of 9% and SHR of 2332 kCal/kWh. Since the applicable Regulations do not permit any deviation from the prescribed normative parameters, the Petitioner can be entitled to the APC and SHR only to the extent as permissible under the Regulations and as such, the higher APC and SHR as are being claimed by the Petitioner, are liable to be disallowed by this Commission.

**Commission's Analysis**

10.5 As checked up from the SLDC's website, in terms of the Final State Energy Accounts for FY 2019-20 containing the data on declared capacity, plant availability factor and the scheduled energy for FY 2019-20. The details are as hereunder:

**Table No.19: Capacity, Plant Availability Factor and Scheduled energy for FY 2019-20**

| Month | PAF (%) | Declared Capacity (MU) | Scheduled Generation (MU) |
|---|---|---|---|
| Apr-19 | 88.8856% | 314.4843 | 183.5689 |
| May-19 | 99.9015% | 365.2417 | 27.83808 |
| Jun-19 | 99.9162% | 353.5114 | 201.1254 |
| Jul-19 | 100.0000% | 365.6016 | 217.4567 |
| Aug-19 | 100.0000% | 365.6016 | 182.8088 |
| Sep-19 | 99.6301% | 352.4991 | 197.4262 |
| Oct-19 | 100.0000% | 365.6016 | 83.6881 |
| Nov-19 | 100.0000% | 353.808 | 0.00 |
| Dec-19 | 100.0000% | 365.6016 | 35.27308 |
| Jan-20 | 100.0000% | 365.6016 | 60.83443 |
| Feb-20 | 100.0000% | 342.0144 | 0.00 |
| Mar-20 | 93.5484% | 342.0144 | 0.00 |
| | | **4251.581** | **1190.02** |

**11.0 Energy Charges for FY 2019-20**

**GVK's submission:**

11.1 GVK in the present petition has submitted the details of components of the Energy Charge as hereunder:

i) The weighted average GCV of coal on ARB basis has been considered for calculation of fuel cost for FY 2019-20 as shown in the following table:

**Table No.20:GCV and Price of Fuel for FY 2019-20 as submitted by GVK** **(Rs. Crore)**

| Sr. No. | Particular | Unit | Amount |
|---|---|---|---|
| 1. | GCV of Coal | Kcal/kg | 3358 |
| 2. | Price of Coal | Rs./MT | 5871 |
| 3. | GCV of Oil | Kcal/L | 9019 |
| 4. | Price of Oil | Rs./Kl | 44949 |

ii) The Station Heat Rate ("**SHR**") and Auxiliary Consumption are on the higher side as compared to the normative parameters provided by the Central Electricity Regulatory Commission. The reason for deviation is on account of part load operations of the plant for most of the year based on dispatch instructions. Therefore, the normative parameters on auxiliary consumptions and the SHR could not be achieved and it is prayed that the Commission may allow SHR and Auxiliary Consumption on actuals.

iii) The normative parameters of operation for FY 2019-20 are as follows:

**Table No.21: Other Operational Parameters submitted by GVK**

| Sr. No. | Particular | Unit | FY 2019-20 |
|---|---|---|---|
| 1. | Secondary Fuel Oil Consumption | ml/kWh | 0.89 |
| 2. | Transit Losses | % | 1.6 |

iv) On the basis of the parameters tabulated above the fuel cost for FY 2019-20 has been worked out as follows and requested the Commission to approve the same:

**Table No.22: Fuel Cost for FY 2019-20 submitted by GVK**
**(Rs. Crore)**

| Sr. No. | Particular | Amount |
|---|---|---|
| 1. | Cost of Coal | 538.52 |
| 2. | Cost of Secondary Fuel | 5.27 |
| 3. | Total Fuel Cost | 543.79 |
| 4. | Net Generation (MU) | 1190 |
| 5. | Energy charges (Rs./kWh) | 4.57 |

11.2 GVK vide its rejoinder dated 07.11.2020, submitted that the secondary fuel consumption is on the higher side due to repeated shutdown and re-starting of the project as well as part load operations as per the instructions of PSLDC to match the power demand in the State grid. The transit and handling loss is on higher side as pursuant to the cancellation of the captive coal blocks, coal was procured by way of e-auction mode in FY 2017-18. From FY 2018-19 onwards, coal is being procured under SHAKTI Scheme. The coal is being transported to the project by road/rail mode as the coal is allocated from various mines which are not under its control. Further, the railway siding at the mines are not readily available to it since preference is given to public sector companies/pendency of rakes. Therefore, GVK is required to transport the coal over longer distances by road/rail mode resulting in higher fuel transit and handling losses. The same is due to reasons beyond its control and prayed that this Commission may allow the same.

**PSPCL's submission:**

11.3 PSPCL in its submission dated 26.10.2020 submitted that in petition no. 69 of 2017, GVK had projected the consumption of secondary fuel consumption at Rs. 0.82 ml/kWh. However, in this petition, the petitioner has claimed the secondary fuel consumption at Rs. 0.89 ml/kWh without providing any justification. Also under Regulation 49 (D)(a) of the CERC tariff Regulations, 2019, the secondary fuel consumption has been prescribed as 0.50 ml/kWh. Further, as per Regulation 39 of the CERC tariff Regulations, 2019, the petitioner is entitled to a normative 0.80% of transit and handling loss. As the petitioner is failed to provide any justification for the deviation, the same is not liable to be allowed. Under Table 10 of the Petition, GVK has submitted a total of Rs.543.79 Crore as the total fuel cost based on which GVK has computed an energy charge rate of Rs.4.57/kWh. Towards this end, it is reiterated that the objective of the present process of APR is to compare the projections made by GVK to the actual receivables and expenditure of GVK during FY 2019-20. Under the projections submitted by GVK in Petition No.69 of 2017, GVK has stated a sum of Rs.550.11 Crore as total fuel cost for FY 2019-20. However, as stated above, as per payments made to GVK during FY 2019-20, a sum of Rs.438.69 Crore has been paid by PSPCL to GVK as energy charges. The said payments have been based upon the consistent observation of this Commission as also in its Order dated 05.08.2020 passed in petition No.69 of 2017 that the energy charges are payable by PSPCL to GVK in terms of the Amended and Restated PPA, the Order dated 01.02.2016 passed by this Commission Petition Nos.65 of 2013 & 33 of 2015, Order dated 06.03.2019 passed in Petition No.68 of 2017 and Order dated 27.05.2019 passed in Petition No.1 of 2018 as applicable. In view thereof, it is submitted that there is no further requirement for this Commission to specify any specific 'Energy Charge Rate' as has been wrongly claimed by GVK.

**Commission's Analysis**

11.4 **The energy charges for FY 2019-20 are payable by PSPCL to GVK in terms of the PPA, Order dated 01.02.2016 common to petition no. 65 of 2013 & 33 of 2015 and Order dated 06.03.2019 in petition no. 68 of 2017 and Order dated 27.05.2019 in Petition No. 01 of 2018 as applicable. Issues regarding Auxiliary Consumption, Transit loss etc. have been decided in Petition no.68 of 2017.As far as Station Heat Rate(SHR) is concerned, the Commission refers to the following:**

"The Hon'ble APTEL in its Judgment dated 22.08.2016 in Appeal No. 34 of 2016 in the matter of Jaiprakash Power Ventures Limited versus Madhya Pradesh Electricity Regulatory Commission and others has held that there is no legal mandate as per IEGC for a Intra-State Generating Station to maintain the Technical Minimum as per the provisions of IEGC and in the absence of any such mandatory provisions the obligation to schedule power is traceable only to PPA entered between the parties. The relevant extract is as under:

*"…**In the absence of any mandatory provision either under the IEGC notified by the Central Commission or the State Grid Code notified by the State Commission or under any other statutory Regulation, the obligation of Respondent No. 3 to schedule power is traceable only to the PPA** executed between Respondent No. 3 and the Appellant. Clause 6.3B (4) of the IEGC also affirms the above in respect*

*of the generating stations other than the Central Sector Generating Stations and Inter State Generating Stations*

*The provisions of the PPA do not contain any mandate on Respondent No. 3 to schedule a specific quantum of electricity, though it provides for payment of fixed charges for any unscheduled available capacity within the contracted capacity. On the other hand, Clause 7.1.1 of the PPA specifically provides that the Appellant shall be responsible to operate and maintain the generating station in accordance with the legal requirements and in particular, the Grid Code.*

**12.0 Interest on under–recovered or over-recovered fixed charges:**

12.1 The Commission notes that the applicability of Regulation 9 of PSERC Regulations, 2005 would be on the distribution companies or generating cum distribution companies and cannot be applied as it is to the standalone generating companies. The Commission observes that Regulation 8 (13) of CERC (Terms and Conditions of Tariff) Regulation, 2014 are squarely applicable to under recovery or over recovery of fixed charges in case of generating companies.

12.2 The Regulation 8 (13) of CERC (Terms and Conditions of Tariff) Regulation, 2014 is re-produced below for reference: -

> *"The amount under-recovered or over-recovered, along with simple interest at the rate equal to the bank rate on 1st April of the respective year, shall be recovered or refunded by the generating company or the transmission licensee, as the case may be, in six equal monthly installments starting within three months from the date of the tariff order issued by the Commission".*

12.3 The Commission decides to adopt the CERC Regulations for determining interest equivalent to bank rate on under recovery or over recovery of fixed charges.

**Accordingly, interest shall be allowable or recoverable as per Regulation 8 (13) of CERC (Terms and Conditions of Tariff) Regulation, 2014 on under-recovered or over-recovered Annual Fixed Charges (AFC) determined by the Commission**.

This Petition stands disposed of accordingly

Sd/-
**(Anjuli Chandra)**
Member

Sd/-
**(Kusumjit Sidhu)**
Chairperson

Chandigarh
Dated:- 22.12.2020