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

Petition No. 66 of 2023
Date of Order: 24.10.2024

Petition for approval of Annual Fixed Cost for 100 MW Malana-II Hydro-Electric Project for Multi Year Tariff (MYT) Control Period (FY 2020-21 to FY 2022-23) for True-Up as per Audited Accounts for FY 2022-23 under Section 62 and 64 of the Electricity Act 2003 read with Regulation 60 of PSERC (Terms and Conditions for Determination of Generation, Transmission, wheeling, and Retail Supply Tariff), Regulations, 2019 and Annual Performance Review (APR) for FY 2023-24 and Projections for FY 2024-25 & FY 2025-26, based on Capital Investment Plan under Section 62 and 64 of the Electricity Act 2003 read with Regulation 60 of PSERC (Terms and Conditions for Determination of Generation, Transmission, wheeling, and Retail Supply Tariff), Regulations, 2022.

AND

In the matter of: M/s Everest Power Private Limited, having its registered office at H. No. C-35, Sector II, Phase-I Main Road, New Shimla, 171009, Himachal Pradesh.

Petitioner

Versus

1. Punjab State Power Corporation Limited The Mall, Patiala.
2. PTC India Limited 2nd Floor ,NBCC Tower,15, Bikaji Kama Place, New Delhi- 110066.

Respondents

Commission: Sh. Viswajeet Khanna, Chairperson
Sh. Paramjeet Singh, Member

EPPL: Sh. Neel Kandan, Advocate (through V.C)

PSPCL: Sh. Anand K Ganesan, Advocate (through V.C)

PTC: Sh. Shikar Verma, Advcate (through V.C.)

ORDER

1. M/s Everest Power Private Ltd. (EPPL) a 100 MW Malana- II Hydro Electric Project in Himachal Pradesh has filed this petition for approval of Annual Fixed Cost for FY 2022-23, Annual Performance Review for FY 2023-24 and Annual Fixed Cost for the MYT Control Period FY 2023-24 to FY 2025-26. EPPL has prayed to:-

a) Allow True Up of Annual Fixed Cost for FY 2022 – 23 as per the table no. 13 of the Petition:
b) Allow Audit Fees and Regulatory Fees over and above the O&M Expenses as per the PSERC MYT Regulations.
c) Direct PSPCL to pay the Annual Fixed Cost for FY 2022-23 considering the revised Design Energy of 326.57 Mus.
d) Interest to be allowed or recovered on under recovered or over recovered Annual Fixed Charges determined by the Commission.
e) Allow 'Annual Fixed Cost' for the control period FY 2023-24 to FY 2025-26 as per the table No. 22 of the petition.
f) Direct PSPCL to pay the determined Annual Fixed Cost on the terms and conditions as prescribed by the Commission.
g) Allow R&M expenses of Rs. 16.67 Cr. incurred due to Force Majeure event claiming under extraordinary situation as per regulation 29, Note 5 of the MYT Regulations 2022, over and above the R&M Expenditure of Rs. 12.19 Cr. of FY 2023-24.
h) Direct PSPCL to re-imburse the Monthly Transmission Charges of 220 kV D/C Charor – Banala line of HPPTCL, paid by EPPL to HPPTCL upon submission of invoices.

i) Direct PSPCL to pay SLDC Fees/ charges upon submission of invoices from Himachal Pradesh State Load Dispatch Centre as per direction of CERC and HPERC in this regard;

j) Direct PSPCL to pay interconnection facility charges as claimed by HPPTCL upon submission of invoices.

k) Pass any other order/s as the Commission may deem fit and appropriate under the circumstances of the case and in the interest of justice.

1.1. The petition was admitted vide order dated 16.02.2024. The public notice inviting objections/suggestions from the public was published by EPPL on 22.03.2024 in The Tribune (English), Dainik Tribune (Hindi) and Punjabi Tribune. PSPCL filed its reply vide memo no. 5496 dated 04.04.2024. The petition was taken up for hearing as well as public hearing on 10.04.2024 and the Ld. Counsel for PTC India Ltd. submitted that no reply is required to be submitted by PTC India Ltd. The petitioner was directed to provide further information as mentioned in the Order dated 15.04.2024. The petitioner filed a rejoinder to the reply filed by PSPCL vide letter dated 02.05.2024. In compliance of order dated 15.04.2024, the petitioner filed the required information in the form of an additional affidavit and PSPCL filed its reply thereto vide memo no. 5797 dated 20.05.2024. Vide order dated 23.05.2024 EPPL was further directed to file the cost benefit analysis justifying the expenditure for additional connectivity at 132 kV in addition to the existing connectivity at 220 kV with the HPPTCL. The petitioner filed an additional affidavit in this regard dated 05.08.2024. PSPCL filed its reply to the additional affidavit dated 05.08.2024 vide memo no. 6184 dated 12.09.2024 and the petitioner filed a rejoinder dated 13.09.2024 thereto. After hearing the parties on 18.09.2024, the order was reserved.

Observations and Decision of the Commission

2.0 True-up of Capital Expenditure for FY 2022-23:

2.1 The Petitioner EPPL has sought to claim the following expenditure under Additional Capitalization for Truing-up of FY 2022-23:

Table No 1: Additional Capitalization for FY 2022-23 claimed by EPPL

(Rs. Crore)

Sr. No.	Head	Amount
1.	Change in the Power Evacuation System	5.74
2.	Miscellaneous Expenses (towards office equipment/Computers)	0.18
	Total	**5.92**

The Commission examines the same as under:

Change in the Power Evacuation System

EPPL's Submissions:

2.2 EPPL's submission is that the Commission, vide its Order dated 18.09.2020 in Petition No. 02 of 2020 filed for approval of its Capital Investment Plan (CIP) and Order dated 09.03.2021 in Petition No. 16 of 2020 filed for determination of its AFC, for the MYT Control Period of FY 2020-21 to FY 2022-23 had approved the work of '*Change in Power Evacuation System*' under allowable additional expenditure with the observation that it would be considered on merits after a prudence check by the Commission in the True-up petition when claimed by EPPL, with full justification alongwith vouchers /bills and audited accounts. In this regards the

Petitioner prays to the Commission to allow the expenditure of INR 5.74 (3.21+2.53) Crore paid to the HPPTCL for providing interconnection at 220kV and 132kV levels for evacuation of EPPL's power. The copy of HPPTCL Invoice and EPPL's audited Balance Sheet for FY 2022-23 evidencing the payments thereof are annexed with the Petition.

PSPCL's Submissions:

2.3 PSPCL has submitted that:

(i) In Petition Nos. 02 of 2020 and 16 of 2020 filed by EPPL for approval of its CIP and determination of AFC respectively, for the MYT Control Period from FY 2020-21 to FY 2022-23, EPPL has projected a provisional amount of only Rs. 3.05 Crore towards the 'change in power evacuation system', which was approved/ considered by the Commission with the observation that it would be considered on merits after prudence check in the True-up petition. It is worthwhile to mention that the claim continued to be allowed only provisionally. Also, the provisioned amount was for FY 2021-22 as EPPL had not projected any amount for the same in FY 2022-23. However now, at the true-up stage of FY 2022-23, the Petitioner is seeking an inflated claim of Rs. 5.74 Crore.

(ii) It needs no reiteration that truing-up is not the stage to decide an issue *de-novo.* The Petitioner needs to establish that the said expenditure was required to be incurred under one of the five heads of Regulation 18.2.Also, the claim, if any, would have to be strictly limited to Rs 3.05 Crore as no escalation can be considered at the true-up stage. Merely because expenditure is incurred does not mean that the same can be automatically made a pass-through in tariff.

(iii) Further, the additional connectivity provided at 132 kV is only to augment the HPPTCL transmission network and is the subject matter of an agreement between HPPTCL and the Petitioner. There cannot be a levy on the consumers in the state of Punjab on account of any system augmentation undertaken by HPPTCL. Also, it cannot be that PSPCL which is not even party to the Connection Agreement is put to terms for payment of the expenditure incurred and agreed between the parties to the said Connection Agreement.

(iv) The cost-benefit analysis put forth by EPPL is based on theoretical figures far from any actual empirical data. The analysis assumes that PSPCL only has access to power exchanges as an option available to procure short-term power, which is not the case. There may be a case that during outage of the hydro plant of the petitioner, PSPCL may utilize its other thermal resources/ tie-ups, which generally remain in backing down, instead of purchasing power from an energy exchange in the first instance or even seek additional banking arrangements.

(v) Even otherwise, the claim of Rs 3.05 Crore itself ought to be rejected as the same is not related to the generating station. It is submitted that as per Clause 4.7 of the Power Sale Agreement (PSA) with PSPCL, the Petitioner is to bear all applicable RLDC/SLDC charges and all other charges up to the delivery point. In view thereof, it is submitted that any cost towards interconnection has to be paid for by the Petitioner.

EPPL's Rejoinder:

2.4 EPPL has submitted that:

(i) PSPCL has erroneously submitted that the Petitioner is seeking fresh determination of aforesaid components and also that the Additional Capitalization as sought by the Petitioner is not covered under the extant regulations. The work of change in EPPL's power evacuation system stands already considered and approved by the Commission, in Petition No. 02 of 2020 filed for approval of EPPL's Business Plan (including CIP) as well as in Petition No. 16 of 2020 filed for determination of EPPL's AFC, for the MYT Control Period from FY 2020-21 to FY 2022-23, with the observation that the same shall be considered on merits at the stage of true-up subject to the actual expenditure incurred by the Petitioner.

(ii) A prudence check of expenses under an already allowed heading cannot be reasonably summarized as a *de novo* exercise. Notably, upon approval of the said work by the Commission as an allowable 'Additional Capitalization', the Petitioner has taken steps towards its completion and vide the present Petition has provided the details of the expenditure, incurred amounting to Rs. 5.74 Crore, as per its audited accounts for FY 2022-2023 (*Ref: Annexure P(A)-1 (Colly) @ Pg. 87 of the Petition*). Hence, the Petitioner has substantiated the claims towards such additional costs incurred and is therefore seeking the same in the present True-up Petition.

(iii) As per the approved (revised) evacuation plan by Central Electricity Authority (CEA) the power from Malana-II HEP and other new hydro electric project being set up in that area are to be evacuated through the HPPTCL's transmission system from Charor sub-station to 400/220 kV Banala (Parbati Pooling) sub-station of PGCIL. However, in view of delay in commissioning of the Banala (Parbati Pooling) sub-station, EPPL was allowed to evacuate its power as per interim-arrangement by loop-in loop-out (LILO), through 220 kV D/C ADHP-Nalagarh transmission line of M/s AD Hydro, from the EPPL's 132/220 kV sub-station set up at Charor, till the Transmission System of HPPTCL became ready.

(iv) Therefore, for change in evacuation of EPPL's power from AD Hydro to HPPTCL system upon completion of its transmission system, an agreement was signed between HPPTCL and EPPL on 28.06.2019. Notably this agreement was prepared by the State Utility and as such did not incorporate any significant inputs from EPPL. It was specified in the agreement that as soon as the Charor sub-station of HPPTCL is ready, the termination of 220 kV Banala-Charor line shall be shifted from EPPL's Charor sub-station to HPPTCL's Charor substation, and simultaneously, HPPTCL shall provide connectivity to EPPL at 220 KV for which the entire cost and expenses shall be borne by EPPL. Further, it was also stated that, to ensure n-1 contingency in the event of transformer outage of EPPL sub-station, arrangement shall be made by HPPTCL to connect 132 KV bus of EPPL with 132 kV bus of HPPTCL Charor sub-station through breaker which shall be connected in case of the EPPL's transformer outage.

(v) Moreover, the requirement of additional connectivity is a statutory mandate in terms of the Manual on Transmission Planning Criteria, 2013 issued by the CEA and the HP Electricity Grid Code mandating the '*Reliability criteria'* for single contingency (N-1)**.** It is also highlighted that the provision of back-up/additional connectivity shall mitigate the loss of power in case of any outage or damage to EPPL's 132/220 kV inter-connection transformer (ICT), which is the only equipment not having protection against n-1 contingency. This arrangement benefits not just the generator but PSPCL as well by ensuring consistent evacuation of supply. In the absence of the same, in case of any outage of EPPL's 132/220 kV power transformer and consequent shut down of its plant, PSPCL is liable to lose out on a reliable source of power available at less than the market rate and would have to procure power from other sources at the market price to meet its demand of power.

Commission's Analysis:

2.5 The Commission notes the background of the issue as under:

(a) The Commission notes that, vide its Order dated 27.11.2013 in Petition No. 54 of 2012, after observing that as the power from the EPPL's Malana II HEP is to be delivered at the Parbati Pooling Station (CTU) coming up at Banala, the Commission has held that the cost of the entire transmission system upto Banala is to be included in the capital cost of the Project and had considered Rs. 15.47 Crore as pro-rata cost of the proposed 220 kV Double Circuit line from Chhaur upto the coming up Parbati Pooling Station at Banala as an allowable expenditure. The relevant extract of the Order is reproduced below:

"(III)(C)(ii) Transmission Line & Terminal Equipment

……

As the power from Malana II HEP is to be delivered at the Parbati Pooling Station (CTU) coming up at Banala, the cost of entire transmission system upto Banala is to be included in the capital cost of the Project. Accordingly, in addition to the aforementioned cost of Double Circuit 132 kV transmission line upto Chhaur and 132/220 kV sub-station, the Commission allows Rs. 1547 lac as pro-rata cost of the proposed 220kV Double Circuit line from Chhaurupto the coming up Parbati Pooling Station at Banala. As per details furnished by H.P. Power Transmission Corporation Limited vide letter No. HPPTCL/ AD-Hydro/ 2013-1497 dated 17.06.2013, the estimated cost of this line having line length of 15 km is Rs. 4487 lac. Besides 100 MW power of Malana II HEP, about 190 MW power from small HEPs is to be evacuated through this line and therefore the pro-rata cost of 100 MW works out as Rs. 1547 lac (approx.)."

(b) However, the said expenditure was reversed vide this Commission's Order dated 04.12.2014 in compliance of Hon'ble APTEL's directions issued vide its Order dated 12.11.2014 in Appeal Nos. 30 & 35 of 2014 filed by the EPPL and PSPCL. The relevant extract of Hon'ble APTELs Order is reproduced below:

*"**181.** From the Impugned Order, it is evident that the State Commission has not taken into consideration of the judgment dated 2.1.2013 passed by this Tribunal in Appeal No.81 of 2011 filed by the Hydro power.*

***182. T**he relevant observations are as follows:*

"27. We find that the whole issue has arisen due to circumstances created by delay in execution of Parbati Pooling Station by Power Grid, constraints in providing right of way for laying transmission line in hilly terrain and forest area and need for optimizing the transmission corridor in the forest and hilly area, in view of scarce availability of land and environmental consideration.

28. We notice from the records of the case that earlier it was planned that both Attain Duhangan and Malana - II Hyde/ Projects would construct their respective dedicated lines to Parbati Pooling Station from where power would be transmitted through the Inter-State transmission network of Power Grid to the destination of choice of the respective generating companies. On that understanding the Appellant and the Respondent

No. 1 started execution of their projects. Respondent No.1 also got long term open access for supply to Punjab State Electricity Board from Parbati Pooling Station of Power Grid. However, due to delay in execution of the Parbati Pooling Station changes were made in the point of injection of power. The Appellant was first to get the approval under Section 68 for execution of its dedicated transmission line to Nalagarh sub-Station of Power Grid, as its Hydel project was ahead of the project of the Respondent No.1. ***When Respondent No.1 approached the CTU/Power Grid and CEA for alternative transmission arrangements in view of delay in execution of Parbati Pooling Station, they were asked to tie up with the Appellant and utilize the spare capacity of the Appellant's transmission line to transmit its power upto Nalagarh.***

………..

185. It is also noticed that the State Commission has not taken into consideration the recommendations of its Consultant M/s. Lahmeyer in which the Consultant has referred to change in evacuation arrangement of the project under change in law. The same is as follows:

"Originally, the power from Malana II HEP was proposed to be evacuated to PGCIL's Panarsa

Pooling Station which involved construction of 38 km long double circuit 220 kV transmission line. ……………………………………..

However, in the meeting convened by Chairperson CEA on April 10, 2008, it was informed that due to delay in the Parbati Project and consequently its associated evacuation system, the pooling station at Panarsa would not be materialized in the time frame of Malana II HEP and it was proposed to evacuate the power of Malana II HEP by LILO connection at Chhaur through 220 kV D/C line from AD Hydro-electric Project to Naiagarh sub- station."

………………………

In consideration of above, the Consultant is of the view that the completed cost of transmission line from Malana II HEP Chhaur substation including cost of sub-station should be considered in the capital cost of Malana II HEP till the start of operation of HPTCL line from Malana II HEP to Banala pooling station. Further, wheeling charge of ADHPL line as per Hon'ble APTEL's interim order dated June 10, 2011 should be payable to EPPL till finalization of the matter by Hon'ble Supreme Court, 'where after the transmission charges as rationalized by Hon'ble Supreme Court shall be payable, as the change in transmission line system is as per CEA's instructions."

186. The above fact situation would make it explicit that the change in evacuation system occurred not because of any action or inaction of Everest Power but has occurred due to the directions of the CEA and Ministry of Power who directed that the energy generated by the Appellant's project would be evacuated by the AD Hydro Power transmission line. The said direction came after the execution of the PPA/PSA which is in the nature of change in law.

187. Consequently, the financial impact of which as per the provisions of PPA/PSA has to be compensated to the Everest Power.

……..

190. In view of the above since we find force in the contention of the Everest Power with reference to change in law arising out of the change in the evacuation system, the financial impact of the same in the shape of transmission charges and losses payable to AD Hydro Power may be made pass through. ... Accordingly, the notional transmission cost from Chhaur to Banala allowed by the State Commission has to be deducted from the Capital Cost."

(c) Subsequently, in Petition No. 02 of 2020 filed for approval of its Capital Investment Plan (CIP) for the control period from FY 2020-21 to FY 2022-23, EPPL sought a provision for the change in its Power Evacuation System from M/s AD Hydro to HPPTCL

System for FY 2021-22. The same was allowed by the Commission with the observation as under:

"The Commission notes that the EPPL has not provided the requisite details of the sanctioned estimates duly approved by HPPTCL authorities and other details. The amount of Rs. 3.05 Crore is only an estimation of expenses. As such, considering the above, the Commission holds that only provisioning of Rs. 3.05 Crore for change in evacuation system can be allowed in the capital investment plan. The expenditure shall be considered on merits after prudence check by the Commission in the True-up petition when it is claimed by EPPL, with full justification alongwith vouchers /bills and audited accounts."

(d) The said provision was also considered in the Petition No. 16 of 2020 filed by EPPL for determination of tariff/ AFC for its project for the MYT Control Period of FY 2020-21 to FY 2022-23, as under:

"The proposed expenditure by EPPL for …. Rs. 3.05 Crore towards procurement of material due to change in power evacuation system shall be considered on merit in the true-up petition as and when the expenditure is incurred by EPPL. The Commission considers provisional capitalization …. which shall be reviewed at the time of true up of the respective years."

(e) The Petitioner has now sought to claim an expenditure of Rs. 5.74 Crore for true-up of FY 2022-23, in place of the initially estimated amount of Rs. 3.05 Crore provisioned in FY 2021-22. The Commission notes that, no claim under the impugned scheme was raised in the true-up exercise of FY 2021-22 carried out in Petition No. 56 of 2022 (Suo-Motu). Also, it is evident from the balance sheets of the Petitioner Company that the impugned Assets amounting to Rs. 574.07 Lakh has been added under the head ‘Plant and equipment’ in FY 2022-23.

2.6 From the above, it is evident that:

(a) The Commission vide its Order dated 27.11.2013 in Petition No. 54 of 2012 has already held that, “As the power from Malana II HEP is to be delivered at the Parbati Pooling Station (CTU) Banala, the cost of the entire transmission system upto Banala is to be included in the capital cost of the Project”. However, due to the delay in commissioning of the Parbati Project and consequently its associated evacuation system, the EPPL was allowed by the CEA to evacuate its power by LILO connection at Chhaur through M/s AD Hydro Project’s 220 kV D/C line to Nalagarh sub-station, till the start of operation of HPTCL line from Malana II HEP to Banala pooling station. Therefore, the expenditure for change of EPPL’s ‘Power Evacuation System’ from M/s AD Hydro to HPPTCL System constitutes a deferred liability relating to the original scope of works of the project, and hence is to be considered under sub-Regulation 18.2(a) of the PSERC MYT Regulations 2019.

(b) Accordingly, the work/scheme for 'Change in Evacuation System' of EPPL's power from M/s AD Hydro to HPPTCL System was approved by the Commission, first in Petition No. 02 of 2020 filed for approval of EPPL's Business Plan (including CIP) and then also in the Petition No. 16 of 2020 filed for determination of EPPL's AFC, for the control period from FY 2020-21 to FY 2022-23. In these Orders the Commission, while noting that it is only an estimation of expenses, has held that the expenditure shall be considered on merits after prudence check by the Commission in the True-up petition when it is claimed by EPPL, with full justification alongwith vouchers /bills and audited accounts. Therefore, consideration of the said work/scheme in the true-up petition cannot be termed a *de-novo* issue.

(c) Further, as regards the issue of the claim filed by EPPL for an expenditure of Rs. 5.74 Crore for true-up of FY 2022-23, in place of the initially estimated amount of Rs. 3.05 Crore, the Commission refers to the relevant provisions of the PSERC MYT Regulations 2019, which reads as under:

"9.15 In case the capital expenditure incurred for approved schemes exceeds the amount as approved in the capital expenditure plan, the

> *balance amount and the incidental cost shall be trued up by the Commission after prudence check after the end of Control Period:*
>
> *Provided that any additional capital expenditure incurred on account of time over run and/or unapproved changes in scope of approved schemes except for reasons beyond the control of Licensee and duly submitted in writing may not be allowed by the Commission:*
>
> *Provided that capital expenditure incurred on unapproved schemes and not covered under Regulation 9.11 shall not be allowed by the Commission."*

2.7 The Commission observes that the work, for an approved scheme for change in the evacuation system, has been got executed through the HP State Transmission Utility and the Petitioner has submitted the copy of HPPTCL Invoice indicating the expense details along with EPPL's audited Balance Sheet evidencing the payments of same in FY 2022-23. Further, EPPL has justified the requirement of connectivity at the 132 kV level to enable the '*Reliability criteria'* of single contingency (N-1) for its power evacuation system as mandated in the CEA Manual on Transmission Planning Criteria as well as under the Himachal Pradesh Electricity Authority Grid Code. Also, it cannot be disputed that the same would prove to be helpful for evacuation of the project's power in the event of any outage or damage to its 132/220 kV inter-connection transformer.

2.8 **Thus, the Commission allows the expenditure of Rs. 5.74 Crore paid by EPPL to the HP State transmission utility towards the change of its Power Evacuation System from M/s AD Hydro to HPPTCL System under the head 'Additional Capitalization' for the true-up of FY 2022-23.**

Miscellaneous Expenses:

2.9 EPPL's Submission:

EPPL has submitted that an expense of Rs. 0.18 Crore incurred by it towards Office equipment and Computers in FY 2022-23 be allowed as Miscellaneous Expenses under additional capitalization.

PSPCL's Submissions:

2.10 PSPCL has stated that, this Commission *vide its* order dated 18.09.2020 in Petition No. 02 of 2020 filed for approval of the Petitioner's CIP and then again vide Order dated 09.03.2021 in Petition No. 16 of 2020 filed for the approval of its AFC, for the MYT Control Period of FY 2020-21 to FY 2022-23, has held that such miscellaneous expenses are not allowable as per the PSERC MYT regulations. It is submitted that apart from rejecting the claims of the Petitioner, the Petitioner should be barred from raising the same claims time and again.

EPPL's Submissions:

2.11 EPPL has submitted that vide the present Petition it has reiterated its consistent stance that expenses incurred towards Office Equipment and Computers ought to be allowed under Miscellaneous Expenses. Notably, an expenditure of Rs. 0.18 Crore has been incurred towards the same which is also evinced in its Audited Balance Sheet for FY 2022-2023. In any event, the

Order dated 09.03.2021 referred to in the reply of PSPCL is also sub judice in Appeal No. 416 of 2021 before Hon'ble APTEL.

Commission's Analysis:

2.12 The Commission observes that vide its Order dated 18.09.2020, in Petition No. 02 of 2020 filed by EPPL for approval of its Business Plan (including CIP) for the MYT Control Period of FY 2020-21 to FY 2022-23, the Commission, after referring to the provisions of Regulation 18.2(e) of the PSERC MYT Regulations 2019, has heldthat such miscellaneous expenditure is not allowable under the said Regulations. Without contesting and based on the same, EPPL filed the Petition No. 16 of 2020 for approval of its AFC for the MYT Control Period of FY 2020-21 to FY 2022-23. Accordingly, the nil provision was considered for miscellaneous expenditure in the AFC projections for FY 2022-23 allowed vide the Commission's Order dated 09.03.2021. As such, no approved provision existed for minor items/miscellaneous expenses under additional capital expenditure head for the AFC projections approved for FY 2022-23.

2.13 The Commission also refers to the PSERC MYT Regulations 2019, which reads as under:

"9.13 … Provided that the capital expenditure incurred shall be only for the schemes as per the approved capital investment plan.
……..
9.15…….Provided that capital expenditure incurred on unapproved schemes …. shall not be allowed by the Commission."

In view of above, the Petitioner's plea to allow consideration of impugned miscellaneous expenditure under 'Additional Capitalization' for the true-up of FY 2022-23 is not allowable and is denied.

3.0 Capital Cost

EPPL's Submissions:

3.1 EPPL submitted that Regulation 17 of PSERC MYT Regulations, 2019 specifies the Capital cost .

3.2 EPPL further submitted that PSERC vide its Order dated 23.08.2022 has approved Closing Gross Fixed Asset amounting to Rs. 850.97 Crore while truing up of FY 2019-20.

3.3 Accordingly, Capital Cost amounting to Rs. 850.97 Crore for FY 2019-20 has been considered as the capital base for the purpose of 2nd control period i.e., FY 2020-21 to FY 2022-23 in the instant Petition.

3.4 EPPL submitted that the Commission vide Order dated 01.06.2023 in Petition no. 56 of 2022 has only allowed the capital expenditure of Rs. 0.44 Crore towards the construction of culvert during FY 2020-21. Subsequently, EPPL had filed a review petition no. 07 of 2023 before the Commission for the review of its final order dated 01.06.2023 passed in Petition no. 56 of 2022 (Suo Motu), wherein EPPL sought a review of the above referred order on the following issues:

a. Disallowance of the Additional Capitalization of INR 6.02 Crore. for FY 2021-22 towards Purchase of Runners & Nozzle Assembly,
b. Disallowance of Additional Capitalization of INR 0.92 Crore. in FY 2020-21 for Left Abutment Slope Stabilization Measures and Miscellaneous Expenses;
c. Disallowance of Employee Expenses of INR 6.87 Crore and INR 6.33 Crore for FY 2020-21 and FY 2021-22 towards Operation and Maintenance Expenses, and

d. Disallowance of Additional Capitalization of INR 2.29 Crore and INR 0.20 Crore for FY 2020-21 and FY 2021-22, respectively, towards Miscellaneous Expenses.

EPPL submitted that it is claiming Gross Fixed assets for FY 2022-23 as requested in the review petition 07 of 2023 filed before the Commission.

Accordingly, the Gross Fixed Assets claimed by EPPL for FY 2022-23 is as under:

Table 2 : Gross Fixed Assets for FY 2022-23 as per review petition 07 of 2023in Petition No 56 of 2022 filed before Commission

(Rs.Crore)

Sr. no	Particulars	FY 2020-21	FY 2021-22	FY 2022-23
1	Opening of Gross Fixed Assets	850.97	854.81	860.83
2	Assets addition during the year	3.65	6.23	5.92
3	De-capitalization of assets	0.02	0.00	0.00
4	**Closing Gross Fixed Assets**	**854.81**	**860.83**	**866.75**

3.5 EPPL requested to consider the above said amounts towards additional capitalization under various heads.

PSPCL's Submissions:

3.6 PSPCL submitted vide memo no 5496 dated 04.04.2024 that this Commission *vide* order dated 23.08.2022 has approved closing GFA amounting to Rs. 850.97 Crores which was then considered as the capital base for the purpose of the 2nd Control Period pertaining to FY 2020-21 to 2022-23.

3.7 PSPCL further submitted that in Petition No. 56 of 2022,*vide* order dated 01.06.2023, this Commission had allowed net capital expenditure of Rs. 0.42 Crores while truing-up the numbers for FY 2020-21. In view thereof, the closing GFA for FY 2020-21 was Rs. 851.39 Crores. Further, the opening GFA for FY 2021-22 was Rs. 851.39 Crores.

3.8 PSPCL further stated that the Petitioner had sought a review of the order dated 01.06.2023 passed in Petition No. 56 of 2022. However, the said review has since then been dismissed *vide* order dated 01.02.2024.

3.9 As such the GFA for FY 2022-23 would only be restricted to the numbers determined by this Commission in Petition No. 56 of 2022.

EPPL's Rejoinder:

3.10 EPPL vide rejoinder dated 02.05.24 stated that it is relevant to note that the Petitioner has *inter alia* challenged the Order dated 01.02.2024 issued by the Commission in Review Petition No. 7 of 2023 before Hon'ble APTEL vide Appeal (DFR) No. 150 of 2024. Similarly, the Order dated 23.08.2022 is under challenge in Appeal No. 442 of 2023 before the Hon'ble APTEL.

3.11 EPPL further submitted that this Commission may consider that the Petitioner's claim in the present Petition cannot prejudice its submissions before the Hon'ble APTEL. It is the Petitioner's claim that certain assets added during the FY 2020-2021, FY 2021-2022 and FY 2022-2023 have been erroneously exempted from the capital cost which ought to have been allowed. Pursuant thereto, the Petitioner has claimed Capital Cost as per the gross fixed assets as claimed in Appeal (DFR) No. 150 of 2024 and the same is tabulated as under:

Table No. 3: Gross Fixed Assets for FY 2022-23 as per Appeal (DFR) No. 150 of 2024 filed before Hon'ble APTEL.

(Rs Crore)

Sr no	Particulars	FY 2020-21	FY 2021-22	FY 2022-23
1	Opening of Gross Fixed Assets	850.97	854.81	860.83
2	Assets addition during the year	3.65	6.23	5.92
3	De-capitalization of assets	0.02	0	0
4	**Closing Gross Fixed Assets**	**854.81**	**860.83**	**866.75**

EPPL prays that the aforesaid computation towards additional capitalization under various heads be duly considered by this Commission.

Commission's Analysis:

3.12 The Commission in petition no 56 of 2022 had approved the Gross fixed assets as per capitalization/decapitalization approved provisionally for the 2nd Control Period as under:

Table No. 4: Gross fixed assets approved by the Commission for the 2nd Control Period in petition no 56 of 2022.

(Rs. Crore)

Sr. No	Particulars	FY 2020-21	FY 2021-22
1	Opening Gross Fixed Assets	850.97	851.39
2	Assets addition during the year	0.44	0.00
3	De-capitalization of assets	0.02	-
4	**Closing Gross Fixed Assets**	**851.39**	**851.39**

As per the additions approved by the Commission in this order the gross fixed assets for FY 2022-23 is approved as under:

Table No. 5: Gross fixed assets approved by the Commission for FY 2022-23 (Rs. Crore)

Sr. No	Particulars	FY 2022-23
1	Opening Gross Fixed Assets	851.39
2	Assets addition during the year	5.74
3	De-capitalization of assets	-
4	**Closing Gross Fixed Assets**	**857.13**

4.0 Operation and Maintenance Expenses

EPPL's Submissions:

4.1 EPPL submitted that O&M expenses are determined based on Regulation 26 and 8.1 of the MYT Regulations, 2019.

4.2 EPPL further submitted that the PSERC in its order dated 09.03.2021 approved Employee Expenses for the 2nd Control period at Rs. 5.88 Crore, Rs. 6.03 Crore and Rs. 6.18 Crore for FY 2020-21, FY 2021-22, and FY 2022-23 respectively.

4.3 EPPL stated that as per the audited accounts for FY 2022-23 the actual expenses incurred towards Employee Cost are Rs. 7.34 Crore. The Commission vide order dated 01.06.2023 in petition no. 56 of 2022 has reduced the baseline value of employee cost for FY 2020-21 to Rs. 1.5 Crore. as against actually incurred employee expenses of Rs. 8.31 Crore. The actual incurred employee cost of Rs. 7.34 Crore for FY 2022-23 is still on the lower side compared to the previous control period due to the transition period from the old management to the new management.

Considering the above, EPPL requests the Commission to approve employee cost of Rs. 7.34 Crore. for FY 2022-23.

A&G and R&M Expenses for FY 2022-23

4.4 EPPL submitted that as per the audited accounts for FY 2022-23 the actual expenses incurred towards A&G Expenses amount to Rs. 9.25 Crore (including the fee for determination of tariff and audit fee etc.).

4.5 EPPL further submitted that PSERC in its order dated 09.03.2021 approved A&G Expenses for the 2nd Control period at Rs. 8.72 Crore, Rs. 8.94 Crore and Rs. 9.16 Crore for FY 2020-21, FY 2021-22, and FY 2022-23 respectively.

4.6 EPPL requests the Commission to approve the A&G Expense for 2022-23 of Rs. 9.25 Crore actually incurred as per audited financial accounts of FY 2022-23.

4.7 EPPL further stated that this Commission in its order dated 09.03.2021 approved R&M Expenses for 2nd Control period at Rs. 7.34 Crore, Rs. 7.43 Crore and Rs. 7.51 Crore for FY 2020-21, FY 2021-22, and FY 2022-23 respectively. Further, as per the audited accounts for FY 2022-23 the actual expense incurred towards R&M Expenses amounts to Rs. 11.29 Crore. EPPL after considering the actual expenses figure has revised the estimate for FY 2022-23 at Rs. 11.29 Crore.

O&M expenses for 2nd Control period allowed by the Commission vide order 09.03.2021and True Up for FY 2022-23 as claimed by EPPL are as under:

Table No 6: O&M Expenses for FY 2022-23 (Rs. Crore)

Sr. No.	Particulars	Allowed by Commission in Order dated 09.03.2021			Claimed by EPPL
		FY2020-21	FY 2021-22	FY2022-23	FY 2022 -23
1	Employee expenses	5.88	6.03	6.18	7.34
2	A&G Expenses	8.72	8.94	9.16	9.25
3	R&M Expenses	7.31	7.43	7.51	11.29
4	Total of O&M Expenses	21.94	22.40	22.85	27.88

In view of the above, EPPL requests to allow O & M expenses

(i.e Employee Costs+ R & M Costs + A & G Costs) of Rs 27.88 Crore for FY 2022-23.

PSPCL's Submissions:

Employee cost

4.8 PSPCL vide memo dated 04.04.2024 submitted that the Petitioner has sought for approval of employee cost of Rs. 7.34 Crores. It is the Petitioner' case that the actual employee cost of Rs. 7.34 Crores is on a lower side as compared to the previous control period due to the transition period from its old management to the new management. The said contention of the Petitioner had already been rejected *vide* order dated 01.06.2023 in Petition No. 56 of 2022. In fact, the Petitioner had also preferred a review against the said order which has also been dismissed. As such the claim of the Petitioner under the present head ought to be dismissed in limine.

4.9 PSPCL further submitted that all the averments raised by the Petitioner have already been agitated, argued, considered and rejected by this Commission while passing order dated 01.06.2023 in *suo-moto* Petition No. 56 of 2022. This Commission has duly considered the Petitioner's contentions for lower employee cost, restricting of employees post-acquisition etc.

4.10 PSPCL stated that the Petitioner had simply relied on the change in management for the escalation of employee cost. It is submitted that the change in management is an internal decision of the Petitioner and any cost escalation on account of the same ought not to be allowed and otherwise ought to be subjected to a strict prudence check.

4.11 PSPCL further stated that the reliance placed on Regulation 8.1 of the MYT Regulations, 2019, in fact, provides that the baseline values shall be based on the figures approved by this Commission in the past.

ADMINISTRATION & GENERAL (A&G) EXPENSES AND REPAIR & MAINTENANCE (R&M) EXPENSES

4.12 PSPCL submitted that the Petitioner has sought for the approval of Rs. 9.25 Crores for A&G expenses, and Rs. 11.29 Crores for R&M expenses in the present petition [True-Up of FY 2022-23].

4.13 PSPCL submitted that this Commission in Petition No. 16 of 2020 [Approval of AFC for FY 2020-21 to FY 2022-23] had allowed Rs. 9.16 Crores for A&G expenses, and Rs. 7.51 Crores for R&M expenses for FY 2022-23. Relevant extract of the order dated 09.03.2021 is as under:

"3.31 Thus the Commission approves O&M expenses for the 2nd MYT Control Period as under:

Table No. 21: O&M expenses claimed by EPPL and allowed by the Commission (Rs Crores)

Sr No.	*Particulars*	*EPPL's Submission*			*Allowed by Commission*		
		FY 2020-21	*FY 2021-22*	*FY 2022-23*	*FY 2020-21*	*FY 2021-22*	*FY 2022-23*
1	*Employee cost*	*7.44*	*8.56*	*9.84*	*5.88*	*6.03*	*6.18*
2	*A&G*	*7.90*	*8.36*	*8.85*	*8.72*	*8.94*	*9.16*
3	*R&M*	*10.49*	*10.63*	*10.74*	*7.34*	*7.43*	*7.51*
4	***O&M expenses***	***25.83***	***27.55***	***29.43***	***21.94***	***22.40***	***22.85***

4.14 PSPCL stated that in the present petition [True-Up of FY 2022-23], as against Rs. 9.16 Crores as allowed by this Commission the Petitioner has now claimed Rs. 9.25 Crores for A&G expenses. Similarly, as against Rs. 7.51 Crores as allowed by this

Commission, the Petitioner has now claimed Rs. 11.29 Crores for R&M expenses. It is submitted that the Petitioner has not provided any cogent reasons for the cost escalation. The cost escalation ought to be rejected on this ground alone.

4.15 PSPCL further stated that even otherwise, truing-up cannot be the stage to consider an issue *de-novo.* Accordingly, the escalation as sought for by the Petitioner during truing-up ought to be rejected.

EPPL's rejoinder:

Employee Expenses

4.16 EPPL vide rejoinder dated 02.05.2024 stated that the provisions of Regulation 8.1 of the PSERC MYT Regulations stipulate that the baseline values ought to considered *inter alia* the estimate of expected figures for the relevant year, industry benchmarks/norms and other factors which may considered relevant by the Commission. Further thereto, the said Regulation also provides that the baselines values may be changed upon consideration of the actual figures from audited accounts.

4.17 EPPL submitted that this Commission vide its Order dated 01.06.2023 in Petition No. 56 of 2022 and Order dated 10.10.2023 in Petition No. 75 of 2022 did not consider the following aspects while restricting the claim of EPPL qua Employee Costs:

(a) EPPL further submitted that that Malana II project was acquired by the Greenko Group at the beginning of the FY 2021-22 and post-acquisition, restructuring of employees was the sole reason for low Employee Costs during FY 2021-22 and FY 2022-23, as many employees in Senior management had resigned during the transition phase.

(b) EPPL stated that post-acquisition and during the FY 2021-22 and FY 2022-23 various activities of the project were handled by the Greenko Group corporate office staff as well as staff employed in Greenko Group's various subsidiaries like Greenko Asset Management wing, Finance & Accounts wing, and Regulatory, Legal and Commercial wing, etc.

(c) Consequently, the Employee Expenses for the full year i.e. FY 2022-23 were projected to increase to Rs. 7.89 Crore, due to the induction of many employees increasing the headcount of the employees. The effect of the same was also reflected in the provisional accounts for FY 2022-23, wherein Employee Cost, from April 2022 to September 2022 (H-1) was Rs. 2.47 Crore, which has now increased to 7.89 Crore for the FY 2022-23.

(d) EPPL further stated that in Petition No. 75 of 2022 it had prayed that this Commission had not considered the revised base value for employee cost as determined in the Order dated 01.06.2023 in Petition No. 56 of 2022 and re-determine the employee cost for FY2020-21 and 2021-22 afresh and approve Rs. 7.89 Crore as actual costs incurred for FY 2022-23 in view of the foregoing facts and circumstances.

4.18 EPPL submitted that the aforesaid submissions have been put forth before the Hon'ble APTEL in Appeal (DFR) No. 150 of 2024 and Appeal No. 78 of 2024 (for relevant Financial Years). EPPL further submitted that its claim in the captioned Petition are in consonance with such submissions to avoid any prejudice to its consistent stance on the issue of allowable Employee Costs.

4.19 EPPL further submitted that the audited accounts of the Petitioner for FY 2022-2023 demonstrate that the actual expenses incurred towards Employee Cost is Rs. 7.34 Crore. Therefore, it is the Petitioner's humble submission that basis the aforesaid facts, the actual audited reports of the Petitioner and the clear and express provisions of Regulation 8 of the PSERC MYT Regulations, 2019, this Commission maybe pleased to approve Employee Cost for FY 2022-2023 as Rs. 7.34 Crore.

II. *A&G and R&M EXPENSES*

4.20 EPPL submitted vide its rejoinder dated 02.05.2024 that it is relevant to point out that PSPCL's claim that the values determined by this Commission at the time of approval cannot be changed during true up which goes against the basic principles of tariff determination. Without prejudice to the submissions of the Petitioner, it is relevant to note that even during the stage of true up for FY 2020-2021 and FY 2021-2022, the Commission vide its Order dated 01.06.2023 in Petition No. 56 of 2022 had allowed A&G costs at Rs. 8.90 Crore and Rs. 9.69 Crore for FY 2020-2021 and for FY 2021-2022 as against the previous allowance of Rs. 7.90 Crore and Rs. 8.36 Crore during approval stage in Petition No. 16 of 2020. It is not open to PSPCL to rely on a selective reading of the facts and misapplication of the extant provisions of law, and for such deliberate mischief, the submissions put forth by PSPCL ought to be set aside by this Commission.

4.21 EPPL further submitted that in view thereof, and considering the previous allowance as considered by this Commission in previous true up Petitions based on the actual costs incurred by the Petitioner, it is humbly submitted that the costs incurred under the head of A&G and R&M expenses for FY 2022-2023 were allowed in Petition No. 16 of 2020 based on projections while through the captioned Petition the Petitioner has claimed based on actual expenditure incurred by the Petitioner, the amount of Rs. 9.16 Crore towards A&G Expenses and Rs. 11.29 Crore towards R&M expenses for the consideration of this Commission at the stage of true up.

Commission's Analysis:

Employee's Expenses

4.22 The O&M expenses for the 2nd Control Period are determined as per the Regulation-26 of the PSERC MYT Regulations, 2019. The Regulation has been reproduced as under:

"26.1. The O&M expenses for the nth year of the Control Period shall be approved based on the formula shown below:

$$O\&M_n = (R\&M_n + EMP_n + A\&G_n) \times (1-X_n)$$

Where,

- *$R\&M_n$ –Repair and Maintenance Costs of the Petitioner for the n^{th} year;*
- *EMP_n –Employee Cost of the Petitioner for the n^{th} year;*
- *$A\&G_n$ –Administrative and General Costs of the Petitioner for the n^{th} year;*

It should be ensured that all such expenses capitalized should not form a part of the O&M expenses being specified here. The above components shall be computed in the manner specified below:

(i) $R\&M_n = K*GFA*WPI_n/WPI_{n-1}$

Where,

- *'K' is a constant (expressed in %) governing the relationship between R&M costs and Gross Fixed Assets (GFA) for the n^{th} 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 n^{th} year.*

- ***WPI_n*** *means the average rate (on monthly basis) of Wholesale Price Index (all commodities) over the year for the n^{th} year.*

(ii) EMP_n+ $A\&G_n$= (EMP_{n-1} + $A\&G_{n-1}$)*(INDEX n/INDEX n-1)

INDEXn - Inflation Factor to be used for indexing the Employee Cost and Administrative and General Costs for n^{th} year. This will be a combination of the Consumer Price Index (CPI) and the Wholesale Price Index (WPI) of n^{th} year and shall be calculated as under:-

*INDEXn = 0.50*CPI_n + 0.50*WPI_n*

'WPI_n' means the average rate (on monthly basis) of Wholesale Price Index (all commodities) over the year for the n^{th} year.

'CPI_n' means the average rate (on monthly basis) of Consumer Price Index (Industrial workers) over the year for the n^{th} year.

Note 1: The O&M expenses of BBMB for the entire Control Period shall be projected separately based on the latest actual payout. The Commission shall true-up the O&M expenses of BBMB based on the actual payout. The O&M expense of BBMB shall be treated as uncontrollable cost item. However, when CERC determines the tariff in respect of generating plants/units of BBMB, the Commission shall consider the same

Note 2: For the purpose of estimation, the same WPI_n and CPI_n values shall be used for all years of the Control Period. However, the Commission will consider the actual values of the WPI_n and CPI_n at the end of each year during the True-up the R&M Expenses, Employee Cost and A&G Expenses on account of this variation.

Note 3: O&M expense shall be allowed on normative basis or actual whichever lower and shall be trued-up only to the account of variation in Wholesale Price Index and Consumer Price Index.

Note 4: Terminal Liabilities such as death-cum-retirement gratuity, Ex-Gratia, pension including family pension, commuted pension, leave encashment, LTC, medical reimbursement including fixed medical allowance in respect of the State PSU / Government pensioners will be approved as per the actuals paid by the Petitioner.

Note 5: O&M expenses made on account of extraordinary situations (if any) shall be submitted to Commission for its approval. Such expenses shall be filed separately and will not be subjected to provisions of Regulation 29. The amount approved by the Commission shall be trued up.

Note 6: Exceptional increase in employee cost on account of Pay Commission based revision for State PSU / Government employees will be considered separately by the Commission.

Note 7: 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.

Note 8: O&M expenses of assets taken on lease/hire-purchase and those created out of the consumers' contribution shall be considered in case the Generating Company or the Licensee has the responsibility for its operation and maintenance and bears O&M expenses.

Note 9: With regard to unfunded past liabilities of pension and gratuity, the Commission will follow the principle of 'pay as you go'. The Commission shall not allow any other amount towards creating fund for meeting unfunded past liability of pension and gratuity.

Note 10: O&M expenses for gross fixed assets added during the year, if not accounted already, shall be considered from the date of commissioning on pro-rata basis.

(iii) X_n is an efficiency factor for n^{th} year

The Value of X_n shall be determined by the Commission in it MYT order for the Control Period.

4.23 The employee cost is considered in two parts - other employee cost and Terminal benefits. EPPL has claimed terminal benefits of Rs.0.36Crore for FY 2022-23.

4.24 The Commission on the basis of certificate of statutory auditors for annual audited accounts for FY 2022-23has considered terminal benefits as Rs.0.36Crorefor FY 2022-23

4.25 The indices of the Wholesale Price Index (WPI) and Consumer Price Index (CPI) for FY 2022-23havebeen taken for working out increase/decrease in WPI and CPI as given below:

Table No. 7: Computation of Escalation Index for FY 2022-23

Period	FY 2021-22	FY 2022-23	Increase/Decrease
CPI Index (April-March)	356.064	377.616	6.05284%
WPI Index (April-March)	139.408	152.525	9.4088%

INDEX n* = (0.5*6.05284) +(0.5*9.4088) = **7.73083%

4.26 The Commission determined employee cost for FY 2022-23 asunder:

Table No.8: Other employee cost determined for True up of FY 2022-23 (Rs. Crore)

Sr.No	Particulars	Amount
1	Normative Other Employee Cost for FY 2021-22	1.69
2	Escalation Factor (Table No. 7)	**7.73083%**
3	**Other Employee cost(1*2)**	**1.82**

Table No. 9: Employee cost determined for True up of FY 2022-23 (Rs. Crore)

Sr.No	Particulars	Amount
1	Other Employee cost	1.82
2	Terminal benefits (Table no 8)	0.36
3	**Total Employee cost**	**2.18**

Administrative and General Expenses

4.27 The Commission in its order dated 01.06.2023 in petition no 56 of 2022 has determined baseline values of Administrative and General expenses for FY 2021-22 as Rs.9.56 Crore. Audit and ARR fee are to be allowed separately on actual basis.

4.28 The indexation used for escalating the A&G expenses is considered as 7.7308% for FY 2022-23 based on the WPI and CPI index factor as computed above in Table No 7.The Commission considers Audit and ARR fee of Rs. 0.17Crorefor FY 2022-23 respectively as per audited annual accounts. Accordingly the Commission determines A&G expenses for FY 2022-23 as per Regulations 8.2(d) on normative basis as under:

Table No.10: A&G Expenses approved by the Commission for FY 2022-23 (Rs. Crore)

Sr. No	Particulars	Amount
1.	A&G Expenses baseline value FY 2021-22	9.56
2.	Escalation Factor(Table No 7)	1.077308
3.	A&G Expenses(1*2)	10.30
4	Audit & ARR expense	0.17
5	**Total A&G expenses**	**10.47**

Repair & Maintenance Expenses(R&M)

4.29 As per Regulation 26.1 of PSERC MYT Regulations 2019, the R&M expenses are to be determined as reproduced in para 3.22.

4.30 The Commission in its order dated 09.03.2021 has determined K factor as 0.982% for 2nd MYT Control Period as under:

Table No. 11: Calculation of 'K' factor for 2nd Control Period

(Rs.Crore)

Sr. No	Particulars	FY2017-18	FY2018-19	FY2019-20	Average
1	Opening GFA	841.74	846.00	853.01	846.92
2	Closing GFA	846.00	853.01	854.60	851.20
3	Average GFA	843.87	849.51	853.80	849.06
4	R&M Expenses	10.30	10.49	4.19	
5	**'K'=R&M Expenses/ Average GFA**	**1.22%**	**1.234%**	**0.491%**	**0.982%**

In view of the above regulations, the Commission considers K factor of0.982% for determination of R&M expenses for FY 2022-23.

4.31 It needs to be noted that K factor establishes the relationship between previous fixed assets and the repair and maintenance expenses. The opening Gross fixed assets for FY 2022-23 has been taken as per Table No.5.

4.32 The escalation factor (WPI) of 9.409% for FY 2022-23 is as determined in Table 7 above, accordingly, the R&M Expenses for the FY 2022-23 is determined as follows:

Table No. 12: R&M Expenses approved by the Commission for true up of FY 2022-23

(Rs. Crore)

Sr. No.	Particulars	Amount
1	Opening GFA	851.39
2	Addition of Assets	5.74
3	De-capitalization of assets	0.00
4	Closing GFA	857.13
5	Average GFA	854.26
6	K factor	0.982%
7	R&M expenses with K factor	8.38
8	Escalation factor (WPI)	1.09409
9	**R&M Expenses**	**9.18**

Thus, the Commission allows O&M expenses for FY 2022-23 as under:

Table No. 13: O&M expenses approved by the Commission for True up of FY 2022-23 (Rs. Crore)

Sr. No.	Particulars	Amount
1	Employee Cost (Table 9)	2.18
2	A&G expenses (Table10)	10.47
3	R&M expenses (Table 12)	9.18
4	**TOTAL O&M expenses**	**21.83**

5. Depreciation

EPPL's Submissions:

5.1 EPPL submitted that depreciation 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. EPPL has estimated depreciation by applying the above said provisions on average GFA excluding depreciation on the land.

5.2 EPPL further submitted that the closing GFA for FY 2019-20 is Rs. 850.97 Crore. Additional capitalization has been considered at Rs. 3.65 Crore and Rs. 6.23 Crore in FY 2020-21 and FY 2021-22 respectively. Hence Opening Gross Fixed Assets excluding land considered for FY 2022-23 is Rs. 851.22 Crore.

5.3 The rate of depreciation considered @ 4.97 %. The depreciation charges for FY 2022-23 are given in the following table:

Table No. 14 : Depreciation for FY 2022-23 considering Order dated 01.06.2023 in Petition no. 56 of 2022

(Rs. Crore)

Sr. No.	Particulars	Amount
1	Gross Block as on 1st April 2022	860.83
2	Additional Capitalization	5.92
3	Less: Decapitalization	0
4	Closing Block	866.75
5	Avg. Gross Fixed Assets	863.79
6	Average Value of Land and Land Right	12.57
7	Average GFA (Excluding Land)	851.22
8	Rate of Depreciation	4.97%
9	**Depreciation Charges**	**42.31**

In view of the above, EPPL requests the Commission to allow Depreciation of Rs. 42.31 Crore for FY 2022-23.

PSPCL's Submissions:

5.4 PSPCL submitted that the Petitioner has sought approval of Rs. 42.31 Crores towards Depreciation, *inter alia*, based on its self-serving computation of the additional capitalization. The claim of the Petitioner is solely based on the pendency of its review petition and since the review has been dismissed, the claim ought to be rejected.

EPPL's Rejoinder:

5.5 EPPL vide rejoinder dated 02.05.2024 submitted that the contentions raised by PSPCL are reiterative in nature and have been adequately addressed. It is apposite to note that by way of Appeal (DFR) No. 150 of 2024, the Petitioner has challenged the Order of this Commission in Review Petition No. 07 of 2023 in Petition No. 56 of 2022.

Commission's Analysis:

5.6 Depreciation has been determined as per Regulation 21 of the PSERC MYT Regulations, 2019, specifies as under:

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

Provided that the depreciation shall be allowed after reducing the approved original cost of the retired or replaced or decapitalized assets:

Provided that the land, other than the land held under lease and 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 assets:

Provided further that Government. 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 residual/salvage value of the asset shall be considered as 10% and depreciation shall be allowed up to maximum of 90% of historical capital cost of the asset:

Provided that I.T. Equipment and Software shall be depreciated 100% with zero salvage value.

21.3. The Cost of the asset shall include additional capitalization.

21.4. The Generating Company, Transmission and Distribution Licensee shall provide the list of assets added during each Year of the Control Period and the list of assets completing 90% of depreciation in the Year along with Petition for Annual Performance Review, true-up and tariff determination for ensuing Year

21.5. Depreciation for Distribution, 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

Provided that the remaining depreciable value as on 31st March of the year closing after a periodof12yearsfromdate 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 asset.

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.”

5.7 The Commission determines the depreciation for the 2nd Control period as per the Regulation 21 stated above. The Opening GFA of Rs.850.95Croreis considered for spillover schemes as per the Closing GFA approved by the Commission in the True-up of FY 2021-22.SimilarlyGFA for new schemes is considered as Rs. 0.44 Crores as per closing of FY 2021-22.

5.8 The Commission has considered the addition of GFA as approved in table no5. Based on the actual rate of depreciation of 4.97%as determined during True-Up of FY 2021-22, the depreciation for Spillover and New Schemes for EPPL for FY 2022-23is as under:

Table No.15: Depreciation approved by the Commission for True up of FY 2022-23

(Rs.Crore)

Sr. No	Particulars	Amount
(I)	**Spillover Schemes**	
1.	Opening GFA as on 01.04.2022	850.95
2.	Add: Additions to GFA during the year	0.00
3	Decapitalization of assets	0.00
4.	Closing GFA	850.95
5.	Average GFA	850.95
6.	Average value of Land & land rights	12.57
7.	Average GFA net of land & land rights	838.38
8	Rate of Depreciation	4.97%
9	**Depreciation**	**41.67**
(II)	**New Schemes**	
1	Opening GFA as on 01.04.2022	0.44
2.	Add: Additions to GFA during the year	5.74
3.	Closing GFA	6.18
4.	Average GFA	3.31
5.	Average value of Land & land rights	0.00
6.	Average GFA net of land & land rights	3.31
7.	Rate of Depreciation	4.97%
8.	**Depreciation**	**0.16**

Table No.16: Depreciation allowed by the Commission for True up of FY 2022-23

(Rs. Crore)

Sr. No	Particulars	Amount
1.	Opening GFA as on 01.04.2022	851.39
2.	Add: Additions to GFA during the year	5.74
3.	Closing GFA	857.13
4.	Average GFA	854.26
5.	Average value of Land & land rights	12.57
6.	Average GFA net of land & land rights	841.69
7.	Rate of Depreciation	4.97%
8.	**Depreciation**	**41.83**

6. Return on Equity (RoE)

EPPL's Submissions:

6.1 EPPL submitted that Regulation 19 and 20 of PSERC MYT Regulations, 2019 provides for recovery of Return on Equity.

6.2 EPPL further submitted that the Commission in its Order dated 27.11.2013 has noted that this project is a run of the river project with pondage, pondage capacity in terms of hours of operation at contracted capacity for peaking power is four hours.

6.3 EPPL submitted that the total equity invested in the project is Rs. 318.10 Crore As mentioned in the above para, the Project Cost for FY 2019-20 (True-up) is arrived at Rs. 850.97 Crore only. As such the total equity eligible for determination of tariff, as per the provisions of PSERC Regulations, shall be limited to Rs. 255.29 Crore (30% of Rs. 850.97 Crore.). It is to be noted that the petitioner has filed review petition no. 07 of 2023 before the Commission against the order issued dated 01.06.2023 in petition no. 56 of 2023. The petitioner has considered the additional capitalization as requested in the review petition 07 of 2023 against order dated 01.06.2023 in petition no. 56 of 2022 and additional capitalization as per the audited accounts for FY 2022-23. The total equity eligible for determination of Return on Equity for FY 2022-23 @16.5% rate of equity for the each of the year during control period as shown in Table below:

Table No. 17: Return on Equity for FY 2022-23 as per the review petition 07 of 2023 against 56 of 2022 filed before the Commission. (Rs Crore)

Sr no	Particulars	FY 2020-21	FY 2021-22	FY 2022-23
1	Cost approved by PSERC	850.97	854.60	860.83
2	Add: Additional Capitalization as per Investment Plan	3.65	6.23	5.92
3	Less: Decapitalization of Runner	0.02	-	-
4	Closing Project Cost	854.60	860.83	866.75
5	Opening Equity (30% of Operating Capital Cost)	255.29	256.38	258.25
6	Add: Addition during the year (30 % of Additional Capital Expenditure)	1.10	1.87	1.78
7	Less: Decapitalization of Runner	0.01	-	-
8	Closing Equity (30% of Operating Capital Cost)	256.38	258.25	260.03
9	Average Equity (Considered for Computing ROE)	255.84	257.31	259.14
10	Rate of ROE	16.50%	16.50%	16.50%
11	Return on Equity	42.21	42.46	42.76

EPPL requests the Commission to allow Return on Equity of Rs. 42.76 Crore for FY 2022-23 as referred above.

PSPCL's Submissions:

6.4 PSPCL submitted vide memo date 04.04.2024 that the Petitioner at the stage of truing-up cannot seek for a variance in the methodology as applied at the time of determination of tariff.

6.5 PSPCL further submitted that the Commission while truing up the numbers for FY 2021-22 in Petition No. 56 of 2022 had considered closing balance of equity as Rs. 255.42 Crores. Since no additional capitalization is to be allowed in FY 2022-23 accordingly the closing balance of equity for FY 2022-23 be restricted to Rs. 255.42 Crores as against the claim of the Petitioner subject to prudence check by the Commission.

6.6 PSPCL stated that EPPL itself in Petition No. 16 of 2020 and Petition No. 01 of 2022 had sought for RoE at the rate of 15.50%. Relevant extract of orders in the said petitions is as under:

Petition No. 16 of 2020

*"**5.0 Return on Equity (RoE)***

EPPL's Submission

5.1 EPPL submitted that Regulation 20 of PSERC MYT Regulations, 2019 provides for recovery of Return on Equity and Regulation 19 of PSERC MYT Regulations, 2019 provides for Debt-Equity Ratio.

…….

5.4 Based on the MYT Regulation 2019, the total equity eligible for determination of tariff and the Return on Equity @15.5% for the each of the year during control period is shown in Table below:

……"

Petition No. 01 of 2022

"5.0 Return on Equity

EPPL's Submission:

5.1 EPPL submitted that Regulation 20 of PSERC MYT Regulations, 2014 provides for recovery of Return on Equity.

…………

5.3 EPPL stated that based on the MYT Regulations 2014, and considering additional capitalization incurred during FY 2019-20, the total equity eligible for determination of tariff and the Return on Equity @15.50%for the remaining year of 1st control period as shown in the following:

…..”

6.7 PSPCL submitted that in view of the above, the Petitioner cannot deviate or submit to the contrary what the Petitioner had itself pleaded before this Commission in various petitions.

6.8 PSPCL further submitted that the Commission *vide* orders dated 09.03.2021 and 23.08.2022 in Petition Nos. 16 of 2020 and 01 of 2022, respectively, has allowed 15.50% towards the RoE. The Petitioner has even preferred appeals against the said orders, however, the issue of rate of interest applied towards RoE has not urged as a ground in the said appeals. Thus, the issue has attained finality and ought to be dismissed on this ground alone.

EPPL's Rejoinder:

6.9 EPPL submitted vide rejoinder dated 02.05.24 that PSPCL has raised illegal, unfounded and unsustainable claims qua the allowable rate of recovery which goes against the very orders of this Commission by placing misplaced reliance on this Commission's Order in Petition No. 1 of 2022. In this regard, it is apposite to highlight as under:

(a) It is an undisputed fact that the Petitioner is a run of the river project with pondage which has been noted by this Commission in its Order dated 27.11.2013 in Petition No. 54 of 2012. The said fact has never been disputed by PSPCL.

(b) PSPCL has failed to consider that in Petition No. 1 of 2022, the Petitioner's claim for Return on Equity for FY 2019-2022 was on basis of Regulation 20 of the PSERC (Terms and Conditions for Determination of Generation, Transmission, Wheeling, and Retail Supply Tariff), Regulations, 2014 the relevant extract of which is reproduced as under:

> "***20. RETURN ON EQUITY***
>
> ***<u>Return on Equity shall be computed at the rate of 15.5%</u>*** *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.*"

6.10 EPPL further submitted that a plain reading of the aforesaid regulations clearly provides that rate of return on equity under the previous regulation was restricted to 15.5%. In fact, while making its submissions, PSPCL has altogether failed to consider that the extract reproduced by them itself states that the claim in Petition No. 1 of 2022 *inter alia* dealt with the PSERC MYT Regulations 2014. PSPCL has deliberately chosen to hide the complete extract of the 2014 regulations and relied on a wrong and illegal understanding of the extracted portion of the Tariff Order dated 23.08.2022 in Petition No. 1 of 2022 in a feeble attempt to strengthen their illogical and unsustainable argument that claim under previous regulations would in any manner restrict the Petitioner from claiming the rate of return on equity as expressly provided in the PSERC MYT Regulations, 2019.

6.11 EPPL submitted that in Petition No. 1 of 2022, while seeking approval for Annual Fixed Cost *inter alia* for FY 2022-2023, the Petitioner has categorically claimed Return on Equity in terms of PSERC MYT Regulations, 2019 at the rate of 16.5%. The relevant extract from the Petition No. 1 of 2022 filed by the petitioner is provided herein below for reference:

> "***10.2.5.*** *Based on the MYT Regulations 2019, and considering the additional capitalization incurred during FY 2019-20 and FY 2020-21 as per the table no. 4 & 5, the total equity eligible for determination of tariff and Return on Equity @16.5% for the each of the year during control period as shown in Table below:*"

6.12 EPPL further submitted that it being an established fact the Petitioner is *a run of the river project with pondage*, there can be no doubt that as per the applicable Regulations the Petitioner is entitled to Return of Equity at rate of 16.5%. Any averments by PSPCL to the contrary are in teeth of the express provisions of the PSERC MYT Regulations 2019 and as such merit no consideration by this Commission.

6.13 EPPL submitted that It is trite law that legal propriety accords that illegality ought not to be perpetuated by any Court. This Commission being a sectoral regulator and having power equivalent to a civil court has the requisite powers to correct any patent illegality by way of its subsequent orders. Arguendo and without prejudice to its claims, EPPL humbly submitted that even if the Petitioner had committed any error during the approval stage, the same can be corrected by this Commission at the stage of true-up in view of the fact that tariff determination is a continuous process. Reliance is placed on Order dated 17.10.2022 of Hon'ble APTEL in Appeal Nos. 212 of 2020 and Appeal No. 335 of 2022 wherein it was stated that:

> "*22. No doubt, tariff determination is a continuous process. At the same time, however, it has to be borne in mind that tariff is determined by formal orders for specified control periods, Financial Year wise. The tariff determination for a particular control period regulates the affairs of the parties and stakeholders involved for the period to which it is made applicable. A tariff determined on the basis of projections presented by petitions in the nature of Average Revenue Requirement ("ARR") or Annual Performance Review ("APR") is generally followed up by true-up orders based on audited accounts wherein suitable corrections are incorporated.*
>
> *24. …The party facing the wrong end of the stick (due to erroneous approach) will have remedies in law which include an appeal or prayer for correction in truing-up or proper principle to be applied in subsequent tariff orders….*"

6.14 EPPL further submitted that in subsequent filings before this Commission vide Petition No. 1 of 2022, Petition No. 56 of 2022 and Petition No. 75 of 2022 the Petitioner has emphasized that its claim for Return of Equity as per the applicable Regulations of this Commission is as 16.5% as it is a run of the river project with pondage. Pursuant thereto, vide its Order dated 01.06.2023 and 10.10.2023 in Petition No. 56 of 2022 and Petition No. 75 of 2022, respectively, the Commission has been pleased to allow Return of Equity at 16.5%. Hence there is no inconsistency on part of the Petitioner in its claims qua RoE particularly when the Commission in Petition No. 56 of 2022 has itself allowed RoE at 16.5% while truing up claims for Annual Fixed Cost for FY 2020-2021 and FY 2021-2022 which pertains to the same MYT Period as FY 2022-2023 which is the subject of the present Petition.

6.15 In view of the aforesaid reasons, EPPL submits that the same is now consistently applied by this Commission as per the clear stipulations of Regulation 20 of PSERC MYT Regulations, 2019 for FY 2022-2023 as well.

Commission's Analysis:

6.16 The Commission determines the Return on Equity for the Control Period in accordance with Regulation 20 and 19 of PSERC MYT Regulations, 2019 which is reproduced asunder:

"20. Return on equity

Return on equity shall be computed at the base rate of 15.5% for thermal generating stations, Transmission Licensee, SLDC and run of the river hydro generating stations and at the base rate of 16.5% for the storage type hydro generating stations and run of river generating stations with pondage and 16% for Distribution Licensee on the paid up equity capital determined in accordance with Regulation19:

Provided that Equity invested in foreign currency shall be converted to rupee currency based on the exchange rate prevailing on the date(s)it is subscribed:

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

"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 Normative debt-equity ratio of 70:30 shall be considered for the purpose of determination of Tariff;

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;

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

b. 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 70:30provided 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."

6.17 The Commission has considered the opening equity of Rs. 255.42 Crore for FY 2022-23as the approved closing equity of FY 2021-22(True-up). The Commission has considered addition of equity of Rs.1.72 Crores at the rate of 30% of the capital expenditure of Rs. 5.74 Crore for FY 2022-23. As per the Regulations, 2019 which is applicable now, the Commission determines Return on Equity @16.50% on the average equity for the year calculated as under: -

Table No.18: Return on Equity approved by the Commission for True up of FY 2022-23 (Rs. Crore)

Sr. No	Particulars	Amount
1.	Opening Equity as on 01.04.2022	255.42
2.	Add: Addition to equity during the year	1.72
3	Closing Equity	257.14
4	Average Equity	256.28
5	Rate of RoE	16.50%
6	**Return on Equity**	**42.29**

The Commission, thus, allows Return on Equity of Rs. 42.29 Crore for FY 2022-23.

7.0 Interest and Finance Charges

EPPL's Submissions:

7.1 EPPL submitted that Regulation 24 of PSERC MYT Regulations, 2019 provides for recovery of interest and finance charges.

7.2 EPPL further submitted that the interest expenditure on account of long-term loans depends on the outstanding loans, repayments, and prevailing interest rates on the outstanding loans. EPPL has considered the estimated outstanding loans as on March 31,2020 as the opening loan balance for FY 2020-21. The additional capitalization/capital investment has been considered for FY 2020-21 and FY 2021-22 as per the review petition no. 07 of 2023 filed before the Commission against order 01.06.2023 in petition no. 56 of 2022. The additional capitalization for FY 2022-23 has been considered as per the audited accounts for FY 2022-23. Accordingly, interest expenses have been computed considering repayment of actual loans and applicable interest rate on such loans.

7.3 EPPL stated that the closing GFA for FY 2019-20 is Rs. 850.97 Crores. EPPL has considered the additional capitalization incurred of Rs. 5.92 in FY 2022-23 as per audited financial accounts.

7.4 The closing loan for FY 2019-20 as approved by this Commission by its Order dated 23.08.2022 of Rs 277.92 Crores, is considered as the opening balance of gross normative loan for FY 2020-21.

7.5 EPPL further stated that as per PSERC regulations, the computation of interest on loan is based on the following:

a. The opening gross normative loan as on 01.04.2020 has been considered.

b. The weighted average rate of interest has been worked out on the basis of the actual loan repayment schedule.

c. The repayment for the control period i.e., FY 2020-21 to FY 2022-23 has been considered equal to the depreciation allowed for that year.

d. The interest on loan has been calculated on the normative average loan of the year by applying the weighted average rate of interest.

7.6 Further based on the actual interest paid by EPPL under various project loan accounts the weighted average rate of interest is determined for FY 2022-23 is 12.25%.

7.7 EPPL submitted that the rate of interest on loan capital for new investments is as per Regulation 24.2 and is calculated as under:

Table No. 19: Applicable Rate of Interest for new investment in FY 2022-23

Sr. No.	Particulars	FY 2022-23
1	Actual Rate of interest (Proposed True up for FY 2021 – 22)	12.25 %
2	SBI one-year MCLR as on April 2022	7.00 %
3	SBI one-year MCLR as on 1st April 2021	7.00 %
4	Margin (4 = 1-3)	5.25 %
5	Interest on loan Capital (5 = 2 + 4)	12.25

7.8 EPPL further submitted that the MCLR Rates of SBI are 8.55% for FY 2019-20, 7.75% for FY 2020-21, 7.00% for FY 2021-22 and 7.00 % for FY 2022 - 23.

7.9 EPPL stated that in view of the above and as per PSERC Regulations the Interest on term loans is calculated at Table below:

Table No. 20: Calculation of Interest on Loan on existing Investment and new investment as per the review petition 07 of 2023 against 56 of 2022 filed before Commission.

(Rs. Crore)

Sr. No	Particulars	FY 2020-21	FY 2021-22	FY 2022-23
1	Net Loan Opening (A-B)=C	277.92	236.27	194.60
2	Less: Repayment during the year (D) (Depreciation of Assets)	41.67	41.67	41.67
3	Less: Decapitalization of the Assets	0.01	0.00	0
4	Closing Loan Balance of Year (F = C-D+E) For FY 2019-20 and Separate calculations for additional capitalization from FY 2020-21	236.27	194.60	152.93
5	Average Loan	257.09	215.43	173.76
6	Weighted Average Rate of Interest on Loan	12.72%	12.25%	12.25%
7	Rate of Interest on Loan on new Investment			
8	**Interest on Loan on existing Investment (X)**	**32.70**	**26.39**	**21.28**
9	**Interest on Loan for New Investment (Y)**			
10	Opening balance of loan	0.00	2.46	6.49
11	Receipt of loan during the year	2.56	4.36	4.15
12	Repayment of loan during the year	0.09	0.34	0.64
13	Closing balance of loan	2.46	6.49	10.00
14	Avg. Loan	1.23	4.48	8.24
15	Rate of Interest	12.37%	12.44%	12.25%
16	**Total Interest Cost (Z = X+Y)**	**0.15**	**0.56**	**1.01**
17	Finance Charges	5.97	0.26	0.28
18	Total Interest and Finance Charges	38.82	27.21	22.57

7.10 EPPL stated that as per the audited Financials it has incurred Rs. 0.28 Crore finance charges in FY 2022-23. EPPL requests the Commission to approve the same on actual basis.

EPPL requests the Commission to allow Interest on Loan of Rs. 22.57 Crore. (22.29+0.28) for FY 2022-23.

PSPCL's Submissions:

7.11 PSPCL submitted that the Petitioner has sought approval of Rs. 22.57 Crores towards Interest on Long Term Loan, *inter alia*, based on its self-serving computation of the additional capitalization for FY 2022-23. It is submitted that any approval of the Interest on Long Term Loan is to be allowed to the Petitioner only after considering the issue of the quantum of additional capitalization to be allowed to the Petitioner. PSPCL further submitted that the review as sought by the Petitioner has since then been dismissed and as such any reliance placed on the pendency of the review ought to be out rightly rejected.

7.12 PSPCL submitted that the claim for interest on long term loans ought to be subjected to prudence check by this Commission.

EPPL's rejoinder:

7.13 EPPL vide its rejoinder dated 02.05.2024 EPPL submitted that PSPCL has not provided any cogent reasons to counter the claim of the Petitioner and has merely averred that the same ought to be subject to prudence check by this Commission. Further thereto reliance is placed on the fact that the issue of additional capitalisation as denied by this Commission is before the Hon'ble APTEL vide Appeal (DFR) No. 155 of 2024.

7.14 EPPL further submitted that it has provided detailed computation of its claim of Rs. 22.57 Crore towards the Interest on Long Term Loan in the present Petition which are to be allowed as per actuals pursuant to Regulation 24 of the PSERC MYT Regulations, 2019:

7.15 EPPL stated that the interest expenditure on account of long-term loans depends on the outstanding loans, repayments, and prevailing interest rates on the outstanding loans.

7.16 EPPL further stated that it has considered the estimated outstanding loans as on March 31, 2020 as opening loan balance for FY 2020-21. The additional capitalization/capital investment has been considered for FY 2020-21 and FY 2021-22 as per Appeal (DFR) No. 155 of 2024 filed before Hon'ble APTEL Commission *inter alia* against order 01.06.2023 in Petition No. 56 of 2022.

7.17 EPPL stated that the additional capitalization for FY 2022-23 has been considered as per the audited accounts for FY 2022-23. Accordingly, interest expenses have been computed considering repayment of actual loans and applicable interest rate on such loans.

7.18 EPPL further stated that the closing GFA for FY 2019-20 is Rs. 850.97 Crore. EPPL has considered the additional capitalization incurred of Rs. 5.92 Crore in FY 2022-23 as per audited financial accounts.

7.19 EPPL further stated that the closing loan for FY 2019-20 as approved by the Commission by its Order dated 23.08.2022 of Rs 277.92 Crore, is considered as the opening balance of gross normative loan for FY 2020-21.

7.20 EPPL stated that based on the actual interest paid under various project loan accounts ,the weighted average rate of interest is determined for FY 2022-23 is 12.25%.

Commission's Analysis:

7.21 The Commission determines the Interest on loan capital for the 2ndControl Period as per Regulation 24 of the PSERC MYT Regulations, 2019. It is reproduced asunder:

"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.

24.2. Interest and finance charges on the future loan capital for new investments shall be computed on the loans, based on one (1) year State Bank of India (SBI) MCLR/ any replacement thereof as notified by RBI as may be applicable as on1stApril of the relevant year, plus a margin determined on the basis of current actual rate of interest of the capital expenditure loan taken by the Generating Company, Licensee or SLDC and prevailing SBI MCLR.

24.3. There payment 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-capitalization of assets, the repayment shall be adjusted by taking into account cumulative depreciation made to the extent of de-capitalization.

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.

Provided also that if there is no actual loan for a particular Year but normative loan is still outstanding, the last available weighted average rate of interest for the actual loan shall be considered."

7.22 The Opening balance of loan for the Spillover schemes (Rs. 194.57 Crores) and new schemes (Rs.0.28 Crores) is considered as per the Closing balance approved by the Commission for FY 2021-22 (True-up) in Petition no 56 of 2022. As per regulation 24.3 of PSERC MYT Regulation 2019, the repayment of loan is considered equal to depreciation allowed for the corresponding year. The Commission has considered addition of loan equal to 70% of the capital expenditure amounting to Rs. 4.02 (5.74*0.70) Crore for FY 2022-23.

7.23 The rate of interest on loan capital for new investments has been considered as 12.25% for FY 2022-23 as per table no 19 as submitted by EPPL.

7.24 For the Spillover schemes i.e., for existing loans, the rate of interest on loan capital is as per Regulation 24.1 and is considered as12.25% for FY 2022-23 as per actual weighted average rate claimed by EPPL.

7.25 EPPL has claimed Rs. 0.28 Crore as finance charges for FY 2022-23 which includes penal interest of Rs 0.25 Crores. The Commission disallows Rs.0.25 Crores and only allows other borrowing cost of Rs.0.03Crore for FY 2022-23as per Audited Accounts.

7.26 The Commission determines Interest on long term loans asunder:

Table No. 21: Interest on loan approved by the Commission for spill over schemes for true up of FY2022-23

(Rs. Crore)

Sr. No	Particulars	Amount
1.	Opening balance of loan	194.57
2.	Add: Receipt of loan during the year	0.00
3.	Less: Repayment of loan during the year	41.67
4.	Closing balance of loan	152.90
5.	Average Loan	173.74
6.	Rate of Interest	12.25%
7.	**Interest Charges**	**21.28**

Table No. 22: Interest on loan for new schemes for FY 2022-23

(Rs. Crore)

Sr.No	Particulars	Amount
1.	Opening balance of loan	0.28
2.	Add: Receipt of loan during the year	4.02
3.	Less: Repayment of loan during the year	0.16
4.	Closing balance of loan	4.13
5.	Average Loan	2.21
6.	Rate of Interest	12.25%
7.	**Interest Charges**	**0.27**

Table No.23: Interest on loan approved by the Commission for true up of FY 2022-23

(Rs. Crore)

Sr. No	Particulars	Amount
1.	Opening balance of loan	194.85
2.	Add: Receipt of loan during the year	4.02
3.	Less: Repayment of loan during the year	41.83
4.	Closing balance of loan	157.04
5.	Average Loan	175.94
6.	**Interest Charges**	**21.55**
7	Finance charges	0.03
8	**Interest & Finance charges**	**21.58**

The Commission, thus, approves Interest & finance charges of Rs. 21.58 Crore for FY 2022-23.

8.0 Interest on working capital

EPPL's Submissions:

8.1 EPPL submitted that interest on working capital is determined as per Regulation 33 and 25 of PSERC Regulations, 2019. EPPL further submitted 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 one (1) Year State Bank of India (SBI) MCLR / any replacement thereof as notified by RBI as may be applicable as on 1st April of the relevant year plus 350 basis points, whichever is lower. The 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.

8.2 EPPL further submitted that the Weighted Average Rate of Interest computed @12.25% p.a for FY 2022-23. The 1 Year State Bank of India MCLR is 7.00% p.a as on 01.04.2022.

Table no 24: Interest on Working Capital approved by the Commission for FY 2022-23

(Rs Crore)

S No	Particulars	Amount
1	Rate of Interest for Working Capital Loans claimed	12.25%
2	SBI 1 Year MCLR as on 01.04.2022	7.00%
3	Add 350 basis points as per Regulation 25.1	3.50%
4	Rate of Interest as per Regulation 25.1 (3 +4)	10.50%
5	Allowable Rate of Interest of Working Capital (Lower of 1 & 4)	10.50%

Considering the above, the EPPL has considered rate of interest on Working Capital at 10.50% for FY 2022-23.

8.3 EPPL stated that it has calculated the interest on working capital for MYT Control Period as per PSERC MYT Regulations 2019. Interest on Working capital is projected for control period from FY 2020-21 to FY 2022-23 by applying the rate of interest of @ 11.25 % p.a. for FY 2020-21 and 10.50% for FY 2021-22 & FY 2022-23 on components of Working Capital i.e. (Maintenance Spares @ 15% of O&M expenses; O&M expenses for one month and Receivables @ 2 month Annual Fixed Cost) as given in table below.

Table No. 25: Interest on Working Capital for FY 2022-23

(Rs Crore)

S.No	Particulars	Amount
1	Maintenance Spares (15% of the O&M Expenses)	4.18
2	Receivables (Two months of fixed cost)	23.91
3	O&M Expenses for one month	2.32
4	**Total Working Capital**	
5	Rate of interest	10.50 %
6	**Interest on Working Capital**	**3.19**

In view of the above, EPPL requests the Commission to allow Interest on working Capital of Rs.3.19 Crore for FY 2022-23.

PSPCL's Submissions:

8.4 PSPCL submitted that the Petitioner has sought approval of Rs. 3.19 Crores at the stage of truing-up towards Interest on Working Capital. It is pertinent to mention that at the time of determination of tariff [Petition No. 16 of 2020], applying the rate of interest at 10.50%, the interest on working capital determined by this Commission was Rs. 2.89 Crores. EPPL further submitted that truing-up cannot be the stage to consider an issue *de-novo.* Accordingly, the escalation as sought for by the Petitioner during truing-up ought to be rejected.

EPPL's rejoinder:

8.5 EPPL vide rejoinder dated 02.05.2024 submitted that the information/data provided during the hearing of Petition No. 16 of 2020 was merely based on projections and is necessarily subject to true-up. It is reiterated that the essence of truing up exercise is to determine tariff based on the actual information provided by the regulated entity. It is not understood as to how such an exercise can be construed as *de novo* in nature which is evidently the untenable case of PSPCL.

Commission's Analysis:

8.6 The Commission has computed the interest on working capital as per Regulation33 of the PSERC MYT Regulations, 2019 specifies asunder:

c. Hydro based generating stations: The Working Capital shall cover the following:

i. Maintenance spares @ 15% of operation and maintenance expenses;

ii. Operation &maintenance expenses for 1month;

iii. Receivables equivalent to 2 months of fixed cost.

8.7 The Commission has computed the rate of interest on working capital as per Regulation 25.1 of the PSERC MYT Regulations, 2019 specifies asunder:

The rate of interest on working capital shall be as per Regulation 25.1."

***"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 one (1) Year State Bank of India (SBI) MCLR / any replacement there of as notified by RBI as may be applicable as on 1stApril of the relevant year* *plus 350 basis points, whichever is lower. 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.”*

8.8 The Commission has determined the rate of interest as per above Regulation asunder:

Table No. 26: Rate of Interest on Working Capital approved by the Commission for FY 2022-23

(Rs. Crore)

Sr.No.	Particular	Amount
1	Rate of Interest for Working Capital Loans claimed	12.25%
2	SBI 1-year MCLR (as on 01.04.2022)	7.00%
3	Add 350 basis points as per Regulation 25.1	3.50%
4	Rate of interest as per Regulation 25.1 (3+4)	10.50%
5	**Allowable Rate of Interest for Working capital (lower of 1 & 4)**	**10.50%**

8.9 The above rate of interest of 10.50% is applicable for true up of FY 2022-23. The Commission approves the interest on working capital asunder:

Table No.27: Interest on working capital allowed by the Commission for FY 2022-23

(Rs.Crore)

Sr. No.	Particular	Amount
1	Maintenance spares @15% of O&M (Table 13)	3.27
2	O&M Expenses for one month (Table 13)	1.82
3	Receivables for two months	22.46
4	**Total Working Capital**	**27.55**
5	Rate of Interest (%)	**10.50%**
6	**Interest on Working Capital**	**2.89**

Thus, the Commission allows working capital requirement of Rs. 27.55 Crores for the true up of FY 2022-23and interest thereon of Rs. 2.89 Crore for FY 2022-23.

9.0 **Income Tax**

EPPL's Submissions:

9.1 EPPL submitted that Regulation 23 of PSERC MYT Regulations, 2019 provides for income tax. Income Tax expenses incurred Rs. 6.53 Crore as per audited accounts for FY 2022-23.

9.2 EPPL submitted that as per the provisions of the Income Tax Act, EPPL is liable to pay Minimum Alternate Tax (MAT) for the remaining control period during FY 2021-22 to FY 2022-23 @17.47%. Accordingly, the computed value of tax limited to Tax on ROE claimable under PSERC Tariff Regulations is as follows:

Table No. 28: Income tax on Equity as claimed by EPPL for FY 2022-23

(Rs Crore)

Sr. No	Particular's	Amount
1.	MAT Rate (including surcharge & cess)	17.47%
2.	ROE Rate	16.50%
3.	ROE Rate grossed up	19.99%
4.	Average Equity	259.14
5.	Pre Tax ROE (4)*(3) for the purpose of Income tax calculations	51.80
6.	Tax on ROE (5)*(1)	9.05
7.	Current tax paid	6.53
8.	**Allowable Income Tax (lower of 6 and 7)**	**6.53**

Considering the above, EPPL requests the PSERC to allow Income tax of Rs. 6.53 Crore. for FY 2022-23.

9.3 The Commission vide interim order dated 15.04.2024 directed EPPL to submit details of tax deposited. EPPL vide affidavit dated 07.05.2024 submitted the following details:

The details of Advance Tax paid are as per the Audited Account statement and the same are tabulated below:

Table No 29: Income tax paid by EPPL for FY 2022-23

(Rs Crore)

Sr No.	Tax Expense	Amount
1.	Current Tax on Profits for the year	6.096
2.	Adjustment in respect of MAT Credit of Previous years	0.4371
3.	**TOTAL**	**6.53**

PSPCL's Submissions:

9.4 PSPCL vide memo dated 04.04.2024 submitted that the Petitioner has sought for approval of Rs. 6.53 Crores for income tax expenses in the present petition [True-Up of FY 2022-23]. The same can be considered by this Commission subject to prudence check.

Commission's Analysis

9.5 Regulation 23 of PSERC MYT Regulations, 2019 provides for income tax. Which is reproduced hereunder: -

"23. INCOME TAX

23.1 Obligatory taxes, if any, on the income of the Generating Company or the Licensee or the SLDC from its core/licensed business shall be computed as an expense and shall be recovered from the customers/consumers:

Provided that tax on any income other than return on equity shall not constitute a pass-through component in the tariff and tax on such other income shall be payable by the Generating Company or the Licensee or the SLDC:

Provided that income tax shall be allowed as per actual income tax paid or income tax payable on return on equity, whichever is lower.

23.2. The benefits of tax holiday and the credit for carrying forward losses applicable as per the provision of the Income Tax Act, 1961 shall be fully passed on to the *customers/consumers.*

23.3. The penalty, if any, arising on account of delay in deposit of tax or short deposit of tax amount shall not be claimed by the Generating Company or the Licensee or the SLDC, as the case maybe."

9.6 The benefits of any tax Holiday have to be passed on to the consumer/customer as per PSERC MYT Regulations. EPPL submitted that it had paid advance Income Tax (corresponding to assessment year 2023-24) . The Commission notes that EPPL has actually paid Rs 6.096 Crores as submitted by EPPL in table no29 therefore the Commission approves the income tax for true up of FY 2022-23as given below:

Table No.30: Income tax on Return on Equity allowed by the Commission for the true up of FY 2022-23

(Rs. Crore)

Sr No	Particulars	Amount
1	MAT Rate (including surcharge & cess)	17.47%
2	ROE Rate	16.50%
3	ROE Rate grossed up	19.99%
4	Average Equity	256.28
5	Pre-Tax ROE (4) *(3) for the purpose of Income tax calculations	51.24
6	Tax on ROE (5) *(1)	8.95
7	Current tax paid	6.10
8	Allowable Income Tax (lower of 6 and 7)	6.10

The Commission allows Rs. 6.10 Crore as income tax for FY 2022-23 as per Regulations 23 of PSERC MYT Regulations, 2019.

10.0 Non-Tariff Income

EPPL's Submissions:

10.1 EPPL submitted that this Commission has considered Rs. 0.42 Crores as non- tariff income for FY 2022 -23 vide order dated 09.03.2021

10.2 EPPL further submit that interest earned on investments have been done out of the retained earnings (Return on Equity to the developer) of the entity. When RoE is realized on the Capital Investment made by the entity, the developer can either take out that amount from the hydro project company in the form of Dividends to its shareholders or it can invest the amount in fixed term deposits in the account of the hydro project company. However, when the developer retained earning is invested in fixed term deposits, there will be an interest income component on the same which otherwise could have been distributed to the shareholders. The current tariff regulations consider this interest earned on retained earnings to the developers as Non-tariff Income which is not judicious as the income received here is on account of foregoing of dividend income by the shareholders, unlike income from non-generation activity such as revenue from hoardings or advertisements in the premises of the plant etc.

10.3 EPPL submitted that when this interest earned is considered as Non-Tariff Income and is reduced from the Annual Fixed Cost, then it effectively reduces the regulated RoE component to the shareholders of the project company and leads to realizing lower RoE than envisaged by the regulations. Hence, Non-tariff income on account of investments made out of retained earnings be allowed to be retained by the petitioner.

PSPCL's Submissions:

10.4 PSPCL replied vide memo dated 04.04.2024 that the Petitioner has claimed Rs. 0.42 Crores as non-tariff income. It is the case of the Petitioner that interest earned on investments made out of its earnings ought not to be considered as non-tariff income. In this regard, reliance be placed on Regulation 28 of the MYT Regulations 2019.

10.5 In view of the above, it is clear that interest on investments on account of RoE is to be included in the non-tariff income in terms of the MYT Regulations, 2019. It is submitted that regulations can only be challenged by way of a judicial review and cannot by way of any stretch of imagination be challenged in the present petition.

EPPL's rejoinder:

10.6 EPPL vide rejoinder dated 02.05.2024 submitted that it has been the consistent stance of the Petitioner that the erroneous inclusion of the interest on investments with the head of 'Non-Tariff Income' which is excluded from the Annual Fixed Cost approved by this Commission restricts the allowable return on equity which the Petitioner is entitled to as per the express terms of section 61 of the Electricity Act, 2003. In this regard, it is submitted:

(a)That such interest earned from undistributed income ought not to be treated as 'Non-Tariff Income' as per the PSERC MYT Regulations, 2019 in view of comparable regulations issued by the Uttarakhand Electricity Regulatory Commission which expressly provide that such interest on retained ROE shall not be included in '*Non-Tariff Income'.* The relevant extract of the UERC Regulations is reproduced herewith for ready reference:

> "*46. The amount of non-tariff income relating to the Generation Business as approved by the Commission shall be deducted from the Annual Fixed Charges in determining the Net Annual Fixed Charges of the Generation Company.*

Provided that the Generation Company shall submit full details of its forecast of non-tariff income to the Commission in such form as may be stipulated by the Commission from time to time. Provided that the interest earned from investments made out of Return on Equity corresponding to the regulated business of the Generating Company shall not be included in Non-Tariff Income."

10.7 In response to the Commission's directions vide order date 15.04.2024, EPPL vide affidavit dated 07.05.2024 submitted the following details of other income:

Table No.31:Details of other income for FY 2022-23submitted by EPPL

(Rs Crore)

Sr. No.	Other Income	Amount
1.	Interest Income on Fixed Deposits	1.04
2.	Interest Income on Non-convertible debentures	0.74
3.	**TOTAL**	**1.78**

Commission's Analysis:-

10.8 Non-Tariff Income is to be determined as per Regulation 28 of PSERC MYT Regulations2019.As per the regulation Interest income on investments, fixed and call deposits and bank balances are to be considered as non-tariff income.

Therefore, the Commission approves Rs.1.78 Crore as non-Tariff income for FY 2022-23 based on the Audited Annual Accounts.

11.0 Annual fixed charges for FY 2022-23

11.1 The Annual fixed charges for FY 2022-23 as submitted by EPPL and approved by the Commission is summarized in the following table: -

Table No. 32: Annual fixed charges for FY 2022-23 approved by the Commission

(Rs Crore)

Sr. No.	Particulars	Claimed by EPPL in this Petition	Approved by the Commission
1.	O&M Expenses(Table 13)	27.88	21.83
2.	Depreciation(Table 16)	42.31	41.83
3.	Return on Equity(Table 18)	42.76	42.29
4.	Interest & Finance charges(Table 23)	22.57	21.58
5.	Interest on Working Capital(Table 27)	3.19	2.89
6.	Income Tax(Table 30)	6.53	6.10
7.	**Total Expenses**	**145.24**	**136.52**
8.	*Less*: Non-Tariff Income	-	1.78
9.	**Annual Fixed Charges**	**145.24**	**134.74**

11.2 EPPL shall be entitled for computation and payment of capacity charges and energy charges in accordance with Regulation 37 and Regulation 38, PSERC, MYT Regulation, 2019**.**

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 13 (4) of CERC (Terms and Conditions of Tariff) Regulation, 2019are squarely applicable to under recovery or over recovery of fixed charges in case of generating companies.

12.2 The Regulation 13(4) of CERC (Terms and Conditions of Tariff) Regulation, 2019is re-produced below for reference:-

"After truing up, if the tariff already recovered exceeds or falls short of the tariff approved by the Commission under these regulations, the generating company or the transmission

licensee, shall refund to or recover from, the beneficiaries or the long term customers, as the case may be, the excess or the shortfall amount along with simple interest at the rate equal to the bank rate as on 1st April of the respective years of the tariff period in six equal monthly installments."

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 13 (4) of CERC (Terms and Conditions of Tariff) Regulation, 2019on under-recovered or over-recovered Annual Fixed Charges (AFC) determined by the Commission.

13. Design Energy:

EPPL's Submission:

13.1 The petitioner has sought to allow, recovery of the AFC for FY 2022-23 based on, the revised Design Energy of 326.57 MU as approved by the Commission vide its order dated 02.08.2023 in petition no. 43 of 2021 for the Petitioner's project.

PSPCL's reply:

13.2 PSPCL's contention is that the Commission vide Order dated 02.08.2023 in Petition No. 43 of 2021 has revised the design energy to be taken as 326.57 MUs from FY 2023-24 onwards. Therefore, the said design energy cannot be sought to make applicable retrospectively for FY 2022-23.

EPPL's Rejoinder/Reply:

13.3 It is submitted that, the Commission's said Order in Petition No. 43 of 2021 holding that the revised Design Energy shall be applied prospectively from 2023-2024 has been challenged by the Petitioner vide Appeal No. 12 of 2024 (DFR No. 589 of 2023) filed before Hon'ble APTEL.

Commission's Analysis:

13.4 The Commission, vide Order dated 02.08.2023 in Petition No. 43 of 2021, has specifically held that the revised Design Energy for the Petitioner's project as vetted by CEA shall be considered from FY 2023-24 onwards. The Commission, while taking note of EPPL's submission that it has preferred an Appeal before Hon'ble APTEL against the said Order by the Commission, however, notes that there are no Orders to the contrary issued by Hon'ble APTEL. Filing of an appeal alone brings no sanctity to this claim which is disallowed. APTEL's decision will come into effect when its Order in the Appeal is issued.

14. Annual Performance Review (APR) for FY 2023-24 an Approval of AFC for FY 2024-25 & FY 2025-26:

The Commission observes that provision for APR does not exist in PSERC MYT Regulations 2022 applicable for the MYT Control Period of FY 2023 to FY 2026, which reads as under:

> *"11.3. The Generating Company, Transmission Licensee and Distribution Licensee shall file a petition for truing up of the previous Year or the Year for which the audited accounts are available and determination of tariff for the ensuing Year on or before 30th November of each Year, in formats specified by the Commission from time to time."*

Further, the AFC for FY 2024-25 & FY 2025-26 already stands determined vide the Commission's Order dated 10.10.2023 in Petition No. 75 of 2022. The same shall be trued-up on submission/filing of the true-up petition(s) by the Petitioner along with the audited accounts of the respective Year(s).

With regard to the Petitioner's prayer seeking directions to PSPCL for payment/reimbursement of SLDC/Transmission Charges for evacuation of EPPL's power through HPPTCL system, the same is to be regulated as per the provisions of the PSA/PPA read with PSERC MYT Regulations and judicial orders, if any. However, the Commission notes that EPPL has challenged the CERC/HPERC orders on the issue of status of the 220 kV Charor-Banala transmission line/charges before Hon'ble APTEL. Accordingly, in case of any dispute between the EPPL and PSPCL on the payment/ reimbursement of same, the parties shall be at liberty to approach the Commission after the issue attains finality in the appropriate judicial authority.

The Petition is disposed off accordingly.

Sd/-	Sd/-
(Paramjeet Singh) **Member**	**(Viswajeet Khanna)** **Chairperson**

Chandigarh
Date: 24.10.2024