PUNJAB STATE ELECTRICITY REGULATORY COMMISSION

SITE NO. 3,BLOCK B,SECTOR 18-A,MADYA MARG,CHANDIGARH

Petition No.34 of 2019
Date of Order:17.09.2020

Present : Ms. Kusumjit Sidhu, Chairperson
Shri S.S.Sarna, Member
Ms. Anjuli Chandra, Member

In the matter of : Petition for True up of Tariff for the control period (FY 2017-18 and 2018-19) under section 62 and 86 of the Electricity Act 2003 read with (a) Punjab State Electricity Regulatory Commission (Terms and conditions for determination of Generation, Transmission, wheeling and Retail Supply Tariff) Regulations, 2014; and (b) Amended and Restated Power Purchase Agreement dated 26.05.2009 executed between GVK Power (Goindwal Sahib) Limited and Punjab State Power Corporation Limited (formerly known as Punjab State Electricity Board)

AND

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

------Petitioner

Versus

Punjab State Power Corporation Limited.

------Respondent

ORDER

1.1 GVK Power (Goindwal Sahib) Limited (GVK) has filed the present petition for True Up of the Annual Fixed Cost for FY 2017-18 and FY 2018-19 of its 2x270 MW Coal Based Thermal Power Project at Goindwal Sahib in the State of Punjab. The present Petition for True up for FY 2017-18 and FY 2018-19 has been prepared on the basis of audited financial statements for FY 2017-18 and FY 2018-19 and PSERC (Terms & Conditions for Determination of Tariff) Regulations, 2014.GVK has prayed as follows:

a) Admit the present petition.
b) Allow the Annual Fixed Cost for the Control Period as per the Table No. 12 of the petition.
c) Allow the Annual Energy Charge for the Control period as per Table No. 17 of the petition.
d) To pass any other Order as the Commission may deem fit and appropriate under the circumstance of the case and in the interest of justice.

1.2 The discrepancies observed in the petition by the Commission were conveyed to GVK on 21.02.2020. After the Lockdown, the Petition was admitted on 03.06.2020 and GVK was asked to issue a public notice. The matter was delayed by GVK and the Commission directed GVK to file its reply to the deficiencies and revise its submission as per the capital cost approved by the Commission in its Order dated 17.01.2020 in Petition no 54 of 2017. The petition was taken up for hearing on 24.06.2020.

GVK requested to file the revised figure(s) according to its petition no. 54 of 2017. The Commission vide order dated 08.07.2020 directed GVK to file the same along with the rejoinder to the reply filed by PSPCL. GVK was also directed to reply to the deficiencies observed by the Commission vide notice no. PSERC/Reg/2618-2619 dated 21.02.2020 and submit the information mentioned in Annexure-A enclosed with the Order within 3 weeks. PSPCL was allowed to submit their sur-rejoinder filed by GVK as well as information mentioned in Annexure-A within a further one week. The petition was fixed for hearing as well as public hearing on 05.08.2020.Public notice was issued on 10.07.2020 in three newspapers. GVK responded to the deficiencies and filed its reply alongwith revised submissions on 31.07.2020 through email and hard copy on 04.08.2020. The Public hearing was held on 05.08.2020. No one from the public appeared in the hearing. PSPCL and GVK were allowed to file rejoinder and surrejoinder. The final hearing took place on 09.09.2020 and the Order was reserved. The Commission directed GVK to submit its rejoinder on the same day of hearing i.e. on 09.09.2020 itself. GVK submitted rejoinder on 09.09.2020 through email and hard copy on 10.09.2020.

1.3 The commercial operation of this project was declared on 16.04.2020. The Commission vide its Order dated 17.01.2020 in Petition no. 54 of 2017 approved the capital cost of the project and determined the Annual Fixed Cost for the energy supplied by the to PSPCL. The true up for FY 2016-17 was approved vide Order dated 07.09.2020 in Petition No. 32 of 2019. The Business Plan and Capital investment Plan for the First MYT Period was approved vide Order dated 30.07.2020 in Petition no 70 of 2017.The Commission vide its order dated 05.08.2020 in Petition no 69 of 2017 allowed Rs.605.64 Crore and Rs 471.61 Crore as provisional AFCfor FY 2017-18 and FY 2018-19 respectively.

2.0 Capital Cost for FY 2017-18 and FY 2018-19

GVK's submission

2.1 GVK has claimed capital expenditure of Rs. 4383.54 Crore as on 01.04.2017. GVK submitted that at the time of filing MYT petition for the control period of FY 2017-18 to FY 2019-20 (petition no. 69 of 2017), an additional capital expenditure of Rs. 230 Crore during FY 2017-18 was envisaged against which it has incurred an amount of Rs. 13.74 Crore only in FY 2017-18 and FY 2018-19. GVK submitted that it was unable to carry out several pending works within the original scope due to financial constraints. The additional capital expenditure of Rs. 12.90 Crore incurred by it in FY 2017-18 and Rs. 0.84 Crore in FY 2018-19 was towards the Initial capital spares (BTG) which was contemplated under the original scope of project works and towards the Coal Testing Laboratory respectively.

2.2 GVK craved liberty to claim the balance amount of Rs. 216.26 Crore in the remaining MYT Control Period for FY 2019-20. GVK further requested the Commission to allow the actual additional capitalization of Rs. 13.74 Crore as incurred by it in FY 2017-18 and FY 2018-19.

2.3 GVK vide its revised submissions on 31.07.2020, submitted that the actual expenditure incurred by it as on CoD was Rs.4267 Crore. However, vide Order dated 17.01.2020 in petition no. 54 of 2017, the Commission has approved the capital cost of Rs. 3058.37 Crore, and the same has been considered for the purpose of the revised submissions.

2.4 In its reply to deficiencies, GVK stated that Rs. 0.84 Crore is the amount incurred by GVK towards the coal testing laboratory for FY 2018-19. The total amount incurred towards coal testing lab is Rs. 1.54 Crore. The balance amount of Rs. 0.70 Crore was incurred in FY 2019-20 and the same has been claimed as Additional Capitalization under Petition No. 70 of 2017.

PSPCL's submission

2.5 PSPCL vide submission dated 23.06.2020 stated that GVK's submissions under this head are based on the underlying assumption that since the tariff for the base year i.e. FY 2016-2017 is yet to be determined by the Commission, GVK is entitled to true-up of its tariff for FY 2017-18 based on its claimed capital cost (revised) i.e. Rs. 4267.40 Crore. It was reiterated by PSPCL that the figures submitted by GVK no longer hold good in the light of the Final Tariff Order passed by the Commission wherein the completed capital cost has been approved at Rs. 3058.57 Crore. Thus, GVK is required to revise the same in accordance with the approved capital cost of the project. As regards the claim of additional capital expenditure of Rs.13.84 Crore in FY 2017-18 and FY 2018-19, it was reiterated that the same is first to be adjudicated in the pending proceedings in Petition No.70/2017 before any true-up in that behalf can be claimed from the Commission.

2.6 PSPCL in its submission received on 25.08.2020 stated that the capital cost as claimed by GVK for FY 2017-18 and 2018-19 in the revised submission is in line with the approved capital cost of the project as approved in the Tariff Order for FY 2017-18 to FY 2019-20 and thus may be accepted by the Commission.

Commission's Analysis

2.7 The Commission has approved the capital cost of Rs. 3058.37 Crore as on 31.03.2017 in its Order dated 07.09.2020 in petition no. 32 of 2019 for True-up of FY 2016-17. Capital Investment Plan for the first MYT period has also been approved vide Order dated 30.07.2020 in Petition no. 70 of 2017. In the present petition GVK has claimed additional capital expenditure of Rs. 12.90 Crore towards the Initial capital spares (BTG). Further Rs. 0.84 Crore have been claimed towards the coal testing laboratory set up by GVK as per directions of the Commission in Order dated 06.03.2019 in petition no. 68 of 2017.

Regulation 3.19 and 18.2 of the PSERC Tariff Regulations, 2014 specifies as under:

“3.19. “Cut-off Date” means 31st March of the year closing after two years of the year of commercial operation of the project, and in case the project is declared under commercial operation in the last quarter of a year, the cut-off date shall be 31st March of the year closing after three years of the year of commercial operation;

……

18.2. The Capital Expenditure of the following nature actually incurred after the cut-off date may be admitted by the Commission subject to prudence check:

a. Un-discharged/Deferred liabilities relating to works/services within the original scope of work;

b. Liabilities to meet award of arbitration or for compliance of the order or decree of a court;

c. On account of change of law;

d. Any additional works/services which have become necessary for efficient and successful operation of the project, but not included in the original project cost; and

e. …….”

In view of the above, the Commission allows the additional capital expenditure of Rs. 12.90 Crore in FY 2017-18 and Rs. 0.84 Crore in FY 2018-19. Considering the capital cost of Rs. 3058.37 Crore as on 31.03.2017 and the additional capital expenditure of Rs. 12.90 Crore during FY 2017-18, the capital cost as on 31.03.2018 works out Rs. 3071.27 Crore for FY 2017-18. Further, considering the capital cost of the project as Rs. 3071.27 Crore as on 01.04.2018 and additional capital expenditure of Rs. 0.84 Crore during FY 2018-19, the capital cost as on 31.03.2019 works out Rs. 3072.11 Crore for FY 2018-19.

3.0 Operation & Maintenance Expenses

GVK’s Submission

3.1 GVK submitted that Regulation 26 of the PSERC Tariff

Regulations, 2014 provides for Operations & Maintenance expenses along with its subsequent amendment vide 03.02.2016.

3.2 GVK further submitted that Regulations 8.1 and 8.2 of PSERC Tariff Regulations, 2014 provide for determination of Baseline values by this Commission based on estimates of the expected figures for the relevant year, industry bench mark/ norms and other factors etc. However, since no baseline values were approved by the Commission, GVK has adopted the baseline values for the O& M expenses as provided in the CERC Regulations.

Employee Cost:

3.3 The Employee cost includes salaries payable to employees, allowances and other terminal benefits.

3.4 **Inflation factor**: The escalation index has been computed in terms of the PSERC MYT Regulations,2014 considering the WPI (available till March 2019) and CPI index (available till March ,2019) as under:-

Table No. 1: Computation of Escalation Index

Period	FY 2016-17	FY 2017-18	FY 2018-19
CPI Index (April-March)	275.92	284.41	299.92
Increase/Decrease (%)		3.08	5.45
WPI Index (April-March)	116.60	114.90	119.80
Increase/Decrease (%)		2.96	4.27
CPI:WPI Index (50:50)(%)		3.02	4.86

3.5 In view of the above, the inflation factor for the period 2017-18 and 2018-19 as per PSERC Tariff Regulation, 2014 has been computed as 3.02% and 4.86%. GVK in its revised submission dated 31.07.2020 and 09.09.2020 stated that the inflation factor is on the lower side considering the average rise in salaries and other expenses and in order to retain employees with experience, it has to pay competitive remuneration to match industry standards. Considering the fact that Employee Expenses is the most critical component in the overall operational expenditure, a 3.906% hike in Employee Expenses is insufficient to maintain salaries even at industry average for the Control Period.

3.6 GVK has incurred an expenditure of Rs. 9.99 Crore for FY 2017-18 and Rs 12.67 Crore for FY 2018-19 on employee cost. In its submission dated 31.07.2020 GVK stated that the increase in cost is due to increase in number of employees in FY 2018-19 from 114 to 143 which was in turn due to increase in operation of the plant as compared to previous years. Accordingly, the Employee Cost for the Period 2017-18 and FY 2018-19 is as under:-

Table No 2 : Employee Cost submitted by GVK for FY 2017-18 and FY 2018-19

(Rs.Crore)

Sr.No	Particular	FY2017-18	FY 2018-19
1	Employee Cost	9.99	12.67

PSPCL's Submission

3.7 PSPCL vide memo no. 5612 dated 21.08.2020 submitted that GVK in the present Petition has claimed a sum of Rs. 154.98 Crore for FY 2017-18 and Rs. 164.10 Crore for FY 2018-19 as Operations & Maintenance (O&M) expenses in accordance with the formula prescribed under Regulation 26.1 of the PSERC Tariff Regulations. The inflation factor is to be used for indexing the employee cost which is to be a combination of the Consumer Price Index (CPI) and Wholesale Price Index (WPI) of nth year and is to be calculated as 0.50xCPIn+0.50xWPIn.

PSPCL submitted that under the PSERC Tariff Regulations, the Commission has prescribed definitive formulae based on realistic indexes and GVK cannot be permitted to seek deviation from the same. Any additional employee cost beyond what is permissible under the Regulations, is to be borne by GVK itself and cannot be permitted to be passed on to the consumers in the State.

Commission's Analysis

3.8 GVK in Petition no 69 of 2017 claimed an employee cost of Rs 15.58 Crore and Rs 17.92 Crore for FY 2017-18 and FY 2018-19 respectively. The Commission in its Order dated 05.08.2020 had approved employee cost of Rs 9.99 Crore and Rs 10.70 Crore for FY 2017-18 and FY 2018-19 respectively.

3.9 The baseline values of O&M expenses are to be determined as per Regulations 8(1) of PSERC MYT Regulation-2014, which states as

"8.1 Baseline values

a) The baseline values for the control period shall be determined by Commission and the projections for the control period shall be based on these figures.

b) The baseline values shall be inter-alia based on figures approved by the Commission in the past, latest audited accounts, estimates of the expected figures for the relevant year, industry benchmarks/norms and other factors considered appropriate by the Commission."

3.10 The employee cost is considered in two parts -Terminal benefits and other employee cost. Terminal benefits are to be allowed on actual basis. GVK has claimed Rs. 9.99 Crore and Rs. 12.67 Crore as employee cost for FY 2017-18 and FY 2018-19 respectively as per Annual Audited Accounts which includes Terminal benefit of Rs 0.73 Crore and Rs.0.99 Crore respectively. The Commission allows the actual Terminal benefit of Rs 0.73 Crore and Rs.0.99 Crore for FY 2017-18 and FY 2018-19 respectively. **Accordingly, terminal benefits allowed by the Commission for FY 2017-18 and FY 2018-19 are as under**

Table No. 3 : Terminal benefits allowed by the Commission

(Rs. Crore)

Sr.No	Particulars	FY 2017-18	FY 2018-19
1	**Terminal benefits**	**0.73**	**0.99**

3.11 The 'Other Employee Cost' of Rs. 9.26 Crore was provisionally approved by the Commission in Order dated 05.08.2020 in Petition no 69 of 2017 for FY 2017-18. Since, the plant has run for 349 days in that year, therefore taking FY 2016-17 as the baseline year is not feasible. The Commission considers Rs. 9.26 Crore as baseline for calculating 'Other Employee Cost' for subsequent years.

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

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

- ***INDEXn*** *- Inflation Factor to be used for indexing the Employee Cost.*
- *This will be a combination of the Consumer Price Index (CPI) and the Wholesale Price Index (WPI) of nth year and shall be calculated as under:-*

INDEXn = 0.50*CPIn + 0.50*WPIn

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

*'**CPIn**' means the average rate (on monthly basis) of Consumer Price Index (Industrial workers) over the year for the nth year.*

3.13 Accordingly, the Commission has calculated the ***INDEXn for FY 2017-18 and FY 2018-19*** as under:

Table No. 4: WPI and CPI Increase considered for FY 2017-18

Sr. No.	Particulars	FY 2016-17	FY 2017-18	Increase (%) over FY2016-17
1	CPI	275.92	284.42	3.08
2	WPI	111.60	114.90	2.96

INDEX n/INDEX n-1 = (0.5*3.08) +(0.5*2.96) = 3.02%

Table No. 5: WPI and CPI Increase considered for FY 2018-19

Sr. No.	Particulars	FY 2017-18	FY 2018-19	Increase (%)
1	CPI	284.42	299.92	5.45
2	WPI	114.88	119.79	4.28

INDEX n/INDEX n-1 = (0.5*5.45) +(0.5*4.28) = 4.86%

3.14 The Commission considers the escalation of 3.02% and 4.86% to determine other employee cost for FY 2017-18 and FY 2018-

19 respectively. The other employee cost and employee cost approved by the Commission for FY 2017-18 and FY 2018-19 is as under:

Table No.6 : Employee Cost approved by the Commission for FY 2017-18 and FY 2018-19

(Rs. Crore)

Sr. No.	Particulars	FY 2017-18	FY 2018-19
1.	Other Employee Cost	9.26	9.26
2.	Escalation Factor	3.02%	4.86%
3.	**Other Employee Cost**	**9.26**	**9.71**
4.	**Terminal Benefits**	**0.73**	**0.99**
5.	**Total Employee Cost**	**9.99**	**10.70**

Note: Since the Commission has not taken FY 2016-17 as base year for calculation of employee cost, the question of escalation over FY 2016-17 has not been considered.

Repair and Maintenance and A&G Expenses

GVK's Submission:

3.15 GVK in its revised submission dated 31.07.2020 stated that the R&M and A&G expenses are linked to K factor and WPI Index, "K" being the constant (expressed in percentage) that governs the relationship between R&M and A&G expenses and Gross Fixed Assets. For computing K factor, GVK has estimated the R&M expenses and A&G expenses by deducting the projected Employee Cost for the FY 2017-18 from the total O&M expenses as per the CERC Regulations for the FY 2017-18. The details are as under:-

Table No 7 : Computation of K by GVK for the Control period

(Rs. Crore)

Particulars	FY 2017-18
Total O&M expenses for the FY 2017-18 as per CERC Regulations	154.98
Less : Employee Cost for the FY 2017-18	9.99
R&M and A&G costs	**144.99**
Opening GFA	3058.37
Closing GFA	3071.27
Average GFA	3064.82
R&M and A&G Exp. as % of GFA	4.73
K factor	**4.73**

3.16 In view of the above, GVK prayed to approve the K Factor as mentioned above. GVK has considered the said K factor (as 4.73%) for the FY 2017-18.

3.17 GVK in its revised submission dated 31.07.2020 and 09.09.2020 submitted that the increase in WPI Index works out to 4.27% for FY 2018-19. Hence, for the purpose of R&M and A&G Expenses, the Petitioner has considered the escalation Index of 4.27% (i.e., average of increase in WPI for FY 2018-19 as per latest data available). Accordingly, GVK has projected combined R&M and A&G expenses as under:

Table no. 8: O&M Expenses for FY 2017-18 and FY 2018-19

(Rs. Crore)

Sr.No	Particulars	FY 2017-18	FY 2018-19
1	Opening FGA	3058.37	3071.27
2	Additional Capitalization	12.90	0.84
3	Closing GFA	3071.27	3072.11
4	Average GFA	3064.82	3071.49
5	K Factor(adjusted for WPI index)	4.73%	4.9%
6	Escalation factor		4.27
7	**R & M and A & G Expenses**	**144.99**	**151.51**
8	**Employee Cost**	**9.99**	**12.67**
9	**Total O&M Expenses**	**154.98**	**164.18**

3.18 GVK in its revised submission dated 31.07.2020 and 09.09.2020 has stated that since the actual O&M expenses FY 2017-18 and FY 2018-19 incurred are lower than the normative O&M expenses hence, it prays that the Commission may allow the normative O&M expenses for the purpose of the present true up for FY 2017-18 and FY 2018-19.

Table No.9: Actual O&M Expenses claimed by GVK

(Rs. Crore)

Sr.No	Particulars	FY 2017-18	FY 2018-19
1	R&M Expenses	19.15	25.86
2	A & G Expenses	37.85	27.08
3	**R & M and A& G Expenses**	**56.99**	**52.94**
4	**Employee Cost**	**9.99**	**12.67**
5	**Total O & M Expenses**	**66.98**	**65.61**

3.19 GVK prayed to allow O & M expenses as detailed above in line with provisions of PSERC Tariff Regulations,2014.

PSPCL's submission:

3.20 PSPCL vide memo no. 5612 dated 21.08.2020 submitted that as regards calculation of Repair and Maintenance Costs (R&M) and Administrative and General Costs(A&G) is concerned, the Regulations provide the same to be calculated as R&Mn + A&Gn = K*GFA*(WPIn/WPIn-1), wherein 'K factor' is a constant (expressed in %) governing the relationship between R&M and A&G expenses and gross fixed assets (GFA). Thus, for the purpose of calculation of the same, the gross fixed assets, as approved by the Commission are required to be taken as a base of which % value of the summation of R&M and A&G expenses is considered to the ‘K factor’. The Commission while arriving at the above figures, has also held that while scrutinising the books of accounts of GVK, it has been observed that certain expenses under this head are abnormally high for FY 2017-18 as compared to FY 2016-17 and FY 2018-19. As such, it is clear that the figures submitted by GVK in the present true-up Petition are highly inflated and are inadmissible in view of the already determined O&M Expenses by the Commission in the Tariff Order for FY 2017-19.

Commissions’ Analysis

3.21 R&M and A&G expenses are a part of O&M expenses. The Commission had provisionally approved O&M expenses for FY 2017-18 and FY 2018-19 as Rs. 27.92 Crore and Rs. 29.20 Crore respectively vide its Order dated 05.08.2020 in Petition no 69 of 2017. The opening value of approved Gross Fixed Assets as on 1.04.2017 is Rs. 3058.37 Crore as determined in the para 25 of Petition no 54 of 2017.

3.22 GVK in their annual audited accounts for FY 2016-17, FY 2017-18 and FY 2018-19 have shown other expenses including R&M and A&G expenses as Rs. 23.42 Crore, Rs. 232.63 Crore and Rs.130.67 Crore respectively. However, these included liquidated damages of Rs. 167.67 Crore and Rs.17.37 Crore for FY 2017-18 and FY 2018-19 respectively. The liquidated damages cannot be considered as a part of R&M and A&G expenses. Similarly, expenses of Rs.58.12 Crore on account of Bad debts written off and provision for doubtful debts cannot be considered as R&M and A&G expenses. Therefore, the R&M and A&G expenses works out to be Rs. 23.42 Crore, Rs.64.96 Crore and Rs 55.18 Crore for FY 2016-17, FY 2017-18 and FY 2018-19 respectively. On scrutiny, it has been found that certain A&G expenses are abnormally high for FY 2017-18 as compared to FY 2016-17 and FY 2018-19. These are:

i) Insurance: GVK has incurred expenses of Rs. 6.02 Crore in FY 2017-18 as compared to Rs. 2.68 Crore, and Rs. 2.84 Crore on Insurance in FY 2016-17 and FY 2018-19 respectively.

ii) Rates and Taxes: GVK has incurred expenses of Rs. 3.63 Crore in FY 2017-18 as compared to Rs. 0.51 Crore and Rs. 1.12 Crore on Rates and taxes in FY 2016-17 and FY 2018-19 respectively.

iii) Power and Fuel: GVK has incurred expenses of Rs. 13.33 Crore in FY 2017-18 as compared to Rs. 6.93 Crore and Rs. 4.36 Crore on power and fuel in FY 2016-17 and FY 2018-19 respectively.

iv) Provision for Diminution in value of Investment: In the order dated 17.1.2020 in Petition 54 of 2017, the Commission has noted that GVK had diverted the funds meant for capital expenditure out of the loan taken from financial institutions by investment in Mutual Funds. The Commission has neither considered interest paid on loans used for such other investments nor income earned from such other business/investment as part of the capital expenditure.

v) Miscellaneous Expenses: GVK has incurred expenditure of Rs. 5.69 Crore in FY 2017-18 as compared to Rs. 1.54 Crore and Rs. 2.12 Crore on miscellaneous expenses in FY 2016-17 and FY 2018-19 respectively.

vi) Legal and Professional charges: GVK has incurred legal and professional charges of Rs 4.67 Crore and Rs.9.34 Crore during FY 2017-18 and FY 2018-19 respectively as compared to Rs 3.41 Crore in FY 2016-17.

vii) GVK has achieved PLF of approximate 4%, 32% and 52% during FY 2016-17, FY 2017-18 and Rs 2018-19 respectively. In this regard the following has been observed:

- Contract Manpower: GVK has shown expenses on contract manpower as Rs 5.15 Crore, Rs. 13.48 Crore and Rs 16.63 Crore for FY 2016-17, FY 2017-18 and FY 2018-19 respectively as against employee cost of Rs 8.66 Crore, Rs 9.99 Crore and Rs 12.67 Crore for FY 2016-17, FY 2017-18 and Rs 2018-19 respectively.
- Consumption of stores: GVK has incurred Rs 10.07 Crore on consumption of stores and spares in FY 2017-18 as against Rs. 1.19 Crore in FY 2016-17 which is abnormally high considering the fact that the plant is new and has only been operational since 16.4.2016.
- Ash Handling Charges: GVK has claimed ash handling charges of Rs 0.77 Crore, Rs.3.12 Crore

and Rs.3.10 Crore for FY 2016-17, FY 2017-18 and FY 2018-19 respectively, but has not shown any income from sale of ash. These charges cannot be allowed considering labour, power and water charges are already being allowed separately.

3.23 The Commission also observes that, the A&G and R&M expenses of GHTP and GGSSTP (Thermal Plants) of PSPCL are lower than GVK in spite of being older and of higher capacity as shown in the table below:

Table No. 10: Comparison of A&G and R&M expenses of PSPCL owned Thermal Plants and GVK for FY 2017-18 and FY 2018-19

(Rs. Crore)

Sr. No.	Particulars	FY 2017-18			FY 2018-19		
		GHTP	GGSSTP	GVK	GHTP	GGSSTP	GVK
1	Capacity (MW)	920	840	540	920	840	540
2	A&G and R&M expenses	48.59	61.06	64.96	49.80	62.58	55.18

3.24 The Commission has taken into consideration R&M and A&G expenses based on audited accounts of GVK for FY 2016-17, FY 2017-18 & FY 2018-19 and the industry benchmark for determining the baseline values of R&M and A&G expenses for FY 2017-18 as under:

Table No. 11: Determination of Baseline value of the R&M and A&G expenses for FY 2017-18 based on the Annual Audited Accounts for FY 2016-17, 2017-18 and FY 2018-19

(Rs. Crore)

Sr. No	Particulars	FY 2016-17	FY 2017-18	FY 2018-19	Base line value for FY 2017-18
I	**A&G Expenses**				
1.	Insurance	2.68	6.02	2.84	2.76

Sr. No	Particulars	FY 2016-17	FY 2017-18	FY 2018-19	Base line value for FY 2017-18
2.	Rent	0.03	0.03	0.06	0.05
3.	Rates & Taxes	0.51	3.63	1.12	0.82
4.	Legal & Professional Charges	3.41	4.67	9.34	3.00
5.	Auditor's Remunerations: Statutory Audit	0.02	0.03	0.07	0.03
	Tax Audit	0	0.02	0	0.02
	Other Services	0	0.01	0.01	0.01
6.	Provision for Diminution in value of Investment	0.28	0.12	0.00	0.00
7.	Communication cost	0.22	0.21	0.08	0.08
8.	Travelling expenses	0.28	0.75	0.98	0.63
9.	Miscellaneous expenses	1.54	5.69	2.12	2.12
10.	Inventory Written off	0	0.53	0.00	0.00
11.	Contract Manpower	5.15	13.48	16.63	8.00
12	Ash Handling Charges	0.77	3.12	3.10	0.00
13.	Water drawl charges	0	1.21	0.00	0.00
14.	Power & Fuel	6.93	13.33	4.36	4.36
15.	**Total**	**21.82**	**52.85**	**40.71**	**21.88**
II	**R & M Expenses**				
1.	Consumption of Stores & Spares	1.19	10.07	11.64	4.00
2.	Repair: Buildings	0	0.27	0.29	0.27
3.	Repair: Plant & Machinery	0.12	1.17	1.48	1.17
4.	Repair: Other Assets	0.29	0.6	1.06	0.60
5.	**Total**	**1.60**	**12.11**	**14.47**	**6.04**
	R&M and A&G Expenses	**23.42**	**64.96**	**55.18**	**27.92**

3.25 The Commission has already approved investment/expenditure of Rs. 12.90 Crore and Rs. 0.84 Crore for FY 2017-18 and FY 2018-19 respectively as per the Capital Investment Plan. Capitalization of assets is considered as an addition to Gross Fixed Assets based on the nature of the capital expenditure. The additional capitalization/GFA during FY 2017-18 and FY 2018-19 is being considered as Rs. 12.90 Crore and Rs. 0.84 Crore respectively.

3.26 The Commission considers Rs. 27.92 Crore as base R&M and A&G expenses for FY 2017-18 and determines the K factor for the 1st Control Period as under:

Table No.12: **R&M and A&G expenses based on K factor and indexation for FY 2017-18 and FY 2018-19 determined by the Commission**

(Rs. Crore)

Sr. No.	Particulars	Amount
1.	Opening GFA as on 1.4.2017	3058.37
2	Addition during the year	12.90
3.	Closing GFA as on 31.3.2018	3071.27
4.	Average GFA	3064.82
5.	R&M and A&G expenses	27.92
6	Less: Audit Fee	0.06
7	**Base R&M and A& G expenses**	**27.86**
8.	**K factor**	**0.909%**

3.27 The Commission determines the R&M and A&G expenses for FY 2017-18 and FY 2018-19 based on K factor calculated above as under:

Table No. 13: R&M and A&G determined by the Commission for FY 2017-18 and FY 2018-19

(Rs. Crore)

Sr. No.	Particulars	FY 2017-18	FY 2018-19
1	Opening GFA	3058.37	3071.27
2	Addition during the year	12.90	0.84
3	Closing GFA	3071.27	3072.11
4	Average GFA	3064.82	3071.69
5	**K factor**	**0.909%**	**0.909%**
6	WPI Index (as per para 3.13)		4.28%
7	R&M and A&G expenses after adjusting WPI increase and K factor	27.86	29.12
8	Audit Fee	0.06	0.08
9	**Total R&M and A&G expenses**	**27.92**	**29.20**

3.28 **The O&M expenses consisting of employee cost and R&M and A&G expenses as determined in para 3.14 and 3.27 are approved as under:**

Table No.14: O&M expenses for FY 2017-18 and FY 2018-19

(Rs. Crore)

Sr. No	Particulars	FY 2017-18	FY 2018-19
1	Employee Cost	9.99	10.70
2	R&M and A&G Expenses	27.92	29.20
3	**O&M Expenses**	**37.91**	**39.90**

4.0 Depreciation

GVK's Submission:

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

4.2 GVK further submitted that depreciation for Generation Assets shall be calculated annually as per the straight-line method over the useful life of the Asset at the rate of depreciation specified by the Central Electricity Regulatory Commission (**"CERC"**) from time to time. Accordingly, GVK has computed the depreciation on the Gross Fixed Assets excluding land. GVK in its revised submission dated 31.07.2020 has submitted the depreciation charge for the Control Period as under:

Table No.15 : Depreciation Charges for the Control Period

(Rs. Crore)

Sr.No	Particulars	FY 2017-18	FY 2018-19
1	Opening Gross Fixed Assets	3058.37	3071.27

2	Less: Undischarged liabilities included in the above	0.00	0.00
3	Opening Capital Cost excluding undischarged liabilities (1-2)	3058.37	3071.27
4	Additional Capitalization	12.90	0.84
5	Closing Capital Cost (3+5)	3071.27	3072.11
6	Average Capital Cost (Average of 3 and 5)	3064.82	3071.69
7	Freehold Land	96.75	96.75
8	Rate of Depreciation	4.77%	4.77%
9	Remaining depreciable value{90%x(6-7)}	2671.26	2677.44
10	Depreciation (annualised) {Minimum of (8x6) and 9}	**146.17**	**146.51**
11	**Depreciation (for the period) (=10)**	**146.17**	**146.51**
12	**Cumulative depreciation at the end of the period**	**285.98**	**432.49**

4.3 GVK prayed the Commission to allow depreciation as detailed above in line with the provisions of the PSERC Tariff Regulations, 2014. GVK in its submission on 09.09.2020 submitted that the difference in the annual depreciation is due to the reason that while calculating the weighted average depreciation rate, rate of depreciation of land has been considered at 0%. The value of land had not been deducted from the Gross Fixed Assets, while computing depreciation. Deducting the value of land from the Gross Fixed Assets, the rate of depreciation comes upto 4.77% as claimed in the Petition. Accordingly, GVK prayed to the Commission to approve the depreciation rate at 4.77%.

PSPCL's Submission

4.4 PSPCL vide memo no. 5612 dated 21.08.2020 submitted that in terms of Regulation 21 of the PSERC Tariff Regulation 2014, GVK has calculated depreciation for generation assets as per the straight-line method over the useful life of the Asset at a weighted average rate of 4.77% and claimed a depreciation of

Rs.146.17 Crore and Rs.146.51 Crore in FY 2017-18 and 2018-19. However, in the original Petition filed by it, depreciation has been claimed at a weighted average rate of 4.80%. Since, depreciation approved by the Commission in the Tariff Order for FY 2017-18 is based upon the annual audited accounts of GVK for the said FY, the same may be approved as against the claimed figures by GVK in the present Petition

Commission's Analysis

4.5 As regards the Depreciation, Regulation 21 of PSERC MYT Regulations, 2014 has been amended vide notification dated 03.02.2016 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 land other than the land held under lease and the land for reservoir in case of hydro generating station shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset;

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

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

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

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

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

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

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

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

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

4.6 The Commission considers the rate of depreciation as 4.77% claimed by GVK in its revised submission dated 31.07.2020 for FY 2017-18 and FY 2018-19 and determines Gross Fixed Assets (net of land and land rights) as under:-

Table No. 16: Gross Fixed Assets (net of Land and land Rights) determined by the Commission for FY 2017-18 and FY 2018-19

(Rs Crore)

Sr.No	Particulars	FY 2017-18	FY 2018-19
1	Opening GFA	3058.37	3071.27
2	Addition during the year	12.90	0.84
3	Closing GFA	3071.27	3072.11
4	Average GFA	3064.82	3071.69
5	Land and Land rights	96.75	96.75
6	Average GFA (net of land and land rights)	2968.07	2974.94
7	Rate of Depreciation	**4.77%**	**4.77%**
8	**Depreciation**	**141.58**	**141.90**

Accordingly, the Commission approves depreciation Charges of Rs.141.58 Crore and Rs.141.90 Crore for FY 2017-18 and FY 2018-19 respectively.

5.0 Return on Equity

GVK's Submission

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

5.2 GVK in its revised submission dated 31.07.2020 and 09.09.2020 has stated that in the Order dated 17.01.2020 this Commission has approved a capital cost of Rs.3058.37 Crore. GVK submitted that the actual equity invested amounts to more than 30% of the capital cost. Hence, the normative equity has been considered as 30% of the capital cost. Balance equity shall be considered under normative loan.

Table No.17: Return on Equity submitted by the GVK

(Rs. Crore)

Sr.No	Particulars		FY 2017-18	FY 2018-19
1	Opening Gross Block excluding undischarged liabilities)	(a)	3058.37	3071.27
2	Equity percentage in Opening Gross Block	(b)	30%	30%
3	Normative Opening Equity	(c)	917.51	921.38
4	Normative Equity addition @30% due to additional Capitalisation during the year	(d)	3.87	0.25
5	Actual Equity addition during the year(as per Annual Accounts)	(e)	13.41	-
6	Normative Equity addition considered for ROE computation(Minimum of d and e)	(f)	3.87	-
7	Normative Closing Equity (c + f)	(g)	921.38	921.63
8	Average Equity(Average of c and g)	(h)	919.45	921.51
9	Normative Rate of ROE as per PSERC 2014 Tariff Regulations	(i)	15.50%	15.50%
10	**Return on Equity (h x i)**		**142.51**	**142.83**

5.3 GVK prayed this Commission to allow the Return on Equity at the rate of 15.50% in accordance with the PSERC Tariff Regulations, 2014.

PSPCL's Submission

5.4 PSPCL vide memo no. 5612 dated 21.08.2020 that based on Regulation 19 and 20 of the PSERC Tariff Regulations, 2014, GVK has submitted a break up of debt and equity and calculation of return on equity thereon based upon the normative rate of 15.50%. The debt equity ratio and return of equity as claimed by GVK for FY 2017-18 and 2018-19 in the present Petition is in line with the approved capital cost of the project as approved in the Tariff Order for FY 2017-19 and thus may be accepted by the Commission.

Commission's Analysis:

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

"20. RETURN ON EQUITY

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

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

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

"19. DEBT EQUITY RATIO

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

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

…………………...”

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

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

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

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

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

internal accruals are actually utilized for meeting capital expenditure of the Applicant's business.

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

5.7 The Commission in its Order dated 05.08.2020 in Petition no 69 of 2017 approved provisional return on equity of Rs.142.51 Crore and Rs.142.83 Crore for FY 2017-18 and FY 2018-19. Further, the Commission in its Order dated in Petition no 32 of 2020 (GVK's True Up for FY 2016-17) approved equity of Rs. 917.51 Crore as on 31.03.2017 which is considered as opening balance for FY 2017- 18. As per Regulation 19 of PSERC MYT Regulations, 2014, Debt Equity ratio of 70:30 has to be considered. Equity of Rs. 3.87(30% of Rs.12.90 Crore of assets addition of FY 2017-18) Crore and Rs 0.25 (30% of Rs. 0.84 Crore of asset addition of FY 2018-19) Crore have been considered for determining return on equity for FY 2017-18 and FY 2018-19 respectively.

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

Table No.18: Return on Equity for FY 2017-18 and FY 2019-20 determined by the Commission

(Rs Crore)

Sr. No	Particulars	FY 2017-18	FY 2018-19
1	Opening Equity for the year	917.51	921.38
2	Addition of Equity during the year	3.87	0.25
3	Closing Equity for the year	921.38	921.63
4	Average Equity for the year	919.45	921.51
5	Rate of Return on Equity (%)	15.50%	15.50%
6	**Return on Equity**	**142.51**	**142.83**

Accordingly, the Commission approves Return on Equity of Rs.142.51 Crore for FY 2017-18 and Rs.142.83 Crore for FY 2018-19.

6.0 INTEREST AND FINANCE CHARGES

GVK's Submissions

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

6.2 GVK in its revised submission dated 31.07.2020 and 09.09.2020 stated that the interest payable towards Long Term Loans has been calculated on the outstanding loan amounts and prevailing interest rates on the said amounts on the basis of the Completed Capital Cost of the Project as determined by this Commission vide Order dated 17.01.2020. The interest expenses have been computed taking into account repayment towards outstanding loan amounts and applicable interest rates in line with the PSERC Tariff Regulations, 2014.

6.3 GVK further submitted that in terms of the PSERC Tariff

Regulations, 2014, the computation of interest on term loans is based on the following:

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

(b) The rate of interest has been considered at the actual applicable advance rate of State Bank of India as on 01.04.2017 and 01.04.2018, which was at 13.22% p.a. for FY 2017-18 and 13.22% p.a. for FY 2018-19.

(c) The repayment for the Control Period i.e., FY 2017-18 to FY 2018-19 has been considered equal to the depreciation allowed for that year.

6.4 The details of interest on long term loan as submitted by GVK is as under:

Table No. 19: Interest on Long Term Loans for FY 2017-18 and FY 2018-19

(Rs. Crore)

Sr. No	Particulars	FY 2017-18	FY 2018-19
1	Gross Normative Loan-Opening	2140.86	2149.89
2	Cumulative Repayment upto Previous year (Cumulative depreciation upto Previous year	139.81	285.98
3	Net Loan Opening	2001.05	1863.91
4	Less: Repayment during the year (Considering depreciation as Principal Repayment)	146.17	146.51
5	Loan Addition due to additional Capitalization during the year (Actual additional capitalisation-Normative Equity Addition considered for ROE computation)	9.03	0.59
6	Net Loan Closing	1863.91	1717.99
7	Average Loan	1932.48	1790.95

Sr. No	Particulars	FY 2017-18	FY 2018-19
8	Weighted Average Rate of Interest on Loan (Normative)	13.22%	13.22%
9	**Interest on Loan**	**255.53**	**236.81**

6.5 GVK prayed this Commission to allow the interest on Loan Capital as detailed above in accordance with the provisions of the PSERC Tariff Regulations, 2014.

PSPCL's Submission

6.6 PSPCL vide memo no. 5612 dated 21.08.2020 submitted that GVK has claimed a sum of Rs. 255.53 Crore for FY 2017-18 and Rs. 236.81 Crore for FY 2018-19 as interest on financing charges on long-term loan capital calculated on the normative loan amounts and prevailing interest rates on the said amounts on the basis of the completed capital cost of the project as determined by the Commission vide Order dated 17.01.2020. Since the interest and finance charges on long-term loan capital approved by the Commission in the Tariff Order for FY 2017-19 is based upon Order dated 17.01.2020 passed in petition No.54/2017 and the annual audited accounts of the Petitioner for the said Financial Year, the same may be approved as against the claimed figures by GVK in the present Petition.

Commission's Analysis

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

“24. INTEREST ON LOAN CAPITAL

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

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

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

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

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

6.8 The Closing balance of loan amounting to Rs.1999.59 Crore as on 31.3.2017 determined by the Commission in FY 2016-17 in Petition no 32 of 2020, has been considered as the opening loan balance for FY 2017-18. Asset addition of Rs.12.90 Crore for FY 2017-18 and Rs.0.84 Crore for FY 2018-19 has been approved in this Order. 70% of asset addition has been considered to be sourced from debt i.e. Rs. 9.03 (12.90*70%) Crore for FY 2017-18 and Rs. 0.59 (0.84*70%) Crore for FY 2018-19 as normative loan. Repayment of loan has been considered equal to depreciation allowed as per Regulation 24.3 of PSERC MYT Regulations, 2014. GVK claimed the weighted average rate of interest 13.22% for FY 2017-18 and FY 2018-19 which has been considered for calculating interest on long term loan and since rates at which loan has been taken by GVK are less than SBI advance rate, the same have been considered to calculate the interest. The interest on long term loans is calculated as under :

Table No.20: Interest charges on Long Term Loans determined by the Commission for FY 2017-18 and FY 2018-19

(Rs. Crore)

Sr.No	Particulars	FY 2017-18	FY 2018-19
1	Opening balance of loan	1999.59	1867.04
2	Add: Receipt of loan during the year	9.03	0.59
3	Less: Repayment of loan during the year	141.58	141.90
4	Closing balance of loan	1867.04	1725.73
5	Average Loan	1933.32	1796.39
6	Rate of interest	13.22%	13.22%
7	**Interest Charges**	**255.58**	**237.48**

6.9 As per the Annual Audited Accounts of GVK for FY 2017-18 and FY 2018-19 interest has been worked out to Rs.573.57 Crore and Rs.636.29 Crore respectively on average Loans of Rs.3567.86 Crore and Rs 3758.93 Crore for FY 2017-18 and FY 2018-19 respectively. However, GVK has a liability of Rs. 313.91 Crore and Rs 852.24 Crore towards interest accrued for FY 2017-18 and FY 2018-19 respectively. The interest actually paid on long term loans is as under:

Table No.21: Interest actually paid by GVK for FY 2017-18 and FY 2018-19

(Rs. Crore)

Sr.No	Particulars	FY 2016-17	FY2017-18	FY 2018-19
1	Interest charges as per annual audited accounts	448.37*	573.57	636.29
2	Interest paid: Current year Previous year	 221.95 -	 259.66 226.42	 - 97.96
3	Closing balance of interest due but not paid as per annual audited accounts	226.42	313.91	852.24

* In the Annual Audited Accounts of GVK for FY 2016-17 interest charges were shown as Rs 451.91 Crore. But in the Annual Audited Accounts of FY 2017-18, the previous year figures of interest charges for FY 2016-17 has been rearranged/regrouped as Rs. 448.37 Crore and Rs 3.54 (451.91 - 448.37) Crore has been shown as Other Finance Charges.

6.10 The Commission determined interest charges for FY 2017-18 and FY 2018-19 as under:

Table No.22: Interest charges allowed by the Commission for FY 2017-18 and FY 2018-19

(Rs. Crore)

Sr.No	Particulars	FY 2017-18	FY 2018-19
1	Interest determined as per Table 20	255.58	237.48
2	Interest actually paid by GVK	259.66	97.96
3	**Interest allowed**	**255.58**	**97.96**

The balance amount of interest i.e. Rs.139.52 (237.48 - 97.96) Crore of FY 2018-19 will be considered in the year in which they will actually be paid by GVK.

6.11 As per the Annual Audited Accounts for FY 2017-18 and FY 2018-19, finance charges amount to Rs. 3.44 Crore and 0.28 Crore on the average loan amount of Rs. 3567.86 Crore and Rs.3758.93 Crore respectively. Finance charges proportionately work out as Rs.1.86 Crore and Rs 0.13 Crore on the average loan of Rs 1930.65 Crore and Rs.1788.66 Crore for FY 2017-18 and FY 2018-19 respectively and the same are allowed. Thus, total interest and finance charges for FY 2017-18 and FY 2018-19 work out to Rs. 257.44 (255.58+1.86) Crore and Rs. 98.09 (97.96+ 0.13) Crore respectively.

Accordingly, the Commission allows interest and finance charges of Rs.257.44 Crore and Rs. 98.09 Crore for FY 2017-18 and FY 2018-19 respectively.

7.0 INTEREST ON WORKING CAPITAL:

GVK's Submissions

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

7.2 The weighted average rate of interest is computed at 12.25 % p.a. for FY 2017-18 and 12.25 % p.a. for FY 2018-19. Interest on working capital is computed on normative basis as per PSERC Tariff Regulations,2014

7.3 GVK in its revised submission dated 31.07.2020 and 09.09.2020 has calculated the interest on working capital for MYT Control Period (i.e. FY 2017-18 to FY 2018-19) as per PSERC Tariff Regulations, 2014. Interest on working capital is projected for the Control Period by applying the rates as mentioned above on the components of Working Capital as given in the table below:

Table No. 23: Interest on Working Capital claimed by GVK

(Rs.Crore)

Sr. No.	Particulars	FY 2017-18	FY 2018-19
1	Fuel Cost – Primary Fuel & Secondary Fuel	250.75	301.60

	(for 2 months)		
2	O&M expenses for one month	5.58	5.47
3	Maintenance spares (15% of O&M expenses)	10.05	9.84
4	Receivables (2 months of Fixed and Variable Cost based on Normative Annual Plant Availability Factor)	365.61	415.22
5	**Total working capital**	**631.99**	**732.13**
6	Rate of interest (p.a.)	12.25%	12.25%
7	Interest on working capital	77.42	89.69

7.4 Accordingly, GVK prayed to allow the interest on Working Capital as detailed above in line with the provisions of the PSERC Tariff Regulations, 2014.

PSPCL's submission:

7.5 PSPCL vide memo no. 5612 dated 21.08.2020 GVK has submitted that it has calculated interest on working capital on the basis of computed working capital as provided under Regulation 34 of the PSERC Tariff Regulations and claimed a sum of Rs. 77.42 Crore and Rs. 89.69 Crore for FY 2017-18 and 2018-19.

7.6. PSPCL further submitted that the Commission had approved the working capital requirement based upon the audited annual statement of accounts and actual fuel cost and receivables received by the Petitioner during the relevant FY. The amounts claimed by GVK in the present Petition appear to be highly inflated as against the approved interest on working capital allowed by the Commission. As such, GVK is entitled only to a working capital requirement of Rs. 268.15 Crore for FY 2017-18, Rs.392.17 Crore for FY 2018-19 for which interest thereon of Rs. 32.85 Crore, Rs.48.04 Crore and Rs. 26.39 Crore only for FY 2017-18 and FY 2018-19 respectively which is permissible under the applicable Regulations.

Commission's Analysis

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

> ***"34.1. Components of Working Capital***
>
> *a. Coal-based Thermal Generating Plants: The Working Capital shall cover the following:*
>
> *i. Fuel Cost for 2 months corresponding to the normative annual plant availability factor;*
>
> *ii. Operation and maintenance (O&M) Expenses for 1 month;*
>
> *iii. Maintenance spares @ 15% of the O&M expenses;*
>
> *iv. Receivables equivalent to two (2) months of fixed and variable charges for sale of electricity calculated on the normative annual plant availability factor.*
>
> *b. …….*
>
> *c. ……."*
>
> ***34.2** Rate of Interest on Working Capital shall be as per Regulation 25.1 which is reproduced hereunder:*
>
> > ***25.1** The rate of interest on working capital shall be equal to the actual rate of interest paid on working capital loans by the licensee/generating company/SLDC or the State Bank of India Advance Rate as on April 1 of the relevant year, whichever is less. The interest on working capital shall be payable on normative basis notwithstanding that the licensee/generating company/SLDC has not taken working capital loan from any outside agency or has exceeded the working capital loan amount worked out on the normative figures. In case, the licensee/generating company/SLDC has not availed any working capital loan during the year, the rate of interest shall be weighted average of the interest rates on working capital loan of the*

previous three years."

7.8 As per PSERC Regulations, the rate of interest on working capital shall be equal to the weighted average rate of interest paid/ payable on loans by the generating company or the State Bank of India Advance rate as on April 1 of the relevant year, whichever is less. The 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.

7.9 The Weighted Average Rate of Interest has been considered for FY 2017-18 and FY 2018-19 @12.25% p.a as claimed by GVK in this petition. The State Bank of India Advance Rate as on 01.04.2017 and 01.04.2018 is 13.85 % p.a and 13.45% p.a respectively.

7.10 As per the Annual Audited Accounts of GVK for FY 2017-18 and FY 2018-19 the fuel cost was Rs 635.58 Crore and Rs. 1112.36 Crore respectively. The energy charges paid by PSPCL during FY 2017-18 and FY 2018-19 were originally Rs. 416.74 Crore and Rs. 724.38 Crore which were later revised in terms of the Commission's Order dated 06.03.2019 to Rs. 470.51 Crore including Rs. 53.77 Crore as arrears for FY 2017-18. The fuel cost for FY 2018-19 was revised to Rs. 833.90 Crore including arrears of Rs. 109.22 Crore. Thus, fuel cost of Rs. 470.51 Crore and Rs. 833.90 Crore has been considered for the determination of receivables for FY 2017-18 and FY 2018-19 respectively.

7.11 Interest on working capital for MYT Control Period has been calculated as per PSERC MYT Regulations 2014. Interest on Working capital has been calculated for FY 2017-18 and FY 2018-19 by applying the rate of interest of 12.25 % p.a. 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 below:

Table No.24: Interest on Working Capital approved by the Commission for FY 2017-18 and FY 2018-19.

(Rs. Crore)

Sr. No.	Particulars	FY 2017-18	FY 2018-19
1	Fuel Cost for two months	78.42	138.98
2	Maintenance spares @15% of O&M	5.69	5.98
3	O&M Expenses for one month	3.16	3.32
4	Receivables for two months	180.43	216.89
5	**Total Working Capital**	**267.70**	**365.18**
6	Rate of Interest (%)	12.25%	12.25%
7	**Interest on Working Capital**	**32.79**	**44.73**

Thus, the Commission approves working capital requirement of Rs.267.70 Crore for FY 2017-18 and Rs. 365.18 Crore for FY 2018-19 and interest thereon of Rs. 32.79 Crore and Rs. 44.73 Crore for FY 2017-18 and FY 2018-19 respectively.

8.0 STATUTORY LEVIES AND TAXES

8.1 GVK submitted that Regulation 23 of the PSERC Tariff Regulations, 2014 provides for Income Tax which is reproduced hereunder:

*“**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 the core/licensed business shall not constitute a pass through component in tariff and tax on such other income shall be payable by the generating company or the licensee or the SLDC.

***23.2** Tax on income, if actually liable to be paid, shall be limited to tax on return on equity allowed, excluding incentives.*

***23.3** Tax on income shall be considered at income tax rate including surcharge, cess etc. as applicable during the relevant year in accordance with the provisions of Income Tax Act, 1961 duly amended from time to time.*

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

***23.5** 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 may be.”*

8.2 GVK submitted that it is entitled at actuals, as pass through, any cess, duty, tax, government levy and royalty etc., payable for generation and supply of power to the PSPCL from time to time. GVK in its submission dated 31.07.2020 stated that no claims have been made for FY 2017-18 and FY 2018-19.

PSPCL’s submission:

8.3 GVK has submitted that as per Regulation 23 of the Tariff Regulations, it is entitled a pass through of actual taxes paid by it during the FY 2017-2019. It is submitted that per Regulation 23.2 of the PSERC Tariff Regulation 2014, tax on income, if actually liable to be paid, is to be limited to tax on return on equity allowed, excluding incentives. As such, it is submitted that since the Regulations provide a cap on pass through of tax on income only to the extent of tax paid on return of equity, the return on equity is liable to be first determined for GVK's project for FY 2017-2019. As stated hereinabove, the Commission has approved a sum of Rs.142.51 Crore and Rs.142.83 Crore as the return on equity for FY 2017-18 and 2018-19. As such, GVK is only entitled to the tax paid on the said amount. The Commission while allowing any pass through of tax in the tariff may kindly take note of the above.

Commission's Analysis

8.4 The benefits of any tax Holiday have to be passed on to the consumer/customer as per PSERC MYT Regulations 2014. GVK has claimed Nil on account of taxes for FY 2017-18 and FY 2018-19.

The Commission does not approve any amount on account of taxes and duties for FY 2017-18 and FY 2018-19.

9.0 Non-Tariff Income

9.1 GVK has submitted actual Non tariff income for FY 2017-18 is Rs 0.56 Crore and for FY 2018-19 is Rs. 0.27 Crore as per audited annual accounts. The breakup for the same is as below:

(a) Interest on Fixed Deposits – Rs.0.47 Crore and Rs. 0.22 Crore in FY 2017-18 and FY 2018-19 respectively.

(b) Sale of Scrap – Rs.0.09 Crore and 0.04 Crore in FY 2017-18 and FY 2018-19 respectively.

9.2 GVK further submitted that in accordance with Regulation 28 of the PSERC Tariff Regulations,2014, the Non-Tariff Income has been deducted to arrive at the Net Annual Fixed Cost for FY 2017-18 and FY 2018-19.

PSPCL's submission

9.3 PSPCL submitted that GVK has stated that non-tariff income is required to be deducted while arriving at the AFC for a relevant FY as per Regulation 28 of the PSERC Tariff Regulations. It is submitted that since in Petition No.69/2017, GVK has not submitted any claim of non-tariff income, the AFC of GVK as determined by the Commission in the Tariff Order for FY 2017-19 is liable to be revised by deducting the above said amounts as submitted by GVK in the present Petition.

Commission's Analysis

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

9.5 The Commission notes that Audited Annual Accounts of GVK for FY 2017-18 and FY 2018-19 show "Other income" as Rs.0.61 Crore and Rs. 0.27 Crore respectively which includes income from bank deposits of Rs. 0.47 Crore and Rs 0.22 Crore respectively. As per para 20.3.4 of the Order dated 17.01.2020 in Petition no 54 of 2017, the Commission had observed that

GVK had diverted funds meant for capital expenditure out of the loan taken from financial institutions by investing the same in Mutual Funds. The Commission has neither considered interest paid on loans used for such other investments nor income earned from such other business/investment as part of the capital expenditure. Other income includes non-operating income of Rs. 0.14 Crore and Rs. 0.05 Crore for FY 2017-18 and FY 2018-19 respectively on account of credit balance written off and sale of scrap. The Commission notes that Rs. 3.12 Crore and Rs. 3.10 Crore have been booked under Ash Handling charges during FY 2017-18 and FY 2018-19 respectively but no income from Ash has been booked during FY 2017-18. Accordingly, the Commissions determines Non-Tariff Income as Rs. 0.14 Crore and Rs. 0.05 Crore as per Audited Annual Accounts of FY 2017-18 and FY 2018-19 respectively.

Accordingly, the Commission approves Non-Tariff Income as Rs. 0.14 Crore and Rs. 0.05 Crore for FY 2017-18 and FY 2018-19 respectively.

10.0 Capacity charges for FY 2017-18 to 2019-20

10.1 The Capacity charges from FY 2017-18 to FY 2019-20, as projected by GVK and approved by the Commission are summarized in the following table:-

Table No.25: **Annual fixed charges for FY 2017-18 and 2018-19**

(Rs Crore)

Sr. No.	Particulars	Approved in Petition no. 69	Submitted by GVK	Approved by the Commission

		of 2017					
		FY 2017-18	**FY 2018-19**	**FY 2017-18**	**FY 2018-19**	**FY 2017-18**	**FY 2018-19**
1	O&M Expenses	37.91	39.90	66.98	65.61	37.91	39.90
2	Depreciation	142.47	142.80	146.17	146.51	141.58	141.90
3	Interest charges	250.04	98.09	255.53	236.81	257.44	98.09
4	Return on Equity	142.51	142.83	142.51	142.83	142.51	142.83
5	Interest on Working Capital	32.85	48.04	77.42	89.69	32.79	44.73
6	Income tax	0.00	0.00	0.00	0.00	0.00	0.00
7	**Total Expenses**	**605.78**	**471.66**	**688.61**	**681.45**	**612.23**	**467.45**
8	Less:Non-Tariff Income	0.14	0.05	0.56	0.27	0.14	0.05
9	**Annual Fixed Charges**	**605.64**	**471.61**	**688.05**	**681.18**	**612.09**	**467.40**

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

11.0 Generation for FY 2017-18 and FY 2018-19

GVK's submission

11.1 GVK in its petition has submitted the month-wise details of annual availability of the Project for FY 2017-18and FY 2018-19. The gross generation, auxiliary consumption and Scheduled generation for FY 2017-18 and FY 2018-19 are as under:

Table No. 26: Gross Generation, Auxiliary Consumption and Scheduled generation for FY 2017-18 and FY 2018-19

Sr. No.	Year	Gross Generation (MU)	Auxiliary Consumption (MU)	Scheduled Generation (MU)	Aux Consumption (%)
1.	FY 2017-18	1,542.44	155.32	1,387.12	10.07%
2.	FY 2018-19	2,447.47	244.22	2,203.24	9.98%

11.2 GVK submitted that it could not achieve the target PAF during FY 2017-18 and FY 2018-19 on account of non-availability of coal due to cancellation of the captive coal block allocated to GVK pursuant to judgment of Hon'ble Supreme Court and consequent Cancellation Order dated 24.09.2014. GVK submitted that cancellation of coal blocks has been held to be a Change in Law and Force Majeure event by the Arbitral Tribunal vide its award dated 10.04.2017. Since force majeure was because of factors beyond the control of GVK, it is excused from performance and target PAF should be considered in relation to actual coal available.

In its revised submission on 31.07.2020, GVK submitted the month-wise generation details for FY 2017-18 and FY 2018-19 as under:

Table No.27: Month-wise details of annual generation for FY 2017-18 and FY 2018-19 submitted by GVK FY 2017-18

Month	PAF (%)	PLF (%)	Gross Generation (MU)	Auxiliary Consumption (MU)	Scheduled Generation (MU)	Aux Consumption (%)
Apr-17	-	-	-	-	-	-
May-17	-	-	-	-	-	-
Jun-17	21.56	16	61.40	6.74	54.66	10.98
Jul-17	49.12	39	154.37	14.89	139.48	9.65
Aug-17	55.10	44	175.39	17.22	158.17	9.82
Sep-17	81.05	64	252.35	23.70	228.65	9.39
Oct-17	56.28	49	195.38	18.76	176.62	9.60
Nov-17	69.65	39	151.95	15.14	136.81	9.96
Dec-17	63.78	52	204.79	18.93	185.86	9.24

Month	PAF (%)	PLF (%)	Gross Generation (MU)	Auxiliary Consumption (MU)	Scheduled Generation (MU)	Aux Consumption (%)
Jan-18	29.95	23	93.03	9.06	83.97	9.74
Feb-18	43.93	35	127.85	12.89	114.96	10.08
Mar-18	35.65	27	119.94	12.01	107.93	10.01
			1,536.46	**149.34**	**1,387.12**	**9.72**

FY 2018-19

Month	PAF (%)	PLF (%)	Gross Generation (MU)	Auxiliary Consumption (MU)	Scheduled Generation (MU)	Aux Consumption (%)
Apr-18	34.85	26	99.56	10.46	89.09	10.51
May-18	86.70	62	247.11	24.67	222.44	9.98
Jun-18	46.68	42	164.08	16.99	147.09	10.35
Jul-18	41.20	38	152.79	15.18	137.61	9.94
Aug-18	49.14	36	147.31	15.78	131.53	10.71
Sep-18	59.41	37	145.43	15.09	130.34	10.38
Oct-18	52.05	51	205.62	19.25	186.37	9.36
Nov-18	58.53	54	210.10	18.87	191.23	8.98
Dec-18	81.90	66	263.63	23.82	239.81	9.04
Jan-19	99.98	64	257.09	23.59	233.50	9.18
Feb-19	85.30	64	232.84	20.97	211.87	9.01
Mar-19	98.67	78	310.39	28.02	282.37	9.03
			2,435.94	**244.22**	**2,203.24**	**9.55**

PSPCL's submission

11.3 PSPCL vide submissions received on 25.08.2020 submitted the details of declared capacity, scheduled energy, PAF and PLF of the project for FY 2017-18 and FY 2018-19.

Commission's Analysis

11.4 **As checked from the SLDC's website, in terms of the Final State Energy Accounts for FY 2017-18 and FY 2018-19 containing the data on the declared capacity and the scheduled energy for FY 2017-18 and FY 2018-19, are as under:**

Table No. 28:Declared Capacity and Scheduled Generation of GVK's project for FY 2017-18 & FY 2018-19

Sr. No	Description	FY 2017-18	FY 2018-19
1.	Declared Capacity (MU)	1814.339	2850.617
2.	Scheduled Generation (MU)	1387.124	2203.245

12.0 Energy Charges for FY 2017-18 and FY 2018-19

GVK's submission

12.1 GVK in the present petition and revised submission dated 31.07.2020 and 09.09.2020 has submitted the details of components of the Energy Charge as follows:

i) Landed Cost of Primary Fuel

In compliance of the Commission's Order dated 01.02.2016 in Petition 33 of 2013 and Petition 65 of 2013, GVK was successful in securing long term coal linkage under the SHAKTI Scheme for the Project to the extent of 1.706 MTPA from February 2018 onwards. However, the quantity of coal allocated was sufficient to achieve only 63% PLF. The balance coal was being sourced from other sources, including through e-auction and imported coal, to achieve target availability. GVK submitted that road transportation charges, handling charges related to loading the coal in to the trucks, unloading of the same at the railway siding and loading the same to the railway wagons, coal sampling cost for analysis to obtain the GCV of coal received and the railway freight, all form part of the Landed Cost of Coal. Thus, the actual landed cost of coal is to be considered for computation of fuel cost/coal cost. Consequently, GVK filed Petition No. 68 of 2017 invoking the dispute resolution procedure envisaged under the PPA. The Commission disposed of the said Petition by its order dated 06.03.2019 which was challenged by both GVK and PSPCL before the Hon'ble Tribunal. Since the matter is sub-judice before the Hon'ble Tribunal, GVK craves leave of the Commission to approach the Commission for modification of the variable cost sought in this Petition, as and when Hon'ble Tribunal decides the matter.

GVK procured coal from e-auction/imported coal and under Shakti scheme and did not source any coal from BCCL mines. Therefore, comparison of GVK's surface transportation cost with BCCL is not tenable. The surface transportation charges paid by GVK do not depend solely on the distance between the railway siding and the mine. The rates paid by GVK for surface transportation should be allowed.

The Regulations under Section 178 or 181 of the Electricity Act override PPAs as held by Hon'ble Supreme

Court in PTC judgment. The said position has been upheld by the Hon'ble Tribunal in the case of OPGCL Vs OERC wherein it was held that PPA, even though approved by the Commission, cannot override regulations and tariff for supply of power has to be determined in terms of applicable regulations.

ii) Landed cost of secondary fuel

The Secondary fuel for the Plant is LDO / HFO. This Secondary Fuel is being procured from PSU Oil Marketing companies. This Secondary Fuel is delivered at site and the weighted average cost incurred on the same may be allowed by the Commission. The energy charge is to be determined as per Regulation 39.4 of the PSERC Tariff Regulations.

iii) Normative Auxiliary energy consumption

As per Regulation 36 of the PSERC Tariff Regulations, 2014, the norms for performance parameters which includes normative auxiliary energy consumption for Coal-based generating stations shall be as per the CERC norms. Accordingly, as per Regulation 36(E)(a) of the CERC Tariff Regulations, 2014, the normative auxiliary energy consumption is 8.5% for a unit of 200 MW series. Further, for thermal generating stations with induced draft cooling towers, additional 0.5% is allowed. Thus, normative auxiliary consumption has been considered at 9% for the computation of energy charge. In its revised submissions on 31.07.2020 and 09.09.2020, GVK has claimed actual auxiliary consumption of 9.55% for FY 2017-18 and 9.72% for FY 2018-19 explaining that the auxiliary consumption has been on higher side because of part load operation of the plant during FY 2017-18 and FY 2018-19.

iv) Fuel Transit & Handling Losses

Normative transit and handling loss are considered in accordance with Regulation 40 of the PSERC Tariff Regulations 2014. Further, in its revised submission on 31.07.2020 and 09.09.2020, GVK stated that normative transit and handling loss are 1% in accordance with Regulation 40 of the PSERC Tariff Regulations 2014. However, actual transit and handling losses have been considered for calculation of Energy Charges. Fuel Transit & Handling Losses are 4.20% and 2.43% for FY 2017-18 and FY 2018-19 respectively. Pursuant to the cancellation of the captive coal blocks, coal has been procured in FY 2017-18 under e-auction mode. In FY 2018-19, coal was procured under Shakti Scheme (supply commenced on March 2018). The coal is being transported to the Project on road/rail mode as coal is allocated from various mines which are not under the control of GVK. Furthermore, the railway sidings at the mines are not available to GVK since preference is given to public sector companies/pendency of rakes. Therefore, GVK is required to transport coal over longer distances by road/rail mode resulting in higher Fuel Transit & Handling Losses. The same are due to reasons beyond control of GVK and the Commission may allow the same.

v) Station Heat Rate

As per Regulation 36 of the PSERC Tariff Regulations, 2014, the norms for performance parameters, which includes Station Heat Rate for Coal-based generating stations shall be as per the CERC norms. Regulation 36(C)(b) of the CERC Tariff Regulations 2014, specifies that for tariff calculation, the design station heat rate is to be multiplied by a factor of 1.045 for a new coal based thermal power plant. The Guaranteed Heat Rate for the power plant under the EPC contract is 2221 Kcal/kWh. Accordingly, the Station Heat Rate of GVK for tariff calculation purpose comes out to be 2321 kcal/kWh, which has been considered for Energy Charge calculation. In the revised submission on 31.07.2020 and 09.09.2020, GVK stated that the actual station heat rate as achieved by GVK for FY 2017-18 and FY 2018-19 is 2475 kcal/kWh and 2315 kcal/kWh respectively. Increase in Station Heat Rate for FY 2017-18 is due to part load operations. GVK further requested the Commission to approve Gross Station Heat Rate of 2475 kcal/kWh for FY 2017-18. GVK has submitted that the Station Heat Rate of 2315 kCal/kWh has been achieved in FY 2018-19 and the Commission may allow it to retain the efficiency gains in terms of Regulation 30 of PSERC Tariff Regulations, 2014.

12.2 Accordingly, GVK has computed the actual Energy Charges for FY 2017-18 and FY 2018-19 as under:

Table No.29 : Computation of actual Energy Charges by GVK for FY 2017-18 and FY 2018-19

Sr. No.	Particulars	FY 2017-18		FY 2018-19	
		Submitted in the Petition	Revised submission received on 31.07.2020	Submitted in the Petition	Revised submission received on 31.07.2020
1	Variable Charge per Unit (Rs. / kWh)	4.58	4.65	5.05	5.10
2	Scheduled Energy (in MUs)	1387.12	1387.12	2203.24	2203.24
3	Annual Energy Charge (Rs. in Crore)	635.30	645.01	1112.64	1123.65

PSPCL's submission

12.3 PSPCL vide its submissions dated 23.06.2020 and 21.08.2020 submitted as under:

i) PSPCL submitted that GVK has stated that apart from the approved coal being procured by it through SHAKTI Scheme 2017, it is procuring domestic coal from e-auctions conducted by Coal India Limited which is allocated from mines of Central Coal Fields and Northern Coal fields. This necessitates GVK to transport the coal by road, unload the same at railway siding and then load the coal to the railway wagons whenever it is allotted by the Indian Railways for onward transportation to the Project and this process includes road transportation charges and handling charges related to loading the coal in to the trucks, unloading the same at the railway siding and loading the same into the railway wagons. Further, at the project site, the coal sample is taken from the railway wagons and sent for analysis to obtain the GCV of coal received. All these costs are stated to form part of the landed cost of coal including the railway freight. GVK has also submitted that the outcome of Appeal No.189/2019 and Appeal No.192/2019 pending adjudication before the Hon’ble Appellate Tribunal would also have a material bearing on the Variable Cost as sought by GVK.

ii) PSPCL submitted that the Commission in its Order dated 06.03.2018 passed in Petition No.68/2019 has settled the issue of cost of coal after taking into consideration all relevant facts and circumstances and the regulatory position and has held that in case of any surface transportation cost incurred by GVK beyond the pick-up point within the mine (external STC), payment of same would be limited to the cost incurred to carry the coal to the nearest railway siding and would be as per the rates prescribed by M/s Bharat Coking Coal Ltd.(BCCL) upto 20KM and the said charges would be charged with separate bills for cost of coal and STC.As regards the costs claimed by GVK towards expenditure incurred on account of testing of coal for GCV, the Commission in the above said Order has clarified that GVK is not to be paid any testing charges and is required to construct its own testing facility. GVK has challenged the above said findings of the Commission before the Appellate Tribunal in Appeal No.189/2019. However, no stay has been granted by the Appellate Tribunal in favour of GVK and as such, the above findings of the Commission are binding upon GVK. Therefore, in order to claim charges for any external STC, GVK is required to submit separate bills in consonance with the rates prescribed by M/s BCCL as decided by the Commission in the above said Order and GVK is not entitled to any testing charges till it establishes a coal testing facility of its own.

iii) PSPCL submitted that GVK has stated that in Petition No.68/2017, GVK had raised disputes regarding reimbursements of costs incurred by it in procuring coal for its project and after final adjudication of the said Petition vide the Commission's Order dated 06.03.2019, PSPCL has paid a sum total of Rs.470.08 Crore for claims of GVK in FY 2017-18 and Rs.892.23 Crore for FY 2018-19. However, PSPCL is yet to pay balance sums of Rs.106.11 Crore towards claims of FY 2017-18 and Rs.218.27 Crore towards claims of FY 2018-19 which amounts are subject matter of the cross Appeals [being Appeal Nos.189 and 192 of 2019] pending adjudication before the Hon'ble Appellate Tribunal. PSPCL further submitted that GVK has stated that it would approach the Commission to claim modifications in its variable cost as and when the said Appeals are adjudicated by the Hon'ble Appellate Tribunal.

As no stay has been granted by the Appellate Tribunal in favour of GVK or PSPCL in the above Appeals and as such, presently the above findings of the Commission and amounts already paid by PSPCL are binding upon the parties. PSPCL further submitted that actual energy charges of Rs. 470.51 Crore and Rs.833.80 Crore paid to GVK for FY 2017-18 and FY 2018-19 respectively are in compliance of Order dated 06.03.2019 passed in Petition No.68/2017 and Order dated 27.05.2019 passed in Petition No.1/2018 by the Hon'ble Commission.

iv) PSPCL submitted that GVK has prayed that it be allowed the weighted average cost incurred by it on procurement of secondary fuel being procured from PSU Oil Marketing Companies. In this regards it is submitted that Regulation 37.2 of the Tariff Regulations provides as under:

> *"37.2 Initially, the LFC of primary fuel and secondary fuel for tariff determination shall be based on actual weighted average cost of primary fuel and secondary fuel for the preceding three months, and in the absence of landed costs for the preceding three months, LFC shall be based on the latest procurement price of primary fuel and secondary fuel for the generating station."*

In view of the above, it is submitted that GVK may be allowed the cost of secondary fuel strictly in accordance with the above Regulation.

v) PSPCL submitted that as regards the claim of GVK towards normative auxiliary energy consumption and station heat rate, the same are to be allowed by the Commission in accordance with the norms prescribed under the Regulation 36 of the CERC Tariff Regulations 2014.

vi) PSPCL further submitted that as regards the claim for transit and handling charges, the Commission in its Order dated 06.03.2019 has clarified that transit and handling charges for the coal are to be paid to GVK only if it shows actual loss after proper checking and weighment at both loading and project end and the bills included proof of actual loss and states whether actual loss was being billed or the normative loss of 1.0% as per Regulation 40 of the PSERC Tariff Regulations, 2014. The present Petition being completely silent on the actual losses having been faced by it, GVK is only entitled to transit and handling losses as percentage of the quantity of domestic coal being procured by it from Coal India limited as 1.0% percent. However, GVK is required to provide complete details of same. In view thereof, PSPCL submitted that:

1) The normative auxiliary consumption has been considered at 9% by GVK as per Regulation 36(E)(a) of CERC Tariff Regulations 2014, for

computation of energy for FY 2017-18 and FY 2018-19;

2) The fuel transit & handling loss has been considered by PSPCL as per the Commission's Order dated 06.03.2019 passed in Petition No.68/2017 in the following manner:

   a) For FY 2017-18 & for FY 2018-2019 (01.04.2018 to 30.09.2018) as 1% or actual transit loss whichever is less.
   b) For FY 2018-2019 (01.10.2018 to 31.03.2019) as 0.8 % as per applicable CERC tariff regulation or actual transit loss whichever is less; and

3) The station heat rate for FY 2017-18 and FY 2018-19 has been calculated on the basis of Regulation 36 (c) and (b) of the CERC Tariff Regulation, 2014. The design station heat rate has been multiplied by a factor 1.045 which comes out to be 2321 Kcal/Kwh.

vii) PSPCL submitted that GVK has submitted that GVK and PSPCL have undertaken a reconciliation process pursuant to the Commission's Order dated 06.03.2019 in Petition No.68 of 2019 against which cross Appeals being Nos.189 and 192 of 2019 are pending adjudication before the Hon'ble Appellate Tribunal. GVK has challenged the above said Order dated 06.03.2019 before the Hon'ble Appellate Tribunal in Appeal No.189/2019 on the findings with respect to following issues:

- Calculation of capacity charges after inclusion of 9% normative auxiliary consumption
- Testing charges of coal
- IEGC compensation for backing down power and surface transportation charges

viii) PSPCL submitted that it has also filed an Appeal against the said Order before the Hon'ble APTEL in Appeal No. 192/2019 on the following issues:

- Calculation of GCV on ARB total moisture and
- Rebate reversal rate and interest on rebate

Both the above said Appeals are pending adjudication before the Hon'ble Appellate Tribunal where no stay of operation of Order dated 06.03.2019 has been granted and as such the said Order is binding upon both parties. The other issues as decided by the Commission have remained unchallenged by either parties and thus the said Order to that extent has attained finality and is binding on both the parties.

ix) PSPCL submitted that GVK is being paid the Landed Fuel Cost (LFC) based upon the actual procurement price of the fuel based upon original bills submitted by it to PSPCL under the orders of the Commission. As such, there is no occasion for the Commission to determine an energy charge rate for GVK in terms of the formula provided under Regulation 39.4 of the PSERC Tariff Regulations 2014.

x) PSPCL submitted that GVK in its revised submissions has claimed actual transit and handling losses for calculation of energy charges at the rate of 4.20% and 2.43% for FY 2017-18 and FY 2018-19 respectively. GVK has sought the same on grounds that pursuant to cancellation of the captive coal blocks, coal has been procured by GVK in FY 2017-18 under e-auction mode and in FY 2018-19 coal has been procured under Shakti scheme. Thus, coal has been transported to project on road/rail mode over longer distances by road/rail mode resulting in higher fuel transit and handling losses. The Commission in its Order dated 06.03.2019 in petition 68 of 2017 has already clarified that transit and handling charges for coal would be capped at 1% upto 30.09.2018 and at 0.8% from 01.10.2018 onwards as per applicable PSERC Tariff Regulations amended from time to time. Therefore, GVK has to show the actual transit and handling loss including proof of actual loss which would be capped as per order dated 06.03.2019 in petition 68 of 2017.

xi) PSPCL vide Memo No. 5458/TR-5/963 dated 24.07.2020 submitted the details of payments made to GVK on monthly basis with regards to energy charges including details of fuel cost for true-up of FY 2017-18 and FY 2018-19 with segregation of the payments made to GVK on the basis of weighted average cost of coal to PSPCL's generating stations and payments on the basis of Shakti coal as well as details of arrears.

Commission's Analysis

12.4 **The energy charges for FY 2017-18 and FY 2018-19 are payable by PSPCL to GVK in terms of the PPA, Order dated 01.02.2016 common to petition no. 65 of 2013 & 33 of 2015, Order dated 06.03.2019 in petition no. 68 of 2017 and Order dated 27.05.2019 in petition no. 01 of 2018 as applicable. The said Orders are under challenge in Hon'ble APTEL either by GVK or by PSPCL or by both, however there is no stay on the operation of these Orders.**

13.0 Interest on under–recovered or over-recovered fixed charges:

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

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

"The amount under-recovered or over-recovered, along with simple interest at the rate equal to the bank rate on 1st April of the respective year, shall be recovered or refunded by the generating company or the transmission

licensee, as the case may be, in six equal monthly installments starting within three months from the date of the tariff order issued by the Commission".

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

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

This Petition stands disposed off accordingly.

Sd/-	Sd/-	Sd/-
(Anjuli Chandra)	**(S.S. Sarna)**	**(Kusumjit Sidhu)**
Member	**Member**	**Chairperson**

Chandigarh
Dated:17.09.2020