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

Petition No. 29 of 2021
Date of Order: 23.08.2022

Petition for True-Up for FY 2019-20, Annual Performance Review for FY 2020-21 and Tariff Determination for FY 2021-22 of 2X270 MW Goindwal Sahib Thermal Power Plant at Goindwal Sahib, Punjab in terms Punjab State Electricity Regulatory Commission (Terms and Conditions for Determination of Generation, Transmission, Wheeling and Retail Supply Tariff) Regulations, 2014 (PSERC MYT Regulations 2014) and 2019 (PSERC MYT Regulations 2019).

AND

In the matter of: GVK Power (Goindwal Sahib) Limited, Paigah House, Plot No. 10, Sardar Patel Road, Secundrabad-500003.

….Petitioner

Versus

Punjab State Power Corporation Limited. The Mall, Patiala.

....Respondent

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

GVK: Sh. Vishrov Mukherjee, Advocate
Sh. Janmali Manikala, Advocate

PSPCL: Ms. Suparna Srivastava, Advocate
Sh. Rupinderjit Singh Randhawa, CE/ARR&TR
Sh. Ravi Luthra, SE/TR-2
Sh. Gurvinder Singh, Sr.Xen/TR-5
Sh. Baljinder Pal Singh, AE/Tr-5

ORDER

1.0 GVK Power (Goindwal Sahib) Limited (GVK) is maintaining and operating a 2X270 MW (540 MW) coal based thermal power station at Goindwal Sahib in the state of Punjab for generation and sale of Electricity from the project and has filed the present petition for True up for FY 2019-20, Annual Performance Review for the FY 2020-21 and Tariff determination for FY 2021-22. It has been submitted that, vide order dated 22.12.2020 in petition No. 33 of 2020,the Commission has determined the Annual Revenue Requirement for FY 2019-20.Further,the Commission vide order dated 26.10.2021 in Petition no 14 of 2020 has determined Multi Year Tariff for 2nd Control from FY 2020-21 to FY 2022-23. GVK has submitted a sum of Rs. 1223.21 Crore as the

True up for FY 2019-20, Rs.843.56 Crore for annual Performance Review for FY 2020-21 and Rs.1863.13 Crore for tariff projections FY 2021-22 and has prayed to:

a) Carry out the True up for FY 2019-20, approve the Annual Performance Review for FY 2020-21, and tariff determination for FY 2021-22 as claimed in the present Petition as detailed in the petition.
b) Pass any such further order as this Commission may deem necessary in the interest of justice.

The petition was admitted vide Order dated 09.11.2021. GVK was directed to issue a public notice inviting objections/suggestions from the general public/stakeholders and the petition was fixed for hearing as well as public hearing on 15.12.2021. The public notice inviting objections/suggestions from the general public/stakeholders was published in the various newspapers including in vernacular on 02.12.2021, however, no objection was received from public. The petition was taken up for hearing as well as public hearing on 15.12.2021 however, nobody appeared from the public in the public hearing. GVK was given last opportunity to submit the annual audited accounts for FY 2020-21 and bank certificate within 10 days with copy to PSPCL. PSPCL was directed to file reply to the Petition within 2 weeks with a copy to GVK. PSPCL filed its reply to the Petition on 19.01.2022. PSPCL was directed to file its reply to the submission of GVK and GVK to file its rejoinder to the reply file by PSPCL within 2 weeks thereafter. Next date of hearing was fixed for 09.03.2022.GVK filed reply on 01.02.2022.On 09.03.2022, PSPCL was directed to file its reply within 2 weeks with a copy to GVK and next date of hearing was fixed for 04.05.2022 (postponed to 05.05.2022).GVK had not filed rejoinder to the reply filed by PSPCL and requested for adjournment. On 05.05.2022,GVK was granted one last opportunity to file rejoinder within a week. Since GVK had not filed true up petition for FY 2020-21, GVK was also directed to file true up petition within 2 weeks and next date of hearing was fixed for 16.06.2022. Due to administrative reasons, hearing was refixed to 29.06.2022 which was further postponed to 14.07.2022 due to lack of quorum.

GVK prayed for allowing one more opportunity to file the rejoinder on 14.07.2022. On request GVK was granted another opportunity to file their rejoinder and true up petition for FY 2020-21 within a week failing which ,Suo Motu notice to consider the true up of FY 2020-21 would be taken. Next date of hearing was fixed for 27.07.2022 (rescheduled to 28.07.2022). GVK filed their rejoinder to the reply filed by PSPCL on 25.07.2022 but had still not filed the true up Petition for FY 2020-21 as directed. On 28.07.2022, after hearing both the parties, Order was reserved and one week's time was given to the parties to file their written submission.

Observations and Decision of the Commission

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

PART- I True up of FY 2019-20

2.0 Capital Expenditure

GVK's Submission:

2.1 GVK has submitted that it had incurred a capital expenditure of Rs.0.698 Crore in FY 2019-20 on account of setting up Coal Testing laboratory pursuant to the Commission's Order dated 06.03.2019 in Petition No. 68 of 2017. The said expenses have already been approved by the Commission by way of Order dated 30.07.2020 in Petition No.70 of 2017. Further, in Petition No. 70 of 2017 and Petition No. 33 of 2020, GVK has already placed on record the auditor certificate certifying amount incurred towards additional capitalization in FY 2019-20 along with copies of bill/vouchers towards setting up coal testing lab.

PSPCL's Reply:

2.2 PSPCL has submitted that, vide the Orders dated 30.07.2020 in Petition No.70/2017 and dated 22.12.2020 in Petition No.33/2020, the Commission had provisionally approved the aforesaid capital expenditure subject to prudence check at the time of true up. Since the capital expenditure incurred by GVK is in line with the provisional expenditure approved by the Commission, the same may be allowed subject to prudence check.

Commission's Analysis

2.3 The Commission notes that, vide Order dated 06.03.2019 in Petition No. 68 of 2017, GVK was directed to set up the accredited coal testing facility/laboratory at its plant, for testing of coal at the project site. Further, vide Order dated 30.07.2020 in Petition No. 70 of 2017, while approving its Capital Investment Plan for first MYT control period (FY 2017-18, 2018-19 and FY 2019-20), the Commission has provisionally allowed an investment of Rs. 1.5386 Crore for the same (i.e. Rs. 0.84 Crore in FY 2018-19 and Rs. 0.6986 Crore in FY 2019-20) as additional capital investment. Subsequently, vide Order dated 17.09.2020 in Petition 34 of 2019, the Commission approved the additional capital investment of Rs. 0.84 Crore in the true-up of FY 2018-19. And, vide Order dated 22.12.2020 in Petition No. 33 of 2020, the Commission has provisionally allowed additional capital expenditure of Rs. 0.6986 Crore in the APR of FY 2019-20 subject to prudence check at the time of true-up.

Now in the instant petition filed for the true-up of FY 2019-20, GVK has claimed the capital expenditure of Rs. 0.698 Crore, on account of setting up the said Coal Testing laboratory. GVK has furnished the details/invoices of the stated expenditure and a certificate to this effect by the Chartered Accountants.

Accordingly, the Commission approves the additional capital expenditure of Rs. 0.698 Crore for FY 2019-20 towards setting up of the coal testing laboratory. Thus, the total capital cost approved by the Commission for FY 2019-20 (i.e. as on 31.03.2020) works out to Rs. 3072.81 Crore. The Commission has considered capitalization of Rs.0.6986 Crore for FY 2019-20.

3.0 Operation and Maintenance Expenses

GVK's Submission

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

3.2 GVK further submitted that it has incurred an amount of Rs. 15.12 Crore towards the employee cost for the FY 2019-20 as per detail given below:

Table No.1: Employee cost submitted by GVK for FY 2019-20 (Rs.Crore)

Sr. No	Particulars	Amount
1	Salary	13.83
2	Other Staff Cost	0.24
3	Terminal Benefits	1.05
4	**Total Employee Cost**	**15.12**

3.3 GVK submitted that a competent salary hike is necessary for retention of employees. Further, Note 6 to Regulation 26 of PSERC Tariff Regulations 2014 provides that an increase in employee cost on account of pay revision etc. would be considered separately by this Commission. GVK prayed that this Commission may be pleased to approve the Employee Expenses claimed above.

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

Table No.2: A&G and R&M Expenses submitted by GVK for FY2019-20

(Rs. Crore)

Sr. No	Particular	Amount
1	A&G Expenses	42.94
2	R&M Expenses	33.71
3	**Total**	**76.65**

3.5 GVK prayed to approve the O&M Expenses of Rs.91.77 (76.65+ 15.12) Crore for the FY 2019-20.

3.6 GVK vide rejoinder dated 25.07.2022 to the reply filed by PSPCL submitted that PSPCL's contention that it has claimed highly escalated O&M Expenses of Rs.91.77 Crores without any justification is misplaced and denied. It is submitted that Employee Costs incurred by it is on the higher side as it is required to pay competitive remuneration to employees in order to match industry standards. Regulation 8.1 (b) of the PSERC (Terms and Conditions for Determination of Generation, Transmission, Wheeling and Retail Supply Tariff) Regulations, 2014 provides that approval of employee costs shall be based on industry bench marks. However, the increase in employee cost based only on account of variation in Wholesale Price Index (WPI) and Consumer Price Index (CPI) is neither adequate nor reflective of the industry standards.

3.7 GVK further submitted that in terms of Note 6 to Regulation 26 of PSERC Tariff Regulations 2014, an exceptional increase in employee cost on account of pay revision etc. would be considered separately by this Commission. Pertinently, GVK is a private company and pay revisions, such as in government organizations / companies, are not applicable to it. Thus, it has to provide regular increments to employees, which in FY 2019-20 was about 6%. GVK prayed that the Commission may allow Employee Cost for FY 2019-20as claimed.

PSPCL's Submission

3.8 PSPCL in its submission dated 20.01.2022 submitted that GVK has requested this Commission to allow it, O&M expenses to the extent of Rs.91.77 Crore as against Rs.39.73 Crore approved by this Commission in its Order dated 22.12.2020. The said sum of Rs.39.73 Crore was inclusive of Rs.28.52 Crore as R&M & A&G expenses and Rs.11.21 Crore as employee expenses. In the present Petition, GVK has submitted that it has incurred an amount of Rs.15.12 Crore as employee expenses on account of competent salary hikes which were necessary for retention of employees. However, no justification towards increase in R&M expenses and A&G expenses has been provided by GVK. In this regard, PSPCL stated that as per Note-3 of Regulation 26 of the PSERC Tariff Regulations, 2014, GVK is only entitled to normative O&M expenses based upon the prescribed formula. Further, since GVK has failed to provide 'exceptional' reasoning for pay revision of its employee except for the submission that competent pay hikes were required to retain the employees, GVK is not entitled to any separate increase in employees cost. Further, no reasoning whatsoever has been provided by GVK for the increase in R&M & A&G expenses (from Rs.28.52 Crore to Rs. 76.65 Crore). PSPCL further submitted that if GVK wishes to retain its employees by granting competent hikes or wishes to incur R&M expenses over and above the normative figures approved by this Commission in its Order dated 22.12.2020, the same are liable to be borne by GVK itself and cannot be allowed to be pass through in tariff as an unnecessary burden on the consumers of the Respondent. PSPCL stated that GVK had paid water charges separately, in addition to capacity charges &energy charges, amounting to Rs 9915021 /- during payment of tariff bill of July, 2020 as demanded by GVK in the said bill. Under the said water charges, Rs 6000978 /- (Rs 0.60 Crore) pertain to the period FY 2018-19 and Rs 3914043 (Rs 0.39 Crore) pertain to the period FY 2019-20.

Commission's Analysis

Employee cost

3.9 GVK in Petition no 69 of 2017 claimed an employee cost of Rs 20.61 Crore for FY 2019-20. The Commission in its Order dated 05.08.2020 had approved employee cost of Rs 11.41 Crore for FY 2019-20.Further, GVK in Petition no.33 of 2020 claimed Rs.15.12 Crore which includes Terminal benefit of Rs 1.05 Croreas employee cost in Annual Performance Review for FY 2019-20 and the Commission in its order dated 22.12.2020in Petition no.33 of 2020 had approved employee cost of Rs.10.16 Crore.

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

3.11 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.*

3.12 The employee cost is considered in two parts -Terminal benefits and other employee cost. The Commission allows terminal benefits of Rs.1.05 Crore for FY 2019-20 as claimed by GVK.

3.13 The Commission has calculated the INDEXn for FY 2019-20 as under:

Table No. 3: WPI and CPI Increase considered for FY 2019-20

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

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

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

Table No.4: Other Employee Cost approved by the Commission for FY 2019-20

(Rs. Crore)

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

3.15 The employee cost approved by the Commission for FY 2019-20 is as under:

Table No.5: Employee Cost approved by the Commission for FY 2019-20

(Crore)

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

Repair & Maintenance and Administrative & General Expenses

Commission's Analysis

3.16 R&M and A&G expenses are a part of O&M expenses. The Commission had provisionally approved R&M and A&G expenses for FY 2019-20 as Rs.28.47 Crore vide its Order dated 05.08.2020 in Petition no 69 of 2017. Further, GVK in Petition no.33 of 2020 claimed Rs.80.54 Crore as R&M and A&G expenses in Annual Performance Review for FY 2019-20 and the Commission in its order dated 22.12.2020 had approved R&M and A&G expenses of Rs. 28.52 Crore.

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

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

Where,

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

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

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

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

3.18 The opening value of approved Gross Fixed Assets for the purpose of R&M and A&G Expenses of FY 2019-20 is considered from closing GFA of FY 2018-19.Gross Fixed Assets as on 01.04.2019 is Rs. 3072.11 Crore as determined in the para 3.24 of Petition no 34 of 2019. The Commission has considered the capitalization of Rs. 0.698 Crore for FY 2019-20.

3.19 "K" factor has been determined during True-up of FY 2017-18. R&M and A&G expenses for FY 2019-20 are determined by multiplying K factor with their respective values of average Gross Fixed Assets. The Commission considers WPI increase of 1.68% as mentioned in Table No.3.

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

Table No.6: R&M and A&G expenses for FY 2019-20 based on K factor and indexation determined by the Commission (Rs. Crore)

Sr.No	Particulars	Amount
1	Opening GFA for the purpose of R&M and A&G	3072.11
2	Addition during the year	0.70
3	Closing GFA for the purpose of R&M and A&G	3072.81
4	Average GFA	3072.46
5	K factor*	0.909%
6	R&M and A&G expenses	27.93
7	WPI increase	1.68%
8	R&M and A&G expenses after WPI increase	28.40
9	Audit and ARR Fee	0.13
10	**R&M and A&G expenses**	**28.53**

* As determined in Petition no.34 of 2019

Accordingly, the Commission approves R&M and A&G expenses of Rs.28.53 Crore for FY 2019-20.

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

Table No.7: O&M expenses approved by the Commission for True-up of FY 2019-20 (Rs.Crore)

Sr. No	Particular	Amount
1	Employee Expenses	11.21
2	R&M and A&G Expenses	28.53
3	**Total**	**39.74**

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 has worked out the depreciation for FY 2019-20 in terms of the above mentioned regulation as under:

Table No. 8: Depreciation for FY 2019-20 submitted by GVK (Rs. Crore)

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

4.3 GVK further submitted that this Commission by way of order dated 05.08.2020 in Petition no.69 of 2017 has allowed depreciation as Rs. 142.83 Crore for FY 2019-20 and Rs141.94 Crore in Order dated 22.12.2020 in Petition No.33 of 2020. GVK has prayed to approve the depreciation for the FY 2019-20 as Rs.146.55 Crore. GVK further stated that it has filed Review Petition against Order in Petition No. 69 of 2017 and the same is pending.

4.4 GVK vide rejoinder dated 25.07.2022 to the reply filed by PSPCL submitted that PSPCL has contended that the depreciation allowable to it ought to be limited to Rs. 141.94 Crores instead of it's claim of Rs. 146.55 Crores. PSPCL has relied on this Commission's Order dated 22.12.2020 in Petition No. 33 of 2020 to restrict the amount of depreciation to Rs. 141.94 Crores. GVK further submitted that PSPCL's reliance on this Commission's Order dated 22.12.2020 to limit depreciation is erroneous. GVK stated that the computation of depreciation of Rs141.94 FY 2019-20 is erroneous since:

(a) Rate of depreciation of 4.77% has been computed taking depreciation on free hold land as 0%.

(b) Since free hold land has already been considered as 0%, there should not be any deduction of land and land rights from the average GFA.

GVK further stated that in doing so, there has been a double deduction of the value of free hold land i.e. in computing the rate of depreciation as well deduction from the Average GFA

PSPCL's Submission

4.5 PSPCL vide its submission dated 20.01.2022 stated that GVK has prayed for allowing depreciation of Rs. 146.55 Crore for FY 2019-20 as against the provisionally allowed depreciation of Rs.141.94 Crore approved by this Commission under its Order dated 22.12.2020 passed in Petition No.33/2020. While claiming this additional sum of Rs.4.61 Crore GVK has only submitted that it reserves it rights to challenge the Order dated 22.12.2020 in accordance with law and that it has filed a Review Petition against Order dated 05.08.2020 passed in Petition No.69/2020. In this regard, it is submitted that vide its Order dated 05.08.2020, this Commission had allowed a depreciation of Rs.142.83 Crore for FY 2019-20. The said allowance by this Commission was challenged by GVK by filing a Petition seeking review of the said Order [bearing RP No.4/2020]. Meanwhile, while conducting the APR of FY 2019-20, this Commission vide its Order dated 22.12.2020, provisionally approved a depreciation of Rs.141.94 Crore. Thereafter, vide its Order dated 07.04.2021, this Commission disposed-off the Review Petition filed by the Petitioner.

4.6 Neither GVK till date has filed any Appeal against the Order dated 22.12.2020 nor against the Order dated 07.04.2021 and as such, the findings of the Commission contained therein have attained finality. Interestingly, under the aforesaid Review Petition, GVK had sought a revision in depreciation allowed by this Commission from Rs.141.98 Crore to Rs.142.83 Crore whereas, in the present Petition, the Petitioner has claimed a depreciation of Rs.146.55 Crore However, no justification of deviations from the above calculation approved by this Commission or claimed by the Petitioner have been provided. Even otherwise, the remaining depreciable value of the total assets of the Petitioner has been considered at 90% of the average capital cost (net of cost of land) which is completely at variance with the methodology for calculation of depreciation as per this Commission's Order dated 05.08.2020 passed in Petition No.69/2017 and later approved in its Order dated 07.04.2021 passed in Review Petition No.4/2020. As regards the contention of GVK that it reserves its right to challenge the Order dated 22.12.2020 in accordance with law, it is respectfully submitted that the almost one year has passed since the said Order has been passed by this Commission and any challenge to the same at this stage is clearly time barred and the above Order has attained finality. As such, the contention of GVK is wholly misconceived. PSPCL submitted that this Commission may be pleased to retain the depreciation of Rs.141.94 Crore as provisionally approved by it in its Order dated 22.12.2020.

Commission's Analysis

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

> *21.1. The value base for the purpose of depreciation shall be the capital cost of the assets admitted by the Commission:*
>
> *Provided that land other than the land held under lease and the land for reservoir in case of hydro generating station shall not be a depreciable*

asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset;

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

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

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

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

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

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

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

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

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

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

4.8 The Commission in its order dated 07.04.2021 in Review Petition no.4 of 2020 of Petition no.69 of 2017 decided on pray of GVK for reconsideration of depreciation allowed in Petition no.69 of 2017 as under:

"The Commission in its order in Petition No. 69 of 2017 had determined depreciation after deducting land from the Gross fixed assets as per Regulation-21 of PSERC MYT Regulations-2014. GVK has not deducted land from Gross Fixed assets as per the regulations while computing depreciation. GVK in the review, submitted weighted average rate of depreciation as 4.77%(table no.10) whereas in the original Petition, it had claimed weighted average rate of depreciation as 4.95%, 4.93% and 4.93% for FY 2017-18, FY 2018-19 and FY 2019-20 respectively. The Commission had allowed weighted average

rate of depreciation as 4.80% for projections in 1st Control Period after deducting land from gross fixed assets.

No new and important matter or evidence has been produced which was not within the knowledge of GVK at the time when the decision/order was passed by the Commission nor is there any mistake or error apparent on the face of the record or any sufficient reason. As such the prayer for review of the earlier Order on this issue is not admissible".

4.9 The opening GFA (net of land and land rights) of FY 2019-20 is considered as Rs.2975.36(3072.11–96.75) Crore as per the closing balance of FY 2018-19 in Petition no.34 of 2019. The Commission has considered the rate of depreciation as 4.77% as claimed by GVK in this petition instead of 4.80% allowed in Petition no.69 of 2017.

4.10 The Commission determines depreciation for FY 2019-20 as under:

Table No.9: Depreciation approved by the Commission for FY 2019-20

(Rs. Crore)

Sr.No	**Particulars**	**Amount**
1	Opening GFA (net of land and land rights)	2975.36
2	Addition during the year	0.70
3	Closing GFA(net of land and land rights)	2976.06
4	Average GFA	2975.71
5	Weighted Average rate of depreciation	4.77%
6	**Depreciation for FY 2019-20**	**141.94**

Thus, the Commission approves depreciation charges of Rs141.94 Crore for True-up of 2019-20.

5.0 Return on Equity

GVK's Submission

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

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

TableNo.10: Return on Equity for FY 2019-20 submitted by GVK

(Rs. Crore)

Sr. No	Particulars	Amount
1.	Opening Capital Cost	3,072.11
2.	Equity percentage	30.00%
3.	Normative Opening Equity (1x2)	921.63
4.	Equity addition due to additional capitalization during the year	0.21
5.	Normative Closing Equity (3 +4)	921.84
6.	Average Equity (Average of 3 and 5)	921.74
7.	Normative Rate of ROE as per PSERC 2014 Tariff Regulations	15.50%
8.	**Return on Equity Annualized (6 x7)**	**142.87**

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

PSPCL's Submission

5.4 PSPCL submitted that GVK in the present Petition has requested this Commission to approve a sum of Rs.142.87 Crore for FY 2019-20 which is line with the return on equity approved by this Commission in its Order dated 22.12.2020 passed in Petition No.33/2020 and as such, the same may be approved by this Commission subject to prudence check.

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 17.01.2020 in Petition no 54 of 2017 had determined capital cost of GVK as Rs.3058.37 Crore as on 16.04.2016.The Commission determined equity invested by GVK as Rs.1118.06 Crore but as per Regulations 24of PSERC (Terms & Condition for determination of tariff 2005where equity employed is more than 30%, the amount of equity for the purpose of tariff determination shall be limited to 30%, and the balance amount shall be considered as loan. GVK had employed excess equity of Rs.200.55 [1118.06-917.51(3058.37*0.30)] Crore which was considered as normative loan. The Commission considered Rs.917.51 Crore equity employed as on 16.04.2016 in Petition no 54 of 2017.

5.8 The Commission in its MYT Order dated 05.08.2020 in petition no.69 of 2017, approved Return on Equity of Rs.142.87 Crore for FY 2019-20 against GVK's claim of Rs 193.91 Crore. The Commission in its order dated 22.12.2020 in Petition no.33 of 2020 approved Return on Equity of Rs. 142.87 Crore in Annual Performance Review for FY 2019-20.

5.9 The Commission in its Order dated 17.09.2020 in Petition no 34 of 2019 approved equity of Rs. 921.63 Crore as on 31.03.2019 which is considered as opening balance for FY 2019-20. As per Regulation 19 of PSERC MYT Regulations, 2014, Debt Equity ratio of 70:30 has to be considered. Equity of Rs. 0.21(30% of Rs.0.70 Crore of assets addition of FY 2019-20) Crore has been considered for determining return on equity for FY 2019-20.

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

Table No.11: Return on Equity for FY 2019-20 determined by the Commission **(Rs Crore)**

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

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

6.0 Interest Charges

GVK's Submission

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

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

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

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

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

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

6.4 GVK submitted that it has considered 70% of the capital cost as normative loan for the purpose of calculation of interest on loan. The actual rate of interest of the term loans has been 13.22% for the FY 2019-20. The SBI Benchmark rate as on 01.04.2019 was 13.80% which is higher than the actual rate of interest. GVK submitted that it has considered actual rate of interest of 13.22% for the calculation of Interest on Loan. Excess equity beyond 30% allowed as per regulations has been considered as normative loan.

Table No. 12: Interest on Loan submitted by GVK for FY 2019-20 (Crore)

Sr. No	Particulars	Amount
1	Gross Normative Loan – Opening	2150.48
2	Cumulative Repayment up to Previous Year (Cumulative Depreciation up to previous year)	432.49
3	Net Loan Opening	1717.99
4	Addition of Loan due to Additional Capitalization during the year	0.49
5	Less: Repayment During the Year (Normative: equal to depreciation claimed for the year)	146.55
6	Net Loan Closing	1571.93
7	Average Normative Loan	1644.96
8	Actual Weighted Average Rate of Interest on Loan	13.22%
9	**Interest on Normative Loan-Annualized**	**217.50**

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

PSPCL's Submission

6.6 PSPCL vide its submission dated 20.01.2022 stated that GVK in the present Petition has requested for approval of a sum of Rs.217.50 Crore as against Rs.98.32 Crore approved by this Commission in its Order dated 22.12.2020 wherein this Commission while approving interest on loan has observed as under:

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

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

The clear finding of the Commission was thus that any amount exceeding Rs.98.32 Crore (i.e. the actual interest on loan paid in FY 2019-20) would be considered in the year in which the same will be actually paid by GVK. It may also be mentioned here that this Commission vide its Order dated 07.04.2021 passed in Review Petition No.4/2020 has allowed an additional sum of Rs.20.18 Crore as additional interest on normative loans as well as working capital loans. In this manner, this Commission vide the above Order has allowed interest on loans for the Petitioner and any amount over and above on account of interest accrued in FY 2019-20 is therefore liable to be allowed only in the year when the same is actually paid by GVK. As such, the request of GVK for allowing a sum of Rs.217.52 Crore as interest on loan is liable to be restricted only to actually paid interest of Rs.98.32 Crore subject to prudence check.

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-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.”

6.8 The Closing loan balance of Rs.1725.73 Crore as on 31.3.2019 was determined by the Commission vide order dated 17.09.2020 in petition no. 34 of 2019, which is considered as the opening loan balance for FY 2019-20. Asset addition of Rs.0.70 Crore for FY2019-20 has been approved in this petition (para 2.3). 70% of asset addition has been considered to be sourced from debt i.e. Rs.0.49 (0.70*70%) Crore as loan. Repayment of loan has been considered equal to depreciation allowed as per Regulation 24.3 of PSERC MYT Regulations, 2014. GVK has claimed the weighted average rate of interest 13.22% for FY 2019-20 in this petition which has been considered by the Commission for calculating interest on long term loan. The State Bank of India advance rate as on 01.04.2019 was 13.80% and since rates at which loan has been taken by GVK are less than SBI advance rate, the same have been considered to calculate the interest.

6.9 The Commission in its order dated 07.04.2021 in Review Petition no.6 of 2020 of Petition no.34 of 2019 had determined Normative Loan of Rs. 160.76 Crore being excess equity invested beyond 30 % out of the total Long Term loan of Rs.1725.73 Crore as on 31.3.2019.Repayment of normative loan has been considered as 9.37% of depreciation allowed for FY 2019-20(Table No.9)as normative loan was 9.37% of the total loan. The interest on long term loans is calculated as under:

Table No.13: Interest charges on Long Term Loans determined by the Commission for FY 2019-20 (Rs. Crore)

Sr. No.	Particulars	Long term loans	Normative loan	Total long term loans
1.	Opening balance of loan	1564.97	160.76	1725.73
2.	Add: Receipt of loan during the year	0.49	0.00	0.49
3.	Less: Repayment of loan during the year equivalent to the depreciation determined in Table no.9	2.1.1 2.1.2 128.64	13.30	141.94
4.	Closing balance of loan	1436.82	147.46	1584.28
5.	Average Loan	1500.89	154.11	1655.00
6.	Rate of interest	13.22%	13.22%	13.22%
7.	**Interest Charges**	**198.42**	**20.37**	**218.79**

6.10 As per the Annual Audited Accounts for FY 2019-20, GVK has liability of Rs. 1449.51 Crore towards interest accrued and due on borrowings. GVK has defaulted in payment of interest on long term loans. GVK has submitted a certificate of Chartered Accountant in Petition no.33 of 2020 regarding actual payment of interest of Rs.98.32 Crore on long term loans during FY 2019-20 and the same is considered & allowed by the Commission. Further, the Commission allows interest of Rs.20.37 Crore on Normative loans out of excess equity as calculated above, over and above Rs. 98.32 Crore actually paid as detailed in para 6.5 and 6.6 ibid above.

6.11 GVK has booked Finance charges of Rs.6.92 Crore in the Annual Audited Accounts for FY 2019-20 on average long term loans of Rs.3500.65 Crore. The Commission has determined average long term loan for FY 2019-20 as Rs.1655.00 Crore in Table no.13 above. The Commission thus approves finance charges as Rs.3.27 (6.92*1655.00/3500.65) Crore and the same is allowed.

6.12 GVK in its Petition No.14 of 2020 for approval of Annual Revenue Requirement and determination of tariff for sale of thermal energy for 2nd Control Period i.e. FY 2020-21 to FY 2022-23 has furnished a certificate from M/s Sarangapani & Co. Chartered Accountants certifying that GVK has paid Rs.340.72 Crores towards interest on long term borrowings and finance charges of Rs.3.27 Crore in FY2020-21. GVK in its affidavit dated 13.07.2021 apportioned this amount of Rs.340.72 Crore towards interest payable for the year FY 2018-19,FY 2019-20 and FY 2020-21 amounting to Rs.117.39 Crore, Rs.120.47 Crore and Rs.102.86 Crore respectively and Rs.3.27 Crore as finance charges.

The commission had allowed in Petition No.14 of 2020 interest deferred in previous years amounting to Rs.117.39 Crores for FY 2018-19 and Rs 100.71 Crores for FY2019-20 in FY 2020-21.The Commission has also allowed additional interest amounting to Rs.19.76 Crore for FY 2019-20 on account of normative loan in Review Petition no.4 of 2020 in Petition no.69 of 2017(Projections of 1st MYT Control Period FY 2017-18 to 2019-20).Now the interest on normative loan for FY 2019-20 has been trued up above in Table no.13amounting to Rs.20.37 Crore instead of Rs.19.76 Crore.

Therefore, the Commission allows Interest & finance charges of Rs.121.96 (98.32+20.37+3.27) Crore for True-up of FY 2019-20. The balance amount of interest i.e. Rs.100.10 (218.79-98.32-20.37) Crore paid during FY 2020-21 will be considered at the time of true up of FY 2020-21.

7.0 **Interest on Working Capital**

GVK's Submission

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

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

Table No. 14: Working Capital for FY 2019-20 submitted by GVK

(Rs. Crore)

Sr. No	Particulars	Amount
1	Fuel Cost-(Cost of coal and oil for two months for generation corresponding to the normative annual plant availability factor).	272.93
2	Receivables equivalent to two months of capacity charges and energy charges for sale of electricity calculated on the normative annual plant availability factor	382.94
3	One-month employees cost and administration & general expenses	7.65
4	One month R&M Cost	

5	Maintenance Spares	13.76
6	**Total**	**677.28**
7	Rate of interest on Working Capital	12.25%
8	**Interest on Working Capital**	**82.97**

7.3 GVK further submitted that rate of interest on working capital is determined in terms of Regulation 25.1 of PSERC Tariff Regulations 2014 and the actual rate of interest on working capital loan has been 12.25% which is lower than the prevalent SBI rate of 12.6% on 01.04.2019. Hence the interest rate of 12.25% has been considered for the purpose of calculation of interest on working capital calculated above.

Table No.15: Interest on Working Capital submitted by GVK for FY 2019-20
(Rs. Crore)

Sr.No	Particular	Amount
1	Total Working Capital	677.28
2	Rate of Interest on Working Capital	12.25%
3	**Interest**	**82.97**

7.5 GVK vide rejoinder dated 25.07.2022 to the reply filed by PSPCL submitted that It is an admitted position that interest on working capital is payable on normative basis notwithstanding that the generating company has not taken working capital loan from any outside agency or has exceeded the working capital loan amount worked out on normative basis. GVK further submitted that PSERC Tariff Regulations 2014 specifically provide that the interest on working capital is to be determined based on normative working capital. Once normative approach has been used to arrive at completed capital cost of the Project, the same ought to continue.

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

Regulations, asunder:

1. Reliance Infrastructure Ltd. v. Maharashtra Electricity Regulatory Commission: Appeal 111of2008 (Judgment dated28.05.2009) (Para 7):

2. DPSC Limited v. West Bengal Electricity Regulatory Commission, AppealNo.67of2009 (Judgment dated 06.09.2011) (Para 9.10 – 9.11):

3. Gujarat Urja Vikas Nigam Ltd. v. Gujarat Electricity Regulatory Commission & Anr., Appeal No. 37 of 2014 (Judgment

7.7 GVK submitted that :

(a) *Fuel Cost for two months:* Regulation 34.1(a) (i) provides that fuel cost for 2months shall correspond to the normative annual plant availability factor. However, PSPCL is seeking to limit GVK's claim to two months of the Energy Charges paid by PSPCL. Such capping would not only impact Fuel Cost but also the component of 'Receivables for 2 months' as provided under Regulation 34.1 (a) (iv).

(b) *O & M Expenses for one month and Maintenance Spares:* As computation of O & M expenses by PSPCL is erroneous and not in line with the PSERC Tariff Regulations 2014, accordingly, a change in O & M expenses will also impact the component of working capital.

PSPCL's Submission

7.8 PSPCL vide its submission dated 20.01.2022 stated that GVK in the present Petition has claimed interest on working capital of Rs.82.97 Crore as against Rs.27.86 Crore which was provisionally approved by this Commission in its Order dated 22.12.2020 passed in Petition No.33/2020. However, yet again apart from the highly escalated and erroneous figure given in Table-5 of the Petition, GVK has completely failed to substantiate the almost three-fold increase in the interest on working capital. PSPCL further submitted as per Regulation 34 of the PSERC MYT Tariff Regulations, 2014, the components of working capital for a coal-based thermal generating plants are determined.

PSPCL stated that under Petition No.69/2017,GVK had placed the following projections before this Commission for FY 2019-20:

(a) Rs. 227.26 Crore as Fuel Cost – primary fuel & secondary fuel (for 2 months);
(b) Rs.14.52 Crore as O&M expenses for one month;
(c) Rs.2.18 Crore as maintenance spares (15% of O&M expenses); and
(d) Rs.397.90 Crore as its 2 months receivables.

PSPCL stated that GVK has projected a working capital requirement of Rs.641.86 Crore and an interest component of Rs.78.63 Crore @ Rs.12.77%. However, this Commission, vide its Order dated 05.08.2020, approved a provisional working capital requirement of Rs.215.46 Crore with an interest of Rs.26.39 Crore @ 12.25% for FY 2019-20. PSPCL further stated that during FY 2019-20, a sum of Rs.438.69 Crore has been paid by it to GVK as energy charges**.** Considering the above, fuel cost of 2 months works out to Rs.73.115 Crore as against Rs.272.93 Crore as has erroneously been claimed by the Petitioner under Table-5 of the Petition. In so far as one month's O&M expenses and maintenance spares are concerned, PSPCL submitted that the same are subject to approval of normative O&M expenses in terms of the formula prescribed under Regulation 26.1. With respect to the highly escalated claim of Rs.382.94 Crore towards receivables for 2 months during FY 2019-20, PSPCL further submitted that GVK has paid a total sum of Rs.1,191.57 Crore (Rs.438.69 Crore as energy charges + Rs.752.88 Crore as fixed charges). Based on the same, the average receivables for 2 months for GVK's generating station works out to Rs.198.595 Crore only. PSPCL stated that the highly inflated cost for fuel and receivables as claimed by GVK are liable to be rejected by this Commission. With the revision of working capital requirement based upon the above stated cost for fuel and receivables and O&M expense as per Regulation 26.1, the computation of interest on working capital is also liable to be adjusted accordingly by this Commission.

Commission's Analysis

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

"34.1. Components of Working Capital

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

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

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

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

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

b. …….

c. …….”

7.10 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.”*

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

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

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

Table No.16: Interest on Working Capital approved by the Commission for FY 2019-20 (Rs. Crore)

Sr. No.	Particulars	Amount
1	Fuel Cost for two months	73.12
2	Maintenance spares @15% of O&M	5.96
3	O&M Expenses for one month	3.31
4	Receivables for two months	151.54
5	**Total Working Capital**	**233.93**
6	Rate of Interest (%)	12.25%
7	**Interest on Working Capital**	**28.66**

Thus, the Commission approves working capital requirement of Rs.233.93 Crore and interest thereon of Rs. 28.66 Crore for True-up of FY 2019-20.

8.0 Other Income

GVK's Submission

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

Table No.17: Other Income for FY 2019-20 submitted by GVK (Rs. Crore)

Sr. No	Particular	Amount
1	Interest on Bank FD	2.57
2	Sale of Scrap	0.05
3	**Total**	**2.62**

8.2 GVK vide rejoinder dated 25.07.2022 to the reply filed by PSPCL submitted that PSPCL in its Reply dated 26.04.2022 has wrongly contended that it has received non-tariff income of Rs. 21.64 Crore in FY 2019-20 and Rs 0.51 Crore in FY2020-21, which ought to submitted that it has only received non-tariff income of Rs. 7.21 Crore in FY 2019-20 andRs.0.51Crore in FY2020-21, as under:

Table No.18:Revised Non Tariff income submitted by GVK

Particulars	Amount (Rs. in Crore)	
	FY2019-20	FY2020-21
Interest earned on deposits with banks	2.57	0.21

Net Late Payment Surcharge received from PSPCLonarrearsbasedonthisHon'bleCommission'sOrdersdated06.03.2019and27.05.2019lessfinancingcost of late payment	2.1.3 4.58*	-
Interest on Income Tax Refund	-	0.29
Sale of scrap	0.05	0.01
Miscellaneous Income	0.01	-
Total	**7.21**	**0.51**

*Note: The Net Late Payment Surcharge for FY 2019-20 has been calculated as perRegulation28(1)(d)ofthePSERCTariffRegulations,2019 as follows:

Table No.19: Late Payment surcharge submitted by GVK

Particulars	Amount (Rs. Crore)
Late Payment Surcharge received from PSPCL on arrears based on this Commission's Orders dated 06.03.2019and27.05.2019	19.01
(less)Financing cost of late payment	(14.42)
Net Late Payment Surcharge received from PSPCL	**4.58**

PSPCL's Submission

8.3 PSPCL vide its submission dated 20.01.2022 that under the above head, GVK has submitted that it has received a sum of Rs.2.62 Crore as other income as against an amount of Rs.19.06 Crore, provisionally allowed by this Commission in its Order dated 22.12.2020. PSPCL further submitted that the same may be allowed subject to prudence check.

8.4 PSPCL vide its submission dated 26.04.2022,submitted that perusal of the audited statement of accounts for FY 2019-20 and 2020-21 show that the Petitioner received other income/non-tariff income of Rs. 21.64 Crore in FY 2019-20 and Rs.0.51 Crore in FY 2020-21. However, in the present Petition the Petitioner has submitted that it has received non-tariff income in the sum of Rs.2.62 Crore in 2019-20 and Rs.0.35 Crore for FY 2020-21.

8.5 PSPCL further vide its submission dated 26.04.2022, submitted that in terms of Regulation 28 of Punjab State Electricity Regulatory commission (Terms and conditions for Determination of Generation, Transmission, Wheeling and Retail Supply Tariff) Regulations, 2019, non-tariff income received by the Petitioner is liable to be deducted by this Commission from its total expenses for FY 2019-20 and 2020-21 while approving its AFC. PSPCL therefore respectfully submitted that this Commission while determining the AFC of the Petitioner should consider non-tariff incomes received by the Petitioner as Rs. 21.64 Crore in FY 2019-20 and Rs.0.51 Crore in FY2020-21, instead of what has been wrongly mentioned by it in the present petition.

Commission's Analysis

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

8.7 As per para 20.3.4 of the order dated 17.01.2020 in Petition No.54 of 2017,the Commission had observed that GVK had diverted funds meant for capital expenditure out of the loan taken from financial institutions by investing the same in mutual funds. The Commission has neither considered interest paid on loans used for such other investments nor income earned from such other business/investment as part of the capital expenditure. Other income includes non-operating income of Rs.0.05 Crore on account of sale of scrap. GVK has claimed Rs. 4.58 Crore under late payment surcharge for FY 2019-20 after deducting cost of financing (Rs.14.42 Crore) being non tariff income. The Commissions determines Non-Tariff Income as Rs. 4.63(4.58+0.05) Crore for FY 2019-20.

Accordingly, the Commission approves Non-Tariff Income as Rs. 4.63 Crore for True-up of FY 2019-20.

9.0 Annual Fixed Charges for FY 2019-20

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

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

Sr. No.	Particulars	Approved in Petition no. 33 of 2020(APR)	Submitted by GVK	Approved by the Commission
1	O&M Expenses	39.73	91.77	39.74
2	Depreciation	141.94	146.55	141.94
3	Interest & finance charges	98.32	217.50	*121.96
4	Return on Equity	142.87	142.87	142.87
5	Interest on Working Capital	27.86	82.97	28.66
6	**Total**	**450.72**	**681.66**	**475.17**
7	Less: Non-Tariff Income	19.06	2.62	4.63
8	**Annual Fixed Charges**	**431.66**	**679.04**	**470.54**

9.2 GVK shall be entitled for computation and payment of capacity charges and energy charges in accordance with Regulation 38 and Regulation 39, PSERC, MYT Regulation, 2014.

10.0 **Energy Charges**

GVK's Submission:

10.1 GVK has submitted the operating parameters and calculation of fuel cost/Energy charges for FY2019-20 as under and prayed to approve the same.

Table No.21: Energy charges for FY 2019-20submitted by GVK

Sr.No.	*Particulars*	*Unit*	*FY 2019-20 (Actuals)*
1	Plant Capacity	MW	540
2	Plant Load Factor	%	27.73%
3	Gross Generation	MU	1311.52
4	Auxiliary Consumption	%	9.26%
5	Net Generation	MU	1190.08
6	Availability Factor	%	99.31%
7	Station Heat Rate	kcal/kWh	2310.1
8	Weighted Avg. GCV of Coal	kcal/kg	3358
9	Specific Consumption of Coal	kg/kWh	0.69
10	Quantity of Coal Consumed	MT	
	Indigenous		902264
	Imported		
	Captive mine		
	Other (specify)		
11	Transit Loss of Coal		

	Indigenous		14951
	Imported		
	Captive mine		
	Other (specify)		
12	Total Quantity of Coal	MT	917214
13	Quantity of Oil	KL	1173
14	Specific Oil Consumption	ml/kWh	0.89
15	Weighted Average CV of oil	kCal/litre	9019
16	Weighted Average Coal Cost	Rs./MT	5871
17	Total Coal Cost	Rs. Crore	538.52
18	Weighted Average Oil Cost	Rs./kL	44949
19	Total Oil Cost	Rs. Crore	5.27
20	**Total Fuel Cost**	**Rs. Crore**	**543.79**
21	**Per Unit Energy Charges**	**Paisa/kW**	**4.57**

PSPCL's Submission

10.2 PSPCL vide its submission dated 19.01.2022 has stated that this Commission has consistently held that the energy charges payable to GVK are to be in accordance with the methodologies and calculations prescribed by this Commission in the **Order dated 1.2.2016 common to Petition Nos. 65/2013 and 33/2015, Order dated 6.3.2019 in Petition No.68/2017** and **Order dated 27.05.2019 in Petition No. 01 of 2018.** Thus, the Commission has completely settled the issue as regards payments of energy charges to be paid to GVK. The methodology prescribed by this Commission, is based upon payment of fuel cost to GVK based on the actual invoices of fuel procurement to be supplied by GVK to the Respondent along with its tariff bills. Thus, the payment of energy charges, as directed by PSERC is to be made based on the actual fuel charges incurred by GVK, subject to verification of the invoices and the weighted average analysis with PSPCL's own generating plants. There is no question therefore of determination of any specific 'Energy Charge Rate' as has been sought by GVK.

PSPCL also submitted an Annexure (R-1) containing detail of month wise Energy Charges and the scheduled generation, indicating the total payments of Rs. 438.69 crore for 1190.02 MU of the scheduled generation.

Commission's Analysis

10.3 The Commission observes that the performance parameters considered by the petitioner are not as per the CERC norms as mandated under the PSERC Tariff regulations. Regulation 36 of the PSERC Regulations specifies as under:

"36. NORMS FOR PERFORMANCE PARAMETERS

The norms for performance parameters for a generating company i.e. availability, load factor, station heat rate, specific oil consumption, auxiliary consumption etc. shall be as per the CERC norms or as determined by the Commission"

Also, the issue of landed cost for the coal arranged by the petitioner has been settled by the Commission in the following Orders:

a) Order dated 1.2.2016 common to Petition Nos. 65/2013 and 33/2015;

Vide said Order, the Commission has decided as under:

"………As regards the cost to be allowed for the interim coal arranged by the petitioner, the Commission is of the view that in the PPA the same was not to exceed the cost of coal sourced by PSPCL from its captive Pachhawara Coal Block. PSPCL in its letter dated 20.01.2016 has proposed the energy charges for power to be supplied by the Project with the interim arrangement of coal as the minimum landed cost of coal being received by thermal power plants of PSPCL from Coal India Ltd. As per the information available with the Commission, even though the Pachhawara Coal Block has been re-allotted to PSPCL, the same is yet to become operational. Accordingly, the Commission holds that the petitioner shall be paid, the weighted average cost of coal received by the thermal power plants of PSPCL from Coal India Ltd. and its subsidiaries in the particular month, along with the actual transportation charges paid by the petitioner to the Indian railways for transporting the coal to the Project from the port / mine in case of imported / domestic coal as the case may be or the actual cost of coal procured by the petitioner, whichever is less. PSPCL may, if it so desires, participate in their interim coal procurement process undertaken by the petitioner who shall extend

full cooperation in this regard to PSPCL.

The Commission holds that this arrangement is purely temporary and the petitioner will arrange the long term linkage of coal at the earliest or successfully bid for a mine in the bidding to be conducted by Govt. of India in near future and keep PSPCL abreast of the latest developments in this regard from time to time…."

b) Order dated 6.3.2019 in Petition No.68/2017:

Vide the said Order, the Commission has decided the issues raised by the Petitioner, in respect of:

i) Cost of coal, Surface Transport at mine end & Handling charges;

ii) Gross Calorific Value (GCV);

iii) Coal Testing charges;

iv) Transit & handling losses;

v) IEGC compensation;

c)* Order dated 27.05.2019 in Petition No. 01 of 2018*:

Vide said Order, the Commission has decided as under*:*

"The Commission observes that the basic price of coal in case of coal supplied to PSPCL and GVK by Coal India Ltd. or its subsidiaries would be as per the notified price. The charges other than the basic price levied in the bills of the coal company are statutory in nature or necessarily required to be paid as part of the coal cost to the coal company without which coal would not be delivered at the delivery point at the mine by the coal company.

Considering the above, the Commission is of the opinion that the basic price of the coal and other charges/costs included in the coal bills of the coal company have to be compulsorily paid in full by the procurer of coal who incidentally has no control over it, be it PSPCL or GVK. Therefore, the Commission holds that in respect of the coal received under the SHAKTI Scheme, the coal cost for the purpose of calculating the monthly energy charges shall be the cost of coal as per the bill raised by the coal company including all the statutory *charges/taxes/duties/cess, surface transportation (upto the delivery point located within the mine) etc. billed in the coal bill issued by the coal company to GVK. Further, the actual transportation charges paid to Indian Railways shall be considered for calculating the monthly energy charges. As regards the surface transportation charges (external), in case the railway siding is away from the delivery point of coal located within the mine [upto which the surface transportation charges (internal) are included in the bill of the coal company], the Commission has already decided the same in its Order dated 06.03.2019 in petition no. 68 of 2017.*

As such, the surface transportation charges (external), if applicable, shall be considered in the coal cost while calculating the monthly energy charges. Consequently, the Commission's Order dated 01.02.2016 shall stand modified for the coal supplied under SHAKTI 2017 scheme for the GVK project.

However, as regards the coal received by GVK from sources other than the coal received under SHAKTI scheme, the payment of energy charges shall continue to be made by PSPCL to GVK in terms of the Amended and Restated PPA and relevant Orders of the Commission in this regard i.e. Order dated 01.02.2016 common to petition no. 65 of 2013 & 33 of 2015 and Order dated 06.03.2019 in petition no. 68 of 2017."

Accordingly, the Commission vide Order dated 05.08.2020 in Petition No. 69 of 2017 for determination of Tariff for FY 2019-20 and also vide Order dated 22.12.2020 in Petition No. 33 of 2020 for APR of FY 2019-20,has held that:

"The energy charges for FY 2019-20 are payable by PSPCL to GVK in terms of the PPA, Order dated 01.02.2016 common to petition no. 65 of 2013 & 33 of 2015, 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."

Further, the Commission also notes that the provisions exists in the PPA for resolution of dispute(s), if any, pertaining to the monthly bills as well as for Quarterly and Annual Reconciliation to take in to account REA, Tariff

Adjustment Payments, Tariff Rebate Payments, Late Payment Surcharge, or any other reasonable circumstance provided under the Agreement.

In view of the above, the Commission observes that the PSERC Regulations/ Orders provide for computation and payment of the monthly energy charges/fuel cost on the basis of normative performance parameters, applicable landed fuel cost and actual scheduled energy, which is dependent on the actual monthly data. The same is also subject to the quarterly and annual reconciliation as per the provisions of the PPA. Further, the provisions for raising the dispute regarding the monthly bills/payments and procedure for redressing the same also exists in the PPA. Since no such dispute was raised by the petitioner in the terms of the PPA, the same has attained finality. Thus, the Commission finds no justification in re-visiting the same.

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

11.1 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.

11.2 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".*

11.3 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.

PART II

Annual Performance Review of FY 2020-21 and tariff determination of FY 2021-22

The Commission observed that GVK has failed to file Petition for True up of FY 2020-21 which was to file on or before 30th November,2021.GVK has delayed the submission of documents required by the Commission in this Petition on one pretext or the other. The Commission directed the GVK to file True up Petition for FY 2020-21 which it has failed to do in spite of repeated directions of the Commission during various hearings of this petitions recorded in the interim orders.

The Commission decides not to process the Annual Performance Review for FY 2020-21 and Revised estimates for FY 2021-22 which are irrelevant at this stage as the purpose is lost with the appropriate period having lapsed and also since tariff for 2nd MYT Control Period from FY 2020-21 to FY 2022-23 has already been allowed in Petition no.14 of 2020 vide its order dated 26.10.2021. Moreover, Petitions for True up of FY 2020-21 are overdue and FY 2021-22 is due for filing. Thus, the Commission as per PSERC (Conduct of Business) Regulations, 2005 Suo-Moto initiates processing of determination of Annual Fixed Cost for True-up of FY 2020-21 and True up for FY 2021-22 by calling the following information from GVK which should be furnished within two weeks:

1. Annual Audited Accounts for FY 2021-22
2. Cost Audit Report for FY 2020-21 and FY 2021-22
3. Copies of bills for capital expenditure for FY 2020-21 and FY 2021-22.
4. Detail of capitalization of fixed assets for FY 2020-21 and FY 2021-22
5. Detail of interest paid and penal interest paid to the financial institution for FY 2020-21 and FY 2021-22
6. Calculation sheet for weighted average rate of interest for Long term loans for FY 2020-21 and FY 2021-22

7. Calculation sheet for weighted average rate of depreciation for FY 2020-21 and FY 2021-22
8. Weighted average rate for calculation of depreciation for FY 2020-21 and FY 2021-22
9. Details of terminal benefits paid during FY 2020-21 and FY 2021-22.
10. Detail of Non tariff income for FY 2020-21 and FY 2021-22.

This Petition is disposed off in light of the above directions.

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

Place: Chandigarh

Dated: 23.08.2022