

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION
5th Floor, "Metro Plaza" Arera Colony, Bittan Market, Bhopal (M.P.) - 462 016



Petition No. 62 of 2023

PRESENT:

S.P.S Parihar, Chairman

Gopal Srivastava , Member (Law)

Prashant Chaturvedi, Member

IN THE MATTER OF:

True-up of Generation Tariff of 2 x 660 MW coal based Super Critical Thermal Power Station at Nigrie, District Singrauli (M.P.) for FY 2022-23 determined by MP Electricity Regulatory Commission vide Multi Year Tariff Order dated 3rd May, 2021.

**M/s Jaiprakash Power Ventures Ltd., Noida (UP):
(Unit: Jaypee Nigrie Super Thermal Power Plant)**

PETITIONER

Vs.

- 1. M.P. Power Management Company Ltd., Jabalpur**
- 2. M. P. Poorv Kshetra Vidyut Vitaran Co. Ltd., Jabalpur**
- 3. M. P. Madhya Kshetra Vidyut Vitaran Co. Ltd., Bhopal**
- 4. M. P. Paschim Kshetra Vidyut Vitaran Co. Ltd., Indore**

RESPONDENTS

ORDER

(Passed on this day of 28th February, 2024)

1. M/s Jaiprakash Power Ventures Limited (hereinafter called “the petitioner” or “JPVL”) has filed the subject petition for true-up of Generation Tariff for FY 2022-23 in respect of its 2x660 MW Super Critical Coal based Thermal Power Station at Nigrie, Distt. Singrauli (hereinafter referred “project”) determined by the Madhya Pradesh Electricity Regulatory Commission (hereinafter called “the Commission or MPERC”) vide Multi Year Tariff (MYT) Order dated 3rd May, 2021.
2. The subject true-up petition has been filed under Sections 62 and 86(1)(a) of the Electricity Act, 2003 and it is based on the MPERC (Terms & Conditions for Determination of Generation Tariff) Regulations, 2020 (herein after referred to as “the Regulations, 2020”) for the control period from FY 2019-20 to FY 2023-24 notified in the Madhya Pradesh gazette on 28th February, 2020.
3. Nigrie Thermal Power Station in this petition comprises of two generating Units of 660 MW each. Date of Commercial Operation (CoD) of both the Units of petitioner’s power plant are as given below:

Table 1: CoD of Unit No.1 and 2

Sr. No.	Units	Installed Capacity (in MW)	Date of Commercial Operation (CoD)
1	Unit No. 1	660 MW	3 rd September, 2014
2	Unit No. 2	660 MW	21 st February, 2015

4. The petitioner executed long term Power Purchase Agreement (PPA) on 5th January, 2011 with M.P. Power Management Company Ltd., (hereinafter called “MPPMCL” or “Respondent No. 1”) for supply of 30% power of the installed capacity of the Project at regulated tariff determined by the Commission. The petitioner has also executed another Power Purchase Agreement on 6th September, 2011 with the Government of Madhya Pradesh for supply of 7.5% of the net power generated at variable charges only, determined by the Commission.
5. The petitioner had earlier filed Petition No.43 of 2020 for determination of Multi Year Tariff for Unit No. 1 and 2 of its generating station for the control period from FY 2019-20 to FY 2023-24 based on the Regulations, 2020. Vide order dated 03rd May, 2021 in the aforesaid petition, the Commission determined multi-year tariff of the project subject to true-up based on the Annual Audited Accounts for the respective financial year.

6. In the aforesaid MYT Order dated 03rd May, 2021, following Annual Capacity (fixed) Charges for FY 2022-23 were determined by the Commission:

Table 2: Annual Capacity (fixed) Charges considered in MYT Order for FY 2022-23

Sr. No.	Particulars	Unit	Amount
1	Return on Equity	Rs. Crore	373.00
2	Depreciation	Rs. Crore	546.69
3	Interest on Loan Capital	Rs. Crore	390.79
4	Operation & Maintenance Expenses	Rs. Crore	296.60
5	Interest on Working Capital	Rs. Crore	46.94
6	Annual Capacity (fixed) Charges	Rs. Crore	1654.02
7	Less: Non-Tariff Income	Rs. Crore	7.36
8	Net AFC (after adjusting Non-tariff Income)	Rs. Crore	1646.66
9	AFC corresponding to 30% of the installed capacity of the power station	Rs. Crore	494.00

7. In the subject petition, petitioner has sought true-up of Annual Capacity (fixed) Charges for FY 2022-23 in respect of additional capital expenditure incurred during FY 2022-23 in accordance with Regulation 9.4 of the Regulations, 2020, which provides as under:

“A generating company shall file a petition at the beginning of the Tariff period. A review shall be undertaken by the Commission to scrutinize and true up the Tariff on the basis of the capital expenditure and additional capital expenditure actually incurred in the Year for which the true up is being requested. The generating company shall submit for the purpose of truing up, details of capital expenditure and additional capital expenditure incurred for each year of the period from 1.4.2019 to 31.3.2024, duly audited and certified by the auditors”.

8. In subject true-up petition, the petitioner filed additional capitalization of Rs. 53.46 Crore and de-capitalization of Rs. 0.75 Crore during FY 2022-23. On the basis of the aforesaid additional capitalization and de-capitalization, the petitioner claimed following Annual Capacity (fixed) Charges for Nigrie Thermal Power Station:

Table 3: Annual Capacity Charges claimed in the petition for FY 2022-23:

S. No.	Particulars	Amount (Rs. Crore)
1	Return on Equity	457.36
2	Depreciation	553.49
3	Interest on Loan Capital	397.13
4	O & M Expenses	296.60
5	Interest on Working Capital	94.33
5A	O & M expenses (400kV Transmission Lines & Bay)	1.52

6	Lease rent payable for Land (yearly)	0.41
7	Total Annual Capacity (Fixed) Charges	1800.83
8	Less:-Non Tariff Charges	1.36
9	Net Annual Capacity (Fixed) Charges	1799.48
10	32.43% of Annual Capacity Charges	583.57

9. With above submission, the petitioner prayed the following:
- (a) *True Up the Capacity Charges for FY 2022-23 in terms of the Additional Capital Expenditure incurred by the petitioner;*
 - (b) *Allow the recovery of the filing fees paid to the Commission and also the publication expenses from the beneficiaries;*
 - (c) *Allow recovery of Electricity Duty and Energy Development Cess on power being scheduled by the MPPMCL and Plant Auxiliary Consumption;*
 - (d) *Allow recovery of water charges paid to Water Resources Department, Government of Madhya Pradesh;*
10. The subject petition has been examined by the Commission in accordance with the principles, methodology and norms specified in the Regulations, 2020, Annual Audited Accounts of the petitioner for FY 2022-23, Asset-cum-Depreciation Register for FY 2022-23 and other supplementary submissions filed by the petitioner in response to additional information/ details sought by the Commission alongwith all other documents placed on record by the petitioner. The Commission has also examined the subject true up petition in light of the response filed by the Respondent No.1 and rejoinder on aforesaid response filed by the petitioner.
11. In this true-up order, the Commission has considered the opening figures of Gross Fixed Assets, Equity, Loan, Accumulated Depreciation as per the last true-up order for FY 2021-22 in Petition No 76 of 2022 issued on 2nd March, 2023.

Procedural History

12. Motion hearing in the subject true up petition was held on 13th December, 2023, wherein the petition was admitted and petitioner was directed to serve copies of the petition to all Respondents in the matter. The Respondents were also asked to file their response on the petition within 15 days.
13. Vide Commission's letter dated 19th December, 2023, the information gaps and requirement of additional information on preliminary scrutiny of the petition were

communicated to the petitioner seeking its comprehensive reply by 10th January, 2024.

14. The public notice for inviting comments/ suggestions from stakeholders was published on 4th January, 2024 in the following newspapers:
- (i) Dainik Jagran (Hindi), Bhopal,
 - (ii) Dainik Jagran (Hindi), Rewa and
 - (iii) Central Chronicle (English), Bhopal

The last date for filing comments/suggestions was 8th February, 2024. No comments from any stakeholder were received in this matter.

15. By affidavit dated 8th January, 2024, petitioner filed its reply to the issues communicated to it by the Commission.
16. By affidavit dated 11th January, 2024, Respondent No. 1 (M.P. Power Management Co. Ltd.) filed its response on the subject petition.
17. In the aforesaid response, MPPMCL has submitted that the MPPMCL and three M.P. Discoms have entered into a Management and Corporate Functions Agreement dated 05.06.2012. In terms of aforesaid agreement, the Respondent No. 1 (MPPMCL), has been engaged by Respondent No. 2 to 4 (three MP Discoms) to represent and facilitate all proceedings relating to Power Procurement and Tariff Petitions filed or to be defended on behalf of three MP Discoms before various judicial and regulatory authorities including this Commission, to represent the case and coordinating all activities concerning such proceedings. Therefore, the response is being filed on behalf of the Respondent No. 1 (MPPMCL) and the three M.P. Discoms (Respondent Nos. 2 to 4) also.
18. By affidavit dated 17th January, 2024, the petitioner filed its rejoinder to the response filed by Respondent No.1. The petitioner's reply on each comment offered by the Respondent No.1 are mentioned in **Annexure-I** of this Order.
19. The public hearing in subject petition was held on 13th February, 2024 through video conferencing, wherein the representatives of petitioner and Respondent No. 1 appeared.

Disclaimer for Rounding

20. In this Order, certain numbers as a whole, upto several decimal places have been rounded up or down. Therefore, there may be discrepancies between the totals of the individual numbers shown in the tables upto two decimal places and numbers given in

the corresponding analysis in the text of this Order.

Capital Cost as on 1st April, 2022

Petitioner’s Submission:

21. The details of opening Gross Fixed Assets (GFA) as on 01.04.2022 along with asset additions during FY 2022-23, asset deletions during FY 2022-23 and closing Gross Fixed Assets as on 31.03.2023 as submitted by the petitioner are as given below:

Table 4: Capital Cost filed by the petitioner: (Rs. in Crore)

Gross Block as on 01.04.2022	Addition during 2022-23	Deletions during FY 2022-23	Gross Block as on 31.03.2023
10764.27	53.46	0.75	10816.98

Provision in Regulations:

22. With regard to capital cost of the existing power project, Regulation 21.3 of the Regulations, 2020 provide as under:

21.3 *“The Capital cost of an existing project shall include the following:*

- (i) the capital cost admitted by the Commission prior to 1.4.2019 duly trued up by excluding liability, if any, up to last true-up order issued by the Commission;*
- (ii) additional capitalization and de-capitalization for the respective year of tariff as determined in accordance with these Regulations;*
- (iii) capital expenditure on account of renovation and modernization as admitted by the Commission in accordance with these Regulations;*
- (iv) capital expenditure on account of ash disposal including handling and transportation facility;*
- (v) capital expenditure incurred towards railway infrastructure and its augmentation for transportation of coal upto the receiving end of generating station but does not include the transportation cost and any other appurtenant cost paid to the railway; and*
- (vi) capital cost incurred or projected to be incurred by a thermal generating station, on account of implementation of the norms under Perform, Achieve and Trade (PAT) scheme of Government of India shall be considered by the Commission subject to sharing of benefits accrued under the PAT scheme with the beneficiaries”;*

Commission’s Analysis:

23. In the subject petition, the petitioner filed Opening Gross Fixed Assets of Rs. 10764.27

Crore as on 1st April, 2022. On perusal of the Annual Audited Accounts of Jaypee Nigrie Super Thermal Power Plant (JNSTPP) and form TPS 5B filed with the petition, it was observed that opening and closing balance of Gross Fixed Assets filed in the subject petition and those recorded in Note 2 of the Annual Audited Accounts for FY 2022-23 are at variance with each other. Vide Commission's letter dated 19th December, 2023, the petitioner was asked to clarify the difference in figures recorded in Annual Audited Accounts and those filed in the petition.

24. By affidavit dated 8th January, 2024, the petitioner submitted the reconciliation between amount of gross fixed assets filed in Form TPS-5B vis-à-vis amount recorded in Note-2 of the Annual Audited Accounts as on 1st April, 2022 along with addition & deletion during FY 2022-23 and 31st March, 2023.
25. On perusal of the above submission, it is observed that some of the Assets which were recorded in Annual Audited Accounts had not been allowed by the Commission in earlier true up orders, whereas, the petitioner has filed the same opening capital cost of the project as on 1st April, 2022 as considered by the Commission in last true-up order for FY 2021-22 issued in Petition 76 of 2022 on 2nd March, 2023.
26. To work out the opening capital cost as on 1st April, 2022, the Commission has considered the closing Gross Fixed Assets of Rs. 10,764.28 Crore as on 31st March, 2022 as considered in last true up order dated 2nd March, 2023 for FY 2021-22 in Petition No 76 of 2022 and filed by the petitioner as the base opening figure of capital cost in this Order.

Additional Capitalization and Decapitalization

Petitioner Submission:

27. The petitioner filed the additional capitalization of Rs. 53.46 Crore and decapitalization of Rs. 0.75 Crore during FY 2022-23 are as given below:

Table 5: Additional Capitalization and decapitalization filed (Rs. in Crore)

Sl. No.	Particulars	Addition in Generating Station during FY 2022-23		
		Addition	Adjustments/ Deletions	Net Addition
1	Land	-	-	-
2	BTG	-	-	-
3	BOP	44.13	0.75	43.38
4	Civil	9.33	-	9.33
5	Total	53.46	0.75	52.71

28. Furthermore, the petitioner has also filed the additional capitalization of Rs. 4.81 Crore in Amelia Coal Mine during FY 2022-23 as given below:

Table 6: Additional Capitalization filed in Amelia Coal Mine (Rs. in Crore)

Sl. No.	Particulars	Addition in Amelia Mines during FY 2022-23		
		Addition	Adjustments/ Deletions	Net Addition
1	Land	-	-	-
2	BTG	-	-	-
3	BOP	4.07	-	4.07
4	Civil	0.74	-	0.74
5	Total	4.81	-	4.81
6	Intangible Assets	-	-	-
7	Cost of ownership of Mining Rights	145.63	-	145.63
8	G. Total	150.44	-	150.44

29. The petitioner submitted that assets of Rs. 0.75 Crore were de-capitalized in the Generating Station for which suitable downward adjustments have been taken into account while computing the capital cost for FY 2022-23.
30. With regard to the additional capitalization claimed in the petition, the petitioner submitted the following:

Additions in Generating Station:

Out of the total Additional Capitalization of Rs. 53.46 Crore claimed in the petition, Rs. 44.13 Crore were capitalized in BOP Head and rest of Rs. 9.33 Crore were capitalized in Civil Head.

Before delving further into the issue of Additional Capitalization, it is submitted that a Cement Grinding Unit, namely, Jaypee Nigrie Cement Grinding Unit (JNCGU) adjacent to Jaypee Nigrie Super Thermal Power Plant (JNSTPP) premises was also conceived along with the JNSTPP for the environment friendly utilization/ disposal of Ash as mandated by Ministry of Environment & Forests (MoEF), Clearances/ Approvals of both JNSTPP & JNCGU were obtained from Madhya Pradesh Pollution Control Board (MPPCB) and Ministry of Environment & Forests (MoEF) simultaneously. It is also submitted that clearance from MPPCB and MoEF were produced before this Commission as Annexure-A-6 and Annexure-A-7 of Petition No.03/2014. Both of these annexures are submitted.

Accordingly, a 2 MTPA Jaypee Nigrie Cement Grinding Unit (JNCGU) as a unit of Jaiprakash Power Ventures Ltd (JPVL) was also set up commercial operations of which started on June 3rd, 2015 (almost immediately after COD of Unit II of JNSTPP, i.e. February 21st, 2015). Owing to various factors including worsening of financial situation of JPVL as a whole and JNSTPP in particular, JPVL had to undergo a Debt Resolution Plant and accordingly Re-structuring of JPVL Debts were carried out by the Lenders. Circumstances and detailed deliberations about such Debt Resolution

Plant/ Debt Re-structuring had been carried out in the MYT (2019-24) Petition No.43/2020 which is not being repeated herein for the sake of brevity. **In terms of stipulation of Debt resolution Plan with the Lenders, the Company (JPVL) has to exit the non-core activity like Cement Grinding Unit (CGU).** In furtherance thereto, JPVL is in the process of executing an agreement with Dalmia Cement (Bharat) limited (DCBL), for Tolling/ Leasing of CGU for a period of up to Seven (7) years with an option to M/s DCBL to have a right to purchase the CGU from JPVL on or before the 7th year. Board Resolution dated 12.12.2022 to exit non-core assets and Boards Resolution dated 13.02.2023 to enter Leasing Agreement are also submitted.

Against above backdrop, brief details & justification of Additional Capitalization/ procurements made during FY 2022-23 are as under:-

- (i) Such proposed leasing of JNCGU assets entailed all the assets relating to functional requirement of Ash Dispatch be re-apportioned to JNSTPP and accordingly were capitalized in JNSTPP. Out of the total Additional Capitalization of Rs. 53.46 Crore (BOP Head Rs. 44.13 Crore and Rs. 9.33 Crore Civil Head) as per Table-2, assets worth Rs. 21.75 Crore (Rs. 21.56 Crore in BOP and Rs. 0.19 Crore in Civil) pertain to assets re-apportioned to JNSTPP relating to functional requirement of Ash Dispatch. As mentioned earlier in Para 6.1, assets worth Rs. 21.75 Crore (Rs. 21.56 Crore in BOP and Rs. 0.19 Crore in Civil) pertaining to assets re-apportioned to JNSTPP are only depreciated value of such assets. The details of all such assets are as under:-

Table-4

Sl. No.	Asset description	Amount (in Rs.)	Head
1	WEIGH BRIDGE BUILDING 3	6,46,688.92	Civil
2	WEIGH BRIDGE BUILDING 4	6,46,688.92	Civil
3	WEIGH BRIDGE BUILDING 5	6,46,688.92	Civil
	Total Building-Factory	19,40,066.76	
4	TRANSFORMER YARD	89,94,805.87	BOP
5	POWER SUPPLY NETWORK	30,43,787.13	BOP
6	WEIGH BRIDGE 3	6,71,273.58	BOP/ AHP
7	WEIGH BRIDGE 4	6,71,273.58	BOP/ AHP
8	WEIGH BRIDGE 5	6,71,273.59	BOP/ AHP
9	FLY ASH SILO	19,15,16,575.26	BOP/ AHP
10	COOLING TOWER	1,22,009.49	BOP/ AHP
11	FLY ASH PIPE RACK	86,52,988.77	BOP/ AHP
12	COMPRESSOR HOUSE	12,43,453.54	BOP/ ELECTRICAL
	Total Plant & Machinery	21,55,87,440.81	
	Grand Total	21,75,27,507.57	

It is reiterated that above values are depreciated values only, original Gross Block of the above is higher by Rs. 9.19 Crore. In this Petition, only Rs. 21.75 Crore instead of Gross Block of Rs. 30.95 Crore has been considered.

Before detailing the justification and need to capitalize above assets it is submitted that 100% utilization of fly and bottom ash has been mandated by MoEF&CC for which requirement of adequate number of weigh bridges and Silos are necessary for a power plant:-

- (a) As per MOEF&CC Gazette Notification S.O.5481(E) dated 31.12.2021, Thermal Power Plants have to carry out Ash Disposal Audit by CPCB auditors on annual basis. Moreover, as per Ministry of Road transport and Highways notification dated 16.07.2018, to restrict overloading of Fly Ash Transportation vehicles, weighment is to be done. Therefore, Weigh Bridge No.3 is utilized for incoming vehicles, Weigh Bridge No.4 is utilized for outgoing vehicles and preparation of invoices. Weigh Bridge No.5 is part of Ash Silo automatic loading system as per desired truck load. Weigh Bridge Building Nos 1, 2, & 3 are the civil infrastructure for equipment & control room for weigh bridge and personnel.*
- (b) TRANSFORMER YARD & POWER SUPPLY NETWORK (Sl.No.4 & 5) are required for power supply for drives and lighting of Dry Ash loading from Silo etc.*
- (c) As per Environment Clearance (EC) Granted to JNSTPP, Nigrie vide letter No. J-13012/223/2007-IA.II (T) dated 25.02.2010 (Pt.No.4(X)) mentioning that Fly ash shall be collected in dry form and for which storage facility (silos) shall be provided. Fly Ash Silo mentioned at Sl.No.9 fulfils such requirement.*
- (d) Cooling Tower mentioned at Sl.No.10 above, is required for compressor cooling water.*
- (e) Fly Ash Pipe Rack mentioned at Sl. No.11 with supporting structure with supporting structure is required for conveying fly ash in dry form from plant to Fly ash Storage and Dispatch Silo.*
- (f) Compressor House mentioned at Sl.No.12 is essentially required for loading of ash in Fly ash Transportation vehicle*

*Further, it is to be submitted that since all of above assets were capitalized, though with JNCGU, before cut-off date and they were very much within the Original scope of work, hence, the Petitioner prays the Commission to treat above Additional Capitalization as **Additional Capitalization under Regulation 26 which allows the Additional Capitalization within the Original scope and upto cut-off date. In this regard, the Petitioner prays Commission to invoke its power under Regulation 66 which confers upon the Commission the "Power to Relax" under which the***

Commission may relax any of the provisions of the Regulations, 2020 and allow Additional Capitalization for the purpose of the instant Petition.

(ii) It is submitted that the petitioner during FY 2022-23 has procured a GT-1Y-phase Transformer for Rs. 14,94,47,975/-. In this regard, it is submitted that aforesaid GT-1 Y-phase Transformer was procured as a replacement of another GENERATOR TRANSFORMER (GT-1/Y-PHASE). This GENERATOR TRANSFORMER (GT-1/Y-PHASE) was decapitalized during FY 2021-22 and suitable adjustment against this asset (both in gross fixed asset and cumulative depreciation) was made in Asset-cum-Depreciation Register as on 31-03-2022 submitted with True Up (FY 2021-22) Petition No.76/2022. In this regard, the Petitioner requests the Commission to refer Page-A-24 of the Asset-cum-Depreciation Register as on 31-03-2022 submitted with True Up (FY 2021-22) Petition No.76/2022. For the convenience of Commission Page-A-24 of the Asset-cum-Depreciation Register as on 31-03-2022 submitted with True Up (FY 2021-22) Petition No.76/2022 is also submitted.

The Petitioner here requests the Commission to allow it as Additional Capitalization under Regulation 27.2. It is respectfully submitted that Commission is vested with the power under Regulation 27.2 to admit an asset as Additional Capitalization if that asset has been procured after cut-off date as a replacement of an asset deployed under the original scope of work if the impact of the same has been taken in the Asset-cum-Depreciation Register.

(iii) Rs. 45,31,200/- were spent on procurement of "AIR DRYER COMPLETE ASSY MAKE-ATLAS COPCO" for fulfilment of need for modification/ replacement requirement is Ash Handling Plant hence is qualified to be allowed in Regulation 27.2 or any other Regulation as deemed fit by the Commission.

(iv) The petitioner, for the purpose of higher security management and safety of the plant procured equipments worth Rs. 8,22,399/- during FY 2022-23, hence, these assets ought to be allowed as Additional Capitalization under Regulation 28.1(d). The details of such assets are as under:-

Sl. No.	Asset Description	Amount (in Rs.)
1	IR BULLET CAMERA FULL HD MAKE CP PLUS (2Nos)	20,060.00
2	CCTV DISPLAY UNIT (TV/MONITOR) (2Nos)	1,22,880.00
3	HIKVISION 5MP IP BULLET CAMERA DS (32Nos)	2,32,224.00
4	HARD DISC 8 TB (4Nos)	71,272.00
5	CP PLUS 2 MEGA PIXEL BULLET CAMERA (2Nos)	7,906.00
6	HARD DISC TB MAKE-TOSHIBA	5,723.00
7	CCTV CAMERA (8Nos)	57,584.00

8	LVS DISPLAY MONITOR FULL HD MAKE-SHARP PNQ-701	1,92,080.00
9	FIRE TENDER MP 17M 4830	1,12,669.76
	Total	8,22,398.76

Thus, in view of the above, Commission is requested to allow them as Additional Capitalization under Regulation 28.1(d) or any other Regulation as it deems fit.

- (v) The Petitioner, during FY 2022-23, capitalized 24 Nos of E-Type Flats and 12 Nos of F/G Type Flats. Total amount of Capitalization is Rs. 9,13,36,742/-. These flats remained unfinished for long and only this year they were completed hence were capitalized accordingly.
- (vi) During FY 2022-23, "MOTION WEIGH BRIDGE 140 MT" for Rs. 11,80,0000/- was procured & installed due to operational requirement of railway siding management as per statutory requirement.
- (vii) The Petitioner, during FY 2022-23, procured workshop machinery worth Rs. 5,30,22,655/- for operational & maintenance benefit.
- (viii) During FY 2022-23, Rs. 73,86,005/- were spent towards procurement of some P&A vehicles for augmentation requirement of transport management.
- (ix) During FY 2022-23, Rs. 40,79,872/- were spent towards procurement of assets for phased upgradation/ replacement of IT/EDP infrastructure.
- (x) "ELECTRICAL TRANSFORMER 750 KVA, 11/0 433 KV", "DG SET 1010 KVA" & "CONTROL PANEL ELECTRICAL" having a combined value of Rs. 27,73,195/- were procured during FY 2022-23 for efficient control of power load management, distribution and back up.
- (xi) Rs. 25,06,973/- were spent towards procurement of Submersible Pumps & Pump Sets, rotary slasher, "bosch" demolition hammer 11e 11kg, ultrasonic monkey repeller 220 vac, almirah, executive revolving chair, file cabinet make-methodex systems, sthil make brush cutter model no-fs55, air coolers, "phoenix" make weighing machine 100 kg, chain saw machine kl-5810, aluminium mobile scaffolding tower, etc.

In view of the aforesaid reasons and justification of the Additional Capitalization, the Petitioner prays Commission to allow them.

Provisions in Regulations

31. Regarding additional capitalization in respect of existing generating station within the original scope of work, after the cut-off date, Regulation 27.1 and 27.2 of the Regulations, 2020 provides as under:

27.1 The additional capital expenditure incurred or projected to be incurred in respect of an existing project or a new project on the following counts within the original

scope of work and after the cut-off date may be admitted by the Commission, subject to prudence check:

- i. Liabilities to meet award of arbitration or for compliance of the directions or order of any statutory authority, or order or decree of any court of law;*
- ii. Change in law or compliance of any existing law;*
- iii. Deferred works relating to ash pond or ash handling system including ash transportation facility in the original scope of work;*
- iv. Liability for works executed prior to the cut-off date;*
- v. Force majeure events;*
- vi. Liability for works admitted by the Commission after the cut-off date to the extent of discharge of such liabilities by actual payment; and*
- vii. Additional capitalization on account of raising of ash dyke as a part of ash disposal system.*

27.2 In case of replacement of assets deployed under the original scope of the existing project after cut-off date, the additional capitalization may be admitted by the Commission, after making necessary adjustments in the gross fixed assets and the cumulative depreciation, subject to prudence check on the following grounds:

- (a) The useful life of the assets is not commensurate with the useful life of the project and such assets have been fully depreciated in accordance with the provisions of these Regulations;*
- (b) The replacement of the asset or equipment if necessary, on account of change in law or Force Majeure conditions;*
- (c) The replacement of such asset or equipment is necessary on account of obsolescence of technology; and*
- (d) The replacement of such asset or equipment has otherwise been allowed by the Commission.*

32. Further, regarding additional capitalization in respect of existing generating station beyond the original scope of work, Regulation 28.1 of the Regulations, 2020 provides as under:

28. Additional Capitalization beyond the original scope:

28.1 The capital expenditure in respect of existing generating station incurred or projected to be incurred on the following counts beyond the original scope, may be admitted by the Commission, subject to prudence check:

- (a) Liabilities to meet award of arbitration or for compliance of the order or directions of the any statutory authority, or order or decree of any court of law;*

- (b) Change in law or compliance of any existing law;
- (c) Force Majeure Events;
- (d) Any capital expenditure to be incurred on account of need for higher security and safety of the plant as advised or directed by appropriate Government Agencies or statutory authorities responsible for national security/ internal security;
- (e) Deferred works relating to ash pond or ash handling system in addition to the original scope of work, on case-to-case basis:
Provided that if any expenditure has been claimed under Renovation and Modernisation (R&M) or repairs and maintenance under O&M expenses, the same expenditure cannot be claimed under this Regulation; and
- (f) Usage of water from sewage treatment plant in thermal generating station

Commission's Analysis

33. The petitioner has claimed additional capitalization of Rs. 53.46 Crore and de-capitalization of Rs. 0.75 Crore during FY 2022-23, therefore, the net additional capitalization of Rs. 52.71 Crore is claimed by the petitioner. The petitioner submitted that the aforesaid assets addition and deletion have been made in BOP (Balance of Plant) and Civil Head.
34. Vide Commission's letter dated 19th December, 2023, the petitioner was asked to file a comprehensive reply to the various issues related to additional capitalization. By affidavit dated 8th January, 2024, the petitioner filed its response on each issue raised by the Commission. The issue-wise response filed by the petitioner is summarized as below:

Issue

With regard to additional capitalization of Rs. 53.46 Crore claimed in the petition, petitioner is required to file comprehensive response to the following issues with all relevant supporting documents in light of the provisions under Regulations, 2020:

Petitioner's General Response:

*The petitioner seeks permission to further scale down its claim of Additional Capitalization by Rs. 3,90,421/- i.e Rs. 3.90 Lakhs. Meaning thereby, **Petitioner now revises the claim of Additional Capitalization from Rs. 53,46,14,525/- (as submitted in Assets-Cum-Depreciation Register) to Rs. 53,42,24,103/- only.** As explained in the Para 6.1 of the instant Petition, Rs. 53.46 Crore of the Additional Capitalization includes depreciated value of Rs. 21.75 Crore in respect*

of the JNCGU assets relating to functional requirement of Ash Despatch System to JNSTPP. The above Rs. 21.75 Crore refers to the Gross Block of Rs 30.95 Crore depreciated by Rs. 9.19 Crore. The Petitioner very humbly takes this opportunity to correct these figures. Revised Statement in abstract figures in respect of assets transferred from JNCGU by recasting Table-4 of the main Petition is attached.

In view of the above Table, revised claim of Additional Capitalization is as under-

(Amount in Rs.)		
Additional Capitalization claimed in Form TPS 5B/ Asset-cum-Depreciation Register including Net value of JNCGU		53,46,14,525
Less:-Gross Block of Office & Equipments transferred from JNCGU included in above		4,10,970
Gross Block of Office & Equipments transferred from JNCGU included in above	4,10,970	
Less:-Amount of depreciation on Office & Equipments transferred from JNCGU	3,90,422	
Add:-Depreciated Value of Office & Equipments transferred from JNCGU	20,549	20,549
Revised Additional Capitalization during FY 2022-23		53,42,24,104

Aforesaid Table clearly shows the downward revision of claim of Additional Capitalization by Rs. 3,90,421/-. Since, aforesaid revision poses no material impact on the tariff, hence, the Petitioner seeks the indulgence of the Commission to ignore above error and allow the tariff on revised figure of Additional Capitalization Rs. 53.42 Crore instead of Rs. 53.46 Crore.

Moreover, the Petitioner, in view of the above, hereby wishes to correct Para 7.1(ix) of the main Petition as well. Para 7.1(ix) of the main Petition reads as under:-

“ (ix) During FY 2022-23, Rs. 40,79,872/- were spent towards procurement of assets for phased upgradation/ replacement of IT/EDP infrastructure.”

The Petitioner requests the Commission to read above as:-

(ix) During FY 2022-23, Rs. 36,89,450/- were spent towards procurement of assets for phased upgradation/ replacement of IT/EDP infrastructure.

Hence, in aforesaid phrase, amount of IT/EDP infrastructure is reduced by Rs. 3,90,421/-.

Issue-wise response submitted by the petitioner is as follows:

Issue

- a. Whether additional capitalization claimed are under original scope of work. If so, the claim of additional capitalization be justified in light of the Regulation 27.1 of the Regulations, 2020. All supporting documents be also filed in this regard.
- b. If additional capitalization is claimed beyond Original Scope of work, the petitioner is required to clarify whether the addition of asset were as per Regulation 28.1.
- c. The petitioner was also asked to file list of assets capitalized under additional capitalization with detailed reasons in the following format:

S. No.	Particular	Asset Addition (Rs. Cr)	Detailed reasons for Asset Additions	Provision of Regulations under which Add. Cap. Filed	Reference of Supporting Documents
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Petitioner's Response:

The Petitioner submitted that the said additional capitalization was within the original scope of work of Rs. 12,400 Crore authorized by the Resolution of Board of Directors dated May 30th, 2015 approving Final Project Cost. The petitioner submitted copy of Board resolution.

It is also submitted that in view of the above explanation and Para 7 of the main Petition, following scenario emerges:-

Sl. No.	Particulars	Amount of Additional Capitalization (in Rs.)	Regulation under which claimed
1	Assets transferred from JNCGU on Depreciated Value	21,75,48,056	Regulation 26 as submitted in Para 7.1(i) of the main Petition, Asset wise details as per Table-R1 above
2	GT-1Y-phase Transformer	14,94,47,975	Regulation 27.2 as submitted in Para 7.1(ii) of the main Petition
3	AIR DRYER COMPLETE ASSY MAKE-ATLAS COPCO	45,31,200	Regulation 27.2 as submitted in Para 7.1(iii) of the main Petition
4	Equipments procured for Higher Security and Safety of the Plant	8,22,399	Regulation 28.1(d) as submitted in Para 7.1(iv) of the main Petition

5	MOTION WEIGH BRIDGE 140 MT	11,80,000	Procured as per statutory Requirement
6	Other Assets	16,06,94,474	
	Total Revised Additional Capitalization claimed during FY 2023-24	53,42,24,104	Table-R2

Detailed reasoning and justification of above Additional Capitalization is submitted as follows:-

It is submitted that assets covered under Sl.No.1 of Table-R3 are covered under Table-R1 and these assets have been transferred from Jaypee Nigrie Cement Grinding Unit (JNCGU) books to Jaypee Nigrie Super Thermal Power Plant (JNSTPP). In fact, those assets were used to fulfil the operational requirement of JNSTPP itself but due to accounting error at the time of capitalization of both JNSTPP & JNCGU they were wrongly booked in the books of JNCGU since both JNSTPP & JNCGU began their commercial operations almost simultaneously.

However, in the wake of leasing of JNCGU it was found out that those assets were booked in JNCGU by inadvertent mistake, hence they were again reapportioned to JNSTPP, though only at depreciated value. In view of above, the **Petitioner prays the Commission to allow such Additional Capitalization by looking them from the prism of Regulation 26 since they were capitalized before the cut-off date itself.** However, the asset wise detailed justification of above assets are covered in the reply of Para 3.

It is submitted that assets mentioned at Sl.No.2 of Table-R3 above related to the procurement of GT-1Y-phase Transformer for Rs. 14,94,47,975/-. In this regard, it is submitted that aforesaid GT-1 Y-phase Transformer was procured as a replacement of another GENERATOR TRANSFORMER (GT-1/Y-PHASE) which was duly decapitalized during FY 2021-22 and suitable adjustment against this asset (both in gross fixed asset and cumulative depreciation) was made in Asset-cum-Depreciation Register as on 31-03-2022 submitted with True Up (FY 2021-22) Petition No.76/2022.

In this regard, it is requested that Commission may allow GT-1Y-phase Transformer as Additional Capitalization under **Regulation 27.2** since this asset has been procured after cut-off date as a replacement of an asset deployed under the original scope of work and the impact of the same has been taken in the Asset-cum-Depreciation Register. This fact can be suitably substantiated by referring to Page-A-24 of the Asset-cum-Depreciation Register as on 31-03-2022

submitted with True Up (FY 2021-22) Petition No.76/2022 which has been attached as Annexure-3 of the main Petition.

It is submitted that "AIR DRYER COMPLETE ASSY MAKE-ATLAS COPCO" for Rs. 45,31,200/- mentioned at Sl.No.3 of Table-R3 deserves to be allowed under Regulation 27.2 since it has been procurement as replacement requirement in Ash Handling Plant. In view of that, Commission is requested to allow it under Regulation 27.2 or any other Regulation as deemed fit by Commission.

The Petitioner prays the Commission to allow the Equipments worth Rs. 8,22,399/- procured for during FY 2022-23 for higher security management and safety of the plant. By virtue this, these assets ought to be allowed as Additional Capitalization under **Regulation 28.1(d)**.

The details of such assets are as under:-

Sl. No.	Asset Description	Amount (in Rs.)
1	IR BULLET CAMERA FULL HD MAKE CP PLUS (2Nos)	20,060.00
2	CCTV DISPLAY UNIT (TV/MONITOR) (2Nos)	1,22,880.00
3	HIKVISION 5MP IP BULLET CAMERA DS (32Nos)	2,32,224.00
4	HARD DISC 8 TB (4Nos)	71,272.00
5	CP PLUS 2 MEGA PIXEL BULLET CAMERA (2Nos)	7,906.00
6	HARD DISC TB MAKE-TOSHIBA	5,723.00
7	CCTV CAMERA (8Nos)	57,584.00
8	LVS DISPLAY MONITOR FULL HD MAKE-SHARP PNQ-701	1,92,080.00
9	FIRE TENDER MP 17M 4830	1,12,669.76
	Total	8,22,398.76

"MOTION WEIGH BRIDGE 140 MT" for Rs. 11,80,0000/- was procured & installed due to operational requirement of railway siding management as per statutory requirement.

The reasons for addition of assets along with bills/invoices in the desired format were also submitted by the petitioner.

Issue

- d. The petitioner was asked to file copy of work orders/ purchase orders placed to different vendors for additional capitalization claimed in the petition along a statement indicating date of order, price at which contracts were awarded and whether the works was carried out within the specified time. If there was any delay in completion of works on account of contractor, the details of penalty if any, imposed on the contractor be also informed.

Petitioner's Response:

List of the work orders/ purchase orders placed to different vendors for additional capitalization claimed in the Petition along with order details & amount of capitalization was submitted by the petitioner.

It was also informed by the petitioner that during FY 2022-23, no penalties have been recovered from any contractors/ vendors.

Issue

- e. Copy of the bills/invoices of all such assets under additional capitalization be also filed.**

Petitioner's Response:

Copies of the bills/invoices for the amounts capitalized during FY 2022-23 are filed by the petitioner.

Issue:

- f. Actual Loan drawn and Equity infused towards additional capitalization during FY 2021-22 claimed in the subject petition.**

Petitioner's Response:

During FY 2022-23, no fresh loan was drawn for the funding of additional capitalization of Rs. 53.52 Crore in Generating Station. Similarly, to fund the additional capitalization of Rs. 150.44 Crore in Amelia (North) coal mine, no fresh loans were taken. All the additional capitalizations were funded through internal accruals.

35. On perusal of aforesaid petitioner's response on additional capitalization, the Commission has observed the following:
- i. The petitioner has requested to reduce the claim of additional capitalization by Rs. 0.04 Crore with the reason that the depreciated value of Rs. 0.04 Cr. towards Gross Block of office equipment transferred from JNCGU and same has now been reduced from total additional capitalisation. Hence, petitioner has revised the claim of additional capitalization from Rs. 53.46 Crore as submitted in the subject petition to Rs. 53.42 Crore in its additional submission. In view of above, petitioner has corrected one of its claim towards procurement of assets for phased upgradation/replacement of IT/EDP infrastructure from Rs. 0.41 Crore to Rs. 0.37

Core which gives a total effect of Rs. 0.04 Core in total additional capitalization.

- ii. The petitioner submitted that the assets claimed under additional capitalization in the subject petition is within the original scope of work of the project of Rs. 12,400 Crore which was approved by its Board of Directors vide resolution dated 30th May, 2015. The petitioner further submitted that the assets transferred from JNCGU are claimed under additional capitalization and are covered under Regulation 26, whereas, other assets are covered under Regulation 27.1 & 27.2 and Regulation 28.1 of the Regulations, 2020.
 - iii. The petitioner has filed additional capitalization of Rs. 21.75 Crore (depreciated value) towards assets transferred from JNCGU (Jaypee Nigrie Cement Grinding Unit) on depreciated value and submitted that these transfer of assets are within the original scope of work, since they were capitalized before the cut-off date itself, hence, petitioner has claimed these assets under Regulation 26 of the Regulations, 2020.
 - iv. The petitioner filed the details/statement of assets/works under additional capitalization in the format prescribed by the Commission indicating the reasons of asset additions and relevant Regulation under which each asset additions are filed in the Petition. Supporting documents in this regard have also been filed by the petitioner.
 - v. It is also submitted that the assets addition claimed during FY 2022-23 is as per Annual Audited Accounts and same have been recorded in Asset-cum-depreciation register of Nigrie Thermal Power Station.
36. By affidavit dated 11th January, 2024, Respondent No. 1 (MPPMCL) filed its response on additional capitalization claimed in the subject petition. The response filed by Respondent No. 1 (MPPMCL) is summarized as below:
- i) *The petitioner has filed ACE of Rs. 53.46 Crore during FY 2022-23 towards BOP Head and Civil Head. The claimed ACE includes assets valued at Rs. 21.75 Crore pertaining to "Jaypee Nigrie Cement Grinding Unit (JNCGU) proposed to be re-apportioned to Jaypee Nigrie Super Thermal Power Station (JNSTPS). In Sub Paras 7.1(i) (a) to (f), the Petitioner has given further details of the said assets.*
 - ii) *However, it is submitted that above transfer of Assets from JNCGU (an unregulated sister concern) is a very unusual transaction, which is likely to have adverse financial impact on the tariff, due to substantial increase in the total Capital Cost of the Project. Also, the said assets were not included in the Original Scope of work of the Power Plant, hence not covered under Regulation 26.1 of the Tariff Regulations, 2020. Therefore, capitalization of such assets of JNSTPS may not be permitted.*

- iii) In Sub Para 7.1 (ii), the petitioner has claimed capitalization of Rs.14,94,47,975/- said to be incurred towards procurement of a Generator Transformer (GT-1/Y-Phase) as a replacement, which requires prudence check by this Commission.
- iv) In Sub Paras 7.1(iii), (v) to (xi), the petitioner has given details Capital Expenditure on following items:

Sl. No.	Equipment	Amount (Rs.)
1.	Air Dryer Complete Assy Make- Atlas-Copco	45,31,200
2.	24 Nos. E-Type Flats and 12 Nos F/G Type Flats	9,13,36,742
3.	Motion Weigh Bridge 140 MT	1,18,00,000
4.	Workshop Machinery	5,30,22,655
5.	P&A Vehicle	73,86,005
6.	Assets for Phased upgradation/ replacement of IT/ EDP infrastructure	40,79,872
7.	Electrical Transformer 750 KVA, 11/0.433 KV, DG Set 1010 KVA, Control Panel Electrical	27,73,195
8.	Rotary Slasher, "Bosch" Demolition Hammer 11E 11Kg, Ultrasonic Monkey Repeller 220KV AC, Almirah, Executive Revolving Chairs, File Cabinet Make Methodex Systems, "STHIL" Make Brush Cutter Model No. FS55, Air Coolers, "Phoenix" Make Weighing Machine 100 KG, Chain Saw Machine KL-5810, Aluminium Mobile Scaffolding Tower etc.	25,06,973

- v) The items mentioned in above such as - Rotary Slasher, Demolition Hammer, Ultrasonic Monkey Repeller, Almirah, Executive Revolving Chairs, File Cabinet Brush Cutter, Air Coolers, Weighing Machine, Chain Saw Machine, Aluminium Mobile Scaffolding Tower etc. cannot be classified as Capital Assets. Also, most of other items do not appear to be part of "Original Scope of Work" and have been incurred after Cut Off Date of the Project. Therefore, above items are not allowable under either under Regulation 27 or 28 of the Regulations, 2020.
- vi) Also, in Sub Paras 7.1(iv), the petitioner has given a list of assets worth Rs. 8,22,399/- said to have been procured during FY 2022-23 for the purpose of higher security management and safety of the plant and claimed under Regulation 28.1(d).
- vii) It is submitted that Regulation 28.1(d) provides that the expenditure must have been incurred on account of need for higher security and safety of the plant **as advised or directed by appropriate Government Agencies or statutory authorities responsible for national security/ internal security**. This Commission may like to seek information from the petitioner as to whether the said expenditure was incurred on the basis of advice or direction from appropriate Government Agencies or statutory authorities.

viii) *In Sub Paras 7.3 (a) (i) & (ii) and 7.3 (b) (i) to (v), the petitioner has given details of Additional Capital Cost (Tangible Assets and Ownership of Mining Rights) said to have been incurred during FY 2018-19 on Amelia Coal Mine. As this Commission has consistently rejected the claim of the petitioner in respect of Amelia Coal Mine, because extant Generation Tariff Regulations including Generation Tariff Regulations, 2020 do not permit such capital expenditure. Therefore, it is most humbly prayed that this Commission may graciously be pleased to the ignore/ reject the Additional Capital Cost claimed as incurred in Amelia Coal Mine.*

37. The Commission has examined the claim of additional capitalization filed by the petitioner in light of the Annual Audited Accounts, Asset-cum-Depreciation Register for the project, original scope of work of the project, project cost approved by BoD of petitioner's company, cut-off date of the project and provisions for additional capitalisation under the Regulations, 2020.

A. Annual Audited Accounts and Asset-cum-Depreciation Register

38. With regard to the additional capitalization claimed during FY 2022-23, the petitioner submitted that these assets have been capitalised in Annual Audited Accounts for FY 2022-23 and recorded in Asset-cum Depreciation Register for Nigrie Power Station.

39. On perusal of the Annual Audited Accounts for FY 2022-23, it is observed that the additional capitalization claimed by the petitioner has been capitalized and recorded in Note-2 of the Annual Audited Accounts for FY 2022-23 for Nigrie Thermal Power Station. It is further observed that the additional capitalization has also been recorded at page A83 of the Asset-cum-depreciation register of Nigrie thermal power station filed by the petitioner with the subject petition.

B. Capital Cost under Original Scope of Work and BoD Approval

40. The petitioner submitted that the additional capitalization of Rs. 53.42 Crore is within the original scope of work of Rs. 12,400 Crore of the project as per the Resolution of Board of Directors dated 30th May, 2015, approving revised project cost. Component-wise break-up of aforesaid original capital cost filed by the petitioner in petition No. 72 of 2015 for determination of final tariff are as given below:

Table 7: Break up of Capital Cost Components approved by BoD (Rs. in Crore)

Particular	Project Cost approved by BoD on Dated 30.05.2015
Land	37.00
BTG (Including Taxes & Duties)	5233.00

Civil Works & Structural Works (Including Taxes)	1280.00
Barrage / Weir (including Land and Taxes)	196.00
Railway Siding	108.00
BOP Excluding Transmission Line	1259.00
Transmission line	396.00
Sub Total (A)	8509.00
Establishment Charges	366.00
Start Up Fuel	292.00
IDC/Financing Cost	2355.00
Margin Money	178.00
Sub Total (B)	3191.00
TOTAL (C = A+B)	11700.00
Development of Amelia (North) Mine (D)	700.00
TOTAL (C+D)	12400.00

41. On perusal of the original scope of work approved by the BoD vis-à-vis expenditure actually incurred by the petitioner under additional capitalization, it is observed that the cost of BOP (including Transmission Line) as per revised capital cost approval by the BOD dated 30th May, 2015 was Rs. 1655.00 Crore, whereas, the cost of BOP as on 31st March, 2022 approved by the Commission in last true-up order dated 2nd March, 2023 for FY 2021-22 was Rs.1603.92 Crore (including Rs. 396 Crore for transmission line). Further, the cost of civil works including barrage and railways siding as per revised capital cost approval by the BOD dated 30th May, 2015 was Rs. 1584 Crore whereas, the cost of civil works as on 31st March, 2022 approved by the Commission in till true-up order dated 2nd March 2023 for FY 2021-22 was Rs. 1523.58 Crore.
42. In view of the above, it is observed that the cost of assets towards BOP and Civil Works claimed under additional capitalization is generally within the cost approved by the Board under these heads. However, with regard to claim of the petitioner of Rs. 21.75 Crore (Depreciated value) towards JNCGU assets, it is not clearly demonstrated that such assets were part of the original scope of work for BOP excluding transmission lines/civil works of the project, which were specifically approved by the BOD of the Petitioner's company. The petitioner has also not demonstrated inclusion of such assets in the Detailed Project Report of Nigrie Thermal Power Station.

C. Cut-off Date

43. Regarding the Cut-off date of the project, Regulation 4.1 (I) of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 provides as under:

'Cut-off Date' means 31st March of the year closing after two years of the year of

commercial operation of whole or part of the project, and in case the whole or part of 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:

44. The Nigrie thermal Power Project in the subject matter achieved CoD on 21st February, 2015, therefore, the cut of date of the project is 31st March 2018 in accordance with the above provision under the MPERC Tariff Regulations, 2015. The Commission has observed that the additional capitalization filed by the petitioner is **beyond the cut-off date of the project**. Therefore, the claim of additional capitalization, if any, under original scope of work has been examined in light of the Regulation 27 of the Regulations, 2020. The additional capitalization beyond the original scope of work has been examined under Regulation 28.1 of the Regulations, 2020.

D. Examination of Additional Capitalization in light of the Regulations, 2020

45. The petitioner filed additional capitalization of Rs. 53.42 Crore, out of which Rs. 44.09 Crore were capitalized in BOP Head and rest of Rs. 9.33 Crore were capitalized in Civil Head. The petitioner submitted that out of the total additional capitalization, assets of Rs. 21.75 Crore, which have been transferred from Cement Grinding Unit were capitalized before cut-off date of the project in the Annual Audited Accounts of JNCGU. The additional capitalization under each of the BOP heads & Civil head has been examined separately as given below:

Additional Capitalization of Rs. 21.75 Crore towards JNCGU Assets:

46. The petitioner submitted that out of total additional capitalization of Rs. 53.42 Crore, assets worth Rs. 21.75 Crore (Rs. 21.56 Crore in BOP and Rs. 0.19 Crore in Civil) pertain to assets re-apportioned to JNSTPP relating to functional requirement of Ash Dispatch System. Further, the petitioner confirmed that assets worth Rs. 21.75 Crore pertaining to assets re-apportioned to JNSTPP are only depreciated value of such assets, original Gross Block of the above is higher by Rs. 9.19 Crore. The petitioner has considered only Rs 21.75 Crore instead of Gross Block of Rs. 30.95 Crore.
47. The details of all such assets of Rs. 21.75 Crore transferred from Cement Grinding Unit and claimed in the subject petition is detailed in previous paras of this Order.
48. Vide Commission's letter dated 19th December, 2023, petitioner was asked to submit its response in regard to following queries related to assets transferred to JNSTPP from Cement Grinding Unit:

- i. List of all assets of Cement Grinding Unit being transferred in the Nigrie Thermal Power Plant Unit was sought.
- ii. Petitioner was asked to justify its claim of these assets on depreciated value in light of entries in its Asset-cum-Depreciation Register.
- iii. Petitioner was asked to justify that these assets were not claimed in the determination of capital cost at the time of the issuing of the final Tariff Order.
- iv. The petitioner was asked to demonstrate that these assets were part of the Original Scope of Work.

49. By affidavit dated 8th January, 2024, the petitioner submitted the following response:

In continuation of the brief background and justifications provided in opening paragraphs of Reply to Para 2 in the context of JNCGU Assets re-apportioned to JNSTPP, the Petitioner further submits that:-

Environment Clearance vide letter reference No.J-13012/223/2007-IA.II (T) dated 25.02.2010 for setting up Jaypee Nigrie Super Thermal Power Plant (JNSTPP), Nigrie (A Unit of Jaiprakash Power Ventures Limited) was accorded with the following major conditions:-

- (a) Setting up of 2 x 660 MW Super Critical Technology based Thermal Power Plant.*
- (b) Setting up of 2.0 MTPA Cement Grinding Unit to ensure utilization of Fly Ash being generated from the Power Plant.*

Subsequently, Environment clearance for enhancing capacity of Cement Grinding Unit 4.0 MTPA accorded vide letter reference No. J-13012/223/2007-IA.II (T) dated 13.07.2012.

Letter No. J-13012/223/2007-IA.II (T) dated 25.02.2010 & Letter No.J-13012/223/2007-IA.II (T) dated 13.07.2012 are submitted.

Accordingly, land was acquired (437 hectares) for setting up of above plants as per Environment Clearances obtained. Unbeknown to the Petitioner, there was a Kaccha Road road traversing through the land which used to be sparingly used and the same did not reflect as a road in the Revenue Records rather, it's ownership was depicted as that of the local farmers from whom JPVL purchased the said parcels of land. It is for this reason that JPVL had to acquire the entire Land for the Project. In the advance stages of completion of the project, it was discovered that a Road was planned a long time back and therefore the Petitioner had to necessarily leave this area and the resultant was that the contiguous Plant Area was divided. The name of this road is "Major District Road namely Tikri-Sarai-Rajmilan" which is passing through the acquired land by JPVL. It is respectfully reiterated that the ownership of the land is vested with

JPVL and JPVL had to leave this road open for unhindered usage of the public round the clock. An Order of Naib Tehsildar to JPVL to leave this road open for unhindered usage of the public round the clock is submitted. Therefore, based on availability of the land and technical requirement of the Thermal Power Plant and Cement Grinding Unit, Thermal Plant was setup on one side of the road and Fly Ash Silo and Cement Grinding Unit were setup on the other side of the road. **However, some negligible portions of the Thermal Plant equipments were on the other side of the road and this led to the general understanding that the entire area across the road is of the Cement Grinding Unit.**

Dry Fly Ash collected from the thermal power plant is conveyed to 20000MT capacity RCC Fly Ash Silo located on other side of the road. Dry Fly Ash is pneumatically transported through pipe lines to Fly Ash Silo. Dry Fly Ash Conveying lines are supported on suitable structures to facilitate free movement of men and material underneath inside the thermal power plant as well as through above mentioned public road. Necessary clearances as per mandatory guidelines were maintained.

In compliance with the Para 2(x) of the environmental clearances granted to JNSTPP (Thermal Power Plant has to create facilities for collection and storage (Silos) for dry fly ash and ensure 100% Fly Ash utilization from 4th year onwards), Fly Ash Silo along with associated equipment i.e. Compressors, Automatic Bulk Loading System, Transportation Pipelines from Thermal Power Plant up to Fly Ash Silo, weigh bridges which were essential parts of Thermal Power Plant had to be set up. For running of drives and auxiliary systems, transformers of capacity 12.5/15MVA, 11/33KV (1 No.) and 2MVA, 6.6/0.433KV (1 No.) were installed for providing electrical power from thermal power plant. **One transformer of capacity 12.5/15MVA, 11/33KV is a shared facility between Cement Grinding Unit and Fly Ash Silo.**

To ensure compliance to Motor Vehicle Act 1988 and prevent overloading into ash transportation close bulkers two electronic weigh bridges identified as Weigh Bridge No. 3 & 4 with associated electronic panels and printers have been installed. This system has been interfaced with a computer for generation of tax invoices. Electronic panels of Weigh Bridge and computers are housed in small RCC Rooms. To ensure safety and trouble free entry and exit of empty and loaded ash bulkers two independent way (in & out) with proper gate control and weighment system has also been made.

Two load cell based weigh bridges are installed underneath fly ash silo to ensure proper automatic loading of the bulkers. These weigh bridges are the part of fly ash silo automation system and are integral part for smooth functioning of fly ash loading system. This also helps in prevention of fugitive emission due to overfilling of the bulkers. These weigh bridges are designated as Weigh Bridge No. 5 & 6, installed on

two parallel bays under fly ash silo. Compressors are installed for automatic bulk loading system and purging of bag filter. This also controls fugitive emission.

Nigrie Cement Grinding Unit and Fly Ash Silo of JNSTPP are having contiguous boundary but are separated by a boundary wall. Fly Ash Silo system is exclusively catering to JNSTPP, Nigrie and is required to meet regulatory guidelines. Thermal Power Plant cannot be operated without Fly Ash Silo.

As submitted in the main Petition, in terms of the stipulation of Debt Resolution Plan with the Lenders, the JPVL has to exit the non-core activity like Cement Grinding Unit (CGU), it was decided to hive off the Cement Grinding Unit to any interested party who could run the Cement Grinding Unit and use Fly Ash generated from Power Plant. It is during the Due diligence for hiving off Cement Grinding Unit it was found that the facilities essentially required for Thermal Power Plant were inadvertently capitalized with Cement Grinding Unit.

Fly Ash Silo has been constructed with facilities for Automatic Bulk Loading into Ash transportation vehicles and weighment of empty and loaded vehicles and also generation of tax invoices/bills. Establishment of these facilities were necessary to ensure compliance of MoEF guidelines for utilization of Fly Ash. JNSTPP Nigrie has successfully achieved fly ash utilization as per MoEF Guidelines by disposal of fly ash to end user from fly ash silo system.

To ensure safe movement of ash carrying long bulkers (12-22 wheels) movement in only direction is done in fly ash silo complex which necessitated setting up of dedicated in and out bays with all associated facilities separately.

In view of above submission including the misconception that area across the road is of Cement Grinding Unit, it is prudent to capitalize fly ash silo complex with Jaypee Nigrie Super Thermal Power Plant. It was not done earlier due to oversight, which is submitted now for consideration to Regulator. Item-wise justification is provided as under:-

Sl. No.	Asset Description	Depreciated Value claimed as Additional Capitalization (in Rs.)	Justification
1	CIVIL STRUCTURE FOR WEIGH BRIDGE 3	6,46,689	Civil Infrastructure for Electronic Weigh Bridge.
2	CIVIL STRUCTURE FOR WEIGH BRIDGE 4	6,46,689	

3	CIVIL STRUCTURE FOR WEIGH BRIDGE 5	6,46,689	
4	WEIGH BRIDGE 3 (MECHANICAL & ELECTRONICS)	6,71,274	To ensure compliance to Motor Vehicle Act 1988 and prevent overloading into ash transportation close bulkers two electronic weigh bridges identified as weigh bridge No. 3 & 4 with associated electronic panels and printers have been installed. This system has been interfaced with a computer for generation of trouble free bills & tax invoices. Electronic panels of weigh bridge and computers are housed in small RCC Rooms. To ensure safety and entry and exit of empty and loaded ash bulkers two independent bay (in & out) with proper gate control has also been made.
5	WEIGH BRIDGE 4 (MECHANICAL & ELECTRONICS)	6,71,274	
6	WEIGH BRIDGE 5 (MECHANICAL & ELECTRONICS)	6,71,274	Two load cell based weigh bridges are installed underneath fly ash silo to ensure proper automatic loading of the bulkers. These weigh bridges are the part of fly ash silo automation system and are integral part for smooth functioning of fly ash loading system. This also helps in prevention of fugitive due to overfilling of the bulkers. These weigh bridges are designated as Weigh Bridge No. 5 & 6, installed on two parallel bays under fly ash silo.
7	FLY ASH SILO AND ASSOCIATED EQUIPMENTS	19,15,16,575	In compliance with the Para 2(x) of the environmental clearances granted to JNSTPP (Thermal Power Plant has to create facilities for collection and storage (Silos) for dry fly ash and ensure 100% Fly Ash utilization from 4 th year onwards), Fly Ash Silo along with associated equipment i.e. Compressors, Automatic Bulk Loading System, Transportation Pipelines from Thermal Power Plant up to Fly Ash Silo, weigh bridges which were essential parts of Thermal Power Plant had to be set up.
8	COOLING TOWER	1,22,009	
9	FLY ASH PIPE RACK	86,52,989	
10	COMPRESSORS	12,43,454	Compressors are installed for automatic bulk loading system and purging of bag filter. This also controls fugitive emission.
11	POWER SUPPLY NETWORK FOR FLY ASH SILO COMPLEX	30,43,787	For running of drives and auxiliary system.
12	TRANSFORMERS	89,94,806	Transformers of capacity 12.5/15MVA, 11/33KV (1 No.) and 2MVA, 6.6/0.433KV (1 No.) are installed for providing electrical power from thermal power plant. Transformer of capacity 12.5/15MVA, 11/33KV is a shared facility between Cement Grinding Unit and Fly Ash Silo.
13	WIRELESS HANDSET	9,188	For operation communication purpose.

14	UPS 1KVA	992	For making Invoices & maintain records.
15	COMPUTER	2,074	
16	COMPUTER	2,074	
17	COMPUTER	2,074	
18	COMPUTER	2,074	
19	COMPUTER	2,074	
	TOTAL	21,75,48,056	

Reply to Para i.

List of all the assets transferred from Cement Grinding Unit is submitted above.

Apart from the assets submitted in Table-R1/Table-R5, the petitioner submits that there are some assets transferred from Cement Grinding Unit which are in CWIP stage. The details of such assets are submitted as under:-

Sl. No.	CWIP Asset Description	Amount	Remarks
1	PLC & MCC PANEL FOR BULK LOADING SPOUT	615,514.85	PLC & Control Panel for automatic bulk loading system.
2	WEIGH BRIDGE 6 (MECHANICAL & ELECTRONICS)	748,679.46	Two load cell-based weigh bridges are installed underneath fly ash silo to ensure proper automatic loading of the bulkers. These weigh bridges are the part of fly ash silo automation system and are integral part for smooth functioning of fly ash loading system. This also helps in prevention of fugitive due to overfilling of the bulkers. These weigh bridges are designated as Weigh Bridge No. 6, mounted on two parallel ways under fly ash silo.
	Grand Total	13,64,164.31	

CWIP assets enumerated in Table above have not been considered as Additional Capitalization in the instant Petition. The petitioner submits that above assets shall be applied to be considered as Additional Capitalization in the True Up Petitions for ensuing years in which they are capitalized in the books of JNSTPP.

Reply to Para ii.

It is submitted that all the assets appearing from Sl. No.1 to 12 of Table-R1/Table-R5 find mention in the Asset-cum-Depreciation Register as on 31.03.2023 at depreciated value itself.

However, in respect of assets appearing from Sl.No.13 to 19, the petitioner has inadvertently claimed them at Gross Block itself in the instant Petition and Asset-cum-Depreciation Register. Due to which, the petitioner in the opening paragraph of the Reply to Para 2 above has scaled down its claim of Additional Capitalization by Rs 3,90,421/-which is equal to the amount depreciated on above assets. This fact can be vouched from glancing at Table R1 itself. Since, such downward revision causes no material impact on the tariff, the petitioner seeks the indulgence of Commission to ignore such error and allow the tariff on downward claim of Additional Capitalization.

Reply to Para iii.

The Petitioner submits that the fact that JNCGU assets in question appear in the Asset-cum-Depreciation Register as on 31.03.2023 for the first time itself demonstrates that these assets were not claimed in the determination of capital cost at the time of the issuance of Final Tariff Order.

Reply to Para iv.

To demonstrate that Assets wrongly capitalized with JNCGU earlier and transferred to JNSTPP during FY 2022-23 were part of the Original Scope of Work, the Petitioner produced layout of plant land & premises. This annexure contains three maps, namely Map-1, Map-2 & Map-3. By juxtaposing Map-1, Map-2 Map-3 with each other and looking at legends of Map-2 & Map-3 clarity regarding following emerge:-

- (a) Major District Road namely Tikri-Sarai-Rajmilan which is traversing through the acquired land by JPVL and left open for unhindered usage of the public round the clock.*
- (b) East of road (in Map-1) identifies "Land for Cement Grinding Unit" which is closed by boundary at south.*
- (c) JNSTPP is situated at the West of the road in Map-1 and a part thereof falls beyond the boundary at south of the Land for Cement Grinding Unit which can be identified in Map-2 & Map-3.*
- (d) All the assets in question are housed beyond the boundary of the Land for Cement Grinding Unit as shown in the Map-2 & Map-3 except a small*

“Cooling Tower” (Sl.No.10 of in Table-R1 & Sl.No.8 of Table-R5) shown as Legend No.10 of Map-2 & Map-3.

In view of the explanation above, it is amply demonstrated that these assets had always been the part of the Original Scope of the work and they had been wrongly capitalized with JNCGU simply due to the misconception that all the area falling across the road is of Cement Grinding Unit. This inadvertent mistake came to light only during the due diligence for hiving off Cement Grinding Unit and it also came to light these assets were essentially required for Thermal Power Plant.

50. From the above submission of the petitioner on transfer of JNCGU assets re-apportioned to JNSTPP, the Commission observed the following:
- i. Vide letter dated 13.07.2012, JPVL obtained Environment clearance for setting up of 2 x 660 MW Super Critical Technology based Thermal Power Plant and 2.0 MTPA Cement Grinding Unit Plant to ensure utilization of Fly Ash being generated from the Power Plant.
 - ii. As per petitioner, it was unaware that a Kaccha Road crossed the land, which was previously utilized on a regular basis. The ownership of the road belonged to the local farmers, from whom JPVL had acquired the aforementioned land parcels.
 - iii. When the project was almost finished, it was found by the petitioner that a road had been built several years earlier. As a result, the petitioner was forced to leave this area, which caused the adjoining plant area to be divided into two parts.
 - iv. Directives to JPVL were received from local administrator (Naib Tehsildar) that, since they are the legal owner of the land, they are required to allow the public to use this road freely and continuously without any restriction.
 - v. As per petitioner, JPVL decided to set up Nigrie Thermal Power Plant on one side of the road, while the Fly Ash Silo and Cement Grinding Unit were set up on the other side of the road, depending on the availability of the land and the technical requirements of the Thermal Power Plant and Cement Grinding Unit. The petitioner submitted the maps in this regard.
 - vi. The petitioner further submitted that Fly Ash Silo and associated equipments of the Thermal Power Plant was located on the opposite side of the road where Cement Grinding Unit was set up, which contributed to the widespread belief that the Cement Grinding Unit occupied the Ash Despatch System.

- vii. As per petitioner, owing to various factors including worsening of financial situation of JPVL, JPVL had to undergo a Debt Resolution Plan, where, lenders told the Company (JPVL) to exit the non-core activity like Cement Grinding Unit (CGU).
 - viii. Proposed leasing of JNCGU assets entailed reapportionment of all the assets relating to functional requirement of Ash Dispatch to Nigrie Thermal Power Station and accordingly assets related to Ash Despatch System were capitalized in JNSTPP Annual Audited Accounts for FY 2022-23 by the petitioner.
51. Petitioner has thus requested to consider aforementioned list of assets with JNCGU before cut-off date of Rs. 21.75 Crore so capitalized, since they were within the Original scope under Regulation 26 of the Regulations, 2020. This provision allows Additional Capitalization within the Original scope and upto cut-off date. Petitioner has further requested the Commission to invoke its power under Regulation 66, which confers upon the Commission the “Power to Relax” under which the Commission may relax any of the provisions of the Regulations, 2020 and allow the claimed additional capitalization.
52. Regulation 26 allows additional capitalisation within the original scope and upto cut-off date. The Commission has therefore examined these 2 attributes in respect of assets of Rs. 21.75 Crore proposed by the petitioner for capitalisation. The Commission has analysed the following:
- i. **Whether the aforementioned assets of Rs. 21.75 Crore were within the Original scope of work of the Nigrie Thermal Power Station?**

Commission’s Analysis:

The petitioner has submitted that the all of above assets were very much within the Original scope of work of Rs. 12,400 Crore authorized by the Resolution of Board of Directors dated 30th May, 2015. However, petitioner has failed to establish that the claimed assets at Rs. 21.75 Crore of depreciated value towards transfer of assets from JNCGU to Nigrie Thermal Power Station fall within original scope of work. No evidence is produced by the petitioner that these assets were part of original scope of work. Merely, the overall cost being within the capital cost approved by BOD does not establish that the assets were within original scope. Maps can also not fully demonstrate this aspect. Complete details of DPRs of JNSTPP/JNCGU have not been provided by the petitioner for fetching the breakup of plant/machinery under Original scope of work for both separate business units. Allowance of such cost without thorough examination may pass on unnecessary burden upto retail electricity consumers. As such, petitioner is given liberty to approach the Commission in next financial year true-

up petitions, with all supporting documents/evidences proving that the transfer of the Ash Despatch System from JNCGU falls within the original Scope of Work.

- ii. **Whether the additional capitalisation towards transfer of assets from Nigrie Cement Grinding Unit to Nigrie Thermal Power Plant was made upto cut-off date and the asset capitalisation can be allowed under Regulation 26 of the Regulations, 2020?**

Commission's Analysis:

Regulation 26 of the Regulations, 2020 provides that **“the additional capital expenditure in respect of the new project or an existing project incurred or projected to be incurred, on the following counts within the original scope of work, after the date of commercial operation and up to the cut-off date may be admitted by the Commission, subject to prudence check”**.

The Commission observed that, initially the assets of Rs. 21.75 Crore (depreciated value) claimed in the subject true up petition were recorded under the Annual Audited Accounts of JNCGU and were not the part of Nigrie Thermal Power Station. However, in terms of stipulation of Debt resolution Plan with the Lenders, the Company (JPVL) decided to exit the non-core activity like Cement Grinding Unit (CGU). Therefore, petitioner decided to transfer the aforementioned assets in Nigrie Thermal Power Station and claimed the same as additional capital expenditure incurred during FY 2022-23 in accordance with Regulation 9.4 of the Regulations, 2020. The Commission observed that this asset appeared in the Asset-cum-Depreciation Register on 31st March, 2023, which is beyond the cut-off date. Such a capitalisation cannot be given effect from back date and considered to have occurred within the cut-off date.

53. In view of the above, the Commission has not allowed additional capitalization of Rs. 21.75 Crore towards assets pertaining to re-apportionment to JNSTPP relating to functional requirement of Ash Dispatch System in this Order at this Stage.

(ii) GT-1 Y Transformer

54. In the subject petition, the petitioner filed additional expenditure of Rs. 14.95 Crore on account of procurement of GT-1 Y-phase Transformer. Vide Commission's letter dated 19th December, 2023, the petitioner was asked to justify claim of additional capitalisation in light of the provisions under the Regulations, 2020.

55. By affidavit dated 8th January, 2024, the petitioner submitted the following:

It is submitted that aforesaid GT-1 Y-phase Transformer was procured as a replacement of another GENERATOR TRANSFORMER (GT-1/Y-PHASE) which was duly decapitalized during FY 2021-22 and suitable adjustment against this asset (both in gross fixed asset and cumulative depreciation) was made in Asset-cum-Depreciation Register as on 31-03-2022 submitted with True Up (FY 2021-22) Petition No.76/2022.

In this regard, it is requested that Commission may allow GT-1Y-phase Transformer as Additional Capitalization under Regulation 27.2, since this asset has been procured after cut-off date as a replacement of an asset deployed under the original scope of work and the impact of the same has been taken in the Asset-cum-Depreciation Register. This fact can be suitably substantiated by referring to Page-A-24 of the Asset-cum-Depreciation Register as on 31-03-2022 submitted with True Up (FY 2021-22) Petition No.76/2022 which has been attached as Annexure-3 of the main Petition.

56. On perusal of the above submission, it is observed that the amount under additional capitalization towards procurement of transformer of Rs. 14.95 Crore was within the total estimated capital cost of the project approved by the BoD. However, the asset was capitalized as a replacement after cut-off date of the project. Therefore, the petitioner has claimed aforesaid additional capitalization under Regulation 27.2 of the Regulations, 2020. However, the petitioner has not mentioned any specific counts of the Regulations 27.2 under which aforesaid additional capitalization is claimed in the petition.
57. Regulation 27.2 of the Regulations, 2020 which provides that 'in case of replacement of assets deployed under the original scope of the existing project after cut-off date, the additional capitalization may be admitted by the Commission, after making necessary adjustments in the gross fixed assets and the cumulative depreciation, subject to prudence check'. Clause a,b,c and d of the Regulation 27.2 provides that:
- (a) *The useful life of the assets is not commensurate with the useful life of the project and such assets have been fully depreciated in accordance with the provisions of these Regulations;*
 - (b) *The replacement of the asset or equipment if necessary, on account of change in law or Force Majeure conditions;*
 - (c) *The replacement of such asset or equipment is necessary on account of obsolescence of technology; and*
 - (d) *The replacement of such asset or equipment has otherwise been allowed by the Commission.*

58. The Commission has examined aforesaid additional capitalization in light of the clauses (a) to (d) of the Regulation 27.2 as follows:

- a) Regulation 27.2 (a) provides that “the useful life of the assets is not commensurate with the useful life of the project and such assets have been fully depreciated in accordance with the provisions of these Regulations”. Taking into consideration the submission of the petitioner, it is observed that as per Depreciation Schedule given in Annexure-1 of the Regulations, 2020, Useful life of the transformers commensurates with the useful life of the thermal power station. Petitioner has also not demonstrated, whether transformer that is sought to be replaced have/have not outlived its useful life in accordance to the provision of the Regulations, 2020. Hence, this expenditure towards transformer is not allowed in this Order under Regulation 27.2 (a) of the Regulations, 2020.
- b) Regulation 27.2 (b) of the Regulations, 2020 provides that “in case of replacement of assets deployed under the original scope of the existing project after cut-off date, the additional capitalization may be admitted by the Commission towards replacement of the asset or equipment, if necessary, on account of change in law or Force Majeure conditions. In view of the above provision under the Regulations, it is observed that the said expenditure claimed by the petitioner does not fall under the aforesaid Regulation 27.2 (b) of the Regulations, 2020 as the petitioner has not shown the replacement of existing assets on account of **change in law or any force majeure conditions** stipulated in the Regulations, 2020. Hence, the aforesaid expenditure towards transformer is not covered under Regulation 27.2 (b) of the Regulations, 2020.
- c) Regulation 27.2 (c) of the Regulations, 2020 provides that the additional capitalization towards replacement of assets or equipment is necessary on account of obsolescence of technology. In view of the above provision under the Regulations, it is observed that the said expenditure claimed by the petitioner does not fall under the aforesaid Regulation 27.2 (c) of the Regulations, 2020 as the petitioner has not demonstrated/shown the replacement of existing assets towards obsolescence of technology.
- d) Lastly, Regulation 27.2 (d) of the Regulations, 2020 provides that the additional capitalization towards replacement of such asset or equipment has otherwise been allowed by the Commission. The petitioner has not shown, if replacement of existing assets is done towards any approval/admittance by the Commission at any prior stages towards this asset. Hence, expenditure towards transformer

is also not covered under Regulation 27.2 (d) of the Regulations, 2020.

59. In view of the above, it is observed that the additional capitalisation towards transformer is not covered under any of the Clause of Regulation 27.2, therefore, not allowed in this Order.

(iii) Air Dryer Complete Assy Make-Atlas CopCo

60. In the subject petition, the petitioner filed additional expenditure of Rs. 0.45 Crore on account of procurement of “AIR DRYER COMPLETE ASSY MAKE-ATLAS COPCO” and requested the Commission to consider it under Regulation 27.2, since it has been procured as replacement requirement in Ash Handling Plant.

61. It is observed that the amount under additional capitalization towards procurement of air dryer of Rs. 0.45 Crore was within the total estimated capital cost of the project approved by the BoD. However, the asset was procured after the cut-off date of the project for fulfilment of need for modification/replacement requirement in Ash Handling Plant.

62. Aforesaid additional capitalization is covered under Regulation 27.2 (b) of the Regulations, 2020. Regulation 27.2 (b) provides for consideration of those assets if “the replacement of the asset or equipment, if necessary, on account of change in law or Force Majeure conditions”. Since, the aforesaid assets is used in ash handling plant and related works in order to comply with MoEF&CC notification towards Ash Utilization, hence, additional capitalization of Rs. 0.45 Crore towards procurement of air dryer is allowed in this Order under Regulation 27.2 (b) of the Regulations, 2020.

(iv) Assets procured for Security management and safety of the Plant

63. The petitioner in its subject petition has claimed Rs. 0.08 Crore for equipments procured for the purpose of higher security management and safety of the plant during FY 2022-23. The petitioner has claimed aforementioned capitalization under Regulation 28.1(d) of the Regulations, 2020. The details of such assets are as under:-

Sl. No.	Asset Description	Amount (in Rs.)
1	IR BULLET CAMERA FULL HD MAKE CP PLUS (2Nos)	20,060.00
2	CCTV DISPLAY UNIT (TV/MONITOR) (2Nos)	1,22,880.00
3	HIKVISION 5MP IP BULLET CAMERA DS (32Nos)	2,32,224.00
4	HARD DISC 8 TB (4Nos)	71,272.00
5	CP PLUS 2 MEGA PIXEL BULLET CAMERA (2Nos)	7,906.00
6	HARD DISC TB MAKE-TOSHIBA	5,723.00
7	CCTV CAMERA (8Nos)	57,584.00

8	LVS DISPLAY MONITOR FULL HD MAKE-SHARP PNQ-701	1,92,080.00
9	FIRE TENDER MP 17M 4830	1,12,669.76
	Total	8,22,398.76

64. The petitioner has claimed additional capitalisation of Rs. 0.08 Crore under Regulation 28.1 (d) of the Regulations, 2020, which provides for any capital expenditure to be incurred on account of need for higher security and safety of the plant. Since, the said expenditure towards security management is claimed after the cut-off date and the petitioner has not submitted any advisory/directive by appropriate Government Agencies or Statutory Authorities in this respect, hence, not allowed in this Order.

(v) Assets related to Railway Siding

65. The petitioner has claimed additional capitalization of Rs. 1.18 Crore towards assets related to Motion Weigh Bridge 140 MT which was procured & installed due to operational requirement of railway siding management as per statutory requirement. The petitioner has claimed the aforesaid capitalization under Regulation 27.1 of the Regulations, 2020.

66. On perusal of the petitioner's submission for aforesaid additional capitalisation towards motion weigh bridge 140 MT in light of various counts under (i) to (vii) of Regulation 27.1 of the Regulations, 2020, it is noted that the aforesaid additional capitalisation does not fall under Regulation 27.1 of the Regulations, 2020, neither petitioner has provided any appropriate statutory Order from any government authority regarding the statutory requirement of capitalisation done towards Weigh Bridge. Therefore, additional capitalisation towards asset related to Railway Siding management claimed after cut-off date is not allowed in this Order at this stage.

(vi) Miscellaneous Minor Equipments

67. The petitioner has claimed Rs. 6.98 Crore towards other miscellaneous minor assets such as workshop machinery, P&A Vehicles, upgradation of IT/EDP Infrastructure, electrical transformers, Submersible pumps, rotary slasher, almirah, executive revolving chair, air coolers, chain saw machine, etc. for monitoring and control of the project operations. It is observed that the petitioner has not clarified any specific counts laid down in the Regulation 27 of the Regulations, 2020 under which above additional capitalization are being claimed.

68. Since, the said expenditure towards miscellaneous minor equipments is claimed after the cut-off date and does not meet the stipulations in Regulation 27 of the Regulations, 2020, hence, not allowed in this Order.

Additional Capitalization towards Amelia Coal Mine:

69. The petitioner has claimed additional capitalization of Rs. 150.44 Crore in Amelia Coal Mine out of which Rs. 145.63 Crore pertains to “cost of ownership of Mining Rights” and balance of Rs. 4.81 Crore pertains to Balance of Plant. With regard to additional capitalization in Amelia Coal Mine, the petitioner has broadly submitted the following:

(a) Addition on account of Tangible Assets:

It is submitted that the petitioner incurred an additional capital cost of Rs.4.81 Crore for procuring tangible assets pertaining to Amelia mines which include:

(i) Addition on account of Civil Works

It is respectfully submitted that the petitioner during FY 2022-23, in Amelia Mines, incurred an additional capital cost of Rs. 0.32 Crore for construction of a warehouse to for storage of stores items. Rs. 0.38 Crore were spent on construction of a Field Hostel and Rs. 0.03 Crore for the construction of Female Security Guard Room. Hence, total amount capitalized in Civil Head in Amelia (North) during FY 2022-23 is Rs. 0.74 Crore.

(ii) Addition on account of BOP

It is respectfully submitted that the petitioner during FY 2022-23, in Amelia Mines, incurred an additional capital cost of Rs. 4.07 Crore in BOP head only. This includes procurement of Submersible Pumps worth Rs. 0.98 Crore, vehicles & motor cycles for Rs. 0.42 Crore. A Lathe Machine for Rs. 0.08 Crore, “SUBMERSIBLE SLURRY PUMP-125 KW MOTOR” for Rs. 0.51 Crore, a HYDRAULIC MOTOR for Rs. 1.27 Crore, “INMOTION WEIGH BRIDGE-120MT” for Rs. 0.12 Crore and a “JCB-3DX-SUPER” for Rs. 0.32 Crore were also procured. Other equipments include Furnitures & Fixtures for Rs. 0.07 Crore and Rs. 0.06 Crore of office equipments. BOP Head also include electrical equipments including “TRANSFORMER PROTECTION VCB PANEL” for Rs 0.12 Crore and “POWER DISTRIBUTION PANEL” for Rs. 0.12 Crore.

(b) Addition on account of Ownership of Mining Rights:

(i) It is submitted that an amount of Rs. 145.63 Crore is attributed to the aforementioned head towards payment of ‘Additional Premium’@ Rs. 612 per tonne of coal on 23,79,602 MT of coal received during FY 2022-23 from Amelia mines for the purpose of power generation. A brief background as to why the petitioner had to acquire tangible and intangible assets for Amelia

mines and had to pay the Additional Premium is already mentioned in Paras 4.1(h) to (o) and is not repeated here for sake of brevity.

- (ii) *It is respectfully submitted that the Additional Premium is in the nature of an upfront commitment, payable on a monthly basis on the quantum of extracted coal. The true nature of the payment is to discharge the liability undertaken at the time of bidding and acquire mining rights of Amelia (North) coal mine. Therefore, the same cannot be a revenue expenditure being unrelated to the daily operations of mining.*
- (iii) *It is submitted that the Additional Premium, being in the nature of an expenditure towards acquiring or bringing into existence an asset of an enduring benefit (coal mine) for the generation business, is to be allowed for the computation of fixed charges.*
- (iv) *It is further submitted that the fixed amount paid for procurement of assets such as land and mine infrastructure along-with the cost of obtaining statutory permits/approvals is in nature of capital expenditure being incurred on procurement of assets necessary for providing coal to the power plant. The same ought to be allowed as part of the project cost and should be considered for computation of fixed charges.*

Submission of Respondent No. 1 on Amelia Coal Mine:

70. By affidavit dated 11th January, 2024, Respondent No. 1 (MPPMCL) submitted the following on additional capitalization of Amelia Coal Mine:

It is submitted that in the present Petition, the Petitioner has claimed total Additional Capital Cost of Rs. 203.90 Crore for FY 2022-23, out of which an amount of Rs. 150.44 Crore has been claimed towards Additional Capital expenditure stated to be incurred in Amelia Coal Mine and Cost of Ownership of Amelia Coal Mine (Intangible Assets) during FY 2022-23, both of which are not admissible under any provision of the Regulations, 2020. The claim of addition of assets on account of "Cost of Ownership of Mining Rights" by way of payment of Additional Premium of Rs. 612 per tonne of coal received during FY 2022-23, is not tenable as it is not in accordance with the provisions of extant Tariff Regulations and is violative of provisions of Coal Mines (Special Provisions) Rules, 2014 made under Coal Mines (Special Provisions) Act, 2014 and conditions stipulated in Tender documents issued for carrying out auction of coal blocks under which Petitioner had won Amelia (North) Coal Mine. On this issue, the Petitioner has challenged the orders passed by the Commission in various Appeals filed before this Hon'ble Tribunal, which are

pending adjudication.

In view of above submissions, it is prayed illegal claim of Petitioner towards Capitalisation/ Additional Capitalisation of assets Amelia Coal Mine and purported "Cost of Ownership" of Amelia Coal Mine on account of Additional Premium of Rs. 612 per tonne as part of Annual Capacity (Fixed) Charges of the generating station cannot be considered.

Commission's Analysis:

71. In Para 7.3 of the subject petition, petitioner has claimed asset addition on account of tangible assets of Rs. 4.81 Crore in Amelia Coal Mine. The petitioner has also filed addition on account of ownership of mining rights of Rs. 145.63 Crore towards payment of additional premium @ Rs. 612/- per tonne of coal on 23,79,602 MT of coal quantity received during FY 2022-23.
72. With regard to claim of the petitioner towards additional capitalisation on account of Tangible and Intangible assets of Amelia Coal Mine as also the "Additional Premium" @ Rs. 612/- per ton for coal received from Amelia Mine for generation of power under PPA, the petitioner has submitted that the Additional Premium being in the nature of an expenditure towards acquiring or bringing into existence an asset of an enduring benefit (coal mine) for the generation business, it is to be allowed for the computation of fixed charge. The petitioner has further submitted that the fixed amount paid for procurement of assets such as land and mine infrastructure along-with cost of obtaining statutory permits/approvals is in nature of capital expenditure being incurred on procurement of assets necessary for providing coal to the power plant, ought to be allowed as part of project cost of power plant and should be considered for computation of fixed cost.
73. With regard to above claim of the petitioner towards additional premium, the Commission has observed the following:
 - i. During the process of coal auctioning conducted by the Ministry of Coal, GoI in the year 2014-15, there were two possible methods of bidding – Reverse and Forward Bidding. The petitioner was emerged as the successful bidder after quoting Run of Mine (ROM) as zero and a quantum for Additional Premium. This is akin to Forward Bidding which was initially started as reverse bidding. The Additional Premium is in the nature of Forward Bidding where the bidder has to quote the highest price to secure the right to mining under the bidding process. The Additional Premium is a charge payable to the Government to maximize revenue of the government. In Forward Bidding, the bidder had completely foregone fuel cost. Moreover, in addition to all other payments, offered an

extra/premium amount for the coal block and thus offered the highest premium also became the successful bidder. It is seen that the petitioner emerged as the successful bidder after quoting ROM price as 'zero' and Additional Premium as Rs. 612/MT for Amelia coal mine

- ii. Clause 3.10.2 of the Tender Document issued for auction and allocation of Coal for power sector was amended by Corrigendum 3 issued on 31.01.2015. Amended clause 3.10.2 of the Tender Document based on which the Appellant has won the auction of Amelia (North) Coal block stipulates as follows:

*“However, the aggregate of (i) the Final Price Offer pursuant to which the Successful Bidder has received the Vesting Order; and (ii) the aforementioned Fixed Rate, will be the input for computation of energy charge for the purposes of determination of tariff for electricity. It is clarified that in the event that an ascending forward auction is conducted in accordance with Clause 3.3.2 (c)(iv), only the aforementioned Fixed Rate of INR 100/Tonne, will be the input for computation of energy charge for the purposes of determination of tariff for electricity and the **Additional Premium shall not be reckoned for the purposes of determination of tariff for electricity**”.*

- iii. Therefore, as per the provisions of Tender Documents dated 27.12.2014 and clarification dated 31.01.2015, for auctioning and allocation of coal blocks, in case of Forward Bidding, the ROM price is to be considered as nil and Additional Premium is not to be reckoned as energy charges for computation of tariff. Accordingly, any other cost related to ROM price and Additional Premium was not supposed to be passed through to the electricity consumers while arriving at the landed price of coal in the Impugned Order.
- iv. As per the provisions of the tender documents issued by the Nominated Authority, it was amply clear that the Additional Premium also as quoted by the bidders shall not be considered for as fixed costs and for determination of tariff for electricity. Fact was very well known to the petitioner at the time of bidding. In case the petitioner is allowed to recover the Additional Premium through fixed charges, the entire sanctity and objective of the coal auctioning process will be lost, which is to deliver cheaper power to consumers.
- v. The Additional Premium is a discretionary amount which was to be quoted by the petitioner to secure the mining rights to the Amelia coal mine. Accordingly, it is not reasonable to pass on the burden of aggressive business decisions taken by the petitioner on the consumers of the State. Therefore, Additional Premium

which a discretionary rate quoted by the petitioner for securing mining rights to the Amelia Coal mine cannot be allowed as part of the tariff to be recovered from the consumers of the State.

74. In view of the above, the Commission has never allowed the additional capitalization in Amelia Coal Mine in all the MYT/True-up orders till date. Further, the petitioner has filed several Appeals for its Nigrie thermal power station before the Hon'ble Appellate Tribunal for Electricity on this issue and the issues in aforesaid claim are sub-judice before the Hon'ble Appellate Tribunal for Electricity.
75. In view of the above, the claim towards additional capitalisation on account of assets of Amelia Mine and the "Additional Premium" is not allowed by the Commission in this Order also.

Write-off/ Adjustment of Assets:

76. The petitioner has filed de-capitalization of assets of Rs. 0.75 Crore which were de-capitalized in the Generating Station and suitable downward adjustments have been taken into account while computing the capital cost for FY 2022-23.
77. With regard to de-capitalisation of assets, Regulation 28.2 of the Regulation, 2020 provides as under:

"28.2 In case of de-capitalisation of assets of a generating company, the original cost of such asset as on the date of de-capitalisation shall be deducted from the value of gross fixed asset and corresponding loan as well as equity shall be deducted from outstanding loan and the equity respectively in the year such de-capitalisation takes place with corresponding adjustments in cumulative depreciation and cumulative repayment of loan, duly taking into consideration the year in which it was capitalized."

78. On scrutiny of the details regarding write-off/ de-capitalization filed by the petitioner, the Commission has observed that assets of Rs. 0.75 Crore have been adjusted/de-capitalized in Asset-cum-Depreciation register of Nigrie Thermal Power Station. Therefore, the Commission has considered de-capitalization of Rs. 0.75 Crore during FY 2022-23 in accordance to Regulation 28. 2 of the Regulations, 2020 in this Order. With regard to the funding of write-off/ de-capitalization of assets, the Commission has considered the same Debt:Equity ratio as considered in the final tariff order in Petition No 72 of 2015. Therefore, the equity and loan component of de-capitalized assets are reduced accordingly.

79. In view of the above, the details of additional capitalization and de-capitalization admitted during FY 2022-23 in this Order are as given below:

Table 8: Additions and Deletion of Assets Admitted in the Order (Rs. in Crore)

S. No.	Particular	Additions	Deletions
1.	Addition/Deletions of Assets admitted in Order	0.45	0.75
	Total	0.45	0.75

80. Considering the above, opening Gross Fixed Assets, adjustment of assets and closing Gross Fixed Assets considered in this Order are as given below:

Table 9: Capital Cost (Rs. in Crore)

Opening Capital cost as on 01.04.2022 as per last order dated 20 th April, 2022	Additions during FY 2022-23	Adjustment/Deletion of Assets	Closing Capital Cost as on 31.03.2023 considered in this Order
10764.28	0.45	0.75	10763.98

81. Component wise break-up of capital cost as on 31st March, 2023 considered by the Commission are as given below:

Table 10: Opening & Closing Capital Cost Allowed in the Order (Rs. in Crore)

S. No.	Particular	Opening Balance as on 01.04.2022	Ad Cap allowed during the year	De-cap considered during the year	Closing Balance as on 31.03.2023
1.	Land	37.00		-	37.00
2.	BTG	5017.92		-	5017.92
3	BOP	1596.15	0.45	0.75	1595.85
4	Civil	1523.58		-	1523.58
5	Hard Cost (1)	8174.65		-	8174.35
6	Soft Cost (2)	2589.62		-	2589.62
	Total Capital Cost (1+2)	10764.28	0.45	0.75	10763.98

DEBT –EQUITY RATIO

Petitioner's Submission:

82. Regarding the sources of funding for additional capitalization claimed in the subject matter, the petitioner in Form TPS 10 has mentioned that the sources of funding is entirely from the equity/internal resources. Thus, for the purpose of computation of RoE and interest on loan, the petitioner considered the funding of additional capitalization in

the normative debt: equity ratio of 70:30 as provided under the Regulations, 2020.

Provision in Regulation:

83. Regulation 33 of the Regulations, 2020 provides as under:

33.1 For new projects, the debt-equity ratio of 70:30 as on date of commercial operation shall be considered. If the equity actually deployed is more than 30% of the capital cost, equity in excess of 30% shall be treated as normative loan:

Provided that:

- a. where equity actually deployed is less than 30% of the capital cost, actual equity shall be considered for determination of tariff:*
- b. the equity invested in foreign currency shall be designated in Indian rupees on the date of each investment: -*
- c. any grant obtained for the execution of the project shall not be considered as a part of capital structure for the purpose of debt : equity ratio.*

Explanation.-The premium, if any, raised by the generating company while issuing share capital and investment of internal resources created out of its free reserve, for the funding of the project, shall be reckoned as paid up capital for the purpose of computing return on equity, only if such premium amount and internal resources are actually utilised for meeting the capital expenditure of the generating station.

33.2 The generating company shall submit the resolution of the Board of the company regarding infusion of fund from internal resources in support of the utilization made or proposed to be made to meet the capital expenditure of the generating station.

33.3 In case of the generating station declared under commercial operation prior to 1.4.2019, debt- equity ratio allowed by the Commission for determination of tariff for the period ending 31.3.2019 shall be considered:

Provided that in case of a generating station which has completed its useful life as on or after 01.04.2019, if the equity actually deployed as on 01.04.2019 is more than 30% of the capital cost, equity in excess of 30% shall not be taken into account for tariff determination.

33.4 In case of the generating station declared under commercial operation prior to 1.4.2019, but where debt: equity ratio has not been determined by the Commission for determination of tariff for the period ending 31.3.2019, the Commission shall approve the debt : equity in accordance with Regulation 33.1 of these Regulations.

33.5 Any expenditure incurred or projected to be incurred on or after 1.4.2019 as

may be admitted by the Commission as additional capital expenditure for determination of tariff, and renovation and modernisation expenditure for life extension shall be serviced in the manner specified in clause 33.1 of this Regulation.

Commission's Analysis

84. With regard to funding of additional capitalisation, vide letter dated 19th December, 2023, the petitioner was asked to inform the actual loan draws and equity infusion towards additional capitalization during FY 2022-23 claimed in the subject petition.
85. By affidavit dated 8th January, 2023, the petitioner submitted that during FY 2022-23, no fresh loan was drawn for funding additional capitalization of Rs. 53.42 Crore claimed in the generating station. Also, to fund the additional capitalization of Rs. 150.44 Crore in Amelia Coal Mine, no fresh loans were taken. Regarding the BoD approval for the equity incurred in additional capitalization, the petitioner submitted that the total capital cost incurred up to 31st March, 2023 falls well below the estimated cost as approved by Resolution of Board of Directors dated 30th May, 2015, therefore, no fresh approval was required.
86. The Commission vide true up order for FY 2021-22 issued on 2nd March, 2023 has approved the closing Loan & Equity balances as on 31st March, 2022. The same closing figures of capital cost, loan and equity as on 31st March, 2022 are considered as opening balance as on 01st April, 2022 in this Order. In view of the submissions and provisions under Regulation 33.1, the Commission has considered the Debt: Equity ratio of 70:30 for additional capitalization of Rs. 0.45 Crore as considered by the petitioner. Further, the impact of write off/deletion of the assets of Rs. 0.75 Crore has been considered with corresponding reduction of Debt and Equity in the ratio of 77.82% and 22.18% respectively as considered in final tariff Order in Petition No 72 of 2015.
87. The details of the opening balance of capital cost and funding as on 01st April, 2022, additions during FY 2022-23, de-capitalization during FY 2022-23 and closing balance as on 31st March, 2023 considered in this Order are as given below:

Table 11: Source of Funding

(Rs. in Crore)

Sr. No	Particulars	Asset	Loan	Equity
1.	Closing balance as on 31 st March, 2022 (as per true up order dated 02.03.2023)	10764.28	4385.66*	2404.66
2.	Write-off/ Adjustment during the year	(-)0.75	(-)0.58	(-)0.17
3.	Addition during the year	0.45	0.32	0.14
4.	Closing balance as on 31 st March, 2023	10763.98	4385.40	2404.63

*Before Repayment (for current year)

Annual Capacity (fixed) Charges:

88. Regulation 17 of the Regulations, 2020 provides that the Annual Capacity (fixed) Charges derived on the basis of annual fixed cost (AFC) of a generating station shall consist of the following components:

- (a) Return on Equity;
- (b) Depreciation
- (c) Interest on Loan Capital
- (d) Operation and Maintenance Expenses
- (e) Interest on Working Capital

a. Return on Equity:**Petitioner's Submission:**

89. The petitioner filed the Return on Equity during FY 2022-23 in form TPS 1(II) of the petition as given below:

Table 12: Return on Equity claimed by the petitioner for FY 2022-23

Sl. No	Particulars	Unit	FY 2022-23
1	Opening Equity	Rs. in Crore	2,404.66
2	Add: Increase due to addition during the year/period (Station)	Rs. in Crore	16.04
3	Add: Increase due to addition during the year/period (Mines)	Rs. in Crore	45.13
4	Less: Decrease due to de-capitalization during the year/period (Station)	Rs. in Crore	0.17
5	Less: Decrease due to de-capitalization during the year/period (Mines)	Rs. in Crore	0.00
6	Closing Equity	Rs. in Crore	2,465.67
7	Average Equity	Rs. in Crore	2,435.17
8	Base Rate of ROE	%	15.50%
9	Tax rate considered MAT	%	17.47%
10	Pre-Tax Rate of Return on Equity	%	18.78%
11	Return on Equity	Rs. in Crore	457.36

90. While claiming the Return on Equity, petitioner considered the base rate of return on equity as 15.50%, which is grossed up with MAT rate of 17.47%.

Provision in Regulations:

91. Regarding the Return on Equity, Regulation 34 & 35 of the Regulations, 2020, provides as under:

34 . Return on Equity:

34.1 Return on equity shall be computed in rupee terms on the equity base

determined in accordance with Regulation 33 of these Regulations.

34.2 Return on equity shall be computed at the base rate of 15.50% for thermal generating stations and hydro generating stations and at the base rate of 16.50% for the pumped storage hydro generating stations and run-of river generating stations with pondage.

Provided that

- (i) in case of a new project, the rate of return of a new project shall be reduced by 1.00% for such period as may be decided by the Commission, if the generating station is found to be declared under commercial operation without commissioning of any of the Restricted Governor Mode Operation (RGMO)/ Free Governor Mode Operation (FGMO):*
- (ii) in case of existing generating station any of the above requirements are found lacking based on the report submitted by the respective SLDC/RLDC, RoE shall be reduced by 1% for the period for which the deficiency continues.*
- (iii) in case of a thermal generating station, with effect from 1.04.2020:*
 - (a) rate of return on equity shall be reduced by 0.25% in case of failure to achieve the ramp rate of 1% per minute:*
 - (b) an additional rate of return on equity of 0.25% shall be allowed for every incremental ramp rate of 1% per minute achieved over and above the ramp rate of 1% per minute, subject to ceiling of additional rate of return on equity of 1.00%:*

35. Tax on Return on Equity:

35.1 The base rate of return on equity as allowed by the Commission under Regulation 34 shall be grossed up with the effective tax rate of the respective financial year. For this purpose, the effective tax rate shall be considered on the basis of actual tax paid in the respective financial year in line with the provisions of the relevant Finance Acts by the concerned generating company. The actual income tax on other income stream including deferred tax liability (i.e., income from non-generation business) shall be excluded for the calculation of “effective tax rate”.

35.2 Rate of return on equity shall be rounded off to three decimal places and shall be computed as per the formula given below:

$$\text{Rate of pre-tax return on equity} = \text{Base rate} / (1-t)$$

Where t is the applicable tax rate in accordance with Regulation 35.1 of this Regulation and shall be calculated at the beginning of every financial year based on the estimated profit and tax to be paid estimated in line with the provisions of the relevant Finance Act applicable for that financial year to the company on pro-

rata basis by excluding the income of non-generation business and the corresponding tax thereon. In case of generating company paying Minimum Alternate Tax (MAT), "t" shall be considered as MAT rate including surcharge and cess. For example: - In case of the generating company paying

(i) Minimum Alternate Tax (MAT) @ 20.96% including surcharge and cess:

$$\text{Rate of return on equity} = 15.50 / (1 - 0.2096) = 19.610\%$$

(ii) In case of generating company paying normal corporate tax including surcharge and cess:

(a) Estimated Gross Income from generation business for FY 2019-20 is Rs 1000 Cr.

(b) Estimated Advance Tax for the year on above is Rs 240 Crore.

(c) Effective Tax Rate for the year 2019-20 = Rs 240 Crore / Rs 1000 Crore = 24%

(d) Rate of return on equity = $15.50 / (1 - 0.24) = 20.395\%$

35.3 *The generating company shall true-up the grossed up rate of return on equity at the end of every financial year based on actual tax paid together with any additional tax demand including interest thereon, duly adjusted for any refund of tax including interest received from the income tax authorities pertaining to the tariff period 2019-20 to 2023-24 on actual gross income of any financial year. However, penalty, if any, arising on account of delay in deposit or short deposit of tax amount shall not be claimed by the generating company. Any under-recovery or over-recovery of grossed up rate on return on equity after truing up, shall be allowed to be recovered or refunded to beneficiaries on year to year basis.*

Commission's Analysis:

92. While calculating the return on equity, closing equity as on 31st March, 2022 as admitted by the Commission in true-up order dated 2nd March, 2023 for FY 2022-23 is considered as the base figure for opening equity balance as on 01st April, 2022 for the project. Further, the Commission has considered the normative equity addition of 30% in the admitted additional capitalization i.e. 30% of Rs. 0.45 Crore (Rs. 0.14 Crore).
93. Further, the Commission has also considered equity reduction of Rs. 0.17 Crore towards de-capitalized assets to work out the closing equity balance as on 31st March, 2023.
94. The petitioner has claimed Return on Equity during the control period by grossing up the base rate of return with Minimum Alternate Tax (MAT). On examination of the subject petition, it was observed that the petitioner's company had not paid any income tax

neither for Jaypee Nigrie TPP nor for JPVL for FY 2022-23. Therefore, vide letter dated 19th December, 2023, the petitioner was asked to explain/submit the following:

- i. As per the Annual Audited Accounts of Jaypee Nigrie Thermal Power Plant and JPVL Corporate's Annual Audited Accounts for FY 2022-23, the current tax amount is indicated as nil, whereas, the petitioner has claimed the Return on Equity by grossing up base rate of return with MAT. In view of aforesaid observations, the petitioner was asked to file the basis of tax amount claimed while, it has not paid any income tax for Jaypee Nigrie TPP and JPVL for FY 2022-23. The petitioner was further asked to explain with supporting documents whether the petitioner was eligible for MAT during FY 2022-23 in light of figures recorded in its Annual Audited Accounts for FY 2022-23 and the provisions under the Regulation, 2020. The petitioner was also asked to file the copy of Challan for the income tax, if any, paid during FY 2022-23 along with the copy of the income tax return.

95. Vide affidavit dated 8th January, 2024, the petitioner submitted that:

In response to the above query of this Commission, it is most respectfully submitted that since generating station has recorded a profit of Rs. 182.75 Crore (approx.) during FY 2022-23, the petitioner has accordingly claimed Return on Equity ("RoE") grossing up with MAT.

It is further submitted that MAT was introduced under Section 115JB of the Income Tax Act, w.e.f. 1.4.2001. The intention behind the introduction of MAT was that where the income tax payable by a company on its taxable income, as computed under the Income Tax Act, for any financial year is less than a specified percentage of the book profit of the company for that year, the book profit of the company is deemed to be the taxable income of the company for that year and income tax is payable at the specified rate on such taxable income which is known as the MAT. Jaypee Nigrie Super Thermal Power Plant is not a corporate legal entity/Company, as it is only a division/Generating station of JPVL and hence is not liable or eligible to pay MAT.

However, as per JPVL Corporate's Annual Audited Accounts for FY 2022-23 which shows a profit of Rs. 226.70 Crore, but owing to the accumulated losses suffered by JPVL & other exemptions/deductions under Income Tax Act, current tax amount is indicated as NIL.

The petitioner is entitled to claim grossing up of RoE with Income Tax on Normative basis, even if no tax has been paid because of carry forward of losses. JNSTPP has earned profit during the current year from the generation and sale of power and does not earn income from any other business.

Income Tax needs to be computed and applied on the income related to generation and sale of power of the Generating Station (Regulated Business).

Taxable income of a regulated business should be computed on standalone basis irrespective of impact of other business on the overall liability.

Moreover, the grossing up of RoE with effective Tax Rates must be allowed by considering the current year only and it must be insulated from performance of previous years. To put it alternatively, had there not been accumulated losses, certainly the JPVL would have been liable to pay MAT or Normal Tax.

It is submitted that Income Tax Return Acknowledgement of JPVL for Financial year 2022-23 (Assessment Year 2023-24) is being submitted.

96. On perusal of aforesaid response filed by the petitioner on MAT, the Commission observed the following:
- i. The petitioner submitted that since the generating station has recorded book profit of Rs. 182.75 Crore during FY 2022-23, the petitioner has accordingly claimed return on equity grossing up with MAT. The petitioner further submitted that Jaypee Nigrie TPS is only a division of JPVL and hence is not liable to pay MAT.
 - ii. The petitioner mentioned that the payment towards MAT for FY 2022-23 has been shown nil in the Annual Audited Accounts of Nigrie Super Thermal Power Station.
 - iii. The petitioner also submitted that, as per JPVL Corporate's Annual Audited Accounts for FY 2022-23 which shows a book profit of Rs. 226.70 Crore, but owing to the accumulated losses suffered by JPVL & other exemptions/deductions under Income Tax Act, current tax amount is indicated as NIL.
97. In view of the above, it is observed that the Consolidated Annual Audited Accounts of Jaypee Power Ventures Limited (JPVL) comprise of the financials of other power plants also, including Nigrie TPS in the subject petition. Further, consolidated Annual Audited Accounts of Jaypee Power Ventures Limited (JPVL) & Jaypee Nigrie Super Thermal Power Plant as on 31st March, 2023 recorded profit, but with nil tax payment during FY 2022-23.
98. In the instant case, JPVL has not paid any tax, therefore, despite of the fact that Nigrie thermal power station is earning profit, the grossing up of ROE with MAT cannot be considered in accordance to the Regulations, 2020, as neither JPVL nor Jaypee Nigrie has paid income tax for the FY 2022-23, which has also been stated by the petitioner in its aforementioned reply.

99. In view of the above observations, the Commission while adopting the same approach which has been considered in earlier orders on this issue has not considered grossing up the base rate of ROE with MAT.
100. In compliance to Regulation 34.2, the petitioner by affidavit 8th January, 2024 submitted that its thermal power plant units of the Project have been operating with the ramp rate of over 1% per minute.
101. Accordingly, the Return on equity for FY 2022-23 is worked out in this Order as given below:

Table 13: Annual Return on Equity for FY 2022-23 allowed by the Commission

Sr. No.	Particular	Unit	Amount
1	Opening Equity as on 01.04.2022	Rs. Crore	2404.66
2	Equity reduction towards de-capitalized assets	Rs. Crore	(-)0.17
3	Normative Equity addition during the year in Generating Station	Rs. Crore	0.14
4	Closing Equity as on 31.03.2023	Rs. Crore	2404.63
5	Average Equity	Rs. Crore	2404.65
6	Base rate of Return on Equity	%	15.50%
7	Return on Equity	Rs. Crore	372.72

b. Depreciation:

Petitioner's Submission

102. The petitioner has claimed the annual depreciation in form TPS 12 of the petition as given below:

Table 14: Depreciation on Assets Claimed (Rs. in Crore)

<i>Financial Year</i>	<i>FY 2022-23</i>
<i>Opening Capital Cost</i>	<i>10,764.28</i>
<i>Closing Capital Cost</i>	<i>10,967.43</i>
<i>Average Capital Cost</i>	<i>10,865.86</i>
<i>Rate of Depreciation</i>	<i>5.094%</i>
<i>Depreciation on Capital Cost</i>	<i>553.49</i>
<i>Cumulative Depreciation at the end of the period</i>	<i>4,526.75</i>
<i>Cumulative depreciation adjustment on account of decapitalization</i>	<i>0.59</i>
<i>Closing Cumulative Depreciation</i>	<i>4526.16</i>

Provision in Regulations:

103. Regulation 37 of the Regulations, 2020 provides as under:

37.1 Depreciation shall be computed from the date of commercial operation of a generating station or unit thereof. In case of the tariff of all the units of a generating station for which a single tariff needs to be determined, the depreciation shall be computed from the effective date of commercial operation of the generating station taking into consideration the depreciation of individual units:

Provided that effective date of commercial operation shall be worked out by considering the actual date of commercial operation and installed capacity of all the units of the generating station for which single tariff needs to be determined.

37.2 The value base for the purpose of depreciation shall be the capital cost of the asset admitted by the Commission. In case of multiple units of a generating station, weighted average life for the generating station shall be applied.

37.3 The salvage value of the asset shall be considered as 10% and depreciation shall be allowed up to maximum of 90% of the capital cost of the asset:

Provided that in case of hydro generating station, the salvage value shall be as provided in the agreement, if any, signed by the developers with the State Government for development of the generating station:

Provided further that the capital cost of the assets of the hydro generating station for the purpose of computation of depreciated value shall correspond to the percentage of sale of electricity under long-term power purchase agreement at regulated tariff:

Provided also that any depreciation disallowed on account of lower availability of the generating station or generating unit shall not be allowed to be recovered at a later stage during the useful life or the extended life:

Provided also that the salvage value for IT equipment and software shall be considered as NIL and 100% value of the assets shall be considered depreciable.

37.4 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.

37.5 Depreciation shall be calculated annually based on 'Straight Line Method' and at rates specified in Appendix-I to these Regulations for the assets of the generating station.

37.6 *Depreciation shall be chargeable from the first Year of commercial operation. In case of commercial operation of the asset for part of the Year, depreciation shall be charged on pro rata basis:*

Provided that the remaining depreciable value as on 31st March of the year closing after a period of 12 years from the effective date of commercial operation of the station shall be spread over the balance useful life of the assets.

37.7 *In case of the existing projects, the balance depreciable value as on 1.4.2019 shall be worked out by deducting the cumulative depreciation as admitted by the Commission upto 31.3.2019 from the gross depreciable value of the assets.*

37.8 *The generating company shall submit the details of proposed capital expenditure five years before the completion of useful life of the project along with justification and proposed life extension. The Commission based on prudence check of such submissions shall approve the depreciation on capital expenditure during the fag end of the project.*

37.9 *In case of de-capitalization of assets in respect of generating station or unit thereof, the cumulative depreciation shall be adjusted by taking into account the depreciation recovered in tariff by the de-capitalized asset during its useful services.*

Commission's Analysis:

104. For determining the annual Depreciation, the Commission has considered the closing Gross Fixed Assets as on 31st March, 2022, as admitted in the last true-up order dated 2nd March, 2023 for FY 2021-22, as opening Gross Fixed Assets as on 1st April, 2022 in this Order.
105. The Commission has allowed additional capitalization of Rs. 0.45 Crore in this Order. Further, the write off/ deletion of fixed assets of Rs. 0.75 Crore during the FY 2022-23 has been considered in this Order to work out the closing Gross Fixed Assets as on 31st March, 2023. Corresponding cumulative depreciation adjustment on account of decapitalization of assets has also made in accordance to the Asset-cum-Depreciation Register for Nigrie thermal power station.
106. In the subject petition, the petitioner has filed weighted average rate of depreciation combining for Amelia Mine and Nigrie Thermal Power Station both, but the Commission has only considered the weighted average rate of depreciation of 5.074% worked out for Nigrie Thermal Power Station based on the depreciation rates specified in the Regulations, 2020.

107. According, the depreciation is worked out by considering the weighted average rate of depreciation for Nigrie Thermal Power Station, which is the same as filed by the petitioner in the subject petition as given below:

Table 15: Annual Deprecation admitted for FY 2022-23

Sr. No.	Particular	Units	Amount
1	Opening Gross Fixed Asset	Rs. Crore	10764.28
2	De-capitalization during the year	Rs. Crore	0.75
3	Addition during the year	Rs. Crore	0.45
4	Closing Gross Fixed Asset	Rs. Crore	10763.98
5	Average Gross Fixed Asset	Rs. Crore	10764.13
6	Rate of Depreciation	%	5.074%
7	Annual Depreciation Amount	Rs. Crore	546.17
8	Opening Cumulative Depreciation as on 1.4.2022	Rs. Crore	3973.69
9	Closing Cumulative Depreciation	Rs. Crore	4519.86
10	Cumulative depreciation after adjustment on account of decapitalization	Rs. Crore	(-) 0.59
11	Closing Cumulative Depreciation as on 31.03.2023	Rs. Crore	4519.28

c. Interest on loan Capital:

Petitioner's Submission:

108. In form TPS 5M of the petition, the petitioner worked out the interest on loan capital as given below:

Table 16: Interest on Loan Capital Claimed by the petitioner for FY 2022-23

Sr. No.	Particulars	FY 2021-22
1	Gross Normative Loan – Opening	8362.73
2	Cumulative Repayment of Normative Loan upto Previous Year	3977.09
3	Net Normative Loan-Opening	4385.66
4	Loan Additions during the year	142.73
5	Decrease due to decapitalisation	
6	Repayment During the year	553.49
7	Closing Loan	3974.90
8	Average Loan-Normative	4180.28
9	Weighted average Rate of Interest on actual Loans	9.50%
10	Interest on Normative loan	397.13

Provision in Regulations:

109. With regard to Interest on Loan Capital, Regulation 36 of the Regulations 2020, provides as under:

36.1 The loans arrived at in the manner indicated in Regulation 33 of these Regulations shall be considered as gross normative loan for calculation of interest on loan.

36.2 The normative loan outstanding as on 1.4.2019 shall be worked out by deducting the cumulative repayment as admitted by the Commission up to 31.3.2019 from the gross normative loan. The repayment for each of the year of the tariff period 2019-24 shall be deemed to be equal to the depreciation allowed for the corresponding year/period. In case of de-capitalization of assets, the repayment shall be adjusted by taking into account cumulative repayment on a pro rata basis and the adjustment should not exceed cumulative depreciation recovered upto the date of de-capitalisation of such asset

36.3 Notwithstanding any moratorium period availed by the generating company, the repayment of loan shall be considered from the first year of commercial operation of the project and shall be equal to the depreciation allowed for the year or part of the year.

36.4 The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio after providing appropriate accounting adjustment for interest capitalized:

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

Provided further that if the generating station does not have actual loan, then the weighted average rate of interest of the generating company as a whole shall be considered.

36.5 The interest on loan shall be calculated on the normative average loan of the year by applying the weighted average rate of interest.

Commission's Analysis:

110. For determination of interest on term loan, closing loan balance as on 31st March, 2022 as admitted in the Commission's true-up order for FY 2021-22 issued on 2nd March, 2023 is considered as the opening loan balance as on 1st April, 2022.

111. The petitioner mentioned that the assets under additional capitalization has been

funded through equity component/internal resources. Accordingly, the petitioner claimed corresponding normative loan i.e. 70% of net additional capitalization. Hence, the Commission has considered the loan addition of Rs. 0.32 Crore in respect of additional capitalization allowed during FY 2022-23 in this Order. The Commission has also considered the reduction of loan amount of Rs. 0.59 Crore in respect of the assets decapitalized during the year. Since, the accumulated depreciation of Rs. 0.59 Crore in respect of the assets decapitalized has been adjusted in reduction of loan amount, hence, loan reduction amount is treated as nil.

112. With regard to weighted average rate of interest filed in the petition, vide letter dated 19th December, 2023, the petitioner was asked to file supporting documents, such as banker's certificates in respect of actual weighted average rate of interest claimed in the petition. The petitioner was also asked to confirm that any interest on interest on loan amount or any penalty should not be a part of interest on loan amount.

113. By affidavit dated 8th January, 2024, the petitioner broadly submitted the following:

Banker's Certificate in respect of interest rate as claimed by Petitioner in the instant Petition is submitted. Further, petitioner would submit that any interest on interest on loan or any penalty due to default in prepayment has not been considered but only the applicable rate of Interest have been applied.

114. The Commission has considered the details filed in Form TPS-13 of the petition. Accordingly, the Commission has considered the weighted average rate of interest @9.50%, in this Order. The repayment equivalent to depreciation during the financial year is considered as per the provision under the Regulations, 2020.

115. In view of the above, interest on loan is worked out based on the following:

- (a) Gross normative opening loan of Rs. 4385.66 Crore has been considered as per last true-up order dated 2nd March, 2023.
- (b) Normative loan is worked out by deducting the cumulative depreciation of decapitalized assets of Rs. 0.59 Crore from written off loan component of Rs. 0.59 Crore.
- (c) Loan addition of Rs. 0.32 Crore is considered in this Order.
- (d) Annual repayment of loan during the year is considered equal to annual depreciation.
- (e) Weighted average rate of interest @ 9.50% filed by the petitioner is considered.

116. Based on the above, the interest on loan Capital is worked out in this Order as given below:

Table 17: Interest on Loan Capital admitted in this Order:

Sr. No.	Particulars	Unit	FY 2022-23
1	Opening Loan	Rs. Crore	4385.66
2	Loan adjustment towards de-capitalised assets	Rs. Crore	0.00
3	Loan Addition during the year	Rs. Crore	0.32
4	Repayment during the Year considered	Rs. Crore	546.17
5	Closing Loan	Rs. Crore	3839.81
6	Average Loan	Rs. Crore	4112.73
7	Weighted average Rate of Interest on actual Loans	%	9.50%
8	Interest on loan capital	Rs. Crore	390.71

d. Operation and Maintenance Expenses:**Petitioner's Submission:**

117. The petitioner filed Operation and Maintenance expenses for generating units in the subject petition as given below:

Table 18: O&M Expenses claimed for generating unit (Rs. in Crore)

Phase – 1	Particulars	FY 2022-23
Unit I & II	O & M Expenses	296.60

118. The petitioner also filed Operation & Maintenance expenses of dedicated Transmission lines & Bay as given below:

Table 19: O&M Expenses of Transmission Line & Bay (Rs. in Crore)

Particulars	Particular	FY 2022-23
400kV Transmission Line and bay	O & M Expenses	1.52

Provision in Regulations:

119. The norms for Operation and Maintenance Expenses for thermal generating units commissioned on or after 01/04/2012 are specified under Regulation 40.2 of the Regulations, 2020 for FY 2022-23 as given below:

Table 20: Norms for O&M Expenses for FY 2022-23

Units (MW)	Rs. Lakh/MW/Year
600/660 MW Series	22.47

Commission's Analysis:

120. For Thermal Power Station, the Commission worked out annual operation and maintenance expenses as per the above Regulations. Accordingly, the operation and

maintenance expenses for generating Units for FY 2022-23 are determined as below:

Table 21: Operation & Maintenance Expenses allowed in this Order

Sr. No.	Phase – 1	Capacity	Normative O&M Expenses	Annual O&M Expenses as per norms
		MW	Rs. in Lakhs/MW	Amount in Rs. Crore
1	Unit I & II	2 X 660	22.47	296.60

121. With regard to operation & maintenance expenses on Transmission lines & Bay, vide Commission’s letter dated 19th December, 2023, the petitioner was asked to justify its claim in this regard in light of the Regulations, 2020.

122. By affidavit dated 8th January, 2024, the petitioner submitted the following: -

It is submitted that each tariff year gives rise to separate cause of action to the Petitioner and each claim is required to be determined in light of the extant regulatory and statutory framework. The issue is sub-judice before the Hon’ble Appellate Tribunal and as such has not attained finality and the Petitioner is bona-fide in claiming the O&M related to the Transmission lines.

123. Vide MYT order dated 3rd May, 2021, the Commission disallowed the aforesaid O&M expenses of dedicated transmission line. In Para 86 to 88 of Commission’s aforesaid MYT order, the following had been mentioned.

86. *On perusal of the aforesaid submission filed by the petitioner, the Commission observed that no separate norms are provided in the Regulations, 2020 for operation & maintenance expenses on dedicated transmission lines and Bay as claimed in the subject petition. Further, the cost of dedicated transmission lines have been appropriately considered in the project capital cost of the petitioner’s power plant while determining the final capital cost of the project.*

87. *Further, in all earlier tariff/true-up orders since COD of the project, the Commission had taken the consistent approach on this issue and separate O&M expenses for dedicated transmission line and bay had not been considered.*

88. *In view of the above background and facts and since this case is currently pending adjudication before the Hon’ble Appellate Tribunal for Electricity under several Appeals filed by the petitioner against the tariff/true-up orders issued by the Commission therefore, the claim of the petitioner for separate Operation and Maintenance expenses of dedicated transmission line and bay is not considered in this Order.”*

124. On the issue of disallowance of separate O&M expenses for dedicated transmission line/system, the petitioner has filed several Appeals before the Hon'ble Tribunal for Electricity in respect of its Nigrie and Bina power plants. These Appeals are pending adjudication before the Hon'ble APTEL.
125. In view of the narration of the foregoing paragraphs and following the approach of this Commission on this issue in MYT order dated 03.05.2021 and all earlier orders, the claim of petitioner seeking separate O&M expenses of dedicated transmission line over and above the norms/provisions in the Regulations, 2020 is not allowed by the Commission in this Order also.

**e. Interest on Working Capital
Petitioner Submission:**

126. The petitioner claimed the interest on working capital in the subject petition as under:

Table 22: Interest on Working Capital Claimed (Rs. Crore)

S. No.	Particulars	Basis	FY 22-23
			Unit I & II
1	Cost of Coal/Lignite	Cost of coal towards stock for 30 days for generation corresponding to the Normative Annual Plant availability factor & Advance payment for 30 days towards Cost of Coal for generation corresponding to Normative Annual Plant availability factor.	335.62
2	Cost of Main Secondary Fuel Oil	Cost of Secondary Fuel for two months	2.57
5	O & M expenses	One months' of O&M Expenses	24.72
5A	O & M expenses (Transmission Lines & Bay)	One months of O&M Expenses	0.13
6	Maintenance Spares	20% of Annual Expenses	59.32
6A	Maintenance Spares (Transmission Lines & Bay)	20% of Annual Expenses	0.30
7	Receivables	45 days' Receivable	475.68
8	Total Working Capital		898.34
9	Rate of Interest		10.50%
10	Interest on Working Capital		94.33

Provision in Regulations:

127. Regulation 38 of the Regulations, 2020 regarding working capital for coal based generating stations provides that:

38.1 "The Working Capital shall cover:

(1) Coal-based thermal generating stations

(a) Cost of coal towards stock, if applicable, for 15 days for pit-head generating stations and 30 days for non-pit-head generating stations for generation

corresponding to the normative annual plant availability factor or the maximum coal stock storage capacity whichever is lower;

- (b) Advance payment for 30 days towards cost of coal for generation corresponding to the normative annual plant availability factor;*
- (c) Cost of secondary fuel oil for two months for generation corresponding to the normative annual plant availability factor, and in case of use of more than one secondary fuel oil, cost of fuel oil stock for the main secondary fuel oil;*
- (d) Maintenance spares @ 20% of operation and maintenance expenses specified in Regulation 39 and 40 of these Regulations;*
- (e) Receivables equivalent to 45 days of capacity charges and energy charges for sale of electricity calculated on the normative annual plant availability factor;*
- (f) Operation and maintenance expenses for one month.*

38.2 The cost of fuel shall be based on the landed fuel cost incurred (taking into account normative transit and handling losses) by the generating station and gross calorific value of the fuel as per actual weightage average for the three months preceding the first month for which tariff is to be determined and no fuel price escalation shall be provided during the tariff period.”

Provided that in case of new generating station, the cost of fuel for the first financial year shall be considered based on landed fuel cost (taking into account normative transit and handling losses) and gross calorific value of the fuel as per actual weighted average for three months, as used for infirm power, preceding date of commercial operation for which tariff is to be determined

38.3 “Rate of interest on working capital shall be on normative basis and shall be considered as the bank rate as on 1.4.2019 or as on 1st April of the year during the tariff period 2019-20 to 2023-24 in which the generating station or a unit thereof, is declared under commercial operation, whichever is later:

Provided that in case of truing-up, the rate of interest on working capital shall be considered at bank rate as on 1st April of each of the financial year during the tariff period 2019-24.

38.4 Interest on working capital shall be payable on normative basis notwithstanding that the generating company has not taken loan for working capital from any outside agency.

Commission’s Analysis:

128. In the above-mentioned provision under Regulations, 2020, it is mentioned that no fuel

price escalation shall be provided during the tariff period for calculating the working capital. The Regulation further provides that the interest on working capital shall be payable on normative basis notwithstanding that the generating company has not taken loan for working capital from any outside agency. The working capital is worked out as per the provisions under the Regulations, 2020 as given below:

- (i) 60 Days Cost of coal and two month's Cost of secondary fuel of main oil equivalent to normative plant availability factor (as considered in Commission's MYT Order dated 3rd May, 2021 in petition No. 43 of 2020) are considered as follows:

Particulars	FY 2022-23 (Rs. in Crore)
Cost of Coal for 60 Days	71.74
Cost of Secondary Fuel Oil for two Months	2.57

- (ii) Maintenance spares as considered in Commission's MYT Order dated 3rd May, 2021 in petition No. 43 of 2020 as stated below is considered:

Particulars	FY 2022-23 (Rs. in Crore)
Maintenance Spares (20% of O&M Expenses)	59.32

- (iii) Receivables have been worked out on the basis of 45 Days of fixed and energy charges as given below:

Particulars	FY 2022-23 (Rs. in Crore)
Variable Charges- 45 Days (As considered in Order dated 3 rd May, 2021)	56.75
Annual Fixed Charges- 45 Days (Worked out in this Order)	203.27
Total	260.02

- (iv) O&M expenses for one month for the purpose of working capital as considered in Commission's MYT Order dated 3rd May, 2021 in petition No. 43 of 2020 is considered:

Particulars	FY 2022-23 (Rs. in Crore)
O & M Expenses for One Month	24.72

129. Regarding the rate of interest on working capital, Regulation 38.3 of the Regulations, 2020 provides that:

“Rate of interest on working capital shall be on normative basis and shall be considered as the bank rate 1.4.2019 or as on 1st April of the year during the tariff period 2019-20 to 2023-24 in which the generating station or a unit thereof, is declared under commercial operation, whichever is later:

Provided that in case of truing-up, the rate of interest on working capital shall be considered at bank rate as on 1st April of each of the financial year during the tariff period 2019-24.

130. With regard to Bank Rate, Regulation 3.1 (7) of the Regulations, 2020 provides that Bank rate means the one-year marginal cost of lending rate (MCLR) of the State Bank of India issued from time to time plus 350 basis points. Accordingly, one-year MCLR of State Bank of India applicable as on 1.4.2022 is 7.00%, therefore, the rate of interest on working capital is considered 10.50% (7.00% + 3.50%) in this Order.
131. Considering the above, the interest on working capital worked out for FY 2022-23 in this true-up Order is as given below:

Table 23: Interest on Working Capital allowed in this Order

Sr. No.	Particulars	Unit	FY 2022-23
1	Cost of coal for 60 Days considering Non-pit head power station	Rs. Crore	71.74
2	Cost of main secondary fuel oil for two months	Rs. Crore	2.57
3	O&M Charges for one month	Rs. Crore	24.72
4	Maintenance Spares 20% of the O&M charges	Rs. Crore	59.32
5	Receivables for 45 Days	Rs. Crore	260.02
6	Total Working Capital	Rs. Crore	418.37
7	Rate of Interest (SBI 1-Year MCLR+350 Basis Points)	%	10.50%
8	Interest on Working Capital	Rs. Crore	43.93

f. Lease Rent: -

132. The petitioner has claimed Rs. 0.41 Crore against lease rent payable for land during the FY 2022-23. Vide Commission’s letter dated 19th December, 2023, the petitioner was asked to reconcile the amount towards lease rent with Annual Audited Accounts for FY 2022-23 and explain the basis of its claim in light of the provisions under the tariff Regulations, 2020.
133. By affidavit dated 8th January, 2024, the petitioner submitted that it is paying lease rent on account of Land Lease and Railway Lease to the Statutory Body/Govt. Body, which is a part of the Project. The petitioner has filed a statement of lease rent payment along

with supporting documents. The petitioner has also filed reconciliation between claim of lease rent filed in the petition and amount recorded in Annual Audited Accounts.

134. The petitioner further submitted that the expenditure on lease rent is a revenue expenditure which is required to be incurred for maintaining the operation of the generating station and Commission has been vested with the regulatory powers by the Electricity Act to allow such expenditures even if there is no corresponding provision under the Tariff Regulations, 2020. The petitioner requested that the Commission may exercise its regulatory power and allow the expenditure on account of lease rent.
135. On perusal of the aforesaid submission filed by the petitioner, it is observed that there is no provision in the Regulations, 2020 for recovery of lease rent and the petitioner has also failed to justify its claim towards lease rent payable during the year in accordance with the Regulations, 2020.
136. On this issue, the Petitioner has filed Appeals before the Hon'ble Tribunal, which are pending adjudication, hence, the Commission has not allowed claim of lease rent in this Order.

g. Non-Tariff Income:

137. In the subject true-up petitioner, the petitioner filed Rs. 1.36 Crore (50% of total non-tariff income) as non-tariff income during the year.

Provision in Regulations:

138. Regulation 58 of the Regulations, 2020 provides as under:

58.1 "The non-tariff net income in case of generating station on account of following shall be shared in the ratio of 50:50 with the beneficiaries and the generating company on annual basis:

- a) Income from rent of land or buildings;*
- b) Income from sale of scrap;*
- c) Income from sale of fly ash;*
- d) Interest on advances to suppliers or contractors;*
- e) Rental from staff quarters;*
- f) Rental from contractors;*
- g) Income from advertisements; and*
- h) Interest on investments and bank balances:*

Provided that the interest or dividend earned from investments made out of Return on Equity corresponding to the regulated business of the Generating Company

shall not be included in Non-Tariff Income:

Provided further that the Generation Company shall submit full details of its forecast of Non-Tariff Income to the Commission. Non-tariff income shall also be trued-up based on audited accounts.

Commission's Analysis:

139. On perusal of the details related to non-tariff income, it was observed by the Commission that the petitioner has filed non-tariff income of Rs. 2.65 Crore during FY 2022-23, whereas, in Note 25 of Annual Audited Accounts "other income" is shown as Rs. 117.61 Crore. Vide letter dated 19th December, 2023, the petitioner was asked to explain the reasons for aforesaid discrepancy in non-tariff income recorded in Annual Audited Accounts vis-a-vis filed in the subject petition. The petitioner was also asked to file detailed break-up of non-tariff income in accordance with the Regulation 58.1 of the Tariff Regulations, 2020 duly reconciled with the Annual Audited Accounts.
140. By affidavit dated 8th January, 2024, the petitioner filed its reply along with the reconciliation of non-tariff income with Annual Audited Accounts of FY 2022-23 as given below:

Before replying to the above, the petitioner seeks to draw attention towards typographical error. It is submitted that in Note 25 of the Annual Audited Accounts "other income" is recorded as Rs. 117.61 Crore.

Further, the petitioner has submitted the details of Non-Tariff income of Rs. 2.71 Crore in accordance with the Regulation 58.1 in Form TPS-17. In Form TPS-1, the Petitioner has reduced 50% of Rs. 2.71 Crore i.e. Rs. 1.36 Crore from Total Capacity Charges. However, the detailed breakup of Non-Tariff Income as submitted in Form TPS-17 is submitted as under:-

Statement of Non-Tariff Income during FY 2022-23 as per Regulation 58.1 (In Rs.)

Sl. No.	Particulars	Amount
1	Sale of Fly Ash	2,50,974
2	Sale- Scrap	73,69,905
3	Rent Received	13,79,733
4	Profit/(Loss) on Sale/ Discard of Fixed Asset	2,46,336
5	Room Rent	30,56,213
6	Income From Restaurant	21,48,564
7	Miscellaneous Receipts	1,26,73,639
A	Total Non-tariff Income during FY 2022-23	2,71,25,364

Reconciliation between Non-Tariff Income and figures recorded in Annual Audited Accounts is as under:-

(Amount in Rs.)

A	Total Non tariff Income during FY 2022-23 as per Table above	2,71,25,364
8	Add:- Remittance of salvage disposal paid by Insurance Company against settled claim of UNIT-1 GENERATOR TRANSFORMER	1,23,91,763
9	Add:- Surcharge Bills raised on Sale of Energy	42,85,676
10	Add:- Sundry Credit Balances written off	1,07,23,89,002
11	Add:- Interest accrued/received from FDR from FY 2017-18 to FY 2022-23	6,02,04,872
B	Total (8+9+10+11) not qualified to be part of Non-Tariff Income	1,14,92,71,313
	Grand Total (A+B)	1,17,63,96,677

(in Rs.)

Sl. No.	Particulars	Amount	Remarks
1	Other Income As per Annual Audited Accounts	1,17,61,45,703	Pl refer Note-25 of Audited Accounts
2	Sale of Fly Ash	2,50,974	Pl refer Note 24 of Audited Accounts
	Total (1+2)	1,17,63,96,677	

The Petitioner clarifies that in Table above; figure appearing at Sl.No.8 reflects the receipt of the salvage disposal from the Insurance Company against the damages to GENERATOR TRANSFORMER. In this regard, it is humbly submitted that against the claim raised against damages to Generator Transformer surveyor has finally settled the amount of Rs. 14.42 Crore. Part payment of Rs. 5.50 Crore was received during FY 2021-22 the disclosure of which was submitted in Form TPS-17 of True Up (FY 2021-22) Petition No. 76 of 2022. The receipt of balance Rs. 8.90 Crore shall appear in Form TPS-17 of FY 2023-24.

In this regard, it is submitted that since Insurance Premium is always treated as Expense in books of account therefore, the proceeds on account of surrender, maturity or claim also are treated as Income as a matter of Accounting Principles. It is further submitted that Insurance is a means of protection from financial loss. It is a form of risk management, primarily used to hedge against the risk of a contingent or uncertain loss. Insurance Premium is never paid in anticipation of a return, but it is merely an expense made out to create a cushion against a predetermined set of unwarranted events. Therefore, insurance cannot be called as "Investments"; hence, it does not fall under the ambit of Regulation 58.1(h) i.e. "Interest on investments and bank balances". In view of the above, the petitioner very requests the Commission not to consider it as Non-Tariff Income for the purpose of Regulation 58.1.

Figure appearing at Sl.No.9 pertains to the billed amount of Surcharge raised in respect of sale of energy; hence it is part of the Tariff Income.

Similarly, figure appearing at Sl.No.10 is the writing off of certain credit balances; therefore, this also does not qualify to be included in Non-Tariff Income as per Regulation 58.1.

Figures appearing at Sl. No.11 are the interest received or accrued from the FDR made out of the Return on Equity that is why; the petitioner has excluded them from Non-Tariff Income as per Proviso to Regulation 58.1.

141. In view of the above, the petitioner's claim of non-tariff income of Rs. 2.71 Crore for FY 2022-23 after deducting some adjustment such as Excess surcharge bills raised on Sale of Energy, Sundry Credit Balances written off, Interest accrued/ received from FDR from FY 2017-18 to FY 2022-23 is found to be in Order. Therefore, total non-tariff income of Rs. 1.36 Crore which is 50% of the non-tariff income as claimed by the petitioner is allowed by the Commission in this Order. The break-up of non-tariff income considered is as given below:

Table 24: Non-tariff Income during FY 2022-23: (Amount in Rs. Crore)

Sl. No.	Particulars	Amount
1	Sale of Fly Ash	0.02
2	Sale- Scrap	0.74
3	Rent Received	0.14
4	Profit/(Loss) on Sale/ Discard of Fixed Asset	0.02
5	Room Rent	0.31
6	Income From Restaurant	0.21
7	Miscellaneous Receipts	1.27
A	Total Non- tariff Income during FY 2022-23	2.71
	50% of non -tariff income allowed in this Order	1.36

Other Charges:

142. In the subject true-up petition, the petitioner claimed following other charges:

- (i) Recovery of the filing fees paid to the Commission and also the publication expenses from the beneficiaries;
- (ii) Recovery of Electricity Duty and Energy Development Cess on power being scheduled by the MPPMCL and Plant Auxiliary Consumption
- (iii) Recovery of water charges paid to Water Resources Department, Government of Madhya Pradesh.

143. Regarding the other charges, In Para 162 to 164 of the MYT order dated 3rd May, 2021, the following was mentioned:

- *In view of the above, the petitioner is allowed to recover the fee paid to MPERC and publication expenses as per Regulation 65.1 (i) of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 on submission of documentary evidence.*
- *The petitioner is allowed to recover the electricity duty on plant auxiliary consumption, Energy Development Cess on energy supplied to MPPMCL and water charges paid to Water Resources Department, Government of MP as per Regulation 65.2 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 on submission of documentary evidence.*

144. With regard to Application fee, publication expenses and other statutory charges, Regulation 65 of the Regulations, 2020 provides as under:

65.1 "The following fees, charges and expenses shall be reimbursed directly by the beneficiary in the manner specified herein:

- 1. The application filing fee and the expenses incurred on publication of notices in the application for approval of tariff, may in the discretion of the Commission, be allowed to be recovered by the generating company directly from the beneficiaries.*
- 2. The Commission may, for the reasons to be recorded in writing and after hearing the affected parties, allow reimbursement of any fee or expenses, as may be considered necessary.*
- 3. SLDC Charges and Transmission Charges as determined by the Commission shall be considered as expenses, if payable by the generating stations. RLDC/NLDC charges as determined by the Central Commission shall also be considered as expenses, if payable by the generating station.*

65.2 Electricity duty, cess and water charges if payable by the Generating Company for generation of electricity from the power stations to the State Government, shall be considered and allowed by the Commission separately by considering normative parameters specified in these Regulations and shall be trued-up on actuals:

Provided that in case of the Electricity duty is applied in the auxiliary consumption, such amount of electricity duty shall apply on normative auxiliary consumption of the generating station (excluding colony consumption) and apportioned to each beneficiaries in proportion to their schedule dispatch during the month.

145. In view of the above, the petitioner is allowed to recover the fee paid to MPERC and publication expenses as per Regulation 65.1 (i) of the Regulations, 2020 on submission of documentary evidence to the procurer.
146. The petitioner is also allowed to recover the electricity duty on plant auxiliary consumption, Energy Development Cess on energy supplied to MPPMCL and water charges paid to Water Resources Department, Government of MP as per provisions of the Regulations, 2020 on submission of documentary evidence to the procurer MPPMCL.

Summary of Annual Capacity (fixed) Charges:

147. The details of Annual Capacity (fixed) Charges for FY 2022-23 allowed in this true-up order vis-a-vis those determined in the MYT order dated 3rd May, 2021 at normative Plant Availability Factor are summarized in the following table:

Table 25: Head wise Annual Capacity Charges at normative availability allowed in this Order: - (Rs. in Crore)

S. No.	Particulars	AFC as per MYT Order dated 3 rd May, 2021 for FY 2022-23	AFC Determined in this Order for FY 2021-22	True Up Amount
	A	B	C	D=C-B
1	Return on Equity	373.00	372.72	-0.28
2	Depreciation	546.69	546.17	-0.52
3	Interest and Finance Charges	390.79	390.71	-0.08
4	Operation & Maintenance Expenses	296.60	296.60	0.00
5	Interest on Working Capital	46.94	43.93	-3.01
6	Total Annual Capacity (fixed) Charges	1654.02	1650.14	-3.88
7	Less:- Non Tariff Income	7.36	1.36	-6.00
8	Net Annual Capacity (Fixed) Charges	1646.66	1648.78	2.12
9	Annual Capacity Charges for contracted Capacity i.e. (30%) of installed Capacity	494.00	494.64	0.64

148. The Annual Capacity (Fixed) Charges as determined above for FY 2022-23 are at Normative Availability and these charges are based on Annual Audited Accounts of Japye Nigrie Super Thermal Power Plant for FY 2022-23.
149. The above Annual Capacity (Fixed) Charges are determined corresponding to the contracted capacity under long term PPA. The recovery of Annual Capacity (Fixed) Charges shall be made by the petitioner in accordance with Clause 42.2 of the Tariff Regulations, 2020 on pro rata basis with respect to actual Annual Plant Availability Factor.
150. Regarding the performance-based truing-up of energy charges on account of controllable parameters, Regulation 56.1 of the Regulations 2020 provides that the generating company shall work out gains based on the actual performance of applicable controllable parameters as under:
- Station Heat rate
 - Secondary Fuel Oil Consumption
 - Auxiliary Energy Consumption
151. In view of the above provision under Regulations, it was observed by the Commission that the generating company shall carry out the truing-up of tariff of generating station based on the controllable performance parameters like Station Heat Rate, Secondary fuel oil consumption and Auxiliary Energy consumption. Vide letter dated 19th December, 2023, the petitioner was asked to file the annual details of aforesaid performance parameters actually achieved vis-à-vis normative parameters under the Tariff Regulations, 2020. The petitioner was also asked to file the details of financial gain if any, on account of controllable parameters and shared with the beneficiaries in light of the Regulations 56.2 of the Regulations, 2020.
152. In response to above, by affidavit dated 8th January, 2024, the petitioner submitted the month wise details of the all the Controllable Parameters in line with the Regulation 56.1 of the Regulations, 2020, along with the details of financial gain on account of Controllable Parameters for FY 2022-23.
153. On perusal of the aforesaid details filed by the petitioner, it is observed that the petitioner has achieved financial gain of Rs. 4.91 Crore on account of the controllable parameters for FY 2022-23.
154. Regulation 56.2 of the Tariff Regulations, 2020 provides that the financial gains by a generating company on account of controllable parameters shall be shared between

generating company and the beneficiaries in the ratio of 50:50. It is, therefore directed that gains achieved in generating station shall be shared with the beneficiaries of the Generating Station in accordance to aforesaid Regulations.

Implementation of the Order

155. The petitioner must take steps to implement the order after giving seven days public notice in accordance with clause 1.30 of MPERC (Details to be furnished and fee payable by licensee or generating company for determination of tariff and manner of making application) Regulations, 2004 and its amendments and recalculate its bills for the energy supplied to Distribution Companies of the State/ M.P. Power Management Company Ltd. since 1st April, 2022 to 31st March, 2023.
156. The petitioner is also directed to provide information to the Commission in support of having complied with this Order. The deficit amount as a result of this Order shall be recovered from MP Power Management Company Ltd. / three Distribution Companies of the state in terms of Regulation 9.11 of the Regulation, 2020 in six equal monthly installments during FY 2024-25.
157. With the above directions, this Petition No. 62 of 2023 is disposed of.

(Prashant Chaturvedi)
Member

(Gopal Srivastava)
Member (Law)

(S.P.S Parihar)
Chairman

Date: 28th February, 2024

Place: Bhopal

Annexure-I**Response of Petitioner on the response offered by the MPPMCL and observations of the Commission:****MPPMCL Response-**

- i. The Petitioner has claimed total Additional Capital Cost of Rs. 203.90 Crore for FY 2022-23, out of which an amount of Rs. 150.44 Crore has been claimed towards Additional Capital expenditure stated to be incurred in Amelia Coal Mine and Cost of Ownership of Amelia Coal Mine (Intangible Assets) during FY 2022-23, both of which are not admissible under any provision of the Regulations, 2020. The claim of addition of assets on account of “Cost of Ownership of Mining Rights” by way of payment of Additional Premium of Rs. 612 per tonne of coal received during FY 2022-23, is not tenable as it is not in accordance with the provisions of extant Tariff Regulations and is violative of provisions of Coal Mines (Special Provisions) Rules, 2014 made under Coal Mines (Special Provisions) Act, 2014 and conditions stipulated in Tender documents issued for carrying out auction of coal blocks under which Petitioner had won Amelia (North) Coal Mine.
- ii. On this issue, the Petitioner has challenged the orders passed by this Commission in various Appeals filed before this Hon’ble Tribunal, which are pending adjudication. Details of the Appeals are given below:

Sl. No.	Petition No.	Ld. MPERC Order Dated	Appeal No. Pending Before Hon’ble APTEL
1.	SMP 49 of 2015	28.01.2016	95 of 2016
2.	72 of 2015	24.05.2017	244 of 2017
3.	41 of 2017	20.07.2018	293 of 2018
4.	07 of 2018	29.11.2018	96 of 2019
5.	05 of 2019	25.07.2019	341 of 2019
6.	07 of 2019	22.10.2019	49 of 2020
7.	44 of 2019	26.11.2020	75 of 2021
8.	43 of 2020	03.05.2021	253 of 2021
9.	40 of 2021	07.12.2021	119 of 2022
10.	60 of 2021	20.04.2022	185 of 2023
11.	76 of 2022	02.03.2023	661 of 2023

- iii. The Answering Respondents have strongly opposed the claims of the Petitioner for Capitalisation/ Additional Capitalisation on account of said “Tangible” and “Intangible” assets of Amelia Mine and “Additional Premium” said to be paid for on per tonne of coal extracted. The Answering Respondents seek liberty to adopt the submissions made in the Replies filed in above said Appeals.
- iv. It is submitted that the Amelia Coal Mine was admittedly acquired by the Petitioner after participating in the Bidding Process initiated by Government of India under Coal Mines (Special Provisions) Ordinance, 2014, Coal Mines (Special Provisions) Rules, 2014, and tender documents issued for carrying out the auction of coal blocks.
- v. It is also submitted that the Tender Document for the coal mine itself considered the Run of Mine (ROM) price as “NIL”. From the provisions of the tender documents issued by the Nominated Authority, it was amply clear that the additional premium quoted by the bidders shall not be considered for determination of tariff for electricity. The cost of bidding aggressively for any particular coal block by any bidder cannot be passed on to consumers, and if allowed to be done, will defeat the entire objective of coal auctioning process. Therefore, the same cannot be passed through to the electricity consumers in any manner. Without prejudice and in addition to above, the Capital Cost/ Additional Capital Cost said to have been incurred during FY 2022-23 towards alleged “Tangible” or “Intangible” assets of Amelia Coal Mine, is also not covered under any provision of 2020 Tariff Regulations.
- vi. In view of above submissions, it is prayed illegal claim of Petitioner towards Capitalisation/ Additional Capitalisation of assets Amelia Coal Mine and purported “Cost of Ownership” of Amelia Coal Mine on account of Additional Premium of Rs. 612 per tonne as part of Annual Capacity (Fixed) Charges of the generating station cannot be considered.

Petitioner’s Reply-

- i. *With regard to the contention of paragraphs, the contents thereof are denied and disputed. It is submitted that the additional capital expenditure of Rs. 203.90 Crore claimed by the Petitioner towards capital expenditure on Amelia coal mine is entitled to be considered as part of capital cost of the Petitioner’s project.*
- ii. *It is submitted that from the facts and records related to the development of the Petitioner’s thermal power plant, it is clear that the Amelia coal mine was an integral part of the setting up of the plant, and, therefore, the coal mine cannot be treated separately from the project, more so since the ownership and operation of the mine is*

integral to the functioning of the project and supply of electricity to the distribution companies.

- iii. It is pointed out in this regard that the Amelia coal mine was originally allocated by the Central Government to Madhya Pradesh State Mining Corporation Ltd. The Government of Madhya Pradesh had initiated a tender process for appointment of a mine developer for the said mine. One of the integral terms of such tender was that the successful bidder would be required to setup a thermal power plant to utilize the coal that is produced from the coal mine. Jaiprakash Associates Ltd., one of the group companies of the Petitioner, had participated in the bid and was selected as the successful bidder. As a consequence, apart from taking up the function of development and operation of the mine for MPSMCL, the Petitioner's thermal power plant was also setup to abide by the terms of the bidding process. To such extent, different documents in the form of IA and, also, PPA was executed as a consequence of such bidding process. Further, in view of the fact that the State Government had arranged for the coal mine, the Petitioner was required to supply 7.5% of the generation from the plant, to MPPMCL at energy charges as the nominee of the State Government.*
- iv. To such extent, the petitioner's plant stands at a different footing than other thermal power plants where the coal supply arrangement is entered by way of coal linkage or captive coal mine as a necessary requisite for supply of fuel the plant. In the present case, the plant and the coal mine are inextricably linked with the power plant being developed for the purpose of servicing the coal mine. It is also respectfully submitted that implementation agreement referred above had been placed as part of the record of Original Petition No.03/2014 as well.*
- v. It is submitted that the Amelia coal mine allocation was cancelled due to irregularity of the allocation process. The cancellation happened soon after the commissioning of the Petitioner's plant. The Petitioner was constrained to participate and pursue the bidding process carried out by the Central Government under the Coal Mines (Special Provisions) Act to secure a steady supply of coal from the Amelia coal mine, the same being the very purpose for which the power plant was setup. Moreover, there was no effective alternative to such approach as it would take years for the Petitioner to secure a coal linkage, even if the same was found to address specific requirement of coal quality required for the plant, given its boiler specifications. It is nonetheless pertinent that MPPMCL continues to draw 7.5% of the plant's generation at energy charges despite the fact that the allocation of Amelia coal mine to MPSMCL stands cancelled and it is the Petitioner which has to pay the cost of ownership of the right of mining from Amelia coal mine by way of additional premium.*

- vi. *It is denied that the recovery of the additional premium as capital cost is not allowed under the bidding documents as alleged or at all. The bidding documents, if they can be relied upon at all, deal with energy charges and not with fixed charges. The Petitioner has already addressed this issue in detail in various proceedings and seeks to rely on the same. Moreover, once the capital expenditure towards the Amelia coal mine is found to be justified as part of capital cost of the project for earlier years, the same would equally apply under the Regulations, 2020 and such capital expenditure cannot be denied for subsequent years, since the capital expenditure is in the nature of deferred payments.*

Observation-

The claim towards capital cost or additional capitalisation on account of assets of Amelia Mine and the “Additional Premium” is pending adjudication before Hon’ble APTEL. The Commission has taken consistent approach on this issue in accordance with the Regulations and has not allowed any capitalization and additional capitalization in this Order towards coal mine. The petitioner has considered cost of ownership of mining rights under additional capitalisation and same has not been admitted by the Commission.

MPPMCL Response-

Additional Capitalization of Nigrie Thermal Power Station:

- i. In Sub Para 7.1, the Petitioner has indicated ACE of Rs. 53.46 Crore claimed during FY 2022-23 towards BOP Head and Civil Head. The claimed ACE includes assets valued at Rs. 21.75 Crore pertaining to “Jaypee Nigrie Cement Grinding Unit (JNCGU) proposed to be re-apportioned to Jaypee Nigrie Super Thermal Power Station (JNSTPS). In Sub Paras 7.1(i) (a) to (f), the Petitioner has given further details of the said assets.
- ii. However, it is most submitted that above transfer of Assets from JNCGU (an unregulated sister concern) is a very unusual transaction, which is likely to have adverse financial impact on the tariff, due to substantial increase in the total Capital Cost of the Project. Also, the said assets were not included in the Original Scope of work of the Power Plant, hence not covered under Regulation 26.1 of 2020 Generation Tariff Regulations. Therefore, capitalization of the assets in as assets of JNSTPS may not be permitted.
- iii. In Sub Para 7.1 (ii), the Petitioner has claimed capitalization of Rs.14,94,47,975/- said to be incurred towards procurement of a Generator Transformer (GT-1/Y-Phase) as a replacement, which requires prudence check by this Commission.
- iv. In Sub Paras 7.1(iii), (v) to (xi), the Petitioner has given details Capital Expenditure on following items:

Sl. No.	Equipment	Amount
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		(Rs.)
1.	Air Dryer Complete Assy Make- Atlas-Copco	45,31,200
2.	24 Nos. E-Type Flats and 12 Nos F/G Type Flats	9,13,36,742
3.	Motion Weigh Bridge 140 MT	1,18,00,000
4.	Workshop Machinery	5,30,22,655
5.	P&A Vehicle	73,86,005
6.	Assets for Phased upgradation/ replacement of IT/ EDP infrastructure	40,79,872
7.	Electrical Transformer 750 KVA, 11/0.433 KV, DG Set 1010 KVA, Control Panel Electrical	27,73,195
8.	Rotary Slasher, "Bosch" Demolition Hammer 11E 11Kg, Ultrasonic Monkey Repeller 220KV AC, Almirah, Executive Revolving Chairs, File Cabinet Make Methodex Systems, "STHIL" Make Brush Cutter Model No. FS55, Air Coolers, "Phoenix" Make Weighing Machine 100 KG, Chain Saw Machine KL-5810, Aluminium Mobile Scaffolding Tower etc.	25,06,973

The items mentioned in above such as - Rotary Slasher, Demolition Hammer, Ultrasonic Monkey Repeller, Almirah, Executive Revolving Chairs, File Cabinet Brush Cutter, Air Coolers, Weighing Machine, Chain Saw Machine, Aluminium Mobile Scaffolding Tower etc. cannot be classified as Capital Assets. Also, most of other items do not appear to be part of "Original Scope of Work" and have been incurred after Cut Off Date of the Project. Therefore, above items are not allowable under either under Regulation 27 or 28 of Regulations, 2020.

- v. Regulations 27 and 28 of 2020 Tariff Regulations provide for criteria for admitting Additional Capital Expenditure in an Existing Project after Cut-off Date. Regulation 27.1 exhaustively enumerates admissible Additional Capital Expenditure for an existing Project (or a new project) within original scope of work and after the cut-off date subject to prudence check. Regulation 28.1 exhaustively enumerates admissible Additional Capital Expenditure for an existing Project (or a new project) beyond original scope of work subject to prudence check.
- vi. Also, in Sub Paras 7.1(iv), the Petitioner has given a list of assets worth Rs. 8,22,399/- said to have been procured during FY 2022-23 for the purpose of higher security management and safety of the plant and claimed under Regulation 28.1(d). It is submitted that Regulation 28.1(d) provides that the expenditure must have been incurred on account of need for higher security and safety of the plant as advised or directed by appropriate Government Agencies or statutory authorities responsible for national security/ internal security. This Commission may like to seek information from

the Petitioner as to whether the said expenditure was incurred on the basis of advice or direction from appropriate Government Agencies or statutory authorities.

Petitioner's Reply-

- i. The contention of the Respondent No.1 made in above paras that the Additional Capitalization in respect of JNCGU Assets relating to function requirement of the Ash Despatch JNSTPP as very unusual transaction is solely intended to attempt and overreach this Hon'ble Commission or to otherwise influence the administration of justice. The circumstances and background under which such transaction took place has been elaborately detailed in the Petition itself which is not repeated herein for the sake of brevity. Moreover, the Petitioner submits itself to further detailed scrutiny as and when and the in manner as desired by Hon'ble Commission. Since, such re-apportionment/ transfer has been carried out only when it came to light that these facilities essentially required for Thermal Power Plant but due to inadvertent mistake were capitalized with JNCGU and they were originally almost simultaneously capitalized with COD of JNSTPP, the claim under Regulation 26.1 is justified. The Hon'ble Commission is humbly prayed to set aside said contention of the Respondent No.1 and allow the said Additional capitalization under Regulation 26.1.*
- ii. As far as the Additional Capitalization of the Generator Transformer worth Rs. 14,94,47,975/- and the contention of the Respondent made in Para 29 is concerned it is again reiterated and prayed that since this assets was procured as a replacement of an asset decapitalized during FY 2021-22 it ought to be allowed as Additional Capitalization under Regulation 27.2 for which the Petitioner shall never shy away from submitting itself to further scrutiny and prudence check in the manner as required by Commission.*
- iii. The Respondent No.1, in above paras, apart from tabulating the details of Additional Capitalization enumerated in Para 7.1(iii), (v) to (xi) merely expresses their opinion about inadmissibility of Rotary slasher, Demolition Hammer, Ultrasonic Monkey Repeller, Almirah, Executive Revolving Chairs, Files cabinet Brush Cutter, Air Coolers, Weighing Machine, Chain Saw Machine, Aluminium Mobile Scaffolding Tower as Additional Capitalization. In this regard, it is humbly submitted that the aforesaid equipments/ machines/ assets for which additional capitalization has been sought, have been procured for the purpose of increasing the efficiency of the operation of the plant and the employees, and as such, they are entitled to be considered for the purpose of computation of capital cost and ought be allowed under Regulation 27.1.*

- iv. *In the Reply, Answering Respondent has merely reproduced Regulation 27 and Regulation 28 along with request to Commission for employing prudence check without expressing their opinion about assets mentioned from Sl. Nos. 1 to 7 of the table mentioned in Para 30. Regarding the assets mentioned from Sl. Nos. 1 to 7 of the table mentioned in Para 30, the Petitioner relies on the reasoning for their procurement made in the instant Petition to pray the Commission to take a prudent and judicious view in respect of each asset to allow them as Additional Capitalization under Regulation 27.1 for which the Petitioner shall never shy away from submitting itself to further scrutiny and prudence check in the manner as required by Commission.*
- v. *The petitioner in respect of the Reply of Respondent No.1 and the assets mentioned in Para 7.1(iv) of the instant Petition and humbly requests the Commission to allow them under Regulation 28.1(d) since these assets were procured for the purpose of higher security and safety of the plant.*

Observation-

The additional capitalization claimed by the petitioner has been examined by the Commission in accordance with the principles, methodology and the norms specified in the MPERC Regulations, 2020, Annual Audited Accounts of the petitioner for FY 2021-22, Asset-cum-Depreciation Register for FY 2021-22 and other supplementary submissions filed by the petitioner.

MPPMCL Response-

In Para 7.2 of the Petition, the Petitioner has stated that it has decapitalized assets worth Rs. 0.75 Crore and reduced the same from Asset-cum-Depreciation Register as on 31.03.2023.

Petitioner's Reply-

The Respondent, in the Reply has just reiterated the fact submitted in the Para 7.2 of the Petition and expressed no opinion about that, hence it does not merit any reply except reiteration of the fact that apart from removal of the said assets from Asset-cum-Depreciation as on 31.03.2023 the corresponding reduction in equity and loan has also been given effect in appropriate TPS Forms.

Observation-

The petitioner has filed the details regarding de-capitalisation of assets and reconciliation of de-capitalization of assets with Annual Audited Accounts of FY 2022- 23 with the claimed figure in the petition. Further, corresponding reduction in equity and loan has also been given effect in appropriate TPS Forms as submitted by the Petitioner.

MPPMCL Response-

In Sub Paras 7.3 (a) (i) & (ii) and 7.3 (b) (i) to (v), the Petitioner has given details of Additional Capital Cost (Tangible Assets and Ownership of Mining Rights) said to have been incurred during FY 2018-19 on Amelia Coal Mine. As this Commission has consistently rejected the claim of the Petitioner in respect of Amelia Coal Mine, because extant Generation Tariff Regulations including 2020 Generation Tariff Regulations do not permit such capital expenditure. Therefore, it is prayed that this Commission may graciously be pleased to the ignore/ reject the Additional Capital Cost claimed as incurred in Amelia Coal Mine. The Answering Respondents also seek to rely on the submissions made in Paragraphs 6 to 17 of this Reply.

Petitioner's Reply-

With regard to the contents of the Response, it is submitted that if the claim of additional capital cost towards Amelia coal mines is upheld for earlier years, the Petitioner would be entitled to recover the same under the 2020 Regulations since capital cost once allowed, has to be necessarily recognized for subsequent years. Without prejudice to the foregoing, it is most respectfully submitted that the cancellation of the Amelia coal block by the Hon'ble Supreme Court and its subsequent allotment through bidding process under the Coal Mines Act, would be covered under change in law and force majeure events under Clause 28.1(b) and (c), along with other provisions of the Act and the Regulations, apart from adding to the efficiency of the plant and making it operational in the absence of the supply of fuel that had been committed by the State Government under the bidding documents for the Amelia coal block.

Observation-

The claim towards additional capitalisation on account of assets of Amelia Mine and the "Additional Premium" is pending adjudication before Hon'ble APTEL hence, not allowed in line with the approach of Commission on this issue in earlier orders.

MPPMCL Response-

With respect to Return on Equity (ROE), it is observed that the Petitioner has claimed the same by grossing up of the ROE with MAT for the True-Up of FY 2022-23. However, from the financial statement of the Petitioner it is seen that though Jaypee Nigrie Super Thermal Power Plant (JNSTP) reported a profit of Rs. 182.90 Crore, it has not paid any taxes. Therefore, despite the fact that Nigrie thermal power station is earning profit, the grossing up of ROE with MAT cannot be considered in accordance with the Regulations, 2020. Accordingly, its associated impact should be disallowed.

Petitioner's Reply-

The Respondent No.1 opposes the grossing up of MAT with the base rate of RoE on the basis of misconstrued reading and understanding of the facts and law. The Petitioner herby submits

that the Jaypee Nigrie Super Thermal Power Plant (JNSTPP) is not a Corporate Legal Entity/Company but only a Generating Station of Jaiprakash Power Ventures Limited (JPVL) hence is not liable to pay MAT. In the current instance, JPVL as a Corporate entity and JNSTPP on standalone basis have earned Profit during FY 2022-23. JNSTPP being a part of JPVL is not liable to pay MAT instead the liability to pay MAT falls on JPVL for the Profit earned by JNSTPP.

However, for JPVL owing to the accumulated losses suffered during the previous years & other exemptions/deductions under Income Tax Act, current tax amount is NIL. In this regard, it is humbly submitted that Hon'ble APTEL in Appeal No. 104,105 & 106 of 2012 in TPCL v. MERC & Ors., held that each regulated business is to be treated as in a water tight compartment and hence the Petitioner is entitled to claim grossing up of RoE with Income Tax on Normative basis, even if no tax has been paid owing to the carry forward of losses from previous years by the Corporate Entity to which JNSTPP is part of. In the instant matter, JNSTPP has earned profit during the current year from the generation and sale of power and does not earn income from any other business. Hence, grossing up of the Income Tax/ MAT with ROE needs to be applied on the income related to generation and sale of power of the Generating Station (Regulated Business) for the relevant year only. Taxable income of a regulated business, as far as grossing up of MAT with ROE is concerned, should be computed on standalone basis irrespective of impact of performance of previous year on the overall tax liability.

Observation-

Return on Equity with MAT cannot be considered in accordance to the Regulations, 2020. However, no tax is paid by the petitioner's company as per Annual Audited Accounts, therefore, MAT is not considered for grossing up the base rate of return in this Order.

MPPMCL Response-

Further, the petitioner has claimed a weighted average rate of depreciation of 5.095%, which is the combined rate for both Amelia Mine and Nigrie Thermal Power Station. However, the Commission has only accepted the weighted average rate of depreciation of 5.0754%, which is calculated for Nigrie Thermal Power Station alone, based on the depreciation rates given in the Regulations, 2020. The petition hasn't shown the weighted average rate of depreciation used by the petitioner for FY 2022-23.

Petitioner's Reply-

In response to contents of Para, it is submitted that once the capital expenditure towards the Amelia coal mine is found to be justified as part of capital cost of the project for earlier years, the same would equally apply under the Regulations, 2020 as well. In view of the same the depreciation is liable to be calculated on the combined Weighted Average Rate of Depreciation for both Amelia Mine and Jaypee Nigrie Super Thermal Power Plant.

Observation-

Rate of Depreciation is considered for assets of thermal power station only at the rate of 5.074%, which is as per the provisions under the Regulations, 2020.

MPPMCL Response-

In Sub Para 8.1, in Table 6, the petitioner has indicated Total Capital Cost of Rs. 10,967.42 Crore as on 31.03.2023, after considering Additions both in Power Station and Amelia Coal Mines, during FY 2022-23. The Answering Respondents oppose the said claims as the same on the basis of submissions made in the foregoing paragraphs.

Petitioner’s Reply-

With regard to the contents of the Reply, it is submitted that if the claim of additional capital cost towards Generating Station and Amelia coal mines is upheld for this year, the Petitioner would be entitled to recover the same under the 2020 Regulations hence, the Capital cost up to 31.03.2023 has been summarized.

Observation-

Capital cost in the Order is considered for thermal power stations only as per the provisions under the Regulations, 2020.

MPPMCL Response-

In Para 9.1, in Table 5, the Petitioner has given summary of Annual Capacity Charges for FY 2022-23 based on addition of capital cost after adjustment of depaitalisation of assets, and claimed 32.43 % of Net Capacity Charges amounting to Rs. 583.67 Crore. This claim is opposed on the basis of submissions made in the present Reply and it is prayed that Annual Capacity Charges may be allowed only as per the Additional Capital Cost allowed in accordance with 2020 Generation Tariff Regulations and only in proportion to the capacity allocated to the Answering Respondents.

Petitioner’s Reply-

With regard to the contents of the Reply, it is respectfully submitted that our claim of 32.43% of Annual Capacity Charges rests on following logic:-

(i) Tied up Capacity under two parts tariff to MPPMCL	30.00%
(ii) To GoMP on variable charge/concessional only	7.50%
(iii) Balance for Merchant	67.50%
Total	<u>100%</u>

On perusal of the above it may be noted that 100% of the annual capacity charge is recoverable from 92.50% of power sold from JNSTPP. In other words, Annual Capacity Charges corresponding to “Tied up Capacity” to GoMP on variable/concessional of 7.5% remains unrealized. That is why, when such unrealized Capacity Charges is loaded on tied up Capacity of 30%, it becomes 32.43% (30/92.5%). Hence, our claim is justified.

Observation-

This issue of recovery of Annual Capacity Charges had been decided by Hon’ble APTEL in one of the appeal filed by the same petitioner for its another thermal power station, i.e., for Bina thermal power station. Annual Capacity Charges is allowed in accordance with the Regulations, 2020 and only in proportion to the extent of contracted capacity allocated to the MPPMCL on long term basis.

MPPMCL Response-

At Sl. No. 5A of Table 5, an amount of Rs. 1.52 Crore has also been claimed by the Petitioner in respect of O&M Expenses (400 KV Transmission Line and Bay). This claim is strongly opposed by the Answering Respondents as there is no provision in 2020 Tariff Regulations for making such a claim.

The separate claim of O & M Expenses for 400 KV Dedicated Transmission Line and Bay and its inclusion in calculation of Interest on Working Capital (Form TPS-5N) is strongly opposed as it is completely erroneous, misconceived and contrary to the provisions of 2020 Generation Tariff Regulation. The said separate claim of O & M Expenses impermissible because –

- (i.) The said 400 KV Transmission Line is a Dedicated Transmission Line in terms of Section 10 (1) of the Electricity Act 2003. It is the duty of the Generating Company to establish, operate and maintain the same. Section 10 (1) of the Electricity Act 2003 is extracted below for ready reference:

“10(1). Subject to the provisions of this Act, the duties of a generating company shall be to establish, operate and maintain generating stations, tie-lines, sub-stations and dedicated transmission lines connected therewith in accordance with the provisions of this Act or the rules or regulations made thereunder.”

[“Emphasis Added”]

- (ii.) In terms of Regulation 3.1(44) of 2020 Generation Tariff Regulations, “**Thermal Generating Station**” includes “**Dedicated Transmission Line/System**” as may be required. The relevant part of the Regulations is extracted below for ready reference

“3. Definitions:

3.1 In these Regulations, unless the context otherwise requires-

(1)

.....

(44) **'Project' means** :

- (i) **In case of thermal generating station**, all components of the thermal generating station and includes pollution control system, effluent treatment plant, **dedicated transmission line/system**, as may be required, and
- (ii) In case of a hydro generating station, all components of hydro generating station and includes dam, intake water conductor system, power generating station and generating units of the scheme, as apportioned to power generation;"
- (iii.) Capital Cost of the 400 KV Dedicated Transmission Line and Bay has already been allowed along with total Capital Cost of the Generating Station.
- (iv.) Dedicated Transmission Line is an integral part of the Generating Station along with other Electrical Systems viz. Switchyard, Transformers, Bus Bars, Feeder Bays etc., whose O & M Expenses are already covered under Normative O & M Expenses provided in the 2020 Generation Tariff Regulations on per MW basis.
- (v.) 2020 Generation Tariff Regulations do not provide for separate O & M Expenses for Dedicated Transmission Line. 2020 Generation Tariff Regulations have not been challenged by the Petitioner, thus are binding.
- (vi.) There is no evidence inadequacy of normative O & M Expenses allowed with respect to actual O & M Expenses incurred for the Project including Dedicated Transmission Line and Bay.
- (vii.) If the claim of the Petitioner for separate O & M Expenses is allowed then it would amount to over-compensation and unjust enrichment of the Petitioner at the expense of common consumers of electricity.

The separate claim of Dedicated Transmission Line has been consistently rejected by this Hon'ble Commission in all previous Tariff and True-up Petitions. The decision of this Hon'ble Commission on this issue has been challenged by the Petitioner in a number of Appeals filed before Hon'ble Appellate Tribunal of Electricity (APTEL), New Delhi, which are pending adjudication.

On the issue of O & M Expenses for 400 kV Transmission Line and Bay, several Appeals filed by the Petitioner are pending before the Hon'ble APTEL for adjudication. However, no interim

or other relief has been granted by the Hon'ble Tribunal. It is therefore most humbly prayed that this Hon'ble Commission may graciously be pleased to reject the claim of O & M Expenses in respect of 400 kV Transmission Line and Bay..

Petitioner's Reply-

With regard to the contents of above paras of the Response, the same are denied and disputed, being incorrect. It is most respectfully submitted that the 400 KV transmission line was setup by the Petitioner since the Procurer/ MPPMCL/ Respondent No. 1 defaulted on its obligation under the PPA for setting up the evacuation facility from the plant. It is further pointed out that while the definition of 'Project' under the 2020 Regulations includes dedicated transmission lines/ system and the definition of 'Operation and Maintenance Expenses' includes expenditure incurred towards dedicated transmission line. Regulation 40.2 provides for the normative operation and maintenance for the thermal generating stations and not for the dedicated transmission lines. Having regard to a wholesome and harmonious interpretation of the various clauses of the regulations along with various provisions of the Act, it is most respectfully submitted that the operation and maintenance cost incurred by the Petitioner for maintaining the 400 KV transmission line has to be allowed separately in addition to the O&M expenses for the generating station. For this purpose, the principles and procedure for determination of O&M expenses for transmission lines, as specified by the Hon'ble Commission has to be necessarily referred to.

Observation-

This issue of O&M expenses of dedicated transmission lines and bay is subjudice before Hon'ble Appellate Tribunals for Electricity in various Appeals filed by the petitioner. The Commission has taken consistent view on this issue and not considered separate O&M expenses for dedicated line and bays in this Order.

MPPMCL Response-

Contents of Paras 10.1 and 10.2 are matters of record. However, it is submitted that **Annexure-5.1** (Standalone Balance Sheet of JNSTPP) and **Annexure-5.2** (Standalone Balance Sheet of Amelia Mine) cannot be relied upon to claim Capital and other costs which are not permissible under 2020 Generation Tariff Regulations.

Petitioner's Reply

With regard to the contents of above para, it is submitted that even to suggest that Standalone Balance Sheets are not to be relied upon is outrageous since Balance Sheets are prepared in adherence to the provisions of the Companies Act, 2013.

Observation-

The subject petition has been examined by the Commission in accordance with the principles, methodology and the norms specified in the MPERC Regulations, 2020.

MPPMCL Response-

In Paras 11 and 12 of the Petition, the Petitioner has claimed Electricity Duty, Energy Development Cess and Water Charges. These may be allowed only in accordance with the provisions of 2020 Generation Tariff Regulations. Details of claim of Electricity Duty, Development Cess and Water charges have not been given in the Petition. It is humbly prayed that the Commission may kindly direct the Petitioner to give the said details for scrutiny. It is also to submit that as per Ministry of Environment, Forest and Climate Change (MoEFCC) Notification dated 07.12.2015, Thermal power plants have to meet specific water consumption up to Maximum of 3.5 m³/MWh. Accordingly, the water requirement as per actual generation of power and as per the norms prescribed by MoEFCC may only be allowed.

Petitioner's Reply

It is submitted that regarding the contents of para of the Reply that all reimbursement bills on account of Electricity Duty, Energy Development Cess and Water Charges are paid by the Respondents on production of documentary evidence only and the Petition has never shied away from submitting itself to the scrutiny before MPERC in the manner and methodology adopted by Commission.

Observation-

The statutory charges such as Electricity Duty, Energy Development Cess and Water Charges have been considered in accordance with the Regulations, 2020.

MPPMCL Response-

It is also submitted that Regulation 56 of the Regulations, 2020 provides for sharing of any gains due to variation in norms on the basis of Controllable Parameters.

It is therefore most prayed that this Commission may graciously be pleased to direct the Petitioner to provide necessary month-wise details of actual parameters to arrive at any gain/loss on account of controllable parameters and share the gains due to variation in normative parameters with the Answering Respondents.

Petitioner's Reply-

With regard to the contents of the Reply, it is submitted that monthly details of all the operational parameter are the part of the Petition No.62 of 2023 and the details of the gain/loss on account of the Controllable Parameters have already been shared with the Commission.

Observation-

Petitioner has provided necessary month-wise details of actual parameters to arrive at any gain/ loss on account of controllable parameters in its additional submission dated 8th

January, 2024. On perusal of the details filed by the petitioner, it is observed that the petitioner has achieved financial gain of Rs. 4.91 Crore on account of the controllable parameters for FY 2022-23 which shall be shared with the beneficiaries in accordance with the Regulations, 2020.