

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION

5th Floor, "Metro Plaza", Bittan Market, Bhopal - 462016



Petition No. 64 of 2023

PRESENT:

S.P.S Parihar, Chairman

Gopal Srivastava, Member (Law)

Prashant Chaturvedi, Member

IN THE MATTER OF:

True- up of Generation Tariff for 1x300 MW (Unit No.1) Lanco Amarkantak Coal Based Thermal Power Plant at Pathadi Village, Korba district, Chhattisgarh for FY 2022-23 determined by the Commission vide Multi-Year Tariff Order dated 13th May, 2022.

M/s. Lanco Amarkantak Power Limited

Petitioner

Vs.

1. M.P. Power Management Company Ltd. ('MPPMCL')

Respondent No 1

2. PTC India Ltd. ('PTC')

Respondent No 2

ORDER

(Passed on this day of 2nd February, 2024)

1. M/s. Lanco Amarkantak Power Limited (hereinafter called “the petitioner or LAPL”) filed the subject petition for True-up of Generation Tariff for FY 2022-23 in respect of its 1 X 300 MW (Unit No 1) Coal based Thermal Power Plant at Pathadi, Korba, Chattisgarh, determined by the Madhya Pradesh Electricity Regulatory Commission (hereinafter called “the Commission or MPERC”) vide Multi Year Tariff (MYT) Order dated 13th May, 2022. MP Power Management Co. Ltd. (MPPMCL) and M/s PTC India Limited are the Respondents (hereinafter referred as Respondent No 1 & 2 respectively).
2. The subject true-up petition has been filed under Section 64(5) read with Sections 62 and 86(1)(a)(b) of the Electricity Act, 2003 and based on the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 (herein after referred to as “Regulations, 2020”) for the control period FY 2019-20 to FY 2023-24 notified on 28th February, 2020.
3. Date of Commercial Operation (CoD) of the Lanco Amarkantak Thermal Power Plant Unit No. 1 (300 MW) under the subject petition is as given below:

Table 1: CoD of Unit No.1

S. No	Unit	Installed Capacity (MW)	Date of Commercial Operation (COD)
1.	Unit No. 1	300 MW	09 th April, 2010

4. Vide order dated 13th May, 2022 in Petition No 64 of 2021, the Commission determined the Multi-Year tariff for Lanco Amarkantak Thermal Power Plant Unit No. 1 for the period FY 2019-20 to FY 2023-24 based on the norms specified in the Regulations, 2020. In the aforesaid MYT Order, the Commission considered following Annual Capacity (Fixed) Charges for FY 2022-23:

Table 2: Annual Capacity (Fixed) Charges considered in MYT Order for FY 2022-23 (Rs. in Crore)

Sr. No.	Particulars	FY 2022-23
1	Return on Equity	46.80
2	Depreciation	62.19
3	Interest on Loan Capital	21.13
4	Operation & Maintenance Expenses	94.17

5	Interest on Working Capital	20.59
6	Annual Capacity (fixed) Charges	244.88
7	Less:-Non Tariff Income	0.10
8	Net Annual Capacity Charges	244.78

5. In the subject petition, petitioner has sought true-up of Annual Capacity (fixed) Charges for FY 2022-23 in respect of the 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.”

6. In the subject petition, the petitioner has broadly submitted the following:
- i. The petitioner has established and is operating a coal based thermal power station having capacity of 300 MW i.e. Unit-I situated at Pathadi Village, Korba District, Chhattisgarh ('Power Station').*
 - ii. That the petitioner & Respondent No. 2 entered into a Power Purchase Agreement dated 11.05.2005 (as amended on 02.08.2005) for sale of power of gross capacity of 300 MW (273 MW Net) from the Power Station for a term of 25 years ('PPA').*
 - iii. Respondent No. 2 entered into a Power Sale Agreement dated 30.05.2005 ('PSA') with Madhya Pradesh State Electricity Board for further sale of the aforesaid 300 MW power purchased from Petitioner and the said PSA is now vested with MPPMCL i.e. Respondent No. 1.*
 - iv. Certain disputes arose in relation to the PPA and the Petitioner terminated the PPA with Respondent No. 2 and thereafter, Respondent No. 2 terminated the PSA with Respondent No. 1.*

- v. *Subsequently, the Petitioner, Respondent No. 1 and Respondent No. 2 amicably resolved their above said disputes of termination and accordingly signed a Tripartite Settlement Agreement dated 16.10.2012.*
- vi. *In terms of the Settlement Agreement dated 16.10.2012, the Petitioner and Respondent No. 2 entered into an Implementation Mechanism for PPA dated 24.12.2012 containing modified terms and conditions of the PPA dated 11.05.2005, which are necessary for implementing the sale of 300 MW power from the Power Station to Respondent No. 1 (Beneficiary) through Respondent No. 2.*
- vii. *Similarly, Respondent Nos. 1 & 2 entered into an Implementation Mechanism for PSA dated 26.11.2012 containing modified terms and conditions of the PSA, which are necessary for implementing the sale of 300 MW power from the Power Station to Respondent No. 1 (Beneficiary). The PPA and PSA are to be read with subsequently executed Implementation Mechanism for PPA dated 24.11.2012 and Implementation Mechanism for PSA dated 26.11.2012.*
- viii. *This Commission vide its order dated 01.12.2012 accorded its approval to the process of power procurement from the Power Station along with approval of power purchase price under the Tripartite Settlement Agreement dated 16.10.2012, the Implementation Mechanism for PPA dated 24.11.2012 and Implementation Mechanism for PSA dated 26.11.2012 as per the prevailing CERC Tariff Regulations, 2009-14.*
- ix. *Pursuant to the aforesaid Order by this Commission, the Petitioner has been consistently supplying power since 03.12.2012 from its aforesaid Power Station to Respondent No. 1 through Respondent No. 2, on a long term basis.*
- x. *Thereafter, this Commission has passed orders dated 13.05.2022 and 03.03.2023 for determination of tariff for the tariff period FY 2019-24 and true up tariff for FY 2019-20 to FY 2021-22 respectively as per applicable MPERC Generation Tariff Regulations. The Petitioner, by way of the present Petition, is seeking determination of true up of tariff for FY 2022-23 as per directions of the Commission Order dated 13.05.2022 in accordance with the Regulations, 2020.*

7. With the above submission, details of the Annual Capacity (fixed) Charges and Energy (Variable) Charges claimed for Unit No. 1 (300 MW) in the subject petition for FY 2022-23 are as given below:

Table 3: Annual Capacity (Fixed) Charges claimed in the Petition (Rs in Crore)

S.No	Particulars	FY 2022-23
1	Return on Equity	47.87
2	Depreciation	63.35
3	Interest on Loan Capital	22.93
4	O & M Expenses	94.17
5	Interest on Working Capital	23.22
	Annual Capacity (Fixed) Charges	251.55

8. With the above submission, the petitioner prayed the following:
- Determine the true up of tariff earlier determined by the Commission vide Order dated 13.05.2022 based on the Regulations, 2020, for the long term power supply from 300 MW Unit 1 of Petitioner to Respondent No. 2/3;*
 - Allow recovery of the filing fees and also the publication expenses from the beneficiary (as and when incurred) on pass through basis;*
 - Allow recovery of carrying cost in case of any shortfall of revenue on account of the difference between the provisional tariff paid by the Respondent No. 1 through Respondent No. 2 and the true up of tariff determined as per applicable provisions of the MPERC Tariff Regulations;*
 - Allow recovery of the Statutory Charges;*

Procedural History

9. Subject true-up petition was admitted in motion hearing held on 13th December, 2023. Vide daily Order dated 13th December, 2023, the petitioner was directed to serve copies of petition to respondents in the matter. The Respondents were also asked to file their comments/ responses on the petition within 15 days. The petitioner was asked to file rejoinder within a week, thereafter.
10. Vide Commission's letter dated 19th December, 2023, the information gaps and

requirement of additional details/ documents were communicated to the petitioner seeking its comprehensive reply with all supporting documents by 5th January, 2024.

11. The public notice inviting comments/suggestions from the stakeholders was published on 24th December, 2023 in the following newspapers:
 1. Hitavada (English), Bhopal
 2. Hitavada (English), Jabalpur
 3. Raj Express (Hindi), Bhopal
 4. Raj Express (Hindi), Jabalpur
 5. Raj Express (Hindi), Indore
 6. Raj Express (Hindi), GwaliorLast date for offering comments/suggestions was 14th January, 2024. No comments from any stakeholder was received in the office of the Commission in this matter.
12. By affidavit dated 5th January, 2024, petitioner filed reply to the issues communicated to it by the Commission.
13. By affidavit dated 11th January, 2024, Respondent No. 1 (M.P. Power Management Co. Ltd.) filed its response/comments on the subject petition.
14. By affidavit dated 17th January, 2024, petitioner filed its rejoinder to the response/ comments filed by Respondent No 1. The petitioner responses on each comment offered by the Respondent No 1 along with observations of the Commission are mentioned in Annexure-I of this Order.
15. The public hearing in the subject petition was held on 23rd January, 2024 through video conferencing, wherein the representatives of petitioner and the Respondents appeared.
16. The subject true up petition has been examined by the Commission in accordance with the principles, methodology and the norms specified in the Regulations, 2020 as well as other additional submissions filed by the petitioner in response to the additional information / details sought by the Commission alongwith all other documents placed on record by the petitioner. The Commission has also examined the subject petition in light of the comments filed by MPPMCL and the response filed by the petitioner on aforesaid comments.

17. In this Order, the Commission has considered the same opening figures of Capital Cost, funding and cumulative depreciation for the Unit No. 1 (as on 01.04.2022), which were admitted by the Commission as on 31.03.2022 in its last true-up order issued on 3rd March, 2023 in Petition No. 74/2022 based on Annual Audited Accounts.

Disclaimer for Rounding

18. 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

Petitioner's Submission

19. Regarding the capital cost of Unit No. 1 claimed in the subject petition, the petitioner submitted that the Commission in its last true-up Order dated 3th March, 2023 passed in Petition No 74 of 2022 had considered capital cost of Rs. 1259.50 Crore as closing capital cost as on 31st March, 2022 for Unit No 1. The same capital cost has been considered by the petitioner as Opening capital cost as on 01st April, 2022 in the subject true-up petition.
20. Details of the capital cost and additional capitalization filed by the petitioner are as follows:

Table 4: Capital Cost claimed during FY 2022-23:

(Rs. in Crore)

Particular	FY 2022-23
Opening Capital Cost	1259.50
Asset Addition during the year	0.07
Closing Capital Cost	1259.57

Provisions Under Regulations

21. With regard to capital cost of the existing project , Regulation 21.3 of the Regulations, 2020 provides that:

“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 tried 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

22. The petitioner has filed the opening capital cost of Rs. 1259.50 Crore as on 1st April, 2022 for Unit No. 1, which was considered by the Commission as closing capital cost as on 31st March, 2022 in its Order dated 3rd March, 2023 in Petition No. 74 of 2022 for FY 2021-22. Same opening capital cost of Rs 1259.50 Crore as filed by petitioner based on true-up order dated 3rd March, 2023 is considered by the Commission in this Order.

Additional Capitalization

Petitioner’s submission:

23. In subject true-up petition, the petitioner has filed additional capitalization of Rs. 0.07 Crore during FY 2022-23 for Unit No. 1. The break-up of additional capitalization claimed by the petitioner is as given below:

Table 5: Additional Capitalization claimed for FY 2022-23

Sl. No.	Item	FY 2022-23 (Rs. Crore)
1.	Plant & Machinery	0.07
	Total	0.07

24. Regarding the additional capitalization, the petitioner has submitted the following:
- (i) *In the petition, the additional capitalization of Rs. 7.42 Lakhs only for Plant & Machinery is claimed as per the Annual Audited Accounts for FY 2022-23.*
25. On examination of subject petition, it was felt that certain details/documents are required for proper scrutiny of additional capitalization claimed in the subject petition. Vide Commission's letter dated 19th December, 2023, the petitioner was asked to file a comprehensive reply on various issues related to additional capitalization. By affidavit dated 5th January, 2024, the petitioner filed its response on all such issues raised by the Commission.
26. On perusal of the petitioner's response on additional capitalization claimed in the subject petition, the Commission has observed the following:
- i. The petitioner has filed additional capitalization of Rs. 0.07 Crore towards Plant & Machinery for FY 2022-23, which is beyond the original scope of work of the project and has been claimed under Regulation 28.1 of the Regulations, 2020.
 - ii. The petitioner has submitted copies of purchase orders with respect to the assets addition towards Plant & Machinery claimed and capitalized in FY 2022-23.
 - iii. The petitioner submitted that the addition of assets towards Plants & Machinery does not fall within the definition of O&M expenses as mentioned in Regulation 3.1 (40) of the Regulations, 2020. Hence, it has been claimed under Regulation 28.1 of the Regulations, 2020.
 - iv. As submitted by the petitioner, additional capitalization claimed during FY 2022-23 has been capitalized in Annual Audited Accounts.
27. With regard to additional capitalization beyond the original scope of work and after cut-off-date of the project, Regulation 28.1 of the Regulations, 2020 provides as under:

Provisions under Regulations

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.*

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 decapitalisation takes place with corresponding adjustments in cumulative depreciation and cumulative repayment of loan, duly taking into consideration the year in which it was capitalized.

MPPMCL Response on Additional Capitalization:

28. By affidavit dated 11th January, 2024, MPPMCL submitted the following regarding additional capitalization:
- 1. *“The petitioner has claimed the additional capitalization of Rs. 7.42 lakhs for Plant and Machinery for FY 2022-23. It is submitted that the general rule is that any expenditure incurred after the cut-off date cannot be capitalised for the purpose of tariff determination unless specifically allowed to be recovered under the provisions of the applicable regulations.*
 - 2. *Regulation 28 of the Regulations, 2020 lays down the special circumstances under which the capital expenditure incurred beyond the original scope in respect of an existing generating station may be admitted by the Commission.*

3. *The claim for additional capitalization for plant and machinery does not fall under any of the sub-heads set out in Regulation 28.1 of the Regulations, 2020. Therefore, even if expenses are incurred towards additional capitalization for Plant and Machinery, the same cannot be recovered in light of Regulation 28 of the Regulations, 2020.*
 4. *It is submitted that the above-mentioned items were neither part of the original project conceived by the petitioner nor have become a mandatory installation upon advice/direction from statutory authorities. Further, the petitioner has even failed to point out why these were required. Therefore, the present claim of the petitioner is a backdoor attempt to increase the tariff of the project and unnecessarily burden the consumer with additional tariff.”*
29. The Commission has examined the additional capitalization claimed by the petitioner in light of the Annual Audited Accounts, Asset-cum-Depreciation Register, original scope of work of the project, project cost approved by BoD of the petitioner’s company, cut-off date of the Unit and provisions for additional capitalisation under the Regulations, 2020.

Analysis of Additional Capitalization for FY 2022-23

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

30. On perusal of the details regarding additional capitalization filed in the subject petition, the Commission observed that the petitioner has claimed additional capitalization of Rs. 0.07 Crore during FY 2022-23 towards plant & machinery.
31. Further, on perusal of Annual Audited Accounts for FY 2022-23, it is observed that the additional capitalization claimed by the petitioner had been capitalized and recorded in Annual Audited Accounts for FY 2022-23 for Lanco Amarkantak Thermal Power Station. It is also observed that additional capitalization has been recorded in Asset-cum-Depreciation register of Lanco Amarkantak thermal power station Unit No. 1 filed by the petitioner with the subject petition.

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

32. Vide letter dated 19th December, 2023, the petitioner was asked to inform whether additional capitalization claimed are under original scope of work of the project? If so,

the cost of these works under original scope of works vis-à-vis actual expenditure was required to be informed. By affidavit dated 5th January, 2024, the petitioner informed that additional capitalization claimed is not under the original scope of work and therefore, the claim of additional capitalization in the petition is not covered in Regulations 27.1 of the Regulations, 2020.

33. Since, the additional capitalization claimed during FY 2022-23 is beyond the original scope of work and project cost approved by the BoD of generating company, hence, the said additional capitalization has been examined in light of the Regulation 28.1 of the Regulations, 2020.

C. Cut-off Date

34. The Lanco Amarkantak Thermal Power Project (Unit-1) achieved its CoD on 9th April, 2010, therefore, the cut of date of the project is 31st April, 2013 in accordance with Generation Tariff Regulations. The additional capitalization filed by the petitioner is beyond the cut-off date of the project as well as beyond the original scope of work. Therefore, the claim of additional capitalization has been examined in light of the Regulation 28 of the Regulations, 2020.

D. Analysis of Additional Capitalization in light of the Regulations:

35. The petitioner has claimed additional capitalization of Rs 0.07 Crore towards Submersible Pumps under the head of Plants & Machinery.
36. The Commission has observed that the aforesaid assets related to Plants & Machinery claimed by the petitioner under additional capitalization during FY 2022-23 has been capitalized beyond the cut-off date of the project as well as beyond the original scope of work. Further, capital expenditure on submersible pumps is not covered under any counts laid down in the Regulation 28.1 of the Regulations, 2020, hence additional capitalization of Rs 0.07 Crore is not considered in this Order.

Debt: Equity:

37. With regard to funding of the project, Regulation 33 of the Regulations, 2020 provides that:

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 project.

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

38. The Commission has considered the same closing figures of GFA, Equity and Loan as on 31st March, 2022 considered in last true up order for FY 2021-22 issued on 3rd March, 2023 in Petition No 74 of 2022 as opening balance as on 1st April, 2022 in this Order.
39. The Commission has not considered any additional capitalization for FY 2022-23 in this Order. Therefore, no addition of loan and equity is considered during FY 2022-23.
40. The details of the opening GFA, equity and loan amount as on 1st April, 2022 considered by the Commission in this Order are as given below:

Table 6: Opening Capital Cost and funding considered for FY 2022-23 (Rs Crore)

Sr. No	Particular	Amount
1	Opening Capital Cost	1259.50
2	Opening Equity	308.85
3	Opening Loan	202.11

Annual Capacity (fixed) Charges

41. Regulation 17.1 of the Regulations, 2020, stated that the Annual Capacity Charges shall be 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

42. The petitioner filed Return on Equity during during FY 2022-23 in subject petition considering the base rate of return as given below:

Table 7: Return on Equity Claimed

S.No.	Particulars	Unit	2022-23
1	Gross Opening Equity (Normal)	Rs. Crore	308.83
2	Net Opening Equity (Normal)	Rs. Crore	308.83
3	Add: Increase in equity due to addition during the year / period	Rs. Crore	2.23
4	Less: Decrease due to de-capitalisation during the year / period	Rs. Crore	0.00
5	Net Closing Equity (Normal)	Rs. Crore	308.85
6	Average Equity (Normal)	Rs. Crore	308.84
7	Rate of ROE	%	15.50%
8	Total ROE	Rs. Crore	47.87

Provisions in the Regulation:

43. With regard to Return on Equity, Regulation 34 of the Regulations, 2020 provides that:

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

- (a) 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):*
- (b) 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.*
- (c) in case of a thermal generating station, with effect from 01.04.2020:*
 - (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%:

Provided that the detailed guidelines in this regard shall be issued by National Load Despatch Centre).

Commission’s Analysis:

44. While determining Return on Equity, closing equity as on 31st March, 2022 considered in Commission’s last true-up order dated 3rd March, 2023 (in petition No. 74 of 2022) is considered as the opening equity for the Unit No 1 as on 1st April, 2022 in this Order. However, the Commission has not considered any additional capitalization and its corresponding equity during FY 2022-23 in this Order. Therefore the equity balance shall remain unchanged as on 31st March, 2023.
45. The petitioner has claimed Return on Equity considering base rate of return @15.50% without considering any tax rate for grossing up base rate during FY 2022-23 as it has neither paid any Tax during the year .
46. Further, in accordance to Regulation 34.2 of the Regulations, 2020, as far as ramp up rate of 1% per minute achievement by 300 MW Unit No. 1 is concerned, the petitioner submitted that the an external agency M/s Solvina appointed by POSOCO (WRLDC) has carried out Primary Frequency test (PFR) and monitored by WRLDC for successful completion of PFR tests for 300 MW Unit-1. The supporting documents of PFR test report as carried out by M/s Solvina on site monitored by WRLDC have been submitted by the petitioner, which is not contested by Respondent No. 1.
47. Accordingly, Return on Equity is worked out for FY 2022-23 considering the base rate of return as given below:

Table 8: Return on Equity Considered in this Order

Sr.No	Particulars	Unit	FY 2022-23
1	Opening Equity	Rs Crore	308.85
2	Equity Additions (Normative)	Rs Crore	0.00
3	Closing Equity	Rs Crore	308.85
4	Average Equity	Rs Crore	308.85
5	Base Rate of ROE	%	15.50%
6	Annual Return on Equity	Rs Crore	47.87

b) Depreciation

Petitioner's Submission:

48. The petitioner has claimed the depreciation for the FY 2022-23 in subject petition as given below:

Table 9: Depreciation Claimed (Rs in Crore)

S.No.	Particulars	FY 2022-23
1	Opening Capital Cost	1259.50
2	Closing Capital Cost	1259.58
3	Average Capital Cost	1259.54
4	Rate of Depreciation	5.03%
5	Depreciation Value	63.35
6	Cumulative Depreciation at the end of year	645.60

Provisions of the Regulation:

49. With regard to Depreciation, Regulation 37 of the Regulation, 2020 provides that:

“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 final 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:-

50. For the purpose of determining depreciation, the closing Gross Fixed Assets of Rs. 1259.50 Crore as on 31st March, 2022, as considered in Commission’s last true-up order issued on 3rd March, 2023 for FY 2021-22 is considered as opening GFA as on 1st April, 2022 in this Order. Further, no additional capitalization is considered during FY 2022-23. Therefore, the Closing Gross Fixed Assets as on 31st March, 2023 shall remain same for FY 2022-23.
51. In form TPS 11 of the subject petition, the petitioner worked out the weighted average rate of depreciation for FY 2022-23 based on the depreciation rates as per the Schedule for depreciation rate provided under the Regulations, 2020. The same weighted average rate of depreciation of 5.03% as claimed by the petitioner is considered in this Order for FY 2022-23.
52. Cumulative depreciation as on 31st March, 2022 admitted in true-up order dated 03rd March, 2023 is considered as opening cumulative depreciation in this Order.
53. Based on above, the annual depreciation is worked out in this Order as given below:-

Table 10: Annual Depreciation considered in this Order

Sr.No	Particular	Unit	FY 2022-23
1	Opening Gross Fixed Assets	Rs Crore	1259.50
2	Assets Addition during the year	Rs Crore	0.00
3	Closing Gross Fixed Assets	Rs Crore	1259.50
4	Average Gross Fixed Assets	Rs Crore	1259.50
5	Weighted Average Rate of Depreciation (%)	%	5.03%
6	Annual Depreciation	Rs Crore	63.35
7	Opening Cumulative Depreciation as on 1 st April, 2022	Rs Crore	748.48
8	Closing Cumulative Depreciation as on 31 st March, 2023	Rs Crore	811.83

c) Interest on Loan Capital

Petitioner's submission:

54. The interest on loan capital for FY 2022-23 claimed in the petition as given below :

Table 11: Interest on Loan claimed (Rs Crore)

Sr. No.	Particulars	FY 2022-23
1	Gross Normative loan - Opening	934.49
2	Cumulative repayments of Normative Loan upto previous year	732.36
3	Net Normative loan - Opening	202.13
4	Add: Increase due to addition during the Year/period	-
5	Less: Decrease due to de-capitalisation during the Year/period	-
6	Less: Decrease due to reversal during the Year/period	63.35
7	Net Normative loan - Closing	138.83
8	Average Normative Loan	170.48
9	Weighted average Rate of Interest	13.45%
10	Interest on loan	22.93

Provisions in Regulation

55. With regard to interest on loan, Regulation 36 of the Regulations, 2020 provides that:

“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 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:

56. For determining the interest on loan capital, the Commission has considered the opening loan amount of Rs. 202.11 Crore as on 01st April, 2022 for the Unit No. 1 as considered in Commission's last true-up order dated 03rd March, 2023 in Petition No. 74 of 2022. The Commission has not approved any additional capitalization during FY 2022-23, therefore, the loan balance is worked out accordingly by considering the normative repayment equivalent to depreciation for FY 2022-23.

57. Vide Commission's letter dated 19th December, 2023, the petitioner was asked to submit reasons of higher interest rate in respect of actual weighted average rate of interest claimed in the petition with supporting documents such as banker certificates, etc . The petitioner was also asked to confirm and demonstrate that any interest on interest on loan amount or any penalty due to default in repayment should not be part of interest on loan amount.

58. Vide affidavit dated 5th January, 2024, the petitioner submitted the following:

The detailed computation of weighted average rate of interest on loan @ 13.45% during the control period i.e. as on 31.03.2019 have already been submitted in soft (excel-sheet) and hard copy in its filed Petition. Supporting documents like Banker's certificates regarding interest rate were already filed in the Petition No. 64 of 2021

filed by LAPL during the tariff determination for FY 2019-24 and also during true up petition no. 74 of 2022 of FY 2019-22. However, same is resubmitted herewith.

It is confirmed that no overdue interest towards default in repayment of loan has been considered while determining the weighted average rate of interest on term loan.

59. Further, it is observed that Regulation 57 of the Regulations, 2020 provides that:

57.1 If re-financing or restructuring of loan by the generating company results in net savings on interest after accounting for cost associated with such refinancing or restructuring, the same shall be shared between the beneficiaries and the generating company in the ratio of 50:50."

In view of the above Regulation, the petitioner is directed to review existing weighted average rate of interest on loans and explore the possibilities of refinancing/restructuring of loans in future.

60. On perusal of the above submission, the Commission observed that the petitioner has filed weighted average rate of interest based on actual interest rates charged by the lenders to Lanco Amarkantak Power Limited Unit No.1 on actual loan portfolio as per prevailing interest rates of the respective Banks/Financial Institutions. The petitioner has also filed the Financial Institutions/Bank's certificates/statements in support of actual rate of interest for FY 2022-23 in this regard.

61. Considering the above, the interest on loan has been worked out considering the following:

- i. Opening loan balance as on 01.04.2022 is considered same as admitted by the Commission as on as on 31.03.2022 in the last tariff order dated 03rd March, 2023.
- ii. No Loan addition is considered during FY 2022-23.
- iii. Normative repayment equal to depreciation in accordance to Regulations is considered;
- iv. Weighted average rate of interest @ 13.45% for FY 2022-23 as filed by the petitioner is considered.

62. Based on the above, the interest on loan worked out for FY 2022-23 is as given below:

Table 12: Interest on Loan Capital considered in this Order

Sr No.	Particular	Unit	FY 2022-23
1	Opening Loan	Rs. Crore	202.11
2	Loan Additions during the year	Rs. Crore	0.00
3	Repayment of Loan equal to depreciation	Rs. Crore	63.35
4	Closing Loan	Rs. Crore	138.76
5	Average Loan	Rs. Crore	170.43
6	Weighted Average Rate of Interest	%	13.45%
7	Interest on Loan Capital	Rs. Crore	22.92

d) Operation & Maintenance Expenses

Petitioner's Submission

63. The petitioner filed the Operation and Maintenance expenses for its 300 MW Unit No. 1 for FY 2022-23 in accordance with the Regulations, 2020 as given below:

Table 13: Operation & Maintenance Expenses claimed

Particular	Unit	FY 2022-23
Annual O&M expenses	Rs. in Crore	94.17

Provision in Regulations:-

64. The norms for Operation and Maintenance Expenses for thermal generating units commissioned on or after 01/04/2012 are prescribed under Regulation 40.2 of the Regulations, 2020 for the generating Unit of "200/210/250 MW and above" for FY 2022-23 are as given below:

Table 14: Norms for O&M Expenses

(Rs. Lakh/MW/Year)

Units (MW)	FY 2022-23
200/210/250 MW Series	31.39

Commission's Analysis

65. As 300 MW Unit 1 of LAPL is much closer to the category of 200/210/250 MW, the O&M expenses specified for category 200/250/250 MW as filed in the petition have been considered for the 300 MW Unit. For Thermal Power Station, the annual Operation and Maintenance Expenses worked out by the Commission as per the

norms prescribed under aforesaid Regulations for FY 2022-23 are as given below:

Table 15: O& M Expenses considered for Generating Unit in this Order

Particular	Units	FY 2022-23
Installed Capacity	MW	300
Per MW O&M Expenses Norms	Rs in Lakh/MW	31.39
Annual O&M expenses	Rs in Crore	94.17

e) Interest on Working Capital

Petitioner's submission

66. The petitioner claimed the interest on working capital for the FY 2022-23 in subject petition as given below:-

Table 16: Interest on Working Capital Claimed (Rs. in Crore)

Sl.No.	Particulars	FY 2022-23
1	Cost of Coal/Lignite	76.51
2	Cost of Main Secondary Fuel Oil	1.12
3	O & M Expenses	7.85
4	Maintenance Spares	18.83
5	Total Receivables	89.23
6	Total Annual Working Capital	193.54
7	Rate of Interest	12.00%
8	Interest on Working Capital	23.22

Provisions in Regulation:

67. With regard to interest on working capital, Regulation 38 of the Regulation, 2020 provides that:

38.1 "The Working Capital shall cover:

i. 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; and*
- (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:

68. The working capital for thermal power stations is worked out based on the aforesaid norms for working capital as given below:

(a) Cost of coal for working capital

69. Regulation 38.2 of the 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 main secondary fuel oil equivalent to normative plant availability factor as considered in Commission’s MYT Order dated 13th May, 2022 in petition No. 64 of 2021.

Table 17: Cost of Coal and Cost of Secondary Fuel Oil considered in this Order (Rs in Crore)

Particulars	FY 2022-23
Cost of Coal for two Months	78.38
Cost of Secondary Fuel Oil for two Months	1.12

- ii. Maintenance spares as considered in Commission’s MYT Order dated 13th May, 2022 as given below is considered:

Table 18: Maintenance Spares considered in this Order (Rs in Crore)

Particulars	FY 2022-23
Maintenance Spares (20% of O&M Expenses)	18.83

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

Table 19: Receivables for 45 Days considered in this Order (Rs in Crore)

Particulars	FY 2022-23
Variable Charges- 45 Days (As considered in Order dated 13 th May, 2022)	59.71
Annual Fixed Charges- 45 Days	30.69
Total	90.40

- iv. O&M expenses for one month for the purpose of working capital as considered in Commission's MYT Order dated 13th May, 2022 is considered:

Table 20: O&M Expenses for 1 Month considered in this Order (Rs in Crore)

Particulars	FY 2022-23
O & M Expenses for One Month	7.85

70. Further, with regard to the rate of interest on working capital, Regulation 38.3 of the Regulations, 2020 provides as under:

“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.

71. 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 interest on the working capital is considered 10.50% (7.00% + 3.50%) in this Order.
72. Based on above, interest on working capital for FY 2022-23 considered in this Order is as given below:

Table 21: Interest on Working Capital considered in this Order (Rs in Crore)

Sr. No.	Particulars	FY 2022-23
1	Cost of Coal for working capital	78.38
2	Cost of Main Secondary Fuel Oil for two months	1.12
3	O&M Expenses for One Month	7.85
4	Maintenance Spares 20% of O&M expenses	18.83
5	Receivables for 45 days	90.40
6	Total Annual Working Capital	196.58
7	Rate of Interest on Working Capital	10.50%
8	Annual Interest on working Capital	20.64

Non-Tariff Income

Petitioner's Submission:

73. The petitioner has claimed non-tariff income of Rs 0.02 Crore for FY 2022-23.

Provisions in Regulation:

74. Regulation 58.1 of the Regulations, 2020 provides that:

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:

75. The aforesaid Regulation provides that Generating Company shall submit full details of its forecast of Non-Tariff Income to the Commission. On perusal of the petition, it was observed that in Form TPS 17 of the petition, petitioner has claimed non-tariff income of Rs. 0.02 Crore during FY 2022-23, whereas, in Note 21 of Annual Audited Accounts for FY 2022-23 "other income" was shown as Rs. 79.76 Crore. Vide Commission's letter dated 19th December, 2023, petitioner was asked to give the reasons for aforesaid discrepancy in non-tariff income recorded in Annual Audited Accounts vis-a-vis claimed in the subject petition.

76. By affidavit dated 5th January, 2024, petitioner submitted the following response:

The Form 17 of the tariff filing formats in accordance to the Regulation 58.1 of the Regulations, 2020, showing the details of Non-tariff Income/ other Income of Rs. 0.02 Crore for FY 2022-23 is filled up based on the Annual Audited Accounts and have already been submitted by LAPL in its filed petition. The other income as captured in Annual Audited accounts is different from the clause mentioned in the Regulations, 2020.

a. *Regarding the other income of Rs. 79.76 Crore specified in the Annual Audited Accounts for FY 2022-23, it is submitted that the Corporate Insolvency Resolution Process (CIRP) has been initiated against Lanco Amarkantak Power Ltd (LAPL) u/s 7 of the IBC Code 2016 vide NCLT Hyderabad Order dated September 05, 2019 in CP (IB) No 420/7/HDB/2018.*

Subsequent to the initiation of CIRP, moratorium as per Section 14(1) of the IBC Code 2016 has become applicable and payment to lenders towards interest & principal repayment is on hold. Prior to the CIRP, the surplus amount lying in the TRA account after making all operational payments was being used for payment of lenders dues. Subsequent to initiation of CIRP, the payment to lenders are on hold and the surplus fund available in the TRA is invested with Fixed Deposits (FD) with the Consortium Bankers. The lenders in the Committee of Creditors meeting of LAPL decided that the amount of FD available in LAPL account at the conclusion of the resolution process will be appropriated amongst the lenders according to their claims filed with LAPL at the commencement of CIRP Process. Thus, the interest earned of

Rs. 46.21 Crore on the FD lying with the Banks forms part of Other Income of LAPL which is no way related to the income arising out of sale of power for LAPL. Therefore the interest on FD has not been included under the non-tariff income.

Other balances belongs to Interest on towards Electricity Charges Recovery from Employees (Rs 3,39,322/-), Rs 11,813/- towards Electricity Charges recovery and Rs. 55,914 towards rental charges from Apna Bazar Shop, Rs. 39,37,945/-towards Interest on Income tax refund, Rs. 16,01,939/- towards penalty/ liquidity damages recovery, Rs. 3,44, 533/- towards GL Clearing adjustment, Rs. 19,116/- towards RFID Charges recovery, Rs. 32, 886/- towards stale cheque transfer, Rs. 9,363/- towards other interest charges and Rs. 32.91 Crore towards late payment surcharge against the outstanding payments from discom as per Ministry of power directives.

In view of these reasons, LAPL requests this Commission to consider the non –tariff income as claimed in the filed petition as per the Regulations, 2020.

77. On perusal of detailed submission mentioned above , the Commission has considered the non- tariff income as filed by the petitioner. Further, Regulation 58.1 stated that the non-tariff income shall be shared in the ratio of 50:50 with the beneficiaries and the generating company on annual basis. Accordingly, the Commission has considered following non tariff income in this Order:

Table 22: Non-Tariff Income considered in this Order (Rs. in Crore)

SI. No.	Parameters	FY 2022-23
a	Income from sale of scrap	0.02
	Total	0.02
	Beneficiary (MPPMCL)- 50%	0.01
	Generating Company (LAPL)- 50%	0.01

78. In the subject true-up petition, petitioner claimed following other charges;;
- Recovery of filing fees paid to the Commission and also the publication expenses from the beneficiaries.
 - Allow recovery of the Statutory Charges.
79. Regarding other charges, in Para 146 to 149 of the MYT order dated 13th May, 2022, the following was mentioned by the Commission:

- In accordance to the above Regulation, 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 (MPPMCL).
- In view of the above, 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, of State Government as per Regulation 65.2 of the Regulations, 2020 on submission of documentary evidence to the procurer (MPPMCL).

80. 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:

- (i) 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.*
- (ii) 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.*
- (iii) SLDC Charges and Transmission Charges as determined by the Commission shall be considered as expenses, if payable by the generating stations.*
- (iv) 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 the each beneficiaries in proportion to their schedule dispatch during the month.

81. 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.
82. 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, of State Government as per Regulation 65.2 of the Regulations, 2020 on submission of documentary evidence.

Summary of Annual Capacity (fixed) Charges:

83. The details of the Annual Capacity (fixed) Charges for FY 2022-23 considered in this true-up order vis-a-vis those determined in the MYT order dated 13th May, 2022 at normative Plant Availability Factor are summarized in the following table:

Table 23: Annual Capacity Charges at normative availability considered in this Order: - (Rs in Crore)

S. No.	Particulars	Considered in MYT Order dated 13 th May, 2022 for FY 2022-23 (A)	Considered in this True-up Order for FY 2022-23 (B)	True Up Amount (B-A)
1	Return on Equity	46.80	47.87	1.07
2	Depreciation	62.19	63.35	1.16
3	Interest on Loan Capital	21.13	22.92	1.79
4	Operation & Maintenance Expenses	94.17	94.17	0.00
5	Interest on Working Capital	20.59	20.64	0.05
6	Total Annual Capacity (fixed) Charges	244.88	248.96	4.08
7	Less:-Non Tariff Income	0.10	0.01	-0.09
8	Net AFC (after adjusting Other Income)	244.78	248.95	4.17

84. Annual Capacity (Fixed) Charges as considered above for FY 2022-23 are at Normative Plant Availability and these charges are based on Annual Audited Accounts for FY 2022-23.

85. The above Annual Capacity (Fixed) Charges are determined corresponding to the contracted capacity under long term PPA. Recovery of Annual Capacity (Fixed) Charges shall be made by the petitioner in accordance with Clause 42.2 of the Regulations, 2020 on pro rata basis with respect to actual Annual PAF (Plant Availability Factor).
86. 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
87. In view of the above Regulations, it is observed by the Commission that the generating company has to 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.
88. Petitioner filed the detailed calculation sheet of monthly details of above normative parameters and actual parameters to arrive at gain/loss on account of controllable parameters in accordance with Regulation 56.1 of the Regulations, 2020.
89. On perusal of the details filed by petitioner in Annexure P-8 of the subject petition, it is observed that the petitioner has incurred loss of Rs 4.43 Crore on account of inferior performance parameters and poor actual operating parameters achieved by it during FY 2022-23.
90. The Regulation 56.2 of the 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 on annual basis. However, the aforesaid Regulations do not provide sharing of loss incurred by the generating company, therefore, the loss incurred by the petitioner on account of inferior operating parameters shall not be passed on to the beneficiary.

Implementation of the Order

91. 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.
92. The petitioner is also directed to provide information to the Commission in support of having complied with this Order. The amount of shortfall 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 Regulations, 2020 in six equal monthly installment during FY 2024-25.
93. With the above directions, this Petition No.64 of 2023 is disposed of.

(Prashant Chaturvedi)
Member

(Gopal Shrivastava)
Member(Law)

(S.P.S Parihar)
Chairman

Date: 2nd February, 2024

Place: Bhopal

Annexure-I

Response of Petitioner on the comments offered by the MPPMCL and observations of the Commission

ADDITIONAL CAPITALIZATION

MPPMCL's Response-

The Petitioner has claimed the additional capitalization of Rs. 7.42 lakhs for Plant and Machinery for FY 2022-23. It is submitted that the general rule is that any expenditure incurred after the cut-off date cannot be capitalised for the purpose of tariff determination unless specifically allowed to be recovered under the provisions of the applicable regulations.

Regulation 28 of the Regulations, 2020 lays down the special circumstances under which the capital expenditure incurred beyond the original scope in respect of an existing generating station may be admitted by the Commission.

The claim for additional capitalization for plant and machinery does not fall under any of the sub-heads set out in Regulation 28.1 of the Regulations, 2020. Therefore, even if expenses are incurred towards additional capitalization for Plant and Machinery, the same cannot be recovered in light of Regulation 28 of the Regulations, 2020.

It is pertinent to note that the Petitioner had claimed additional capitalization of Rs. 7.95 Crore towards Plant and Machinery in the previous true-up petition for the FY 2021-2022 as well. However, the Commission had rightly rejected the said claim vide order dated 11.05.2023 in Petition No. 74 of 2022.

Further, the Multi Year Tariff Order passed by the Commission on 13.05.2022 in Petition No. 64 of 2021 ("MYT Order") records that the Petitioner had claimed additional capitalization to the tune of Rs. 36 lakhs for Plant and Machinery. However, the Commission refused to grant the same on the grounds that the additional capitalization did not form part of the main petition and it also requires examination on several counts mentioned in the Regulations, 2020.

It is submitted that the above-mentioned items were neither part of the original project conceived by the petitioner nor have become a mandatory installation upon advice/ direction from statutory authorities. Further, the petitioner has even failed to point out why these were

required. Therefore, the present claim of the petitioner is a backdoor attempt to increase the tariff of the project and unnecessarily burden the consumer with additional tariff.

Petitioner's Reply-

The petitioner has claimed additional capital expenditures of items capitalized under Regulation 28 of the Regulations, 2020 specifying the additional capitalization beyond the original scope. As regards the petitioner's claim on the additional capitalization in respect of other items claimed in the Plant & Machinery, it is submitted that Regulation 3.1 (40) of the Regulations, 2020 define O&M expenses as follows:

'Operation and Maintenance Expenses' or 'O&M expenses' means the expenditure incurred for operation and maintenance of the project, or part thereof, and includes the expenditure on manpower, maintenance, repairs and maintenance spares, consumables, insurance and overheads and fuel other than used for generation of electricity

The petitioner has capitalized those items of Plant & Machinery having useful life of more than a year and which are to be capitalized as per standard accounting practice. These items do not fall within the definition of O&M expenses as these items are not for maintenance, repair or consumables and are necessary for operating the generating station. Therefore, the petitioner submits that the claim of additional capitalization pertaining to all such items of Plant & Machinery, as per the purchase order of capitalized items, be allowed, as they do not form part of O&M expenses, as incorrectly alleged by MPPMCL.

Regarding the objection of MPPMCL that the Commission had rejected the additional capitalization of Plant and Machinery, it is submitted that the same pertained to FY 2021-22. This cannot be a precedent for future period i.e., for FY 2022-23 onwards, as the additional capitalization to be allowed depends upon the merits of such capitalization.

Observation-

The additional capitalization has been examined by the Commission in accordance to 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/documents placed on the records by the petitioner.

INTEREST ON WORKING CAPITAL

MPPMCL's Response-

The petitioner has submitted that there has been a change in the rate of Interest on Working

Capital at 12.00% (8.5% + 3.5%) as on 01.04.2022 whereas the Interest on Working Capital allowed in the MYT Order was 10.5% (7.0% + 3.50%).

It is submitted that the Commission may consider directing the petitioner to produce relevant document evidencing the bank rate on 01.04.2022.

That therefore in lieu of the submissions made hereinabove, it is stated that the Annual Fixed Cost/Capacity Charges as claimed by the petitioner herein is wholly wrong as it has considered additional capitalization not only after the cut-off date but also beyond the considered additional capitalization not only after the cut-off date but also beyond the original scope of work. Such a scheme is not in accordance with the Regulations and must be disallowed by this Commission.

Petitioner's Reply-

It is stated that the petitioner in its true up petition for FY 2022-23 has inadvertently claimed the bank rate as 12.0% (8.50% + 3.5%) instead of 10.5% (7.0% + 3.50%) as on 01.04.2022. The Petitioner has already submitted the above details of bank rate (SBI MCLR) as on 01.04.2022 along with the Petition at Page No. 227 and requests the Commission to allow the same as per above Regulations 2020.

Observation-

Interest on working capital is considered as per the provisions under Regulation 38 of the Regulations, 2020 .

STATUTORY CHARGES

MPPMCL's Response-

That in response to the statutory charges claimed by the Petitioner, it is submitted that such claims can only be entertained by this Commission on production of documentary evidence. The same has not been produced by the Petitioner and must therefore be disallowed.

That, it is prayed that the prudence check, carried out by the Commission, be shared with this respondent and any reasoning/ rationale advanced in support for inclusion of above indicated Costs with the Capital Cost of the Project deserves to be summarily rejected/ ignored.

That, at this stage this Respondent has made above observations on the basis of documents/ information made available by the petitioner. The Respondent craves liberty to amend, alter and add to the points or make further submissions as may be required at a later stage.

It is prayed that only such claims which are as per the provisions of the Regulations, 2020 should be considered during the present true-up exercise and all other claims are liable to be rejected.

Petitioner's Reply-

Regulation 65(2) of the Regulations, 2020 is reproduced as below:

“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.”

It is hereby stated that the petitioner has already submitted the above details along with the Petition at Page No. 195-198 and the reimbursements of monthly billing invoices for statutory charges viz. Electricity duty, Water charges, WRLDC fees & Charges, and reimbursements of Fly Ash Transportation expenses along with necessary documentary evidence are being submitted by the petitioner to the Respondents from time to time and therefore, the petitioner requests this Commission to allow the same as per the Regulations, 2020 and its amendments from time to time.

For the reasons stated herein above and such others as may be advanced at the time of hearing of this Petition, the petitioner, therefore, reiterates its prayers under the Petition.

Observation-

Statutory Charges are considered in accordance with the provisions under Regulation 65 of the Regulations, 2020.