MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION

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

Petition No. 54 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 2x600 MW Coal Based Anuppur Thermal Power Project for FY 2022-23 determined by the Commission vide Multi-year Tariff Order dated 1st May, 2021.

M/s M. B. Power (Madhya Pradesh) Limited — **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 7th February, 2024)

1. M/s M.B. Power (Madhya Pradesh) Limited, (hereinafter called “the petitioner”) has filed the subject petition for true-up of Generation Tariff for FY 2022-23 for its 2 x 600 MW Coal based Thermal Power Project at district Anuppur, Madhya Pradesh, determined by the Madhya Pradesh Electricity Regulatory Commission (hereinafter called “the Commission” or “MPERC”) vide Multi-Year Tariff (MYT) Order dated 1st May, 2021 in Petition No. 46 of 2020.

2. Subject true up petition has been filed under Sections 62 and 86(1) (a) of the Electricity Act, 2003 and based on the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 (hereinafter referred to as “Regulations, 2020”) for the control period i.e., FY 2019-20 to FY 2023-24 notified in the Madhya Pradesh Gazette on 28th February, 2020.

3. The petitioner’s thermal power station comprises of two generating units of 600 MW each. Date of Commercial Operation (COD) of both the units are as given below:

Table 1: COD of Thermal Generating Units

Sr. No.	Unit	Installed Capacity (MW)	Date of Commercial Operation (COD)
1.	Unit No. 1	600 MW	20th May, 2015
2	Unit No. 2	600 MW	7th April, 2016

4. The petitioner has entered into a long-term Power Purchase Agreement (“PPA”) on 05.01.2011 with MP Power Management Company Limited (hereinafter called “MPPMCL” or “Respondent No.1”), for supply of power of 30% of the Installed Capacity at the regulated tariff to be determined by the Commission. The petitioner has also entered into another PPA dated 04.05.2011 with Government of Madhya Pradesh, (Respondent No. 1 being the nominated agency of GoMP) for supply of 5% of the net power generated from the Project at the variable charges.

5. Earlier, the petitioner had filed Petition No.46 of 2020 for determination of Multi Year Tariff for the Project (Unit No. 1 & 2) for the control period from FY 2019-20 to FY 2023-24 based on the Regulations, 2020. Vide order dated 1st 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 respective year.

6. In aforesaid MYT order dated 1st May, 2021, following Annual Capacity (fixed) Charges for FY 2022-23 were determined:

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

S. No	Particulars	Amount in Rs. Crore
1	Return on Equity	341.09
2	Depreciation	393.63
3	Interest on loan Capital	408.32
4	Operation & Maintenance Expenses	269.64
5	Interest on Working Capital	95.73
6	**Annual Capacity (fixed) Charges**	**1,508.42**
7	Less:- Non Tariff Income	0.35
8	Net Annual Capacity (Fixed) Charges	**1,508.07**
9	**Annual Capacity (Fixed) Charges for Contracted Capacity i.e. 30% of Installed Capacity**	**452.42**

7. 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.*"

8. In the subject petition, the petitioner has filed additional capitalization of Rs. 21.74 Crore for the Project during FY 2022-23. Based on the aforesaid additional capitalization, the petitioner has claimed the following Annual Capacity (fixed) Charges for the project:

Table 3: Annual Capacity (Fixed) Charges claimed in petition for FY 2022-23

Sr. No.	Particular	Amount (Rs Crore)
1	Return on Equity	345.55
2	Depreciation	397.53
3	Interest on loan Capital	355.82
4	Operation & Maintenance Expenses	269.64
5	Interest on Working Capital	88.69
6	**Annual Capacity (Fixed) Charges**	**1457.23**
7	Less: Non-Tariff Income	0.00
8	**Net Annual Capacity (Fixed) Charges**	**1457.23**
9	**Annual Capacity (Fixed) Charges for Contracted Capacity i.e., (30%) of Installed Capacity**	**437.17**

9. With the above submission, the petitioner prayed the following:

   a) *True-up the Tariff for the power supplied from the Petitioner's Project to Madhya Pradesh Discoms through MPPMCL during FY 2022-23 under the PPAs;*

   b) *Allow recovery / re-imbursement of application fee, publication expenses and other statutory charges like RLDC/ NLDC charges, Electricity Duty, Cess and Water Charges etc. on pass through basis from MPPMCL along with carrying cost;*

   c) *In addition to above charges, allow the recovery / re-imbursement of any other charges, taxes, duties, cess, fee, expenses etc. on pass through basis from MPPMCL along with carrying cost;*

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 petitioner for FY 2022-23, Asset-cum-Depreciation Register of the project for FY 2022-23 and other additional details/documents filed by the petitioner in response to additional information/ details sought by the Commission along with all other documents placed on record by the petitioner. The Commission has also examined the subject true up petition in light of the comments / suggestions offered by the Respondent No.1 and other stakeholders and the response of the petitioner on the same.

Procedural History

11. Subject true-up petition was admitted in motion hearing held on 29th November, 2023. Vide daily order dated 29th November, 2023, the petitioner was directed to serve the copies of its petition to all Respondents. 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.

12. Vide Commission's letter dated 5th December, 2023, information gaps and requirement of additional details/ documents were communicated to the petitioner seeking its comprehensive reply with supporting documents by 20th December, 2023.

13. The public notice inviting comments/suggestions from the stakeholders was published on 12th December, 2023 in the following newspapers:
    (i) The Hitavada (English), Bhopal
    (ii) Nav Bharat (Hindi), MP (Chindwara, Gwalior, Indore, Bhopal, Jabalpur and Satna Edition)
    (iii) Raj Express (Hindi), Indore

    The last date for filing comments/suggestions was 2nd January, 2024.

14. By affidavit dated 18th December, 2023 petitioner filed its reply to the issues communicated to it by the Commission.

15. By affidavit dated 21st December, 2023, Respondent No. 1 (M.P. Power Management Co. Ltd) filed its response on the subject petition.

16. 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 present response is being filed on behalf of the Respondent No. 1 (MPPMCL) and the three M.P. Discoms (Respondent Nos. 2 to 4) also.

17. By affidavit dated 27th December, 2023 the petitioner filed rejoinder on the

responses/comments filed by the Respondent No. 1. The petitioner's reply on each comment offered by the Respondent No. 1 along with the observations are annexed as **Annexure- I** with this order.

18. The comments/suggestions from only one stakeholder, Shri Rajendra Agarwal, was received in this matter on 27th December, 2023. By affidavit dated 4th January, 2023, the petitioner filed its response on aforesaid comments of the stakeholder. The petitioner's responses on each comment / suggestion offered by the stakeholder along with the observations are annexed as **Annexure-II** with this order.

19. The public hearing in the subject petition was held on 9th January, 2023 through video conferencing wherein, after hearing all the parties, the case was reserved for Order.

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

Petitioner's Submission:

21. Regarding the capital cost of project, the petitioner submitted that the Commission vide order dated 29th March, 2023 passed in Petition No 88 of 2022 has considered Rs.8167.72 Crore as closing capital cost as on 31st March, 2022 for the project. The same has been considered by the petitioner as opening capital cost as on 01st April, 2022 in the subject true-up petition. The break-up of aforesaid capital cost as filed by the petitioner is given below:

Table 4: Break-up of capital cost filed by the petitioner (Rs. Crore)

S. No.	Particular	Opening Capital Cost as on 01.04.2022 filed
1	Land & Site Development	124.48
2	BTG & BoP	4297.97
3	Barrage	155.18
4	Railway Siding	152.11
5	**Total Plant & Machinery (2+3+4)**	**4605.26**
6	Building & Civil Works	1008.09

S. No.	Particular	Opening Capital Cost as on 01.04.2022 filed
7	Customs & Excise duty	-
8	Other Soft Cost/ Expenses including Pre-operative/ Pre-commissioning Expenses, IDC, Finance Charges, FERV Losses, Unamortized Finance cost to borrowings etc.	2429.89
9	**Total**	**8167.72**

Provisions in Regulations

22. With regard to capital cost of the existing power project, Regulation 21.3 of the Regulations, 2020 provides 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. On perusal of Annual Audited Accounts for FY 2022-23 filed by the petitioner, it was observed that the amount claimed towards additional capitalization and assets capitalized in Annual Audited Accounts and Asset-cum-Depreciation Register of FY 2022-23 are different. Therefore, vide letter dated 5th December, 2023, the petitioner

was asked to reconcile the figures of additional capitalization claimed in the subject petition in light of the Annual Audited Accounts. The petitioner was also asked to explain the reasons for difference in figures if any, recorded in Annual Audited Accounts and those filed in the subject petition.

24. By affidavit dated 18th December, 2023, the petitioner submitted the reconciliation of opening Gross Fixed Assets, additional capitalization and Closing Gross fixed Assets for the Project claimed in the subject petition vis-à-vis recorded in Annual Audited Accounts for FY 2022-23 and cash expenditure certified by the Auditor as given below:

Table 5: Opening GFA, Additions as per CA Certificate, Annual Audited Accounts and Asset Register **(Rs in Crore)**

S. No	Particular	As per CA Certificate dated 28.09.2023 certifying total Cash Expenditure	As recorded in Note 4 and 6 of the Audited Account under IND AS	As recorded in Asset - Cum - depreciation register as per IGAAP	Filed in the Subject Petition
		A	B	C	D
1.	Opening GFA as on 1st April 2022	8352.76	8177.20	8254.01	8167.72
2.	Addition during FY 2022-23	21.74	18.33	17.58	21.74
3.	Closing GFA as on 31st March 2023	8374.48	8195.53	8271.60	8189.46

25. With regard to difference in figures in aforesaid documents, the petitioner has submitted the following justification:

i. The items under Column B are indicating the values of opening and closing GFAs as per Annual Audited Accounts for FY 2022-23, prepared under IND AS accounting standards as adopted in compliance with the Notification dated 16.02.2015 issued by Ministry of Corporate Affairs.

ii. The items under Column C are indicating the values of opening and closing GFAs corresponding to IGAAP Accounting Standards for FY 2022-23. Reconciliation between the project GFA as per IGAAP and IND AS Accounting Standards has already been submitted as Annexure 2 of the Petition. The justification for the variance between the values of GFA under both the Accounting Standards has also been submitted by the petitioner.

iii. The petitioner further submitted that the Annual Audited Accounts (irrespective of

Accounting Standards) are prepared on Accrual basis whereas Column A summarizes the CA Certificate dated 28.09.2023, which states the actual Cash Expenditure incurred w.r.t. the assets capitalized (net-off Capital Work in Progress) till 31.03.2022 and 31.03.2023. This CA Certificate for Cash Expenditure also includes the short term FERV losses charged to revenue and Unamortised cost of borrowings of Rs.197.12 Crore and Rs. 34.93 Crore respectively allowable over and above capitalized GFA. Thus, against project GFA of Rs.8271.60 Crore (as per IGAAP as on 31.03.2023), the corresponding cash expenditure for the Project as on 31.03.2023 is Rs.8142.43 Crore. [Rs.8374.48 Crore - Short term FERV (Rs. 197.12 Crore) - unamortised cost of borrowings (Rs.34.93 Crore)]. The difference of Rs 129.17 Crore between Project GFA as per IGAAP (Rs.8271.60 Crore) and cash expenditure for the Project (Rs 8142.43 Crore) as on 31.03.2023 is on account of liabilities/provisions for R&R expenses/Diversion rent & other payables against the capitalized assets.

iv. With respect to Column D, the Capital Cost of the Project (as on 31.03.2022) as approved by the Commission vide true-up order dated 29.03.2023 passed in Petition No. 88 of 2023 is Rs. 8167.72 Crore as against the capital expenditure of Rs. 8352.76 Crore (as per CA Certificate dated 28.09.2023). The petitioner has incurred Rs 4.26 Crore towards discharging the liabilities under R&R & Diversion Rent, Rs.17.07 Crore towards Additional Capital Expenditure ("ACE") on BTG & BoP and Rs 0.41 Crore towards ACE on deferred works of Railway Siding during FY 2022-23 and has accordingly claimed the same in the present petition.

26. In view of the above, it is observed that the opening capital cost of Rs. 8167.72 Crore as on 1st April, 2022 considered by the petitioner for the Project is as per the closing capital cost as on 31.03.2022, which was considered in the Commission in last true-up order for FY 2021-22 issued on 29th March, 2023 in Petition No 88 of 2022. The Commission has considered the same opening capital cost of Rs. 8167.72 Crore as on 1st April, 2022 for the project as considered admitted in last true-up Order, in this Order.

Additional Capitalization
Petitioner's Submission:

27. In the subject true-up petition, petitioner has filed additional capitalization of Rs. 21.74 Crore for the project during FY 2022-23. The break-up of additional capital expenditure claimed by the petitioner is as given below:

Table 6: Additional Capitalization Claimed by the petitioner for FY 2022-23

Sr. No	Particulars	Amount (Rs. Crore)
1	Land & Site Development	4.26
2	BTG & BOP	17.07
3	Railway Siding	0.41
4	Building & Civil Works	0
	Total	**21.74**

28. With regard to aforesaid additional capitalization, petitioner has broadly submitted the following in the subject petition:

- *With regard to Additional Capital Expenditure (ACE) incurred by the petitioner on the Project after the Cut-off-Date, the Commission, in Orders dated 27.04.2019 (passed in the Petition No. 18 of 2019), MYT Order dated 01.05.2021 (passed in Petition No. 46 of 2020), and subsequent true-up orders has granted liberty to the petitioner to approach the Commission for approval of such ACE based on the actual expenditure incurred and duly reconciled with the Annual Audited Accounts, i.e., after such expenditure has already been incurred by the Petitioner at the time of Truing-up of the tariff of the relevant year (in which the expenditure has been incurred by the Petitioner).*
- *Accordingly, the petitioner is seeking truing-up of the tariff based on the actual ACE of Rs. 21.74 Crore incurred by the petitioner during FY 2022-23, as certified by the Auditor Certificate dated 28.09.2023*
- *The ACE incurred during FY 2022-23 as claimed by the petitioner are within the original scope of work of the Project as per Regulation 27.1 of the Regulations, 2020 and also certain works on account of compliance of Statutory Requirements under Regulation 28.1 of the Regulations, 2020.*
- *The petitioner has claimed ACE of Rs. 21.74 Crore incurred on the Project during FY 2022-23 under enabling Regulatory provisions. The petitioner has also referred some references of earlier orders issued by the Commission in this regard. Details of the additional capitalization and relevant provisions of the Regulations are as follows*

S. No	***Balance/ Deferred Works within the Scope of Works of the Project***	***Enabling Regulatory Provisions and Orders of this Commission***
A	*Discharge of liabilities/ provisions against Freehold Land including R&R expenses*	*1. Regulation 27.1 of the Regulations, 2020;* *2. Regulations 66 and 67 of the Regulations, 2020;*

<table>
<tr><th>S. No</th><th>Balance/ Deferred Works within the Scope of Works of the Project</th><th>Enabling Regulatory Provisions and Orders of this Commission</th></tr>
<tr><td>b</td><td>Balance/Deferred works related to construction of Ash Dyke/Ash Pond/Ash Handling System and other related civil works</td><td>1. Regulation 27.1 of the Regulations, 2020</td></tr>
<tr><td>c</td><td>Unfinished works & supplies by M/s Lanco Infratech Limited & other balance works.</td><td rowspan="3">1. Regulation 27.1 of the Regulations, 2020;
2. Regulations 66 and 67 of the Regulations, 2020;
3. Regulations 4.1(l), 20.2, 54, 55 of the MPERC Tariff Regulations, 2015;
4. Regulation 28.1 of the Regulations, 2020 (Item no. c);</td></tr>
<tr><td>d</td><td>Work related to Statutory Compliances related to MoEF&CC Fly Ash Notification 2021</td></tr>
<tr><td>e</td><td>Works/ deferred works related to Railway Siding.</td></tr>
</table>

- *In view of the above, the ACE incurred by the petitioner on the Project during FY 2022-23 and as claimed in the present Petition are duly permissible under the prevailing Regulatory framework, particularly Regulations 27.1 & 28.1 of the Regulations, 2020.*

Provisions under Regulations:

29. With regard to additional capitalization incurred in existing generating stations/units, after the Cut-off date, Regulation 27.1 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 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."

30. With regard to additional capitalization in respect of existing generating station incurred or projected to be incurred on the following counts beyond the original scope, Regulation 28.1 of the Regulations, 2020 provides as under:

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:

31. The petitioner has claimed Additional Capitalization of Rs. 21.74 Crore for Project during FY 2022-23. Out of total additional capitalization claimed in the petition, amount of Rs 4.26 Crore pertains to discharge of liabilities / provisions against Free-Hold Land related R & R Expenses, Rs 17.07 Crore pertains to assets related to BTG & BOP and Rs 0.41 Crore pertains towards installation of Hydraulic Re-Railing Equipment for dedicated Railway Siding (Railway Siding was Capitalized in previous FY 2021-22).

32. The petitioner has further mentioned that additional capitalization of Rs 21.74 Crore is capitalized in its Annual Audited Accounts of FY 2022-23 and certified by the Auditor also. These works are within as well as beyond the original scope of work of Project and within the Board Approved Project Capital Cost. Petitioner has claimed aforesaid additional capitalization under Regulation 27.1 & 28.1 of the Regulations, 2020.

33. On examination of subject petition, vide Commission's letter dated 5th December, 2023 the petitioner was asked to file a comprehensive reply to certain issues related to additional capitalization.

34. By affidavit dated 18th December, 2023, the petitioner filed its response on the issues related to additional capitalization raised by the Commission. Issue-wise response filed by the petitioner are as given below:

Issue

i. Whether additional capitalization claimed by the petitioner are under original scope of work. If so, the claim of additional capitalization was asked to be justified in light of Regulation 27.1 of the Regulations, 2020. All supporting documents was also asked to be filed in this regard.

Petitioner Response:

Additional capitalization of Rs 4.26 Crore under Land & Site Development is within original scope of work and is claimed under Regulation 27.1(iv) of Regulations, 2020.

ii. The Petitioner was asked to file list of assets capitalized under additional capitalization with detailed reasons in following format:

S. No	Particulars	Asset Addition (Rs Crore)	Detailed reasons for asset addition	Provision of Regulations under which Add. Cap filed	Reference supporting doc. Enclosed

Petitioner's Response

Table 7: List of assets capitalized with detailed reasons

S. No	*Particulars*	*Value of Asset Addition in FY 2022-23 (Rs. Crore)*	*Detailed Reasons for Asset Addition during FY 2022-23*	*Provision of Regulations under which Addl. Cap. Filed*	*Reference supporting doc. enclosed in the present Petition*
1	*Land & Site Development*	*4.26*	• *Discharge of liabilities towards Annual diversion payments to GoMP for change of land use (agriculture to industrial) & R&R expenses - **Part of the Original Scope of Work***	• *Regulation 27.1 (iv) of the Regulations, 2020* • *Commission's Order dated 25.08.2022 passed in Petition No. 21 of 2022* • *Commission's Order dated 29.03.2023 in the*	• *Please refer submissions under Para(s) 16 to 23 of the present Reply.* • *Annexure-2 of the present Petition: Ref: Note-1, Page No.98; GFA-Freehold land as on 31.03.2023 = Rs 164.05 Crore*

S. No	Particulars	Value of Asset Addition in FY 2022-23 (Rs. Crore)	Detailed Reasons for Asset Addition during FY 2022-23	Provision of Regulations under which Addl. Cap. Filed	Reference supporting doc. enclosed in the present Petition
				Petition No 88 of 2022	• Annexure-3 of the present Petition: S.No 1 as follows: a) Exp. under Land & Site Development till 31.03.2023 for the Project is Rs 128.74 Cr. vis-à-vis Rs 124.48 Crore till 31.03.2022. b) Liability discharged on Freehold land incl. R&R for Project: Rs 4.26 Cr.
2	BoP – Ash Handling & Ash Utilization	7.81	• This Additional Capital Expenditure is towards the Ash Handling and Utilization in compliance to MoEF Notification 2021 towards Fly Ash Utilization, which is claimed in accordance with the enabling provisions under Regulation 28.1 of the Regulations, 2020. • Assets capitalized. - Dozer - Sweeping Machine - 2 No. of Hyva 16 MT - 6 No. of Hyva 20 MT - Mist Gun & Sprinkler Dust Suppression system. • The above assets are essentially required for carrying out various activities associated with Ash Handling and Utilization in compliance to MoEF Notification 2021 towards Fly Ash Utilization.	• Regulation 28.1(a) & 28.1 (b) of the Regulations, 2020. • Commission’s Order dated 29.03.2023 in the Petition No 88 of 2022 (Para 57)	• Please refer submissions under Para(s) 24 to 27 and 31 of the present Reply.
3	BoP – C&I	0.06	• Upgradation of PLC, SCADA systems for smooth monitoring & control of the Project operations.		• Please refer submissions under Para(s) 24 to 27 of the present Reply.

S. No	Particulars	Value of Asset Addition in FY 2022-23 (Rs. Crore)	Detailed Reasons for Asset Addition during FY 2022-23	Provision of Regulations under which Addl. Cap. Filed	Reference supporting doc. enclosed in the present Petition
4	*BoP – Coal Handling System*	*6.65*	• *This Additional Capital Expenditure ("ACE") is towards the crushing of oversized coal, which the Petitioner has started receiving from FY 2023-23 onwards from Coal India Limited ("CIL") through the road mode due to Change in Policy of Ministry of Coal ("MoC"). As such, this ACE is claimed in accordance with the enabling provisions under Regulation 28.1 of the Regulations, 2020.* • *Since FY 2022-23 onwards, due to rakes unavailability for transportation of coal through the Railways, CIL and MoC have been directing Thermal Power Projects to lift substantial quantity of coal through the road mode which contains oversize coal/ boulders.* • *The oversized coal received from CIL through road mode require a separate crushing facility for crushing of such coal.* • *Accordingly, for this purpose, the Petitioner procured, deployed and* ***capitalized mini crusher and associated coal sampling equipment*** *at the Project during FY 2022-23 for the purpose of seamless operation of MGR operation.* • *In event the Petitioner had not incurred one time ACE towards these assets (mini crusher and associated coal sampling equipment) then such coal crushing would have been done through an external agency and such crushing cost would have been an added in the coal*	• *Regulation 28.1(a) & 28.1 (b) of the Regulations, 2020.*	• *Please refer submissions under Para(s) 24 to 27 and 31 of the present Reply.*

S. No	Particulars	Value of Asset Addition in FY 2022-23 (Rs. Crore)	Detailed Reasons for Asset Addition during FY 2022-23	Provision of Regulations under which Addl. Cap. Filed	Reference supporting doc. enclosed in the present Petition
			cost thereby increasing ECR. Hence, with the objective of reducing such recurring cost the Petitioner deployed these assets for in house crushing to reduce the overall impact on the end consumers.		
5	*BoP – Water System*	*0.18*	• *Towards procurement of Additional submersible pumps for smooth Project operation.*		• *Please refer submissions under Para(s) 24 to 27 of the present Reply.*
6	*Other Misc. Assets*	*2.37*	• *Essentially towards Office Equipment, Computer & IT Assets, Software and Furniture and fixtures etc.*		• *Please refer submissions under Para(s) 24 to 27 of the present Reply*
7	*Railway Siding*	*0.41*	• *Railway Siding – Installation of Hydraulic Rerailing Equipment for dedicated ash transportation facility in compliance with MoEF&CC Notification dated 25.01.2016 mandating 100% fly ash utilization*	• *Regulation 28.1 (a) & 28.1(b) of the Regulations, 2020.* • *Commission's Order dated 25.08.2022 passed in Petition No. 21 of 2022* • *Commission's Order dated 29.03.2023 in the Petition No 88 of 2022*	• *Please refer submissions under Para(s) 24 to 27 and 31 of the present Reply* • *Annexure-3 of the present Petition*

Issue:

iii. If the additional capitalization is claimed beyond the Original Scope of Work, the petitioner was asked to clarify whether the addition of assets was as per Regulation 28.1.

Petitioner's Response:

The additional capitalization of Rs 14.87 Crore (Rs 7.81 Crore- BoP Ash Handing & Utilization + Rs 6.65 Crore- BoP Coal Handling System + 0.41 Crore-Railway Siding Hydraulic Re-Railing System) is beyond the original scope and has been done towards compliance to directions/ notifications of the Statutory Authorities of the Govt.

of India viz MoEF&CC, CIL and MoC. The same is claimed under Regulation 28.1 (a) and 28.1 (b) of the Regulations, 2020."

Issue:

iv. **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 and price at which contract were awarded. If there was any delay in completion of works on account of Contractor, the detail of penalty, if any, imposed on the contractor was also asked to be informed**.

Petitioner Response:

A list of Major Orders/Purchase Orders placed to different vendors for Additional Capitalization claimed in the present Petition along a statement indicating date of order and price at which contract were awarded is attached. It is further submitted that no penalty has been imposed on any contractor/ vendor for any delay in completion of works till date.

Issue:

v. **Copy of the bills/invoices of all such assets under additional capitalization during FY 2022-23 with a statement indicating all such details of works/assets, bill amount, invoice/bill No. date of the invoice /bill etc. was asked to be filed**.

Petitioner Response:

Copies of bills/ invoices for all major assets under additional capitalization during FY 2022-23 with a statement indicating details of works/assets, bill amount, invoice/bill No. date of the invoice /bill etc are submitted.

35. On perusal of the aforesaid additional submission filed by the petitioner, the Commission has observed the following:

(i) The additional capitalization towards freehold land including R&R expenses of Rs. 4.26 Crore pertains to payment towards un-discharged liabilities under the original scope of work and is claimed under Regulation 27.1 (iv) of the Regulations, 2020.

(ii) Assets of Rs 6.65 Crore Capitalized towards BoP (Coal handling System) beyond the original scope of work and is claimed under Regulation 28.1 (a) & (b) of the Regulations, 2020.

(iii) The additional capitalization of under BOP related to Ash Handling & Ash Utilization of Rs. 7.81 Crore and Railway Siding Works of Rs. 0.41 Crore incurred for dedicated ash transportation facility in compliance with MoEFCC Notification which are claimed under Regulation 28.1(a) & (b) of the Regulations, 2020.

(iv) Capitalization of Rs 0.18 Crore is towards BoP (procurement of Additional submersible pumps), capitalization of Rs 0.06 Crore towards BoP (Control & Instrumentation) and capitalization of Rs 2.37 Crore towards Other miscellaneous assets such as office equipments, computer & IT Assets, Software and Furniture & Fixtures, etc. are also claimed under additional capitalization but petitioner has not mentioned any specific provisions of the Regulations, 2020, under which these assets have been claimed.

(v) The petitioner submitted that no penalty has been imposed on contractors/vendors till date for delay in completion of works. The petitioner has filed copies of bills/ invoices for all major assets claimed under additional capitalization during FY 2022-23.

36. By affidavit dated 21st December, 2023, the Respondent No. 1 (MPPMCL) in its response has broadly submitted the following on additional capitalization:

i. *The petitioner has sought approval of Additional Capital Expenditure ("ACE") of Rs. 21.74 Crore and true-up of tariff for FY 2022-23. Admittedly, the said Additional Capital Expenditure has been incurred after the Cut-Off Date (31.03.2019) of the Project.*

ii. *The Commission had extensively analysed the issue of extension of Cut-Off Date of the Project beyond 31.03.2019 (original Cut-Off Date) in order dated 07.12.2021 passed in Petition No. 34 of 2021. After considering all the facts and documents submitted by the petitioner, this Commission did not find the reasons cited for delay as uncontrollable and held that the reasons for delay were attributable to the petitioner only. Consequently, the request of the petitioner for extension of the Cut-Off Date of the Project was rejected by the Commission.*

iii. *As all the claims of ACE, made in the present Petition, have admittedly been incurred beyond Cut-Off Date. Therefore, the said claims of ACE may only be considered under Regulation 27.1 of 2020 Generation Tariff Regulations provided they are in Original Scope of Work.*

iv. *It is submitted that upon close scrutiny of the heads of claim of ACE made by the Petitioner in the present Petition, it is observed that the claims of ACE for FY 2022-23 are not covered under Regulation 27.1 of the Regulations, 2020, therefore, may not be considered.*

37. The Commission has examined the additional capitalization for FY 2022-23 claimed in the subject petition in light of the Annual Audited Accounts, Asset-cum-Depreciation Register of the project, estimated project cost of the project approved by its Board of Directors, provisions under the Regulations, 2020 and additional details / documents filed by the petitioner. The Commission has also examined the additional capitalization in light of comments offered by Respondent No. 1.

Analysis of Additional Capitalization

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

38. The petitioner has submitted the summary of year-wise cash expenditure as per the Auditor's Certificate as given below:

Table 8: Cash expenditure certified by the Auditor during FY 2022-23 (Rs Crore)

Sr No	Particulars	Actual Cash Expenditure till 31.03.2022	Actual Cash Expenditure till 31.03.2023	Additional capital expenditure incurred during FY 2022-23
1	Cost of Land & site Development	124.48	128.74	4.26
2	Plant & Machinery	4630.55	4648.03	17.48
3	Building & Civil Works	1008.07	1008.07	
4	Customs & Excise Duty	28.75	28.75	
5	Pre-operative expenses (Net-off Interest Income)	437.52	437.52	
6	IDC/Financing Charges	1891.32	1891.32	
7	Add: FERV Losses charged to Revenue	197.12	197.12	
8	Add: Unamortized Cost to Borrowings	34.93	34.93	
9	**Grand Total**	**8352.76**	**8374.48**	**21.74**

39. On perusal on the aforesaid details, it is observed that as per CA certificate, cash expenditure of Rs 8352.76 Crore was incurred as on 31st March, 2022 and Rs 8374.48 Crore as on 31st March, 2023, therefore, the petitioner has incurred Rs 21.74 Crore towards additional capital expenditure on cash basis. Further, the petitioner has also submitted that the asset addition of Rs 21.74 Crore claimed for the project during FY

2022-23 is as per Annual Audited Accounts and Asset-cum-Depreciation Register.

40. It is further observed that in the Annual Audited Accounts, the petitioner has recorded assets addition of Rs. 18.33 Crore on accrual basis which is prepared as per Ind AS (Indian Accounting Standards) and booked asset addition of Rs 17.58 Crore in the Asset-cum-Depreciation Register on accrual basis which is prepared in accordance with the Indian GAAP (Generally Accepted Accounting Principles) standards. The petitioner provided the following reconciliation of asset additions claimed in subject true up petition with the Annual Audited Accounts/Asset-cum Depreciation Register of FY 2022-23 prepared in accordance with Ind GAAP standards:

Table 9: Reconciliation of Asset Addition for FY 2022-23 with Audited Annual Accounts for IGAAP
(Rs Crore)

Particulars	Amount	Reference from Petition No. 54 of 2023
Asset Addition as per IGAAP (with due Ind AS adjustment of Rs 0.7479 Crore against Freehold land)	17.58	*Annexure 2 - Page No. 98 for Tangible Assets under IGAAP reconciliation* *Annexure 1 - Page No. 62 for Intangible Assets*
Less:- Provisions towards R&R based on Actuarial Variation (Accrual basis)	(0.10)	*Annexure 2 - Page No. 98 for Tangible Assets under IGAAP reconciliation*
Total	**17.48**	
Add:- Discharged Liability towards payment of Land for R&R Expenses	4.26	*Annexure 3 - Page No. 107; Auditor Certificate for Cash Expenditure during FY 2022-23 dated 28 Sep 2023*
Gross Additions	**21.74**	
Less:- Increase in Liability in FY 2022-23	-	
Total Additional Capitalization	**21.74**	

41. In view of the above, it is observed that the additional capitalization of Rs. 21.74 Crore claimed by the petitioner during FY 2022-23 is recorded in Annual Audited Accounts for FY 2022-23. The assets claimed under additional capitalization in subject true-up petition have also been recorded in Asset-cum-Depreciation Register of project for FY 2022-23 which is also prepared as per Indian GAAP standards.

B. Capital Cost under Original Scope of Work approved by the Board

42. Regarding original scope of works of the project, the petitioner submitted that assets of Rs 4.26 Crore under Land & Site Development capitalized during FY 2022-23 are within the original scope of work of the project, whereas, additional capitalization of Rs 14.87 Crore (Rs 7.81 Crore towards BoP Ash Handing & Utilization + Rs 6.65 Crore towards BoP Coal Handling System + Rs 0.41 Crore towards Railway Siding Hydraulic Re-Railing-System) which has been done towards compliance to directions/ notifications of the Statutory Authorities of the Govt. of India viz MoEF & CC, CIL (Coal India Ltd.) and MoC (Ministry of Coal) are beyond the original scope of works. Further, petitioner has not specified/mentioned in subject petition, whether capitalization of Rs 0.18 Crore towards BoP (procurement of Additional submersible pumps), capitalization of Rs 0.06 Crore towards BoP (Control & Instrumentation) and capitalization of Rs 2.37 Crore towards Other miscellaneous assets such as office equipments, computer & IT Assets, Software and Furniture & Fixtures, etc. falls within the original scope of work or beyond the original scope of work.

43. The details of the cost approved by the Board, expenditure till 31st March, 2022 considered by the Commission and additional capitalization during FY 2022-23 claimed in the petition is as follows:

Table 10: Details of the Cost approved by the Board and additional capitalization claimed during FY 2022-23 **(Rs in Crore)**

S.No	Particular	Project Capital Cost approved by the Board of Petitioner's Company dated 16.2.2016	Project Capital Cost as on 01.04.2022 admitted by this Commission	Buffer as on 01.04.2022 for future Project ACE	Project ACE during FY 2022-23 claimed in the present Petition.
		A	B	C=A-B	D
1	**Land & Site Development**	**144.00**	**124.48**	**19.52**	**4.26**
2	BTG & BoP	4299.15	4297.97	1.18	17.07
3	Barrage	156.59	155.18	1.41	-
4	Railway Siding	266.81	152.11	114.70	0.41
5	**Total Plant & Machinery (2+3+4)**	**4722.56**	**4605.26**	**117.30**	**21.74**
6	**Building & Civil Works**	**1045.11**	**1008.09**	**37.02**	**-**
7	**Customs & Excise duty**	**570.00**	**-**	**570.00**	**-**

S.No	Particular	Project Capital Cost approved by the Board of Petitioner's Company dated 16.2.2016	Project Capital Cost as on 01.04.2022 admitted by this Commission	Buffer as on 01.04.2022 for future Project ACE	Project ACE during FY 2022-23 claimed in the present Petition.
8	**Other Soft Cost/ Expenses including Pre-operative/Pre-commissioning Expenses, IDC, Finance Charges, FERV Losses, Unamortized Finance cost to borrowings etc.**	**2521.25**	**2429.89**	**91.36**	**-**
9	**Total (1+5+6+7+8)**	**9002.92**	**8167.72**	**835.20**	**21.74**

44. Details of the capital cost as on 31.03.2022 considered by the Commission, additional capitalization claimed by the petitioner during FY 2022-23 and total Actual expenditure as on 31.03.2023 filed by the petitioner are as given below:

Table 11: Capital Cost as on 31st March, 2023 claimed by the petitioner (Rs. Crore)

Particulars	Opening Capital Cost admitted by Commission as on 01.04.2022	Add. Cap. claimed for FY 2022-23	Actual capital Expenditure claimed by the petitioner as on 31.03.2023
Land & Site Development	124.48	4.26	128.74
BTG & BOP (Incl. Taxes & Duties)	4297.97	17.07	4315.04
Civil Works & Structural Works (Including Taxes)	1008.09		1008.09
Barrage (including Land and Taxes)	155.18		155.18
Railway Siding	152.11	0.41	152.52
Hard Cost	**5737.83**	**21.74**	**5759.57**
Pre-Operative Expenses	343.21		343.21
Infirm Power	57.11		57.11
IDC and FC	1818.52		1818.52
FERV	148.04		148.04
Unamortized Finance Cost	34.93		34.93
Carrying Cost	28.09		28.09
Soft Cost	**2429.89**		**2429.89**
Total Capital cost including IDC, FC,	**8167.72**	**21.74**	**8189.46**

45. The Commission has observed that the additional capitalization of Rs 4.26 Crore claimed by the petitioner is within the original project cost of Rs. 9002.92 Crore approved by BoD of the petitioner's company. Further balance assets capitalized in compliance to MoEF&CC Notification/or any other statutory authority have been claimed under Regulation 28.1 which provides for allowing only those additional capitalization works after prudence check, which are beyond the original scope.

C. Analysis of Cut-off Date

46. Regarding the Cut-off date of the project, Regulation 4.1 (1) 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 commercial operation of the Project, and in case the Project is declared under commercial operation in the last quarter of a year, the Cut-Off date shall be 31st March of the year closing after three years of the year of commercial operation*;

47. The Unit No. 1 and 2 of the project achieved COD on 20th May, 2015 and 07th April, 2016, respectively, therefore the cut-off date of the project shall be 31st March, 2019 in accordance with Regulations, 2015. The Commission has observed that the additional capitalization filed by the petitioner in the subject petition is beyond the cut-off date of the project.

48. Regarding the extension of cut-off date, it is pertinent to mentioned that the petitioner had filed a Petition No 18 of 2019 for extension of cut-off date by 2 years (from 31.3.2019 to 31.3.2021) anticipating the spill over of works beyond the aforesaid cutoff date of 31.03.2019 giving various reasons beyond the control of the petitioner for the following works:

   a. Deferred works related to construction of ash dyke/ash pond/ash handling system:
   b. Deferred works related to Railway Siding Works – New Entry Line:
   c. Unfinished works by M/s Lanco Infratech Limited:
   d. Certain other works on account of compliance to Statutory Requirement

49. The Commission vide order dated 27.04.2019 disposed-off the aforesaid Petition No. 18 of 2019 stating that Cut-off Date may be extended after due prudence check of such

spilled over works. Further, liberty was granted to the petitioner to approach this Commission with actual additional capitalization of all works beyond the cut-off date as per the Annual Audited Accounts along with all details and documents, while filing the True-up Petition for respective financial year.

50. Subsequently, the petitioner had filed petition No 34 of 2021 for true up of generation tariff for FY 2019-20 with the prayer for extension of cut-off date by 2 years. Vide Order dated 7th December, 2021, the Commission had examined the prayer and appropriately dealt the issue of extension of cut-off date. In para 60 of the aforesaid order, the Commission observed that the reasons mentioned by the petitioner for extension of cut-off date were not covered under the uncontrollable factors mentioned in the Regulations, 2020 and were on account of the reasons attributable to the petitioner. Hence, extension of cut-off date was not found considerable beyond the cut-off date i.e., 31st March, 2019 of the project in accordance to the Tariff Regulations.

51. Since, the actual additional capitalization is claimed beyond the cut-off date of project, hence, it needs to be examined in terms of the Regulation 27.1 of the Regulations, 2020. Also, petitioner has claimed additional capital expenditure towards BOP assets and Railway Related Works, which are beyond the original scope of work and the same needs to be examined in terms of the Regulation 28.1 of the Regulations, 2020.

D. Analysis of additional capitalization in light of the Regulations

52. The petitioner filed additional capitalization of Rs. 21.74 Crore for the project during FY 2022-23 under major heads, namely, Land & Site Development, BTG & BOP, Railway Siding and other miscellaneous assets. The additional capitalization under each of the aforesaid heads has been examined separately as given below:

Land & Site Development

53. The petitioner has claimed Rs. 4.26 Crore under additional capitalization on account of discharge of liability towards land and site development of the project. The petitioner submitted that the aforesaid assets have been claimed under Regulation 27.1 (iv) of the Regulations, 2020.

54. Regarding the additional capitalization towards land and site development works, by affidavit dated 18th December, 2023, the petitioner submitted that the acquisition cost of freehold land for Project comprises of one-time cost of the land along with the annual

diversion payments to GoMP for change of land use (agriculture to industrial) & R&R expenses (as per Madhya Pradesh Rehabilitation and Resettlement Policy, 2002 and National Rehabilitation and Resettlement Policy-2007 for Project Affected People).

55. The petitioner further submitted that while the one-time cost of the land has already been paid in cash and capitalized under the Project Cost, however, annual diversion payments to GoMP for change of land use & R&R expenses, which include the special economic grant scheme, old age pension schemes, physically handicapped grant scheme, widow pension scheme, education & health facilities & related provisions, scholarship schemes etc. is required to be paid in cash on an annual basis co-terminus with the life of the Project. Further, the petitioner submitted that a provision towards annual payments towards Annual diversion payments to GoMP has been made under the head of “Land & Site Development” of Project Capital Cost approved by the Board of petitioner’s Company, which is released in form of discharge of liabilities each year.

56. It is observed that under the Project Capital Cost approved by the Board of petitioner’s Company, an amount of Rs 144 Crore had been approved for “Land & Site Development”, against which, total cash expenditure of Rs 124.48 Crore was incurred by the petitioner till 31.03.2022 and the same has been already considered by the Commission. Accordingly, a balance of Rs 19.52 Crore (i.e. Rs 144.00 Crore - Rs 124.48 Crore) has been kept for discharge of liabilities towards annual diversion payments to GoMP on the annual basis for the future.

57. Against the balance of Rs 19.52 Crore as on 31.03.2022, it has incurred a cash expenditure of Rs 4.26 Crore towards component Annual diversion payments to GoMP for change of land use & R&R expenses during FY 2022-23 and the same has been capitalized in the Annual Audited Accounts. Further, the cash expenditure of Rs 4.26 Crore towards discharge of liabilities on Freehold land incl. R&R for the Project during FY 2022-23 is reflected in the Auditor’s Certificate of Cash expenditure dated 28th September, 2023. The petitioner has also submitted copies of the Challans for diversion rents payment made to the government.

58. By affidavit dated 18th December, 2023, the petitioner provided detailed breakup of expenditure of Rs 4.26 Crore under land & site development tabulated as below:

Table 12: Breakup of Expenditure of Land & Site Development filed by the petitioner

S. No	Items	Amount in (Rs. Crore)
1	R & R Expenses	1.47
2	Various Pensions & Grants	1.89
3	Scholarship	0.47
4	Diversion Rent	0.43
	Total	**4.26**

59. On examination of the aforesaid works under additional capitalization filed by the petitioner, it is observed that these works are related to discharge of liability on freehold land including R&R expenses capitalized for the project during FY 2022-23 and have also been recorded in Annual Audited Accounts and Asset-cum-Depreciation register of the project. Further, these works are also under the original scope of works of the project.

60. The petitioner has claimed aforesaid additional capitalization under Regulation 27.1(iv) of the Regulations, 2020 which provides liability of works executed prior to cut-off date. Therefore, the additional capitalization of Rs. 4.26 Crore towards land related R&R works for the project is considered in this Order under Regulation 27.1 (iv) of the Regulations, 2020.

BTG & BoP

61. The petitioner has claimed additional capitalization of Rs 17.07 Crore towards BTG & BoP which includes (Rs 7.81 Crore towards BoP Ash Handing & Utilization, Rs 6.65 Crore towards BoP Coal Handling System, Rs 0.06 Crore towards BoP Control & Instrumentation, Rs 0.18 Crore towards BoP Water System and Rs 2.37 Crore towards other Miscellaneous Assets such as furnitures, fixtures, computers, etc).

62. Further, by affidavit 18th December, 2023, the petitioner submitted that it has incurred a cash expenditure of Rs 17.07 Crore towards BTG & BOP in compliance to various laws, directions and notifications issued by the statutory authorities of the Govt. of India and also to ensure smooth monitoring, control & smooth operation of the Project.

63. The petitioner submitted the breakup of Additional Capitalization of Rs 17.07 Crore towards BTG & BOP with reasons under Plant & Machinery during FY 2022-23 as under:

Table 13: Breakup of additional capitalization towards BTG & BOP filed by the petitioner

S. No	Particulars	Amount in Rs Crore
1	BoP - Ash Handling & Ash Utilization	7.81
2	BoP - C&I	0.06
3	BoP - Coal Handling System	6.65
4	BoP – Water System	0.18
5	Other Misc. Assets	2.37
	Total	**17.07**

i. BoP- Ash Handling & Ash Utilization

64. On examination of the works related to BTG & BoP, it was observed that assets of Rs 7.81 Crore is capitalized during the year related to Ash Handling & Ash Utilization in compliance with MoEFCC Notification dated 31st December, 2021 towards "Fly Ash Utilization" and claimed under Regulation 28.1 (a) & (b) of the Regulations, 2020 which provides for additional capital expenditure beyond original scope of work on account of "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" and "Change in law or compliance of any existing law".

65. Further, the petitioner informed that the assets capitalized under Ash Handling & Ash Utilization consists of the following items:
    - Dozer
    - Sweeping Machine
    - 2 No. of Hyva 16 MT
    - 6 No. of Hyva 20 MT
    - Mist Gun & Sprinkler Dust Suppression system.

    Petitioner submitted that the above assets are essentially required for carrying out various activities associated with Ash Handling and Utilization in compliance to MoEF Notification 2021 towards Fly Ash Utilization.

66. Being a statutory requirement, the said capitalization of Rs. 7.81 Crore **beyond original scope of work** is considered by the Commission under Regulation 28.1 (b) of the Regulations 2020.

ii. BoP- Coal Handling System

67. It is observed that BoP Works of Rs 6.65 Crore towards Coal Handling System claimed by the petitioner is beyond the original scope of work. The petitioner submitted that this

additional capitalization is towards the crushing of oversized coal, which the petitioner has started receiving from FY 2023-23 onwards from Coal India Limited ("CIL") through the road mode due to Change in Policy of Ministry of Coal.

68. The petitioner has claimed the aforesaid Coal Handling System under Regulation 28.1 (a) & (b) of the Regulations, 2020 which provides for additional capital expenditure beyond original scope of work on account of "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" and "Change in law or compliance of any existing law"

69. On examination of the submissions made by the petitioner, it is observed that the said expenditure of Rs 6.65 Crore claimed by the petitioner towards coal handling plant-deployment of mini crushers and coal sampling equipments does not fall under Regulation 28.1 (a) & (b) of the Regulations, 2020. It is also observed that petitioner has only submitted minutes of meetings (MoM) of Coal India Limited which does not justify its claim of additional expenditure to be considered under the Regulations 28.1 (a) and (b) of the Regulations, 2020. Hence, this expenditure of Rs 6.65 Crore is not considered in this Order.

iii. BoP- Water System, BoP- C&I (Control & Instrumentation) and Other Misc. Assets

70. The petitioner has claimed additional capitalization of Rs 0.18 Crore towards procurement of additional submersible pumps for smooth project operation, Rs 0.06 Crore towards BoP-Control & instrumentation which is towards upgradation of PLC, SCADA Systems and Rs 2.37 Crore towards other miscellaneous assets such as office equipments, computers, IT assets, software and furniture & fixtures, etc. for monitoring and control of the project operations. It is observed that the petitioner has not mentioned / clarified the provision of the Regulation under which above additional capitalization are being claimed by it.

71. On perusal of the submission of the petitioner, it is observed that the aforesaid assets have been capitalized after cut-off date of the project and are not covered under the scope of the Regulations, 2020, hence, not considered in this Order.

iv. Railway Siding Works

72. The petitioner has claimed additional capital expenditure of Rs 0.41 Crore towards installation of Hydraulic Re-Railing Equipment for the dedicated Railway Siding

(Capitalized in the previous FY 2021-22), constructed for Ash disposal & transportation to comply with 100% Ash utilization directives of MoEF&CC Notification, 2021 under Regulation 28.1 (b) of the Regulations, 2020. Regarding railway siding works, by affidavit dated 18th December, 2023, the petitioner submitted the following:

It may be appreciated that while truing up the tariff of the Project for FY 2021-22, this Commission in its Order dated 29.03.2023 in Petition No. 88 of 2022 was pleased to approve ACE towards, such Additional Capital Expenditure under Regulation 28.1(b) of the Regulations, 2020. The relevant extract of Para 77 of the said Order dated 29th March 2023 are reproduced here as under:

" 77. The Commission in its order dated 25th August, 2022 in Petition No 21 of 2022 granted the liberty to the petitioner to approach the Commission when the works related to railway siding is fully completed with the actual expenditure incurred towards it. Since, the petitioner has now completed the works of dedicated railway track with shed facilities for ash disposal purpose and has capitalized the expenditure of Rs 10.18 Crore in FY 2021-22 (Rs 1.33 Crore in FY 2020-21 and Rs 8.85 Crore in FY 2021-22), hence, the aforesaid capitalization is allowed under Regulation 28.1 (b) of the Regulations, 2020 which provides for additional capital expenditure beyond original scope of work on account of Change in law or compliance of any existing law."

73. It is observed that the aforesaid capitalization has been done in compliance with MoEF&CC Notification dated 31.12.2021, mandating 100% fly ash utilization, wherein, petitioner has installed a hydraulic rerailing equipment for dedicated ash transportation facility.

74. It is further observed that the cost towards Railway Siding related works of Rs 266.81 Crore had been approved by the Board of the Petitioner's Company. Against which the petitioner had incurred Rs 152.11 Crore till 31.03.2022 and the same has been approved by the Commission upto 31.03.2022. As a result, a balance of Rs 114.70 Crore (i.e. Rs 266.81 Crore - Rs 152.11 Crore) has been kept as future provision for the completion of Railway Siding works (if any). The petitioner has now spent Rs 0.41 Crore during FY 2022-23 for dedicated Railway Siding constructed for ash disposal & transportation to comply with 100% Ash Utilization directives of MoEF Notification 2021.

75. Since, the petitioner has completed the works of installation of Hydraulic Re-Railing Equipment for the dedicated Railway Siding (Capitalized in the previous FY 2021-22), for ash disposal and transportation purpose and has claimed the expenditure in FY 2022-23 (on actual payment), hence, the aforesaid capitalization of **Rs 0.41 Crore** is considered under Regulation 28.1 (b) of the Regulations, 2020 which provides for additional capital expenditure **beyond original scope of work** on account of Change in law or compliance of any existing law.

76. The break-up of the Opening Gross Fixed Assets, additions during the year and Closing Gross Fixed Asset as considered by the Commission in this Order are as given below:

Table 14: Capital Cost as on 31st March, 2023 for the project considered in this Order:

(Rs Crore)

Particulars	Opening Capital Cost as on 01.04.2022	Add. Cap. considered for FY 2022-23	Closing Capital Cost 31.03.2023
Land & Site Development	124.48	4.26	128.74
BTG & BOP (Incl. Taxes & Duties)	4297.97	7.81	4305.78
Civil Works & Structural Works (Including Taxes)	1008.09	-	1008.09
Barrage (including Land and Taxes)	155.18	-	155.18
Railway Siding	152.11	0.41	152.52
Hard Cost	**5737.83**	**12.48**	**5750.31**
Pre-Operative Expenses	343.21		343.21
Infirm Power	57.11		57.11
IDC and FC	1818.52		1818.52
FERV	148.04		148.04
Unamortized Finance Cost	34.93		34.93
Carrying Cost	28.09		28.09
Soft Cost	**2429.89**		**2429.89**
Total Capital cost including IDC, FC,	**8167.72**	**12.48**	**8180.20**

DEBT –EQUITY RATIO

Petitioner's Submission:

77. Regarding the sources of funding for additional capitalization claimed in the subject petition, the petitioner submitted that the additional capital expenditure incurred during FY 2022-23 is funded entirely through internal resources. The petitioner further submitted that, in the subject petition, the funding of Additional Capital Expenditure of

Rs. 21.74 Crore is considered as per normative debt-equity ratio of 70:30 in accordance with Regulation 33 of the Regulations, 2020.

Provisions in Regulations:

78. 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 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:

79. 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 29th March, 2023 as opening balance as on 1st April, 2022 in this Order.

80. The details of the opening GFA, equity and loan amount as on 31st March, 2022 considered by the Commission in the true-up Order for FY 2022-23 are as given below:

Table 15: Opening Capital Cost and funding for FY 2022-23 (Rs Crore)

Sr. No	Particular	Amount
1	Opening Capital Cost	8167.72
2	Opening Equity	2226.07
3	Opening Loan	3442.90

81. With regard to funding of additional capitalization claimed in the subject petition, the petitioner submitted that the additional capital expenditure incurred during FY 2022-23 are funded entirely through internal resources. Vide Commission's letter dated 5th December, 2023, the petitioner was asked to submit the Board approval for equity infusion in this regard.

82. By affidavit dated 18th December, 2023, the petitioner submitted a copy of the Board Approval towards funding of the additional capital expenditure during FY 2022-23 through internal accruals.

83. With regard to funding of additional capitalization, Regulation 33.1 of the Regulations, 2020 provides that "if the equity actually deployed is more than 30% of the capital cost, equity in excess of 30% shall be treated as normative loan." In light of the aforesaid

Regulation, the Commission has considered the excess equity i.e. above 30% of additional capitalization as normative loan in this Order.

84. In view of the above, detail of additional capitalization and its corresponding Debt and Equity considered by the Commission for FY 2022-23 in this Order are as given below:

Table 16: Additional Capitalization and Funding considered in this Order:

(Rs. Crore)

Sr. No.	Particulars	Asset Addition and Source of Funding considered for FY 2022-23		
		Addition	Loan Addition	Equity Addition
1	Debt : Equity	70 : 30		
2	Additions during the year	12.48	8.74	3.74

85. The Commission has considered equity addition of Rs 3.74 Crore which is 30% of total admitted additional capitalization of Rs 12.48 Crore in this Order, out of this, equity addition within the original scope of work, i.e., of Rs 4.26 Crore is considered as Rs 1.28 Crore (30% of Rs 4.26 Crore) and equity addition beyond the original scope of work is considered as Rs 2.47 Crore (30% of Rs 7.81 Crore + 30% of Rs 0.41 Crore) during FY 2022-23**.**

Annual Capacity (fixed) Charges:

86. Regulation 17 of the Regulations, 2020 provides that the Annual Capacity (fixed) Charges derived on the basis of annual fixed cost (AFC). The Annual Fixed Cost 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:

87. The petitioner claimed the Return on Equity for the project for FY 2022-23 considering the base rate of return @15.50% as given below:

Table 17: Return on Equity claimed by the petitioner for FY 2022-23

Particulars	***Unit***	***FY 22-23***
Net Opening Equity (Normative) as on 01.04.2022	*Rs. Crore*	*2226.07*
Add: Increase in Equity due to addition during the FY 2022-23	*Rs. Crore*	*6.52*
Add: increase due to discharge during the year	*Rs. Crore*	*-*
Net Closing Equity (Normal) as on 31.03.2023	*Rs. Crore*	*2232.59*
Average Equity during FY 2022-23	*Rs. Crore*	*2229.33*
Rate of RoE	*%*	*15.50%*
RoE during FY 2022—23	*Rs. Crore*	***345.55***

Provision in Regulations:

88. Regarding the Return on Equity, Regulations 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%:

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

"Provided also that return on equity in respect of additional capitalization after cut-off date beyond the original scope, excluding additional capitalization on account of emission control system, shall be computed at the weighted average rate of interest on actual loan portfolio of the generating station or in the absence of actual loan portfolio of the generating station, the weighted average rate of interest of the generating company, as a whole shall be considered, subject to ceiling of 14%".

34.3 *"The return on equity in respect of additional capitalization on account of emission control system shall be computed at the base rate of one year marginal cost of lending rate (MCLR) of the State Bank of India as on 1st April of the year in which the date of operation (ODe) occurs plus 350 basis point, subject to ceiling of 14%;"*

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:

Rate of pre-tax return on equity = Base rate / (1-t)

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 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:

89. While determining Return on Equity, closing equity as on 31st March, 2022 considered in Commission's last true-up order dated 29th March, 2023 (in petition No. 88 of 2022) is considered as the opening equity for the project as on 1st April, 2022 in this Order. Further, the Commission has considered normative equity addition of Rs. 3.74 Crore during FY 2022-23 towards additional capitalization considered in this Order.

90. The petitioner has claimed Return on Equity by applying base rate of return (15.50%) (without considering any tax rate for grossing up) during FY 2022-23.

91. With regard to ROE in respect of additional capitalization, after the cut-off date beyond the original scope of work, proviso of regulation 34.2 of the 2nd Amendment to the Regulations ,2020 provides that:

"Provided also that return on equity in respect of additional capitalization after cut-off date beyond the original scope of work, excluding additional capitalization on account of emission control system, shall be computed at the weighted average rate of interest on actual loan portfolio of the generating station or in the absence of actual loan portfolio of the generating station, the weighted average rate of interest of the generating company ,as a whole shall be considered , subject to ceiling of 14%.

92. In view of the above, the Commission has determined the ROE on equity component of admitted additional capital expenditure within the original scope, at the base rate of return @15.50%, however, while calculating ROE for on equity component of additional capital expenditure items incurred and admitted after the cut-off date beyond the original scope, the Commission has restricted the computation of RoE @ weighted average rate of Interest of 10.94% in accordance with provisio 34.2 of the 2nd

Amendment of the Regulations, 2020.

93. Further, in compliance to Regulation 34.2, the petitioner by affidavit 18th December, 2023, the petitioner has submitted that its thermal power plant Project has been operating with the ramp rate of over 1% per minute and has submitted the screenshot of the website of WRLDC evidencing the same. This issue has not been contested by Respondent MPPMCL.

94. Accordingly, the return on equity for equity invested in assets within the original scope work has been worked out for FY 2022-23 considering the base rate of return @15.50% and for equity invested in assets beyond the original scope work @ weighted average rate of Interest of 10.94% as given below:

Table 18: Return on Equity considered at base rate of return in this Order for FY 2022-23

Sr. No	Particular	Unit	FY 2022-23
1	Opening Equity as on 1st April, 2022	Rs. Crore	2226.07
2	Equity Additions during FY 2022-23	Rs. Crore	1.28
3	Closing Equity as on 31st March, 2023	Rs. Crore	2227.35
4	Average Equity	Rs. Crore	2226.71
5	Base rate of Return on Equity	%	15.50%
6	**Annual Return on Equity**	**Rs. Crore**	**345.14**

Table 19: Return on Equity considered at weighted average rate of Interest @ 10.94% in this Order for FY 2022-23

Sr. No	Particular	Unit	FY 2022-23
1	Opening Equity	Rs. Crore	0.00
2	Addition of Equity due to additional capital expenditure incurred beyond the original scope of work during FY 2022-23	Rs. Crore	2.47
3	Closing Equity	Rs. Crore	2.47
4	Average Equity	Rs. Crore	1.23
5	Weighted average rate of interest	%	10.94%
6	**Annual Return on Equity (equity invested in assets beyond the original scope of work)**	**Rs. Crore**	**0.13**

Table 20: Total Return on Equity considered in this Order

Sr. No	Particular	Unit	FY 2022-23
1	Return on Equity at Normal Rate (A)	Rs. Crore	345.14
2	Return on Equity at WAROI (B) (=1.23*10.94%)* (for equity invested in assets beyond original scope of work)	Rs. Crore	0.13
3	**Total Annual Return on Equity considered (A+B)**	**Rs. Crore**	**345.27**

(b) Depreciation:

Petitioner's Submission:

95. With regard to depreciation during the year, the petitioner has considered the same opening Gross Fixed Assets as on 01st April, 2022 as considered by the Commission as on 31st March, 2022 in last true-up order issued on 29th March, 2023 for FY 2021-22. The petitioner also considered addition of assets during FY 2022-23 in respect of additional capitalization claimed in the subject petition. The petitioner has considered the weighted average rate of depreciation @ 4.86% as worked out in form TPS 11 of the petition.

96. Based on the above, the annual depreciation as worked out and claimed by the petitioner in the subject petition is given below:

Table 21: Annual Depreciation claimed by the petitioner:

Particulars for the Project	***Unit***	***FY 2022-23***
Opening Capital Cost	*Rs. Crore*	*8167.72*
Closing Capital Cost	*Rs. Crore*	*8189.46*
Average Capital Cost	*Rs. Crore*	*8178.59*
Rate of depreciation	*%*	*4.86%*
Depreciation (for the period)	*Rs. Crore*	***397.53***

Provision in Regulations:

97. Regarding the depreciation, 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-Ito 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

98. For the purpose of determining depreciation, the closing Gross Fixed Assets of Rs. 8167.72 Crore as on 31st March, 2022, as considered in Commission's last true-up order issued on 29th March, 2023 for FY 2021-22 is considered as opening GFA as on 1st April, 2022. Further, closing GFA as on 31st March, 2023, is worked out after considering additional capitalization of Rs. 12.48 Crore considered in this Order.

99. By affidavit dated 18th December, 2023 the petitioner filed Assets-cum-Depreciation Register for FY 2022-23 for the project. The Commission observed that the weighted average rate of depreciation 4.86% is worked out based on the rates of depreciation prescribed in the Regulations, 2020.

100. Considering the above, the Commission has worked out annual depreciation during the year duly taking into account opening Gross Fixed Assets, additions during the year, closing Fixed Assets as considered in this Order and weighted average rate of depreciation in terms of the Regulations, 2020 as given below:

Table 22: Depreciation considered in this Order for FY 2022-23

Sr. No.	Particular	Unit	FY 2022-23
1	Opening Gross Fixed Assets as on 1st April, 2022	Rs Crore	8167.72
2	Addition during the year	Rs Crore	12.48
3	Closing Gross Fixed Assets as on 31st March, 2023	Rs Crore	8180.20
4	Average Gross Block Fixed Assets (GFA)	Rs Crore	8173.96
5	Weighted average rate of depreciation	%	4.86%
6	**Annual Depreciation amount**	Rs Crore	**397.25**
7	Opening Cumulative Depreciation as on 1.4.2022	Rs Crore	2828.20
8	Closing Cumulative Depreciation as on 31.3.2023	Rs Crore	3225.45

(c) Interest on Loan Capital

Petitioner's Submission

101. While claiming the interest on loan capital during FY 2022-23, the petitioner has considered the same opening loan as on 1st April, 2022 as considered by the Commission in last true-up order dated 29th March, 2023 (in petition No 88 of 2022) for true-up of FY 2021-22. Regarding the rate of interest, the petitioner in the subject petition has submitted the following:

The Weighted Average Rate of Interest ("WAROI") of 10.94% has been considered based on actual loan portfolio & actual interest paid during FY 2022-23 as per the Bankers' Certificates for FY 2022-23. Computation for claimed WAROI for FY 2022-23 has been detailed under Form TPS-13 of Tariff Forms. The opening loan for the Project as on 01.04.2022 has been retained as Rs 3442.90 Crore i.e., the closing loan for the Project as on 31.03.2023 which has been duly approved by the Commission in its Order dated 29.03.2023 passed in the Petition No. 88 of 2022"

102. Based on the above, the petitioner worked out interest on loan capital as given below:

Table 23: Interest on Loan Capital claimed by the petitioner

Particulars	*Unit*	*FY 2022-23*
Opening Loan Balance as on 01.04.2022	*Rs Crore*	*3442.90*
Add: Increase in Loan during the year	*Rs Crore*	*15.22*
Less: Normative Repayment during the year	*Rs Crore*	*397.53*
Closing Loan Balance as on 31.03.2023	*Rs Crore*	*3060.58*

Particulars	Unit	FY 2022-23
Average Loan	*Rs Crore*	*3251.74*
Weighted Average Rate of Interest	*%*	*10.94%*
Interest on Loan Capital	*Rs Crore*	*355.82*

Provision in Regulations:

103. With regard to interest on loan, 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

104. For determining the interest on loan capital, the Commission has considered the opening loan amount of Rs. 3442.90 Crore as on 01st April, 2022 for the project as considered in Commission's last true-up order issued on 29th March, 2023 in petition No. 88 of 2022. Further, the Commission has considered loan addition of Rs. 8.74 Crore during FY 2022-23 in respect of additional capitalization considered during FY 2022-23 in this Order. The repayment equivalent to "Depreciation" during the year is considered as per the provision under the Regulations, 2020.

105. Regulation 36.4 of the Regulations, 2020 provides that the rate of interest shall be the weighted average rate of interest calculated on the basis of actual loan portfolio. While claiming interest on loan, the petitioner has considered the weighted average rate of interest @10.94% of actual loan portfolio. The petitioner submitted copies of the Banker's Certificates for FY 2022-23 in this regard.

106. By affidavit dated 18th December, 2023, the petitioner confirmed that any interest on interest on loan amount or any penalty due to default in repayment is not a part of interest on loan amount.

107. Considering the above, the interest on loan for FY 2022-23 is determined in this Order as given below:-

(i) Gross Normative Opening loan of Rs. 3442.90 Crore is considered as per true up order for FY 2021-22 issued on 29th March, 2023 in petition No. 88 of 2023.

(ii) Net addition of normative loan of Rs. 8.74 Crore is considered towards additional capitalization during FY 2022-23 considered in this Order.

(iii) Annual repayment of Loan equal to annual depreciation is considered in accordance to provisions under the Regulations, 2020.

(iv) Weighted Average Rate of Interest @10.94% worked out and filed by the petitioner based on the actual interest paid to the landers on actual loan portfolio.

Table 24: Interest on loan Capital considered in this Order for FY 2022-23

Sr. No.	Particulars	Unit	FY 2022-23
1	Opening Loan Balance as on 1st April, 2022	Rs Crore	3442.90
2	Loan addition during the year	Rs Crore	8.74
3	Repayment during the Year	Rs Crore	397.25
4	Closing Loan Balance as on 31st March, 2023	Rs Crore	3054.39
5	Average Loan	Rs Crore	3248.64
6	Weighted average Rate of Interest	%	10.94%
7	**Interest on Loan Capital**	**Rs Crore**	**355.40**

(d) Operation & Maintenance Expenses

Petitioner's Submission

108. The petitioner has filed the Operation and Maintenance expenses for the project for FY 2022-23 in accordance to the norms under the Regulations, 2020 as given below:

Table 25: Operation & Maintenance Expenses claimed (Rs. Crore)

Particular	FY 2022-23
Annual O&M expenses	269.64

Provision in Regulations:-

109. 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 the generating Unit of "600/660 MW Series" for FY 2022-23 are as given below:

Table 26: Normative O&M Expenses for FY 2022-23

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

Commission's Analysis

110. For Thermal Power Station, the Commission has worked out the Annual Operation and Maintenance Expenses as per the norms prescribed under aforesaid Regulations, 2020 for the generating unit of "600 MW and above" as given below:

Table 27: O& M Expenses considered in this Order for FY 2022-23

Particular	Units	FY 2022-23
Project Capacity	MW	1200 (2X600)
Per MW O&M Expenses Norms	Rs in Lakh/MW	22.47
Annual O&M expenses	**Rs. Crore**	**269.64**

(e) Interest on Working Capital

Petitioner's Submission

111. The petitioner claimed Interest on Working Capital for the project for FY 2022-23 as given below:-

Table 28: *Interest on Working Capital claimed by the petitioner:*

Particulars for the Project	***Unit***	***FY22-23***
Cost of Coal towards Stock (30 days)	*Rs. Crore*	*166.53*
Cost of Coal towards Generation (30 days)	*Rs. Crore*	*166.53*
Cost of Main Secondary Fuel Oil (Two months)	*Rs. Crore*	*3.31*
O & M Expenses (One Month)	*Rs. Crore*	*22.47*
Maintenance Spares (@20% of O&M Expenses)	*Rs. Crore*	*53.93*
Receivables (45 days)	*Rs. Crore*	*431.91*
Total Working Capital	*Rs. Crore*	***844.69***
Rate of Interest on Working Capital	*%*	*10.50%*
Interest on Working Capital	*Rs Crore*	***88.69***

Provision in Regulations:

112. 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; 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 handing 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

113. Regulation 38.2 of the Regulations, 2020 provides that no fuel price escalation shall be provided during the tariff period for calculating the working capital. 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 months' Cost of secondary main fuel oil equivalent to normative plant availability factor as considered in Commission's order dated 01st May, 2021 in petition No. 46 of 2020 for FY 2022-23 is considered in this Order. The details of coal cost and cost of main fuel oil for working capital are as given below:

Particulars	FY 2022-23 (Rs. Crore)
Coal Cost (60 days) as per Regulation 38.1 (1) (a & b)	333.07
Cost of Secondary Fuel Oil for two Months'	3.31

(ii) O&M Expenses of one month for the purpose of working capital as considered in Commission's order dated 01st May, 2021 in Petition No. 46 of 2020 is considered in this Order.

(iii) Maintenance Spares 20% of O&M expenses as considered in Commission's order dated 01st May, 2021 in Petition No. 46 of 2020 is considered in this Order as given below:

Particulars	FY 2022-23 (Rs. Crore)
Annual O & M Expenses	269.64
O&M Expenses for one month	22.47
Maintenance Spares (20% of O&M Expenses)	53.93

(iv) Receivables equivalent to 45 Days of Annual Capacity (Fixed) charges and Energy Charges as considered in order dated 1st May, 2021 are given below:

Particulars	FY 2022-23 (Rs. Crore)
Variable Charges- 45 days (As considered in Order dated 1st May, 2022)	252.25
Annual Fixed Charges- 45 days (Worked out in this Order)	179.07
Total	**431.32**

114. 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.

115. 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.

116. Based on the above, the interest on working capital for the project for FY 2022-23 considered in this Order is as given below :-

Table 29: Interest on Working Capital considered in this Order for FY 2022-23

Sr. No.	Particulars	Unit	FY 2022-23
1	Cost of coal for 60 Days considering non pit head power station	Rs Crore	333.07
2	Cost of main secondary fuel oil for two months	Rs Crore	3.31
3	O&M Charges for one month	Rs Crore	22.47
4	Maintenance Spares 20% of the O&M charges	Rs Crore	53.93
5	Receivables for 45 Days	Rs Crore	431.32
6	**Total Working Capital**	Rs Crore	**844.10**
7	Applicable Rate of Interest (SBI MCLR)	%	10.50%
8	**Interest on Working Capital**	Rs Crore	**88.63**

(f) Non-Tariff Income

117. With regard to non-tariff income, 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".

118. In accordance to aforesaid Regulation 58.1, the generating company shall submit full details of its Non-Tariff Income to the Commission. On perusal of the petition, it was observed that the petitioner had not filed details of non-tariff income for FY 2022-23. Vide Commission's letter dated 5th December, 2023, the petitioner was asked to file non-tariff/other income during FY 2022-23 in accordance to the Regulation 58.1 of the Regulations, 2020 in light of the figures of non-tariff income/other income recorded in Annual Audited Accounts.

119. By affidavit dated 18th December, 2023, the petition submitted the following regarding Non-tariff Income:

- *As per the Accounting Standards followed under either IGAAP or IND AS, the Annual Audited Accounts are prepared on accrual basis (irrespective of actual realization or expenditure in cash). As such, "Other Income" in the Annual Audited Accounts is also booked on accrual basis. As such, "Other Income" under Note 27 of the Annual Audited Accounts for FY 2022-23 is booked on accrual basis as Rs 75.11 Crore.*

- *The detailed break-up of "Other Income" in the Annual Audited Accounts of FY 2022-23 on accrual basis vis-à-vis actually realized is as under:*

Table 30: Breakup of Other Income filed by the petitioner during FY 2022-23 (Rs. Crore)

S. No	Head of Other Income	Amount on Accrual basis for FY 2022-23	Reference from Annual Audited Accounts for FY 2022-23	Remarks
1	Bank deposits	30.17	Note No. 27	Income on Fixed Deposits earned out of RoE. **This does not amount to Non-Tariff Income in terms of 1st proviso of Regulations 58.1 of the Regulations 2020.**
2	Late Payment Surcharge	21.27	Note No. 27	Late Payment Surcharge charged on the beneficiairies Uttar Pradesh, Madhya Pradesh & Haryana under the ongoing PPAs towards delay in payments by them against the invoices towards sale of power sold as per the provisions of respective PPAs. **This does not amount to Non-Tariff Income in terms of 1st proviso of Regulations 58.1 of the Regulations 2020.**
3	Others	0.29	Note No. 27	Ind AS adjustments of income towards Security Deposits for Office Buidling & warehouse. **This does not amount to Non-Tariff Income in terms of 1st proviso of Regulations 58.1 of the Regulations 2020.**
4	Gain on Sale/ fair valuation of investments	5.16	Note No. 27	Income on mutual fund investment earned out of RoE. **This does not amount to Non-Tariff Income in terms of 1st proviso of Regulations 58.1 of the Regulations 2020.**
5	Liabilities written back	0.76	Note No. 27	These are the provisions made in the earlier years towards certain liabilities which which are now reversed in Annual Audited Accounts for FY 2022-23 on the basis of actuals. These include: Reversal of Exgratia /Variable Pay - Rs. 0.445 Crore. Reversal of Bad Debt provisions & Old Trade payables - Rs. 0.317 Crore. **This does not amount to Non-Tariff Income in terms of 1st proviso of Regulations 58.1 of the Regulations 2020.**
6	Scrap sales	3.95	Note No. 27	Realized income from sale of scrap. **This has been considered as Non-Tariff Income in terms of Regulation 58.1(b) of the Regulations, 2020**

S. No	Head of Other Income	Amount on Accrual basis for FY 2022-23	Reference from Annual Audited Accounts for FY 2022-23	Remarks
7	Others (including Sale of rejected coal)	13.52	Note No. 27	The break-up of Rs. 13.52 Crore, towards other income is as follows: a. Rs 3.42 Crore towards sale of rejected coal which **has been considered as Non-Tariff Income in terms of Regulation 58.1(b) of the Regulations, 2020** b. Rs 4.39 Crore towards refund of BG charges by CTUIL. **This does not amount to Non Tariff Income in terms of 1st proviso of Regulations 58.1 of the Regulations 2020.** c. Rs 1.18 Crore towards recovery of rent & rebate tfrom PGCIL. **This does not amount to Non-Tariff Income in terms of 1st proviso of Regulations 58.1 of the Regulations 2020.** d. Rs 0.29 Cr towards recovery from MPPGCL Chachai Plant for the purpose of mine filling. **This does not amount to Non-Tariff Income in terms of 1st proviso of Regulations 58.1 of the Regulations 2020.** e. Rs 3.98 Crore towards recovery from employees, **This does not amount to Non-Tariff Income in terms of 1st proviso of Regulations 58.1 of the Regulations 2020.** f. Rs 0.15 Crore towards recovery of Mobile Tower Rent. **This has been considered as Non-Tariff Income in terms of Regulation 58.1(b) of the Regulations, 2020.** g. Rs 0.12 Crore towards recovery from MPPGCL for Environmental Testing. **This does not amount to Non-Tariff Income in terms of 1st proviso of Regulations 58.1 of the Regulations 2020.**
Total		**75.11**		**Net Non-Tariff Income realized (6+7a+7f) = Rs 7.52 Crore**

- *It is evident from above table that the total Non-Tariff Income realized on cash basis during FY 2022-23 is corresponding to items under S.No. 6, 7a & 7f of the above table & amounts to Rs 7.52 Crore.*

- *In terms of Regulation 58.1 of the Regulations, 2020, the non-tariff net income on account of above shall be shared in the ratio of 50:50 with the beneficiaries and the* *generating company on annual basis. Hence, the amount to be considered as net Non-tariff income on annual basis for the Project is Rs 3.76 Crore for FY 2022-23, which translates into Rs 1.128 Crore for sharing with MPPMCL (i.e. MPPMCL's share being 30% of Project Capacity)*.

120. It was observed that, "Other Income" under Note 27 of the Annual Audited Accounts for FY 2022-23 is recorded as Rs 75.11 Crore, out of which, only Rs 7.52 Crore during FY 2022-23 covered as Non-tariff Income as per Regulation 58.1 of the Regulations, 2020. This includes rent of mobile tower installed at site, others including sale of rejected coal and realized income from sale of scrap.

121. Accordingly, the total non-tariff income of 7.52 Crore for the project for FY 2022-23 is considered in this Order. The break-up of non-tariff income considered is as given below:

Table 31: Non-Tariff Income considered in this Order for FY 2022-23 (Rs Crore)

S. No.	Head of Non-tariff/Other Income	Non-tariff Income for the Project
1	Income from Scrap Sales	3.95
2	Income from sale of rejected coal	3.42
3	Income from rent of mobile tower	0.15
Total – Non-tariff Income		**7.52**
50% of the Non-tariff income		**3.76**

Other Charges:

122. In the subject true-up petition, the petitioner claimed following other charges:
   (i) Recovery of the application filing fees from the beneficiary;
   (ii) Recovery of the publication expenses from the beneficiary;
   (iii) Recovery of other statutory charges like RLDC/NLDC charges, electricity duty, cess and water charges etc. on pass through basis from the beneficiary in accordance with the provisions of the Regulations, 2020.

123. Regarding the other charges, in Para 141 to 143 of the MYT order dated 1st May, 2021, the following was mentioned by the Commission:

- *"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.*

- *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 Regulation 65.2 of the Regulations, 2020 on submission of documentary evidence.*
- *The petitioner is further allowed to recover RLDC/ NLDC charges if any payable by the generating station from the beneficiary in accordance to Regulation 65.1 (iv) of the Regulations, 2020."*

124. 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 each beneficiaries in proportion to their schedule dispatch during the month.

125. 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.

126. 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 Regulation 65.2 of the Regulations, 2020 on submission of documentary evidence.

127. The petitioner is further allowed to recover RLDC/NLDC charges if any paid from the beneficiary in accordance to Regulation 65.1 (iv) of the Regulations, 2020.

Summary of Annual Capacity (fixed) Charges:

128. 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 1st May, 2021 at normative Plant Availability Factor are summarized as below:

Table 32: Annual Capacity (Fixed) Charges at normative availability considered in this Order **(Rs. Crore)**

S. No.	Particulars	Considered in MYT Order dated 1st May, 2021 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	341.09	345.27	4.18
2	Depreciation	393.63	397.25	3.62
3	Interest on Loan Capital	408.32	355.40	-52.92
4	O & M Expenses	269.64	269.64	0.00
5	Interest on Working Capital	95.73	88.63	-7.10
6	**Annual Capacity (Fixed) Charges**	**1,508.42**	**1456.20**	**-52.22**
7	Less:- Non Tariff Income	0.35	3.76	3.41
8	**Net Annual Capacity (Fixed) Charges**	**1,508.07**	**1452.44**	**-55.63**
9	**AFC corresponding to 30% of installed capacity of the Project**	**452.42**	**435.73**	**-16.69**

129. The Annual Capacity (Fixed) Charges as considered above for FY 2022-23 are at Normative Availability and these charges are based on Annual Audited Accounts of the petitioner's Thermal Power Project.

130. 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 Regulations, 2020 on pro rata basis with respect to actual Annual PAF (Plant Availability Factor).

131. 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

132. In view of the above 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 5th December, 2023, the petitioner was asked to file the annual details of aforesaid performance parameters actually achieved vis-à-vis normative parameters under the 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.

133. In response to above, by affidavit dated 18th December, 2023, the petitioner submitted that the annual details of Actual operating parameters like Station Heat Rate, Secondary Fuel Consumption, Auxiliary Energy Consumption achieved by the Petitioner's Project during FY 2022-23 vis-à-vis their respective normative values under the Regulations 2020 & financial gain thereof are as given below:

Operating Parameters	Actual Achieved by the Project	Normative as per the Regulations, 2020	Financial Gains (if any)
Station Heat Rate (kCal/kWh)	2464	2372.80	Nil
Secondary Fuel Oil Consumption (ml/kWh)	0.51	0.50	Nil
Auxiliary Energy Consumption (%)	6.50%	6.25%	Nil

134. On perusal of the details filed by the petitioner, it is observed that actual parameters achieved by the petitioner's plant during FY 2022-23 are inferior than the normative parameters under the Regulations, 2020, therefore, the petitioner incurred loss on

account of the inferior performance and poor actual operating parameters achieved by it during FY 2022-23.

135. 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 Regulation 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:

136. 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.

137. The petitioner is also directed to provide information to the Commission in support of having complied with this Order. The surplus amount as a result of this order shall be passed on to MP Power Management Company Ltd. / three Distribution Companies of the state in terms of of Regulation 9.11 of the Regulations, 2020 in six equal monthly installments during FY 2024-25 and onwards.

138. With the above directions, the subject Petition No. 54 of 2023 is disposed of.

(Prashant Chaturvedi)	(Gopal Srivastava)	(S.P.S Parihar)
Member	**Member (Law)**	**Chairman**

Date: 7th February, 2024
Place: Bhopal

Annexure-I

Petitioner's Response on the comments offered by Respondent No.1 (MPPMCL) along with the observations of the Commission:

MPPMCL's Response

The Unit 1 and Unit 2 of the Project achieved commercial operation on 20.05.2015 and 07.04.2016 (COD's) respectively. Therefore, in terms of Regulation 3.1 (14) read with Regulation 4 of the Regulations, 2020, the Cut-Off Date of the Project is 31.03.2019.

In the Petition, the petitioner has sought approval of Additional Capital Expenditure amounting to Rs. 21.74 Crore and true-up of tariff for FY 2022-23. Admittedly, the said Additional Capital Expenditure has been incurred after the Cut-Off Date (31.03.2019) of the Project.

This Commission had extensively analysed the issue of extension of Cut-Off Date of the Project beyond 31.03.2019 (original Cut-Off Date) in order dated 07.12.2021 passed in Petition No. 34 of 2021. After considering all the facts and documents submitted by the petitioner, this Commission did not find the reasons cited for delay as uncontrollable and held that the reasons for delay were attributable to the Petitioner only. Consequently, the request of the Petitioner for extension of the Cut-Off Date of the Project was rejected by the Commission.

In view of above, as all the claims of ACE, made in the present Petition, have admittedly been incurred beyond Cut-Off Date. Therefore, the said claims of ACE may only be considered under Regulation 27.1 of the Regulations, 2020 provided they are in Original Scope of Work.

It is submitted that upon close scrutiny of the heads of claim of ACE made by the Petitioner in the present Petition, it is observed that the claims of ACE for FY 2022-23 are not covered under Regulation 27.1 of the Regulations, 2020, therefore, may not be considered.

The petitioner has given break-up of total Additional Capital Expenditure of Rs. 21.74 Crore claimed in the Petition. The petitioner has claimed Rs. 4.26 Crore towards "Discharge of liabilities/ provisions against Free-Hold Land related R & R Expenses", Rs. 17.07 Crore towards BTG and BoP and Rs. 0.41 Crore towards deferred work related to Railway Siding.

It is submitted that, in view of the submissions made in the present Reply, all the claims ACE made by Petitioner are beyond Cut-Off Date and <u>most of them are not covered under any provision of Regulations 27 of the Regulations, 2020</u>, therefore may not be allowed. The Petitioner has again referred to orders dated 27.04.2019, 01.05.2021 and 25.08.2022 passed in P.No. 18 of 2019, P.No. 46 of 2020 and P.No. 21 of 2022., All the claims of ACE are beyond Cut-Off Date of the Project and are not covered under any head of Regulation 27.1 of the Regulations, 2020, Therefore, it is prayed that the said claims of ACE may be disallowed.

The Petitioner has given a list of works purported to have been carried out on account of directions of the Statutory Authority and stated to be covered under Regulation 28.1 of the Regulations, 2020. However, it submitted that works like “Deferred works related to Railway Siding” and “Unfinished works and supplies by M/s Lanco Infratech Limited regarding Plant and Machinery” cannot be said to be carried out on account of directions of Statutory Authority and covered under Regulation 28.1 of the Regulations, 2020.

The Petitioner has quoted portions of orders dated 08.02.2021, 10.02.2021, 07.12.2021, 25.08.2022 and 29.03.2023 passed in Petition Nos. 21 of 2020, 22 of 2020, 34 of 2021, 21 of 2022 and 88 of 2022 respectively. In response, the Answering Respondents seek to rely on the submissions made in the present Reply and reiterates that claims of ACE are beyond Cut-Off Date of the Project and are not covered under any provision of Regulation 27.1 of the Regulations, 2020, hence may not be allowed.

Petitioner’s Reply;

The contents of MPPMCL Reply except those which are a matter of record are wrong and denied. It is submitted that Petitioner’s claim for Additional Capital Expenditure incurred during FY 2022-23 which includes ACE within the original scope after the cut-off date and also ACE beyond the original scope is admissible under Regulation 27 and 28 of the Regulations 2020.

It is submitted that with regard to recovery of ACE incurred by the Petitioner on the Project after the cut-off date, this Commission, in Orders dated 27.04.2019 passed in the Petition No. 18 of 2019, MYT Order dated 01.05.2021 passed in Petition No. 46 of 2020, True-up Tariff Order for FY 2020-21 dated 25.08.2022 in Petition No. 21 of 2022 and True-up Tariff order for FY 2021-22 dated 29.03.2023 in Petition No. 88 of 2022 has granted liberty to the Petitioner to approach this Commission for approval of such ACE:-

(a) Based on the actual expenditure incurred and duly reconciled with the Annual Audited Accounts, i.e., after such expenditure has already been incurred by the Petitioner.
(b) Along with evidence establishing that such works could not be capitalized within the cut-off date for reasons beyond the control of the Petitioner; and
(c) At the time of Truing-up of the tariff of the relevant year (in which the expenditure has been incurred by the Petitioner).

Accordingly, in the present Petition, the Petitioner has claimed Additional Capital Expenditure of Rs. 21.74 Crore incurred on the Project during FY 2022-23, the details of which have been duly submitted before this Commission in the present Petition and also in the detailed response dated 18.12.2023 filed by the Petitioner before this Commission in reply to this Commission's queries sent to the Petitioner vide its letter dated 05.12.2023.

It is submitted that the ACE of Rs. 21.74 Crore is reflected in the Auditor Certificate certifying Project-wise cash expenditure during FY 2022-23 and has been duly factored in Form-9A of the Tariff Forms enclosed with the Petition.

MPPMCL in its reply has admitted that the Petitioner claim for ACE which falls within the ambit of Regulation 27 of of the Regulations, 2020 are admissible. In this regard it is submitted that all the ACE claimed by the petitioner in the present Petition falls within the purview of Regulations 27 and 28 of of the Regulations, 2020, i.e., within the original scope of work and after the cut-off date and/or Additional Capitalization beyond the original scope. Therefore, the same deserves to be allowed. The details of the ACE incurred during FY 2022-23 and claimed in the present Petition are as under:

S. No.	***ACE – FY 2022-23***	***Nature of Scope***
1	*Land & Site Development-Discharge of liabilities/ provisions against Freehold Land including R&R expenses. (Rs 4.26 Crore)*	*Original Scope of the work of the Project under Regulation 27.1(iv) of the Regulations, 2020.*
2	*BoP Assets related to Ash Handling & Ash Utilization (Rs 7.81 Crore)*	*Beyond the original Scope of the work of the Project under Regulation 28.1 (a) & (b) of the Regulations, 2020.*
3.	*BoP Assets related to Coal Handling System (Rs 6.65 Crore)*	*Beyond the original Scope of the work of the Project under Regulation 28.1 (a) & (b) of the Regulations, 2020.*
4	*Other BoP (C&I Systems, Water Systems) & Miscellaneous Assets (Rs 2.61 Crore)*	*Original Scope of the work of the Project under Regulation 27.1 of the Regulations, 2020; and Regulation 4.1(1), 20.2, 54, 55 of the Regulations, 2015.*
5	*Railway Siding Works (Rs 0.41 Crore)*	*Beyond the original Scope of the work of the Project under Regulation 28.1 (a) & (b) of the Regulations, 2020.*

The Petitioner has provided detailed reasons and justification as to why the works claimed under additional capitalization could not be completed till the cut-off date of the Project in the Petition and also in the Reply to Commission's queries.

This Commission has allowed these claims of the petitioner in the past and the same may be allowed for this Petition as well. This Commission by 08.02.2021 in Petition No. 21 of 2020, Order dated 10.02.2021 in Petition No. 22 of 2020, Order dated 07.12.2021 in Petition No. 34 of 2021, Order dated 25.08.2022 in Petition No. 21 of 2022 and Order dated 29.03.2023 in Petition No. 88 of 2022 has already affirmed this position and allowed the ACE claimed by the Petitioner for such works incurred on the Project during FY 2018-19.

In view of the above it is submitted that this Commission has consistently allowed ACE claimed by the Petitioner which falls within the ambit of Regulation 27. Accordingly, the ACE claimed by the Petitioner in the present Petition ought to be allowed.

With regard to recovery of ACE incurred by the Petitioner on the Project after the cut-off date, this Commission, in Orders dated 27.04.2019 (passed in the Petition No. 18 of 2019), MYT Order dated 01.05.2021 (passed in Petition No. 46 of 2020) and True-up Tariff Order for FY 2020-21 dated 25.08.2022 (passed in Petition No. 21 of 2022) has granted liberty to the Petitioner to approach the Commission for approval of such ACE:

> *(a) Based on the actual expenditure incurred and duly reconciled with the Annual Audited Accounts, i.e., after such expenditure has already been incurred by the Petitioner.*
>
> *(b) Along with evidence establishing that such spilled over works could not be capitalized within the cut-off date for the reasons beyond the control of the Petitioner; and*
>
> *(c) At the time of Truing-up of the tariff of the relevant year (in which the expenditure has been incurred by the Petitioner).*

It is submitted that the ACE incurred by the petitioner on the Project during FY 2022-23 and as claimed in the present Petition are duly permissible under the prevailing Regulatory framework, particularly Regulation 27 and 28 of the Regulations, 2020.

Observation:

The additional capitalization claimed in the petition has been examined thoroughly by the Commission in accordance to the provisions under 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 and other documents placed on record by the petitioner. Partial ACE of Rs 12.48 Crore is considered as against claim of Rs 21.74 Crore as per provisions of the Regulations, 2020.

MPPMCL's Response

The Petitioner has indicated to have attached placed on record reconciliation of Gross Fixed Assets as on 31.03.2023, based on transition from Indian GAAP to Indian AS, said to have been duly certified by the Auditor.

The above said Auditor Certified Reconciliation Report shows values of Fixed Assets as well as Equity and Liabilities. For some items, there is variance in valuation shown for "IndAS" as compared to the valuation shown for "Previous GAAP". It is prayed that this Commission may graciously be pleased to direct the petitioner to explain such variance for each item and its impact on the tariff.

Petitioner's Reply;

The contents of MPPMCL Reply except those which are a matter of record are wrong and denied. In response to this Commission's queries dated 05.12.2023, the Petitioner in its Reply to Commission's queries dated 18.12.2023 has already submitted a detailed reconciliation between the figures appearing under both the Accounting Standards i.e. Generally Accepted Accounting Principles in India ("IGAAP") and Indian Accounting Standards ("IND AS")

It is accordingly submitted that this Commission may consider the value of reconciled GFA as on 31.03.2023 based on IGAAP Accounting Standards as claimed by the Petitioner in the present Petition. The claim of the Petitioner is in line with the consistent approach followed by this Commission while determining/truing-up the tariff of Unit-1 and Unit-2 of the Petitioner's Project on annual basis from FY 2015-16 onwards till date.

Observation:

The petitioner has filed breakup of capital cost and additional capitalization in Indian GAAP and the same has been considered for determination of tariff, hence there is no consequential impact on tariff due to transition in accounting standards from Indian GAAP to IND AS.

MPPMCL's Response

The Petitioner has sought to rely on the orders passed by the Hon'ble Appellate Tribunal for Electricity (APTEL) in A. Nos. 170 of 2010 and 273 of 2007 and extracted portions of the orders. However, it is submitted that the facts of the present case are different and reliance place by the petitioner is misconceived, Therefore, it is prayed that this Commission may ignore the contentions of the petitioner.

Petitioner's Reply;

The contention of MPPMCL Reply is wrong and misplaced. It is submitted that the Judgments dated 06.05.2022 and 23.11.2007 in Appeal No. 170 of 2010 titled Madhya Pradesh Power Generation Company Limited vs. MPERC & Ors and Appeal No. 273 of 2007 titled Damodar Valley Corporation vs. CERC & Ors passed by the Hon'ble Appellate Tribunal for Electricity ("Hon'ble Tribunal") respectively are squarely applicable to the present case. The principles of cost plus regime as laid down by the Hon'ble Tribunal are applicable to all tariff determination proceedings irrespective of the facts of the case.

Observation:

In term of the Regulation 9.4 of the Regulations, 2020, the truing up exercise is based on additional capital expenditure incurred during the financial year for which true up is sought by the petitioner.

MPPMCL's Response

The Petitioner has stated to have considered Base Rate of Return on Equity as 15.50% and referring to Para 92 of order dated 29.03.2023 passed in Petition No. 88 of 2022, computed Annual Return on Equity for FY 2022-23 as Rs. 345.55 Crore. It is prayed that RoE may be allowed in accordance with Regulation 34 of the Regulations, 2020, on Average Equity considered based on Gross Block allowed for FY 2022-23. According to the Answering Respondents the claim of ACE is beyond Cut-Off Date of the Project and the claims are not covered under any head provided in Regulation 27.1 of the Regulations, 2020.

Petitioner's Reply;

The content of MPPMCL Reply except those which are a matter of record are denied. It is submitted that in the true-up Petition, the Petitioner has claimed Return on Equity strictly in accordance with the mandate of Regulation 34 of the Regulations, 2020 considering the base rate of 15.50%. Further with respect to the claim of ACE the Petitioner reiterates its submissions made above in this Rejoinder.

Observation:

Return on Equity has been considered in accordance to the provisions under the Regulations, 2020.

MPPMCL's Response

The Petitioner has prayed for allowance of Statutory Charges including recovery/ reimbursement of application fee, publication expenses, electricity duty, cess and water charges. It is most humbly prayed that only those Statutory Charges which are allowable under the Regulations, 2020 and other applicable Regulations may be allowed, the decisions of other State Electricity Commissions may not be treated as precedents.

Petitioner's Reply;

The content of MPPMCL's Reply except those which are a matter of record are wrong and denied. It is submitted that Regulation 65.2 of the Regulations 2020 allows recovery of electricity duty, cess and water charges. However, there may be certain other statutory charges, duties and taxes being levied upon the Petitioner, which may not be recognized under Regulations 2020.

It is submitted that such statutory charges are uncontrollable in nature and are directly linked with generation of electricity from the Project and hence ought to be allowed to be recovered by the Petitioner by way of pass-through in tariff. The Hon'ble Tribunal in judgment dated 15.02.2011 passed in Appeal No. 173 of 2009 titled Tata Power Company Limited vs. Maharashtra Electricity Regulatory Commission & Ors held that statutory expenses are uncontrollable factor and generators should be allowed pass through of such expenses: -

> *"28. It cannot be disputed that it is a statutory expense and hence it has to be construed as uncontrollable. The State Commission in its MYT order had approved the O&M expenses which did not envisage the FBT. As FBT was levied subsequently, it will not be proper to compare the approved O&M expenses with the actual O&M expenses. The correct approach would be to compare the actual O&M expenses without FBT with the approved expenditure, compute the gains and loss and then add the FBT paid by the Appellant to allow for the pass through for uncontrollable factors."*

It is submitted that under the cost-plus regime, any increase in input cost of generation is considered as an automatic pass through in tariff subject to prudence check by this Commission. The Hon'ble Tribunal in in various cases has held that Tariff is reflection of costs and unless there is imprudence in the manner in which cost is incurred the expenditures of the generator under Section 62 PPA should be passed on.

It is submitted that various other Electricity Regulatory Commissions allow recovery of statutory charges, taxes, and duties on actuals as pass through in tariff. Relevant Regulations/Tariff Orders passed by other ERCs are as under: -

(a) Regulation 47(1) of Chhattisgarh State Electricity Regulatory Commission (Terms and

Conditions for Determination of Tariff according to Multi-year Tariff Principles and Methodology and Procedure for determination of Expected revenue and Tariff and Charges) Regulations, 2015:

> *"2. The Statutory Taxes and Duties shall be recoverable on reimbursement basis, as per actual."*

(b) Ld. Uttar Pradesh Electricity Regulatory Commission by Multi Year Tariff Order for FY 2009-10 to 2013-14 passed in respect of state thermal generating company allowed recovery of the following cess, charges, taxes etc.: -

> ***"(A) Recovery of Water Cess and Tax on Income etc.***
>
> *In addition to the above tariff UPRVUNL is allowed to recover the payment of statutory charges like water cess, cost of water, payment to Pollution Control Board, rates and taxes, FBT and Regulatory Fee paid to the Commission, on production of details of actual payments made and duly supported with the certificate of the Statutory Auditors. The Petitioner has claimed certain additional charges as variable charges towards other fuel related costs, station supplies, lubricants and consumables critical to the generating stations as separate pass through on actuals. The same is allowed for the consideration period of MYT subject to verification of audited accounts at the time when true up would be considered by the Commission."*

The Orders passed by other ERCs are being referred only to further establish the Petitioners case that statutory charges are consistently being allowed as pass through in tariff by all ERCs and hence this Commission may also follow the same approach which is in consistent with the Electricity Act. In view of the above it is submitted that this Commission may be pleased to allow the petitioner to recover these statutory charges on actual incurred basis.

Observation:

Statutory Charges has been allowed as per Regulation 65 of the Regulations, 2020.

MPPMCL's Response

It is submitted that Regulations 56 of the Regulations, 2020 stipulate sharing of gains due to variations in norms.

The Petitioner has not submitted the information regarding above parameters. It is therefore prayed that this Commissions may graciously be pleased to direct the Petitioner to submit details of all the above parameters and share the gains on account of them if any.

Petitioner's Reply;

The content of MPPMCL's Reply except those which are a matter of record are wrong and denied. It is submitted that during FY 2022-23, the Petitioner has not made any financial gains on account of the performance parameters Station Heat Rate, Secondary Fuel Oil Consumption and Auxiliary Energy Consumption vis-à-vis their respective normative values prescribed under the Regulations 2020.

Observation:

Sharing of Gain/Loss is considered as per Regulation 56 of the Regulations, 2020.

MPPMCL's Response

The Petitioner has not filed details of "Non-Tariff Income" for FY 2022-23, which is required under Regulation 58.1 of the Regulations, 2020,

In view of above, it is prayed that this Commission may graciously be pleased to direct the Petitioner to file complete details of "Non-Tariff Income" during FY 2022-23.

Petitioner's Reply:

The content of MPPMCL's Reply except those which are a matter of record are wrong and denied. It is submitted that in response to this Commission's queries dated 05.12.2023, the Petitioner in its Reply to Commission's queries dated 18.12.2023 has already placed on record the details pertaining to non-tariff income for FY 2022-23 before this Commission.

Observation:

By affidavit dated 18th December, 2023, the petitioner has submitted the details regarding non-tariff income in light of the Annual Audited Accounts. Non-tariff income has been considered in accordance to Regulation 58.1 of the Regulations, 2020.

MPPMCL's Response

It is also submitted that Unit-1 of the Project has now been on Commercial Operation for nearly 8 years (since 20.05.2015) and Unit-2 has been on Commercial Operation for nearly 7 years (since 07.04.2016). It is therefore, humbly prayed that the Petitioner may kindly be directed to file the details of Liquidated Damages (LD) and insurance claims, if any, recovered/ to be recovered from various contractors/ vendors in different packages against delay in execution of the contracts.

Petitioner's Reply;

The content of MPPMCL's Reply except those which are a matter of record are wrong and denied. It is submitted till date the Petitioner has not recovered any liquidated damages from its contractors/vendors.

Observation:

As per submission of the petitioner, no LD amount is recovered from contractors/vendors till date.

Annexure-II

Petitioner's Response on the comments offered by the Stakeholder (Mr. Rajendra Agarwal) along with the observations:

Stakeholder's Comment:

1. Additional capitalization expenditure Rs 21.74 Crore:- The petitioner has claimed Rs 21.74 crore for the year 2022-23 as additional capitalization, in which mainly Rs 4.26 crore is for fulfillment of responsibility freehold land R&R expenses and Rs 17.07 crore is for boiler/turbine and remaining equipments of the plant. In this regard the following objection is presented for consideration.

(i) Claim of Rs 4.26 Crore for land & Site Development:- The petitioner mentioned that for land acquisition and development, provision of Rs 144 Crore was made in the original project cost, against this, Rs 124.48 Crore have been used till the end of the year FY 2021-22 and in FY 2022-23 (subject petition) ,expenditure of Rs 4.26 Crore have been made. An expenditure of Rs 4.26 Crore has been made in the year 2022-2023 which is mainly paid to the state government as diversion fee. In this regard, there is an article that diversion fee for land is a statutory fee (Statutory Tax) paid annually continuously and it is included in the operation maintenance expenses. It is not reasonable to add this to the cost of land every year. If additional capitalization is approved for reimbursement of diversion charges or other regular statutory liabilities, it is not clear under what provision of the Regulations, this additional capitalization will be approved.

Therefore, it is requested to the Commission that only, if any amount has been spent on the rehabilitation of project affected families, only after complete verification, approve the additional capitalization.

(ii) Demand for capital expenditure of Rs.17.07 crore for boiler/turbine/generator and other equipment:- The petitioner has claimed Rs. 17.07 Crore on account of Boiler/Turbine/Generator (BTG) and Balance of Plant Equipment (BOP). In this regard, it is to submit that the provisions for admittance of the additional capitalization after the cut-off date are in Regulation 27 and 28 of the Regulations, 2020. In the petition, it is not mentioned as to how much amount has been required for purchase/expenditure of which equipment under which specific provision of the regulation by the petitioner. There is no mention of the assets purchased and its description/requirement in the petition, only the amount of Rs. 17.07 Crore is mentioned. In the absence of above details, it appears that additional capitalization is sought in lieu of equipment and spare parts/work purchased under Operation and Maintenance expense which is completely unacceptable.

Petitioner's Reply:

1. (i) The Objector has opposed the Additional Capital Expenditure of Rs.4.26 Crore claimed by the Petitioner on account of the discharge of liabilities/provisions against freehold land-related and R&R expenses. It is submitted that these contentions of the Objector are completely baseless and devoid of any merits. It is submitted that the Petitioner is required to make this expenditure in cash co-terminus with the life of the Project. Accordingly, a provision to this effect has been made under the head of "Land & Site Development" of the Project Capital Cost approved by the Board of Petitioner's Company, which is released in the form of discharge of liabilities of works each year in line with the provisions of Regulation 27.1(iv) of the Regulations, 2020. Accordingly, these contentions of the Objector merits no consideration and are liable to be rejected.

1. (ii) The Objector has raised the contentions with respect to details and the enabling Regulatory provisions towards the ACE of Rs.17.07 Crore. In this regard, it is submitted that such details have been provided in the Petition and also in response to the queries raised by this Commission. Nonetheless, the breakup, scope, and enabling Regulatory provisions under the Regulations, 2020 are reiterated hereunder:

S. No.	***Additional Capital Expenditure – FY 2022-23***	***Nature of Scope and enabling Regulatory provision***
1	*BoP Assets related to Ash Handling & Ash Utilization (Rs 7.81 Crore)*	*Beyond the original Scope of the work of the Project under Regulation 28.1 (a) & (b) of the Regulations, 2020.*
2	*BoP Assets related to Coal Handling System (Rs 6.65 Crore)*	*Beyond the original Scope of the work of the Project under Regulation 28.1 (a) & (b) of the Regulations, 2020.*
3	*Other BoP (C&I Systems, Water Systems) & Miscellaneous Assets (Rs 2.61 Crore)*	*Original Scope of the work of the Project under Regulation 27.1 of the Regulations, 2020; and Regulation 4.1(1), 20.2, 54, 55 of the Regulations, 2015.*

Accordingly, such objections raised by the Objector have no merits and are liable to be rejected.

Observation:

The additional capitalization claimed in the petition has been examined by the Commission in accordance to the relevant provisions under MPERC (Terms & Conditions for determination of Generation Tariff) Regulations, 2020, Annual Audited Accounts of the petitioner for FY 2022-23, Asset-cum-Depreciation Register for FY 2022-23, original scope of work of the project and other supplementary submissions filed by the petitioner and other documents placed on record by the petitioner.

Stakeholder's Comment:

2. Sharing of Benefits:- Regulation 56.1 of the Regulations, 2020 contains provisions related to sharing of gains resulting from efficient adherence to operating standards. There is no details is given in the petition regarding actual operating parameters like Annual Plant Availability Factor (NAPAF), Annual Plant Load Factor (PLF), Station Heat Rate (SHR), Specific Oil Consumption Auxiliary Energy Consumption against the operating performance standards set by the Commission. That means the subject petition is incomplete. The above information is deliberately hidden by the petitioner in the petition and is not made public by the Commission after obtaining the information directly from the petitioner in the name of information gap in the petition and the petition is disposed off, which is illegal. The Commission is requested to order the petitioner to provide the above information in the original petition and share the profit as per the Regulations on the basis of actual operating parameters of each month and on an annual basis, which will be in public interest.

Petitioner's Reply:

The Objector has contended that the petitioner has not shared the details of the financial gains made by it, due to better performance of the controllable parameters like Station Heat Rate, Secondary Oil Consumption, and Auxiliary Energy Consumption. In terms of Regulation 56.1 of MPERC Tariff Regulations, 2020. Such an Objection merits no consideration owing to the fact that the actual performance of these controllable parameters has been below their respective normative values stipulated under the MPERC Tariff Regulations, 2020, and hence, the question of making any financial gains or sharing the same with the beneficiaries does not arise. It may kindly be appreciated that this does not amount to any information gap as alleged by the Objector. Nonetheless, the Petitioner has been diligently furnishing all the details and information as sought by this Commission while carrying out the prudence check.

Accordingly, such factually incorrect and frivolous contentions of the Objector merit no consideration whatsoever and are liable to be set aside.

Observation:

All details pertaining to the performance parameters of the Project during FY 2022-23 have been provided by the petitioner to this Commission by affidavit dated 18th December, 2023 and the same have been examined appropriately and dealt in accordance to the provisions under Regulation 56 of the Regulations, 2020 in this Order. On perusal of the submission of the petitioner, it is observed that actual parameters achieved by the petitioner's plant during FY 2022-23 are inferior than the normative parameters under the Regulations, 2020, therefore, the petitioner incurred loss on account of the inferior performance and poor actual operating parameters achieved by it during FY 2022-23.

Stakeholder's Comment:

3. Non-Tariff Income:- Regulation 58.1 of the Regulations, 2020 provides for sharing of income received from various items mentioned, whereas, in the subject petition, no details have been given for non-tariff income. In paragraph 96 of the MYT order dated 1st May, 2021, clear instructions were given to the petitioner in this regard to share the actual non-tariff income, but the above order has been deliberately disregarded. Commission is expected to direct the petitioner to disclose the same.

Petitioner's Reply:

The Objector's concerns with respect to the details of the Non-Tariff Income and its treatment thereof in terms of regulation 58.1 of the Regulations, 2020 are absolutely unfounded. It is submitted that these details have been duly furnished before this Commission in response to the queries raised by this Commission, wherein the petitioner has acknowledged that a Net Non-Tariff Income realized on a cash basis amounting to Rs.7.52 Crore, which is to be treated in terms of Regulation 58.1 of the Regulations, 2020. The Commission may kindly take cognizance of the same while truing up the tariff in the Petition.

Observation:

All details pertaining to the Non-Tariff Income of the Project during FY 2022-23 have been provided by the petitioner to this Commission by affidavit dated 18th December, 2023 and the same have been examined appropriately and dealt in accordance to the provisions under Regulation 58 of the Regulations, 2020 in this Order.

Stakeholder's Comment:

4. Energy charges:- Petitioner in para 51 has submitted that the average rate of coal calculated by the petitioner was Rs. 3408.99 metric/Ton have been done. But there is no mention in the subject petition as to what was the actual landed price of coal every month is. The Commission is requested that according to the proviso 2, Section 43.4 of the Regulations, 2020, related to the price/quality of coal etc, the information needs to be mandatorily displayed on the website of the petitioner company on monthly basis. It is requested to the Commission to direct the petitioner to display which is in public interest for commercial transparency.

Petitioner's Reply:

The Objector has contended that the petitioner has not provided the details of the price of coal while computing the Energy Charges. Such contentions of the Objector are baseless and denied. It is submitted that the Energy Charges claimed in the present Petition and the components thereof like GCV & the landed price of coal, etc. are in strict accordance with the directions of this Commission in its Order dated 01.05.2021 passed in the MYT Petition No. 46 of 2020 filed by the petitioner before this Commission. In light of the above, it is submitted that the contentions of the Objector are baseless, unsubstantiated and deserve to be rejected by this Commission.

Observation:

In this Order, fixed cost of generator is trued up based on additional capitalization in terms of Regulation 9.4 of the Regulations, 2020. For the purpose of allowing interest on working capital, cost of coal is worked out as per norms provided under Regulations, 2020.

With regards to compliance of Regulation 43.4 of the Regulations, 2020 regarding display of coal related details on website, the petitioner during the course of public hearing submitted that the copies of the bills and details of the parameters of GCV and price of coal are being displayed on the company website on monthly basis and same are also provided to the beneficiary as per the forms prescribed in the Regulations.

<u>Directions to the Petitioner:</u>

The petitioner is hereby directed to update the coal related details on its website on regular basis in accordance with the Regulation 43.4 of the Regulations, 2020, failing which penalty provisions under Section 142 of the Electricity Act shall be attracted.