

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION

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



Petition No. 64 of 2021

PRESENT:

S.P.S Parihar, Chairman

Mukul Dhariwal, Member

Gopal Srivastava, Member

IN THE MATTER OF:

Determination of Multi-Year Tariff for 1x300 MW (Unit No.1) Lanco Amarkantak Coal Based Thermal Power Plant at Pathadi village, Korba district, Chhattisgarh for control period FY 2019-20 to FY 2023-24 in accordance with MPERC Generation Tariff Regulations, 2020.

AND IN THE MATTER OF:

- | | |
|---|---------------------|
| i. M/s. Lanco Amarkantak Power Limited | Petitioner 1 |
| ii. PTC India Ltd. ('PTC') | Petitioner 2 |
| iii. M.P. Power Management Company Ltd. ('MPPMCL') | Petitioner 3 |

ORDER

(Passed on this day of 13th May' 2022)

1. The petitioners have filed the subject petition for determination of generation tariff under Multi-year Tariff control period of FY 2019-20 to FY 2023-24 against long term power supply to MP Power Management Company Ltd. (MPPMCL) through PTC India Ltd. (PTC) from 1x300 MW Unit No. 1 of M/s. Lanco Amarkantak Power Ltd. (LAPL), Pathadi, Korba Chhattisgarh coal based thermal power plant. In the subject petition, M/s PTC India Ltd. (PTC) and M.P. Power Management Company Ltd. (MPPMCL) are petitioner No. 2 and 3, respectively.
2. Madhya Pradesh Electricity Regulatory Commission (hereinafter referred to as "the Commission or MPERC") issued MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 {RG-(IV) of 2020} (hereinafter referred to as "the Regulations" 2020) for the control period of FY 2019-20 to FY 2023-24 on 20th February' 2020 and the same was notified in the Madhya Pradesh gazette on 28th February' 2020.
3. The subject petition has been filed under Section 64 (5) read with Section 62 and Section 86 (1) (a)&(b) of the Electricity Act, 2003 and it is based on the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020.
4. Date of Commercial Operation (CoD) of the Lanco Amarkantak Thermal Power Plant Unit No. 1 (300 MW) under the subject petition is as given below:

Table 1: CoD of Unit No.1

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

5. Brief background of the subject petition is as follows:
 - i. Earlier, M.P. Power Management Co. Ltd., had filed Petition No. 35 of 2016 under Section 61 read with Sections 62 and 86(1)(b) of the Electricity Act, 2003 and based on the CERC (Terms and Conditions of Tariff) Regulations, 2014 seeking approval of purchase of power including the price of electricity generated from the 300 MW Unit No. 1 of Lanco Amarkantak Power Limited (Lanco) under the Power Purchase Agreement dated 11.05.2005 (PPA) executed between PTC & Lanco, pursuant to a Settlement Agreement dated 16.09.2012 executed between MPPMCL and PTC.

- ii. In the aforesaid petition, MPPMCL had prayed to determine annual fixed charges and energy charges for FY 2014-15 to FY 2018-19 under Section 86(1)(b) of the Electricity Act, 2003 in accordance with CERC (Terms and conditions of Tariff) Regulation 2014,
- iii. Vide order dated 23rd August' 2017, the Commission dismissed the aforesaid petition with the observation that the prayer made by the petitioner was beyond the jurisdiction of this Commission under Section 86 (1) (b) of the Electricity Act' 2003.
- iv. Further, M.P. Power Management Company Ltd. filed review petition under Section 94(1)(f) of the Electricity Act, 2003 for review of Commission's aforesaid order dated 23rd August' 2017. Vide Commission's order dated 25th April' 2018, the aforesaid review petition was not found maintainable and disposed of.
- v. The aforesaid orders passed by the Commission were challenged by M.P. Power Management Company Limited, M/s Lanco Amarkantak Power Limited and M/s PTC India Limited in Appeal No. 327 of 2018, Appeal No. 338 of 2018 and Appeal No. 51 of 2019, respectively, before Hon'ble Appellate Tribunal for Electricity.
- vi. Vide Judgment dated 19th August' 2020, Hon'ble Appellate Tribunal for Electricity decided all above mentioned three Appeals setting aside the Commission's Orders dated 23rd August' 2017 in petition No. 35 of 2016 and order dated 25.04.2018 in review petition No. 66 of 2017. In the aforesaid Judgment, Hon'ble Tribunal directed the Commission to determine the tariff under section 64(5) of the Act and pass the consequential orders.
- vii. In compliance to the directions of Hon'ble Tribunal, vide order dated 24th August' 2021 in Petition No 60 of 2020, the Commission determined the tariff and issued the order for the period of FY 2014-15 to FY 2015-16 and for the MYT period FY 2016-17 to FY 2018-19 based on the norms specified in the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 and Regulations, 2015, respectively. Aforesaid order dated 24th August' 2021 was issued under Section 64(5) read with Section 62 and Section 86(1) (a) & (b) of the Electricity Act, 2003.

6. In the subject petition, the petitioner No. 1 has broadly submitted the following:
- i. *The petitioner No. 1 i.e. Lanco Amarkantak Power Ltd. is a generating company has established and operating a coal based thermal power station having capacity of 300 MW i.e. Unit-I at Pathadi village, Korba district, Chhattisgarh.*
 - ii. *The Petitioner No. 2 i.e. PTC India Ltd. is an inter-state Trading Licensee under Section 14 of the Electricity Act, 2003 and was granted a license for trading in electricity by the Central Electricity Regulatory Commission in the year 2004. The main object of the Petitioner No. 2 deal in sale and purchase of all forms of electrical energy and act as a catalyst for the development of the market for electricity.*
 - iii. *Petitioner No. 3 i.e. Madhya Pradesh Power Management Company Limited is the holding company of the three distribution companies in the State of Madhya Pradesh. Petitioner No. 3 is the beneficiary recipient of the power supplied from the Power Station through Petitioner No. 2.*
 - iv. *That Petitioner(s) No. 1 & 2 entered into a Power Purchase Agreement dated 11.05.2005 (as amended on 02.08.2005) for sale of power of 300 MW (273 MW Net) from the Power Station for a term of 25 years ('PPA').*
 - v. *Petitioner No. 2 entered into a Power Sale Agreement dated 30.05.2005 with Madhya Pradesh State Electricity Board for further sale of the aforesaid 300 MW power purchased from Petitioner No. 1 and the said PSA is now vested with MPPMCL i.e. Petitioner No. 3.*
 - vi. *Certain disputes arose in relation to the PPA and Petitioner No. 1 terminated the PPA with Petitioner No. 2 and thereafter, Petitioner No. 2 terminated the PSA with Petitioner No. 3.*
 - vii. *Subsequently, the Petitioner(s) amicably resolved their above said disputes of termination and accordingly signed a Tripartite Settlement Agreement dated 16.10.2012.*
 - viii. *In terms of the Settlement Agreement dated 16.10.2012, Petitioner(s) No. 1 & 2 entered into an Implementation Mechanism for PPA dated 24.12.2012 containing modified terms and conditions of the PPA dated 11.05.2005, which are necessary for implementing the sale of 300 MW power from the Power Station to the Petitioner No. 3 (Beneficiary) through Petitioner No. 2.*

- ix. Similarly, Petitioner(s) No. 2 & 3 entered into an Implementation Mechanism for PSA dated 26.11.2012 containing modified terms and conditions of the PSA, which are necessary for implementing the sale of 300 MW power from the Power Station to Petitioner No. 3. The PPA and PSA are to be read with subsequently executed Implementation Mechanism for PPA dated 24.11.2012 and Implementation Mechanism for PSA dated 26.11.2012.
- x. The Commission vide its order dated 01.12.2012 accorded its approval to the process of power procurement from the Power Station along with approval of power purchase price under the Tripartite Settlement Agreement dated 16.10.2012, the Implementation Mechanism for PPA dated 24.11.2012 and IM for PSA dated 26.11.2012 filed by Petitioner No. 3 as per the then prevailing CERC Tariff Regulations, 2009-14. Copy of the Order dated 01.12.2012 passed by this Commission is annexed herewith and marked as Annexure P-1.
- xi. Pursuant to the aforesaid Order by this Commission, Petitioner No. 1 has been consistently supplying power since 03.12.2012 from its aforesaid Power Station to Petitioner No. 3 through Petitioner No. 2, on a long term basis. .
- xii. The petitioners, by way of the present Petition, are seeking determination of tariff for the period FY 2019-20 to FY 2023-24 in accordance with the applicable MPERC Tariff Regulations, 2020.
7. With the above submission, the element- wise Annual Capacity (fixed) Charges and Energy (Variable) Charges claimed for Unit No. 1 (300 MW) of petitioner No 1 for the MYT period FY 2019-20 to FY 2023-24 as per MPERC Tariff Regulations, 2020 are as given below:

Table 2: Annual Capacity Fixed Charges claimed in the Petition (Rs in Crore)

S.No	Particulars	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
1	Depreciation	62.19	62.19	62.19	62.19	62.19
2	Interest on Loan	46.23	37.86	29.50	21.13	12.77
3	Return on Equity ¹	46.80	46.80	56.70	56.70	56.70
4	Interest on Working Capital	23.17	21.64	20.33	20.36	20.38
5	O & M Expenses	84.90	87.87	90.96	94.17	97.47
Annual Capacity (Fixed) Charges		263.29	256.36	259.69	254.56	249.52

Table 3: : Energy Charges Filed in the Petition (Rs./Unit)

Financial Years	Energy Charges
FY 2019-20	2.352
FY 2020-21	1.699
FY 2021-22 to FY 2023-24	As per MPERC Tariff Regulations 2020 duly considering weighted average landed cost of FSA coal as well as other than FSA Coal and/or imported coal & cost of Secondary fuel oil for the month.

8. With the above submission, the petitioner prayed the following:
- Determine the tariff for FY 2019-20 to FY 2023-24 and true up of FY 2019-20 & FY 2020-21 as per applicable MPERC Tariff Regulations, 2020 against the long term power supply from 300 MW Unit 1 of Petitioner No. 1 to Petitioner No. 2/3;*
 - Allow the reimbursement of water charges, reimbursement of electricity duty and reimbursement of RLDC/NLDC charges on pass through basis;*
 - Allow recovery of the filing fees and also the publication expenses from the beneficiary (as and when incurred) on pass through basis;*
 - Allow recovery of carrying cost in case of any shortfall of revenue on account of difference between the provisional tariff paid by the Petitioner No. 3 through Petitioner No. 2 and the approved tariff as per applicable provisions of the MPERC Tariff Regulations;*
 - Allow recovery of the Statutory Charges;*

Procedural History

- Motion hearing in the subject petition was held on 25th January' 2022 wherein the petition was admitted and the petitioners No. 2 and 3 were directed to file their independent comments/response on the subject petition within four weeks.
- Vide Commission's letter dated 8th February' 2022, the information gaps and requirement of additional details/documents were communicated to the petitioner no 1 seeking its comprehensive reply on the same with all the supporting documents by the 28th February' 2022.

11. By affidavit dated 2nd March' 2022, the petitioner no 1 filed its response on the information gaps and additional details sought by the Commission.
12. By affidavit dated 25th February' 2022, the petitioner No. 3 (MPPMCL) filed its response on the subject petition.
13. By affidavit dated 24th March' 2022, the petitioner No. 1 filed rejoinder on the response filed by the petitioner no. 3.
14. The public notice for inviting comments/suggestions from stakeholders was published on 04th March' 2022 in the following newspapers:
 - i. Hitavada (English), Bhopal
 - ii. Hitavada (English), Jabalpur
 - iii. Free Press (English), Indore
 - iv. Raj Express (Hindi), Bhopal, Jabalpur, Indore, Gwalior, Ratlam, Rewa, Satna, Ujjain and Chhindwara
15. Public hearing in the subject petition was held on 29th March' 2022 through video conferencing wherein the representatives of the petitioners appeared .
16. The subject MYT petition has been examined by the Commission in accordance with the principles, methodology and the norms specified in the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 and other supplementary submissions filed by the petitioner No. 1 in response to the additional information / details sought by the Commission alongwith all other documents placed on record by the petitioners. The Commission has also examined the subject MYT petition in light of the response filed by the Petitioner No 3, i.e, MPPMCL and the rejoinder of the petitioner No. 1 on the same.
17. In this order, the Commission has considered the same figures (as on 01.04.2019) of capital cost, funding and cumulative depreciation for the project which were admitted by the Commission as on 31.03.2019 in its last tariff order issued on 24th August' 2021 in petition No. 60/2020.

Capital Cost

Petitioner's submission

18. In the subject petition, the petitioner No. 1 submitted that the capital cost of Rs. 1236.40 crore had been approved by the Commission in order dated 01.12.2012 (for Unit 1) and same has been considered as opening capital cost as on 1st April' 2019.
19. In TPS Form 12 of the petition, the petitioner No. 1 filed the following capital cost for MYT period of FY 2019-20 to FY 2023-24:

Table 4: Capital Cost filed during the control period: (Rs. in Crore)

Particular	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Opening Capital Cost	1236.40	1236.40	1236.40	1236.40	1236.40
Addition during the year	0.00	0.00	0.00	0.00	0.00
Closing Capital Cost	1236.40	1236.40	1236.40	1236.40	1236.40

Provisions Under Regulations

20. With regard to capital cost of the existing project , Regulation 21.3 of MPERC (Terms & Conditions for Determination of Generation Tariff) Regulations, 2020 provides that:

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

- (i) the capital cost admitted by the Commission prior to 1.4.2019 duly true-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

21. Regulation 6.2 of the Tariff Regulations, 2020 provides that in case of an existing generating station or unit thereof, the application for determination of Multi-year tariff shall be made by the generating company based on admitted capital cost including additional capital expenditure already admitted in last true up order of the Commission and estimated additional capital expenditure for the respective years for the tariff period 2019-24 in accordance with the Tariff Regulations, 2020.
22. The petitioner No. 1 has filed the opening capital cost of Rs 1236.40 Crore as on 1st April' 2019 for the Unit No. 1 which was closing capital cost as on 31st March' 2019 in its order 24th August' 2021 in P. No. 60 of 2020 considered by the Commission.
23. Accordingly, the Commission has considered the Gross Fixed Assets of Rs 1236.40 Crore as on 1st April' 2019 as admitted in last tariff order dated 24th August' 2021 in Petition No 60 of 2020 as a base figure of opening capital cost.

Additional capitalization

24. Regarding the additional capitalization in para 5 (iii) of the petition, the petitioner No. 1 has submitted that there has been no additional capitalisation or de-capitalisation during the period FY 2019-20 to FY 2023-24.
25. Further, the Commission observed that in Note 7 of the Annual Audited Accounts, asset additions of Rs. 17.58 Crore and Rs. 0.65 Crore were recorded for FY 2019-20 and 2020-21, respectively but, no additional capitalization was claimed during the control period in the subject petition. Vide letter dated 8th February' 2022, the petitioner was asked to submit reasons for the same.
26. By affidavit dated 2nd March' 2022, the petitioner No 1 submitted the following response on the aforementioned issue:

The asset additions of Rs. 17.58 Crore recorded in the annual audited accounts for FY 2019-20 comprises of the following items of additional capitalizations:

S.No.	Item Description	Amount (in Rs. Crore)
1	Ash pond bund raising	16.72

2	Bulldozer shed repair	0.44
3	Plant & Machinery	0.29
4	Furniture & Fixtures	0.14
	Total amount of additional capitalization	17.59

Similarly, the asset additions of Rs. 0.65 Crore recorded in the annual audited accounts for FY 2020-21 comprises of the following additional capitalizations:

S.No.	Item Description	Amount (in Rs. Crore)
1	Plant & Machinery	0.36
2	Office Equipment	0.28
3	Furniture & Fixtures	0.01
	Total amount of additional capitalization	0.65

It is submitted that Regulation 28 of the MPERC Tariff Regulations, 2020, specifies the provisions pertaining to Additional Capitalisation beyond the original scope. The relevant provision specified in the above Regulation 28.1 (e) is extracted as follows:

“Deferred works relating to ash pond or ash handling system in additional to the original scope of work, on case to case basis”

As can be seen from the first table above, LAPL’s Unit 1 had incurred expenses of Rs. 16.72 Crore of additional capitalisation towards Ash pond bund raising. The Comprehensive Environment Impact Assessment Study report was prepared for both 2x300 MW Unit 1&2 in February 2005. In the above report, it is specified that “the sizing of the ash pond will meet 10 years disposal requirement of ash generation considering 100% bottom ash and 20% fly ash. The ash pond dyke will be of maximum 15m height with 5m below ground level. The dyke height can be increased in stages beyond 5m utilizing the ash in the pond as and when required”. It is submitted that LAPL’s power plant is in Korba & Champa Cluster region, due to proximity to coal mines of SECL, there is approx. 20,000 MW of installed & operating capacity in this region which includes mega Thermal Power Plants (TPPs) like KSK Mahanadi, NTPC-Sipat, NTPC Korba, CSEB-Marwa, CSEB-Korba West, CSEB-Korba East, DB Power, RKM Power, Adani Korba West, BALCO, ACB group’s TRN Energy & Maruti Clean Coal Power Ltd.etc.

In these TPPs, on an average around 1,00,000 MT of Ash is generated on a daily basis whereas the requirement of utilization of fly ash in the Cement Plants is limited to around 9000-10,000 MT only. The Cement plants in the Chhattisgarh state have been selectively picking up those TPPs who are nearer to them for ash utilisation due to lower transportation costs involved which has reduced/affected the lifting of fly ash in spite of LAPL having signed agreements/tie-up with such cement plants.

The biggest hindrance is that the entire annual fly ash generation in Korba cluster is about 380 Lakh MT, whereas the annual requirement of fly ash by the cement plants (major utilizer of fly ash) is about 29 Lakh MT only which comes to meagre 7.6 %. Due to the demand-supply gap of fly ash and above constraints beyond the control of LAPL, very small percentage of ash generated has been utilized against the demand of fly ash from the cement plants.

LAPL could not meet the 100% fly ash utilization targets due to the above specified various practical constraints and therefore it had no choice but to dispose the fly ash slurry into the ash pond. LAPL's power plant is designed to run on domestic coal which on burning generates about 40% ash. Out of the total ash generated from burning of domestic coal, about 80% is fly ash and balance 20% is bottom ash. To form a disposable ash slurry, about 4-5 parts of water is mixed with one part of fly ash to be disposed into the ash pond. Resultantly, the ash pond got filled up in 2017. Thereafter, the ash pond bund had been raised by 9 meters so far (3 meters every time for three times) to cater to the continuous generation of fly ash and wet ash from the power plant.

LAPL had inadvertently overlooked and not claimed the expenses of Rs. 16.72 Crore, it had incurred in raising of Ash dyke carried out for Ash handling system of power plant. While claiming the additional capitalisation incurred during FY 2019-20, LAPL requests the Hon'ble MPERC to consider additional capitalisation amounting to Rs. 16.72 Crore incurred by LAPL during FY 2019-20 as per relevant provision in the Regulation 28.1 (e) of the MPERC Tariff Regulations, 2020. The other additional capitalisation expenses incurred during FY 2019-20 and FY 2020-21 are not relevant to the tariff determination and hence have not been claimed by LAPL.

Provisions under Regulations

27. With regard to additional capitalization beyond the original scope of work and after cut-off date of the project, Regulation 28.1 of the MPERC (Terms and Conditions for determination of Generation Tariff) 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.*

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

28. On perusal of the subject petition vis-à-vis additional submission filed by the Petitioner No 1, the Commission observed that in the subject petition, no additional capitalization in Lanco Amarkantak power station is claimed by the petitioner No. 1 during the control period. However, in the additional submission in response to the queries raised by the Commission, the petitioner No. 1 submitted it had inadvertently overlooked and not claimed the expenses of Rs. 16.72 Crore, it had incurred in raising of Ash dyke carried out for Ash handling system of power plant. The petitioner No. 1 further submitted that other additional capitalisation expenses incurred during FY 2019-20 and FY 2020-21 and recorded in Annual Audited Accounts are not relevant to the tariff determination and hence have not been claimed by LAPL.
29. On further perusal of the details and documents filed by the petitioner, the Commission observed that the reply filed by the petitioner regarding the proposed additional capitalization during FY 2019-20 requires detailed examination on several counts specified in the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 as well as reconciliation of claimed figures with the Annual Audited Accounts of FY 2019-20.
30. With regard to truing-up exercise, Regulation 9.4 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 provides that:
“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 the period from 1.4.2019 to 31.3.2024, duly audited and certified by the auditors
31. In view of the above, the additional capitalization filed by the petitioner in additional submission was not part of the main petition and also it is required to be examined on several counts specified in the Regulations, 2020. Based on the information made available by the petitioner, this exercise shall be carried out while undertaking true-up for the respective year based on Annual Audited Accounts and other requisite details in this regard. The petitioner shall be at liberty to approach the Commission for approval of additional capitalization while filing true-up petition for respective year based on the actual expenditure incurred and duly reconciled with the Annual Audited Accounts.

32. Accordingly, the status of opening Gross Fixed Assets (GFA) as on 1st April' 2019 will remain same in this order as considered by the Commission as on 31st March' 2019, in its tariff order dated 24th August' 2021 in P/ No 60 of 2020. The aforesaid figure of GFA shall remain unchanged during the control period in this order.

Debt: Equity:

Petitioner's Submission

33. Regarding the Debt:Equity ratio, the petitioner No. 1 submitted that the debt outstanding of Rs. 934.49 Crore and Equity of Rs. 301.91 Crore have been the same for the Unit No. 1 as on COD which was earlier approved by the Commission in its order dated 01.12.2012. Therefore, the petitioner No. 1 has filed the opening equity and loan as on 1st April' 2019 which was considered as closing figure in last tariff order dated 01st December' 2012 in Petition No 78 of 2012. The petitioner No. 1 has not filed any addition of loan & equity during control period in the subject petition.

Provisions under Regulations

34. With regard to funding of the project, Regulation 33 of MPERC (Terms & Conditions for Determination of Generation Tariff), Regulations, 2020 provides that:

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

Provided that:

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

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

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

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

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

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

33.5 *Any expenditure incurred or projected to be incurred on or after 1.4.2019 as may be admitted by the Commission as additional capital expenditure for determination of tariff, and renovation and modernisation expenditure for life extension shall be serviced in the manner specified in clause 33.1 of this Regulation.*

Commission's Analysis

35. Regulation 33.3 of MPERC (Terms & Conditions for Determination of Generation Tariff) Regulations' 2020 provides that "in case of generating station declared under Commercial Operation prior to 1st April' 2019, the debt equity ratio allowed by the Commission for determination of tariff for the period ending 31st March' 2019 shall be considered". Therefore, the Commission has considered the opening equity and opening loan as on 01st April' 2019 based on the closing loan and equity as on 31st March' 2019 as per last tariff order issued on 24th August' 2021 in Petition No 60/2020.
36. The Commission has not considered any additional capitalization in this order. Therefore, no addition of loan and equity is considered during the MYT control period

37. Accordingly, the equity balance of Rs. 301.91 Crore and loan balance of Rs. 374.77 Crore as on 31st March' 2019 as considered by the Commission in tariff order dated 24th August' 2021 in Petition No 60 of 2020 for FY 2018-19 shall remain same as on 01st April' 2019.

Annual Capacity (fixed) Charges

38. Regulation 17.1 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020, stated that the Annual Capacity Charges shall be derived on the basis of annual fixed cost (AFC) of a generating station shall consist of the following components:
- Return on Equity;
 - Interest on Loan Capital;
 - Depreciation;
 - Interest on Working Capital;
 - Operation and Maintenance Expenses;

Return on Equity

Petitioner's Submission

39. The petitioner No. 1 filed Return on Equity during during MYT period from FY 2019-20 to FY 2023-24 in form TPS 1(I&II) of the petition as given below:

Table 5: Return on Equity Claimed

S. No.	Particulars	Unit	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
1	Gross Opening Equity	Rs. Cr.	301.91	301.91	301.91	301.91	301.91
2	Less: Adjustment in Opening Equity	Rs. Cr.	0.00	0.00	0.00	0.00	0.00
3	Adjustment during the year	Rs. Cr.	0.00	0.00	0.00	0.00	0.00
4	Net Opening Equity	Rs. Cr.	301.91	301.91	301.91	301.91	301.91
5	Add: Increase in equity due to addition during the year / period	Rs. Cr.	0.00	0.00	0.00	0.00	0.00
6	Less: Decrease due to de-capitalisation during the year / period	Rs. Cr.	0.00	0.00	0.00	0.00	0.00
7	Less: Decrease due to reversal during the year / period	Rs. Cr.	0.00	0.00	0.00	0.00	0.00

8	<i>Add: Increase due to discharges during the year / period</i>	<i>Rs. Cr</i>	0.00	0.00	0.00	0.00	0.00
9	<i>Net Closing Equity (Normal)</i>	<i>Rs. Cr</i>	301.91	301.91	301.91	301.91	301.91
10	<i>Average Equity (Normal)</i>	<i>Rs. Cr</i>	301.91	301.91	301.91	301.91	301.91
11	<i>Rate of ROE</i>	%	15.50%	15.50%	18.782%	18.782%	18.782%
12	Total ROE	Rs. Cr	46.80	46.80	56.70	56.70	56.70

Provisions in the Regulation:

40. With regard to Return on Equity, Regulation 34 (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 provides that:

34 . Return on Equity:

“34.1 Return on equity shall be computed in rupee terms on the equity base determined in accordance with Regulation 33 of these Regulations.

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

Provided that

- (a) in case of a new project, the rate of return of a new project shall be reduced by 1.00% for such period as may be decided by the Commission, if the generating station is found to be declared under commercial operation without commissioning of any of the Restricted Governor Mode Operation (RGMO)/ Free Governor Mode Operation (FGMO):*
- (b) in case of existing generating station any of the above requirements are found lacking based on the report submitted by the respective SLDC/RLDC, RoE shall be reduced by 1% for the period for which the deficiency continues.*
- (c) in case of a thermal generating station, with effect from 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).

41. Regarding Tax on Return on Equity, Regulation 35 of the Regulations, 2020 further provides that:

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)

Where *t* is the applicable tax rate in accordance with Regulation 35.1 of this Regulation and shall be calculated at the beginning of every financial year based on the estimated profit and tax to be paid estimated in line with the provisions of the relevant Finance Act applicable for that financial year to the company on pro-rata basis by excluding the income of non-generation business and the corresponding tax thereon. In case of generating company paying Minimum Alternate Tax (MAT), “*t*” shall be considered as MAT rate including surcharge and cess. For example: - In case of the generating company paying

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

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

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

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

- (b) Estimated Advance Tax for the year on above is Rs 240 Crore.
(c) Effective Tax Rate for the year 2019-20 = Rs 240 Crore/Rs 1000 Crore =24%
(d) Rate of return on equity = $15.50 / (1-0.24) = 20.395\%$

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

MPPMCL Submission:

42. On this issue, MPPMCL (Petitioner No 3) submitted as under:

The Petitioner No. 1, vide Para No (iv), in the petition has claimed, RoE at the base rate of 15.50% and which has been grossed up by applicable MAT rates of 17.472 % for period FY 2019-2024. Since 2 years have already been elapsed by now, it is submitted that Commission may be pleased to enquire LAPL to provide supporting documents, whether it was eligible for MAT for the period 2019-20 & 2020-21. The Commission may also carry out a prudence check on the basis of expenditure actual made by the Petitioner no. 1 in the respective years for allowing the tax paid on actual basis rather than on Grossing up the return on equity.”

Commission’s Analysis:

43. The petitioner No. 1 has considered opening equity of Rs. 301.91 Crore as on 01.04.2019. Regulation 33.3 of the Regulations, 2020 provides that, 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.
44. In accordance with the aforesaid Regulation, the Equity balance as on 31st March’ 2019 as admitted by the Commission in the tariff order dated 24th August’ 2021 is considered as the base figure for opening equity balance as on 01st April’ 2019.

However, the Commission has not considered any additional capitalization during FY 2019-20 to FY 2023-24 and its corresponding equity in this order. Therefore, the equity balance as on 01st April' 2019 shall remain unchanged during the control period.

45. With regard to rate of return on equity, the petitioner No. 1 has claimed ROE for FY 2019-20 & FY 2020-21 at base rate of return. However, during FY 2021-22 to FY 2023-24, Return on Equity is claimed by grossing up the base rate of return with Minimum Alternate Tax (MAT). On perusal of the Annual Audited Accounts for FY 2019-20 and FY 2020-21, it was observed that the petitioner No. 1 had not paid any income Tax due to loss in Annual Audited Accounts. Therefore, vide letter dated 8th February' 2022, the petitioner No. 1 was asked to explain the basis of claiming Return on Equity from FY 2021-22 to FY 2023-24 by grossing up with MAT in light of the Regulation 35 of the Tariff Regulations, 2020. The petitioner No. 1 was also asked to file supporting documents in this regard.
46. By affidavit dated 2nd March' 2022, the petitioner submitted the following response:

It is submitted that LAPL has claimed return on equity in accordance with Regulation 35 of the MPERC Tariff Regulations, 2020. For the last three years i.e. FY 2021-22 to FY 2023-24, LAPL is entitled to claim grossed up return on equity considering the applicable MAT rate at the beginning of the financial year and it shall be trued up later based on the actual tax paid at the Company level for the respective year. Regulation 35.1 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2020 specifies the following:-

“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 the 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 the other income stream including deferred tax liability (i.e., income from non-generation business) shall be excluded for the calculation of “effective tax rate”.

Regulation 35.2 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2020 specifies the following:

“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)

Where “t” is the effective tax rate in accordance with Regulations 35.1 of these Regulations and shall be calculated at the beginning of every financial year based on the estimated profit and tax to be paid estimated in line with the provisions of the relevant Finance Act applicable for that financial year to the company on pro-rata basis by excluding the income of non-generation business and the corresponding tax thereon.”

Further the above regulation also specifies that In case of a generating company paying Minimum Alternate Tax (MAT), “t” shall be considered as MAT rate including surcharge and cess.

LAPL submits that since the Commercial Operation Date (COD) of Unit 1 i.e. on 09.04.2010, LAPL has been eligible to pay only Minimum Alternate Tax (MAT) and not the normal Corporate Tax. It is submitted that LAPL pays income tax for the Company as a whole. During the first two years FY 2019-20 to FY 2020-21, which have already passed, there was no income tax payable by the Company due to losses calculated in accordance with the provisions of Section 28 to Section 44 of the Income Tax Act 1961 and the Company had book losses calculated in accordance with Section 115 JB Income Tax Act 1961.

Therefore, the company has claimed the return of equity without grossing up the base rate of ROE with applicable MAT rate in its Unit 1 for the above two already passed years i.e. FY 2019-20 & FY 2020-21. For the balance three years of the tariff period i.e. from FY 2021-22 to FY 2023-24, depending upon the profit generated at the Company level, the MAT liability in LAPL’s Unit 1 shall be calculated at the end of the respective financial years in accordance with the relevant provisions in Regulation 35.3 of MPERC Tariff Regulations 2020.

47. On perusal of the aforesaid response, the Commission has observed the following:
- i. The petitioner has claimed ROE at base rate for first two years of the control period. However, for balance three years, i.e., FY 2021-22 to FY 2023-24, the petitioner claimed ROE by grossing up the base rate of return with MAT.

- ii. During the first two years FY 2019-20 to FY 2020-21, which have already passed, there was no income tax payable by the Company due to losses incurred in accordance with the provisions of Section 28 to Section 44 of the Income Tax Act 1961 and the Company had book losses calculated in accordance with Section 115 JB Income Tax Act 1961. Therefore, the company has claimed the return of equity without grossing up the base rate of ROE with applicable MAT rate in its Unit 1 for the above two already passed years i.e. FY 2019-20 & FY 2020-21.
 - iii. For the balance three years of the tariff period i.e. from FY 2021-22 to FY 2023-24, based on the profit estimated at the Company level, the MAT liability in Unit 1 has been considered by the petitioner No. 1 and calculated ROE by grossing up the base rate of return with MAT for respective financial years in accordance with the relevant provisions in Regulation 35.3 of MPERC Tariff Regulations 2020.
48. In view of the above, the return on equity for FY 2019-20 and FY 2020-21 has been worked out considering the base rate of return as filed by the petitioner No. 1. Further, Regulation 35.1 of the Regulations, 2020 provides that the base rate of return on equity 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. Therefore, for FY 2021-22 to FY 2023-24, the base rate of return on equity has not been grossed up with MAT in this order. The Commission shall examine the actual tax payment in light of the Annual Audited Accounts of M/s. Lanco Amarkantak Power Limited at the time of truing up exercise for respective year of the control period.
49. In compliance to Regulation 34.2 of the Regulations, 2020, the petitioner No. 1 submitted that the generating unit No. 1 has been duly operating under RGMO/ FGMO. The petitioner No. 1 confirmed that the Restricted Governor Mode Operation (RGMO) was commissioned and under operation in Unit No. 1 since 05.08.2010. The petitioner No. 1 also filed supporting documents in this regard. Therefore, the petitioner No. 1 has been in compliance with the requirement of RGMO as per applicable provisions of MPERC Generation Tariff Regulation, 2020.
50. As far as ramp up rate of 1% per minute achievement by LAPL's 300 MW Unit 1 is concerned, the petitioner submitted that an external agency M/s Solvina appointed by POSOCO (WRLDC) has carried out primary frequency test (PFR) and is monitored by

WRLDC for successful completion of PFR tests for 300 MW Unit-1. The supporting documents of PFR test report as carried out by M/s Solvina on site monitored by WRLDC has been submitted by the petitioner.

51. Accordingly, Return on Equity has been worked out for the control period FY 2019-20 to FY 2023-24 considering the base rate of return as given below:

Table 6 : Return on Equity Considered in this Order

Sr No	Particular	Unit	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
1	Opening Equity	Rs. Cr.	301.91	301.91	301.91	301.91	301.91
2	Equity Additions during the year	Rs. Cr.	0.00	0.00	0.00	0.00	0.00
3	Closing Equity	Rs. Cr.	301.91	301.91	301.91	301.91	301.91
4	Average Equity	Rs. Cr.	301.91	301.91	301.91	301.91	301.91
5	Base Rate of ROE	%	15.50%	15.50%	15.50%	15.50%	15.50%
6	Return on Equity	Rs. Cr.	46.80	46.80	46.80	46.80	46.80

Interest on Loan Capital

Petitioner's submission:

52. Regarding Interest on Loan capital, the petitioner No. 1 submitted that the Interest and Finance Charges on Loan has been considered based on the actual interest payments made to the lenders in line with Regulation 36 of the MPERC Tariff Regulations, 2020. The petitioner No. 1 further submitted that the weighted average interest rate for the outstanding loan as on 31.03.2019 was 13.45%.
53. Interest on loan capital for the control period from FY 2019-20 to FY 2023-24 claimed in the subject petition is as given below:

Table 7: Interest on Loan claimed

Sr. No.	Particulars	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
1	Gross Normative loan - Opening	934.49	934.49	934.49	934.49	934.49
2	Cumulative repayments of Normative Loan upto previous year	497.53	559.72	621.91	684.10	746.29
3	Net Normative loan - Opening	436.96	374.77	312.58	250.39	188.20
4	Add: Increase due to addition during the Year/period	-	-	-	-	-
5	Less: due to de-capitalisation during the Year/period	-	-	-	-	-

6	Less: Decrease due to reversal during the Year/period	62.19	62.19	62.19	62.19	62.19
7	Add: Increase due to discharges during the Year/period	-	-	-	-	-
8	Net Normative loan - Closing	374.77	312.58	250.39	188.20	126.01
9	Average Normative Loan	405.87	343.68	281.49	219.30	157.10
10	Weighted average Rate of Interest	13.45%	13.45%	13.45%	13.45%	13.45%
11	Interest on loan	55.60	46.22	37.86	29.50	21.13

Provisions in Regulation:

54. Regulation 36 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 provides as follows:

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

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

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

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

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

Provided further that if the generating station does not have actual loan, then the

weighted average rate of interest of the generating company as a whole shall be considered.

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

MPPMCL Comment:

The Petitioner No. 1 has considered the weighted average rate @ 13.45%. The same may be considered in accordance with provision of the Regulation 36 of the MPERC Tariff Regulation 2020 only.”

Commission’s analysis:

55. Regarding the interest on loan capital, Regulation 36.2 of the Regulations, 2020 provides that the normative loan outstanding as on 01.04.2019 shall be worked out by deducting the cumulative repayment as admitted by the Commission up to 31.3.2019 from the gross normative loan. In accordance to the aforesaid Regulation, loan balances as on 31st March’ 2019 admitted in the last tariff order dated 24th August ’2021 is considered as the base figure for opening loan balance as on 01st April’ 2019. Further as mentioned in preceeding part of this order, the Commission has not considered any additional capitalization during FY 2019-20 to FY 2023-24, therefore, the loan balances for each financial year is worked out by considering the normative repayment equivalent to depreciation for the respective year.
56. Vide Commission’s letter dated 8th February’ 2020, the petitioner was asked to file detailed calculation of actual weighted average rate of interest during the control period along with supporting documents in respect of actual weighted average rate of interest claimed in the petition.
57. Vide affidavit dated 2nd March’ 2020, the petitioner submitted the computation of weighted average rate of interest on loan @ 13.45% during the control period i.e. as on 31.03.2019 along with interest rates certificates from respective Banks/Financial Institutions.
58. On perusal of the above submission, the Commission has observed that the petitioner No. 1 has filed the weighted average rate of interest based on the actual interest rates charged by the lenders to Lanco Amarkantak Power Limited Unit No.1 on actual loan portfolio as per prevailing interest rates of the respective Banks/Finamcial Institutions.

59. Considering the above, the interest on loan has been worked out considering the following:
- i. Opening loan balance as on 01.04.2019 is considered same as admitted by the Commission as on as on 31.03.2019 in the last tariff order dated 24th August' 2021.
 - ii. No loan addition/deduction is considered during the control period;
 - iii. Normative repayment equal to depreciation in accordance to Regulations is considered;
 - iv. Weighted average rate of interest @ 13.45% for FY 2019-20 to FY 2023-24 as filed by the petitioner No. 1 is considered.
60. Based on the above, the interest on loan worked out for the control period from FY 2019-20 to FY 2023-24 is as given below:

Table 8: Interest on Loan Admitted

Sr No	Particular	Unit	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
1	Opening Loan Balance	Rs. Cr.	374.77	312.58	250.39	188.20	126.01
2	Loan Additions during the year	Rs. Cr.	0.00	0.00	0.00	0.00	0.00
3	Repayment of Loan equal to depreciation during the year	Rs. Cr.	62.19	62.19	62.19	62.19	23.41
4	Closing Loan Balance	Rs. Cr.	312.58	250.39	188.20	126.01	102.60
5	Average Loan	Rs. Cr.	343.67	281.48	219.29	157.10	114.30
6	Weighted Average Rate of Interest	%	13.45%	13.45%	13.45%	13.45%	13.45%
7	Annual Interest amount on Loan	Rs. Cr.	46.23	37.86	29.50	21.13	15.37

Depreciation

Petitioner's submission:

61. Regarding the depreciation, the petitioner No. 1 has submitted that the Depreciation has been computed considering the Straight Line Method considering weighted average rate of depreciation rate of 5.03% (earlier approved by this Commission in its order dated 01.12.2012) in accordance with Regulation 37 of the MPERC Tariff Regulations, 2020.

62. The petitioner No. 1 has claimed the depreciation for the period from FY 2019-20 to FY 2023-24 as given below:

Table 9: Depreciation Claimed (Rs in Cr)

Sr. No.	Particulars	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
1	Opening Capital Cost	1,236.40	1,236.40	1,236.40	1,236.40	1,236.40
2	Asset Additions During the year	0.00	0.00	0.00	0.00	0.00
3	Closing Capital Cost	1,236.40	1,236.39	1,236.40	1,236.40	1,236.40
4	Average Capital Cost	1,236.40	1,236.40	1,236.40	1,236.40	1,236.40
5	Rate of Depreciation	5.03%	5.03%	5.03%	5.03%	5.03%
6	Depreciation during the year	62.19	62.19	62.19	62.19	62.19
7	Cumulative Depreciation	455.61	517.80	579.99	642.18	704.37

MPPMCL's Comment:

The Petitioner No. 1 has claimed depreciation on its assets. The Commission, order dated 01.12.2012, has allowed the weighted average rate of Depreciation @ 5.03% and the same is considered by the Petitioner No. 1. However, as per principle of prudence check, since the period of 2 years has already elapsed by now, the Commission may consider to direct the Petitioner No. 1 to submit the year wise asset cum depreciation details for FY 2019-20 & 2020-21, duly matched with the audited statement of accounts.

Provisions of the Regulation:

63. Regulation 37 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulation, 2020 provides as follows:

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

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

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

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

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

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

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

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

37.4 Land other than the land held under lease and the land for reservoir in case of hydro generating station shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset.

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

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

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

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

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

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

Commission's Analysis:-

64. Regulation 37.2 provides that the value base for the purpose of depreciation shall be the capital cost of the asset admitted by the Commission. In accordance to the aforesaid Regulation, Gross Fixed Assets as on 31st March' 2019 admitted by the Commission in the tariff order dated 24th August' 2021 is considered as the base figures for Gross Fixed Assets as on 01st April' 2019. Further, no additional capitalization during control period claimed in the subject petition. Therefore, the Gross Fixed Assets as on 01st April' 2019 shall remain same for the entire control period.
65. In form TPS 11 of the subject petition, the petitioner worked out the weighted average rate of depreciation for each year of the control period based on the depreciation rates as per Depreciation Rate Schedule provided under the Regulations, 2020.
66. Further, as per proviso 37.6 of MPERC Regulations 2020 which provides 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.
67. The Commission has observed that Lanco Amarkantak Power Station is completing the useful life of 12 years during MYT period of FY 2019-20 to FY 2023-24. Accordingly, the balance depreciation has been spread over the balance useful life of the assets and weighted average rate of interest for FY 2023-24 is worked out accordingly.

68. Cumulative depreciation as on 31st March' 2019 admitted in true-up order dated 24th August' 2021 is considered as opening cumulative depreciation in this order.
69. Based on above, the annual depreciation is worked out in this order as given below:-

Table 10: Annual Depreciation

Sr. No.	Particular	Unit	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
1	Opening Capital Cost	Rs Cr.	1236.40	1236.40	1236.40	1236.40	1236.40
2	Assets Addition during the year	Rs Cr.	0.00	0.00	0.00	0.00	0.00
3	Closing Capital Cost	Rs Cr.	1236.40	1236.40	1236.40	1236.40	1236.40
4	Average Capital Cost	Rs Cr.	1236.40	1236.40	1236.40	1236.40	1236.40
5	Weighted Average Rate of Depreciation (%)	%	5.03%	5.03%	5.03%	5.03%	1.89%
6	Annual Depreciation	Rs Cr.	62.19	62.19	62.19	62.19	23.41
7	Cumulative Depreciation	Rs Cr.	621.84	684.03	746.22	808.41	831.82

Operation & Maintenance Expenses

Petitioner's Submission

70. The petitioner No. 1 filed the Operation and Maintenance expenses for its 300 MW thermal power Unit No. 1 for the control period from FY 2019-20 to FY 2023-24 in accordance with the MPERC Tariff Regulations, 2020 as given below:

Table 11: Operation & Maintenance Expenses claimed

Particular	Units	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Annual O&M expenses	Rs in Cr	84.90	87.87	90.96	94.17	97.47

Provision in Regulations:-

71. The norms for Operation and Maintenance Expenses for thermal generating units commissioned on or after 01/04/2012 are prescribed under Regulation 40.2 of the Regulations, 2020 for the generating Unit of "200/210/250 MW and above" for control period FY 2019-20 to FY 2023-24 are as given below:

Table 12: Norms for O&M Expenses

(Rs. lakh/MW/Year)

Units (MW)	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
<i>200/210/250 MW Series</i>	28.30	29.29	30.32	31.39	32.49

Commission's Analysis

72. As the 300 MW Unit of petitioner No. 1 is much closer to the category of 200/210/250 MW, the O&M expenses specified for category 200/250/250 MW as filed in the petition have been considered for the 300 MW Unit. For Thermal Power Station, the annual Operation and Maintenance Expenses worked out by the Commission as per the norms prescribed under aforesaid Regulations for the FY 2019-20 to FY 2023-24 are as given below:

Table 13: O& M Expenses for Generating Unit

Particular	Units	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Installed Capacity	MW	300	300	300	300	300
Per MW O&M Expenses Norms	Rs in Lakh/MW	28.30	29.29	30.32	31.39	32.49
Annual O&M expenses	Rs in Cr.	84.90	87.87	90.96	94.17	97.47

Interest on Working Capital

Petitioner's submission

73. The petitioner no. 1 claimed the interest on working capital for the control period from FY 2019-20 to FY 2023-24 in TPS Form 13B of the petition as given below:-

Table 14: Interest on Working Capital Claimed

(Rs. in Crore)

Sl. No	Particulars	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
1	Cost of Coal/Lignite	76.51	76.51	76.51	76.51	76.51
2	Cost of Main Secondary Fuel Oil	1.12	1.12	1.12	1.12	1.12
3	O & M Expenses	70.8	73.2	75.8	78.5	81.2
4	Maintenance Spares	16.98	17.57	18.19	18.83	19.49
5	Total Receivables	90.58	89.82	90.23	89.60	88.89
6	Total Working Capital	192.28	192.34	193.63	193.91	194.14
7	Rate of Interest	12.05%	11.25%	10.50%	10.50%	10.50%
8	Interest on Working Capital	23.17	21.64	20.33	20.36	20.38

Provisions in Regulation:

74. With regard to interest on working capital, Regulation 38 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulation, 2020 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 handling losses) and gross calorific value of the fuel as per actual weighted average for three months, as used for infirm power, preceding date of commercial operation for which tariff is to be determined

38.3 "Rate of interest on working capital shall be on normative basis and shall be considered as the bank rate as on 1.4.2019 or as on 1st April of the year during

the tariff period 2019-20 to 2023-24 in which the generating station or a unit thereof, is declared under commercial operation, whichever is later:

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

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

Commission’s analysis:

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

(a) Cost of coal for working capital

76. The Lanco Amarkantak Thermal Power Station is non pit-head station therefore, the cost of coal towards stock for 60 days for non-pit head generating stations is considered for working capital purpose. The weighted average rate of coal for FY 2019-20 to FY 2023-24 is worked out as per the details filed by the petitioner no. 1 for the preceding three month i.e, January’ 2019, February’ 2019 and March’ 2019 in accordance to the Tariff Regulations, 2020.

77. GCV of coal has been considered as per the details filed by the petitioner no. 1 as ‘received basis’ for the preceeding three months i.e, January, February and March’ 2019 for FY 2019-20 to FY 2023-24. The petitioner No. 1 has filed the laboratory test reports for GCV of coal on received basis for aforesaid preceeding three months in this regard. Accordingly, the 60 days cost of coal stock for working capital is worked out as under:

Table 15: Cost of Coal for working capital

Particular	Units	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Installed Capacity of the Unit	MW	300	300	300	300	300
Gross Station Heat Rate	kCal/kWh	2402.00	2402.00	2402.00	2402.00	2402.00
Gross Generation	MUs	2239.92	2233.80	2233.80	2233.80	2239.92
Gross Calorific Value of Coal	kCal/Kg	3574.33	3574.33	3574.33	3574.33	3574.33
Sp. Coal Consumption	kg/kWh	0.6760	0.6760	0.6760	0.6760	0.6760

Annual Coal Consumption	MT	1514239	1510102	1510102	1510102	1514239
60 Days Coal Stock	MT	248236	248236	248236	248236	248236
Rate of Coal	Rs./MT	3157.49	3157.49	3157.49	3157.49	3157.49
Coal Cost (60 Days stock)	Rs in Cr.	78.38	78.38	78.38	78.38	78.38

(b) Secondary Fuel Oil Cost

78. With regard to cost of secondary fuel oil for working capital, Regulation 19.1 of the Regulations, 2020 provides that in the absence of landed cost for the three preceding months, latest procurement price of primary fuel and secondary fuel for the generating station, before the start of the tariff period for existing stations is to be considered.
79. The petitioner No. 1 filed the weighted average rate of secondary fuel oil for FY 2019-20 to FY 2023-24 based on the fuel oil purchased in October' 2018.
80. Regulation 38.1 of the Regulations, 2020 provides that in case of use of more than one secondary fuel oil, cost of fuel oil stock shall be provided for the main secondary fuel oil. In view of the above provision, the petitioner was asked to confirm along with details that the cost of only main fuel is considered while determining the working capital.
81. By affidavit dated 2nd March' 2022, the petitioner No. 1 submitted that the main secondary fuel oil in case of petitioner No. 1 plant is LDO. Hence, it is observed that while computing the annual working capital requirement, the petitioner No. 1 has claimed the cost of Light Diesel Oil only as main secondary fuel oil for two months as per MPERC Tariff Regulations, 2020.
82. The petitioner No. 1 has worked out the weighted average rate of oil as Rs. 60,090.06/KL for the control period from FY 2019-20 to FY 2023-24 based on the latest landed price of secondary fuel oil purchased. The same weighted average rate of oil is considered by the Commission in this order. Accordingly, the cost of two months' main fuel oil stock at normative availability is worked out as given below:

Table 16: Cost of Main Secondary Fuel Oil for 2 Months availability

Particular	Units	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Installed Capacity of the Unit	MW	300	300	300	300	300
NAPAF	%	85.00%	85.00%	85.00%	85.00%	85.00%
Gross Generation	MUs	2239.92	2233.80	2233.80	2233.80	2239.92

Normative Specific Oil Consumption	ml/kWh	0.50	0.50	0.50	0.50	0.50
Quantity of Sec Fuel Oil required	KL	1119.96	1116.90	1116.90	1116.90	1119.96
Two months' stock of fuel oil	KL	186.66	186.15	186.15	186.15	186.66
Weighted Avg. Rate of Secondary Fuel Oil	Rs./KL	60,090	60,090	60,090	60,090	60,090
Oil Cost (Two Months Stock)	Rs. Cr.	1.12	1.12	1.12	1.12	1.12

(c) O&M Expenses

83. Operation and Maintenance expenses of one month as determined in this order have been considered for working capital of thermal power station as follows:

Table 17: O&M Expenses for 1 Month (Rs. in Crore)

Particular	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Annual O&M Expenses	84.90	87.87	90.96	94.17	97.47
O&M Expenses for 1 Month	7.08	7.32	7.58	7.85	8.12

(d) Maintenance Spares

84. Maintenance spares for the purpose of working capital is worked out as 20% of the normative annual O&M expenses respectively as per the provisions under applicable Tariff Regulations as follows:

Table 18: Maintenance Spares (Rs. in Crore)

Particular	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Annual O&M Expenses	84.90	87.87	90.96	94.17	97.47
20% of Annual O&M Expenses	16.98	17.57	18.19	18.83	19.49

(e) Receivables

85. Receivables for thermal power stations are worked out equivalent to 45 Days of Capacity (Fixed) charges and Energy Charges for sale of electricity worked out in this order on the basis of Normative Annual Plant Availability Factor as follows:

Table 19: Receivables for 45 Days (Rs. in Crores)

Particular	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Variable Charges- 45 days	59.54	59.71	59.71	59.71	59.54
Fixed Charges- 45 days	32.38	31.64	30.81	30.18	24.97
Receivables- 45 days	91.92	91.35	90.52	89.88	84.51

86. Further, with regard to the rate of interest on working capital, Regulation 38.3 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 provides as under:

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

Further, Regulation 3.1(7) reads as under:

“‘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.”

87. The petitioner has claimed rate of interest on working capital for the control period as given below:

Table 20: Rate of Interest on Working Capital claimed

Particulars	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Interest on allowed Working Capital (%)	12.05%	11.25%	10.50%	10.50%	10.50%

88. In line with Regulation 38.3 of the Tariff Regulations, the rate of interest on working capital shall be considered the bank rate as on 01.04.2019 or as on 1st April of the year during the tariff period 2019-20 to 2023-24. Further, the 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.
89. Considering the one year SBI MCLR as on 01.04.2019 is of 8.55% plus 350 bps, the interest on working capital is worked out as 12.05%. Further, the one year SBI MCLR as on 1.4.2020 (i.e. 7.75%) is available, therefore, the Commission has considered the rate of interest on working capital for the period from 1.4.2020 to 31.3.2021 as 11.25% (i.e. 1 year SBI MCLR of 7.75% as on 1.4.2020 + 350 bps) as filed by the petitioner. Further, the one year SBI MCLR as on 1.4.2021 (i.e. 7.00%) is available, therefore, the Commission has considered the rate of interest on working capital for the period from 1.4.2021 to 31.3.2024 as 10.50% (i.e. 1 year SBI MCLR of 7.00% as on 1.4.2021 + 350 bps) as filed by the petitioner. Accordingly, the interest on working capital has

been considered as 12.05% for 2019- 20, 11.25% for FY 2020-21 and 10.50% for the period from 2021-22 to 2023-24. Accordingly, rate of interest on working capital is computed as under:

Table 21: Rate of Interest on Working Capital allowed

Particulars	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
MCLR as on 1 st April of the year specified by SBI.	8.55%	7.75%	7.00%	7.00%	7.00%
Plus 350 basis point	3.50%	3.50%	3.50%	3.50%	3.50%
Rate of Interest on Working Capital Allowed	12.05%	11.25%	10.50%	10.50%	10.50%

90. Based on the above, the interest on working capital for FY 2019-20 to FY 2023-24 is determined as given below:

Table 22: Interest on Working Capital determined (Rs in Crore)

Sr. No.	Particular	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
1	Cost of Coal for working capital	78.38	78.38	78.38	78.38	78.38
2	Cost of Main Secondary Fuel Oil for 2 months	1.12	1.12	1.12	1.12	1.12
3	O&M Expenses for One Month	7.08	7.32	7.58	7.85	8.12
4	Maintenance Spares 20% of O&M expenses	16.98	17.57	18.19	18.83	19.49
5	Receivables for 45 days	91.92	91.35	90.52	89.88	84.51
6	Total Annual Working Capital	195.48	195.74	195.79	196.06	191.63
7	Rate of Interest on Working Capital	12.05%	11.25%	10.50%	10.50%	10.50%
8	Annual Interest on working Capital	23.56	22.02	20.56	20.59	20.11

Non-Tariff Income

Provisions in Regulation:

91. Regulation 58.1 of the MPERC (Terms and Conditions for Determination of Generation Tariff) 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.

MPPMCL's Comment

That, as per provisions of Regulation 58 of Regulations of 2020, the non-tariff income needs to be deducted from the Fixed Cost. However, the Petitioner the No. 1 has not disclosed the income derived by it from sale of Fly Ash, Interest on investment and bank balance, Income from sale of scraps, and other miscellaneous receipts etc. LAPL may please be requested to disclose the same.

Regulation 56 of 2020 Tariff Regulations stipulate sharing of gains due to variations in norms. It is therefore prayed that this Commission 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.

Commission's Analysis:

92. The aforesaid Regulation provides that the Generation Company shall submit full details of its forecast of Non-Tariff Income to the Commission. On perusal of the petition, it was observed that in TPS Form 17 of the petition, the non-tariff income of Rs. 0.65 Crore and Rs 0.20 Crore for FY 2019-20 and FY 2020-21, respectively was filed whereas, in Note 14 of Annual Audited Accounts for FY 2019-20 and FY 2020-21 "other income" is shown as Rs. 41.97 Crore and Rs 7.04 Crore, respectively. Vide

Commission's letter dated 8th February' 2022, the petitioner's was asked to explain the reasons for aforesaid discrepancy in non-tariff income recorded in Annual Audited Accounts vis-a-vis claimed in the subject petition..

93. By affidavit dated 2nd March' 2022, the petitioner submitted the following response:

The Form 17 of the tariff filing formats in accordance to the Regulation 58.1 of the MPERC (Terms and Conditions of Tariff) Regulations, 2020 showing the details of Non-tariff Income/ other Income from FY 2019-20 to FY 2020-21 is filled up based on the Annual Audited Accounts of each year and have already been submitted by LAPL in its filed petition (Please refer at Page no. 157 of filed petition). The other income as captured in Annual Audited accounts is different from the clause mentioned in the MPERC Tariff Regulations 2020.

a. *Regarding the other income of Rs. 41.97 Crore specified in the Annual Audited Accounts for FY 2019-20, it is submitted that South Eastern Coalfields Limited (SECL) terminated the FSA dated 31.12.2005 entered into between LAPL and SECL. SECL invoked the bank guarantee which was challenged by LAPL before the Arbitral Tribunal which by its order dated 13.04.2012 held the termination and invocation as illegal & invalid. SECL challenged the order before the Court of District Judge Bilaspur, Chhattisgarh. The Honourable District Court vide its order dated 11.03.2013 allowed the application/objection filed by SECL & set aside the award of the Arbitral Tribunal. Being aggrieved by the order dated 11.03.2013, LAPL filed an appeal before the High Court of Chhattisgarh at Bilaspur, Chhattisgarh. The Hon'ble High Court vide its order dated 21.11.2017 allowed the arbitration appeal of LAPL and directed to restore the Arbitration award. SECL filed an appeal before Hon'ble Supreme Court who in its order dated 14.05.2018 dismissed SECL's appeal. Being aggrieved by the orders of Supreme Court, SECL filed a review petition which was also dismissed by Hon'ble Supreme Court vide its order dated 25.09.2018. Pursuant to the Honourable Supreme Court order, SECL paid Rs. 23.47 Cr towards the bank guarantee amount in the previous year (FY 2018-19). SECL filed another SLP which was also dismissed by Hon'ble Supreme Court & the SC vide its order dated 12.04.2019 directed SECL to pay the amount of interest from the date of invocation till the date of payment of BG invocation amount by SECL within three months from the date of Supreme Court order.*

The other income is a form of penalty received from SECL on account of interest on LAPL Bank Guarantee as per Hon'ble Chhattisgarh High Court Order.

Accordingly, LAPL has recognised Interest income amounting to Rs. 38.06 Crores in the current financial year & SECL has paid Rs. 34.25 Crores. (net after TDS) which has been received by LAPL on 05.11.2019 towards full & final payment against Arbitral award dated 13.04.2012 & Hon'ble Supreme Court order dated 12.04.2019. Other balance amounting to Rs. 1.50 Crore belongs to miscellaneous Electricity Charges recovery from company Employees (Rs. 3.18 Lakhs) and vendor balance written off (Rs. 5.43 Lakhs), and Engine Haulage Charges (EHC) provisions reversal of Rs. 1.41 Cr.

The interest income forms part of the other income of the Company & is not related to the Company's business of power generation. Therefore, the interest on invocation of bank guarantee has not been included under the non-tariff income.

b. Regarding the other income of Rs. 7.04 Crore specified in the Annual audited accounts for FY 2020-21, it is submitted that the Corporate Insolvency Resolution Process (CIRP) has been initiated against Lanco Amarkantak Power Ltd (LAPL) u/s 7 of the IBC Code 2016 vide NCLT Hyderabad Order dated September 05, 2019 in CP (IB) No 420/7/HDB/2018.

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

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

Other balances belongs to Interest on tax refund (Rs. 0.25 Lakhs), gain on foreign exchange fluctuations (Rs. 0.45 Lakhs), and Rs. 4.27 Lakhs pertains to Rs 3,00,918/- towards Electricity Charges Recovery from Employees, Rs 80,000/- towards

Electricity Charges recovery from Apna Bazar Shop & Rs 46,683/-towards Interest on Income tax refund.

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

94. In view of the above, the Commission has considered non-tariff income of Rs. 0.65 Crore and Rs 0.20 Crore for FY 2019-20 and FY 2020-21, respectively. Since, the petitioner has not filed any projected non-tariff income for FY 2021-22 to FY 2023-24, therefore, the Commission has considered the same non-tariff income of FY 2020-21 of Rs 0.20 Crore as filed by the petitioner for FY 2021-22 to FY 2023-24 subject to true-up based on Annual Audited Accounts of each year of the control period.
95. Further, Regulation 58.1 stated that the non-tariff income shall be shared in the ratio of 50:50 with the beneficiaries and the generating company on annual basis. Accordingly, the Commission has considered following non tariff income in this order.

Table 23: Non-Tariff Income (Rs. in Crore)

Year	Non-Tariff Income	50% of the Non-Tariff Income
FY 2019-20	0.65	0.33
FY 2020-21	0.20	0.10
FY 2021-22	0.20	0.10
FY 2022-23	0.20	0.10
FY 2023-24	0.20	0.10

96. The petitioner is directed to file complete details of actual non- tariff income for each year based on Annual Audited Accounts while filing the true-up petitions of respective year.

Normative Annual Plant Availability Factor

97. Normative Annual Plant Availability Factor (NAPAF) for the petitioner No. 1's power plant Unit No. 1 as per MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 shall be considered for recovery of full capacity (fixed) charges is 85%.

Summary of Annual Capacity (fixed) Charges

98. The Annual Capacity (fixed) Charges for each year of the control period of FY 2019-20 to FY 2023-24 determined in this order are summarized as given below:

Table 24: Summary of Annual Capacity (Fixed) Charges (Amount in Rs Crore)

Sr. No	Particulars	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
1	Depreciation	62.19	62.19	62.19	62.19	23.41
2	Interest and Finance Charges	46.23	37.86	29.50	21.13	15.37
3	Return on Equity	46.80	46.80	46.80	46.80	46.80
4	Operation & Maintenance Expenses	84.90	87.87	90.96	94.17	97.47
5	Interest on Working Capital	23.56	22.02	20.56	20.59	20.12
6	Annual Capacity (fixed) Charges	263.67	256.74	250.00	244.88	203.17
7	Less:-Non Tariff Income	0.33	0.10	0.10	0.10	0.10
8	Net Annual Capacity Charges	263.34	256.64	249.90	244.78	203.07

99. The aforesaid Annual Capacity Charges have been computed based on norms specified under the Regulations, 2020. The above Annual Capacity (fixed) Charges are determined corresponding to the contracted capacity under PPA. The recovery of Annual Capacity (Fixed) charges shall be made by the petitioner in accordance with Regulation 42 of the Regulations, 2020.

100. Regarding the performance-based truing-up of energy charges for the FY 2019-20 and FY 2020-21 on account of controllable parameters, Regulation 56.1 of MPERC (Terms and Conditions for determination of Generation Tariff) 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

101. In view of the above provision under Regulations, it was observed by the Commission that the generating company shall carry out the truing-up of tariff of generating station based on the controllable performance parameters like Station Heat Rate, Secondary fuel oil consumption and Auxiliary Energy consumption. Vide letter dated 8th February'

2022, the petitioner was asked to file the annual details of aforesaid performance parameters actually achieved vis-à-vis normative parameters under the Tariff Regulations, 2020 for the period FY 2019-20 and FY 2020-21. 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 for that period.

102. In response to above, by affidavit dated 2nd March' 2022, the petitioner No. 1 submitted the following:

As per Regulation 56.1 of MPERC Tariff Regulations 2020, the controllable parameters are as follows:

- *Station Heat Rate*
- *Secondary Fuel oil consumption*
- *Auxiliary Energy Consumption*

It is submitted that LAPL's 300 MW Unit-1 achieved COD on 09.04.2010 i.e. much before 01.04.2019, the date from which MPERC Generation Tariff Regulations, 2020 came in force. LAPL has considered the same GSHR of 2402 kCal/kWh and Auxiliary Energy Consumption of 9% for its 300 MW Unit-1 as normative controllable parameters as earlier approved by this Hon'ble Commission in its orders dated 01.12.2012 & 24.08.2021.

As desired by the MPERC, Petitioner No 1 is also filing the monthly details of above normative parameters and actual parameters to arrive at gain/loss on account of controllable parameters in accordance with Regulation 56.2 of MPERC Tariff Regulations 2020

"Net Gain = (ECRN– ECRA) x Scheduled Generation".

Detailed Calculation sheet for FY 2019-20 and FY 2020-21 have already been submitted by LAPL in its filed petition (Please refer at Page No. 784-786 of filed petition). Soft copy- Excel sheet is being submitted herewith as Annexure-7.

Further, the mechanism for compensation against Station Heat Rate, Auxiliary Consumption and Secondary Oil consumption based on actual controllable parameters due to part load operation will also have to be reconciled from 15.05.2017 onwards as per Hon'ble CERC order dated 05.05.2017 in petition no.

No. L-1/219/2017 with the sharing of financial gains based on true up of the tariff for controllable parameters as per tariff regulations.

103. The petitioner no. 1 filed the detailed calculation sheet of monthly details of above normative parameters and actual parameters to arrive at gain/loss on account of controllable parameters in accordance with Regulation 56.1 of MPERC Tariff Regulations 2020.
104. On perusal of the details filed by the petitioner No. 1 in Annexure P-5 of its petition, it is observed that the total gain of petitioner No. 1 during FY 2019-20 was Rs 7.22 Crore on account of better performance parameters achieved by it and total gain of petitioner No. 1 during FY 2020-21 was Rs 13.82 Crore on account of better performance parameters achieved by it during FY 2020-21 .
105. Regulation 56.2 of the Tariff Regulations, 2020 provides that the financial gains by a generating company on account of controllable parameters shall be shared between generating company and the beneficiaries in the ratio of 50:50. Therefore, the petitioner is directed that gains achieved in generating station should be shared with the beneficiaries of the respective Generating Station in accordance to aforesaid Regulations.
106. The year-wise gain achieved by the petitioner No. 1 is as given below:

Particulars	Unit	FY 2019-20	FY 2020-21
Financial Gain	Rs Cr.	7.23	13.82
Petitioner No. 1 Share (50% of the Total Gain)	Rs Cr.	3.61	6.91
MPPMCL Share (50% of the Total Gain)	Rs Cr.	3.61	6.91

Energy (Variable) Charges

Petitioner's submission:

107. While claiming the Energy charges for the control period, the petitioner considered parameters like Gross Station Heat Rate, Auxiliary Energy Consumption, Specific fuel oil consumption, transit loss for FY 2019-20 to FY 2023-24 based on the provisions under MPERC (Terms and conditions for Determination of Generation Tariff) Regulations, 2020.

Provisions in Regulation:

108. For determining the energy charges (variable charges) of thermal power stations,

Regulation 18 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulation, 2020 provides that:

18. Energy Charges:

Energy charges shall be derived on the basis of the Landed Fuel Cost (LFC) of a generating station (excluding hydro) and shall consist of the following cost:

- (a) Landed Fuel Cost of primary fuel; and*
- (b) Cost of secondary fuel oil consumption*
- (c) Cost of Lime-stone or any other regent as applicable.*

109. Regulation 43.1, 43.2 and 43.4 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulation, 2020, further provides that:

43.1 The energy charge shall cover the primary and secondary fuel cost and shall be payable by every beneficiary for the total energy scheduled to be supplied to such beneficiary during the calendar month on ex-power plant basis, at the energy charge rate of the month (with fuel price adjustment). Total Energy charge payable to the generating company for a month shall be:

(Energy charge rate in Rs./kWh) x {Scheduled energy (ex-bus) for the month in kWh.}

43.2 Energy charge rate (ECR) in Rupees per kWh on ex-power plant basis shall be determined to three decimal places in accordance with the following formula:

$$ECR = \{(SHR - SFC \times CVSF) \times LPPF / CVPF + SFC \times LPSFi\} \times 100 / (100 - AUX)$$

Where,

AUX = Normative auxiliary energy consumption in percentage.

CVPF = Weighted Average Gross calorific value of coal as received, in kCal per kg less 85 Kcal/kg on account of variation during storage at generating station:

Provided that, in case of blending of coal from different sources, the weighted average Gross Calorific Value of coal (primary fuel) shall be arrived in proportion to blending ratio.

CVSF = Calorific value of secondary fuel, in kCal per ml.

ECR = Energy charge rate, in Rupees per kWh sent out.

SHR = Gross station heat rate, in kCal per kWh.

LPPF= Weighted average landed price of coal (primary fuel), in Rupees per kg, during the month. (In case of blending of coal from different sources, the weighted average landed price of coal shall be arrived in proportion to blending ratio).

SFC = Normative Specific fuel oil consumption, in ml per kWh.

LPSFi = Weighted Average Landed Price of Secondary Fuel in Rs./ml during the month

43.4 *The generating company shall provide to the beneficiaries of the generating station the details of parameters of GCV and price of coal i.e. domestic coal, imported coal, e-auction coal, etc., as per the forms prescribed to these Regulations:*

Provided that the details of blending ratio of the imported coal with domestic coal, proportion of e-auction coal and the weighted average GCV of the coal as received shall also be provided separately, along with the bills of the respective month:

Provided further that copies of the bills and details of parameters of GCV and price of coal i.e. domestic coal, imported coal, e-auction coal, etc., details of blending ratio of the imported coal with domestic coal, proportion of e-auction coal shall also be displayed on the website of the generating company. The details should be available on its website on monthly basis.

Commission's analysis:

110. The MPERC Tariff Generation Tariff Regulations, 2020 provides that the energy (variable) charges shall cover both primary and secondary fuel costs and shall be payable during the calendar month for the scheduled energy on ex-power plant basis.

111. In order to determine the energy charges of thermal power station, the operating parameters like gross station heat rate, auxiliary energy consumption, secondary fuel oil consumption and plant availability factor need to be examined as per MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2020.

Gross Station Heat Rate:

112. On perusal of the details regarding Energy charges filed in the subject petition, it is observed that the petitioner No. 1 has filed gross station heat rate of 2402 Kcal/kWh

for the period of FY 2019-20 to FY 2023-24 in accordance to MPERC Generation Tariff Regulations, 2020.

113. The petitioner No. 1's 300 MW Unit 1 had achieved COD on 09.04.2010. The Commission in its order dated 01.12.2012 in petition No. 78 of 2012 had approved GSHR of 2402 kCal/kWh for Lanco Amarkantak Unit No. 1. Accordingly, the Commission has considered the same normative GSHR of 2402 kCal/kWh as filed by the petitioner No. 1 for the period FY 2019-20 to FY 2023-24 in this order.

Auxiliary Energy Consumption

114. With regard to Auxiliary energy consumption, the petitioner No. 1 filed normative Auxiliary energy consumption of 9.00% for control period from FY 2019-20 to FY 2023-24 in accordance with the Tariff Regulations, 2020. The Commission in its order dated 01.12.2012 in petition No. 78 of 2012 had approved same normative Auxiliary Energy Consumption of 9.00% for Lanco Amarkantak Unit No. 1.
115. Regulation 49.3 (E) of the Regulations, 2020 provides the norms of 8.50% for auxiliary energy consumption for thermal generating station/unit of 300 MW with natural draft cooling tower. Further, there is a provision under Regulation 49.3 (E) to consider additional 0.5% Auxiliary Energy Consumption for induced draft cooling tower. which have achieved COD on or after 01/04/2012. The petitioner in TPS Form 2 has submitted that the petitioner's generating station has induced draft colling tower. Therefore, the total Auxiliary Energy Consumption of 9.00% (8.50% + 0.5%) is considered for Unit No. 1 in this order.

Secondary Fuel Oil Consumption

116. With regard to specific secondary fuel oil consumption, the petitioner considered the normative specific secondary fuel oil consumption of 0.50 ml/kWh for FY 2019-20 to FY 2023-24. The Commission has also considered the normative specific secondary fuel oil consumption of 0.50 ml/kWh in accordance to Regulation 49.3 (D) of the Regulations, 2020 in this order for the control period from FY 2019-20 to FY 2023-24.
117. The Amarkantak Lanco Thermal Power Station is a non-pit head power station. Accordingly, the norms for transit and handling losses of 0.80% are considered as per Regulation 45.1 of the Regulations, 2020.

118. In view of above, the operating norms for the control period FY 2019-20 to FY 2023-24 for determination of energy charges is considered in accordance to the Regulations, 2020 in this order are summarized as given below:

Particulars	Unit	Norms
Gross Station Heat Rate	kCal/kWh	2402
Specific Oil Consumption	ml/kWh	0.50
Aux. Energy Consumption	%	9.00%
Transit losses	%	0.80%

Gross Calorific Value of Coal:

119. With regard to Gross Calorific Value (GCV) of Coal, Regulation 43.4 of the Regulations, 2020 provided as under:

“The generating company shall provide to the beneficiaries of the generating station the details of parameters of GCV and price of coal i.e. domestic coal, imported coal, e-auction coal, etc., as per the forms prescribed to these Regulations:

Provided that the details of blending ratio of the imported coal with domestic coal, proportion of e-auction coal and the weighted average GCV of the coal as received shall also be provided separately, along with the bills of the respective month:

Provided further that copies of the bills and details of parameters of GCV and price of coal i.e. domestic coal, imported coal, e-auction coal, etc., details of blending ratio of the imported coal with domestic coal, proportion of e-auction coal shall also be displayed on the website of the generating company. The details should be available on its website on monthly basis.

120. With regard to GCV of coal for Coal based Thermal Power Stations, Regulation 43.2 of MPERC Generation Tariff Regulations, 2020, provides that weighted average gross calorific value of coal “as received”, in kCal per kg less 85 Kcal/kg on account of variation during storage at generating station shall be considered for determination of energy charges. The aforesaid Regulation further provides that in case of blending of coal from different sources, the weighted average Gross Calorific Value of coal (primary fuel) shall be arrived in proportion to blending ratio.
121. Vide Commission’s letter dated 8th February’ 2022, the petitioner was asked to file the weighted average GCV of coal three preceding months as per Regulation 43.2 of the

Tariff Regulation, 2020. The petitioner was further asked that whether GCV of coal claimed in petition is after deduction of 85 Kcal/kg on account of variation during storage at generating station in accordance to the aforesaid Regulations. The petitioner was also asked to file GCV of coal as per joint coal analysis report and bill/invoice raised by the coal companies along with the copies of joint coal analysis report and invoices and laboratory test report in support of weighted average GCV “as received basis”.

122. By affidavit dated 2nd March’ 2022, the petitioner no 1 filed weighted average GCV of coal on received basis for preceeding three months. However, the petitioner confirmed that it has not made adjustment in GCV as per the norms specified in Regulation 43.2 on account of reducing the GCV by 85 Kcal/kg, therefore, the weighted average GCV so arrived has been reduced by 85 kCal/kg on account of variation during storage at generating station in line with the Regulation 43.2. The petitioner also submitted month-wise laboratory coal analysis report.
123. Further, the petitioner No. 1 has also filed the details of blending of fuel from different sources and the weighted average GCV of coal in proportion to blending ratio.
124. Based on the above, the weighted average GCV of coal as per the details filed by the petitioner No. 1 and considered by the Commission in this order is given below:

Table 25: Wt. Average GCV of Coal for FY 2019-20 to FY 2023-24 on received Basis

Month	Qty of Coal Consumed (MT)	GCV	Weighted average	Weighted Average GCV (Kcal/kg)
January'19	1,51,079.00	3651.08	551601515	
February'19	1,35,449.00	3636.00	492492564	
March'19	1,43,824.00	3689.96	530704807	
	4,30,352.00		1574798886	3659.33
Less 85 Kcal/Kg in accordance to Regulation 43.2 = 3574.33				

125. Hence, GCV of coal 3574.33 Kcal/Kg is considered for the project for determination of energy charges in this order. The petitioner No 1 & 3 are directed to ensure compliance with Regulation 43.4 of the Regulations, 2020.
126. The petitioner has filed Gross Calorific Value of fuel oil of 10,000 Kcal/ltr. The same value of GCV of fuel oil as filed by the petitioner is considered in this order.

Landed Cost of Coal:

127. The petitioner claimed weighted average landed cost of coal of Rs. 3179.15/MT for FY 2019-20 based on the landed cost of coal during preceding three months i.e. January' 2019 to March' 2019.
128. Regarding the landed cost of coal, Regulation 44.2 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 provides as follows:

“The landed cost of coal for any month shall consist of base price of coal corresponding to the grade and quality of coal inclusive of statutory charges as applicable/allowed by the Commission, washery charges, if any, transportation cost by rail/ road or any other means, and loading, unloading and handling charges.

Provided that procurement of coal at a price other than Government notified prices may be considered, if it is based on competitive bidding through transparent process, for the purpose of landed coal cost:

Provided further that landed cost of coal shall be worked out based on the actual bill paid by the generating company including any adjustment on account of quantity and quality.

Provided also that the Gross Calorific Value of coal shall be measured by third party sampling and the expenses towards the third-party sampling facility shall be reimbursed by the beneficiaries

129. In form TPS 15 of the petition, the petitioner worked out the weighted average landed price of coal considering the price of coal for preceding three months i.e. January, February and March' 2019. Vide Commission's letter dated 8th February' 2020, the petitioner was asked to submit the following detail:

- *Detailed calculation sheet for arriving at the weighted average rate of coal corresponding to the grade and quality of coal inclusive of royalty, taxes and duties, transportation cost claimed in the petition along with supporting documents be filed.*

130. By affidavit dated 8th March' 2022, the petitioner submitted the following reply on aforementioned query:

Detailed Calculation Sheet for arriving at the weighted average rate of coal corresponding to the grade and quality of coal inclusive of royalty, taxes and duties, transportation cost claimed in the petition for the period January 2019 to March 2019 are enclosed as Annexure-5.

131. Hence, the petitioner in its additional submission submitted the detailed sheet for arriving at the weighted average rate of coal claimed in the subject petition.
132. It was observed that in determining the landed price of coal of Rs. 3179.15 per metric tonne, the petitioner has considered transit and handling losses of 0.8%. The Commission has considered the aforesaid normative transit and handling losses in determining the specific coal consumption for energy charge rate in this order. Therefore, the landed price of coal is considered prior to normative transit and handling losses filed by the petitioner. The weighted average landed cost of coal considered in this order for FY 2019-20 to FY 2023-24 is for preceding three months i.e. January' 2019, February' 2019 and March' 2019 in accordance to the MPERC Tariff Regulations, 2020.

Table 26: Weighted Average Landed Price of Coal for FY 2019-20 to FY 2023-24

Month	Total Qty of Coal Received (MT)	Cost of Coal (Rs/MT)	Total amount in Rs.	Weighted Average Landed Price of Coal (Rs/MT)
Jan'19	1,51,079	3391.87	512440327	
Feb'19	1,35,449	3071.93	416089846	
Mar'19	1,43,824	2991.86	430301272	
	4,30,352		1358831447	
Weighted Avg Landed Price of Coal =				3157.49

133. Accordingly, the weighted average price of coal of Rs. 3157.49/MT (without considering transit and handling losses) is worked out by considering the weighted average rate of preceding three month's in this order.
134. Regulation 38.2 of the Regulations, 2020 provides that while determining the weighted average price of fuel, no fuel price escalation shall be provided during the tariff period. Therefore, the preceding three months weighted average rate of coal of Rs. 3157.49/ MT is considered for entire control period in this order.

Landed Cost of secondary fuel oil:

135. The petitioner No. 1 claimed weighted average landed cost of secondary fuel oil of Rs. 60090.06/KL for FY 2019-20 based on the landed cost of fuel oil purchased in October' 2018.
136. Vide Commission's letter dated 8th February' 2020, the petitioner No. 1 was asked to file the following details of wt. average rate of secondary fuel oil;

For computing the weighted average rate of Secondary fuel oil, Regulation 19.1 of the Generation Tariff Regulations, 2020 provides that the landed cost of secondary fuel oil for tariff determination shall be based on actual weighted average cost of secondary fuel of the three preceding months.

In view of the above, the petitioner No. 1 was asked to file the landed price of secondary fuel oil purchased during three preceding months in accordance with the provisions under the Generation Tariff Regulations, 2020. The petitioner No. 1 was also asked to file supporting documents (Bills/invoices) in respect of price of oil purchased.

137. In response to above, by affidavit dated 2nd March' 2022, the petitioner No.1 submitted the following:

In accordance with Regulation 19.1 of the Generation tariff Regulations 2020, actual weighted average cost of secondary fuel of the three preceding months i.e., from January 2019 to March 2019, main secondary fuel oil (LDO) was purchased only in October 2018 from Hindustan Petroleum Corporation Ltd (HPCL) as per prevailing rates to meet the requirements of LAPL. The actual weighted average landed price of main secondary fuel oil (LDO) during the above period works out to Rs. 60,093 per KL which becomes the basis for tariff determination. Supporting invoices/ bills of main secondary fuel oil (LDO) purchased in October 2018 have already been submitted by LAPL in its filed Petition (Please refer to Page nos. 191 to 196 of filed Petition). Supporting invoices/ bills of main secondary fuel oil (LDO) purchased in FY 2019-20 and FY 2020-21 have already been submitted by LAPL in its filed Petition (Please refer to Page nos. 197 to 245 of filed Petition).

138. In view of the above submission, the Commission has observed that the petitioner No.

1 using Light Diesel Oil (LDO) as main secondary fuel oil of the generating station. The petitioner No. 1 further informed that the main secondary fuel oil (LDO) was purchased only in the month of October' 2018. On further perusal of the details filed with the petition, the Commission has observed that the petitioner No. 1 has also purchased furnace oil during October' 2018.

139. With regard to cost of secondary fuel, Regulation 19.1 of the Regulations, 2020 provides that in the absence of landed cost for the three preceding months, latest procurement price of primary fuel and secondary fuel for the generating station, before the start of the tariff period for existing stations is to be considered.

140. In view of above, the weighted average rate of secondary fuel worked out as follows:

Quantity (KI)	Amount (Rs)	Rate (Rs/KL)	Weighted Average rate of secondary Fuel Oil
18	10,81,621	60,090.06	
18	9,46,499	52,583.25	
18	9,46,499	52,583.25	
Total	29,74,618	1,65,256.56	55,085.52

141. Regulation 38.2 of the Regulations, 2020 provides that while determining the weighted average price of fuel, no fuel price escalation shall be provided during the tariff period. Therefore, the weighted average rate of secondary fuel of Rs 55,085.52 /KL is considered for entire control period in this order.

142. Accordingly, the Energy Charges for the period from FY 2019-20 to FY 2023-24 are worked out as given below:

Table 27: Energy Charges determined in this order

Particular	Unit	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Capacity	MW	300	300	300	300	300
NAPAF	%	85%	85%	85%	85%	85%
Gross Station Heat Rate	kCal/kWh	2402	2402	2402	2402	2402
Sp. Fuel Oil Consumption	ml/kWh	0.50	0.50	0.50	0.50	0.50
Aux. Energy Consumption	%	9.00%	9.00%	9.00%	9.00%	9.00%
Transit Loss	%	0.80	0.80	0.80	0.80	0.80
Wt. average GCV of Oil	kCal/ltr.	10000	10000	10000	10000	10000
Wt. average GCV of Coal	kCal/kg	3574.33	3574.33	3574.33	3574.33	3574.33

Weighted Average landed Price of Coal	Rs./MT	3157.49	3157.49	3157.49	3157.49	3157.49
Weighted Average landed Price of Oil	Rs/ KL	55085	55085	55085	55085	55085
Heat Contributed from HFO	kCal/kWh	5.00	5.00	5.00	5.00	5.00
Heat Contributed from Coal	kCal/kWh	2397	2397	2397	2397	2397
Specific Coal Consumption	kg/kWh	0.671	0.671	0.671	0.671	0.671
Sp. Coal Consumption including Transit Loss	kg/kWh	0.676	0.676	0.676	0.676	0.676
Rate of Energy Charge	Rs./kWh	2.162	2.162	2.162	2.162	2.162
Rate of Energy Charge from at ex bus	Rs./kWh	2.376	2.376	2.376	2.376	2.376

143. The aforesaid energy charges has been worked out for working capital purpose. The base rate of the energy charges shall however be subject to month to month adjustment based on actual fuel price and actual GCV of coal on received basis. The recovery of energy charges shall be made in accordance with Regulations 43 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2020.

Other Charges

144. Regarding the other charges, the petitioner No. 1 has prayed the following:

- *Allow the reimbursement of water charges, reimbursement of electricity duty and reimbursement of RLDC/NLDC charges on pass through basis.*
- *Allow recovery of the filing fees and also the publication expenses from the beneficiary (as and when incurred) on pass through basis*
- *Allow recovery of the Statutory Charges*

145. Regarding the Application fee, publication expenses and other statutory charges, Regulation 65 of MPERC (Terms and Conditions for determination of generation tariff) Regulations, 2020, provides as under:

65. *“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.

146. In accordance to the above Regulation, the petitioner is allowed to recover the fee paid to MPERC and publication expenses as per Regulation 65.1 (i) of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 on submission of documentary evidence to the procurer (MPPMCL).

147. The petitioner is also allowed to recover RLDC/ NLDC charges if any payable by the generating company from the beneficiary in accordance to Regulation 65.1 (iv) of the Regulations, 2020.

148. Regarding the Electricity duty, cess and water charges, Regulation 65.2 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2020, provides as under:

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

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

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

(MPPMCL) .

Implementation of the order

150. The generation tariff under the Multi-Year Tariff framework for the control period from FY 2019-20 to FY 2023-24 is determined under MPERC (Terms and Conditions for Determination of Generation Tariff) Regulation' 2020. The petitioner is directed to file true-up petition for respective year based on the Annual Audited Accounts.
151. The Commission directs that the generation tariff determined in this order shall be applicable from 1st April' 2019 and will continue to be operative till 31st March' 2024, under Multi Year Tariff Principles. The difference between the billing done in accordance with Regulation 7.11 for the period starting from 01.04.2019 and billing based on the tariff determined in this order shall be in accordance to the second proviso of Regulation 7.11 of the Regulations, 2020.
152. The petitioner must take steps to implement this order after giving seven (7) days' public notice in accordance to Regulation 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 must also provide information to the Commission in support of having complied with this order.

With the above directions, this Petition No. 64 of 2021 is disposed of.

(Gopal Srivastava)
Member (Law)

(Mukul Dhariwal)
Member

(S.P.S Parihar)
Chairman

Date: 13th May' 2022

Place: Bhopal

Annexure-1

Response of Petitioner No. 1 on the comments offered by the MPPMCL and observations of the Commission:

Return on Equity:

MPPMCL Comment:

That, the Petitioner No. 1, vide Para No (iv), in the petition has claimed, RoE at the base rate of 15.50% and which has been grossed up by applicable MAT rates of 17.472% for period FY 2019-2024. Since 2 years have already been elapsed by now, it is submitted that the Commission may be pleased to enquire LAPL to provide supporting documents, whether it was eligible for MAT for the period 2019-20 & 2020-21. The Commission may also carry out a prudence check on the basis of expenditure actual made by the Petitioner no. 1 in the respective years for allowing the tax paid on actual basis rather than on Grossing up the return on equity.

Petitioner No. 1s Reply:

It is submitted that Petitioner No. 1 has filed the captioned petition for determination of tariff for FY 2019-20 to FY 2023-24 (5 years). It is further submitted that MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2020 are applicable for determination of tariff for FY 2019-20 to FY 2023-24 (5 years).

Regulation 35.1 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2020 specifies the following:

“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 the 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 the other income stream including deferred tax liability (i.e., income from non-generation business) shall be executed for the calculation of “effective tax rate.”

Further, Regulation 35.2 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2020, specifies the following:

“The effective tax rate “t” in accordance with Regulations 35.1 of these Regulations and shall be calculated at the beginning of every financial year based on the estimated profit and tax to be paid estimated in line with the provisions of the relevant Finance Act applicable for that financial year to the company on pro-rata basis by excluding the income of non-generation business and the corresponding tax thereon.”

Further, the above Regulation also specifies that in case of a generating company paying Minimum Alternate Tax (‘MAT’), “t” shall be considered as MAT rate including surcharge and cess.

Regulation 35.3 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2020 specifies the following:

“The generating company shall true-up the grossed up rate of return 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 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 of return on equity after truing up, shall be allowed to be recovered or refunded to beneficiaries on year to year basis.”

It is submitted that since the Commercial Operation Date (‘COD’) of Unit 1 i.e. 09.04.2010, Petitioner No. 1 has been eligible to pay only MAT and not the normal Corporate Tax. It is submitted that Petitioner No. 1 pays income tax for the Company as a whole. During the first two years i.e. FY 2019-20 to FY 2020-21, which have already passed, there was no income tax payable by the Company due to losses under the head “Profits and Gains of Business or Profession” calculated in accordance with the provisions of Section 28 to Section 44 of the Income Tax Act 1961 and the Company had book losses calculated in accordance with Section 115 JB Income Tax Act 1961. (Please refer to Page no. 263-265 and Page nos. 272-275 of the Petition regarding certificate from Petitioner No. 1’s statutory auditor on this subject). Therefore, Petitioner No. 1 has claimed the return of equity without grossing up the base rate of ROE with applicable MAT rate in its Unit 1 for the above two already passed years i.e. FY 2019-20 & FY 2020-21. For the balance three years of the tariff period i.e. from FY 2021-22 to FY 2023-24, depending upon the profit generated at the Company level, the MAT liability in Petitioner No. 1’s Unit 1 shall be calculated at the end of the respective financial years in accordance with the relevant provisions in Regulation 35.3 of MPERC Tariff Regulations, 2020. Therefore, Petitioner No. 1 humbly submits and requests the

Hon'ble Commission to accordingly true-up the ROE on year to year basis for the years already passed based on the actual tax paid by Petitioner No. 1 and allow ROE with applicable MAT rate for the balance period of the term of Tariff Regulations considering the above submissions.

Observation:

The Commission while determining ROE has considered the petitioner's additional submission and documents along with the Annual Audited Accounts for FY 2019-20 and FY 2020-21. Accordingly, the Return on Equity has been determined in accordance with applicable provisions under Tariff Regulation, 2020.

Interest on Loan:

MPPMCL Comment

The Petitioner No. 1 has claimed interest on loan. The Petitioner No. 1 has considered the weighted average rate @ 13.45%. The same may be considered in accordance with provision of the Regulation 36 of the MPERC Tariff Regulation 2020 only.

Petitioner No. 1s Reply:

Petitioner No. 1 has claimed the weighted average rates of interest during FY 2019-20 to FY 2023-24 based on the actual interest rates charged by the lenders in Unit-1 and weighted average rate of 13.45% is considered in accordance with the provision of the Regulation 36 of MPERC Tariff Regulations, 2020. The Lender-wise weighted average rates of interest along with respective bank certificate was filed along with the Petition at Page no. 162 and Page nos. 246 to 256. Petitioner No. 1 submits that it has fully complied with the provisions of Regulation 36 of MPERC Tariff Regulations, 2020.

Observation:

The petitioner No. 1 has filed weighted average rate of interest worked out based on the actual interest on actual loan portfolio in accordance to applicable provisions under Tariff Regulation, 2020. The petitioner No. 1 has also filed the Financial Institutions/Bank's certificates/statements in support of actual rate of interest for the respective year in this regard. The aforesaid details and documents have been considered in this order.

Depreciation:

MPPMCL Comment:

The Petitioner No. 1 has claimed depreciation on its assets. The Hon'ble Commission, vide order dated 01.12.2012, has allowed the weighted average rate of Depreciation @ 5.03% and the same is considered by the Petitioner No. 1. However, as per principle of prudence check, since the period of 2 years has already elapsed by now, the Commission may consider to direct the Petitioner No. 1 to submit the year wise asset cum depreciation details for FY 2019-20 & 2020-21, duly matched with the audited statement of accounts

Petitioner No. 1s Reply:

In support of the Depreciation considered in the Petition, the Asset-cum-Depreciation register for Petitioner No. 1's Unit 1 from 01.04.2019 to 31.03.2021 for FY 2019-20 and FY 2020-21 in accordance with the provisions under applicable MPERC Tariff Regulations, 2020, have already been filed by Petitioner No. 1 along with the Petition at Page no. 281.

Observation:

The petitioner No. 1 in its additional submission has submitted the year-wise statement of asset cum depreciation details. The rate of depreciation on assets considered in the aforesaid statement in accordance to the rates of depreciation specified in MPERC Tariff Regulation, 2020. Accordingly, the annual depreciation for respective years has been considered in this order.

Reimbursement of Electricity Duty, Cess and Other Charges

MPPMCL Comment:

The Petitioner No. 1 has claimed Electricity Duty, Water Charges and Other Charges. The same may be considered in accordance with relevant provisions of the Tariff Regulations of 2020 only.

Petitioner No. 1s Reply:

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

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

Provided that in case of the Electricity duty is applied in the auxiliary consumption such amount of electricity duty shall apply on normative auxiliary consumption of the

generating station (excluding colony consumption) and apportioned to each beneficiaries in proportion to their schedule dispatch during the month.”

Petitioner No. 1 has already submitted the above details along with the Petition at Page no. 158-161, 724 to 783 and requests the Commission to allow the same as per above Tariff Regulations.

Observation:

Reimbursement of electricity duty, cess and other charges has been considered as per the provisions under applicable Tariff Regulation, 2020.

Non – Tariff Income

MPPMCL Comment:

That, as per provisions of Regulation 58 of Regulations of 2020, the non-tariff income needs to be deducted from the Fixed Cost. However, the Petitioner the No. 1 has not disclosed the income derived by it from sale of Fly Ash, Interest on investment and bank balance, Income from sale of scraps, and other miscellaneous receipts etc. LAPL may please be requested to disclose the same.

It humbly submitted that Regulation 56 of 2020 Tariff Regulations stipulate sharing of gains due to variations in norms. It is therefore prayed that this Commission 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:

Petitioner No. 1 has already filed duly filled up Form 17 of the tariff filing formats in accordance to the Regulation 58.1 of the MPERC (Terms and Conditions of Tariff) Regulations, 2020 showing the details of Non-tariff Income/ other Income from FY 2019-20 to FY 2020-21 based on the Annual Audited Accounts of each year along with the Petition at Page no. 157. All Non-tariff incomes as per Regulation 58.1 of the MPERC (Terms and Conditions of Tariff) Regulations, 2020 have already been stated in the said Form 17.

Observation:

The petitioner No. 1 in its additional submission has filed the year-wise details of non-tariff income in accordance to Annual Audited Accounts for FY 2019-20 & FY 2020-21 and the

same have been appropriately considered while determining the Annual Capacity Charges in the Order.

MPPMCL Comment

It humbly submitted that Regulation 56 of 2020 Tariff Regulations stipulate sharing of gains due to variations in norms. It is therefore prayed that this the Commission 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

As per Regulation 56.1 of MPERC Tariff Regulations 2020, the controllable parameters are as follows:

- a. Station Heat Rate*
- b. Secondary Fuel oil consumption*
- c. Auxiliary Energy Consumption*

It is submitted that Petitioner No. 1's 300 MW Unit-1 achieved COD on 09.04.2010 i.e. much before 01.04.2019, the date from which MPERC Generation Tariff Regulations, 2020 came in force. Petitioner No. 1 has considered the same GSHR of 2402 kCal/kWh and Auxiliary Energy Consumption of 9% for its 300 MW Unit-1 as normative controllable parameters as earlier approved by this Hon'ble Commission in its orders dated 01.12.2012 & 24.08.2021.

Petitioner No. 1 has already filed the monthly details of above normative parameters and actual parameters to arrive at gain/loss on account of controllable parameters in accordance with Regulation 56.2 of MPERC Tariff Regulations 2020

"Net Gain = (ECRN– ECRA) x Scheduled Generation".

Observation

Sharing of Gains has been allowed in accordance to Tariff Regulations, 2020.

MPPMCL Comment

That, since a period of two years has elapsed by now for the Multi Year Tariff to be determined for Tariff Block Period FY 2019-20- to FY 2023-24, it is submitted that the Hon'ble Commission may be pleased to carry out a true-up also after prudence check in respect of the generating station of the Petitioner No. 1 along with determination of tariff in

this petition.

Petitioner's Reply

As requested by Petitioner No. 3, Petitioner No. 1 also requests this Commission to carry out true-up for the already passed first two years i.e. for FY 2019-20 to FY 2020-21, along with the determination of Multi Year Tariff for FY 2019-20 to FY 2023-24.

Observation:

The petitioner shall file true-up petition for respective year based on the Annual Audited Accounts.