"44. It is observed that the petitioner has availed loan for the project from M/s Rural Electrification Corporation Limited. As per the balance sheet as on 26.2.2015, the total loan outstanding as on 26.2.2015 is Rs.589798.49 lakh (Rs.371464.92 lakh for Phase-I and Rs. 218333.57 lakh for Phase-II). IDC which is to be allowed for capitalisation has been calculated based on the details furnished by the petitioner such as loan agreements, drawl/ interest rate resets/ repayment etc and the same has been restricted up to the rescheduled COD (25.7.2014). The petitioner has not furnished the basis of allocation of IDC. Hence, details such as total interest charged to Profit and loss Account out of the total interest on the loan, amount of IDC transferred to fixed assets and IDC lying in CWIP as on COD of Unit-III have all been obtained from the financial statements for the generating station since inception of fund infusion till COD of the generating station. The total IDC computed till rescheduled COD of the generating station has been apportioned as under based on the proportion worked out with the above-mentioned details:

(Rs. in lakh)

	IDC Allowed
IDC allowed as on COD of Unit-I and Unit-II vide order dated 8.2.2016 in Petition No. 198/GT/2013	*73139.32 (38660.53 for Unit-I and 34478.79 for Unit-II)*
IDC allowed as on COD of Unit-III	*51969.73*
Total IDC allowed for capitalization till Scheduled COD	***125109.05***

The IDC allowed as above is subject to revision, based on the allocation details to be furnished by the petitioner at the time of truing-up in terms of Regulation 8 of the 2014 Tariff Regulations."

17. In line with the above directions, the Petitioner vide affidavit dated 3.2.2022, has submitted the basis of allocation of IDC, along with details, such as the total interest charged to Profit & Loss Account out of the total interest on the loan, the amount of IDC transferred to fixed assets, and IDC lying in CWIP, as on COD of Unit-III. The Petitioner has also submitted revised Form 5B and an amount of Rs. 98177.19 lakh is capitalized as IDC upto COD of Unit-I and II. Further, IDC amounting to Rs. 480.59 lakh, was incurred on cash basis, for additional capitalization from 1.4.2014 to 25.2.2015. It is further noticed that an amount of Rs. 57815.48 lakh (pertaining to Unit-III) is capitalized as IDC upto COD of Unit-III. However, the Petitioner in the present petition, has not furnished the detailed computation of IDC capitalized upto actual COD of the generating station (i.e. upto 25.2.2015, COD being on 26.2.2015) and in the absence of the same, we find it prudent to consider the IDC as approved in order dated 11.7.2017 in Petition No. 277/GT/2014 i.e. Rs. 51969.73 lakh for Unit-III (25.2.2015).

Normative IDC

18. The Petitioner has claimed normative IDC of Rs. 1241.76 lakh from 1.4.2014 to 25.2.2015, based on the deployment of equity in excess of 30% of the total expenditure. The Commission vide its order dated 11.7.2017 in Petition No. 277/GT/2014, based on the details, namely, actual deployment of debt and equity on quarterly basis, cash expenditure incurred and rate of interest on actual loan portfolio furnished by the Petitioner, had allowed Notional IDC of Rs. 435.75 lakh from 1.4.2014 to 25.2.2015. The Petitioner in the present Petition, with respect to deduction of notional IDC, has submitted that the Appellate Tribunal for Electricity ('APTEL') vide its judgment dated 3.10.2019 in Appeal No. 231 of 2017, had observed that the additional capitalisation is entitled to be compensated in terms of normative IDC. The relevant portion of the order is extracted below:

> *"ix) The Central Commission should have taken into consideration the aspect that whatever be the types of funds it is never free of cost. There is always a cost of funding. The argument that no actual loan for additional capital expenditure was taken and therefore it is not admissible for any normative IDC is wrong. It is the commercial decision of the Appellant whether to borrow the money from the market for the purpose of additional capitalisation or use its internal accruals. In either case, the capitalisation deserves to be given the Interest During Construction. For the simple reasons that if the internal accruals were not to be used as additional capital than it would have been invested in the market in any interest earning instrument. Additional capitalisation is therefore entitled to be compensated in terms of normative IDC. The Central Commission should have considered this aspect that no funds are free funds."*

19. *The Petitioner has further submitted that it has filed Appeals before APTEL challenging the Commission's tariff orders relating to the period* 2009-14 *and has accordingly sought* liberty to *approach the Commission, based on the final decision in the said appeals. The prayer of the Petitioner for grant of liberty is accepted.* Further, from the submissions of the Petitioner, it is not clear as to whether notional IDC for the period 2014-19 has been claimed by the Petitioner. however, pending final decision of APTEL in the said appeals, we consider and allow the Notional IDC of Rs. 435.75 lakh as considered and allowed vide order dated 11.7.2017 in Petition No. 277/GT/2014.

Incidental Expenditure during Construction (IEDC)

20. The Petitioner has claimed Incidental Expenditure during Construction of Rs. 30430.76 lakh. The Commission vide its order dated 11.7.2017 in Petition No. 277/GT/2014, had considered the pro-rata reduction of Rs. 1520.23 lakh, for calculating the capital cost as on COD of Unit-III, after directing the Petitioner to submit details of the increase in IDC and IEDC, for Unit-III from scheduled COD to the actual COD, along with break-up of expenditure, at the time of truing- up of tariff. The Petitioner, in the present Petition, has however, not furnished details of IDC and IEDC. Therefore, in absence of such details, we consider the IEDC cost as on Station COD (as allowed by order dated 11.7.2017 in Petition No. 277/GT/2014), amounting to Rs 13519.17 lakh (Rs 15039.40 – 1520.23 lakh).

Initial Spares

21. Regulation 13 of the 2014 Tariff Regulations provides as under:

> *"13. Initial Spares: Initial spares shall be capitalised as a percentage of the Plant and Machinery cost upto cut-off date, subject to following ceiling norms:*
> *(a) Coal-based/lignite-fired thermal generating stations - 4.0%*
> *(b) Gas Turbine/Combined Cycle thermal generating stations - 4.0%*
> *Provided that:*
>
> *i. where the benchmark norms for initial spares have been published as part of the benchmark norms for capital cost by the Commission, such norms shall apply to the exclusion of the norms specified above:*
>
> ……………………………
>
> *iv. for the purpose of computing of initial the cost spares, plant and machinery cost shall be considered as project cost as on cut-off date excluding IDC, IEDC, Land Cost and cost of civil works. The transmission licensee shall submit the break-up of head wise IDC & IEDC in its tariff application."*

22. The COD of the Unit-III of the generating station is 26.2.2015 and accordingly, the cut-off date of the generating station is 31.3.2018. The Commission vide its order dated 11.7.2017 in Petition No. 277/GT/2014, had considered initial spares of Rs. 10872 lakh as claimed by the Petitioner, upto cut-off date of the generating station, on projection basis. The observations of the Commission are as under:

"48. The Commission vide order dated 8.2.2016 in Petition No.198/GT/2013 had allowed the capitalization of initial spares amounting to Rs.1190.00 lakh as on actual date of COD of Unit-I and Rs.982.00 lakh as on actual date of COD of Unit-II. Accordingly, the total initial spares capitalized as on COD of Units-I&II (combined) is Rs.2172.00 lakh. The COD of the Unit-III of the generating station is 26.2.2015 and accordingly, the cut-off date of the generating station is 31.3.2018. The petitioner vide affidavit dated 10.7.2015 has claimed Initial spares of Rs.8700 lakh during 2015-18 (Rs.1600 lakh in 2015-16, Rs.3500 lakh in 2016-17 and Rs.3600 lakh in 2017-18) on projection basis. Thus, the total initial spares up to cut-off date of the generating station works out to Rs.10872 lakh (2172+8700). The petitioner vide Form 5B of the affidavit dated 10.7.2015 has furnished the anticipated Plant and Machinery cost of Rs.500369.49 lakh up to 31.3.2018. Therefore, the projected initial spares of Rs.10872 lakh claimed by the petitioner up to cut off date of the generating station works out to 2.17% of the Plant & Machinery cost which is within the ceiling limit specified under the above regulations and hence allowed. The petitioner is however directed to furnish the break-up of actual plant & machinery cost and the details of initial spares capitalized up to the cut-off date at the time of truing-up."

23. In order dated 11.7.2017 in Petition No. 277/GT/2014, the Commission had also directed the Petitioner to furnish the detailed break up of actual Plant & Machinery cost along with details of the initial spares capitalized up to the cut-off date of the generating station, at the time of truing up of tariff. The Petitioner vide affidavit dated 7.3.2022 has submitted that Plant & Machinery cost (excluding spares) as on cut-off date, amounts to Rs. 819545.65 lakh and the Plant & Machinery cost (including spares) capitalized upto the cut-off date (31.3.2018) is Rs. 846782.41 lakh. The Petitioner has capitalized initial spares amounting to Rs. 27236.76 lakh, upto the cut-off date, to arrive at the capital cost.

24. On perusal of the breakup details of the Plant & Machinery cost, furnished by the Petitioner vide affidavit dated 7.3.2022, it is observed that Plant & Machinery cost, excluding spares, as on the cut-off date, is Rs. 819545.65 lakh, which include heads like land, total civil work packages like chimney, cooling towers etc, which are not in nature of Plant & Machinery cost. However, it is observed from the revised Form 5B submitted by the Petitioner vide affidavit dated 7.3.2022, that the total Plant & Machinery cost, excluding land and site development cost, as on the cut-off date (31.3.2018) is Rs.

487255.97 lakh. However, as per Regulation 13 of the 2014 Tariff Regulations, for the purpose of computing initial spares, the Plant & Machinery cost, shall be considered as the project cost, as on the cut-off date, excluding IDC, IEDC, land cost and cost of civil works. Accordingly, the Plant & Machinery cost considered to work out and allow the initial spares (@4%) is as under:

(Rs.in lakh)

Total P&M Cost upto the cut-off date	Initial Spares allowable (4% of P&M Cost)
487255.97	19490.24

Infirm Power

25. The Commission vide its order dated 11.7.2017 in Petition No. 277/GT/2014 had recognized that the net revenue earned from the sale of infirm power, from Unit-III of the project, till the COD of Unit-III is Rs.1740.86 lakh, which has already been adjusted as on the COD of Unit-III / Station COD, and therefore no separate adjustments are made in this regard. In the present Petition, the Petitioner has submitted the audited financial statements, wherein, it is noted that net pre-commissioning income / expenditure, has been adjusted directly in the cost of related assets and systems. In view of this, no adjustment has been made in the capital cost, towards the revenue earned from sale of infirm power.

Liquidated Damages (LD)

26. The Petitioner has furnished the details of the Liquidated Damages amounting to Rs 1102.48 lakh, in terms of the directions in order dated 11.7.2017 in Petition No. 277/GT/2014 in respective Form 9D's of the present Petition. As stated earlier, out of total time-over run of 21.63 months in the commissioning of Unit-I, 24.53 months in commissioning of Unit-II and 25-months in commissioning of Unit-III, time overrun of 16 months, 18 months and 18 months respectively, have been condoned. Accordingly,

IEDC and IDC, for the portion of the time overrun period condoned has been allowed. Therefore, the LD recovered corresponding to the time overrun allowed, works out to Rs.805.63 lakh [((16+18+18)/ (21.63+24.53+25)) x1102.48] and the same is deducted from the capital cost as on COD of Unit-III i.e. 26.2.2015. The balance recovered LD for Rs.296.85 lakh, corresponding to the portion of time over-run of 5.63 months for Unit-I, 6.53 months for Unit-II and 7 months for Unit-III, which was not condoned, is permitted to be retained by the Petitioner.

<u>Unexplained Gap</u>

27. The Commission vide its order dated 11.7.2017 in Petition No. 277/GT/2014, had considered the funding gap of Rs. 37629.15 lakh, as undischarged liability, and had deducted the same from the capital cost, as on the COD of Unit-III, with liberty to the Petitioner, to reconcile the actual cash expenditure and project funding, as on COD of the generating station, along with the date wise details regarding conversion of the share application money in to share capital, at the time of truing up of tariff. Accordingly, the Petitioner, in the present Petition, has submitted the details of the funds available with the Petitioner for project execution till the station COD i.e. 26.2.2015 as under:

(Rs. in lakh)

A) Net Loan outstanding as on 25.2.2015	589798.41
B) a)Share Capital as on 25.2.2015	253121.22
b) Share application Money	11999.00
Total Equity infused as on COD of the Station (a+b)	265120.22
C) Internal Cash accruals for 2012-13 and 2013-14 (between COD of Unit – I to 31.3.2014)	45648.33
Total funds available for Project Execution till COD of the Station (i.e. 26.2.2015) (A+B+C)	900566.96

28. The Petitioner has also submitted the date-wise details of the conversion of share application money. It is observed that the Petitioner has considered the debt equity ratio of 70:30 as on the Station COD, for calculation of normative loan and equity. The Petitioner has also submitted that it has used its internal accruals like PAT / Depreciation for funding the project. In order to ascertain whether sufficient internal cash accruals

were available with the Petitioner for funding the project, the duly audited financial statements including the cash flow statement for the relevant financial years (2012-13 till Station COD i.e..26.2.2015) was relied upon. On perusal of the Audited Balance sheet and cash flow statements submitted by the Petitioner, as on station COD (26.2.2015), it is observed that the Net cash flow from operating activities, less the financing charges, pertaining to the above-mentioned years, is sufficient for funding the project, as on COD of the generating station. Hence, the contention of the Petitioner that internal accruals were used for funding the gaps, holds good and therefore, the funding gap of Rs. 37629.15 lakh, as on COD of Unit-III i.e. 26.2.2015, is allowed.

Additional Capital Expenditure

29. The Petitioner has claimed additional capital expenditure of Rs. 71.03 lakh during the period from 1.4.2014 to 25.2.2015. It has also submitted that liabilities amounting to Rs. 8103.17 lakh during the said period, has been discharged. Accordingly, these amounts have been considered and allowed in the capital cost of the generating station.

30. Regulation 14 of the 2014 Tariff Regulations provides as under:

> *"14. Additional Capitalization and De-capitalization:*
>
> *(1) The capital expenditure in respect of the new project or an existing project incurred or projected to be incurred, on the following counts within the original scope of work, after the date of commercial operation and up to the cut-off date may be admitted by the Commission, subject to prudence check:*
>
> *(i) Un-discharged liabilities recognized to be payable at a future date;*
>
> *(ii) Works deferred for execution;*
>
> *(iii) Procurement of initial capital spares within the original scope of work, in accordance with the provisions of Regulation 13;*
>
> *(iv) Liabilities to meet award of arbitration or for compliance of the order or decree of a court of law; and*
>
> *v) Change in law or compliance of any existing law:*
>
> *Provided that the details of works asset wise/work wise included in the original scope of work along with estimates of expenditure, liabilities recognized to be payable at a future date and the works deferred for execution shall be submitted along with the application for determination of tariff.*
>
> *(2) The capital expenditure incurred or projected to be incurred in respect of the new project on the following counts within the original scope of work after the cut-off date may be admitted by the Commission, subject to prudence check:*

(i) Liabilities to meet award of arbitration or for compliance of the order or decree of a court of law;

(ii) Change in law or compliance of any existing law;

(iii) Deferred works relating to ash pond or ash handling system in the original scope of work; and

(iv) Any liability for works executed prior to the cut-off date, after prudence check of the details of such un-discharged liability, total estimated cost of package, reasons for such withholding of payment and release of such payments etc.

(3) The capital expenditure, in respect of existing generating station or the transmission system including communication system, incurred or projected to be incurred on the following counts after the cut-off date, may be admitted by the Commission, subject to prudence check:

(i) Liabilities to meet award of arbitration or for compliance of the order or decree of a court of law;

(ii) Change in law or compliance of any existing law;

(iii) Any expenses to be incurred on account of need for higher security and safety of the plant as advised or directed by appropriate Government Agencies of statutory authorities responsible for national security/internal security;

(iv) Deferred works relating to ash pond or ash handling system in the original scope of work;

(v) Any liability for works executed prior to the cut-off date, after prudence check of the details of such un-discharged liability, total estimated cost of package, reasons for such withholding of payment and release of such payments etc.;

(vi) Any liability for works admitted by the Commission after the cut-off date to the extent of discharge of such liabilities by actual payments;

(vii) Any additional capital expenditure which has become necessary for efficient operation of generating station other than coal /lignite-based stations or transmission system as the case may be. The claim shall be substantiated with the technical justification duly supported by the documentary evidence like test results carried out by an independent agency in case of deterioration of assets, report of an independent agency in case of damage caused by natural calamities, obsolescence of technology, up-gradation of capacity for the technical reason such as increase in fault level;

(viii) In case of hydro generating stations, any expenditure which has become necessary on account of damage caused by natural calamities (but not due to flooding of power house attributable to the negligence of the generating company) and due to geological reasons after adjusting the proceeds from any insurance scheme, and expenditure incurred due to any additional work which has become necessary for successful and efficient plant operation;

(ix) In case of transmission system, any additional expenditure on items such as relays, control and instrumentation, computer system, power line carrier communication, DC batteries, replacement due to obsolesce of technology, replacement of switchyard equipment due to increase of fault level, tower strengthening, communication equipment, emergency restoration system, insulators cleaning infrastructure, replacement of porcelain insulator with polymer insulators, replacement of damaged equipment not covered by insurance and any other expenditure which has become necessary for successful and efficient operation of transmission system; and

(x) Any capital expenditure found justified after prudence check necessitated on account of modifications required or done in fuel receiving system arising due to non-materialization of coal supply corresponding to full coal linkage in respect of thermal generating station as result of circumstances not within the control of the generating station:

Provided that any expenditure on acquiring the minor items or the assets including tools and tackles, furniture, air-conditioners, voltage stabilizers, refrigerators, coolers, computers, fans, washing machines, heat convectors, mattresses, carpets etc. brought after the cut-off date shall not be considered for additional capitalization for determination of tariff w.e.f. 1.4.2014:

Provided further that any capital expenditure other than that of the nature specified above in (i) to (iv) in case of coal/lignite-based station shall be met out of compensation allowance:

Provided also that if any expenditure has been claimed under Renovation and Modernization (R&M), repairs and maintenance under (O&M) expenses and Compensation Allowance, same expenditure cannot be claimed under this regulation.

(4) In case of de-capitalisation of assets of a generating company or the transmission licensee, as the case may be, the original cost of such asset as on the date of de-capitalisation shall be deducted from the vale of gross fixed asset and corresponding loan as well as equity shall be deducted from the outstanding loan and the equity respectively in the year such de-capitalisation takes place, duly taking into consideration the year in which it was capitalised."

31. The Commission in its order dated 11.7.2017 in Petition No. 277/GT/2014 had allowed the projected additional capital expenditure of Rs. 38587.53 lakh in 2015-16, Rs. 36160.00 lakh in 2016-17 and Rs. 24559.00 lakh in 2017-18 respectively. The head wise details of the same is as under:

(Rs. in lakh)

S. No.	Head of work / Equipment	2015-16	2016-17	2017-18	2018-19
1	Preliminary investigation & Site development	0.00	1250.00	0.00	0.00
2	Steam Generator Island	1759.28	0.00	0.00	0.00
3	Turbine Generator Island	2433.99	0.00	0.00	0.00
4	DM water Plant	241.00	0.00	0.00	0.00
5	Chlorination plant	17.10	0.00	0.00	0.00
6	Ash Handling system	8299.01	0.00	2760.57	0.00
7	Coal Handling Plant	7809.00	0.00	0.00	0.00
8	Air Conditioning & Ventilation system	877.70	0.00	259.50	0.00
9	Firefighting system	126.00	0.00	0.00	0.00
10	Workshop lab (incl pp)	25.00	725.00	250.00	0.00
11	Transformer package	1223.55	0.00	0.00	0.00
12	C & I Package (incl. instn. Cable)	1384.36	251.00	96.00	0.00
13	Initial spares	1600.00	3500.00	3600.00	0.00
14	Main plant / Adm. building	5701.00	7857.00	4876.00	0.00
15	CW System	90.00	0.00	0.00	0.00
16	Ash disposal area development	1550.55	12400.00	6500.00	0.00
17	Township & colony	4182.00	9577.00	5667.00	0.00
18	Temporary Construction & enabling works	350.00	0.00	0.00	0.00
19	Chimney	416.00	0.00	0.00	0.00
20	Tools& Plant	502.33	600.00	550.00	0.00
	Total	**38587.53**	**36160.00**	**24559.00**	**0.00**

Reconciliation of additional capital expenditure

32. The reconciliation of the actual additional capital expenditure with books of accounts, as submitted by the Petitioner, for the period 2014-19, is as under:

(Rs. in lakh)

Sl No		2014-15	2015-16	2016-17	2017-18	2018-19
1	Closing Gross Block as per IGAAP Audited Balance Sheet as on 31.3.2016			915524.77	942750.14	976369.77
2	Capital spares capitalized			1554.79		
3	Opening Gross Block as per IGAAP 1st April (row 1+2)	892587.32	894241.05	917079.56	942750.14	976369.77
4	Add: Additions as per Note-2	NA		26864.02	24657.13	17838.66
5	Add: Additions as per Note-2 out of adjustment column (Ind-AS)			1,063.43	11573.72	691.37
6	Less: Decapitalisation as per Note-2 out of adjustment column (Ind-AS)			385.40	1,796.55	4,548.85
7	**Total Addition as per Ind AS Balance Sheet (4 + 5 - 6)**			**27542.05**	**34434.30**	**13981.18**
IND AS Adjustments						
8	Add: Vendor discounting out of assets in the year					
9	Less: Unwinding expenses Capitalised					
10	Less: IND AS adjustment of Decapitalisation out of ROW 6 (Mitigating the impact of carrying cost exemption to arrive)					
11	Less: Total addition in capital OH asset class (including adjustments also)			1871.47	814.68	2911.96
12	Add: Decapitalisation of capital Overhauling during the year					
13	Add/Less: Any other IND AS adjustment having impact on Property, Plant & Equipment's - Capital spares adjusted in Opening balance					
14	**Subtotal IND AS ADJ (8-9-10-11+12+13)**			(-)1871.47	(-)814.68	(-)2911.96
15	Closing Gross Block as per IGAAP (row 3+4+5-6+14)	894241.05	915524.77	942750.14	976369.77	987438.99
16	Addition as per IGAAP (row 15 - 3)	1653.73	21283.72	25670.58	33619.62	11069.22
17	Exclusions (Items not allowable/not claimed) (accrual basis)	(-)259.76	(-)50.62	(-)198.86	(-)1796.15	(-)1471.87
18	Net Additional Capital Expenditure Claimed (accrual basis) (row 16 - 17)	1913.49	21334.34	25869.44	35415.77	12541.09
19	Less: Undischarged liabilities	102.53	2885.55	1745.22	9525.79	3828.14
20	Net Additional Capital Expenditure Claimed (cash basis)	1810.95	18448.79	24124.22	25889.98	8712.95
21	Liability Discharged	7029.16	13129.69	8328.16	5139.29	5352.09
22	**Total Claimed Additional Capitalization (20+21)**	**8840.11**	**31578.47**	**32452.38**	**31029.26**	**14065.04**

Actual Additional Capital Expenditure for the period 2014-19

33. The station COD is 26.2.2015, and the cut-off date of the generating station is