Carrying Cost for the year	**-2.54**	**-6.60**	**-9.93**	**-15.01**	**-19.61**

Particular	FY 2019-20	FY 2020-21	FY * 2021-22	Total
Opening Balance of Principal	-178.19	-178.19	-178.19	
Gain sharing	0.00	0.00	0.00	
Closing Balance of Principal	-178.19	-178.19	-178.19	
Average Balance	-178.19	-178.19	-178.19	
Rate of carrying cost	**12.55%**	**11.65%**	**10.90%**	
Carrying Cost for the year	**-22.36**	**-20.76**	**-17.61**	**-114.42**

*till 25.2.22

Total Carrying cost for FY 2014-15 to FY 2018-19 is Rs. (103.85) Crores Rs. 10.57 Cr+ Rs. (114.42) Cr.

66. The Commission vide its order dated 25.02.2022, the order under Review in instant Petitions, had approved a refund total amount of Rs. 320.08 Crore (Rs. 61.95 Cr for AFC+Rs. 26.26 Cr for carrying cost up to 31.03.2019 on AFC+Rs. 178.19 Cr for efficiency gain+Rs. 53.68 Cr for carrying cost up to 31.03.2019 on efficiency gain).

67. After deciding the review of the contentions of the Petitioner(s) at Para 64 above, the Commission now approves a refund total amount of Rs. 240.36 Crore (Rs. 41.69 Cr for AFC+Rs. 10.56 Cr for carrying cost *up to 25.02.2022* on AFC - Rs. 178.19 Cr for efficiency gain - Rs. 114.42 Cr for carrying cost *up to 25.02.2022* on efficiency gain)) and directs the Petitioner to refund the aforesaid amount in six equal monthly installments starting within three months from the date of True-up tariff Order dated 25.02.2022 in line with Regulation 6(10) of UPERC Generation Tariff Regulations, 2014.

2.16. The Commission, through Suo-moto Orders, on provisional basis, had extended the FY 2018-19 tariff determined under the UPERC (Terms and Conditions of Generation Tariff) Regulation, 2014 applicable for MYT 2014-19, subject to adjustment with applicable interest, if any, till MYT Tariff Order of the Projects for Control Period 2019-24 are issued.

2.17. The Petitioner filed the Petition no. 1578 of 2020 on May 04, 2020, in compliance with Regulation 15 of UPERC (Term and Condition of Generation Tariff) Regulation, 2019, read with section 61, section 62, and section 86 of the act seeking approval of the Multi-year tariff for the control period FY2019-20 to FY 2023-24.

2.18. Further, the Commission vide its order dated May 02, 2022, directed the Petitioner to file by 20.05.2022, a revised Petition considering true-up order issued by the Commission in Petition No. 1529 of 2019 dated February 25, 2022, and accordingly, the Petitioner has filed the revised Petition with a delay of 4 days and has prayed the following:

a. Condone the delay of 4 days in filing this amended MYT Petition and admit the present Petition
b. Approve the additional Capitalisation incurred by the Petitioner
c. Approve the Fixed Charges for supplying the regulated Contracted capacity of 1200 MW to UPPCL for the Control period from FY 2019-20 to FY 2023-24 as proposed by the Petitioner
d. Provide the workable excel model used by the Commission for approval of Multi-Year Tariff for the Control Period from FY 2019-20 to FY 2023-24
e. Condone any shortcomings in the Petition and allow the Petitioner to submit additional information as may be required by the Commission at a later stage.

3. PRELIMINARY SCRUTINY OF THE PETITION AND RECORD OF PROCEEDINGS

3.1. The Petitioner filed the Petition no. 1578 of 2020 on May 04, 2020, in compliance with Regulation 15 of UPERC (Term and Condition of Generation Tariff) Regulation, 2019, read with section 61, section 62, and section 86 of the act seeking approval of the Multi-year tariff for the control period FY2019-20 to FY 2023-24.

3.2. The Commission vide its order dated October 28, 2020, for the hearing conducted on October 27, 2020, in the Petition No. 1578 of 2020 decided to conduct the Technical validation on November 20, 2020, through video conferencing.

3.3. Various deficiencies in respect of Annual fixed charges, statutory charges, operational parameters, etc were observed and communicated to the Petitioner vide letter dated October 29, 2020. The Petitioner submitted their response to the deficiencies in respect of ARR for FY 2019-20 to FY 2023-24 vide submission dated November 18, 2020, and December 23, 2020.

3.4. On June 30, 2021, Uttar Pradesh Power Corporation Limited filed the reply to the instant Petition No. 1578 of 2020. The Commission admitted the Petition for further processing vide order dated March 15, 2022, and directed the Petitioner to further information/clarifications if any, as deemed necessary by the commission during the processing of the Petition and to publish a public notice in one English and one Hindi daily newspaper and decided to hold a public hearing on April 21, 2022.

3.5. The Commission vide its order dated May 02, 2022, for the public hearing on 21.04.2022 directed the Petitioner to file an amended Petition on or before 20.05.2022. The Petitioner submitted the amended Petition of 1578 of 2020 as per the direction of the Commission on May 25, 2022. On August 24, 2022, Uttar Pradesh Power Corporation Limited filed the reply to the instant Petition No. 1578 of 2020. The Commission vide its order dated December 29, 2022, for the Public hearing on December 20, 2022, admitted the amended MYT Petition and decided to hold the Public Hearing on February 14, 2023, and vide its Order dated 20.02.2023 allowed parties to file their written submissions, if any. RPSCL has filed its rejoinder on 10.02.2023 and UPPCL has filed its written submission on 16.03.2023.

2 UPPCL OBJECTION/PETITIONER REPLY

Additional Capitalization:

UPPCL Submission

3.6. UPPCL vide its Reply has contended that the Additional Capitalization of Rs. 19.49 Crore claimed by RPSCL for FY 2020-21 for Ash Dyke Bund Raising for Lagoon-1 (2nd raising) deserves to be rejected on account of the following:

(a) That the Petitioner has placed reliance on Regulation 22(2)(iv) & (vi) of the Tariff Regulations, 2014 which do not apply for FY 2020-21 and prudence check for 2nd raising of Lagoon-1 has to be conducted as per the Tariff Regulations, 2019;

(b) That the Petitioner's reliance on the findings of this Hon'ble Commission under paragraphs 3.3.13 to 3.3.14 of the True-up Order 2022 to justify the claim for 2nd raising of Lagoon-1 in the instant petition is misplaced since the reasoning applied for approval of 1st raising of Lagoon-2 cannot be as it is blindly applied for 2nd raising of Lagoon-1;

(c) That the Petitioner's plea, basis a draft notification issued by the Ministry of Environment, Forests & Climate Change (MoEFCC), to build the sufficient capacity of the ash dyke by undertaking bund raising was not allowed by this Hon'ble Commission vide True-up Order 2022;

(d) That the Petitioner has not submitted its action plan for 100% ash utilization along with MYT petition as directed by Hon'ble Commission in True-up Order;

(e) That the expenditure incurred by RPSCL to dump ash on land is contrary to its pre-existing obligations and obligations under MoEFCC Notification, 2021 to comply with the requirements of 100% ash utilization including legacy ash.

Petitioner Reply

3.7. In reply to the above objection the Petitioner submitted that it has not sought approval of the Commission for Additional Capitalization of Rs. 19.49 Crore for Ash Dyke Bund Raising for Lagoon-1 (2nd raising) as per the Tariff Regulations, 2014. In the petition, RPSCL has referred Regulation 22(2)(iv) & (v) of the Tariff Regulations, 2014 only to set the context that raising of Ash Dyke was also allowed in Tariff Regulations, 2014. This work related to ash pond and raising of ash dyke fall within the scope and purview of Regulation 20 (2)(v) & (vi) of the UPERC Tariff Regulations, 2019. The said expenditure of Rs. 19.49 Crore squarely falls within the scope and meaning of Regulation 20(2) (v) & (vi) of the UPERC tariff Regulations, 2019 and therefore has been included in the present petition for consideration of the Commission.

3.8. The Petitioner submitted that earlier Commission in its Order dated 06.04.2021 in Petition No. 1390 of 2018 has considered the additional capital expenditure incurred on account of ask dyke bund raising of Lagoon 2 (1st raising). In the referred Order, the Commission has noted that the bund raising of Lagoon-2 (1st raising) and Lagoon-1 (2nd raising) was undertaken and the work of Lagoon-2 (1st raising) has been completed in March 2018 with expenditure of Rs. 22.5 Crore. The raising of bund for Lagoon-1 (2nd raising) is underway and shall be completed by October 2019 with estimated cost of Rs. 20 Crore. Further, the Commission, in its Order dated 25.02.2022 in Petition No. 1529 of 2019 has approved additional capital expenditure incurred on account of ask dyke bund raising (Lagoon-2 1st raising). The raising of bund for Lagoon-1 (2nd raising) was completed in FY 2020-21 and accordingly, the Petitioner has claimed Additional Capitalization against it in the instant petition as per the Tariff Regulations, 2019.

3.9. The Petitioner submitted that in the Design Basis Report of Ash Handling System, the specifications capture the design basis for various components of the ash handling system which considers the height of ash dyke to be raised gradually up to 30 M during the operational phase of the project. Therefore, ash dyke bund raising works are additional works which are necessary during the operational life of the power station and were considered in the design of ash handling system.

3.10. The Petitioner submitted that since Rosa TPP falls under that category of ash utilization of 60 to 80% specified in Clause A(4) of the Notification, average 100% ash utilization needs to be achieved in 4 years cycle, i.e., FY 2022-23 to FY 2025-26 and minimum 80% of ash generated in FY 2022-23 is to be utilized in the same year. Further, the legacy ash is required to be utilized progressively to ensure that the utilization of legacy ash shall be completed fully within 10 years from the date of publication of MoEF Notification and minimum legacy ash to be utilized in % of annual ash generated is 20% in 1st year, 35% in 2nd year and 50% during 3rd to 10th year.

3.11. Furthermore, It indicates that sufficient capacity is required in the ash dyke for Rosa TPP for the dumping of ash generated during the year and legacy ash over the next 4 years and 10 years, respectively till the utilization of ash is achieved 100%.

3.12. The Petitioner submitted that MoEF notification dated 31.12.2022 allows additional "operational ash ponds/dyke' for "temporary storage" for plants which have already exhausted their dyke capacity. Since there is no additional land available at Rosa TPP for developing new ash pond at present, in addition to increasing level of ash utilization, raising bund in the existing ash dyke is also required to comply with time lines for ash utilization targets as per MoEF Notification.

3.13. The Petitioner has achieved ash utilization of more than 100% during FY 2018-19 to FY 2020-21. Ash utilization for FY 2021-22 was at 79%. Till January 2023, Rosa has achieved ash utilization of 89% and Rosa is targeting to achieve 100% ash utilization during FY 2022-23. In this context, it is pertinent to mention that as per the report of Ministry of Power on ash utilization, average fly ash utilization for 200 no. of coal / lignite based thermal power stations of various power utilities in the country was 95.95% for FY 2021-22. Out of 200 power plants, only 92 no. of plants have achieved fly ash utilization of 100% and more. Also, fly ash utilization for 80 plants was less than 90% which includes plants of public utilities like NTPC and other private utilities. This underlines the challenges being faced by power plants in the country for achieving 100% ash utilization. The Petitioner has submitted that it has been performing better than many other plants in the country in term of ash utilization and it is committed to achieve 100% in future in compliance to MoEFCC notifications. The Petitioner has submitted that it is committed to ensure 100% ash utilization and in this regard multiple steps have been taken. One such step is RPSCL has created the facility for dispatch of ash to the ash users located at longer distances through rail mode using existing railway siding facility and dispatch of ash through the rail mode has already been started.

Means of Finance

UPPCL Submission

3.14. The Petitioner has not placed its Board resolution as per Regulation 22(1)(i) of the Tariff Regulations, 2019 regarding the infusion of funds from internal resources.

Petitioner Reply

3.15. In this regard, the Petitioner submitted that it has executed the additional capitalization of Rs. 19.49 Crore from the internal accruals and reserves and surplus and has considered normative, i.e., 70:30 Debt: Equity ratio as per the Tariff Regulations 2019. RPSCL submits its Board Resolution as per Regulation 22(1)(i) of the Tariff Regulations, 2019 regarding the infusion of funds from internal resources.

Return on Equity

UPPCL Submission

3.16. The rate of ROE should be allowed to the Petitioner at 15% as per the Tariff Regulations, 2019 without any additional rate of ROE of 0.5% for early commissioning of the project.

Petitioner Reply

3.17. The Petitioner submitted that as regards ROE there is an inconsistency in Tariff Regulations, 2019 as compared to previous Tariff Regulations, as Tariff Regulations, 2019 are silent about the provision of additional ROE of 0.5% on account of early commissioning of the project. Regulation 2(4) of Tariff Regulations, 2019 specifies that the Commission may be approached in case of any inconsistency with parameters given in Tariff Regulations, 2019 against the parameters determined through earlier Regulations and considering that the Petitioner in the present MYT Petition has claimed the additional return of 0.5% for the control period of FY 2019-20 to FY 2023-24.

3.18. Furthermore, the Petitioner submitted that by completing the project ahead of schedule, it has saved the cost of project by reducing IDC and other costs which otherwise could have led to increased project cost if project was delayed. The benefit of saving in project cost is also passed on to the beneficiary, i.e. UPPCL through reduced AFC over the term of PPA. Additionally, the Petitioner is of the view that additional rate of ROE of 0.5% should not be limited to the control period of tariff regulations and it should be allowed for the entire term of PPA to incentivize the developer for its efforts to complete project ahead of schedule.

Interest on Loan

UPPCL Submission

3.19. The Petitioner has not computed the rate of interest for the debt component as per the Tariff Regulations, 2019 considering the weighted average rate of interest calculated on the basis of actual loans at the beginning of each financial year and the Petitioner should submit the auditor certificates for interest on loan component.

Petitioner Reply

3.20. The Petitioner submitted that in its petition, it has considered the opening loan balance of FY 2019-20 same as closing loan balance approved by the Commission in True-up Order dated 25.02.2022 and subsequent addition, as 70% of the addition on account of additional capitalization has been considered in FY 2020-21. Interest rate has been considered as the weighted average rate of interest calculated on the basis of actual loans at the beginning of each financial year from FY 2019-20 to FY 2023-24. However, the Petitioner has submitted in the revised MYT petition that the interest rate has been considered based on the weighted average rate of interest of the project loan portfolio projected for FY 2019-20 to FY 2023-24, instead of actual loan portfolio at the beginning of each financial year. Due to this, UPPCL has wrongly interpreted that the Petitioner has not computed the rate of interest for debt component considering weighted average rate of interest calculated on the basis of actual loans at the beginning of each financial year.

3.21. Furthermore, the Petitioner submitted that the calculation for rate of interest submitted along with the present MYT petition has been done as per the said provisions, i.e., considering actual loan portfolio at the beginning of each financial year for FY 2019-20 to FY 2023-24.

Depreciation

UPPCL Submission

3.22. Depreciation should be allowed by strictly scrutinizing the Petitioner's submissions as per Regulations 24(iii) of the Tariff Regulations, 2019.

Petitioner Reply

3.23. The Petitioner submitted that Depreciation has been worked out in accordance with Regulations 24(iii) of the Tariff Regulations, 2019. However, it has inadvertently considered Rs. 19.49 Crore of addition to the gross block for FY 2020-21 on account of Ash Dyke Bund raising for Laggon-1 (2nd Raising) under the category of 'roads' in Form 11. It is pertinent to mention that in the True-up proceedings for FY 2014-19, the Petitioner had considered an addition to the gross block for FY 2018-19 on account of Ash Dyke Bund raising for Laggon-2 (1st Raising) under the category of 'Boiler and Plant'.

Operation & Maintenance & Statutory Charges:

UPPCL Submission

3.24. UPPCL submitted that the Commission may specify at this stage itself the actual expenditure by the Petitioner should be considered at the stage of True-up & surplus should be allowed to meet increased O&M Expenditure in the subsequent year.

3.25. The Petitioner's claim for Statutory Charges pertaining to FY 2019-20 to FY 2021-22 should be allowed only subject to prudence check and Statutory Charges claimed for FY 2022-23 and FY 2023-24 ought to be rejected and the same be allowed only subject to prudence check.

Petitioner Response

3.26. The Petitioner submitted that O&M expenses for control period have been considered as per O&M norms applicable for 300 MW units as per Regulation 24(iv) of the Tariff Regulations, 2019. Further, the issue raised by UPPCL regarding actual O&M expenditure and allowing surplus (if any) to meet increased O&M expenditure in the subsequent years is not relevant at the stage of MYT. Moreover, truing-up of O&M expenses is not envisaged in Tariff Regulations, 2019.

3.27. It is pertinent to mention that similar contention of truing-up of O&M expenses was raised by UPPCL in True-up of 2014-19 period. UPPCL had filed a Review Petition (Petition No. 1851 of 2022) seeking review of True-up Order dated 25.02.2022 with prayer to carry out truing-up of O&M expenses for 2014-19 period in line with Regulation 25(iv)(a)(ii) of Tariff Regulations, 2014.

3.28. The Petitioner on reply of Statutory charges submitted that as mentioned in MYT petition, it has considered the Statutory Charges for FY 2019-20 to FY

2021-22 based on the actual cost incurred during these years. RPSCL will submit the relevant supporting documents for its claims of Statutory Charges and application fees for FY 2019-20 to FY 2021-22, if sought by Hon'ble Commission, at later stage.

Interest on Working Capital

UPPCL Submission

3.29. Direct the Petitioner to re-compute Interest on Working Capital (IoWC) strictly as per Regulation 24(v) of the Tariff Regulations, 2019 as RPSCL has considered the fuel cost as per True-up Order 2022 and the rate of IoWC as 12.05% instead of 11.70%.

Petitioner Reply

3.30. The Petitioner submitted that in Form-13B, it has shown calculations for IoWC for FY 2018-19 for reference purpose and put a remark that the calculations for IoWC for FY 2018-19 are as per the True up Order 2022. The same has been misrepresented by UPPCL in its reply.

3.31. Furthermore, in reply to the Bank rate query the Petitioner has submitted that UPPCL's observation on SBI MCLR as on 01.04.2019 is incorrect. The Petitioner has correctly considered SBI MCLR of 8.55% as on 01.04.2019 for calculation of rate of interest as 12.05% for IoWC.

Additional infirmities in Tariff Filing forms

UPPCL Objection

3.32. That UPPCL submitted that the Petitioner has not submitted audited balance sheet- P&L for FY 2019-20 to FY 2021-22 as per Sr. No. 2 of checklist appended to the Tariff filing forms for thermal power plant under Tariff Regulations, 2019. Furthermore, the Petitioner has also not submitted the latest available Cost Audit Report as per Sr. No. 8 of checklist.

3.33. Additionally, UPPCL submitted that the Petitioner has not submitted relevant information in Form 9D of Tariff forms and not filed few of Tariff forms as per the format prescribed under the Tariff Regulations, 2019.

Petitioner Submission

3.34. The Petitioner submitted that Sr. No. 2 of checklist states that station wise and Corporate Audited Balance Sheet and Profit & Loss Accounts with all Schedules & annexures have to be submitted for the existing station for relevant year. It is further submitted that the said documents sought by UPPCL are not relevant at the current MYT tariff determination stage and may be required at true up stage only.

3.35.Furthermore, the Petitioner has submitted the Cost Audit Reports for FY 2014-15 to FY 2018-19 to the Commission in True-up proceedings vide replies dated 09.08.2021 to TVS queries. The Petitioner submits that the Cost Audit Reports for FY 2019-20 to FY 2021-22 are not relevant at the current MYT tariff determination stage and may be required at true up stage only.

3.36.Additionally, the Petitioner Submitted that Form 9D is for statement showing items/assets/works claimed under exclusions. Since, it has not claimed exclusions on assets not allowed in tariff and, it has not filled any information in Form 9D. The Petitioner has submitted that it has submitted all Tariff forms as per the format prescribed under the Tariff Regulations, 2019.

Objection of the Stakeholder

3.37.During the public hearing dated 14.02.2023, the following stakeholders submitted their comments and objection:

3.38.Sh. Rama Shankar Awasthi submitted that the Petitioner has not incorporated various earlier orders of the Commission in the instant Petition, therefore, the Commission is requested to incorporate the same and order. Further, with regard to additional capitalisation against the ash dyke, MoEF&CC has notified certain directions for the same, hence the Commission is requested to prudently allow the cost keeping in view the consumer interest. ROE @15% should be allowed as per the applicable Generation Tariff Regulations 2019. Interest on Working Capital allowed should be as per the actual coal stock instead of the normative specified in the Tariff Regulations.

3.39.Sh. Avdhesh Kumar Verma submitted that in response to the Commission 's deficiency notes in the matter, the Petitioner has not provided the logical reasoning against the claimed capitalisation amount and therefore, should be disallowed. The Petitioner has not provided the details of gain from the fly ash used for construction and other activities and therefore, the cost towards the same should be disallowed. Further, the Commission is requested to allow tariff as per Generation Tariff Regulations, 2019.

3.40.UPPCL submitted that additional capital expenditure should be allowed when actually incurred by the generator after prudence check. The Petitioner has not provided supporting documents for the claim of funding additional capital expenditure through internal resources and therefore should not be permitted by the Commission. Further, instead of complying the MoEF&CC mandated norms to utilise legacy ash, expenditure claimed towards ash dyke height to store additional ash should not be allowed. Actual Interest on Loan should be allowed. ROE @15% should be allowed since this Commission while framing the Generation Tariff Regulations 2019 already rejected the incentive for early commissioning. Regarding statutory charges, the Petitioner has not provided the requisite documents and therefore should not be allowed. Regarding rate of Interest on Working Capital, RPSCL has claimed different/higher than to be allowed considering prevailing SBI MCLR. The Petitioner has not provided the coal data in terms of the Commission's direction during the last public hearing in the matter.

Commission's View

3.41. **The Commission has considered all the issues raised by the Stakeholders and Petitioner's response to these issues while carrying out the detailed analysis and dealt these issues in the Order.**

4. PETITIONER SUBMISSION

4.1. The Petitioner as per the direction of the Commission resubmitted the revised MYT and ARR petition for FY 2019-20 to FY 2023-24 via amended Petition No. 1578/2020 on May 25, 2022, along with Audited Account for the period of FY 2019-20 and FY 2020-21 and provisional accounts for FY 2021-22. The Summary of the Petition is tabulated below:

Table 3 Annual Fixed Cost Projected by the Petitioner (in Rs. Crore)

Particular	2019-20	2020-21	2021-22	2022-23	2023-24
Return on Equity	257.12	257.57	258.03	258.03	258.03
Interest on Loan	200.81	164.01	127.61	84.99	45.61
Depreciation	370.88	373.76	373.52	373.52	373.52
O & M Expense	337.30	346.64	358.88	371.75	384.76
Interest on Working Capital	105.39	105.43	105.49	105.50	105.44
Total	**1273.5**	**1247.41**	**1223.53**	**1195.33**	**1164.31**

5. REGULATORY FRAMEWORK

5.1. The Electricity Act, 2003 (hereinafter referred to as EA, 03) came into effect from June 10, 2003 which repealed all the erstwhile electricity Acts in the country viz. Indian Electricity Act, 1910 (9 of 1910), The Electricity (Supply) Act, 1948 (54 of 1948) and the Electricity Regulatory Commissions Act, 1998 (14 of 1998). Under section 61 of EA, 2003, the State Electricity Regulatory Commissions require to notify terms and conditions for the determination of tariff of generation, transmission & distribution. Section 86 of the Act mandates the Electricity Regulatory Commission to determine tariff in respect of Generating Companies and Licensees.

5.2. In the exercise of powers conferred under 181 read with the provisions of section 61 of the EA 2003, UPERC notified UPERC (Terms and Conditions of Generation Tariff) Regulations, 2009 (hereinafter referred to as Generation Regulations, 2009) w.e.f. April 01, 2009, amended on March 20, 2012, which remained effective till March 31, 2014. The Commission further notified the Uttar Pradesh Electricity Regulatory Commission (Terms and Conditions of Generation Tariff) Regulations, 2014 have been notified on December 16, 2014. Further, the Uttar Pradesh Electricity Regulatory Commission (Terms and Conditions of Generation Tariff) Regulations, 2019 was notified on September 11, 2019. These Regulations are applicable for the determination of Tariff for a generating station or a unit thereof required to be determined by the Commission under Section 62 of the Act read with Section 86 thereof from April 1, 2019, to a period of 5 years up to March 31, 2024, unless reviewed earlier or extended by an Order of the Commission.

MYT and ARR for FY 2019-20 to FY 2023-24

Provision under Regulations

6.1. The Commission in its Order dated August 22, 2017 has considered capital cost of the whole project for determination of tariff for the MYT period FY 2014-15 to FY 2018-19 i.e., tariff for Stage-I + Stage-II as a whole. Accordingly, the Commission is of the view to consider similar approach in subsequent MYT control period i.e., from FY 2019-20 to FY 2023-24 in accordance to UPERC Term & Condition of Generation Tariff Regulations, 2019.

6.2. The Operational Norms for Thermal Generating Stations viz. Availability, Plant Load Factor, Station Heat Rate, Auxiliary Consumption, Secondary fuel oil consumption and Transit Losses has been considered as per Regulation 26 of UPERC Term & Condition of Generation Tariff Regulations, 2019 for determining Tariff for the Period from FY 2019-20 to FY 2023-24 for RPSCL (Stage I & II- 4X300 MW).

<u>Gross Fixed Asset</u>

Petitioner's Submissions

6.3. The Petitioner in its amended Petition no. 1578 of 2020 has claimed an additional expenditure of Rs. 19.49 Crore related to the Ash Pond Works. It has further submitted that raising of Ash Dyke falls within the scope and purview of Regulation 22 (2) (iv) and (vi) of the UPERC Tariff Regulations, 2014 and the same are being reproduced as follows:

"(2) Subject to the provisions of clause (3) of this regulation, the capital expenditure of the following nature for new or existing projects actually incurred after the cutoff date may be admitted by the Commission, subject to prudence check:

....

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

....

(vi) Any additional works/services which have become necessary for efficient and successful operation of the generating station, but not included in the original project cost. 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; and"

6.4. Furthermore, the Petitioner has submitted that Ash Dyke has been in operation since 2010. In due course of the operation of the Thermal Power Plant, the capacity of Lagoon-1 and Lagoon-2 got exhausted by March 2016. Lagoon-1 was completely filled and some capacity was left in Lagoon 2 therefore, any delay in Bund raising would have affected the plant operation. Therefore, the works of Lagoon-1, 2nd raising had been taken up by elevating the bund wall by height of 6 mtrs to attain a volume of around 12.5 Lakh cubic meters (usable qty of ash 8.8 Lakh MT). The said work of bund raising was completed in FY 2020-21. The completed cost of lagoon 1- 2nd raising is Rs. 19.49 Cr. In view of the finalization of FY 2021-22 annual accounts, Auditor's Certificate with respect to Additional Capitalization shall be submitted shortly. RPSCL has craved the liberty of the Commission to submit necessary documents including Auditor Certificate in due course of time.

6.5. Under MoEFCC Notification 2021, RPSCL's TPP falls under the category of TPPs having ash utilization of 60% to 80% in FY 2021-22 covered by Clause A(4) thereof. Accordingly, RPSCL's TPP has to achieve average 100% ash utilisation in a 4 years' cycle i.e., FY 2022-23 to FY 2025-26. Minimum 80% ash utilization has to be achieved in FY 2022-23 qua ash generated during such year.

6.6. Legacy ash has to be utilized progressively to ensure complete utilization within 10 years from 31.12.2021. Minimum legacy ash utilization in % terms against ash generated during a particular year is 20% in 1st year, 35% in 2nd year and 50% during 3rd to 5th year.

6.7. The above targets indicate that sufficient capacity is required in ash dyke for dumping ash generated during a particular year (over next 4 years) and legacy ash (over 10 years) till 100% ash utilization is achieved.

6.8. MoEFCC Notification 2021 does not imply that a plant is barred from dumping ash in dyke from day 1. Instead, appreciating the difficulty involved in such mega shift, 2nd to Clause A(4) provides that minimum utilization percentage of 80% shall not apply to the first year and first two years of the first compliance cycle for the thermal power plants in the utilization category of 60%-80% and <60% respectively. 3rd proviso to Clause A(4) of MoEFCC Notification 2021 provides that 20% of ash generated in the final year of a compliance cycle can be carried forward to the next cycle for utilization in the next 3 years along with ash generated in that cycle.

6.9. By way of the notification dated 30.12.2022, issued amending the MoEFCC Notification 2021, provision for additional "operational ash ponds/ dyke" for "temporary storage" has been made. Since there is no additional land available at TPP, raising of existing dyke is needed to comply with ash utilization timelines prescribed by MoEFCC.

6.10. While the responsibility for 100% utilization of ash vests with RPSCL, the same is majorly dependent on constructive contribution from other stakeholders. Continuous efforts to increase ash utilization are being made by RPSCL by identifying promotional schemes for fly ash utilization. RPSCL also installed facilities to ramp up fly ash utilization.

6.11. During FY 2018-19 to FY 2020-21, RPSCL achieved ash utilization of more than 100%. During FY 2021-22, ash utilization was at 79%. Till January 2023, RPSCL achieved ash utilization of 89% and is targeting to achieve 100% utilization during FY 2022-23.

<u>Commission's Analysis and decision</u>

6.12. Relevant extracts of the Tariff Regulations 2019 are reproduced below for ready reference

> *"20. Additional capitalization:*
>
> *...*
>
> *(2) Subject to the provisions of clause (3) of this Regulation, **<u>the capital expenditure of the following counts for new or existing projects actually incurred after the cutoff date may be admitted by the Commission, subject to prudence check:</u>***
>
> *...*
>
> *(v) Deferred works relating to ash pond or ash handling system in the original scope of work;*
>
> *(vi) Raising of ash dyke as a part of ash disposal system;"*

6.13. In terms of Regulation 20(2) of the Tariff Regulations 2019 above, any additional capital expenditure can be capitalized only if it is (a) actually incurred and (b) subject to prudence check.

6.14. As regards actual incurrence of capital cost, RPSCL has placed on record auditor's certificate dated 10.02.2023 along with its rejoinder. From a perusal of the auditor's certificate, it is evident that out of the total additional capitalization of ₹19.49 crores claimed by RPSCL, an amount of around ₹16.73 crores was paid to a single vendor by the name of "*CLE Private Limited (Formerly known as Crest Logistics and Engineers Private Limited*".

As it is evidenced by disclosure made by the aforesaid Crest Logistics and Engineers Private Limited to the National Stock Exchange of India Limited on 15.03.2013, as available in public domain, the said entity was also formerly known as "*REL Utility Engineers Private Limited*".

6.15. Under the order dated 04.02.2020 in Petition No. 1233 of 2017, this Hon'ble Commission held that REL Utility Engineers Limited appears to be a related party. Relevant extracts of this Commission's findings under the order dated 04.02.2020 are reproduced below for ready reference –

> *"16.4 Issue 4: Approval of additional capital expenditure during 2014-15 to 2016-17*
>
> *Commission's view:*
>
> ...
>
> *(c) Out of three entities who submitted their bids,* ***Reliance Utility Engineers Private Limited's ("RUEPL"), which was later changed to REL Utility Engineers Ltd. appears to be a related party to the petitioner, Rosa Power Supply Company ltd****, as can be seen from Annual Accounts of Reliance Infrastructure Ltd (formerly known as RUEPL). Its offer was considered to be closest to the proximity with the scope of the bid and therefore the deviation in the bids of other entities were loaded with the variation price from the bid submissions made by RUEPL"*

6.16. Regulation 20(2) of the Tariff Regulations 2019 prescribes that any capital expenditure can be capitalized only subject to prudence check. In this regard, Regulation 17(6) of the Tariff Regulations 2019 prescribes that any capital expenditure incurred through related parties without prior approval of the procurer shall be excluded from the capital cost. Relevant extracts of Tariff Regulations 2019 are set out below for ready reference –

> *"(6) Prudence Check of Capital Cost: The following principles shall be adopted for prudence check of capital cost of the existing or new projects:*
>
> ...
>
> ***Provided that any capital expenditure incurred on the project through any related parties, as defined in the Companies Act, 2013, without prior approval of the***

procurer shall be excluded from the Capital cost."

6.17. Applying the above regulation, approximately ₹16.73 crores out of ₹19.49 crores of additional capital cost claimed by RPSCL ought to be disallowed straightaway as the said amount has been incurred through an entity which is admittedly a related party of RPSCL as held by this Commission in its order dated 04.02.2020 in Petition No. 1233 of 2017.

6.18. RPSCL's reliance on this Commission's order dated 06.04.2021 in Petition No. 1390 of 2018 is wholly inappropriate and misleading. As stated by RPSCL, under the said order, it was never this Commission's finding that the additional capital expenditure incurred on account of Lagoon 2 (1st raising) was being considered by it or that Lagoon 1 (2nd raising) was underway and would be completed by October 2019 with an estimated cost of ₹20 crores. The only finding of this Hon'ble Commission under the order dated 06.04.2021 qua ash dyke height raising was that subject to prudence check at the time of true-up, actual expenditure incurred would be considered.

6.19. **Considering that the nature of the transaction, the Commission thus disallows RPSCL's claims for additional capitalization at this stage (i.e., the stage of tariff determination) and directs RPSCL to approach this Commission at the true-up stage along with all UPPCL's consent and all relevant and supporting documents.**

6.20. Therefore, the Commission has considered the Closing Balance of FY 2018-19 as the opening balance of FY 2019-20 for the purpose of GFA calculation and accordingly approve the capitalization and Gross Fixed asset

Table 5 GFA approved by the Commission (in Rs. Crore)

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Opening GFA	6519.73	6519.73	6519.73	6519.73	6519.73
Add Cap	0	0	0	0	0
Discharge of Undischarged liability	0	0	0	0	0
Net Addition	0	0	0	0	0
Closing GFA	6519.73	6519.73	6519.73	6519.73	6519.73

2.1 Return on Equity

Petitioner Submission

6.21. The Petitioner submitted that the equity base for the thermal power station as of 01.04.2019 has been considered as the closing equity balance for FY 2018-19 as approved by the Commission in its final true-up order for FY 2018-19 and thereafter 30% of the total capitalization has been considered to be funded from equity infusion in each year of the control period. Furthermore, the Petitioner has considered 0.5% of additional RoE on and above the base rate of 15% on account of early commissioning of the Project.

Commission's Analysis and decision

6.22. Under the present petition, RPSCL has taken opening equity base as ₹1658.85 crores which was closing equity base in FY 2018-19. The Closing equity base in FY 2018-19 has been changed from ₹1658.85 crores to ₹1669.16 crores under the order dated 11.01.2023 in Petition Nos. 1849 & 1851 of 2022 (**Review Order**).

6.23. Further, RPSCL has considered Rs. 5.85 crores being 30% of Rs. 19.49 crores of additional capitalization as addition to equity during FY 2020-21. **In view of the decision of the Commission with regard to the admissibility of any additional capital cost claimed by RPSCL, no additional equity over and above Rs. 1669.16 Cr has been considered by the Commission in this MYT Order.**

6.24. Additionally, while this Hon'ble Commission has reduced base rate of return on equity (**ROE**) from 15.5% to 15%, RPSCL has also taken a stand that the Tariff Regulations 2019 are silent on the aspect of additional ROE of 0.5% on account of early commissioning. RPSCL has relied on findings of this Commission's common order dated 22.08.2017 issued in Petition No. 967 of 2014 for true-up of tariff for TPP's Stage-I for FY 2009-10 to FY 2013-14, Petition No. 968 of 2014 for fixing tariff of TPP's Stage-II for FY 2011-12 to FY 2013-14, Petition No. 1016 of 2015 for fixing tariff of TPP's Stage-I & Stage-II for FY 2014-15 to FY 2018-19 (**Tariff Order 2017**). RPSCL has staked claim for rate of ROE as 15.5% i.e., 15% base rate of ROE as per Tariff Regulations 2019 + 0.5% rate of ROE for early commissioning as per Tariff Order 2017.

6.25. Regulation 24 (i) of Tariff Regulations 2019 clearly stipulates that rate of ROE would be 15% and there is no provision for allowing any additional rate of ROE on any count. The regulations are not silent. Regulation 24(i) of the Tariff Regulations 2019 is reproduced herein below:

"24. *Capacity (Fixed) Charge:*

...

(i) *Return on Equity*

__Return on equity shall be computed in rupee terms on the equity base determined in accordance with these Regulations @ 15% per annum__;

*Provided that the rate of return of a new project shall be reduced by upto 1% for such period as maybe 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) or Free Governor Mode Operation (FGMO), data telemetry, communication system up to load dispatch center or protection system based on the report submitted by SLDC;*

Provided also that as and when any of the above requirements are found lacking in an existing generating station based on the report submitted by the SLDC, RoE may be reduced by up to 1% for such period as may be decided by the Commission;

*Explanation: The premium raised by the generating company while issuing share capital and investment of internal resources **__created__** out of free reserve of the generating company, if any, for the funding of the project, shall also be reckoned as paid up capital for the purpose of computing return on equity, provided such premium amount and internal resources are actually utilized for meeting the capital expenditure of the generating station and forms part of the approved financial package."*

6.26. Further, the Statement of Reasons dated 23.09.2019 (**SOR**) to the Tariff Regulations 2019, may also be referred to:

"1.4 *The Commission held a public hearing on July 05, 2019 at 3:30 pm at the Commission's Office, Lucknow in which stakeholders submitted their comments and suggestions. The comments / suggestions offered by the stakeholders on the then proposed Regulations and the Commission's decision thereon are discussed hereunder:*

Particulars	*Draft Regs No.*	*Comments of the Stakeholders*	*Commission's view*
...			

Particulars	Draft Regs No.	Comments of the Stakeholders	Commission's view
Tariff Determination Process			
...	...	...	...
Return on Equity (ROE)	27(iii)	... 2. LPGCL – **To allow the RoE at 16.00%** per annum (15.5% for ROE **plus 0.50% additional for early completion of the projects**) **since, investment decision by promoter and bankers were taken when the ROE was (15.5 + 0.50%). If ROE is reduced now, it will not only reduce the return on investment but also create an environment of uncertainty (Regulatory and Financial). Also, considering the present status of power projects across the country, higher risk is associated with the existing and new projects owing to macroeconomic changes, uncontrollable factors, pending litigations etc. are relatively higher for projects based on cost-plus model So, the same ROE of 16% (15.5% + 0.5%) needs to be continued.** ... 5. RPSCL – **RoE be retained as 15.5% in light of National Tariff Policy.** ... 6. UPPCL – **Requested to limit RoE for Generation business to 13% post-tax per annum...**	**Please refer to Annexure-I.**

6.27. As it is clear from the above quoted and highlighted extracts, the plea for continuing 0.5% additional rate of ROE early commissioning was raised before this Commission at the stage when the Tariff Regulations 2019 were being framed. Additionally, in an attempt to justify retaining the prevailing rate of ROE at 16% (i.e., 15.5% + 0.50%), the stakeholders made a variety of submissions including that reduction of rate of ROE would amount to creating an environment of regulatory uncertainty because the investment decision by the promoters and bankers was taken at a time when the rate of ROE was 16% (i.e., 15.5% + 0.5%). It was also submitted that considering the present status of power projects across the country and owing to higher risk associated with existing projects under the Section 62 regime due to macroeconomic changes, uncontrollable factors, pending litigations, etc., rate of ROE needs to be continued at 16% (i.e., 15.5% + 0.5%) and that in view of the National Tariff Policy 2016, 15.5% base rate of ROE needs to be continued. From the aforesaid, it is clear that the issue of non-grant of additional 0.5% rate of ROE was brought to the notice of this Commission. Therefore, it cannot be alleged at this stage that deletion of such provision allowing grant of additional 0.5% rate of ROE was inadvertent on the part of this Commission or that the Tariff Regulations 2019 are silent on this aspect.

6.28. Clearly, while framing the Tariff Regulations 2019, this Commission took a conscious and well-informed decision to reduce the rate of ROE from 15.5% to 15% and to delete the provision allowing 0.5% as additional rate of ROE for early commissioning. In restricting the rate of ROE to 15% under the Tariff Regulations 2019, the Commission followed a transparent and well-informed exercise which is backed by sound legal, economic and technical justification, as elaborated under Annexure-I to the SOR to Tariff Regulations 2019. Such justifications have been set out by the Commission to repel the allegations of regulatory uncertainty, hardship, etc. claimed by the generators at the time of framing of the Tariff Regulations 2019.

6.29. The Hon'ble Supreme Court's judgement issued in the case of ***Reliance Infrastructure Limited v. State of Maharashtra*** reported as **(2019)3 SCC 352** [Paras 38 & 40], may be referred to in this regard, wherein it was held that the decision of an expert body, such as this Commission, should not be interfered with if a particular line of logic or rationale has been picked on an appraisal of all guiding principles. In the present case, the Commission being the expert body tasked with framing the tariff regulations i.e., subordinate legislation had a range of options including policy options. Upon taking into consideration guiding factors including the National Tariff Policy 2016 and the suggestions of the stakeholders including RPSCL as well, the Commission employed the Capital Asset Pricing Model model, loaded additional market premium of 300 basis points and determined the rate of ROE as 15% only without any additional ROE of 0.5% for early commissioning.

6.30. **Therefore, considering that on an appraisal of all guiding principles, this Hon'ble Commission has chosen a particular line of logic or rationale where the rate of ROE has been limited to 15% only without any additional ROE of 0.5% for early commissioning, there is no question of granting the same at this stage by exercising powers contrary to law i.e., sub-ordinate legislation framed by the Commission itself.** Relevant extracts of the aforesaid judgment are reproduced below for ready reference:

> "38. ***MERC is an expert body which is entrusted with the duty and function to frame regulations, including the terms and conditions for the determination of tariff.*** *The Court, while exercising its power of judicial review, can step in where a case of manifest unreasonableness or arbitrariness is made out. Similarly, where the delegate of the legislature has failed to follow statutory procedures or to take into account factors which it is mandated by the statute to consider or has founded its determination of tariffs on extraneous considerations, the Court in the exercise of its power of judicial review will ensure that the statute is not breached.* ***However, it is no part of the function of the Court to substitute its own determination for a determination which was made by an expert body after due consideration of material circumstances.***
>
> ...
>
> 40. *We commenced our discussion by emphasising, in our prefatory observations,* ***that the power to frame regulations is of a legislative nature.*** *The CPRI report was an input before MERC in carrying out that exercise.* ***MERC followed the statutory procedures laid down for the determination of tariffs. It took into account factors which it is mandated by the statute to consider. The National Tariff Policy, suggestions of stakeholders*** *as well as the assessment carried out by CPRI were duly considered. Hence, the present case does not fall in the paradigm of manifest unreasonableness or arbitrariness to warrant the interference of this Court. It would be rather formulaic for the Court to accept that merely because DTPS was placed on a par in the immediately previous period (2006-07) and the period immediately succeeding (2016-20), that this must necessarily be extrapolated to the intervening period governed by the MYT Regulations, 2011.* ***A body which is entrusted with the task of framing subordinate legislation has a range of options including policy options. If on an appraisal of all the guiding principles, it has chosen a particular line of logic or rationale, this Court ought not to interfere."***

6.31. Further, RPSCL has argued that as approved under earlier tariff orders dated 28.03.2011 in Petition No. 706/2010 and Tariff Order 2017, rate of

ROE should be 15% (base) + 0.5% (incentive for early commissioning) as the additional 0.5% ROE was approved for the entire term. In this regard, it may be noted that early commissioning incentive was allowed by the Commission under the earlier tariff orders strictly in line with the prevailing tariff regulations which had permitted grant of such incentive. Pertinently, it is an indisputable fact that the Tariff Regulations 2019, which are applicable for the current control period, do not provide for any such incentive. Relevant extracts of the Tariff Order 2017 as well as True-Up Order 2022 are reproduced below for ready reference:

(i) Extracts from Tariff Order 2017:

"2. *Background*

...

2.2 *EARLIER ORDERS OF THE COMMISSION:*

...

2.2.9 *RPSCL filed Petition No. 706 of 2010, for the approval of final tariff for Stage-1 for period from FY 2009-10 to FY 2013-14. Detailed content of the order dated March 28, 2011 is reproduced below for reference,*

(e) In Order dated May 17, 2010, commission had provisionally approved 16% ROE ***including 0.5% for early commissioning for maintaining the level playing field as per the prevailing regulation.*** *Hence, going with aforesaid, the Commission made the following observation,*

...

2.2.10 *In petition No. 706 of 2010, commission vide its order dated March 28, 2011, approved final tariff for Stage-1 for period from FY 2009-10 to FY 2013-14 subject to prudence check of capital cost at the time of filing of tariff petition for next tariff period.*

For the reference, in following tables, the components of fixed charges, norms of operation as agreed in the PPA and as approved by the Commission is shown,

- *The components of fixed charges as per PPA, as per Regulations and as admitted by the Commission for the purpose of calculation of tariff,*

Sl. No.	*Component of Fixed Charge*	*Approved in PPA*	*As per Regulations, 2009*	*Approved in Order dated 28.03.2011*
...	...	...	...	...

5.	Return on Equity (RoE)	14.00%	15.5% + 0.5%	15% + 0.5%

...

2.2.13 **In petition No. 787 of 2012, commission vide its order dated May 21,2012 approved provisional tariff for Stage-II same as Stage-I for the period from COD to the date, when final tariff is approved by the commission as agreed by both the parties.** A relevant extract of the Commissions direction is reproduced below for reference,

...

3. KEY ISSUES INVOLVED IN THE PROCEEDINGS

...

3.1.4 The petitioner in petition No. 660 of 2010 for approval of provisional tariff for Stage-I, **requested the Commission for increase of RoE to 16.00% from 14.00% as per the Regulations, 2009 only**, as the petitioner was allowed to approach the Commission for specific relief, under the Regulations and amendments thereof, if such provision or remedy was not available in the power purchase agreement signed between them. There was no provision for revision of RoE in PPA and also there was no case for remedy, in absence of undesirable situation, as far as RoE was concerned. However, considering the plea for level playing field, the Commission allowed increased RoE of 16.00%, but while allowing increased RoE, the Commission categorically took the view that the Generator cannot be allowed to get the best from the both. The details are as follows:

"The Commission opines that the norms of operations **or other factors should be guided in totality either from the PPA or from the Regulations. The Generator cannot be allowed to get the best from the both**. There is no question that whether Regulations would prevail over PPA or not because Regulation 2(5) clearly specifies that the Regulations are in addition to and not in derogation to the Terms & Conditions of determination tariff approved by the Commission in a PPA. In this case the Petitioner desires RoE as provided in the Regulations which is higher than what has been agreed under the PPA. **The Petitioner has structured its claim on the basis of provisions of Regulations, 2009** supported by its plea to allow a level playing field. It would be discouraging for the generator if 15.5% RoE, as provided under the Regulation, is not allowed as it would be a deterrent to level playing field for such a Generator who has commissioned the plant ahead of the schedule. It is also pertinent to consider the revision of norms of operation with higher RoE but since the plant is still to be stabilized, it would not be appropriate *to revise the same at this point of time. Although, to keep the level playing field, the norms of operation may be considered for revision at the time when the Petitioner would approach the Commission for the same. Therefore, the Commission decides to consider RoE 15.5% provisionally for calculation of provisional tariff. The Respondent has contested the incentive for early commissioning although there is no specific provision agreed under the PPA for the same. In case of commissioning ahead of schedule, regulation 23 (3) provides the eligibility for incentive equal to amount of reduction in interest during construction recoverable through tariff in twelve monthly instalments during first year of operation.* ***However, Regulation 21 (iii) provides an additional amount of 0.5% for the projects approved by the Commission before 1.4.2009, in absence of any provision made in PPA. As the plea of Petitioner to provide level playing field has been accepted by the Commission, it would be appropriate to provisionally approve 0.5% additional RoE as incentive for early commissioning.****"*

...

6. *FIXATION OF TARIFF FOR 2X300 MW ROSA THERMAL POWER PLANT STAGE II FOR THE PERIOD FY 2011-2012 TO FY 2013-14*

...

6.2 *TARIFF DESIGN AND APPROACH FOR DETERMINATION OF TARIFF*

...

6.2.2. ***Return on Equity has been considered as 16.0 % as provided in Regulation 21 (iii) in the UPERC Generation Tariff Regulations, 2009.***

...

6.3.2. *Annual Fixed Charges as determined by the Commission are as follows:*

i. *Fixed Charges*

For determination of components of fixed charges for MYT period from FY 2011- 12 to FY 2013-14 for Stage-II, the Commission opines that the parameters as provided in UPERC (Terms and Conditions of Generation Tariff) Regulations 2009 and its amendments, will be applicable. Hence, in view of the above the Commission has decided to allow the components of fixed charges as below:

Sl. No.	*Component of Fixed Charge*	*Value*	*Remark*
...	...	...	...
4	***Return on Equity (RoE)***	*15.5%* ***+ 0.5%***	***As per Regulations, 2009***

...

7. FIXATION OF TARIFF FOR 4X300 MW ROSA THERMAL POWER PLANT STAGE I &II FOR THE SECOND CONTROL PERIOD FY 2014-15 TO FY 2018-19

...

7.2 TARIFF DESIGN AND APPROACH FOR DETERMINATION OF TARIFF for MYT PERIOD FROM FY 2014-15 to FY 2018-19

...

7.2.3 **Return on Equity has been considered as 16.0 % as provided in Regulation 25 (iii) in the UPERC (Terms and Conditions of Generation Tariff) Regulations 2014.**

...

7.3.2 Annual Fixed Charges as determined by the Commission are as follows:

i. Fixed Charges

For determination of components of fixed charges for MYT period from FY 2014-15 to FY 2018-19 for Stage-I and Stage-II, the Commission opines that the parameters as provided in UPERC (Terms and Conditions of Generation Tariff) Regulations 2014, will be applicable. Hence, in view of the above the Commission has decided to allow the components of fixed charges as below:

Sl. No.	Component of Fixed Charge	Value	Remark
...	...	...	...
4	**Return on Equity**	15.5% ± **0.5%**	**As per MYT Regulations 2014- 15 to FY 2018-19**

(ii) Extracts from True-Up Order 2022

"3.3 Truing-up of 4x300 MW ROSA TPP (Stage I and Stage II) for FY 2014-15 to FY 2018-19

...

Return on Equity

...

Commission's Analysis:

3.3.37 Further, **the Petitioner is entitled to earn Return on Equity (RoE) as per Regulation 25 of the UPERC Generation Tariff Regulations, 2014**. *In this regard, the Regulation 25(iii) of the UPERC Generation Tariff Regulations, 2014 provides that:*

...

3.3.38 The rate of return on equity has been considered as 16% (15.50% + 0.50%) as approved by the Commission in Order dated 22.8.2017 in Petition No. 967/2014, 968/2014 and 1016/2015."

6.32. Further, additional rate of ROE of 0.5% has not been approved perpetually for the life of the TPP notwithstanding the provisions of any future regulations as contended by RPSCL. Therefore, it would be impermissible & contrary to law if additional rate of ROE of 0.5% is approved for FY 2019-24 dehors the Tariff Regulations 2019 by placing reliance on the previous orders of this Commission. Even the True-Up Order 2022 explicitly recognizes that additional rate of ROE for early commissioning was being approved as per the Tariff Regulations 2014. Further, such reference has been made merely because under the True-Up Order 2022, the Commission was concerned with truing up of tariff determined under the Tariff Order 2017 in the first place limited to control period FY 2014-19.

6.33. **RPSCL's reliance on Regulation 2(4) of the Tariff Regulations 2019 to argue that the Commission can be approached for hardship caused due to discrepancy/ inconsistency between parameters under a PPA approved prior to 01.04.2019 is also misplaced. Any allegations of hardship due to reduction of rate of ROE by 1% (i.e., due to reduction of rate of ROE from 15.5% to 15% and deletion of provision allowing additional 0.5% additional ROE due to early commissioning), have already been addressed by this Commission under the SOR to Tariff Regulations 2019.**

6.34. **The Commission has approved ROE @ 15.00% in terms of UPERC Generation Regulation, 2019.** Accordingly, the Return on Equity to the Petitioner has been projected below:

Table 5 Return on Equity approved by the Commission (in Rs. Crore)

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
	Approved	Approved	Approved	Approved	Approved
Opening Equity	1669.16	1669.16	1669.16	1669.16	1669.16
Addition	0.00	0.00	0.00	0.00	0.00
Closing Equity	1669.16	1669.16	1669.16	1669.16	1669.16
Average Equity	1669.16	1669.16	1669.16	1669.16	1669.16
Rate of Return	15.00%	15.00%	15.00%	15.00%	15.00%
Return on Equity	250.37	250.37	250.37	250.37	250.37

2.2 Interest on Loan

Petitioner Submission

6.35. The Petitioner has computed interest on the loan in accordance with the approach mentioned in regulation 24 (ii) of Tariff Regulations. Furthermore, the interest rate has been considered the weighted average rate of interest rate has been considered the weighted average rate of interest on loan the project loan portfolio projected for FY 2019-20 to FY 2023-24. To arrive at the opening loan balance as on 01.04.2019, the opening loan balance of FY 2014-15 as approved in True up order dated 25.02.2022 has been considered and subsequent addition as 70% of the addition in capital cost on account of capitalization has been considered.

Commission's Analysis and decision

6.36. RPSCL has considered Rs. 13.64 crores as increase in its debt figures during FY 2020-21. The same corresponds to 70% of the additional capital cost of Rs. 19.49 crores claimed by RPSCL. **In view of the decision of the Commission with regard to the admissibility of any additional capital cost claimed by RPSCL, no additional equity over and above Rs. 1669.16 Cr has been considered by the Commission in this MYT Order.**

6.37. Further, RPSCL has taken opening debt base as Rs. 2119.96 crores which was closing debt base in FY 2018-19. The Commission by way of the Review Order has changed the closing debt base in FY 2018-19 to 2109.65 crores.

6.38. Under the present petition, RPSCL has admitted that it has computed the interest on loan component by considering weighted average rate of interest of project loan portfolio projected for FY 2019-20 to FY 2023-24. Under its rejoinder, RPSCL submitted that while in its petition, it had inadvertently stated that the interest rate has been considered basis weighted average rate of interest of project loan portfolio projected for FY 2019-20 to FY 2023-24, it has considered actual loan portfolio at the beginning of each financial year for FY 2019-20 to FY 2023-24.

6.39. Clause 24 (ii) of UPERC Generation Tariff Regulation, 2019 provided the basis for the computation of Interest on loan capital. The Commission accordingly determines the Interest on loans for the control period of FY 2019-20 to FY 2023. Clause 24 (ii) is reproduced below:

(ii) Interest on loan capital

(a) Interest on loan capital shall be computed loan wise on the loans arrived at in the manner indicated in these Regulations.

(b) The loan outstanding as on 1st April 2019 shall be worked out as the gross loan as per these Regulations minus cumulative repayment as admitted by the Commission up to 31st March 2019. The repayment for any financial year during the tariff Period shall be deemed to be equal to the depreciation allowed for that financial year.

In case of de-capitalisation 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 up to the date of de-capitalisation of such asset.

(c) The rate of the interest shall be the weighted average rate of interest calculated on the basis of actual loans at the beginning of each financial year and shall be adjusted based on actual loan each financial year accordingly.

(d) If there is no actual loan for a particular financial year but normative loan is still outstanding, the last available weighted average of interest shall be considered.

(e) The Generating company shall make every effort to re-finance the loan as long as it results in net benefit to the beneficiaries. The costs associated with such re-financing shall be borne by the beneficiaries and the net savings shall be shared between the beneficiaries and the generating company in the ratio of 50:50. The above facts shall be certified by statutory Auditor.

(f) The changes to the loan terms and conditions shall be reflected from the date of such re-financing and benefit passed on to the beneficiaries

(g) In case any moratorium period is availed of by the generating company, Depreciation provided for in the tariff during the years of moratorium shall be treated as repayment during those years and interest on loan capital shall be calculated accordingly.

(h) In case, the generating company has contracted floating/ variable rate of interest on loan resetting at certain interval of time the impact of change in rate of interest shall be assessed by the generating company on account of such resetting duly certified by statutory auditor and the capacity charge of the relevant financial year shall be adjusted for such impact and billed accordingly to beneficiary without approaching the Commission for change in tariff on this account.

Provided if the generating company does not have actual loan or have re-financed the loan resulting in no specific loan attributable to the generating station then the weighted average rate of interest of the generating company as a whole shall be considered.

Provided also in case of dispute, any party to such dispute may approach the Commission with proper application and it shall be ensured that the payment to the generating company is not withheld during pendency of the dispute.

6.40. **The Commission has considered the outstanding loan as of 1st April 2019 as the opening loan for FY 2019-20 and the repayment for the control period shall be equal to the depreciation allowed for the year. The Commission has considered the weighted average rate of interest of project loan portfolio as submitted by RPSCL. These rates would be subject to True-up at the time of True-up of FY 2019-24.**

Table 6 Interest on Loan as approved by the Commission (in Rs. Crore)

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
	Approved	Approved	Approved	Approved	Approved
Opening Balance	2109.66	1736.78	1363.91	991.03	618.15
Addition	0.00	0.00	0.00	0.00	0.00
Repayment	372.88	372.88	372.88	372.88	372.88
Closing Balance	1736.78	1363.91	991.03	618.15	245.28
Average Loan	1923.22	1550.35	1177.47	804.59	431.72
Interest Rate	10.39%	10.47%	10.63%	10.47%	9.39%
Interest on loan	199.82	162.32	125.16	84.24	40.54

2.3 Depreciation

Petitioner Submission

6.41. The Petitioner submitted that depreciation has been worked out in accordance with the Tariff Regulation and has been calculated on the opening level of GFA of FY 2019-20 as approved by the Commission in the True Up order dated 25.02.2022 as well as on the assets added during the year in the current control period.

Commission's Analysis and decision

6.42. The UPERC Generation Tariff Regulation, 2019 provides the following for the determination of Depreciation:

"24 (iii)Depreciation
For the purpose of tariff, depreciation shall be computed in the following manner, namely:
(a) 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 c elements thereof.

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.

(b) The value base for the purpose of depreciation shall be the capital cost of the asset as admitted by the Commission. In case of multiple units of a generating station weighted average life for the generating station shall be applied. Depreciation shall be chargeable from the first year of operation. In case of operation of the asset for part of the year, depreciation shall be charged on pro rata basis.

(c)The residual life 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. Land other than the land held under lease shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of asset.

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

(d) In case of new projects, depreciation shall be calculated annually, based on straight line method over the useful life of the asset and at the rates prescribed in Appendix III to these Regulations.

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.

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

(e) In case of the existing projects, the balance depreciable value as on 01.04.2019 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. The rate of depreciation shall be continued to be charged at the rate specified in Appendix III till cumulative depreciation reaches 70%. Thereafter the remaining depreciable value shall be spread over the remaining life of the asset such that the maximum depreciation does not exceed 90%.

(f) The generating company shall submit the details of proposed capital expenditure during the fag end of the project (five years before the completion

of useful life) 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.

(g) 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 decapitalized asset during its useful services."

6.43. The Commission for the purpose of calculation of depreciation has considered clause 24 (iii) UPERF Generation Regulation, 2019. The Commission applied depreciation rates as prescribed in appendix iii of the regulation based on the gross fixed assets and capitalization approved and worked out the depreciation accordingly.

Table 7 Depreciation approved by the Commission (in Crores)

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Opening GFA	6519.73	6519.73	6519.73	6519.73	6519.73
Closing GFA	6519.73	6519.73	6519.73	6519.73	6519.73
Average GFA	6519.73	6519.73	6519.73	6519.73	6519.73
Depreciation	5.72%	5.72%	5.72%	5.72%	5.72%
Depreciation	372.88	372.88	372.88	372.88	372.88

2.4 Operation & Maintenance Expense

Petitioner Submission

6.44. The Petitioner submitted that O&M expenses for the Control Period have been considered as per the O&M norms applicable for 300MW Unit as per Regulation 24 (iv) of the Tariff Regulations, 2019.

6.45. Furthermore, the Petitioner submitted that Regulation 33 allows it to claim Application fee and Statutory charges separately. Accordingly, the same has also been considered based on the actual cost incurred during FY 2019-20 to FY 2021- 22 and projection for FY 2022-23 to FY 2023-24.

Commission's Analysis and decision

6.46. In line with the Regulation 24 (iv) UPERC Tariff Regulation, 2019 the Commission has determined the Operation & Maintenance expense of the

Petitioner for the Control period of FY 2019-20 to FY 2023-24. The Statutory and Application fee.

Table 8 O&M approved by the Commission (in Rs. Crore)

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Normative O&M expenses	27.74	28.71	29.72	30.76	31.84
Installed Capacity	1200.00	1200.00	1200.00	1200.00	1200.00
O&M Expenses	332.88	344.52	356.64	369.12	382.08
Statutory Charge	0.00	0.00	0.00	0.00	0.00
Total O&M	332.88	344.52	356.64	369.12	382.08

2.5 <u>Interest on Working Capital</u>

Petitioner Submission

6.47. The Petitioner submitted that Interest on Working Capital (IoWC) has been computed in line with Regulation 24(v) of Tariff Regulations 2019 which provides detailed constituents comprising the Working Capital and interest thereof. Regarding interest rate, interest rate considered is MCLR+ 350 basis points prevailing as on 01.04.2019 as provided under Tariff Regulations 2019.

Commission's Analysis and decision

6.48. For computing cost of coal and secondary fuel oil, average energy charges for the months January 19, February 19 and March 19 have been considered. The methodology for the calculation of interest on Working capital is described in para 24(v) of the UPERC Generation Tariff Regulation, 2019. Para 24 (v) is reproduced below for the reference:

(V) Interest on Working Capital

(a) Working capital shall be allowed on a normative basis and for coal based generating stations shall include:

(i) Cost of coal towards stock for 10 days for pit-head generating stations and 20 days for non-pit head generating stations corresponding to the Target Availability or maximum coal stock storage capacity, whichever is lower.

(ii) Advance payment for 30 days towards Cost of coal for generation corresponding to the Target Availability.

(iii) Cost of Secondary fuel oil for two months corresponding to the target availability and in case of use of more than one secondary fuel oil stock for the

main secondary fuel oil,
(iv) Operation and maintenance expenses, including water charge for one month
(v) Receivables equivalent to 45 days of capacity charges and energy charges for sale of electricity calculated on the target availability

(b) The cost of secondary fuel in cases covered under sub-clauses (i) and (ii) of clause (a) of this regulation shall be based on the landed cost incurred (taking into account normative transit and handling losses) by the generating company and gross calorific value of the fuel "on as received" basis for the three months preceding the first month of the period for which tariff is to be determined and no fuel price escalation shall be provided during the tariff period.
(c) ....
(d) Rate of interest on working capital shall be on normative basis and shall be considered as the Bank Rate as on 01.04.2019 or as on 1st April of the year during the tariff period 2019-24 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.

(e) 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.

6.49. In line with the above regulation 25(v), the commission has approved the Interest on Working capital for the five-year control period, i.e. from FY 2019-20 to FY 2023-24.

Table 9 Interest on working Capital approved by the Commission (in Rs. Crore)

Interest on Working Capital	2019-20 Approved	2020-21 Approved	2021-22 Approved	2022-23 Approved	2023-24 Approved
Cost towards 20 daysCoal Stock	126.51	126.51	126.51	126.51	126.51
Advance Payment for 30 Days Coal	189.76	189.76	189.76	189.76	189.76
Cost of Secondary Fuel	3.65	3.64	3.64	3.64	3.65
O&M Expenses 1 Month	27.74	28.71	29.72	30.76	31.84
Maintenance Spares @20% O&M	66.576	68.904	71.328	73.824	76.416
Receivables 45 Days	444.11	441.11	438.17	434.70	430.48
Total Working Capital	858.34	858.63	859.12	859.19	858.65
Rate of Interest	12.05%	12.05%	12.05%	12.05%	12.05%
Interest on Working Capital	103.43	103.46	103.52	103.53	103.47

<u>Summary of fixed charges</u>

6.50. Based on the discussion in the above sections, the Annual Fixed Charges as approved in this MYT Order, subject to True-up, against AFC as claimed in the MYT Petition are tabulated below:

Table 10.1 Annual Fixed charge as claimed by the Petitioner (in Rs. Crore)

Particular	2019-20	2020-21	2021-22	2022-23	2023-24
Return on Equity	257.12	257.57	258.03	258.03	258.03
Interest on Loan	200.81	164.01	127.61	84.99	45.61
Depreciation	370.88	373.76	373.52	373.52	373.52
O & M Expense	337.30	346.64	358.88	371.75	384.76
Interest on Working Capital	105.39	105.43	105.49	105.50	105.44
Total	**1273.5**	**1247.41**	**1223.53**	**1195.33**	**1164.31**

Table 11.2 Annual Fixed charge approved by the Commission (in Rs. Crore)

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
	Approved	Approved	Approved	Approved	Approved
Return on Equity	250.37	250.37	250.37	250.37	250.37
Interest on Loan	199.82	162.32	125.16	84.24	40.54
Depreciation	372.88	372.88	372.88	372.88	372.88
O&M Expenses	332.88	344.52	356.64	369.12	382.08
Interest on Working Capital	103.43	103.46	103.52	103.53	103.47
Annual Fixed Charges	1259.38	1233.56	1208.58	1180.14	1149.34
Ex-bus energy Sent out @85% PLF (MU)	8198.11	8175.71	8175.71	8175.71	8198.11
Fixed charges per unit Rs./Kwhr	**1.54**	**1.51**	**1.48**	**1.44**	**1.40**

Representative Calculation of Variable Charges

6.51. Variable charge per unit of Generation – Variable charge per unit has been calculated for the purpose of calculation of normative working capital. Based on the operation norms provided in the UPERC (Terms and Conditions of Generation Tariff) Regulations, 2019 the variable charge per unit of generation for Rosa Power Station for the MYT period from FY 2019-20 to FY 2023-24 the variable charge per unit of generation has been arrived at based on the actual coal price for month of January 2019, February 2019 and March 2019 as submitted by the petitioner. The calculation shown below is representative of the variable cost calculation and has been used to arrive at some of the components of normative working capital.

Table 12 Variable Charge Projection approved by the Commission.

Particulars	Unit	2019-20	2020-21	2021-22	2022-23	2023-24
Capacity	MW	1200.00	1200.00	1200.00	1200.00	1200.00
PLF	%	85.00%	85.00%	85.00%	85.00%	85.00%
Gross Station Heat Rate	Kcal/kWh	2430.00	2430.00	2430.00	2430.00	2430.00
Auxiliary Energy Consumption	%	8.50%	8.50%	8.50%	8.50%	8.50%
Gross Generation	MU	8959.68	8935.20	8935.20	8935.20	8959.68
Auxiliary Energy Consumption	MU	761.57	759.49	759.49	759.49	761.57
Ex-Bus Energy sent out	MU	8198.11	8175.71	8175.71	8175.71	8198.11
Specific oil Consumption	ml/kWh	0.50	0.50	0.50	0.50	0.50
Wt. Avg. GCV of Oil	Kcal/Lt	9.40	9.40	9.40	9.40	9.40
Price of Oil	Rs./KL	48825.51	48825.51	48825.51	48825.51	48825.51
Wt. Avg. GCV of Coal	kCal/kg	4084.97	4084.97	4084.97	4084.97	4084.97
GCV of Primary Fuel less 85 Kcal/Kg on account of variation during storage	kCal/kg	3999.97	3999.97	3999.97	3999.97	3999.97
Price of Coal	Rs./MT	4261.5	4261.5	4261.5	4261.5	4261.5
Heat Contribution from SFO	Kcal/kWh	4.70	4.70	4.70	4.70	4.70
Oil Consumption	KL	4479.84	4467.6	4467.6	4467.6	4479.84
Heat Contribution from Coal	Kcal/kWh	2425.30	2425.30	2425.30	2425.30	2425.30
Specific Coal Consumption	kg/kWh	0.61	0.61	0.61	0.61	0.61
Coal Consumption	MMT	5.43	5.42	5.42	5.42	5.43
Total Oil Cost	Rs. Cr	21.87	21.81	21.81	21.81	21.87
Total Cost of Coal	Rs Cr	2315.07	2308.74	2308.74	2308.74	2315.07
Total Fuel Cost	Rs Cr	2336.94	2330.56	2330.56	2330.56	2336.94
Rate of Energy Charge from Secondary Fuel Oil ex-bus	Paise/kWh	2.67	2.67	2.67	2.67	2.67
Rate of Energy Charge from Coal ex-Bus	Paise/kWh	282.39	282.39	282.39	282.39	282.39
Rate of Energy Charge ex-bus	Paise/kWh	285.06	285.06	285.06	285.06	285.06

6.52. The Commission also observed that RPSCL is billing fixed charges for the period, so far covered in control period, from 1st April 2019 till date, @ fixed charges approved by the Commission vide its order dated 22.08.2017 and 25.04.2018 in Petition No 967/2014, 968/2014 & 1016/2015 and 1234/2017 wherein this Commission approved the MYT Tariff for the period from FY 2014-15 to FY 2018-19 in Petition No. 973 of 2014, 1036 to 1040 of 2015, 1079 to 1083 of 2016 respectively. <u>The yearly billed amount for FY 2019-24, till date, would depend upon the availability and energy scheduled during different months in the year.</u>

6.53. The carrying cost on the Multi Year Tariff amount for control period FY 2019-20 to FY 2023-24 shall be worked out till the date of order as per the prevailing Bank Rates in terms of Regulation 15(3) of the UPERC Tariff Regulations, 2019. In accordance with the UPERC Tariff Regulations the rate of interest for Carrying Cost shall be equal to the One Year Marginal Cost of Lending Rate (MCLR) of Interest as specified by State Bank of India as on 1st April of the respective year plus 350 basis points for control period 01.04.2019 till the date of order.

Above effective rates are as tabulated below:

Year	Effective Rate of Interest for respective FY
FY 2019-20	12.05%
FY 2020-21	11.25%
FY 2021-22	10.50%
FY 2022-23	11.90%

6.54. The over recovered amount; difference in monthly billing based on 2018-19 approved tariff as per UPERC Generation tariff Regulations, 2014 Vs that as approved in this Order as per UPERC Generation tariff Regulations, 2019 along with Carrying Cost till the date of this Order, in terms of Regulation 15(3), shall be payable by RPSCL to UPPCL in six monthly instalments starting from the next billing cycle.

OTHER PROVISION

RECOVERY OF APPLICATION FEE AND STATUTORY CHARGES

7.1. In addition to the above tariff the Petitioner shall be allowed to recover the payment of statutory charges like electricity duty, water cess, payment to Pollution Control Board, and Regulatory Fee paid to the Commission, on the production of details of actual payments made and duly supported with the certificate of the Statutory Auditors in accordance with Regulation 33 of UPERC Generation Tariff Regulation, 2019.

SHARING OF BENEFITS

7.2. Financial gains shared between the Petitioner and Beneficiaries in accordance with Regulation 34 of UPERC Generation Tariff Regulation, 2019.

INCENTIVE

7.3. Incentive to all thermal power stations shall be at flat rate of 65 Paise/kWh for ex-bus scheduled energy corresponding to scheduled generation in excess of ex-bus energy corresponding to target plant load factor.

REBATE

7.4. For payment of bills of capacity charges and energy charges beneficiaries shall be eligible for rebate in accordance with Regulation 37 of UPERC Generation Tariff Regulation, 2019.

LATE PAYMENT SURCHARGE

7.5. For late payment of bills of capacity and energy charges beneficiaries shall pay late payment surcharge in accordance with the Regulation 38 of the Generation Tariff Regulation 2019.

With the above directions, the Petition is disposed of.

(Vinod Kumar Srivastava) **Member (Law)**	**(Raj Pratap Singh)** **Chairman**

Place: Lucknow
Date: 16.05.2023