

lakh towards the publication in the newspapers, allowed to be recovered as per the provisions of HPERC (Conduct of Business Regulations) 2005.

The Petitioner has claimed variation in O&M expenses based on the changes in escalation rates calculated from actual WPI and CPI indices. The MYT Order dated 29.06.2019, considered an escalation factor of 3.88% for the calculation of O&M costs, as per Schedule XI of the PPA. For truing up of O&M expense, the Petitioner has considered latest available indices - WPI index with base year 2011-12 and actual CPI index for industrial workers with base year 2016, for the escalation of O&M expenses in the True-Up Petition.

For the purpose of O&M expenses on the additional cost approved by the Commission for ICF facility, escalation has been considered as per ICF Agreement dated 08.05.2003 entered with Satluj Jal Vidyut Nigam Limited.

- e. In the MYT Order dated 29.6.2019, the Commission has assumed normative plant availability of 90%, subject to truing up exercise. The Petitioner has claimed Incentive for higher Plant Availability, as per the actual plant availability of 97.32%, 96.92% and 97.15% for the FY 2019-20, FY 2020-21 & FY 2021-22 respectively. The Petitioner has submitted jointly signed statement of plant availability between the Petitioner and HPSEBL. In accordance with PPA, the incentive for higher plant availability is calculated at 0.35% of equity component of the Capital Cost for each percentage increase over and above normative level of 90% of Plant Availability level subject to a maximum of 2% Return on Equity, each year i.e., Rs. 9.83 Cr. each year.
- f. In the MYT Order dated 29.6.2019, the Commission had assumed Nil Secondary Energy, subject to truing up exercise. The Petitioner has claimed Incentive for Secondary Energy, as per the actual energy of 127.53 MU, 90.85 MU & 99.12 MU delivered in FY 2019-20 FY 2020-21 & FY 2021-22 respectively as per joint statement signed by the Petitioner & HPSEBL. As per the terms of PPA, incentive for Secondary Energy has been worked out by Petitioner using the formula $(\text{Secondary Energy (MU)} \times 10\% \text{ ROE}) / 155\text{MU}$, subject to maximum of 10% ROE. Accordingly, incentive for Secondary Energy of Rs. 40.45 Cr., Rs. 28.81 Cr. and Rs. 31.43 Cr. has been claimed.
- g. The Commission had approved Interest on Working Capital in MYT order dated 29.06.2019 based in AFC excluding incentive for higher plant availability and incentive for Secondary Energy. Uniform SBI PLR rate of 13.80% was considered for all 5 years of the control period. Interest on Working Capital claimed in True-Up is including incentive for higher plant availability and incentive for Secondary Energy in line with the True up order dated 07.07.2020 and based upon the actual SBI PLR prevailing as on 1st April of the respective financial year.
- h. ITRs for FY 2019-20 & 2020-21 filed by the Petitioner reflect that tax liability has been worked out based on the normal tax rate provisions and MAT credit is

utilized. Accordingly, the Petitioner has claimed tax on income as per clause 8.11.1 of the PPA for FY 2019-20 & 2020-21. Since the Commission has considered MAT rate in MYT order dated 29.6.19 for FY 2021-22 to FY 2023-24, income tax is calculated as per MAT rate for FY 2021-22. Because of a change in law, the Petitioner has billed TCS (Tax Collected at Source) equal to 0.1 per cent of the sale consideration exceeding Rs. 50 lakh.

Details of Mid-Term Review

2.6 The details of the Total Annual Charges claimed by the Petitioner for Mid-Term Review of FY 2022-23 and FY 2023-24 are as under:

Table 6: Summary of Mid-Term review filed by Petitioner for FY23 to FY24 (Rs. Cr.)

	As per Petitioner		MYT approved	
	FY23	FY24	FY23	FY24
Capacity Charges				
Interest on Outstanding Loan	0.29	0.25	0.34	0.29
Depreciation + AAD	70.45	70.45	70.46	70.46
Application Fees	0.24	0.05	0.05	0.05
Publication Expenses	-	-	-	-
Total Capacity Charges	70.97	70.74	70.85	70.80
Primary Energy Charges				
O&M Expenses	53.40	57.64	49.13	51.10
Return on Equity	78.64	78.64	78.65	78.65
Interest on Working Capital	6.00	6.19	6.73	6.83
Sub- Total Primary Charges	138.04	142.47	134.51	136.58
Incentive and Taxes				
Income tax claimed/true up	21.99	22.12	27.12	27.28
Change in Law: TCS new prov.	-	-	-	-
Incentive for Higher Plant Availability	-	-	-	-
Incentive for Secondary Energy	-	-	-	-
Sub-Total Incentive and taxes	21.99	22.12	27.12	27.28
Total Annual Fixed Charges (AFC)	230.99	235.33	232.48	234.66

2.7 The explanations provided by the Petitioner, for variations in Annual Charges approved and claimed in Petition for Mid Term Review for FY 2022-23 and FY 2023-24, are summarized below.

- a. Interest on loans has been calculated based on the actual rate of interest applicable in FY 2022-23 for the loans availed by the Company.

- b. Depreciation & advance against depreciation has been considered for FY 2022-23 and 2023-24 based on the methodology adopted by the Commission during approval of MYT Order for the period 2019-24.
- c. O&M expenses for FY 2022-23 and FY 2023-24 have been worked out in accordance with the clause no. 8.7.2 of PPA considering the WPI and CPI index for FY 2021-22.
- d. Return on Equity for FY 2022-23 and FY 2023-24 are the same as approved by Commission in MYT Order dated 29.6.2019.
- e. Interest on Working Capital for FY 2022-23 and FY 2023-24 has been calculated as per provisions of clause no. 8.7.4 of the PPA.
- f. Tax on Income for FY 2022-23 and FY 2023-24 has been calculated at applicable MAT rate, considered in MYT Order dated 29.6.2019.
- g. Tariff filing fees of Rs 18.75 lakh paid for current True-Up Petition has been considered in FY 2022-23.

3. COMMENTS/ OBJECTIONS FILED BY STAKEHOLDERS

Introduction

- 3.1 The Commission published a Public Notice inviting the interested parties/stakeholders to file their objections and suggestions on the Petition by 21.02.2023. Comments were received from only the HPSEBL in response to the notice of the Commission.
- 3.2 A public hearing in the Petition was held on 07.03.2023 in the Commission where the stakeholder and the Petitioner were heard. The stakeholder's suggestions/ comments and the Commission's stand on the same are summarized in this chapter.

Bills Net amount paid by HPSEBL

Stakeholder's Comments:

- 3.3 It is submitted that payment shown to be made by HPSEBL are after availing rebate allowed in terms of the provisions of the PPA, whereas the total amount raised in bills before availing the rebate for the respective year need to be considered in the True-Up.

Petitioner's Reply:

- 3.4 The Petitioner in the revised submissions dated 19.12.2022 in respect of calculations of revenue surplus/(gap), has considered billed amounts before availing rebate by the HPSEBL.

Commission's view:

- 3.5 The Commission taking cognizance of the comments, has considered billed amounts before availing rebate by the HPSEBL, for the purpose of True-Up in this Order. This is also in line with the methodology followed in previous True-Up Orders. The approved workings/ figures are detailed out in subsequent chapter of this Order.

Tax on Income

Stakeholder's Comments:

- 3.6 Tax on Income claimed by the Petitioner for FY2020-21 is Rs.47.16 crore which is significantly high. The Commission may examine the documentary proof of advance tax paid by the Company and may consider the Income tax liability to the extent of Baspa II generation business for the respective financial year.

Petitioner’s Reply:

3.7 The Petitioner has submitted that tax liability for FY 2020-21 has been worked out using normal tax rate provisions and utilizing MAT credit, as per clause 8.11.1 of PPA. The Petitioner has submitted copies of Advance Tax challan receipts and Audited Accounts of Baspa II HEP, to support its claim.

Commission’s view:

3.8 The Commission taking cognizance of the comments has carried out independent analysis for the tax on income claimed by the Petitioner as detailed in subsequent chapter of this Order.

Incentive on Secondary Energy and Incentive on higher Plant Availability Factor

Stakeholder’s Comments:

3.9 The generation during the FY2019-20 to FY 2021-22 has been above the annual Design Energy and accordingly incentive on Secondary Energy and Incentive on Higher Plant Availability have been paid by the HPSEBL to the Petitioner for the respective year.

Petitioner’s Reply:

3.10 The Petitioner has submitted that it has claimed Incentive on Secondary Energy and Incentive on higher Plant Availability, as per provisions of the PPA.

Commission’s view:

3.11 The Commission has independently analyzed Petitioner’s submissions of ‘Jointly reconciled statement with the HPSEBL for billing and payments’, and has considered accordingly in the True-Up exercise, as detailed in subsequent chapter of this Order.

Capital Cost exclusion of Kharcham Wangtoo-Jhakri Transmission line

Stakeholder’s Comments:

3.12 The Petitioner had filed the Status Report on 27.07.2020 in compliance to the directives given in Baspa II MYT Order dated 29.06.2019. The HPSEBL submits that due cognizance may be taken of the Status Report.

Petitioner’s Reply:

3.13 The Petitioner has submitted that after passing of the Order dated 07.07.2020, the Petitioner duly filed a Status Report dated 05.08.2020, with the Commission.

Petitioner has also submitted that vide letter dated 27.02.2023, the Petitioner has sent a communication to Northern Regional Power Committee (NRPC), outlining the issues with a request to include the same as an agenda item in the upcoming Operational Coordination Sub-Committee (OCC) meeting.

Commission's view:

- 3.14 The Commission takes note of the fact that appropriate action has not been taken by the Petitioner with respect to exclusion of the capital cost of Kharcham Wangtoo - Jhakri Transmission line after it has been identified that the transmission line is part of inter-state network and cost of the same should not be included under the Baspa II HEP tariff. The Commission has detailed its observations in Chapter 4 of this Order.

4. ANALYSIS OF THE TRUE-UP PETITION

Introduction

- 4.1 This Chapter deals with the analysis of the True-Up Petition filed by the Petitioner for the period FY 2019-20 to FY 2021-22 for sale of energy from BASPA II HEP to HPSEBL.
- 4.2 The Commission has finalized this Order based on the analysis and prudence check of the Petition/ additional submissions/ clarifications submitted by the Petitioner in response to the queries of the Commission. Various parameters and their computation has been undertaken after giving due consideration to the Power Purchase Agreement signed between Petitioner and HPSEBL.

Computation of Tariff

- 4.3 As per the PPA, the tariff for the energy generated by Baspa II HEP comprises of:
- (a) Capacity Charges
 - (b) Primary Energy Charge
 - (c) Incentive for Secondary Energy
 - (d) Incentive for Higher Plant Availability
 - (e) Tax on Income

Capacity Charge

- 4.4 The capacity charge as per Clause 8.6 of the PPA is a sum of:
- (a) Interest on outstanding loan due during the tariff year, as per the loans approved by the Commission while approving the project cost;
 - (b) Depreciation and Advance Against Depreciation for the tariff year as per the Clause 8.6.5 of the PPA; and
 - (c) Leasing Charges.

Primary Energy Charge

- 4.5 The primary energy charge as per Clause 8.7 of the PPA is a sum of:
- (a) Operations and maintenance charges computed as per Clause 8.7.2 of the PPA;
 - (b) Return on equity computed as per Clause 8.7.3 of the PPA on the equity component approved by the Commission.

- (c) Interest on Working Capital as per Clause 8.7.4 of the PPA; and
- (d) Other miscellaneous charges as defined under Clause 8.7.5 of the PPA.

Incentive for Secondary Energy

4.6 The incentive for Secondary Energy has been calculated as per Clause 8.9 of the PPA and has been detailed in relevant section of this Order.

Incentive for Higher Plant Availability

4.7 The incentive for higher plant availability has been calculated as per the Clause 8.10 of the PPA and has been detailed in relevant section of this Order.

Tax on Income

4.8 The tax on income has been computed as per Clause 8.11 of the PPA and is discussed in detail in the relevant section of this Order.

Energy Generation from the plant

4.9 Schedule IX-A of the PPA provides the details of Gross Energy/ Design Energy of the plant which is 1213.18 MU per annum. As per the Clause 8.12 of the PPA, the net saleable energy from the plant shall be equal to 88% (after excluding 12% of free energy to the Government of Himachal Pradesh) of the energy worked out by deducting:

- (a) 0.5% auxiliary consumption
- (b) 0.5% transformation losses
- (c) 0.65% transmission losses

4.10 The net saleable energy has been considered by the Commission in accordance with Schedule IX of the PPA, as shown below:

Table 7: Net Saleable Energy (as per Design Energy) for BASPA II HEP

Particulars		Unit	Values
Design Energy	A	MU	1213.18
Auxiliary Consumption	B	%	0.50%
Transformation losses	C	%	0.50%
Transmission loss to grid	D	%	0.65%
Share of Available Power	E	%	88.00%
Net Saleable Energy	$A*(1-B-C)*(1-D)*E$	MU	1050.06

4.11 The Commission has considered the actual generation of energy and plant availability for each year, based on the joint statement issued by the Petitioner and the HPSEBL, which is detailed in the table below:

Table 8: Actual Energy Generation and Plant Availability for FY 20 to FY 22

Particulars	Item	FY 20	FY 21	FY 22
		Actual	Actual	Actual
Generation of Energy (MUs)				
Available Energy	A	1,338.17	1,296.49	1,305.89
Saleable Energy	B=A*0.88	1,177.59	1,140.91	1,149.18
Primary Energy	C	1,050.06	1,050.06	1,050.06
Secondary Energy	D=B-C	127.53	90.85	99.12
Plant Availability (%)				
Normative	E	90.00%	90.00%	90.00%
Actual	F	97.32%	96.92%	97.15%

Capital Cost

4.12 The Commission had passed an Order dated 24.02.2007 approving the Capital Cost of the Baspa II 300 MW Hydro Electric Project at Rs.1533.96 Crore for the purpose of determination of tariff. Thereafter, the Commission has allowed additional capitalization/ de-capitalization for the project as follows:

- The Commission approved additional Capital Cost of Rs 95.88 Cr. vide Order dated 24.01.2011.
- Further, the Commission vide Order dated 06.06.2014 has approved the additional Capital Cost of Rs. 2.57 Cr for the Project.
- The Commission has also approved additional Capital Cost of Rs. 6.58 Cr. for year FY 2018-19, vide Order dated 29.06.2019.

4.13 In accordance with the various orders as mentioned above, the Capital Cost as on 31.03.2019 is worked out to be Rs. 1638.99 Cr.

Additional Capitalization

4.14 In the MYT order dated 29.06.2019, the Commission has allowed additional capitalization of Rs 1.59 crore for the implementation of FGMO/ RGMO for three (3) generating units, against decapitalization of old assets worth Rs. 2.07 crore. The Commission has also mentioned in the MYT order that the final Capital Cost for implementation of FGMO/ RGMO would be considered at the time of Truing-Up for the respective years based on prudence check.

4.15 The Petitioner has now filed for True-Up of this additional capital expenditure, claiming actual additional capital expenditure of Rs. 1.4173 Cr. incurred for installation and commissioning of FGMO/ RGMO for all three units of the Project. To support its claim, the Petitioner has provided documentary evidence of final invoices and commissioning certificates from OEM (M/s Andritz Hydro Pvt. Ltd.).

- 4.16 The Commission also directed the Petitioner to provide details with respect to procurement and implementation of FGMO/ RGMO across the three units. In response, the Petitioner has submitted that competitive bidding was followed for selection of OEM for implementation of FGMO/ RGMO in one of the units of the Plant. Further, the Petitioner has submitted that the balance work of installation of FGMO/ RGMO in the remaining two units was extended to the same OEM in view of the critical nature of activity and in order to maintain the system uniformity across all three units.
- 4.17 The Commission has observed that the amount of capital expenditure as per invoices submitted by the Petitioner, adds up to Rs. 1.4173 Cr, which is lower than the amount initially allowed by the Commission in MYT Order. Accordingly, based on the prudence check of the documentary evidences submitted by the Petitioner, the Commission has allowed following unit wise additional Capital Cost and commissioning date, for True-Up for FY 2019-20 to FY 2021-22:

Table 9: Trued-up Additional Capitalization

Units	Additional Capital Cost for FGMO/ RGMO (Rs. Cr.)		Commissioning date
	Petitioner submission	Commission approved	
Unit #1	0.48	0.48	16.02.2022
Unit #2	0.40	0.40	28.01.2021
Unit #3	0.53	0.53	22.04.2019
Total	1.42	1.42	

- 4.18 The Petitioner has considered a de-capitalization of Rs. 2.07 Cr. (Rs. 0.69 Cr. for each unit) against the proposed additional capitalization. This is same as approved by the Commission in MYT Order date 29.06.2019. Accordingly, the Commission has also considered for True-Up in this order, the de-capitalization of Rs. 0.69 Cr. for each unit.
- 4.19 Based on the discussions above, the year-on-year Capital Cost approved by the Commission is as follows:

Table 10: Trued-up Capital Cost for the Project (Rs. Cr.)

Particulars	Item	FY 20	FY 21	FY 22
Opening Balance of Capital Cost	A	1,638.99	1,638.83	1,638.55
Additional Capitalization	B	0.53	0.40	0.48
Decapitalization	C	-0.69	-0.69	-0.69
Closing Balance of Capital Cost	D=A+B+C	1,638.83	1,638.55	1,638.34

- 4.20 The Petitioner has stated in the submission that no loan was taken by the Petitioner for additional capitalization of FGMO/ RGMO installation and that all the funding was made from internal accruals. Accordingly, in accordance with Regulation 16 of HPERC Generation MYT Tariff Regulations 2011, the Commission has considered 70:30 debt to equity ratio for the funding of the trued-up capital expenditure. Also, considering that no debt was outstanding as per the tariff

principles considered by the Commission in its previous Orders, other than the normative loans for additional capitalization (as discussed under Para 4.39 of MYT Order dated 29.06.2019), the debt outstanding towards the decapitalized assets has been considered as nil.

Table 11: Trued-up funding pattern for the Capital Cost (Rs. Cr.)

Particulars	Item	FY 20	FY 21	FY 22
Capital Cost	A	1,638.823	1,638.55	1,638.34
Debt	B	1,147.29	1,147.18	1,146.99
Equity	C	491.65	491.57	491.50

Capital Cost exclusion of Karcham Wangtoo-Jhakri transmission line

- 4.21 In its Order dated 08.12.2017 in the Petition No. 29 of 2017, the Commission has discussed the matter of excluding Capital Cost of Baspa Jhakri LILO transmission line at Wangtoo from the overall Capital Cost of BASPA II HEP as under:-

"17. We are, therefore, of the considered opinion that the CTU, the CEA and NLDC are the necessary parties, the Petition without impeading them is not maintainable, and further in light of the forgoing discussion and the Hon'ble CERC Order dated 07.05.2015, since the parties themselves have agreed as per the undertaking of M/s JPVL, for LILO of Baspa-Jhakri 400kV D/C Transmission Line at Wangtoo, final decision for metering arrangement for Baspa-II HEP energy and payment of transmission charges, etc. by the concerned agencies shall be taken by the Appropriate Regulatory Commission. Accordingly, after decision of Appropriate Commission, a Supplementary Agreement is to be entered into between HPSEBL and M/s JPVL. "

- 4.22 Further in Order dated 31.10.2018 in Petition No. 21 of 2018, the Commission has stated as follows:

'3.8 As also mentioned in the Order, the matter is required to be taken up with inclusion of necessary parties to the appropriate Commission. Until an Order is issued by the Appropriate Commission on this matter, the Capital Cost of Baspa Jhakri LILO transmission line at Wangtoo cannot be excluded from the overall Capital Cost of BASPA II HEP. The Petitioner along with HPSEBL are required to discuss the future steps to be undertaken in this regard within three months of issuance of this Order and update the Commission.'

- 4.23 The Petitioner has failed to comply with the directive issued by the Commission in order dated 31.10.2018 and accordingly the Commission in Order dated 29.06.2019 provided additional three months time to both the parties to take action in the matter and decide the future steps.

- 4.24 However, no action was taken by the Petitioner. Consequently vide Order dated 07.07.2020, the Commission again directed the parties to undertake suitable measures and provide a status report within one month.
- 4.25 The Petitioner provided the status report on the matter to the Commission on 27.07.2020. The Status report mentions that the Petitioner held meetings with the HPSEBL to discuss the matter on 02.09.2019 and 12.12.2019. In the Status Report, the Petitioner has requested the Commission to advise methodology for the recovery of loss of ARR, if Tariff approved by CERC is substantially low as against the Tariff being allowed under HPERC Tariff Regulations.
- 4.26 In regard to the Status Report provided by the Petitioner, the Commission observes that it is neither under the purview nor under the powers of this Commission to comment on the impact of Order by any other Commission. Once the Order has been issued by the Appropriate Commission, the Commission may consider all the facts in the matter for appropriate adjustment of the cost.
- 4.27 The Commission has already discussed the matter in detail in Orders dated 08.12.2017 and 31.10.2018(ibid).
- 4.28 The Commission further asked the Petitioner to clarify the reasons for not filing the Petition on the matter of Capital Cost exclusion of Karcham Wangtoo – Jhakri portion of Baspa Jhakri Transmission Line before the CERC. In response, the Petitioner in its reply dated 02.03.2023 stated that to the best of the Petitioner's understanding, the Commission in the earlier directions nowhere directed the Petitioner to file a Petition before the CERC. Further, the Petitioner stated that it has written a letter to Northern Regional Power Committee (NRPC) on 27.02.2023 to include the agenda for Capital Cost of Wangtoo Jhakri Transmission Line in the next OCC meeting and once the issue is taken up, the Commission shall be informed / approached for necessary orders/ directions in this respect.
- 4.29 Until the matter is clarified and an Order is issued by the Appropriate Commission, the Commission feels that at this stage it is inappropriate to exclude the Capital Cost of Baspa Jhakri LILO transmission line at Wangtoo from the overall Capital Cost of Baspa II HEP. In spite of several observations of the Commission made in the previous Orders, the Petitioner has failed to undertake suitable measures to resolve the issue and file a separate Petition with the Appropriate Commission for determination of capital cost and tariff against the said Transmission Line. It is made clear that the responsibility of filing of the separate Petition against the Karcham Wangtoo – Jhakri portion of Baspa Jhakri Transmission Line before the CERC rests solely with the Petitioner as the asset is owned by the Petitioner. Therefore, the Commission directs the Petitioner to file the requisite Petition with Appropriate Commission (i.e. CERC in this case) within three months of issuance of this Order else the Commission shall be constrained to disallow the cost of this transmission asset on notional basis from the next financial year i.e. FY 2024-25 onwards. Also, the Commission shall ensure that cost recovered through tariff from HPSEBL over the period since declaration of the asset as interstate would be

adjusted in the next tariff order with carrying cost as applicable from time to time. The Petitioner is directed to update the Commission regarding the filing of the Petition with the Hon'ble CERC.

Interest on Loans

- 4.30 In order to calculate the interest on loans, the outstanding loan balances and the applicable interest rates for FY 2019-20 to FY 2021-22 have been considered based on prudence check undertaken by the Commission.
- 4.31 Repayment of all Domestic and Foreign Loans for Baspa II HEP (except for Normative Loan 2, Normative Loan 3 and Normative Loan 4) had been completed before the start of 4th control period of FY 2019-20 to FY 2023-24.
- 4.32 While approving the interest for these normative loans in the MYT Order dated 29.06.2019, the Commission had considered the interest rate of 9.10% per annum for FY 2019-20 to FY 2021-22, which was average of the actual loans prevalent for the project.
- 4.33 The Petitioner in the True-Up Petition has submitted rate of interest of 9.26%, 8.34% and 8.07% for FY 2019-20, FY 2020-21 and FY 2021-22 respectively, as per actual loan portfolio availed by the Company.
- 4.34 Regulation 17(2) of HPERC Generation MYT Tariff Regulation 2011 (as amended) states as under:-

"(2) The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio at the beginning of each year applicable to the project:

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

Provided further that if the generating station, does not have actual loan, then the weighted average rate of interest of the generating company as a whole shall be considered:

Provided further that if the generating company does not have actual loan, then one (1) Year State Bank of India (SBI) MCLR / any replacement thereof as notified by RBI for the time being in effect applicable for one (1) Year period, as may be applicable as on 1st April of the relevant Year plus 200 basis points shall be considered as the rate of interest for the purpose of allowing the interest on the normative loan.";

- 4.35 Accordingly, based on the prudence check of the documentary evidences submitted by the Petitioner for its actual loan portfolio, the Commission observes

and approves following year on year rate of interest for normative loans of Baspa II HEP:

Table 12: Trued-up Rate of Interest for Loans

Particulars	FY 20	FY 21	FY 22
Rate of Interest			
As per Petitioner's submission	9.26%	8.34%	8.07%
Average interest rate as per Audited Accounts	10.67%	9.84%	10.76%
SBI MCLR (as on 1 st April) + 300 basis points	10.55%	9.75%	9.00%
Approved in MYT Order dated 29.06.2019	9.10%	9.10%	9.10%
Approved now by Commission for True-Up	9.26%	8.34%	8.07%

Normative Loan-2

4.36 The Commission had approved a normative loan of Rs. 1.80 Crore in the MYT Order dated 06.06.2014 for meeting the debt requirement for payment of 6th provisional bill raised by SJVNL towards ICF. Loan repayment tenure of 11 years was considered against the normative loan.

4.37 The Commission has continued with the closing balance approved for this loan in the previous True-Up Order for FY 2018-19, and calculated interest on loan as per approved interest rate as provided in the table below:

Table 13: Normative Loan-2 Interest Trued Up for FY20 to FY22 (Rs. Cr.)

Particulars	FY 20	FY 21	FY 22
Opening balance	0.32	0.14	-
Addition	-	-	-
Principal Repayment	0.18	0.14	-
Closing Balance	0.14	-	-
Interest Rate	9.26%	8.34%	-
Approved Interest	0.02	0.004	-

Normative Loan-3

4.38 The Commission had approved a normative loan of Rs. 1.11 Crore in the MYT Order dated 29.06.2019 for meeting the debt requirement of implementing FGMO/ RGMO. The Commission has trued-up this amount of loan now, as per trued-up additional capitalization as discussed under section 'Capital Cost' of this Order, as follows:

Table 14: Trued-up Loan addition for FGMO/ RGMO installation (Rs. Cr.)

Particulars	Item	FY 20	FY 21	FY 22
Trued-up Additional Capitalization	A	0.53	0.40	0.48
Debt funding required Additional Capitalization (with 70:30 Debt to Equity ratio)	A*0.70	0.37	0.28	0.34

- 4.39 Loan repayment tenure of 11 years is considered, separately for each year's addition to the normative loan.
- 4.40 In accordance with the trued-up loan amount and interest rate, the interest on loan for normative loan 3 is calculated as follows:

Table 9: Normative Loan-3 Interest Trued Up for FY20 to FY22 (Rs. Cr.)

Particulars	FY 20	FY 21	FY 22
Opening balance	0.00	0.34	0.56
Addition	0.37	0.28	0.34
Principal Repayment	0.03	0.06	0.09
Closing Balance	0.34	0.56	0.81
Interest Rate	9.26%	8.34%	8.07%
Approved Interest	0.016	0.04	0.06

Normative Loan-4

- 4.41 The Commission had approved a normative loan of Rs. 4.61 Crores in the MYT Order dated 29.06.2019 for meeting the debt requirement of Rs. 6.58 Crores additional capitalization approved by Arbitral Tribunal vide Order dated 21.06.2018. Tenure of 11 years was considered against the normative loan.
- 4.42 The Commission has continued with the closing balance approved for this loan in the previous True-Up Order for FY 2018-19, and calculated interest on loan as per approved interest rate as provided in the table below:

Table 10: Normative Loan-4 Interest Trued Up for FY20 to FY22 (Rs. Cr.)

Particulars	FY 20	FY 21	FY 22
Opening balance	4.29	3.87	3.45
Addition	-	-	-
Principal Repayment	0.42	0.42	0.42
Closing Balance	3.87	3.45	3.04
Interest Rate	9.26%	8.34%	8.07%
Approved Interest	0.38	0.31	0.26

Total Interest and Repayment

- 4.43 The following table depicts the total interest and repayment trued-up for FY 2019-20 to FY 2021-22:

Table 15: Total Interest and Repayments Trued Up for FY 20 to FY 22 (Rs. Cr.)

Particulars	FY20	FY21	FY22
Total Interest Payment	0.41	0.35	0.32
Total Repayments	0.63	0.62	0.51

Depreciation and Advance Against Depreciation (AAD)

- 4.44 The Commission has trued-up the depreciation and advance against depreciation for the years FY 2019-20 to FY 2021-22 as per Clause 8.6.5.1 of the PPA as detailed below:

Table 16: Trued Up Depreciation and AAD for FY20 to FY24 (Rs. Cr.)

Particulars		FY 20	FY 21	FY 22
1/12th of the Loans	A	95.60	95.58	95.57
Repayment of the Loans as considered for working out Interest on Loan	B	0.63	0.62	0.51
Minimum of the Above	C=Min(A,B)	0.63	0.62	0.51
Less: Depreciation during the year	D	70.47	70.47	70.46
	E=C-D	-69.84	-69.85	-69.95
Cumulative Repayment of the Loan as considered for working out Interest on Loan	F	1168.57	1169.18	1169.69
Less: Cumulative Depreciation	G	1203.26	1235.38	1305.83
	H=F-G, limited to '0'	0.00	0.00	0.00
Opening Cumulative AAD	I	38.35	0.00	0.00
Advance Against Depreciation	J= Max (Min. of E & H), -I)	-38.35	0.00	0.00
Closing Cumulative AAD	K = I + J	0.00	0.00	0.00
Depreciation + AAD	L = (D + J)	32.12	70.47	70.46

Operations and Maintenance Expenses

- 4.45 The Commission in the MYT Order dated 29.06.2019 had computed the O&M charges as per clause 8.7.2 of the PPA, which allows for O&M escalation at weighted average of WPI and CPI indices, 11th year onwards after COD. The clause 8.7.2 of the PPA states that:

"Operation and maintenance charges including Insurance expenses for the initial tariff year shall be calculated at the rate of 1.25% (one and a quarter percentage) of the Capital Cost. These charges shall be escalated for each year subsequent to the initial tariff year, every year by 6% (compounded annually) for the first ten tariff years. Thereafter the escalation for each year shall be computed as per the formula given in Schedule XI"

- 4.46 The Part B of the Schedule XI of the PPA which deals with escalation in O&M charges reads as under:

“The rate of Escalation in operation and maintenance charges shall be worked out for each tariff year after the expiry of first ten year, as per the following formula in terms of section 8.7.2

$$\text{Percentage rate of annual escalation} = \left(0.3 \times \frac{W_1 - W_0}{W_0} + 0.7 \times \frac{L_1 - L_0}{L_0} \right) \times 100\%$$

Where

W_1 = Index Number of wholesale prices in India (All Commodities) (1981-82 = 100), as published by reserve bank of India (R.B.I), for the month of march of the financial year for which annual escalation to be worked out

W_0 = Index Number of wholesale prices in India (All Commodities) (1981-82 = 100), as published by reserve bank of India (R.B.I), for the month of march immediately preceding the financial year for which annual escalation is to be determined

L_1 = Consumer price index for Industrial Workers (All India) (1981-82 = 100), as published by reserve bank of India (R.B.I), for the month of march of the financial year for which annual escalation to be worked out

L_0 = Consumer price index for Industrial Workers (All India) (1981-82 = 100), as published by reserve bank of India (R.B.I), for the month of march immediately preceding the financial year for which annual escalation is to be determined

Note: i) Pending determination of annual rate of escalation for such tariff years for which annual escalation is to be allowed on actual basis as per section 8.7.2 on the basis of above formula, the rate of escalation worked out for the 12 months period ending on last day of the month of December immediately preceding the relevant tariff year on similar basis shall be adopted on provisional basis for purpose of section 8.14. Final adjustment on this account shall be made as soon as the published indices for the month of March of that tariff year become available.”

4.47 In the MYT Order dated 29.06.2019 for the Control Period FY 2019-20 to FY 2023-24, the Commission had taken note of the following:

“4.52 As per the provision of PPA, the CPI and WPI index to be considered for computation of escalation rate should be of 1981-82 series as published by the RBI. However, it is observed that the 1981-82 series of CPI and WPI indices have been discontinued. In the previous MYT Order dated 06.06.2014 for the Control

Period FY 2014-15 to FY 2018-19, the Commission had taken 2004-05 base year series of the WPI and 2001 base year series of the CPI.

4.53 It is observed that the 2004-05 base year series of WPI has also been discontinued now. Therefore, in this Order, the Commission has considered 2011-12 base year series of the WPI and 2001 base year series of the CPI in line with the proposal of the Petitioner for projection of O&M expenses”

- 4.48 The Commission observes that the CPI and WPI series used in the MYT Order dated 29.06.2019 have been discontinued by RBI. Accordingly, the Commission in this True-Up order has used CPI series with Base Year 2016 and WPI Series with Base Year 2011-12.
- 4.49 CPI for Industrial Workers with Base Year 2016 was published by RBI from Sep 2020 onwards. However, as per Part B of the Schedule XI of the PPA, CPI for the month of March 2020 is required, to calculate the percentage change year on year. Accordingly, in line with the proposal of Petitioner, the Commission has adjusted the CPI of Mar 2020 with base year 2001, for base year of 2016.
- 4.50 The table below summarizes the computation of escalation factor as per the provisions of the PPA:

Table 17: WPI and CPI considered along with O&M escalation factor for FY20 to FY22

Particulars	FY19	FY20	FY21	FY22
WPI All Commodities (base year 2011-12)				
For the month of March	119.9	120.4	129.9	148.9
Change		0.42%	7.89%	14.63%
CPI for Industrial Workers (Base year 2001)				
For the month of March	309	326	NA	NA
Change		5.50%	NA	NA
CPI for Industrial Workers (Base year 2016)				
For the month of March	NA	119	120	126
Change	NA	NA	0.89%	5.35%
Escalation factor		3.98%	2.99%	8.13%

- 4.51 The Commission has computed the O&M expense as per the provisions of the PPA using the escalation factor calculated above and the approved Capital Cost (including approved and trued-up additional capitalization in this Order, adjusted for decapitalization), after excluding the cost of ICF for which the O&M is computed as per the agreement with SJVNL.

- 4.52 With respect to the O&M expenses being paid by the Petitioner to SJVNL for the Inter Connection Facility (ICF), the Commission in MYT Order dated 29.06.2019 had approved additional O&M expenses of 0.25% towards ICF from the date of commissioning of the project as per the methodology used in previous Orders, along with carrying cost for respective years.
- 4.53 As per the copies of SJVNL bills submitted by Petitioner, GST of 18% is applicable during FY 2019-20 to FY 2020-22. Accordingly, the Commission has considered GST on the O&M cost for ICF as 18%.
- 4.54 The total trued-up O&M expenses for the Control Period FY 2017-18 to FY 2018-19 are detailed in table below:

Table 18: Trued-Up O&M Expenses for FY 20 to FY 22 (Rs. Cr.)

Particulars	FY 20	FY 21	FY 22
Base O&M Expenses (excluding additional capitalization & ICF facility)	39.73	40.90	44.20
Add: O&M expense towards additional capitalization approved	4.37	4.51	4.80
Add: Service Charge on ICF O&M Expenses	0.40	0.42	0.43
Total O&M Expenses Approved	44.50	45.82	49.44

Return on Equity (RoE)

- 4.55 As per the Clause 8.7.3 of the PPA:

"Return on Equity for each tariff year from the initial tariff year onwards will be calculated at a per annum rate of 16% (sixteen percent) of the equity component of the Capital Cost as per approved financial package. The return on equity for the tariff period and the last tariff year shall be worked out on proportionate basis for actual number of days for which such return on equity is to be determined."

- 4.56 The Commission has, therefore, allowed RoE at 16% on the approved gross equity of BASPA II HEP under the Section 'Capital Cost' of this order, as follows:

Table 19: Return on Equity for FY20 to FY22 (Rs. Cr.)

Particulars	FY20	FY 21	FY 22
Closing Balance of Equity	491.65	491.57	491.50
Rate Of Return	16%	16%	16%
Return on Equity	78.66	78.65	78.64

Interest on Working Capital

4.57 As per clause 8.7.4 of the PPA:

“Interest on Working Capital shall be accounted for at the SBI lending rate as applicable from time to time for the secured loans. For this purpose the Working Capital shall consist of: -

- i) The Operation and Maintenance (O&M) charges for one month:*
- ii) Maintenance spares at actual but not exceeding one year’s requirement less value of one fifth of initial spares already capitalized. The value of maintenance spares for one year requirement shall be taken as 12% of the O&M charges for that tariff period/ tariff year.*
- iii) Receivables equivalent to two months of average billing for sale of electricity*

4.58 The rate of interest for calculating the interest on Working Capital has been taken as per the SBI PLR as on 1st April of the respective year for FY 2019-20 to FY 2021-22 as shown in table below:

Table 20: Trued Up Interest on Working Capital for FY 2019-20 to FY 2021-22 (Rs. Cr.)

Particulars	FY 20	FY 21	FY 22
1/12th of O&M Expenses	3.71	3.82	4.12
Maintenance Spares 12% of O&M Expenses	5.34	5.50	5.93
Receivables equivalent to 2 months average billing	38.36	48.00	44.57
Total Working Capital	47.41	57.32	54.62
<i>Rate of Interest</i>	13.80%	12.90%	12.15%
Interest on Working Capital	6.54	7.39	6.64

Incentive for Secondary Energy

4.59 The computation of incentives has been detailed in the Clause 8.9 of the PPA on “Incentive for Secondary Energy” and Clause 8.10 of the PPA on “Incentive on Account of Higher Plant Availability”.

4.60 As per the Clause 8.9.1 of the PPA:

“The per unit rate for saleable Secondary Energy (i.e. 88% of the Secondary Energy available at interconnection point at Jhakri) shall be calculated by dividing 10% return on equity with normative saleable Secondary Energy amounting to 155 MU at Jhakri. The charges for the saleable Secondary Energy for any tariff year shall not exceed 10% Return on Equity...”

- 4.61 The Commission in the MYT Order dated 29.06.2019 had assumed nil Secondary Energy, subject to truing up exercise. The Petitioner has claimed Incentive for Secondary Energy, as per the actual energy delivered in period FY 2019-20 to FY 2021-22 and has submitted jointly signed statement of energy delivered to the HPSEBL.
- 4.62 Considering this energy delivered by BASPA II HEP to HPSEBL, the Commission has calculated the incentive for Secondary Energy as per the terms of clause 8.9.1 of the PPA, as detailed hereunder:

Table 21: Trued-up Incentive for Secondary Energy for period FY20 to FY22

Particulars	FY 20	FY 21	FY 22
Equity (Rs. Cr.)	491.64	491.56	491.50
Incentive Limit (10% of Equity) (Rs. Cr.)	49.16	49.16	49.15
Rate for Secondary Energy (10% of Equity/155 MU)	3.17	3.17	3.17
Secondary Energy Generation (MU)	127.53	90.86	99.13
Incentive on Secondary Energy (Rs. Cr.)	40.45	28.81	31.43

Incentive for Higher Plant Availability

- 4.63 Further, as per the Clause 8.10 of the PPA, the incentive towards higher plant availability factor is required to be computed as below:

"In case the Plant Availability level in a Tariff year, as determined in accordance with Schedule I, exceeds the normative level of 90%, the Company shall be entitled to an incentive at the rate of 0.35% of Equity component of the Capital Cost as per the approved financial package for each percentage increase in plant availability above 90% normative level during the year when plant availability is more than 90%. The amount of this incentive payable for any tariff year shall not exceed 2% Return on Equity. The ceiling for the initial and last tariff period shall be worked out on pro-rata basis. Incentive shall be payable at the end of each tariff year/ tariff period."

- 4.64 The Commission in the MYT Order dated 29.06.2019 had assumed normative plant availability and thereby nil incentive for higher plant availability, subject to truing up exercise. The Petitioner has claimed Incentive for Higher Plant Availability, as per the actual availability of the plant. The Petitioner has submitted jointly signed statement of plant availability by HPSEBL.
- 4.65 The Commission, for the Control Period, has considered actual plant availability for approval of incentive on higher plant availability which is given in the table below:

Table 22: Trued Up Incentive on Higher Plant Availability for FY20 to FY22

Particulars	FY 20	FY 21	FY 22
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Particulars		FY 20	FY 21	FY 22
Normative Plant Availability (%)	a	90.00	90.00	90.00
Actual Plant Availability (%)	b	97.32%	96.92%	97.15%
Higher Plant Availability (%)	c=b-a	7.32%	6.92%	7.15%
Equity (Rs. Cr.)	d	491.64	491.56	491.50
Incentive for higher plant availability (0.35% of Equity) (Rs. Cr.)	e=0.35%*c*d	12.60	11.91	12.30
Incentive limit of 2% of Equity (Rs. Cr.)	f=2%*d	9.83	9.83	9.83
Incentive (Rs. Cr.)	min (e,f)	9.83	9.83	9.83

Income Tax

- 4.66 As per Clause 8.11 of the PPA, the Tax on Income is payable as an expense to the Petitioner by the HPSEBL. Clause 8.11.1 states:

"Income Tax payable by the Board shall be determined by considering the income to the company on account of ROE (not exceeding 16%), depreciation/ advance against depreciation as applicable, and 50% of income on account of incentives as per Section 8.9 and 8.10, in respect of the project as per income tax law. Rebate on account of depreciation and any other rebate/ exemption admissible under law shall be considered for the purpose of calculation on tax liability of the Board.

Under no circumstances tax liability payable by the Board shall be more than income tax actually payable by the Company.

No Income tax shall be payable by the Board on any other income accrued to the Company."

- 4.67 In the MYT Order dated 29.06.2019, the Commission had calculated tax for BASPA II HEP using MAT rates for FY 2019-20 to FY 2021-22. This was based on Petitioner's MYT filling that Karcham Wangtoo HEP (another plant under M/s JSW Hydro Energy Limited) was availing tax holiday. In its Petition, the Petitioner has claimed Income Tax as per normal tax rate for FY 2019-20 and FY 2020-21, while as per MAT rate for FY 2021-22 as follows:

Table 23: Income Tax claimed by Petitioner (Rs. Cr.)

Particulars	FY 20	FY 21	FY 22
Taxable Income	110.25	143.60	117.59
Tax rate (%)	34.94%	34.94%	17.47%
Tax liability	38.53	50.18	20.55
Advance tax paid (Challans & TDS)	16.54	47.16	44.84
Lower of MAT/Tax and actual tax paid	16.54	47.16	20.55

- 4.68 The Commission directed the Petitioner to clarify if Karcham Wangtoo HEP was still availing tax holiday or not. In response, the Petitioner replied that the tax is paid at entity/Company level and not at unit/plant level. The Petitioner stated that it has paid tax under normal tax rate as evident from the ITRs filed for FY 2019-20 and FY 2020-21. The Petitioner further stated that during FY 2021-22, following True-Up Order by CERC dated 17.03.2022 for Karcham Wangtoo HEP, the Company's income increased and accordingly MAT provisions were applicable instead of normal tax rate.
- 4.69 The Commission observes from the ITR copies of the Petitioner that tax deduction (as per Section 80-IA of Income Tax Act) was availed by M/s JSW Hydro Energy Limited in all three years of FY 2019-20 to FY 2021-22. However, in spite of this deduction, in FY 2019-20 and FY 2020-21, the tax liability on Petitioner as per normal tax rate was higher than tax liability as per MAT rates. But in FY 2021-22, the tax liability on Petitioner as per normal tax rate turned out to be lower than tax liability as per MAT rates.
- 4.70 In line with the submission of the Petitioner, as well as supporting documents regarding the same for True-Up under this Order, the Commission has calculated Income Tax for BASPA-II HEP using normal tax rate of 34.94% (30% Corporate Tax plus 12% Surcharge and 4% Cess) for FY 2019-20 and FY 2020-21 and MAT rate of 17.47% (15% MAT Rate plus 12% Surcharge and 4% Cess) for FY 2021-22.
- 4.71 The Tax amounts for FY 2019-20 and FY 2020-21 are calculated using formula as per Clause 8.11.1 of PPA. For FY 2021-22, the Commission has computed the income tax using methodology approved by Hon'ble Appellate Tribunal for Electricity vide Order dated 21.10.2011 for MAT calculations in Appeal No. 39/10 (also followed by the Commission in its previous True-Up orders and proposed by the Petitioner in its filing).
- 4.72 Further the Commission has allowed the lower of tax amount calculated and the actual tax paid by the Petitioner as per Audited Accounts of BASPA-II HEP.
- 4.73 Accordingly, the Commission now approves the trued-up Income Tax for BASPA-II HEP for the period FY 2019-20 to FY 2020-21, using methodology as per PPA, as follows:

Table 24: Trued-up Income Tax for FY 20 to FY 21 (Rs. Cr.)

Particulars	FY 20	FY 21
Return on Equity	78.66	78.65
50% of Incentive for Secondary Energy	20.23	14.41
50% of Incentive for higher plant availability	4.92	4.92
Add: Depreciation	32.12	70.47
Subtract: Income tax depreciation	25.69	24.85
Taxable Income	110.24	143.59

Particulars	FY 20	FY 21
Tax Rate	34.94%	34.94%
Income Tax calculated	38.52	50.18
Actual Tax as per Audited Accounts of BASPA II HEP	17.31	46.50
Approved Tax (Lower of Tax calculated and actual Tax paid as per Audited Accounts)	17.31	46.50

- 4.74 Further the Commission now approves the trued-up Income Tax for BASPA-II HEP for FY 2021-22, using methodology as approved by Hon'ble APTEL in its Order dated 21.10.2011 as follows:

Table 25: Trued-up Income Tax for FY 22 (Rs. Cr.)

Particulars	FY 22
Total Revenue (A)	218.82
Expenses	
O&M	29.94
Interest	37.12
Depreciation	34.17
Total Expenses (B)	101.23
Profit Eligible for MAT (C=A-B)	117.59
MAT Rate (D)	17.47%
MAT Calculated (D*C)	20.55
Actual Tax as per Audited Accounts of BASPA II HEP	22.98
Approved Tax (Lower of MAT calculated and actual Tax paid as per Audited Accounts)	20.55

Note: Figures for revenue and expense items are as per Audited Accounts of BASPA II HEP for FY 2021-22

Application fee and publication expense

- 4.75 The Petitioner has claimed following application fee and publication expenses:
- Tariff application fees of Rs. 15 lakh paid towards the True up Petition of FY 2017-18 and FY 2018-19 (Petition No. 6 of 2020), which was deferred by the Commission vide Order dated 07.07.2020, to be allowed during true up of FY 2019-20.
 - An amount of Rs 6.89 lakh, incurred during FY 2019-20 by the Petitioner towards newspaper publication of salient features of the True up of FY 2017-18 and FY 2018-19 (Petition No. 6 of 2020).
 - Application fee of Rs. 5.00 lakh per year for the MYT period FY 2019-20 to FY 2023-24, approved by the Commission in Tariff Order dated 29.06.2020.
 - Publication expense of Rs. 6.09 lakh for MYT Petition of FY 2019-20 to FY 2023-24.

- Application fees of Rs. 18.75 lakh in FY 2022-23, borne for the present True-Up/ MTR Petition of period FY 2019-20 to FY 2023-24.

4.76 Based on the review of the supporting documentary evidence provided by the Petitioner, the Commission has allowed the aforementioned amounts towards application fee and publication expenses, as follows:

Table 26: Trued-up Application Fee and Publication Expense (Rs. lakh)

Particulars	FY20	FY21	FY22	FY23	FY24
For True-Up of FY18 to FY19:					
Application Fees	15.00	-	-	-	-
Publication Expense	6.89	-	-	-	-
For MYT of FY20 to FY24:					
Application Fees	5.00	5.00	5.00	5.00	5.00
Publication Expense	6.09	-	-	-	-
For True-Up/ MTR of FY20 to FY24:					
Application Fees	-	-	-	18.75	-
Publication Expense	-	-	-	-	-
Total allowed by Commission:					
Application Fees	0.20	0.05	0.05	0.24	0.05
Publication Expense	0.13	0.00	0.00	0.00	0.00

TCS as per Change in Law

- 4.77 The Petitioner has claimed a new expense item against Tax Collected at Source (TCS). The Petitioner has stated that Finance Act 2020 inserted a new section 206C (1H) for TCS. The Petitioner claimed that it has paid TCS on all the receipts received from beneficiary, and credit by way of Form 27D has been given to beneficiary. The Petitioner further stated that since TCS is paid on behalf of beneficiary, its recoverable on account of this change in law.
- 4.78 The Petitioner further submitted that Section 206C(1H) of the Income Tax Act became applicable from 1.10.2020 for TCS (@ 0.1%) by seller and Section 194Q of the Income Tax Act became applicable from 1.07.2021 for TDS (@ 0.1%) by buyer. Accordingly, Petitioner has billed TCS for the period 1.10.2020 to 30.6.2021 u/s 206C(1H) of the Income Tax Act. Later, HPSEBL has been deducting TDS u/s 194Q of the Income Tax Act w.e.f. 1.7.2021, hence Petitioner stopped charging TCS in subsequent energy bills.
- 4.79 On account of this change in law, Petitioner has billed Tax collected at source (TCS) effective from 1.10.2020 and paid by the Respondent, in terms of the Clause 20.21 of PPA, as follows:

Table 27: TCS claimed by Petitioner (Rs. Lakh)

Particulars	FY 20	FY 21	FY 22
TCS claimed by Petitioner	-	11.77	7.58

4.80 The Commission takes cognizance of Section 206C(1H) of Finance Act 2020 and allows the amount of TCS as additional expense item. Since this amount is considered on expense as well as revenue side, the impact is neutral on the overall revenue surplus/gap. However, the Commission observes that the amount of TCS claimed by the Petitioner is different from the TCS amount reflected in the 'Jointly reconciled statement with HPSEBL for billing & payments for FY 19-20 to 21-22'.

4.81 The Commission has allowed the expense towards TCS, as per 'Jointly reconciled statement with HPSEBL for billing & payments for FY 19-20 to 21-22', as follows:

Table 28: Trued-up TCS amount for FY20 to FY22 (Rs. Lakh)

Particulars	FY 20	FY 21	FY 22
TCS approved, as per jointly reconciled statement with HPSEBL	-	11.77	5.74

Annual Fixed Charge for BASPA II HEP

4.82 The total Annual Fixed Charges for the BASPA-II, with the components of the capacity charges, primary energy charges and incentives and taxes trued-up as detailed in the previous Sections in this chapter, are summarized below:

Table 29: Summary of Trued-up Annual Fixed Charge for FY20 – FY22 (Rs. Cr.)

Particulars	As per MYT Order			As per Petitioner			Trued-up by Commission		
	FY20	FY21	FY22	FY20	FY21	FY22	FY20	FY21	FY22
Capacity Charges									
Interest on outstanding loans	0.42	0.40	0.38	0.41	0.35	0.32	0.41	0.35	0.32
Depreciation + AAD	32.12	70.46	70.46	32.13	70.45	70.45	32.12	70.47	70.46
Application fee	0.05	0.05	0.05	0.20	0.05	0.05	0.20	0.05	0.05
Publication expense	0.06			0.13		0.00	0.13	0.00	0.00
Sub-total	32.65	70.91	70.89	32.87	70.85	70.81	32.87	70.86	70.82
Primary Energy Charges									
O&M Charges	43.68	45.42	47.23	44.51	45.84	49.47	44.50	45.82	49.44
Return on Equity	78.66	78.66	78.65	78.66	78.65	78.64	78.66	78.65	78.64
Interest on Working Capital	5.34	6.53	6.62	6.53	7.41	6.64	6.54	7.39	6.64
Sub-total	127.68	130.61	132.50	129.70	131.90	134.75	129.71	131.86	134.71
Incentives and Taxes									
Incentive for Sec. Energy	-	-	-	40.45	28.81	31.43	40.45	28.81	31.43
Incentive for High Plant Avail.	-	-	-	9.83	9.83	9.83	9.83	9.83	9.83
Change in law: TCS provision	-	-	-	-	0.12	0.08	-	0.12	0.06
Tax	18.34	26.78	26.95	16.54	47.16	20.55	17.31	46.50	20.55

Particulars	As per MYT Order			As per Petitioner			Trued-up by Commission		
	FY20	FY21	FY22	FY20	FY21	FY22	FY20	FY21	FY22
Sub-total	18.34	26.78	26.95	66.82	85.92	61.89	67.60	85.26	61.87
Total Annual Fixed Charges	178.67	228.30	230.34	229.39	288.67	267.45	230.17	287.99	267.40

Amount Payable by the Board

- 4.83 From the 'Jointly reconciled statement with the HPSEBL for billing & payments for FY 19-20 to 21-22', the Commission observes that a significant outstanding amount is to be paid by the HPSEBL to Petitioner for the bills raised, especially for FY 2020-21. This outstanding is primarily towards the tax invoices raised by the Petitioner against which partial amounts have been paid by the HPSEBL. In response to the queries of the Commission, the Petitioner clarified that the outstanding as per jointly reconciled statement for FY 2019-20 to FY 2021-22 are still outstanding.
- 4.84 Accordingly, the Commission has considered the amount received by the Petitioner, by adding the amounts paid by the HPSEBL along with rebates availed and TDS amount deducted by HPSEBL, as provided below:

Table 30: Amount received by Petitioner to HPSEBL for FY20 to FY 22 (Rs. Cr.)

Particulars (as per Jointly Reconciled Statement)	FY 20	FY 21	FY 22
Amount Paid by HPSEBL (incl. TCS)	224.63	262.99	269.33
Plus: Rebate availed by HPSEBL	2.29	2.34	2.20
Plus: TDS deducted by HPSEBL	0	0.01	0.12
Total	226.92	265.33	271.66

- 4.85 The computations of the revenue surplus / gap as per the trued-up ARR and revenue billed is shown in the following Table:

Table 31: Approved Revenue Surplus/ (Gap) by the Commission (Rs. Cr.)

Particulars	FY 20	FY 21	FY 22	FY23
Total Annual Fixed Charges	230.16	287.99	267.40	-
Amount Paid by HPSEBL	226.92	265.33	271.66	-
Revenue Surplus/ (Gap)	-3.25	-22.66	4.25	-
Opening Surplus / (Gap)	0.00	-3.43	-27.58	-25.87
Surplus / (Gap) for the year	-3.25	-22.66	4.25	0.00
Closing Balance of Surplus / (Gap)	-3.25	-26.09	-23.33	-25.87
Average Balance	-1.62	-14.76	-25.45	-25.87
<i>Interest Rate</i>	11.16%	10.07%	10.00%	10.79%
Interest	-0.18	-1.46	-2.55	-2.79
Closing Balance of Surplus / (Gap)	-3.43	-27.58	-25.87	-28.66

- 4.86 The Commission directs the Petitioner/ the HPSEBL to adjust/ pay the amount of closing balance of arrears at the end of FY 2022-23 within three months of issuance of this Order.

5. ANALYSIS OF THE MID TERM REVIEW PETITION

- 5.1 As part of the Petition filed, the Petitioner has also proposed review of the ARR for FY 2022-23 and FY 2023-24 considering the base year as FY2021-22.
- 5.2 In accordance with the trued-up figures for FY 2019-20 to FY 2021-22 as approved by the Commission in this Order, the Commission now determines the revised ARR for FY 2022-23 and FY 2023-24 (subject to be trued up later) basis following assumptions:
- (i) No additional capitalization/ de-capitalization is requested by the Petitioner under Mid-Term Review. Accordingly, the closing balance of Capital Cost for FY 2021-22 (along with same funding pattern), as trued-up by the Commission in this Order, is continued for the period of FY 2022-23 and FY 2023-24.
 - (ii) Loan schedule for ongoing loans of Normative Loan 3 and Normative Loan 4 are prepared using same repayment amount and interest rate as of FY 2021-22, as trued-up by the Commission in this Order.
 - (iii) Depreciation for FY 2022-23 and FY 2023-24 is calculated as per Clause 8.6.5.1 of the PPA.
 - (iv) O&M expenses for FY 2022-23 and FY 2023-24 has been worked out in accordance with the Clause no. 8.7.2 of PPA, considering average of escalation factors of FY 2019-20 to FY 2021-22 i.e. 5.03%, as trued-up by the Commission in this Order. Average escalation factor is considered as the escalation factor for last trued-up year FY 2021-22 was significantly higher than previous trend.
 - (v) The Commission has allowed RoE at 16% on the approved gross equity of BASPA II HEP for FY 2022-23 and FY 2023-24.
 - (vi) Interest on Working Capital for FY 2022-23 and FY 2023-24 has been calculated as per provisions of Clause no. 8.7.4 of the PPA. The rate of interest for calculating the interest on Working Capital has been taken as the SBI PLR as on 1st April 2022 i.e. 12.30%.
 - (vii) No incentive for Secondary Energy or higher plant availability is considered for FY 2022-23 and FY 2023-24 by the Petitioner in its Petition. The Commission has also not considered any Secondary Energy generation for the purpose of approval of the ARR/ Tariff. The incentive for Secondary Energy generation shall be billed by the Petitioner to the HPSEBL as per the actual

generation in the applicable tariff for each year in accordance with the provisions of the PPA and the Commission shall true up the same at the end of the Control Period.

- (viii) Income tax is calculated using formula as allowed under the PPA, using MAT rate as approved for FY 2021-22.
- (ix) Application fees of Rs. 18.75 lakh borne for this True-up/ MTR Petition of period FY 2019-20 to FY 2023-24 is allowed in FY 2022-23. Also Application fee of Rs. 5.00 lakh per year for FY 2022-23 to FY 2023-24 is allowed, as approved by the Commission in Tariff Order dated 29.06.2020.

Table 32: Summary of approved Mid-Term Review for FY23 and FY24 (Rs. Cr.)

Particulars	As per MYT Order		As per Petitioner		MTR by Commission	
	FY23	FY24	FY23	FY24	FY23	FY24
Capacity Charges						
Interest on outstanding loans	0.34	0.29	0.29	0.25	0.29	0.25
Depreciation + AAD	70.46	70.46	70.45	70.45	70.45	70.45
Application fee	0.05	0.05	0.24	0.05	0.24	0.05
Publication expense	-	-	0.00	0.00	0.00	0.00
Sub-total	70.85	70.80	70.97	70.74	70.98	70.75
Primary Energy Charges						
O&M Charges	49.13	51.10	53.40	57.64	51.95	54.60
Return on Equity	78.65	78.65	78.64	78.64	78.64	78.64
Interest on Working Capital	6.73	6.83	6.00	6.19	6.01	6.13
Sub-total	134.51	136.58	138.04	142.47	136.60	139.36
Incentives and Taxes						
Incentive for Sec. Energy	-	-	-	-	-	-
Incentive for High Plant Avail.	-	-	-	-	-	-
Change in law: TCS provision	-	-	-	-	-	-
Tax	27.12	27.28	21.99	22.12	21.99	22.12
Sub-total	27.12	27.28	21.99	22.12	21.99	22.12
Total Annual Fixed Charges	232.48	234.66	230.99	235.33	229.56	232.23

Impact of Water Cess

5.3 The Governor of Himachal Pradesh has promulgated 'The Himachal Pradesh Water Cess on Hydro Power Generation Ordinance 2023' (Ordinance No. 2 of 2023) on 15.02.2023. As per the Ordinance, 'Himachal Pradesh State Commission for Water Cess on Hydro Power Generation' shall be established for fixation and recovery of water cess on water drawn by hydro power generating stations. Further, the 'Jal Shakti Vibhag' vide notification dated 16.02.2023 has determined the rates for water cess, under Section 17(1) of the said Ordinance 2 of 2023.

- 5.4 The Petitioner in the additional submission dated 02.03.2023 has claimed the issuance of this Ordinance as change in law event as per PPA and claimed additional expense of upto Rs. 34.93 Crore annually on account of Water Cess. The amount has been estimated by the Petitioner as follows:

*Design Energy 1213 MUs * water consumed for one-unit generation 0.16 Cubic meter per second * 60 Seconds * 60 Minutes * 1000 * Rs. 0.50 per cubic meter = Rs 34.93 crores*

- 5.5 The Commission takes a note of the submission made by the Petitioner. However, as per letter dated 29.03.2023, the Secretary (Power), GoHP has informed the Commission that the State Government has decided in principle to neutralize the impact of Water Cess on HPSEBL Consumers. Therefore, the exact impact of same can only be determined when the GoHP clarifies on the mechanism for providing support i.e. as rebate to the HPSEBL or waiver to generators supplying 100% of power generated to the HPSEBL. Therefore, the Commission shall consider the impact of the water cess at the time of True-Up for FY 2022-23 and FY 2023-24, based on the methodology used by Himachal Pradesh State Commission for Water Cess on Hydro Power Generation and mechanism adopted by GoHP to support the additional impact on HPSEBL.

**-Sd-
(Shashi Kant Joshi)
Member**

**-Sd-
(Yashwant Singh Chogal)
Member (Law)**

**-Sd-
(Devendra Kumar Sharma)
Chairman**

Place: Shimla

Dated: 16-May-2023