

**ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
PLOT NO. 4, CHUNAKOLI, SHAILASHREE VIHAR,
BHUBANESWAR-751021

Present : Shri G. Mohapatra, Officiating Chairperson
Shri S. K. Ray Mohapatra, Member

Case No.112 of 2023

Date of Hearing : 30.01.2024 (at 3.00 P.M)

Date of Order : 13.02.2024

IN THE MATTER OF: Application for approval of Generation Tariff for FY 2024-25 for OPGC (Units 1&2) under Sections 62 & 86 of the Electricity Act, 2003 read with OERC (Terms & Conditions for Determination of Generation Tariff) Regulation, 2020 and OERC (Conduct of Business) Regulation, 2004.

And

Case No.99 of 2023

IN THE MATTER OF: Application for recovery of additional expenditure incurred between FY 2016-17 and FY 2022-23, and to be incurred on a recurring basis by OPGC Units 1 & 2, and 3 & 4 of IB TPS Phase-I & Phase-II in terms of ash utilization expenses consequent to Ministry of Environment, Forest & Climate Change, GoI (MoEF) Notifications dated 25.01.2016 & 31.12.2021.

ORDER

PROCEDURAL BACKDROP (Para 1 to 11)

The petitioner, Odisha Power Generation Corporation (OPGC) Ltd has filed an application before the Commission for determination of Generation Tariff of its 420MW (2X 210MW) of IB Thermal power stations for the financial year 2024-25. OPGC Ltd. is a “Generating Company” within the meaning of Sec.2 (28) of the Electricity Act, 2003 (herein after referred as ‘the Act’). The present petition has been filed for determination of generation tariff for FY 2024-25 by the Commission in accordance with the principles already laid down by the Hon’ble Apex Court. after withdrawal of Special Leave Petition (Civil) Nos. 6812-13 of 2005 from the Hon’ble Apex Court which arises out of the judgment of the

Hon'ble High Court of Orissa in OJC No.13338 of 2001. The said Hon'ble Court vide their judgment dated 19.04.2018 had directed as follows:

“6. We are of the view that the Commission vide their order dated 27.04.2015 on the joint application of the parties dated 26.02.2014 rightly fixed the tariff but the view taken in subsequent order dated 21.03.2016 which has been upheld on appeal is unsustainable.

7. Accordingly, we set aside the impugned order and remand the matter to the State Commission for fresh decision. The State Commission may take into account the Notification dated 21.06.2008 for the fixed costs, the PPA for the variable costs specified therein and for other costs not reflected in the PPA, statutory Regulations may be applied.

8. The appeal shall stands disposed of as indicated above.

9. The parties may appear before the State Commission for further proceedings on 02.07.2018.”

Accordingly, the Commission has been determining ARR & Generation Tariff of OPGC from FY 2016-17 onwards as per the direction of the Hon'ble Apex Court.

2. Under the existing legal set up, GRIDCO Ltd. is drawing power from the generating stations of OPGC Ltd. and delivering it to the Distribution Licensees of Odisha.
3. As per Regulation 61(2) of the OERC (Conduct of Business) Regulations, 2004, a Generating Company is required to file an application by 30th November of each year to the Commission for determination of tariff for any of its generating stations, for sale of energy in the State of Odisha giving details of costs associated with the generation and sale of energy from the generating stations.
4. In compliance to the above Regulation of the Commission, OPGC Ltd. has filed an application on 29.11.2023 under Sections 62 & 86 of the Electricity Act, 2003 read with OERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2014 as amended from time to time and Regulation 61 (2) of the OERC (Conduct of Business) Regulations, 2004 for determination of Generation Tariff for FY 2024-25 of Unit-I & II of IB Thermal Power Stations having installed capacity of 420 MW (2x210 MW).
5. After due scrutiny and admission of the aforesaid application, the Commission had directed OPGC Ltd. to publish its application in the approved format. In compliance to the same; public notice was given in leading and widely circulated newspaper on 16.12.2023 and was also posted in the Commission's website, in order to invite objections/suggestions from the general public. The applicant was also directed to file its rejoinder to the objections/suggestions filed by the objectors. In response to the aforesaid public notice the Commission received 3 number of objections from the following persons /organizations:

- (1) Shri Ramesh Ch. Satpathy, Secretary, National Institute of Indian Labour & President, Upobhokta Mahasangha, Plot No.302(B), Beherasahi, Nayapalli, Bhubaneswar-751012, (2) Shri Soumya Ranjan Patnaik, S/o-Late Brajabandhu Patnaik, MLA, Khandapada, Plot No. 185, VIP Colony, Nayapalli, Bhubaneswar-15, (3) The Managing Director, GRIDCO Ltd., Janapath, Bhubaneswar-22.
6. The date of hearing was fixed on 30.01.2024 at 3.00 P.M and was duly notified in the leading and widely circulated newspapers mentioning the list of Objectors. The Commission also issued individual notice to the Objectors and the Department of Energy, Government of Odisha informing them about the date and time of hearing through hybrid mode.
 7. Shri Manas Ranjan Rout, Director and Shri Haresh Kumar Satapathy, Addl.GM (C&RA) of the Petitioner OPGC Ltd.; Sri Sandeep Guha Nujogi, the Representative of WISE, the Consumer Counsel; Shri Ramesh Ch. Satpathy, Secretary, National Institute of Indian Labour & President, Upobhokta Mahasangha; Shri Anand Kumar Mohapatra, the Representative of Shri Soumya Ranjan Patnaik, Hon'ble MLA, Khandapada; Shri Bijay Kumar Das, Sr. G.M & Ms. Susmita Mohanty, DGM of GRIDCO; and Ms. Sonali Pattnaik, Manager (Legal), DoE, Government of Odisha were present during tariff hearing through hybrid mode and their written submissions filed before the Commission being taken on record were considered by the Commission. The Applicant submitted its reply to the issues raised by various objectors during hearing.
 8. In exercise of the power under Section 94(3) of the Electricity Act, 2003 and with a view to protecting the interest of the consumers, the Commission had appointed World Institute of Sustainable Energy (WISE), Pune as Consumer Counsel for objective analysis of the applicant's petition for determination of generation tariff proposal for its different power stations for the financial year 2024-25. The Consumer Counsel presented views on the matter during the hearing.
 9. The Commission convened the State Advisory Committee (SAC) meeting on 07.02.2024 at 11.00 A.M. to discuss the application for determination of generation tariff proposal of the generating company for FY 2024-25. The Members of SAC presented their valuable suggestions and views on the matter for consideration of the Commission.
 10. The applicant-OPGC has filed another application for recovery of additional expenditure on account of ash transportation and ash utilization already incurred by the applicant for FY 2016-17 upto FY 2022-23 of its Units- 1 & 2 and from FY 2019-20 to FY 2022-23 of its Unit- 3 & 4 generating units and to be incurred on recurring basis consequent to the

notification of Ministry of Environment, Forest and Climate Change, Govt. of India. The application was registered as Case No.99 of 2023. The Commission had directed M/s OPGC to issue public notice inviting objections/suggestions from the public on its application in widely circulated newspaper. Accordingly, the public notice was published in the newspaper and kept in the website of the Commission and of the applicant.

11. Three objectors namely, Sri Ramesh Chandra Satapathy, Sri Soumya Ranjan Patnaik and Managing Director, GRIDCO have submitted their views on the application of M/s OPGC registered as Case No.99 of 2023. The rejoinder to the above objections has also been filed by the applicant. The Commission had earlier on 07.11.2023 decided that since that application of OPGC has financial impact in terms of tariff on the consumers of the state, the matter would be heard analogously with the Generation tariff application of M/s OPGC for FY 2024-25. Accordingly, the Case No.99 of 2023 was heard by the Commission on 30.01.2024 at 3.00 PM analogously with Case No.112 of 2023. The applicant-OPGC and all the objectors were present.

OPGC's PROPOSAL FOR DETERMINATION OF GENERATION TARIFF FOR THE FY 2024-25 (Para 12 to 41)

12. Odisha Power Generation Corporation Limited (herein after referred as "OPGC") is a company incorporated under the Companies Act, 1956 having its registered office at Zone-A, 7th floor, Fortune Towers, Chandrasekharpur, Bhubaneswar, Odisha-751023. GRIDCO Limited ("GRIDCO") had entered into Bulk Power Supply Agreement with OPGC on August 13, 1996, for purchase of power from its Generating Units 1 & 2 of IB Thermal Power Station, having installed capacity of 420 MW (210 MW x 2). OPGC, GRIDCO and Government of Odisha had signed a Tripartite Agreement dated 18th October, 1998 providing certain further amendments to existing PPA and other provisions including those concerning the establishment of Units 3 & 4 of IB Thermal Power Station by OPGC. Further, Escrow and Security Agreement dated 30th November, 1998 was entered between OPGC, GRIDCO and Union Bank of India.
13. Subsequently, certain disputes had arisen between the parties relating to the terms of the PPA, Tripartite Agreement and other agreements between the Parties. In order to resolve these disputes, Government of Odisha issued Notification dated June 21, 2008 for resolving and settling all such disputes on terms and conditions contained therein in respect of Unit 1 & Unit 2. OPGC and GRIDCO agreed to amend existing PPA and Tripartite agreement based on above notification of Government of Odisha. Accordingly, an agreement was signed on September 6, 2012 supplemental to the Tripartite Agreement executed on October

- 18, 1998. Subsequently, OPGC and GRIDCO signed an amendment to existing PPA on December 19, 2012 by modifying certain clauses.
14. The Commission, vide its Order dated April 27, 2015, had approved the amended PPA and directed OPGC to file an application for determination of Generation Tariff for rest of the control period starting from FY 2016-17 onwards in line with the amendments since tariff for FY 2014-15 and FY 2015-16 had already been approved by OERC in ARR of GRIDCO. The Commission, vide its Order dated March 21, 2016, had determined the Generation Tariff of Unit 1 & Unit 2 of IB Thermal Power Station for FY 2016-17, in accordance with the terms and conditions of OERC's Generation Tariff Regulations, 2014.
 15. Aggrieved by the said Order, OPGC had filed Appeal No. 126 of 2016 before the Hon'ble APTEL against the Tariff Order for FY 2016-17. Hon'ble APTEL, vide its Order dated April 6, 2017 in the said Appeal, upheld the Commission's Tariff Order for FY 2016-17. Aggrieved by the Judgment of Hon'ble APTEL, OPGC had preferred Civil Appeal No. 9485 of 2017 before the Hon'ble Supreme Court. The Hon'ble Supreme Court, vide its Judgment dated April 19, 2018 in the said Appeal, set aside the Tariff Order for FY 2016-17 and remanded the matter to the Commission for a fresh decision. In effect, the Hon'ble Supreme Court of India held that primarily the tariff norms under the PPA are to be followed while determining OPGC's tariff. Further, for the tariff norms which are not covered in the PPA, the OERC's Generation Tariff Regulations 2014 may be relied upon by OERC to determine OPGC's tariff.
 16. In the meantime, the Commission disposed of the Generation Tariff Petition for FY 2017-18, vide its Order dated March 23, 2017 in Case No. 62/2016, and Generation Tariff Petition for FY 2018-19 vide its Order dated March 22, 2018 in Case No. 75/2017, in line with its approach adopted in the tariff determination for FY 2016-17.
 17. In accordance with the Order of Hon'ble Supreme Court of India, OPGC filed the Petitions registered as Case No. 33 of 2018 for re-determination of Tariff for the FY 2016-17, FY 2017-18 and FY 2018-19 before the Commission on May 25, 2018 considering the original project cost as per the approved amended PPA and the final Order was issued by the Commission on March 28, 2019.
 18. Subsequently, OPGC filed a separate Petition numbered as Case No. 54 of 2018, for approval of additional capitalization for FY 2015-16, FY 2016-17, FY 2017-18 and FY 2018-19 in compliance to the Commission's directive in the Tariff Order for FY 2018-19 dated March 22, 2018 and the Order of the Hon'ble Apex Court in Civil Appeal No. 9485/2017 dated April 19, 2018.

19. In tune with the approach adopted in Petitions filed under Case No. 33 of 2018 and Case No. 54 of 2018, OPGC had filed the Petition for the FY 2019-20 and FY 2020-21 and the final Orders were issued by the Commission.
20. The Commission notified the Odisha Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 (“OERC Generation Tariff Regulations, 2020”) on August 26, 2020 exercising the powers conferred under Section 61 & 62 read with Section 181 of the Act. As per these Regulations, the Tariff Period is for four years, i.e., FY 2020-21 to FY 2023-24. In accordance with the provisions of OERC Generation Tariff Regulations, 2020 and in line with the approach adopted in Petitions in Case No. 70 of 2018, Case No. 33 of 2018, Case No. 54 of 2018 and Case No. 69 of 2019, OPGC had filed a Petition for approval of Generation Tariff for FY 2021-22. The said Petition was numbered as Case no. 71 of 2020 and the final Order was issued by the Commission on March 26, 2021.
21. Subsequently, the Commission, vide Order dated May 21, 2021 in Case No. 54 of 2018, disallowed actual additional capitalization for FY 2015-16 to FY 2017-18 and proposed additional capital expenditure for FY 2018-19. OPGC had filed an Appeal before Hon’ble APTEL on November 15, 2021, as DFR No. 407/2021 against OERC Order dated May 21, 2021 in Case No.54 of 2018.
22. In accordance with the provisions of OERC’s Generation Tariff Regulations, 2020 and in line with the approach adopted in Petitions in Case No. 33 of 2018, Case No. 70 of 2018, Case No. 69 of 2019, and Case No. 71 of 2020, OPGC had filed Petition for approval of Generation Tariff for FY 2022-23. The said Petition was registered as Case No.104 of 2021 and the final Order was issued by the Commission on March 24, 2022. In similar line, annual tariff Petition filed by OPGC for FY 2023-24 (Case No. 75 of 2022) has been disposed of by the Commission vide Order dated 23.03.2023.
23. In the present Petition, OPGC has claimed approval for Generation Tariff for FY 2024-25 based on the provision of the approved Amended PPA against the original project cost. With regard to the claim of additional capitalization for FY 2023-24 to FY 2024-25, OPGC has submitted that a separate petition will be submitted based on the outcome of the Appeal registered before Hon’ble APTEL in Appeal No. 335/2021 by OPGC.
24. Accordingly, the present Petition has been filed by OPGC based on the following agreements entered between the parties and notification of Govt. of Odisha:
 - a) Bulk Power Supply Agreement between OPGC and GRIDCO, dated August 13, 1996 (“PPA”) and an agreement as Supplemental to Bulk Power Supply Agreement dated

December 19, 2012 (“Amended PPA”). Both agreements were approved by the OERC vide its Order dated April 27, 2015;

- b) Tripartite Agreement between OPGC, GRIDCO and Government of Odisha dated October 18, 1998 (“Tripartite Agreement”);
- c) Govt. of Orissa (“GoO”) Notification No. 7216/E dated June 21, 2008;
- d) Agreements as Supplement to Tripartite Agreement dated September 6, 2012 (“Amended Tripartite Agreement”) which was approved by the OERC vide its Order dated April 27, 2015; and
- e) Escrow and Securitization Arrangement dated November 30, 1998 entered between OPGC, GRIDCO and Union Bank of India, which was approved by the OERC vide its Order dated April 27, 2015.

25. Generation Tariff for FY 2024-25 considering the original project cost

OPGC has submitted that, the Annual Fixed Cost (AFC), as per Clause 3.0 of Schedule II of the Amended PPA, shall consist of the following components:

- a. Depreciation;
- b. Return on Equity;
- c. Interest on Loan;
- d. Operation and Maintenance Expenses; and
- e. Interest on Working Capital.

26. Capital Cost and Additional Capitalization

- a) OPGC has considered capital cost of the Project as Rs. 1060 Crore for FY 2024-25 as per the Amended PPA signed between OPGC and GRIDCO.
- b) Further, OPGC has submitted that after detailed discussions/deliberations with GRIDCO, it had filed a Petition registered as Case No 66 of 2021 for in-principle approval of the Commission for Renovation & Modernisation for enhancement of plant life and implementation of FGD and FGC for complying with the revised Emission Standards as prescribed by MoEF & CC. The Commission was pleased to dispose off the Case vide its Order dated November 03, 2021.
- c) Subsequently, OPGC filed a review petition before the Commission for reconsidering construction of a new ash pond commensurate with proposed extended life of the plant (Case No 99 of 2021), considering the practical difficulties being faced for 100% utilisation of Ash by OPGC. The Commission was pleased to approve in-principle to construct a new ash pond. OPGC has submitted that the Renovation & Modernization

and implementation of FGD and FGC shall be taken up after receiving concurrence from the Board of Directors of OPGC.

- d) In the present Petition, OPGC has not projected additional capitalization for FY 2024-25. Based on the outcome of the Appeal filed before Hon'ble APTEL against the Commission's order in Case No. 54 of 2018, OPGC will approach the Commission for approval of actual additional capitalization for FY 2015-16 to FY 2022-23 and projected additional capitalization for FY 2023-24 and FY 2024-25 through a separate petition.

27. **Debt – Equity Ratio**

OPGC has submitted that while approving the Amended PPA, vide Order dated April 27, 2015, the Commission had approved the equity of Rs. 450 Crore and loan of Rs. 610 Crore. OPGC has considered actual debt: equity ratio, as approved in amended PPA and the same was considered in Tariff order for FY 2023-24, and the same has also been proposed for determination of tariff for FY 2024-25.

28. **Depreciation**

As the assets corresponding to Original Capital Cost of Generating Station are fully depreciated by the financial year ending March 31, 2009, OPGC has not claimed any amount towards depreciation for FY 2023-24.

29. **Return on Equity**

OPGC has proposed Return on Equity considering the actual amount of equity capital (Rs.450 Crore) and Return on Equity at the rate of 16% as per Clause 8.0 (10) of Schedule II of PPA. Accordingly, OPGC claimed Return on Equity of Rs.72 crore for the FY 2024-25.

30. **Interest on Loan Capital**

OPGC has submitted that Clause 8.0 (7) and (11) of Schedule II of the Amended PPA provides the loan amount of Rs. 610 Crore and interest on loan as per actual. Since the loan amount of Rs. 610 Crore has been fully repaid by financial year ending March 31, 2012, OPGC has not claimed any interest on loan capital for FY 2024-25.

31. **O&M Expenses**

OPGC has submitted that Clause 3.0 (d) and (e) of Schedule II of the Amended PPA provides that O&M expenses for first year of operation at the rate of 2.5% of the capital cost which shall be escalated by 8% each year from April 1, 1996. Accordingly, OPGC has proposed Rs.222.15 Crore under O&M Expenses for FY 2024-25 considering the annual escalation factor of 8% as per the methodology prescribed in amended PPA.

32. **Interest on Working Capital**

OPGC has claimed that, Clause 3.0 (f) of Schedule II of the Amended PPA provides the details of interest on working capital. As OPGC has started availing working capital from

external sources, the actual interest rate for the Working Capital facility availed by OPGC in FY 2023-24 as on September 2023 is 8.65%. Accordingly, the same has been considered for FY 2024-25. Accordingly, OPGC claimed interest on working capital as Rs.16.10 Crore for FY 2024-25. The details are given in the Table 1 below:

Table 1
Computation of interest on working capital for FY 2024-25 (Rs. Crore)

Sr. No.	Particulars	Amount
1	Cost of Coal for one and half months	41.91
2	Cost of Secondary Fuel Oil for two months	9.03
3	O&M Expenses for one month	18.51
4	Receivables equivalent to two months	116.63
5	Total Working Capital Requirement	186.09
6	Interest Rate (%)	8.65%
7	Interest on Working Capital	16.10

33. **Summary of Annual Fixed Cost**

Considering above mentioned annual fixed cost components, OPGC has proposed the Annual Fixed Cost of Rs. 310.25 Crore for FY 2024-25 corresponding to the original project cost. The details are given in the Table 2 below:

Table 2:
Annual Fixed Cost of OPGC for FY 2024-25 (Rs. Crore)

Particulars	Amount
Depreciation	0.00
Return on Equity	72.00
Interest on Loan Capital	0.00
O&M Expenses	222.15
Interest on Working Capital	16.10
Total Annual Fixed Cost	310.25

34. **Operational Performance Parameters**

The norms of operation proposed for FY 2024-25 by OPGC as per Clause 8 of Schedule II of the approved Amended PPA are given in Table 3 below:

Table 3:
Operational Performance Parameters for FY 2024-25

Sl. No.	Particulars	Unit	Value
1.	Normative Availability	%	68.49%
2.	Target Plant Load Factor for incentive	%	80.00%
3.	Auxiliary Consumption	%	9.50%
4.	Station Heat Rate	kcal/kWh	2500
5.	Specific Oil Consumption	ml/ kWh	3.50

35. **Fuel Prices & GCV**

- (i) During FY 2024-25, the coal requirement for OPGC is proposed to be met from coal supply under existing FSA with Mahanadi Coal Fields Limited (MCL). In line with the Judgment of the Hon'ble Supreme Court of India dated 18.04.2018 in Civil Appeal No. 9485 of 2017, variable costs for OPGC are to be determined as per the PPA. As per the provision of PPA, the GCV of Oil and Coal is to be considered as actually delivered to the power station. Accordingly, OPGC has considered the GCV of coal and oil as actually delivered to the power station for the computation of energy charges.
- (ii) Further, Clause 9 of Schedule II of the PPA stipulates that the prices and GCV of oil and coal for one year shall be the base for the next year. OPGC has filed Appeal No. 189 of 2020 before the Hon'ble APTEL against the Commission's Order dated October 28, 2020 in Case No. 43 of 2017 on the GCV to be considered for tariff computation. However, pending disposal of the Appeal No. 189/2020 by the Hon'ble APTEL, OPGC has considered the GCV of coal as mandated by OERC in its Order dated 28.10.2020 in Case No. 43/2017 and GCV of Oil as actually delivered to the power station for computation of energy charges.
- (iii) Accordingly, OPGC has considered the actual delivered fuel prices and GCV of oil and coal for the period from April to September 2023 for purpose of computation of tariff in the present Petition. Accordingly, the price and GCV of coal and oil considered for FY 2024-25 have been given in the Table 4 below:

Table 4:

Price and Gross Calorific Value of Coal and Oil proposed for FY 2024-25

Sr. No.	Source of Coal	Base for FY 2024-25
1	Price of Coal (Rs. /MT)	1664.76
2	Price of LDO (Rs./kL)	84867.03
3	Price of HFO (Rs./kL)	58863.34
4	Gross Calorific Value of Coal (kCal/kg)	3084.00
5	Gross Calorific value of LDO (kCal/ltr.)	10000
6	Gross Calorific value of HFO (kCal/ltr.)	10000

36. **Energy charges**

OPGC has proposed that, in accordance with Clause 7.0 of Schedule II of the Amended PPA, it has considered the norms of operation, GCV and prices of the fuel for computation of Energy Charge for FY 2024-25. Accordingly, it has proposed Variable charges of 170.80 paise/kWh for FY 2024-25. The details are given in Table 5 below:

Table 5:

Computation of Energy Charge for 2024-25

Particulars	Unit	FY 2024-25
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Particulars	Unit	FY 2024-25
Auxiliary Consumption	%	9.50%
Gross Station Heat Rate	kCal/kWh	2500
GCV of Coal	kCal/kg	3084.00
GCV of Oil (LDO)	kCal/ltr	10000.00
GCV of Oil (HFO)	kCal/ltr	10000.00
Specific Coal Consumption	kg/kWh	0.80
Specific Oil Consumption-LDO	ml/kWh	0.35
Specific Oil Consumption-HFO	ml/kWh	3.15
Price of Coal	Rs./MT	1664.76
Price of Secondary Oil-LDO	Rs./ kL	84867.03
Price of Secondary Oil-HFO	Rs./ kL	58863.34
Variable Charges per kWh (base value)	Paisa/kWh	170.80

37. **Reimbursement of Other Charges**

OPGC has proposed for reimbursement of the different charges and expenses which comprise of Electricity Duty, water cess and charges, tax and cess on land, SOC and MOC paid to SLDC, EPRC charges, Annual Inspection fees, Income tax, recovery of ARR and tariff petition fees and ash utilization expenses including transportation charges as per Clause 10 of the approved amended PPA. The details are given in Table 6 below:

**Table 6:
Other Charges for FY 2024-25 (Rs. Crore)**

Sl. No.	Particulars	Amount
1	Electricity Duty	14.83
2	Water Cess and Water Charges	9.81
3	Energy Compensation Charges	-
5	Tax and Cess on land	1.33
6	SOC and MOC for SLDC	0.39
7	ERPC Charges	0.16
8	Annual inspection fees	0.26
9	Income Tax	24.22
10	Recovery of ARR & Tariff Petition Fee	0.30
11	Contribution towards Water Conservation Fund	-
12	Ash Utilization Expenses including Transportation Charges	5.00
	Total	56.28

OPGC has requested to provisionally approve the other charges of **Rs. 56.28 Crores**. OPGC further requested to direct GRIDCO Ltd. to reimburse the other charges on actual basis during the year.

38. **Additional Capitalization for FY 2024-25**

OPGC has submitted that the claim of additional components of Annual Fixed Charges towards additional capitalization for FY 2015-16 to FY 2022-23 and projected additional

capitalization for FY 2023-24 and FY 2024-25 will be claimed by OPGC through a separate petition based on the outcome of Appeal No. 335/2021 registered before Hon'ble APTEL.

39. **Summary of Tariff proposal for FY 2024-25**

The Summary of tariff proposed is given in the Table-7 and other charges in Table 8 below:

Table 7
Summary of Tariff Proposal of OPGC for FY 2024-25

Particulars	Units	Amount
Depreciation	Rs. Crore	0.00
Return on Equity	Rs. Crore	72.00
Interest on loan	Rs. Crore	0.00
O&M expenses	Rs. Crore	222.15
Interest on working capital	Rs. Crore	16.10
Total Annual Fixed Cost	Rs. Crore	310.25
Variable Charges per kWh	Paisa/kWh	170.80

Table 8
Other Charges for FY 2024-25

Particulars	Units	Amount
Other Charges	Rs. Crore	56.28

40. The Petitioner has submitted the following in compliance to directives of the Commission:

- (i) Efforts being made for ash disposal/ utilization in line with MOEF&CC and MoP Notifications. Efforts made in this regard has been separately deliberated in Case No. 99/ 2023 which is under consideration by the Commission.
- (ii) SoP has been put in place for implementation of measures relating to safety being taken in line with CEA (Safety Requirements for Construction, Operation and maintenance of Electrical Plants and Electric Lines) Regulation as amended from time to time.
- (iii) OPGC has installed 39 kW of rooftop Solar PV and is in the process of setting up a 50 MW Solar power project.
- (iv) There have been 68 nos. of forced outages from FY 2019-20 till September 2023 due to boiler tube leakages, generator protection relay, grid disturbances and other electrical & mechanical/ operational issues.
- (v) The tentative timeline for various activity of OPGC Stage-II 1320 MW (2X660 MW) are (a) floating of tender by March 2024, (b) Award of Contract by August 2024, (c) Issuance of NTP by September 2024 and (d) Synchronization of the Unit by March 2029.
- (vi) Discussions are going on with OEM /BHEL to assess feasibility of implementation of 40% Technical Minimum Load (TML) as per CEA's Order dated 01.05.2023 where OPGC Stage-1 has been designated for 4th phase of implementation (i.e., Jan to Dec 2030). CEA has also been requested to seek feedback from pilot projects with similar

capacity (210 MW) equipped with Ball & Tube mills which will be instrumental in achieving required TML.

41. With regard to Case No. 99 of 2023, the Petitioner – OPGC submitted the following:
- (i) MoEF Notifications dated 25.01.2016 and 31.12.2021 refers to the cost sharing for fly ash transportation by the user agencies and the thermal power plants and also notifies the timelines for achieving 100% fly ash utilization.
 - (ii) Clause 10 of Schedule II of the PPA dated 13.08.1996 (for Units 1 & 2) allows recovery of the charges on account of its imposition by any Government (Central/ State) and/ or local authority through reimbursement. The expenses incurred by OPGC towards ash transportation cost and other ash utilization expenses on account of ash utilization mandated by the Central Government through the MoEF Notifications is statutory in nature and creates an absolute binding & obligation on the Petitioner to pay/ subsidize fly ash transportation charges and bear other ash utilization charges.
 - (iii) Clause 7 of the PPA dated 04.01.2011 (for Units 3 & 4) states that the taxes/ duties/ levies/ cess etc. shall be computed as per the provisions of the prevailing Tariff norms of the Tariff Regulations and shall be borne and additionally paid by GRIDCO and other beneficiary(ies) on a proportionate basis. It is further provided that any charge in respect of the energy sent outside the State of Odisha out of capacity not allocated to GRIDCO, shall not be charged to GRIDCO in any manner.
 - (iv) OPGC has claimed Rs.4,43,74,498/- and Rs.12,23,53,400/- towards Ash Transportation Expenses and other expenses towards ash utilization from FY 2016-17 to FY 2022-23 for OPGC Units-1 & 2 and from FY 2021-22 & FY 2022-23 in respect of OPGC Units-3 & 4 respectively. The total amount claimed by OPGC is Rs.16,67,27,898/- towards Ash Transportation and utilization expenses.
 - (v) OPGC suffers from locational constraints with regard to fly ash utilization. OPGC's power plant is situated in a remote location of Village Banaharpalli in Jharsuguda District, Odisha, where there is a heavy concentration of thermal generating stations and therefore a high availability of fly ash but there are very few industries that use fly ash. Further, OPGC's power plant is situated in the extreme end of the Hirakud reservoir. The power plant is situated at a remote location approximately 30 kms away from the nearest State Highway, around 20 kms. away from the nearest National Highway, and more than 400 kms. away from the nearest sea-port. Further, there is no big road infrastructure activity or major cement industry (apart from one cement plant) in the

power plant's vicinity. Moreover, there are no large stone quarries, nor has OPGC been allotted a suitable mine void filling space in the vicinity either. Despite the disadvantages, OPGC has made efforts to facilitate 100% fly ash utilization. However, the practical impediments beyond OPGC's control have made it impossible for OPGC to achieve 100% fly ash utilization.

(vi) The various steps taken by OPGC towards utilization of fly ash includes installation of its own fly ash brick plant with production capacity of 10,000 bricks per day; agreement with Visveswariya National Institute of Technology, Nagpur to devise technological advancements for enhancing ash percentage up to 90% in brick production and for geopolymeric use of ash in road construction; transportation cost of INR 150/- per MT has been extended for enhancing ash utilisation in areas of manufacturing of ash brick, other Fly Ash based products, cement/ asbestos manufacturing and road construction; using ash in construction of embankment for ash pond as well for rising of bund height for ash pond in place of precious earth; following up with MCL for allotment of mine void which is yet to be materialized; etc.

(vii) The petitioner OPGC has prayed the Commission to declare that compliance with the MoEF Notification dated 25.01.2016 required the Petitioner to incur substantial expenditure in terms of ash transportation cost and fly ash utilisation expenses; and that the issuance of MoEF Notifications dated 25.01.2016 & 31.12.2021 is a 'Change in Law' event requiring the Petitioner to incur substantial expenditure in terms of ash transportation cost and fly ash utilisation expenses. OPGC has also prayed to permit recovery of additional expenditure on account of ash transportation and ash utilisation already incurred by the Petitioner from FY 2016-17 up to FY 2022-23, along with carrying cost; and allow the Petitioner to raise Monthly Bills for reimbursement of the additional expenditure for ash transportation on a recurring basis for the period since April 2023 and to be incurred in the future, with annual reconciliation.

VIEWS OF THE OBJECTORS AND RESPONSE OF OPGC (PETITIONER) ON THE GENERATION TARIFF PROPOSAL FOR FY 2024-25 (Para 42 to 71)

The views of the objectors and response of OPGC on various issues are as follows:

42. Multi-year Tariff (MYT)

- a) Mr. Soumya Ranjan Patnaik has submitted that Section 61 of the Electricity Act, 2003 and the National Tariff Policy (NTP)-2016 notified by Central Govt under Section 3 of the Act, mandates SERCs and CERC to follow MYT principle in framing regulation & determination

- of Tariff and Charges of Generating Companies and Licensees. The Act stipulates the Commission to determine the Tariff in a prudent and realistic manner for the ensuing year.
- b) Further, The ARR & Tariff Petitions filed by the Licensees & GENCOs should consider the approved business plan, truing up, performance review, MYT generation tariff for the purpose of review of current year's tariff and if required the existing tariff is revised for ensuing year. Moreover, the span of Business Plan & MYT Generation Tariff Period is required to be equal and consistence in between the various Licensees DISCOMs, OPTCL & SLDC, GRIDCO, OPGC, OHPC, Vedanta, etc. for vibrant application of MYT.
- c) Mr. Soumya Ranjan Patnaik has submitted that the Truing up, Review & Determination of Tariff proceeding has been carried out by OERC without following the MYT principles as provided in Section 61(f) of the Act & the Tariff Policy thereof. Section 61 of the Act is considered as the MAGNA CARTA governing the Power Tariff determined by OERC.
- d) Further, he has submitted that MYT Principles provided in the National Tariff Policy specifies a span period of five years for taking decision on power tariff by ERCs. OERC approved the five years Business Plan for the Licensees from FY04 to FY08. The first five years Business Plan and MYT generation tariff approved for the Licensees & GENCOs by OERC was very much effective in all respects covering tariff, investment, loss reduction, reliability of power supply etc. The astounding performance of the first Business Plan (FY04 to FY08) was completely ignored by OERC then and there & for which the State Commission failed to approved 2nd five years business plan. The instant tariff proceeding falls under the 5th Business Plan period from FY24 to FY28 & MYT generation tariff for FY24 to FY29 but OERC again fails to approve the same. The Objector urged the Commission to initiate remedial measures to work out MYT in true sense as provided in the Act and Policy.
- e) Mr. Soumya Ranjan Patnaik has submitted that Hon'ble Supreme Court of India, while disposed of the Civil Appeal No. 1933 of 2022 (TPCL Transmission vs MERC), has hold that Section 61 of the Act is mandatory for ERCs and accordingly directed the SERCs for compliance of the guiding principles of Section 61 of the Act in making/notifying the desired regulations within three months from the Date of the said Order. He further stated that the Truing up & performance review exercises cannot be filed separately bypassing ARR & Tariff Petition.
- f) The Objector urged upon the Commission to initiate necessary action for framing upgraded Generation Tariff & Transmission tariff Regulations for 5th MYT period of FY25 to FY29.
- g) Mr. Soumya Ranjan Patnaik has submitted that the MYT principles should be applied consistently but this has not been done. The 4th MYT period as per generation &

transmission Tariff Regulations is specified for the tariff period from FY20 to FY24 whereas under the RST Regulations, it has been specified as FY19 to FY23. So, there is inconsistency of MYT period between the regulations notified by the OERC. Therefore, the Objector urged upon the Commission to pass out desired tariff regulations for GENCOs, TRANSCO & DISCOMs in a consistence manner so that the MYT period for the Licensees and GENCOs will be uniform and that would be very much useful for performance review.

Response of OPGC

OPGC has submitted that the Hon'ble Supreme Court vide Judgment dated 19.04.2018, in Civil Appeal No. 9485 of 2017, held that primarily the tariff norms under the PPA are to be followed while determining tariff for Units 1&2. Further, to the extent there are tariff norms not covered by the PPA, the Tariff Regulations may be relied upon. OPGC submitted that the effect of the Supreme Court's Judgment is that this arrangement would apply for the entire term of the subsistence of the PPA viz. till 30.06.2026.

Further, as per the provisions Regulation 61(2) of OERC (Conduct of Business Regulations), 2004 and PPA Approval Order dated 27.04.2015, OPGC is required to file the Tariff Petition for Units 1&2 by 30th November of each Year. Also, Regulation 7(6) of OERC Generation Tariff Regulations, 2020, which is applicable up to 31st March 2024, mandates for filing of an application for determination of Tariff of OPGC Units 1&2 every year by November 30th of every year. The relevant excerpt has been reproduced below:

“Notwithstanding anything contained above the existing generation plants of OHPC and OPGC (UNIT-I & II) may make an application as per the Format prescribed by the Commission for determination of tariff as per annual schedule, by November 30th of every year for determination of tariff in respect of the units of the generating station.

Provided that the OHPC and OPGC (Unit - I & II) shall make an application as per the prescribed Format with necessary information and explanations, for determination of tariff based on capital expenditure incurred duly certified by the auditors or projected to be incurred up to the date of commercial operation and additional capital expenditure incurred duly certified by the auditors or projected to be incurred during the period for which application for determination of tariff is filed of the generating station:

Provided further that application shall contain details of underlying assumptions for projected capital cost and additional capital expenditure, wherever applicable.”

Accordingly, the Commission has been determining the tariff for the period since FY 2016-17 in accordance with the provisions of the approved amended PPA, every year, considering the approved original project cost of Units 1&2.

Further, as per Regulations 7(6) of OERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 truing up of tariff of generating stations is to be carried out only with respect to the capital expenditure including additional capital expenditure.

In Order dated 21.05.2021 in Petition No. 54 of 2018 the Commission disallowed the claimed actual additional capitalization for FY 2015-16 to FY 2017-18 and the proposed

additional capital expenditure for FY 2018-19. OPGC has filed an Appeal against the said Order dated 21.05.2021 before the Hon'ble APTEL on 15.11.2021, which has been registered as Appeal No. 335/2021. The matter is currently sub-judice. In view of the above, OPGC has not projected additional capitalization for FY 2024-25. Based on the outcome of the Appeal No 335/2021, OPGC will approach the Hon'ble Commission for approval of actual additional capitalization for FY 2015-16 to FY 2022-23 and projected additional capitalization for FY 2023-24 and FY 2024-25 through a separate True up Petition.

43. **Cash flow statement**

Views of Objectors

Mr. Soumya Ranjan Patnaik has submitted that the prudent checking of Tariff documents by the Regulator is completed with reconciliation of Cash Flow Statements (CFS) filed by the Licensees & GENCOs. The item-wise prudent checking of cost & revenue filed by the Licensees & GENCOs cannot be said successful unless it is tallied with its counterpart item of the Cash flow Statement (reconciled). Thus, the Commission cannot consider an untrue document like CFS, which is not reconciled. Therefore, the Objector urged to initiate necessary action in order to hold up the reconciled CFSs and compare the item-wise Cash Flow Statement with the counterpart ARR items in the instant proceeding.

Response of OPGC

OPGC has submitted that, the audited annual account for FY 2022-23 has been filed before the Commission as Annexure-2 as a part of the Main Petition. The information sought by the Stakeholder is deemed irrelevant for determination of tariff. However, the annual reports are published on the official website of OPGC and the Stakeholder may refer to the same.

44. **MYT Petition for Units 3&4**

Views of Objectors

Mr. Soumya Ranjan Patnaik has submitted that the truing up of the GRIDCO's approved bulk price for the previous year (Case no. 128/2023) cannot be completed without truing up the provisional MYT order dt 07.01.2023 (both cost & revenue) passed out for Stage-II of OPGC. OPGC did not file the crucial MYT Petition for determination of provisional generation tariff for Stage-II (Unit-3&4) project for the next five years control period from FY25 to FY29. This non-filing of 2nd MYT Petition for Stage-II of ITPS by OPGC for the period FY25 to FY29 and passing out the 1st MYT for FY20 to FY24 without conducting public hearing by the OERC is nothing but deficiency of the instant proceeding.

Response of OPGC

OPGC has submitted that MYT Petition (Case No 96 of 2021) for Units 3 & 4 (2 X 660MW), from the COD of Unit # 3 (03.07.2019) up to FY 2023 -24 was filed before the Commission on 16.11.2021. The Commission, vide its Order dated 07.01.2023, disposed of the Petition after following due regulatory process of inviting objections/suggestions from all the stakeholders through Public Notice dated 10.12.2021 published in English and Odia dailies.

45. **True-Up Petition for Units 3&4 and GRIDCO's true-up Petition**

Views of Objectors

Mr. Soumya Ranjan Patnaik has submitted that, the tariff approved for the period FY20 to FY24 of OPGC stage II project is not trued up yet by the OERC; but GRIDCO files true up Petition for the un-trued up tariff of OPGC Stage-II for FY 22-23. The Commission cannot true up the tariff proposed by GRIDCO for the un-trued up tariff for Stage-II, OPGC. Therefore, the Stakeholder urged upon the Commission to true up the Stage-II Tariff of OPGC first for the period FY20 to FY24 and then work out the true up petition filed by GRIDCO for FY 22-23 in a fair and transparent manner.

Response of OPGC

OPGC has submitted that the period for which the tariff was approved (2019-24) is yet to conclude, and the truing-up Petition, which necessitates the submission of actual audited figures, can only be filed after the audit of annual accounts by the Statutory Auditor for FY 2023-24. Moreover, it is a common practice in MYT regime for generators to file the Truing-up Petition for the last control period along with the MYT Petition for the next control period. Hence, OPGC shall be filing the same in due course of time.

46. **Time & Cost Overrun of Stage-II**

Views of Objectors

Mr. Soumya Ranjan Patnaik has submitted that, the Capital Cost of OPGC Stage-II increased by Rs. 2500 Crs due to delay in declaring Date of Commercial Operation (CoD) by two years. On this issue, vide para no. 16 of the provisional Generation Tariff Order dt. 07.01.2023 in Case No.96/2021 for OPGC's Stage-II (Unit-3&4) Project, the Commission directed OPGC to submit required data/information to GRIDCO and the matter may be discussed with GRIDCO to resolve the discrepancies. Therefore, the Objector requested to review the directions given to both OPGC and GRIDCO and the decision taken by both of them on the unresolved issues relating to time and cost overrun of the project.

Further, OPGC has not filed the truing up Petition for Stage-II and the Capital Cost of the stage-II of OPGC is not finalised. Further, OPGC has not filed the Petition for determination

of Generation Tariff for next MYT period FY25 to FY29. Therefore, the Objector urged the Commission to ask OPGC on the status of the time and cost overrun in the instant proceeding before approval of power purchase cost of GRIDCO.

Response of OPGC

OPGC has submitted that, the Commission, vide its Order dated 07.01.2023, disposed of the Case No. 96 of 2021 considering the report of the independent auditor appointed by it. The independent auditor did not raise any issue of time and cost overrun in its report. However, in compliance to the direction of the Commission in its Order dated 07.01.2023, discussions are in progress between OPGC and GRIDCO officials and the outcome of the discussions on the matter related to time and cost overrun shall be submitted before the Commission at the time of filing of True-up Petition for the period since the CoD of Unit-3 to FY 2023-24.

47. Loss incurred for power generation below 85% NAPAF

Views of Objectors

Mr. Soumya Ranjan Patnaik has submitted that, consequent upon the burst of Ash Pond-C, the power generation of OPGC had been disrupted for 27 days since the explosion. Presently, the total power generation of OPGC is below the NAPAF of 85%. Thus, OPGC lost huge generation of power and for which GRIDCO has been forced to schedule & procure central sector power at higher rate in order to bridge the demand supply gap. Further, GRIDCO incurs additional cost of Rs. 100 Crs on account of loss of cheaper OPGC power, which cannot be passed on to consumers in the proceeding to determine the bulk price of GRIDCO. Therefore, the Objector urged upon the Commission to address the issue and recover the additional power procurement cost incurred by GRIDCO from the remuneration of the Officers concerned who are responsible for such unwanted ash pond explosion.

Response of OPGC

OPGC has submitted that, the generators recover fixed cost as per their plant availability. Plant availability lower than the normative level leads to under recovery of approved fixed cost. In view of the above, the contention of the Stakeholder lacks merit.

48. Annual Maintenance of Power Station during Peak Demand Month

Views of Objectors

Mr. Soumya Ranjan Patnaik has submitted that, the Unit-4 of OPGC (Stage-II) is scheduled for annual maintenance in April-2024 for 30 days. However, this is not agreed upon as it is a

peak demand month. The Objector urged upon the Commission to postpone the annual maintenance to July-2024 or prepone it to Feb-2024 for the purpose.

Response of OPGC

OPGC has submitted that, considering the State requirement during the summer season and factoring the statutory requirement of timely Annual Maintenance, the deferment of the scheduled Annual Maintenance is under consideration and the same has been communicated to SLDC and GRIDCO.

49. **Construction Status of Stage-III (Unit-5 & 6) of ITPS, OPGC**

Views of Objectors

Mr. Soumya Ranjan Patnaik has submitted that, earlier is the commissioning of Stage-III (Unit-5&6) by OPGC is better for the State and the Consumers at large. The Coal allotted for OPGC Stage-III is e-auctioned by OCPL due to non-operational of former. Therefore, the Stakeholders have right to know about the construction status of Stage-III OPGC for which 4 MT per annum has been produced and sold in open market. Therefore, it is urged upon the Commission to address the issue by asking a construction status report of Stage-III (Unit-5&6) from OPGC and make an observation on the issue in the tariff order for FY25.

Response of OPGC

OPGC has submitted that, the information pertaining to the status of Stage-III (Units-5&6) thermal project of OPGC has been submitted at paragraph 5.4 of the Main Petition.

50. **Input Price of Coal fired by Stage-II, OPGC**

Views of Objectors

Mr. Soumya Ranjan Patnaik has submitted that, Manoharpur and Dip side Manoharpur Coal Mines were allotted to OPGC's subsidiary Company OCPL in the year 2015 to fulfil the 8 Million Tons fuel needs per annum of Stage-II (Unit-3&4) and Stage-III (Unit-5&6) of ITPS, OPGC. The Commission has published draft regulations for determination of input price of coal fired by OPGC Stage-II consequent upon the direction issued by State Govt against which Stakeholders have filed objections and suggestions. Therefore, the Objector hoped that the Commission will determine the input price of coal considering that both the Coal Mines situated at Manoharpur belongs to the End Use Plant Stage-II & III of OPGC. Further, as per the Coal Mine (Special Provisions) Act, 2015 and the Allotment Agreement executed with Nominated Authority, Ministry of Coal, the aforesaid two mines have been allotted for public interest so as to reduce the generation tariff of OPGC's Stage-II and upcoming Stage-III. Therefore, the Objector urged the Commission to pass out the profits of OCPL in the proceeding to determine the input price of coal and the regulations thereof and

graciously be pleased further to direct OPGC for transfer Manoharpur Coal Mines from OCPL to OPGC by enforcing relevant clause of the Allotment Agreement so that the GST Cess and GST for Rs.500 per Ton (approx) will not be paid and for which the tariff of Stage-II will be reduced further accordingly.

Mr. Soumya Ranjan Patnaik has submitted that, the price of coal @Rs. 1787 per Ton approved in the MYT provisional tariff order dated 07.01.2023 was vehemently objected by the Objector because the computation of coal price done by OPGC was grossly violating the provisions of Coal Mines (Special Provisions) Act, 2015, the Allotment order and the regulations notified by the CERC. Further, the Objector submitted that the Price of Coal approved for Rs. 1787 per Ton was very much high which would be reduced to only Rs. 787 per Ton after notification of the draft regulations related to input coal cost. Further, the Manoharpur Mines allotted to OPGC will be transferred from the control of OCPL to OPGC as per clause no. 13 & 19 of the Allotment Agreement after which due to a single GSTN, OPGC need not to pay Rs. 400 per Ton GST Cess and GST there upon and the profits out of commercial mining if any will be passed on to tariff. Therefore, it is necessary to notify the OERC (Determination of Input Price of Coal from Integrated Mine) Regulations, 2023 by the Commission before approving the power procurement price of OPGC Stage-II proposed by GRIDCO.

Response of OPGC

The Commission has notified the draft OERC (Determination of Input Price of Coal) Regulations, 2023 and invited comments to be submitted by 11.12.2023. OPGC has submitted its views and suggestions on the said draft Regulations. Given the status of distinct legal entities of OPGC and OCPL, Fuel Supply Agreement (FSA) executed based on Share Holding Agreement (SHA) to operate at arm's length, OPGC and OCPL squarely qualify as the end use plant and as the Allottee Company respectively. Input price of the coal may be decided by the Commission after filing of Petition by the Allottee Company (OCPL) as per Regulations.

51. Utilisation of fly ash as per MoEF&CC Guidelines

Views of Objectors

Mr. Soumya Ranjan Patnaik has submitted that, as per the MoEF guidelines for 100% utilisation of fly ash released from coal-fired thermal power stations since FY23, OPGC will supply free fly ash by paying reasonable transportation cost. However, only 35% & 40% of the ash released from Stage-I were utilised by OPGC during FY22 & FY23 respectively. Similarly, in case of Stage-II, only 24% & 23% of the ash released from Stage-II have been

utilised by OPGC during FY22 & FY23 respectively. Therefore, the Objector urged upon the Commission to regulate the ash management of thermal power stations in Odisha taking the case of OPGC as an example.

Response of OPGC

OPGC has submitted that, it has diligently and earnestly endeavoured to ensure proper disposal of ash in accordance with the notifications and directives issued by the MoEF&CC and the Ministry of Power from time to time. The Petitioner's efforts with regard to the utilization of ash have been exhaustively deliberated in the Petition filed as Case No. 99/2023, which is under active consideration of the Commission. Also, a snapshot of the efforts put forth by the Petitioner for utilisation of ash are provided in paragraph 5.2 of the Petition in Case No. 112/2023.

52. Ash Pond Explosion Issue

Views of Objectors

Mr. Soumya Ranjan Patnaik has submitted that the Ash Pond-C was dedicated to 420 MW Stage-I (Unit-1&2) project but the corrupt functioning of OPGC compelled them to dumping the huge ash waste of 1320 MW Stage-II (Unit-3 & 4) into the low capacity Ash Pond-C of Stage-I since the commissioning of Stage-II in the year 2019.

The explosion of Ash Pond-C becomes the worst manmade ash pond disaster in Odisha. The operational failure of OPGC puts cost not only to the villagers of Saradhapalli but also on the Consumers of Odisha. Therefore, the Objector urged upon the Commission to intervene into the matter and take remedial measures for utilisation of 100% ash waste released from Ib Thermal Power Station of OPGC at Banaharpali, Jharsuguda district.

Further, Mr. Soumya Ranjan Patnaik has submitted that, the compensation @Rs. 35000/- per Acre has been paid to the Farmers for damaged crops of 157 Acres. As it is manmade disaster, responsibility and accountability need to be fixed on the Officer concerned and the compensation paid to the Farmers is required to be recovered from the remuneration of the responsible officer of OPGC. The compensation paid to the Farmers cannot be passed on through the generation tariff of OPGC as it is manmade.

Response of OPGC

No response

53. Idle Capital Cost of Rs. 582 Crs passed out for Tilia Ash Pond dedicated to Stage-II

Views of Objectors

Mr. Soumya Ranjan Patnaik has submitted that, the Capital Cost of Rs. 582 Crs for Ash Pond at Tilia dedicated to Stage-II is passed out in the provisional Tariff Order dated 07.01.2023 and for which the AFC has increased so also generation tariff of Stage-II. But the fact is that the Tilia Ash Pond is not functioning since the commissioning of the Plant and Rs. 582 Crs spent on Ash Pond Package as on FY20 is just idle and waste of resources. Therefore, the Objector urge upon the Commission to reduce the capital cost of Stage-II by Rs. 582 Crs while determining the AFC of Stage-II for FY25 as, proposed by GRIDCO.

Response of OPGC

No response

54. Additional capitalization

Views of Objectors

GRIDCO has submitted that, in view of in-principle approval of R & M with 15 years' life extension allowed by Commission, vide order dated 03.11.2021 in Case No. 66 of 2021, and since the Appeal No. 335 of 2021 is sub-judice, the submissions of OPGC regarding additional capitalisation may not be considered in the present application.

Response of OPGC

OPGC has submitted that it has claimed the total additional capitalization of Rs. 128.56 Crore for FY 2015-16, FY 2016-17, FY 2017-18 (all actual as claimed in Case No. 54 of 2018), FY 2018-19 (Actual as claimed in Case No 69 of 2019) and FY2019-20(Case No. 71 of 2020). However, the Commission, vide Order dated 21.05.2021 in Petition No. 54 of 2018 disallowed actual additional capital expenditure for FY 2015-16 to FY 2017-18. OPGC has filed an Appeal on 15.11.2021 (Appeal No. 335/2021) against the Commission's Order dated 21.05.2021 in Case No. 54 of 2018. In the Main Petition, OPGC has not claimed any additional capitalization for FY 2024-25. Based on the outcome of appeal filed against the Commission's Order in Case No. 54 of 2018, OPGC will approach the Commission for approval of actual additional capitalization for FY 2015-16 to FY 2022-23 & projected additional capitalization for FY 2023-24 & FY 2024-25 through separate Petition.

55. Capital Cost

Views of Objectors

One of the stakeholders has submitted that the Commission has been considering the capital cost of the project (#1 and #2) as Rs.1060 Crores and Debt: Equity ratio as per the Government Notification dated 21.06.2008 while working out the tariff for previous financial years and therefore, such considerations may also be made for determining tariff for FY: 2024-25.

Response of OPGC

OPGC has submitted that, in the Main Petition, OPGC has considered the original project cost of Rs. 1060 Crore as the capital cost in accordance with the approved amended PPA. Further, equity of Rs. 450 Crore and loan of Rs. 610 Crore has been considered for determination of Tariff. The same are in line with the Commission's earlier Tariff Orders.

56. Debt: Equity Ratio**Views of the Objector**

GRIDCO has submitted that as per Clause 8.0 of Schedule II of the PPA, the original capital cost of Rs 1060 Crore of the project consists of equity of Rs.450 crore and debt of Rs 610 crores. Accordingly, the Commission may consider debt-equity ratio for determination of generation tariff of OPGC Stage I for FY 2024-25.

Response of OPGC

No comments

57. Depreciation:**Views of Objectors**

GRIDCO has submitted that the Clause 3.0 (a) of Schedule II of the Amended PPA provides that depreciation charges shall be equal to 7.5% of the Capital Cost during the year. Since the assets of the generating Stations have fully depreciated by the end of FY 2008-09, the Commission may not consider any amount towards depreciation for determination of generation tariff for FY 2024-25.

Response of OPGC

OPGC has not made any claim towards depreciation for FY 2024-25 in the Main Petition.

58. Return on Equity**Views of Objectors**

One of the Stakeholders has submitted that as per Clause 8.0 (10) of Schedule II of PPA, Return on Equity is to be paid @ 16% on Equity Capital. Considering the equity capital of Rs.450 crores of the original project cost and rate of RoE of 16%, OPGC has computed Return on Equity for FY 2024-25. The Commission may consider the same while determining tariff.

Response of OPGC:

OPGC has submitted that, the claim on Return on Equity is in accordance with the approved amended PPA, therefore, it is requested to the Commission to kindly approve the Return on Equity as claimed in the Petition.

59. **Interest on Loan Capital**

Views of Objectors

GRIDCO has submitted that as per Clause 8.0 (7) and (11) of Schedule II of the Amended PPA, loan amount is Rs. 610 crore and interest on loan will be paid as per actual. As the loan amount of the original project cost has been fully repaid by financial year ending 2011-12, the Commission may not consider any amount towards Interest on Loan Capital for determination of generation tariff for FY 2024-25.

Response of OPGC:

OPGC has not made any claim towards interest on loan capital for FY 2024-25.

60. **O&M expenses**

Views of Objectors

GRIDCO has submitted that, as per Clause 3 (d) & (e) of Schedule-II of the amended PPA, for the purpose of computation of O&M expenses, capital cost is to be taken as Rs.1030 Crore and O & M Expenses for the first year of operation shall be @ 2.5% of the capital cost and it shall be escalated @ 8% each year from 01.04.1996 with the first escalation factor becoming applicable on 01.04.1997. Based on the above methodology, the Commission may consider O&M expenses for determination of generation tariff for FY 2024-25. However, actual O&M expenses and its growth rate may be reviewed by the Commission in this regard.

Response of OPGC

OPGC has submitted that, it has claimed the O&M Expenses at 2.50% of the capital cost of Rs. 1030 Crore for the first year and escalated in accordance to provision of the approved amended PPA and the Judgement dated 19.04.2018 of the Hon'ble Supreme Court. Therefore, it is requested before the Commission to kindly allow O&M expenses as claimed in the Main Petition.

61. **Interest on Working Capital**

Views of Objectors

- a) GRIDCO has submitted that as per the Clause 3.0 (f) of Schedule II of the PPA, working capital requirement is to be worked out by considering coal cost for 1.5 months, Oil cost for 2 months, O & M expenses for one month and receivable for 2 months on the normative level of generation. OPGC submitted that it has been availing working capital requirement from external sources and the actual interest rate for the working capital facility was 8.65%

as on September, 2023. So, interest on working capital may be reviewed by the Commission based on actual information.

- b) Further, without prejudice to stand of GRIDCO in Appeal No. 189 of 2020 before APTEL, the cost of coal may be prudently verified and considered by the Commission.
- c) OPGC has prayed for approval of Annual Fixed Charges (AFC) of Rs.310.25 Crores for FY: 2024-25 vis-à-vis current AFC of Rs.291.95 Crores i.e. a hike of about 6.3%. Therefore, GRIDCO prayed before the Commission to carry out prudent verification of Working Capital and Interest on Working Capital claimed by OPGC.

Response of OPGC

- a) OPGC has submitted that, it has computed the working capital in accordance with the Clause 3.0(f) of Schedule II of the approved Amended PPA. Further, the Petitioner has considered the actual prevailing rate of interest of working capital as of September 2023. The supporting document of actual interest rate of 8.65% has already been submitted by OPGC as Annexure-4 of filing-2 dated 08.01.2024 in response to the additional information sought by the Commission vide its letter no. 1836 dated 16.12.2023.
- b) With regard to consideration of GCV for tariff determination, OPGC has preferred an Appeal No. 189 of 2020 before Hon'ble APTEL against the Commission's Order dated 28.10.2020 in Case No. 43 of 2017 in the matter of GCV of coal to be considered for tariff computation and presently the matter is sub judice.
- c) Regarding cost of coal, OPGC has submitted actual month wise details of the cost of coal and GCV from April 2022 to November 2023, vide its filing-2 dated 08.01.2024 in response to additional information sought by the Commission vide letter dated 16.12.2023. Further, the Petitioner has also submitted auditor certified Half yearly Fuel Price Adjustment for the period from April 2023 to September 2023 as Annexure-1 along with the Petition. Therefore, considering above, OPGC has requested the Commission to allow interest on working capital as claimed in the Main Petition.

62. Plant Load Factor

Views of Objectors

An Objector has submitted that, the OPGC has proposed PLF reduction i.e. 81.46%, but in all the thermal Power Station of the State such as IPPs & Central Sector NTPC are now generating more than 85% to 90% PLF. As such, the Commission should pass order directing OPGC to be functional with more than 85% PLF.

Response of OPGC

OPGC has submitted that, the actual PLF of the plant depends on scheduled maintenance outages and other operating conditions beyond the control of OPGC during a given year. Notably, in FY 2016-17, OPGC achieved a PLF of 87.92%, securing the top position among thermal generating stations in the State sector. OPGC has set a target to export 2,668.31 MU of power to GRIDCO for FY 2024-25, corresponding to a PLF of 80.14%.

63. **Auxiliary Consumption**

Views of Objectors

One of the Objectors pointed out that OPGC proposes 9.5% auxiliary consumption whereas auxiliary consumption of the central thermal power station like NTPC is 5.5%. As such, the auxiliary calculation should be made as per the regulation.

Response of OPGC

OPGC has submitted that, normative auxiliary consumption claimed by OPGC is 9.50% in accordance with the approved Amended PPA even though the actual auxiliary consumption has remained above 10% since COD of the station. The Commission approved the normative auxiliary consumption of 9.50% for Units 1&2 while determining tariff for the years till FY 2023-24. The reference to auxiliary consumption of central generating stations like NTPC is misplaced as they are different for different unit configuration as per Tariff Regulations of the Hon'ble Central Electricity Regulatory Commission.

64. **Fuel Cost and GCV of Coal and Oil**

Views of Objectors

- a) GRIDCO has submitted that the Commission, vide its Order dated 28.10.2020 in Case No. 43/2017, has provided the basis for calculation of GCV of coal "As delivered" to the power station (total moisture basis) as mentioned in the PPA, in compliance to Hon'ble Supreme Court's Order dated 19.04.2018. The Commission order has been challenged by OPGC before APTEL and is sub-judice now. As per Clause 7 of Schedule-II of the PPA, Gross Calorific Value (GCV) of Secondary Oil and Coal is to be considered on "As delivered" to the power station.
- b) Further, in this present tariff application for FY 2024-25, OPGC has submitted that pending disposal of the A.No.189 of 2020 by the Commission and without prejudice to their rights under law and contentions taken in the said Appeal, they have considered the GCV of coal as mandated by the OERC in its order dated 28.10.2020 in Case No. 43 of 2017 and GCV of Oil as actually delivered to the power station for the computation of energy charges. The

Petitioner has submitted that the actual delivered fuel prices and GCV of coal and oil for the period from April to September, 2023 which has been considered for purpose of computation of tariff in the instant petition is based on auditor certified Half Yearly Fuel Price Adjustment Bill raised by OPGC on 17.11.2023. It is pertinent to mention here that the cost of linkage coal constitutes 60% of the Energy Charge Rate (ECR) determined from month-to-month basis in case of thermal generating stations pan India.

- c) Further, the Objector submitted that, it is essential on the part of the Objector to be vigilant enough while scrutinizing each and every parameter contributing to determination of ECR, when the generator is availing linkage coal at concessional rate for supply of firm power to the State consumers. The GCV of linkage coal procured from MCL ought to commensurate with landed cost paid for the notified grade of GCV of coal by the coal supplier. OPGC may be directed to provide GCV of coal measured at billing end as per the joint party sampling of coal at colliery end by CIMFR for FY 2023-24 up to January, 2024 and for every month along with landed price of coal to GRIDCO as well as the Commission.
- d) The Objector urged the the Commission that OPGC may be directed to provide the details of GCV of secondary fuel oil along with ratio of LDO: HFO for FY: 2022-23 and up to January 2024 (FY: 2023-24) for necessary scrutiny and consideration by the Commission while determining the tariff for FY:2024-25.

Response of OPGC

- a) OPGC has submitted that as per terms of the Amended PPA, GCV of coal shall be considered as delivered to the power station. The Ministry of Power Notification dated 30.03.1992 based on which the Amended PPA has been structured, clearly provides for considering GCV of coal 'actually received and burnt' for purposes of determining energy charge. Since implementation of the PPA from 1996, OPGC has been providing the GCV of coal only based on this principle, which has been accepted by GRIDCO and paid accordingly. GRIDCO cannot be allowed to adopt a different principle now on the grounds of re-interpreting the term 'as delivered to the power station' value of GCV as 'grade GCV' value (with moisture adjustment formula).
- b) Further, the Commission vide its Order dated October 28, 2020 in Case No. 43 of 2017, on the Petition filed by OPGC regarding the dispute on Gross Calorific Value to be considered for tariff, has clarified the details and formula for GCV.
- c) OPGC further submitted that OPGC has filed Appeal No. 189 of 2020 before the Hon'ble APTEL against this Commission's Order dated 28.10.2020 in Case No. 43 of 2017 in the matter of GCV to be considered for tariff computation. Pleadings in Appeal No 189 of 2020

- have been completed and the Hon'ble APTEL, in its daily Order dated 15.09.2023, has directed for inclusion of the Appeal in the "List of Finals" for taking up hearing in its turn.
- d) Pending disposal of the Appeal No 189/2020 by the Hon'ble APTEL and without prejudice to OPGC's rights under law and contentions taken in Appeal No 189/2020, OPGC has considered GCV of coal as mandated by OERC in Order dated 28.10.2020 in Case No 43/2017 & GCV of oil as actually delivered to power station for computation of energy charges.
 - e) OPGC has submitted the audited prices and GCV for oil and coal while claiming the half yearly fuel price adjustment and as such, Coal Sampling Report of CIMFR has no bearing on the monthly energy bill raised by OPGC and hence the same is not being submitted along with the monthly bills. However, considering GRIDCO's request, in the interest of transparency, Third-Party Analysis report for the period upto November-2023 have been shared with GRIDCO.
 - f) OPGC has already submitted the actual quantum of oil consumed for generation for the Period of April-November 2022, vide its Filing 2 dated 08.01.2024, in response to the queries raised by Hon'ble Commission. As there is no arrangement for use of HFO in OPGC Units 1&2, there is no actual consumption of HFO. However, the details of price and GCV of both LDO and HFO have been submitted to GRIDCO vide its Half Yearly Fuel Price Adjustment bill which has also been submitted as Annexure -1 along with the Main Petition.
 - g) The notified price of G-14 Grade coal, inclusive of statutory fees, stands at Rs. 1608.63/MT. The proposed coal price for FY 2024-25 at Rs. 1664.76/MT is the audited weighted average cost of coal received for the period from April to September 2023, as detailed in Table 3-6 of the Main Petition. This landed cost includes the ROM price, other charges claimed by MCL such as Sizing charges, Royalty, NMET Fund, DMF, Surface Transportation Charges, Evacuation facility charges, GST compensation cess, SGST & CGST charge, and charges related to debit note/credit note issued based on the actual coal grade verified by Third Party Sampling/Testing Report, along with fees for Third Party Sampling/Testing etc.
 - h) For FY 2024-25, the coal requirement, as per the FSA with MCL, is supposed to be fulfilled from the Lakhanpur Area of MCL through MGR. Although MCL revised the declared grade of coal to G-12 for Lakhanpur Area mines in November-23, the actual extractable coal quality is expected to remain G-14 in FY 2024-25, consistent with the actual quality of coal received during the current year. A Copy of the MCL Notification and OPGC's representation to MCL has already been submitted as Annexure-1 of the Filing No. 2.

65. **Operational Performance Parameters**

Views of Objectors

GRIDCO has submitted that the Petitioner has not submitted the actual operational parameters achieved in the first 9 months of operation in FY: 2023-24 for kind information of all stakeholders. The Commission may prudently fix the operational parameters for FY: 2024-25 in respect of the Petitioner's Unit #1 and #2. Further, the Plant Availability Factor for the Month (PAFM %), Plant Load Factor (PLF %) for FY: 2024-25 shall have to be certified by SLDC on month-to-month basis as is being carried out at present.

Response of OPGC

OPGC has submitted that, it has already submitted the actual details of the performance parameters for the current FY 2023-24 up to November 2023 on affidavit dated 08.01.2024 as Filing-2 in response to the additional information sought by the Commission vide letter dated 16.12.2023. This information was made available to all the objectors who had obtained the hard copy of the Petition from OPGC and the same is available on the official website of OPGC.

The Hon'ble Supreme Court of India, vide its Judgement dated 19.04.2018, have unequivocally held that the tariff norms under the PPA are to be followed in determining OPGC's tariff. Further, to the extent there are tariff norms not covered by the PPA, the Tariff Regulations may be relied upon by the OERC to determine OPGC's tariff. Therefore, comparing the operational norms specified in the PPA for determination of Tariff of Units 1&2 with those stipulated in the Generation Tariff Regulations is not appropriate. Further, despite OPGC adhering to prudent utility practices, the actual SHR and auxiliary consumption are higher than the normative parameters specified in the PPA. However, OPGC is not claiming any adjustment or true up for this variance. Furthermore, it may be noted that beyond 68.49% PLF up to 80% PLF, there is no incentive for generation. As evident from the actual PLF during the past years, OPGC strives to maximize generation resulting in availability of low-cost power for the consumers of the State. The suggestion of GRIDCO to again prudently fix the operational parameters which are already agreed in PPA is in contradiction to Hon'ble Supreme Court Judgment as well as the Commission's Orders on re-determination of tariff for FY 2015-16 to FY 2018-19 and Tariff Orders for FY 2019-20 to FY 2023-24. Any attempt to revise the operational norms which are already covered in the PPA will lead to violation of Hon'ble Supreme Court Judgment.

OPGC in Amended PPA signed with GRIDCO has agreed upon operational performance parameters. OPGC in its Petition for computation of variable charges for FY 2024-25 has considered the operational performance parameters as per Clause 8 of Schedule II of the approved Amended PPA and requests the Commission to kindly approve the same.

66. **Energy Charge**

Views of Objectors

- a) GRIDCO has submitted that the Petitioner has not complied with the provisions under Clause 7.0 and 9.0 of the Schedule II of PPA dated 13.08.1996 and Supplementary PPA dated 19.12.2012 in respect of GCV of coal considered in determining the Energy Charge Rate (ECR) as well as the actual Specific Fuel Oil consumption.
- b) In view of the above submissions, the Objector urged the Commission to consider to determine the base ECR prudently and set the principle of monthly ECR determination accordingly, which shall be paid on actual basis from month to month. Till date, the GRIDCO has been making payment of ECR at base rate fixed by Commission in respective tariff orders of OPGC Stage I (i.e. unit #1 and #2) and the Fuel Price Adjustment claim on account of Secondary Fuel Oil only.

Response of OPGC

- a) OPGC has submitted that the Main Petition has been filed for determination of Generation Tariff for its Units 1&2 following the same principles in Case No. 33 of 2018, Case No. 70 of 2018, Case No. 69 of 2019, Case No. 71 of 2020, Case No. 104 of 2021 and Case No. 75 of 2022. Accordingly, OPGC has prayed for allowing variation in energy charges during the year on account of fuel prices and calorific value to be claimed through Fuel Price Adjustment in supplementary bills on half yearly basis in accordance with the provisions of the approved Amended PPA.
- b) Further, the Commission vide its Orders in Case No. 33 of 2018 (Para 42), Case No. 70 of 2018 (Para 105), Case No. 69 of 2019 (Para 101), Case No. 71 of 2020 (Para 108), Case No. 104 of 2021 (Para 60b) and Case No. 75 of 2022 (Para 80b) directed OPGC to claim the Fuel Price Adjustment and other charges through supplementary bills, which is being followed by OPGC. The practice being followed is in accordance with the approved PPA and any direction to change the practice beyond Half Yearly/Annual Fuel Price Adjustment will alter the terms and conditions of PPA.

67. **Non-Tariff Income**

Views of Objectors

- a) One of the objectors has pointed out that the Petitioner failed to project the Non-Tariff Income (NTI) in the present petition in view of the prevailing Generation Tariff Regulations. The clause no. 41 of the regulation has devised a ratio of 50:50 for sharing the NTI from three sources namely, (i) Rent of land or building, (ii) Sale of Scrap & (iii) Advertisements in between the Beneficiaries and Generating Company but that does not restrict the other

NTI specified in clause no. 26(2) for a pass through in the proceeding to determine generation Tariff. Therefore, the Objector urged the Commission for a prudent check of the Financial Statement for FY-2021-2022 of the Petitioner and approve the NTI accordingly.

- b) One of the objectors submitted that the OPGC have 51% share of OCPL now incurring profit more than Rs. 600 Crs. The amount of 51% OPGC share should be added as a non-tariff income of the Company & tariff claim of OPGC should be reduced accordingly.

Response of OPGC

- a) The Hon'ble Supreme Court vide its Judgment dated April 19, 2018 has held that primarily the tariff norms under the PPA are to be followed in determining OPGC's tariff. Further, to the extent there are tariff norms not covered by the PPA, the Tariff Regulations may be relied upon by the OERC to determine OPGC's tariff. The SC's Judgment is that this arrangement would apply for the entire term of the subsistence of the PPA viz. till 30.06.2026. The relevant extract of the Judgment of the Hon'ble SC is reproduced below:

"6. We are of the view that the Commission vide Order dated 27.04.2015 on the joint application of the parties dated 26.02.2014 rightly fixed the tariff but the view taken in subsequent order dated 21.03.2016 which has been upheld on appeal is unsustainable.

7. Accordingly, we set aside the impugned order and remand the matter to the State Commission for fresh decision. The State Commission may take into account the Notification dated 21.06.2008 for the fixed costs, the PPA for the variable costs specified therein and for other costs not reflected in the PPA, statutory Regulations may be applied.

8. The appeal shall stand disposed of as indicated above.

9. The parties may appear before the State Commission for further proceedings on 2.07.2018."

As per Clause 3.0 of Schedule II of the Amended PPA, the Annual Fixed Cost of OPGC shall consist of the following components:

- (a) Depreciation;
- (b) Return on Equity;
- (c) Interest on Loan;
- (d) Operation and Maintenance Expenses;
- (e) Interest on Working Capital.

The approved Amended PPA does not specify any non-tariff income and pass through in AFC. The Commission had been determining the AFC in accordance with the above.

- b) OPGC submitted that OCPL is a separate legal entity and the finances of OCPL does not have any bearing whatsoever on the present tariff proceedings before the Commission and hence, the stakeholder's submissions are unfounded and irrelevant.

68. Reimbursement of other charges

Views of Objectors

- a) GRIDCO has submitted that it has been carrying out reimbursement of other charges such as Electricity Duty, Water Cess and Water Charges, Tax and Cess on land, SOC and MOC charges, ERPC charges. Income Tax, recovery of ARR and Tariff petition fee and publication expenses as per the Commission's order from time to time after detail scrutiny of supporting documents.
- b) GRIDCO has submitted that, it shall make payment of monthly ECR on actual basis and thus there will be no necessity of Fuel Price Adjustment on Half Yearly and Annual basis, for which OPGC may be directed to submit certified the necessary coal and oil data in required format prescribed in OERC Regulation from time to time. Incentive/Disincentive shall be paid as per certified monthly energy accounting statement by SLDC and formula provided in the subsisting PPA. Any other statutory charges /taxes etc. pertaining to generation of power from Unit #1 and #2 (2x210MW) may be claimed by the Appellant along with submission of all necessary supporting documents and shall be scrutinised properly before consideration of payment by GRIDCO. The Petitioner shall have to provide all supporting documents in support of their claim raised vide monthly energy bills/supplementary bills (if any) on GRIDCO in respect of fixed charges, energy charges and reimbursement of other charges.
- c) The Objector observed that OPGC hasn't explained why the additional charges are payable to OHPC for drawl of water in the form of energy compensation and is to be reimbursed by GRIDCO. The Objector urged the Commission such claims of OPGC may be prudently verified. The Objector prayed before the Commission that it shall consider for reimbursement of actual ECC only (excluding DPS) paid by OPGC as per direction of the Commission and such amount may be allowed as Pass Through in Tariff.
- d) GRIDCO shall reimburse various charges subject to necessary direction from the Commission and scrutiny of all supporting documents to be provided by OPGC. In case of water conservation fund, GRIDCO shall reimburse the amount as per the instalment paid by OPGC subject to necessary direction by the Commission and submission of all supporting documents in this regard.
- e) GRIDCO has submitted that it has already submitted its detailed views regarding ash transportation and other ash utilisation expenses of OPGC in Case No.99 of 2023. The same may be taken into consideration while allowing the ash expenses to OPGC in the present tariff petition. The claims of OPGC may be prudently verified by the Commission and views of GRIDCO may be considered in Case 99 of 2023.

- f) GRIDCO has submitted that the Commission may also consider the fixing the rate of imported power from grid system to be the actual full tariff at which power is procured from OPGC.

Response of OPGC

- a) OPGC has submitted that as per Clause 10 & 11 of the approved amended PPA, OPGC has claimed the following other charges for FY 2024-25 considering the actual figures of FY 2022-23 and Projections for FY 2024-25, with rationale detailed in the Petition:
- Electricity Duty
 - Water Cess and Water Charges
 - Energy Compensation Charges
 - Tax and Cess on Land
 - System Operation Charges (SOC) & Market Operation Charges (MOC) for SLDC
 - ERPC Charges
 - Annual inspection fees
 - Income Tax
 - Recovery of ARR & Tariff Petition Fee and Publication Expenses
 - Contribution to Water Conservation Fund, Odisha
 - Expenses towards Ash Transportation and Other expenses for Ash Utilisation
- b) OPGC has requested the Commission to issue appropriate direction to GRIDCO for reimbursement of other charges on actuals in accordance with the approved Amended PPA.
- c) As per the Government of Odisha letter No. 6140 dated 31.07.2012 (Copy of letter attached as Annexure-3 to the Main Petition), OPGC is required to pay additional charges to OHPC for drawl of water in the form of Energy Compensation Charge (ECC). OPGC is continuously pursuing the matter with the Water Resources Department, Government of Odisha to waive the penalty along with interest, which is under its active consideration and till date the matter has not been resolved.
- d) Pending resolution of the request, OPGC has not made any payment towards ECC to OHPC in FY 2022-23. Therefore, no amount has been considered towards ECC while projecting other costs for FY 2024-25. However, OPGC requests the Commission to kindly allow for reimbursement of such amount, if any, paid during FY 2024-25.
- e) The quantity of ash produced in a power plant depends on both the quality and quantity of coal used. In a thermal power plant, coal consumption corresponds to actual/scheduled generation rather than the contracted capacity. Therefore, the Commission is requested to kindly consider the actual energy supplied to GRIDCO vis-à-vis total energy generated

(instead of the contracted capacity as proposed by GRIDCO) while considering treatment of reimbursement of ash transportation and utilization expenses claimed in the instant Petition as well as in Case No 99/2023. Further, OPGC has submitted that the Stakeholders including GRIDCO have also agreed for reimbursement of the Ash Transportation and Utilisation expenses incurred in compliance to MoEF Notifications by the beneficiary GRIDCO. Also, the detailed information sought by GRIDCO, vide its submission dated 02.12.2023, with respect to the claim of Ash Transportation and Utilisation expenses have been submitted by OPGC before the Commission as part of Filing-2 in Case No 99/2023.

69. Rate of Imported Power and DSM

Views of Objectors

GRIDCO urged the Commission to give necessary direction regarding Deviation Settlement Mechanism (DSM) Charges payable by OPGC in case of deviation between scheduled generation and actual export to GRIDCO.

Response of OPGC

OPGC has submitted that power imported from the grid system is being settled in accordance with the practice being followed as per the approved PPA and record note of discussion held on 13.08.1996 between OPGC and GRIDCO. The approved PPA has the appropriate provision for considering the tariff for power imported by OPGC for black start up along with its settlement. Hence, OPGC has submitted before the Commission for allowing settlement of the imported power in accordance with the approved PPA.

OPGC has submitted that energy scheduling to GRIDCO from its power station is being settled on net exchange basis every month, wherein actual generation is being considered as scheduled generation in line with practice being followed as per approved Amended PPA.

70. Other Issues

Views of Objectors

- a) An Objector has submitted that OPGC being a generating unit of the Govt. of Odisha being the owner of 100% share of OPGC. The Commission should direct the OPGC authorities to conduct the audit through CAG.
- b) One of the Objector has submitted that OPGC in all of their ARR application have mentioned their functioning as per the PPA signed between GRIDCO & OPGC knowing fully well PPA is a separate & tariff hearing is separate matter. At present the Govt. is the owner of 100% share of OPGC, the calculation of PPA as per direction of the Hon'ble Supreme Court should be stopped.

- c) Another Objector pointed out the applicant OPGC may be directed to produce the number of force outage & reason for such outage from year 2016 till today.
- d) One of the Objectors has submitted that OPGC has to submit the month wise cash flow statement showing sources of inflow & outflow of cash from the FY 2010-11 to March'23.
- e) One of the Objectors requested that OPGC has to produce the detail action plan they have prepared for development of mini-Hydro Projects with their functioning & per unit cost.
- f) An Objector requested that OPGC has to produce the number of pending cases before different courts & amount paid for legal expenses of the cases from 2015 to 2023.
- g) One of the Objectors submitted that, it has been noted that, the Govt. of Odisha, Dept. of Energy, have published in newspaper for sale of 49% share of the OPGC, which the Objector strongly opposed, because OPGC is a profit-making generating unit of the state & regularly paying dividend Rs. 200 Crs per year. Further, it is a brownfield power project & going to install 2 units i.e., Unit-5 & 6 (total 4x660 MW) for the interest of consumers. The Objector requested the Commission to direct the Government of Odisha to produce reasons for the disinvestment & explanation must be submitted before the hearing of the case.
- h) One of the Objectors submitted that, the Govt. of Odisha, being the owner of OPGC should immediately intimate the Commission, why the top heads of the Company should not be appointed as per the guideline of Soven Kanungo Expert Committee.
- i) One of the Objectors submitted that OPGC has to produce before the Commission the loss of paddy & other crops of consumers due to damage of ash in the past one year.

Response of OPGC

- a) OPGC has submitted that the financial accounts of OPGC are audited regularly in compliance with applicable statutory provisions, including audit by the Comptroller and Auditor General (CAG). OPGC has submitted that the audited annual account for FY 2022-23 has been submitted as Annexure-2 to the Tariff Petition (filing-1). Further, the annual reports of OPGC are published on the website of OPGC and the stakeholder may refer to the same.
- b) OPGC has submitted that the Petition for approval of Generation Tariff for FY 2024-25 has been filed in accordance with the approved Amended PPA pursuant to the Hon'ble Supreme Court's Order dated 19.04.2018 in Civil Appeal No. 9485 of 2017 and the Commission's Orders dated 28.03.2019 in Case No. 33. of 2018 and subsequent Tariff Orders issued till FY 2023-24. Further, regardless of changes in ownership, the fundamental principles governing tariff determination cannot change, and the tariff needs to be determined in accordance with the provisions of the PPA, in compliance with the Hon'ble Supreme Court's

judgment. Hence, assertions by the stakeholder suggesting non-compliance with the Supreme Court's Orders are unwarranted.

- c) With regard to details of outages, OPGC has submitted that the information sought by the stakeholder is not relevant for determination of tariff for FY 2024-25 and hence does not warrant any reply. Nevertheless, in compliance to Hon'ble Commission's direction in the Tariff Order dated 23.03.2023, OPGC has submitted numbers of forced outages in last 5 years including reason for such outage and remedial measures taken to forestall such incidents, at Para 5.3 of the Petition (Filing-1). Also, additional information related to the same has been provided at Para-13 in our filing-2 dated 08.01.2024, in compliance to the queries raised by the Hon'ble Commission.
 - d) OPGC has submitted that, the information sought by the stakeholder is not relevant as Petitioner has claimed only normative O&M expenses and has not separately sought any compensation for legal expenses.
 - e) On various issues, which are not directly replied by OPGC, OPGC submitted that information sought by stakeholder is not relevant for tariff determination and hence does not warrant any reply.
71. In response to the submissions made by the Petitioner in Case No. 99 of 2023, the Respondent- GRIDCO has submitted that certain clarification/ information was requested from the Petitioner regarding the claim which has not yet been received by GRIDCO. As per the PPAs with the petitioner OPGC, the Respondent GRIDCO procures 100% of installed capacity from OPGC Stage I (#1 & #2) and 75% of installed capacity from COD of Station till March, 2023 and thereafter 100% of installed capacity w.e.f April,2023 onwards for 25 years from OPGC Stage II (#3 & #4). Accordingly, the Ash Transportation Charges shall be reimbursed by GRIDCO proportionate to its contracted capacities. GRIDCO further submitted that in line with approval of the Commission for pass through of Ash Transportation Charges of NTPC in the ARR order of GRIDCO dated 23.03.2023 for FY 2023-24, GRIDCO shall reimburse the Ash Transportation Charges to OPGC on monthly basis after prudent verification/scrutiny based on supporting data/documents certified by Statutory Auditors, to be provided by OPGC and has requested the Commission to allow the payment of Ash Transportation Charges & Other charges as claimed by OPGC after verification by GRIDCO, as pass through in the ARR order of GRIDCO for FY 2024-25.

72. **VIEWS OF CONSUMER COUNSEL (Para 72)**

WISE, Pune on behalf of Consumers made presentation on Analysis of ARR and tariff filing of OPGC for FY 2024-25. The observations/ suggestions of Consumer Counsel are as under:

- i. OPGC has not proposed any additional capitalization as it was decided in the Commission's Order in Case No. 54 of 2018. ROE has been claimed based only on original capital cost.
- ii. OPGC has proposed interest on working capital @8.65% based on actual interest rate for working capital for FY 2023-24. So, interest on working capital may be reviewed by the Commission based on actual interest rate and working capital requirement should be based on approved values.
- iii. OPGC has considered the Clause 3.0 (d) and (e) of Schedule II of the Amended PPA which provides that O&M expenses for first year of operation at the rate of 2.5% of the capital cost and which shall be escalated by 8% each year from April 1, 1996. O&M Expenses of Rs.222.15 Crore has been proposed for FY 2024- 25. Actual O&M expenses and its growth rate can be reviewed by the Commission in this regard.
- iv. OPGC proposed the PLF as 80.00%, as per Amended PPA. However, the actual PLF for FY 2022-23 was 75.63%. Also, as per Regulations, NAPLF of thermal power stations is considered as 85%. However, actual Average PLF of OPGC (FY 2011-12 to FY 2023-24) is 79.53%. So, the Commission can appropriately decide the PLF for FY 2024-25.
- v. OPGC has submitted the specific oil consumption as 3.5 ml/kWh for FY 2024-25 as a mix of HFO and LDO in the ratio of 90:10. As per actual data, they have used LDO only but now proposing to use LDO and HFO. OPGC should justify its proposal.
- vi. The Commission, in the ARR of FY 2023-24, has approved the GCV as 3101 Kcal/kg. However, OPGC proposes the same as 3084.00 Kcal/kg for FY 2024-25. In line with Para 72(b) of last year's Commission's Order, the present (post November 2023) MCL declared grade's GCV (G-12) can be considered for present tariff determination process. Also, the latest available price of coal can be considered.
- vii. OPGC has proposed the electricity duty payment for FY 2024-25 as per generation plan and auxiliary consumption of 9%. It should be as approved by the Commission for FY 2023-24, i.e. at the rate of Rs.0.55/kWh in accordance with PPA norms, i.e. 9% of auxiliary Consumption on normative generation of 68.49%.
- viii. OPGC has proposed water cess and water charges for FY 2024-25. This charge should be reviewed and OPGC should produce proper justification of payment of such charges along with relevant documents while claiming reimbursement from GRIDCO.
- ix. Income tax: The Commission has not considered any income tax for FY 2023-24. However, the Commission directed that GRIDCO should reimburse Income tax on actual basis as per the applicable provisions in PPA. The same principle can be continued.

73. **OBSERVATIONS OF THE STATE ADVISORY COMMITTEE (SAC) (Para 73)**

The Members of the SAC suggested (a) to set up benchmarks as per CEA's recommendation for units of similar size and introduction of incentive scheme for better performance; (b) to look into SAMARTH Mission (Biomass Addition) and the procurement of pellets should be from inside the State; (c) to implement the GoI scheme for Thermal plants where they are allowed to purchase imported coal upto 10% in order to increase their PLF; (d) to take action for reduction of plant auxiliary consumption; and (e) to come up with future plan for coal procurement for that plant.

In response to the suggestions, OPGC stated that the thermal units of OPGC will complete 30 years of service life in 2026. Therefore, R&M activities have been undertaken, after which the SHR will improve. The auxiliary consumption is as per design of the machines and it is very difficult to reduce since common equipment are used for all four units as per CERC guidelines. Regarding the usage of good quality coal, discussions with GRIDCO is continuing to increase the PLF of Stage-I and we shall come to the Commission for suitable mechanism for pass through of the better quality of coal procured. Stage-II is having around 95% PLF and work towards expansion of units is under process, however, evacuation of this power has not been finalized and is under progress.

74. **VIEWS OF THE GOVERNMENT OF ODISHA (Para 74)**

The Department of Energy, Government of Odisha vide their Letter No. ENG-TDER-OERC-0001-2021/1704, dated 09.02.2024 has stated as follows:

- State Govt. has no plans to provide any direct subsidy to any class of consumers, since Govt. have been providing adequate budgetary support over the years for the creation of Capital Assets in order to keep the tariff low.
- In the matter of adequate coal supply to Vedanta for availing full entitlement of power as per PPA, GRIDCO has been advised to take necessary action. Further, the matter of JITPL is sub-judice with Hon'ble High Court, Orissa. GRIDCO has been advised to approach the Hon'ble Court for increase of the share from JITPL.
- Govt. can't provide any support for smart meters. The Commission may consider recovery of the smart meter cost over an extended period. so that, there is no additional burden on Consumers. The backend infrastructure for smart metering may be allowed in the CAPEX of DISCOMs.
- Interest burden of GRIDCO needs to be fully recognized in its ARR. The reason advanced by OERC for not recognizing the interest cost of loans incurred beyond FY 2015-16 is not reasonable as per the recent judgment dated 04.10.2023 of Hon'ble

Supreme Court in Civil appeal No. 414 of 2007. On the other hand, Govt. has been supporting GRIDCO through various means. State Govt. has provided soft loans of Rs.700 Cr. each to GRIDCO during FY 2022-23 & FY 2023-24 and another trache of Rs.700 Cr. of soft loan is proposed to be provided during FY 2024-25. State Govt. has also converted Rs. 2,039.39 Cr. of loan to equity in FY 2021 -22.

- BSP of 3 DISCOMs namely TPCODL, TPNODL & TPWODL may be decided as thought prudent by the Commission, to the extent not to increase RST during FY 2024-25. Remaining unrealized cost may be recognized as Regulatory Asset of GRIDCO to be recovered during subsequent years. The RST for FY 2024-25 may not be increased from present level.
- As intimated already vide this Department letter No.3333 dated 24.03.2021. Govt. has agreed to extend the status-quo on up-valuation of assets till FY 2025-26.
- Commission would have taken note of the submission made by the Department's representatives during public hearings as well as SAC meeting. Hence, it is not necessary to provide further details in this regard.

Also, the following specific suggestions may kindly be considered:

- Damage to Power Distribution infrastructure due to natural calamities are not covered under Insurance Schemes. Therefore, a "Contingency Reserve Fund", preferably one fund for all DISCOMs need to be created to have a self-insurance fund to insure against probable damage to Distribution Network. The Commission may create provisions in the ARR of DISCOMs in this regard including the administration of the "Contingency Reserve Fund" under the Commission.
- Large-scale green energy. particularly Solar power, has been added in the generation capacity for energy transition across the Country. Availability of the peak power during the evening time is reducing and market price of peak power is very high. Hence the Commission is requested to introduce necessary measures for demand side management and as well as designing the TOD tariff (both with incentives and penalty) to discourage large consumers to consume power during peak evening hours. This will help in flattening demand curve as well as reduce the overall cost of power. Further. GRIDCO can be encouraged to procure more green power by sharing the additional revenue of green tariff introduced by the Commission.

ANALYSIS OF OPGC'S PROPOSAL AND COMMISSION'S OBSERVATIONS WITH REFERENCE TO DETERMINATION OF GENERATION TARIFF FOR THE FY 2024-25 (Para 75 to 87)

75. The present petition for determination of Generation Tariff for the FY 2024-25 has been filed by OPGC under Sections 62 & 86 of the Electricity Act, 2003 read with Approved Bulk Supply Agreement along with Supplemental Agreement (together referred to as the Amended PPA), related provisions of OERC (Conduct of Business) Regulations, 2004 and Hon'ble Supreme Court Order dated 19.04.2018 in Case No. 9485 of 2017.
76. As per the judgement of Hon'ble Supreme Court of India, the Commission while determining the tariff of the Generating Company for the FY 2024-25 has relied on the norms of PPA for fixed & variable costs and statutory Regulations for other costs not reflected in the PPA.
77. The Commission has carefully examined and analyzed the proposal of OPGC. The written and oral submissions of the objectors have been considered while determining the tariff. The detailed analysis and observations of the Commission are as follows:
78. **Computation of Annual Fixed Cost**
- (a) The Commission has considered norms as per Clause 3.0 of Schedule II of the amended PPA for approval of the Annual Fixed Cost (AFC). Accordingly, the component wise AFC of OPGC for determination of generation tariff for FY 2024-25 is as under:
- i. **Capital Cost:** As per the amended PPA signed between OPGC & GRIDCO and approved by the OERC, vide its order dated 27.04.2015, the original capital cost of the project is Rs.1060 Crore. Accordingly, the same is approved for determination of generation tariff of OPGC for the FY 2024-25.
 - ii. **Debt – Equity Ratio:** As per Clause No. 8.0 of Schedule II of the PPA, the original capital cost of the project (Rs. 1060 Crore) consists of equity of Rs. 450 crore and debt of Rs. 610 crore. Accordingly, the Commission approves the same debt-equity ratio for determination of generation tariff for the FY 2024-25.
 - iii. **Depreciation:** The Clause No.3.0 (a) of Schedule II of the Amended PPA provides that depreciation charges shall be equal to 7.5% of the Capital Cost during the year. Since the assets of the generating Stations have been fully depreciated by the end of FY 2008-09, OPGC has not considered any amount towards depreciation.

Accordingly, the Commission does not approve any amount towards depreciation for determination of generation tariff for the FY 2024-25.

- iv. **Return on Equity (RoE):** As per Clause 8.0 (10) of Schedule II of PPA, Return on Equity is to be paid @ 16% on Equity Capital. Considering the equity capital of Rs. 450 crore, OPGC has claimed the RoE of Rs.72 crore (@ 16% per annum). Accordingly, the Commission approves Rs. 72 crore towards RoE for determination of generation tariff for FY 2024-25.
- v. **Interest on Loan Capital:** As per Clause 8.0 (7) and (11) of Schedule II of the amended PPA, loan amount is Rs. 610 Crore and interest on loan will be paid as per actual. As the loan amount of the original project cost has been fully repaid by the FY 2011-12, OPGC has not claimed any amount towards Interest on loan capital. Accordingly, the Commission does not approve any amount towards interest on loan capital for determination of generation tariff for FY 2024-25.
- vi. **O&M Expenses:** As per clause 3 (d) & (e) of Schedule-II of the amended PPA, capital cost is to be taken as Rs.1030 crore (against original Capital Cost of the Project of Rs.1060 crore) and O & M expenses for the first year of operation shall be @ 2.5% of the capital cost and it shall be escalated @ 8% each year from 01.04.1996 with applicability of the first escalation factor of 8% from 01.04.1997. Based on the above methodology, OPGC has claimed Rs. 222.15 crore towards O&M expenses. Accordingly, the Commission approves the same amount of Rs. 222.15 crore, i.e., $[Rs.1030 \text{ cr} \times 2.5\% \times (1.08)^{28}]$ towards O&M expenses for determination of generation tariff for FY 2024-25.
- vii. **Interest on Working Capital:** As per the Clause 3.0 (f) of Schedule II of the PPA, working capital requirement is to be worked out by considering coal cost for 1.5 months, Oil cost for 2 months, O & M expenses for one month and Receivable for 2 months on the normative level of generation. The interest rate applicable for working capital shall be as on the date when the fixed charges are computed. OPGC has submitted that it has started availing working capital requirement from external sources and the actual interest rate for the working capital facility is 8.65% in the FY 2023-24 till September 2023. The same has been considered for FY 2024-25. The detailed calculation of working capital requirement and interest on working capital approved by the Commission against OPGC's proposal for determination of generation tariff for FY 2024-25 is given in Table 9 below:

Table-9
Interest on working capital Approved by Commission for determination
of Generation Tariff for FY 2024-25

(Rs Crore)

Particulars	Norms	FY 2024-25	
		OPGC Proposal	OERC Approval
Cost of Coal	1.5 Months	41.91	40.29
Cost of Secondary Fuel Oil	2 Month	9.03	9.03
O&M expenses	1 Month	18.51	18.51
Receivables	2 Month	116.63	114.40
Working Capital Requirements		186.09	182.24
Rate of Interest		8.65%	8.65%
Interest on working capital		16.10	15.76

Accordingly, the Commission approves Rs. 15.76 Crore towards interest on working capital as against OPGC proposal of Rs. 16.10 Crore.

- (b) The proposal of OPGC and approval of the Commission with respect to Annual Fixed cost of OPGC (Unit-1 & 2) is summarised in the Table 10 below:

Table- 10
Total Annual Fixed Cost (AFC) Approved by Commission for determination of
Generation Tariff of OPGC for FY 2024-25

(Rs Crore)

Particulars	OPGC Proposal	OERC Approval
Depreciation	0.00	0.00
Return on Equity	72.00	72.00
Interest on Loan Capital	0.00	0.00
O&M Expenses	222.15	222.15
Interest on working capital	16.10	15.76
Total	310.25	309.91

The total AFC comes to Rs 309.91 Crore as against OPGC's proposal of Rs. 310.25 Crore.

79. **Computation of Energy Charges:**

(a) **Operational Performance Parameters**

Regarding operational parameter, the Commission adopts the norms mentioned in the PPA. Details of these parameters are given in Table 11 below:

Table-11
Operational norms adopted by the Commission in accordance with PPA for
Determination of Generation Tariff of OPGC for FY 2024-25

Particulars	Unit	OPGC Proposal	OERC Approval
Plant Load Factor (PLF)- Normative	%	68.49	68.49
Auxiliary consumption	%	9.50	9.50
Gross Station Heat Rate	(Kcal/kWh)	2500	2500
Secondary fuel oil consumption	(ml/kWh)	3.50	3.50

(b) **Price & GCV of Coal and Secondary fuel oil**

The Commission, vide its Order dated 28.10.2020 in Case No. 43/2017, has provided the basis for calculation of GCV of coal as delivered to the power station (total moisture basis). This has been challenged by OPGC in APTEL which is subjudice. In response to the Commission's queries, OPGC has submitted the actual coal prices and GCV from April 2023 till November 2023. In absence of the actual data from December 2023 till March 2024, the Commission is inclined to consider the notified price of Coal and GCV from December 2023 till March 2024. It may further be noted that MCL has revised the grade of Coal in November 2023 (G-14 revised to G-12 for Lakhanpur mines) and accordingly the revised GCV and price of Coal from December 2023 till March 2024 has been considered for arriving at the energy charges. Considering all the above operational norms, price and GCV of Coal and Secondary fuel oil parameters of PPA, details for calculation of energy charges are given in Table 12 below:

Table-12
Computation of Energy Charges for determination of Generation
Tariff of OPGC for FY 2024-25

Particulars	Unit	OPGC Proposal	OERC Approval
Price of Coal	(Rs./MT)	1,664.76	1709.22
Price of LDO	(Rs./KL)	84,867.03	84,867.03
Price of HFO	(Rs./KL)	58,863.34	58,863.34
GCV of Coal	(Kcal/Kg)	3,084.00	3,294.00
GCV of Oil	(Kcal/Ltr)	10,000.00	10,000.00
Secondary Fuel Oil Consumption (LDO-10% & HFO-90%)	(ml/kWh)	10,000.00	10,000.00
Energy Charges	(Paisa/kWh)	170.80	165.10

The Commission approves indicative Energy charges as 165.10 paisa/kWh for OPGC as against OPGC's proposal of @ 170.80 paisa/ kWh for FY 2024-25. However, GRIDCO shall verify bill on actual basis, price & GCV of Coal & Oil and make payment accordingly.

80. **Reimbursement of Other Charges**

Apart from the Annual Fixed Cost and Energy Charges, as per Clause 10 and 11 (vii) of Schedule II of PPA, other charges such as levies, taxes, duties, cess, tariff filing fee etc. and supplementary bills, if any, are to be reimbursed by GRIDCO. Accordingly, OPGC has proposed to consider other charges of Rs. 56.28 Crore for FY 2024-25 as part of the reimbursement from GRIDCO. These are to be examined item-wise by GRIDCO based on their paid bills as per appropriate rules applicable to those charges. However, the following expenditure towards Other Charges is allowed provisionally:

(a) **Electricity Duty**

OPGC has submitted that Rs. 14.83 Crore (@ Rs.0.55/kWh) has been projected for FY 2024-25 considering projected gross generation of 2,995.02 MU. It has been observed that in the application before the Hon'ble APTEL in the year 2004, both OPGC and GRIDCO had agreed to consider auxiliary consumption of 9% for the purpose of calculation of Electricity Duty. Further, in response to the Commission's queries, OPGC has submitted an estimated PLF of 80.14% for FY 2024-25. Considering 9% auxiliary Consumption at 80% nominal PLF, the Commission provisionally approves Rs. 14.57 Crore (@ Rs.0.55/kWh) towards electricity duty for FY 2024-25.

(b) **Water Cess & Water Charges**

OPGC has submitted that, during the FY 2022-23, it has incurred an expenditure of Rs.9.81 Crore towards water cess and water charges and accordingly the same has been claimed to be allowed for reimbursement for the FY 2024-25. Based on the above proposal of OPGC, the Commission provisionally approves the amount of Rs. 9.81 Crore towards water cess and water charges for FY 2024-25 and direct OPGC to produce proper justification of payment of such charges along with relevant documents while claiming reimbursement from GRIDCO. The Commission also directs GRIDCO to verify the documents while making payment to OPGC.

(c) **Energy Compensation Charge**

OPGC has submitted that in addition to water cess and water charges, it has to pay an additional charge to OHPC for drawal of water in the form of Energy Compensation Charges (ECC) based on Govt. of Odisha letter dated 31.07.2012. The Commission in Para 73 (c) of the Order dated 23.03.2023 observed that OPGC had not made any payment to OHPC for FY 2021-22 and hence the Commission was not inclined to approve the claimed amount of Rs.0.78 Crore towards ECC for FY 2023-24. The Commission further opined that ECC shall be reimbursed by GRIDCO on the basis of actual payment made and claimed by OPGC. As stated by OPGC, the matter is under active consideration by the Water Resources Department, Government of Odisha, however, the matter has not been resolved till date. Since the matter is yet to be resolved, OPGC has not made any payment towards ECC to OHPC in FY 2022-23 and therefore has not claimed any amount towards ECC while projecting other costs for FY 2024-25. However, OPGC has requested to allow for reimbursement of such amount, if any, paid during FY 2024-25.

Accordingly, the Commission does not allow any amount towards ECC for FY 2024-25. However, ECC shall be reimbursed by GRIDCO on the basis of actual payment made and claimed by OPGC for FY 2024-25. The Commission also directs OPGC to submit details of such payment while claiming reimbursement from GRIDCO and GRIDCO is directed to make payment to OPGC after verification of relevant documents. Such amount shall be considered during Truing-up of GRIDCO.

(d) **Tax and Cess on Land**

OPGC has submitted that an expenditure of Rs.1.33 Crore has been incurred towards tax and cess on land during the FY 2022-23 and it has claimed the same for reimbursement. The Commission provisionally approves the same amount for reimbursement of tax and cess on land to OPGC from GRIDCO during FY 2024-25.

(e) **System Operation Charges (SoC) & Market Operation Charges (MoC) for SLDC**

OPGC has claimed Rs.0.39 Crore towards SoC & MoC charges payable to SLDC. The Commission approves Rs.0.49 Crore (@ Rs.11598.65/MW/year) for the FY 2024-25 towards SoC & MoC charges of OPGC payable to SLDC as per the latest SLDC Charges and Fees Order.

(f) **ERPC Charges**

OPGC has proposed an amount of Rs. 0.16 Crore towards reimbursement against ERPC charges which has been actually paid by OPGC during FY 2022-23. The Commission provisionally approves Rs 0.16 Crore for reimbursement by GRIDCO during FY 2024-25.

(g) **Annual Inspection Fees**

OPGC has proposed an amount of Rs. 0.26 Crore towards reimbursement against Annual Inspection Fees which includes Annual Electrical Inspection fee, Annual Boiler Inspection / Renewal of License fees and Consent to Operate fees paid by OPGC during FY 2022-23. The Commission therefore provisionally approves Rs 0.26 Crore for reimbursement by GRIDCO during FY 2024-25.

(h) **Income Tax**

OPGC has proposed an amount of Rs. 24.22 Crore towards reimbursement of income tax for the FY 2024-25 considering the RoE of Rs. 72 Crore corresponding to the equity capital of Rs 450 Crore (original capital cost of Rs 1060 Crore) and the applicable tax rate of 25.17% on pre-tax RoE. As per Clause 6 of Schedule II of the PPA, income tax on the income for supply of power will be passed on to GRIDCO. In response to queries raised by the Commission, OPGC has not intimated any claim

towards income tax for FY 2022-23. Accordingly, the Commission is not considering any income tax under other charges of OPGC for FY 2024-25. However, Income tax shall be reimbursed by GRIDCO on actual basis as per the applicable provisions in PPA as and when claimed by OPGC for FY 2024-25 and such amount shall be reflected by GRIDCO in the Truing-up.

(i) **Recovery of ARR and Tariff Petition Fees & Publication Expenses**

The Commission provisionally approves Rs.0.30 Cr for FY2024-25 towards recovery of ARR and Tariff petition fees & publication expenses as proposed by OPGC.

(j) **Reimbursement of contribution towards Water Conservation Fund (WCF)**

As per the resolution of Department of Water Resources, Govt. of Odisha, dated 18.05.2015, OPGC has proposed approval of Rs. 6.13 Crore towards reimbursement of contribution to WCF during the FY 2023-24. The Commission in its Order dated 23.03.2023 observed that OPGC has not made any payment towards WCF for FY 2021-22 and hence was not inclined to approve any amount towards contribution of WCF for FY 2023-24. The Commission further opined that the amount shall be reimbursed by GRIDCO on the basis of actual payment made and claimed by OPGC for the FY 2023-24. In the instant case, the Petitioner has stated that it has not made any payment towards WCF in FY 2022-23. Therefore, no amount has been proposed by OPGC towards WCF while projecting other costs for FY 2024-25. However, OPGC has requested the Commission to allow for reimbursement of such amount, if any, paid during FY 2024-25.

Accordingly, the Commission does not allow any amount towards Water Conservation Fund. However, the amount shall be reimbursed by GRIDCO on the basis of actual payment made and claimed by OPGC for the FY 2024-25. The Commission also directs OPGC to submit details of such payment while claiming reimbursement from GRIDCO and GRIDCO is directed to make payment to OPGC after verification of relevant documents. Such amount shall be considered during Truing-up of GRIDCO.

(k) **Ash transportation and other Ash Utilization expenses**

Highlighting the MoEF&CC Notification dated 25.01.2016, OPGC stated that as per the Notification coal based thermal power plants are obligated to share the financial burden of transporting fly ash to user agencies as per the cost-sharing mechanism stipulated therein. Furthermore, to ensure 100% utilization of fly ash generated by the coal based thermal power plants, the Central Government reviewed the existing Notifications and has introduced environmental compensation mechanism vide the

MoEF Notification dated 31.12.2021 which enforces measures to guarantee full fly ash utilization, setting clear deadlines, distinct obligations for thermal power generators and user agencies, and penalties through environmental compensation for non-adherence. The expenses being statutory in nature, OPGC has filed a separate Petition (Case No. 99/2023) before the Commission, for the recovery of about Rs. 4.44 Crore incurred towards Ash transport and other Ash Utilisation Expenses between FY 2016-17 and FY 2022-23 for OPGC Units 1 & 2. Further, OPGC expects to incur around Rs. 5.00 Crore towards ash transportation and utilisation expenses during FY 2024-25 considering the price discovered in recent tenders and therefore has proposed Rs 5.00 Crore towards such expenses.

It has been observed that as per the submissions made by OPGC, it has incurred an expenditure of about Rs 0.14 Cr towards ash utilization and Rs 0.24 Cr towards ash transportation for Units 1&2 for the FY 2022-23. Accordingly, the Commission approves Rs 0.38 Cr towards ash transportation and other ash utilization expenses for Unit 1&2 for FY 2024-25. However, any additional amount accrued shall be reimbursed by GRIDCO on the basis of actual payment made and claimed by OPGC for the FY 2024-25. The Commission also directs OPGC to submit details of such payment while claiming reimbursement from GRIDCO and GRIDCO is directed to make payment to OPGC after verification of relevant documents. Such amount shall be considered during Truing-up of GRIDCO.

In regards to the claim made by OPGC in Case no. 99 of 2023, it is observed that the reimbursement of Ash Transportation and Utilization expenses form a part of the PPA and therefore the Commission believes that such expenses should be reimbursed by GRIDCO in line with the provisions of the PPA. Moreover, such expenses are also mandated by MoEF in their Notifications dated 31.12.2021 and 25.01.2016. Accordingly, the Commission approves an amount of Rs 4,43,74,498/- towards ash transportation and utilization expenses from FY 2016-17 to FY 2022-23 for OPGC Units 1 & 2. Similarly, the Commission provisionally approves an amount of Rs 9,17,65,050/- as against Rs 12,23,53,400/- towards ash transportation and utilization expenses considering the contracted capacity of 75% for FY 2021-22 to FY 2022-23 for OPGC Units 3 & 4. The same shall be considered in the ARR of GRIDCO for the FY 2024-25 as pass through. However, GRIDCO shall reimburse the expenses after prudent check based on supporting documents certified by Statutory Auditors which shall be provided by OPGC to GRIDCO as and when required. In future years, such Ash transportation and utilization expenses shall be claimed by OPGC as a part of

year end charges and the same shall be reimbursed by GRIDCO after prudent check based on relevant supporting documents.

The summary of reimbursement of other charges allowed by the Commission for the FY 2024-25 on provisional basis is given in the table 13 below:

Table – 13
Reimbursement of Other Charges for FY 2024-25
(Rs. in Crore)

Sl. No.	Particulars	OPGC Proposal	OERC Approval
(a)	Electricity Duty	14.83	14.57
(b)	Water Cess and Water Charges	9.81	9.81
(c)	Energy Compensation Charges	0.00	0.00
(d)	Tax and Cess on land	1.33	1.33
(e)	SOC and MOC for SLDC	0.39	0.49
(f)	ERPC Charges	0.16	0.16
(g)	Annual Inspection fees	0.26	0.26
(h)	Income Tax	24.22	0.00
(i)	Recovery of ARR and Tariff Petition Fees	0.30	0.30
(j)	Contribution towards Water Conservation Fund	0.00	0.00
(k)	Ash utilization expenses including transportation charges	5.00	0.38
	Total	56.28	27.30

Since the above charges are reimbursable, the same shall be reflected in the ARR of GRIDCO. As per Clauses 10 & 11(vii) of Schedule II of the PPA, GRIDCO is directed to reimburse the charges as mentioned above on actual basis as and when claimed by OPGC with appropriate documentary evidences.

81. Additional Capitalization

The Commission had earlier disallowed additional capitalisation in its Order dated 21.05.2021 in Case No. 54 of 2018. However, as per the request of OPGC, the Commission has previously allowed the Petitioner to file a separate petition in regards to additional capitalization from FY 2015-16 till FY 2022-23 in its Order dated 23.03.2023. In the instant case, OPGC has submitted that a separate petition will be submitted with respect to the claim of additional capitalization for FY 2023-24 to FY 2024-25 based on the outcome of the Appeal registered before Hon'ble APTEL in Appeal No. 335/2021 by OPGC and has requested the Commission to allow OPGC to file a separate petition in this regard. As per the prayer of OPGC, the Commission hereby allow OPGC to file a separate petition relating to additional capitalisation for the period from the FY 2023-24 to the FY 2024-25 after the APTEL's Judgement is pronounced in the above appeal of OPGC.

82. **Non-Tariff Income (NTI)**

As per Regulation 19 (2) of the OERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020, *“the Annual Fixed Cost for OHPC and OPGC (Unit-I & II) will be determined by the Commission by taking into account the notification(s) issued by the Government of Odisha from time to time and their PPAs.”* The notifications of Government of Odisha does not mention about deduction of NTI from the Fixed Cost. Since fixed cost is firmed up by Govt. of Odisha, the Commission cannot deviate from it in view of the Order of the Hon’ble Supreme Court of India. Further, the approved amended PPA of OPGC does not provide for any adjustment of NTI in AFC, therefore, Non-Tariff Income has not been factored in the tariff determination.

83. **MYT Principles**

As per Regulation 7 (6) of OERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020, OPGC has to submit an application to the Commission for determination of tariff for the existing generation plants (Unit 1&2) as per annual schedule by 30th November every year. Accordingly, OPGC has filed its tariff application for the FY 2024-25 before 30th November, 2023 along with all the information required in accordance to the regulations. The MYT principles are based on certain set of parameters for determination of tariff for a control period. The OERC strictly follows the similar principles for determination of tariff based on various parameters specified in the above Regulations which remains in force/ remains valid normally for a period of 5 years. Therefore, it is not proper to say that MYT principles have not been practiced/ followed.

84. **Other Issues**

The Commission takes note of other issues raised by Objectors relating to Auxiliary Consumption, PLF and Capital Cost, fuel cost & GCV, cash flow statements etc. It may be noted that these aspects shall be dealt as per the provision in the PPA following the directions of Hon’ble Supreme Court. Further, since OPGC is a public sector company, their auditing shall be governed as per the rules of the Government. Certain issues related to Stage-II (Units 3 & 4) of OPGC such as filing of MYT petition, truing-up petition, time and cost over-run, input pricing of coalfired, capital cost passed out of Tilia ash pond, etc. have been raised by the Objectors. Since this instant case is dealing with ARR of Stage- I of OPGC, the Commission feels that it would be pertinent to take up the aforesaid issues during the subsequent MYT determination of Stage- II (Units 3 & 4) of OPGC.

85. **Summary of Approved Generation Tariff of OPGC for FY 2024-25**

Summary of generation tariff as approved by the Commission for FY 2024-25 is as under:

Table - 14
Summary of Approved Generation Tariff of OPGC for FY 2024-25

Particulars	Units	OPGC Proposal	OERC Approval
Annual Fixed Cost	Rs. Crore	310.25	309.91
Variable Charges	Paisa/kWh	170.80	165.10
Other Charges	Rs. Crore	56.28	27.30

86. **Directives of the Commission**

- (a) The recovery of monthly Capacity Charges approved by the Commission shall be made as per the methodology stipulated in the amended PPA. Further, based on the operational norms like Auxiliary Consumption, Gross Station Heat Rate and specific secondary Oil consumption as indicated in Clause 8 of Schedule-II of the PPA, Price and GCV of Oil & Coal as actually delivered to the power station as per Clause 7 of Schedule-II of the PPA, bills shall be raised by OPGC. Moreover, the incentives/disincentives, other charges, supplementary bills etc. are to be recovered by OPGC from GRIDCO as per Clause 10 and 11 (vii) of the PPA on production of documentary evidence. Any such amount as mentioned above shall be paid by GRIDCO after due verification and scrutiny of documents/ bills.
- (b) OPGC to submit status of new ash pond that has been approved by the Commission in Case No. 99 of 2021 including the status of FGD and FGC implementation.
- (c) The Commission takes a note of the explosion of Ash Pond-C and directs OPGC to submit report including reasons for such explosion, quantum of generation disruption, impact on livestock/ humans/ environment/ spillage in surrounding areas, financial impact due to such explosion, and the steps taken in the aftermath for safe ash disposal.
- (d) OPGC shall intimate initiatives taken on utilization of renewable energy for reduction of carbon footprint and Renewable Generation Obligation (RGO), if imposed. OPGC shall submit the present status of such renewable energy projects and preparedness to meet the RGO, if imposed.
- (e) OPGC has taken up a number of initiatives for fly ash utilization & disposal. However, OPGC is directed to pursue with MCL or any other mines for allotment of mine void space for disposal of ash to comply with MoEF & CC Notification.

- (f) OPGC shall provide number of forced outages of generating units during FY 2023-24 and repetition of such incidents in the last five (5) years and the reasons for such outage & remedial measures taken to avoid repetition of such incidence.
- (g) The Tariff now approved shall be effective from 01.04.2024 for energy sold to GRIDCO and shall be in force until further Orders.

87. The case is accordingly disposed of.

Sd/-
(S.K. RAY MOHAPATRA)
MEMBER

Sd/-
(G. MOHAPATRA)
OFFICIATING CHAIRPERSON