

**ODISHA ELECTRICITY REGULATORY COMMISSION  
BIDYUT NIYAMAK BHAWAN  
PLOT NO. 4, CHUNOKOLI, SHAILASHREE VIHAR,  
BHUBANESWAR – 751021  
\*\*\* \*\***

**Present: Shri Gajendra Mohapatra, Chairperson  
Shri Sushanta Kumar Ray Mohapatra, Member**

**CASE NO. 104/2021**

**DATE OF HEARING : 15.02.2022**

**DATE OF ORDER : 24.03.2022**

**IN THE MATTER OF: Application for determination of Generation Tariff of Odisha Power Generation Corporation Ltd. (OPGC) (Unit I &II) for FY 2022-23 under Section 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 (Terms & Conditions for Determination of Generation Tariff) Regulations, 2020 and OERC (Conduct of Business) Regulations, 2004 and Hon’ble Supreme Court order dated April 19, 2018 in Case No 9485 of 2017.**

**ORDER**

The Petitioner, M/s. Odisha Power Generation Corporation (OPGC) Ltd. has filed an application before the Commission for determination of Generation Tariff of its power station of 420 MW (2 X 210 MW) for FY 2022-23. The principle of tariff determination has been settled by Hon’ble Apex Court in its judgement dated 19.04.2018 in Civil Appeal No. 9485/2017 wherein the Apex Court has held as under:

- “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.”*

Accordingly, OPGC has been filing annual tariff petition before the Commission since

2016-17 as per the judgement of the Apex Court.

2. The present petition has been filed on 30.11.2021 for determination of Generation Tariff for FY 2022-23 under Sections 62 and 86 of the Electricity Act, 2003 read with approved power purchase agreement, supplemental agreement and related provisions of OERC (Terms & Conditions for Determination of Generation Tariff) Regulations, 2020, OERC (Conduct of Business) Regulations, 2004 and Hon'ble Supreme Court's order in CA No. 9485 of 2017 dated 19.04.2018. The present petition shall be disposed of by the Commission in accordance with the principle already laid down by the Hon'ble Apex Court. Under the existing legal set up, GRIDCO Ltd. is the state designated entity to procure power on behalf of the state of Odisha from the generating stations of OPGC Ltd. for bulk supply to the Distribution Licensees of Odisha.
3. After due scrutiny and admission of the aforesaid application, the Commission directed OPGC Ltd. to publish its application in the approved format in the newspaper and in the website. In compliance to the same, public notice was given in leading widely circulated newspapers and was also posted in the website of the Commission and OPGC in order to invite objections/suggestions from the general public. The applicant was also directed to submit its rejoinder to the objections/suggestions filed by the objectors. In response to the aforesaid public notice the Commission received four numbers of objections from the following persons /organizations:
  - a) Mr. R. P. Mahapatra, Rtd. Chief Engineer & Member (Gen) OSEB. Plot No. 775(P), Lane-3, Jayadev Vihar, Bhubaneswar-751013;
  - b) Mr. Soumya Ranjan Patnaik, Plot No-185, VIP Colony, Nayapalli, BSSR, Odisha-15;
  - c) Shri Ramesh Ch. Satpathy, Secretary, National Institute of Indian Labour, Plot No.302(B), Beherasahi, Nayapalli, Bhubaneswar-751012; and
  - d) The General Manager, GRIDCO Ltd. Janpath, Bhubaneswar-751022.

All the above named Objectors along with the representative of Department of Energy, Government of Odisha were present during tariff hearing and their written submissions filed before the Commission were taken on record and were also considered by the Commission. The applicant submitted its reply to the issues raised by the various objectors during hearing.

4. In exercise of the power conferred under Section 94(3) of the Electricity Act, 2003 and to protect the interest of the consumers, the Commission has 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 2022-23. The Consumer Counsel presented views on the matter during the hearing.
5. The date of hearing was fixed as 15.02.2022 at 3.00 PM and was duly notified in the leading and widely circulated newspaper mentioning the list of objectors. The Commission also issued notice to each objectors and the Department of Energy, Government of Odisha informing them about the date and time of hearing through virtual mode due to COVID-19 pandemic situation in the State. Accordingly, the Applicant, Objectors and the representative of DoE, GoO had participated during the proceedings and offered their views/ suggestion/ proposal in the hearing on virtual mode on the date and time fixed by the Commission.
6. As the part of the consultative process, the Commission conducted a public hearing through video conferencing on 15.02.2022 at 3.00 P.M and heard the Applicant, Objectors, Consumer Counsel and the Representative of the Dept. of Energy, Government of Odisha at length. The Commission convened the State Advisory Committee (SAC) meeting on 11.03.2022 at 11.00 AM to discuss about the application for determination of generation tariff proposal of the generating company for FY 2022-23. The Members of SAC presented their valuable suggestions and views on the matter for consideration of the Commission.

**OPGC PROPOSAL FOR DETERMINATION OF GENERATION TARIFF FOR THE FY 2022-23 (PARA 7 TO 27)**

7. OPGC has stated that they had entered into Bulk Power Supply Agreement with GRIDCO dated 13.08.1996 ("PPA") to sell power from its generating Units- I & II having capacity of 420 MW (2x 210 MW) of IB thermal power station. The said PPA was approved by the Government of Odisha and came into force from 01.01.1995. Further, a Tripartite Agreement was signed between OPGC, GRIDCO and Government of Odisha on dated 18.10.1998 ("Tripartite Agreement") providing certain amendments to the existing PPA. Further, an escrow and securitization agreement dated 30.11.1998 was entered between OPGC, GRIDCO and Union Bank of India. Thereafter, an agreement was signed between OPGC and GRIDCO on

06.09.2012 as supplemental to the Tripartite Agreement based on Government of Odisha Notification dated 21.06.2008 which was made effective from 12.10.2009. Subsequently, OPGC and GRIDCO had signed an amendment to the existing PPA on 19.12.2012 (together called the “Amended PPA”) which has been approved by the Commission vide its order dated 27.04.2015 passed in Case No. 13/2002. Accordingly, OPGC had filed a petition before this Commission for approval of its generation tariff for FY 2016-17. The Commission vide its order dated 21.03.2016 had determined the generation tariff of Units-I & II in accordance with the Terms and Conditions of the OERC Generation Tariff Regulations, 2014.

8. OPGC had filed an appeal before the Hon’ble Appellate Tribunal for Electricity (“APTEL”) against the said Tariff Order and Hon’ble APTEL vide its Judgment dated April 6, 2017 had upheld the Commission’s Order in this regard. Being aggrieved of the judgment of the Hon’ble APTEL, OPGC had filed a Civil Appeal No. 9485 of 2017 before the Hon’ble Supreme Court of India. Hon’ble Supreme Court vide its judgment dated 19.04.2018 had remanded the matter to this Commission for a fresh decision. Hon’ble Supreme Court had held that notification dated 21.06.2008 and the PPA are to be followed for determination of fixed and variable cost respectively and for other cost the provisions of OERC (Generation Tariff) Regulations may be relied upon by the Commission to determine the tariff for OPGC. In accordance with the judgment of the Hon’ble Supreme Court, OPGC had filed petitions before the Commission for re-determination of tariff for the FY 2016-17, 2017-18 and 2018-19, and the Commission vide its order dated 28.03.2019 had re-determined the generation tariff of OPGC for the aforesaid years based on the original project cost as per the approved amended PPA.
9. Based on the above principle, the generation tariff for the FY 2019-20, FY 2020-21 and FY 2021-22 has also been determined by the Commission vide its order dated 29.03.2019, 22.04.2020, and 26.03.2021 passed in Case No. 70/2018, Case no. 69/2019, and Case No. 71/2020 respectively. In the meantime, The Commission notified the Odisha Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 (“OERC Generation Tariff Regulations, 2020”) on July 15, 2020 in exercise of the powers conferred by Section 61 and Section 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.

10. Further, the Commission vide its Order dated 28.10.2020 in Case No. 43 of 2017, on the Petition filed by OPGC, has opined that for computation of Energy Charges, the Gross Calorific Value of coal is to be considered on “as delivered basis”. OPGC has filed Appeal No. 189 of 2020 before the Hon’ble APTEL against the said order and the case is sub-judice.
11. Further the Commission vide order dated 21.05.2021 in Petition 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 has filed an Appeal before Hon’ble APTEL, which was registered as DFR No. 407/2021, against the Commission’s Order dated May 21, 2021 in Case No. 54 of 2018.
12. Considering various provisions of OERC Generation Tariff Regulations, 2020, and the Hon’ble Supreme Court’s Judgment dated 19.04.2018, instant petition has been filed by OPGC, in line with the approach adopted in Petition in Case No. 71 of 2020, for approval of its generation tariff for FY 2022-23.

13. **Computation of Annual Fixed Cost**

OPGC has submitted the Annual Fixed Cost as per Clause 3.0 of Schedule II of the Amended PPA which comprises of the following components:

- Return on Equity;
- Interest on loan capital;
- Depreciation;
- Interest on working capital;
- Operation and maintenance expenses.

14. **Capital Cost**

OPGC has submitted that, it has considered capital cost of the Project as Rs. 1060 Crore for FY 2022-23 as per the Amended PPA signed between OPGC and GRIDCO and approved by OERC vide its Order dated 27.04.2015.

15. **Debt – Equity Ratio**

OPGC submitted that it has considered the equity amount of Rs. 450 Crore and loan amount of Rs. 610 Crore of the original project cost of Rs. 1060 crore as per amended PPA approved by the OERC vide Order dated 27.04.2015.

16. **Depreciation**

OPGC has submitted that, as per Clause 3.0 (a) of Schedule II of the Amended PPA, depreciation charges shall be equal to 7.5% of the Capital Cost during the year. However, OPGC has not claimed any amount towards depreciation on the original project cost for FY 2022-23 as the assets of the generating Stations are fully depreciated by the financial year ending March 31, 2009.

17. **Return on Equity**

OPGC has submitted that Clause 8.0 (10) of Schedule II of PPA provides for Return on Equity at the rate of 16%. Considering the equity capital of Rs.450 crore of the original project cost, OPGC has claimed Rs.72 Crore towards RoE for determination of generation tariff for FY 2022-23.

18. **Interest on Loan Capital**

OPGC has submitted that Clause 8.0 (7) and (11) of Schedule II of the Amended PPA stipulates that the loan amount shall be Rs. 610 Crore and interest on loan is to be allowed as per actual. As the loan amount of the original project cost has been fully repaid by financial year ending 2011-12, OPGC has not considered any amount towards Interest on loan capital for determination of generation tariff of FY 2022-23.

19. **O&M Expenses**

OPGC has submitted that, as per Clause 3.0 (d) and (e) of Schedule II of the Amended PPA, O&M expenses for first year of operation shall be at the rate of 2.5% of the capital cost of Rs 1030 Crore; which shall be escalated by 8% each year from April 1, 1996. Considering the above methodology, the O&M expense proposed by OPGC for generation of tariff for FY 2022-23 is Rs. 190.46 Crore.

20. **Interest on Working Capital**

OPGC has submitted that it has considered the components of working capital requirement as per the Clause 3.0 (f) of Schedule II of the Amended PPA. OPGC submitted that, it has started availing working capital from external sources, and the actual interest rate for the Working Capital facility availed by OPGC in FY 2021-22 is 7.20%. Accordingly, the same rate has been considered by OPGC for FY 2022-23. Accordingly, OPGC claimed interest on working capital as Rs. 13.10 Crore for FY

2022-23. The detailed calculation of working capital requirement and interest on working capital is given in Table - 1 below.

**Table - 1**  
**Proposed interest on working capital by OPGC for FY 2022-23**  
**(Rs. Crore)**

| Sl. No. | Particulars                               | Amount        |
|---------|---|---------------|
| 1.      | Cost of Coal for one and half months      | 45.21         |
| 2.      | Cost of Secondary Fuel Oil for two months | 7.33          |
| 3.      | O&M Expenses for one month                | 15.87         |
| 4.      | Receivables equivalent to two months      | 113.54        |
| 5.      | <b>Total Working Capital Requirement</b>  | <b>181.95</b> |
| 6.      | Interest Rate %                           | 7.20%         |
| 7.      | <b>Interest on Working Capital</b>        | <b>13.10</b>  |

21. **Summary of Annual Fixed Cost**

Considering the above annual fixed cost components, OPGC has proposed the total Annual Fixed Cost for FY 2022-23 corresponding to the original project cost as Rs. 275.56 Crore. The details are given in the Table - 2 below.

**Table - 2**  
**Proposed Total Annual Fixed Cost by OPGC for FY 2022-23,**  
**considering original project cost**  
**(Rs. Crore)**

| Particulars                    | Amount        |
|--------------------------------|---------------|
| Return on Equity               | 72.00         |
| Interest on loan capital       | 0.00          |
| Depreciation                   | 0.00          |
| O&M expenses                   | 190.46        |
| Interest on Working Capital    | 13.10         |
| <b>Total Annual Fixed Cost</b> | <b>275.56</b> |

22. **Operation Performance Parameters**

For calculation of energy charges, OPGC has proposed the operational performance parameters as per Clause 8 of Schedule-II of the amended PPA. Accordingly, OPGC has considered following operational norms for determination of energy charges of FY 2022-23. Details of these norms are given in Table - 3 below.

**Table - 3**  
**Proposed Operational Performance Parameters by OPGC for FY 2022-23**

| Particulars                            | Unit | Values |
|--|------|--------|
| Normative Availability Factor          | %    | 68.49% |
| Target Plant Load Factor for incentive | %    | 80.00% |

| <b>Particulars</b>            | <b>Unit</b> | <b>Values</b> |
|-------------------------------|-------------|---------------|
| Auxiliary consumption         | %           | 9.50%         |
| Gross Station Heat Rate       | kcal / kWh  | 2500          |
| Specific fuel oil consumption | ml/kWh      | 3.50          |

23. **Price and GCV of Coal & Secondary Fuel Oil**

- (a) OPGC submitted that during FY 2022-23, the entire coal requirement is proposed to be met from coal supply under existing Fuel Supply Agreement (FSA) with Mahanadi Coal Fields Limited. In line with the Judgement 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. OPGC further submitted that, Price & Gross Calorific Value (GCV) of Coal and Secondary fuel oil will be considered as per Clause 7 of Schedule-II of the PPA and also as per Clause 9 of Schedule II of the PPA which stipulate that the prices and GCV of coal and oil for one year shall be the base for the next year. 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, finalized a formula of calculating GCV of coal as delivered to the power station (on total moisture basis). OPGC has filed Appeal No. 189 of 2020 before the Hon'ble APTEL against this Commission's Order dated October 28, 2020 in Case No. 43 of 2017 on the GCV to be considered for tariff computation and case is subjudice.
- (b) 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. As it is not possible to provide the auditor certified value of delivered price and GCV of oil & coal for the whole year FY 2021-22, OPGC has considered the actual weighted average prices and GCV of oil & coal for the period from April to September 2021 for purpose of computation of energy charges for FY 2022-23. Details of these parameters are given in Table - 4 below:

**Table - 4**  
**Proposed Price and GCV of Coal and Oil by OPGC for FY 2022-23**

| <b>Sl. No.</b> | <b>Particulars</b> | <b>Unit</b> | <b>Values</b> |
|----------------|--------------------|-------------|---------------|
| 1              | Price of Coal      | (Rs. /MT)   | 1614.28       |
| 2              | Price of LDO       | (Rs./kL)    | 52744.07      |

|   |                               |             |          |
|---|-------------------------------|-------------|----------|
| 3 | Price of HFO                  | (Rs./kL)    | 49540.30 |
| 4 | Gross Calorific Value of Coal | (kCal/kg)   | 2772.64  |
| 5 | Gross Calorific value of LDO  | (kCal/ltr.) | 10000    |
| 6 | Gross Calorific value of HFO  | (kCal/ltr.) | 10000    |
| 7 | Specific Coal Consumption     | (kg /kWh)   | 0.89     |
| 8 | Specific Oil Consumption-LDO  | (ml/kWh)    | 0.35     |
| 9 | Specific Oil Consumption-HFO  | (ml/kWh)    | 3.15     |

24. **Energy charges**

OPGC has computed Variable Charges for FY 2022-23 as per Clause 7.0 of Schedule II of the Amended PPA. Considering the above stated operational norms, price and GCV of Coal & Secondary fuel oil parameters as per PPA, OPGC has proposed energy charges of 177.89 paisa/kWh for FY 2022-23 for its generating station I & II. Further, OPGC submitted that any variation in energy charges during the year on account of fuel prices and calorific value will be claimed through Fuel Price Adjustment in supplementary bills on half yearly basis as per the provisions of PPA.

25. **Reimbursement of Other Charges**

- (a) Apart from the Annual Fixed Cost and Energy Charges, OPGC has proposed for reimbursement of the other charges and expenses such as Electricity duty, water cess and water charges, Energy Compensation charges, tax and cess on land, SOC and MOC paid to SLDC, EPRC charges, Income tax, recovery of ARR and tariff petition fees and contribution to Water Conservation Fund etc as per clause Nos. 10.0 and 11.0 (vii) of Schedule-II of PPA. The details are given in Table - 5 below:

**Table - 5**  
**Proposal for Other Charges by OPGC for FY 2022-23**  
**considering original project cost**

| (Rs. Crore) |  |        |
|-------------|--|--------|
| S. No.      | Particulars                                  | Amount |
| 1           | Electricity Duty                             | 17.35  |
| 2           | Water Cess and Water Charges                 | 8.58   |
| 3           | Energy Compensation Charges                  | 0.71   |
| 4           | Tax and Cess on land                         | 0.05   |
| 5           | SOC and MOC for SLDC                         | 0.34   |
| 6           | ERPC Charges                                 | 0.16   |
| 7           | Income Tax                                   | 38.67  |
| 8           | Recovery of ARR & Tariff Petition Fee        | 0.30   |
| 9           | Contribution towards Water Conservation Fund | 6.13   |
|             | <b>Total</b>                                 | 72.29  |

- (b) Accordingly, OPGC requested to provisionally approve the other charges of Rs. 72.29 Crore considering the original project cost and direct GRIDCO Ltd. to reimburse the other charges on actual basis during the FY 2022-23.

26. **Additional Capitalization**

- (a) OPGC submitted that it had claimed the additional capitalisation of Rs. 13.32 Crore, Rs. 20.94 Crore and Rs. 44.11 Crore for FY 2015-16, FY 2016-17 and FY 2017-18 respectively vide Case No. 54 of 2018 respectively. OPGC had claimed vide Case No. 69 of 2019 the actual additional capitalization of Rs. 43.78 Crore for FY 2018-19. Similarly Vide Case No. 71 of 2020, OPGC had claimed the actual additional capitalisation of Rs. 6.41 Crore for FY 2019-20. The Commission vide order dated May 21, 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 November 15, 2021, registered as DFR No. 407/2021 before Hon'ble APTEL against the Commission's Order dated 21.05.2021 in Case No. 54 of 2018.
- (b) According to order dated 21.05.2021 in Petition No.54 of 2018, actual additional capital expenditure for FY 2015-16 to FY 2017-18 is disallowed by the Commission. Therefore, it is not possible to consider additional capital expenditure incurred by OPGC; rather they would come under relaxed O&M norms of PPA.
- (c) Further, OPGC has submitted that after detailed discussions/deliberations with GRIDCO towards Renovation & Modernisation for enhancement of plant life and implementation of FGD & FGC for complying the revised Emission Standards as prescribed by MoEF&CC, OPGC had filed a Petition for in-principle approval of the Commission. The Commission has disposed off the Petition vide its Order dated 03.11.2021 in Case No 66 of 2021.
- (d) In the present Petition, OPGC has not claimed actual additional capitalisation for FY 2020-21 and projected additional capitalisation for FY 2021-22 and FY 2022-23. Based on the outcome of the Appeal filed in Hon'ble APTEL against the Commission's order in Case No. 54 of 2018, OPGC will approach the Commission for approval of actual additional capitalisation for FY 2015-16 to FY 2020-21 and projected additional capitalisation for FY 2021-22 and FY 2022-23 through a separate petition.

27. **Summary of Tariff proposal for FY 2022-23**

- (a) Considering as proposed above, the summary of tariff proposed by OPGC for FY 2022-23 is given in the Table - 6 below:

**Table - 6**  
**Summary of Tariff Proposal of OPGC for FY 2022-23**

| <b>Particulars</b>              | <b>Units</b>     | <b>Corresponding to original project cost</b> |
|---------------------------------|------------------|---|
| Depreciation                    | Rs. Crore        | -   |
| Return on Equity                | Rs. Crore        | 72.00   |
| Interest on loan                | Rs. Crore        | -   |
| O&M expenses                    | Rs. Crore        | 190.46  |
| Interest on working capital     | Rs. Crore        | 13.10   |
| <b>Total Annual Fixed Cost</b>  | <b>Rs. Crore</b> | <b>275.56</b>                                 |
| <b>Variable Charges per kWh</b> | <b>Paisa/kWh</b> | <b>177.89</b>                                 |
| <b>Other charges</b>            | <b>Rs. Crore</b> | <b>72.29</b>                                  |

- (b) OPGC has prayed to the Commission to approve the annual fixed cost and variable charges, other charges as proposed for FY 2022-23 along with approval of the recovery of other charges on actual basis. OPGC has also prayed to approve the 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, as per the provisions of PPA. Further, OPGC prayed to allow to file a separate Petition regarding additional capitalisation from FY 2015-16 to FY 2022-23 after the APTEL Judgment is issued on the Appeal filed by OPGC on the Commission's Order dated May 21, 2021 in Case No. 54 of 2018.

**VIEWS OF THE OBJECTORS AND RESPONSE OF OPGC (PETITIONER) ON THE GENERATION TARIFF PROPOSAL FOR FY 2022-23 (PARA 28 TO 44)**

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

28. **Additional capitalization**

GRIDCO submitted that in view of in-principle approval of R & M with 15 years' life extension allowed by the Commission (Case No 66 of 2021), there may not be any further need of additional capitalisation for Stage-I of OPGC.

### **Response of OPGC**

OPGC submitted that it has filed an appeal before Hon'ble APTEL against the Commission's order dated May 21, 2021 in Case No. 54 of 2018, in regard to additional capitalization of past period, which is yet to be admitted by the Hon'ble APTEL. Further, OPGC submitted that as the matter of allowance of additional capitalization is sub-judice, OPGC has not claimed tariff on account of additional capitalization for the period from FY 2015-16 to FY 2022-23 in the present petition. OPGC shall file a separate petition regarding allowance of tariff due to additional capitalization from FY 2015-16 to FY 2022-23 based on the outcome of the appeal filed by OPGC before Hon'ble APTEL.

#### **29. Return on Equity**

GRIDCO has submitted that considering the equity capital as Rs. 450 Crore and rate of Return on Equity as 16%, the Commission may calculate the Return on Equity while determining the tariff. One of the Objectors has pointed out that the RoE related provisions mentioned under OERC Generation Tariff Regulations, 2020 (regulation nos. 19 & 21) and CERC (Terms & Conditions of Tariff) Regulations, 2019 (Regulation nos. 15 & 31) contradict each other.

### **Response of OPGC**

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

#### **30. O&M expenses**

GRIDCO submitted that based on the methodology given in amended PPA, O&M expenses may be determined. However, actual O&M expenses and its growth rate may be reviewed by the Commission.

### **Response of OPGC**

OPGC submitted that OPGC has claimed the O&M Expenses at 2.50% of the capital cost of Rs. 1030 Crore and escalated it by 8% each year from 01.04.1996 in accordance to provision of the approved amended PPA and order of the Hon'ble Supreme Court. Therefore, OPGC has requested to the Commission to allow O&M expenses as claimed in the petition.

31. **Interest on Working Capital**

GRIDCO submitted that interest on working capital may be reviewed based on actual information. The cost of coal may be prudently verified. OPGC is not submitting Coal and secondary fuel oil data in Form 7(c ) and 7 (o) format and also not providing the CIMFR reports to derive/work out the "As Received" GCV of linkage coal as per the Commission's order dated 28.10.2020 in Case No. 43 of 2017. Another Objector submitted that interest on working capital may be reviewed as for the FY 21-22, the Commission allowed interest on working capital amounting to Rs 161.12 Crore against Rs 171.36 Crore now proposed by OPGC. The requirement of coal cost thereof is to be calculated assuming PLF of 68.49%.

**Response of OPGC**

OPGC submitted that the Petitioner has computed the working capital in accordance to 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 in November 2021. The supporting document of actual interest rate of 7.20% is also submitted by OPGC. Further, OPGC has claimed Interest on Working Capital computed considering the normative PLF of 68.49% in accordance to the provision of the approved amended PPA. It is not appropriate to compare the absolute amount of interest on working capital proposed by the Petitioner for FY 2022-23 with the Interest on Working Capital approved by the Commission for FY 2021-22. With the increase in coal prices and O&M expenses, Working Capital computed for FY 2022-23 will be higher. The Interest on Working Capital mainly depends upon coal cost, oil cost, O&M expenses and other components of Annual Fixed Charges.

32. **Annual Fixed Cost**

GRIDCO stated that OPGC has proposed 6% hike in fixed charges, which is quite high. Another Objector submitted that the increase in fixed cost is due to higher provision under interest on working capital, which is on account of providing higher interest rate, lower GCV towards coal cost and higher rate for secondary fuel oil.

**Response of OPGC**

OPGC has not specifically responded to GRIDCO's comment. However, OPGC has provided its comments about working capital, GCV of Coal and cost of secondary fuel oil, which are included under respective para, hence not repeated here.

33. **Non-Tariff Income**

An Objector has submitted that the OPGC failed to project Non-Tariff Income (NTI) under petition filed for Stage-1 of its power stations. The Objector has submitted that NTI proposed by OPGC should be disclosed as per regulation nos. 19, 26 & 41 of the OERC (Terms and Conditions for determination of Generation Tariff) regulations, 2020. The NTI is to be deducted from gross AFC to arrive at net AFC for determination of generation Tariff. The Objector also claimed that petitioner-OPGC had not furnished the reason behind the reduction in income from investment during FY 2020-21 and requested a prudent check of the Financial Statement of the FY2020-21 of OPGC and approve NTI accordingly. An Objector has requested OPGC to submit necessary data on revenue earned on account of interest on deposits/advances/any other receipts, so as to facilitate prudent passing out of the project cost in the instant proceeding.

**Response of OPGC**

OPGC submitted that the instant Petition has been filed in accordance with the approved Amended PPA which does not provide for any adjustment of Non -Tariff Income from Annual Fixed Cost.

34. **Plant Load Factor**

An Objector submitted that OPGC has proposed PLF reduction i.e. 81.46% but all thermal power stations of the state such as IPPs and central sector generation project(s) of NTPC are now generating/ operating at PLF of more than 85% to 90%. The objector requested that the Commission should pass an order directing OPGC to operate with PLF more than 85%.

**Response of OPGC**

OPGC submitted that OPGC has projected the PLF of 78.03% for FY 2022-23 and not 81.46% as stated by the stakeholder. OPGC 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. Accordingly, the PLF varies from year to year.

35. **Auxiliary Consumption**

An Objector submitted that OPGC has proposed 9.5% as auxiliary consumption; whereas, the central thermal power stations like NTPC have auxiliary consumption of 5.5%. As such, the auxiliary consumption calculation should be made as per the provisions given in the regulations.

**Response of OPGC**

OPGC submitted that the normative auxiliary consumption claimed by OPGC is 9.5% in accordance with the approved Amended PPA even though the actual auxiliary consumption has remained above 10% since COD of the station. The reference to auxiliary consumption of central generating stations is misplaced as they are governed by Tariff Regulations of the Central Electricity Regulatory Commission. Further, even the auxiliary consumption of 5.5% mentioned is for super critical units with capacity of 660 MW and above and not for Units with capacity of 210 MW. Moreover, the auxiliary consumption as per CERC Tariff Regulations, 2019, for 200 MW unit series with induced draft cooling towers is 9.0%.

36. **Fuel Cost and GCV of Coal**

- (a) GRIDCO has stated the following on Fuel prices and GCV of coal:
- i. The submission of OPGC regarding GCV of coal is in complete violation of provisions of PPA as well as Order of Hon'ble Supreme Court. OPGC has submitted that it is not possible to provide Auditor Certified Value of delivered price and GCV of oil & coal as part of tariff submissions which is contrary to the Commission's Order dated 28.10.2020, which states that for determination of tariff, sampling report by CIMFR at mine's end with moisture correction would be considered for determining GCV of 'as delivered' Coal on total moisture basis.
  - ii. In absence of sufficient data/information, the Commission may direct OPGC to provide the Annual Notification for FY 2021-22 by MCL and accordingly take prudent decision in the matter.
  - iii. It is essential on the part of long term beneficiary like GRIDCO to be vigilant enough while scrutinizing each and every parameter contributing to determination of Energy Charge Rate (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 in quality with landed cost paid for the notified Grade of GCV of coal by the coal supplier.

- iv. OPGC ought not to be allowed to cherry pick the provisions of the PPA for unilateral benefit to the generator only in contradiction to provisions laid down under Section 61 (d) of Electricity Act, 2003.
  - v. The Petitioner-OPGC may be directed to provide the GCV of coal measured at billing end as per the Joint Third Party Sampling of Coal at colliery end by CIMFR (jointly engaged by OPGC and MCL) for the FY 2021-22 up to December, 2021 and for every month along with landed price of coal.
  - vi. OPGC may be directed to provide the details of GCV of secondary fuel oil along with ratio of LDO: HFO for FY 2020-21 and up to Dec 2021 (FY 2021-22) for necessary scrutiny and consideration.
  - vii. The Commission has approved the coal cost as Rs 1573 per MT for generation tariff of FY 2021-22, as per price circular of MCL, which may also be considered for FY 2022-23.
- (b) An Objector submitted that OPGC has considered the GCV as fired basis. However, OPGC filed an appeal to APTEL against the Commission order dated October 28, 2020. As there is no interim order from APTEL, hence, GCV cannot be considered on as fired basis. The test report of CIMFR or the monthly invoices of MCL have also not been submitted. Therefore, the Commission may determine the energy charges based on GCV of coal of 3101 Kcal/kg.

#### **Response of OPGC**

- (a) OPGC 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 on the basis of this principle, which has been accepted by GRIDCO and paid accordingly. GRIDCO cannot be allowed to adopt a different principle now to suit its own

interest and withhold energy charge payments 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 GCV to be considered for tariff has finalized the formula to be considered for GCV of coal as delivered to the power station (total moisture basis). OPGC has filed Appeal No. 189 of 2020 before the Hon'ble APTEL against the Commission's Order in this regard.
- (c) Since 1996, OPGC has been measuring GCV of coal at the boiler end/ firing point within its Power Plant and GRIDCO has paid OPGC variable costs on such basis without any objections. If GRIDCO's submissions are accepted, it will amount to precipitating the matter, before the Hon'ble APTEL has had the opportunity to adjudicate upon the matter pending before it. GRIDCO cannot be allowed to precipitate the matter until the final disposal of Appeal No. 189 of 2020 in deference to the fact that the Hon'ble APTEL is seized of the matter.
- (d) In line with the Judgement 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, which implies GCV measured at the 'boiler end' on a Total Moisture basis. Accordingly, OPGC has considered the GCV of coal and oil as actually delivered to the power station for the computation of energy charges. In view of the above, OPGC has requested the Commission to consider the actual GCV of coal as provided by OPGC for base ECR in line with Clause 9, Schedule II of the PPA, till the final disposal of Appeal No. 189 of 2020 by the Hon'ble APTEL.
- (e) OPGC further submitted that in accordance with the direction of the Commission in its Case No 33/2018 (Para 41), 70/2018 (Para 104) and Case No. 69/2019 (Para 100) and terms of the PPA (Clause 9 of Schedule-II), 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 and hence the same is not being submitted along with the monthly bills.

- (f) OPGC has already submitted the actual quantum of oil consumed for generation for the Period of April 2021 to November 2021. 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.

37. **Operational Performance Parameters**

GRIDCO submitted that based on the monthly energy accounting statement issued by SLDC for the FY 2021-22 (up to Dec-21) the cumulative PAFM works out to be 76.87%. The Commission may prudently fix the operational parameters for FY 2022-23 in respect of the OPGC's Unit no. 1&2. Further, the Plant Availability Factor for the Month, Plant Load Factor for FY 2022-23 shall have to be certified by SLDC on month-to-month basis as is being carried out at present.

**Response of OPGC**

OPGC has considered the operational performance parameters as per Clause 8 of Schedule II of the approved Amended PPA. OPGC submitted that the Hon'ble Supreme Court vide its Judgment dated 19.04.2018 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 suggestion of GRIDCO to again prudently fix the operational parameters which are already agreed in PPA is in contradiction to Hon'ble Supreme Court's Judgment as well as Commission's Orders on re-determination of tariff of previous years and any attempt to revise the operational norms which are already covered in the PPA will lead to violation of Hon'ble Supreme Court's Judgment.

38. **Energy Charge**

An Objector submitted that the test Reports of CIMFR for Coal delivered at the mine end has not been submitted. Hence, in absence of CIMFR report the variable charges should be calculated considering the GCV of coal as 3101 Kcal/kg. The invoices of

the supplier namely MCL and invoices related to LDO and Price Circulars for HFO have not been submitted.

### **Response of OPGC**

- (a) With regard to cost of coal, LDO and HFO, OPGC submitted that for computation of the fuel cost, OPGC has relied on the Clause 7.0 of Schedule II of the Amended PPA which provides that the Price and GCV of coal and oil shall be considered as delivered to the Power Station. Clause 8 of Schedule II has mentioned the normative operational performance parameters. Further, Clause 9 of Schedule II of the PPA mentioned that monthly fuel price adjustment shall be consolidated at the end of the financial year and certified by the Statutory Auditor. As the instant Petition is filed before the end of the current year FY 2021-22, it is not possible to provide the auditor certified value of delivered price and GCV of oil and coal as part of the tariff submissions for the whole year; however, the actual delivered fuel prices and GCV of oil and coal for the period from April to September 2021, has been considered for the purpose of computation of tariff based on the auditor certified Half Yearly Fuel Price Invoice.
- (b) OPGC submitted that the price of coal has been inadvertently submitted as Rs. 1614.28 per MT, as against the actual coal price of Rs. 1614.52 per MT as per Half Yearly Fuel Price for the period April, 2021 to September, 2021. Therefore, OPGC requested the Commission to consider the coal cost of Rs. 1614.52 per MT for the computation of Energy Charges for FY 2022-23. The indicative break-up of the landed price of coal (Rs 1584.48/MT) is as notified by Mahanadi Coalfields Limited (MCL) for the declared grade of coal of Lakhanpur mines (G-14). The difference with coal cost proposed is due to declared grade of coal vis-à-vis coal quality report received based on third party sampling, other charges including testing fee and revision in surface transportation charges from August 1, 2021.

### **39. Water Charges and Water Conservation Fund**

- (a) In the matter related to waiver of DPS in water charges, GRIDCO prayed to direct OPGC to expedite the matter and in no case such amount should be allowed as Pass-through.

- (b) GRIDCO stated that OPGC has not sufficiently explained as to why the additional charges payable to OHPC for drawl of water in the form of energy compensation is required to be reimbursed by GRIDCO instead of being met from O & M expenses which is being paid under relaxed norms fixed in the subsisting PPA.
- (c) With respect to payment towards Water Conservation Fund pursuant to the Resolution of Department of Water Resources, Government of Odisha dated 03.11.2015, GRIDCO submitted that GRIDCO shall reimburse the amount as per the installment paid by OPGC subject to necessary direction by the Commission and submission of all supporting documents in this regard.

#### **Response of OPGC**

OPGC submitted that as per Government of Odisha letter No. 6140 dated July 31, 2012, OPGC is required to pay additional charges to OHPC for drawl of water in the form of Energy Compensation Charge (ECC). Further, OHPC has raised invoice from FY 2005-06 till March 2021 towards delayed payment surcharge and ECC, which has not been paid since levy of the charge by OHPC. OPGC is continuously pursuing the matter with the Water Resources Department, Government of Odisha to waive the penalty along with interest, which is under active consideration and till date the matter has not been resolved. In accordance with Clause 10.0 of the approved Amended PPA, the above claimed amount by the State Government being statutory in nature, the request of GRIDCO to meet such expenses from O&M expenses is without merit and deserves outright rejection.

#### **40. Payment of Income Tax**

With regard to payment of income tax and proposed reimbursement in the instant ARR, the Objector submitted that the petitioner - OPGC, as per the provision under OERC generation tariff Regulations 2020, considers income tax as a component of AFC and allow pass through in the tariff; whereas the CERC Regulations do not specify recovery of income tax from the beneficiaries. CERC recommends grossing of RoE with the applicable tax rate of respective financial year. Therefore, the approval of flat income tax as a reimbursement is illegal, unlawful and does not uphold the principles of cost-based tariff. The proposal may be rejected by enforcing power to relax clause no 49 of OERC Regulations and amend the same to consistent with CERC Regulations. The Objector has requested the Commission to follow the CERC

methodology for calculation of RoE by gross-up the ROE, by considering core income of FY 2020-21 and tax paid for the same FY 2020-21. The effective tax rate of OPGC for FY 2020-21 may be considered for grossing up the ROE for the ensuring year. The Objector urged the Commission to rectify the past mistakes and be pleased to allow the Income Tax as per CERC Regulations in view of the Section 61(a) of the Act. Also, the tax rate of 34.94% is an old rate and the same has reduced to 15% for FY 2022-23.

### **Response of OPGC**

OPGC has proposed income tax for the FY 2022-23 considering RoE of Rs. 72 Crore corresponding to the original capital cost as per the PPA. OPGC submitted that as per Clause 6.0 of the approved amended PPA of Unit-1&2, income tax on the income for supply of power shall be passed to GRIDCO.

#### **41. Reimbursement of Other Charges**

- (a) An Objector submitted that there is major variation in the proposal for the FY 2022-23 of 17.35 Cr towards Electricity Duty against Rs. 12.98 Cr proposed and approved by the commission for FY 2021-22. The electricity duty should be limited to Normative Auxiliary Consumption of 9.5% of gross generation at PLF of 68.49%. The generation station has to operate within that limit and clause 10.0 of the Amended PPA is obviously to be limited to that payable for generation of power with above parameters.
- (b) GRIDCO proposed the following:
  - i. GRIDCO shall make payment of monthly ECR on an 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 the necessary certified coal and oil data in required format prescribed in OERC Regulation from time to time.
  - ii. Incentive/Disincentive shall be paid as per certified monthly energy accounting statement by SLDC and formula provided in the subsisting PPA.
  - iii. Any other charges/taxes etc shall be scrutinized properly before consideration of payment by GRIDCO.

- iv. The Petitioner-OPGC shall have to provide all supporting documents in support of their claim raised on GRIDCO in respect of fixed charges, energy charges and reimbursement of other charges.

### **Response of OPGC**

- (a) OPGC submitted that Electricity Duty is payable on the actual auxiliary consumption of the generating station at the prevailing rates, which is currently Rs. 0.55/kWh. OPGC has claimed the reimbursement of Electricity Duty of Rs. 17.35 Crore in FY 2020-21 from GRIDCO in accordance with the PPA as per which reimbursement of Electricity Duty is limited to 9% of auxiliary consumption against the Stakeholder's comment to restrict the reimbursement to 9.5%. Accordingly, OPGC has claimed Electricity duty of Rs. 17.35 Crore provisionally for determination of tariff for FY 2022-23. The actual Electricity Duty payable shall be billed in accordance with the provisions of the approved Amended PPA.
- (b) OPGC submitted that the present 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 and Case No. 71 of 2020. Accordingly, OPGC 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. 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) and Case No. 71 of 2020 (Para 108) 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.
- (c) OPGC requested to the Commission to issue appropriate direction to GRIDCO for reimbursement of Tax & Cess on land, SOC and MOC for SLDC ERP Charges, Income Tax, ARR / Tariff Application fee, publication expenses and contribution to water conservation fund on actuals.

#### 42. **Not Truing up of Tariff Orders**

An Objector submitted that the Commission has not carried out Truing up of capital expenditure and tariff exercise for OPGC for past years. The Objector has pointed out that the truing up of past expenses is necessary and mandated in OERC Generation Tariff Regulations 2014. The Clause No 2.13 of the said Regulations has given emphasis for filing true-up petition with respect to capital expenditure including additional capitalization and determination of revenue gap /surplus. The Objector submitted that the repeated failure of the OPGC to submit the true up petition and failure to observe the prescribed procedure for tariff determination could result in dismissal of the instant petition by the Commission. Further, as per first proviso of Clause No 2.13, the Commission shall compare the approved ARR and tariff recovery with the financial performance of the Petitioner for previous year. However, OPGC does not admit such provision of the regulations, and restricts the truing up only within capital expenditure. The Objector submitted that determination of generation tariff for ensuing year without ascertaining the gain/loss of actual tariff recovery done by OPGC in previous tariff period may not be prudent and shall be against the MYT principles. OPGC has huge revenue surplus recovered from the tariff determined by the Commission for previous years but they are neither passing out nor filing true-up petition nor sharing the same with consumer.

#### **Response of OPGC**

- (a) OPGC submitted that as per Regulations 2.12 of the OERC Generation Tariff Regulations, 2014, the Commission shall carry out the truing up exercise along with the tariff petition filed for the next tariff period with respect to the capital expenditure including additional capital expenditure incurred up to 31.03.2019, as admitted by the Commission after prudence check at the time of truing up. Further, the Regulation 2.13 also specifies that the existing generating plants of OPGC may file an application each year for truing up of its generating stations with respect to its capital expenditure including additional capital expenditure incurred up to the last day of the previous year(s) and determination of revenue gap / surplus for the ensuing year.
- (b) OPGC submitted that the effect of the Supreme Court's Judgment is that the arrangement would apply for the entire term of the subsistence of the PPA viz. till 30.06.2026. Accordingly, the Commission determined the tariff for FY

2016-17 to FY 2021-22 in accordance to the provision of the approved amended PPA considering the approved original project cost. It is important to note that as per OERC Generation Tariff Regulations, 2014 truing up of tariff of generating stations is to be carried out only with respect to the capital expenditure including additional capital expenditure.

- (c) Further, OPGC submitted that OPGC had filed a separate Petition, numbered as Case No. 54 of 2018, for approval of additional capitalisation and the Commission disallowed actual additional capitalisation for FY 2015-16 to FY 2017-18 and proposed additional capital expenditure for FY 2018-19. OPGC has filed an Appeal before Hon'ble APTEL on November 15, 2021, as DFR No. 407/2021 against the said Commission's Order. Therefore, the tariff determined by the Commission up to FY 2021-22 is as per the provision of the approved PPA and as such no additional capital expenditure has been admitted by the Commission for the period FY 2015-16 to FY 2020-21 and hence filing of true up Petition for truing up of "Additional Capital Expenditure" in accordance to the OERC Generation Tariff Regulations is not required. However, OPGC shall be filing petition for true up of additional capital expenditure for FY 2015-16 to FY 2022-23 should the outcome of the aforesaid appeal filed by OPGC on the Commission's Order before Hon'ble APTEL, comes in it's favour. Therefore, it is wrong on the part of the stakeholder to submit that OPGC has not complied with the OERC Tariff Regulations issued by the Commission.

43. **Absence of MYT**

An Objector has claimed that the provisions as per clause no. 6(2) of OERC Generation Tariff Regulation 2020, along with the 1<sup>st</sup> and 2<sup>nd</sup> tariff period, are not considered in the instant filing. The Objector has requested to submit the necessary data as per regulations in the instant proceeding well in advance of the public hearing so as to facilitate others to submit their views during the instant proceeding. The Objector has observed that the absence of MYT approach in tariff determination and truing up of previous years' tariff order commenced by OERC is illegal and unlawful as the tariff determined has been based on only estimated and projected figures submitted by the petitioner.

## **Response of OPGC**

OPGC submitted that as per OERC Generation Tariff Regulations, 2020, OPGC is required to file annual tariff petition for its existing stations Unit-1&2. OPGC has complied with the provision of the Regulations, and accordingly filed tariff petition for FY 2022-23 before November 30, 2021 along with all the information required in accordance to the Regulations. Therefore, the stakeholder's submission that the OPGC has not complied with the Regulations is misplaced and devoid of any merit.

### **44. Other Issues**

- (a) An Objector submitted that OPGC has availed undue benefits for more than 25 years in accordance to the judgment of the Supreme Court dated 19.04.2018 in Civil Appeal No.9485 of 2017, which allowed (a) PLF of 68.49% (against 85% as per OERC Generation Tariff Regulations, 2020) (b) Higher Station Heat Rate of 2500 Kcal/kWh (against 2430 Kcal/kWh as per OERC Generation Tariff Regulations, 2020) (c) Auxiliary Consumption of 9.50% (against 1% as per OERC Generation Tariff Regulations, 2020) (d) Secondary Fuel Oil Consumption of 3.50 ml/kWh, and (e) Return on equity of Rs 72 Cr (compared to Rs 50.8 Cr on the basis of 30% equity as stipulated in the Generation Tariff Regulations of the Commission).
- (b) The objector observed that in the previous generation tariff orders issued by the Commission on the ARR and Tariff application filed by the OPGC, the Commission has not explicitly provided its views on the objections raised by the various objectors during the tariff proceedings. It is seen from the previous tariff orders issued by the Commission that the objections raised during the tariff proceedings are not disposed of with reasons. To substantiate his submission, the objector has annexed the RST orders issued by the SERCs of Telangana, Chhattisgarh and Tamil Nadu wherein the observations, analysis and Ruling of the SERCs are given below the objections raised by various stakeholders. The objector urged the Commission to provide its valuable observations, analysis and ruling in the instant tariff proceedings.
- (c) An Objector has requested that the Commission should direct the OPGC authorities to conduct the audit through CAG.

- (d) Another Objector has suggested that, as at present the government is the owner of 100% share of OPGC, the calculation of PPA as per direction of the Hon'ble Supreme Court should be stopped.
- (e) Another Objector suggested that OPGC should submit the month wise cash flow statement showing sources of inflow and outflow of cash from FY 2010-11 to 2021-2022.
- (f) One of the Objectors has requested OPGC to produce the number of pending cases and the amount paid for legal expenses. The Objector has suggested all cases should be dropped considering the merit.
- (g) GRIDCO suggested that the Commission may consider to fixing the rate of imported power from the grid system to be the actual full tariff at which power is procured from OPGC by GRIDCO. GRIDCO has been adjusting the cost of imported power from FY 2016-17 onwards as per the actual rate of power arrived at, considering all charges paid to OPGC.
- (h) GRIDCO stated that the Commission may kindly consider 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.
- (i) OPGC may be directed to fully utilise the ash generated from the power station.

#### **Response of OPGC**

- (a) OPGC submitted that contention raised by the stakeholder with respect to undue benefit gained by OPGC pursuant to the Judgment of the Hon'ble Supreme Court of India, is baseless and devoid of any merit. OPGC submitted that the Hon'ble Supreme Court vide its judgment dated April 19, 2018 in Civil Appeal No. 9485 of 2017 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 effect of the Hon'ble 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. Accordingly, the instant Petition for approval of Generation Tariff for FY 2022-23 has been

filed in accordance with the approved Amended PPA pursuant to the Hon'ble Supreme Court's Order dated April 19, 2018 in Civil Appeal No. 9485 of 2017 and the Commission's previous tariff Orders.

- (b) OPGC submitted that being a Government Company, the accounts of OPGC are audited by the Comptroller and Auditor General of India (CAG) under the provisions of the Companies Act.
- (c) Irrespective of ownership of the Company, the basic principles of tariff determination cannot change and tariff needs to be determined as per the provisions of the PPA in compliance with the Hon'ble Supreme Court Judgment. Hence, the stakeholder's statements for not complying with the Orders of the Supreme Court are unwarranted.
- (d) OPGC submitted that the audited annual accounts for FY 2020-21 have been submitted to the Commission along with the Tariff Petition on dated November 30, 2021.
- (e) OPGC submitted that the information on pending cases and legal expenses is not relevant and has not separately sought any compensation for legal expenses.
- (f) OPGC submitted that imported power 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 submitted before the Commission for settlement of the imported power in accordance with the approved PPA.
- (g) OPGC submitted that the energy scheduling to GRIDCO from its power station is being settled on net exchange basis every month, wherein actual generation being considered as scheduled generation, in accordance with the practice being followed as per the approved Amended PPA.

#### **VIEWS OF CONSUMER COUNSEL (PARA 45)**

45. WISE, Pune on behalf of the Consumers made a presentation on the Analysis of ARR and tariff filing of OPGC for FY 2022-23. The Consumer Counsel's observations/suggestions are as given below:

- i. OPGC has not proposed any additional capitalization as the same 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 @7.20% based on actual interest rate for working capital for FY 2021-22. So, interest on working capital may be reviewed by the Commission based on actual information 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. Actual O&M expenses and its growth rate can be reviewed by the Commission in this regard.
- iv. OPGC proposed the PLF as 68.49%, as per Amended PPA. However, the actual PLF for FY 2020-21 was 70.93%. Also, as per Regulations, NAPLF of thermal power stations is considered as 85%. However, actual Average PLF of OPGC (FY 2011-12 to FY 2021-22) is 79.83%. So, the Commission can appropriately decide the PLF for FY 2022-23.
- v. OPGC has submitted the specific oil consumption as 3.5 ml/kWh for FY 2022-23 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 2021-22, has approved the GCV as 3101 Kcal/kg. However, OPGC proposes the same as 2772.64 Kcal/kg for FY 2022-23, whereas, the actual GCV of FY 2020-21 is 2728 Kcal/kg and 2850 Kcal/kg (up to November 2021) is for FY 2021-22. In Para 92 of last year's order the Commission opined that: "*As per Commission's Order dated 28.10.2020, sampling report by CIMFR at mine's end with moisture correction would be considered for determining GCV of 'as delivered' Coal on total moisture basis. This is in line with PPA and order of Hon'ble Supreme Court. ...., the Commission has decided to consider the base GCV of Grade-14 (G-14), i.e. 3101 kcal/kg similar to last year order.*" So, without availability of data as per the direction of the Commission, the MCL declared grade's GCV (G-14) can be considered for present tariff determination process.

- vii. The weighted average coal price for FY 2020-21 was 1583 Rs/ MT and in FY 2021-22 the average price was 1599 Rs/MT (up to November 2021). So, the latest available price of coal can be considered.
- viii. OPGC has proposed the electricity duty payment for FY 2022-23 as per payment made in FY 2020-21. However, it should be as approved by the Commission for FY 2021-22, i.e. at the rate of Rs.0.55/kWh in accordance with PPA norms, i.e. 9.5% of auxiliary Consumption on normative generation of 68.49%.
- ix. Along with water cess and water charges, energy compensation to OHPC is proposed by OPGC for FY 2022-23. 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. Water contribution fund payment should be reviewed based on actual payment made vis-a-vis the Govt. order and verification of the same by GRIDCO.
- x. Income tax claim can be approved on the basis of approved RoE, which is derived from approved equity, as approved by the Commission.

#### **OBSERVATIONS OF THE STATE ADVISORY COMMITTEE (SAC) (PARA 46)**

- 46. The Commission convened the State Advisory Committee (SAC) meeting on 11.03.2022. No specific reference was made relating to Annual Revenue Requirement and Tariff filing of OPGC in that meeting.

#### **VIEWS OF THE GOVT. OF ODISHA (PARA 47)**

- 47. Government of Odisha vide their Lr. No. 2428/ En., Bhubaneswar, dated 22.03.2022 have submitted their views on the tariff proceeding for FY 2022-23 as follows:

“Operation of OPGC has become unviable because of present level of provisional tariff. OPGC has also filed an application before the Commission for determination of tariff and it may take some time. Hence, OPGC may be allowed reasonable and prudent provisional tariff w.e.f. 01.04.2022 for covering its fixed cost in full.”

**ANALYSIS OF OPGC'S PROPOSAL AND COMMISSION'S OBSERVATIONS WITH REFERENCE TO DETERMINATION OF GENERATION TARIFF FOR FY 2022-23 (PARA 48 TO 61)**

48. The present petition for determination of Generation Tariff for FY 2022-23 has been filed by OPGC under Sections 62 and 86 of the Electricity Act, 2003 read with Amended PPA, related provisions of OERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020, OERC (Conduct of Business) Regulations, 2004 and Hon'ble Supreme Court Order dated April 19, 2018 in Case No. 9485 of 2017.

49. As per the judgement of Hon'ble Supreme Court, the Commission while determining the tariff of the Generating Company for FY 2022-23 has relied upon the norms of PPA for fixed & variable costs and statutory Regulations for other costs not reflected in the PPA. The detailed analysis and observations of the Commission are as follows:

50. **Computation of Annual Fixed Cost**

(a) The Commission has considered the norms as per Clause 3.0 of Schedule II of the Amended PPA for approval of the Annual Fixed Cost. Accordingly the component wise annual fixed cost of OPGC for determination of generation tariff for FY 2022-23 is as under:

- i. **Capital Cost:** As per the Amended PPA signed between OPGC and 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 FY 2022-23.
- 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 FY 2022-23.
- 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 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 FY 2022-23.
- 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 2022-23.
- 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 financial year ending 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 2022-23.
- 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 and O & M Expense 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 OPGC has claimed Rs. 190.46 crore towards O&M expenses. Accordingly, the Commission approves the same amount of Rs. 190.46 crore, i.e.,  $[Rs.1030 \text{ cr} \times 2.5\% \times (1.08)^{26}]$  towards O&M expenses for determination of generation tariff for FY 2022-23.
- 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 7.20% in the FY 2021-22 till November 2021. The same has been considered for FY 2022-23. The detailed calculation of working

capital requirement and interest on working capital approved by commission against OPGC's proposal for determination of generation tariff for FY 2022-23 is given in table below:

**Table-7**  
**Interest on working capital Approved by Commission for determination of Generation Tariff for FY 2022-23**

| Particulars                         | Norms      | FY 2022-23    |               |
|-------------------------------------|------------|---------------|---------------|
|                                     |            | OPGC Proposal | OERC Approval |
| Cost of Coal                        | 1.5 Months | 45.21         | 40.42         |
| Cost of Secondary Fuel Oil          | 2 Month    | 7.33          | 7.33          |
| O&M expenses                        | 1 Month    | 15.87         | 15.87         |
| Receivables                         | 2 Month    | 113.54        | 107.02        |
| <b>Working Capital Requirements</b> |            | <b>181.95</b> | <b>170.64</b> |
| Rate of Interest                    |            | 7.20%         | 7.20%         |
| <b>Interest on working capital</b>  |            | <b>13.10</b>  | <b>12.29</b>  |

Accordingly the Commission approves Rs. 12.29 Crore towards interest on working capital as against OPGC proposal of Rs. 13.10 Crore.

- (b) The proposal of OPGC and approval of the Commission with respect to Annual Fixed cost of OPGC (Unit-I&II) is summarised in the table below:

**Table- 8**  
**Total Annual Fixed Cost Approved by Commission for determination of Generation Tariff of OPGC for FY 2022-23**

| 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                | 190.46        | 190.46        |
| Interest on working capital | 13.19         | 12.29         |
| <b>Total</b>                | <b>275.56</b> | <b>274.74</b> |

The total AFC comes to Rs 274.74 Crore as against OPGC's proposal of Rs. 275.56 Crore.

51. **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 below:

**Table-9**  
**Operational norms adopted by the Commission in accordance with PPA for Determination of Generation Tariff of OPGC for FY 2022-23**

| Particulars              | Unit | OPGC Proposal | OERC Approval |
|--------------------------|------|---------------|---------------|
| Plant Load Factor (PLF)- | %    | 68.49         | 68.49         |

| <b>Particulars</b>             | <b>Unit</b> | <b>OPGC Proposal</b> | <b>OERC Approval</b> |
|--------------------------------|-------------|----------------------|----------------------|
| Normative                      |             |                      |                      |
| 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. As per Clause 7 of Schedule-II of the PPA, Gross Calorific Value (GCV) of Secondary Oil and Coal is to be considered “as delivered” basis to the power station. During the present proceeding, the details of GCV of Coal “as delivered” (at the delivery point) was sought from OPGC in line with the PPA and the Order of Hon’ble Supreme Court. OPGC has not submitted the details of the coal at the delivery point (based on as billed GCV with moisture correction) and has rather submitted GCV of coal on “as fired” basis (based on total moisture method) which does not appear even in their PPA. As per Commission’s Order dated 28.10.2020, sampling report by CIMFR at mine’s end with moisture correction would be considered for determining GCV of ‘as delivered’ Coal on total moisture basis. This is in line with PPA and order of Hon’ble Supreme Court. However, OPGC has taken a plea at para 3.40 of their tariff application that the order of the Commission in this regard in Case No. 43/2017 dated 28.10.2020 has been challenged before Hon’ble APTEL in Appeal No. 189/2020. Therefore, in the absence of above details, the Commission has decided to consider the base GCV of Grade-14 (G-14) coal, i.e. 3101 kcal/kg similar to last year order. On the query of the Commission, OPGC has submitted that the price of G-14 coal has also been revised to Rs. 1614.52/ MT including all charges w.e.f. 01.08.2021.

- (c) 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 below:

**Table-10**  
**Computation of Energy Charges for determination of Generation**  
**Tariff of OPGC for FY 2022-23**

| <b>Particulars</b>                                 | <b>Unit</b>        | <b>OPGC Proposal</b> | <b>OERC Approval</b> |
|--|--------------------|----------------------|----------------------|
| Price of Coal                                      | (Rs./MT)           | 1614.52              | 1614.52              |
| Price of LDO                                       | (Rs./KL)           | 52744.07             | 52744.07             |
| Price of HFO                                       | (Rs./KL)           | 49540.30             | 49540.30             |
| GCV of Coal  | (Kcal/Kg)          | 2772.64              | 3101                 |
| GCV of Oil   | (Kcal/Kg)          | 10000                | 10000                |
| Secondary Fuel Oil Consumption (LDO-10% & HFO-90%) | (ml/kWh)           | 3.50                 | 3.50                 |
| <b>Energy Charges</b>                              | <b>(Paisa/kWh)</b> | <b>177.89</b>        | <b>161.09</b>        |

The Commission approves indicative Energy charges as 161.09 paisa/kWh for OPGC as against OPGC's proposal of @ 177.89 paisa/kWh for FY 2022-23.

52. **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 from GRIDCO. Accordingly, OPGC has proposed to consider other charges of Rs. 72.29 Crore for FY 2022-23 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. 17.35 Crore (@ Rs.0.55/kWh) has been claimed towards reimbursement of electricity duty from GRIDCO during the FY 2020-21 in accordance with PPA and has requested the Commission to approve provisionally the same amount for FY 2022-23. It has been observed that in the application before Arbitral Tribunal 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 79.17% for FY 2022-23. Considering 9% auxiliary Consumption at 79.17% PLF, the Commission provisionally approves Rs. 14.42 Crore (@ Rs.0.55/kWh) towards electricity duty for FY 2022-23.

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

OPGC has submitted that, during the FY 2020-21, it has incurred an expenditure of Rs.8.58 Crore towards water cess and water charges and accordingly the same has been claimed to allow for reimbursement in the ARR for the FY 2022-23. Based on the above proposal of OPGC, the Commission provisionally approves the amount of Rs. 8.58 Crore towards water cess and water charges for FY 2022-23 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 estimated charge on this account is Rs. 0.71 Crore approximately in line with the invoice raised by OHPC for the FY 2020-21. Based on the above proposal of OPGC, the Commission provisionally approves the amount of Rs. 0.71 Crore towards ECC for FY 2022-23 and direct OPGC to submit proper justification of payment of such charges along with relevant documents while claiming reimbursement from GRIDCO. The Commission also direct GRIDCO to verify the documents while making payment to OPGC.

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

OPGC has submitted that it has incurred an expenditure of Rs. 0.05 Crore towards tax and cess on land during the FY 2020-21 and claims the same amount for reimbursement from GRIDCO during FY 2022-23. The Commission allows reimbursement of tax and cess on land based on the actual expenditure by the Petitioner. Accordingly, an amount of Rs. 0.05 Crore is provisionally approved for reimbursement from GRIDCO during FY 2022-23 towards payment of tax and cess on land by OPGC.

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

OPGC has claimed Rs.0.34 Crore towards SoC & MoC charges payable to SLDC. The Commission approves Rs. 0.36 Crore (@ Rs.8574.352/MW/year) for FY 2022-23 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 2020-21. The Commission provisionally approves the same amount towards reimbursement by GRIDCO during FY 2022-23.

(g) **Income Tax**

OPGC has proposed an amount of Rs. 38.67 crore towards reimbursement of income tax for the FY 2022-23 considering the RoE of Rs. 72 Crore corresponding to the original capital cost and the applicable tax rate of 34.94% 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, It has been observed that OPGC has not claimed any income tax for FY 2020-21. Accordingly, the Commission is not considering any income tax under other charges of OPGC for FY 2022-23. 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 2022-23 and such amount shall be reflected during Truing-up of GRIDCO.

(h) **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 FY 2022-23. Accordingly, the Commission provisionally allows Rs 6.13 Crore for reimbursement of contribution towards WCF by GRIDCO during FY 2022-23. It is further directed that the above amount shall be reimbursed by GRIDCO subject to

verification of supporting documents of actual payment vis-a-vis the Govt. order in this regard.

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

The Commission provisionally approves an amount of Rs. 0.30 Crore for FY 2022-23 towards recovery of ARR and Tariff petition fees & publication expenses as proposed by OPGC.

The summary of reimbursement of other charges allowed by the Commission for the FY 2022-23 on provisional basis is given in the table below:

**Table – 11**  
**Reimbursement of Other Charges for 2022-23**  
**(Rs. in Crore)**

| Sl. No. | Particulars                              | OPGC Proposal | OERC Approval |
|---------|--|---------------|---------------|
| (a)     | Electricity Duty                         | 17.35         | 14.42         |
| (b)     | Water Cess and Water Charges             | 8.58          | 8.58          |
| (c)     | Energy Compensation Charges              | 0.71          | 0.71          |
| (d)     | Tax and Cess on land                     | 0.05          | 0.05          |
| (e)     | SOC and MOC for SLDC                     | 0.34          | 0.36          |
| (f)     | ERPC Charges                             | 0.16          | 0.16          |
| (g)     | Income Tax                               | 38.67         | 0             |
| (h)     | Recovery of ARR and Tariff Petition Fees | 0.30          | 0.30          |
| (i)     | Water Conservation Fund                  | 6.13          | 6.13          |
|         | <b>Total</b>                             | <b>72.29</b>  | <b>30.71</b>  |

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 in the above table on actual basis as and when claimed by OPGC with appropriate documentary evidences.

53. **Additional Capitalization**

The Commission had earlier disallowed additional capitalisation in its Order dated 21.05.2021. In the instant petition, OPGC has not claimed additional capitalization for FY 2020-21 and projected additional capitalization for FY 2021-22 and FY 2022-23. OPGC has filed an appeal with Hon'ble APTEL against this Commission's Order dated 21.05.2021 and based on the outcome, OPGC will approach the Commission through a separate petition for approval of additional capitalization. As per the prayer of OPGC, the Commission hereby allow OPGC to file a separate petition regarding additional capitalisation from FY 2015-16 to FY 2022-23 after the APTEL Judgement

is issued against the appeal filed by OPGC on Commission's Order dated 21.05.2021 in Case No. 54 of 2018.

**54. Non-Tariff Income**

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 Hon'ble Supreme Court. Further, the approved amended PPA of OPGC does not provide for any adjustment of Non-Tariff Income from AFC, therefore, Non-Tariff Income has not been factored in the tariff determination.

**55. Plant Load Factor**

As per Clause 8 of the amended PPA, the Normative Availability Factor shall be 68.49% and target PLF to avail incentive shall be more than 80%. It is observed that the PLF submitted by OPGC in response to Commission's queries is 79.17%. The Commission takes a note of PLFs of other thermal power plants operating in the state and accordingly expects OPGC to put sincere efforts for improving the PLF so as to avail incentives.

**56. MYT Principles**

As per Regulation 7 (6) of OERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020, the existing generation plants of OPGC (Unit 1 & 2) has to submit an application to the Commission for determination of tariff as per annual schedule by 30<sup>th</sup> November every year. Accordingly, OPGC has filed its tariff application for FY 2022-23 before 30<sup>th</sup> November, 2021 along with all the information required in accordance to the regulations. The MYT principles are nothing but certain sets of principles for determination of tariff for a control period. The OERC regulation strictly follows the same. Therefore, it is inappropriate to say that MYT principles have not been followed.

57. **Truing up of Tariff Orders**

A separate petition has been filed by OPGC for approval of additional capitalisation (i.e. the only additional capital expenditure for OPGC) from FY 2015-16 to FY 2018-19 which has been disallowed by the Commission. OPGC then filed an Appeal before Hon'ble APTEL on 15.11.2021 against the said Commission's Order. However, OPGC has not filed any truing up application for the period FY 2019-20 and FY 2020-21. Once these applications are filed, the Commission will decide the matter basing on the outcome of cases pending in this regard before Hon'ble APTEL.

58. **Other Issues**

The Commission takes a note of other issues raised by Objectors mentioning Station Heat Rate, Auxiliary Consumption, Secondary fuel oil consumption, PLF and Return on Equity not aligned as per OERC Generation Tariff Regulations, 2020. It may be noted that these aspects shall be dealt as per the PPA following the directions of Hon'ble Supreme Court. Further, since they are a public sector company now, their auditing shall be governed as per the rules of the Government.

59. **Summary of Approved Generation Tariff of OPGC for FY 2022-23**

The summary of generation tariff for OPGC as approved by the Commission for FY 2022-23 is given in Table below:

**Table - 12**  
**Summary of Approved Generation Tariff of OPGC for 2022-23**

| <b>Particulars</b> | <b>Units</b> | <b>OPGC Proposal</b> | <b>OERC Approval</b> |
|--------------------|--------------|----------------------|----------------------|
| Annual Fixed Cost  | Rs. Crore    | 275.56               | 274.74               |
| Variable Charges   | Paisa/kWh    | 177.89               | 161.09               |
| Other Charges      | Rs. Crore    | 72.29                | 30.71                |

60. **Directives of the Commission**

- (a) Recovery of monthly Capacity Charges approved by the Commission shall be made as per the methodology stipulated in the Amended PPA and GRIDCO shall make payment after prudence check.
- (b) 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 power station as per Clause 7 of Schedule-II of the PPA, bills shall be raised by OPGC and it shall be paid by GRIDCO after verification.

- (c) 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.
- (d) In addition to the above, OPGC is directed to provide the following details to this Commission:
- i. Efforts being made for ash disposal/ utilization in line with MOEF&CC Notification dated 31.12.2021 and MoP Notification No.9/7/2011-ST.TH (Vol. IV) dated 22.02.2022.
  - ii. 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. The feasibility for development of solar power plant within the existing power plant area and other steps being taken in this regard.
  - iv. Steps being taken to improve performance and availability of IB TPS.
- (e) The Tariff now approved shall be effective from 01.04.2022 for energy sold to GRIDCO and shall be in force until further orders.
61. Since no substantial capacity addition from hydro/thermal source is expected in near future and considering the large scale penetration of renewable energy, there is need for adequate system balancing in the form of Pumped Storage System (PSS) or other Energy Storage Systems (ESS) including Battery Energy Storage System (BESS). Further, to meet the peak demand and base load during night time there would be requirement of coal based and hydro based plant until Round the Clock (RTC) supply is available through RE sources. Taking into account the dependency on coal based generation that cannot be totally eliminated even in longer run; OPGC may take proactive steps for capacity addition and plan accordingly in consultation with Government of Odisha, OPTCL and GRIDCO.
62. The case is accordingly disposed of.

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

Sd/-  
**(G. MOHAPATRA)**  
**CHAIRPERSON**