



ଓଡ଼ିଶା ବିଦ୍ୟୁତ୍ ନିୟାମକ ଆୟୋଗ
ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
PLOT NO.4, OERC ROAD, SHAILASHREE VIHAR, BHUBANESWAR -751021
TEL. No. 2721048, 2721049
E-MAIL: oerc@odisha.gov.in / oriarc@gmail.com
WEBSITE: www.oriarc.org

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

Case No. 69/2024

M/s. OHPC.	Petitioner
Vrs.		
M/s GRIDCO, & Others	Respondents

In the matter of: Application by OHPC under Sections 62 & 86 of the Electricity Act, 2003 read with Regulation 8 of the OERC (Terms & Conditions for Determination of Generation Tariff) Regulations, 2020 for Truing up expenses including Gross Fixed Assets of different power stations of OHPC Ltd.

For Petitioner: Shri Bibhu Charan Swain, the Authorized Representative & Shri G.B. Moharana, Sr. G.M (Electrical).

For Respondents: Shri Bijay Kumar Das, Sr. GM (PP), Shri Lalit Mishra, DGM, GRIDCO Ltd. & Ms. Sasmita Tudu, AM (Electrical), GRIDCO Ltd., Ms. Sonali Pattnaik, Manager (Legal), DoE, GoO, Shri K.C. Nanda, GM (RA & Strategy), TPWODL, Shri Bharat Kumar Bhadawat, Chief-Regulatory & Enforcement, TPCODL & Ms. Malancha Ghose, TPNODL.

ORDER

Date of hearing: 12.11.2024

Date of Order: 24.01.2025

The Petitioner-OHPC has filed the present petition under Section 62 & 86 of the Electricity Act, 2003 read with Regulation 8 of the OERC (Terms & Conditions for Determination of Generation Tariff) Regulations, 2020 for Truing up expenses including Gross Fixed Assets of different power stations of OHPC Ltd.

2. The prayer of the Petitioner is as follows:

- (a) To approve the Gross Fixed Asset of different power stations of OHPC as on 31.03.2020 after considering audited accounts & tariff orders from FY 1996-97 to 2019-20 for further truing up of Gross Fixed Asset for FY 2020-21 to 2023-24.
- (b) To approve the truing up of the Gross Fixed Asset for the FY 2020-21 to 2023-24 and its financial implication on various Components (RoE, Depreciation, Interest

on Loan & Working Capital) along with other benefits as envisaged in the OERC Generation Tariff Regulations, 2020 regarding truing up, which shall be taken in the ARR & Tariff Application of OHPC for the FY 2025-26 or may be kept as regulatory asset as may deem fit.

- (c) To condone any inadvertent omission, errors, shortcomings and permit the Petitioner to add/change/modify/alter this filing and make further submissions as may be required at a future date.

3. In short, the background of the case is as stated as hereafter:

- (a) The Odisha Hydro Power Corporation Ltd. (OHPC) was established in 1995 under the Companies Act, 1956, as a Generating Company to carry out business of Hydro power generation in the State of Odisha. Following the unbundling of the Odisha State Electricity Board (OSEB) in 1995, the assets, liabilities, and personnel of various hydroelectric projects both under the erstwhile OSEB and the Government of Odisha were transferred to OHPC. OHPC is recognized as a Generating Company under Section 28 and 30 of the Electricity Act, 2003.
- (b) OHPC at present owns & operate six (6) Hydro Power Project across the State, namely RHEP, BHEP, UKHEP, HHEP, CHEP & UIHEP and has 50% share in Machhkund HEP. UIHEP is the latest HEP addition in the list of OHPC and has catered to many power deficit situation of the State.
- (c) The power generated by OHPC from the Hirakud Hydro Electric Project (HHEP) is fully dedicated to the State of Odisha excluding 5 MW share of Chhattisgarh State. Under the Government of Odisha's Transfer Scheme of 2005, GRIDCO, the state-designated entity, has been entrusted with the responsibility of bulk power procurement from Generators located within & outside the State as per Power Purchase Agreements (PPAs) and supply of power to different entities including four Distribution licensees within the State. This arrangement forms part of the "single buyer model" in Odisha, where OHPC supplies its entire power generated to GRIDCO, excluding the 5 MW share allocated to the Chhattisgarh State Power Distribution Corporation Limited (CSPDCL) as per interim judgment dated 16.12.2004 of Hon'ble High Court of MP and Order dated 17.08.2006 of Ministry of Power, Govt. of India.

- (d) After enactment of the Orissa Electricity Reforms Act, 1995, the Odisha State Electricity Regulatory Commission (OERC) was formed to regulate and reform the state's electricity sector. Initially, GRIDCO was handling OHPC's Aggregate Revenue Requirement (ARR) from FY1996-97 to FY 2003-04. As per Direction of the Commission, OHPC filed its own ARR since the FY 2004-05 and ARR for the period from FY 2004-05 to FY 2013-14 was being filed as per norms of CERC (Terms and Conditions of Tariff) Regulations, 2004 (for the control period 2004-2009) and CERC Tariff Regulations of 2009 (for the control period 2009-2014) and terms and conditions of PPA.
- (e) OERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2014 was notified in the year 2014 for the control period FY 2014-20 and again notified in the year 2020 for the control period FY 2020-24 and since then ARR of OHPC is being approved under these Regulations. The ARR of OHPC will be governed under OERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2024 for the control period FY 2024-29.
4. The Petitioner OHPC Ltd has submitted the following:
- a) The Commission has always considered the latest audited account available for scrutiny of additional capitalization of different power stations of OHPC for approval of estimated capital addition along with Tariff as per Regulation 7(6) of OERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020. So for finalization of Gross Fixed Asset (GFA) for a particular year, OHPC always considers the audited account of two years before as the same is available at the time of submission of petition for ARR and accordingly, the Commission after due scrutiny of the same approves the additional capitalization to be considered for tariff. OHPC has submitted the audited account of each power station & consolidated audited account from FY 1996-97 to FY 2021-22 as directed by the Commission in Case No.53 of 2022, Case No.19 of 2023, Case No.52 of 2023 and Case No.87 of 2023.
- b) Some of the provisions regarding truing up in OERC Generation Tariff Regulations 2020 are reproduced below:
- “8(1). The Commission shall carry out truing up exercise at the end of the Tariff Period along with the tariff petition filed for the next tariff period, with respect to the following:*

(a) the capital expenditure including additional capital expenditure incurred up to 31.03.2024, as admitted by the Commission after prudence check at the time of truing up.

(b) the capital expenditure including additional capital expenditure incurred up to 31.3.2024, on account of Force Majeure and Change in Law.”

- c) *The existing generation plants of OHPC and OPGC (Unit - I & II) may file an application each year for truing up of its generating stations of the previous year(s), with respect to the capital expenditure including additional capital expenditure incurred up to last day of the previous year(s) and determination of revenue gap/surplus for the ensuing year, within the time limit as specified by the Commission.*

Provided that the applicant shall submit to the Commission, information in such form as may be prescribed by the Commission, together with the Audited Accounts, extracts of books of account and such other details as the Commission may require to assess the reasons for and extent of any variation in financial performance from the approved forecast of Aggregate Revenue Requirement and expected revenue from tariff and charges.”

Notwithstanding to the above, OHPC is also required to file the Truing up petition in the context of additional capitalisation as envisaged under Clause 6(2) & clause no. 7(6) of the OERC’s Generation Regulation, 2020 which are reproduced as follows: -

“6(2).x.....x.....x.....Provided that in case of an existing project, the application shall be based on admitted capital cost including any additional capitalization already admitted up to 31.03.2020 and estimated additional capital expenditure for the respective years of the tariff period 2020-21 to 2023-24;x.....x.....x.....”

”7(6).x.....x.....x.....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:x.....x.....x.....”

The Petitioner has submitted that the Commission has always considered the latest audited account available for scrutiny of additional capitalization of different power stations of OHPC. So, for the finalization of Gross Fixed Asset for a particular year, OHPC considers the audited account of past two years, which is available at the time of submission of petition for ARR for a particular financial year. The Commission after due scrutiny approves the additional capitalization to be considered for tariff.

- d) The petitioner has submitted that the Commission in their order dated 08.06.2023 in Case no.53 of 2022 & 19 of 2023 in the matter of Truing up for the period from FY 2016-17 to 2021-22 had disposed of analogously with following observations at Paragraph-10:

“Basing on the above discussion we are not inclined to accept the truing up application in its present form. However, we draw the attention to a general provision in OERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 with regard to truing up which is reproduced below:

“8(1) The Commission shall carry out truing up exercise at the end of the Tariff Period along with the tariff petition filed for the next tariff period, with respect to the following:

(a) the capital expenditure including additional capital expenditure incurred up to 31.03.2024, as admitted by the Commission after prudence check at the time of truing up.

xxxxxx xxxx xxxxx

The above Regulation relates to approval of any additional capital expenditure which has not been specifically allowed in each year’s tariff order. Accordingly, the Petitioner has the liberty to approach the Commission under the above Regulation once the control period of the present Tariff Regulations expires on 31.03.2024.”

Accordingly, the petitioner has submitted that the present petition for the Truing Up of the Gross Fixed Asset from FY 2020-21 to FY 2023-24 considering opening GFA of Rs.2396.65 crores (against approved GFA of Rs.2310.61 crores) of different Power Stations of OHPC and has further requested the Commission for approval of differential amount of Rs.86.04 Crs. (as on 31.03.2020) in the Gross Fixed Asset for the period from 1.04.96 to 31.03.2020, primarily due to the reconciliation of GFA of Upper Indravati Hydro Electric Project (UIHEP). The details for differential amount is given as under:

Sl No.	Particulars	Asset of CO to be distributed among the power station	UIHEP	BHEP	RHEP	UKHEP	HHEP	CHEP	Total
A	Fixed Asset on 31.03.2018 as per Audited account 2017-18 (IND AS)	17.888	510.922	247.441	103.351	90.860	167.177	52.007	1189.646
B	Add: accumulated depreciation added back	3.303	933.271	309.182	214.372	237.410	220.842	162.926	2081.306

Sl No.	Particulars	Asset of CO to be distributed among the power station	UIHEP	BHEP	RHEP	UKHEP	HHEP	CHEP	Total
C	Gross Block (after adjusting accumulated dep)	21.191	1444.193	556.623	317.723	328.270	388.019	214.934	3270.952
D	Add: share of corporate office allocated to different units based on the design energy	-21.191	6.928	4.543	2.016	3.195	2.627	1.882	0.000
E	Gross Block (after adjusting allocation of additional capitalisation of corporate office)	0.000	1451.121	561.166	319.739	331.465	390.646	216.815	3270.952
F	Less:- upvaluation effect			219.238	167.924	199.646	57.410	72.787	717.006
G	Less:- Share from DoWR & infirm power cost		157.310						157.310
H	Less:-Approved by OERC for 2019-20		1231.474	336.074	150.075	128.248	323.557	141.168	2310.596
I	Difference not approved by OERC(E-F-G-H)		62.338	5.853	1.739	3.571	9.679	2.860	86.040

N.B:

- i) Share of corporate office allocated to HPS has been apportioned between HHEP & CHEP based on their respective design energy.
 - ii) Out of difference of Rs 9.679 Cr against HHEP, difference of Rs 6.367 Cr has been arising since Rs 3.662 Cr was claimed & approved for ARR FY 2017-18, though a sum of Rs 10.029 Cr was capitalised against HHEP in FY 2015-16.
 - iii) As evident from tariff order for FY 2007-08, though Commission has approved the Gross Fixed Asset of UIHEP as on 31.03.2006 at Rs 1253.96 Cr, Tariff was approved based on Gross Fixed Asset of Rs 1194.79 Cr.
- (f) With regard to Initial Gross Fixed Assets of Old Power Stations of OHPC, the Commission at Para No. 6.5 (b) of the Tariff Order of OHPC for the FY 2004-05 had made following observations.

“xxx.....xxx... The Commission in its tariff order dt.23.06.2003 has accepted the gross fixed assets of OHPC as on 01.04.1996 as Rs 472 crore. After considering capitalisation of interest of Rs 7.80 crore and less accumulated depreciation of Rs 123.2 crore, the net fixed asset was taken as Rs 356.60 crore. As per transfer notification 5207 dt. 01.04.96 issued by the Govt. of Orissa, net fixed asset of Rs 356.60 crore was revalued to Rs 1196.80 crore.

The Hon'ble High court of Orissa in Misc. Case no. 741 and 8953 of 2002 has passed an order directing the Commission to make necessary calculation of depreciation on the pre up-valued cost of assets as on 01.04.96 at pre-92 rate. Referring to Govt. of Orissa notification quoted in this order earlier, the effect of up-valuation of asset of OHPC is kept in abeyance from the FY 2002 prospectively till 2005-06 or till the sector turns around, whichever is earlier. Therefore, for the purpose of calculation of depreciation on the capital cost in respect of old OHPC stations it shall be taken as Rs 479.80 crore as on 01.04.96.....xxx..... xxx."

- (g) The Petitioner has pointed out that the Commission at para No. 5.4(c) of the Tariff Order of OHPC for the FY2005-06 had made following observations;

"The Commission has examined the facts and figures submitted by OHPC and come to the conclusion that since the value of assets has been duly accounted for, audited and reviewed by C & AG, now it is not justifiable to re-examine the figures already adopted in the books of accounts. Hence, the total value of Rs.1196.80 crore is accepted and approved in the manner proposed by OHPC as presented below.

HPS	RHEP	UKHEP	BHEP	TOTAL
295.17	259.01	307.96	334.66	1196.80

For the purpose of determination of tariff for 2005-06 and 2006-07, the capital cost of old OHPC stations has been determined on the basis of their historical cost as on 01.04.1996 of Rs.472.00 crore with subsequent addition on account of R&M of unit 1 & 2, Burla Rs. 81.84 crore, both totaling to Rs. 553.84 crore as on 31.03.2003 as stated in our order dtd.10.06.2005."

The Petitioner further submitted that since the Commission has only recognized Historic cost of Asset as Rs.479.8 Crs (as on 01.04.1996) as transferred cost to be considered for Tariff (against Rs.1196.80 crores including CWIP of Unit 1 & 2 of HPs).

- (h) The Commission in its order dtd. 12.02.2003 in Case No.23 of 2000 had clarified that the estimated capital cost of UIHEP has been considered at Rs.1195.42 Crs on provisional basis for the purpose of determination of the tariff. The Commission also directed in the said order that *"the actual capital cost incurred on completion of project for the purpose of determination of tariff should be got approved by CEA as per Section 42 A(2) of the Electricity (Supply) Act, 1948. If CEA refuses to do so, it can be determined by a group of independent experts in consultation with CEA."*
- (i) The Commission in Tariff Order of OHPC for the FY2007-08 has approved the Original Gross Fixed Asset of UIHEP as Rs1195.42Crs with following observations:

Para no 5.4.4.6 *“The capitalized value of the project as on the date of commercial operation 19.04.2001 amounted to Rs. 1331.87 crores. However, as on the date of commercial operation a number of bills of the contractors were not finalized and some capital works were pending to be completed/ carried out. As such the bills subsequently passed for payment & the work completed/carried out have been included in the capital cost of the project.xxxxxxxx*

Para-5.4.4.8: *The Commission had provisionally allowed the project cost of UIHEP at Rs. 1195.42 crores in the tariff of earlier years. After giving a credit of Rs. 0.63 crores towards cost of in firm power, OHPC has been taking the project cost at Rs. 1194.79 crores for tariff purpose.*

Para-5.4.4.10: *“Having taken into consideration the diverse views expressed in the matter of determination of the project cost, the Commission agrees with the views that OHPC cannot be held responsible for the delay in execution of the project prior to the transfer to OHPC on 01.04.1996. The cost structure now submitted to us is based on the audited report of the Accountant General of Orissa. In accordance with CERC Regulation (No.33) on determination of tariff dated 26.03.2004 “subject to the prudence check by the Commission, the actual expenditure incurred on completion of the project shall form the basis for determination of final tariff.” In view of the above, the Commission approves Rs.1195.42 crores as the final capital cost of UIHEP for the purpose of determination of tariff.”*

The Petitioner further submitted that from tariff order for FY 2007-08 onwards, though the Commission had approved the Gross Fixed Asset of UIHEP as Rs1253.96 Cr. as on 31.03.2006 , Tariff was approved based on Gross Fixed Asset of Rs.1194.79 Cr (provisional).

- (j) Regarding segregation of Gross Fixed Asset of HHEP, Burla and CHEP, Chiplima, the Petitioner has submitted that from 1996-97 or since formation of OHPC there were only four power stations of OHPC namely BHEP (Balimela); UKHEP (Baraniput); RHEP (Rengali)& HPS (Hirakud). Both HHEP (Burla) and CHEP (Chiplima) were under Hirakud Power System (HPS) until FY2009-10. The Commission at para no. 164 in the Tariff Order of OHPC for the FY2009-10 had made following observations;

The Commission observes that OHPC should make all efforts to present separate PPAs for Burla and Chiplima and present separate tariff filing for Burla and Chiplima from FY 2010-11 onwards.”

From FY2010-11 onwards the Tariff computation of HPS was stopped & the Asset was segregated between HHEP, Burla & CHEP, Chiplima in the ratio of the up valued cost earlier approved by the Commission in the Tariff Order of

OHPC for the FY2005-06. Both the Units started their tariff filing separately before the Commission for approval.

- (k) The Petitioner proposes to finalize the Gross Fixed Assets of different Power Stations from 2020-21 to 2023-24 for Truing Up based on the following procedure.
- i. The Proposed Closing balance of Gross Fixed Asset as on 31.03.2020 (after reconciliation of Gross Fixed Asset as Rs.2396.650 Crs) is considered as the opening Gross Fixed Asset for control period FY 2020 to 2024.
 - ii. The additional capitalisation of different power stations of OHPC available in the Audited Account for FY2020 to 2024 is considered to finalize the Gross Fixed Asset.
 - iii. The deletion of different power stations of OHPC available in the Audited Account for FY2020 to 2024 is considered to finalize the Gross Fixed Asset.
 - iv. The Gross Fixed Asset of different power stations to be considered for the Truing Up shall be Proposed Closing balance of Gross Fixed Asset as on 31.03.2020 i.e. Rs.2396.650 crores.
- (l) Accordingly, the Petitioner-OHPC has submitted Truing Up claim (Component wise & year wise) for the block period from FY 2020-21 to 2023-24 which is furnished in the Table below:

FY	2020-21	2021-22	2022-23	2023-24	Total
Return on Equity	8.255	15.865	16.775	19.208	60.103
Interest on Loan	9.881	19.212	19.751	14.213	63.057
Depreciation	7.940	8.473	8.901	9.702	35.016
Interest on Working Capital	-1.013	-0.593	0.560	2.841	1.795
Total ARR	25.063	42.957	45.987	45.964	159.971

5. GRIDCO has submitted the following:

- (a) The Petitioner has submitted that the True-Up Petition has been filed as per Regulation 6(2) ,7(6) and 8 of the OERC Generation Tariff Regulations, 2020 respectively. The Clause No. 6(2) of the OERC Generation Tariff Regulations, 2020 stipulates as below:

“.....; Provided that in case of an existing project, the application shall be based on admitted capital cost including any additional capitalization already admitted up to 31.03.2020 and estimated additional

capital expenditure for the respective years of the tariff period 2020-21 to 2023-24.....”.

Clause No. 7(6) of the OERC Generation Tariff Regulations, 2020 stipulates as 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 further that application shall contain details of underlying assumptions for projected capital cost and additional capital expenditure, wherever applicable.”

Clause No. 8.1 of the OERC Generation Tariff Regulations, 2020 stipulates as below:

“8.1(c) The Commission shall carry out truing up exercise at the end of the Tariff Period along with the tariff petition filed for the next tariff period, with respect to the following:

The existing generation plants of OHPC and OPGC (Unit - I & II) may file an application each year for truing up of its generating stations of the previous year(s), with respect to the capital expenditure including additional capital expenditure incurred up to last day of the previous year(s) and determination of revenue gap/surplus for the ensuing year, within the time limit as specified by the Commission.

Provided that the applicant shall submit to the Commission, information in such form as may be prescribed by the Commission, together with the Audited Accounts, extracts of books of account and such other details as the Commission may require to assess the reasons for and extent of any variation in financial performance from the approved forecast of Aggregate Revenue Requirement and expected revenue from tariff and charges.”

- (b) The Petitioner has neither adhered to the timeline stipulated in the Regulations for filing the True-Up nor prayed for condonation of delay. Further, the Petitioner had earlier filed True-Up Petition for FY: 1996-97 to FY:2015-16 for its different Hydro Electric Projects in Case No. 55 of 2020. The Commission, vide order dated 03.11.2021, had disposed off the aforementioned Petition. In the said Order, the Commission have observed :

“90. In view of this the Commission observes that the OHPC is not entitled to any truing up for the period before the notification of the OERC (Terms & Conditions for Determination of Generation Tariff) Regulations 2014 as there was no provision in the CERC Tariff Regulation for truing up under which the Generation Tariff was regulated for the period before 2014. After the notification of OERC Generation Tariff Regulation 2014, truing up is guided as per the provisions of Regulation 2014. Since the truing up is only allowed

for the Capitalisation and additional capitalisation it is further observed that the Commission in the ARR allows the capitalisation including additional capitalisation as reflected in the available audited accounts. Therefore there is no further scope for any truing up of these elements. XXXXX

Further, the Commission vide Case No. 53/2022 & 19/2023 observed:

“9. XXXXXXXXXX This is not a valid ground as the closing fixed assets can be very well-known basing on their own audited accounts. The audited account is the basis of truing up exercise. The Commission has been approving capital addition including additional capitalization in each years tariff order. In the subsequent year’s tariff order, the Commission has been accepting capital addition which has been actually made out of previous year’s approval and as reflected in the audited accounts. Therefore, there is no question of variation between the audited accounts and that of capital assets accepted by the Commission for determination of tariff. Moreover depreciation, return on equity and interest on loan component are also allowed on the additional capitalization so accepted by the Commission.

- (c) The above observations of the Commission construe the admissibility and finalization of GFA already having impact in ARR of the respective financial year. The instant petition has not been filed within the timeline prescribed by the Commission.
- (d) On perusal of the instant petition, it is observed that Commission has been allowing actual capitalisation and the additional capitalization cost in the ARR of subsequent years after prudence check of the audited accounts of past years. The Petitioner has also not specifically mentioned the Regulation under which clause it has claimed additional capitalization of various units.
- (e) It is submitted that the OERC (Generation Tariff Regulation), 2020 stipulates for non-tariff income to be considered for determination of ARR for the period. However, there was no explicit provision for such adjustment towards non-tariff income during the prior period. The non-tariff income has been earned by the Petitioner to the tune of **Rs.20,6602.96 lakh** from FY: 2008-09 up to FY: 2022-23 as per the Annual Report available in the website of the Petitioner. It is pertinent to mention that the non-tariff income excluding interest on Bank Deposits accrued from FY: 2008-09 to FY: 2020-21 was to the tune of **Rs.95,722.08 lakh**, as computed by GRIDCO. It may be considered that the above income which might be reflected in the Reserves and Surplus or utilized for creation of assets over the years or for any other purposes. It may be proposed that the above surplus funds, beyond the scope of the ARR, can be utilized for absorbing the differential tariff/ARR and funding of the Gross Fixed Asset (GFA) as being claimed by the Petitioner in the instant Petition.

6. The submissions of the TPNODL are summarised as stated hereafter:
 - (a) The Clause No.50 of the Vesting Order regarding treatment of Past Period True-up is reproduced below:

“Treatment of true-up of past period i.e. for period prior to taking-over or effective date of TPNODL, if any, shall be done by the Commission in a manner that will not cause any financial gain or losses to TPNODL”
 - (b) OHPC has claimed additional GFA of Rs.86.04 Crore for the period from 01.04.1996 to 31.03.2020 and additional ARR of Rs.159.662 Cr. For the block period from FY 2020-21 to FY 2023-24. As per Clause No.50 of the Vesting Order, above claim (prior to taking-over) should not cause any financial gain or losses to TPNODL and the Commission may utilize the surplus available with the applicant for mitigation of any further tariff increase, necessary prudence checks may be undertaken based on the audited accounts of the OHPC to allow the necessary costs, if any and take appropriate decision in the matter to safeguard the interest of the consumers of the State.
7. TPWODL has submitted that the matter has attained finality by the Commission in Case no 55 of 2020, in Case no 53/2022 & 19/2023 and various tariff orders dated 24.03.2022, 23.03.2023, 13.02.2024 has already given effect to the additional capitalisation for the period from FY 2020-21 to FY 2022-23. Necessary prudence check may be undertaken based on the Audited Accounts of the GENCO to allow the necessary costs, if any and take appropriate decisions in the matter in order to safeguard the interest of the consumers of the State and surplus available with the applicant may be utilized for mitigation of any further tariff increase.
8. The Respondent-TPSODL has the following prayers before the Commission:
 - (a) To consider the additional capitalisation after due prudence check in accordance with the relevant tariff Regulations.
 - (b) To consider suitable mechanism to minimise the impact on the Bulk Supply Price applicable for the DISCOM's, thus the RST.
9. The Respondent-TPCODL has submitted that additional capital cost has already been considered in the ARR of the subsequent years and consumers of the State cannot be burdened and no additional cost be allowed in the greater interest of the consumer. The surplus available with applicant may be utilized for mitigation of any further tariff increase.

10. The rejoinder of OHPC is concisely stated as hereafter:
- (a) The petitioner has submitted that the treatment of non-tariff income is governed under OERC's Generation Tariff Regulations, 2020. As per the said Regulation, the non-tariff income for the block period from FY 2020-21 to FY 2023-24 are limited to sharing of 50% of the income generated from rent of land or buildings, sale of scrap and advertisements only. The non-tariff income has been suitably dealt by the Commission as per the Regulation in their earlier order. Moreover, truing of the non-tariff income is not allowed as per the provisions envisaged in the Regulation 26(1) & 41(1) of OERC's Generation Tariff Regulations, 2020. The issue regarding non-tariff income raised by GRIDCO is unfound and should not be considered.
 - (b) The Petitioner has submitted that in Case no 53 /2022 and 19/2023 in the matter of Truing up for FY 2016-2020 at Para 10 the Commission has given liberty to the petitioner to file true up petition after the end of the block period i.e. 31.03.2024. Similarly the Commission in its order in Case no 52 of 2023 (The Review Petition of OHPC for Tariff Order) has directed OHPC to submit the details of assets of each power stations (Pre-1996 assets) , additional assets capitalized each year and asset class which shall be jointly verified by the concerned officers of OHPC and the Commission for finalization of GFA of OHPC of each year as per audited accounts vis-à-vis approval of OERC which was already given by the Commission. Over and above the Commission, in Case No.87 of 2023 regarding truing of ARR and GFA for FY 2016-17 to 2019-2020, has directed OHPC to reconcile the GFA of all power stations including the corporate office. OHPC further points out that there is a difference of GFA of Rs 86.04 Crs for the period up to 31.03.2020 due to delayed reconciliation of the gross fixed asset of UIHEP. The Commission in its order dated 12.02.2003 in case no 23 of 2000 has specifically clarified that the estimated capital cost of UIHEP has been considered at Rs 1195.42 Crs on provisional basis for Tariff determination. The reconciliation matter was also got difficult due to segregation of the asset of erstwhile HPS between HHEP and CHEP. The Commission while approving tariff for FY 2020-21 to FY 2023-24 had considered additional capitalisation basing on the two year back account which was available at the time

scrutiny. However, after availability of up-to-date account there is a need for fresh truing up.

11. Heard the Petitioner and Respondents through hybrid mode and considered their written notes of submissions and arguments during hearing. The Commission has examined and analysed the Petition submitted by OHPC for finalization of Gross Fixed Asset (GFA) from FY 1996 to FY 2020 and Truing Up of Gross Fixed Assets from 2020-21 to 2023-24. The observations of Commission are as following:

- (a) OHPC has submitted the application for approval of (a) GFA amounting to Rs.2396.65 crore (against earlier approved GFA of Rs.2310.61 crore) as the closing balance as on 31.03.2020 (b) True up the GFA of different power station for FY 2020-21 to FY 2023-24 claiming Rs.159.971 crores.
- (b) As per OERC's Generation Tariff Regulations, 2014, the capitalization and additional capitalization are only allowed to be trued up, therefore, the determination of Gross Fixed Asset at each year end is very much essential for truing up. The Petitioner requires time for preparation of statutory accounts which is to be scrutinized by the Commission. Therefore, the GFA and consequential ARR is made based on the available statutory accounts submitted by the Petitioner. Since, the different projects of OHPC were going on before FY 2014, while submitting the accounts, the CWIP might have been overlooked and these could have been settled in the accounts of the subsequent years. But this has not been done by OHPC with due diligence. Therefore, the present difference/correction is popping up at the time of reconciliation of account.
- (c) The determination of GFA of OHPC for the period prior to FY 2014 and the subsequent period from FY 2014-15 to FY 2023-24 are required for true up exercise.
- (d) There was no provision for truing up for the period prior to notification of CERC's Generation Tariff Regulations, 2014 and true up is allowed only for capitalisation & additional capitalisation as per above Regulations of CERC.
- (e) The Commission has been allowing actual capitalisation and the additional capitalization cost in the ARR of subsequent years after prudence check of the audited accounts of past years.

- (f) The DISCOMs have submitted that as per Clause No.50 of the Vesting order, the claim of Petitioner (Prior to taking over by the present DISCOMs) should not cause any financial gain or losses. The surplus available with the Petitioner may be utilized for mitigation of any further tariff increase and necessary prudence checks may be undertaken by the Commission basing on audited accounts of OHPC to allow the costs.
- (g) As per Paragraph-10 of the Commission's order dated 08.06.2023 in Case No.53 of 2022 & Case No.19 of 2023, the liberty was given to the Petitioner to approach the Commission after completion of control period (FY 2020-2024) on 31.03.2024 for approval of additional capital expenditure which has not been specifically allowed in each year's tariff order.
12. Prior to 2014, the determination of generation tariff was being governed under CERC's Tariff Regulations. The anomaly is observed in respect of the Gross Fixed Asset of UIHEP with reference to the tariff order of the Commission for the FY 2007-08. In the said tariff order, the Commission had approved Rs.1233.12 Crs (excluding capital spares) as GFA of UIHEP (as on 31.03.2006). However, the tariff was determined by the Commission considering provisional GFA/final capital cost of UIHEP as Rs.1195.42 Cr. in absence of detail information and final settlement of accounts. Now this has been brought to our notice by the OHPC providing relevant details pertaining to UIHEP. Hence, the Commission approves the corrected additional amount of Rs.37.7 Cr (Rs.1233.12 - Rs.1195.42) in respect of Gross Fixed Asset of UIHEP, which have been found out after final settlement of the accounts. However, at this stage, there is no scope to allow RoE, depreciation, interest on loan & working capital on the above differential GFA as M/s OHPC has failed to claim such amounts at appropriate time.
13. We are not inclined to approve the additional claim for revision of Gross Fixed Asset in respect of BHEP, RHEP, UKHEP, HHEP and CHEP for the period prior to 2014 as part of truing up exercise, as the matter has already been addressed in paragraph 90 of the order dated 03.11.2021 of the Commission, which has attained finality, in Case No 55 of 2020, the extract of which is reproduced below:

"90. In view of this the Commission observes that the OHPC is not entitled to any truing up for the period before the notification of the OERC (Terms & Conditions for Determination of Generation Tariff) Regulations 2014 as there was no provision in

the CERC Tariff Regulation for truing up under which the Generation Tariff was regulated for the period before 2014. After the notification of OERC Generation Tariff Regulation 2014, truing up is guided as per the provisions of Regulation 2014. Since the truing up is only allowed for the Capitalisation and additional capitalisation it is further observed that the Commission in the ARR allows the capitalisation including additional capitalisation as reflected in the available audited accounts. Therefore there is no further scope for any truing up of these elements. XXXXX.

14. The capital expenditure & additional capital expenditure incurred for the block period ending on 31.03.2024 (i.e. for the control period FY 2020-24) in respect of various HEP of OHPC shall be duly considered at the time of true up exercise for the FY 2025-26 in line with OERC's Generation Tariff Regulations, 2020.
15. GRIDCO in its submissions has raised the issues relating to Non-Tariff Income, which will be addressed in ARR for the FY 2025-26.
16. With the above observations and directions, the case is accordingly disposed of.

Sd/-
(S. K. Ray Mohapatra)
Member

Sd/-
(G. Mohapatra)
Officiating Chairperson