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**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](mailto:oerc@odisha.gov.in) / [oriarc@gmail.com](mailto:oriarc@gmail.com)  
WEBSITE: [www.oriarc.org](http://www.oriarc.org)

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**Present:** **Shri Pradeep Kumar Jena, Chairperson**  
**Shri S. K. Ray Mohapatra, Member**

**Case No. 05/2025**

M/s. Odisha Coal and Power Ltd. ..... Petitioner  
Vrs.  
DoE, GoO & Others ..... Respondents

**IN THE MATTER OF:** **Applications of Odisha Coal & Power Limited (OCPL) Under Section 62 and 86 of the Electricity Act, 2003 read with Odisha Electricity Regulatory Commission (Terms & Conditions for Determination of Generation Tariff) Regulation, 2020, Odisha Electricity Regulatory Commission (Determination of Input Price of Coal from Integrated Mine) Regulations, 2024 and OERC (Conduct of Business) Regulation, 2004 for (i) approval of input price of coal supplied from Manoharpur and Dip-side Manoharpur Coal Mine for the period from date of commercial operation i.e. 30.09.2021 to 31.03.2024 and (ii) determination of input price of coal from 01.04.2024 to 31.3.2029**

**For Petitioner:** Shri G.B.Swain, CEO along with Shri Ayaskant Kanungo, COO

**For Respondents:** Ms. Susmita Mohanty, DGM (PP), along with Ms. Pragnya Punam Dash, AGM (El.), GRIDCO, Ms. Banishree Pradhan, DGM (RT&C), OPTCL, Ms. Sonali Pattnaik, Manager (Legal), DoE, GoO, Shri Bharat Bhadawat, (Chief Regulatory Affairs), TPCODL, Shri K.C. Nanda, Sr. GM (RA & Strategy), TPWODL, Shri Soumitry Dey, Head Regulatory, TPSODL, Ms. Malancha Ghose, Addl. Chief Engineer (RA), TPNODL, Shri Haresh Kumar Satpathy, Addl.GM (C&RA), M/s. OPGC Ltd. and Shri Anand Kumar Mohapatra.

## ORDER

**Date of Hearing: 20.05.2025**

**Date of Order: 08.08.2025**

The Petitioner-M/s OCPL has filed the present petition under Section 62 and 86 of the Electricity Act, 2003 read with Odisha Electricity Regulatory Commission (Terms & Conditions for Determination of Generation Tariff) Regulation, 2020, Odisha Electricity Regulatory Commission (Determination of Input Price of Coal from Integrated Mine) Regulations, 2024 and OERC (Conduct of Business) Regulation, 2004 and has prayed for (i) approval of the capital cost of Manoharpur & Dip-side Manoharpur Coal Mine as on the date of commercial operation, (ii) approval of input price of coal of Manoharpur & Dip-side Manoharpur Coal Mine based on actual expenditure for the period from commercial operation date i.e. 30.09.2021 to 31.03.2024, (iii) approval of input price of coal of Manoharpur and Dip-side Manoharpur Coal Mine for the period based on projected additional capital expenditure and O&M expenses from 01.04.2024 to 31.03.2029.

### **Background:**

1. M/s Odisha Coal & Power Limited (**OCPL**) is a company incorporated under the Companies Act, 2013. M/s OCPL become a wholly owned subsidiary company of OPGC Ltd (Odisha Power Generation Corporation Limited) from 20th January, 2015 with the main objective to operate, maintain coal mine & related machines and to carry on mining and supply of coal. The Petitioner-M/s OCPL filed application for allotment of Manoharpur and Dip-side Manoharpur Coal Blocks under the provisions of The Coal Mines (Special Provisions) Second Ordinance, 2014 and was declared as the successful allottee on 24th March, 2015 and both coal blocks were allotted by Ministry of Coal, GoI (MoC), vide allotment order no 103/25/2015/NA dated 31.8.2015, for specified End Use Plant of Odisha Power Generation Corporation Ltd. (OPGC) i.e. Expansion Power Project (Unit 3,4,5 and 6). Presently OCPL is joint venture company between Govt. Of Odisha and OPGC, where OPGC is having 51% and Govt. Of Odisha having 49% share.
2. This coal mine is allocated to the M/s OCPL for specified end use generating stations of OPGC, whose tariff is to be determined by the Commission under Section 62 of the Act. Details of the specified end use plant of the allotment agreement is given as under:-

S.No.	Name of Specified End Use Plant	Address	Configuration	Capacity
1.	Odisha Power Generation Corporation Ltd., Expansion Power Project (Unit 3,4,5 and 6 )	Ib Thermal Power Station, Banharpali, Jharsuguda, Odisha	4x660 MW	2640 MW

3. Manoharpur and Dip-side Manoharpur Coal Mine is to supply Coal to the Thermal Power Station in Banharpali in Jharsuguda District of Odisha.
4. M/s OCPL has made arrangements for the supply of Coal to the end-use plant by entering into Fuel Supply Agreement (FSA) with the OPGCL a generating company.
5. The Manoharpur and Dip-side Manoharpur Coal Mine allotted to the M/s OCPL which is subsidiary of OPGCL, through specific arrangement for the purpose of the development of the Coal mine by deploying expertise related to mining operation. Thus, the said mine is qualified as integrated mine of the OPGCL. The Regulation 3(t) of the Input Price Regulations, 2024 also provides that the allottee company (M/s OCPL) for supply of coal to one or more specified end use Generating stations for generation and sale of electricity to the beneficiaries covered as integrated mine.
6. In terms of Section 86(1)(a) of Electricity Act, 2003, the Commission has been vested with the functions to determine the tariff for generation and supply within the State. The tariff of OPGC is regulated in terms of Section 86 read with Section 61, 62 and 64 of the Electricity Act, 2003 and the Odisha Electricity Regulatory Commission (Terms & Conditions for Determination of Generation Tariff) Regulation, 2020 notified by the Commission in exercise of powers under Section 181 read with Section 86 of the Electricity Act, 2003.
7. The Commission has notified OERC (Determination of Input Price of Coal from Integrated mines) Regulations, 2024 which came into force from 29th May, 2024 specifying the regulatory framework for determination of input price of Coal supplied from the Integrated mine to the linked generating station. Under the Regulations, the Allottee companies, which have COD before the publication of Regulations, are deemed to have been covered under above Regulations and is defined as follows:  
*“Allottee Company” shall mean the company which has been allotted the Coal Mine by the Ministry of Coal, Government of India for supply of coal to the specified end use Generating plants for generation of electricity and supply to its beneficiaries;*
8. The mine plan for the Manoharpur and Dip-side Manoharpur Coal Mine was approved by MoC, vide No. 34011/15/2018-CPAM dated 7.3.2016 and 26.09.2019 (including revision) for peak rated capacity of 16 MTPA in September, 2019 with open cast mining. The mining plan envisages the land to be acquired/ leased for the mining area as 1781.591 Ha and mining block area of 1339 Ha. The acquisition of land (either on freehold or lease) requires to undergo from the various clearance, permission and compensation etc. The details of the characteristics of the mine as per the mine plan is as under:-

(a)	Mining plan/Mine closure plan Revision number and date of revision, if any	September-2019
(b)	Peak rated Capacity	16 MTPA
(c)	Year in which proposed to be achieved	12th Year
(d)	Mineable reserves (Opencast)	664.239 Million Metric Tonnes (extractable)
(e)	Mining area land - Acquired/ Leased	1781.591 Ha (66.78 Hs outside lease)
(f)	If Leased - Period and terms of lease	30 year
(g)	Mining Block Area	1339 Ha
(h)	Type of Mining	Opencast
(i)	Method of Mining	Opencast mining
(j)	Mine life in Years	44 Years
(k)	Scheduled date of commercial operation as per Investment approval	30.9.2021
(l)	Distance of Loading Point from mine end	2 Km
(m)	Gross Calorific value (GCV in Kcal/Kg) of coal as per Geological Report, Range, Mean	2800 -4000, 3100-3400
(n)	Specific gravity of coal (Avg)	1.78 Tonne/m <sup>3</sup>
(o)	Main Equipment	Shovel, Dumper, Surface Miner, Loader Dozer, Motor Grader, Coal Handling Equipment

9. The Mine plan is pre-requisite statutory requirement under the Mines and Minerals (Development and Regulation) Act, 1957. The mine plan is a comprehensive report that describes the identified land parcels, safety requirement and compliances, location, seams of coal, quality, suitable methodology for the mining process and corresponding requirement of infrastructure and technical equipment. It describes the overall operations of a mine with goal optimizing the extractions of minerals utilizing the mine's available resources.

10. The Petitioner-M/s OCPL has submitted the following:

(a) The scope of the mining activities has been considered based on the mine plan. The majority of expenditure is related to mining activities as per the mine plan. The scope of activities involved in the development of the coal mine and supply of coal to the end use generating plant was decided to develop the Manoharpur and Dip-side Manoharpur coal mine through Mine Developer and Operator (MDO) mode through a competitive bidding process.

(b) The investment approval of the Manoharpur and Dip-side Manoharpur coal mine was accorded approval by OCPL's Board at a project cost of Rs 213193.86 lakhs (at price level of 1<sup>st</sup> Qtr 2010) for 15 MTPA capacity and the Allotment order was issued by Ministry of Coal, GoI (MoC) vide allotment order no 103/25/2015/NA dated 31.8.2015. Subsequent to allotment, the petitioner has achieved the various events/milestone in respect of the development of the Manoharpur and Dip-side Manoharpur Coal Mine, which are as under:

**Execution of Mining Lease:**

The initially Geological Report (GR) was submitted in November 2017 by CMPDI. The Prospecting Report/GR of Dip side Manoharpur was submitted by CMPDI on 19-01-2018 and application Mining Lease for the Dip-side of Manoharpur Coal block was filed on 6<sup>th</sup> Feb 2018.

**Submission of Mine Plan:**

On 31<sup>st</sup> May,2019, the OCPL submitted the Mine Plan to the Ministry of Coal in accordance with the "Guidelines for preparation of Mining Plan for the Coal and Lignite blocks which includes detailed exploration of North Western part was carried out by Mineral Exploration Corporation Limited (MECL) and Geological report.

**Forest Clearance:**

The Central Government has accorded Stage II clearance over 276.655 Ha forest land (including 76.19 Ha deemed forest as per dictionary meaning) in coal mine area to the earlier allottee OPGC vide letter no F.NO 8-63/2011-FC dated 20.08.2014 and the MoEF&CC (FC division) has transferred the same to the OCPL on 30th November 2015. Another 57.078Ha forest land, which was earlier diverted by OPGC for pit head infrastructures under the head MGR vide MoEF&CC's letter no; F.No. 8-93/2012-FC dated 19.01.2015, has been transferred in favour of OCPL. The diversion of additional 15.701Ha forest land is under process. Application for the additional Forest Area lying on the Dip side of the Manoharpur will be applied after approval of this MP & MCP(Rev-III).

**Environment Clearance:**

Ministry of Environment & Forest & Climate Change (MoEF& CC), Government of India had issued Terms of Reference (ToR) and accordingly the Environment Impact Assessment/Environment Management Plan (EIA/EMP) Report was submitted to Central Government. Environment Appraisal Committee (EAC), Gol has recommended

the proposal for granting Environment Clearance. Environment Clearance for the Manoharpur Block was accorded to the OPGC vide letter no J-11015/139/2008-A.II(M), earlier allottee. Same has been transferred to OCPL on 30th December 2015.

**Consent of Odisha Pollution Control Board:**

The Consent to Establish the Coal Mine was submitted to Odisha State Pollution Control Board and the same was approved on 30.12.2013.

**Approval Water allocation & permits:**

Approval from Central Ground Water Authority was obtained for drawl of 950 cum/day ground water for use in the mine and an application for 558 cum/day of water from Hirakud Reservoir was submitted to Department of Water Resources, Govt. of Odisha. Dept of WR, GoO allocated 5.55 cusec of water from Hirakud reservoir vide its letter no. 8695/WR dated 12-04-2016.

**Road Diversion and Nalla Diversion:**

The application for diversion of public road was submitted to the State Govt. for diversion on 15.11.2013 and it was approved by the state government on 15.01.2014. Application was received by State Water Resources Department for diversion of Garia nalla passing through coal mine area. Nalla Diversion permission transferred and vested in favour of OCPL, vide Deptt. of WR letter no. 8693/WR dated 12-04-2016. MO will take up the nalla diversion work. As a small portion of the approved diversion is falling within the Coal bearing Area, fresh application will be submitted to the Concerned authorities for the modified Diversion route

**Power Connectivity:**

NTPC's Darlipali STPP provides power supply at 33 kV level for mine operation. Approval for drawl of 15 MVA load at 33 KV level was obtained from GRIDCO & MoP, Gol.

**DGMS and Coal Controller permission:**

Mine Opening Permission from Director General of Mines Safety (DGMS) was obtained for starting mining operation in the coal mines as per the provision of Coal Mines Regulation, 2017. Similarly, for opening of a coal mine, permission from Coal Controller, Ministry of Coal, was obtained.

**Escrow Account and Consent to operate coal mine & R&R colony:**

Escrow Account has been opened with the Union Bank of India. Agreement executed with the controller, Ministry of. Coal, Govt. of India. The permission has been granted

by Odisha State Pollution Control Board to operate the Coal Mine. Consent to Establish R&R Colony-Phase-I at Sukhabandh was obtained by the OPGC, which was later transferred in the name of OCPL. Environment Clearance for R&R Colony Phase -1 was obtained by OPGC on 13/01/2014 which was later transferred to the OCPL on 12/09/2016 and after the construction of R&R colony, OCPL obtained the approval to Operate the R&R Colony.

- (c) The Commission, has introduced the regulatory framework for application to determine the Input price as per the OERC's Input Price of Coal Regulations, 2024.

***“4. Application for determination of Input Price***

*(i) The Allottee company having Fuel Supply Agreement (FSA) with the end use generating plant(s) for the supply of coal from an integrated mines shall file a petition in accordance with these Regulations for determination of input price of coal not later than 90 days from the Date of Commercial Operation of the integrated mine or from the date of notification of these regulations.*

*Provided further, that the Allottee Company having integrated mine(s) shall file petition before the Commission as perform at provided by the Commission for determination of the input price of coal from the integrated mine(s) containing the details of expenditure incurred and projected to be incurred duly certified by the Auditor.”*

- (d) The Petitioner has filed the present petition for determination of input price of coal supplied from Manoharpur and Dip-side Manoharpur Coal Mine for the period from commercial operation date i.e. 30.09.2021 to 31.03.2024 in accordance with the OERC's Input Price of Coal Regulations, 2024.
- (e) As per Regulation 4(i) of OERC's Input Price of Coal Regulations, 2024, the present petition should be filed not later than 90 days from the date of commercial operation of the integrated coal mine(s) or from the date of notification of these regulations, whichever is later. In this regard, it is pertinent to state that the OCPL has declared the commercial operation of the integrated mine on 30.9.2021. The Regulations of the Commission for the integrated coal mine was not in place. Although such Regulations were notified by the Central Electricity Regulatory Commission (CERC) on 13.09.2021. Hence, till the notification of said Regulations of the Commission, the OCPL has charged the input price of coal from integrated mine, at the CIL's notified price in line with CERC's input price of coal Regulations, 2021.
- (f) That OCPL has to file the input price tariff petition within 90 days from the date of notification of the Input Price Regulations, 2024. The date of notification of these Regulations in official Gazette is 29.05.2024. It is submitted that Input Price framework is being placed for the first time and the working of actual cost is being worked out after

the receipt of the necessary format. This has severely affected the process of preparing the cost related data for filing of input price determination petitions. Therefore, there is some delay in filing of instant petition. The Commission may be pleased to condone the delay in filing the petition.

(g) That the Regulation 3(1)(m) of OERC's Input Price of Coal Regulations, 2024 provides as under:-

***“3. Definitions***

***(m) “Date of Commercial Operation (COD)” shall mean the date of commercial operation and in case of integrated mine(s) it shall mean the earliest of —***

- a) the first date of the year succeeding the year in which 25% of the Peak Rated Capacity as per the Mining Plan is achieved; or*
- b) the first date of the year succeeding the year in which the value of production estimated in accordance with Regulation 5 of these regulations, exceeds total expenditure in that year; or*
- c) the date of two years from the date of commencement of production:*

*Provided that on earliest occurrence of any of the events under sub-clauses (a) to (c) of this Regulation, the Allottee Company shall declare the Date of Commercial Operation of the integrated mine(s) under the relevant sub-clause with one-week prior intimation to the end-use generating station(s) and its beneficiaries;*

*Provided further that in case the integrated mine(s) is ready for commercial operation but is prevented from declaration of the Date of Commercial Operation for reasons not attributable to the Allottee Company or its suppliers or contractors or the Mine Developer and Operator, the Commission, on an application made by the Allottee Company, may approve such other date as the Date of Commercial Operation as may be considered appropriate after considering the relevant reasons that prevented the declaration of the Date of Commercial Operation under any of the Clause of this Regulation;*

*Provided also that the Allottee Company seeking the approval of the date of commercial operation under the preceding proviso shall give prior notice of one month to the end use generating station(s) and beneficiaries of the integrated mine(s) regarding the Date of Commercial Operation.”*

In the instant case, the commercial operation date is declared prior to the notification of the OERC's Input Price of Coal Regulations, 2024. The Petitioner preferred to follow the framework envisaged in the Detailed Project Report by the CMPDI. The Coal India Ltd also follows the similar framework for declaring COD which is provided below. The working group constituted by the CERC also recognizes the framework of CIL.

*“5.5.3 Coal India Ltd is considering commercial operation date for the mines owned by them observing certain conditions. The Coal India Ltd has disclosed these conditions in their balance sheet. Similar conditions were also evolved by the Ministry of Coal in 2004 to bring coal project in the revenue account. The commercial operation date is deemed to be declared if it satisfied following conditions:*

- (a) From beginning of the financial year immediately after the year in which the project achieves physical output of 25% of the rated capacity as per approved project report;*
- (b) 2 years of touching of coal, or*
- (c) From the beginning of the financial year in which the value of the production is more than total expenses*

*Whichever event occurs first.*

*On being brought to revenue, the assets under capital work-in-progress may be reclassified as a component of property, plant and equipment under the nomenclature ‘other mining structure’. Other mining structure is amortized from the year when the mine is brought under revenue in 20 years or working life of the project whichever is less.”*

XXXXX....

- (h) The Board has approved the DPR wherein the condition of achieving 25% peak rated capacity was considered. Accordingly, the commercial operation date is declared by the Governing Board of OCPL based on achieving 30% of peak rated capacity as envisaged by the CMPDI in the DPR.
- (i) That they have achieved the 25% peak rated capacity by 30.6.2021. However, after due diligence and detailed verification of the reports, the commercial operation date of the integrated mine was revised as 30.9.2021 after due approval of the Governing Board in its meeting 23.8.2021. The mine plan/Detailed Project Report envisages and actual is as under:-

<b>Sr. No.</b>	<b>Description</b>	<b>As per Mine Plan</b>	<b>Actual</b>
1)	Scheduled year of start of production	2019-20	1 <sup>st</sup> Nov, 2018
2)	Commercial Operation Date (commencement of commercial production)	2021-22 (2 year from first touching of coal)	30.9.2021
3)	Proposed year of achieving the target production	2022-23	2025-26

- (j) Petitioner-M/s OCPL have declared the Commercial Operation date prior to the notification of the OERC's Input Price of Coal Regulations, 2024 in accordance with prudent practice in the industry and as envisaged in the DPR. Further, the petitioner has submitted that achieving of 30% peak rated capacity is complying the minimum requirement of 25% peak rated capacity as specified in OERC's Input Price of Coal Regulations, 2024. Accordingly, OCPL has submitted to approve the commercial operation date as 30.9.2021 as declared by the Petitioner and approved by the Governing Board of OCPL.
- (k) The Regulation 5 of OERC's Input Price of Coal Regulations, 2024, has listed the different components for determination of inputs price of coal. The applicability of these components varies from mine to mine and the process adopted by the allottee. In the instant case, various components has been considered for determination of Input Price of Coal in line with Regulation 5 of OERC's Input Price of Coal Regulation, 2024, which is reproduced below:

***“5. Input Price of Coal***

*(1) Input price of coal from the integrated mine(s) shall be determined based on the following components:*

*(I) Run of Mine (ROM) Coal Cost; and*

*(II) Additional charges:*

*a) crushing charges;*

*b) transportation charge within the mine up to the washery end or*

*coal handling plant associated with the integrated mine, as the case may be;*

*c) handling charges at mine end;*

*d) washing charges and*

*e) transportation charges beyond the washery end or coal handling*

*plantas the case may be, and up to the loading point:*

*Provided that one or more components of additional charges may be applicable in case of the integrated mine(s), based on the scope and nature of the mining activities;*

*XXXXXXXXXX...*

- (l) The Governing Board of the OCPL has approved the investment of the Manoharpur and Dip-side Manoharpur Coal Mine based on the Mine Plan prepared by the CMPDI and approved by the Coal Controller. On 16.12.2021, the investment of Rs.2374 Cr was approved by the Project Appraisal Committee for the 8 Million Tonne per annum peak rated capacity. Meanwhile, the Ministry of Coal, Government of India has directed to

integrate both the coal blocks to single mine of 16.0 Million Tonne per Annum (MTPA) because of the geological configuration of the coal deposit. The detailed project report is prepared based on the 16 MTPA peak rated capacity. The investment envisaged under the detailed project report has been considered as basis for the integrated mine project. Accordingly, the investment of Rs 3098.20 Cr for the 16 MTPA peak rated capacity has been considered.

(m) The Petitioner-M/s OCPL has submitted that as per mine plan, the mining operations are to be carried out through MDO/ outsourcing and not through departmental mining. It indicates that the majority of capital cost will be covered under the scope of MDO and charged in the form of mining fee. The capital cost will be considered for those activities and infrastructure which is covered within the scope of department i.e. petitioner OCPL. The scope of the MDO and OCPL is as under as per the responsibility matrix decided in the agreement:

<b>Sr. No.</b>	<b>Activities and Task</b>	<b>OCPL</b>	<b>MDO</b>
1)	Pre-operative expenses, clearance and Land Acquisition	√	-
2)	Building (Service and colony)	√	-
3)	Mining and Extraction	Construction	Operation
	HEMM /Drilling	-	MDO
	Other than HEMM	Dept (capital) and A&G	Operation
4)	Internal Transportation (Dumper)	-	√
5)	Coal Handling (CHP)	Construction	Operation
6)	Crushing	-	√
7)	External transportation (CHP to Loading point direct)	NA	NA
8)	Washing of Coal	NA	NA

(n) In view of the above, the components of the input price of coal applicable in the instant case are as under:-

<b>Sr. No.</b>	<b>Mining fee of MDO</b>	<b>Included in</b>
1)	ROM Cost (Partly operation and HEMM)	ROM Cost
2)	Internal Transportation (Dumper)	Additional Charges
3)	O&M of Coal Handling (CHP)	Additional Charges
4)	Crushing charges	Additional Charges

11. OCPL has further submitted the following:

- a) The internal transportation and crushing activities involved Operation & Maintenance expenses and movable items. The operation & maintenance activities on both these counts have been awarded to the Mine Operator (MO) and covered within the mining fee. Hence, the capital cost of the crushing charges and internal transportation charges are not worked out separately and it is being considered as part of the O&M Cost.
- b) The Coal Handling Plant (CHP) involves capital expenditure and O&M expenses both. The capital cost of the CHP is covered in the capital cost of the petitioner. However, in the instant case, the Petitioner has awarded the construction and O&M to the EPC contractor for initial period of two years. Subsequently from this year onwards, the O&M shall be taken over by the Mine Operator. Accordingly, the Handling Charges have to be worked out separately as Additional Charges.
- c) Accordingly, Petitioner (M/s OCPL) has proposed following components under ROM cost & additional charges in accordance with the Regulation 5 of OERC's Input Price of Coal Regulations, 2024:-

Sr. No.	Components of the Input Price	Included in
1)	ROM Cost	ROM Cost
2)	Internal Transportation	
3)	Crushing charges	
4)	Coal Handling (CHP) and Transportation (from face of coal mine to loading point)	Additional Charges

- d) Regulation 11 of OERC's Input Price of Coal Regulations, 2024 provides the framework of Capital cost which is reproduced below:-

***“11. Capital Cost :***

- i) The expenditure incurred, including Interest During Construction (IDC) and Incidental Expenditure During Construction (IEDC), duly certified by the Auditor of the company, for development of the integrated mine(s) up to the Date of Commercial Operation, shall be considered for arriving at the capital cost.*
- ii) Capital expenditure incurred shall be admitted by the Commission after prudence check.*
- iii) Capital expenditure incurred on infrastructure for crushing, transportation, handling and washing and other mining activities required for mining operations shall be arrived at separately in accordance with these Regulations:*

*Provided that where crushing, transportation, handling and washing are undertaken by the Allottee Company, the expenditure incurred on infrastructures of these components shall be capitalized;*

*Provided further that where mine development and operation, with or without any component of crushing, transportation, handling and washing are undertaken by the Allottee Company by engaging Mine Developer and Operator or an agency other than Mine Developer and Operator, the capital expenditure incurred by Mine Developer and Operator or such agency shall not be capitalized by the Allottee Company and shall not be considered for the determination of input price.*

- iv) *The capital expenditure shall be determined by considering, but not limited to, the Mining Plan, detailed project report, mine closure plan, cost audit report and such other details as deemed fit by the Commission.*
- v) *In the case of integrated mine(s) which has declared the Date of Commercial Operation prior to 01.04.2024, the capital expenditure allowed after prudence check by the Commission for the period ending 31.03.2024 shall from the basis for the computation of input price.”*
- e) As per Regulation 8 of OERC’s Input Price of Coal Regulations, 2024 the supply of coal from the integrated mine(s) prior to their Date of Commercial Operation (COD) shall be the estimated price in the investment approval or the notified price of Coal India Ltd for the corresponding grade of coal supplied to the power sector, whichever is lower and the any revenue earned from supply of coal prior to COD of the integrated mine(s) shall be adjusted/deducted from the capital cost of the said integrated mine(s). Accordingly, OCPL has submitted that the COD of the Mine was accomplished ahead of scheduled date 30.9.2021 from touching of coal in 2019. The Coal extracted was supplied to the OPGCL (end use plant) and the Coal India ltd. The coal was charged at the notified price of Coal India Ltd for commensurate grade of coal. Based on the receipts, the revenue earned prior to COD has been worked out based difference between receipt and the expenditure (mining fee paid to the MDO). The revenue earned is worked out as under:-

<b>Particulars</b>	<b>Upto COD i.e. 30.9.2021</b>
Quantity of coal supplied (mt)	45,14,239
Revenue received from above (Rs in crores)	745.58
Less Expenses: Statutory Charges + Mining fee (Rs in crores)	507.22
<b>Revenue earned (Net) (Rs in crores)</b>	<b>238.36</b>

- f) The mine plan envisages the land requirement. The capital expenditure involved in land is estimated in the detailed project report. The expenditure will be carried in phased manner. It is submitted that the expenditure of land is incurred based on the nature of land and the rates approved by the State Government and appropriate authority wherever dispute arises. The details of the estimated and actual expenditure is as under:-

(Amount in Lakhs)

Land	Estimated	As on COD	Balance
Freehold Land	109165.86	80.79	81,110.24
Lease Hold Land		27,974.83	
CBA Land	0	0	0

(Additional provision of 100 ha land for ash dumping involves expenditure of Rs 47 lakh per ha (approx.))

- g) The capital cost as on COD which has been worked out based on the books of the accounts and the prudent expenditure incurred for the integrated mine. The capital expenditure is limited to the extent incurred by the OCPL. It is submitted that the expenditure incurred excludes the expenditure incurred by the MDO as the same has been included in the mining fees. The expenditure of plant and equipment is incurred based on the rate arrived through competitive bidding as per prudent practice and same has been considered for the purpose of arriving actual expenditure. The actual expenditure incurred vis-à-vis estimated expenditure (as per investment approval and as per provisional balance sheet) submitted for the purpose of determination of input price as under: -

**Table: Capital Cost towards mining activities (ROM)**

(in Rs. Lakh)

Sr. No.	Description	As per Investment Approval	As per balance sheet	Actual Capital Expenditure as on COD (Cash)
1	Land & Site Development	1,30,472.97	47,402.14	47,402.14
2	Plant and Machinery (excluding CHP)	7,533.00	5675.58	5675.58
3	Civil Works	37,090.27	13,991.01	11,019.82
4	Overheads	30,499.21	13,562.66	7,863.86
5	Total Capital cost excluding IDC & FC	2,05,595.45	80,631.40	71,961.39
6	Total of IDC, FC, FERV & Hedging cost	39,323.66	60,101.58	60,101.58

Sr. No.	Description	As per Investment Approval	As per balance sheet	Actual Capital Expenditure as on COD (Cash)
7	Capital cost including IDC, FC, FERV & Hedging cost	2,44,919.11	1,40,732.98	1,32,062.97
8	Notional IDC	-	-	273.84
<b>10</b>	<b>Total</b>	<b>2,44,919.11</b>	<b>1,40,732.98</b>	<b>1,32,336.82</b>

- h) The common expenditure is allocated to the different component of the input price of coal. Accordingly, the component wise capital cost is arrived as under:

#### Allocation of Expenditure

(Amount in Lakhs)

	Total Expenditure on COD
Mining Extraction (ROM)	1,32,336.82
Coal Handling Plant (CHP)	38,517.57
<b>Total</b>	<b>1,70,854.39</b>

- i) The capital cost of Manoharpur and Dip-side Manoharpur Coal Mine as on CoD comes out to be Rs 1,70,854.39 Lakhs on cash basis and liabilities of Rs 8,670.01 Lakh based on actual capital expenditure. The total capital cost is divided into extraction cost and Coal Handling cost. The input price has been calculated based on following parameters specified in OERC's Input Price of Coal Regulations, 2024:-

- **Debt: Equity ratio:** 70:30 or actual equity less than 30%. In the instant case, actual equity is more than 30% as on COD, hence the Debt:Equity ratio of 70:30 considered.
- **Base rate of return on equity:** This has been considered 14% grossed up with the actual tax rate upto 31.3.2024.
- **Normative loan and notional IDC:** In terms of Regulation 14(1) of OERC's Input Price of Coal Regulations, 2024, the normative loan of 70% is considered. Notional IDC has been calculated as 273.84 lakh which has been calculated and submitted upto COD.
- **Rate of interest on loan:** It has been considered based on actual weighted average rate of interest of the project.

- **Depreciation:** Depreciation has been calculated based on straight line method as per life of assets mentioned in Appendix of OERC's Input Price of Coal Regulations, 2024.
- **O&M expenses:** O&M expenses for the year 2021-24 have been claimed based on actual audited financial statements.
- **Statutory expenses:** These expenses have been indicated as applicable as on date. It is submitted that GST is applicable on coal, however, the same is being adjusted against input tax credit available in lieu of GST paid on MDO charges. Any increase or decrease or change in methodology of computation in statutory expenses shall be submitted at the time of truing up.
- **Mining Fee:**
  - Input Price Regulations, 2024 provides that MO mining fee shall be allowed as part of input price of coal. MO mining fee has been claimed as per the agreement with MO in this regard. In terms of the agreement signed with MO, mining fee is subject to escalation on monthly basis based on prices of input materials of MO like heavy machinery parts, fuel, explosives, power, tyres, salaries & wages etc as per the formula provided in the MO agreement.
  - The mining fee in the instant petition has been claimed based on actual mining fee paid to the MO till 31.3.2024.
  - For future period from 1.4.2024, the Commission may be pleased to allow to bill the input price of coal based on monthly escalated price of MO to avoid accumulation of arrears. Detailed calculation in regard to escalation of MO price shall be submitted before the Commission.
  - OERC's Input Price of Coal Regulations, 2024 provides that any shortfall in overburden removal may be adjusted against excess overburden removal in subsequent three years. Therefore, adjustment of input price of coal due to shortfall in overburden removal shall be submitted before the Commission.
  - As per Regulation 8 of OERC's Input Price of Coal Regulations, 2024 the amount received from sale of coal prior to date of commercial operation has been adjusted in the capital cost of the project. It is further to mention that the input price of coal prior to CoD has been received as per the notified

price of Coal India Limited for the corresponding grade of coal supplied to the power sector as the same was lower than the estimated price available in the investment approval. Accordingly, the petitioner has reduced the Rs 238.36 Cr from the capital cost (iedc) as on COD.

- j) As per approved mine plan of Manoharpur and Dip-side Manoharpur Coal Mine and the Detailed Project Report, the coal from mine to loading point was to be transported through Coal Handling Plant (CHP) including loading infrastructure directly to railway wagon. The capital cost of installation of CHP is to the account of OCPL and operation and maintenance of CHP is to be carried out by the MO. The O&M charges of CHP are part of the mining fee. O&M of CHP is to be carried out by the MO as part of mining fee (Rs/Ton) with in built escalation in terms of the contracts awarded to the MO.
- k) As per Regulation 5(II) of OERC's Input Price of Coal Regulations, 2024, Coal handling charges and transportation charges shall form part of input price of coal and components of annual coal handling and transportation charges are to be calculated separately. The CHP is put to use along with commercial operation of the mine, the coal handling and transportation charges before the commercial operation date were not paid and any expenditure involved has been considered as development expenses to the MO. The capital cost of the CP and transportation charges prior to commercial operation date have been capitalized as per OERC's Input Price of Coal Regulations, 2024.
- l) The operation and maintenance charges of CHP payable to MO after capitalization of CHP have been claimed as part of mining charges. Further, for the initial two years period, the O&M of CHP is part of the EPC contractor and thereafter, it will be taken over by MO. In view of the peculiarity of the contractual arrangement, it is proposed that the CHP and transportation cost will be separated after two years of commercial operation i.e. from 1.4.2024 after gaining experience.
- m) Regulation 7(2) of OERC's Input Price of Coal Regulations, 2024 provides that where crushing, transportation, handling or washing are within the scope of the Mine Developer and Operator engaged by the generating company, no additional charges shall be admitted, as the same shall be recovered through Mining Charge of the Mine Developer and Operator. However, in case of Manoharpur and Dip-side Manoharpur Coal Mine, fixed infrastructure for coal handling plant and face to loading point transportation of coal has been funded by Petitioner (M/s OCPL) and

O&M of the same is to be carried out by EPC contractor for initial period and subsequently it will be the responsibility of MO. The cost of fixed infrastructure is not part of MO cost. If the above-mentioned regulation is applied strictly, it may lead to non-recovery of fixed cost of investment made by Petitioner (M/s OCPL) towards creation of the fixed infrastructure for Coal Handling Plant (CHP) and internal transportation thereof. Therefore, in the given circumstances, the Commission may allow recovery of the said cost of investment by Petitioner (M/s OCPL) as well as the charges paid to MO for O&M of the CHP by exercising power to relax and removal of difficulty under Regulation 30 and 32 of OERC's Input Price of Coal Regulations, 2024.

- n) Regulations 18 of OERC's Input Price of Coal Regulations, 2024 provides as follows:-

***“18. Mine Closure Expenses***

*(1) Where the mine closure is undertaken by the Allottee Company, the amount deposited in the Escrow account as per the Mining Plan, after adjusting interest earned, if any, on the said deposits shall be admitted as Mine Closure Expenses:*

*Provided that,*

XXXXXXXX...

Mine closure involves effective planning of the after-mining landscape – all activities required before, during, and after the operating life of a mine are needed to produce an acceptable landscape economically. The Mine Closure activities can be broadly divided into following two categories:

- a. Progressive or Concurrent Mine Closure and
- b. Final Mine Closure.

Progressive Mine Closure includes various land use activities to be done continuously and sequentially during the entire period of the mining operations, whereas Final Mine Closure activities would start towards the end of mine life and shall continue even after the reserves are exhausted and mining is discontinued till the mining area is restored to an acceptable level. Further, in case of Manoharpur and Dip-side Manoharpur Coal Mine of M/s OCPL, which is operated by MO, progressive mine closure is in the scope of MO and expenses towards progressive mine closure have been built up in MO mining fee. Whereas final mine closure activities are to be carried out by M/s OCPL and expenses thereof are to be borne by M/s OCPL. Further, even though progressive

closure is in the scope of MO, the total estimated amount towards mine closure activities i.e. progressive as well as final closure is required to be deposited in the Escrow Account by M/s OCPL.

- o) The works of progressive mine closure shall be carried out by the MO during operational life of the mine, the expenditure & details towards progressive mine closure will be submitted to Coal Controller/ any other authority. Such authority, after verification of completion of works as per mine plan, shall allow re-imbusement of progressive mine closure expenses from escrow account, up to specified percentage of the amount deposited in escrow account, after every five years. As per the Office Memorandum dated 29th May 2020, issued by Ministry of Coal, Government of India, only 50% of amount deposited can be withdrawn during operational life of mine after every five years.
- p) In view of the above, 50% of amount deposited in escrow account is towards progressive mine closure and balance is towards final mine closure expenses. As the progressive mine closure is in the scope of MO, the cost of activities corresponding to progressive mine closure is included in MO fee.
- q) The activities corresponding to balance amount submitted in escrow accounts corresponds to final mine closure and are in the scope of Petitioner (M/s OCPL). Therefore, treatment of balance amount deposited in escrow account should be as per Regulation 18(1) of OERC's Input Price of Coal Regulations, 2024 i.e. 50% of amount deposited in escrow account may be allowed as part of input price of coal without adjusting interest earned as the generating company shall be receiving no interest from escrow account during operating life of mine.
- r) As per the approved Mining plan, the Annual Target Quantity (ATQ) of the Manoharpur and Dip-side Manoharpur Coal Mine for the year 2020-21 onwards is as under:-

<b>Production Year/s</b>	<b>Coal Production (Mt)</b>	<b>Actual Production (Mt)</b>
2019-20	2.50	7.88
2020-21	4.00	
2021-22	6.00	
2022-23	8.00	8.22
2023-24	10.00	8.5

Further, the actual coal production is 85% during 2023-24 and for the initial period for the first three year, it is less than cumulative target. In this regard, Clause 1 (f) of

Regulation 3 of OERC's Input Price of Coal Regulation 2024 provides for the Annual Target Quantity in respect of integrated mines as under:

***“3. Definitions***

*(1) In these regulations, unless the context otherwise requires,*

*(a)...*

*...*

*“(f) ‘Annual Target Quantity’ or ‘ATQ’ in respect of an integrated mine(s) means the quantity of coal or lignite to be extracted during a year from such integrated mine(s) as specified in the Mining Plan:*

*Provided that in case the integrated mine(s) of coal or lignite is ready for supply of coal or lignite as per the Mining Plan but is prevented due to reasons not attributable to the generating company, the Commission may relax the Annual Target Quantity up to a maximum of 15% of the quantity of coal or lignite to be extracted during a year as specified in the Mining Plan.”[Emphasis Supplied]*

Thus, as per above Regulation, the Commission is empowered to exercise its inherent discretionary power and relax the ATQ upto 15% of the quantity of coal to be extracted during a year if the supply of coal is prevented due to reasons not attributable to the Generating company.

- s) The Petitioner (M/s OCPL) is able to achieve ATQ for the year 2022-23, however in the year 2023-24, the actual coal production and coal dispatch was less than 85% with reference to the mine plan. Further, the coal production varies depending on various factors. Hence, 100% coal production as per mine plan needs to factored in the various interruptions and break in the mining operations. Due to frequent suspension of mining activities due to its nature of activities and the consequent lesser production at the coal mine is not attributable to M/s OCPL and is on account of the uncontrollable, unforeseen circumstances beyond the control of M/s OCPL
- t) The Central Electricity Regulatory Commission in its CERC (Terms and Conditions of Tariff) Regulations, 2024 also revised the Annual Target Quantity to 85% considering the various challenges and the experience of petition filing by the various generating company. Relevant para is as follow:

*“3.Definitions*

*...*

*(5) 'Annual Target Quantity' or 'ATQ' in respect of an integrated mine(s) means the quantity of coal or lignite to be extracted during a year from such integrated mine(s) corresponding to 85% of the quantity specified in the Mining Plan;”*

Because of the above-mentioned reasons and given facts and circumstances, the Commission may consider the same and exercise the inherent powers vested with the Commission under Regulation 30 and 32 read with Clause (f) of Regulation 3 of OERC's Input Price of Coal Regulations, 2024 so as to relax the ATQ for the year 2023-24 upto the actual dispatch. Non-exercise of this power would cause hardship to the Petitioner. The relevant regulations in this regard are reproduced hereunder for ease of reference:

*“30. Power to Relax: The Commission, for reasons to be recorded in writing, may relax any of the provisions of these regulations on its own motion or on an application made before it by an interested person.*

...

*32. Power to Remove Difficulty: If any difficulty arises in giving effect to the provisions of these regulations, the Commission may, by order, make such provision not inconsistent with the provisions of the Act or provisions of other regulations specified by the Commission, as may appear to be necessary for removing the difficulty in giving effect to the objectives of these regulations”.*

- u) The powers enumerated above are sufficient for the Commission to afford complete relief to the Petitioner (M/s OCPL) herein. It is contended that it is, however, well accepted that there cannot be any regulation providing for various terms, conditions, and possibilities in an absolute manner without the need to consider exemption, relaxation, deviation, removing difficulties etc. on an on-going basis. The regulations framed are for future. It is therefore submitted that an Appropriate Commission decides on the regulation as applicable during a future period and, therefore, proceeds on certain assumptions. It is not just possible to anticipate everything and frame regulations. There will always be circumstances which may not be envisaged. The norms and parameters for determination by the Commission are also terms and conditions which cannot be specified in an absolute manner. There is, therefore, always a need to exempt or relax or deviate from the terms and conditions.
- v) In this regard, the ambit and scope of 'Power to Relax' provisions of a delegated legislation have been interpreted by various Courts and the Hon'ble Appellate Tribunal in a catena of cases. It is settled position of law that 'Power to relax' can be invoked if the Regulations in any manner causing hardship to a party. The relevant judgments in this regard are as follows: -

(a) *Hari Singh v. State of Rajasthan*, 1992 SCC OnLine Raj 210:

- (b) *Haryana Power Purchase Centre v. Haryana Electricity Regulatory Commission*, Judgement dated 21.03.2018 in Appeal No. 107 & 117 of 2015.
- (c) *Tata Power Company Limited v. Jharkhand State Electricity Regulatory Commission & Anr.*, Judgement dated 20.09.2012 in Appeal No. 189 of 2011.
- (d) *BSES Yamuna Power Limited Vs. CERC & Ors* – Appeal Nos. 55 of 2013, 77 of 2013, 194 of 2013, 259 of 2012, 63 of 2013, 143 of 2013, 158 of 2013 & 43 of 2014.
- (e) The Hon’ble Appellate Tribunal in judgment dated 25.3.2011 in Appeal No. 130/2009 (RGPPL v. CERC)
- w) From the perusal of the above-mentioned judgments and orders, it emerges that relaxation can be granted to a party if:
- (a) Sufficient reasons to justify relaxation has been cited
- (b) Circumstances are not created due to act of omission or commission attributable to the party claiming relaxation and that it was beyond the control of the party
- (c) Non-exercise of the discretion to relax would cause hardship and injustice to a party
- All the said three criteria are fulfilled by the Petitioner (M/s OCPL) for seeking relaxation.
- x) In view of the above, Petitioner (M/s OCPL) has requested the Commission to relax ATQ for the year 2023-24 and set it equal to the actual dispatch during the year.
- y) OERC’s Input Price of Coal Regulations, 2024 provides that MDO mining fee shall be allowed as part of input price of coal. MDO mining fee has been claimed as per the Letter of Award issued to MDO in this regard. In terms of the agreement signed with MDO, mining fee is subject to escalation on monthly basis based on prices of input materials of MDO like heavy machinery parts, fuel, explosives, power, tyres, salaries & wages etc as per the formula provided in the MDO agreement.
- z) In view of above, the estimated mining fee to be paid to the Mine Operator in terms of the agreement is as follows:

<b>Sr. No.</b>	<b>Particulars</b>	<b>Unit</b>	<b>Amount (Rs) (2021-22)</b>	<b>Amount (Rs) (2022-23)</b>	<b>Amount (Rs) (2023-24)</b>
1	Base Mining charge	Rs/Tonne	399.00	399.00	438.82
2	Total mining fee	Rs/Tonne	538.39	617.02	606.18
3	Fixed Reserve Price	Rs/Tonne	116.67	129.44	133.15

**\*9.98% escalation in base mining fees for coal above 8.8 MT from FY 2023-24**

- aa) OCPL has submitted that Regulation 11 of OERC’s Input Price of Coal Regulation, 2024 provides that in case of the integrated mines declared COD prior to 1.4.2024, the capital expenditure admitted by the Commission as on 31.3.2024 shall be considered for determination of input price.
- bb) The Commission is requested to determine the Capital cost and the input price from COD i.e. 30.9.2021 to 31.3.2024. Accordingly, closing capital cost as on 31.3.2024 has been considered as opening capital cost as on 1.4.2024 for the purpose of determination of input price.

**Capital Cost as on 1.4.2024**

(Amount in Lakhs)

	<b>Opening Capital Cost as on 1.4.2024</b>
Mining Extraction	1,96,722.99
Coal Handling Plant (CHP)	49,832.21

- cc) The Regulation 12 of OERC’s Input Price of Coal Regulation, 2024 provides as under:-

**“12. Additional Capital Expenditure**

*(1) The expenditure, in respect of the integrated mine(s), incurred or projected to be incurred after the Date of Commercial Operation (CoD) and upto the date of achieving the Peak Rated Capacity may be admitted by the Commission, subject to prudence check and shall be capitalized in the respective year of the tariff period as additional Capital Expenditure on following counts:*

- (a) expenditure incurred on activities as per the Mining Plan;*
- (b) expenditure for works deferred for execution and un-discharged liabilities recognized for works executed prior to date of commercial operation;*
- (c) expenditure for works required to be carried out for complying with directions or orders of any statutory authorities;*
- (d) liabilities arising out of compliance of order or decree of any Court of law or award of arbitration;*
- (e) expenditure for procurement and development of land as per the Mining Plan;*
- (f) expenditure for procurement of additional heavy earth moving machineries for replacement, on completion of their useful life; and*
- (g) liabilities due to Change in Law or Force Majeure events:*

*Provided that in case of replacement of any assets, the additional capitalization shall be worked out after adjusting the gross fixed assets and cumulative depreciation of the assets replaced on account of decapitalization.*

XXXXXX...

- dd) The detailed project report prepared based on the Mine Plan envisages the requirement of the additional infrastructure, progressive procurement of land as the coal mine excavation increases. Unlike to the generating company where 90%-100% land procurement is completed at the time of commercial operation date, the mine operation requires significant procurement of land as part of additional capital expenditure progressively. The Commission in its regulation has rightfully envisaged the additional capitalization and specified the regulations accordingly. The additional capital expenditure after 31.3.22 was envisaged as Rs 1,34,296 lakhs as per DPR and phasing of this additional capital expenditure was also envisaged. The majority of the additional capital expenditure involves upto achieving peak rated capacity. This additional capital expenditure is covered within the original scope of the project. It is submitted that the Petitioner (M/s OCPL) has not incurred the additional capital expenditure as envisaged for the FY 2022-23 and 2023-24. The actual expenditure is less than estimated and hence, balance expenditure has been deferred during 2024-29 tariff period.
- ee) In accordance with the Regulation 11 of OERC's Input Price of Coal Regulation, 2024, the additional capital expenditure projected during 2024-29 on annual basis are as under: -

**Table: Additional capital expenditure of mining activities (ROM)**

	<b>ROM</b>	<b>CHP</b>	<b>Discharge of Liability</b>
COD to 31.3.22	6,061.62	3,723.79	
22-23	8,827.16	7,300.01	8,670.01
23-24	40,368.63	-	458.76
24-25	37,022.00	3,649.20	2,204.53
25-26	9,112.95	3,649.20	363.05
26-27	3,905.55	3,649.20	
27-28	-	-	
28-29	-	-	
<b>Total</b>	<b>1,05,297.91</b>	<b>21,971.42</b>	<b>11,696.34</b>

The above expenditure comprises of the mining and coal handling plant both which has been separated for determination of input price.

- ff) In addition to above additional capital expenditure, the balance expenditure on account of uncontrollable factors as specified by the Commission has been envisaged by the Petitioner (M/s OCPL). However, in view of the trend of the actual capital expenditure, the Petitioner preferred to claim the additional capital expenditure as envisaged in the original scope. In view of the above, the Petitioner requested the Commission to admit the projected additional capital expenditure within the original scope in line with the Regulations 11(a), 11(b) and 11(e) of OERC's Input Price of Coal

Regulation, 2024. In case of significant variation in the additional capital expenditure during first two years of the tariff period, the Petitioner will approach to the Commission for revision of input price.

- gg) The capital cost of the Manoharpur and Dip-side Manoharpur Coal Mine as on CoD comes out to be Rs 1323.37 Cr on cash basis and liabilities of Rs 86.70 Cr. The cost of CHP and transportation as on COD works out to Rs 385.17 Cr. The input price has been calculated based on parameters provided in OERC's Input Price of Coal Regulation, 2024, upto 31.3.2024 based on actual expenditure as on COD and additional capital expenditure for the FY 2022-23 and FY 2023-24. The input price of the Manoharpur and Dip-side Manoharpur Coal Mine has been claimed by considering the projected additional capital expenditure for the tariff period 2024-29 on annual basis by considering the following parameters:

<b>Parameter Considered for calculation</b>	
<b>Debt: Equity ratio:</b>	<ul style="list-style-type: none"> <li>70:30 for the purpose of additional capitalization</li> </ul>
<b>Base rate of return on equity</b>	<ul style="list-style-type: none"> <li>This has been considered as 14%.</li> </ul>
<b>Normative loan and notional IDC</b>	<ul style="list-style-type: none"> <li>In terms of OERC's Input Price of Coal Regulation, 2024, equity deployed in excess of 30% of the fund deployed has been considered as normative loan up to 31.03.2024 has been considered.</li> <li>Notional IDC, if any, after CoD and up to the peak rated capacity shall be claimed based on audited financial statements upon achieving the peak rated capacity of the Mine.</li> </ul>
<b>Rate of interest on loan</b>	<ul style="list-style-type: none"> <li>It has been considered based on actual weighted average rate of interest of the project.</li> </ul>
<b>Depreciation:</b>	<ul style="list-style-type: none"> <li>Straight line depreciation has been calculated as per life of assets mentioned in Input Price Regulations, 2024.</li> </ul>
<b>O&amp;M expenses:</b>	<ul style="list-style-type: none"> <li>O&amp;M expenses have been claimed based on actual O&amp;M expenses for the year 2023-24 and the same has been escalated @ 3.5% per year for subsequent years.</li> </ul>

<b>Parameter Considered for calculation</b>	
	<ul style="list-style-type: none"> <li>It is further submitted that the O&amp;M expenses are subject to truing up in terms of Input Price Regulations, 2024, as amended.</li> </ul>
<b>Statutory expenses:</b>	<ul style="list-style-type: none"> <li>These expenses have been indicated as applicable as on date. Any increase or decrease or change in methodology of computation in statutory expenses shall be submitted at the time of truing up.</li> </ul>
<b>Mining Fee:</b>	<ul style="list-style-type: none"> <li>Calculated separately</li> </ul>

- hh) OERC's Input Price of Coal Regulation, 2024 provides that MDO mining fee shall be allowed as part of input price of coal. MDO mining fee has been claimed as per the Letter of Award issued to MDO in this regard. In terms of the agreement signed with MDO, mining fee is subject to escalation on monthly basis based on prices of input materials of MDO like heavy machinery parts, fuel, explosives, power, tyres, salaries & wages etc as per the formula provided in the MDO agreement.
- ii) In view of above, the estimated mining fee to be paid to the Mine Operator in terms of the agreement is as follows:

<b>Sr. No.</b>	<b>Particulars</b>	<b>Unit</b>	<b>Amount (Rs) (2024-25)</b>	<b>Amount (Rs) (2025-26)</b>	<b>Amount (Rs) (2026-27)</b>	<b>Amount (Rs) (2027-28)</b>	<b>Amount (Rs) (2028-29)</b>
1	Base Mining charge	Rs/Tonne	411.86	416.92	416.92	416.92	416.92
2	Total mining Fees	Rs/Tonne	606.18	577.67	585.54	585.54	591.66
3	Fixed Reserve Price	Rs/Tonne	<b>136.02</b>	<b>136.02</b>	<b>136.02</b>	<b>136.02</b>	<b>136.02</b>

- jj) The input price of coal supplied from integrated mine from 30.9.2021 till 31.3.2024 based on actual expenditure is worked out as under: -

<b>Sr. No.</b>	<b>Particulars</b>	<b>Unit</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>
1	ROM Cost as per Form 1 A	Rs/Tonne	994.42	1088.85	1140.48
2	Additional Charge as per Form 1B	Rs/Tonne	90.38	89.23	87.95
<b>Total</b>	<b>Input Price</b>	Rs/Tonne	<b>1084.80</b>	<b>1178.08</b>	<b>1228.43</b>
3	Statutory Charges	Rs/Tonne	659.34	675.79	672.89
<b>Total</b>	<b>Total input price</b>	<b>Rs/Tonne</b>	<b>1744.14</b>	<b>1853.88</b>	<b>1901.32</b>

kk) The input price of coal supplied from integrated mine from 1.4.2024 till 31.3.2029 based on estimated expenditure is worked out as under:-

Sr. No.	Particulars	Unit	2024-25	2025-26	2026-27	2027-28	2028-29
1	ROM Cost as per Form 1 A	Rs/Tonne	1032.54	990.48	1003.21	1000.51	1001.89
2	Additional Charge as per Form 1B	Rs/Tonne	59.39	56.92	61.45	63.35	63.35
<b>Total</b>	<b>Input Price</b>	Rs/Tonne	<b>1091.93</b>	<b>1047.40</b>	<b>1064.65</b>	<b>1063.86</b>	<b>1065.24</b>
3	Statutory Charges	Rs/Tonne	673.93	667.94	668.81	669.29	669.56
<b>Total</b>	<b>Total input price</b>	<b>Rs/Tonne</b>	<b>1765.86</b>	<b>1715.34</b>	<b>1733.46</b>	<b>1733.15</b>	<b>1734.80</b>

(Above statutory charges may vary on year to year basis)

ll) In terms of the OERC's Input Price of Coal Regulation, 2024, the non-tariff income (NTI) needs to be adjusted as under:

*Adjustment on account of Non-tariff income (NTI Adjustment)*

*1) Adjustment on account of Non-tariff income (NTI Adjustment) for any year, such as income from sale of washery rejects in case of integrated mine of coal and profit, if any, from supply of coal to the Coal India Limited or merchant sale of coal as allowed under the Coal Mines (Special Provisions) Act, 2015 shall be worked out as under:*

*NTI Adjustment = (2/3 of total Non-tariff income during the year)/(Actual quantity of coal extracted during the year).*

*Provided that in case the actual extraction is less than ATQ, no NTI adjustment shall be made till the total cost of extraction is recovered.*

Accordingly, NTI adjustment, has been computed, by taking into consideration cumulative loss and profit incurred by Petitioner (M/s OCPL) from the year of production of coal, in lieu of additional income from merchant sale of coal. The net input price of coal supplied from integrated mine from 30.9.2021 till 31.3.2024 based on actual expenditure is worked out as under: -

Sr. No.	Particulars	Unit	2021-22	2022-23	2023-24
1	<b>Total input price</b>	<b>Rs/Tonne</b>	<b>1744.14</b>	<b>1853.88</b>	<b>1901.32</b>
2	Non-Tariff income Adjustment (NTI)	Rs/Tonne	0.00	424.62	92.85
<b>Total</b>	<b>Net Input Price</b>	Rs/Tonne	<b>1744.14</b>	<b>1429.25</b>	<b>1808.47</b>

The input price of coal supplied from integrated mine from 1.4.2024 till 31.3.2029 based on estimated expenditure is worked out as under:-

Sr. No.	Particulars	Unit	2024-25	2025-26	2026-27	2027-28	2028-29
1	<b>Total input price</b>	Rs/Tonne	1765.86	1715.34	1733.46	1733.15	1734.8
2	Non-Tariff income Adjustment (NTI)	Rs/Tonne	154	112	126	126	127.32
<b>Total</b>	<b>Net Input Price</b>	Rs/Tonne	<b>1611.86</b>	<b>1603.34</b>	<b>1607.46</b>	<b>1607.15</b>	<b>1607.48</b>

(Above statutory charges may vary on year to year basis)

- mm) The Petitioner (M/s OCPL) is presently billing input price of coal from Manoharpur and Dip-side Manoharpur Coal Mine at the price as per the notified price of Coal India Limited for the corresponding grade of coal supplied to the power sector which is also permitted under the OERC's Input Price of Coal Regulation, 2024. The claim of input price in the instant petition is in variance with that being billed. Since the input price determination may take time, the Petitioner requested the Commission to allow the Petitioner to provisionally bill input price of coal based on notified price of Coal India Ltd.
- nn) Though M/s OCPL has claimed the input price based on actual capital cost till 31.03.2024, however, the audited financial statement of last year is yet to be finalized. There is a chance of rising capital cost till peak rated capacity. Accordingly, it is requested that the Commission may allow the true up of the interim input price from COD till the mine achieve peak rated capacity up to 31.03.2026. As the Petitioner (M/s OCPL) has filled for determination of the input price and the expenditure will undergo change till the mine achieves peak rated capacity, the Commission may allow the same considering specific nature of the mine development and operation. It is not out of place to mention here that the Commission is empowered to relax the Regulation under the Regulation 30 and remove the difficulties under Regulation 32 of OERC's Input Price Regulations, 2024.
- oo) The application fee and publication expenses may be allowed to be recovered directly from the beneficiaries at the discretion of the Commission. This is also permitted by the Commission in case of the Tariff Application. Accordingly, it is requested that the Commission may be pleased to allow recovery of filing fee directly from the beneficiaries. The requisite filing fee is as per the provisions of the relevant Regulations.
12. The Respondent OPGC has submitted the following:
- a) That the coal production in M/s OCPL mine exceeding the requirement for OPGC's Units-3&4, OCPL proposed OPGC to utilize a portion of the surplus coal in Units-

1&2 in addition to Units-3&4 subject to the approval of Ministry of Coal, Govt. of India. The current annual coal requirement of Units-1&2 is approximately 2.7 MT which is being sourced through long term coal linkage from MCL coal mines, in accordance with the executed FSA between OPGC and MCL, which is valid till FY 2029. Given the availability of coal from M/s OCPL mines and MGR capacity, it was decided to source 50% of the annual requirement for Units-1&2 i.e, 1.35 MT from OCPL through amendment to the existing FSA between OPGC and M/s OCPL after due concurrence from the appropriate Authorities. After due approval from the Ministry of Coal for supply of 1.35 MTPA coal from OCPL's Manoharpur coal mine to Units-1&2, pursuant to the Clause 21.12 of the FSA dated 31.03.2022 executed between M/s OCPL and OPGC for Units 3&4, a supplementary FSA in the form of Addendum to the existing FSA was executed between M/s OCPL and OPGC on 18.05.2024 for supply of coal from the OCPL mines to end use plants of OPGC Units-1&2 effective till 31.03.2030. OPGC is availing 50 percent Coal from OCPL mines for its Units #1&2 since June 2024.

- b) The Petitioner OCPL at Para 44 of the Petition has submitted that the Capital Cost as on COD has been worked out based on the books of the Accounts and the Prudent expenditure incurred for the integrated mines. The Capital Cost towards mining activities (ROM) which is given in table below:

**(in Rs. Lakh)**

<b>Sr. No.</b>	<b>Description</b>	<b>As per Investment Approval</b>	<b>As per balance sheet</b>	<b>Actual Capital Expenditure as on COD (Cash)</b>
1	Land & Site Development	1,30,472.97	47,402.14	47,402.14
2	Plant and Machinery (excluding CHP)	7,533.00	5675.58	5675.58
3	Civil Works	37,090.27	13,991.01	11,019.82
4	Overheads	30,499.21	13,562.66	7,863.86
5	Total Capital cost excluding IDC & FC	2,05,595.45	80,631.40	71,961.39
6	Total of IDC, FC, FERV & Hedging cost	39,323.66	60,101.58	60,101.58
7	Capital cost including IDC, FC, FERV & Hedging cost	2,44,919.11	1,40,732.98	1,32,062.97
8	Notional IDC	-	-	273.84
<b>10</b>	<b>Total</b>	<b>2,44,919.11</b>	<b>1,40,732.98</b>	<b>1,32,336.82</b>

- c) As per Regulations the Annual Extraction Cost is to be considered for computing the ROM cost of Coal and Regulations 13 of OERC's Input Price Regulations 2024, specifies the methodology for estimating the Annual Extraction Cost, wherein the components are decided based on the Capital expenditure incurred as on the Date of Commercial Operation.
- d) OCPL has relied on the provisional balance sheet as on the date of COD. OPGC humbly submits before the Commission for prudence check of the same and, if the Commission feels appropriate, an Independent Auditor may be appointed for scrutiny of the Capital cost in line with the procedure being followed for the Generating Companies.
- e) The 'Actual Capital Expenditure as on COD' for assertion of debt : equity ratio for computation of Annual Extraction Cost / additional charges as per Regulations for determination of Input Price. The Petitioner may be directed to clarify the following:
- The reason for high IDC, IEDC, FC, FERV and Hedging cost *vis-à-vis* Total Capital Cost excluding IDC & FC, in spite of the declared COD and the Scheduled COD are same i.e, 30.09.2021.
  - Justification for claiming "Notional IDC" over and above the "actual IDC"
- f) The revenue earned from sale of coal is Rs. 745.58 Crore. The Petitioner has considered the net revenue of Rs 238.36 Crores considering the expenses towards Statutory Charges + Mining Fee of Rs 507.22 Crores prior to the COD, as revenue expenses. However, the impact of setting off of Rs 238.36 Crore in the Capital Cost towards mining activities is not shown. The Petitioner may clarify the same.
- g) Prudence check of the following aspects may be considered by the Commission:
- COD of the Mines achieved on 30.09.2021 and the Input Price needs to be calculated from COD onwards. However, the Annual Extraction Cost including its component's cost for FY 2021-22 (Considering 6 months period post CoD) as submitted by the Petitioner seems to be very high in comparison to the succeeding years FY 2022-23 and FY 2023-24.
  - The Petitioner has considered the Total Quantity of Coal produced i.e, 6 MT in FY 2021-22 instead of the Actual Coal Extracted for the corresponding period beyond Date of Commercial Operation.
  - The Petitioner in its submission has submitted the Base Mining Charge and Total Mining Charge in Rs/Tonne at Para 71 of the Petition. The Petitioner may be directed

to submit the break-up of the additional cost over and above the base mining charge to arrive at the Total Mining Charge.

- The Fixed Reserve Price has increased from Rs 116.67/Tonne in 2021-22 to Rs 133.15/Tonne during FY 2023-24. The Petitioner may clarify the same.
- h) That the Input Price should primarily consist of ROM cost, Additional Charges and Statutory Charges and taxes, as applicable. The Commission may kindly determine the Input Price as per the provisions of The Regulations.
- i) That the detailed mechanism for adjustment on account of Overburden Removal (OB Adjustment), Adjustment on account of shortfall in GCV (GCV Adjustment) and Adjustment on account of Non-tariff income (NTI Adjustment) are provided in Regulations 21, 22 and 23 of OERC's Input Price of Coal Regulation, 2024 respectively needs to be considered while determining Input price of coal.
- j) Regarding recover of the filing fee directly from the beneficiaries. GRIDCO being the sole and ultimate beneficiary, the request of the Petitioner may be considered to recover the filing fees, as allowed by the Commission, directly from the GRIDCO.

13. The Respondent-GRIDCO has submitted the following;

- a) GRIDCO agrees to the submission of the petitioner for condonation of Delay in filing the present petition. The delay may be condoned by the Commission. However, it is requested to the Commission that, no Carrying Cost may be considered to be allowed to the petitioner, the Allottee Company.
- b) The petitioner may be directed to submit the photocopy of their Board's approval with regard to COD approval.
- c) The petitioner has not submitted the following documents before the Commission along with its petition;
  - i. Mining Plan;
  - ii. Mining Closure Plan;
  - iii. Detailed Project Report;
  - iv. Investment Approval by Board;
  - v. COD approval by Board;
  - vi. Soft copies (Excel Sheets) of all Tariff Formats filed with the petition;
- d) The expenses incurred during sale of coal prior to commercial operation date of 30.09.2021 could not be verified. Further the petitioner to file the auditor certified detail statement of revenue earned from supply of coal prior to Date of Commercial Operation of the integrated mine(s) showing break up of statutory charges and mining

- fees. Such audited statement may be considered for prudent verification for adjustment from the capital cost of integrated mine(s) by the Commission.
- e) The complete DPR document has not been submitted by the Petitioner. In absence of any reference document, GRIDCO is unable to submit its views regarding land expenses claimed by Petitioner. The petitioner may be directed to submit the DPR before the Commission for necessary verification.
  - f) The Petitioner has not submitted the Auditor certificate in respect of capital cost incurred upto COD i.e. 30.09.2021. Therefore, the petitioner needs to clarify the notional IDC claimed.
  - g) As regards to submission of “assumed allocation” of common expenditure allocated to different components of the Input Price & component wise capital cost allocated, the petitioner needs to submit the auditor certified statement of break-up of actual expenditure incurred as per audited accounts for kind verification and consideration by the Commission. Also, the Petitioner need to submit the status of “Coal Handling Plant” (CHP) as on date.
14. The Respondent GRIDCO has also submitted the following with regard to calculation of Input Price of Coal;
- a) The Petitioner has not mentioned whether any grant has been received from Government of Odisha for execution of the project or not.
  - b) The Capital Cost of Rs.1708.54 Crores may be prudently verified by the Commission.
  - c) That the Annual Extraction Cost includes Interest on Working Capital (IoWC) and Mining Closure Expenses (if not included in Mining Fees). However, the petitioner has assigned the work to Mining Developer & Operator (MDO). Therefore, the Commission may need to verify the component of IoWC and Mining Closure fees whether are included in Mining Fees or not.
  - d) Additional Mining Charges has been claimed by the petitioner, apart from O & M Expenses claimed under Annual Extraction Cost. It is submitted that Mining Charges could have been prudently verified only when Mining Plan was placed on record before the Commission. Further, Commission may consider to direct the petitioner to submit auditor certified statement in respect of actual O & M expenses incurred by the petitioner for the period upto 31.03.2024.
  - e) The details of Annual Coal Handling Plant (CHP) and Transportation Cost per Tonne needs to be prudently verified.

- f) As regards, Mining Closure Expenses, the Petitioner has submitted that the Progressive Mining Closure is within the scope of work of MDO and is carried out by the MDO and Final Mining Closure shall be carried out by OCPL. Further, it has been submitted by the Petitioner that the expenses towards progressive mine closure is built up in MO Mining fee of the MO agreement. Accordingly, the Commission may kindly consider to verify the Mining Plan and Agreement thereof so that such expenses may not be allowed separately to prevent double accounting.
- g) The Petitioner may be directed to submit on priority, the expenditure details of progressive Mine Closure to Coal Controller/any other authority and seek their approval, after which it may be considered appropriately in determination of Input Price of Coal by the Commission.
- h) The Petitioner has not submitted the auditor certificate in respect of Actual vis-à-vis Annual Target Quantity data. Further, the Petitioner has prayed for relaxation as per Regulation 3(1)(f) and have justified through sufficient reasons for not able to achieve the required ATQ during the period FY 2019-20 to FY 2022-23. If prayer of petitioner for relaxation is allowed by the Commission and actual Production is allowed, then the ROM Cost shall increase and so also the Input Price of Coal.
- i) The Petitioner has filed an incomplete Letter of Award issued to MDO. Therefore, GRIDCO could not verify the submission relating to Mining Fee which is subject to escalation on monthly basis on prices of input materials.
- j) The Arbitration between BGR Mining and OCPL was going on from 30.12.2020 to 17.05.2022 in respect of Coal Quality Dispute as per the Mining Service Agreement and Arbitration Award was pronounced on 30.06.2022 and matter is pending before Hon'ble District Court. The present status of the said Arbitration along with details of outcome may be submitted before the Commission by the Petitioner.
- k) The petitioner has not filed the complete DPR but few pages/extracts of the DPR, it is difficult on the part of GRIDCO to verify and comment regarding whether the works are duly included in the scope of work in DPR for additional capital expenditures and phasing of such expenditure envisaged to be incurred by the petitioner along with deferred works (if any) and expenditure on account of uncontrollable factors. Therefore, the Commission may kindly consider to prudently verify the claims made by the Petitioner and allow such expenses which have already been incurred.
- l) As per the data/information submitted by the Petitioner, Actual Capital Expenditure (ACE) has been claimed on cash basis citing Regulation 36 E (1a), which is not there

in OERC's Input Price of Coal Regulation, 2024 and justification given is, the works have been carried out as per the approved Mining Plan and therefore the same may be approved by the Commission. In this regard, GRIDCO submits before the Commission to prudently verify whether the capital assets have been created and is under use as per the claims made and justified under applicable Regulations of OERC's Input Price of Coal Regulation, 2024.

m) The expenses towards additional capital expenditure incurred by the petitioner, beyond Cut-Off date may kindly be prudently verified by the Commission for determination of Input Price of Coal.

15. The Petitioner-GRIDCO has further submitted the following with regard to Input Price, Provisional billing & Non-tariff income adjustments;

a) The Commission may kindly consider to prudently verify the ROM Cost and additional charges. Further submitted that that the Petitioner-M/s OCPL has not submitted the auditor certified Financial Year Wise break-up of the Statutory Charges and therefore the Petitioner may kindly be directed to place the required information on record before the Commission for necessary verification and kind consideration.

b) The petitioner has not furnished the auditor certified statement showing details of Non-Tariff Income Adjustment (NTI) as claimed in the petition.

c) From the audited accounts statements & notes thereof, it is found that dividends/interim dividends have been declared and distributed/shared among the shareholders i.e. OPGC and OHPC in different financial years (i.e. Rs.43.75 Crores for FY 2021-22 and interim dividend Rs.100 Crores for FY 2022-23) as per the recommendation of the Petitioner's Board & decision taken in Annual General Body Meetings @ 30% of the distributable profit in proportion to shareholding. The petitioner has not made any submission in respect of distribution of dividends in its petition.

d) The petitioner has admitted that the audited financial statement for FY: 2024-25 is yet to be finalized and the capital cost is likely to undergo change till peak rated capacity is achieved. Therefore, it is submitted before the Commission to consider to allow the Petitioner to provisionally bill Input Price of Coal based on notified price of Coal India Ltd (CIL) or the Input Price to be determined for FY 2023-24 in present proceeding of Case No. 5 of 2025, subject to condition that no interest shall be levied on the End Use Plant.

- e) The Petitioner may be directed to submit details of Credit Notes in respect of NTI adjustments issued till date to OPGC for further necessary scrutiny by the Commission.
  - f) The Petitioner has not claimed any recovery of Input Charges as per the Regulation 20 of OERC's Input Price of Coal Regulation, 2024 which implies that the Input Price of Coal from petitioner's integrated mines shall not exceed 20% Energy Charge Rate based on notified price of Coal India Limited.
  - g) The Petitioner has not mentioned any Adjustment on account of Overburden Removal or Adjustment on account of shortfall in GCV (GCV Adjustment) for the period 2019-2024 and for 2024-25(already completed) and estimated adjustment for the period 2025-26 to 2028-29.
  - h) The petitioner may be directed to clarify and furnish the month-wise GCV of Coal extracted and the "As Billed" GCV of coal from the integrated mines vis-à-vis Financial Year wise notified GCV of coal. As such the FSA provides for GCV range of coal to be 3101-3400 Kcal/kg.
16. Shri Ananda Kumar Mohapatra has submitted the following;
- a) The loss/profit accrued through the sale of surplus coal shall be dealt separately and shall not be considered while determining the Input price of coal.
  - b) The profit of OCPL is growing year to year in the cost of the consumers of Odisha, without considering the intent & spirit laid down behind the coal legislation specially section 20(1) of the CMSP Act, 2015.
  - c) The total profit after tax from 1.10.2021 to 31.03.2024 amounts to 1158.37 Crs whereas the retained earnings has been reduced due to the payment of dividends to the shareholders like OPGC, OHPC & Govt of Odisha. The high profit derived from mining operation and payment of dividend to Govt by the Petitioner establishes the fact that the PAC constituted by Govt of Odisha does not conceive the intent and spirit laid down behind the coal legislation specially section 20(1) of the CMSP Act, 2015.
  - d) The determination of capital cost plays crucial role in the process of determination of Annual extraction cost of coal as part of ROM cost, merely investing capital in the project does no qualify for capital cost unless it is approved in investment & mining plan.
  - e) There is mismatch of total revenue and total expenditure before COD by the petitioner and necessary cross verification is needed while passing out the adjustment to capital

cost as on COD. Further submitted that there is mismatch of data submitted by the petitioner in terms of actual production & dispatch data of Manoharpur mine.

- f) To allow depreciation on the fixed assets either equal with repayment of private capital loan or the assets created out of private capital by applying the notified rates as per the straight-line method whichever is higher.
- g) The mine operator fee is based on the Mine Service Agreement (MSA) and (FRP), neither MSA or FRP nor any formulae for escalation of mining fee is provided by the petitioner in this petition.
- h) The Input price of coal is very much high in comparison to the input price of coal proposed by NTPC before CERC, the GST compensation cess of Rs 400 per ton is waived out from statutory charges in the proposal of NTPC before CERC but OCPL charges Rs 400 per ton in the Input price of coal due to which there is a increase of Rs 400 from NTPC coal.
- i) The mining closure expenses especially progressive mine closure activities shall be done by the MDO as submitted by the Petitioner in the Petition, Further submitted to strike out the mining closure expenses included in the AEC while determining the Input price of coal in the public interest.
- j) The fixed reserve price may be passed out prudently in public interest, the documents in support of claim of fixed reserve price not submitted by the petitioner.

17. TPCODL has submitted the following;

- a) OCPL should have filed this petition by 27th Aug 2024 (i.e. 90 days from 29th May 2024 i.e. date of publication of regulation). However, OCPL has filed this petition in January 2025. The Commission may kindly do a prudence check of the reasons of this delay of filing the petition before admitting this petition.
- b) If the input coal price proposed in this petition are approved then it will cause tariff impact on the consumers of the state due to increase in generation tariff of OPGCL.

18. TPWODL has submitted the following;

- a) The arrangement made by OCPL i.e. the Fuel Supply Agreement made on 31st March 2022 between OCPL & OPGC Ltd. does not provide for any approval of the Central Government. Hence, the Commission may consider the arrangement only after proper approval from the Central Government is received.
- b) The Applicant has delayed in filing the instant application even after the notification of the OERC's Input Price of Coal Regulations 2024 and filed the same on January 15, 2025, without any proper documentation stating the reason for delay.

- c) The retrospective effect of Input Price Regulations, 2024 as claimed by the Applicant w.e.f COD i.e. 30.09.2021 has already been relinquished. Hence, the application for determination of input price of coal from 30.09.2021 to 31.03.2024 may please be rejected.
  - d) With regards to mine closure expenses sought by OCPL, the Respondent DISCOM submits that as per MO agreement (as submitted in Annexure – P8) the mine closure activities are to be taken up by the Mining Operator and there are no such explicit functions like progressive/ concurrent mine closure plan and final mine closure plan, as claimed by the Applicant. Therefore, the claim of mine closure expenses is not relevant and shall be part of Mining Charge of Mine Developer and Operator as per Regulation 18 (3) of OERC'S Input Price of Coal Regulations, 2024.
  - e) The Applicant has filed for relaxation of Annual Target Quantity (ATQ) for FY 2023-24 as the actual coal production & coal dispatch was less than 85% with reference to the mine plan. The OERC's Input Price of Coal Regulations, 2024 is applicable only after its notification i.e. from 29.05.2024 onwards. Any claims prior to the said period needs to be taken care of through Truing up of the relevant period in accordance with Generation Tariff Regulations, 2020. Accordingly, the Commission is requested not to entertain such expenses.
  - f) With regards application fees and publication expenses, Regulation 10 (5) of the OERC (Conduct of Business) Regulations, 2004, provides for fee, if any, fixed by the Commission shall be paid at the time of or before the presentation of the Petition. However, vide Commission's notification dated 31.08.2009, the Licensees operating in Odisha under a license issued by the Commission (or deemed licensees under section 14 of the Electricity Act, 2003) are exempted from paying filing fees. Therefore, the Commission is requested to look into the matter and take necessary steps in terms of OERC (Conduct of Business) Regulations, 2004 & notification dated 31.08.2009.
19. TPNODL has submitted in line with TPWODL & TPCODL.
20. The Petitioner-M/s OCPL in its rejoinder has submitted the following in response to the queries raised by OPGC.
- a) That OCPL has relied on the provisional balance sheet as on the date of COD, and, if the Commission feels appropriate, an Independent Auditor may be appointed for scrutiny of the Capital cost in line with the procedure being followed for the Generating Companies.

- b) That the reasons for high IDC, IEDC, FC, FERC and Hedging cost vis-à-vis Total Capital cost excluding IDC & FC, in spite of the declared COD and the scheduled COD being same 30.9.2021, it is submitted that the detailed break-up of the Capital Cost has been provided by the Petitioner in the Tariff Forms which includes the total Cost claimed for Rs.601.02 Crore (IDC of Rs.323.00 Crores and IEDC of Rs. 278.01 Crores). It is only the error in sub-grouping. Further OCPL submits that it has relied upon the provisional balance sheet as on COD, and has considered the expense on cash basis and separate undischarged liability as on COD. The independent auditor is in the process of auditing and certifying the capital cost as on COD and additional capital expenditure thereafter till FY 2023-24. OCPL shall submit the auditor certificate shortly to the Commission.
- c) That OCPL, taking into consideration the Regulations and has computed the notional IDC, for the quarters wherein the actual equity infused was more than 30%, and has accordingly been considered as normative loan. For those respective quarters, notional IDC has been computed and the total notional IDC amount of Rs. 2.74 Crore, in addition to actual IDC has been claimed.
- d) That OPCL has considered the impact of revenue earned from sale of coal i.e. Rs. 238.36 Crore and adjusted the same in IEDC expenses.
- e) That there is an inadvertently typo error in para 59 of the table given in the instant petition. The petitioner has submitted the correct details in the Table below: -

<b>Production Year/s</b>	<b>Target Coal Production (MT)</b>	<b>Actual Coal Production (MT)</b>
Upto COD i.e. 30.9.2021	1.41	1.54
2021-22 (6 months: 30.9.2021-31.3.2022)	3.00	3.72
2022-23	8.00	8.0
2023-24	10.00	8.5

Further, it is submitted that OCPL has computed the Input Price for FY 2021-22, considering that the Rs/Tonne cost shall be same when calculated on an annualized manner. Further OCPL has submitted that considering the 6-month period (30.09.2021 to 31.03.2022) of actual cost incurred, the actual coal extraction cost is Rs 972/Tonne (instead of Rs 994.42/Tonne as submitted earlier).

- f) It is submitted that, since COD of the mine weighted average GCV of coal supplied from OCPL to end use power plant OPGC is not less than the declared grade G-14 in any of the years and hence, there is no such requirement of GCV adjustment.
21. The Petitioner-M/s OCPL in its rejoinder has submitted the following in response to queries raised by M/s GRIDCO
- a) The Petitioner has already enclosed the Extract of Board Approval regarding declaration of COD on 30.09.2021.
  - b) The Mine Plan, Mine Closure Plan & DPR are not public documents and hence cannot be provided in whole. Hence, relevant extracts (related to determination of Input price in the instant petition) have been provided along with the Petition. The Petitioner has provided the same to the Commission separately under confidentiality, for the purpose of determination of input price. However, if the Commission directs, the Petitioner shall provide the respondent more details that they need, or the documents they intend to seek, under confidentiality.
  - c) As regards to land expenses, the relevant extracts of the DPR and the Audited Accounts, soft copy of Tariff formats, have already been submitted. OCPL submits that the auditor certificate and the audited accounts as on COD are being submitted separately to the Commission and the respondents.
  - d) OCPL has submitted in line with the Regulations, the MDO mining fees has been claimed separately and the capital cost does not include any mining expenses by the MDO. However, the capital cost does include the preliminary mine development expenses by the Petitioner up to COD. Further, provisional accounts as on COD have also been submitted. The petitioner submits that the auditor certificate and the audited accounts as on COD are being submitted separately to the Commission and the respondents.
  - e) It has not received any grant from Government of Odisha for execution of the project. Further, the mine closure work is awarded to the MDO through its contract to ensure the competitive bidding and optimization of the cost. It is submitted that the mine closure expenses which excludes the cost of mine closure expenses work to be covered through mining fee of MDO but it includes differential Interest cost between the Interest earning from Escrow account vis-a vis the rate of borrowing related in compliance with the Guidelines of MOC, and the same has been claimed. Hence, the expenditure claimed towards mine closure is strictly as per the Regulations and Guidelines issued by the Ministry of Coal which may be allowed on year on year basis.

Further, O&M expenses have been claimed as per actuals only, based on the Regulations. The O&M expenses are the expenses incurred by OCPL in operations of the mine, CHP and these does not include the MDO expenses. The same has been considered based on actuals, as per the audited accounts, which has already been submitted along with the Petition. Further, O&M has been estimated for future years.

- f) Mine Closure Plans (MCPs) are an integral part of the mining plan and must be approved as per MoC guidelines. Monitoring is conducted through third-party agencies such as NEERI, CMPDI, ISM Dhanbad, IIT Kharagpur, and IEST Shibpur, with compliance certified by the Coal Controller. Mine closure includes progressive and final closure activities such as backfilling, slope stabilization, water management (e.g., treatment of Acid Mine Drainage), and biodiversity conservation. Mine owners must deposit a fixed, annually escalated amount per hectare in an interest-bearing Escrow Account managed by the Coal Controller. Funds from this account can be reimbursed for closure activities. Any surplus is refundable. In this case, the Petitioner has deposited approximately Rs. 41 Crore in the Escrow Account. Mine closure work is contracted to the Mine Developer and Operator (MDO) via competitive bidding. While closure expenses related to the MDO are excluded, the Petitioner is claiming the differential interest cost (difference between Escrow interest earnings and borrowing cost), as permitted by MoC guidelines. The Petitioner has submitted the closure expense details to the Coal Controller and requests that the expenses be approved annually, in line with relevant regulations and guidelines.
- g) The Commission is empowered to exercise its inherent discretionary power and relax the ATQ upto 15% of the quantity of coal to be extracted during a year if the supply of coal is prevented due to reasons not attributable to the petitioner
- h) The Petitioner is providing the NTI adjustment to the beneficiaries without adjusting towards recovery of the balance extraction cost., hence, OCPL requests the Commission for relaxation of ATQ. If the same is not relaxed, the Petitioner would not be in the position to share the NTI benefit, in terms of the regulations and recover the unrecovered extraction cost at its 1<sup>st</sup> instalment for NTI.
- i) As per the Mining Agreement with the Mine Operator, the Base Mining charges are adjusted with the (I) Stripping Ratio (ii) Quarterly Escalations etc.
- j) The Arbitration Award was pronounced on 30.06.2022 and matter is pending before Hon'ble District Court. The present status of the said Arbitration along with details of outcome may be submitted before the Commission by the Petitioner.

- k) The overall Capital Cost as on COD and the projected additional capital expenditure after COD, is well with the investment (board) approval of Rs. 3098 Crore for the overall capital cost of the mine. The Petitioner has submitted the break-up of the capital cost on year-on-year basis and is expected to achieve the capital cost of Rs. 3098 Crores after achieving peak rated capacity in FY 2026-27.
  - l) The details of statutory charges, dividends paid during the FY 2021-22 & 2022-23 and NTI adjustments can be ascertained from the Audited accounts submitted along with the Petition. Further, the adjustments and Credit/debit notes to OPGC shall be issued as per the directions of the Commission, after determination of the Input price.
  - m) Regarding Additional charges, it is submitted that they only pertain to the capital cost incurred by the Petitioner on CHP and the corresponding O&M expenses. The Petitioner has not claimed any charges on Transportation, crushing and washery. Further submitted that in case of OCPL, GST compensation cess of Rs.400 per Ton is being charged as per the rules of the Government. The coal mine was allotted to OCPL as per the policy decision of Government. It is submitted that it is a statutory mandate.
22. The Petitioner-M/s OCPL in its rejoinder has submitted the following in response to queries raised by Shri Ananda Kumar Mohapatra.
- a) The coal mine was allotted to OCPL to supply of coal to the Stage-II & Stage-III of End Use Power Generating Station of OPGC (Unit-3,4 5 & 6) for total quantity of 16 MT tonne (8 MT to each stage). Once the COD of stage –III of OPGC will be achieved, the total coal shall be supplied to the end use captive power generating station. Till the COD of Stage-III there will be surplus coal, hence the surplus coal after meeting the OPGC requirement will be sold through E-auction.
  - b) The Petitioner has claimed in terms of the provisions of the Regulations. The Commission may kindly determine the Input Price as per the provisions of OERC (Determination of Input Price of Coal from Integrated Mine) Regulations, 2024.
  - c) As per the Coal Controller, the declared grade of allotted mine is G-14 and it is mentioned in the Mine Plan. The query raised by the respondent is factually not correct. Further, the mine grade is declared every year by the coal controller and the declared grade is G-14.
  - d) The NTI income which is part of the cumulative profit shall be dealt with as per the provisions of OERC (Determination of Input Price of Coal from Integrated Mine) Regulations, 2024 and to be passed on to the consumers. As such there is no violation.

- e) The petitioner shall not make any abnormal profit after leaving only nominal profit in their books in the process of determination of Input Price of Coal. OCPL has prayed for allowing the return on Equity & Other expenses as per said regulation. The surplus coal extracted which is beyond the requirement of captive end use power generating station i.e. OPGC are sold by e-auction through MSTC platform. The profit arises under merchant sale is called non-tariff profit and which are pass on to the power generating station as per the regulation framed by the Commission, which is ultimately reduce the input price of coal and the benefit will directly pass on to the public at large.
  - f) OCPL has not claimed any additional charges such as “crushing, transportation, handling and washing’ in its petition. However, additional charges are with respect to additional capital cost incurred with respect to construction of Coal Handling Plant (CHP) by the Petitioner.
  - g) Regarding loan capital and equity capital, OCPL submitted that, the petitioner has considered the capital cost as per the regulations notified by the Commission.
  - h) The O&M Expenses claimed in the petition is based on actuals expenses incurred by OCPL towards O&M as per regulations. It is clarified that these expenses are not covered under the scope of MO.
  - i) The Depreciation and Return on equity has been claimed in terms of the provisions of the Regulations.
  - j) The mining fee is calculated as per the MSA and the amount claimed up to FY 2023-24 is based on actual cost and the for FY 2024-25 onwards is based on the projection.
  - k) That, the base mining fees as per MSA executed on 2018 against 8.8 MT is Rs. 399.00 per tonne. As per the addendum to the MSA the base mining fee has been revised w.e.f Sep-2024 to Rs. 438.90 per tonne against the additional quantity of 4.2 MT for the FY 2024-25. (ATQ for FY 2024-25 is 13 MT).
23. The Petitioner-M/s OCPL in its rejoinder has submitted the following in response to query raised by TPWODL, TPCODL and TPNODL
- a) Odisha Electricity Regulatory Commission (Determination of Input Price of Coal from Integrated Mine) Regulations, 2024 has been on 29th May 2024. As previously there was no such regulations in the state, to determine the Input Price of Coal, and since this is for the first such case, to understand the Rule, Regulations and method to prepare according to the regulations, the petitioner required some time, for which the Petitioner approached the Commission and the Commission was kind enough to grant extension for the same.

- b) The True-up can only be done, when the actual expenditure has been incurred and audit of the financial year has been done. Further once the Input price determination is done, the Petitioner has sought liberty from the Commission to file for true-up from COD until peak rated capacity is reached.
  - c) In terms of Regulation 3 (f) of OERC (Determination of Input Price of Coal from Integrated Mine) Regulations, 2024, the Petitioner has sought relaxation from the Commission for FY 2023-24, wherein the actual extraction was 8.5 MT against the ATQ of 10 MT, which is 15% less than ATQ.
  - d) The input price being claimed is lower than the amount already billed to OPGCs. Hence, there will be no impact on tariff on the state's consumer. Further, once the Commission approved the input price, the adjustments (both positive and negative) shall be passed on. (TPCODL).
24. We heard the parties through hybrid mode and their written notes of submissions and arguments during hearing were taken on record. From the submission of Petitioner and Respondents, the Commission has following observations:
- a) The Petitioner-M/s OCPL has filled this Petition for determination of capital cost and Input Price of Coal after CoD.
  - b) Petitioner-M/s OCPL is a joint venture company having 49% share of Govt. of Odisha and 51% share of OPGC. The Petitioner was allotted two coal blocks namely Manoharpur and Dip-side Manoharpur Coal Mine by the Ministry of Coal (MoC), GoI, vide letter dated 31.08.2015, with Specified End Use Plant, which is expansion project of Odisha Power Generation Corporation (OPGC) Ltd. (Unit 3 & 4 under Stage II and 5 & 6 under Stage III), for total coal quantity of 16 MT. Till the CoD of Stage III, there will be surplus coal, hence such surplus coal after meeting the requirement of OPGC will be sold through e-auction using MSTC platform.
  - c) The Commission has notified OERC (Determination of Input Price of Coal from Integrated Mines) Regulations, 2024 which came into force from 29.05.2024. As per the Regulations 3(1)(m) of OERC's Input Price of Coal Regulations, 2024, "COD" is defined as follows:
    - (m) "Date of Commercial Operation (COD)" shall mean the date of commercial operation and in case of integrated mine(s) it shall mean the earliest of —**
      - a) *the first date of the year succeeding the year in which 25% of the Peak Rated Capacity as per the Mining Plan is achieved; or*

*b) the first date of the year succeeding the year in which the value of production estimated in accordance with Regulation 5 of these regulations, exceeds total expenditure in that year; or*

*c) the date of two years from the date of commencement of production:*  
XXXXXXXXXX

- d) In the instant case, the Petitioner-M/s OCPL has attained the COD prior to the notification of above Regulations and the Petitioner has preferred to follow the framework envisaged in the Detailed Project Report (DPR) by the Central Mine Planning and Design Institute (CMPDI). The Coal India Ltd. (CIL) also follow the similar framework for declaring COD and the working group constituted by the CERC also recognized the framework of the CIL.
- e) The Governing Board of the OCPL has assented the investment plan of the Manoharpur and Dip-side Manoharpur Coal Mine based on the Mine Plan prepared by the CMPDI and approved by the Coal Controller. The Project Appraisal Committee approved the investment of Rs.2374 Cr. for 8 Million Tonne per annum peak rated capacity. The investment of Rs.3098.2 Cr. has been considered for 15 MTPA peak rated capacity.
- f) According to the Petitioner the mining operations are to be carried through MDO/outsourcing (not through departmental mining) as per mining plan and majority of capital cost will be covered under the scope of MDO & charged under mining fee. The internal transportation & crushing activities involve O&M expenses and is covered within the mining fee of Mine Operator (MO). The expenditure related to Coal Handling Plant (CHP) is included in capital expenditure and O&M expenses.
- g) The Petitioner has requested the Commission to exercise inherent discretionary power for relaxation of ATQ for the FY 2023-24 wherein the actual extraction was 8.5 MT (against 10 MT). The peak rated capacity is expected to be achieved by FY 2026-27.
- h) Petitioner-M/s OCPL has requested the Commission to approve the COD as on 30.09.2021 which in turn has been accepted by the Governing Board of M/s OCPL based on achieving 30% of peak rated capacity as envisaged by the CMPDI in the DPR. Accordingly, actual coal productions are 1.54 MT (upto CoD i.e. 30.09.2021), 3.72 MT (from 30.09.2021 to 31.03.2022), 8 MT (in FY 2022-23) and 8.5 MT (in FY 2023-24) and weighted average GCV of coal supplied by M/s OCPL is never less than the declared grade (i.e. G-14) in any of the years since the CoD (i.e. 30.09.2021).

- i) The capital cost does not include any mining expenses and the mining fees of Mine Developer & Operator (MDO) has been claimed separately. However, the capital cost includes preliminary mine Development expenses upto CoD.
- j) No Govt. grant has been received for execution of project.
- k) Mine closure work was awarded to MDO through a competitive bidding process to optimize the cost.
- l) The differential interest cost (difference between interest earning from ESCROW account and borrowing cost) as permitted in MoC guidelines, has been claimed by the Petitioner (M/s OCPL).
- m) The overall capital cost as on CoD and projected additional capital expenditure after CoD is well within the investment approval by Board of Rs.3,098 Crs.
- n) GST compensation cess of Rs.400 per ton is being charged as a statutory mandate as per rules of GoI.
- o) Further, according to the Petitioner-OCPL, the process of auditing & certifying the capital cost as on CoD and additional capital expenditure thereafter till the FY 2023-24 has not been completed by an independent auditor and hence unsigned provisional accounts as on CoD has been submitted by the Petitioner during hearing.
- p) The Commission as well as some objectors including GRIDCO (the State designated entity responsible for power procurement of the State) have felt that following relevant information in detail are required for determination of Capital Cost and Input pricing of Coal:
  - Certified Capital Cost by a third-party Auditor.
  - Detail DPR and Mining Plan.
  - Commercial Operation Date (COD) criteria and justification.
  - Detailed audit report on the inclusion and exclusion of expenses till COD date as per Mine plan.
  - Third Party Certification for year wise actual production and Annual target Quantity (ATQ).
  - Dividend declaration and distribution of interim dividends by the Petitioner-M/s OCPL.
  - Scope of Fuel Supply Agreement (FSA)
  - Treatment of Non-Tariff Income (NTI), Overburden and Coal GCV as per Regulation, MSA and FSA.
  - Detailed data on escalation of Reserve price and Mining fee.
  - Mine closure details and its associated cost.

- Auditor Certificate in respect of capital cost incurred upto COD;
  - Clarification for claim of IDC;
  - Status of CHP;
  - Actual expenditure incurred as per audited accounts;
  - Status of Arbitration between BGR mining and the Petitioner (M/s OCPL).
  - Auditor certified year wise break up of statutory charges for each financial year
  - Auditor Certified NTI
  - Claim for any recovery of input charges as per Regulation.
  - Adjustment on account of overburden Removal or shortfall in GCV for the period from 2019-24 & 2024-25 and estimated adjustment for the period from 2025-26 to 2028-29.
25. The Commission condones the delay in filing of Petition by the Petitioner-M/s OCPL considering their request and the constraints.
26. The Commission, after a thorough analysis and considering the opinion of various stakeholders, feels that for determining the Input Price of Coal, the Capital Cost of M/s OCPL's mines etc. needs to be determined correctly. For determination of Capital Cost of M/s OCPL's mines, the Commission directs Petitioner-M/s OCPL to carry out third party Audit of Capital Cost as on COD by an Independent Auditor to be appointed by the Commission at the cost payable by the Petitioner-M/s OCPL. In addition to determination of the Capital Cost and additional capital expenditure, a detailed comprehensive analysis on the impact of tariff of consumers due to Input Price of Coal as per OERC (Determination of Input Price of Coal from Integrated Mines) Regulation, 2024 is also to be done by the Independent Auditor. Till the completion of Audit by an Independent Auditor engaged by the Commission, the Petitioner-M/s OCPL shall raise bill to OPGC at the GCV notified price of Coal India Limited (CIL).
27. Accordingly, the case is disposed of.

Sd/-

**(S. K. Ray Mohapatra)**  
Member

Sd/-

**(P. K. Jena)**  
Chairperson