

**True-Up for FY 2022-23 to FY2023-24
for BASPA-II HEP**



**Himachal Pradesh Electricity Regulatory
Commission**

28-April-2025

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**BEFORE THE HIMACHAL PRADESH ELECTRICITY
REGULATORY COMMISSION, SHIMLA**

PETITION NO. 155/2024 DECIDED ON: 28-APRIL-2025

CORAM

Sh. DEVENDRA KUMAR SHARMA
Sh. YASHWANT SINGH CHOGLA
Sh. SHASHI KANT JOSHI

IN THE MATTER OF:

True-Up of tariff for FY 2022-23 to FY 2023-24 for sale of power from Baspa II HEP to HPSEBL

AND

IN THE MATTER OF:

JSW Hydro Energy Limited,
Karcham Wangtoo H.E. Project
Sholtu Colony, PO, Tapri 172104
District Kinnaur (H.P.).....APPLICANT/ PETITIONER

The Applicant has filed the present Petition with the Himachal Pradesh Electricity Regulatory Commission seeking True-Up of the tariff for sale of power from Baspa II HEP to HPSEBL Ltd. for the FY 2022-23 to FY 2023-24 approved by HPERC vide MYT Order dated 29.06.2019.

The Commission, after considering the Petition filed by the Applicant, the facts presented in its various submissions/filings, objections/suggestions received by the Commission from the stakeholders, the responses of the Applicant to the objections/suggestions and documents available on record and in exercise of the powers vested in it under Section 62 and Section 86 of the Electricity Act, 2003 (Act No. 36 of 2003) read with HPERC (Terms & Conditions for Determination of Hydro Generation Supply Tariffs) Regulations, 2011 passes the following Order for True-Up of tariff for Baspa II Hydro Power Plant for the period FY 2022-23 to FY 2023-24.

Place: Shimla

Dated: 28-April-2025

-Sd-
(Shashi Kant Joshi)
Member

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

-Sd-
(Devendra Kumar Sharma)
Chairman

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1. BACKGROUND

- 1.1 M/s JSW Hydro Energy Limited(hereinafter referred to as the "Petitioner" or "Applicant"),having its registered address at Karcham Wangtoo H.E. Project, Sholtu Colony, PO, Tapri 172104, District Kinnaur H.P. is a "generating company" falling within the definition of Section 2 (28) of the Electricity Act, 2003 (hereinafter referred to as the "Act"), operating Baspa II HEP in the State of Himachal Pradesh.
- 1.2 The Baspa II Hydro Electric Project (hereinafter referred to as "Baspa II" or "Project")is a 300 MW plant situated on River Baspa (a tributary of River Satluj, District Kinnaur, Himachal Pradesh) with three units each of 100 MW which was commissioned by M/s JaiPrakash Power Ventures Limited (JPVL) in the FY 2003-04. Last unit of the project was commissioned on 08.06.2003.
- 1.3 On 04.06.1997, a Power Purchase Agreement (PPA) was executed between Jaiprakash Hydro-Power Limited and Himachal Pradesh State Electricity Board Ltd. (HPSEBL) for sale of Power from Baspa II HEP to HPSEBL.Pursuant to a Scheme of arrangement approved by Hon'ble High Court, Shimla, 300 MW Baspa II Hydro Electric Project (Hydro Electric Project or HEP for short) has been transferred by M/s. Jaiprakash Power Ventures Limited (JPVL) to the Petitioner w.e.f. 01.09.2015.
- 1.4 The Commission had approved the tariff for sale of electricity from BASPA II plant vide Multi Year Tariff (MYT) Order dated29.06.2019 (Case no. 30/2019) for the control period from FY 2019-20 to FY 2023-24.
- 1.5 The Commission had done the Mid-term review of FY 2022-23 and FY 2023-24 for BASPA II plant vide Order dated 16.05.2023 (Case no. 02/2023).
- 1.6 In this Order, the Commission has Trued-Up the operational and financial performance of the Applicant based on the actual performance vis-à-vis that approved in the MYT Order, PPA between the Petitioner and HPSEBL, Audited account statements, extracts of books of account, review and analysis of the past records, information filed by the Applicant in the Petition and various other submissions in response to queries raised by the Commission and views expressed by the stakeholders.

MYT Regulations

- 1.7 The Commission, in view of the principles and methodologies specified by the Central Electricity Regulatory Commission, had issued Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Hydro Generation Tariff) Regulations, 2011 vide notification dated 1.04.2011 (hereinafter referred to as "MYT Generation Tariff Regulations 2011" or "Regulations").

- 1.8 Subsequently, the Commission has made the following amendments to the above Regulations:
- a. HPERC (Terms and Conditions for determination of Hydro Generation Tariff) (First Amendment) Regulation, 2011 dated 30.07.2011
 - b. HPERC (Terms and Conditions for determination of Hydro Generation Tariff) (Second Amendment) Regulation, 2013 dated 01.11.2013
 - c. HPERC (Terms and Conditions for Determination of Hydro Generation Tariff) (Third Amendment) Regulations, 2018 dated 22.11.2018
- 1.9 Accordingly, the tariff for BASPA-II generating station was fixed by the Commission vide Tariff Order dated 29.06.2019, for the Control Period i.e. FY 2019-20 to FY 2023-24 in line with the provisions of these Regulations and PPA.
- 1.10 Regulation 9 of MYT Tariff Regulations 2011 as amended from time to time reads as under:-
- "9. True Up*
- (1) The true up across various controllable parameters shall be conducted by the Commission, for the previous years for which the actual/audited accounts are made available by the generator, at the times and as per principles stated below: -*
- (A) at the times -*
- (i) for the previous years of the previous control period:- along with the petition for determination of ARR cum generation tariff for the control period;*
- (ii) for the previous years of the control period and for the previous control period:- along with the mid-term performance review during the control period; and*
- (iii) for the control period true up:- along with the mid-term performance review of the next control period;"*
- 1.11 In line with the provisions of the MYT Generation Tariff Regulations 2011, as amended from time to time, the Petitioner has filed this Petition on 23.11.2024 seeking True-Up of tariff for FY 2022-23 to FY 2023-24. The Petitioner has filed the Petition under Regulation 2.2 & 16.1 of the Himachal Pradesh Electricity Regulatory Commission (Terms and conditions for determination of Hydro Generation Tariff) Regulations 2024. However, the Petitioner in its reply dated 20.12.2024 to the queries raised by the Commission, submitted that the title of the Application does not impact or affect the current proceedings in any manner, as the substance of the application remains the same in both the Tariff Regulations of 2011 as well as 2024. The applicant has requested the Commission to consider the applicability of the Tariff Regulations and proceed in the matter, accordingly.
- 1.12 Further, the Petitioner has submitted that due to late finalization of tax audit for FY 2023-24 in November, 2024 and time consumed in compiling the information/data, there has been delay in submission of the present Application.

The said delay is neither intentional nor deliberate but has happened on account of circumstances beyond the control of the applicant. The Petitioner has requested for condonation of delay and consideration of the Present Petition for True-Up of FY 2022-23 and FY 2023-24.

Procedural Background

- 1.13 The Commission had issued an Order dated 24.02.2007, approving the Capital Cost of the Baspa II 300 MW Hydro Electric Project at Rs.1533.96 Cr. for the purpose of determination of tariff and had approved the tariff for the initial 5 years from FY 2003-04 to FY 2007-08.
- 1.14 Subsequently, the Commission vide its Order dated 30.03.2009 and vide Review Orders dated 10.09.2009 and 23.06.2010 approved the tariff for the First Control Period FY 2008-09 to FY 2010-11 and trued up the tariff for the period FY 2003-04 to FY 2007-08.
- 1.15 The Commission vide Order dated 24.01.2011 (passed in Petition No. 11/2010), revised the Annual Revenue Requirement for the period FY 2006-07 to FY 2010-11, on account of additional capitalizations.
- 1.16 Subsequently, the Commission issued the Second MYT Order dated 15.07.2011 approving the tariff for sale of power from 300 MW Baspa II HEP to the HPSEBL for each year of the Control Period, i.e., FY 2011-12 to FY 2013-14.
- 1.17 The Petitioner had also moved a Petition bearing No. 135/2011 on 08.02.2011 before the Commission to revise the tariff for the Control Period (FY 2011-12 to FY 2013-14) in compliance to the Order dated 21.10.2011 passed by Hon'ble Appellate Tribunal for Electricity in Appeal No. 39 of 2010 and re-compute the arrears payable by the HPSEBL to the Petitioner from FY 2003-04 onwards till date of actual payment by the HPSEBL to the Petitioner. The Commission issued an Order dated 06.09.2012 on the said Petition and revised the tariff for Second MYT Control Period taking into consideration new facts brought on record by the Petitioner, which were unavailable at the time of issuance of MYT Order dated 15.07.2011.
- 1.18 Subsequently, the Commission has also Trued-up the ARR for the first Control Period i.e. FY 2008-09 to FY 2010-11 vide its Order dated 23.04.2012 and for the second Control Period i.e. FY 2011-12 to FY 2013-14 vide its Order dated 30.03.2015.
- 1.19 The Commission has issued third MYT Order dated 06.06.2014 approving the tariff for sale of power from 300 MW Baspa II HEP to the HPSEBL for each year of the Control Period i.e. FY 2014-15 to FY 2018-19.
- 1.20 The True-Up of tariff for the period FY 2014-15 to FY 2016-17 was performed by the Commission vide Order dated 31.10.2018 in Case No. 21/2018. Also, True-Up for the period FY 2017-18 to FY 2018-19 was done by the Commission vide Order dated 07.07.2020 in Petition No. 6/2020.

- 1.21 In the Order dated 29.06.2019 in Petition no. 30/2019, the Commission has approved tariff for Baspa II Plant for the fourth Control Period i.e. FY 2019-20 to FY 2023-24.
- 1.22 The Commission vide Order dated 16.05.2023 in Petition no. 02/2023 did the Mid-term review of FY 2022-23 and FY 2023-24 for BASPA II plant.
- 1.23 The Commission admitted the current Petition vide Order dated 31.12.2024 and directed the Petitioner to publish the salient features of the Petition on or before 06.01.2025 in a manner and as per the disclosure formats attached with the Order dated 31.12.2024. The Petition was registered as Petition Number 155/2024.
- 1.24 A detailed scrutiny of the Petition has been made, and clarifications/ information have been sought by the Commission from the Petitioner from time to time. The submission made by the Petitioner in response there to, as detailed hereunder, have been taken into consideration:

Table 1: Communication with the Petitioner

Sl.	Letter from Commission	Response from Petitioner
1.	Letter. No. HPERC/-F(1)-82/2024/2549 dated 17.12.2024	Filing No. 280/2024 dated 20.12.2024

Public Hearing

- 1.25 The Petitioner published the salient features of the Petition by the way of Public Notice in the following newspapers:

Table 2: Details of public notices in newspapers

Sl.	Name of News Paper	Date of Publication
1.	Hindustan Times	05.01.2025
2.	Divya Himachal	05.01.2025
3.	Divya Himachal	06.01.2025
4.	The Tribune	06.01.2025

- 1.26 The Commission invited suggestions and objections from the public on the Petition filed by the Petitioner in accordance with Section 64(3) of the Electricity Act, 2003 (hereinafter to be referred as Act for short) subsequent to the publication of salient features by the Petitioner. The public notice, issued by the Commission, inviting objections/ suggestions was published in the following newspapers:

Table 3: List of Newspapers in which Notice inviting objections from Stakeholders and conveying the date of Public Hearing were published

Sl.	Name of News Paper	Date of Publication
1.	The Times of India	14.01.2025
2.	Amar Ujala	14.01.2025

- 1.1 Through the aforementioned publications, the interested parties/ Stakeholders were asked to file their objections and suggestions on the Petitions by 15.02.2025 and rejoinders to the Replies filed by the Petitioner for which dates were specified by the Commission in the publications. The Commission directed the Petitioner to file replies to the objections and suggestions by the Stakeholders by 22.02.2025.
- 1.2 A public hearing in the Petition was held in the Commission on 04.03.2025 for providing adequate opportunity to all the Stakeholders for expression of their opinions, suggestions and objections in the matter.
- 1.3 The Commission has received objections/ suggestions from HPSEBL, Govt. of HP and Consumer Representative which are discussed in subsequent Chapters of this Order.

2. SUMMARY OF THE PETITION

- 2.1 This Chapter summarizes the Petition filed by the Applicant for True up of period FY 2022-23 to FY 2023-24 and the submissions made subsequently for sale of power from the Baspa II, 300 MW HEP.

Details of the Project

- 2.2 The Baspa II Hydro Electric Project is a 300 MW Plant with three units each of 100 MW which was commissioned by M/s JPVL in the FY 2003-04 and transferred to the Petitioner in FY 2015-16.
- 2.3 It is a diurnal peaking plant with 4 hours of peaking supported by diurnal pondage. The Power House is underground with static excitation. The Government of Himachal Pradesh receives 12% of energy generated as free energy. The details of the Plant submitted by the Petitioner are as given below:-

Table 4: BASPA II HEP - Project Details

Particular	Details
Name of the Company	Himachal Baspa Power Company Limited
Name of the Station	Baspa II Hydro Electric Project
Installed Capacity (MW)	3 X 100 = 300
Free power to home state	12%
Date of Commercial Operation	
Unit-1	24.05.2003
Unit-2	29.05.2003
Unit-3	08.06.2003
Type of Station	
Surface/underground	Underground
Purely ROR/ Pondage/Storage	Diurnal Pondage
Peaking/non-peaking	Diurnal Peaking
No. of hours of peaking	4
Type of excitation	Static excitation
Design Energy	1213.18 MU
Transformation Losses (as per PPA)	0.50%
Auxiliary Losses	0.50%
Transmission Losses	0.65%

Details of the True-Up Petition

- 2.4 The Petitioner has filed total Annual Fixed Charges (AFC) for True-Up of period FY 2022-23 to FY 2023-24 in the Petition dated 23.11.2024. Further, the Petitioner vide submissions dated 20.12.2024, has also provided calculations of Revenue Surplus/

(Gap) along with Carrying Cost till the end of FY 2023-24. The details of Tariff filing by the Petitioner and the approved charges by the Commission in MYT Order for FY 2022-23 and FY 2023-24 are as follows:

Table 5: Summary of True-Up filed by Petitioner for FY23 to FY24 vis-à-vis approved by the Commission earlier in the MYT Order (Rs. Cr.)

	True-Up Petition		MYT Approved	
	FY23	FY24	FY23	FY24
Capacity Charges				
Interest on Outstanding Loan	0.29	0.25	0.29	0.25
Depreciation + AAD	70.45	70.45	70.45	70.45
Application Fees	0.24	0.05	0.24	0.05
Publication Expenses	0.07	0.08	0.00	0.00
Total Capacity Charges	71.05	70.83	70.97	70.75
Primary Energy Charges				
O&M Expenses	51.79	53.45	51.95	54.60
Return on Equity	78.64	78.64	78.64	78.64
Interest on Working Capital	7.05	7.46	6.01	6.13
Sub- Total Primary Charges	137.48	139.55	136.60	139.37
Incentive and Taxes				
Income tax claimed/true up	21.85	15.90	27.12	27.28
Change in Law: TCS new prov.	-	-	-	-
Incentive for Higher Plant Avail.	9.83	9.83	-	-
Incentive for Secondary Energy	40.41	0.00	-	-
Sub-Total Incentive and taxes	72.09	25.73	27.12	27.28
Total Annual Fixed Charges	280.62	236.11	234.69	237.40

2.5 The explanations provided by the Petitioner for variations in Annual Charges approved and those claimed in True-Up Petition, are summarized below:

- a. The Petitioner has claimed variation in O&M expenses based on the changes in escalation rates calculated from actual WPI and CPI indices. The Commission for computation of O&M expenses had considered WPI and CPI indices on provisional basis @ 5.03% for escalation in O&M expenses. So, there has been variations in actual values vis-à-vis approved by the Commission. The Petitioner has computed O&M expenses based on actual latest available WPI and CPI indices, i.e., 4.48% for FY 2022-23 and 3.02% for FY 2023-24.
- b. For the purpose of O&M expenses on the additional cost approved by the Commission for Inter Connection Facility (ICF), escalation has been considered as per ICF Agreement dated 08.05.2003 entered with Satluj Jal Vidyut Nigam Limited.

- c. The Commission had approved interest on working capital for FY 2022-23 & 2023-24 based on the AFC excluding incentive for higher plant availability & incentive for secondary energy. The Petitioner has now claimed Interest on working capital based on the AFC including incentive for higher plant availability & incentive for secondary energy.
- d. Incentive for higher plant availability was not considered by the Commission for FY 2022-23 & 2023-24 as the same is to be allowed on actual basis. In the MYT Order dated 29.6.2019, the Commission has assumed normative plant availability of 90%, subject to truing up exercise. As per actuals, plant availability of Baspa II HEP is 96.81% & 96.93% for the FY 2022-23 & FY 2023-24 respectively. The Petitioner has, accordingly, claimed Incentive for higher plant availability for FY 2022-23 and FY 2023-24. In accordance with PPA, the incentive for higher plant availability is calculated at 0.35% of equity component of the Capital Cost for each percentage increase over and above normative level of 90% of Plant Availability level subject to a maximum of 2% Return on Equity, each year
- e. In the MYT Order dated 29.6.2019, the Commission had assumed Nil Secondary Energy, subject to truing up exercise. The Petitioner has claimed that the Plant has delivered Secondary Energy of 127.44 MU in FY 2022-23 & Nil in FY 2023-24 on actual basis. Accordingly, incentive for secondary energy of Rs. 40.41 crore has been claimed only for FY 2022-23 by the Petitioner. As per the terms of PPA, incentive for Secondary Energy has been worked out by Petitioner using the formula $(\text{Secondary Energy (MU)} \times 10\% \text{ ROE}) / 155 \text{ MU}$, subject to maximum of 10% ROE.
- f. The Publication fees amounting to Rs. 7 lakh and 8 lakh has been claimed to be paid in FY 2022-23 & 2023-24 respectively, which was deferred by the Commission to be allowed during true up. The Publications fee has been allowed to be recovered as per the provisions of HPERC (Conduct of Business Regulations) 2005.
- g. ITRs for FY 2022-23 & 2023-24 filed by the Petitioner reflect that tax liability has been worked out based on the normal tax rate provisions. Accordingly, the Petitioner has claimed tax on income as per clause 8.11.1 of the PPA for FY 2022-23 & 2023-24.

3. COMMENTS/ OBJECTIONS FILED BY STAKEHOLDERS

Introduction

- 3.1 The Commission published a Public Notice inviting the interested parties/Stakeholders to file their objections and suggestions on the Petition by 15.02.2025. The comments were received from the HPSEBL, Govt. of HP, through Principal Secretary (MPP & Power) and Sh. K.S. Dhaulta (Consumer Representative) in response to the notice of the Commission.
- 3.2 A public hearing in the Petition was held on 4.03.2025 in the Commission where the Stakeholders and the Petitioner were heard. The stakeholder's suggestions/comments and the Commission's stand on the same are summarized in this chapter.

Filing of Petition under HPERC Generation Tariff Regulations 2024

Stakeholder's Comments:

- 3.3 The HPSEBL and Govt. of HP have submitted that the Petitioner has wrongly filed application for true up of tariff for FY2022-23 to FY2023-24 for sale of Power from Baspa II HEP to HPSEBL (Respondent No-1) in compliance with the Regulation 16 of the HPERC (Terms & Conditions of Hydro Generation Tariff) Regulations, 2024. The HPERC (Terms & Conditions for determination of Hydro Generation Tariff) Regulations 2024 were notified on 05.06.2024 which are effective for the control period 2024-29. Therefore, the present Petition filed by JSW Hydro Energy Ltd. deserves to be rejected by the Hon'ble HPERC.

Petitioner's Reply:

- 3.4 The Petitioner has submitted that the title of the Application does not impact or affect the current proceedings in any manner, as the substance of the application remains the same in both the MYT Generation Tariff Regulations of 2011 as well as MYT Generation Tariff Regulations of 2024. The applicant has requested that the Commission to consider the applicability of the Tariff Regulations and proceed in the matter, accordingly.

Commission's view:

- 3.5 The Commission has considered the submissions of the Petitioner as it has been an inadvertent error on their part. The Commission has proceeded and finalized the true up as per the relevant applicable tariff Regulations for the period i.e. (HPERC Terms

and Conditions for Determination of Hydro Generation Tariff) Regulations, 2011 as amended from time to time.

Publication Charges for FY 2024-25

Stakeholder's Comments:

- 3.6 The HPSEBL, Govt. of HP and Sh. K.S. Dhaulta (Consumer Representative) have submitted that the publication charges of MYT for FY 2024-25 in Petition No. 27 of 2024, amounting to. Rs. 7,98,590/- have been claimed by Petitioner in instant Petition. Being a true-up of period from FY2022-23 to FY2023-24, such charges shall not be allowed in instant true up as these charges are not part of the true-up period.

Petitioner's Reply:

- 3.7 The Petitioner has submitted that the publication expenses of Rs 7.99 lakh were incurred during FY 2023-24 by JSW Hydro Energy Limited for the MYT Petition No. 27 of 2024 and also accounted in the same period. The Hon'ble Commission may do the prudence check on this.

Commission's view:

- 3.8 The Commission taking cognizance of the comments has carried out analysis for the same. Although the expenses are pertaining to the MYT Petition for FY 2024-25 to FY 2028-29, Petition No. 27 of 2024, the same are incurred in FY 2023-24 and are also accounted for in the same period. Accordingly, the Commission has done the appropriate treatment in respect of the same expenses as detailed in subsequent Section of this Order.

Interest on Working Capital Excluding Incentive on Secondary Energy and higher Plant Availability Factor

Stakeholder's Comments:

- 3.9 The HPSEBL, Govt. of HP and Sh. K.S. Dhaulta (Consumer Representative) have submitted that the petitioner has claimed 'Interest on Working Capital' by including incentive on secondary energy and incentive for higher plant availability. Incentive should not be included while calculating the 'Interest on Working Capital'. 'Interest on Working Capital' consists of three components, i.e., Operation & Maintenance charges for one month equivalent, maintenance spares and receivable equivalent to two months billing. The receivable equivalent for two months average billing for sale of electricity is based on Annual Revenue Requirement. The incentives are charges received by the Generator, over and above the Annual Revenue Requirement. Therefore, 'Interest on Working Capital' shall be calculated without considering the incentive charges receivables.

Petitioner's Reply:

- 3.10 The Petitioner has submitted that it has claimed Interest on Working Capital, as per provisions of the PPA. Para 8.7.4 of PPA describes "working capital" for calculating interest on working capital as:

"...(iii) Receivables equivalent to two months of average billing for sale of electricity"

- 3.11 The monthly energy supply bill issued to HPSEBL consists of primary energy charges, secondary energy charges and incentive on higher plant availability. Therefore, average billing for the purpose of working capital shall include incentive for secondary energy and higher plant availability.
- 3.12 The Commission, in its previous Orders viz. dated 31.10.2018, 7.07.2020 & 16.05.2023, has considered a similar methodology for arriving at the interest on working capital, which has never been disputed before by any of the stakeholders including the Respondents and has thus attained finality.

Commission's view:

- 3.13 The Commission has independently analyzed Stakeholder's comments and Petitioner's reply on the same and has accordingly allowed Interest on Working Capital in the True-Up exercise, in line with provisions of the PPA, as detailed in subsequent chapter of this Order.

Capital Cost exclusion of Kharcham Wangtoo-Jhakri Transmission line

Stakeholder's Comments:

- 3.14 The HPSEBL and Govt. of HP have submitted that Wangtoo Jhakri portion of Baspa Jhakri Transmission Line is currently being used by beneficiaries of Karcham Wangtoo HPS also and burden of the full transmission charges is still being borne by the HPSEBL only which in turn is being paid by the Consumers of Himachal Pradesh. Therefore, it is prayed that the charges for corresponding portion of the line may be excluded from Capital Cost of Baspa-II HEP.

Petitioner's Reply:

- 3.15 The Petitioner has submitted that the Hon'ble CERC has reserved the order in their Transmission Line Petition no. 262/TL/2023 in the matter on 27.09.2024. Any exclusion of the capital cost for this portion of the line can only be taken up after grant of the transmission license by the Hon'ble CERC which position has already been appreciated and directed by this Hon'ble Commission in its order dated 16.05.2023. After filing of the petition before Hon'ble CERC, there is nothing which remain in the hands of the petitioner and the procedural delays, if any, are only at the Hon'ble CERC's end.

Commission's view:

- 3.16 In this regard, the Commission has detailed its observations in Chapter 4 of this Order.

Decline in Saleable Energy in FY 2023-24

Stakeholder's Comments:

- 3.17 The HPSEBL and Govt. of HP have submitted that during FY2023-24, the annual net saleable energy was 1012.18 MU against the annual saleable design energy of 1050.06 MUs. Whereas in the FY2022-23, the annual net saleable energy was 1177.50 MU against the annual saleable design energy of 1050.06 MUs. There is decline in saleable energy to the extent of 165.32 MUs resulting in 14% less energy generation in Baspa II project as compared to the previous year generation data. The factors contributing for not achieving energy generation to the extent of design energy has not been given by the Petitioner. The Commission may seek justification of decline in Baspa II energy generation in FY2023-24.
- 3.18 The petitioner has claimed incentive for the higher plant availability for FY2023-24 amounting to Rs. 9.83 Cr. in terms of the PPA. In FY2023-24, there is decline in generation to the extent of 14% & plant availability is 96.93%. Hence, the claim for incentive for higher plant availability may be verified by the Commission before allowing this incentive for higher plant availability.

Petitioner's Reply:

- 3.19 The Petitioner has submitted that in respect of decline in saleable energy during FY 2023-24, it has already given justification in detail, in its reply dt. 20.12.2024 to the Commission's letter dt. 17.12.2024.
- 3.20 Regarding incentive on higher plant availability, the Petitioner submitted that it has considered the Jointly certified PAF for FY 2023-24 by JSW & HPSEBL (Annexure T8 to the True up application), which has not been disputed before the Commission.

Commission's view:

- 3.21 In this regard, the Commission has considered the saleable energy in accordance with joint statement issued by the Petitioner and the HPSEBL.

Delay in filing the True-Up Petition for FY 2022-23 and FY 2023-24

Stakeholder's Comments:

- 3.22 The HPSEBL and Govt. of HP have submitted that there is considerable delay in filing the True up Petition for the Baspa II tariff for FY 2022-23 & FY 2023-24. Regulation 9 of the HPERC (Terms and Conditions for Determination of Hydro Generation Tariff)

2011 & 2nd Amendment thereto provides that the petitioner was required to file true up petition for FY2022-23 & FY2023-24 along with MYT Petition for FY2024-25 to FY2028-29. The Petitioner had filed the Petition for determination of MYT for the period FY 2024-25 to FY 2028-29 vide Filing No. 263/2023 on 01.12.2023 which was finalized by the Commission in Order dated 12.06.2024. Therefore, there is considerable delay in filing the present true-up petition for the Baspa-II HPS tariff for FY2022-23 & FY2023-24. This will have impact on the differential amount as receivable to the petitioner with carrying cost. Therefore, carrying cost may be disallowed on the differential amount receivable to petitioner.

- 3.23 The petitioner has prayed to allow carrying cost applicable on the arrears as on 31.03.2024, in terms of the HPERC regulations till the date of issuance of the order. However, Hon'ble Commission may adjudicate in the matter of carrying cost on the arrears as on 31.03.2024 in the interest of justice.

Petitioner's Reply:

- 3.24 The Petitioner has submitted that the delay in filing this application for True up for FY 2022-23 & 2023-24 is neither intentional nor deliberate but has happened on account of circumstances beyond the control of the Petitioner. ITR and tax audit report for FY 2023-24 could only be available during Nov,2024 only. It is also submitted that no prejudice will be caused to anyone.

Commission's view:

- 3.25 The Commission has taken note of the Stakeholders' submissions and Petitioner's reply thereon. The Audited Accounts of FY 2023-24 could only be prepared after the end of Financial Year, i.e., after 31.03.2024. Accordingly, in line with Regulation 9 of the (HPERC Terms and Conditions for Determination of Hydro Generation Tariff) Regulations, 2011, the Commission has performed True-up for years FY23 and FY24 of the Control Period.

4. ANALYSIS OF THE TRUE-UP PETITION

Introduction

- 4.1 This Chapter deals with the analysis of the True-Up Petition filed by the Petitioner for the period FY 2022-23 to FY 2023-24 for sale of energy from BASPA II HEP to HPSEBL.
- 4.2 The Commission has finalized this Order based on the analysis and prudence check of the Petition/additional submissions/clarifications submitted by the Petitioner in response to the queries of the Commission. Various parameters and their computation have been undertaken after giving due consideration to the Power Purchase Agreement signed between Petitioner and the HPSEBL.

Computation of Tariff

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

Capacity Charge

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

Primary Energy Charge

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

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

Incentive for Secondary Energy

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

Incentive for Higher Plant Availability

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

Tax on Income

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

Energy Generation from the plant

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

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

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

Table 6: Net Saleable Energy (as per Design Energy) for BASPA II HEP

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

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

Table 7: Actual Energy Generation and Plant Availability for FY 23 to FY 24

Particulars		FY 23	FY 24
		Actual	Actual
Generation of Energy (MUs)			
Available Energy	A	1,338	1,151
Saleable Energy	B=A*0.88	1,178	1,013
Primary Energy	C	1,050	1,013
Secondary Energy	D=B-C	127	-
Plant Availability (%)			
Normative	E	90.00%	90.00%
Actual	F	96.81%	96.93%

Capital Cost

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

- The Commission approved additional Capital Cost of Rs 95.88 Cr. vide Order dated 24.01.2011.
- Further, the Commission vide Order dated 06.06.2014 has approved the additional Capital Cost of Rs. 2.57 Cr for the Project.
- Also, the Commission has approved the additional Capital Cost of Rs. 6.58 Cr. for the year FY 2018-19, vide Order dated 29.06.2019.
- Furthermore, the Commission has approved additional Capital Cost of Rs. 1.42 Cr. for years FY 2019-20 to FY 2021-22 and decapitalization of Rs. 0.69 Cr. for every year from FY 2019-20 to FY 2021-22, vide Order dated 16.05.2023

4.13 In accordance with the various orders mentioned above, the Capital Cost as on 31.03.2022 is worked out to be Rs. 1638.34 Cr.

Additional Capitalization

4.14 In the MYT order dated 29.06.2019, the Commission has allowed NIL additional capitalization for FY 2022-23 and FY 2023-24. The Commission has also mentioned in the MYT order that the actual addition in Capital Cost would be considered at the time of Truing-Up for the respective years based on prudence check.

4.15 The Petitioner has now filed for True-Up wherein NIL actual additional capital expenditure has been claimed for FY 2022-23 and FY 2023-24. Further, the

Petitioner has considered no de-capitalization in True-Up of FY 2022-23 and FY 2023-24.

- 4.16 Based on the discussions above, the year-on-year Capital Cost approved by the Commission is as follows:

Table 8: Trued-up Capital Cost for the Project (Rs. Cr.)

Particulars		FY 21	FY 22
Opening Balance of Capital Cost	A	1,638.34	1,638.34
Additional Capitalization	B	0.00	0.00
Decapitalization	C	0.00	0.00
Closing Balance of Capital Cost	D=A+B+C	1,638.34	1,638.34

- 4.17 Accordingly, in accordance with Regulation 16 of HPERC MYT Generation Tariff Regulations 2011, the Commission has considered 70:30 debt to equity ratio for the funding of the trued-up capital expenditure.

Table 9: Trued-up funding pattern for the Capital Cost (Rs. Cr.)

Particulars	Item	FY 23	FY 24
Capital Cost	A	1,638.34	1,638.34
Debt	B	1,146.84	1,146.84
Equity	C	491.50	491.50

Capital Cost exclusion of Karcham Wangtoo-Jhakri transmission line

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

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

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

'3.8 As also mentioned in the Order, the matter is required to be taken up with inclusion of necessary parties to the appropriate Commission. Until an Order is issued by the Appropriate Commission on this matter, the Capital

Cost of Baspa Jhakri LILO transmission line at Wangtoo cannot be excluded from the overall Capital Cost of BASPA II HEP. The Petitioner along with HPSEBL are required to discuss the future steps to be undertaken in this regard within three months of issuance of this Order and update the Commission.'

- 4.20 The Petitioner has failed to comply with the directive issued by the Commission in order dated 31.10.2018 and accordingly the Commission in Order dated 29.06.2019 provided additional three months' time to both the parties to take action in the matter and decide the future steps.
- 4.21 However, no action was taken by the Petitioner. Consequently, vide Order dated 07.07.2020, the Commission again directed the parties to undertake suitable measures and provide a status report within one month.
- 4.22 The Petitioner provided the status report on the matter to the Commission on 27.07.2020. The Status report mentioned that the Petitioner held meetings with the HPSEBL to discuss the matter on 02.09.2019 and 12.12.2019. In the Status Report, the Petitioner has requested the Commission to advise methodology for the recovery of loss of ARR, if Tariff approved by CERC is substantially low as against the Tariff being allowed under HPERC (Terms & Conditions for Determination of Hydro Generation Supply Tariffs) Regulations, 2011.
- 4.23 In regard to the Status Report provided by the Petitioner, the Commission observed that it is neither under the purview nor under the powers of this Commission to comment on the impact of Order by any other Commission. Once the Order has been issued by the Appropriate Commission, the Commission may consider all the facts in the matter for appropriate adjustment of the cost.
- 4.24 The Commission has discussed the matter in detail in Orders dated 08.12.2017 and 31.10.2018(ibid).
- 4.25 Further in Order dated 16.05.2023 in Petition No. 02 of 2023, the Commission has stated as follows:

"4.28 ... Further, the Petitioner stated that it has written a letter to Northern Regional Power Committee (NRPC) on 27.02.2023 to include the agenda for Capital Cost of Wangtoo Jhakri Transmission Line in the next OCC meeting and once the issue is taken up, the Commission shall be informed / approached for necessary orders/ directions in this respect.

4.29 ... It is made clear that the responsibility of filing of the separate Petition against the Karcham Wangtoo – Jhakri portion of Baspa Jhakri Transmission Line before the CERC rests solely with the Petitioner as the asset is owned by the Petitioner. Therefore, the Commission directs the Petitioner to file the requisite Petition with Appropriate Commission (i.e. CERC in this case) within three months of issuance of this Order else the Commission shall be

constrained to disallow the cost of this transmission asset on notional basis from the next financial year i.e. FY 2024-25 onwards. Also, the Commission shall ensure that cost recovered through tariff from HPSEBL over the period since declaration of the asset as interstate would be adjusted in the next tariff order with carrying cost as applicable from time to time. The Petitioner is directed to update the Commission regarding the filing of the Petition with the Hon'ble CERC."

- 4.26 The Petitioner in True-Up Petition for FY 2022-23 and FY 2023-24 has submitted that as per the directions of the HPERC in MYT Order dt. 16.05.2023, petition for grant of transmission license was filed before Hon'ble CERC on 21.08.2023, in respect of Wangtoo Jhakri portion of Baspa Jhakri Transmission line. Hon'ble CERC admitted the Petition as 262/TL/2023 and hearing in this matter were held on 13.12.2023, 27.02.2024, 10.04.2024, 22.05.2024, 12.06.2024, 4.07.2024, 22.07.2024, 29.08.2024 and 27.09.2024. After detailed discussion and technical validations were held at CERC during these hearings and Hon'ble CERC has reserved its order on 27.09.2024.
- 4.27 The Commission notes that Hon'ble CERC has passed final Order in this regard in the above Petition on 17.03.2025. Hon'ble CERC has opined that Wangtoo-Jhakri portion of the 400 kV Baspa-Jhakri Transmission line cannot be given a transmission license and converted into an inter-state transmission system on the basis of varying power flow and hence, rejected the Petition. Relevant extracts of the Commission's Analysis and Decision is as follows:

"11. The Commission, vide interim Order dated 02.08.2024, noted that the 400 kV Baspa Jhakri D/c Transmission line was planned and executed as a dedicated transmission system of Baspa II HEP owned and maintained by the Petitioner. The Power flow can happen in the subject transmission lines based on the loading of the transmission lines. It is observed that in an interconnected system power from Baspa HEP, in addition to its dedicated system, also flows through the Karcham Wangtoo- Abdullapur line depending upon the load generation balance in the system. The basis of planning and execution of the transmission line is an important aspect to be taken into account while considering any transmission system as an inter-State or intra-State, or dedicated transmission system. In light of these discussions and the fact the line has been developed as a dedicated transmission line, we are of the considered view that the instant transmission system cannot be given a transmission license and converted into an inter-state transmission system on the basis of varying power flow.

...

13. We observe that since Himachal is a hydro rich State where, during the hydro season, the supply of power is more than demand, most of the power from hydro generating stations may travel to load points outside the State.

It is observed that transmission systems in hilly States are developed keeping in view the RoW constraints and require inter-connection of lines through LILOs for providing temporary arrangement or reliability support. Once lines are interconnected, there is displacement of power, leading to change in flows which varies from time to time. It is observed that largely power from Karcham, Nathpa Jhakri, and Baspa flows through the instant line where some power of Baspa (supplying exclusively to Himachal) also utilises the transmission system developed for Karcham and Nathpa Jhakri. The instant line has been constructed as a dedicated line and was neither required to obtain a license nor mandated to follow the process of competitive bidding for the construction of the line. A dedicated line developed by a generating station to wheel its power cannot be considered for grant of license and being billed to distribution licensees of other States. Levying of transmission charges for such dedicated lines on distribution licensees is not as per the scheme of the Act, where a generator is required to construct its dedicated line for which no licence is required.

14. Keeping in view of the above discussion, we reject the application of the Petitioner for a grant of transmission licence for the Wangtoo-Jhakri portion of the 400 kV Baspa Jhakri Transmission line.

- 4.28 In consideration of the Order issued by Hon'ble CERC as discussed above, this Commission does not find it suitable for now to exclude the Capital Cost of Baspa Jhakri LILO transmission line at Wangtoo from the overall Capital Cost of BASPA II HEP.

Interest on Loans

- 4.29 In order to calculate the interest on loans, the outstanding loan balances and the applicable interest rates for FY 2022-23 to FY 2023-24 have been considered based on prudence check undertaken by the Commission.
- 4.30 Repayment of all Domestic and Foreign Loans for Baspa II HEP (except for Normative Loan 3 and Normative Loan 4) have been completed before the start of FY 2022-23.
- 4.31 While approving the interest for these normative loans in the MYT Order dated 29.06.2019, the Commission had considered the interest rate of 9.10% per annum for FY 2022-23 to FY 2023-24, which was average of the actual loans prevalent for the project.
- 4.32 The Petitioner in the True-Up Petition has submitted rate of interest of 8.03% for FY 2022-23 and FY 2023-24, as per actual loan portfolio availed by the Company.
- 4.33 Regulation 17(2) of HPERC MYT Generation Tariff Regulation 2011 (as amended) states as under:-

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

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

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

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

- 4.34 Accordingly, based on the prudence check of the documentary evidence submitted by the Petitioner for its actual loan portfolio, the Commission observes and approves following year on year rate of interest for normative loans of Baspa II HEP:

Table 10: Trued-up Rate of Interest for Loans

Particulars	FY 23	FY 24
Rate of Interest		
As per Petitioner's submission	8.03%	8.03%
Average interest rate as per Audited Accounts	8.67%	8.31%
SBI MCLR (as on 1 st April) + 200 basis points	10.67%	10.50%
Approved in MYT Order dated 29.06.2019	9.10%	9.10%
Approved now by Commission for True-Up	8.03%	8.03%

Normative Loan-3

- 4.35 The Commission had approved a closing loan of Rs. 0.81 Crore in the True-Up Order of FY 2021-22 dated 16.05.2023. In accordance with the trued-up loan amount and interest rate, the interest on loan for normative loan 3 is calculated as follows:

Table 11: Normative Loan-3 Interest Trued Up for FY23 to FY24 (Rs. Cr.)

Particulars	FY 23	FY 24
Opening balance	0.81	0.72
Addition	0.00	0.00
Principal Repayment	0.09	0.09
Closing Balance	0.72	0.63

Particulars	FY 23	FY 24
Interest Rate	8.03%	8.03%
Approved Interest	0.06	0.05

Normative Loan-4

- 4.36 The Commission had approved a closing loan of Rs. 3.04 Crore in the True-Up Order of FY 2021-22 dated 16.05.2023. The Commission has continued with the closing balance approved for this loan in the previous True-Up Order and calculated interest on loan as per approved interest rate as provided in the table below:

Table 12: Normative Loan-4 Interest Trued Up for FY23 to FY24 (Rs. Cr.)

Particulars	FY 23	FY 24
Opening balance	3.04	2.62
Addition	0.00	0.00
Principal Repayment	0.42	0.42
Closing Balance	2.62	2.20
Interest Rate	8.03%	8.03%
Approved Interest	0.23	0.19

Total Interest and Repayment

- 4.37 The following table depicts the total interest and repayment trued-up for FY 2022-23 to FY 2023-24:

Table 13: Total Interest and Repayments Trued Up for FY 23 to FY 24 (Rs. Cr.)

Particulars	FY23	FY24
Total Interest Payment	0.29	0.25
Total Repayments	0.51	0.51

Depreciation and Advance Against Depreciation (AAD)

- 4.38 The Commission has trued-up the depreciation and advance against depreciation for the years FY 2022-23 to FY 2023-24 as per Clause 8.6.5.1 of the PPA as follows:

Table 14: Trued Up Depreciation and AAD for FY23 to FY24 (Rs. Cr.)

Particulars		FY 23	FY 24
1/12th of the Loans	A	95.57	95.57
Repayment of the Loans (normative) as considered for working out Interest on Loan	B	0.51	0.51
Minimum of the Above	C=Min(A,B)	0.51	0.51

Particulars		FY 23	FY 24
Less: Depreciation during the year (4.3% of the Capital Cost)	D	70.45	70.45
	E=C-D	-69.94	-69.94
Cumulative Repayment of the Loan (normative) as considered for working out Interest on Loan	F	1170.20	1170.71
Less: Cumulative Depreciation	G	1376.28	1446.73
	H=F-G, limited to '0'	0.00	0.00
Opening Cumulative AAD	I	0.00	0.00
Advance Against Depreciation	J= Max (Min. of E & H), -I)	0.00	0.00
Closing Cumulative AAD	K = I + J	0.00	0.00
Depreciation + AAD	L = (D + J)	70.45	70.45

Operations and Maintenance Expenses

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

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

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

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

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

Where

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

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

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

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

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

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

"4.52 As per the provision of PPA, the CPI and WPI index to be considered for computation of escalation rate should be of 1981-82 series as published by the RBI. However, it is observed that the 1981-82 series of CPI and WPI indices have been discontinued. In the previous MYT Order dated 06.06.2014 for the Control Period FY 2014-15 to FY 2018-19, the Commission had taken 2004-05 base year series of the WPI and 2001 base year series of the CPI.

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

4.42 The Commission observes that the CPI and WPI series used in the MYT Order dated 29.06.2019 have been discontinued by RBI. Accordingly, the Commission in this True-Up order has used CPI series with Base Year 2016 and WPI Series with Base Year 2011-12.

- 4.43 The table below summarizes the computation of escalation factor as per the provisions of the PPA:

Table 15: WPI and CPI considered along with O&M escalation factor for FY23 to FY24

Particulars	FY22	FY23	FY24
WPI All Commodities (base year 2011-12)			
For the month of March	148.9	151.00	151.40
Change		1.41%	0.26%
CPI for Industrial Workers (Base year 2016)			
For the month of March	126	133.3	138.9
Change		5.79%	4.20%
CPI Weightage		70%	70%
WPI Weightage		30%	30%
Escalation factor		4.48%	3.02%

- 4.44 The Commission has computed the O&M expense as per the provisions of the PPA using the escalation factor calculated above and the approved Capital Cost (including approved and trued-up additional capitalization in this Order, adjusted for decapitalization), after excluding the cost of ICF for which the O&M is computed as per the agreement with SJVNL.
- 4.45 With respect to the O&M expenses being paid by the Petitioner to SJVNL for the Inter Connection Facility (ICF), the Commission in MYT Order dated 29.06.2019 had approved additional O&M expenses of 0.25% towards ICF from the date of commissioning of the project as per the methodology used in previous Orders, along with carrying cost for respective years.
- 4.46 As per the copies of SJVNL bills submitted by Petitioner, GST of 18% is applicable during FY 2022-23 to FY 2023-24. Accordingly, the Commission has considered GST on the O&M cost for ICF as 18%.
- 4.47 Further, the Petitioner in its reply dated 20.12.2024 to the Data Gaps submitted that the escalation of O&M expenses has been considered as per Article 6.2 of the Agreement executed between SJVNL and the Applicant on 8.5.2003. Based on the formula specified in Agreement (combination of $0.55 \times \text{CPI}$ & $0.45 \times \text{WPI}$), SJVN has been escalating the bill amount annually.
- 4.48 The total trued-up O&M expenses for FY2022-23 to FY2023-24 are detailed in table below:

Table 16: Trued-Up O&M Expenses for FY 23 to FY24 (Rs. Cr.)

Particulars	FY 23	FY 24
Base O&M Expenses (exc. additional capitalization & ICF)	46.18	47.58

Particulars	FY 23	FY 24
facility)		
Add: O&M expense towards additional capitalization approved	5.13	5.36
Add: Service Charge on ICF O&M Expenses	0.48	0.50
Total O&M Expenses Approved	51.79	53.44

Return on Equity (RoE)

4.49 Clause 8.7.3 of the PPA reads as under:-

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

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

Table 17: Return on Equity for FY23 to FY24 (Rs. Cr.)

Particulars	FY 23	FY 24
Closing Balance of Equity	491.50	491.50
Rate Of Return	16%	16%
Return on Equity	78.64	78.64

Interest on Working Capital

4.51 As per the applicable Regulatory provisions, the Commission has referred to the PPA while computing the Working Capital of the Petitioner for True-Up of FY 2022-23 and FY 2023-24. Clause 8.7.4 of the PPA reads as under:-

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

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

4.52 As above, Receivables equivalent to two months of average billing for sale of electricity should be considered while computing the Working Capital. The energy supply bill issued by the Petitioner to HPSEBL consists of primary energy charges, secondary energy charges and incentive on higher plant availability, if any. Accordingly, in line with the provisions of the PPA and approach adopted in previous Orders, the Commission has considered entire revenue for calculation of Working Capital requirement.

4.53 The rate of interest for calculating the interest on Working Capital has been taken as per the SBI PLR as on 1st April of the respective year for FY 2022-23 to FY 2023-24 as shown in table below:

Table 18: Trued Up Interest on Working Capital for FY 2022-23 to FY 2023-24(Rs. Cr.)

Particulars	FY 23	FY 24
1/12th of O&M Expenses	4.32	4.45
Maintenance Spares 12% of O&M Expenses	6.21	6.41
Receivables equivalent to 2 months average billing	46.77	39.34
Total Working Capital	57.30	50.20
<i>Rate of Interest</i>	12.30%	14.85%
Interest on Working Capital	7.05	7.46

Incentive for Secondary Energy

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

4.55 Clause 8.9.1 of the PPA reads as under:-

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

4.56 The Commission in the MYT Order dated 29.06.2019 had assumed nil Secondary Energy, subject to truing up exercise. The Petitioner has claimed Incentive for Secondary Energy, as per the actual energy delivered in period FY 2022-23 to FY 2023-24 and has submitted jointly signed statements of energy delivered to the HPSEBL.

4.57 As per the joint statement of Energy delivered to HSEBL, the Energy generation in FY 2022-23 was 1177.50 MUs which is 127.45 MUs more than Primary Energy of

1050.06 MU. However, in FY 2023-24, the Energy generation has been 1012.68 MU which is even less than Primary Energy, i.e., 1050.06 MUs.

- 4.58 The Commission, vide its query letter dated 17.12.2024 has directed the Petitioner to explain the reasons for energy generation lower than primary design energy in FY 2023-24, along with its impact as per PPA. The Petitioner in its reply dated 20.12.2024 has submitted that the lower generation is due to less inflow of water as compared to the designed inflow of water during the year April 2023 - March 2024. The Petitioner in support of its submission also presented some Print media articles regarding less availability of water inflow during FY 2023-24. The submission made by the Petitioner is as follows:

"The lower generation is due to less inflow of water as compared to the designed inflow of water during the year April 2023 - March 2024. It is to state that the Applicant has no control over the actual inflow of water at the dam/barrage site. Also the shortfall in generation is not attributable to any in- efficiency, as annual average PAFM for BASPA II during FY 23-24 was 96.93%, which depicts that BASPA II has utilized all the potentials available

Snowfall – Kalpa						
Month	2019	2020	2021	2022	2023	2024
Jan	131.8	168.4	106.2	134.4	76.3	1.0
Feb	161.0	15.4	17.4	69.2	34.4	53.3
March	92.7	74.2	20.4	10.0	11.1	120.5
April	-	7.4	80.8	-	4.4	-
May	-	-	-	-	4.0	
Oct	-	-	0.2	-	-	
Nov	50.0	64.6	-	2.3	-	
Dec	40.5	8.9	23.6	5.2	0.2	
Sum of 6 months (Oct-Mar)	348.5	217.5	237.4	129.3	175.0	

In the above table, 6 months' average snowfall during Oct-March is presented to project the lower snowfall in the region during the year 2022-23, which has impacted the generation during succeeding year 2023-24 (snowfall melting in next year's summer)"

- 4.59 The Commission observes that although the saleable Energy in FY 2023-24 has declined due to the reasons mentioned above, the Petitioner has been able to maintain the Plant Availability Factor above the normative levels, as verified through the jointly signed statements by the Petitioner and the HPSEBL. Accordingly, the Commission has calculated the incentive for Secondary Energy, in line with the provisions of the PPA and based on the energy delivered by BASPA II HEP to HPSEBL which has also been verified by HPSEBL as produced through jointly signed statements of energy, as detailed hereunder:

Table 19: Trued-up Incentive for Secondary Energy for period FY23 to FY24

Particulars	FY 23	FY 24
Equity (Rs. Cr.)	491.50	491.50
Incentive Limit (10% of Equity)(Rs. Cr.)	49.10	49.15
Rate for Secondary Energy (10% of Equity/155 MU)	3.17	3.17
Secondary Energy Generation (MU)	127.45	0.00
Incentive on Secondary Energy (Rs. Cr.)	40.41	0.00

Incentive for Higher Plant Availability

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

"8.10 INCENTIVE ON ACCOUNT OF HIGHER PLANT AVAILABILITY

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

- 4.61 The Commission in the MYT Order dated 29.06.2019 had assumed normative plant availability and thereby nil incentive for higher plant availability, subject to truing up exercise. The Petitioner has claimed Incentive for Higher Plant Availability, as per the actual availability of the plant. The Petitioner has submitted jointly signed statement of Plant availability by HPSEBL (*Annexure T8 of the True up Petition*).
- 4.62 Accordingly, the Commission, for the True-Up of FY 2022-23 and FY 2023-24, has considered actual plant availability for approval of incentive on higher plant availability which is given in the table below:

Table 20: Trued Up Incentive on Higher Plant Availability for FY23 to FY24

Particulars		FY 23	FY 24
Normative Plant Availability (%)	a	90.00	90.00
Actual Plant Availability (%)	b	96.81%	96.93%
Higher Plant Availability (%)	c=b-a	6.81%	6.93%
Equity (Rs. Cr.)	d	491.50	491.50

Particulars		FY 23	FY 24
Incentive for higher plant availability (0.35% of Equity) (Rs. Cr.)	$e=0.35\%*c*d$	11.71	11.92
Incentive limit of 2% of Equity (Rs. Cr.)	$f=2\%*d$	9.83	9.83
Incentive (Rs. Cr.)	min (e,f)	9.83	9.83

Income Tax

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

"8.11 TAX ON INCOME

...

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

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

No Income tax shall be payable by the Board on any other income accrued to the Company." (**Emphasis Added**)

- 4.64 In the MYT Order dated 29.06.2019, the Commission had calculated tax for BASPA II HEP using MAT rates for FY 2019-20 to FY 2021-22. This was based on Petitioner's MYT filing that Karcham Wangtoo HEP (another plant under M/s JSW Hydro Energy Limited) was availing tax holiday. In its True-Up Petition for FY 2022-23 and FY 2023-24, the Petitioner has claimed Income Tax as per normal tax rate for both FY 2022-23 and FY 2023-24, as follows:

Table 21: Income Tax claimed by Petitioner (Rs. Cr.)

Particulars	FY 23	FY 24
Taxable Income	150.96	131.52
Tax rate (%)	34.94%	34.94%
Tax liability	52.75	45.96
Actual Tax paid (as per audited accounts)	21.85	15.90
Lower of MAT/Tax and actual tax paid	21.85	15.90

- 4.65 The Commission, vide its query letter dated 17.12.2024 has directed the Petitioner to submit the reasons/basis for applying Normal tax rate in FY 2022-23

and FY 2023-24. In this regard, the Petitioner in its reply dated 20.12.2024 has submitted the following:

"Under the Income Tax Act, the tax is paid at entity/Company level and not at unit/plant level. The Applicant Company had paid tax under normal tax rate as evident from the ITRs filed for FY 19-20 & 20-21, after utilising MAT credit. During FY 21-22 prior to CERC True up order, Applicant Company was again following the normal tax calculations for advance tax payment. However, Applicant had to make material truing up adjustments/ provision reversals in KW HEP following the aforesaid true up order of the CERC, which increased Company's income and accordingly company fall under MAT provisions instead of normal tax rate being followed earlier for FY 21-22.

Further from FY 22-23 onwards, (as claimed in True up tariff forms) Applicant Company is paying tax under normal tax provisions after utilizing the MAT credit available."

- 4.66 In line with the submission of the Petitioner, as well as supporting documents regarding the same for True-Up under this Order, the Commission has calculated Income Tax for BASPA-II HEP using normal tax rate of 34.94% (30% Corporate Tax plus 12% Surcharge and 4% Cess) for FY 2022-23 and FY 2023-24.
- 4.67 The Tax amounts for FY 2022-23 and FY 2023-24 are calculated using formula as per Clause 8.11.1 of PPA.
- 4.68 Further the Commission has allowed the lower of tax amount calculated and the actual tax paid by the Petitioner as per Audited Accounts/ITR Statements of BASPA-II HEP.
- 4.69 Accordingly, the Commission now approves the trued-up Income Tax for BASPA-II HEP for the period FY 2022-23 to FY 2023-24, using methodology as per PPA, as follows:

Table 22: Trued-up Income Tax for FY 23 to FY 24 (Rs. Cr.)

Particulars	FY 23	FY 24
Return on Equity	78.64	78.64
50% of Incentive for Secondary Energy	20.21	0.00
50% of Incentive for higher plant availability	4.92	4.92
Add: Depreciation	70.45	70.45
Subtract: Income tax depreciation	23.25	22.48
Taxable Income	150.96	131.52
<i>Tax Rate</i>	<i>34.94%</i>	<i>34.94%</i>
Income Tax calculated	52.75	45.96
Actual Tax as per Audited Accounts of BASPA II HEP	21.85	15.90
Approved Tax (Lower of Tax calculated and actual Tax paid as per Audited Accounts)	21.85	15.90

Application fee and publication expense

4.70 The Petitioner has claimed following application fee and publication expenses:

- An amount of Rs 7.39 lakh, incurred during FY 2022-23 by the Petitioner towards newspaper publication of salient features of Petition No. 02 of 2023, True up of FY 2019-20 to FY 2021-22 and MTR of FY 2022-23 and FY 2023-24.
- Application fee of Rs. 5.00 lakh per year for FY 2022-23 and FY 2023-24, approved by the Commission in Tariff Order dated 29.06.2020.
- Publication expense of Rs. 7.99 lakh for Petition No. 27 of 2024, MYT Petition of FY 2024-25 to FY 2028-29. These expenses have been incurred during FY 2023-24 by the Petitioner and also accounted for in the same period.
- Application fees of Rs. 18.75 lakh in FY 2022-23, as allowed by the Commission in Tariff Order dated 16.05.2023 for FY 2022-23.

4.71 Based on the scrutiny of supporting invoices submitted by the Petitioner and in accordance with sub-regulation (5) and sub-regulation (7) of Regulation 16 of the HPERC (Conduct of Business) Regulations 2005, as shown below, the Commission has decided to pass through the publication expense of Rs. 7.99 lakh for Petition No. 27 of 2024, MYT Petition of FY 2024-25 to FY 2028-29 in FY 2023-24.

'16.

.....

(5) Where any application, petition, or other matter is required to be published under the Act or the regulations framed thereunder or as per the directions of the Commission, it shall, unless the Commission otherwise orders or the Act or regulations otherwise provide, be published within such time as the Commission may direct and in the absence of any specific directions to the contrary, not less than 7 days before the date fixed for hearing and further unless otherwise directed by the Commission, such publication shall be done in two newspapers one in English language and one in Hindi language having circulation in the area concerned:

.....

(7) The Commission shall be entitled to decide in each case the person(s) who shall bear the cost of such service and publication.'

4.72 Based on the above, the Commission has allowed the aforementioned amounts towards application fee and publication expenses, as follows.

Table 23: Trued-up Application Fee and Publication Expense (Rs. lakh)

Particulars	FY23	FY24
For MYT of FY20 to FY24		
Application Fees	5.00	5.00
Publication Expense	-	-
For True-Up/ MTR of FY20 to FY24:		
Application Fees	18.75	-
Publication Expense	-	-
For MYT of FY25 to FY29		
Application Fees	-	-
Publication Expense	7.39	7.99
Total allowed by Commission (Rs. Cr.):		
Application Fees	0.24	0.05
Publication Expense	0.07	0.08

Annual Fixed Charge for BASPA II HEP

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

Table 24: Summary of Trued-up Annual Fixed Charge for FY23– FY24 (Rs. Cr.)

Particulars	As per MYT Order		As per Petitioner		Trued-up by Commission	
	FY23	FY24	FY23	FY24	FY23	FY24
Capacity Charges						
Interest on outstanding loans	0.34	0.29	0.29	0.25	0.29	0.25
Depreciation + AAD	70.46	70.46	70.45	70.45	70.45	70.45
Application fee	0.05	0.05	0.24	0.05	0.24	0.05
Publication expense	0.00	0.00	0.07	0.08	0.07	0.08
Sub-total	70.85	70.80	71.05	70.83	71.05	70.83
Primary Energy Charges						
O&M Charges	49.13	51.10	51.79	53.45	51.79	53.44
Return on Equity	78.65	78.65	78.64	78.64	78.64	78.64
Interest on Working Capital	6.73	6.83	7.05	7.46	7.05	7.46
Sub-total	134.51	136.58	137.48	139.55	137.48	139.54
Incentives and Taxes						
Incentive for Sec. Energy	-	-	40.41	0.00	40.41	0.00
Incentive for High Plant Avail.	-	-	9.83	9.83	9.83	9.83
Tax	27.12	27.28	21.85	15.90	21.85	15.90
Sub-total	27.12	27.28	72.09	25.73	72.09	25.73
Total Annual Fixed Charges	232.46	234.66	280.62	236.11	280.62	236.10

Amount Payable by the Board (HPSEBL)

- 4.74 From the 'Jointly reconciled statement with the HPSEBL for billing & payments for FY 2022-23 to 2023-24' (*Annexure- T10 of the Petition*), the Commission observes that the payment has been made by HPSEBL to the Petitioner with Rebate availed and TDS deducted.
- 4.75 Accordingly, the Commission has considered the amount received by the Petitioner, by adding the amounts paid by HPSEBL along with rebates availed and TDS amount deducted by HPSEBL, as provided below:

Table 25: Amount received by Petitioner from HPSEBL for FY23 to FY 24 (Rs. Cr.)

Particulars (as per Jointly Reconciled Statement)	FY 23	FY 24
Amount Paid by HPSEBL (incl. TCS)	274.86	230.61
Plus: Rebate availed by HPSEBL	1.71	0.00
Plus: TDS deducted by HPSEBL	0.28	0.24
Total	276.84	230.85

- 4.76 HPSEBL has paid the Revenue Gap of Rs. 28.66 Cr. determined by the Commission in Order dated 16.05.2023 upto the closing of FY 2021-22 along with the carrying cost till 31.03.2023. Therefore, the opening Surplus/(Gap) has been made NIL in FY 23, as shown in the above Table. Further, as per the applicable provisions of *HPERC (Terms & Conditions for Determination of Hydro Generation Supply Tariff) Regulations, 2011*, the Petitioner has filed True-Up of FY 2022-23 and FY 2023-24 which end the True-Up of whole 4th Control Period, i.e., from FY 2019-20 to FY 2023-24. So, the Commission has allowed Interest for FY 2024-25 on the Revenue Gap computed till 31.03.2025.
- 4.77 The computation of the revenue surplus / gap as per the trued-up ARR and revenue billed is shown in the following Table:

Table 26: Approved Revenue Surplus/ (Gap) by the Commission (Rs. Cr.)

Particulars	FY 23	FY 24	FY25
Total Annual Fixed Charges	280.62	236.10	-
Amount Paid by HPSEBL	276.84	230.85	-
Revenue Surplus/ (Gap)	-3.78	-5.25	-
Opening Surplus / (Gap)	0.00	-3.98	-9.99
Surplus / (Gap) for the year	-3.78	-5.25	-
Closing Balance of Surplus / (Gap)	-3.78	-9.23	-9.99
Average Balance	-1.89	-6.61	-9.99
<i>Interest Rate</i>	<i>10.80%</i>	<i>11.56%</i>	<i>11.88%</i>
Interest	-0.20	-0.76	-1.19
Closing Balance of Surplus / (Gap)	-3.98	-9.99	-11.18

(Interest rate as SBI MCLR (1-yr) avg for the FY)

- 4.78 The Commission directs the Petitioner/ the HPSEBL to adjust/ pay the amount of closing balance of arrears at the end of FY 2024-25 within three months of issuance of this Order.
- 4.79 Further, the Commission vide Order dated 01.04.2025 in Petition No. 27 of 2024 has directed the CEA to reassess the hydrology and Design Energy of BASPA HEP based on the data of actual generation ever since CoD, as Baspa HEP has generated more energy than design energy for the seventeen (17) years out of the last twenty (20) years. In view of the above, impact of any change in Design Energy by CEA will be accounted for by the Commission in next True-Up Orders.

-Sd-
(Shashi Kant Joshi)
Member

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

-Sd-
(Devendra Kumar Sharma)
Chairman

Place: Shimla

Dated: 28-April-2025