



MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION SHILLONG

Front Block Left Wing, 1st Floor, New Administrative Building,
Lower, Lachumiere, Shillong, Meghalaya 793001

Case No. 2 of 2025

In the matter of Review of Order for True-up of Generation Business for FY 2022-23

AND

Meghalaya Power Generation Corporation Ltd (MePGCL)

Coram

Shri. Chandan Kumar Mondol, Chairman

Shri. Ramesh Kumar Soni, Member (Law)

Order

(Dated: 23rd September 2025)

1. The Commission has passed the Order for True-up of Generation Business of Meghalaya Power Generation Corporation Limited (MePGCL) for FY 2022-23 dated 18.10.2024.
2. Regulation 22.2 of the MSERC (Multi Year Tariff) Regulations, 2014 specifies that the Commission shall undertake the review of True up provided that:
 - a. the review petition is filed within sixty days from the date of the Order, and/
or
 - b. there is an error apparent on the face of the record.
3. In accordance with Regulation 22 of the MSERC (Multi Year Tariff) Regulations, 2014, MePGCL has filed the Review Petition dated 19.12.2024 against the Order dated 18.10.2024 for True-up of Generation Business for MePGCL for FY 2022-23.

4. The Commission observes that, in line with the above-mentioned regulatory provision, the cut-off date for submission of review petition was 17th December 2024. This Commission considering the minor deviation to meet the deadline for submission of review petition has condoned the delay and has admitted the petition.
5. The Petition was admitted by the Commission on 23rd January 2025 and registered as Case No.2 of 2025. While admitting the Petition, the Commission directed MePGCL to published the Review Petition on the website of MeECL, inviting objections/ suggestions from stakeholders, allowing 15 (fifteens) days' time to respond. However, no comments were received.
6. The Commission vide Notice dated 1st September 2025 published in its website, scheduled hearing on the Review Petition on 16th September 2025.
7. The Commission conducted a hearing on the scheduled date in the Office of the Commission. The Chairperson initiated the hearing on the Review Petition and directed the Petitioner to submit its case.
8. Having heard the Petitioner and taking into consideration of all the facts, additional information and prudence check of the claims as per the MSERC Multi Year Tariff Regulations, 2014, approves the Review Order for Generation Business for FY 2022-23 in the chapters annexed to this Order.

Sd/-

Ramesh Kumar Soni
Member (Law)

Sd/-

Chandan Kumar Mondol
Chairman

Table of Contents

1. Background and Facts about the case.....	5
1.1. Introduction	5
2. Review on True-up of Generation Business for FY 2022-23.....	7
2.1. Consideration of Grants in MLHEP.....	7
2.2. Consideration of GFA of NUHEP Project.....	10
2.3. Consideration of Capitalization of Interest	12
2.4. Consideration of Capitalization of Operation and Maintenance Expenses.....	14
2.5. Consideration of Capitalization of Operation and Maintenance Expenses.....	16
2.6. Interest on Working Capital	18
2.7. Aggregate Revenue Requirement and Revenue Gap/Surplus for Review of True up FY 2022-23	18
3. Order of the Commission	20

List of Tables

Table 1: Approved IoL for MLHEP for True up for FY 2022-23 (Revised).....	13
Table 2: Approved IoL for NUHEP for True up for FY 2022-23 (Revised).....	13
Table 3: Approved IoL for Lakroh MHP for True up for FY 2022-23 (Revised)	13
Table 4: Approved IoL for Old Station for True up for FY 2022-23 (Revised)	14
Table 5: Approved O&M Expenses for MLHEP for True up of FY 2022-23 (Revised).....	15
Table 6: Approved O&M Expenses for NUHEP for True up of FY 2022-23 (Revised).....	15
Table 7: Approved O&M Expenses for Lakroh MHP for True up of FY 2022-23 (Revised) ...	16
Table 8: Approved O&M Expenses for Old Stations for True up of FY 2022-23 (Revised)	16
Table 9: Approved ARR for True up of FY 2022-23 (Revised)	19

1. Background and Facts about the case

1.1. Introduction

1.1.1. Meghalaya Power Generation Corporation Limited (MePGCL) (*hereinafter called 'the Petitioner'*) has submitted Review petition on 19.12.2024 under section 94 (1) (f) of the Electricity Act, 2003 read with Regulation 21 of the MSERC (Conduct of Business) Regulations, 2007 seeking review and rectification of the Order for True-up of Generation Business for FY 2022-23 dated 18.10.2024 passed by this Commission against the Petition files by MePGCL.

1.1.2. The issues raised by the Petitioner in this instant Review Petition against True-up Order for Generation Business for FY 2022-23, dated 18.10.2024 are summarised below:

- a. Consideration of Grants in MLHEP
- b. Consideration of GFA of NUHEP Project
- c. Consideration of Capitalization of Interest
- d. Consideration of Capitalization of Operation and Maintenance Expenses
- e. Consideration of O&M Expenses of Old Stations

1.1.3. Section 94(1)(f) of the Electricity Act, 2003 bestows the Regulatory Commission with the power to review its decisions, directions and orders.

1.1.4. Clause 22 of the MSERC (Multi Year Tariff) Regulations, 2014 states that a review petition against any Tariff Order can be admitted by the Commission when there is an error apparent on the face of the record. Clause 22 reads as follows:

"22.1 All applications for the review of tariff shall be in the form of petition accompanied by the prescribed fee. A petition for review of tariff can be admitted by the Commission under the following conditions:

a) the review petition is filed within sixty days for the date of the tariff order, and / or

b) there is an error apparent on the face of the record.

22.2 On being satisfied that there is a need to review the tariff of any generating company or the licensee, the Commission may on its own initiate process of review of the tariff of any generating company or the licensee. The Commission may also, in its own motion review any tariff order to correct any clerical error or any error apparent of the face of the record."

<Emphasis added>

1.1.5. Regulation 21 of the Meghalaya State Electricity Regulatory Commission (Conduct of Business) Regulations, 2007 which is reproduced below empowers the Commission to review its decisions and Orders:

"21. Review of the decisions and orders of the Commission

*(1) A person aggrieved by a decision or order of the Commission from which no appeal is preferred, or is not allowed to be preferred, can seek a review of the order if new and important facts which, after the exercise of due diligence, were not within his knowledge or **could not be produced by him at the time when the order was passed or on account of some mistake or error apparent on the face of record or for any other sufficient reason, by making an application within 60 days of the date of the order.***

(2) The procedure for filing a review application shall be the same as in case of filing of a petition."

<Emphasis Added>

- 1.1.6. This Commission had assessed each of these issues raised by the Petitioner to determine whether they qualify for review under Regulation 21 of the Meghalaya State Electricity Regulatory Commission (Conduct of Business) Regulations, 2007. The Review sought by the Petitioner on the aforementioned issues, have now been discussed in detail in the sections below:

2. Review on True-up of Generation Business for FY 2022-23

2.1. Consideration of Grants in MLHEP

Petitioner's Submission

2.1.1. The Petitioner in this instant Review Petition, had submitted that, vide paragraph 5.2.5 (refer Table No. 08) Page No. 18 of the Order for True-up of Generation Business for FY 2022-23 dated 18.10.2024, the Commission had considered the Gross Fixed Assets (GFA), and funding pattern of the Myntdu Leshka Hydro Electric Project (MLHEP) as follows:

"Table 8: Grant Adjustment and funding Pattern of MLHEP for FY 2022-23

(Rs. Cr.)

<i>Sl. No.</i>	<i>Funding Pattern</i>	<i>True Up of FY 2022-23 Approved</i>
1	Opening GFA	1285.71
2	Addition of GFA	-
3	Retirement of GFA	-
4	Closing GFA	1285.71
5	Average GFA	1285.71
6	Opening Grant	232.14
7	Add Cap Funded through Grant	-
8	Closing Grant	232.14
9	Average Grants	232.14
10	Addition of fresh loan for current year add-cap	-
11	Addition of fresh equity for current year add-cap	-

Commission considers Rs. 232.14 Cr. as average Grant in the GFA of MLHEP in the True up for FY 2022-23."

2.1.2. The Petitioner has also contended that the Commission had considered a grant of Rs. 232.14 Crores in the funding of the MLHEP project, however during the proceedings related to the capital cost determination of the MLHEP project, the Petitioner had submitted that there was no grant involved in the funding of the said project. The Petitioner has referred to the Commission's observations in the Tariff Order dated 30.03.2017, which recognized that a sum of Rs. 288.03 Crore, initially treated as a grant, was subsequently converted into equity by the Government of Meghalaya Power Department through a Notification dated

12.12.2012.

- 2.1.3. The Petitioner has submitted that a copy of this notification had been submitted to the Commission along with the earlier petition for capital cost determination, and the same is once again enclosed with this Review Petition.
- 2.1.4. The Petitioner has also stated that the relevant accounting entries to reflect this conversion of grant to equity have been duly recorded in its financial statements.
- 2.1.5. Further, the Petitioner has submitted that it had filed a Review Petition on similar grounds concerning the True-up Order for Generation Business for FY 2020-21, which was disposed of by the Commission vide Order dated 13.11.2023 without providing any relief. The copy of the said Review Petition and the corresponding Commission Order are submitted along with this Review Petition.
- 2.1.6. The Petitioner has emphasized that the continued consideration of grant funding in the MLHEP adversely impacts the financial viability of the project. Specifically, it leads to reduced depreciation, return on equity, and interest on loan, despite there being no actual grant component in the project funding.
- 2.1.7. In light of the above, the Petitioner has prayed before the Commission to consider ARR for MLHEP project excluding any notional grant component and recompute the fixed cost elements of the Aggregate Revenue Requirement (ARR) accordingly.

Commission's Analysis

- 2.1.8. The Commission has examined the submissions made by the Petitioner, regarding the treatment of grants in the funding pattern of MLHEP in the True-Up Order for FY 2022-23.
- 2.1.9. The Commission notes that a similar submission regarding the exclusion of grants from the funding structure of MLHEP for FY 2020-21 was made in the context of the Review Order on the True-up for FY 2020-21, dated 13.11.2023 (Page 8). The relevant excerpts from the Commission's analysis in the said Review Order are reproduced below:

"As already notified in the Commission's letter dated 14.12.2022, the Govt. Grants and Contributions towards capital cost not disclosed during FY 2019-20 shall be brought into the books for FY 2020-21.

Accordingly, Commission considered claw back of the undisclosed Govt. Grants and contributions for Rs.5.59 Crore for FY 2020-21 and Rs.114.82 Crore for FY 2019-20 and adjusted in the Depreciation and RoE of MLHEP, NUHEP and MePGCL old Projects.

The breakup of Govt. Grants and Contributions adjusted in the True up

orders for FY 2020-21 is notified vide page no.12.

.....”

<Emphasis Added>

- 2.1.10. The Commission had, after due consideration, rejected the Petitioner’s claim and recognized a total Government grant amounting to Rs. 232.14 Crores in accordance with the audited annual accounts submitted by the Petitioner itself.
- 2.1.11. Further, it is observed that the Petitioner did not raise any objections during the proceedings for the True-Up of FY 2021–22, wherein the Commission, in line with the accounting treatment and the approach adopted in prior Orders, considered an average grant of Rs. 209.89 Crores for MLHEP (*refer Page 14 of the True-up Order of Generation Business for FY 2021–22*). The Petitioner had not approached any higher judicial forum for redressal in the said matter. The absence of any objection from MePGCL at that stage implies acquiescence to the Commission’s established methodology and findings.
- 2.1.12. Further, in this instant Review Petition for FY 2022–23, the Petitioner had submitted that the grant component of Rs. 288.03 Crores was converted into equity through Government of Meghalaya Notification dated 12.12.2012 and that the same has been accounted for in its financial statements.
- 2.1.13. The Commission has already addressed the issue of grant recognition in MLHEP across multiple Orders, including those for FY 2020–21 and FY 2021–22. In both instances, the treatment was based on the audited financials of MePGCL and the prevailing Regulatory principles, which remain unchanged. As per the established approach adopted by the Commission, the closing grant for the year FY 2021-22 has been considered as the opening Grant for MLHEP for FY 2022–23 in line with past practice. This Commission is of the view that, no fresh evidence of sufficient merit has been submitted to override or alter this position.
- 2.1.14. In view of the above observations, the Commission finds no merit in revisiting the matters that have already been addressed and settled in earlier proceedings, including the Review Order dated 13.11.2023.
- 2.1.15. Accordingly, the Commission holds that the treatment of grant for MLHEP in the True-Up of Generation Business for FY 2022–23 is consistent with past Orders and the audited accounts of the licensee, and no revision is required under the current Review Petition.

2.2. Consideration of GFA of NUHEP Project

Petitioner's Submission

- 2.2.1. The Petitioner in this instant Review Petition has submitted that vide paragraph 6.1.7 (refer Page No. 31) of the Order for True-up of Generation Business for FY 2022-23 dated 18.10.2024, the Commission had considered the Gross Fixed Asset (GFA) of Rs. 586.06 Crore for the New Umtru Hydro Electric Project (NUHEP).
- 2.2.2. The Petitioner had contended that while determining the GFA for NUHEP, the Commission has overlooked the submissions made by the Petitioner. The Petitioner stated that it had submitted the Fixed Asset Register for all generation projects, including NUHEP, in compliance with the directives of the Commission. Further, the Petitioner highlights that it was granted leave by the Commission to submit additional documentation and, accordingly, had submitted an Auditor-Certified Capital Cost Certificate for the NUHEP project. However, this additional submission was not taken into cognizance in the Commission's Order dated 18.10.2024.
- 2.2.3. The Petitioner has asserted that the audited capital cost certification reflects the actual capitalization and therefore should form the basis of GFA determination for NUHEP. A copy of the said submission and certificate has been enclosed along with the present Review Petition.
- 2.2.4. The Petitioner has prayed before the Commission to reconsider the matter considering the additional submission and approve the GFA of NUHEP based on the Auditor-Certified Capital Cost Certificate.:

Commission's Analysis

- 2.2.5. The Commission has carefully examined the submissions of the Petitioner regarding the treatment of GFA for the New Umtru Hydro Electric Project (NUHEP) as raised in the present Review Petition. It is observed that contrary to the claim made by the Petitioner, they have not submitted the Fixed Asset Register (FAR) for the NUHEP project during the proceedings of the original True-Up Petition for Generation Business for FY 2022-23 dated 18.10.2024.
- 2.2.6. Furthermore, no objection was raised by the Petitioner during the True-Up process for FY 2021-22, wherein the Commission had considered the GFA for NUHEP at Rs. 585.83 Crores. This absence of objection implies acceptance of the Regulatory treatment and data as adopted by the Commission in that Order.
- 2.2.7. The Commission has noted that the relevant FAR and supporting documentation, including the Auditor-Certified Capital Cost Certificate, were not submitted by the Petitioner at the time of filing the original Petition. Hence, the figure of Rs. 607.02 Crores now cited in the Review Petition and submitted through Annexure

represents a material deviation from the Regulatory process and cannot be considered retrospectively.

- 2.2.8. In this context, the Commission places reliance on the Hon'ble Supreme Court's judgment dated 18.10.2022 in BSES Rajdhani Power Ltd. v. Delhi Electricity Regulatory Commission, 2022 SCC Online SC 1450, wherein it was held:

*"The truing up stage is not an opportunity for the Commission to rethink de novo on the basic principles, premises and issues involved in the initial projections... **Truing up exercise cannot be done to retrospectively change the methodology/principles of tariff determination and reopen the original tariff determination order thereby setting the process to a naught.**"*

<Emphasis Added>

- 2.2.9. Regulation 22 of the MSERC (Multi Year Tariff) Regulations, 2014, is reproduced below:

22.1 All applications for the review of tariff shall be in the form of petition accompanied by the prescribed fee. A petition for review of tariff can be admitted by the Commission under the following conditions:

a) the review petition is filed within sixty days for the date of the tariff order, and / or

*b) **there is an error apparent on the face of the record.***

22.2 On being satisfied that there is a need to review the tariff of any generating company or the licensee, the Commission may on its own initiate process of review of the tariff of any generating company or the licensee. The Commission may also, in its own motion review any tariff order to correct any clerical error or any error apparent of the face of the record.

<Emphasis Added>

- 2.2.10. In line with the above judicial guidance dated 18.10.2022 in BSES Rajdhani Power Ltd. v. Delhi Electricity Regulatory Commission, 2022 SCC Online SC 1450 and as per Clause (b) of Regulation 22 of the MSERC (Multi Year Tariff) Regulations, 2014, the Commission reaffirms that there has been no error on the face of record by the Commission, hence the project cost and asset base considered during the True-Up process for Generation Business for FY 2022-23 dated 18.10.2024 shall remain final for that period. Any revised cost data or supporting documents submitted at the stage of review particularly without compliance with procedural timelines and without being subject to Regulatory scrutiny cannot be accepted with retrospective effect, nor can it serve as a basis for modifying approved tariff elements.

- 2.2.11. As per the precedent followed by this Commission in the previous Orders, and in the absence of any new material evidence of substantial merit, submitted in accordance with due process, no Review is required in this matter.

2.3. Consideration of Capitalization of Interest

Petitioner's Submission

- 2.3.1. The Petitioner in this instant Review Petition, has submitted that vide Table No. 16 (Page 25), Table No. 33 (Page 38), Table No. 50 (Page 50), and Table No. 67 (Page 63) of the True-up Order for Generation Business dated 18.10.2024 in Case No. 34 of 2023, the Commission, has reduced the capitalized interest expenses from the allowable interest on loan, relying on Note 28 of the Statement of Accounts for FY 2022-23.
- 2.3.2. The Petitioner has contended that the Commission has erred in applying this adjustment, as the capitalized interest pertains exclusively to the Ganol Hydro Electric Project, which is not under consideration in the present True-Up Petition for FY 2022-23. The tariff for the Ganol Project has been determined by the Commission under a separate petition, and therefore any capitalized interest related to it should not influence the interest cost allowed for the other projects under this petition.
- 2.3.3. In support of this claim, the Petitioner has submitted an Auditor Certificate verifying that the capitalized interest expenses reflected in the Statement of Accounts relate solely to the Ganol Project. A copy of the certificate is attached along with the present Review Petition.
- 2.3.4. The Petitioner has prayed that the Commission may kindly review and revise the computation of interest on loan by removing the deduction on account of capitalized interest that is unrelated to the projects under consideration in the current petition.

Commission's Analysis

- 2.3.5. This Commission has reviewed the submissions made by the Petitioner regarding the treatment of Interest on Loan in the True-Up Order for Generation Business dated 18.10.2024.
- 2.3.6. This Commission, upon thorough scrutiny and analysis of the supporting document submitted along with the present Review Petition, observes that the capitalized interest, as disclosed vide Note 28 of the Statement of Accounts (SOA) for FY 2022-23, indeed pertains to the Ganol Project. As such, it is found that this component was erroneously considered while calculating the Interest on Loan for FY 2022-23 in respect of the other generating stations forming the subject matter of the Petition.

2.3.7. In view of the above, the review of Interest on Loan for all generating stations is being undertaken, and appropriate corrections is made to exclude the capitalized interest relating to the Ganol Project from the computation.

2.3.8. Accordingly, the Commission in this Review Order further recomputes the Interest on Loan (IoL) for FY 2022-23 as follows:

Table 1: Approved IoL for MLHEP for True up for FY 2022-23 (Revised)

(Rs. Crore)

Sl. No.	Particulars	True-up of FY 2022-23 (Reviewed)
1	Net Normative	227.30
2	Addition	-
3	Repayment	45.11
4	Closing Loan	182.19
5	Average Loan	204.74
6	WAROI	11.59%
7	Interest on Loan	23.73

The Commission approves Interest on Loan charges at Rs. 23.73 Crore for True up of FY 2022-23 for MLHEP.

Table 2: Approved IoL for NUHEP for True up for FY 2022-23 (Revised)

(Rs. Crore)

Sl. No.	Particulars	True-up of FY 2022-23 (Reviewed)
1	Net Normative	279.85
2	Addition	0.02
3	Repayment	25.68
4	Closing Loan	254.19
5	Average Loan	267.02
6	WAROI	11.31%
7	Interest on Loan	30.19

The Commission approves Interest on Loan charges at Rs. 30.19 Crore for True up of FY 2022-23 for NUHEP.

Table 3: Approved IoL for Lakroh MHP for True up for FY 2022-23 (Revised)

(Rs. Crore)

Sl. No.	Particulars	True-up of FY 2022-23 (Reviewed)
1	Net Normative	4.55
2	Addition	0.03
3	Repayment	1.00
4	Closing Loan	3.58
5	Average Loan	4.07

Sl. No.	Particulars	True-up of FY 2022-23 (Reviewed)
6	WAROI	10.18%
7	Interest on Loan	0.41

The Commission approves Interest on Loan charges at Rs. 0.41 Crore for True up of FY 2022-23 for Lakroh MHP.

Table 4: Approved IoL for Old Station for True up for FY 2022-23 (Revised)

(Rs. Crore)		
Sl. No.	Particulars	True-up of FY 2022-23 (Reviewed)
1	Net Normative	-
2	Addition	0.89
3	Repayment	0.68
4	Closing Loan	0.21
5	Average Loan	0.11
6	WAROI	4.68%
7	Interest on Loan	0.005

The Commission approves Interest on Loan at Rs. 0.005 Crore for True up of FY 2022-23 for Old Stations including Sonapani.

2.4. Consideration of Capitalization of Operation and Maintenance Expenses

Petitioner's Submission

- 2.4.1. The Petitioner in this instant Review Petition, has submitted that vide Table No. 18 (Page 26), Table No. 35 (Page 39), Table No. 52 (Page 52), and Table No. 69 (Page 66) of the True-up Order for Generation Business dated 18.10.2024 in Case No. 34 of 2023, the Commission, has reduced the allowable Operation and Maintenance (O&M) Expenses by the amount of capitalized O&M expenses, as derived from Note 27 and Note 30 of the Audited Statement of Accounts for FY 2022-23.
- 2.4.2. The Petitioner has contended that the Commission had inadvertently reduced these expenses without recognising that the capitalized O&M expenses pertain solely to the Ganol Hydro Electric Project, which is not a part of the current True-Up Petition. The tariff for Ganol has been processed separately by the Commission.
- 2.4.3. In support of its claim, the Petitioner has submitted an Auditor Certificate confirming that the capitalized O&M expenses reflected in the relevant Notes relate only to the Ganol Project.

- 2.4.4. The Petitioner has prayed that the Commission to re-evaluate and revise the allowable O&M expenses by removing the adjustments made on account of capitalized expenses that do not pertain to the generating stations considered in the instant petition.

Commission's Analysis

- 2.4.5. The Commission has reviewed the submissions made by the Petitioner regarding the treatment of capitalized Operation and Maintenance (O&M) expenses in the True-Up Order for Generation Business dated 18.10.2024.
- 2.4.6. The Commission, after thorough scrutiny and analysis of the supporting document submitted along with the present Review Petition, observes that the capitalized O&M expenses as per Note 30 of the Statement of Accounts (SOA) for FY 2022-23, pertains exclusively to the Ganol Project.
- 2.4.7. It is noted that this amount was wrongly considered while calculating allowable O&M expenses for FY 2022-23 in respect of other generating stations under consideration in the petition.
- 2.4.8. Accordingly, the review of O&M expenses for all stations is being undertaken, and necessary corrections will be made to exclude the capitalized portion related to the Ganol Project from the computation.
- 2.4.9. Accordingly, the Commission in this Review Order further recomputes the O&M expenses as detailed in the tables below for FY 2022-23:

*Table 5: Approved O&M Expenses for MLHEP for True up of FY 2022-23 (Revised)
(Rs. Crore)*

Sl. No.	Particulars	True-up of FY 2022-23 (Reviewed)
1	O&M Expenses	35.52
2	Total O&M Expenses	35.52

The Commission approves O&M expenses for MLHEP at Rs. 35.52 Crore for True up of FY 2022-23.

*Table 6: Approved O&M Expenses for NUHEP for True up of FY 2022-23 (Revised)
(Rs. Crore)*

Sl. No.	Particulars	True-up of FY 2022-23 (Reviewed)
1	O&M Expenses	13.44
2	Total O&M Expenses	13.44

The Commission approves O&M expenses for NUHEP at Rs. 13.44 Crore for True up of FY 2022-23.

Table 7: Approved O&M Expenses for Lakroh MHP for True up of FY 2022-23 (Revised)
(Rs. Crore)

Sl. No.	Particulars	True-up of FY 2022-23 (Reviewed)
1	O&M Expenses	0.51
2	Total O&M Expenses	0.51

The Commission approves O&M expenses for Lakroh MHP at Rs. 0.51 Crore for True up of FY 2022-23.

Table 8: Approved O&M Expenses for Old Stations for True up of FY 2022-23 (Revised)
(Rs. Crore)

Sl. No.	Particulars	True-up of FY 2022-23 (Reviewed)
1	O&M Expenses	35.74
2	Total O&M Expenses	35.74

The Commission approves O&M expenses for Old Station including Sonapani at Rs. 35.74 Crore for True up of FY 2022-23.

2.5. Consideration of Capitalization of Operation and Maintenance Expenses

Petitioner's Submission

- 2.5.1. The Petitioner in this instant Review Petition, has submitted that vide Para 8.6.7 (refer Page no. 66) of the Order for True-up of Generation Business for FY 2022-23 dated 18.10.2024 has considered the Operation and Maintenance (O&M) expenses for Old Generating Stations (including Sonapani) as mentioned below:

"In previous true-up order for FY 2021-22 Commission has allowed O&M expenses of Rs. 33.81 Crore. By applying escalation rate of 5.72% as per Regulation 56 (7) of MYT Regulation, 2014, to the approved results in O&M expenses of Rs. 35.74 Crore for FY 2022-23. After adjusting the capitalized amounts in accordance with Note 27 and Note 30 of the Statement of Accounts (SOA), the O&M expenses allowed for old station (including Sonapani) are detailed below:

S No.	Particulars	Amount In Crs.
1.	O&M Expenses	35.90
2.	Less: Capitalization reported vide note no.27 of SOA (5.34 Cr) and vide note no. 30 (0.67 Cr.) is apportioned among four stations	(-)0.16
3	Total O&M Expenses	35.74

Commission approves O&M expenses for old station (including Sonapani) at Rs. 35.74 Crore for True up of FY 2022-23."

- 2.5.2. The Petitioner in this instant Review Petition, has stated that the Commission in its True-up Order for Generation Business Dated 18.10.2024 had considered the O&M expenses for Old Stations on the basis of the allowed O&M expenses of FY 2022-23 by escalating the O&M expenses of FY 2021-22 by 5.72% in accordance with Regulation 56(7) of the MSERC (Multi Year Tariff) Regulations, 2014 which is reproduced under:

"56 (7) "In case of hydro generating stations declared under commercial operation on or after 01/04/2009, O&M expenses shall be fixed at 2% of the original project cost (excluding cost of rehabilitation and resettlement works) and shall be subject to annual escalation at 5.72% for the subsequent years."

- 2.5.3. The Petitioner has submitted that Regulation 56(7) of the MSERC (Multi Year Tariff) Regulations, 2014, explicitly applies only to hydro stations commissioned on or after 01.04.2009, whereas all the old generating stations (except Sonapani) were commissioned prior to this date. Furthermore, the O&M expenses of these older stations have never been determined based on the capital cost, which is the basis for application of this clause. Hence, the application of Regulation 56(7) in this context is inappropriate.
- 2.5.4. Additionally, the Petitioner has claimed that the base O&M expenditure considered for FY 2021-22 on which escalation was applied did not include terminal benefits, and thus, the escalated figure for FY 2022-23 also excludes terminal benefits. This leads to under-recovery of legitimate expenses.
- 2.5.5. The Petitioner has also stated that the Commission had already allowed terminal benefits for FY 2022-23 for the Transmission and Distribution companies based on the Statement of Accounts, and the same principle should apply to MePGCL.
- 2.5.6. The Petitioner has prayed before the Commission to reconsider the applicability of Regulation 56(7) to old stations commissioned prior to 01.04.2009 and allow terminal benefits for FY 2022-23 as per the audited Statement of Accounts while determining O&M expenses for these stations.

Commission's Analysis

- 2.5.7. This Commission has consistently followed Regulation 56(7) of the MSERC (Multi Year Tariff) Regulations, 2014 for computation of Operation and Maintenance (O&M) expenses for all stations of MePGCL in its past Orders. The same methodology has been adopted while approving O&M expenses for FY 2022-23.
- 2.5.8. Further, it is being observed that the Petitioner did not file any Review Petition against the True-Up Order for FY 2021-22, wherein identical principles were applied by the Commission for determination of O&M expenses. The absence of any such objection during earlier proceedings reflects acceptance of the

Regulatory treatment accorded by the Commission.

- 2.5.9. As the Petitioner has not contested the approved O&M expenses for FY 2021-22, its present claim for FY 2022-23 on grounds of Regulatory inapplicability is not sustainable. This Commission, therefore, reaffirms its adherence to the provisions of the prevailing Regulations in this regard.
- 2.5.10. With respect to the claim regarding non-consideration of terminal benefits in the computation of O&M expenses for old generating stations, the Commission is of the view that any deviation from the approved Regulatory norms is unjustifiable. In this regard, the Commission also refers to the settled legal principle laid down by the Hon'ble Supreme Court's judgment dated 18.10.2022 in BSES Rajdhani Power Ltd. v. Delhi Electricity Regulatory Commission, 2022 SCC Online SC 1450, wherein it was held:

"The truing up stage is not an opportunity for the Commission to rethink de novo on the basic principles, premises and issues involved in the initial projections... Truing up exercise cannot be done to retrospectively change the methodology/principles of tariff determination and reopen the original tariff determination order thereby setting the process to a naught."

<Emphasis Added>

- 2.5.11. In line with the above judicial guidance dated 18.10.2022 in BSES Rajdhani Power Ltd. v. Delhi Electricity Regulatory Commission, 2022 SCC Online SC 1450 and as per Clause (b) of Regulation 22 of the MSERC (Multi Year Tariff) Regulations, 2014, also referred in para 2.2.9 of this Review Order, this Commission finds no merit for review on this ground at this stage.

2.6. Interest on Working Capital

- 2.6.1. The Commission has undertaken a review of Interest on Loan and Operation & Maintenance (O&M) expenses, pursuant to the Review Petition submitted by the Petitioner. As a result of the revisions in these components, there has been a consequential revision in the Interest on Working Capital. The detailed revised value is provided in Paragraph 2.7.1 of this Review Order.

2.7. Aggregate Revenue Requirement and Revenue Gap/Surplus for Review of True up FY 2022-23

- 2.7.1. This Commission has examined the review petition filed by MePGCL with reference to the MSERC (Multi Year Tariff) Regulations, 2014, and submission made by the petitioner. The Commission has finalized review Orders and revised ARR approved as depicted in the table below:

Table 9: Approved ARR for True up of FY 2022-23 (Revised)

(Rs. Crore)

Sl. No.	Particulars	MLHEP	NUHEP	Lakroh Mini HEP	Old Stations including Sonapani	Total for MePGCL
1	Depreciation	45.11	25.68	0.48	1.36	72.63
2	Return on Equity	44.25	24.61	0.46	1.20	70.53
3	O&M Expenses	35.52	13.44	0.51	35.74	85.21
4	Interest and Finance Charges	23.73	30.19	0.41	0.005	54.34
5	Interest on working capital	4.19	2.37	0.05	1.84	8.46
6	SLDC Charges	-	-	-	1.94	1.94
7	Gross ARR	152.80	96.30	1.92	42.09	293.11
8	Less: Non-Tariff Income	-	-	-	4.45	4.45
9	Net ARR for 2022-23	152.80	96.30	1.92	37.64	288.66
10	Add: Revenue Gap/(Surplus) for FY 2017-18	-3.60	-	-	-5.07	-8.67
11	Add: Revenue Gap/(Surplus) for FY 2018-19	-56.59	73.83	-	-79.33	-62.09
12	Add: Revenue Gap/(Surplus) for FY 2019-20	-68.79	73.17	1.48	2.83	8.69
13	Total ARR (excluding Pension Liability)	23.82	243.30	3.40	-43.93	226.59
A	Comprehensive Income/ Expenses (Pension)					-
B	Comprehensive Income/ Expenses (1/3 MeECL) (Pension)					0.63
14	Total ARR recoverable for FY 2022-23 (including Pension Liability)	23.82	243.30	3.40	-43.93	227.22
15	Revenue from Operation	82.23	27.56	0.55	131.33	241.67
16	Gap(+)/(Surplus)(-)	-58.41	215.74	2.85	-175.26	-14.45

The Commission approves Net Revenue surplus of Rs. (-) 14.45 Cr. for MePGCL True up for FY 2022-23.

3. Order of the Commission

- 3.1.1. This Commission approves the total surplus at Rs. (-) 14.45 Crore for Review of True-up of Generation Business for FY 2022-23 and the differential amount shall be appropriated in the subsequent Tariff Orders.
- 3.1.2. The Review petition is hereby disposed of.
- 3.1.3. A copy of the Order shall be posted in the official website of the Commission.
- 3.1.4. MePGCL shall download the copy of the Order from the website of the Commission and act on it.

Sd/-
Ramesh Kumar Soni
Member (Law)

Sd/-
Chandan Kumar Mondol
Chairman