

Before
UTTARAKHAND ELECTRICITY REGULATORY COMMISSION
Miscellaneous Application No. 45 of 2024

In the matter of:

Review Petition filed by Power Transmission Corporation of Uttarakhand Limited against the Commission's Order dated March 28, 2024 in Pet. No. 49 of 2023 in the matter of true up for FY 2022-23, Annual Performance Review (APR) for FY 2023-24 and revised Aggregate Revenue Requirement (ARR) for FY 2024-25.

AND

In the matter of:

Power Transmission Corporation of Uttarakhand (PTCUL)
Vidyut Bhawan, Majra, Dehradun.

..... Petitioner

CORAM

Shri M. L. Prasad,	Member (Technical)-Chairman (I/C)
Shri Anurag Sharma,	Member (Law)

Date of Hearing: July 23, 2024

Date of Order: August 21, 2024

ORDER

Power Transmission Corporation of Uttarakhand Ltd. (herein after referred to as "PTCUL" or "the Petitioner") has filed a Petition for review of Commission's Order dated 28.03.2024 on True up of FY 2022-23, APR for FY 2023-24 and ARR for FY 2024-25 under Section 94(1)(f) of the Electricity Act, 2003 (herein after referred to as "the Act"), Regulation 54(1) of the Uttarakhand Electricity Regulatory Commission (Conduct of Business), Regulations, 2014 (herein after referred to as "UERC CBR").

1. Background

- 1.1 The Commission had notified Uttarakhand Electricity Regulatory Commission (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2021 (hereinafter referred to as "MYT Regulations, 2021") for the fourth Control Period from FY 2022-23 to FY 2024-25 specifying therein terms, conditions and norms of

operation for licensees, generating companies and SLDC. In accordance with the provisions of the MYT Regulations, 2021 the Commission had carried out truing up for 2022-23, Annual Performance Review for FY 2023-24 and ARR for FY 2024-25 vide its Order dated 28.03.2024. The Petitioner filed a Review Petition dated 20.06.2024 on the grounds that there were certain errors apparent on the conclusions drawn on certain issues by the Commission in its Tariff Order dated 28.03.2024.

1.2 The Petitioner through the current Review Petition requested the Commission to admit the Petition and review/modify/vary the below stated heads of the impugned Order dated 28.03.2024 on the following grounds:

- i. Disallowances in Capitalization.
- ii. Erroneous disallowance of Return on Equity.
- iii. Wrongful disallowance on Efficiency gains on Interest on Working Capital.
- iv. Erroneous consideration of Other Revenue as non-tariff income.
- v. Erroneous Interpretation to allow Income Tax.
- vi. Erroneous interpretation while allowing the O&M expenses.
- vii. Wrongful consideration of ARR for Bhilangana III (Ghuttu) – Ghansali Line.

1.3 For admissibility of the review Petition filed by PTCUL, the Commission decided to hold a Hearing in the matter. Accordingly, a hearing was held on 23.07.2024 and the Commission reserved the judgement vide order dated 23.07.2024.

2. Petitioner's Submission

A- Wrongful Disallowance of Capitalisation for FY 2022-23.

REC II Scheme: OPGW connectivity in PTCUL under Phase II of the ULDC Projects.

2.1 The Petitioner has submitted that the capitalisation towards the replacement of old battery banks with new VRLA battery banks for one UPS and one DC power supply at SLDC, Dehradun amounting to Rs 0.080 Crore has been inadvertently missed by the Hon'ble Commission. The Petitioner has requested the Commission to approve the aforesaid work for capitalization.

The Petitioner further submitted that the capitalisation of Rs 0.05 Crore towards minor assets viz, Furniture & Fixtures, and Office Equipment have been wrongly considered as a part of Operations & Maintenance (O&M) expenses. According to the Petitioner the impugned order is erroneous as it shifts the asset addition from the balance sheet to the P&L. As the audited accounts has already been finalised for

the FY 2022-23, disallowance of the asset addition would lead to differ the asset base of the Petitioner from Regulatory asset base considered by the Commission.

REC VI Scheme: 220/33 kV Substation at Piran Kaliyar.

- 2.2 The Petitioner submitted that proviso to Regulations 3(19) of MYT Regulations 2021 states that:

“Provided the cut-off date may be extended by the Commission if it is proved on the basis of documentary evidence that the capitalization could not be done within the cut-off date for reasons beyond the control of the project developer”

The Petitioner stated that the additional capitalisation was claimed by it in accordance with the aforesaid proviso and detailed justification for the same was provided to the Commission. However, the Commission appeared to ignore such submissions and disallowed the capitalisation restricting the same to the cut-off period date. In view of the above, the Petitioner requested the Commission to take into cognizance the submissions made and revise the capitalisation for the aforesaid scheme.

REC VIII Scheme: 220 kV D/C line on Twin Zebra Conductor from Lakhwar to Dehradun & it's LILO at Vyasi.

- 2.3 The Petitioner requested the Commission to provide for the classification of reasons under the controllable, uncontrollable and force majeure events and adjust the IDC accordingly so that the Petitioner is aware of such factors and strategize accordingly for the future capital expenditures of such nature. The Petitioner requested the Commission to take into cognizance the fact that unless the IDC on specific activities considered as imprudent is known to the Petitioner, it will be difficult to obviate such instances that results in undue burden on the Petitioner. Accordingly, restate the IDC for the activities which are uncontrollable and of force majeure in nature.

REC 9995: Const. of Approach Road for Control Room and Residential Building at 132 kV S/s Ranikhet.

- 2.4 The Petitioner submitted that the Commission in its impugned Order has erred in restricting the capitalisation upto the investment approval for the aforesaid scheme and has erred in ignoring the reasons for cost escalation.

The Petitioner informed the Commission that by terminating the tender because of non-responsiveness of the contractor, has actually saved the crucial time for execution of the project and marginal cost increase due to this has been disallowed, which is nothing but a punishment for the prompt and prudent step taken by the field officials.

The Petitioner further submitted that restricting the capitalisation upto investment approval not only breaches the own directives of the Commission which accords investment approval and directs to provide detailed justification for cost deviation, but also ignores the ground implementation challenges faced by the Petitioner while executing the project. The Petitioner requested the Commission to restate the capitalisation for the aforesaid scheme.

REC 10760: Supply Erection and Testing & Commissioning of 40 MVA 132/33 kV Transformer and 132 kV and 33 kV Transformer Bay at 132 kV S/s Laksar.

- 2.5 The Petitioner submitted that the Commission in its impugned Order has erred in disallowing the additional capitalisation of Rs 0.53 Crore by restricting the total capitalisation up to the investment approval of Rs 5.73 Crore for the aforesaid capex scheme.

The Petitioner further submitted that restricting the capitalisation upto investment approval not only breaches the own directives of the Commission which accords investment approval and directs to provide detailed justification for cost deviation, but also ignores the ground implementation challenges faced by the Petitioner while executing the project. The Petitioner requested the Commission to review the decision of disallowance of the capitalisation and restate the same taking cognizance of the justification of cost-overrun provided by the Petitioner as part of the Petition.

RCRM 9025: Const. of 132 kV S/C Overhead Line from 220 kV S/s SIDCUL Haridwar to 132 kV S/s Jwalapur & Const. of 132 kV Bay(s) at both ends for 132 kV Overhead line from 220 kV Substation SIDCUL Haridwar to 132 kV S/s Jwalapur”.

- 2.6 The Petitioner submitted that the Commission in its impugned Order has erred in disallowing the additional capitalisation of Rs 0.05 Crore towards the aforesaid capex scheme. Against the claimed capitalisation of Rs 0.95 Crore, the Commission

has approved the capitalisation of Rs 0.90 Crore thereby restricting the capitalisation upto the investment approval.

The Petitioner further submitted that the detailed justification was provided to the Commission as part of the tariff filing, however, the same appears to have been ignored. The Petitioner requested the Commission to review the decision of disallowance of the capitalisation and restate the same taking into cognizance of the justification of cost-overrun provided by the Petitioner as part of the Petition.

REC 10148: Implementation of Intra-state ABT metering scheme for onlineing of ABT meters to be installed at interface points for energy accounting and transmission level emergency auditing under PTCUL, Dehradun.

2.7 The Petitioner submitted that the Commission in its impugned Order has erred in disallowing the additional capitalisation of Rs 1.20 Crore against the aforesaid capex scheme. The Petitioner stated that it has claimed the capitalisation of Rs 13.26 Crore as per Form 9A and has also submitted that capitalisation claim for FY 2022-23 be considered as Rs 12.25 Crore. The reasons for delay in project execution was also cited as part of the Petition. The Petitioner submits that revised Form 9.5 was submitted post technical validation session, rectifying the inadvertent typo error and the capitalisation of Rs 11.45 Crore was made towards the aforesaid capex scheme.

The Petitioner further submitted that the Commission while passing the impugned Order has erred in disallowing the AMC part of the scheme amounting to Rs. 1.19 Crore stating that the AMC is the maintenance contract for the upkeep and maintenance of the Software and Hardware involved in ABT Metering System and the same do not form the part of physical hardware being capitalized under the scheme. Accordingly, the same has been erroneously considered by the Commission as part of the normative R&M expenses.

The Petitioner further submitted that the aforesaid act of the Commission is in violation of its own investment approval granted in Petition No. 11 of 2016 dated May 06, 2016. In the said Order the Commission has neither opined nor directed the Petitioner to exclude the AMC cost of the detailed cost estimate from the total approved cost nor has specified to undertake the AMC as part of the normative R&M expenses. The Petitioner submitted that the purchase order for the aforesaid capex scheme was awarded only after the investment approval and in same manner as

projected in the DPR and detailed project cost. The Petitioner submitted that the Commission appeared to have ignored its own approval and the facts submitted on face of the record and requested to take cognizance of the submissions made and restate the capitalisation.

PFC (System Improvement): Supply and Installation of 01 no 160 MVA T/F and its associated 220 kV HV side & 132 kV LV side bay at 400 kV S/s Kashipur.

2.8 The Petitioner submitted that the Commission has erred in restricting the capitalisation for the aforesaid capex scheme to Rs. 17.76 Crore in place of Rs. 18.24 Crore notwithstanding detailed justification submitted for the cost escalation resulted being cost and time overrun. The Petitioner further submits that the Commission itself has classified the reasons of delay as Delay due to Covid-19 Pandemic, delay due to Soil Filling permission for land development at 400 kV Substation at Kashipur, delay due to non-availability of shutdown of 220 kV and 132 kV Bus at 400 kV Substation at Kashipur, and Delay due to Charging Clearance from Electrical Safety Department. The Commission appeared to be contended with the reasons for delay and had opined that part of the delay could be considered as delay not attributable to the Petitioner yet has preferred to disallow the capitalisation supposedly on account of higher IDC than computed by the Commission citing that the other activities could have been undertaken in parallel, and the delay could have been shortened/ averted by proper planning and follow up at the Petitioner's end.

The Petitioner requested the Commission that such observation and direction would serve more benefit to the Petitioner if specified explicitly while pronouncing the order as it guides to consider the phasing of activity accordingly to obviate future disallowance caused due to delay. The Petitioner stated that the Commission has worked out the allowable IDC as Rs 0.25 Crore accordingly, however, since the same is not part of the impugned Order, the Petitioner is not able to understand the same. The Petitioner further submitted that the justification for delay submitted along with the Petition and during the technical validation session interactions are justifiable enough to allow the capitalisation as none of the same could be attributable to the Petitioner. In view of the aforesaid the Petitioner has requested the Commission to review its decision taking into cognizance of the submissions made and restate the capitalisation.

PFC (System Improvement): Const. of 132/33 kV S/s Padartha (Patanjali), Haridwar.

2.9 The Petitioner submitted that the Commission has erred in disallowing the capitalisation for the aforesaid capex scheme just because of the fact that corrected information was submitted on February 26, 2024 and retained the information submitted on 30th January 2024 as Rs 29.76 Crore. The Petitioner feels that it is imprudent to ignore any information submitted which has significant commercial impact on the business entity.

The Petitioner stated that the Commission itself opined that part of the delay could be considered as delay not attributable to the Petitioner yet has preferred to disallow the capitalisation supposedly on account of higher IDC than computed by the Commission citing that the other activities could have been undertaken in parallel, and the delay could have been shortened/ averted by proper planning and follow up at the Petitioner's end.

The Petitioner averred that such observations and directions would serve more benefit to the Petitioner if specified explicitly by the Commission while pronouncing the order as it would guide the Petitioner to consider the phasing of activity accordingly to obviate future disallowance caused due to delay. The Petitioner further submitted that the justification for delay submitted along with the Petition and during the technical validation session interactions are justified enough to allow the capitalisation as none of the same could be attributable to the Petitioner. In view of the aforesaid, the Petitioner requested the Commission to review its decision taking cognizance of the submissions made and restate the capitalisation accordingly.

PFC (System Improvement): 132 kV Chila-Nazibabad LILO Line at 132 kV Substation, Padartha (Including Construction of Well foundation at various location of LILO of 132 kV Chilla Nazibabad line at Ganga River near village Sajanpur Pili, Haridwar).

2.10 The Petitioner submitted that the Commission has erred in disallowance of the capitalisation for the aforesaid capex scheme only because of the fact that there has been delay in submission of the corrected information. According to the Petitioner it is imprudent to ignore any information submitted which has significant commercial impact on the business entity.

The Petitioner further submitted that in its view the Commission should take into consideration every submission made by the Petitioner before exercising its discretion to allow or disallow any cost impact in tariff. The perusal of the impugned Order reflect that the Commission has taken note of the revised submissions and inadvertently missed to take into cognizance of the detailed justification submitted as part of the Petition.

The Petitioner further submitted that the Commission has not only erred in denying the capitalisation against the IDC but also erred in denying the principal amount. The Petitioner averred that the revised Form 9.8 and Form 9.5 for the scheme were submitted however, the same appear to be inadvertently missed out from consideration while allowing the capitalisation.

In view of the aforementioned, the Petitioner requested the Commission to review its decision taking into cognizance of the submissions made and restate the capitalisation.

PFC (System Improvement): Supply Erection and Testing & Commissioning of 40 MVA 132/kV Transformer & 132 kV & 33 kV Transformer Bay at 132 kV S/s Bindal.

2.11 The Petitioner submitted that the Commission has erred in disallowing the capitalisation towards the aforesaid capex scheme. The Petitioner submitted that the additional capitalization claimed by PTCUL was within the cut-off date and the Commission had previously approved the capitalization of Rs. 5.83 Crore up to FY 2021-22 for the said scheme. However, considering the capitalization claimed for FY 2022-23, i.e. Rs. 0.61 Crore, total Project Cost for the scheme summed up to Rs. 6.52 Crore up to FY 2022-23 which exceeds the total approved cost of Rs. 6.03 Crore and thus the Commission restricted the Project Cost of the Scheme to Rs. 6.03 Crore and have restricted the capitalization claimed during FY 2022-23 to Rs. 0.20 Crore.

The Petitioner submitted that restricting the capitalisation upto the investment approval not only breaches the own directive of the Commission which accords investment approval and directs to provide detailed justification for cost deviation from the investment approval, but also ignores the ground implementation challenges faced by the Petitioner while executing the project.

The Petitioner further averred that the detailed justification was provided to the Commission as part of the tariff filing, however, the same appeared to be ignored, as

there has been no discussion on the reasons not found prudent for consideration by the Commission. The Petitioner requested the Commission to kindly review the decision of disallowance of the capitalisation and restate the same taking into cognizance of the justification of cost-overrun provided by the Petitioner as part of the Petition.

REC (System Improvement): Construction of 220 kV Pirankaliyar-Puhana (PGCIL) Line.

2.12 The Petitioner submitted that the Commission has erred in disallowing the capitalisation of Rs. 0.32 Cr towards the aforesaid capex scheme.

The Petitioner submitted that detailed justifications for the cost escalation were submitted along with the Petition, however, it appears that they were inadvertently overlooked. Hence the Petitioner requested the Commission to kindly review the decision of disallowance of the capitalisation and restate the same taking cognizance of the justification of cost-overrun provided by the Petitioner as part of the Petition.

Other Schemes (System Strengthening): Furniture & Fixtures, and Office Equipment claimed by SLDC.

2.13 The Petitioner further submitted that the capitalisation of Rs 0.05 Crore towards minor assets viz, Furniture & Fixtures, and Office Equipment for SLDC have been wrongly considered as a part of Operations & Maintenance (O&M) expenses. According to the Petitioner the impugned order is erroneous as it shifts the asset addition from the balance sheet to the P&L. As the audited accounts has already been finalised for the FY 2022-23, disallowance of the asset addition would differ the asset base of the Petitioner from regulatory asset base considered by the Commission. In view of the above, the Petitioner requested the Commission to restate the capitalisation and allow consequential impact in the Truing Up for the Petitioner.

B- Error Apparent in Capitalization of FY 2023-24.

2.14 The Petitioner submitted that the Commission while evaluating the capitalisation for H1 of FY 2023-24 has erroneously ignored the capitalisation towards the *“Construction of 132 kV S/C Line on Panther Conductor on Double Circuit Towers from 220/132 kV S/s Pithoragarh (PGCIL) to 132/33 kV Sub-station Lohaghat (Champawat) of PTCUL”*, citing the same as incomplete as the Petitioner has not yet planned for the

downstream asset (i.e. Sub-station at Lohaghat) yet. However, the Commission has erred in taking cognizance of its own direction to charge the transmission line.

The Petitioner further submitted that the impugned Order also appears to have computational error while allowing the capitalisation for the FY 2023-24 in aggregate.

In view of the above, the Petitioner has requested the Commission to restate the capitalisation for the FY 2023-24 and allow the consequential impact on ARR accordingly.

C- Erroneous disallowance in capitalization of FY 2019-20, FY 2020-21 and FY 2021-22.

2.15 The Petitioner submitted that the Commission in its Tariff Order dated 30.03.2023 had deferred the capitalisation for aforementioned years for the purpose of additional justification.

The Petitioner has requested the Commission to pass a speaking order so that the Petitioner remains aware of the factors that lead to cause capital disallowances which has significant bearing on the asset base of the Company.

D- Erroneous disallowance of Return on Equity.

2.16 The Petitioner stated that the Commission has not allowed Return on Equity on entire equity base approved by the Commission in the respective Tariff Orders. The Return on Equity was disallowed to the extent of equity contributed by the Government of Uttarakhand from Power Development Fund, considering that the Power Development Fund was realized from the consumers in form of a cess. The Petitioner averred that the claim was made pursuant to the judgment pronounced by the Hon'ble APTEL in its judgment dated May 15, 2015, in R.P. No. 2 of 2015 in appeal No. 163 of 2015, wherein the Hon'ble APTEL has explicitly stated as herein below:

"The Tribunal has upheld the findings of the State Commission in the impugned order but has not given any finding relating to disallowance of ROE on the funds deployed by the State Government from PDF toward capital cost of the project. We feel that the findings of this Tribunal in Appeal no. 189 of 2005 will be applicable to the present case. If the State Commission has not provided the amount as a grant and has invested the

amount as equity, ROE has to be allowed as per the Regulations of the State Commission. Accordingly, this issue is decided in favour of the Petitioner."

To further substantiate the claim of return on equity, the Petitioner submitted the directives of the Government of Uttarakhand w.r.t. consideration of the Government of Uttarakhand's contribution to PDF as equity from consolidated fund of the State, for the purpose of allowance of Return on Equity (refer Annexure XIV - Additional Secretary vide Letter No 337/I (2)/2011-04-(01)/84/2008 dated February 11, 2011). The Petitioner submitted that the denying cost to any capital contribution adversely affects the credit profile of the Petitioner to raise further capital and is also against the basic tenets of the corporate finance wherein time value of money is assigned and cost of capital is duly recognised to be recovered in cost plus Regulatory regime.

The Petitioner stated that while issuing impugned Order, the Commission has erred in allowing the RoE claims for the Petitioner on account of the following:

- The Commission has considered the Return on Equity excluding its claim on RoE on PDF and considered only the opening equity base. This has led to the disallowance of Rs 573.21 Crore accrued till the FY 2024-25. The said claim was raised in accordance with the order of Hon'ble Supreme Court dated May 10, 2018.
- The Commission has erred in allowing the RoE on asset addition during the year on pro-rata basis in accordance with the MYT Regulations 2021. The Petitioner reiterates that as part of the truing up petition for the FY 2022-23, the Petitioner has submitted segregated audited account for both SLDC and PTCUL to the Commission for prudence check. This has led to the RoE disallowance Rs 5.26 Crore for the asset addition during the FY 2022-23 and Rs 5.01 Crore for the FY 2023-24 on cumulative basis.

The Petitioner submitted that as there is clearly an error apparent on the face of record of the Order, the Commission should restate the RoE claim of PTCUL and SLDC for the aforesaid years and allow the claim on RoE.

E- Wrongful disallowance on efficiency gains on Interest on Working Capital.

2.17 The Petitioner submitted that as per Regulation 33 of MYT Regulations, 2021, IoWC ought to be determined on normative basis and interest rate has to be equal to average of 'one-year Marginal Cost of Funds based Lending Rate' as declared by the State Bank of India from time to time for the financial year in which the application for determination of tariff is made plus 350 basis point.

The Petitioner averred that the Commission has erred in considering the rate of interest on working capital as 10.50% equal to State Bank Advance Rate (SBAR) of State Bank of India as on the date of first time filing of the Tariff Petition of FY 2022-23 rather than considering the interest rate based on One-year MCLR as considered by the Petitioner in its tariff petition. The Petitioner submitted that the Commission has erred in considering 'the year of filing the truing up tariff Petition' as 'the year of first filing of the tariff petition'. This inadvertent interpretation has lead to cause disallowance of interest rate consideration of 0.80% and its consequential impact of Rs 0.82 Crore (i.e., Rs 0.78 Crore for PTCUL and Rs 0.04 Crore for SLDC) for the FY 2022-23.

The Petitioner submitted that the Commission has considered the entire interest on working capital as efficiency gain ignoring the fact that the working capital requirement of the Petitioner for the FY 2022-23 had been met through internal accruals and not through debt, which also has inherent interest cost as per the relevant judgement of the Hon'ble APTEL.

The Petitioner stated that it is a settled principle of law that internal funds also deserve interest in as much as the internal fund when employed as working capital as it loses the interest it could have earned by investment elsewhere. Further the the Petitioner can never have any funds which has no cost. The internal accruals are not like some reserve which does not carry any cost. Internal accruals could have been inter-corporate deposits. In that case, the same would also carry the cost of interest. Simply because internal accruals were used for FY 2022-23, and there was no outflow of funds by way of interest on Working Capital, the IoWC cannot be denied.

The Petitioner humbly submits that in arriving at whether there was a gain or loss, the Hon'ble Commission was required to take the total picture into consideration. It cannot be said that simply because internal accruals were used and

there was no outflow of funds by way of interest on Working Capital, and hence the entire interest on working capital was gain.

The Petitioner further submitted that the Commission has erred in stating 'The actual interest on working capital as per Audited Accounts for FY 2022-23 is 'Nil'. In view of the aforesaid it is explicitly clear that the working capital cannot be considered as 'Nil'.

The Petitioner further stated that as per Regulations 12 (6) (f) of MYT Regulations, 2021, the controllable factor includes variation in working capital requirements and does not specify that the actual cost related to working capital will be considered. Therefore, as per the Hon'ble APTEL order, even funding of working capital through internal accruals has an inherent cost which is required to be considered while computing the gains / loss of interest on working capital loan.

The Petitioner contended that based on the above submissions, it is clearly not only an error apparent on the face of record of the Order, but also the directives of the Commission are inconsistent with the settled regulatory principle upheld by the higher judicial forums under the electricity statute, viz., Hon'ble APTEL and requested the Commission to restate the sharing of efficiency gains/losses of PTCUL and SLDC for the year claimed.

F- Erroneous consideration of other revenue as non-tariff income.

2.18 The Petitioner submitted that while filing the tariff Petition, the revenue realised from sale of scrap, sale of tender documents, registration fee, connectivity charges, fee for load flow study, etc are considered as non-tariff income as per the provisions of MYT Regulations, 2021.

The Petitioner submitted that in line with MYT Regulations 2021, the non-tariff income of Rs (0.05) Crore which included the negative adjustment of Rs. 2.62 Crores of supervision charges was claimed in the impugned Order and it was requested to the Commission to approve the same.

The Petitioner submitted that the Commission has erred in considering the other income as Rs 59.84 Crore which includes the revenue accrued pertaining to the following:

- Interest from banks and other advances of Rs 22.05 Crore, which is resulted due to Return on Equity earned by the Petitioner over the years.
- Deferred Revenue Grants written off against funding under Deposit & PSDF Schemes of Rs 11.04 Crore, and
- Revenue resulting due to forfeited Earnest Money and Security Money of Rs 26.16 Crore for the scheme pertaining to the ISTS lines.

The Petitioner submitted that the MYT Regulations 2021, specifically provides that the revenue resulting due to 'Interest earned from the investments made out of return on Equity corresponding to the regulated business of the Transmission Licensee shall not be included in Non-Tariff Income'. The Petitioner submitted that in past tariff orders, the Commission used to consider interest earned from investments made out of Return on Equity as part of non-tariff income on account of the fact that there is no documentary evidence confirming if the FDRs are made through its earning from RoE. However, in the information filed, as part of the data-gap raised by the Commission, documentary evidence from the statutory auditor specifying the same has been submitted by the Petitioner. In the TVS Reply it was explicitly shown that out of the total fund invested of Rs 441.28 Crore as on March 31, 2023, the fund amounting to Rs. 259.95 Core pertains to the revenue earned against UITP Projects and Rs 107.05 Crore has been resulted due to Bank Guarantees against UITP Projects encashed for the FY 2022-23. This results in total balance towards RoE as Rs 74.28 Crore. On the basis of above facts, it is requested to the Commission, that Other Income amounting to Rs. 48.70 Crore pertaining to interest on investment in FDRs/TDR's and Forfeited Bank Guarantees related to UITP Projects and balance against Return on Equity shall not be considered as Non-Tariff Income as the same pertains to UITP and Interest earned on RoE funds. However, the Commission has erroneously ignored the documentary evidence substantiating the claims of interest accrued on RoE to be deducted while considering the non-tariff income in accordance with the provisions of the MYT Regulations 2021.

The Petitioner submitted that the Commission has specifically excluded allowing any claim of expenditure pertaining to inter-state transmission system lines as the same falls beyond the jurisdictional aegis of the Commission. The Petitioner submitted that the aforementioned act of the Commission appears to be a selective approach in considering the other revenues from ISTS business as non-tariff income,

which is not regulated by the Commission, however commission refrains from allowing the claims of related expenditure stating the same belongs to jurisdiction of the Hon'ble CERC.

The Petitioner submitted that the Commission has erred in considering the revenue accrued due to forfeited Earnest Money and Security Money of Rs 26.16 Crore on account of the UITP schemes. The Petitioner submitted that UITP scheme is financially aided by Government of India, and thus need to be excluded from the non-tariff income as the same will be excluded from Inter-State Project ARR by the Hon'ble CERC resulting in the double financial impact to the Petitioner.

Based on the above-mentioned submission, the Petitioner urged the Commission to take cognizance of the fact that such revenue items beyond the Regulatory jurisdiction of MYT Regulations 2021, should ought to be reduced from the non-tariff income and allow the claim of the Petitioner.

G- Erroneous interpretation to allow income tax

2.19 The Petitioner submitted that Regulation 34 of MYT Regulations 2021 specifically provides that income tax, if any on the income stream of the Regulated business of Generating Companies, Transmission Licensees, Distribution Licensees, and SLDC shall be reimbursed to the Generating Companies, Transmission Licensees, Distribution Licensees, and SLDC as per the actual income tax paid subject to prudence check.

The Petitioner stated that the Commission has erroneously considered the revenue from UITP schemes, which is beyond Regulatory jurisdiction of MYT Regulations 2021, while allowing the income tax.

The Petitioner further submitted that the Commission has erred to consider the revenue of non-regulated business stream to allow the income tax for the regulated business of the Petitioner, which is against the regulatory principle settled by the Hon'ble APTEL at numerous instances. Based on the above, the Petitioner requested the Commission to restate the income tax as claimed by the Petitioner.

H- Erroneous interpretation while allowing the O&M Expenses

2.20 The Petitioner stated that the Commission has erred in considering the capitalization rate of 14.75 % for employee expenses, instead of 14.31 % as proposed by it. Also, the

proposed capitalisation rate for A&G expenses should be 9.41 %, however, no details has been provided in the tariff order for the same.

The Petitioner submitted that the impugned Order has not provided any justification for evaluating the merits or demerits of considering the capitalisation rate different than as proposed by the Petitioner. In addition, there is no explanation w.r.t. the capitalisation rate considered while allowing the normative A&G expenses. The Petitioner further submitted that the O&M expenses for the SLDC has been separately claimed, however, it appears that while undertaking the truing up, the Commission has erred to miss out including the same while allowing O&M expenses for PTCUL.

In view of the above, the Petitioner requested the Commission to restate the O&M expenses (for employee expenses and A&G expenses) as per the methodology proposed by the Petitioner and provide the details of the computation of A&G Expenses as well as the capitalisation rate approved by the Commission.

I- Wrongful consideration of ARR for Bhilganga III (Ghuttu)-Ghansali line

2.21 The Petitioner submitted that the Commission has erred in including the impact of ARR of Bhilganga III (Ghuttu)-Ghansali Line in accordance with the order passed by the Commission in Petition No. 30 of 2023 dated 17th October 2023.

The Petitioner submitted that as part of the Petition, it was explicitly stated that pursuant to the judgement pronounced by the Hon'ble Supreme Court of India in Civil Appeals No. 2368-2370 of 2015 and Order of Hon'ble CERC in Petition No. 246/MP/2018, the Petitioner approached the Commission for determination of ARR for 220 kV D/C Bhilangana-III – Ghansali line for FY 2022-23 and FY 2023-24 in the previous Tariff Order. Accordingly, in Tariff Order dated 30 March 2023, the Commission approved the ARR for Bhilangana III-Ghansali Line for FY 2022-23 and FY 2023-24 of Rs. 1.55 Crore and Rs. 1.51 Crore respectively in accordance with MYT Regulations, 2021.

The Petitioner submitted that the since the aforementioned is sub-judice, it intentionally kept the ARR separate from the ARR of the Petitioner. However, the Commission has erred in including the gross fixed asset approved as per its Order while allowing the GFA for the Petitioner. This errs in due consideration of not only

the factual claim submitted and approved by the Commission but also ignores that the sub-judice matter need to be kept separate till its resolution. This act of the Commission contradicts itself wherein the Commission has not considered allowing the disallowed capitalisation citing the matter is pending with Hon'ble APTEL for resolution. In view of the above, the Petitioner requested the Commission to restate the position as prayed and allow consequential impact in the ARR accordingly.

3. Commission Observations, View & Decision.

3.1 Powers of the Commission and Grounds for Review

3.1.1 With regard to the Review Petition filed by PTCUL on various issues, the Commission first explores the powers vested in it to review its Orders in order to establish the legality of the Petition. In this regard, reference is drawn to section 94(1)(f) of the Act which specifically empowers the Commission to undertake review, which can be exercised in the same manner as a Civil Court would exercise such powers under Section 114 and Order XLVII of the Code of Civil Procedure, 1908 (CPC). Under the said provisions, review of the Order is permitted on three specific grounds only, namely:

- a. Discovery of new and important matter or evidence, which after the exercise of due diligence was not within the applicant's knowledge or could not be produced by him at the time of passing of the Order.
- b. Mistake or error apparent on the face of the record; or
- c. Any other sufficient reasons.

3.1.2 The application for review has to be considered with great caution to ensure that it fulfil one of the above requirements to be maintainable under law. On the discovery of new evidence, the application should conclusively demonstrate that (1) such evidence was available and was of undoubted character; (2) that it was so material that its absence might cause miscarriage of justice; (3) that it could not be with reasonable care and diligence brought forward at the time of proceedings/passing of Order. It is well settled that new evidence discovered, if any, must be one, relevant, and second, of such character that had it been given, it might possibly have altered the judgement. With regard to mistake or error apparent on the face of the record, the error should be apparent enough to be noticed and presented before the Court

during review proceedings to take cognizance. However, if it is a case that the Petitioner was not able to properly explain a legal position at the time of proceedings, it does not make a ground for a review.

3.1.3 With regard to any other sufficient reason, the courts have interpreted these words that such reasons should be at least analogous to those specified immediately in the above clause. The courts have interpreted this phrase on the facts and circumstances of each case. It is a well-settled law that a review of the Orders of the Court/Commission should be used sparingly after examining the facts placed before the Court. An erroneous view or erroneous judgement is not a ground for review, but if the judgement or order completely ignores a positive rule of law and the error is so patent that it admits of no doubt or dispute, such an error must be corrected in the review. A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for a patent error. A review can only lie if one of the grounds listed above is made out.

With this background on legal provisions related to Review Petition, the Commission has examined the issues raised by the Petitioner to assess whether all or any of the issues raised by the Petitioner qualify for review hereunder:

A-Wrongful Disallowance of Capitalisation for FY 2022-23.

REC II Scheme: OPGW connectivity in PTCUL under Phase II of the ULDC Projects.

3.1.4 With regard to issue at Para 2.1 above, the same has been dealt with at Page 25-26 of the impugned Order wherein the Commission during TVS has directed SLDC to clarify reasons for claiming capitalization of Rs. 6.074 Crore only when LoA was issued for Rs. 31.20 Crore. In response, SLDC vide Letter dated January 30, 2024 submitted the details of year wise capitalization wherein the Petitioner submitted that the Capitalization for FY 2022-23 is Rs. 5.99 Crore. Accordingly, the Commission considered Capitalization for FY 2022-23 as Rs. 5.99 Crore .

Further, in cases where the Commission observed frequent changes in the submissions made by PTCUL, the Commission had cleared its stance and remarked the same at numerous places in the Order as under:

“The Commission observes that PTCUL has been frequently changing its submissions and Project Cost at every opportunity being provided to the Petitioner. The Commission takes a strong note of the same and expresses its displeasure over

the indecisiveness and inaccuracy with regard to the capitalization amount claimed by PTCUL during FY 2022-23. The Commission directs the Petitioner to submit firm values for the Scheme Project Cost with all the supporting computations at one instance and refrain from revising the submissions and creating confusion time and again till the last opportunity available."

Further, with regard to considering of minor assets towards O&M expenses, it is stated that shifting of Minor Items to R&M Expenses is in line with the consistent approach adopted by the Commission.

With regard to averment made by the Petitioner that the impugned order is erroneous from the perspective that it shifts the asset addition from the balance sheet to the P&L account and that the audited accounts have already been finalised for the FY 2022-23 wherein the disallowance of the asset addition would lead to differ the asset base of the Petitioner from Regulatory asset base considered by the Commission, the Commission is of the view that it is a consistent phenomenon where due to disallowances in the capitalization claimed the Regulatory Asset Base does not match with Actual Asset Base as maintained in the books of the Utilities, hence the same cannot be considered as an error apparent on record.

REC VI Scheme: 220/33 kV Substation at Piran Kaliyar

3.1.5 With regard to issue at Para 2.2 above, the Commission observes that false claims are being made by the Petitioner regarding the submission of justifications to the Commission. Further, the claim of the Petitioner is not maintainable on the fact itself that construction of residential colony & development works was not an activity which was beyond the reasonable control of Petitioner. Further under Regulation 22 of MYT Regulation 2021, the Petitioner has neither taken the effort to submit the details as to under which Clause of the said Regulation the Additional Capitalization is being claimed nor has submitted the reasons for delay in construction of residential colony to a date i.e. after 4 years of passing of cut-off date.

Accordingly, the Commission after considering the underlying issues and in the absence of supporting documents has decided to not consider the Additional Capitalization claimed by the Petitioner.

REC VIII Scheme: 220 kV D/C line on Twin Zebra Conductor from Lakhwar to Dehradun & it's LILO at Vyasi

3.1.6 With regard to issue at Para 2.3 above, the Commission in its Order dated 28.03.2024 has dealt with the Issue of IDC as follows:

“Based on the details submitted by the Petitioner, the Commission observed that the reasons of delay in the execution of “220 kV DC line on Twin Zebra conductor from Lakhwar to Dehradun & it’s LILO at Vyasi” include delay in Forest Case preparation activities like Joint Inspection with Forest and Revenue Officials, delay in obtaining FRA 2006 Certification, delay in allotment of land for compensatory afforestation, RoW Issues, Covid-19 first wave, unavailability of Shutdown of 33/11 kV feeders from UPCL, Covid-19 second wave, unapproachable road due to inclement weather conditions and delay in tree marking by Forest Department in Hill Section. The Commission observes that while the part of the delay could be considered under force majeure or delay not attributable to the Petitioner, however, it would be unreasonable to consider that each individual activity led to a situation which was beyond the control of the Petitioner, and it led to the overall delay of Four Years Eight Months in project execution. The Commission is of the view that other activities could have been undertaken in parallel, and the delay could have been shortened/ averted by proper planning and follow up at the Petitioner’s end. In addition, the details provided with respect to time overruns only mentioned various dates when issues emerged, or activities were completed. However, it could not be established as to how each activity had impacted the overall timeline of the project and whether other activities could have been planned in a manner where the delay could have been avoided.

Accordingly, based on the scrutiny of the reasons of delay submitted by the Petitioner, the IDC for the Scheme has been worked out as Rs. 8.22 Crore which has been allowed on Pro-rata Basis by categorizing the delay under controllable, partially controllable, and uncontrollable factors.”

The Commission while issuing the tariff Order has reasoned out the methodology adopted to consider the delay wherein the Commission has clearly held that while the part of the delay is considered due to uncontrollable factors and part of delay is considered due to controllable factors.

REC 9995: Const. of Approach Road for Control Room and Residential Building at 132 kV S/s Ranikhet

3.1.7 With regard to issue at Para 2.4 above, the Commission in the impugned Order has held as under:

"The Commission observes that the reasons for increase in cost submitted by the Petitioner as not satisfactory and that the retendering could have been avoided if proper background checks of the contractor were carried out while awarding the said works to the contractor."

REC 10760: Supply Erection and Testing & Commissioning of 40 MVA 132/33 kV Transformer and 132 kV and 33 kV Transformer Bay at 132 kV S/s Laksar

3.1.8 With regard to issue at Para 2.5 above, the Commission in the impugned Order has held as under:

"The Commission observes that the total capital cost for the scheme, exceeds the project cost approved by the Commission, if the additional capitalization claimed by the Petitioner during FY 2022-23 is considered. Further, the Commission observes that the Petitioner has not provided the justification for claiming cost higher than the approved cost for the said scheme. In the absence of suitable justification, the Commission restricts the additional capitalization claimed for FY 2022-23 to Rs. 0.12 Crore and approves the capitalization of Rs. 0.12 Crore during FY 2022-23."

RCRM 9025: Const. of 132 kV S/c Overhead Line from 220 kV S/s SIDCUL Haridwar to 132 kV S/s Jwalapur & Const. of 132 kV Bay(s) at both ends for 132 kV Overhead line from 220 kV Substation SIDCUL Haridwar to 132 kV S/s Jwalapur"

3.1.9 With regard to issue at Para 2.6 above, the the Commission in the impugned Order has held as under:

"The Commission during the Truing Up of FY 2021-22 had approved the capitalization Rs. 7.26 Crore along with capitalization of Rs. 1.51 Crore disallowed vide MYT Tariff Order dated March 31, 2022. (Total Approval was of Rs. 8.77 Crore).

The additional capitalization claimed by PTCUL during FY 2022-23 is within cut-off date. Considering the capitalization claimed for FY 2022-23, i.e. Rs. 0.95 Crore, the total Project Cost for the scheme sums up to Rs. 9.71 Crore up to FY 2022-23 which exceeds

the total approved cost of Rs. 9.67 Crore. Accordingly, the Commission has restricted the Project Cost of the Scheme to Rs. 9.67 Crore and have restricted the capitalization claimed during FY 2022-23 to Rs. 0.90 Crore. Hence, the Commission approves the additional capitalization of Rs. 0.90 Crore towards “Const. of 132 kV S/C Overhead Line from 220 kV S/s SIDCUL Haridwar to 132 kV S/s Jwalapur & Const. of 132 kV Bay(s) at both ends for 132 kV Overhead line from 220 kV Substation SIDCUL Haridwar to 132 kV S/s Jwalapur.”

Restricting capitalisation upto investment approval is in line with the consistent approach adopted by the Commission in its previous Tariff Orders.

REC 10148: Implementation of Intra-state ABT metering scheme for online-ing of ABT meters to be installed at interface points for energy accounting and transmission level emergency auditing under PTCUL, Dehradun.

3.1.10 With regard to issue at Para 2.7 above, the the Commission in the impugned Order has held as under:

“PTCUL in the present Petition has initially claimed the Capitalization of Rs. 13.26 Crore. The Commission vide TVS Letter dated January 22, 2024 directed the Petitioner to clarify the reason for claiming Project Cost of the Scheme as Rs. 11.45 Crore in Form 9.5 and Rs. 13.26 Crore in Form 9A. PTCUL vide Letter dated January 30, 2024 submitted that the amount claimed in the present Petition is Rs. 11.45 Crore as per revised Form 9.5, whereas in old Form 9.5 the Project Cost was Rs. 13.26 Crore. The Petitioner further submitted that amount of Rs. 2.3 Crore had to be deducted due to reversal of excess capitalization on 29.08.23. The amount of Rs. 1.29 Crore is an additional capitalization on account of payment of Final Erection Bill and AMC for hardware supplied in FY 2023-24 against Online Monitoring and Data Acquisition of contract. IDC is 0.80 Crore. The Petitioner submitted that as per the details submitted, the Final Project Cost works out as Rs. 11.45 Crore (Rs. 13.26 Crore – Rs. 2.3 Crore + Rs. 1.29 Crore – Rs. 0.80 Crore).

Based on the response submitted by the Petitioner, the Commission vide Letter dated February 21, 2024 further directed the Petitioner to submit Revised Form 9.5 and 9A in line with the submissions made during TVS Reply. The Commission observed that the Petitioner vide Letter dated February 26, 2024 revised the Values of Form 9.5 and 9A to

Rs. 12.15 Crore in contrast to the submissions made vide Letter dated January 30, 2024 without providing any justifications.

*The Commission observes that PTCUL has been frequently changing its submissions and Project Cost at every opportunity being provided to the Petitioner. The Commission takes a strong note of the same and expresses its displeasure over the indecisiveness and inaccuracy with regard to the capitalization amount claimed by PTCUL during FY 2022-23. **The Commission directs the Petitioner to submit firm values for the Scheme Project Cost with all the supporting computations at one instance and refrain from revising the submissions and creating confusion time and again till the last opportunity available.***

Since, the Petitioner has revised the capitalization values for the scheme without providing any justifications vide Letter dated February 26, 2024, the Commission is not inclined to consider the submissions made vide Letter dated February 26, 2024.

Considering the submissions made by the Petitioner vide Letter dated January 30, 2024, the Commission has considered the capitalization claimed for FY 2022-23 as Rs. 11.45 Crore.

With regard to the said Scheme, the Commission after scrutiny of the documents observed that the Capitalization of Rs. 11.45 Crore is exclusive of IDC of Rs. 0.80 Crore. Since the Cost considered for the approval of scheme is without IDC, therefore, the Commission has not approved the IDC for the Scheme. The Commission shall review the issue of IDC during Truing Up of FY 2023-24.

Further, the Commission noted that the Capitalization amount of Rs. 11.45 Crore includes the AMC of Rs. 1.19 Crore. The Commission has not considered the AMC part of the Scheme being capitalized and claimed by the Petitioner as a part of the Project Cost during FY 2022-23. The Commission observes that since AMC is the maintenance contract being signed by PTCUL for the upkeep and maintenance of the Software and Hardware involved in ABT Metering System, the same do not form the part of physical hardware being capitalized under the scheme. The Commission is of the opinion that such AMC expenses have to be met from the normative R&M expenses being allowed by the Commission. Hence, the Commission in this Order has considered the project cost for the scheme as Rs. 10.25 Crore after deducting the AMC Expense of Rs. 1.19 Crore.”

PFC (System Improvement): Supply and Installation of 01 no 160 MVA T/F and its associated 220 kV HV side & 132 kV LV side bay at 400 kV S/s Kashipur.

3.1.11 With regard to issue at Para 2.8 above, the the Commission in the impugned Order has held as under:

“Based on the details submitted by the Petitioner, the Commission observes that the reasons of delay in the execution of “Supply and Installation of 01 no 160 MVA T/F and its associated 220 kV HV side & 132 kV LV side bay at 400 kV S/s Kashipur” include Delay due to Covid-19 Pandemic, Delay due to Soil Filling permission for land development at 400 kV Sub-station at Kashipur, Delay due to non-availability of Shutdown of 220 kV and 132 kV Bus at 400 kV Sub-station at Kashipur, and Delay due to Charging Clearance from Electrical Safety Department. The Commission observes that while the part of the delay could be considered as delay not attributable to the Petitioner, however, it would be unreasonable to consider that each individual activity led to a situation which was beyond the control of the Petitioner, and it led to the overall delay of almost 2.5 Years in project execution. The Commission is of the view that other activities could have been undertaken in parallel, and the delay could have been shortened/ averted by proper planning and follow up at the Petitioner’s end. In addition, the details provided with respect to time overruns only mentioned various dates when issues emerged, or activities were completed. However, it could not be established as to how each activity had impacted the overall timeline of the project and whether other activities could have been planned in a manner where the delay could have been avoided. Accordingly, based on the scrutiny of the reasons of delay submitted by the Petitioner, the IDC for the Scheme has been worked out as Rs. 0.25 Crore which has been allowed on Pro-rata Basis by categorizing the delay under controllable, and uncontrollable factors.”

The Commission while issuing the tariff Order has reasoned out the methodology adopted to consider the delay wherein the Commission has clearly held that while the part of the delay is on account of uncontrollable factors and part of delay is on account of controllable factors.

PFC (System Improvement): Const. of 132/33 kV S/s Padartha (Patanjali), Haridwar.

3.1.12 With regard to issue at Para 2.9 above, the the Commission in the impugned Order has held as under:

“The Commission vide Letter dated February 21, 2024 further directed the Petitioner to submit Revised Form 9.5 and 9A in line with the submissions made during TVS Reply. However, the Commission observed that the Petitioner vide Letter dated February 26, 2024 revised the Values of Form 9A to Rs. 32.96 Crore aligning the cost claimed under Form 9.5 in contrast to the submissions made in the Petition without providing any justifications.

The Commission observes that PTCUL has been frequently changing its submissions and Project Cost at every opportunity being provided to the Petitioner. The Commission takes a strong note of the same and expresses its displeasure over the indecisiveness and inaccuracy with regard to the capitalization amount claimed by PTCUL during FY 2022-23. The Commission directs the Petitioner to submit firm values for the Scheme Project Cost with all the supporting computations at one instance and refrain from revising the submissions and creating confusion time and again till the last opportunity available.

Since, the Petitioner has revised the capitalization values for the scheme without providing any justifications vide letter dated February 26, 2024, the Commission is not inclined to consider the submissions made vide letter dated February 26, 2024 and accordingly, based on the submissions made by the Petitioner vide letter dated January 30, 2024, the Commission has considered the capitalization claimed for FY 2022-23 as Rs. 29.76 Crore.”

Further, the Commission in its Order dated 28.03.2024 has dealt with the Issue of IDC as follows:

“Based on the details submitted by the Petitioner, the Commission observes that the reasons of delay in the execution of “Const. of 132/33 kV S/s Padartha (Patanjali), Haridwar” include Delay in obtaining permission for Soil Filling of Land for Construction of Sub-station, No Entry of Heavy Vehicle during Kavad Mela, Heavy Rain, Amendment (New Item - SETC of SAS} in Contract Agreement Dated 13.10.2017 vide letter no. 890/SE(C&P-II)/PTCUL/SS-22/2016-17 dated 07.12.2019, and Delay in construction of associated transmission line (LILO of 132 kV Chilla-Nazibabad line) due to delay in approval of Forest case, Delay in construction of Well foundations in River Ganga. The Commission observes that while the part of the delay could be considered under force majeure or delay not attributable to the Petitioner, however, it would be unreasonable to consider that each individual activity led to a situation which was

beyond the control of the Petitioner, and it led to the overall delay of Four Years Eight Months in project execution. The Commission is of the view that other activities could have been undertaken in parallel, and the delay could have been shortened/ averted by proper planning and follow up at the Petitioner's end. In addition, the details provided with respect to time overruns only mentioned various dates when issues emerged, or activities were completed. However, it could not be established as to how each activity had impacted the overall timeline of the project and whether other activities could have been planned in a manner where the delay could have been avoided.

Accordingly, based on the scrutiny of the reasons of delay submitted by the Petitioner, the IDC for the Scheme has been worked out as Rs. 2.54 Crore which has been allowed on Pro-rata Basis by categorizing the delay under controllable, partially controllable, and uncontrollable factors"

The Commission while issuing the tariff Order has reasoned out the methodology adopted to consider the delay wherein the Commission has clearly held that while the part of the delay is on account of uncontrollable factors and part of delay is on account of controllable factors.

PFC (System Improvement): 132 kV Chila-Nazibabad LILO Line at 132 kV Substation, Padartha (Including Construction of Well foundation at various location of LILO of 132 kV Chilla Nazibabad line at Ganga River near village Sajanpur Pili, Haridwar).

3.1.13 With regard to issue at Para 2.10 above, the the Commission in the impugned Order has held as under:

"PTCUL in the present Petition has initially claimed the Capitalization of Rs. 20.61 Crore. The Commission vide TVS Letter dated January 22, 2024 directed the Petitioner to clarify the reason for claiming Project Cost of the Scheme as Rs. 20.19 Crore in Form 9.5 and Rs. 20.61 Crore in Form 9A. PTCUL vide Letter dated January 30, 2024 reiterated that the cost claimed under Form 9.5 is Rs. 20.19 Crore only. However, PTCUL revised the values of Additional Capitalization claimed under Form 9.8 to Rs. 2.44 Crore and submitted the revised Form 9.8 without providing any justifications. The Commission further observed that the Petitioner vide Letter dated February 26, 2024 revised the Values of Form 9 A to Rs. 20.19 Crore aligning the cost claimed under Form 9.5 in contrast to the submissions made in the Petition without providing any justifications.

The Commission observes that PTCUL has been frequently changing its submissions and Project Cost at every opportunity being provided to the Petitioner. The Commission takes a strong note of the same and expresses its displeasure over the indecisiveness and inaccuracy with regard to the capitalization amount claimed by PTCUL during FY 2022-23. The Commission directs the Petitioner to submit firm values for the Scheme Project Cost with all the supporting computations at one instance and refrain from revising the submissions and creating confusion time and again till the last opportunity available.

Since, the Petitioner has revised the capitalization values for the scheme without providing any justifications vide Letter dated February 26, 2024, the Commission is not inclined to consider the submissions made vide Letter dated February 26, 2024 and accordingly, based on the submissions made by the Petitioner vide Letter dated January 30, 2024, the Commission has considered the capitalization claimed for FY 2022-23 as Rs. 20.19 Crore which is lower of the claim made in Form 9 A and Form 9.5 plus additional capitalization of Rs. 2.00 Crore i.e. Rs. 22.19 Crore."

Further, the Commission in its Order dated 28.03.2024 has dealt with the issue of IDC as follows:

"Based on the details submitted by the Petitioner, the Commission observes that the reasons of delay in the execution of "132 kV Chila-Nazibabad LILO Line at 132 kV Substation, Padartha (Including Construction of Well foundation at various location of LILO of 132 kV Chilla-Nazibabad line at Ganga River near village Sajanpur Pili, Haridwar)" include forest land transfer approval/clearance from Forest Department (Like Delay in Joint inspection with forest & revenue officials, delay in FRA meetings and delay in processing of the case at nodal & other forest offices, delay in approval of MoEF etc.), Covid-19 Pandemic First Wave, Realignment of Tower location due to RoW at Location No. 3, Unprecedented rain in area during monsoon in the Month of July to Sep-2020, RoW issue at Location-4 in the Line Route, Delay in Construction of well foundation due to delay in forest clearance, Sinking of well foundation due to issue of rocky strata and restriction on entry in river ganga from 15 June to 15 October due to flood by local Administration, Covid-19 Pandemic Second Wave, RoW Issues between Location 6-7 during stringing of Transmission line, and High water level in River ganga during summer season/monsoon season. The Commission observes that while the part of the delay could be considered under force majeure or delay not attributable to the

Petitioner, however, it would be unreasonable to consider that each individual activity led to a situation which was beyond the control of the Petitioner, and it led to the overall delay of about Three Years Eight Months in project execution. The Commission is of the view that other activities could have been undertaken in parallel, and the delay could have been shortened/ averted by proper planning and follow up at the Petitioner's end. In addition, the details provided with respect to time overruns only mentioned various dates when issues emerged, or activities were completed. However, it could not be established as to how each activity had impacted the overall timeline of the project and whether other activities could have been planned in a manner where the delay could have been avoided.

Accordingly, based on the scrutiny of the reasons of delay submitted by the Petitioner, the IDC for the Scheme has been worked out as Rs. 0.75 Crore which has been allowed on Pro-rata Basis by categorizing the delay under controllable, partially controllable, and uncontrollable factors."

The Commission while issuing the tariff Order has reasoned out the methodology adopted to consider the delay wherein the Commission has clearly held that while the part of the delay is on account of uncontrollable factors and part of delay is on account of controllable factors.

PFC (System Improvement): Supply Erection and Testing & Commissioning of 40 MVA 132 kV Transformer & 132 kV & 33 kV Transformer Bay at 132 kV S/s Bindal.

3.1.14 With regard to issue at Para 2.11 above, the the Commission in the impugned Order has held as under:

"However, considering the capitalization claimed for FY 2022-23, i.e. Rs. 0.61 Crore, total Project Cost for the scheme sums up to Rs. 6.52 Crore up to FY 2022-23 which exceeds the total approved cost of Rs. 6.03 Crore. Accordingly, the Commission has restricted the Project Cost of the Scheme to Rs. 6.03 Crore and have restricted the capitalization claimed during FY 2022-23 to Rs. 0.20 Crore."

The Commission observes that the Petitioner while filing the Petition has not submitted the supporting justifications and is submitting the same at this juncture.

REC (System Improvement): Construction of 220 kV Pirankaliyar-Puhana (PGCIL) Line.

3.1.15 With regard to issue at Para 2.12 above, the the Commission in the impugned Order has held as under:

“The Commission vide its Investment Approval Order dated October 09, 2015, had approved Rs. 11.18 Crore for construction of 220 kV Piran Kaliyar-Puhana (PGCIL) single circuit line on double circuit towers (Zebra Conductor). Further, the Commission vide Investment Approval Order dated December 01, 2017, has approved the revised capital cost of Rs. 19.08 Crore for stringing of double circuit line on double circuit towers alongwith EHV cabling work. The Petitioner claimed the capitalization of Rs. 0.32 Crore during FY 2022-23.

The Commission vide Order dated March 30, 2023 had observed the following:

“The commission vide order dated March 31, 2022 has approved the capitalization of Rs. 7.95 Crore for FY 2020-21 and has limited the capitalisation to Rs. 11.14 Crore for FY 2021-22 against the claimed amount of Rs. 12.78 Crore. In this regard, the Commission remarked that the Commission will re-examine the approved cost for the project alongwith capitalisation of this project either during the truing up of FY 2021-22 or once the project is completed for final capitalisation.

The Commission observes that the Petitioner has again claimed the capitalization of Rs. 12.78 Crore for the said scheme without providing any justifications for the same. In the absence of any suitable justification, the Commission is not inclined to approve the capitalization claimed by the Petitioner and limits the capitalization for FY 2021-22 to Rs. 11.14 Crore restricting the project Cost to Investment Approval. The Commission will re-examine the approved cost for the project alongwith capitalisation of this project once the project is completed for final capitalisation and petitioner submits the suitable justifications for increase in cost over the approved cost.

In view of the observations made by the Commission regarding non submission of suitable justifications for increase in cost over the approved cost, the Commission observed that PTCUL vide Annexure XII of the instant Petition only submitted the reasons of Time Over-run and failed to submit the suitable justifications for justifications for increase in cost over the approved cost. In view of the absence of any suitable justification, the Commission is not inclined to approve the capitalization

claimed by the Petitioner and decides to keep the Project Cost restricted to Investment Approval of Rs. 19.08 as approved vide order dated March 30, 2023."

The Commission observes that the Petitioner while filing the Petition has not submitted the supporting justifications and is submitting the same at this juncture.

Other Schemes (System Strengthening): Furniture & Fixtures, and Office Equipment claimed by SLDC.

3.1.16 With regard to issue at Para 2.13 above, regarding the shifting of Minor Items to R&M Expenses is in line with the long-standing consistent view of the Commission and hence the review is not maintainable.

Further with regard to averment made by the Petitioner that the impugned order is erroneous from the perspective that it shifts the asset addition from the balance sheet to the P&L and that the audited accounts has already been finalised for the FY 2022-23 wherein the disallowance of the asset addition would lead to differ the asset base of the Petitioner from regulatory asset base considered by the Hon'ble Commission, the Commission is of the view that it is a consistent phenomenon where due to disallowances in the capitalization claimed the Regulatory Asset Base different than the Actual Asset Base as is maintained in the books of the Utilities.

That disallowance of capitalization of various assets mentioned above, clearly demonstrate that the Commission has deliberated upon the issue and taken a judicious view on each such claims while approving capitalisation for FY 2022-23, and the same have been claimed as wrongful by the Petitioner, the review Petition cannot be an appeal in disguise nor provides an opportunity to substitute a different view, therefore, the grounds as such do not qualify for a review.

B- Error Apparent in Capitalization of FY 2023-24

3.1.17 With regard to issue at Para 2.14 above, the Capitalization approved for FY 2023-24 shall be reviewed during the Truing Up exercise of FY 2023-24.

C- Erroneous Disallowances in Capitalisation of FY 2019-20, FY 2020-21 and FY 2021-22.

3.1.18 With regard to issue at Para 2.15 above, the the Commission in the impugned Order has held as under:

“...With regard to the submissions by the Petitioner made against the disallowance, the Commission observes that PTCUL in the Present Petition has reiterated the facts as stated in the earlier Petitions. Further, the Commission also observes that the reasons of delay reiterated by PTCUL for certain schemes where the capitalization was disallowed are partially controllable and partially uncontrollable in nature. Further, PTCUL has not been able to provide any substantial evidence to prove that the delay was uncontrollable in nature. It is further observed that based on the documents provided by PTCUL in support of its claim and the submissions made by PTCUL, the Commission has already decided the capitalization for the said schemes. Therefore, the Commission is not inclined to revisit the capitalization disallowed for the schemes in the Final True Up of FY 2019-20, FY 2020-21 and FY 2021-22.”

The Commission has already clarified its stand for not revisiting the disallowances in past and had reiterated the same in the Tariff Order. In view of the same there is no error apparent on the face of record and hence issue does not qualify for review.

D-Erroneous Disallowance of Return on Equity

3.1.19 With regard to issue at Para 2.16 above, the Commission in the impugned Order has held as under:

“With reference to “Return on Equity on opening Equity as on the date of creation of PTCUL”, the Petitioner submitted that in the past Tariff Orders, the Commission had not allowed return on equity on entire opening equity base approved by the Commission in the respective Tariff Orders. The return on opening equity was disallowed to the extent of equity contributed by the Government of Uttarakhand from Power Development Fund, considering that the Power Development Fund was realized from the consumers in the form of a cess.

The Petitioner further submitted that the Hon’ble Appellate Tribunal of Electricity (ATE) in Judgement dated May 15, 2015 in R.P. No. 2 of 2015 in appeal No. 163 of 2015 had issued directions to allow the RoE on the amount invested by the State Government, if the amount has not been provided as grant. The relevant extract from the Judgement is reproduced below:

“The Tribunal has upheld the findings of the State Commission in the impugned order but has not given any finding relating to disallowance of RoE on the funds deployed by

the State Government from PDF toward capital cost of the project. We feel that the findings of this Tribunal in Appeal no. 189 of 2005 will be applicable to the present case. If the State Commission has not provided the amount as a grant and has invested the amount as equity, RoE has to be allowed as per the Regulations of the State Commission. Accordingly, this issue is decided in favour of the Petitioner."

In view of the same, the Petitioner requested the Commission to allow the Return on Equity on the equity contribution of Government of Uttarakhand. The Petitioner submitted that this disallowance is not only restricting the internal surplus generation but also adversely affecting the financial position of the Petitioner and the consequent development of transmission assets.

In line with the approach adopted by the Commission in the earlier Orders and as deliberated in earlier Orders, the Commission has not approved the RoE on Equity from PDF. The Commission has allowed the Return on Equity on the opening equity base excluding the equity from PDF at the rate of 15.50%."

The Commission in the Tariff Order has already clarified its stand of not revisiting the issue and continuing with the approach adopted by the Commission in the earlier Orders and as deliberated in earlier Orders. In view of the same there is no error apparent on the face of record and hence issue do not qualify for review.

E- Wrongful disallowance on Efficiency Gains on Interest on Working Capital.

3.1.20 With regard to issue at Para 2.17 above, the contention of the Petitioner that the Commission has erred in considering the rate of interest on working capital as 10.50% equal to State Bank Advance Rate of SBI rather than weighted Average of one-year MCLR declared by SBI, in this regard it is stated that there has been a typographical error in the Order. In fact, the Commission has taken weighted Average of one-year MCLR declared by SBI for FY 2022-23 for calculating the rate of interest on working capital. In this regard the Commission in its MYT Order for the Fourth Control Period dated 31.03.2022 has at page 113 stated:

"Based on the above, the total working capital requirement of the Petitioner for FY 2022-23, FY 2023-24 and FY 2024-25 works out to Rs. 93.86 Crore, Rs. 116.07 Crore and Rs. 129.27 Crore respectively. The Commission has considered the rate of interest on working capital as 10.50% equal to the weighted average of 'one year Marginal Cost of Funds based Lending Rate (MCLR)' as declared by the State Bank of India from time to

time for the financial year in which the application for determination of tariff is made plus 350 basis points and, accordingly, the interest on working capital works out to Rs. 9.85 Crore, Rs. 12.19 Crore, and Rs. 13.63 Crore for FY 2022-23, FY 2023-24..."

Further, regarding the averment made by the Petitioner regarding consideration of actual Working Capital from the Audited Accounts of FY 2022-23 while approving the efficiency gains on the interest on working capital, the Commission observed that the Petitioner has not availed any Loan from the Banks and Financial Institutions to fund the Working Capital and has not paid actual interest to service such loans. In the absence of the same the Commission has considered the Actual Interest on Working Capital as NIL.

Further, with regard to the averments made by the Petitioner regarding consideration of Hon'ble APTEL's judgements wherein it has been ruled that efficiency gain in interest on working capital cannot be considered entirely on normative basis only because there is no outflow of funds by way of interest on working capital or there are no specific borrowings w.r.t. working capital, the Commission observes that in such cases the onus of proving the fact that the working capital has been arranged by means of Internal Accrual, Internal Funding or Retained Earnings, etc. lies with the Petitioner. In the Present case PTCUL has not taken any effort to demonstrate the fact with supporting documents that the working capital required by PTCUL is being funded by means of Internal Accrual, Internal Funding or Retained Earnings, etc. Accordingly, the Commission has considered the Actual Interest as NIL and approved the efficiency gains on the interest on working capital for FY 2022-23.

The methodology adopted by the Commission is in line with previous Orders of the Commission and the same has been accepted by PTCUL as the same was not challenged by PTCUL. Hence this issue has attained finality.

In view of the above, the issue cannot be reagitated again by way of present review Petition. There is no error apparent on the face of record and hence issue does not qualify for review.

F- Erroneous consideration of other revenue as Non-Tariff Income.

3.1.21 With regard to issue at Para 2.18 above, the the Commission in the impugned Order has held as under:

“The Commission had approved the non-tariff Income of Rs. 15.00 Crore in the MYT Tariff Order dated March 31, 2022 for FY 2022-23. As against the same, the Petitioner has claimed the non-tariff Income of Rs. (0.05) Crore in the final true up of FY 2022-23. The Commission observes that the actual ‘other income’ as per the audited accounts is Rs. 59.83 Crore for FY 2022-23 and as per Trial Balance is Rs. 60.90 Crore for FY 2022-23. The Petitioner has not considered the ‘other income’ pertaining to namely (1) Interest on Investments in FDR (Rs. 14.92 Crore), (2) Interest on TDRs through sweep accounts (Rs. 7.13 Crore), (3) Interest on Income Tax refund (Rs. 0.63 Crore), (4) Forfeited Earnest Money and Security Money (Rs. 26.17 Crore), etc. Regulation 63(2) of the UERC Tariff Regulations, 2021 stipulates that the interest earned from investments made out of Return on Equity corresponding to the regulated business of the transmission licensee shall not be included in the non-tariff income.

With regard to the treatment of interest earned on the return on the investment made from RoE and interest on TDRs and FDRs, the Commission during the Truing Up of FY 2020-21 vide Order dated March 31, 2022 has remarked as under:

“Based on the submission of the Petitioner, the Commission observed that major BGs were encashed during FY 2017-18. However, FDRs as on March 31, 2018 were only amounting to Rs. 59.37 Crore as per Note-8 and Note-9 of audited annual accounts for FY 2017-18 against the encashed BGs amounting to Rs. 111.34 Crore. The Commission sought clarification from the Petitioner in this regard. Further, the Commission once again directed the Petitioner to clarify that if the entire funds received from UPCL against 400 kV Srinagar S/s and associated lines have been invested in FDRs, how the expenditure against these projects are being met. In the matter, the Petitioner submitted that out of encashment value of Bank Guaranties, i.e. Rs. 111.34 Crore during FY 2017-18, Rs. 59.37 Crore invested in FDR’s and balance amount of Rs. 51.97 Crore was available in PTCUL Current Bank Account with auto sweep facility. Further, the expenditure against O&M and working capital for 400 kV Srinagar S/s and associated lines are being met through the available funds with PTCUL.”

In the matter, as discussed above, the BGs pertains to UITP schemes, accordingly, the Commission analysed the Trial Balance for FY 2017-18 of UITP projects and observed

that no amount is shown under the head of FDRs and only Rs. 1.83 Crore entry appears in Trial Balance of UITP Schemes or Current Account in the said Trial Balance. Further, as far as meeting the expenditure towards UITP Scheme's projects through PTCUL funds is concerned, it is pertinent to mention that the Commission allows depreciation which is a non-cash item used to meet repayment of Loans, normative O&M and Interest on Loan to meet its respective expenses. Further, approved amount pertaining to RoE retained with the Petitioner which is being invested in the form of FDRs as per the submissions of the Petitioner. However, in contrary, the Petitioner submitted the expenditure pertaining to 400 kV Srinagar S/s and associated transmission lines are met through funds of PTCUL. Moreover, UPCL delayed payments towards transmission charges of 400 kV Srinagar S/s & associated lines.

In the absence of any satisfactory evidence to substantiate that the investments were made out of Return on Equity, the Commission has considered the actual Interest Income from FDRs and Interest on TDRs through sweep accounts as Non-Tariff income. Accordingly, the Commission approves the Non-Tariff income amounting to Rs. 26.51 Crore. (Rs. 25.54 Crore as per audited accounts for FY 2020-21 and Rs. 0.98 Crore towards O&M charges from PGCIL for bays at 400 kV S/s Kashipur)."

Based on the methodology adopted in Truing Up of FY 2020-21 vide Order dated March 31, 2022, the Commission has considered the actual Interest Income from FDRs and Interest on TDRs through sweep accounts amounting to Rs. 22.05 Crore as Non-Tariff income. Further, the Commission has also considered forfeited earnest money and security money, penalties for delay in supplies/execution of works, connectivity charges etc. amounting to Rs. 26.65 Crore as Non-Tariff income. Accordingly, the Commission approves the Non-Tariff income amounting to Rs. 48.70 Crore."

The Commission in the Tariff Order has already clarified the approach adopted by the Commission in the Tariff Order as has been deliberated in earlier Orders. In view of the same there is no error apparent on the face of record and hence issue do not qualify for review.

G- Erroneous Interpretation to allow Income Tax.

3.1.22 With regard to issue at Para 2.19 above, the the Commission in the impugned Order has held as under:

“The Commission observed that the current tax for FY 2022-23 is amounting to Rs. 3.89 Crore as per audited annual accounts for FY 2022-23.

As per Regulations 34 of the UERC Tariff Regulations, 2021, Income Tax is to be considered as per actuals, based on the documentary evidence submitted at the time of truing up of each year of the Control Period, subject to prudence check. Accordingly, the Commission has considered the actual income tax of the Petitioner.

The Commission observed from the audited annual accounts for FY 2022-23 that the total revenue is amounting to Rs. 432.51 Crore, comprising of revenue from operations for FY 2022-23 amounting to Rs. 372.68 Crore and Other incomes of Rs. 59.84 Crore. The Commission has considered the revenue of Rs. 1.16 Crore from Natural ISTS Transmission line for FY 2022-23 which has been reduced and accordingly, total revenue works out to Rs. 431.35 Crore. Further, the total revenue includes revenue of Rs. 42.26 Crore from 400 kV Srinagar S/s & Lines which are towards UITP schemes and revenue from BHPL of Rs. 1.83 Crore. The proportionate income tax of Rs. 0.38 Crore pertaining to revenue billed from UITP schemes and BHPL needs to be reduced while allowing the Income Tax for FY 2022-23. Accordingly, the Commission has approved the income tax of Rs. 3.49 Crore for FY 2022-23.

The variation in the Income Tax as approved by the Commission vis-à-vis Income Tax as claimed by PTCUL is on account of consideration of Revenue wherein Commission has considered Total Revenue of Rs. 432.51 Crore for the purpose of computing Tax for Regulated and Non-Regulated Business whereas PTCUL has only considered Revenue from Operations i.e. Rs. 372.68 for the purpose of apportioning Tax for Regulated and Non-Regulated Business.”

The Commission in the Tariff Order has already clarified the approach adopted by the Commission in the Tariff Order as has been deliberated in earlier Orders. In view of the same there is no error apparent on the face of record and hence issue do not qualify for review.

H-Erroneous interpretation while allowing the O&M Expenses.

3.1.23 With regard to issue at Para 2.20 above, the Capitalization Rate approved by the Commission is in line with the approach adopted by the Commission in the earlier Orders. In view of the same there is no error apparent on the face of record and hence issue do not qualify for review.

I- Wrongful consideration of ARR for Bhilangana-III (Ghuttu)-Ghansali Line.

3.1.24 With regard to issue at Para 2.21 above, the Commission has clearly dealt with the issue under Page 89 to Page 91 of the Tariff Order dated 28.03.2024 and does not need to reiterate the same.

3.2 Besides above, the Commission has delved upon the principles settled by judicial pronouncements of review which are succinctly summarized in the matter of **Kamlesh Verma Vs Mayawati & Ors (2013) 8 SCC 320** which is being reproduced below:

"20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1. When the review will be maintainable:

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;*
- (ii) Mistake or error apparent on the face of the record;*
- (iii) Any other sufficient reason.*

The words "any other sufficient reason" has been interpreted in Chajju Ram vs. Neki¹⁷, and approved by this Court in Moran Mar Basselios Catholicos vs. Most Rev. Mar Poulouse Athanasius & Ors.¹⁸ to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd. & Ors. ²⁵ ,.

20.2. When the review will not be maintainable: -

- (i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.*
- (ii) Minor mistakes of inconsequential import.*
- (iii) Review proceedings cannot be equated with the original hearing of the case.*
- (iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.*
- (v) A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.*

(vi) *The mere possibility of two views on the subject cannot be a ground for review. (vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.*

(viii) *The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.*

(ix) *Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived.*

Moreover, error referred to by Petitioner for seeking review is far from being the 'error' that invokes reviewing jurisdiction. Therefore, the Review Petition cannot be entertained and is rejected as non-maintainable. In view of the same there is no error apparent on the face of record and hence issue do not qualify for review.

3.3 Similarly, in **Col. Avatar Singh Sekhon v. Union of India and Others (1980) Supp SSC 562**, the Hon'ble Supreme Court had observed that a review of an earlier order cannot be done unless the court is satisfied that the material error, which is manifest on the face of the order, would result in miscarriage of justice or undermine its soundness. Further, in the matter of **Lily Thomas & Ors Vs Union of India & Ors [(2000) 6 SCC 224]** the Hon'ble Supreme Court had observed that, "...Error contemplated under the rule must be such which is apparent on the face of the record and not an error which has to be fished out and searched. It must be an error of inadvertence..."

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"...Error apparent on the face of the proceedings is an error which is based on clear ignorance or disregard of the provisions of law. In T.C. Basappa v. T. Nagappa this Court held that such error is an error which is a patent error and not a mere wrong decision..."

From the above, it is clear that present Petition does not fall under the scope of Review. The Commission has deliberated on various issues raised in the review Petition and has already taken a view in the matter through its impugned order, this reasoned view of the Commission cannot be considered as an error for seeking review. The relief of review sought by the Petitioner points to a dissatisfaction / disagreement with the view of the Commission in the impugned order. Mere dissatisfaction over the view of a Court or disagreement with the view of the Court and calling such view

erroneous/wrongful, does not open doors to seek review which has a very narrow and limited scope.

3.4 In light of the above, the Commission does not find the instant Review Petition filed by PTCUL for review of Tariff Order dated 28.03.2024 as maintainable.

Ordered accordingly.

(Anurag Sharma)
Member (Law)

(M.L. Prasad)
Member (Technical) /Chairman (I/c)