Before the

MAHARASHTRA ELECTRICITY REGULATORY COMMISSION

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Case No. 96 of 2023

Case of Jaigad Power Transco Limited (JPTL) seeking review of Commission's Order dated 31 March 2023 in Case No. 213 of 2022 for Truing-up of Aggregate Revenue Requirement (ARR) for FY 2019-20 to FY 2021-22, Provisional Truing-up of ARR for FY 2022-23 and Revised ARR for FY 2023-24 and FY 2024-25.

Jaigad Power Transco Limited (JPTL): -----Petitioner

V/s

State Transmission Utility (STU): ----Respondent

Coram

Sanjay Kumar, Chairperson

Anand M. Limaye, Member

Surendra J. Biyani, Member

Appearances:

For the Petitioner: -----Mr. Jitendra Bhanusali (Rep.)

For STU: -----Ms. Sharda Takpere (Rep.)

ORDER

Date: 30 November 2023

1. Jaigad Power Transco Limited (**JPTL**) has filed this Petition on 14 May, 2023 under Section 94(1) (f) of Electricity Act (EA) , 2003 read with Regulation 28 of MERC (Transaction of Business and Fees and Charges) Regulations, 2022, seeking Review of Order dated 31 March, 2023 in Case No. 213 of 2022 (**Impugned Order**), in the matter of Truing-Up of ARR for FY 2019-20, FY 2020-21 and FY 2021-22, Provisional Truing-Up of ARR for FY 2022-23 and Revised ARR for FY 2023-24 to FY 2024-25.

2. **Main Prayers of JPTL are as follows**:

a) *"Review the order dated 31.03.2023 passed in Case No. 213 of 2022 and modify/vary the same in accordance with the submissions;*

b) *Revise the interest rate from FY 2020-21 onwards based on the reset date as 31st December 2020 and restate the ARR of FY 2020-21 onwards;*

c) *Revise the additional Overhauling O&M Cost for FY 2022-23 and restate the ARR of FY 2022-23;*

d) *Allow the additional cost incurred towards the construction of the Guest House in FY 2022-23 as the event occurred were uncontrollable in nature;*

e) *Allow the additional CAPEX and capitalisation related to Guest House under Regulations 24.7 of MYT Regulation 2019 as Non-DPR Cost;*

f) *Allow the cost related to restoration of transmission towers to be funded under the normative Debt: Equity Ratio rather than to be funded through contingency reserves;*

g) *Allow the recovery of the differential amount as per this review petition from the Transmission System User;*

h) *Allow the insurance cost in FY 2023-24 and FY 2024-25 as additional O&M cost or to revise the normative O&M cost to include the said insurance cost;*

i) *Allow the Additional CAPEX proposal for FY 2024-25 related to solar roof shed for JPTL building;*

j) *Revise the ARR (including the impact of the working capital) for FY 2020-21 to FY 2024-25 based on the above said prayers;*

3. JPTL has sought the review of the impugned Order on six issues. Hence, to avoid the repetition of the submission, the Commission has made issue wise analysis in the Order. The Commission has taken the JPTL's submission on the record. STU has no submission on the issues agitated by the Petitioner.

4. **At the e-hearing through video conferencing held on 6 October 2023:**

4.1. The representative of JPTL reiterated its submission from the Petition and sought the review of the impugned Order stating that there are errors apparent in respect of certain findings/decisions. Hence, JPTL sought the review of the impugned Order on the following grounds:

i. Wrong interest reset date considered for Canara Bank loan in FY 2020-21;

ii. Wrong additional overhauling amount considered in the provisional ARR for FY 2022-23;

iii. Disallowed capex towards Office-cum-Guest House works;

iv. Disallowance of Interest on Loan & Return on Equity (RoE) on Capitalisation of Rs. 1.61 Crore towards fallen tower;

v. Disallowance of insurance cover on entire transmission assets;

vi. Disallowance of additional Capex proposal for FY 2024-25 related to solar roof shed for building.

4.2. The Representative of STU stated that it has no specific submission on the issue raised by the Petitioner.

5. The Commission notes that the Petition has been filed under Section 94 (1) (f) of the Electricity Act, 2003 read with Regulation 28 of MERC (Transaction of Business and Fees and Charges) Regulations, 2022. Regulation 28 of MERC (Transaction of Business and Fees and Charges) Regulations, 2022 provides as below.

"28. Review of decisions, directions, and orders:

(a) Any person aggrieved by a direction, decision or order of the Commission, from which ***(i) no appeal has been preferred or (ii) from which no appeal is allowed, may, upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the direction, decision or order was passed or on account of some mistake or error apparent from the face of the record, or for any other sufficient reasons, may apply for a review of such order, within Forty-Five (45) days of the date of the direction, decision or order****, as the case may be, to the Commission.* –

(e) When it appears to the Commission that there is no sufficient ground for review, the Commission may after giving such person an opportunity of being heard in the matter, reject such review application.---"

6. The above Regulation 28(a) provides that a Review Petition is to be filed within a period of 45 days from the date of passage of the Order. The Commission has passed impugned Order on 31 March 2023 in Case No. 213 of 2022. Aggrieved with the impugned Order, JPTL filed this review Petition on 15 May 2023 i.e., within 45 days. Hence the criteria for filing a review Petition within 45 days is satisfied.

7. Further, it is a settled principle that exercise of power of review is limited and under the guise of review, the Petitioner could not be permitted to re-agitate and reargue questions which had already been addressed and decided by the Commission earlier. Therefore, the ambit of review is limited. The issues raised in this Review Petition are evaluated accordingly.

8. ***Issue No. 1:Wrong interest reset date considered for Canara Bank loan in FY2020-21:***

JPTL's Submission:

8.1. As per the first proviso of Regulations 30.5 of MERC (Multi Year Tariff) Regulations, 2019, the weighted average rate of interest is to be computed based on the actual long-term loan portfolio.

8.2. Accordingly, the Petitioner in MTR Petition has submitted the details of the loan portfolio comprising of Aditya Birla Finance Ltd. (**ABFL**) and Canara Bank loan. The weighted average interest rate for FY 2020-21 and FY 2021-22 of the loans is as follows:

Table 1: Weighted average rate of interest - FY 2020-21 and FY 2021-22

Particulars of loan	**FY 2020-21**		**FY 2021-22**	
	Interest Rate	**No. of Days**	**Interest Rate**	**No. of Days**
	%	**No**	**%**	**No**
Aditya Birla Finance Ltd(ABFL) Loan	9.20%	153	8.25%	153
ABFL Loan	8.25%	212	8.20%	153
Weighted Avg. Rate of Interest of ABFL Loan	**8.65%**	**365**	**8.23%**	**306**
Canara Bank	9.20%	275	8.25%	306
Canara Bank	8.25%	90		
Weighted Avg. Rate of Interest of Canara Bank Loan	**8.97%**	**365**	**8.25%**	**306**

8.3. Based on the above applicable interest rate of the respective loan, the weighted average rate of interest claimed for FY 2020-21 and FY 2021-22 was 8.81% and 8.24% respectively. Accordingly, JPTL has computed interest on the normative loan and claimed Rs.13.51 Crore and Rs.10.24 Crore for FY 2020-21 and FY 2021-22 respectively.

8.4. In November 2019, the loan amount of Rs. 66.24 Crore has been undertaken for down selling by ABFL with Canara Bank. The documents related to the down selling of the loan w**ith Canara Bank was enclosed as "Annexure 4" of the MTR Petition and is enclosed as "Annexure 2" to this Review Petition The loan reset letter dated 13 January 2022(Annexure 2) stated that interest rate is reset by Canara Bank w.e.f. 31 December and not from 31 August as considered by the Commission in the impugned Order. As per the Canara Bank Sanction Memorandum letter dated 5 November 2019, the reset of Rate of Interest (ROI) was to be** at the end of 1st year from first disbursement and annually thereafter, i.e., 31 December annually. The reference of the same, as specified in the sanction letter, is outlined as below:

Reset of ROI	*Rate of Interest will be reset at end of 1 year from first disbursement and annually thereafter.*

8.5. However, in the MTR Order, the interest rate reset date has been considered as 31 August.

8.6. As per the terms of the loan agreement, ROI will be reset at the end of 1st year from first disbursement and annually thereafter. Since the first disbursement was in December 2019, the interest rate was to be reset w.e.f. 1st January 2021 (end of 1 year of disbursement). Hence JPTL has considered 90 days for interest rate of 8.25% in line with the loan agreement. However, the Commission in its MTR Order, has considered the reset date as 31 August 2020 and considered 212 days for interest rate of 8.25%. It is an error apparent on the face of record of the Order while computing the rate of interest for calculation of interest on normative loan.

8.7. Also, for FY 2021-22, there was no change in rate of interest for the loan of Canara Bank and whole loan of ABFL and Canara Bank was squared off in February 2022. Accordingly, the Petitioner has considered only 306 days. However, the Commission has considered 310 days of ABFL loan and 392 days of Canara Bank Loan against 306 days of the tenure of the loan in FY 2021-22. The number of days in a year are 365 days against which 392 days has been considered in the MTR Order which is an error apparent on the face of record of the Order. The computation of interest rate for FY 2020-21 and FY 2021-22 as approved in the MTR order is highlighted as below:

Table 2: Weighted average rate of interest – Portfolio of JPTL loan for FY 2020-21 and FY 2021-22

Particulars	FY 2020-21		FY 2021-22	
	Interest Rate %	No. of Days	Interest Rate %	No. of Days
ABFL Loan	9.20	153	8.25	153
ABFL Loan	8.25	212	8.20	157
Weighted Avg. Rate of Interest of ABFL Loan	**8.65**	**365**	**8.22**	**310**
Canara Bank	9.20	153	8.25	153
Canara Bank	8.25	212	8.20	139
Weighted Avg. Rate of Interest of Canara Bank Loan	**8.65**	**365**	**8.23**	**392**

8.8. Hence, the Petitioner requested to consider the above submission and rectify the error apparent in the calculation of interest rate for FY 2020-21 and FY 2021-22.

8.9. Further, JPTL requested to restate the weighted average rate of interest for FY 2022-23 as 8.24% against the approved rate of interest as 8.23%.

Commission's Analysis and Rulings:

8.10. The Commission notes the illustrative submission of JPTL that it has availed the loans from ABFL and Canara Bank in different tranches as shown in the Tabel 1 above.

8.11. JPTL's contention is that it has submitted documents related to the down selling of the loan with Canara Bank was enclosed as Annexure 4 to the MTR Petition and as Annexure 2 to this review Petition. These documents state that the interest rate reset by Canara Bank is w.e.f. 31 December and not from 31 August. However, the Commission in the impugned Order has wrongly considered the ROI reset as on 31 August 2020.

Hence , there is difference of Rs. 0.25 Crore in the calculation of interest rate claimed by the Petitioner and approved by the Commission. Also, the Commission in the impugned Order for FY 2021-22 while computing the weighted average interest has considered 310 days of ABFL loan and 392 days of Canara Bank Loan, which is an error apparent on the face of record of the Order. The Petitioner has considered 306 days of the tenure of the loan in FY 2021-22.

8.12. The Commission notes that in the MTR Petition, the Petitioner has considered the interest reset date as December as per the " SANCTION MEMORANDUM" of Canara Bank dated 5 November 2019 addressed to JPTL and ABFL. The said memorandum states that Rate of Interest will be reset at end of 1 year from first disbursement and annually thereafter. However, another Canara Bank letter dated 28 November 2019 addressed to the JPTL granting the term loan specifies that the ROI will be charged in line with the ABFL rate of interest, and the ROI reset will be due on 31 August 2020 in line with ABFL. The relevant provisions of the said letters are as follows:

Particulars	*Condition as per Your sanction letter vid ref. No. PCB-BKC /CR-JPTL/788/2019-20 dated 5.11.19*	*As per you letter dated 22.11.19*	*Remarks / clarifications*
Reset of ROI	*Rate of Interest will be reset at end of 1 year from first disbursement and annually thereafter.*	***To be deleted. Only MCLR will be reset annually on 31st August every year. Spread will be subject to change only in case of rating downgrade below A+.***	***We do hereby confirm that the ROI will be charged in line with ABFL rate of ROI reset will be due on 31.8.2020 in in line with ABFL.***

8.13. The Canara Bank letter dated 28 November 2019 approving the loan has changed the condition of interest rate reset in the letter dated 5 November 2019. Accordingly, the Commission in the impugned Order has ruled as follows:

"4.6.12 It is observed that JPTL in its submission has computed weighted average rate of interest of Canara Bank Loan for FY 2020-21, by considering Rate of Interest (RoI) of 9.20% for 275 days and 8.25% for 90 days.

Canara Bank letter dated 28 November 2019 clarified that RoI will be charged in line with ABFL rate of interest and RoI reset will be due on 31 August 2020 in line with ABFL. Clearly JPTL while working out weighted average rate of interest of Canara Bank Loan has not reset the RoI in line with loan documents.

Similarly, actual No. of days have been revised (keeping in mind the loan pre-payment dates) while working out weighted average rate of interest for FY 2021-22.

8.14. From the perusal of the documents submitted by the Petitioner it is observed that JPTL during the MTR Petition filing dated 31 October 2022 and the subsequent data gap replies dated 17 November 2022, 30 November 2022, 07 February 2023 and 15 February2023, has submitted only two letters of the Canara Bank dated 5 November 2019 and 28 November 2019 (Annexure 4 of MTR Petition) regarding the reset of interest rate for the Canara Bank.

8.15. However, in the present review Petition, JPTL has submitted additional Canara bank letter dated 13 January 2022(Annexure2) along with letter dated 05 November 2019 and 28 November 2019 to suffice its claim regarding the reset of the RoI in December instead of August as considered by the Commission in the MTR Order. The letter dated 13 January 2022 provides as follows:

" We wish to inform you that our Sanctioning Authority has permitted reset in Rate on Term Loan of Rs. 70 crore as under:

Existing ROI	*Reset on ROI w.e.f. 30.12.2021*
One year MCLR(Dec'2020) 7.35 %+ 0.90 % i.e. 8.25 % p.a. compounding monthly with annual reset. *Next rest due on 30.12.2021*	*One year MCLR(Dec'2021) 7.25 %+ 0.90 % i.e. 8.15 % p.a. compounding monthly with annual reset.* *Next rest due on 30.12.2022*

8.16. The Petitioner in this review Petition has relied on the aforsaid Canara Bank letter dated 13 January 2022 stating that it was submitted in the MTR Petition as Annexure 4 which is now enclosed as Annexure 2 to the Review Petition. However, the letter dated 13 January 2022 was not part of the MTR Petition as Annexure 4 and same is part of Annexure 2 of the Review Petition.

8.17. The Regulation 28 of MERC (Transaction of Business and Fees and Charges) Regulations, 2022 provides that any person aggrieved with the direction of the Commission can file the review Petition within 45 days of the issuance of Order subject to fulfilling the following conditions:

a) No appeal has been preferred or no appeal is allowed.

b) Upon the discovery of new and important matters or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the direction, decision or order was passed or on account of some mistake.

c) Error apparent from the face of the record

8.18. The Commission notes that the Petitioner filed the MTR Petition on 31 October 2022 and the revised MTR Petition on 5 December 2022. However, as discussed above, it has not provided the letter dated 13 January 2022 in the MTR Petition. Hence, the Commission has ruled on the basis of the Canara Bank letter dated 28 November 2019 kept on record by the Petitioner which clarifies and provides the reset of the loan as 31 August 2020. Further, letter dated 13 January 2022 justifying the review was well within the knowledge when the MTR Petition was filed but same could not be filed to the reasons best known to the Petitioner.

8.19. From the rulings of the Commission, it is clear that in the impugned Order the Commission has correctly computed the weightage average rate of interest for Canara Bank loan during FY 2019-20, FY 2021-22 and FY 2021-22 based on the actual loan payment and the submission provided by JPTL in the Petition.

8.20. In view of the above, the Commission is not inclined to accept the review on the RoI reset date as there is no error apparent on the face of record and no new facts submitted by the JPTL in the Review Petition which was not within his knowledge or could not be produced by him at the time when the impugned Order was issued.

8.21. However, the Commission notes that there is an inadvertent typo error in the number of days for Canara Bank in Table No. 77 of MTR Order dated 31 March 2023. The No. of days should be 292 days instead of 392. Further, this typo error has no financial impact on the ARR. The Table No. 77 of the MTR Order should be read as below:

Table 1: Weighted average rate of interest - portfolio of JPTL Loan for FY 2020-21 and FY 2021-22

Particulars	FY 2020-21		FY 2021-22	
	Interest Rate %	No. of Days	Interest Rate %	No. of Days
ABFL Loan	9.20	153	8.25	153
ABFL Loan	8.25	212	8.20	157
Weighted Avg. Rate of Interest of ABFL Loan	**8.65**	**365**	**8.22**	**310**
Canara Bank	9.20	153	8.25	153
Canara Bank	8.25	212	8.20	139
Weighted Avg. Rate of Interest of Canara Bank Loan	**8.65**	**365**	**8.23**	**292**

9. ***Issue No. 2: Wrong additional overhauling amount considered in the provisional ARR for FY 2022-23:***

JPTL submission:

9.1. The Petitioner in its MTR Petition has claimed the overhauling expenses from FY 2020-21 and expected to complete the same by FY 2022-23 as follows:

Table 3: Overhauling Expenses claimed by JPTL for FY 2020-21 to FY 2022-23 (Rs. Crs)

Particulars	FY 2020-21	FY 2021-22	FY 2022-23	Total
Overhauling Expenses	0.20	0.20	0.48	**0.88**

9.2. Against the total claim of Rs.0.40 Crore for FY 2020-21 and FY 2021-22, the Commission in MTR order has allowed only Rs. 0.20 Crore. The Commission had noted that in FY 2021-22, the Petitioner has procured spares for another 2 breakers, but the actual overhauling works were carried out in May 2022 for two bays namely 400kV Jaigad-Karad ckt-2 & Jaigad-New Koyna ckt- 1. Therefore, it was stated in the Order that the balance part is an inventory build-up of spares for overhauling of circuit breakers and has not led to any benefits, hence it does not satisfy the criteria meant for OPEX scheme. The expenses approved by the Commission are as follows:

Table 4: Overhauling expenses under Additional O&M incurred for FY 2020-21 and FY 2021-22, as approved by Commission (Rs. Crores)

Particulars	*FY 2020-21*		*FY 2021-22*	
	JPTL Petition	*Approved in this Order*	*JPTL Petition*	*Approved in this Order*
Overhauling expenses	*0.20*	*0.18*	*0.20*	*0.02*

9.3. As is evident from the above table, the Commission has disallowed Rs. 0.18 Crores in FY 2021-22 stating that the same being an inventory part will be allowed in FY 2022-23.

9.4. Further in FY 2022-23, against the claim of the Petitioner of Rs.0.48 Crore, the Commission has approved Rs. 0.52 Crore (as per Table 138 of MTR Order - Summary of provisional Truing-up of ARR for FY 2022-23 approved by Commission (Rs. Crore)). However, as per Table 117 of MTR Order, under para 5.2 related to "O&M expenses", the Commission has approved Rs. 0.73 Crore as Overhauling expenses of FY 2022-23 as stated below:

Table 5: Additional O&M Expenses for FY 2022-23 as approved by the Commission (Rs. Crore)

Particulars	*JPTL Petition*	*Approved*
Overhauling expenses	*0.48*	*0.73*
PM Module	*0.03*	*-*

9.5. Hence, there is an error apparent on the face of the record of the Order as per Table 138 of MTR Order, the expenses approved are Rs. 0.52 Crore and in Table 117, the additional overhauling expenses approved is Rs. 0.73 Crore.

9.6. Assuming while denying that expenses approved for FY 2022-23 are Rs 0.52 Crore as per Table 138 of the MTR Order, the Commission has erred in not considering the expenses of Rs 0.20 Crore related to inventory built up in FY 2022-23 as held in para 4.2.25 of the MTR Order. Accordingly, since the amount of Rs. 0.20 Crore was disallowed in FY 2020-21 and FY 2021-22 stating the same as a part of inventory and therefore, summing the claim of the Petitioner for FY 2022-23 of Rs. 0.48 Crore and the additional cost of Rs. 0.20 Crore to be allowed in FY 2022-23, the Commission may have allowed the total overhauling expenses of Rs. 0.68 Crore.

9.7. Also, in the reply to data Gap Set -1 submitted on 17 November 2022, the total overhauling expenditure was submitted on yearly basis as per Annexure 3 of the data gaps. The same is outlined briefly in the following table:

Table 6: Overhauling Expenditure from FY 2020-21 to FY 2022-23 (Rs. Crore)

Particulars	Amount	Remarks
Total Overhauling expenses for FY 2020-21 to FY 2022-23 (incurred)	0.89	
Less: Inter Transfer	0.12	Material in stock & will be consumed in FY 2022-23 during overhauling works
Actual Expenditure incurred	**0.77**	

9.8. The basic objective of the submission of the above table was that the total overhauling expenses claimed by the Petitioner was Rs. 0.89 Crore of which Rs. 0.77 Crore was already incurred till the date the Petition was filed on 31 October 2022 and Rs. 0.12 Crore was in inventory which was yet to be undertaken for repair work till the date of filing of Petition and was incurred within 31 March 2023. However, there seems to be error apparent whereby the Commission has considered the total overhauling expenses of Rs. 0.77 Crore and has inadvertently not considered the amount of Rs. 0.12 Crore lying in inventory which was to materialize within FY 2022-23.

9.9. There is an error apparent on the face of the record of the Order while computing the Overhauling expenses for FY 2022-23 whereby the impact of Rs. 0.12 Crore lying within the inventory has not been considered while approving the additional OPEX.

9.10. Therefore, the Petitioner requested the Commission to approve Rs. 0.68 Crore instead of Rs. 0.52 for the year FY 2022-23. The resultant incremental cost of Rs. 0.16 Crore related to overhauling expenses is requested to be allowed for FY 2022-23.

Commission's Analysis and Observations:

9.11. The contention of the Petitioner is that the Commission has disallowed Rs. 0.20 Crore in the FY 2020-21 (Rs. 0.02 Crore) and FY 2021-22 (Rs. 0.18 Crore). Further, the Commission in the impugned Order has mentioned that Rs. 0.18 Crore disallowed in the year FY 2021-22 as spares will be considered in the FY 2022-23. However, it is not considered. Further, for FY 2022-23 it has claimed Rs. 0.48 Crore as overhauling expenses. However, the Commission has approved Rs .0.52 Crore. The Petitioner requested to approve Rs. 0.68 Crore for FY 20233 (Rs. 0.48 Crore + Rs..20 Crore disallowed in FY 2020-21 and FY 2021-22) as shown in Table 4 above.

9.12. As per Table No. 138 of the MTR Order, the overhauling expenses approved for FY 2022-23 are Rs. 0.52 Crore. However, as per Table No. 117 of the MTR Order the additional overhauling expenses approved for FY 2022-23 are Rs. 0.73 Crore. Hence there is an error apparent on the face of the record.

9.13. The computation of the overhauling expenses as claimed by the Petitioner vis a vis approved by the Commission is summarised as follows:

Table 7: Overhauling Expenditure from FY 2020-21 to FY 2022-23 (Rs. Crore)

Financial Year	Claim in Petition (Rs. Cr)	Claim as per Data Gap Reply dated 07.02.2023 (Rs. Cr)	Approved by the Commission in Order dated 31.03.2023 (Rs. Cr)	Disallowance (Rs. Cr)	Remarks for the allowed overhauling expense
	A	B	C	C-A	
FY 2020-21	0.20	0.18	0.18	-0.02	Allowed 0.18 Cr. as per computation provided in data gaps by JPTL itself. Hence, 0.02 Crore was not allowed.
FY 2021-22	0.20	0.02	0.02	(0.18)	In data gap reply, JPTL has claimed Rs. 32 Lakhs. Out of Rs. 32 Lakhs Rs. 30 lakhs was for FY 2022-23. Hence , approved 2 Lakhs for FY 2021-22 as ruled at Para 4.4.24 of the Impugned Order.
FY 2022-23	0.48	0.56	0.52	0.04	Allowed 0.52 Crore after considering the following: 1. Allowed Rs.30 lakhs as spares as per Para 5.2.8 of the Impugned Order. 2. Allowed other cost of Rs. 34 lakhs after considering a lower manpower and OH cost as per Para 5.2.9 of the Impugned Order. 3. Disallowed Rs. 12 lakhs as JPTL itself has deducted the same in the workings provided in the data gap reply discussed in Para 9.13 of this Order. Thus, Rs.30 + 34 – 12 = Rs.52.00 lakhs.
Total	0.88	0.77	0.73	-0.16	

9.14. The above table is self-explanatory which clarifies that, the Commission has correctly allowed the overhauling expenses during FY 2020-21, FY 2021-22 and FY 2022-23.

9.15. The Commission has provided the justification for non-consideration of Rs. 0.12 in the overhauling expense for FY 2022-23 in Para 5.2.8 of the Impugned Order. The relevant extract from the Order is provided as below:

> *5.2.8 The Commission in Para 4.2.24 of this Order has examined the submission of JPTL and considered the cost of breaker spares in FY 2022-23 based on the bills and* ***workings submitted by JPTL in reply to data gaps.***

9.16. The Commission clarifies that, during the scrutiny of the workings named "O&M expenses Overhauling works (Annexures) submitted by JPTL in reply to data gap dated 07 February 2023, the Commission observed that in the remark's column of the working table, JPTL itself has deducted Rs. 0.12 Crore with the remark that, the material is in stock and will be consumed in FY 2022-23 during overhauling. This shows that JPTL had not consumed the material of Rs. 0.12 Crore for overhauling till the date of filing of MTR Petition and also not during the data gaps replies dated 7 February 2023. As the material is not consumed and put to use, the Commission considered the overhauling expenses excluding Rs. 0.12 Crore.

9.17. Regarding the claim of JPTL for disallowance of other overhauling expenses in the respective years of FY 2020-21, FY 2021-22 and FY 2022-23, the Commission has provided a detailed justifications under the respective paragraphs as follows:

9.18. The relevant extract from the Impugned Order is below:

> *4.2.22 For scrutiny of overhauling expenses under additional O&M Expenses, the Commission had sought for the board resolution copy, bid evaluation report, cost benefit analysis and* ***reconciliation of overhauling expenses with the audited account of FY 2020-21 and FY 2021-22 in the query under the data gaps.***
>
> *4.2.23 Upon scrutiny of the documents and workings of JPTL, the Commission notes that, the overhauling expenses mainly consist of spares for pole overhauling for circuit breakers and isolators, service engineer charges and miscellaneous charges etc.*
>
> *4.2.24 As submitted by JPTL, in FY 2020-21, the overhauling was undertaken only for 400kV Jaigad-Karad ckt-1. Further, in FY 2021-22, JPTL has procured spares for another 2 breakers, but the actual overhauling works were carried out in May-22 for two bays namely 400kV Jaigad-Karad ckt-2 & Jaegar-New koyna ckt-1.*
>
> *4.2.25 In this context, it is noteworthy that mere inventory build-up of spares for overhauling of circuit breakers has not led to any benefits, and it does not satisfy the criteria meant for OPEX scheme as claimed by JPTL under Regulation 61.8 of MYT Regulations 2019.* ***Therefore, the Commission has considered the overhauling cost of other two breakers in FY 2022-23 along with the balance breaker of Jaigad-New koyna ckt-2 as has been undertaken.*** *The Commission notes that, JPTL has submitted the necessary details as directed in the para*

4.2.12 and 4.2.13 of MYT Order dated 30 March 2020 for the expenses incurred towards overhauling and has claimed the same as additional OPEX. However, the Commission is approving the overhauling expenses to that extent as an additional O&M expense for FY 2020-21 and FY 2021-22….”

5.*2.8 The Commission in Para 4.2.24 of this Order has examined the submission of JPTL and* ***<u>considered the cost of breaker spares in FY 2022-23 based on the bills and workings submitted by JPTL in reply to data gaps.</u>***

5.2.9 Further, the Commission notes that, in (H1) of FY 2022-23, ***<u>manpower and engineer charges have been increased significantly, however, JPTL has not submitted detailed justification of the same. Accordingly, the Commission has provisionally considered the manpower and engineer charges for (H2) of FY 2022-23 same as approved in FY 2020-21.”</u>***

9.19. From the details provided in the above Table and the rulings of the Commission it is clear that the Commission in FY 20233 has considered the cost of the spares. Accordingly the Commission approved Rs. 0.52 Crore for FY 2023 as summarised in Table 7 above.

9.20. However**, the Commission notes that there is an inadvertent typo error in overhauling expense for FY 2022-23 in Table No. 117 wherein Rs. 0.73 Crore has been typed as against the overhauling expense for FY 2022-23 as Rs. 0.52 Crore.** The Table No. 117 of the MTR Order should be read as below:

Particulars	JPTL Petition	Approved
Overhauling expenses	0.48	0.52
PM Module	0.03	-

9.21. Further, this typo error has no impact on overall ARR approval as in the ARR summary sheet it has been correctly mentioned in Sr. No. 2 of Table No. 138.

9.22. Hence the Commission is of the view that there is no error apparent on the face of the record and no new facts have been submitted by the Petitioner. Hence, the review is not acceptable.

10. ***Issue No. 3: Disallowed capex towards Office-cum-Guest House works*****:**

JPTL submission:

10.1. In the MTR Order, the Commission has disallowed the following capex amount related to Office-cum-guest house building.

a) Cost overrun – due to COVID related lockdown (Rs. 0.23 crore)

b) Increase in the built-up area (Rs. 0.15 crore)

c) Additional items not envisaged in the original approval Petition (Rs. 1.22 crore).

a) <u>Cost overrun due to COVID related lockdown (Rs. 0.23 crore)</u>

10.2. The Petitioner submitted the list of the events that took place before and after the Covid 19 Period. The events are summarized as follows:

Table 8: Activity Table for Construction of JPTL Office cum Guest House

Sr	Activity	Completion date / Estimate
1.	Purchase of land & execution of sale deed by paying agreed cost	18.10.2016
2.	Final mutation entry updated in the name of JPTL	25.09.2018
3.	Architect cum project consultant has been finalised & appointed.	17.09.2018
4.	Final building plan submitted by architect	28.11.2018
5.	Finalisation of detail design and BOQ,	20.04.2019
6.	Tender enquiry floated	02.07.2019
7.	Receipt of offers from vendors	10.08.2019
8.	Negotiation with vendors is in progress.	Ongoing
9.	Comparative statements and site E-NFA forwarded to corporate commercial department (CCD)	03.10.2019
10.	Award of work order from CPC-Mumbai.	11.07.2020
11.	Due to unfavorable working condition in monsoon peak season & covid pandemic situation, the contractor has mobilised first set of resources in Sept-20, but again due to heavy monsoon & sudden peak in covid cases in nearby area and work restrictions levied by district administration, actual work has been started in the month of October-20.	25.10.2020
12.	Office building civil work activities started but again halted due to persistent pandemic condition in the country	Oct-20 to May-21
13.	From mid of May-21, again work halted due to second wave of Covid pandemic till Sept-21	May-21 to Sept-21
14.	Tendering process started for interior works	23.10.2021
15.	Post covid (after lifting covid restriction), work resumed at site (internal work activities) in rainy season. Also, electrical contractor mobilized for execution of works.	Sept-2021 to Dec-2021
16.	First floor civil activities taken up along with external laterite works such cladding, compound wall. Also, Readymade furniture received from Godrej interio.	Jan-22 till May-22
17.	Interior works (Covering POP, furniture, Glass partitions etc) work order awarded to M/S. Subhash Panchal in May-22	24.05.2022
18.	Exterior works viz. peripheral electrification, security cabin, Main gate with front entrance, CD works, pathway, landscaping, internal roads etc. work order issued in Sept-22	After 15.09.2022
19.	IT infrastructure works (covering all active devices, networks switches, access points, AV system, Fire alarm system, visitor management system surveillance system for new office premises as per JSW IT policy). Work order awarded to vendor in March-23 & currently work under progress and expected to be completed in H1 FY 24.	March 2023

10.3. The reasons for delay are as follows:

- Delay in search of land.

- As per MERC Order, the construction activity was scheduled to be completed in FY 2019-20. However, after the comprehensive study of the project, architecture by the team and commercial negotiations by team, the final work order for civil works could be awarded to the contractor only in the month of July-2020.

10.4. Lockdown and closure of the district boundary by the district administration during the first and second wave of Covid-19. Due to Covid-19, there were movement restrictions in phases from April 2020 to November 2020 and April 2021 to June 2021 affecting the work of the Petitioner to construct the Guest house.

10.5. As per Regulation 2.1(40) of MYT Regulations, 2019 Force Majeure is "any event or circumstance, which is not within the reasonable control of, and is not due to an act of omission or commission of, that party and which, by the exercise of reasonable care and diligence, could not have been prevented. Further, Force Majeure events are uncontrollable events.

10.6. Disallowance of the entire incremental cost of Rs. 0.23 Crore is error apparent on the face of record.

b) Increase in the built-up area (Rs. 0.15 Crore):

10.7. The Commission in the MTR Order has disallowed the incremental cost of Rs 0.15 Crore which was due to increase built-up area by 577 Sq. ft. In the MTR Order, the Commission has approved capitalization of Rs. 2.77 Crore towards setting up office, guest house & shed at Chiplun whereby the area considered was 5000 Sq. ft.

10.8. In principle the approval sought from the Commission was purely on the basis of the provisional estimates. Also, the area envisaged for office-cum-guest house building was of 5062 sq. ft, but the actual built-up area after construction has worked out to be 5639 sq. ft, further adding up cost over the projected estimates.

10.9. There is an error apparent on the face of record of the Order for not considering the incremental cost of Rs. 0.15 Crore due to increase in the sq.ft. area.

c) Additional items not envisaged in the original approval Petition (Rs. 1.22 crore):

10.10. The Commission in MYT Order dated 27 June 2016, has approved capitalisation of Rs. 2 Crore towards items like setting up office, guest house & shed at Chiplun. Even in the MTR Order dated 12 September 2018 in Case No. 167 of 2017, the Commission has approved the revised cost of Rs. 2.77 Crore which clearly highlights the activities such as Land, Construction of office cum guest house, compound wall and Parking, Interior Works.

10.11. The estimates submitted to the Commission were only related to the construction of Guest house. The ancillary equipment was not included in the estimates. Further there are some capex expenditures like cost of Disel Generator set & new transformer connection which were not planned at the time of submission of the estimates to the

Commission for approval. Also, the approval of Rs. 2.77 crore was only provisional approval.

10.12. The details of the additional ancillary capital equipment proposed with Guest house are outlined as below:

Table 9: Additional Capital Equipment to be implemented in the Guest House

Head	Capitalisation (Cr)
D G Set	0.05
Transformer 25 kVA	0.05
Detailed Architect services	0.02
Furniture, compactors, electronics goods	0.25
Exterior works (Gate, pathway, Cross Drainage works etc)	0.40
Total Capitalisation in FY 2022-23	**0.77**
IT system & accessories (Planned in FY 2023-24)	0.45
Total Capitalisation	**1.22**

10.13. In the MTR, the Commission may have approved the proposed capitalization towards Non-DPR Scheme.

10.14. Further as per Regulations 24.7 of MYT Regulations 2019, cumulative amount of capitalization against non-DPR schemes shall not exceed 20% of the approved capitalization Cost. Since the Commission has approved the provisional cost of the guest house of Rs. 2.77 Crore for FY 2022-23, as per the Regulations 24.7, at least Rs. 0.55 Crore for FY 2022-23 may have been approved in the MTR Order and the balance cost may have been considered at the time of truing up subject to prudence check.

10.15. Hence, the Petitioner submitted that there is evidently an error apparent on the face of the record of the Order.

Commission's Analysis and Rulings:

10.16. The contention of JPTL is that the Commission in the impugned Order has disallowed the capital expenditure towards:

a) Cost over-run due to Covid 19 lockdown.

b) Increase in the built-up area of the guest house.

c) Additional items not envisaged in original approval petition.

10.17. The JPTL stated that the disallowance of the capital expenditure is an error on the face of record of the impugned Order and hence review is justified.

10.18. The Commission notes the sequence of the event as summarized in the Table above and the submission of JPTL itself clarify that the scheme was initiated in October 2016. As per the approval, the scheme was to be completed in FY 2019-20. However, till date the work is in progress.

10.19. Further, JPTL in the MTR Petition had made the same submission as in the review Petition. Considering the submission and justification the Commission in the impugned Order has ruled as follows:

"5.3.6 Since the JPTL had proposed the capital expenditure of guest house and office work in FY 2020-21 and the Commission had approved the same at the time of MYT Order dated 30 March 2020. However, the same was delayed and now JPTL has included it in the capitalization *for FY 2022-23. The submission of JPTL for the delay in* capitalization *of guest house cum office is summarised in the Para 4.4.1 to 4.4.5 of this Order.*

5.3.7 The Commission notes that JPTL has claimed Rs. 0.23 Crore for cost overrun and time overrun due to delay in the project, Rs.0.15 Crore for increase in the scope of work and Rs. 0.82 Crore against the items which were inadvertently missed while preparing the detailed estimates at the time of original approval of the Commission. Further, the Commission also notes that, the actual completion of work was initially envisaged to be completed in FY 2019-20, which was further delayed till FY 2020-21 as approved in MYT Order in Case No. 294 of 2019 and same was further delayed due to COVID-19 and now expected to be completed by FY 2022-23.

5.3.8 With regards to justification of JPTL for time overrun and cost overrun, the Commission is of the ***view that, the project was planned in 2017-18 and was expected to be completed by 2019-20 i.e., much before the COVID-19 Pandemic. Further, the Commission also notes that, even after more than one-year post****-lockdown period, JPTL has not progressed much for completion of project activities.*

5.3.9 Further, the Commission is of the view that, the justification of JPTL for cost overrun due to time overrun and revision in the scope of work, layout revisions, inadvertently missing the items like furniture in the office building, power supply arrangement for guest house, power back up arrangement are not acceptable. It is observed that the nature of the item missed out are common in nature which should have been considered at the time of project estimates.

5.3.10 Further, with regards to site specific capex expenditures like cost of DG set and Transformer connection, the Commission is of the view that the site location and detailed design were already finalised on 20 April 2019. Therefore, JPTL would have proposed this capitalization *during the MYT projection in Order dated 30 March 2020.*

*5.3.11 The Commission is of the view that the justification submitted by the JPTL does not substantiate the claim of cost over run, and additional expenses of Rs. 1.20 Crore (Rs. 0.15 Cr +Rs. 0.23+ Rs. 0.82 Cr) for guest house cum office during FY 2022-23. ----" ……………………………………………………(****Emphasis added****).*

10.20. The rulings of the Commission in the impugned Order were a considered decision based on the merit of the facts. Hence, the review sought by JPTL is not in line with the

Regulation 28 (a) of the MERC (Transaction of Business and Fees and Charges) Regulations, 2022. Accordingly, the Commission is not inclined to accept the review on this issue.

11. ***Issue No. 4: Interest on Term Loan & RoE on capitalisation of Rs. 1.61 Crore towards fallen tower disallowed*:**

JPTL Submission:

11.1. On 27 September 2020, 400kV Jaigad-Karad Double Circuit (D/C) Quad Moose transmission tower collapsed due to a massive landslide of the adjacent mountain face due to rains. The same was also intimated to the Commission vide letter dated 30 September 2020 requesting to allow the cost during true-up of FY 2020-21. Considering the emergency situation, the Petitioner has incurred an additional capital expenditure and utilization of the new tower of Rs. 1.61 Crore for restoration of tower in the transmission system in FY 2020-21 and has decapitalization the cost of the original tower of Rs. 1.22 Crore from the books of the accounts.

11.2. In MTR Order, the Commission has approved the expenses of the Rs. 1.61 Crore. However, there is an error apparent on the face of record of the impugned Order while considering the cost of restoration of towers to be funded through Contingency Reserve Fund due to following reasons:

A. <u>No specific provisions in MYT Regulations for Transmission Licensee for execution of work under contingency reserves:</u>

- Post intimation to the Commission, of the collapse of tower and request to allow the same under Truing up, there was no further guidelines made available to the licensee and hence it was presumed that such activity will be considered at the time of truing up.

- First proviso of Regulations 35.2 of MYT Regulations 2019, the withdrawal of contingency reserves with post facto approval was only for Distribution licensee and hence for the transmission licensee there is no specific provisions for drawal of contingency reserves with post facto approval. Hence contingency reserves were never used by the Petitioner for the fund to be utilised for restoration of tower.

> *"Provided that the Distribution Licensee shall obtain the Commission's post-facto approval for drawal of Contingency Reserve by submitting the necessary justification for the drawal of Contingency Reserve along with documentary evidence."*

- Hence without any specific provisions in the MYT Regulations2019, being a regulated entity, it cannot utilize the contingency reserve fund to meet the expenditure related to the restoration of tower without any specific direction from the Commission. Hence, the Petitioner has utilized its own funds to carry out the restoration of the tower to meet the emergency situation. Accordingly, the Petitioner is entitled for interest on the loan and Return on Equity for the funds incurred for restoration of tower from FY 2020-21 onwards.

- The treatment of additional GFA only for selective purposes and not for others has no legal basis. Further, since decapitalization is for all purposes, capitalization against the same event cannot be only for selective purposes.

B. <u>No consideration of computational impact on Interest on Loan and Return on Equity</u>

- Without prejudice to the aforesaid submission, even in case the Commission is of the view that the fund for restoration of tower is required to be funded through contingency reserves, there is evidently an error apparent on the face of the record of the Order for considering the treatment of the same from FY 2020-21 onwards.

- Till issuance of MTR Order, the Petitioner has utilized it owns fund for restoration of tower work. The funds with contingency reserves has not been withdrawn till MTR Order. In case the Petitioner was made aware to incur the expenses under contingency reserve , then reserves might have been withdrawn to carry out work. The Petitioner's own fund might have been invested for some other activities which might have earned more income than the contingency reserve. Therefore, since own funds has been infused, the Petitioner is entitled to get a pass through of interest on loan and return on equity for the same fund till the amount is withdrawn from the contingency reserve to fund restoration work. The finding of the Commission in the para 4.4.24 of the impugned Order that cost is not actually funded by Petitioner is an error apparent. It is therefore a fit case for the Commission to review the impugned Order on this count.

C. <u>Error in calculation of interest on loan and the impact provided in FY 2020-21:</u>

- Further, without prejudice to the submission made above and considering the approach adopted by the Commission, there is an error apparent on the face of the record of the impugned Order in calculation of the interest on loan and impact of adjustment of contingency reserves not considered in FY 2020-21 as outlined below:

- In MTR Order, the Commission has ruled that the cost of Rs. 1.61 Crore towards the tower restoration work is considered in the Gross Fixed Assets only for computation of depreciation and O&M and not for computation of ROE and Interest on Long Term Loan for the future years as expenditure are not actually funded by the Petitioner (Para 4.4.24 of the MTR Order).

- However, it has been observed that though the depreciation has been calculated considering the cost of Rs. 1.61 Crore from FY 2020-21 onwards, the Commission has considered the same as loan repayment while computing the interest on loan from FY 2020-21 to FY 2021-22 onwards. This is contradictory to the approach adopted by the Commission whereby it clearly stated in para 4.4.25 that of the MTR Order that no impact of cost of the Restoration of tower is considered for computation of Interest on loan. However, while computing the interest on loan, the Commission has not considered the debt related to cost of the tower restoration but is considering the loan repayment of the same. This has resulted into double impact on the ARR of the Petitioner. The debt is not adjusted, and interest is reduced by considering the loan repayment which is linked to depreciation and the amount of depreciation includes the cost of tower restoration. This is evidently an error apparent on the face of record of the Order while computing the interest on the loan.

- Further, without prejudice to the above submission and considering the approach adopted by the Commission, there is an error apparent on the face of the record of the Order in calculation of Income on Contingency Investment for FY 2020-21. The tower collapsed on 27 September 2020 i.e., in FY 2020-21. The Commission has ruled that the same needs to be funded through contingency reserves fund. Accordingly, the Commission has adjusted the equivalent cost of restoration of tower of Rs. 1.61 Crore in the Contingency Reserve fund (as per Para 4.10.6 of MTR Order) in FY 2020-21. Also, a similar adjustment has been made regarding Interest on Loan and RoE in FY 2020-21 itself. However, while calculating the income from contingency reserves, the Commission has adjusted the income in FY 2021-22 which is evidently an error apparent on the face of the record of the order. The relevant adjustment in the MTR Order is extracted below:

Table 10: Calculation of Income on Investment for FY 2020-21 and FY 201-22 (Rs. Crore) as per MTR Order

Financial Year	Interest Rate	Contingency Reserve	FY 2020-21	FY 2021-22
FY 2010-11 to FY 2017-18	8.42%	10.15	0.85	0.85
FY 2018-19	7.73%	1.38	0.11	0.11
FY 2019-20	6.57%	1.38	0.05	0.09
FY 2020-21	6.68%	1.38		0.05
	8.01%	(1.61)		(0.06)
Total Interest on Contingency Reserve Investment		**12.68**	**1.01**	**1.03**

- Since the fund requirement was in September 2020, and in case the fund was withdrawn from Contingency Reserves in September 2020, then the income on contingency reserve to that extent for six months would not have accrued in FY 2020-21 and hence the same was required to be adjusted from FY 2020-21 onwards. This is an error apparent on the face of record of the Order.

11.3. Based on the above submission, the Petitioner request the Commission to allow the interest on loan and RoE from FY 2020-21 onwards against the cost of restoration of tower and and subsequently revised ARR for FY 2020-21 to FY 2024-25 in line with the submission as made above.

Commission's Analysis and Rulings:

11.4. The Commission notes that the Petitioner sought the review of the impugned Order stating error on the face of record of the impugned Order related to the execution of fallen tower under contingency reserve on the following counts:

a) No specific provisions in MYT Regulations for Transmission Licensee for execution of work under contingency reserves:

b) No consideration of computational impact on Interest on Loan and RoE ;

c) Error in calculation of interest on loan and the impact provided in FY 2020-21

11.5. Based on the submission of the Petitioner and rulings in the impugned Order issue wise analysis is carried out as follows:

11.6. The tower was failed on 27 September 2020. The Commission notes that the JPTL had intimated the Commission about failure of the tower on 30 September 2020 requesting to allow the cost during true-up of FY 2020-21. The relevant extract from the letter is below:

> *"We are trying our best to erect the transmission tower for the continuity of the transmission lines at the earliest. It is our humble request to consider the tower replacement cost under the non-DPR scheme during the true-up of the ARR for FY 2020-21."*

11.7. Further, JPTL claimed that at the time of collapse of tower i.e., on 27 September 2020, there were no specific guidelines for the funding for the restoration of tower. Thus, JPTL has undertaken the same through the Company's funds but was considered for the calculation of normative debt: Equity ratio of 70:30 as capital expenditure.

11.8. In this regard the Commission notes that it has notified the MYT Regulations 2019 on 1 August 2019. The MYT Regulations 2019 allows the utilization of contingency reserve in case of emergency and same has been ruled in the Impugned Order. The relevant extract from the Impugned Order is as below:

> *"4.4.22. …. However, the Commission is of the view that such unplanned contingency expenses are expected to be incurred through, "Contingency Reserve" funds. The relevant provision of the MYT Regulations 2019 is as below.*
>
> *"35.2 The Contingency Reserve shall not be drawn upon during the term of the Licence except to meet such charges on account of:*
>
> *(a) Expenses or loss of profits arising out of accidents, strikes or circumstances which the management could not have prevented.*
>
> *(b) Expenses on replacement or removal of plant or works other than expenses requisite for normal maintenance or renewal.*
>
> *(c) Compensation payable under any law for the time being in force and for which no other provision is made:"* ---

11.9. Further, the intimation letter dated 30 September 2020 is silent on the use of contingency reserve for restoration of the tower. The letter only speaks about execution of the works under capital expenditure. Hence, it is clear that since inception, the Petitioner intended to execute the work under capital expenditure overlooking the provisions of the MYT Regulation 2019 as referred supra.

11.10. Ther Regulation 35.2 of the MYT Regulations 2019 provides for utilisation of the contingency reserve for execution of emergency work. Hence, contention of the Petitioner that there is no specific provision in MYT Regulations for Transmission Licensee for execution of work under contingency reserves is not based on the merit. Further, it was the responsibility of the Petitioner to follow the MYT Regulations. In case of any doubt about the provisions of the MYT Regulations 2019 , JPTL was free to seek clarification in the initial stage.

11.11. The directives of the Commission to execute the work under contingency reserve is a considered decision as per the provisions of the MYT Regulations 2019 and there is no error. Hence review is not acceptable on this count.

11.12. Further the Petitioner under the pretext of review is seeking the recovery of interest on loan and RoE on the expenditure incurred for restoration of tower till the amount is withdrawn from contingency reserve. In this regard, as elaborated above, as per the provisions of the MYT Regulations 2019 , it was the responsibility of the Petitioner to execute the work utilizing the contingency funds instead of infusing its own funds. Hence, the Commission is not inclined to provide any pass through of interest on loan and RoE for the Petitioner's fund till the amount is withdrawn from the contingency reserve.

11.13. The Petitioner is also seeking review of the impugned Order on account of non-computational impact on Interest on Loan and RoE and error in calculation of interest on loan and its impact provided in FY 2020-21. In this regard, the Commission in Para 4.4.24 of the impugned Order has ruled that the new tower expense was funded through contingency funds, thus JPTL is not liable to claim the interest on Loan and RoE on the additional GFA for the new tower expense.

11.14. The relevant rulings of the Impugned Order is below:

4.4.24. Further, the Commission has considered the cost of Rs. 1.61 Crore towards the tower restoration work in the GFA, however same is considered only for computation of depreciation and O&M and not for computation of ROE and Interest on Long Term Loan for the future years as same are not actually funded by the JPTL. The details of the status of contingency reserves fund after incurring the expenses towards are discussed in Para no. 4.10.6 of this Order. Further, the details of computation of depreciation, ROE and interest on long term loan considering the additional Capitalization are discussed in the appropriate paragraphs of this Order."

4.6.3 As per Regulation 30.3 of MYT Regulations 2019, the repayment is considered equal to the depreciation for the year. ---"

11.15. Further, the provisions of MYT Regulations 2019 for allowance of the depreciation on the new additional GFA and the repayment as per Regulation 28.1 and 30.3 respectively are as follows :

28.1 The Generating Company, Licensee, and MSLDC shall be permitted to recover depreciation on the value of fixed assets used in their respective businesses, computed in the following manner:

(a) The approved original cost of the fixed assets shall be the value base for calculation of depreciation:

Provided that the depreciation shall be allowed on the entire capitalised amount of the new assets after reducing the approved original cost of the retired or replaced or de-capitalised assets.

30.3 The loan repayment during each year of the Control Period from FY 2020-21 to FY 2024-25 shall be deemed to be equal to the depreciation allowed for that year.

11.16. In view of the above it is clear that the computation of Interest on Loan, RoE and depreciation is as per the provisions of the MYT Regulations 2019. Hence, there is no double impact on the ARR of the Petitioner as alleged.

11.17. Further, the Commission in the impugned Order has provided detailed justification for the amount not considered under RoE and Interest on Loan in Para 4.4.24 and depreciation as the repayment of the loan in para 4.6.3 of the impugned Order and in Para 11.14 of this Order.

11.18. Hence, there is no error apparent on the face of the record while considering only depreciation & O&M and not ROE & Interest on Long Term Loan for the future years.

11.19. Further, with regards to consideration of interest on contingency reserves fund as non-tariff income, JPTL ought to use contingency reserves fund for restoration of tower. However, it has not utilized the contingency reserves fund till the filing of MTR Petition. Hence the Commission has noted that the contingency funds invested in government security were continued earning interest till the time of filing of the Petition. Accordingly, the Commission, found it appropriate to consider the withdrawal of contingency fund by second half of FY 2021-22 and computed the interest on the contingency reserves fund accordingly to consider as non-tariff income.

11.20. The Commission's decision to consider the withdrawal of contingency reserves fund retrospectively for new tower work and reduce the non-tariff income accordingly for further adjustment in ARR for FY 2021-22 during final truing up is a considered decision . There is no error apparent on the face of the record.

11.21. The review sought by the Petitioner on various counts is negating the provisions of the MYT Regulations and its responsibility to execute the work under contingency reserve fund which is not tenable.

11.22. In view of the above, the Commission rules that there is no error apparent on the face of record and no additional facts have been submitted by the Petitioner. Further, there is no ambiguity with the MYT Regulations 2019. Hence, the review is not maintainable.

12. ***Issue No. 5: Proposal for insurance cover on entire transmission assets declined by***

***MERC*:**

JPTL Submission :

12.1. The Petitioner has historically never taken insurance on the transmission assets from the date of the Commissioning in FY 2010-11 onwards. However, in FY 2020-21, due to the extreme weather conditions, Tower No. 150 collapsed. Hence the restoration was undertaken with its own funds. In MTR Petition, the Petitioner has put forth the proposal for additional normative O&M towards insurance cost. Accordingly, the Petitioner has requested the Commission to allow the cost of the new insurance policy on the transmission assets at the time of true up of FY 2023-24 and FY 2024-25.

12.2. Since the insurance expenses were not the part of O&M expenses in the past, same claimed under the additional O&M expenses so that the base O&M cost is rationalized.

12.3. The Petitioner has sought the relief under Regulations 105 – "Power to Relax" of MYT Regulations 2019 and requested to kindly consider allowing insurance of transmission towers and lines as additional O&M expenses to avoid future cost pass through burden on the end consumers.

12.4. However, the Commission in the MTR Order has stated that it is not inclined to allow the new insurance policy cost and the Petitioner may avail insurance cover within the normative O&M expenses for FY 2023-24 and FY 2024-25.

12.5. However, existing normative O&M as stipulated in MYT Regulations 2019, does not include the cost of the insurance and is being derived based on the actual O&M expenses incurred in the past. Hence the existing normative O&M cost is insufficient to cover such a huge cost.

12.6. Therefore, there is an error apparent on the face of the record of the Order to avail insurance cover within the normative O&M expenses for FY 2023-24 and FY 2024-25.

12.7. Based on the above submission, the Petitioner request the Commission to allow the insurance expenses to be incurred for the first time and which will form the part of O&M expenses as per definition specified in MYT Regulations 2019, by way of additional O&M over and above the norms or by way of revision in the O&M norms.

Commission's Analysis and Observations:

12.8. The contention of the Petitioner is that the Commission in the impugned Order has directed JPTL to incur the insurance expenses from the O&M expenses which is an error apparent on the face of record. Further exiting normative O&M does not include the cost of insurance. The Petitioner also requested to invoke the provisions of the Regulation 105 – "Power to Relax" of MYT Regulations 2019.

12.9. The Commission in the impugned Order has ruled as follows:

"6.2.21Further, JPTL submitted that, in past, it has not incurred any insurance expenditure and hence has not included the cost of insurance in O&M expenses.

Since the insurance expenses was not a part of O&M expenses in the past, same is proposed to be claimed under the additional O&M expenses so that the base O&M cost of JPTL is rationalized. -----

6.2.23 JPTL also clarified during public hearing that, the proposed insurance premium of around Rs. 2.50 Crore covers all towers and transmission system of JPTL. Further, the Commission sought additional information on realistic assessment of proposed insurance policy based on identification of critical and non-critical items---

6.2.27 JPTL has sought the relief under Regulations 105 – "Power to Relax" of MYT Regulations 2019 and requested to kindly consider allowing insurance of transmission towers and lines as additional O&M expenses to avoid future cost pass through burden on the end consumers. ----

6.2.28 The Commission has scrutinised the submission of JPTL for the claim of insurance under the additional OPEX. It is noted that, the general utility practices undertaken by the transmission licensee is to take insurance for critical equipment and preferably substation/ bays etc and transmission / lines in vulnerable area.

6.2.29 The Commission finds ***inherent contradiction in the JPTL's submission that utilities in general practice undertake insurance for limited critical assets as specified in Para 6.2.20 and on the other hand*** *it has proposed to take insurance for all the assets instead of only critical towers. Hence, JPTL should undertake detailed study of insurance practices through interaction with other state transmission utilities and private (interstate and intrastate) transmission utilities. Further, it has to negotiate with multiple insurance companies to evolve its strategy to evolve with most suitable option in the interest of its own business and consumers/transmission users.---*

6.2.30 ***The Commission also notes that the Insurance Expenses are covered under O&M expenses as per the Regulations 2 (63) of MYT Regulations 2019 as below: -----***

6.2.31Therefore, the Commission is not inclined to consider the prayer of JPTL to allow claim the cost of new insurance policy on the transmission assets as proposed by JPTL.

6.2.32 Upon detailed study as highlighted under Para 6.3.31, JPTL may avail insurance cover as appropriate within the normative O&M expenses for FY 2023-24 and FY 2024-25. –"

12.10. The aforsaid rulings of the impugned Order clarifies that the Commission has provided detailed justification in para 6.2.29 to 6.2.32 of MTR Order dated 31 March 2023.

12.11. JPTL has reiterated its submission form the MTR Petition without any new facts on record which were not available or could not have been produced at the time of proceeding in the MTR Petition. The decision of the Commission is considered decision. There is no error apparent on the face of record and no additional facts have been submitted by the Petitioner. Hence, the review is not allowed.

13. ***Issue No. 6: Additional CAPEX proposal for FY 2024-25 related to solar roof shed for JPTL building declined by the commission.***

JPTL Submission:

13.1. In MTR Petition, JPTL has proposed the additional CAPEX of Rs. 0.25 Crore for FY 2024-25 against Solar roof shed for JPTL office building. The Commission in the impugned Order has disallowed the same stating that no justification has been provided for such cost and as per MERC CAPEX Regulations 2022, the Capital expenditure, for internal civil works is not allowed.

13.2. The cost related to Solar roof shed is not internal civil work but has proposed to install rooftop Solar panel system on the roof shed of the guest house. Hence there is an error apparent on the face of the record of the order to consider the same as internal civil work and disallowing the same under CAPEX Regulations 2022.

13.3. With respect to the justification, office building of JTPL has around 2800 sq. ft. terrace area which can accommodate rooftop solar panel system for providing green energy to office premise. Hence, the Petitioner has proposed to install rooftop Solar panel system on the roof shed which will be good initiative to promote renewable energy at workplace. Rooftop Solar panel will minimize conventional energy consumption from MSEDCL and hence will reduce the cost of monthly electricity bill. Further, it will also reduce Carbon Footprint.

13.4. Considering that Solar roof system is a cost-effective system with life expectancy of 25 years, it will result in additional saving for the Petitioner, the benefit of which will be pass on to the beneficiaries. JPTL also submitted the cost benefit analysis for implementation of the Solar Rooftop of 15 kW and requested to allow the same.

Commission's Analysis and Observations:

13.5. The contention of the Petitioner is that the Commission in the impugned Order has not allowed additional CAPEX proposal for FY 2024-25 related to solar roof shed for JPTL office building which is an error apparent on the face of the record.

13.6. The Commission in the impugned Order has ruled as follows:

"6.3.24 The Commission has examined the submission of JPTL regarding the CAPEX for Solar Roof shed for JPTL office building. It is noted that JPTL has not submitted any justification regarding Solar roof shed for JPTL office building. —"

13.7. As per the provisions of the Capex Regulations 2022, the Commission approves the scheme with prudence check, verifying the cost benefit analysis and necessary justification. From the rulings of the Commission, it is clear that JPTL in the MTR Petition has not provided the justification for the scheme proposed.

13.8. The scheme is proposed by the Petitioner for FY 2024-25. In this regard, the Commission has notified the Capex Approval Regulations 2022 on 12 July 2022 i.e., before filing of the MTR Petition. Regulation 10.1 of these Regulations regarding the non-DPR scheme provide that:

"10.1 All Non-DPR Schemes shall be required to be registered with the Commission on quarterly basis in physical form, till the commencement of the web-portal referred in Regulation 19 of these Regulations, after which the Schemes shall be registered on the web portal:

Provided that the Format specified in Appendix 1 for submission of DPR Schemes shall be applicable for Non-DPR Schemes also, to be filled-up as applicable/relevant:

13.9. However, JPTL has not registered for the scheme with the Commission though it is planned for the FY 2024-25.

13.10. The rulings of the Commission and the provisions of the Regulations clarify that JPTL has not provided the necessary justification in the MTR Order. The Commission notes that JPTL in the review Petition has provided the cost benefit analysis but the scheme is not registered with the Commission.

13.11. There is no error apparent on the face of record and no additional facts have been kept on the record by the Petitioner which were not available at the time of proceeding of the MTR Petition. Hence, the review is not allowed.

14. **Hence, the following Order.**

ORDER

The Petition bearing Case No. 96 of 2023 is dismissed.

Sd/-	Sd/-	Sd/-
(Surendra J. Biyani)	**(Anand M. Limaye)**	**(Sanjay Kumar)**
Member	**Member**	**Chairperson**

(Dr. Rajendra G. Ambekar)
Secretary

MAHARASHTRA ELECTRICITY REGULATORY COMMISSION