Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 170 of 2017

In matter of
Petition of Adani Transmission (India) Ltd. for Truing-Up of Aggregate Revenue Requirement (ARR) for FY 2015-16 and FY 2016-17, Provisional Truing-Up of ARR for FY 2017-18 and Revised Forecast of ARR for FY 2018-19 to FY 2019-20.

Coram

Shri. Anand B. Kulkarni, Chairperson
Shri. I.M. Bohari, Member
Shri Mukesh Khullar, Member

ORDER

Date: 12 September, 2018

Adani Transmission (India) Limited (ATIL), Adani House, near Mithakhali Six Roads, Navrangapura, Ahmedabad, has filed a Mid-term Review (MTR) Petition for the 3rd Control Period on 29 November, 2017 comprising of truing up of Aggregate Revenue Requirement (ARR) for FY 2015-16 and FY 2016-17, provisional truing up of ARR for FY 2017-18 and Revised Forecast of ARR for FY 2018-19 & FY 2019-20. The original Petition was filed on 30 November, 2017 and the revised Petition was filed on 9 June, 2018.

The Petition has been filed in accordance with the MERC (Multi Year Tariff) Regulations 2011 ("MYT Regulations, 2011"), for Truing-up of ARR for FY 2015-16 and in accordance with MERC (Multi Year Tariff) Regulations, 2015 ("MYT Regulations, 2015") for Truing-up of ARR for FY 2016-17, Provisional Truing-up of ARR for FY 2017-18, and Revised forecast of ARR for FY 2018-19 and FY 2019-20.

The Commission, in exercise of the powers vested in it under Sections 61 and 62 of the Electricity Act (EA), 2003 and all other powers enabling it in this behalf, and after taking into consideration the submissions made by ATIL, upon Public consultation process, and upon considering all other relevant material, has approved the Truing-up of ARR for FY 2015-16 and FY 2016-17, Provisional Truing-up of ARR for FY 2017-18 and Revised ARR for FY 2018-19 and FY 2019-20 in this Order.

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List of Abbreviations

Abbreviation	Description
A&G	Administrative and General
APML	Adani Power Maharashtra Limited
APML – T	Adani Power Maharashtra Limited – Transmission
APR	Annual Performance Review
ARR	Aggregate Revenue Requirement
ATE	Appellate Tribunal for Electricity
ATIL	Adani Transmission (India) Limited
BoI	Bank of India
CAPEX/Capex	Capital Expenditure
CEA	Central Electricity Authority
CERC	Central Electricity Regulatory Commission
Ckt-Km	Circuit Kilometre
COD	Commercial Operation Date
Commission/MERC	Maharashtra Electricity Regulatory Commission
DPR	Detailed Project Report
EA 2003	Electricity Act, 2003
EHV	Extra High Voltage
ERS	Emergency Restoration System
EPC	Engineering Procurement and Construction
FY	Financial Year
GFA	Gross Fixed Assets
IDC	Interest During Construction
InSTS	Intra-State Transmission System
IoWC	Interest on working capital
Km	Kilometre
kV	Kilovolt
kW	Kilowatt
kWh	Kilowatt Hour
MAT	Minimum Alternate Tax
MSETCL	Maharashtra State Electricity Transmission Company Limited
MSLDC	Maharashtra State Load Despatch Centre
MTPR	Mid-Term Performance Review
MVAR	Mega Volt Amp (reactive)
MW	Megawatt
MYT	Multi Year Tariff
O&M	Operation and Maintenance

Abbreviation	Description
PBT	Profit Before Tax
Petitioner/ATIL	Adani Transmission India Limited
PSM	Payment Security Mechanism
RoE	Return on Equity
SBAR	State Bank of India Advance Rate
SLDC	State Load Despatch Centre
STU	State Transmission Utility
TSU	Transmission System User
TTSC	Total Transmission System Cost

1. INTRODUCTION

1.1. Background

1.1.1. ATIL (formerly known as Adani Power Maharashtra Ltd. (Transmission Business) (APML-T) was granted Transmission License No. 2 of 2009 by the Commission vide Order dated 6 July, 2009. ATIL's Transmission System was commissioned on 26 August 2012. The Commission approved its ARR under the Multi Year Tariff (MYT) framework for the 2nd Control Period vide Order dated 10 January 2013 in Case No. 44 of 2012. The Commission issued its Mid Term Performance Review (MTR) Order for the 2nd Control Period on 3 July, 2014 in Case No. 190 of 2013, including true-up of FY 2012-13 and approved revised estimates for FY 2013-14 to FY 2015-16. The Commission also passed an Order on the Annual Performance Review (APR) Order for FY 2013-14 on 7 April 2015 in Case No. 217 of 2014. Subsequently, for the 3rd Control Period, the Commission passed an MYT Order under the MYT framework on 28 June, 2016 in Case No. 7 of 2016 ('MYT Order') including true-up of FY 2014-15, provisional true-up of FY 2015-16 and approved MYT Projection for the 3rd Control Period FY 2016-17 to FY 2019-20.

1.1.2. APML filed an application dated 16 July 2014 under section 18(1) of the EA, 2003 and the MERC (Transmission License Conditions) Regulations, 2004, as amended in 2006, for amendment of its Transmission License No. 2 of 2009.

1.1.3. Subsequently, APML had filed a Petition for the Assignment of its Transmission License to ATIL on 17 October 2014, before the Commission, for seeking approval of such Assignment of Transmission License of APML to ATIL. As per that approved scheme of Assignment, all legal or other Proceedings by or against APML, whether pending on the appointed date or which may arise in future relating to the Transmission Business of APML, shall be continued and enforced by or against ATIL, and all matters pertaining to APML-T would now be taken up by ATIL.

1.1.4. The Commission also amended ATIL's Transmission License to the extent of modification in the 'Area of Transmission', by its Order dated 9 July 2015 in Case No. 136 of 2014. The Changes in the 'Area of Transmission' of ATIL, made through the License amendments.

Table 1: Transmission System of ATIL

License No. 2 of 2009	License No. 2 of 2009 First Amendment	License No. 2 of 2009 Second Amendment
400 kV Double Circuit Transmission Line with quad conductor from Tiroda (Gondia) to proposed 400 kV Koradi II Sub-Station. **400 kV Double Circuit Transmission Line with quad conductor from Tiroda (Gondia) to proposed 400 kV Warora Switching Station.** **2 Nos 400 kV Bays for Tiroda-Koradi-II Double Circuit Transmission Lines at Koradi-II sub-station;** **2 Nos 400 kV Bays for Tiroda-Warora Double Circuit Transmission Lines at Warora Switching station.**	400 kV Double Circuit Transmission Line with quad Conductor from Tiroda (Gondia) to 400 kV Warora Switching Station. 2 Nos, 400 kV Bays for Tiroda-Warora Double Circuit Transmission Lines at Tiroda Project Switchyard. 2 Nos, 400 kV Bays for Tiroda-Warora Double Circuit Transmission Lines at Warora Switching Station.	400 kV Double Circuit Transmission Line with Quad Conductor from Tiroda (Gondia) to 400 kV Warora Switching Station. 2 Nos, 400 kV Bays for Tiroda-Waroda Double Circuit Transmission Lines at Tiroda Project Switchyard. 2 Nos, 400 kV Bays for Tiroda-Waroda Double Circuit Transmission Lines at Warora Switching station. **2 x 80 MVAR Bus Reactors, along with associated Bays, at the Tiroda Sub-station (added)**

1.2. MYT Regulations

1.2.1. The Commission notified the MYT Regulations, 2011 on 4 February 2011. These Regulations are applicable for the Second Control Period starting from 2011-12 to FY 2015-16, and amended on 21 October 2011.

1.2.2. The Commission notified the MYT Regulations, 2015 on 8 December 2015. These Regulations are applicable for the 3rd Control Period from FY 2016-17 to FY 2019-20, and amended on 29 November, 2017.

1.3. Filing of Petition under MYT Regulations, 2015

1.3.1. Regulation 3 of the MYT Regulations, 2015 specifies its scope. Regulation 5.1 (b) requires filing of MTR Petition by Utilities, including Transmission Licensees, for the 3rd Control Period.

1.4. Petition and Prayers of ATIL

1.4.1. ATIL has filed its MTR Petition on 30 November, 2017 for Truing-Up of ARR for FY 2015-16 under the MYT Regulations,2011, Truing-Up of ARR for FY 2016-17 and Provisional Truing-Up of ARR for FY 2017-18, and for approval of Revised ARR for FY 2018-19 and FY 2019-20 in accordance with the MYT Regulations, 2015.

1.4.2. Main prayers of ATIL in its revised Petition are as below:

b) Allow the Operation and Maintenance Expense as claimed in this Petition

c) Allow True-up of ARR for FY 2015-16 and FY 2016-17 based on the audited accounts and approve the revenue gap of these years as presented in this Petition along with carrying cost and incentive.

d) Allow Provisional True-up of ARR for FY 2017-18 based on the un-audited accounts up to 30.09.2017.

e) Allow ARR for FY 2018-19 & FY 2019-20 as proposed by ATIL in the Petition.

f) Allow cumulative Revenue Gap including carrying cost and Incentive and allow its recovery through the new Intra State Transmission System Tariff Order or amendment of the existing Intra State Transmission System Tariff Order.

1.4.3. On 13 December 2017 the Commission conveyed preliminary data gaps and information required by ATIL. Subsequently a discussion on the Petition was held on 21 February 2018, for which Authorised Consumer Representatives were invited. However, no Consumer Representative attended the meeting. The List of persons who participated in the discussion is at Appendix I.

1.4.4. ATIL filed the revised Petition on 9 June 2018, in accordance with the relevant provisions of MYT Regulations, 2015, incorporating replies to the queries raised in preliminary data gaps and clarifications on the issues raised during the discussion.

1.5. Admission of the Petition and Public Hearing Process

1.5.1. The Commission admitted the Petition on 12 June 2018 and directed ATIL to publish it in accordance with Section 64 of the EA 2003, in the specified abridged form and manner, and to reply expeditiously to any suggestions and comments received.

1.5.2. ATIL published a Public Notice inviting comments/suggestions/objections on its Petition. The Public Notice published in English in Lokmat Times and The Indian Express, and in Marathi in Loksatta and Deshonnati, all daily newspapers, on Tuesday, 19 June 2018. The Petition and its Summary made available for inspection/purchase at ATIL's offices and Website (www.adanitransmission.com). The Public Notice and Executive Summary of the Petition also made available on the websites of the Commission (www. mercindia.org.in, www.merc.gov.in) in downloadable format.

1.5.3. The Commission did not receive any suggestions or Objections on the Petition. A Public Hearing held in Mumbai on 24 July 2018, at 10:00 hrs at the office of the Commission. No Oral suggestions/objections put forward at the Public Hearing either. The List of Persons who attended the Public Hearing is at Appendix-II.

1.5.4. The Commission has ensured the due process contemplated under the law to ensure transparency and Public participation followed at every stage and adequate opportunity was given to all concerned to express their views.

1.6. Organisation of the Order

1.6.1. This Order organized in the following seven sections

- **Section 1:** of the Order provides a brief history of the quasi-judicial regulatory process undertaken by the Commission.
- **Section 2:** of the Order details the Truing-up of expenses of ATIL for FY 2015-16 as per MYT Regulations, 2011 and related Amendments.
- **Section 3:** of the Order details the Truing-up of expenses of ATIL for FY 2016-17, as per MYT Regulations, 2015 and related Amendments.
- **Section 4:** of the Order details the Provisional True-up of ARR for FY 2017-18 as per MYT Regulations, 2015
- **Section 5:** Of the Order details the Approval of revised ARR from FY 2018-19 to FY 2019-20 as per MYT Regulations, 2015
- **Section 6:** Sets out the Mechanism for Recovery of Transmission Charges.
- **Section 7:** Deals with the Applicability of this Order.

2. TRUE-UP FOR FY 2015-16

2.1. Background

2.1.1. The Commission issued MYT Order for 3rd Control Period (referred as 'MYT Order') for ATIL on 28 June, 2016 in Case No. 7 of 2016. In the said Order, the Commission approved True-Up of ARR for the year 2012-13 to 2014-15, Provisional True-up of ARR for FY 2015-16 and ARR for the year FY 2016-17 to 2019-20.

2.1.2. Under the aforesaid MYT Order, certain expenses were disallowed by the Commission, which are listed below:

i. Disallowance of Capital Cost of Bus Reactor along with associated O&M Costs.

ii. Disallowance of Actual O&M Expenses claimed over and above Normative O&M and treating the said excess as Controllable as against "Uncontrollable" claimed.

iii. Consideration of accrued but not received Delayed Payment Charges (DPC) as Non-Tariff Income and thereby reducing provisionally approved ARR for the year 2015-16 and

iv. Disallowance of one-time cost of Demerger.

2.1.3. Aggrieved by the above disallowances, the ATIL approached the Hon'ble ATE vide Appeal No. 250 of 2016. The proceedings in the matter are still underway and final Judgment is yet to be issued by the Hon'ble ATE. As regards present status of the proceedings, the Commission notes that the case is listed further for 3 October 2018 as per the Record of Proceedings issued by the Hon'ble ATE dated 31 July, 2018.

2.1.4. Meanwhile, ATIL has submitted the present Mid-term Review (MTR) Petition in accordance with the provisions of Regulation 5.1 (b) of the MYT Regulations, 2015, whereby the Licensee has to file a Petition before the Commission for truing-up of FY 2015-16 in accordance with the principles of the MYT Regulations, 2011. The relevant extract of the Regulations are reproduced below for ease of reference.

"5. Petitions to be filed in the Control Period—

5.1 The Petitions to be filed in the Control Period under these Regulations are as under :—

...

(b) Mid-Term Review Petition shall be filed by November 30, 2017, comprising:—

(i) Truing-up for FY 2015-16 to be carried out under the Maharashtra Electricity

Regulatory Commission (Multi Year Tariff) Regulations, 2011 ;…"

2.1.5. ATIL has further submitted that it is filing the present MTR Petition without prejudice to its rights and contentions in the Appeal, which it has filed before the Hon'ble ATE.

2.1.6. In this Section, the Commission has undertaken the Truing-up of ARR for FY 2015-16 based on the audited expenses for the financial year as submitted by ATIL and after prudence check.

2.1.7. ATIL has given details of its expenses under various heads, viz., capital expenditure, O&M expenses, depreciation, interest on loans, interest on working capital, income tax, etc. as per the data formats specified by the Commission. The Commission has elaborated the expenditure allowed under each of the expense heads and the total expenditure for ATIL approved for FY 2015-16 in this Section.

2.1.8. The analysis underlying the Commission's approval is also set out in this Section.

2.2. Operation and Maintenance Expenses

2.2.1. Operation and Maintenance (O&M) expenses comprises of Employee related costs, Administrative and General (A&G) Expenses, and Repairs and Maintenance (R&M) Expenses.

2.2.2. The MYT Regulations, 2011 specify O&M expense norms for FY 2015-16 for 'New transmission Licensees', which are applicable for arriving at the O&M expense norms for, ATIL.

2.2.3. Regulation 61.5 of the MYT Regulations, 2011 specifies as follows:

"61.5 Operation & Maintenance expenses

61.5.1 The norms for O&M expenses for existing and new Transmission Licensees have been stipulated for the Control period on the basis of circuit kilometres of transmission lines and number of Bays in the substation of the Transmission Licensee, as given below:

…61.7.1 For the new Transmission Licensees, the year-wise O&M norms as stipulated for MSETCL shall be applicable norms for the transmission assets added by such new Transmission Licensee(s) for respective year during the 3rd Control Period.

Provided that same shall not be applicable to those new projects which are awarded on a competitive bidding basis.

Explanation: The term "New Transmission Licensee" shall mean the transmission Licensee for which Transmission License is granted by the Commission prior to or after the date of effectiveness of these Regulations and whose transmission project assets are commissioned after March 31, 2010."

ATIL's Submission

2.2.4. ATIL highlighted that based on provisions of the MYT Regulations, 2011, it was treated as a New Transmission Licensee and normative O&M expense applicable to MSETCL was only allowed to ATIL for the period FY 2012-13 to FY 2015-16. ATIL submitted that O&M expenses allowed on a normative basis as applicable to MSETCL is inadequate for meeting its actual O&M expenses.

2.2.5. In view of the above, ATIL requested the Commission to exercise "Power to Remove Difficulty" as per Regulation 100 of the MYT Regulations, 2011 and allow actual cost towards O&M expense incurred by ATIL for the respective period.

2.2.6. ATIL also quoted various reference cases where the Commission in the past has exercised Power to Remove Difficulty provisions of MYT Regulations, 2011, in support of their argument.

2.2.7. ATIL thus has claimed Rs. 13.60 Crore as the actual O&M expenses for FY 2015-16. The O&M expense approved by the Commission in its MYT Order (Case No.7 of 2016) and that claimed by ATIL in the present MTR Petition presented in the following table.

Table 2 : O&M Expenses for FY 2015-16 as submitted by ATIL (Rs. Crore)

<table>
<tr><th rowspan="2">SL. No</th><th rowspan="2">Particulars</th><th colspan="2">FY 2015-16</th></tr>
<tr><th>MYT Order</th><th>ATIL Petition</th></tr>
<tr><td>1</td><td>O&M Expenses*</td><td rowspan="4">7.58</td><td rowspan="2">11.25*</td></tr>
<tr><td>2</td><td>R&M Expenses*</td></tr>
<tr><td>3</td><td>Employee Expenses</td><td>0.37</td></tr>
<tr><td>4</td><td>A&G Expenses</td><td>1.99</td></tr>
<tr><td colspan="2">Total</td><td>7.58</td><td>13.60</td></tr>
</table>

(under Maintenance contract in FY 2015-16)

2.2.8. Further, as regards license fees of Rs. 0.185 Crore in FY 2015-16, ATIL submitted that it has accounted the same under head of A&G expense. It claimed that the same is separately reimbursable under Regulation 4 of MERC (Fees & Charges) Regulations 2004, and therefore requested to consider the same as pass through.

2.2.9. The Commission asked ATIL for the reconciliation statement for FY 2015-16, certified by the Statutory Auditor, allocating the total expense (including O&M) and revenue of APML as a whole into its various Business Operations, including details of the allocation to APML's Transmission Business under License No. 9 of 2009, along with the basis of allocation, so as to ensure that only the expenditure incurred on the Commission regulated Business is considered for ARR determination. Similarly, the Commission also sought the certified allocation statement for FY 2015-16, showing the allocation of total expenditure (including O&M) and revenue of ATIL as a whole (including the Tiroda-Warora and the Mundra Transmission Systems) into various Business operations. Also, including the allocation to ATIL (Transmission Business under Licence No.9 of 2009), with the basis of allocation, to ensure that only the expenditure on the Business regulated by the Commission is considered for ARR determination. In response, ATIL submitted stand alone as well as consolidated Audited accounts for FY 2015-16. It stated that only the expenditure incurred on the business regulated by the Commission has been considered, which the Statutory Auditor audited while certifying the Annual Accounts of such Regulated Business. ATIL also stated that most of the O&M Expenses for the Transmission Business of the Tiroda-Warora System are given on actual basis. Those expenses which are common are allocated based on Turnover of MERC licensed Asset and CERC licensed Assets.

2.2.10. ATIL has petitioned to consider the entire O&M expense as uncontrollable parameter and approve the same on actual basis.

Commission's Analysis and Ruling

2.2.11. The Commission has noted the submissions of ATIL and verified the audited accounts for the claim for O&M Expenses for FY 2015-16.

2.2.12. The Commission further notes that most of the arguments made by ATIL for its claim of O&M expense on actual basis for FY 2015-16 are similar to that has been raised in the earlier MTR (2nd Control Period) Petition. The Commission had dealt with these in the past Orders itself.

2.2.13. The relevant extract for the Commissions treatment for years of 2nd Control Period from the MYT Order in Case No. 7 of 2016 is reproduced as under:

"2.2.13 The Commission has noted the submissions of ATIL and verified the audited accounts for the claim for O&M Expenses for FY 2013-14 and FY 2014-15. However, Regulation 61.7.1 of the MYT Regulations, 2011 specifies that the O&M expense norms for new Transmission Licensees be determined based on the year-wise norms specified for MSETCL over the Control Period:

"61.7.1 For the new Transmission Licensees, the year-wise O&M norms as stipulated for MSETCL shall be the applicable norms for transmission assets added by such new Transmission Licensee(s) for respective year during the 3rd Control Period."

2.2.14 The O&M expense norms under the MYT Regulations, 2011 are a controllable performance parameter over the Control Period. The Commission has extensively dealt with this issue in its previous MYT and MTR Orders. Being a new Transmission Licensee, ATIL is entitled under the Regulations only to O&M Expenses considering the norms for MSETCL. Hence, for the Truing-up of FY 2013-14 and FY 2014-15, the Commission allows the O&M Expenses for ATIL on normative basis only."

2.2.14. The Commission opines that the plea made by ATIL amounts to seeking amendment of the MYT Regulations 2011 for the purpose of treatment of final true up of O&M Expense for FY2015-16. The powers for removal of difficulties under Regulation 100 of MYT Regulations, 2011 as sought by the Petitioner cannot be exercised in this case through Mid-term Review, particularly, since the Commission has already allowed O&M expenses as per provisions stipulated under said MYT Regulations through its earlier MYT Order along with the reasons and rationale as elaborated under MYT Order. The Commission also notes that ATIL has preferred appeal in the matter of such disallowance in the earlier MYT Order, and the matter is still pending before the Hon'ble ATE.

2.2.15. In view of the above, the Commission for the purpose of truing up of O&M expense for FY 2015-16 continue to maintain the treatment, which is in accordance with the provisions of the MYT Regulations, 2011.

2.2.16. In the case of the Line Bays of ATIL maintained by MSETCL at the Warora Sub-station, the O&M Expenses have been approved considering the norms applicable for MSETCL in accordance with Regulation 61.8 of MYT Regulations, 2011 for FY 2015-16, which reads as follows:

(MYT Regulations, 2011)

"61.8.1 For such Transmission Licensees whose bays are installed in the premises of and maintained by another Transmission Licensee, the O&M expense for such assets shall be allowed in accordance with the norms applicable for the Transmission Licensee who performs the O&M of such assets:

Provided that the Transmission Licensees shall mutually agree on sharing of such allowed O&M expenses: Provided further that Transmission Licensees shall *project addition of such assets over the Control Period separately in their Business Plan to be submitted in accordance with Regulation 57."*

2.2.17. In addition, the Commission has considered O&M Expenses as controllable expenses in accordance with Regulation 12.2 of MYT Regulations, 2011 for the purpose of truing up of FY 2015-16.

2.2.18. While scrutiny of the actual O&M expense claimed by ATIL, it is observed that the same is inclusive of, O&M cost pertaining to Bus Reactor at Tiroda end and associated bays. The Commission had disallowed O&M expenses towards these Bus Reactor bays in the past, for the reason that these Bus reactors were envisaged to be part of the generation asset of APML-G, as elaborated in earlier Order. The relevant extract of Case No 7 of 2016 is reproduced as following, for ease of reference.

(Extract from FY 2013-14 and FY 2014-15 True-up)

"2.2.17 ***As regards the Bus Reactors and associated Bays, these assets were envisaged as part of the generation assets of APML and accordingly established as part of the Generation Project switchyard****. ATIL has stated that the actual expenses on operation of these Bus Reactors and associated Bays for FY 2013-14 and FY 2014-15 have not been included in the accounts of the Transmission Business (APML-T), and hence it has claimed these on normative basis. The Commission has elaborated the treatment of the costs associated with the Bus Reactors and associated Bays in Section 2.3 of this Order, considering which the O&M expenditure on them is not being allowed.*

2.2.18 The sharing of losses has been computed on the difference between the actual O&M Expenses, ***excluding the claim of normative O&M Expense for Reactor Bays*** *for FY 2013-14 and FY 2014-15, and the approved O&M Expense for the respective years."*

...

(Extract from FY 2015-16 Provisional True-up)

"3.2.8 The Commission has disallowed the O&M Expenses towards the two Bus Reactor Bays at Tiroda since these are a part of the Generation Assets of APML, as discussed in Section 2.3of this Order."

2.2.19. In view of the above, the Commission has considered actual O&M expense after excluding O&M expenses pertaining to Bus Reactor Bays for the purpose of truing up of FY 2015-16. For FY 2015-16, it is noted that maintenance of the transmission system including the Bus Reactor bays was included as part of the O&M contract.

Annexure-1 of the said contract shows that the O&M charges for Bus Reactor Bays payable for FY 2015-16 were Rs. 2.22 Crores. The same is deducted from the total actual O&M expense for FY 2015-16 to arrive at the net actual O&M to be considered for the purpose of sharing of efficiency loss.

2.2.20. As regards claim of ATIL to consider Petition filing fee and license fee during FY 2015-16 for separate pass through, the Commission is of the view that there is no specific provision in the MYT Regulations, 2011 to allow pass through of such expenses. Further, such O&M expenses of recurring nature are factored in the O&M expense norms stipulated under the Regulations for Transmission Licensees and thus is taken care within the stipulated norms. In view of the above, no separate pass through of such expense is allowed.

2.2.21. Taking into account the O&M Expense norms under the MYT Regulations, 2011 and considering the respective Transmission network parameters, the Commission approves the O&M Expenses for FY 2015-16 as summarized in the Table below:

Table 3: O&M Expenses for FY 2015-16, as approved by the Commission (Rs. Crore)

O&M Expenses	Unit	FY 2015-16		
		MYT Order	MTR Petition	Approved in this Order
Transmission Lines				
Length of Transmission line	Ckt.km	438		438
Norms as per Regulations	Rs. lakh/ckt-km	0.66		0.66
Bays				
No of Bays	No.	2 (Tiroda) 2(Warora)		2 (Tiroda) 2(Warora)
Norm for O&M for Bays (for New Licensee) – applicable for Bays at Tiroda	Rs lakh/Bay	117.11		117.11
Norm for O&M for Bays (for MSETCL) – applicable for Bays at Warora	Rs lakh/Bay	117.11		117.11
O&M Expenses	**Rs. Crore**	**7.58**	**13.60***	**7.58**
**(For the purpose of sharing of efficiency loss, Revised actual O&M of Rs. 11.38 Crore has been considered after disallowing O&M expense towards 2 Bus Reactors)*				

2.2.22. The Commission has considered O&M Expenses as controllable expenses. Hence, the O&M Expenses in excess of Rs. 7.58 Crore for FY 2015-16 excluding O&M

expenses towards 2 Bus Reactor bays incurred by ATIL are considered as an efficiency loss, and the Commission has considered the sharing of this efficiency loss as per the applicable provisions of MYT Regulations, 2011. The approved net entitlement of O&M Expense for FY 2015-16, after the sharing of loss, is elaborated subsequently in this Order. The Commission notes that the actual O&M expense excluding that pertaining to bus reactor bays is considered only for the purpose of sharing of gains and losses in accordance with the provisions of MYT Regulations, 2011 and does not amount to approval of such expenses.

2.3. Capital Expenditure and Capitalisation

ATIL's Submission

2.3.1. ATIL submitted that in the MYT Petition (Case No. 7 of 2016), it had claimed Capital Cost of Rs. 707.84 Crore for the transmission system, including the capital cost of Rs. 23.24 Crore for the Bus Reactors and associated Bays at Tiroda-Substation, which was not considered by the Commission in the MYT Order. ATIL highlighted that it has preferred appeal on this disallowance before the Hon'ble ATE through Appeal No. 250 of 2016.

2.3.2. However, ATIL in the present MTR Petition submitted that it has considered Capital Cost of Rs. 684.60 Crores as on COD as approved by the Commission in the MYT Order (Case No. 07 of 2016) without prejudice to its rights and subject to outcome of Appeal No. 250 of 2016 pending before the APTEL.

2.3.3. ATIL submitted that it has capitalised initial spares of the value Rs. 4.06 Crore as on 1 April, 2015 and balance Rs.0.29 Crore during the FY 2015-16. ATIL has also pointed out that the capitalisation of Initial spares for FY 2015-16 is well within the limits as specified under Regulation No. 27.7 (d) of MYT Regulation 2011.

2.3.4. ATIL submitted that the COD of Tiroda-Warora Transmission Line is 26 August, 2012; accordingly, the Cut-Off date for Capitalisation of Initial Spares is 31 March, 2015. It also stated that out of Rs.4.35 Crore of Initial Spares capitalized on 1 April, 2015 around Rs.4.06 Crore worth of spares was purchased in FY 2013-14. Similarly, balance Rs. 0.29 Crore worth Initial Spares were purchased and capitalised in FY 2015-16. In this context, ATIL requested the Commission to condone the delay in Capitalization of the spares by exercising Power to Remove Difficulties and Power to amend under Regulation 99 and Regulation 100 of MYT Regulations, 2011.

2.3.5. ATIL submitted that Initial Spares to the tune of Rs. 4.06 Crore purchased in FY 2013-14 and were in the process of installation/commissioning in FY 2014-15. However, the said spares could not be capitalized in FY 2014-15. Since the said spares of Rs.4.06 Crore have actually been used in FY 2015-16 and capitalized, hence the same is offered as Additional Capitalization. Apart from the said expense towards initial spares of Rs. 4.06 Crore reported as CWIP in FY 2014-15 under the carved out Annual Accounts of ATIL, and capitalized in FY 2015-16, certain additional spares to the tune of Rs. 0.29 Crore which was purchased in FY 2015-16 were utilized and capitalized in FY 2015-16.

2.3.6. ATIL's claim of Capitalization vis-à-vis the Capitalization approved in the MYT Order for FY 2015-16 is given in the Table below:

Table 4: Capitalization for FY 2015-16 as submitted by ATIL (Rs. Crore)

Particulars	MYT Order	ATIL Petition
Capitalization	-	4.35

Commission's Analysis and Ruling

2.3.7. The Commission notes the submission regarding additional capitalisation claimed by ATIL during FY 2015-16. The same claimed over and above the approved capital cost of Rs. 684.60 Crore of the project.

2.3.8. The Commission would like to highlight the provisions of the MYT Regulations, 2011, in detail for deciding on the issue of additional capitalisation. The relevant Regulations is reproduced in the following paragraphs:

2.3.9. Regulation 28 of MYT Regulations, 2011 specify provision for allowing Additional Capitalisation and conditions thereof. The same is reproduced as following:

"28.1. The following capital expenditure, actually incurred or projected to be incurred, on the following counts within the original scope of work, ***after the date of commercial operation and up to the cut-off date*** *may be admitted by the Commission, subject to the prudence check:*

a) Due to Un-discharged liabilities within the original scope of work
b) On works within the original scope of work, deferred for execution
c) To meet award of arbitration and satisfaction of final and unappealable order or decree of a court arising out of original capital cost
d) On account of change in law
e) On procurement of initial spares included in the original project costs subject to the ceiling norm laid down in Regulation 27.7

f) Any additional works/services, which have become necessary for efficient and successful operation of a Generating Station or a transmission project but not included in the original scope of work.

Provided that original scope of work along with estimates of expenditure shall be submitted along with the application for provisional tariff…"

2.3.10. Based on the above provision as per MYT Regulations, 2011, the primary condition to allow additional capitalisation is that such capitalisation should be within the Cut-off date of the project. Hence, the Commission proceeds to examine the definition of Cut-off Date as per the Regulations.

2.3.11. Regulation 2.1 (17) of MYT Regulations, 2011 defines "Cut-Off Date" as follows:

"Cut-off Date" *means 31st March of the year closing after two years of the year of commercial operation of the project, and in case the project is declared under commercial operation in the last quarter of a year, the cut-off date shall be 31st March of the year closing after three years of the year of commercial operation.*

2.3.12. Considering that the project of ATIL has achieved CoD on 26 August 2012, the applicable cut-off date of the project is 31 March 2015. It is observed that the additional capitalisation has been made on dates subsequent to the cut-off date that partly on 1st April, 2015 and rest during the FY 2015-16. This clearly shows that the additional capitalisation proposed by ATIL is beyond the applicable cut-off date for the project. Thus, the primary condition itself is not satisfied towards ATIL's claim of additional capitalisation.

2.3.13. It is also observed that ATIL has requested the Commission to invoke its power to remove difficulty and to allow the additional capitalisation as the additional capitalisation does not satisfy the primary condition of Regulation 28.

2.3.14. In this context, the Commission proceeds to verify the other conditions of Regulation 28 relevant to the present claim of ATIL. As can be seen from the above quoted Regulations, the further sub-conditions are that a) Additional capitalisation towards initial spares could be allowed upto cut-off date b) Initial spares claimed should be included under original project cost and c) Initial spares could be allowed upto 0.75% of original capital cost for Line & upto 2.5% for capital cost of Transmission substation.

2.3.15. As part of the details sought by the Commission, ATIL submitted itemized breakup of Initial Spares for FY 2015-16, along with the copy of Purchase Order of the said spares. Further upon enquiry, by the Commission whether the initial spares were included as part of the original scope of work, ATIL has not established through any evidence or appropriate reference that the initial spares presently claimed were part of the original scope of work. It is however observed that the total value of capitalisation of initial spares claimed by ATIL is within the allowed limit of up to 0.75% of original capital cost for Line & up to 2.5% for capital cost of Transmission substation.

2.3.16. Further to the above, the Commission has also asked ATIL for reason for delay in procurement and capitalization of Initial spares to which ATIL only submitted that Initial Spares to the tune of Rs. 4.06 Crore purchased in FY 2013-14 and were in the process of installation/commissioning in FY 2014-15. However, it stated that the said spares could not be capitalized in FY 2014-15 due to a number of reasons beyond control of ATIL, without highlighting any specific reason of delay in capitalisation.

2.3.17. Based on the verification of associated facts, the Commission observes that while some of the conditions of capitalisation like being within specified limit as per the Regulation has been complied by ATIL, its claim has failed to satisfy the primary condition related to cut-off date as specified in the Regulations. In view of the same and in accordance with the provisions of the MYT Regulations, 2011, the Commission cannot approve the additional capitalisation claimed by ATIL for FY 2015-16.

2.3.18. **Thus, the Commission has not accepted ATIL's claim for allowance of Rs. 4.35 Crore as additional capitalization respectively in FY 2015-16. Accordingly, the capitalisation approved for FY 2015-16 as shown in the Table below:**

Table 5: Capitalisation for FY 2015-16 approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Approved in this Order
Capitalization	-	4.35	-

2.4. Depreciation

ATIL's Submission

2.4.1. ATIL has worked out depreciation considering opening GFA of Rs. 684.60 Crore for FY 2015-16, applying the rates as specified in the MYT Regulations, 2011, as shown in the Table below.

Table 6: Depreciation for FY 2015-16 as submitted by ATIL (Rs. Crore)

Particulars	MYT Order	ATIL Petition
Opening GFA	684.60	684.60
Additions during the year	-	4.35
Closing GFA	684.60	688.95
Depreciation Rate	5.28%	5.28%
Depreciation	**36.15**	**36.36**

Commission's Analysis and Ruling

2.4.2. The Commission approves the depreciation amount as per the Capitalisation and GFA approved in this Order for FY 2015-16 as Rs.36.15 Crore as shown below:

Table 7: Depreciation for FY 2015-16 as approved by the Commission (Rs. Crore)

Particular	MYT Order	MTR Petition	Approved in this Order
Opening GFA	684.60	684.60	684.60
Additions during the year	-	4.35	-
Closing GFA	684.60	688.95	684.60
Depreciation Rate	5.28%	5.28%	5.28%
Depreciation	**36.15**	**36.36**	**36.15**

2.4.3. **The Commission approves Depreciation of Rs. 36.15 Crore for FY 2015-16, considering the GFA approved for the respective years in this Order.**

2.5. Return on Equity

ATIL's Submission

2.5.1. ATIL submitted that it has computed RoE in accordance with Regulation No. 32.2 of the MYT Regulations, 2011 for FY 2015-16. Further, it has considered the equity base for computation of Return on Equity as 30% of the capital cost excluding the cost of Bus Reactors and associated bays in view of decision of the Commission not to consider capital cost of Bus Reactor.

2.5.2. ATIL's ROE computation vis-à-vis the ROE approved in the MYT Order for FY 2015-16 is given in the Table below:

Table 8: Return on Equity for FY 2015-16 as submitted by ATIL (Rs. Crore)

Particulars	MYT Order	ATIL Petition
Regulated Equity at the beginning of the year	205.38	205.38
Capitalisation during the year	-	4.35
Consumer Contribution and Grants used during the year for Capitalisation	-	-
Equity portion of Capitalisation during the year	-	1.31
Reduction in Equity Capital on account of retirement/replacement of assets	-	-
Regulated Equity at the end of the year	205.38	206.69
RoE at the beginning of the year @15.5%	31.83	31.83
RoE portion of Capitalisation during the year @15.5%	-	0.19
Total Return on Regulatory Equity	**31.83**	**32.02**

Commission's Analysis and Ruling

2.5.3. For the Truing-up of RoE for FY 2015-16, the Commission has considered the opening equity approved for respective years and the approved normative equity portion (30%) of the approved capitalisation during the year. RoE is taken at 15.5% of the equity, in accordance with the MYT Regulations, 2011. The computation of approved RoE is shown in the Table below:

Table 9: Return on Equity for FY 2015-16 as approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Approved in this Order
Regulatory Equity at the Beginning of the Year	205.38	205.38	205.38
Capitalisation during the Year	-	4.35	-
Consumer Contribution and Grants used during the year of Capitalisation	-	-	-
Equity Portion of Capitalization during the Year	-	1.31	-
Reduction in Equity Capital on account of retirement / replacement of assets	-	-	-
Regulatory Equity at the end of the year	205.38	206.69	205.38
Return on Regulatory Equity at the beginning of the year	31.83	31.83	31.83
Return on Equity portion of capitalisation	-	0.19	-

Particulars	MYT Order	MTR Petition	Approved in this Order
during the year			
Total Return on Regulatory Equity	**31.83**	**32.02**	**31.83**

2.5.4. **The Commission approves Return on Equity for FY 2015-16 as Rs. 31.83 Crore.**

2.6. Interest on Long Term Loans

ATIL's Submission

2.6.1. ATIL has considered the normative loan at 70% of the Capital Cost, for computation of interest on loan as per Regulation 33 of the MYT Regulations, 2011 for FY 2015-16.

2.6.2. ATIL expressed difficulty in dealing with multiple lenders, which it had to undertake under the present loan arrangement. In order to achieve stable funding arrangement, operational control in dealing with lender and to have stable cost structure, the ATIL stated that it had availed funding through Inter Corporate Deposit (ICD) facility from Adani Transmission Limited (ATL) to prepay existing project specific loans and substitute the same through Inter-Corporate Deposit (ICD) Agreement. The said ICD was availed to refinance the existing debt at a lower rate of interest than the existing loan portfolio. The existing Loan Portfolio of BOI and other Loans was repaid by availing the Inter Corporate Deposit (ICD) at a rate 12.10%.

2.6.3. ATIL further submitted with highlighting the general parlance that if the condition of any entity changes from low risk profile to high risk profile, then the cost of lending will definitely increase to the extent to mitigate the increased risk to the debt. ATIL presented the following interest rate reset conditions in the ICD arrangement it has entered into for refinancing:

- In case of delay in obtaining regulatory orders from the Commission/ APTEL.
- In case, Regulatory Orders result into lower recovery of revenue as against claimed revenue.

2.6.4. The precise conditions as outlined under the said ICD agreement and the corresponding rate of interest as submitted by ATIL is as under:

Table 10: ICD Agreement rates of interest

Particulars	Rate of Interest (per annum)
Rate of Interest	12.1%
In case of disallowance of Capital Cost greater than Rs.15 Cr by MERC in relation to the Capital Cost claimed by ATIL for Tirora-Warora.	12.7%
In case of Non-Allowance of Actual O&M Expenses as Uncontrollable and disallowance of Capital Cost greater than Rs. 15 Cr by MERC in relation to Capital Cost claimed by ATIL for Tirora-Warora Assets	13.25%

2.6.5. ATIL submitted that the ICD provider (ATL) who had refinanced the loans @ 12.1% p.a., increased the rate of interest to 12.5% p.a. (vide letter dated: 10th October 2015) to align with the rate of interest charged by the other ICD provider – Adani Infra (India) Limited, by invoking "Increased Costs" provision for FY 2015-16 as per the signed ICD agreement with ATL.

2.6.6. ATIL further submitted that in light of the adverse regulatory developments viz., disallowance of capital cost and O&M expense in the MYT Order; ICD provider, has raised a letter (Dated: 30 December 2017) wherein the Rate of Interest was revised to 13.25% p.a. for FY 2015-16 instead of the earlier charged 12.5% p.a.

2.6.7. In view of the above, ATIL submitted that it has computed actual interest rate on weighted average of actual loan portfolio during the whole year FY 2015-16 in view of provision to Regulation No. 29.5 of MYT Regulations, 2015 since the ICD borrowing for refinancing was made during the year.

2.6.8. The Commission sought clarification for claimed interest rate of 12.26% p.a. for FY 2015-16 as against that approved in Case No. 7 of 2016 (12.20%). ATIL submitted that in Case No. 7 of 2016, the Petitioner submitted its Annual Accounts for the year 2014-15. In the said accounts there was an Unsecured Short Term Loan - ICD taken from a Group Company – Adani Infra (India) Ltd., in FY 2014-15. The closing balance of the said loan amounting to Rs. 103.98 Crore was reflected in Schedule 4 of the carved out Annual Accounts of the year of 2014-15 submitted to the Commission. However, the same was not considered in calculation of actual interest rate in FY 2014-15. The said Additional Loan of Rs. 103.98 Crore is actually an allocation taken in FY 2014-15 in the carved out Accounts of ATIL (Tirora- Warora). In actual, the said loan was taken to tide over cash crunch faced by ATIL as a whole on account of non-liquidation of receivables by MSETCL towards transmission charges which is shown as Trade Receivables in the carved out accounts of Tirora-Warora. However, the said amount was not considered for calculation of weighted average interest on loan for FY 2015-16 in Case No. 7 of 2016 while provisionally truing-up the ARR of FY 2015-16. In the present MTR Petition, when actual loan portfolio as on 1st April, 2015 was seen, the ICD was observed by ATIL and accordingly the said allocated ICD with opening balance of Rs. 103.98 Crore at an interest rate of 12.5% p.a. was also considered for deriving the interest rate of actual loan portfolio along with remaining project specific loan. Accordingly, ATIL stated that there was an increase in weighted average actual rate of interest and the same worked out to 12.26% p.a. for FY 2015-16 against 12.2% p.a. submitted in Case No. 7 of 2016. ATIL requested to allow the revised rate of interest of 12.26% p.a. for FY 2015-16.

2.6.9. ATIL's Interest on Loan computation vis-à-vis the Interest cost approved in the MYT Order for FY 2015-16 is given in the Table below:

Table 11: Interest on Long Term Loans for FY 2015-16 as submitted by ATIL (Rs. Crore)

Particulars	MYT Order	ATIL Petition
Opening Balance of Loan	385.34	385.33
Addition of Loan during the year	-	3.05
Repayment of Loan during the year	36.15	36.36
Closing Balance of Loan	349.19	352.01
Average Loan balance during the year	367.26	368.67
Interest Rate (%)	12.20%	13.00%
Finance Charges	-	0.03
Total Interest and Finance Charges	**44.81**	**48.12**

Commission's Analysis and Ruling

2.6.10. The Commission notes the submissions of ATIL regarding its claim on Interest on Loan for the FY 2015-16. As regards the quantum of loan to be considered for working out the interest expense, the Commission has considered the revised approved opening loan balance, approved loan addition based on approved capitalisation during the respective years, and corresponding closing balance during FY 2015-16.

2.6.11. The Commission has considered normative debt equity ratio of 70:30 for calculation of Interest on Long Term Loans for FY 2015-16 in accordance with the Regulations under MYT Regulation, 2011.

2.6.12. The Commission has considered approval of the interest rate for FY 2015-16 as per the provision of MYT Regulation, 2011.

2.6.13. Regulation 33.5 of the MYT Regulations specify the provision for approval of interest rate, which shall apply for FY 2015-16. The relevant extract of the Regulations is reproduced as under:

"33.5 The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio at the beginning of each year applicable to the Generating Company or the Transmission Licensee or the Distribution Licensee:

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

2.6.14. The Commission notes that at the beginning of the FY 2015-16, ATIL has an actual loan portfolio comprising Rupee Term Loan (RTL) from banks as well as an allocated portion of the ICD availed from Adani Infra (India) Ltd. It is noted that the weighted average interest rate as approved under MYT Order was 12.20% p.a., while as per the present submission, the same has increased to 12.26% due to consideration of the ICD availed from Adani Infra (India) Ltd under its loan portfolio. The Commission has verified the audited accounts for FY 2015-16 and also have perused the certificate by chartered accountant, which certifies the actual loan portfolio during the FY 2015-16. The actual loan portfolio along with the interest rate presented in the table below.

Table 12: Summary of actual opening loan portfolio of FY 2015-16

Source of Loan	Type	Opening (Rs. Crore)	Interest Rate (%)
Bank of India	RTL	124.06	12.20%
Tamil Nadu Mercantile Bank	RTL	62.48	12.20%
Vijaya Bank	RTL	41.67	12.20%
Canara Bank	RTL	87.50	12.20%
State Bank of Mysore	RTL	62.50	12.20%
Adani Infra (India) Ltd (ICD)	ICD	103.98	12.50%
Total		**482.19**	
Weighted average interest rate (%)			**12.26%**

2.6.15. The Commission has perused the loan agreements with banks for the RTL as well as that of the ICD from Adani Infra (India) Ltd. It is observed from the tenure of the ICD facility is 365 days and as stated by ATIL, is a short term arrangement to bridge the cash needs of ATIL, which was reported as a Unsecured short-term loan in the books for FY 2014-15. Moreover, the purpose of the loan as stated by ATIL in this Petition itself is to tide over cash crunch faced by ATIL as a whole on account of non-liquidation of receivables by MSETCL towards transmission charges. In view of the same, the said ICD loan, not being a project loan, cannot be considered as part of the actual loan portfolio for deriving the interest rate to be applied for working out the long-term interest expense of ATIL. In this context, for the purpose of working out weighted average interest rate of actual loan portfolio is worked out after excluding the ICD loan quantum and interest rate. Accordingly, the same works out to 12.20%, which is considered for working out interest expense for truing up of FY 2015-16.

2.6.16. Even though ATIL has refinanced the existing RTL with new loan during FY 2015-16, the impact of the same will not apply on the interest rate to be allowed for FY 2015-16 as the same is approved only considering the opening loan portfolio in FY 2015-16 as per the Regulations. The treatment for refinancing thus has been dealt in detail in the subsequent section of True-up of ARR for FY 2016-17.

2.6.17. Thus, upon perusal of the Audited accounts for FY 2015-16 and in accordance with the above-referred provision of the MYT Regulations, 2011 the Commission approves interest rate of 12.20% (and not 12.26%) for the purpose of truing-up of ARR for FY 2015-16.

2.6.18. The table below shows the interest expense approved by the Commission for FY 2015-16 and FY 2016-17.

Table 13: Interest on Long Term Loans for FY 2015-16 as approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Approved in this Order
Opening Balance of Loan	385.34	385.33	385.33
Addition of Loan during the year	-	3.05	-
Repayment of Loan during the year	36.15	36.36	36.15
Closing Balance of Loan	349.19	352.01	349.18
Average Loan balance during the year	367.26	368.67	367.26
Interest Rate (%)	**12.20%**	**13.00%**	**12.20%**
Total Interest Expenses	**44.81**	**48.12**	**44.81**

2.6.19. **The Commission approves Interest on Loans of Rs. 44.81 Crore for FY 2015-16, in accordance with Regulation 33 of MYT Regulation, 2011.**

2.7. Interest on Working Capital (IoWC)

ATIL's Submission

2.7.1. ATIL submitted that IoWC has been computed as per Regulation 35.2 of the MYT Regulations, 2011 for FY 2015-16. For FY 2015-16, ATIL has considered Rate of Interest on normative basis which is equal to State Bank Advance Rate / PLR as on date on which the application for determination of original tariff was made.

2.7.2. ATIL has considered rate of interest on working capital as 14.75% per annum for FY 2015-16, applied on the working capital to arrive at the interest on working capital.

Table 14: Working Capital assumptions considered by ATIL

Working Capital Assumptions	In Months
O&M Expenses	1 Month
Assumptions for Stores: Annual Expenses	1% of GFA
Revenue	1.5 Months

2.7.3. The Commission sought confirmation from ATIL, whether ATIL has availed actual Working Capital loan during FY 2015-16. ATIL on reply has stated that in light of decision of the ATE vide Judgment dated 2 July 2013 in Appeal No. 203 of 210 and 173 of 2009, truing up based on Actual Working Capital is not necessary. Hence, confirmation regarding actual Working Capital Loan at Tiroda-Warora level is immaterial. Further, it is difficult to assign Working Capital loan specifically to ATIL (T-W) as Working Capital loans are granted to a company and not for separate divisions.

2.7.4. ATIL's IoWC computation vis-à-vis the IoWC approved in the MYT Order for FY 2015-16 is given in the Table below:

Table 15: Interest on Working Capital for FY 2015-16 as submitted by ATIL (Rs. Crore)

Working Capital	MYT Order	ATIL Petition
O&M Expenses for 1 Month	0.87	1.13
$1/12^{th}$ of the sum of book value of stores, materials and supplies at end of each month	0.57	0.77
1.5 months the expected revenue from transmission charges at the prevailing tariffs	14.06	18.51
Less: Amount of Security Deposit from Transmission System Users (TSUs)	-	-
Total Working Capital Requirement	**15.50**	**20.42**
Interest Rate (%) – State Bank Advance Rate	14.75%	14.75%
Interest on Working Capital	**2.29**	**3.01**

Commission's Analysis and Ruling

2.7.5. Regulation 35.2 of the MYT Regulations, 2011 specify that the rate of IoWC shall be considered on normative basis and be equal to the short-term Prime Lending Rate (PLR) of State Bank of India (SBI) on the date of filing application for determination of Tariff. The weighted average PLR for FY 2015-16 - when ATIL filed its Petition for tariff determination for FY 2015-16 was 14.75% p.a. However, considering that the year is already over and this is the truing up that is carried out for FY 2015-16, the SBI PLR of 14.75% p.a. prevalent as on date of filing of Petition is considered for calculation of IoWC for FY 2015-16.

2.7.6. Accordingly, the Commission approves the Interest on Working Capital as detailed out in table below:

Table 16: Interest on Working Capital for FY 2015-16 as approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Approved in this Order
One Twelfth of the O&M Expense	0.87	1.13	0.63
One Twelfth of the sum of the book value of stores, materials and supplies	0.57	0.77	0.77
1.5 Month's expected revenue from Transmission Charges	14.06	18.51	16.58
Total Working Capital Requirement	15.50	20.42	17.98
Interest Rate on Working Capital (%)	14.75%	14.75%	14.75%
Interest on Working Capital	**2.29**	**3.01**	**2.65**

2.7.7. **The Commission approves the Interest on Working Capital for FY 2015-16 as Rs. 2.65 Crore.**

2.8. Income Tax

ATIL's Submission

2.8.1. ATIL submitted income tax liability is Rs. 11.55 Crore (excluding 0.69 Cr penal interest on Income Tax paid) for FY 2015-16, based on carved out audited Accounting Statements and Carved out Income Tax returns.

Table 17: Income Tax for FY 2015-16 as submitted by ATIL (Rs. Crore)

Particulars	FY 2015-16	
	MYT Order	ATIL Petition
Income Tax	**10.25**	**11.55**

Commission's Analysis and Ruling

2.8.2. The Regulation 34.2 of the MYT Regulation, 2011 specifies that, at the time Truing-up, variation between the Income Tax actually paid and Income Tax approved by the Commission shall be allowed for recovery as part of ARR, subject to prudence check.

2.8.3. Further, Regulation 34.3 of the MYT Regulation, 2011 stipulates that, Income Tax on account of efficiency gains, Income from Other Business and incentive shall not be pass through. The relevant extracts of the above said Regulations are as shown under:

> *"34.2 Variation between Income Tax actually paid and approved, if any, on the income stream of the regulated business of Generating Companies, Transmission Licensees and Distribution Licensees shall be reimbursed to/recovered from the Generating Companies, Transmission Licensees and Distribution Licensees, based on the documentary evidence submitted at the time of Mid-term Performance Review and MYT Order of third Control Period, subject to prudence check.*
>
> *34.3 Under-recovery or over-recovery of any amount from the beneficiaries or the consumers on account of such income tax having been passed on to them shall be on the basis of income-tax assessment under the Income-Tax Act, 1961, as certified by the statutory auditors. The Generating Company, or the Transmission Licensee or Distribution Licensee, as the case may be, may include this variation in its Mid-term Performance Review Petition and MYT Petition of third Control Period:*
>
> *Provided that tax on any income stream from other than the business regulated by the Commission shall not constitute a pass through component in tariff and tax on such other income shall be borne by the Generating Company or Transmission Licensee or the Distribution Licensee, as the case may be."*

2.8.4. Based on the above, the net Income Tax payable after deducting Incentive from the taxable income for FY 2015-16 has been worked out.

2.8.5. The Commission has considered the Income Tax based on the MAT Rate of 21.34% for FY 2015-16, which is presently applicable rate as per the Income Tax Rules. The Income Tax approved by the Commission for FY 2015-16 is as summarised in the Table below:

Table 18: Income Tax for FY 2015-16 as approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Approved in this Order
Income Tax	10.25	11.55	11.06

2.8.6. **The Commission approves Income Tax at Rs. 11.06 Crore for FY 2015-16.**

2.9. Contribution to Contingency Reserves

ATIL's Submission

2.9.1. The Contribution to Contingency Reserves has been computed as per Regulation 36.1 of the MYT Regulations, 2011 for FY 2015-16. ATIL has decided to appropriate 0.50 % of original Cost of Fixed Assets to Contingency Reserve.

2.9.2. ATIL's Contribution to Contingency Reserves computation vis-à-vis approved in the MYT Order for FY 2015-16 is given in the Table below:

Table 19: Contribution to Contingency Reserves for FY 2015-16 as submitted by ATIL (Rs. Crore)

Contingency Reserves	MYT Order	ATIL Petition
Opening Balance of Contingency Reserves	4.44	4.44
Opening GFA	684.60	684.60
Opening Balance of Contingency Reserves as % of Opening GFA (%)	0.65%	0.65%
Utilisation of Contingency Reserves during the year	-	-
Closing Balance of Contingency Reserves as % of Opening GFA (%)	0.90%	1.15%
Contribution to Contingency Reserves during the year	**1.71**	**3.42**

Commission's Analysis and Ruling

2.9.3. Regulation 36.1 of the MYT Regulation, 2011 allows contribution to contingency reserve as 0.25% to 0.50% of the opening GFA of the respective years. However, it is also specified that where such appropriation is made the Licensee has to invest the same in Securities authorised under the Indian Trusts Act, 1882 and should provide the proof of investment.

2.9.4. The Commission has sought details of any investment of contingency reserves; ATIL has made for the years FY 2015-16. Upon perusal of reply, it is understood that ATIL has not made any investment of such reserves despite allowing the same in past Orders.

2.9.5. Regulations mandate/provides investment of contingency reserve in the specified securities where it has been allowed as part of the ARR. In view of the fact that ATIL has not made any investments, no contingency reserve is allowed to ATIL for the years FY 2015-16.

2.9.6. As regards contingency reserves allowed in the past, i.e., prior to FY 2015-16, the Commission directs ATIL to invest within 3 months from issuance of this Order, the amount of contingency reserve allowed till date in the Securities authorised under the Indian Trusts Act, 1882 in line with the provisions of MYT Regulations, 2011.

2.9.7. Accordingly, the Contribution to Contingency Reserves for FY 2015-16 approved by the Commission is as shown in the Table below:

Table 20: Contribution to Contingency Reserves for FY 2015-16 as approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Approved in this Order
Contribution to Contingency Reserves	1.71	3.42	-

2.9.8. **The Commission disallows Contribution to Contingency reserves for FY 2015-16 since the same has not been invested by ATIL in the specified securities.**

2.10. Non-Tariff Income and Other Income

ATIL's Submission

2.10.1. ATIL submitted that for FY 2015-16, the interest income shown in the audited accounts pertain to investment out of RoE earned. Therefore, the Petitioner has not considered the interest income from banks shown in the Audited Annual Accounts for FY 2015-16 as a part of Non-tariff Income. The said principle is in line with the first proviso to Regulation 43.2 of MERC (Multi Year Tariff) Regulations, 2015 of not considering interest income on investments made out of RoE under Non-Tariff Income.

2.10.2. ATIL also submitted that the income such as income from sale of scrap, interest on staff loan and advances, interest on advances to suppliers, Royalty etc. including interest on Contingency Reserve investments, which are incidental to the Licensed Business of transmission, could be considered as Non-tariff Income and there is no income under these heads for the years under consideration.

2.10.3. As per Order in Case No. 7 of 2016, Delayed Payment Charges (DPC) of Rs. 21.85 Crore, considered to be recovered by ATIL from TSUs, as Non-Tariff Income. ATIL submits that such consideration of DPC as Non-Tariff Income by the Commission has been challenged before the Hon'ble ATE in Case No. 250 of 2016. Further, since such amount is still not received the Petitioner in spite of specific direction given by the Commission to STU, the Petitioner has filed a Petition with the Commission registered as Case No. 162 of 2016. The Commission is aware that such amount of DPC is received partially in the month of November 2017. In view of this, the ATIL has not considered Rs. 21.85 Crore towards non-tariff income.

2.10.4. ATIL also submitted that it has not undertaken any "Other Business" during the year in question and consequently there is no Income from Other Business.

Table 21: Non-Tariff Income for FY 2015-16 as submitted by ATIL (Rs. Crore)

Particulars	MYT Order	ATIL Petition
Non-Tariff Income	22.12	-

Commission's Analysis and Ruling

2.10.5. The Commission has verified the details pertaining to Non-Tariff Income from the audited accounts of ATIL for FY 2015-16.

2.10.6. ATIL has not invested any Contribution to Contingency reserves because of under-recovery of revenue for FY 2015-16 and there was no Non-Tariff income for the financial year on account of this. The Commission however, has worked out the notional income from the investment of Contingency Reserves allowed in the past years, i.e., FY 2012-13 to FY 2014-15 (cumulative reserve allowed prior to FY 2015-16 works out to Rs. 4.44 Crore), and considered it as part of the Non-Tariff Income.

2.10.7. Transmission Licensees are entitled to DPC for delay in payment by the TSUs, as per Regulation 68 of the MYT Regulations, 2011, and the Commission has consistently treated such DPC as part of the Non-Tariff Income in all its recent Orders under the MYT Regulations, 2011. The data furnished by the STU regarding the DPC due to Transmission Licensees as on 31 March, 2016 shows that DPC of Rs. 21.85 Crore is to be recovered by ATIL from the TSUs, i.e., the Distribution Licensees. In addition, the treatment of DPC as a non-Tariff income has been upheld by Hon'ble ATE in a recent Judgment issued in the matter of JPTL (Appeal No. 250 of 2015). Thus, for truing up of FY 2015-16, the Commission has considered this amount towards non-tariff income for FY 2015-16.

2.10.8. In addition to the above, the Commission has considered miscellaneous income reported under the audited accounts of Rs 0.06 Crore as part of non-Tariff income for FY 2015-16.

2.10.9. The Non-Tariff Income as approved by the Commission is as shown in the Table below:

Table 22: Non-Tariff Income for FY 2015-16 as approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Approved in this Order
Non-Tariff Income	22.12	-	22.18

2.10.10. The Commission approves Non-Tariff Income of Rs. 22.18 Crore for FY 2015-16.

2.11. Carrying Cost

ATIL's Submission

2.11.1. ATIL submitted that it has computed carrying cost on the differential ARR of FY 2015-16 claimed in this Petition and the ARR approved in the earlier process by the Hon'ble Commission in line with the methodology being followed in past Orders. The carrying cost on the differential ARR for FY 2015-16 has been computed till 31 March 2018 at Rs. 6.30 Crore.

Table 23: Carrying Cost for FY 2015-16 as submitted by ATIL (Rs. Crore)

Particulars	ATIL Petition
Carrying Cost burden owing to Revision/True-up of ARR	5.56
Carrying Cost on Incentive	0.74
Total Carrying Cost Burden on Consumers	**6.30**

Commission's Analysis and Ruling

2.11.2. Carrying cost has been worked out based on the revised approved ARR for FY 2015-16. The total trued up ARR for FY 2015-16 considered for carrying cost computation excludes Availability incentive, since that is due for recovery only after the conclusion of the period which is being approved in the Truing-up exercise for those years in the present Order. The interest rate for carrying cost has been taken as same as that applicable for computation of interest on working capital during respective years.

Table 24: Carrying Cost for FY 2015-16 as approved by the Commission (Rs. Crore)

Total Revenue gap for FY 2015-16	Rate	Period	Approved in this Order
Truing up Gap FY 2015-16			0.67
Carrying cost for FY 2015-16	14.75%	Half Year	0.05
Carrying cost for FY 2016-17	10.79%	Full Year	0.07
Carrying cost for FY 2017-18	10.20%	Full Year	0.07
Carrying cost for FY 2018-19	9.45%	Half Year	0.03
Total Carrying Cost			**0.22**

2.11.3. **The Commission approves Carrying Cost of Rs. 0.22 Crore for FY 2015-16 considering the revised ARR and Revenue Surplus after Truing-up for the year.**

2.12. Availability of ATIL Network

ATIL's Submission

2.12.1. Incentive on Availability of Network has been computed in accordance with Regulation No. 60.2 of MYT Regulations, 2011 for FY 2015-16. ATIL submitted the Annual availability of the Petitioner for the Year 2015-16 is 99.94%. ATIL computed incentive of Rs. 2.64 Crore for FY 2015-16.

Table 25: Availability incentive for FY 2015-16 as submitted by ATIL (Rs. Crore)

Particulars	Formula	ATIL Petition
Annual Revenue Requirement	a	148.08
Annual availability achieved (%)	b	99.94
Cap on Incentive (%)	c	99.75
Target Availability (%)	d	98
Availability Incentive	**d=a*((c-d)/c)**	**2.64**

Commission's Analysis and Ruling

2.12.2. The Commission has analysed the submissions of ATIL and verified its Transmission System Availability from the certification by MSLDC for FY 2015-16. As per Regulation 60 of the MYT Regulation, 2011, the Target Availability for full recovery of Annual Fixed Cost and for incentive computation is 98% and above. As per Regulation 54.10 and Regulation 60 of the MYT Regulation, 2011 Annual Transmission Charges comprise ARR excluding Income Tax.

2.12.3. Based on the above, the Commission has calculated the Incentive on Transmission Availability for FY 2015-16 in accordance with the Regulations and has considered

ARR excluding the approved Income Tax for FY 2015-16. The Incentive approved by the Commission is as shown in the following Table below:

Table 26 : Incentive on Transmission Availability for FY 2015-16 approved by the Commission (Rs. Crore)

Particulars	MTR Petition	Approved in this Order
Annual Transmission Charges (Rs. Crore)	148.08	102.10
Target Availability (%)	99.94%	98%
Actual Availability Achieved (%)	99.75%	99.83%
Upper cap for Incentive Availability (%)	98%	99.75%
Incentive (Rs. Crore)	**2.64**	**1.82**

2.12.4. **The Commission approves Incentive on Transmission System Availability of Rs. 1.82 Crore for FY 2015-16.**

2.13. Sharing of Gains / Losses

ATIL's Submission

2.13.1. Regulation 14 of the MYT Regulations, 2011 enumerates the mechanism for sharing of gains and losses on account of uncontrollable and controllable factors. In case of uncontrollable factors, the gain and losses are entirely pass through as an adjustment in tariff. In case of controllable factors, the gains and losses are shared between the licensee and the consumer in the form of tariff adjustment. The relevant clauses have been reproduced below for ready reference.

*"14.1 The approved **aggregate gain** to the Generating Company or Transmission Licensee or Distribution Licensee on account of controllable factors shall be dealt with in the following manner:*

(a) One-third of the amount of such gain shall be passed on as a rebate in tariff over such period as may be stipulated in the Order of the Commission under Regulation 11.6;

(b) The balance amount, which will amount to two-third of such gain, may be utilised at the discretion of the Generating Company or Transmission Licensee or Distribution Licensee."

*14.2 The approved **aggregate loss** to the Generating Company or Transmission Licensee or Distribution Licensee on account of controllable factors shall be dealt with in the following manner:*

(a) One-third of the amount of such loss may be passed on as an additional charge in tariff over such period as may be stipulated in the Order of the Commission under Regulation 11.6; and

(b) The balance amount of loss shall be absorbed by the Generating Company or Transmission Licensee or Distribution Licensee." ***(Emphasis Added)***

2.13.2. ATIL has compared the actuals for FY 2015-16, with the approved figures for respective years and has segregated the variation as controllable or uncontrollable based on the analysis.

Table 27 : Comparison of Actual and Approved ARR for FY 2015-16 (Rs. Crore)

Particulars	MYT Order	Actual	Deviation	Controllable	Uncontrollable
Operation & Maintenance Expenses	7.58	13.60	6.03		6.03
Interest on Working Capital and on security deposits	2.29	3.01	0.72		0.72

2.13.3. ATIL has requested that variation in all the expenditure heads may be treated under uncontrollable category.

Commission's Analysis and Ruling

2.13.4. The Commission opines that the O&M expense as claimed by ATIL as 'uncontrollable' should actually be treated as 'controllable' in accordance with the provisions of MYT Regulations, 2011 for the purpose of computation of sharing of gains and losses. Relevant extract of Regulation 12.2 of the MYT Regulation, 2011 is as reproduced as below:

"12.2 Some illustrative variations or expected variations in the performance of the applicant, which may be attributed by the Commission to controllable factors include, but are not limited to the following:

(a) Variations in capital expenditure on account of time and/or cost overruns/ efficiencies in the implementation of a capital expenditure project not attributable to an approved change in scope of such project, change in statutory levies or force majeure events;

(b) Variations in technical and commercial losses, including bad debts;

(c) Variations in performance parameters;

(d) Variations in working capital requirements;

(e) Failure to meet the standards specified in the Standards of Performance Regulations, except where exempted in accordance with those Regulations;

(f) Variations in labour productivity;

(g) Variation in operation & maintenance expenses;

(h) Variation in Wires Availability and Supply Availability; and

(i) Coal transit losses."

2.13.5. The Commission examined the submission of ATIL and is of the view that variation in the O&M Expenses is controllable in nature as per the Regulation 12.2 of the MYT Regulation, 2011.

2.13.6. Accordingly, the Commission has worked out Sharing of Gains/Losses for FY 2015-16 by taking the difference between the actual O&M Expenses and revised normative O&M Expenses approved by the Commission in the present Order. It should be noted that the actual O&M expense considered for sharing excludes the O&M for the Bus reactor bays disallowed for FY 2015-16, for which detail rationale is provided earlier in this chapter.

2.13.7. The sharing of gains and losses approved for FY 2015-16 is as presented in the table below:

Table 28: Sharing of Gains/ (Losses) for FY 2015-16 approved by the Commission (Rs. Crore)

Particulars	MYT Order	As Claimed/ Actual	Allowed after truing up	As Claimed/ Actual		Approved in this Order		
	(A)	(B)		Uncontrollable	Controllable	2/3rd efficiency loss retained by ATIL	1/3rd Efficiency loss passed on to consumers	Net Entitlement after sharing of gain and losses
Operation & Maintenance Expenses	7.58	11.38*	**7.58**		3.81		1.27	8.85
Depreciation Expenses	36.15	36.36	**36.15**					36.15
Interest on Long-term Loan Capital	44.81	48.12	**44.81**					44.81
Interest on Working Capital and on security deposits	2.29	3.01	**2.65**		-		-	2.65
Income Tax	10.25	11.55	**11.06**					11.06
Contribution to Contingency reserves	1.71	3.42	**-**					-
Total Revenue Expenditure	**102.78**	**113.84**	**102.24**			-	-	**103.51**
Return on Equity Capital	31.83	32.02	**31.83**					31.83
Aggregate Revenue Requirement	**134.62**	**145.87***	**134.08**	**-**	**-**	-	-	**135.35**
Less: Non-Tariff Income	22.12	-	**22.18**					22.18
Less: Income from Other Business			**-**					-
Aggregate Revenue Requirement from Transmission Tariff	**112.49**	**145.87***	**111.89**		**3.81**	**2.54**	**1.27**	**113.16**

*(Actual O&M expense considered for sharing excludes the O&M for the Bus reactor bays disallowed for FY 2015-16)

2.13.8. The Commission approves the net entitlement of ARR for FY 2015-16 as Rs. 113.16 Crore.

2.13.9. The detailed analysis underlying the Commission's approval of individual ARR elements on Truing up of FY 2015-16 is already set out above, however, as in the case of Truing up of FY 2015-16, the variation in the ARR sought by the ATIL and that approved by the Commission in this Order is mainly on account of the reduction in the O&M expense owing to limiting the same within permissible norms as per MYT Regulations, 2011 and disallowance of depreciation, interest and RoE corresponding to additional capitalisation disallowed in the year. Further, the contribution to Contingency Reserves for FY 2015-16 has been disallowed, as ATIL has not made any investment of such amount allowed in the past. Additionally, Delayed Payment Charges on account of delay in receiving transmission charges for FY 2015-16 has been considered as part of non-tariff income as per recent ATE Judgment in Appeal No. 250 of 2015, which has led to further reduction in the approved ARR for ATIL for FY 2015-16.

2.14. Revenue Gap after Truing-Up for FY 2015-16

2.14.1. After truing-up of ARR for FY 2015-16, the Revenue Gap approved for recovery by ATIL is as given in Table below.

Particulars	Formula	Approved in this Order
ARR approved in the MYT Order	a	112.49
Approved Carrying Cost	b	0
Sub total	c=a+b	112.49
ARR considered after truing up before sharing of Gains/Losses	d	111.89
(Gain) / Loss on account of Uncontrollable factor to be passed on to the consumers	e	0.00
1/3rd (Gain)/ Loss on account of Controllable factor to be passed on to the consumers	f	1.27
ARR allowed after truing up and post sharing of Gains/Losses	**g**	**113.16**
Less : expected revenue from TSUs	**h**	**112.49**
Revenue Gap/ (Surplus) for computation of additional carrying cost	**i=g-h**	**0.67**
Additional Carrying/holding Cost on account of revision in ARR	j	**0.22**
Availability Incentive	k	1.82
Trued up ARR including total carrying cost and availability incentive	l	115.21
Net Revenue gap to be recovered including total carrying cost and availability incentive	**m=l-c**	**2.72**

3. TRUE-UP FOR FY 2016-17

3.1. Background

3.1.1. The Commission in MYT Order in Case No. 7 of 2016 had approved ARR for the period FY 2016-17 to 2019-20 on projection basis in accordance with MYT Regulations, 2015.

3.1.2. ATIL in the present MTR Petition has requested for approval of truing up of FY 2016-17 as per Regulation 5.1 (b) of the MYT Regulations, 2015. The relevant extract of the MYT Regulations, 2015 are reproduced below for ease of reference.

> *"5. Petitions to be filed in the Control Period—*
>
> *5.1 The Petitions to be filed in the Control Period under these Regulations are as under :—*
>
> *...*
>
> *(b) Mid-Term Review Petition shall be filed by November 30, 2017, comprising:—*
>
> *(i) Truing-up for FY 2015-16 to be carried out under the Maharashtra Electricity*
>
> *Regulatory Commission (Multi Year Tariff) Regulations, 2011 ;*
>
> ***(ii) Truing-up for FY 2016-17 to be carried out under the Maharashtra Electricity Regulatory Commission (Multi Year Tariff) Regulations, 2015*** *;*
>
> *..."* ***(Emphasis Added)***

3.1.3. ATIL has further submitted that it is filing the present MTR Petition without prejudice to its rights and contentions in the Appeal, which it has filed before the Hon'ble ATE.

3.1.4. In this Section, the Commission has undertaken the Truing-up of FY 2016-17 based on the audited expenses for the respective financial years as submitted by ATIL and after prudence check.

3.1.5. ATIL has given details of its expenses under various heads, viz., capital expenditure, O&M expenses, depreciation, and interest on loans, interest on working capital, income tax, etc., as per the data formats specified by the Commission. The Commission has elaborated the expenditure allowed under each of the expense heads and the total expenditure for ATIL approved for FY 2016-17 in this Section.

3.1.6. The analysis underlying the Commission's approval is also set out in this Section.

3.2. Operation and Maintenance Expenses

3.2.1. Operation and Maintenance (O&M) expenses comprises of Employee related costs, Administrative and General (A&G) Expenses, and Repairs and Maintenance (R&M) Expenses.

3.2.2. The Regulation 58 of the MYT Regulations, 2015 specify O&M expense norms for FY 2016-17 for 'New transmission Licensees', which are applicable for arriving at the O&M expense norms for, ATIL.

ATIL's Submission

3.2.3. ATIL highlighted that in the MYT Regulations, 2015, despite having specified Licensee specific O&M norms for MSETCL, TPC-T, RInfra-T and JPTL, the Petitioner was categorised as a New Transmission Licensee and thus normative O&M expense as applicable for New Transmission Licensee, which is similar to that applicable for JPTL is permitted for ATIL.

3.2.4. Besides, looking at the normative O&M expense made applicable to ATIL over a period from FY 2012-13 to FY 2019-20 as per the norms stipulated under the two Regulations viz. MYT Regulations, 2011 and MYT Regulations, 2015, there has been reduction of around 36 % in permissible O&M expense in FY 2016-17 compared to FY 2015-16. This according to ATIL is an anomaly that has arisen in view of the Petitioner being categorised as "New Licensee" under MYT Regulations, 2015. Therefore, it requested the Commission to exercise "Power to Remove Difficulty" as per Regulation 102 of the MYT Regulations, 2015 and allow actual cost towards O&M expense incurred by ATIL.

3.2.5. ATIL also quoted various cases where the Commission in the past has exercised Power to Remove Difficulty provisions of MYT Regulations, in support of their argument.

3.2.6. ATIL has claimed Rs. 10.32 Crore as the actual O&M expenses for FY 2016-17. The O&M expense approved by the Commission in its MYT Order (Case No.7 of 2016) and that claimed by ATIL in the present MTR Petition presented in the following table.

Table 29 : O&M Expenses for FY 2016-17 as submitted by ATIL (Rs. Crore)

SL. No	Particulars	FY 2016-17	
		MYT Order	**ATIL Petition**
1	O&M Expenses		
2	R&M Expenses*	5.77	5.09
3	Employee Expenses		0.87
4	A&G Expenses		4.36
Total		**5.77**	**10.32**

**(carried out in-house in FY 2016-17whcih was under Maintenance contract in FY 2015-16)*

3.2.7. Further, as regards license fees of Rs. 0.185 Crore in FY 2016-17 and Petition filing fees of Rs. 0.15 Crore in FY 2016-17, ATIL submitted that it has accounted the same under head of A&G expense. However, the same is separately reimbursable under Regulation 4 of MERC (Fees & Charges) Regulations 2004, and therefore requested to consider the same as pass through. Further, A&G expenses of 2016-17 also included allocated Corporate Social Responsibility expenses of Rs.0.02 Crore, which is a mandatory expense under the Companies Act, 2013. The same was requested to be allowed as pass through in A&G expenses as it is covered under “Change in Law” and mentioned as uncontrollable factor under Regulation 9.1.b of MYT Regulations 2015.

3.2.8. The Commission asked ATIL for the reconciliation statement for FY 2016-17, certified by the Statutory Auditor, allocating the total expense (including O&M expense) and revenue of APML as a whole into its various Business Operations, including details of the allocation to APML’s Transmission Business under License No. 9 of 2009, along with the basis of allocation, so as to ensure that only the expenditure incurred on the Commission regulated Business is considered for ARR determination. Similarly, the Commission also sought the certified allocation statement for FY 2016-17, showing the allocation of total expenditure (including O&M expense) and revenue of ATIL as a whole (including the Tiroda-Warora and the Mundra Transmission Systems) into various Business operations. Further, the Commission sought clarification as regards the allocation of expenses to ATIL (Transmission Business under Licence No.9 of 2009), with the basis of allocation, to ensure that only the expenditure on the Business regulated by the Commission is considered for ARR determination. In response, ATIL submitted the Stand alone as well as consolidated Audited accounts for FY 2016-17. It stated that only the expenditure incurred on the business regulated by the Commission has been considered, which the Statutory Auditor audited while certifying the Annual Accounts of such Regulated Business. ATIL also stated that most of the O&M Expenses for the Transmission Business of the Tiroda-Warora System are given on actual basis. Those expenses which are common are allocated based on Turnover of MERC licensed Asset and CERC licensed Assets.

3.2.9. Clarification was sought on O&M Expenses as O&M Expenses claimed by ATIL in FY 2015-16 is Rs. 11.25 Crore whereas in FY 2016-17 it has significantly reduced to Rs. 5.09 Crore. Further, justification was sought for significant increase in Employee and A&G expense in FY 2016-17 over FY 2015-16. ATIL stated that in the year FY 2015-16, maintenance was carried out through Maintenance Contract. However, in FY 2016-17, the maintenance was carried out in-house because of which there was a reduction in O&M Maintenance & Transmission Line expenses. However, since the maintenance was carried out in house in FY 2016-17 there was an increase in Employee Expenses and A&G expenses as compared to FY 2015-16.

3.2.10. ATIL has petitioned to consider the entire O&M expense as uncontrollable parameter and approve the same on actual basis.

Commission's Analysis and Ruling

3.2.11. The Commission has noted the submissions of ATIL and verified the audited accounts for the claim for O&M Expenses for FY 2016-17.

3.2.12. The Commission further notes that most of the arguments made by ATIL for its claim of O&M expense on actual basis for FY 2016-17 are similar to that it has been raising in the earlier MYT (3rd Control Period) Petition. The Commission had dealt with these in the past Orders itself.

3.2.13. The relevant extract for Commissions treatment for years of 3rd Control Period from the MYT Order (Case No. 7 of 2016) is reproduced as under:

"4.1.8 While formulating the MYT Regulations, 2015 for the 3rd Control Period, specific inputs were sought on O&M Expense-related details from new and existing Transmission Licensees so as to enable the Commission to arrive at appropriate norms for the new Control Period. However, no such details were received from ATIL. Due regulatory process was followed for finalization of the MYT Regulations, 2015, including pre-publication of a draft along with a Discussion Paper on which adequate opportunity was given for comments. The Discussion Paper set out the rationale and proposed O&M Expense norms for new and existing Transmission Licensees. While comments were received

from ATIL, they did not address the proposed O&M Expense norms. Instead, ATIL has now approached the Commission through this MYT Petition seeking removal of difficulties.

4.1.9 ATIL is entitled to claim O&M Expenses as per the O&M norms specified in the Regulations, and the Commission approves the Expenses accordingly."

3.2.14. The Commission opines that the plea made by ATIL amounts to seeking amendment of MYT Regulations, 2015 for the purpose of treatment of O&M Expense during the third Control Period. The powers for removal of difficulties under Regulation 102 of MYT Regulations, 2015 as sought by the Petitioner cannot be exercised in this case through Mid-term Review, particularly, since the Commission has already allowed O&M expenses as per provisions stipulated under said MYT Regulations through its earlier MYT Order along with the reasons and rationale as elaborated under MYT Order. The Commission also notes that ATIL has preferred appeal in the matter of such disallowance in the earlier MYT Order, and the matter is still pending before the Hon'ble ATE.

3.2.15. In view of the above, the Commission for the purpose of truing up of O&M expense for FY 2016-17 continue to maintain the treatment, which is in accordance with the provisions of the MYT Regulations, 2015.

3.2.16. In the case of the Line Bays of ATIL maintained by MSETCL at the Warora Sub-station, the O&M Expenses have been approved considering the norms applicable for MSETCL in accordance with Regulation 58.8 of MYT Regulations, 2015 for FY 2016-17, which reads as follows:

"58.8 For such Transmission Licensees whose Bays are installed in the premises of and maintained by another Transmission Licensee, the O and M expense for such assets shall be allowed in accordance with the norms applicable for the Transmission Licensee who performs the O and M of such assets:

Provided that the Transmission Licensees shall mutually agree on sharing of such allowed O and M expenses:

Provided further that Transmission Licensees shall project addition of such assets over the Control Period separately in their Capital Investment Plan."

3.2.17. Further to above, the Commission has considered O&M Expenses as controllable expenses in accordance with Regulation 9.2 of MYT Regulations, 2015 for truing up of FY 2016-17.

3.2.18. While scrutiny of the actual O&M expense claimed by ATIL, it is observed that the same is inclusive of, O&M cost pertaining to Bus Reactor at Tiroda end and associated bays. The Commission had disallowed O&M expenses towards these Bus Reactor bays in the past, for the reason that these Bus reactors were envisaged to be part of the generation asset of APML-G, as elaborated in earlier Order. The relevant extract of Case No 7 of 2016 is reproduced as following, for ease of reference.

(Extract from FY 2013-14 and FY 2014-15 True-up)

*"2.2.17 **As regards the Bus Reactors and associated Bays, these assets were envisaged as part of the generation assets of APML and accordingly established as part of the Generation Project switchyard**. ATIL has stated that the actual expenses on operation of these Bus Reactors and associated Bays for FY 2013-14 and FY 2014-15 have not been included in the accounts of the Transmission Business (APML-T), and hence it has claimed these on normative basis. The Commission has elaborated the treatment of the costs associated with the Bus Reactors and associated Bays in Section 2.3 of this Order, considering which the O&M expenditure on them is not being allowed.*

*2.2.18 The sharing of losses has been computed on the difference between the actual O&M Expenses, **excluding the claim of normative O&M Expense for Reactor Bays** for FY 2013-14 and FY 2014-15, and the approved O&M Expense for the respective years."*

...

(Extract from FY 2015-16 Provisional True-up)

"3.2.8 The Commission has disallowed the O&M Expenses towards the two Bus Reactor Bays at Tiroda since these are a part of the Generation Assets of APML, as discussed in Section 2.3of this Order."

(Extract from FY 2016-17 Projection)

"4.1.11 For the reasons set out in Section 2.3 of this Order, the Commission has not allowed the O&M Expenses in respect of Bus Reactors and associated Bays, as claimed by ATIL."

3.2.19. In view of the above, the Commission has considered actual O&M expense after excluding O&M expenses pertaining to Bus Reactor Bays for truing up of FY 2016-17. For FY 2016-17, ATIL submitted that the O&M for the transmission system was carried out in-house and booked total actual O&M expense of Rs. 10.32 Crore for FY 2016-17. However, ATIL has not submitted the segregated O&M expense pertaining to Bus Reactor Bays for FY 2016-17, despite enquiry. In this context, the Commission has considered O&M expense of Bus Reactors to be same as computed on normative basis for arriving at the net actual O&M to be considered for sharing of efficiency loss.

3.2.20. As regards claim of ATIL to consider Petition filing fee and license fee during FY 2016-17 for separate pass through, the Commission is of the view that there is no specific provision in the MYT Regulations, 2015 to allow pass through of such expenses Further, such O&M expenses of recurring nature are factored in the O&M expense norms stipulated under the Regulations for Transmission Licensees and thus is taken care within the stipulated norms. In view of the above, no separate pass through of such expense is allowed.

3.2.21. Additionally, the Commission has disallowed CSR expenses of 0.02 Crore claimed as part of the actual O&M expense as such expenses cannot be a pass through in the ARR, as these expenses are sole mandate for the Company, as per the revised provisions in the Companies Act, 2013 and would be additional cost burden onto the beneficiaries. The Commission's view in this matter was also upheld by the Hon'ble ATE in its Judgment in the matter of Appeal No. 104, 105 and 106 of 2012 dated 28 November 2013.

3.2.22. Taking into account the O&M Expense norms under the MYT Regulations, 2015 and considering the respective Transmission network parameters, the Commission approves the O&M Expenses for FY 2016-17 as summarized in the Table below:

Table 30: O&M Expenses for FY 2016-17 as approved by the Commission (Rs. Crore)

O&M Expenses	Unit	FY 2016-17		
		MYT Order	MTR Petition	Approved in this Order
Transmission Lines				
Length of Transmission line	Ckt.km	438		438
Norms as per Regulations	Rs lakh/ckt-km	0.42		0.42
Bays				
No of Bays	No.	2 (Tiroda) 2(Warora)		2 (Tiroda) 2(Warora)
Norm for O&M for Bays (for New Licensee) – applicable for Bays at Tiroda	Rs lakh/Bay	74.13		74.13
Norm for O&M for Bays (for MSETCL) – applicable for Bays at Warora	Rs lakh/Bay	122.49		122.49
O&M Expenses	**Rs Crore**	**5.77**	**10.32**	**5.77**
**(For the purpose of sharing of efficiency loss, Revised actual O&M of Rs. 8.83 Crore has been considered after disallowing O&M expenses for 2 Bus Reactors & CSR)*				

3.2.23. The Commission has considered O&M Expenses as controllable expenses. Hence, the O&M Expenses in excess of Rs.5.77 Crore for FY 2016-17 excluding O&M expenses towards 2 Bus Reactor bays incurred by ATIL is considered as an efficiency loss, and the Commission has considered the sharing of this efficiency loss as per the applicable provisions of MYT Regulations, 2015. The approved net entitlement of O&M Expense for FY 2016-17, after the sharing of loss, is elaborated subsequently in this Order. The Commission notes that the actual O&M expense excluding that pertaining to bus reactor bays and CSR expense, is considered only for the purpose of sharing of gains and losses in accordance with the provisions of MYT Regulations, 2015 and does not amount to approval of such expenses.

3.3. Capital Expenditure and Capitalisation

ATIL's Submission

3.3.1. ATIL submitted that in the MYT Petition (Case No. 7 of 2016), it had claimed Capital Cost of Rs. 707.84 Crore for the transmission system, including the capital cost of Rs. 23.24 Crore for the Bus Reactors and associated Bays at Tiroda-Substation, which was not considered by the Commission in the MYT Order. ATIL highlighted that it has preferred appeal on this disallowance before the APTEL through Appeal No. 250 of 2016.

3.3.2. However, ATIL in the present MTR Petition submitted that it has considered Capital Cost of Rs. 684.60 Crores as on COD as approved by the Commission in the MYT Order (Case No. 07 of 2016) without prejudice to its rights and subject to outcome of Appeal No. 250 of 2016 pending before the APTEL. ATIL submitted that it has capitalised initial spares of the value Rs.0.07 Crore during the FY 2016-17. ATIL has also pointed out that the cumulative capitalisation of Initial spares till FY 2016-17 is well within the limits as specified under Regulation No. 23.9 of MYT Regulation 2015.

3.3.3. ATIL submitted that the COD of Tiroda-Warora Transmission Line is 26 August, 2012; accordingly, the Cut-Off date for Capitalisation of Initial Spares is 31 March, 2015. In the context that additional capitalisation claimed in FY 2016-17 of Rs. 0.07 Crore is beyond the Cut-off date, ATIL requested the Commission to allow additional capitalisation for calculation of ARR of FY 2016-17 by invoking its powers under Regulation 102 of MYT Regulations, 2015 of Power to remove difficulties.

> *"102 Power to remove difficulties*
> *If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by general or specific order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty."*

3.3.4. Besides the above, ATIL submitted that the Commission in the MYT Order had provisionally approved Additional Capitalisation of Rs. 4.50 Crore towards ERS (Emergency Restoration System) in FY 2016-17, as required under the CEA Grid Standard Regulations, 2010. ATIL has submitted that because of cash flow crunch, the Petitioner was not able to procure the same in FY 2016-17. ATIL has now proposed to procure ERS during the year 2017-18 and hence has considered Additional Capitalisation of Rs. 4.50 Crore to be spent during FY 2018-19.

3.3.5. ATIL's claim of Capitalization vis-à-vis the Capitalization approved in the MYT Order for FY 2016-17 is given in the Table below:

Table 31: Capitalization for FY 2016-17 as submitted by ATIL (Rs. Crore)

Particulars	FY 2016-17	
	MYT Order	ATIL Petition
Capitalization	4.5	0.07

Commission's Analysis and Ruling

3.3.6. The Commission notes the submission regarding additional capitalisation claimed by ATIL during FY 2016-17. The same is claimed over and above the approved capital cost of Rs. 684.60 Crore of the project.

3.3.7. Since the project of the Petitioner had achieved CoD in the 2nd Control Period, provisions of the MYT Regulations, 2011 also needs to be referred. The Commission would like to highlight the provisions of the MYT Regulations, 2011, in detail for deciding on the issue of additional capitalisation. The relevant Regulations is reproduced in the following paragraphs:

3.3.8. Regulation 28 of MYT Regulations, 2011 specify provision for allowing Additional Capitalisation and conditions thereof. The same is reproduced as following:

*"28.1. The following capital expenditure, actually incurred or projected to be incurred, on the following counts within the original scope of work, **after the date of commercial operation and up to the cut-off date** may be admitted by the Commission, subject to the prudence check:*

g) Due to Un-discharged liabilities within the original scope of work

h) On works within the original scope of work, deferred for execution

i) To meet award of arbitration and satisfaction of final and unappealable order or decree of a court arising out of original capital cost

j) On account of change in law

k) On procurement of initial spares included in the original project costs subject to the ceiling norm laid down in Regulation 27.7

l) Any additional works/services, which have become necessary for efficient and successful operation of a Generating Station or a transmission project but not included in the original scope of work.

Provided that original scope of work along with estimates of expenditure shall be submitted along with the application for provisional tariff…"

3.3.9. Based on the above provision as per MYT Regulations, 2011, the primary condition to allow additional capitalisation is that such capitalisation should be within the Cut-off date of the project. Hence, the Commission proceeds to examine the definition of Cut-off Date as per the Regulations.

3.3.10. Regulation 2.1 (17) of MYT Regulations, 2011 defines "Cut-Off Date" as follows:

> ***"Cut-off Date"*** *means 31st March of the year closing after two years of the year of commercial operation of the project, and in case the project is declared under commercial operation in the last quarter of a year, the cut-off date shall be 31st March of the year closing after three years of the year of commercial operation.*

3.3.11. Considering that the project of ATIL has achieved CoD on 26 August 2012, the applicable cut-off date of the project is 31 March 2015. It is observed that the additional capitalisation has been made on dates subsequent to the cut-off date that partly on 1st April, 2015 and rest during the FY 2015-16 and FY 2016-17. This clearly shows that the additional capitalisation claimed by ATIL in FY 2016-17 is beyond the applicable Cut-off date for the project. Thus, the primary condition itself is not satisfied towards ATIL's claim of additional capitalisation.

3.3.12. It is also observed that ATIL has requested the Commission to invoke its power to remove difficulty and to allow the additional capitalisation as the additional capitalisation does not satisfy the primary condition of Regulation 28.

3.3.13. In this context, the Commission proceeds to see the other conditions of Regulation 28 relevant to the present claim of ATIL. As can be seen from the above quoted Regulations, the further sub-conditions are that a) Additional capitalisation towards initial spares could be allowed upto cut-off date b) Initial spares claimed should be included under original project cost and c) Initial spares could be allowed upto 0.75% of original capital cost for Line & Up to 2.5% of capital cost for Transmission substation.

3.3.14. As part of the details sought by the Commission, ATIL submitted itemized breakup of Initial Spares for FY 2016-17, along with the copy of Purchase Order of the said spares. Further upon enquiry by the Commission whether the initial spares were included as part of the original scope of work, ATIL has not established through any evidence or appropriate reference that the initial spares presently claimed were part of the original scope of work. It is however observed that the total value of capitalisation of initial spares claimed by ATIL is within the allowed limit of up to 0.75% of original capital cost for Line & up to 2.5% of capital cost for Transmission substation.

3.3.15. Further to the above, the Commission has also asked ATIL for reason for delay in procurement and capitalization of Initial spares to which ATIL only submitted that Initial Spares to the tune of Rs. 4.06 Crore purchased in FY 2013-14 and were in the process of installation/commissioning in FY 2014-15. However, it stated that the said spares could not be capitalized in FY 2014-15 due to a number of reasons beyond control of ATIL (T-W), without highlighting any specific reason of delay in capitalisation.

3.3.16. Based on the verification of associated facts, the Commission observes that while some of the conditions of capitalisation like being within specified limit as per the Regulation has been complied by ATIL, its claim has failed to satisfy the primary condition related to cut-off date as specified in the Regulations. In view of the same and in accordance with the provisions of the MYT Regulations, the Commission cannot approve the additional capitalisation claimed by ATIL for FY 2016-17.

3.3.17. Thus, the Commission has not accepted ATIL's claim for allowance of Rs. 0.07 Crore as additional capitalization in FY 2016-17. Accordingly, the capitalisation approved for FY 2016-17, as shown in the Table below:

Table 32: Capitalisation approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Approved in this Order
Capitalization	4.5	0.07	Nil

3.3.18. The Commission has dealt with capitalisation of Emergency Restoration System (ERS) proposed in FY 2018-19 in the chapter for approval of revised ARR projection for FY 2018-19 and FY 2019-20 in this Order.

3.4. Depreciation

ATIL's Submission

3.4.1. ATIL has worked out depreciation considering opening GFA of Rs. 688.95 Crore for FY 2016-17, applying the rates as specified in the MYT Regulations, 2015, as shown in the Table below.

Table 33: Depreciation for FY 2016-17 as submitted by ATIL (Rs. Crore)

Particulars	FY 2016-17	
	MYT Order	ATIL Petition
Opening GFA	684.60	688.95
Additions during the year	4.50	0.07
Closing GFA	689.10	689.02
Depreciation Rate	5.28%	5.28%
Depreciation	**36.27**	**36.38**

Commission's Analysis and Ruling

3.4.2. The Commission approves the depreciation amount as per the Capitalisation and GFA approved in this Order for FY 2016-17 as Rs.36.15 Crore as shown below:

Table 34: Depreciation for FY 2016-17 as approved by the Commission (Rs. Crore)

Particular	MYT Order	MTR Petition	Approved in this Order
Opening GFA	684.60	688.95	684.60
Additions during the year	4.50	0.07	-
Closing GFA	689.10	689.02	684.60
Depreciation Rate	5.28%	5.28%	5.28%
Depreciation	**36.27**	**36.38**	**36.15**

3.4.3. **The Commission approves Depreciation of Rs. 36.15 Crore for FY 2016-17, considering the GFA approved for the respective years in this Order.**

3.5. Return on Equity

ATIL's Submission

3.5.1. ATIL submitted that it has computed RoE in accordance with Regulation No. 28 of the MYT Regulations, 2015 for FY 2016-17. Further, it has considered the equity base for computation of Return on Equity as 30% of the capital cost excluding the cost of Bus Reactors and associated bays in view of decision of the Commission not to consider capital cost of Bus Reactor.

3.5.2. ATIL's ROE computation vis-à-vis the ROE approved in the MYT Order for FY 2016-17 is given in the Table below:

Table 35: Return on Equity for FY 2016-17 as submitted by ATIL (Rs. Crore)

Return on Equity	MYT Order	ATIL Petition
Regulated Equity at the beginning of the year	205.38	206.69
Capitalisation during the year	4.50	0.07
Consumer Contribution and Grants used during the year for Capitalisation	-	-
Equity portion of Capitalisation during the year	1.35	0.02
Reduction in Equity Capital on account of retirement/replacement of assets	-	-
Regulated Equity at the end of the year	206.73	206.71
RoE at the beginning of the year @15.5%	31.83	32.04
RoE portion of Capitalisation during the year @15.5%	0.10	0.002
Total Return on Regulatory Equity	**31.94**	**32.04**

Commission's Analysis and Ruling

3.5.3. For the Truing-up of RoE for FY 2016-17, the Commission has considered the opening equity approved for respective years and the approved normative equity portion (30%) of the approved capitalisation during the year. RoE is taken at 15.5% of the equity, in accordance with the MYT Regulations, 2015. The computation of approved RoE is shown in the Table below:

Table 36: Return on Equity for FY 2016-17 as approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Approved in this Order
Regulatory Equity at the Beginning of the Year	205.38	206.69	205.38
Capitalisation during the Year	4.50	0.07	-
Consumer Contribution and Grants used during the year of Capitalisation	-	-	-
Equity Portion of Capitalization during the Year	1.35	0.02	-
Reduction in Equity Capital on account of retirement / replacement of assets	-	-	-
Regulatory Equity at the end of the year	206.73	206.71	205.38
Return on Regulatory Equity at the beginning of the year	31.83	32.04	31.83
Return on Equity portion of	0.10	0.002	

Particulars	MYT Order	MTR Petition	Approved in this Order
capitalisation during the year			
Total Return on Regulatory Equity	**31.94**	**32.04**	**31.83**

3.5.4. **The Commission approves Return on Equity for FY 2016-17 as Rs. 31.83 Crore.**

3.6. Interest on Long Term Loans

ATIL's Submission

3.6.1. ATIL has considered the normative loan at 70% of the Capital Cost, for computation of interest on loan as per Regulation 26 of the MYT Regulations, 2015 for FY 2016-17. Further, ATIL submitted that it has considered revised interest rates considering refinancing carried out and subsequent interest rate revisions as per the relevant conditions of the ICD agreement. The conditions of the ICD agreement, which has resulted in revision of interest rate, is provided under the table below.

3.6.2. The precise conditions as outlined under the ICD agreement and the corresponding rate of interest as submitted by ATIL is as under:

Table 37: ICD Agreement rates of interest

Particulars	Rate of Interest (per annum)
Rate of Interest	12.1%
In case of disallowance of Capital Cost greater than 15 Cr by MERC in relation to the Capital Cost claimed by ATIL for Tirora-Warora.	12.7%
In case of Non-Allowance of Actual O&M Expenses as Uncontrollable and disallowance of Capital Cost greater than Rs. 15 Cr by MERC in relation to Capital Cost claimed by ATIL for Tirora-Warora Assets	13.25%

3.6.3. ATIL submitted that the ICD provider (ATL) who had refinanced the loans @ 12.1%, increased the rate of interest to 12.5% (vide letter dated: 10th October 2015) to align with the rate of interest charged by the other ICD provider – Adani Infra (India) Limited, by invoking "Increased Costs" provision for FY 2015-16 as per the signed ICD agreement with ATL.

3.6.4. ATIL further submitted that in view of adverse regulatory development in Case no. 7 of 2016 such as disallowance of capital cost of around Rs. 23.24 Crore of bus reactor along with non-allowance of actual O&M cost above normative O&M and consideration of unrealised DPC as non-tariff income and reduction of such DPC from otherwise allowed ARR, the regulatory risks contemplated in the ICD agreement have materialized. This materialized Regulatory Risks have resulted to lower approval of capital cost and lower recovery of revenue than that compared to claimed/projected and considered at the time of grant of ICD facility.

3.6.5. Further, the Appeal filed by the Petitioner in October, 2016 in the aforementioned regard before the APTEL is yet to be heard and decided. Accordingly, in light of the adverse regulatory developments perceived by ICD agreement having been materialised, the interest rate @ 13.25% p.a. became effective for FY 2016-17 onwards.

3.6.6. As regards interest expense claim of FY 2016-17, justification was sought by the Commission regarding refinancing of BOI led consortium loan (of 12.20% p.a. interest rate) with ICD having higher rates (of 13.25% p.a. interest rate) in context of Regulation 29.10 of the MYT Regulations, 2015. ATIL in its reply has reiterated that the loan of BOI Consortium of 12.2% p.a. (excluding ICD from Adani Infra (India) Ltd) was refinanced with ICD of 12.1% p.a. i.e., at an initial interest rate lower than the interest rate of existing portfolio in FY 2015-16. There was a resultant net savings of 0.1% contemplated in interest cost. However, the ICD Provider increased the rate of interest to align with the rate of interest of other ICD provider – Adani Infra (India) Ltd, who was charging at 12.5% p.a. in FY 2015-16 by invoking provision of "Increased Cost" in the ICD agreement entered into by ATIL with ATL. Further, that the ICD agreement stipulated a revised rate of interest in case of certain events (as highlighted under Table 11 above), which ultimately resulted in higher interest rate.

3.6.7. ATIL's interest on loan computation vis-à-vis the interest approved in the MYT Order for FY 2016-17 is given in the Table below:

Table 38: Interest on Long Term Loans for FY 2016-17 as submitted by ATIL (Rs. Crore)

Particulars	MYT Order	ATIL Petition
Opening Balance of Loan	349.18	352.01
Addition of Loan during the year	3.15	0.05
Repayment of Loan during the year	36.27	36.38
Closing Balance of Loan	316.06	315.78
Average Loan balance during the year	332.62	333.85
Interest Rate (%)	12.20%	13.37%

Particulars	MYT Order	ATIL Petition
Interest Expense	**40.58**	**44.62**

Commission's Analysis and Ruling

3.6.8. The Commission notes the submissions of ATIL regarding its claim on Interest on Loan for the FY 2016-17. As regards the quantum of loan to be considered for working out the interest expense, the Commission has considered the revised approved opening loan balance, approved loan addition based on approved capitalisation during the respective years, and corresponding closing balance during FY 2016-17.

3.6.9. The Commission has considered debt equity ratio of 70:30 for calculation of Interest on Long Term Loans for FY 2016-17, as well in accordance with the Regulations under MYT Regulations, 2015.

3.6.10. The relevant provision of MYT Regulations, 2015 applicable for approval of interest rate for FY 2016-17, is reproduced as following:

"29.5 The rate of interest shall be the weighted average rate of interest computed on the basis of the actual loan portfolio at the beginning of each year :

Provided that at the time of Truing-up, the weighted average rate of interest computed on the basis of the actual loan portfolio during the concerned year shall be considered as the rate of interest :"

3.6.11. As per the above Regulation, first proviso to Regulation 29.5 shall apply in case of truing up of FY 2016-17 which specify that weighted average rate of interest computed based on the actual loan portfolio during the concerned year has to be considered. The Commission observe that ATIL has claimed an interest rate of 13.37% p.a. for working out the interest expense for the year compared to an interest rate of 12.20% p.a. approved under the MYT Order. ATIL has attributed this variation to the refinancing it has done during FY 2015-16, on which the Commission's view has been detailed in the subsequent paragraphs.

3.6.12. The Commission in the past Order has directed various Transmission Licensee including ATIL for refinancing its original loan post CoD in the context that after CoD the major risk in Transmission Projects related to ROW, Forest Clearance etc., is mitigated and thus can avail loans at relatively lower interest rate. Regulation 29.10 of the MYT Regulation, 2015 provides for refinancing of loan and specify mechanism for sharing of benefits derived. The relevant Regulations is reproduced as following:

"29.10 The Generating Company or the ***Licensee*** *or the MSLDC, as the case may be,* ***shall make every effort to re-finance the loan as long as it results in net savings on interest*** *and in that event, the costs associated with such re-financing shall be borne by the Beneficiaries and the net savings shall be shared between the Beneficiaries and them in the ratio of 2:1, subject to prudence check by the Commission :*

Provided that the Generating Company or the Licensee or the MSLDC, as the case may be, shall submit documentary evidence of the costs associated with such re-financing :

Provided further that the net savings in interest shall be calculated as an annuity for the term of the loan, and the annual net savings shall be shared between the entity and Beneficiaries in the specified ratio."

3.6.13. The above-referred Regulation is clear that re-financing should be done as long as it results in net savings on interest expense. It is observed that in the present case, ATIL is contending that the refinancing done through ICD facility from ATL was in anticipation of a reduction of 0.10% of the interest rate from the prevailing 12.20%, which prima-facia appears to be only marginal reduction. However, owing to the specific conditions of the ICD facility agreement with ATL, the interest rate ultimately is reported to have increased in spite of ATIL refinancing its existing loan. In this context, one will have to assess whether it was really a refinancing attempt or not as no net benefit is derived and has only led to increased interest burden on the Licensee and stakeholders at large. The Commission has perused the Facility Agreement, which ATIL has entered with ATL to avail the new loan. The following table provides key details of the ICD facility agreement.

- Availed from: Adani Transmission Limited (ATL)
- Date of Agreement : 10 September, 2015
- Loan Disbursement : Rs. 473.6 Crore
- Purpose (As per Facility Agreement) – "The Borrower shall apply the amounts borrowed by it under the Facility (s) only for the end use"
- End Use: "shall mean repayment/prepayment of whole or part of Existing Debt with any accrued interest…"
- Increased Cost: means
    (i) An additional or increased cost of which the Borrower is notified; or

(ii) Increase in opportunity cost on account of lower interest rate as compared to interest rate charged by other Group Company ICD provider

- Clause related to events that would trigger increase in interest rate as provided in Schedule 4 (Rate of Interest) of the Facility Agreement.

Particulars	***Rate of Interest***
Rate of Interest	*12.1%*
In case of disallowance of Capital Cost greater than 15 Cr by MERC in relation to the Capital Cost claimed by ATIL for Tirora-Warora	*12.7%*
In case of Non Allowance of Actual O&M Expenses as Uncontrollable and disallowance of Capital Cost greater than Rs. 15 Cr by MERC in relation to Capital Cost claimed by ATIL for Tirora-Warora Assets	*13.25%*

3.6.14. The Commission observes that even though the ICD agreement was signed at 12.10% p.a. on 10 September 2015, the interest rate within a few months has increased to 12.50% p.a. on account of 'Increased cost' clause of the facility agreement as highlighted above. The 'Increased cost' clause of the facility agreement was triggered owing to another ICD loan already being availed by ATIL at a higher interest rate of 12.50% p.a. though its group company Adani Infra (India) limited, and that this reset has effected on retrospective basis i.e., from 10th September, 2015. Further, subsequent to issuance of MYT Order by the Commission in Case No. 7 of 2016, the interest rate was once again revised by the ICD provider now to reach 13.25% owing to the disallowances in the said Order, and here again the impact of resulted interest rate variation as per the schedule 4, was with retrospective effect.

3.6.15. As regards the clause of "increased cost" in the facility agreement, the Commission is of the view that this clause was making the initial interest rate of 12.10% (agreed under schedule 4 of the facility agreement) non-effective from the very date of signing of the agreement. This is proved from the fact that ATIL was already availing an ICD loan from a group company Adani Infra (India) Ltd. at a higher rate of 12.50% at the time of signing the new ICD agreement with ATL, copy of which is submitted by ATIL as part of the present Regulatory proceedings. The ICD loan from Adani Infra (India) Ltd. having a tenure of 365 days was signed on 20 March, 2015 which was in force while the new ICD with ATL was signed at interest rate of 12.10% p.a. Considering this, the initial interest rate of 12.10% specified in the ICD agreement with ATL never had relevance and the clause of "increased cost" was already triggered from day one of the facility agreement. In this context, ATIL's contention that the refinancing was done in anticipation of expected reduction in interest rate holds no merit.

3.6.16. As regards the other conditions and corresponding increase in interest rate agreed by ATIL under schedule 4 of the facility agreement with ATL, the Commission notes that there are explicit linkages to the treatment by the Commission of various ARR components such as O&M and capex components in its ARR/MYT Orders. The Commission here would specifically like to highlight that, such clauses in the loan agreement appears to have been accepted by both the parties on a mutual consent, in anticipation that any loss in revenue owing to disallowance in capital cost or O&M expense should lead to commensurate compensation through additional interest expense which again is another component of ARR of the Licensee. The Commission does not find it to be appropriate on the part of a Licensee that owns and operates a regulated business, to pass on such costs, which has implications on its beneficiaries (i.e. Transmission System Users) and the common consumer at large. Further, before signing such ICD Agreement, with such unusual conditions, the Petitioner has neither informed nor sought approval from the Commission, considering the implications of the matter.

3.6.17. In view of above, the Commission cannot consider to allow the interest rate claims of Petitioner as per ATL ICD loan and to allow interest costs arising from the 'refinancing' exercise carried out by ATIL. Thus, the interest rate claim by ATIL is disallowed and for truing up for FY 2016-17, the Commission continues to approve the rate of interest at 12.20% p.a. as was approved in the MYT Oder for the year.

3.6.18. The table below shows the interest expense approved by the Commission for FY 2016-17.

Table 39: Interest on Long Term Loans for FY 2016-17 as approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Approved in this Order
Opening Balance of Loan	349.18	352.01	349.18
Addition of Loan during the year	3.15	0.05	-
Repayment of Loan during the year	36.27	36.38	36.15
Closing Balance of Loan	316.06	315.78	313.04
Average Loan balance during the year	332.62	333.85	331.11
Interest Rate (%)	12.20%	13.37%	12.20%

Particulars	MYT Order	MTR Petition	Approved in this Order
Total Interest Expenses	**40.58**	**44.62**	**40.40**

3.6.19. **The Commission approves Interest on Loans of Rs. 40.40 Crore for FY 2016-17 respectively, in accordance with Regulation 29 of MYT Regulation, 2015.**

3.7. Interest on Working Capital (IoWC)

ATIL's Submission

3.7.1. ATIL submitted that IoWC has been computed as per Regulation No. 31.2 of MYT Regulations, 2015 for the year 2016-17.

3.7.2. ATIL has considered rate of interest on working capital as 10.79% per annum for FY 2016-17, applied on the working capital to arrive at the interest on working capital.

Table 40: Working Capital Assumptions considered by ATIL

Working Capital Assumptions	In Months
O&M Expenses	1 Month
Assumptions for Stores: Annual Expenses	1% of GFA
Revenue	1.5 Months

3.7.3. The Commission on whether ATIL has availed actual Working Capital loan during FY 2016-17 sought confirmation. ATIL on reply has stated that in light of decision of the ATE vide judgement dated 2 July, 2013 in Appeal no. 203 of 210 and 173 of 2009, truing up based on Actual Working Capital is not necessary. Hence, confirmation regarding actual Working Capital Loan at Tierra-Warora level is immaterial. Further, it is difficult to assign WC loan specifically to ATIL (T-W) as WC loans are granted to a company and not separate divisions.

3.7.4. The Commission has asked ATIL to revise IoWC workings from FY 2016-17 to FY 2019-20 in context of the latest amendment of MYT Regulations, 2015 wherein benchmark rate has been shifted from SBI Base Rate to MCLR. ATIL in its reply has accordingly revised the workings.

3.7.5. ATIL's IoWC computation vis-à-vis the that approved in the MYT Order for FY 2016-17 is given in the Table below:

Table 41: Interest on Working Capital for FY 2016-17 as submitted by ATIL (Rs. Crore)

Working Capital	MYT Order	ATIL Petition

Working Capital	MYT Order	ATIL Petition
O&M Expenses for 1 Month	0.48	0.86
1/12th of the sum of book value of stores, materials and supplies at end of each month – 1% of GFA	6.85	6.89
1.5 months the expected revenue from transmission charges at the prevailing tariffs	10.54	16.94
Less: Amount of Security Deposit from Transmission System Users (TSUs)	-	-
Total Working Capital Requirement	**17.87**	**24.69**
Interest Rate (%)	10.80%	10.79%
Interest on Working Capital	**1.93**	**2.66**

Commission's Analysis and Ruling

3.7.6. For FY 2016-17, the IoWC approved is based on the working capital computed, as per the prevailing Regulations of MYT Regulations, 2015. In accordance with MYT Regulations, 2015, the Commission has considered 10.79% p.a. (Weighted average of SBI Base Rate + 150 Basis Points) which is to be applied on the Working Capital to arrive at IoWC.

3.7.7. Accordingly, the Commission approves the IoWC as detailed out in table below:

Table 42: Interest on Working Capital for FY 2016-17 as approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Approved in this Order
One Twelfth of the O&M Expense	0.48	0.86	0.48
One Twelfth of the sum of the book value of stores, materials and supplies	6.85	6.89	6.85
1.5 Month's expected revenue from Transmission Charges	10.54	16.94	14.71
Total Working Capital Requirement	17.86	24.69	22.03
Interest Rate on Working Capital (%)	10.80%	10.79%	10.79%
Interest on Working Capital	**1.93**	**2.66**	**2.38**

3.7.8. **The Commission approves the Interest on Working Capital for FY 2016-17 as Rs. 2.38 Crore**.

3.8. Income Tax

ATIL's Submission

3.8.1. ATIL submitted income tax liability is Rs 6.05 Crore for FY 2016-17, based on carved out audited Accounting Statements & Carved out Income Tax returns.

3.8.2. ATIL also submitted that accrued Revenue recognised in the Accounting Statement is lower in the year 2016-17 in comparison to the accrued revenue recognised in the accounting statement of 2015-16 in accordance with applicable Indian Accounting Standards. This has also resulted to lower Minimum Alternate Tax (MAT) liability for the year 2016-17 as compared to 2015-16.

Table 43: Income Tax for FY 2016-17 as submitted by ATIL (Rs. Crore)

Particulars	FY 2016-17	
	MYT Order	ATIL Petition
Income Tax	8.67	6.05

Commission's Analysis and Ruling

3.8.3. Regulation 33.4 of the MYT Regulation, 2015 stipulates that, Income Tax on account of efficiency gains, Income from Other Business and incentive shall not be pass through. The relevant extracts of the above said Regulations are as shown under:

*"33.3 Variation between the Income Tax actually paid or Income Tax on regulatory Profit Before Tax of the regulated Business of Generating Company or Licensee or MSLDC, as applicable, and the Income Tax approved by the Commission for the respective Year after truing up, **shall be allowed for recovery as part of the Aggregate Revenue Requirement at the time of Mid-term Review or Truing-up, subject to prudence check.***

33.4 Income Tax on any income stream from sources other than the Business regulated by the Commission shall not constitute a pass-through component in Tariff, and Income Tax on such other income shall be borne by the Generating Company or Licensee or MSLDC, as the case may be."

3.8.4. Based on the above, the computation of the net Income Tax payable after deducting net entitlement of gains allowed on Interest on Working Capital for FY 2016-17 and incentive from the taxable income for FY 2016-17 is as under.

3.8.5. The Commission has considered the Income Tax based on the MAT Rate of 21.34% for FY 2016-17, which is presently applicable rate as per the Income Tax Rules. The

Income Tax approved by the Commission for FY 2016-17 is as summarised in the Table below:

Table 44: Income Tax for FY 2016-17 as approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Approved in this Order
Income Tax	8.67	6.05	5.68

3.8.6. **The Commission approves Income Tax at Rs.5.68 Crore for FY 2016-17.**

3.9. Contribution to Contingency Reserves

ATIL's Submission

3.9.1. The Contribution to Contingency Reserves has been computed as per Regulation No. 34.1 of MYT Regulations, 2015. ATIL has decided to appropriate 0.50 % of original Cost of Fixed Assets to Contingency Reserve.

3.9.2. ATIL's Contribution to Contingency Reserves computation vis-à-vis approved in the MYT Order for FY 2016-17 is given in the Table below:

Table 45: Contribution to Contingency Reserves for FY 2016-17 as submitted by ATIL (Rs. Crore)

Contingency Reserves	MYT Order	ATIL Petition
Opening Balance of Contingency Reserves	6.15	7.86
Opening GFA	684.60	688.95
Opening Balance of Contingency Reserves as % of Opening GFA (%)	0.90%	1.14%
Utilisation of Contingency Reserves during the year	-	-
Closing Balance of Contingency Reserves as % of Opening GFA (%)	1.15%	1.64%
Contribution to Contingency Reserves during the year	**1.71**	**3.44**

Commission's Analysis and Ruling

3.9.3. Regulation 34.1 of the MYT Regulation, 2015 permits allowing contribution to contingency reserve as 0.25% to 0.50% of the opening GFA of the respective years.

However, it is also specified that where such appropriation is made the Licensee has to invest the same in Securities authorised under the Indian Trusts Act, 1882 and should provide the proof of investment.

3.9.4. The Commission has sought details of any investment of contingency reserves; ATIL has made for the FY 2016-17. Upon perusal of reply, it is understood that ATIL has not made any investment of such reserves despite allowing contingency reserves in past Orders.

3.9.5. Regulations mandate/provides investment of contingency reserve where it has been allowed as part of the ARR. In view of the fact that ATIL has not made any investments in specified securities, no contingency reserve is allowed to ATIL for the FY 2016-17.

3.9.6. As regards contingency reserves allowed in the past, i.e., prior to FY 2015-16, the Commission directs ATIL to invest within 3 months from issuance of this Order, the amount of contingency reserve allowed till date in the Securities authorised under the Indian Trusts Act, 1882 in line with the provisions of MYT Regulations, 2011 and MYT Regulations, 2015.

3.9.7. Accordingly, the Contribution to Contingency Reserves for FY 2016-17 approved by the Commission is as shown in the Table below:

Table 46: Contribution to Contingency Reserves for FY 2016-17 as approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Approved in this Order
Contribution to Contingency Reserves	1.71	3.44	-

3.9.8. **The Commission disallows Contribution to Contingency reserves for FY 2016-17 since the same has not been invested by ATIL in specified securities.**

3.10. Non-Tariff Income and Other Income

ATIL's Submission

3.10.1. ATIL submitted that for FY 2016-17, the interest income shown in the audited accounts pertain to investment out of RoE earned. Therefore, the Petitioner has not considered the interest income from banks shown in the Audited Annual Accounts for FY 2016-17 respectively as a part of Non-tariff Income. The said principle is in line with the first proviso to Regulation 43.2 of MERC (Multi Year Tariff)

Regulations, 2015 of not considering interest income on investments made out of RoE under Non-Tariff Income.

3.10.2. ATIL also submits that the income such as income from sale of scrap, interest on staff loan and advances, interest on advances to suppliers, Royalty etc. including interest on Contingency Reserve investments, which are incidental to the Licensed Business of transmission, can be considered as Non-tariff Income and there is no income under these heads for the years under consideration.

3.10.3. ATIL also submitted that it has not undertaken any "Other Business" during the year in question and consequently there is no Income from Other Business.

Table 47: Non-Tariff Income FY 2016-17 as submitted by ATIL (Rs. Crore)

Particulars	MYT Order	ATIL Petition
Non-Tariff Income	0.41	-

Commission's Analysis and Ruling

3.10.4. The Commission has verified the details pertaining to Non-Tariff Income from the audited accounts of ATIL for FY 2016-17.

3.10.5. ATIL has not invested any Contribution to Contingency reserves because of under-recovery of revenue for FY 2016-17 and there was no Non-Tariff income this financial year on account of this. The Commission however, has worked out the notional income from the investment of Contingency Reserves allowed in the past years, i.e., FY 2012-13 to FY 2014-15 (cumulative reserve allowed prior to FY 2015-16 works out to Rs. 4.44 Crore), and considered the income derived out of it in FY 2016-17 as part of the Non-Tariff Income in FY 2016-17.

3.10.6. In addition to the above, the Commission has considered miscellaneous income reported under the audited accounts of Rs.0.05 Crore as part of non-Tariff income for FY 2016-17.

3.10.7. The Non-Tariff Income as approved by the Commission is as shown in the Table below:

Table 48: Non-Tariff Income for FY 2016-17 as approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Approved in this Order
Non-Tariff Income	0.41	-	0.36

3.10.8. **The Commission approves Non-Tariff Income of Rs. 0.36 Crore for FY 2016-17**.

3.11. Carrying Cost

ATIL's Submission

3.11.1. ATIL submitted that it has computed carrying cost on the differential ARR of FY 2016-17 claimed in this Petition and the ARR approved in the earlier process by the Hon'ble Commission in line with the methodology being followed in past Orders. The carrying cost on the differential ARR for FY 2016-17 has been computed till 31 March 2018 at Rs. 2.97 Crore.

Table 49: Carrying Cost for FY 2016-17 as submitted by ATIL (Rs. Crore)

Particulars	ATIL Petition
Carrying Cost burden owing to Revision/True-up of ARR	2.87
Carrying Cost on Incentive	0.10
Total Carrying Cost Burden on Consumers	**2.97**

Commission's Analysis and Ruling

3.11.2. The Commission notes that upon final true up for FY 2016-17, there is revenue surplus instead of revenue gap as claimed by ATIL. Hence, there is case of computing holding cost instead of carrying cost. Holding cost has been worked out based on the revised approved ARR for FY 2016-17. The total trued up ARR for FY 2016-17 considered for holding cost computation excludes Availability incentive, since that is due for recovery only after the conclusion of the period which is being approved in the Truing-up exercise for those years in the present Order. The interest rate for holding cost has been taken as same as that applicable for computation of interest on working capital during respective years.

Table 50: Carrying Cost for FY 2016-17 as approved by the Commission (Rs. Crore)

Particulars	Rate	Period	Approved in this Order
Truing up Gap for FY 2016-17			(5.17)
Carrying cost for FY 2016-17	10.79%	Half Year	(0.28)
Carrying cost for FY 2017-18	10.20%	Full Year	(0.53)
Carrying cost for FY 2018-19	9.45%	Half Year	(0.24)
Total Carrying Cost			**(1.05)**

3.11.3. **The Commission approves Holding Cost of Rs. 1.05 Crore FY 2016-17, considering the revised ARR and Revenue Surplus after Truing-up of FY 2016-17.**

3.12. Availability of ATIL Network

ATIL's Submission

3.12.1. Incentive on Availability of Network has been computed in accordance with Regulation No. 57.2 of MYT Regulation, 2015 for FY 2016-17. ATIL submitted the Annual availability of the Petitioner for the FY 2016-17 is 99.93%.

3.12.2. ATIL computed incentive of Rs. 1.03 Crore for FY 2016-17.

Table 51: Availability Incentive for FY 2016-17 as submitted by ATIL (Rs. Crore)

Particulars	Formula	Actual for FY 2016-17
Annual Revenue Requirement	a	135.52
Annual availability achieved (%)	b	99.93
Cap on Incentive (%)	c	99.75
Target Availability (%)	d	99
Availability Incentive	**d=a*((c-d)/c)**	**1.03**

Commission's Analysis and Ruling

3.12.3. The Commission has analysed the submissions of ATIL and verified its Transmission System Availability from the certification by MSLDC for FY 2016-17. The MYT Regulation, 2015 specifies the provisions for Incentive on achieving Transmission Availability higher than 99%.

3.12.4. As per Regulation 57 and Regulation 54 of the MYT Regulation, 2015, Annual Transmission Charges comprise ARR including Income Tax.

3.12.5. Further, as per Regulation 57 of the MYT Regulation, 2015, for recovery of full Annual Fixed Cost, the Target Availability should be 98% and above, while for incentive computation minimum Target Availability should be 99%.

3.12.6. Based on the above, the Commission has calculated the Incentive on Transmission Availability for FY 2016-17 in accordance with the Regulations and has considered ARR including the approved Income Tax for FY 2016-17. The Incentive approved by the Commission is as shown in the following Table below:

Table 52 : Incentive on Transmission Availability for FY 2016-17 approved by the Commission (Rs. Crore)

Particulars	MTR Petition	Approved in this Order
Annual Transmission Charges (Rs. Crore)	135.52	121.28
Target Availability (%)	99.93	99%
Actual Availability Achieved (%)	99.75	99.86%
Upper cap for Incentive Availability (%)	99	99.75%
Incentive (Rs. Crore)	**1.03**	**0.92**

3.12.7. **The Commission approves Incentive on Transmission System Availability of Rs. 0.92 Crore for FY 2016-17.**

3.13. Sharing of Gains / Losses

ATIL's Submission

3.13.1. Regulation No. 11 of the MYT Regulations, 2015 enumerates the mechanism for sharing of gains and losses on account of uncontrollable and controllable factors. In case of uncontrollable factors, the gain and losses are entirely pass through as an adjustment in tariff. In case of controllable factors, the gains and losses are shared between the licensee and the consumer in the form of tariff adjustment. The relevant clauses have been reproduced below for ready reference.

"11. Mechanism for sharing of gains or losses on account of controllable factors—

11.1 The approved aggregate gain to the Generating Company or Licensee or MSLDC on account of controllable factors shall be dealt with in the following manner :—

(a) Two-third of the amount of such gain shall be passed on as a rebate in Tariff over such period as may be stipulated in the Order of the Commission under Regulation 8.4 ;

(b) The balance amount of such gain shall be retained by the Generating Company or Licensee or MSLDC.

11.2 The approved aggregate loss to the Generating Company or Licensee or MSLDC on account of controllable factors shall be dealt with in the following manner :—

(a) One-third of the amount of such loss may be passed on as an additional charge in Tariff over such period as may be stipulated in the Order of the Commission under Regulation 8.4 ;

(b) The balance amount of such loss shall be absorbed by the Generating Company or Licensee or MSLDC.

3.13.2. ATIL has compared the actuals for FY 2016-17 with the approved figure and has segregated the variation as controllable or uncontrollable based on the analysis.

Table 53: Comparison of Actual and Approved ARR for FY 2016-17 (Rs. Crore)

Particulars	MYT Order	Actual	Deviation	Controllable	Uncontrollable
Operation & Maintenance Expenses	5.77	10.32	4.56	-	4.56
Interest on Working Capital	1.93	2.66	0.73	-	0.73

3.13.3. ATIL has requested that variation in all the expenditure heads may be treated under uncontrollable category.

Commission's Analysis and Ruling

3.13.4. The Commission opines that the O&M expense and interest on working capital as claimed by ATIL as 'uncontrollable' should actually be treated as 'controllable' in accordance with the provisions of MYT Regulations, 2015 for the purpose of computation of sharing of gains and losses. Relevant extract of Regulation 9.2 of the MYT Regulation, 2015 is as reproduced as below:

"9.2 Variations or expected variations in the performance of the Petitioner, which may be attributed by the Commission to controllable factors include, but are not limited to the following: —

(a) Variations in capitalisation on account of time or cost overruns or inefficiencies in the implementation of a capital expenditure Scheme not attributable to an approved change in its scope, change in statutory levies or force majeure events;

(b) Variation in Interest and Finance Charges, Return on Equity, and Depreciation on account of variation in capitalisation as specified in clause (a) above;

(c) Variation in technical and commercial losses;

(d) Variation in performance parameters;

(e) Variation in amount of interest on working capital;

(f) Variation in operation and maintenance expenses;

(g) Variation in Coal transit losses."

3.13.5. The Commission examined the submission of ATIL and is of the view that variation in the O&M Expenses is controllable in nature as per Regulation 9.2 of the MYT Regulation, 2015. Further, as per the above said Regulations considers 'variation in interest on working capital requirements' is treated under controllable factor for Sharing of Gains/Losses.

3.13.6. Accordingly, the Commission has worked out Sharing of Gains/Losses for FY 2016-17 by taking the difference between the actual O&M Expenses and revised normative O&M Expenses approved by the Commission in the present Order.

3.13.7. It should be noted that the actual O&M expense considered for sharing excludes the O&M for the Bus reactor bays as well as CSR expenses disallowed for FY 2016-17, for which detail rationale is provided earlier in this chapter.

3.13.8. As regards Interest on working capital, ATIL has submitted that it has not availed any working capital loan. Hence, the entire IoWC allowed after truing up is treated as efficiency gain for sharing of Gains/Losses.

3.13.9. The sharing of gains and losses approved for FY 2016-17 is as presented in the table below:

Table 54: Sharing of Gains/ (Losses) for FY 2016-17 approved by the Commission (Rs. Crore)

Particulars	MYT Order	As Claimed/ Actual	Allowed after truing up	As Claimed/ Actual		As Allowed after Truing up		
	(A)	(B)		Uncontrollable	Controllable	2/3rd efficiency Loss/(gain) absorbed by ATIL	1/3rd Efficiency loss/(gain) passed on to consumers	Net entitlement after sharing of gain and losses
Operation & Maintenance Expenses	5.77	8.83*	5.77		3.06	2.04	1.02	6.79
Depreciation Expenses	36.27	36.38	36.15					36.15
Interest on Long-term Loan Capital	40.58	44.62	40.40		-		-	40.40
Interest on Working Capital and on security deposits	1.93	2.66	2.38		-2.38	-1.58	-0.79	0.79
Income Tax	8.67	6.05	5.68					5.68
Contribution to Contingency reserves	1.71	3.44	0.00					-
Total Revenue Expenditure	**94.93**	**101.99**	**90.38**	**-**		-	-	**89.81**
Return on Equity Capital	31.94	32.04	31.83					31.83
Aggregate Revenue Requirement	**126.86**	**134.03***	**122.21**			-	-	**122.65**
Less: Non-Tariff Income	0.41	-	0.36					0.36
Less: Income from Other Business	-	-	0.00					-
Aggregate Revenue Requirement from Transmission Tariff	**126.45**	**134.03***	**121.85**	**-**	**0.68**	**0.46**	**0.23**	**121.28**

**(Actual O&M expense considered for sharing excludes the O&M for the Bus reactor bays and CSR expenses disallowed for FY 2016-17)*

3.13.10. The Commission approves the net entitlement of ARR for FY 2016-17 as Rs. 121.28 Crore, respectively

3.13.11. The detailed analysis underlying the Commission's approval of individual ARR elements on Truing up of FY 2016-17 is already set out above, however, as in the case of Truing up of FY 2016-17, the variation in the ARR sought by the ATIL and that approved by the Commission in this Order is mainly on account of the reduction in the O&M expense owing to limiting the same within permissible norms as per MYT Regulations, 2015 and disallowance in interest expense owing to not allowing refinancing at higher interest rate. Further, the contribution to Contingency Reserves for FY 2016-17 has been disallowed, as ATIL has not made any investment of such amount allowed in the past.

3.14. Revenue Gap after Truing-Up for FY 2016-17

3.14.1. After truing-up of ARR for FY 2016-17, the Revenue Gap approved for recovery by ATIL is as given in Table below.

Particulars	Formula	Approved in this Order
ARR approved in the MYT Order	a	126.45
Approved Carrying Cost	b	0
Sub total	c=a+b	126.45
ARR considered after truing up before sharing of Gains/Losses	d	121.85
(Gain) / Loss on account of Uncontrollable factor to be passed on to the consumers	e	0.00
1/3rd (Gain)/ Loss on account of Controllable factor to be passed on to the consumers	f	0.23
ARR allowed after truing up and post sharing of Gains/Losses	**g**	**121.28**
Less : expected revenue from TSUs	**h**	**126.45**
Revenue Gap/ (Surplus) for computation of additional carrying cost	**i=g-h**	**-5.17**
Additional Carrying/holding Cost on account of revision in ARR	j	**-1.05**
Availability Incentive	k	0.92
Trued up ARR including total carrying cost and availability incentive	l	121.15
Net Revenue gap to be recovered including total carrying cost and availability incentive	**m=l-c**	**-5.31**

4. PROVISIONAL TRUE-UP FOR FY 2017-18

4.1. Background

4.1.1. Regulation 5.1 (b) (iii) of the MYT Regulations, 2015, specifies that MTR Petition to be submitted by the Petitioner should comprise provisional true up of ARR for FY 2017-18 to be carried out under MYT Regulations, 2015. The extract of the relevant Regulation is reproduced as under.

> *"5.1 The Petitions to be filed in the Control Period under these Regulations are as under :—*
>
> *...*
>
> *(b) Mid-Term Review Petition shall be filed by November 30, 2017, comprising:—*
>
> *...*
>
> *(iii) Provisional Truing-up for FY 2017-18 to be carried out under the Maharashtra Electricity Regulatory Commission (Multi Year Tariff) Regulations, 2015 ;"*

4.1.2. Accordingly, ATIL in the present MTR Petition for the 3rd Control Period has petitioned for provisional truing-up of ARR for FY 2017-18 against the projection approved under MYT Order in Case No. 7 of 2016. ATIL submitted that for the purpose of Provisional Truing-up of ARR for FY 2017-18, it has considered the actual performance of ATIL for the first half (H1) of the FY 2017-18 and estimations for the second half (H2). Further, while estimating the ARR for H2 of FY 2017-18, ATIL stated that it has taken into account actual performance of FY 2015-16, FY 2016-17 and first half of FY 2017-18.

4.2. Operation and Maintenance Expenses

ATIL's Submission

4.2.1. ATIL stated that O&M expense identified for first half of FY 2017-18 does not capture specific one-time expenses and expenses to be booked in second half of the FY 2017-18 for the entire financial year. Accordingly, A&G expense items of License fees of Rs. 0.185 Crore and Petition filing fees of Rs. 0.15 Crore, has been accounted by ATIL in H2 of FY 2017-18. ATIL stated it has also incurred Rs. 0.2 Crore as CSR expenses in Compliance with the Companies Act, 2013 and the same falls under "Change in Law" provision and hence the same is covered under Regulation 9.1 of MERC MYT Regulations 2015.

4.2.2. ATIL estimated O&M expenses of FY 2017-18 as against approved O&M expense for FY 2017-18 as under:

Table 55: O&M Expenses for FY 2017-18 as submitted by ATIL (Rs. Crore)

Particulars	FY 2017-18			
	Approved (MYT)	Actual - H1	Estimated - H2	Total
R&M Expenses	6.06	4.55	4.55	9.09
Employee Expenses		0.83	0.83	1.66
A&G Expenses		1.20	1.20	2.41
Total	**6.06**	**6.58**	**6.58**	**13.16**

4.2.3. ATIL has requested to consider the O&M expense as Uncontrollable expense.

Commission's Analysis and Ruling

4.2.4. Regulation 58 of the MYT Regulations, 2015 specifies the norms for O&M Expenses for new Transmission Licensees for each year of the Control Period and the same is applicable for ATIL. For the purpose of provisional true up, O&M expense is allowed as per the norms specified under the aforesaid Regulations.

4.2.5. Detailed rationale for allowing the O&M expense on normative basis has been provided under the Turing-up section of this Order. Further, while truing up of FY 2017-18, item-wise scrutiny shall be carried out based on audited accounts made available at that time. Hence, no scrutiny for individual items under O&M expense has been carried out as part of the provisional truing up exercise. Besides, for the reasons set out in the MYT Order and reiterated in earlier sections of this Order, the Commission has not allowed the O&M Expenses in respect of Bus Reactors and associated Bays. Further, in the case of the Line Bays of ATIL maintained by MSETCL at the Warora Sub-station, the O&M Expenses have been approved considering the norms applicable for MSETCL in accordance with Regulation 58.8 of the MYT Regulations, 2015.

4.2.6. Taking into account the O&M Expense norms under the MYT Regulations, 2015 and considering the respective Transmission network parameters, the Commission provisionally approves the O&M Expenses for FY 2017-18 as summarized in the Table below:

Table 56: O&M Expenses for FY 2017-18 as provisionally approved by the Commission (Rs. Crore)

O&M Expenses	Unit	MYT Order	MTR Petition	Provisionally Approved in this Order
Transmission Lines				
Length of Transmission line	Ckt.km	438		438
Norms as per Regulations	Rs lakh/ckt-km	0.44		0.44
Bays				
No of Bays	No.	2 (Tiroda) 2(Warora)		2 (Tiroda) 2(Warora)
Norm for O&M for Bays (for New Licensee) – applicable for Bays at Tiroda	Rs lakh/Bay	77.84		77.84
Norm for O&M for Bays (for MSETCL) – applicable for Bays at Warora	Rs lakh/Bay	128.61		128.61
O&M Expenses	**Rs Crore**	**6.06**	**13.16**	**6.06**

4.2.7. **The Commission provisionally approves O&M Expenses of Rs. 6.06 Crore as per the norms, on Provisional Truing-up of ARR for FY 2017-18.**

4.3. Capital Expenditure and Capitalisation

ATIL's Submission

4.3.1. ATIL submitted that that it has capitalised Rs. 0.27 Crore against the Initial Spares during second half of FY 2017-18.

4.3.2. The Petitioner also submitted that the cumulative cost of initial spares of Rs. 4.89 Crore till FY 2017-18 is well within limit of 0.75% of capital cost of Transmission Line and requested to approve Cost of Initial Spares of Rs. 0.27 Crore as an Additional Capitalisation to form part of Capital Cost for calculation of ARR for the year FY 2017-18.

4.3.3. Since the Capitalization is proposed after the Cut-off Date, ATIL requested the Commission to use its Power to remove difficulties under Regulation 102 of MERC MYT Regulations 2015 and allow additional capitalisation during the year.

Table 57: Capitalisation for FY 2017-18, as submitted by ATIL (Rs. Crore)

Particulars	MYT Order	ATIL Petition
Capitalisation	-	0.27

Commission's Analysis and Ruling

4.3.4. For the reasons set out in the earlier truing-up section of this Order, the Commission cannot allow claim for additional capitalisation of Initial Spares of Rs.0.27 Crore during FY 2017-18, as the same falls beyond Cut-off date for computation of provisional true-up of ARR for the year 2017-18.

Table 58: Capital Cost for FY 2017-18 as approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Provisionally Approved in this Order
Capitalisation	-	0.27	-

4.3.5. **The Commission has not considered any capitalisation during FY 2017-18. The GFA considered for determination of the ARR for FY 2017-18 is the closing balance of GFA for FY 2016-17, viz. Rs. 684.60 Crore.**

4.4. Depreciation

ATIL's Submission

4.4.1. ATIL submitted that it has computed the depreciation on revised capital cost in accordance with the rates specified in the MYT Regulations, 2015 on the fixed asset based on the straight-line method. As the project assets has not been depreciated by 70%, the asset-class wise depreciation rates, as specified in the Regulations, have been considered for computation of depreciation.

Table 59: Depreciation as submitted by ATIL for FY 2017-18 (Rs. Crore)

Particulars	MYT Order	ATIL Petition
Opening GFA	689.10	689.02
Additions during the year	0	0.27
Closing GFA	689.10	689.29
Depreciation	**36.38**	**36.38**

Commission's Analysis and Ruling

4.4.2. The Commission approves the depreciation amount as per the capitalisation and GFA approved in this Order as shown below:

Table 60: Depreciation as approved by the Commission for FY 2017-18 (Rs. Crore)

Particular	MYT Order	MTR Petition	Provisionally Approved in this Order
Opening GFA	689.10	689.02	684.60
Additions during the year	0	0.27	-
Closing GFA	689.10	689.29	684.60
Depreciation Rate	5.28%	5.28%	5.28%
Depreciation	**36.38**	**36.38**	**36.15**

4.4.3. **The Commission provisionally approves Depreciation of Rs. 36.15 Crore, as per the norms, on Provisional Truing-up of FY 2017-18.**

4.5. Return on Equity

ATIL's Submission

4.5.1. In accordance with the Regulations 28 of the MYT Regulations 2015, ATIL has considered a regulated return of 15.5% on the equity base for computation of ROE. ATIL has considered the closing equity value of the past year i.e., FY 2016-17 as the opening equity value for FY 2017-18.

Table 61: Return on Equity for FY 2017-18 as submitted by ATIL (Rs. Crore)

Return on Equity	MYT Order	ATIL Petition
Regulatory Equity at the beginning of the year	206.73	206.71
Capitalisation during the year		0.27
Consumer Contribution and Grants used during the year for Capitalisation	-	-
Equity portion of capitalisation during the year		0.08
Reduction in Equity Capital on account of retirement / replacement of assets	-	-
Regulatory Equity at the end of the year	206.73	206.79
Return on Regulatory Equity at the beginning of the year @ 15.5%	32.04	32.04
Return on Equity portion of capitalisation during the year @ 15.5%		0.00
Total Return on Regulatory Equity	**32.04**	**32.04**

Commission's Analysis and Ruling

4.5.2. The Commission has considered RoE at the rate of 15.5% of the equity, as per Regulation 28 of MYT Regulations 2015, on the approved opening equity for the year and on 50% of the projected levels of approved asset capitalisation during the year. The normative debt: equity ratio is considered as 70:30.

Table 62: Return on Equity as approved by the Commission for FY 2017-18 (Rs. Crore)

Particulars	MYT Order	MTR Petition	Provisionally Approved in this Order
Regulatory Equity at the Beginning of the Year	206.73	206.71	205.38
Capitalisation during the Year	-	0.27	-
Consumer Contribution and Grants used during the year of Capitalisation	-	-	-
Equity Portion of Capitalization during the Year	-	0.08	-
Reduction in Equity Capital on account of retirement / replacement of assets	-	-	-
Regulatory Equity at the end of the year	206.73	206.79	205.38
Return on Regulatory Equity at the beginning of the year	32.04	32.04	31.83
Return on Equity portion of capitalisation during the year	-	-	-
Total Return on Regulatory Equity	**32.04**	**32.04**	**31.83**

4.5.3. **The Commission provisionally approves Return on Equity for FY 2017-18 as Rs. 31.83 Crore as per specified norms.**

4.6. Interest on Long Term Loans

ATIL's Submission

4.6.1. ATIL submitted that the closing normative loan for FY 2016-17 has been considered as the opening normative loan for FY 2017-18.

4.6.2. Further, ATIL has considered an interest rate of 13.25% based on the applicable interest rate as per the ICD agreement entered into for refinancing of its original loans.

4.6.3. The details of estimated interest on loans by ATIL as against the approved in the MYT Order is as shown in the following Table:

Table 63: Interest on Long Term Loans for FY 2017-18 as submitted by ATIL (Rs. Crore)

Particulars	FY 2017-18	
	MYT Order	ATIL Petition
Opening Balance of Loan	316.06	315.68
Addition in Loan during the Year	-	0.19
Repayment of Loan during the Year	36.27	36.38
Closing Balance of Loan	279.79	279.49
Average Loan Balance during the Year	297.93	297.59
Interest Rate (%)	12.20%	13.25%
Interest Expense	**36.34**	**39.42**

Commission's Analysis and Ruling

4.6.4. The Commission has noted the submission of ATIL. However, as elaborated under chapter 3 of this Order, the Commission does not approve the rate of Interest for the borrowings against ICD Loan from ATL. Accordingly, the Commission is provisionally approving the rate of interest for FY 2017-18 as 12.20% as was approved in the MYT Order for FY 2017-18.

4.6.5. Thus, for provisional Truing-up of FY 2017-18, the Commission has considered the approved closing balance of loan for FY 2016-17 for truing-up as opening loan for FY 2017-18.

Table 64: Interest on Long Term Loans for FY 2017-18 as approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Provisionally Approved in this Order
Opening Loan	316.06	315.68	313.04
Addition in Loan during the Year	-	0.19	-
Repayment of Loan during the Year	36.27	36.38	36.15
Closing Loan	279.79	279.49	276.89
Average Loan during the Year	297.93	297.87	294.96
Interest Rate (%)	12.20%	13.25%	12.20%
Interest Expense	**36.34**	**39.42**	**35.99**

4.6.6. **The Commission approves Interest on Loan of Rs. 35.99 Crore, as per the norms, on Provisional Truing-up of ARR for FY 2017-18.**

4.7. Interest on Working Capital

ATIL's Submission

4.7.1. ATIL submitted that owing to change in capital cost and uncontrollable variations in O&M Expenses, the working capital amount has been revised in line with Regulations 31.2 of the MYT Regulations 2015.

4.7.2. ATIL has considered interest rate for working out IoWC as stipulated in Regulation 31.2 (b) of MYT Regulations, 2015 and has taken into cognisance of the amendment to the MYT Regulations, 2015. Accordingly, the Interest rate corresponding to SBI PLR as on date of application for determination of tariff i.e., 10.55 % is considered for 8 months i.e., till 30 November, 2017. Further, for remaining 4 months i.e., from 1st December, 2017 till 31 March 2018, the interest rate corresponding to SBI one year MCLR as on date of application for determination of tariff i.e., 9.65% (8.15%+1.5%) is considered. Therefore, ATIL has considered a cumulative effective rate of Interest rate works out to be 10.18% for FY 2017-18 that it has used for computing the normative IoWC.

4.7.3. The revised workings of the interest on working capital as against the MYT approved interest on working capital as submitted by ATIL is provided below:

Table 65: Interest on Working Capital as submitted by ATIL (Rs. Crore)

Working Capital	FY 2017-18	
	MYT Order	**ATIL Petition**
Operations and Maintenance Expenses for one month	0.50	1.10
One-twelfth of the sum of book value of stores, materials and supplies at end of each month – 1% of GFA	6.89	6.89
One and a half months of the expected revenue from transmission charges at the prevailing tariffs	10.22	16.96
Less: Amount of Security Deposit from Transmission System Users		
Total Working Capital Requirement	17.61	24.95
Interest Rate (%) - SBI Base Rate plus 150 basis points	10.80%	10.18%
Interest on Working Capital	**1.90**	**2.54**

Commission's Analysis and Ruling

4.7.4. The Commission has determined the total working capital requirement and IoWC as per the norms stipulated in the MYT Regulation, 2015 and amendment to the Regulation thereof. Compared to the provisions of the Principal Regulation, which specified SBI base rate as the basis for working out the interest rate for computing normative IoWC, the amended Regulation has specified SBI one year MCLR rate as the basis. The relevant provisions of the Principal Regulations and the amended Regulations are reproduced for ease of reference.

Extract of Principal MYT Regulations, 2015

> *2.1(10)* ***"Base Rate" shall mean the Base Rate of the State Bank of India as declared*** *from time to time ;*
>
> *...*
>
> *31.2 (b)(f) Rate of interest on working capital shall be on normative basis and shall be equal to the Base Rate as on the date on which the Petition for determination of Tariff is filed, plus 150 basis points :*
>
> *...* ***(Emphasis Added)***

4.7.5. The definition of Base Rate was amended to replace by extract of MYT (First Amendment) Regulations, 2015

> *"Regulation 2.1 (10) of the principal Regulations shall be substituted by the following :— " Base Rate " shall mean the* ***one-year Marginal Cost of Funds-based Lending Rate ('MCLR')*** *as declared by the State Bank of India from time to time ;"...****(Emphasis Added)***

4.7.6. Since the above amendment to Regulation was notified on 29 November 2017, which is in between the Financial Year, the normative interest rate is arrived at by considering Base Rate till November 2017 and one-year MCLR from December till March 2018. Accordingly, the weighted average interest rate works out to 10.20% considering the spread of 150 basis point. The same is used for the purpose of provisional true up of ARR for FY 2017-18.

4.7.7. Accordingly, the Commission approves the IoWC as detailed out in table below:

Table 66: Interest on Working Capital as approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Provisionally Approved in this Order
One Twelfth of the O&M Expense	0.50	1.10	0.50
Maintenance Spares @1% of the Opening GFA	6.89	6.89	6.85
1.5 Month's expected revenue from Transmission Charges	10.22	16.96	16.83
Total Working Capital Requirement	17.61	24.95	24.18
Interest Rate on Working Capital (%)	10.80%	10.18%	10.20%
Interest on Working Capital	**1.90**	**2.54**	**2.47**

4.7.8. **The Commission approves the Interest on Working Capital for FY 2017-18 as Rs. 2.47 Crore.**

4.8. Contribution to Contingency Reserves

ATIL's Submission

4.8.1. In MYT Order, the Commission approved Contingency Reserves of Rs. 1.72 Crore for FY 2017-18.

4.8.2. ATIL stated that owing to variation in capital cost, the contribution to contingency reserve would be changed accordingly for FY 2017-18. Since the change in capital cost is uncontrollable, ATIL requested the Commission to treat variation in contribution to contingency reserve as uncontrollable and allow as pass through. ATIL's claim of contribution to contingency reserve is shown in the table below:

Table 67: Contribution to Contingency Reserves as submitted by ATIL (Rs. Crore)

Contingency Reserves	FY 2017-18	
	MYT Order	ATIL Petition
Opening Balance of Contingency Reserves	7.86	11.31
Opening Gross Fixed Assets	689.10	689.02
Opening Balance of Contingency Reserves as % of Opening GFA	1.14%	1.64%
Utilisation of Contingency Reserves during the year	0	0
Closing Balance of Contingency Reserves as % of Opening GFA	1.39%	2.14%
Contribution to Contingency Reserves during the year	**1.72**	**3.45**

Commission's Analysis and Ruling

4.8.3. The Commission has considered Contribution to Contingency Reserves at 0.25% of the Opening GFA in accordance with 34.1 of the MYT Regulation, 2015 for FY 2017-18.

4.8.4. The Commission has considered the Capitalisation approved for FY 2017-18 and has allowed recovery of Contribution to Contingency Reserves based on the norms specified in MYT regulations, 2015.

4.8.5. Accordingly, the Contribution to Contingency Reserves for FY 2017-18 approved by the Commission is as shown in the Table below:

Table 68: Contribution to Contingency Reserves for FY 2017-18 as approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Provisionally Approved in this Order
Contribution to Contingency Reserves	1.72	3.45	1.71

4.8.6. **The Commission approves Contribution to Contingency reserves at Rs. 1.71 Crore for FY 2017-18 according to norms specified in MYT Regulations 2015.**

4.9. Non – Tariff Income

ATIL's Submission

4.9.1. ATIL submitted that the recovery of tariff for FY 2012-13, FY 2013-14, FY 2014-15 and FY 2015-16 has been delayed continuously for a period of 6-8 months. It added that in view of treatment given by the Commission to consider DPC as Non-Tariff Income, there has been double negative impact to ATIL's cash flow i.e., on one side, the accrued amount of DPC is not received, while on the other hand such non-received amount is reduced from otherwise allowable Revenue. ATIL submitted that it has received only partial amount due towards DPC. ATIL added that it has been allowed lower recovery of O&M expenses compared to actual spent amount in Case No. 7 of 2016. This has resulted in shortage of cash flow with the Petitioner.

4.9.2. ATIL submitted that as the Petitioner is in the process of investing the amount of contingency reserve, it has not considered interest for FY 2017-18.

4.9.3. The Petitioner has not considered the interest income as a part of Non-Tariff income in line with the principle adopted in its submission of truing-up. In view of above, ATIL has considered non-tariff income during FY 2017-18 as NIL. Non-tariff Income estimated by ATIL as against approved in the MYT Order is as follows:

Table 69: Non-Tariff Income as submitted by ATIL (Rs. Crore)

Particulars	FY 2017-18	
	MYT Approved	ATIL Petition
Non-Tariff Income	0.54	-

Commission's Analysis and Ruling

4.9.4. In reply to the Commission's query, ATIL confirmed that there is no other income proposed relating to investments or rents for the period from FY 2017-18. Accordingly, no projection of non-tariff income has been considered.

4.9.5. However, as elaborated in the truing-up chapter of this Order, the Commission has decided to compute year on year notional income towards contingency reserves allowed in the years prior to FY 2015-16. The corresponding notional income has been considered as non-tariff income in FY 2017-18. As interest rate for computing such income, the Commission has considered the basis of Government Securities (G-Sec) Benchmark yield as updated on the website of Reserve Bank of India, and accordingly considered the interest rate of 7.04% per annum on accumulated Contingency Reserves for computing the Non-Tariff Income.

4.9.6. The Non-Tariff Income as approved by the Commission for FY 2017-18 is as shown in the Table below:

Table 70: Non-Tariff Income for FY 2017-18 as approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Provisionally Approved in this Order
Non-Tariff Income	0.54	-	0.31

4.9.7. **The Commission provisionally approves the Non-Tariff Income of Rs. 0.31 Crore for FY 2017-18**.

4.10. Income Tax

ATIL's Submission

4.10.1. ATIL has considered Income Tax for FY 2017-18 considering MAT Rate Payable on Return on Equity in absence of actual details / information available for the year 2017-18.

Table 71: Income Tax for FY 2017-18 submitted by ATIL (Rs. Crore)

Particulars	FY 2017-18	
	MYT Approved	ATIL Petition
Income Tax	8.69	8.69

Commission's Analysis and Ruling

4.10.2. Regulation 33 of the MYT Regulations, 2015 specifies as follows:

"33.1 The Commission, in its MYT Order, shall provisionally approve Income Tax payable for each year of the Control Period based on the actual Income Tax paid by the Generating Company or Licensee or MSLDC, in case the Generating Company or Licensee or MSLDC has not engaged in any other regulated or unregulated Business or Other Business, as allowed by the

Commission relating to the electricity Business regulated by the Commission, as per latest available Audited Accounts, subject to prudence check:

Provided that in case the Generating Company or Licensee or MSLDC has engaged in any other regulated or unregulated Business or Other Business, and the actual Income Tax paid by the Generating Company or Licensee or MSLDC has to be allocated to the different Businesses, then the Income Tax shall be provisionally allowed based on the Income Tax on the regulatory Profit Before Tax, as allowed by the Commission relating to the electricity Business regulated by the Commission, subject to prudence check:..."

4.10.3. The Commission has noted the submission of ATIL. As regards the approval of Income Tax for FY 2017-18, the Commission has also referred to the Hon'ble ATE judgment in Appeal No. 174 of 2009 filed by TPC-T, where Hon'ble ATE has explained the methodology to be followed for computation of Income Tax. The relevant extract of the judgement is as shown under:

> *"11. The issue of Income Tax relates to the fact that the State Commission deals with regulatory accounts of each licensed business.* ***The State Commission is required to adjust the regulatory account's income to the taxation accounts. This could be done in 2 alternative methods. One by Profit Before Tax method and second by the method of Return on Equity. Profit Before Tax method is followed while truing up as details of all the elements are available by them. The second method is followed while submitting the details of APR or tariff determination, as all adjustment details are not available at the point of submission."***

4.10.4. In accordance with the proviso of the Regulation 33.1 above and Hon'ble ATE Judgement on related matter, the Commission has considered RoE method for computation of Income Tax for provisional truing up of FY 2017-18. Any difference between the estimated and actual Income Tax liability shall be dealt with at the time of Truing up.

4.10.5. The Commission has considered the Income tax based on the MAT rate of 21.34% as proposed by ATIL, which is also the rate presently applicable as per Income Tax Rules. The Income Tax approved by the Commission for FY 2017-18 is as summarised in the Table below:

Table 72: Income Tax for FY 2017-18 approved by the Commission (Rs. Crore)

Particulars	MYT Order	MTR Petition	Provisionally Approved in this Order
Income Tax	8.69	8.69	8.64

4.10.6. **The Commission provisionally approves the Income Tax of Rs. 8.64 for FY 2017-18**.

4.11. Summary of ARR of Provisional truing-Up of FY 2017-18

ATIL's Submission

4.11.1. ATIL submitted the comparison of revised projection of ARR for FY 2017-18 as against approved ARR as under.

Table 73: Summary of ARR for FY 2017-18 submitted by ATIL (Rs. Crore)

Particulars	FY 2017-18	
	MYT Order	ATIL Petition
Operation & Maintenance Expenses	6.06	13.16
Depreciation Expenses	36.38	36.38
Interest on Long-term Loan Capital	36.34	39.42
Interest on Working Capital and on consumer security deposits	1.90	2.54
Income Tax	8.69	8.69
Contribution to contingency reserves	1.72	3.45
Total Revenue Expenditure	**91.10**	**103.64**
Return on Equity Capital	32.04	32.04
Aggregate Revenue Requirement	**123.14**	**135.68**
Less: Non-Tariff Income	0.54	0
Less: Income from Other Business		
Less: Income from Open Access charges		
Aggregate Revenue Requirement from Transmission Tariff	**122.60**	**135.68**

Commission's Analysis and Ruling

4.11.2. Following table summarises the ARR approved as per the Order that claimed by ATIL now and as approved in provisional true up of FY2017-18 in the present Order.

Table 74: Summary of ARR for FY 2017-18 approved by the Commission (Rs. Crore)

Particulars	FY 2017- 18		
	MYT Order	MTR Petition	Provisionally Approved in this Order
Operation & Maintenance Expenses	6.06	13.16	6.06
Depreciation Expenses	36.38	36.38	36.15
Interest on Long-term Loan Capital	36.34	39.42	35.99
Interest on Working Capital and on consumer security deposits	1.90	2.54	2.47
Income Tax	8.69	8.69	8.64
Contribution to contingency reserves	1.72	3.45	1.71
Total Revenue Expenditure	**91.10**	**103.64**	**91.00**
Return on Equity Capital	32.04	32.04	31.83
Aggregate Revenue Requirement	**123.14**	**135.68**	**122.84**
Less: Non-Tariff Income	0.54	-	0.31
Less: Income from Other Business	-	-	-
Less: Income from Open Access charges	-	-	-
Aggregate Revenue Requirement from Transmission Tariff	**122.60**	**135.68**	**122.53**

4.11.3. The Commission provisionally approves the net entitlement of ARR for FY 2017-18 as Rs. 122.53 Crore, respectively.

4.11.4. The detailed analysis underlying the Commission's approval of individual ARR elements on Provisional Truing up of ARR for FY 2017-18 is already set out above. However, as in the case of Provisional Truing up of FY 2017-18, the variation in the ARR sought by the ATIL and that provisionally approved by the Commission in this Order is mainly on account of the reduction in the O&M expense owing to limiting the same within permissible norms as per MYT Regulations, 2015 and disallowance in interest expense owing to not allowing refinancing at higher interest rate.

5. REVISED ARR FOR FY 2018-19 AND FY 2019-20

5.1. Background

5.1.1. ATIL has stated that its revised projection of ARR for the FY 2018-19 and FY 2019-20 of the 3rd Control Period has been presented in accordance with the provisions of the MYT Regulations, 2015. ATIL has quoted relevant regulatory provisions in support of its claims made towards various ARR components.

5.2. Operation and Maintenance Expenses

ATIL's Submission

5.2.1. ATIL has submitted computation of normative O&M expense applicable for FY 2018-19 and FY 2019-20 in accordance with Regulation 58.7 of the MYT Regulations, 2015. While doing so ATIL has considered elements of its transmission system except for the Bus Reactor bays at Tiroda in view of the decision of the Commission vide MYT Order of not allowing the capital cost and O&M cost pertaining to the Bus Reactor. Even though ATIL has submitted the normative O&M computation, it has expressed its difference in view regarding O&M expense and has highlighted that O&M expense based on norms is highly inadequate to meet the actual O&M expenses of ATIL.

5.2.2. ATIL also highlighted that the normative O&M expense for FY 2018-19 and FY 2019-20 are substantially lower than norms of FY 2015-16. In this context, ATIL highlighted its various concerns related to O&M norms specified for as stated in previous Petitions and as stated under truing up chapters of this Petition. In this context, ATIL requested the Commission to use its power to remove difficulties, under Regulation No. 102 of the MYT Regulations, 2015 and approve O&M Expense as incurred on actual basis.

5.2.3. Highlighting its concerns with the present applicable norms and insufficiency for its operation, ATIL however projected O&M expense for FY2018-19 & FY 2019-20, considering estimated expenditure for FY 2017-18 as the base, applying appropriate inflation indices and taking into account past adjustments.

5.2.4. ATIL submitted estimation of O&M expenses at an escalation rate derived as follows:

1. Average value of inflation indices of Consumer Price Index (CPI) and the Wholesale Price Index (WPI) for the period from FY 2007-08 to FY 2016-17 is calculated.
2. A weightage of 40%, attributed to average Consumer Price Index so obtained at step (i) and 60% to the average Wholesale Price Index arrived at

step (ii) to arrive at the inflation/escalation rate to be used for escalation. This is in line with the approach adopted for escalation of O&M expense for the MYT Regulations, 2011.

3. CPI Index from the website of Labour Bureau, Government of India and WPI Index from the website of Office of the Economic Advisor, Government of India.

5.2.5. The escalation rate so derived is then used by ATIL for escalating the estimated O&M expense for FY 2017-18 to project the O&M expense for each year of the Control Period for FY 2018-19 & FY 2019-20.

5.2.6. The projected O&M Expenses for FY 2018-19 and FY 2019-20 as per the above methodology as submitted by ATIL is shown in the Table below:

Table 75: O&M Expenses for FY 2018-19 and FY 2019-20 as submitted by ATIL (Rs. Crore)

<table>
<tr><th>Sr. No.</th><th>Particulars</th><th>FY 2018-19 (Projected)</th><th>FY 2019-20 (Projected)</th></tr>
<tr><td>1</td><td>O & M Expenses</td><td rowspan="2">9.69</td><td rowspan="2">10.32</td></tr>
<tr><td>2</td><td>R&M Expenses</td></tr>
<tr><td>3</td><td>Employee Expenses</td><td>1.80</td><td>1.92</td></tr>
<tr><td>4</td><td>A&G Expenses</td><td>2.56</td><td>2.73</td></tr>
<tr><td colspan="2">Total</td><td>14.05</td><td>14.97</td></tr>
</table>

5.2.7. Referring to the above projection, ATIL also submitted that normative expense as per MYT Regulations, 2015 are about 40%-45% lower than the above estimated O&M expense and requested the Hon'ble Commission to approve the O&M expense as proposed, using its power under "power to remove difficulties" under Regulation 102 of the MYT Regulations, 2015.

Commission's Analysis and Ruling

5.2.8. ATIL has deviated from the norms for computation of O&M Expenses specified in the MYT Regulations, 2015. It has stated that O&M Expenses projection based on norms would result in projection of O&M Expenses, which are lower than actually incurred by ATIL in the past years.

5.2.9. Based on the rationale provided under section of O&M expense of the Truing-up chapter of this Order, the Commission allows O&M strictly based on norms stipulated under MYT Regulations, 2015.

5.2.10. Regulation 58.7 of the MYT Regulations, 2015 specifies O&M Expense norms for new Transmission Licensees as follows, which is applicable for ATIL in this Case:

"58.7 For the new Transmission Licensees, the year-wise O&M norms shall be:

Voltage Level	***FY 2016-17***	***FY 2017-18***	***FY 2018-19***	***FY 2019-20***
HVDC (Rs Lakh)	*1774*	*1922*	*2082*	*2256*
Rs Lakh/ckt km				
765 kV	*0.97*	*1.02*	*1.07*	*1.13*
400 kV	*0.42*	*0.44*	*0.46*	*0.48*
>66 kV&<400 kV	*0.28*	*0.29*	*0.30*	*0.32*
66 kV and less	*0.17*	*0.17*	*0.19*	*0.19*
Rs Lakh/Bay				
765 kV	*171.47*	*180.04*	*189.04*	*198.50*
400 kV	*74.13*	*77.84*	*81.73*	*85.82*
>66kV&<400 kV	*17.75*	*18.64*	*19.57*	*20.55*
66 kV and less	*3.71*	*3.89*	*4.09*	*4.29*

Explanation: The term "New Transmission Licensee" shall mean the Transmission Licensee(s) for which Transmission Licence is granted by the Commission prior to or after the date of coming into effect of these Regulations, and for whom the O&M norms have not been specified in Regulations 58.2 to 58.5."

5.2.11. ATIL is entitled to claim O&M Expenses as per the above referred O&M norms specified in the Regulations, and the Commission approves the expenses accordingly. While working out the normative O&M expense, the Commission has allowed O&M norms for Warora end Bays of ATIL at the rate of O&M norms specified for MSETCL as these bays are operated and maintained by MSETCL. Further no O&M has been provided for Bus Reactor bays in line with the disallowance of the same in the MYT Order in Case 7 of 2016.

5.2.12. Considering the foregoing, the approved O&M Expenses for FY 2018-19 and FY 2019-20 of the 3rd Control Period is summarized in the following Table.

Table 76: O&M Expenses as approved by the Commission for FY 2018-19 and FY 2019-20 (Rs. Crore)

O&M Expenses	Unit	FY 2018-19			FY2019-20		
		MYT Order	**MTR Petition**	**Approved in this Order**	**MYT Order**	**MTR Petition**	**Approved in this Order**
Transmission Lines							
Length of Transmission line	Ckt.km	438		438	438		438
Norms as per Regulations	Rs lakh/ckt-km	0.46		0.46	0.48		0.48
Bays							
No of Bays	No.	2 (Tiroda) 2 (Warora)		2 (Tiroda) 2 (Warora)	2 (Tiroda) 2 (Warora)		2 (Tiroda) 2 (Warora)
Norm for O&M for Bays (for New Licensee) – applicable for Bays at Tiroda	Rs lakh/Bay	81.73		81.73	85.82		85.82
Norm for O&M for Bays (for MSETCL) – applicable for Bays at Warora	Rs lakh/Bay	135.04		135.04	141.80		141.80
O&M Expenses	**Rs Crore**	**6.35**	**14.05**	**6.35**	**6.65**	**14.97**	**6.65**

5.2.13. **The Commission approves O&M expenses for Rs.6.35 Crore and Rs. 6.65 Crore for FY 2018-19 and FY 2019-20, respectively, in accordance with Regulation 58 of the MYT Regulations, 2015**.

5.3. Capital Expenditure and Capitalisation

ATIL's Submission

5.3.1. ATIL submitted that Emergency Restoration System (ERS) to be procured in accordance with CEA Regulations had been provisionally approved in FY 2016-17 by the Commission. However, due to non-availability of funds, it has not been able to procure ERS. Now ATIL plans to purchase ERS at the earliest and most likely before end of 2017-18 or early 2018-19. Approximate Capital Cost for purchase of ERS would be Rs. 4.50 Crore. ATIL requested the Commission to approve provisionally Additional Capitalisation for purchase of ERS along with necessary IDC in the year FY 2018-19 as ERS is expected to be capitalized during the said period.

5.3.2. ATIL has not considered Capital Cost of Bus Reactor while working out Provisional True-Up for the year 2017-18 since it is depended on outcome of Appeal filed by the Petitioner before Hon'ble ATE.

5.3.3. Additional Capitalization as submitted by ATIL in this Petition is tabled below:

Table 77: Additional Capitalization for FY 2018-19 and FY 2019-20 as submitted by ATIL (Rs. Crore)

Particulars	FY 2018-19
IDC cost on ERS Installation cost	0.12
ERS cost as approved by Hon'ble Commission	4.5
Total	**4.62**

Commission's Analysis and Ruling

5.3.4. ATIL has plans to procure the ERS in FY 2018-19 from FY 2016-17 as required under the CEA Grid Standards Regulations, 2010, for which it has considered Rs. 4.50 Crore as additional capitalization.

5.3.5. The Commission had provisionally approved Capitalization of Rs. 4.50 Crore for FY 2016-17 earlier in the MYT order, which now ATIL plans to procure in FY 2018-19. Considering the statutory requirement to have ERS installed to its system, Commission now allows capitalisation towards such expense. However, Commission has not considered any IDC towards such expense and allows only the same amount as approved under MYT Order. ATIL should make the necessary installation as proposed, without any further delay and submit completed capital cost duly certified by Auditor as part of its next ARR Petition for allowance of the final capital cost towards ERS.

Table 78: Revised Capital Cost approved for FY 2018-19 and FY 2019 by the Commission (Rs. Crore)

Particulars	FY 2018-19			FY 2019-20		
	MYT Order	MTR Petition	Approved in this Order	MYT Order	MTR Petition	Approved in this Order
Capitalisation	-	4.62	4.50	-	-	-

5.3.6. The Commission provisionally approves capitalisation of Rs. 4.50 Crore for FY 2018-19, as proposed by ATIL, towards ERS. The Commission also directs to install such system with no further delay considering that it is a statutory requirement and important from the point of view of stable operations of the transmission system.

5.4. Depreciation

ATIL's Submission

5.4.1. ATIL submitted that it has computed depreciation as per Regulation 27 of the MYT Regulations, 2015 on the fixed assets, based on Straight Line Method. As the project assets have not been depreciated by 70%, the asset-class wise depreciation rates, as prescribed in the MYT Regulations, 2015 have been considered for computation of depreciation by ATIL.

Table 79: Depreciation for FY 2018-19 and FY 2019-20 as submitted by ATIL (Rs. Crore)

Particulars	FY 2018-19	FY 2019-20
Opening GFA	689.29	693.91
Additions during the year	4.62	0
Closing GFA	693.91	693.91
Depreciation	**36.52**	**36.64**

Commission's Analysis and Ruling

5.4.2. The Commission has considered Rs. 4.50 Crore as additional capitalization towards the ERS in FY 2018-19 and computed depreciation as per Regulation 27 of the MYT Regulations, 2015.

5.4.3. The Commission has considered opening GFA based on the approved capital cost for the Transmission System for working out the depreciation over the period FY 2018-19 and FY 2019-20 of the Control Period. The depreciation approved so is as summarized in the Table below:

Table 80: Depreciation for FY 2018-19 and FY 2019-20 as approved by the Commission (Rs. Crore)

Particular	FY 2018-19			FY 2019-20		
	MYT Order	MTR Petition	Approved in this Order	MYT Order	MTR Petition	Approved in this Order
Opening GFA	689.10	689.29	684.60	689.10	693.91	689.10
Additions during the year	-	4.62	4.50	-	0	0
Closing GFA	689.10	693.91	689.10	689.10	693.91	689.10
Depreciation Rate	**5.28%**	**5.28%**	**5.28%**	**5.28%**	**5.28%**	**5.28%**
Depreciation	**36.38**	**36.52**	**36.27**	**36.38**	**36.64**	**36.38**

5.4.4. **The Commission approves revised Depreciation expenses for FY 2018-19 and FY 2019-20 as Rs. 36.27 Crore and Rs. 36.38 Crore respectively as per norms specified in MYT Regulations, 2015**.

5.5. Interest on Long Term Loans

ATIL's Submission

5.5.1. ATIL has computed interest on loan based on Regulation 29 of the MYT Regulations, 2015. Closing loan of the FY 2017-18 is considered as opening loan for FY 2018-19 and normative debt for additional capitalization has been added for the Period of FY 2016-17 and 2017-18 to derive opening balance of loan as on FY 2018-19.

5.5.2. Further, ATIL has considered interest rate of 13.25% considering ATL ICD loan during the period.

5.5.3. ATIL's submission on computation of interest on loan for FY 2018-19 and FY 2019-20 is provided in the table below:

Table 81: Interest on Term Loan for FY 2018-19 and FY 2019-20 submitted by ATIL (Rs. Crore)

Particulars	FY 2018-19	FY 2019-20
Opening Balance of Loan	279.49	246.21
Addition in Loan during the Year	3.23	0
Repayment of Loan during the Year	36.52	36.64
Closing Balance of Loan	246.21	209.57
Average Loan Balance during the Year	262.85	227.89
Interest Rate (%)	13.25	13.25
Interest Expense	**34.83**	**30.20**

Commission's Analysis and Ruling

5.5.4. The Commission has considered the closing loan for FY 2017-18 approved in this Order, as the opening loan for FY 2018-19 and similar is the approach for FY 2019-20.

5.5.5. Further, the interest rate considered by the Commission for FY 2018-19 and FY 2019-20 is 12.20% p.a., as was approved in the previous MYT Order, as Commission has not allowed refinanced interest rates by ATIL, owing to the reasons elaborated in truing-up section of this Order.

5.5.6. The repayment of loan is considered as the depreciation approved for the respective years in this Order, in accordance with Regulation 29.3 of the MYT Regulation, 2015.

5.5.7. Accordingly, the interest expenses approved by the Commission for FY 2018-19 and FY 2019-20 are as summarised in the following Table:

Table 82: Interest on Term Loan for FY 2018-19 and FY 2019-20 approved by the Commission (Rs. Crore)

Particulars	FY 2018-19			FY 2019-20		
	MYT Order	MTR Petition	Approved in this Order	MYT Order	MTR Petition	Approved in this Order
Opening Balance of Loan		279.49	276.89		246.21	243.77
Addition in Loan during the Year		3.23	3.15		0	-
Repayment of Loan during the Year		36.52	36.27		36.64	36.38
Closing Balance of Loan		246.21	243.77		209.57	207.39
Average Loan Balance during the Year		262.85	260.33		227.89	225.58
Interest Rate (%)		13.25	12.20		13.25	12.20
Interest Expense	**31.90**	**34.83**	**31.76**	**27.46**	**30.20**	**27.52**

5.5.8. **The Commission approves revised Interest on Loans of Rs. 31.76 Crore, Rs. 27.52 Crore for FY 2018-19 and FY 2019-20 respectively, in accordance with Regulation 29 of MYT Regulation, 2015.**

5.6. Interest on Working Capital

ATIL's Submission

5.6.1. ATIL submitted that it has computed Interest on Working Capital as per Regulation 31.2 of the MYT Regulations, 2015 read in conjunction with the first amendment of MYT Regulations 2015 published vide Gazette Notification No. MERC/Legal/2017/4792 dated 29 November 2017.

5.6.2. As MCLR of State Bank of India as on the date of filing of this Petition is 8.15%, ATIL has considered interest at the rate of 9.65% (8.15% + 1.50%) for computation of interest on working capital.

Table 83: Interest on Working Capital for FY 2018-19 and FY 2019-20 submitted by ATIL (Rs. Crore)

Working Capital	FY 2018-19 (Projected)	FY 2019-20 (Projected)
Operations and Maintenance Expenses for one month	1.17	1.25
One-twelfth of the sum of book value of stores,	6.89	6.94

Working Capital	FY 2018-19 (Projected)	FY 2019-20 (Projected)
materials and supplies at end of each month		
One and a half months of the expected revenue from transmission charges at the prevailing tariffs	16.51	16.08
Total Working Capital Requirement	24.57	24.28
Interest Rate (%)	9.65%	9.65%
Interest on Working Capital	**2.37**	**2.34**

Commission's Analysis and Ruling

5.6.3. The Commission has worked out the total working capital requirement and IoWC on it in accordance with Regulation 31.2 of the MYT Regulation, 2015.

5.6.4. The Commission has considered normative O&M Expenses. Further, approved opening GFA for FY 2018-19 and FY 2019-20 has been considered here. For the third component of normative working capital, i.e., expected revenue from Transmission Charges, the Commission has considered revised ARR approved including past period adjustments have been considered in respective years.

5.6.5. Besides, the interest rate is considered same as the SBI one-year MCLR Rate plus 150 basis points as on the date on which the Petition for determination of Tariff is filed and is approved at 9.45% p.a, in line with the provision under Regulation 31.2 of the MYT Regulations, 2015 and its amendment thereof.

5.6.6. Accordingly, the IoWC approved by the Commission for FY 2018-19 and FY 2019-20, is as summarised in the Table as under:

Table 84: IoWC for FY 2018-19 and FY 2019-20 approved by the Commission (Rs. Crore)

Particulars	FY 2018-19			FY 2019-20		
	MYT Order	MTR Petition	Approved in this Order	MYT Order	MTR Petition	Approved in this Order
One Twelfth of the O&M Expense	0.53	1.17	0.53	0.55	1.25	0.55
One Twelfth of the sum of the book value of stores, materials and supplies	6.89	6.89	6.85	6.89	6.94	6.89
1.5 Month's expected revenue from Transmission Charges	10.22	16.51	14.60	9.50	16.08	14.32
Total Working Capital Requirement	17.28	24.57	21.98	16.94	24.27	21.77
Interest Rate on	10.80%	9.65%	9.45%	10.80%	9.65%	9.45%

Particulars	FY 2018-19			FY 2019-20		
	MYT Order	MTR Petition	Approved in this Order	MYT Order	MTR Petition	Approved in this Order
Working Capital (%)						
Interest on Working Capital	**1.87**	**2.37**	**2.07**	**1.83**	**2.34**	**2.06**

5.6.7. **The Commission approves normative Interest on Working Capital of Rs. 2.07 Crore and Rs. 2.06 Crore for FY 2018-19 and FY 2019-20, respectively**.

5.7. Contribution to Contingency Reserves

5.7.1. Regulation 34 of the MYT Regulations, 2015 provides for allowing 0.25% to 0.50% of the original cost of fixed assets in the annual revenue requirement of every year restricted to a cumulative aggregation of 5% of the value of fixed assets.

ATIL's Submission

5.7.2. Since total approval of contribution to contingency reserves has not reached 5% of the fixed assets, ATIL has proposed contribution to contingency reserves at 0.5% of the Opening GFA for each year of the Control Period from FY 2018-19 and FY 2019-20.

Table 85: Contribution to Contingency Reserves for FY 2018-19 and FY 2019-20 submitted by ATIL (Rs. Crore)

Contingency Reserves	FY 2018-19	FY 2019-20
Opening Balance of Contingency Reserves	14.75	18.20
Opening Gross Fixed Assets	689.29	693.91
Opening Balance of Contingency Reserves as % of Opening GFA	2.14%	2.62%
Utilisation of Contingency Reserves during the year	0	0
Closing Balance of Contingency Reserves as % of Opening GFA	2.64%	3.12%
Contribution to Contingency Reserves during the year	**3.45**	**3.47**

Commission's Analysis and Ruling

5.7.3. The Commission approves the contribution to Contingency Reserves at 0.25% of the approved opening GFA for respective years and in accordance with Regulation 34 of the MYT Regulation, 2015. Accordingly, the approved Contribution to Contingency Reserves is as follows:

Table 86: Contribution to Contingency Reserves for FY 2018-19 and FY 2019-20 approved by the Commission (Rs. Crore)

Particulars	FY 2018-19			FY 2019-20		
	MYT Order	MTR Petition	Approved in this Order	MYT Order	MTR Petition	Approved in this Order
Contribution to Contingency Reserve	1.72	3.45	1.71	1.72	3.47	1.72

5.7.4. **The Commission approves Contribution to Contingency Reserves of Rs. 1.71 Crore and Rs. 1.72 Crore for FY 2018-19 and FY 2019-20, respectively.**

5.8. Return on Equity

ATIL's Submission

5.8.1. As per Regulation 28 of the MYT Regulations, 2015, a regulated return of 15.50% on the equity base has been considered for calculation of return on equity. For this, closing equity value of the FY 2017-18 has been considered as the opening equity value for FY 2018-19 and closing equity value of the FY 2018-19 has been considered as the opening equity value for FY 2019-20.

5.8.2. The Computation of RoE as submitted by ATIL is shown in Table below:

Table 87: Return on Equity for FY 2018-19 and FY 2019-20 submitted by ATIL (Rs. Crore)

Return on Equity	FY 2018-19 (Projected)	FY 2019-20 (Projected)
Regulatory Equity at the beginning of the year	206.79	208.17
Capitalisation during the year	4.62	-
Consumer Contribution and Grants used during the year for Capitalisation	-	-
Equity portion of capitalisation during the year	1.39	-
Reduction in Equity Capital on account of retirement / replacement of assets	-	-
Regulatory Equity at the end of the year	208.17	208.17
Return on Regulatory Equity at the beginning of the year @ 15.5%	32.05	32.27
Return on Equity portion of capitalisation during the year @ 15.5%	0.11	-
Total Return on Regulatory Equity	**32.16**	**32.27**

Commission's Analysis and Ruling

5.8.3. ROE for FY 2018-19 and FY 2019-20 is approved based on norms and after considering additional capitalisation as proposed by ATIL corresponding to the ERS in FY 2018-19. The rate for computation of RoE is considered as 15.50%, as per the Regulations. Accordingly, the approved RoE for FY 2018-19 and FY 2019-20, has been summarised in the following Table below:

Table 88: Return on Equity for FY 2018-19 and FY 2019-20 approved by the Commission (Rs. Crore)

Particulars	FY 2018-19			FY 2019-20		
	MYT Order	MTR Petition	Approved in this Order	MYT Order	MTR Petition	Approved in this Order
Regulatory Equity at the Beginning of the Year	206.73	206.79	205.38	206.73	208.17	206.73
Addition in Regulatory Equity during the year	-	1.39	1.35	-	-	-
Regulatory Equity at the end of the year	206.73	208.17	208.17	206.73	208.17	206.73
Return (%)	15.50%	15.50%	15.50%	15.50%	15.50%	15.50%
Return on Regulatory Equity	**32.04**	**32.16**	**32.15**	**32.04**	**32.27**	**32.04**

5.8.4. **The Commission approves Return on Equity for FY 2018-19 and FY 2019-20 as Rs. 32.15 Crore and Rs. 32.04 Crore respectively.**

5.9. Income Tax

ATIL's Submission

5.9.1. ATIL has computed Income Tax considering permissible return on equity as a base value and applying the existing MAT rate, as shown below:

Table 89: Income Tax Expenses for FY 2018-19 and FY 2019-20 submitted by ATIL (Rs. Crore)

Particulars	FY 2018-19	FY 2019-20
RoE	32.16	32.27
MAT Rate (%)	21.342%	21.342%
Income Tax	**8.72**	**8.75**

Commission's Analysis and Ruling

5.9.2. Regulation 33 of the MYT Regulations, 2015 specifies as follows:

> *"33.1 The Commission, in its MYT Order, shall provisionally approve Income Tax payable for each year of the Control Period based on the actual Income Tax paid by the Generating Company or Licensee or MSLDC, in case the Generating Company or Licensee or MSLDC has not engaged in any other regulated or unregulated Business or Other Business, as allowed by the Commission relating to the electricity Business regulated by the Commission, as per latest available Audited Accounts, subject to prudence check:*
>
> *Provided that in case the Generating Company or Licensee or MSLDC has engaged in any other regulated or unregulated Business or Other Business, and the actual Income Tax paid by the Generating Company or Licensee or MSLDC has to be allocated to the different Businesses, then the Income Tax shall be provisionally allowed based on the Income Tax on the regulatory Profit Before Tax, as allowed by the Commission relating to the electricity Business regulated by the Commission, subject to prudence check:..."*

5.9.3. The Commission has noted the submission of ATIL. As regards the approval of Income Tax for FY 2018-19 and FY 2019-20, the Commission has also referred to the Hon'ble ATE's judgment in Appeal No. 174 of 2009 filed by TPC-T, where Hon'ble ATE has explained the methodology to be followed for computation of Income Tax. The relevant extract of the judgement is as shown under:

> *"11. The issue of Income Tax relates to the fact that the State Commission deals with regulatory accounts of each licensed business.* ***The State Commission is required to adjust the regulatory account's income to the taxation accounts. This could be done in 2 alternative methods. One by Profit Before Tax method and second by the method of Return on Equity. Profit Before Tax method is followed while truing up as details of all the elements are available by them. The second method is followed while submitting the details of APR or tariff determination, as all adjustment details are not available at the point of submission."***

5.9.4. In accordance with the proviso of the Regulation 33.1 above and APTEL Judgement on related matter, the Commission has considered RoE method for computation of Income Tax for approval of FY 2018-19 and FY 2019-20. Any difference between the estimated and actual Income Tax liability shall be dealt with at the time of Truing up.

5.9.5. The Commission has considered the Income tax based on the MAT rate of 21.34% as proposed by ATIL, which is also the rate presently applicable as per Income Tax Rules. The Income Tax approved by the Commission for FY 2018-19 and FY 2019-20 is as summarised in the Table below:

Table 90: Income Tax Expenses for FY 2018-19 and FY 2019-20 approved by the Commission (Rs. Crore)

Particulars	FY 2018-19			FY 2019-20		
	MYT Order	MTR Petition	Approved in this Order	MYT Order	MTR Petition	Approved in this Order
Income Tax	8.69	8.72	8.72	8.69	8.75	8.69

5.9.6. **The Commission approves Income Tax of Rs. 8.72 Crore and Rs. 8.69 Crore for FY 2018-19 and FY 2019-20, respectively.**

5.10. Non-Tariff Income

ATIL's Submission

5.10.1. ATIL submitted that it has not been able to invest amount towards contribution to Contingency Reserve in view of paucity of fund and Stressed Cash flow in view of Non-allowance of Actual O&M Expenses and considering non-receipt of DPC as Non-Tariff Income to reduce approved ARR for the year 2015-16. In view of non-investment to Contingency Reserve, the Petitioner has not considered any income towards non-tariff Income.

Table 91: Non-Tariff Income for FY 2018-19 and FY 2019-20 as submitted by ATIL (Rs. Crore)

Particulars	FY 2018-19	FY 2019-20
Non-Tariff Income	-	-

Commission's Analysis and Ruling

5.10.2. Although there has been an under-recovery, for the realised revenue in the past financial years, ATIL should have invested the amount apportioned to Contribution to Contingency Reserves in securities authorised under the Indian Trusts Act, 1882, in line with the Regulations set out in the MYT Regulation, 2015. ATIL has been claiming contingency reserve as part of the ARR and the Commission has been allowing the same in past years. However seeing the trend of non-investments of such reserves by ATIL, the Commission disallowed contribution to contingency reserve in FY 2015-16 and FY 2016-17, which were the true-up years. However, the Commission prior to FY 2015-16 has allowed contingency reserve, which ATIL has not invested yet. In view of the same, notional income from such reserves allowed in the past has been considered on account of cumulative contingency reserve allowed till prior to FY 2015-16 to be considered as non-tariff income in FY 2018-19 and FY 2019-20. Additionally, since the Commission has provisionally allowed contingency reserve for FY 2017-18 and subsequent years through this Order, the corresponding interest income to be accrued over years subsequent has also been considered as non-tariff income for FY 2018-19 and FY 2019-20.

5.10.3. Accordingly, the Non-tariff Income approved for FY 2018-19 and FY 2019-20 is tabulated as following.

Table 92: Non-Tariff Income for FY 2018-19 and FY 2019-20 as approved by the Commission (Rs. Crore)

Particulars	FY 2018-19			FY 2019-20		
	MYT Order	MTR Petition	Approved in this Order	MYT Order	MTR Petition	Approved in this Order
Non-Tariff Income	0.68	-	0.37	0.81	-	0.49

5.10.4. **The Commission approves Non-Tariff Income of Rs. 0.37 Crore and Rs. 0.49 Crore for FY 2018-19 and FY 2019-20, respectively, in accordance with the MYT Regulation, 2015**.

5.11. Income from Other Business

ATIL's Submission

5.11.1. At present, ATIL does not anticipate any income from other business. However, stated that it would explore the possible avenues to use the transmission assets for other business without affecting performance of the transmission business and would implement the same after prior approval of the Commission.

Commission's Analysis and Ruling

5.11.2. The Commission has accordingly not considered any amount towards income from other expenses for the period FY 2018-19 and FY 2019-20.

5.12. Revised Aggregate Revenue Requirement for FY 2018-19 and FY 2019-20

ATIL's Submission

5.12.1. The revised ARR proposed for FY 2018-19 and FY 2019-20 is as summarized below:

Table 93: Revised ARR for FY 2018-19 and FY 2019-20, as submitted by ATIL (Rs. Crore)

Particulars	FY 2018-19		FY 2019-20	
	MYT Order	MTR Petition	MYT Order	MTR Petition
Operation & Maintenance Expenses	6.35	14.05	6.65	14.97
Depreciation	36.38	36.52	36.38	36.64
Interest on Long-term Loan	31.90	34.83	27.46	30.20
Interest on Working Capital	1.87	2.37	1.83	2.34
Income Tax Expense	8.69	8.72	8.69	8.75
Contribution to Contingency Reserves	1.72	3.45	1.72	3.47
Total Revenue Expenditure	**86.92**	**99.94**	**82.75**	**96.31**
Return on Equity Capital	32.04	32.16	32.04	32.27
Aggregate Revenue Requirement	**118.97**	**132.10**	**114.79**	**128.63**
Less: Non-Tariff Income	0.68	-	0.81	-
Less: Income from Other Business	-	-	-	-
Less: Income from Open Access charges	-	-	-	-
Net Aggregate Revenue Requirement	**118.29**	**132.10**	**113.98**	**128.63**

Commission's Analysis and Ruling

5.12.2. Based on the analysis set out in the preceding paragraphs, the Commission has approved the ARR for FY 2018-19 and FY 2019-20 as shown under:

Table 94: Revised ARR for FY 2018-19 approved by the Commission (Rs. Crore)

Particulars	FY 2018-19			FY 2019-20		
	MYT Order	MTR Petition	Approved in this Order	MYT Order	MTR Petition	Approved in this Order
Operation & Maintenance Expenses	6.35	14.05	6.35	6.65	14.97	6.65
Depreciation	36.38	36.52	36.27	36.38	36.64	36.38
Interest on Long-term Loan	31.90	34.83	31.76	27.46	30.20	27.52
Interest on Working Capital	1.87	2.37	2.07	1.83	2.34	2.06
Income Tax Expense	8.69	8.72	8.72	8.69	8.75	8.69
Contribution to Contingency Reserves	1.72	3.45	1.71	1.72	3.47	1.72
Total Revenue Expenditure	**86.92**	**99.94**	**86.88**	**82.75**	**96.36**	**83.03**
Return on Equity Capital	32.04	32.16	32.15	32.04	32.27	32.04
Aggregate Revenue	**118.97**	**132.10**	**119.03**	**114.79**	**128.63**	**115.08**

Particulars	FY 2018-19			FY 2019-20		
	MYT Order	MTR Petition	Approved in this Order	MYT Order	MTR Petition	Approved in this Order
Requirement						
Less: Non-Tariff Income	0.68	-	0.37	0.81	-	0.49
Less: Income from Other Business	-	-	-	-	-	-
Less: Income from Open Access charges	-	-	-	-	-	-
Net Aggregate Revenue Requirement	**118.29**	**132.10**	**118.65**	**113.98**	**128.63**	**114.58**
Impact of Gap/surplus of 2015-16 including CC and AI	-	-	2.72	-	-	-
Impact of Gap/surplus of 2016-17 including CC and AI	-	-	(5.31)	-	-	-
Impact of Gap/surplus of FY 2017-18	-	-	(0.07)	-	-	-
Net ARR after past period adjustments	-	-	**115.99**	-	-	**114.58**

5.12.3. The Commission approves the revised Annual Revenue Requirement of Rs. 115.99 Crore and Rs. 114.58 Crore for FY 2018-19 and FY 2019-20, respectively.

5.12.4. The detailed analysis underlying the Commission's approval of individual ARR elements as part of the revised estimates for FY 2018-19 and FY 2019-20 is already set out above, however, as in case of Truing up of ARR for FY 2015-16 & FY 2016-17 and provisional Truing up of ARR for FY 2017-18, the variation in the ARR sought by the ATIL and that approved by the Commission in this Order is mainly on account of the reduction in the O&M expense owing to limiting the same within permissible norms as per MYT Regulations, and disallowance in interest expense owing to not allowing refinancing at higher interest rate. In addition, disallowance of additional capitalisation in FY 2015-16 and FY 2016-17 and the consequent impact in depreciation, interest and ROE in FY 2018-19 and FY 2019-20 has resulted the variation. The variation is also on account of the impact of the past year Revenue Gap / (Surplus) considered by the Commission along with the associated carrying / holding cost based on approvals in this Order as against those sought by ATIL in its Petition.

6. RECOVERY OF ARR AND TRANSMISSION CHARGES

6.1.1. In accordance with the Transmission Pricing Framework and the MYT Regulation, 2015, the approved revised ARR for FY 2018-19 and FY 2019-20 is to be recovered through the Total Transmission System Cost (TTSC) of the respective years.

6.1.2. Since ATIL is the part of the InSTS, the Revenue Surplus now approved for FY 2018-19, shall be allowed, to be recovered through the next InSTS Order.

7. APPLICABILITY OF ORDER

7.1.1. This Order shall come into effect from 1 September, 2018.

7.1.2. The Petition of M/s Adani Transmission (India) Limited in Case No. 170 of 2017 stands disposed of accordingly.

Sd/-	Sd/-	Sd/-
(Mukesh Khullar)	**(I.M. Bohari)**	**(Anand B. Kulkarni)**
Member	**Member**	**Chairperson**

(Abhijit Deshpande)
Secretary

MAHARASHTRA ELECTRICITY REGULATORY COMMISSION

APPENDIX 1

List of Persons attended the Discussion held on 21 February, 2018

Sr. No.	Name	Organisation
1	Shri Bhavesh Kundalia	ATIL
2	Shri Akshay Mathur	ATIL
3	Shri Pinkesh Kumar	ATIL
4	Shri. Harish Priyani	ATIL

APPENDIX II

List of Persons who attended the Public Hearing on 24 July, 2018

Sr. No.	Name	Organisation
1	Shri Bhavesh Kundalia	ATIL
2	Shri Narendra Gupta	ATIL
3	Shri Akshay Mathur	ATIL
4	Shri Pinkesh Kumar	ATIL