

**BEFORE THE HON'BLE UTTAR PRADESH ELECTRICITY
REGULATORY COMMISSION, LUCKNOW**

PETITION NO. 2271 OF 2025

IN THE MATTER OF:

Alaknanda Hydro Power Corporation Limited

...Petitioner

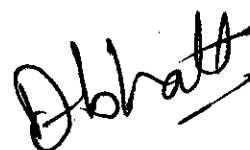
Versus

Uttar Pradesh Power Corporation Limited

...Respondent

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**WRITTEN SUBMISSIONS ON BEHALF OF THE RESPONDENT,
UTTAR PRADESH POWER CORPORATION LIMITED**

MOST RESPECTFULLY SHOWETH:

1. The present Petition has been preferred on behalf of the Alaknanda Hydro Power Corporation Limited ("AHPCL"/"Petitioner") for determination of Tariff for 330 MW (4X82.5 MW) Shrinagar Hydro Electric Project ("Project") for the control period FY 2024-25 to FY 2028-29 in terms of Section 62 and 86 of Electricity Act, 2003 ("Act") read with the UPERC (Terms and Conditions of Generation Tariff) Regulations 2024 ("Tariff Regulations, 2024") and Amended and Restated PPA dated 28.06.2006 executed between AHPCL and the Uttar Pradesh Power Corporation Limited ("UPPCL"/"Respondent"), the Respondent herein, for sale of electricity from the Project for supply of 88% of the net energy generated by the project to UPPCL.
2. It is submitted that the present Written Submissions are being preferred on behalf of UPPCL in support of the Reply dated 18.06.2026, in pursuance of the directions of this Hon'ble Commission vide Order dated 18.08.2026 in the present Petition.

Re: Capital Cost, Debt-Equity Ratio, Operation & Maintenance Expenses, and Interest of Working Capital

3. It is submitted that the claims of the Petitioners, pertaining to Capital Cost, Debt-Equity Ratio, Operation & Maintenance Expenses

("O&M"), and Interest of Working Capital ("IoWC"), are not disputed by the Respondent, to the extent enumerated hereinbelow:

- a. **Capital Cost:** In the True-Up Order for the Project dated 06.03.2026 in Petition No. 2151 of 2024 ("True-Up Order"), this Hon'ble Commission approved the Closing Capital Cost of Rs. 4,047.93 Crores for FY 2023-24.

The Opening Capital Cost claimed for the Project in the present Petition is Rs. 4,04,793.41 Lakhs, which is congruent with the Closing Capital Cost for the preceding Financial Year. Accordingly, the claim is found to conform to the extant regulatory framework.

(Paragraph Nos. 6 to 9 of the Reply dated 18.06.2026)

- b. **Debt-Equity Ratio:** Regulation 23(b) of the Tariff Regulations, 2024 provides for a deviation from the normative 70:30 Debt-Equity Ratio where the actual equity employed is less than 30%. In such cases, the Debt-Equity Ratio shall be considered on the basis of the actual equity employed by the generating station.

This Hon'ble Commission, in its Order dated 20.04.2023 in Petition No. 1642 of 2020 ("MYT Order"), approved and sanctioned a Debt-Equity Ratio of 79.45:20.55 in respect of the Project. The Petitioner has preferred its claims based on 79.45% Debt as against 20.55% Equity. Accordingly, the claim is found to be consistent with the extant regulatory framework.

(Paragraph Nos. 10 to 13 of the Reply dated 18.06.2026)

- c. **Operation & Maintenance Expenses:** Regulation 25(3)(d)(iv) of the Tariff Regulations, 2024 provides that the normative O&M values, including insurance, shall be based on the tariff order approved by the Hon'ble Commission in the previous control period, escalated at the rate of 4.47% per annum.

This Hon'ble Commission, in its MYT Order, approved and sanctioned O&M of Rs. 140.78 Crores for FY 2023-24. The Petitioner has claimed Rs. 14,077.83 Lakhs as its Base O&M for FY 2024-25, and the calculated claims escalate at 4.47% for each subsequent financial year. This is found to be in consonance with the extant regulatory framework.

(Paragraph Nos. 36 to 39 of the Reply dated 18.06.2026)

- d. **Interest on Working Capital:** Regulation 25(3)(e)(v) read with Regulation 2(ix) of the Tariff Regulations, 2024 provides that the rate of IoWC shall be the one-year Marginal Cost of Funds-based Lending Rate ("MCLR") of the State Bank of India, plus 350 basis points. Further, Regulation 25(3)(e)(vi) provides that the IoWC shall be provided on the above normative basis, even if no third-party loans have been availed in respect of the generating station.

The Petitioner's claim of 12.15% IoWC per annum for the present control period is based on the MCLR of 8.65% as prevailing on 01.04.2024, plus 350 basis points. The IoWC component is in consonance with the extant regulatory framework to this extent.

However, the IoWC claim is contingent upon the Working Capital for Hydro Generating Stations under the applicable regulations. Regulation 25(3)(e)(iv)(c) of the Tariff Regulations, 2024 factors in the receivables equivalent to 45 days' Annual Fixed Cost for such computation. UPPCL has placed on record its objections to the Return on Equity ("RoE") claimed by the Petitioner, which are addressed in extenso hereinbelow.

(Paragraph Nos. 40 to 48 of the Reply dated 18.06.2026)

Re: Return on Equity

4. It is submitted that Regulation 25(3)(a) of the Tariff Regulations, 2024 provides for the RoE to be computed in rupee terms at the base rate of

15% post-tax per annum. Furthermore, the first proviso to Regulation 6(3) of the Tariff Regulations, 2024 provides that the rate of RoE as allowed by the Hon'ble Commission under Regulation 25(3)(a), for generating companies paying Minimum Alternate Tax ("MAT") under Section 115JB of the Income Tax Act, 1961, shall be grossed up with such MAT paid by the generating company. The Income Tax Act, 1961 has since been repealed under Section 536 of the Income Tax Act, 2025 ("2025 IT Act").

5. The Petitioner has claimed entitlement under Section 115JB of the Income Tax Act, 1961, whereby it pays the prescribed MAT rates. The erstwhile Section 115JB is pari materia to Section 206 of the 2025 IT Act, which earlier prescribed the MAT rate of 15%. Section 59 of the Finance Act, 2026 (Act No. 4 of 2026), notified on 30.03.2026, revised this MAT rate to 14%, thereby reducing the Petitioner's RoE entitlement.
6. The Petitioner, in Paragraph Nos. 7 to 10 of its Rejoinder dated 13.07.2026, had rejected the computation of the RoE at the amended effective tax rate of 14%. However, during the hearing dated 13.08.2026 for the present Petition, the counsel for the Petitioner conceded that the amended MAT rate shall be applicable. This submission has been recorded in the Order of this Hon'ble Commission dated 18.08.2026. The dispute on the applicable MAT rate and its implications on the RoE component no longer survives.
7. In view of the foregoing, it is submitted that the claim for the RoE component found to be allowable, and accepted by the Petitioner, shall be premised on the computation at Paragraph No. 21 of the Reply dated 18.06.2026.

Re: Interest on Loan

8. It is submitted that the Petitioner undertook a comprehensive refinancing of all its existing term loan obligations through a fresh borrowing facility aggregating to Rs. 2,031.37 Crores, availed by way of Non-Convertible Debentures ("NCDs"). The issuance of such NCDs

by the Kotak Group on 05.04.2025 resulted in a revision of the loan repayment schedule. The Petitioner has further claimed that the rate of interest for computing the interest on loan component is the weighted average rate of interest, as provided under Regulation 25(3)(b)(iii) of the Tariff Regulations, 2024.

9. The Closing Net Normative Loan for the FY 2023-24, as approved by this Hon'ble Commission in the True-Up Order, is Rs. 1,892.30 Crores. The Petitioner herein has claimed the Opening Net Normative Loan for FY 2024-25 as Rs. 1,89,228.28 Lakhs, which is in consonance with the treatment mandated under Regulation 25(3)(b)(ii) of the Tariff Regulations, 2024.
10. Notwithstanding the foregoing, it is submitted that the Petitioner has failed to furnish the particulars of the loan required for the prudence check procedure under the extant Regulations. Regulation 25(3)(b)(i) of the Tariff Regulations, 2024 provides that the Interest on Loan Capital shall be computed loan-wise, while Regulation 25(3)(b)(vi) stipulates that the terms and conditions of a refinanced loan shall be reflected from the date of such refinancing.
11. In the absence of the documents pertaining to the particulars of the refinancing undertaken by the Petitioner, including, but not limited to, loan documents, sanction letters, loan agreements, or Auditor's Certificates, UPPCL is unable to substantiate and corroborate the revised weighted average rate of interest as claimed by the Petitioner. This Hon'ble Commission, vide its Order dated 18.08.2026, has been pleased to direct the Petitioner to furnish and place the relevant materials on record. As noted in the aforementioned Order, the Petitioner has committed to passing on the benefits of the refinanced loans to the beneficiaries, as provided under the extant regulatory framework.
12. It is submitted that the Petitioner, through its Affidavit dated 02.09.2026, has brought the following documents on record before this Hon'ble Commission:

- a. AHPCL letter to UPPCL dated 11.02.2025, informing of the proposed issuance of NCDs by the Petitioner;
 - b. AHPCL letter to UPPCL dated 02.04.2025, containing particulars of the refinancing structure;
 - c. Debenture Trust Deed dated 30.01.2025 entered into between AHPCL and Vistra ITCL (India) Ltd.; and
 - d. Debenture Term Sheet dated 22.01.2025 from Kotak Alternate Asset Managers Ltd.
13. It is submitted that this Hon'ble Commission's Order dated 18.08.2026 specifically directed the Petitioner to place on record, inter alia, the Auditor's Certificate verifying the weighted average rate of interest. Despite these specific directions, the Petitioner has failed to furnish the requisite document before this Hon'ble Commission. Its absence hinders proper scrutiny and the prudence check exercise for the loan-related claims.

Re: Depreciation

14. The Petitioner has claimed a weighted average rate of 3.77% for depreciation, as approved by this Hon'ble Commission in the MYT Order. Such rate has been upheld by this Hon'ble Commission in the True-Up Order. The Petitioner's claim for depreciation considers the Closing Capital Cost for FY 2023-24, Rs. 4,04,793.41 Lakhs, as the Opening Capital Cost for FY 2024-25. The annualised depreciation for the present control period has been calculated to be Rs. 15,221.87 Lakhs.
15. It is submitted that, upon scrutiny of the figures provided vide the Petition, it is found that the actual rate of depreciation works out to be 3.76% per annum (Depreciation in INR/Opening Capital Cost). Accordingly, the depreciation allowable to the Petitioner at the effective rate of 3.76% has been calculated by the Respondent at Paragraph No. 35 of its Reply.

Re: Annual Fixed Cost

16. It is submitted that, in view of the foregoing submissions on the components, the Annual Fixed Cost ("AFC") claimed by AHPCL and found to be allowable by UPPCL is as provided hereinbelow in INR Lakhs:

	2024-25		2025-26		2026-27		2027-28		2028-29	
AFC	Claimed	Allowable	Claimed	Allowable	Claimed	Allowable	Claimed	Allowable	Claimed	Allowable
Deprecn.	15,221.87	15,221.85	15,221.87	15,221.85	15,221.87	15,221.85	15,221.87	15,221.85	15,221.87	15,221.85
IOL	24,790.77	24,791.00	19,801.53	19,801.74	18,228.10	18,228.31	16,440.05	16,440.27	14,583.26	14,583.48
ROE	15,063.25	15,062.99	15,063.25	15,062.99	15,063.25	14,907.16	15,063.25	14,907.16	15,063.25	14,907.16
IoWC	1,484.49	1,484.49	1,437.59	1,437.54	1,443.78	1,441.45	1,445.49	1,443.13	1,452.90	1,450.56
O&M	14,707.11	14,707.11	15,364.52	15,364.52	16,051.32	16,051.32	16,768.81	16,768.81	17,518.37	17,518.37
Total	71,267.50	71,267.46	66,888.76	66,888.65	66,008.32	65,850.10	64,939.47	64,781.22	63,839.66	63,681.43

Re: Energy Charges

17. It is respectfully submitted that the Energy Charge Rate ("ECR") payable to the Petitioner is not an independent head of claim but is a mechanical derivative of the AFC of the Project, computed in terms of Regulation 30(6)(b) of the Tariff Regulations, 2024, which prescribes the following formula:

$$"ECR = AFC \times 0.5 \times 10 / \{DE \times (100 - AUX) \times (100 - FEHS)\}"$$

where DE is the annual Design Energy, AUX is the normative auxiliary energy consumption, and FEHS is the free energy payable to the Home State.

18. It is submitted that the inputs of Design Energy (1,251.94 MUs, as approved by the CEA vide letter dated 14.05.2018 and as affirmed by this Hon'ble Commission vide the MYT Order), Auxiliary Consumption (1%, in terms of Regulation 29(2) of the Tariff Regulations, 2024), and Free Energy for Home State (12%, in terms of Regulation 30(6)(b) of the Tariff Regulations, 2024) stand undisputed between the parties. The sole variable that governs the ECR is, therefore, the AFC for the respective Financial Year of the Control Period.
19. It, therefore, follows that the correctness of the ECR claimed by the Petitioner is entirely contingent upon and subordinate to the correctness

of the AFC claimed by the Petitioner. To the extent the Petitioner's AFC stands overstated on account of an unsubstantiated weighted average rate of interest claimed towards Interest on Loan Capital in the absence of the requisite loan documentation, the consequential ECR claimed by the Petitioner for FY 2026-27, FY 2027-28 and FY 2028-29 stands equally and proportionately overstated, and requires correction.

20. In this regard, it is submitted that the Petitioner's contention, as advanced in paragraphs 7 to 10 of the Rejoinder, that the reduction in the MAT rate from 15% to 14% proposed in the Union Budget for FY 2026-27 cannot be given effect to since it is yet to be notified by way of a Finance Act, is misconceived and deserves to be rejected.
21. The proposal contained in the Union Budget, being the most authoritative and contemporaneous indicator of the rate of tax that shall come to apply for FY 2026-27, which was eventually notified during the pendency of the present proceedings, was rightly factored in by the Respondent for arriving at the estimated effective MAT rate of 16.307% and the corresponding grossed-up ROE of 17.923% per annum. Furthermore, as noted hereinabove, the Petitioners have already accepted such revision and submitted that they are bound by the revised MAT rate of 14%.
22. It is submitted that the Petitioner's objection to the revised MAT rate, as recorded in paragraphs 7 to 10 of its Rejoinder, no longer survives in view of the subsequent notification of the Finance Act, 2026 and the concession recorded on behalf of the Petitioner at the hearing dated 13.08.2026, as noted in paragraph no. 6 hereinabove. The ECR accordingly falls to be computed on the AFC as finally arrived at in the table at paragraph 16 hereinabove.
23. It is further submitted that the Petitioner's claim towards Interest on Loan Capital, computed on the footing of a revised weighted average rate of interest consequent upon refinancing of its term loans through NDCs aggregating Rs. 2,031.37 Crores, remains unsubstantiated on record. Regulation 25(3)(b)(iii) of the Tariff Regulations, 2024

mandates that the rate of interest "shall be the weighted average rate of interest calculated on the basis of actual loans", which necessarily requires the Petitioner to place on record the underlying loan agreements, sanction letters, NCD subscription documents and a Chartered Accountant's Auditor's Certificate so as to enable independent verification of the claimed rate.

24. The Petitioner's reliance, in paragraph 12 of the Rejoinder, on mere intimation letters addressed to the Respondent (dated 11.02.2025, 13.02.2025 and 17.04.2025) does not, and cannot, discharge the burden that lies squarely upon the Petitioner as the claimant to substantiate the rate of interest actually incurred. Intimation of the factum of refinancing is not equivalent to documentary proof of the rate of interest resulting therefrom.
25. It is, accordingly, submitted that until such documentary substantiation is placed on record and verified, the Respondent's claim towards Interest on Loan Capital, and the consequential AFC and ECR flowing therefrom, ought to be adopted by this Hon'ble Commission, and the Petitioner be directed to place the requisite loan documentation on record for verification, with liberty to true up the Interest on Loan Capital (and consequently the ECR) once such documents are furnished and verified.
26. In view of the foregoing, it is respectfully submitted that the ECR for the Control Period FY 2024-25 to FY 2028-29 ought to be determined by this Hon'ble Commission strictly in accordance with the formula prescribed under Regulation 30(6)(b) of the Tariff Regulations, 2024, applied to the correctly computed AFC as set out by the Respondent, and not on the basis of the AFC unilaterally claimed by the Petitioner without regard to the applicable MAT rate and without documentary substantiation of the claimed interest rate.
27. The ECR as computed by the Respondent, namely 326.71, 306.63, 301.87, 296.97 and 291.93 paise per unit for FY 2024-25, FY 2025-26, FY 2026-27, FY 2027-28 and FY 2028-29 respectively, is accordingly

the legally correct and regulation-compliant figure, and it is respectfully prayed that this Hon'ble Commission be pleased to approve the same in preference to the Energy Charge Rate as claimed by the Petitioner.

Re: Normative Annual Plant Availability Factor (NAPAF)

28. It is respectfully reiterated that the Project is a run-of-the-river ("RoR") type hydro generating station with pondage and peaking capability, in respect of which the Normative Annual Plant Availability Factor ("NAPAF") is required to be determined in terms of Regulation 29(1)(d) of the Tariff Regulations, 2024, which reads as under:

"Run-of-River type plants: NAPAF to be determined plant-wise, based on 10-day design energy data, moderated by past experience where available/relevant..."

29. It is submitted that the Petitioner, in paragraph 26 of the Rejoinder, has contended that the Tariff Regulations, 2024 "do not mandate" computation of NAPAF on a 3-hour peaking availability basis, and that the Respondent is impermissibly seeking to read such a requirement into the Regulations.
30. It is respectfully submitted that the aforesaid contention proceeds on a fundamental mischaracterisation of the Respondent's case and deserves to be rejected. The Respondent does not seek to import any extraneous requirement into Regulation 29(1)(d). Rather, the Respondent draws attention to an internal inconsistency that already exists within the Tariff Regulations, 2024 themselves, i.e., that while the NAPAF, forming the denominator of the capacity charge formula under Regulation 27(7)(a)) has been computed by this Hon'ble Commission on the footing of Design Energy being available uniformly over 24 hours across 365 days of the year, the Actual figure against which it is measured (PAFM, forming the numerator) is, by the express terms of Regulation 27(7)(b), required to be computed with reference to Declared Capacity "which the station can deliver for at least three (3) hours" per day, as certified by the nodal load despatch centre.

31. It is submitted that comparing a numerator computed on a 3-hour peaking basis against a denominator computed on a 24-hour continuous basis is not a matter of interpretive preference but a plain arithmetical and regulatory mismatch, which necessarily and artificially inflates the incentive payable to the Petitioner, contrary to the true intendment of Regulation 27(7) of the Tariff Regulations, 2024.
32. It is further submitted that the phrase “moderated by past experience where available/relevant” occurring in Regulation 29(1)(d) is not a surplusage or a dead letter. It casts an affirmative obligation on this Hon’ble Commission to have due regard to the actual, demonstrated operational performance of the Project while determining the NAPAF. The past operational data for FY 2019-20 to FY 2023-24, placed on record by the Respondent, discloses an Actual Plant Availability Factor (“APAF”) ranging between 52.95% and 59.53%, which, when properly evaluated with reference to the Project’s certified 3-hour peaking capability, corresponds to a NAPAF of 98.91%.
33. It is submitted that this is precisely the exercise of “moderation by past experience” that Regulation 29(1)(d) contemplates, and the Respondent’s computation, far from being contrary to the Regulations, is a faithful application of the express statutory mandate. It is a settled principle of law that an interpretation that would render the verbiage of legislation otiose or redundant ought to be avoided. This principle of legal interpretation and construction, laid down in **Taylor v. Taylor (1876) 1 ChD 426**, has been followed and reaffirmed by the Hon’ble APTEL in **Noida Power Company Limited v. Uttar Pradesh Electricity Regulatory Commission, Appeal No. 98 of 2021**
34. Insofar as the Petitioner has sought to distinguish the decision of the Hon’ble CERC in **National Hydro Power Corporation Ltd. v. Punjab State Power Corporation Ltd. & Ors. (“Parbati-III Order”)** on the ground that the said project is a pondage scheme and not a RoR project, and that the order in question was a provisional tariff order, it is respectfully submitted that the said distinction is of no material

consequence to the principle for which the Parbati-III Order is relied upon.

35. It is submitted that the Central Electricity Authority ("CEA"), vide its own Memorandum dated 14.05.2018 approving the Design Energy of the Project at 1,251.94 MUs, has expressly recorded that the Project possesses a continuous peaking capacity corresponding to 3.04 hours, which is in excess of the normative 3-hour threshold prescribed for peaking capacity determination.
36. It is submitted that this certification by the CEA itself establishes, as a matter of record and on the Petitioner's own documentation, that the Project is not a pure continuous RoR scheme but a RoR-with-pondage scheme possessing demonstrated peaking capability. This characterisation is materially analogous to that of Parbati-III HEP for the purposes of the principle in issue, namely, that a hydro generating station possessing peaking capability must have its NAPAF determined with due regard to its capacity to deliver power in peaking mode, and not on the footing of continuous, undifferentiated generation over 24 hours.
37. It is further submitted that the Petitioner's reliance on the judgment of the Hon'ble APTEL in Lanco Amarkantak Power Ltd. v. HERC & Ors. for the proposition that CERC Regulations may be resorted to only when the State Regulations are silent, does not advance the Petitioner's case.
38. It is submitted that the Respondent does not contend that the Tariff Regulations, 2024 are silent on the point. Instead, the Respondent submits that Regulation 29(1)(d) itself expressly requires "moderation by past experience", and the methodology adopted by the Hon'ble CERC in the Parbati-III Order is relied upon only as illustrative and persuasive guidance as to the manner in which such moderation ought to be undertaken for a peaking-capable hydro station. This is an exercise expressly sanctioned by Section 61(a) of the Electricity Act, 2003, which obliges this Hon'ble Commission, in specifying the terms and

conditions for determination of tariff, to be guided by the principles and methodologies specified by the Central Commission.

39. Without prejudice to the foregoing, it is submitted that, even assuming arguendo that a joint reading of sub-clauses (a) and (b) of Regulation 27(7) of the Tariff Regulations, 2024 does not provide for the NAPAF to be calculated on the basis of the Project's certified 3-hour peaking capability, a regulatory vacuum is created where, unlike the prescription for the Declared Capacity, no corresponding time period is provided for the calculation of the NAPAF. In such a scenario, the Hon'ble APTEL's ruling in *Lanco Amarkantak* would provide for this Hon'ble Commission to compute the NAPAF for the Project in the manner asserted by the Respondent.
40. Insofar as the Petitioner has relied upon the Order dated 13.02.2023 passed by the Hon'ble CERC in *NHPC Ltd. v. PSPCL & Ors.* to contend that any re-computation of NAPAF would amount to an impermissible review of the Tariff Regulations, it is respectfully submitted that the said decision is clearly distinguishable on facts. In *NHPC v. PSPCL*, the NAPAF of 64% stood specifically notified for the concerned generating station under Regulation 50(A)(4) of the CERC (Terms and Conditions of Tariff) Regulations, 2019, after extensive stakeholder consultation, and the Hon'ble CERC accordingly held that displacing such a specifically notified figure would amount to a review of the Regulations.
41. It is submitted that no such specifically notified, project-wise NAPAF figure exists for the Project under the Tariff Regulations, 2024. Regulation 29(1)(d) prescribes only a methodology, viz., 10-day design energy data moderated by past experience, leaving the resultant figure to be worked out on the facts of each case. The Respondent's submissions, therefore, do not seek a review of any notified Regulation, but merely the correct and complete application of the methodology already prescribed under Regulation 29(1)(d), including the limb thereof mandating moderation by past experience, which the Petitioner's computation of NAPAF at 43.31% wholly disregards.

42. It is further submitted that the Petitioner's reliance on the fact that the methodology for computing NAPAF at 43.31% has previously been adopted by this Hon'ble Commission, and that the Respondent's appeals against the said Orders remain pending without any stay having been granted by the Hon'ble APTEL, does not preclude this Hon'ble Commission from correctly determining the NAPAF for the present, distinct Control Period FY 2024-25 to FY 2028-29. The absence of a stay merely permits the impugned Orders to hold the field for the periods to which they relate. It does not amount to a conclusive affirmation on the merits, more particularly when the very methodology in question is presently sub judice before the Hon'ble APTEL.
43. It is respectfully submitted that determination of tariff for each successive Control Period is a distinct and independent regulatory exercise, undertaken afresh under the Tariff Regulations, 2024. This Hon'ble Commission is neither functus officio nor bound to mechanically perpetuate a methodology that is itself under challenge, particularly where doing so would result in a demonstrable and continuing prejudice to consumers.
44. It is also submitted that the Petitioner's reliance on the observation of this Hon'ble Commission in its Order dated 20.04.2023 (Petition No. 1642 of 2020) that there is no provision for "true-up" of NAPAF under the applicable Tariff Regulations is misconceived and misplaced in the present context. It is submitted that the Respondent does not seek any true-up of NAPAF for a concluded Control Period. The Respondent's submissions are confined to the correct prospective determination of NAPAF at the very threshold of tariff determination for the ensuing Control Period FY 2024-25 to FY 2028-29, which is a wholly permissible exercise for this Hon'ble Commission to undertake under Regulation 29(1)(d) of the Tariff Regulations, 2024, and stands on an entirely different footing from a true-up exercise.
45. It is, accordingly, submitted that the structural mismatch between the 3-hour-peaking basis on which PAFM/APAF is computed under Regulation 27(7)(b) and the 24-hour continuous basis on which NAPAF

has hitherto been computed, if allowed to continue, results in the Petitioner being paid incentive that is grossly and disproportionately in excess of its legitimate entitlement, in direct contravention of the mandate under Section 61(d) of the Act, which requires this Hon'ble Commission to safeguard the interests of consumers in the course of tariff determination. The detailed computation demonstrating the extent of such excess incentive already paid to the Petitioner has been placed on record at Annexure R-1 to the Reply.

46. In view of the foregoing, it is respectfully submitted that the NAPAF for the Project for the Control Period FY 2024-25 to FY 2028-29 ought to be determined at 98.91%, being the figure that correctly applies the 3-hour peaking basis mandated under Regulation 27(7)(b) of the Tariff Regulations, 2024 to the Project's actual, CEA-certified peaking capability and its demonstrated past operational performance, in due compliance with the mandate of Regulation 29(1)(d).
47. It is accordingly prayed that this Hon'ble Commission be pleased to reject the Petitioner's claim of NAPAF at 43.31%, and to approve the NAPAF, and the consequential Annual Fixed Cost, Energy Charge Rate and incentive computation, on the basis of 98.91%, as claimed by the Respondent.
48. It is submitted that the present Submissions are made bona fide and in compliance with the directions of this Hon'ble Commission.



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