



**ORDER  
OF THE**

**WEST BENGAL ELECTRICITY REGULATORY COMMISSION**

**IN CASE NO. OA- 447/22-23**

**IN REGARD TO THE PETITION SUBMITTED BY THE WEST BENGAL  
POWER DEVELOPMENT CORPORATION LIMITED FOR APPROVAL OF  
INPUT PRICE OF COAL SUPPLIED FROM PACHHWARA (NORTH) COAL  
MINE FOR FY 2019-20 TO FY 2021-22**

**PRESENT:**

**DR. MALLELA VENKATESWARA RAO, CHAIRPERSON  
SRI PULAK KUMAR TEWARI, MEMBER**

**DATE: 26.12.2023**



## FACTS IN BRIEF

- 1.0 West Bengal Power Development Corporation Limited (WBPDC) (hereinafter known as 'the petitioner') submitted an application on 24.02.2023 for approval of Input Price of coal supplied from Pachhwara (North) Coal Mine for FY 2019-20 to FY 2021-22 under Sections 62 and 86 of the Electricity Act, 2003 read with Regulation 9 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2021 and subsequent amendments and in compliance with the Commission's direction at para 3.1.4 of the Multi Year Tariff Order for FY 2018-19 and FY 2019-20 dated 14.07.2021 and Multi Year Tariff Order for FY 2020-21 and FY 2021-22 dated 08.10.2021.

### Direction to the petitioner (WBPDC)

- 2.0 The Commission in its Tariff Order dated 14.07.2021 in Case No. TP-85/19-20 and Tariff Order dated 08.10.2021 in Case No. TP-95/20-21 had considered the price of coal from allotted captive mines as per the notified price of CIL for the respective grades as proposed by WBPDC and directed WBPDC to submit all the details in line with the CERC Second Amendment Regulations for determination of price for integrated coal mine in their FPPCA Application for the respective years for determination of input price of coal for the allotted coal mines retrospectively.

### Submission of the petitioner (WBPDC)

- 3.0 Pachhwara (North) coal block was allotted to WBPDC by Ministry of Coal in April, 2005. The block falls in the Rajmahal area of Eastern Coalfields Limited in Jharkhand State. The total area of Pachhwara (North) Coal block is 1218 Hectare (Ha) comprising of forest area and non-forest area of 371.07 Ha and 846.93 Ha respectively. The Department of Mine and Geology, Government of Jharkhand vide letter dated 12.09.2012 allotted the Mining Lease of Pachhwara (North) Coal block. The Mining Plan was approved by the Ministry of Coal, for entire area, in April, 2008. The Ministry of Environment, Forests and Climate Change (MoEF&CC) (formerly known as Ministry of Environment & Forests (MoEF)) accorded Environmental Clearance for opening of the new coal mine – Pachhwara (North) Opencast Coal Mine of 15 Million Metric Tons Per Annum (MMTPA). The Stage-I Forest Clearance was received on 14.12.2011. Coal production from Pachhwara (North) Coal Mine started from March 2014 by Bengal EMTA.
- 4.0 The Hon'ble Supreme Court of India vide its Judgement dated 25.08.2014 read with its Order dated 24.09.2014 in Writ Petition (Criminal) No. 120 of 2012 (Manohar Lal Sharma vs. Principal Secretary & Ors.) cancelled allocation of Pachhwara (North) coal block. Subsequently, the block was allocated to WBPDC vide Order No. 103/12/2015/NA dated 31.03.2015 by the Nominated Agency. After re-allocation, the Environmental Clearance and Stage-I Forest Clearance were transferred to WBPDC on 06.07.2015 and 14.05.2015 respectively. The earlier approved Mining Plan was not having the closure cost and details of closure activities which was required for opening of Escrow Account in order to obtain Mine Opening Permission from Coal Controller Organization (CCO). The chronology of events regarding the transfer of Mining Lease are as under:





In regard to the petition submitted by West Bengal Power Development Corporation Limited for approval of input price of coal supplied from Pachhwara (North) Coal Mine for FY 2019-20 to FY 2021-22



S. No.	Event	Date
1	WBPDC's Application for transfer of Mining Lease (timeline as per Allotment Order-14.04.2015)	14.04.2015
2	Letter from Director (Mines), Government of Jharkhand directing to submit the application in specified Form	19.05.2015
3	WBPDC's 1 <sup>st</sup> Application for Mining Lease for 1218 Ha area	15.06.2015
4	Intimation from the Nominated Authority, Ministry of Coal, Government of India to Government of Jharkhand that State Government may issue a separate Mining Lease for the whole or part of non-forest land as clarified by MoEF&CC	14.10.2015
5	MoEF&CC guidance regarding grant of Mining Lease in non-forest area	10.11.2015
6	Receipt of Annexure I of the Allotment Order regarding land including description of Mine from Ministry of Coal, Government of India	02.12.2015
7	WBPDC's 2 <sup>nd</sup> Application for grant of Mining Lease for non-forest area of 846.93 Ha	08.02.2016
8	Letter from Director (Mines), Government of Jharkhand informing that a separate Mining Plan will be required for non-forest area	09.03.2016
9	WBPDC's order on Recognized Qualified Person for preparation of Mining Plan for non-forest area	11.07.2016
10	Corrigendum to Annexure I of the Allotment Order by Ministry of Coal	06.02.2017
11	Certification of Geological Co-ordinates by Central Mine Planning & Design Institute Limited (CMPDIL)	28.02.2017
12	WBPDC's submission of revised Mining Plan along with final Mine Closure Plan for non-forest area, with peak rated capacity of 6 MMTPA, to Ministry of Coal	06.03.2017
13	Letter from Ministry of Coal intimating that revision of Mining Plan was not required and requesting to approach Government of Jharkhand for facilitating lease	13.04.2017
14	WBPDC's letter to District Mining Officer, Pakur for grant of Mining Lease for non-forest area as per 2 <sup>nd</sup> Application	18.04.2017
15	Letter from Assistant Mining Officer, Pakur informing that Stage II Forest Clearance and Mining Plan for forest area are required to be submitted for further action towards grant of Mining Lease	25.04.2017
16	WBPDC's 3 <sup>rd</sup> Application for grant of Mining Lease for entire area 1218 Ha	23.05.2017
17	WBPDC's submission of separate Mining Plan for non-forest area with peak production capacity of 15 MMTPA to Ministry of Coal	15.08.2017
18	WBPDC's 1 <sup>st</sup> presentation before the Standing Committee	30.08.2017
19	WBPDC's re-submission of Mining Plan with final Mine Closure Plan with compliance to the observations of Standing Committee	06.11.2017
20	WBPDC's 2 <sup>nd</sup> presentation before the Standing Committee	30.11.2017
21	Ministry of Coal approval of Mining Plan and Mine Closure Plan for non-forest area	21.12.2017
22	WBPDC's submission of approved Mining Plan for non-forest area to Commissioner of Mines, Government of Jharkhand for grant of Mining Lease	26.12.2017
23	Execution of Mining Lease for non-forest area of 846.93 Ha with a condition that WBPDC will not work on 20.40 Ha (8.40 Ha in Littipara and 12 Ha in Pachhwara-31) till the final settlement of categorization of the said land	04.06.2018
24	Registration of Mining Lease Deed for non-forest area of 846.93 Ha	12.06.2018

5.0 Mine Re-Opening permission was accorded by CCO vide Order dated 12.12.2018. The Date of Mine Opening is 07.12.2018 and the Over-Burden (OB) removal process started from 12.12.2018.

6.0 As per the Allotment Agreement between WBPDC and Ministry of Coal, the responsibility of



operating the Coal Mine rests entirely with WBPDC. Accordingly, WBPDC appointed the Mine Developer and Operator (MDO) through e-tendering followed by Reverse Auction. The Coal Mining Agreement (CMA) was signed with MDO on 18.10.2016.

7.0 The petitioner has claimed the input price for Pachhwara (North) Coal Mine as under:

**Table 1: Input price claimed in the Petition (Rs./MT)**

Year	Input price
FY 2019-20	2214.70
FY 2020-21	2172.11
FY 2021-22	2706.81

### **About Pachhwara (North) Coal Mine**

8.0 The Commission observed certain inconsistencies in WBPDC's submissions regarding the mine details in the Petition and accordingly sought the justification/confirmation from WBPDC. The Commission has taken note of the submissions of WBPDC vide letter dated 14.08.2023, which have been reflected in the Table below.

9.0 The salient details of the Pachhwara (North) Coal Mine as per the revised approved Mine Plan and Mine Closure Plan (Third Modification) are as under:

**Table 2: Salient details of Pachhwara (North) Coal Mine**

Particulars	Units	Value
Mineable Reserves	MMT	453.75
Actual coal production upto FY 2014-15	MMT	3.48
Balance Mineable Reserves	MMT	450.27
Peak capacity	MMTPA	15.00
Remaining life of Mine	Years	29
No. of Coal Seams (considered for Mining)	No.	9
Coal Production programme		
Year 1	MMT	2
Year 2	MMT	6
Year 3	MMT	10
Year 4	MMT	15
Actual coal production		
FY 2019-20	MMT	1.01
FY 2020-21	MMT	4.13
FY 2021-22	MMT	9.04
Specified End Use Plants		
Santaldih TPS	MW	500
Kolaghat TPS	MW	840
Bakreswar TPS	MW	1050
Bandel TPS	MW	275
Sagardighi TPP Units 1&2	MW	600
Sagardighi TPP Units 3&4	MW	1000
Gross Calorific Value (GCV) of Coal as per Geological Report	-	G4-G9
Declared Coal Grade	-	G9
GCV of Declared Coal Grade	kcal/kg	4600-4900



10.0 WBPDCCL submitted the following documents w.r.t Pachhwara (North) Coal Mine:

- i. Allotment Letter by Department of Mine and Geology, Government of Jharkhand dated 12.09.2012.
- ii. Allotment Order dated 31.03.2015.
- iii. Allotment Agreement dated 26.03.2015.
- iv. Ministry of Environment, Forest & Climate Change (MoEF&CC) correspondence dated 06.07.2015 regarding the transfer of Environmental Clearance (dated 23.09.2009) to WBPDCCL.
- v. Directorate of Mines, Department of Industries, Mines & Geology, Government of Jharkhand correspondence dated 09.03.2016 regarding the grant of Mining Lease in the non-forest area in favour of WBPDCCL.
- vi. Ministry of Coal, Government of India correspondence dated 21.12.2017 approval of Revised Mining Plan (2<sup>nd</sup> Revision) & Mine Closure Plan.
- vii. Revised Mining Plan (2<sup>nd</sup> Revision) including Final Mine Closure Plan dated October, 2017.
- viii. WBPDCCL correspondence dated 12.12.2018 to the Coal Controller, Ministry of Coal, Government of India regarding intimation of re-opening of the Mine.
- ix. WBPDCCL correspondence dated 12.12.2018 to the Nominated Authority, Ministry of Coal, Government of India regarding intimation of re-opening of the Mine.
- x. WBPDCCL correspondence dated 12.12.2018 to Jharkhand State Pollution Control Board regarding intimation of re-opening of the Mine.
- xi. WBPDCCL correspondence dated 12.12.2018 to Directorate General of Mines Safety regarding intimation of re-opening of the Mine.
- xii. WBPDCCL correspondence dated 12.12.2018 to the District Collector-Pakur regarding intimation of re-opening of the Mine.
- xiii. Approval of Coal Controller dated 11.02.2020 regarding the final grade of composite coal seams (I&II) of the Mine.
- xiv. Approval of Coal Controller dated 11.02.2020 regarding the final grade of composite coal seams (I&II) for FY 2019-20.
- xv. Approval of Coal Controller dated 06.04.2022 regarding the final grade of composite coal seams (I&II) for FY 2022-23.
- xvi. Revised approved Mine Plan and Mine Closure Plan (Third Modification).

11.0 WBPDCCL submitted that the timeline of various milestones in respect of Pachhwara (North) Coal Mine could not be achieved due to factors beyond its control. WBPDCCL submitted that the following factors led to delay in project execution:

- Delay in land mutation due to filing of Writ Petition before the Hon'ble High Court of Kolkata for quashing of RfPs issued by WBPDCCL.
- Delay in Forest Clearances (Stage I & Stage II) due to the above Writ Petition.
- Delay in ground water clearances due to procedural compliances of the Department towards the issuance of the same.
- Delay in execution of Mining Lease, Mine Opening Permission, permission of DGMS, explosive license, consent to operate and others due to procedural delays.

12.0 The Commission noted the reasons for delay in achievement of milestones and observed that there is no impact on the capital cost due to such delay.





### **About MDO**

- 13.0 As per the allotment agreement, the responsibility of operating Pachhwara (North) Coal Mine rests entirely with WBPDC. WBPDC envisaged the mine to be operated under Mine Developer & Operator (MDO) mode. Accordingly, WBPDC floated the Request for Proposal (in short 'RfP') dated 05.10.2015 for selection of MDO for development and operation of Pachhwara (North) Coal Mine with the last date of submission of proposal as 21.11.2015, with reverse auction process. The Ceiling Price was specified as Rs. 1475/MT consisting of Mining Charge and Transportation & Handling Charge.
- 14.0 Pursuant to the completion of the bidding process and reverse auction, the Letter of Award (LoA) was issued on 12.05.2016 to NCC Ltd. ("NCC")-BGR Mining & Infra Pvt. Ltd. ("BGR") Consortium at the Base Mining Charge (Final Price Offer) of Rs. 619.20/MT and the Base Transportation & Handling Charge (Final Price Offer) of Rs. 154.80/MT. The consortium had incorporated the MDO, Pachhwara Coal Mining Pvt. Ltd. (PCMPL) as a Limited Liability Company under the Companies Act, 2013 and had requested WBPDC to accept the MDO as the entity which shall undertake and perform the obligations and exercise the rights of the Consortium under the LoA, including the obligation to enter into Coal Mining Agreement (CMA) pursuant to the LoA. WBPDC had agreed to the said request and accordingly, entered into the CMA with PCMPL dated 18.10.2016. As per the LoA, the Commencement date of the CMA is 12.05.2016 i.e., the date of LoA.
- 15.0 The scope of MDO includes the following activities:
- a) Development of Mine in accordance with the provisions of the CMA and Mining Plan.
  - b) Operation and maintenance of Mine in accordance with the provisions of the CMA.
  - c) Excavation and delivery of coal in accordance with the provisions of the CMA.
  - d) Performance and fulfilment of all other obligations of MDO in accordance with the provisions of the CMA.
  - e) Transportation of coal from the Mine to the railway siding at Pakur and loading of coal on to the railway rakes in accordance with the provisions of the CMA till extension of the railway siding to the Mine.
- 16.0 WBPDC submitted the following documents w.r.t MDO:
- i. Correspondences of MSTC Limited regarding Bid Evaluation and e-reverse auction.
  - ii. LoA dated 12.05.2016.
  - iii. CMA dated 18.10.2016 along with the RfP.
- 17.0 WBPDC was asked to submit the basis (viz., guidelines, standard bidding documents etc.) considered for preparation of the RfP for inviting bids for appointment of MDO. WBPDC submitted that the RfP was based on the guidelines issued by the Ministry of Coal. WBPDC submitted the Standard Tender Document dated 27.12.2014 issued by the Central Government, through the Nominated Authority for auction of coal mine.
- 18.0 Clause 4.1.2 of the CMA sets forth the Conditions Precedent to be satisfied by WBPDC. The actual dates of fulfilment of Conditions Precedent are as under:





**Table 3: Satisfaction of Conditions Precedent set forth in Clause 4.1.2 of the CMA**

S. No.	Condition Precedent	Actual date of fulfilment
1	Procure the issuance of notifications for land acquisition under section 11 of Coal Bearing Areas (Acquisition & Development) Act, 1957 or section 11 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, as the case may be, in relation to the Site	02.12.2015
2	Procure issuance of the environmental clearance from MoEF	06.07.2015
3	Procure issuance of the forest clearance from MoEF	Stage I – 14.05.2015 Stage II - 27.10.2022
4	Procure approval of Mining Plan in accordance with applicable Laws	2 <sup>nd</sup> Revision – 21.12.2017 3 <sup>rd</sup> Revision - 12.04.2023
5	Procure grant of Mining Lease in accordance with applicable Laws	Non-forest area – 12.06.2018 Forest area – 10.07.2023

19.0 Clause 4.1.3 of the CMA sets forth the Conditions Precedent to be satisfied by MDO. In reply to a query in this regard, WBPDCCL submitted the actual date of fulfilment of Conditions Precedent as under:

**Table 4: Satisfaction of Conditions Precedent set forth in Clause 4.1.3 of the CMA**

S. No.	Condition Precedent	Actual date of fulfilment
1	Provision of Performance Security in accordance with Clause 9 of the CMA	07.01.2019
2	Execution of Financing Agreement and delivery of 3 copies to WBPDCCL	02.11.2018
3	Delivery to WBPDCCL 3 nos. true copies of Financial Package and Financial Model	02.11.2018
4	Confirmation of correctness of representation/warranties	02.11.2016
5	Legal opinion from the legal counsel of the MDO with respect of authority of MDO to enter into agreement	06.12.2016

20.0 Clause 4.1.6 of the CMA stipulates as under:

*"Immediately upon the fulfillment or waiver of all the Conditions Precedent required to be fulfilled by a Party under Clauses 4.1.2 or 4.1.3 (as applicable to such Party), such Party shall deliver to the other Party, a notice in writing confirming that the Conditions Precedent set out in Clauses 4.1.2 or Clause 4.1.3, as the case may be, have been satisfied and/or waived (in accordance with the terms hereof), together with all necessary supporting documentation to support the statements in such notice (each a "CP Satisfaction Notice"). Upon receipt of the CP Satisfaction Notice from the Mine Developer and Operator, WBPDCCL will certify and declare the satisfaction (or waiver) of all Conditions Precedent and the date of such certification and declaration shall be the "Appointed Date".*

21.0 WBPDCCL was asked to submit the CP Satisfaction Notices issued under Clause 4.1.6 of the CMA. WBPDCCL submitted the correspondence from PCMPPL dated 16.01.2019 which reads as under:

*"We acknowledge receipt of your letter under reference 2 above in respect of declaration of satisfaction of Conditions Precedent by the Mine Owner, i.e., WBPDCCL as per the Clause No.4 of CMA. We express our satisfaction of all the Conditions Precedent pertaining to WBPDCCL except the condition 4.1.2(c) of CMA which reads as "Procure issuance of stage-II forest clearance from Ministry of Environment & Forests, Government of India". In Conditions Precedent Satisfaction Notice,*





*WBPDCCL mentioned that obtaining Stage-II forest clearance is in process. Basing on the mutual discussions, request of WBPDCCL and in the best interest of the progress of the project, we hereby waive this condition for a period of 3 months.*

*In this context, we also request WBPDCCL to satisfy this condition as early as possible as this clearance has a direct bearing on the progress of the project."*

The Commission observed that the Conditions Precedent Satisfaction Notices are inevitable. However, WBPDCCL only has submitted that correspondence from PCMPL dated 16.01.2019 rather than the CP Satisfaction Notice which need to say, is inadequate. The Commission is of the view that such documents shall be made available by WBPDCCL before the Commission. The Commission, thus, advises WBPDCCL to exercise utmost caution in future in ensuring submission of the required documents in full before the Commission.

- 22.0 WBPDCCL was asked to confirm if any damages were levied on/by WBPDCCL for non-fulfilment of any of the Conditions Precedent set forth in Clauses 4.2/4.3 of the CMA. In reply, WBPDCCL submitted that no liquidated damages were levied on/by WBPDCCL under Clauses 4.2/4.3 of the CMA.
- 23.0 Clause 12.4.1 of the CMA sets forth the timelines for the milestones to be fulfilled by the MDO. In reply to a query in this regard, WBPDCCL submitted the scheduled and actual dates of fulfillment of milestones as under:

**Table 5: Scheduled and actual dates of fulfilment of milestones set forth in Clause 12.4.1 of the CMA**

S. No.	Milestone	Scheduled date	Actual date
1	Start of excavation of overburden within 30 days from the Appointed Date	16.02.2019	12.12.2018
2	Start of coal production within 45 days from the Appointed Date	03.03.2019	13.11.2019
3	Scheduled COD on or prior to 75 days from the Appointed Date	02.04.2019	01.12.2019
4	Scheduled Completion Date on or prior to 2000 days from the Appointed Date	09.07.2024	31.03.2023

- 24.0 The Commission observed that the CMA provides for levy of liquidated damages for delay in achievement of COD. WBPDCCL was asked to confirm if any damages were levied on MDO for the same. In reply, WBPDCCL submitted that no liquidated damages were levied on MDO for delay in achievement of COD.
- 25.0 WBPDCCL was asked to submit the certification by Independent Engineer in accordance with Clause 14.2.1 of the CMA which reads as under:
- "The first day of the month in any Accounting Year in which the quantity of Coal produced from the Mine is equal to or greater than 0.042 (zero point four two) million Tons, as certified by the Independent Engineer, shall be the **"Commercial Operation Date"** or **"COD"**."*
- 26.0 In reply, WBPDCCL submitted the Independent Engineer's correspondence dated 18.05.2020 which reads as under:

*"Kindly refer to your mail dated 15.06.2020 on the above subject. The matter related to certification of Commercial Operation Date for Pachhwara (North) Coal Mine in accordance with clause no. 14.2.1*





of the CMA (Coal Mining Agreement) was examined in this office.

Coal production from Pachhwara (North) Coal Mine in the month of December 2019, as per data collected from Mine Developer & Operator, was 443800 te. This quantity is greater than the quantity specified in clause 14.2.1 of the CMA (0.33 Mte or 33000 te). Consequent upon achieving a production level higher than the specified quantity, the actual **Commercial Operation Date (COD) of Pachhwara (North) Coal Mine** shall be considered as **1<sup>st</sup> December, 2019.**"

27.0 As there was delay in COD as per the CMA, WBPDCCL was asked to justify the non-levy of liquidated damages for delay in COD. WBPDCCL submitted as under:

*"WBPDCCL humbly submits before this Hon'ble Commission that in respect of delay, the Agent-Pachhwara (North) Coal mine has submitted a detail report explaining the cause of delay in achieving COD of Pachhwara (North) Coal Mine vide letter dated 08.08.2020. Relevant extract of the response submitted by the Agent- Pachhwara (North) Coal mine has been attached as **Annexure – 5**. WBPDCCL further submits that the production of the mine was severally hampered due to R&R & Community development issue by the villagers, issue of corp. compensation by the villagers also added to the cause of stoppage of coal production of the mine along with issue of payment of the ex-employee of the prior allottee by the villagers.*

*As evident from the above, since the issues pertaining to which the delay has occurred in achieving COD is beyond the control of MDO, WBPDCCL management has decided to waive off the penalty for delay. WBPDCCL humbly requests this Hon'ble Commission to allow the delay under such force majeure conditions, as WBPDCCL has no control over such hindrances."*

28.0 Clause 12.5 of the CMA stipulates as under:

**"12.5 Provision of infrastructure**

*WBPDCCL shall, at its own cost and expense, endeavor to provide, or cause to be provided, in or near the township, the following:*

*(a) a 33 kV (thirty three kilovolt) electric substation connected with the grid, for supplying electricity to the Mines no later than 1<sup>st</sup> (first) anniversary of the Appointed Date; the construction of the substation shall be taken up by the Mine Developer and Operator and the documented costs shall be reimbursed by WBPDCCL subject to prior approval of the budget by the Independent Engineer. Applications to the state power utilities shall be made by WBPDCCL; and*

*(b) road connection between the boundary of the Mines and the nearest existing road, no later than the 1<sup>st</sup> (first) anniversary of the Appointed Date."*

29.0 WBPDCCL was asked to submit the details of expenditure incurred for provision of infrastructure as per Clause 12.5 reproduced above and the treatment of the said expenditure in its claim of input price of coal. In reply, WBPDCCL, vide letter dated 30.08.2023, submitted as under:

*"i. where Article 12.5(a) is provision for construction of 33 kV electric substation connected with the grid supplying electricity to the mine. WBPDCCL humbly submits before this Hon'ble Commission that it has already paid Rs. 3.50 Crores to JBVNL as advance (letter reference: WBPDCCL / Director (Mining) / 1095 dated 21.06.2021 & letter reference: WBPDCCL / GM (MMC) / 2024 dated 30.01.2023) and subsequently the substation job will be taken by the MDO. Further, the cost of the job which is being undertaken by the MDO will be borne by WBPDCCL. The same will also be capitalized once*



completed. Copy of the same is being attached herewith as **Annexure – 4 (Colly)**.

ii. WBPDCCL humbly submits before this Hon'ble Commission that the Article 12.5(b) is provision related to road connection between the boundary of the mine and the nearest existing road. Further, WBPDCCL vide letter dated 14.08.2023 in respect of the response to queries raised by the Hon'ble Commission has already provided work Orders of the jobs towards road development (kindly refer Annexure 34 of the aforementioned letter dated 14.08.2023). The same has been executed and capitalized too. Further, there are some additional road development jobs including cost sharing of upgradation of State Highway between Pakur to Railway Siding under provision 12.5(b), are also under discussion with the State Govt. of Jharkhand. WBPDCCL humbly submits that it will apprise the Hon'ble Commission with appropriate supporting documents for the upcoming road constructions once and when finalized."

- 30.0 Clause 15.2 of the CMA sets forth the procedure for Change of Scope. WBPDCCL was asked to submit the copies of Change of Scope Notices, if any, in compliance to Clause 15.2. In reply, WBPDCCL submitted the Memorandum of Understanding (MoU) dated 31.08.2022 executed between WBPDCCL and the MDO for transportation of 0.5 MMT coal from Pachhwara (North) coal mine to Dumka Railway Siding which is at an additional distance of 16 km beyond the 55 km transportation distance covered under the CMA for a period of 2 months by payment of charges amounting to Rs. 137.86/MT.
- 31.0 Clause 21.2.1 of the CMA outlines the Annual Production Programme for 29 Accounting Years. WBPDCCL confirmed that the 1<sup>st</sup> Accounting Year as per the CMA is FY 2019-20 and the start date of the same is 13.11.2019.
- 32.0 The actual coal production for FY 2021-22 was 9.041 MMT as against the production of 10 MMT as per the Mining Plan and therefore levy of damages under Clause 21.5 of the CMA does not arise as the actual production expressed as a percentage of planned production is in the range of 100% to 90%.
- 33.0 As per Clause 27.1.1(ii) of the CMA, the Base Mining Charge is subject to revision on quarterly basis (commencing from the first quarter after the Bid Date) to reflect the variation in Price Index occurring between the Reference Index Date of the quarter preceding the Bid Date and the Reference Index Date for the quarter preceding the date of revision, and the amount so determined shall be Mining Charge for the quarter.
- 34.0 As per Clause 27.3.1 of the CMA, the Mining Charge and the Transportation & Handling Charge payable by WBPDCCL shall be exclusive of all royalties, statutory levies, taxes, cesses and duties in respect of excavation of Coal and Delivery thereof. Such royalties, statutory levies, taxes, cesses and duties, if any, paid by the MDO shall be reimbursed by WBPDCCL upon submission of supporting documents evidencing the payment by the MDO.

#### **Date of commercial operation**

- 35.0 As regards the date of commercial operation of integrated mine(s), the CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2021 specify as under:



- “(3) The date of commercial operation in case of integrated mine(s), shall mean the earliest of –*
- a) the first date of the year succeeding the year in which 25% of the Peak Rated Capacity as per the Mining Plan is achieved; or*
  - b) the first date of the year succeeding the year in which the value of production estimated in accordance with Regulation 7A of these regulations, exceeds total expenditure in that year; or*
  - c) the date of two years from the date of commencement of production:*

*Provided that on earliest occurrence of any of the events under subclauses (a) to (c) of Clause (3) of this Regulation, the generating company shall declare the date of commercial operation of the integrated mine(s) under the relevant sub-clause with one week prior intimation to the beneficiaries of the end-use or associated generating station(s);*

*Provided further that in case the integrated mine(s) is ready for commercial operation but is prevented from declaration of the date of commercial operation for reasons not attributable to the generating company or its suppliers or contractors or the Mine Developer and Operator, the Commission, on an application made by the generating company, may approve such other date as the date of commercial operation as may be considered appropriate after considering the relevant reasons that prevented the declaration of the date of commercial operation under any of the sub-clauses of Clause (3) of this Regulation;*

*Provided also that the generating company seeking the approval of the date of commercial operation under the preceding proviso shall give prior notice of one month to the beneficiaries of the end-use or associated generating station(s) of the integrated mine(s) regarding the date of commercial operation.”*

- 36.0 WBPDCCL submitted that the date of commercial operation for Pachhwara (North) Coal Mine has been declared considering the following:
- The peak rated capacity as per the Mining Plan is 15 MMTPA. The actual coal production for FY 2020-21 was 4.13 MMT which is in excess of 25% of the Peak Rated Capacity and accordingly, the date fulfilling the criteria specified in Regulation 5.1(3)(a) reproduced above is 01.04.2021.
  - The date fulfilling the criteria specified in Regulation 5.1(3)(b) reproduced above is 01.04.2021.
  - The date fulfilling the criteria specified in Regulation 5.1(3)(c) reproduced above is 11.11.2021.
  - Accordingly, the earliest of the above dates viz., 01.04.2021 has been declared as the date of commercial operation.

#### **Approach adopted for determination of Input price**

- 37.0 The date of commercial operation as per the provisions of the CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2021 is 01.04.2021. In the instant petition, WBPDCCL has claimed the input price for the period from the date of commencement of production to FY 2021-22. WBPDCCL has claimed the Operation and Maintenance (O&M) expenses, Mining Charge, Fixed Reserve Price and Statutory Charges for FY 2019-20 and FY 2020-21 and recovery of the capital cost from FY 2021-22 onwards along with the above-mentioned charges.
- 38.0 As regards the supply of coal prior to the date of commercial operation, the CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2021 specify as under:

***“7A. Supply of Coal or Lignite prior to the Date of Commercial Operation of Integrated Mine:***  
*The input price for supply of coal or lignite from the integrated mine(s) prior to their date of commercial operation shall be:*





(a) in case of coal, the estimated price available in the investment approval, or the notified price of Coal India Limited for the corresponding grade of coal supplied to the power sector, whichever is lower; and

.....  
Provided that any revenue earned from supply of coal or lignite prior to the date of commercial operation of the integrated mine(s) shall be applied in adjusting the capital cost of the said integrated mine(s)."

39.0 The rationale for the above reproduced Regulation given by CERC in the Explanatory Memorandum to the Draft Regulations is as under:

**"2.7 Supply of Coal or Lignite prior to the Date of Commercial Operation of Integrated Mine (Regulation 7A)**

2.7.1 The existing Regulation 7 of the Principal Regulations provides for treatment of electricity supplied prior to date of commercial operation of a generating station. The working group has recommended to give a similar treatment for coal or lignite supplied from an integrated mine prior to the date of its commercial operation. This necessitates assigning price to coal or lignite supplied prior to date of commercial operation.

2.7.2 Accordingly, a new Regulation 7A in the Principal Regulations is proposed to be inserted. In case of coal, it is proposed that coal supplied prior to date of commercial operation of an integrated mine will be valued based on the estimated price of coal as per the investment approval or as per notified price of Coal India Limited. Similarly, in case of lignite, it is proposed that the lignite supplied prior to the date of commercial operation of an integrated mine will be valued based on the estimated price of lignite as per investment approval or as per last available pooled lignite price. The objective is to bring the price as close to actual as possible so that difference between the price charged before date of commercial operation of integrated mine and input price computed subsequently is minimized.

2.7.3 Further, it is proposed that the treatment of any revenue earned from supply of coal or lignite prior to the date of commercial operation of integrated mine will be adjusted in capital cost of the integrated mine. This is on similar lines as in case of generating stations."

40.0 Subsequently, in the Statement of Reasons to the Notified Regulations, CERC ruled as under:

"4.3.2 TANGEDCO has suggested that the pooled price of lignite should not include the price of lignite excavated from the mines and sold in the market. MAHAGENCO has suggested that capitalisation of excessive cost of coal should be continued till the coal quantum mined exceeds a threshold limit (say 25%) so that the landed cost of coal from the integrated mine remains competitive in comparison to the CIL prices in the vicinity of the mine. NTPC has suggested that the revenue earned prior to COD may be applied in adjusting the capital cost of the mine(s) after accounting for all expenditure such as MDO (Mine Developer and Operator) charges, incidental expenses and statutory charges. KSEBL has suggested to substitute the word "determined" with the word "approved" in Regulation 7A(b) since the pooled lignite price were so far determined by NLCIL as per the guidelines issued by Ministry of Coal, Government of India and were then approved by the Commission. NLCIL has suggested that in Regulation 7A(b), the words "whichever is lower" may be substituted with the words "whichever is higher".

4.3.3 After consideration of the suggestions of the stakeholders, the Commission is of the view that Regulation 7A does not need any modification and accordingly, the said provision has been retained."



41.0 In reply to a query, WBPDCCL submitted the break-up of actual coal price levied for supply of coal from Pachhwara (North) Coal Mine for FY 2019-20 and FY 2020-21. From the same, it has been observed that the actual coal price levied for supply of coal for FY 2019-20 and FY 2020-21 is based on the CIL notified price of G9 Grade of coal. The comparison of the coal price claimed by WBPDCCL in this Petition and that actually levied for supply of coal for FY 2019-20 and FY 2020-21 is as shown in the Table below:

**Table 6: Comparison of coal price (Rs./MT)**

Year	Claimed in the Petition	Actual levy for coal supply
FY 2019-20	2214.70	2063.42
FY 2020-21	2172.11	01.04.2020 to 05.07.2020 - 2083.42 06.07.2020 to 30.09.2020 - 2093.92 01.10.2020 to 30.11.2020 - 2213.62 01.12.2020 to 17.03.2021 - 2226.06 18.03.2021 to 31.03.2021 - 2106.36

42.0 WBPDCCL was asked to submit the detailed write-up on implementation of the proviso to Regulation 7A reproduced above in its claim of capital cost. In reply, WBPDCCL submitted that no revenue was earned from supply of coal prior to the date of commercial operation. The Commission noted that WBPDCCL has not sold coal prior to COD to third parties.

43.0 From the perusal of the provisions of the CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2021, it is amply clear that the determination of input price of coal from integrated mine shall be w.e.f. the date of commercial operation of the mine. Therefore, the determination of input price of coal from Pachhwara (North) Coal Mine for FY 2019-20 and FY 2020-21 in accordance with the CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2021 does not arise. Therefore, the Commission has determined the input price of coal from Pachhwara (North) Coal Mine for FY 2021-22 only in this Order as against WBPDCCL's claim for the period from FY 2019-20 to FY 2021-22.

#### **Regulatory Provisions - Input price**

44.0 As regards the input price of coal, the CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2021 specify as under:

***"36A. Input Price of coal or Lignite: (1) Input price of coal or lignite from the integrated mine(s) shall be determined based on the following components:***

*I) Run of Mine (ROM) Cost;*

*II) Additional charges:*

*a. crushing charges;*

*b. transportation charge within the mine up to the washery end or coal handling plant associated with the integrated mine, as the case may be;*

*c. handling charges at mine end;*

*d. washing charges; and*

*e. transportation charges beyond the washery end or coal handling plant, as the case may be, and up to the loading point:*





*Provided that one or more components of additional charges may be applicable in case of the integrated mine(s), based on the scope and nature of the mining activities;*

*Provided further that the input price of lignite shall be computed based on Run of Mine (ROM) based on the technology such as bucket excavator-conveyor or belt-spreader or its combination and handling charges, if any.*

(2) Statutory Charges, as applicable, shall be allowed.

**36B. Run of Mine (ROM) Cost: .....**

(2) Run of Mine Cost of coal in case of integrated mine allocated through allotment route under Coal Mines (Special Provisions) Act, 2015 shall be worked out as under:

$$\text{ROM Cost} = [(\text{Annual Extraction Cost} / \text{ATQ}) + \text{Mining Charge}] + (\text{Fixed Reserve Price})$$

Where,

(i) Annual Extraction Cost is the cost of extraction of coal as computed in accordance with Regulation 36F of these regulations;

(ii) Mining Charge is the charge per tonne of coal paid by the generating company to the Mine Developer and Operator engaged by the generating company for mining, wherever applicable; and

(iii) Fixed Reserve Price is the fixed reserve price per tonne along with subsequent escalation, if any, as provided in the Coal Mine Development and Production Agreement.

.....

(4) The generating company shall adhere to the Mining Plan for extraction of coal or lignite on annual basis and shall submit a certificate to that effect from the Coal Controller or the competent authority:

*Provided that deviations from the Mining Plan shall be considered only if such deviations have been approved by the Coal Controller or the revised Mining Plan has been approved by the competent authority.*

(5) Run of Mine Cost of coal and lignite shall be worked out in terms of Rupees per tonne..."

**Capital Cost**

45.0 As regards the capital cost of the integrated mine, the CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2021 specify as under:

**"36D. Capital Cost:** (1) The expenditure incurred, including IDC and IEDC, duly certified by the Auditor, for development of the integrated mine(s) up to the date of commercial operation, shall be considered for arriving at the capital cost.

(2) Capital expenditure incurred shall be admitted by the Commission after prudence check.

(3) Capital expenditure incurred on infrastructure for crushing, transportation, handling, washing and other mining activities required for mining operations shall be arrived at





*separately in accordance with these regulations:*

*Provided that where crushing, transportation, handling or washing are undertaken by the generating company, the expenditure incurred on infrastructures of these components shall be capitalized;*

*Provided further that where mine development and operation, with or without any component of crushing, transportation, handling or washing are undertaken by the generating company by engaging Mine Developer and Operator or an agency other than Mine Developer and Operator, the capital expenditure incurred by Mine Developer and Operator or such agency shall not be capitalised by the generating company and shall not be considered for the determination of input price.*

*(4) The capital expenditure shall be determined by considering, but not limited to, the Mining Plan, detailed project report, mine closure plan, cost audit report and such other details as deemed fit by the Commission...*

**36E. Additional Capital Expenditure:** *(1) The expenditure, in respect of the integrated mine(s), incurred or projected to be incurred after the date of commercial operation and upto the date of achieving the Peak Rated Capacity may be admitted by the Commission, subject to prudence check and shall be capitalized in the respective year of the tariff period as additional capital expenditure corresponding to the Annual Target Quantity of the year as specified in the Mining Plan or actual extraction in that year, whichever is higher, on following counts:*

- (a) expenditure incurred on activities as per the Mining Plan;*
- (b) expenditure for works deferred for execution and undischarged liabilities recognized for works executed prior to date of commercial operation;*
- (c) expenditure for works required to be carried out for complying with directions or orders of any statutory authorities;*
- (d) liabilities arising out of compliance of order or decree of any court of law or award of arbitration;*
- (e) expenditure for procurement and development of land as per the Mining Plan;*
- (f) expenditure for procurement of additional heavy earth moving machineries for replacement, on completion of their useful life; and*
- (g) liabilities due to Change in Law or Force Majeure events;*

*Provided that in case of replacement of any assets, the additional capitalization shall be worked out after adjusting the gross fixed assets and cumulative depreciation of the assets replaced on account of de-capitalization:*

*Provided further that the generating company shall prepare guidelines for procurement and replacement of heavy mining equipment such as Heavy Earth Moving Machineries and share the same with the beneficiaries and submit it to the Commission along with its petition.*

*(2) The expenditure, in respect of the integrated mine(s), incurred or projected to be incurred after the date of achieving the Peak Rated Capacity may be admitted by the Commission subject to prudence check, and shall be capitalized as Additional Capital Expenditure, corresponding to the Annual Target Quantity of the respective years as specified in the Mining Plan, on following counts:*

- (a) expenditure incurred on activities, if any, as per Mining Plan;*





- (b) expenditure for works required to be carried out for complying with directions or order of any statutory authority;
- (c) liabilities arising out of compliance of order or decree of any court of law or award of arbitration;
- (d) expenditure for procurement and development of land as per the Mining Plan; and
- (e) liabilities due to Change in Law or Force Majeure events;

Provided that in case of replacement of any assets, the additional capitalization shall be worked out after adjusting the gross fixed assets, cumulative depreciation and cumulative repayment of loan of the assets replaced on account of de-capitalization.

(3) The expenditure on following counts shall not be considered as additional capital expenditure for the purpose of these regulations:

- a) expenditure incurred but not capitalized as the assets have not been put in service (capital work in progress);
- b) mine closure expenses;
- c) expenditure on works not covered under Mining Plan, unless covered under sub-clause (g) of Clause (1) or sub-clause (e) of Clause (2) of this Regulation;
- d) expenditure on replacement due to obsolescence of assets on account of completion of the useful life or due to obsolescence of technology, if the original cost of such assets have not been de-capitalised from the gross fixed assets."

46.0 WBPDCCL submitted the audited accounts for FY 2019-20, FY 2020-21 and FY 2021-22. WBPDCCL was asked to submit the annual audited and certified balance sheet and P&L statement of Pachhwara (North) Coal Mine for the period from FY 2019-20 to FY 2021-22. In reply, WBPDCCL submitted that various expenses/income incurred/earned with respect to the Mines are transferred to Coal Stock account and separate P&L statement is not prepared for Pachhwara (North) Coal Mine.

47.0 As regards capital cost, WBPDCCL in its Petition, submitted as under:

"59. Further, WBPDCCL has capitalized the mines on 01.04.2021 and has made necessary adjustment in the books of accounts with reference to FY 2019-20 and FY 2020-21 for Pachhwara (N) Coal Mine. During capitalization, the Statutory Auditor has already verified the coal price and WBPDCCL has accordingly booked the amount as being reflected in Annual Accounts of WBPDCCL for FY 2021-22 (refer additional disclosure under Point 34 – Cost of Fuel – Coal & Oil in notes forming part of standalone financial statements). Copy of the said Annual Accounts of WBPDCCL for FY 2021-22 is being attached herewith as **Annexure-E/1**. Relevant portion the aforementioned notes is being reproduced below:

**"Additional Disclosure:**

34.1 Coal Consumption includes Coal transferred from Captive Coal Mines, at notified price of Coal India Limited (plus applicable taxes) of corresponding Grade, pending issuance of guideline/regulation by West Bengal Electricity Regulatory Commission. Mining charges as envisaged in different contracts with MDOs has not been considered while determining Cost of Coal Consumption as finalization of escalation rate is pending. This practice was followed upto 31/03/2021.

From the FY 2021-22 process of determination of cost of coal has been prescribed by WBERC by referring to the Regulations issued in this regard by CERC Following the Regulation, recomputation of cost of coal supplied from captive mines has been made from the FY 2018-19 to FY Fuel inventory above does not include Stock of Coal lying at Mines and Siding. Further effect of escalation has also



been given on Mining Charge to arrive at the Coal Cost since 2018-19 to 2020-21 as the conversion factor from new index to old index has been finalized.”

... ..<Emphasis Added>”

61. WBPDCCL would like to reiterate that as evident from above, due to change in accounting policy and appropriate regulations in force, Pachhwara (N) Coal Mine was not capitalized by WBPDCCL earlier. The total expenditure incurred upto 31.03.2021 amounting to ₹ 46,884.42 lakhs (Refer Page 81 of 36<sup>th</sup> Annual Report 2020-21) for all the three mines has been booked in Capital Works in Progress (CWIP). When this CWIP is being brought to Revenue, the assets under CWIP are being re-classified as a component of Property, Plant and Equipment under the nomenclature “Other Mining Infrastructure” (under Intangible Asset). It is pertinent to mention here that the total expenditure amounting to ₹ 46,884.42 lakhs booked doesn't include common expenditures of the mines.

62. WBPDCCL humbly submits before this Hon'ble Commission that the process of capitalization involved estimation of future costs and the amount so arrived at is discounted using the discount factor @ 11.39%. Discounting factor has been determined using the methodology prescribed by CERC. The amount so arrived at is amortized Over the life of mine or 20 years whichever is less following the norms mentioned in the CERC Regulations.... Accordingly, WBPDCCL has capitalized following amounts under Infrastructure Cost and disclosed the same under Intangible Assets (refer point 52 of the Annual Accounts for FY 2021-22).

**Table 4: Summary of Capitalization of Pachhwara (N) Coal Mine**

(Amount in ₹ Lakhs)		
Sl. No.	Particulars	Amount
1.	Amount already incurred including allocated expense	87,051.92
2.	Estimated cost derived at current rate on which no discounting has been done	15,530.75
3.	Estimated Cost derived at future cost on which discounting has been done	24,182.89
4.	Total (Sl. No. 1 + Sl. No. 2 + Sl. No. 3 + Sl. No. 4)	<b>1,26,765.56</b>

63. WBPDCCL humbly submits before this Hon'ble Commission that COD of Pachhwara (N) Coal Mine being 01.04.2021, the total expenditure works out to ₹ 1,26,765.57 Lakhs.”

“66. ... The Petitioner humbly submits that the total expenditure as on 01.04.2022 has been calculated by taking the provisional expenditure to be incurred after 01.04.2022 by complying with principles of the Indian Accounting Standard IND AS 37....

67. WBPDCCL further submits that as per the Indian Accounting Standard (IND AS 37), the following conditions are to be fulfilled to recognize provisional expenditure:

- There must be present legal or constructive obligation as a result of past event.
- There must be probable outflow of economic benefits to settle the obligation.
- The obligation can be estimated reliably.

68. Further, WBPDCCL humbly submits before this Hon'ble Commission that besides the total actual expenditure incurred up to 01.04.2021 of ₹ 1,26,765.57 Lakhs, some capital expenditures amounting to ₹ 370.50 Lakhs (i.e., ₹ 31.31 Lakhs in FY 2019-20 and ₹ 339.18 Lakhs in FY 2020-21) also have been incurred towards furniture and other assets.

69. WBPDCCL humbly requests this Hon'ble Commission to allow expenditure of ₹ 370.50 Lakhs as part of total expenditure as on COD (i.e., 01.04.2021).”



*"70. In terms of Regulation 19(2)(b) of Tariff Regulations, 2019, as amended, equity deployed in excess of 30% of the fund deployed has been considered as normative loan and notional IDC up to 01.04.2021 has been considered as part of the total expenditure of the project."*

*72. In consideration of the above, WBPDCCL humbly submits that the total project cost including notional IDC is ₹ 1,33,611.93 Lakhs (₹ 1,26,765.57 Lakhs + ₹ 6,475.86 Lakhs + ₹ 370.50 Lakhs = ₹ 1,33,611.93 Lakhs). WBPDCCL humbly prays before this Hon'ble Commission to allow ₹ 1,33,611.93 Lakhs as total Capital Cost including Notional IDC and expenditure incurred on other Common Assets as on 01.04.2021 as claimed in the instant Petition."*

48.0 WBPDCCL was asked to submit the investment approval accorded by its Board for Pachhwara (North) Coal Mine. In reply, WBPDCCL submitted that the investment approval accorded by WBPDCCL Board for Pachhwara (North) Coal Mine has been obtained in allotment mode and update is being made to the Board from time to time. WBPDCCL submitted the copy of excerpts from the Minutes of the Meetings of the Board of Directors of WBPDCCL. Therefore, it is understood that there is no separate investment approval before the capital expenditure was incurred.

49.0 WBPDCCL has claimed the capital cost of Rs. 134086.05 Lakh. WBPDCCL was asked to submit the year-wise and item-wise break-up of claimed capital cost. In reply, WBPDCCL submitted the audited statement showing item wise break-up of claimed capital cost and expenses incurred upto FY 2021-22 as under:

**Table 7: Capital cost claimed by WBPDCCL (Rs. Lakh)**

Particulars	Actual expenditure	Liabilities/provision	Total
<b>Land and Site Development</b>			
Mines infrastructure	25455.06	0.00	25455.06
Compensatory Afforestation Land	47719.72	962.90	48682.62
Wildlife	69.87	0.00	69.87
Rehabilitation & Resettlement including SIA study	2924.64	36459.87	39384.51
Land registration	0.00	2290.88	2290.88
Share of common expenses	7132.62	0.00	7132.62
<b>Total Land and Site Development</b>	<b>83301.91</b>	<b>39713.65</b>	<b>123015.56</b>
Assets capitalised in FY 2019-20 and FY 2020-21	370.50	0.00	370.50
Interest During Construction	3750.00	0.00	3750.00
Notional Interest During Construction	6475.86	0.00	6475.86
<b>Capital cost as on COD</b>	<b>93898.27</b>	<b>39713.65</b>	<b>133611.92</b>
Addition during FY 2021-22	474.13	0.00	474.13
<b>Capital cost as on 31.03.2022</b>	<b>94372.40</b>	<b>39713.65</b>	<b>134086.05</b>

50.0 WBPDCCL, in Form-B (Break-up of Capital cost for New Integrated Mine), submitted the capital expenditure of Pachhwara (North) Coal Mine. In this regard, WBPDCCL was asked to submit the duly filled in Form-B with complete information in the specified format along with items of expenditure included under each head viz., Mines infrastructure, Compensatory Afforestation etc. with corresponding cost details. In reply, WBPDCCL submitted the item wise cost details included under each cost head as on COD as shown in in Table 7 above.



51.0 WBPDCCL was asked to submit (i) details of expenditures for which the capitalization methodology as submitted in Para 62 of the Petition reproduced above has been followed along with supporting documents for the same and (ii) applicability of IND AS 37 to such expenditures. In reply, WBPDCCL submitted as under:

*"a. WBPDCCL humbly submits before this Hon'ble Commission that details of expenditures for which the capitalization methodology as submitted in Para 62 of the Petition has been followed and to which IND AS 37 is applicable along with supporting documents for such expenditures is being attached herewith as **Annexure-8 (Colly)**.*

*b. WBPDCCL humbly submits before this Hon'ble Commission that in respect of applicability of IND AS 37 the total expenditure as on 01.04.2022 has been calculated by taking the provisional expenditure to be incurred after 01.04.2022 by complying with the principles of the Indian Accounting Standard IND AS 37...*

*The Company is required to incur mine rehabilitation and resettlement costs along with reforestation cost during operating life of the mines. Rehabilitation cost include re-settling the people from the land on which mining activities to be carried out. Such costs are purchase of land, constructing the building, creating infrastructure for people to stay on the new land, statutory clearances costs etc.*

*Land on which mining activities to be carried out has the forest. To carry out mining activities, the Company has the deforest the area with required statutory clearances subject to the condition that the company will require to reforest the area of similar size. This again may involve incurring costs in terms of purchase of land, plantation expenses, statutory clearance expenses etc.*

*Above expenses in terms of the rehabilitation and settlement expenditures and reforestation expenses are to be incurred in accordance with the statutory law requirements in India.*

*Below is the analysis in terms of whether the Company shall recognize the provision for the rehabilitation / reforestation cost:*

<b>Particulars</b>	<b>Action points</b>
<i>an entity has a present obligation (legal or constructive) as a result of past event</i>	<i>Based on the facts and circumstances, it shall be assessed whether there is any contractual or statutory obligation in place for carrying out rehabilitation / reforestation activities. If the entity has these obligations from carrying out mining operations on the leased-lands then this can be construed as existence of the obligations.</i>
<i>it is probable that an outflow of resources embodying economic benefits will be required to settle the obligation;</i>	<i>Based on the facts and circumstances, it shall be assessed by the entity that whether any economic benefits will flow to settle the obligations. We understand that to carry out rehabilitation / reforestation activities, an outflow of resources embodying economic benefits will be in place.</i>
<i>a reliable estimate can be made of the amount of the obligation. If these conditions are not met, no provision shall be recognized;</i>	<i>Based on the facts and circumstances, entity shall estimate the amount of the cost to be incurred towards carrying out rehabilitation / reforestation activities.</i>

*If any of the above conditions are satisfied, then entity shall recognize the provision for rehabilitation / reforestation activities, under IND AS 37.*



**Measurement of provision:**

WBPDCCL shall measure the amount of provision for rehabilitation / reforestation costs provision at the best estimate of the expenditure required to settle the present obligation. This is the amount that WBPDCCL would rationally pay to settle the obligation or to transfer it to a third party at the balance sheet date.

- WBPDCCL takes the following into account in estimating the expenditure required to settle the present obligation at the balance sheet date
  - The risks and uncertainties about the amount and timing of cash flows;
  - Any additional evidence provided by events that take place after the balance sheet date as discussed in the previous section.
- WBPDCCL measures a provision at the present value of the expected outflow where the effect of the time value of money is material.
- The discount rate should be a pre-tax rate that reflects the current market assessments of the time value of money and the risks specific to the liability. The discount rate should not, however, reflect risks for which future cash flow estimates have been adjusted. WBPDCCL considered discounting rate formula as per Regulation.
- The unwinding of the discount due to passage of time is included as an element of finance costs in the statement of profit or loss for the year. WBPDCCL re-assesses the provision at the end of each reporting period and adjusts them to reflect current best estimates. This re-assessment should include the estimated cash flows at the discount rate. If it is no longer probable that an outflow of resources embodying the economic benefits will be required to settle the obligation, the provision shall be reversed."

52.0 WBPDCCL was asked to submit the justification for the claimed additional capitalization of Rs. 474.13 Lakh for FY 2021-22 in accordance with the provisions of the CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2021. In reply, WBPDCCL, vide letter dated 31.10.2023 submitted as under:

**"Repair of Polytechnic Bye-Pass Road at Pakur railway siding for Pachhwara (N) Mine:** The Pachhwara (North) Coal Mine is at 55 km away from Pakur Railway Station. The condition of the road is grim and for smooth transportation of coals from mines to the siding, we have to take several steps to repair the Polytechnic Bye-Pass Road.

**Construction of approach bituminous road & RCC retaining wall from DFO more to railway siding at Pakur, Jharkhand:** The Pachhwara (North) Coal Mine is at 55 km away from Pakur Railway Station. The condition of the road is grim and to save it from roadslide RCC retaining wall from DFO has been made. Also, we have to construct approach bituminous road for smooth operation of transportation.

**Renovation of park (Prakiti Vihar) at Amrapara, Dist. Pakur:** The Pachhwara (North) Coal Mine is at 55 km away from Pakur Railway Station consisting of several tribal villages. Renovation of park (Prakiti Vihar) at Amrapara has been done in demand of locals.

**Renovation & Repairing of School at Amrapara village, Dist. Pakur, Jharkhand for Pachhwara (North) coal mine:** The Pachhwara (North) Coal Mine is at 55 km away from Pakur Railway Station consisting of several tribal villages. Renovation of School at Amrapara has been done in demand of locals, to maintain law and order and smooth operation of business.

The relevant supporting documents are being **Annexure – 34.**"



*"WBPDCCL humbly submits before this Hon'ble Commission that the additional capitalization has been claimed by WBPDCCL in accordance with the Regulation 36 (E) (2) of the CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2021. WBPDCCL further submits that in accordance with the applicable provisions of the CMA and principles laid down by the Ministry of Coal in the CMA, under statutory obligations, WBPDCCL has to undertake the additional capitalization for Pachhwara (North) Coal Mine.*

*WBPDCCL humbly submits before this Hon'ble Commission that the Peak Rated Capacity for Stage -I (Non-Forest Area) of Pachhwara (N) Coal Mine was achieved on 31.03.2023. However, WBPDCCL has to incur capital expenditure towards Stage-II (Forest Area) of Pachhwara (N) Coal mine in future years. WBPDCCL submits that the future capital expenditures will be claimed by WBPDCCL as and when incurred."*

53.0 The capital cost claimed by WBPDCCL upto FY 2021-22 is Rs. 134086.07 Lakh. The item wise analysis of the claimed capital cost and Commission's approval thereof is detailed in the following paragraphs.

#### 54.0 Land and Site Development

54.1 WBPDCCL has claimed the land and site development cost of Rs. 123015.56 Lakh. The claimed cost includes the liabilities/provision amounting to Rs. 39713.65 Lakh. There is no prior investment approval by WBPDCCL's Board against which the claimed actual cost can be compared. Admittedly, the actual cost incurred has been approved by WBPDCCL's Board on post-facto basis.

54.2 The Commission has perused the submissions of WBPDCCL regarding the treatment of future liabilities in its claim of capital cost. The Commission does not find it prudent to consider the liabilities/provision as on COD for the purpose of input price determination as such liabilities/provision are allowable as part of additional capitalization. In accordance with Regulations 36D and 36E as reproduced above, and based on the auditor certificate, the Commission deems it prudent to approve the actual incurred cost of Rs. 83301.91 Lakh towards Land and Site Development. WBPDCCL may claim the liabilities/provision as on COD during the years of actual discharge in accordance with the provisions of the Regulations.

**Table 8: Land and Site Development cost (Rs. Lakh)**

Particulars	Actual cost as on COD	
	Claimed	Approved
Land and Site Development Cost	123015.56	83301.91

#### 55.0 Assets capitalized in FY 2019-20 and FY 2020-21

55.1 WBPDCCL has claimed the amount of Rs. 370.50 Lakh towards the furniture and other assets capitalized in FY 2019-20 and FY 2020-21. In accordance with Regulation 36D as reproduced above, and based on the auditor certificate, the Commission deems it prudent to approve the claimed cost of Rs. 370.50 Lakh towards assets capitalized in FY 2019-20 and FY 2020-21.



**Table 9: Cost of assets capitalised in FY 2019-20 and FY 2020-21 (Rs. Lakh)**

Particulars	Actual cost as on COD	
	Claimed	Approved
Cost of assets capitalised in FY 2019-20 and FY 2020-21	370.50	370.50

## 56.0 Interest During Construction (IDC) & Notional IDC

56.1 WBPDCCL was asked to submit the actual debt and equity amounts of the claimed capital cost as on COD and year-wise additional capitalization. In reply, WBPDCCL submitted as under:

- WBPDCCL has incurred total expenditure actually incurred as on 31.03.2022 in respect of Pachhwara (N) Coal mine is Rs. 87,051.92 lakhs (excluding IDC).
- WBPDCCL has initially started funding from internal resources. Subsequently, WBPDCCL has taken up loan from UBI for mine acquisition of Rs. 200 Crores and the Government of West Bengal has sanctioned equity of Rs. 530.47 Crore for all mines (out of which Rs. 40225.82 lakhs were utilized for Pachhwara (N) Coal mine).
- Further, WBPDCCL has taken up another loan from Bank of India of amount Rs. 352 Crores in FY 2021-22.

56.2 As regards the financing of capital cost of Pachhwara (North) Coal Mine, WBPDCCL submitted the following:

- Sanction letter of United Bank of India (dated 28.03.2017) for term loan of Rs. 20000.00 Lakh for acquisition of coal mines allotted by Ministry of Coal, Government of India.
- United Bank of India letter dated 13.02.2018 regarding the reduction in rate of interest.
- Bank of India sanction letter dated 11.02.2022 for term loan of Rs. 55000.00 Lakh.
- Sanction-cum-Allotment Order of GoWB dated 16.08.2019 for the purpose of expenditure towards creation of mine infrastructure of WBPDCCL for the reallocated six mines for the amount of Rs. 53047.00 Lakh.
- Documentary evidence in respect of equity disbursement by GoWB.

56.3 From Form-13 (Details of Allocation of corporate loans to Integrated Mine) submitted by WBPDCCL, it has been observed that out of the total term loan of Rs. 20000.00 Lakh from Union Bank of India, the loan amount of Rs. 16194.00 Lakh has been allocated to Pachhwara (North) Coal Mine. As per Form-14 (Draw Down Schedule for Calculation of IDC & Financing Charges), the outstanding term loan as on date of commercial operation is Rs. 13040.49 Lakh. Therefore, the actual term loan of Rs. 13040.49 Lakh as on COD amounts to 9.76% of the claimed capital cost of Rs. 133611.93 Lakh as on COD.

## Interest During Construction

56.4 WBPDCCL has claimed the IDC of Rs. 3750.00 Lakh. The computations of IDC submitted by WBPDCCL is as under:

**Table 10: Computations of IDC submitted by WBPDCCL in the Petition (Rs. Lakh)**

Year	Quarter	Drawdown	Repayment	IDC
FY 2018-19	Q1	16194.00	0.00	51.04





In regard to the petition submitted by West Bengal Power Development Corporation Limited for approval of input price of coal supplied from Pachhwara (North) Coal Mine for FY 2019-20 to FY 2021-22



Year	Quarter	Drawdown	Repayment	IDC
	Q2	0.00	0.00	361.56
	Q3	0.00	0.00	357.44
	Q4	0.00	0.00	476.01
	Q1	0.00	0.00	354.31
FY 2019-20	Q2	0.00	0.00	240.50
	Q3	0.00	0.00	457.64
	Q4	0.00	1619.40	330.24
	Q1	0.00	0.00	304.77
FY 2020-21	Q2	0.00	0.00	285.09
	Q3	0.00	0.00	183.58
	Q4	0.00	1534.11	347.82
Total		16194.00	3153.51	3750.00

56.5 WBPDCCL was asked to submit the phasing of expenditure along with debt and equity upto COD in the specified format. WBPDCCL was also asked to substantiate the availability of free reserves to the tune of internal resources utilized for funding of capital expenditure of Pachhwara (N) Coal Mine. In reply, WBPDCCL submitted the phasing of expenditure along with debt and equity upto COD as under:

Table 11: Phasing of expenditure as submitted by WBPDCCL (Rs. Lakh)

Year	Quarter	Capital expenditure (excluding Notional IDC)	Debt	Equity			Debt + Equity
				Internal Accruals	State Government Equity	Total	
FY 2014-15	Q1	0	0	0	0	0	0
	Q2	0	0	0	0	0	0
	Q3	0	0	0	0	0	0
	Q4	404	0	0	404	404	404
FY 2015-16	Q1	7354	0	0	7354	7354	7354
	Q2	8980	0	0	8980	8980	8980
	Q3	646	0	0	646	646	646
	Q4	3817	0	0	3817	3817	3817
FY 2016-17	Q1	416	0	0	416	416	416
	Q2	1217	0	0	1217	1217	1217
	Q3	1444	0	0	1444	1444	1444
	Q4	649	0	0	649	649	649
FY 2017-18	Q1	357	0	0	357	357	357
	Q2	1262	0	0	1262	1262	1262
	Q3	0	0	0	0	0	0
	Q4	0	0	0	0	0	0
FY 2018-19	Q1	4274	2992	0	1282	1282	4274
	Q2	678	474	0	204	204	678
	Q3	521	364	0	157	157	521
	Q4	2298	1608	0	690	690	2298
FY 2019-20	Q1	399	279	0	120	120	399
	Q2	88	62	0	26	26	88
	Q3	1424	997	0	427	427	1424
	Q4	775	542	0	233	233	775



Year	Quarter	Capital expenditure (excluding Notional IDC)	Debt	Equity			Debt + Equity
				Internal Accruals	State Government Equity	Total	
FY 2020-21	Q1	644	451	0	193	193	644
	Q2	286	201	0	85	85	286
	Q3	3118	2183	0	935	935	3118
	Q4	1168	817	0	351	351	1168
FY 2021-22	Q1	84918	5224	70858	8836	79694	84918
<b>Total</b>		<b>127136</b>	<b>16194</b>	<b>70858</b>	<b>40084</b>	<b>110942</b>	<b>127136</b>

56.6 In addition, WBPDCCL submitted as under:

*“NOTE:1) The Total capital expenses excluding notional IDC is Rs. 127136.07 lakhs comprise of the following:*

*1) Amount actual expensed: Rs. 87422.42 Lakhs 2) Provision for expense: Rs. 39713.64 Lakhs*

*The actual expenses were met from the following sources:*

*Debt: Rs. 16194.00 Lakhs*

*Equity: Rs. 40083.58 Lakhs*

*Internal Resources: Rs 31144.84 Lakhs*

*A) Since acquisition of coal mine, expenditure of Rs 40083.58 lakhs incurred by WBPDCCL has been replenished by the government of West Bengal in the form of equity. Hence, initial funding up to the date of capitalization i.e. 01.04.2021 has been consider as equity.*

*B) WBPDCCL borrowed Rs 16194.00 lakhs (apportioned) from the bank, which has been utilized for incurring various capital expenses of the mine.*

*C) WBPDCCL incur Rs 31184.84 Lakhs from internal resources*

*2) Rs 40,084 Lakhs equity considered for Pachhwara North Coal Mines out of Rs. 53,047 Lakhs as per ...*

*3) Capital Expenditure funded from State Government Equity before loan was taken and then funded from loan and equity in the ratio of 70:30 after loan issued and after exhaustion of loan funded from Internal Accruals.”*

56.7 The Commission observed several inconsistencies in WBPDCCL's submissions regarding the means of finance of capital expenditure of Pachhwara (North) Coal Mine:

- WBPDCCL, in its claim of actual IDC in the Petition, submitted that the entire long-term loan of Rs. 16194.00 Lakh has been infused for debt financing in 1<sup>st</sup> Quarter of FY 2018-19 whereas as per the additional submissions dated 31.10.2023, presented in Table 11 above, the total loan of Rs. 16194 Lakh has been infused in a phased manner over the period from 1<sup>st</sup> Quarter of FY 2018-19 to 1<sup>st</sup> Quarter of FY 2021-22.
- The Commission observed that for the outstanding loan of Rs. 3466.00 Lakh upto 2<sup>nd</sup> Quarter of FY 2018-19 as per Table 11, the interest for the said Quarter as per Table 10 amounting to Rs. 361.56 Lakh translates to the annual interest rate of 41.73%, which is abnormal; Similar trend has



been observed for other quarters also.

- WBPDCCL, in its Petition submitted that it had initially funded the capital expenditure from internal resources while as submitted in Table 11 above, there is no financing from internal resources till FY 2020-21.

56.8 Based on the above, the Commission deems it prudent to approve the actual IDC considering the following:

- The Commission has considered the drawl of long-term loan as shown in Table 11 above.
- The Commission has considered the repayment of long-term loan as shown in Table 10 above.
- The Commission has considered the actual interest rate of 9.20% as submitted by WBPDCCL in Form-13 (Details of Allocation of corporate loans to Integrated Mine).
- Accordingly, the Commission has computed the admissible actual IDC as under:

**Table 12: Admissible actual IDC computed by the Commission (Rs. Lakh)**

Year	Quarter	Drawdown	Repayment	IDC
FY 2018-19	Q1	2992.00	0.00	68.82
	Q2	474.00	0.00	79.72
	Q3	364.00	0.00	88.09
	Q4	1608.00	0.00	125.07
FY 2019-20	Q1	279.00	0.00	131.49
	Q2	62.00	0.00	132.92
	Q3	997.00	0.00	155.85
	Q4	542.00	1619.40	131.07
FY 2020-21	Q1	451.00	0.00	141.44
	Q2	201.00	0.00	146.06
	Q3	2183.00	0.00	196.27
	Q4	817.00	1534.11	179.78
FY 2021-22 (1 <sup>st</sup> April)	Q1	5224.00	0.00	0.00
<b>Total</b>		<b>16194.00</b>	<b>3153.51</b>	<b>1576.58</b>

56.9 In accordance with Regulation 36D as reproduced above, and based on the above discussion, the Commission deems it prudent to approve the IDC of Rs. 1576.58 Lakh.

**Table 13: Interest During Construction (Rs. Lakh)**

Particulars	Actual cost as on COD	
	Claimed	Approved
Interest During Construction	3750.00	1576.58

### **Notional Interest During Construction**

56.10 WBPDCCL has claimed notional IDC of Rs. 6475.86 Lakh relying on Regulation 19(2)(b) of the CERC (Terms and Conditions of Tariff) Regulations, 2019 reproduced hereunder:

**“19. Capital Cost:** (1) The Capital cost of the generating station or the transmission system, as the case may be, as determined by the Commission after prudence check in accordance with these regulations shall form the basis for determination of tariff for existing and new projects.



(2) The Capital Cost of a new project shall include the following:

(a) The expenditure incurred or projected to be incurred up to the date of commercial operation of the project;

(b) Interest during construction and financing charges, on the loans (i) being equal to 70% of the funds deployed, in the event of the actual equity in excess of 30% of the funds deployed, by treating the excess equity as normative loan, or (ii) being equal to the actual amount of loan in the event of the actual equity less than 30% of the funds deployed;

56.11 As evident from the above, Regulation 19 shall be applicable for capital cost of a generating station or a transmission system and not integrated mine. The capital cost of an integrated mine shall be governed by Regulation 36D of the CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2021 which does not provide for notional IDC. Therefore, the Commission does not approve the notional IDC in the capital cost of Pachhwara (North) Coal Mine.

**Table 14: Notional Interest During Construction (Rs. Lakh)**

Particulars	Actual cost as on COD	
	Claimed	Approved
Notional Interest During Construction	6475.86	0.00

#### 57.0 Additional capitalization

57.1 WBPDCCL has claimed the additional capitalization of Rs. 474.13 Lakh for FY 2021-22 as under:

**Table 15: Additional capitalisation claimed by WBPDCCL (Rs. Lakh)**

S. No.	Particulars	Additional capitalization claimed
1	Repair of Polytechnic Bye-pass Road at Pakur railway siding for Pachhwara (North) Coal Mine	108.54
2	Construction of approach bituminous road & RCC retaining wall from DFO more to railway siding at Pakur, Jharkhand	334.88
3	Renovation of park (Prakiti Vihar) at Amrapara, Dist. Pakur	9.99
4	Renovation & Repairing of School at Amrapara village, Dist. Pakur, Jharkhand for Pachhwara (North) Coal Mine.	18.47
5	6 Seater Dining Table & Chair	0.11
6	Aquaguard-water purifier	0.12
7	Bed, Mattress, 4 Inch Steel Alna, Table, Chair	2.01
	<b>Total</b>	<b>474.13</b>

57.2 WBPDCCL, in its Petition, has claimed the additional capitalization claiming the same to be the expenditure incurred on activities as per the Mining Plan. The Commission asked WBPDCCL to submit the relevant extract of the Mining Plan under which each of the items of additional capitalization has been claimed for FY 2021-22. In reply, WBPDCCL submitted as under:

“... the additional capitalization has been claimed by WBPDCCL in accordance with Regulation 36 (E) (2) of the CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2021... in accordance with the applicable provisions of the CMA and principles laid down by the Ministry of Coal in the CMA, under Statutory obligations, WBPDCCL has to undertake the additional capitalization for



*Pachhwara (North) Coal Mine. The relevant extract of CMA is enclosed as **Annexure 3.***

- 57.3 WBPDCCL submitted the extract of Clause 6 of the CMA and the extract of the responses to pre-bid queries with respect to RfP for selection of MDO for development and operation of Pachhwara (North) Coal Mine. As per Clause 6.1.2(b) of the CMA, WBPDCCL is obligated to provide connectivity to the road network. As per the pre-bid replies, WBPDCCL's reply to a query regarding coal transportation is reproduced hereunder:

*"About 50km of the connecting road is public road. The remaining part of the road is privately owned and may be considered to be available for coal evacuation. Documented costs related to capital maintenance and development of the road shall be borne by WBPDCCL."*

- 57.4 Regulation 36(E)(2) of the CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2021 provides for additional capitalization towards expenditure for works required to be carried out for complying with directions or order of any statutory authority. As WBPDCCL is obligated to provide the road connectivity for coal transportation, the Commission deems it prudent to approve the additional capitalization claimed towards the construction of roads for coal transportation. As the repair of road is of O&M nature, the Commission does not find it prudent to approve the same under additional capitalization. Accordingly, the Commission has considered the said expenditure under the O&M expenses. The Commission does not deem it prudent to approve the additional capitalization claimed towards the other items in the absence of justification for the same in accordance with the provisions of the Regulations.

- 57.5 Therefore, the Commission approves the additional capitalization for FY 2021-22 as below:

**Table 16: Additional capitalisation approved by the Commission for FY 2021-22 (Rs. Lakh)**

S. No.	Particulars	Claimed	Approved
1	Repair of Polytechnic Bye-pass Road at Pakur railway siding for Pachhwara (North) Coal Mine	108.54	0.00
2	Construction of approach bituminous road & RCC retaining wall from DFO more to railway siding at Pakur, Jharkhand	334.88	334.88
3	Renovation of park (Prakiti Vihar) at Amrapara, Dist. Pakur	9.99	0.00
4	Renovation & Repairing of School at Amrapara village, Dist. Pakur, Jharkhand for Pachhwara (North) Coal Mine.	18.47	0.00
5	6 Seater Dining Table & Chair	0.11	0.00
6	Aquaguard-water purifier	0.12	0.00
7	Bed, Mattress, 4 Inch Steel Alna, Table, Chair	2.01	0.00
	<b>Total</b>	<b>474.13</b>	<b>334.88</b>

#### 58.0 Summary of capital cost

- 58.1 Based on the above analysis, the capital cost approved by the Commission is as shown in the Table below:



**Table 17: Capital cost approved by the Commission (Rs. Lakh)**

Particulars	Claimed			Approved
	Actual expenditure	Liabilities/ provision	Total	
Land and Site Development	83301.91	39713.65	123015.56	83301.91
Assets capitalised in FY 2019-20 and FY 2020-21	370.50	0.00	370.50	370.50
Interest During Construction	3750.00	0.00	3750.00	1576.58
Notional Interest During Construction	6475.86	0.00	6475.86	0.00
<b>Capital cost as on COD</b>	<b>93898.27</b>	<b>39713.65</b>	<b>133611.92</b>	<b>85248.99</b>
Addition during FY 2021-22	474.13	0.00	474.13	334.88
<b>Capital cost as on 31.03.2022</b>	<b>94372.40</b>	<b>39713.65</b>	<b>134086.05</b>	<b>85583.87</b>

## 59.0 Means of finance

- 59.1 WBPDCCL has claimed the financing of the capital cost in the debt equity ratio of 70:30 for the purpose of determination of input price.
- 59.2 The outstanding term loan as on COD is Rs. 13040.49 Lakh which works out to 15.30% of the approved capital cost of Rs. 85248.99 Lakh as on COD. In accordance with Regulation 36G, the maximum equity that can be considered is 30% of the capital cost. Accordingly, the equity has been considered as 30% of the approved capital cost as on COD. The equity in excess of 30% of the approved capital cost as on COD has been considered as normative loan.
- 59.3 The Commission has considered the normative debt equity ratio of 70:30 for the approved additional capitalization for FY 2021-22.

**Table 18: Debt and Equity approved by the Commission (Rs. Lakh)**

Particulars	Actual cost as on COD		Addition during FY 2021-22		Total capital cost upto FY 2021-22	
	Claimed	Approved	Claimed	Approved	Claimed	Approved
Capital cost	133611.92	85248.99	474.13	334.88	134086.05	85583.87
Debt	93528.34	59674.29	331.89	234.42	93860.23	59908.71
Equity	40083.58	25574.70	142.24	100.46	40225.82	25675.16

## 60.0 Extraction cost

- 60.1 Regulation 36F of the CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2021 specify as under:

**“36F. Annual Extraction Cost:** The Annual Extraction Cost of integrated mine(s) shall consist of the following components:

- Depreciation;
- Interest on Loan;
- Return on Equity;
- Operation and Maintenance Expenses, excluding Mining Charge;
- Interest on Working Capital;
- Mine closure expenses, if not included in mining charge; and
- Statutory charges, if applicable.



60.2 The extraction cost claimed by WBPDC is as shown in the Table below:

**Table 19: Extraction cost claimed by WBPDC (Rs. Lakh)**

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
Depreciation	0.00	0.00	6796.71
Interest on loan	0.00	0.00	8255.77
Return on Equity	0.00	0.00	6811.82
Operation and Maintenance (O&M) expenses	46.59	69.72	2676.98
Interest on working capital	0.00	0.00	2674.43
Mine closure expenses	0.00	0.00	1889.19
<b>Total</b>	<b>46.59</b>	<b>69.72</b>	<b>29104.90</b>

60.3 As discussed above, the Commission has not determined the input price for FY 2019-20 and FY 2020-21 i.e., prior to date of commercial operation and therefore has not delved into the claim of extraction cost claimed for FY 2019-20 and FY 2020-21.

60.4 The item wise analysis of extraction cost for FY 2021-22 is as under.

#### Depreciation

60.5 The asset class wise Gross Fixed Assets and depreciation claimed by WBPDC is as shown in the Table below:

**Table 20: Gross Fixed Asset (GFA) and depreciation claimed by WBPDC (Rs. Lakh)**

Particulars	FY 2019-20		FY 2020-21		FY 2021-22 (as on 31.03.2022)	
	GFA	Depreciation	GFA	Depreciation	GFA	Depreciation
<b>A. Tangible Assets</b>	-	-	-	-	-	-
Roads	-	-	-	-	634.75	-
Other civil works	-	-	-	-	186.06	-
Furniture	-	-	-	-	6.05	-
Communication Equipment	-	-	-	-	0.17	-
Hospital equipment	-	-	-	-	17.60	-
<b>Total Tangible Assets</b>	-	-	-	-	<b>844.62</b>	-
<b>B. Intangible Assets</b>	-	-	-	-	-	-
Mining Development Expense/Mining Rights	-	-	-	-	126765.57	-
<b>Total Intangible Assets</b>	-	-	-	-	<b>126765.57</b>	-
<b>C. Total Tangible and Intangible Assets</b>	-	-	-	-	<b>127610.20</b>	-
<b>D. Notional IDC</b>	-	-	-	-	<b>6475.86</b>	-
<b>Grand Total</b>	-	-	-	-	<b>134086.05</b>	<b>6796.71</b>

60.6 The depreciation schedule for integrated mine as per Appendix 1A of the Regulations, for the relevant asset classes in the present case, is as under:



**Table 21: Depreciation schedule of integrated mine as per Regulations**

Asset class	Life in Years
Roads	25
Other Civil works (considered to be falling under the category of Main Plant Buildings)	30
Furniture	15
Communication equipment	15
Hospital equipment	15
Mine Development Expenses	20 or life of mine, whichever is lower

60.7 The asset class wise GFA approved by the Commission based on the above approved capital cost is as shown in the Table below:

**Table 22: Asset class wise GFA approved by the Commission (Rs. Lakh)**

Particulars	Actual cost as on COD		Addition during FY 2021-22		Total upto FY 2021-22	
	Claimed	Approved	Claimed	Approved	Claimed	Approved
<b>A. Tangible Assets</b>						
Roads	191.33	128.29	443.42	334.88	634.75	463.18
Other civil works	157.59	105.67	28.47	0.00	186.06	105.67
Furniture	3.71	2.49	2.24	0.00	5.95	2.49
Communication Equipment	0.00	0.00	0.00	0.00	0.00	0.00
Hospital equipment	17.60	11.80	0.00	0.00	17.60	11.80
<b>Total Tangible Assets</b>	<b>370.23</b>	<b>248.25</b>	<b>474.13</b>	<b>334.88</b>	<b>844.36</b>	<b>583.13</b>
<b>B. Intangible Assets</b>					0.00	
Mining Development Expense/Mining Rights	126765.57	85000.74	0.00	0.00	126765.57	85000.74
<b>Total Intangible Assets</b>	<b>126765.57</b>	<b>85000.74</b>	<b>0.00</b>	<b>0.00</b>	<b>126765.57</b>	<b>85000.74</b>
<b>C. Total Tangible and Intangible Assets</b>	<b>127135.80</b>	<b>85249.00</b>	<b>474.13</b>	<b>334.88</b>	<b>127609.93</b>	<b>85583.88</b>
<b>D. Notional IDC</b>	6475.86	0.00	0.00	0.00	6475.86	0.00
<b>Grand Total</b>	<b>133611.66</b>	<b>85249.00</b>	<b>474.13</b>	<b>334.88</b>	<b>134085.79</b>	<b>85583.88</b>

60.8 In accordance with Regulation 36H, the asset class wise life and salvage value considered by the Commission for the purpose of depreciation is as shown in the Table below:

**Table 23: Asset class wise life and salvage value considered by the Commission**

Particulars	Useful life as per CERC Regulations	Life of Mine	Life for Depreciation	Salvage value
Roads	25	29	25	5%
Other civil works	30	29	30	5%
Furniture	15	29	15	5%
Communication Equipment	15	29	15	0%
Hospital equipment	15	29	15	5%
Mining Development Expense/Mining Rights	20	29	20	5%

60.9 The Commission has computed the depreciation in accordance with the provisions of the Regulations as shown in the Table below:



**Table 24: Depreciation computed by the Commission (Rs. Lakh)**

Particulars	GFA base	Salvage value	Depreciable value	Life for depreciation (Years)	Depreciation
Roads	463.18	5%	440.02	25	17.60
Other civil works	105.67	5%	100.39	30	3.35
Furniture	2.49	5%	2.36	15	0.16
Communication Equipment	0.00	0%	0.00	15	0.00
Hospital equipment	11.80	5%	11.21	15	0.75
Mining Development Expense/Mining Rights	85000.74	5%	80750.71	20	4037.54
<b>Total</b>	<b>85583.88</b>		<b>81304.68</b>		<b>4059.39</b>

60.10 WBPDCCL has claimed the depreciation of Rs. 43.51 Lakh pertaining to the depreciation of assets capitalised in FY 2019-20 and FY 2020-21. The Commission does not find merit in the claim of WBPDCCL as the gross value of such assets capitalised in FY 2019-20 and FY 2020-21 has been considered in the capital cost as on the date of commercial operation and depreciation is being allowed therefrom.

60.11 Based on the above, the depreciation claimed by WBPDCCL and approved by the Commission is as shown in the Table below:

**Table 25: Depreciation approved by the Commission (Rs. Lakh)**

Particulars	FY 2021-22	
	Claimed	Approved
Depreciation	6796.71	4059.39

#### Interest on loan

60.12 The interest on loan claimed by WBPDCCL is as shown in the Table below:

**Table 26: Interest on loan claimed by WBPDCCL (Rs. Lakh)**

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
Opening loan	-	-	93528.35
Addition during the year	-	-	331.89
Repayment	-	-	6796.71
Closing loan	-	-	87063.53
Average normative loan	-	-	90295.94
Interest rate	-	-	9.14%
Interest	-	-	8255.77

60.13 The Commission has approved the interest on loan in accordance with the Regulations. The normative loan component pertaining to the approved capital cost as on COD has been considered as the opening loan balance. The normative loan component pertaining to the approved year wise additional capitalisation has been considered as the loan addition during the respective year. The approved depreciation for the year has been considered as the repayment for the respective year. The interest on loan has been calculated on the normative average loan of the year by applying the weighted average rate of interest of the actual loan portfolio for the year.



**Table 27: Interest on loan approved by the Commission (Rs. Lakh)**

Particulars	FY 2021-22	
	Claimed	Approved
Opening loan	93528.35	59674.30
Addition during the year	331.89	234.42
Repayment	6796.71	4059.39
Closing loan	87063.53	55849.33
Average loan	90295.94	57761.81
Interest rate	9.14%	9.14%
Interest	8255.77	5281.17

### Return on Equity (RoE)

60.14 The RoE claimed by WBPDC is as shown in the Table below:

**Table 28: RoE claimed by WBPDC (Rs. Lakh)**

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
Opening Equity	-	-	40083.58
Addition during the year	-	-	142.24
Closing Equity	-	-	40225.82
Base Rate of RoE	-	-	14.00%
Effective Tax Rate	-	-	17.47%
Rate of RoE	-	-	16.96%
RoE	-	-	6811.82

60.15 WBPDC has claimed the effective tax rate of 17.47% for FY 2021-22. WBPDC submitted the Income Tax Assessment Order for FY 2021-22 in support of the claimed effective tax rate.

60.16 The Commission has approved RoE in accordance with the provisions of the Regulations. The equity component pertaining to the approved capital cost as on COD has been considered as the opening equity. The equity component pertaining to the approved year wise additional capitalisation has been considered as the equity addition during the respective year. The Base Rate of RoE has been considered as 14%. The Base Rate of RoE has been grossed up with the effective tax rate of 17.47%.

**Table 29: RoE approved by the Commission (Rs. Lakh)**

Particulars	FY 2021-22	
	Claimed	Approved
Opening Equity	40083.58	25574.70
Addition during the year	142.24	100.46
Closing Equity	40225.82	25675.16
Base Rate of RoE	14.00%	14.00%
Effective Tax Rate	17.47%	17.47%
Rate of RoE	16.96%	16.96%
RoE	6811.82	4346.89

### O&M expenses

60.17 The O&M expenses claimed by WBPDC is as shown in the Table below:



**Table 30: O&M expenses claimed by WBPDCCL (Rs. Lakh)**

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
O&M expenses	-	-	2676.98
Mining expenses	46.59	69.72	-
<b>Total</b>	<b>46.59</b>	<b>69.72</b>	<b>2676.98</b>

60.18 WBPDCCL, in its Petition, submitted as under:

*"100. The Petitioner submits that Operation and Maintenance expenses have projected at the rate of 2% of Average Capital Cost. This projected O&M expenses is subjected to prudence check by the Hon'ble Commission. The Petitioner also submits that the Operation and Maintenance expenses shall be trued up based on actual expenses during the truing up for the tariff period as may be directed by this Hon'ble Commission during issuance of the Order under this instant petition.*

*101. The Petitioner also submits that WBPDCCL has incurred Mining Expenses of ₹ 68.52 Lakhs and ₹ 378.52 Lakhs for FY 2019-20 and FY 2020-21 respectively. Pachhwara (N) coal mine has started production on 11.11.2019 and had incurred allocated Mining Expenses of ₹ 46.59 Lakhs and ₹ 69.72 Lakhs for FY 2019-20 and FY 2020-21 respectively which includes expenses of independent engineering expenses (refer page 185 of Annual Report of 2020-21)."*

60.19 In accordance with clause (2) of Regulation 36 I, the Mining Charge payable to MDO shall not form part of the O&M expenses. The claimed O&M expenses does not include the Mining Charge payable to the MDO.

60.20 As discussed above, the Commission has not determined the input price for FY 2019-20 and FY 2020-21 i.e., prior to date of commercial operation and therefore approval of O&M expenses for FY 2019-20 and FY 2020-21 does not arise.

60.21 WBPDCCL has claimed the O&M expenses for FY 2021-22 on projection basis and not actual basis. The Commission considers the actual O&M expenses based on the audited accounts for FY 2021-22. As per Note 37 of the annual accounts for FY 2021-22, the actual mining expenses are Nil.

60.22 As discussed in para 57.4, the Commission allows the amount of Rs. 108.54 Lakh towards repair of road under the O&M expenses for FY 2021-22.

60.23 Based on the above, the O&M expenses approved for FY 2021-22 are as under:

**Table 31: O&M expenses approved by the Commission (Rs. Lakh)**

Particulars	FY 2021-22	
	Claimed	Approved
O&M expenses	2676.98	108.54
Mining expenses	-	-
<b>Total</b>	<b>2676.98</b>	<b>108.54</b>

60.24 Before parting with the O&M expenses, the Commission reckons that O&M expenses related to the integrated mine(s) shall have to be accounted separately under the relevant heads and shown distinctly in its audited accounts for the same to be considered for the determination of input price of coal supplied from the integrated mine(s).



### Interest on working capital (IoWC)

60.25 The IoWC claimed by WBPDCCL is as shown in the Table below:

**Table 32: IoWC claimed by WBPDCCL (Rs. Lakh)**

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
Input cost of coal stock	-	-	5191.14
Stores and spares	-	-	401.55
O&M expenses	-	-	223.08
Working capital	-	-	5815.77
Interest rate	-	-	10.50%
Normative Interest on working capital	-	-	610.66
Actual Interest on working capital	-	-	2674.43

60.26 WBPDCCL, in its Petition, submitted as under:

*"96. WBPDCCL humbly submits before this Hon'ble Commission that due to huge outstanding of MFCA Payments, realization of fuel cost on a timely manner could not be achieved due to reasons beyond the control of WBPDCCL. As a result, WBPDCCL had to explore options towards Additional Borrowing to meet up with its Working Capital requirements.*

*97. In consideration of the above, WBPDCCL humbly prays before this Hon'ble Commission to allow ₹ 2,674.43 Lakhs towards Interest on Working Capital for FY 2021-22 as claimed in this instant Petition."*

60.27 The Commission does not find it prudent to approve the actual interest on working capital claimed by WBPDCCL as the interest on working capital is allowable only on normative basis irrespective of actuals. As the Commission has not approved any O&M expenses, the O&M expenses and Stores & Spares component in working capital is considered as nil. The Commission has approved IoWC in accordance with the Regulations. The rate of IoWC has been considered as the SBI 1-year MCLR as on 1<sup>st</sup> April 2021 for computing the normative IoWC for the respective year.

**Table 33: IoWC approved by the Commission (Rs. Lakh)**

Particulars	FY 2021-22	
	Claimed	Approved
Input cost of coal stock	5191.14	4565.79
Stores and spares	401.55	16.28
O&M expenses	223.08	9.05
Working capital	5815.77	4591.12
Interest rate	10.50%	10.50%
Interest on working capital	610.66	482.07

### Mine closure expenses

60.28 The mine closure expenses claimed by WBPDCCL is as shown in the Table below:

**Table 34: Mine closure expenses claimed by WBPDCCL (Rs. Lakh)**

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
Mine closure expenses	-	-	1889.19

60.29 WBPDCCL, in its Petition, submitted as under:



"105. It is submitted that in case of Pachhwara (N) Coal Mine, which is an MDO operated mine, progressive mine closure is in the scope of MDO. As per the CMA, MDO to undertake the mine closure during the Contract period at its own cost. Also, MDO shall furnish to WBPDCCL all details, supporting documents, as may be necessary or required by WBPDCCL to seek reimbursement of such costs and expenses. Whereas final mine closure activities are to be carried out by WBPDCCL at its own cost and expense in the event of such final mine closure occurs at any time after the expiry of termination of this agreement. Further, even though progressive closure is in the scope of MDO, the total estimated amount towards mine closure activities i.e., progressive as well as final closure is required to be deposited into Escrow Account by WBPDCCL. Copy of documents related to deposition of Mine Closure amount is enclosed as **Annexure-G/3**.

106. Works of progressive mine closure shall be carried out by the MDO during operational life of the mine, the expenditure & details towards progressive mine closure will be submitted to WBPDCCL."

"108. WBPDCCL humbly submits before this Hon'ble Commission that mine closure is within the scope of MDO and in accordance with the abovementioned Regulatory provisions, WBPDCCL had adjusted the difference between the borrowing cost and amount deposited in Escrow account as part of mine closure expenses."

60.30 The Commission has approved the Mine closure expenses in accordance with the Regulations. As per Form-17 (Details of Mine Closure Expenses), the amount of Rs. 1730.93 Lakh has been deposited in the Escrow Account on 25.03.2022 i.e., after COD. The borrowing cost for the said amount at the actual weighted average interest rate of 9.14% works out to Rs. 158.26 Lakh. As per Form-17 (Details of Mine Closure Expenses), the interest earned/accrued in the Escrow Account is NIL. Further, as per the Bank Certificate submitted by WBPDCCL, no interest has been credited in the Escrow Account till 31.03.2022. Therefore, allowable Mine closure expenses works out to Rs. 1889.19 Lakh (Rs. 1730.93 Lakh + Rs. 158.26 Lakh).

60.31 Based on the above, analysis, the Mine closure expenses approved by the Commission is as shown in the Table below:

**Table 35: Mine closure expenses approved by the Commission (Rs. Lakh)**

Particulars	Units	FY 2021-22	
		Claimed	Approved
Mine Closure expenses	Rs. Lakh	1889.19	1889.19

60.32 Based on the above analysis, the Extraction Cost approved by the Commission is as shown in the Table below:

**Table 36: Extraction Cost approved by the Commission (Rs. Lakh)**

Particulars	FY 2021-22	
	Claimed	Approved
Depreciation (Table 25)	6796.71	4059.39
Interest on loan (Table 27)	8255.77	5281.17
Return on Equity (Table 29)	6811.82	4346.89
O&M expenses (Table 31)	2674.43	108.54
Interest on working capital (Table 33)	2676.98	482.07
Mine closure expenses (Table 35)	1889.19	1889.19





Particulars	FY 2021-22	
	Claimed	Approved
<b>Total</b>	<b>29104.90</b>	<b>16167.25</b>
ATQ (MT) (Table 2)	10000000	10000000
<b>Extraction Cost per MT (Rs.)</b>	<b>291.05</b>	<b>161.67</b>

## 61.0 Mining Charge

61.1 The Mining Charge claimed by WBPDCCL is as shown in the Table below:

**Table 37: Mining Charge claimed by WBPDCCL (Rs. Lakh)**

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
Mining Charge	998.45	946.10	1139.29

61.2 As discussed above, the Commission has not determined the input price for FY 2019-20 and FY 2020-21 i.e., prior to date of commercial operation and therefore approval of Mining Charge for FY 2019-20 and FY 2020-21 does not arise.

61.3 Clause 27.1 of the CMA reads as under:

### **"27.1 Mining Charge**

*27.1.1 Subject to and in accordance with the terms of this Agreement, WBPDCCL shall pay to the Mine Developer and Operator the mining charge per Ton of Coal Delivered by the Mine Developer and Operator at the Delivery Point(s) in accordance with the provisions of this Agreement (the "Mining Charge"), which shall be calculated in the following manner:*

*(i) The Mining Charge quoted in the Bid is **Rs. 619.20 (Rupees Six Hundred Nineteen and paise Twenty Only) per Ton** (the "Base Mining Charge").*

*(ii) The Base Mining Charge shall be revised every quarter (commencing from the first quarter after the Bid Date) to reflect the variation in Price Index occurring between the Reference Index Date of the quarter preceding the Bid Date and the Reference Index Date for the quarter preceding the date of revision, and the amount so determined shall be the Mining Charge for that quarter."*

61.4 Clause 27.5 of the CMA reads as under:

### **"27.5 Transportation & Handling Charge**

*27.5.1 Subject to and in accordance with the terms of this Agreement, WBPDCCL shall pay to the Mine Developer and Operator the transportation & handling charge per Ton of Coal transported by the Mine Developer and Operator from the Mines to the railway siding at Pakur and loaded onto railway rakes at the siding (the "Transportation & Handling Charge"), which shall be calculated in the following manner:*

*(i) The Transportation & Handling Charge quoted in the Bid is **Rs. 154.80 (Rupees One Hundred Fifty Four and paise Eighty Only) per Ton** (the "Transportation & Handling Charge").*

*(ii) The Base Transportation & Handling Charge shall be revised every quarter (commencing from the first quarter after the Bid Date) to reflect the variation in Price Index occurring between the Reference Index Date of the quarter preceding the Bid Date and the Reference Index Date for the quarter*



preceding the date of revision, and the amount so determined shall be the Transportation & Handling Charge for that quarter.

27.5.2 Provided however that the Transportation & Handling Charge shall only payable for the period during which the Delivery Point is the railway siding at Pakur, at a distance of about 55 km from the Mine.

27.5.3 The Transportation & Handling Charge shall be reviewed in the 5th year of the Contract Period based on the progress of the extension of the railway siding to the Mines. The Transportation & Handling Charge shall be reviewed based on the revised distance of the extended railway siding from the Mine; the prevailing ECL Schedule of Rates may be used as a reference during the review of the Transportation & Handling Charge."

- 61.5 WBPDCCL, in its Petition, submitted that the extension of Pakur railway siding to mine is expected to be completed in five years from the Coal Production Start Date. In reply to a query regarding the current progress of the same and likely date of completion, WBPDCCL submitted as under:

"WBPDCCL humbly submits before the Hon'ble Commission that mining by WBPDCCL at Pachhwara (North) Coal Mine has achieved 25% of its peak rated capacity in FY 2020-21. So, the extension of Rail network to mine head was required for transportation of huge quantity of coal. In Order to establish the rail connectivity, WBPDCCL was consistently trying since 2017. The Feasibility Study Report of proposed rail track from Pachhwara to Nagarnabi was approved in principle by Erly on 13.08.2019. Considering the huge capital cost, construction of the common facility for all the three adjacent mines was conceived in SPV mode with RVNL, WBPDCCL, PSPCL & NUPPL, the executor. Subsequently, the DPR was approved by Erly on 16.06.2022 and forwarded to Railway Board with bankability report.

Further, the Railway Board decided to implement the entire Godda-Pakur/ Nagarnabi New Line Project with its own budget and accordingly survey is underway. Pachhwara coal block to be connected by a siding taking off from Ambadiha station in double line alignment with the provision of long haul handling facilities in the loading bulb and constructed by the captive mines under GCT policy.

WBPDCCL has already communicated to Eastern Railway its concurrence for construction of the private siding, taking off from Ambadiha Loading Bulb and connecting siding from Ambadiha through GCT policy to facilitate loading of coal from our Pachhwara (North) mine. However, Infra Dte. of Railway Board has advised to examine the feasibility to construct Godda-Pakur new line by Indian Railway with its own budget & (i) Pachhwara Coal Block can be connected by a siding taking off from this proposed line and constructed by the customer under GCT policy. (ii) Godda-Pakur /Nagarnabi can be used for passenger services as well DPR needs to be revised and prepared accordingly.

WBPDCCL humbly submits before the Hon'ble Commission that the matter is currently being undertaken by the Indian Railways hence WBPDCCL will pursue with Indian Railways to clarify on the likely date of completion. Minutes of decision by Railway Board is also being attached herewith as **Annexure-22.**"

- 61.6 As per the RfP, the formula for calculation of Mining Charge in a particular quarter is given as under:

$$\text{Mining Charge} = \text{Base Mining Charge} \times \{1 + (\text{WPI}_1 - \text{WPI}_0)/\text{WPI}_0 \times 25\% + (\text{CPI}_1 - \text{CPI}_0)/\text{CPI}_0 \times 25\% + (\text{HSD}_1 - \text{HSD}_0)/\text{HSD}_0 \times 30\%\}$$

Where,



$WPI_0$  = WPI value on the Index Date of the quarter preceding the Bid Submission Date;

$WPI_1$  = WPI value on the Index Date of the quarter preceding the date of revision;

$CPI_0$  = CPI (IW) value on the Index Date of the quarter preceding the Bid Submission Date;

$CPI_1$  = CPI (IW) value on the Index Date of the quarter preceding the date of revision;

$HSD_0$  = WPI value of HSD oil on the Index Date of the quarter preceding the Bid Submission Date;

$HSD_1$  = WPI value of HSD oil on the Index Date of the quarter preceding the date of revision;

61.7 As per the RfP, the Transportation & Handling Charge shall also be similarly calculated.

61.8 The Commission has perused the submissions of the WBPDC. The Commission observed an error in the computation of Mining Charge for FY 2021-22 submitted by WBPDC. The Commission has computed the Mining Charge in accordance with the formula reproduced above.

**Table 38: Computation of escalation in Mining Charge and Transportation & Handling Charge**

Particulars\ Quarter ending	Jun-21	Sep-21	Dec-21	Mar-22
$WPI_0$	176.50	176.50	176.50	176.50
$WPI_1^*$	213.04	219.27	225.34	235.01
$CPI_0$	266.00	266.00	266.00	266.00
$CPI_1^*$	344.45	350.50	355.10	361.15
$HSD_0$	174.00	174.00	174.00	174.00
$HSD_1^*$	298.37	329.76	340.13	391.97
Base Mining Charge (Rs./MT)	619.20	619.20	619.20	619.20
Mining Charge for the Quarter (Rs./MT)	829.67	872.17	891.24	958.59
Escalation in Mining Charge (Rs./MT)	210.47	252.97	272.04	339.39
<b>Average Escalation in Mining Charge for the year (Rs./MT)</b>	<b>268.72</b>			
Base Transportation & Handling Charge (Rs./MT)	154.80	154.80	154.80	154.80
Transportation & Handling Charge for the Quarter (Rs./MT)	207.42	218.04	222.81	239.65
Escalation in Transportation & Handling Charge (Rs./MT)	52.62	63.24	68.01	84.85
<b>Average Escalation in Transportation &amp; Handling Charge for the year (Rs./MT)</b>	<b>67.18</b>			

\*The conversion factors for WPI and CPI for conversion to series prevailing at the time of bidding has been considered as 1.64, 2.88 and 2.88 for WPI, HSD and CPI

61.9 The Commission finds that the Mining Charge so computed is also in conformity with the summary of monthly invoices for Mining Charge as per the CMA submitted by WBPDC in its replies to datagaps.

61.10 In addition to Mining Charge, WBPDC has claimed the Siding Rent of Rs. 25/MT. WBPDC, in its Petition submitted as under:



"38. It is submitted that the Pachhwara (N) Coal Mine of WBPDC and Pachhwara (Central) coal mine of PSPCL involving the common transportation facility Pakur railway siding. WBPDC further submits before this Hon'ble Commission that a meeting held between PSPCL and WBPDC in respect of resolution of issues connected to Pachhwara (N) Coal Mine of WBPDC and PSPCL; it has been mutually agreed that WBPDC has to pay ₹ 25 per Ton of coal as Siding Rent for co-using the Pakur railway siding. No Objection certificate in this regard has been issued to WBPDC towards land licensing and siding arrangement between WBPDC and Railways. Copy of correspondences in respect of Siding Rent is being attached herewith as **Annexure – B/3.**"

61.11 WBPDC was asked to submit the basis of arriving at the Siding Rent of Rs. 25/MT of coal. In reply, WBPDC submitted as under:

"... As PSPCL is paying Rs. 25 per tonne for co-using KDH siding of CCL, so in line with that WBPDC is required to pay the charges of co-using the Pakur Railway Siding. WBPDC further submits before this Hon'ble Commission that a meeting held between PSPCL and WBPDC in respect of resolution of issues connected to Pachhwara (N) Coal Mine of WBPDC and PSPCL; it has been mutually agreed that WBPDC has to pay ₹ 25 per Ton of coal as Siding Rent for co-using the Pakur railway siding..."

WBPDC humbly submits before the Hon'ble Commission that copy of the Minutes of Meeting dated 10.09.2019 between PSPCL and WBPDC in respect of resolution of issues connected to Pachhwara (North) coal mine of WBPDC is being attached as **Annexure-27.**"

61.12 WBPDC further submitted the Siding Agreement dated 23.10.2019.

61.13 Based on the perusal of the submissions of WBPDC, the Commission deems it prudent to approve the Siding Rent of Rs. 25/MT as the same is not included in the scope of the MDO.

**Table 39: Mining Charge approved by the Commission (Rs./MT)**

Particulars	FY 2021-22	
	Claimed	Approved
Base Mining Charge	619.20	619.20
Escalation	272.23	268.72
<b>Mining Charge (A)</b>	<b>891.43</b>	<b>887.92</b>
Transportation & Handling Charge	154.80	154.80
Escalation	68.06	67.18
<b>Transportation &amp; Handling Charge (B)</b>	<b>222.86</b>	<b>221.98</b>
<b>Siding Rent (C)</b>	<b>25.00</b>	<b>25.00</b>
<b>Total (A+B+C)</b>	<b>1139.29</b>	<b>1134.90</b>

## 62.0 Fixed Reserve Price

62.1 The Fixed Reserve Price claimed by WBPDC is as shown in the Table below:

**Table 40: Fixed Reserve Price claimed by WBPDC (Rs. Lakh)**

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
Fixed Reserve Price	100.00	105.50	112.61

62.2 As discussed above, the Commission has not determined the input price for FY 2019-20 and FY



2020-21 i.e., prior to date of commercial operation and therefore approval of Fixed Reserve Price for FY 2019-20 and FY 2020-21 does not arise.

62.3 As per the reply to a query regarding the supporting documents submitted by the MDO with regard to taxes and duties, the Fixed Reserve Price for FY 2021-22 is Rs. 100/MT. The Commission sought justification from WBPDC for claiming escalation in Fixed Reserve Price when the actual payments do not reflect the same. In reply, WBPDC submitted as under:

*"... the Fixed Reserve Price is subject to escalation, as per Clause 9.2 of the Allotment Agreement. However, the petitioner is paying the reserve price on monthly basis, based on Rs 100/MT of Coal produced from the coal mines and accordingly submitted the payment challans. Recently, the petitioners have received a demand notice from the Ministry of Coal for payment of escalation of Reserve Price for Pachhwara (North) Coal Mines. Copy of the notice is enclosed as **Annexure-6** and also there is deviation in the escalation price from the challans submitted by the petitioners and the demand notice received by the petitioner from Ministry of Coal."*

62.4 WBPDC submitted the notice of Ministry of Coal dated 25.09.2023 in the subject matter of escalation of Fixed Reserve Price for Pachhwara (North) Coal Mine directing WBPDC to make the monthly payments including arrears of previous years to the State Government accordingly. WBPDC has not submitted if it had made the arrears payment for FY 2021-22. Nevertheless, the Fixed Reserve Price actually paid in FY 2021-22 was Rs. 100/MT and therefore, the Commission deems it prudent to approve the Fixed Reserve Price of Rs. 100/MT. The recovery of arrears for FY 2021-22 may be claimed by WBPDC in its APR Petition for the year during which the payments would be made.

**Table 41: Fixed Reserve Price approved by the Commission (Rs./MT)**

Particulars	FY 2021-22	
	Claimed	Approved
Fixed Reserve Price	112.61	100.00

### 63.0 ROM Cost

63.1 Based on the above analysis, the ROM cost approved by the Commission is as shown in the Table below:

**Table 42: ROM cost approved by the Commission**

Particulars	Units	FY 2019-20		FY 2020-21		FY 2019-20	
		Claimed	Approved	Claimed	Approved	Claimed	Approved
Extraction cost (1) (Table 36)	Rs. Lakh	46.59	-	69.72	-	29104.90	16167.25
ATQ (2) (Table 2)	MT	2000000	-	6000000	-	10000000	10000000
Mining Charge (3) (Table 39)	Rs./MT	998.45	-	946.10	-	1139.29	1134.90
Fixed Reserve Price (4) (Table 41)	Rs./MT	100.00	-	105.50	-	112.61	100.00
<b>ROM Cost ((1÷2)+3+4)</b>	<b>Rs./MT</b>	<b>1100.78</b>	<b>-</b>	<b>1052.76</b>	<b>-</b>	<b>1542.95</b>	<b>1396.57</b>



## 64.0 Statutory charges

64.1 The statutory charges claimed by WBPDCCL is as shown in the Table below:

**Table 43: Statutory Charges claimed by WBPDCCL (Rs./MT)**

Particulars		Quantity	FY 2019-20	FY 2020-21	FY 2021-22
Royalty	% of CIL Notified Price	14%	224.00	224.00	224.00
District Mineral Foundation (DMF)	% of Royalty	30%	67.20	67.20	67.20
National Mineral Exploration Trust (NMET)	% of Royalty	2%	4.48	4.48	4.48
Management Fees	Rs./MT	1.00	1.00	1.00	1.00
Pandemic Cess	Rs./MT	10.00	10.00	10.00	10.00
Forest Transit Fees	Rs./MT	114.00	114.00	114.00	114.00
User Composition Fee	Rs./MT		16.78	28.53	35.69
GST under Reverse Charge Mechanism	%	18%	78.74	80.86	82.15
GST Compensation Cess	Rs./MT	400.00	400.00	400.00	400.00
Sub-total (A)	Rs./MT		916.20	930.06	938.52
GST on Mining Fee (B)	% of Mining Fee	18%	140.18	132.64	160.46
GST on Transportation & Handling Charges (C)	% of Transportation & Handling Charges	18%	35.04	33.16	40.11
GST on Siding Rent (D)	% of Siding Rent	18%	4.50	4.50	4.50
GST on Fixed Reserve Price (E)	% of Reserve Price	18%	18.00	18.99	20.27
<b>Grand Total = (A) + (B) + (C) + (D) + (E)</b>	<b>Rs./MT</b>		<b>1113.92</b>	<b>1119.35</b>	<b>1163.86</b>

64.2 WBPDCCL, in its Petition, submitted as under:

### **A. Royalty**

120. ... Royalty on Coal has been considered @ 14% of CIL Notified Price and additional charges in respect of the coal produced from Rajmahal mine of Eastern Coalfields Limited, as per notification vide Notification No. 28019/1/2009-CA-II (Pt. III) of Ministry of Coal, Government of India dated 16<sup>th</sup> May 2012. Copy of the said notification by Ministry of Coal, Government of India dated 16<sup>th</sup> May 2012 is being attached herewith as **Annexure-G/7**.

121. Further, WBPDCCL submits that based on Price notification of Coal India Limited vide Price Notification No. CIL/M&S/Pricing: 194 dated 27.11.2020, Input price of coal has been considered as ₹ 1600 per Ton (i.e., ₹ 1150 per ton for G9 Grade of Coal and additional amount of ₹ 450.00 per Ton over and above the notified price in respect of the coal produced from Rajmahal mine of Eastern Coalfields Limited). The aforementioned Price notification of Coal India Limited is being attached herewith as **Annexure-G/8**.

### **B. District Mineral Foundation Fund (DMF)**

123. ... in line with the Mines and Minerals (Development and Regulation) Amendment Act, 2015, District Mineral Foundation (a trust as a non-profit body) has to be established in any district affected by the mining related operations. In this regard, the Gazette notification by the Ministry of Law and Justice, Government of India dated 27.03.2015 is being attached herewith as **Annexure-G/9**. In line with the aforementioned Act in place, in addition to Royalty payment, WBPDCCL also has to pay towards DMF @30% of royalty payment."



“ **C. National Mineral Exploration Trust (NMET)**

125. ... in line with the Mines and Minerals (Development and Regulation) Amendment Act, 2015, National Mineral Exploration Trust has to be established to use the funds accrued to the Trust for the purposes of regional and detailed exploration. In this regard, the Gazette notification by the ministry of Law and Justice, Government of India dated 27.03.2015 is being attached herewith as **Annexure-G/9**. In line with the aforementioned Act in place, WBPDCCL also has to pay towards NMET @2% of royalty payment.”

“ **D. Management Fees**

127. ... the Government of Jharkhand, Department of Industries, Mines and Geology in exercise of power conferred under Section 23C (1) and (2) of the Mines and Minerals (Development and Regulation) Act, 1957 has notified the Jharkhand Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2017 prescribing the Management Fee of ₹ 1 per Ton for prevention of illegal mining, transportation and storage of mineral...

128. In this regard, WBPDCCL humbly submits that the aforementioned Rules is being attached herewith as **Annexure-G/10**...

“ **E. Pandemic Cess**

129. ... the Government of Jharkhand vide Jharkhand Mineral Bearing Lands (Covid-19 Pandemic) Cess Ordinance, 2020 dated 06<sup>th</sup> July 2020 has notified the Pandemic Cess to be ₹ 10 per Ton for a coal bearing land. Copy of the said Ordinance is being attached herewith as **Annexure-G/11**.”

“ **F. Forest Transit Fees**

131. ... the Forest Environment and Climate Change Department of Government of Jharkhand has issued Jharkhand Timber and others Forest Produce) Regulation of Transit Rules-2004) and Circulars dated 29.06.2020. The Government of Jharkhand vide the Gazette Notifications dated 29.06.2020 has imposed deposition of transit fee and obtain transit permit on dispatch of coal at ₹ 57 per Ton of Coal. Copy of the said Ordinance is being attached herewith as **Annexure-G/12**. As a result, WBPDCCL has to pay ₹ 114 per Ton of Coal (towards transportation of coal from Mine side to Railway siding and from Railway siding to Rake).

132. ... being aggrieved by the illegal collection of the transit fee by the Government of Jharkhand, WBPDCCL has filed Writ Petition via W.P.(C) No. 1103 of 2021 before the Hon'ble High Court of Jharkhand seeking quashing of the Order against the aforementioned notification dated 29.06.2020 by Govt. of Jharkhand. The Hon'ble High Court of Jharkhand vide Order dated 18.03.2021 has issued stay on the aforementioned notification by Govt. of Jharkhand towards collection of Forest Transit Fee from October 2020. Copy of the said Ordinance is being attached herewith as **Annexure-G/13**.

133. WBPDCCL ... has already paid Forest Transit Fee for the month of October 2020 till March 2021. Since the matter is presently subjudice before the Hon'ble High Court of Jharkhand, WBPDCCL humbly requests this Hon'ble Commission to allow its claim of ₹ 114 per Ton of Coal towards Forest Transit Fee as WBPDCCL will be able to pay the amount to Govt. of Jharkhand in case the Hon'ble High Court of Jharkhand directs WBPDCCL to deposit the same.

**G. Composition User Fee**

134. ... the Government of Jharkhand vide the Jharkhand Highways Fee (Determination of Rates and Collection) Amendment Rules, 2021 dated 16<sup>th</sup> September 2021 has imposed collection of Composition User Fee @ ₹600/- for each way for the coal transportation vehicles from 01.02.2022. Copy of the said Gazette notification is being attached herewith as **Annexure-G/14 (Colly)**...



135. Further, aggrieved by the imposition of taxes by the Government of Jharkhand, WBPDCCL has approached the Hon'ble High Court of Jharkhand vide writ Petition No. W.P.(C) No. 1031 of 2022. The Hon'ble High Court of Jharkhand vide Order dated 30.03.2022 has issued Stay Order from levying and collecting Toll Tax in the form of Composition User Fee from the petitioners at the time of generation of Mining Challan/Transport Challan used for transportation of minerals, till disposal of the writ petitions. Copy of the said writ Petition No. W.P.(C) No. 1031 of 2022 is being attached herewith as **Annexure-G/15**. Since the matter is presently subjudice before the Hon'ble High Court of Jharkhand, WBPDCCL humbly requests the Hon'ble Commission to allow its claim of ₹ 1200 per trip of Coal as Composition User fee as WBPDCCL will be able to pay the amount to Government of Jharkhand, in case the Hon'ble High Court of Jharkhand allows collection fees.

136. ... WBPDCCL has already paid Composition User Fee @ ₹ 1200 per trip for the month of Feb 2022. Further, such charges will be applicable for the entire FY 2022-23 @ ₹ 1200 per trip towards Compensation User Fee..."

#### **H. Applicable Goods and Service Taxes (GST)**

137. WBPDCCL humbly submits before this Hon'ble Commission that based on applicable GST rate @ 18%, WBPDCCL has also considered GST for the aforementioned services including GST on Mining Charge, transportation and Handling Charge, Siding Rent etc."

- 64.3 The Commission has perused the submissions of WBPDCCL regarding statutory charges. Clause 5.6 of the CMA reads as under:

#### **"5.6 Obligations relating to Taxes**

WBPDCCL shall liable to pay, at all times during the subsistence of this Agreement, all Taxes, levies, duties, royalties, cesses and all other statutory charges payable in respect of excavation and Delivery thereof. At the first instance, the Mine Developer and Operator shall make such payment of such Taxes, levies, duties, royalties, cesses and other statutory charges shall be reimbursed, as applicable, by WBPDCCL upto receipt of particulars thereof."

- 64.4 As discussed above, the Commission has not determined the input price for FY 2019-20 and FY 2020-21 i.e., prior to date of commercial operation and therefore approval of Statutory Charges for FY 2019-20 and FY 2020-21 does not arise.
- 64.5 As regards the statutory charges for FY 2021-22, the Commission deems it prudent to allow the following statutory charges as claimed by WBPDCCL:

- Royalty;
- DMF;
- NMET;
- Management Fees;
- Pandemic Cess.

- 64.6 As regards the Forest Transit Fees and User Composition Fee, the Commission deems it prudent to not consider the same in view of the stay granted by the Hon'ble High Court of Jharkhand against the notifications of the Govt. of Jharkhand. WBPDCCL can approach the Commission seeking appropriate relief for recovery of the same, based on the outcome of the Writ Petitions before the Hon'ble High Court of Jharkhand.



- 64.7 WBPDCCL was asked to submit the justification for the levy of GST Compensation Cess along with supporting documents. In reply, WBPDCCL submitted as under:

*"... as per clarification for Supply of coal from Jharkhand site to West Bengal Sec 7 of the CGST Act 2017 read with Schedule I provides that supply shall include "all form of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course of furtherance of business".*

*Further Schedule I to CGST Act 2017 provides that supply of goods or services between a related person shall be deemed to be considered as supply even made without consideration. We understand that in the instant case, coal will be "stock-transferred" from Jharkhand unit to West Bengal unit and hence the activity will be construed as supply for the purpose of charging GST (even when there is no consideration involved in the said transfer). The rate of GST to be charged on supply of coal shall be 5% under the HSN 2701 vide serial no 158 of the Notification no. 28th June 2017. Relevant documentary evidence in support of levy of GST Compensation Cess is being attached herewith as **Annexure- 43.**"*

- 64.8 Based on the perusal of the submissions of WBPDCCL, the Commission deems it prudent to approve the GST Compensation Cess of Rs. 400/MT.
- 64.9 Based on the above analysis, the statutory charges approved by the Commission is as shown in the Table below:

**Table 44: Statutory charges approved by the Commission (Rs./MT)**

Particulars		Quantity	FY 2021-22	
			Claimed	Approved
Royalty	% of CIL Notified Price	14%	224.00	224.00
District Mineral Foundation (DMF)	% of Royalty	30%	67.20	67.20
National Mineral Exploration Trust (NMET)	% of Royalty	2%	4.48	4.48
Management Fees	Rs./MT	1.00	1.00	1.00
Pandemic Cess	Rs./MT	10.00	10.00	10.00
Forest Transit Fees	Rs./MT	114.00	114.00	0.00
User Composition Fee	Rs./MT		35.69	0.00
GST under Reverse Charge Mechanism	%	18%	82.15	55.20
GST Compensation Cess	Rs./MT	400.00	400.00	400.00
Sub-total (A)	Rs./MT		938.52	761.88
GST on Mining Fee (B)	% of Mining Fee	18%	160.46	159.83
GST on Transportation & Handling Charges (C)	% of Transportation & Handling Charges	18%	40.11	39.96
GST on Siding Rent (D)	% of Siding Rent	18%	4.50	4.50
GST on Fixed Reserve Price (E)	% of Reserve Price	18%	20.27	18.00





In regard to the petition submitted by West Bengal Power Development Corporation Limited for approval of input price of coal supplied from Pachhwara (North) Coal Mine for FY 2019-20 to FY 2021-22



Particulars		Quantity	FY 2021-22	
			Claimed	Approved
<b>Grand Total = (A) + (B) + (C) + (D) + (E)</b>	<b>Rs./MT</b>		<b>1163.86</b>	<b>984.16</b>

#### 65.0 Input price of coal

65.1 Based on the above analysis, the input price of coal approved by the Commission is as shown in the Table below:

**Table 45: Input price of coal approved by the Commission (Rs./MT)**

Particulars	FY 2019-20		FY 2020-21		FY 2021-22	
	Claimed	Approved	Claimed	Approved	Claimed	Approved
ROM Cost (Table 42)	1100.78	-	1052.76	-	1542.95	1396.57
Statutory charges (Table 44)	1113.92	-	1119.35	-	1163.86	984.16
<b>Input price</b>	<b>2214.70</b>	<b>-</b>	<b>2172.11</b>	<b>-</b>	<b>2706.81</b>	<b>2380.74</b>

66.0 The Commission shall consider the input price of coal from Pachhwara (North) Coal Mine as determined in this Order in the APR of FY 2021-22 in the respective Order.





In regard to the petition submitted by West Bengal Power Development Corporation Limited for approval of input price of coal supplied from Pachhwara (North) Coal Mine for FY 2019-20 to FY 2021-22



## ORDER

67.0 From the submissions made by WBPDCCL and the clarifications/documents submitted in replies to queries raised by the Commission in terms of the CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2021, the Commission has determined the input price of coal from Pachhwara (North) Coal Mine as detailed in foregoing paragraphs.

68.0 In accordance with the provisions of the CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2021, the determination of input price of coal from integrated mine shall be w.e.f. the date of commercial operation of the mine. Therefore, the Commission has determined the input price of coal from Pachhwara (North) Coal Mine for FY 2021-22 only in this Order as against the WBPDCCL's claim for the period from FY 2019-20 to FY 2021-22.

69.0 The Commission thus, approves the input price of coal from Pachhwara (North) Coal Mine as under:

**Table 46: Input price of coal approved by the Commission (Rs./MT)**

Particulars	FY 2019-20		FY 2020-21		FY 2021-22	
	Claimed	Approved	Claimed	Approved	Claimed	Approved
Input price	2214.70	-	2172.11	-	2706.81	2380.74

70.0 The Commission shall consider the input price of coal from Pachhwara (North) Coal Mine as determined in this Order in the APR of FY 2021-22 in the respective Order.

71.0 The Petition is thus disposed off.

72.0 A copy of the Order shall be posted in the website of the Commission.

73.0 WBPDCCL shall download the copy of the Order from the website of the Commission and act on it. Certified copy of the Order, if applied for, will be given to the parties on completion of formalities laid down in the West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013, as amended and on submission of necessary fees.

Sd/-  
(PULAK KUMAR TEWARI)  
MEMBER

Sd/-  
(MALLELA VENKATESWARA RAO)  
CHAIRPERSON

DATE: 26.12.2023

Sd/-  
SECRETARY