MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION

5th Floor, "Metro Plaza", Bittan Market, Bhopal - 462 016

Petition No. 40 of 2012

PRESENT:

Rakesh Sahni, Chairman
A.B. Bajpai, Member
Alok Gupta, Member

IN THE MATTER OF:

Determination of the final generation tariff for 2 x 250MW (Phase-I) coal based power project at Bina, District Sagar (M.P.) for FY 2012-13 and FY 2013-14 and generation tariff for FY 2014-15 and FY 2015-16.

M/s Jaiprakash Power Ventures Ltd., Uttar Pradesh — **Petitioner**

Versus

1. **M. P. Power Management Co. Ltd., Jabalpur**
2. **M. P. Poorv Kshetra Vidyut Vitaran Co. Ltd., Jabalpur**
3. **M. P. Madhya Kshetra Vidyut Vitaran Co. Ltd., Bhopal**
4. **M. P. Paschim Kshetra Vidyut Vitaran Co. Ltd., Indore**

Respondents

ORDER

(Passed on this day of 26th November' 2014)

A 1: Background of the Petition

1.1 M/s Jaiprakash Power Ventures Limited (hereinafter called "the petitioner" or JPVL) (erstwhile M/s. Bina Power Supply Co. Ltd. merged with M/s. Jai Prakash Power Ventures Ltd) filed an application in the subject petition on 22nd February, 2014 for determination of final generation tariff in respect of Jaypee Bina Thermal Power Plant (Phase-I) Units I & II (2 x 250MW), (hereinafter referred to as "the generating station") for FY 2012-13 and FY 2013-14 under Regulation 46 of MPERC (Conduct of Business) Regulations, 2004 and Section 62 of the Electricity Act, 2003. The subject petition has been registered as petition no. 40/2012.

1.2 Details regarding the status of the petitioner's power plant and the statutory clearances obtained by the petitioner have been mentioned in the Commission's orders dated 12th December' 2012 and 29th June' 2013 in the petition for determination of provisional tariff for Unit I and Unit II respectively.

1.3 The capacity and the date of commercial operation of both units of the petitioner's power plant are as given below :

Capacity and CoD of units under Phase 1

S. No.	Unit	Installed Capacity (MW)	Commercial Date of Operation
1.	Unit-I	250 MW	31st August' 2012
2.	Unit-II	250 MW	7th April' 2013

1.4 The petitioner had earlier filed the petition (No. 40/2012) on 16th May' 2012 for determination of provisional generation tariff for both the units of its above generating station.

1.5 Vide order dated 12th December' 2012, the Commission determined the provisional tariff for Unit I of the generating station from its CoD to 31st March' 2013. The provisional tariff for Unit II was not determined by the Commission since this Unit was not synchronized by that time and the necessary details/

documents were also not submitted by the petitioner. In the aforementioned order, the Commission made the following observations:

(a) *"The petition has been filed for the Capital cost of ₹ 3240 Crores while the Auditor's certificate (as per provisions under the MPERC (Terms and conditions for determination of Generation tariff) Regulations' 2009 and its amendments) is submitted for ₹ 2951.18 Crores only as on 30th June' 2012.*

(b) *The petitioner could not provide the details of expenditure as on CoD i.e 31st August' 2012 duly certified by the Auditor hence, the Annual Fixed Cost shall be worked out only up to 95% of the cost computed on the Capital cost of ₹ 2951.18 Crores as on 30th June' 2012 duly certified by the Auditor.*

(c) *The issue related to sharing the cost of ₹ 61.17 Crores presently incurred by the petitioner for dedicated transmission line of 400 kV for evacuation of contracted capacity in terms of clause 4.8 of the PPA has not attained finality.*

(d) *Since the Fuel supply agreement with SECL is yet to be executed by the petitioner therefore, the actual details regarding full quantity of coal received through linkage is unavailable at this stage.*

(e) *The availability of coal for Phase II of the project is still not ascertained. The arrival of Phase II part of the project is uncertain at this stage.*

(f) *No additional capitalisation is claimed in the petition and the subsequent filings.*

(g) *The claim for additional RoE of 0.5% has been withdrawn by the petitioner.*

(h) *The Annual fixed cost and the Energy Charges shall be worked out on the basis of methodology, principles and norms prescribed in MPERC (Terms and conditions for determination of Generation tariff) Regulations' 2009 and its amendments.*

(i) *The comments/objections submitted by Respondent No.1 take exception to elements within the capital cost of ₹ 3240 Crores filed in this petition. The Commission, however, is not in a position at this stage to take a view on this figure in the absence of requisite audited details. The Commission is restricting itself therefore, to the capital cost as per Auditor's Certificate of ₹ 2951.18 Crores only in determining the provisional tariff under this order*"

1.6 On 21st February' 2013; the petitioner filed an application for reinstatement of its petition No.40 of 2012 and determination of provisional tariff for Unit II of the generating station.

1.7 Vide Commission's Order dated 22nd March' 2013, the petitioner was allowed to provisionally bill the Respondent No. 1 with effect from 1st April' 2013 till approval of tariff by the Commission in accordance with the Regulation 15.3 of MPERC (terms and conditions for determination of Generation Tariff) (Revision-II) Regulations, 2012 {RG-26 (II) of 2012} at the rates determined in Commission's order dated 12th December' 2012 for Unit I in the subject petition.

1.8 Vide order dated 29th June' 2013, the Commission determined the provisional tariff for Unit II of the generating station from its CoD to 31st March 2014. The summary of Annual Fixed (Capacity) charges and Energy Charges provisionally determined by the Commission is as given below

Annual Capacity Charges for Unit I and II (Provisional) **(₹ Crores)**

S. No.	Particular	Unit I (FY 2012-13)	Unit II (FY 2013-14)
1	Return on equity	85.78	85.78
2	Interest charges on loan	144.83	133.34
3	Depreciation	68.17	68.17
4	Operation & Maintenance expenses	42.70	46.05
5	Secondary fuel oil expenses	11.77	9.64
5	Interest on working capital	23.83	21.16
6	Annual capacity (fixed) charges	**377.08**	**364.15**

S. No.	Particular	Unit I (FY 2012-13)	Unit II (FY 2013-14)
7	Adjusted Annual Capacity Charges for 213 days for unit –I and 359 days for unit-II	220.05	358.17
8	Annual Capacity Charges corresponding to 65% of the installed capacity of the unit	143.03	232.81
9	**95% of the above Annual Capacity Charges allowed by the Commission**	**135.88**	**221.17**

Energy Charges for Unit I and II (Provisional) (₹ / kWh)

S. No.	Particular	Units	Unit I (FY 2012-13) and Unit II (FY 2013-14)
1	Capacity	MW	250
2	NAPAF	%	85
3	Gross Station Heat Rate	kCal/kWh	2450
4	Sp. Fuel Oil Consumption	ml/kWh	1.00
5	Aux. Energy Consumption	%	8.50
6	Transit Loss	%	0.80
7	Weighted average GCV of Oil	kCal / ltr.	10,000
8	Weighted average GCV of Coal	kCal / kg	4109
9	Weighted Average price of Coal	₹ / MT	2308
10	Heat Contributed from HFO	kCal / kWh	10
11	Heat Contributed from Coal	kCal / kWh	2,440
12	Specific Coal Consumption	Kg / kWh	0.5939
13	Sp. Coal Consumption including Transit Loss	Kg / kWh	0.5987
14	Rate of Energy Charge from Coal	₹ / kWh	1.38
15	**Rate of Energy Charge from Coal at ex-bus**	**₹ / kWh**	**1.51**

1.9 Vide order dated 29th June’ 2013, the Commission directed the petitioner to file the final tariff petition for Unit I and Unit II at the earliest along with the audited accounts as on CoD and all other required details / documents. The petitioner was also directed to eliminate all discrepancies and information gaps observed by the Commission in the aforesaid order and also in its order dated 12th December' 2012 while filing the final tariff petition.

1.10 In compliance with the above directives of the Commission, the petitioner filed the instant application on 22nd February' 2014 for approval of final tariff for Unit I and Unit II (2x250MW) of its generating station.

1.11 The following status of compliance with the directives of the Commission in its provisional tariff orders has been observed in the instant application:

(a) The audited balance-sheet of the Company for FY 2012-13 is submitted with the petition. Subsequently, the audited balance-sheet for FY 2013-14 has also been filed by the petitioner.

(b) The petitioner filed the certificates by the Chartered Accountant for the cost incurred as on CoD of Unit I and Unit II.

(c) Issue related to the sharing of cost of dedicated transmission line of 400 kV for evacuation of contracted capacity in terms of clause 4.8 of the PPA was unresolved in the petition.

(d) The petitioner claimed additional capitalization in the instant application.

(e) The petitioner filed the copy of Fuel Supply Agreement (FSA) signed by it with South-Eastern Coal Fields Ltd. on 15th February' 2013 with its application for determination of provisional tariff for Unit II.

(f) Fuel Supply Agreement with Central Coal Field Ltd. signed on 10th June' 2012 was also filed by the petitioner with its earlier petition

1.12 In the instant application, the petitioner prayed the following:

(a) *"To determine the blended Generation Tariff of the Generating Station for Phase I (Unit I and Unit II of 250 MW each) as required under the PPA dated 05th January 2011 and as prayed by the petitioner in Petition No. 40 of 2012 for the FY 2012-13 and 2013-14;*

(b) *To grant the liberty to approach the Commission seeking determination of Tariff of subsequent years as per data submitted by the petitioner;*

(c) *To condone any inadvertent omission/ error / rounding off differences / shortcomings in filing the present Affidavit and permit the petitioner to add/ alter / amend the present filing if required due to such inadvertent omission / error / rounding off difference / shortcoming;*

1.13 Accordingly, the scope of this order is summarised as under:

(a) Determination of final capital cost of Unit I and Unit II as on their respective CoD;

(b) Determination of the additional capitalization of Unit I and Unit II from CoD to 31.03.2014 based on the Annual Audited Accounts;

(c) Determination of the final tariff for FY 2012-13 and FY 2013-14 based on the audited accounts and determination of generation tariff for the remaining control period of FY 2014-15 and FY 2015-16.

1.14 The Commission has examined the instant application in the subject petition in accordance with the provisions under Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) (Revision –I) Regulations, 2009 {RG-26 (I) of 2009} (hereinafter referred to as "Generation Tariff Regulations, 2009") and Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) (Revision-II) Regulations, 2012 {RG-26 (II) of 2012} (hereinafter referred to as "Generation Tariff Regulations, 2012")

Procedural History

1.15 Vide Commission's order dated 22^{nd} April' 2014, the petition was admitted and the petitioner was directed to serve copies of the petition on all Respondents in the matter. The respondents were asked to file their response on the petition by 22^{nd} May' 2014.

1.16 Vide Commission's letter dated 05^{th} May' 2014, the information gaps on preliminary scrutiny of the petition were communicated to the petitioner seeking its comprehensive reply by 22nd May' 2014.

1.17 Vide letter dated 14th May' 2014, Respondent No.1 filed its response on the petition.

1.18 By affidavit dated 21st May' 2014, the petitioner sought time extension for submission of its response on the information gaps communicated by the Commission.

1.19 Vide daily order dated 28th May' 2014, the petitioner was directed to file its reply to the observations of the Commission and also to the comments offered by Respondent No. 1, by 20th June' 2014.

1.20 By affidavit dated 27th June' 2014, the petitioner filed its response on the information gaps identified by the Commission and to the comments offered by Respondent No.1. By affidavit dated 18th July' 2014, the petitioner submitted the copy of consolidated annual audited accounts as on 31st March' 2014 of its corporate entity M/s. Jaypee Power Ventures Ltd.

1.21 On perusal of the additional submissions filed by the petitioner on 27th June' 2014 and 18th July' 2014, the Commission observed a number of inconsistencies in the figures filed in the aforesaid submissions and those provided in the original petition filed on 22nd February' 2014. The Commission also observed that the issue related to the transmission cost incurred on the project was still unresolved in terms of the provisions under the IA and the PPA. Vide Commission's order dated 25th July' 2014, the following directives were issued to the parties :

(a) GoMP, Energy Department, was directed to expedite the issues related to transmission cost incurred on the project and submit the resolution within a week's time;

(b) The petitioner and the respondents were asked to explain as to why the transmission cost be considered as part of the generation tariff for the power plant;

(c) All discrepancies in the figures filed in the additional submissions and those provided in the original petition were communicated to the petitioner after detailed scrutiny of its additional submissions seeking its reply along with the revised public notice by 08th August' 2014;

(d) Respondent No.1 was directed to file its reply to the rejoinder filed by the petitioner within a week's time;

1.22 In response to the above directives, the parties filed their replies with the Commission.

1.23 Vide Commission's letter No.1238 dated 26th July' 2014, the petitioner was asked to rectify the discrepancies observed in the additional submission and also to submit revised formats for FY 2015-16.

1.24 The petitioner filed its reply to the issues communicated to it by the Commission after detailed scrutiny of the petitioner's submissions dated 27th June' 2014 and 18th July' 2014. Issue-wise response of the petitioner is mentioned in the subsequent sections.

1.25 The petitioner submitted the copies of the correspondence made by it with Respondent No. 1 on the following issues:

(a) Establishment of letter of credit (LC).

(b) In respect of delay in CoD and loss on account of non-recovery of capacity charges.

(c) For low materialization of FSA coal.

1.26 The petitioner also filed the following certificates for the expenses incurred on the 2x250 MW project:

(a) *"Certificate for cost incurred as on 30th August' 2012.*

(b) *Certificate for cost incurred as on 31st March' 2013 – being the Balance Sheet date of the Company.*

(c) *Certificate for cost incurred as on 06th April' 2013.*

(d) *Certificate for cost incurred as on 31st December' 2013 – being 3rd ending quarter of FY 2013-14."*

(e) *Certificate for cost incurred as on 31st March' 2014.*

1.27 The Commission observed that the project cost has been estimated at ₹ 3575 Crores against the amount of ₹ 3240 Crores mentioned earlier by the petitioner. The component wise revision in the project cost as mentioned in Para 7 of the petition is as given below:

Table 1: Revised Estimated Capital Cost of Phase 1 (in ₹ Crore)

SL. No.	Particulars	Project Cost submitted earlier	Project Cost submitted for determination of final tariff	Difference
I	**Land**	**7**	**7**	-
2	**BTG**	**1,338**	**1,397**	**59**
3	**Breakup of BOP**			-
i	Transmission	61	61	-
Ii	Railway Siding	57	57	-
iii	Chimney	37	37	-
iv	Cooling Towers	79	79	-
v	Other BOP	338	377	39
	TOTAL BOP	**572**	**611**	**39**
	Break up of civil Cost			
vi	Plant Area Grading	38	59	21
vii	Barrage Cost	116	117	1
viii	Power Plant +BOP	186	225	39
ix	Township	352	405	53
x	Roads	19	45	26
	Total	**711**	**851**	**140**
	Coal Blending Unit –			-
xi	Cost included in Other BOP at S. No. viii		16	16
xii	Cost included in Civil Cost at S. No. xi		11	11
	Total Coal Blending Unit		**27***	**27***

SL. No.	Particulars	Project Cost submitted earlier	Project Cost submitted for determination of final tariff	Difference
xiii	Over Head	149		(149)
xiv	IDC / IEDC	464	612	148
xv	Pre commissioning Fuel Consumption		96	96
	Total Project Cost	**3,240**	**3,575**	**334**
*** costs included in BOP and Civil cost**				

A2: TARIFF FILED BY THE PETITIONER

2.1 In the instant submission, the petitioner prayed for determination of final tariff for FY 2012-13 and FY 2013-14 based on the audited annual accounts and also the tariff for FY 2014-15 and FY 2015-16.

2.2 The petitioner submitted that a Power Purchase Agreement (PPA) was entered into between the petitioner and Respondent No.1 on 05th January, 2011 wherein Respondents No. 2 to 4 were the confirming parties for the contracted capacity equivalent to 65% of installed capacity of Phase I (2x250 MW). The petitioner further submitted that a PPA with GoMP was also executed on 20th July' 2011 for supply of 5% of the net generated power at variable charges. The Respondent No.1 was nominated by GoMP to procure contracted capacity at the tariff to be determined by the Commission. The Respondent No.1 was directed to make available the aforesaid power to the Discoms in the proportion as may be directed by GoMP.

2.3 By additional affidavit dated 13th August' 2014, the petitioner filed the following Annual Capacity charges and Energy charges for Unit I and Unit II :

Table 2: Annual Capacity charges and Energy charges filed by the petitioner (₹ Crores)

Parameters	31-08-2012 to 31-03-2013 (Unit I)	01-04-2013 to 06-04-2013 (Unit I)	07-04-2013 to 31-03-2014 (Unit I & II)	01-04-2014 to 31-03-2015 (Unit I & II)	01-04-2015 to 31-03-2016 (Unit I & II)
Depreciation	72.87	72.94	166.47	175.49	178.22
Interest on Loan	134.97	129.37	283.81	278.31	260.82
Return on Equity	87.57	87.64	197.75	208.27	211.60
Interest on Working Capital	34.88	32.25	59.20	62.95	64.83
O & M Expenses	42.70	46.05	92.10	99.50	107.30
Secondary fuel oil cost	11.22	11.23	22.47	23.25	24.07
Total Capacity Charges	384.21	379.48	821.81	847.77	846.84
No of days	213.00	6.00	359.00	365.00	365.00

Parameters	31-08-2012 to 31-03-2013 (Unit I)	01-04-2013 to 06-04-2013 (Unit I)	07-04-2013 to 31-03-2014 (Unit I & II)	01-04-2014 to 31-03-2015 (Unit I & II)	01-04-2015 to 31-03-2016 (Unit I & II)
applicable for the period					
Total Capacity Charges for applicable days	224.21	6.24	808.30	847.77	846.84
68.42% of Capacity charges (Capacity charge of the 5% loaded on 65%-{65%/95%})	**153.41**	**4.27**	**553.05**	**580.05**	**579.42**
Coal Cost (Fuel Cost)	541.12	498.47	845.09	878.89	914.05
Total Fuel Cost for applicable days	315.78	8.19	831.20	878.89	914.05
70% of Fuel Costs	**221.04**	**5.74**	**581.84**	**615.23**	**639.83**

A3: STAKEHOLDERS' CONSULTATION AND SCRUTINY OF THE PETITION

Public Hearing

3.1 Vide Commission's daily order dated 4th July' 2014, the petitioner was directed to submit the draft public notice in English and Hindi version to be published in newspapers inviting comments/ suggestions from all stakeholders. The public notice as approved by the Commission was published in the Hindustan Times (English) and Patrika (Hindi) newspapers on 26th August' 2014 inviting comments/ suggestions from all stakeholders in the matter.

3.2 The public hearing in the matter was fixed on 23rd September' 2014 in the aforesaid public notices. The public notice and the petition alongwith all submissions of the petition was also uploaded on the Commission's website. The Commission received no comments in writing till the due date for offering comments/ suggestions on the petition. The petitioner confirmed that it has also received no comments from any stakeholder. The public hearing was held on 23rd September' 2014 wherein only one objector appeared and submitted his comments on the petition. The objections relevant to the subject petition filed by the aforementioned stakeholder and the response of the petitioner are mentioned in **Annexure – II.**

Preliminary information gaps in the petition

3.3 Vide Commission's letter No. 758 dated 05th May' 2014, the information gaps and the requirement of several supporting documents/additional data were communicated to the petitioner.

3.4 By affidavit dated 21st May' 2014, the petitioner sought time extension for submission of its reply to the information gaps communicated by the Commission on the following grounds:

(a) The accounting and reconciliation requirements in most of the issues pertain to FY 2012-13 and 2013-14;

(b) The Accounts and Balance Sheet of the petitioner for the previous year 2013-14 were under finalization/ signing;

3.5 By affidavit dated 27th June' 2014, the petitioner filed its response on the information gaps communicated by the Commission. Issue-wise response of the petitioner is as given below:

i. Issue

In the instant application, the petitioner referred to the prayer made by it in its petition filed on 16th May' 2012. In its petition dated 16th May' 2012, the tariff for FY 2012-13, FY 2013-14 and FY 2014-15 was sought whereas it has filled up the formats for FY 2015-16 also in the instant application. Therefore, the petitioner was asked to file appropriate prayer in respect of the years for which the tariff is sought by it along with all cost components duly filled up for all the years.

Petitioner's Response

"The petitioner hereby submits the formats for determination of Final Tariff for the year 2012-13 and 2013-14, reconciled with the Balance Sheets of the year 2012-13 and 2013-14 as given below:

Reconciliation with Balance Sheet	₹ Crores
Gross Fixed Assets upto 30-08-2012 (COD-U-I)	*1,871.97*
Add: Assets Capitalised from 31-08-2012 to 31-03-2013	*4.79*
Less: Acc. Depreciation-31-03-2013	*-55.82*
Add: CWIP 31-03-2013	*1489.36*
Net fixed Assets as at 31-03-2013	***3,310.30***
Assets Capitalised on 06-04-2013	*1,339.77*
Add: Assets Capitalised from 06-04-2013 to 31-03-2014	*244.98*
Add: CWIP 31-03-2014	*29.63*
Less: Depreciation-2013-14	*-167.63*
Net fixed Assets as at 31-03-2014	***3,267.69***

It is further submitted that the formats for the year 2013-14 and onwards projection are also being submitted along with the audited Balance Sheet of the *year 2013-14. Therefore, this Hon'ble Commission may be pleased to proceed with the final Determination of the petitioner's Thermal Power Project Tariff for the year 2012-13 and 2013-14. A CA Certificate confirming the Cost of Project as at 31st March' 2014 is attached as Annexure A-1. The petitioner further craves the liberty of this Hon'ble Commission to approach the Hon'ble Commission seeking determination of Tariff of subsequent years as and when the data for the same would be available with the petitioner. The amended prayers of the petitioner are as follows:-*

In view of the above the petitioner most respectfully prays that this Hon'ble Commission may be pleased to:

(a) *Determine the blended Generation Tariff of the Generating Station for Phase I (Unit I and Unit II of 250 MW each) as required under the PPA dated 5th January' 2011 and as prayed by the petitioner in Petition No. 40 of 2012 for the FY 2012-13 and 2013-14;*

(b) *Grant the petitioner the liberty to approach the Hon'ble Commission seeking determination of Tariff of subsequent years as per submitted data by the petitioner;*

(c) *Condone any inadvertent omission/ error/ rounding off differences/ shortcomings in filing the present Affidavit and permit the petitioner to add/alter/ amend the present filing if required due to such inadvertent omission/ error/ rounding off difference/ shortcoming;*

Pass such further Orders as the Hon'ble Commission may deem fit and proper; keeping in view of the facts and circumstances of the case and in the interest of justice."

ii. Issue

In paragraph 10 of the instant application, the petitioner provided calculations of the Capacity Charges for the FY 2013-14 only based on the capital cost as per CA's certificate dated 31st December' 2013. Therefore, the petitioner was asked to provide the calculations for Capacity Charges for FY 2012-13 and FY 2013-14 based on the Capital Expenditure tallied with its books of accounts for FY 2012-13 and FY 2013-14.

Petitioner's Response

"The Tariff Calculations Sheet for FY 2012-13 and FY 2013-14 and projection for FY 2014-15 are enclosed herewith as ANNEXURE A-2. It is further submitted that reconciliation with CA Certificate for the certified cost as on 31st March' 2013 and 31st March' 2014, with stand alone Balance Sheet of the petitioner Company as on 31st March' 2013 and as on 31st March' 2014 are as follows:-

Total Capital Expenditure	*As on 31.03.2013*	*As on 31.03.2014*
A. Non- Current Tangible Assets capitalized	*1,876.76*	*3,461.5*
B. CWIP shown Separately (Sch 10B)	*1,489.36*	*29.63*
Total Cost of the Project as on 31st of March of each FY (A+B)	***3,366.12***	***3,491.13***
Funded By		
Loans as per Long Term Liability - (Note 3)	*2,055.74*	*1,928.63*
Add: Term Loan as per Current Liability - (Note 8)	*142.00*	*180.64*
Add: Amount repaid during the Year	*50.26*	*144.58*
Total	***2,248.00***	***2,253.85***
Balance from Corporate Resources including internal Accrual Private Placements & Capital Liabilities	*1,146.76*	*1,248.11*
Less Cash and Bank Balance	*(28.64)*	*(10.83)*
Grand Total -	***3,366.12***	***3,491.13***

iii. Issue

The Annual Audited Accounts along with Director's Report and Auditor's Report for Jaiprakash Power Ventures Limited (JPVL) and segregated Annual Audited Accounts for Jaypee Bina Thermal Power Plant for FY 13-14 were sought from the petitioner.

Petitioner's Response

"The same are submitted as Annexure A-3. Further we are also attaching the

certified copies of, Board Resolution dated 27th April' 2013 approving the Project Balance Sheet and Profit and Loss Account for the financial year 2012-13 as Annexure A-4 and Board Resolution dated 17th May' 2014 approving the Project Balance Sheet and Profit and Loss Account for the financial year 2013-14 as Annexure A-5. In view of the above the petitioner humbly requests the Hon'ble Commission to grant a Provisional Tariff based on the CA certified Project Expenditure of ₹ 3491.14 Crores *as on 31st March' 2014, as earlier requested under Prayer at Para 11(a) of the affidavit dated 22nd February' 2014."*

iv. Issue

The detailed break-up of the various components of income from other sources for FY 2012-13 and FY 2013-14 duly reconciled with the Annual Audited Accounts for FY 2012-13 and FY 2013-14 was sought from the petitioner.

Petitioner's Response

"The detailed break up of Other Income for the year 2012-13 (w.e.f 31st August' 2012 taken to profit and Loss Account) and for the year 2013-14 are as under:-

Item	***From 31-08-2013 to 31.03.2013***	***For the year 2013-14***
Interest earned on FDR	*12,28,769.00*	*1,05,09,558.00*
Interest bills raised on MPPCL(Energy bills + UI Receivable Bills)	*81,18,453.00*	*31,82,367.00*
Miscellaneous Receipt	*29,35,255.00*	*1,49,02,875.00*
Total Other Income as per Income Statement of the year	***1,22,82,477.00***	***2,85,94,800.00***

The Interests bills booked in the year 2012-13 for ₹ 81,18,453 were subsequently reversed after the signing of MOM dated 31st May, 2013 and only ₹ 24,972/- pertaining to Interest on late payment of Weekly bills are left as Balance. The Add on for the year 2013-14 are the other interest bills raised towards late payment/Non payment UI receivable on Infirm Power generated from Unit II."

Issue

The petitioner did not submit the calculations and the basis of arriving at the calculations of the various cost components of ARR in the formats provided with the petition like Fuel Cost, Energy Charge, Interest Charges, Return on Equity, etc. Therefore, the petitioner was asked to file the detailed calculations along with its justification for arriving at the calculations of all cost components in the formats.

Petitioner's Response

"The detailed calculation sheet showing various cost components of ARR is annexed under para No 5 marked as Annexure A-2."

v. Issue

The petitioner did not submit the details for FY 2012-13 in the formats submitted with the petition. The petition was filed to determine the final tariff for both the units. Therefore, the petitioner was asked to submit detailed computation of fixed cost and energy charges based on the applicable Regulations along with the basis of arriving at such costs for FY 12-13 also.

Petitioner's Response

"The copy of the same is annexed under para no 4 marked as ANNEXURE A-2."

vi. Issue

The following formats were found missing with the petition:

"F1, F2, F3, F4, F6, F7, F8, T1b, TPS 4, TPS 4A, TPS 5, TPS 5C, TPS 7, TPS 8, TPS 9, TPS 10, TPS 14"

The petitioner was asked to submit the revised set of all filled up formats including the above as prescribed in the Regulations in the following manner in soft (excel format) and hard copies:

(a) For FY 2012-13 and FY 2013-14 as per the Annual Audited Accounts and other actual information

(b) For FY 2014-15 and FY2015-16 as per the projections made in accordance with the provisions under Regulations.

Petitioner's Response

"The petitioner hereby is submitting the missing forms in accordance with the directions of the Commission and they are annexed hereto and marked as ANNEXURE A-6."

vii. Issue

In format TPS 5 (b), the petitioner provided the original capital cost estimate of ₹ 3467 Crores Based on the correspondence made with the petitioner during scrutiny of data/details for determination of provisional tariff, the original cost of ₹ 2754 Crores was indicated in the initial DPR submitted by it in response to the issues raised by the Commission. Therefore, the petitioner was asked to submit revised format TPS 5 (b) with the original estimate (₹ 2754 Crores) as per the original DPR and the actual cost to be incurred as on 31st March' 2014 alongwith the reasons for variations if any, thereof.

Petitioner's Response

"It is submitted that the TPS form 5(b) is now re-submitted in four columns. The initial envisaged cost of ₹ 2,754 Crores in column 1, re-estimated Project Cost of ₹ 3,240 Crores *in Column 2, followed by the capitalised Project Cost as on 31st March' 2014 of* ₹ 3,491.14 Crores, shown under Column 3 and the final estimated project cost of ₹ 3,575 Crores. shown in Column 4., with another column between Column 3 and 4 showing the component wise increment between the Capitalized Cost of ₹ 3,491.14 Crores and final estimated project cost ₹ 3,575 Crores Copy of the TPS Form 5 (b) is already annexed with other TPS forms annexed combined under Annexure A-6."

viii. Issue

The petitioner had filed the Format TPS 5(c) with the subject petition. Therefore, the petitioner was asked to submit the updated format TPS 5(c) along with the following:

(a) Details of contracts / work order awarded to different agencies incorporating all details of the vendors for commissioning of the generating plants (separately for Unit I and Unit II)

(b) Original and revised cost as per the format 5 (c) provided in the regulations.

The petitioner was asked to submit the copy of the documents in the form of work orders/ contract agreement / bill submitted by the contractors in support of the above. The petitioner was also asked to reconcile the same with the audited annual accounts.

Petitioner's Response

"The same is being annexed hereto along with other TPS forms as Annexure A-6 showing the details of contracts/work orders etc."

ix. Issue

In Para 7 of the instant application, the petitioner submitted the summary of the final project cost / completion cost with original cost of project as ₹ 3,240 Crores and Actual estimated cost of project as ₹ 3,575 Crores. The petitioner had also submitted the breakup of the capital cost in format TPS 5 (b) considering the total estimated capital cost of ₹ 3,575 Crores. It was observed that the break-up of the capital cost in format TPS 5(b) above does not tally with summary provided in para 7 of the petition. The reasons for the aforesaid variations were sought from the petitioner.

Petitioner's Response

"It is submitted that as already explained in our reply to point C(d), at point no 10 above the TPS 5(b) has been redesigned and is being submitted, so the table mentioned at para 7 stands revised in line with the format of TPS 5(b). Therefore, it is most respectfully submitted that the entire explanation is now to be seen in terms of the new table given under TPS 5 (b) which is reproduced below for

explanation:-

Sl. No.	Break Down	At COP - 2754 Crores	Additions	Revised Cost at 3240 Crores	Rev-2 as at 31-03-2014	Liabilities / provisions/Pending Works	Admitted Cost (₹ Crores)
(1)	(2)	(3)	(4)	(5)=(3+4)	(6)	(7)	(8)=(6+7)
1.0	**Cost of Land & Site Development**						
1.1	Land	7	0	7	7	0	7
	Total Land & Site Development	**7**	**0**	**7**	**7**	**0**	**7**
2.0	**Plant & Equipment**						
2.1	**Steam/Turbine Generator Island**	**1,294**	**44**	**1,338**	**1,376**	**21**	**1,397**
2.3	**BOP Mechanical**						-
	Total BOP Mech./ Electrical	**480**	**95**	**575**	**927**	**35**	**962**
	Total Plant & Eq. excluding taxes & Duties	**1,774**	**139**	**1,913**	**2,303**	**56**	**2,359**
4.0	**Civil Works**						-
	Total Civil works	**433**	**254**	**686**	**427**	**28**	**455**
	Total Overheads	**201**	**0**	**201**	**253**	**-**	**253**
7.0	**Capital cost excluding IDC & FC**	**2,415**	**393**	**2,807**	**2,990**	**84**	**3,074**
8.0	**IDC, FC, FERV & Hedging Cost**						-
8.1	Interest During Construction (IDC) incl financing charges	294	104	398	501	**-**	**501**
	Total of IDC, FC, FERV & Hedging Cost	**294**	**104**	**398**	**501**	**-**	**501**

Sl.	Break Down	At COP -	Additi	Revised	Rev-2 as at	Liabilities /	Admitted
9.0	***Capital cost including IDC, FC, FERV & Hedging Cost***	***2,709***	***497***	***3,205***	***3,491***	***84***	***3,575***

x. Issue

The petitioner was asked to submit the detailed loan disbursement and interest payment schedules tallied with its book of accounts (year wise and date wise) from the date of first drawl of loan till 31st March 2014 in the format TPS 14 for draw-down schedule prescribed by the Commission.

Petitioner's Response

"The detailed TPS form 14 is enclosed along with other TPS forms herewith as Annexure A-6. Further the total Interest paid upto 31st March, 2013 and 31, March 2014 has been reconciled with the books of accounts and the same are represented below as under:

Total Interest Paid as per Form TPS 14 upto 2013-14	*889.70*
Add: Finance Charges not included	*20.69*
Total IDC from start (Apr-09) till Mar-14	***910.39***
Less: IDC Capitalized with Unit-1	*257.54*
Less: IDC Capitalized with Unit-2	*209.12*
Less IDC Capitalised with CHP	*33.99*
Less: IDC charged to Revenue (P&L) -2012-13	*111.50*
Less: IDC charged to Revenue (P&L) -2013-14	*297.90*
Balance IDC with CWIP	***0.34***

xi. Issue

As submitted by the petitioner in its earlier submission, the DPR provided the estimated cost of ₹ 2754 Crores whereas, the petitioner in para no.7 of the instant application submitted the projected capital cost of ₹ 3240 Crores which has been increased to ₹ 3575 Crores. The funding arrangement of the increased cost was not explained. The petitioner was asked to file the details of the funding arrangement for the additional cost with all documents for the same. The following documents were also sought from the petitioner:

(a) Revised DPR for the revised Capital Cost of ₹ 3575 Crores filed in the petition;

(b) Board's approvals and Board's resolutions for the increase in the Capital Cost from ₹ 3240 Crores to ₹ 3575 Crores;

(c) Comparison of the original scope of work with estimated cost of ₹ 2754 Crores and revised scope of work with increased estimated cost of ₹ 3575 Crores.

(d) Information Memorandum along with the Common Loan Agreement with the bankers for the Additional loan amount, if any.

(e) Board's Resolutions for equity investments and Shareholder Certificate for the Equity, if any infused for the additional capital investment.

Petitioner's Response

"It is submitted that as evident from Form 5 (b) the current estimated project completion cost stands at ₹ 3575 Crores. The detailed submission for increase of project cost from ₹ 2,754 Crores to ₹ 3,240 Crores has been explained at length by the petitioner in its previous affidavit dated 20th July' 2012 as Annexure A-11 and the petitioner craves the liberty to rely upon the same during the course of hearing. Further, the petitioner has already submitted the Project Information Memorandum prepared by ICICI Bank explaining the deviation from the initial cost of ₹ 2754 Crores to ₹ 3240 Crores. The Hon'ble Commission in the said Para has also sought various additional documents in support of the total cost incurred by the petitioner. In response to the same the following documents are being submitted:-

(a) ***Revised DPR*** *– It is submitted that No DPR has been prepared for the increase from ₹ 3240 Crores to ₹ 3575 Crores.*

(b) ***Board Approval for Increase in Cost*** *– Certified Copy of the Board Approval dated 17th May-2014 is attached as Annexure A-7*

(c) ***Detailed Comparison Sheet****- It is submitted that detailed comparison sheet for increase in project cost from ₹ 2754 Crores to ₹ 3575 Crores is annexed hereto and marked as ANNEXURE A-8.*

(d) ***Information Memorandum and Common Loan Agreement for additional amount*** *– It is submitted that no additional facilities are envisaged therefore no such memorandum has been prepared.*

(e) ***Board Resolution approving additional infusion of equity****- It is submitted that the requisite Board Resolution dated 17th May' 2014, for approval of the estimated project completion cost is annexed above under reply 14 (ii) as Annexure A-7."*

xii. Issue

The following details were not found available in the CA certificates submitted in para 9 of the petition:

(a) Details of IDC and IEDC for Unit I and Unit II separately duly reconciled with the accounts;

(b) Source of funding of the capital works tallied with the accounts;

(c) Break-up of CWIP between Unit I and Unit II tallied with the accounts;

The petitioner was asked to provide the statement of capital expenditures incorporating all above mentioned details duly reconciled with the respective Audited Accounts. The CA Certificate for break-up of various capital cost components as on 31st March' 2014 incorporating all above information was also sought from the petitioner.

Petitioner's Response

(a) *"It is submitted that the details of IDC and IEDC for Unit I in the Certificate for expenses upto 30th August' 2012, IDC for U-1 at ₹ 257.54 Crores* *and IEDC for Unit I stands at ₹ 150.05 Crores. enclosed as Annexure A-7 filed with Petition dated.20th February' 2014.*

(b) *Further, details of IDC and IEDC for Unit II In the Certificate for expenses upto 06-04-2013, IEDC for U-II stands at ₹ 209.12 Crores and IDC at ₹ 91.61 Crores.*

(c) *In each of the aforementioned certificates the amount funded by Terms Loans has been separately mentioned.*

(d) *The Breakup of CWIP upto 31st March' 2013 and 31st March' 2014 have been tallied with the figure of Balance Sheet in Point No A (ii) above at Para No 3."*

xiii. Issue

The COD of Unit I has been delayed from March 2012 to August 2012 i.e by six months. The Petitioner was asked to inform whether the delay in CoD of Unit I and Unit II was attributable to the delay in completion of works by the contractors/agencies? If yes, whether any Liquidated Damages had been recovered? The details of the same along with supporting documents for the recovery of Liquidated Damages were sought from the petitioner.

Petitioner's Response

"It is submitted that the overall delay in COD is due to following reasons:-

(a) ***Heavy Rainfall** – It is submitted that due to heavy rainfall the petitioner's Project was substantially delayed. The petitioner has also informed MPPMCL about the same. Copy of the letter dated 09th January' 2012 is annexed hereto and marked as ANNEXURE A-9.*

(b) ***Grid Failure** in July, 2012 which delayed the petitioner's oil synchronization with grid followed by COD.*

(c) ***Delay in establishment of LC by MPPMCL** as explained by the petitioner in Para 6.1 of the affidavit dated 22nd February 2014."*

xiv. Issue

The petitioner awarded the contract to Jaiprakash Associates Limited on 25th March' 2009 for civil, structural and architectural works of plant and township including railway siding. With reference its earlier reply dated 18th July' 2012, the petitioner was asked to provide the following information:

(a) Detailed documents and nature of the project for which the said bids were invited by Bokaro Steel;

(b) Details of the contract and scope of work of JAL with Jaypee Bina Thermal Power Plant;

(c) Comparison of the scope of work of JAL for JPBTPP and BJCL.

(d) The statement showing comparison of various cost component of the project of the other coal based thermal power stations of similar capacity which have been commissioned recently.

The updated details of the expenditure incurred and capitalised on Common Facilities for Unit I and Unit II along with other details as quantum and value of facility etc, with detailed justification for considering such facility as Common Facility for the year FY 2012-13 and FY 2013-14 were also sought from the petitioner.

Petitioner's Response

(a) *"It is submitted that the Project Bokaro Jaypee Cement Limited (BJCL) [a Joint venture of Steel Authorities Ltd. (SAIL) and Jaiprakash Associates Limited (JAL)] invited tenders for construction activities for their Bokaro Cement Plant in August 2008. The Advertisement for inviting Bids is enclosed as Annexure A-10 A synopsis of the same is as under:-*

"The scope of work of BJCL for which the tenders were invited:

(i) Execution of all Civil works of the Project including Township

(ii) Fabrication and Erection of all Structural works of the Project

(iii) Erection of all Equipment for the Project."

It is submitted that based on the preliminary designs, the Project envisages generally all Civil works components associated with Cement plant such as Silos, Cement Mill House, Coal Mill, Packing Plant etc. including Railway Siding. Aprox. Quantities of major items, required to be executed comprise of 2 lacs m3 Excavation, 50,000 m3 Concreting involving 5000 MT of Reinf. Steel, 6000 MT Structural Steel Fabrication and Erection and 5000 MT Equipment Erection, apart from electrical installations.

(b) *It is submitted that the scope of Work of Bina Thermal Power Plant encompass:*

(i) The excavation and filling, cast-in-situ concrete works, reinforcement, formwork and staging, embedded parts laying of rails, anchor fasteners, grouting, dismantling, chipping and making openings in PCC/RCC, pre-cast cement concrete works, detail design of structural steel fabrication and erection, masonry and allied works, modular aerated concrete panelling, sheeting and allied works, floor finishing, doors, windows and partitions, glass and glazing, water proofing, false ceiling, fencing and gates, water supply, drainage and sanitation, earthing mat, aluminium composite panelling, roads, drains, sewers, etc. (for the Project including railway siding and Rail Tracks in wagon unloading area.

(ii) Drilling & Anchoring Roads consolidation grouting, Boulder pitching & providing Filters, Porous concrete & drains, supply and erecting Hoist, Hoist bridge and columns, EOT crane etc. in Barrage area and Intake area.

Comparison of both the scope of work of BJCL and JBTPP:

(i) Both the plants i.e BJCL and JPBTPP are Industrial Projects, former is a Cement Plant & later is a Thermal Power Plant. However, the scope of work of both the plant is similar comprising of Excavation, Filling, Concreting, Reinforcement Binding, Formwork & Staging and, Fabrication & Erection of Structural Steel and, Erection of Equipment and, Electric Installations. The type of work involved for major items in both the plants is also same, both being industrial plants comprising of Material Storage Structures, Material Handling Systems, Mills, RCC Framed Buildings and Structural Steel Buildings & Sheds. Quantity of each item, however, varies based on the magnitude of work in each case.

(ii) The of various cost components of other coal based Thermal Power Stations of similar capacity, for comparing the same with the petitioner's 2x250 MW Thermal Power Plant, which have been commissioned in the same time frame have not been arranged. The petitioner in spite of an all out effort has not been able to procure the aforesaid details for similar coal based thermal power stations. However broad comparisons with other Thermal Power Station was submitted vide Petition's affidavits dated 21st August' 2012, 19th September' 2012 and 21st November' 2012 and the petitioner craves the liberty of the Hon'ble Commission to rely upon the same during the course of hearing.

Common Facilities:

The Common Facilities for Unit I and Unit II are separately capitalized under BOP Package expenses of Unit I & Unit II and has been shown separately in the CA certificate for 31st March' 2013 attached as Annexure A-7, in the affidavit dated 20th February' 2014 and the CA certificate for 31st March' 2014, is attached at Annexure A-1. These facilities, capitalized *under BOP, are not specific for the use of respective units rather they have been capitalized on 'Put to Use Basis'. The justification of treating these expenses as Common facilities is that these facilities includes facilities like Barrage, river water reservoir, Coal Blending Plant, Wagon Tippler units, Transmission lines etc, which are being utilized for generation and distribution of Power from both plants and their quantum of Use/Cost can't be identified under Unit I and Unit II separately."*

xv. Issue

The petitioner was asked to submit the following:

(a) Detailed working of the weighted average interest rate for FY 2012-13 and FY 2013-14 in the format TPS 13 (b) prescribed by the Commission.

(b) In addition to the above, the bank certificate for the rate of interest and amount of interest paid during FY 2012-13 and FY 2013-14 tallied with the books of accounts.

(c) The Bank Financial Closure Model for sanction of Loan from the Bankers in excel format.

(d) The actual IDC and IEDC for Unit I and Unit II with detailed computation as well as auditor's certificate as on:

(i) Scheduled date of CoD
(ii) Actual date of CoD

The reasons for increase (If any) in IDC and IEDC from date of schedule CoD to actual CoD were also sought from the petitioner.

Petitioner's Response

(a) *"The detailed working of weighted average Interest rate of 2012-13 and FY 2013-14 in TPS 13(B) is enclosed as Annexure A-6 along with other TPS form.*

(b) *Regarding Bank Certificate for the rate of Interest, Interest paid confirmation; copies of various certificates are annexed hereto and marked as Annexure A-11.*

(c) *It is submitted that as the petitioner is not getting the additional project cost financed. The last financial model was prepared for project cost of ₹ 3240 Crores,, and the same is an Annexure of Project Information Memorandum dated Dec-2011 filed as Annexure A-10, Volume III of Affidavit dated 18th July' 2012. No Financial Model is available for Project Cost of ₹ 3575 Crores.*

(d) *The actual IDC and IEDC for Unit I & II as per CA certificate dated 21st June 2014 as on the actual COD date are as follows:-*

Date	Unit	IDC	IEDC
31-08-2012	I	257.54	150.05
06-04-2013	II	209.12	91.61
21-07-2013	CHP	33.99	11.39

The scheduled COD was originally envisaged at 31st March' 2012, which was extended to Jul-2012, through letter dated 01-03-2012. It subsequently got delayed, on logistic grounds, Non establishment of LC, Northern Grid failure in Jul-12 and subsequent load restrictions for some time thereafter. The letter from MP Tradeco dated 01-03-2012, for COD extension to Jul-13 is enclosed herewith as ANNEXURE A-12."

xvi. Issue

The petitioner was required to submit the equity drawdown schedule for the project from the date of infusion of first equity component in the project till 31st March 2014 along with the following:

(a) Board resolution for equity investment in the project Shareholder's certificate

Petitioner's Response

"It is submitted that the total infusion of Equity and Corporate Assistance from the beginning upto March 2014 is enclosed as Annexure A-13.

(a) *It is further submitted that the Board Resolution dated 17th May 2014 for approved Project Cost of ₹ 3575 Crores is already annexed above at para 14 (ii) and there is no further arrangement with bankers for additional lending as already explained above.*

(b) *Thus the balance project cost shall be met though the corporate resources including internal accruals, private placements and capital liabilities. So no separate resolution is required for additional capital infusion.*

(c) *Shareholders Certificate: It is submitted that since the project is part of the petitioner Company and it is not a standalone Company so no Shareholder Certificate is available. However the details of Equity Infusion are already attached as Annexure A-13 under Response to Query F under point No. 19."*

xvii. Issue

(a) The petitioner was asked to submit the working of depreciation and the Unit- Wise detailed Asset Register duly tallied with the Books of Accounts for the year FY 2012-13 and 2013-14.

(b) In Format TPS-11, the petitioner submitted calculation of Depreciation Rate considering the total Capital Cost of ₹ 3575 Crores. However, the break-up of the capital cost did not tally with the summary provided in Para 7. Therefore, the reason for variation in the break-up of capital cost in format 11 and the summary provided in Para 7 were sought from the petitioner.

Petitioner's Response

(a) *"The detailed Assets resister is for 2012-13 and 2013-14 is attached at Annexure 14*

(b) *TPS-11 and TPS 5(b) as reflected in Para 7 are both prepared for estimated cost of ₹.3575 Crores, however the presentations has differed due to rearrangement of certain figures of Civil work along with BTG cost and BoP cost, in the two formats and the revised Forms along with TPS Forms, Annexed as Annexure A-6."*

xviii. Issue

In the subject petition, the petitioner considered tax rate of 20.96%. The petitioner was asked to provide the basis for the same. Further, as per the accounts submitted for FY 13, the books of accounts of Jaypee Bina Thermal Power Plant show a negative Profit after Tax (PAT) of `120.69 Crores The petitioner was asked to submit the Tax Computation Statement and payment details if any, done for the year FY 2012-13 and FY 2013-14.

Petitioner's Response

"It is humbly submitted that the Bina Project is under the Corporate Entity (JPVL), Jaiprakash Power Ventures Limited, which pays MAT as per the provisions of applicable Income Tax Act. The MAT rate as applicable is 18.5%+surcharge of 10% plus Education and Higher Education cess of 3% amounting to 20.96% and the same has been applied in grossing up ROE calculations."

xix. Issue

(a) In Format TPS-15, the petitioner has mentioned the coal cost of ₹ 3.27 / kg, ₹ 3.40/ kg and ₹ 3.54/ kg for FY 2013-14, FY 2014-15 and FY 2015-16, respectively, showing an escalation @ 4% per annum. The basis with detailed justification for arriving at the aforementioned cost was sought from the petitioner.

(b) In the main table of Format TPS-15, all details regarding quarterly GCV and amount of coal were mentioned for FSA/ linkage coal only whereas, private supplier was also considered besides SECL and CCL in the coal sheet after the aforementioned table. In view of the above observations, the petitioner was asked to submit the complete details regarding the supply of coal from all sources to meet the coal requirement for the contracted capacity in term of PPA with the respondents and FSA with the coal companies. Detailed updated information regarding primary and secondary fuel as provided on page 842 to 844 of Annexure A-17 of the petitioner's additional submission dated 18th July' 2012 was also sought from the petitioner.

(c) The petitioner was asked to submit the following:

(i) Monthly laboratory report for each source of coal procured for computation of gross calorific value (GCV) for the year FY 2012-13 and FY 2013-14.

(ii) Month-wise and source-wise details of the coal purchased from various suppliers for FY 2012-13 and FY 2013-14 in the prescribed format (Annexure-I). The aforesaid details for FSA coal and non FSA coal (if any) were to be filed separately.

(iii) All bills/ other supporting documents in support of the information sought. The fuel cost arrived at on the basis of the aforesaid details be reconciled with the audited annual accounts of the respective year.

(iv) Month-wise and source-wise details of the secondary fuel purchased from various suppliers for FY 2012-13 and FY 2013-14 in the prescribed format (Annexure-II).

(v) All the bills/ other supporting documents in support of the information sought. The cost arrived at on the basis of the aforesaid details be reconciled with the audited annual accounts of the respective year.

(vi) Detailed computation of landed cost of fuel (Primary as well as secondary) claimed in the petition along with the break up of all fuel cost components.

Petitioner's Response

(a) *"It is most respectfully submitted that the Fuel Cost has two main components i.e. Invoice value raised by the Coal Company and Railway freight. Both the main Cost components have increased by more than 4% during the last financial year.*

(b) *The escalation of 4% is taken as an assumption for notional purpose only. The base price of CCL increased in May-2013 by approx 10.23% and Railway freight increased by approximately 2%. Further the surface transport rate charged by the Coal Companies in the invoice, increased by 29.60%. The Combined effect of three cost components of Coal Price is 6.04%. The calculation sheet showing cost increase, CIL circular dated 27-05-2013, No CIL/S&M: GM(S&M): Pricing: 234, for base price increase of Coal, CIL circular dated 13-11-2013 no. CIL: S&M:GM(F):Pricing:2341 for increase in Surface Transport Cost and Railway Board Circular dated 04-10-2013 No TCR/1078/2013/07 regarding increase in base freight rate effective from 10-10-2013 collectively is annexed hereto and marked as Annexure A-15*

(c) *It is further submitted that the weighted average price of the coal consumed in the month of Jan-14 is ₹ 3.27 per kg as per Form 19 of Jan-14 submitted along with Jan-14 Bills of Unit I and Unit II. The petitioner has taken the said Rate as the base rate for TPS projections which has been further escalated @4% in subsequent years.*

(d) *The revised TPS -15 updated with private vendor coal is already been annexed as Annexure A-6. The details of coal supplied from all sources with relevant GCV's, the updated details on pages 842 to 844 of Ann-A-17 of the submission dated 18th July' 2012, are enclosed as Annexure A-16 in the formats as provided.*

(e) *Point wise reply of queries raised under Para I (c) of additional details are as under:*

(i) *Monthly Laboratory Report of received Coal for computation of GCV for the year 2012-13 and 2013-14 is enclosed herewith as Annexure A-17.*

(ii) *Month wise, vendor wise Coal purchased details for FY 2012-13 and 2013-14 is enclosed collectively as Annexure A-16.*

(iii) *Sample Bills of 2012-13 and 2013-14 of Coal procured from different vendors along with supporting docs to arrive at the landed price of the Coal is annexed as Annexure A-18. The reconciliation with Balance Sheet figures of 2012-13 and 2013-14 are as follows:*

Reconciliation Coal with Balance sheet	***2012-13***		***2013-14***	
Particulars	***Qty in MT***	***Values in Crores***	***Qty in MT***	***Values in Crores***
Opening stock-01-04-2012		**-**	*2,20,578.18*	*105.60*
Purchases	*6,49,562.07*	*250.85*	*11,28,581.59*	*357.46*
Less: Consumption Infirm-U-1	*53,052.00*	*20.79*		
Less: Consumption Infirm-U-2	*3,505.39*	*0.94*	*25,326.00*	*11.21*
Less Consumption for the year	*3,72,426.50*	*123.51*	*11,48,413.70*	*380.32*
Closing Stock as on 31-03-2013	***2,20,578.18***	***105.60***	***1,75,420.07***	***71.53***

(iv) *Month wise source wise LDO and HFO purchased from different vendors for the year 2012-13 and 2013-14 is enclosed as Annexure A-19.*

(v) *Sample supporting bills of LDO and HFO for the financial year 2012-13 and 2013-14 are enclosed as Annexure A-20, the reconciliation with Balance sheet figures of 2012-13 & 2013-14 are as given below:*

Reconciliation with Balance Sheet 2012-13				Reconciliation with Balance Sheet 2013-14		
LDO	**Qty (KL)**	**Rate(KL)**	**Value(Crores)**	**Qty (KL)**	**Rate(KL)**	**Value (Crores)**
Opening Balance			-	181.47	66,127.3	1.20
Purchases	13,544.00	66,127.3	89.56	1,842.0	67,698.1	12.47
Less: Consumption	13,362.53	66,127.3	88.36	1,773.3	67,557.2	11.98
Closing Stock	***181.47***	***66,127.3***	***1.20***	***250.16***	***67,557.2***	***1.69***
Reconciliation with Balance Sheet 2012-13				**Reconciliation with Balance Sheet 2013-14**		
HFO	**Qty (KL)**	**Rate (KL)**	**Value (Crores)**	**Qty (KL)**	**Rate (KL)**	**Value (Crores)**
Opening Balance	-			457.22	45,273.51	2.07
Purchases	5,303.32	45,273.5	24.01	1,536.63	51,516.87	7.92
Less: Consumption	4,846.10	45,273.5	21.94	1,721.07	50,085.17	8.62
Closing Stock	***457.22***	***45,273.5***	***2.07***	***272.78***	***50,085.17***	***1.37***

(vi) Detailed computation of Landed cost of Fuel (both Primary and Secondary) enclosed as ANNEXURE A-21."

xx. Issue

(a) Month-wise details of the firm power generated from Unit I and Unit II for FY 2012-13 and FY 2013-14 along with the supporting documents for the same were sought from the petitioner.

(b) SLDC's Certificate for the month-wise statement of Plant availability factor for Unit I and Unit II for the year FY 12-13 and FY 13-14 was also sought from the petitioner.

Petitioner's Response

"The month wise details of firm power generated from U-1 and U-2 as retrieved from the Monthly SEA data from SLDC for 2012-13 and 2013-14, are enclosed as ANNEXURE A-22.

The SEA copies from Sep-12 onwards covering two financial years, that is for 2012-13 & 2013-14, are enclosed which contain the month wise statement of Plant Availability Factor for U-1 and U-2 for the years 2012-13 and 2013-14"

xxi. Issue

In paragraph 31(iii) of the Commission's order dated 12th December' 2012 for determination of provisional tariff, it was observed that the issue related to sharing the cost of 66.17 Crores incurred by the petitioner for dedicated transmission line of 400 kV had not attained finality. In light of Clause 4.1.3 of the Implementation Agreement and Clause 4.8 in PPA on interconnection and Transmission Facilities, the Commission in Para 30 of its order dated 12th December' 2012 directed GoMP and the parties in the petition to resolve this issue in terms of the PPA before the final Tariff Petition is filed before the Commission.

The petitioner was asked to submit the present status of the Transmission Cost incurred on the project in light of the provisions under the Implementation Agreement and the PPA filed by it.

Petitioner's Response

"The petitioner humbly submits that the petitioner had vide its letter dated, 22nd September' 2012, 3rd August' 2013, 05th November, 2013 and 06th February' 2014, has requested the Government of Madhya Pradesh, to allow the cost of entire transmission line and bay at Powergrid S/s, to be a part of Project Cost. The Consent is awaited. Copy of request letters attached as Annexure A-23."

xxii. Issue

In case of any change in the figures related to Infirm Power filed during the scrutiny of provisional tariff, the petitioner was asked to submit the updated details of the Infirm Power along with all necessary supporting documents.

Petitioner's Response

"It is humbly submitted that the Cost of Infirm power details for Aug-12 and for Mar-Apr-13 and UI received for the same period, does not show any material changes in the figure claimed in the petition."

xxiii. Issue

The petitioner was asked to provide the following details for Initial Spares considered if any,

(a) Detailed list of the Initial Spares capitalized by the petitioner with quantity and amount, reflected in the books of accounts;

(b) The supporting documents to verify the same

Petitioner's Response

"The detailed list of capitalized mandatory spares is being annexed as Annexure A-24."

Queries raised on the petitioner's additional submission (Set 1) and Petitioner's response:

3.6 Vide Commission's letter No. 1238 dated 26th July, 2014, the observations of the Commission on detailed scrutiny of the petitioner's additional submissions dated 27th June, 2014 and 18th July, 2014 were communicated to the petitioner

3.7 By affidavit dated 13th August, 2014, the petitioner filed its reply to the issues communicated by the Commission. Issue-wise response of the petitioner is as given below:

i. Issue

The components of capital cost as submitted in the original petition on 20th February, 2014 were found regrouped now in the additional submission dated 27th June, 2014 as given below:

Amount in ₹ Crores

Particulars	Original DPR		Diff.	Revised DPR		Diff.	Revised Final Cost		Diff.
	Petition	Add. Subm.		Petition	Add. Subm.		Petition	Add. Subm.	
Land	7	7	***0***	7	7	***0***	7	7	***0***
BTG	1706	1294	***-68***	1338	1338	***0***	1397	1397	***0***
BOP		480		572	575	***-3***	611	962	***-351***
Civil Cost	500	433	***67***	710	686	***24***	851	455	***396***
Overhead & per-operative	149	201	***-52***	149	201	***-52***	0	253	***-253***
IDC / IEDC	281	294	***-13***	464	398	***66***	612	501	***111***
Pre – Commissioning fuel consumption	0	0	***0***	0	0	***0***	96	0	***96***
Financing Cost	13	0	***13***	0	0	***0***	0	0	***0***
Contingency	52	0	***52***	0	0	***0***	0	0	***0***
Margin money for working capital	45	45	***0***	0	35	***-35***	0	0	***0***
Total	**2754**	**2754**	***0***	**3240**	**3240**	***0***	**3575**	**3575**	***0***

Therefore, the petitioner was asked to reconcile aforementioned figures and rectify the discrepancies along with detailed justification for re-grouping of capital cost components.

Petitioner's Response

"The petitioner humbly states that the Components of the Capital cost as submitted in petition dated 20th Feb, 2014 and the regrouped figures submitted in additional submission dated 27th June, 2014 have been taken from different documents like DPR/Information Memorandum-1 dated May-2009 and Information Memorandum dated Dec-2011 prepared by Lenders Engineer / Lead Bank, which have been submitted as Annexures A-9 & A-10 respectively in the affidavits dated 18th July, 2012 and we are submitting the line item wise remarks against each difference as summarised below :

(a) ***Original DPR:-***

Particulars	Original DPR		Diff.	Remarks
	Petition	Add. Subm.		
Land	*7*	*7*	***0***	
BTG	*1706*	*1294*	***-68***	*Foundation cost of the BTG / BOP were allocated to BTG / BOP from Civil Cost.*
BOP		*480*		
Civil Cost	*500*	*433*	***67***	*Foundation cost of the BTG / BOP were allocated to BTG / BOP from Civil Cost.*
Overhead & per-operative	*149*	*201*	***-52***	*Provision for contingency was allocated to overhead & preoperative.*
IDC / IEDC	*281*	*294*	***-13***	*Financing cost of loans was merged with IDC / IEDC.*
Pre-Commissioning fuel consumption	*0*	*0*	***0***	
Financing Cost	*13*	*0*	***13***	*Financing cost of loans was merged with IDC / IEDC.*
Contingency	*52*	*0*	***52***	*Provision for contingency was allocated to overhead & preoperative.*
Margin money for working capital	*45*	*45*	***0***	
Total	***2754***	***2754***	***0***	

(b) ***Revised DPR****: - Similarly the figures of revised DPR as submitted in the original petition dated 20th Feb, 2014 and additional submission dated 27th June, 2014 are submitted below:*

Particulars	Revised DPR		Diff.	Remarks
	Petition	Add. Subm.		
Land	*7*	*7*	***0***	
BTG	*1338*	*1338*	***0***	
BOP	*572*	*575*	***-3***	*Minor adjustments.*
Civil Cost	*710*	*686*	***24***	*Minor adjustments & reallocation of expenditure from one head to another as advised by the Lenders / Lender's Engineers.*
Overhead & per-operative	*149*	*201*	***-52***	*Minor adjustments & reallocation of expenditure from one head to another as advised by the Lenders / Lender's Engineers.*
IDC / IEDC	*464*	*398*	***66***	*Minor adjustments & reallocation of expenditure*

Particulars	Revised DPR		Diff.	Remarks
				from one head to another as advised by the Lenders / Lender's Engineers.
Pre-Commissioning fuel consumption	*0*	*0*	***0***	
Financing Cost	*0*	*0*	***0***	
Contingency	*0*	*0*	***0***	
Margin money for working capital	*0*	*35*	***-35***	*Minor adjustments & reallocation of expenditure from one head to another as advised by the Lenders / Lender's Engineers.*
Total	***3240***	***3240***	***0***	

(c) ***Revised Final Cost:-*** *The petitioner additionally submits that the difference in the Revised Final Cost of ₹ 3575 Crores is explained below:*

The Cost Components of the Revised Final Cost of ₹ 3575 Crores, have been mapped from the earlier submitted cost of ₹ 3491 Crores and the same is being explained hereunder as per the submissions made on two dates 20th Feb' 2014 and 27th June' 2014:

Particulars	Revised Final Cost		Diff.	Remarks
	Petition	Add. Subm.		
	(1)	*(2)*	*(3)*	
Land	*7*	*7*	***0***	
BTG	*1397*	*1397*	***0***	
BOP	*611*	*962*	***-351***	*Foundation cost for the Plant & Machinery from Civil work allocated under this head.*
Civil Cost	*851*	*455*	***396***	*Foundation cost for Plant & Machinery was transferred to BOP.*
Overhead & per-operative	*0*	*253*	***-253***	*Part of IDC & pre-commissioning fuel allocated to OH & pre-operative.*
IDC / IEDC	*612*	*501*	***111***	*Part of IDC allocated to overhead & pre-operative.*
Pre-Commissioning fuel consumption	*96*	*0*	***96***	*Pre commissioning fuel consumption was merged with overheads and not shown separately.*
Financing Cost	*0*	*0*	***0***	
Contingency	*0*	*0*	***0***	
Margin money for working capital	*0*	*0*	***0***	
Total	***3575***	***3575***	***0***	

It may be pertinent to mention that the classification in the estimates prepared by Lenders for Project cost is different from the classification as per the Books of Accounts, which are as per the Accounting Standard.

At the time of making the additional submission we had the Audited figures of the Unit I and Unit II capitalized cost. Additionally the actual IEDC already capitalised and IDC was known so the figures given in additional submissions were based on the realistic basis wherein the actual capitalised BTG, actual capitalised BOP and Civil Work has been taken along with the actual capitalised IEDC and IDC figures.

The Last Audited Figures of Cost of Project incurred upto 31st March, 2014 is ₹ 3491.14 Crores. The additional Project cost as envisaged has been grouped with respective heads and has been shown above under Additional submission. The petitioner humbly requests the Commission to consider the figures as given under column (2) of revised final cost, above as estimated cost of completion."

ii. Issue

(a) The petitioner submitted the CA certificate as on 31st March' 2014 certifying the total capital cost of ₹ 3,491.14 Crores. It was not possible to identify the amounts pertaining to contingency, overheads, financing cost, etc (in line with the submission made by the petitioner) from the aforesaid CA certificate.

(b) The petitioner had also submitted capital cost of ₹ 2951.18 Crores as on 30th June' 2012 which was considered provisionally in the provisional Tariff order dated 12th December' 2012.

In view of the above, the petitioner was asked to submit the breakup of the capital cost duly reconciled with the books of accounts/ CA certificate in the prescribed format.

Petitioner's Response

"The CA certified amount of ₹ 3,491.14 Crores is the audited incurred cost as per our books of accounts as at 31st March' 2014. These figures are based on actual expenses recognised in the books of accounts which inter-alia include Overhead expenses and IEDC. However the financing cost is included in IDC .There is no expenditure which has been considered as contingency. Contingency expense is considered only up to cost estimate stage and is not a part of the actual expenditure.

The Capital Cost breakup of the two dates is as under:

Particulars	***As on 30.06.2012***	***As on 31.3.2014***
Land	*6.86*	*6.86*
BTG	*1,352.67*	*1,376.26*
BOP	*635.43*	*927.15*
Civil Cost	*414.37*	*427.17*
IDC / IEDC/Finance Cost/ Pre commissioning Fuel Expenses	*541.85*	*753.70*
Contingency Expenses	*-*	*-*
Margin Money	*-*	*-*
Total	***2,951.18***	***3,491.14***

iii. Issue

The petitioner was asked to submit the bifurcation of common capital cost incurred and capitalized on the common facilities between Unit I and Unit II as on the following dates:

(a) As on CoD of Unit I

(b) As on CoD of Unit II

(c) As on 31st March, 2013

The petitioner was asked to submit the details of additional common facility if any, created between Phase I and Phase II and also submit cumulative balances of such common facilities on the aforesaid dates.

Petitioner's Response

"The petitioner humbly submits that the Common Capital Cost attributable to the units on various dated are as under:-

(a) *As on COD of Unit I (31-08-2012)*

Summary	Total Cost as per CA Certificate	Directly attributable to Unit I	50% of Common facilities.	Allocation of IDC and IEDC on Sum of 2+3	Total for Unit I (2+3+4)	Unallocated figs of Common Facilities
	(1)	(2)	(3)	(4)	(5)	(6)
BTG	657.75	657.74		202.67	860.42	-
BOP	433.90	82.85	175.53	79.61	337.98	175.53
Civil	365.87	70.55	147.66	67.24	285.45	147.66
IDC	257.54					58.06
IEDC	150.05					
	1,865.11					
Land	6.86		3.43		3.43	3.43
TOTAL	**1,871.97**	**811.14**	**326.62**	**349.53**	**1,487.28**	**384.68**
Total Capital Cost for Tariff of U-1					1,487.28	
Add: Unallocated cost of 50% of Common facilities w/o unallocated IDC and IEDC					326.62	
Add: Unallocated IDC and IEDC on 50% Common Facilites					58.06	
Total Capitalised Cost of U-1 as per CA Certificate					1,871.96	
Add: CWIP as per CA Certificate					1,188.22	
Total Capitalised Cost of Unit-1 as per CA certificate					3,060.19	

(b) *As on 31st March 2013*

Summary	Total Cost as per CA Certificate	Directly attributable to Unit I	50% of Common facilities.	Allocation of IDC and IEDC on Sum of 2+3	Total for Unit I (2+3+4)	Unallocated figs of Common Facilities
	(1)	(2)	(3)	(4)	(5)	(6)
BTG	657.75	657.74		202.25	859.99	-
BOP	433.90	82.85	177.92	80.18	340.95	177.92
Civil	365.87	70.55	147.66	67.10	285.31	147.66
IDC	257.54					58.06
IEDC	150.05					
	1,865.11					
Land	6.86		3.43		3.43	3.43
Other FA of Unit #1 Part of BOP	4.79				-	

Summary	Total Cost as per CA Certificate	Directly attributable to Unit I	50% of Common facilities.	Allocation of IDC and IEDC on Sum of 2+3	Total for Unit I (2+3+4)	Unallocated figs of Common Facilities
TOTAL	**1,876.76**	**811.14**	**329.01**	**349.53**	**1,489.67**	**387.08**
Total Capital Cost for Tariff of U-1					*1,489.67*	
Add: Unallocated cost of 50% of Common facilities					*329.01*	
Add: Unallocated IDC and IEDC on 50% Common Facilites					*58.06*	
Total Capitalised Cost of U-1 as per CA Certificate					*1,876.75*	
Add: CWIP as per CA Certificate					*1,489.36*	
Total Capitalised Cost of Unit-1 as per CA certificate					*3,366.12*	*0.00*

(c) *As on COD of Unit II (06-04-2013)*

The total capitalized value as on 06.04.2013 (₹ 3434.05 Crores) in above said table is different from the total cost as per CA Certificate (₹ 3412.23 Crores) by an amount of ₹ 21.82 Crores. This amount of ₹ 21.82 Crores is the Interest on the difference in the amount of Capitalization between the Books of Account and the amount on which Tariff is allowed for the period between the COD of Unit I and COD of Unit II. The same is being submitted in detail in reply to query no 8.

The petitioner humbly submits that no facilities have been specifically created for Phase 2 as the existence of Phase 2 is subject to availability of Coal, for which no linkages have been granted so far.

Summary	Total Cost as per CA Certificate		Total Cost as on 06.04.2013	Allocated Cost to U-1	cost of U-2 after allocation of unallocated cost	Total Blended Cost after allocation
	Unit # 1	**Unit # 2**	**U1+U2**			
	(1)	(2)	(1+2) =(3)	(4)	(3-4)=(5)	(6)
BTG	657.75	718.51	1,376.26	860.42	515.84	1,376.26
BOP	433.90	269.61	703.51	340.38	363.13	703.51
Civil	365.87	51.94	417.81	285.45	840.68	1,126.13
IDC	257.54	209.12	466.66			-
IEDC	150.05	91.61	241.66			-
	1,865.11	**1,340.79**	**3,205.90**	**1,486.24**	**1,719.66**	**3,205.90**
Land	6.86		6.86	3.43	3.43	6.86
IDC On Unallocated portion from					21.82	21.82

Summary	Total Cost as per CA Certificate		Total Cost as on 06.04.2013	Allocated Cost to U-1	cost of U-2 after allocation of unallocated cost	Total Blended Cost after allocation
31-08-2012 to 06-04-2013						
Other FA of Unit #1 (Part of BOP)	*4.79*	*-*	*4.79*			*4.79*
TOTAL	***1,876.76***	*1,340.79*	***3,217.55***	***1,489.67***	***1744.91***	***3239.37***
Total Capital Cost for Blended Units					***3,239.37***	
Add: CWIP as per CA Certificate					*194.68*	
Total Capitalised Cost					*3,434.05*	

iv. Issue

In its queries dated 05th May, 2014, the Commission directed the petitioner to submit the detailed computation of IDC as on scheduled CoD as well as on the actual CoD. However, the petitioner did not submit any reply for the same. The petitioner was again directed to submit the details for Unit I & II separately in the prescribed format duly supported by documentary evidence of payments made to the lenders and reconciled with the CA certificate / accounts.

Petitioner's Response

"The petitioner would humbly like to submit before the Hon'ble Commission that the Books of Accounts are maintained as per the laid down accounting standards and guide lines issued the Institute of Chartered Accountants of India and not unit wise.

The bank wise detail showing interest on Loan is attached as Annexure A (of the additional submission) which tallies with the Balance sheet as at the end of each financial year from FY 2010 to FY 2014."

v. Issue

The petitioner was asked to submit, the details of income earned on account of sale of power as Unscheduled Interchange before CoD along with all supporting documents.

Petitioner's Response

(a) *"The Petition humbly submits that the details of Income earned on account of Sale of Power as Unscheduled Interchange before COD along with all supporting documents has already been submitted as per the following details.*

(i) For infirm Power related to U-1, the total income earned as UI, during the supply of infirm power between the date of synchronization and COD is ₹ 5.92 Crores and the details attached are as Annexure B.

(ii) For Infirm Power related to U-2, the total income earned as UI during the supply of infirm power amounts to ₹ 0.50 Crores during Mar-13 and ₹ 2.81 Crores during Apr-13 totalling to ₹ 3.31 Crores, and are attached as Annexure.

The said income on account of Infirm Power has been reduced from the capital expenditure."

vi. Issue

In its submission dated 20th February' 2014, the petitioner submitted the pre-commissioning fuel expenses of ₹ 96 Crores. However, in its additional submission dated 27th June' 2014, the petitioner had not submitted any such expense. The petitioner was asked to provide the reasons for the same along with the following details.

Month	Generation MU	Coal Consumption		Oil Consumption		Revenue from Sale of Infirm Power (in ₹ Crores)	Net Revenue Earned (in ₹ Crores)
		Qty in MT	Amt in Crores	Qty in MT/KL	Amt in Crores		

With regards to the aforesaid pre-commissioning fuel expenditure, the petitioner was asked to submit month-wise total cost and quantity of oil and coal consumption.

Petitioner's Response

"The petitioner humbly submits that the pre-commissioning fuel expense of ₹ 95.83 Crores was merged with Overheads & Pre-operative expenses in the additional submission dated 27th June' 2014. The details of the fuel consumed in the pre commissioning stage of U-1 and U-2 including fuel consumed from date of Grid synchronization to COD of U-1 and U-2, are as under:-

Month	Generation MU	Coal Consumption		Oil Consumption		Revenue from Sale of Infirm Power	Net Revenue Earned
		Qty in MT	Amt in Crores	Qty in MT/KL	Amt in Crores		
UNIT –I							
Upto Jul-12	0.08	53052	20.79	2,740.85	16.56		-37.35
Aug-12	41.04			4,597.60	30.16	5.92	-24.24
Total Cost (I)	**41.12**		**20.79**		**46.72**	**5.92**	**-61.59**
UNIT II							
Feb-13				405.96	2.18		-2.18
Mar-13	4.32			2,127.14	11.11	0.50	-10.61
01-04-13 to 06-04-13	24.34	25,326	11.21	747.40	3.81	2.81	-12.21
Total Cost (II)	**28.66**		**11.21**		**17.10**	**3.31**	**-25.00**
Grand Total (I+II)			**32.00**		**63.82**	**9.23**	**-86.59**

vii. Issue

The petitioner was asked to reconcile the Fixed Asset Register with the CA Certificate as well as with the note 10 of the audited annual accounts of JP Bina Thermal Power Plant for the following dates:

(a) 31st August' 2012 (CoD of Unit I)

(b) 31st March' 2013

(c) 06th April' 2013 (CoD of Unit II is 7th April'2013)

(d) 31st March' 2014

Petitioner's Response

"The petitioner humbly submits that the Audited Balance Sheets as at 31st March' 2013 and 31st March' 2014 have been submitted. No Audited Balance Sheets have been prepared as at 31st August' 2012 and 06th April' 2013.

The Fixed Assets Register submitted tallies with the note 10 of the audited annual accounts of JP Bina Thermal Power Plant on 31st March' 2013 and 31st March' 2014 and are attached as Annexure D and has been summarized as under:-

Particulars	As per note 10 of Audited Annual Accounts		As per Fixed Assets Register		As per CA Certificate			
	As on 31.03.13	As on 31.03.14	As on 31.03.13	As on 31.03.14	As on 31.08.12	As on 31.03.13	As on 06.04.13	As on 31.03.14
Land	6.86	6.86	6.86	6.86	6.86	6.86	6.86	6.86
Buildings	228.97	290.59	228.97	290.59				
Plant and machinery	1,634.78	3,157.55	1,634.78	3,157.55				
Furniture and fixtures	1.31	1.40	1.31	1.40	1,865.11	1,869.90	3210.69	3,454.65
Vehicle	2.66	2.66	2.66	2.66				
Office Equipment	2.17	2.44	2.17	2.44				
Sub Total	**1,876.75**	**3,461.50**	**1,876.75**	**3,461.50**	**1871.97**	**1,876.76**	**3217.55**	**3,461.51**
CWIP					1188.22	1489.36	194.68	29.63
Total	**1,876.75**	**3,461.50**	**1,876.75**	**3,461.50**	**3,060.19**	**3,366.12**	**3412.23**	**3,491.14**

The capital cost of Unit I, Unit II & CWIP tallies with our Fixed Assets Register / Balance Sheet / CA Certificate as on 31st March' 2013 and 31st March' 2014 submitted by the petitioner. However the Tariff is claimed at cost of ₹ 3239.37 Crores and ₹ 3483.33 Crores as on 6th April' 2013 and 31st March' 2014 respectively which is higher than the cost as per Fixed Assets Register / Balance Sheet / CA Certificate by an amount of ₹ 21.82 Crores. This amount of ₹ 21.82 Crores is the Interest on the difference in the amount of Capitalisation between the Books of Account and the amount on which Tariff is allowed for the period between the COD of Unit I and COD of Unit II.

Interest @ 13.42% on 70% (Debt portion only) of ₹ 387.08 Crores for the period 31st August' 2012 to 6th April' 2013 (219 days) has been added to the capital cost as interest on the unallocated expenditure of ₹ 387.08 Crores (unallocated expenditure of Unit I) from the period of COD of Unit I (31st August' 2012) to COD *of Unit II (06th April' 2013). As the unallocated expenditure of Unit I was capitalized in the Books of Accounts as per the Accounting Standards / Companies Act, the interest on said amount was not added to CWIP as per the Accounting Standards, as the same was debited to Profit & Loss Account. The said interest has not been recovered in the tariff for the 31st August' 2012 to 06th April' 2013. Hence this amount of ₹ 21.82 Crores has been added to the capital cost of Unit II for determination of tariff which is over & above the CWIP / Fixed Assets in the Balance Sheet / Fixed Assets Register.*

The above methodology is supported by the Tariff Order of Hon'ble CERC in Petition No. 185/2004 for NHPC's Chamera II HEP, the relevant paras 9 to 10 of the said order are as follows:-

9. The apportioned capital cost claimed by the petitioner on the date of commercial operation of Unit I, II and III and the gross block as on 31.3.2004 are as under:

(₹ in Crores)

Particulars	***Unit I***	***Unit I & Unit II***	***Unit I, Unit II & Unit III***
Capital Cost claimed	*641.21*	*1290.78*	*1956.06*
***Gross Block** as on 31.3.2004*	_	_	***1944.05***

10. It is seen that the gross block as per certified accounts of the generating station as on 31.3.2004 is ₹ 1944.05 Crores as against the capital cost of ₹ 1956.06 Crores including ERV, Contingency and Escalation claimed for tariff as on 31.3.2004. The petitioner has submitted that this difference of ₹12.01 Crores (₹1956.06 Crores – ₹1944.05 Crores = ₹ 12.01 Crores) is due to the fact that in certified accounts common facilities have been capitalised on the basis of their use as on 1.11.2003, whereas in the petition, capitalisation has been shown on MW basis resulting into additional IDC of ₹ 12.01 Crores. This has resulted in increase in capital cost for tariff purpose to ₹ 1956.06 Crores as on 31.3.2004 as against ₹ 1944.05 Crores, as per books of accounts."

viii. Issue

In case of the contract of civil work awarded to JAL, the petitioner was asked to submit the copy of work order awarded to JAL for Bokaro Cement Plant.

Petitioner's Response

"The Copy of the Work order awarded to JAL for Bokaro Jaypee Cement is attached as ***Annexure E*** *(of the additional submission)"*

ix. Issue

(a) The petitioner was asked to submit all the formats for FY 2013-14 in two parts, i.e. for the period 1.4.2013 to 6.4.2013 (when only Unit I was operating) and for the period from 7.4.2013 to 31.3.2014 (when both Units I and II had achieved CoD).

(b) It was observed that there have been variations in the Annual Fixed Charges as submitted in the petition dated 20th February, 2014, additional submission dated 30th June, 2014 as well as in the formats submitted along with the petition and additional submission.

Therefore, the petitioner was asked to reconcile the same and ensure the correctness of numbers in each submission.

(c) Prima facie, the petitioner's formats pertain to Unit I only. The petitioner was asked to suitably revise the formats to incorporate data pertaining to both the units wherever applicable.

(d) The capital cost as per CA certificates dated 31st March, 2013 and 31st March, 2014 as submitted by the petitioner did not reconcile with the cumulative balance of loan and equity components submitted under format TPS 13 A (Loan) and Annexure P (Equity) as illustrated below:

Date	Closing Loan as per TPS 13A (I)	Closing Equity as per Annex. P (II)	Total (I+II)	Closing balance of capital costs as per CA Certificate
31-Mar-13	2,215.59	1,048.68	**3,264.27**	**3,366.12**
31-Mar-14	2,164.20	1,048.68	**3,212.88**	**3,491.13**

(e) Further, the loan details submitted under TPS 13A did not tally with the data submitted in TPS 6 or TPS 7. The petitioner was asked to reconcile the same with its explanation.

Thus, the petitioner was asked to reconcile the data submitted under various formats, CA certificate and books of accounts and submit suitably revised formats with the reconciled numbers.

(f) In the format TPS 5B, the petitioner provided the list of contracts awarded for different works. However, the cumulative value of works awarded as submitted in format TPS 5B did not reconcile with the total project cost submitted by the petitioner. Thus, the petitioner was asked to submit the revised format duly reconciled with the accounts/ CA Certificate.

(g) The instant application in the subject petition was filed under MPERC (Terms and conditions for determination of generation tariff) Regulations, 2012 which is applicable for the control period up to FY2015-16 whereas the petitioner had not sought the tariff for FY 2015-16 in its petition. Additionally, the petitioner had not submitted any details for FY 2015-16 in the formats. The petitioner was therefore asked to submit the revised prayer and formats for FY 2015-16 along with the applicable fees also.

(h) The petitioner had not submitted the forms F1, F2, F3, T1b, TPS-8 & TPS-10. The petitioner was required to submit the same.

(i) The petitioner had not filed the Format 5B completely. The petitioner was required to fill the complete details in this format.

(j) The details of components submitted in the format TPS-1 were not matching with that submitted in format S4. The petitioner was asked to clarify the same.

(k) The net generation for FY 2013-14 as submitted by the petitioner under format F-4a is 1417.07 MU whereas, it was provided as 1427.06 MU in the format S4. The petitioner was asked to clarify the same. The petitioner had also not provided the details for FY 2014-15 and FY 2015-16 in the format F-4a. The aforesaid details were sought from the petitioner.

Petitioner's Response:

"The petitioner humbly submits that as directed by the Hon'ble Commission, tariff format for FY 2013-14 have been divided into two parts i.e. 01.04.2013 to 06.04.2013 and for period 07.04.2013 to 31.03.2014. The other formats as mentioned in point no. 11-19 have been updated and corrected for FY 2014-15 and FY 2015-16 as per directions. The petitioner has since deposited ₹ 15.00 lac being the applicable fees for determination of tariff for FY 2015-16 (copy of receipt enclosed). These formats from FY 2012-13 to FY 2015-16, copy of Fee receipt, print out from SBI Web Site showing the Base Rate of Interest on various dates and calculation of Tariff, are collectively enclosed as ***Annexure F."***

x. Issue

(a) On perusal of the CA certificate as on 31st March' 2014, it was observed that the additional capitalization of ₹ 249.97 Crores is also claimed by the petitioner. With regard to the additional capitalization in Unit I & II, the petitioner was asked to submit the details of additional capitalization in terms of clause 20.1 of the MPERC (Terms and Conditions for Determination of Generation Tariff), Regulations, 2009 and Regulations, 2012 for both the units.

(b) The following details were also required to be submitted along with all relevant supporting documents in favour of claim for additional capitalization:

(i) List of the work under additional capitalization along with the reasons for delay in capitalization.

(ii) If the delay is at contractor end, the amount of LD estimated against delay in each work under additional capitalization was sought.

(iii) Whether the assets capitalized during the year are under the original scope of work. Supporting documents were sought in this regard.

(iv) Whether the addition of asset is on account of the reasons (a) to (e) under clause 20.1 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2009.

(v) List of balance works yet to be completed filed along with their estimated cost was sought from the petitioner.

Petitioner's Response

"The observations of the Hon'ble Commission regarding the additional capitalization of ₹ 249.97 Crores and the direction to submit details thereof in terms of clause 20.1 of the MPERC regulation [(Terms and conditions for determination of generation tariff) (Revision-II) Regulations, 2012 {RG-26 (II) of 2012}] are being submitted by the petitioner as under:-

(₹ in Crores)

Particulars	As appraised by the Lenders	Actual as per Balance Sheet	Difference
Land	7	7	-
Civil Works/BTG/BOP	2,620	2,730	110
IEDC/IDC	575	754	179
Margin Money	38	-	(38)
Total	**3,240**	**3,491**	**251**

It may be observed from the above that broadly there is an increase of ₹ 110 Crores in the Assets component and ₹ 243 Crores in the IDC/IEDC. The reasons for these deviations are as under:-

(a) *The increase of ₹ 110 Crores in the Asset Block is mainly on account of inflationary factors and increase in price of major civil components for example Cement and Steel.*

(b) *IDC & IEDC:- The increase of ₹ 179 Crores is mainly on account of increase in project cost, delay in COD of the project and the consequent interest thereon & other overheads."*

xi. Issue

(a) As per the CA certificate, total loan as on 31st March' 2014 is ₹ 2254 Crores In format TPS 6, the loan from different banks is ₹ 2254 Crores that reconciles with the CA certificate. However, in format TPS 7, the cumulative loan amount is ₹ 2243 Crores.

The petitioner was asked to reconcile the data submitted under Formats TPS6 and TPS7.

(b) As per Schedule 3 of the Financial Statements for FY 2014, the loan amount availed by JP Bina is ₹ 2109.27 Crores out of the sanctioned loan of ₹ 2258 Crores. This amount did not reconcile with the CA Certificate, TPS 6 or TPS 7. The same was asked to be explained.

(c) The petitioner was asked to submit the detailed calculation of the weighted average interest rate of 12.75% considered by the petitioner in the format TPS 13 and TPS 13A of the petition duly supported by appropriate documentary evidence.

(d) Rate of interest provided in TPS 7 was not matching with the bank certificates provided in annexure 11 of the petition. The petitioner was asked to justify the same.

Petitioner's Response

"The Details of the loans taken for implementation Bina Project are as under (All figures in Crores):-

S. No	Bank	Loan Taken -project cost of ₹ 2754 Crores	Addl. Loan for increase in project cost - ₹ 2754 Crores to ₹ 3240 Crores	Total Loan	Disbursed by the Banks	Repayment done in FY2013 & FY2014	Balance Loans as on 31.03.2014
1	Allahabad Bank	120.00		120	120	7.20	112.80
2	Canara Bank	120.00		120	120	7.20	112.80
3	Central Bank of India	360.00	100	460	460	29.60	430.40
4	ICICI Bank Ltd	100.00		100	100	10.00	90.00
5	IDBI Bank Ltd	408.00	75	483	480.75	28.98	451.77
6	Punjab National Bank	360.00	65	425	425.00	26.80	398.20
7	State Bank of Hyderabad	100.00		100	100	6.00	94.00
8	State Bank of Patiala	100.00	30	130	129.05	8.40	120.65
9	J & K Bank	100.00	30	130	129.05	8.40	120.65
10	Union Bank of India	160.00	30	190	190.00	12.00	178.00
		1928	**330**	**2258**	**2253.85**	**144.58**	**2109.27**

The CA certificates submitted shows ₹ 2,253.85 Crores being the total loan drawn for the project as on 31.03.2014. The revised Formats of TPS 6 and TPS 7 are attached as ***Annexure F.***

The detailed Calculation sheet of the bank wise weighted average Interest rate at different dates i.e as on 31-03-2013 and 31-03-2014 are being submitted as ***Annexure G & H.***

The Rate of interest in the bank Certificates reflect the applicable Interest rate on the date mentioned in the certificate. However the Rate of Interest as mentioned in TPS 7 is the ROI of the sanction date i.e. Base Rate plus applicable spread. The Actual Interest on the loans paid to different banks is being submitted as ***Annexure A*** *which tallies with TPS 14.*

The petitioner also humbly submits that the detailed calculation of Interest rates as provided under TPS 13 and TPS 13A are attached as ***Annexure F. "***

xii. Issue

The details of tax computation and tax payment challan including tax return were not provided by the petitioner. The same wee asked to be submitted.

Petitioner's Response

*"The copy of Income Tax Return for the financial year 2012-13 is attached as **Annexure I** (of the additional submission) which inter-alia includes tax computation and tax payments and shows the payment of Income Tax on MAT@20.96%."*

xiii. Issue

The FSA mandated that the GCV of coal should be around 4300 – 4900 kCal/kg (for CCL) and 4300 – 4600 kCal/kg (for SECL). However, as per the submission of the petitioner, the GCV of coal received from CCL and SECL was ranging from 3500 kCal/kg to 4000 kCal/kg. The petitioner was asked to provide the reason for the same.

The petitioner was also asked to furnish the actual penalties recovered if any, from CCL and SECL with reference to the penalty clauses in the FSA.

Petitioner's Response

"The petitioner would humbly like to submit before this Hon'ble Commission that the issue of grade slippage for supplies of coal from Coal India Limited (CIL) through its subsidiaries (CCL / SECL in our case) is not restricted to Jaypee Bina, but is a national issue as reported in Media. There has been a positive development for resolution of this problem as 3rd party sampling has been started at the Loading end which has improved the received grade of coal to some extent. The petitioner may also be allowed to rely on its earlier submissions on this issue.

Without prejudice to the above it may be pertinent to mention that the GCV of coal measured at the loading end is on equilibrated basis whereas the GCV of coal measured at the receiving end is on ARB (As Received Basis). As a thumb *rule there is an approximate difference of 200 – 300 Kcal between the two methods of measurement, the GCV by ARB method being the lower of the two.*

The petitioner has been regularly informing the Coal Suppliers (CCL and SECL) regarding quality issue including grade slippage, stones and oversize coal. The petitioner has received credit notes from CCL and SECL totaling to ₹ 36,17,704.52. The details of which along with the respective credit notes are attached as ***Annexure J.”***

xiv. Issue

GCV certificates as submitted by the petitioner were not signed and sealed by any authorized signatory and/or the lab official. The petitioner was asked to re-submit the same duly signed by the authorized signatory.

Petitioner’s Response:

“The Coal Analysis Certificates duly signed by the authorized signatory of the Chemistry Department is attached as ***Annexure K (****of the additional submission)****.”***

xv. Issue

The quantity of coal received by the petitioner from CCL and SECL was lower than the contracted amount of coal as per the FSA. The petitioner was asked to submit the reason for the same.

The petitioner was required to submit details of the penalty levied, if any, on the coal supplier in case of shortfall of coal supplied by CCL and SECL from the contracted capacity along with the documentary evidence for the same.

Petitioner's Response

"In response to the issue of lower materialization of coal under FSA, the petitioner would humbly like to submit that this issue is also not restricted to Jaypee Bina, but is a general issue affecting all Thermal Power Stations in the country. We have come across news articles in the Media mentioning that rationalization of source is being under taken which would help reduce this problem.

The reason as explained to us by our Coal Handling Agents is due to bunching of allocation by Coal Companies due to which corresponding number of Rakes from Railways are not available for lifting. This leads to deemed supply in the Books of Suppliers, whereas the generator does not receive the corresponding quantity. As submitted under reply to Query No. 25, the rationalization of freight would mitigate this issue also to an extent while at the same time reducing the freight expenditure, resulting in Lower Landed Cost and corresponding ECR.

The FSAs with CCL and SECL provide for compensation for short delivery, which clause is triggered after three years from the date of signing of FSA. Therefore, no compensation on account of short delivery has been received by the petitioner from CCL and SECL."

xvi. Issue

In the format S4,

(a) The petitioner submitted the Gross generation from Unit I to be 441.85 MU for FY 2012-13 which was very low as compared to the normative generation. The petitioner was asked to explain the same.

(b) Similarly, for FY 2013-14, the petitioner submitted the gross generation from Unit I to be 1,562.63 MU only for FY 2012-13 which was lower than the normative generation. The petitioner was asked to explain the same.

Petitioner's Response

"Revised Form S4 is annexed herewith along with all other TPS forms. The Actual generation is lower than the Normative generation on account of frequent back downs given by `SLDC during the period under review and also instructions to operate at Technical minimum of 140 MW per Unit."

Queries raised on Petitioner's additional submission (Set 2)

3.8 On examination of the additional submission made by the petitioner on 13th August 2014, it was observed that the contention of the petitioner was lacking clarity on certain issues. Therefore, a meeting with the representative of the petitioner was convened with the office of the Commission to discuss all such issues and the petitioner was asked to file clarification/explanation on all such issues.

3.9 By affidavit dated 25th September, 2014, the petitioner filed its reply to the issues communicated in the meeting held at the office of the Commission. The petitioner submitted the following:

Cost of Common Facilities as on 31.3.2014

i. Issue

Issues regarding bifurcation of Common Costs incurred on common facilities as on various dates:

(a) Basis of allocation of IDC Cost among Unit I and Unit II as on 31st August' 2012 was not clear;

(b) ₹ 4.79 Crores was shown as additional capitalisation as on 31st March' 2013. It was not clear whether the same was a standalone addition to the cost of Unit I or was a common cost.

Issues on Additional Capitalization claimed by the Petitioner:

(a) List of works done as additional capitalisation and pending works to be done was not provided

(b) Justification of additional capitalization was not provided as per provisions of the Regulations.

Petitioner was asked to clarify the same.

Petitioner's Response

"The petitioner humbly submit that the bifurcation of Common Capital Cost incurred and capitalized on Unit I and Unit II, as per CA Certificate, as on 31.03.2014 is as under:

Summary	Total Cost as per CA Certificate		Total Cost	Allocated Cost to U-1	Allocated Cost to U-2	Total Blended Cost after allocation
	Unit # 1	Unit # 2	U1+U2			
	(1)	(2)	(3)	(4)	(5)	(6)
BTG	657.75	718.51	1,376.26	859.99	906.58	1,766.57
BOP	433.90	268.59	702.49	458.75	683.67	1,142.42
Civil	365.87	51.94	417.81	289.99	255.67	545.66
IDC	257.54	209.12	466.66	-		-
IEDC	150.05	91.61	241.66	-		-
	1,865.11	**1,339.77**	**3,204.88**	**1,608.73**	**1,845.92**	**3,454.65**
Land				3.43	3.43	6.86
IDC On Unallocated portion from 31-08-2012 to 06-04-2013						21.82
Other FA - Part of BOP after Unit 1	4.79		4.79			
Other FA - Part of BOP after Unit 2		1.78	1.78			
Coal handling Plant including IDC & IEDC		190.59	190.59			
Civil Work & Infrastructure including barrage cost		9.36	9.36			
Other BOP Package		43.25	43.25			
Other FA of Unit #1 Part of BOP			-			-
TOTAL	**1,869.90**	**1,584.75**	**3,454.65**	**1,612.16**	**1,849.35**	**3,483.33**

Total Capital Cost for Blended Units	3,483.33
Add: CWIP as per CA Certificate	29.63
Total Capitalised Cost	**3,512.96**

It may kindly be noted by the Hon'ble Commission that common cost of ₹ 4.79 Crores, ₹ 1.78 Crores, ₹ 190.59 Crores, ₹ 9.36 Crores & ₹ 43.25 Crores totaling to ₹ 249.77 Crores has been shown in the above table as per the CA Certificate *dated 04.06.2014 for project expenses incurred up to 31.03.2014. This common cost has been allocated between Unit I and Unit II on the basis of capacity as provided under the Regulations. Project expenditure as per the CA Certificate as on 31.03.2014 is ₹ 3491.14 Crores and the IDC of ₹ 21.82 Crores when added to this figures totals to ₹ 3512.96 Crores as per the above table.*

Unit II of the petitioner's project achieved COD on 06.04.2013 whereby the "cut off", as per definition contained in clause 4.1(J) of the MPERC Tariff Regulations dated 12th December' 2012, would be 31st March' 2015. The above expenditure incurred by the petitioner on its Jaypee Bina Thermal Power Plant is part of the original scope of work and the project completion cost of ₹ 3575 Crores appraised by the Board of petitioner vide Resolution dated 17th May' 2014. These works are basically works which were deferred for execution and are being completed in a phased manner.

The Board approved projected completion cost of the Jaypee Bina Thermal Power Plant is ₹ 3575 Crores and the actual expenditure incurred up to 31st March' 2014, as certified by the Chartered Accountant is ₹ 3491.14 Crores. The difference of ₹ 83.86 Crores (3575-3491.14) is basically towards the Balance of Civil Works e.g. Roads, Boundary Wall etc. and Coal Blending Unit, which is part of the Coal Handling Plant and is under execution."

Transmission Related

ii. Issue

Issue regarding common facilities between Phase 1 and Phase 2:

(a) The cost of transmission line increased from ₹ 55.78 Crores (as approved provisionally) to ₹ 84.72 Crores as per current submission. Justification for the same was sought.

(b) The cost of barrage has increased from ₹180 Crores to ₹ 187 Crores as per current submission. Justification was sought for increase in the Barrage Cost if any

Petitioner's Response

"The petitioner would humbly like to submit before the Hon'ble Commission that the Transmission Line of 2x250 MW Jaypee Bina Thermal Power Plant is a 400 Kv double circuit line starting from the plant Bus Bar, with one circuit terminating at CTU (PGCIL sub-station at Bina) and the other circuit terminating at MPPTCL sub-station at Bina. The double circuit line length is 13.44 km, the single circuit line length from this "Y" connection point to CTU (PGCIL sub-station at Bina) is 6.229 km and the single circuit line length from this "Y" connection point to MPTCL sub-station at Bina is 6.177 km. A detailed chart showing the layout of the transmission line with crossings and the terminations is attached as ***Annexure – A.***

It may be noted that due to peculiar configuration of this Transmission Line, the project Bus Bar is in fact an Inter State Connection Point and power flows from CTU to STU network and vice-versa depending on load flow, even if the station transformer is disconnected, which in the present configuration, is as per the capacity and design suggested by CTU and gives additional reliance for transmission of power. This configuration would ensure uninterrupted power flow to STU or CTU even if one circuit is down and would also give emergency evacuations to CTU / STU in case any other network is down.

The total cost of the Transmission line is reflected in the Form 5B at ₹ 84.72 Crores comprising of the following:-

(i) 400 kv D/c line – ₹ 63.39 Crores.

(ii) 33/11 kv line, electric installation, lighting, cables, LT switch gear, Buss Duct, cable tray etc. - ₹ 21.33 Crores.

The above mentioned total cost of ₹ 63.39 Crores includes an amount of ₹ 2.13 Crores by way of Crop Compensation and Railway Fee. On reducing this amount of ₹ 2.13 Crores, the net cost of Transmission Line and the Sub-Station works out to ₹ 61.26 Crores, which is very much in line with the estimated cost of transmission line included in the Board approved completion cost of ₹ 3,575 Crores. The details of transmission line package and Sub-station details for the 400 kV Bina Transmission Line is attached as ***Annexure – B.***

In addition and without prejudice to the above, the thumb rule for calculating the cost of 400 kV double circuit transmission line on Quad Moose Configuration in plain area is ₹ 2.7 Crores / KM and single circuit for this configuration is 65% of the double circuit line cost. Using these parameters, the cost of transmission line works out as under:-

(i) D/C : ₹ 2.7 Crores X ₹13.444 kms. = ₹ 36.2988 Crores.

(ii) S/C: 65% of ₹ 2.7 Crores = ₹ 1.755 Crores X 12.406 kms. (6.229+6.177) = ₹ 21.7725 Crores.

(iii) ***Total cost {(i)+(ii)} = ₹ 58.0713 Crores.***

(iv) Cost of S/s = ₹ 7.50 Crores.

(v) ***Grand total - Hard Cost {(iii)+(iv)} =₹ 65.5713 Crores.***

The petitioner would humbly like to submit before the Hon'ble Commission that the cost of Barrage as per the appraised cost of ₹ 3,240 Crores was ₹ 180 Crores. In the grouped figures, as submitted before the Hon'ble Commission, a total amount of ₹ 198.10 Crores has been shown as against Barrage and others. The break up of this cost of ₹ 198.10 Crores is as under:-

(i)	*Barrage*	-	*₹ 178.03 Crores.*
(ii)	*Water Intake Pump House*	-	*₹ 10.82 Crores.*
(iii)	*River Water Reservoir*	-	*₹ 9.25 Crores.*
			₹ 198.10 Crores.
			=============

From the above it may kindly be noted that against the appraised cost of ₹ 180 Crores the actual cost of Barrage is ₹ 178.03 Crores."

Format related

iii. Issue

Discrepancy in form 5B was to be corrected by the petitioner.

Petitioner's Response:

"The revised Form 5B with breakup of project cost of ₹ 2,754 Crores & ₹ 3,240 Crores is enclosed as Annexure – H. "

Coal Related

iv. Issue

Details of the penalties if any, recovered from CCL and SECL for low GCV Coal obtained

(a) It was not clear whether the coal cost in the tariff claims made by the petitioner is adjusting the amount of ₹36 lakhs recovered as penalties.

(b) Copies of correspondence with CCL and SECL were not provided.

The petitioner was asked to provide the details.

Petitioner's Response

*"The petitioner persistently follows up with the coal suppler on the issue of inferior quality and quantity of coal and sample letters sent by the petitioner are attached as **Annexure – C.** The copies of credit notes received from the coal supplier have since been submitted before the Hon'ble Commission. The sample copies of Invoices raised on the Procurer (MPPMCL), wherein the adjustment of this credit received from coal supplier has been reflected, are attached as **Annexure – D.** The petitioner hereby confirms that the credits received by it from CCL and SECL have been credited to the coal account and benefit/credit is passed in the shape of lower LPPF to the Procurer (MPPMCL)."*

Infirm Power Related

v. Issue

Details of Infirm Power submitted with the additional submission varied with the CA Certificate submitted during the proceedings of the provisional tariff order. The variation was asked to be resolved.

Petitioner's Response

"The petitioner would humbly like to submit before the Hon'ble Commission that CA certificate dated 16.11.2012 and 15.04.2013 certifying the cost of generation of Infirm power of ₹ 49.99 Crores and ₹ 23.52 Crores for Unit I and Unit II respectively is for the period from the date of synchronization to the date of commercial operation of Unit I and Unit II respectively. It is humbly submitted that fuel is also used prior to the date of synchronization of any unit i.e. during initial boiler testing and light up, leading to synchronization of the Unit. A chart showing the month wise consumption of LDO and HFO from the initial testing to synchronization and ultimately leading to COD of Unit I and Unit II, is attached as ***Annexure – F.***

As regards the difference in revenue from generation of Infirm Power, it is humbly submitted that this difference is also due to the fact that the period for which the revenue has been submitted in two different submissions is from initial testing to COD and from unit synchronization to COD. A chart showing the said time difference is attached as ***Annexure – G.***

The revised Form 5B with breakup of project cost of ₹ 2,754 Crores & ₹ 3,240 Crores is enclosed as ***Annexure – H.***

The petitioner hereby confirms that the revenue from Infirm Power for Unit I and Unit II has been credited to the capital cost incurred by the petitioner, in other words, credit of revenue receipt on account of generation of Infirm Power has been reduced from the capital cost of the project.

Apart from the above mentioned issues, the petitioner has also filed the following details:

Interest during Construction

The petitioner would humbly like to submit before the Hon'ble Commission that the total interest (IDC) mentioned in Form 14 is ₹ 889.83 Crores as on 31.03.2014. Out of the amount of ₹ 889.83 Crores, ₹ 483.29 Crores is added in the capital cost of the project and balance interest of ₹ 406.54 Crores is charged to the P&L A/c in FY 2012-13 and FY 2013-14. The interest charged to the P&L

A/c is as per the accounting policies of the Institute of Chartered Accountant of India as after the commercial operation (Unit I on 31.08.2012 and Unit II on 07.04.2013), the interest on the debt for capitalized assets during operation is to be charged to the P&L A/c. The details of the interest added to the capitalized value and the P&L A/c have been submitted vide our affidavit dated 13.08.2014 at page no. 17-19. The break up is as under:-

₹ in Crores.

SL No.	**Year Wise**	**Amount capitalized**	**Amount charged P&L A/c**
1	*2009-10*	*15.97*	*-*
2	*2010-11*	*91.99*	*-*
3	*2011-12*	*191.32*	*-*
4	*2012-13*	*177.35*	*110.48*
5	*2013-14*	*6.66*	*296.06*
		483.29	***406.54***
		========	=========

The revised Form 14 with details of equity is enclosed as ***Annexure – E.***

The petitioner hereby confirms that the Letter of Award (LoA) dated 11.09.2008 issued by Bokaro Jaypee Cement Limited is awarded for Civil works of Bokaro Jaypee Cement Plant. This letter contained a contract price of ₹ 101,47,51,681/- only which is the total of civil mechanical and electrical prices quoted by Jaiprakash Associates Limited in its tender. These figures are reflected in the affidavit dated 21.08.2012 and are as follows:-

(i)	*Page 122 Civl and structural*	-	*₹ 82,89,22,500.00*
(ii)	*Page 179 Mechanical*	-	*₹ 8,85,50,000.00*
(iii)	*Page 185 Electrical erection*	-	*₹ 9,72,79,181.00*
	Total	-	***₹ 101,47,51,681.00***
			================ “

A4: CAPITAL COST

Provision under Regulations

4.1 Regulation 17 of MPERC (Terms and Conditions for determination of Generation tariff) Regulations, 2009 and Regulations, 2012 provide the following with regard to capital cost for a project:

"Capital cost for a Project shall include:

a) the Expenditure Incurred or Projected to be incurred on original scope of work, including interest during construction and financing charges, any gain or loss on account of foreign exchange risk variation during construction on the loan - (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, - up to the Date of Commercial operation of the Project, as admitted by the Commission, after prudent check shall form the basis for determination of Tariff.

b) capitalized initial spares subject to the ceiling norms as specified below:

i. Coal-based/lignite-fired thermal generating stations - 2.5% of original Project Cost.

ii. Hydro generating stations - 1.5% of original Project Cost.

Provided that where the benchmark norms for initial spares have been published as part of the benchmark norms for capital cost under first proviso to 17.2, such norms shall apply to the exclusion of the norms specified herein.

c) additional capital expenditure determined under Regulation 20.

Subject to prudent check, the capital cost admitted by the Commission shall form the basis for determination of Tariff:

Provided that, prudent check of capital cost may be carried out based on the benchmark norms specified by the Central Commission from time to time:

Provided further that in cases where benchmark norms have not been specified by the Central Commission, prudent check may include scrutiny of the reasonableness of the capital expenditure, financing plan, interest during construction, use of efficient technology, cost over-run and time over-run, and such other matters as may be considered appropriate by the Commission for determination of Tariff :......................."

Capital Cost approved by the Commission in the Provisional Tariff Order

4.2 In its order dated 12th December'2012 for approval of provisional tariff the Commission had considered capital cost of ₹ 2951.18 Crore as on 30th June' 2012 based on the actual capital expenditure as per the Auditor's certificate submitted by the petitioner.

Petitioner's submission on capital costs

4.3 Vide additional submission dated 14th August, 2014, the petitioner submitted component wise details of capital cost for the purpose of determination of tariff. The same is reproduced below:

Table 3: Component -wise capital costs submitted by the petitioner in technical format 5B **(₹ Crore)**

S. No.	Particulars	As on 31st August, 2012	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
1	**Cost of Land & Site Development**	**6.86**	**6.86**	**6.86**	**6.86**	**6.86**	**6.86**
2	**Plant & Equipment**						
2.1	Steam Generator Island	657.74	657.74	1,376.25	1,376.25	1,396.99	1,396.99
2.2	Turbine Generator Island						
2.3	BOP Mechanical	301.26	306.05	561.02	747.84	812.99	812.99
2.4	BOP Electrical	132.63	132.63	147.27	150.43	150.43	150.43
2.4.1	*Transmission Line*	*78.07*	*78.07*	*83.77*	*84.72*	*84.72*	*84.72*
2.4.2	*Others*	*54.56*	*54.56*	*63.50*	*65.71*	*65.71*	*65.71*
	Total Plant & Equipment excluding taxes & Duties	**1,091.64**	**1,096.43**	**2,084.54**	**2,274.52**	**2,360.41**	**2,360.41**
3	**Civil Works**	**365.87**	**365.87**	**417.82**	**426.43**	**453.97**	**453.97**
4	**Construction & Pre-Commissioning Expenses (OH)**	**150.05**	**150.05**	**241.66**	**253.05**	**253.05**	**253.05**
5	**IDC**	**257.54**	**257.54**	**488.48**	**522.47**	**522.47**	**522.47**

S. No.	Particulars	As on 31st August, 2012	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
6	**Capital cost including IDC, FC, FERV & Hedging Cost**	**1,871.96**	**1,876.75**	**3,239.37**	**3,483.33**	**3,596.76**	**3,596.76**

4.4 Subsequently, in response to the queries raised by the Commission the petitioner submitted the details of capital costs as certified by a Chartered Accountant as well as allocation of capital costs among Unit I and Unit II on the following dates:

(a) 30st August 2012

(b) 31st March 2013

(c) 6th ‘April 2013

(d) 31st March 2014

Table 4: Capital costs as on 31st August 2012 (CoD of Unit I) (₹ Crore)

Particulars	Capital costs as per CA Certificate dated 6th February, 2014	Capital costs for the purpose of determination of tariff				
		Capital costs directly attributable to Unit I	Allocation of capital cost of common facilities to Unit I	Allocation of IDC and IEDC to Unit I	Total capital costs for Unit I	Unallocated costs
BTG	657.75	657.75	-	202.67	860.42	-
BOP including transmission line	433.9	82.85	175.53	79.61	337.99	175.53
Civil Cost	365.87	70.55	147.66	67.24	285.45	147.66
IDC	257.54	-	-	-	-	58.06
IEDC	150.05	-	-	-	-	
Sub-total	**1,865.11**	**811.15**	**323.19**	**349.52**	**1,483.86**	**381.25**
Land	6.86	-	3.43	-	3.43	3.43
Total project cost	**1,871.97**	**811.15**	**326.62**	**349.52**	**1,487.29**	**384.68**
Total Capital Cost for tariff for U-1					**1,487.29**	
Add: Unallocated cost of 50% of Common facilities w/o unallocated IDC and IEDC					**326.62**	
Add: Unallocated IDC and IEDC on 50% Common facilities					**58.06**	
Total Capitalised Cost of U-1 as per CA Certificate					**1871.97**	
Add: CWIP as per CA Certificate					**1,188.22**	
Total project cost (including CWIP)					**3,060.19**	

Table 5: Capital costs as on 31st March 2013 (₹ Crore)

Particulars	Capital costs as per CA Certificate dated 6th February, 2014	Capital costs for the purpose of determination of tariff				
		Capital costs directly attributable to Unit I	Allocation of capital cost of common facilities to Unit I	Allocation of IDC and IEDC to Unit I	Total capital costs for Unit I	Unallocated costs
BTG	657.75	657.75	-	202.25	859.99	-
BOP including transmission line	433.9	82.85	177.92	80.18	340.95	177.93
Civil Cost	365.87	70.55	147.66	67.1	285.31	147.66
IDC	257.54	-	-	-	-	58.06
IEDC	150.05	-	-	-	-	-
Sub-total	**1,865.11**	**811.15**	**325.58**	**349.53**	**1,486.25**	**383.65**
Land	6.86	-	3.43	-	3.43	3.43
Other FA (Part of BOP) acquired after CoD of Unit 1	4.79	-	-	-	-	-
Total project cost	**1,876.76**	**811.15**	**329.01**	**349.53**	**1,489.67**	**387.08**
Total Capital Cost for Tariff of U-1					**1,489.67**	
Add: Unallocated cost of 50% of Common facilities					**329.01**	
Add: Unallocated IDC and IEDC on 50% Common facilities					**58.06**	
Total Capitalised Cost of U-1 as per CA Certificate					**1876.75**	
Add: CWIP as per CA Certificate					**1,489.36**	
Total project cost (including CWIP)					**3,366.12**	

Table 6: Capital costs as on 6th April 2013 **(₹ Crore)**

Particulars	Capital costs as per CA Certificate dated 6th February 2014			Capital costs for the purpose of determination of tariff		
	Unit 1	Unit 2	Total (Unit I + Unit II)	Costs allocated to Unit 1	Costs allocated to Unit II	Total
BTG	657.75	718.51	1,376.26	860.42	515.84	1,376.26
BOP including transmission line	433.9	269.61	703.51	340.38	363.13	703.51
Civil Cost	365.87	51.94	417.81	285.45	840.68	1,126.13
IDC	257.54	209.12	466.66	-	-	-
IEDC	150.05	91.61	241.66	-	-	-
Sub-total	**1,865.11**	**1,340.79**	**3,205.90**	**1,486.25**	**1,719.66**	**3,205.90**
Land	6.86	-	6.86	3.43	3.43	6.86
Other FA (Part of BOP) acquired after CoD of Unit 1	4.79	-	4.79	-	-	4.79
IDC On Unallocated portion from 31-08-2012 to 06-04-2013	-	-	-	-	21.82	21.82
Total project cost	**1,876.76**	**1,340.79**	**3,217.55**	**1,489.68**	**1,744.91**	**3,239.37**
Total Capital Cost for Blended Units						**3239.37**
Add: CWIP as per CA Certificate						**194.68**
Total Capitalised Cost						**3,434.05**

Table 7: Capital costs as on 31st March 2014 **(₹ Crore)**

Particulars	Capital costs as per CA Certificate dated June 4, 2014			Capital costs for the purpose of determination of tariff		
	Unit I	Unit II	Total (Unit I + unit II)	Costs allocated to Unit I	Costs allocated to Unit II	Total
BTG	657.75	718.51	1,376.26	859.99	906.58	1,766.57
BOP including transmission line	433.9	268.59	702.49	458.75	683.67	1,142.42
Civil Cost	365.87	51.94	417.81	289.99	255.67	545.66
IDC	257.54	209.12	466.66	-	-	-
IEDC	150.05	91.61	241.66	-	-	-
Sub-total	**1,865.11**	**1,339.77**	**3,204.88**	**1,608.73**	**1,845.92**	**3,454.65**
Land				3.43	3.43	6.86
Other FA (Part of BOP) acquired after CoD of Unit 1	4.79	-	4.79			
IDC On Unallocated portion from 31-08-2012 to 06-04-2013	-	-	-			21.82
Other FA (Part of BOP) acquired after COD of Unit 2	-	1.78	1.78			
Coal Handling Plant including IDC and IEDC	-	190.59	190.59			
Civil Work and Infrastructure including barrage cost	-	9.36	9.36			
Other BoP Package including transmission line	-	43.25	43.25			
Total project cost	**1,869.90**	**1,584.75**	**3,454.65**	**1,612.16**	**1,849.35**	**3,483.33**
Total Capital Cost for Blended Units						3,483.33

Particulars	Capital costs as per CA Certificate dated June 4, 2014			Capital costs for the purpose of determination of tariff		
	Unit I	Unit II	Total (Unit I + unit II)	Costs allocated to Unit I	Costs allocated to Unit II	Total
Add: CWIP as per CA Certificate						**29.63**
Total Capitalised Cost						**3,512.96**

Commission's Analysis

4.5 The petitioner submitted the audited financial statements for FY 2012-13 and FY 2013-14 along with expenditure incurred and capitalised (as on certain intervening dates when the Unit I and Unit II achieved CoD) duly certified by the Chartered Accountant. The certificates from the Chartered Accountant have been submitted to show the allocation of various capital cost components to both the units. The figures as on 31st March' 2013 and 31st March' 2014 (certified by the Charted Accountant) have been tallied with the Annual Audited Accounts of the respective years. However, the break up/ apportionment of the consolidated figures in the audited accounts have been considered from the Chartered Accountant's certificates.

4.6 While determining the capital cost of the project as on 31st August' 2012, 06th April' 2013, 31st March' 2013 and 31st March' 2014, the Commission has examined the submissions made by the petitioner for capital cost components as given below:

Interest during construction (IDC) and incidental expenses during construction (IEDC)

4.7 The Commission has observed the following regarding delay on the part of the petitioner in achieving CoD:

(a) According to clause 4.1.5 of the Power Purchase Agreement (PPA) entered into between the petitioner and the respondents on 5th January' 2011, the CoD of the first unit of Phase 1 of the petitioner's plant was to be achieved by March' 2012 and CoD of unit II was to be achieved within 6 months thereafter i.e. by September, 2012.

(b) Further, as per the terms of clause 4.4 of the aforesaid PPA, scheduled CoD could be revised/ extended by both the parties.

(c) Vide letter dated 9th January, 2012, the petitioner requested MP Power Trading Company Limited, Jabalpur (presently MPPMCL, Respondent no.1) to re-schedule CoD of unit I from March, 2012 to July, 2012 citing delay in project due to material movement restrictions on account of the unprecedented rainfall in the region.

(d) By letter dated 1st March' 2012, Respondent no.1 conveyed its consent to the petitioner to revise/ extend the CoD of the unit-I of Bina Thermal Power Plant from March' 2012 to July' 2012.

(e) In terms of the provisions under PPA, the CoD of second unit also stood revised as January, 2013. Vide letter dates 25th March 2013, Respondent No. 1 considered the revised scheduled CoD of Unit II on 28th February' 2013

(f) The petitioner stated that the Unit I was not allowed to be synchronized by SLDC due to failure of Northern Grid in July 2012, leading to further delay, although the plant was ready for declaration of CoD. In support of its aforesaid contentions, the petitioner submitted a copy of letter dated 5th August' 2012 received by it from Power System Operation Corporation Ltd., WRLDC requesting it to limit its generation level to 50 MW only till grid conditions are improved. The petitioner also submitted a copy of its letter written to WRLDC informing its decision to shut down its Unit I in view of the restriction imposed by WRLDC.

(g) The petitioner achieved CoD of Unit 1 on 31st August, 2012 and that of Unit 2 on 7th April, 2013.

(h) The petitioner stated that it was the procurer's (MPPMCL) obligation under Clause 4.2(iii) of the PPA for *"opening and furnishing to the Company, a Letter of Credit in favor of Company and renewing and replenishing the same in accordance with Article 10.5".* The petitioner further submitted that delay on the part of MPPMCL in establishing the LC also led to delay in achieving CoD:

(i) As per Clause 10.5.2 of the PPA dated 5th January, 2011, MPPMCL was required to establish a letter of credit (LC) in favour of the petitioner, one month prior to the CoD of Unit I, i.e. in February, 2012 as per the original CoD and June' 2012 as per the revised CoD.

(j) MPPMCL established the LC for Unit I and Unit II on 1st May' 2013 and 1st August' 2013 respectively. Thus, there was a delay of about one year on the part of MPPMCL in compliance with the clause 10 of the PPA.

(k) The petitioner stated that:

"Timely payment of interest and principal is directly related to revenue realization of the borrower which is again dependent on the Payment Security Mechanism.

Therefore, the delay in establishment of LC from February/ July, 2012 to May, 2013 was a major compliance for lenders as whenever a draw down was requested by the petitioner, the individual Lender had to arrange for waiver of this long outstanding condition (Non establishment of LC) from their respective head office, which in turn had to refer it to

their Management Committee, Credit Monitoring Group, Board etc.

The aforestated process directly delayed the progress of the Project which resulted into cost and time over-run for the petitioner."

(l) The petitioner also submitted that it suffered a loss on account of non recovery of capacity charges for the period of delay in achieving CoD.

(m) The petitioner also referred to the minutes of meeting held with the MPPMCL on 31st May, 2013 wherein the issue relating to delay in establishment of LC for both the units was agreed to as under:

"It was agreed that-

M/s. Jaypee Bina shall not invoke the clause for Procurer Event of Default against MPPMCL for delay in establishment of LC for Unit I and Unit II and, hence, will not seek compensation/ liquidated damages/ capacity charges for loss of revenue due to deferment of COD of Unit I and Unit II as per relevant clause of PPA.

It was agreed by M/s. Jaypee Bina to supply and MPPMCL to accept the shortfall in Contracted energy which is calculated as 449431870 kWh. This additional power shall be treated as "Long Term" supply through Short Term Open Access and tariff shall be paid accordingly with amended PAFM and PAFY for the month and the year in which the said additional supply is actually made. The quantum and time period at which this power will be supplied by M/s. Jaypee Bina will be mutually agreed between MPPMCL and M/s. Jaypee Bina.

In view of above and offer of additional supply of power against failure and shortfall of supply, MPPMCL shall drop the supplementary bill of ₹ 4,46,07,000/- for LD towards delay in COD of Unit I and shall not raise any LD/ other claims for delay in COD for Unit II. Similarly, the bill raised any LD/ other claims for delay in COD for Unit II. Similarly, the bill raised by MPPMCL for ₹ 6, 71, 96,000 /- towards LD for failure in

supply of contracted power from Unit I would be withdrawn and no similar LD/ other claim would be raised in respect of Unit II."

(n) Vide rejoinder dated 11th August, 2014 MPPMCL laid emphasis on the issue of LC submitting the following:

“The petitioner has made an unsuccessful attempt to portray that the monetary figures of the LCs were frozen / accepted by the Respondent on the basis of certain calculations/ estimates provided by them. However, mere assurance that steps are being taken to open LC does not lead to the conclusion that the figures could not be varied even being on much higher side (calculated at unilaterally assumed Fixed and Variable Charges).

The relevant Clause of the PPAs do not suggest that both quantum and rate of energy could be on “estimated” basis. Only the quantum of energy could be “estimated” and, based on Provisional Tariff approved by the Hon’ble Commission, the “estimated” Monthly or Weekly Billing amount were possible to be arrived at. The Provisional Tariff order was passed on 12-12-2012 for Unit I of 2x250 MW Bina Thermal Power Station. Therefore, the contention of the petitioner that the estimated amounts of LC were available is liable to be rejected.

The petitioner has referred to the correspondence made by them in respect of the requirement of opening of LC. However, neither any document nor correspondence received from the lenders on this issue has been cited nor any proof in this regard, despite being requested, is placed on record.

The information on the schedule of drawdown of the funds and the actual time when the funds were disbursed was not furnished by the petitioner, despite being specifically requested.

The petitioner has given specific reasons, including excessive rainfall for delay in achieving COD of Unit I under Affidavit. Now any change in the reasons for delay in achieving CoD viz. delay in opening of LC etc. is clearly an afterthought, hence may kindly be rejected.

The petitioner has again attempted to highlight issue of “delay in opening of LC” as being the foremost reason for delay in COD, which is untenable and liable to be rejected.

The petitioner had written Letters Dated 09-01-2012 and 28-11-2012 respectively, requesting the deferment of COD for Unit I and Unit II. The copies of the said letters are filed by the Respondent No. 1 with its reply dated 14-05-2014 and marked as Annexures R-1 and R2 respectively. In these letters to the petitioner has clearly mentioned the real reasons for impending delay in declaration of COD and sought deferment on those grounds. Non-opening of LC was never cited as a possible reason of delay in extension of COD.

The petitioner is still referring to only a part of the Minutes of Meeting Dated 31-05-2013 which is misleading. It can be seen from the MOM that, both parties arrived at a mutually acceptable solution and the petitioner, JPVL categorically agreed not to invoke the Clause of Procurer Event of Default against MPPMCL for delay in establishment of LC for Unit I and Unit II and the Respondent No. 1, MPPMCL agreed not to seek compensation/ liquidated damages/ capacity charges for loss of revenue due to deferment of COD of Unit I and Unit II as per relevant Clause of PPA. Therefore, now they cannot go back on a mutually accepted position and the principle of "Estoppel" shall apply against the petitioner. Point No. 8 of the Reply Dated 14-05-2014 filed by the Respondent No. 1 may kindly be referred.

It is, therefore, humbly prayed that as proper justification has not been offered for the delay in COD of both the Units. Therefore, increase in IDC and IEDC (Incidental Expenses During Construction) claimed beyond scheduled COD may not be allowed.

The statement of the petitioner that SCOD and COD are same is untenable, hence liable to be rejected. Therefore, it is humbly prayed that increase in IDC and IEDC from ₹464 Crores to ₹612 Crores may not be allowed."

(o) Vide its rejoinder dated 27th June' 2014 to the aforesaid response of MPPMCL, the petitioner submitted the following:

"It is submitted that with reference to the Minutes of Meeting dated 31-05-2013, the Contention of Respondent No.1 (MPPMCL) that they did not accept the reasoning that non opening of LC resulted in delay of project due to which the lenders delayed their disbursement is erroneous and unfounded since no rebuttal is recorded in the minutes of the meeting and there was no cogent reason given by the Respondent No.1 in refusing the petitioner's contention. Moreover the Principle/Law of Estoppels shall apply.

Notwithstanding the breach on the part of Respondent No.1 the petitioner agreed not to invoke the Procurer Event of Default provision of the PPA."

(p) It is observed from the copies of correspondence submitted by the petitioner (Annexure – 3) with its instant application that the petitioner followed the issue of opening the Letter of Credit with Respondent No. 1 through its letters dated 26th April'2012, 3rd July' 2012, 11th July' 2012, 30th July' 2012, 6th August' 2012, 15th February' 2013, 14th March' 2013 and 4th July' 2013. It is further observed from the aforesaid correspondence that the petitioner informed the Respondent No. 1 about the internal issues with its Lenders regarding disbursement in the project leading a situation of delayed/ short disbursement which had adversely affected the progress of the project. In response to the aforesaid correspondence made by the petitioner, Respondent No. 1 assured the petitioner that it would initiate action from its end for establishment of LC after resolving the issue of enhancement of working capital limits with the State Bank of India.

(q) The Commission has noted that the scheduled date of commercial operation is defined and detailed in the PPA executed between the petitioner and Respondents. Further, the parties have concurrently revised the scheduled date of commercial operation in terms of provisions under the same PPA. The revised scheduled CoD of Unit I and II were 31st July' 2012 and 28th February' 2013. However, the LC for Unit I and for Unit II were established much after CoD on 1st May' 2013 and 1st August' 2013 respectively.

In view of the above mentioned facts and figures, the delay in the commercial operation of both the units under Phase I are not found attributable to the petitioner.

(r) However, the Commission has exercised further prudence checks on the IDC and IEDC components of the capital cost in terms of relevant provisions under MPERC (Terms and Conditions for Determination of Generation Tariff) (Revision-II) Regulations, 2012 {RG-26 (ii) of 2012}. This has been dealt with separately in paragraph 4.21 to 4.31 of this order.

Cost of transmission line/ system

4.8 The issues related to cost of transmission line/ system have been discussed in para 14 to 30 of the Commission's order dated 12th December, 2012 .

4.9 While processing the subject petition, by affidavit dated 21st August, 2012, the petitioner submitted the following with regards to apportionment of common facilities between phases I and II of Bina Thermal Power Plant:

"At present stage there are no facilities specifically created for Phase II. However, it is also submitted that certain facilities such as Land, Barrage and Transmission Line, could be put in use as and when Phase II is planned, based on allocation of coal. It is humbly submitted that even the Detailed Project Report for Phase II, including design parameters of equipment e.g. Boiler Turbine Generator etc., can only be prepared/ finalized after requisite coal allocation based on the quality, quantity, ash contents etc. The detailed justifications for Land, Barrage and Transmission Line are as under:-

(a) ***Land*** *- The Project is a revival project which the petitioner had acquired from M/s Aditya Birla Group in May, 2008. As such the land, which was owned by Bina Power Supply Company Limited as on date of transfer, was acquired along with the Company and was valued as on 31.03.2008 at ₹ 6.83 Crores. It is pertinent to mention herein that even as on date, the cost of land, as per the Books of Accounts is ₹ 6.83 Crores. It is submitted that the implementation of Phase II depends upon availability and quality of Coal, which in the present scenario, is quite uncertain. The decision to this effect could not have affected the acquisition of land, as the petitioner had acquired a Company.*

(b) ***Barrage-*** *It is submitted that Barrage cannot be treated as a common facility as the requirement of the Barrage would have been as it is for the Project irrespective of capacity of the Plant whether 500 MW or 1250 MW or any other capacity.*

(c) ***Transmission Line****-The transmission line for the Project was originally envisaged by us as a 400 kV D/c Twin Moose. During detailed deliberation and after suggestions from MPPMCL (erstwhile MPPTCL), Power Grid Corporation of India Limited suggested development of this line as a 400 kV Quad Line to optimize the right of way. Therefore, in the case of the transmission line the developer was guided by the suggestions of CTU.*

Without prejudice to the above, the petitioner would like to submit as under:

(a) That the Project envisages two Phases with Phase I of 500 MW and Phase II of 750 MW.

(b) That the PPA's entered into, also envisage the setting up of Phase II subject to availability of coal. The petitioner will be required to approach the Commission for adjudication of the capital cost and tariff payable for Phase II also, as and when implemented.

In view of the above, it is humbly submitted that as and when Phase II of the Project is decided, based on coal allocation and the configuration/ capacity determined thereafter, the petitioner would have to approach the Commission for adjudication of capital cost and tariff for Phase II. The petitioner undertakes and confirms that as and when Phase II of the Project is implemented, subject to availability/ allocation of coal, the additional/ incremental cost shall be capitalized and no portion already included in Phase I shall form part of the capital cost of Phase II."

4.10 In paragraph 30 of the provisional tariff order dated 12th December, 2012, the Commission issued the following directive to the Energy Department, GOMP, the petitioner and the respondents:

"A reading of sub-section (16) of section 2 of the Act would lead to no other conclusion. The argument that transmission tariff should be dealt with separately is in this context without basis. Transmission tariff can only be determined in case of a transmission licensee. It might be noted that most PPAs that the Respondent has executed with IPPs provide for evacuation of electricity ex-bus bar by the Respondent.

In this peculiar case, the Generating Company cannot be deprived of its lawful dues under any garb. In view of the abovementioned facts, the Energy Department, GoMP and the parties in the subject petition are directed to resolve this issue in terms of PPA before the final tariff petition is filed in the matter."

4.11 Clause 4.8 of the Power Purchase Agreement dated 5th January, 2011 entered into between the petitioner and Respondents provides the following:

> *"The Contracted Capacity shall be evacuated by a dedicated transmission line of 400 KV to be constructed by the Company from the Delivery Point to 400 KV S/s of MPPTCL at Bina. Since the contracted capacity has been increased from 42% (forty two percent) to 70% (seventy percent) for Phase-I (i.e. 2x250 MW), the sharing of the cost of dedicated transmission line shall be decided mutually between the Company and the GoMP. In this arrangement, the procurer shall not be liable to pay transmission charges of PGCIL's (Power Grid Corporation of India Limited) network of Western Region Transmission System."*

4.12 In view of the above directives of the Commission and clause 4.8 of the PPA dated 5th January, 2011, the Commission raised the following query to the petitioner:

> *"In view of Clause 4.1.3 of the Implementation Agreement and Clause 4.8 in PPA on Interconnection and Transmission Facilities, the Commission in para 30 of its order dated 12th December, 2012 directed GoMP and parties to the petition to resolve this issue in terms of the PPA before the final Tariff Petition is filed before the Commission. The petitioner has not submitted any details in this regards. The petitioner is required to submit the updated status of the Transmission Cost incurred on the project in light of the provisions under the Implementation Agreement and the PPA filed by the petitioner. The petitioner is also required to file the correspondences if any, with the MPPTCL and GoMP in this regard."*

4.13 Vide additional submission dated 27th June' 2014, the petitioner submitted the following in response to the above:

"The petitioner humbly submits that the petitioner vide its letter dated, 22nd September, 2012, 3rd August, 2013, 5th November, 2013 and 6th February, 2014, has requested the Government of Madhya Pradesh, to allow the cost of entire transmission line and bay at Powergrid S/s, to be a part of Project Cost. The consent is awaited. Copy of request letters attached as Annexure A-23."

4.14 Vide order dated 4th July, 2014, the Commission directed Energy Department, GoMP to make a note of the issue pertaining to cost of transmission line associated with Bina Thermal Power Plant and ensure that the resolution of the GoMP, Energy Department on this issue be submitted to the Commission by 18th July, 2014.

4.15 Vide letter no. F-03-80/2012/13 dated 18th July, 2014, the Energy Department, GoMP sought one month's time for submission of resolution on the issue of transmission cost incurred on the project.

4.16 Vide daily order dated 25th July, 2014, the Commission sought the following clarification also from the petitioner and respondents:

"As per the relevant provision in the PPA, the delivery point is the interconnection point of the power station switchyard bus and the transmission line for evacuation purpose. It is the procurer's obligation to establish at its cost or ensure availability of necessary evacuation infrastructure beyond the interconnection point through CTU /STU/any other agency. Therefore, it needs to be explained by both parties as to why the transmission cost be considered as part of generation tariff for the power plant."

4.17 In response to the above directives, MPPMCL and GoMP submitted the following:

<u>MPPMCL's Response</u>

MPPMCL filed its rejoinder on 11^{th} August, 2014 emphasising the following with regards to cost of transmission system:

"It is humbly submitted that the Hon'ble Commission, in the Provisional Tariff Order dated 12.12.2012 for Petition No. 40/2012 for Unit I, have observed in para 29 as –

> *"29. It follows therefore, that such dedicated transmission line would be a part of the generation system, if it is erected by the Generating Company. Obviously, the generation tariff would then have to be decided after taking in to account the costs incurred for the construction of such dedicated transmission lines."*

It has further been observed that in this particular case, since the petitioner is not a transmission licensee, transmission tariff cannot be decided separately for the transmission line erected by the petitioner.

<u>In this regard, it is further submitted that at the time of CoD of Units of Phase-II, the cost of common facilities, including the transmission system, be apportioned between Phase-I and Phase-II based on the total contracted power.</u>" (Emphasis supplied)

<u>GoMP's Response</u>

Vide letter dated 13th August, 2014, Deputy Secretary, Energy Department, GoMP submitted the following:

"it is to intimate that Government of Madhya Pradesh has resolved as under, in the matter regarding sharing of cost of transmission line incurred on 2x250 MW coal based Power Project at Bina, District Sagar in terms of provisions under Power Purchase Agreement (PPA) entered with M/s. Jaiprakash Power Ventures Co. Ltd.:

(i) <u>At present total cost of the 400 kV dedicated double circuit transmission line/ system constructed from Bina Power Station to 400 kV Sub Stations of MPPTCL at Bina and of PGCIL be included in the project cost for the purpose of determination of tariff by Appropriate Commission</u> for the power to be generated from the above project.

(ii) At the time of COD of units of Phase-II, the cost of common facilities, including the transmission system, be appropriated between Phase-I and Phase-II.

As directed, it is requested to kindly consider the aforesaid submission for taking further decision in the subject cited matter." (Emphasis supplied)

4.18 Apportionment of cost of common facilities is to be considered as per the provisions under Regulation 8.3 of the MPERC (Terms and Conditions for Determination of Generation Tariff) (Revision-II) Regulations, 2012 {RG-26 (ii) of 2012} which provides that:

"For the purpose of Tariff, the capital cost of the Project shall be segregated into stages and by distinct Units forming part of the Project. Where the Stage-wise, Unit-wise break-up of the capital cost of the Project is not available and in case of on-going Projects, the common facilities shall be apportioned on the basis of the capacity of the Units. In relation to Multipurpose Hydroelectric Projects with irrigation, flood control and power components, the capital cost chargeable to power component of the Project only shall be considered for determination of Tariff.

Explanation: "Project" includes a generation station."

4.19 In light of the above mentioned submissions and resolution by the GoMP, the cost of common facilities, including that of the transmission system shall be apportioned between Phase I and II as and when the CoD of any unit under Phase II of petitioner's power plant is achieved. The petitioner is directed to approach the Commission as and when the Phase II of the project is planned based on the availability/ allocation of the coal.

4.20 Accordingly, the following costs towards transmission line/ system associated with Bina Thermal Power Plant are allowed in this order:

Table 8: Transmission system/ line costs approved by the Commission

	As on 31st August, 2012	As on 31st March, 2013	As on 7th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Transmission line costs in ₹ Crore	78.07	78.07	87.77	84.72	84.72	84.72

Pre-commissioning fuel expenses

4.21 In the additional submission dated 13th August, 2014, the petitioner submitted that it has incurred pre-commissioning fuel expense (towards coal and oil) of ₹ 95.83 Crores. The petitioner also submitted that it has earned revenue of ₹ 9.23 Crores from sale of infirm power. Accordingly, the petitioner has incurred net pre-commissioning fuel expense of ₹ 86.59 Crores (₹ 95.83 Crores – ₹ 9.23 Crores). The petitioner submitted the following details for such expenses and revenue from sale of infirm power:

Table 9: Pre-commissioning fuel expenses and revenue from sale of infirm power as claimed by the petitioner

Period	Generation (MUs)	Coal consumption (MT)	Cost of coal (₹ Crores)	Oil consumed (KL)	Cost of oil (₹ Crores)	Revenue from Sale of Infirm Power (₹ Crores)	Net revenue earned
Unit I							
Upto July, 2012	0.08	53,052	20.79	2,740.85	16.56	-	-37.35
August, 2012	41.04	-	-	4,597.60	30.16	5.92	-24.24
Sub-total	**41.12**	**53,052**	**20.79**	**7,338.45**	**46.72**	**5.92**	**-61.59**
Unit II							
February, 2013				405.96	2.18		-2.18
March, 2013	4.32			2,127.14	11.11	0.50	-10.61
1st April 2013 – 6th April, 2013	24.34	25,326	11.21	747.40	3.81	2.81	-12.21
Sub-total	**28.66**	**25,326**	**11.21**	**3,280.5**	**17.10**	**3.31**	**-25.00**
Total (Unit-1 & Unit-2)	**69.78**	**78,378**	**32.00**	**10,618.95**	**63.82**	**9.23**	**-86.59**

4.22 Based on the source wise coal supply data made available by the petitioner, the

Commission has considered the weighted average rate of domestic coal only for determining pre-commissioning fuel expenses.

4.23 The Commission has considered the average rate of domestic coal for FY 2012-13 for determining pre-commissioning fuel expenses for Unit I and for FY 2013-14 for determining pre-commissioning fuel expenses for Unit II as given below:

Table 10: Pre-commissioning coal costs approved by the Commission

Period	Unit I	Unit II
Coal consumption (MT)	53,052	25,326
Average rate of domestic coal (₹ / tonne)	3,776.97	3,137.36
Total coal costs allowed by the Commission (₹ Crores)	20.04	7.95
Coal cost submitted by the petitioner (₹ Crores)	20.79	11.21

4.24 Vide additional submission dated 13th August, 2014, the petitioner also submitted that *"the pre-commissioning fuel expense of ₹ 95.83 Crores was merged with Overheads & Pre-operative expenses in the additional submission dated 27th June, 2014".*

4.25 From the aforesaid submission of the petitioner, it is noted that the petitioner has adjusted the capital cost only to the extent of pre-commissioning fuel expenses and has not considered the revenue earned from sale of infirm power while undertaking such adjustment as against the provisions under Regulation 19 of the MPERC (Terms and Conditions for Determination of Generation Tariff) (Revision-II) Regulations, 2012 {RG-26 (ii) of 2012}.

4.26 Regulation 19 of the MPERC (Terms and Conditions for Determination of Generation Tariff) (Revision-II) Regulations, 2012 {RG-26 (ii) of 2012} provides the following with regards to adjustment of capital costs for revenue and expenses related to infirm power:

"Infirm Power shall be accounted as Unscheduled Interchange (UI) and paid for from the regional / State UI pool account at the applicable frequency-linked UI rate:

Provided that any revenue earned by the Generating Company from sale of Infirm Power after accounting for the fuel expenses shall be applied for reduction in capital cost." (Emphasis supplied)

4.27 Therefore, the Commission has reduced the IEDC component of project capital cost by the revenue earned from sale of infirm power.

Table 11: Adjustment to capital costs on account of revenue and expenses related to infirm power (₹ Crore)

Particular	As on 30th August, 2012	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Less: Disallowance on account of coal costs						
Unit I	(0.75)	(0.75)	(0.75)	(0.75)	(0.75)	(0.75)
Unit II			(3.26)	(3.26)	(3.26)	(3.26)
Less: Disallowance made on account of revenue earned from sale of infirm power						
Unit I	(5.92)	(5.92)	(5.92)	(5.92)	(5.92)	(5.92)
Unit II			(3.31)	(3.31)	(3.31)	(3.31)

Interest on unallocated costs

4.28 In its additional submission made on 14th August, 2014, the petitioner calculated an amount of ₹ 21.82 Crores as interest on account of the difference in the amount of capitalisation as per the books of account and the amount on which tariff is being sought for the intervening period between CoD of Unit I and Unit II. This amount has been added by the petitioner to the capital costs as on 6th April, 2013 and 31st March 2014 while arriving at total project costs for determination of tariff. This difference of ₹ 21.82 crore is due to the fact that the common facilities have been capitalised in audited accounts on the basis of their use as on 31st August' 2012, whereas the capitalisation has been shown on MW basis for apportionment and allocation of cost between the units for tariff purpose resulting into additional amount of ₹ 21.82 crore as deemed IDC, The petitioner submitted the following basis for calculation of this interest.

"Interest @ 13.42% on 70% (Debt portion only) of ₹ 387.08 Crores for the period 31.08.2012 to 06.04.2013 (219 days) has been added to the capital cost as interest on the unallocated expenditure of ₹ 387.08 Crores (unallocated expenditure of Unit I) from the period of COD of Unit I (31.08.2012) to COD of unit II (06.04.2013). As the unallocated expenditure of Unit I was capitalized in the Books of Accounts as per the Accounting Standards / Companies Act, the interest on said amount was not added to CWIP as per the Accounting Standards, as the same was debited to Profit & Loss Account. The said interest has not been recovered in the tariff for the 31.08.2012 to 06.04.2013. Hence this amount of ₹ 21.82 Crores has been added to the capital cost of Unit II for determination of tariff which is over & above the CWIP / Fixed Assets in the Balance Sheet / Fixed Assets Register."

4.29 The petitioner has complied with the Accounting Standards while capitalising the costs in its books of account on put-to-use basis. At the same time, the petitioner has allocated costs between Unit I and Unit II of the plant for determination of tariff in compliance with the regulatory provisions. On account of this allocation, the petitioner has not considered costs pertaining to Unit II (already capitalised in the books of account) while seeking tariff till CoD of Unit II. Based on the submission made by the petitioner, the difference of ₹ 21.82 crores claimed by the petitioner are found to be in order. The apportionment of the cost of common facilities between Unit I and II protects the consumer interest as compared to full capitalisation of those works.

4.30 However, the Commission has not considered the principle for allocation of soft costs (IDC and IEDC) between Unit I and Unit II adopted by the petitioner. This has been dealt with separately in paragraph 4.32 to 4.41 of this order. On account of this, the unit wise capital costs considered by the Commission are different from that considered by the petitioner. Therefore, the Commission has applied the following methodology while approving interest on account of difference in the amount of capitalisation as per the books of account and the amount on which tariff is being allowed for the intervening period between CoD of

Unit I and CoD of Unit II

Table 12: Interest on unallocated costs approved by the petitioner

S. No.	Particulars	₹ Crores
1	Unallocated costs as on 31st August, 2012	416.99
2	Debt component of unallocated costs as on 31st August 2012 (70% x 1)	291.89
3	Addition in unallocated costs during the period between CoD of unit-1 and unit-2	2.40
4	Addition to debt component on account of the above unallocated costs during the period between CoD of unit-1 and unit-2 (70%x3)	1.68
5	Debt component of unallocated costs as on 6th April, 2013 (2+4)	293.57
6	No. of days between 31st August, 2012 and 6th April, 2013	218
7	Interest rate	13.42%
8	**Interest on unallocated costs as on 6th April, 2013 {(5+2)/2)}x{(6x7)/365/2}**	**23.46**

4.31 Based on the Commission's analysis for allocation of the soft cost among unit-I and unit-II and the revenue earned from the sale of infirm power, the capital cost as on CoD of unit-I (31st August'2012) is ₹ 1448.31 Crore as against the claim of ₹ 1487.29 Crore by the petitioner. Further, as computed above in Table No.15, an additional amount of ₹1.65 Crores (₹23.46 Crores – ₹21.82 Crores) is considered in IDC component of final project capital cost with effect from CoD of Unit II.

Capital Cost approved in this order:

4.32 The Commission has allocated the soft costs comprising of IDC and IEDC to Unit I and Unit II based on the directly attributable hard costs (excluding cost of land) pertaining to these units.

4.33 Further, as discussed above, prudence check has been exercised on pre-commissioning fuel expenses and interest on unallocated costs and made suitable adjustments to the soft costs (IDC and IEDC) submitted by the petitioner.

4.34 The petitioner has submitted that the final project cost is ₹ 1,876.76 Crores (as per the CA certificate) as on 31st March 2013 including additional capitalization of ₹ 4.79 Crores and the final project cost is ₹ 3,461.51 Crores (as per the CA certificate) as on 31st March, 2014 including additional capitalization of ₹ 249.77 Crore.

4.35 It is found that the submissions made by the petitioner regarding its claim for the above additional capitalisation are in terms with Regulation 20 of the MPERC (Terms and Conditions for Determination of Generation Tariff) (Revision-II) Regulations, 2012 {RG-26 (ii) of 2012}. Therefore, the above mentioned claims for the additional capitalization are considered in the approved capital cost.

4.36 The Commission has considered the following capital costs post allocation of soft costs, for the purpose of determination of tariff.

Table 13: Capital costs approved towards Unit-I (in ₹ Crores) as on 31st August, 2012 (i.e. CoD of Unit-I)

Particulars	Capital costs as per CA Certificate dated 6th February, 2014	Capital costs approved for the purpose of determination of tariff								
		Capital costs directly attributable to Unit I (exc. IDC & IEDC)	Allocation of cost of common facilities (exc. IDC & IEDC) to Unit I	Capital costs (exc. IDC and IEDC) pertaining to Unit I	Allocation of IDC and IEDC to Unit I	Adjustment for Soft Cost disallowed	IDC and IEDC for Unit I	Total capital costs for Unit I	Unallocated IDC and IEDC (to be allocated to Unit II upon CoD)	Unallocated common costs, inc. IDC and IEDC (to be allocated to Unit II upon CoD)
(1)	(2)	(3)	(4) = 50%x(2 - 3)	(5) = 3+4	(6)*	(7)	(8) = 6+7	(9) = 5+8	(9)*	(10) = 9+4
BTG	657.75	657.75	-	657.75	183.94	(3.87)	180.07	**837.82**	-	-
BOP including transmission line	433.90	82.85	175.53	258.38	72.25	(1.52)	70.73	**329.11**	49.08*	224.61
Civil Cost	365.87	70.55	147.66	218.21	61.02	(1.28)	59.74	**277.95**	41.29*	188.95
IDC	257.54	-	-	-	-	-	-	**-**	-	-
IEDC	150.05	-	-	-	-	-	-	**-**	-	-
Sub-total	**1,865.11**	**811.15**	**323.19**	**1,134.34**	**317.21**	**(6.67)**	**310.54**	**1,444.88**	**90.38**	**413.56**
Land	6.86	-	3.43	3.43	-	-	-	**3.43**	-	3.43
Total project cost	**1,871.97**	**811.15**	**326.62**	**1,137.77**	**317.21**	**(6.67)**	**310.54**	**1,448.31**	**90.38**	**416.99**

*** IDC and IEDC are allocated in proportion to the ratio of each hard cost component to the total allocated and unallocated Hard Cost *(sum of column 5 and sum of un-allocated cost of common facilities)***
For e.g. Allocation of IDC and IEDC to BTG of Unit I is done as: { (257.54 + 150.05) * 657.75 / (1,134.34 + 323.19) }

Table 14: Capital costs approved towards Unit I (in ₹ Crores) for as on 31st March, 2013

Particulars	Capital costs as per CA Certificate dated 6th February, 2014	Capital costs directly attributable to Unit- I (exc. IDC & IEDC)	Cost of common facilities (exc. IDC & IEDC) - Unit I	Additional Capital Cost incurred after CoD of Unit 1 including IDC and IED up to 31st March 2013	Allocation of the Cost of Common Facilities to Unit I	Allocation of IDC and IEDC to Unit I	Total capital costs for Unit I	Unallocated common costs, inc. IDC and IEDC (to be allocated to Unit II upon CoD)
(1)	(2)	(3)	(4)	(5)	(6) = 4 + (5)X50%	(7)	(8) = 3+6+7	(9)
BTG	657.75	657.75	-	-	-	180.07	837.82	-
BOP	433.90	82.85	175.53	4.79	177.92	70.73	331.50	227.00
Civil Cost	365.87	70.55	147.66	-	147.66	59.74	277.95	188.95
IDC	257.54	-	-	-	-	-	-	-
IEDC	150.05	-	-	-	-	-	-	-
Sub-total	**1,865.11**	**811.15**	**323.19**	**4.79**	**325.58**	**310.54**	**1,447.27**	**415.96**
Land	6.86	-	3.43	-	3.43	-	3.43	3.43
Total Project Cost	**1,876.76**	**811.15**	**326.62**	**4.79**	**329.01**	**310.54**	**1,450.70**	**419.39**

Table 15: Capital costs (in ₹ Crores) approved for Unit I and Unit II as on 6th April, 2013

Project Cost	Cost as per CA Certificate dated 6th February, 2014			Capital Cost of Unit II considered for determination of tariff	Disallow-ed IEDC	Allocation of IDC and IEDC to Unit II	Allocation of unallocated cost	Costs allocated to Unit I (inc. IDC and IEDC)	Costs allocated to Unit II (inc. IDC and IEDC)	Total blended cost after allocation of IDC and IEDC
	Unit I	Unit II	Unit I + Unit II							
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)=5+6+8	(11) = (9+10)
BTG	657.75	718.51	1,376.26	718.51	-	156.74	-	837.82	875.25	1,713.07
BOP	433.90	269.61	703.51	269.61	-	108.33	227.00	331.50	604.95	936.45
Civil Cost	365.87	51.94	417.81	51.94	-	52.55	188.95	277.95	293.44	571.39
IDC	257.54	209.12	466.66	232.58	-	-	-	-	-	-
IEDC	150.05	91.61	241.66	91.61	(6.57)	-	-	-	-	-
Sub-total	**1,865.11**	**1,340.79**	**3,205.90**	**1,364.25**	**(6.57)**	**317.62**	**415.96**	**1,447.27**	**1,773.64**	**3,220.91**
Land	6.86	-	6.86	-	-	-	3.43	3.43	3.43	6.86
Additional capitalization including IDC & IEDC	4.79	-	4.79	-	-	-		-	-	-
Total Project Cost	**1,876.76**	**1,340.79**	**3,217.55**	**1,364.25**	**(6.37)**	**317.62**	**419.39**	**1,450.70**	**1,777.07**	**3,227.77**

Table 16: Blended capital costs (Unit I + Unit II) approved as on 31st March, 2014 (in ₹ Crores)

Particulars	Capital costs as per CA Certificate dated 4th June, 2014	Adjusted capital costs considered for determination of tariff	Total blended cost after allocation of IDC and IEDC
	Total (Unit I + Unit II)	Total (unit I + unit II)	
BTG	1,376.26	1,376.26	1,713.07
BOP including transmission line	702.49	702.49	1,171.05
Civil Cost	417.81	417.81	580.75
IDC	466.66	490.12	-
IEDC	241.66	228.41	-
Sub-total	**3,204.88**	**3,215.10**	**3,464.87**
Land	6.86	6.86	6.86
Other FA (Part of BOP) acquired after CoD of Unit-1	4.79	4.79	-
Other FA (Part of BOP) acquired after CoD of Unit 2	1.78	1.78	-
Coal Handling Plant including IDC and IEDC	190.59	190.59	-
Civil Work and Infrastructure including barrage cost	9.36	9.36	-
Other BoP Package including transmission line	43.25	43.25	-
Total project cost	**3,461.51**	**3,471.73**	**3,471.73**

Additional capitalization for FY 2014-15 and FY 2015-16

4.37 The petitioner also claimed the following amount towards additional capitalization during FY 2014-15 and FY 2015-16:

Table 17: Proposed additional capitalization filed by the petitioner (₹ Crore)

	FY 2014-15	FY 2015-16
Additional capitalization	29.63	83.86

4.38 The Commission observed that the above additional capitalization is required towards completion of balance of civil works, viz. roads, boundary wall, etc. and coal blending unit which is a part of the coal handling plant.

4.39 The Commission has not considered any additional capitalization during FY 2014-15 and FY 2015-16 in this order and the petitioner is directed to claim the actual additional capitalisation in the true-up petition for the aforesaid period.

4.40 Accordingly, the Commission has approved the following capital costs for determining tariff for FY 2014-15 and FY 2015-16:

Table 18: Capital costs approved by the Commission for FY 2014-15 and FY 2015-16 **(₹ Crore)**

Project Cost	FY 2014-15	FY 2015-16
BTG	1,713.07	1,713.07
BOP including transmission line	1,171.05	1,171.05
Civil Cost	580.75	580.75
IDC	-	-
IEDC	-	-
Sub-total	**3,464.87**	**3,464.87**
Land	6.86	6.86
Other FA (Part of BOP) acquired after CoD of Unit-1	-	-
Other FA (Part of BOP) acquired after CoD of Unit 2	-	-
Coal Handling Plant including IDC and IEDC	-	-
Civil Work and Infrastructure including barrage cost	-	-
Other BoP Package including transmission line	-	-
Total project cost	**3,471.73**	**3,471.73**

Summary of capital costs

4.41 The capital costs as admitted by the Commission as on 31st August' 2012, 31st March' 2013, 6th April' 2013, 31st March' 2014, 31st March' 2015 and 31st March' 2016 are summarised in the table below:

Table 19: Capital costs approved by the Commission **(₹ Crore)**

Particulars	As on 31st August, 2012	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Unit operational	*Unit I*	*Unit I*	*Unit I*	*Unit I and II*	*Unit I and II*	*Unit I and II*
Land	3.43	3.43	3.43	6.86	6.86	6.86
BTG	837.82	837.82	837.82	1,713.07	1,713.07	1,713.07
BOP	329.11	331.50	331.50	1,171.05	1,171.05	1,171.05
Civil Cost	277.95	277.95	277.95	580.75	580.75	580.75
Gross Fixed Assets	**1,448.31**	**1,450.70**	**1,450.70**	**3,471.73**	**3,471.73**	**3,471.73**

A5: DEBT – EQUITY RATIO AND FUNDING OF THE PROJECT

5.1 With regards to the Debt – Equity ratio and funding of the project, Regulation 21 of MPERC (Terms and Conditions for determination of Generation tariff) Regulations,2009 and Regulations, 2012 provides that:

"In case of the generating station declared under commercial operation prior to 1.4.2013, debt-equity ratio allowed by the Commission for determination of Tariff for the period ending 31.3.2013 shall be considered. For the purpose of determination of Tariff of new generating station Commissioned or capacity expanded on or after 01.04.2013, debt-equity ratio as on the Date of Commercial operation shall be 70:30. The debt-equity amount arrived in accordance with this clause shall be used for calculation of interest on loan, return on equity and foreign exchange rate variation.

Where equity actually employed is in excess of 30%, the amount of equity for the purpose of Tariff shall be limited to 30% and the balance amount shall be considered as loan. The interest rate applicable on the equity in excess of 30% treated as loan has been specified in Regulation 23. The normative repayment shall also be considered on the equity in excess of 30% treated as loan. Where actual equity employed is less than 30%, the actual equity shall be considered."

5.2 The petitioner submitted the following details:

(a) The revised estimated project cost is ₹ 3575 Crores. Certified Copy of the Board's approval dated 17th May-2014 for the aforesaid project cost was attached for the same.

(b) The petitioner submitted the Project Information Memorandum prepared by ICICI Bank explaining the deviation from the initial cost of ₹ 2754 Crores to ₹ 3240 Crores.

(c) It is further observed that no DPR has been prepared for the increase in project cost from ₹ 3240 Crores to ₹ 3575 Crores. The petitioner also submitted that the balance project cost (the difference between ₹ 3575 Crores and ₹ 3240 Crores) shall be met though corporate resources including internal accruals, private placements and the capital liabilities.

(d) Based on the submissions as above, it was provided that the project cost is being funded by debt of **₹ 2258 Crores** and equity of ₹ **1317 Crores** in the ratio of **63.16 : 36.84**

(e) Debt is being provided to JPVL by a consortium of banks with ICICI Bank as the Lead banker. Details of the loans taken for the Bina Project from the banks are as under:

Table 20 **(All figures in ₹ Crores)**

S. No	Bank	Loan Taken - project cost of ₹ 2754 Crores	Addl. Loan for increase in project cost - ₹ 2754 Crores to ₹ 3240 Crores	Total Loan	Loan Disbursed from the Banks
1	Allahabad Bank	120.00		120	120
2	Canara Bank	120.00		120	120
3	Central Bank of India	360.00	100	460	460
4	ICICI Bank Ltd	100.00		100	100
5	IDBI Bank Ltd	408.00	75	483	480.75
6	Punjab National Bank	360.00	65	425	425.00
7	State Bank of Hyderabad	100.00		100	100
8	State Bank of Patiala	100.00	30	130	129.05
9	J & K Bank	100.00	30	130	129.05
10	Union Bank of India	160.00	30	190	190.00
	Total	**1928**	**330**	**2258**	**2253.85**

5.3 The project cost incurred as on the various dates and the funding arrangement is observed as given below:

Table 21

Particulars	Unit of Measure	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Capital Cost incurred	**₹ Crores**	**3,366.12**	**3,412.23**	**3,491.16**	**3,491.16**	**3,491.16**
Debt	₹ Crores	2,248.00	2,248.00	2,253.85	2,253.85	2,253.85
Equity	₹ Crores	1,118.12	1,164.23	1,237.31	1,237.31	1,237.31
Debt	%	**67%**	**66%**	**65%**	**65%**	**65%**
Equity	%	**33%**	**34%**	**35%**	**35%**	**35%**
Debt : Equity Ratio	Ratio	**67 : 33**	**66 : 34**	**65 : 35**	**65 : 35**	

5.4 In view of the above, the Commission observed that the equity infusion in capital cost of the project is more than the normative equity which is 30% as per Regulation. Therefore, the Commission has considered normative debt : equity ratio of 70 : 30 for tariff purpose in this order. Further, the additional capital expenditure admitted by the Commission is also allocated in the debt : equity ratio of 70 : 30 in this order. The equity amount over and above the normative equity shall be treated as normative loan for determination of tariff.

A6: DETERMINATION OF TARIFF

Determination of final Tariff for FY 2012-13 and FY 2013-14

6.1 The Commission has analyzed the submission of the petitioner and has undertaken the exercise of finalising the provisional tariff determined by it based on the audited accounts for the respective years filed by the petitioner. The component-wise description of the petitioner's submission and the Commission's analysis thereof is provided hereunder.

Determination of Tariff for FY 2014-15 and FY 2015-16

6.2 The Commission has also undertaken the exercise of determination of tariff on projected basis for the generating station for FY 2014-15 and FY 2015-16. The tariff for FY 2014-15 and FY 2015-16 shall be trued-up based on the audited accounts for the respective years. The component-wise description of the petitioner's submission and the Commission's analysis thereof is provided hereunder.

Determination of Annual (fixed) Capacity Charges

6.3 The tariff for supply of electricity from a thermal power generating station shall comprise of Annual Capacity (fixed) Charges and Energy (variable) Charges to be derived in the manner specified in *Regulations 38 and 39 of "Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) Regulations, 2009. {RG-26 (I) of 2009}"* and *Regulations 40 and 41 of "Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012. {RG-26 (II) of 2012}"* The annual Capacity (fixed) Charges shall consist of:

(a) Return on Equity;

(b) Interest and Financing Charges on Loan Capital;

(c) Depreciation;

(d) Operation and Maintenance Expenses;

(e) Interest Charges on Working Capital;

(f) Cost of Secondary Fuel Oil;

(g) Lease/Hire Purchase Charges;

(h) Special allowance in lieu of R&M or separate compensation allowance, wherever applicable.

6.4 In Para 4.41 of this order the Commission has determined the total Capital Cost for Unit I and II as given below:

(All figures in ₹ Crores)

Particulars	As on 31st August, 2012	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Unit operational	*Unit I*	*Unit I*	*Unit I*	*Unit I and II*	*Unit I and II*	*Unit I and II*
Land	3.43	3.43	3.43	6.86	6.86	6.86
BTG	837.82	837.82	837.82	1,713.07	1,713.07	1,713.07
BOP	329.11	331.50	331.50	1,171.05	1,171.05	1,171.05
Civil Cost	277.95	277.95	277.95	580.75	580.75	580.75
Gross block	**1,448.31**	**1,450.70**	**1,450.70**	**3,471.73**	**3,471.73**	**3,471.73**

Return on Equity

6.5 Regulation 22 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2009 and Regulations, 2012 provides as under:

"Return on equity shall be computed in rupee terms, on the paid up equity capital determined in accordance with Regulation 21.

Return on equity shall be computed on pre-tax basis at the base rate of 15.5% to be grossed up as per Regulation 22.3 of this Regulation:

Provided that in case of Projects commissioned on or after 1st April, 2013, an additional return of 0.5% shall be allowed if such Projects are completed within *the timeline specified in Appendix-I :*

Provided further that the additional return of 0.5% shall not be admissible if the Project is not completed within the timeline specified above for reasons whatsoever.

The rate of return on equity shall be computed by grossing up the base rate with the normal tax rate for the Year 2012-13 applicable to the Generating Company:

Provided that return on equity with respect to the actual tax rate applicable to the Generating Company, in line with the provisions of the relevant Finance Acts of the respective Year during the Tariff period shall be trued up separately.

Rate of return on equity shall be rounded off to three decimal points and be computed as per the formula given below:

Rate of pre-tax return on equity = Base rate / (1-t)

Where t is the applicable tax rate in accordance with Regulation 22.3 of this Regulation"

<u>Petitioner's Submission</u>

6.6 *Vide its additional submission dated 13th August 2014, the petitioner considered the opening and closing equity and the annual Return on Equity for the respective periods as below:*

Table 22

Particulars	Unit	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Units		***Unit I***	***Unit I***	***Unit I and II***	***Unit I and II***	***Unit I and II***
Opening Normative Equity	₹ Crores	446.18	446.90	971.81	1,045.00	1,079.03
Normative Equity addition during the year	₹ Crores	0.72	-	73.19	34.03	-
Closing Normative equity	₹ Crores	446.90	446.90	1,045.00	1,079.03	1,079.03

Particulars	Unit	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Average equity	**₹ Crores**	**446.54**	**446.90**	**1,008.41**	**1,062.01**	**1,079.03**
Base rate of Return on Equity	₹ Crores	19.61%	19.61%	19.61%	19.61%	19.61%
Annual Return on equity	**₹ Crores**	**87.57**	**87.64**	**197.75**	**208.27**	**211.60**

6.7 *It is observed from the above that the petitioner has considered the base rate of return on equity to be 15.50%. The petitioner also claimed the income tax rate of 20.96% and filed the rate of return on equity grossing up with the MAT.*

Commission's Analysis

6.8 By affidavit dated 27th June, 2014, the petitioner submitted the reconciliation of the figures with CA Certificate for the certified cost as on 31.03.2013 and 31.03.2014, with stand alone Balance Sheet of the petitioner's Company as on 31.03.2013 and as on 31-03-2014 as given below:

Table 23 **(All figures in ₹ Crores)**

Reconciliation with Balance Sheets	31st March'2013	31st March'2014
Non Current tangible assets	1,876.76	3,461.53
CWIP	1,489.36	29.63
Total	**3366.12**	**3491.16**
Loans	2,248.00	2,253.85
Equity	1,118.12	1,237.31
GFA as on 31.03.2014	**3366.12**	**3491.16**
Debt	**67%**	**65%**
Equity	**33%**	**35%**

6.9 It is observed from the above that the equity amount actually incurred is more than the normative equity as specified in the Regulations.

6.10 Regulation, 17.1 (a) of Generation Tariff Regulations, 2012 states that,

"the Expenditure Incurred or Projected to be incurred on original scope of work, including interest during construction and financing charges, any gain or loss on account of foreign exchange risk variation during construction on the loan - (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*, - up to the Date of Commercial operation of the Project, as admitted by the Commission, after prudence check shall form the basis for determination of Tariff." *(Emphasis added)*

6.11 In view of the above, the Commission has considered the equity portion eligible for RoE only upto the extent of 30% of Gross Fixed Assets and the remaining equity is considered as normative debt in this order. The weighted average rate of interest on actual loan shall be applied on the equity over and above the normative equity as per Regulations.

6.12 Vide letter dated 05th May, 2014, the petitioner was asked to file the reason with supporting documents for considering Minimum Alternate Tax (MAT) for grossing up the rate of Return on Equity. By affidavit dated 27th June, 2014, the petitioner submitted that the Bina Project is a part of petitioner's company and it pays MAT. Accordingly, MAT rate has been used to gross up with the base rate for calculating the ROE of the project. By affidavit dated 18th July' 2014, the petitioner filed annual audited accounts of JPVL for FY 2013-14 as supporting documents in this regard.

6.13 In view of the above, the Commission has considered the grossing up the base rate of return with MAT in this order. The rate of return after grossing up with the MAT is worked out is **19.61%** and same is applied for calculation of return on equity in this order. Based on the above, the Return on Equity is determined as given below:

Table 204: Return on Equity

Particulars	Unit	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Units		***Unit I***	***Unit I***	***Unit I and II***	***Unit I and II***	***Unit I and II***
Opening Normative Equity	₹ Crores	434.49	435.21	968.33	1,041.52	1,041.52
Normative Equity addition during the year	₹ Crores	0.72	-	73.19	-	-
Closing Normative equity	₹ Crores	435.21	435.21	1,041.52	1,041.52	1,041.52
Average normative equity	**₹ Crores**	**434.85**	**435.21**	**1,004.92**	**1,041.52**	**1041.52**
Base rate of Return on Equity	%	15.50%	15.50%	15.50%	15.50%	15.50%
Applicable Tax considered (MAT)	%	20.96%	20.96%	20.96%	20.96%	20.96%
Applicable rate of Return on Equity	**%**	**19.61%**	**19.61%**	**19.61%**	**19.61%**	**19.61%**
Annual Return on equity	**₹ Crores**	**85.27**	**85.34**	**197.07**	**204.24**	**204.24**

Interest and Finance Charges on Loan Capital

6.14 Regulation 23 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2009 and Regulations, 2012 provides as under:

"The loans arrived at in the manner indicated in Regulation 21 shall be considered as gross normative loan for calculation of interest on loan.

The normative loan outstanding as on 1.4.2013 shall be worked out by deducting the cumulative repayment as admitted by the Commission up to 31.3.2013 from the gross normative loan.

The repayment for the Year of the Tariff period 2013-16 shall be deemed to be equal to the depreciation allowed for that Year.

Notwithstanding any moratorium period availed by the Generating Company, the repayment of loan shall be considered from the first Year of commercial operation of the Project and shall be equal to the annual depreciation allowed.

The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio at the beginning of each Year applicable to the Project:

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

Provided further that if the generating station does not have actual loan, then the weighted average rate of interest of the Generating Company as a whole shall be considered.

The interest on loan shall be calculated on the normative average loan of the Year by applying the weighted average rate of interest.

The Generating Company shall make every effort to re-finance the loan as long as it results in net savings on interest and in that event the costs associated with such re-financing shall be borne by the Beneficiaries and the net savings shall be shared between the Beneficiaries and the Generating Company, in the ratio of 2:1"

Petitioner's Submission

6.15 Vide Commission's letter dated 5th May 201,4 the petitioner was asked to submit the detailed computation of various components of Annual Capacity Charges. By affidavit dated 30th June' 2014, the petitioner submitted its response on the queries raised by the Commission.

6.16 Vide additional submission dated 13th August 2014, the petitioner submitted the following opening and closing loan and the weighted average rate of interest for the respective periods for determination of interest on loan:

Table 25

Particulars	Unit	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Units		***Unit I***	***Unit I***	***Unit I and II***	***Unit I and II***	***Unit I and II***
Opening Loan	₹ Crores	1,041.10	1,000.25	2,223.84	2,230.87	2,134.78
Loan addition during the year	₹ Crores	1.68	-	170.77	-	-
Repayment during the year considered	₹ Crores	72.87	72.94	166.47	175.49	178.22
Closing Loan	₹ Crores	969.90	927.31	2,228.13	2,134.78	1,956.57
Average Loan	**₹ Crores**	**1,005.50**	**963.78**	**2,225.99**	**2,182.83**	**2,045.68**
Weighted average rate of interest	%	13.42%	13.42%	12.75%	12.75%	12.75%
Annual Interest amount	**₹ Crores**	**134.97**	**129.37**	**283.81**	**278.31**	**260.82**

6.17 Regarding the weighted average rate of interest on loan, the petitioner was asked to file the supporting documents in respect of weighted average rate of interest on loan claimed in the petition.

Commission's Analysis

6.18 The Commission observed that the petitioner incurred loan in the project of less than 70% of the capital cost. Based on the petitioner's submission as well as a part of prudence check, the Commission has determined the opening loan as on various dates (as given in Table No. 26), which is less than 70% of the GFA. As per Regulation 17.1 of Generation Tariff Regulations, 2009, the Commission has considered the normative opening loan (70% of the opening GFA).

6.19 With regard to the weighted average rate of interest on loan, the petitioner was asked to submit the detailed workings of the weighted average rate of interest in the prescribed format TPS 13(b) with supporting documents from each lender of the consortium of banks for applicable weighted average rate of interest claimed in the petition.

6.20 By affidavit dated 27th June, 2014, the petitioner submitted that the weighted average rate of interest has been calculated on the actual disbursement and rate of interest as on date of disbursement. The petitioner further submitted that as per the common loan agreement, the interest rate is decided separately by each lender on each disbursement date.

6.21 Detailed calculations to work out the year wise weighted average rate of interest for each lender along with other details has been filed by the petitioner.

6.22 Accordingly, the weighted average rate of interest on loan @ 13.42 % for FY 2012-13, and 12.75% for FY 2013-14 onwards worked out in TPS-13 and indicated in the documents filed by the petitioner is considered for calculation of interest amount for the respective periods in this order. Repayment equivalent to depreciation determined for the year is considered as per the provision under Regulations, 2012. For FY 2014-15 and FY 2015-16 the rate of interest is provisionally considered @ 12.75% in this order.

6.23 Based on the above, the interest and finance charges on loan are determined as given below:

Table 26: Interest on Loan

Particulars	Unit	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Units		***Unit I***	***Unit I***	***Unit I and II***	***Unit I and II***	***Unit I and II***
Opening Loan	₹ Crores	1,013.81	944.46	2,117.56	2,122.29	1,950.09
Loan addition during the year	₹ Crores	1.68	-	170.77	-	-
Repayment during the year considered	₹ Crores	71.03	71.08	165.81	172.20	171.85
Closing Loan	₹ Crores	944.46	873.38	2,122.29	1,950.09	1,778.24
Average Loan	**₹ Crores**	**979.14**	**908.92**	**2,119.89**	**2,036.19**	**1864.17**
Weighted average rate of interest	%	13.42%	12.75%	12.75%	12.75%	12.75%

Particulars	Unit	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Annual Interest amount	**₹ Crores**	**131.40**	**115.89**	**270.28**	**259.61**	**237.68**

Depreciation

6.24 Regulation 24 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2009 and Regulations, 2012 provides as under:

"For the purpose of Tariff, depreciation shall be computed in the following manner:

(a) The value base for the purpose of depreciation shall be the capital cost - of the assets as admitted by the Commission

(b) The approved/accepted cost shall include foreign currency funding converted to equivalent rupee at the exchange rate prevalent on the date of foreign currency actually availed.

(c) The salvage value of the asset shall be considered as 10% and depreciation shall be allowed up to maximum of 90% of the capital cost of the asset:

Provided that in case of Hydro generating stations, the salvage value shall be as provided in the agreement signed by the developers with the State Government for creation of the site:

Provided further that the capital cost of the assets of the hydro generating station for the purpose of computation of depreciable value shall correspond to the percentage of sale of electricity under Long-term power purchase agreement at regulated Tariff.

(d) Land other than land held under lease and the land for reservoir in case of hydro generating station shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset.

(e) *Depreciation shall be calculated annually based on 'Straight Line Method' and at rates specified in Appendix-II to these Regulations for the assets of the generating station:*

Provided that, the remaining depreciable value as on 31st March of the Year closing after a period of 12 Years from the Date of Commercial operation shall be spread over the balance Useful life of the assets.

(f) *In case of the existing Projects, the balance depreciable value as on 1.4.2013 shall be worked out by deducting the cumulative depreciation including Advance against Depreciation if any as admitted by the Commission upto 31.3.2013 from the gross depreciable value of the assets. The rate of Depreciation shall be continued to be charged at the rate specified in Appendix-II till cumulative depreciation reaches 70%. Thereafter the remaining depreciable value shall be spread over the remaining life of the asset such that the maximum depreciation does not exceed 90%.*

(g) *Depreciation shall be chargeable from the first Year of commercial operation. In case of commercial operation of the asset for part of the Year, depreciation shall be charged on pro rata basis."*

Petitioner's Submission

6.25 *In its reply to the queries raised by the Commission the petitioner has computed depreciation as below:*

Particulars	Unit	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Units		***Unit I***	***Unit I***	***Unit I and II***	***Unit I and II***	***Unit I and II***
Opening Gross Block	₹ Crores	1,487.29	1,489.68	**3,239.37**	**3,483.33**	**3,596.76**
Gross Block addition during the year	₹ Crores	2.40	-	243.96	113.43	-

Particulars	Unit	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Closing Gross Block	₹ Crores	**1,489.68**	**1,489.68**	**3,483.33**	**3,596.76**	**3,596.76**
Average Gross Block	**₹ Crores**	**1,488,28**	**1489.68**	**3,361,34**	**3,540.05**	**3,596.76**
Weighted average rate of depreciation	%	4.90%	4.90%	4.95%	4.96%	4.96%
Annual Depreciation amount	**₹ Crores**	**72.87**	**72.94**	**166.47**	**175.49**	**178.22**

6.26 *For computation of depreciation, the petitioner has considered depreciation rates as per MPERC depreciation rate schedule.*

<u>Commission's Analysis</u>

6.27 Regarding the depreciation, the Commission has considered the opening Gross fixed assets (GFA) as on various dates. The petitioner filed additional capitalization also in the petition. Therefore, the actual additional capitalization as per the audited accounts is considered up to 31st March' 2014. For FY 2014-15 and FY 2015-16, the same GFA as on 31st March' 2014 is considered for determination of Tariff for FY 2014-15 and FY 2015-16.

6.28 For the purpose of depreciation, the petitioner apportioned the soft cost (IDC and IEDC) of the project in the ratio of hard cost components of the project.

6.29 The weighted average rate of depreciation is worked out by the petitioner @ 4.90 % for FY 13, 4.90% for FY 14 and 4.96% for FY 15 and FY 16 based on the rate of depreciation as per Regulations, 2012. The detailed break-up of cost components was filed in form TPS 11 of the petition. Based on the above, the depreciation on assets is determined in this order as given below:

Table 27: Computation of Depreciation

Particulars	Unit	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Units		***Unit I***	***Unit I***	***Unit I and II***	***Unit I and II***	***Unit I and II***
Opening Gross Block	₹ Crores	1,448.31	1,450.70	3,227.77	3,471.73	3,471.73
Gross Block addition during the year	₹ Crores	2.40	-	243.96	-	-
Closing Gross Block	₹ Crores	1,450.70	1,450.70	3,471.73	3,471.73	3,471.73
Average Gross Block	**₹ Crores**	**1,449.50**	**1,450.70**	**3,349.75**	**3,471.73**	**3471.73**
Weighted average rate of depreciation	%	4.90%	4.90%	4.95%	4.96%	4.96%
Annual Depreciation amount	**₹ Crores**	**71.03**	**71.08**	**165.81**	**172.20**	**172.20**
Cumulative Depreciation amount	**₹ Crores**	**41.45**	**42.62**	**205.70**	**377.89**	**550.10**

Operation and Maintenance Expenses

6.30 Operation & Maintenance expenses are considered as per norms specified in Regulation 34.1 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2009 for FY 2012-13 and 36.1 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 for FY 2013-14 to FY 2015-16. Accordingly, the Operation and Maintenance Expenses are determined as given below:

Table 28 : Computation of O&M Expenses (₹ Crores)

Particulars	Unit	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Units		***Unit I***	***Unit I***	***Unit I and II***	***Unit I and II***	***Unit I and II***
Installed Capacity	MW	250.00	250.00	500.00	500.00	500.00
Per MW O&M expenses(as per norms)	₹ Lakh / MW	17.08	18.42	18.42	19.90	21.46
Annual O&M expenses	**₹ Crores**	**42.70**	**46.05**	**92.10**	**99.50**	**107.30**

Cost of Secondary Fuel Oil

Regulation 36 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2009 and Regulation 38 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2012 provides as under:

"Expenses on Secondary fuel oil in Rupees shall be computed corresponding to normative Specific Fuel Oil Consumption (SFC) specified in Regulation 35, in accordance with the following formula:

= *SFC x LPSFi x NAPAF x 24 x NDY x IC x 10*

Where,

SFC -Normative Specific Fuel Oil Consumption in ml/kWh

LPSFi -Weighted Average Landed Price of Secondary Fuel in `/ml considered initially

NAPAF - Normative Annual Plant Availability Factor in percentage NDY - Number of Days in a Year

IC - Installed Capacity in MW"

6.31 With regard to landed cost of oil, Regulation 38.2 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2012 provides as under;

"Initially, the landed cost incurred by the Generating Company on secondary fuel oil shall be taken based on actuals of the weighted average price of the three preceding months and in the absence of landed costs for the three preceding months, latest procurement price for the generating station, before the start of the Year."

Petitioner's Submission

6.32 The petitioner filed the weighted average landed cost of secondary fuel oil in form F-4a of the petition as ₹ 60,341.49 /KL escalated at 4% p.a. for FY 2014-15 and

FY 2015-16

6.33 Vide letter dated 05th May’ 2014, the petitioner was asked to file the cost of secondary fuel oil as per provision under Regulations, 2012. The supporting documents like copy of Invoice for each type of oil in support of the cost claimed for secondary fuel oil and weighted average rate were also sought from the petitioner.

6.34 By affidavit dated 27th June’ 2014, the petitioner filed the copy of latest sample invoices for oil purchased during trial run of the Unit 1 and Unit II. The Commission observed that the total cost indicated in the invoices is excluding transportation charges. The petitioner further filed the details of transportation charges along with copy of invoices / bills for transportation charges of oil separately.

6.35 Vide additional submission dated 13th August 2014, the cost of secondary fuel oil as submitted by the petitioner for the respective periods is as given below:

Particulars	Unit	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Units		***Unit I***	***Unit I***	***Unit I and II***	***Unit I and II***	***Unit I and II***
Installed Capacity	MW	250.00	250.00	500.00	500.00	500.00
NAPAF	%	85.00	85.00	85.00	85.00	85.00
Annual Gross Generation	MU's	1,861.50	1,861.50	3,723.00	3,723.00	3,733.20
Normative Sp. Oil consumption	ml/kWh	1.00	1.00	1.00	1.00	1.00
Quantity of Sec. fuel oil	**KL**	**1861.50**	**1861.50**	**3723.00**	**3723.00**	**3733.00**
Rate of secondary fuel oil	₹ / KL	60,260.38	60,341.49	60,341.49	62,453.44	64,639.31
Annual Cost of secondary fuel oil	**₹ Crores**	**11.22**	**11.23**	**22.47**	**23.25**	**24.07**

Commission's Analysis

6.36 Based on the aforesaid details filed by the petitioner, the cost of secondary fuel oil is determined as below:

Table 29: Computation of Secondary Fuel Oil Expenses

Particulars	Unit	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Units		***Unit I***	***Unit I***	***Unit I and II***	***Unit I and II***	***Unit I and II***
Installed Capacity	MW	250.00	250.00	500.00	500.00	500.00
NAPAF	%	85.00	85.00	85.00	85.00	85.00
Annual Gross Generation	MU's	1,861.50	1,861.50	3,723.00	3,723.00	3,733.20
Normative Sp. Oil consumption	ml/kWh	1.00	1.00	1.00	1.00	1.00
Quantity of Sec. fuel oil	**KL**	**1861.50**	**1861.50**	**3723.00**	**3723.00**	**3733.20**
Rate of secondary fuel oil	₹ / KL	60,260.38	60,341.49	60,341.49	60,341.49	60,341.49
Annual Cost of secondary fuel oil	**₹ Crores**	**11.22**	**11.23**	**22.47**	**22.47**	**22.53**

6.37 The cost of secondary fuel oil arrived at as above shall be subject to fuel price adjustment at the end of each year of tariff period in terms of the proviso to Regulation 38.2 as per the following formula:

SFC x NAPAF x 24 x NDY x IC x 10 x (LPSFy – LPSFi)

Where,

LPSFy =the weighted average landed price of secondary fuel oil for the year in ₹ / ml

Interest on Working Capital Loan

6.38 Regarding determination of working capital of thermal power project, Regulation 35.1 of the MPERC (Terms and Conditions for determination of

Generation Tariff) Regulations, 2009 and Regulation 37.1 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2012 provides as under:

"The Working Capital for Coal based generating stations shall cover:

i. Cost of coal for 45 Days for pit-head generating stations and two months for non-pit-head generating stations, corresponding to the normative availability;

ii. Cost of secondary fuel oil for two months corresponding to the normative availability:

Provided that in case of use of more than one secondary fuel oil, cost of fuel oil stock shall be provided for the main secondary fuel oil.

iii. Maintenance spares @ 20% of the normative O&M expenses;

iv. Receivables equivalent to two months of capacity charges and energy charges for sale of electricity calculated on the Normative Annual Plant Availability Factor; and

v. Operation and Maintenance expenses for one month."

6.39 Also Regulation 35.2 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2009 and Regulation 37.2 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2012 provides as under

"The cost of fuel shall be based on the landed cost incurred (taking into account normative transit and handling losses) by the Generating Company and Gross Calorific Value of the fuel as per actual for the preceding three months and no fuel price escalation shall be provided during the Tariff period."

6.40 Regarding the cost of secondary fuel oil for calculating the working capital, the cost of main fuel oil (HSD) is taken by considering the cost per KL filed by the petitioner in its additional submission. The cost of two months main oil stock at normative availability is worked out as given below:

Table 30 : Computation of the Cost of Secondary Fuel Oil for 2 months at normative availability

Particulars	Unit	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Units		***Unit I***	***Unit I***	***Unit I and II***	***Unit I and II***	***Unit I and II***
Installed Capacity	MW	250.00	250.00	500.00	500.00	500.00
NAPAF	%	85.00	85.00	85.00	85.00	85.00
Two months stock of main fuel oil	KL	310.25	310.25	620.5	620.5	622.2
Rate of main secondary fuel oil	₹ / KL	49.987	49.987	49.987	49.987	49.987
Cost of two months main fuel oil	**₹ Crores**	**1.55**	**1.55**	**3.10**	**3.10**	**3.11**

6.41 Based on the norms specified by the Commission, two months cost for coal stock is worked out for working capital is as given below:

Table 31: Computation of 2 months Cost of Coal

Particulars	Unit	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Units		***Unit I***	***Unit I***	***Unit I and II***	***Unit I and II***	***Unit I and II***
Station Heat Rate	Kcal/kWh	2450	2450	2450	2450	2450
Gross Calorific Value	Kcal/kg	3755	3760	3760	3760	3760
Annual Coal Quantity	MT	1219015	1217405	2434810	2434810	2441481
Two months coal stock	MT	203169	202901	405802	405802	406913
Rate of Coal for working capital	₹ / MT	3863	2942	2942	2942	2942
Amount of two months coal stock	**₹ Crores**	**78.49**	**59.70**	**119.39**	**119.39**	**119.72**

6.42 Receivables for working capital have been worked out on the basis of the fixed and energy charges for two months (based on primary fuel only) on normative plant availability factor are as given below:

Table 32: Receivables for 2 months (₹ Crores)

Particulars	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Units	***Unit I***	***Unit I***	***Unit I and II***	***Unit I and II***	***Unit I and II***
Variable Charges – two months	**78.48**	**59.70**	**119.39**	**119.39**	**119.72**
Fixed Charges – two months	62.38	59.18	133.66	135.46	133.12
Receivables – two months	**140.86**	**118.88**	**253.05**	**254.85**	**252.84**

6.43 With regard to the rate of interest on working capital, Regulation 27.1 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 provides that:

"Rate of interest on working capital to be computed as provided subsequently in these Regulations shall be on normative basis and shall be equal to the State Bank of India's Base Rate as on 1st of April of that year plus 3.50%."

Regarding rate of interest on working capital for FY 2012-13, First amendment to MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2009 provides that:

"Rate of interest on working capital to be computed as provided subsequently in these Regulations shall be on normative basis and shall be equal to the State Bank Base Rate as on 1st of April of that year plus 4.00%."

6.44 The rate of interest on working capital for FY2012-13 has been taken equal to the State Bank of India's Base Rate as on 1st April of that financial Year plus 4.00%. For the remaining financial years, the rate of interest on working capital has been taken equal to the State Bank of India's Base Rate as on 1st April of the respective financial Year plus 3.50%.

6.45 Base Rate of SBI, effective from 13/08/2011 to 20/09/2012 was 10%. Hence for the period FY 2012-13, the interest rate is considered as 14.00% (10.00+4.00).

6.46 Base Rate of SBI, effective from 04/02/2013 was 9.70%. Hence for the period FY 2013-14, the interest rate considered is 13.20% (9.70+3.50).

6.47 Base Rate of SBI, effective from 07/11/2013, is 10.00%. The same has been considered to remain effective as on COD of Unit 1. The interest rate for FY2014-15 has been considered as 13.50% (10.00+3.50). The same rate of interest has been considered for calculation of interest on working capital for the subsequent Years also. Based on the above, the interest on working capital is determined as given below:

Table 33 : Interest on Working Capital

Particulars	Unit	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Units		***Unit I***	***Unit I***	***Unit I and II***	***Unit I and II***	***Unit I and II***
Cost of coal for 60 days	₹ Crores	78.49	59.70	119.39	119.39	119.72
Cost of fuel oil for two months	₹ Crores	1.55	1.55	3.10	3.10	3.11
O&M Charges for one month	₹ Crores	3.56	3.84	7.68	8.29	8.94
Maintenance Spares 20% of the O&M charges	₹ Crores	8.54	9.21	18.42	19.90	1.46
Receivables for two months	₹ Crores	140.86	118.88	253.05	254.85	252.84
Total working capital	**₹ Crores**	**233.00**	**193.17**	**401.64**	**405.54**	**406.07**
Applicable rate of interest	%	14.00%	13.20%	13.50%	13.50%	13.50%
Interest on working capital	**₹ Crores**	**32.62**	**25.50**	**54.22**	**54.75**	**54.82**

Summary of Annual Capacity (Fixed) Charges:

6.48 Normative Annual Plant Availability Factor for recovery of Annual Capacity (fixed) Charges is 85% as per Regulations. The Annual Capacity (fixed) Charges for Jaypee Bina TPP Unit I for FY 2012-13 have been pro-rated for 213 days from the date of commercial operation to 31st March 2013 and for FY 2013-14 have been pro-rated for 6 days till the date of commercial operation of Unit II. Thereafter, the blended Annual Capacity (fixed) Charges for Unit I and Unit II of the petitioner's power plant have been determined in this order. Considering the above, the Annual Capacity (fixed) Charges for Unit I and Unit II for FY 2012-13 to FY 2015-16 determined in this order are as given below:

Table 34: Annual Capacity Charges for JP Bina TPP Phase I (250*2 MW) (₹ Crore)

Particulars	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Units	***Unit I***	***Unit I***	***Unit I and II***	***Unit I and II***	***Unit I and II***
Return on equity	85.27	85.34	197.07	204.24	204.24
Interest charges on loan	131.40	115.89	270.28	259.61	237.68
Depreciation	71.03	71.08	165.81	172.20	172.20
Operation & Maintenance expenses	42.70	46.05	92.10	99.50	107.30
Secondary fuel oil expenses	11.22	11.23	22.47	22.47	22.53
Interest on working capital	32.62	25.50	54.22	54.75	54.82
Annual capacity (fixed) charges	**374.25**	**355.10**	**801.94**	**812.77**	**798.74**
Operational No. Of Days	***213***	***6***	***359***	***365***	***366***
Annual capacity (Fixed) charges apportioned for actual days of operation	**217.80**	**5.84**	**788.76**	**812.77**	**798.74**
Annual capacity (Fixed) charges corresponding to 65% of the installed capacity of the Units	**141.57**	**3.79**	**512.69**	**528.30**	**519.18**

6.49 The Annual Capacity (fixed) Charges as determined above for FY 2012-13 and FY 2013-14 are final as these charges are based on Audited Accounts of these years. The Annual Capacity charges determined for FY 2014-15 and FY 2015-16 are provisional and shall be trued- up subsequently as per Audited Accounts of FY 2014-15 and FY 2015-16.

6.50 The recovery of Annual Capacity (fixed) Charges for FY2012-13 shall be made by the petitioner in accordance with clause 38.2 and clause 38.3 of Regulations 2009 on pro-rata basis with respect to actual Annual Plant Availability Factor. Similarly, the recovery of Annual Capacity (fixed) Charges for FY2013-14 to FY 2015-16 shall be made by the petitioner in accordance with clause 40.2 and clause 40.3 of Regulations 2012 on pro-rata basis with respect to actual Annual Plant Availability Factor.

Determination of Energy (variable) Charges

6.51 With regard to Energy (variable) Charges of thermal power station, Regulation 39 of MPERC (Terms and Conditions for determination of Generation tariff) Regulations, 2009 and Regulation 41 of MPERC (Terms and Conditions for determination of Generation tariff) Regulations, 2012 provides that;

"The energy (variable) charges shall cover main fuel costs and shall be payable for the total energy scheduled to be supplied to such Beneficiary during the calendar month on ex-power plant basis, at the specified variable charge rate (with fuel price adjustment).

Energy (variable) Charges in Rupees per kWh on ex-power plant basis shall be determined to three decimal places as per the following formula:

For coal fired stations

ECR = (GHR – SFC x CVSF) x LPPF x 100 / {CVPF x (100 – AUX)} Where,

AUX= Normative Auxiliary Energy Consumption in percentage. ECR = Energy Charge Rate, in Rupees per kWh sent out.

GHR = Gross Station Heat Rate, in kCal per kWh.

SFC = Specific Fuel Oil Consumption, in ml/kWh

CVSF = Calorific value of Secondary Fuel, in kCal/ml.

LPPF =Weighted average Landed price of Primary Fuel, in Rupees per kg, per liter or per standard cubic meter, as applicable, during the month.

CVPF = Gross Calorific Value of Primary Fuel as fired, in kCal per kg, per liter or per standard cubic meter.

Variable charge for the month shall be worked out on the basis of ex-bus energy scheduled to be sent out from the generating station in accordance with the following formula:

Monthly Energy Charge (₹) =

Variable Charge Rate in ₹ / kWh X Scheduled Energy (ex-bus) for the month in kWh corresponding to Scheduled Generation."

Gross Station Heat Rate

6.52 The petitioner filed the Gross Station Heat Rate considering Maximum Turbine Cycle Heat Rate and Minimum Boiler Efficiency at designed operating parameters.

6.53 While processing the provisional tariff petition for Jaypee Bina Thermal power project, the petitioner had filed the certificate of Suppliers' guaranteed performance parameters for design heat rate of thermal generating units at 100% MCR and zero percent make up provided by the M/s BHEL.

6.54 Considering the above, the Commission determined the Gross Station Heat Rate of the units in its provisional order dated 12th December, 2012 as given below;

• Guaranteed Turbine Heat Rate:	1946.70 kCal/kWh
• Steam Generation (Boiler) Efficiency:	84.60 %
• Design Heat Rate:	1946.70 / 84.60%
	2301 kCal/kWh
• Gross Station Heat Rate:	2300 kCal/kWh X1.065
	= 2450 kCal/kWh

6.55 In the instant application, the petitioner filed the Energy Charges based on the Gross Station Heat Rate as approved by the Commission in its provisional order dated 12th December, 2012. The same Gross Station Heat Rate of 2450 kCal/kWh is considered for unit No. 1 and unit No. 2 in this order.

Landed Cost of Coal

6.56 The petitioner claimed Energy Charges by considering the following landed cost of coal;

Table 35:

Financial Year	FY2012-13	FY2013-14	FY2014-15	FY2015-16
Landed cost of coal considered by the petitioner (₹/ MT)	3272	3272	3402	3540

6.57 With regard to landed cost of coal, Regulation 39.4 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2009 and Regulation 41.4 of Regulations, 2012 provides as under;

"*The landed cost of coal shall include price of coal corresponding to the grade and quality of coal inclusive of royalty, taxes and duties as applicable, transportation cost by rail/road or any other means, and, for the purpose of computation of Energy Charges, shall be arrived at after considering normative transit and handling losses as percentage of the quantity of coal dispatched by the Coal Supply Company during the month------*"

6.58 Vide letter dated 5th May' 2014, the petitioner was asked to file month wise and source wise details of the coal purchased from various suppliers for FY2012-13 and FY2013-14 for FSA (linkage) and non-FSA coal separately. The petitioner was also asked to reconcile the aforesaid details with its Annual Audited Accounts of the respective year.

6.59 By Affidavit dated 27th June, 2014, the petitioner submitted the following details for weighted average GCV and weighted average rate of Coal:

Table 36:

Year	Type of Coal	Qty (in MT)	Rate (Rs.)	Cost (in Rs. Cr.)	GCV (KCal./kg)
2012-13	Pre CoD	211,395.94	3,159.05	66.78	2,928.44
	FSA (linkage) Coal (Post CoD)	143,742.01	2,767.45	39.78	3,555.56
	Non FSA Coal (Post CoD)	238,404.05	4,385.64	104.56	3,515.57
	Imported Coal (Post CoD)	56,020.01	7,091.68	39.73	5,769.47
	All Combined	**649,562.01**	**3,861.74**	**250.84**	**3,541.30**
2013-14	FSA (linkage) Coal	761,840.35	2,581.85	196.70	3,762.18
	Non FSA Coal	358,924.86	4,316.30	154.92	3,709.18
	Imported Coal	7,816.38	7,465.08	5.83	5,809.11
	All Combined	**1,128,581.59**	**3,167.28**	**357.45**	**3,759.50**

6.60 While determining the landed Cost of Coal, the Commission has considered only the actual net generation ex-bus for the Contracted Capacity as per PPA executed by the petitioner on long term basis.

6.61 Based on the submissions made by the petitioner, the Coal requirement for FY2012-13 and FY2013-14 to the Contracted Capacity is determined as given below:

Table 37:

Computation of Coal Requirement for Contracted Capacity	Units	FY 2012-13 (Unit I)	FY 2013-14 (Unit I & Unit 2)
Specific Coal Consumption (as per normative parameters and actual GCV of coal)	kg/kWh	0.6496	0.6488
Transit Loss	%	0.80%	0.80%
Normative Auxiliary Consumption	%	8.50%	8.50%
Specific Coal Consumption including transit loss and Auxiliary Consumption	kg/kWh	0.716	0.715

Computation of Coal Requirement for Contracted Capacity	Units	FY 2012-13 (Unit I)	FY 2013-14 (Unit I & Unit 2)
Actual Net Generation at ex-bus for the contracted capacity (as per Final Monthly State Energy Account)	MU's	412.945	1,332.320
Coal Requirement	MT	295,540.570	952,268.658

6.62 Considering the coal requirement as worked out above, the Commission has considered the full quantity of FSA (linkage) coal received by the petitioner. The balance requirement of coal for the actual net generation ex-bus to meet the Contracted Capacity as per PPA is considered in the same proportion of the Non-FSA (E-Auction) and the imported coal consumed by the petitioner in the respective years.

6.63 Accordingly, the coal requirement for supply of electricity up to the Contracted Capacity is determined as given below:

Table 38:

Year	Type of Coal	Qty (in MT)	Rate (Rs.)
2012-13	FSA (linkage) Coal (Post CoD)	143,742.01	2,767.45
	Non FSA Coal (Post CoD)	122,915.88	4,385.64
	Imported Coal (Post CoD)	28,882.68	7,091.68
	Coal from All Combined sources considered	**295,540.570**	**3,863.06**
2013-14	FSA Coal	761,840.34	2,581.82
	Non FSA Coal	186,369.70	4,316.55
	Imported Coal	4,058.61	7,463.52
	Coal from All Combined sources considered	**952,268.658**	**2,942.13**

6.64 In view of the above, the Commission has considered the weighted average price of coal for FY2012-13 and FY2013-14 based on the actual coal requirement worked out considering the normative operating parameters and actual ex-bus generation. For FY2014-15 and FY2015-16, the rate of coal of Rs. 2942.13 /MT as determined for FY2013-14, is provisionally considered for FY2014-15 and FY2015-16 subject to adjustment with actual price of coal as per Regulation 41.2 of MPERC (Terms and Conditions for determination of Generation tariff) Regulations, 2012.

Gross Calorific Value

6.65 While claiming the Energy Charges, the petitioner considered the Gross Calorific Value of coal on "As fired basis". The petitioner mentioned that the actual GCV on "As Fired Basis" is used for billing purposes, as provided in the Regulations, 2012. The GCV of coal on "As fired basis" claimed by the petitioner in its additional submission dated 13th August'2014 is as given below:

Table 39:

Financial Year	FY2012-13	FY2013-14	FY2014-15	FY2015-16
Gross Calorific Value of coal 'As fired basis" claimed (Kcal/kg)	3541	3760	3760	3760

6.66 Vide Commission's letter dated 05th May, 2014, the petitioner was asked to file the GCV as per monthly laboratory report for each source of coal procured.

6.67 By affidavit dated 27th June, 2014, the petitioner filed the monthly laboratory report for each source of coal procured for computation of gross calorific value (GCV).

6.68 The Commission has worked out the weighted average GCV of coal based on the actual coal requirement for FY2012-13 and FY2013-14 in this order is as given below:

Table 40:

Year	Type of Coal	Qty (in MT)	GCV (Kcal/kg)
2012-13	FSA (linkage) Coal (Post CoD)	143,742.01	3,555.56
	Non FSA Coal (Post CoD)	122,915.88	3,515.57

Year	Type of Coal	Qty (in MT)	GCV (Kcal/kg)
	Imported Coal (Post CoD)	28,882.68	5,769.47
	Coal from All Combined sources considered	**295,540.570**	**3,755.29**
2013-14	FSA Coal	761,840.34	3,762.18
	Non FSA Coal	186,369.70	3.707.75
	Imported Coal	4,058.61	5,809.11
	Coal from All Combined sources considered	**952,268.658**	**3,760.25**

6.69 In view of the above, the Commission has considered the weighted average gross calorific value (GCV) of coal for FY2012-13 and FY2013-14 based on the actual coal requirement worked out as above for the respective year. The weighted average GCV of coal (3760.25 kCal/kg) as determined above for FY2013-14 is provisionally considered for FY2014-15 and FY2015-16 subject to adjustment as per Regulation 41.2 of MPERC (Terms and Conditions for determination of Generation tariff) Regulations' 2012.

Operating Parameters

6.70 The norms for Auxiliary Energy Consumption and Specific Oil Consumption are considered as per Regulation 33.2 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2009 for FY 2012-13 and Regulation 35.2 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2012 for FY 2013-14 onwards. The subject thermal power generating units being non pit-head, the normative transit loss of 0.8% are considered as per Regulation 41.4 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations' 2012. While calculating the energy (variable) charges, the norms of operation for the petitioner's units have been considered as per MPERC (Terms and Conditions for determination of Generation), Regulations' 2009 and MPERC (Terms and Conditions for determination of Generation), Regulations' 2012, are as follows:

Particulars	Norms
Target Availability	85%
Gross Station Heat Rate	2450Kcal/kWh
Aux. Energy Consumption	8.50%
Sp. Oil Consumption	1.00 ml/kWh
Transit Loss	0.80%

6.71 Regarding Annual Contracted Quantity (ACQ), clause 4.1.1 of the Fuel Supply Agreement provides that,

"The ACQ shall be in the proportion of the percentage of Generation covered under long term Power Purchase Agreement(s) executed by the Purchaser with the DISCOMs. Whenever, there is any change in the percentage of PPA(s), corresponding change in ACQ shall be effective through a side agreement. Such changes shall be allowed to be made only once in a year and shall be made effective only from the beginning of the next quarter. However, in no case ACQ should exceed the LOA quantity."

6.72 Further, the long term 'PPA' is defined in FSAs as given below:

"PPA (long term) means the Power Purchase Agreement between the Power Generating Source and the power procurer(s), i.e. DISCOM(s) for a period of 7 years and above. However, the same shall not be applicable for the portion which is sold under market driven price."

6.73 Clause 3.1.1. (ii) of the Power Purchase Agreement entered into by the petitioner with the respondent on 5th January' 2011 provides that;

"The Company shall have executed the Fuel Supply Agreement for the entire Contracted Capacity with the Fuel supplier for due procurement of Fuel for a period of not less than 10 years and have provided the copy of the same to the Procurer. Such Fuel Supply Agreement shall be for domestic coal, to the extent available according to the extant policy of the Government of India."

6.74 In petition No. 11 of 2012, the petitioner had confirmed that it has not executed any PPA with any party other than the respondents for sale of power from its project. It is evident that the balance power other than the percentage agreed to in the PPA shall be sold on merchant basis to other beneficiaries outside the state at a price other than the tariff determined by this Commission. In terms of Fuel Supply Agreement, the fuel procured by the petitioner through FSAs, on the basis of the long term PPA with the Discoms, should be earmarked and used for generation of electricity for sale to Discoms only and it should not be diverted for generation of power to be sold under market driven price. The petitioner and the respondent No.1 are directed to ensure strict compliance with the aforesaid directive of the Commission.

6.75 Based on the above, the energy charges ex-bus for Jaypee Bina TPP Phase I Unit I and Unit II (2x250 MW) are determined as given below:

Table 41 : Energy Charges for Jaypee Bina TPP Phase I (2x250 MW)

Particulars	Unit	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Units		***Unit I***	***Unit I***	***Unit I and II***	***Unit I and II***	***Unit I and II***
Installed Capacity	MW	250.00	250.00	500.00	500.00	500.00
Normative Annual Plant Availability Factor	%	85.00	85.00	85.00	85.00	85.00
Gross Generation at generator terminals	MU's	1,861.50	1,861.50	3,723.00	3,723.00	3,733.20
Net Generation at ex-bus	MU's	1,703.27	1,703.27	3,406.55	3,406.55	3,415.88
Gross Station Heat Rate	kCal / kWh	2,449.50	2,449.50	2,449.50	2,449.50	2,449.50
Sp. Fuel Oil Consumption	Ml / kWh	1.00	1.00	1.00	1.00	1.00
Aux. Energy Consumption	%	8.50%	8.50%	8.50%	8.50%	8.50%
Transit and handling Loss	%	0.80%	0.80%	0.80%	0.80%	0.80%
Weighted average GCV of Oil	kCal / ltr.	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00

Particulars	Unit	As on 31st March, 2013	As on 6th April, 2013	As on 31st March, 2014	As on 31st March, 2015	As on 31st March, 2016
Weighted average GCV of Coal	kCal / kg	3,755.29	3,760.25	3,760.25	3,760.25	3,760.25
Weighted Average price of Coal	₹ / MT	3,863.06	2,942.13	2,942.13	2,942.13	2,942.13
Heat Contributed from HFO	kCal / kWh	10.00	10.00	10.00	10.00	10.00
Heat Contributed from Coal	kCal / kWh	2,439.50	2,439.50	2,439.50	2,439.50	2,439.50
Specific Coal Consumption	Kg / kWh	0.6496	0.6488	0.6488	0.6488	0.6488
Sp. Coal consumption including transit loss	Kg / kWh	0.6549	0.6540	0.6540	0.6540	0.6540
Rate of Energy Charge from Coal	₹ / kWh	2.530	1.924	1.924	1.924	1.924
Rate of Energy Charge ex bus	**₹ / kWh**	**2.765**	**2.103**	**2.103**	**2.103**	**2.103**

6.76 The base rate of the energy charges shall however, be subject to month to month adjustment of fuel price and GCV of main fuel. The above energy charges have been calculated for the purpose of calculation of two months' billing, which is used for calculation of interest on working capital. However, the actual billing of energy charges shall be as per the formula and other provisions detailed in Regulation 41 of MPERC (Terms and Conditions for determination of generation tariff) Regulations, 2012.

Determination of other Charges

6.77 The petitioner is allowed to recover expenses towards filing of the subject tariff petition and the expenses incurred on publication of notices in the subject matter directly from the beneficiaries in accordance with Regulation 30 of MPERC (Terms and Conditions for determination of generation tariff) Regulations, 2012.

In addition to the above, the petitioner is also allowed to recover Electricity duty, cess and water charges from the beneficiary on pro-rata basis, if payable to the

State Government for generation of electricity from its generating units in accordance with Regulation 42 of MPERC (Terms and Conditions for determination of generation tariff) Regulations, 2012.

Implementation of the order

6.78 The final generation tariff for FY 2012-13 and FY 2013-14 is determined for Unit I and Unit-II of JP Bina thermal power plant from CoD of each Unit. The generation tariff determined in this order for FY 2014-15 and FY 2015-16 is provisional and shall be trued- up subsequently as per Audited Accounts of FY 2014-15 and FY 2015-16.

6.79 The petitioner must take steps to implement the Order after giving seven (7) days' public notice in accordance with Clause 1.30 of MPERC (Details to be furnished and fee payable by licensee or generating company for determination of tariff and manner of making application) Regulations, 2004 and its amendments and recalculate its bills for the energy supplied to Distribution Companies of the State/ M.P. Power Management Company Ltd. since CoD of each Unit.

6.80 The petitioner is also directed to provide information to the Commission in support of having complied with this Order. The deficit/surplus amount as a result of this order shall be recovered or passed on to the MP Power Management Company Ltd / three Distribution Companies of the state in terms of applicable Regulation in the ratio of energy supplied to them in equal monthly instalments during FY 2014-15.

With the above directions, the subject petition is disposed of.

(Alok Gupta) **Member**	**(A. B. Bajpai)** **Member**	**(Rakesh Sahni)** **Chairman**

Date: 26th November' 2014

Place: Bhopal

A7: ANNEXURES

Annexure I: Comments offered by Respondent No.1 and the Petitioner's response

Respondent's Comments

1. That the Applicant/ Petitioner has filed instant application under Regulation 46 of Madhya Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations 2004 read with Section 62 of Electricity Act 2003 for determination of Final Tariff of Petitioner's 2x250 MW Coal based Power Plant at Bina, Dist. Sagar (MP), in accordance with prayers made in Petition No. 40 of 2012 filed earlier on 16-05-2012.

2. That in the instant application the petitioner, interalia, has made following prayers before this Hon'ble Commission :

   ……

   a. Determine the Blended Generation Tariff of the Generating Station for Phase I (Unit I and Unit II of 250 MW each) as required under the PPA dated 05-1-2011 and as prayed by the Applicant/ Petitioner in Petition No. 40 of 2012;

   b. ………;

   c. ……..”

3. That, at Point No. 6.1 (a) on Page No. 10, under heading “Delay in opening of Letter of Credit by Respondent No. 1”, Clause No. 10.5.2 of PPA Dated 05-01-2011, indicating requirement of opening a Letter of Credit by Respondent No. 1 in favour of the petitioner has been quoted. It is to submit that, since the tariff was not available, the actual amount of Letter of Credit (LC) could not be calculated as average monthly bill was not known.

Petitioner's Reply

"I say that the contents of Para 1 and 2 are a narration of facts and merit no rejoinder.

I say that the contents of Para 3 are vehemently denied. It is submitted that Respondent No.1 at Para 3 has averred that since the tariff of the petitioner's Project was not available, the actual amount of Letter of Credit(LC) could not be calculated as average monthly bill was not known. I say that the aforesaid contention of the Respondent No.1 is vehemently denied and it is submitted as follows:-

(a) *That the petitioner vide its letters dated 3rd July, 2012, had submitted the detailed calculation of estimated average weekly and monthly billing and LC values at ₹ 0.543 Crores and ₹ 77.97 Crores to the Respondent No.1. Copy of the letter dated 3rd July, 2012 are annexed hereto and marked as **ANNEXURE R-1**.*

(b) *It is further submitted that it was subsequently acknowledged by the Respondent No.1 vide its letter dated 7th July, 2012, where in the Respondent No.1 has categorically stated that it is making sincere efforts for opening of LC, before the commissioning of Unit I. It was further requested by the Respondent No.1 for revision (unit wise) in the value of LC, for both the PPA's. Copy of the letter dated 7th July, 2012 is annexed hereto and marked as **ANNEXURE R-2**.*

(c) *Further, the petitioner vide its letter dated 11th July, 2012, replied back with detailed calculation of estimated average Monthly billing and LC value at ₹ 38.98 Crores for Unit I only and ₹ 77.97 Crores calculated for both Unit I and Unit II taken together. Copy of the letter dated 11th July, 2012 is annexed hereto and marked as **ANNEXURE R-3**.*

(d) *It is humbly submitted that under clause 10.5.2(i) of the PPA dated 5th January, 2011, the LC calculation has been given as an amount equal to 1.05 times the estimated average Monthly Bill based on the Normative Availability of the Power Station's Net Capacity allocated to the Procurer. Since the calculation of LC is based on* ***estimated average Monthly Bill,*** *the Respondent No.1's contentions that it could not calculate the average monthly bill amount due to non-availability of tariff, is baseless and the same has been made as an afterthought as the petitioner vide its aforementioned letter, dated 11th July, 2012, had already submitted the calculation of Monthly LC amount based on the provisions of 10.5.2(i) of PPA dated 5th January, 2011, which have not been disputed.*

(e) *It is further submitted that under clause 10.5.2(i) of the PPA dated 20th July, 2011, the LC calculation for Weekly Bills has been given as an amount equal to 1.10 times the estimated average Weekly Bill based on the Normative Availability corresponding to the contracted capacity. Again since the calculation of LC is based on* ***estimated average Weekly Bill,*** *the Respondent No.1's contentions that it could not calculate the average Weekly bill amount due to non-availability of tariff, is again baseless as the petitioner vide its aforementioned letter dated 3rd July, 2012, had already submitted the calculation of weekly LC amount based on the provisions of 10.5.2(i) of PPA dated 20th July, 2011, which have also not been disputed.*

(f) *Therefore, in view of the aforesaid relevant facts it is most respectfully submitted that the Respondent No.1's contention that LC was not created due to absence of Tariff is completely baseless and is being urged as an afterthought and is liable to be dismissed."*

Respondent's Comments

4. That, at Point No. 6.1 (b) on Page No. 11, the petitioner has claimed that funding of project was delayed as the said condition, i.e., opening of LC, was stipulated by lenders for payment security mechanism, leading to both time and cost overrun. But no proof has been submitted as to which lenders have refused or delayed the release of funding due to non opening of LC.

Petitioner's Reply

"I say that the Respondent No.1 at Para 4 has averred that the petitioner has not submitted any such proof of refusal or delay in release of funding. I say that the contents of the said para are vehemently denied and it is submitted as follows:-

(a) *That the petitioner through its letter dated 30th July, 2012, had informed the Respondent No.1 that the lenders while sanctioning the financial assistance had stipulated that the financial assistance would inter-alia be secured by way of charge on Letter of Credit to be established by the procurer, as a security towards the payment of monthly bills for sale of Power. Copy of the letter dated 30th July 2012 is annexed hereto and marked as* ***ANNEXURE R-4***

(b) *It is further submitted that due to such delay in establishment of LC, the difficulties faced by the petitioner had been intimated to the Respondent No.1 vide letter dated 30th Jul,2012 and further reiterated in subsequent letters dated 6th Aug,2012, 17th Aug, 2012 and 1st Oct, 2012. Copies of various letters issued by the petitioner are annexed hereto and marked collectively as* ***ANNEXURE R-5****.*

That from the aforementioned letters and the facts and circumstances of the case it is evident that the petitioner has been continuously informing and pleading for an early establishment of LCs and the resulting Project delays on account of delays in Debt drawdown. Therefore, the averment of Respondent No.1 that no such proof has been placed on record is liable to be rejected."

Respondent's Comments

5. That in fact, vide letter dated 9.01.2012, the petitioner had informed that rainfall in Bina was abnormally high during June-September 2011, therefore it was practically impossible to carry on any works at the site during this 4 month period. They have further mentioned that the project would have met its schedule, had it not been for the retardation in progress due to excessive rains. After carrying out detailed review of balance activities of the project, the petitioner requested for additional four months, i.e., up to July 2012, for revised COD of Unit I due to unprecedented heavy rains. Copy of the said Letter Dated 09.01.2012 is annexed and marked as Annexure –R1.

6. Similarly, the petitioner in letter dated 28.11.2012, has given the reason of unprecedented heavy rains between June-September 2011 for delay of Unit II of project and requested that revised COD be approved for 28th February 2013. Copy of the said Letter Dated 28.11.2012 is annexed and marked as Annexure –R2.

7. It is humbly submitted that nowhere in these letters, the petitioners ever mentioned the reasons of delay in Project as non opening of LC and subsequent reluctance by lenders to lend money due to lack of security mechanism etc.. Only unprecedented heavy rains was categorically given as the reason for delay of project. Not providing the LC seems to be an afterthought. Schedule of drawdown of funds and actual time when fund was disbursed needs to be verified to ascertain the veracity of this contention.

Petitioner's Reply

"I say that the contents of Para 5 to 7 are vehemently denied expect the portion wherein the petitioner had informed the Respondent No.1 about excessive rainfall hindering the progress of the Project. It is submitted that the Respondent No.1 by relying upon specific communications is trying to misguide the Hon'ble Commission and couch its own wrong doings. It is further submitted that the Progress of any Project can be viewed in terms of two factors:

(a) *Timely availability of Project Funding from all the available sources of funds,*

(b) *Timely available of Project material at site*

Further the timely availability of Project funding depends on the following:

(a) *Timely availability of the Equity Component (30%) of the Project*

(b) *Timely availability of the Debt Component (70%) of the Project*

It is humbly submitted that the delay in the Project due to material movement restrictions on account of the unprecedented rainfall had been explained vide the petitioner's letter dated 09.01.2012, but the delay due to funding arrangement had not been mentioned in the said letter. The various communications issued by the petitioner to that effect are being summarized as follows:-

(a) *Monsoon of 2011, due to heavy unprecedented rainfall in the Project area, the construction and material movement was not possible at the project site leading to delay in COD, as mentioned in the aforementioned letter dated 09-01-2012.*

(b) *It is pertinent to mention at this point that the petitioner was technically ready to declare COD in Jul-12 but due was delayed due to following factors:*

(i) ***Non Establishment of LC:*** *The Lenders delayed the disbursement of Loans, due to non-establishment of LC's. The said fact was also informed to Respondent vide letters dated 30-07-2012. Copy of letter dated 30.07.2012 is annexed hereto and marked as* ***ANNEXURE R-4****.*

(ii) ***Grid failure:*** *Due to Northern Grid failure in July-2012, the Unit I was not allowed to be synchronized by SLDC on technical reason of Load restrictions leading to further delay, although the plant was ready for declaration of COD.*

(iii) That the Grid Synchronization of Unit I occurred on 2nd Aug-2012 followed by COD on 30th Aug-2012.

(iv) Further, the respondents in their reply dated 1st Aug-12 had expressed their inability in establishment of LC on the grounds of exhaustion of the Working Capital Limits, held with the State Bank of India. They further affirmed that they have already applied for enhancement of working capital limits and as soon as the matter pertaining to limits is sorted out with SBI, the LC related to petitioner shall be established.

(v) That the petitioner vide it letter dated 6th August 2012, pointed out the lenders concern about non commitment of bill payment by the Respondent No.1 and also towards firm date on LC establishment. The petitioner further requested for an undertaking from the Respondent No.1 on timely payment of the bills and also confirmation of firm date by which the LC's would be established.

(vi) That the respondent vide its letter dated 07th Aug, 2012 reconfirmed the timely release of payments of energy bills. Regarding the issue of firm date of LC establishment, the earlier reply of the Respondent No.1 was repeated and the establishment date remained linked with the enhancement of working capital limits of the respondents by the State Bank of India. The Respondent No.1 further requested to commence supply as per the provisions of PPA.

(vii) The petitioner vide its letter dated 17th Aug, 2012, informed the Respondent No.1 that it shall try to convince the lenders to get the permission for commencing of power supply, on the basis of the assurance received from the respondent.

(viii) The petitioner vide its letter dated 1st Oct, 2012 again informed about the insistence of the Lenders in compliance of Procurer (Respondent in our case), without which the petitioners Working Capital Limits are not getting released.

The aforementioned clearly demonstrates that the contention of the Respondent No.1 to acknowledge the letter dated 28.11.2012 only, on a *standalone basis, overlooking the aforementioned letters is not logical. The petitioner Letter dated 28.11.2012 is one of the various letters submitted to Respondent No.1. The Respondent No.1 while acknowledging the letter stating the construction/material movement difficulty, due to rains as one the reasons of project delay, has safely ignored the other aspect, that is, the timely Project Funding Requirement (both Equity and Debt Components) which is attributed to noncompliance on the part of Respondent No.1.*

It is further submitted that despite repeated pleadings by the petitioner for the opening of LC, the LC got delayed leading to project delay. So the contentions of the Respondent No.1 that only unprecedented rains was given by the petitioner as reason for delay and correlating the delay in COD with non-opening of LC is an afterthought is not correct as evident by the various correspondences as referred above."

Respondent's Comments

8. That, at Point No. 6.1 (d) on Page No. 12, the petitioner has quoted only that part of Minutes of Meeting (MOM) dated 31-05-2013, which records the views expressed by the representative of the petitioner. However, the Respondent No. 1 did not accept the reasoning that non opening of LC resulted in delay of project due to which lenders delayed their disbursements.

It was also agreed in MoM that the petitioner will not invoke Clause for delay in establishment of LC for Unit I & Unit II and hence, will not seek compensation for loss of revenue due to deferment of COD of Unit I & Unit II. The relevant portion of MoM is reproduced below:-

"It was agreed that –

(i) M/s Jaypee Bina shall not invoke the clause for Procurer Event of Default against MPPMCL for delay in establishment of LC for Unit I and Unit II and, hence, will not seek compensation/liquidated damages/capacity charges for loss of revenue due to deferment of COD of Unit I and Unit II as per relevant clause of PPA.

(ii) ……………. ”

9. Therefore, it is humbly submitted that the increased cost of project to 3,575 Crores may not be allowed.

Petitioner's Reply

"I say that the contents of Para 8 and 9 are vehemently denied. It is submitted that with reference to the Minutes of Meeting dated 31-05-2013, the Contention of Respondent No.1 that they did not accept the reasoning that non opening of LC resulted in delay of project due to which the lenders delayed their disbursement is erroneous and unfounded since no rebuttal is recorded in the minutes of the meeting and there was no cogent reason given by the Respondent No.1 in refusing the petitioner's contention. Moreover the Principle/Law of Estoppels shall apply.

Notwithstanding the breach on the part of Respondent No.1 the petitioner agreed not to invoke the Procurer Event of Default provision of the PPA."

Respondent's Comments

10. That, at Point No. 7 on Page No. 14, the petitioner has given details under heading "Current Project Completion Cost Estimates". It is humbly submitted that items at S. No. (xiv.) (Cost included in Other BOP at S. No. viii.) and (xv.) (Cost included in Civil Cost at S. No. xi.) are not explained clearly, therefore require prudence check.

(i) That at Point No. 7.1 (A) on Page No. 15, the petitioner has attempted to justify increase in Civil Cost by 142 Crores over revised estimated figure of 710 Crores (Original estimate was 432 Crores), i.e., total increase so far of about 97% from original estimate of 432 Crores, which is very high. This assumes greater significance as the civil contract was placed on a related party, i.e., M/s Jaiprakash Associates Ltd. (JAL), on negotiated basis as a variable price escalable contract. JAL was given the Contract on the condition that they accept civil work rates equivalent to rates at which they were working for Bokaro Cement (Provisional Tariff order for Unit I, Pg 29). So a prudence check is required as to why the cost of civil work has increased by such large margin. The documents showing Statutory Compliance and Central Government approval in terms of Section 297 of Companies Act 1956 may kindly be sought from the petitioner. It is humbly requested that strict prudence check may be applied by Hon'ble MPERC, if deemed fit, by means of independent site inspection and technical study by "Expert Commission" etc. to verify the expenses claimed.

Petitioner's Reply

"I say that the contents of Para 10 are vehemently denied for following reasons:-

(i) *That under Point no 7 the Project Cost of ₹ 3,575 Crores, has been further broken down to Land, BTG, BOP, IDC and IEDC including Pre commissioning expenses.*

(ii) *For better understanding the Cost incurred under Coal Blending unit has been shown separately and it has been specifically mentioned that* ***it is meant only for presentation****, the BOP component of the Coal Blending unit had already been factored under BOP and the Civil Cost of the Coal Blending portion had already been factored under Civil cost.*

(iii) *Other issues raised by the Respondent No.1:-*

a. Increase in Civil Cost

It is humbly submitted that detailed reasons for increase in Civil Cost has been explained under para 7.1 A of the Petition and is not being repeated again for the sake of brevity. Further as for reliance being placed on Section 297 of the Companies Act, 1956 it is humbly submitted that the applicable provision of law, has been complied with and the relevant cost comparison *with Bokaro JAL Limited (BJCL), wherein the Civil work was awarded to JAL based on competitive bidding had already been explained in petitioner's affidavit dated 21-08-2012 from page 111-194.*

Further it is most respectfully submitted that the rate at which the civil work contract was awarded to JAL was the same as BJCL contract without factoring the escalation due to timing difference of four months between the timing of the award of the two contracts, explained in detail in petitioner's aforementioned affidavit dated 21-08-2012.

Further the petitioner would humbly like to submit before the Hon'ble Commission that, there is savings of ₹ 59.39 Crores on the rate difference of the Civil work of Bina Project in comparison to BoJL BOQ, the details of which has been annexed as ***Annexure C-9*** *of Affidavit dated 21-08-2012."*

Respondent's Comments

11. That at Point No. 7.2 on Page No. 16, the petitioner has tried to justify unplanned expenditure of 96 Crores on account of cost of fuel consumed before COD. Amount spent on fuel prior to synchronisation is 17.53 Crores in July-August 2012. Since these amounts are very large and quantity of fuel actually consumed, rates, energy generated etc. are not explained properly. Therefore, it is humbly prayed that the details and data justifying this amount may be called.

Petitioner's Reply

"I say that the contents of Para 11 need to be seen under the sequence of events that followed prior to and after the date of oil synchronization of Unit I with Grid. The First Unit of Bina TPS was ready for Grid Synchronization by last week of Jul-12, wherein due to sudden failure of Northern Grid followed by Load restrictions of SLDC on technical grounds, the petitioner was first not allowed to Grid synchronize. The COD was finally achieved on 30th Aug-12. The extra consumption of the Oil pertains to this lengthy period of waiting by petitioner, which was beyond its immediate control. There is no written evidence of these

facts as these matters were discussed and pleaded daily with SLDC over phone. So no written documents can be presented as an evidence but the facts of the case can be verified from the SLDC records.

Hence the petitioner most respectfully submits that the principle reasons to be attributed for extra consumption was due to the Load restrictions by SLDC followed by Grid failure in Jul-12, which delayed COD and further to keep the plant on running position. The aforesaid lead to extra oil consumption post lighting up."

Respondent's Comments

12. That at Point No. 8.1 on Page No. 18, the petitioner has given the Coal Materialization figures as compared to ACQ agreed in FSA for 2012-13. The same is required to be verified with respect to actual energy supplied (kWh) by the petitioner to the Respondents during the relevant period to judge the actual shortfall of supply FSA coal, if any, to justify any occasion for procurement of coal from private vendors.

Petitioner's Reply

"I say that as regards the contents of Para 12, it is humbly submitted that the total materialization of CCL coal during 2013-14 is 43% and SECL coal is 84% against the ACQ of the period. In terms of MT it amounts to 0.7682 MMT as against the Combined ACQ of 1.246 MT. So the total materialization combined of CCL and SECL is only 61.66% of the total ACQ. Further, the total energy supplied to MPPMCL during 2013-14 is 1332 MU which when grossed up with Average Auxiliary 8.68% becomes 1459 MU which required 0.953 MMT of FSA coal for an average GCV of 3750 kCal/kg using an ideal GSH Of 2450 kCal/kwh. So the average materialization of the Coal was not enough to sustain Respondent supplies under ideal circumstances. Whereas due to frequent back down/Load restrictions by SLDC the petitioner's average GSH is much higher at around 2550-2600 kcal /kwh leading to a requirement of approximately 1.012MMT of coal which is much more than the FSA Materialization. The

aforesaid facts constrained the petitioner to procure additional coal from Private sources."

Respondent's Comments

13. High Per MW Cost

Per MW cost of project is 3575 Crores/ 500MW = 7.15 Crores/MW

which is very high and not in line with CERC guidelines. The cost of 2x250 MW Chhabra TPS in Rajasthan, which was commissioned as 04.05.2010, comes to 5.55 Crores/MW, excluding the cost of barrage & Transmission line. In Petitioner's case, out of project cost of 3575 Crores, barrage cost is 117 Crores and Transmission line cost is 61 Crores So comparative Project Cost = 3575-117-61= 3397 Crores And Per MW cost=3397/500= 6.79 Crores/MW, which is still much higher than that of Chhabra TPS. It is humbly prayed that benchmark for 250 MW plants may kindly be evolved. Till such time the benchmark are specified by MPERC, the benchmark specified by CERC for plants of 500 MW and above capacity may be considered at arriving at a just and reasonable capital cost. OR alternatively, per MW cost of Chabra TPS may be considered as benchmark in this instant case. The cost of Satpura TPS is also much lower at 6.065 Crores/MW without barrage & transmission lines.

Petitioner's Reply

"I say that the contents of Para 13 are vehemently denied. It is most respectfully submitted that the Comparison of the project cost be done for similar cost of the other projects and any extra cost incurred by the petitioner due to certain project specific conditions, not applicable to other projects be eliminated from the comparison. The revised calculation, after eliminating the factors not considered in Bench mark costing, the following figures are arrived at :

Projected Project Completion Cost : Bina TPS	***3,575.00***
Less:	
Working Capital Margin	*45.00*
IDC	*756.00*
Railway Siding Expenses	*57.00*
Transmission Line Exp	*61.00*
Barrage Exp	*180.00*
Township Expenses	*93.00*
Taxes	*184.00*
TOTAL Capital Cost as per Bench Mark Calculation	***2,199.00***
Cost in Crores per MW	***4.40***
WPI Index Apr-2010	*138.60*
WPI Index Apr-2014	*180.20*
Cost of Chabra TPS@ 5.50 Crores per MW as at 04-05-2010	*2,750.00*
Effective Cost as at Apr-2014	*3,575.40*
Cost per MW (In Crores)	***7.15***

It is further submitted that since the benchmark capital cost is not available for 2x 250 MW TPS so cost per MW of ₹ 4.40 Crores for Bina TPS is not comparable. Moreover, the contention of the Respondent No.1 comparing the petitioner's project to Chhabra TPS is baseless and cannot be done without understanding the detailed facts of Chhabra TPS.

However based on the facts provided by the Respondent No.1 it can be seen that Chhabra TPS cost is based on cost incurred up to the date of commissioning, 04-05-2010. So presuming the Apr-14 as end date, the WPI Index conversion from Apr-10 to Apr-14 makes the Cost of Project at Apr-14 at ₹ 3607.90 Crores, which is more than Bina TPS cost. Moreover, as stated by the Respondent No.1 the said cost in current price would be without including *the cost of Barrage and Transmission Lines, whereas the Cost of Bina TPS includes the cost of Barrage and Transmission lines also."*

Respondent's Comments

14. That there has been delay in project implementation beyond the Scheduled COD. Therefore, it is humbly requested that any time overrun beyond SCOD may not be considered for purpose of IDC & Incidental Expenses During Construction (IEDC) and IDC/ IEDC increase from 464 Crores to 612 Crores may not be allowed.

Petitioner's Reply

"I say that the contents of Para 14 are vehemently denied. The scheduled COD of the project was on 31st Mar, 2012 which got extended to July-12 by MPPMCL vide their letter dated 01-03-2012. However, subsequently due to Northern grid failure in Jul-2012 followed by load restrictions immediately thereafter we attained grid synchronization by 2nd August 2012 and COD by 30th August 2012. So there is no difference between the SCOD and COD and as such no cost overrun can be attributed for difference in SCOD and COD. Hence, the contention of Respondent No.1 is liable to be rejected."

Respondent's Comments

15. It is submitted that the share of Respondent No. 1 is 65% in 2x250 (Phase-1) & 37% of 3x250 MW (Phase-2). Cost of common facilities is loaded on Phase-1, where Respondent No. 1 is getting larger share. The loading of Common Facilities should be apportioned among two Phases. It is true that commissioning of common facility is critical to the commissioning of Unit I & Unit II of Phase-1. However, the share of Respondent No. 1 is only 65% from these units. If the cost of facilities common to Phase-1 (2x250 MW) and Phase-2 (3x250 MW) are fully loaded on Phase-1, Respondent No. 1 will be unduly burdened with higher Capital Cost.

Then the Respondent No. 1 would underwrite the cost of common facilities which should be shared by beneficiaries of Phase-2 units. It is humbly prayed that the final tariff could have the rider that it would be re determined as and when the Phase-II of the project would be commissioned.

Petitioner's Reply

"I say that the contents of Para 15 are vehemently denied for detailed reasons mentioned in various previous pleadings on the issue of Common Facilities. The petitioner craves the liberty of the Hon'ble Commission to rely upon the same during the course of hearing."

Respondent's Comments

16. That the Respondent No. 1 humbly prays for application of prudence check on IDC, IWC, IEDC O&M expenses.

Petitioner's Reply

"I say that the contents of Para 16 are vehemently denied and it is most respectfully submitted that the petitioner has already submitted the CA certified audited IDC/IEDC and O&M figures up to 31st December-2013. The Audited figures of 31-03-2014 are being submitted as ***ANNEXURE R-6****."*

Respondent's Comments

17. That the Respondent No. 1 humbly prays for application of prudence check on breakup of all cost components amongst Unit I & Unit II indicating individual cost components and common facilities separately.

Petitioner's Reply

"I say that the contents of Para 17 are surmises and conjectures and merit no rejoinder."

Respondent's Comments

18. It is submitted that the "GCV of coal dispatched" and "GCV as received" has large difference inspite of joint analysis at seller's lab at the time of loading.

The petitioner has failed to substantiate as to why the GCV differ at the two ends by such a high margin.

Petitioner's Reply

"I say that the contents of Para 18 are vehemently denied and it is submitted that the GCV difference between the GCV measured at loading point and at receiving point has been already intimated to the Respondent No.1 in the petitioner's earlier correspondences dated, attached as ***Annexure R-7,*** *against which strong representation had already been made to the Coal companies. It is further being submitted that to substantiate the points very month the petitioner is getting few rakes analyzed by outside agencies also. The reported results indicate that there is no material difference in the measurement done at petitioner's plant and measurement done in outside labs. The Comparison of the external Lab Report and with measurement done at Bina TPS and letters written to Coal Companies are annexed herewith and marked as* ***ANNEXURE R-8*** *(Colly)."*

Respondent's Comments

19. It is humbly submitted that the quantity of coal received from CCL and SECL is not sufficient to provide contracted energy to the Respondent. The petitioner has to buy coal from open market at a much higher cost. Hon'ble Commission is also not inclined to accept the use of other sources of high cost coal for supply of power to the Respondent which would be a burden to the end consumers in the state. It is therefore, humbly requested that while arranging coal from other sources, prior consent of Respondent should be obtained by the petitioner. The consent shall be conveyed depending upon the demand matrix at the time and fixed charge, as applicable, shall be paid to the petitioner.

Petitioner's Reply

"I say that the contents of Para 19 are vehemently denied as in the current coal scenario, as explained above under Para No, 11 on the overall coal materialization from CCL and SECL, the shortfall in supply of coal has to be met

by procurement from private sources. Further the Government of India has even permitted generators supplying under Section 63 route to import coal. Also, the scheme of the Act or the PPA does not provide for prior approval being taken from the Procurer before Coal is sourced. Hence, such a contention is baseless and is liable to be rejected."

Respondent's Comments

20. It is humbly prayed that prudence check may kindly be applied on interest on long term loan and interest on working capital is required.

21. That the Respondent craves liberty to amend, alter and add to the points or make further submissions as may be required at a later stage.

22. The Respondent humbly prays that the Hon'ble Commission may kindly condone any inadvertent omission, error etc. in this submission.

Petitioner's Reply

"I say that the contents of Para 20 to 22 are surmises and conjectures and merit no Rejoinder Commission's views"

Respondent's Comments filed by rejoinder dated 11th August' 2014

Respondent No. 1 has filed its rejoinder on 11th August, 2014, to the response filed by the petitioner by affidavit dated 27th June, 2014. In its rejoinder, MPPMCL has broadly submitted the following:

"(a) The petitioner has made an unsuccessful attempt to portray that the monetary figures of the LCs were frozen / accepted by the Respondent on the basis of certain calculations/ estimates provided by them. However, mere assurance that steps are being taken to open LC does not lead to the conclusion that the figures could not be varied even being on much higher side (calculated at unilaterally assumed Fixed and Variable Charges).

(i) *The relevant Clause of the PPAs do not suggest that both quantum and rate of energy could be on "estimated" basis. Only the quantum of energy could be "estimated" and, based on Provisional Tariff approved by the*

Hon'ble Commission, the "estimated" Monthly or Weekly Billing amount were possible to be arrived at. The Provisional Tariff order was passed on 12-12-2012 for Unit I of 2x250 MW Bina Thermal Power Station. Therefore, the contention of the petitioner that the estimated amounts of LC were available, is liable to be rejected.

(ii) *The petitioner has referred to the correspondence made by them in respect of the requirement of opening of LC. However, neither any document nor correspondence received from the lenders on this issue has been cited nor any proof in this regard, despite being requested, is placed on record.*

(iii) *The information on the schedule of drawdown of the funds and the actual time when the funds were disbursed was not furnished by the petitioner, despite being specifically requested.*

(iv) *The petitioner has given specific reasons, including excessive rainfall for delay in achieving COD of Unit I under Affidavit. Now any change in the reasons for delay in achieving CoD viz. delay in opening of LC etc. is clearly an afterthought, hence may kindly be rejected.*

(v) *The petitioner has again attempted to highlight issue of "delay in opening of LC" as being the foremost reason for delay in COD, which is untenable and liable to be rejected.*

(vi) *The petitioner had written Letters Dated 09-01-2012 and 28-11-2012 respectively, requesting the deferment of COD for Unit I and Unit II. The copies of the said letters are filed by the Respondent No. 1 with its reply dated 14-05-2014 and marked as Annexures R-1 and R2 respectively. In these letters too the petitioner has clearly mentioned the real reasons for impending delay in declaration of COD and sought deferment on those grounds. Non-opening of LC was never cited as a possible reason of delay in extension of COD.*

(vii) *The petitioner is still referring to only a part of the Minutes of Meeting Dated 31-05-2013 which is misleading. It can be seen from the MOM that, both parties arrived at a mutually acceptable solution and the petitioner, JPVL categorically agreed not to invoke the Clause of Procurer Event of Default against MPPMCL for delay in establishment of LC for Unit I and Unit II and the Respondent No. 1, MPPMCL agreed not to seek compensation/ liquidated damages/ capacity charges for loss of revenue due to deferment of COD of Unit I and Unit II as per relevant Clause of PPA. Therefore, now they cannot go back on a mutually accepted position and the principle of "Estoppel" shall apply against the petitioner. Point No. 8 of the Reply Dated 14-05-2014 filed by the Respondent No. 1 may kindly be referred. It is, therefore, humbly prayed that as proper justification has not been offered for the delay in COD of both the Units. Therefore, increase in IDC and IEDC (Incidental Expenses During Construction) claimed beyond scheduled COD may not be allowed.*

(viii) *The petitioner has offered justification for increase in Civil Cost along with the reasons/ rationale for awarding the Civil Contract to a Group Company M/s JAL. Since the increase of the value of contract has been highest (by 96% from original scope), Hon'ble Commission may like to consider following :*

a. Even if the logic of petitioner is accepted that the Civil Contract has been awarded at lowest rates discovered on the basis of recent competitive bidding for M/s Bokaro JAL Ltd., then following questions still arise namely,

i. Was the nature and scope of both the Projects similar?

ii. Are the rates only important?

iii. Isn't the scope/ quantum of work important to cap outer limit of the contract or to what extent it can escalate?

b. Therefore, prudence check by Regulator is necessary to see whether such an increase of scope in the Contract was critical for the Project.

It is therefore prayed that suitable prudence check be applied before allowing any increase in the Cost of Civil Works.

(ix) *The statement of the petitioner that SCOD and COD are same is untenable, hence liable to be rejected. Therefore, it is humbly prayed that increase in IDC and IEDC from ₹ 464 Crores to ₹ 612 Crores may not be allowed.*

(x) *The petitioner has to buy coal from open market at a much higher cost. Hon'ble Commission is also not inclined to accept the use of other sources of high cost coal for supply of power to the Respondents which would be a burden to the end consumers in the state. It is, therefore, humbly requested that while arranging coal from other sources, prior consent of the Respondent should be obtained by the petitioner. The consent shall be conveyed depending upon the Power Purchase Matrix at the time. Fixed charges, as applicable, shall be paid to the petitioner and hence, the petitioner is not put to any disadvantage.*

(xi) *It is humbly submitted that the Hon'ble Commission, in the Provisional Tariff Order dated 12.12.2012 for Petition No. 40/2012 for Unit I, have observed in para 29 as –*

> *"29. It follows therefore, that such dedicated transmission line would be a part of the generation system, if it is erected by the Generating Company. Obviously, the generation tariff would then have to be decided after taking in to account the costs incurred for the construction of such dedicated transmission lines."*

It has further been observed that in this particular case, since the petitioner is not a transmission licensee, transmission tariff cannot be decided separately for the transmission line erected by the petitioner.

In this regard, it is further submitted that at the time of COD of Units of Phase-II, the cost of common facilities, including the transmission system, be appropriated between Phase-I and Phase-II based on the total contracted power."

Annexure II: Comments received in the public hearing and Petitioner's response

Objector's Comments

Issue I- The PPA signed between the petitioner and the Respondents is not in accordance with the judgment of the Hon'ble APTEL

Petitioner's Reply

"The objector has relied on the observations made in the Judgment of Appeal No. 44 of 2010 passed by the Hon'ble Appellate Tribunal of Electricity to state that the Procurer i.e. Respondent No.1 ought not have signed the PPA with the petitioner on the following grounds:-

(a)The PPA is for supply of power beyond 30%.

(b)The Tariff fixed may be higher than INR 2.45/-. The Judgment of Hon'ble APTEL also covers MOU signed between the petitioner and GoMP.

(c)The Capital Cost of the Project was required to be capped in accordance with the Judgment, which has not happened in the present case.

(d)The overall project cost of the petitioner Project is higher compared to other project; hence, power should not be procured.

It is submitted that the above averments are completely baseless as the Objector has perhaps not understood/ read the Judgment of the Hon'ble Tribunal in Appeal. No. 44 of 2010. The judgment of the Hon'ble Tribunal is in relation to Section 63 bidding process wherein the Hon'ble Tribunal held that the Procurer was well within its right to further negotiate after the bids have been submitted. The relevant extracts of the Judgment are as follows:-

"71. Accordingly, the following directions are given:

(1) the Appellant is directed to finalise the price through negotiation and to place it before the Evaluation Committee, which in turn will consider the same and find out whether it is aligned with the market prices or reasonable or acceptable price and give suitable recommendations through the certificate.

(2) Thereupon the Appellant shall approach the State Commission to grant approval on the basis of recommendations of the Evaluation Committee.

(3) On this basis, the State Commission is directed to pass an order on the application filed by the Appellant in the light of the Evaluation Committee's recommendations and also in the light of the findings given by the Tribunal. The Appeal is allowed. Order impugned is set aside. No cost."

Therefore, it is most respectfully submitted that the present Tariff Determination is being undertaken under Section 62 of the Act. Hence, the observations of the Tribunal passed in Appeal No. 44 of 2010 do not apply to the present case as the said Appeal was on the issue of bidding under Section 63 of the Act. As for the other issues qua the Procurer ought not to have signed PPA beyond 30% is again not relevant to the present proceedings as the Hon'ble Commission is only determining the Tariff of the petitioner power project within the framework of the Act and the Regulations framed thereunder."

Objector's Comments

Issue II- A substantial amount of work in this power project has been allotted to JAL, which belongs to same group company.

Petitioner's Reply

"It is most respectfully submitted that the petitioner through its affidavits has already affirmed before the Hon'ble Commission on the manner and method by which the Contract was awarded to JAL and that the said Contract is in fact not in violation of Section 297 of the Companies Act, 1956. Hence, the petitioner for the sake of brevity is not repeating its previous submissions."

Further, the Objector in support of his submissions has also relied on the Judgment of the Hon'ble APTEL in Appeal No. 36 of 2008 to aver that such contracts given to related parties is liable to be disallowed. The said submission of the Objector is baseless, as the Hon'ble Tribunal in the said Judgment had held that the Appropriate Commission has the power to look into related party contracts for prudence check.

The petitioner is also in agreement with the view of the Hon'ble Tribunal as all contracts of the present Project can be scrutinized by the Hon'ble Commission in order to satisfy itself on the genuineness of the same. However, the said Judgment at no point holds that a party cannot enter into such Contracts. It is most respectfully submitted that neither the Act, nor the Regulations provide that a party cannot enter into a contract with a group Company. The Hon'ble Tribunal's finding in Appeal No. 36 of 2008 is only limited to the Commission's power to evaluate such contracts. The relevant extracts of the Judgment are being reproduced as follows: -

"48) Undoubtedly, there are representatives of the Government in the Board of Directors of the appellants. It may also be true that auditors have approved of the transactions. This does not mean that the Commission has lost its jurisdiction and responsibility of making a prudent check and arrive at an appropriate figure which should go into the cost as pass through."

Objector's Comments

Issue III- Some agency like CAG may be engaged to carry out the audit of high capital expenditure done by the project developer.

Petitioner's Submission

The Objector has made frivolous averments that a CAG audit is required to be conducted in line with the decision of the Government of Delhi, which is seeking the audit of its Distribution Companies.

It is most respectfully submitted that such a request cannot be granted in the present case as the Generator is not performing any public service. The rationale behind Government of Delhi instituting CAG audit was that the DISCOM's were performing a public function. However, in the present case the petitioner is a private generator and hence does not in any manner fall within the ambit of CAG. It is further submitted that other issues on an SIT being created on Adani Power by the Hon'ble Supreme Court are again grossly irrelevant to the present proceedings and hence the said objections is liable to be rejected.

The Objector has also raised objections on the conduct of Respondent No.1, which is not being replied to, as they are not relevant to the petitioner who is a private generating Company.

In view of the detailed submissions made above the Objections raised by the Objector is liable to be rejected and the Hon'ble Commission may determine the Tariff in accordance with various provisions of the Act and the Regulations framed there-under.