

**BEFORE THE MADHYA PRADESH ELECTRICITY REGULATORY  
COMMISSION, MADHYA PRADESH**

**PETITION NO. \_\_\_\_\_ OF 2023**

**IN THE MATTER OF:**

True Up Petition under Section 62 and Section 86(1)(a) of the Electricity Act, 2003 read with Regulation 9.4 of the Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020(RG-26 (IV) of 2020) for True-Up of Tariff in respect of FY 2022-23 determined by the Hon'ble Commission vide Multi Year Tariff Order dated 30-04-2021 of its 2x 250 MW (Phase I) Coal Based Power Project at Bina, Dist. Sagar, Madhya Pradesh, due to additional capital expenditure incurred by the Petitioner during Financial Year 2022-23.

**AND IN THE MATTER OF:**

Jaiprakash Power Ventures Limited,  
(Erstwhile M/s Bina Power Supply Company Ltd, since merged with  
Jaiprakash Power Ventures Limited)  
JA House, 63, Basant Lok, Vasant Vihar,  
New Delhi-110057



...Petitioner

Versus

1. Madhya Pradesh Power Management Company Ltd.  
(Erstwhile Madhya Pradesh Power Trading Company Ltd.)  
Shakti Bhawan, Vidyut Nagar, Rampur,  
Jabalpur (M.P.) - 482008 India
2. Madhya Pradesh Poorv Kshetra Vidyut Vitaran Co. Ltd. Jabalpur  
Shakti Bhawan, Vidyut Nagar, Rampur,  
Jabalpur (M.P.) - 482008 India
3. Madhya Pradesh Madhya Kshetra Vidyut Vitaran Co. Ltd. Bhopal  
Bijli Nagar Colony, Nishtha Parisar, Govindpura,  
Bhopal-462023
4. Madhya Pradesh Paschim Kshetra Vidyut Vitaran Ltd. Indore,  
GPH Campus, Polo Ground,  
Indore – 452003

...Respondents



**MOST RESPECTFULLY SHOWETH:**

**I. CONSPECTUS**

1. M/s Jaiprakash Power Ventures Limited (“**Petitioner/JPVL**”), being a Generating Company within the meaning of Section 2(28) of the Electricity Act, 2003 (“**the Act**”), is filing the present True Up Petition under Section 62 and Section 86(1) (a) of the Act read with Regulation 9.4 of Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 (“**MPERC Tariff Regulations 2020**”) for True Up of the Tariff for FY 2022-23 determined vide Multi Year Tariff Order dated 30-04-2021 of its 2 x 250 MW (Phase I) Coal Based Power Project at Bina, Dist. Sagar, Madhya Pradesh (“**Project**”), due to additional capital expenditure incurred by the Petitioner during FY2022-23.

- 1.1. The Petitioner is filing the present Petition pursuant to Tariff Order dated 30.04.2021 passed by this Hon’ble Commission in Petition No. 44 of 2020, whereby the Tariff for the Project for the control period 01.04.2019 to 31.03.2024 was determined by this Hon’ble Commission which was subject to be trued up.



- 1.2. This Hon'ble Commission in its order dated 30.04.2021 observed that additional capitalisation during the control period requires detailed examination on several grounds specified under Tariff Regulations, 2020 on the basis of the Annual Audited Accounts and other requisite details in this regard. For ease of reference, the relevant extract of the aforesaid Order qua Ad-Cap is reproduced hereunder:

*“Observation:*

*The Commission observed that the additional capitalization filed by the petitioner during the control period is required to be scrutinized on several counts specified in the Regulations 2020. Based on the information made available by the petitioner, this exercise will be carried out while undertaking true-up for the respective year based on Annual Audited Accounts and other requisite details in this regard. Therefore, the proposed additional capitalization during FY 2019-20 is not considered in this order.”*

- 1.3. Regarding truing up exercise, Regulation 9.4 of MPERC tariff regulations, 2020 provides as follows:

*“A generating company shall file petition at the beginning of the tariff period. A review shall be undertaken by the commission to*



*scrutinise and true up the tariff on the basis of capital expenditure and additional capital expenditure actually incurred in the year for which the true up is being requested. The generating company shall submit for the purpose of truing up, details of capital expenditure and additional capital expenditure incurred for the period from 01.04.2019 to 31.03.2024, duly audited and certified by the auditors."*

1.4. In view of the above, the Petitioner is filing the present Petition before this Hon'ble Commission along with details of additional capital expenditure incurred by the Petitioner during FY 2022-23 for the truing up of the Tariff determined by the Commission for FY 2022-23 vide Order dated 30-04-2021.

1.5. In line with the above, the Petitioner is filing the present Petition, *inter alia*, for truing up of following expenditure:-

- (a) Truing up of additional capital expenditure for the FY 2022-23, based on admitted Capital cost on 01.04.2022 (including disallowances made on account of Carpet Coal in P.No.49/2018, Coal Blending Management System in P.No.47/2019 and Railway Siding in P. No. 75/2022 being contested before



Hon'ble APTEL) and actual capital expenditure incurred during the FY 2022-23.

- (b) Recovery of Electricity Duty and Energy Development Cess as applicable under Regulation 65.2 of the Tariff Regulations, 2020.
- (c) Recovery of water charges paid to water resources department, Government of Madhya Pradesh ("GoMP") under Regulation 65.2 of Tariff Regulations 2020 and other expenses.

## **II. DETAILS OF THE PARTIES**

- 2. The Petitioner is a Company incorporated under the Companies Act, 1956 having its registered office at Complex of Jaypee Nigrie Super Thermal Power Plant, Nigrie, Tehsil – Sarai, District Singrauli – 486669 (Madhya Pradesh).
- 3. The Respondent No.1 is a government company as defined under Section 617 of the Companies Act, 1956. The Respondent No.1 is an unbundled entity of the erstwhile Madhya Pradesh State Electricity Board. The Respondent No. 1 is a trading licensee, entitled to undertake transaction of sale and purchase of electricity and vide notification dated 10.04.2012 the Respondent No. 1 has been made the



Holding Company of all Distribution Licensees within the State of Madhya Pradesh. The Petitioner on 05.01.2011 entered into a PPA with the Respondent No.1 for supply of 65% of Power to be produced from the Petitioner's Project on regulated tariff wherein Respondent No.2 to 4 who are Distribution Licensees and who are confirming parties and also the ultimate beneficiaries of the PPA.

4. The Respondent No.2 is Madhya Pradesh Poorva Kshetra Vidyut Vitaran Co. Ltd., a company incorporated under the Companies Act, 1956 having its registered office at Shakti Bhawan, Rampur, Jabalpur (herein referred to as "**Discom 1**").
5. The Respondent No.3 is Madhya Pradesh Madhya Kshetra Vidyut Vitaran Co. Ltd, a company incorporated under the Companies Act, 1956 having its registered office at Nishta Parissar, Govindpura, Bhopal (herein referred to as "**Discom 2**").
6. The Respondent No 4 is Madhya Pradesh Paschim Kshetra Vidyut Vitaran Ltd, a company incorporated under the Companies Act, 1956 having its registered office at Polo ground, Indore (herein referred to as "**Discom 3**").



7. The Respondents No. 2 to 4 are confirming parties under the aforementioned PPA and are collectively referred to as "**Discoms**".

### III. JURISDICTION OF THIS HON'BLE COMMISSION

8. The Petitioner has filed the present Petition under Section 62 read with 86(1)(a) of the Act. The relevant extracts of Section 62 and Section 86 (1) (a) are reiterated as follows:-

- (a) Section 62:-

*"Determination of Tariff—*

*(1) The Appropriate Commission shall determine the tariff in accordance with the provisions of this Act for-*

*(a) supply of electricity by a generating company to a distribution licensee:"*

- (b) Section 86:-

*"Functions of State Commission-*

*(1) The State Commission shall discharge the following functions, namely:-*





(a) *determine the tariff for generation, supply, transmission and wheeling of electricity, whole sale, bulk or retail, as the case maybe, within the State:”*

8.1 The Petitioner in filing the instant Petition is also invoking the powers of this Hon’ble Commission as provided under Regulations 9.4 of the MPERC Tariff Regulations, 2020 and it inter-alia states as follows:-

***“9 Methodology for Determination of Tariff and True Up:***

*9.1 .....*

*9.2 .....*

*9.3 .....*

*9.4 A generating company shall file petition at the beginning of the tariff period. A review shall be undertaken by the commission to scrutinise and true up the tariff on the basis of capital expenditure and additional capital expenditure actually incurred in the year for which the true up is being requested. The generating company shall submit for the purpose of truing up, details of capital expenditure and additional capital*



*expenditure incurred for the period from 01.04.2019 to 31.03.2024, duly audited and certified by the auditors.*

*.....”*

- 8.2 It is further submitted that the PPA entered between the Petitioner and the Respondent No.1 also contemplates that the Tariff is to be determined by this Hon’ble Commission. The relevant extracts of the PPA are reproduced as follows: -

*“10.1.1 The Tariff shall comprise Capacity Charge, Variable Charge and any other charges as may be determined by the Appropriate Commission under Law and as per the norms contained in the Tariff Regulations notified by the Appropriate Commission.”*

- 8.3 In view of above-mentioned provisions of the Act and the MPERC Tariff Regulations read with Clause 10.1.1 of the PPA, it is humbly submitted that this Hon’ble Commission is the Appropriate Commission for considering the present True Up Petition in accordance with the Regulations notified by the Commission.



**IV. BRIEF FACTS OF THE CASE: -**

9. The brief facts leading to the present Petition are as follows:-

9.1. That On 15.11.1994, Petitioner was incorporated under the Companies Act, 1956 by the name of Bina Power Supply Company Limited (“BPSCL”).

9.2. On 21.12.1994, Jaiprakash Hydro-Power Limited (JHPL) was incorporated under the Companies Act, 1956. Subsequently, on 23.12.2009, the name of the Company was changed from Jaiprakash Hydro-Power Limited (JHPL) to Jaiprakash Power Ventures Limited (“JPVL”).

9.3. **Jaypee Karcham Hydro Corporation Limited (JKHCL)** was incorporated on 29-04-2002 in the state of Himanchal Pradesh which received Certificate of Commencement of Business on 04-07-2002.

9.4. **Bina Power Supply Company Ltd (BPSCL)** and **Jaypee Karcham Hydro Corporation Limited (JKHCL)** were amalgamated into **Jaiprakash Power Ventures Ltd (JPVL)** vide HP High Court Order dated 14.06.2011/ 25-07-2011.

9.5. On 12.08.2008, Memorandum of Understanding (“MoU”) was executed between GoMP and Petitioner for establishing and operating the Project in two phases based on the availability of coal.



- 9.6. On 30.01.2009, an Implementation Agreement (“**IA**”) was executed between the GoMP and Petitioner.
- 9.7. On 17.06.2009, a meeting was held between representatives of the GoMP/MPSEB and Petitioner. During the meeting, it was decided that the Petitioner would undertake to supply 42% of the installed capacity of the proposed capacity of plant i.e. 5 x 250 MW (in two phases) based on the availability of the coal (for Phase II) for the plant to the State and/or its nominated agencies for a period of 25 years at the Tariff approved by this Hon’ble Commission.
- 9.8. Thereafter, on 05.01.2011, Respondent No.1 i.e. Madhya Pradesh Power Management Company Limited (“**MPPMCL**”) and Petitioner entered into a Power Purchase Agreement (“**PPA**”). In terms of the PPA, Petitioner and MPPMCL agreed to develop, commission, operate and maintain the Power Station and for generation and sale of energy from the Power Station by the Petitioner to the Procurer.
- 9.9. Further, on 20.07.2011, another PPA was executed between the Petitioner and GoMP for procurement of power on Variable Charges basis. GoMP has nominated MPPMCL to receive 5% net power at variable charge/cost that is to be determined by this Hon’ble Commission. The power supplied by the Petitioner to MPPMCL under the said PPA ensures benefit to Respondent No. 2 to Respondent No. 4



herein, who are the Distribution Licensees engaged in the business of distribution and supply of electricity in the state of Madhya Pradesh.

- 9.10. On 16.05.2012 the Petitioner filed Petition being No. 40 of 2012 for determination of the provisional tariff for its Project.
- 9.11. On 31.08.2012, Unit I of Petitioner's Thermal Power Station achieved its Commercial Operation Date ("**COD**") and on 07.04.2013, Unit II achieved COD.
- 9.12. Thereafter, Petitioner filed the Tariff Petition for determination of generation tariff for its Project for FY 2012-13 and FY 2013-14 and generation tariff for FY 2014-15 and FY 2015-16.
- 9.13. This Hon'ble Commission *vide* its Order dated 26.11.2014 and Review Order dated 08.05.2015, determined the Final Tariff of the Petitioner's Power Plant based on the Capital Cost submitted by the Petitioner as on 31.03.2014.
- 9.14. The Petitioner filed the True up/Review Petition for FY 2014-15 which was adjudicated *vide* Order dated 03.06.2016/25.09.2017.
- 9.15. During the pendency of True up Order for FY 2014-15, the Petitioner filed the MYT Petition for Control Period 2016-19 which was adjudicated *vide* Order dated 08.08.2016.



9.16. Subsequent to the Tariff/Review Order dated 26.11.2014/08.05.2015, the Petitioner filed a True Up Petition for FY 2015-16 which was adjudicated vide order dated 21.06.2017.

9.17. Subsequent to the MYT Order (For Control Period 2016-19) dated 08.08.2016, from FY 2016-17 to FY 2018-19, the Petitioner filed various True-up Petitions before this Hon'ble Commission for trueing up of its generation Tariff. The details of True up Petitions are furnished below for your ready reference:

S. No.	FY	True Up Petition No.	True up Order Dated
1	2016-17	57/2017	24.05.2018
2	2017-18	49/2018	31.05.2019
3	2018-19	47/2019	16.12.2020

9.18. On 20.02.2020, The Hon'ble Commission issued MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2020 which were notified in Madhya Pradesh Gazette on 28.02.2020. In terms of Regulation 6.2 of the Regulations, 2020, a Generating Company has to make an application for determination of Multi-Year Tariff within 60 days from the date of the notification of the Regulations.



- 9.19. Accordingly, the Petitioner filed the MYT Petition No. 44 of 2020 for determination of Tariff for the control period beginning from FY 2019-20 to FY 2023 -24.
- 9.20. The Hon'ble Commission determined the Tariff and issued the MYT Order dated 30.04.2021.
- 9.21. Subsequent to the MYT Order dated 30.04.2021 for the control period beginning from FY 2019-20 to FY 2023-24, Petitioner has filed the True up Petition(s) for FY 2019-20, 2020-21 & 2021-22 that has achieved the finality vide this Hon'ble Commissions Order details of which are as follows:

S. No.	FY	True Up Petition No.	True up Order Dated
1	2019-20	39/2021	07/12/2021
2	2020-21	63/2021	19/05/2022
3	2021-22	75/2022	02/03/2023



**V. OVERVIEW OF THE ADDITIONAL CAPITAL COST INCURRED BY THE PETITIONER**

10. A brief overview of the Additional Capital Expenditure incurred by the Petitioner during 2022-23 is tabulated below :-

(Rs. in Crores)

S. No.	Particulars	Gross Block as on 01-04-2022	Addition during FY 2022-23	Deletion during FY 2022-23	Net Addition during FY 2022-23	Gross Block as on 31-03-2023
1	Total	3,572.42	9.53	0.66	8.86	3,581.28

The detail of assets capitalised and de-capitalised during the FY 2022-23 is enclosed as **ANNEXURE-1**.

The assets are capitalised in the following major heads:

**11. ADDITIONS:**

- i. Rs 0.49 Crores were incurred towards the purchase of vehicles to facilitate the manpower engaged in generation of power directly or indirectly. This will improve/enhance overall efficiency.





- ii. Rs. 4.34 crs have been incurred towards the civil structure ( Roads & township) to facilitate the man power in order to provide them better facility.
  - iii. An amount of Rs. 0.57 crs have been incurred towards purchase of various office equipments in order to improve the technology, human safety, replacement of old items.
  - iv. An amount of Rs. 4.13 crs have been incurred towards purchase of misc. plant and machinery in order to improve the technology/ efficiency.
12. Further, it is submitted that the Petitioner, apart from the above capitalisation, has de-capitalised an amount of Rs. 0.66 Crores during the FY 2022-23. The due and proper adjustments have duly been made in the relevant TPS Forms and Asset Cum Depreciation Register.
- It is also submitted that as per books of accounts an amount of Rs. 66,62,580/- was de-capitalised whereas in the instant petition, Petitioner has de-capitalised an amount of Rs. 66,47,341/-, meaning thereby considered lesser by Rs. 15,238/-. The said differential amount pertains to the asset that has already been disallowed by the Hon'ble commission in the True up Petition No. 49/2018 filed for FY 2017-18, therefore such decapitalization has not been considered in the instant Petition.



13. The Petitioner is filing the requisite forms after considering the additional capitalization and de-capitalization and Annexed hereto and marked as **ANNEXURE-2**.

**Appendix 1** (Asset cum Depreciation Register as on 31.03.2023 of Generating Stations) to TPS forms is also being submitted as a separate volume.

14. It is humbly submitted that after making all the additions in the capital cost during the FY 2022-23 as stated above, a summary of head-wise Annual Capacity Charges is submitted as hereunder:

(Rs. in Crs.)

S. No.	Particulars	FY 2022-23
1	Depreciation	182.26
2	Interest on Loan	73.61
3	Return on Equity	201.54
4	Interest on Working Capital	49.40
5	O & M Expenses	182.80
5A	O & M expenses (400kV Transmission Lines & Bay)	0.40
6	Lease Rent Payable	0.43



7	<b>Total Annual Capacity Charges</b>	<b>690.43</b>
8	Less:-Non Tariff Charges	0.85
9 (8-7)	<b>Net Annual Capacity (Fixed) Charges</b>	<b>689.58</b>
10 (9*65%)	<b>65% of Capacity charge</b>	<b>448.23</b>

15. It may further be noted that certified copy of Jaypee Bina Thermal Power Plant (“**JBTPP**”) Standalone Balance Sheet as on 31.03.2023 along with printed copy of JPVL Consolidated Balance Sheet as on 31.03.2023 are attached as **ANNEXURE-3 (Colly)**

#### **VI. Electricity Duty and Energy Development Cess and Water Charges**

16. The Hon’ble Commission *vide* its order dated 30.04.2021 passed in Petition No. 44 of 2021 granted liberty to the Petitioner to recover Electricity Duty and Energy Development Cess on plant auxiliary consumption and energy supplied to MPPMCL (as applicable) and water charges paid to Water Resources Department, GoMP as per Regulation 65.2 of Tariff Regulations, 2020 on submission of documentary evidence.



17. Regarding the Electricity Duty, Energy Development Cess and Water Charges, Regulation 65.2 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2020, provides as under:

*“65.2 Electricity duty, cess and water charges if payable by the Generating Company for generation of electricity from the power stations to the State Government, shall be considered and allowed by the Commission separately by considering normative parameters specified in these Regulations and shall be trued-up on actuals.”*

*Provided that in case of the Electricity duty is applied in the auxiliary consumption, such amount of electricity duty shall apply on normative auxiliary consumption of the generating station (excluding colony consumption) and apportioned to the each beneficiaries in proportion to their schedule dispatch during the month.”*

18. Thus Petitioner requests the Hon’ble Commission for truing up of the recovery of Electricity Duty, Energy Development Cess and Water Charges.



19. The comparative statement of the amount claimed/billed vis-à-vis at actual is attached as **ANNEXURE-4**.
20. It is most respectfully submitted that the Petitioner is also filing the requisite Court Fee amounting to Rs. 1,00,000/- (Rupees One Lakh Only) through DD No. 006827 dated 07/11/2023, as per the Extant Regulations of the Hon'ble Commission. (copy of the DD is attached as **ANNEXURE 5**).

**PRAYER**

21. In view of the above the Petitioner most respectfully prays that this Hon'ble commission may be pleased to:-
- (a) True up the Capacity Charges for FY 2022-23 in terms of the Additional Capital Expenditure incurred by Petitioner after net addition of Rs. 8.86 Crs, as per Tariff Regulations, 2020;
  - (b) Allow recovery of Electricity Duty and Energy Development Cess on power being scheduled by the MPPMCL and Plant Auxiliary Consumption at actuals;



- (c) Allow recovery of actual water charges paid to Water Resources Department, Government of Madhya Pradesh in proportion to the contracted capacity;
- (d) Allow the recovery of the filing fees paid to the Hon'ble Commission and also the publication expenses from the beneficiaries;
- (e) The Petitioner requests the Hon'ble Commission to condone any inadvertent omissions/ errors/ rounding off differences/ shortcomings and permit the Petitioner to add/alter this filing and make further submissions as may be required by the Hon'ble Commission; and
- (f) Pass such further and other Orders, as the Hon'ble Commission may deem fit and proper, keeping in view the facts and circumstances of the case.



**Signature of the Petitioner**

**Place: New Delhi**

**Date: 09/11/2023**

BEFORE THE MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION,

AT BHOPAL, MADHYA PRADESH

PETITION NO. \_\_\_\_ OF 2023

IN THE MATTER OF

Jaiprakash Power Ventures Limited (Unit: Jaypee Bina Thermal Power Plant) ....Petitioner

Versus

Madhya Pradesh Power Management Company Limited & Others

...Respondents

**AFFIDAVIT**

I, Ashok Shukla S/o Late Shri R.C. Shukla aged about 59 years, R/o Flat No. 1057, Sector-D, Pocket 1, Vasant Kunj, New Delhi – 110070, do solemnly affirm and say as follows: -

1. That I am the Authorized Representative of the Petitioner Company in the present petition.  
I have been dealing with the matters relating to the above mentioned case and I am conversant with the facts of the case.
2. The statements made in the accompanying reply have been drafted under my instructions, and that the contents therein are true and correct to the best of my knowledge and belief.
3. That the annexures filed are the true copies of their respective originals.



**DEPONENT**

**Verification**

I, Ashok Shukla, the named deponent do hereby verify that the contents of this affidavit is true and correct to my knowledge, no part of it is false and nothing material has been concealed therefrom.

**ATTESTED**  
NOTARY PUBLIC  
(DELHI) INDIA

**09 NOV 2023**



**DEPONENT**