

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION**

5<sup>th</sup> Floor, "Metro Plaza", Bittan Market, Bhopal (M.P.) - 462 016



**Petition. No. 70 of 2015, 62 of 2016 & 57 of 2017**

**PRESENT:**

**S. P. S Parihar, Chairman**

**Gopal Srivastava, Member (Law)**

**Prashant Chaturvedi, Member**

**IN THE MATTER OF:**

In the matter of revision of true-up orders for FY 2014-15, FY 2015-16 and FY 2016-17, in compliance to directives of Hon'ble Appellate Tribunal for Electricity vide Judgment dated 22.03.2024 in Appeal No. 131/2018, 283/2017 and 231/2018 filed by M/s Jaiprakash Power Ventures Limited for its Bina Thermal Power Station.

**M/s Jaiprakash Power Ventures Limited  
(Bina Thermal Power Station)**

**PETITIONER**

**Vs.**

- 1. M.P. Power Management Company 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 20<sup>th</sup> June, 2024)

1. This is the order passed in compliance to the directives given by Hon'ble Appellate Tribunal for Electricity (APTEL) vide its Judgment dated 22.03.2024 in Appeal No. 131/2018, 283/2017 and 231/2018 filed by M/s Jaiprakash Power Ventures Limited (herein after called "petitioner" or "JPVL") against true-up Orders issued by the Commission in Petition Nos. 70 of 2015, 62 of 2016 & 57 of 2017 for FY 2014-15, FY 2015-16 and FY 2016-17, respectively for 2X250 MW Bina Thermal Power Station. The APTEL vide aforesaid Judgment has directed this Commission to pass consequential orders limited to the extent of O&M expenses of dedicated transmission line & bays and grossing up rate of return on equity with Minimum Alternate Tax (MAT). The relevant portions of the judgment dated 22.3.2024 are as follows:

*"For the foregoing reasons as stated above, we are of the considered view that the captioned Appeal No. 283 of 2017, Appeal No. 131 of 2018 and Appeal No. 231 of 2018 have merit and are allowed to the extent as concluded in the foregoing paragraphs, the Impugned Orders dated 03.06.2016, 21.06.2017 and 24.05.2018 passed by Madhya Pradesh Electricity Regulatory Commission in Petition No. 70 of 2015, 62 of 2016 and 57 of 2017, respectively, are set aside to the extent as concluded hereinabove.*

*The State Commission is directed to pass consequential orders expeditiously, but not later than four months from the date of this judgment."*

2. Accordingly, the consequent order is being passed in Petition No. 70 of 2015, 62 of 2016 and 57 of 2017.

### **Background:**

3. Brief facts of the case are as follows:
  - i. The Petitioner is a generating company set up a Thermal Power Plant at Bina, District Sagar, Madhya Pradesh, having a capacity of 500 MW (2 x 250 MW) and as a part of the generation project, the Petitioner had established a dedicated transmission line for connecting the generating station to the transmission network.

- ii. The petitioner has entered into a long-term power purchase agreement with the Respondent No. 1 for sale of 65% power of the installed capacity. The petitioner has also entered another power purchase agreement with the Government of Madhya Pradesh for sale of 5% of the net power (concessional power) generated at energy charges determined by the Commission.
- iii. The petitioner had filed petition No. 70 of 2015, 62 of 2016 & 57 of 2017 for true-up of generation tariff for FY 2014-15, FY 2015-16 and FY 2016-17, respectively, in respect of 2x250 MW coal based power project at Bina. The Commission vide orders dated 03.06.2016, 21.06.2017 and 24.05.2018 had issued true-up of tariff for FY 2014-15, FY 2015-16 and FY 2016-17, respectively.
- iv. Aggrieved by the aforesaid true-up orders for FY 2014-15, FY 2015-16 and FY 2016-17, the petitioner had filed Appeal No. 283/2017, 131/2018 and 231/2018 before Hon'ble Appellate Tribunal for Electricity on the following issues:
- a. Disallowance of Operation and Maintenance Expenditure for 400KV Dedicated Transmission Line and bay;
  - b. Disallowance of the grossing up the base rate of Return on Equity with Minimum Alternate Tax;
  - c. Disallowance of recovery of Capacity Charges for 68.42% of the installed capacity.
- v. The issues mentioned above as challenged in above Appeals are as under:-

<b>Financial Year</b>	<b>Impugned Order date</b>	<b>Petition No.</b>	<b>Appeal No.</b>	<b>Issues Raised</b>
FY 2014-15	03.06.2016	70 of 2015	131 of 2018	<ul style="list-style-type: none"><li>• Disallowance of O&amp;M expenditure for dedicated transmission line and bay.</li></ul>
FY 2015-16	21.06.2017	62 of 2017	283 of 2017	<ul style="list-style-type: none"><li>• Disallowance of O&amp;M expenditure for dedicated transmission line and bay.</li><li>• Disallowance of the grossing up the base rate of RoE with MAT.</li><li>• Disallowance of recovery of Capacity Charges for 68.42% of the Installed Capacity.</li></ul>

FY 2016-17	25.05 2018	24 of 2018	231 of 2018	<ul style="list-style-type: none"> <li>• Disallowance of O&amp;M expenditure for dedicated transmission line and bay.</li> <li>• Disallowance of the grossing up the base rate of RoE with MAT.</li> </ul>
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- vi. Hon'ble APTEL had clubbed all the above three appeals and vide order dated 22.03.2024 has pronounced Judgment in the aforesaid Appeals wherein, Appeals have partially allowed. The issues related to O&M expenditure for dedicated transmission line & bay and grossing up the base rate of RoE with MAT are decided in favour of the petitioner. The issue of recovery of Capacity Charges for 68.42% of the Installed Capacity decided against the petitioner.
- vii. Accordingly, in terms of the directives of Hon'ble Tribunal in its judgment dated 22<sup>nd</sup> March, 2024, Petition No 70/2015, 62/2016 & 57/2017 have been re-opened and notices were issued to all the concerned parties.
- viii. It is pertinent to mentioned that vide order dated 10.01.2020 in petition No. 11 of 2017, the Annual Capacity (Fixed) Charges of the true-up orders dated 03.06.2016, 21.06.2017 and 24.05.2018 for FY 2014-15, FY 2015-16 and FY 2016-17 had been revised by the Commission in compliance to Hon'ble APTEL another Judgment dated 23.04.2019 in Appeal No. 54 of 2018 in respect of Bina Thermal Power Station. Details of interest on working capital and Annual Capacity Charges for FY2014-15, FY 2015-16 and FY 2016-17 as revised in order dated 10.01.2020 are given in Table 1 Table 2 and Table 3 below:

**Table No.1: Receivables for two months considered in Order dated 10.01.2020:**

Particulars	Unit	FY 2014-15	FY 2015-16	FY 2016-17
		Unit-I & II	Unit-I & II	Unit-I & II
Variable Charges-two months	Rs. Cr.	119.39	119.72	139.37
*Fixed Charges-two months	Rs. Cr.	136.99	127.46	126.34
<b>Receivables-two months</b>	<b>Rs. Cr.</b>	<b>256.38</b>	<b>247.17</b>	<b>265.71</b>

*\*Two months fixed Charges were determined by considering total Annual Fixed Cost without deducting non-tariff income of respective financial year.*

**Table No. 2: Interest on working capital allowed in order dated 10.01.2020**

(Rs. Cr.)

S. No.	Particular	FY 2014-15	FY 2015-16	FY 2016-17
1	Cost of coal for 60 days	119.39	119.72	136.37
2	Cost of fuel oil for two months	3.10	3.11	0.89
3	O&M Charges for one month	8.29	8.94	11.25
4	Maint. Spares 20% of the O&M	19.90	21.46	27.00
5	Receivables for two months	256.38	247.17	265.71
6	Total working capital	407.07	400.41	441.22
7	Applicable rate of interest (%)	13.50	13.50	12.80
8	<b>Interest on working capital</b>	<b>54.95</b>	<b>54.05</b>	<b>56.48</b>

**Table No. 3: Annual Capacity (fixed) Charges determined in order dated 10.01.2020:**

(Rs. Cr.)

Sr. No.	Particular	FY 2014-15	FY 2015-16	FY 2015-16
1	Return on equity	205.39	163.13	163.65
2	Interest charges on loan	266.94	244.17	223.13
3	Depreciation	172.46	173.30	179.49
4	O & M expenses	99.50	107.30	135.00
5	Sec. fuel oil expenses	22.46	22.53	0.00
6	Interest on working capital	54.95	54.05	56.48
7	Lease rent payable for land	<b>0.24</b>	<b>0.25</b>	<b>0.30</b>
8	Annual Fixed Charges	<b>821.95</b>	<b>764.73</b>	<b>758.04</b>
9	Less: Non-tariff income	<b>5.77</b>	<b>2.28</b>	<b>3.19</b>
10	Net AFC	<b>816.18</b>	<b>762.45</b>	<b>754.85</b>
11	<b>AFC for Contracted Capacity (65%)</b>	<b>530.52</b>	<b>495.59</b>	<b>490.65</b>

**Proceedings:**

4. All the three petitions were listed for hearing on 16<sup>th</sup> April, 2024, wherein Respondent No. 1 (MPPMCL) sought four weeks' time for filing response on the written submission dated 10.04.2024 filed by the Petitioner. The Respondent No. 1 was allowed to file response within three weeks.
5. Vide Commission's letter dated 23<sup>rd</sup> April, 2024, requirements of additional details/documents in the subject matter were communicated to the petitioner seeking its reply along with all relevant supporting documents within two weeks.
6. In response, by affidavit dated 3<sup>rd</sup> May, 2024, the petitioner has broadly submitted the following:

- (i) *The Bina generating station recorded a profit of Rs 111.17 Crores during FY 2015-16, therefore, the Petitioner has claimed RoE by grossing up with MAT. However, on account of performance of its other power stations of JPVL, the generating company incurred overall loss of Rs 294.50 Crore. Similarly, during the financial year 2016-17, the generating station recorded a profit of Rs 99.23 Crore. However, on consolidation of income, expenditure and profit/loss of its other power stations, Petitioner Company incurred overall loss of Rs 760.18 Crore.*
  - (ii) *It is trite law that each regulatory business should be considered as if it were in a separate water tight compartment, and consumers of the regulated business must not bear the risks of other regulated or non-regulated businesses. Income tax assessments must be done separately for each regulated business of the entity, ensuring that consumers are completely insulated and protected from any income tax liabilities arising from other regulated or unregulated businesses of the entity.*
  - (iii) *Petitioner's Bina Thermal Power Plant is not a corporate legal entity/company, as it is only a division/Generating station of Petitioner Company. Since it is not a distinct corporate entity, it is not liable to pay MAT. This means that the company does not need to pay MAT for the instant Generating Station, i.e. Bina Thermal Power Plant.*
  - (iv) *The petitioner confirmed that no deduction / exemption under Section 80IA of the Income Tax Act, 1961 had been availed by the JPVL for FY 2015-16 and FY 2016-17.*
7. By affidavit dated 16<sup>th</sup> May, 2024, MPPMCL has submitted that it has filed Civil Appeal along with stay application before Hon'ble Supreme Court of India against the Judgment dated 22.03.2024 passed by Hon'ble APTEL.
  8. During the course of next hearing held on 21<sup>st</sup> May, 2024 the Respondent No. 1 sought two weeks' time extension for filing response on the reply filed by the Petitioner which was considered.
  9. By affidavit dated 6<sup>th</sup> June, 2024, Respondent No. 1 (MPPMCL) filed response on reply filed by the petitioner reiterated the its contentions.
  10. At hearing held on 12<sup>th</sup> June, 2024, Respondent No. 1 reiterated that a Civil

Appeal along with an application for interim stay of the APTEL order dated 22.03.2024 has been filed before Hon'ble Supreme Court and notices on Civil Appeal and the application for interim relief issued to the parties. It is also submitted that the matter is listed before Hon'ble Supreme Court in the third week of July, 2024. In view of above, Respondent No. 1 requested that the Commission not to pass final order till disposal of application for interim relief pending before Hon'ble Supreme Court. Petitioner opposed the request of Respondent No.1 citing Hon'ble APTEL order, in which time limit is given for issue of consequential order. Considering the request, parties were allowed to file written submissions within three days and case was reserved for order.

11. The petitioner M/s JPVL filed written submission on 15.06.2024 mentioning that the Commission is not barred/precluded from implementing the judgment 22.03.2024, as no stay order passed by the Hon'ble Supreme Court of India in the Civil No. 6562 of 2024 filed by MPPMCL. It is further submitted that mere filing of an appeal does not amount to stay of proceedings and therefore, Commission can proceed to execute APTEL order dated 22.03.2024. The petitioner has also referred orders of Hon'ble Supreme Court in support of its contention.
12. The Respondent No. 1 (MPPMCL) filed its written submission dated 19.06.2024 reiterated its contentions. Respondent No. 1 further submitted that it has filed an application before Hon'ble APTEL seeking an extension of two months after expiry of the original period granted by the Hon'ble Tribunal by passing of the consequential order by the Commission. The application shall be listed in the first week of July,2024. With the above submission the Respondent no. 1 has prayed that the Commission does not pass an order before adjudication of the said application.
13. Order 41, Rule 5 and sub-rule 1 & 2 of CPC, 1908 also propound the law on this subject as under:
  - (1). *An appeal shall not operate as a stay of proceedings under a decree or order appellate from except so far as Appellate Court may order, not shall execution of a decree be stayed by reason only of an appeal having been preferred from the decree; but the Appellate Court may for sufficient cause order stay of execution of such decree.*

(2) **Stay by Court which pass the decree** – where an application is made for stay of execution of an appealable decree before the expiration of the time allowed for appealing therefrom, the court which assed the decree may on sufficient cause being shown order the execution to be stayed.

14. In view of the above and since no stay order is granted by the Court which passed the decree or Appellant Court, the Commission is bound to comply the directions of Hon'ble Tribunal in the subject matter.

#### **Commission's Analysis:**

15. Hon'ble APTEL vide Judgment dated 22.03.2024 in Appeal No. 283/2017, 131/2018, and 231/2018 filed by M/s JPVL has allowed following two issues in favour of the petitioner:

- i. Operation and Maintenance expenses of dedicated transmission line and Bay.
- ii. Grossing up the base rate of RoE with MAT.

16. Issue at (i) above i.e. O&M expenses of dedicated transmission line was challenged in all three Appeals (Appeal No. 283/2017, 131/2018, and 231/2018) for FY 2014-15, 2015-16 and 2016-17, respectively and issue (ii) was challenged in two Appeals (Appeal No. 283/2017 and 231/2018) for FY 2015-16 and 2016-17, respectively. Accordingly, the Annual Fixed Charges (AFC) and its related computation for FY 2014-15, FY 2015-16 and FY 2016-17 have been recalculated in subsequent paragraphs.

#### **Disclaimer for Rounding**

17. In this Order, certain numbers as a whole, upto several decimal places have been rounded up or down. Therefore, there may be discrepancies between the totals of the individual numbers shown in the tables upto 2 decimal places and numbers given in the corresponding analysis in the text of this order.

#### **Issue (i) - Operation and Maintenance expenses of dedicated transmission line:**

18. Regarding the operation and maintenance expenses of dedicated transmission line and bays, Hon'ble APTEL in para 48 of the judgment dated 22.03.2024 has decided this issue in favour of the petitioner with following observations:

*"In the light of above, we are satisfied the Appellant is entitled for*



*additional O&M expenses for the DTL established by it in addition to the O&M expenses granted as per the relevant Regulations, accordingly, the issue is decided in favour of the Appellant.”*

19. The petitioner has claimed the Operation and Maintenance Expenditure for 400kV Dedicated Transmission Line and bay by considering the O&M norms specified in applicable MPERC (Terms and Conditions for determination of Transmission Tariff) Regulations. By affidavit dated 10.04.2024, the petitioner submitted that the dedicated Transmission Lines of the project consist of 13.444 kms of 400kV Double Circuit Line with Quad Moose Conductor. It further bifurcates into two Single Circuit Lines. The first one 400kV Single Circuit Line of 6.177 kms terminates at 400kV Bay of MPPTCL Sub Station and other 400kV Single Circuit Line of 6.229 kms terminates at 400kV Bay of PGCIL Sub Station. Total length of Transmission Line as filed by the petitioner is given below:-

**Table No. 4**

<b>Length of Transmission Line</b>		<b>ckt kms</b>
<b>A</b>	13.444 kms 400 kV Double Circuit Line	26.888 (2x13.444)
<b>B</b>	400 kV Single Circuit Line connected to MPPTCL sub-station	6.177
<b>C</b>	400 kV Single Circuit Line connected to PGCIL sub-station	6.229
<b>Total Length of Transmission Line</b>		<b>39.294</b>

20. The Petitioner has claimed normative operations & maintenance expenses of above Transmission Line and 2(two) Nos of Bays for FY 2014-15 & FY 2015-16 as specified under Regulation 37.1 of MPERC (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2012 and for FY 2016-17, the same has been claimed as specified under Regulation 37.1 of MPERC (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2016.
21. Details of the O&M norms for dedicated transmission line and bay for FY 2014-15, FY 2015-16 and FY 2016-17 as per aforesaid applicable transmission tariff Regulations are as follows:

**Table No. 5**

Particulars	Unit	FY 2014-15	FY 2015-16	FY 2016-17
Per 100 ckt km O&M Expenses on Transmission Line (400kV)	Rs. Lakh/100 ckt km/Annum	36.20	39.10	32.00
O&M Expenses of 400kV Bay per Annum	Rs Lakh/Bay/Annum	16.70	18.00	9.58

22. Based on the above, the operation and maintenance expenses for dedicated transmission line and bays worked out as below:

**Table No. 6**

Particulars	Unit	FY 2014-15	FY 2015-16	FY 2016-17
Total Length of Transmission Line	Circuit Kms	39.294	39.294	39.294
Per 100 ckt km O&M Expenses on Transmission Line	Rs.Lakh/100ckt km/Annum	36.20	39.10	32.00
O&M Expenses on Transmission Line	Rs. Cr.	0.14	0.15	0.13
No. of 400kV Bay	Nos	2	2	2
O&M Expenses of 400kV Bay per Annum	Rs. Lakh/Bay/Annum	16.70	18.00	9.58
Annual O&M Expenses of 400kV Bays	Rs. Cr.	0.33	0.36	0.19
Total O&M Expenses of dedicated Transmission Line and bay	Rs. Cr.	0.48	0.51	0.32

**Issue (ii) - Grossing up the base rate of RoE with MAT:**

23. With regard to second issue i.e. Grossing up the base rate of RoE with MAT, Hon'ble APTEL in paras 70 to 72 of the judgment dated 22.03.2024 has decided this issue in favour of the petitioner with following observations: -

70 *“From the afore-quoted judgment, it is clear that the tax assessment of the regulated business must be done on standalone basis and if, tax as per the regulations is to be considered on applicable basis, it cannot be considered on actual basis.*

71. *In the instant case Regulation 22.3 provides that the rate of return on equity shall be computed by grossing up the base rate with the normal tax rate applicable to the Generating Company, as such the MAT as applicable based on the profit/loss statement of the generating company, and the not the actual tax paid, has to be considered for grossing up RoE, as also held by this Tribunal vide the aforesaid judgment.*
72. *Accordingly, the Appellant's contention has merit and is allowed, the arguments of the Respondents are declined, the issue is decided in favour of the Appellant."*

**Provisions under Regulations:**

24. With regard to grossing up of the base of return on equity, regulations 22.3 and 22.4 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2012 provides as under:

22.3 *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.*

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

$$\text{Rate of pre-tax return on equity} = \text{Base rate} / (1-t)$$

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

25. Regarding Tax on Return on Equity, regulations 31.1 and 31.2 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 provide as under:

31.1 *"The base rate of return on equity as allowed by the Commission under Regulation 30 shall be grossed up with the effective tax rate of the respective financial year. For this purpose, the effective tax*

*rate shall be considered on the basis of actual tax paid in the respective financial year in line with the provisions of the relevant Finance Acts by the concerned generating company. The actual income tax on other income stream including deferred tax i.e., income of non-generation business shall not be considered for the calculation of “effective tax rate”.*

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

$$\text{Rate of pre-tax return on equity} = \text{Base rate} / (1-t)$$

*Where “t” is the effective tax rate in accordance with Clause 31.1 of this Regulation and shall be calculated at the beginning of every financial year based on the estimated profit and tax to be paid estimated in line with the provisions of the relevant Finance Act applicable for that financial year to the company on pro-rata basis by excluding the income of non-generation business and the corresponding tax thereon. In case of generating company paying Minimum Alternate Tax (MAT), “t” shall be considered as MAT rate including surcharge and cess.”*

26. The petitioner has worked out the Rate of Return on Equity for FY 2015-16 and FY 2016-17 are as follows:

**Table No. 7**

<b>Particulars</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>
Base rate of Return on Equity	15.50%	15.50%
MAT Rate	18.50%	18.50%
Surcharge	12.00%	12.00%
Cess	3.00%	3.00%
<b>Applicable Tax Rate Considered (MAT)</b>	<b>21.34%</b>	<b>21.34%</b>
<b>Pre-Tax Rate of Return on Equity</b>	<b>19.705%</b>	<b>19.705%</b>

27. While calculating the revised Return on Equity, the opening equity and equity additions during FY 2015-16 and FY 2016-17 has been considered by the Commission as per the order dated 10.01.2020 in petition No. 11 of 2017. The Return on Equity is revised by the Commission considering the grossing up of base rate of return with MAT for FY 2015-16 and FY 2016-17 as below:

**Table No. 8**

Particulars	Unit	FY 2015-16	FY 2016-17
Units		Unit-I & II	Unit-I & II
<b>Opening Normative Equity</b>	<b>Rs. Cr.</b>	<b>1,049.21</b>	<b>1,055.65</b>
Normative Equity addition during year	Rs. Cr.	6.44	0.30
Closing Normative Equity	Rs. Cr.	1,055.65	1,055.95
<b>Average Normative Equity</b>	<b>Rs. Cr.</b>	<b>1,052.43</b>	<b>1,055.80</b>
Base rate of Return on Equity	%	15.50%	15.50%
Applicable Tax considered (MAT)	%	21.34%	21.34%
<b>Applicable rate of Return on Equity</b>	<b>%</b>	<b>19.705%</b>	<b>19.705%</b>
<b>Annual Return on Equity</b>	<b>Rs. Cr.</b>	<b>207.39</b>	<b>208.05</b>

**Revision of Interest on Working Capital:**

28. Considering the revision in components of Annual Capacity (Fixed) Charges i.e. O&M expenses and Return on Equity, the receivable of the working capital has been worked out on net Annual Fixed cost (after deducting non-tariff income). Based on the above, receivable for two months determined in order dated 10.01.2020 have been revised in this order as under:

**Table No. 9: Receivables for two months considered in this Order:**

Particulars	Unit	FY 2014-15	FY 2015-16	FY 2016-17
Units		Unit-I & II	Unit-I & II	Unit-I & II
Variable Charges-two months (As considered in order dated 10.01.2020)	Rs. Cr.	119.39	119.72	**139.37
Fixed Charges-two months (As determined in this order and given in paragraph 31 at S. No. 11)	Rs. Cr.	136.09	134.70	133.41
<b>Receivables-two months</b>	<b>Rs. Cr.</b>	<b>255.48</b>	<b>254.42</b>	<b>272.78</b>

\*\*Variable charges includes coal cost and secondary fuel oil cost as per Tariff Regulations, 2015 applicable for control period 2016-17 to 2018-19.

29. The other components of working capital and rate of interest on working capital have been considered as per the order dated 10.01.2020. Accordingly, interest on working capital as worked out in order dated 10<sup>th</sup> January, 2020 has been reworked and revised as under:

**Table No. 10: Revised Interest on Working Capital determined in this Order:**

Particulars	Unit	FY 2014-15	FY 2015-16	FY 2016-17
Units		Unit-I & II	Unit-I & II	Unit-I & II
Cost of coal for 60 days	Rs. Cr.	119.39	119.72	136.37
Cost of fuel oil for two months	Rs. Cr.	3.10	3.11	0.89
O&M Charges for one month	Rs. Cr.	8.29	8.94	11.25
O&M Charges (Transmission Lines & Bay) for one month	Rs. Cr.	0.04	0.04	0.03
Maintenance Spares 20% of O&M Charges	Rs. Cr.	19.90	21.46	27.00
Maintenance Spares 20% of O&M Charges (Transmission Lines & Bay)	Rs. Cr.	0.10	0.10	0.06
Receivable for two months	Rs. Cr.	255.48	254.42	272.78
<b>Total working capital</b>	<b>Rs. Cr.</b>	<b>406.31</b>	<b>407.80</b>	<b>448.38</b>
Applicable rate of interest	%	<b>13.50%</b>	<b>13.50%</b>	<b>12.80%</b>
<b>Interest on working capital</b>	<b>Rs. Cr.</b>	<b>54.85</b>	<b>55.05</b>	<b>57.39</b>

**Revised Annual Capacity Charges:**

30. Based on the above, the Annual Capacity Charges of the generating station as determined in orders dated 10<sup>th</sup> January, 2020 in P No 11/2017 for FY 2014-15, FY 2015-16 and FY 2016-17 have been finally revised as follows:

**Table No.11: Revised Annual Capacity Fixed Charges determined in this Order:**

(Rs. Cr.)

S.No.	Particulars	FY 2014-15	FY 2015-16	FY 2016-17
1	Return on Equity	***205.39	207.39	208.05
2	Interest Charges on Loan	266.94	244.17	223.13
3	Depreciation	172.46	173.30	179.49
4	O&M Expenses	99.50	107.30	135.00
5	O & M expenses (400kV Transmission Lines & Bay)	0.48	0.51	0.32
6	Secondary Fuel Expenses	22.47	22.53	-
7	Interest on working capital	54.85	55.05	57.39
8	Lease rent payable for Land (yearly)	0.24	0.25	0.30
9	<b>Annual Capacity Charges</b>	<b>822.33</b>	<b>810.50</b>	<b>803.67</b>
10	Less:- Non Tariff Income	5.77	2.28	3.19
11	<b>Net Annual Capacity Charges</b>	<b>816.56</b>	<b>808.22</b>	<b>800.48</b>
12	<b>Annual Capacity (Fixed) Charges for 65% Capacity</b>	<b>530.76</b>	<b>525.34</b>	<b>520.31</b>

\*\*\*In the Appeal before Hon'ble APTEL, the issue of disallowance of grossing up base rate of ROE with MAT was only for FY 2015-16 and FY 2016-17.

31. The details of the Annual Capacity charges determined in order dated 10<sup>th</sup> January, 2020 vis-à-vis Annual Capacity Charges revised in this order and consequential impact of revision are as follows:

**Table No. 12: Difference AFC allowed in this order vis-à-vis allowed in P No 11/2017: (Rs Cr.)**

Order Reference/Year		FY 2014-15	FY 2015-16	FY 2016-17
1	Annual Capacity (Fixed) Charges for 65% of Installed Capacity determined in this Order (A)	530.76	525.34	520.31
2	Annual Capacity (Fixed) Charges for 65% of Installed Capacity determined in Order dated 10.01.2020 in Petition. No.11/2017 (B)	530.52	495.59	490.65
3	<b>Consequential impact in terms of Annual Capacity (Fixed) Charges for 65% of Installed Capacity (A – B)</b>	<b>0.24</b>	<b>29.75</b>	<b>29.66</b>

32. The petitioner is allowed to recover the above difference between Annual Capacity (Fixed) Charges determined vide Commission's earlier order dated 10<sup>th</sup> January, 2020 in petition No. 11 of 2017 and the revised Annual Capacity (Fixed) Charges determined in this order from the beneficiaries during FY 2024-25 onward in accordance with the provisions under Regulations.
33. Accordingly, the directions contained in the judgment of Hon'ble Tribunal dated 22.03.2024 in Appeal No.283/2017, 131/2018 and 231/2018 are complied with by way of this consequential order. This order shall be read with original true up orders passed by the Commission on dated 03.06.2016, 21.06.2017 and 24.05.2018 in petitions no. 70 of 2015, 62 of 2016 & 57 of 2017 for FY 2014-15, FY 2015-16 and FY 2016-17 respectively. Copies of true up orders for respective financial year are annexed with this order.

With the above, petition No. 70 of 2015, 62 of 2016 & 57 of 2017 are disposed of.

Annexure:

- i. True up order dated 03.06.2016 in Petition No. 70 of 2015 for FY 2014-15.
- ii. True up order dated 21.06.2017 in Petition No. 62 of 2016 for FY 2015-16.
- iii. True up order dated 24.05.2018 in Petition No. 57 of 2017 for FY 2016-17.

**(Prashant Chaturvedi)**  
**Member**

**(Gopal Srivastava)**  
**Member (Law)**

**(S.P.S Parihar)**  
**Chairman**