MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION

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

Petition No. 41 of 2017

PRESENT:

Dr. Dev Raj Birdi, Chairman

Mukul Dhariwal, Member

Anil Kumar Jha, Member

IN THE MATTER OF:

True-up of Generation Tariff of 2 x 660 MW Super Critical Coal based Thermal Power Station at Nigrie, District Singrauli (M.P.) for FY 2015-16 determined by MP Electricity Regulatory Commission vide order dated 24th May' 2017 in Petition No. 72 of 2015.

M/s Jaiprakash Power Ventures Ltd., Noida (UP): 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 20th July' 2018)

1. M/s Jaiprakash Power Ventures Limited (hereinafter called "the petitioner" or JPVL) has filed the subject petition on 6th October, 2017 for true-up of the Generation tariff for FY 2015-16 in respect of its 2 x 660 MW super critical coal based thermal power Station at Nigrie, District Singrauli, Madhya Pradesh, determined by the Madhya Pradesh Electricity Regulatory Commission (hereinafter called "the Commission or MPERC") vide its order dated 24th May' 2017 in Petition No. 72 of 2015.

2. The subject true-up petition has been filed under section 62 and 86 (1) (a) of the Electricity Act, 2003 and in terms of the proviso 8.4 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 (herein after referred to as "the Regulations' 2012").

3. The Nigrie Thermal Power Station under the subject petition comprises of two generating Units of 660 MW each. Date of Commercial Operation (CoD) of both Units of the petitioner's power plant are as given below:

Table 1: CoD of Unit No.1 & 2

Sr. No.	Units	Installed Capacity (in MW)	Date of Commercial Operation
1	Unit No. 1	660 MW	3rd September' 2014
2	Unit No. 2	660 MW	21st February' 2015

A small background of this petition is given below:

4. The petitioner had earlier filed Petition No. 03 of 2014 on 16th January' 2014 for determination of generation tariff on provisional basis for Unit No. 1 and 2 of its generating station.

5. Vide order dated 26th September' 2014 in the aforesaid petition, the Commission determined the tariff of Unit No. 1 on provisional basis from its COD to 31st March' 2016. However Unit No. 2 had not achieved its COD at the time of issuing aforesaid order.

6. Subsequently, the petitioner filed an Interlocutory Application (IA No. 1) in aforesaid petition No. 03 of 2014 for determination of tariff on provisional basis for Unit No. 2 of the generating station from its COD i.e. 21st February' 2015 to 31st March' 2016.

7. Vide order dated 31st March' 2015 in IA No. 01 in Petition No. 03 of 2014, the Commission determined the tariff of Unit No. 1 on provisional basis from its COD to 20th February' 2015 and for Unit No. 1&2 of the generating station from COD of Unit No. 2 to 31st March' 2015 & also for FY 2015-16.

8. Further, the petitioner had filed Petition No.72 of 2015 for determination of final tariff for supply of power from the Jaypee Nigrie super critical thermal power project for Unit No. 1 from 03rd September' 2014 to 20th February' 2015 and for station (Unit No. 1&2) from 21st February' 2015 to 31st March' 2015 based on Annual Audited Accounts. In the aforesaid petition, the tariff for FY 2015-16 for Unit No. 1 & 2 was filed on provisional basis.

9. Vide order dated 24th May' 2017 in Petition No. 72 of 2015, the Commission determined the final generation tariff for 2x660 MW Nigrie Thermal Power Station for FY 2014-15 (i.e. CoD of Unit No. 1 to 31st March' 2015) based on Annual Audited Accounts. The Generation Tariff for FY 2015-16 was determined on provisional basis subject to true-up as per Annual Audited Accounts of FY 2015-16.

10. In the aforesaid final tariff order, the capital cost of Rs.10,564.80 Crore as on 31st March' 2015 for Unit No.1 & 2 was considered by the Commission. Based on the aforesaid capital cost, the Annual Capacity (fixed) Charges for FY 2015-16 was provisionally determined vide Commission's order dated 24th May' 2017 as given below:

Table 2: Annual Capacity (fixed) Charges provisionally determined for FY 2015-16 for Unit No. 1&2

(Rs in Crore)

Sr. No.	Particulars	FY 2015-16
1	Depreciation	518.53
2	Interest and Finance Charges	940.12
3	Return on Equity	363.13

4	Operation & Maintenance Expenses	199.19
5	Interest on Working Capital	77.06
6	Cost of Secondary Fuel oil	52.07
7	Lease Charges	0.35
8	**Total Capacity (fixed) Charges**	**2150.45**
9	Less:-Non Tariff Income	0.00
10	Net Capacity Charges	2150.45
11	FERV	0.00
12	Total Capacity Charges inclusive of FERV for applicable days	2150.45
13	**Capacity Charges for contracted Capacity i.e. (30%) of installed Capacity**	**645.14**

11. Aggrieved with Commission's aforesaid order dated 24th May' 2017, the petitioner filed an Appeal No. 244 of 2017 before the Hon'ble Appellate Tribunal of Electricity in July' 2017 on the following issues:

(i) Disallowance of 50% of the cost incurred under various heads, for the period beyond SCOD.

(ii) Decision on liquidated damages by the Commission without there being any actual adjudication in the matter.

(iii) Disallowance of O&M expenses of the dedicated transmission line and cost of O&M expenses & maintenance spares of the same in computation of interest on working capital.

(iv) Disallowance of Rs. 295 per metric ton of additional levy of coal while computing pre-commissioning fuel expenses and interest on working capital for FY 2014-15.

(v) Disallowance of ROM price, additional premium & incidence of the taxes thereon while computing the cost of coal for FY 2015-16 for the purpose of working out interest on working capital.

(vi) Disallowance of inadequate capacity charges on the 7.5% of the contracted energy under the power purchase agreement dated 06.09.2011.

(vii) Disallowance of grossing up of ROE with the normal tax rate or MAT rate.

(viii) The Unit wise allocation on disallowance of FERV.

12. The aforesaid Appeal No. 244 of 2017 is under proceedings with the Hon'ble Appellant Tribunal for Electricity.

13. In the subject true-up Petition, the petitioner sought true-up of FY 2015-16 based on the additional capital expenditure incurred during FY 2015-16 in accordance with Regulation 8.4 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 which provides as under:

"A Generating Company shall file a petition at the beginning of the Tariff period. A review shall be undertaken by the Commission to scrutinize and true up the Tariff on the basis of the 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 1.4.2013 to 31.3.2016, duly audited and certified by the auditors."

14. In the subject true-up petition, the petitioner claimed additional capitalization of Rs. 34.15 Crore in its Nigrie Thermal Power Station. The petitioner also filed write-off/ deletion of assets of Rs. 13.02 Crore. Accordingly, the net additional capitalization of Rs. 21.13 Crore in FY 2015-16 is claimed by the petitioner based on Annual Audited Accounts of its Power Plant in the subject matter. In addition to above, the petitioner also claimed additional capitalization of Rs. 695.98 Crore towards Amelia Coal Mine.

15. Based on the aforesaid additional capitalization and written off/deletion during FY 2015-16, the following Annual Capacity (fixed) charges and energy charges for Unit No. 1 & 2 of Nigrie Thermal Power Station were claimed in the subject petition:

Table 3: Capacity and Energy Charges claimed for FY 2015-16 (Rs in Crore)

Sr. No.	Particulars	FY 2015-16
	Annual Capacity Charge or Annual Fixed Cost	
1	Depreciation	567.60
2	Interest on Loan	934.33
3	Return on Equity	482.85
4	Interest on Working Capital	84.22

5	O & M Expenses	199.19
5A	O & M Expenses (400 kV Transmission Line & Bay)	1.62
6	Secondary Fuel Oil Cost	52.07
7	Lease rent payable for Land (yearly)	0.40
8	**Total Annual Fixed Cost (Capacity Charge)**	**2,322.28**
9	Less:-Non-Tariff Income	5.12
10	**Net Annual Capacity Charges**	**2,317.16**
11	Foreign Exchange Rate Variation (Claimed on the basis of actual loss incurred on Repayment)	148.66
12	**Total Annual Capacity Charges inclusive of FERV**	**2,465.82**
13	**32.43% of Annual Capacity charge**	**799.67**
14	**Variable Charges recoverable**	
	Coal Cost (Fuel Cost) (Subject to be recalculated based on the outcome of Appeal filed against such Order, hence being shown as determined by Commission vide Order dt 24-05-2017)	445.19
	Total	**2,767.47**

16. The petitioner filed a copy of the Annual Audited Accounts of Jaypee Nigrie Thermal Power Plant (JBTPP), Balance Sheet of Amelia Coal Mines and the Consolidated Balance Sheet of Jaypee Power Ventures Limited (JPVL) as on 31st March' 2016.

17. With the above submission, the petitioner prayed the following:

    (a) True Up the Order dated 24.05.2017 in terms of the Additional Capital Expenditure incurred by the Petitioner as enumerated in Para 6 and 7 of the petition,

    (b) Pass appropriate Orders directing recovery of Capacity Charges worked out by petitioner after addition of Rs. 730.13 Crore and deletion of Rs. 13.02 Crore i.e. net addition of Rs 717.11 Crore.

18. The Commission has examined the subject petition in accordance with the provisions under MPERC (Terms and Conditions for determination of generation tariff) Regulations, 2012 and Annual Audited Accounts of Jaypee Nigrie Thermal Power Station for FY 2015-16. The Commission has also examined the subject true up petition in light of the comments/suggestions offered by the Respondent No. 1 (MPPMCL) / other stakeholders and the response of petitioner on the same.

Procedural History

19. Motion hearing in the subject true up petition was held on 21st November' 2017. During the course of hearing, it was observed by the Commission that the petitioner filed Consolidated Annual Audited Accounts for M/s. JPVL for FY 2016-17, whereas the subject petition was filed for true-up of FY 2015-16. Therefore the petition was not admitted and the petitioner was asked to file the Consolidated Annual Audited Accounts of M/s. JPVL for FY 2015-16.

20. The motion hearing in the subject matter was again held 19th December' 2017 when it was observed that the petitioner has filed the copy of consolidated Annual Audited Accounts of JPVL for FY 2015-16. Vide Commission's order dated 19th December' 2017, the petition was admitted and the petitioner was directed to serve copies of its petition to all Respondents in the matter. The Respondents were also asked to file their response on the petition by 17th January' 2018.

21. Vide Commission's letter dated 09th January' 2018, the information gaps/ requirement of additional details and document on preliminary scrutiny of the petition were communicated to the petitioner seeking its comprehensive reply by 22nd January' 2018.

22. The next hearing in the subject matter was held on 23th January' 2018, wherein the Respondent No. 1 while submitting that it has not received the copy of petition had sought 4 weeks' time to submit its reply/comments on the subject petition. Further, the petitioner also sought 3 weeks' time to furnish its reply on information gaps communicated vide Commission's letter dated 09th January' 2018. Accordingly, the Respondents and the petitioner were directed to furnish their respective reply on or before 20th February' 2018.

23. By affidavit dated 09th February' 2018, Respondent No. 1 (M.P. Power Management Co. Ltd.) filed its reply/comments on the subject petition.

24. By affidavit dated 27th February' 2018, the petitioner filed its reply to the issues communicated by the Commission. Issue-wise response of petitioner on the

information gaps/ requirement of additional information/ documents sought by the Commission is mentioned in **Annexure I** of the Order.

25. By affidavit dated 08th March' 2018, the petitioner filed rejoinder to the reply/ comments filled by the Respondent No. 1 (MPPMCL). The petitioner's response on each comment offered by the Respondent No. 1 is also mentioned in **Annexure II** of this Order.

26. The public notice for inviting comments/ suggestions from stakeholders was published on 13th February' 2018 in the following newspapers:
    i. Danik Jagran (Hindi), Bhopal,
    ii. Danik Jagran (Hindi), Rewa and
    iii. The Times of India (English)

27. The last date for filing comments/ objections/ suggestions was 4th March' 2018. The Commission has received comments from only one stakeholder. By affidavit dated 08th March' 2018, the petitioner filed its response on each issue raised by the Stakeholder. The issues raised in the aforesaid comments are not found relevant to the present petition. Further, the said comments are also not found in line with the provisions under MPERC Tariff Regulations, 2012.

28. In this matter, the public hearing was held on 13th March' 2018, wherein only representatives of the petitioner, Respondent No. 1 and other stakeholder were appeared.

29. In continuation to its reply filed by affidavit dated 27th February' 2018, the petitioner, by affidavit dated 6th April' 2018 filed its additional submission regarding the claim of FERV..

30. By affidavit dated 24th April' 2018, the petitioner further filed another additional submission in continuation to its aforesaid submission dated 6th April' 2018 and 27th February' 2018. In the aforesaid submission, the petitioner claimed loss of Rs. 17.92 Crore in respect of FERV on the interest part over and above the FERV claimed in the subject petition.

31. Vide Commission's letter dated 22nd May' 2018, the additional details/ documents required on the claim towards FERV were sought from the petitioner.

32. By affidavit dated 25th May' 2018, the petitioner filed its response to the issues raised by the Commission. In the aforesaid submission, the petitioner claimed an amount of Rs. 32.99 Crore in respect of Hedging Cost net of settlement amount incurred by the petitioner during FY 2015-16.

33. A technical validation meeting was convened on 01st June' 2018 in the office of the Commission between the representatives of petitioner and concerned officers of the Commission on the issue of FERV expenses and Hedging cost claimed by the petitioner.

34. In reference to the discussions held in technical validation meeting, some additional information required for detailed examination of the claims with regard to FERV and hedging cost were sought from the petitioner vide Commission's letter dated 5th June' 2018.

35. By affidavit dated 13th June' 2018, the petitioner filed its reply to the issues raised by the Commission.

CAPITAL COST AND ADDITIONAL CAPITALIZATION

Petitioner's Submission:

36. The petitioner filled opening Gross Fixed Asset of Rs. 10564.80 Crore as on 1st April' 2015 as admitted by the Commission as on 31st March' 2015 in Commission's order dated 24th May' 2017. In the subject true-up petition, the petitioner claimed additional capitalization of Rs. 34.15 Crore towards Nigrie Thermal power station and Rs. 695.98 Crore towards Amelia mines. Therefore, the total Additional Capitalization of Rs.730.13 Crore is claimed in the petition. The petitioner also filed de-capitalization of Rs. 13.02 Crore during FY 2015-16 in the Nigrie Thermal Power Station. The details of opening Gross Fixed Assets along with asset additions, write off/ deletion during FY 2015-16 and closing Gross Fixed Assets as filed by the petitioner are as given below:

Table 4: Capital Cost and Additions/deletions filed for FY 2015-16

(Rs. in Crore)

Particulars	Opening Gross Block As on 1st April' 2015	Additions during the year towards Power Station	Additions during the year towards Amelia Mines	Deletion/ Adjustments during the year	Capital as on 31st March' 2016
Land	25.74	11.63	1.11	-	38.48
BTG	6619.67	14.40		13.02	6,621.05
BOP	2038.41	7.71	250.86	-	2,296.98
Civil Cost	1880.98	0.41	81.16	-	1,962.55
Intangible Assets	-	-	217.46		217.46
Cost of Ownership of Mining Rights	-	-	145.39		145.39
Total	**10564.80**	**34.15**	**695.98**	**13.02**	**11281.91**

37. With regard to the aforesaid additional capitalization and de-capitalization claimed in the petition, the petitioner broadly submitted the following:

(I) Addition on account of Land:

(a) *The change in design of the water intake system from a Weir to a Gated Barrage was necessitated on account of GoMP's decision to allocate 89.6 cusec water to D.B Power Ltd. and 44.8 cusec water to Surya Chakra*

Power Ventures Private Ltd. in 2010 for their projects situated upstream on the Gopad river. The designs of the Gated Barrage were submitted by the Petitioner vide letter dated 18.12.2010 and 15.02.2013 to the Chief Engineer, Ganga Basin, Water Resources Department. Pursuant to the above, the Chief Engineer, Ganga Basin, Water Resources Department vide its letter dated 16.02.2013 conveyed his in-principle approval for the barrage designs submitted by the Petitioner. Given the change in the requirement of the Project, the Petitioner was not only required to develop the design for barrage, but also arrange for additional land for the barrage.

(b) The capital addition of Rs. 11.63 Crore relates to acquisition of 64.74 Ha land (of the total 173.52 Ha) from Private Land owners through the Land Acquisition Department, GoMP. It may be noted that the acquisition proceedings for the balance land i.e. 108.78 Ha (173.52 Ha – 64.74 Ha) is still going on.

(II) Addition on account of BTG equipment:

An addition of Rs. 14.40 Crore is attributed to the aforementioned head. The payment of Rs. 14.40 Crore was made to M/s Larsen & Toubro Limited against the work completed during FY 2014-15 but the payment for the same was made during FY 2015-16. This work was covered under original scope of work.

(III) Addition on account of BOP equipment:

The expense under this category may be divided into two components i.e. BOP Mechanical and BOP Electrical:

*(a) **BOP Mechanical:** Additional Capitalization of Rs. 6.10 Crore was made during FY 2015-16 along with downward reduction of Rs 6.38 Crore during FY 2015-16. Thereby a net Addition of Rs 0.29 Crore was made during FY 2015-16 in BOP Mechanical. Detailed breakup of the additions/ deletions along with reasons thereof is being provided below:*

*(i) **ESP:** An amount of Rs. 0.76 Crore was paid to M/s Bharat Heavy Electricals Limited during FY 2015-16 against the work completed during FY 2014-15. The work relates to original scope of work.*

Apart from the above, the Petitioner has also de-capitalized ESP by Rs 0.10 Crore on account of reversal of Service Tax which was paid along with the advances made to Bharat Heavy Electricals Limited, thereby making a net addition of Rs 0.66 Crore in ESP.

(ii) ***CW System****: A total payment of Rs. 0.37 Crore has been made by the Petitioner for CW System, out of which Rs. 0.25 Crore were paid to M/s Kirloskar Brothers Limited for the supply, erecting and commissioning of the CW pumps. Further, Rs. 0.11 Crore & Rs. 1.21 Lacs were paid to M/s Futech Project and M/s Pait Air Valves respectively towards large diameter piping and associated valves for CW system against the work completed during FY 2014-15. It is further submitted that above works were covered under original scope of work pertaining to Cooling Water System Package & Butterfly Valve Package.*

(iii) ***DM Water Plant****: A total amount of Rs. 0.60 Crore was paid during FY 2015-16 under the D.M. Plant Package to M/s ION Exchange India for the work completed during FY 2014-15. It is further submitted that above works were covered under original scope of work pertaining to D.M. Plant.*

(iv) ***Fuel Handling and Storage System****: Payment of Rs 4.35 Lacs were made to M/s Technofab Engineering for the supplies made against the Mandatory Spares which was covered under the original scope of work and was supplied during FY 2015-16 and payment for the same was made during FY 2015-16 as well. Apart from above, SS-316 Barrel Pump (SP/SS/200-E) worth Rs 0.83 Lacs was also procured & capitalized during FY 2015-16.*

(v) ***Ash Handling System****: Additional capitalization of Rs 2.08 Crore was made during FY 2015-16. Out of the above, Rs 1.01 Crore was paid for work carried out by M/s BSBK Engineering during FY 2014-15. Furthermore, a sum of Rs. 1.07 Crore was also paid to M/s BSBK Engineering on account of supply of mandatory spares.It may be noted that both payments were made in FY 2015-16 and are covered*

under original scope of work.

(vi) ***Coal Handling Plant****: An amount of Rs. 0.17 Crore was paid to M/s L&T MHI account of bill of erection relating to Mill Bay Package completed during FY 2014-15 which was covered under the Original Scope of Work although the payments were made in FY 2015-16.*

Apart from above, Rs 6.29 Crore was reduced from the Capital Cost of Coal Handling Plant on account of De-Capitalization of Carpet Coal. Hence, a net deletion of Rs 6.11 Crore was made in Coal Handling Plant.

(vii) ***Air Compressor System****: The Petitioner had to procure a diesel operated air compressor for Rs 0.06 Crore to facilitate Coal unloading during blackouts. The aforesaid was required so that the Petitioner may avoid demurrage charges to the railways in case of station blackout.*

(viii) ***Air Conditioning and Ventilation System****: An Amount of Rs 21.28 Lacs for the Air Conditioning and Ventilation System was paid to M/s Voltas for Rs. 21.28 Lacs during FY 2015-16 which was covered under original scope of work and was completed during FY 2014-15. However the payment for the same and Capitalization thereof was done during FY 2015-16.*

(ix) ***Fire Protection and Detection System****: Capitalization of Rs 0.43 Crore was made against Fire Fighting System. Out of the Rs. 0.43 Crore, Rs. 12.22 Lacs was paid towards supply of mandatory spares and Rs. 30.77 Lacs was for the material supply and installation for the same. Both these payments were made to M/s Agnice Fire Protection Limited against the works completed duringFY 2014-15 but accounted for in FY 2015-16. These payments relate to original scope of work.*

(x) ***Cranes and Hoists****: An amount of Rs. 0.23 Crore was spent towards procurement & installation of Monorail and Fastening Arrangements from M/s HEW, Rewa for the Conveyor System. The referred equipments are installed at Track Hopper to facilitate poking, removal* *of Coal jamming in the BOBRN, Wagons when moisture content in Coal is high. This helps in unloading of wet coal in the permitted time and thus saving of demurrage charges. It is pertinent to mention that unloading of Coal at track Hoper is done with Engine on-load for which demurrage charges are very high. The said installation & supplies were covered under Original Scope of Work and was completed during FY 2014-15 itself, however the payment for the same was made during FY 2015-16 and accordingly they were capitalized during FY 2015-16.*

(xi) ***Office and Other Equipments****: An amount of Rs. 1.02 Crore were spent towards procurement of various office equipments in line with the original scope of work.*

(xii) ***NDTC, Cooling Tower and Chimney****: An amount of Rs. 11.70 Lacs were paid to M/s Gammon India Limited towards work done in the cooling towers. The payment relates to original scope of work and was completed during FY 2014-15, however the payment for the same was made and capitalized during FY 2015-16.*

(b) ***BOP Electrical:*** *Additional Capitalization of Rs. 1.61 Crore was made during FY 2015-16 along with downward reduction of Rs 6.63 Crore from the Capital Cost during FY 2015-16. Thereby a net deletion of Rs 5.02 Crore was made during FY 2015-16 in BOP Electrical. Detailed breakup of the additions/ deletions along with reasons thereof is being provided below:*

(i) ***Switchyard Package****: Out of total capitalization of Rs. 0.19 Crore during FY 2015-16, Rs. 2.04 Lacs were paid to M/s ABB towards work done under PLCC Package and Rs. 16.50 Lacs were paid to M/s Yokogawa towards work done under C&I package. It is pertinent to note that above works were covered under original scope of work and were completed during FY 2014-15 itself, however the payments for the same were made during FY 2015-16.*

(ii) ***Switchgear Package****: A total amount of Rs. 0.44 Crore were paid by the Petitioner to M/s Siemens for the supply of the Switchgear System*

Equipment to the plant site. The supplies were covered under the original scope of work and supplies also were made during FY 2014-15 itself, however the payment and capitalization thereof were done during FY 2015-16.

(iii) ***Cables, Cable Facilities and Grounding****: A total amount of Rs. 0.07 Crore were spent towards procurement of Electric Circuit Breaker.*

(iv) ***Lighting:*** *A total amount of Rs.92.29 Lacs was paid by the Petitioner to M/s Bajaj Electronics for the Illumination System in the plant area. It is further submitted that this portion of the work under Illumination System, though being covered under the original scope of work, could not be capitalized during FY 2014-15 and had to be capitalized in FY 2015-16 as the work was completed after cleaning of the site for illumination purposes.*

(v) ***Transmission Line****: Under the head Transmission Line System, the Petitioner had recovered Rs 6.63 Crore from M/s Jyoti Structures Limited as they abandoned the work on the transmission line without completion of the job. Later on, work under Transmission Line System had to be carried out through other agencies. Hence, under this head Rs 6.63 Crore were de capitalized.*

(IV) **Addition in Capital Cost on account of Civil Work:** *A total addition of Rs. 0.41 Crore have been made on account of the same, a detailed breakup of the additions along with reasons thereof is being provided below:*

(a) ***Railway Siding, MGR and Marshalling Yard:*** *Consultation charges amounting to Rs. 24.47 Lacs was paid to M/s RITES. In addition to the above, balance payment of Rs 8.73 Lacs towards procurement of locomotive Lacs was paid to SAN Engineering. Cost of material used for Railway Siding Construction Rs. 2.19 Lacs was also capitalized. Thus, total amount capitalized in Railway siding, MGR and Marshalling Yard during FY 2015-16 stood at Rs 0.35 Crore. The said capitalization was covered under original scope of work.*

(b) ***Roads Culverts and Drainage:*** *An amount of Rs. 5.78 Lacs was spent during FY 2015-16 towards construction of drainage system at*

the power plant to provide the way to natural flow of water.

(V) Addition in Capital Cost on account of Tangible and Intangible Assets of Amelia Mine and Cost of Ownership of Mine:

(a) ***Tangible Assets:*** *It is respectfully submitted that an amount of Rs.333.13 Crore have been spent on procurement of tangible assets which includes cost of land, BOP costs, civil costs etc*

(b) ***Intangible Assets:*** *It is respectfully submitted that an amount of Rs.217.46 Crore have been spent on intangible assets for the Amelia Mine*

(c) An amount of Rs. 145.39 Crore was spent in FY 2015-16 towards payment of "Additional Premium" @ Rs. 612/- per ton of coal on 23,75,589 MT of coal received from Amelia for the purpose of PPA generation.

Provision in Regulations:

38. With Regard to additional capitalization of the generating station, Regulation 20.1 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 provides as under:

20 Additional Capitalization

20.1 The capital Expenditure Incurred or projected to be Incurred, on the following counts within the original scope of work, after the Date of Commercial operation and up to cut-off date may be admitted by the Commission, subject to prudent check:

a. Undischarged liabilities

b. Works deferred for execution

c. liabilities to meet award of arbitration or for compliance of order or decree of a court,

d. Change in Law,

e. Procurement of initial capital spares within the original scope of work, subject to the provisions of Regulation 17.1(b)

Provided that the details of works included in the original scope of work along with estimates of expenditure, un-discharged liabilities and works *deferred for execution shall be submitted along with the application for Tariff.*

Commission's Analysis:

39. In the subject true-up petition, the petitioner filed the additional capitalization of Rs. 34.15 Crore and de-capitalization of Rs. 13.02 Crore for Jaypee Nigrie Thermal Power Plant (JBTPP), thus net additional capitalization of Rs. 21.13 Crore is claimed by the petitioner. The petitioner also claimed additional capitalization of Rs. 695.98 Crore for FY 2015-16 in respect of Amelia Coal Mines. The petitioner has filed the Annual Audited Accounts for FY 2015-16 for Nigrie Thermal Power Station and Amelia Coal mines separately.

40. On perusal of the Annual Audited Accounts of Jaypee Nigrie Thermal Power Plant, it was observed that the figures of additional capitalization filed in the petition (Rs. 21.13 Crore) is not tailed with the figures of additional capitalization recorded in note to Annual Audited Accounts (Rs. 114.48 Crore). Vide Commission's letter dated 9th January' 2018, the petitioner was asked to explain the reasons for aforesaid difference in figures recorded in Annual Audited Accounts and those filed in the subject petition.

41. By affidavit dated 27th February' 2018, the petitioner submitted the reconciliation of Additional Capitalization figures as given below:

Table 5: Reconciliation **(Rs. in Crore)**

Sr. No.	Particular	Rs. Crore	Remarks
1.	Additional Capitalization during FY 2015-16 (Net)	21.13	As filed in the Petition
2.	**Add:-** Amount of increase in the Capital Cost due to Foreign Exchange Rate Variation (FERV)	93.35	Not claimed as additional capitalization by virtue of its being FERV on restatement basis on Balance Sheet date.
3.	Total Additional Capitalization during FY 2015-16 (Net)	114.48	Recorded in Note to annual Audited Accounts

42. Vide Commission's letter dated 09th January' 2018, the petitioner was asked to file a comprehensive reply on the various issues related to additional

capitalization with all relevant supporting documents.

43. By affidavit dated 27th February' 2018, the petitioner filled its response on each issue raised by the Commission. The issue-wise reply filled by the petitioner is as given below:

Issue:

a) Whether the addition of assets is on account of the reasons (a) to (e) in clause 20.1 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012.

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

Petitioner's Response:

i) a & b) The Petitioner humbly submits that the additional net capitalization of Rs 21.13 Crore in Generating Station and Rs 695.98 Crore in Amelia Coal Mines fall within the norms specified under Regulation 20.1 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2012."

The Petitioner also filed a copy of Resolution of Board of Directors dated May 30th, 2015 is attached as Annexure-1.

Issue:

c) The Assets addition claimed in the petition be reconciled with the figures recorded in the Assets cum Depreciation Register.

Petitioner's Response:

Reconciliation between Asset Addition during FY 2015-16 claimed in the Petition and figures recorded in the Asset-cum-Depreciation Register is furnished as under:-

Asset Addition during FY 2015-16 as per Asset-cum-Depreciation Register

Sl. No.	***Particulars***	***Amount***	***Remarks***
1	*Asset addition during FY 2015-16 as per Asset-cum-Depreciation Register as on 31-03-2016 in Generating Station*	*34,14,75,848*	*Pl refer Appendix-1 to TPS Form (Page 121 of the Petition)*

2	***Less:-*** *Asset deletion/adjustment during FY 2015-16 as per Asset-cum-Depreciation Register as on 31-03-2016 in Generating Station*	*13,01,75,460*	
A	***Net Asset addition during FY 2015-16 as per Asset-cum-Depreciation Register as on 31-03-2016 in Generating Station***	***21,13,00,388***	
B	***Asset addition during FY 2015-16 as per Asset-cum-Depreciation Register as on 31-03-2016 in Amelia Coal Mines***	***6,95,97,53,132***	*Pl refer Appendix-2 to TPS Form (Page 135 of the Petition)*
C	***Total Asset addition during FY 2015-16 as per Asset-cum-Depreciation Register as on 31-03-2016 in Project***	***7,17,10,53,520***	
	Say,	***717.11***	***In Rs Crore***

Asset Addition during FY 2015-16 as Claimed in the Petition

Sl. No.	***Particulars***	***Amount***	***Remarks***
1	*Asset addition during FY 2015-16 in Generating Station as per Petition (TPS 5B)*	*34.15*	*Pl refer TPS 5B (Page 54 of the Petition)*
2	***Less:-*** *Asset deletion/adjustment during FY 2015-16 in Generating Station as per Petition (TPS 5B)*	*13.02*	
A	***Net Asset addition during FY 2015-16 in Generating Station as per Petition (TPS 5B)***	***21.13***	
B	***Asset addition during FY 2015-16 as per Petition (TPS 5B) in Amelia Coal Mines***	***695.98***	
C	***Total Asset addition during FY 2015-16 as per Petition (TPS 5B) in Project***	***717.11***	

Issue:

d) Details of the works completed/ in progress for completion as on 31st March' 2016, along with supporting documents be filed by the petitioner.

Petitioner's Response:

Details of work completed in the up to 31st, March 2016 has been mentioned in the Asset-cum-depreciation register filed as Appendix-1 & Appendix-2 to the TPS form attached with the Petition. (Pl refer Page 102 to Page 121 of the Petition for addition in Generating Station and from Page 122 to Page 135 of the Petition for addition in Mines).

Issue:

e) Why the above works claimed under additional capitalization have not been

carried out/completed up to CoD of the project.

Petitioner's Response:

The Petitioner respectfully submits that out of total additional capitalization of Rs 34.15 Crore (net capitalization is Rs 21.13 Crore) made in Generating Station, as gleaned out from Para 6.1 to Para 6.4 of the instant Petition, jobs/supplies relating to capitalization worth Rs 31.97 Crore had been carried out during FY 2014-15 itself and only Rs 2.18 Crore were capitalized against those jobs/supplies which were carried out during FY 2015-16, though they were part of original scope of work. The details of works/ jobs, which were carried out and capitalized during FY 2015-16 have been mentioned in Para 6.1 and 6.3 of the petition.

On perusal of the above excerpts, it is obvious that above jobs which were carried out & capitalized during FY 2015-16, though being part of original scope of work, none of them were of such nature that in the absence of any of the above, Commissioning/smooth functioning of our plant could be hampered but at the same time they were necessary to be carried out for better efficiency and were of finishing nature.

Issue:

f) The petitioner was asked to file a list of the orders placed to different vendors for additional capitalization claimed in the petition along with date of order, price at which contract awarded and anticipated date of completion of each work. If there is any delay in completion of works from contractor side, the details of penalty if any, imposed on the contractor be informed.

Petitioner's Response:

List of the orders placed to different vendors for additional capitalization claimed in the Petition along with order details & amount of capitalization is attached herewith as ***Annexure-2****.*

Issue:

g) The petitioner was asked to file the status of Liquidated Damages if any, recovered/to be recovered from the different vendors as on 31st March' 2016.

Petitioner's Response:

Till March 31st, 2016, no liquidated damages/ penalties have been recovered from any contractors/ vendors.

44. On detail scrutiny of the petition, it is observed that the additional capitalization of Rs. 34.15 Crore as claimed by the petitioner is indicated in Annual Audited Accounts of Jaypee Nigrie Thermal Power Plant (JBTPP) for FY 2015-16.

45. Regarding the Cut of date of the project, Regulation 4.1 (j) of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations 2012 provides as under:

    "cut of date" means 31st March of the year closing after two years of the year of commercial operation of the Project, and in case the Project is declared under commercial operation in the last quarter of a year, the Cut-off date shall be 31st March of the year closing after three years of the year of commercial operation;

46. The Nigrie thermal Power Project (Phase-I) has achieved its CoD on 21st February' 2015, therefore, the cut of date of the project shall be 31st March 2018 in accordance with the aforesaid Regulations 2012. Accordingly, the aforesaid additional capitalization is within the cut-off date in terms of the MPERC Tariff Regulations, 2012.

47. The petitioner submitted that out of total additional capitalization of Rs. 34.15 Crore claimed in the petition, the works of Rs. 31.97 Crore were carried out during FY 2014-15 but payment has been made during FY 2015-16. The balance works of Rs. 2.18 Crore have been completed during FY 2015-16 and capitalized in the same year.

48. At Annexure-2 of the aforesaid submission dated 27th February' 2018, the petitioner filed a list of the orders placed to different vendors for additional capitalization claimed in the subject petition alongwith the details like Order No., Date of Order, Name of the assets, Name of the supplier/ contractor and assets capitalized during the year etc.

49. On further scrutiny of the petitioner's response on each component claimed under additional capitalization vis-a-vis the issues raised by the Commission and the provisions under Regulation 20.1 of MPERC Tariff Regulations, 2012, the Commission has observed the following:

Land:

(i) The petitioner has claimed capital addition of Rs. 11.63 Crore against acquisition of 64.74 Ha land through Land Acquisition Department, GoMP from the private land owners for barrage. The petitioner has also mentioned that due to change in design of the water intake system from weir to a gated barrage on account of GoMP's decision to allocate 89.6 cusec water to D.B. Power Ltd. and 44.8 cusec water to Surya Chakra Power Ventures Pvt. Ltd. in 2010 for their projects situated upstream on the Gopad River. The petitioner further submitted that vide letter dated 16th February' 2013, Water Resources Department (WRD) conveyed the in-principle approval for design of the barrage. The petitioner filed a copy of WRD letter dated 16th February' 2013 in this regard.

(ii) In Commission's order dated 24th May' 2017 in Petition No. 72 of 2015, the original scope of work of the Nigrie Power Project was considered as Rs. 11,700 Crore based on the resolution of Board of Directors dated 30th May' 2015. In Para 137 of aforesaid Commission's order, it has been explicitly mentioned that the details of various works filed by the petitioner during proceedings of Petition No. 72 of 2015 are taken on record to check any further additional capitalization to be claimed by the petitioner in future. In Form 5B filed with the subject petition, the petitioner has filed the break-up of the project cost of Rs. 11700 Crore as approved by the Board of the Company.

(iii) On perusal of Form 5B filed with the petition, the Commission observed that as per revised estimate, the cost of land is Rs. 37.00 Crore whereas, the cost of land including addition during FY 2015-16 filed by the petitioner is Rs. 37.37 Crore as on 31st March' 2017 which is Rs. 0.37 Crore over and above the cost under the original scope of work.

(iv) In view of the submission made by the petitioner for additional capitalization in respect of Land, the Commission has observed that the said additional capitalization on account of acquisition of land claimed by the petitioner is in compliance with the directions of GoMP Water Resources Department. It is further observed that the additional capitalization claimed by the petitioner is capitalized and recorded in Audited Annual Accounts of Jaypee Nigrie Power Plant and Asset cum Depreciation Register for FY 2015-16. The aforesaid additional capitalization is covered under Regulation 20.1(c) of the Tariff Regulation 2012 but the amount claimed by the petitioner is in excess of the amount towards land in original scope of work. Therefore, the Commission has considered the expenses of Rs. 11.26 Crore (within the original scope of work) in this order.

(v) Therefore, the details of additional capitalization towards land considered in this order is as given below:

- (a) Total cost of land as per revised capital cost approval by BoD (under Original Scope of works) is Rs.37.00 Crore
- (b) Cost of land approved as on 31.03.2015 (as per Commission's tariff order dated 24.05.2017) is Rs. 25.74 Crore
- (c) Cost of land claimed under additional capitalization during FY 2015-16 is Rs. 11.63 Crore
- (d) Cost of land considered in this order under additional capitalization during FY 2015-16 is Rs. 11.26 Crore
- (e) Total actual cost of land as on 31.03.2016 considered in this order is Rs. 37.00 Crore

BTG:

(i) The petitioner has claimed additional capitalization of Rs. 14.40 Crore under BTG. The petitioner mentioned that the payment of aforesaid amount of Rs. 14.40 Crore was made to M/s. Larsen and Turbo Limited against the work completed during FY 2014-15 but the payment for the same was made during FY 2015-16. The petitioner also confirmed that this work was covered under original scope of work/project.

(ii) In view of the above, the Commission has observed that the works of Rs.14.40 Crore related BTG were completed in FY 2014-15 and only payment was made to the contractor during FY 2015-16. It is further observed that the aforesaid expenses are capitalized in Annual Audited Accounts of Jaypee Nigrie Power Plant for FY 2015-16 and recorded in Asset-Cum-Depreciation register. The Commission has considered the expenses of Rs. 14.40 Crore in respect of BTG under Regulation 20.1 (a) of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012.

BOP:

(i) The petitioner has claimed additional capitalization of Rs. 7.71 Crore towards Balance of Plant. Out of which Rs. 6.10 Crore pertains to BoP Mechanical and Rs. 1.61 Crore pertains to BoP Electrical components. The component wise break-up of additional capitalization under BoP filed by the petitioner are as given below:

BOP Mechanical		
S. No.	**Particular**	**Amount in Rs. Cr.**
1.	ESP	0.76
2.	CW System	0.37
3.	DM Water Plant	0.60
4.	Fuel Handling & Storage System	0.05
5.	Ash Handling System	2.08
6.	Coal Handling Plant	0.17
7.	Air Compressor System	0.06
8.	Air Condition & Ventilation System	0.21
9.	Fire Fighting System	0.43
10.	Cranes and Hoists	0.23
11.	Other Equipments	1.02
12.	NDCT and Cooling Towers + Chimney	0.12
Total BOP Mechanical		**6.10**
BOP Electrical		
1.	Switch Yard Package	0.19
2.	Switch Gear Package	0.44
3.	Cables, Cable facilities & grounding	0.07
4.	Lighting	0.92

BOP Electrical	**1.61**
Total BOP	**7.71**

(ii) In Para 6.3 of the petition, the petitioner filed the detailed reasons for capitalization of assets under BOP.

(iii) On perusal of the component-wise details filed by the petitioner, the Commission has observed that most of the assets/ works under BOP Mechanical and BOP Electrical have been completed during FY 2014-15 but payment for the same have been made during FY 2015-16, Accordingly, the same has been capitalized during FY 2015-16. Further, the petitioner also confirmed that all the aforesaid assets are under original scope of work of the Nigrie Thermal Power Project. The aforesaid additional capitalization claimed by the petitioner is capitalized and recorded in Annual Audited Accounts and Asset cum Depreciation Register for FY 2015-16.

(iv) In view of the above, the Commission has considered the additional capitalization of Rs. 7.71 Crore in BOP under Regulation 20.1 (a) and 20.1 (b) of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012.

Civil Works:

(i) The petitioner has claimed additional capitalization of Rs. 0.41 Crore under Civil works in the following heads:

(a) Rs. 24.47 Lakhs towards Consultation charges paid to M/s. RITES.

(b) Rs. 8.73 Lakhs towards Balance payment towards procurement of locomotive paid to SAN Engineering.

(c) Rs. 2.19 Lakhs towards Material used for Railway Siding Construction.

(d) Rs. 5.78 Lakhs towards Construction of drainage system to provide the way to natural flow of water

Accordingly, the petitioner has claimed Rs. 41.17 lakhs for additional capitalization under Civil works.

(ii) The petitioner has confirmed that all the aforesaid works are under the original scope of work of Nigire Thermal Power Plant.

(iii) On scrutiny of the aforesaid assets of civil works claimed under additional capitalization during FY 2015-16, it is observed that the assets have been recorded in Annual Audited Accounts for FY 2015-16 and indicated in the Asset-Cum-Depreciation register of Nigrie Thermal Power Plant. It is further observed that the aforesaid works are covered under the revised capital cost of Rs. 11700 Crore approved by the Board of the petitioner's company (Original Scope of Work).

(iv) Out of the total civil works of Rs. 41 lakhs claimed under additional capitalization, works of Rs. 33 Lakhs completed in FY 2014-15, however payment for the same have been made during FY 2015-16. Accordingly, the same has been capitalized during FY 2015-16. The balance works related to Railway Siding and drainage system have been completed during FY 2015-16.

(v) In view of the above, the Commission has considered aforesaid additional capitalization of Rs. 0.41 Crore in civil works under Regulation 20.1 (a) and 20.1 (b) of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012.

Write-off/ Adjustment of Assets:

50. The petitioner has filed write-off/ deletion/ adjustment of an amount of Rs. 13.02 Crore during FY 2015-16. The details of the assets write-off/ adjustment during FY 2015-16 are as given below:

(a)	ESP	=	Rs. 0.10 Crore
(b)	Coal handling plant	=	Rs. 6.29 Crore
(c)	Transmission line	=	Rs. 6.63 Crore.
Total		=	**Rs. 13.02 Crore**

51. Regarding the write-off/ adjustment of the aforesaid assets from the capital cost of the Nigrie Thermal Power Station, the petitioner submitted the following:

(a) The assets of Rs. 0.10 Crore were de-capitalized in ESP on account of reversal of Service Tax which was paid along with the advances made to BHEL.

(b) The assets of Rs. 6.29 Crore were reduced from the capital cost towards de-capitalization of carpet coal in coal handling plant.

(c) Amount of Rs. 6.63 Crore recovered from M/s. Jyoti Structure Limited as they abandoned the work on the transmission line without completion of the job. Later on, work under transmission line system had to be carried out through other agencies.

52. On scrutiny of the details regarding write-off/ adjustment filed by the petitioner, the Commission has observed that the assets of Rs. 13.02 Crore have been adjusted in the Annual Audited Accounts and Asset-cum-Depreciation register of Nigrie Thermal Power Station from the closing Balance of Gross Fixed Assets as on 31st March' 2015. Therefore, the Commission has considered de-capitalization of Rs. 13.02 Crore during FY 2015-16 in this order from the closing Gross Fixed Assets as on 31st March' 2015. With regard to the funding of write-off/ de-capitalization of assets, the Commission has considered the same Debit : Equity ratio as considered in the last tariff order dated 24.05.2017. Therefore, the equity and loan component of de-capitalized assets are reduced from the closing balance as on 31st March' 2015 approved by the Commission.

53. In Para 6.5 (page No. 18 to 22) of the subject petition, the petitioner has mentioned about its claim of Rs 695.98 Crore towards additional capitalisation on account of Tangible and Intangible assets of Amelia Mine as also the "Additional Premium" @ Rs. 612/- per ton of coal on 23,75,589 MT of coal received from Amelia Mine for generation of power under PPA. In Para 6.5 (h) and (i) of the subject petition, the petitioner has submitted that the Additional Premium being in the nature of an expenditure towards acquiring or bringing into existence an asset of an enduring benefit (coal mine) for the generation business, it is to be allowed for the computation of fixed charge. The petitioner has further submitted that the fixed amount paid for procurement of assets such as land and mine infrastructure along-with cost of obtaining statutory permits/approvals is in nature of capital expenditure being incurred on procurement of assets necessary for

providing coal to the power plant, ought to be allowed as part of the project cost of the power plant and should be considered for computation of fixed cost.

54. With regard to above claim of the petitioner, the Commission has observed that the claim of petitioner for additional capitalisation on account of Tangible and Intangible assets of Amelia Mine and also the "Additional Premium" is not in accordance with MPERC (Terms and conditions for Determination of generation Tariff), Regulations 2012. Moreover, the issues in aforesaid claim are *sub-judice* before the Hon'ble Appellate Tribunal for Electricity in the following Appeals filed by the petitioner;

    (i) Appeal No. 95 of 2016 against the order dated 20th January' 2016 passed by the respondent state Commission in SMP 49 of 2015 regarding "review and determination of energy charges".

    (ii) Appeal No.244 of 2017 against Commission's Order dated 24.05.2017 for determination of final generation tariff for 2X660 MW Unit No. 1&2 of Petitioner's power plant in the subject petition**.**

    In view of the above, the claim of Rs 695.98 Crore towards additional capitalisation on account of assets of Amelia Mine and the "Additional Premium" is not considered by the Commission in this order.

55. In view of the above, the details of additional capitalization and de-capitalization considered during FY 2015-16 in this order are as given below:

Table 6: Addition and Deletion Admitted in the Order (Rs. in Crore)

S. No.	Particular	Addition	Deletion	Net Addition
1.	Land	11.26	-	11.26
2.	BTG	14.40	-	14.40
3.	BOP	7.71	13.02	(5.31)
4.	Civil	0.41	-	0.41
	Total	33.78	13.02	20.76

56. Considering the above, the opening Gross Fixed Assets, Net addition during the year, closing Gross and Fixed Assets considered in this order are as given below:

Table 7: Gross Fixed Assets admitted during FY 2015-16 (Rs in Crore)

closing capital cost as on 31.03.2015	Deletion/ Adjustment	opening capital cost as on 01.04.2015	Additions during FY 2015-16	Closing Capital Cost as on 31.03.2016
10564.80	13.02	10551.78	33.78	10585.56

Debt – Equity Ratio:

57. Regarding the source of funding for net additional capitalization claimed in the subject true-up petition, the petitioner in Form TPS 10 has mentioned the sources of funding entirely from the equity/ internal sources. Thus, for the purpose of computation of RoE and interest on loan, the petitioner considered the funding of additional capitalization in the normative ratio of 70:30 prescribed under the Regulations, 2012.

Provision in Regulation:

58. Regulation 21 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 provides as under:

> *"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. Where actual equity employed is less than 30%, the actual equity shall be considered."*

Commission's Analysis

59. The petitioner claimed the funding of net additional capitalization during the year through equity/ internal sources. Vide letter dated 9th January' 2018, the petitioner was asked to indicate/ refer the aforesaid equity addition in the

relevant part of its Annual Audited Accounts for FY 2015-16.

60. By affidavit dated 27th February' 2018, the petitioner submitted that the Annual Report for 2015-16, in the cash flow statement of Jaiprakash Power Ventures Limited (at page 77), has indicated the net cash flow of Rs. 2401.22 Crore from opening activities. The net additional capitalization of Rs. 21.13 Crore was funded through this cash accrual.

61. With regard to the funding of additional capitalization, the aforesaid Regulation stated that "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 Commission has considered the excess equity i.e. above 30% of the additional capitalization as normative loans.

62. With regard to write off/ deletion of Rs. 13.02 Crore, the Commission has considered the corresponding reduction of Debt and Equity in the ratio of 77.82% and 22.18% respectively as admitted by the Commission in its order dated 24th May' 2017.

63. The details of the additional capitalization and their corresponding funding as considered by the Commission for FY 2015-16 are as given below:

Table 8: Source of Funding **(Rs. in Crore)**

Sr. No.	Particulars	Asset	Loan	Equity
1.	Closing balance as on 31st March' 2015 (as per final tariff order)	10564.80	8054.33	2342.77
2.	Write-off/ Adjustment	13.02	10.13	2.89
3.	Adjusted opening balance as on 1st April' 2015	10551.78	8044.20	2339.88
4.	Addition during FY 2015-16	33.78	23.65	10.13
5.	Closing balance as on 31st March' 2016	10585.56	8067.84	2350.02

Annual Capacity (fixed) Charges:

64. The tariff for supply of electricity from a thermal power generating station comprises of Capacity (fixed) charge and Energy (variable) charge is to be

derived in the manner specified in the 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 consist of:

a. Return on Equity;
b. Interest and Financing Charges on Loan Capital;
c. Depreciation;
d. Lease/Hire Purchase Charges;
e. Operation and Maintenance Expenses;
f. Interest Charges on Working Capital;
g. Cost of Secondary Fuel Oil;
h. Special allowance in lieu of R&M or separate compensation allowance, wherever applicable:

a. Return on Equity:
Petitioner's Submission:

65. The petitioner claimed the Return on Equity in the petition as given below:

Table 9: Return on Equity claimed by the Petitioner

Sr. No.	Particular	Unit	FY 2015-16
1	Opening Equity Normative	Rs Crore	2342.77
2	Equity Additions Normative	Rs Crore	215.13
3	Closing Equity Normative	Rs Crore	2557.90
4	Average Equity Normative	Rs Crore	2450.34
5	Base Rate of Return On Equity	%	15.50%
6	Tax rate considered MAT	%	21.34%
7	Rate of Return on Equity	%	19.71%
8	**Return on Equity**	**Rs Crore**	**482.85**

66. While claiming the Return on Equity, the petitioner considered the base rate of Return on Equity as 15.50%, which is grossed up with MAT rate of 21.34%.

Provision in Regulations:

67. Regulation 22 of MPERC (Terms and Conditions for Determination of Generation Tariff) 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 2015-16 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 is the applicable tax rate in accordance with Regulation 22.3."

Illustration.-

i). In case of Generating Company paying Minimum Alternate Tax (MAT) say @ 20.01% including surcharge and cess: Rate of return on equity = 15.50/ (1-0.2001) = 19.377%

ii). In case of Generating Company paying normal corporate tax say @ 33.99% including surcharge and cess:

Rate of return on equity = 15.50/ (1-0.3399) = 23.481%

Commission's Analysis:

68. For the purpose of determining the Return on Equity, the normative closing equity as on 31st March' 2015 admitted by the Commission in Order dated 24th May' 2017, is considered as the opening equity as on 1st April' 2015. This equity is further adjusted with opening equity write-off of Rs. 2.89 Crore. Thus, the revised opening equity is worked out to Rs. 2339.88 Crore.

69. The Commission has considered the funding of additional capitalization during FY 2015-16 (considered in this order) through equity of Rs. 10.13 Crore.

70. With regard to grossing up the rate of Return on Equity with MAT, vide Commission's letter dated 09th January' 2018, the petitioner was asked to explain the following issues with supporting documents for its eligibility for MAT in light of the figures recorded in its balance sheet and the provisions under the Regulations, 2012, which provides as under:

> *"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."*

(i) As per the Annual Audited Account of Jaypee Nigrie Thermal Power Plant for FY 2015-16, the tax amount is indicated as NIL, while the petitioner has claimed Return on Equity by grossing up with MAT. Therefore, the petitioner was asked to file the basis of tax amount claimed whereas, it has not paid any income tax for Jaypee Nigrie Thermal Power Plant and JPVL for FY 2015-16.

(ii) The petitioner was asked to explain with supporting documents whether the petitioner is eligible for MAT in light of figures recorded in its balance sheet and the provisions under MPERC (Terms and Condition for Determination of Generation Tariff) Regulations, 2012.

(iii) The petitioner was asked to file the detailed break-up and allocation of income, expenditure and profit/loss of M/s JPVL among all its power stations for FY 2015-16 duly certified by statutory auditor.

(iv) The petitioner was also asked to file the copy of challan for the income tax paid during FY 2015-16 along with the copy of the income tax return.

71. By affidavit dated 27th February' 2018, the petitioner submitted the following :

*(i) The grossing up of Rate of Return with **MAT was inadvertently claimed**.*

(ii) The *break up and allocation of income, expenditure and profit/ loss of M/s. JPVL among all its power stations for FY 2015-16 duly certified by Statutory Auditor is attached as Annexure-3**.***

(iii) Copy *of challan for Income Tax paid during FY 2015-16 along with the copy of Income Tax Return for FY 2015-16 are attached as* **Annexure 4.1** *&* ***Annexure-4.2.***

72. In view of the above observations, the Commission has not considered grossing up the base rate of ROE with MAT. Accordingly, the Return on Equity for FY 2015-16 is worked out as given below:

Table 10: Return on Equity for FY 2015-16 considered in this Order

Sr. No.	Particular	Unit	FY 2015-16
1	Opening Equity (Normative)	Rs. Cr.	2342.77
2	Less: Equity due to Assets Adjustment	Rs. Cr.	2.89
3	Revised Opening Equity (Normative)	Rs. Cr.	2339.88
4	Equity Additions	Rs. Cr.	10.13
5	Closing Equity	Rs. Cr.	2350.02
6	Average Equity	Rs. Cr.	2344.95
7	Rate of Return on Equity	%	15.50%
8	**Return on Equity**		**363.47**

b. Interest and finance charges on loan:

Petitioner's Submission:

73. The petitioner submitted the detailed break-up of opening loan balances, net addition, repayment during the year, closing balance of loan, weighted average rate of Interest and Interest on loan in form TPS 13 A of the petition and same has been summarised as given below:

Table 11: Interest on Loan Claimed for FY 2015-16

Particulars	Unit	FY 2015-16
Gross Normative Loan – Opening	Rs. Crore	8222.03
Cumulative Repayment of Normative Loan upto Previous Year	Rs. Crore	167.71
Net Normative Loan-Opening	Rs. Crore	**8054.32**
Loan Additions during the year (including Amelia Coal Mine)	Rs. Crore	501.97
Repayment During the year (Equal to Depreciation)	Rs. Crore	567.60
Closing Loan	Rs. Crore	**7988.70**
Average Loan-Normative	Rs. Crore	**8021.51**
Weighted average Rate of Interest on actual Loans	%	11.65%
Interest on Normative loan	**Rs. Crore**	**934.33**

Provision in Regulations:

74. Regulation 23 of MPERC (Terms and Conditions for Determination of Generation Tariff) 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.

The changes to the terms and conditions of the loans shall be reflected from the date of such re-financing--------".

Commission's Analysis:

75. For the purpose of determination of interest on term loan, the normative closing loan balance as on 31st March' 2015 as admitted in Commission's final tariff order dated 24th May' 2017, has been considered as the opening loan balance as on 1st April' 2015. The aforesaid opening loan balance is further adjusted with opening loan write off of Rs. 10.13 Crore. Thus, the revised opening loan balance as on 01st April' 2015 is worked out to Rs. 8044.20 Crore.

76. The Commission has considered the funding of loan of Rs. 23.65 Crore in respect of additional capitalization during FY 2015-16 admitted in this order.

77. With regard to weighted average rate of interest filed in the petition, vide letter dated 09th January' 2018, the petitioner was asked to file the detailed computation of the weighted average rate of interest on the basis of the actual loan portfolio. The petitioner was also asked to file the documents in support of rate of interest for FY 2015-16.

78. By affidavit dated 27th February' 2018, the petitioner submitted the following:

The Petitioner would humbly like to submit that the month wise/ tranche wise actual interest rates corresponding to actual loan portfolio for each bank has been taken into account to calculate the Weighted Average Rate of Interest for each bank. Bank wise Interest Rate so calculated is used in the TPS 13 where normative loan balance is reflected. Further, weighted average rate of interest for whole Project derived by TPS 13 is carried over to TPS 13A.

A detailed computation showing bank wise/ tranche wise/ month wise rate of interest to arrive at Weighted Average Rate of Interest is attached as ***Annexure-5.1.*** *Sample mails from the lenders/ relevant page of the loan agreement regarding applicable rate of interest is attached as* ***Annexure-5.2.***

79. In view of the above, the interest on loan is worked out in this order as under:

(a) Gross normative opening loan of Rs. 8054.33 Crore is considered as per tariff Order dated 24th May' 2017 for FY 2014-15.

(b) Deduction / Adjustment of opening normative loan of Rs. 10.13 Crore (77.82% of written off approved above) is considered.

(c) Addition of normative loan amount of Rs. 23.65 Crore (70% of additional capital expenditure approved above) is considered.

(d) Annual repayment of loan equal to annual depreciation is considered as per Regulations, 2012.

(e) Weighted average rate of interest @ 11.64% based on the actual loan portfolio filed by the petitioner (excluding loan towards Amelia mines) is considered.

80. Based on the above, the interest on loan is worked out as given below:

Table 12: Interest on Loan admitted (Rs Crore)

Sr. No.	Particulars	FY 2015-16
1	Opening Loan	8054.33
2	Less: loan due to Assets Adjustment	10.13
3	Revised Opening loan (Normative)	8044.20
4	Loan Addition	23.65
5	Repayment during the Year	535.84
6	Closing Loan	7532.00
7	Average Loan	7788.10
8	Weighted average Rate of Interest on actual Loans	11.64%
9	**Interest on Normative loan**	**906.75**

c. Depreciation:

Petitioner's Submission

81. The petitioner claimed the depreciation in form TPS 11 of the petition is as given below:

Table 13: Depreciation claimed in the Petition

Sr. No.	Particular	Units.	FY 2015-16
1	Opening Gross Fixed Assets	Rs Crore	10564.80
2	Addition during the year	Rs Crore	717.11
3	Closing Gross Fixed Assets	Rs Crore	11281.91
4	Average Gross Fixed Assets	Rs Crore	10923.35
5	Weighted Average Rate of Depreciation	%	5.03%
6	**Annual Depreciation**	**Rs Crore**	**567.60**
7	**Closing Cumulative Depreciation**	**Rs Crore**	**1119.16**

Provision in Regulations:

82. Regulation 24 of the MPERC (Terms and Conditions for Determination of Generation Tariff) 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 31stMarch 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."

Commission's Analysis:

83. For the purpose of Depreciation, the closing Gross Fixed Assets as on 31st March' 2015, as admitted in the tariff order dated 24th May' 2017 for FY 2014-15 has been considered as the opening Gross Fixed Assets as on 1st April' 2015.

84. The write off/ deletion of fixed assets of Rs. 13.02 Crore has been adjusted from the opening gross fixed assets and the additional capitalization of Rs. 34.15 Crore during the year has been considered in this order.

85. The petitioner has filed the asset cum depreciation register with the petition based on MPERC Tariff Regulations, 2012. It is observed that the weighted average rate of depreciation worked out in the aforesaid register is 5.07%. Thus, the Commission has worked out the depreciation during FY 2015-16 based on the weighted average rate of depreciation of 5.07% as per the asset-cum depreciation register filed by the Petitioner.

86. The Commission has worked out the depreciation on average Gross Fixed Assets duly taking into account the opening Gross Fixed Assets, write off, additions during the year, closing Gross Fixed Assets as considered in this order and weighted average rate of depreciation as per Regulations, 2012, as given below:

Table 14: Deprecation Admitted

Sr. No.	Particular	Units.	FY 2015-16
1	Opening Gross Fixed Assets	Rs Cr.	10564.80
2	Less: Adjustment on account of assets written off	Rs Cr.	13.02
3	Adjusted Opening Gross Fixed Assets	Rs Cr.	10551.78
4	Addition during the year	Rs Cr.	33.78
5	Closing Gross Fixed Assets	Rs Cr.	10585.56
6	Average Gross Fixed Assets	Rs Cr.	10568.67
7	Weighted Average Rate of Depreciation	%	5.07%
8	**Annual Depreciation**	**Rs Cr.**	**535.84**
9	**Closing Cumulative Depreciation**	**Rs Cr.**	**703.55**

d. Lease/Hire Purchase Charges

87. In the subject true up petition, the petitioner claimed Rs. 0.40 Crore as yearly

lease rent payable for FY 2015-16.

Provision in Regulation:

88. Regarding the lease/Hire purchase charges of thermal power stations, Regulation 25.1 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012, provides as under,

> *"Lease charges for assets taken on lease by a Generating Company shall be considered as per lease agreement provided they are considered reasonable by the Commission."*

Commission's Analysis:

89. The petitioner claimed Rs. 0.40 Crore against lease rent payable for land during the year. Vide Commission's letter dated 09th January' 2018, the petitioner was asked to provide file supporting document in support of the lease rent paid during the year in this regard The petitioner was also asked to reconcile the same with the amount recorded in its Annual Audited Accounts in light of the Regulation 25.1 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012.

90. By affidavit dated 27th February' 2018, the petitioner submitted that "the *revise Lease Rent Claim from Rs 40,11,110/- to Rs 43,63,633/-. The requisite challans & details thereof are attached as Annexure-7. This amount is grouped under "Other Expenses" (Note-24 of P&L A/c) as "Lease Rent of Land".*

91. In view of the above, the Commission has considered the lease rent of Rs. 0.44 Crore as claimed by the petitioner for FY 2015-16 in this order in light of the Annual Audited Accounts and the provisions under Regulations, 2012.

e. Operation and Maintenance Expenses:

Petitioner's Submission:

92. The petitioner filed the Operation and Maintenance expenses for generating Units in Form F5 of the petition is as given below:

Table 15: O&M Expenses claimed for generating Unit (Rs. in Crore)

Phase – 1	Particulars	FY 2015-16
Unit I & II	O & M Expense	199.19

93. The petitioner also claimed the Operation & Maintenance expenses on Transmission lines & Bay in form F5A of the petition is as given below:

Table 16:Statement of O & M expenses of Transmission Line & Bay

(Rs. in Crore)

Sr. No.	Particulars		FY 2015-16
1	O&M Expenses of 161 kms of 400kV Double Circuit Transmission Line	161x2=322 ckt km	1.26
2	O&M Expenses of 400kV Bay	2 Nos of 400kV Bay	0.36
	Total O & M Expenses		**1.62**

Provision in Regulations:

94. Regarding the Operation and Maintenance expenses of thermal power stations, Regulation 36.1 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012, provides as under:

"The Operation and Maintenance expenses admissible to existing thermal power stations comprise of employee cost, Repair & Maintenance (R&M) cost and Administrative and General (A&G) cost. These norms exclude Pension, Terminal Benefits and Incentive to be paid to employees, taxes payable to the Government, MPSEB expenses and fees payable to MPERC. The Generating Company shall claim the taxes payable to the Government and fees to be paid to MPERC separately as actual. The claim of pension and Terminal Benefits shall be dealt as per Regulation."

Table 17: *O&M Norms for Thermal Generating* ***(Rs. in Lakh/MW)***

Units (MW)	FY 2015-16
45	30.17
200/210/250	21.46
500	16.08
600 and above	15.09

Commission's Analysis:

95. For Thermal Power Station, the Commission has worked out the annual

operation and maintenance expenses as per the provisions under above Regulations. Accordingly, the operation and maintenance expenses for generating Units are determined as given below:

Table 18: Operation & Maintenance Expenses admitted (Rs. in Crore)

Sr. No.	Phase – 1	Capacity	Normative O & M Expenses	Annual O&M Expenses as per norms
		MW	Rs. Lack/MW	Rs. In Crore
1	Unit I & II	2 X 660	15.09	199.19

96. No separate norms are provided in MPERC (Terms and Conditions for Determination of generation Tariff) Regulations'2012 for operation & maintenance expenses on dedicated Transmission lines & Bay as claimed in the subject petition. Further, the cost of dedicated transmission lines have been considered in the project capital cost of the petitioner's power plant while determining the tariff. Vide Commission's letter dated 09th January' 2018, the following observations were communicated to the petitioner with regard to its claim for operation & maintenance expenses on dedicated Transmission lines & Bay :

"In the subject true-up petition, the petitioner has not discussed or mentioned anything about its claim towards O&M expenses of 400 kV Transmission line and Bay, However, in Form TPS-1, the petitioner has claimed Rs. 1.62 Crore for FY 2015-16 for O&M expenses of transmission line and bay mentioning that the same has been rejected vide Commission's final order dated 24.05.2017 subject to be recalculated based on the outcome of Appeal filed against such order. It is further mentioned in aforesaid format that no amount is shown for FY 2014-15 but the amount of Rs. 1.62 Crore is being claimed for FY 2015-16 for illustration purpose."

97. In view of above observations, the petitioner was asked to clarify its contention for claiming such cost which has been disallowed by the Commission in its main order and which is *sub- judiced* before the Hon'ble APTEL in an Appeal filed by the petitioner. The petitioner was also asked to justify its claim in this regard in light of the MPERC (Terms and Condition for determination of Generation Tariff) Regulations, 2012. By affidavit dated 27th February' 2018, the petitioner

submitted its response on the O&M expenses for dedicated transmission Line claimed in the petition.

98. Vide order dated 24th May' 2017 for determination of final tariff in the subject matter, the Commission has already disallowed the aforesaid O&M expenses of dedicated transmission line. In Para 193 and 194 of Commission's aforesaid order for final tariff in this matter, the following has been mentioned:

"193. With regard to O&M expenses of Transmission Line, it is observed that the Transmission line in the subject petition is a dedicated line and its cost has been appropriately included in the capital cost considered in this order. Further, the petitioner had not claimed the operation and maintenance (O&M) expenses for the said dedicated transmission line in its petition No. 3 of 2014. For the first time in the subject petition, the O&M expenses of dedicated transmission line are claimed by the petitioner.

"194. The dedicated transmission line is neither a transmission line in terms of sub-section (72) of Section 2 of the Electricity Act' 2003 nor it is a distribution system connecting the point of a connection to the installation of consumer in terms of sub-section (19) of Section 2 of the Electricity Act, 2003. The O&M expenses of a transmission line are part of the Annual Fixed Cost determined by the Commission under section 62 of the Electricity Act, 2003 for a transmission licensee whereas, the subject petition cannot be considered for determination of AFC for the transmission line under section 62 of the Electricity Act, 2003. The cost of dedicated transmission line has been considered in the capital cost of the generating station and the tariff of the said generating station has been determined in terms of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations' 2012 which does not provide for any O&M expenses of dedicated transmission line separately. In view of the aforesaid, the claim of petitioner for O&M expenses of dedicated transmission line has no merit hence not considered in this order.

99. The petitioner has challenged the aforesaid order on several issues mentioned in

Para 11 of this order including this issue of disallowance of O&M expenses of dedicated transmission line through an Appeal No. 244 of 2017 before Hon'ble Appellate Tribunal for Electricity. This issue regarding disallowance of O&M expenses of dedicated transmission line is *sub-judiced* before the Hon'ble Appellate Tribunal for Electricity in various Appeals filed by the petitioner including Appeal No. 244 of 2017. The Commission has already filed its reply written submissions before the Hon'ble Appellate Tribunal for Electricity against the contention of petitioner in all Appeals on this particular issue hence, the same is not repeated in this order.

100. In view of the above background and facts, the claim of petitioner for O&M expenses of dedicated transmission line is not considered in this order.

f. Cost of Secondary Fuel Oil

Provision in Regulation:

101. 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"

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.

The secondary fuel oil expenses shall be subject to fuel price adjustment at the end of the each Year of Tariff period as per 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 Rs./ml."

Commission's Analysis:

102. The petitioner has not claimed the true up secondary fuel oil expenses for FY 2015-16. The above Regulation provides for a mechanism/formula for the adjustment of fuel oil expenses with actual rate at the end of each financial year of the tariff period. Therefore, there is no need for true up of secondary fuel oil by the Commission in terms of the aforesaid Regulation.

g. Interest on Working Capital:

Petitioner Submission:

103. The petitioner has claimed the interest on working capital in form TPS 13B of the petition as given below:

Table 19: Interest on Working Capital Claimed

Sr. No.	Particulars	Unit	FY 2015-16
1	Cost of Coal/Lignite	Rs. Crore	74.20
2	Cost of Main Secondary Fuel Oil	Rs. Crore	7.60
3	O & M expenses	Rs. Crore	16.60
3A	O & M expenses (Transmission Lines & Bay)	Rs. Crore	0.13
4	Maintenance Spares	Rs. Crore	39.84
4A	Maintenance Spares (Transmission Line & Bay)	Rs. Crore	0.32
5	Receivables	Rs. Crore	485.17
6	**Total Working Capital**	Rs. Crore	**623.86**
7	Rate of Interest	%	13.50%
8	**Interest on Working Capital**	**Rs. Crore**	**84.22**

Provision in Regulations:

104. Regulation 37.1 of the MPERC (Terms and Conditions for Determination of

Generation Tariff) Regulations, 2012 regarding working capital for coal based generating stations provides that:

"*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.

105. 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."(Emphasis Supplied)***

106. 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 as under:

"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%....."

Commission's Analysis:

107. In the above mentioned provision under Regulations, 2012, it is mentioned that no fuel price escalation shall be provided during the tariff period for calculating the working capital. The details of working capital worked out as per the provisions under the Regulations, 2012 are as given below:

(i) Cost of coal for 2 months for FY 2015-16 is considered same as considered in order dated 24th May' 2017.

(ii) Cost of secondary fuel of main oil for two months equivalent to normative plant availability factor is considered same as considered in order dated 24th May' 2017 as stated below is considered:

Particulars	FY 2015-16 (Rs. in Crore)
Cost of Coal for Two Months	74.20
Cost of Secondary Fuel Oil for Two Months	7.60

(iii) Maintenance spares as considered in order dated 24th May' 2017 as stated below is considered:

Particulars	FY 2015-16 (Rs. in Crore)
Maintenance Spares	39.84

(iv) Receivable have been worked out on the basis of two months of fixed and energy charges as given below:

Particulars	FY 2015-16 (Rs. in Crore)
Variable Charges- 2 Months (As considered on Order dated 24.05.2017)	74.20
Annual Fixed Charges- 2 Months (Worked Out in this Order)	355.74
Total	**429.94**

(v) O&M expenses for one month for the purpose of working capital as considered in order dated 24th May' 2017 has been considered:

Particulars	FY 2015-16 (Rs. in Crore)
O & M Expenses for One Month	16.60

108. The State Bank of India Base rate applicable/ prevailing as on 1st April 2015 is 10.0% + 3.50% = 13.50%. Accordingly, no variation in the Interest rate is observed.

109. Considering the above, the interest on working capital is worked out by the Commission for FY 2015-16 in this true-up order as given below:

Table 20: Interest on Working Capital Allowed (Rs. in Crore)

Sr. No.	Particulars	Norms	Unit	FY 2015-16
1	Cost of Coal	2 months of coal purchase	Rs Crore	74.20
2	Cost of Main Secondary Fuel Oil	2 months of sec oil purchase	Rs Crore	7.60
3	O & M Expenses	1 month of O&M	Rs Crore	16.60
4	Maintenance Spares	20% of O&M	Rs Crore	39.84
5	Receivables	2 months of total revenue	Rs Crore	429.94
6	**Total Working Capital**		Rs Crore	**568.18**
7	Rate of Interest			13.50%
8	**Interest on Working Capital**		**Rs Crore**	**76.70**

h. Non-Tariff Income:

110. In the subject petition, the petitioner filed non-tariff income of Rs. 5.12 Crore and same has been indicated in Form TPS-1 filed with the petition.

Provision in Regulations:

111. Regulation 31 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 provides as under:

"(a) Any income *being incidental to the business of the Generating Company derived from sources, including but not limited to the disposal of assets, income from investments, rents, income from sale of scrap other than the de-capitalized/written off assets, income from advertisements, interest on advances to suppliers/contractors, income from sale of ash/rejected coal, and any other miscellaneous receipts other than income from sale of energy shall constitute the non-tariff income.*

(b) The amount of Non-Tariff Income relating to the Generation Business as approved by the Commission shall be deducted from the Annual Fixed Cost in determining the Annual Fixed Charge of the Generation Company:

Provided that the Generation Company shall submit full details of its forecast of Non-Tariff Income to the Commission in such form as may be stipulated by the Commission from time to time. Non-tariff income shall also be Trued-up based on audited accounts.

Commission's Analysis:

112. The above provision under the Regulations, 2012 provides that the non-tariff income shall also be trued up based on the Audited Accounts. On scrutiny of the subject petition, it was observed that the petitioner claimed the non-tariff income of Rs. 5.12 Crore.

113. On perusal of the Annual Audited Accounts and other details filed by the petitioner it is observed that the total non-tariff income of Rs. 5.12 Crore as claimed by the petitioner is inclusive of non tariff income of Rs. 1.02 Crore towards Amelia coal mines. Therefore, the Commission has considered Rs. 4.10 Crore as non-tariff income in this matter as recorded in Annual Audited Accounts in this order.

Foreign Exchange Rate Variation (FERV):

114. In the subject true-up petition, the petitioner has claimed Rs 148.66 Crores towards loss incurred during FY 2015-16 on account of FERV on repayment of Foreign Currency Loans, namely FCCB USD 200 million (Rs 922.40 Crores disbursed @ Rs 46.12 per USD) & JPY 1530 Crores (Rs 848.90 Crores disbursed @ Rs 0.55484 per JPY), as a part of Annual Capacity (Fixed) Charges. By affidavit dated 06.04.2018, the petitioner has also filed a detailed submission along with the calculation of FERV loss on said repayments of FCCB & ECB along with supporting documents. The petitioner stated that as per extant Regulations, the foreign currency exposures in currencies other than USD needs to be converted into USD first and then to INR.

115. The petitioner has further stated that the principal repayment and interest payment on FCCB are not hedged hence, no hedging charges were paid during FY15-16 on the FCCB amount. With regard to hedging of ECB, the petitioner

submitted that the entire ECB JPY to USD is fully hedged in respect of Repayment as well as Interest whereas, USD to INR portion has been hedged for 50% of outstanding & Interest. The balance 50% portion of USD to INR is un-hedged**.**

116. The petitioner has claimed the following amount towards FERV and hedging related cost in different submissions:

a. In the subject petition, the petitioner has claimed FERV of Rs. 148.66 Crore.

b. By additional affidavit dated 24th April' 2018, the petitioner has claimed the loss of Rs. 17.92 Crore during FY 2015-16 on account of FERV on actual interest paid.

c. By affidavit dated 25th May' 2018, in response to the queries raised by the Commission on FERV of interest component, the petitioner has claimed hedging cost of Rs. 32.99 Crore over and above the aforesaid claim of Rs. 148.66 Crore and Rs. 17.92 Crore. The break-up of the hedging cost as filed by the petitioner is as given below:

Hedging Cost in respect of Principal Repayment (JPY-USD) during FY 2015-16	Rs. 17,32,70,699
Hedging Cost in respect of Interest (JPY-USD) during FY 2015-16	Rs. 3,87,26,086
Hedging Cost in respect of Principal Repayment & Interest Payment (USD-INR) during FY 2015-16	Rs. 14,50,20,668
Less - Settlement amount received during FY 2015-16.	Rs 2,71,15,931
Total	**Rs.32,99,01,524**

The petitioner has submitted that the hedging expenses were inadvertently missed out in petition.

Provision in Regulations:

117. Regulation 29 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 provides as under:

"29 Foreign Exchange Rate Variation (FERV)

29.1 The Generating Company may hedge foreign exchange exposure in respect of the interest on foreign currency loan and repayment of foreign *loan acquired for the generating station, in part or full in the discretion of the Generating Company.*

29.2 Every Generating Company shall recover the cost of hedging of Foreign Exchange Rate Variation corresponding to the normative foreign debt, in the relevant Year on Year-to-Year basis as expense in the period in which it arises and extra rupee liability corresponding to such foreign exchange rate variation shall not be allowed against the hedged foreign debt.

29.3 To the extent the Generating Company is not able to hedge the foreign exchange exposure, the extra rupee liability towards interest payment and loan repayment corresponding to the normative foreign currency loan in the relevant Year shall be permissible provided it is not attributable to the Generating Company or its suppliers or contractors.

29.4 The Generating Company shall recover the cost of hedging and Foreign Exchange Rate Variation on Year-to-Year basis as income or expense in the period in which it arises."

Commission's Analysis:

118. The claims of the petitioner towards FERV including hedging cost as on CoD of its project have been dealt with in details by the Commission in Paragraphs 111 to 127 of Commission's order dated 24th May' 2017 in Petition No. 72 of 2015 while determining the final tariff of the petitioner's power project under subject. In the aforesaid order, the Commission has considered an amount of Rs. 91.95 Crores towards gain of FERV actually earned by the petitioner as on CoD of its project. Further, in paragraph 217 of the aforesaid order, the Commission has considered the FERV expenses of Rs. 38.19 Crores during FY 2014-15 in accordance with Regulation 29.4 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations 2012. However, with regard to the claim towards FERV expenses of Rs. 150.84 Crores during FY 2015-16, it was mentioned in aforesaid order that the same shall be dealt with in the true-up petition for FY 2015-16.

119. In the subject petition, the petitioner has claimed an amount of Rs. 148.66 Crores in FY 2015-16. Further, in response to the queries of the Commission communicated to the petitioner, M/s. JPVL has also claimed an amount of Rs. 17.92 Crores towards FERV on account of interest paid during FY 2015-16 on FCCB and ECB. The petitioner has also submitted the calculations of the same. Besides, the aforesaid claim, the petitioner has also sought net hedging cost of Rs. 32.99 Crores arrived after receiving the settlement amount by the petitioner in terms of the hedging contracts executed between the petitioner and ICICI Bank.

120. In the subject petition and additional submissions, the petitioner has claimed the following cost towards FERV expenses and hedging cost during FY 2015-16:

Amount in Rs. Crores

S. No	Particulars	FERV
1.	Actual FERV expenses incurred on the Actual Repayments made during FY 2015-16	148.66
2.	Actual FERV expenses incurred on the Actual Interest Payments made during FY 2015-16	17.92
3.	Hedging Costs net of Settlement Amount received incurred by the petitioner during FY 2015-16	32.99
4.	**Total**	**199.57**

121. The following is observed from the submission of petitioner in the subject petition and the additional submissions:

(i) Two foreign currency loans have been taken by the petitioner i.e. Foreign Currency Convertible Bond (FCCB) and other is External Commercial Borrowing (ECB). The FCCB is for USD 200 million (Rs. 922.40 Crores) and the ECB is for JPY 1530 Crores (Rs. 848.90 Crores).

(ii) The petitioner has executed four hedging contracts with ICICI Bank between 31st May' 2013 and 29th September '2014. The petitioner has filed the copy of all aforesaid hedging contracts. Out of four hedging contracts, three contracts are for Currency Pair of JPY/USD whereas the fourth contract is for currency pair of USD/INR. The first hedging contract (HC- 1) is for hedging of total principal amount of ECB (JPY 1530 Crores). The second hedging contract (HC- 2) is for the interest payable on JPY 1258 Crores and third contract (HC- 3) is for hedging of interest payable on balance ECB i.e. JPY 272 Crores.

(iii) For Currency pair USD/INR, the petitioner has executed the fourth contract (HC- 4) for hedging of only 50% of outstanding principal and interest payable for Currency Pair USD/INR. The options structure, various dates, percentage premium and premium amount are mentioned in all four hedging contracts. On the query raised by the Commission, the petitioner by affidavit dated 25th May'2018, admitted that the claim of Rs. 17.92 Crores towards FERV on actual interest paid during FY 2015-16 along with net hedging cost of Rs. 32.99 Crores was inadvertently missed out by the petitioner while claiming the interest on loan for Annual Fixed Cost in the subject petition. The petitioner further submitted that it was later on realized by the petitioner that the interest on FCCB and ECB for AFC was calculated/ claimed at the coupon rates (in % terms) at the time of disbursement i.e. FCCB @ INR/USD of Rs. 46.12 and ECB @ INR/JPY of Rs. 0.55484 not on the actual rate at which payments were made. Therefore, the amount claimed was without FERV of Rs. 17.92 Crores on interest on Foreign Currency Loan paid during FY 2015-16 and the Hedging Cost of Rs. 32.99 Crores and to rectify the same, claim of FERV on payment of interest along with hedging cost was filed.

122. In addition to its reply dated 27th February' 2018, the petitioner submitted that the following repayment of ECB and FCCB have been made during FY 2015-16:

Details of Repayment of ECB during FY 2015-16

Sl. No.	Date	Principal Repayment Amount in JPY	Exchange Rate at the time of Repayment	Principal Repayment Amount in INR (Reflected in Bank Statement)
		JPY	Rs/JPY	
1	Paid on 02.07.15	76,50,00,000.00	0.5235	40,04,77,500.00
2	Paid on 31.12.15	76,50,00,000.00	0.5576	42,65,64,000.00
A	**Total ECB Repayment during FY 2015-16**	**1,53,00,00,000.00**		**82,70,41,500.00**

Details of Repayment of FCCB during FY 2015-16

Sl. No.	Date	Principal Repayment Amount in USD	Exchange Rate at the time of Repayment	Principal Repayment Amount in INR
		USD	Rs/USD	
3	Paid on 11-09-2015	7,39,09,056.15	66.5300	4,91,71,69,505.66
B	**Total FCCB Repayment during FY 2015-16**	**7,39,09,056.15**		**4,91,71,69,505.66**

123. On account of aforesaid repayment of ECB and FCCB, the petitioner has claimed the FERV gain of Rs. 2.18 Crore and FERV Loss of Rs. 150.84 Crore respectively. Accordingly, the petitioner has claimed the net FERV loss of Rs. 148.66 Crore incurred during FY 2015-16.

124. With regard to the above claim towards FERV, vide letter dated 22nd May' 2018 and 05th June' 2018, the Commission had sought certain clarifications from the petitioner. In response, the petitioner broadly submitted the following in its submission dated 25th May'2018:

(i) The details of actual repayments of foreign loan, along with actual loss/gain on such repayments was submitted as **Annexure-6.1.**

(ii) The details of actual payments of interest on foreign loan, along with actual loss/gain on such interest payments was submitted as **Annexure-6.2.**

(iii) The Hedging Contracts HC-1 to HC-4 were attached as **Annexure-1**. A brief summary of all Annexure-1, Annexure-2 & Annexure-3 as submitted by the petitioner is as under:-

- *Separate Hedging Cost regarding **JPY to USD "Leg"** can be arrived at in respect of Principal Repayments & Interest Payment along with separate Settlement (Refund) Amount. Incidentally settlement or refund amount received in this **"Leg"** is **NIL.***

  However, separate statements of Hedging Cost regarding JPY to USD "Leg" in respect of Principal Repayment & Interest Payment are as under:-

(A) Statement of Hedging Cost regarding JPY to USD "Leg" in respect of Principal Repayment

Sl. No.	Date	Contract Reference	Purpose	Premium	Rate	Premium
				USD	Rs./USD	Rs.
1	07-05-2015	HC-1	Hedging the Principal of 15.30 Billion (JPY-USD)	6,93,863.75	63.84	4,42,96,261.80
2	07-08-2015	HC-1	Hedging the Principal of 15.30 Billion (JPY-USD)	6,71,952.26	63.78	4,28,57,787.09
3	07-11-2015	HC-1	Hedging the Principal of 15.30 Billion (JPY-USD)	6,64,648.43	65.51	4,35,44,441.89
4	05-02-2015	HC-1	Hedging the Principal of 15.30 Billion (JPY-USD)	6,27,723.52	67.82	4,25,72,209.13
	Total Hedging Cost in respect of Principal Repayment (JPY-USD) during FY 2015-16			**26,58,187.96**		**17,32,70,699.90**

(B) Statement of Hedging Cost regarding JPY to USD "Leg" in respect of Interest Payment

Sl. No.	Date	Contract Reference	Purpose	Premium	Rate	Premium
				USD	Rs./USD	Rs.
1	07-05-2015	HC-2	Hedging the Interest Payable on JPY 12.58 Billion (JPY-USD)	1,15,643.96	63.84	73,82,710.41
2	07-05-2015	HC-3	Hedging the Interest Payable on JPY 2.72 Billion (JPY-USD)	39,434.93	63.84	25,17,525.93
3	07-08-2015	HC-2	Hedging the Interest Payable on JPY 12.58 Billion (JPY-USD)	1,11,992.04	63.78	71,42,964.30
4	07-08-2015	HC-3	Hedging the Interest Payable on JPY 2.72 Billion (JPY-USD)	38,189.62	63.78	24,35,772.15
5	07-11-2015	HC-2	Hedging the Interest Payable on JPY 12.58 Billion (JPY-USD)	1,10,774.74	65.51	72,57,407.09
6	07-11-2015	HC-3	Hedging the Interest Payable on JPY 2.72 Billion (JPY-USD)	37,774.51	65.51	24,74,797.02
7	05-02-2015	HC-2	Hedging the Interest Payable on JPY 12.58 Billion (JPY-USD)	1,04,620.59	67.82	70,95,368.41
8	05-02-2015	HC-3	Hedging the Interest Payable on JPY 2.72 Billion (JPY-USD)	35,675.93	67.82	24,19,541.57
	Total Hedging Cost in respect of Interest (JPY-USD) during FY 2015-16			**5,94,106.32**		**3,87,26,086.89**

- *Arriving at separate Hedging Cost along with receipt of Settlement Amount* *regarding **USD to INR "Leg"** is not possible either in respect of Principal Repayments or Interest Payment since there is no separate contract for the same in **USD to INR "Leg",** or in other words, there is a common contract for **USD to INR "Leg"** for both principal and interest, unlike the **JPY to USD "Leg".***

However, statements of Hedging Cost regarding USD to INR "Leg" in respect of Principal Repayment & Interest Payment are as under:-

(C) Statement of Hedging Cost regarding USD to INR "Leg" in respect of Principal Repayment & Interest Payment

Sl. No.	***Date***	***Contract Reference***	***Purpose***	***Premium***	***Rate***	***Premium***
				USD	***Rs./USD***	***Rs.***
1	*07-05-2015*	*HC-4*	*Hedging 50% of Principal & Interest (USD-INR)*	*5,80,736.30*	*63.84*	*3,70,74,205.39*
2	*07-08-2015*	*HC-4*	*Hedging 50% of Principal & Interest (USD-INR)*	*5,62,397.26*	*63.78*	*3,58,70,259.64*
3	*07-11-2015*	*HC-4*	*Hedging 50% of Principal & Interest (USD-INR)*	*5,56,284.24*	*65.51*	*3,64,44,961.98*
4	*05-02-2015*	*HC-4*	*Hedging 50% of Principal & Interest (USD-INR)*	*5,25,379.56*	*67.82*	*3,56,31,241.76*
	Total Hedging Cost in respect of Principal Repayment & Interest Payment (USD-INR) during FY 2015-16			***22,24,797.36***		***14,50,20,668.77***

*Against the payment of above Hedging Premium, the Petitioner has received Settlement (Refund) amount of **Rs 2,71,15,931/- during FY 2015-16**, the details are furnished in Annexure-3 attached with its submission dated 25th May'2018.*

125. Therefore, Net Hedging Cost incurred during FY 2015-16 as per Statements (A), (B), (C) after adjustment of Settlement (Refund) Amount is **Rs 32,99,01,524/-.**

126. With regard to the figures recorded in Annual Audited Accounts of FY 2015-16, the petitioner was asked to inform the following:-

(i) The Finance Costs of Rs 39.31 Crores towards foreign currency loan is indicated in Note 22 of Annual Audited Accounts, the petitioner is required to justify it claim of FERV on interest (foreign loan) of Rs 17.92 Crores, in light of above figure in Annual Audited Accounts.

(ii) At Note 33 of Annual Audited Accounts the following is stated:-

"The External Commercial Borrowing (ECBs) outstanding JPY 13,00,50,00,000, as on 31.03.2016 are fully hedged (JPY to USD) in respect of coupon as well as repayment. USD to INR portion has been hedged for 50% of outstanding i.e. JPY 6,50,25,00,000 (equivalent to USD 5,93,84,000) and balance portion is unhedged."

The petitioner was asked to elaborate the contention in the above statement at Note 33 of Audited Accounts indicating the foreign loan and interest covered by hedging along with amount of hedging paid during FY 2015-16.

127. In response to above, the petitioner submitted the following:

"It is humbly submitted that finance cost of Rs. 39.31 Crores towards foreign currency loan (ECB only) as indicated in Note 22 of Annual Audited Accounts includes Rupee equivalent of provision made for outstanding interest as on 31-03-2016 (not due for payments), whereas actual payment also includes payment of outstanding interest as on 31-03-2015 (which was not due for payments as on 31-03-2015).

Reconciliation between Finance Costs towards Foreign Currency Loan (ECB Only) as recorded in Note 22 of Annual Audited Accounts and Interest Amount actually paid is as under:-

Amount in Rs Crore

Sl. No.	***Particulars***	***Interest Paid***
1	*Paid on 21-09-2015*	*16.17*
2	*Paid on 22-03-2016*	*17.38*
3	***Total***	***33.55***
4	***Add:-** Interest Provision pertaining to FY 2015-16 not included in above payments*	*11.37*
5	***Less:-** Interest Provision pertaining to FY 2014-15 included in Sl.No.1*	*5.61*
6	***Finance Costs towards Foreign Currency Loan (ECB Only) as recorded in Note 22 of Annual Audited Accounts***	***39.31***

It is further submitted that the FERV claim of Rs 17.92 Crores accrues by virtue of Regulation 29 which allows the Petitioner to recover such FERV on Year-to-Year basis as income or expenses in the period in which it arises *whereas Interest amount recorded in Note 22 represents Rupee equivalent of Interest expenses irrespective of its payment status. In other words Rs 39.31 Crores includes notional FERV on Interest Provision pertaining to FY 2015-16 but excludes Interest Provision pertaining to FY 2014-15. The claim of the Petitioner relates to FERV on actual interest paid.*

Response of petitioner to para ii

The Petitioner requests the Commission to refer preliminary submission made at Para 2 above. In respect of ECB of JPY 1,530 Crores (Rs 848.90 Crs), the repayment and interest payment on ECB, as per extant regulations needs to be converted into USD first and then to INR, meaning thereby, hedging has not only to be done for JPY to USD fluctuations but they need to be hedged for USD to INR fluctuations also. In the instant case, 100% of ECB Principal and 100% of interest thereon has been fully hedged for fluctuation in JPY to USD rates (Kindly refer Contracts HC-1 for Principal and HC-2 & HC-3 for Interest). For USD to INR fluctuations, only 50% of Principal & 50% of Interest has been hedged. May please refer Annexure-3 attached with Preliminary Submission at Para 2.

The Petitioner hereby humbly prays the Commission to allow the actual FERV expenses on actual payments of Principal Foreign Loans (ECB & FCCB), actual FERV expenses on actual payments of Interests on Foreign Loans (ECB & FCCB) incurred during FY 2015-16 along with the Hedging Costs incurred by the Petitioner during FY 2015-16 as allowable under Regulation 29.

128. On perusal of aforesaid reply filed by the petitioner in its additional submission, it was observed that certain issues related to hedging and FERV expenses were still lacking clarity. Therefore, a technical validation meeting was convened on 01.06.2018 between the officers/representatives of Commission and the concerned representatives of the petitioner on these issues. The figures claimed towards FERV were reconciled with the ledgers, bank statements and Annual Audited Accounts of JP Nigrie Stand alone balance sheet. As discussed during the course of aforesaid meeting, vide Commission's letter No. 800 dated 05th

June’2018, the petitioner was asked to inform/submit some more information along with the calculation sheets for arriving at its claim towards FERV expenses and hedging cost.

129. By affidavit dated 6th April’ 2018, 24th April’ 2018 and 13th June’ 2018 in its additional submissions, the petitioner submitted the following details and documents in support of its claim towards FERV and Hedging cost:

(i) Statement of Gain/(Loss) on account of FERV towards actual repayments during FY 2015-16.

(ii) Copy of bank statements with Forms No. 15 CA and 15 CB towards actual repayments and interest payments of ECB and FCCB.

(iii) Statement of Gain / (Loss) on actual interest payment of ECB and FCCB.

(iv) Statement showing loan repayment and interest payment schedules for ECB and FCCB indicating the scheduled dates and actual dates of such repayments/payments. This statement has also indicated the Gain/ (Loss) on principal repayments and interest payments on account of Exchange Rate at the time of actual repayments/payments with reference to the Exchange Rate at the time of disbursal.

(v) Statement of settlement amount of Rs. 2,71,15,931.51 (Rs 2.71 crore) received by the petitioner against Hedging contracts.

130. On perusal of the Statement filed as Annexure 4 (Format A) by affidavit dated 13th June’2018 mentioning loan repayment and interest payment schedules for ECB and FCCB indicating the scheduled dates and actual dates of such repayments/payments, it was observed that the aforesaid statement has only indicated the Gain/ (Loss) on principal repayments and interest payments on account of Exchange Rate at the time of actual repayments/payments with reference to the Exchange Rate at the time of disbursal. The Gain/Loss on principal repayments and interest payments on account of Exchange Rate at the time of actual repayments/payments with reference to the Exchange Rate at the time of Schedule date of such payments was obtained from the petitioner from which the following status of Gain/Loss with reference to Schedule date of payment is observed:

Table 21: FERV on Principle Repayment (Rs in Crore)

Col (1)	Col (2)	Col (3)	Col (4)	Col (5)	Col (6) = Col (5) x [Col (4)-Col (3)]
Sl. No.	**Particulars**	**Exchange Rate as on scheduled Date**	**Exchange Rate at the time of disbursal**	**Principal in Foreign Currency**	**Gain/(Loss) with Reference to Scheduled Date of Payment**
1	ECB Loan Repayment (Covered)	0.5357	0.5548	382,500,000.00	7,319,750.00
		0.5353	0.5548	382,500,000.00	7,472,750.00
2	ECB Loan Repayment (Not Covered)	0.5357	0.5548	382,500,000.00	7,319,750.00
		0.5353	0.5548	382,500,000.00	7,472,750.00
3	FCCB Loan Repayment (Covered)			-	
4	FCCB Loan Repayment (Not Covered)	65.7084	46.1200	73,909,056.15	(1,447,760,155.49)
	Total				**(1,418,175,155.4887)**

Table 22: FERV on Interest Payment (Rs in Crore)

Col (1)	Col (2)	Col (3)	Col (4)	Col (5)	Col (6) = Col (5) x [Col (4)-Col (3)]
Sl. No.	**Particulars**	**Exchange Rate as on scheduled Date**	**Exchange Rate at the time of disbursal**	**Interest in Foreign Currency**	**Gain/(Loss) with Reference to Scheduled Date of Payment**
1	ECB Interest Payment (Covered)	0.5149	0.5548	142,885,000.00	5,706,341.28
		0.5696	0.5548	136,722,500.00	(2,018,488.78)
2	ECB Interest Repayment (Not Covered)	0.5149	0.5548	150,279,851.00	6,001,666.49
		0.5696	0.5548	151,020,731.00	(2,229,579.26)
3	FCCB Interest Repayment (Covered)			-	
4	FCCB Interest Repayment (Not Covered)	64.2000	46.1200	4,500,143.33	(81,362,591.41)
		65.7084	46.1200	1,090,943.85	(21,369,844.51)
		66.4800	46.1200	1,163,526.58	(23,689,401.17)
		67.9400	46.1200	1,774,871.06	(38,727,686.53)
	Total				**(157,689,583.8937)**

131. On detailed scrutiny of the submissions along with the details and documents placed on record by the petitioner towards FERV expenses and hedging cost claimed by the petitioner, the Commission has considered to allow the following cost towards FERV expenses and hedging cost in this order during FY 2015-16:

Amount in Rs. Crores

S. No	Particulars	FERV
1	FERV expenses incurred on the Repayments made during FY 2015-16	141.81
2	FERV expenses incurred on the Interest Payments made during FY 2015-16	15.77
3.	Hedging Costs incurred net of Settlement amount received during FY 2015-16	32.99
4	**Total**	**190.57**

Summary of Annual Capacity (fixed) charges:

132. The details of the Annual Capacity (fixed) Charges for FY 2015-16 as determined in the Tariff order dated 24th May' 2017 vis-a-vis allowed in this true-up order at normative Plant Availability Factor are summarized as given below:

Table 23: Head wise Annual Capacity Charges at normative availability

(Rs. in Crore)

Particulars/Years	MPERC Order dated 24.05.2017 for FY 2015-16	Allowed in this order for FY 2015-16 on Normative Availability	True-up amount at Normative Availability
	A	B	(B-A)
Depreciation	518.53	535.84	17.31
Interest on Loan	940.12	906.75	(33.37)
Return on Equity	363.13	363.47	0.34
Interest on Working Capital	77.06	76.70	(0.36)
O & M Expenses	199.19	199.19	(0.00)
O & M Expenses(400kV Transmission lines & Bay)	0.00	0.00	-
Secondary Fuel Oil Expenses	52.07	52.07	-
Lease rent payable for land (yearly)	0.35	0.44	0.09
Annual Capacity (fixed) Charges	**2150.45**	**2134.46**	**-15.99**
Less: Non-Tariff Income	0.00	4.10	4.10
Net Annual Capacity charges	**2150.45**	**2130.36**	**-20.09**
Foreign Exchange Rate Variation	0.00	190.57	190.57
Total Capacity Charges inclusive of FERV for applicable days	**2150.45**	**2320.93**	**170.48**
Capacity Charges for contracted Capacity i.e. (30%) of installed Capacity	**645.14**	**696.28**	**51.14**

133. The Annual Capacity (fixed) Charges as determined above for FY 2015-16 are at Normative Availability and these charges are based on Annual Audited Accounts of Japyee Nigrie Thermal Power Plant for FY 2015-16.

134. The recovery of Annual Capacity charges for FY 2015-16 shall be made by the petitioner in accordance with Clause 40.2 and Clause 40.3 of the Tariff Regulations, 2012 on pro rata basis with respect to actual Annual Plant Availability Factor.

Implementation of the order:

135. 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, 2012 and its amendments and recalculate its bills for the energy supplied to Distribution Companies of the State/ M.P. Power Management Company Ltd. since 1st April' 2015 to 31st March' 2016.

136. 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 passed on to MP Power Management Company Ltd/ three Distribution Companies of the state in terms of applicable Regulation in six equal monthly instalments during FY 2018-19.

With the above directions, this Petition No. 41 of 2017 is disposed of.

(Anil Kumar Jha)	(Mukul Dhariwal)	(Dr. Dev Raj Birdi)
Member	Member	Chairman

Date : 20th July'2018
Place : Bhopal

Annexure 1

Issue Wise reply of the petitioner to the queries raised by the Commission:-

Capital Cost and Additional Capitalization:

Issue:

(i) The figures of additional capitalization during FY 2015-16 filed in the subject petition at (Form TPS 5B) is not tallied with the figures recorded in Note-10 of the Annual Audited Accounts for FY 2015-16 of Jaypee Nigrie Thermal Power Plant as given below:

Sr. No.	Particular	Filed in the petition (TPS 5B) (Rs Crore)	Recorded in Note to Annual Audited Account (Rs Crore)
1.	JNSTPP (Net)	21.13	114.48

The petitioner is required to explain the reasons for aforesaid difference in figures recorded in Annual Audited Accounts and those filed in the petition.

Petitioner's Response:

As observed by the Commission, the difference between figures of net additional capitalization during FY 2015-16 filed in the instant Petition and the figures recorded in Note to the Annual Audited Financial Accounts for FY 2015-16 is explained as under:-

Sl. No.	Particular	Rs. Crore	Remarks
1.	Additional Capitalization during FY 2015-16 (Net)	21.13	As filed in the Petition
2.	**Add:-** Amount of increase in the Capital Cost due to Foreign Exchange Rate Variation (FERV)	93.35	Not claimed as additional capitalization by virtue of its being FERV on restatement basis on Balance Sheet date.
3.	Total Additional Capitalization during FY 2015-16 (Net)	**114.48**	Recorded in Note to annual Audited Accounts

It is pertinent to point out that the Petitioner has claimed actual loss of Rs 148.66 Crore on account of FERV incurred on the Repayment of ECB in TPS-1 of the Petition.

Issue:

(ii) With regard to the Additional Capitalization during FY 2015-16 claimed in the petition, a comprehensive reply to the following issues with all relevant supporting documents be filed:

a. Whether the addition of assets is on account of the reasons (a) to (e) in Regulation 20.1 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012.

b. Whether the assets capitalized during the year are under original scope of work. Supporting documents be also filed in this regard.

Petitioner's Response: Reply to Para (ii)(a) and (b)

The Petitioner humbly submits that the additional net capitalization of Rs 21.13 Crore in Generating Station and Rs 695.98 Crore in Amelia Coal Mines fall within the norms specified under Regulation 20.1 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2012. The said Regulation reads as under:-

"The Capital Expenditure incurred or projected to be incurred, on the following counts within the original scope of work, after the Date of Commercial Operation and up to cut-off date may be admitted by the Commission, subject to prudent check:

(a) Undisclosed liabilities

(b) Work deferred for execution

(c) Liabilities to meet award of arbitration or for compliance of order or decree of a court,

(d) Change in Law,

(e) Procurement of initial spares within the original scope of work, subject to the provisions of Regulation 17.1(b)

Provided that the details of works included in the original scope of along with estimates of expenditure, un-discharged liabilities and works deferred for execution shall be submitted along with the application for Tariff."

The Petitioner would humbly like to draw the kind attention of Hon'ble Commission in the light of the above Regulation that the said additional capitalization is within the original scope of the work of Rs 12,400/- Crore authorized by the Resolution of Board of Directors dated May 30th, 2015 approving Final Project Cost.

Resolution of Board of Directors dated May 30th, 2015 is attached as Annexure-1.

Issue:

c. The Assets addition claimed in the petition be reconciled with the figures recorded in the Assets cum Depreciation Register.

Petitioner's Response: Reply to Para (ii) (c)

Reconciliation between Asset Addition during FY 2015-16 claimed in the Petition and Figures recorded in the Asset-cum-Depreciation Register is furnished as under:-

Asset Addition during FY 2015-16 as per Asset-cum-Depreciation Register

Sl. No.	***Particulars***	***Amount***	***Remarks***
1	*Asset addition during FY 2015-16 as per Asset-cum-Depreciation Register as on 31-03-2016 in Generating Station*	*34,14,75,848*	*Pl refer Appendix-1 to TPS Form (Page 121 of the Petition)*
2	***Less:-** Asset deletion/adjustment during FY 2015-16 as per Asset-cum-Depreciation Register as on 31-03-2016 in Generating Station*	*13,01,75,460*	
A	***Net Asset addition during FY 2015-16 as per Asset-cum-Depreciation Register as on 31-03-2016 in Generating Station***	***21,13,00,388***	
B	***Asset addition during FY 2015-16 as per Asset-cum-Depreciation Register as on 31-03-2016 in Amelia Coal Mines***	***6,95,97,53,132***	*Pl refer Appendix-2 to TPS Form (Page 135 of the Petition)*
C	***Total Asset addition during FY 2015-16 as per Asset-cum-Depreciation Register as on 31-03-2016 in Project***	***7,17,10,53,520***	
	Say,	***717.11***	***In Rs Crore***

Asset Addition during FY 2015-16 as Claimed in the Petition

Sl. No.	***Particulars***	***Amount***	***Remarks***
1	*Asset addition during FY 2015-16 in Generating Station as per Petition (TPS 5B)*	*34.15*	*Pl refer TPS 5B (Page 54 of the Petition)*
2	***Less:-** Asset deletion/adjustment during FY 2015-16 in Generating Station as per Petition (TPS 5B)*	*13.02*	
A	***Net Asset addition during FY 2015-16 in***	***21.13***	

	Generating Station as per Petition (TPS 5B)		
B	***Asset addition during FY 2015-16 as per Petition (TPS 5B) in Amelia Coal Mines***	***695.98***	
C	***Total Asset addition during FY 2015-16 as per Petition (TPS 5B) in Project***	***717.11***	

Issue:

d. Details of the works completed/ in progress for completion as on 31st March' 2016, along with supporting documents be filed by the petitioner.

Petitioner's Response: Reply to Para (ii)(d)

Details of work completed in the up to 31st, March 2016 has been mentioned in the Asset-cum-depreciation register filed as Appendix-1 & Appendix-2 to the TPS form attached with the Petition. (Pl refer Page 102 to Page 121 of the Petition for addition in Generating Station and from Page 122 to Page 135 of the Petition for addition in Mines).

Issue:

e. Why the above works claimed under additional capitalization have not been carried out/completed up to CoD of the project.

Petitioner's Response: Reply to Para (ii)(e)

The Petitioner respectfully submits that out of total additional capitalization of Rs 34.15 Crore (net capitalization is Rs 21.13 Crore) made in Generating Station, as gleaned out from Para 6.1 to Para 6.4 of the instant Petition, jobs/supplies relating to capitalization worth Rs 31.97 Crore had been carried out during FY 2014-15 itself and only Rs 2.18 Crore were capitalized against those jobs/supplies which were carried out during FY 2015-16, though they were part of original scope of work. Relevant portions of the Petition relating to those jobs, though being part of original scope of work, which were carried out and capitalized during FY 2015-16 totalling Rs 2.18 Crore are reproduced as under:-

"6.1 ***……………………….***

(a) ……………………………..

(b) ……………………………..

6.2 ***……………………………………………***

(a) ……………………………………..

6.3 ***Addition in Capital Cost on account of BOP equipment:***

....

(a) ***BOP Mechanical:*** *………………………………*

(i) ***……………………………..***

(ii) ***…………………………….***

(iii) ***………………………………..***

(iv) ***Fuel Handling and Storage System****: Payment of Rs 4.35 Lacs were made to M/s Technofab Engineering for the supplies made against the Mandatory Spares which was covered under the original scope of work and was supplied during FY 2015-16 and payment for the same was made during FY 2015-16 as well. Apart from above, SS-316 Barrel Pump (SP/SS/200-E) worth Rs 0.83 Lacs was also procured & capitalized during FY 2015-16.*

(v) ***……………………………………….***

(vi) ***………………………………………..***

(vii) ***Air Compressor System****: The Petitioner had to procure a diesel operated air compressor for Rs 0.06 Crore to facilitate Coal unloading during blackouts. The aforesaid was required so that the Petitioner may avoid demurrage charges to the railways in case of station blackout.*

(viii) ***………………………………………………***

(ix) ***…………………………………………………..***

(x) ***…………………………………………….***

(xi) ***Office and Other Equipments****: An amount of Rs. 1.02 Crore were spent towards procurement of various office equipments in line with the original scope of work.*

(xii) ***…………………………………………….***

(b) ***BOP Electrical:*** *………………………………………*

(i) ***……………………………………………..***

(ii) ***……………………………………………..***

(iii) ***Cables, Cable Facilities and Grounding****: A total amount of Rs. 0.07 Crore were spent towards procurement of Electric Circuit Breaker.*

(iv) ***Lighting:*** *A total amount of Rs.92.29 Lacs was paid by the Petitioner to M/s Bajaj Electronics for the Illumination System in the plant area. It is further submitted that this portion of the work under Illumination System, though being covered under the*

original scope of work, could not be capitalized during FY 2014-15 and had to be capitalized in FY 2015-16 as the work was completed after cleaning of the site for illumination purposes.

(v) ***…………………………………………….***

6.4 ***Addition in Capital Cost on account of Civil Work:*** *……………………………………………………………….*

(a) ***…………………………………………………….***

(b) ***Roads Culverts and Drainage:*** *An amount of Rs. 5.78 Lacs was spent during FY 2015-16 towards construction of drainage system at the power plant to provide the way to natural flow of water.".”*

On perusal of the above excerpts, it is obvious that above jobs which were carried out & capitalized during FY 2015-16, though being part of original scope of work, none of them were of such nature that in the absence of any of the above, Commissioning/smooth functioning of our plant could be hampered but at the same time they were necessary to be carried out for better efficiency and were of finishing nature.

Issue:

f. The petitioner is required to file a list of the orders placed to different vendors for additional capitalization claimed in the petition along with date of order, price at which contract awarded and anticipated date of completion of each work. If there is any delay in completion of works from contractor side, the details of penalty if any, imposed on the contractor be informed.

Petitioner's Response: Reply to Para (ii)(f)

List of the orders placed to different vendors for additional capitalization claimed in the Petition along with order details & amount of capitalization is attached herewith as ***Annexure-2****.*

Issue:

(iii) The petitioner is required to file the status of Liquidated Damages if any, recovered/to be recovered from the different vendors as on 31st March' 2016.

Petitioner's Response:

Till March 31st, 2016, no liquidated damages/ penalties have been recovered *from any contractors/ vendors.*

<u>Source of Funding</u>:-

Issue:

(iv) The petitioner has mentioned that the additional capitalization claimed in the petition has been funded through equity/internal sources. The petitioner is required to indicate/refer the aforesaid equity addition in the relevant part of the Annual Audited Accounts.

Petitioner's Response:

The Petitioner very humbly requests Hon'ble Commission to refer the Cash Flow Statement of Jaiprakash Power Ventures Limited at Page No.77 of the Annual Report for FY 2015-16 where Net Cash Flow from Operating Activities is shown at Rs 2,401.22 Crore. Net Additional Capitalization of Rs 21.13 Crore was funded through this cash accrual. Printed Balance Sheet of JPVL also is attached.

Issue:

(v) The petitioner has claimed ROE by grossing up the rate of return on equity with MAT. The petitioner is required to justify its claim in light of the proviso under Regulation 22.3 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012, which provides as under:

> ***"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."***

As per the Annual Audited Account of Jaypee Nigrie Thermal Power Plant for FY2015-16, the tax amount is indicated as NIL, while the petitioner has claimed Return on Equity by grossing up with MAT. Therefore, the petitioner is required to file the basis of tax amount claimed whereas, it has not paid any income tax for Jaypee Nigrie Thermal Power Plant and JPVL for FY 2015-16.

(vi) It needs to be explained with supporting documents whether the petitioner is eligible for MAT in light of figures recorded in its balance sheet and the provisions under MPERC (Terms and Condition for

Determination of Generation Tariff) Regulations, 2012.

Petitioner's Response *to Para (v) & (vi)*

The Petitioner very humbly submits that grossing up of Rate of Return with MAT was inadvertently claimed.

Issue:

(vii) The petitioner is required to file the detailed break-up and allocation of income, expenditure and profit/loss of M/s JPVL among all its power stations for FY 2015-16 duly certified by statutory auditor.

Petitioner's Response

*The break up and allocation of income, expenditure and profit/ loss of M/s. JPVL among all its power stations for FY 2015-16 duly certified by Statutory Auditor is attached as Annexure-3**.***

Issue:

(viii) The petitioner is also required to file the copy of challan for the income tax paid during FY 2015-16 along with the copy of the income tax return.

Petitioner's Response

*Copy of challan for Income Tax paid during FY 2015-16 along with the copy of Income Tax Return for FY 2015-16 are attached as **Annexure 4.1**&**Annexure-4.2.***

Interest on Loan:-

Issue:

(ix) The petitioner has worked out the weighted average rate of interest on Normative Loan from different lenders whereas Regulation 32.5 provides that:

> ***"The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio after providing appropriate accounting adjustment for interest capitalized."***

In view of above Regulation, the petitioner is required to file the detailed computation of the weighted average rate of interest on the basis of the actual loan portfolio. The documents in support of rate of interest for FY 2015-16 be also filed in this regard.

Petitioner's Response

The Petitioner would humbly like to submit that the month wise/ tranche wise actual interest rates corresponding to actual loan portfolio for each bank has been taken into account to calculate the Weighted Average Rate of Interest for each bank. Bank wise Interest Rate so calculated is used in the TPS 13 where normative loan balance is reflected. Further, weighted average rate of interest for whole Project derived by TPS 13 is carried over to TPS 13A.

A detailed computation showing bank wise/ tranche wise/ month wise rate of interest to arrive at Weighted Average Rate of Interest is attached as ***Annexure-5.1.*** *Sample mails from the lenders/ relevant page of the loan agreement regarding applicable rate of interest is attached as* ***Annexure-5.2.***

Cost of Secondary Fuel:-

Issue:

(x) **With regard to cost of secondary fuel oil, the petitioner is required to file invoice/bills in support of oil purchased during the year.**

Petitioner's Response

Copies of bills of LDO and HFO purchased during FY 2015-16 are attached as ***Annexure-6****.*

O&M Expenses:-

Issue:

(xi) **The petitioner has not discussed or mentioned anything about its claim towards O&M expenses of 400 kV Transmission line and Bay, However, in Form TPS-1, the petitioner has claimed Rs. 1.62 Crore for FY 2015-16 for O&M expenses of transmission line and bay mentioning that the same has been rejected vide Commission's final order dated 24.05.2017 subject to be recalculated based on the outcome of Appeal filed against such order. It is further mentioned in aforesaid form that no amount is shown for FY 2014-15 but the amount of Rs. 1.62 Crore is being claimed for FY 2015-16 for illustration purpose.**

Therefore, the petitioner is required to clarify its contention for claiming such cost which has been disallowed by the Commission and sub judiced in an Appeal filed by the petitioner before the Hon'ble APTEL. The petitioner is also required to justify its claim in this regard in light of

the MPERC (Terms and Condition for determination of Generation Tariff) Regulations, 2012.

Petitioner's Response

(1) *It is respectfully submitted that this Hon'ble Commission whilst rejecting the Petitioners' claim regarding the O&M expenses relating to transmission line and bay has failed to consider that as per the terms and conditions of the PPAs entered into with Madhya Pradesh Power Management Company Limited* ***(MPPMCL****), it is the procurers liability / responsibility to arrange for the evacuation of power from the bus bar of the Project. To this extent, relevant extracts of the PPA have been reproduced below for ease of reference:*

> *"****Delivery Point*** *shall mean the ex-bus point of the power station at the power station switch yard…*
>
> ***Satisfaction of Conditions subsequent by the Procurer….***

i) *The Procurer shall have obtained open access and/ or connectivity for evacuation of the Scheduled Energy from the delivery Point at lease 60 (sixty) days prior to the commissioning of the first Unit*

ii) *The Procurer shall have established the necessary evacuation infrastructure beyond the delivery point required for evacuation of the Scheduled Energy at least 210 days prior to the commissioning of the first Unit….*

> ***4.2 Procurers Obligations****…*

i) *The Procurer shall have obtained open access and/ or connectivity for evacuation of the Scheduled Energy from the delivery Point at lease 60 (sixty) days prior to the commissioning of the first Unit*

ii) *The Procurer shall have established the necessary evacuation infrastructure beyond the delivery point required for evacuation of the Scheduled Energy at least 210 days prior to the commissioning of the first Unit…."*

(2) *It is submitted that even though the responsibility for setting up the evacuation infrastructure was part of MPPMCLs' obligation, the same was carried out by the Petitioner at the request of the MPPMCL, therefore forms part of the Project and Petitioner would be entitled to recover the O&M cost for the dedicated transmission line.*

(3) *It is pertinent to note that the transmission line set up by the Petitioner is clearly covered by Section 2(72) of the Electricity Act, 2003. It accomplishes*

the function of a dedicated transmission line by carrying power from the source of generation to Satna sub-station. Therefore, the Petitioner is entitled to the capital cost of the transmission line so erected in addition to the O&M costs associated with the said transmission line as the same is owned, operated and maintained by the Petitioner.

(4) It is respectfully submitted that by disallowing the O&M costs of the dedicated transmission line, this Hon'ble Commission has allowed MPPMCL to enjoy a benefit / advantage at the cost of the Petitioner. The Petitioner performed an action beneficial to MPPMCL under the PPA and is entitled to be compensated for the costs associated with undertaking the same.

(5) Therefore, the Learned Commission erred in disallowing the O&M costs of the dedicated transmission line to the Petitioner as the same would result in a significant drop in the Return on Equity allowed in the tariff of the Petitioner and the Project would not be commercially viable.

(6) It is submitted that this Hon'ble Commission may kindly appreciate that that dedicated transmission line essentially carries out the functions of a transmission line and therefore should be entitled to O&M expenses at par with what is prescribed for other transmission lines, especially in view of the fact that the line was originally planned to be developed by the MPPMCL.

(7) It is respectfully submitted that the Electricity Act, the National Electricity Policy and the Tariff Policy require that consumer interest is protected while ensuring financial viability and growth of the power sector. It is submitted that the twin objectives of financial viability/sustainability and consumer interest are the cornerstone of the electricity sector. In exercise of powers under Section 3 of the Act, the Central Government on 12.02.2005, prepared and published the National Electricity Policy. The following relevant provisions of the National Electricity Policy are mentioned below for kind consideration:-

"5.5.1- There is an urgent need for ensuring recovery of cost of service from consumers to make the power sector sustainable.

5.8.4 - Capital is scarce. Private sector will have multiple options for investments. Return on investment will, therefore, need to be provided in a manner that the sector is able to attract adequate investments at par with, if not in preference to, investment *opportUnities in other sectors. This would obviously be based on a clear understanding and evaluation of opportUnities and risks. An appropriate balance will have to be maintained between the interests of consumers and the need for investments.*

5.8.5 - All efforts will have to be made to improve the efficiency of operations in all the segments of the industry. Suitable performance norms of operations together with incentives and disincentives will need to be evolved along with appropriate arrangement for sharing the gains of efficient operations with the consumers. This will ensure protection of consumers' interests on the one hand and provide motivation for improving the efficiency of operations on the other.

5.8.7 It will be necessary that all the generating companies, transmission licensees and distribution licensees receive due payments for effective discharge of their operational obligations as also for enabling them to make fresh investments needed for the expansion programs. Financial viability of operations and businesses would, therefore, be essential for growth and development of the sector. Concerted efforts would be required for restoring the financial health of the sector. For this purpose, tariff rationalization would need to be ensured by the SERCs. This would also include differential pricing for base, intermediate and peak power."

(8) Further, the Electricity [Removal of Difficulty] (fifth) Order, 2005 clearly provides that a generating company shall not be required to obtain license under the Electricity Act, 2003 for establishing, operating or maintaining a dedicated transmission line. Section 10 of the Electricity Act 2003 mandates the Generating Company to establish, operate and maintain the Dedicated Transmission Lines. Therefore, any cost incurred with regards to such activity must be adequately recovered so that the Generator can effectively run its business of power generation. This is primarily based on the rationale that the dedicated transmission line built by the generating company forms part of transmission line. The Hon'ble Tribunal in its Judgment dated 23.05.2012 in Appeal No. 145 of 2011 titled Tamil Nadu Electricity Board and Ors v. M/s IndBarath Thermal Power Ltd and Ors. has held as below: -

"14………….On the contrary, Section 10 of the 2003 Act mandates that generating company shall establish, operate and maintain the

dedicated transmission lines connected therewith in accordance with the provisions of this Act. Thus, the Section 10 of the 2003 Act becomes mandatory by which the generating company is mandated to construct its own dedicated transmission lines which connect the substation of the Appellant"

In view of the aforementioned it is submitted that this Hon'ble Commission may kindly allow the recovery of O&M expenses relating to the transmission lines and bay.

Lease Rent:-

Issue:

(xii) In Form TPS-1, the petitioner has claimed an amount of Rs. 0.40 Crore during FY 2015-16 as lease rent payment for land. Supporting document(s) in this regard is required to be filed by the petitioner. This amount is required to be reconciled with the Annual Audited Accounts.

Petitioner's Response

The Petition very humbly seeks to revise Lease Rent Claim from Rs 40,11,110/- to Rs 43,63,633/-. The requisite challans & details thereof are attached as ***Annexure-7.*** *This amount is grouped under* ***"Other Expenses" (Note-24 of P&L A/c)*** *as* ***"Lease Rent of Land".***

Other issues

Issue:

(xiii) At S. No. 15 of Form TPS-1, the petitioner has claimed 32.43% Capacity Charge (Capacity Charges of 7.5% loaded on 30%) whereas, the aforesaid approach of the petitioner has been rejected by the Commission and the Hon'ble Appellate Tribunal for Electricity has also upheld the Commission's order on this issue in Appeal No. 25 of 2016 In view of the aforesaid, the petitioner is required to explain the reasons for claiming such cost against the aforesaid judgment passed by Hon'ble APTEL.

Petitioner's Response

1) *In response to query no. XI, it respectfully that this Hon'ble Commission whilst considering the Petitioners' claim regarding the recovery of 32.43% capacity charge, may kindly appreciate the fact that the GoMP is being offered the*

7.5% of the contracted energy at energy charges under the PPA dated 06.09.2011, to ensure that the host state is being given the benefit of electricity being generated from the Project, which is operating within its jurisdiction and the Petitioner is not claiming capacity charges on such supply. The Petitioner under the extant regulatory framework is entitled to recover the expenses incurred in operating the project. Accordingly, the Petitioner has claimed the pro-rated expenses from the remaining beneficiaries. As per Sections 61 and 62 of the Electricity Act, 2003 and various regulations of the Learned Commission etc. Furthermore, the claim of JPVL is also in line with the National Electricity Policy and National Tariff Policy.

2) *The mere fact that the beneficiaries under the two PPAs i.e. one for the supply of concessional power and the other for supply of contracted capacity were made with the same beneficiaries, would not derogate from the settled principle that each contract has to be construed based on its own terms and conditions. The provisions of the Tariff Regulations will have to be applied based on the requirements of law irrespective of the effective outcome of the same.*

Issue:

(xiv) The petitioner is required to file actual Plant Availability Factor achieved during FY 2015-16 duly certified by concerned Load Dispatch Centre.

Petitioner's Response:

As submitted to Hon'ble Commission in Reply to Para 8 of MPERC Letter dated 04-03-2016 during the proceeding of Petition No.72/2015, it is again respectfully submitted that PAF was never certified by the Petitioner's Load Despatch Centre (WRLDC). The Petitioner on their own used to calculate PAFM on the basis of Energy scheduled to MPPMCL as displayed in Regional Energy Account of a month issued by WRLDC, the methodology of which was explained in Para 2(h) of Reply to Para 8 of MPERC Letter dated 04-03-2016 which is reproduced as under:-

"Reply to Para 8

It is respectfully submitted that PAF is not certified by the Petitioner's Load Despatch Centre (WRLDC). Energy scheduled to MPPMCL as displayed in Regional Energy Account of a month is corresponding to the 37.5% (30%+7.5%) of share of the MPPMCL. The Petitioner *extracts the data of energy scheduled for Long Term and Short Term from WRLDC website on daily basis. It is also submitted that data relating to the Short Term/ Bilateral as displayed in the website of WRLDC is the energy delivered at Satna (CTU interconnection point), whereas the same is displayed corresponding to the energy delivered Ex-Bus at Nigrie in case of Long Term. Therefore, to bring parity of the energy scheduled for Short Term with that of the Long Term, the Petitioner has to adjust the transmission loss between Ex-Bus Bar, Nigrie and Satna (CTU interconnection point). Thereby, the Petitioner is left with the quantum of energy scheduled corresponding to Long Term and Short Term as delivered at Ex-Bus Nigrie. 7.5% of such quantum is then deducted from the Energy Scheduled as certified by the REA, thereby, the energy corresponding to 30% of MPPMCL is derived. This energy is then divided by total 30% of energy (reduced by Normative Auxiliary Consumption) corresponding to 100% availability which becomes the PAFM when expressed in percentage. However, during the Back Down instructions given by the MPPMCL, an adequate adjustment has to be made to arrive at the 30% energy corresponding to 100% availability. On the basis of such PAFM itself, the bill is raised on MPPMCL and payment also is made by them.*

*The monthly PAFM calculation alongwith the relevant pages of the bills and REA are attached herewith as **Annexure-14**, the figures of which are duly supported by monthly Regional Energy Account of the respective month."*

*However, pursuant to the direction of Hon'ble CERC in ROP dated 25-09-2017 in Petition No. 192/MP/2016, the Western Regional Power Committee (WRPC) has certified data of energy corresponding to the **"Declared Capacity"** along with the energy supplied as per **"Agreed Schedule"** from June-2015 to May-2017 vide an Addendum to the REA for the period from June-2015 to May-2017. The Petitioner has recalculated the PAFY achieved during FY 2015-16 on the basis of that Addendum and the same works out to be 81.22%. Copy of revised calculation of PAFY of 81.22% and Addendum to the REA issued vide Letter No. WRPC/Comml.-I/ABTREA/CERC/2018/537 dated 16-01-2018 are attached as **Annexure-8.1** & **Annexure-8.2** respectively.*

Issue:

(xv) The petitioner is also required to file a copy of bills raised during FY 2015-16 to the procurer for supply of electricity.

Petitioner's Response:

The summary of bills raised during FY 2015-16 to the Procurer for the supply of electricity is attached as ***Annexure-9.1****. However, copies of electricity bills as are being furnished in a CD attached as* ***Annexure-9.2****.*

Issue:

(xvi) Why the claim of Rs 17.92 Crore towards FERV on account of FERV on account of actual interest paid on FCCB and ECB during FY 2015-16 has not been made in subject petition?

Petitioner's Response

While claiming the Interest on loan for AFC it was inadvertently presumed that actual interest along with the forex variation has been claimed in the tariff. However later on it was realised that interest on FCCB and ECB for AFC was calculated/claimed at the coupon rates (in % terms) at the time of disbursement i.e FCCB @ INR/USD of Rs 46.12 and ECB @ INR/JPY of Rs 0.55484 not on the actual rate at which payments are made and therefore the amount claimed is without FERV of Rs 17.92 Crs on interest paid on Foreign Currency Loan paid during FY 2015-16 and the Hedging Cost of Rs 32.99 Crore and to rectify the same, claim of FERV on payment of interest was filed. The Hedging expenses were inadvertently missed out, which are now being submitted.

Issue:

(xvii) Break up of aforesaid FERV cost into notional and actual booking of gain/loss on account of FERV.

Petitioner's Response

It is hereby submitted that FERV loss of Rs. 148.66 Crore on Repayments of Foreign Loans & Rs. 17.92 Crore on payment of interest on Foreign Loan has actually been incurred. Total of above FERV loss comes out to be Rs 166.58 Crore (Rs 148.66+Rs 17.92 Crore). This entire amount of FERV loss is on actuals.

Issue:

(xviii) Details of actual repayment of foreign loan, actual FERV loss/gain on such repayment and hedging (separately) if any taken. The aforesaid information need to be provided for each instalment of loan.

(xix) The information of actual payment of interests on foreign loan, actual FERV loss/gain on such repayment and hedging if any taken. The information be provided for each payment of interest.

Petitioner's Response

The details of actual repayments of foreign loan, along with actual loss/gain on such repayments is attached as ***Annexure-6.1****.*

The details of actual payments of interest on foreign loan, along with actual loss/gain on such payments of interest is attached as ***Annexure-6.2****.*

Regarding separate cost of hedging coverage of above repayments & payments of interests, Hon'ble Commission is humbly requested to refer Annexure-2 & Annexure-3 along with Hedging Contracts attached as Annexure-1 in Para 2. A brief summary of all Annexure-1, Annexure-2 & Annexure-3 is as under:-

- *Separate Hedging Cost regarding* ***JPY to USD "Leg"*** *can be arrived at in respect of Principal Repayments & Interest Payment along with separate Settlement (Refund) Amount. Incidentally settlement or refund amount received in this* ***"Leg"*** *is* ***NIL.***

However, separate statements of Hedging Cost regarding JPY to USD "Leg" in respect of Principal Repayment & Interest Payment are as under:-

Table-5

(C) Statement of Hedging Cost regarding JPY to USD "Leg" in respect of Principal Repayment

Sl. No.	Date	Contract Reference	Purpose	Premium	Rate	Premium
				USD	Rs./ USD	Rs.
1	07-05-2015	HC-1	Hedging the Principal of 15.30 Billion (JPY-USD)	6,93,863.75	63.84	4,42,96,261.80
2	07-08-2015	HC-1	Hedging the Principal of 15.30 Billion (JPY-USD)	6,71,952.26	63.78	4,28,57,787.09
3	07-11-2015	HC-1	Hedging the Principal of 15.30 Billion (JPY-USD)	6,64,648.43	65.51	4,35,44,441.89
4	05-02-2015	HC-1	Hedging the Principal of 15.30 Billion (JPY-USD)	6,27,723.52	67.82	4,25,72,209.13
	Total Hedging Cost in respect of Principal Repayment (JPY-USD) during FY 2015-16			**26,58,187.96**		**17,32,70,699.90**

Table-6

(D) Statement of Hedging Cost regarding JPY to USD "Leg" in respect of Interest Payment

Sl. No.	Date	Contract Reference	Purpose	Premium USD	Rate Rs./USD	Premium Rs.
1	07-05-2015	HC-2	Hedging the Interest Payable on JPY 12.58 Billion (JPY-USD)	1,15,643.96	63.84	73,82,710.41
2	07-05-2015	HC-3	Hedging the Interest Payable on JPY 2.72 Billion (JPY-USD)	39,434.93	63.84	25,17,525.93
3	07-08-2015	HC-2	Hedging the Interest Payable on JPY 12.58 Billion (JPY-USD)	1,11,992.04	63.78	71,42,964.30
4	07-08-2015	HC-3	Hedging the Interest Payable on JPY 2.72 Billion (JPY-USD)	38,189.62	63.78	24,35,772.15
5	07-11-2015	HC-2	Hedging the Interest Payable on JPY 12.58 Billion (JPY-USD)	1,10,774.74	65.51	72,57,407.09
6	07-11-2015	HC-3	Hedging the Interest Payable on JPY 2.72 Billion (JPY-USD)	37,774.51	65.51	24,74,797.02
7	05-02-2015	HC-2	Hedging the Interest Payable on JPY 12.58 Billion (JPY-USD)	1,04,620.59	67.82	70,95,368.41
8	05-02-2015	HC-3	Hedging the Interest Payable on JPY 2.72 Billion (JPY-USD)	35,675.93	67.82	24,19,541.57
	Total Hedging Cost in respect of Interest (JPY-USD) during FY 2015-16			**5,94,106.32**		**3,87,26,086.89**

- Arriving at separate Hedging Cost along with receipt of Settlement Amount regarding **USD to INR "Leg"** is not possible either in respect of Principal Repayments or Interest Payment since there is no separate contract for the same in **USD to INR "Leg",** or in other words, there is a common contract for **USD to INR "Leg"** for both principal and interest, unlike the **JPY to USD "Leg".** However, statements of Hedging Cost regarding USD to INR "Leg" in respect of Principal Repayment & Interest Payment are as under:-

Table-7

(C) Statement of Hedging Cost regarding USD to INR "Leg" in respect of Principal Repayment & Interest Payment

Sl. No.	Date	Contract Reference	Purpose	Premium USD	Rate Rs./USD	Premium Rs.
1	07-05-2015	HC-4	Hedging 50% of Principal & Interest (USD-INR)	5,80,736.30	63.84	3,70,74,205.39
2	07-08-2015	HC-4	Hedging 50% of Principal & Interest (USD-INR)	5,62,397.26	63.78	3,58,70,259.64
3	07-11-2015	HC-4	Hedging 50% of Principal & Interest (USD-INR)	5,56,284.24	65.51	3,64,44,961.98
4	05-02-2015	HC-4	Hedging 50% of Principal & Interest (USD-INR)	5,25,379.56	67.82	3,56,31,241.76
	Total Hedging Cost in respect of Principal Repayment & Interest Payment (USD-INR) during FY 2015-16			**22,24,797.36**		**14,50,20,668.77**

Against the payment of above Hedging Premium, the Petitioner has received Settlement (Refund) amount of Rs 2,71,15,931/- during FY 2015-16, the details are furnished in Annexure-3 in Para 2 above.

Therefore, Net Hedging Cost incurred during FY 2015-16 as per Statements (A), (B), (C) after adjustment of Settlement (Refund) Amount is Rs 32,99,01,524/-.

Issue:

(xx) Copy of bank statement, showing the above repayments of principal and payment of interest.

Petitioner's Response

- *It is humbly submitted that Copy of bank statements along with other ancillary documents substantiating the actual repayments of principal have been submitted with Hon'ble Commission vide Annexure-3.1, Annexure-3.2 & Annexure-3.3 of Submission dated April 6th, 2018 in the instant Petition (from Page No. 9 to Page No. 28). Annexure-4 of the same Submission provides calculation of FERV loss on actual repayment of FCCB & ECB (Page No. 29).*

  *However, Annexure-3.1, Annexure-3.2, Annexure-3.3 & Annexure-4 of Submission dated April 6th, 2018 are resubmitted as **Annexure-7.1** for ready reference.*

- *It is humbly submitted that Copy of bank statements along with other ancillary documents substantiating the actual payments of interest have also been submitted with Hon'ble Commission vide Annexure-1 of Submission dated April 24th, 2018 in the instant Petition (from Page No. 8 to Page No. 46).*

  *However, Annexure-1 of Submission dated April 24th, 2018 is resubmitted as **Annexure-7.2** for ready reference.*

Issue:

(xxi) Information of actual date wise payment need to be furnished in the format enclosed as Annexure-I. The petitioner is required to reconcile the details with the Annual Audited Accounts and claim of the petitioner.

Petitioner's Response

*Information as sought by Hon'ble Commission in the desired format is enclosed as **Annexure-8.** The interest due/paid on FCCB is not debited in the Profit & Loss a/c of JNSTPP, as the same is covered in Corporate Expenses. The interest paid on ECB is reconciled in Table 8 in the reply to Para vii(a).*

Issue:

(xxii) **Further, with regard to Annual Audited Accounts, the petitioner is required to furnish the following information:-**

a) **The Finance Costs of Rs 39.31 Crore towards foreign currency loan is indicated in Note 22 of Annual Audited Accounts, the petitioner is required to justify it claim of FERV on interest (foreign loan) of Rs 17.92 Crore, in light of above figure in Annual Audited Accounts.**

b) **At Note 33 of Annual Audited Accounts the following is stated:-**

"The External Commercial Borrowing (ECBs) outstanding JPY 13,00,50,00,000, as on 31.03.2016 are fully hedged (JPY to USD) in respect of coupon as well as repayment. USD to INR portion has been hedged for 50% of outstanding i.e. JPY 6,50,25,00,000 (equivalent to USD 5,93,84,000) and balance portion is unhedged."

The petitioner is required to elaborate the contention in the above statement indicating the foreign loan and interest covered by hedging along with amount of hedging paid during FY 2015-16.

Petitioner's Response

It is humbly submitted that finance cost of Rs. 39.31 Crore towards foreign currency loan (ECB only) as indicated in Note 22 of Annual Audited Accounts includes Rupee equivalent of provision made for outstanding interest as on 31-03-2016 (not due for payments), whereas actual payment also includes payment of outstanding interest as on 31-03-2015 (which was not due for payments as on 31-03-2015).

Reconciliation between Finance Costs towards Foreign Currency Loan (ECB Only) as recorded in Note 22 of Annual Audited Accounts and Interest Amount actually paid is as under:- ***Table-8***

Amount in Rs Crore

Sl. No.	***Particulars***	***Interest Paid***
1	*Paid on 21-09-2015*	*16.17*
2	*Paid on 22-03-2016*	*17.38*
3	***Total***	***33.55***
4	***Add:-*** *Interest Provision pertaining to FY 2015-16 not included in above payments*	*11.37*
5	***Less:-*** *Interest Provision pertaining to FY 2014-15 included in Sl.No.1*	*5.61*
6	***Finance Costs towards Foreign Currency Loan (ECB Only) as recorded in Note 22 of Annual Audited Accounts***	***39.31***

It is further submitted that the FERV claim of Rs 17.92 Crore accrues by virtue of Regulation 29 which allows the Petitioner to recover such FERV on Year-to-Year basis as income or expenses in the period in which it arises whereas Interest amount recorded in Note 22 represents Rupee equivalent of Interest expenses irrespective of its payment status. In other words Rs 39.31 Crore includes notional FERV on Interest Provision pertaining to FY 2015-16 but excludes Interest Provision pertaining to FY 2014-15. The claim of the Petitioner relates to FERV on actual interest paid.

Petitioner's Response

The Petitioner requests the Hon'ble Commission to refer preliminary submission made at Para 2 above. In respect of ECB of JPY 1,530 Crore (Rs 848.90 Crs), the repayment and interest payment on ECB, as per extant regulations needs to be converted into USD first and then to INR, meaning thereby, hedging has not only to be done for JPY to USD fluctuations but they need to be hedged for USD to INR fluctuations also. In the instant case, 100% of ECB Principal and 100% of interest thereon has been fully hedged for fluctuation in JPY to USD rates (Kindly refer Contracts HC-1 for Principal and HC-2 & HC-3 for Interest). For USD to INR fluctuations, only 50% of Principal & 50% of Interest has been hedged. May please refer Annexure-3 attached with Preliminary Submission at Para 2.

The Petitioner hereby humbly prays the Hon'ble Commission to allow the actual FERV expenses on actual payments of Principal Foreign Loans (ECB & FCCB), actual FERV expenses on actual payments of Interests on Foreign Loans (ECB & FCCB) incurred during FY 2015-16 along with the Hedging Costs incurred by the Petitioner during FY 2015-16 as allowable under Regulation 29. Such claim is summarized as under:-

Table-9
Amount in Rs Crore

Sl. No.	*Particulars*	*FERV*
1	*Actual FERV expenses incurred on the Actual Repayments made during FY 2015-16 (Claimed in the instant Petition & submission dated April 6th, 2018)*	*148.66*
2	*Actual FERV expenses incurred on the Actual Interest Payments made during FY 2015-16 (Claimed in Submission dated April 24th, 2018)*	*17.92*
3	*Hedging Costs net of Settlement Amount received incurred by the Petioner during FY 2015-16*	*32.99*
4	***Total***	***199.57***

Issue:

(xxiii) Whether conversion from JPY to USD was mandatory for foreign currency exposure under law? A copy of extant Regulations under which the foreign currency exposure in currency other than USD is required to be converted first into USD and thereafter to INR.

Petitioner's Response

As per the banking/RBI conventions, hedging of Non- USD currencies is always done through the USD route only. Hedging for JPY exposures is done in two parts - one JPY to USD and then from USD to INR. The bank also calculates the hedging cost based on these two legs separately and then "Derives" the rate. So for calculating the premium, the bank would consider premiums for hedging JPY/USD and then USD/INR separately. As INR is not fully convertible on Capital Account, the hedging deals have to be routed through USD, in order to get the hedging rates.

In addition to the above, a separate hedge for JPY/USD and USD/INR tends to provide flexibility to the Company as well. The flexibility is in terms of the amounts to be hedged, the strike levels, and timing of hedging etc.

Issue:

(xxiv) The hedging has been done only for principal repayment and interest payment of ECB and no hedging is done for FCCB. The petitioner is required to inform the details regarding amount of hedging, period of hedging indicating the corresponding loan amount for principal repayment and interest payments against which option for hedging was availed by the petitioner.

Petitioner's Response

The amount of hedging, period of hedging indicating the corresponding loan amount for principal repayment and interest payments against which option for hedging was availed is attached as Annexure-1.

Issue:

(xxv) The Petitioner is required to inform in full details the advantage of Hedging made for ECB along with the quantum of savings in FERV on account of Hedging option availed by it for ECB.

Petitioner's Response

Hedging is done to mitigate the probable loss expected to be suffered by the Petitioner to the extent as specified in the Hedging Contract. As submitted earlier, hedging of ECB was done in two legs JPY/USD with levels 75/95 and USD/INR with level of 62.05/67.55. In FY 2015-16, JPY/USD rate was more than 95 so no settlement/saving was there on the said hedging. However, the USD/INR rate was more than 62.05 at the time of payment, hence, settlement amount of Rs 2.71 Crore was received. In the instant case, saving in the FERV can be quantified at Rs 2.71 Crore, the computation of which was attached as Annexure-3 of Reply dated May 25th, 2018 (Page 50) to the MPERC Letter dated May 22nd, 2018 since had the Petitioner not hedged the ECB Repayment & Interest thereon the Petioner would not have got any refund on this account. However, Annexure-3 of Reply dated May 25th, 2018 to the MPERC Letter dated May 22nd, 2018 is attached as Annexure-2.

Issue:

(xxvi) The Petitioner is required to inform whether it has claimed FERV on interest payment in its earlier petition for determination of final tariff for its Nigrie Power Plant. If so, the complete details along with the reference of documents wherein, the claim for FERV on interest payment was made in its aforesaid petition.

Petitioner's Response

*It is humbly submitted that the Petitioner had claimed Rs 2,527.35 Crore of IDC in the Petition No. 72/2015 for determination of final tariff. This IDC included Rs 84.12 Cores interest on ECB & Rs 374.58 Crore interest on FCCB (it becomes Rs 396.92 Crore including Withholding Tax of Rs 46.38 Crore & netting off of Interest Received of Rs 24.05 Crore). The complete details of which was submitted to the Hon'ble Commission in Annexure-12 (Page Nos. 226-227) of our Reply dated May 19th, 2016 in the matter of Petition No.72/2015. Annexure-12 of our Reply dated May 19th, 2016 is attached as **Annexure-3.** It is further submitted that the interest on ECB & FCCB was inclusive of FERV on interest. It can be further substantiated by the Ledger of Interest on ECB & FCCB wherein it can be seen that interest expenses had been booked at the extant currency Rates. The Account Ledger of the ECB interest & FCCB interest upto COD of Unit II is attached as **Annexure-3.1** & **Annexure-3.2** respectively.*

It may be noted that the above claim was for the period upto CoD of #2, i.e. 20.02.2015. Between the period 20.02.2015 and 31.03.2015, on actual payment of Principal of $ 2,31,47,540.53 and Interest of $ 18,52,459.47 was made on 31.03.2015 (Annexure 4, on page No. 56 of our submission dated 08.02.2017). The Commission had allowed Rs. 38.19 Crore as FERV on the principal component of USD 2,31,47,543.53. However the FERV on the Iterest component of USD 18,52,459.47 was missed out, which works out to Rs. 3,05,65,581.26 and the details are as per ***Annexure 3.3.***

We humbly request the Hon'ble Commission to take the above on record and allow the same in this proceedings or alternatively in the True Up for any next year to be filed.

Issue:

(xxvii) The petitioner is required to provide in excel the Loan repayment and interest payment schedules indicating the actual dates of principal repayment and interest payment made vis-à-vis the Scheduled dates of all such payments. The actual difference of amount (repaid towards principal and paid towards interest) between actual dates of payment and schedule dates of payments be shown in aforesaid excel sheet. The information be provided in Format A enclosed herewith.

Petitioner's Response

The prescribed Format A is duly filled up is attached as Annexure-4.

Issue:

(xxviii) The basis of computation and methodology of FERV computation for principal repayment and interest payment is appearing same. Therefore, the petitioner is required to explain the basis and methodology of FERV computation for interest payment.

Petitioner's Response

The Petitioner very respectfully affirms the view of the Hon'ble Commission that the methodology employed FERV computation for Principal Repayment and Interest Payment is same. To illustrate:-

For Computation of FERV on Principal Repayment:-

(Exchange Rate at the time of disbursement-Exchange Rate at the time of Exchange Rate at the time of Repayment) X Amount of Repayment in Foreign

Currency = FERV on Principal Repayment

For Computation of FERV on Interest Payment:-

(Exchange Rate at the time of disbursement-Exchange Rate at the time of Exchange Rate at the time of Interest Payment) X Amount of Interest Payment in Foreign Currency = FERV on Interest Payment

Annexure II: Petitioner's response on the comments offered by the Respondent No. 1 and stakeholders during public hearing:

1. **Comment:** That I am duly authorized by the said Respondent to swear this affidavit.

2. **Comment:** The averments made in all the paragraphs of the Reply herein are true to my knowledge, derived from the information available in the office records maintained during the normal course of business, which I believe to be true.

Petitioner's Reply to Para 1 to 2

The contents of these paragraphs are formal in nature and contain declarations by the Deponent on behalf of MPPMCL. Therefore, these paragraphs need no rejoinder.

3. **Comment**: That the Petitioner has filed the present Petition for True Up of Final Generation Tariff, under Section 62 and Section 86(1)(a) of Electricity Act 2003 read with M.P.E.R.C. (Terms and Conditions for determination of Generation Tariff) (Revision II) Regulations 2012 *(hereinafter referred to as Tariff Regulations 2012)*, for its 2 x 660 MW Super Critical Coal based Thermal Power Station at Nigrie, District - Singrauli, (M.P.), due to additional capital expenditure stated to have been incurred by the Petitioner during FY 2015-16.

4. **Comment**: The present Petition has been filed with following prayers :

" ***PRAYER***

11. *In view of above the Petitioner most respectfully prays that this Hon'ble Commission may be pleased to :*

(a) *True Up the Order dated 24.05.2017 in terms of the Additional Capital Expenditure incurred by the Petitioner as enumerated in Para 6 and 7 above,*

(b) *Pass appropriate Orders directing recovery of Capacity Charges worked out by Petitioner after addition of Rs. 730.13 Crore and deletion of Rs. 13.02 Crore i.e net addition of Rs. 717.11 Crore.*

(c) …..

(d) ……
(e) ……”

5. **Comment**: That, the averments made by the Petitioner in the present Petition are denied and disputed unless specifically admitted or are matters of record.

6. **Comment**: The Answering Respondent most humbly seeks liberty of this Hon’ble Commission to make a consolidated reply to the present Petition instead of para-wise reply. It is also humbly prayed that the traverse to an averment at one place may also be taken as traverse to the similar averments of in the Petition elsewhere.

Petitioner’s Reply to Para 3 to 6

The contents of these paragraphs are formal in nature and describe the factual background leading to filing the present Petition. The contents are disputed and denied to the extent the same are not borne out of record or have been misinterpreted while being represented. The factual averments are denied and disputed to the extent the same are not admitted hereinafter.

7. **Comment**: That in a table given in Para 4.1 (n) of the Petition, the Petitioner has shown Capital Cost as on 31.03.2015 stated to have been determined by Hon’ble Commission. In this Table at Sl. No. 8, “Interest During Construction (IDC)” has been shown as Rs. 2,282.68 Crore. This amount appears to be erroneous as the IDC approved by Hon’ble Commission in its Tariff Order Dated 24.05.2017 passed in Petition No. 72 of 2017 is indicated in Table 11 at Page No. 39 as Rs.1,717.52 Crore.

Petitioner’s Reply to Para 7

The contents of this paragraph are denied and disputed to the extent the same are not specifically affirmed by the Petitioner.

MPPMCL has claimed that the IDC is shown as Rs. 2,282.68 Crores in the instant Petition, whereas, it is determined as Rs. 1,717.52 Crores by the Hon’ble Commission in order dated 24.05.2017 in Petition No. 72 of 2015. It is respectfully submitted that, putting Rounding Off differences aside, the amount of Rs. 1,717.52 Crores as mentioned in Table 11 of the order dated 24.05.2017 is the amount of IDC (except Finance Charges & FCCB Interest allowed in the tariff order). It is further submitted that the total IDC (including Finance Charges & FCCB Interest) allowed by the Hon’ble Commission was Rs. 2,282.68 Crores. The Hon’ble Commission, while *summarizing the component wise Approved Capital Cost at Table 21 of the Order dated 24.05.2017, instead of putting a separate item of disallowance on account of liquidated damages of Rs. 120.77 Crore (Table12 of the Order dated 24.05.2017), adjusted the same from "IDC (including Finance Charges & FCCB Interest) allowed" (i.e. Rs. 2,282.68 Crore – Rs. 120.77 Crore=Rs. 2,161.91) itself.*

It is respectfully submitted that the Petitioner has only restated Table 21 of the Order dated 24.05.2017 at Para 4.1(n) of the instant Petition to put the component wise Approved Capital Cost in a more transparent perspective. The amount of Rs. 120.77 Crores on account of liquidated damages has been mentioned as a separate line item in the Table provided at Para 4.1(n) of the instant Petition. Therefore, it is submitted that there is no error in the aforementioned table.

8. **Comment**: In Para 5.1 of the Petition, the Petitioner has given a brief overview of the Additional Capital Expenditure incurred during 2015-16 in tabular form, which is extracted below for ready reference :

(Amount in Rs. Crore)

Sl. No.	Particulars	Addition in Generating Station during FY 2015-16			Addition in Amelia Mines during FY 2015-16	Total Addition during FY 2015-16
		Addition	Deletion/ Adjustment	Net Addition		
1	Land	11.63		11.63	1.11	12.74
2	BTG	14.40		14.40		14.40
3	BOP	7.71		(5.31)	250.86	245.55
4	Civil	0.41		0.41	81.16	81.57
5	**Total**	**34.15**	**13.02**	**21.13**	**333.13**	**354.26**
6	Intangible Assets				217.46	217.46
7	Cost of Ownership of Mining Rights				145.39	145.39
8	**G. Total**	**34.15**	**13.02**	**21.13**	**695.98**	**717.11**

9. **Comment**: As seen from above table and also from Para 6.5 of the Petition, the Petitioner has claimed, by way of true up, a huge amount of Rs.695.98 Crore stated to have been incurred in respect of Amelia Coal Mine. Out of this, an amount of Rs. 333.13 Crore is stated to have been incurred in "Tangible Assets" of the mine. Whereas an amount of Rs. 217.46 Crore is stated to have been incurred in "Intangible Assets". Besides, an amount of Rs.145.39 Crore is also shown to have been incurred as "Cost of Ownership of Mining Rights".

10. **Comment**: It is most respectfully submitted that no part of the above said amounts is allowable in true up of the Tariff or otherwise in respect Generation Tariff of in respect of Nigrie Super Thermal Power Station under the provisions of the Electricity Act 2003 and the Tariff Regulations 2012. By no stretch of reasoning the Amelia Coal Mines may be considered as part of the Nigrie Super Thermal Power Station.

11. **Comment**: It is clearly specified in the "Scope and extent of application" set out in Regulation 2, the Tariff Regulations 2012 shall apply in all cases of determination of generation tariff for a "generating station" or a unit thereof.

12. **Comment**: "Generating Station" is defined in Section 2 (30) of Electricity Act 2003, which is extracted below :

> *"**2. Definitions** – In this Act, unless the contest otherwise requires ,-*
> *(1) …*
>
> *(2) …*
>
> *...*
>
> *(30) "generating station" or "station" means any station for generating electricity, including any building and plant with step-up transformer, switch yard, switch-gear, cables or other appurtenant equipment, if any used for that purpose and the site thereof, a site intended to be used for a generating station, and any building used for housing the operating staff of a generating station, and where electricity is operating staff of a generating station, and where electricity is generated by water-power, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any sub-station;"*

13. **Comment**: Besides, the Power Purchase Agreement Dated 05.01.2011 entered into between the Petitioner and the Answering Respondent for supply of power from Petitioner's 2x660 MW Nigrie Super Thermal power Project also does not provide for inclusion of the capital cost of any Coal Mine in the Capital Cost of the Power Project.

14. **Comment**: It is most humbly submitted that in Petition No. 72 of 2015 also the Petitioner had made an attempt to claim "Increase in Capital Cost on Account of Captive Mines" to the tune of Rs. 845.68 Crore. This claim was strongly opposed by the Answering Respondent in Paras 48 to 53 in its reply Dated 24.02.2016. Hon'ble Commission was please to accept the contention of the Answering Respondent and reject the said claim Capital Expenditure in respect of Amelia Coal Mine made by the Petitioner. The submissions of the Answering Respondent are recorded in the Tariff Order Dated 24.05.2017 at Page Nos. 182 to 185 and 188 and the same are not being repeated here for the sake of brevity. The Answering Respondent seeks liberty of this Hon'ble Commission to rely on the same.

15. **Comment**: In view of above submissions, it is most humbly prayed that this Hon'ble Commission may graciously be pleased to the ignore the submissions of made by the Petitioner in Para 6.5 of the Petition and reject entire claim of True Up of Rs. 695.98 Crore as Capital Expenditure in respect of Amelia Coal Mine.

Petitioner's Reply to Para 8 to 15

The contents of these paragraphs are denied and disputed to the extent the same are not specifically affirmed by the Petitioner.

It is submitted that MPPMCL is trying to mislead this Hon'ble Commission by averring that additional capital expenditure in Amelia coal mine on account of Tangible Assets, Intangible Assets and Cost of Ownership of Mining Rights is not allowable in respect of Generation Tariff of the Project.

It is respectfully submitted that MPPMCL has failed to take note of precedents that have determined the scope of components of fixed assets. The Cost of ownership of Mining Rights is the amount of "Additional Premium" @ Rs. 612/- per tonne on 23,75,589 MT of coal received from Amelia coal mine during FY 2015-16 for the purpose of power generation. The reliance placed by MPPMCL on the tariff order passed by this Hon'ble Commission in Petition No. 72 of 2015 is misconstrued and misconceived in view of the clear findings of the Hon'ble Delhi High Court in Monnet Power Company Ltd. v. Union of India (2017) SCC OnLine Del 7399 that the bidding documents for the coal blocks did not provide any restriction in relation to Additional Premium as far as fixed charges were concerned and that there was only a prohibition in including the Additional Premium as part of energy charges.

> *"26. From the above, it is evident that insofar as the input to the energy charge component of the tariff for electricity was concerned, the Additional Premium was not to be considered as a pass through*

item. Once again, we emphasise that the Standard Tender Document, as amended by Corrigendum No.3, had a reference only to the energy charge component of the power tariff. There was no reference to the fixed charge / capacity charge component of the power tariff.

26. It is with this understanding and state of affairs that the auctions for the coal blocks were held. The petitioners had participated in the auction on the basis of the Tender Document as amended by Corrigendum No.3. ***It was clarified that the Additional Premium could not be passed through as a component of energy charge, but, at the same time, there was no mention with regard to the fixed charge / capacity charge component of the power tariff.****"*

A copy of the judgment of the Hon'ble Delhi High Court in Monnet Power Company Ltd. v. Union of India (2017) SCC On Line Del 7399 dated 09.03.2017 is annexed herewith and marked as ***Annexure A1****.*

It is submitted that the Additional Premium is akin to an upfront commitment, payable monthly against the quantum of extracted coal. The objective of the payment is to discharge the liability undertaken at the time of bidding and acquire the rights to mine the Amelia coal mine. Therefore, the same cannot be disallowed on the basis of being outside the purview of the Tariff Regulations.

It is respectfully submitted that the Petitioner has incurred expenditure by way of Additional Premium and expenditure on tangible and intangible assets on account of acquiring or bringing into existence an asset of an enduring benefit (coal mine) for the generation business. Therefore, the same should be allowed for the computation of fixed charges.

In view of above, it is submitted that the Appellant is entitled to True Up of the Tariff on account of additional capital expenditure incurred in respect of Amelia coal mine.

16. **Comment**: In Para 6.1,6.2 and 6.3, the Petitioner has claimed Capital Expenditure which does not appear to be within the Original Scope of work. In view of the provisions of Regulation 20 of Tariff Regulations 2012, the same is not admissible, therefore may be rejected.

17. **Comment**: In Para 6.3 (vii), the Petitioner has claimed Capital Expenditure of Rs. 0.06 Crore for procurement of a Diesel operated Air Compressor, which does not appear to be within the Original Scope of work. In view of the provisions of Regulation 20 of Tariff Regulations 2012, the same is not admissible, therefore may be rejected.

18. **Comment**: In Para 6.4 (b) an amount of Rs. 5.78 Lacs is stated to have been spent on "Roads, culverts and drainage", which does not appear to be in the Original Scope of Work, therefore the same in inadmissible in view of the provisions of Regulation 20 of Tariff regulations 2012 and the same may be rejected.

19. **Comment**: In Para 137 of the Final Tariff Order passed in Petition No. 72 of 2015, Hon'ble Commission has recorded following :

> *"**137.** By affidavit dated 19th May'2016, the petitioner submitted that the aforesaid additional capitalization is within the original scope of work authorized by the Resolution of Board of Directors dated 30th May' 2015 approving final project cost of Rs 12,400 Crore. The said capitalization has been made within the prescribed cut-off date. The petitioner also submitted the details of completed works upto 31st March'2015 in **Annexure 19**. It also submitted duly filled up TPS 10 in respect of funding of aforesaid additional capitalization in **Annexure 20** with its reply. **The aforesaid submission with details of various works filed by the petitioner are taken on records to check any further additional capitalization to be claimed by the petitioner in future.** ……………...."*

[Emphasis Added]

20. **Comment**: In view of above, it is therefore most humbly prayed that this Hon'ble Commission may please apply prudence check on claims of Additional Capital Expenditure claimed in the present Petition under various heads stated to be covered under Original Scope of work.

21. **Comment**: That, it is humbly prayed that the prudence check, carried out by the Hon'ble MPERC, be shared with this respondent and any reasoning/

rationale advanced in support for inclusion of Costs with the Capital Cost of the Project deserves to be summarily rejected/ ignored.

Petitioner's Reply to Para 16 to 21

The contents of this paragraph are denied and disputed to the extent the same are not specifically affirmed by the Petitioner.

*MPPMCL has claimed that the additional capital expenditure incurred by the Petitioner on account of Land, BTG and BOP equipment do not appear to be in the Original Scope of Work. It is respectfully submitted that the Project was originally planned with a weir for water drawl from the river, as per approval of the Government of Madhya Pradesh ("**GoMP**").However, establishment of a gated barrage became necessary on account of allocation of 89.6 cusec water to D.B. Power Ltd. and 44.8 cusec water to Surya Chakra Power Ventures Pvt. Ltd. for their projects situated upstream on the Gopad river by means of a GoMP decision in 2010. The designs of the gated barrage were submitted by the Petitioner vide letter dated 18.12.2010 and 15.02.2013 to the Chief Engineer, Ganga Basin, Water Resources Department, GoMP. Pursuant to the above, the Chief Engineer, Ganga Basin, Water Resources Department, GoMP vide its letter dated 16.02.2013 conveyed his in-principle approval for the barrage designs submitted by the Petitioner.*

It is submitted that the additional capital expenditure incurred on account of land as mentioned under Para 6.1 of the instant petition was due to this change in design of the water intake system from a weir to a gated barrage. The Petitioner was not only required to develop the design for barrage, but also arrange for additional land for the same. It is further clarified that additional capitalization as mentioned in Para 6.1 of the instant Petition was made in FY 2015-16 since it is only in FY 2015-16 that the Petitioner got the land registered in its favour. It is respectfully submitted that the additional capital incurred in view of aforementioned should be allowed as per the Tariff Regulations.

It is respectfully submitted that the additional capital expenditure incurred on account of BTG and BOP equipment (including BOP Mechanical and BOP Electrical), as claimed in Paras 6.2 and 6.3 of the instant Petition, is part of the Original Scope of Work and accordingly the same has been indicated in *the instant Petition. Most of the works were executed during FY 2014-15, however, the bills for the same were paid during FY 2015-16. That is why they were capitalized during FY 2015-16 which is within the prescribed cut-off date. It is further submitted that jobs/supplies relating to capitalization worth Rs 31.97 Crore had been carried out during FY 2014-15 itself and only Rs 2.18 Crore were capitalized against those jobs/supplies which were carried out during FY 2015-16, though they were part of original scope of work. Relevant portions of the Petition relating to those jobs, though being part of original scope of work, which were carried out and capitalized during FY 2015-16 totalling Rs 2.18 Crore are reproduced as under:-*

"6.1 ***……………………….***

(a) ………………………………..

(b) ………………………………..

6.2 ***…………………………………….***

(a) ………………………………….

6.3 ***Addition in Capital Cost on account of BOP equipment:*** *…………………………………………………………….*

(a) ***BOP Mechanical:*** *………………………*

(i) ***………………………………***

(ii) ***……………………………***

(iii) ***………………………………***

(iv) ***Fuel Handling and Storage System****: Payment of Rs 4.35 Lacs were made to M/s Technofab Engineering for the supplies made against the Mandatory Spares which was covered under the original scope of work and was supplied during FY 2015-16 and payment for the same was made during FY 2015-16 as well. Apart from above, SS-316 Barrel Pump (SP/SS/200-E) worth Rs 0.83 Lacs was also procured & capitalized during FY 2015-16.*

(v) ***…………………….***

(vi) ***…………………………..***

(vii) ***Air Compressor System****: The Petitioner had to procure a diesel operated air compressor for Rs 0.06 Crore to facilitate Coal unloading during blackouts. The aforesaid was required so that the Petitioner may avoid demurrage charges to the railways in case of station blackout.*

(viii) ***……………………………………***

(ix) ***……………………………***

(x) ***……………………………***

(xi) ***Office and Other Equipments**: An amount of Rs. 1.02 Crore were spent towards procurement of various office equipments in line with the original scope of work.*

(xii) ***……………………………….***

(b) ***BOP Electrical:** ……………………………*

(i) ***…………………………………..***

(ii) ***……………………………..***

(iii) ***Cables, Cable Facilities and Grounding**: A total amount of Rs. 0.07 Crore were spent towards procurement of Electric Circuit Breaker.*

(iv) ***Lighting:** A total amount of Rs.92.29 Lacs was paid by the Petitioner to M/s Bajaj Electronics for the Illumination System in the plant area. It is further submitted that this portion of the work under Illumination System, though being covered under the original scope of work, could not be capitalized during FY 2014-15 and had to be capitalized in FY 2015-16 as the work was completed after cleaning of the site for illumination purposes.*

(v) ***…………………………………..***

*6.4 **Addition in Capital Cost on account of Civil Work:** ……………………………………………….*

(a) ***…………………………………………..***

(b) ***Roads Culverts and Drainage:** An amount of Rs. 5.78 Lacs was spent during FY 2015-16 towards construction of drainage system at the power plant to provide the way to natural flow of water.".*

On perusal of the above excerpts, it is obvious that above jobs which were carried out & capitalized during FY 2015-16, though being part of original scope of work, none of them were of such nature that in the absence of any of the above, Commissioning/smooth functioning of our plant could be hampered but at the same time they were necessary to be carried out for better efficiency and were of finishing nature.

It is respectfully submitted that the additional capital expenditure incurred on account of air compressor system as mentioned in Para 6.3 (b) (vii) of the present Petition to facilitate Coal unloading during blackouts. This was required so that the Petitioner may avoid high demurrage charges to the railways in case of station blackout. It is respectfully submitted that one extra hour of detention would have exposed the Petitioner to a liability of Rs.

37,275. Therefore, an air compressor system was required to reduce the high demurrage charges incurred whilst unloading in case of blackout.

It is respectfully submitted that the addition in capital cost incurred on account of roads, culverts and drainage is part of the Original Scope of Work and was executed during FY 2015-16. This work was of a finishing nature and was carried out for the smooth functioning of the Project. The bill for the aforementioned was paid during FY 2015-16 and said expenditure was capitalized during FY 2015-16 which is within the prescribed cut-off date.

In view of aforementioned, it is submitted that the additional capital expenditure as claimed in the instant Petition is on account of reasons in Regulation 20 of the Tariff Regulation and, therefore, ought to be admitted in accordance with prudence check carried out by the Hon'ble Commission.

22. **Comment**: That, it is further prayed that per MW cost of similar plants in India, which have been commissioned in recent past, may be kept in mind at the time of decision in this instant Petition.

23. **Comment**: That at this stage the Answering Respondent has made above submissions on the basis of documents/ information made available by the Petitioner. The Respondent craves liberty to amend, alter and add to the points or make further submissions as may be required at a later stage also.

24. **Comment**: The Respondent humbly prays that the Hon'ble Commission may kindly condone any inadvertent omission, error etc. in this reply.

Petitioner's Reply to Para 22 to 24

The contents of these paragraphs are denied and disputed to the extent the Same are not specifically affirmed by the Petitioner.

It is respectfully submitted that the instant Petition is bonafide in nature and under the settled position of law, the Hon'ble Commission ought to allow the revenue requirements of the Petitioner under various heads.

In view of the aforesaid, it is respectfully submitted that the Reply filed by MPPMCL is without any merits and that the Petition filed by the Petitioner deserves to be allowed by the Hon'ble Commission.