

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION

5th Floor, "Metro Plaza", Bittan Market, Bhopal - 462016



Petition No. 79 of 2022

PRESENT:

S.P.S Parihar, Chairman

Gopal Shrivastava, Member (Law)

P.K. Chaturvedi, Member

IN THE MATTER OF:

True up of Tariff for Unit No.2 (45 MW) coal based power project at Village Niwari, Tehsil Gadarwara, District Narsinghpur (M.P) for FY 2016-17, FY 2017-18 and FY 2018-19.

AND IN THE MATTER OF:

M/s B L A Power Pvt. Ltd.,

Petitioner

Versus

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

Respondents

ORDER

(Passed on this day of 3rd March, 2023)

1. M/s. BLA Power Private Limited (hereinafter called “the petitioner”) filed the subject petition for determination of true up of tariff for Unit No 2 (45 MW) of its 2 x 45 MW Coal Based Thermal Power Station for FY 2016-17, FY 2017-18 and FY 2018-19 determined by the Commission vide MYT Order dated 25th October, 2021 in Petition No 17 of 2018.
2. The subject petition is filed under Sections 62 and 86(1)(a) of the Electricity Act, 2003 and based on the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 (hereinafter called the “the Regulations, 2015”).
3. The petitioner’s thermal power station under the subject petition comprises of two generating units of 45 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

S. No	Unit	Installed Capacity (MW)	Date of Commercial Operation (COD)
1.	Unit No. 1	45 MW	3 rd April, 2012
2.	Unit No. 2	45 MW	20 th March, 2017

4. M/s BLA Power Pvt. Ltd. signed Power Purchase Agreement (PPA) with M.P. Power Trading Co. Ltd. (now MPPMCL) on 05.01.2011 for sale of 30% installed capacity from its 2x45 MW Thermal Power Plant for 20 years at regulated tariff to be determined by the Commission. Further, the petitioner signed another PPA with GoMP on 04.05.2011 for purchase of 5% net power at variable charges only determined by the Commission.
5. Vide order dated 25th October, 2021, the Commission determined multi-year tariff for Unit No 2 from its COD to 31st March, 2019. In the aforesaid order, the Commission allowed following Annual Capacity Charges:

Table 2: Annual Capacity Fixed Charges approved in MYT Order (Rs in Crore)

S.No	Particulars	FY 2016-17	FY 2017-18	FY 2018-19
1	Depreciation	12.23	12.23	12.23
2	Interest and Finance Charges	22.19	19.90	19.06
3	Return on Equity	11.51	11.51	11.51
4	Interest on Working Capital	5.59	5.50	5.35
5	O & M Expenses	14.43	15.34	16.31
6	Total Capacity (Fixed)Charges for applicable days	65.95	64.47	64.46
7	Less:-Non-Tariff Income	0.00	0.20	0.41
8	Net AFC	65.95	64.27	64.05
9	Number of Days in Operation	12.00	365.00	365.00
10	AFC apportioned in actual days of operation	2.17	64.27	64.05
11	Capacity Charges for contracted Capacity i.e. (30%) of installed Capacity	0.65	19.28	19.22

6. In the subject petition, the petitioner has claimed the following Annual Capacity (Fixed) Charges for FY 2016-17 to FY 2018-19 for Unit No 2 of BLA Thermal Power Station:

Table 3: Annual Capacity Fixed Charges claimed in the Petition (Rs in Crore)

S.No	Particulars	FY 2016-17 (proportionate to no of days of operation in FY 2016-17)	FY 2017-18	FY 2018-19
1	Depreciation	0.40	12.13	12.13
2	Interest and Finance Charges	0.73	20.17	19.08
3	Return on Equity	0.38	11.51	11.51
4	Interest on Working Capital	0.18	5.50	5.35
5	O & M Expenses	0.47	15.34	16.31
6	Total Capacity (Fixed)Charges for applicable days	2.17	64.65	64.38
7	Less:-Non-Tariff Income	0.00	0.20	0.41
8	Net Capacity Charges	2.17	64.45	63.97
9	Capacity Charges for 30% of Installed Capacity	0.65	19.34	19.19

7. With the above submission, the petitioner prayed the following:
- Carry out the truing-up of tariff for Unit-2 of the Project for the period from FY 2016-17 to FY 2018-19 and allow to recover the difference amount from Respondent No. 1;

- ii. Allow to recover E.D., Water Charges and Cess on auxiliary power consumption and other taxes, if any, levied by the Statutory Authorities from Respondent No. 1;*
 - iii. Allow to recover the fees paid to the Commission and publication expenses from Respondent No. 1;*
8. The subject petition has been examined by the Commission in accordance with the principles, methodology and the norms specified in the Regulations, 2015, Annual Audited Accounts of the petitioner for FY 2016-17 to FY 2018-19, Asset-cum-Depreciation Register for FY 2016-17 to FY 2018-19 and other supplementary submissions filed by the petitioner in response to the additional information/ details sought by the Commission alongwith all other documents placed on record by the petitioner. The Commission has also examined the subject true up petition in light of the comments/ suggestions offered by the Respondent No.1 and other stakeholder and the response of petitioner on the same.
9. In this true-up order, the Commission has considered the opening figures of Gross Fixed Assets, Equity and Loan considered as on COD of the Unit No. 2 in order dated 25th October, 2021 in Petition No 17 of 2018.

Procedural History

10. Motion hearing in the subject true-up petition was held on 13th December, 2022, wherein the petition was admitted and petitioner was directed to serve the copy of petition to all respondents. The respondents were also directed to file their response on the petition within 15 days, thereafter.
11. Vide Commission's letter dated 28th December, 2022, information gaps and requirement of additional details/ documents were communicated to the petitioner seeking its comprehensive response to the same with all the supporting documents by the 16th January, 2023.
12. The public notice inviting comments/suggestions from the stakeholders was published on 13th January, 2023 in the following newspapers:
 - i. Dainik Bhaskar (Hindi), Bhopal
 - ii. Dainik Bhaskar (Hindi), Jabalpur

- iii. Dainik Bhaskar (Hindi), Indore
- iv. The Hitavada (English), Bhopal
- v. The Hitavada (English), Jabalpur
- vi. Free Press (English), indore

The above public notice along with copy of the petition was uploaded on Commission's website also for inviting comments/objections/suggestions from stakeholders.

- 13. By affidavit dated 16th January, 2023, the petitioner filed its response to the issues communicated to it by the Commission.
- 14. By affidavit dated 31st January, 2023, the Respondent No. 1 (M.P. Power Management Co. Ltd) filed its response on the subject petition.
- 15. By affidavit dated 6th February, 2023, the petitioner filed rejoinder on the response/comments filed by Respondent No. 1. The petitioner's response on each comment offered by the Respondent No. 1 along with the observations are annexed as Annexure- I with this order.
- 16. The comments/objections from only one stakeholder were received in this matter on 1st February, 2023. By affidavit dated 6th February, 2023, the petitioner filed its response on the aforesaid comments. The petitioner's replies on each comments / objection offered by the stakeholder along with the observations are annexed as Annexure-II with this order.
- 17. The public hearing in the subject petition was held on 7th February, 2023 through video conferencing wherein the representatives of petitioner, Respondent No. 1 and stakeholder appeared.

Capital Cost

Petitioner's Submission:

- 18. With regard to capital cost of Unit No. 2, the petitioner submitted the following:

"that opening capital cost for the Unit-2 (45 MW) as on 20th March, 2017 is considered as it has achieved COD on 20th March, 2017. The Commission vide its

Order dated 25th October, 2021 had determined the Capital Cost as on COD and MYT Tariff of Unit-2 of the Generating station for the period commencing from the date of Commercial Operation (20.03.2017) till the end of the Control Period i.e., 31.03.2019. Accordingly, capital cost approved by the Commission for Unit-2 vide tariff order in Petition No.17 of 2018 is Rs. 247.57 Crore.”

Table 1: Capital Cost for Unit-2**(Rs. in Crore)**

Particulars	Capital Cost incurred towards Unit-2 as submitted in Petition No. 17 of 2018	Capital cost of Unit-2 approved by Ld. Commission as on its COD
Total Cost of Land & Site Development	4.91	4.91
Total Plant & equipment including Taxes and duties	149.40	147.78
Initial Spares	2.69	-
Civil Works	38.63	38.63
Construction-Erection Testing and Commissioning and Tools & Plant	18.22	-
Start-up Fuel (Net off Revenue from Infirm power)	1.10	1.10
Overheads & Pre-Commissioning expenses	76.90	30.69
IDC	109.21	20.70
Financing Charges	3.76	3.76
Total	404.83	247.57

Provisions in Regulations

19. Regulation 15.3 of the Regulations, 2015 further provides that:

15.3 The Capital cost of an existing project shall include the following:

- (a) the capital cost admitted by the Commission prior to 1.4.2016 duly trued up by excluding liability, if any, as on 1.4.2016;
- (b) additional capitalization and de-capitalization for the respective year of tariff as determined in accordance with Regulation 20; and
- (c) expenditure on account of renovation and modernization as admitted by the Commission in accordance with Regulations 21.

Commission's Analysis:

20. To work out opening capital cost, total capital expenditure of Rs. 247.57 Crore capitalized as on COD of Unit No. 2 as considered in order dated 25th October, 2021 in Petition No 17 of 2018 is considered herein.

Additional Capitalization

21. Regarding the additional capitalization during FY 2016-17 to FY 2018-19, the petitioner submitted that it has not incurred any additional capitalisation.

22. Since the petitioner has not claimed any additional capitalization in the subject petition, therefore, opening Capital Cost of Rs 247.57 Crore, as considered by the Commission in this order, shall remain unchanged during FY 2016-17 to FY 2018-19 in this order.

Debt: Equity:**Petitioner's Submission**

23. The petitioner submitted the funding of the capital expenditure, as per order dated 25th October, 2021 as given below:

Table 2: Sources of Funding for Unit-2

<i>Particulars</i>		<i>Approved by Commission on 25th October, 2021 in order dated 25.10.2021</i>
1	<i>Debt in Rs. Crore</i>	173.30
2	<i>Equity in Rs. Crore</i>	74.27
3	<i>Total in Rs. Crore</i>	247.57
4	<i>Debt %</i>	70%
5	<i>Equity %</i>	30%

24. The Petitioner prayed to approve the opening capital cost as on 20th March, 2017 for Unit-2 as Rs. 247.57 Crore and funding through debt of Rs.173.30 Crore (70%) and balance from equity of Rs. 74.27 Crore (30%). Further, petitioner submitted that for funding, debt equity ratio is well within the limits permitted by applicable tariff regulations.

25. The petitioner has not filed any addition of loan & equity during FY 2016-17 to FY 2018-19.

Provisions under Regulations

26. With regard to funding, Regulation 25 of the Regulations, 2015, provides that;

25.1 For a project declared under commercial operation on or after 1.4.2016, the debt-equity ratio would be considered as 70:30 as on COD. If the equity actually deployed is more than 30% of the capital cost, equity in excess of 30% shall be treated as normative loan: Provided that:

a. where equity actually deployed is less than 30% of the capital cost, actual equity shall be considered for determination of tariff:

b. the equity invested in foreign currency shall be designated in Indian rupees on the date of each investment:

c. any grant obtained for the execution of the project shall not be considered as a part of capital structure for the purpose of debt : equity ratio.

.....

25.5 Any expenditure incurred or projected to be incurred on or after 1.4.2016 as may be admitted by the Commission as additional capital expenditure for determination of tariff, and renovation and modernisation expenditure for life extension shall be serviced in the manner specified in clause 25.1 of this Regulation:

Commission's Analysis

27. Based on the above provisions, the funding of the capital expenditure and debt : equity ratio as on COD of Unit No. 2 of petitioner's power project is considered as 70:30 in accordance to Regulations 25.1 of the Tariff Regulations, 2015 in this order.

28. The petitioner has not filed any proposed additional capitalization and de-capitalization during FY 2016-17 to FY 2018-19 in this order. Therefore, the equity balance of Rs. 74.27 Crore and loan balance of Rs. 173.30 Crore considered as on COD of Unit No 2 as approved by the Commission in order dated 25th October, 2021 in Petition No 17 of 2018 is considered herein.

Annual Capacity (Fixed) Charges

29. Regulation 27 of the Regulations, 2015, stated that the Capacity Charges shall be derived on the basis of annual fixed cost. The annual fixed cost (AFC) of a generating station shall consist of the following components:

- (a) Return on Equity;
- (b) Interest on Loan Capital;
- (c) Depreciation;
- (d) Interest on Working Capital;
- (e) Operation and Maintenance Expenses

Return on Equity

Petitioner's Submission

30. The petitioner filed Return on Equity during FY 2016-17 to FY 2018-19 the petition as given below:

Sr No	Particulars	FY 2016-17	FY 2017-18	FY 2018-19
1.1	Opening Equity	74.27	74.27	74.27
1.2	Add: Increase due to addition during the year / period	0.00	0.00	0.00
1.3	Less: Decrease due to de-capitalization during the year / period	0.00	0.00	0.00
1.4	Less: Decrease due to reversal during the year / period	0.00	0.00	0.00
1.5	Add: Increase due to discharges during the year / period	0.00	0.00	0.00
1.6	Closing Equity	74.27	74.27	74.27
1.7	Average Equity	74.27	74.27	74.27
1.8	Rate of ROE	15.50%	15.50%	15.50%
1.9	Return on Equity	0.38	11.51	11.51

Provisions in the Regulation:

31. With regard to Return on Equity, Regulation 30 and 31 of the Regulations, 2015 provide that:

30. Return on Equity:

“30.1 Return on equity shall be computed in rupee terms, on the equity base capital determined in accordance with Regulation 25.

30.2 Return on equity shall be computed at the base rate of 15.5% for thermal generating stations and hydro generating stations.

Provided that

- (a) in case of Projects commissioned on or after 1st April, 2016, an additional return of 0.5% shall be allowed if such Projects are completed within the*

timeline specified in Appendix-I :

- (b) the additional return of 0.5% shall not be admissible if the Project is not completed within the timeline specified above for reasons whatsoever*
- (c) the rate of return of a new project shall be reduced by 1% for such period as may be decided by the Commission, if the Generating station is found to be declared under commercial operation without commissioning of any of the Restricted Governor Mode Operation (RGMO)/ Free Governor Mode Operation (FGMO):*
- (d) as and when any of the above requirements are found lacking in a generation station based on the report submitted by the respective SLDC/RLDC, ROE shall be reduced by 1% for the period for which the deficiency continues:*

31. Tax on Return on Equity:

31.1 The base rate of return on equity as allowed by the Commission under Regulation 30 shall be grossed up with the effective tax rate for the Year respective financial years. For this purpose, the effective tax rate shall be considered on the basis of actual tax paid in the respective financial year in line with the provisions of the relevant Finance Acts by the concerned generating company. The actual income tax on other income stream including deferred tax i.e., income of non generation business shall not be considered for the calculation of “effective tax rate”.

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

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

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

(i) Minimum Alternate Tax (MAT) @ 20.96% including surcharge and cess: Rate of

$$\text{return on equity} = 15.50 / (1 - 0.2096) = 19.610\%$$

(ii) In case of generating company paying normal corporate tax including surcharge and cess:

(a) Estimated Gross Income from generation business for FY2016-17 is Rs 1000 Crore.

(b) Estimated Advance Tax for the year on above is Rs 240 Crore.

(c) Effective Tax Rate for the year 2016-17 = Rs 240 Crore / Rs 1000 Crore = 24%

(d) Rate of return on equity = $15.50 / (1 - 0.24) = 20.395\%$

31.3 The actual tax paid together with any additional tax demand including interest thereon, duly adjusted for any refund of tax including interest received from the income tax authorities pertaining to the tariff period 2016-17 to 2018-19 on actual gross income of any financial year shall be trued-up every year. However, penalty, if any, arising on account of delay in deposit or short deposit of tax amount shall not be claimed by the generating company. Any under-recovery or over-recovery of grossed up rate on return on equity after truing up, shall be allowed to be recovered or refunded to beneficiaries on year to year basis”

32. While determining the return on equity, the Commission has considered opening equity of Rs. 74.27 Crore as admitted in order dated in Petition No 17 of 2018. As the petitioner has not filed any additional capitalization during the FY 2016-17 to FY 2018-19, the equity balance shall remain unchanged during FY 2016-17 to FY 2018-19.
33. The petitioner claimed return on equity on the base rate of return (15.5%) without considering any tax rate for grossing up the base rate of return on equity during FY 2016-17 to FY 2018-19.
34. Accordingly, the Annual Return on Equity has been worked out for FY 2016-17 to FY 2018-19 considering the base rate of return as given below:

Table 4 : Return on Equity Considered in this Order

Sr. No	Particular	Unit	FY 2016-17	FY 2017-18	FY 2018-19
1	Opening Equity	Rs. Cr.	74.27	74.27	74.27
2	Equity Addition during the year	Rs. Cr.	0.00	0.00	0.00
3	Closing Equity	Rs Cr.	74.27	74.27	74.27
4	Average Equity	Rs Cr.	74.27	74.27	74.27
5	Base Rate of Return on Equity	%	15.50%	15.50%	15.50%
6	Annual Return on Equity	Rs Cr.	11.51	11.51	11.51

Interest on Loan Capital**Petitioner's submission:**

35. The petitioner has claimed interest on loan capital for FY 2016-17 to FY 2018-19 as given below:

Table 5: Interest on Loan Claimed (Rs in Crore)

Sr No	Particulars	FY 2016-17	FY 2017-18	FY 2018-19
1	Gross Normative loan – Opening	173.30	173.30	173.30
2	Cumulative repayment of Normative Loan upto previous year	0.00	0.40	12.53
3	Net Normative loan – Opening	173.30	172.90	160.77
4	Add: Increase due to ACE during the Year	0.00	0.00	0.00
5	Less: Decrease due to Decapitalization during the Year	0.00	0.00	0.00
6	Less: Decrease due to Reversal during the Year	0.40	12.13	12.13
7	Add: Increase due to Discharges during the Year	0.00	0.00	0.00
8	Net Normative loan – Closing	172.90	160.77	148.64
9	Average Normative Loan	173.10	166.84	154.70
10	Weighted average Rate of Interest of actual Loans	12.83%	12.09%	12.33%
11	Interest on Normative Loan	0.73	20.17	19.08

Provisions in Regulation

36. Regulation 32 of the Regulations, 2015 provides that:

“32.1 The loans arrived at in the manner indicated in Regulation 25 shall be considered as gross normative loan for calculation of interest on loan.

32.2 The normative loan outstanding as on 1.4.2016 shall be worked out by deducting the cumulative repayment as admitted by the Commission up to

- 31.3.2016 from the gross normative loan.
- 32.3 *The repayment for the Year of the Tariff period 2016-19 shall be deemed to be equal to the depreciation allowed for the corresponding year/ period. In case of de- capitalization of assets, the repayment shall be adjusted by taking into account cumulative repayment on a pro rata basis and the adjustment should not exceed cumulative depreciation recovered upto the date of de- capitalisation of such asset.*
- 32.4 *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 depreciation allowed for the year or part of the year.*
- 32.5 *The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio after proving appropriate accounting.*

Commission's analysis:

37. While determining the interest on loan, the Commission has considered opening loan balance of Rs. 173.30 Crore as admitted in order dated 25th October, 2021 in Petition No 17 of 2018 in terms of the provisions under the Regulations, 2015. The petitioner has not filed any additional capitalization during FY 2016-17 to FY 2018-19, therefore, the loan balances for each financial year is worked out accordingly by considering the normative repayment equivalent to depreciation for the respective year.
38. In form TPS 13 of the subject petition, the petitioner has submitted the weighted average rate of interest based on actual loan portfolio @12.83% for FY 2016-17, @12.09% for FY 2017-18 and @12.33% for FY 2018-19.
39. The Commission vide its letter dated 28th December, 2022 asked the petitioner to file the following:
- i. Reasons for higher weighted average rate of interest claimed during FY 2017-18 in comparison to weighted average rate of interest filed in MYT petition (P No 17 of 2018) which was 11.93%.*
 - ii. Basis for arriving at the weighted average rate of interest on term loan.*
 - iii. Detailed computation in soft (excel-sheet) and hard copy for arriving at the lending agency-wise weighted average rate of interest claimed in the petition.*

- iv. *Supporting documents like Banker's certificate regarding actual interest paid to the bankers be also filed.*
 - v. *To confirm and demonstrate that any interest on interest on loan amount or any penalty due to default in repayment are not part of interest on loan amount*
40. In response, by affidavit dated 16th January, 2023, the petitioner submitted the following response:
- i. *The weighted average rate of interest is worked out based on actual rate of interest, which is filed with the present true up petition. In MYT petition the rate was calculated based on actuals only but there was an inadvertent calculation error which has now been corrected and actual weighted average rate of interest for FY 2017-18 is worked out to 12.09%.*
 - ii. *For the FY 2016-17 and FY 2017-18 the weighted average rate of interest is worked out based on actual rate of interest. During 2018-19 the rate is worked out based on the standard rate of interest applicable, as the account slipped into NPA category.*
 - iii. *Detailed computation in Form 13 is already submitted with the present petition. Further, the Form 13 is once again submitted for kind perusal of this Commission. Furthermore, the computation in soft copy (excel sheet) is submitted by email along with this affidavit.*
 - iv. *The certificate issued by the Bank is enclosed with the present affidavit.*
 - v. *It is confirmed that the interest does not include any amount towards penalty due to default in repayment and is not a part of interest on loan amount. This is certified by the Bank on its letter also.*
41. On perusal of the above, it is observed that the petitioner has submitted weighted average rate of interest for FY 2016-17 and FY 2017-18 based on the actual interest rates charged by the lenders to BLA Power Pvt Ltd for Unit No.2 as per prevailing applicable interest rates of the respective Banks/Financial Institutions on actual loan portfolio. For FY 2018-19, due to RBI guidelines for NPA accounts, the weighted average rate of interest is worked out by the petitioner on the basis of standard interest rates for each loan. The petitioner has filed the Banker's certificate in support of interest rate on term loan claimed in the petition. The petitioner has also confirmed that it does not include any penal interest amount on account of defaults in repayment.

42. Accordingly, the Commission has considered the actual weighted average rate of interest for FY 2016-17 & FY 2017-18 and applicable rate of interest for FY 2018-19 as worked out and claimed by the petitioner considering the actual loan outstanding in accordance to the Tariff Regulations, 2015.
43. Repayment equivalent to depreciation during the year corresponding to number of days in operation for FY 2016-17 and for whole year in respect of FY 2017-18 and FY 2018-19 is considered as per the provisions under the Regulations, 2015.
44. Based on the above consideration, the interest on loan worked out for the control period FY 2016-17 to FY 2018-19 is as given below:

Table 6: Interest on Loan Allowed

Sr. No	Particular	Unit	FY 2016-17	FY 2017-18	FY 2018-19
1	Opening Loan Balance	Rs. Cr.	173.30	172.90	160.77
2	Loan Additions during the year	Rs. Cr.	0.00	0.00	0.00
3	Repayment of Loan equal to depreciation	Rs. Cr.	0.40	12.13	12.13
4	Closing Loan Balance	Rs. Cr.	172.90	160.77	148.64
5	Average Loan Balance	Rs. Cr.	173.10	166.84	154.70
6	Weighted Average Rate of Interest	%	12.83%	12.09%	12.33%
7	Annual Interest amount on Loan	Rs. Cr.	22.20	20.17	19.08

Depreciation

Petitioner's submission:

45. The petitioner has claimed the depreciation for FY 2016-17 to FY 2018-19 as given below:

Table 7: Depreciation Claimed

Sr No	Particulars	FY 2016-17	FY 2017-18	FY 2018-19
1	Opening Gross Block	247.57	247.57	247.57
2	Closing Capital Cost	247.57	247.57	247.57
3	Average Capital Cost	247.57	247.57	247.57
4	Rate of Depreciation	4.90%	4.90%	4.90%
5	Depreciation Value	0.40	12.13	12.13

Provisions of the Regulation:

46. Regulation 33 of the Regulation, 2015 provides that:

“33.1 Depreciation shall be computed from the date of commercial operation of a generating station or unit thereof. In case of the tariff of all the units of a generating station for which a single tariff needs to be determined, the depreciation shall be computed from the effective date of commercial operation of the generating station taking into consideration the depreciation of individual units.

Provided that effective date of commercial operation shall be worked out by considering the actual date of commercial operation and installed capacity of all the units of the generating station for which single tariff needs to be determined.

33.2 The value base for the purpose of depreciation shall be the capital cost of the asset admitted by the Commission. In case of multiple units of a generating station, weighted average life for the generating station shall be applied. Depreciation shall be chargeable from the first year at the commercial operation.

33.3 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 development of the Plant.

Provided further that the capital cost of the assets of the hydro generating station for the purpose of computation of depreciated value shall correspond to the percentage of sale of electricity under Long-term power purchase agreement at regulated Tariff. Provided also that any depreciation disallowed on account of lower.”

33.4 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.

33.5 Depreciation shall be calculated annually based on ‘Straight Line Method’ and at rates specified in Appendix-II to these Regulations for the assets of the generating station: Provided that, the remaining depreciable value as on 31st March of the Year closing after a period of 12 Years from the effective date of commercial operation of the station shall be spread over the balance Useful life

of the assets.

33.6 In case of the existing Projects, the balance depreciable value as on 1.4.2016 shall be worked out by deducting the cumulative depreciation as admitted by the Commission upto 31.3.2016 from the gross depreciable value of the assets.

33.7 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%.

33.8 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.”

33.9 The generating company shall submit the details of proposed capital expenditure during the fag end of the project (five years before the useful life)

Commission’s Analysis:-

47. While determining the depreciation, the Commission has considered the opening GFA as on CoD of the unit as Rs. 247.57 Crore as admitted in final capital cost tariff order dated 25th October, 2021 in Petition No 17 of 2018.
48. Further, petitioner has confirmed that it has not incurred any additional capitalization. Therefore, the capital cost considered as on 01st April, 2016 shall remain same for entire period in this order.
49. Vide Commission’s letter dated 28th December, 2022, the petitioner was asked to submit the Asset-cum-Depreciation register for Unit No. 2 in accordance to the Regulations, 2015 duly reconciled with Annual Audited Accounts. In response, the petitioner submitted the Asset cum Depreciation register for the FY 2016-17 to FY 2018-19 through affidavit dated 16th January, 2023
50. In form TPS 11 of subject petition, the petitioner worked out the weighted average rate of depreciation based on rates as per Depreciation Rate Schedule provided

under the Regulations, 2015 and the Commission has considered the same.

51. Based on above, the annual depreciation is worked out in this order as given below:-

Table 8: Annual Depreciation

Sr. No.	Particular	Unit	FY 2016-17	FY 2017-18	FY 2018-19
1	Opening Gross Fixed Assets	Rs Cr.	247.57	247.57	247.57
2	Assets Addition during the year	Rs Cr.	0.00	0.00	0.00
3	Closing Gross Fixed Assets	Rs Cr.	247.57	247.57	247.57
4	Average Gross Fixed Assets	Rs Cr.	247.57	247.57	247.57
5	Weighted Average Rate of Depreciation (%)	%	4.90%	4.90%	4.90%
6	Annual Depreciation	Rs Cr.	12.13	12.13	12.13
7	Applicable No of Days in Operation	Days	12	365	365
8	Cumulative Depreciation	Rs Cr.	0.40	12.53	24.66

Operation & Maintenance Expenses

Petitioner's Submission

52. The petitioner filed the Operation and Maintenance expenses for its 45 MW Unit No 2 for the period from FY 2016-17 to FY 2018-19 in accordance with the applicable Regulations, 2015 as given below:

Table 9: Operation & Maintenance Expenses claimed

Particular	Units	FY 2016-17	FY 2017-18	FY 2018-19
O&M expenses	Rs in Cr	0.47	15.34	16.31

Provision in Regulations:-

53. The norms for Operation and Maintenance Expenses are specified under Regulation 35.8 of the Regulations, 2015 for the generating Unit No 2 of 45 MW for the control period FY 2016-17 to FY 2018-19 which are as given below:

Table 10: Norms for O&M expenses for FY 2016-17 to FY 2018-19 (Rs Lakh/MW/Year)

Units (MW)	FY 2016-17	FY 2017-18	FY 2018-19
45 MW Series	32.07	34.09	36.24

Commission's Analysis

54. For Thermal Power Station, the annual Operation and Maintenance Expenses worked out by the Commission as per the norms specified under aforesaid applicable Regulations are as given below:

Table 11: O& M Expenses for Generating Unit

Particular	Units	FY 2016-17	FY 2017-18	FY 2018-19
Installed Capacity	MW	45	45	45
Per MW O&M Expenses Norms	Rs in Lakh/MW	32.07	34.09	36.24
Annual O&M expenses	Rs in Crore	14.43	15.34	16.31

Interest on Working Capital**Petitioner's submission**

55. The petitioner claimed interest on working capital for FY 2016-17 to FY 2018-19 in the petition as given below:-

Table 12: Interest on Working Capital claimed (Rs. in Crore)

Sr No	Particulars		FY 2016-17	FY 2017-18	FY 2018-19
1	Cost of Coal	2 Months	13.99	13.99	13.99
2	Cost of Main Secondary Fuel Oil	2 Months	0.19	0.19	0.19
3	O&M Expenses	1 Month	1.20	1.28	1.36
4	Maintenance Spares	20% of O&M	2.89	3.07	3.26
5	Receivables	2 Months	25.36	25.12	25.04
6	Total Working Capital		43.63	43.65	43.84
7	Rate of Interest	%	12.80%	12.60%	12.20%
8	Interest on Working Capital (Actual)		0.18	5.50	5.35

Provisions in Regulation:

56. Regulation 34 of the Regulation, 2015 provides that:

34.1 "The Working Capital shall cover:

(1) Coal- based thermal generating stations

(a) Cost of coal towards stock, if applicable, for 15 Days for pit-head generating stations and 30 days for non-pit-head generating stations for generation corresponding to the normative annual plant availability factor or the maximum coal stock storage capacity whichever is lower;

- (b) Cost of coal for 30 days for generation corresponding to the normative annual plant availability factor;
- (c) Cost of secondary fuel oil for two months for generation corresponding to the normative availability factor, and in case of use of more than one secondary fuel oil, cost of fuel oil stock for the main secondary fuel oil.
- (d) Maintenance spares @ 20% of the Operation & maintenance expenses specified in Regulation 35 ;
- (e) Receivables equivalent to two months of capacity charges and energy charges for sale of electricity calculated on the Normative Annual Plant Availability Factor; and
- (f) Operation and Maintenance expenses for one month.

34.2 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 three months preceding the first month for which tariff is to be determined and no fuel price escalation shall be provided during the Tariff period.”

34.3 “Rate of interest on working capital shall be on normative basis and shall be considered as the bank rate as on 1.04.2016 or on 1st April of the year during the tariff period 2016-17 to 2018-19 in which the generating station or a unit thereof, is declared under commercial operation, whichever is later.

34.4 Interest on working capital shall be payable on normative basis notwithstanding that the Generating Company has not taken loan for working capital from any outside agency.

Commission’s analysis:

57. As per above-mentioned provision, no fuel price escalation shall be provided during the tariff period for calculating the working capital. The Regulation further provides that the interest on working capital shall be payable on normative basis notwithstanding that the generating company has not taken loan for working capital from any outside agency. The working capital worked out as per the provisions under the Regulations, 2015 is as follows:

- (i) Two month’s Cost of coal and Two month’s Cost of secondary fuel of main oil equivalent to normative plant availability factor as per Commission’s MYT Order dated 25th October, 2021 in petition No. 17 of 2018 are considered as given below:

Particulars	FY 2016-17 to FY 2018-19 (Rs in Cr.)
Cost of Coal for two Months	13.99
Cost of Secondary Fuel Oil for two Months	0.19

- (ii) Maintenance spares for FY 2016-17 to FY 2018-19 as per Commission's MYT Order dated 25th October, 2021 in petition No. 17 of 2018 are considered as below:

Particulars	FY 2016-17 (Rs Cr.)	FY 2017-18 (Rs Cr)	FY 2018-19 (Rs Cr)
Maintenance Spares (20% of O&M Expenses)	2.89	3.07	3.26

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

(Rs in Crore)

Particular	FY 2016-17	FY 2017-18	FY 2018-19
Variable Charges- 2 Months (As considered in order dated 25 th October, 2021)	14.38	14.38	14.38
Fixed Charges- Two Months	10.98	10.74	10.66
Receivables for Two Months	25.36	25.12	25.04

- (iv) O&M expenses for one month for the purpose of working capital as per Commission's MYT Order dated 25th October, 2021 is considered:

Particulars	FY 2016-17(Rs in Cr.)	FY 2017-18 (Rs Cr)	FY 2018-19 (Rs Cr)
O&M Expenses for 1 Month	1.20	1.28	1.36

58. Further, Regulation 34.3 of the Regulations, 2015 provides that:

“Rate of interest on working capital shall be on normative basis and shall be considered as the bank rate as on 1.04.2016 or as on 1st April of the year during the tariff period 2016-17 to 2018-19 in which the generating station or a unit thereof, is declared under commercial operation, whichever is later.

59. In the subject petition, the petitioner has claimed rate of interest on working capital for the control period as given below:

Table 13: Rate of Interest on Working Capital claimed (%)

Particulars	FY 2016-17	FY 2017-18	FY 2018-19
Interest on allowed Working Capital	12.80%	12.60%	12.20%

60. In line with Regulation 34.3 of the Tariff Regulations, 2015, the rate of interest on working capital is considered bank rate as on 01.04.2016 or as on 1st April of the year during tariff period 2016-17 to 2018-19 plus 3.50%.

61. Considering base rate on 1st April of the year during tariff period of FY 2016-17 to 2018-19 plus 3.50%, rate of interest on working capital is worked out as under:

Table 14: Rate of Interest on Working Capital allowed

Particulars	FY 2016-17	FY 2017-18	FY 2018-19
Base rates on 1 st April of the year specified by SBI.	9.30%	9.10%	8.70%
Plus 350 basis point	3.50%	3.50%	3.50%
Rate of Interest on Working Capital	12.80%	12.60%	12.20%

62. Based on the rates above, the interest on working capital for the control period FY 2016-17 to FY 2018-19 is determined as given below:

Table 15: Interest on Working Capital Allowed

(Rs in Crore)

Sr. No.	Particular	FY 2016-17	FY 2017-18	FY 2018-19
1	Cost of Coal for working capital	13.99	13.99	13.99
2	Cost of Main Secondary Fuel Oil for two months	0.19	0.19	0.19
3	O&M Expenses for One Month	1.20	1.28	1.36
4	Maintenance Spares 20% of O&M expenses	2.89	3.07	3.26
5	Receivables for Two Months	25.36	25.12	25.04
6	Total Annual Working Capital	43.63	43.65	43.84
7	Rate of Interest on Working Capital	12.80%	12.60%	12.20%
8	Annual Interest on working Capital	5.59	5.50	5.35

Non-Tariff Income

Provision in Regulation:

63. With regard to non tariff income, Regulation 53 of the Regulations, 2015 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

64. On perusal of the details of non-tariff income for FY 2017-18 to FY 2018-19 filed by the petitioner, it was observed that the petitioner has filed the total non-tariff income of 0.20 Crore for FY 2017-18 and Rs 0.41 for FY 2018-19 respectively, whereas in Note 22 of Annual Audited Accounts "other income" is shown as Rs. 0.14 Crore, Rs 0.15 Crore and Rs 7.83 Crore for FY 2016-17, 2017-18 & FY 2018-19 respectively. Vide letter dated 28th December, 2022, the petitioner was asked to explain the reasons for aforesaid discrepancy in non-tariff income recorded in Annual Audited Accounts vis-a-vis filed in the subject petition. The petitioner was also asked to file detailed break-up of non-tariff income in accordance with the Regulation 53 of the Regulations, 2015 duly reconciled with the Annual Audited Accounts.

65. By affidavit dated 16th January, 2023, the petitioner submitted the following:

Year-wise details of non-tariff income and its reconciliation with annual accounts with reason is as under.

FY 2016-17

Sr. No.	Particular	Amount as per P&L	Unit-2	Unit-1	Remark
Other Operating Revenue					
1	Sale of fly ash	88,29,672	-	88,29,672	Income is allocated in ratio of generation from Unit-1 & Unit-2
2	Sale of scrap	9,11,976	-	9,11,976	As Unit was commissioned on 20 th March, 2017, no sale of scrap is considered for Unit-2
3	Refund of fees/ open access charges (net)	28,69,000	-	28,69,000	As Unit was commissioned on 20 th March, 2017, no income is considered for Unit-2
Other Income					
1	Interest income from Banks	8,49,558	-	8,49,558	As Unit was commissioned on 20 th March, 2017, no interest income from banks is considered for Unit-2
2	Interest income on security deposits	1,54,774	-	1,54,774	As Unit was commissioned on 20 th March, 2017, no interest income on security deposit is considered for Unit-2
3	Rent Income	4,18,297	-	4,18,297	As Unit was commissioned on 20 th March, 2017, no rent income is considered for Unit-2
4	Misc Income	11,776	-	11,776	As Unit was commissioned on 20 th March, 2017, no misc income is considered for Unit-2
	Total	1,40,45,053	-	1,40,45,053	

FY 2017-18

Sr. No.	Particular	Amount as per P&L	Unit-2	Unit-1	Remark
Other Operating Revenue					
1	Sale of fly ash	1,55,33,224	37,033	1,54,96,191	Income is allocated in ratio of generation from Unit-1 & Unit-2
2	Sale of scrap	24,54,363	12,27,182	12,27,182	Allocated among Unit-1 & Unit-2 in ratio of capacity
Other Income					
1	Interest income from Banks	9,43,515	4,71,758	4,71,758	Allocated among Unit-1 & Unit-2 in ratio of capacity
2	Interest income on	1,22,588	61,294	61,294	Allocated among Unit-1 & Unit-2 in ratio of capacity

	security deposits				
3	Rent Income	4,70,201	2,35,101	2,35,101	Allocated among Unit-1 & Unit-2 in ratio of capacity
4	Misc Income	1,320	660	660	Allocated among Unit-1 & Unit-2 in ratio of capacity
	Total	1,95,25,211	20,33,027	1,74,92,185	

FY 2018-19

Sr. No.	Particular	Amount as per P&L	Unit-2	Unit-1	Remark
Other Operating Revenue					
1	Sale of fly ash	44,12,365	1,19,818	42,92,547	Income is allocated in ratio of generation from Unit-1 & Unit-2
2	Sale of scrap	61,70,139	30,85,070	30,85,070	Allocated among Unit-1 & Unit-2 in ratio of capacity
3	Provision no longer required to be written back	84,93,792	-	-	Provisions made in earlier years before Unit-2 was commissioned, is written back in FY 2018-19.
Other Income					
1	Interest income from Banks	6,94,638	3,47,319	3,47,319	Allocated among Unit-1 & Unit-2 in ratio of capacity
2	Interest income on security deposits	1,37,665	68,833	68,833	Allocated among Unit-1 & Unit-2 in ratio of capacity
3	Late payment surcharge from MPPMCL	7,65,49,429	-	-	<p>It is submitted that late payment surcharge income is the reimbursement of the interest paid on additional working capital loan required due to delay in payments of bills by MPPMCL.</p> <p>It is further submitted that since BLA gets only the normative interest on working capital, whereas Late payment surcharge income is utilized towards the payment of interest on additional working capital loan borrowed due to delay in payment of bills by MPPMCL, thus the Late payment surcharge income cannot be considered as part of non tariff income.</p>

					<p>Late payment surcharge from MPPMCL is billed and booked as income due to delay in payment from MPPMCL. Hence, it cannot be passed on to the beneficiaries as part of ARR.</p> <p>Furthermore, in present case, the Petitioner has not received any amount from MPPMCL but as bills have been raised, in accordance to the terms of the 27MW PPA, such amounts are reflecting in annual account.</p> <p>In view of the above, late payment surcharge cannot be considered as part of ARR of Unit-1 & Unit-2.</p>
4	Interest on income tax refund	70,561	-		<p>It is submitted that interest on Income tax refund is the interest that BLA has paid on additional working capital loan taken due to delay in payment of income tax refund by the Income tax authorities.</p> <p>Income tax is not claimed as part of ARR and hence, need not be considered as non-tariff income in tariff determination process.</p>
5	Rent Income	4,48,471	2,24,236	2,24,236	Allocated among Unit-1 & Unit-2 in ratio of capacity
6	Misc. Income	4,21,921	2,10,961	2,10,961	Allocated among Unit-1 & Unit-2 in ratio of capacity
	Total	9,73,98,981	40,56,235	82,28,964	

66. Regulation 53 of the Regulations, 2015 provides that the income from rents, income from sale of scrap, income from advertisements, interest on advances to suppliers/contractors, **income from sale of fly ash**, etc. are considered under non-tariff income.
67. In view of above, amount of Rs 0.20 Crore for FY 2017-18 and Rs 0.41 Crore for FY 2018-19 is considered as non-tariff income in this order based on Annual Audited Accounts of each year.
68. Accordingly, the Commission has considered following non tariff income for FY 2016-17 to FY 2018-19 in this order:

Table 16: Non-Tariff Income considered in the order (Rs in Crore)

Year	FY 2016-17	FY 2017-18	FY 2018-19
Amount Considered	0.00	0.20	0.41

Other Charges:

69. In the subject true-up petition, the petitioner claimed following regarding other charges:

- *Allow to recover the fees paid to the Commission and publication expenses from Respondent No. 1*
- *Allow to recover E.D., Water Charges and Cess on auxiliary power consumption and other taxes, if any, levied by the Statutory Authorities from Respondent No. 1;*

70. Regarding the other charges, in Para 264 of the order dated 25th October, 2021, the following was mentioned by the Commission:

- The petitioner is allowed to recover the fee paid to MPERC and publication expenses as per Regulation 52 of the Regulations, 2015 on submission of documentary evidence.

71. With regard to Application fee and publication expenses and water charges, Regulation 52 of the Regulations, 2015 provides as under:

“Regarding the recovery of publication expenses & MPERC Petition filing fee, Regulation 52 (i) of the Regulations, 2015 provides the following: “The application filing fee and the expenses incurred on publication of notices in the application for approval of tariff, may in the discretion of the Commission, be allowed to be recovered by the generating company directly from the beneficiaries”.

Electricity duty, cess and water charges if payable by the Generating Company for generation of electricity from the power stations to the State Government, shall be allowed by the Commission separately and shall be trued-up on actuals

72. In view of the above, the petitioner is allowed to recover the fee paid to MPERC and publication expenses as per Regulation 52 (1) of the Regulations, 2015 on

submission of documentary evidence.

73. The petitioner is also allowed to recover the ED, Cess and water charges paid to Water Resources Department, Government of MP as per Regulation 52 (5) of the Regulations, 2015 on submission of documentary evidence.

Summary of Annual Capacity (fixed) Charges

74. The details of the Annual Capacity (fixed) Charges allowed in this true-up order for FY 2016-17, FY 2017-18 and FY 2018-19 vis-a-vis those determined in the MYT order dated 25th October, 2021 at normative Plant Availability Factor are summarized as below:

Table 17: Summary of Annual Capacity (Fixed) Charges (Amount in Rs Crore)

Sr No	Particulars	Approved in MYT Order for FY 2016-17	Approved in this order for FY 2016-17	Approved in MYT Order for FY 2017-18	Approved in this order for FY 2017-18	Approved in MYT Order for FY 2018-19	Approved in this order for FY 2018-19
1	Depreciation	12.23	12.13	12.23	12.13	12.23	12.13
2	Interest and Finance Charges	22.19	22.20	19.90	20.17	19.06	19.08
3	Return on Equity	11.51	11.51	11.51	11.51	11.51	11.51
4	Operation & Maintenance Expenses	14.43	14.43	15.34	15.34	16.31	16.31
5	Interest on Working Capital	5.59	5.59	5.50	5.50	5.35	5.35
7	Total Annual Capacity (fixed) Charges	65.95	65.86	64.47	64.65	64.46	64.38
8	Less:-Non Tariff Income	0.00	0.00	0.20	0.20	0.41	0.41
9	Net AFC (after adjusting Other Income)	65.95	65.86	64.27	64.45	64.05	63.97
10	No of Days in Operation	12.00	12.00	365	365	365	365
11	AFC apportioned in actual days of operation	2.17	2.17	64.27	64.45	64.05	63.97
12	Annual Capacity Charges for contracted Capacity i.e. (30%) of installed Capacity	0.65	0.65	19.28	19.34	19.22	19.19
13	True up Amount	0.00		0.06		-0.03	

75. In view of the above, the total true up amount for FY 2019-20, FY 2020-21 and FY 2021-22 is Rs 0.03 Crore.
76. The aforesaid Annual Capacity Charges have been computed based on norms specified under the Regulations, 2015. The above Annual Capacity (fixed) Charges are determined corresponding to the contracted capacity under PPA. The recovery of Annual Capacity (Fixed) charges shall be made by the petitioner in accordance with Regulations 36.2 to 36.4 of the Regulations, 2015.
77. Regarding the performance-based truing-up of energy charges on account of controllable parameters, Regulation 8.7 of the Regulations, 2015 provides that the generating company shall work out gains based on the actual performance of applicable controllable parameters as under:
- Station Heat rate
 - Secondary Fuel Oil Consumption
 - Auxiliary Energy Consumption
78. In view of the above Regulations, it was observed by the Commission that the generating company shall carry out the truing-up of tariff of generating station based on the controllable performance parameters like Station Heat Rate, Secondary fuel oil consumption and Auxiliary Energy consumption. Vide letter dated 28th December, 2022, the petitioner was asked to file the annual details of aforesaid performance parameters actually achieved vis-à-vis normative parameters under the Tariff Regulations, 2015. The petitioner was also asked to file the details of financial gain if any, on account of controllable parameters and shared with the beneficiaries in light of the Regulations 8.9 of the Regulations, 2015.
79. In response to above, by affidavit dated 16th January, 2023, the petitioner submitted the month wise detailed comparison of aforesaid performance parameters actually achieved vis-a-vis normative parameters for FY 2016-17 to FY 2018-19. On perusal of the details filed by the petitioner, it is observed that actual parameters achieved by the petitioner during FY 2016-17 to FY 2018-19 are inferior than the normative parameters under the Regulations therefore, the petitioner incurred loss on account of the inferior performance and poor actual operating parameters achieved by it during FY 2016-17 to FY 2018-19.

80. The Regulation 8.9 of the Regulations, 2015 provides that the financial gains by a generating company on account of controllable parameters shall be shared between generating company and the beneficiaries in the ratio of 2:1 on monthly basis with annual reconciliation. The aforesaid Regulations do not provide for sharing of loss incurred by the generating company. Therefore, the loss incurred by the petitioner on account of inferior operating parameters shall not be passed on to the beneficiary.

Implementation of the order

81. The petitioner must take steps to implement the order after giving seven (7) days' public notice in accordance with Clause 1.30 of MPERC (Details to be furnished and fee payable by licensee or generating company for determination of tariff and manner of making application) Regulations, 2004 and amendments thereto and recalculate its bills for the energy supplied to Distribution Companies of the State/ M.P. Power Management Company Ltd. since 1st April, 2016 to 31st March, 2019.

82. 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 2023-24 and onwards.

83. With above directions, this Petition No. 79 of 2022 is disposed of.

(P.k Chaturvedi)
Member

(Gopal Srivastava)
Member(Law)

(S.P.S Parihar)
Chairman

Date: 3rd March, 2023

Place: Bhopal

Annexure-I

Petitioner's Response on the comments offered by the Respondent No.1 (MPPMCL) along with the observations

MPPMCL's Comment-

It is submitted that Regulation 8.7 to 8.10 of 2015 Generation Tariff Regulations, mandate true up of tariff of generating station based on the performance of controllable parameters and uncontrollable parameters. Mechanism of sharing of loss or gain is also laid down.

Therefore, Regulations 8.7 and 8.8 of 2015 Generation Tariff Regulation mandate that true up of generation tariff is required to be carried out based on performance of both Controllable and Un-controllable parameters specified in these Regulations.

Whereas, Regulation 8.9 of 2015 Generation Tariff Regulation lays down the method for sharing the benefit on account of Controllable parameters, Regulation 8.10 provides that the financial gains and losses by a generating company on account of uncontrollable parameters shall be passed on to beneficiaries of the generating company.

It is therefore respectfully prayed that this Commission may graciously be pleased to direct Petitioner to submit requisite information/ records for the purpose of true up on the basis of performance of controllable and uncontrollable parameters as above.

Petitioner's Reply-

As regards averments made by the Respondent in para 10 to para 13 of Reply, the details of true-up based on controllable performance parameters have already been submitted before this Commission in response dated 28.1.2022.

Observation:

Petitioner has provided necessary month-wise details of actual parameters to arrive at gain/ loss on account of controllable parameters in its additional submission dated 4th January, 2023.

MPPMCL's Comment-

In Para 5.3.2 in Table-6 (at Pg. No. 17) the Petitioner has given details of Interest and Financing Charges on Loan for FY 2016-17 to FY 2018-19. For FY 2017-18, Average Normative Loan has been shown as Rs. 166.84 Cr. and Weighted Average Rate of Interest (WAROI) on actual loans has been claimed at 12.09 %. These are not in

accordance with the figures of Normative Loan (Rs. 166.78 Cr) and WAROI (11.03 %) approved by this Commission in the MYT Order. This requires clarification from the Petitioner.

Petitioner's Reply-

In response, it is submitted that the weighted average rate of interest is worked out based on actual rate of interest, which is filed with the present true up petition. In MYT petition the rate was calculated based on actuals only but there was an inadvertent calculation error which has now been corrected and actual weighted average rate of interest for FY 2017-18 is worked out to 12.09%. The amount of average normative loan has been changed because of change in rate of depreciation claimed by petitioner. Petitioner has claimed 4.90% against approved 4.94%.

Observation:

Weighted Average Rate of Interest is worked out on the basis of actual rate of interest. Petitioner has submitted all the required documents.

MPPMCL's Comment

In Para 5.4.2 in Table-7 (at Pg. No. 18) the Petitioner has given details of Depreciation claimed for FY 2016-17 to FY 2018-19. The Petitioner has claimed Depreciation at the Rate of 4.90 % for FY 2016-17 to FY 2018-19. However, in the MYT Order this Hon'ble Commission had approved Depreciation at the Rate of 4.94 % for all three years. In Form No.-1 (Annexure-1) also the amounts of Depreciation claimed for FY 2017-18 and FY 2018-19 are indicated as Rs. 12.13 Cr. against normative value of Rs. 12.23 Cr. It is humbly prayed that the Petitioner may be directed to explain the reason for deviation from normative value of Depreciation. The Depreciation may be allowed only in accordance with the provisions of Regulation 33 of 2015 Generation Regulations.

Petitioner's Reply-

The contents of MPPMCL Reply except those which are a matter of record are wrong and denied. It is submitted that vide order dated 25.10.2021, Commission has approved the capital cost at Rs 247.57 Crore. After applying applicable rate of depreciation as per the rates provided in MPERC (Generation Tariff Regulations), 2015 the average depreciation rate works out to be 4.90%. Accordingly the depreciation is calculated after applying the rate of depreciation at 4.90% instead of the rate of 4.94%. Petitioner has also submitted Form 11 with the petition.

Observation:

Depreciation rate has been considered as per Regulations, 2015. Petitioner has also submitted Asset-cum-Depreciation Register.

MPPMCL Comment:

In Para 5.5.2 in Table-8 (at Pg. No. 20) the Petitioner has given details of O & M Expenses claimed for FY 2016-17 to FY 2018-19. It is humbly prayed that O & M Expenses may be allowed in accordance with the provisions of Regulation 35 of 2015 Generation Tariff Regulations.

Petitioner's Reply:

The contents of Paras 32 of MPPMCL Reply is a matter of record and hence merit no response. It is submitted that the Petitioner has claimed O&M Expenses strictly in terms of the mandate of the Tariff Regulations, 2015.

Observation:

O&M Expenses have been considered in accordance with the Regulations, 2015.

MPPMCL Comment:

In Table-9 (at Pg. No. 22), the Petitioner has given details of Interest on Working Capital claimed for FY 2016-17 to FY 2018-19. It is humbly prayed that Interest on Working Capital on Loan may be allowed in accordance with the provisions of Regulation 34 of 2015 Generation Tariff Regulations.

Petitioner's Reply:

The contents of Paras 34 of MPPMCL Reply is a matter of record and hence merit no response. It is submitted that the Petitioner has claimed Interest on Working Capital strictly in terms of the mandate of the Tariff Regulations, 2015.

Observations:

Interest on Working Capital on Loan is considered as per the Regulations, 2015.

MPPMCL Comment:

In Para 5.7.1 (at Pg. No. 22), in Form No. 1 (Annexure-1) and in Form-13-A the Petitioner has given details of its claim of Fixed Charges for Unit 2 for FY 2016-17 to FY 2018-19. For FY 2017-18 and FY 2018-19, the Petitioner has claimed higher Interest and Financing Charges at Rs. 20.17 Cr. and Rs. 19.08 Cr. respectively against Rs. 19.90 Cr and Rs. 19.06 Cr. respectively approved by this Hon'ble Commission for the corresponding years

in the MYT Order. Also, the Petitioner has not shown any Non Tariff income for FY 2016-17 in Form-13-C. This needs clarification from the Petitioner.

Petitioner's Reply:

The contents of Paras 35 of MPPMCL Reply are a matter of record. Fixed (Capacity) Charges have been calculated in accordance with the Tariff Regulations, 2015. The submission made in paragraph 7 may also be read in response to the para under reply. Furthermore, the petitioner has already submitted details of non-tariff income along with the present Petition in Form 13C. It is clarified that Unit 2 achieve COD on 20.03.2017 and there was no Non-Tariff income for Unit 2 for FY 2016-17.

Observation:

Non-tariff Income is considered in accordance to the Regulations, 2015.

MPPMCL Comment

In Para 5.8.1 (at Pg. No. 23), the Petitioner has given details of its claim for Other Charges which includes Cost of Chemicals and Water Charges also. It is submitted that Normative O & M Expenses cover cost of all consumables also including Chemicals. Therefore, the claim for cost of chemicals may not be allowed.

Petitioner's Reply:

Save matters of records, the content of para 36 of MPPMCL's Reply are denied and disputed. It is submitted that, Regulation 35.7 of MPERC regulations 2015 provides as under:

".....These norms exclude Pension and Terminal Benefits, EL encashment, Incentive, arrears to be paid to employees, taxes payable to the Government, and fees payable to MPERC. The generating company shall claim the rate, rent & taxes payable to the Government, cost of chemicals and consumables, fees to be paid to MPERC , EL encashment and any arrears paid to employees separately as actuals."

As evident from above, the O&M Norms determined by the Commission excludes Cost of Chemical & Consumables and these are allowed to be claimed separately on actual basis. In accordance with above mentioned Provision of Regulation, in the

instant petition Petitioner has claimed the Cost of Chemical & Consumables under the head of "Other Charges" in the instant true up Petition.

Furthermore, the Petitioner has claimed O&M expenses on normative O&M Norms; as such there is no question/ possibility of double claim of these expenses.

Observation:

Other Charges are allowed in accordance to the Regulations, 2015

MPPMCL Comment:

It is also to submit that as per Ministry of Environment, Forest and Climate Change (MoEFCC) Notification dated 07.12.2015, Thermal power plants have to meet specific water consumption up to Maximum of 3.5 m³/MWh. Accordingly, the water requirement as per actual generation of power and as per the norms prescribed by MoEFCC may only be allowed.

Petitioner's Reply

Save matters of records, the content of para 37 of MPPMCL's Reply are denied and disputed. It is submitted that water charges are levied by the Water Resource Department of GoMP on their notified rates. It is submitted that the Petitioner, strictly claims water charges in accordance with the Tariff Regulations, 2015. Furthermore, the Petitioner always claims such charges only on production of actual documents based on the actual payments made to the appropriate government authority(ies).

Observation:

Water charges are allowed as per the Regulations, 2015.

Annexure-II

Petitioner's Response on the comments offered by the Stakeholder along with the observations:

Stakeholder's Comment-

According to the Clause 8.8 of the Tariff Regulations, 2015, it is necessary to verify the uncontrollable factor, i.e., Primary Fuel Cost. The Commission is requested to conduct a thorough analysis and investigation of the cost of the primary fuel coal purchased by the petitioner for Unit No. 2 for power generation, which will be in the public interest.

It is worth mentioning that the fuel supply contract was executed by the petitioner in December, 2020 under the SHAKTI policy of coal allocation announced by the Government of India, which was executed after the period of the referred Petition No 79/2022, therefore the coal mentioned in the referred petition was completely bought through e- auction

Petitioner's Reply-

On observation by Shri Rajendra Agarwal related to coal used for supply of contracted capacity to MPPMCL, the Petitioner submits that all the details required to be submitted in accordance with the Regulations and details asked for by the Ld. Commission has been submitted by the Petitioner during MYT Petition of Unit 2 itself. The Ld. Commission has determined MYT tariff vide its order dated 25.10.2021 in Petition No. 17 of 2018.

Furthermore, the Petitioner has already submitted copies of bills of coal, its transportation charges etc. It is further to inform that all coal used for supply of contracted capacity to MPPMCL, has been purchased from Subsidiary of Coal India Limited under the extant policy of Government of India.

Observation:

Copies of invoices for transportation and invoices for unloading charges along with its reply has been submitted to the Commission at the time of MYT. Interest on working capital has been considered in accordance to the provisions under the Regulations, 2015.

Stakeholder's Comment-

The Petitioner has not mentioned the actual achievement of the Plant Availability Factor (PAF). However, for the referred tariff period, from the perusal of the monthly energy

account issued by the State Load Despatch Center, it is found that the Annual Plant Availability Factor (NAPAF) of Unit No. 2 of the petitioner's plant has been very poor, which is evident from the following data:-

Tariff period	Availability (%)	Power Output (KWH)
20 th March, 2017 to 31 st March, 2017	00	00
FY 2017-18	97.91	00
FY 2018-19	13.5	8,88,721

According to the information received from the Right to Information Act 2005, the availability of 2017-19 has been issued by State Load Dispatch Centre in the starting of FY 2018, after the end of the FY 2017-18, on the basis of 96 blocks per day, and on this basis, BLA received approximately Rs. 16.80 crore fixed charges which have been paid, whereas electricity has never been purchased or Scheduled in any period of 365 days of that whole year.

After the date of COD dated 20 March, 2017 till 31st March, 2018, Commission is requested to direct the petitioner to provide Declared Capacity released for Power Management Company Ltd per day on the basis of 96 blocks. Against the above, Commission is also requested to direct the petitioner and MPPMCL to provide the electricity requisition sent by the Power Management Company and to provide the schedule issued by the State Load Despatch Center, so that the irregularity in the payment of Rs 16.50 crore can be exposed, which is very important in the public interest.

Petitioner's Reply

The Objectors have alleged that the payment of Rs.16.8 crores by MPPMCL to the Petitioner for Unit-2 is illegal. The Petitioner vehemently denies this allegation as baseless and wrong. The Petitioner had duly declared the Declared Capacity (DC) of Unit-2 on daily basis in 96 time blocks to Madhya Pradesh State Load Despatch Centre.

As already clarified by the Petitioner at the stage of determination of MYT Tariff, post the Commissioning Test which were completed on 19 March, 2017, Unit-2's COD was from 00:00 hours

of 20 March, 2017. Subsequently, the Petitioner has been declaring availability on a daily basis of Unit-2 in accordance with 27 MW PPA and/or applicable regulations. Despite due declaration and submission of availability of Unit-2, SLDC, for reasons best known to it, did not reflect the availability of Unit-2 in its provisional SEA. Subsequently, SLDC has issued a corrigendum and certified the availability.

The allegations raised by the Objectors regarding the payment of Rs.16.8 crores by MPPMCL to the Petitioner for Unit-2 is vehemently denied and disputed. This allegation is baseless, wrong and repetitive. The Objector had raised similar objections at the stage of MYT proceedings and had alleged that the COD of Unit-2 ought to be arbitrarily assumed as 6th June 19 and that the Hon'ble Appellate Tribunal for Electricity by its order dated 19.04.2018 had not allowed Appeal No. 201/2017. By the present objections, the Objector in a surreptitious manner is seeking to re-agitate issues already settled by this Commission, the Hon'ble Appellate Tribunal for Electricity and the Hon'ble Supreme Court.

The Petitioner has already clarified at the stage of MYT Tariff proceedings that the proceedings before Hon'ble Appellate Tribunal for Electricity (hereinafter referred to as "APTEL") in Appeal No. 201/2017 or the Judgment passed consequent to such proceedings by Hon'ble APTEL, cannot be sought to be challenged or questioned before this Commission in the present Tariff Petition. The Judgment passed by APTEL speaks for itself and the Judgment (read with the order dated 11 January 2019 passed by the Hon'ble Supreme Court) is required to be implemented and complied with by all parties. Further since MPPMCL was a party in the said proceedings and was well aware of the said Judgment of the Hon'ble APTEL as well as the order passed by the Supreme Court. The parties have all along acted in accordance with law and the 27MW PPA.

The Petitioner further states that all payments received by it are strictly in accordance with law and the 27MW PPA. The Petitioner underlines the fact that all payments have been made to the Petitioner under the 27MW PPA in accordance with law after making all necessary prudence checks as per regulatory provisions and the provisions of the 27MW PPA.

Observation:

The details/documents regarding the PAF of Unit No. 2 have been submitted by the petitioner.