

Subject:- In the matter of determination of the provisional tariff for 2X250 MW (Phase-I) Coal based power project at Bina, District Sagar (M.P.).

ORDER

(Passed on this day of 29th June, 2013)

M/s Jaiprakash Power Ventures Ltd., Uttar Pradesh

Petitioner

Versus

1. M. P. Power Management Co. Ltd., Jabalpur

2. M. P. Poorv Kshetra Vidyut Vitaran Co. Ltd., Jabalpur

3. M. P. Madhya Kshetra Vidyut Vitaran Co. Ltd., Bhopal

4. M. P. Paschim Kshetra Vidyut Vitaran Co. Ltd., Indore

Respondents

1. The petitioner, M/s Jaiprakash Power Ventures Ltd. (JPVL) (erstwhile M/s Bina Power Supply Co. Ltd. Merged with M/s Jaiprakash Power Ventures Ltd.) had filed a petition (P-40/2012) on 16th May, 2012 for determination of generation tariff for 2X250 MW (Phase-I) coal based power project at Bina, District Sagar (M.P.). In the aforesaid petition, the petitioner prayed for the following:-

- a) *Determine the Generation Tariff of Unit-1 and Unit-2 of the Generating Station for Phase I as required under the PPA dated 05.01.2011.*
- b) *Determine the Variable Charge to be paid by the Government of Madhya Pradesh under PPA dated 20.07.2011.*
- c) *Determine the Tariff to be paid for the infirm power supplied by the Petitioner's Project from the date of Synchronization to the date of Commissioning as mandated under Regulation 19 of the MPERC Tariff Regulations.*
- d) *Determine the Provisional Tariff of the Project.*
- e) *Determine an interim Provisional Tariff for the Project till this Hon'ble Commission fixes the Provisional Tariff as sought by the Petitioner in prayer (d) above and make the said Tariff applicable for the power being supplied from the Project to the Respondents.*

2. Vide Order dated 12th December, 2012, the Commission determined the provisional tariff for 250 MW Unit-1 from its CoD to 31st March, 2013. The provisional tariff for Unit - 2 was not determined by the Commission since this Unit was not synchronized by that time and the necessary details/ documents were also not submitted by the petitioner.

3. On 21st February, 2013, the petitioner filed an application under Regulation 46 of MPERC (Conduct of Business) Regulations, 2004 for reinstatement of the petition No.40 of 2012 along with determination of tariff in accordance with the petition No. 40 of

2012.

4. In the above application, the petitioner requested the Commission:
 - a) *To allow the present applicant and re-instate petition No.40 of 2012 and combine the information being furnished through the present application with petition No.40 of 2012;*
 - b) *To determine the Generation Tariff of the Generating Station for Phase-I as required under the PPA dated 5th January, 2011 and as prayed by the Applicant/Petitioner in petition No.40 of 2012;*
 - c) *To determine the Provisional tariff for Unit-2;*
5. Motion hearing in the matter was held on 19th March, 2013. During the course of motion hearing, the petitioner requested the Commission to allow the petitioner to continue with the billing for Unit-1 to Respondent No.1 after 31st March, 2013 based on the provisional tariff approved by the Commission for Unit-1 in petition No.40/2012 till disposal of the above application.
6. Vide daily order dated 22nd March, 2013, the petitioner was allowed to provisionally bill the Respondent No.1, for the period starting from 1st April, 2013 till approval of tariff by the Commission in accordance under Regulation 15.3 of MPERC (Terms & Conditions for determination of Generation Tariff) (Revision-II) Regulations, 2012 {RG-26 (II) of 2012}, as per the order of the Commission for Unit-1 dated 12th December, 2012 in petition No.40 of 2012.
7. Vide daily order dated 22nd March, 2013, the application was admitted subject to payment of the balance application fee by the petitioner. The petitioner was directed to serve copy of the application on all the respondents in the matter. Vide the aforesaid order, the petitioner was also asked to file certain details/information along with supporting documents by 18th April, 2013.
8. By affidavit dated 17th April, 2013, the petitioner filed its response to the queries of the Commission. On perusal of the response filed by the petitioner on 17th April, 2013, the Commission further directed the petitioner to file certain information/documents by 15th May, 2013 after serving a copy on the respondents. The respondents were also asked to submit their comments/suggestions if any, by 20th May, 2013 on the additional submissions made by the petitioner. By affidavit dated 13th May, 2013, the petitioner filed its response on the issues raised by the Commission.
9. On 21st May' 2013, the respondent No. 1 filed its response on the submission made by the petitioner. Issue-wise comments offered by the respondent No.1 i.e, MP Power

Management Co. Ltd (MPPMCL) on the submissions of the petitioner are as given below:-

Issue:- The date by which the audited financial accounts for FY 2012-13 in respect of Unit-I & II shall be filed with the Commission.

Petitioner's response:

"I say that in response to Query 8(e) raised by the Hon'ble Commission, it is submitted that the Audit of Financial Accounts for FY 2012-13 is in progress and the Audited Accounts shall be filed before the Hon'ble Commission after the approval of Board of Directors by 30th June, 2013."

MPPMCL's Comment:

"It is submitted that delay in submitting the required financial accounts on the part of the petitioner is resulting in delay in fixation of the final tariffs of the units under consideration."

Issue:- (i) The details of expenditure incurred up to CoD of Unit-I duly certified by the Chartered Accountant so that the provisional tariff of Unit-I based on the expenditure incurred up to CoD may be determined for FY 2012-13.

(ii) The date by which the expenditure incurred on Unit-II up to its CoD shall be filed separately by the Petitioner.

(iii) Details of expenditure incurred from CoD till date for Unit-I along with the funding duly certified by Chartered Accountant for scrutiny of additional capitalization, if any.

(iv) Break-up of all cost components amongst Unit-I and Unit-II indicating the individual cost components and common facilities separately.

Petitioner's response:

"I say that in response to Query 8 (f), 8(g), 8(h) and 8(o) raised by the Hon'ble Commission, the Petitioner submits that Unit I & Unit II have various common expenses amongst them, therefore the final cost of Unit I can only be determined after capitalization of Unit II. Since the COD of Unit II was achieved on 07.04.2013, therefore, audited accounts of FY 2012-13 would not contain the total capitalized expenses in respect of Unit II. As submitted vide Affidavit dated 21st November, 2012 at para 9.4, the actual expenses of Unit I, alongwith allocated common expenses to both Unit I and Unit II would be available only after capitalization of Unit II. It is, therefore, humbly submitted that details of expenditure incurred up to COD of Unit I and Unit II, dully certified by Chartered Accountant would be submitted after compilation of Audited Account up to 31.03.2013, say by July / August, 2013."

MPPMCL's Comment:

"It is submitted that the CoD of Unit-I was achieved on 31.8.2012 and the CoD of Unit-II was achieved on 07.04.2013. So by now, the petitioner ought to have got their accounts finalized in so far as they pertain to Unit-I. By now the expenditures in respect of Unit-I and II could have been conveniently segregated and accounts of Unit-I finalized. In the name of segregating the said expenditure, the petitioner is not cooperating in finalization of tariff of Unit-I."

Issue:- Details of funding up to CoD of Unit-I along with drawdown schedule for loan and details of the equity incurred along with the actual debt-equity ratio.

Petitioner's response:

*"I say that in response to query 8 (i) raised by the Commission The details of funding up to COD of Unit I and Unit II along with draw down of loan and details of equity infused along with actual debt- equity ratio is annexed herewith and marked as **Annexure A- 4**".*

MPPMCL's Comment:

"It is submitted that, for want of proper attestations and duly audited information, the petitioner is not in a position to offer any comment on Annexure-A-4 in relation to para 3 (l) of the affidavit."

Issue:- Details of the work completed as on CoD of Unit-I & II along with details of balance works to be completed with respect to original scope of work.

Petitioner's response:

"I say that the in response to Query 8(j) of the Hon'ble Commission, the Petitioner submits that the details of work completed alongwith details of balance work to be completed as on COD's of Unit I and Unit II are under preparation and shall be submitted alongwith the CA certificate for capital expenditure incurred for both Unit I & II, as submitted in reply to point no.8 (f,g,h&o)"

Issue:- Details of funding of Unit-II as on COD (as and when it is achieved) along with drawdown schedule of loan.

Petitioner's response:

"I say that the in response to Query 8(k), the Petitioner confirms that the Petitioners reply to query 8(i) may please be referred to."

MPPMCL's common Comment to the above two issues:

"In reply to contents of these paragraphs, the answering respondent reiterates its

submissions made in paras 2 & 3 hereinbefore”.

Issue:- Detailed calculation for weighted average rate of interest on loan capital.

Petitioner’s response:

*“I say that the in response to Query 8(l), the Petitioner submits a detailed calculation for Weighted Average Rate of interest on loan capital and is enclosed as **Annexure A-5.**”*

MPPMCL’s Comment:

“It is submitted that, for want of proper attestation and certificate, the information submitted vide Annexure R-5 is not reliable. A prudence check in this regard is requested for by the answering respondent.”

Issue:- Date of scheduled COD of Unit-II as and when achieved along with the justification for delay in commissioning of Unit-II, if any.

Petitioner’s response:

*“ I say that the in response to Query 8(m), the Petitioner humbly submits that the COD of Unit I was achieved on 31st August, 2012 and consequently the scheduled COD of Unit II, as per the PPA being six months thereafter, works out to 28th February, 2013. The actual date of COD of Unit II, as mentioned above in response to para 8 (b) of the Order Sheet dated 22.03.2013, was achieved on 7th April, 2013. The primary reason for the slight delay in COD of Unit II is on account of the fact that unprecedented rains were witnessed during the period June to September 2011, due to which the execution of project work was delayed, as submitted vide para m of the affidavit dated 21st August, 2012. The Petitioner craves the liberty of this Hon’ble Commission to rely upon the same during the course of hearing. The other main reason is delay in disbursement(s) of funds due to non compliance of one of main terms & conditions of sanction of loans, i.e. establishment of the Letter of Credit (LC) which is one of the procurer’s obligations under clause 10.5 of the PPA, which is still to be complied with even after repeated requests and reminders. The latest request made by the Petitioner through its letter dated 14.03.2013 to MPPMCL is attached herewith and marked as **Annexure A-6.** Since Lenders to the Project were insisting for establishment of LC, which in turn gives the Lenders comfort against realization of sale proceeds, the non establishment of LC for a prolonged period triggered non compliance conditions. This resulted in delayed/ late / part disbursements, which in turn effected the progress of the Project, as mentioned in the various letters sent to the Procurers.”*

MPPMCL’s Comment:

“The petitioner’s submission that the funds were disbursed belatedly by the lenders for want of LC does not seem to be justified and the petitioner has not submitted any documentary evidence with regard to the same.

Clause 10.5.2 of the PPA states that:

10.5.2 “Not later than one (1) month prior to the scheduled COD of the first unit, the Procurer shall through a scheduled bank at Jabalpur open the Letter of Credit in favour of the Company, to be made operative from a date prior to the Due Date of its first Monthly Bill under this agreement.....”

It is submitted that LC needs to be opened only one month prior to scheduled COD, by which time all, under the PPA, preparations for COD would have been in final stages and the lenders would have lent nearly full amount by then. One month is too short a period in which getting money from lenders, completion of work at site and achieving COD could have been carried out. Thus this claim is not justified.

It is submitted that the petitioner has been delaying COD at his end for reasons best known to him and attributable entirely to him. Therefore, it is requested that the petitioner ought not be allowed IDC and IEDC (Incidental Expenses During Construction) in tariff for delay in CoD. The petitioner is unnecessarily accusing the answering respondent in this regard.”

Issue:- Calculation sheet for IDC of Unit-I & II in two parts (i) up to actual COD and (ii) up to scheduled COD.

Petitioner’s response:

“I say that the in response to Query 8(n), the Petitioner would humbly like to submit that the finalization of accounts, collation of payable and firming up of capitalized cost of Unit I and Unit II is in process. It is, therefore, requested that the Petitioner may be allowed to submit the IDC Calculation alongwith the balance of information to be submitted after certification of capitalized cost of Unit I and Unit II as audit of accounts of the Company for the year ended 31st March, 2013 are in progress. Kindly allow us to furnish the balance information in two tranches mainly by 30th June, 2013 and July / August, 2013. However, we will make all our efforts to submit the balance information / data as early as possible.”

MPPMCL’s Comment:

“The answering respondent reiterates its submission made in para 2 & 3 hereinbefore.”

Issue:- Cost of coal and GCV of coal for three preceding months along with supporting documents.

Petitioner’s response:

*“I say that the in response to Query 8(q), the Petitioner submits that the statement of cost incurred for Coal and GCV for the preceding 3 months along with supporting documents, is attached herewith and marked as **Annexure A-7.**”*

MPPMCL's Comment:

"That, the contents of this para are strongly objected. It is submitted that Annexure A-7 reflects the "GCV of coal dispatched" as much higher than the "GCV as received" by the petitioner. The details are tabulated in Annex-1. The Clause 5.7.3 (ii) (c) and (d) of the Fuel Supply Agreement for linkage of coal states that :

"5.7.3 (ii) c) Set-1 of the laboratory sample as prepared shall be jointly analyzed at the Seller's laboratory at the loading end as per the relevant part of IS:1350 (Part-I)-1984 and IS:1350 (Part-II)-1970 within three-four (3-4) days from the date of preparation and distribution of laboratory sample for analysis of ash, moisture and GCV.

d) In the event of any dispute (which shall be raised not later than forty-eight (48) hours from analysis) on the joint analysis of Set-I, the standby sample as in set-II shall be analyzed jointly at the seller's laboratory at the loading end within seventy two (72) hours of the dispute but not later than eight (8) days of the collection of samples".

*As per above mentioned clause, the coal sample is to be **jointly analyzed** (emphasis added) at seller's lab at the time of loading and every dispute in joint analysis should be raised within 48 hours. The petitioner has failed to submit any proof as to whether it had raised and perused disputes in this respect. It is, therefore, submitted that adverse inference in this respect may be drawn against the petitioner. The petitioner has also failed to substantiate as to why the GCV differs at the two ends by such a high margin. Furthermore, in case of grade slippage, the seller ought to have been giving regular credit notes as per Clause 12.2.2 of the FSA which states that:-*

"12.2.2 The seller shall give regular credit note on account of Grade slippage to the extent of difference in the Base Price of Declared Grade and analysed Grade of Coal. In case of analysed Grade being higher than the Declared Grade, bonus bill/claim shall be raised by the Seller. The credit note on Grade slippage shall be issued by the Seller within seven (7) days of acceptance of results under joint signature."

The petitioner has failed to submit any credit note in this respect, which means that the petitioner were not awarded any credit notes by the coal company, and there is no reason to believe that inferior quality coal was supplied to them by the coal companies. The GCV of coal dispatched by CCL is much higher than "As received GCV" claimed by petitioner. The "GCV as received" is shown by the petitioner in Annex. A-7 (Page 19), Sl.No. 1,2,3,4,5,6 is much lower than "GCV at dispatch" given by CCL in their Tax cum Excise Invoice (Pages 21,25,49,53,102 and 104). Since no valid reason has been given by the petitioner for this vast difference of GCV at loading and receiving end and also the fact that there is provision of joint sampling at loading end, it is submitted that the GCV at the time of dispatch, as confirmed through joint

sampling, and mentioned in Tax cum Excise Invoice of CCL, be considered for calculation of variable charges.”

With regard to the blended tariff, MPPMCL submitted that blending of provisional tariff should be regulated as per applicable Regulations.

10. On perusal of the averments of the parties, the Commission considered it necessary to hear, once again the petitioner and the respondents and fixed the hearing on 18th June, 2013.
11. The petitioner filed a reply-written submission to the comments offered by the respondent, MP Power Management Company Ltd, Jabalpur. The petitioner broadly stated the following in its aforesaid written submission and also during the course of hearing held on 18th June, 2013:
 - (i) The Audited Financial Accounts for FY 2012-13 would be submitted after approval of the Board of Directors by 30th June, 2013. The Unit-1 and Unit-2 have various common expenses amongst them. Therefore, the final cost of Unit-1 can only be determined after capitalization of Unit-2. The COD of Unit-2 was achieved on 07.04.2013. Therefore, the audited accounts of FY 2012-13 would not contain the total capitalized expenses in respect of Unit-2. The actual expenses of Unit-1, alongwith allocated common expenses to both Unit-1 and Unit-2 would be available only after capitalization of Unit-2. Therefore, the details of expenditure incurred up to COD of Unit-1 and Unit-2, duly certified by a Chartered Accountant would be submitted after compilation of Audited Accounts up to 31st March, 2013 by July/August' 2013.
 - (ii) The COD of Unit-1 was achieved on 31st August, 2012 and the Letter of Credit (LC) for Unit-1 has been established in May, 2013, albeit with inherent defects / shortcomings, i.e. a delay of nine months. The defects / shortcomings in LC had been communicated to the Respondent No.1. However, the same have not been addressed as yet. The delay / non-establishment of LC from July, 2012 till May, 2013 resulted in delayed / short disbursements which in turn directly affected the progress of the project.
 - (iii) The petitioner may be allowed to submit the calculation regarding interest during construction (IDC) along with the balance of information to be submitted after certification of capitalized cost of Unit-1 and Unit-2 as audit of accounts of the company for the year ended 31st March, 2013 is in progress. The petitioner requested the Commission to allow it to furnish the balance information in two tranches by 30th June, 2013 and by August, 2013.

- (iv) The contention of the Respondent No. 1 that there is a variance in the GCV of Coal as invoiced i.e. GCV Band mentioned in the Coal Invoices and the GCV of Coal on "As Received" basis, is not denied. The issue raised by Respondent No. 1 and as presented by them, appears to be limited specifically to Jaypee Bina Thermal Power Plant (JPBTPP), whereas this a national issue as reflected and mentioned in various news items in general and between NTPC and CIL in particular. Some State Generating Companies have even approached the Competition Commission of India (CCI) against Coal India Limited in this regard.
- (v) Regarding the issue of difference in the invoiced GCV of Coal and that received at the Generating Station from Central Coalfields Limited (CCL), the petitioner submitted that after rigorous follow up by it and due reconciliation with CCL, the petitioner convinced CIL in some instances of grade slippage and stones. The Credit Notes on these two accounts are expected shortly which would be duly factored into the Coal Cost calculations. It is understood that CCL, in the process of streamlining the GCV Band at their Mines linked to RCM Siding, has changed the GCV Band from G-9 (4601-4900 Kcal/kg) to G-10 (4300-4600 Kcal/kg), w.e.f. 01.04.2013. The cost / financial effects of the same would be reflected in the Coal Cost.
- (vi) The petitioner further submitted the following during the course of hearing :
- a. The petitioner has limited control over the quality and price of coal.
 - b. The GCV of the FSA coal and washed coal has improved now after changing the agents by the petitioner.
 - c. The petitioner has now entered into the Fuel Supply Agreement with SECL and the delivery of coal from SECL is expected to commence this month.
 - d. The Energy Charge Rate on account of the above reasons is expected to come down.
 - e. The landed cost and GCV of linkage coal to be received for 2x250 MW Units cannot be assessed properly at this stage. Therefore, the Commission is requested to grant provisional tariff on the same landed cost and GCV of coal as considered by the Commission for Unit-1 in its order dated 12th December, 2012 in the subject petition.

Commission's Analysis:

Capital Cost:

12. With regard to the capital cost of Unit - 2, the petitioner in its reply dated 17th April, 2013, submitted the following;

“ Since the finalization and firming up of expenditure incurred on Unit-1 and Unit-2 is under process and the total actual expenditure would, invariably be higher than the expenditure incurred up to 30th June, 2012, the Petitioner humbly request the Commission to grant Provisional Tariff for both Unit-1 and Unit-2 based on the CA certificate dated 4th August, 2012 for expenditure incurred up to 30th June, 2012. The Petitioner submits that the CA certificates for both Unit-1 and Unit-2 for cost up to respective COD's, would be submitted after the finalization of the capitalization process for grant of Final Tariff.”

13. Considering the above, the Commission has provisionally considered the capital cost of Rs. 1475.59 Cr. as on 30th June, 2012 for Unit-2 as per the CA certificate dated 4th August, 2012.

Details of Infirm Power:

14. Vide affidavit dated 17th April, 2013, the petitioner filed a Chartered Accountant's certificate dated 15.04.2013 certifying the details of actual fuel expenses incurred for generation of infirm power from Unit-2. The Chartered Accountant has certified that the total direct fuel expenditure incurred as per the books of Accounts is Rs. 23.52 Cr. A break-up of fuel expenditure incurred for generation of infirm power from 04.03.2013 to 06.04.2013 is as given below:

Fuel	Unit	Quantity	Invoice Value/ Unit	Amount in Rs. Cr.
LDO	KL	564	69814	3.94
HFO	KL	1789	46807	8.37
Coal	MT	25326	4427	11.21
Total				23.52

15. The petitioner in its letter dated 23rd May, 2013 filed statement of SLDC regarding UI account pertaining to Unit - 2 of Jaypee Bina thermal power plant containing the UI details of March, 2013 and April, 2013. The petitioner mentioned that the revenue of Rs. 3.34 Cr. was generated from sale of infirm power from Unit - 2 for the period from 4th March, 2013 to 6th April, 2013. The following details were filed by the petitioner for Unit-2:

Date of Synchronization	04.03.2013
Date of commercial operation	07.04.2013
UI power supplied from 04.03.2013 to 31.03.2013	4.32 MU's
UI power supplied from 01.04.2013 to 06.04.2013	24.34 MU's
Total UI power supplied to grid	28.66 MU's
UI Charges from 04.03.2013 to 31.03.2013	Rs. 0.52 Cr.
UI Charges from 01.04.2013 to 06.04.2013	Rs. 2.82 Cr.
Total Revenue generated from UI Account	Rs. 3.34 Cr.

16. It is observed from the above that the fuel expenses for generation of infirm power is more than the amount billed against sale of infirm power. Therefore, there is no revenue earned from sale of infirm power to be applied for reduction in capital cost.
17. The observations of the Commission in para 26 to 31 of the Commission's Order dated 12th December, 2012 in the subject petition are not repeated in this order for the sake of brevity.
18. Considering the above, the Commission has determined the Annual Capacity (fixed) Charges for Unit-2 based on "Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012. {RG-26 (II) of 2012}. as given below:

A. Annual Capacity (fixed) Charges (provisional):

19. While determining the annual Capacity (fixed) Charges for Unit-2, the following are considered:
 - i. Capital Cost of Rs.1475.59 crores for Unit -2 up to 30th June 2012 is considered as per the auditor's certificate dated 4th August, 2012 filed by the petitioner. The aforesaid capital cost including Rs.990.34 crores loan component and Rs.485.25 crores equity component as indicated in the apportionment of the total expenses up to 30th June, 2012 filed in additional submission dated 21st August, 2012, is considered in this order.
 - ii. Revenue earned from sale of infirm power has been considered as per Regulations and as per information provided in this regard by the petitioner.
 - iii. Base rate of Return on equity @ 15.5% along with grossing up with Minimum Alternate Tax (MAT) as per Regulations, 2012 is considered in this order.
 - iv. The equity amount actually incurred as per auditor's certificate is more than normative equity as specified in the Regulation 21 of MPERC (Terms and Conditions for determination of generation tariff) Regulations, 2012. Therefore, the equity above the normative equity is considered as normative loan and weighted average rate of interest has been applied while calculating the interest on this loan.
 - v. Loan amount drawn up to 30th June, 2012 as certified by the auditor is considered as the opening loan amount for calculation of interest and finance charges. Weighted average rate of interest on loan as indicated in annexure A4 of affidavit dated 13th May, 2013 filed by the petitioner is considered.
 - vi. Repayment for the loan (including normative loan) equivalent to depreciation determined for the year is considered as per Regulation 23.3 of "MPERC (Terms

and Conditions for Determination of Generation Tariff) Regulations, 2012.

- vii. Weighted average rate of depreciation is considered as per annexure A5 of the application for reinstatement of petition No. 40 of 2012 filed by the petitioner based on the rate of depreciation for different capital cost components as per Regulation and the detailed break-up of cost components filed in the petition.
- viii. Operation & Maintenance expenses are considered as per norms for new thermal generating Units specified in the Regulation 36.1 of “MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012.
- ix. Specific secondary fuel oil consumption is considered as per Regulation 35.2(C) of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012. The weighted average rate of secondary oil is initially considered as filed by the petitioner in annexure A7 of its affidavit dated 13th May, 2013. The same is worked out as given below.

	Qty. of Oil	Invoice Value	Freight	Total Value	Rate of Oil	Weighted Average Rate
Month	KL	Rs. Cr.	Rs. Cr.	Rs. Cr.	Rs./KL	Rs./KL
HFO						
January, 2013	371.21	1.61	0.05	1.66	44819	46,453
February, 2013	554.67	2.42	0.08	2.50	45011	
March, 2013	1,210.85	5.60	0.17	5.77	47614	
Total	2,136.73	9.63	0.29	9.93		
LDO						
January, 2013	94.00	0.57	0.01	0.59	62533	69,115
February, 2013	247.00	1.72	0.03	1.75	70967	
March, 2013	319.00	2.18	0.04	2.22	69620	
Total	660.00	4.47	0.09	4.56		
Weighted average rate of secondary fuel oil in Rs./KL						51,801

- x. Further, Regulation 38.2 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 takes care of the cost of secondary fuel oil subject to fuel price adjustment at the end of the each year of the tariff period as per the formula mentioned under clause 38.2 of the Regulations
- xi. Working capital is worked out as per provision 37.1 and the interest on working capital is considered as per provision 27.1 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012. The SBI base rate as on 1st April, 2013 is 9.70%. Therefore, the interest on working capital is considered 13.20%

(9.70 + 3.50 = 13.20%) in this order.

- xii. Regarding the cost of secondary fuel oil for calculating the working capital, proviso of clause 37.1 (ii) provides as under;

“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”.

In view of the above, the cost of main fuel oil (HFO) is taken by considering the cost per KL as filed by the petitioner in its additional submission dated 13th May, 2013.

- xiii. Normative Annual Plant Availability Factor for recovery of annual capacity charges has been considered as per “Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012”.
- xiv. The Unit-2 achieved CoD on 7th April, 2013. Therefore, the annual capacity (fixed) charges for FY2013-14 are pro-rated for **359 days**.
- xv. The recovery of annual capacity (fixed) charges shall be made by the petitioner in accordance with the Regulations 40.2 and 40.3 of “Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012. {RG-26 (II) of 2012}.

20. The component-wise details of Annual Capacity (fixed) Charges provisionally determined for Unit-2 in this order are as given below :

(a) Return on equity:

Sr. No.	Particular	Unit	Provisionally approved for FY2013-14
1	Opening Equity	Rs. Cr.	485.25
2	Opening Equity normative	Rs. Cr.	442.68
3	Equity addition during the year	Rs. Cr.	0.00
4	Closing Normative equity	Rs. Cr.	442.68
5	Average equity	Rs. Cr.	442.68
7	Base rate of Return on Equity	%	15.50
8	Tax rate considered (MAT)	%	20.01
9	Rate of return on equity	%	19.38
10	Annual return on equity	Rs. Cr.	85.78

(b) Interest charges on loan:

Sr. No.	Particular	Unit	Provisionally approved for FY2013-14
1	Opening Loan	Rs. Cr.	990.34
2	Opening normative loan (excess equity)	Rs. Cr.	42.57
3	Total opening loan including normative loan	Rs. Cr.	1032.91
4	Loan addition during the year	Rs. Cr.	0.00
5	Repayment during the year	Rs. Cr.	68.17
6	Closing Loan	Rs. Cr.	964.74
7	Average Loan	Rs. Cr.	998.83
8	Weighted average rate of interest	%	13.35
9	Annual interest amount	Rs. Cr.	133.34

(c) Depreciation:

Sr. No.	Particular	Unit	Provisionally approved for FY2013-14
1	Opening Gross Block	Rs. Cr.	1475.59
2	Gross Block addition during the year	Rs. Cr.	0.00
3	Closing Gross Block	Rs. Cr.	1475.59
4	Average Gross Block	Rs. Cr.	1475.59
5	Weighted average rate of depreciation	%	4.62
6	Annual depreciation amount	Rs. Cr.	68.17
7	Cumulative depreciation (CoD to 31 st March, 2014)	Rs. Cr.	67.05

(d) Operation & Maintenance expenses:

Sr. No.	Particular	Unit	Provisionally approved for FY2013-14
1	Installed Capacity	MW	250
2	Per MW O&M expenses	Rs. L/MW	18.42
3	Annual O&M expenses	Rs. Cr.	46.05

(e) Secondary fuel oil expenses:

Sr. No.	Particular	Unit	Provisionally approved for FY2013-14
1	Installed Capacity	MW	250
2	NAPAF	%	85
3	Gross Generation	MU's	1861.50
4	Normative Sp. Oil consumption	ml/kWh	1.00
5	Quantity of Sec. fuel oil	KL	1861.50
6	Rate of secondary fuel oil	Rs/KL	51801
7	Annual Cost of secondary fuel oil	Rs. Cr.	9.64

(f) Interest on working capital:

Sr. No.	Particular	Unit	Provisionally approved for FY2013-14
1	Cost of coal for 60 days	Rs Cr.	42.29
2	Cost of fuel oil for two months	Rs. Cr.	1.44
3	O&M Charges for one month	Rs. Cr.	3.84
4	Maint. Spares 20% of the O&M charges	Rs. Cr.	9.21
5	Receivables for two months	Rs. Cr.	103.57
6	Annual working capital	Rs. Cr.	160.34
7	Applicable rate of interest	%	13.20
8	Annual interest on working capital	Rs. Cr.	21.16

Summary of Annual capacity (fixed) charges allowed in this order:

Sr. No.	Particular	Unit	Provisionally approved for FY2013-14
1	Return on equity	Rs Cr.	85.78
2	Interest charges on loan	Rs. Cr.	133.34
3	Depreciation	Rs. Cr.	68.17
4	Operation & Maintenance expenses	Rs. Cr.	46.05
5	Secondary fuel oil expenses	Rs. Cr.	9.64
6	Interest on working capital	Rs. Cr.	21.16
7	Annual capacity (fixed) charges	Rs. Cr.	364.15
8	Annual Capacity charges for 359 days for Unit-2	Rs. Cr.	358.17
9	Annual Capacity charges corresponding to 65% of the installed capacity of the Unit	Rs. Cr.	232.81
10	95% of the above fixed cost allowed to be recovered by the petitioner	Rs. Cr.	221.17

21. As per the provisions under Regulation 15.4 of the "Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012, the petitioner is provisionally allowed to recover 95% of the fixed cost as allowed in the above table.
22. The Commission observed that the petitioner has not filed any change in the status of details and documents in respect of 250 MW Unit-1 till date. Therefore, the petitioner is allowed to provisionally bill the Annual Capacity (fixed) charges to the Respondent No. 1 for Unit-1 till approval of final tariff by the Commission or 31.03.2014 which ever is earlier, as per Commission's Order dated 12th December, 2012 for Unit-1 in petition No. 40 of 2012.
23. The recovery of annual capacity (fixed) charges shall be made by the petitioner in accordance with Regulations 40.2 and 40.3 of MPERC (Terms & Conditions for determination of Generation Tariff) Regulations, 2012.

B. Energy (variable) Charges: (provisional)

24. The petitioner has now filed a copy of the Fuel Supply Agreement (FSA) signed by it with South Eastern Coalfields Limited on 15th February' 2013. The Fuel Supply Agreement signed by the petitioner with Central Coalfields Limited on 10th July' 2012 has already been filed with the Commission.
25. Regarding Annual Contracted Quantity (ACQ), clause 4.1.1 of the Fuel Supply Agreement provides that,
"The ACQ shall be in the proportion of the percentage of Generation covered under long term Power Purchase Agreement(s) executed by the Purchaser with the DISCOMs. Whenever, there is any change in the percentage of PPA(s), corresponding change in ACQ shall be effective through a side agreement. Such changes shall be allowed to be made only once in a year and shall be made effective only from the beginning of the next quarter. However, in no case ACQ should exceed the LOA quantity."
26. Further, the long term 'PPA' is defined in FSAs as given below:
"PPA (long term) means the Power Purchase Agreement between the Power Generating Source and the power procurer(s), i.e. DISCOM(s) for a period of 7 years and above. However, the same shall not be applicable for the portion which is sold under market driven price."
27. Clause 3.1.1. (ii) of the Power Purchase Agreement entered into by the petitioner with the respondent on 5th January' 2011 provides that;
"The Company shall have executed the Fuel Supply Agreement for the entire Contracted Capacity with the Fuel supplier for due procurement of Fuel for a period of not less than 10 years and have provided the copy of the same to the Procurer. Such Fuel Supply Agreement shall be for domestic coal, to the extent available according to the extant policy of the Government of India."
28. In petition No. 11 of 2012, the petitioner had confirmed that it has not executed any PPA with any party other than the respondents for sale of power from its project. It is evident that the balance power other than the percentage agreed to in the PPA shall be sold on merchant basis to other beneficiaries outside the state at a price other than the tariff determined by this Commission. In terms of Fuel Supply Agreement, the fuel procured by the petitioner through FSAs, on the basis of the long term PPA with the Discoms, should be earmarked and used for generation of electricity for sale to Discoms only and it should not be diverted for generation of power to be sold under market driven price. Therefore, the Commission, while deciding the provisional tariff, is not inclined to accept the use of other sources of high cost coal for supply of power to the respondents which would be a burden to the end consumers in the state.

29. In view of the above, the Energy (variable) Charges at ex-bus for each Unit-1 & 2 for FY2013-14 are provisionally considered as given below:

Energy Charges:

Sr. No.	Particular	Unit	Approved provisionally for FY13-14
1	NAPAF	%	85
2	Gross Station Heat Rate	kCal/kWh	2450
3	Sp. Fuel Oil Consumption	ml/kWh	1.00
4	Aux. Energy Consumption	%	8.50
5	Transit Loss	%	0.80
6	Weighted average GCV of Oil	kCal/ltr.	10,000
7	Weighted average GCV of Coal	kCal/kg	4109
8	Weighted Average price of Coal	Rs./MT	2308
9	Heat Contributed from HFO	kCal/kWh	10
10	Heat Contributed from Coal	kCal/kWh	2,440
11	Specific Coal Consumption	kg/kWh	0.5939
12	Sp. Coal Consumption including Transit Loss	kg/kWh	0.5987
13	Rate of Energy Charge from Coal	Rs./kWh	1.38
14	Rate of Energy Charge from Coal at ex bus	Rs./kWh	1.51

C. Other Charges:

30. The petitioner is provisionally allowed to recover other charges as per para 39 of the Commission's Order dated 12.12.2012 in the subject petition.
31. The above tariff is provisionally determined by the Commission w.e.f. the CoD of the Unit to 31st March, 2014, based on the Auditor's Certificate and other documents placed before the Commission during various proceedings held in the subject matter. The provisional tariff so determined in this order shall be subject to adjustment as per proviso 15.3 of the Principal Regulations after the final tariff order is issued in the matter. The Commission has also taken into consideration the appropriate comments/suggestions offered by the respondents in the matter. However, this tariff is subject to revision after filing of the audited accounts along with all other details/documents and clarifications which are still lacking to the satisfaction of the Commission.
32. The petitioner is directed to file the final tariff petition for Unit-1 and Unit-2 at the earliest along with the Audited Accounts as on CoD and all other required details / documents. The Unit-wise break-up of the figures in the audited accounts be also submitted by the

petitioner with the final tariff petition in favour of its claims. All discrepancies and information gaps observed by the Commission in its order dated 12th December, 2012 and in this order be also eliminated while filing the final tariff petition.

Ordered accordingly.

sd/-
(Alok Gupta)
Member

sd/-
(A. B. Bajpai)
Member

sd/-
(Rakesh Sahni)
Chairman

