

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION  
BHOPAL**

**Sub: Petition for Review of True-up order dated 19.07.2019 of Generation Tariff of Power Stations of MPPGCL for FY 2017-18 in Petition No. 01 of 2019 determined by MP Electricity Regulatory Commission.**

**Petition No. 35/2019**

**ORDER**

(Date of Motion Hearing: 15<sup>th</sup> October' 2019)

(Date of Order: 19<sup>th</sup> November' 2019)

**M. P. Power Generating Co. Ltd.**

Block No. 9, Shakti Bhawan, Jabalpur – 482 008

- **Petitioner**

Vs.

1. **M.P. Power Management Company Ltd.,**

Block No. 2, Shakti Bhawan, Rampur, Jabalpur – 482008

2. **M.P. Power Transmission Co. Ltd.,**

Block No.2, Shakti Bhawan, Rampur Jabalpur 482 008 (M.P.)

3. **Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,**

Vidyut Bhawan, Janpath, Jaipur – 302 005

4. **Uttar Pradesh Power Corporation Ltd.,**

Shakti Bhawan 14 Ashok Marg, Lucknow.

5. **MSEB (Holding Co.) & Maharashtra State Transmission Co. Ltd.,**

Maharashtra State Electricity Transmission Co. Ltd.

Prakashganga, Plot No.C-19, E-Block, Bandra-Kurla Complex,

Bandra (E), Mumbai - 400051

- **Respondents**

Shri S.K. Saxena, Chief Engineer (CS), and Shri Salil Choudhary, Executive Engineer (CS) appeared on behalf of the petitioner.

M.P. Power Generating Company Ltd., Jabalpur has filed the subject petition on 16<sup>th</sup> September' 2019 for review of Commission's order for true-up of generation tariff for FY 2017-18 issued on 19<sup>th</sup> July' 2019 in Petition No. 01 of 2019 determined for MPPGCL's thermal and hydel power stations.

2. On 1<sup>st</sup> January' 2019, the petitioner had filed a petition (No. 01/2019) under Section 62 and 64 of the Electricity Act, 2003, read with proviso 8.4 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 for true-up of generation tariff for FY 2017-18 determined vide Commission's Multi-Year Tariff order dated 14<sup>th</sup> July' 2016 (in Petition No 08 of 2016). Vide order dated 19<sup>th</sup> July' 2019, the Commission determined the true-up of generation tariff for FY 2017-18 based on the details and documents filed during proceeding in Petition No. 01/2019.

3. During proceedings in Petition No. 01/2019, the petitioner was asked to justify its claim towards additional capitalization in light of specific provisions under MPERC (Terms and Conditions for determination of Generation Tariff) Regulations' 2015. In response, the petitioner could not justify its claim with documents towards some of its additional capitalization post cut-off date for pucca roads, drainage and sewage works, computers, office equipments, capital spares including replacement of failed station transformer 90 MVA, 400/11.5/6.9 KV at SSTPP Stage-I (2x600 MW). Vide aforesaid order, the claim of petition towards aforesaid additional capitalization was not considered by the Commission in terms of the provision under Regulations 20.3 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015. Aggrieved by the aforementioned order of the Commission, the

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petitioner has filed the subject review petition under regulation 40 of MPERC (Conduct of Business) (Revision-I) Regulations, 2016. The petitioner has mainly sought review on the issue of additional capitalization disallowed in the above mentioned order passed by the Commission.

4. The review petitioner has broadly submitted the following:

(i) *On the subject issue "Additional Capitalization", the Hon'ble Commission on page 23 to 56 in True-Up Order for FY 2017-18 dated 19.07.2019 had not considered Additional Capitalization of Assets at Power Stations of MPPGCL to the tune of Rs. 104.02 Crores. The petitioner hereby wish to submit its clarification along with further supporting facts and documentation forming the basis of filing this review petition, in accordance with Rule-1 Order 47 of the Code of Civil Procedure (CPC) read with clause 40 of MPERC (Conduct of Business)(Revision-I) Regulation, 2016. The details are as under:*

(a) *The petitioner has reworked the Additional Capitalization of Assets at following Power Stations, which are mandatory in nature, as per original scope of project, on decree from court, Capital Spares procured as per Original Project Cost within limits, Liability created towards payment in Books of Accounts, etc. and with supporting & necessary documentation for carrying out Prudence check. The Assets proposed for kind consideration amounts to Rs. 93.96 Crores and detailed hereunder:-*

*In Rs. Crores*

<b>S. No.</b>	<b>Station</b>	<b>Additional Capitalization of Assets for consideration.</b>
1	ATPS PH-3	0.22
2	SGTPS PH-3	14.39
3	STPS PH-4	21.04
4	SSTPP PH-1	58.31
5	<b>Thermal</b>	<b>93.96</b>

(b) *The petitioner humbly request the Commission to kindly consider the above Additional Capitalization of Assets at respective Power Stations and oblige the petitioner by recalculating and permitting of tariff elements due to additional capitalization namely Depreciation, RoE, Interest & Finance Charges and Interest on Working Capital after carrying out prudence check and considering above capitalization.*

(ii) *The petitioner respectfully prays the Hon'ble Commission to review its order dated 19.07.2019 in the matter of True up of Generation Tariff of Power Stations for FY 2017-18 and consider Additional Capitalization in para 12 along with additional Tariff elements.*

5. With the aforesaid submissions, the petitioner prayed the following: -

(a) *Allow additional capitalization of assets at power stations to the tune of Rs. 93.96 Crores not considered in True-up Order for FY 2017-18.*

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(b) *To allow additional Depreciation, additional RoE, additional Interest & Finance Charges and additional Interest on Working Capital on above additional capitalization after carrying out prudence check.*

6. The case was fixed for motion hearing on 15<sup>th</sup> October' 2019. During the motion hearing, the petitioner reiterated the contents in the subject review petition.

7. The Commission has examined the subject review petition in accordance with Rule 1 Order 47 of the Code of Civil Procedure (CPC), which provides that a person aggrieved by an order may apply for a review under the following circumstances:

- (a) On discovery of new and important matter or evidence which after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was made;
- (b) An error apparent on the face of the record;
- (c) For any other sufficient reason.

8. On perusal of the subject review petition viz-a-viz the grounds on which the claim towards additional capitalization in the subject petition were disallowed in Commission's order dated 19<sup>th</sup> July '2019, the Commission has observed that the petitioner has not been able to establish its case for review of Commission's order dated 19<sup>th</sup> July' 2019. On comparing the contents and documents placed during proceedings of main petition No. 01 of 2019 and those filed in this review petition, it is observed that the petitioner has relied on such documents which were available with it even before filing the main petition No. 01 of 2019 like consent letter dated 22.10.2008 issued by MP Pollution Control Board for construction of sewage treatment plant. Moreover, the said document is a consent letter issued by MP Pollution Control Board. The petitioner had not even mentioned about this consent letter during the proceedings in Petition No. 1 of 2019. Apart from aforesaid, the petitioner has filed other documents like orders placed to various firms for carrying out works under additional capitalization and the vouchers of capitalized amount. These documents are also not building a case for review of Commission's order disallowing the claim towards additional capitalization in terms of Regulation 20.3 including other provisions in MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015.

9. In view of the observations of Commission at para 8 of this order, it is found that the issues raised by the review petitioner in the present petition do not fall under any of the abovementioned circumstances articulated in Rule 1 Order 47 of CPC for review in the instant case. Therefore, the subject review petition is not maintainable and hence disposed of.

**SD/-**  
**(Shashi Bhushan Pathak)**  
**Member**

**SD/-**  
**(Mukul Dhariwal)**  
**Member**

**SD/-**  
**(Dr. Dev Raj Birdi)**  
**Chairman**