

## MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION

5<sup>th</sup> Floor, "Metro Plaza", Bittan Market, Bhopal - 462 016



Petition No. 11 of 2017

**PRESENT:**

Dr. Dev Raj Birdi, Chairman  
Mukul Dhariwal, Member  
Shashi Bhushan Pathak, Member

**IN THE MATTER OF:**

In the matter of revision of order remitted back by Hon'ble Appellate Tribunal for Electricity in Appeal No. 54 of 2018 filed by M/s Jaiprakash Power Ventures Limited against the Commission's order dated 4<sup>th</sup> December' 2017, in petition No. 11 of 2017.

**AND IN THE MATTER OF:**

M/s Jaiprakash Power Ventures Ltd.,  
Sector 128, Noida, Uttar Pradesh -201304

**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 10<sup>th</sup> January' 2020)**

1. M/s. Jaiprakash Power Ventures Ltd. (herein after called "petitioner" or "JPVL") had filed petition No. 11/2017 on 17<sup>th</sup> April' 2017 for revision of the order dated 26<sup>th</sup> November' 2014 passed by the Madhya Pradesh Electricity Regulatory Commission (herein after called "the Commission" or "MPERC") in petition No. 40 of 2012 in the matter of determination of final generation tariff of 2x250 MW (Phase-I) coal based power project at Bina, in terms of the Judgment of Appellate Tribunal for Electricity dated 13<sup>th</sup> February, 2017 passed in Appeal No. 25 of 2016. Vide order dated 4<sup>th</sup> December' 2017, the Commission revised the tariff of the generating station.
2. Aggrieved by the said order dated 4<sup>th</sup> December' 2017, the petitioner had filed Appeal No. 54/2018 before Hon'ble Appellate Tribunal for Electricity ('the Tribunal') on the issue namely, double deduction of revenue from sale of infirm power. Hon'ble Tribunal vide judgment dated 23.04.2019 has disposed of the Appeal with certain directions.
3. Accordingly, the subject petition filed by the petitioner under Section 62 and Section 86 (1)(a) of the Electricity Act, 2003 read with provisions under MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2009 and (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 ( hereinafter called "the Regulations, 2009 and "the Regulations, 2012") has been re-opened by the Commission in terms of the directives of Hon'ble Tribunal in its judgment dated 23<sup>rd</sup> April' 2019.

### **Background of the subject matter is mentioned below:**

4. The Bina Thermal Power Station (Phase I) under the subject petition comprises of two generating Units of 250 MW each. Date of Commercial Operation (CoD) of both units of the petitioner's power plant are as given below:

<b>Sr. No.</b>	<b>Units</b>	<b>Installed Capacity (in MW)</b>	<b>Date of Commercial Operation</b>
1	Unit No. 1	250 MW	31 <sup>st</sup> August' 2012
2	Unit No. 2	250 MW	07 <sup>th</sup> April' 2013

5. The petitioner has entered into a long term power purchase agreement with the Respondent No. 1 for sale of 65% of the installed capacity. The petitioner has also entered another power purchase agreement with the Government for sale of 5% of the net power (concessional power) generated at energy charges determined by the Commission.
6. Vide order dated 26<sup>th</sup> November' 2014 in Petition No. 40 of 2012, the Commission determined the final generation tariff for 2 x 250MW (Phase-I) of petitioner's thermal power station at Bina for FY 2012-13 and FY 2013-14 based on Annual Audited Accounts. In the aforesaid order, the generation tariff for FY 2014-15 and FY 2015-16 was determined on provisional basis subject to true-up on availability of Annual Audited Accounts of the respective year.
7. Further, on 23<sup>rd</sup> January' 2015, the petitioner had filed a review Petition No. 05 of 2015, seeking review of the aforesaid Commission's order dated 26<sup>th</sup> November' 2014. Out of four issues raised by the petitioner in the aforesaid review petition, the Commission had Considered the review on only one issue i.e. interest and finance charges, and vide order dated 8<sup>th</sup> May' 2015, the Annual Capacity (fixed) charges were revised accordingly.
8. Aggrieved with the final tariff order dated 26<sup>th</sup> November' 2014 in petition No. 40 of 2012, the petitioner filed an Appeal No. 25 of 2016 before Hon'ble Appellate Tribunal for Electricity (APTEL) challenging the following issues:
  - a) Pre Commissioning Fuel Expenses;
  - b) Double Deduction of Infirm Power;
  - c) Inadequate recovery of Annual Capacity Charges;
  - d) Post Facto adjustment on account of Non-Tariff Income.
9. During the pendency of the aforesaid Appeal No. 25 of 2016 with the Hon,ble Tribunal, the following petitions were also filed by the petitioner and orders on all such petitions have been issued by the Commission:
  - i. The petitioner had filed a petition (Petition No. 70 of 2015) for true-up of the Generation Tariff for FY 2014-15 of its Bina Thermal Power Project based on Annual Audited Accounts. Vide Commission's order dated 3<sup>rd</sup> June' 2016 the true-up of generation tariff for FY 2014-15 of the petitioner's Power Plant was determined and the Annual Capacity Charges were revised.

- ii. Aggrieved by the aforesaid true-up order dated 3<sup>rd</sup> June' 2016, the petitioner had filed the review petition No. 47 of 2016 seeking review on "disallowed grossing up of the base rate of Return on Equity with Minimum Alternate Tax" during FY 14-15.
  - iii. Subsequently, during the proceedings in above review petition, the petitioner had also filed an Interlocutory Application (IA) in the above review petition adding another issue for review of "disallowance of O&M expenses for the dedicated transmission line" of its project.
  - iv. Vide order dated 25<sup>th</sup> September' 2017, the Commission had considered the grossing up the rate of return on equity with MAT and re-determined the return on equity. Subsequently, the Annual Capacity Charges for FY 2014-15 (determined vide true-up order dated 3<sup>rd</sup> June' 2016) have been revised by the Commission. The issue of "O&M expenses for the dedicated transmission line of its project" has not been considered by the Commission.
  - v. The petitioner also filed next true-up petition for FY 2015-16 on 15<sup>th</sup> November' 2016 based on Annual Audited Accounts. Vide order dated 21<sup>st</sup> June' 2017, the Commission determined the true-up of generation tariff for FY 2015-16.
10. On 13<sup>th</sup> February' 2017, the Hon'ble Tribunal had pronounced the Judgment in Appeal No. 25 of 2016 and partly allowed the Appeal. The issues at S. No. (c) and (d) in Para 8 above have been decided against the petitioner and the impugned order was upheld by the Hon'ble Tribunal on these two issues. Accordingly, the Commission's impugned order in aforesaid Appeal had been remanded back to this Commission on other two issues at S. No. (a) and (b) in aforesaid Para 8 with regard to pre-commissioning fuel expenses and double deduction of revenue earned from sale of infirm power.
11. Regarding the double deduction of revenue earned from sale of infirm power, Hon'ble Tribunal in its judgment dated 13<sup>th</sup> February' 2017 had observed the following:
- "We feel that as a matter of Natural Justice one last chance may be given to the Petitioner to prove its contention that revenue earned from sale of infirm power has been actually reduced as on COD of the Units to avoid the penalty of double deduction of the same from the capital cost."*

*We hereby grant liberty to the Petitioner to approach the State Commission on this issue and direct the State Commission to hear the issue on merits again. However, we are not expressing any opinion. The Impugned Order is set aside to that extent.”*

12. In terms of the directions of Hon'ble Tribunal in their Judgment dated 13<sup>th</sup> February' 2017, the petitioner filed the subject petition No. 11 of 2017 for revision of capital cost of the Bina power project. The petitioner in the subject petition raised the issue of disallowance of pre-commissioning fuel expenses and double deduction of revenue earned from sale of infirm power.
13. Vide order dated 04<sup>th</sup> December' 2017, the Commission had considered the issue of Pre-Commissioning fuel expenses and revised the Capital Cost of the Project accordingly. Regarding the issue of double deduction of revenue earned from sale of infirm power, the Commission observed that the petitioner had not been able to clarify its stand on this issue. Therefore, the issue of double deduction of revenue from infirm power was not considered by the Commission.
14. Aggrieved with the aforesaid order dated 4<sup>th</sup> December' 2017 in petition No. 11 of 2017, the petitioner filed an Appeal No. 54 of 2018 before the Hon'ble Tribunal challenging the issue of double deduction of revenue earn from sale of infirm power.
15. During the pendency of the aforesaid Appeal No. 54 of 2018 with the Hon'ble Tribunal, the following petitions were also filed by the petitioner and orders on all such petitions have been issued by the Commission:
  - (i) The petitioner had filed a petition (Petition No. 57 of 2017) for true-up of the Generation Tariff for FY 2016-17 based on Annual Audited Accounts. Vide Commission's order dated 24<sup>th</sup> May' 2018 the true-up of generation tariff for FY 2016-17 of the petitioner's Power Plant was determined.
  - (ii) The petitioner also filed next true-up petition (petition No. 49 of 2018) on 15<sup>th</sup> November' 2016 for true-up of generation tariff for FY 2017-18. Vide order dated 31<sup>st</sup> May' 2019, the Commission determined the true-up of tariff for FY 2017-18.
  - (iii) Accordingly, the Annual Capacity Charges have been changed on account of above true-up orders.

16. Vide judgment dated 23<sup>rd</sup> April' 2019 in Appeal No. 54 of 2018, Hon'ble Appellate Tribunal for Electricity has disposed of the matter with the certain direction to the Commission. The Appellant and respondents were also directed to appear before the Commission personally or through their counsel on 20<sup>th</sup> May' 2019.

**Proceedings:**

17. Vide letter dated 14<sup>th</sup> May' 2019, the petitioner requested the Commission to fix the matter for hearing. Accordingly, the date of hearing in this matter was fixed on 11<sup>th</sup> June' 2019 and notices were issued to the petitioner and Respondents.
18. During the course of hearing held on 11<sup>th</sup> June' 2019, the representatives appeared on behalf of petitioner submitted that the additional submission along with supporting documents shall be filed today itself. The petitioner was directed to serve the copy of its aforesaid additional submission and documents on all the respondents in the matter within a weeks' time. The respondents were also directed to file its reply by 29<sup>th</sup> June' 2019. The petitioner was asked to file its rejoinder by 10<sup>th</sup> July' 2019.
19. By affidavit dated 8<sup>th</sup> June' 2019, the petitioner filed its additional submission along with supporting details/documents. Vide Commission's order dated 16<sup>th</sup> July' 2019, the respondent (MPPMCL) given liberty to file its response by 29<sup>th</sup> July' 2019.
20. During the course of hearing held on 30<sup>th</sup> July' 2019, the Counsel of the Respondent No. 1 submitted that the documents/additional submission related to books of accounts filed by the petitioner are voluminous and requested for some more time to file its response on the same after having discussion with the petitioner. Considering the request, the Respondent No. 1 was directed to file its response at the earliest but not later than 20<sup>th</sup> August' 2019.
21. By affidavit dated 20<sup>th</sup> August' 2019, Respondent No. 1 has filed its response on the documents / additional submission filed by the petitioner. In para 8 of the aforesaid submission, the Respondent No. 1 mentioned the following:

*"It is submitted that during course of hearing held on 30.07.2019 before this Hon'ble Commission, it was submitted by the answering respondent that the documents submitted by the petitioner along with the Additional Submission are*

*voluminous and not self-explanatory and therefore it was prayed to this Hon'ble Commission that to direct the petitioner to depute their personnel to explain the figures and calculations shown in the documents. The representative of M/s. JPVL was agreed during the hearing to depute the concern personnel to explain the documents. However, despite requests by the answering respondent, the petitioner due to pre-occupation of concerned personnel not deputed them for the discussions and therefore discussions were not held with M/s. JPVL. It is respectfully submitted that Annexure-I attached with the C.A. certificate filed with the Additional Submissions is still not clear to the Answering Respondent and therefore the answering respondent prays to the Commission that all Accounts related to the Capital Cost may be get examined by some independent Agency."*

22. During the course of hearing held on 3<sup>rd</sup> September' 2019, the Commission observed that the meeting with the concerned representatives of the petitioner as sought by the Respondent No. 1 could not be convened as the place of meeting could not be decided. In view of the above, vide Commission's order dated 4<sup>th</sup> September' 2019, the parties were asked to convene a meeting on 17<sup>th</sup> September' 2019 in the office of the Commission and Respondent No. 1 was asked to file its detailed response by 5<sup>th</sup> October' 2019.
23. By affidavit dated 5<sup>th</sup> October' 2019, Respondent No. 1 (MPPMCL) filed its response on the additional submission filed by the petitioner. The Respondent No. 1 in its aforesaid response has broadly submitted the following:
  - i. *"On the request of the answering respondent, the Hon'ble Commission vide daily order dated 04.09.2019 issued in respect of hearing held on 03.09.2019, directed the parties to convene a meeting on 17.09.2019 in the office of the Commission.*
  - ii. *In compliance to the above, a meeting was convened on 17.09.2019, in the office of the Commission, between the representatives of M/s. JPVL & MPPMCL and the issue was discussed.*
  - iii. *During the meeting, the representatives of the petitioner tried to explain the ledger entries submitted along with the affidavit dated 08.06.2019 and stated that, the income from sale of infirm power is routed through CWIP accounts, and the same was duly deducted from the CWIP account and only the*



adjusted amount was capitalized as on COD of the units. Further, in support they have also shown the Certificates dated 11.03.2015 and dated 06.06.2019 issued by M/s. R. Nagpal Associates, Chartered Accountants, New Delhi in which they have only certified that the revenue earned from sale of power has been deducted from capital cost.

- iv. In this regards, the answering respondent in continuation to the submissions made in the Reply Affidavit dated 20.08.2019 and relying on the observations of this Hon'ble Commission under para 36 & Para 49 of the order dated 04.12.2017 passed in the instant petition, reiterate that the petitioner has failed to establish that the revenue earned from sale of infirm power has been deducted from the capital cost of the units in accordance with the Tariff Regulations and hence there is no merit to allow the same.
- v. It is therefore submitted that in light of the submissions made herein above this Hon'ble Commission may be pleased to dismiss the instant petition.”

24. During the course of hearing held on 15<sup>th</sup> October' 2019, the Commission observed that the Respondent No. 1 in its aforesaid submission has requested the Commission to dismiss the subject petition without mentioning any reasonable finding on the detailed discussion held between the parties on the details and documents filed by the petitioner with this Commission in support of its claim in the subject matter. Vide Commission's order dated 17<sup>th</sup> October' 2019, following concern of Commission were communicated to the parties:

*“The Commission would like to draw the attention of the parties on the fact that the issue involved in the subject matter has been remanded back to the Commission two times by Hon'ble Appellate Tribunal for Electricity and Respondent No. 1 also had opportunities to place its submission during adjudication of this matter before Hon'ble Tribunal. Further, in support of its claim, the petitioner on the specific direction of Hon'ble Tribunal for the first time has submitted the details and documents based on which their books of accounts were prepared and audited.*

*Thus, such a short submission without detailed reasons filed by Respondent No. 1 after holding meeting and going through all documents shall unable the Commission to decide this matter. Therefore, the Respondent No. 1 is directed to file its detailed submission by 30<sup>th</sup> October' 2019 explaining the*



*reasons/basis as to why the claim of petitioner in the subject matter be not considered in light of each and every documents/detail filed by it. Thereafter, the petitioner shall file its rejoinder on the aforesaid submission of Respondent No. 1 within ten days' time."*

25. By affidavit dated 14<sup>th</sup> October' 2019, the petitioner filed its rejoinder to the response dated 5<sup>th</sup> October' 2019, filed by Respondent No. 1.
26. Next hearing in this matter was held on 26<sup>th</sup> November' 2019, wherein the Commission observed that the Respondent No. 1 has not filed its detailed submission. Vide order dated 26<sup>th</sup> November' 2019, the Respondent No. 1 was given last opportunity for filing its detailed response within a weeks' time.
27. During the course of hearing in this matter held on 6<sup>th</sup> December' 2019, the Commission observed that no response is filed by Respondent No. 1 till date. The Commission noted that the Respondent No. 1 (MPPMCL) is not interested to file its detailed submission explaining the reasons/basis as to why the claim of petitioner be not considered in light of details / documents filed by the petitioner and their meeting with the officials of MPPMCL on 17<sup>th</sup> September' 2019 as per directives of the Commission. Therefore, the matter has been reserved for orders.

**Finding of the Hon'ble Tribunal:**

28. Regarding the "double deduction of revenue earned from sale of infirm power", Hon'ble Tribunal in para 3 to 6 of aforesaid judgment dated 23<sup>rd</sup> April' 2019 has mentioned the following observations:
  3. *"Heard the learned counsel appearing for the Appellant and the learned counsel appearing for the Respondent No. 1 State Commission for quite some time. During the course of the submission the learned counsel appearing for the Appellant and the learned counsel appearing for the Respondent No. 1 at the outset fairly submitted that in the light of the minutes of the meeting held on 08/04/2019, wherein the authorised representative of the Appellant was present, the instant appeal may be disposed of with the direction to the First Respondent to reconcile the matter afresh in the light of the reasoning assigned in the proceedings dated 08/04/2019 without being influenced by the impugned order.*

4. All the contentions and grounds urged by the Appellant and Respondent may kindly be left open.
5. Submissions of the learned Counsel appearing for the Appellant, as stated, supra, are placed on record.
6. In the light of the submissions of the learned counsel appearing for the Appellant, as stated supra, the instant appeal, being Appeal No. 54 of 2018, on the file of the Appellate Tribunal for Electricity, New Delhi stands disposed of in the light of the Minutes of the proceedings dated 08.04.2019 held between the authorised representative of the Appellant and the officer of the first Respondent (MPERC) and without being influenced of the observation made in the impugned order in the **interest of justice and equity**.

**The submissions of petitioner and Respondent No. 1 are as under**

**Submission by Respondent No. 1:**

29. By affidavit dated 20<sup>th</sup> August' 2019, Respondent No. 1 (MPPMCL) has filed its response on the documents / additional submission filed by the petitioner. In the aforesaid submission, the Respondent No. 1 has broadly submitted the following:
  - i. *The only issue raised in the present petition is regarding deduction of revenue amounting to ₹ 9.23 Crores earned by the petitioner on account of sale of infirm power from the capital cost of the project as on date of commercial operation.*
  - ii. *It is respectfully submitted that as per provisions of applicable Tariff Regulations, the revenue earned from the sale of infirm power which is an income prior to the date of Commercial Operation of the project must have to be deducted from the capital cost of the project as on CoD. In all the earlier/present Tariff orders issued by the CERC, other State Regulatory Commissions and also by the Commission, the revenue earned from the sale of infirm power has been deducted from the capital cost of the project as on COD. Therefore, the submission made by the petitioner that they have rightly deducted the revenue earned from infirm power from capital works in progress instead of capital cost as on CoD is not tenable and the Commission has rightly disallow the same in its earlier orders.*
  - iii. *It is respectfully submitted that the Commission had dealt with this issue adequately and appropriately and considering the issue on merits, rightly deducted the revenue earned from sale of infirm power from the capital cost of the project as on CoD.*

- iv. *It is respectfully submitted that Hon'ble APTEL vide order dated 23.04.2019 has only directed this Hon'ble Commission to dispose of the matter in light of the proceeding dated 08.04.2019. From the Additional Submission filed by the petitioner it is not established that the petitioner has deducted the revenue earned from the sale of infirm power from the capital cost of the project as on CoD, which is mandatory as per applicable Tariff Regulations.*
- v. *It is respectfully submitted that income from infirm power being income before CoD and therefore it must have to be deducted from capital cost as on CoD and cannot be adjusted with the CWIP as submitted by the petitioner. It is submitted at the outset that in terms of proviso of Regulation 19 of the MPERC Tariff Regulations, 2012 the revenue earned by a generating company from the sale of Infirm Power shall be applied for the reduction in capital cost as on COD after accounting for fuel expenses. Therefore, it is the primary responsibility of the generating company (Petitioner) to prove and establish that the revenue earned from sale of infirm power has been applied for reduction of capital cost as claimed by the Generator in the determination of tariff. It is submitted that the Commission has specifically held in its previous Orders, that the Petitioner has unable to establish the same.*
- vi. *Further, it is submitted that during course of hearing held on 30.07.2019 before the Commission, it was submitted by the answering respondent that the documents submitted by the petitioner along with the Additional Submission are voluminous and not self-explanatory and therefore it was prayed to the Commission that to direct the petitioner to depute their personnel to explain the figures and calculations shown in the documents. The representative of M/s JPVL was agreed during the hearing to depute the concern personnel to explain the documents. However, despite requests by the answering respondent, the Petitioner due to pre-occupation of concern personnel not deputed them for the discussions and therefore discussions were not held with M/s JPVL. It is respectfully submitted that Annexure-1 attached with the C.A. certificate filed with the Additional Submissions is still not clear to the Answering Respondent and therefore the answering respondent prays to the Hon'ble Commission that all Accounts related to the Capital cost may be get examined by some independent Agency.*
- vii. *The Petitioner in terms of the Meeting held on 08.04.2019 has submitted C. A. certificate dated 08.06.2019 issued by M/s R. Nagpal Associates, New*

*Delhi that the revenue earned from the sale of infirm power has been deducted from the capital cost. The certificate cannot be considered on account of the following reasons:*

- (a) That, M/s R. Nagpal Associates are the current Internal Auditors of M/s JPVL who had issued the similar certificates in past also. A certificate is required to be issued from some independent / statutory Auditors.*
  - (b) M/s R. Nagpal Associates has not specifically certified that the revenue earned from sale of infirm power has been deducted from Capital Cost of the project as on COD which is required under provisions of applicable Tariff Regulations.*
  - (c) The terminology such as soft cost, hard cost etc. used in the C,A. certificate and also the annexures attached with the Certificate are not clear to understand and also do not demonstrate that the Revenue earned from sale of infirm power has been deducted from the Capital Cost of the project as on CoD. Any adjustment done in the cost of CWIP is not as per Regulations and therefore cannot be considered.*
- viii. In view of the above, it is respectfully submitted that the petitioner has failed to establish that the revenue earned from sale of infirm power is deducted from Capital cost of the project as on COD and therefore the deduction done by the Commission in its earlier orders is absolutely done as per provisions of Tariff Regulations and there is no merit to allow the same.*

**Rejoinder filed by the petitioner:**

30. By affidavit dated 14<sup>th</sup> October' 2019, the petitioner filed its rejoinder in response to the reply filed by Respondent No. 1. The petitioner in its rejoinder has broadly submitted the following:
- i. The Respondent No. 1 submitted that the petitioner has deducted the Revenue earned from the sale of infirm power from 'Capital Work in Progress' instead of 'Capital Cost'. Regarding this, the petitioner clarifies that during the proceedings of Appeal No. 25 of 2016 & Appeal No. 54 of 2017 it was stated by the petitioner that all expenses / incomes relating to a Fixed Asset before Capitalization are routed through Capital Work in Progress (CWIP), meaning thereby that if the petitioner has reduced the Revenue earned from Sale of Infirm Power in its CWIP A/c, the same shall also reflect in its Fixed Assets

(Capital Cost). Hence, there is no difference between the expressions “Reducing Revenue earned from Sale of Infirm Power from Capital Cost” & “Reducing Revenue earned from Sale of Infirm Power from Capital Work in Progress” from an accounting point of view.

- ii. Moreover, even if such reduction of Revenue earned from Sale of Infirm Power had not been the requirement of MPERC Regulations, the petitioner would have anyway complied with the Accounting Standards principles and procedures laid down by the Institute of Chartered Accountants of India (ICAI) since the petitioner is a Company incorporated under Companies Act, 1956. It is important to note that as per Accounting Standards laid down by the ICAI, any Company earning revenue before commencement of its commercial operations will have to mandatorily reduce it from cost of assets during capitalization.
- iii. The petitioner submitted that the Revenue from the Sale of Infirm Power have been reduced from the Capital Cost of respective units, Asset Wise Detail along with relevant Journal Vouchers, Asset Ledgers was annexed with CA Certificate dated 06-06-2019 wherein apportioned figure of Consumption of Coal and LDO for Infirm Power (Net of Infirm Power) was mapped with each individual asset.
- iv. The Respondent has tried to apportion the blame of not convening the meeting between the Respondent & the petitioner squarely on the petitioner. On the contrary, the petitioner tried to provide all opportunity to the Respondent so that all doubts & queries of the Respondent may be put to rest. In fact, during the hearing on 30-07-2019 itself the petitioner offered to explain the details to the Respondent. Post hearing also on that very day, the petitioner was ready to have a “Sit Down” for which the Respondent was not agreeable to.
- v. The Petitioner, vide Letter dated 01-08-2019, requested the Respondent asking for a suitable date of Meeting pursuant to the MPERC’s Order dated 30-07-2019. The Respondent, vide their Reply dated 08-08-2019 asked the petitioner to come to their Jabalpur Office on 13-08-2019 & 14-08-2019. The petitioner vide Letter dated 09-08-2019 expressed inability to come to Jabalpur Office on 13-08-2019 & 14-08-2019 and requested the Respondent to schedule the meeting on 12-08-2019 at Bhopal. Not only that, the petitioner requested the Respondent to come to the New Delhi Office on 12-08-2019 or 13-08-2019 which would have helped the Respondent better understand any detail / clarification since Computer Systems could have been accessed at

Head Office in the event of any additional data were sought by the Respondent.

- vi. To this, the Respondent vide their mail dated 09-08-2019 & 13-08-2019, again asked the petitioner to come to their Jabalpur Office on 16-08-2019 & 17-08-2019. The petitioner, vide mail dated 14-08-2019, agreed on dates of 16-08-2019 or 17-08-2019 but requested the Respondent to come to New Delhi Office citing the ease of accessing the Computer Terminals/ Systems. The Petitioner also suggested alternative between 22-08-2019 to 24-08-2019. To this, the Respondent vide mail 14-08-2019 appreciated the position of the Petitioner and agreed to file their response based on available records.
- vii. The petitioner submits that M/s R. Nagpal Associates, New Delhi are the current Internal Auditor of the Petitioner and they were the Statutory Auditor of the Petitioner at the time of the COD of Jaypee Bina Thermal Power Plant. Contrary to the averment of the Respondent that M/s R. Nagpal Associates has not specifically certified that the Revenue earned from Sale of Infirm Power has been deducted from Capital Cost of the Project, the Petitioner, in the early stage of this dispute itself, i.e., during the proceeding of Review Petition No. 05/2015, has filed the said certificate i.e. CA Certificate dated 11-03-2015 which is attached as Annexure-2. Reference of CA Certificate dated 11-03-2015 has also been made in CA Certificate dated 06-06-2019.

#### **Provisions under Regulations:**

31. Regulation 19 of the MPERC (Terms and Conditions for Determination of Generation Tariff) (Revision-II) Regulations, 2012 {RG-26 (ii) of 2012} provides the following with regards to adjustment of capital costs for revenue and expenses related to infirm power:

*“Infirm Power shall be accounted as Unscheduled Interchange (UI) and paid for from the regional / State UI pool account at the applicable frequency-linked UI rate:*

*Provided that any revenue earned by the Generating Company from sale of Infirm Power after accounting for the fuel expenses shall be applied for reduction in capital cost.*



### Commission's Analysis:

32. The break-up of Annual Capacity Charges of the Unit No. 1&2 of generating station from CoD determined by earlier tariff/true-up tariff orders dated 4<sup>th</sup> December' 2017, 24<sup>th</sup> May' 2018 and 31<sup>st</sup> May' 2019 are as under:

**Annual Capacity Charges allowed in earlier tariff/true-up orders: Amount in Rs. Crores**

Sr. No.	Particular	AFC determined in Order dated 4.12.2017				
		FY 2012-13	FY 2013-14		FY 2014-15	FY 2015-16
		(31/8/2012 to 31/3/2013)	(1/4/2013 to 6/4/2013)	(7/4/2013 to 31/3/2014)	(1/4/2014 to 31/3/2015)	(1/4/2015 to 31/3/2016)
		Unit No. 1	Unit No. 1	Unit 1&2	Unit 1&2	Unit 1&2
1	Return on equity	85.32	85.39	197.30	204.84	162.70
2	Interest on loan	133.45	124.18	283.48	266.25	243.54
3	Depreciation	71.06	71.12	166.01	172.01	172.84
4	O & M expenses	42.70	46.05	92.10	99.50	107.30
5	Sec. fuel oil expenses	11.23	11.23	22.46	22.46	22.53
6	Interest on working capital	32.67	25.69	53.30	54.92	54.02
7	Lease rent payable for land	0.00	0.00	0.00	0.24	0.25
7	Annual Capacity Charges	<b>376.44</b>	<b>363.66</b>	<b>814.65</b>	<b>820.22</b>	<b>763.18</b>
8	No. of days in operation	213	6	359	365	366
9	AFC apportioned in days	<b>219.07</b>	<b>5.98</b>	<b>801.26</b>	<b>820.22</b>	<b>763.18</b>
10	Less: Non-tariff income		<b>0.04</b>	<b>2.67</b>	<b>5.77</b>	<b>2.28</b>
11	Net Annual Capacity Charges	<b>219.07</b>	<b>5.94</b>	<b>798.59</b>	<b>814.45</b>	<b>760.90</b>
12	<b>AFC for 65% capacity</b>	<b>142.40</b>	<b>3.86</b>	<b>519.08</b>	<b>529.39</b>	<b>494.58</b>

Sr. No.	Particular	AFC Allowed in true-up orders (Rs. Crore)	
		FY 2016-17	FY 2017-18
		(1/4/2016 to 31.03.2017)	(1/4/2017 to 31/3/2018)
		Unit 1&2	Unit 1&2
1	Return on equity	163.22	163.24
2	Interest charges on loan	222.56	200.66
3	Depreciation	179.02	179.16
4	Operation & Maintenance expenses	135.00	143.50
5	Secondary fuel oil expenses	0.00	0.00
6	Interest on working capital	56.44	55.57
7	Lease rent payable for land	0.30	0.31
7	Annual capacity (fixed) charges	<b>756.54</b>	<b>742.44</b>
8	No. of days in operation during the year	365	365
9	AFC apportioned in actual days of operation	<b>756.54</b>	<b>742.44</b>
10	Less: Non-tariff income	<b>3.19</b>	<b>10.00</b>
11	Net Annual Capacity (Fixed) Charges	<b>753.35</b>	<b>732.44</b>
12	<b>AFC for 65% capacity</b>	<b>489.68</b>	<b>476.09</b>



33. In the subject matter the petitioner has raised the issue of 'double deduction of revenue earned by the petitioner from sale of infirm power' generated from Unit No. 1 and 2 of its Bina thermal power project. This petition has been re-opened in compliance with the directions of Hon'ble Tribunal in its Judgment dated 23<sup>rd</sup> April' 2019. Therefore, the Commission has examined this petition in light of the provisions under MPERC tariff Regulations, 2009 & 2012 and the Judgment dated 23<sup>rd</sup> April' 2019 pronounced by the Hon'ble Appellate Tribunal for Electricity in Appeal No. 54 of 2018. The petition has also been examined in light of the additional details / documents filed by the petitioner and response on the additional details/documents filed by the Respondent No. 1.
34. As per Proviso under Regulation 19 of MPERC (Terms and Conditions for determination of generation tariff) Regulations, 2012, it is explicitly clear that any revenue earned by the Generating Company from sale of "Infirm Power" shall be applied for reduction in capital cost after accounting for the fuel expenses. Therefore, in terms of the aforesaid proviso, it is the primary obligation of the generating company to prove/establish with all details and documents with the Commission that the revenue whatsoever earned by it from sale of infirm power has been reduced from the Capital cost finally claimed by it for determination of tariff. In its main tariff petition No. 40 of 2012, the petitioner had not been able to demonstrate or establish its present contention of having reduced the income earned from sale of infirm power from the capital cost claimed by it.
35. On the issue of the double deduction of revenue earned from sale of infirm power, Hon'ble Tribunal had granted liberty to the petitioner to approach the Commission on this issue and directed the Commission to hear the issue on merits again. It was mentioned by the Hon'ble Tribunal that it had not expressed any opinion on this issue.
36. While processing the petition No. 11 of 2017, it was found by the Commission that the petitioner was not able to produced/place any new details/documents other than those already submitted by it either in main petition No. 40 of 2012 or its review petition No. 5 of 2015 on the same issue and petitioner was not able to demonstrate or establish its contention of having reduced the revenue earned from sale of infirm power from the capital cost claimed by it.
37. On perusal of the contents in the petition and details / documents filed by the petitioner with the additional submission, the Commission has observed that the

documents filed with the additional submission were not filed with the Commission by M/s JPVL either at the time of processing the final tariff petition, review petition or with the subject petition No. 11 of 2017. The petitioner has now been able to demonstrate its contention with all supporting documents that the revenue earned from sale of infirm power had been reduced from the capital of the project claimed by the petitioner.

38. The Commission issued the final tariff order for Bina thermal power station in petition No. 40 of 2012 on 26<sup>th</sup> November' 2014. While approving the capital cost for Unit No. 1 and Unit 2 of the project as on their CoD, the Commission had recognized the figure of capital cost Rs. 1865.11 Crore and Rs. 1340.79 Crore respectively as per the CA certificate dated 6<sup>th</sup> February' 2014 filed by the petitioner.
39. Vide letter dated 29<sup>th</sup> March' 2019, the petitioner has now filed CA certificate dated 16<sup>th</sup> March' 2019 demonstrating the actual methodology and simulated methodology for capitalization of cost as on 30.08.2012 and 06.04.2013 for Unit No. 1 and 2 respectively. On perusal of the aforesaid details filed by the petitioner, it is observed that the capital cost capitalized as on CoD of the Unit No. 1 and 2 after reducing the revenue earned from sale of infirm power is Rs. 1865.11 Crore and Rs. 1340.79 Crore respectively which is recorded by the Commission in table No. 13 and 15 of final tariff order dated 26<sup>th</sup> November' 2014. The details of the capital cost capitalized as on CoD of Unit No. 1 and 2 as certified by the Auditor in his certificate dated 16.03.2019 is given below:

**Capitalization of assets as on CoD of Unit No. 1 and 2: (Amount in Rs. Crore)**

Sr. No.	Particular	Unit No. 1	Unit No. 2
<b>A</b>	<b>Hard Cost</b>		
I	Civil Works	365.87	51.94
ii	BTG Package	657.75	718.51
lii	BOP	433.90	269.61
	<b>Total Hard Cost</b>	<b>1457.42</b>	<b>1040.06</b>
<b>B</b>	<b>Soft Cost</b>		
I	IDC	257.54	209.12
ii	IEDC	155.97	94.92
lii	Less: revenue from infirm power	5.92	3.31
	<b>Total Soft Cost</b>	<b>407.59</b>	<b>300.73</b>
	<b>Total Cost capitalized as on CoD</b>	<b>1865.11</b>	<b>1340.79</b>

40. Further, in compliance with the directions of Hon'ble Tribunal vide order dated 25<sup>th</sup> March' 2019 in Appeal No. 54 of 2018, a meeting between the officer's of Commission and the representatives of M/s. Jaiprakash Power Ventures Ltd. (JPVL) was convened in the office of Commission on 08.04.2019. During the course of meeting, it was expressed to the representative of the petitioner that Schedule 10B of their Annual Audited Accounts for FY 2012-13 and FY 2013-14 have shown that the net of infirm power is under CWIP. The representatives of the petitioner were therefore asked to show all necessary records in support of their contention that the net of infirm power has actually been capitalized as on COD of each unit of their Bina Power Plant.
  
41. The representatives of the petitioner stated that the Unit No. 1 achieved COD on 31<sup>st</sup> August' 2012 and Unit No. 2 achieved COD on 7<sup>th</sup> April' 2013, whereas the Annual Audited Accounts have captured the position of CWIP for complete Financial Year 2012-13 and 2013-14. They further stated that the total capitalized amount shown and deducted from CWIP in Schedule 10B includes the amount of revenue earned from sale of infirm power. In order to further clarify their contention, the representative of the petitioner have shown the records like Journal Voucher supported with the corresponding ledger accounts of individual assets indicating that the amount of revenue earned from sale of infirm power was included in capitalized assets shown under Schedule 10B of the Annual Audited Accounts.
  
42. The breakup of aforesaid capitalized assets shown under Schedule 10B and which have been deducted from CWIP could not be produced by the petitioner during the meeting. However, during the course of meeting the representatives of petitioner confirmed that the aforesaid breakup clearly indicating the revenue earned from sale of infirm power capitalized as on respective COD of each unit is available with them and the same shall be submitted in order to establish their contention/ claim that the net of revenue earned from sale of infirm power has been adjusted in the capitalized assets as on COD of each unit.
  
43. By affidavit dated 8<sup>th</sup> June' 2019, the petitioner filed its additional submission along with supporting details/documents. The petitioner filed following documents with the additional submission:

- i. Copy of the APTEL Order dated 25<sup>th</sup> March' 2019.
  - ii. Copy of the Minutes of Meeting held on 8<sup>th</sup> April' 2019.
  - iii. Copy of the judgment dated 25.03.2019 passed by the Hon'ble Tribunal for Electricity in Appeal No. 54 of 2018.
  - iv. Copy of the CA certificate dated 6<sup>th</sup> June' 2019.
  - v. Copy of Journal Vouchers for consumption of coal and oil for generation of infirm power.
  - vi. Copy of the Ledgers.
44. On detailed scrutiny of the aforesaid details/documents filed by the petitioner, it was observed by the Commission that the petitioner has now filed CA certificate dated 6<sup>th</sup> June' 2019 in continuation of Certificate dated 6<sup>th</sup> February' 2014 and 4<sup>th</sup> June' 2014 certifying that the revenue receipt from sale of infirm power has been reduced from the capital cost of Unit No. 1 and Unit No. 2. The Auditor has further certified that the total soft cost loaded on hard costs of Unit No. 1 up to 31<sup>st</sup> March' 2013 was Rs. 407.59 Crore and same has been reflected in schedule 10B of the Annual Audited Accounts for FY 2012-13. The amount of Rs. 407.59 Crore has been arrived at after reducing revenue receipt from sale of infirm power. The petitioner has also filed the copy of respective Journal Vouchers dated 30.08.2012 and 31.03.2013 in this regard.
45. Regarding the Unit No. 2, the Auditor has certified that the soft costs of Rs. 347.59 Crore capitalized during FY 2013-14 has been arrived at after reducing the revenue receipt from sale of infirm power generated from Unit No. 2 and this amount has been reflected in schedule 10B of the Annual Audited Accounts for FY 2013-14. The petitioner has also filed a copy of vouchers dated 31.03.2013 and 31.10.2013 indicating pre-commissioning fuel expenses in this regard.
46. In view of the above facts and figures supported by the documents placed on record before the Commission, it is observed that the petitioner has now submitted the necessary details/documents including journal Voucher, corresponding ledger accounts along with summary of figures contained therein alongwith the CA Certificate indicating that the revenue earned from sale of infirm power of its each unit has been reduced from the capitalized value of assets of both the units as on their respective CODs.

**Revised Capital Cost:**

47. Based on the above discussion, the Commission has considered the impact of revenue from sale of infirm power on account of double deduction of revenue earned from sale of infirm power of Rs. 9.23 Crore for Unit No. 1 and 2 of the project. The capital cost of Bina thermal power station approved by the Commission in earlier tariff/true-up orders has now been revised from CoD of Unit No. 1 till 31.03.2018 as given below:

**Year-wise Revised Capital Cost considered in this Order: Amount in Rs. Crore**

Capital Cost details:	Capital cost considered in earlier tariff/true-up Order(s) issued by the Commission (A)	Difference amount in respect of revenue from infirm power (B)	Revised Capital cost considered in this Order (A+B)	Reference order
As on 31.08.2012	1449.06	5.92	1454.98	Order dated 04.12.2017 in P-11 of 2017
As on 31.03.2013 and 06.04.2013	1451.46	5.92	1457.38	Order dated 04.12.2017 in P-11 of 2017
As on 31.03.2014	3475.74	9.23	3484.97	Order dated 04.12.2017 in P-11 of 2017
As on 31.03.2015	3488.13	9.23	3497.36	Order dated 04.12.2017 in P-11 of 2017
As on 31.03.2016	3509.59	9.23	3518.82	Order dated 04.12.2017 in P-11 of 2017
As on 31.03.2017	3510.61	9.23	3519.84	Order dated 24.05.2018 in P-57 of 2017
As on 31.03.2018	3510.64	9.23	3519.87	Order dated 31.05.2019 in P-49 of 2018

**Year-wise Revised Capital Cost:**

**(Amount in Rs. Crores)**

Sr. No.	Particular	Revised capital cost allowed in order dated 04.12.2017				
		FY 2012-13	FY 2013-14		FY 2014-15	FY 2015-16
		31/8/2012 to 31/3/2013	1/4/2013 to 6/4/2013	7/4/2013 to 31/3/2014	1/4/2014 to 31/3/2015	1/4/2015 to 31/3/2016
		Unit 1	Unit 1	Unit 1&2	Unit 1&2	Unit 1&2
1	Opening Gross Block	1454.98	1457.38	1457.38	3484.98	3497.37
2	Capitalized as on 7/4/2013			1783.64		
3	Gross opening as on 07.04.2013			3241.02		
4	Net Addition during the year	2.40	0.00	243.96	12.39	21.46
5	Closing Gross Block	1457.38	1457.38	3484.98	3497.37	3518.83
6	Debt : equity	70 / 30	70 / 30	70 / 30	70 / 30	70 / 30

Sr. No.	Particular	Revised capital cost allowed in true-up Orders	
		FY 2016-17	FY 2017-18
		(1/4/2016 to 31.03.2017)	(1/4/2017 to 31/3/2018)
		Unit No. 1&2	Unit No. 1&2
1	Opening Gross Block (Rs. Crore)	3518.83	3519.84
2	Net Addition during the year (Rs. Crore)	1.01	0.03
3	Closing Gross Block (Rs. Crore)	3519.84	3519.87
4	Debt : equity	70 / 30	70 / 30

### Debt : Equity ratio:

48. In terms with Regulation 20 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2009 and 2012, the debt-equity ratio of 70 : 30 has been considered for the capital cost from CoD of each unit up to 31.3.2018 as considered in earlier tariff/true-up order dated 4<sup>th</sup> December' 2017, 24<sup>th</sup> May' 2018 and 31<sup>st</sup> May' 2019. The additional normative equity and normative loan in respect of revenue from sale of infirm power has been considered in the same debt : equity ratio 70 : 30 for revision of tariff in this order.

### Annual Capacity (fixed) Charges:

49. In terms of the directions contained in the judgment of the Tribunal dated 23.04.2019, the capital cost of the project has been re-worked and the components of annual fixed charges of the generating station for the period commencing CoD of Unit No. 1 i.e. 31.08.2012 to 31<sup>st</sup> March' 2018 has been revised as stated in the subsequent paragraphs.

### Return on Equity:

50. Due to revision in the capital cost in respect of revenue earned from sale of infirm power, the equity amount of the project from 31.08.2012 i.e. CoD of Unit No. 1 to 31.03.2018 has been revised by considering the normative debt – equity ratio as considered in earlier tariff/true-up orders. Considering the same rate of return on equity as considered by the Commission in earlier tariff/true-up orders dated 4<sup>th</sup> December' 2017, 24<sup>th</sup> May' 2018 and 31<sup>st</sup> May' 2019, the return on equity has been revised as given below:

**Revised Return on Equity:**

**Amount in Rs. Crore**

Sr. No.	Particular	Revised RoE allowed in order dated 04.12.2017				
		FY 2012-13	FY 2013-14		FY 2014-15	FY 2015-16
		31/8/2012 to 31/3/2013	1/4/2013 to 6/4/2013	7/4/2013 to 31/3/2014	1/4/2014 to 31/3/2015	1/4/2015 to 31/3/2016
		Unit 1	Unit 1	Unit 1&2	Unit 1&2	Unit 1&2
1	Opening Equity considered in earlier tariff/true-up Orders	434.72	435.44	969.54	1042.72	1046.44
2	Revised Opening Equity Considered in this order	436.49	437.21	972.30	1045.49	1049.21
3	Equity addition	0.72	0.00	73.19	3.72	6.44
4	Closing equity	437.21	437.21	1045.49	1049.21	1055.65
5	Average equity	436.85	437.21	1008.90	1047.35	1052.43
6	Base rate of ROE (%)	19.61	19.61	19.61	19.61	15.50
7	<b>Annual Return on equity</b>	<b>85.67</b>	<b>85.74</b>	<b>197.84</b>	<b>205.39</b>	<b>163.13</b>

Sr. No.	Particular	Unit	Revised RoE allowed in true-up orders	
			FY 2016-17	FY 2017-18
			(1/4/2016 to 31.03.2017)	(1/4/2017 to 31/3/2018)
			Unit 1&2	Unit 1&2
1	Opening Equity considered in earlier tariff/true-up Orders	Rs. Cr.	1052.88	1053.18
2	Opening Equity considered in this order	Rs. Cr.	1055.65	1055.95
3	Equity addition during the year	Rs. Cr.	0.30	0.01
4	Closing equity	Rs. Cr.	1055.95	1055.96
5	Average equity	Rs. Cr.	1055.80	1055.96
6	Base rate of Return on Equity (%)	%	15.50	15.50
7	<b>Annual Return on equity</b>	<b>Rs. Cr.</b>	<b>163.65</b>	<b>163.67</b>

**Interest and finance charges on Loan:**

51. Considering the revision in capital cost due to impact of revenue earned from sale of infirm power, the loan amount of the project from 31.08.2012 i.e. CoD of Unit No. 1 to 31.03.2018 has been revised by considering the normative debt – equity ratio as considered in earlier tariff/true-up orders. Considering the same weighted average rate of interest as considered by the Commission in earlier tariff/true-up orders dated 4<sup>th</sup> December' 2017, 24<sup>th</sup> May' 2018 and 31<sup>st</sup> May' 2019 and repayment equal to depreciation during the year/period, the interest on loan has been revised as given below:



**Revised Interest and finance charges on Loan: Amount in Rs. Crore**

Sr. No.	Particular	Revised Interest on Loan allowed in order dated 04.12.2017				
		FY 2012-13	FY 2013-14		FY 2014-15	FY 2015-16
		31/8/2012 to 31/3/2013	1/4/2013 to 6/4/2013	7/4/2013 to 31/3/2014	1/4/2014 to 31/3/2015	1/4/2015 to 31/3/2016
		Unit 1	Unit 1	Unit 1&2	Unit 1&2	Unit 1&2
1	Opening Loan considered in earlier tariff/true-up Orders	1014.34	974.55	2219.61	2227.10	2063.77
2	Opening Loan considered in this order	1018.49	978.52	2225.90	2232.94	2069.15
3	Loan addition during the year	1.68	0.00	170.77	8.67	15.02
4	Repayment for the period equal to depreciation	41.64	1.17	163.73	172.46	173.30
5	Closing Loan	978.52	977.35	2232.94	2069.15	1910.87
6	Average Loan	998.50	977.94	2229.42	2151.04	1990.01
7	Weighted average rate of interest (%)	13.42	12.75	12.75	12.41	12.27
<b>7</b>	<b>Annual Interest on Loan</b>	<b>134.00</b>	<b>124.69</b>	<b>284.25</b>	<b>266.94</b>	<b>244.17</b>

Sr. No.	Particular	Unit	Revised Interest on Loan allowed in true-up orders	
			FY 2016-17	FY 2017-18
			(1/4/2016 To 31.03.2017)	(1/4/2017 to 31/3/2018)
			Unit 1&2	Unit 1&2
1	Opening Loan considered in earlier tariff/true-up Orders	Rs. Crore	1905.94	1727.63
2	Opening Loan considered in this order	Rs. Crore	1910.87	1732.09
3	Loan addition during the year	Rs. Crore	0.71	0.02
4	Repayment for the period equal to depreciation	Rs. Crore	179.49	179.51
5	Closing Loan	Rs. Crore	1732.09	1552.60
6	Average Loan	Rs. Crore	1821.48	1642.34
7	Weighted average rate of interest (%)	%	12.25	12.25
<b>8</b>	<b>Annual Interest on loan</b>	Rs. Crore	<b>223.13</b>	<b>201.19</b>

**Depreciation:**

52. Based on the revision in capital cost, the depreciation on gross fixed assets as worked out in earlier orders has been revised by considering the same weighted average rate of depreciation as considered in order dated 4<sup>th</sup> December' 2017, 24<sup>th</sup> May' 2018 and 31<sup>st</sup> May' 2019 are as given below:

**Revised Depreciation Amount:**

**Amount in Rs. Crore**

Sr. No.	Particular	Revised Depreciation allowed in order dated 04.12.2017				
		FY 2012-13	FY 2013-14		FY 2014-15	FY 2015-16
		31/8/2012 to 31/3/2013	1/4/2013 to 6/4/2013	7/4/2013 to 31/3/2014	1/4/2014 to 31/3/2015	1/4/2015 to 31/3/2016
		Unit 1	Unit 1	Unit 1&2	Unit 1&2	Unit 1&2
1	Opening Gross Block considered in earlier tariff/true-up Orders	1449.06	1451.46	3231.79	3475.75	3488.14
2	Opening Gross Block considered in this order	1454.98	1457.38	3241.02	3484.98	3497.37
3	Gross Block addition	2.40	0.00	243.96	12.39	21.46
4	Closing Gross Block	1457.38	1457.38	3484.98	3497.37	3518.83
5	Average Gross Block	1456.18	1457.38	3363.00	3491.17	3508.10
6	Weighted average rate of depreciation (%)	4.90	4.90	4.95	4.94	4.94
<b>7</b>	<b>Annual Depreciation amount</b>	<b>71.35</b>	<b>71.41</b>	<b>166.47</b>	<b>172.46</b>	<b>173.30</b>
8	Accumulated depreciation	41.64	42.81	206.54	379.01	552.31
9	Depreciation for the No. of operational days during year	41.64	1.17	163.73	172.46	173.30

Sr. No.	Particular	Unit	Revised Depreciation allowed in true-up orders	
			FY 2016-17	FY 2017-18
			(1/4/2016 to 31.03.2017)	(1/4/2017 to 31/3/2018)
			Unit 1&2	Unit 1&2
1	Opening Gross Block considered in earlier tariff/true-up Orders	Rs. Crore	3509.60	3510.61
2	Opening Gross Block considered in this order	Rs. Crore	3518.83	3519.84
3	Gross Block addition during the year	Rs. Crore	1.01	0.03
4	Closing Gross Block	Rs. Crore	3519.84	3519.87
5	Average Gross Block	Rs. Crore	3519.33	3519.85
6	Weighted average rate of depreciation	%	5.10	5.10
<b>7</b>	<b>Annual Depreciation amount</b>	Rs. Crore	<b>179.49</b>	<b>179.51</b>
8	Accumulated depreciation	Rs. Crore	731.79	911.31

**Operation and Maintenance Expenses:**

53. O&M Expenses approved vide order dated 4<sup>th</sup> December' 2017, 24<sup>th</sup> May' 2018 and 31<sup>st</sup> May' 2019 has been retained for the purpose of tariff.

**Operation and Maintenance Expenses:**

Sr. No.	Particular	Unit	Allowed in Order dated 04.12.2017				
			FY 2012-13	FY 2013-14		FY 2014-15	FY 2015-16
			31/8/2012 to 31/3/2013	1/4/2013 to 6/4/2013	7/4/2013 to 31/3/2014	1/4/2014 to 31/3/2015	1/4/2015 to 31/3/2016
			Unit 1	Unit 1	Unit 1&2	Unit 1&2	Unit 1&2
1	Installed Capacity	MW	250	250	500	500	500
2	Per MW O&M expenses	Rs. L/MW	17.08	18.42	18.42	19.90	21.46
<b>3</b>	<b>Annual O&amp;M</b>	<b>Rs. Cr.</b>	<b>42.70</b>	<b>46.05</b>	<b>92.10</b>	<b>99.50</b>	<b>107.30</b>

Sr. No.	Particular	Unit	Allowed in True-up Orders	
			FY 2016-17	FY 2017-18
			(1/4/2016 to 31.03.2017)	(1/4/2017 to 31/3/2018)
			Unit 1&2	Unit 1&2
1	Installed Capacity	MW	500	500
2	Per MW O&M expenses	Rs. L/MW	27.00	28.70
<b>3</b>	<b>Annual O&amp;M expenses</b>	<b>Rs. Cr.</b>	<b>135.00</b>	<b>143.50</b>

**Cost of Secondary Fuel Oil:**

54. Secondary fuel oil expenses approved vide order dated 4<sup>th</sup> December' 2017 has been retained for the purpose of tariff. However, for the control period commencing 1<sup>st</sup> April' 2016, the secondary fuel oil consumption becomes part of energy charges in accordance to the provisions under MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015.

**Cost of Secondary Fuel Oil:**

Sr. No	Particular	Unit	Allowed in order dated 04.12.2017				
			FY 2012-13	FY 2013-14		FY 2014-15	FY 2015-16
			31/8/2012 to 31/3/2013	1/4/2013 to 6/4/2013	7/4/2013 to 31/3/2014	1/4/2014 to 31/3/2015	1/4/2015 to 31/3/2016
			Unit 1	Unit 1	Unit 1&2	Unit 1&2	Unit 1&2
1	Installed Capacity	MW	250	250	500	500	500
2	NAPAF	%	85.00	85.00	85.00	85.00	85.00
3	Annual Gross Generation	MU's	1861.50	1861.50	3723.00	3723.00	3733.20
4	Normative Sp. Oil cons.	ml/kWh	1.00	1.00	1.00	1.00	1.00
5	Quantity of Sec. fuel oil	KL	1862	1862	3723	3723	3733
6	Rate of secondary fuel oil	Rs/KL	60341	60341	60341	60341	60341
<b>7</b>	<b>Annual Cost of fuel oil</b>	<b>Rs. Cr.</b>	<b>11.23</b>	<b>11.23</b>	<b>22.46</b>	<b>22.46</b>	<b>22.53</b>

**Interest on Working Capital:**

55. On account of the change in components of capital cost, receivable of the working capital have been worked out on the basis of two months' fixed and variable charges. For this purpose, the operational parameters and weighted average price of fuel as considered in earlier tariff/true up orders has been retained. The rate of interest on working capital is also considered same as considered in aforesaid orders.

56. Based on the revision in capital cost, the receivable component of working capital as worked out in earlier tariff/true-up orders dated 4<sup>th</sup> December' 2017, 24<sup>th</sup> May' 2018 and 31<sup>st</sup> May' 2019 has been revised as under

**Revised Receivables for two months:**

**Amount in Rs. Crore**

Sr. No.	Particular	Unit	Revised Receivables Allowed in Order dated 04.12.2017				
			FY 2012-13	FY 2013-14		FY 2014-15	FY 2015-16
			31/8/2012 to 31/3/2013	1/4/2013 to 6/4/2013	7/4/2013 to 31/3/2014	1/4/2014 to 31/3/2015	1/4/2015 to 31/3/2016
			Unit 1	Unit 1	Unit 1&2	Unit 1&2	Unit 1&2
1	Variable cost for two months	Rs. Cr.	78.49	59.70	119.39	119.39	119.72
2	AFC for two months	Rs Cr.	62.94	60.81	136.08	136.99	127.46
3	<b>Receivables for two months:</b>	<b>Rs. Cr.</b>	<b>141.43</b>	<b>120.50</b>	<b>255.47</b>	<b>256.38</b>	<b>247.17</b>

Sr. No.	Particular	Unit	Revised Receivables allowed in True-up Orders	
			FY 2016-17	FY 2017-18
			(1/4/2016 to 31.03.2017)	(1/4/2017 to 31/3/2018)
			Unit 1&2	Unit 1&2
1	Variable cost for two months	Rs. Cr.	139.37	139.37
2	Annual Capacity Charges for two months	Rs Cr.	126.34	123.96
3	<b>Receivables for two months:</b>	<b>Rs. Cr.</b>	<b>265.71</b>	<b>263.33</b>

57. Based on the above, the interest on working capital as worked out in earlier orders dated 4<sup>th</sup> December' 2017, 24<sup>th</sup> May' 2018 and 31<sup>st</sup> May' 2019 has been revised as under:

**Revised Interest on Working Capital:**

**Amount in Rs. Crore**

Sr. No.	Particular	Revised interest on working capital allowed in order dated 04.12.2017				
		FY 2012-13	FY 2013-14		FY 2014-15	FY 2015-16
		31/8/2012 to 31/3/2013	1/4/2013 to 6/4/2013	7/4/2013 to 31/3/2014	1/4/2014 to 31/3/2015	1/4/2015 to 31/3/2016
		Unit 1	Unit 1	Unit 1&2	Unit 1&2	Unit 1&2
1	Cost of coal for 60 days	78.49	59.70	119.39	119.39	119.72
2	Cost of fuel oil for two months	1.55	1.55	3.10	3.10	3.11
3	O&M Charges for one month	3.56	3.84	7.68	8.29	8.94
4	Maint. Spares 20% of the O&M	8.54	9.21	18.42	19.90	21.46
5	Receivables for two months	141.43	120.50	255.47	256.38	247.17
6	Total working capital	233.56	194.80	404.06	407.07	400.41
7	Applicable rate of interest (%)	14.00	13.20	13.20	13.50	13.50
8	<b>Interest on working capital</b>	<b>32.70</b>	<b>25.71</b>	<b>53.34</b>	<b>54.95</b>	<b>54.05</b>

Sr. No.	Particular	Unit	Revised Interest on working capital allowed in True-up orders	
			FY 2016-17	FY 2017-18
			(1/4/2016 to 31.03.2017)	(1/4/2017 to 31/3/2018)
			Unit 1&2	Unit 1&2
1	Cost of coal for 60 days	Rs Cr.	136.37	136.37
2	Cost of fuel oil for two months	Rs. Cr.	0.89	0.89
3	O&M Charges for one month	Rs. Cr.	11.25	11.96
4	Maint. Spares 20% of the O&M charges	Rs. Cr.	27.00	28.70
5	Receivables for two months	Rs. Cr.	265.71	263.33
6	Total working capital	Rs. Cr.	441.22	441.25
7	Applicable rate of interest	%	12.80	12.60
8	<b>Interest on working capital</b>	<b>Rs. Cr.</b>	<b>56.48</b>	<b>55.60</b>

**Annual Capacity Charges:**

58. Based on the re-computation of capital cost, the Annual Capacity Charges of the generating station from CoD of Unit No. 1 i.e. 31.08.2012 to 31<sup>st</sup> March' 2018 as determined by orders dated 4<sup>th</sup> December' 2017, 24<sup>th</sup> May' 2018 and 31<sup>st</sup> May' 2019 has been revised as follows:

**Revised Annual Capacity (fixed) Charges determined in this order: (Rs. Crores)**

Sr. No.	Particular	Revised AFC allowed in Order dated 4.12.2017				
		FY 2012-13	FY 2013-14		FY 2014-15	FY 2015-16
		(31/8/2012 to 31/3/2013)	(1/4/2013 to 6/3/2013)	(7/4/2013 to 31/3/2014)	(1/4/2014 to 31/3/2015)	(1/4/2015 to 31/3/2016)
		Unit No. 1	Unit No. 1	Unit 1&2	Unit 1&2	Unit 1&2
1	Return on equity	85.67	85.74	197.84	205.39	163.13
2	Interest charges on loan	134.00	124.69	284.25	266.94	244.17
3	Depreciation	71.35	71.41	166.47	172.46	173.30
4	O & M expenses	42.70	46.05	92.10	99.50	107.30
5	Sec. fuel oil expenses	11.23	11.23	22.46	22.46	22.53
6	Interest on working capital	32.70	25.71	53.34	54.95	54.05
7	Lease rent payable for land	-	-	-	0.24	0.25
7	Annual Fixed Charges	<b>377.65</b>	<b>364.83</b>	<b>816.46</b>	<b>821.95</b>	<b>764.73</b>
8	No. of days in operation during the year	213	6	359	365	366
9	AFC apportioned in actual days of operation	<b>219.78</b>	<b>6.00</b>	<b>803.04</b>	<b>821.95</b>	<b>764.73</b>
10	Less: Non-tariff income		<b>0.04</b>	<b>2.67</b>	<b>5.77</b>	<b>2.28</b>
11	Net AFC	<b>219.78</b>	<b>5.96</b>	<b>800.37</b>	<b>816.18</b>	<b>762.45</b>
12	<b>AFC for Contracted Capacity (65%)</b>	<b>142.86</b>	<b>3.87</b>	<b>520.24</b>	<b>530.52</b>	<b>495.59</b>

Sr. No.	Particulars	Unit	Revised AFC allowed in True-up Orders	
			FY 2016-17	FY 2017-18
			(1/4/2016 to 31.03.2017)	(1/4/2017 to 31/3/2018)
			Unit 1&2	Unit 1&2
1	Return on equity	Rs. Crore	163.65	163.67
2	Interest charges on loan	Rs. Crore	223.13	201.19
3	Depreciation	Rs. Crore	179.49	179.51
4	O & M expenses	Rs. Crore	135.00	143.50
5	Sec. fuel oil expenses	Rs. Crore	0.00	0.00
6	Interest on working capital	Rs. Crore	56.48	55.60
7	Lease rent payable for land	Rs. Crore	0.30	0.31
7	Annual capacity (fixed) charges (AFC)	Rs. Crore	<b>758.04</b>	<b>743.78</b>
8	No. of days in operation during the year	No.	365	365
9	AFC apportioned in actual days of operation	Rs. Crore	<b>758.04</b>	<b>743.78</b>
10	Less: Non-tariff income	Rs. Crore	<b>3.19</b>	<b>10.00</b>
11	Net AFC	Rs. Crore	<b>754.85</b>	<b>733.78</b>
12	<b>AFC for Contracted Capacity (65%)</b>	Rs. Crore	<b>490.65</b>	<b>476.96</b>

59. The details of the Annual Capacity charges for contracted capacity proportionate to number of days in operation determined in earlier tariff/true-up tariff orders dated 4<sup>th</sup> December' 2017, 24<sup>th</sup> May' 2018 and 31<sup>st</sup> May' 2019 vis-à-vis Annual Capacity Charges revised by this order are as given below

**Difference amount to be recovered at Normative Availability: Amount in Rs. Crore**

Sr. No	Particular	Difference AFC allowed in this order vis-à-vis allowed in order dated 4.12.2017				
		FY 2012-13	FY 2013-14		FY 2014-15	FY 2015-16
		(31/8/2012 to 31/3/2013)	(1/4/2014 to 6/3/2014)	(7/4/2013 to 31/3/2014)	(1/4/2014 to 31/3/2015)	(1/4/2015 to 31/3/2016)
		Unit No. 1	Unit No. 1	Unit 1&2	Unit 1&2	Unit 1&2
1	Return on equity	0.35	0.35	0.54	0.54	0.43
2	Interest charges on loan	0.54	0.51	0.77	0.70	0.63
3	Depreciation	0.29	0.29	0.46	0.46	0.46
4	O & M expenses	0.00	0.00	0.00	0.00	0.00
5	Secondary fuel oil expenses	0.00	0.00	0.00	0.00	0.00
6	Interest on working capital	0.03	0.03	0.04	0.04	0.03
7	Lease rent payable for land	0.00	0.00	0.00	0.00	0.00
7	Annual capacity (fixed) charges	<b>1.21</b>	<b>1.17</b>	<b>1.81</b>	<b>1.73</b>	<b>1.55</b>
8	AFC apportioned in actual days of operation	1.31	0.02	1.78	1.73	1.55
9	Less: Non-tariff income	0.00	0.00	0.00	0.00	0.00
10	Net Annual Capacity Charges	1.31	0.02	1.78	1.73	1.55
11	<b>AFC for 65% capacity</b>	<b>0.84</b>	<b>0.01</b>	<b>1.16</b>	<b>1.13</b>	<b>1.01</b>

**Difference AFC allowed in this order vis-à-vis allowed in respective true-up orders: Rs. Cr.**

Sr. No.	Particular	FY 2016-17	FY 2017-18	Total
		(1/4/2016 to 31.03.2017)	(1/4/2017 to 31/3/2018)	
		Unit 1&2	Unit 1&2	Unit 1&2
1	Return on equity	0.43	0.43	3.07
2	Interest charges on loan	0.57	0.53	4.25
3	Depreciation	0.47	0.35	2.77
4	O & M expenses	0.00	0.00	0.00
5	Secondary fuel oil expenses	0.00	0.00	0.00
6	Interest on working capital	0.04	0.03	0.23
7	Lease rent payable for land	0.00	0.00	0.00
7	Annual capacity (fixed) charges	<b>1.50</b>	<b>1.34</b>	<b>10.32</b>
8	AFC apportioned in actual days of operation	1.50	1.34	<b>9.24</b>
9	Less: Non-tariff income	0.00	0.00	<b>0.00</b>
10	Net Annual Capacity Charges	1.50	1.34	<b>9.24</b>
11	<b>AFC for 65% of Installed capacity</b>	<b>0.98</b>	<b>0.87</b>	<b>6.01</b>



**Year-wise Difference AFC determined in this order** **Amount in Rs. Crores**

<b>Sr. No.</b>	<b>Period</b>	<b>Unit</b>	<b>AFC for contracted capacity determined in earlier orders (A)</b>	<b>Revised AFC for contracted capacity determined in this order (B)</b>	<b>Difference Amount (B - A)</b>
1	From 31.08.2012 to 31.03.2013	Rs. Cr.	143.20	142.86	0.84
2	From 01.04.2013 to 06.04.2013	Rs. Cr.	3.86	3.87	0.01
3	From 07.04.2013 to 31.03.2014	Rs. Cr.	519.08	520.24	1.16
4	From 01.04.2014 to 31.03.2015	Rs. Cr.	529.39	530.52	1.31
5	From 01.04.2015 to 31.03.2016	Rs. Cr.	494.58	495.59	1.01
6	From 01.04.2016 to 31.03.2017	Rs. Cr.	489.67	490.65	0.98
7	From 01.04.2017 to 31.03.2018	Rs. Cr.	476.09	476.96	0.87
<b>Total</b>		<b>Rs. Cr.</b>	<b>2655.07</b>	<b>2660.70</b>	<b>6.01</b>

60. The petitioner is allowed to recover the above difference between Annual Capacity (Fixed) Charges determined vide Commission's earlier orders dated 4<sup>th</sup> December' 2017, 24<sup>th</sup> May' 2018 and 31<sup>st</sup> May' 2019 and the Annual Capacity (Fixed) Charges revised by this order from the beneficiaries during FY 2019-20 onward in accordance with the provisions under Regulations, 2015.

61. Accordingly, the directions contained in the judgment of the Tribunal dated 23.04.2019 in Appeal No.54/2018 are complied with in this order.

With the above, this petition No. 11 of 2017 is disposed of.

**(Shashi Bhushan Pathak)**  
**Member**

**(Mukul Dhariwal)**  
**Member**

**(Dr. Dev Raj Birdi)**  
**Chairman**

**Date: 10<sup>th</sup> January' 2020**

**Place: Bhopal**