

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION

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



Petition No. 17 of 2018

PRESENT:

S.P.S Parihar, Chairman

Mukul Dhariwal, Member

Shashi Bhushan Pathak, Member

IN THE MATTER OF:

Approval of final capital cost and Multi-Year Tariff of Unit No. 2 (45 MW) coal based power project at Village Niwari, Tehsil Gadarwara, District Narsinghpur (M.P) for FY 2016-17 to FY 2018-19.

AND IN THE MATTER OF:

B L A Power Pvt. Ltd., Petitioner

Versus

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

Respondents

ORDER

(Passed on this day of 25th October' 2021)

1. M/s. BLA Power Pvt. Limited (hereinafter called “the petitioner”) filed the subject petition under Section 62 and Section 86(1)(a) of the Electricity Act, 2003 for determination of final generation tariff for 45 MW Unit No 2 of its coal based thermal power project at Village Niwari, Tehsil Gadawara, District Narsinghpur, Madhya Pradesh for the period from its CoD till 31st March' 2019 based on Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 (hereinafter called “the Tariff Regulations, 2015”). The petitioner vide its letter dated 28.04.2018 also filed an interlocutory application (IA) for determination of interim tariff at 90% of final tariff as claimed in the subject petition.
2. Madhya Pradesh Electricity Regulatory Commission (hereinafter referred to as “the Commission or MPERC”) issued MPERC (Terms and Conditions for Determination of Generation Tariff) (Revision-III) Regulations, 2015 for the control period FY 2016-17 to FY 2018-19 which were notified on 01.01.2016.
3. The petitioner’s Thermal Power Station under the subject petition comprises of two generating units of 45 MW each. Date of Commercial Operation (CoD) of both units of the petitioner’s power plant are as given below:

Table 1: Date of Commercial Operation

Sr. No.	Units	Installed Capacity (in MW)	Date of Commercial Operation(COD)
1	Unit No. 1	45 MW	03 rd April' 2012
2	Unit No. 2	45 MW	20 th March' 2017

Background of the Petition:

4. M/s BLA Power Pvt. Ltd. signed Power Purchase Agreement (PPA) with M.P. Power Trading Co. Ltd. (now MPPMCL) on 05.01.2011 for sale of 30% installed capacity from its 2x45 MW Thermal Power Plant for 20 years at regulated tariff to be determined by the Commission. Further, the petitioner signed another PPA with GoMP on 04.05.2011 for purchase of 5% net power at variable charges only determined by the Commission.

5. On achieving the COD of generating Unit No 1, the petitioner in the year 2014 had filed Petition No. 16 of 2014 for determination of final generation tariff for 2012-13 and 2013-14 based on Annual Audited Accounts and determination of provisional tariff for 2014-15 and 2015-16 of Unit No.1. In the aforesaid petition, the petitioner had sought determination of energy charges on the basis of coal sourced from M/s BLA Industries Ltd. (fuel seller) from Gotitoria captive coal mine under the FSA executed between the BLA Power Pvt. Ltd. and BLA Industries Ltd.
6. During the pendency of aforesaid Petition No. 16 of 2014, the Hon'ble Supreme Court of India, vide its Judgment dated 25th August, 2014 ruled that the allotment of coal blocks made by the Screening Committee of the Government of India, as also the allotments made through Government dispensation route, are arbitrary and illegal. Further, vide its Judgment dated 24th September, 2014 the Hon'ble Supreme Court cancelled the allocation of 204 coal blocks including the allocation of the Gotitoria coal mine to BLA Industries. Accordingly, the Gotitoria coal mine of BLA Industries had been taken over by the Central Government on 31.03.2015.
7. In light of the aforesaid judgment of Hon'ble Supreme Court, the Commission vide order dated 22.05.2015 in Petition No. 16 of 2014 determined the tariff of Unit No. 1 from its COD till 31st March' 2015. The tariff was applicable till 31.03.2015 and thereafter till exhaustion of the normative coal stock from the Gotitoria Coal Mine
8. Thereafter, the petitioner in April' 2017 filed Petition No. 13 of 2017 with the Commission for true up of the tariff of Unit No-1 for FY 2014-15 & 2015-16 based on Annual Audited Accounts and Multi Year Tariff (MYT) for the new control period from FY 2016-17 to FY 2018-19 based on the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015.
9. Since, BLA Power was seeking tariff based on the coal blended with Pet Coke which was not recognized under the definition of fuel and provisions under Article 4.1.1 (iii) in the PPA, therefore, the Commission vide Order dated 02nd June'2017 in the aforesaid petition No. 13 of 2017 had not considered the aforesaid petition and with several observations held that the PPA does not recognize 'Petroleum Coke' blended with domestic coal as a 'fuel source and directed BLA Power and MPPMCL to comply with Article 3.2(ii) and 4.1.1(iii) of the PPA.

10. Aggrieved with the aforesaid order, BLA Power Pvt Ltd filed an Appeal (No. 201 of 2017 before the Hon'ble Appellate Tribunal for Electricity against the Commission's on above Order dated 02.06.2017 issued in P No. 13 of 2017.
11. Hon'ble Appellate Tribunal for Electricity by order dated 19th April' 2018 passed in Appeal No 201 of 2017 allowed the appeal. Hon'ble APTEL in its judgement has stated as follow:

"We are of the considered opinion that the issues raised in the present Appeal have merits as discussed above. For the foregoing reasons as stated supra, the Appeal is hereby allowed. The Impugned Order dated 2.6.2017 passed by the State Commission in Petition No. 13 of 2017 is hereby set aside".

12. Aggrieved with the aforesaid judgement passed by the Hon'ble APTEL, the Commission has filed an Appeal before Hon'ble Supreme Court of India as Civil Appeal No 5733 of 2018. The issue regarding use of Pet Coke blended with coal which was not in accordance with Article 4.1.1(iii) of PPA in aforesaid Civil Appeal is still subjudice before the Hon'ble Supreme Court.
13. Subsequently, MPPMCL filed a Petition No. 39/2017 with the Commission for approval of 2nd addendum to PPA with the petitioner primarily to incorporate use of Pet Coke blended with coal sourced for captive power plant. Vide order dated 30.12.2017, the Commission dismissed the petition. Thereafter, the petitioner, aggrieved with the order dated 30.12.2017 filed an appeal no. 354/ 2018 before Hon'ble APTEL, New Delhi, which is pending for adjudication.
14. After achieving the COD of Unit No 2, i.e., 20th March' 2017, the petitioner filed the subject Petition No. 17 of 2018 for determination of final tariff for Unit No 2 which was filed almost after a year from actual COD. The subject petition was not admitted by the Commission due to some preliminary discrepancies in the petition. All such discrepancies were communicated to the petitioner and the petitioner was directed to rectify all the above mentioned observations in the petition by 30th June' 2018.
15. In compliance with above directives of the Commission, by affidavit dated 29th June' 2018, the petitioner filed its reply to the queries raised by the Commission.

16. During the course of motion hearing held on 28th August' 2018, the petitioner sought adjournment in the subject matter in view of the Record of proceedings dated 06.07.2018 of Hon'ble Supreme Court in Civil Appeal No 5733/2018 filed by the Commission.
17. Considering submission of the petitioner and in view of the fact, vide order dated 31st August' 2018 in the subject petition, it was observed that the issues and grounds based on which the Civil Appeal No. 5733 of 2018 was filed before the Hon'ble Supreme Court of India in the matter of determination of tariff for Unit 1 were applicable to the subject matter also therefore, the proceeding in the subject petition was adjourned.
18. By affidavit dated 12th March' 2020 ,the petitioner filed an interim application in subject petition No 17 of 2018 mentioning subsequent development in the subject matter and requested for listing the petition for hearing. In the aforesaid application, the applicant M/s BLA Power (P) Ltd. broadly submitted the following:
- (i) The petitioner filed on record the following subsequent developments, which took place after last date of hearing:
- a. The petitioner has won a provisional allocation of coal in the auction for coal linkage under para B(ii) of SHAKTI Policy of Government of India, by offering a discount on the existing tariff for each year of the balance period of the 27MW PPA with reference to the scheduled generation from Unit-2 using coal sourced under the proposed Fuel Supply Agreement(s) with Coal India Ltd. or its subsidiaries, pursuant to Para B(ii) of SHAKTI Policy.**
- b. The draft Addendum to the 27MW PPA was submitted by the parties to this Commission for approval, in Petition No. 40 of 2019. This Commission by an order dated 21.02.2020, approved the draft addendum to 27MW PPA and held as follows:**
- “10. Considering all above, the Commission hereby accords approval to the draft Supplementary Agreement (to PPA dated 05.01.2011) filed by the petitioner by its affidavit dated 18.11.2019 in respect of M/s. BLA Power Private Limited. A copy of the aforesaid draft of approved Supplementary Agreement is annexed as Annexure I with this order. The aforesaid Supplementary Agreement shall**

come into effect from the date it is executed by all the parties in PPA dated 05.01.2011....”

A copy of the order dated 21.01.2020 passed by the Commission in Petition No. 40 of 2019 is annexed herewith and marked as Annexure B.

c. The petitioner/applicant, MPPMCL and the conforming parties to the 27 MW PPA executed the addendum as approved by Commission on 29.01.2020.

(ii) **The petitioner/ applicant requested the Commission to list the present petition along with the interim application, at the earliest.**

(iii) With the above submission, the petitioner prayed the following in its IA:

- i. *Permit the petitioner/applicant to bring on record the subsequent developments;*
- ii. *List the present petition along with the applications, at the earliest*

19. In view of the above, it was observed by the Commission that the petitioner M/s BLA Power Pvt Ltd had received provisional allocation of coal in the auction for coal linkage under SHAKTI (Scheme for Harnessing and Allocating Koyala (Coal) Transparently in India) Policy of Governemnt of India by offering a discount on the existing tariff for each year of the balance period of the 27 MW PPA with reference to the scheduled generation from Unit-2 using coal sourced under the proposed Fuel Supply Agreement(s) with Coal India Limited or its subsidiaries, under the SHAKTI Policy. Further, the petitioner had also executed the Addendum to the 27 MW PPA and vide order dated 21.02.2020 in petition no 40 of 2019, the Commission approved the same addendum to PPA.

20. Subsequently, by affidavit dated 9th October' 2020, the petitioner filed additional submission for maintainability of the subject petition. The petitioner broadly submitted the following:

- i. *It is pertinent to mention herein that, in the various components provided for AFC, the only component involving fuel cost is the interest on working capital.*

- ii. *Under Regulation 29 of MPERC Generation Tariff Regulations 2015, landed fuel cost of primary fuel and secondary fuel for tariff determination shall be based on actual weighted average cost of primary fuel and secondary fuel of the three preceding months, and in the absence of landed costs of the three preceding months, latest procurement price of primary fuel and secondary fuel for the generating station, before the start of the tariff period for existing stations and immediately preceding three months in case of new generating stations shall be taken into account.*
- iii. *In accordance with the aforesaid regulations, the petitioner in the present petition at page no. 7 (para 20) has provided the details of the fuel cost incurred for the period from January 2017 to March 2017 i.e. Rs. 2.998/ kWh. It may be relevant to note herein that the landed cost of fuel is not constant and varies on account of circumstances beyond the control of the petitioner. The MPERC Generation Tariff Regulations also recognize this.*
- iv. ***The petitioner hereby confirms that no Petroleum Coke (Petcoke) has been used to supply contracted capacity to MPPMCL from Unit-2 and the present petition is based on coal only. The petitioner does not intend to use Petcoke for supplying Contracted Capacity to MPPMCL from Unit-2.***
- v. ***Furthermore, it is clarified that for the supply of Contracted Capacity to MPPMCL from Unit-2, the petitioner has used coal purchased from Government of India's coal mining companies. Such coal purchase is in accordance with Regulation 36 of the MPERC Generation Tariff Regulations, 2015.***
- vi. *The petitioner, in compliance with the provisions of the 27 MW PPA has been supplying Contracted Capacity to MPPMCL from Unit 2.*
- vii. *The petitioner proposes that, provisionally and subject to the outcome of Civil Appeal No. 5733 of 2018 and till execution of fuel supply agreement in terms of the Shakti B(ii) Scheme by the petitioner, the Commission may determine the "Interest on Working Capital" component in Capacity Charges for Unit-2 considering lower of*
 - a. *The fuel cost mentioned in Para 20 at page 7 of the present petition i.e. Rs. 2.998/kWh (which is based on the existing FSA dated 25.04.2011); Or*
 - b. *Fuel cost under the FSA to be executed in terms of para B(ii) of the Shakti Policy.*

This will be subject to a true-up in terms of the MPERC Generation Tariff Regulations 2015, as applicable.

- viii. *In order to assist the Commission in comparing the aforesaid fuel costs, the petitioner shall submit a copy of the FSA to be executed under para B(ii) Shakti Policy alongwith requisite details based on the terms of such new FSA.*
- ix. *For the sake of completeness, it is submitted that the petitioner is in the process and will shortly be filling its tariff petition for Unit 2 for FY 2019-24 under the provisions of the MPERC Generation Tariff Regulations 2020. The Capital Cost and the Capacity Charges determined by the Commission in the instant petition will serve as the basis for determination of tariff for the subsequent control period for Unit 2.*
- x. *It is submitted that the petitioner in compliance of the direction of the Commission in its daily order dated 05.06.2018 promptly filed the documents sought by the Commission on 30.06.2018.*
- xi. *Therefore, it is prayed that the Commission may graciously be pleased to admit the petition in its present form and issue notices to the Respondents.*
21. On perusal of the aforesaid submissions filed by the petitioner, vide order dated 5th November' 2020, the Commission had observed the following in light of the provisions under MPERC (Terms and conditions for Determination of Generation Tariff) Regulations as applicable and the Power Purchase Agreement (PPA) between the petitioner and respondents in this matter:
- (i) *In its preliminary written submission dated 17.09.2020, the petitioner mentioned that he is seeking tariff for its Unit No.2 for FY 2016-17 to FY 2018-19 on the basis of fuel procured under the FSA dated 25th April'2011. It is further clarified by the petitioner on affidavit dated 09.10.2020 that the petitioner has used coal purchased from Government of India's coal mining companies in accordance with the Regulation 36 of MPERC Generation Tariff Regulations,2015. In view of the aforesaid submission of the petitioner, the Commission observed that as per the Fuel Supply Agreement, the coal linkage for the contracted capacity for Unit No. 2 was also from the Gotitoria Coal Mine and this coal mine has been taken over by Govt of India on 31st March' 2015 as per the directives of Hon'ble Supreme Court of India. As per the PPA and the FSA, alternative coal arrangement has to be made in accordance with the extant policy of Government of India. On submission made by the petitioner regarding sourcing of coal from coal mining companies of Government of India and non-use of pet coke for the contracted capacity of Unit No. 2, the Commission admitted the petition for determination of*

generation tariff for contracted capacity of Unit No. 2 only to the extent of sourcing of coal in accordance with the extant policy of Government of India as contended by the Commission in Civil Appeal No. 5733 of 2018.

22. Hence, the subject petition was admitted for detailed examination in light of the aforesaid submissions made by the petitioner vis-à-vis the provisions under MPERC Tariff Regulations, 2015, PPA and the FSA to be executed by the petitioner under para B(ii) of SHAKTI Policy of the Government of India.

23. Besides additional submissions placed on record, the petitioner in the subject petition broadly submitted the following:

i. The petitioner entered into a Memorandum of Understanding (“MoU”) with State of Madhya Pradesh (“GoMP”), on 10th August 2007 for setting up of a thermal power station at Tehsil Gadarwara, Dist. Narsinghpur in the State of Madhya Pradesh. Subsequently, as envisaged by the terms of the MoU, GoMP and the petitioner entered into an Implementation Agreement on 1st September 2008.

ii. According to the terms of the MoU and the Implementation Agreement, GoMP or its nominated agency has the first right to purchase up to thirty percent (30%) of the aggregate capacity of the generating units for a period of twenty (20) years, at a rate to be approved by appropriate commission,

iii. Furthermore, the MoU and the Implementation Agreement provide that GoMP or its nominated agency has a right to purchase five percent (5%) of the net power generated by the power stations (i.e. electrical energy generated less auxiliary energy consumption in kWh) of the petitioner, at a price equivalent to Variable Charge / Cost only, which shall be determined by. MPERC.

iv. In accordance with the above terms of the Implementation Agreement and upon the GoMP exercising its right as aforesaid, the petitioner, in compliance with its obligations, entered into the following Power Purchase Agreements.PPA

(a) A Power Purchase Agreement (“27MW PPA”) was executed on 5th January 2011 between the petitioner with Respondent No. 1, pursuant to GoMP nominating Respondent No.1 as the nominated agency under the Implementation Agreement. The said 27MW PPA is for sale of thirty

percent (30%) of Installed Capacity of the petitioner's power station at Tehsil Gadarwara, Dist. Narsinghpur in the State of Madhya Pradesh, having 2 units each of 45 MW, for a period of 20 years. As per the said 27MW PPA, the Tariff for the capacity so supplied comprises of Capacity Charge, Variable Charge and any other charges as determined by the Commission. The three Discoms (Respondent Nos. 2, 3 and 4) are Confirming Parties to the 27MW PPA.

(b) A Power Purchase Agreement ("Concessional Energy PPA") was executed on 4 May 2011 between the petitioner with GoMP. By and under the said Concessional Energy PPA, the GoMP nominated MP Power Management Company Ltd, Jabalpur ("MPPMCL") (erstwhile M.P. Power Trading Co. Ltd.), an undertaking of GoMP to purchase the 5% power referred to in the Implementation Agreement on its behalf

- v. In accordance with Article 10.1.1 of the 27MW PPA, the "... Tariff shall comprise Capacity Charge, Variable Charge and any other charges as may be determined by the Appropriate Commission under law and as per norm contained in the tariff regulations notified by the Appropriate Commission." In Article 1.1 of the 27MW PPA "Appropriate Commission" is defined as Madhya Pradesh Electricity Regulatory Commission.
- vi. The Commission approved the 27MW PPA vide its order dated 7th September 2012 in Petition no. 10/2012 for sale of capacity to Respondent No. 1. By this order, the Commission approved the following modification in clause 4.1.1(iii) of the 27MW PPA.
- vii. The petitioner filed a review petition being Petition No. 85/2012 before the Commission, seeking a review of the aforesaid order dated 7th September 2012, Vide order dated 7th February' 2013, the Commission decided the aforesaid petition.
- viii. After the Commission's order of 7th February 2013 in review petition No 85 of 2012, the first addendum to the 27MW PPA was executed with Respondent No.1. However, to meet its obligations under the 27MW PPA, it is the sole obligation of the petitioner to make appropriate arrangement for supply of fuel based on extant policy of Government of India.

- ix. *Under sub-clause (iii) of clause 4.1.1. of the 27MW PPA, the petitioner is required to "enter into appropriate arrangements for supply of Fuel for all or part of the capacity of the Unit(s) upon prudent terms and conditions materially consistent with the extant policy of the Government of India, if any". Accordingly, on 25th April 2011, petitioner executed a Fuel Supply Agreement ("FSA") with B L A Industries Pvt. Ltd. ("Fuel Seller") for supply of the required fuel for power generation. The petitioner submitted a copy of the said FSA to the Respondent No.1 on 20th September 2012,. Copies of all subsequent amendments to the FSA have also been duly supplied to Respondent No. 1 by the petitioner.*
- x. *The petitioner installed and commissioned its first unit of 45 MW at Village Niwari, in Tehsil Gadarwara, in Narsinghpur District of Madhya Pradesh. This first unit (hereinafter referred to as "Unit-1") successfully achieved its Commercial Operation Date ("COD") on 3rd April 2012. The petitioner installed and commissioned its second unit of 45 MW and this second unit (hereinafter referred to as "Unit-2") successfully achieved its Commercial Operation Date ("COD") on 20th March 2017.*
- xi. *In accordance with Article 4.1.6 of the 27MW PPA, Respondent No.1 and the petitioner mutually agreed that the Revised Scheduled COD for Unit-2 shall be 31st March 2017 and as such, according to the said Article 4.1.6, this Revised Scheduled COD is the Scheduled COD. Respondent No. 1 communicated its approval vide a letter dated 12th August 2016 for revising the Scheduled COD to 31st March 2017. Copies of letters dated 3rd August 2016, 5th August 2016 & 12th August 2016 exchanged between Respondent No. 1 and the petitioner are annexed herewith and collectively marked as Annexure III. The petitioner commissioned Unit-2 on 20th March 2017, duly witnessed by the Independent Engineer and authorised representative of Respondent No.1. Furthermore, Respondent No.1 has accepted the COD of 20th March 2017 for Unit-2 of the petitioner's generating station.*
- xii. *In accordance with the applicable regulations, elaborated in subsequent section namely "Legal Provisions" in this petition, the Company had filed Petition No. 4 of 2018 before this Commission for capital cost approval for Unit-2 and Multi Year tariff for Unit-2 for FY 2016-17, FY 2017-18 & FY 2018-*

19. However, this Commission vide order dated 13.03.2018 disposed of the petition with the following observations, while giving liberty to the Company to file a fresh petition.

“3. In line with the above request of the petitioner, the Commission has also noted that most of the issues raised by the petitioner in Appeal No. 201/2017 are equally applicable to Unit No. 2 of the petitioner’s power plant.

4. In view of the above, it is not appropriate to keep pending this petition indefinitely as sought by the petitioner. Therefore, the subject petition is not admitted and disposed of. The petitioner is at liberty to file a fresh petition. The fee deposited with the subject petition shall be adjusted accordingly.

- xiii. As is evident from a bare perusal of the aforesaid observations, the Commission had noted that most of the issues raised by the Company in Appeal No. 201 of 2017 before the Hon’ble Appellate Tribunal for Electricity would also be applicable to Unit 2 of the Company’s generating station. The Commission thus wanted to await the decision of the Hon’ble Appellate Tribunal for Electricity in Appeal No. 201 of 2017 before proceeding to deal with the Petition No. 4 of 2018 filed by the Company.*
- xiv. It is pertinent to mention that the Company has a filed Review Petition before this Commission seeking review of the order dated 13.03.2018 in Petition No. 4 of 2018. The present petition is being filed without prejudice to the contentions raised by the Company in the said review petition.*
- xv. The Hon’ble Appellate Tribunal for Electricity has on 19.04.2018 passed its judgment in Appeal No. 201 of 2017 allowing the Company’s appeal. A copy of the judgment dated 19.04.2018 passed by the Hon’ble Appellate Tribunal for Electricity is annexed and marked as ANNEXURE III.*
- xvi. In light of the judgment dated 19.04.2018 passed by the Hon’ble Appellate Tribunal for Electricity and pursuant to the liberty granted by this Commission in its order dated 13.03.2018, the Company has thus filed the present petition for the capital cost approval and Multi Year tariff for FY 2016-17, FY 2017-18 & FY 2018-19 for Unit-2.*

24. The petitioner filed the following documents along with the subject petition and additional submission:
- a) Certificate of Incorporation of the Company.
 - b) Memorandum and Articles of Association of the Company.
 - c) Memorandum of Understanding with Government of Madhya Pradesh on 10th August' 2007 for setting up of thermal power stations with proposed capacity of 140 MW in the State of Madhya Pradesh.
 - d) Implementation Agreement dated 1st September' 2008
 - e) 27 MW Power Purchase Agreement with GoMP for sale of 30% of Installed Capacity dated 5th January' 2011.
 - f) First Amendment dated 26th August' 2013 to the Power Purchase Agreement with GoMP for sale of 30% power.
 - g) Power Purchase Agreement with GoMP for sale of 5% power dated 4th May' 2011.
 - h) Fuel Supply Agreement with BLA Industries Pvt. Ltd dated 25th April' 2011.
 - Amendment 1 to the Fuel Supply Agreement dated 3rd November' 2011
 - Amendment 2 to the Fuel Supply Agreement dated 21st December' 2011.
 - Amendment 3 to the Fuel Supply Agreement dated 27th February' 2012
 - Amendment 4 to the Fuel Supply Agreement dated 26th March' 2013
 - Amendment 5 to the Fuel Supply Agreement dated 17th November' 2014
 - Amendment 6 to the Fuel Supply Agreement dated 28th June' 2017
 - i) Detailed Project Report of 2x45 MW Generating Station.
 - j) Audited Balance Sheet as on 31st March' 2017.
 - k) Certificate from Statutory Auditors showing breakup of Project Cost for Unit 1, 2 and 3 as on 20th March' 2017 between various assets.
 - l) Sanction letters of the Bank:
 - Allahabad Bank Sanction Letter dated 11th October' 2014
 - Andhra Bank Sanction Letter dated 13th October' 2014
 - Corporation Bank Sanction Letter dated 15th October' 2014
 - Bank of India Sanction Letter dated 22nd December' 2014
 - United Bank of India Sanction Letter dated 11th March' 2015
 - m) Environment Clearance granted by Ministry of Environment & Forest dated 21st April' 2009
 - n) Amendments dated
 - 23rd March' 2011
 - 3rd January' 2012&

- 12th November' 2012 to Environment Clearance.
- o) Water Allocation Agreement dated 5th March' 2009.
- p) Civil Aviation clearance for chimney height granted by Airport Authority of India dated 16th September' 2010.
- q) Letters dated 3rd August , 5th August and 12th August' 2016 between MPPMCL and the petitioner.
- r) Order of MPERC dated 7th September' 2012 approving PPA for 30%.
- s) Order of MPERC dated 7th February' 2013 amending the order dated 7th September' 2012.
- t) Arbitration Award dated 27th May' 2017 passed by Sole Arbitrator, Mr. Justice V.N. Khare, Former Chief Justice of India.
- u) Order dated 21st August' 2017 passed by Hon'ble Supreme Court in Writ Petition (Civil) No.63 of 2015.
- v) Judgment dated 19th April' 2018 passed by Hon'ble Appellate Tribunal for Electricity.
- w) By affidavit dated 1st January' 2021, the petitioner filed copy of FSA executed with Western Coalfields Ltd. (WCL) under SHAKTI Scheme for Unit No 2.
- x) By affidavit dated 20th February, 2021, the petitioner filed the calculation of Energy Charges on the basis of cost of coal procured under the Shakti FSA for Unit No. 2.

25. The element- wise Annual Capacity (fixed) Charges claimed by the petitioner for the Unit No2(45 MW) in the subject petition as per applicable MPERC Tariff Regulations for the period FY 2016-17 to FY 2018-19 are as given below:

Table 2: Annual Capacity Fixed Charges claimed in the Petition (Rs in Crore)

Sno	Particulars	FY 2016-17	FY 2017-18	FY 2018-19
1	Depreciation	0.65	19.89	20.14
2	Interest on Loan	1.13	33.10	31.62
3	Return on Equity	0.62	18.82	19.06
4	Interest on Working Capital	0.08	6.37	6.40
5	O & M Expenses	0.47	15.34	16.31
6	Annual Capacity Charges	2.95	93.52	93.53
7	Share of MP	30%	30%	30%
8	Capacity (Fixed) charges for 30% share	0.89	28.05	28.06

26. The petitioner also filed the following Energy (variable) charges for the period FY 2017-18 and FY 2018-19:

Table 3: : Energy Charges filed in the Petition (Rs./Unit)

Financial Years	Energy Charges
FY 2016-17	-
FY 2017-18	2.998
FY 2018-19	2.998

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

- (a) *Approve the capital cost of Rs 404.83 Crore incurred by the petitioner till COD for the purpose of computation of tariff applicable to Unit No 2.*
- (b) *Determine tariff for sale of Contracted Capacity of the petitioner's Generating Station to Respondent No. 1 under the 27MW PPA dated 5th January 2011 from Unit-2;*
- (c) *Relax and approve the norms of performance parameters for auxiliary energy consumption and station heat rate, as proposed in present petition.*
- (d) *Approve the proposed tariff for FY 2016-17, FY 2017-18 and FY 2018-19 based on Regulations, as elaborated in the subsequent chapters of present petition.*
- (e) *Determine Station Tariff for FY 2017-18 and FY 2018-19.*
- (f) *Issue necessary orders to MPPMCL, Jabalpur for reimbursement of full amount of fee paid to Commission for determination of tariff and also the expenses that will be incurred for publication of public notice;*

Procedural History

28. At the motion hearing held on 5th June' 2018, the subject petition was not admitted due to some discrepancies observed by the Commission. Vide order dated 5th June' 2018, all such discrepancies were communicated to the petitioner and the petitioner was directed to rectify all the discrepancies/observations of the Commission and rectify the same by 30th June' 2018.
29. By affidavit dated 29th June' 2018, the petitioner filed reply to the queries raised by the Commission.

30. The matter was further listed for motion hearing on 28th August' 2018, when the petitioner had sought adjournment in the matter in view of the Record of Proceedings of the Hon'ble Supreme Court of India dated 06.07.2018 in Civil Appeal No. 5733/2018.
31. Considering submission of the petitioner and in view of the fact, vide order dated 31st August' 2018 in the subject petition, it was observed that the issues and grounds based on which the Civil Appeal No. 5733 of 2018 was filed before the Hon'ble Supreme Court of India in the matter of determination of tariff for Unit No 1 were applicable to the subject matter also, therefore, the proceedings in the subject petition was adjourned.
32. By affidavit dated 12th March' 2020, the petitioner filed an interim application (IA) for listing this matter at the earliest mentioning certain subsequent developments in this matter after the date of last hearing i.e., 28th August' 2018. Due to outbreak of COVID-19 and nationwide lockdown, the subject petition was heard on 07.08.2020 through video conferencing wherein, the Counsel appeared for the petitioner sought adjournment in this matter due to some unavoidable circumstances. Considering the reasons submitted by the petitioner, the matter was adjourned and fixed for motion hearing on 15th September' 2020.
33. During the course of motion hearing held on 15th September' 2020, Ld. Counsel who appeared for the petitioner submitted the following in the subject matter:
 - i. The petitioner has won provisional allocation of coal in the auction for coal linkage under para B(ii) of SHAKTI Policy of Government of India, by offering a discount on the existing tariff for each year of the balance period of the 27 MW PPA with reference to the scheduled generation from Unit-2 using coal sourced under the proposed FSA with Coal India Limited or its subsidiaries, pursuant to para B(ii) of SHAKTI Policy.
 - ii. The draft addendum to the 27 MW PPA was submitted to this Commission by the parties for approval in Petition No 40 of 2019. By order dated 21.02.2020, this Commission approved the aforesaid draft addendum to the PPA dated 05.01.2011.
34. Vide letter dated 17th Sepetember' 2020, the petitioner filed its written submission reiterating the provisions under PPA dated 05.01.2011 and FSA dated 25.04.2011 in

relation to the subject petition. By affidavit 9th October' 2020, the petitioner also filed additional submission for maintainability of the subject petition.

35. Vide Commission's order dated 5th November' 2020, the subject petition was admitted for detailed examination in light of the submissions made by the petitioner vis-à-vis the provisions under MPERC Tariff Regulations' 2015, PPA and the FSA to be executed by the petitioner under para B (ii) of SHAKTI Policy of the Government of India. The petitioner was directed to serve the copy of subject petition along with all submissions to the Respondents. The Respondents were directed to file their reply to the subject petition within 15 days.
36. At the hearing held on 5th January' 2021, the Respondent No. 1 was also directed to inform the following along with its reply to the subject petition:
 - i. Whether the Respondent No. 1 has procured power during FY 2016-17 to FY 2018-19 from Unit No. 2 of the petitioner's power project. If so, what tariff has been paid for procurement of such power.
 - ii. How the Respondent No. 1 has ensured that the coal sourced for generation of contracted capacity by the petitioner was as per extant policy of Government of India in terms of Article 4.1.1 (iii) of the PPA dated 05.01.2011.
37. At the subsequent hearing held on 23rd February' 2021, the Commission had observed the following.
 - i. By affidavit dated 20th January' 2021, the Respondent No. 1 filed reply to the subject petition.
 - ii. Vide subsequent affidavit dated 18th February' 2021, the Respondent No. 1 also filed its response on the aforesaid issues communicated by the Commission.
 - iii. By affidavit dated 1st January' 2021, the petitioner filed copy of FSA executed with Western Coalfields Ltd. (WCL) under SHAKTI Scheme for Unit No 2
 - iv. By affidavit dated 20th February, 2021, the petitioner filed the calculation of Energy Charges on the basis of cost of coal procured under the Shakti FSA for Unit No. 2.
38. Vide Commission's letter dated 28th May' 2021, the information gaps and requirement of additional details/documents were communicated to the petitioner seeking its

comprehensive reply on the same with all the supporting documents by 10th June' 2021. By affidavit dated 13th July' 2021, the petitioner filed its response on the issues raised by the Commission.

39. The public notice for inviting comments/suggestions from stakeholders was published on 20th June' 2021 in the following newspapers:
- i. Dainik Bhaskar, Bhopal
 - ii. Dainik Bhaskar, Jabalpur
 - iii. Dainik Bhaskar, Indore
 - iv. The Hitavada (English), Jabalpur
 - v. The Times of India, Indore
 - vi. The Times of India, Bhopal
40. The Comments/objections from Respondent No 1 were received in this matter on 21st January' 2021. By affidavit dated 17th July' 2021, the petitioner filed rejoinder on the response filed by the Respondent (MPPMCL). The response of the petitioner on the comments/objections filed by the Respondent along with observation is mentioned in Annexure I of this order.
41. The comments/objections from only one stakeholder Shri Rajendra Agarwal were received in the subject petition on 8th July' 2021. By affidavit dated 19th July' 2021, the petitioner filed its response on the issues raised by the stakeholders. The response of the petitioner on the comments/objections filed by the stakeholder along with observation are mentioned in Annexure II of this order.
42. The public hearing in the subject petition was held on 20th July' 2021 through video conferencing wherein the representatives of the petitioner, Respondent No 1 and one stakeholder appeared.

Capital Cost

Petitioner's Submission

43. The petitioner has broadly submitted the following with regard to capital cost claimed in the subject petition:

“In the present petition, the capital cost for the Unit-2 (45 MW) is being submitted as it has achieved COD on 20th March, 2017. Accordingly, based on the Audited Accounts, capital cost for Unit-2 is Rs. 404.83 Crore”.

Table 4: Capital Cost for Unit-2 claimed in the petition (45 MW) (Rs in Cr)

Particulars	Cost as per Original Estimates	Capital Cost submitted in this petition	Difference
Land & Development Cost	8.97	4.91	-4.06
Civil, Foundation & Buildings	59.78	38.63	-21.15
Plant & Machinery (BTG)	93.33	106.00	12.67
BOP including Cooling Tower	51.5	28.74	-22.76
Water Intake System	17.85	11.40	-6.45
Power Transmission System	5.33	4.84	-0.49
Others including Pre Operative Expenses	14.29	96.23	81.94
Interest during Construction	27.98	112.97	84.99
Cost of Startup Fuel		2.07	2.07
Less Income from Sale of Infirm Power		-0.97	-0.97
Total	279.03	404.83	125.80

BLA Power Pvt. Ltd. has claimed the capital cost of Rs. 404.83 Crore for the Unit-2 in this Petition. The cost is based on the allocations of common expenditures amongst Unit-1 and Unit-2 and for certain elements amongst 3 Units. Also the expenditure is based on audited figures up to the COD of Unit-2 i.e. 20th March, 2017.

Provisions Under Regulations

44. With regard to capital cost of new projects, Regulations 15.1 and 15.2 of MPERC (Terms & Conditions for Determination of Generation Tariff) Regulations, 2015 provides that:

15.1 “The Capital cost as determined by the Commission after prudence check in accordance with this Regulation shall form the basis of determination of tariff for existing and new projects.

15.2 The Capital Cost of a new project shall include the following:

(a) the expenditure incurred or projected to be incurred up to the date of commercial operation of the project;

(b) Interest during construction and financing charges, on the loans

(i) equal to 70% of the funds deployed, in the event of the actual equity in excess of 30% of the funds deployed, by treating the excess equity as normative

loan, or

(ii) being equal to the actual amount of loan in the event of the actual equity less than 30% of the funds deployed;

Any gain or loss on account of foreign exchange risk variation pertaining to the loan amount availed during the construction period shall form part of the capital cost.

(c) Increase in cost in contract packages as approved by the Commission;

(d) Interest during construction and incidental expenditure during construction as computed in accordance with Regulation 17 of these Regulations;

(e) capitalised Initial spares subject to the ceiling rates specified in Regulation 19 of these Regulations;

(f) expenditure on account of additional capitalization and de-capitalisation determined in accordance with Regulation 20 of these Regulations; and

(g) adjustment of revenue due to sale of infirm power in excess of fuel cost prior to the COD as specified under Regulation 24 of these Regulations;

Commission's Analysis

45. In the subject petition, the petitioner has filed capital cost of Rs 404.83 Crore for Unit No 2 as on its COD. The petitioner has submitted that the aforesaid capital cost is based on the allocation of common expenses among Unit No 1& 2 and certain expenses allocated among 3 units of the project.
46. Vide CA certificate dated 12th July' 2021, the petitioner also submitted the Auditor certificate for certifying the assets capitalized pertaining to Unit No 2 of the project during FY 2016-17.
47. While determining the capital cost of the project, the Commission has examined the subject petition and submissions made by the petitioner for capital cost as discussed below:

a. Capital Cost as on COD Capitalised in Annual Audited Accounts

48. On perusal of the subject petition, it was observed that the Annual Audited Accounts for FY 2016-17 filed by the petitioner is for generating company as a whole and it was difficult to identify the assets capitalized pertaining to Unit No 2 of the project. Therefore, vide letter dated 28th May' 2021, the petitioner was asked to file unit-wise breakup of all schedules of the Annual Audited Accounts duly certified by the Statutory

Auditor. The petitioner was also asked to file the complete details of capitalization of all capital cost components as well as capital works in progress under Unit No 2 as on its COD and also as on 31st March' 2017 duly certified by the Statutory Auditor.

49. In response to the above, by affidavit dated 13th June' 2021, the petitioner submitted the following:

“Statutory Auditor Certificate for identifying assets capitalized pertaining to Unit-2 for FY 2015-16 & FY 2016-17 is being submitted along with this reply and is marked as Annexure E.

Statutory Auditor Certificate for complete details of capitalization of all capital cost components as well as Capital Works in Progress (CWIP) under Unit-2 up to COD and also up to 31st March 2017 is being submitted along with this reply and is marked as Annexure F”.

50. In view of the above submissions made by the petitioner, it was observed that the auditor has certified the assets capitalized for the project as well as unit-wise break-up of assets capitalized under Unit No 2 of the project during FY 2015-16 and FY 2016-17 as per Annual Audited Accounts. The petitioner also submitted the auditor's certificate dated 12th July' 2021 for certifying the details of capitalization of all capital cost components as well as CWIP pertaining to Unit No 2 upto COD and also upto 31st March' 2017.
51. Vide CA certificate dated 12th July' 2021, the petitioner submitted the details of total assets capitalized pertaining to Unit No. 2 of the project during FY 2015-16 and FY 2016-17 as per Annual Audited Accounts as given below:

Table 5: Fixed Assets capitalized as per Annual Audited Accounts (Rs in Crore)

Particular	Unit 1	Unit-2	Total
Assets capitalized during FY 2015-16	0.52	301.25	301.76
Assets capitalized during FY 2016-17	0.14	11.70	11.84
Total Assets Capitalization during FY 2015-16 and FY 2016-17 (as per Audited Accounts)	0.65	312.95	313.60

52. On perusal of the aforesaid details, it is observed that the assets of Rs 312.95 Crore were capitalized under Unit No 2 during FY 2015-16 and FY 2016-17. Further, by CA certificate dated 12th July' 2021, the petitioner submitted that the assets of Rs 89.86 Crore are apportionment of common expenses to Unit No 2 as per final tariff order of

Unit No 1. The reconciliation of the total assets of Rs 404.83 Crore claimed in the petition with the Annual Audited Accounts has been provided by the petitioner and same has been mentioned in Table No 9 of this order.

53. Further, vide CA certificate dated 12th July' 2021, the petitioner submitted the total amount of fixed assets capitalized (for Unit No. 1, 2 & 3) in Annual Audited Accounts as on 19th March' 2017 which is Rs 746.77 Crore as certified by Chartered Accountant on 14th December' 2017. The allocation of aforesaid capital cost among Unit No 1, Unit No 2 and Unit No 3 of the project is as given below:

Table 6: Total amount of fixed assets capitalized in Annual Audited Accounts (Rs in Crore)

Particulars	Total Amount	Apportionment between		
		Unit 1	Unit 2	Unit 3
Total Fixed Assets capitalized as on 19 th March' 2017	746.77	305.96	404.83	35.99

54. In the aforesaid CA Certificate dated 14th December' 2017, the petitioner provided the break-up of the total Fixed Assets capitalized including IDC as on the CoD of Unit No. 2. Component-wise and unit-wise break up of the Capital Cost as per CA Certificate dated 14th December' 2017 is as given below:

Table 7: Allocation of Assets capitalized between Unit 1, Unit 2 & Unit 3 as on 31.03.2017: (Rs in Crore)

Sr No	Particulars	Total Fixed Assets capitalised in Audited Accounts	Allocation to Unit-1 in Audited Accounts	Allocation to Unit-2 in Audited Accounts	Allocation to Unit-3 in Audited Accounts
1	Total Cost of Land & Site Development	14.73	4.91	4.91	4.91
2	Total Plant & equipment including Taxes and duties	314.55	153.76	149.40	11.4
3	Initial Spares	2.69	-	2.69	-
4	Civil Works	117.74	72.57	38.63	6.53
5	Construction & Pre-Commissioning expenses	38.05	17.66	18.22	2.18
6	Startup Fuel (Net off Revenue from Infirm power)	5.01	3.90	1.10	-
7	Overheads	98.82	10.96	76.90	10.96
8	IDC	146.75	37.54	109.21	0.00
9	Financing Charges	8.43	4.67	3.76	0.00
10	FERV	0.00	0.00	0.00	0.00
11	Hedging cost	0.00	0.00	0.00	0.00
	Total	746.77	305.97	404.83	35.98

55. The petitioner also submitted the following detailed breakup of capital cost for Unit No. 2 as certified by a Chartered Accountant vide certificate dated 12th July' 2012:

Table 8: Capital cost capitalized as on COD of Unit No 2 and as on 31st March' 2017
(Rs in Crore)

Breakup of assets capitalized under Unit No 2 of the Project	Amount
Cost of Land & Site Development	
Land*	1.18
Preliminary Investigation & Site Development	3.73
Total Land & Site Development	4.91
Plant & Equipment	
Steam Generator Island	78.12
Turbine Generator Island	27.88
External water supply system	11.40
CW system	1.25
Ash Handling System	1.17
Coal Handling Plant	9.85
MGR/ Instrumentation	1.61
Air Compressor System	0.21
Fire fighting System	1.04
HP/LP Piping	4.15
Total BOP Mechanical	30.69
BOP Electrical	
Switch Yard Package	1.24
Transformers Package	3.14
Switch gear Package	2.87
Cables, Cable facilities & grounding	0.62
Transmission Line & Sub Station	4.84
Total BOP Electrical	12.71
Total Plant & Equipment excluding taxes & duties	149.39
Taxes & Duties	-
Initial Spares	2.69
Civil Works	
Main Plant/ Adm. Building	17.25
CW System	0.65
Cooling Towers	2.41
DM water plant	2.65
Fuel handling & Storage system	1.74
Coal Handling Plant	2.90
MGR & Marshalling Yard	0.00

Ash Handling System	2.62
Temporary construction & enabling works	0.37
Road & Drainage	5.46
Chimney	2.59
Total Civil Works	38.63
Construction & Pre-Commissioning Expenses	
Erection Testing and Commissioning	16.47
Tools & Plant	1.75
Start up Fuel	2.07
Less: Revenue earned from Sale of Infirm Power	(0.97)
Total Construction & Pre- Commissioning Expenses	19.33
Overheads	
Establishment	76.08
Design & Engineering	0.82
Audit & Accounts	0.01
Total Overheads	76.90
Total Capital Cost Excluding IDC & FC	291.86
IDC, FC	
Interest During Construction (IDC)	109.21
Financing Charges (FC)	3.76
Total IDC, FC	112.97
Capital cost including IDC, FC	404.83

56. On further perusal of the Annual Audited Accounts for FY 2016-17, it was observed that the total assets of Rs 13.55 Crore have been capitalized during FY 2016-17 as indicated in Note-10 whereas, the petitioner has claimed capital expenditure of Rs 404.83 Crore towards Unit No 2 as on its COD. In view of the above, vide Commission's letter dated 28th May' 2020, the petitioner was asked to file the reasons for aforesaid discrepancies in the figure of assets capitalized and recorded in Annual Audited Accounts vis-à-vis claimed in the subject petition.

57. By affidavit dated 13th July' 2021, the petitioner filed the justification as given below:

The petitioner humbly submits that there is no discrepancy as pointed out in this query or at all. The Fixed Asset Capitalization under Unit-2 is visible in the Annual Accounts of the petitioner for FY 2012-13, FY 2015-16 and FY 2016-17. The Common Assets of Unit-1 and Unit-2 were capitalized in FY 2012-13. Some Assets were ready in FY 2015-16 and in accordance to accounting norms were capitalized in FY 2015-16. Moreover, capital cost incurred in FY 2016-17 was capitalized in FY 2016-17.

Total common cost capitalized at the time of COD of Unit-1 was Rs. 251.33 Crore and allocation of the same was Rs. 122.36 Crore, Rs. 89.86 Crore and Rs. 39.10 Crore for Unit-1, Unit-2 and Unit-3 respectively (as recorded in para no. 7.19 to 7.23 of the order dated 22nd May 2015) . In its Tariff Order dated 22nd May 2015, the Commission accordingly approved common cost of Rs. 122.36 Crore pertaining to Unit-1 and stated that “cost of common facilities apportioned to Unit-2 and Unit-3 shall be considered at the time of determination of the capital cost of Unit-2”. Accordingly, in the present petition, the petitioner is claiming Rs. 89.86 Crore of common assets pertaining to Unit-2.

The petitioner has capitalized fixed assets worth Rs. 312.95 Crore in two financial years (Rs. 301.25 Crore during FY 2015-16 and Rs. 11.70 Crore during FY 2016-17) and the same can be verified from Statutory Auditor certificate provided as part of petitioner’s response to para 4 of the Commissions Query.

Reconciliation of capital cost of Rs. 404.83 Crore for Unit-2 claimed as part of Tariff Petition and assets capitalized in Annual Audited Accounts is as under:

Table 9: Reconciliation between Financial Statements and Form 5B for Unit-2

Particular	Amount (Rs. Crore)		Remark
Apportionment of Common Assets to Unit-2		89.86	Details submitted along with Statutory Auditor certificate at the time of final capital cost approval of Unit-1(Please refer Para No. 7.19 to 7.23 of the order dated 22 May 2015)
Capitalization of Fixed Assets pertaining to Unit-2 during FY 2015-16 & FY 2016-17		312.95	Statutory Auditor certificate provided as part of Petitioner’s response to para 4 of Ld. Commissions Query (please refer to para 15 of this reply).
Add			
Startup Fuel considered as revenue expenditure in Books of account	2.07		Start up fuel booked as part of P&L Account
Initial Spares - Kept as part of Inventory in Books of account	2.69		Initial spares filed in the Petition are not capitalized in the Annual Audited Accounts of FY 2016-17 and is kept as part of stores & spares (Inventory) in Annual Audited Account of FY 2016-17
Transmission Line - additional Cost	1.46		Transmission cost allocated to Unit-1, Unit-2 &Unit-3 is now proposed to be allocated among Unit-1 &Unit-2 and hence pro-rata cost is considered as

Particular	Amount (Rs. Crore)		Remark
			<i>addition (please refer Annexure Greferred to para 18 of this reply provided as part of Petitioner's response to para 7 of Commissions Query).</i>
<i>Pre-ops 2016-17 in 5B not considered in Books of Account</i>	30.70	36.92	<i>Pre-ops pertaining to FY 2016-17 are booked in P&L as per accounting practise but CoD of Unit-2 is 20 March, 2017 and hence needs to be considered as part of capital cost, in line with Regulatory practice.</i>
Total		439.73	
Less			
<i>Revenue from Infirm Power and Other Income in 2016-17 not considered as reduction from Capital Expenditure in Books of account</i>	(0.49)		<i>Revenue from Infirm power is reduced as per Tariff Regulations;</i>
<i>CHP</i>	(0.00)		<i>CHP Cost allocated to Unit-1 is reduced</i>
<i>Fire Fighting System</i>	(0.07)		<i>Fire-fighting system Cost allocated to Unit-1 is reduced</i>
<i>Depreciation in Books of Account not considered in Form 5-B</i>	(26.94)		<i>Depreciation booked as pre-ops and capitalized is reduced because as per Regulations, depreciation can be claimed only after CoD.</i>
<i>Interest Expense to others in books of account not considered for Form 5-B</i>	(7.40)	(34.90)	<i>Interest paid to other than banks booked as pre-ops and capitalized is now reduced as loans were not taken for funding of plant;</i>
Total		404.83	

58. In the above table, the petitioner provided the reconciliation of the capital cost claimed in TPS Form 5B of the petition for Unit No 2 with the Annual Audited Accounts. In view of the above reconciliation of assets provided by the petitioner, the Commission has observed the following:

- i. The total assets capitalized pertains to Unit No 2 as on its COD is Rs 404.83 Crore out of which assets of Rs 89.86 Crore pertains to common facilities allocated to Unit No 2 in final tariff order dated 22nd May' 2015 for Unit No 1 and assets of Rs 312.95 Crore have been capitalized in Annual Audited Accounts for FY 2015-16 and FY 2016-17 towards Unit No.2.

- ii. Amount of Rs 2.07 Crore towards start-up fuel expenses are considered as revenue expenses in Annual Audited Accounts and has been considered under capital cost of Unit No 2.
 - iii. Amount of Rs 2.69 Crore towards initial spares are not capitalized in Annual Audited Accounts and has been kept as part of inventory in stores & spares.
 - iv. Transmission Line cost of Rs 1.46 Crore earlier allocated to Unit No 1, Unit No 2 and Unit No 3 of the project has been now allocated by the petitioner to Unit No 1 & 2 only.
 - v. Revenue earned from sale of infirm power and other income of Rs 0.49 Crore has been reduced from the capital cost.
59. In view of the above, the total capital expenditure capitalized as on COD of Unit No 2 in the Annual Audited Accounts for all three units is Rs 746.77 Crore whereas, the total capital expenditure capitalized as on COD of the Unit No 2 as certified by the statutory auditor is Rs 404.83 Crore.

b. Cost of Common Facilities

60. In para 4.1.1 of the subject petition, the petitioner submitted that the capital cost of Rs. 404.83 Crore for the Unit-2 in this petition is based on the allocations of common expenditures amongst Unit-1 and Unit-2 and for certain elements amongst three Units. The petitioner also submitted that the expenditure is based on audited figures up to the COD of Unit-2 i.e. 20th March, 2017.
61. In para 3.2.3 of the subject petition, the petitioner with regard to apportionment of common facilities among Unit No 1, Unit No 2 and Unit No 3 submitted the following:

In line with the Regulations, tariff can be determined stage-wise, Unit-wise or for the whole generating station. Also, for the purpose of determination of tariff, the capital cost of the generation project can be approved on Unit wise basis and in case the breakup of the capital cost of the Unit is not available, the common facilities can be apportioned based on the proportion of the installed capacity of the generating Units. This petition is filed in line with the given Regulation for determination of tariff for Unit-2 of 45 MW of the generation project

62. Regarding apportionment of the cost of common facilities, Regulation 8.3 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 provides that:

“For the purpose of Tariff, the capital cost of the Project shall be segregated into stages and by distinct Units forming part of the Project. Where the Stage-wise, Unit-wise break-up of the capital cost of the Project is not available and in case of on-going Projects, the common facilities shall be apportioned on the basis of the capacity of the Units. In relation to Multipurpose Hydroelectric Projects with irrigation, flood control and power components, the capital cost chargeable to power component of the Project only shall be considered for determination of Tariff.

Explanation: “Project” includes a generation station”

63. Vide Commission’s letter dated 28th May’ 2021, the petitioner was asked to file the allocation/bifurcation of common capital expenditure incurred and capitalized on the common facilities among Unit No. 1, 2 and 3 of the project. The petitioner was also asked to file the statement for apportionment of Common facilities between all three Units as per Regulation 8.3 of the Tariff Regulations, 2015.
64. In response to the above, by affidavit dated 13th July’ 2021, the petitioner submitted the following:

As part of final tariff approval of Unit-1, the petitioner has submitted details of common cost and its allocation among units based on usage for Unit-1, Unit-2 & Unit-3. The Commission has considered the submission and approved common cost for Unit-1 same as submitted by the petitioner. The petitioner has considered the common cost allocated to Unit-2 same as submitted during final capital cost approval of Unit-1 in the order dated 22nd May 2015.

The petitioner submits that it has not made any change in allocation methodology, except to the extent stated herein. The cost for transmission system which was allocated amongst three units while determining tariff for Unit 1, has been allocated in two units, this is because the transmission system is capable for power evacuation for two units only. MPPTCL in its letter dated 16th August 2011 stated that the existing 132 KV transmission line from the Generating Station to the Gadawara sub-station is not capable of handling power of 135 MW i.e. Unit-1,

Unit-2 and Unit-3 and hence change is proposed by the petitioner in earlier allocation of cost among all three units and now proposed to consider cost among Unit-1 & Unit-2 only. Hence, the cost earlier allocated to Unit-3 is allocated to Unit-1 & Unit-2. Letter from MPPTCL dated 16th August 2011 is provided as an Annexure G.

The petitioner has incurred additional cost for 3 capital cost heads namely; CHP, transmission system, fire-fighting system, which are falling under the common cost head. The petitioner has allocated these costs as per methodology approved by the Commission during the final capital cost approval of Unit-1, vide order dated 22nd May 2015. Details of the same along with reason is provided as under:

Table 10: Common Cost pertaining to Unit No 2 (Rs Crore)

Sr. No.	Common Cost	Common Cost of Unit-2 (As submitted during final approval of capital cost of Unit-1)	Addition/change after CoD of Unit-1	Total Common Cost of Unit-2	Remark
1	Land	1.18		1.18	
2	Site Development	3.73		3.73	
3	Ext. Water Supply System	11.40		11.40	
4	CHP	9.85	0.00	9.85	Rs. 17.25 crore cost is incurred for CHP and hence allocated among Unit-1 & Unit-2
5	Fire fighting System	1.04		1.04	
6	HP/LP Piping	4.15		4.15	
-7	Transmission Line and Substation	3.15	1.69	4.84	MPPTCL in its letter dated 16 August, 2011 stated that Transmission system is not capable of handling power of 135 MW i.e. Unit-1, Unit-2 and Unit-3 and hence change is proposed in earlier allocation of cost among all three units and now

Sr. No.	Common Cost	Common Cost of Unit-2 (As submitted during final approval of capital cost of Unit-1)	Addition/ change after CoD of Unit-1	Total Common Cost of Unit-2	Remark
					proposed to consider cost among Unit-1 & Unit-2 only. Hence, cost earlier allocated to Unit-3 is allocated to Unit-1 & Unit-2. Letter from MPPTCL dated 16 August, 2011 is provided as an Annexure G.
8	Main Plant Admin Building (Unit-1 + Unit-2)	7.64		7.64	
9	Main Plant Admin Building (Unit-1 + Unit-2 + Unit-3)	0.70		0.70	
10	Cooling Towers	0.32		0.32	
11	DM Water Plant	2.65		2.65	
12	Fuel Handling Plant	1.74		1.74	
13	CHP	2.90		2.90	
14	Ash handling System	2.62		2.62	
15	Temp. Const. and enabling work	0.37		0.37	
16	Road and drainage	5.46		5.46	
17	Chimney	2.59		2.59	
18	Erection testing and comm.	1.54	0.04	1.58	Rs. 1085081 cost is incurred for the fire fighting system and hence allocated among Unit-1, Unit-2 & Unit-3.
19	Tools and Plants	1.75		1.75	
20	Establishment	10.13		10.13	

Sr. No.	Common Cost	Common Cost of Unit-2 (As submitted during final approval of capital cost of Unit-1)	Addition/change after CoD of Unit-1	Total Common Cost of Unit-2	Remark
21	Design and Engineering	0.82		0.82	
22	Audit and A/cs	0.01		0.01	
23	IDC	12.68		12.68	
24	FC	1.44		1.44	
25	Total Common Cost	89.86	1.73	91.59	

65. On perusal of the above break-up of the Common Cost filed by the petitioner, it is observed that as per the allocation of common assets in final tariff order dated 22nd May' 2015 for Unit No 1, the assets toward common facilities of Rs 89.86 Crore pertains to Unit No 2. The petitioner has also incurred additional cost of Rs 1.73 Crore after COD of Unit No 1 pertaining to CHP, transmission system and fire-fighting system which also falls under the common facilities. Therefore, the total common cost of Rs 91.59 Crore pertains to Unit No 2 as on its COD.

66. The petitioner submitted that the major addition of assets of Rs 1.69 Crore is in transmission line, because the cost of transmission line allocated to Unit No 3 has been apportioned in Unit No 1 and Unit No 2 as stated by MPPTCL in its letter dated 16th August' 2011. In this regard, the petitioner has mentioned the following:

MPPTCL in its letter dated 16th August, 2011 stated that Transmission system is not capable of handling power of 135 MW i.e. Unit-1, Unit-2 and Unit-3 and hence change is proposed in earlier allocation of cost among all three units and now proposed to consider cost among Unit-1 & Unit-2 only. Hence, cost earlier allocated to Unit-3 is allocated to Unit-1 & Unit-2. Letter from MPPTCL dated 16 August, 2011 is provided as an Annexure G

67. As per Annexure G provided by the petitioner, it is observed that the cost of transmission line of Rs 3.15 Crore allocated to Unit No 3 in final tariff order dated 22nd May' 2015 has now been allocated only to Unit No 1 & Unit No 2 due to the fact submitted by the petitioner, that the transmission system is not capable of handling

power of 135 MW (3x45 MW) as referred in the MPPTCL letter dated 16th August' 2011.

68. With regard to cost of power transmission line, the Commission observed that at the time of the final tariff order dated 22nd May' 2015 for Unit No 1, the petitioner constructed transmission line for Unit No 1, Unit No 2 & Unit No 3 of the project. Therefore, the approach for apportionment of transmission cost of Rs 9.45 Crore among three units as submitted by the petitioner in final tariff order was found satisfactory. Accordingly, the cost of transmission line of Rs 9.45 Crore was apportioned among three units in final tariff order dated 22nd May' 2015 for Unit No 1 as per Regulation 5.2 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015.
69. It is observed that the reason for apportionment of transmission line among two units only at this stage is not appropriate in accordance to the provisions under Regulations. Therefore, the Commission has not considered the contention of petitioner for allocating the amount of Unit No 3 towards transmission line between Unit No 1 and Unit No 2. The cost of transmission line as apportioned among three units at the time of final tariff order of Unit No. 1 is considered for Unit No 2 and additional expenditures of Rs 0.23 Crore towards transmission system is also allocated among all three units. Hence, the total amount of Rs 3.23 Crore (Rs 3.15 Crore + Rs 0.08 Crore) is considered towards the expenditure of transmission line towards Unit No 2 in this order.
70. In its submission, the petitioner has mentioned that the apportionment of common assets among units based on usage for Unit-1, Unit-2 and Unit-3 was done as part of final tariff approval of Unit-1. The Commission had considered the common cost for Unit No 1 as submitted by the petitioner in petition No 16/2014 at the time of final capital cost approval for Unit No 1.
71. However, the Commission in para 7.23 of the aforesaid order dated 22nd May' 2015, directed the petitioner to approach the Commission as an when the Unit No 2 is commissioned. The cost of Common Facilities apportioned to Unit No 2 and Unit No 3 shall be considered at the time of determination of the Capital Cost of the respective units.
72. The petitioner has now apportioned the common facilities in terms of the Regulation 8.3 of the MPERC (Terms and Conditions for Determination of Generation Tariff)

Regulations, 2015. Hence, in light of the above submissions and the analysis of the additional submissions filed by the petitioner, the Cost of Common Facilities is apportioned among all three units i.e, Unit No 1, Unit No 2 and Unit No 3 of the petitioner's Power Plant.

73. Accordingly, the cost of Common facilities of Rs 89.98 Crore pertaining towards Capital Cost of Unit No 2 under following common facilities is considered in this order.

Table 11: Cost of Common facilities pertains to Unit No 2 (Amount in Rs Crore)

Sr. No.	Components of Common facilities	Common facilities Cost pertains to Unit-2
1	Land	1.18
2	Site Development	3.73
3	Ext. Water Supply System	11.40
4	CHP	9.85
5	Fire fighting System	1.04
6	HP/LP Piping	4.15
7	Transmission Line and Substation	3.23
8	Main Plant Admin Building (Unit-1 + Unit-2)	7.64
9	Main Plant Admin Building (Unit-1 + Unit-2 + Unit-3)	0.70
10	Cooling Towers	0.32
11	DM Water Plant	2.65
12	Fuel Handling Plant	1.74
13	CHP	2.90
14	Ash handling System	2.62
15	Temp. Const. and enabling work	0.37
16	Road and drainage	5.46
17	Chimney	2.59
18	Erection testing and comm.	1.58
19	Tools and Plants	1.75
20	Establishment	10.13
21	Design and Engineering	0.82
22	Audit and A/cs	0.01
23	IDC	12.68
24	FC	1.44
25	Total Common Cost	89.98

c. Scheduled COD and actual COD:

74. Regulation 4.1(zs) of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 provides that:

“Scheduled Commercial Operation Date or SCOD’ shall mean the date(s) of commercial operation of a generating station or generating unit or block thereof as indicated in the Investment Approval or as agreed in power purchase agreement, whichever is earlier;”

75. Further, with regard to start date or zero date of the project, Regulation 4.1 (zv) of the Generation Tariff Regulations, 2015 provides as under:

‘Start Date or Zero Date means the date indicated in the Investment Approval for commencement of implementation of the project and where no date has been indicated, the date of investment approval shall be deemed to be Start Date or Zero Date’

76. With regard to SCOD, the petitioner in the subject petition has submitted the following:

“In accordance with Article 4.1.6 of the 27MW PPA, Respondent No.1 and the petitioner mutually agreed that the Revised Scheduled COD for Unit-2 shall be 31 March 2017 and as such, according to the said Article 4.1.6, this Revised Scheduled COD is the Scheduled COD. Unit-2 of the petitioner’s Generating Station successfully achieved Commercial Operation Date (“COD”) on 20th March 2017.

There has been extension in the COD of the Unit-2 on account of reasons beyond the control of the petitioner. Accordingly, there is variation in the capital cost of Unit-2 as compared to the cost proposed in the DPR as per Original Estimates”

77. In order to ascertain the scheduled date of commercial operation, vide Commission’s letter dated 28th May’ 2021, the petitioner was asked to submit the SCOD of the project if any, recorded in "Investment Approval" as defined at Regulation 4.1 (zd) of Generation Tariff Regulations, 2015. The petitioner was also asked to file a copy of the Investment Approval of the project indicating estimated project cost including funding of the project and timeline for the implementation of the project. The petitioner was further asked to inform the Zero Date of the project in light of the above Regulation.
78. In response to above issues related to SCoD and Zero Date, by affidavit dated 13th July’ 2021, the petitioner submitted the following:

“The Board of Directors of the petitioner has approved the investment in the project at its meeting held on 24th August’ 2010 (“the Investment Approval”).

As part of the initial Investment Approval process, the petitioner had prepared a Detailed Project Report and estimated a capital cost of Rs. 279.03 Crore for Unit-2. The same has already been submitted as part of the Tariff Petition as Annexure 3 (page Nos.A3-346 to A3-568).

Upon achieving COD of Unit-2 in terms of the PPA,CapitalCostof Unit-2 amounting to Rs. 404.83 Crore was approved by Board of Directorsin the meeting held on 4th September 2017. Certified copy of the resolutions passed in the meeting of Board of Directors held on 24th August 2010 and 4th September 2017and referred to herein,areannexed herewith and marked as Annexure A.

Zero date of the project in light of the Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 (RG-26 (III) of 2015) (hereinafter referred to as“Tariff Regulation 2015”)is 24thAugust’ 2010”.

79. On perusal of the above, it is observed that vide resolution dated 24th August’ 2010, Board of Directors of petitioner’s company accorded the investment approval for the project, however, the schedule Commercial Operation date was not mentioned in the Investment Approval. Regarding the date of commissioning of the Unit No 2, it was mentioned in the Investment Approval that:

“Resolved further that the date of commissioning of the 2ndUnit shall be as agreed between the parties under the terms of the PPA expected to be signed pursuant to the implementation agreement with the Govt of Madhya Pradesh”.

80. Since, there was no date of scheduled COD mentioned in the Investment Approval, therefore, in accordance to the Regulations, 2015, the provisions under the PPA needs to be examined for ascertaining the SCOD of Unit No 2 of the project.
81. Regarding the Scheduled Commercial Operation date and revised Scheduled Commercial Operation date of the unit, Clause 4.1.5 and 4.1.6 of the PPA dated 05th January’ 2011 executed between the parties, the following is mentioned:

4.1.5. Scheduled Commercial Operation Date

The Company shall achieve Commercial Operation Date for the first Unit on or before 30th day of September 2012 and second Unit of the Power Station on or before 31st December 2012. "

4.1.6. Revised Scheduled Commercial Operation Date

The Parties may mutually agree to revise the Scheduled CoD for Commissioning of any Unit or the Power Station (hereinafter referred to as Revised Scheduled Commercial Operation date Or Revised Scheduled COD) and such Revised Scheduled COD shall thereafter be the Scheduled COD.

82. In para 7.4.2 of the petition, the petitioner submitted that in accordance with the PPA, the scheduled date of commissioning of Unit-2 was 31st December' 2012 which was subsequently revised to 31st March' 2017 as per mutual agreement between the petitioner and the Respondent No.1 (MPPMCL), in accordance with the provisions of the PPA. The petitioner also submitted that there has been extension in the SCOD of the Unit No. 2 on account of reasons beyond the control of the petitioner.
83. Vide letter dated 5th August' 2016, BLA Power Pvt Ltd considered all the conditions imposed by MPPMCL. The letter is quoted as under:

"With reference to our Power Purchase Agreement dated 05.01.2011 ("PPA "). Thereafter, in terms of the PPA and in keeping 'with your requirement from time to time, we have made available the Contracted Capacity and Energy from our power generating station.

Since we have all along made available the Contracted Capacity to MPPMCL. as per demand, we are surprised at the additional conditions now sent to us through letter no. 05-01 /973 dated 3rd August 2016.

In view of our long term relationship we have considered the conditions contained in the letter no. 05-01/973 dated 3rd August 2016, and give our consent without prejudice to our rights and contentions available in law.

We request you now to formally issue us your confirmation that 31.03.2017 is the revised COD of Unit No.2 of our generating station."

84. The petitioner has also filed a copy of the letter dated 12th August' 2016 in which MPPMCL accepted the revised SCOD of Unit No 2 as 31st March' 2017 subject to agreeing to following conditions imposed by MPPMCL:

- (a) pay transmission charges, if any, on this account, as per clause 4.5.8 of the PPA*
- (b) not to raise any claims due to non-fulfilment of one or more Procurer's obligations and Conditions Subsequent by the Procurer, and*
- (c) **not to raise any claims towards IDC for the period of delay in COD.***

85. On detailed scrutiny of the details and documents submitted by the petitioner regarding revision in SCOD, the Commission observed the following:

- (i) According to clause 4.1.5 of the Power Purchase Agreement (PPA) entered into between the petitioner and the Respondents on 5th January' 2011, the CoD of the second unit of the petitioner's plant was to be achieved by **31st December' 2012**;
- (ii) Further, as per the terms of clause 4.1.6 of the aforesaid PPA, the parties may mutually agree to revise the scheduled CoD and such revised SCOD shall thereafter be schedule COD;
- (iii) Vide letter dated 02nd March' 2016, BLA Power Pvt Ltd requested MPPMCL to consider extension of scheduled COD of Unit No 2 from 31st December' 2012 to 31st March' 2017;
- (iv) On detailed scrutiny of the correspondence between MPPMCL and the petitioner, it was found that MPPMCL vide letter dated 3rd August' 2016 agreed to consider the revision of scheduled COD from 31st December' 2012 to 31st March' 2017 subject to BLA power Pvt Ltd agreeing to certain conditions wherein one of the conditions was;

(a) not to raise any claims towards IDC for the period of delay in COD.

- (v) Vide letter dated 05th August' 2016, the petitioner accepted the conditions contained in the aforesaid letter dated 3rd August 2016, and gave its consent/acceptance for revised COD with the conditions imposed by the procurers (MPPMCL);

(vi) Vide letter dated 12th August' 2016, MPPMCL formally revised the Scheduled COD from 31st December' 2012 to 31st March' 2017.

86. The Commission has noted that the scheduled date of commercial operation is defined and detailed in the PPA executed between the petitioner and Respondents. Further, the MPPMCL agreed to revise the scheduled date of commercial operation in terms of provisions under the same PPA subject to certain conditions. The revised scheduled CoD of Unit No. 2 is 31st March' 2017 subject to the condition that the IDC shall not be claimed by the petitioner for the period of delay in COD.
87. In view of the above mentioned facts and the reasons mentioned by the petitioner alongwith the documents placed on record, it was observed that the petitioner submitted that the delay in achieving commercial operation of the Unit No. 2 was not attributable to the petitioner. However, the procurer (MPPMCL), irrespective of the reasons given by petitioner for the delay in achieving CoD of Unit No.2, agreed to revise SCOD with the condition of “**no claim towards IDC for the period of delay in COD**” in public interest. Therefore, the Commission has considered the SCOD of Unit No. 2 as on 31st March' 2017 with the conditions imposed by MPPMCL.

d. Cost over-run:

88. In Para 17 of the subject petition, the petitioner has submitted the following break-up of capital cost based on the DPR as per original estimate and the actual cost incurred for Unit No 2 claimed as on CoD as given below:

Table 12: Capital Cost as per DPR and filed in petition

<i>Particulars</i>	<i>Cost as per Original Estimates</i>	<i>Capital Cost submitted in this petition</i>	<i>Difference</i>
<i>Land & Development Cost</i>	8.97	4.91	-4.06
<i>Civil, Foundation & Buildings</i>	59.78	38.63	-21.15
<i>Plant & Machinery (BTG)</i>	93.33	106	12.67
<i>BOP including Cooling Tower</i>	51.5	28.74	-22.76
<i>Water Intake System</i>	17.85	11.4	-6.45
<i>Power Transmission System</i>	5.33	4.84	-0.49
<i>Others including Pre Operative Expenses</i>	14.29	96.23	81.94
<i>Interest during Construction</i>	27.98	112.97	84.99
<i>Cost of Startup Fuel</i>		2.07	2.07
<i>Less Income from Sale of Infirm Power</i>		-0.97	-0.97

Total	279.03	404.82	125.80
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89. From the above, it was observed that there is cost overrun of Rs. 125.80 Crore from the original cost estimate. The major variations are observed in plant & machinery, IDC and pre-operative expenses. It was observed that the actual expenses on IDC and IEDC have become approximately four to five times of original estimate. Vide Commission's letter dated 28th May' 2021, the petitioner was asked to file the component-wise detailed reasons/justification for increase in capital cost from the original cost estimate of Rs. 279.03 Crore to actual capital cost of Rs. 404.83 Crore.
90. In response to above, by affidavit dated 13th July' 2021, the petitioner submitted:

"There is no cost overrun in project cost components on account of elongated construction period of Unit-2, as Unit-2 has achieved COD well before the Scheduled COD of 31st March' 2017. In some of the components there is increase in cost in comparison to original estimate but that is mainly due to various changes made in design based on experience of Unit-1. However, this increase in cost of some of the components has been off-set / subsumed in the reduction in the cost of other components from their original estimate. Hence the overall actual hard cost incurred is within the total amount as originally envisaged. Cost component wise detailed reasons for variation in cost vis-à-vis original estimates are provided as part of Form 5 Di of the formats submitted as part of petition.

Original cost approved for Unit No. 2 excluding IDC and IEDC was Rs. 236.76 Crore and actual capital cost excluding IDC and IEDC is Rs. 214.95 Crore and hence there is saving of Rs. 21.81 Crore

Cost component wise detailed reasons for variation in cost vis-à-vis original estimates for Unit-2 are provided as under:

Table 13: Variation in Cost Component with detailed reasons (Rs in Crore)

Sr. No.	Break Down	As per Original Cost as Approved - DPR	Actual Cost	Difference	Reasons for Variation
1	Cost of Land & Site Development				
1.1	Land	2.07	1.18	0.89	
1.2	Rehabilitation & Resettlement (R&R)			-	

Sr. No.	Break Down	As per Original Cost as Approved - DPR	Actual Cost	Difference	Reasons for Variation
1.3	Preliminary Investigation & Site Development	6.90	3.73	3.17	
	Total Land & Site Development	8.97	4.91	4.06	
2	Plant & Equipment			-	
2.1	Steam Generator Island	67.21	78.12	(10.91)	Based on operational experience of Unit-1, various changes were made in the Steam Generator for Unit-2 which has led to an increase in the cost.
2.2	Turbine Generator Island	26.12	27.88	(1.76)	Based on operational experience of Unit-1, various changes were made in the Turbine Generator for Unit-2 which has led to an increase in the cost.
2.3	BOP Mechanical				
2.3.1	External water supply system	17.85	11.40	6.45	
2.3.2	CW system	4.97	1.25	3.72	Based on experience of Unit-1, the petitioner has optimized the execution cost which has led to reduction in cost.
2.3.3	DM water plant	3.74	-	3.74	
2.3.4	Clarification plant		-	-	
2.3.5	Chlorination plant		-	-	
2.3.6	Fuel Handling & Storage System	-	-	-	
2.3.7	Ash Handling System	0.78	1.17	(0.39)	The cost has been increased due to re-routing of the pipelines.
2.3.8	Coal Handling Plant	6.82	9.85	(3.03)	The cost has increased as a coal shed was added so that surface moisture in coal does not increase during monsoon.
2.3.9	Rolling Stock and Locomotives	-	-	-	
2.3.10	MGR	-	-	-	

Sr. No.	Break Down	As per Original Cost as Approved - DPR	Actual Cost	Difference	Reasons for Variation
2.3.11	Air Compressor System	1.16	0.21	0.95	
2.3.12	Air Condition & Ventilation System	1.45	-	1.45	
2.3.13	Fire fighting System	1.63	1.04	0.59	Unit-2 fire-fighting system is only the extension of Unit-1 and hence there is a reduction in the cost.
2.3.14	HP/LP Piping	8.35	4.15	4.20	Piping cost has been reduced by re-routing the path.
2.3.15	De-salination plant for sea-water intake	-	-	-	
2.3.16	External coal handling in Jetty, if any	-	-	-	
	Total BOP Mechanical	140.08	135.07	5.01	
2.4	BOP Electrical			-	
2.4.1	Switch Yard Package	17.21	1.24	12.83	The Switchyard of Unit-2 is an extension of the existing switchyard catering to Unit-1. Moreover, based on the operating experience of Unit-1, the Petitioner has endeavoured to reduce the cost by optimizing the quantum of accessories, re-routing the path of cables to reduce the overall length of the cables in the switchyard and by employing local labour contractors, there has been a reduction in the cost of installation.
2.4.2	Transformers Package		3.14		
2.4.3	Switch gear Package	1.81	2.87	(1.06)	Based on the experience of Unit-1, the cost has been optimized. Moreover, the Unit-2 switch gear package is only the extension of Unit-1.

Sr. No.	Break Down	As per Original Cost as Approved - DPR	Actual Cost	Difference	Reasons for Variation
2.4.4	Cables, Cable facilities & grounding		0.62	(0.62)	The cables and grounding were included in the individual electrical package in the DPR estimate. It has now been shown separately in compliance of the tariff forms.
2.4.5	Lighting		-	-	
2.4.6	Emergency D.G. Set		-	-	
2.4.7	Transmission Line & Sub Station	5.33	4.84	0.49	The transmission line is capable of catering only to 2 Units instead of 3 as indicated by MPPMCL. Accordingly, the cost of transmission line, apportioned earlier to Unit-3 has now been considered equally in Unit-1 and Unit-2. Moreover, in order to minimize the frequent outage observed in the 11kV feeder feeding supply to the water intake system at Usrai ghat, the Petitioner has constructed a 33kV line from sub-station of MP East Discom at its own cost to ensure uninterrupted power supply for the pumping station.
	Total BOP Electrical	24.35	12.71	11.64	
2.5	Control & Instrumentation (C&I) Package	2.56	1.61	0.95	
	Total Plant & Equipment excluding taxes & duties	175.96	154.30	21.66	
2.6	Taxes & Duties		-	-	

Sr. No.	Break Down	As per Original Cost as Approved - DPR	Actual Cost	Difference	Reasons for Variation
3	Initial Spares	1.02	2.69	(1.67)	Based on the operating experience of Unit-1, the Petitioner has reviewed the quantity of initial capital spares and hence, the amount has increased to prevent the long outage of the unit due to shortage of spares. Moreover, these spares are specific items not readily available in the vicinity of the plant situated in a remote location and hence, lead time for delivery of spares is higher. Therefore, sufficient redundancy of the stock of spares is required to be maintained so as to avoid outage.
4	Civil Works			-	
4.1	Main Plant/ Adm. Building	48.84	17.25	16.04	Based on the operating experience of Unit-1, the Petitioner has reviewed the civil work implementation which has led to a decrease in the cost for Unit-2.
4.2	CW System		0.65		
4.3	Cooling Towers		2.41		
4.4	DM water plant		2.65		
4.5	Clarification plant		-		
4.6	Chlorination plant		-		
4.7	Fuel handling & Storage system		1.74		
4.8	Coal Handling Plant		2.90		
4.9	Chimney		2.59		
4.10	Ash Handling System		2.62		
4.11	Ash disposal area development		-		
4.12	Fire fighting system		-		
4.13	MGR & Marshalling Yard	-	-	-	

Sr. No.	Break Down	As per Original Cost as Approved - DPR	Actual Cost	Difference	Reasons for Variation
4.14	Township & Colony	-	-	-	
4.15	Road & Drainage	8.69	5.46	3.23	Balance internal road and non-plant related civil work is pending and is submitted as additional future capital expenditure.
4.16	Temporary construction & enabling works	2.25	0.37	1.88	
	Total Civil Works	59.78	38.63	21.15	
5	Construction & Pre-Commissioning Expenses			-	
5.1	Erection Testing and Commissioning		16.47	(19.33)	Due to increase in the cost of steam generator and turbine generator as stated above at 2.1 and 2.2, there has been corresponding increase in the erection cost of these elements.
5.2	Site Supervision		-		
5.3	Operator's Training		-		
5.4	Construction Insurance		-		
5.5	Tools & Plant		1.75		
5.6	Start up Fuel		2.07		
5.7	Less: Revenue earned from Sale of Infirm Power		(0.97)		
	Total Construction & Pre- Commissioning Expenses	-	19.33	(19.33)	
6	Overheads	-		-	
6.1	Establishment	11.19	76.08	(64.89)	Reasons are provided as part of Petitioner's response to para 12 of Commissions Query
6.2	Design & Engineering	3.10	0.82	2.28	
6.3	Audit & Accounts	-	0.01	(0.01)	
6.4	Contingency	-	-	-	
	Total Overheads	14	76.90	(62.61)	

Sr. No.	Break Down	As per Original Cost as Approved - DPR	Actual Cost	Difference	Reasons for Variation
7	Total Capital Cost Excluding IDC & FC	251.05	291.85	(40.80)	
8	IDC, FC, FERV & Hedging Cost			-	
8.1	Interest During Construction (IDC)	27.98	109	(81.23)	Reasons are provided as part of Petitioner's response to para 10 of Commissions Query
8.2	Financing Charges (FC)	-	3.76	(3.76)	
8.3	Foreign Exchange Rate Variation (FERV)	-	-	-	
8.4	Hedging Cost	-	-	-	
	Total IDC, FC, FERV & Hedging Cost	27.98	112.97	(84.99)	
9	Capital cost including IDC, FC, FERV & Hedging Cost	279.03	404.82	(125.79)	

As Scheduled COD of Unit-2 is 31st March 2017 and actual COD of Unit-2 is 20th March 2017 which is well before Scheduled COD, therefore there is no delay in achieving COD of Unit-2. Hence the above cost increase in IDC and IEDC ought to be allowed in the capital cost of Unit-2. IDC and IEDC are dependent on duration of project construction period and may be allowed in the capital cost of Unit-2.

91. In view of the above reasons for variations in actual capital cost vis-à-vis original cost estimate filed by the petitioner, the Commission has observed the following:
- i. Actual expenditure in some of the Plant & Machinery components like switchgear, steam generator island and turbine generator island have increased due to change/modifications in design based on the operational experience of Unit No 1 of the project.
 - ii. Cost of Ash Handling Plant has increased due to re-routing of the pipelines. Further, the cost of coal handling plant increased due to extension of coal shed area in order to prevent moisture in coal during monsoon season.

- iii. With regard to increase in cost of initial spares , the petitioner submitted that the cost has been increased based on the operating experience of Unit No 1, the quantity of initial spares has been reviewed and amount of initial spares has increased to prevent the long outage of the unit due to shortage of spares. The petitioner has further submitted that these spares are specific items and not readily available in the vicinity of the plant situated in remote location.
 - iv. Regarding the increase in erection, testing and commissioning expenses, the petitioner submitted that due to increase in the cost of steam generator and turbine generator (based on the operational experience of Unit No 1), there has been corresponding increase in the erection cost of these elements.
 - v. The actual cost of the soft cost components like IDC and IEDC (overheads) have been increased approximately four times and five times of the original cost estimate respectively. The increase in soft cost has been analysed in respectively part of this order.
92. Based on the reasons for increase in “Hard Cost” filed by the petitioner and details and documents placed before the Commission, it is observed that the increase in Hard Cost components of the capital cost is reasonable, however, the cost of transmission line has been considered as per the allocation among three units. Increase in soft cost components has been analysed in respective part of the order. Reasonability of revised soft cost and its prudence has been analysed in the subsequent paras of this order.

e. Time overrun

93. As regards delay in the commissioning of Unit No 2, vide Commission’s letter dated 28th May’ 2021, the petitioner was asked to file the following details:
- i. Detailed reasons for delay in achieving CoD of the generating Unit No. 2.
 - ii. Whether the delay in CoD was attributable to delay in completion of works by the contractors/agencies
 - iii. If yes, whether any Liquidated Damages/penalty have been recovered or to be recovered from contractors/agencies
94. By affidavit dated 13th July’ 2021, the petitioner has submitted the following response with regard to time over-run in the project:

- i. *“Without prejudice to the aforesaid, it is submitted that the construction period of Unit-2 got elongated on account of the slow execution by the boiler manufacturer supplying the 190TPH Circulating Fluidised Bed Combustion Boiler (hereinafter referred to as “CFBC Boiler”) of Unit-2. The petitioner selected ISGEC John Thompson(hereinafter referred to as “Boiler Manufacturer”), pursuant to a tender process, for the design, engineering, manufacture, supply and transportation of the CFBC boilers and auxiliaries for the Generating Station.*

The advantage of CFBC Boiler is that it can use a wide variety of coal and solid fuels from different sources. CFBC Technology gives the flexibility to source coal and fuel from the widest base of suppliers and industries, improving the fuel supply security while taking advantage of fuel’s pricing and market conditions. Moreover, CFBC Boiler, is a greener boiler as limestone can be added directly to it for capture of sulphur. Furthermore, low emissions are a key benefit of CFBC Boilers allowing them to meet the strictest environmental standards as CFBC boilers operate at low combustion temperatures while giving the fuel long burning times, resulting in naturally low nitrogen oxides (NOx) formation and high combustion efficiency.

The petitioner selected the best CFBC technology of Sumitomo SHI Foster Wheeler, Finland, Oy (Erstwhile Foster Wheeler, USA), who were the worldwide pioneer in this technology and had the highest numbers of installations of CFBC Boilers in the world. The Boiler Manufacturer is the sole licensee of Sumitomo SHI, Foster Wheeler Finland Oy, in India and therefore, the petitioner awarded the contract for design, erection, commissioning of CFBC Boilers to the Boiler Manufacturer.

The petitioner and the Boiler Manufacturer entered into four agreements in total, two for Unit-1 dated 23rd March 2010 and two for Unit-2 dated 2nd September 2011. Through these agreements the Boiler Manufacturer had undertaken to engineer, design, manufacture, supply, erect, commission, transport and deliver CFBC Boilers for the petitioner’s 2x45 MW Generating Station.

To elaborate further, with regard to Unit-2, the petitioner and the Boiler Manufacturer entered into two contracts- a) Contract for Supply of 190 TPH CFBC Boiler and Auxiliaries and b) Contract for Erection and Commissioning of

190 TPH CFBC Boiler and Auxiliaries. Through these agreements (“Contracts-2”), the Boiler Manufacturer undertook to engineer, design, manufacture, supply, erect, commission, transport and deliver a CFBC Boiler for the petitioner’s Unit-2 of the Generating Station (“Boiler Unit-2”) by 30th September 2012, with a grace period of one month i.e. by 30th October 2012. The Contracts-2 were subsequently amended by agreements dated 15th June 2012 and thereafter on 10th July 2013. The date of completion of Boiler Unit-2 was mutually agreed upon as 28th February 2014 (including one month grace period).

However, no work was started by the Boiler Manufacturer on the Boiler Unit-2 until the commissioning of Boiler Unit-1 was complete. Even after more than 14 months after the execution of Contracts-2, the Boiler Manufacturer failed to provide a plan of action to achieve the successful erection and commissioning of Boiler Unit-2. The work carried out by the Boiler Manufacturer was extremely slow paced and not in accordance with the timelines set out in the Contracts. The petitioner by several letters and meetings, requested the Boiler Manufacturer to comply with its obligations under the Contracts.

However, despite repeated reminders, the Boiler Manufacturer failed in performing its part of the contract. The petitioner faced various issues with regard to the commissioning and erection of Boiler Unit-2, as enumerated in the aforementioned Annexure B. One of the major reasons was that the Boiler Manufacturer failed to arrange sufficient manpower and elongated the completion and erection of Boiler Unit-2. This and the other reasons for elongation for construction are explained in detail in the Annexure B. It is pertinent to mention here that the reasons for elongation of construction period of Unit-2 was not attributable to the petitioner. The principles laid down by Hon’ble Appellate Tribunal for Electricity in Maharashtra State Power Generation Co. Ltd vs. MERC & Ors. (Appeal No. 72 of 2010) vide its order dated 27 April 2011 must be taken into consideration. The relevant paragraphs of the order are reproduced hereunder:

“7.4. The delay in execution of a generating project could occur due to following reasons:

- i) due to factors entirely attributable to the generating company, e.g., imprudence in selecting the contractors/suppliers and in executing contractual agreements including terms and conditions of the contracts,*

delay in award of contracts, delay in providing inputs like making land available to the contractors, delay in payments to contractors/suppliers as per the terms of contract, mismanagement of finances, slackness in project management like improper co-ordination between the various contractors, etc.

- ii) due to factors beyond the control of the generating company e.g. delay caused due to force majeure like natural calamity or any other reasons which clearly establish, beyond any doubt, that there has been no imprudence on the part of the generating company in executing the project.*
- iii) situation not covered by (i) & (ii) above.*

In our opinion in the first case the entire cost due to time over run has to be borne by the generating company. However, the Liquidated Damages (LDs) and insurance proceeds on account of delay, if any, received by the generating company could be retained by the generating company. In the second case the generating company could be given benefit of the additional cost incurred due to time over-run. However, the consumers should get full benefit of the LDs recovered from the contractors/suppliers of the generating company and the insurance proceeds, if any, to reduce the capital cost. In the third case the additional cost due to time overrun including the LDs and insurance proceeds could be shared between the generating company and the consumer. It would also be prudent to consider the delay with respect to some benchmarks rather than depending on the provisions of the contract between the generating company and its contractors/suppliers. If the time schedule is taken as per the terms of the contract, this may result in imprudent time schedule not in accordance with good industry practices.

- 7.5. In our opinion, the above principles will be in consonance with the provisions of Section 61(d) of the Act, safeguarding the consumers' interest and at the same time, ensuring recovery of cost of electricity in a reasonable manner.*
- ii. The construction period of Unit-2 got elongated on account of the slow execution by the Boiler Manufacturer supplying the 190TPH CFBC Boiler and other reasons*

not attributable to the petitioner. This has been elaborated in detail as part of petitioner's response to para 3(i) of Commissions Query.

- iii. *The petitioner could not levy Liquidated Damages on the Boiler Manufacturer. Even though, the Boiler Manufacturer had slowed the erection and commissioning of Boiler Unit-2, the petitioner is dependent solely on the Boiler Manufacturer for proprietary spares and services required for the whole life of the CFBC boilers as the Boiler Manufacturer is the sole licensee of Sumitomo SHI, Foster Wheeler Finland Oy, in India. Upon the petitioner attempting to deduct Liquidated Damages from the Boiler Manufacturer, the petitioner would then risk losing future services of both boilers (i.e. Boiler Unit-1 and Boiler Unit-2) from the Boiler Manufacturer. It is pertinent to mention herein that the petitioner has incurred significant cost in the construction and operation of the Generating Station. Whereas, the liquidated damages for delay in commissioning, under Contracts 2 is capped at Rs 2,50,00,000/- (Rupees Two Crores Fifty Lakhs Only) and the overall liability of the Boiler Manufacturer has been capped at Rs.5,00,00,000/- (Rupees five crores only). Therefore, the petitioner could not risk losing the technical support of the Boiler Manufacturer for both the boilers.*
95. Regarding the reasons for delay in achieving CoD/ Time over-run, the petitioner in its additional submission submitted that the petitioner selected ISGEC John Thompson, as boiler manufacturer and supplier pursuant to a tender process, for the design, engineering, manufacture, supply and transportation of the CFBC boilers and auxiliaries for the Generating Station. However, as per the contracts, the boiler manufacturer was required to deliver CBFC boiler for Unit No 2 by 30th September' 2012. The petitioner through subsequent amendments in contracts had revised the delivery date of boiler till 28th February' 2014. Hence, the construction period of Unit-2 got elongated on account of the slow execution by the boiler manufacturer supplying the 190TPH Circulating Fluidised Bed Combustion Boiler of Unit-2.
96. With regard to controllable and uncontrollable factor, Regulation 18 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 provides that:

18 The following shall be considered as controllable and uncontrollable factors leading to cost escalation impacting Contract Prices, IDC and IEDC of the project

18.1 The “controllable factors” shall include but shall not be limited to the following:

- a) Variations in capital expenditure on account of time and/or cost overruns on account of land acquisition issues;
- b) Efficiency in the implementation of the project not involving approved change in scope of such project, change in statutory levies or force majeure events; and
- c) Delay in execution of the project on account of contractor, supplier or agency of the generating company.

18.2 The “uncontrollable factors” shall include but shall not be limited to the following:

- i. Force Majeure events.; and
- ii. Change in law.

Provided that no additional impact of time overrun or cost over-run shall be allowed on account of non-commissioning of the generating station or associated transmission system by SCOD, as the same should be recovered through implementation Agreement between the generating company and the transmission licensee:

Provided further that if the generating station is not commissioned on the SCOD of the associated transmission system, the generating company shall bear the IDC and IEDC or transmission charges if the transmission system is declared under commercial operation in accordance with second proviso of Regulation 4.1 (m) of these Regulations till the generating station is commissioned. Such IDC and IEDC or transmission charges if any, paid by the generating company under aforesaid circumstances shall not be allowed in the capital cost of the generating station.

97. On perusal of the submission of petitioner for delay in completion for the design, engineering, manufacture, supply and transportation of the CFBC boilers and auxiliaries for the Generating Station, it is noted that the contention of the petitioner with regard to slow execution by the boiler manufacturer and contending that the reasons for delay in achieving the COD of the station is not attributable to the petitioner, is not justified and does not falls under the “uncontrollable factors” described in Regulation 18.2 of the Tariff Regulations, 2015. Regulation 18.1 (c) stated that the controllable factor shall include “delay in execution of the project on account of

contractor, supplier or agency of the generating company.”

98. With regard to recovery of liquidity damages (LD), the petitioner submitted that no liquidated damages have been recovered from the contractor since the petitioner was dependent solely on the boiler manufacturer for proprietary spares and services required for the whole life of the CFBC boilers as the Boiler Manufacturer is the sole licensee of Sumitomo SHI, Foster Wheeler Finland Oy, in India and could not risk losing the technical support of the boiler manufacturer for both the boilers..
99. On examining the reasons mentioned by the petitioner for the delay in achieving commercial operation of the Unit No. 2, the Commission has observed that the delay in COD falls under controllable factor and attributable to the petitioner. Further, the Respondent No. 1 has considered revision of SCOD from 31st December’ 2012 to 31st March’ 2017 as per communication between the petition & respondent No. 1 filed with the subject petition. However, the procurer (MPPMCL), irrespective of the reasons given by petitioner for the delay in achieving CoD of Unit No.2, agreed to revise SCOD with the condition of **“no claim towards IDC for the period of delay in COD”** in public interest. Therefore, the Commission has found that the delay in COD and cost overrun due to time overrun is at petitioner’s part, therefore the Commission has considered the SCOD of Unit No. 2 as on 31st March’ 2017 with the condition of “no claim of IDC beyond 31st December’ 2012.

f. Interest during Construction (IDC):

100. Regarding the Interest During Construction (IDC) Regulation 17.1 and 17.2 of MPERC (Terms and Conditions for determination of Generation tariff) Regulations, 2015 provides as under;

“Interest during construction shall be computed corresponding to the loan from the date of infusion of debt fund, and after taking into account the prudent phasing of funds upto SCOD.

In case of additional costs on account of IDC due to delay in achieving the SCOD, the generating company shall be required to furnish detailed justifications with supporting documents for such delay including prudent phasing of funds:

Provided that if the delay is not attributable to the generating company and is due to uncontrollable factors as specified in Regulation 18 of these Regulations, IDC

may be allowed after due prudence check:

Provided further that only IDC on actual loan may be allowed beyond the SCOD to the extent, the delay is found beyond the control of generating company after due prudence and taking into account phasing of funds.

101. Regulation 17.1 of generation tariff Regulations, 2015 provides that the Interest during construction shall be computed corresponding to the loan from the date of infusion of debt fund, and after taking into account the prudent phasing of funds upto SCOD. In the subject petition, it was observed that the IDC initially estimated as per DPR was Rs. 27.98 Crore whereas, the actual IDC & FC as on CoD is Rs. 112.97 Crore as claimed by the petitioner which is four times the amount towards IDC originally estimated for Unit No 2. Vide Commission's letter dated 28th May' 2021, the petitioner was asked to file the justification with supporting documents for such steep increase in IDC.

102. In response to the above, by affidavit dated 13th July' 2021, the petitioner submitted:

"The petitioner submits that the construction period elongated and reasons for the same are already provided as part of petitioner's response to para 3 (i) of Commissions Query (please refer to para 8 of this reply). As already stated above, on account of the slow work pace of the Boiler manufacturer, the construction period for Unit-2 got elongated. This has consequently impacted the IDC of Unit-2 and it has increased from the estimated IDC of Rs. 27.98 Crore to actual IDC of Rs. 112.97 Crore. This was entirely on account of reasons beyond the control of the petitioner.

As already pointed out by the petitioner, CFBC boilers have been installed at the Generating Station, by the Boiler Manufacturer, who is the sole licensee of Sumitomo SHI, Foster Wheeler Finland, Oy in India. The CFBC technology is a greener technology, which gives the benefit of a wider range of fuel to the generating company. However, in the present case, after successfully commissioning Unit-1 of the Generating Station, various issues were faced by the petitioner with the Boiler manufacturer. Despite regular follow ups by the petitioner, the Boiler manufacturer substantially elongated the work at site. The petitioner, however, could not risk losing the support of the Boiler Manufacturer, as it is the sole licensee of Sumitomo SHI, Foster Wheeler Finland, Oy in India

and the petitioner needed its continued technical support for both Unit-1 and Unit-2. Despite facing several issues, the petitioner made relentless efforts to expedite the completion and commissioning of Unit-2 of the Generating Station. A perusal of Form 5B, submitted along with the Tariff Petition, will clearly demonstrate that the petitioner has incurred an actual interest of Rs. 112.97 Crore, during construction. The increase in IDC was on account of circumstances beyond the control of the petitioner and cannot be attributable to any delay on the part of the petitioner.

103. Vide Commission's letter dated 28th May' 2021, the petitioner was also asked to inform the reasons for increase in IDC from Scheduled COD (31st December' 2012) to the actual COD in light of the Regulation 17.2 of the Tariff Regulations, 2015. By affidavit dated 13th July' 2021, the petitioner submitted:

Regulations 17.1 of the Tariff Regulations, 2015 provides as under:

"17.1 Interest during construction shall be computed corresponding to the loan from the date of infusion of debt fund, and after taking into account the prudent phasing of funds upto SCOD."

It is most respectfully submitted that the petitioner has commissioned Unit-2 as per the Scheduled COD under the 27MW PPA. The Statutory Auditor Certificate for the actual IDC for Unit-2 as on the Scheduled COD has already been provided as part of petitioner's response to para 5 of. Commissions Query (please refer to para 16 of this reply). There is no increase in IDC from the Scheduled COD to the actual COD and accordingly IDC computed in accordance with Regulation 17.1 of the Tariff Regulations, 2015 ought to be allowed to the petitioner.

Without prejudice to the aforesaid, it is most respectfully submitted that the petitioner has already explained the reasons for elongation of the construction period of unit-2 in detail, as part of petitioner's response to para 3 (i) of Ld. Commissions Query (please refer to para 8 of this reply). No delay is attributable to the petitioner and hence, even in terms of regulation 17.2 of the Tariff Regulations, 2015, the petitioner is entitled to an IDC of Rs. 112.97 Crore. Regulations 17.2 of the Tariff Regulations, 2015 provides as under:

- 17.2 In case of additional costs on account of IDC due to delay in achieving the SCOD, the generating company shall be required to furnish detailed*

justifications with supporting documents for such delay including prudent phasing of funds:

Provided that if the delay is not attributable to the generating company and is due to uncontrollable factors as specified in Regulation 18 of these Regulations, IDC may be allowed after due prudence check:

Provided further that only IDC on actual loan may be allowed beyond the SCOD to the extent, the delay is found beyond the control of generating company after due prudence and taking into account prudent phasing of funds.”

In view of the above, the petitioner is eligible for actual IDC in light of Regulations 17.1, as well as 17.2 of the Tariff Regulations, 2015

104. On perusal of above response, the Commission observed that the petitioner has not filed the information of IDC & FC as on originally envisaged Scheduled COD (31st December' 2012). Therefore, the same has been worked out in this order on the basis of the details of IDC provided in Annexure H filed with the additional submission dated 13th July' 2021.
105. On examination of the reasons filed by the petitioner, it was observed that the increase in IDC & FC amount from the estimated amount to the actual figure of Rs. 112.97 Crore has been on account of delay in achieving the COD of the generating unit. The details of IDC as on original scheduled COD (31st December' 2012) and as on actual COD of the unit taken from Annexure I are as given below:

Table 14: IDC & FC as on COD and SCoD

Sr.No	Particulars	Amount (Rs in Crore)
1	IDC and finance charges claimed as on actual CoD (A) (20.03.2017)	112.97
2	IDC and finance charges as on Scheduled CoD (B) (31.12.2012)	22.14

106. The detail break of aforesaid IDC and finance charges as on SCOD (31st December' 2012) and as on actual COD (20th March' 2017) is as under:

Table 15: Breakup of IDC & FC as on actual COD and SCoD (Rs in Crore)

Sr.No	Particulars	As on 20.03.2017	As on 31.12.2012
1	IDC	109.21	20.70
2	Processing fee/Bank charges /Financing costs/Other charges	3.76	1.44
3	Total Interest and Finance Charges	112.97	22.14

107. On examining the reasons stated by the petitioner for delay in achieving COD of the unit beyond the Schedule CoD mentioned in PPA, the reasons for delay in achieving COD are not found considerable to pass on such huge increase in amount of IDC beyond the originally decided Schedule CoD, to the beneficiaries/end consumers of electricity generated and supplied from this unit. Moreover, MPPMCL agreed to revised the SCOD from 31st December' 2012 to 30th March' 2017 based on the condition that **“not to raise any claims towards IDC for the period of delay in COD”**.

108. For treatment of increase in IDC due to delay in achieving COD, Hon'ble APTEL in its Judgment dt. 27.04.2011 in Appeal No. 72 of 2010 while allowing the impact of increase in costs due to delay in achieving COD has categorically stated as follows:

“7.4. The delay in execution of a generating project could occur due to following reasons:

- i) due to factors entirely attributable to the generating company, e.g., imprudence in selecting the contractors/suppliers and in executing contractual agreements including terms and conditions of the contracts, delay in award of contracts, delay in providing inputs like making land available to the contractors, delay in payments to contractors/suppliers as per the terms of contract, mismanagement of finances, slackness in project management like improper co-ordination between the various contractors, etc.*
- ii) due to factors beyond the control of the generating company e.g. delay caused due to force majeure like natural calamity or any other reasons which clearly establish, beyond any doubt, that there has been no imprudence on the part of the generating company in executing the project.*
- iii) situation not covered by (i) & (ii) above. In our opinion in the first case the entire cost **due to time over run has to be borne by the generating company**. However, the Liquidated Damages (LDs) and insurance proceeds on account of delay, if any, received by the generating company could be retained by the generating company. In the second case the generating*

company could be given benefit of the additional cost incurred due to time overrun. However, the consumers should get full benefit of the LDs recovered from the contractors/suppliers of the generating company and the insurance proceeds, if any, to reduce the capital cost. In the third case the additional cost due to time overrun including the LDs and insurance proceeds could be shared between the generating company and the consumer. It would also be prudent to consider the delay with respect to some benchmarks rather than depending on the provisions of the contract between the generating company and its contractors/suppliers. If the time schedule is taken as per the terms of the contract, this may result in imprudent time schedule not in accordance with good industry practices.”

109. Hon'ble APTEL in above Judgment with regards to first case has stated as follows:

In our opinion in the first case the entire cost due to time over run has to be borne by the generating company. However, the Liquidated Damages (LDs) and insurance proceeds on account of delay, if any, received by the generating company could be retained by the generating company.

110. Considering all the facts and documents submitted by the petitioner, it is observed that as per aforesaid Hon'ble APTEL order and as per Regulation 18.1 (c) of Regulations 2015, delay is entirely attributable to the generating company. The increase in cost on account of such delay ought to be settled with contractor and can not be passed on the beneficiaries/end consumers. Therefore, it is established beyond doubt that the entire delay was due to the reasons attributable to the petitioner. In light of the above, the Commission has observed that the present case falls under the category (i) described in the ruling of Hon'ble APTEL stated above.

111. In view of the aforesaid observations, the Commission has allowed IDC only upto the initial Scheduled CoD of the Unit No 2 as mentioned in the PPA i.e, (31st December' 2012).

112. Accordingly, the Commission has worked out the IDC and financing charges in this order as given below:

Table 16: IDC allowed in this order (Rs in Crore)

Particulars	Amount (Unit No 2)
Actual IDC as on actual CoD filed 20 th March' 2017 (A)	109.21
Actual IDC as on Scheduled CoD i.e., 31 st Dec' 2012 (B) as per PPA	20.70
Total IDC Allowed in this order as per SCOD(B)	20.70
Total IDC & FC allowed in this order (B+Financing Charges Rs 3.76 Cr)	24.46

g. Incidental Expenses during Construction:

113. In Form TPS 5B of the petition, the petitioner filed overhead and pre commissioning expenses of Rs. 96.23 Crore as on CoD of the unit no 2.

Provision under Regulation:

114. Regarding Incidental Expenditure during Construction Regulation 17 (B) of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 provides as under:

17.3 "Incidental expenditure during construction shall be computed from the zero date and after taking into account pre-operative expenses upto SCOD:

Provided that any revenue earned during construction period up to SCOD on account of interest on deposits or advances, or any other receipts may be taken into account for reduction in incidental expenditure during construction.

17.4 In case of additional costs on account of IEDC due to delay in achieving the SCOD, the generating company shall be required to furnish detailed justification with supporting documents for such delay including the details of incidental expenditure during the period of delay and liquidated damages recovered or recoverable corresponding to the delay:

Provided that if the delay is not attributable to the generating company and is due to uncontrollable factors as specified in Regulation 18, IEDC may be allowed after due prudence check:

Provided further that where the delay is attributable to an agency or contractor or supplier engaged by the generating company, the liquidated damages recovered from such agency or contractor or supplier shall be taken into account for computation of capital cost.

17.5 In case the time over-run beyond SCOD is not admissible after due prudence, the increase of capital cost on account of cost variation corresponding to the period of time over run may be excluded from capitalization irrespective of price variation provisions in the contracts with supplier or contractor of the generating company.”

115. On perusal of the details of project cost filed in table 8 of the petition, it is observed that the IEDC as per original cost estimate was Rs. 14.29 Crore however, the petitioner has claimed actual IEDC of Rs. 96.23 Crore as on COD of Unit No. 2 which is almost five to six times the amount towards IEDC originally estimated for Unit No. 2 of the project. Vide letter dated 28th May' 2021, the petitioner was asked to submit the detailed justification with supporting documents for such steep increase in IEDC for Unit No. 2 be filed.

116. In response to the above, by affidavit dated 13th July' 2021, the petitioner submitted that:

It is submitted that the construction period was elongated and reasons for the same are already provided as part of petitioner's response to para 3 (i) of Ld. Commissions Query (please refer to para 8 of this reply). As already stated above, on account of the slow work pace of the Boiler manufacturer, the construction period for Unit-2 got elongated. This has impacted the IEDC of Unit-2 and it has increased from the estimated IEDC of Rs. 14.29 Crore to actual IEDC of Rs. 96.23 Crore. This was entirely on account of reasons beyond the control of the petitioner.

As already pointed out by the petitioner, CFBC boilers have been installed at the Generating Station, by the Boiler Manufacturer, who is the sole licensee of Sumitomo SHI, Foster Wheeler Finland, Oy. in India. The CFBC technology is a greener technology, which gives the benefit of a wider range of fuel to the generating company. However, in the present case, after successfully commissioning Unit-1 of the Generating Station, various issues were faced by the petitioner with the Boiler manufacturer. Despite regular follow ups by the petitioner, the Boiler manufacturer substantially elongated the work at site. The petitioner, however, could not risk losing the support of the Boiler Manufacturer, as it is the sole licensee of Sumitomo SHI, Foster Wheeler Finland, Oy in India and the petitioner needed its continued technical support for Unit-1. Despite facing several issues, the petitioner made relentless efforts to expedite the

completion and commissioning of Unit-2 of the Generating Station. A perusal of Form 5B, submitted along with the present petition, will clearly demonstrate that the petitioner has incurred an actual interest of Rs. 96.23 Crore during construction. The increase in IDC was on account of circumstances beyond the control of the petitioner and cannot be attributable to any delay on the part of the petitioner.

117. The Commission vide letter dated 28th May' 2021 also sought the actual IEDC for Unit-2 as on originally decided scheduled COD i.e., 31st December' 2012 and as on actual COD certified by the statutory auditor.
118. By affidavit dated 13th July' 2021, the petitioner submitted that the Statutory Auditor's Certificate for the actual IEDC for Unit-2 as on scheduled COD (31st March 2017) and actual COD (20th March 2017) is provided as part of petitioner's response to para 5 of the Commission's Query.
119. The Commission by affidavit dated 28th May' 2021 further asked the petitioner to file detailed reasons for increase in IEDC from scheduled COD to actual COD in light of the Regulation 17.2 of the Generation Tariff Regulations, 2015.
120. By affidavit dated 13th July' 2021, the petitioner submitted the following:

Regulation 17.3 of the Tariff Regulations, 2015 provides as under:

17.3 Incidental expenditure during construction shall be computed from the zero date and after taking into account pre-operative expenses upto SCOD:

Provided that any revenue earned during construction period up to SCOD on account of interest on deposits or advances, or any other receipts may be taken into account for reduction in incidental expenditure during construction.

It is most respectfully submitted that the petitioner has commissioned Unit-2 as per the Scheduled COD under the 27MW PPA. The Statutory Auditor Certificate for the actual IEDC for Unit-2 as on the COD has already been provided as part of petitioner's response to para 5 of Commissions Query (please refer to para 16 of this reply). There is no increase in IEDC from Scheduled COD to actual COD and accordingly, IEDC computed in accordance with Regulation 17.3 of the Tariff Regulations, 2015 ought to be allowed to the petitioner.

Without prejudice to the aforesaid, it is most respectfully submitted that the petitioner has already explained the reasons for elongation of the construction period of Unit-2 in detail, as part of petitioner's response to para 3 (i) of Commissions Query (please refer to para 8 of this reply). No delay is attributable to the petitioner and hence, even in terms of regulation 17.4 of the Tariff Regulations, 2015, the petitioner is entitled to an IEDC of Rs. 96.23 Crore.

Regulations 17.4 of the Tariff Regulations, 2015 provides as under:

"17.4 In case of additional costs on account of IEDC due to delay in achieving the SCOD, the generating company shall be required to furnish detailed justifications with supporting documents for such delay including the details of incidental expenditure during the period of delay and liquidated damages recovered or recoverable corresponding to the delay:

Provided that if the delay is not attributable to the generating company and is due to uncontrollable factors as specified in Regulation 18 of these Regulations, IEDC may be allowed after due prudence check:

Provided further that where the delay is attributable to an agency or contractor or supplier engaged by the generating company, the liquidated damages recovered from such agency or contractor or supplier shall be taken into account for computation of capital cost."

In view of the above, the petitioner is eligible for actual IEDC in light of Regulations 17.3 as well as 17.4 of the Tariff Regulations, 2015.

121. The break-up of the IEDC as filed by the petitioner in the subject petition and Annexure-I of its additional submission as on COD and as on SCOD (31st December' 2012) is as given below:

Table 17: IEDC as on COD and SCoD (Rs in Crore)

SrNo	Particulars	As on 20.03.2017	As on 31.12.2012
1	Pre-commissioning and overhead expenses	96.23	20.56
2	IEDC capitalized for Unit No 2 at the time of final capital cost approval for Unit No 1	-	10.13
3	Total IEDC as on COD and SCOD as per PPA	96.23	30.69

122. It was observed that the petitioner in Annexure I of its additional submission has stated that the amount of Rs 10.13 Crore towards IEDC were approved for common cost for Unit No 2 and were capitalized at the time of final capital cost approval of Unit No 1 which were not approved by the Commission in the tariff order of Petition No 16 of 2014. Hence, the Commission has considered total amount of IEDC of Rs 30.69 Crore (Rs 20.56 Crore + Rs 10.13 Crore) upto SCOD, i.e., 31st December' 2012 as per PPA.
123. The Commission has gone through petitioner's submission and reasons for delay in commissioning of Unit No 2. Considering all the facts, documents submitted by the petitioner, and aforesaid Hon'ble APTEL order stated in para 108 and 109 of this order, it is observed that the entire delay is on the part of Contractors in supply and commissioning, Therefore, it is established that the entire delay was due to the reasons attributable to the petitioner. Hence, reasons stated by the petitioner for delay in achieving COD are not considerable to pass on the entire increase in IEDC beyond initial Schedule COD to the beneficiaries/end consumers of the State Discoms.
124. In view of the aforesaid observations, the Commission has allowed IEDC only upto the Scheduled CoD of the Unit as per the provisions of the PPA i.e.,(31st December' 2012).

Table 18: IEDC considered in this order

(Rs in Crore)

Sr. No.	Particular	Amount
1	Overhead and pre-commissioning expenses claimed as on actual COD i.e.20 th March' 2017 (A)	96.23
2	Overhead and pre-commissioning expenses as on SCOD of Unit 2 i.e.31 st December' 2012 as per PPA (B)	20.56
3	IEDC pertains to Unit No. 2 capitalized for under Common cost of at the time of final capital cost approval of Unit No 1 (C)	10.13
4	Total IEDC pertains to Unit No. 2, Allowed in this order (B + C)	30.69

h. Infirm Power:

125. On perusal of the details regarding start-up fuel expenditure during Pre-commissioning activities, it is observed that the fuel expenditure for Unit No. 2 is Rs. 2.07 Crores. It is further observed from the information provided in form TPS 5B that the revenue generated from sale of infirm power and other income prior to COD of Unit No. 2 is Rs 0.97 Crore.

126. Regulation 24 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 provides that,

“Supply of infirm power shall be accounted as deviation and shall be paid for from the regional/ state deviation settlement fund accounts in accordance with the Central Electricity Regulatory Commission (Deviation Settlement Mechanism and Related matters) Regulations, 2014, as amended from time to time or any subsequent reenactment thereof:

Provided that any revenue earned by the generating company from supply of infirm power after accounting for the fuel expenses shall be applied in adjusting the capital cost accordingly”

127. Vide Commission’s letter dated 28th May’ 2021, the petitioner was asked to file the following details with regard to infirm power:

- (i) Month-wise details of infirm power generated from the Unit No. 2 and revenue earned from the sale of infirm power along with the statement of SLDC duly reconciled with Annual Audited Accounts*
- (ii) Whether the revenue earned from sale of infirm power has been accounted for in the capital cost of the project claimed in the petition? Supporting documents be filed in this regard.*
- (iii) Detailed break-up of fuel expenses incurred for generation of infirm power duly certified by the Chartered Accountant. The break-up of quantity and landed cost of FSA and Non-FSA coal be filed separately.*
- (iv) The detailed break-up of quantity, rate and cost of coal and oil consumed during pre-commissioning activities and generation of infirm power be filed*
- (v) The copy of bill/invoice for purchase of coal and oil for generation of infirm power be filed.*

128. In response to above, by affidavit dated 13th July’ 2021, the petitioner submitted that:

- (i) Infirm power of 3,423,785 kWh was generated during March, 2017 from Unit-2 and earned revenue of Rs. 49,12,274. Copy of invoice dated 25 April’ 2017 for infirm power along with Statement of SLDC is provided as an Annexure J*
- (ii) Yes, revenue earned from sale of infirm power of Rs. 49,12,274 has been accounted for in the capital cost of the project claimed in the Petition. It is also*

evident from the details submitted as part of Form 5 B along with the Tariff Petition where a total amount of Rs. 0.97 Crore is shown which includes revenue earned from sale of infirm power of Rs. 0.49 Crore and other income of Rs. 0.48 Crore.

(iii) Statutory Auditor's certificate dated 30.06.2018 for break-up of fuel expenses incurred for generation of infirm power is provided as Annexure K.

Coal has been purchased from Subsidiary of Coal India Limited. The SHAKTI FSA for Unit-2 has been signed by the petitioner with Western Coalfields Ltd. on 16th December 2020

(iv) Detailed break-up of quantity, rate and cost of coal and oil consumed during pre-commissioning activities and generation of infirm power is as under:

Particulars	Quantity	Rate	Amount (Rs.)
Coal	3,710 MT	4,062 Rs./MT	1,50,69,186
HSD	86,051 Litre	65.47 Rs./litre	56,21,762
Total			2,06,90,948

Gross Generation: 40,59,596 kWh

Net Generation: 34,23,785 kWh

(v) Bill for purchase of coal and oil is provided as an Annexure L

129. Based on the aforesaid discussion and documents placed on record by the petitioner, the total cost of fuel expenses for infirm power net off revenue from sale of infirm power is worked out as given below:

Table 19: Start up Fuel expenses considered in this order: (Rs in Crore)

Particular	Amount
Coal Charges	1.51
Secondary Fuel Charges	0.56
Total Fuel expenses for generation of infirm power (A+B)	2.07
Less : Revenue from sale of infirm power (including other income)	0.97
Net start-up fuel expenses	1.10

130. Accordingly, the above net start-up fuel expenses of Rs.1.10 Crore is considered by the Commission in this order.

i. Initial Spares:

131. The petitioner has claimed Rs. 2.69 Crore towards initial spares incurred as on CoD of the Unit No 2.

Provision under Regulation

132. Regulation 19 of MPERC (Terms and Conditions for Determination Generation Tariff) Regulations, 2015, provides that;

“Initial spares shall be capitalised as a percentage of the Plant and Machinery cost upto cut-off date, subject to following ceiling norms:

Coal-based thermal generating stations - 4.0%

Provided that:

- (i) where the benchmark norms for initial spares have been published as part of the benchmark norms for capital cost by the Central Commission, such norms shall apply to the exclusion of the norms specified above:*
- (ii) where the generating station has any transmission equipment forming part of the generation project, the ceiling norms for initial spares for such equipments shall be as per the ceiling norms specified for transmission system in Madhya Pradesh Electricity Regulatory Commission Regulations,2015.*
- (iii) for the purpose of computing the cost of initial spares, plant and machinery cost shall be considered as project cost as on cut-off date excluding Interest during Construction, Incidental Expenditure During Construction, Land Cost and cost of civil works*

133. With regard to the capital spares, the aforesaid Regulation provides that the ceiling norms for capitalized initial spares for coal based thermal generating stations is 4% of the Plant and Machinery cost.

134. On perusal of the format TPS 16 details regarding capital spares, it was observed that the petitioner has claimed capital spares of Rs. 2.68 Crore however, the amount of capital spares was not indicated separately in the break-up of capital cost provided in format TPS 5B. In view of the above, vide letter dated 28th May' 2021, the petitioner was asked to submit the following details in light of Regulation 19 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015.

- i. Whether the capital spares filed in the subject petition are capitalized in the Annual Audited Accounts for FY 2016-17?
- ii. Whether the capital spares are included in the capital cost claimed in form TPS 5B of the petition?
- iii. The petitioner is also required to justify its claim towards capital spares in light of Regulation 19 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015.

135. In response to the above, by affidavit 13th July' 2021, the petitioner submitted the following:

- i. *No, capital spares filed in the petition are not capitalized in the Annual Audited Accounts of FY 2016-17 but kept as part of stores & spares (Inventory) in Annual Audited Account of FY 2016-17*
- ii. *Yes, capital spares are claimed as part of capital cost and mentioned in Sr. No. 3 of form TPS 5B as "initial spares*
- iii. *As per Regulation 19 of Tariff Regulations, 2015, initial spares shall be capitalized as a percentage of the Plant and Machinery cost up to cut-off date up to ceiling norm of 4% for Coal-based thermal generating stations. Plant and machinery cost shall be considered as project cost as on cut-off date excluding IDC, IEDC, land cost and cost civil work. In terms of the Tariff Regulations, 2015, the ceiling norm for initial spares is Rs. 5.78 Crore. As against this, the petitioner has only claimed Rs. 2.69 Cr towards initial spares in the Tariff petition.*

Plant and machinery cost excluding IDC, IEDC, land cost, cost of civil work, transmission cost as claimed in the Tariff Petition along with ceiling norm calculation for initial spares is given as under:

S. No	Break Down	Actual Capital Expenditure as on COD (Rs. Crore)
2	Plant & Equipment	
2.1	Steam Generator Island	78.12
2.2	Turbine Generator Island	27.88
2.3	BOP Mechanical	
2.3.1	External water supply system	11.40
2.3.2	CW system	1.25

S. No	Break Down	Actual Capital Expenditure as on COD (Rs. Crore)
2.3.3	DM water plant	-
2.3.4	Clarification plant	-
2.3.5	Chlorination plant	-
2.3.6	Fuel Handling & Storage System	-
2.3.7	Ash Handling System	1.17
2.3.8	Coal Handling Plant	9.85
2.3.9	Rolling Stock and Locomotives	-
2.3.10	MGR/ Instrumentation	1.61
2.3.11	Air Compressor System	0.21
2.3.12	Air Condition & Ventilation System	-
2.3.13	Fire fighting System	1.04
2.3.14	HP/LP Piping	4.15
2.3.15	De-salination plant for sea-water intake	-
2.3.16	External coal handling in Jetty, if any	-
	Total BOP Mechanical	30.69
2.4	BOP Electrical	
2.4.1	Switch Yard Package	1.24
2.4.2	Transformers Package	3.14
2.4.3	Switch gear Package	2.87
2.4.4	Cables, Cable facilities & grounding	0.62
2.4.5	Lighting	-
2.4.6	Emergency D.G. Set	-
2.4.7	Transmission Line & Sub Station	-
	Total BOP Electrical	7.87
2.5	Control & Instrumentation (C&I) Package	-
	Total Plant & Equipment	144.55
	Ceiling Norm (%)	4%
	Ceiling Norm for Initial Spares	5.78
	Initial Spares claimed as part of Petition	2.69

It is evident from above that the petitioner has claimed initial spares within ceiling norm as defined in the Regulation 19 of Tariff Regulations, 2015.

136. In view of the above, the Commission observed that as submitted by the petitioner that the amount of initial spares has not been capitalized and recorded in Note 10 (Property, Plant & Equipment) of the Annual Audited Accounts for FY 2016.17 and has been kept as part of stores & spares (Inventory) in Annual Audited Account of FY 2016-17. Therefore, the expenditure of Rs. 2.69 Crores towards initial spares is not considered

under capital cost in this order. The petitioner shall be at liberty to claim the same in accordance with relevant provisions under MPERC Tariff Regulations as and when such spares are actually capitalized in its Annual Audited Accounts for respective year.

j. Capital Cost admitted in this order as on COD of the Unit

137. Based on above discussion, the item wise capital cost considered as on 20th March' 2017 towards Unit No. 2 are as under:

Table 20: Summary of Capital Cost admitted in this order

Particulars	Capital cost of Unit No.2 considered as on its COD (Rs in Crore)
Total Cost of Land & Site Development	4.91
Total Plant & equipment including Taxes and duties	147.78
Initial Spares	-
Civil Works	38.63
StartupFuel(Net off Revenue from Infirm power)	1.10
Overheads& Pre-Commissioning expenses	30.69
IDC	20.70
Financing Charges	3.76
Total	247.57

138. Hence, total capital expenditure of **Rs 247.57 Crore capitalized** as on COD of Unit No 2 is considered in this order.

Additional Capitalization

Petitioner's Submission

139. The petitioner in the subject petition submitted that it has not incurred any additional capitalization during FY 2017-18 and has incurred an additional capitalization of Rs 10.20 Crore during FY 2018-19.

Provision under Regulation

140. Regulation 20 of MPERC (Terms and Conditions for Determination Generation Tariff) Regulations, 2015, provides that:

20 Additional Capitalization

20.1 The capital expenditure in respect of the new project or an existing project incurred or projected to be incurred, on the following counts within the original

scope of work after the date of commercial operation and up to the cut-off date may be admitted by the Commission, subject to prudence check:

- (a) Un-discharged liabilities recognized to be payable at a future date;*
- (b) Works deferred for execution*
- (c) Procurement of initial capital spares within the original scope of work, in accordance with the provisions of Regulation 19;,*
- (d) Change in law or compliance of any existing law,*

Provided that the details of works asset wise/work wise included in the original scope of work along with estimates of expenditure, liabilities recognized to be payable at a future date and the works deferred for execution shall be submitted along with the application for determination of tariff

141. With regard to additional capitalization incurred during FY 2018-19 claimed in the petition, vide Commission's letter dated 28th May' 2018, the petitioner was asked to clarify the following issues with all relevant supporting documents:

The petitioner has claimed Additional Capitalization of Rs. 10.20 Crore during FY 2018-19. Out of the total additional capitalization, the amount of Rs. 7 Crore pertains to variable Frequency Drive and Rs. 2 Crore pertains to balance civil works.

The petitioner is required to clarify that whether the assets under additional capitalization have been capitalized in Annual Audited Accounts. A copy of Annual Audited Accounts for FY 2017-18 and FY 2018-19 be also filed

142. By affidavit dated 13th July' 2021, the petitioner submitted

As against the petitioner's estimate at the time of filing of the Tariff Petition, no capital cost has been incurred towards additional capitalization. Copies of the annual audited accounts for FY 2017-18 and FY 2018-19 are annexed herewith and marked as Annexure M.

143. Since, the petitioner in its additional submission itself submitted that it has not incurred any capital cost towards additional capitalization, hence, no additional capitalization is considered in this order for FY 2018-19.

Funding of the Project:

Petitioner's Submission

144. With regards to funding of the project, the petitioner in para 4.2 of the petition submitted the following:

The funding of the capital expenditure, as per normative norms of Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff), Regulations 2015 (RG-26 (III) of 2015) ("Tariff Regulations 2015") is elaborated in the table given below:

Table 21: Sources of Funding for Unit-2 (45 MW)

Sources of Funding	Amount
<i>Debt (Rs Crore)</i>	<i>283.38</i>
<i>Equity (Rs Crore)</i>	<i>121.45</i>
Total Cost (Rs Crore)	404.83
<i>Debt%</i>	<i>70.00%</i>
<i>Equity%</i>	<i>30.00%</i>

It is humbly submitted before the Commission to kindly permit the same

Debt - *The petitioner has funded its capital expenditure towards the cost of the project for Unit-2 in the debt-equity ratio of 70-30. It is submitted that the borrowings were made for both the Units simultaneously. Considering 70% funding from debt for the total capital cost of Rs. 404.83 Crore, debt for Unit-2 is Rs. 283.38 Crore*

Equity – *Similarly, the petitioner has infused equity of Rs. 121.45 Crore to fund the capital cost of Unit-2. Thus, it is humbly submitted before the Commission to kindly approve the project cost for Unit-2 as Rs. 404.83 Crore and funding through debt of Rs. 283.38 Crore (70%) and balance from equity of Rs. 121.45 Crore (30%). It may be seen that for funding debt equity ratio is well with the limits permitted by Commission's applicable tariff regulations.*

Provision under Regulations

145. Regulation 25.1 of MPERC (Terms and Conditions for determination Generation tariff) Regulations, 2015, provides that;

"For a project declared under commercial operation on or after 1.4.2016, the debt-equity ratio would be considered as 70:30 as on COD. If the equity actually

deployed is more than 30% of the capital cost, equity in excess of 30% shall be treated as normative loan:

Provided that:

- a. where equity actually deployed is less than 30% of the capital cost, actual equity shall be considered for determination of tariff:
- b. the equity invested in foreign currency shall be designated in Indian rupees on the date of each investment:
- c. any grant obtained for the execution of the project shall not be considered as a part of capital structure for the purpose of debt : equity ratio.-----

Commission's Analysis

146. On perusal of the details provided in TPS Form 14 of the petition, the Commission observed that out of the total fixed cost of Rs 404.83 Crore claimed as on COD, the total debt outstanding as on COD was of Rs 266.57 Crores and total equity infused was Rs 127.03 Crore. This implies that total funds of Rs 393.61 Crore were actually incurred as on CoD. The liabilities Rs 11.22 Cr. were discharged after CoD of Unit 2.
147. As per the Auditor's certificate dated 12th July' 2021, the actual cash expenditure as on 20th March' 2017 for the Unit No.2 is Rs. 404.83 Crores. The Auditor has mentioned that the aforesaid capital cost has been funded through the loan and equity of Rs 283.38 Crores and Rs. 121.45 Crores respectively with debt – equity ratio of 70:30.
148. Based on the above, the funding of the actual capital expenditure and debt : equity ratio as on COD of Unit No. 2 of petitioner's power project is considered as 70:30 in accordance to Regulations 25.1 of the Tariff Regulations, 2015 in this order as given below:

Table 22: Funding considered in this order (Rs in Crore)

Capital Cost as on COD considered in this order	Loan as on COD considered in this order	Equity as on COD considered in this order
247.57	173.30	74.27

Annual Capacity (fixed) Charges

149. Regulation 27 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015, stated that the Annual Capacity Charges shall derived on the basis of annual fixed cost (AFC) of a generating station and shall consist of the following components:

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

Return on Equity

Petitioner's Submission

150. The petitioner filed the Return on Equity from COD to FY 2018-19 of the Unit No 2 as given below:

Table 23: Return on Equity Claimed

Sr. No	Particulars	Unit	FY 2016-17	2017-18	2018-19
1	Opening Equity as on COD	Rs. Cr.	121.45	121.45	121.45
2	Equity Additions during year	Rs. Cr.	0.00	0.00	3.06
3	Closing Equity	Rs. Cr.	121.45	121.45	124.51
4	Average Equity	Rs. Cr.	121.45	121.45	122.98
5	Base Rate of Return on Equity	%	15.50%	15.50%	15.50%
6	Tax Rate	%	0.00%	0.00%	0.00%
7	Grossed up Rate of Return on Equity	%	15.50%	15.50%	15.50%
8	Annual Return on Equity	Rs. Cr.	0.62	18.82	19.06

Provisions in the Regulation:

151. Regulation 30 and 31 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 provides that:

30. Return on Equity:

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

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

Provided that

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

(b) the additional return of 0.5% shall not be admissible if the Project is not completed within the timeline specified above for reasons whatsoever

- (c) the rate of return of a new project shall be reduced by 1% for such period as may be decided by the Commission, if the Generating station is found to be declared under commercial operation without commissioning of any of the Restricted Governor Mode Operation (RGMO)/ Free Governor Mode Operation (FGMO):
- (d) as and when any of the above requirements are found lacking in a generation station based on the report submitted by the respective SLDC/RLDC, ROE shall be reduced by 1% for the period for which the deficiency continues:

31. Tax on Return on Equity:

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

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

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

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

- (i) Minimum Alternate Tax (MAT) @ 20.96% including surcharge and cess: Rate of return on equity = $15.50 / (1 - 0.2096) = 19.610\%$
- (ii) In case of generating company paying normal corporate tax including surcharge and cess:
- (a) Estimated Gross Income from generation business for FY 2016-17 is Rs 1000 Crore.

- (b) Estimated Advance Tax for the year on above is Rs 240 Crore.
- (c) Effective Tax Rate for the year 2016-17 = Rs 240 Crore/Rs 1000 Crore =24%
- (d) Rate of return on equity = $15.50 / (1-0.24) = 20.395\%$

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

Commission’s Analysis:

- 152. While determining the return on equity, the Commission has considered opening equity of Rs. 74.27 Crore (30% of the opening capital cost of Rs 247.57 Crore) as on COD of the unit which is within the norms prescribed under the Regulations, 2015. Further, the petitioner has not filed any additional capitalization during the control period. Therefore, the equity balance shall remain unchanged during the control period.
- 153. Vide Commission’s letter dated 28th May’ 2021, the Commission asked the petitioner to inform the following:

Regulation 30.2 (d) & (e) of MPFRC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 stated as follows:

- d. *“the rate of return of a new project shall be reduced by 1% [or such period as may be decided by the Commission, if the generating station is found to be declared under commercial operation without commissioning of and of the Restricted Governor Mode Operation (RGMO)/Free Governor Mode Operation (FGMO)*
- e. *as and when any of the above requirements are found lacking in a generating station based on the report submitted by the respective SLDC/RLDC, ROE shall be reduced by 1% for the period for which the deficiency continues”.*

In view of the above, the petitioner was asked to confirm with all supporting documents whether the Unit No. 2 achieved COD with commissioning of RGMO/FGMO in compliance with aforesaid provisions of MPERC Tariff Regulations, 2015.

154. By affidavit dated 13th July' 2021, the petitioner informed the following:

The applicability of Restricted Governor Mode Operation (RGMO)/Free Governor Mode Operation under the provisions of the Madhya Pradesh Electricity Grid Code (Revision -II), 2019 (No. RG 14 (ii) of 2019) ("MP Grid Code").

Clause 6.1.6 of MP Grid Code, which specifies Restricted Governor Mode Operation (RGMO)/Free Governor Mode Operation clarifies that in case of coal/lignite based thermal generating stations, RGMO/FGMO is applicable only for Unit size of more than 200 MW.

Capacity of Unit-2 of BLA Power Pvt. Ltd is 45 MW, and therefore the provision related to RGMO/FGMO in the MP Grid Code is not applicable to Unit-2.

It is pertinent to add that Unit-2 has been commissioned with a state of the art electronic governor (model Woodward 505) installed which is essential for operation of the Unit-2 and also to meet compliance of this regulation. However, the requirement relating to RGMO/FGMO was done away with for the thermal power plants of less than 200 MW. Needless to say that all the instructions of SLDC relating to generation are being faithfully followed by the petitioner.

155. In the aforesaid submission, the petitioner informed that the requirement relating to RGMO/FGMO was done away with for the thermal power plants of less than 200 MW but the instructions of SLDC relating to generation are being faithfully/religiously followed by the petitioner.

156. The petitioner claimed return on equity on the base rate of return (15.5%) without considering any tax rate for grossing up the base rate of return on equity during FY 2016-17 to FY 2018-19.

157. Accordingly, the Annual Return on Equity has been worked out for the control period considering the base rate of return as given below:

Table 24 : Return on Equity Considered in this Order

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

Interest on Loan Capital

Petitioner's submission:

158. The petitioner has claimed interest on loan capital from its COD to FY 2018-19 as given below:

Table 25: Interest on Loan claimed

Sr. No.	Particulars	Unit	FY 2016-17	FY 2017-18	FY 2018-19
1	Opening Loan as on COD	Rs. Cr.	283.38	282.72	262.84
2	Addition during the year	Rs. Cr.	0.00	0.00	7.14
3	Repayment during the year	Rs. Cr.	0.65	19.89	20.14
4	Closing Loan Balance	Rs. Cr.	282.72	262.84	249.84
5	Average Loan Balance	Rs. Cr.	283.05	272.78	256.34
6	Weighted average Rate of Interest of actual Loans	%	12.11%	12.13%	12.33%
7	Interest on loan	Rs. Cr.	1.13	33.10	31.62

Provisions in Regulation

159. Regulation 32 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 provides that:

- “32.1 The loans arrived at in the manner indicated in Regulation 25 shall be considered as gross normative loan for calculation of interest on loan.*
- 32.2 The normative loan outstanding as on 1.4.2016 shall be worked out by deducting the cumulative repayment as admitted by the Commission up to 31.3.2016 from the gross normative loan.*
- 32.3 The repayment for the Year of the Tariff period 2016-19 shall be deemed to be equal to the depreciation allowed for the corresponding year/ period. In case of de-capitalization of assets, the repayment shall be adjusted by taking into account cumulative repayment on a pro rata basis and the adjustment should not exceed cumulative depreciation recovered upto the date of de-capitalisation of such asset.*
- 32.4 Notwithstanding any moratorium period availed by the Generating Company, the repayment of loan shall be considered from the first Year of commercial operation of the Project and shall be equal to the depreciation allowed for the year or part of the year.*
- 32.5 The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio after proving appropriate accounting.*

Commission's analysis:

160. While determining the interest on loan, the Commission has considered opening loan balance of Rs. 173.30 Crore which is 70% of the opening capital cost of Rs 247.57 Crore admitted in this order in terms of the provisions under the Regulations, 2015. Further, in its additional submission, the petitioner confirmed that it has not filed any additional capitalization during the control period, therefore, the loan balances for each financial year is worked out accordingly by considering the normative repayment equivalent to depreciation for the respective year.
161. In form TPS 13 of the subject petition, the petitioner has submitted the weighted average rate of interest based on actual loan portfolio @12.11% for FY 2016-17, @12.13% for FY 2017-18 and @12.33% for FY 2018-19.
162. Vide Commission's letter dated 28th May' 2021, the petitioner was asked to file the detailed calculations in excel sheet for working out the weighted average rate of interest after CoD with supporting documents in respect of actual weighted average rate of interest for FY 2016- 17 to FY 2018-19.
163. By affidavit dated 13th July' 2021, the petitioner submitted the calculations in excel sheet demonstrating the working of weighted average rate of interest filed in the petition. It was observed that the petitioner has modified the weighted average rate of interest based on actual loan portfolio @12.82%, @11.93% and @12.33% for FY 2016-17, FY 2017-18 and FY 2018-19.
164. Further, it was observed that the petitioner in its additional submission has mentioned the following details regarding weighted average rate of interest claimed for FY 2018-19:
- “For FY 2018-19, according to RBI guidelines for NPA accounts, certain banks have stopped charging interest, while some banks have charged interest. This does not imply that the banks have waived off their claim of due interest payments in any manner. The interest on the total debt of the lenders continues to be accumulated. This is accordingly reflected in the note to the audited accounts of the petitioner for FY 2018-19. Hence, standard interest rates for each loan is considered to work out weightage average interest rate for FY 2018-19”*
165. On perusal of the above, it is observed that the petitioner has submitted weighted average rate of interest for FY 2016-17 and FY 2017-18 based on the actual interest

rates charged by the lenders to BLA Power Pvt Ltd for Unit No.2 as per prevailing applicable interest rates of the respective Banks/Financial Institutions on actual loan portfolio, whereas, for FY 2018-19, due to RBI guidelines for NPA accounts, the weighted average rate of interest worked out by the petitioner is based on the standard interest rates for each loan. The petitioner has filed the supporting documents such as Banker's certificate in support of interest rate on term loan claimed in the petition.

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

Table 26: Interest on Loan Allowed

Sr. No.	Particular	Unit	FY 2016-17	FY 2017-18	FY 2018-19
1	Opening Loan Balance	Rs. Cr.	173.30	172.90	160.67
2	Loan Additions during the year	Rs. Cr.	0.00	0.00	0.00
3	Repayment of Loan equal to dep.	Rs. Cr.	0.40	12.23	12.23
4	Closing Loan Balance	Rs. Cr.	172.90	160.67	148.44
5	Average Loan Balance	Rs. Cr.	173.10	166.79	154.56
6	Weighted Average Rate of Interest	%	12.82%	11.93%	12.33%
7	Annual Interest amount on Loan	Rs. Cr.	22.19	19.90	19.06

Depreciation

Petitioner's submission:

169. Regarding depreciation, the petitioner in para 7.6 of the subject petition submitted the following:

Depreciation is computed based on the capital cost of the assets pertaining to Unit-2 in accordance with the provisions of the Tariff Regulations, 2015.

Details of Capitalisation have been elaborated in section on “Project Cost & Funding” wherein it is submitted that all the supplies and works of the Unit were completed on COD. There were certain liabilities pending for payment after COD. Therefore, the value of Assets capitalised as on COD has been taken as Rs. 404.83 Crore. Further, since the assets were in operation only for part of the year in FY 2016-17 hence, the depreciation is computed pro-rata to the number of days of operation. The petitioner requests the Commission to approve the depreciation as computed for FY 2016-17 to FY 2018-19

170. The petitioner has claimed the depreciation for the period from its COD to FY 2018-19 as given below:

Table 27: Depreciation Claimed

(Rs in Cr)

Sr. No.	Particular	FY 2016-17	FY 2017-18	FY 2018-19
1	Opening Capital Cost	404.83	404.83	404.83
2	Asset Addition during the year	0.00	0.00	10.20
3	Closing Capital cost	404.83	404.83	415.03
4	Average Capital Cost	404.83	404.83	409.93
5	Freeholed Land	2.23	2.23	2.23
6	Rate of Depreciation	4.94%	4.94%	4.94%
7	Depreciation during the year	0.65	19.89	20.14
8	Cumulative Depreciation	0.65	20.54	40.68

Provisions of the Regulation:

171. Regulation 33 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulation, 2015 provides that:

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

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

33.2 The value base for the purpose of depreciation shall be the capital cost of the asset admitted by the Commission. In case of multiple units of a generating

station, weighted average life for the generating station shall be applied. Depreciation shall be chargeable from the first year at the commercial operation.

33.3 The salvage value of the asset shall be considered as 10% and depreciation shall be allowed up to maximum of 90% of the capital cost of the asset: Provided that in case of Hydro generating stations, the salvage value shall be as provided in the agreement signed by the developers with the State Government for development of the Plant.

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

33.4 Land other than land held under lease and the land for reservoir in case of hydro generating station shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset.

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

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

33.7 The rate of Depreciation shall be continued to be charged at the rate specified in Appendix-II till cumulative depreciation reaches 70%. Thereafter the remaining depreciable value shall be spread over the remaining life of the asset such that the maximum depreciation does not exceed 90%.

33.8 Depreciation shall be chargeable from the first Year of commercial operation. In case of commercial operation of the asset for part of the Year, depreciation shall be charged on pro rata basis.”

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

Commission's Analysis:-

172. While determining the depreciation, the Commission has considered the opening GFA as on CoD of the unit as Rs. 247.57 Crore as admitted in this order.

173. Further, petitioner vide its additional submission dated 13th August' 2021 has confirmed that it has not incurred any additional capitalization. Therefore, the capital cost considered as on 01st April' 2016 shall remain same for the control period in this order.

174. Vide Commission's letter dated 28th May' 2021, the petitioner was asked to submit the Asset-cum-Depreciation register for Unit No. 2 in accordance to MPERC (Terms and Conditions for determination of generation tariff) Regulations, 2015 duly reconciled with Annual Audited Accounts. In response to above by affidavit dated 13th August' 2021, the petitioner submitted the following:

Asset-cum-Depreciation register of FY 2015-16 & FY 2016-17 for Unit-2 is provided as Annexure N. During FY 2015-16 & FY 2016-17, Rs. 312.95 Crore assets capitalized pertaining to Unit-2. Reconciliation of the total capital cost for Unit-2 claimed by the petitioner has been provided as part of petitioner's response to para 6 of the Commissions Query.

175. On perusal of the Asset-cum Depreciation Register filed by the petitioner, it is observed that the petitioner has provided the details/statements for only major assets capitalized during FY 2015-16 and FY 2016-17. Therefore, the petitioner is directed to prepare a detailed Asset-cum-Depreciation Register incorporating the complete details of all the assets along with applicable rate of depreciation in accordance to the Tariff Regulations filed with the next tariff petition.

176. In form TPS 11 of the petition, the petitioner worked out the weighted average rate of depreciation for each year of the control period based on the depreciation rates as per Schedule for depreciation rate provided under the MPERC Tariff Regulations, 2015. Hence, the Commission has considered the weighted average rate of depreciation as filed by the petitioner based on the rate of depreciation as per MPERC Tariff Regulations, 2015.

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

Table 28: Annual Depreciation

Sr. No.	Particular	Unit	FY 2016-17	FY 2017-18	FY 2018-19
1	Opening Gross Fixed Assets	Rs Cr.	247.57	247.57	247.57
2	Assets Addition during the year	Rs Cr.	0.00	0.00	0.00
3	Closing Gross Fixed Assets	Rs Cr.	247.57	247.57	247.57
4	Average Gross Fixed Assets	Rs Cr.	247.57	247.57	247.57
5	Weighted Average Rate of Depreciation (%)	%	4.94%	4.94%	4.94%
6	Annual Depreciation	Rs Cr.	12.23	12.23	12.23
7	Cumulative Depreciation	Rs Cr.	12.23	24.46	36.69

Operation & Maintenance Expenses

Petitioner's Submission

178. The petitioner filed the Operation and Maintenance expenses for its 45 MW Unit No 2 for the period from its COD to FY 2018-19 in accordance with the applicable MPERC Tariff Regulations as given below:

Table 29: Operation & Maintenance Expenses claimed

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

Provision in Regulations:-

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

Table 30: Norms for O&M expenses for FY 2016-17 to FY 2018-19 (Rs Lakh/MW/Year)

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

Commission's Analysis:

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

Table 31: O& M Expenses for Generating Unit

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

Interest on Working Capital

Petitioner's submission

181. The petitioner claimed the interest on working capital for the period from its COD to FY 2018-19 in TPS form 13B of the petition as given below:-

Table 32: Interest on Working Capital claimed (Rs. in Crore)

Sr. No.	Particulars	FY 2016-17	FY 2017-18	FY 2018-19
1	Cost of Coal/Lignite	0.00	14.71	14.71
2	Cost of Secondary Fuel Oil	0.00	0.19	0.19
3	O & M Expenses	0.04	1.28	1.36
4	Maintenance Spares	0.09	3.07	3.26
5	Receivables	0.49	30.49	30.49
6	Total Working Capital	0.63	49.73	50.01
7	Interest on allowed Working Capital	12.80%	12.80%	12.80%
8	Total Interest on Working Capital	0.08	6.37	6.40

Provisions in Regulation:

182. Regulation 34 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulation, 2015 provides that:

34.1 "The Working Capital shall cover:

(1) Coal-based thermal generating stations

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

(b) Cost of coal for 30 days for generation corresponding to the normative annual plant availability factor;

(c) Cost of secondary fuel oil for two months for generation corresponding to the normative availability factor, and in case of use of more than one secondary fuel oil, cost of fuel oil stock for the main secondary fuel oil.

(d) Maintenance spares @ 20% of the Operation & maintenance expenses specified

in Regulation 35 ;

(e) Receivables equivalent to two months of capacity charges and energy charges for sale of electricity calculated on the Normative Annual Plant Availability Factor; and

(f) Operation and Maintenance expenses for one month.

34.2 The cost of fuel shall be based on the landed cost incurred (taking into account normative transit and handling losses) by the Generating Company and Gross Calorific Value of the fuel as per actual for the three months preceding the first month for which tariff is to be determined and no fuel price escalation shall be provided during the Tariff period.”

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

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

Commission’s analysis:

183. The working capital for thermal power stations is worked out based on the aforesaid norms for working capital as given below:

(a) Cost of coal for working capital

184. The petitioner’s power station is non pit-head station therefore, the cost of coal towards stock for 60 days for non-pit head generating stations is considered for working capital purpose. The weighted average rate of coal for FY 2016-17 to FY 2018-19 is worked out as per the details filed by the petitioner for the preceding three months i.e, January’ 2017, February’ 2017 and March’ 2017 in accordance to the Tariff Regulations, 2015.

185. GCV of coal has been considered as per the information filed by the petitioner on ‘received basis’ for the preceding three months i.e, January’ 2017, February’ 2017 and March’ 2017. The petitioner has filed the laboratory test reports for GCV of coal on received basis for aforesaid preceding three months in this regard. Accordingly, the 60 days cost of coal for working capital is worked out as under:

Table 33: Cost of Coal for working capital

Particular	Units	FY 2016-17	FY 2017-18	FY 2018-19
Installed Capacity of the Unit	MW	45	45	45
Gross Station Heat Rate	kCal/kWh	2739.82	2739.82	2739.82
Gross Generation	MUs	335.07	335.07	335.07
Gross Calorific Value of Coal	kCal/Kg	4408.04	4408.04	4408.04
Sp. Coal Consumption	kg/kWh	0.6254	0.6254	0.6254
Annual Coal Consumption	MT	209560	209560	209560
60 Days Coal Stock	MT	34448	34448	34448
Rate of Coal	Rs./MT	4062.31	4062.31	4062.31
Coal Cost for working capital	Rs in Cr.	13.99	13.99	13.99

(b) Secondary Fuel Oil Cost

186. Regulation 29.1 of the Regulations, 2015 provides as under:

The landed fuel cost of primary fuel and secondary fuel for tariff determination shall be based on actual weighted average cost of primary fuel and secondary fuel of the three preceding months, and in the absence of landed costs for the three preceding months, latest procurement price of primary fuel and secondary fuel for the generating station, before the start of the tariff period for existing stations and immediately preceding three months in case of new generating stations shall be taken into account.

187. The petitioner filed the cost of secondary fuel oil based on the fuel oil purchased in FY 2016-17.

188. Regulation 34.1 (c) of the Regulations, 2015 provides 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 provision, vide Commission's letter dated 28th May' 2021, the petitioner was asked to confirm along with details that the cost of only main fuel is considered while determining the working capital.

189. By affidavit dated 13th July' 2021, the petitioner informed that the cost of only main secondary fuel oil is considered for two months as per applicable MPERC Tariff Regulations while claiming the working capital.

190. The petitioner has worked out the weighted average rate of oil as Rs. 67,450/KL based on the landed price of secondary fuel oil purchased during the respective year. The

same weighted average rate of oil is considered by the Commission in this order. Accordingly, the cost of two months' main fuel oil stock at normative availability is worked out as given below:

Table 34: Cost of Main Secondary Fuel Oil for 2 Months availability

Particular	Units	FY 2016-17	FY 2017-18	FY 2018-19
Installed Capacity of the Unit	MW	45	45	45
NAPAF	%	85%	85%	85%
Gross Generation	MUs	335.07	335.07	335.07
Normative Specific Oil Consumption	ml/kWh	0.50	0.50	0.50
Quantity of Sec Fuel Oil required	KL	167.54	167.54	167.54
Two months' stock of main fuel oil	KL	27.92	27.92	27.92
Weighted Avg. Rate of Secondary Fuel Oil	Rs./KL	67,450.00	67,450.00	67,450.00
Oil Cost (Two Months Stock)	Rs. in Crores	0.19	0.19	0.19

(c) O&M Expenses

191. Operation and Maintenance expenses of one month as determined in this order have been considered for working capital of thermal power station.

Table 35: O&M Expenses for 1 Month (Rs. in Crore)

Particular	FY 2016-17	FY 2017-18	FY 2018-19
Annual O&M Expenses	14.43	15.34	16.31
O&M Expenses for 1 Month	1.20	1.28	1.36

(d) Maintenance Spares

192. Maintenance spares for the purpose of working capital is worked out as 20% of the normative annual O&M expenses respectively as per the provisions under applicable Tariff Regulations.

Table 36: Maintenance Spares (Rs. in Crore)

Particular	FY 2016-17	FY 2017-18	FY 2018-19
Annual O&M Expenses	14.43	15.34	16.31
20% of Annual O&M Expenses	2.89	3.07	3.26

(e) Receivables

193. Receivables for thermal power stations are worked out equivalent to 2 months of Capacity (Fixed) charges and Energy Charges for sale of electricity worked out on the basis of Normative Annual Plant Availability Factor as follows:

Table 37: Receivables for two months (Rs. in Crores)

Particular	FY 2016-17	FY 2017-18	FY 2018-19
Variable Charges- two months	14.38	14.38	14.38
Fixed Charges- two months	10.99	10.71	10.68
Receivables- two months	25.37	25.09	25.05

194. Further, Regulation 34.3 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 provides that:

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

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

Table 38: Rate of Interest on Working Capital claimed (%)

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

196. In line with Regulation 34.3 of the Tariff Regulations, 2015, the rate of interest on working capital shall be considered the bank rate as on 01.04.2016 or as on 1st April of the year during the tariff period 2016-17 to 2018-19 plus 3.50%. Further, the Bank Rate means the one-year base rate of the State Bank of India issued from time to time plus 350 basis points.

197. Considering the one-year base rate as on 1st April of the year during the tariff period of FY 2016-17 to 2018-19 plus 3.50% , the interest on working capital is worked out as 12.80% for FY 2016-17, 12.60% for FY 2017-18 and 12.20% for FY 2018-19. Accordingly, rate of interest on working capital is worked out as under:

Table 39: Rate of Interest on Working Capital allowed

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

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

Table 40: Interest on Working Capital Allowed (Rs in Crore)

Sr. No.	Particular	FY 2016-17	FY 2017-18	FY 2018-19
1	Cost of Coal for working capital	13.99	13.99	13.99
2	Cost of Main Secondary Fuel Oil for two months	0.19	0.19	0.19
3	O&M Expenses for One Months	1.20	1.28	1.36
4	Maintenance Spares 20% of O&M expenses	2.89	3.07	3.26
5	Receivables for Two Months	25.37	25.09	25.05
6	Total Annual Working Capital	43.64	43.62	43.85
7	Rate of Interest on Working Capital	12.80%	12.60%	12.20%
8	Annual Interest on working Capital	5.59	5.50	5.35

Non-Tariff Income

Provisions in Regulation:

199. With regard to the non tariff income, Regulation 53 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 provides as under:

- (a) *Any income being incidental to the business of the Generating Company derived from sources, including but not limited to the disposal of assets, income from investments, rents, income from sale of scrap other than the de-capitalized/written off assets, income from advertisements, interest on advances to suppliers/contractors, income from sale of ash/rejected coal, and any other miscellaneous receipts other than income from sale of energy shall constitute the non tariff income.*
- (b) *The amount of Non-Tariff Income relating to the Generation Business as approved by the Commission shall be deducted from the Annual Fixed Cost in determining the Annual Fixed Charge of the Generation Company:*

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

200. Aforesaid provisions under the Regulations, 2015 provides that the non-tariff income shall also be trued up based on the Audited Accounts. On perusal of the subject petition, it was observed that the petitioner has not filed the non-tariff income in the subject petition. Vide Commission's letter dated 28th May' 2021, the petitioner was asked to file a detailed break-up of Non-Tariff / other income for FY 2016-17 to FY 2018-19 in accordance to the Regulation 53 of the MPERC Tariff Regulations, 2015 based on the Annual Audited Accounts of respective year.

201. By affidavit dated 13th July' 2021, the petitioner submitted the detailed breakup of non-tariff income based on the Annual Audited Accounts for FY 2017-18 and FY 2018-19 as given below:

Table 41: Non-Tariff Income filed by the petitioner (Rs in Crore)

Sr. No.	Particulars	FY 2016-17	FY 2017-18	FY 2018-19
1	Sale of fly ash	-	0.003	0.01
2	Sale of Scrap	-	0.12	0.31
3	Interest Income from banks	-	0.04	0.03
4	Interest Income on security deposits	-	0.006	0.006
5	Rent Income	-	0.024	0.02
6	Misc Income	-	0.00	0.02
	Total	0.00	0.20	0.41

202. In view of the above, the Commission has considered the non-tariff income as filed by the petitioner in accordance to the Annual Audited Accounts in this order for the period FY 2017-18 to FY 2018-19.

Table 42: Non-Tariff Income considered in the order (Rs in Crore)

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

Normative Annual Plant Availability Factor

203. Normative Annual Plant Availability Factor (NAPAF) for the (45 MW) of the petitioner's power plant as per MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 shall be considered for recovery of full capacity (fixed) charges. The NAPAF for the said Unit No 2 of power plant as per the applicable Tariff Regulations is 85%.

Summary of Annual Capacity (fixed) Charges

204. The Annual Capacity (fixed) Charges for each year of the control period of FY 2016-17 to FY 2018-19 determined in this order are summarized as given below:

Table 43: Summary of Annual Capacity (Fixed) Charges (Amount in Rs Crore)

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

205. The aforesaid Annual Capacity (fixed) Charges for FY 2016-17 to FY 2018-19 have been computed based on norms specified under MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015. The recovery of Annual Capacity (Fixed) Charges shall be made by the petitioner in accordance with Regulation 36.2 to 36.4 of the Tariff Regulations, 2015.

206. Regarding the performance-based truing-up of energy charges on account of controllable parameters, Regulations 8.7, 8.8 and 8.9 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 provide as under;

8.7 “The generating company shall carry out truing up of tariff of generating station based on the performance of following Controllable parameters:

Controllable Parameters:

- i) Station Heat Rate;*
- ii) Secondary Fuel Oil Consumption; and*
- iii) Auxiliary Energy Consumption;*

8.8 The Commission shall carry out truing up of tariff of generating station based on the performance of following:

Uncontrollable parameters:

- i) Force Majeure;
- ii) Change in Law; and
- iii) Primary Fuel Cost.

8.9 The financial gains by a generating company on account of controllable parameters shall be shared between generating company and the beneficiaries on monthly basis with annual reconciliation. The financial gains computed as per following formulae in case of generating station on account of operational parameters as shown In Clause 8.7(i) to (iii) of this Regulation shall be shared in the ratio of 2:1 between generating company and beneficiaries:

$$\text{NetGain}=(\text{ECRN}-\text{ECRA}) \times \text{Scheduled Generation}$$

Where,

ECRN – Normative Energy Charge Rate computed on the basis of norms specified for Station Heat Rate, Auxiliary Consumption and Secondary Fuel Oil Consumption.

ECRA – Actual Energy Charge Rate computed on the basis of actual SHR, Auxiliary Consumption and Secondary Fuel Oil Consumption for the month:-----"

207. In view of the above Regulations, it was observed by the Commission that the generating company shall carry out the truing-up of tariff of generating station based on the controllable performance parameters like Station Heat Rate, Secondary fuel oil consumption and Auxiliary Energy consumption. Vide Commission's letter dated 28th May' 2021, the petitioner was asked to file the monthly details of aforesaid performance parameters actually achieved vis-à-vis normative parameters under the Regulations, 2015. The petitioner was also asked to file the details of financial gain if any, on account of controllable parameters and shared with the beneficiaries in light of the Regulations 8.9 of the Regulations, 2015.

208. In response to above, by affidavit dated 13th July' 2021, the petitioner submitted the following:

The petitioner humbly submits that the monthly details of performance parameters (Station Heat Rate, Secondary fuel oil consumption and Auxiliary Energy Consumption) is provided as part of petitioner's response to para 29 of the Commissions query.

The petitioner submits that the actual performance of aforesaid performance parameters vis-à-vis normative parameters for FY 2016-17 to FY 2018-19 is as under:

Particulars	Units	FY 2016-17		FY 2017-18		FY 2018-19	
		Normative	Actual	Normative	Actual	Normative	Actual
<i>Auxiliary Consumption</i>	<i>%</i>	<i>11.00%</i>	<i>-</i>	<i>11.00%</i>	<i>16.92%</i>	<i>11.00%</i>	<i>22.68%</i>
<i>Station Heat Rate</i>	<i>kcal/kWh</i>	<i>2,835</i>	<i>-</i>	<i>2,835</i>	<i>2,887</i>	<i>2,835</i>	<i>2,993</i>
<i>Sp. Oil Consumption</i>	<i>ml/kWh</i>	<i>0.50</i>	<i>-</i>	<i>0.50</i>	<i>18.70</i>	<i>0.50</i>	<i>11.50</i>

It is to note that during FY 2016-17, after COD of Unit-2 i.e., 20th March 2017, there was nil generation from Unit-2 and hence no financial gain.

For FY 2017-18 & FY 2018-19, for all the three controllable performance parameters, the actual performance was deteriorated as compared to the normative levels and hence there is no financial gain on account of better operational performances

209. The petitioner filed the detailed calculation sheet of monthly details of above normative parameters and actual parameters to arrive at gain/loss on account of controllable parameters in accordance with Regulation 8.9 of MPERC Tariff Regulations 2015.
210. On perusal of the details filed by the petitioner, it is observed that actual parameters achieved by the petitioner during control period were inferior than the normative parameters under the Regulations, therefore, the petitioner incurred loss on account of the inferior performance and poor actual operating parameters achieved by it.
211. However, the Regulation 8.9 of the Tariff Regulations, 2015 provides that the financial gains by a generating company on account of controllable parameters shall be shared between generating company and the beneficiaries in the ratio of 2:1 on monthly basis with annual reconciliation. The aforesaid Regulations do not provide for sharing of loss incurred by the generating company. Therefore, the loss incurred by the petitioner on account of inferior operating parameters shall not be passed on to the beneficiary.

Energy (Variable) Charges

Petitioner's submission:

212. While claiming the Energy charges for the control period, the petitioner considered the relaxed parameters for Gross Station Heat Rate and Auxiliary Energy Consumption, whereas, Plant Availability Factor, Specific fuel oil consumption, and transit loss have been considered by the petitioner based on the norms under MPERC (Terms and conditions for Determination of Generation Tariff) Regulations, 2015. The details of the Energy Charges claimed by the petitioner are as given below:

Table 44: Energy Charges Rate Claimed

<i>Particulars</i>	<i>Units</i>	<i>FY 2016-17</i>	<i>FY 2017-18</i>	<i>FY 2018-19</i>
<i>Gross Generation</i>	<i>MUs</i>	-	335.07	335.07
<i>Auxiliary Consumption</i>	<i>MUs</i>	-	36.86	36.86
<i>Net Generation</i>	<i>MUs</i>	-	298.21	298.21
<i>Capacity</i>	<i>MW</i>	45	45	45
<i>Plant Availability Factor</i>	<i>%</i>	85.00%	85.00%	85.00%
<i>Plant Load Factor</i>	<i>%</i>	0.00%	85.00%	85.00%
<i>Auxiliary Consumption</i>	<i>%</i>	11.00%	11.00%	11.00%
<i>Station Heat Rate</i>	<i>kcal/kWh</i>	2,835	2,835	2,835
<i>Sp. Oil Consumption</i>	<i>ml/kWh</i>	0.50	0.50	0.50
<i>Gross Calorific Value of Coal</i>	<i>kcal/kg</i>	4,408	4,408	4,408
<i>Calorific Value of Oil</i>	<i>kcal/l</i>	10,000	10,000	10,000
<i>Overall Heat</i>	<i>G Cal</i>	-	9,49,923	9,49,923
<i>Heat from Oil</i>	<i>G Cal</i>	-	1,675	1,675
<i>Heat from Coal</i>	<i>G Cal</i>	-	9,48,248	9,48,248
<i>Transit losses</i>	<i>%</i>	0.80%	0.80%	0.80%
<i>Oil Consumption</i>	<i>Kl</i>	-	168	168
<i>Coal Consumption</i>	<i>MT</i>	-	2,16,853	2,16,853
<i>Specific Coal Consumption</i>	<i>kg/kWh</i>	-	0.6472	0.6472
<i>Price of Coal</i>	<i>Rs./MT</i>			
<i>Price of Oil</i>	<i>Rs/kl</i>			
<i>Coal Cost</i>	<i>Rs Crore</i>	-	88.27	88.27
<i>Oil Cost</i>	<i>Rs Crore</i>	-	1.13	1.13
<i>Total Fuel Cost</i>	<i>Rs Crore</i>	-	89.40	89.40
<i>Fuel Cost/Net Generation</i>	<i>Rs/kWh</i>	-	2.998	2.998
<i>Fuel Cost/Gross Generation</i>	<i>Rs/kWh</i>	-	2.668	2.668

213. The petitioner sought relaxation in norms towards Heat Rate and Auxiliary Consumption with the following submission:

“The petitioner is requesting for relaxation of the Auxiliary Energy Consumption and Heat Rate norms for the reasons elaborated in the section “Performance Parameters”. The petitioner most humbly requests the Commission to relax the performance parameters as follows:

a. *Auxiliary Energy Consumption : From 10.50% to 11.00% -*

Auxiliary energy consumption of any thermal power generating conditions is largely dependent on the site conditions and plant layout. Considering the physical conditions of site and plant layout, the Commission is requested to approve Auxiliary Energy Consumption as 11.00%

b. *Heat rate : From 2740 KCal/kWh to 2835 KCal/kWh-*

Heat rate depends upon the design of the machine. petitioner submits that based on the experience of running the Unit-1, the Commission is requested to approve the gross station heat rate as 2835 kCal/kWh”

Provisions under Regulations:

214. For calculating the energy charges (variable charges) of thermal power stations, Regulation 28 of MPERC (Terms and Conditions for Determination of Tariff) Regulations, 2015 provides that:

“Energy charges shall be derived on the basis of the Landed Fuel Cost (LFC) of a generating station (excluding hydro) and shall consist of the following cost: (a) Landed Fuel Cost of primary fuel; and (b) Cost of secondary fuel oil consumption

Provided that any refund of taxes and duties alongwith any amount received on account of penalties from fuel supplier shall have to be adjusted in fuel cost”

215. Regulation 36 of MPERC (Terms and Conditions for Determination of Tariff) Regulations, 2015 further provides as under:

36.5 *“The energy charge shall cover primary and secondary fuel cost and shall be payable by every beneficiary for the total energy scheduled to be supplied to such beneficiary during the calendar month on ex-power plant basis, at the*

energy rate of the month (with fuel price adjustment). Total energy charges payable to the generating company for a month shall be:

(Energy charge rate in Rs/kWh) X {Scheduled energy (ex-bus) for a month in kWh.}

36.6 Energy charge rate (ECR) in Rupees per kWh on ex-power plant basis shall be determined to three decimal places as per the following formula:

For coal based stations

$$ECR = \{(GHR - SFC \times CVSF) \times LPPF/CVPF + SFC \times LPSFi\} \times 100 / (100 - AUX)$$

Where,

AUX = Normative Auxiliary Energy Consumption in percentage.

CVPF = (a) Weighted Average Gross Calorific Value of coal as received, in kCal per kg, for coal based stations. (b) In case of blending of fuel from different sources, the weighted average Gross calorific value of primary fuel shall be arrived in proportion to blending ratio.

CVSF = Calorific Value of secondary fuel, In kCal per ml.

ECR = Energy Charge Rate, in Rupees per kWh sent out.

GHR = Gross Station Heat Rate, in kCal per kWh.

LPPF = Weighted average Landed price of Primary Fuel, in Rupees per kg, per liter or per standard cubic meter, as applicable, during the month.

(In case of blending of fuel from different from different sources, the weighted average landed price of primary fuel shall be arrived in proportion to blending ratio) SFC = Specific Fuel Oil Consumption, in ml/kWh

LPSFi = Weighted Average Landed Price of Secondary Fuel in Rs/ml during the month

36.7 The generating company shall provide to the beneficiaries of the generating station details of parameters of GCV and price of fuel i.e. domestic coal, imported coal, e-auction coal etc., as per the forms prescribed to these regulations.

Provided that the details of blending ratio of the imported coal with domestic coal, proportion of e-auction coal and weighted average GCV of fuels as received shall be provided separately along with the bills of the respective month:

*Provided further that copies of the bills and details of parameters of GCV and price of fuel i.e. domestic coal, imported coal, e-auction coal etc., details of blending ratio of the imported coal with domestic coal, proportion of e-auction coal shall also be displayed on the website of the Generating Company. The details should be available on its website for a period of a three months-----
-----“*

Commission’s analysis:

216. In accordance to the above provisions under Tariff Regulations, 2015, the energy (variable) charges shall cover both primary and secondary fuel costs and shall be payable during the calendar month for the scheduled energy on ex-power plant basis.
217. In order to determine the energy charges of thermal power station, the operating parameters like gross station heat rate, auxiliary energy consumption, secondary fuel oil consumption and transit loss need to be examined as per provisions under the Tariff Regulations, 2015.

Operating Parameters:

218. The petitioner has sought relaxation in operating parameters like Station Heat Rate and Auxiliary Energy Consumption as follows:
- i. Auxiliary Energy Consumption : From 10.50% to 11.00%
 - ii. Station Heat Rate : 2740 KCal/kWh to 2835 Kcal/kWh
219. The norms for Auxiliary Consumption and Station Heat Rate have been specified in MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 after following due process of pre publication seeking comments and suggestions from all the stakeholders followed by the public hearing. The request of petitioner seeking relaxation in operating parameters is examined in light of the Tariff Regulations, 2015 as follows:
- i. Gross Station Heat Rate:**
220. On perusal of the details regarding Energy Charges filed in the subject petition, it is observed that the petitioner has sought relaxation in station heat rate and considered gross station heat rate of 2835 Kcal/KWh for the Unit No 2 of the power station. The petitioner has sought relaxation in station heat rate based on its experience of running of Unit No 1 of the project.

221. Regarding the Gross Station Heat Rate of thermal generating units, Regulation 39.3 (C) of MPERC (Terms and Conditions for determination of Generation tariff) Regulations, 2015, provides as under:

“(a) Existing Coal based thermal generating stations having COD on or after 1.4.2012 till 31.03.2016, (other than those covered under clause 39.2) shall be the heat rate norms approved during FY 2012-13 to FY 2015-16.

New thermal generating stations achieving COD on or after 1.4.2016:

(b) Coal-based Thermal Generating Stations = 1.045 X Design Heat Rate (kCal/kWh)

Where the Design Heat Rate of a Unit means the Unit heat rate guaranteed by the supplier at conditions of 100% MCR, zero percent make up, design coal and design cooling water temperature/back pressure:

Provided that the design heat rate shall not exceed the following maximum design Unit heat rates depending upon the pressure and temperature ratings of the Units.

222. The petitioner has filed the certificate of supplier's guaranteed performance parameters for design heat rate of thermal generating unit at 100% MCR and zero percent make up. The petitioner has also filed the same details in TPS Form 2 of the subject petition. Considering the above, the Gross Station Heat Rate of the 45 MW Unit No 2 is as given below:

- Turbine Cycle Heat Rate: 2281 Kcal/kWh
- Guaranteed Boiler Efficiency: 87%
- Design Heat Rate: $2281/87\% = 2621.84$ Kcal/kWh
- Gross Station Heat Rate for Tariff purpose: $2621.84 \times 1.045 =$
2739.82 Kcal/kWh
- From the above, the Gross Station Heat Rate is 2739.82 Kcal/kWh for Unit No. 2 of petitioner's project.

223. Accordingly, the Commission has considered the normative Gross SHR of 2739.82 kCal/kWh based on the design heat rate and boiler efficiency guaranteed by the machine manufacturer in accordance to the provisions under Regulations, 2015. Therefore, no relaxation in SHR is considered in this order.

ii. Auxiliary Energy Consumption

224. With regard to Auxiliary energy consumption, the petitioner has sought relaxation in Auxiliary energy consumption and from 10.50% to 11.00% for the Unit No 2 of its power station. The petitioner in the subject petition submitted the following:

As per Tariff Regulations, 2015 notified by the Commission, "Auxiliary Energy Consumption (AUX)" in relation to a period means the quantum of energy consumed by auxiliary equipment of the generating station and transformer losses within the generating station, and shall be expressed as a percentage of the sum of gross energy generated at the generator terminals of all the Units of the generating station.

As per clause 39.3 of Tariff Regulations, 2015, Auxiliary Energy Consumption for 45 MW series Power Station (with Induced drafts cooling towers) is 10.50%.

Auxiliary energy consumption of any thermal power generating conditions is largely dependent on the site conditions and plant layout. Considering the physical conditions of site and plant layout, the Commission is requested to approve Auxiliary Energy Consumption as 11.00%.

225. Regulation 39.3 (E) provided the norms for Auxiliary Energy Consumption for thermal generating unit(s) / stations as given below:

Table 45: Norms for Auxiliary Energy Consumption

200 / 300 MW series	8.50%
500 MW & above Steam driven boiler feed pumps	5.25%
500 MW & above Electrically driven boiler feed pumps	7.75%
45 MW Series	10.00%

*Provided further that for thermal generating stations with **induced drafts cooling towers, the norms shall be further increased by 0.5%.***

226. In view of the aforesaid provisions under Regulations, the normative Auxiliary Energy Consumption for Unit No. 2 is 10.00%. Further, there is a provision under Regulation 39.3 (E) to consider additional 0.5% Auxiliary Energy Consumption for induced draft cooling tower. The petitioner in TPS Form 2 has submitted that the petitioner's generating station has induced draft colling tower. Therefore, the total Auxiliary Energy Consumption of 10.50% (10.00% + 0.5%) is considered for Unit No. 2 in this order as given below:

Table 46: Auxiliary Consumption considered for the unit in this order

1	Auxiliary energy consumption for unit 45 MW	10.00%
2	Add: auxiliary energy consumption for induced draft cooling tower	0.50%
3	Total auxiliary energy consumption considered	10.50%

227. Accordingly, the aforesaid norms for Auxiliary Energy Consumption is considered for Unit No 2 in accordance with the Regulations, 2015 and request of the petitioner for relaxed Auxiliary Energy Consumption is not considered in this order.

iii. Secondary Fuel Oil Consumption

228. With regard to specific secondary fuel oil consumption, the petitioner has claimed the specific secondary fuel oil consumption of 0.50 ml/kWh in accordance to Regulation 39.3(D) of the Regulations, 2015. Therefore, the Commission has considered the same specific fuel oil consumption as filed by the petitioner i.e., 0.50ml/Kwh in this order for the control period in accordance to the applicable Regulations.

iv. Transit and Handling Losses

229. Regulation 36.8 prescribed the norms for transit and handling losses for thermal generating stations/unit (s) as given below:

The landed cost of fuel for the month shall include price of fuel corresponding to the grade and quality of fuel inclusive of royalty, taxes and duties as applicable, transportation cost by rail / road or any other means, and, for the purpose of computation of energy charge, and in case of coal shall be arrived at after considering normative transit and handling losses as percentage of the quantity of coal dispatched by the coal supply company during the month as given below:

- *Pithead generating stations : 0.2%*
- *Non-pithead generating stations : 0.8%*

230. The petitioner's Power Station is a non-pit head power station. Accordingly, the norms for transit and handling losses of 0.80% are considered as per applicable Tariff Regulations.

231. In view of the above, the operating parameters for the control period for determination of energy charges for Unit No 2 is considered in accordance with the Tariff Regulations, 2015 in this order as given below:

Table 47: Operating Norms considered in this order

Particulars	Unit	FY 2016-17 to FY 2018-19
Gross Station Heat Rate	kCal/kWh	2739.82
Specific Oil Consumption	ml/kWh	0.50
Aux. Energy Consumption	%	10.50%
Transit losses	%	0.80%

v. Landed Cost of Coal:

232. The petitioner claimed weighted average landed cost of coal of Rs. 4070/MT based on the coal supplied by the Coal companies during preceding three months i.e. January' 2017 to March' 2017.

233. On perusal of the details filed under the subject petition and subsequent additional submissions filed by the petitioner, the Commission observed the following:

- i. The petitioner executed Fuel Supply Agreement with M/s BLA Industries Pvt. Ltd. on 25th April' 2011. As per the aforesaid FSA, the coal linkage for the contracted capacity for Unit No. 1 & 2 was envisaged from the Gotitoria Captive Coal Mine allocated by Government of India. The petitioner has filed a copy of the FSA dated 25th April' 2011 and its subsequent amendments with the subject petition.
- ii. Further, vide its Judgment dated 24th September, 2014, the Hon'ble Supreme Court cancelled the allocation of 204 coal blocks including the allocation of the Gotitoria coal mine to BLA Industries. Accordingly, the Gotitoria coal mine of BLA Industries Pvt Ltd. had been taken over by the Central Government on 31.03.2015. **As per the PPA and the FSA, alternative coal arrangement had to be made in accordance with the extant policy of Government of India.**
- iii. Vide letter dated 11th March' 2020, the petitioner informed the Commission that it has won a provisional allocation of coal in the auction for coal linkage under SHAKTI (Scheme for Harnessing and Allocating Koyala (Coal) Transparently in India) Policy of Government of India by offering a discount on the existing tariff for each year of the balance period of the 27 MW PPA with reference to the scheduled generation from Unit-2 using coal sourced under the proposed Fuel

Supply Agreement(s) with Coal India Limited or its subsidiaries, under the SHAKTI Policy.

- iv. In the aforesaid letter, the petitioner also mentioned that the draft addendum to the 27 MW PPA has been approved by this Commission vide order dated 21st February' 2020 in Petition No 40 of 2019. The petitioner further informed that the procurer (MPPMCL) and the conforming parties to the PPA executed the addendum as approved by the Commission.
- v. By affidavit dated 01st January' 2021, the petitioner has filed a copy of the FSA dated 16.12.2020 executed between WCL and the petitioner under para B(ii) of SHAKTI Policy of Govt of India. In the aforesaid submission, the petitioner has also mentioned that the **requisite details for computation of energy charges shall be submitted to the Commission once the supply of coal commences under the aforesaid FSA.**
- vi. By affidavit dated 9th October' 2020, the petitioner confirmed that **no Petroleum Coke (Petcoke) has been used** to supply contracted capacity to MPPMCL from Unit No 2 and the present petition is based on usage of coal only as fuel. The petitioner further submitted that it does not intend to use Petcoke for supplying Contracted Capacity to MPPMCL from Unit-2.
- vii. Vide daily order dated 8th January' 2021, Respondent No 1 (MPPMCL) was asked to inform the following:
 - a. Whether the Respondent No. 1 has procured power during FY 2016-17 to FY 2018-19 from Unit No. 2 of the petitioner's power project. If so, what tariff has been paid for procurement of such power.
 - b. How the Respondent No. 1 has ensured that the coal sourced for generation of contracted capacity by the petitioner was as per extant policy of Government of India in terms of Article 4.1.1 (iii) of the PPA dated 05.01.2011
- viii. In response to above, by affidavit dated 18th February"2021, the Respondent No 1 (MPPMCL) filed its response as follows:
 - a. *Unit No. 2 of the Petitioner's Power Project declared COD on 20.03.2017. Subsequent to that, in terms of the PPA approved by Hon'ble MPERC on*

07.09.2012, the Respondent No.1 procured power during FY 2016-2017 to FY 2018-19 from Unit No. 2, considering that there is no tariff holiday during the tenure of PPA.

MPPMCL, thus, decided to provisionally pay the Petitioner Fixed Charge @ 75% of the Tariff approved for Unit-1 and Variable Charges as per GSHR and Auxiliary power as determined by this Hon'ble Commission for Unit no.1 for the power supplied from Unit No.2 till the time tariff is determined by Hon'ble Commission. Final reconciliation shall be carried out as soon as the tariff for Unit No. 2 is determined by this Hon'ble Commission

- b. Hon'ble APTEL, vide its order dated 19.04.2018 passed in Appeal No. 201 of 2017, held that the FSA dated 25.04.2011 continues to be valid and subsisting. Admittedly, the said FSA is in compliance of Article 4.1.1(iii) of the PPA dated 05.01.2011. The said order of Hon'ble APTEL continues to be in operation except to the extent of para 13(p) stayed by the Hon'ble Supreme Court's order dated 11.01.2019. In order to comply with the Hon'ble Supreme Court's Order dtd 11.01.2019, passed in Civil Appeal No. 5733 of 2018, MPPMCL removed capping on variable charges as fixed by Hon'ble APTEL vide Order dtd 19.04.2018.

Further, to protect the interest of Consumers, Variable Charge of Scheduled Energy are being calculated as per the Article 7 of Fuel Supply Agreement dtd 25.04.2011. The base price of the coal is adjusted on pro-rata basis as in case of GCV of coal, mentioned in Article 8 of FSA. Also, the transportation charges are being considered in the ECR for the same distance that was approved by this Commission in the final tariff order dated 22.05.2015, i.e., the distance between the plant and Goitoria Mine (the subject mines under FSA dated 25.04.2011) .

In order to protect the interest of Consumers of the State, MPPMCL decided to consider LPPF (Landed Price of Primary Fuel) of coal sourced for generation of contracted capacity in such a way as if M/s BLA Power is sourcing coal under Article 3.3 of FSA from Goitoria mine and as per the agreed formula under Article 7 and 8 of FSA. Thus, effectively, the fuel supply to the Plant is deemed to be restored as per the FSA dated

25.04.2011 and the commercial situation is as if the coal is being procured from Gotitoria mines. Thus, MPPMCL has ensured that M/s BLA Power would be offering power generated from the coal effectively sourced under the existing long-term FSA dated 25.04.2011 and is complying terms & condition of Article 4.1.1(iii) of PPA

234. In its preliminary written submission dated 17.09.2020, the petitioner mentioned that he is seeking tariff for its Unit No.2 for FY 2016-17 to FY 2018-19 on the basis of fuel procured under the FSA dated 25th April' 2011. It was further clarified by the petitioner on affidavit dated 09.10.2020 that the petitioner has used coal purchased from Government of India's coal companies and its subsidiaries in accordance with the Regulation 36 of MPERC Generation Tariff Regulations, 2015. The petitioner has also filed a copy of "New Coal Distribution Policy" issued on 18th October' 2007 along with the Terms & Conditions of Spot E-Auction Scheme, 2007. In the aforesaid Policy, the following is mentioned in para 10 regarding E-Auction of coal:

E-auction of Coal

"Coal distribution through e-auction was introduced with a view to provide access to coal for such consumers who are not able to source coal through the available institutional mechanisms for reasons like the seasonality of coal requirement, limited requirement of coal not warranting long-term linkage etc. In the long run, it is expected that e-auction may help in creating spot as well as future market of coal in the country.

Thus, a fresh scheme of E-auction will be introduced subject to, inter-alia, following conditions:-

- (i) Any buyer will be entitled to buy coal under e-auction.*
- (ii) There shall not be any "Floor Price" in e-auction. However, coal companies may be allowed to fix an undisclosed reserve Price not below the notified price.*
- (iii) Programme of e-auction should be announced well in advance and be given wide publicity to all consumers who intend to participate.*
- (iv) At the beginning of the financial year, CIL shall declare a programme on sale of coal through e-auction indicating the quantity and quality of coal to be made available through auction during all the four quarters from different coal companies/coalfields.*

- (v) *In order to address the concerns of such industrial consumers who wish to have an assured supply over a long period, say one year, under e-auction so as to plan their annual production etc., CIL will earmark a fixed quantity which will be provided to highest bidder/bidders as per bidder's requirement over the period of the bid.*

Based upon above guidelines and modalities, a revised e-auction scheme would be introduced by CIL within one month. Around 10% of estimated annual production of CIL would initially be offered under e-auction and the quantity to be offered under e-auction would be reviewed from time to time by Ministry of Coal.....”

235. **The petitioner has clarified that for the supply of Contracted Capacity to MPPMCL from Unit-2, the petitioner has used coal purchased from Government of India's coal companies subsidiaries in accordance to the extant policy of Govt of India.** By affidavit dated 20th February' 2021, the petitioner further submitted that energy charges has been worked out on the basis of cost of coal procured under Shakti Policy based on the terms of new FSA.
236. On going through the aforesaid submissions of petitioner regarding sourcing of coal from Government of India's coal companies and its subsidiaries and no use of pet coke for the contracted capacity of Unit No. 2, the Commission has taken up the process for determination of generation tariff for the contracted capacity of Unit No. 2 in this order. It is reiterated that Commission is considering determination of tariff in this matter only to the extent of sourcing of coal in accordance with the extant policy of Government of India.
237. It is worthwhile to mention in this order that the subject petition has been filed from CoD of Unit No. 2 till 31st March' 2019 i.e. end of the control period of Regulations, 2015 therefore, the Commission has considered the landed cost of coal and GCV of coal as submitted by the petitioner in the subject petition since the supply of coal under SHAKTI scheme in the subject matter shall commence during the next control period commencing from 1st April' 2019 of MPERC Tariff Regulations, 2020.
238. While determining the landed cost of coal, the petitioner has considered transit and handing losses of 0.8%. The Commission has considered the aforesaid normative transit and handling losses in determining the specific coal consumption for energy

charge rate in this order. Therefore, the landed price of coal is considered prior to normative transit and handling losses filed by the petitioner. The weighted average landed cost of coal considered in this order for FY 2016-17 to FY 2018-19 is for preceding three months i.e. January' 2017, February' 2017 and March' 2017 in accordance to the applicable MPERC Tariff Regulations

239. Regarding the landed cost of coal, Regulation 36.8 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 provides as follows:

“The landed cost of fuel for the month shall include price of fuel corresponding to the grade and quality of fuel inclusive of royalty, taxes and duties as applicable, transportation cost by rail / road or any other means, and, for the purpose of computation of energy charge, and in case of coal shall be arrived at after considering normative transit and handling losses as percentage of the quantity of coal dispatched by the coal supply company during the month.

240. On perusal of the form TPS 15 of the petition, it was observed that the petitioner worked out the weighted average landed price of coal considering the price of coal for preceding three months i.e. January' 2017, February' 2017 and March' 2017 based on the quantity of coal supplied by Coal Companies. Details of landed cost of coal worked out by the petitioner in form TPS 15 are as given below:

Table 48: Form TPS 15 submitted by the petitioner

Sr No	Particulars	Unit	Jan' 17	Feb' 17	Mar' 17
1	Quantity of Coal supplied by Coal Company	(MMT)	2,083.00	1,240.71	839.02
2	Normative Transit & Handling Losses (For coal based Projects)	(MMT)	4.17	2.48	1.68
3	Net Coal Supplied	(MMT)	2,078.83	1,238.23	837.34
4	Amount charged by the Coal Company	(Rs.)	55,06,433	32,79,949	22,17,961
5	Total amount charged	(Rs.)	55,06,433	32,79,949	22,17,961
6	Transportation charges by rail/ ship/ road transport	(Rs.)	29,38,592	17,50,332	11,83,637
7	Demurrage Charges, if any	(Rs.)	-	-	-
8	Other adjustment	(Rs.)	33,410	-	-
9	Total Transportation Charges	(Rs.)	29,72,002	17,50,332	11,83,637
10	Total amount charged for coal supplied including transportation	(Rs.)	84,78,435	50,30,281	34,01,598
11	Landed cost of coal	Rs./MT	4,078	4,062	4,062
12	Blending Ratio (Domestic/ Imported)				

13	Weighted average rate of coal for preceding 3 months (after transit loss)	Rs./MT	4,078	4,062	4,062
14	Wt. average landed cost of coal for three months				4070
15	Weighted average GCV of coal as Received	(kCal/Kg)	4418	4344	4478
16	Wt. average GCV for three months				4408

241. On further perusal of the aforesaid details filed by the petitioner, it is observed that, while calculating the Energy Charges in the subject petition, the petitioner has considered the landed price of coal of Rs. 4070.45 per metric tonne with Transit & Handling Loss @ 0.8%. Vide Commission's letter dated 28th May' 2021, the petitioner was asked to submit the detailed calculation sheet for arriving at the weighted average landed cost of coal claimed while determining the energy charges in the petition along with supporting documents like copy of the bills/invoices.

242. By affidavit dated 13th July' 2021, the petitioner submitted the following:

The petitioner humbly submits that the Calculation of weighted average landed cost of coal is provided as part of Form 15 of the Tariff petition. Supporting documents for quantity of coal purchase, cost of coal, transportation cost are annexed herewith and marked as Annexure – P:

243. On perusal of the invoices/bills filed by the petitioner, it is observed that the petitioner procured coal from Western Coal fields limited (A Subsidiary of Coal India Limited). The details of invoices are as below:

Month	Coal Purchased From	Invoice No	Despatch Period	Quantity (MT)	Net Bill Amount (Rs)
Jan' 17	WCL	2017/3212/002124/01	01/01/2017 to 19/01/2017	2083.00	5506432.00
Feb'17	WCL	2017/3212/002294/01	01/02/2017 to 28/02/2017	1240.71	3279949.00
Mar' 17	WCL	2017/3212/002373/01	01/03/2017 to 31/03/2017	839.02	2217951.00

244. Based on the submissions and details & documents filed by the petitioner regarding the quantity and cost of coal received by the petitioner and provided in Form TPS15 of the petition, the Weighted Average landed price of coal is worked out in terms of Tariff Regulations, 2015 as given below:

Table 49: Weighted Average Price of Coal

Month	Total Quantity of Coal Received (MT)	Cost of Coal (Rs/MT)	Rate of Coal Received (Rs/MT)	Weighted average Landed price of Coal (Rs /MT)
January'17	2083.00	4070.30	8478435.00	
February'17	1240.71	4054.36	5030281.00	
March'17	839.02	4054.25	3401598.00	
Total	4162.73		16910314.00	
				4062.31

245. Accordingly, the weighted average price of coal of **Rs. 4062.31/MT** (with out considering transit and handling losses) is worked out by considering the weighted average rate of preceeding three month's in this order.

vi. Gross Calorific Value of Coal:

246. With regard to GCV of coal for three preceding months for the purpose of Energy Charges, Regulation 36.6(a) of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 provided that the weighted average GCV of coal shall be as 'received' basis.

247. On examining the petition, the Commission observed that the petitioner filed energy charges based on the weighted average GCV of coal on "as Received basis" for three preceding months i.e. for the January' 2017, February' 2017 and March' 2017 for the control period. However, the supporting documents were not submitted with the petition.

248. In view of the above, vide Commission's letter dated 28th May' 2021, the petitioner was asked to file the calculation sheet for arriving at the weighted average GCV of coal claimed in the petition along with supporting documents. The petitioner was also asked to file the GCV of coal as per bill/invoice raised by the coal companies along with the copies of invoices.

249. In response to the above, by affidavit dated 13th July'2021, the petitioner submitted the following:

“Calculation of weighted average landed cost of coal is provided as part of Form 15 of the Tariff Petition. The petitioner also filed Supporting documents like laboratory coal analysis report for GCV of January 2017 to March 2017 is provided as an Annexure – Q.”

250. From the above submissions by the petitioner, the Commission observed the following:

- i. The petitioner has considered the actual weighted average GCV of coal ‘as received basis’ during the three preceding months i.e. for January 2017, February 2017 and March 2017 in accordance to Regulation 36.6 of Regulations, 2015.
- ii. The petitioner also submitted the lab reports in its additional submission in support of weighted average GCV on ‘as received’ basis.
- iii. In form TPS 5B, the petitioner worked out the weighted average GCV of coal based on the quantity of coal received during January to March’ 2017.

251. Based on the above, the weighted average GCV of coal as filed by the petitioner and considered by the Commission in this order is given below:

Table 50: Weighted Average GCV of Coal on received basis

Month	Total Quantity of Coal Received (MT)	GCV	Weighted average	Weighted Average GCV(Kcal/Kg)
January'17	2083.00	4,418	9202694.00	
February'17	1240.71	4,344	5389644.24	
March'17	839.02	4,478	3757131.56	
Total	4162.73		18349469.80	
				4408.04

252. Hence, weighted average GCV of coal on received basis as 4408.04 Kcal/Kg is considered for the Unit No 2 for determination of energy charges in this order. The petitioner has to ensure compliance with the following provisions under Regulation 36.7 of the Regulations, 2015:

36.7 The generating company shall provide to the beneficiaries of the generating station the details of parameters of GCV and price of fuel i.e. domestic coal, imported coal, e-auction coal, etc., as per the forms prescribed to these Regulations:

Provided that the details of blending ratio of the imported coal with domestic coal, proportion of e-auction coal and the weighted average GCV of the fuels as received shall also be provided separately, along with the bills of the respective month:

Provided further that copies of the bills and details of parameters of GCV and price of fuel i.e. domestic coal, imported coal, e-auction coal, etc., details of blending ratio of the imported coal with domestic coal, proportion of e-auction coal shall also be displayed on the website of the generating company. The details should be available on its website on monthly basis for a period of three months

253. The value of GCV of secondary fuel oil of 10,000 Kcal/ltrs filed by the petitioner is considered in this order.

vii. Landed Cost of secondary fuel oil:

254. The petitioner claimed weighted average landed cost of secondary fuel oil as Rs. 67,450/KL for the control period based on the landed cost of fuel oil purchased only in FY 2016-17.

255. Vide Commission's letter dated 28th May' 2021, the petitioner was asked to submit the following:

The petitioner has filed weighted rate of secondary fuel oil is Rs. 67,450 /KL. The reasons for higher rate of secondary fuel oil be explained.

It is required to be clarified whether the weighted average price claimed pertains to oil consumed or purchased during three preceding months. As per Regulation 36.6(a) of the Tariff Regulations, 2015, the wt. average landed price of secondary fuel oil is required. Supporting documents (Bills) in respect of price of oil purchased be filed by the petitioner in this regard.

256. In response to the above, by affidavit dated 13th July' 2021, the petitioner submitted that the main Secondary fuel is purchased at the prevailing government determined price from PSU oil marketing companies. The petitioner has also submitted supporting documents of sample bills as provided in Annexure O with its submission.

257. In view of the above submission, the Commission observed that:

- i. The petitioner informed that HSD is being used as Secondary Fuel oil for the Unit No. 2 as per Tariff Regulations, 2015.
- ii. The petitioner further informed that the main secondary fuel oil was purchased at the prevailing government determined price from PSU oil marketing companies. The weighted average landed price of main secondary fuel oil (LDO) during FY 2016-17 to FY 2018-19 is worked out to Rs. 67,450 per KL. The petitioner submitted the copy of bills/invoices of main secondary fuel oil purchased.

258. Accordingly, based on the details submitted by the petitioner , the weighted average rate of secondary fuel is considered by the Commission as Rs 67,450/KL.

259. Regulation 34.2 of the Regulations, 2015 provides that while determining the weighted average price of fuel, no fuel price escalation shall be provided during the tariff period. Therefore, the preceding three months weighted average rate of secondary fuel of Rs 67,450 /KL is considered for the control period in this order.

260. Based on above, the Energy Charges for the period from FY 2016-17 to FY 2018-19 are worked out as given below:

Table 51: Energy Charges determined in this order:

Particular	Unit	FY 2016-17 to FY 2018-19
Capacity	MW	45
Gross Station Heat Rate	kCal/kWh	2739.82
Sp. Fuel Oil Consumption	ml/kWh	0.50
Aux. Energy Consumption	%	10.50%
Transit Loss	%	0.80
Weighted average GCV of Oil	kCal/ltr.	10000
Weighted average GCV of Coal	kCal/kg	4408.04
Weighted Average landed Price of Coal	Rs./MT	4062.31
Weighted Average landed Price of Oil	Rs/ KL	67450.00

Heat Contributed from HFO	kCal/kWh	5.00
Heat Contributed from Coal	kCal/kWh	2734.82
Specific Coal Consumption	kg/kWh	0.620
Sp. Coal Consumption including Transit Loss	kg/kWh	0.625
Rate of Energy Charge from coal	Rs/unit	2.540
Rate of Energy Charge from oil	Rs /unit	0.034
Total Energy Charge rate	Rs/unit	2.574
Rate of Energy ex bus	Rs./unit	2.876

261. The base rate of the energy charges as determined above shall however, be subject to month to month adjustment of actual fuel price and actual GCV of coal. For the period FY 2016-17 to FY 2018-19, the recovery of energy charges shall be made in accordance with Regulations 36.6 to 36.8 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015.

262. It is pertinent to mention that the petitioner by affidavit dated 20th February' 2021, has confirmed that the fuel supply agreement under SHAKTI Scheme has been executed between the petitioner and Western Coalfields Ltd (WCL) on 16th December' 2021 and that the coal supply under SHAKTI Scheme FSA commenced from January' 2021. The petitioner has worked out the **net energy charges rate of Rs 3.470/Kwh after discount of 7 paise/Kwh.**

Other Charges

263. In the subject petition, the petitioner has prayed for the following charges:

- *Issue necessary orders to MPPMCL, Jabalpur for reimbursement of full amount of fee paid to Ld. Commission for determination of tariff and also the expenses that will be incurred for publication of public notice.*

264. The petitioner is allowed to recover the fee paid to MPERC and publication expenses as per Regulation 52 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 on submission of documentary evidence.

Implementation of the order

265. The generation tariff under the Multi-Year Tariff framework for the control period from FY 2016-17 to FY 2018-19 is determined under MPERC (Terms and Conditions for Determination of Generation Tariff) Regulation' 2015, respectively.

266. The petitioner must take steps to implement this order after giving seven (7) days' public notice in accordance to Regulation 1.30 of MPERC (Details to be furnished and fee payable by licensee or generating company for determination of tariff and manner of making application) Regulations, 2004 and its amendments and recalculate its bills for the energy supplied to Distribution Companies of the State since the period from its COD to 31st March' 2019. The petitioner must also provide information to the Commission in support of having complied with this Order.

267. With the above directions, this Petition No. 17 of 2018 is disposed of.

(Shashi Bhushan Pathak)
Member

(Mukul Dhariwal)
Member

(S.P.S Parihar)
Chairman

Date: 25th October' 2021

Place: Bhopal

Annexure I

Petitioner’s Response on the comments offered by MPPMCL along with the observations

MPPMCL has primarily raised the following issues:

- a. Only reasonable capital cost after applying appropriate prudence check may be allowed;
- b. The claim of additional capitalization may not be allowed;
- c. The claim for relaxation of auxiliary energy consumption and heat rate (Gross Station Heat Rate) may not be allowed.

MPPMCL Comment:

1. In Para 17 and Table-1 at page nos. 5/6, at Para 4.1.3 at page no. 24 and in Tariff Form TPS 5B (A2-12-13), the Petitioner has given details of its claims of Capital Cost for Unit 2 as Rs. 404.83 Crore and sources of its funding. It is observed that the Capital Cost under following heads has increased substantially as compared to the original estimates:

(Rs. Crores)

Sl. No.	Particulars	Cost as per Original Estimates	Capital Cost Submitted in the Present Petition	Difference/ (% Increase)
1.	Plant and Machinery (Boiler, Turbine & Generator)	93.33	106.00	12.67 (+13.60%)
2.	Others including pre-operative expenses	14.29	96.23	81.94 (+573.4%)
3.	Interest During Construction	27.98	112.97	84.99 (+303.75%)

It is therefore evident from above that the cost of Plant and Machinery (Boiler, Turbine & Generator) has increased by 13.60 %, cost under the head “Others including pre-operative expenses” has increased by 573.40% and Interest During Construction has increased by 303.75% as compared to the Original Estimates. It is therefore most humbly prayed that this Commission may graciously be pleased to allow only reasonable capital cost after applying appropriate prudence check.

Petitioner's Reply:

It is most respectfully submitted that the Petitioner has provided detailed reasons for the increase in capital cost of Unit-2 in the present petition and the additional affidavit dated 13 July 2021. The Petitioner craves leave to refer and rely upon its submissions in the present petition and the additional affidavit dated 13 July 2021, in response to the issue raised by MPPMCL.

In accordance with Article 4.1.6 of the 27MW PPA, the parties mutually agreed that the Revised Scheduled COD for Unit-2 shall be 31 March 2017 and as such, according to the said Article 4.1.6, this Revised Scheduled COD is the Scheduled COD.

Regulation 17.1 of the Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 (RG-26 (III) of 2015) (hereinafter referred to as "Tariff Regulation 2015") provides as under:

"17.1 Interest during construction shall be computed corresponding to the loan from the date of infusion of debt fund, and after taking into account the prudent phasing of funds upto SCOD."

and Regulation 17.3 of the Tariff Regulations 2015 provides as under:

17.3 Incidental expenditure during construction shall be computed from the zero date and after taking into account pre-operative expenses upto SCOD:

Provided that any revenue earned during construction period up to SCOD on account of interest on deposits or advances, or any other receipts may be taken into account for reduction in incidental expenditure during construction.

It is most respectfully submitted that the Petitioner has commissioned Unit-2 as per the Scheduled COD under the 27MW PPA. There is no increase in IDC and IEDC from the Scheduled COD to the actual COD and accordingly IDC computed in accordance with Regulation 17.1 of the Tariff Regulations 2015 and IEDC computed in accordance with Regulation 17.3 of the Tariff Regulations 2015 ought to be allowed to the Petitioner.

It is pertinent to mention herein that before admitting the present petition, this Ld. Commission by an order dated 5 June 2018, made the following observations and sought certain clarifications from the Petitioner on the issue of Scheduled COD of Unit-2:

- “2. Motion hearing in the subject matter was held on 05th June’2018 when the Commission observed the following:
- (i) As per Article 4.1.5 of Power Purchase Agreement (PPA) between the petitioner and MPPMCL, the Schedule Date of Commercial Operation (SCOD) of Unit No. 2 was 31st December’ 2012 whereas, the Unit No. 2 achieved COD on 20th March’ 2017. It is mentioned in the petition that as mutually agreed by the petitioner and Respondent No.1, the SCOD has been subsequently revised in terms of Article 4.1.6 of PPA.
3. The subject petition is not admitted at this stage in view of the above observations. The petitioner is directed to rectify all above observations in the petition by 30th June’2018. The next date of motion hearing in this matter shall be fixed on rectification of all above observations.”

The Petitioner duly filed its reply to the aforesaid queries on 30 June 2018, clarifying as follows:

- “3. With regard to observation (i) in para 2 of the referenced order dated 05.06.2018, it is submitted as follows:
- 3.1 Article 4.1.6 of the 27MW PPA (as defined in the Petition) is reproduced below for ready reference:

“4.1.6 Revised Scheduled Commercial Operation Date

The Parties may mutually agree to revise the Scheduled CoD for Commissioning of any Unit or the Power Station (hereinafter referred to as' Revised Scheduled Commercial Operation Date or Revised Scheduled COD) and such Revised Scheduled COD shall thereafter be the Scheduled COD.”

- 3.2 *The said 27MW PPA including the above reproduced article 4.1.6 has been duly approved by this Ld. Commission by its order dated 07.09.2012 read with the order dated 07.02.2013.*
- 3.3 *Admittedly, the “parties” to the 27MW PPA are the Procurer (i.e. Respondent No.1 herein) and the Company (i.e. the Petitioner herein). Article 4.1.6 authorizes the “parties” i.e. Petitioner and Respondent No.1 to mutually agree to revise the Scheduled COD for commissioning of any Unit. No other / further action or*

approval is required under the 27MW PPA or under law for revising the Scheduled COD.

3.4 In accordance with Article 4.1.6 of the 27MW PPA, the “parties” agreed to revise the Scheduled COD for Unit-2 to 31.03.2017. In terms of Article 4.1.6 of the 27MW PPA, such Revised Scheduled COD is the Scheduled COD. Hence, the Scheduled COD for Unit-2 was 31.03.2017 and has been mentioned as such in Para 11 of the Petition. The correspondence between the Petitioner and Respondent No.1 confirming the Scheduled COD as 31.03.2017 has also been annexed as Annexure-III at page A3-742 to the Petition.

3.5 Para 11 of the Petition is reproduced below for ready reference:

“11. In accordance with Article 4.1.6 of the 27MW PPA, Respondent No.1 and the Petitioner mutually agreed that the Revised Scheduled COD for Unit-2 shall be 31 March 2017 and as such, according to the said Article 4.1.6, this Revised Scheduled COD is the Scheduled COD. Respondent No. 1 communicated its approval vide a letter dated 12 August 2016 for revising the Scheduled COD to 31 March 2017. Copies of letters dated 3 August 2016, 5 August 2016 & 12 August 2016 exchanged between Respondent No. 1 “and the Petitioner are annexed herewith and collectively marked as Annexure III. The Petitioner commissioned Unit-2 on 20 March 2017, duly witnessed by the Independent Engineer and authorised representative of Respondent No.1. Furthermore, Respondent No.1 has accepted the COD of 20 March 2017 for Unit-2 of the Petitioner’s Generating Station. The Petitioner has commissioned it’s Unit-2 about 12 days ahead of the Scheduled COD.”

3.6 Hence, as can be seen from the above, the “parties” have acted within the ambit of MPERC approved 27MW PPA and adequate disclosure has been made in the Petition as also relevant correspondences have been annexed in the Petition.”

Thereafter, the Ld. Commission, after being satisfied with the clarifications submitted by the Petitioner, proceeded to admit the present petition by an order dated 5 November 2020. Certain relevant extracts of the order dated 5 November 2020 are reproduced hereunder for convenience:

“8. In view of foregoing and without prejudice to the issues raised by the Commission in Civil Appeal No. 5733 of 2018, the subject petition is admitted for detailed examination in light of the aforesaid submissions made by the petitioner vis-a-vis the provisions under MPERC Tariff Regulations, PPA and the FSA to be executed by the petitioner under para B(ii) of SHAKTI Policy of the Government of India. The petitioner is directed to file the details and documents as observed in para 7.0 of this order within 15 days. The petitioner is also directed to file the copy of FSA to be executed under para B(ii) of SHAKTI Policy along with all requisite details for computation of Energy Charges of Unit No.2”

Therefore, all issues regarding the Revised Scheduled COD/ Scheduled COD stand closed and are no longer res integra. It is most respectfully submitted that the 27MW PPA, defines COD as follows:

“Commercial Operation Date” or “COD” shall mean in relation to a Unit the date on which the Unit is Commissioned and in relation to the Power Station the date on which all the Units of the Power Station are Commissioned”

“Commissioning” or “Commissioned” with its grammatical variations shall mean, in relation to a Unit, the relevant Unit or in relation to the Power Station, all the Units of the Power Station that have passed the Commissioning Tests successfully and the Procurer receives a Final Test Certificate of the Independent Engineer as per the provisions of Article 5.4.1 in relation to the Unit or the Power Station as the case may be;”

A plain reading of the aforesaid definitions along with Article 4.1.6 of the 27MW PPA, makes it amply clear that Unit-2 has been commissioned by the Petitioner prior to the Scheduled COD under the 27MW PPA.

Cost component wise detailed reasons for variation in cost vis-à-vis original estimates are provided as part of Form 5 Di of the formats submitted as part of the Tariff Petition. Original capital cost estimated for Unit-2 excluding IDC and IEDC was Rs. 236.76 Crore. The actual capital cost incurred for Unit-2 excluding IDC and IEDC is Rs. 214.95 Crore and hence there is saving of Rs. 21.81 Crore.

Furthermore, variation in IDC and IEDC due to elongated construction period of the Unit-2 is given as under:

				Rs. Crore
S. No.	Break Down	As per Original Cost as Approved – DPR	Actual / Estimated Cost as Incurred / To be Incurred	Difference
1	Overheads	-		-
1.1	Establishment	11.19	76.08	64.89
1.2	Design & Engineering	3.10	0.82	(2.28)
1.3	Audit & Accounts	-	0.01	0.01
1.4	Contingency	-	-	-
	Total Overheads	14.29	76.90	62.61
2	IDC, FC, FERV & Hedging Cost			
2.1	Interest During Construction (IDC)	27.98	109.21	81.23
2.2	Financing Charges (FC)	-	3.76	3.76
2.3	Foreign Exchange Rate Variation (FERV)	-	-	
2.4	Hedging Cost	-	-	
	Total IDC, FC, FERV & Hedging Cost	27.98	112.97	84.99
	Total (1 + 2)	42.27	189.88	147.61

As the Scheduled COD of Unit-2 is 31 March 2017 and actual COD of Unit-2 is 20 March 2017 which is well before Scheduled COD. Hence the above cost increase in IDC and IEDC ought to be allowed in the capital cost of Unit-2. IDC and IEDC are dependent on duration of project construction period and may be allowed in the capital cost of Unit-2. Furthermore, detailed reasons for the elongation of the period of construction for unit-2 have been provided by the Petitioner in its additional affidavit dated 13 July 2021. The same may be read as part and parcel of the present rejoinder.

Observation:

The Scheduled COD has been considered in accordance to the provisions under MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015. Further, the claims towards IDC and IEDC have been considered in light of the details and documents placed on record by the petitioner and in accordance to the provisions related to IDC and IEDC under Tariff Regulations, 2015 and also in light of the Hon'ble APTEL Judgment in this regard.

Additional Capitalization:

MPPMCL Comment

2. Also, in Para 4.1.4 at Page 25 and in Tariff Form TPS-9A (A2-25), the Petitioner has claimed Additional Capitalization of Rs. 10.20 Crore under five (5) heads for FY 2018-19. However, the Petitioner has not clarified whether the said Additional Capital Expenditure is within original scope of work and is in conformity to Regulation 20 of 2015 Tariff Regulations, which is quoted below for ready reference:

20.1 The capital expenditure in respect of the new project or an existing project incurred or projected to be incurred, on the following counts within the original scope of work, after the date of commercial operation and up to the cut-off date may be admitted by the Commission, subject to prudence check:

- (i) Un-discharged liabilities recognized to be payable at a future date;*
- (ii) Works deferred for execution;*
- (iii) Procurement of initial capital spares within the original scope of work, in accordance with the provisions of Regulation 19;*
- (iv) Liabilities to meet award of arbitration or for compliance of the order or decree of a court of law; and*
- (v) Change in law or compliance of any existing law:*

Provided that the details of works asset wise/work wise included in the original scope of work along with estimates of expenditure, liabilities recognized to be payable at a future date and the works deferred for execution shall be submitted along with the application for determination of tariff.

20.2 The capital expenditure incurred or to be incurred in respect of the new project on the following counts within the original scope of work after the cut-off date may be admitted by the Commission, subject to prudence check:

- (i) Liabilities to meet award of arbitration or for compliance of the order or decree of a court of law;*
- (ii) Change in law or compliance of any existing law;;*
- (iii) Deferred works relating to ash pond or ash handling system in the original scope of work; and*
- (iv) Any liability for works executed prior to the cut-off date, after prudence check of the details of such un-discharged liability, total estimated cost of*

package, reasons for such withholding of payment and release of such payments etc.

20.3 *The capital expenditure, in respect of existing generating station incurred or projected to be incurred on the following counts after the cut-off date, may be admitted by the Commission, subject to prudence check:*

- (a)** *Liabilities to meet award of arbitration or for compliance of the order or decree of a court of law;*
- (b)** *Change in law or compliance of any existing law;*
- (c)** *Any expenses to be incurred on account of need for higher security and safety of the plant as advised or directed by appropriate Government Agencies of statutory authorities responsible for national security/internal security;*
- (d)** *Deferred works relating to ash pond or ash handling system in the original scope of work;*
- (e)** *Any liability for works executed prior to the cut-off date, after prudence check of the details of such un-discharged liability, total estimated cost of package, reasons for such withholding of payment and release of such payments etc.;*
- (f)** *Any liability for works admitted by the Commission after the cut-off date to the extent of discharge of such liabilities by actual payments;*
- (g)** *Any additional capital expenditure which has become necessary for efficient operation of generating station other than coal based stations, the claim shall be substantiated with the technical justification duly supported by the documentary evidence like test results carried out by an independent agency in case of deterioration of assets, report of an independent agency in case of damage caused by natural calamities, obsolescence of technology, up-gradation of capacity for the technical reason such as increase in fault level;*
- (h)** *In case of hydro generating stations, any expenditure which has become necessary on account of damage caused by natural calamities (but not due to flooding of power house attributable to the negligence of the generating company) and due to geological reasons after adjusting the proceeds from any insurance scheme, and expenditure incurred due to any additional work which has become necessary for successful and efficient plant operation;*

- (i) Any capital expenditure found justified after prudence check necessitated on account of modifications required or done in fuel receiving system arising due to non-materialisation of coal supply corresponding to full coal linkage in respect of thermal generating station as result of circumstances not within the control of the generating station:

Provided that any expenditure on acquiring the minor items or the assets including tools and tackles, furniture, air-conditioners, voltage stabilizers, refrigerators, coolers, computers, fans, washing machines, heat convectors, mattresses, carpets etc. brought after the cut-off date shall not be considered for additional capitalization for determination of tariff w.e.f. 1.4.2016:

Provided further that any capital expenditure other than that of the nature specified above in (a) to (d) in case of coal based station shall be met out of Compensation Allowance: Provided also that if any expenditure has been claimed under Renovation and Modernisation (R&M), repairs and maintenance under (O&M) expenses and Compensation Allowance, same expenditure cannot be claimed under this Regulation.

20.4 *In case of de-capitalisation of assets of a generating company the original cost of such asset as on the date of de- capitalisation shall be deducted from the value of gross fixed asset and corresponding loan as well as equity shall be deducted from outstanding loan and the equity respectively in the year such de-capitalisation takes place, duly taking into consideration the year in which it was capitalised.*

In view of above submissions, it is most humbly prayed that in the absence of relevant information, the claim of Additional Capitalization may not be allowed

Petitioner's Reply:

As against the Petitioner's estimate at the time of filing of the Tariff Petition, no capital cost has been incurred towards additional capitalization. Therefore, the Petitioner is not claiming any additional capitalization.

Observation:

No additional capitalization is considered during the control period after exercising prudence check based on documents placed on record.

Auxiliary Consumption:

MPPMCL Comment

3. In Para 18 and 19 at Page 6 and 7, at Para 6.2.3 at Page 33 and Tariff Form TPS-3 (A2-7), the Petitioner has requested for relaxation of Auxiliary Energy Consumption (AEC) and Heat Rate (Gross Station Heat Rate, GSHR) and claimed AEC of 11.00% and GSHR of 2,835 Kcal/kWh, in deviation to Regulation 39.3 of 2015 Tariff Regulations. This request of the Petitioner is strongly opposed.

It is humbly submitted that the normative operational performance parameters have been incorporated in the said Tariff Regulations, after taking into consideration actual operational data of thermal power plants during previous years and also the concerns of all stake holders. It is also submitted that the normative operational performance parameters provided in Tariff Regulations aim to promote efficiency and economical use of precious natural resources. The relaxation of any of these parameters will defeat the said objective.

It is therefore prayed that this Commission may graciously be pleased to reject the request of the Petitioner to relax Auxiliary Energy Consumption from 10.50% to 11.00% and GSHR from 2,740 Kcal/kWh to 2,835 Kcal/kWh in deviation to Regulation 39.3 of 2015 Tariff Regulations.

In Para 20 at page no. 7 and in Para 7.10 at page nos. 44 to 46, the Petitioner has given computation of Energy Charges for FY 2016-17 to FY 2018-19. The Average Energy Charge Rate is worked out as Rs. 2.998 per kWh. It is humbly submitted that in view of submissions made in foregoing paragraphs, while computing Energy Charge Rate, normative GSHR and Net Generation based on normative Auxiliary Energy Consumption given in Regulation 39.3 of 2015 Tariff Regulation may only be applied

Petitioner's Reply

MPPMCL in its reply has contended that the relaxation of auxiliary energy consumption of 11% and GSHR of 2,835, as sought by the Petitioner may be disallowed by the Ld. Commission.

The Petitioner submits that it has requested for relaxation in norms of the Auxiliary Energy Consumption and Station Heat Rate for Unit-2 based on its operational experience of Unit-1, as both units are identical.

It is submitted that actual performance of Auxiliary Energy Consumption and Station Heat Rate of Unit-2 during FY 2016-17 to FY 2018-19 is in fact even more than the relaxed norm sought by the Petitioner.

Actual performance of Unit-1 for Auxiliary Energy Consumption and Station Heat Rate during FY 2016-17 to FY 2018-19 is as under:

Particulars	Units	FY 2016-17 (actual)	FY 2017-18 (actual)	FY 2018-19 (actual)
Auxiliary Consumption	%	14.11%	14.97%	13.52%
Station Heat Rate	kcal/kWh	2,842	2,960	2,994

It is clearly visible from the above data that actual performance of Auxiliary Energy Consumption and Station Heat Rate during FY 2016-17 to FY 2018-19 of Unit-1 is even more than relaxed norm sought for Unit-2.

Hence, the Commission may graciously be pleased to allow relaxation in operational norms of Auxiliary Energy Consumption and Station Heat Rate for Unit-2 as sought by the Petitioner.

Observation:

The Commission has determined the energy charges based on the norms like Gross Station Heat Rate and Auxiliary Energy Consumption in accordance with the provisions under Tariff Regulations, 2015.

MPPMCL Comment

4. In Para 23 at page no. 8 and at Para 7.11.2 (Table -26) at page nos. 46/47, the Petitioner has given details of Billing to MPPMCL for FY 2016-17 to FY 2018-19. In Para 24 at page 8 the Petitioner has prayed for approval of the same. This claim and prayed are strongly opposed on the grounds of submissions made in foregoing paragraphs

Petitioner's Reply:

Save matters of record, the contents of para 21 are denied and disputed. The Petitioner has raised bills on MPPMCL towards supply of Contracted Capacity under the 27MW PPA. The bills are provisional and subject to the tariff finally approved by the Commission. The Petitioner craves leave to reiterate and rely upon the submissions made in the tariff petition in response to the para under reply.

Observation:

The Commission has determined Annual Capacity (Fixed) Charges and Energy Charges for Unit No. 2 of the project for the first time based on the provisions under MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 and other necessary records filed by the petitioner.

MPPMCL Comment:

5. The submissions and prayer made by the Petitioner in Paras 25 at page no. 8, to determine Station Tariff based on separate Multi Year Tariff Petitions filed for Unit 1 and Unit 2, is vague and inconsistent, therefore these are opposed

Petitioner's Reply

The contents of para 22 are denied and disputed. It is denied that the submissions of the Petitioner qua station tariff are vague and inconsistent. It is humbly stated that the Petitioner is committed to comply with the provisions of the MPERC Generation Tariff Regulations and all directions of the Commission in this regard.

Observation:

The Commission in this order has determined tariff for Unit No 2 of the project from COD of Unit No 2 to 31st March' 2019 in accordance to the Tariff Regulations, 2015.

Annexure II

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

1. Stakeholder Comment:

The Petitioner was required to declare the COD of the entire Generating Station within 48 months, under the provisions of the Implementation Agreement dated 1 September 2008. The Petitioner has not provided reasons for delay in declaration of COD of Unit-2 or the sanction of approval for revision in the Scheduled COD.

Petitioner's Reply

The Petitioner states that the Implementation Agreement dated 1 September 2008 has culminated in the signing of the Concessional Energy PPA with the Government of Madhya Pradesh. The relevant clause of the Implementation Agreement dated 1 September 2008 signed with Government of Madhya Pradesh is reproduced hereunder, for ready reference:

"2.2 Agreement Period

This Agreement shall remain into effect until the same is terminated earlier by either Party in accordance with the terms and conditions set forth herein.

This Implementation Agreement will remain in force from the date of its signing ("the Term") up to signing of Power Purchase Agreement between the Company and the Government or its nominated agency for purchase of concessional energy specified in clause 3.1.i for the entire period of the project and for purchase of additional power if any by exercising the rights specified in clause 3.1.iii."

As mentioned hereinabove, the Petitioner has already executed the 27MW PPA with nominee of Government of Madhya Pradesh, (i.e. MPPMCL) on 5th January 2011 and the Concessional Energy PPA with the Government of Madhya Pradesh on 4th May 2011. Accordingly, the requirements under the Implementation Agreement have been complied with by the Petitioner and all rights / obligations of the parties, including the Petitioner, are governed by the terms of the said PPAs (and not the Implementation Agreement)

Furthermore, in accordance with Article 4.1.6 of the 27MW PPA (duly approved by this Commission), the parties are permitted to revise the Scheduled COD. Accordingly, the parties to the 27MW PPA agreed to revise the Scheduled COD to 31 March 2017. In

terms of Article 4.1.6, once the parties agree to revise the Scheduled COD, such Revised Scheduled COD shall be deemed to be the Scheduled COD. In terms of the 27MW PPA, therefore, the Scheduled COD was 31 March 2017. The actual COD of Unit-2 is 20 March 2017. Hence, Unit-2 achieved COD prior to the date of the Scheduled COD.

It is pertinent to mention herein that before admitting the present petition, this Commission by an order dated 5 June 2018, sought detailed clarifications, inter alia, regarding the Revised Scheduled COD of Unit-2. The Petitioner duly filed its reply to the aforesaid queries before this Commission and clarified that the Scheduled COD has been mutually revised by the parties to 31 March 2017. Only thereafter, the Commission has admitted the present petition by an order dated 5 November 2020.

Observation:

The Commission has considered the SCOD and COD of the Generating Station in accordance to the provisions under MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 and the PPA executed between the parties.

2. Stakeholder Comment:

The certificates for COD issued by SLDC or MPPMCL have not been produced is completely false. The date of commencement of commercial production or Plant Availability Factor or Declared Capacity is not clear from the monthly State Energy Accounts from March 2017 to April 2018. The payment of Rs.16.8 crores by MPPMCL to the Petitioner for Unit-2 is illegal.

Also, the COD for Unit-2 may be approved as 6th June 2019 by this Commission, as CEA approved the capacity addition of Unit-2 in the country's electric capacity only on 6 June 2019.

Petitioner's Reply:

The Petitioner states that these documents have been duly placed before this Commission. The Petitioner states that the Commissioning Test of Unit-2 leading to declaration of COD for Unit-2 has been witnessed/monitored by not only the Independent Engineer, but also by the duly authorised representative of MPPMCL. MPPMCL has also confirmed and accepted COD for Unit-2 with effect from 20th March 2017. The Petitioner further submits that the COD for Unit-2 has been certified by SLDC by its letter dated 27th June 2018.

The Objectors have alleged that the date of commencement of commercial production or Plant Availability Factor or Declared Capacity is not clear from the monthly State Energy Accounts from March 2017 to April 2018.

The petitioner states that post the Commissioning Test which were completed on 19th March 2017, Unit-2's COD was from 00:00 hours of 20th March 2017. Subsequently, the Petitioner has been declaring availability on a daily basis of Unit-2 in accordance with 27MW PPA and/or applicable regulations. Despite due declaration and submission of availability of Unit-2, SLDC, for reasons best known to it, did not reflect the availability of Unit-2 in its provisional SEA. Subsequently, SLDC has issued a corrigendum and accepted the availability.

The Objectors have alleged that the payment of Rs.16.8 crores by MPPMCL to the Petitioner for Unit-2 is illegal. The Petitioner vehemently denies this allegation as baseless and wrong. The Petitioner submits that the proceedings before Hon'ble Appellate Tribunal for Electricity (hereinafter referred to as "APTEL") in Appeal No. 201/2017 or the Judgment passed consequent to such proceedings by Hon'ble APTEL, cannot be sought to be challenged or questioned before this Commission in the present Tariff Petition. The Judgment passed by APTEL speaks for itself and the Judgment (read with the order dated 11th January 2019 passed by the Hon'ble Supreme Court) is required to be implemented and complied with by all parties. Further since MPPMCL was a party in the said proceedings and was well aware of the said Judgment of Hon'ble APTEL as well as the order passed by the Hon'ble Supreme Court, there can be no question of the Petitioner 'trying to mislead' anyone let alone MPPMCL. The Objectors ought not be making such baseless, frivolous and false averments before anyone, let alone before this Commission.

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

The Objectors' reference to Petition No. 4 of 2018, as dismissed by this Commission vide its order dated 13 March 2018 is entirely irrelevant and misplaced for the purposes

of the present petition i.e. Petition 17/2018. This Commission was pleased to admit the present petition by its order dated 5 November 2020.

The suggestion of the Objectors that the COD for Unit-2 may be approved as 6th June 2019 by this Commission, as CEA approved the capacity addition of Unit-2 in the country's electric capacity only on 6 June 2019, is entirely illegal and wrong. The Petitioner submits that the date of COD has to be declared by the Petitioner and accepted by MPPMCL in accordance with Section 5 of the 27MW PPA (as approved by this Commission) and COD cannot be any arbitrary date as is being proposed by the Objectors. The COD has been declared by the Petitioner, after the Commissioning Test has been witnessed by Independent Engineer and authorised representative of Respondent No. 1. As mentioned earlier, the COD of Unit-2 as 20 March 2017 has been accepted by MPPMCL.

It is most respectfully submitted that CEA has also confirmed the COD of Unit-2 as 20th March 2017. The reference made by the Objectors to Section 74 of the Electricity Act in this context is entirely misplaced. Neither the 27MW PPA nor Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 (RG-26 (III) of 2015) (hereinafter referred to as "Generation Tariff Regulations 2015") require the petitioner to intimate CEA about achieving COD of Unit-2. However, the petitioner has been filing 'Daily Operational Data of Thermal Power Stations and Nuclear Power Station (Generation and Outage Data)' as well as monthly returns with CEA, contemporaneously from the date of COD, clearly reflecting the fact that Unit-2 had completed the Commissioning Test on 19 March 2017 and had achieved COD w.e.f. 20 March 2017.

Observation:

The details/documents regarding the COD of Unit No. 2 have been considered in light of the provisions under the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 and PPA entered into between the parties.

3. Stakeholder Comment:

It is requested from the Commission that prudence check of the capital cost needs to be done as the hard cost, IDC and IEDC claimed by the petitioner is many times higher than the original approved cost by the board of directors. The additional capitalization for FY 2018-19 needs also to be disallowed as it does not fall under Tariff Regulations.

Petitioner's Reply:

Save matters of record, all the allegations, averments, contentions or claims made under the heading "Capital Expenditure" (as translated in English) at point no 3 of the Objections raised are wrong and denied.

The Petitioner has already filed its audited accounts from FY 2016-17 to FY 2018-19 before this Commission. Detailed reasons for elongation for the period of construction along with documentary support have already been filed before this Commission by the Petitioner. Pertinently, none of the reasons for elongation for the period of construction are attributable to any act or omission on the part of the Petitioner. It is therefore submitted that this Commission may approve tariff for Unit-2 of the Generating Station in terms of the Generation Tariff Regulations 2015.

It is clarified that as against the Petitioner's estimate at the time of filing of the present Tariff Petition, no capital cost has been incurred towards additional capitalization. Accordingly, the Petitioner is not claiming additional capitalization of Rs. 10.20 Crores.

Observation:

Capital Cost of the Unit No. 2 has been examined based on the Annual Audited Accounts, Auditors certificate and other details and documents filed by the petitioner and also in light of the provisions under Tariff Regulations, 2015.

4. Stakeholder Comment:

It is requested from the Commission to not allow relaxation in auxiliary energy consumption and gross station heat rate as sought by the petitioner. .

Petitioner's Reply:

The Petitioner submits that it has requested for relaxation in norms of the Auxiliary Energy Consumption and Station Heat Rate for Unit-2 based on its operational experience of Unit-1, as both units are identical.

It is submitted that actual performance of Auxiliary Energy Consumption and Station Heat Rate of Unit-2 during FY 2016-17 to FY 2018-19 is in fact even more than the relaxed norm sought by the Petitioner.

Actual performance of Unit-1 for Auxiliary Energy Consumption and Station Heat Rate during FY 2016-17 to FY 2018-19 is as under:

Particulars	Units	FY 2016-17 (actual)	FY 2017-18 (actual)	FY 2018-19 (actual)
<i>Auxiliary Consumption</i>	%	14.11%	14.97%	13.52%
<i>Station Heat Rate</i>	<i>kcal/kWh</i>	2,842	2,960	2,994

It is clearly visible from the above data that actual performance of Auxiliary Energy Consumption and Station Heat Rate during FY 2016-17 to FY 2018-19 of Unit-1 is even more than the relaxed norm sought for Unit-2.

Hence, the Commission is requested to allow relaxation in operational norms of Auxiliary Energy Consumption and Station Heat Rate for Unit-2 as sought by the petitioner.”

Observation:

Relaxation in operating norms claimed by the petitioner has not been considered in accordance with the Tariff Regulations.

5. Stakeholder Comment:

The Enforcement Directorate, Government of India, has seized land belonging to BLA Industries Pvt. Ltd. and have sought detail whether confiscation of the above land will affect the fuel supply agreement dated 25 April 2011.

Petitioner’s Reply:

The Petitioner has been informed by BLA Industries Pvt. Ltd. that the Provisional Attachment Order of the Enforcement Directorate, as the name suggests, was provisional in nature, subject to confirmation by the Adjudicating Authority. This Provisional Attachment Order dated 04.01.2018 was not confirmed by the Adjudicating Authority by its order dated 20.06.2018. The Provisional Attachment Order dated 04.01.2018 was quashed by the Adjudicating Authority. Therefore, the land in question remained not attached.

Observation:

The observation raised by the stakeholder is not relevant to the subject petition for determination of tariff.

6. Stakeholder Comment:

It is observed that the petitioner has sold its share capital to M/s. Prism Cement, Satna and has deprived M.P. Poorv Kshetra Vidyut Vitaran Company of Rs. 100 crores towards cross subsidy surcharge.

Petitioner's Reply:

The Petitioner submits that there is no transfer of any equity shares of the Petitioner to M/s. Prism Johnson Limited. It is clarified that M/s. Prism Johnson Limited subscribed to fresh equity shares of the Petitioner, in accordance with law and the Petitioner duly issued such equity shares to M/s. Prism Johnson Limited, after due compliance of the provisions of law including that of the Companies Act. The Petitioner submits that there is no bar under the provisions of the Companies Act or the Electricity act or the Rules or regulations framed thereunder, restricting the ability of any company including the Petitioner herein, to issue shares. The issued shares have been adequately and appropriately reflected, inter alia, in the audited accounts of the Petitioner.

The allegation regarding liability for payment of Rs. 100 crores to M.P. PoorvKshetra Vidyut Vitaran Company is entirely wrong and contrary to law. The Hon'ble Appellate Tribunal for Electricity, by a common order dated 17.05.2019 passed in Appeal No. 2/2018 and Appeal No. 179/2018 has held that there is no liability, as alleged or at all for payment of cross subsidy surcharge. The matter is currently sub-judice before Hon'ble Supreme Court.

Observation:

The observation raised by the stakeholder is not relevant to the subject petition for determination of tariff.

7. Stakeholder Comment:

An update regarding the FSA under Para B(ii) of SHAKTI Policy for Unit-2 needs to be filed by the petitioner.

Petitioner's Reply

The Petitioner states that this Commission approved the Supplementary Agreement required under para B(ii) of SHAKTI Policy for Unit-2 on 21 January 2020 and MPPMCL gave to the Petitioner herein a signed copy of the Supplementary Agreement on 15 February 2020. The Petitioner submitted the signed copy of the Supplementary Agreement to Western Coalfields Limited on 20 February 2020. However, due to

outbreak of COVID-19 Pandemic and the consequential nation-wide lockdown and the Pandemic related situation, the FSA with Western Coalfields Limited under para B(ii) of SHAKTI Policy for Unit-2 could only be executed on 16 December 2020. A copy of the FSA dated 16 December 2020 has already been placed on record before this Commission.

Observation:

The petitioner has already submitted the signed copy of the FSA under SHAKTI Policy with the Commission.