

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION  
BHOPAL**

Dated: 10<sup>th</sup> November, 2009

**Sub : In the matter of review of True up of Generation Tariff for FY-07 determined by the Commission vide Tariff Order dated 17.06.2009**

**Petition No.40 of 2009**

**ORDER**

**(Date of Hearing : 13<sup>th</sup> October, 2009)**

M. P. Power Generating Company Ltd., Jabalpur	-	Petitioner
M. P. Power Trading Company Ltd., Jabalpur	}	-
M. P. Poorv Kshetra Vidyut Vitaran Co. Ltd., Jabalpur		
M. P. Madhya Kshetra Vidyut Vitaran Co. Ltd., Bhopal		
M. P. Paschim Kshetra Vidyut Vitaran Co. Ltd., Indore		
M. P. Power Transmission Company Ltd., Jabalpur		
M. P. State Electricity Board, Jabalpur		

The petitioner, Madhya Pradesh Power Generating Company Ltd. (hereafter referred to as MPPGCL or Petitioner) has filed this petition on 17.08.2009, seeking review of the Commission's order dated 17.06.2009 in petition No. 56/2008 (hereinafter referred to as the said order) on true-up of Generation tariff for FY2006-07.

2 The petitioner has sought review on the following issues :-

- (i) Cost of Coal (while considering Net Calorific Value (NCV) in place of Gross Calorific Value (GCV)).
- (ii) Prior period Expenses of Coal .
- (iii) Operation and Maintenance Expenses.
  - (a) Prior period expenses of 1.38 Crore in Repair and Maintenance Expenses.
  - (b) Common expenses by MPSEB
  - (c) Incentive expenses
  - (d) Loan
  - (e) Return on Equity
  - (f) Terminal Benefit
  - (g) Interest on Working capital
- (iv) Relaxation of norms, particularly for PH-I of ATPS, Chachai.

3 The case was listed for **motion hearing on 6<sup>th</sup> October, 2009**. During the course of hearing, the petitioner has submitted the following grounds on which review is sought on each issue:-

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**A Cost of Coal**

- (i) The petitioner has stated that the Commission has considered the coal consumption based on GCV and have permitted rate difference w.r.t. the rates as approved in original MYT order for FY 07-09 dated 07-03-2006. The petitioner has mentioned para 3.17 of the MYT tariff order (dated 07-03-2006) wherein the Commission had considered the Net Calorific Value (NCV) of Coal for the purpose of tariff determination and adjustment of Variable Charges.
- (ii) With regard to the contention of the Petitioner, the Commission has drawn the attention of the petitioner to the relevant paragraphs of MYT Generation Tariff Order for FY07 to FY09 issued by the Commission on 7<sup>th</sup> March, 2006 and MYT Regulations as follows:-
- (a) Para 3.15 of the MYT Order has mentioned the following :-

*“The Generating Company in addition to transit losses has sought compensation for stacking losses at the rate of 1%. The Commission had commented on the issue in its order for FY 06. The same is being reproduced:*

*The CERC in its norms does not provide for a separate provision of stacking losses, these losses have been considered as an intrinsic part of the transit losses. The Commission however is allowing 0.5% as stacking losses in addition to the above transit losses only for this year FY 06 MPPGCL will not be allowed to perpetually incur such stacking losses and they shall be considered as a part of transit losses. MPPGCL is therefore again being directed to upgrade its coal handling plants immediately so that these losses are minimized and do not add to the overall fuel cost.”*

- (b) Further, the Commission under Para 3.17 of the above mentioned MYT Order has considered the actual Net Calorific Value (NCV) of coal, approved PLF and approved station heat rate for FY06 for redetermination of the weighted average NCV for the months of April to September, 2005.
- (c) It is pertinent to mention the sub-clause (i) of clause 3.13 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2005, which provides that,

*“Quantity of primary fuel required for generation of one kWh of electricity at generator terminals in Kg or litre or cum, as the case may be, and shall be computed on the basis of normative Gross Station Heat Rate (less heat contributed by secondary fuel oil for coal/lignite based generating stations) and gross calorific value of coal/lignite or gas or liquid fuel as fired”.*

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- (iii) The Commission notes that a deviation was taken by considering NCV in MYT Order dated 7<sup>th</sup> March, 2006 instead of GCV as provided in sub-clause 1 of clause 3.13 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2005.
- (iv) The Commission while going through the contents of the MYT Order regarding determination of energy charges has further noted that the reason for considering NCV of coal instead of GCV of coal for computation of coal cost is mentioned in Para 3.16 of the same MYT Order which reads as,

*“The Commission instead of GCV of coal considers NCV of coal for computation cost. NCV accounts for the loss of heat content on account of reasons mentioned by the petitioner. The claim of the petitioner is therefore, not being entertained.”*

- (v) The reason for considering NCV of coal for computation of cost in MYT Order was recorded as above. Yet, the reasons mentioned by the petitioner in MYT petition for loss of heat contents claiming NCV instead of GCV needed examination in details while undertaking the true-up exercise. The Commission had gone into the MYT tariff petition for approval of generation tariff for FY07 to FY09 in case No.149/2005 filed by the petitioner with MPERC on 23<sup>rd</sup> January, 2006. The petitioner in that MYT petition for FY07 to FY09 has submitted the following under Para 15.3.5, 15.4.5 and 15.5.5 in respect of ATPS, Chachai, STPS, Sarni and SGTPS, Birsinghpur respectively :

*“It is pertinent to mention here that after receipt of coal from the mines part of it is maintained as stock. During this period of storage the coal attracts local firing. To prevent it, water is sprayed on it. Since with increase in the quantity of water sprayed, NCV at firing point reduces. Higher surface moisture in coal also makes firing difficult and requires higher oil support. Thus, only optimal quantity of water is sprayed to prevent loss of coal due to local firing so that loss of CV and Loss due to local firing are optimized. Some other losses like windage loss, crushing loss, carpet loss etc. also takes place in the coal handling plant. Transit loss is taken care by the losses taking place from the mine end to power station end. The stacking losses take place after receipt of coal at power station end. In the terms and conditions, as approved by Hon'ble Commission, stacking losses have not been considered. MPPGCL has represented the issue, immediately on issue of the terms and conditions. Since the matter is under consideration of Hon'ble Commission MPPGCL for the purpose of computing tariff has considered 1% towards stacking losses.”*

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- (vi) In the same clauses mentioned above the petitioner had also requested to consider the transit, stacking and handling losses as 1.3% and 1.8% for FY06 to FY09 in respect of ATPS, Chachai and STPS, Sarni and 3% for FY06, 2.8% for FY07, 2.5% for FY08 and 2.2% for FY09 in respect of SGTPS, Birsinghpur.
- (vii) The Commission under clause 42 (3.13) in the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2005 had provided only normative transit and handling losses as % of the quantity of fuel dispatched by the fuel supply company as given below :-

**Transit Losses**

<b>Generating Station</b>	<b>FY07</b>	<b>FY08</b>	<b>FY09</b>
ATPS	0.3	0.3	0.3
STPS	0.8	0.8	0.8
SGTPS	1.80	1.50	1.20

- (viii) Considering all above mentioned facts, the Commission while issuing true-up order observed as under :-
- (a) The transit and handling losses of coal are required to be considered as per the provisions of Regulation.
- (b) Since there was no provision for stacking losses in the Regulation, the compensation for the stacking losses cannot be considered. Therefore compensation of heat loss by way of considering NCV instead of GCV may not be appropriate and prudent.

The Commission therefore, corrected its earlier stand on this issue in the true-up order so that the principles of Regulation are followed properly. Besides the reasons mentioned above, certain other facts as given below were also considered by the Commission on this issue:-

- (a) The Commission has observed from the correspondence made with the petitioner and also during the discussions held with the petitioner that the petitioner, in its true up petition, had mentioned only calorific value of the coal without specifying whether Gross Calorific Value (GCV) or Net Calorific Value (NCV).

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- (b) The Commission while processing the true-up petition asked the petitioner to clarify the issue. A meeting was also convened in the office of the Commission on 24<sup>th</sup> February, 2009 with the senior officers of the petitioner to ferret out correct information. The petitioner during the course of the meeting had informed the office of the Commission that the calorific value of coal as mentioned in the true-up petition for FY 2006-07 is GCV corrected to total moisture.
- (c) It is further noted by the Commission that the petitioner has neither claimed the NCV of coal in the True-up petition nor mentioned anywhere at anytime in its reply and discussions held on this issue right from the filing of the petition till the issue of the said true-up order.
- (d) The Commission has further drawn the attention of the petitioner to the fact that the Commission's tariff order may be corrected in light of audited annual accounts and the provisions under the Regulations while trueing up of that order. The provisions of the Regulations can be changed only through notification of its amendments or revision only after adopting a procedure specified by the Commission.
- (e) The Commission has also observed during the course of the motion hearing that the petitioner had never challenged the provisions of MYT Regulations notified by the Commission for the control period FY 2007-08 to FY 2009-10. Even the petitioner had not represented anything regarding the provisions of GCV of coal while issuing MYT Regulations for the new control period.

In view of the above mentioned facts, the Commission finds no error apparent or submission of any new information/facts, which were not available at the time of issue of true up order on the face of the record on this issue. The petitioner's request for review of the order on this ground is not tenable.

**B Prior Period Expenses on Coal & Repair & Maintenance :**

The Petitioner has submitted that the prior period expenses of Rs. 1.067 crore. on fuel and Rs.1.067 crore on repair and maintenance expenses have not been considered in the said order, the same has been duly incorporated in the balance sheet for FY2006-07 in schedule 24.

The Commission asked the petitioner whether these prior period expenses were claimed in the petition for true-up of generation tariff for FY 2006-07 filed with the Commission. The petitioner referred the petition and accepted the fact that the prior period expenses had not been claimed by the petitioner in its petition. The Commission finds no ground for review of the claims not included in the petition itself.

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**C Common expenses by MPSEB**

The Petitioner has submitted that in the said order the Commission has disallowed the share of MPPGCL in common expenses of MPSEB amounting to Rs. 13.81 Crores. The petitioner has also quoted the Clause - 3 (xv) of Schedule-3 of GoMP notification dated 03.06.2006, which reads as

*“Expenses on account of common service facilities shall be proportionately charged to the beneficiary companies and will be treated as deemed payment towards A&G of the concerned company, generally in the ratio of their respective employee cost as per ARR. MPSEB shall issue bills periodically towards these expenses.”*

The Commission drew the attention of the petitioner to the past approach of the Commission for all successor entities of the erstwhile MPSEB which had already been dis-integrated into Generation, Transmission and three Distribution companies besides one more namely, M. P. Power Trading Co. Ltd (who has been entrusted with the responsibility of trading company). The Commission has not been allowing these expenses to the Discoms also taking a common view for all the successor entities of erstwhile MPSEB. Therefore, there is no error apparent on the face of the record on this issue. The petitioner’s request for review of the order on this ground is not tenable.

**D Incentive expenses**

The petitioner has submitted that the Commission has disallowed the expenses incurred by the utility on incentive, considering that the incentive is to be paid out of incentive earned by the utility and not from normative O&M expenses. The Petitioner has also submitted that for improving the performance of the stations, it is necessary to motivate and encourage the employees to perform their best.

While observing the fact that the incentives have not been excluded from the normative O&M expenses provided in the MYT Regulation for FY 2007-09 and the Commission has allowed actual O&M expenses, which is more than the normative O&M expenses, allowing incentives separately is not warranted. Moreover, the Commission has also noted that the operational performance of the petitioner during FY 2006-07 had not been at par with the operational norms specified in the Regulation.

In view of the above, there is no error apparent on the face of the record on this issue. The petitioner’s request for review of the order on this ground is not tenable.

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**E Loan**

The petitioner has submitted that the Commission has disallowed the interest on loan of PFC (liability of R&R Korba now situated in Chhattisgarh). It is mentioned by the Commission in said order that the loan has not been recorded in the Balance sheet and therefore is not being considered. The petitioner has further submitted that, till date of finalization of balance sheet, the PFC cell of MPSEB could provide only the interest component of the above loan and hence the interest component only has been considered in the books of accounts. As Loan transfer process was under transition state, the principal amount of the loan could not be transferred.

The Commission has observed from the petitioner's contention during the course of motion hearing that the effect of principal amount of the PFC loan liability on R&R Korba (now situated in Chattisgarh) shall be reflected in the audited accounts of the petitioner for FY 2007-08. Since the true-up of the generation tariff for FY 2006-07 has been done on the basis of annual audited accounts for FY 2006-07, the Commission does not find this issue a fit case for review. However, the commission shall take a view over this issue in accordance with the facts and figures recorded in the annual audited financial accounts of the petitioner for FY 2007-08 at the time of true-up of the Generation tariff for FY 2007-08.

**F Return on Equity**

The Petitioner has mentioned that the MPPGCL has capitalized projects amounting to Rs. 17.75 Cr. in FY06 and Rs. 35.83 Cr. in FY 07 in addition to the capitalization of Madhikheda (127.68 Cr.) and Jhinna (Rs. 108.65 Cr.). The petitioner has requested to allow additional equity amount for the additional capitalization.

The Commission enquired that in case the assets were capitalized as is being claimed now, why the financial accounts did not reflect this fact. The petitioner could not give a proper reply.

The Commission has observed that the RoE has been allowed by the Commission in the said order on the basis of figures regarding capitalization and additional capitalization filed in the petition. The petitioner during the course of hearing could not establish the reason for seeking review on this issue since the impact of final opening balance sheet has not been taken in its audited balance sheet for FY 2006-07. The Commission finds no ground for review of the true-up order on this issue.

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**G Terminal Benefits**

The petitioner has submitted that the Commission has disallowed the amount of Rs.29.22 Crore on the basis that the pension liabilities of all pensioners is being met by MPPTCL for which MPPTCL had been allowed in its true up petition. The petitioner has further mentioned, that in the actuarial analysis got done by MPSEB, creation of a fund was intended and to create it Rs. 16 Crore per year was assigned to MPPGCL as its share.

The commission drew the attention of the petitioner to clause 4.17 of MYT order issued on 7<sup>th</sup> March, 2006, which reads as,

*“The provisions envisaged in the transfer scheme for funding unfunded liabilities towards pension and other terminal benefits are yet to be implemented. Presently MPPTCL is paying terminal benefits on behalf of the five companies formed out of reorganization of MPSEB. The Commission was informed that even after 1 June 2005, the terminal benefits and the pension of the people retired from the services of the company are being paid by MPPTCL. Accordingly, the Commission shall consider the provision for the terminal benefits in the tariff order of MPPTCL. When MPPGCL starts bearing the terminal liability towards its retiring employees, the Commission shall consider the actual expense incurred while trueing up in subsequent orders.”*

The Petitioner during the course of hearing could not justify the grounds for seeking review on the issue of terminal benefits. Therefore, there is no error apparent on the face of records for review on this issue.

**H Interest on Working capital**

The petitioner has requested to consider the commensurate effect on “interest on working capital” on account of any change in various cost elements as requested above and submitted that 1<sup>st</sup> Amendment of MPERC Regulation AG-26(i) of 2006 dated 10<sup>th</sup> March 2006 related to working capital may please be considered. The Commission informed the petitioner that the Amendment of MPERC Regulation AG-26(i) has already been considered while calculating the working capital. The Commission has considered the amount equivalent to coal consumption of 45 days for pit head and 60 days for non-pit head Thermal power station. Since the amount of working capital has already been allowed as per amendment therefore, review on this ground is not required.

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4 The Petitioner in its petition has submitted that there appears to be some calculation mistake in the said order in determining the rate of secondary oil. MPPGCL has not specifically indicated the nature of mistake. The petitioner is informed that the rate of the secondary oil was determined on the basis of the power station wise total quantity receipt and quantity consumed as submitted by MPPGCL vide letter no. 07-12/CP-MPPGCL/MPERC/TU FY07/191 dated 26.05.2009 in its additional submission. The amount incurred on secondary oil was taken from the audited accounts.

5 During the course of hearing, the petitioner could not indicate calculation mistake alluded to while calculating the rate of secondary fuel oil in the said order. The petitioner has also not explained the justified reasons for seeking relaxation in operational norms of Phase-1 units of ATPS Chachai in the true-up order. Therefore, the review on these grounds is also not tenable.

6 In view of the analysis made in the above mentioned paragraphs, the issues raised in the petition do not merit a review. Therefore, the said petition stands disposed off.

**(C. S. Sharma )**  
**Member (Eco.)**

**(K. K. Garg)**  
**Member (Engg)**

**(Dr. J. L. Bose)**  
**Chairman**