

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION

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



Petition No. 60 of 2020

PRESENT:

S.P.S Parihar, Chairman

Mukul Dhariwal, Member

Shashi Bhushan Pathak, Member

IN THE MATTER OF:

Determination of Tariff for 1x300 MW (Unit No.1) Lanco Amarkantak Coal Based Thermal Power Plant at Pathadi village, Korba district, Chhattisgarh for FY 2014-15 to FY 2018-19 in accordance with applicable MPERC Generation Tariff Regulations.

AND IN THE MATTER OF:

- | | |
|--|---------------------|
| i. M/s. Lanco Amarkantak Power Limited | Petitioner 1 |
| ii. PTC India Ltd. ('PTC') | Petitioner 2 |
| iii. M.P. Power Management Company Ltd. | Petitioner 3 |

ORDER

(Passed on this day of 24th August' 2021)

1. M/s. Lanco Amarkantak Power Ltd. has filed the subject petition on 24th September' 2020 under Section 64(5) of the Electricity Act' 2003 for determination of generation tariff for FY 2014-15 to FY 2018-19 in accordance with applicable MPERC Generation Tariff Regulations against long term power supply to MP Power Management Company Ltd. (MPPMCL) through PTC India Ltd. (PTC) from the 1x300 MW Unit No. 1 of M/s. Lanco Amarkantak Power Ltd. (LAPL), Pathadi, Korba Chhattisgarh coal based thermal power plant. In the subject petition, M/s PTC India Ltd. (PTC) and M.P. Power Management Company Ltd. (MPPMCL) are the co-petitioners (petitioner No. 2 and 3).
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-II) Regulations, 2012 {RG-26 (II) of 2012} (hereinafter called the Tariff Regulations, 2012) for the control period FY 2013-14 to FY 2015-16 which were notified in the gazette of Madhya Pradesh on 28.12.2012. Further, the Commission issued MPERC (Terms and Conditions for Determination of Generation Tariff) (Revision-III) Regulations, 2015"(RG-26 (III) of 2015) (hereinafter called the Tariff Regulations, 2015) for the control period FY 2016-17 to FY 2018-19 which were notified in the gazette of Madhya Pradesh on 01.01.2016.
3. The subject petition has been filed under Section 64 (5) read with Section 62 and Section 86 (1) (a)&(b) of the Electricity Act, 2003 and based on Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) (Revision-II) Regulations, 2012 and Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015.
4. Date of Commercial Operation (CoD) of the Lanco Amarkantak Thermal Power Plant Unit No. 1 (300 MW) under the subject petition is as given below:

Table 1: CoD of Unit No.1

S. No	Unit	Installed Capacity (MW)	Date of Commercial Operation (COD)
1.	Unit No. 1	300 MW	09 th April' 2010

Background :

5. A brief background of the subject petition are as follows:
- i. Earlier, M.P. Power Management Co. Ltd., had filed the petition No. 35 of 2016 under Section 61 read with Section 62 and 86(1)(b) of the Electricity Act, 2003 and based on the CERC (Terms and Conditions of Tariff) Regulations, 2014 seeking approval of purchase of power including the price of electricity generated from the 300 MW Unit No. 1 of Lanco Amarkantak Power Limited (Lanco) under the Power Purchase Agreement dated 11.05.2005 (PPA) executed between PTC & Lanco, pursuant to a Settlement Agreement dated 16.09.2012 executed between the MPPMCL and PTC.
 - ii. In the aforesaid petition, MPPMCL had prayed to determine annual fixed charges and energy charges for FY 2014-15 to FY 2018-19 under Section 86(1)(b) of the Electricity Act, 2003 in accordance with CERC (Terms and conditions of Tariff) Regulation 2014,
 - iii. Vide order dated 23rd August' 2017, the Commission dismissed the aforesaid petition with the observation that the prayer by the petitioner was beyond the jurisdiction of this Commission under Section 86(1)(b) of the Electricity Act' 2003.
 - iv. Further, M.P. Power Management Company Ltd. filed review petition under Section 94(1)(f) of the Electricity Act, 2003 for review of Commission's order dated 23rd August' 2017 in Petition No. 35 of 2016. Vide Commission's order dated 25th April' 2018, the aforesaid review petition was not found maintainable and disposed of.
 - v. The aforesaid orders passed by the Commission were challenged by M.P. Power Management Company Limited, M/s Lanco Amarkantak Power Limited and M/s PTC India Limited in Appeal No. 327 of 2018, Appeal No. 338 of 2018 and Appeal No. 51 of 2019, respectively, before Hon'ble Appellate Tribunal for Electricity.
 - vi. Vide Judgment dated 19th August' 2020, Hon'ble Appellate Tribunal for Electricity decided all three Appeals setting aside the Commission's Orders dated 23rd August' 2017 in petition No. 35 of 2016 and order dated 25.04.2018 in review petition No. 66 of 2017. In the aforesaid Judgment, Hon'ble Tribunal

directed the Commission to determine the tariff under section 64(5) of the Act and passed the consequential orders.

- vii. In Para 12.15 of the aforesaid Judgment, Hon'ble Tribunal observed the following:

*“12.15 It would thus appear that the Section 64 (5) is a special provision in the nature of exception and deserves jurisdiction of the State Commission over the distribution licensee of the state who are purchasing power from the generators who otherwise have composite scheme of which jurisdiction otherwise is vested with CERC under Section 79(1)(b). In other words Section 64(5) is a special provision whereas Section 79(1)(b) is a general provision. A special provision prevails over a general one even within the same statute. **We accordingly find that Section 64(5) is squarely attracted in the present case in as much as all three parties want the State Commission to determine the tariff for supply of power from LANCO to MPPMCL through PTC. -----”***

- viii. In compliance to the above directions of the Hon'ble Tribunal, the matter was listed and heard by the Commission on 1st September' 2020. Vide order dated 7th September' 2020, the parties were directed to file a fresh petition in terms of Section 64(5) of the Electricity Act' 2003 in accordance with MPERC Tariff Regulations as per law.
- ix. Accordingly, all the petitioners have filed the subject petition under Section 64(5) read with Section 62 and Section 86 (1) (a)&(b) of the Electricity Act 2003 for determination of tariff for FY 2014-15 to FY 2018-19 in accordance with applicable MPERC Tariff Regulations.
- x. On perusal of the subject petition, the Commission had observed that the fee required to be deposited by Co-petitioners wasnot paid in accordance with the Regulation 3(i) of MPERC (Fee, Fine and Charges) (Revision-I) Regulations, 2010. Therefore, Co-petitioners were asked to deposit the fee in accordance with the aforesaid Regulations.
- xi. At the motion hearing held on 19th January' 2021, it was observed that all the three petitioners had deposited the fee as per provisions under MPERC (Fee, Fine and Charges) (Revision-I) Regulations, 2010. Accordingly, the subject

petition was admitted on 19th January' 2021.

6. The petitioner No. 1 has broadly submitted the following:
- i. The Petitioner No. 1 i.e. Lanco Amarkantak Power Ltd. ('LAPL') is a generating company as defined under Section 2(28) in the Electricity Act, 2003 and has established a coal based thermal power station having capacity of 300 MW i.e. Unit-I at Pathadi village, Korba district, Chhattisgarh.*
 - ii. The Petitioner No. 2 i.e. PTC India Ltd. ('PTC') (formerly known as Power Trading Corporation of India Ltd.) is a public limited company incorporated in the year 1999 under the Companies Act, 1956. The Petitioner No. 2 is an inter-state Trading Licensee under Section 14 of the Electricity Act, 2003 and was granted a license for trading in electricity by the Central Electricity Regulatory Commission in the year 2004. The main object clause of the Petitioner No. 2 allows it to deal in sale and purchase of all forms of electrical energy and act as a catalyst for the development of the market for electricity.*
 - iii. The Petitioner No. 3 i.e. Madhya Pradesh Power Management Company Limited ('MPPMCL') is the holding company of the three distribution companies in the State of Madhya Pradesh. MPPMCL is the beneficiary recipient of the power supplied from the Power Station through PTC.*
 - iv. The petitioner no. 1 and petitioner no. 2 entered into a Power Purchase Agreement ('PPA') dated 11.05.2005 (as amended on 02.08.2005) for sale of power of 300 MW (273 MW Net) from the Power Station for a term of 25 years.*
 - v. The petitioner no. 2 entered into a Power Sale Agreement dated 30.05.2005 ('PSA') with Madhya Pradesh State Electricity Board for further sale of the aforesaid 300 MW power purchased from the petitioner no. 1 and the said PSA is now vested with MPPMCL i.e. petitioner no. 3.*
 - vi. That certain disputes arose in relation to the PPA and the petitioner no. 1 terminated the PPA with the petitioner no.2 and thereafter the petitioner No. 2 terminated the PSA with petitioner no.3.*
 - vii. Subsequently, the petitioner(s) amicably resolved their above said disputes*

of termination and accordingly signed a Tripartite Settlement Agreement dated 16.10.2012.

- viii. In terms of the Settlement Agreement dated 16.10.2012, the petitioner(s) No. 1 & 2 entered into an Implementation Mechanism for PPA dated 24.12.2012 containing modified terms and conditions of the PPA dated 11.05.2005, which are necessary for implementing the sale of 300 MW power from the Power Station to the petitioner no. 3 (Beneficiary) through petitioner no. 2.*
- ix. Similarly, the petitioner(s) No. 2 & 3 entered into an Implementation Mechanism for PSA dated 26.11.2012 containing modified terms and conditions of the PSA, which are necessary for implementing the sale of 300 MW power from the Power Station to the petitioner No. 3 (Beneficiary). The PPA and PSA are to be read with subsequently executed Implementation Mechanism for PPA dated 24.11.2012 and Implementation Mechanism for PSA dated 26.11.2012.*
- x. This Commission vide its order dated 01.12.2012 accorded its approval to the process of power procurement from the Power Station along with approval of power purchase price under the Tripartite Settlement Agreement dated 16.10.2012, the Implementation Mechanism for PPA dated 24.11.2012 and Implementation Mechanism for PSA dated 26.11.2012 filed by petitioner No. 3 as per the then prevailing CERC Tariff Regulations, 2009-14.*
- xi. Pursuant to the aforesaid Order by this Commission, the petitioner no. 1 has been consistently supplying power since 03.12.2012 from its aforesaid Power Station to the petitioner no. 3 through petitioner no. 2, on a long term basis.*
- xii. The petitioners, by way of the present petition, are seeking determination of tariff for the period FY 2014-15 to FY 2018-19 in accordance with the applicable MPERC Tariff Regulations.*
- xiii. It is submitted that “MPERC (Terms and Conditions for Determination of Generation Tariff) (Revision-II) Regulations, 2012. {RG-26 (II) of 2012}” notified on 28.12.2012 which were applicable for the control period of FY 2013-14 to FY 2015-16 are the applicable generation tariff Regulations for determination of tariff for FY 2014-15 to 2015-16. Further, “MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015*

(RG-26 (III) of 2015)” notified on 01.01.2016 which were applicable for the control period of FY 2016-17 to FY 2018-19 are the applicable generation tariff Regulations for determination of tariff for FY 2016-17 to 2018-19.

7. With the above submission, the element- wise Annual Capacity (fixed) Charges and Energy (Variable) Charges claimed for Unit No. 1(300 MW) of petitioner No 1 in the subject petition for the MYT period FY 2014-15 to FY 2015-16 and FY 2016-17 to FY 2018-19 as per applicable MPERC Tariff Regulations are as given below:

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

Sr. No.	Particulars	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
1	Depreciation	62.19	62.19	62.19	62.19	62.19
2	Interest on Loan	88.91	80.46	72.64	64.12	55.60
3	Return on Equity	59.20	59.49	59.49	59.49	59.65
4	Interest on Working Capital	22.04	22.18	23.68	23.76	23.87
5	O & M Expenses	58.89	63.57	72.60	77.16	82.02
6	Secondary fuel oil cost	16.95	16.99	0.00	0.00	0.00
Annual Capacity Charges		308.18	304.89	290.60	286.73	283.33

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

Financial Years	Energy Charges
FY 2014-15	1.854
FY 2015-16	1.584
FY 2016-17	1.510
FY 2017-18	1.587
FY 2018-19	2.189

8. With the above submission, the petitioner prayed the following:
- (a) *Determine the tariff for FY 2014-15 to FY 2018-19 as per applicable MPERC Tariff Regulations against long term power supply from 300 MW Unit 1 of Petitioner No. 1 to Petitioner No. 2/3;*
 - (b) *Allow the reimbursement of water charges, reimbursement of electricity duty and reimbursement of RLDC/NLDC charges on pass through basis;*
 - (c) *Allow recovery of the filing fees and also the publication expenses from the beneficiary (as and when incurred);*
 - (d) *Allow recovery of carrying cost in case of any shortfall of revenue on account of the difference between the provisional tariff paid by the Petitioner No. 3 through*

Petitioner No. 2 and the approved tariff as per applicable provisions of the MPERC Tariff Regulations;

(e) *Allow recovery of the Statutory Charges;*

Procedural History

9. At the motion hearing held on 6th October' 2020, the following defects/shortcomings were observed in the subject petition:
 - (i) The affidavits, authorization letter and other necessary documents were not filed by the petitioners No. 2 and 3.
 - (ii) The fee required to be deposited by the Co-petitioners was not paid in accordance with the Regulation 3(i) of MPERC (Fee, Fine and Charges) (Revision-I) Regulations, 2010.
 - (iii) Vide Commission's order dated 01.12.2012 in petition No. 78 of 2012, the tariff was determined for FY 2012-13, however, the petitioners have sought tariff from FY 2014-15 onwards instead of FY 2013-14 onwards.
10. Vide order dated 13th October' 2020, the parties were asked to cure all above defects in the subject petition and to file written submissions within a week.
11. The petitioner No. 1, 2 and 3 filed their written submissions on 12th October' 2020, 13th October' 2020 and 22nd October' 2020, respectively. With regard to tariff for FY 2013-14, the petitioner No. 1 submitted the following:

“As regards the other issues relating to the period for which Tariff is to be determined, it is submitted that the present petition has been filed for determination of tariff for the period FY 2014-19, pursuant to the judgment dated 19.08.2020 passed by the Hon'ble APTEL. In this regard, it is submitted that the said judgment of the Hon'ble APTEL was passed in Appeals filed against the Order dated 23.08.2017 passed by this Commission in Petition No. 35/2016. Petition 35/2016 was filed by MPPMCL for determination of tariff for the period FY 2014-19. Accordingly, the present petition has been filed for determination of tariff for the period FY 2014-19.”
12. With regard to payment of fee by Co-petitioners, the petitioners broadly submitted the following:

- (i) As per 1st Amendment to MPERC (Fee, Fines and Charges) (Revision-I) Regulations, 2010 dated 31.05.2016, the Distribution Licensees are also exempted from payment of separate fee in case they are the Co-petitioners in the petitions for determination of Aggregate Revenue Requirement and retail supply tariff.*
 - (ii) Regulation 3(i) expressly provides that co-petitioners will have to pay the same fee charges as required to be paid by the main petitioner. Regulation 3(v), which pertains to the petition for determination of tariff, does not contain a stipulation pertaining to co-petitioners having to pay the same fee charges as required to be paid by the main petitioner. Regulation 3(v) provides the fee to be payable only with reference to quantum of installed capacity per annum and thus, excludes any other factor including the number of petitioners. The conscious omission of a stipulation for payment of fee by co-petitioners in Regulation 3(v), thus, makes it clear that fee is not to be required to be paid in reference to the number of the petitioners.*
 - (iii) The Commission has wide powers under Regulation 48 of MPERC (Conduct of Business) (Revision-I) Regulations, 2016 to dispense with the requirement of any Regulations.*
13. On perusal of the above submissions on the issue of fee to be paid by Co-petitioners, the Commission had observed the following:
- (i) Distribution Licensees are exempted from payment of fee under Regulation 3(i) of MPERC (Fee, Fines and Charges) (Revision-I) Regulations, 2010 only in respect to the petitions which are filed for determination of ARR and retail supply tariff. The subject petition is for determination of generation tariff. Therefore, it does not qualify for the exemption, which is available to the Distribution Licensees under Regulation 3(i).
 - (ii) The petitioner contends that Clause 3(v) of the Regulation should be invoked and only the generators should be asked to pay the requisite fees, meaning thereby that co-petitioners should be exempted from payment of fees which is similar to that paid by the generator. However, a reading of clause 3(v) clearly indicates that this clause lays down the methodology for payment of fee by a generator and that clause 3(i) clearly states that every petition should be accompanied by fee as stipulated in Schedule-I of the Regulations and every Co-petitioner has to pay the same fee.

- (iii) Therefore, it is again amply clear that the petitioner and all Co-petitioners are expected to pay fee as stipulated in Schedule-I, individually and separately.
14. Above observations were communicated to the petitioner's and vide order dated 6th November' 2020, all co-petitioners were directed to deposit fee as stipulated in Schedule-I of MPERC (Fee, Fines and Charges) (Revision-I) Regulations, 2010.
 15. At the next motion hearing held on 9th November' 2020, the co-petitioners had sought two weeks' time to deposit fee as per provisions under the Regulations.
 16. At the next motion hearing held on 4th December' 2020, it was observed that the petitioner No. 3 (MPPMCL) deposited the fee whereas, the petitioner No. 2 (PTC) has sought further ten days time for depositing the fees.
 17. At the next motion hearing held on 19th January' 2021, it was noted that all three petitioners have deposited the fee as per provisions under MPERC (Fee, Fine and Charges) (Revision-I) Regulations, 2010. Therefore, the subject petition was admitted and the petitioners No. 2 and 3 were directed to file their independent comments/response on the subject petition within 15 days.
 18. Vide Commission's letter dated 25th February' 2021, the information gaps and requirement of additional details/documents were communicated to petitioner no. 1 seeking its comprehensive reply with all the supporting documents by 15th March' 2021.
 19. By affidavit dated 01st March' 2021, the petitioner No. 3 (MPPMCL) filed its response on the subject petition.
 20. At the hearing held on 09th March' 2021, the representative who appeared for the petitioner No. 2 (M/s PTC India Ltd.) submitted that no response shall be filed by him on the subject petition.
 21. By affidavit dated 30th March' 2021, the petitioner No. 1 filed its response on the issues raised by the Commission.
 22. By affidavit dated 05th July' 2021, the petitioner No. 1 filed rejoinder on the response filed by the petitioner no. 3.

23. The public notice for inviting comments/suggestions from stakeholders was published on 11th June' 2021 in the following newspapers:
- i. Hitavada (English), Bhopal
 - ii. Hitavada (English), Jabalpur
 - iii. Free Press (English), Indore
 - iv. Raj Express (Hindi), Bhopal
 - v. Raj Express (Hindi), Jabalpur
 - vi. Raj Express (Hindi), Indore
 - vii. Raj Express (Hindi), Gwalior
24. The comments/objections/suggestions from only one stakeholder Shri Rajendra Agarwal were received on 22nd June' 2021. The response of the petitioner No. 1 on the comments/objections/suggestions filed by the stakeholder along with observations are mentioned in **Annexure I** of this order.
25. The public hearing in the subject petition was held on **06th July' 2021** through video conferencing wherein the representatives of the petitioners and stakeholder appeared.
26. The subject petition has been examined by the Commission in accordance with the principles, methodology and the norms specified in the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 and Regulations, 2015 as well as other additional submissions filed by the petitioner No. 1 in response to the additional information / details sought by the Commission alongwith all other documents placed on record by the petitioners'. The Commission has also examined the subject petition in light of the comments filed by the stakeholder and the response filed by the petitioners on aforesaid comments.
27. The Commission has considered the same opening capital cost which was claimed by the petitioner and admitted by the Commission in tariff order issued on 01st December' 2012 in Petition No. 78 of 2012.

Capital Cost

Petitioner's submission

28. In the subject petition, the petitioner No. 1 submitted that the capital cost of Rs.

1236.40 crore had been approved by the Commission in order dated 01.12.2012 (for Unit No. 1) and same has been considered as opening capital cost as on 1st April' 2014

29. In TPS Form 12 of the petition, the petitioner No. 1 filed the following capital cost for MYT period of FY 2014-15 to FY 2015-16 and FY 2016-17 to FY 2018-19:

Table 4: Capital Cost filed during the control period: (Rs. in Crore)

Particular	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Opening Capital Cost	1236.40	1236.40	1236.40	1236.40	1236.40
Addition during the year	0.00	0.00	0.00	0.00	0.00
Closing Capital Cost	1236.40	1236.40	1236.40	1236.40	1236.40

Provisions Under Regulations

30. With regard to capital cost of the existing project, Regulation 17.2 of MPERC (Terms & Conditions for Determination of Generation Tariff) Regulations, 2012 provides that:

17.2 Subject to prudent check, the capital cost admitted by the Commission shall form the basis for determination of Tariff:

Provided that, prudent check of capital cost may be carried out based on the benchmark norms specified by the Central Commission from time to time:

.....

Provided also that where the power purchase agreement entered into between the Generating Company and the Beneficiaries or the implementation agreement provide for ceiling of actual expenditure, the capital expenditure admitted by the Commission shall take into consideration such ceiling for determination of Tariff :

Provided also that in case of the existing Projects, the capital cost admitted by the Commission prior to 1.4.2013 duly trued up by excluding un-discharged liability, if any, as on 1.4.2013 and the additional capital expenditure projected to be incurred for the respective Year of the Tariff period during 2013-16, as may be admitted by the Commission, shall form the basis for determination of Tariff.

31. Regulation 15.3 of MPERC (Terms & Conditions for Determination of Generation

Tariff) Regulations, 2015 further provides that:

15.3 The Capital cost of an existing project shall include the following:

- (a) the capital cost admitted by the Commission prior to 1.4.2016 duly trued up by excluding liability, if any, as on 1.4.2016;*
- (b) additional capitalization and de-capitalization for the respective year of tariff as determined in accordance with Regulation 20; and*
- (c) expenditure on account of renovation and modernization as admitted by the Commission in accordance with Regulations 21*

Commission's Analysis

32. Regarding the capital cost of the existing projects, last proviso to Regulation 17.2 of MPERC (Terms & Conditions for Determination of Generation Tariff) Regulations, 2012 provides that, "the capital cost admitted by the Commission prior to 1.4.2013 duly trued up by excluding un-discharged liability, if any, as on 1.4.2013 and the additional capital expenditure projected to be incurred for the respective year of the Tariff period, as may be admitted by the Commission, shall form the basis for determination of tariff."
33. For capital cost of the existing projects, Regulation 15.3 of MPERC (Terms & Conditions for determination of Generation Tariff) Regulations, 2015 provides that, "the capital cost admitted by the Commission prior to 1.4.2016 duly trued up by excluding un-discharged liability, if any, as on 1.4.2016 and the additional capital expenditure for the respective year of the Tariff as may be admitted by the Commission, shall form the basis for determination of tariff."
34. The petitioner No. 1 has filed the opening capital cost of Rs 1236.40 Crore as on 1st April' 2014 for the Unit No. 1 which was the closing capital cost as on 31st March' 2013 approved by the Commission in its order 01.12.2012 in Petition No. 78 of 2012 for FY 2012-13. Further, the petitioner No. 1 has not claimed any additional capitalization and de-capitalization during the period FY 2014-15 to FY 2018-19. Therefore, the same capital cost of Rs 1236.40 Crore has been considered as 31st March' 2019 in the petition.
35. The Commission has considered the closing Gross Fixed Assets of **Rs 1236.40** as on 31st March' 2013 as admitted in last tariff dated 01st December' 2012 for FY 2012-13 in Petition No 78 of 2012 as a base figure of opening capital cost as on 01st April'

2014.

Additional capitalization

36. Regarding the additional capitalization, the petitioner No. 1 submitted that there has been no additional capitalisation or de-capitalisation during the period FY 2014-15 to FY 2018-19.
37. Since the petitioner No. 1 has not claimed any additional capitalization for MYT period (01st April' 2014 to 31st March' 2016 & 01st April' 2016 to 31st March' 2019), therefore, the opening Capital Cost as on 1st April' 2014 as filed by the petitioner No. 1 and approved by the Commission in its last tariff order dated 01.12.2012 shall remain unchanged during the entire control period of FY 2014-15 to FY 2015-16 and FY 2016-17 to FY 2018-19 in this order.

Debt: Equity:

Petitioner's Submission

38. The petitioner No. 1 submitted that the debt outstanding for the Unit No. 1 as on COD of Rs. 934.49 Crore and Equity of Rs. 301.91 Crore have been the same, which was earlier approved by the Commission. The petitioner No. 1 also submitted that the Debt:Equity ratio of 75.58%:24.42% has been the same, which was earlier approved by this Commission in its order dated 01st December' 2012.
39. Therefore, the petitioner No. 1 has filed the opening equity and loan as on 1st April' 2014 same as considered in last tariff order dated 01st December' 2012 in Petition No 78 of 2012. The petitioner No. 1 has not filed any addition of loan & equity during MYT period (01st April' 2014 to 31st March' 2016 & 01st April' 2016 to 31st March' 2019).

Provisions under Regulations

40. With regards to the Debt – Equity ratio and funding of the project, Regulation 21 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 provides that:

“In case of the generating station declared under commercial operation prior to 1.4.2013, debt-equity ratio allowed by the Commission for determination of Tariff for the period ending 31.3.2013 shall be considered. For the purpose of determination of Tariff of new generating station Commissioned or capacity

expanded on or after 01.04.2013, debt-equity ratio as on the Date of Commercial operation shall be 70:30. The debt-equity amount arrived in accordance with this clause shall be used for calculation of interest on loan, return on equity and foreign exchange rate variation.

Where equity actually employed is in excess of 30%, the amount of equity for the purpose of Tariff shall be limited to 30% and the balance amount shall be considered as loan. The interest rate applicable on the equity in excess of 30% treated as loan has been specified in Regulation 23. The normative repayment shall also be considered on the equity in excess of 30% treated as loan. Where actual equity employed is less than 30%, the actual equity shall be considered.”

41. Further, Regulation 25 of MPERC (Terms and Conditions for Determination Generation tariff) Regulations, 2015, provides that;

25.1 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.

.....

25.5 Any expenditure incurred or projected to be incurred on or after 1.4.2016 as may be admitted by the Commission as additional capital expenditure for determination of tariff, and renovation and modernisation expenditure for life extension shall be serviced in the manner specified in clause 25.1 of this Regulation.

Commission's Analysis

42. Regulation 21 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations' 2012 provides that "in case of generating station declared under Commercial Operation prior to 1st April' 2013, the Debt:Equity ratio allowed by the Commission for determination of tariff for the period ending 31st March' 2013 shall be

considered". Therefore, the Commission has considered the opening equity as on 1st April' 2014 which was the closing equity admitted in tariff order for FY 2012-13 issued on 1st December' 2012 in Petition No. 78 of 2012. The opening loan as on 1st April' 2014 is considered after deducting the repayment equal to depreciation for FY 2013-14 from the closing loan as on 31st March' 2013 considered in order dated 1.12.2012.

43. The equity balance of Rs. 301.91 Crore and loan balance (Rs. 685.73 Crore after deducting repayment equivalent to depreciation during FY 2013-14) as approved by the Commission in tariff order dated 01st December' 2012 is considered as opening equity and opening loan as on 1st April' 2014 in this order.
44. Further, the petitioner No. 1 has not filed any additional capitalization during the period from FY 2014-15 to FY 2018-19. Therefore, no addition of loan and equity is considered during this period.

Annual Capacity (fixed) Charges

45. Regulation 34 of "Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012. {RG-26 (II) of 2012}" provides that the tariff for supply of electricity from a thermal power generating station comprises of Capacity (fixed) Charges and Energy (variable) Charges to be derived in the manner specified in Regulations 40 and 41 of the Regulations, 2012. The annual Capacity (fixed) Charges consist of the following:
 - (a) Return on Equity;
 - (b) Interest and Financing Charges on Loan Capital;
 - (c) Depreciation;
 - (d) Operation and Maintenance Expenses;
 - (e) Interest Charges on Working Capital;
 - (f) Cost of Secondary Fuel Oil;
 - (g) Lease/Hire Purchase Charges;
 - (h) Special allowance in lieu of R&M or separate compensation allowance, wherever applicable.

Provided that in case of coal based thermal generating stations, expenses on normative secondary fuel oil consumption during the year shall be included in the Fixed Charge.

46. Further Regulation 27 of the MPERC (Terms and Conditions for Determination of

Generation Tariff) Regulations, 2015, stated that the Capacity Charges shall be derived on the basis of annual fixed cost. The annual fixed cost (AFC) of a generating station 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

47. Regarding Return on Equity, the petitioner No. 1 submitted the following:

For FY 2014-15 to FY 2015-16, the Return on Equity has been computed at 15.5% pre-tax basis for the equity considered and earlier approved based on Regulation 22 of the MPERC Tariff Regulations, 2012. For FY 2014-15 and FY 2015-16, the applicable Minimum Alternate Tax (MAT) was 20.96% and 21.34% respectively. Accordingly, the Return of Equity has been grossed up by the applicable MAT rate based on Regulation 22 of the MPERC Tariff Regulations, 2012.

For FY2016-17 to FY 2018-19, the Return on Equity has been computed at the base rate of 15.5% for the equity based on Regulation 30 of the MPERC Tariff Regulations, 2015. For FY 2016-17, FY 2017-18 and FY 2018-19, the applicable Minimum Alternate Tax (MAT) was 21.34%, 21.34% and 21.549% respectively. Accordingly, the Return of Equity has been grossed up by the applicable MAT rate based on Regulation 31 of the MPERC Tariff Regulations, 2015.

48. The petitioner No. 1 filed Return on Equity during during MYT period from FY 2014-15 to FY 2015-16 and from FY 2016-17 to FY 2018-19 in form TPS 1(I&II) of the petition as given below:

Table 5: Return on Equity Claimed

Sr. No	Particulars	Unit	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
1	Opening Equity	Rs.Cr.	301.91	301.91	301.91	301.91	301.91
2	Equity Additions during year	Rs.Cr.	0.00	0.00	0.00	0.00	0.00
3	Closing Equity	Rs.Cr.	301.91	301.91	301.91	301.91	301.91
4	Average Equity	Rs.Cr.	301.91	301.91	301.91	301.91	301.91

5	Base Rate of ROE	%	15.50%	15.50%	15.50%	15.50%	15.50%
6	Rate of return on equity considering MAT	%	19.61%	19.71%	19.71%	19.71%	19.76%
8	Return on Equity	Rs.Cr.	59.20	59.49	59.49	59.49	59.65

Provisions in the Regulation:

49. With regard to Return on Equity, Regulation 22 (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 provides that:

“Return on equity shall be computed in rupee terms, on the paid up equity capital determined in accordance with Regulation 21. Return on equity shall be computed on pre-tax basis at the base rate of 15.5% to be grossed up as per Regulation 22.3 of this Regulation:

Provided that in case of Projects commissioned on or after 1st April, 2013, an additional return of 0.5% shall be allowed if such Projects are completed within the timeline specified in Appendix-I :

Provided further that the additional return of 0.5% shall not be admissible if the Project is not completed within the timeline specified above for reasons whatsoever. The rate of return on equity shall be computed by grossing up the base rate with the normal tax rate for the Year 2012-13 applicable to the Generating Company:

Provided that return on equity with respect to the actual tax rate applicable to the Generating Company, in line with the provisions of the relevant Finance Acts of the respective Year during the Tariff period shall be trued up separately. Rate of return on equity shall be rounded off to three decimal points and be computed as per the formula given below:

Rate of pre-tax return on equity = Base rate / (1-t) Where t is the applicable tax rate in accordance with Regulation 22.3 of this Regulation.”

50. Further, 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”

MPPMCL Comment:

“The Petitioner No. 1, vide Para No I(iv) & II (iv) in the petition has claimed RoE at the base rate of 15.50% and which has been grossed up by applicable MAT rates of 20.9605% and 21.345 % for FY 2014-15 and FY 2015-16 respectively and 21.342%, 21.342% and 21.549% for FY 2016-17, FY 2017-18 and FY 2018-19 respectively. Since the said period has elapsed by now, it is submitted that the Commission may be pleased to carry out a prudence check on the basis of income actual paid by the petitioner no. 1 in the respective years for allowing the tax paid on actual basis rather than on Grossing up the return on equity.”

Commission's Analysis:

51. For the purpose of computation of Return on Equity, the normative closing equity as on 31st March' 2013 as admitted in the order dated 1st December' 2012, has been considered as the opening equity as on 1st April' 2014. Further, the petitioner No. 1 has not filed any additional capitalization and de-capitalization during the period FY 2014-15 to FY 2018-19. Therefore, the equity balance as on 1st April' 2014 shall remain unchanged during the period of FY 2014-15 to FY 2018-19.
52. In compliance to Regulation 30.2 of the Regulations, 2015, the petitioner No. 1 submitted that the generating unit No. 1 has been duly operating under RGMO/ FGMO. The petitioner No. 1 confirmed that the Restricted Governor Mode Operation (RGMO) was commissioned and under operation in Unit No. 1 since 05.08.2010. The petitioner No. 1 also filed supporting documents in this regard. Therefore, the petitioner No. 1 has been in compliance with the requirement of RGMO as per applicable provisions of MPERC Generation Tariff Regulation, 2015.
53. On examination of the subject petition, it was observed that the petitioner No. 1 has claimed Return on Equity by grossing up the base rate of Return on Equity with MAT.
54. Vide Commission's letter dated 25th February' 2021, the petitioner No. 1 was asked to explain with supporting documents whether it was eligible for MAT for the period of FY 2014-15 to FY 2018-19 in light of figures recorded in its balance sheet of respective year for Unit No. 1 and the provisions under MPERC (Terms and Condition for determination of Generation Tariff) Regulations, 2012 and Regulations, 2015. The petitioner No. 1 was also asked to file the Auditor's certificate for the period FY 2014-15 to FY 2018-19 certifying the profit earned by the petitioner No. 1 from its Unit No. 1 of the project and amount of tax paid towards this profit along with the copy of challans/other documents for payment of Income Tax.
55. Vide affidavit dated 30th March' 2021, the petitioner No. 1 submitted that:

*It is submitted that since the COD of Unit 1 i.e. on 09.04.2010, LAPL has been eligible to pay only Minimum Alternate Tax (MAT) and not the normal Corporate Tax. It is submitted that LAPL pays income tax for the Company as a whole. During the above FY 2014-15 to FY 2018-19, in spite of LAPL Unit 1 having accounting profit in certain financial years, **there was no income tax payable by the Company due to losses under the head "Profits and Gains of Business or***

Profession” calculated in accordance with the provisions of Section 28 to Section 44 of the Income Tax Act 1961 and the Company had book losses calculated in accordance with Section 115 JB Income Tax Act 1961. Therefore, **LAPL humbly submits that it has inadvertently claimed the grossed up return of equity by grossing up the base rate of ROE with applicable MAT rate in its Unit 1.**

56. In view of the above submission, the Commission observed that the petitioner No. 1 has not paid any income tax during the period FY 2014-15 to FY 2018-19 and inadvertently claimed the grossing up the base rate of ROE with MAT rate. Therefore, the Commission has not considered grossing up the base rate of return with MAT in this order. The return on equity is worked out by applying the base rate of return 15.50% for the period FY 2014-15 to FY 2018-19 in this order.
57. Accordingly, Return on Equity has been worked out during the period from FY 2014-15 to FY 2018-19 considering the base rate of return as given below:

Table 6 : Return on Equity Considered in this Order

Sr No	Particular	Unit	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
1	Opening Equity	Rs. Cr.	301.91	301.91	301.91	301.91	301.91
2	Equity Additions during the year	Rs. Cr.	0.00	0.00	0.00	0.00	0.00
3	Closing Equity	Rs. Cr.	301.91	301.91	301.91	301.91	301.91
4	Average Equity	Rs. Cr.	301.91	301.91	301.91	301.91	301.91
5	Base Rate of ROE	%	15.50%	15.50%	15.50%	15.50%	15.50%
6	Return on Equity	Rs. Cr.	46.80	46.80	46.80	46.80	46.80

Interest on Loan Capital

Petitioner’s submission:

58. Regarding Interest on Loan capital, the petitioner No. 1 submitted the following:

The Interest and Finance Charges on Loan have been considered based on the actual interest payments made to the lenders in line with Regulation 23 of the MPERC Tariff Regulations, 2012. The weighted average interest rate for the outstanding loan as on 31.03.2014 was 13.58%.

The Interest and Finance Charges on Loan has been considered based on the actual interest payments made to the lenders in line with Regulation 32 of the MPERC Tariff Regulations, 2015. That the weighted average interest rate for the outstanding loan as on 31.03.2016 was 13.70%.

59. The petitioner No. 1 has claimed interest on loan capital for the control period from FY 2014-15 to FY 2015-16 and from FY 2016-17 to FY 2018-19 as given below:

Table 7: Interest on Loan claimed

Sr. No.	Particulars	Unit	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
1	Gross loan Opening	Rs. Cr.	934.49	934.49	934.49	934.49	934.49
2	Cumulative Repayments of Loans upto previous year	Rs. Cr.	248.76	310.95	373.15	435.34	497.53
3	Net Loan-Opening	Rs. Cr.	685.73	623.54	561.35	499.16	436.97
4	Add: Increase in Normative Loan	Rs. Cr.	0.00	0.00	0.00	0.00	0.00
5	Less: Repayment during the year	Rs. Cr.	62.19	62.19	62.19	62.19	62.19
6	Closing Normative Loan	Rs. Cr.	623.54	561.35	499.16	436.97	374.78
7	Average Normative Loan	Rs. Cr.	654.64	592.45	530.26	468.07	405.88
8	Wt. average Rate of Interest on actual Loans	%	13.58%	13.58%	13.70%	13.70%	13.70%
9	Interest on loan	Rs Cr	88.91	80.46	72.64	64.12	55.60

Provisions in Regulation

60. With regard to interest and finance charges on loan capital, Regulation 23 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations 2012, provides as under:

“The loans arrived at in the manner indicated in Regulation 21 shall be considered as gross normative loan for calculation of interest on loan. The normative loan outstanding as on 1.4.2013 shall be worked out by deducting the cumulative repayment as admitted by the Commission up to 31.3.2013 from the gross normative loan. The repayment for the Year of the Tariff period 2013-16 shall be deemed to be equal to the depreciation allowed for that Year. 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 annual depreciation allowed. The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio at the beginning of each Year applicable to the Project.”

61. Further, 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.*

MPPMCL Comment:

“The Petitioner No. 1 has claimed interest on loan. The Petitioner No. 1 has considered the weighted average rate @ 13.58% for FY 2014-15 & 2015-16 and similarly 13.70% for 2016-17 to 2018-19. Regulation 23.7 of Tariff Regulation 2012 and Regulation 32.7 of Tariff Regulations of 2015 provide that the Generating Company shall make every effort to re-finance the loan as long as it results in net savings on interest, the same is quoted below :

“The generating company shall make every effort to re-finance the loan as long as it results in net savings on interest and in that event the costs associated with such re-financing shall be borne by the beneficiaries and the net savings shall be shared between the beneficiaries and the generating company in the ratio of 2:1.”

It is humbly submitted that the Petitioner No. 1 should disclose the efforts, if any, made by it to refinance the loan, to reduce the interest burden on loan in terms of aforesaid regulations.”

Commission’s analysis:

62. For the purpose of determination of interest on term loan, the Commission has considered opening loan balance as on 1st April’ 2014 same as the closing loan balance as on 31st March’ 2013 (after deducting the repayment during FY 2013-14) admitted in the tariff order dated 1st December’ 2013 for FY 2012-13. The Commission has also considered the repayment equal to depreciation amount of Rs 62.19 Crore for FY 2013-14 to arrive at the opening loan balance as on 1st April’ 2014.
63. Further, the petitioner No. 1 has not filed any additional capitalization during the period in this order, therefore, the loan balances for each financial year is worked out accordingly after considering the normative repayment equivalent to depreciation for the respective year.
64. With regard to issue raised by MPPMCL regarding the re-financing of loan, vide its response dated petitioner No. 1 has submitted the following:

“LAPL has claimed the weighted average rates of interest during FY 2014-15 to FY 2018-19 based on the actual interest rates charged by the lenders in Unit-1. Lender-wise weighted average rates of interest was submitted on 30.03.2021 forming part of Petitioner’s reply to the queries raised by the Commission. As regards Regulation 32.7, which provides that the generating company shall make every effort for re-finance of the loans to bring a reduction in the rates of interest, it is submitted that LAPL faced financial losses due to under recovery in tariff and this resulted in considerable financial stress. LAPL defaulted in its debt obligations to the lenders. In view of the prevailing financial stress, LAPL did not have the option of refinancing of the existing loans with a view to reduce the Rate of Interest.

Thus, it is submitted that there was no lack of effort on the part of LAPL to re-finance the loan, however, in view of its financial position owing to under recovery of tariff, the same was not possible. Thus, despite LAPL’s best efforts, re-financing was not possible. LAPL submits that it has complied with the provisions of

Regulation 32.7. It is further confirmed no penal interest has been included while computing the weighted average rate of interest on term loan."

65. In form TPS 13 of the subject petition, the petitioner No. 1 has submitted the weighted average rate of interest based on actual loan portfolio @ 13.58% for FY 2014-15 to FY 2015-16 and 13.70% for FY 2016-17 to FY 2018-19.
66. On perusal of the subject petition, it was observed that the petitioner no. 1 has claimed a higher weighted average rate of interest on loan in comparison with the approved weighted average rate of interest on loan i.e, 12.67% as considered in the order dated 1st December' 2012. In view of the above, vide Commission's letter dated 25th February' 2021 the petitioner no. 1 was asked to explain the following:
- a. Reasons for claiming higher weighted average rate of interest.
 - b. The basis for arriving the weighted average rate of interest on term loan.
 - c. Detailed computation in soft (excel-sheet) and hard copy for arriving at the lending agency-wise weighted average rate of interest claimed in the petition.
 - d. Supporting documents like Banker's certificate regarding interest rate etc. be also filed.
 - e. Needs to demonstrate that the amount towards default in repayment of loan if any, not considered while arriving at the weighted average rate of interest claimed in the petition
67. In response to above, vide affidavit dated 30th March' 2021, the petitioner No. 1 submitted that:
- a) *LAPL has claimed the above weighted average rate of interest during FY 2014-15 to FY 2018-19 based on the actual interest rates charged by the Lenders to Lanco Amarkantak Power Limited Unit-1 as per prevailing interest rates of the respective Banks/FIs.*
 - b) *Outstanding Principal amount of term loan of respective Banks/FIs as on 31st March of each Financial Year along with applicable interest rate of term loan has been used to arrive at the weighted average rate of interest on term loan.*
 - c) *Detailed computation in soft (Excel sheet) and hard copy for lending agency-wise weighted average rate of interest is enclosed as Annexure -3.*
 - d) *Banker's certificate as regarding interest rate on term loan for two (2) years i.e. as on 31.03.2014 & 31.03.2016 have already been submitted by LAPL in its filed Petition (Please refer to Page no. 210-220 & 516-532 of*

filed Petition). Further, Banker's certificate as regarding interest rate on term loan for the balance three (3) years i.e. as on 31.03.2015, 31.03.2017 & 31.03.2018 are enclosed as Annexure -4.

- e) *It is confirmed that no overdue interest towards default in repayment of loan has been considered while determining the weighted average rate of interest on term loan*
68. On perusal of the above submission, the Commission observed that the petitioner No. 1 has filed the weighted average rate of interest based on the actual interest rates charged by the lenders to Lanco Amarkantak Power Limited Unit No.1 on actual loan portfolio as per prevailing interest rates of the respective Banks/Financial Institutions. The petitioner No. 1 has also filed the Financial Institutions/Bank's certificates/statements in support of actual rate of interest for the respective year in this regard.
69. Considering the above, the interest on loan has been worked out considering the following:
- i. To arrive at the opening loan balance as on 1st April' 2014, closing loan balance as on 31st March' 2013 approved in tariff order dated 01.12. 2012 is considered after deducting the normative repayment of Rs 62.19 Crore for FY 2013-14.
 - ii. No loan addition is filed/considered during the period FY 2014-15 to FY 2018-19;
 - iii. Normative repayment equal to depreciation in accordance to application Regulations is considered;
 - iv. Weighted average rate of interest @ 13.58% for FY 2014-15 to FY 2015-16 and Weighted average rate of interest @ 13.70% for FY 2016-17 to FY 2018-19 as filed by the petitioner No. 1 is considered.
70. Based on the above, the interest on loan worked out for the control period from FY 2014-15 to FY 2015-16 and from FY 2016-17 to FY 2018-19 is as given below:

Table 8: Interest on Loan Allowed

Sr. No	Particular	Unit	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
1	Opening Loan Balance	Rs. Cr.	685.73	623.54	561.35	499.16	436.97
2	Loan Additions during year	Rs. Cr.	0.00	0.00	0.00	0.00	0.00
3	Repayment of Loan equal to depreciation	Rs. Cr.	62.19	62.19	62.19	62.19	62.19
4	Closing Loan Balance	Rs. Cr.	623.54	561.35	499.16	436.97	374.77

5	Average Loan	Rs. Cr.	654.63	592.44	530.25	468.06	405.87
6	Weighted Average Rate of Interest	%	13.58%	13.58%	13.70%	13.70%	13.70%
7	Annual Interest on Loan	Rs. Cr.	88.91	80.46	72.64	64.12	55.60

Depreciation

Petitioner's submission:

71. Regarding the depreciation, the petitioner No. 1 has submitted the following:

For FY 2014-15 to FY 2015-16, the depreciation has been computed considering the Straight Line Method considering weighted average rate of depreciation rate of 5.03% (earlier approved by this Commission in its order dated 01.12.2012 in accordance with Regulation 24 of the MPERC Tariff Regulations, 2012.

Further, for FY 2016-17 to FY 2018-19, the Depreciation has been computed considering the Straight Line Method considering weighted average rate of depreciation rate of 5.03% (earlier approved by this Commission in its order dated 01.12.2012) in accordance with Regulation 33 of the MPERC Tariff Regulations, 2015.

72. The petitioner No. 1 has claimed the depreciation for the period from FY 2014-15 to FY 2018-19 as given below:

Table 9: Depreciation Claimed

(Rs in Cr)

Sr. No.	Particulars	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
1	Opening Capital Cost	1,236.40	1,236.40	1,236.40	1,236.40	1,236.40
2	Asset Additions During the year	-	-	-	-	-
3	Closing Capital Cost	1,236.40	1,236.39	1,236.40	1,236.40	1,236.40
4	Average Capital Cost	1,236.40	1,236.40	1,236.40	1,236.40	1,236.40
5	Rate of Depreciation	5.03%	5.03%	5.03%	5.03%	5.03%
6	Depreciation during the year	62.19	62.19	62.19	62.19	62.19
7	Cumulative Depreciation	144.66	206.85	269.04	331.23	393.42

Provisions of the Regulation:

73. With regard to Depreciation, Regulation 24 of the MPERC (Terms and Conditions for

Determination of Generation Tariff) Regulations, 2012 provides as under:

“For the purpose of Tariff, depreciation shall be computed in the following manner:

- (a) The value base for the purpose of depreciation shall be the capital cost of the assets as admitted by the Commission*
- (b) The approved/accepted cost shall include foreign currency funding converted to equivalent rupee at the exchange rate prevalent on the date of foreign currency actually availed.*
- (c) 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 creation of the site:

- (d) 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.*
- (e) 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 Date of Commercial operation shall be spread over the balance Useful life of the assets.

- (f) In case of the existing Projects, the balance depreciable value as on 1.4.2013 shall be worked out by deducting the cumulative depreciation including Advance against Depreciation if any as admitted by the Commission up to 31.3.2013 from the gross depreciable value of the assets. 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%.*

- (g) 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.

74. Further, 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. -----.”

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:-

75. For the purpose of computation of Depreciation, the closing Gross Fixed Assets as on 31st March’ 2013, as admitted in last tariff order dated 01.12. 2012 of Rs 1236.40 Crore has been considered as opening GFA as on 1st April’ 2014 in this order.
76. Further, petitioner No. 1 has not claimed additional capitalization during the period FY 2014-15 to FY 2018-19, therefore, no additional capitalization is considered in this order. Therefore, the capital cost as on 01st April’ 2014 shall remain same for both the control period.
77. In form TPS 11 of the petition, the petitioner No. 1 worked out the weighted average rate of depreciation for each year of both the control period based on the depreciation rates as per Depreciation Rate Schedule provided under the applicable MPERC Tariff Regulations.
78. The petitioner No. 1 in its additional submission has submitted the year-wise

statement of asset-cum-depreciation details. The rate of depreciation on assets considered in the aforesaid statement in accordance to the rates of depreciation specified in MPERC Tariff Regulations, 2012 & 2015. Accordingly, the annual depreciation for respective years has been worked out.

79. Since, the Commission is not considering any additional capitalization during both the control period in this order, therefore, the Commission has considered the same weighted average rate of depreciation of 5.03% (as considered by the Commission in order dated 01.12.2012 for FY 2012-13 and claimed by the petitioner No. 1 in the subject petition) in this order for FY 2014-15 to FY 2018-19.

80. The cumulative depreciation as on 31.03.2014 has been worked out as follows:

S. No.	Particular	Amount in Rs. Cr.
1	Depreciation during FY 2010-11	62.19
2	Depreciation during FY 2011-12	62.19
3	Depreciation during FY 2012-13	62.19
4	Depreciation during FY 2013-14	62.19
	Cumulative Depreciation as on 31.03.2014	248.76

81. The Commission in its order dated 01.12.2012 had considered repayment equal to depreciation during FY 2010-11 and FY 2011-12.

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

Table 10: Annual Depreciation

Sr. No.	Particular	Unit	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
1	Opening Capital Cost	Rs Cr.	1236.40	1236.40	1236.40	1236.40	1236.40
2	Assets Addition during the year	Rs Cr.	0.00	0.00	0.00	0.00	0.00
3	Closing Capital Cost	Rs Cr.	1236.40	1236.40	1236.40	1236.40	1236.40
4	Average Capital Cost	Rs Cr.	1236.40	1236.40	1236.40	1236.40	1236.40
5	Weighted Average Rate of Depreciation (%)	%	5.03%	5.03%	5.03%	5.03%	5.03%
6	Annual Depreciation	Rs Cr.	62.19	62.19	62.19	62.19	62.19
7	Cumulative Depreciation	Rs Cr.	310.95	373.14	435.27	497.46	559.65

83. The petitioner No. 1 is directed to prepare Asset-cum-depreciation register in accordance with the applicable MPERC Generation Tariff Regulations and file with

the Commission along with next tariff petition.

Operation & Maintenance Expenses

Petitioner's Submission

84. The petitioner No. 1 filed the Operation and Maintenance expenses for its 300 MW thermal power unit No. 1 for the control period from FY 2014-15 to FY 2015-16 and for the control period from FY 2016-17 to FY 2018-19 in accordance with the applicable MPERC Tariff Regulations as given below:

Table 11: Operation & Maintenance Expenses claimed

Particular	Units	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Annual O&M expenses	Rs in Cr	58.89	63.57	72.60	77.16	82.02

Provision in Regulations:-

85. The norms for Operation and Maintenance Expenses for thermal generating units are specified under Regulation 36.1 of the Regulations, 2012 for the generating Unit of "200/210/250 MW" for the control period FY 2014-15 to FY 2015-16 and the norms for Operation and Maintenance Expenses for thermal generating units commissioned prior to 01.04.2012 are specified under Regulation 35.7 of the Regulations, 2015 for the generating Unit of "200/210/250 MW" for the control period FY 2016-17 to FY 2018-19 which are as given below:

Table 12: Norms for O&M Expenses for FY 2014-15 to FY 2015-16 (Rs. lakh/MW/Year)

Units (MW)	FY 2013-14	FY 2014-15	FY 2015-16
200/210/250 MW Series	18.19	19.63	21.19

Table 13: 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
200/210/250 MW Series	24.20	25.72	27.34

Commission's Analysis

86. As the 300 MW Unit of petitioner No. 1 is much closer to the category of 200/210/250 MW, the O&M expenses specified for category 200/250/250 MW as filed in the petition have been considered for the 300 MW Unit. For Thermal Power Station, the annual Operation and Maintenance Expenses worked out by the Commission as per the norms prescribed under aforesaid applicable Regulations for the FY 2014-15 to

FY 2018-19 are as given below:

Table 14: O& M Expenses for Generating Unit

Particular	Units	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Installed Capacity	MW	300	300	300	300	300
Per MW O&M Expenses Norms	Rs in Lakh/MW	19.63	21.19	24.20	25.72	27.34
Annual O&M expenses	Rs in Crore	58.89	63.57	72.60	77.16	82.02

Interest on Working Capital

Petitioner's submission

87. The petitioner No. 1 claimed the interest on working capital for the control period from FY 2014-15 to FY 2015-16 and from FY 2016-17 to FY 2018-19 in TPS form 13B of the petition as given below:-

Table 15: Interest on Working Capital claimed (Rs. in Crore)

Sr. No.	Particulars	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
1	Cost of Coal/Lignite	45.99	46.12	57.41	57.41	57.41
2	Cost of Secondary Fuel Oil	2.82	2.83	0.38	0.38	0.38
3	Maintenance Spares	11.78	12.71	14.52	15.43	16.40
4	O&M Expenses	4.91	5.30	6.05	6.43	6.84
5	Water Charges	0.21	0.21	0.21	0.21	0.21
6	Receivables	97.56	97.14	106.43	105.79	105.22
7	Total Working Capital	163.28	164.31	185.01	185.65	186.46
8	Interest on allowed Working Capital	13.50%	13.50%	12.80%	12.80%	12.80%
9	Total Interest on Working Capital	22.04	22.18	23.68	23.76	23.87

Provisions in Regulation:

88. Regulation 37.1 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 regarding working capital for coal based generating stations provides that:

"The Working Capital for Coal based generating stations shall cover:

- (i) *Cost of coal for 45 Days for pit-head generating stations and two months for non-pit-head generating stations, corresponding to the normative availability;*
- (ii) *Cost of secondary fuel oil for two months corresponding to the normative availability: Provided that in case of use of more than one secondary fuel oil,*

cost of fuel oil stock shall be provided for the main secondary fuel oil.

- (iii) Maintenance spares @ 20% of the normative O&M expenses;*
- (iv) Receivables equivalent to two months of capacity charges and energy charges for sale of electricity calculated on the Normative Annual Plant Availability Factor; and*
- (v) Operation and Maintenance expenses for one month.*

89. Further, 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:

90. 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

91. The petitioner No. 1 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 2014-15 to FY 2015-16 is worked out as per the details filed by the petitioner No. 1 for the preceding three months i.e., i.e. January’ 2014, February’ 2014 and March’ 2014 in accordance to the Tariff Regulations, 2012 and 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 No. 1 for the preceding three month i.e, January’ 2016, February’ 2016 and March’ 2016 in accordance to the Tariff Regulations, 2015.

92. GCV of coal has been considered as per the details filed by the petitioner No. 1 on ‘fired basis’ for the preceeding three months i.e., January, February and March’ 2014 for FY 2014-15 to FY 2015-16 and GCV of coal has been considered as per the details filed by the petitioner No. 1 on ‘received basis’ for the preceeding three months i.e, January, February and March’ 2016 for FY 2016-17 to FY 2018-19. The petitioner No. 1 has filed the laboratory test reports for GCV of coal on fired basis and received basis for aforesaid preceeding three months in this regard. Accordingly, the 60 days cost of coal stock for working capital is worked out as under:

Table 16: Cost of Coal for for working capital

Particular	Units	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018- 19
Installed Capacity	MW	300	300	300	300	300
Gross Station Heat Rate	kCal/kWh	2402.00	2402.00	2402.00	2402.00	2402.00
Gross Generation	MUs	2233.80	2239.92	2233.80	2233.80	2233.80
GCV of Coal	kCal/Kg	3188.00	3188.00	3553.00	3553.00	3553.00
Sp. Coal Consumption	kg/kWh	0.7564	0.7564	0.6801	0.6801	0.6801
Annual Coal Consumption	MT	1689567	1694196	1519167	1519167	1519167
60 Days Coal Stock	MT	277737	277737	249726	249726	249726

Rate of Coal	Rs./MT	1646.39	1646.39	2285.65	2285.65	2285.65
Coal Cost for working capital	Rs. Cr.	45.73	45.73	57.08	57.08	57.08

(b) Secondary Fuel Oil Cost

93. With regard to cost of fuel for working capital, Regulation 38.2 of the Regulations, 2012 provides that in the absence of landed costs for the three preceding months, latest procurement price for the generating station, before the start of the year.

94. Further, 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.

95. The petitioner No. 1 filed the weighted average rate of secondary fuel oil for FY 2014-15 to FY 2015-16 based on the fuel oil purchased in January' 2014. The petitioner No. 1 also filed the cost of secondary fuel oil for FY 2016-17 to FY 2018-19 based on the fuel oil purchased in September' 2015.

96. Regulation 37.1 (ii) of the Regulations, 2012 and 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 25th February' 2021, the petitioner No. 1 was asked to confirm along with details whether the cost of only main fuel is considered while determining the working capital.

97. By affidavit dated 30th March' 2021, the petitioner No. 1 submitted that the main secondary fuel oil in case of petitioner No. 1 plant is LDO. Hence, it is observed that while computing the annual working capital requirement, the petitioner No. 1 has claimed the cost of Light Diesel Oil only as main secondary fuel oil for two months as per applicable MPERC Tariff Regulations.

98. The petitioner No. 1 has worked out the weighted average rate of oil as Rs. 75,863/KL for the control period from FY 2014-15 to FY 2015-16 and Rs. 40,806/KL

for the control period from FY 2016-17 to FY 2018-19 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 17: Cost of Main Secondary Fuel Oil for 2 Months availability

Particular	Units	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Installed Capacity	MW	300	300	300	300	300
NAPAF	%	85.00%	85.00%	85.00%	85.00%	85.00%
Gross Generation	MUs	2233.80	2239.92	2233.80	2233.80	2233.80
Normative Specific Oil Consumption	ml/kWh	1.00	1.00	0.50	0.50	0.50
Quantity of Sec. Fuel Oil required	KL	2233.80	2239.92	1116.90	1116.90	1116.90
Two months' stock of main fuel oil	KL	372.30	373.32	186.15	186.15	186.15
Weighted Avg. Rate of Secondary Fuel Oil	Rs./KL	75,862.74	75,862.74	40,806.00	40,806.00	40,806.00
Oil Cost (Two Months Stock)	Rs. Cr.	2.82	2.83	0.76	0.76	0.76

(c) O&M Expenses

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

Table 18: O&M Expenses for 1 Month (Rs. in Crore)

Particular	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Annual O&M Expenses	58.89	63.57	72.60	77.16	82.02
O&M Expenses for 1 Month	4.91	5.30	6.05	6.43	6.84

(d) Maintenance Spares

100. 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 as follows:

Table 19: Maintenance Spares (Rs. in Crore)

Particular	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Annual O&M Expenses	58.89	63.57	72.60	77.16	82.02
20% of Annual O&M Expenses	11.78	12.71	14.52	15.43	16.40

(e) Receivables

101. 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 in this order on the basis of Normative Annual Plant Availability Factor as follows:

Table 20: Receivables for two months (Rs. in Crores)

Particular	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Variable Charges- Two Months	46.36	46.49	58.63	58.63	58.63
Fixed Charges- Two Months	49.08	48.31	46.07	45.49	44.04
Receivables- Two Months	95.45	94.80	104.70	104.12	102.67

102. With regard to the rate of interest on working capital, Regulation 27.1 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 provides that:

“Rate of interest on working capital to be computed as provided subsequently in these Regulations shall be on normative basis and shall be equal to the State Bank of India’s Base Rate as on 1st of April of that year plus 3.50%.”

103. 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.

104. In line with Regulation 27.1 of the Tariff Regulations, 2012, the rate of interest on working capital shall be considered the bank rate as on 01.04.2014 or as on 1st April of the year plus 3.50%. 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.

105. Considering the one-year base rate as on 1st April of the year during the tariff period of FY 2014-15 to FY 2015-16 and during the tariff period FY 2016-17 to 2018-19 plus

3.50% , the interest on working capital is worked out as 13.50% for FY 2014-15 to FY 2015-16 and 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 computed as under:

Table 21: Rate of Interest on Working Capital allowed

Particulars	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Base rates on 1 st April of the year specified by SBI.	10.00%	10.00%	9.30%	9.10%	8.70%
Plus 350 basis point	3.50%	3.50%	3.50%	3.50%	3.50%
Rate of Interest on Working Capital	13.50%	13.50%	12.80%	12.60%	12.20%

106. Based on the above, the interest on working capital for FY 2014-15 to FY 2015-16 and for the control period FY 2016-17 to FY 2018-19 is determined as given below:

Table 22: Interest on Working Capital determined (Rs in Crore)

Sr. No.	Particular	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
1	Cost of Coal for working capital	45.73	45.73	57.08	57.08	57.08
2	Cost of Main Secondary Fuel Oil for two months	2.82	2.83	0.76	0.76	0.76
3	O&M Expenses for One Months	4.91	5.30	6.05	6.43	6.84
4	Maintenance Spares 20% of O&M expenses	11.78	12.71	14.52	15.43	16.40
5	Receivables for two months	95.45	94.80	104.70	104.12	102.67
6	Total Annual Working Capital	160.68	161.37	183.11	183.82	183.75
7	Rate of Interest on Working Capital	13.50%	13.50%	12.80%	12.60%	12.20%
8	Annual Interest on working Capital	21.69	21.79	23.44	23.16	22.42

Secondary Fuel Oil Expenses

Petitioner's Submission

107. The petitioner No. 1 filed the weighted average landed cost of secondary fuel oil of Rs 75863 /KL in the petition for FY 2014-15 to FY 2015-16 in accordance with MPERC Tariff Regulations, 2012. By affidavit dated 30th March' 2021, the petitioner No. 1 filed the copy of invoices/Bills of main secondary fuel oil (LDO) purchased in January 2014.

108. The cost of secondary fuel oil as filed by the petitioner No. 1 for FY 2014-15 to FY

2015-16 in the petition is as below:

Table 23: Cost of secondary Fuel Oil Expenses (Rs in Crore)

Sr. No.	Particulars	FY 2014-15	FY 2015-16
1.	Secondary fuel oil cost	16.95	16.99

Provision in Regulation:

109. Regulation 38 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 provides as under:

“Expenses on Secondary fuel oil in Rupees shall be computed corresponding to normative Specific Fuel Oil Consumption (SFC) specified in Regulation 35, in accordance with the following formula:

$$= SFC \times LPSFi \times NAPAF \times 24 \times NDY \times IC \times 10$$

Where, SFC -Normative Specific Fuel Oil Consumption in ml/kWh

LPSFi -Weighted Average Landed Price of Secondary Fuel in Rs/ml considered initially

NAPAF - Normative Annual Plant Availability Factor in percentage NDY - Number of Days in a Year

IC - Installed Capacity in MW”

With regard to landed cost of oil, Regulation 38.2 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 provides as under;

“Initially, the landed cost incurred by the Generating Company on secondary fuel oil shall be taken based on actuals of the weighted average price of the three preceding months and in the absence of landed costs for the three preceding months, latest procurement price for the generating station, before the start of the Year.

*The secondary fuel oil expenses shall be subject to fuel price adjustment at the end of the each Year of Tariff period as per following formula: $SFC \times NAPAF \times 24 \times NDY \times IC \times 10 \times (LPSFy - LPSFi)$ Where,
*LPSFy = The weighted average landed price of secondary fuel oil for the Year in Rs/ml.”**

Commission's Analysis

110. With regard to landed cost of secondary fuel oil, Regulation 38.2 of the Regulations, 2012 provides as under:

Initially, the landed cost incurred by the Generating Company on secondary fuel oil shall be taken based on actuals of the weighted average price of the three preceding months and in the absence of landed costs for the three preceding months, latest procurement price for the generating station, before the start of the Year.”

111. On perusal of the subject petition, it was observed that the rate of Secondary fuel filed by the petitioner for FY 2014-15 to FY 2015-17 is on higher side. Therefore, vide letter dated 25.02.2021, the petitioner No. 1 was asked to file detailed reasons with supporting documents for claiming higher rate of secondary fuel oil during Jan. 2014 to March, 2014.

112. By affidavit dated 30th March' 2021, the petitioner submitted the following:

“It is confirmed that the main secondary fuel oil of the generating station is Light Diesel Oil (LDO). Regulation 34.1 (1) (c) of the MPERC Tariff regulation 2015 specifies 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.”

During the period from January 2014 to March 2014, main secondary fuel oil (LDO) was purchased only in January 2014 from Hindustan Petroleum Corporation Ltd (HPCL) as per prevailing rates to meet the requirements of LAPL. The weighted average landed price of main secondary fuel oil (LDO) during the above period works out to Rs. 75,863 per KL. Supporting invoices of main secondary fuel oil (LDO) purchased in January 2014 are enclosed at Annexure-6.

During the period from January 2016 to March 2016, the petitioner No. 1 earlier had inadvertently claimed the weighted average landed price of other Secondary Fuel Oil (HFO) of Rs. 20,509 per KL purchased in January 2016 instead of main Secondary Fuel Oil (LDO) specified in Regulation 34.(1) of the MPERC Tariff Regulations, 2015. Due to sufficient main secondary fuel oil (LDO) stock available at the power station and Unit-1 running continuously from 19.09.2015 to 16.01.2016 without any tripping, only other secondary fuel oil (HFO) was purchased from HPCL as per prevailing rates. Therefore, LAPL did not purchase

any quantity of main secondary Fuel Oil (LDO) during October 2015 to March 2016. The main secondary fuel oil (LDO) was lastly purchased only in September 2015 at the weighted average landed price of Rs. 40,806 per KL. Supporting invoices of main secondary fuel oil (LDO) purchased in September 2015 is enclosed at Annexure- 7.

Accordingly, LAPL requests the Hon'ble MPERC to consider the weighted average landed price of main secondary fuel oil (LDO) rate of Rs. 40,806 per KL purchased in September 2015 in the computation of cost of secondary fuel oil in the working capital.

As can be seen from the invoices raised by HPCL, the price of main secondary fuel oil was higher during January 2014 to March 2014 (Rs. 75,863 per KL), as compared to price in September 2015 (Rs. 40,806 per KL). It is understood that the international prices of crude oil along with taxes and duties levied by Central and State Governments Influence the price of secondary fuel oil charged by Oil Marketing Companies in India. Therefore, during the above mentioned period, LAPL has claimed the price of main Secondary Fuel oil as per prevailing rates actually paid to HPCL.”

113. With regard to higher rate of oil considered during FY 2014-15 to FY 2015-16, the petitioner No. 1 submitted that the international prices of crude oil along with taxes and duties levied by Central and State Governments influence the price of secondary fuel oil charged by Oil Marketing Companies in India. Therefore, the cost of secondary fuel is calculated on the basis of weighted average landed price of secondary fuel purchased in January' 2014. The Commission has considered the same weighted average price of secondary fuel oil as filed in terms of the Regulation.

114. Based on the above, cost of secondary fuel oil is determined as below:

Table 24: Computation of Secondary Fuel Oil Expenses

Particular	Units	FY 2014-15	FY 2015-16
Installed Capacity of the Unit	MW	300	300
NAPAF	%	85.00%	85.00%
Gross Generation	MUs	2233.80	2239.92
Normative Specific Oil Consumption	ml/kWh	1.00	1.00
Annual Quantity of Sec Fuel Oil required	KL	2233.80	2239.92
Weighted Avg. Rate of Secondary Fuel Oil	Rs./KL	75,862.74	75,862.74
Secondary Fuel Oil Expenses	Rs. Crores	16.95	16.99

115. The cost of secondary fuel oil arrived at as above shall be subject to fuel price adjustment at the end of each year of tariff period in terms of the proviso to Regulation 38.2 as per the formula given in the Regulations, 2012. For the control period FY 2016-17 to FY 2018-19, cost of secondary fuel oil expenses is not part of the fixed cost components as per Regulation 27 of the Tariff Regulations, 2015.

Non-Tariff Income

Provisions in Regulation:

116. With regard to the non tariff income, Regulation 31 of MPERC (Terms and Conditions for determination of Generation tariff) Regulations, 2012 and 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.

MPPMCL Comment:

“As per proviso 31 of Regulations of 2012 and proviso 53 of Regulations of 2015 the non-tariff income needs to be deducted from the Fixed Cost. However, the petitioner the No. 1 has not disclosed the income derived by it from sale of Fly Ash, Interest on FD and other miscellaneous receipts.”

Commission’s Analysis:

117. Provisions under the Regulations, 2012 & 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 No. 1 has not filed the non-tariff income in the subject petition. Vide Commission's letter dated 25th February' 2021, the petitioner No. 1 was asked to file a detailed break-up of Non-Tariff income / other income including income from sale of fly ash from FY 2014-15 to FY 2015-16 in accordance with the Regulation 31 of MPERC Tariff Regulations, 2012 and from 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 each year.
118. Vide affidavit dated 30th March' 2021, the petitioner no. 1 submitted that the Form 13C of the tariff filing formats in accordance to the Regulation 31 of the MPERC (Terms and Conditions of Tariff) Regulations, 2012 showing the details of Non-tariff Income/ other Income from FY 2014-15 to FY 2015-16 is filled up based on the Annual Audited Accounts of each year and is enclosed herewith as Annexure 8. Similarly, Form 13C of the tariff filing formats in accordance to the Regulation 53 of the MPERC (Terms and Conditions of Tariff) Regulations, 2015 showing the details of Non-tariff Income/ other Income from FY 2016-17 to FY 2018-19 is filled up based on the Annual Audited Accounts of each year and is enclosed herewith as Annexure 9.
119. The break-up of non-tariff income for FY 2014-15 to FY 2015-16 and for FY 2016-17 to FY 2018-19 as filed by the petitioner No. 1 based on the Annual Audited Accounts of the respective year are given below:

Table 25: Non-Tariff Income filed by the petitioner No. 1 (Rs in Crore)

Sr. No.	Particulars	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
1	Interest received on deposits	0.78	0.55	0.35	0.15	0.58
2	Income from sale of scrap	0.08	0.34	0.12	0.24	0.40
3	Interest Income (Others)	0.01	0.45	0.70	0.01	0.00
4	Gain on Foreign Exchange Fluctuations		0.0002			
5	Misc Income	0.04	0.03	0.04	0.05	3.68
6	Balances no longer Required Written back					0.10
7	Provisions no longer Required Written back		0.49		0.01	
8	Rent Income	0.00	0.00	0.00	0.00	0.00
9	Profit on Sale of Asset				0.01	0.04

10	Insurance Claims Received				0.00	
11	Profit on sale of Current Investments			0.01		
	Total	0.92	1.87	1.23	0.47	4.80

120. In view of the above, the Commission has considered the non-tariff income as filed by the petitioner No. 1 in accordance to the Annual Audited Accounts in this order for the period FY 2014-15 to FY 2018-19.

Normative Annual Plant Availability Factor

121. Normative Annual Plant Availability Factor (NAPAF) for the of the petitioner No. 1's power plant Unit No. 1 as per MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 and MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 shall be considered for recovery of full capacity (fixed) charges is 85%.

Summary of Annual Capacity (fixed) Charges

122. The Annual Capacity (fixed) Charges for each year of the control period of FY 2014-15 to FY 2015-16 and FY 2016-17 to FY 2018-19 determined in this order are summarized as given below:

Table 26: Summary of Annual Capacity (Fixed) Charges (Amount in Rs Crore)

Sr No	Particulars	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
1	Depreciation	62.19	62.19	62.19	62.19	62.19
2	Interest and Finance Charges	88.91	80.46	72.64	64.12	55.60
3	Return on Equity	46.80	46.80	46.80	46.80	46.80
4	Secondary fuel oil expenses	16.95	16.99	-	-	-
5	Operation & Maintenance Expenses	58.89	63.57	72.60	77.16	82.02
6	Interest on Working Capital	21.69	21.79	23.44	23.16	22.42
7	Annual Capacity (fixed) Charges	295.42	291.80	277.67	273.43	269.02
8	Less:-Non Tariff Income	0.92	1.87	1.23	0.47	4.80
9	Net Annual Capacity Charges	294.50	289.93	276.44	272.96	264.22

123. The aforesaid Annual Capacity (fixed) Charges for FY 2014-15 to FY 2015-16 have been computed based on norms specified under MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012. The recovery of annual capacity (fixed) charges shall be made by the petitioner No. 1 in accordance with Regulations 40.2 and 40.3 of MPERC (Terms & Conditions for Determination of Generation Tariff) Regulations, 2012 on pro-rata basis with respect to actual annual

plant availability factor.

124. 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 No. 1 in accordance with Regulation 36.2 to 36.4 of the Regulations, 2015 on pro-rata basis with respect to actual annual plant availability factor.

125. 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:

NetGain=(ECRN–ECRA) x 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:-----"

126. In view of the above Regulations, it was observed by the Commission that the generating company shall have to 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 25th February' 2021, the petitioner No. 1 was asked to file the monthly details of aforesaid performance parameters actually achieved vis-à-vis normative parameters under the Regulations, 2015. The petitioner No. 1 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.

127. In response to above, by affidavit dated 30th March' 2021, the petitioner No. 1 submitted the following:

As per Regulation 8.7 of MPERC Tariff Regulations 2015, the controllable parameters are as follows:

- i. Station Heat Rate*
- ii. Secondary Fuel oil consumption*
- iii. Auxiliary Energy Consumption*

It is submitted that MPERC in its order dated 01.12.2012 had earlier approved station heat rate of 2402 Kcal/kWh and Auxiliary Energy Consumption of 9% for 300 MW Unit-1 as Normative controllable parameters. Further, the LAPL Unit-1 was commissioned on 09.04.2010 i.e. much before 01.04.2016, the date from which MPERC Tariff Regulations, 2015 come in force. Regulation 39.2 of MPERC Tariff Regulations, 2015 are applicable for Thermal Power Stations commissioned on or before 01.04.2012.

It can be seen from the table provided in Regulation 39.2(b) MPERC Tariff Regulations, 2015 regarding parameter of Normative Gross Station Heat Rate that the lowest GSHR specified for FY 2016-17 to FY 2018-19 is 2425 kCal/kWh of 1x500 MW SGTPS (500 MW Unit size) in the last row of the table. All other existing thermal generating stations of MP Genco have a much higher norm of GSHR than the 1x500 MW SGTPS. Accordingly, in the absence of any specific norm for GSHR for 300 MW Unit size having achieved COD prior to 01.04.2012 in the above MPERC Tariff Regulations, 2015, the Petitioner No. 1 has considered the same normative GSHR of 2402 kCal/kWh as earlier approved by this Commission in its order dated 01.12.2012.

In the Regulation 39.2 (d) of the MPERC Tariff Regulations, 2015, the Normative Auxiliary Energy Consumption for Unit sizes of 210 MW series of existing generating stations is specified to be between 9%-10%. Accordingly, in the absence of any specific norm of Auxiliary Energy Consumption for 300 MW Unit size having commissioned on or before 31st March 2012 in the above MPERC Tariff Regulations, 2015, the Petitioner No. 1 has considered the same normative Auxiliary Energy Consumption of 9% as earlier approved by this Commission in its order dated 01.12.2012.

As desired by the MPERC, Petitioner No 1 is also filing the 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

“Net Gain = (ECRN– ECRA) x Scheduled Generation”.

Detailed Calculation sheet is enclosed as per Annexure-10.

Further, the mechanism for compensation against Station Heat Rate, Auxiliary Consumption and Secondary Oil consumption based on actual controllable parameters due to part load operation will also have to be reconciled from 15.05.2017 onwards as per Hon’ble CERC order dated 05.05.2017 in petition no. No. L-1/219/2017 with the sharing of financial gains based on true up of the tariff for controllable parameters as per tariff regulations.

128. The petitioner no. 1 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.
129. On perusal of the details filed by the petitioner No. 1 in Annexure 10 of its additional submission, it is observed that the total gain of petitioner No. 1 was Rs 35.70 Crore on account of of better performance parameters achieved by it during FY 2016-17 to FY 2018-19.
130. 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. Therefore, the petitioner No. 1 is directed to share the gains achieved in the generating station and pass on the same to the

beneficiaries in accordance with the Regulation 8.9 of Tariff Regulations, 2015. The year-wise gain achieved by the petitioner No. 1 is as given below:

Financial Year	FY 2016-17	FY 2017-18	FY 2018-19	Net Gain
Financial Gain (Rs. Cr.)	11.71	10.25	13.73	35.70

Energy (Variable) Charges

Petitioner's submission:

While claiming the Energy charges for the control period, the petitioner No. 1 considered parameters like Gross Station Heat Rate, Auxiliary Energy Consumption, Specific fuel oil consumption, transit loss for FY 2014-15 to FY 2018-19 based on the provisions under MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 and MPERC (Terms and conditions for Determination of Generation Tariff) Regulations, 2015.

Provisions in Regulation:

131. For calculating the energy charges (variable charges) of thermal power stations, Regulation 41 of the Regulation, MPERC (Terms and Conditions for determination of tariff) Regulation, 2012 provides that:

"The energy (variable) charges shall cover main fuel costs and shall be payable for the total energy scheduled to be supplied to such Beneficiary during the calendar month on ex-power plant basis, at the specified variable charge rate (with fuel price adjustment).

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

(i) For coal fired stations

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

Where, AUX= Normative Auxiliary Energy Consumption in percentage.

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

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

SFC = Specific Fuel Oil Consumption, in ml/kWh

CVSF = Calorific value of Secondary Fuel, in kCal/ml.

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

CVPF = Gross Calorific Value of Primary Fuel as fired, in kCal per kg, per liter or per standard cubic meter.

Provided that Generating Company shall provide details of parameters of GCV and price of fuel i.e. domestic coal, imported coal, e-auction coal, liquid fuel etc., details of blending ratio of the imported coal with domestic coal, proportion of e-auction coal with details of the variation in energy charges billed to the beneficiaries along with the bills of the respective month:

Provided further that a copy of the bills and details of parameters of actual GCV and price of fuel i.e. domestic coal, imported coal, e-auction coal, liquid fuel 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 quarter on monthly basis.

Variable charge for the month shall be worked out on the basis of ex-bus energy scheduled to be sent out from the generating station in accordance with the following formula:

Monthly Energy Charge (Rs) =

Variable Charge Rate in Rs/kWh X Scheduled Energy (ex-bus) for the month in kWh corresponding to Scheduled Generation.

132. Further, 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 along with any amount received on account of penalties from fuel supplier shall have to be adjusted in fuel cost*

133. 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 x CVSF) x LPPF/CVPF+SFC xLPSFi} x100/ (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-----“

MPPMCL Comment:

“The petitioner No. 1 has stated that in absence of any specific norms for GSHR & AUX for 300 MW Unit size having achieved COD prior to 01.04.2012 in the Regulations of 2012, the petitioner has considered GSHR of 2402Kcal/kwh and Aux. Consumption 9.00 % as earlier approved by the Commission vide order dated 01.12.2012. In this regard Petitioner No. 1 may submit monthly details of aforesaid performance parameters actually achieved for control period from FY 2014 to FY 2019. Accordingly for determining GSHR and AUX, lowest value of GSHR and Aux may please be considered while approving the same.”

Commission’s analysis:

134. MPERC Tariff Regulations, 2012 provides that the energy (variable) charges shall cover main fuel costs and shall be payable for the total energy scheduled to be supplied to such beneficiary during the calendar month on ex-power plant basis. For coal based thermal power stations, the main fuel is coal and per unit cost of coal shall be the energy (variable) charges for the period FY 2014-15 to FY 2015-16.
135. Further, MPERC Tariff Regulations, 2015 provides that 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 and applicable for the period FY 2016-17 to FY 2018-19.
136. 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 plant availability factor need to be examined as per provisions under the applicable Tariff Regulations.

Gross Station Heat Rate:

137. On perusal of the details regarding Energy charges filed in the subject petition, it is observed that the petitioner No. 1 has filed gross station heat rate of 2402Kcal/kWh for the period of FY 2014-15 to FY 2018-19 in accordance to applicable MPERC Generation Tariff Regulations.
138. The petitioner No. 1's 300 MW Unit 1 had achieved COD on 09.04.2010. The Commission in its earlier order dated 01.12.2012 in petition No. 78 of 2012 had approved GSHR of 2402 kCal/kWh for Lanco Amarkantak Unit No. 1. Accordingly, the Commission has considered the same normative GSHR of 2402 kCal/kWh as filed by the petitioner No. 1 for the period FY 2014-15 to FY 2018-19 in this order.

Auxiliary Energy Consumption

139. With regard to Auxiliary energy consumption, the petitioner No. 1 filed normative Auxiliary energy consumption of 9.00% for control period from FY 2014-15 to FY 2015-16 and for control period from FY 2016-17 to FY 2018-19 in accordance with the Tariff Regulations, 2012 and Tariff Regulations, 2015. The Commission in its earlier order dated 01.12.2012 in petition No. 78 of 2012 had approved normative Auxiliary Energy Consumption of 9.00% for Lanco Amarkantak Unit No. 1.
140. It is observed that the normative Auxiliary energy consumption of 9.00% for the generating units having induced draft cooling tower in accordance to Regulation 35.2(D) of the tariff Regulations, 2012 and Regulation 39.3(E) of the tariff Regulations, 2015. Therefore, the Commission has considered the same Auxiliary energy consumption of 9.00% as filed by the petitioner No. 1 and approved by the Commission in order dated 01.12.2012 for the control period FY 2014-15 to FY 2015-16 and for the control period FY 2016-17 to FY 2018-19 in accordance to the applicable Regulations in this order.

Secondary Fuel Oil Consumption

141. With regard to specific secondary fuel oil consumption, the petitioner No. 1 filed the specific secondary fuel oil consumption of 1.00ml/kWh for FY 2014-15 to FY 2015-16 and 0.50 ml/kWh for control period FY 2016-17 to FY 2018-19.
142. It is observed that the normative specific secondary fuel oil consumption of 1.00 ml/kWh in accordance to Regulation 35.2(C) of the Regulations, 2012. Further, the normative specific secondary fuel oil consumption of 0.50ml/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 No. 1 i.e., 1.00 ml/kWh for the period FY 2014-15 to FY 2015-16 and 0.50ml/Kwh for the period FY 2016-17 to FY 2018-19 in accordance to the applicable Regulations in this order.

143. The Amarkantak Lanco Thermal 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.
144. In view of above, the operating norms for the control period FY 2014-15 to FY 2015-16 and for control period FY 2016-17 to FY 2018-19 for determination of energy charges is considered in accordance to the the Regulations, 2012 and Regulations, 2015 in this order are summarized as given below:

Particulars	Unit	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Gross Station Heat Rate	kCal/kWh	2402	2402	2402	2402	2402
Specific Oil Consumption	ml/kWh	1.00	1.00	0.50	0.50	0.50
Aux. Energy Consumption	%	9.00%	9.00%	9.00%	9.00%	9.00%
Transit losses	%	0.80%	0.80%	0.80%	0.80%	0.80%

Gross Calorific Value of Coal:

145. With regard to GCV of coal for three preceding months for the purpose of Energy Charges claimed in the petition, the Commission observed that the Regulation 41.2 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2012 provided that the weighted average GCV of coal shall be considered as '**fired**' basis. Further, 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 considered as '**received**' basis.
146. On scrutiny of the petition, the Commission observed that the petitioner No. 1 filed energy charges based on the weighted average GCV of coal on "as fired basis" for the three preceding months i.e. for the January, February and March' 2014 for the period FY 2014-15 to FY 2015-16 and energy charges based on the weighted average GCV of coal on "as Received basis" for the three preceding months i.e. for the January, February and March' 2016 for control period FY 2016-17 to FY 2018-19.

147. In view of the above, vide Commission's letter dated 25th February' 2021, the petitioner No. 1 was asked to file the following details:

- i. Detailed calculation sheets for arriving at weighted average GCV of coal "as fired basis" for three preceding months in terms of Regulation 41.2 of the MPERC Tariff Regulations, 2012.
- ii. Weighted average GCV of coal "as received basis" for three preceding months in terms of Regulation 36.6 of the MPERC Tariff Regulations, 2015.
- iii. The petitioner No. 1 was also asked to file the GCV of coal as per bill/invoice raised by the coal companies along with the copies of invoices.
- iv. Laboratory test reports in support of weighted average GCV 'as fired' basis and 'as received' basis be also filed in this regard.
- v. In case of blending of fuel from different sources, the weighted average gross calorific value of coal be filed in proportion to blending ratio in accordance to Regulation 36.6 (a) of MPERC Tariff Regulations, 2015.

148. In response to the above, by affidavit dated 30th March' 2021, the petitioner No. 1 submitted the following:

- i. In accordance with Regulation 41.2 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2012, LAPL has considered the actual weighted average GCV of coal 'as fired' during the three preceding months i.e. for January 2014, February 2014 and March 2014. The same has already been submitted at Page Nos. 204-209 of the petition.*
- ii. In accordance with Regulation 36.6 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 the petitioner has considered the actual weighted average GCV of coal 'as received' during the three preceding months i.e. for January 2016, February 2016 and March 2016. The same has already been submitted at Page Nos. 792-794 of filed petition.*
- iii. The bills/invoices raised by Coal Company (SECL) for linkage coal and alternate coal are based on particular grades of coal as mentioned in the FSA and are notified by Coal India Ltd. (CIL). The bills/invoices raised by suppliers of open market coal are based on the GCV of coal 'as received' at the power station. The copies of invoices raised by SECL for linkage coal and e-auction coal as well as by*

the suppliers of open market coal along with invoices for their transportation of the coal received during the three preceding months along with computation sheet have already been submitted at Pages Nos. 221- 459 (January 2014 to March 2014) and 533 – 791 (January 2016 to March 2016) in the filed petition. The computation sheet shows the landed cost of coal, weighted average GCV of coal on ‘as received basis’ for the coal procured during the preceding three months along with the weighted average GCV of coal ‘as billed’ for mainly G11 Grade linkage coal under FSA (GCV of 4000-4300 Kcal/kg on equilibrated basis at SECL coal mine loading point) supplied by SECL.

- iv. Laboratory test reports in the support of weighted average GCV ‘as fired’ for January 2014 to March 2014 and weighted average GCV ‘as received’ for January 2016 to March 2016 as per applicable MPERC Generation Tariff Regulations are enclosed as per Annexure-13.*
- v. The documents and calculation of blending of fuel from different sources, the weighted average GCV of coal in proportion to blending ratio in accordance with Regulation 36.6 (a) of MPERC tariff regulation 2015, have already been submitted at Page Nos. 513 - 515 of filed petition.*

149. In view of the above submission, the Commission observed the following:

- i. The petitioner no. 1 has considered the actual weighted average GCV of coal ‘as fired’ basis during the three preceding months i.e. for January, February and March 2014 for FY 2014-15 to FY 2015-16 in accordance to Regulation 41.2 of the Regulations, 2012.
- ii. The petitioner No. 1 has considered the actual weighted average GCV of coal ‘as received’ during the three preceding months i.e. for January, February and March’ 2016 for the period FY 2016-17 to FY 2018-19 in accordance to Regulation 36.6 of the Regulations, 2015.
- iii. The petitioner No. 1 also submitted bills/invoices raised by the coal companies as well as laboratory test reports in support of weighted average GCV ‘as fired’ basis and ‘as received’ basis.
- iv. The petitioner No. 1 has filed the details of blending of fuel from different sources, the weighted average GCV of coal in proportion to blending ratio.

150. Based on the above, the weighted average GCV of coal as filed by the petitioner No. 1 and considered by the Commission in this order is given below:

Table 27: Weighted Average GCV of Coal for FY 2014-15 to FY 2015-16 on fired basis

Month	Qty of Coal Consumed (MT)	GCV	Weighted average	Weighted Average GCV(Kcal/Kg)
January' 2014	120563.20	3336	402198822	
February' 2014	101487.73	3237	328515784	
March' 2014	119247.80	2998	357504917	
Total	341298.73		1088219523	
				3188.00

Table 28: Weighted Average GCV of Coal for FY 2016-17 to FY 2018-19 on received basis

Month	Qty of Coal Consumed (MT)	GCV	Weighted average	Weighted Average GCV(Kcal/Kg)
January' 2016	164632.83	3543	583294102	
February' 2016	148434.94	3640	540303196	
March' 2016	147762.71	3477	513770926	
Total	460830.48		1637368225	
				3553.08

151. In view of the above, GCV of coal on fired basis as 3188 Kcal/Kg is considered for the control period from FY 2014-15 to FY 2015-16 and GCV of coal on received basis as 3553.08 Kcal/Kg is considered for the control period from FY 2016-17 to FY 2018-19 for determination of energy charges in this order. The petitioner No. 1 is directed to ensure compliance of Regulation 36.7 of the Regulations, 2015.

152. The value of GCV of secondary fuel oil of 10,000 Kcal/ltr as filed by the petitioner No. 1 is considered in this order.

Landed Cost of Coal:

153. The petitioner No. 1 worked out energy charges based on the weighted average landed cost of coal of Rs. 1646/MT for FY 2014-15 to FY 2015-16 and Rs 2286/MT for FY 2016-17 to FY 2018-19 based on the landed cost of coal during preceding three months i.e. January'2014 to March' 2014 and January' 2016 to March' 2016, respectively.

154. Regarding the landed cost of coal, Regulation 41.4 of MPERC (Terms and

Conditions for Determination of Generation Tariff) Regulations, 2012 provides as follows:

The landed cost of coal shall include price of coal corresponding to the grade and quality of coal 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 Charges, shall be arrived at after considering normative transit and handling losses as percentage of the quantity of coal despatched by the Coal Supply Company during the month as given below:

Pit head generating stations : 0.2%

Non-Pit head generating stations : 0.8%

As per the above provision, it should be ensured that for computing energy charges, quantity of coal as dispatched by the Coal Supply Company is taken after accounting for permissible transit and handling losses alone.

155. 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 as given below:

Pithead generating stations: 0.2%

Non-pithead generating stations: 0.8%

Provided that in case of pit head stations if coal is procured from sources other than the pit head mines which is transported to the station through rail, transit loss of 0.8% shall be applicable:

Provided further that in case of imported coal, the transit and handling losses shall be 0.2%.

156. In form TPS 15 of the petition, the petitioner No. 1 worked out the weighted average landed price of coal considering the price of coal for preceding three months. Vide Commission's letter dated 25th February' 2021, the petitioner No. 1 was asked to

submit the following details:

Detailed calculation sheet for arriving at the weighted average rate of coal corresponding to the grade and quality of coal inclusive of royalty, taxes and duties, transportation cost claimed in the petition along with supporting documents be filed.

A statement indicating month-wise weighted average landed cost of coal and weighted average GCV of coal as per the Bills raised to the procurer (MPPMCL) for sale of power for the period January' 2014 to March' 2014 and January' 2016 to March' 2016 be filed by the petitioner No. 1.

157. By affidavit dated 30th March' 2021, the petitioner No. 1 submitted the following:

Detailed Calculation Sheet for arriving at the weighted average rate of coal corresponding to the grade and quality of coal inclusive of royalty, taxes and duties, transportation cost claimed in the petition for the period January 2014 to March 2014 and from January 2016 to March 2016 are enclosed at Annexures 14.

A statement indicating month wise weighted average landed cost of coal and weighted average GCV of coal as per bills raised to Procurer (PTC/MPPMCL) for the sale of power for the period January 2014 to March 2014 and January 2016 to March 2016 have already been submitted by LAPL at Page nos. 504 and 505 respectively of filed petition:

158. On perusal of the aforesaid details filed by the petitioner No. 1, the Commission observed the following:

- i. While calculating the Energy Charges for FY 2014-15 to FY 2015-16 in the subject petition, the petitioner No. 1 has considered the landed price of coal of Rs. 1646 per metric tonne prior to normative Transit & Handling Loss @ 0.8% in accordance to MPERC Tariff Regulations, 2012.
- ii. Further, while calculating the Energy Charges for FY 2016-17 to FY 2018-19 in the subject petition, the petitioner No. 1 has considered the landed price of coal of Rs. 2286 per metric tonne prior to normative Transit & Handling Loss @ 0.8% in accordance to MPERC Tariff Regulations, 2015

159. The petitioner No. 1's power station is non-pit head therefore, while determining the landed cost of coal, the petitioner No.1 has considered normative transit and handling losses of 0.8%. The Commission has considered the 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 No. 1. The weighted average landed cost of coal considered in this order for FY 2014-15 to FY 2015-16 is for preceding three months i.e., January' 2014, February' 2014 and March' 2014 and for FY 2016-17 to FY 2018-19 is for preceding three months i.e., January' 2016, February' 2016 and March' 2016 in accordance to the applicable Tariff Regulations.

160. Based on the above submissions made by the petitioner No. 1 regarding the quantity and cost of coal received by the petitioner No. 1 and provided in form TPS15 of the petition, the Weighted Average landed price of coal is worked out in terms of Tariff Regulations, 2020 as given below:

Table 29: Weighted Average Price of Coal for FY 2014-15 to FY 2015-16

Month	Total Quantity Coal Received (MT)	Cost of Coal (Rs/MT)	Rate of Coal Received (Rs/MT)	Weighted average Landed price of Coal (Rs /MT)
January'14	262500.80	1787.50	469228443	
February'14	239137.78	1651.80	395010642	
March'14	221611.53	1473.30	326510996	
Total	723250.11		1190750081	
				1646.39

Table 30; Weighted Average Price of Coal for FY 2016-17 to FY 2018-19

Month	Total Quantity Coal Received (MT)	Cost of Coal (Rs/MT)	Rate of Coal Received (Rs/MT)	Weighted average Landed price of Coal (Rs /MT)
January'16	164632.83	2614.90	430490145	
February'16	187500.68	2230.60	418233392	
March'16	210471.19	2077.20	437192851	
Total	562604.69		1285916387	
				2285.65

161. Accordingly, the weighted average price of coal of **Rs. 1646.39/ MT**(with out

considering transit and handling losses) for FY 2014-15 to FY 2015-16 and **Rs 2285.65/MT** for FY 2016-17 to FY 2018-19 (with out considering transit and handling losses) is worked out by considering the weighted average rate of preceeding three month's in this order.

162. Regulation 37.2 of the Regulations, 2012 and 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.

Landed Cost of secondary fuel oil:

163. The petitioner No. 1 claimed weighted average landed cost of secondary fuel oil of Rs. 40806/KL for FY 2016-17 based on the landed cost of fuel oil purchased only in the month of January' 2016.

164. Vide Commission's letter dated 25th February' 2021, the petitioner No. 1 was asked to submit the following;

At page 203 of the petition, the petitioner No. 1 has filed a statement indicating a weighted average rate of secondary fuel oil (Jan. 2014 to March, 2014) as Rs. 75,863/ KL for preceding three months. Further at page 512 of the petition, the petitioner No. 1 has filed a statement indicating weighted average rate of secondary fuel oil (Jan. 2016 to March, 2016) as Rs. 20,509/ KL for preceding three months.

In view of the above, the petitioner No. 1 was asked to file detailed reasons with supporting documents for claiming higher rate of secondary fuel oil during Jan. 2014 to March, 2014.

While computing the weighted average rate of Secondary fuel oil, the petitioner No. 1 has claimed the weighted average price of LDO/HFO. It needs to be clarified whether the aforesaid weighted average price pertains to oil consumed or purchased during three preceding months. As per Regulation 36.6(a) of MPERC Tariff Regulations, 2015, the wt. average landed price of secondary fuel oil is required. Supporting documents (Bills/invoices) in respect of price of oil purchased be filed by the petitioner No. 1.

165. In response to above, by affidavit dated 30th March' 2021, the petitioner No.1 submitted the following:

LAPL has already confirmed above that the main secondary fuel oil of the generating station is Light Diesel Oil (LDO). Regulation 34.1 (1) (c) of the MPERC Tariff regulation 2015 specifies 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.”

During the period from January 2014 to March 2014, main secondary fuel oil (LDO) was purchased only in January 2014 from Hindustan Petroleum Corporation Ltd (HPCL) as per prevailing rates to meet the requirements of LAPL. The weighted average landed price of main secondary fuel oil (LDO) during the above period works out to Rs. 75,863 per KL. Supporting invoices of main secondary fuel oil purchased in January 2014 are enclosed at Annexure-6.

During the period from January 2016 to March 2016, the Petitioner No. 1 earlier had inadvertently claimed the weighted average landed price of other Secondary Fuel Oil (HFO) of Rs. 20,509 per KL purchased in January 2016 instead of main Secondary Fuel Oil (LDO) specified in Regulation 34.(1) of the MPERC Tariff Regulations, 2015. Due to sufficient main secondary fuel oil (LDO) stock available at the power station and Unit-1 running continuously from 19.09.2015 to 16.01.2016 without any tripping, only other secondary fuel oil (HFO) was purchased from HPCL as per prevailing rates. Therefore, LAPL did not purchase any quantity of main secondary Fuel Oil (LDO) during October 2015 to March 2016. The main secondary fuel oil (LDO) was lastly purchased only in September 2015 at the weighted average landed price of Rs. 40,806 per KL. Supporting invoices of main secondary fuel oil (LDO) purchased in September 2015 is enclosed at Annexure- 7.

Accordingly, LAPL requests the MPERC to consider the weighted average landed price of main secondary fuel oil (LDO) rate of Rs. 40,806 per KL purchased in September 2015 in the computation of cost of secondary fuel oil in the working capital.

As can be seen from the invoices raised by HPCL, the price of main secondary fuel oil was higher during January 2014 to March 2014 (Rs. 75,863 per KL), as compared to price in September 2015 (Rs. 40,806 per KL). It is understood that the international prices of crude oil along with taxes and duties levied by Central and State Governments Influence the price of secondary fuel oil charged by Oil

Marketing Companies in India. Therefore, during the above mentioned period, LAPL has claimed the price of main Secondary Fuel oil as per prevailing rates actually paid to HPCL.

As stated above at Point no 10, the weighted average rate of main secondary fuel oil (LDO) claimed is based on the main secondary fuel oil (LDO) purchased by LAPL as per Regulation 36.6 (a) of the MPERC Tariff Regulations, 2015, considering the prevailing main secondary fuel oil (LDO) requirement of the generating station.

166. In view of the above submission, the Commission has observed the following:
- i. The petitioner No. 1 informed that as per Regulation 36.6 (a) of the MPERC Tariff Regulations, 2015, the main secondary fuel oil of the generating station is Light Diesel Oil (LDO).
 - ii. The petitioner No. 1 informed that the main secondary fuel oil (LDO) was purchased only in January' 2014 from Hindustan Petroleum Corporation Ltd (HPCL) as per prevailing rates to meet the requirements of LAPL. The weighted average landed price of main secondary fuel oil (LDO) during the above period works out to Rs. 75,863 per KL. The petitioner No. 1 submitted the copy of invoices of main secondary fuel oil (LDO) purchased in January 2014.
 - iii. The petitioner No. 1 further submitted that the main secondary fuel oil (LDO) was lastly purchased only in September 2015 at the weighted average landed price of Rs. 40,806 per KL. The petitioner No. 1 filed the copy of invoices of main secondary fuel oil (LDO) purchased in September 2015.
 - iv. The petitioner No. 1 informed that the price of main secondary fuel oil was higher during January 2014 to March 2014 (Rs. 75,863 per KL) as compared to price in September 2015 (Rs. 40,806 per KL) due to the reason that the international prices of crude oil along with taxes and duties levied by Central and State Governments Influence the price of secondary fuel oil charged by Oil Marketing Companies in India. Therefore, during the above mentioned period, the petitioner No. 1 has claimed the price of main Secondary fuel oil as per prevailing rates actually paid to HPCL.
167. In view of above, the weighted average rate of secondary fuel for preceding three months as filed by the petitioner No. 1 is considered based on the details submitted by the petitioner No. 1.

168. Regulation 37.2 of the Regulations, 2012 and 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 40,806 /KL is considered for control period FY 2016-17 to FY 2018-19 in this order.

169. Accordingly, the Energy Charges for the period from FY 2014-15 to FY 2018-19 are worked out as given below:

Table 31: Energy Charges determined in this order

Particular	Unit	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Capacity	MW	300	300	300	300	300
NAPAF	%	85%	85%	85%	85%	85%
Gross Station Heat Rate	kCal/kWh	2402.00	2402.00	2402.00	2402.00	2402.00
Sp. Fuel Oil Consumption	ml/kWh	1.00	1.00	0.50	0.50	0.50
Aux. Energy Consumption	%	9.00%	9.00%	9.00%	9.00%	9.00%
Transit Loss	%	0.80	0.80	0.80	0.80	0.80
Weighted average GCV of Oil	kCal/ltr.	10000	10000	10000	10000	10000
Weighted average GCV of Coal	kCal/kg	3188.00	3188.00	3553.08	3553.08	3553.08
Wt. Average landed Price of Coal	Rs./MT	1646.39	1646.39	2285.65	2285.65	2285.65
Wt. Average landed Price of Oil	Rs/ KL	0.00	0.00	40806	40806	40806
Heat Contributed from HFO	kCal/kWh	10.00	10.00	5.00	5.00	5.00
Heat Contributed from Coal	kCal/kWh	2392.00	2392.00	2397.00	2397.00	2397.00
Specific Coal Consumption	kg/kWh	0.750	0.750	0.675	0.675	0.675
Sp. Coal Consumption including Transit Loss	kg/kWh	0.756	0.756	0.680	0.680	0.680
Rate of Energy Charge	Rs./kWh	1.245	1.245	1.575	1.575	1.575
Rate of Energy Charge at ex bus	Rs./kWh	1.368	1.368	1.731	1.731	1.731

170. The base rate of the energy charges shall however, be subject to month to month adjustment of actual fuel price and actual GCV of coal. The actual billing of energy charges shall be as per the formula and other provisions detailed in Regulation 41 of the Regulations, 2012 for the period FY 2014-15 to FY 2018-19. 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.

Other Charges

171. In the subject petition, the petitioner No. 1 has prayed for the following charges:
- *Allow to recover E.D., Water Charges and Cess on auxiliary power consumption and other taxes, if any, levied by the Statutory Authorities from the beneficiaries.*
 - *Allow to reimburse RLDC/NLDC Charges*
172. The petitioner No. 1 is allowed to recover Electricity duty, Cess and water charges from the beneficiaries on pro-rata basis, if payable, to the State Government for generation of electricity from its generating units as per actuals in accordance with the Regulation 42 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2012 and Regulation 52 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 on submission of documentary evidence.
173. The petitioner No. 1 is also allowed to recover RLDC/NLDC Charges as per actual in accordance with the Regulation 39 of the MPERC Tariff Regulations, 2012 and Regulation 52 of the MPERC Tariff Regulations, 2015.
174. Further, the petitioner No. 1 is also allowed to recover the fee paid to MPERC and publication expenses as per Regulation 30 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 and Regulation 52 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 on submission of documentary evidence.

Implementation of the order

175. The generation tariff under the Multi-Year Tariff framework for the period from FY 2014-15 to FY 2015-16 and 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' 2012 and Regulation' 2015, respectively.
176. The petitioner No. 1 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 & its amendments and recalculate its bills for the energy supplied to Distribution Companies of the State for

1st April, 2014 to 31st March, 2019. The petitioner No. 1 must also provide information to the Commission in support of having complied with this Order.

177. With the above directions, this Petition No. 60 of 2020 is disposed of.

(Shashi Bhushan Pathak)
Member

(Mukul Dhariwal)
Member

(S.P.S Parihar)
Chairman

Date: 24th August' 2021

Place: Bhopal

Annexure-1

Response of Petitioner No. 1 on the comments offered by the MPPMCL and observations of the Commission:

Return on Equity:

MPPMCL Comment:

That, the Petitioner No. 1, vide Para No I(iv) & II (iv) in the petition has claimed RoE at the base rate of 15.50% and which has been grossed up by applicable MAT rates of 20.9605% and 21.345 % for FY 2014-15 and FY 2015-16 respectively and 21.342%, 21.342% and 21.549% for FY 2016-17, FY 2017-18 and FY 2018-19 respectively. Since the said period has elapsed by now, it is submitted that the Commission may be pleased to carry out a prudence check on the basis of income actual paid by the Petitioner no. 1 in the respective years for allowing the tax paid on actual basis rather than on Grossing up the return on equity.

Petitioner No. 1s Reply:

It is submitted that LAPL has filed a petition for determination of tariff for FY 2014-15 to FY 2018-19 (5 years). It is further submitted that MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2012 are applicable for determination of tariff for FY 2014-15 & FY 2015-16 (2 years). Further, MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 are applicable for determination of tariff for FY 2016-17 to FY 2018-19 (next 3 years).

Regulation 22.3 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2012 specifies the following:

“Provided that return on equity with respect to the actual tax rate applicable to the Generating Company, in line with the provisions of the relevant Finance Acts of the respective Year during the Tariff period shall be trued up separately.”

Further, Regulation 31 of the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015, specifies the following:

“the effective tax rate “t” 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.”

Further the above Regulation also specifies that in case of a generating company paying Minimum Alternate Tax (MAT), “t” shall be considered as MAT rate including surcharge and cess.

*It is submitted that since the Commercial Operation Date (COD) of Unit 1 i.e. 09.04.2010, LAPL has been eligible to pay only Minimum Alternate Tax (MAT) and not the normal Corporate Tax. It is submitted that LAPL pays income tax for the Company as a whole. During the above FY 2014-15 to FY 2018-19, in spite of LAPL’s Unit 1 having accounting profit in certain financial years, **there was no income tax payable by LAPL due to losses under the head “Profits and Gains of Business or Profession” calculated in accordance with the provisions of Section 28 to Section 44 of the Income Tax Act 1961 and LAPL had booked losses calculated in accordance with Section 115 JB Income Tax Act 1961. Therefore, LAPL humbly submits that it has inadvertently claimed the grossed up return of equity by grossing up the base rate at 15.50% of ROE with applicable MAT rates in its Unit 1 and requests the Hon’ble Commission to accordingly true up the ROE on year to year basis considering the above submission of the Petitioner.***

Observation:

The Commission while determining ROE has considered the petitioner’s additional submission and documents along with the Annual Audited Accounts. Accordingly, the Return on Equity has been determined by applying base rate of return @ 15.5% in accordance to applicable provisions under Tariff Regulations, 2012 & 2015.

Interest on Loan:

MPPMCL Comment

Vide Para No -I(v) &II (v), the Petitioner No. 1 has claimed interest on loan. The Petitioner No. 1 has considered the weighted average rate @ 13.58% for FY 2014-15 & 2015-16 and similarly 13.70% for 2016-17 to 2018-19. Regulation 23.7 of Tariff Regulation 2012 and Regulation 32.7 of Tariff Regulations of 2015 provide that the Generating Company shall

make every effort to re-finance the loan as long as it results in net savings on interest, the same is quoted below :

“The generating company shall make every effort to re-finance the loan as long as it results in net savings on interest and in that event the costs associated with such re-financing shall be borne by the beneficiaries and the net savings shall be shared between the beneficiaries and the generating company in the ratio of 2:1.”

It is humbly submitted that the Petitioner No. 1 should disclose the efforts, if any, made by it to refinance the loan, to reduce the interest burden on loan in terms of aforesaid regulations.

Petitioner No. 1s Reply:

LAPL has claimed the weighted average rates of interest during FY 2014-15 to FY 2018-19 based on the actual interest rates charged by the lenders in Unit-1. Lender-wise weighted average rates of interest was submitted on 30.03.2021 forming part of Petitioner's reply to the queries raised by the Commission. As regards Regulation 32.7, which provides that the generating company shall make every effort for re-finance of the loans to bring a reduction in the rates of interest, it is submitted that LAPL faced financial losses due to under recovery in tariff and this resulted in considerable financial stress. LAPL defaulted in its debt obligations to the lenders. In view of the prevailing financial stress, LAPL did not have the option of refinancing of the existing loans with a view to reduce the Rate of Interest. Thus, it is submitted that there was no lack of effort on the part of LAPL to re-finance the loan, however, in view of its financial position owing to under recovery of tariff, the same was not possible. Thus, despite LAPL's best efforts, re-financing was not possible. LAPL submits that it has complied with the provisions of Regulation 32.7. It is further confirmed no penal interest has been included while computing the weighted average rate of interest on term loan.

Observation:

The petitioner No. 1 has filed weighted average rate of interest worked out based on the actual interest on actual loan portfolio in accordance to applicable provisions under Tariff Regulations, 2012 & 2015 and the same has been considered in this order. The petitioner No. 1 has also filed the Financial Institutions/Bank's certificates/statements in support of actual rate of interest for the respective year in this regard.

Depreciation:

MPPMCL Comment:

Vide Para No.-I(vi) & II (vi) in the petition, the Petitioner No. 1 has claimed depreciation on its assets. The Commission, order dated 01.12.2012, has allowed the weighted average rate of Depreciation @ 5.03% and the same is considered by the Petitioner No. 1. However, as per principle of prudence check, since the period of consideration has already elapsed by now, the Commission may consider to direct the Petitioner No. 1 to submit the year wise asset cum depreciation details duly matched with the audited statement of accounts

Petitioner No. 1s Reply:

In support of the Depreciation considered in the Petition filed before the Commission, the Asset-cum-Depreciation register for LAPL's Unit 1 from COD of the Unit-1 to 31.03.2019 has already submitted on 30.03.2021 as part of Petitioner's reply to the queries raised by the Hon'ble MPERC.

Observation:

The petitioner No. 1 in its additional submission has submitted the year-wise statement of asset cum depreciation details. The rate of depreciation on assets considered in the aforesaid statement in accordance to the rates of depreciation specified in MPERC Tariff Regulations, 2012 & 2015. Further, there has been no addition in the capital cost already admitted by the Commission. Accordingly, the annual depreciation for respective years has been worked out.

Gross Station Heat Rate and Auxiliary Consumption

MPPMCL Comment:

Vide paras no. II(A&B) in the petition, the Petitioner No. 1 has stated that in absence of any specific norms for GSHR & AUX for 300 MW Unit size having achieved COD prior to 01.04.2012 in the Regulations of 2012, the petitioner has considered GSHR of 2402Kcal/kwh and Aux. Consumption 9.00% as earlier approved by the Commission vide order dated 01.12.2012. In this regard Petitioner No. 1 may submit monthly details of aforesaid performance parameters actually achieved for control period from FY 2014 to FY 2019. Accordingly for determining GSHR and AUX, lowest value of GSHR and Aux may please be considered while approving the same

Petitioner No. 1s Reply:

The Gross Station Heat Rate (GSHR) and Auxiliary Energy Consumption (AEC) are specified in the MPERC Tariff Regulations 2012 and MPERC Tariff Regulations 2015 on normative parameters basis. Further, Regulation 8.7 of MPERC Tariff Regulations 2015 provides for sharing of financial gains in the ratio of 2:1 between the generating company and the beneficiaries based on true up, due to difference between normative controllable parameters and actual controllable parameters. Further, MPERC Tariff Regulations 2012 applicable for Tariff for FY 2014-15 and FY 2015-16 do not provide for any sharing of financial gains on account of controllable parameters. The Petitioner has already submitted the details of financial gain along with actual controllable parameters for FY 2016-19 on 30.03.2021 as part of Petitioner's reply to the queries raised by the Hon'ble Commission.

Further, the mechanism for compensation against actual controllable parameters due to part load operation will also have to be reconciled from 15.05.2017 onwards as per Hon'ble CERC's Order dated 05.05.2017 in Petition No. No. L-1/219/2017 with the sharing of financial gains based on true up of the tariff for controllable parameters as per tariff regulations.

Observation:

While determining the energy charges, the GSHR and Auxiliary energy consumption have been considered in accordance to the applicable Regulations. Further, the petitioner No. 1 has filed the monthly details of actual operating parameters achieved during each year of the control period FY 2016-17 to FY 2018-19. The petitioner No. 1 also filed the details of financial gain during each financial year in accordance to the Regulation 8.9 of the Regulations, 2015. The petitioner No. 1 has been directed to share the financial gain due to better performance parameters with MPPMCL in accordance with the Regulations.

Operation and Maintenance Expenses

MPPMCL Comment:

The Petitioner No. 1 has claimed O&M expenses vide Paras No -I(ix) &II (ix) in the petition. Since there is an absence of O&M norms for 300 MW category in the Regulations of 2012 and 2015, the Petitioner No. 1 has considered O&M norms for 200/210/250 MW category. The relevant extracts of the proviso 6.3 to Regulations of 2012 and 2015 and proviso 6.3 & 2012 are as under:

“The Multi-Year Tariff Principles adopted in these Regulations seek to promote competition, adoption of commercial principles, efficient working of the generating company and are based on the Central Electricity Regulatory Commission (CERC’s) principles”

In this regard, it is submitted that the CERC Regulations of 2014 prescribe for O&M Norms for 300 MW Units as under:-

Financial Year	Lakh/MW as per CERC regulations for 300 MW	As claimed by petitioner for 250 MW as per MPERC Regulations 2012 & 2015
2014-15	19.95	19.63
2015-16	21.21	21.19
2016-17	22.54	24.20
2017-18	23.96	25.72
2018-19	25.47	27.34

It is submitted that the Hon’ble Commission may consider the above for O&M norms for Petitioner No.1.

Petitioner No. 1s Reply:

The Hon’ble APTEL in its judgment dated 01.03.2012 in Appeal No. 131/2011 has clearly held that while framing the Regulations, the State Commissions are required to be guided by Principles laid down by the Central Commission, National Electricity Policy, Tariff Policy etc. Once the State Commission has framed and notified the requisite Regulations after meeting the requirement of prior publication under section 181 (3) of the Act, it is bound by such Regulations while fixing Tariff under Section 62 of the Act and the Central Commission’s Regulations have no relevance in such cases. Therefore, the above judgment of Hon’ble APTEL makes clear that State Commissions are obliged to determine the tariff on the basis of Regulations framed by the State Commissions only.

Accordingly, the Petitioner requests the Hon’ble Commission to allow Normative O & M expenses as per applicable MPERC Tariff Regulations only since the Petitioner’s 300 MW Unit-1 is an existing thermal generating station (COD achieved on 09.04.2010) under MPERC Tariff Regulations and the 300 MW Unit set is closer to the category of 200/210/250 MW specified in the Tariff Regulations and thus, it is appropriate that the

Petitioner's 300 MW Power Plant is considered in the aforementioned category of MPERC Tariff Regulations.

Observation:

The Commission has determined the tariff in accordance with the provisions under applicable MPERC Tariff Regulations. Therefore, Operation & Maintenance expenses has been worked out in accordance with the noms provided under the provisions of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 & 2015.

Reimbursement of Electricity Duty, Cess and Other Charges

MPPMCL Comment:

Vide ParasNo.I(e&f) &II (e&f) in the petition, the Petitioner No. 1 has claimed Electricity Duty, Cess and other charges. The same may be considered after prudence check in view of the relevant provisions of the Tariff Regulations of 2012 and 2015 only

Petitioner No. 1s Reply:

Regulation 42 of the MPERC Tariff Regulations 2012 and Regulation 52 (5) of the MPERC Tariff Regulations 2015 is reproduced as below:

“Electricity duty, cess and water charges if payable by the Generating Company for generation of electricity from the power stations to the State Government, shall be allowed by the Commission separately and shall be trued-up on actuals.”

The Petitioner has already submitted the above details on 30.03.2021as part of Petitioner's reply to the queries raised by the Commission and requests the Hon'ble Commission to allow the same as per above Tariff Regulations.

Observation:

Reimbursement of electricity duty, cess and other charges has been considered as per the provisions under applicable Tariff Regulations, 2012 & Regulations, 2015.

Non – Tariff Income

MPPMCL Comment:

As per proviso 31 of Regulations of 2012 and proviso 53 of Regulations of 2015 the non-tariff income needs to be deducted from the Fixed Cost. However, the petitioner the No. 1

has not disclosed the income derived by it from sale of Fly Ash, Interest on FD and other miscellaneous receipts.

Petitioner's Reply:

Form 13C of the tariff filing formats in accordance with the Regulation 31 of the MPERC (Terms and Conditions of Tariff) Regulations, 2012 showing the details of Non-tariff Income for FY 2014-15 and FY 2015-16 based on the Annual Audited Accounts of each year have already been submitted by the Petitioner on 30.03.2021 as part of Petitioner's reply to the queries raised by the Hon'ble Commission.

Similarly, Form 13C of the tariff filing formats in accordance to the Regulation 53 MPERC (Terms and Conditions of Tariff) Regulations, 2015 showing the details of Non-tariff Income for FY 2016-17 to FY 2018-19 have already been submitted on 30.03.2021 as part of Petitioner's reply to the queries raised by the Hon'ble Commission.

Observation:

The petitioner No. 1 in its additional submission has filed the year-wise details of non-tariff income in accordance to Annual Audited Accounts and the same have been appropriately considered while determining the Annual Capacity Charges in the Order.

Annexure-2

Response of petitioner no. 1 on the comments offered by the stakeholders and observations of the Commission:

Stakeholder Comment:

- 1) On 30th May' 2005, there was a PSA signed between MP State Electricity Board and M/s PTC India Ltd where it was decided that through Lanco Amarkantak power plant, it will sell electricity at a capped rate of Rs 2.20/unit for 25 years. Apart from that, M/s PTC has a special provision of trading margin at rate of paisa 5.00/unit for the first 12 years.

Petitioner No. 1s Response:

At the outset it is submitted that the objections raised are baseless, frivolous and wholly misconceived & an attempt has been made to mislead the Hon'ble Commission. The objections appear to be malafide in nature & are therefore liable to be rejected by this Hon'ble Commission.

Observation:

The aforesaid objection does not pertain to the subject petition.

Stakeholder Comment:

- 2) Vide petition No. 138/2005, tariff was provisionally determined at the rate of Rs 2.10/unit which was challenged by the petitioner No. 1 before the Appellate Tribunal vide appeal No 71/2008. Hon'ble Tribunal vide judgment dated 21st October' 2008 had observed that it is not in jurisdiction of the Commission. Appeals were also filed by M/s PTC India Ltd., MP Power Trading Company Ltd. and MPERC before Hon'ble Supreme Court of India against aforesaid Order passed by the Tribunals. On 14th February' 2012, MP Govt has blacklisted M/s Lanco Amarkantak for doing any business after several civil appeals filed.

Petitioner No. 1s Response

A perusal of the Objections would show that the Objectors have sought to raise objections with regard to the (i) Settlement Agreement dated 16.10.2012; (ii) the Amended Power Purchase Agreement dated 24.11.2012 and Amended Power Sale

Agreement dated 26.11.2012 (Implementation Mechanism); (iii) Order dated 01.12.2012 passed by this Hon'ble Commission in Petition No. 78/2012 in respect of the aforesaid Agreements and tariff for supply of power. In Paras 1-4 of the Objections, the Objectors have raised objections with regard to the aforesaid agreements & the Order passed by this Hon'ble Commission.

Observation:

The petitioner No. 1 submitted that the petitioner(s) in the subject matter have amicably resolved their disputes of termination and accordingly signed a Tripartite Settlement Agreement dated 16.10.2012.

Further, Hon'ble APTEL, vide Order dated 19.08.2020 directed to determine the tariff for supply of power from generating unit of petitioner no 1.

Stakeholder Comment

- 3) Even after being blacklisted, a tripartite agreement happened on 12th October' 2012 where agreement happened between M/s PTC and Lanco Amarkantak and also between M/s PTC and MPPMCL. After that Lanco power was removed from the blacklist and the tariff was also determined for Lanco on 01st December' 2012 and all the appeals filed before Hon'ble Supreme Court was also withdrawn.

Petitioner No. 1s Response

It is submitted that in the present proceeding for determination of tariff, such objections cannot be raised. The Objectors cannot challenge the said agreements nor can they challenge the Order dated 01.12.2012 passed by this Hon'ble Commission pursuant to execution of the aforesaid Agreements. Pertinently, vide Order dated 01.12.2012, the Hon'ble Commission held as under:-

"14. A review of the conditions envisaged in the Settlement Agreement and the Implementation Mechanisms resulting in amendment to the PPA entered into the year 2005 has been done and the amendments proposed are found to be in order.

.....

20. In light of the above-mentioned observations and findings, the Commission hereby accords approval to the process of the subject power procurement under the settlement agreement and implementation mechanism filed by the petitioner under section 86(1)(b) of the Electricity Act, 2003....."

Observation:

The comment of the stakeholder does not pertain to the determination of tariff in the subject matter.

Stakeholder Comment

- 4) It was argued by the petitioner in the order dated 01st December' 2012 that "On the request of LANCO the parties agreed to remove capping for which approval from the Govt. of MP has also been obtained". No request to remove the capping from the Govt of MP has been there, so how can the question of approval come?

Petitioner No. 1s Response

It is an admitted position that the aforesaid Order dated 01.12.2012 passed by this Hon'ble Commission has attained finality. In this light, it is submitted that the aforesaid objections raised by the Objectors are wholly untenable & misconceived.

Observation:

The comment of the stakeholder does not pertain to the determination of tariff in the subject matter.

Stakeholder Comment

- 5) The petitioner filed a review petition no 10/2013 on 2nd February' 2013 even after the tariff got determined for the period of 4 months. The aforesaid petition was filed covering details related to capital cost, coal details etc. This petition was withdrawn back on 12th March' 2013 but the issues raised in that petition was never been look after because from 01st April' 2013, no tariff has been determined yet.

Petitioner No. 1s Response

It has been admitted by the Objectors that the Hon'ble APTEL, vide Order dated 19.08.2020 has directed this Hon'ble Commission to determine year on year tariff. The Objectors have however raised objection to the reference of Section 62 in the Petition filed before this Hon'ble Commission (in addition to reference to Section 64(5)).

Observation:

Comment does not pertain to the present petition.

Stakeholder Comment

- 6) Apart from all the appeals judgement/orders, tariff determination under section 62 of the Electricity Act, 2003, the Commission cannot determine the tariff.

Petitioner No. 1s Response

It is submitted that such objection is wholly fallacious. The present Petition has been filed under Section 64(5) of the Act, on behalf of the generator, trader and distribution licensee, read with Section 62 of the Act read with Section 86(1)(a) & (b) of the Act. Pertinently, Section 62 and Section 64 (along with Section 61) are all part of the same scheme & come under the same Part VII titled 'Tariff'. Whilst Section 64 provides the procedure of tariff order [with sub-section (5) envisaging tariff to be determined by the State Commission on application having been made by the concerned parties (generator, trader and discom in the present case)], Section 62 is the provision for determination of tariff. Therefore, Section 64 & 62 are to be read together for the purpose of any tariff determination proceeding, be it pursuant to an Application filed by the generating company under Section 64(1) or at the instance of concerned parties under Section 64(5). Pertinently, Section 61 provides for framing of Tariff regulations, which regulations govern the 'determination of tariff', be it pursuant to an Application filed by a generating company under Section 64(1) or by concerned parties under Section 64(5). In both the cases as aforesaid, Section 62, which is a general provision titled 'Determination of tariff' would be applicable. Whilst there are two avenues available for determination of tariff i.e. Section 64(5) or Section 64(1), the result is the same. Section 86 provides for functions of Commission, which includes determination of tariff. In fact a bare perusal of the prayer made in the objections would reveal that the Objectors have urged the Hon'ble Commission to determine the tariff under Section 64(5). In any event, it is an undisputed position that as per the judgment of the Hon'ble APTEL, the tariff is to be determined by this Commission.

Observation:

The subject petition has been filed in compliance to the observations and directions of Hon'ble Appellate Tribunal for Electricity to determine tariff under Section 64(5) of the Electricity Act 2003.

Stakeholder Comment

- 7) The petitioner has filed separate petitions before the Appellate Tribunal but in no petition tariff determination under Section 62 has been requested.

Petitioner No. 1s Response

With regard to the Order dated 21.10.2008 passed by the Hon'ble APTEL, it is submitted that the said Order was passed in a completely different context & is not relevant in the present case. In view of the subsequent developments namely execution of settlement agreement, implementation mechanism for PPA & PSA, order dated 01.12.2012 passed by this Hon'ble Commission & more importantly, the Order dated 19.08.2020 passed by the Hon'ble APTEL and present tariff proceeding under Section 64(5) of the Act, the reliance placed & reference made to the Order dated 21.10.2008 is wholly misplaced, inappropriate & untenable.

Observation:

The subject petition has been filed in compliance to the observations and directions of Hon'ble Appellate Tribunal for Electricity to determine tariff under Section 64(5) of the Electricity Act 2003.

Stakeholder Comment

- 8) Hon'ble Appellate Tribunal quashing all the petitions filed before the Tribunal, has only approved tariff determination under Section 64(5) of the Electricity Act, 2003 in its order dated 19th August' 2020 where it is nowhere directed to determine tariff under section 62.

Petitioner No. 1s Response

In light of the above, the objections raised qua Section 62 etc. are wholly baseless & untenable.

Observation:

The subject petition has been filed in compliance to the observations and directions of Hon'ble Appellate Tribunal for Electricity to determine tariff under Section 64(5) of the Electricity Act 2003.

Stakeholder Comment

- 9) The petitioner no 1 has requested to determine tariff under section 62 of the Electricity Act, 2003 but there is no contract signed between Lanco and MPPMCL or MPPTC.

Petitioner No. 1s Response

The Objections also refer to the competitive bidding guidelines, Section 63 of the Act, National Tariff Policy etc. to contend that determination of tariff under Section 62 of the Act is contrary to the interest of general consumers due to lack of competitive bidding. The Objectors however, have failed to specify as to how the tariff determination is against the interest of the consumers. They have referred to an Order dated 11.04.2017 passed by the Hon'ble Supreme Court in case of Mundra Power Station, to contend that the Hon'ble Supreme Court disallowed compensatory tariff, in case of Section 63 PPAs. It is submitted that the said Order of the Hon'ble Supreme Court is wholly irrelevant for the present proceeding. In fact the Objectors have failed to even indicate as to how the said Order is relevant for or applicable to case at hand.

Observation:

The subject petition has been filed in compliance to the observations and directions of Hon'ble Appellate Tribunal for Electricity to determine tariff under Section 64(5) of the Electricity Act 2003.

Stakeholder Comment

10) Electricity purchase under Section 62 is against the interest of the consumers of the State.

Petitioner No. 1s Response

The Objectors have repeatedly referred to the PPA dated 30.05.2005 & the tariff mentioned therein (without referring to the amendments executed in the year 2012) & has averred that the said agreement should be followed. In this regard, it is submitted that apart from the fact that all such contentions cannot be raised in the present proceedings for determination of tariff, the Objectors are completely ignoring rather disregarding the Order dated 01.12.2012 passed by this Hon'ble Commission. The amendments to PPA & PSA (Implementation Mechanism to PPA & PSA) executed to the agreement dated 30.05.2005 pursuant to the settlement agreement dated 16.10.2012 have all been approved by the Hon'ble Commission almost 8.5 years ago vide Order dated 01.12.2012. Therefore, to contend that the tariff is to be determined as per the agreement dated 30.05.2005 is in utter disregard of the Order dated 01.12.2012 passed by the Hon'ble Commission, apart from being wholly misconceived.

Observation:

The subject petition has been filed in compliance to the observations and directions of Hon'ble Appellate Tribunal for Electricity to determine tariff under Section 64(5) of the Electricity Act 2003.

Stakeholder Comment

- 11) If the petitioner wants the tariff to be determined under Section 62 of the Act, then no trading margin should be provided to the petition because there is no provision of trading margin in the Tariff Regulations.

Petitioner No. 1s Response

It is further submitted that highly irresponsible allegations, which are totally false, have been made by the Objectors. Such allegations are totally uncalled for and ought not to be made in such manner.

Observation:

The Commission has determined tariff under Section 64(5) of the Electricity Act 2003 as per directions of Hon'ble Appellate Tribunal for Electricity.

Stakeholder Comment

- 12) Private electricity companies and private traders can request for tariff determination keeping in mind of its profitability in the business, whereas MPPMCL is a govt company and is liable to protect the interests of the consumers still requesting for tariff determination under section 62 of the Act and keeping in mind the interests of the private power companies which totally points towards the corruption and irregularity wherein whole contract period, a lumpsum amount of Rs 10000 Crore needs to be paid by the electricity companies and traders which in turn burden the consumers bill.

Petitioner No. 1s Response

It is submitted that rather than in the consumer interest, the Objections filed are in fact against the consumer interest. Despite being aware that the capital cost of LAPL's 300 MW Unit 1 as approved by Hon'ble Commission in its Order dated 01.12.2012 is the lowest among all IPPs supplying power from their thermal power plants at regulated tariff to MPPMC (as is evident from the Table below), the Objectors have chosen to oppose the tariff determination proceeding. This shows that the objections are not bonafide or in the interest of consumers of Madhya Pradesh and pertinently, the contention of the Objectors is incorrect as per table below:

S.	Thermal Power Plants supplying	Unit size	Capital Cost
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No.	power to MPPMC	(in MW)	(Rs.Cr./MW)
1	Jaypee Nigrie Super Thermal Power	660	8.55
2	MB Power (Madhya Pradesh) Ltd.	600	7.25
3	Jhabua Power Ltd.	600	7.65
4	Jaypee Bina	250	7.04
5	Lanco Amarkantak Power Ltd.	300	4.12

(Source: MPERC Tariff Orders)

Further, since the date of commencement of power supply i.e. 03.12.2012 (nearly 8.5 years now), the entire power from LAPL's 300 MW Unit 1 has been consistently supplied to MPPMC through PTC. The Annual Plant Availability Factor as well as Annual Scheduled PLF of LAPL's Unit 1 have also been consistently high due to its adherence to O&M Best Practices as can be seen from the table below:

S. No.	Tariff Year	Annual Plant Availability Factor	Annual Scheduled PLF
1	03.12.2012 to 31.03.2013	96.74%	87.02%
2	FY 2013-14	95.97%	86.43%
3	FY 2014-15	91.85%	84.16%
4	FY 2015-16	94.13%	83.12%
5	FY 2016-17	93.96%	79.61%
6	FY 2017-18	90.20%	74.16%
7	FY 2018-19	95.98%	80.64%
8	FY 2019-20	88.84%	73.33%
9	FY 2020-21	95.18%	92.08%

It is also important to submit that the monthly Energy Charge Rate(s) of LAPL's Unit 1 has also been the lowest amongst all IPPs in the merit order despatch schedule followed by MPSLDC.

The Hon'ble APTEL in its judgement and order dated 19.08.2020 has lastly observed as follows:

"Keeping in view the aforesaid submissions of all the parties and having regard to interpretation of various sections in various judgments of this Tribunal and the apex court, we are of the opinion that the State Commission was not justified in refusing the determination of tariff at which State Discom was to procure power for supply to its consumers. Needless to mention that the power supply from the reference unit of LANCO power station to MP Discoms is at one of the cheapest rates and is likely to gradually reduce in future. It would accordingly be in the interest of the consumers that the State Commission determines the tariff for the power supply to be procured by the State Discoms from the LANCO's unit".

All of the above establishes that the objections raised by the objectors are wholly frivolous, misconceived and not bonafide. The Objectors do not have consumer interest in mind, rather the objections are against the consumer interest inasmuch procurement of cheap power from LAPL, has actually benefited the public consumers of the State. The Objectors have conveniently ignored the aforesaid aspects and have surprisingly chosen to focus on the legal issues, which already stand settled by the Hon'ble APTEL and this Hon'ble Commission. Therefore, the objections are contrary to the Orders that have already attained finality. This also shows that the objectors have scant regard for the Orders passed by the Hon'ble Commission & the Hon'ble APTEL and further, that the objections have been filed not in the interest of consumers but for some ulterior motive & therefore the same are liable to be rejected by this Commission.

Observation:

Comment does not pertain to the subject petition