

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION
5th Floor, "Metro Plaza", Bittan Market, Bhopal - 462016



Petition No. 28 of 2018

PRESENT:

Dr. Dev Raj Birdi, Chairman
Mukul Dhariwal, Member
Anil Kumar Jha, Member

IN THE MATTER OF:

Determination of Final Generation Tariff for 1X600 MW Unit (Phase-I) Coal Based Thermal Power Station at Barela-Gorakhpur, Dist. Seoni, Madhya Pradesh for the control period from FY 2016-17 to FY 2018-19 under Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015.

AND IN THE MATTER OF:

M/s. Jhabua Power Limited

Petitioner

Versus

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

Respondents

ORDER

(Passed on this day of 30th November' 2018)

1. M/s. Jhabua Power Limited (hereinafter called "the petitioner") filed the subject petition on 14th June' 2018 under Section 62 and Section 86(1)(a) of the Electricity Act, 2003 for determination of final generation tariff for 1x 600 MW unit of its coal based thermal power project (Phase-I) at District Seoni, Madhya Pradesh for the period from its CoD till end of the control period i.e. 31st March' 2019 based on Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 (hereinafter called "the Tariff Regulations, 2015")
2. The generating unit (Phase-I) in the subject petition was synchronized with the grid on 23rd February, 2016 and this unit was declared under Commercial Operation on **3rd May, 2016**.

BACKGROUND OF THE SUBJECT PETITION:

3. The subject petition has been filed in the following backdrop:
 - (i) The petitioner had earlier filed Petition No. 53 of 2015 for determination of final/provisional generation tariff for Unit No.1 600 MW of Phase 1 of its power plant. On scrutiny of the aforesaid petition, it was observed that the generating unit of the petitioner's power plant was not declared under commercial operation, therefore, vide Commission's order dated 20th January' 2016, this petition No. 53 of 2015 was disposed of with the following directions to the petitioner:

"The Commission is not inclined to keep this petition pending indefinitely and therefore, has decided to dispose of this petition at this stage. However, the petitioner shall be at liberty to approach the Commission with all requisite details and documents as and when the generating unit is declared under commercial operation. The Commission may also consider to adjust the processing fees already deposited by the petitioner on early filing of the requisite details and documents in the matter."
 - (ii) Subsequently, the petitioner filed Petition No. 16 of 2016 on 21st March' 2016. The aforesaid petition was based on MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2012 and the same was filed in anticipation of CoD of the generating unit by 25th March' 2016. Motion hearing in the aforesaid petition was held on 26th April' 2016 when the Commission had observed the following infirmities in the petition:
 - a. The generating unit of the petitioner's power plant had not achieved CoD till date.

- b. The subject petition was filed in accordance with MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations' 2012 whereas, the applicable Regulation was MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations' 2015.
- (iii) In view of the above, the petitioner was asked to file the amended petition in light of the provisions under MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 and submit the other details and documents required for determination of provisional tariff.
- (iv) By affidavit dated 13th May' 2016, the petitioner filed the amended petition based on MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015. Vide order dated 6th September' 2016 (in Petition No. 16 of 2016), the generation tariff for petitioner's generating unit of 600 MW was provisionally determined by the Commission from CoD to 31st March' 2017. In the same order, the petitioner was directed to file the petition for determination of final tariff of the said generating unit along with the Annual Audited Accounts and all other essential details and documents. In the aforesaid Order, the Commission provisionally determined the following Annual Capacity Charges and Energy Charges for 1x600 MW Unit (Phase 1) in the subject matter.

Table 1: Head Wise Annual Capacity (Fixed) Charges provisionally allowed

Sr. No.	Cost Component	Unit	FY2016-17
1	Return on equity	Rs. Crores	172.95
2	Interest charges on loan	Rs. Crores	362.85
3	Depreciation	Rs. Crores	187.46
4	Operation & Maintenance expenses	Rs. Crores	97.62
5	Interest on working capital	Rs. Crores	61.02
6	Annual capacity (fixed) charges	Rs. Crores	881.89
7	Less: Non-Tariff Income	Rs. Crores	0.00
8	Net Annual Fixed Charges (AFC)	Rs. Crores	881.89
9	No. of days in operation during the year	No.	333.00
10	AFC apportioned in actual days of operation	Rs. Crores	804.57
11	Annual capacity charges corresponding to 30% of Installed Capacity of the Unit	Rs. Crores	241.37
12	95% of the above AFC allowed to be recovered by the petitioner	Rs. Crores	229.30

Table 2: Energy Charges provisionally determined

Sr. No.	Particular	Unit	FY2016-17
1	Installed Capacity	MW	600
2	Normative Annual Plant Availability Factor	%	85
3	Gross Generation at generator terminals	MU's	4467.60
4	Net Generation at ex-bus	MU's	4210.71
5	Gross Station Heat Rate	kCal/kWh	2337.72
6	Sp. Fuel Oil Consumption	ml/kWh	0.50
7	Aux. Energy Consumption	%	5.75
8	Transit and handling Loss	%	0.80
9	Weighted average GCV of Oil	kCal/ltr.	10000
10	Weighted average GCV of Coal	kCal/kg	3978
11	Weighted average price of Oil	₹ /KL	40046.65
12	Weighted Average price of Coal	₹/MT	3437.92
13	Heat Contributed from Oil	kCal/kWh	5.00
14	Heat Contributed from Coal	kCal/kWh	2332.72
15	Specific Coal Consumption	kg/kWh	0.5864
16	Sp. Coal consumption including transit loss	kg/kWh	0.5911
17	Rate of Energy Charge from Oil	₹/kWh	0.020
18	Rate of Energy Charge from Coal	₹/kWh	2.032
19	Total Rate of Energy Charge from Coal and Oil	₹./kWh	2.052
20	Energy Charge rate at ex-bus	₹/kWh	2.177

- (v) Subsequently, the petitioner had filed **Petition No. 64 of 2017** for determination of final generation tariff of its 1x600 MW Coal based Thermal Power Plant from date of commercial operation (03.05.2016) till 31st March' 2019.
- (vi) On scrutiny of the aforesaid petition No. 64 of 2017, it was observed by the Commission that the capital cost claimed as on CoD in the petition and additional capitalization till 31st March' 2017 were not capitalized in the Annual Audited Accounts for FY 2016-17 and the same was shown under CWIP in the Annual Audited Accounts. Considering the request made by petitioner In the motion hearing of said petition, the petitioner was given adequate time to address the discrepancy in figures between the filing and Annual Audited Accounts but the petitioner was failed to address the same in the given time. Therefore, the petition No. 64 of 2017 was ultimately disposed of vide Commission's order dated 13th March' 2018 and the petitioner was directed to file a fresh petition along with all requisite details and documents within 3 months' time.

4. Pursuant to above, the petitioner filed the subject petition along with the revised Annual Audited Accounts for FY 2016-17. In the Annual Audited Accounts filed by the petitioner with the subject petition, the Auditor has mentioned that “this report is issued in supersession of our earlier report dated 1st August’ 2017 to the extent of matters stated in para 11 which provides as follows”:

“We draw attention to Note no. 2.1A of these updated Ind AS financial statements relating to the receipt of the opinion from the holding company of the Company, subsequent to the date of approval of the financial statements by the Board of Directors on August 1, 2017, but prior to placing of these in the Annual General Meeting for consideration by the shareholders, regarding capitalization of power plant in the books of the Company from the COD (Commercial Operation date), the Board of Directors has decided to give effect of the same and therefore, the financial statements as approved on August 1, 2017 and our audit report of even date, stand updated only to the extent of this revision. Our procedures on subsequent events are restricted solely to this amendment in the financial statements....”

5. With the aforesaid background, the petitioner filed the subject petition for determination of final tariff for 1x600 MW generating unit (Phase 1) of its Coal based Thermal Power Plant based on the Annual Audited Accounts for FY 2016-17.
6. In Para 4.1 of the subject petition, it is mentioned that the petitioner craves liberty of this Commission to treat the details of the documents and submissions made with Petition No. 16 of 2016 and Petition No. 64 of 2017 as the part of this instant petition. It is further mentioned in the petition that the documents already submitted at the time of determination of provisional tariff in aforesaid case are not repeated/submitted again by the petitioner for the sake of brevity. The list of documents which were earlier filed by the petitioner are as given below:
- (i) MPERC Order dated 7th Sept 2012 granting approval of PPA for 30% power to MPPMCL.
 - (ii) Certificate of incorporation dated 23rd February 1995 along with copy of Memorandum and Articles of Association of the Company.
 - (iii) Detailed Project Report (DPR), April 2009–Vol. I & II.

- (iv) MOU with the Govt. of Madhya Pradesh dated 17th Jan. 2007 and subsequent amendments thereof.
- (v) Implementation agreement with the Govt. of Madhya Pradesh dated 14th Jan. 2008 along with amendments thereof.
- (vi) Airports Authority of India NOC dated 23rd Sept. 2010.
- (vii) Ministry of Environment and Forest, GoI NOC dated 17th February 2010 and amendment dated 25th January 2012.
- (viii) Water Resources Deptt., GoMP letter dated 27th July 2009 for allocation of water, consequent Agreement dated 10th December 2009.
- (ix) Ministry of Defense, Govt. of India Clearance vide letter dated 22nd February 2010.
- (x) Copy of "Consent to Establish" Vide letter No. 11425/TS/MPPCB/2010 dated 15th December 2010 from MP Pollution Control Board.
- (xi) Copy of "Consent to Operate" Vide letter No. 2316/TS/MPPCB/2015 dated 13th April 2015 from MP Pollution Control Board.
- (xii) Copy of "License to Work A Factory" dated 28th February 2015 from Government of MP.
- (xiii) Common Rupee Loan Facility Agreement with the lenders dated 30th Dec. 2009 'Annexure-9';
- (xiv) Audited Financial Statement of the Company for the year ending 31st March 2015.
- (xv) Letter of assurance for supply of coal by Mahanadi Coal Ltd. dated 11th June 2009 along with Coal Supply Agreement executed on 8th March 2013.
- (xvi) Letter of assurance for supply of coal by South Eastern Coalfields Ltd dated 2nd August 2008 along with Coal Supply Agreement executed on 23rd August 2013.
- (xvii) Copy of Letter dated 30th March 2016 issued by the Central Electricity Authority ("CEA") confirming the commissioning (achieving full load) of the instant power plant.
- (xviii) Copies of the Final Test Certificate dated 3rd May 2016 issued by the Independent Engineer, Lahmeyer International (India) Pvt. Ltd., and acceptance of the Performance Test and date of COD by the Respondent No. 1 vide letter dated 5th May 2016.

- (xix) Western Regional Power Committee ("WRPC") has confirmed the COD of the instant power plant w.e.f. 00:00 hrs of 3rd May 2016. Copy of the Communication dated 5th May 2016 of WRPC.
7. Besides above, the petitioner has submitted the following documents with the subject petition:
- (i) Copy of letter from CEA on achievement of full load.
 - (ii) Copy of certificate of the Independent Engineers witnessing the achievement of full load for 72 hours
 - (iii) Copy of Confirmation letter for Date of Commercial Operations from WRLDC.
 - (iv) Audited accounts for year ending on March 2017
 - (v) Copy of CA certificate specifying the intermediate arrangement on the mechanism for coal road transport and truck unloading by deploying a dedicated loop-in/loop-out system.
 - (vi) Correspondence made with CIL and MoEF for coal for Commissioning activity.
 - (vii) Copy of Detailed Project Report (DPR) dated April 2009
 - (viii) PGCIL Letter for approval of Connectivity to JPL
 - (ix) Approval of GOI Under Section 68 of Electricity Act, 2003 for dedicated Transmission Line
 - (x) Letter of Award for 400 kV Transmission Line of JPL to M/s L&T Limited
 - (xi) Copy of MPERC Order dated September 7, 2012
 - (xii) Approval of Under Crossing Proposal of 400 KV Barela - New Pooling Station, Jabalpur with 400 kV Anuppur-Jabalpur Pooling and 765 KV Dharamjaigarh - Jabalpur Pooling Transmission lines of PGCIL
 - (xiii) Approval by PTCC route for 400 kV Barela-New Pooling Station Jabalpur
 - (xiv) Approval by MPPTCL for crossing of 132 kV & 220 kV lines
 - (xv) Approval by MPPTCL for crossing proposal of 132 kV Bargi-Lakhnadon Line (Loc No. 78 & 79)
 - (xvi) Permission for issuing NOC by National Highway Authority of India for overhead crossing of 400 kV double circuit transmission line of JPL
 - (xvii) Issue of NOC by Air Force Authority of India for construction of 400 kV D/C Barela (Seoni) – Jabalpur Transmission Line

- (xviii) Approval of GOI Under Section 164 of Electricity Act, 2003 for dedicated Transmission Line
- (xix) MoEF clearance for construction of 400 KV DC line
- (xx) NOC from Civil Aviation for construction of the 400 KV D/c Transmission line
- (xxi) Amendment in LOA to M/s L&T Limited
- (xxii) Issue of NOC by South East Central Railway, Office of the Chief Signal and Telecom Engineer for 400 kV D/C line from Barela (Seoni) to New Pooling Station Jabalpur
- (xxiii) Supporting document (newspaper cutting) regarding the unfortunate incident held at the Construction site
- (xxiv) High Court Orders for temporary stay on Construction Activities by JPL
- (xxv) Consolidated Rainfall Data for MP
- (xxvi) Copy of letter dated 26th May, 2017 requesting the Energy Department, Govt. of Madhya Pradesh for deferment of installation of Phase II of the Jhabua Thermal Power Station
- (xxvii) Copy of letter dated 16th November, 2014 by MPPMCL accepting the request of JPL for extension of SCOD
- (xxviii) Copy of letter dated 16th September, 2015 by MPPMCL declining the request of JPL for extension of SCOD
- (xxix) Supporting documents substantiating RoW issues (including newspaper clipping)
- (xxx) Copy of the Certificate by the Chartered Accountant depicting detailed breakup of fuel cost incurred towards start-up Fuel/Margi Money
- (xxxi) Copy of CA Certificate for Total Overheads and Establishment Expenditure
- (xxxii) Copy of CA Certificate for capital cost as on COD
- (xxxiii) Letter to MPPMCL regarding notification for Change in Law
- (xxxiv) Letter from MPPMCL regarding delay in Commissioning of Unit -1 (600 MW) of JPL
- (xxxv) Documents regarding Transmission Line losses
- (xxxvi) Sample invoices for coal and its transportation for the month of March 2018
- (xxxvii) Notification of Award (NOA) for "design, engineering, manufacturing and supply of BTG package station C&I along with electrical equipments"

- (xxxviii) Notification of Award (NOA) for services contract including inland transportation, insurance, erection testing and commissioning and conducting P&G tests awarded to M/s BHEL vide NoA dated 25.02.2010
- (xxxix) Letter of Award for Supply of Cement and Steel for Main Plant Civil and Structural Works Package dated 20.12.2010
- (xl) Purchase order for supply of Structural steel from Sunil Hitech Engineers Limited (SHEL) dated 15.11.2012
- (xli) Letter of Award for supply of plant & machinery for raw water intake system to M/s Kirloskar Brothers Limited dated 26.04.2012
- (xlii) Letter of Award for supply of Reinforced steel and structural steel for Creek Bridge of Raw Water Intake System to M/s Raghu Infra Private Limited dated 05.04.2012
- (xlili) Service Order dated 09.07.2012 for civil work of pipeline package awarded to M/s Zuberi Engineering Company
- (xliv) Letter of Award for waste water treatment plant (ETP) of Jhabua Power Limited awarded to M/s Thermax Ltd. vide PO dated 17th October, 2012
- (xlv) Letter of Award for Supply of Plant and Equipments for Complete water treatment plant and Mandatory spares of Jhabua Power Limited awarded to M/s Thermax Ltd. vide letter dated 03rd August, 2011
- (xlvi) Award of Contract for supply of Coal Handling System for Phase 1 of 1x600 MW Jhabua Power Limited awarded to M/s FL Smidth Private Limited
- (xlvii) Sample Contract copy / Invoices for procurement of steel from different Vendors under CHP Package
- (xlviii) Letter of Award for Supply of Plant and Equipments for Complete induced draft cooling tower(IDCT) and Mandatory spares of Jhabua Power Limited awarded to M/s Paharpur Cooling Tower Limited vide letter dated 16th December, 2011
- (xlix) Letter of Award for 400kV Transmission Line of Jhabua Power Limited awarded to M/s L&T Ltd. dated 10.04.2012 and further Amendment
- (l) Letter of Award for Engineering Consulting service for Chimney for 2x600 MW Jhabua Power Limited awarded to M/s L&T Sargent and Lundy Ltd. vide PO dated 01st November, 2010.
- (li) Copy of Service Order awarded to M/s RM Engineers and Contractors for Ash Disposal Area Development dated 19.03.2015
- (lii) Report on the Land Requirement for Thermal Power Station by CEA

8. The petitioner broadly submitted the following in the subject petition:
- i. *M/s Jhabua Power Limited ("the petitioner" or "JPL"), being a generating company within the meaning of Section 2 (28) of the Electricity Act, 2003 ("the Act"), is filing the present petition on affidavit seeking 'Determination of Generation Tariff' for sale of power by its Phase-I, 1 x 600 MW, Coal Based Power Project at Barela-Gorakhpur, Dist. Seoni, Madhya Pradesh ("Generating Station") for the period commencing from the date of achieving Commercial Operation ("CoD") under Section 62 read with Section 86(1)(a) of the Act.*
 - ii. *The Generating Station was synchronized with the grid on 23.02.2016 and has been commissioned (achieving full load) on 22.03.2016. Further, the Generating Station completed the trial run operation of 72 hours on 02.05.2016 and the COD has been declared (within the means of Generation Tariff Regulations, 2015) on 00:00 hrs on 03.05.2016.*
 - iii. *A copy of Letter dated 30.03.2016 issued by the Central Electricity Authority ("CEA") confirming the commissioning (achieving full load) of the Generating Station is attached hereto and marked as Annexure-2. Copies of the Final Test Certificate dated 03.05.2016 issued by the Independent Engineer, Lahmeyer International (India) Pvt. Ltd., and acceptance of the Performance Test and date of COD by the Respondent No. 1 vide letter dated 05.05.2016 are attached hereto and marked as Annexure-3. Further, the Western Regional Power Committee ("WRPC") has confirmed the COD of the Generating Station w.e.f. 00:00 hours of 03.05.2016. Copy of the Communication dated 05.05.2016 of WRPC is attached herewith and marked as Annexure-4.*
 - iv. *The petitioner has entered into the following PPAs for supply of power from 600 MW Generating Station.*

Table 3: Details of PPAs for supply of power of Phase I, 1x600 MW

S.No.	Beneficiary	Type	Date of PPA	Quantum	Tenure of PPA
1	<i>Madhya Pradesh Power Trading Company Limited ("MP Tradeco")</i>	<i>Long Term Tariff as determined by MPERC</i>	<i>Jan 5, 2011</i>	<i>180 MW</i>	<i>20 years from COD</i>
2	<i>Government of Madhya Pradesh ("GoMP") through its Secretary</i>	<i>As approved by MPERC</i>	<i>27.06.2011</i>	<i>5% of Net energy</i>	<i>From COD - Life of Plant</i>

S.No.	Beneficiary	Type	Date of PPA	Quantum	Tenure of PPA
	<i>(Energy)</i>				
3	<i>Kerala State Electricity Board</i>	<i>Long Term through Case – I Competitive Bidding</i>	31.12.2014	115 MW	01.12.2016– 30.11.2041
4	<i>Kerala State Electricity Board</i>	<i>Long Term through Case – I Competitive Bidding–</i>	26.12.2014	100 MW	01.10.2017– 30.09.2042

- v. *The Petitioner had entered into a MoU with the Government of Madhya Pradesh and conceptualized the said Power Project with a capacity of 1260 MW. The Project was envisaged for development under two phases viz. Phase 1 – 600 MW and Phase-II- 660 MW. The share of State Government was ~35% of the capacity from this Project. This was in line with the then prevailing demand supply scenario in the State of Madhya Pradesh, in 2011.*

- vi. *As already elaborated in the petition for Provisional Tariff, Phase-II was awaiting fuel linkage and no financial closure could be achieved towards the same. Additionally, in view of the slackness in the conventional power sector scenario and the overall macro-economic outlook of the country, the decision to move ahead with implementation of Phase-II could not be proceeded with, by the Petitioner. As such, it has been decided not to go ahead with Phase-II of the project. Accordingly, considering the interest of the consumer, procurer, bankers and the investors and also assessing the possible utilization of such Phase - II, the Petitioner vide its letter dated 23.03.2016 had requested MPPMCL to de-link Phase-II from the PPA. In this regard, the Chief General Manager (Commercial), MPPMCL vide its letter dated 16.05.2017 had directed the Petitioner to approach the Energy Department, Govt. of Madhya Pradesh for deferment of installation of Phase II of Jhabua Thermal Power Station. Accordingly, the Petitioner vide letter dated 26.05.2017 had requested to the Energy Department, Govt. of Madhya Pradesh for deferment of installation of Phase II of the Jhabua Thermal Power Station. The copy of letter dated 23.03.2016 and 26.05.2017 of the Petitioner is attached at Appendix 19.*

- vii. *The Petitioner submits that it has not been conferred mega power status as only Phase-I comprising of 1 Unit of 600 MW was subsequently developed. Phase-I*

of the coal based Thermal Power Plant is developed at Barela- Gorakhpur, Distt- Seoni, Madhya Pradesh. The broad features of Phase-I of 600 MW are enumerated below:

Table 4: Broad features of Jabhua Phase- 1.

Parameter	Unit	Features
Capacity	MW	600
COD	Date	03.05.2016
Expected Annual Gross Generation at 83% PLF	Million Units	4374.43
Coal Source	Agency	SECL, MCL
Coal Requirement at design conditions	Million Tonnes	2.99
Design SHR	kCal/kWh	2237
Design Auxiliary Consumption	%	5.75
Type of Cooling Tower		IDCT
Main Plant Contractor	Agency	BHEL
BOP Contractor	Agency	FLS, Thermax etc.

9. In the subject petition, the following Annual Fixed Cost / Capacity Charges are claimed by the petitioner:

Table 5: Annual Fixed Cost claimed (Rs. in Crore)

S. No.	Particulars	FY 2016-17	FY 2017-18	FY 2018-19
1	Depreciation	216.69	243.95	249.76
2	Interest on Loan	410.26	452.20	427.24
3	Return on Equity	184.62	262.95	279.38
4	Interest on WC	68.31	64.43	64.75
5	O & M Expenses	89.06	103.80	110.28
6	O & M Expenses (T/x)	0.56	0.63	0.66
7	Non-Tariff Income	2.94	2.94	2.94
8	Total	966.55	1125.01	1129.13

Energy Charges:

10. The petitioner has claimed Energy Charges based on the provisions under MPERC (Terms and Conditions for determination of Generation tariff) Regulations, 2015 as below:

Table 6: Energy Charges Claimed (Rs in Crore)

Description	Unit	FY 2016-17 (from 03.05.2016 to 31.03.2017) (Actual)	FY 2017-18 (Projected)	FY 2018-19 (Projected)
Capacity	MW	600	600	600
PLF	%	4.42%	85%	85%
Gross Station Heat Rate	Kcal/kWh	2618.53	2338	2338
Aux. Energy Consumption*	%	10.22%	6.25%	6.25%
Energy Generation – Gross	MU	232.14	4479.84	4479.84
Aux. Energy Consumption	MU	23.72	279.99	279.99
Ex-bus Energy Sent Out	MU	208.42	4199.85	4199.85
Specific Oil Consumption	ml/kWh	4.22	0.50	0.50
Wt. Avg. GCV of Oil	KCal/Lt	10500	10500	10500
Price of Oil	Rs./KL	44150	47591	47591
Wt. Avg. GCV of Coal	kCal/kg	3774	3963	3963
Price of Coal	Rs./MT	3798.42	3192.51	3192.51
Heat Contribution from SFO	Kcal/kWh	44.27	5.25	5.25
Oil Consumption	KL	978.81	2240	2240
Heat Contribution from Coal	Kcal/kWh	2574.26	2332.42	2332.42
Specific Coal Consumption	kg/kWh	1.4660	0.5885	0.5885
Normative Transit Loss	%	0.80%	0.80%	0.80%
Coal Consumption	MMT	0.17	2.66	2.66
Total Cost of Oil	Rs. Crore	4.32	10.66	10.66
Total Cost of Coal	Rs. Crore	65.39	848.43	848.43
Total Fuel Cost	Rs. Crore	69.71	859.09	859.09
Rate of Energy Charge from Secondary Fuel Oil ex-bus	Paise/kWh	20.73	2.54	2.54
Rate of Energy Charge from Coal ex-bus	Paise/kWh	313.75	202.01	202.01
Rate of Energy Charge ex- bus per kWh	Paise/kWh	334.48	204.55	204.55

11. With the above, the petitioner has prayed the following:

- i. “Approve the Actual Capital cost of the project as submitted in this petition towards Unit-1 of 600 MW.

- ii. Determine the Final Generation Tariff (Fixed and Energy Charges) of Phase-I, 1x600 MW Unit of the Petitioner which has achieved commissioning of the Unit on 21.03.2016 & Unit was declared commercial on 03.05.2016 for the period from COD of Generating Station till 31.03.2019, as required under the PPA dated 05.01.2011 to be paid by the Respondents for 30% of the installed capacity;*
- iii. Determine the Energy (Variable) charges to be paid by the Respondent No.1 for and on behalf of Government of Madhya Pradesh for the energy supplied under the PPA dated 27.06.2011 equivalent to 5% of net (ex-bus) energy generated;*
- iv. Consider the submissions made by the Petitioner towards recovery of transmission losses in dedicated network, allow recovery of O&M expenses towards up-keep of the transmission line and approve the performance parameters for FY 2016-17 based on the merits of the reasons submitted in this petition.*
- v. Allow to recover E.D. and Cess on auxiliary power consumption and other taxes, if any, levied by the Statutory Authorities from the beneficiaries on pro-rata basis.*
- vi. Allow recovery of the filing fees as and when paid to the Hon'ble Commission and also the expenses on publication of public notice from the beneficiaries.*

PROCEDURAL HISTORY:

12. Motion hearing in the subject matter was held on 17th July' 2018 when the petition was admitted and the petitioner was directed to serve copies of subject petition on all Respondents in the matter. The respondents were also directed to file their response on the petition by 20th August' 2018.
13. Vide letter dated 16th August' 2018, the information gaps and requirement of additional details were communicated by the Commission to the petitioner seeking its response by 14th September' 2018. Respondent No. 1 (MPPMCL) had sought six weeks' time extension for filing its response on the subject petition.

14. By affidavit dated 21st September' 2018, the petitioner filed its reply to the issues communicated to it by the Commission. Issue-wise response filed by the petitioner is mentioned at **Annexure I** of this order.
15. By affidavit dated 23rd October' 2018, the Respondent No. 1 filled its comments/response on the subject petition.
16. By affidavit dated 21st November' 2018. the petitioner filed its response on the comments offered by the Respondent No. 1 and same is annexed as **Annexure II** of this order
17. By affidavit dated 23rd October' 2018, Respondent No. 1 (MPPMCL) filed its response on the subject petition. The public notice in the subject matter was published on 9th October' 2018 in the following English and Hindi newspapers:
 - (i) Nai Duniya, Hindi (Gwalior Edition)
 - (ii) Nav Duniya, Hindi (Bhopal Edition)
 - (iii) Nai Duniya, Hindi (Jabalpur Edition)
 - (iv) Nai Duniya, Hindi (Indore Edition)
 - (v) Times of India, English (MP Edition)
18. The public hearing in the subject matter was conducted on 30th October' 2018 when the representatives of the petitioner, Respondent No. 1 appeared. The Commission also received the comments from two stakeholders and obtained the response of petitioner on the same. The comments by the stake holders and reply of the petitioner to the comments offered stakeholders are mentioned in **Annexure III** with this order.

Capital Cost

Petitioner's Submission:

19. The petitioner has broadly submitted the following with regard to capital cost claimed in the subject petition:
- (i) *The Investment approval of 1x600MW of the project was initially accorded by the Board of Directors of the Jhabua Power Ltd., a subsidiary of Avantha Power and Infrastructure Ltd., at its meeting dated 01.07.2008 at a project cost of Rs. 2800 Crore at price level of 3rd quarter of 2008. Against the initial Project Cost of Rs. 2800 Crore approved by the Board of Directors of the Petitioner Company, the lenders had appraised the Project Cost at Rs. 2909.89 Crore at base prices of March, 2009 by including certain additional items such as margin money on working capital, contingency, etc. It is respectfully submitted that there is no separate Board Resolution for the escalation and approval of Capital Cost from Rs. 2800 Crore to Rs. 2909.89 Crore. However, it is pointed out, that the Board of Directors in the subsequent Investment Approval had taken on record the estimated project expenditure of Rs. 2909.89 Crore as appraised by the Lenders. The said estimates were based on data available in secondary sources/order placed in past. The captured data therefore consisted of mainly equipment cost which are designed, supplied, erected and commissioned by Chinese manufacturers who were the major suppliers at that point of time. However, keeping in view the adverse feedback received regarding the suitability of these equipment to Indian coal and conditions, a decision was taken by the company to source the main plant equipment from BHEL and other BoP packages from indigenous reputed suppliers like Thermax, F L Smidth, Crompton Greaves etc. This resulted in significant increase in the package cost. The cost of the project was actually discovered after floating the tenders wherein the Petitioner got the quotes from bidders for various equipment.*
 - (ii) *For development of the Project (Phase-I), the petitioner had awarded various contracts including BTG, BOP, Civil works, other associated works, transmission lines for evacuation of power etc. The order for main plant equipment (BTG) was placed on M/s BHEL, a public sector undertaking, being a leading BTG package manufacturer and supplier in India. The contracts for balance of plant and civil works were awarded through competitive bidding process to various reputed suppliers based on their past performances. The details of various contracts, placed by the petitioner, towards development of the Project have been provided in Form TPS-5C.*

- (iii) Pursuant to discovery of prices through bidding processes and placement of major orders during the period 2010-12, the Project Cost of Phase-I was further updated on dated 28.10.2013 to Rs. 3777 Crore at Price level of 4th Quarter of 2013. Further, the Board of JPL at its meeting dated 10.03.2016 revised a Project Cost of Phase-I to Rs. 4950 Crore.
- (iv) The Project Cost of Phase-I, 1x600 MW Unit is Rs. 4698.66 Crore as on CoD, i.e. 03.05. 2016. The detailed break-up of the expected capital cost as on CoD has been provided at Additional Form TPS - 5B. The broad breakup of the project cost for Phase-I, 1x600 MW Unit under various heads as on COD is as under:

Table 7: Breakup of Capital Cost and Cash Expenditure of Jhabua TPS.

Sl. No.	Particulars	Project Cost including un-discharged liabilities (Rs. in Crore)	Cash Expenditure (Rs. in Crore)
1.	Land and Site Development	63.59	63.32
2.	Boiler, Turbine, Generator (including spares)	1818.54	1672.70
3.	BOP Mechanical	532.58	459.59
4.	BOP Electrical	280.64	263.82
5.	Civil Works	192.55	173.66
6.	Construction and Pre Commissioning Expenses	98.24	97.35
7.	Overheads	277.76	267.02
8.	Interest during construction period	1434.76	1332.63
Project Cost (as on CoD)		4698.66	4330.08

- (v) The Petitioner submits that the additional capitalization after CoD is Rs. 15.78 Crore in FY 2016-17 (i.e. from COD to 31.03.2017) and is anticipated to be Rs. 122.03 Crore in FY 2017-18 and Rs. 110.00 Crore in FY 2018-19. The said additional capital capitalization is mainly towards items such as Ash Pond-II Lining, Service and Admin Building, Township, MGR-S&T and Electrification and Loco, Roads and Drainage, Balance Mandatory Spares, etc. Further, the Petitioner has recovered the liquidated Damages of Rs. 8.27 Crore during FY 2016-17 towards BTG Package and Transmission Line from the respective contractors. The details of the additional capitalization have been provided in relevant tariff forms.

Provision under Regulations:

20. With regard to capital cost, Regulation 15.1 and 15.2 of MPERC (Terms and Conditions for determination of Generation tariff) Regulations, 2015 provides as under

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

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

- (a) the expenditure incurred or projected to be incurred up to the date of commercial operation of the project;*
- (b) Interest during construction and financing charges, on the loans (i) being equal to 70% of the funds deployed, in the event of the actual equity in excess of 30% of the funds deployed, by treating the excess equity as normative loan, or (ii) being equal to the actual amount of loan in the event of the actual equity less than 30% of the funds deployed;*

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

- (c) Increase in cost in contract packages as approved by the Commission;*
- (d) Interest during construction and incidental expenditure during construction as computed in accordance with Regulation 17 of these Regulations;*
- (e) capitalised Initial spares subject to the ceiling rates specified in Regulation 19 of these Regulations;*
- (f) expenditure on account of additional capitalization and de-capitalisation determined in accordance with Regulation 20 of these Regulations; and*
- (g) adjustment of revenue due to sale of infirm power in excess of fuel cost prior to the COD as specified under Regulation 24 of these Regulations;*

21. Regulation 15.5 of the aforesaid Regulations further provides that;

The capital cost with respect to thermal generating station, incurred or projected to be incurred on account of the Perform, Achieve and Trade (PAT) scheme of Government of India will be considered by the Commission on case to case basis and shall include:

- a) cost of plan proposed by developer in conformity with norms of PAT Scheme; and*
- b) sharing of the benefits accrued on account of PAT Scheme.*

Commission's Analysis:

a. Scheduled CoD:

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

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

23. Regarding scheduled CoD of the unit, Clause 4.1.6 of the PPA provides that:
"The Parties may mutually agree to revise the Scheduled CoD for Commissioning of any Unit or the Power Station (hereinafter referred to as Revised Scheduled Commercial Operation Date or Revised Scheduled COD) and such Revised Scheduled COD shall thereafter be the Scheduled COD."
24. Regarding delay in commissioning of the project, the petitioner had submitted that the Project implementation was hampered owing to the delay in availability of start-up power, raw water intake system and various other uncontrollable reasons including delays in obtaining clearances. In para 5.3 of the amended Petition No.16 of 2016, the petitioner had submitted the various circumstances leading to postponement of the commissioning of the generating unit:
25. While processing aforesaid petition, vide Commission's letter dated 6th June, 2016, the petitioner was asked to submit the detailed reasons and factors attributable for excessive delay in achieving CoD of the project. The petitioner was also asked to file the details of penalty/Liquidated Damages if any, recovered from the vendor/contractor as per the provisions under the contract, if the delay is on account of the vendor/contractor side.
26. The reasons for delay in achieving CoD of the unit as mentioned by the petitioner have been mentioned in para 7 of Commission's provisional order dated 06.09.2016. Regarding penalty/Liquidated damages, the petitioner mentioned that the liquidated damages (LD) recovered / to be recovered in different packages would be known at the time of contract settlement once the cut-off date is achieved. The petitioner has now informed that the LD of Rs 8.27 Crore has been recovered from the

- contractors/vendors. By affidavit dated 28.11.2018, it is further informed by the petitioner that the said LD has been deducted from the discharged liabilities including additional capitalization claimed for the purpose of tariff.
27. The Commission observed that the extension of scheduled CoD till March' 2015 for Phase-I (600 MW) of Jhabua Power was conditionally considered by MPPMCL subject to furnishing of some undertaking by M/s. Jhabua Power Ltd.
28. By affidavit dated 3rd August, 2016, the petitioner submitted the following:
“As per the PPAs signed with the Respondents and subsequent approval from the Respondent No. 1, the Scheduled COD of Phase-I, Unit-1 of the Project was 31st March 2015 (“SCOD”). The approval of SCOD of 31st March 2015 was granted by the Respondent No. 1 vide its letter no. 05-01/1484 dated 10th November, 2014. In view of the above stipulation of the PPA, it is submitted that the SCOD is to be considered as 31st March 2015.”
29. The petitioner further submitted that MPPMCL in its letter dated 10th November 2014 allowing extension of CoD till 31st March 2015 stated that *“...your request for extension of scheduled CoD for Jhabua Power Limited – Phase – I (600MW) till March 2015 has been considered and accepted subject to furnishing of undertaking by M/s Jhabua Power Limited that transmission charges and / or any other incidental charges, if any, levied by CTU with effect from April 1st, 2014 to the actual CoD, shall be borne by Jhabua Power Limited.”* The petitioner further submitted that the aforementioned condition has already been stipulated in the PPA with the respondents and hence there was no occasion on the petitioner's part to submit any new undertaking in this regard.
30. Vide its letter dated 24th March, 2015, the petitioner further requested MPPMCL for extension of revised scheduled CoD of 600 MW unit of phase-I to **September, 2015**. In response to the aforesaid request of M/s. Jhabua Power, MPPMCL vide its letter No. 05-01/1670 dated 16th September' 2015 conveyed the following to the petitioner:
“Here it would be pertinent to mention that as per Clause 4.1.5 of PPA, Jhabua Power Limited (JPL) was to achieve COD for the 1st Unit by 31.03.2013. At the request of JPL, the COD was extended by one year up to 31.3.2014. M/s. JPL again requested for extension of revised COD by one year upto 31.3.2015 and the same was considered by Board of Directors and COD was subsequently revised to 31.03.2015.

The request made vide above mentioned letter dated 24.03.2015 to extend the COD upto September, 2015 was put up before the Board of Directors of MPPMCL. The request was considered and it was decided that the reason for delay in completion of transmission line for start-up power is not attributable to MPPMCL and the explanation does not appear plausible. Therefore, the Board declined the request for extension of COD to September, 2015.”

31. On detailed scrutiny of the details and documents regarding delay in CoD, the Commission has observed the following:
- (i) As per clause 4.1.5 of PPA, M/s Jhabua Power Ltd. was to achieve CoD of Unit No. 1 by 31st March, 2013.
 - (ii) At the request of the M/s Jhabua Power Ltd., the scheduled CoD was extended by MPPMCL by one year up to 31st March, 2014.
 - (iii) M/s Jhabua Power Ltd., again requested to MPPMCL for extension of revised CoD by one year up to 31st March, 2015 and same was considered by MPPMCL.
 - (iv) Vide letter dated 24th March, 2015, the petitioner further requested for extension of scheduled CoD till September, 2015.
 - (v) Vide letter dated 16th September, 2015, declined the request of the petitioner for extension of COD from 31st March' 2015 to September, 2015.
32. In view of the above, the Commission has noted that the scheduled date of commercial operation is defined and detailed in the PPA executed between the petitioner and Respondents. Further, the MPPMCL agreed to revise the scheduled date of commercial operation only upto 31.03.2015. For the subsequent period from 31st March' 2015 upto Actual CoD, the Respondent No. 1 i.e. MPPMCL has not considered the request of petitioner for further extension of CoD. Accordingly, the revised scheduled CoD of Unit No.1 is 31st March' 2015. In view of all aforesaid and the provisions under PPA, the Commission has considered Scheduled CoD of Unit No. 1 as 31st March, 2015 in this order.

Cost over-run:

33. The petitioner has submitted the following break-up of capital cost along with its increase from revised DPR prepared in April' 2009 to actual cost claimed as on CoD.

Detailed breakup of Capital Cost of the Jhabua TPS (Rs. in Crore)

S. No.	Particulars	Revised DPR prepared April 2009	DPR in	Actual Cost claimed as on COD	Difference
1	Cost of Land & Site Development		51.25	63.59	12.34
2	Boiler, Turbine, Generator (including spares):				
	Plant & Equipment-BTG: Steam Generator Island		1292.92	1809.53	516.61
	Initial spares		37.69	9.01	-28.68
	Sub-Total		1330.61	1818.54	487.93
3	BOP Mechanical:				
	BOP Mechanical (including Air compression system, fire fighting system, cranes, DG sets, etc.)		135.00	169.35	34.35
	CHP		72.50	210.08	137.58
	MGR		80.00	0.81	-79.19
	External Water Supply System		16.00	78.94	62.94
	Water Treatment Plant		30.50	40.09	9.59
	Induced Draft Cooling Tower		26.00	33.31	7.31
	Sub-Total		360.00	532.58	172.58
4	BOP Electrical:				
	BOP Electrical (including switchyard package, transformer package, switchgear package, cables, cable facilities & grounding, lighting, DC system, elevators, UPS system, fire detection system, ABT system, etc.)		130.80	125.52	-5.28
	Transmission Line		36.00	155.12	119.12
	Sub-Total		166.80	280.64	113.84
5	Taxes and Duties on Plant & Equipments		218.47	Included in above packages	-218.47
	Total Plant & Equipment inclusive taxes		2075.88	2631.76	555.88
6	Total Civil inclusive Taxes		191.24	192.55	1.31
7	Total Construction & Pre-Commissioning Expenses		51.85	98.24	46.39

S. No.	Particulars	Revised DPR prepared in April 2009	Actual Cost claimed as on COD	Difference
8	Total Overheads including design & engineering, audit & accounts and consultancy & professional charges	136.83	277.76	140.93
9	Capital cost excluding IDC & FC	2507.06	3263.90	756.84
10	Interest During Construction (IDC) incl financing charges	402.84	1434.76	1031.92
11	Capital cost including IDC, FC, FERV & Hedging Cost	2909.89	4698.66	1788.77

34. With regard to the reasons for increase in project cost from April' 2009 to the actual cost claimed as on CoD, the petitioner has explained the following reasons under each head:

(i) **Land and Site Development:**

In the original Project Cost, a sum of Rs. 51.25 Crore was estimated towards Land & Site development cost which included cost of land at Rs. 41.30 Crores and expenditure of Rs. 10.00 Crores on account of Site development. The land at Project Site emerged to have solid rocky earth and uneven terrain which was not anticipated earlier. To clear the site and get the same ready for Project implementation, lots of controlled blasting and area grading was considered necessary and the same being a costly affair, resulted in increasing the cost of Site development.

The actual cost of acquisition of the land incurred by JPL is Rs. 30.25 Crore. However, in order to acquire the land, JPL had to pay an additional sum of approx. Rs. 21.48 Crores towards rehabilitation & resettlement activities and CSR expenses as per the terms of approval for land acquisition accorded by State Govt. and requirement stipulated in Environment Clearance from MOEF which has been included in the cost of land and all-inclusive cost of land acquired works out to be Rs. 51.73 Crores. Accordingly, the total actual cost of land and site development is Rs 63.59 Crore.

(ii) **Price Variations:** It is important to mention that the input cost of steel and cement as well as labor index had been the highest during the construction period, which has an impact on the final Capital cost. As some of the supply Contracts were linked to the

variation in CPI and WPI indices, therefore the cost of such supply materials have increased on account of the inflation.

(iii) **Plant & Equipment (BTG package including C&I Package)- M/s BHEL**

In the original Project Cost, the cost of BTG package was estimated to be Rs. 1292.92 Crore at base prices of March, 2009 for Plant & Equipment (BTG package including C&I Package). The said estimate was based on data available in secondary sources/order placed in past, by Chinese manufacturers who were the major suppliers at that point of time. However, keeping in view the adverse feedback received regarding the suitability of these equipment to Indian coal and conditions, a decision was taken by the company to source the main plant equipment from BHEL which has resulted into increase in cost of BTG Package. The details of Contracts awarded for BTG Package is as under:

Table 8: Details of Contracts awarded under BTG Package

Particulars of Contract	Contract Value (in Rs. Crore)
BHEL - Design, Engineering, Manufacturing and Supply of BTG package, station C&I along with associated electrical equipment, excluding taxes and duties (equivalent to US\$ 24.14 million + Euro 35.9 million+ INR 7614.5 million) (copy of NoA dated 25.02.2010 enclosed as Attachment 1.1)	1180.37 @ US\$=Rs. 62, Euro = Rs. 75 as on say 01.04.16
BHEL - Inland Transportation, Insurance, testing, erection & commissioning excluding taxes and duties (copy of NoA dated 25.02.2010 enclosed as Attachment 1.2)	187.00
Taxes and duties on above two contracts	172.44 (150 on BHEL Supply Contract and 22.44 on BHEL Services Contract)
Sunil Hi-Tech Engineers Ltd. (SHEL) - Supply of cement and steel for main plant civil and structural works package including taxes and duties (copy of LoA dated 20.12.2010 and further amendments enclosed as Attachment 1.3)	68.07
Sunil Hi-Tech Engineers Ltd. (SHEL) - Main plant civil and structural works package including taxes and duties (Copy of LoA dated 20.12.2010 and further amendments enclosed as Attachment 1.3)	86.89

Particulars of Contract	Contract Value (in Rs. Crore)
Sunil Hi-Tech Engineers Ltd. (SHEL) - Supplementary order for supply of structural steel including taxes and duties (Copy of purchase order dated 15.11.2012 enclosed as Attachment 1.4)	15.50
Sunil Hi-Tech Engineers Ltd. (SHEL) - Erection of structural steel including taxes and duties (Copy of service order dated 15.11.2012 enclosed as Attachment 1.4)	7.90
Steel supplied by Jhabua Power Limited as per provisions of Contract (Reconciliation Statement of Steel procured directly by Jhabua Power Limited and supplied for various works is given Attachment 1.5)	91.36
Total	1809.53

Thus, the actual cost of BTG package worked out to Rs.	1809.53 Crore..
Original Cost as per IA excl. taxes and duties	: Rs. 1292.92 Crore
Actual BTG package cost incl. taxes and duties	: Rs. 1809.53 Crore
Increase in BTG Cost	: Rs. 516.61 Crore

(iv) **External Water Supply System**

In the original Project Cost, the cost of external water supply system was estimated to be Rs. 16.00 Crore. However, the contracts for external water supply system package were awarded on the basis of competitive bidding on firm basis. The external water supply (in-take water supply) which broadly involved supply of Plant and machinery, construction of intake well pump house and laying of the 1200 mm diameter pipe over the 11 km distance, was divided into three broad packages for smooth and expeditious execution of work. The petitioner has also submitted the contract-wise break-up of Rs. 78.95 Crore incurred towards external water supply system.

(v) **Water Treatment Plant**

In the original Project Cost, the cost of water treatment plant was estimated to be Rs. 30.50 Crore at base prices of March, 2009. However, the contracts for water treatment plant package were awarded on the basis of competitive bidding on firm basis. The petitioner has also submitted the contract-wise break-up of Rs. 40.71 Crore incurred towards water treatment plant package.

(vi) **Coal Handling Plant**

In the original Project Cost, the cost towards Coal Handling Plant was estimated to be Rs. 72.50 Crore at base prices of March, 2009. However, the contracts for coal handling plant package were awarded on the basis of competitive bidding on firm basis. The petitioner has also submitted the contract-wise break-up of Rs. 201.08 Crore incurred towards Coal handling plant package.

(vii) **Induced Draft Cooling Tower**

As per the original Project Cost, the cost towards Induced Draft Cooling Tower was estimated to be Rs. 26.00 Crore at base prices of March, 2009. However, the contracts for induced draft cooling tower package were awarded on the basis of competitive bidding on firm basis. The petitioner has also submitted the contract-wise break-up of Rs. 33.59 Crore incurred towards Induced Draft Cooling Tower.

(viii) **Evacuation Infrastructure/Transmission Line**

As per the original Project Cost, the cost evacuation infrastructure was estimated to be Rs. 36.00 Crore at base prices of March, 2009. The original cost of Rs. 36.00 Crore was estimated based on the original plan for termination of 400 kV transmission line at Seoni Pooling Sub-station of PGCIL. However, PGCIL did not approve the power evacuation plan of JPL intimating that Seoni Pooling Sub-station was already loaded to its designed capacity. Accordingly, Jabalpur Sub-station was the only feasible alternative available to JPL but it was more challenging in terms of difficult route & dense forestation, highways, railway lines and crossings and PGCIL's own transmission lines, etc. The petitioner has also submitted the contract-wise break-up of Rs. 155.12 Crore incurred towards setting up transmission line beyond deliver point to Jabalpur Pooling Sub-station.

The petitioner while mentioning Commission's order dated 07.09.2012 in Petition No. 08 of 2012 has submitted that JPL in good faith and keeping a positive frame of mind for betterment of beneficiaries didn't oppose the same and tried to execute the same as soon as possible at any cost. Accordingly, the JPL had to amend its contract with L&T for the construction of transmission line till Jabalpur Pooling Sub-station. This resulted into further amendments in LoA and the contract price was revised to Rs. 133.60 vide amendment 2 dated 30.5.2014. Further, there were RoW issues in construction of transmission line, which increased the final cost to Rs. 155.12 Crore. The supporting documents including the copy of LoA and further amendments with the Contractor L&T Ltd. has been submitted as Appendix 3 and Appendix 14 of this

Petition.

(ix) **Chimney**

In the original Project Cost, the cost towards chimney was estimated to be Rs. 24.00 Crore at base prices of March, 2009. However, the contracts for chimney package were awarded on the basis of competitive bidding on firm basis. The petitioner has also submitted the contract-wise break-up of Rs. 46.51 Crore incurred towards Chimney.

(x) **Ash disposal area development**

As per the original Project Cost, the cost towards ash disposal area development was estimated to be Rs. 10.00 Crore at base prices of March, 2009. However, the contracts for ash disposal area development package were awarded on the basis of competitive bidding on firm basis. The petitioner has also submitted the contract-wise break-up of Rs. 30.61 Crore incurred towards Ash disposal area development.

(xi) **Start-up Fuel**

In the original Project Cost, the cost towards start up fuel was estimated to be Rs. 46.40 Crore at base prices of March, 2009. However, the actual cost incurred towards the same was Rs. 93.06 Crore i.e. till 03.05.2016. In this regard, the certificate dated 21.05.2016 of Chartered Accountant in support of the expenses of Rs. 93.06 Crore incurred towards start up fuel is attached as **Appendix 23** of this Petition. The details of actual Start up Fuel Expenses are given below:

Table 9: Details of Start Up Fuel Expenses

Year	Fuel	Quantity	UOM	Price	Fuel Cost (Rs. In Crore)
2015-16	Coal	59707	MT	4694.58	28.03
	LDO	5122.41	kL	43989.89	22.53
	HFO	-	KL	-	-
2016-17	Coal	108637.72	MT	4280.82	46.51
	LDO	1158.85	KL	43934.13	5.09
	HFO	-	KL	-	-
Gross Cost of Start-up Fuel Cost					102.16
Less: Realization from Sale of Infirm Power					9.1
Net Cost of Start-up Fuels					93.06

(xii) **Overheads**

- a) As per the original Project Cost, the cost towards design & engineering, audit & accounts and consultancy & professional fees was estimated to be Rs. 90.00 Crore at base prices of March, 2009. However, the actual cost incurred towards the same was Rs. 277.76 Crore as on COD i.e. 03.05.2016. Further, the break-up of the establishment expense is as shown Under:

Table 10: Detailed Break-up of Establishment Expenses

Particulars	As on Schedule COD 31.03.2015 (Rs Crore)	As on Actual COD 03.05.2016 (Rs Crore)
Employee Benefit Expenses		
Payroll (employees, consultant and contractual staff)	96.37	127.64
Employee training and recruitment	4.30	4.37
Staff welfare	2.43	2.64
Total Employee Benefit Expenses	103.10	134.65
Other office and Administrative / IT and Misc Expense		
IT	8.29	10.90
Security and Safety	9.96	14.64
Environment and Horticulture	3.23	3.47
Canteen Expense	2.57	3.49
Other Assets (IT and Admin related)	16.94	18.18
Rent	11.33	13.12
Miscellaneous travelling expense	6.02	6.97
Other Admin Expense	29.90	34.45
Total other office and Administrative / IT and Misc Expense	88.23	105.23
Other Pre-Operating Expense	21.23	21.23
Other Pre-Operating Expense Project Consultancy	16.65	16.65
Total Overhead and establishment Expenses	229.21	277.76

- b) In this regard, the certificate dated 01.08.2016 of Chartered Accountant in support of the expenses of Rs. 277.76 Crore incurred towards overheads containing the details of breakup of towards employee benefits expenses, other office/administrative/IT, pre-operating expenses and misc. expenses is attached as **Appendix 24** of this Petition.

- c) The Petitioner submits that the overhead and Establishment expenses were underestimated at the time of financial closure. It is respectfully submitted that the Petitioner has endeavored to optimize the project cost by placing contracts for BOP works on best competitive rates instead of placing an order for entire BOP on EPC basis. This typically requires a slightly higher Project execution and monitoring team. Further the estimated employee cost includes the required ramp-up of O&M team to ensure adequate training and readiness for start-up activities, synchronization and stabilization prior to COD.
- d) The overhead associated with establishment expenses include Employee Recruitment and Training expenses, administrative expenses like building rentals, repair and maintenance expenses, office guest house maintenance and rent, horticulture expenses, vehicle running and maintenance expenses, printing and stationery expenses, books and periodicals, drinking water facilities and miscellaneous consumables.
- e) It is also submitted that the overhead and establishment expenses at the fag end of the project has increased as the Petitioner has ramped up its O&M team to ensure adequate training and readiness for start-up activities, synchronization and stabilization period prior to COD.
- f) By affidavit dated 28.11.2018, the petitioner submitted that mostly the contracts awarded by JPL were firm price contracts and any price variation claimed by the vendor beyond SCOD has not been accepted by the Company and is not a part of the project cost claimed in the subject petition.

(xiii) Time Over-run

The petitioner has submitted the following with regard to time over-run in the project:

“The details regarding the scheduled, revised and actual COD is shown in the table below:

Scheduled (SCOD)	COD	Revised Scheduled COD	Actual COD
31.03.2013		31.03.2015	03.05.2016

As per Clause 4.1.5 of the PPA dated 05.01.2011 with MP Tradeco (erstwhile MPPMCL, the Procurer), JPL agreed to achieve COD of first Phase of the

*Generating Station by 31.03.2013. MP Power Management Company Ltd. (MPPMCL) vide its letter dated 10.11.2014 had already approved the delay till 31.03.2015. Delay beyond that was not approved by BoD of MPPMCL stating the delay was not attributable to MPPMCL. In line with the same, MPERC in its provisional Order dated 06.09.2016 in Petition No. 16 of 2016 had considered SCOD date as 31.03.2015. **However, JPL was not able to commission its Phase I by the date only because of the delay in the availability of start-up Power, for which delay in part of MPPMCL is attributable.** This is because the responsibility of construction of the complete evacuation system beyond delivery point was with MPPMCL. However, this responsibility was transferred to JPL by Hon'ble MPERC vide its Order dated 07.09.2012. JPL had humbly taken the responsibility of setting up of evacuation structure in good faith. In spite of all odds, JPL constructed the evacuation structure at its own expenses and start-up power was available by 24.04.2015 (within an approximate construction period of about 32 months). Accordingly, the actual COD of the Phase I was achieved on 03.05.2016.”*

- (xiv) Regarding the reasons for delay in achieving CoD/ Time over-run, the petitioner in Para 8.1 of the petition has submitted that the entire delay in achieving the CoD of the plant was mainly on account of inclusion of construction of evacuation infrastructure in the scope of work which was earlier to be completed by the procurer. The petitioner has submitted the events/ works for transmission line which was ultimately completed on 24.04.2015, whereas the generating unit achieved CoD on 3rd May' 2016. However, the delay from completion of transmission/system up to achieving COD on 03..05.2016 is not found on account of inclusion of construction of evacuation infrastructure in the scope of work.
- (xv) On perusal of the contention of petitioner for delay in completion of transmission line, it is noted that the contention of the petitioner with regard to transferring the responsibility of complete evacuation system from MPPMCL to the petitioner vide Commission's order dated 07.09.2012 in Petition No. 8 of 2012 is completely misplaced and mis-interpretation of Commission's Orders for approval of PPA.

b. Interest during Construction (IDC):

Petitioner's Submission:

35. With Regard to Interest during Construction and finance charges the petitioner submitted the following:

“Due to delay in commissioning of the project, there is increase in IDC and financing charges from Rs. 388.37 Crore to Rs. 1434.76 Crore upto COD, i.e. 03.05.2016 which is due to delay in project as well as increase in interest rates. The details reasons for delay in commissioning of the project have been elaborated in previous section. This has led to an increase in capital cost by Rs. 1046.39 Crore.”

36. While mentioning one Hon'ble APTEL's Judgement, the petitioner has further submitted the following:

“Considering the facts and the related documents, as attached with the instant Petition, it is evident that the Petition falls under category (ii) described in the APTEL ruling cited above i.e. delay is due to any other reasons, which clearly establish beyond any doubt, that there has been no imprudence on the part of the generating company in executing the project. Accordingly, the petitioner humbly requests the Commission to allow the IDC and Finance charges as per the principles laid down by the Hon'ble APTEL.”

Provision under Regulation:

37. Regarding Interest during Construction Regulation 17 (A) of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 provides as under:

¶

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

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

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

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

38. On scrutiny of the details regarding Interest during Construction (IDC) filed by the petitioner, it was observed that the IDC initially estimated was Rs. 388.37 Crore whereas, the actual IDC as on CoD is Rs. 1332.63 Crore (excluding un-discharged liability of Rs. 102.13 Crore) is claimed by the petitioner. The same has increased by approximately 3.4 times of the initial estimated IDC. Vide Commission's letter dated 16th August' 2018, the petitioner was asked to inform/submit the following:
- i. The reasons for abnormal increase in IDC of the project from SCOD mentioned in PPA to SCOD mutually revised with procurer and upto actual COD with supporting documents.
 - ii. The amount of IDC increased due to delay in CoD of the project from SCOD mentioned in PPA to SCOD mutually revised with procurer and upto actual COD with supporting documents. .
 - iii. The detailed unit-wise break-up of IDC as on the SCOD mentioned in PPA upto SCOD mutually revised with procurer and also as on actual CoD of the project duly reconciled with the Annual Audited Accounts and certified by the statutory auditor.
 - iv. The details of interest and financing charges on the following various heads be submitted:
 - a. Finance Charges:
 - i. Bank Charges
 - ii. Processing Fees
 - iii. Other items to be specified
 - b. Interest during Construction
 - c. Additional interest over interest overdue and principle overdue & Penalty, if any.
39. By affidavit dated 21th September' 2018, the petitioner submitted the following:
- i. *The initial estimates for the calculation of IDC was based on the assumptions carried out by JPL during the execution of the Project. Estimated capital cost as per investment approval does not reflect the efficiency in procurement and execution of the project when compared to market rates. The IDC was initially estimated to Rs. 388.37 Crore against a total project cost of Rs. 2895 Cr and it also assumed no time delay in execution of the project. As has been outlined above the capital cost got escalated from Rs. 2506.63 Cr to Rs. 3263.24 Cr. The delay in project execution is due to various reasons which were beyond the reasonable control of the petitioner as already submitted in the Petition, leading to increase in IDC, overhead expenses etc. Based on the above the Capital cost as well as the IDC and IEDC of the project has increased significantly.*

- ii. The amount of IDC increased from SCOD to mutually agreed SCOD to the Actual COD is shown as under:

IDC as per IA	IDC as on 31.03.2015	IDC as on 03.05.2016
388.37 Cr.	999.33 Cr.	1434.76 Cr.

- iii. The IDC submitted as on 31.03.2015 by the petitioner is against partial expenditure incurred till that time and not on the entire hard cost of the project and the difference amount does not reflect inefficiency on part of the petitioner. The Computation of IDC has already been submitted as Form 14 of the Petition.
- iv. The petitioner submits the details of interest and financing charges (Rs Crore) as under:

Particulars	As on 31.03.2015	As on 02.05.2016
IDC	916.84	1,337.05
Processing fee/Bank charges /Financing costs/Other charges	82.49	97.72
Total Interest and Finance Charges	999.33	1,434.76*

Further, with regards to additional interest over interest overdue and principle overdue and penal interest, the details for the same is attached as Annexure 4.

40. On scrutiny of the reasons filed by the petitioner, it was observed that the increase in IDC & FC amount from the estimated amount to the actual figure of Rs. 1332.63 Crore as (excluding un-discharge liability of Rs.102.13 Crore) has been on account of delay in achieving the COD of the generating unit. The petitioner filed the detailed computation of IDC as on revised scheduled COD (31st March' 2015) and as on actual COD of the Unit as given below:

Table 11: IDC and FC claimed (Rs in Crore)

S.No	Particular	Amount
1	IDC and finance charges claimed as on actual CoD (A) (03.05.2016)	1434.76*
2	IDC and finance charges as on Scheduled CoD (B) (31.03.2015)	999.33

*Inclusive of undischarged liability of Rs.102.13 Crore

41. The detail break of aforesaid IDC and finance charges are as under:

Table 12: Detailed Break Up of IDC and FC claimed (Rs in Crore)

Sr.	Particulars	As on 31.03.2015	As on 03.05.2016
1	IDC	916.84	1,337.05
2	Processing fee/Bank charges /Financing costs/Other charges	82.49	97.72
3	Total Interest and Finance Charges	999.33	1,434.76

:

42. By affidavit dated 28th November' 2018, the petitioner submitted that the IDC as on SCoD of Rs. 999.33 Crore is inclusive of undischarged liability of Rs 35.70 Crore
43. On going through the reasons stated by the petitioner for delay in achieving COD of unit beyond the Schedule CoD considered in this Order i.e. 31st March' 2015 all such reasons for delay in achieving COD are not considerable to pass on the increase in IDC beyond Schedule CoD to the beneficiaries/end consumers of electricity generated and supplied from this project.
44. In view of the aforesaid observations, the Commission has allowed IDC only upto Scheduled CoD of the Unit (31st March, 2015) considered in this Order.
45. Further, the Commission observed that while filling the petition No. 53 of 2015, the petitioner provided the apportionment of IDC and financing charges between units of phase-I&II of the project. It was found that 95.88% of the total IDC and financing charges filed by the petitioner allocated to phase-I and balance 4.12% allocated to phase-II of the project. Accordingly, the IDC and financing charges were allocated in Commission's provisional Order dated 06th September' 2016 in petition no. 16/2016
46. The Commission has worked out the IDC and financing charges considered in this order as given below:

Table 13: Interest During Construction: (Rs. in Crore)

Particular	Amount
IDC as on actual CoD (A)	1,337.05
Less: Undischrged Liability (B)	102.13
IDC as on actual CoD excluding Un-discharged Liability C (A-B)	1234.92
IDC as on SCoD i.e. 31.03.2015 (D)	916.84
Less: Un-discharged Liability (E)	35.7
IDC as on SCoD excluding Un-discharged Liability F=(D-E)	881.14
Increase in IDC due to delay in CoD G=(C-F)	353.78
Net IDC Allowed as on CoD (H)	881.14
Add: Finance Charges as on CoD	97.72
Less: Penal Interest	33.28
IDC and FC as on COD admitted in this order	945.58

Table 14: IDC & FC apportioned between PH 1 and 2 (Rs in Crore)

Sr.	Particular	Total Amount	PH 1	PH 2
1	Net IDC & FC considered	945.58	906.66	38.92

c. Incidental Expenses during Construction:**Petitioner's Submission:**

47. The petitioner broadly submitted the following:

“As per the original Project Cost, the cost towards design & engineering, audit & accounts and consultancy & professional fees was estimated to be Rs. 90.00 Crore at at base prices of March, 2009. However, the actual cost incurred towards the same was Rs. 277.76 Crore as on COD i.e. 03.05.2016.

*In this regard, the certificate dated 01.08.2016 of Chartered Accountant in support of the expenses of Rs. 277.76 Crore incurred towards overheads containing the details of breakup of towards employee benefits expenses, other office/administrative/IT, pre-operating expenses and misc. expenses is attached as **Appendix 24** of this Petition.”*

Provision under Regulation:

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

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

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

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

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

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

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

49. In TPS 5B of the petition, the petitioner filed overhead expenses of Rs. 277.76 Crore as on CoD of the unit. The petitioner filed CA certificate dated 21st May, 2016, certifying the actual expenditure (on cash basis) indicating total pre-operative and pre-commissioning expenses (overheads) of Rs. 267.02 Crore excluding un-discharged liability of Rs 10.74 Crore.

50. With regard to Incidental expenses during Construction, the Commission vide letter dated 16 August' 2018, sought the detailed break-up of pre-operating expenditure duly certified by the statutory auditor for Unit No. 1 as on the following dates:

- (a) Upto schedule COD of the unit as mentioned in PPA
- (b) As on mutually revised SCOD.
- (c) 03rd May, 2016 and
- (d) Up to 31st March' 2017

51. By affidavit dated 21st September' 2018, the petitioner submitted that *“the detailed break-up of pre-operating expenditure duly certified by the statutory auditor for the generating station is attached as Appendix 24 along with the Petition. Further, with regard to pre-operating expenditure upto 31.03.2013, it is submitted that the cost will not reflect the actual legitimate expenses which would have been incurred by JPL had the project been completed by 31.03.2013 on account of rate of mobilization of resources at site”*

52. The detailed break-up of the establishment expenses and overhead expenses with all the cost components as filed by the petitioner is as given below:

Table 15: Break-up of establishment expenses and overhead expenses (Rs. Crore)

S	Particulars	As scheduled COD 31.3.2015	on i.e. 2.5.2016	As on actual COD 2.5.2016	i.e.
	Payroll (Employees, consultant & contractual staff)	96.37		127.64	
	Employee training & recruitment	4.30		4.37	
	Staff Welfare	2.43		2.64	
1	Total Employee Benefit Expenses	103.10		134.65	
	IT	8.29		10.90	
	Security & Safety	9.96		14.64	
	Environment & Horticulture	3.23		3.47	
	Canteen Expenses	2.57		3.49	
	Other Assets (IT & Admin related)	16.94		18.18	
	Rent	11.33		13.12	
	Misc. Travelling expenses	6.02		6.97	
	Other Admin. Expenses (Repairs & Maintenance including manpower/ communication expenses / hiring equipment / Misc. project related expenses)	29.90		34.45	

2	Total Other Office and Administrative /IT & Misc. Expenses	88.23	105.23
3	Others (Please Specify Details)		
	Other Pre-Operating Expenses	21.23	21.23
	Other Pre-Operating Expenses-Project consultancy	16.65	16.65
	Total Overhead and Establishment Expenses (1+2+3)	229.21	277.76*

*inclusive of undischarged liability of Rs. 10.74 Crore

53. The Commission has observed that the increase in overhead and establishment expenses from the estimated amount to the actual figure (as on COD) was on account of delay in achieving the COD of the generating unit. The petitioner filed the detailed break-up of overhead and establishment expenses as on scheduled COD (31st March' 2015) and as on actual COD of the Unit.
54. Regulation 17 (B) of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015, stipulated that “*Incidental expenditure during construction shall be computed from the zero date and after taking into account pre-operative expenses upto SCOD.*”
55. On going through the reasons stated by the petitioner for delay in achieving COD of unit beyond the Schedule CoD i.e. 31st March' 2015, it is observed that all such reasons for delay in achieving COD are not considerable to pass on the increase in IEDC beyond Schedule CoD to the beneficiaries/end consumers of electricity generated and supplied from this project.
56. By affidavit dated 28th November' 2018, the petitioner submitted that the IEDC as on SCoD of Rs. 229.21 Crore are inclusive of un-discharged liability of Rs 5.60 Crore
57. In view of the aforesaid observations, the Commission has allowed IEDC of Rs. 223.61 Crore upto Scheduled CoD of the Unit (31st March, 2015).

Table 16: Overhead and Establishment Expenses considered: (Rs. Crore)

Sr. No.	Particular	Amount
1	Actual Overhead Expenses claimed as on actual COD	277.76
2	Less: Undischarged liability	10.74
3	Net Actual Overhead Expenses claimed as on actual COD	267.02
4	Actual Overhead Expenses as on Scheduled COD	229.21
5	Less: Undischarged liability	5.6
6	Net Actual Overhead Expenses as on Scheduled COD	223.61

58. Further, the Commission observed that while filling the petition No. 53 of 2015, the petitioner provided the apportionment of IEDC between units of phase-I&II of the project. It was found that 95.88% of the total IEDC filed by the petitioner allocated to phase-I and balance 4.12% allocated to phase-II of the project. Accordingly, the IEDC allocated was apportioned between phase-I&II of the project in Commission's provisional Order dated 06th September' 2016 in petition no. 16/2016

59. The Commission has considered the apportionment of overhead and establishment expenses between Phase-I and Phase-II in this order as given below:

Table 17: Overhead Apportioned between PH I and II (Rs in Crore)

Sr.	Particular	Total Amount	PH I	PH II
1	Net Actual Overhead Expenses as on Scheduled COD	223.61	214.40	9.21

d. Infirm Power:

Petitioner's Submission:

60. The petitioner submitted the following:

"In the original Project Cost, the cost towards start up fuel was estimated to be Rs. 46.40Croreat base pricesof March, 2009. However, the actual cost incurred towards the same was Rs. 93.06 Crore i.e. till 03.05.2016. In this regard, the certificate dated 21.05.2016 of Chartered Accountant in support of the expenses of Rs. 93.06 Crore incurred towards start up fuel is attached as Appendix 23 of this Petition".

Provision under Regulation:

61. Regarding sale of Infirm power, Regulation 24 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 provides as under:

"Supply of Infirm Power shall be accounted as deviation and shall be paid for from the regional /State deviation settlement fund accounts in accordance with the Central Electricity Regulatory Commission (Deviation Settlement Mechanism and Related matters) Regulations, 2014, as amended from time to time or any subsequent re-enactment thereof:

Provided that any revenue earned by the Generating Company from supply of Infirm Power after accounting for the fuel expenses shall be applied in adjusting the capital cost accordingly.”

62. In response to the query of the Commission, the petitioner by affidavit 21st September’ 2018 submitted the following:

“Month-wise details of Infirm Power generated from the generating unit and revenue earned from the sale of infirm power along with the statement of concerned Load Despatch Centre duly reconciled with Annual Audited Accounts is attached as **Annexure 24** of the Amended Tariff Petition of 2016. Break-up of fuel expenses incurred for generation of infirm power duly certified by the Chartered Accountant indicating the break-up of quantity and landed cost of FSA and Non-FSA coal is attached as **Appendix 23** of the Petition. The details of actual Start up Fuel Expenses are given below:

Table 4: Details of Start Up Fuel Expenses

Year	Fuel	Quantity	UOM	Price	Fuel Cost (Rs. In Crore)
2015-16	Coal	59707	MT	4694.58	28.03
	LDO	5122.41	kL	43989.89	22.53
	HFO	-	KL	-	-
2016-17	Coal	108637.72	MT	4280.82	46.51
	LDO	1158.85	KL	43934.13	5.09
	HFO	-	KL	-	-
Gross Cost of Start-up Fuel Cost					102.16
Less: Realization from Sale of Infirm Power					9.1
Net Cost of Start-up Fuels					93.06

63. On perusal of the CA certificate regarding fuel expenditure for generation of infirm

vis-à-vis weekly statements issued by WRPC for infirm power, it observed that the revenue from sale of infirm power as per CA certificate is Rs. 9.10 Crore whereas, the revenue earned from sale of infirm power as indicated in statement is Rs. 15.40 Crore.

64. In reply to the aforesaid query sought by the Commission, while dealing with the petition No.16/2016 for determination of provisional tariff, the petitioner submitted that the actual revenue from sale of infirm power is Rs. 15.42 crore, out of which Rs. 6.32 crore has been apportioned to the cost of start-up power drawn from CTU for commissioning purposes (Rs 4.21 Cr) and other contingent miscellaneous expenditure during commissioning (Rs 2.01 Cr) and thus, Rs. 9.10 crore has been depicted in the CA certificate. Subsequently, by affidavit dated 3rd August 2016, in petition no. 16/2016 the petitioner filed revised CA certificate indicating that the revenue from sale of infirm power is Rs. 15.42 crore and same has been adjusted from fuel expenses to worked out the net fuel expenses from generation of infirm power.

65. With regard to quantity & cost of coal and oil towards infirm power, the Commission in para 58 to 69 of its Order dated 06th September' 2016 (in Petition No. 16/2016) had dealt with this issue in detail as given below:

“With regard to the source of coal used for generation of infirm power, vide Commission’s letter dated 9th June, 2016, the petitioner was asked to inform the following:

- i) Whether any coal quantity was allocated to it by the Coal Companies for commissioning activity of the unit.*
- ii) Whether the imported coal has been used for generation of infirm power. The detailed break-up of quantity, rate and cost of coal utilized for generation of infirm power from different sources was also sought.*

In response to the above, by affidavit dated 16th June, 2016, the petitioner submitted the following:

- i) Market coal was mostly used for commissioning activity and very little quantity of linkage coal could be procured and used for commissioning activity. The linkage coal could not be used for commissioning activity as the requisite clearance for the last*

mile road transport from environmental authorities for transportation of linkage coal got delayed and could only be obtained on 15th February 2016.

- ii) Imported coal has not been used for generation of infirm power. The detailed break-up of quantity, rate and cost of coal utilised for generation of infirm power from different sources is given in the table below:

Table 18: Coal Procurement and Consumption Details

		Procurement			Consumption		
		Qty	Rate	Amount	Qty	Rate	Amount
Carpet coal	Market	7,641	2,267	1,73,24,822	7,641	2,267	1,73,24,822
Normal Coal		92,764	5,051	46,85,26,981	52,067	5,051	26,29,76,526
	Market	91,679	5,070	46,48,52,860			
	Linkage	1,085	3,388	36,74,120			
		1,93,168		95,43,78,783	59,707		28,03,01,348
			Average Cost of Coal Consumed (Rs/MT)				4694.59

On perusal of the above mentioned details filed by the petitioner, the Commission observed the following:

- i. The rate of secondary fuel oil (LDO) used for generation of infirm power was Rs. 43989/KL and Rs. 43934 /KL for FY 2015-16 and FY 2016-17 respectively whereas, the wt. average rate of secondary fuel oil (LDO) for preceding three months used for claiming Energy Charges was Rs. 39339/KL. The petitioner had also filed a gist of invoices/bills of oil purchase during 23.02.2016 to 04.04.2016 indicating the weighted average rate of oil as Rs. 39339/KL.
- ii. Similarly, the rate of Coal used for generation of infirm power was Rs. 4694.58/MT and Rs.4280.82 /MT for FY 2015-16 and FY 2016-17 respectively whereas, the wt. average rate of Coal for preceding three months used for claiming Energy Charges was Rs.3607/MT.
- iii. On perusal of the details of coal used for generation of infirm power, it was observed that carpet coal of 7641 MT is considered for determining the weighted average rate of coal.
- iv. The petitioner had confirmed that the imported coal has been not used for generation of infirm power. The rate of linkage coal used for generation of infirm power during FY 2015-16 was indicated as Rs. 3388/MT. Moreover, the petitioner had provided the

details of coal used for generation of infirm power during FY 2015-16 however such details for FY 2016-17 were not provided.

In view of the above observation, vide Commission's letter dated 20th September, 2016, the petitioner was asked to explain/ submit the following:

- a. To explain with supporting documents the reasons for mentioning different rates of oil & coal for the same period.*
- b. To explain the reasons for high rate of oil & coal considered for generation of infirm power.*
- c. To justify the reasons for consideration of carpet coal in this regard.*
- d. Supporting documents regarding rate of linkage coal used for generation of infirm power during FY 2015-16.*
- e. To provide the detailed calculation to work out the wt. average rate of coal used during FY 2016-17 for generation of infirm power.*
- f. To clarify whether any coal quantity was allocated to the petitioner by the coal companies for commissioning activity of the unit.*

By affidavit dated 3rd August, 2016, the petitioner filed its response on the aforesaid queries raised by the Commission. The response filed by the petitioner is summarized as given below:

- i) The unit was synchronised on 23rd Feb 2016, achieved full Load on 21st March 2016 and was declared under commercial operation on 3rd May 2016. Consumption of LDO towards generation of infirm power can therefore be accounted for the period subsequent to the date of first synchronisation i.e. 23rd February 2016. The petitioner summarized the procurement and consumption of LDO prior to first synchronization till CoD of the Unit. The average rate of LDO for FY 2015-16 and FY 2016-17 is worked out by the petitioner was Rs. 43,989 /KL and Rs. 43,934 /KL respectively.*
- ii) The LDO requirement of 6281.26 KL during the commissioning period was procured at different rates varying from Rs 27386.60 per KL to Rs 53,238.63 per KL. The cumulative expenses on account of usage of LDO has accordingly been certified by the auditor as Rs 27.62 Crore.*

- iii) *The petitioner submitted that the plant had received carpet coal during the months of June to August 2015, in preparation for receiving the normal coal to be fired into the boiler.*
- iv) *The weighted average rate of procurement of coal in the FY 2015-16 is Rs 4838.55 per MT. The cumulative coal quantity of 1, 00,404.72 MT procured in FY 2015-16 is inclusive of the carpet coal. The weighted average rate of 7640.72 MT of carpet coal @ Rs 2267.43 per MT and 52066.28 MT of Normal coal @ Rs 5050.77 per MT (which is the weighted average rate of 91679 MT of Market coal @ Rs 5070 per MT and 1085 MT of Linkage coal @ Rs 3388 per MT) is worked out to be Rs 4694.58 per MT. It is the rate at which consumption of 59,707 MT of coal in the FY 2015-16 has been booked. The total expenses against coal consumption in FY 2015-16 has accordingly been indicated as Rs 28.03 Crore.*
- v) *The closing stock of 40,696.87 MT @ 5050.77 MT as on 31st March 2016 and 69,541.45 MT of incoming coal @ Rs 3830.23 per MT have been considered while calculating the weighted average rate of the total stock. Accordingly, the consumption of 108637.72 MT of coal (till 02nd May 2016, the date of completion of the 72 hours Trial run) at a weighted average rate of Rs 4280.82 per MT has been indicated. The total expenses against coal consumption for FY 2016-17 has accordingly been indicated as Rs 46.51 Crore.*
- vi) *The 1.68 Lakh MT of coal used for commissioning till CoD, only about 0.69 Lakh MT of Linkage coal could be drawn and used. It was further informed by the petitioner that 2.0 Lakh MT of linkage coal was sanctioned out of the ACQ for use during the commissioning activities. However, the petitioner was left with no choice but to source the coal required for commissioning from the market since the required clearance from MoEF to CIL for transportation of Linkage coal by rail up to Garha Siding and further up to the Jhabua site by road got delayed despite their best efforts. This necessitated usage of market coal procured at a comparatively higher rate prior to declaration of commercial operation and this resulted high rate of coal for generation of infirm power.*
- vii) *At the time of submission of the amended petition, for calculation of landed cost of coal, the petitioner had assumed sourcing as per the FSA quantities with SECL and*

MCL for coal requirement up to 87% of annual requirement and the balance 13% from e-auction. The landed price of coal of Rs 3607 per MT was based on the above assumptions and was submitted to the Commission in the Amended petition.

- viii) The petitioner submitted the details of procurements of all Linkage coal with loading dates from 26th march' 2016 till 30th April 2016. The total RR quantity of linkage coal with loading date of 26.03.2016 to 30.03.2016 is 1,13,557 MT. The weighted average rate of coal is worked out is Rs. 3437.93 /MT. The petitioner also submitted that no linkage coal has been received till date from MCL and no e-auction procurement has been made till 31st May 2016.
- ix) The petitioner further submitted that there were delays in getting the invoices from SECL during the initial phases of procurement. While GRN (Goods Receipt Note as prepared by Central Stores) for 1085 MT of linkage coal was prepared (based on the weigh bridge records of the trucks carrying coal from Garha siding to project site), its value was booked based on the first invoice received from SECL, which incidentally happened to be the invoice with loading date 03rd April 2016. The landed cost of the coal procured through this invoice was Rs 3388 per MT, as has been indicated in the petition.

The petitioner has filed the following detailed calculation for calculation of weighted average rate of coal used during FY 2015-16 and FY 2016-17 for generation of infirm power

Table 19: Details of coal for infirm power filed

Particulars	Qty (MT)	Rate (Rs / MT)	Amount (Rs)
Coal Procured in FY 2015-16			
Carpet Coal	7,640.72	2267.43	1,73,24,821.95
Market Coal	91679.00	5070.00	46,48,12,530.00
Linkage Coal	1085	3388.00	36,75,980.00
Total Procured in FY 15-16	1,00,404.72	4,838.55	48,58,13,331.95
Total consumed in FY 15-16	59,707.00	4694.58	280301348.33
Closing Stock at end of FY 15-16	40,696.87	5050.77	205550454.3
Coal Procured in FY 2016-17			
Linkage Coal	69541.45	3830.23	26,63,59,748.03
Total consumed in FY 16-17	108637.72	4280.82	465058545.31

With regard to sanction of linkage coal for generation of infirm power, the petitioner mentioned that it was sanctioned 2.0 Lakh MT of linkage coal for use during the commissioning activities out of the ACQ. However, the required clearance from MoEF to CIL for transportation of Linkage coal by rail up to Garha Siding and further up to the Jhabua site by road got delayed despite close follow-ups and the same was obtained only in the second week of March 2016.

On combined perusal of the details and documents filed by the petitioner for extension of the validity of environmental clearance and amendment of environmental clearance, filed under Annexure 1 by its affidavit dated 3rd August' 2016, it is observed that the following is mentioned in Para 4-6 of item No. 2.14 in the "45th Meeting of the reconstituted Expert Appraisal Committee (EAC) held on 29-30 October' 2015 in the Ministry of Environment, Forest and Climate Change, New Delhi".

- (i) While a suitable decision on mode of coal transportation is yet to be taken by the Ministry, it has been found by the Ministry that the five years EC validity period ended on 16.02.2015 and the PPA has not applied for the same before 16.02.2015 as per EIA Notification, 2006. The PP has now (last week of September, 2015) applied to the Ministry for extension of EC validity along with permission for road transportation of coal from Gosalpur (GSPR) & Garha Sidings (GGGS).*
- (ii) The PP made a presentation before the Committee, wherein it was inter-alia noted that, Consent to Operate (CTO) was accorded by MPPCB on 13.04.2015. The Garha siding also falls on the same rail route and is 45 km ahead on the same road route as that of Gosalpur siding. Hence, an overall road distance of 90 km (to and fro) shall be reduced. The Garha siding was notified on 30.10.2015 as a full rake handling point. The detailed progress of various units/ facilities alongwith photographs including green belt and CSR activities was presented.*
- (iii) Based on the information and clarifications provided, the detailed discussion and considering the status/ progress of the project, the Committee recommended **Extension of Validity of EC for two years i.e. till 16.02.2017 (considering the unexpected delays etc.) to start the production/ operations by the TPP.** Further, the Committee recommended for amendment of EC for road transportation of coal for a limited period of **two years from Gosalpur (GSPR) & Garha Sidings (GGGS)** subject to the additional conditions recommended earlier and the following condition.*

In view of the above, the contention of the petitioner for delay in transpiration of linkage coal sanctioned for use during the commission activities is not conceded. Therefore, the full quantity of coal consumed for generation of infirm power during FY 2015-16 and FY 2016-17 is considered as filed by the petitioner and the weighted average rate of linkage coal only is applied to arrive at the total coal cost consumed for generation of infirm power.

Accordingly, the coal cost for infirm power is worked out by applying the wt. average rate of Linkage coal only as given below.

Table 20: Coal cost for generation of infirm power

S.No	Particular	Qty. in MT	Rate Rs./MT	Amount Rs. Crore
1	Coal consumed for generation of infirm power (FY 2015-16)	59707	3388.00	20.23
2	Coal consumed for generation of infirm power (FY 2016-17)	108637	3830.23	41.61
3	Total Coal consumed for generation of infirm power	168344	3673.38	61.84

Cost of Oil for infirm power is worked out by considering the quantity of oil and weighted average rate of the oil mentioned in CA certificate and considered by the petitioner.

Table 21: Oil cost for generation of infirm power

S.No.	Particular	Qty. in KL	Rate Rs./KL	Amount Rs. Crore
1	Oil consumed for generation of infirm power (FY 2015-16)	5122.41	43989.89	22.53
2	Oil consumed for generation of infirm power (FY 2016-17)	1158.85	43934.13	5.09
3	Total Oil consumed for generation of infirm power	6281.26	43979.60	27.62

66. Based on aforesaid discussion, the total cost of fuel expenses for infirm power net-off revenue from sale of infirm power is worked out as given below:

Table 22: Total cost for generation of infirm power Allowed: (Rs Crore)

Sr.	Particular	Coal Cost	Oil Cost	Total Cost
1	Fuel expenses for generation of infirm power (FY 2015-16)	20.23	22.53	42.76
2	Fuel expenses for generation of infirm power (FY 2016-17)	41.61	5.09	46.70
3	Fuel expenses for generation of infirm power	61.84	27.62	89.46
4	Less :Revenue from sale of infirm power			15.42
5	Net start-up fuel expenses			74.04

67. Accordingly, the above net start-up fuel expenses of Rs.74.04 Crore are admitted by the Commission in this order.

e. Apportionment of common facilities:

Petitioner's Submission:

The petitioner in para 9 of its petition broadly submitted the following:

*"It is pertinent to mention that Phase-II was awaiting fuel linkage and no financial closure could be achieved towards the same. Additionally, in view of the slackness in the conventional power sector scenario and the overall macro-economic outlook of the country, the decision to move ahead with implementation of Phase-II could not be proceeded with, by the petitioner. As such, it has been decided to not to go ahead with Phase-II of the project. In this regard, the Chief General Manager (Commercial), MPPMCL vide its letter dated 16.05.2017 had directed the petitioner to approach the Energy Department, Govt. of Madhya Pradesh for deferment of installation of Phase II of Jhabua Thermal Power Station. Accordingly, the petitioner vide letter dated 26.05.2017 (copy of letter attached as Appendix 19) has requested to the Energy Department, Govt. of Madhya Pradesh for deferment of installation of Phase II of the Jhabua Thermal Power Station. **Hence in view of Phase-II being deferred for installation, the entire cost of the Jhabua Thermal Power Station needs to be included in Phase-I of the project. Therefore, the petitioner has prayed that the Hon'ble Commission may be pleased to include the entire cost of the Jhabua Power Project in its Phase I.**"*

68. The petitioner while referring "Report on the Land Requirement of Thermal Power

Stations” published by the Central Electricity Authority in December 2007” mentioned its contention on land required for 660 MW generating Unit. The classification of various capacity of generating units mentioned by the petitioner do not have the capacity of 600 MW.

Provision under Regulation:

69. Regulation 5.2 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015, provides as under:

“For the purpose of determination of tariff, the capital cost of a project may be broken up into stages, blocks, units, if required:

Provided that where break-up of the capital cost of the project for different stages or units or blocks is not available and in case of on-going projects, the common facilities shall be apportioned on the basis of the installed capacity of the unit;”

70. In Para 72 to 84 of Commission’s Order dated 06th September’ 2016, while dealing with this issue in light of above Regulations and the submission of petitioner in its Petition No. 53 of 2015 had mentioned the following:

“72. In Para 5.5 of Petition No. 53 of 2015, the petitioner submitted the following:

“ As stated in aforesaid paras, the petitioner’s power project is to be developed in two phases; however, in the first phase only Unit No. 1 of 600 MW is being installed. Since second unit is also proposed in the same premise, there would be several common facilities/ auxiliaries/ expenses which presently pertain to Unit No. 1 and may be shared by Unit No. 2 at the later stage when Unit No. 2 will be commissioned. The details of such expenses and its sharing between the two units have been shown in Form 5B of the ‘Tariff Filing Forms’ in Annexure 1 Part-1. Apportionment of the expenditure between the two units has been done as per provisions of the Regulation 2012 and as per the logic outlined at the respective places of this petition.”

73. Further, in 5.7 of Petition No. 53 of 2015, the petitioner provided salient item wise common facility and its apportionment between two units of its power plant as given below:

Table 23: Common Facilities apportionment

S. No. (As in Form 5B)	Common Facilities	Ph-1	Ph-2	Total
1	2	3	4	4
1	Land & Site Development	43.53	10.43	53.96
2.3.1	External water supply system (Raw Water)	40.16	38.59	78.75
2.3.6	CHP	151.27	-	151.27
2.3.8	MGR	1.35	1.49	2.84
2.4.1	Switch Yard Package	22.61	-	22.61
2.4.7	Transmission Line	147.27	7.85	115.12
4	Civil Works			
4.1	Main plant/ Adm. Building & Site level/ Infra	409.23	-	409.23
4.5	Coal Handling Plant	23.78	26.16	49.94
4.7	Ash Pond & Reservoir	27.38	-	27.38
4.8	MGR & Marshalling Yard	16.84	18.52	35.36
4.9	Chimney	44.05	3.0	47.05
4.13	Road & Drainage (site infra)	44.36	-	44.36

74. In Para 3.6 of the amended petition, the petitioner submitted the following:

“The petitioner had originally envisaged the said Power Project to have a capacity of 1260 MW comprising of Phase-I having a Unit of 600 MW and Phase-II having a Unit of 660 MW and a Memorandum of Understanding was entered into with the Government of Madhya Pradesh to such effect. The share of State Government is about 35% of the capacity from this Project.

However, Phase-II is still awaiting fuel linkage and no financial closure could be achieved towards the same. Additionally, in view of the slackness in the conventional power sector scenario and the overall macro-economic outlook of the country, the decision to move ahead with implementation of Phase-II could not be proceeded with, by the petitioner. As such, the Phase-II is currently in the conceptual stages only.”

75. On scrutiny of the petition, it is observed that the petitioner has not filed the segregation of cost among common facilities between phase-I and Phase-II of the project duly certified by the Statutory Auditor. In petition no 16/2016 the petitioner was asked to file the details and apportionment of common facilities between Phase I&II of the project duly certified by the Auditor.

76. *By affidavit dated 16th June' 2016, the petitioner submitted that the auditor certificate towards common facilities has already been submitted along with the CA certificate for capital cost. The relevant extracts of CA certificate is reproduced below:*

"We further hereby certify that the company had originally envisaged to set up a thermal power plant of 1260 MW capacity comprising of Phase-1 having a Unit of 600 MW and Phase-II having a Unit of 660 MW. However, Phase-II is currently in conceptual stages only, still awaiting fuel linkage and no financial closure could be achieved towards the same. It is certified that the entire capital cost has been attributed to Phase-I, 1x600 MW only and as such there is no common expenditure at this stage."

77. *The Commission noted that the petitioner had provided a detailed break-up of various capital cost components of the project in Form-5B of Petition No. 53 of 2015 indicating apportionment of all such cost among Phase I and Phase II also. However, the petitioner has changed its approach while filling Form 5B submitted with the Petition No. 16 of 2016. The apportionment of the capital cost component among Phase I and Phase II is not provided in Form 5B filed with the amended petition. It is further observed by the Commission that the basic reason for disposing of Petition No. 53 of 2015 and filing Petition No. 16 of 2016 was only non-availability of essential details and documents for determination of tariff on account of delay in achieving CoD of the generating unit. The aforesaid reason has no bearing with the change in approach of petitioner regarding apportionment of common facilities in filling up Form 5B in amended petition.*

78. *In view of the above, in petition no 16/2016, the petitioner was asked to clarify the following:*

- i. The reason for changing the approach for apportionment of capital cost component among Phase I and Phase II*
- ii. Reasons for allocation of R & R expenses completely to Phase-I only.*
- iii. With regard to the apportionment of the cost of transmission line, reasons for allocation of the cost of the conductor only to Phase-II.*
- iv. Some of the expenses like Ash handling expenses, Establishment expenses, ETP Expenses, IDC etc. apportioned in Form-5B but such common facilities have not been indicated in aforesaid para 5.7.3 of the petition.*

- v. *The cost of coal handling and ash handling plant has been apportioned between Phase I&II whereas, this cost pertains to Phase-I exclusively as per remarks mentioned in Form 5B.*
- vi. *Out of the total cost of the Chimney (Rs. 47.05 Crore), only Rs. 3 Crore is allocated to Phase-II of the project.*
- vii. *The cost of Administrative Building has not been allocated to Phase-II of the project.*
- viii. *Cost of allocation of External Water supply system has not been apportioned as per MW capacity of the units.*
- ix. *The petitioner has filed an amount of Rs. 44.36 Crore towards the cost of approach road and drainage. On perusal of the LOA for construction of Road awarded to M/s. Shreeji Infrastructures India Pvt. Ltd., it is observed that the contract has been awarded for the construction of permanent road for 1x600 MW + 1x660 MW Units. Whereas, the petitioner has allocated the complete cost of road to Phase-I of the project only. The petitioner is required to file the reasons for allocation of the cost of road to Phase-I only instead of apportionment between Phase I&II.*

79. *By affidavit dated 3rd August' 2016, the petitioner submitted that through all their submissions - in earlier Petition No. 53 of 2015, Original Petition No. 16 of 2016 as well as the instant Amended Petition No. 16 of 2016 – have maintained that it had originally envisaged the said Power Project to have a capacity of 1260 MW – to be executed in two phases - Phase-I having an Unit of 600 MW and Phase-II having an Unit of 660 MW. The petitioner submitted that while filing Petition No. 53 of 2015 it had reckoned some of the costs as common costs and inadvertently allocated them between Phase – I (1X600MW) & II (1X660MW). However, the Petition No. 53 of 2015 was dismissed by the Commission. The date of commercial operation of the Phase-I unit got delayed due to reasons already informed and detailed in the Amended Petition and the petitioner was directed by the Hon'ble Commission to approach for tariff determination with a fresh petition as and when the unit achieved CoD.*

80. *The petitioner further submitted that all the common facilities have been designed with philosophy of execution in two phases – first phase consisting of one 600 MW unit and the second phase consisting of one 660 MW unit. The petitioner further mentioned that the inadvertent error of treating some costs as common costs was detected by it subsequent to the filing of Petition No. 53 of 2015. The petitioner would have filed an amendment to rectify the inadvertent error. The detailed response on aforesaid issues filed by the petitioner are mentioned in **Annexure-I** of this order.*

81. *On perusal of the response filed by the petitioner and detailed scrutiny of the contract/orders placed to different vendors, the Commission observed that some of the facilities which are common for the phase I&II of the project need to be apportioned at this stage as per Regulations, 2015. Moreover, the Power Purchase Agreement entered by the petitioner with MPPMCL on 05.01.2011 is for the contracted capacity equivalent to 30% of the only first unit having installed capacity of 600 MW. So, the tariff for its second unit which has a reference in aforesaid PPA (and may be in conceptual stages awaiting fuel linkage as contended by the petitioner) may not be determined by this Commission. Therefore the Commission has provisionally considered the basis of apportionment of most of the common facilities among Phase I and Phase II as filed by the petitioner in petition No. 53/2015.*
82. *With regard to cost of transmission line, the Commission has observed from the contract awards filed by the petitioner that the order was placed to M/s L&T for construction of transmission line for Phase I&II of the project. Therefore, the approach for apportionment of transmission cost as submitted by the petitioner is not found satisfactory. Therefore, the cost of transmission line has been apportioned on MW capacity basis as per Regulation 5.2 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015.*
83. *The Commission further observed that the land was procured by the petitioner for both the phases of the project. However, the land development charges and leasehold land is dedicatedly allocated to phase-I of the project. Therefore, the the Commission has apportioned only cost of land purchased on MW capacity basis as per Regulation 5.2 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015.*
71. *In the subject petition, the petitioner filed its contention with regard to apportionment of land relying on the Report on the Land Requirement of Thermal Power Stations” published by the Central Electricity Authority in December 2007 whereas the petitioner in para 5.7 of Petition No. 53 of 2015 while relying on CEA report on “Review of Land Requirements for Thermal Power Stations, September – 2010” had submitted the following:*

“5.7 Salient item wise common facility expenditure and its apportionment between the two units is illustrated in the following Table for ready reference of the Hon’ble Commission: (The petitioner had decided not to start construction of the Unit #2 – 660 MW keeping in view the extremely poor sectoral outlook. While the common systems have been designed envisaging the Unit #2 capacity of 660 MW, the equipment procurement was limited only as per requirement of Unit#1. Therefore, the following logic has been followed for the apportionment of the costs of the common facilities:

5.7.1 A total cost of Rs. 39.09 Cr has been incurred till now towards acquisition of 892 acres of land. For apportioning the cost of land between Phase-I (1x600 MW) and Phase-II (1x660 MW), reference has been made to the CEA report on “Review of Land Requirements for Thermal Power Stations, September – 2010”. In Para 6.0 : Recommendations of the said report, land requirement neither for 2x600 MW nor for 1x600+1x660 MW have been provided. Land requirement for 1x600 MW has, therefore, been arrived at by extrapolating the land requirement for 2x500 MW to 2x600MW and then dividing the result by 2. Since the recommended land requirement indicated for 2x500 MW is 1090 acres, the land to be apportioned to Phase-I is 654 acres $(=(1090*1200/(1000*2))$. Therefore, the cost of land apportioned to Phase-I is Rs. $(654/892)*39.09$ Cr = Rs. 28.66 Cr. The Resettlement & Rehabilitation (R&R) expenses have been completely apportioned to Phase-I.

5.7.2 The civil and structural costs have been apportioned on the basis of the capacity of the units (As per Cl. 8.3 of Tariff Regulation), i.e. for Phase-1 the ratio shall be 600/1260 – 0.4762 and balance for Phase-2.”

72. Accordingly, the detailed break-up with apportionment of each component of the project cost as on CoD of the generating unit was made in the aforesaid order dated 06th September’ 2016 (in Petition No. 16 of 2016). Considering the same approach and methodology followed in aforesaid Order, the following apportionment of capital cost components of the project as on CoD is considered in this order:

Table24: Actual Capital Expenditure considered for Unit (Phase I) as on CoD

(Rs Crore)

S.N	Particulars	Amount excluding un-discharged liabilities	Allocation to Phase I	Allocation to Phase II
1	Freehold Land & Rehabilitation & Site	61.85	35.77	26.08

	development			
2	Leasehold Land	1.47	1.47	0.00
	Plant & Machinery			
3	BTG and BOP (including package spares)	2245.64	2198.52	47.12
4	Transmission Line	149.66	71.27	78.39
5	Railway Siding	0.81	0.81	0.00
6	Building and Civil Works	146.63	134.70	11.93
7	Ash Dyke	27.03	24.83	2.20
8	Pre-operative and pre-commissioning Expenses (including Overheads)	223.61	214.40	9.21
9	Startup Fuel (Net off infirm power)	74.04	74.04	0.00
10	IDC and financing charges	945.58	906.62	38.96
11	Total	3876.31	3662.42	213.89

In view of the above, the actual capital expenditure as on COD of Rs. 3662.42 Crore for Unit 1x600MW under Phase I in the subject petition is considered for determination of tariff in this order.

f. Initial Spares:

Petitioner's Submission

73. The petitioner submitted the cost of Rs. 9.01 Crore incurred towards initial spares as on CoD of Unit and Rs. 14.53 Crore post CoD of Unit (during FY 2016-17).

Provision under Regulation

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

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

Coal-based thermal generating stations - 4.0%

Provided that:

- (i) where the benchmark norms for initial spares have been published as part of the benchmark norms for capital cost by the Central Commission, such norms shall apply to the exclusion of the norms specified above:*
- (ii) where the generating station has any transmission equipment forming part of the generation project, the ceiling norms for initial spares for such equipments shall be as per the ceiling norms specified for transmission system in Madhya Pradesh Electricity Regulatory Commission Regulations, 2015 :*

- (iii) *for the purpose of computing the cost of initial spares, plant and machinery cost shall be considered as project cost as on cut-off date excluding Interest during Construction, Incidental Expenditure During Construction, Land Cost and cost of civil works.”*

Commission’s Analysis:

75. With regard to the capital spares, the aforesaid Regulation provides that the ceiling norms for capitalized initial spares for coal based thermal generating stations is 4% of the Plant and Machinery cost.
76. Vide letter dated 16th August’ 2018, the petitioner was asked to file the details of initial spares if any, capitalized as on COD of the unit and also as on 31.03.2017 in light of Regulation 19 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015.
77. By affidavit dated 21st September’ 2018, the petitioner submitted that the details of the Capital Spare have already been submitted. Further, the petitioner submitted the details of Capital Spares capitalized during FY 2016-17 as Annexure 5 of its submission.
78. It is observed that in petition no. 16/2016, the petitioner had submitted the following regarding the initial spares:
- a) *The petitioner has incurred Rs. 9.01 crore towards initial spares as on CoD. Out of the total of Rs. 9.01 crore, initial spares of value Rs. 6.01 crore are part of the Original Package as per Form-16 of Tariff Filing Forms. Remaining Rs. 3.01 crore (Rs. 2.72 crore for BTG Package + Rs. 0.29 crore for CHP Package) are ordered separately and not part of the Original Package.*
- b) *The petitioner has incurred Rs. 9.01 crore towards initial spares as on CoD. The CA certificate of the same is enclosed herewith.*
79. On perusal of aforesaid records and earlier replies, it is observed that the petitioner has procured the capital spares of Rs. 9.01 Crore and Rs. 14.53 Crore as on CoD and post CoD (during FY 2016-17) respectively, which are within the norms of capital spares prescribed under the Regulations, 2015. Therefore, the same is allowed in this order.

Additional Capitalization**Petitioner's Submission**

80. The petitioner submitted that it has incurred an additional capitalization of Rs 15.78 Crore, Rs 122.03 Crore and Rs. 110 Crore during FY 2016-17, FY 2017-18 and FY 2018-19 respectively as under:

Head of Work / Equipment	Regulations under which claimed	ACE Claimed (Actual / Projected)		
		FY 2016-17	FY 2017-18	FY 2018-19
Ash Pond II lining	20.1 (ii)	0.00	16.00	12.00
Transmission Line	20.1 (ii)	(6.90)*	0.00	0.00
FOPH Modification	20.1 (ii)	0.00	1.50	0.00
Warehouse	20.1 (ii)	0.00	1.14	0.00
Service Building	20.1 (ii)	0.00	4.75	5.25
Fire station	20.1 (ii)	0.00	0.82	0.00
Township	20.1 (ii)	0.00	16.25	18.75
Admn Building	20.1 (ii)	0.00	1.75	5.25
Bal Mandatory Spares	20.1 (iii)	14.53	43.86	40.18
MGR-S&T & Electrification & Loco	20.1 (ii)	(0.81)*	18.78	14.54
ABT System	20.1 (ii)	0.16	0.00	0.00
Road & Drainage	20.1 (ii)	2.94	12.33	7.00
CCTV Camera	20.1 (ii)	0.00	1.00	0.00
Chemical & Electrical Lab	20.1 (ii)	0.06	1.75	0.75
Rain Water Harvesting System	20.1 (ii)	0.00	0.38	1.13
CHP Balance Works	20.1 (ii)	5.80	0.97	2.91
Expansion of Ash Dyke	20.1 (ii)	0.00	0.75	2.25
		15.78	122.03	110.00

Provision under Regulation

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

20 Additional Capitalization

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

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

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

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

82. With regard to additional capitalization from FY 2016-17 to FY 2018-19 claimed in the petition, vide Commission's letter dated 18th August' 2018, the petitioner was asked to clarify the following issues with all relevant supporting documents:
- (i) Whether the amount claimed under additional capitalization for FY 2016-17 have been paid or it was un-discharged liability as on 31.03.2017?
 - (ii) Whether the addition of assets is on account of the reasons (i) to (v) in Regulation 20.1 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015.
 - (iii) Whether the assets capitalized during the year are under original scope of work. Supporting documents need to be filed in this regard.
 - (iv) The assets addition of and deduction claimed in the petition need to be reconciled with the figures recorded in the Assets cum Depreciation Register.
 - (v) The details of actual funding for aforesaid additional capitalization claim for each year in the petition be filed
83. By affidavit dated 21st September' 2018, the petitioner submitted the following regarding additional capitalization:
- i. The petitioner submits that out of the total Un-discharge Liability of Rs. 368.58 Crore as on COD of the generating station and additional capitalization of Rs. 15.78 Crore during FY 2016-17, amount of Rs. 258.35 Crore has been discharged during FY 2016-17, and the same may be considered to be Capitalized during FY 2016-17 and*

should be considered for allowing Tariff. The petitioner further submits that the closing Un-discharge Liability of Rs. 126.01 Crore as on 31.03.2017 is yet to be discharged and the same has been indicated in the Audited Annual accounts submitted by the petitioner.

- ii. The Additional Capitalization claimed by the petitioner is on the basis of Regulation 20.1(ii) of the MPERC (Terms and Condition for Determination of Generation Tariff Regulations), 2015.*
- iii. It is submitted that the additional capital expenditure claimed by the petitioner is within the original scope of work. The DPR supporting the same is already attached as Annexure 8 to the Petition.*
- iv. Asset cum depreciation register is attached as **Annexure 6**.*
- v. The petitioner has submitted that the same has been funded through additional funding of Rs. 440.40 Crore available from the lender PFC and also from the opening cash available with the petitioner's Company.*

84. By affidavit dated 28th November'2018, the petitioner submitted the following clarification with regard to additional capitalization:

The Petitioner has already submitted the breakup of Additional Capitalization claimed during FY 2016-17 along with the Tariff Formats. The additional Capitalization claimed during FY 2016-17 is Rs. 23.49 Crore out of which amount of Rs. 6.90 Crore and Rs. 0.81 Crore is transferred back to CWIP from fixed assets. This in turn reduces the additional Capitalization to Rs. 15.78 Crore. The Petitioner humbly submits the reconciliation of additional Capitalization as under:

Head of Work / Equipment	Regulations under which claimed	Additional Capitalization claimed during FY 2016-17	Items transferred from Fixed Assets to CWIP
Transmission Line	20.1 (ii)	0	(6.90)*
Bal Mandatory Spares	20.1 (iii)	14.53	
MGR-S&T & Electrification& Loco	20.1 (ii)	0	(0.81)*
ABT System	20.1 (ii)	0.16	
Road & Drainage	20.1 (ii)	2.94	
Chemical & Electrical Lab	20.1 (ii)	0.06	
CHP Balance Works	20.1 (ii)	5.80	
Total Additional Capitalization		23.49	(7.71)

** Transferred from fixed assets to CWIP*

The above table indicates that out of the total additional capitalization of Rs. 23.49 Crores incurred during FY 2016-17, the amount of Rs. 7.71 Crore is booked in CWIP. The Petitioner therefore, requested the Commission to consider its claim for additional Capital expenditure incurred during FY 2016-17.

The Petitioner respectfully submits that the total amount capitalized during the year is Rs. 250 Crore. Any part of Gross additional capitalisation of Rs. 23.49 Crore which has[RB1] been spent during FY 2016-17 is included in Rs. 250 Crore in respective heads and balance is shown as un-discharged liability.”

85. On perusal of the above, it is observed that the petitioner has un-discharged liability of Rs. 368.58 Crore as on CoD and the petitioner has booked an additional capitalization of Rs. 15.78 Crore post CoD of Unit (during FY 2016-17). Further, the petitioner has discharged the liability of Rs. 258.35 Crore during FY 2016-17 and left with the un-discharged liability of Rs. 126.01 Crore as on 31st March' 2017. From the additional submission made by the petitioner by affidavit dated 28th November'2018, it is noted that the actual additional capitalization of Rs. 23.49 Crore is claimed during FY 2016-17 out of which an amount of Rs 7.71 Crore has been transferred back to CWIP from Fixed Assets thus, the additional capitalization of Rs 15.78 Crore as actually capitalized and included under discharged liability of Rs 258.35 Crore is considered in this order.
86. Further, in para 182 of Commission's Order dated 06th September' 2016, the Commission directed the peitioner as under:

*“182. By affidavit dated 4th August, 2016, the petitioner filed the details of procurement of Linkage coal during the month of March and April, 2016. The petitioner also worked out the weighted average landed price of linkage coal as Rs. **3437.93 / MT**. The aforesaid weighted average landed price of coal is inclusive of Rs. 753 / MT road transportation. As submitted by the petitioner, the charge of road transportation is applicable only till January, 2017; thereafter only the rail transportation shall be applicable. In view of the aforesaid and the reasons put forth by the petitioner for delay in completion of work regarding last mile railway connectivity for transportation of Coal, the weighted average landed price of coal is considered by including the cost of road transport also up to January, 2017 in this order. **The petitioner is directed to segregate and mention the actual expenditure incurred/ to be incurred towards***

“the intermediate arrangement on the mechanism for coal road transport and truck unloading by deploying a dedicated loop-in/loop-out system” in the final capital cost of its generating unit (in the subject petition) duly supported with the Annual Audited Accounts while filing the petition for determination of final tariff in the subject matter.”

87. It is further observed that in para 13.7 of the petition, the petitioner has filed the detailed breakup of Rs. 6.29 Crore for cost towards intermediate coal transportation arrangement. Therefore, Vide Commission’s letter dated 18th August’ 2018, the petitioner was asked to clarify whether this cost is included in the capital cost of the project claimed by it and whether this cost is covered under original scope of work of the project.
88. By affidavit dated 21st September’ 2018, the petitioner has submitted the following in Para L of its reply:

*“The cost booked upto 31.03.2017 is Rs 6.29 Crores and the same has been claimed in the Petition. It is further submitted that the above-mentioned cost is included in the capital cost of the project. The petitioner submits that though the cost incurred towards intermediate coal transportation arrangement **was not in the original scope of work**, the same needs to be undertaken at a nominal cost of Rs 7.37 Crore to ensure reliable coal supply and commercial generation. Presently, MPPMCL is not reimbursing the cost incurred by the petitioner for the last mile road transportation since the Hon’ble Commission had allowed this cost to be billed till 31st January 2017, based on the extant estimation of the completion of the broad gauging works by Indian Railways. Had the petitioner incurred the cost, MPPMCL would have paid both the increased Fixed Cost (on account of the expenses for completion of the Railway works) as well as the increased Variable Cost. Moreover, shortages in linkage coal supply is expected to continue in the future. These infrastructures shall be used to receive the bridging coal quantities and maintain reliable power supply to the respondent. Accordingly, this cost may be allowed in the Capital cost. The petitioner has also submitted Auditor’s Certificate certifying the cost of intermediate coal transportation arrangement as Annexure 6 of the Petition”*

89. On perusal of above reply, it is observed that petitioner has incurred Rs. 6.29 Crore during FY 2016-17 towards intermediate coal transportation arrangement as per CA certificate filed with the petition however, the aforesaid work was not in the original

scope of work. It is also observed that the aforesaid work is an interim arrangement for the last mile road transportation till completion of the broad gauge works by the petitioner. Further, the Commission had not considered the cost of road transportation of coal beyond January' 2017, while determining the energy charges in its last Order dated 06th September' 2016 for determination of provisional tariff. As per submission of the petitioner in para 15(c) and (d) of the subject petition, the Railway track till Binaiki has now been operationalised by Indian Railways since June'2017. It is noted that the works for coal transportation through railways which is about 2.5 Kms from Binaiki to Plant is not yet completed due to the reasons attributable to the petitioner as the block was imposed by the Lenders on all capital expenditure since past eight months.. Therefore, the higher transportation cost by alternate arrangement for transportation of coal through road is not considered in this order also for arriving at landed cost of coal for determining the energy charges. In view of aforesaid, the Commission has not considered the cost of Rs. 6.29 Crore incurred towards intermediate coal transportation arrangement which was not in the original scope of work also. Therefore, the amount of Rs. 6.29 Crore is deducted from the aforesaid additional capitalization of Rs. 258.35 Crore. Accordingly, the Commission has considered net Additional capitalization of Rs. 252.06 Crore during FY 2016-17. However, the petitioner shall be at liberty to claim the actual cost as and when incurred by the petitioner towards the capital works for coal transportation arrangement through railways of about 2.5 Kms from Binaiki to Plant in its true-up petition. The Commission may consider the same after exercising prudence check on such claim as per original scope of works.

90. Considering all aforesaid and deduction of Rs. 6.29 Crore as mentioned above, the Commission has considered total additional capitalization of Rs. 252.06 Crore during FY 2016-17 in term of Regulation 20.1 of MPERC (Terms and Conditions for Determination Generation Tariff) Regulations, 2015.

**Funding of the Project:
Petitioner's Submission**

91. The petitioner submitted the following detail of funding of capital cost as on CoD as under:

Table 25: Funding filed in the petition

SI. No.	Particulars	Project Cost including un-discharged liabilities	Cash Expenditure

		(Rs. in Crore)	(Rs. In Crore)
1	Gross Fixed Assets	4698.66	4330.08
2	Loan from Bank & Financial Institutions	3018.00	3018.00
3	Equity	1680.66	1312.08
4	Debt : Equity Ratio	64.23 : 35.77	69.70 : 30.30

Provision under Regulations:

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

“For a project declared under commercial operation on or after 1.4.2016, the debt-equity ratio would be considered as 70:30 as on COD. If the equity actually deployed is more than 30% of the capital cost, equity in excess of 30% shall be treated as normative loan:

Provided that:

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

Commission’s Analysis:

93. From the submission of the petitioner it is observed that the petitioner has incurred equity amount more than 30% (normative equity in the project. Therefore, it has considered debt-equity ratio of 70-30 as per norms under aforesaid Regulation for this project. It is observed that as on CoD of Unit, the petitioner has incurred Rs. 4330 Crore towards capital cost,

94. Further, vide affidavit dated 28th November’ 2018, the petitioner has furnished the following information regarding the equity capital infused in the project.

Particular	As on 31.3.16	As on 02.05.16	As on 31.3.17
Issued & subscribed share capital	959	959	1147.37
Unsecured Loans from related parties- holding company's infusion	111.04	136.58	0
Total Equity contribution	1070.04	1095.58	1147.37

* Further breakup of Equity as on into various components such as Equity share capital, Equity component of CCD (Compulsorily Convertible Debentures) (Other equity), Long- term borrowings (CCD Component), Other unsecured Loans from promoters/related parties has already been submitted.

* No. & value of CCD converted into Equity shares till 02.05.16- NIL

* No. & value of CCD converted into Equity shares in FY 16-17- NIL

95. It is observed from the above that the CCD component of equity and CCD are the debentures bearing interest, which are convertible after certain period into equity, however, the same has not been converted into equity during FY 2016-17. Thus, the Commission has not considered the CCD as equity during FY 2016-17.

96. Based on the above information of capital cost and its funding by debt & equity. The Commission has worked out the following debt equity ratio.

Table 26: Debt and Equity Ratio considered in this Order (%)

Particulars	Capital Expenditure	Debt	Equity	Debt (%)	Equity (%)
As on CoD i.e. 03.05.2016	4330.58	3235.00	1095.59	74.70%	25.30%
Additional capitalization	258.68	206.89	51.79	79.98%	20.02%
Capital Expenditure as on 31.03.2017	4589.26	3441.89	1147.37	75.00%	25.00%

97. Accordingly, the details of the funding considered for the assets admitted in this order are as given below:

Table 27: Funding as on COD of Unit considered:

Sr.	Particular	Amount in
No.		Rs. Crore
1	Gross Fixed Assets	3662.42
2	Opening Loan	2735.87
3	Opening Equity	926.55
4	Normative Equity	926.55
5	Debt : equity	75/25

Annual Capacity (fixed) Charges

98. The tariff for supply of electricity from thermal generating station comprise Capacity charges (for recovery of Annual fixed cost) and Energy charge (for recovery of primary fuel and secondary fuel cost).
99. As per Regulation 27 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015, the Annual Capacity (fixed) Charges 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

100. With regard to return on equity, the petitioner broadly submitted the following:
- i. As provided in Clause 25 of the MPERC Tariff Regulations, 2015 the amount of equity actually employed is proposed to be limited to 30% of the Project capital cost for the purpose of tariff determination. Out of the total Project Cost as on COD of Rs. 4698.66 crores, the debt tie-up is to the tune of Rs. 3018 crores. Balance, Rs. 1680.66 Crore have been proposed to be funded through equity. On cash basis, the actual deployment of funds has been Rs 4330.08 Crore with actual equity deployment being Rs 1312.58 crore. Therefore, on a cash basis, the D/E ratio was around 60.69: 30.31. However, for tariff purposes, the equity has been curtailed up to 30% and equity deployed beyond 30% has been considered as normative loan in FY 2016-17.*
 - ii. RoE is being claimed at the base rate of 15.5% of the normative equity on pre-tax basis as per provision of Clause 25. The petitioner submits that it is a Special Purpose Vehicle (SPV) Company and it had incurred a marginal loss in FY 2016-17 and hence, no income tax was payable by it in FY 2016-17. However, in the subsequent years, the Petitioner would earn Return on Equity and as such would have to pay income tax at the normal tax rates.*
 - iii. Accordingly, the RoE has not been grossed up with the MAT tax rate of 20.961% for*

FY 2016-17 since there is no actual income tax liability. However, for the ensuing years FY 2017-18 and FY 2018-19, the Petitioner has grossed up the ROE with Minimum Tax Rate as per the formula given in Clause 30 and 31 of the MPERC Tariff Regulations, 2015 as shown in following Table.

101. Accordingly, the petitioner filed the Return on Equity for the period 03rd May' 2016 to 31st March' 2019 as given below:

Table 28: Return on Equity Claimed in the Petition

Sr. No	Particulars	Unit	FY 2016-17	FY 2017-18	FY 2018-19
1	Opening Equity	Rs Cr.	1312.08	1312.08	1369.62
2	Opening Equity Normative as on COD	Rs. Cr.	1299.02	1312.08	1369.62
3	Addition in Equity	Rs. Cr.	0.00	57.54	110.01
4	Closing Equity as on 31st March	Rs. Cr.	1312.08	1369.62	1479.63
5	Average Equity	Rs. Cr.	1305.55	1340.85	1424.62
6	Base Rate of Return on Equity	%	15.50%	15.50%	15.50%
7	Tax Rate (MAT RATE)	%	0.00%	20.96%	20.96%
8	Rate of Return on Equity	%	15.50%	19.61%	19.61%
9	Annual Return on Equity	Rs. Cr.	184.62	262.95	279.38

Provisions in the Regulation:

102. With regard to Return on Equity, 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:

$$\text{Rate of return on equity} = 15.50 / (1 - 0.2096) = 19.610\%$$

(ii) In case of generating company paying normal corporate tax including surcharge and cess:

- (a) *Estimated Gross Income from generation business for FY2016-17 is Rs 1000 Crore.*
- (b) *Estimated Advance Tax for the year on above is Rs 240 Crore.*
- (c) *Effective Tax Rate for the year 2016-17 = Rs 240 Crore/Rs 1000 Crore = 24%*
- (d) *Rate of return on equity = $15.50 / (1 - 0.24) = 20.395\%$*

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

Commission’s Analysis:

103. While claiming the Return on Equity, the petitioner considered the opening equity of Rs 1312.08 Crore as on CoD of the unit whereas the normative opening equity of Rs 1299.02 Crore is considered by the petitioner.
104. It is observed that the project funding and debt-equity ratio filed in the petition is for the total expenditure instead of actual expenditure as on CoD on cash basis duly certified by the CA. It is further observed that the equity amount incurred by the petitioner is more than normative equity (30%) upto CoD. Therefore, while determining the equity component of the project, the Commission has considered the debt equity ratio as per the funding details considered in this order as per provisions under the Regulations, 2015.
105. The actual ratio of equity on the basis of equity actually infused to the actual capital expenditure claimed as on CoD of the generating unit which is worked out to 25.30% is considered in this order.
106. Accordingly, the Commission has considered opening equity of Rs. 926.55 Crore (25.30% of the opening capital cost of Rs 3662.42 Crore admitted in this order) which is within the norms prescribed under the Regulations, 2015. Further, the Commission has also considered equity addition of Rs. 50.46 Crore which is equivalent to 20.02% of additional capitalization of Rs. 252.06 Crore allowed in this order. The equity addition during FY 2016-17 is allowed to the extent of the additional capitalization

considered in this order which is also within the norms.

107. Closing equity balances (as on 31st March' 2017) admitted by the Commission in this order is considered as the opening equity balance as on 01st April' 2017. The Commission has not considered the proposed additional capitalization during FY 2017-18 and FY 2018-19 and its corresponding equity in this order.
108. For FY 2016-17, the petitioner claimed Return on Equity on the base rate of return (15.50%) without considering grossing up the base rate with MAT. However, for FY 2017-18 and FY 2018-19, the petitioner claimed ROE by grossing up the base rate of return with MAT.
109. Regarding the grossing up the base Rate of Return with MAT, the petitioner submitted that it had incurred a marginal loss in FY 2016-17 and hence, no income tax was payable by it in FY 2016-17. However, in the subsequent years, the petitioner has submitted that it would earn Return on Equity and as such would have to pay income tax at the normal tax rates. The petitioner further submitted that even though no income tax was payable in FY 2016-17, however with the stable operations of the units in FY 2017-18 and FY 2018-19, there ought to be income from the station which will invite payment of taxes.
110. Regulation 31.1 of the Regulations 2015 provides that the base rate of return on equity shall be grossed up with the effective tax rate of the respective financial year. Accordingly, the effective tax rate for FY 2016-17 onwards shall be considered on the basis of actual tax paid in the respective financial year based on the Annual Audited Accounts.
111. In terms of the above Regulations, the Commission observed that there is no tax liability during FY 2016-17 as per Annual Audited Accounts. However, for FY 2017-18 and FY 2018-19, the Commission shall deal with the tax liability based on the Annual Audited Accounts during truing- up exercise for each financial year. Accordingly, while computing the Return on Equity in this order, the Commission has not considered the grossing up of the base rate of return with MAT and worked out the Return on Equity for FY 2016-17 to FY 2018-19 at the base rate.
112. Based on the above, the Return on Equity is determined in this order as given below:

Table 29: Return on Equity Allowed

Sr. No.	Particular	Unit	FY 2016-17	FY 2017-18	FY 2018-19
1	Opening Equity as on COD	Rs. Cr.	926.55	977.01	977.01
2	Addition in Equity during FY 2016-17	Rs. Cr.	50.46	0.00	0.00
3	Closing Equity as on 31st March	Rs. Cr.	977.01	977.01	977.01
4	Average Equity	Rs. Cr.	951.78	977.01	977.01
5	Base Rate of Return on Equity	%	15.50%	15.50%	15.50%
6	Annual Return on Equity	Rs. Cr.	147.53	151.44	151.44

113. The petitioner is directed to file the details of actual tax status of JPL in light of the respective Annual Audited Accounts with the true-up petitions of each year respectively.

Interest on Loan Capital

Petitioner's submission:

114. Regarding interest on loan capital, the petitioner submitted the following:

The actual loan plus excess equity, has been considered as gross normative loan for calculation of interest on loan as prescribed in Clause 25 and 32 of the MPERC Tariff Regulations, 2015. The repayment for the year is being considered equal to the Depreciation allowed for the year. As submitted earlier in this petition, an additional loan drawl is considered towards funding of additional capitalization. Considering the actual weighted average rate of interest of 14.75% for FY 2016-17 and 14.99% for FY 2017-18 and FY 2018-19, the interest expenses for the control period are worked out in the following table:

Table 30: Interest on Loan claimed

Sr.	Particulars	Unit	FY 2016-17	FY 2017-18	FY 2018-19
1	Opening Loan as on COD	Rs. Cr.	3018.00	3081.00	2950.45
2	Add: Increase in Normative Loan	Rs. Cr.	279.69	113.40	47.48
3	Less: Normative Repayment during the year	Rs. Cr.	216.69	179.80	188.39
4	Closing Normative Loan	Rs. Cr.	3081.00	2950.45	2748.17
5	Average Normative Loan	Rs. Cr.	3049.50	3015.73	2849.31
6	Weighted average Rate of Interest of	%	14.75%	14.99%	14.99%

	<i>actual Loans</i>				
7	Interest on Normative loan	<i>Rs. Cr.</i>	410.26	452.20	427.24

Provisions in Regulation

115. With regard to interest and finance charges, 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 up to 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 annual depreciation allowed.

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 adjustment for interest capitalized.

Provided that if there is no actual loan for a particular Year but normative loan is still outstanding, the last available weighted average rate of interest shall be considered:

Provided further that if the generating station does not have actual loan, then the weighted average rate of interest of the Generating Company as a whole shall be considered.

32.6 The interest on loan shall be calculated on the normative average loan of the Year by applying the weighted average rate of interest.

32.7 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.

32.8 The changes to the terms and conditions of the loans shall be reflected from the date of such re-financing.

32.9 In case of dispute, any of the parties may make an application in accordance with the MPERC (Conduct of Business) Regulation, 2004, as amended from time to time:

Provided further that beneficiaries shall not withhold any payment on account of the interest claimed by the generating company during the pendency of any dispute arising out of re-financing of loan.

Commission's analysis:

116. The petitioner's project has been financed by a consortium of banks and financial institutions. The Lender Consortium comprises of Axis Bank as the Lead Bank and Power Finance Corporation Ltd., Rural Electrification Corporation, Bank of India, State Bank of India, Oriental Bank of Commerce, UCO Bank, Punjab National Bank, State Bank of Patiala, State Bank of Bikaner and Jaipur and State Bank of Travancore, State Bank of Mysore, Union Bank of India, United Bank of India, State Bank of Patiala, LIC of India and Corporation Bank as Consortium partners. The petitioner has signed the Common Loan Agreement on 30th December' 2009. The Axis Bank was appointed by the petitioner as "Facility Agent" and "Security Trustee".
117. While determining the interest charges on loan capital, the Commission has considered the opening loan of Rs. 2735.87 Crore as on COD of the generating Unit (Phase-I) which is 74.70% of the funding considered in this order. Post CoD, the Commission has considered the loan addition of Rs. 201.60 Crore during FY 2016-17 to the extent of the portion of loan considering the total amount of Rs. 258.35 Crore undischarged liability and the equity infusion between actual CoD to 31.03.2017.
118. However, the Commission has not considered the additional capitalization during FY 2017-18 and FY 2018-19. Therefore, the Commission has not considered the proposed loan addition during FY 2017-18 and FY 2018-19 and its corresponding interest charges in this order. The Loan balances (as on 31st March' 2017) admitted in this order for FY 2016-17 by the Commission is considered as the base opening figures for loan balance as on 01st April' 2017.

119. On scrutiny of the petition, it was observed that the weighted average rate of interest claimed by the petitioner is on higher side. Vide Commission's letter dated 16th August' 2018, the petitioner was asked to justify the higher rate of interest claimed by it alongwith all supporting documents of each lending agency and also the leading Bank.
120. By affidavit dated 21st September' 2018, the petitioner submitted that the "*The computation of weighted average interest rate includes penal interest. The year wise penal interest is submitted as Annexure 4 along with the replies*"
121. On further scrutiny of the petition and additional submission, it was found that the rate of interest is not worked out according to Provisions under Regulations. The Regulation 32.5 of Regulations, 2015 stated that the rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio.
122. On further scrutiny of the petition, the Commission observed that while calculating the weighted average rate of interest, the repayment for many of the loans were not fully made, hence, the petitioner was asked to deduct the penal interest charges of Rs. 22.15 Crore from the interest amount filed by the petitioner for FY 2016-17 (Annexure 4) and then worked out the weighted average rate of interest based on the aforesaid method.
123. By additional affidavit dated 28th November' 2018, the petitioner filed the revised weighted average rate of interest of 14.01% on the basis of actual effective interest rate after deducting the interest on interest and penal interest. Accordingly, the Commission has considered the actual weighted average rate of interest as 14.01% for FY 2016-17 and also for FY 2017-18 to FY 2018-19 in this order. The repayment equivalent to depreciation during the year is considered as per the provision under the Regulations, 2015.
124. Considering the above, the interest on loan is determined in this order based on the following:-
- i. Gross Normative Opening loan of Rs. 2735.87 Crore is considered.
 - ii. Net Addition of normative loan amount of Rs. 201.60 Crore is considered.
 - iii. Annual repayment of Loan equal to annual depreciation is considered.
 - iv. Weighted Average Rate of Interest @14.01% (deducting penal interest charges for FY 2016-17) worked out by the petitioner based on the actual loan portfolio is

considered.

- v. However, no projected additional capitalization is considered during FY 2017-18 and FY 2018-19, therefore, no loan addition is considered during these financial years.

125. Accordingly, the interest on loan for FY 2016-17 to FY 2018-19 is determined in this order as given below:-.

Table 31: Interest on Loan Allowed

Sr. No.	Particular	Unit	FY 2016-17	FY 2017-18	FY 2018-19
1	Opening Loan as on CoD	Rs. Cr.	2735.87	2778.33	2598.09
2	Loan Additions during the year	Rs. Cr.	201.60	0.00	0.00
3	Repayment of Loan equal to dep.	Rs. Cr.	159.14	180.24	180.24
4	Closing Loan as on 31 st March	Rs. Cr.	2778.33	2598.09	2417.86
5	Average Loan	Rs. Cr.	2757.10	2688.21	2507.98
6	Weighted Average Rate of Interest	%	14.01%	14.01%	14.01%
7	Annual Interest amount on Loan	Rs. Cr.	386.36	376.70	351.45

126. The petitioner is directed to file actual weighted average rate of interest in respect of each lending agency along with supporting documents while filing the true-up petitions for FY 2017-18 and FY 2018-19 respectively.

Depreciation

Petitioner's submission:

127. Regarding the depreciation, the petitioner broadly submitted the following:

- i. *For the purpose of Tariff, Depreciation has been proposed in the manner as prescribed in Clause 33 of the MPERC Tariff Regulations, 2015 calculated annually based on "Straight Line Method" and at rates specified in Appendix-II of the MPERC Tariff Regulations, 2015 for the assets of the generating unit. In this regard it is submitted that, although it has achieved all the parameters required for declaration of COD as per the regulations. However, the asset has not been shown as capitalized in the Books of Accounts. The petitioner submits that the total value of assets that has been put to use as on COD have been Rs. 4698.66 Crore and pursuant to additional capitalization of Rs 32.084 Crore (net of LD) in FY 2016-17 the total value of assets put to use have been Rs 4706.00 Crore as on 31.03.2017.*

128. The petitioner claimed the depreciation for control period from FY 2016-17 to FY 2018-19 as given below:

Table 32: Depreciation Claimed

Particulars	FY 2016-17	FY 2017-18	FY 2018-19
Opening Capital Cost	4698.66	4706.17	4828.19
Closing Capital Cost	4706.17	4828.19	4938.20
Average Capital Cost	4702.41	4767.18	4883.19
Freehold land	103.46	103.46	103.46
Rate of depreciation	4.60%	5.05%	5.06%
Depreciable value	4139.06	4197.35	4301.76
Annual Depreciation Amount	235.68	243.95	249.76
Depreciation (for the period)	216.69	243.95	249.76

Provisions of the Regulation:

129. With regard to Depreciation 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 creation of the site:

Provided further that the capital cost of the assets of the hydro generating station for the purpose of computation of depreciable value shall correspond to the percentage of sale of electricity under Long-term power purchase agreement at regulated Tariff.

Provided also that any depreciation disallowed on account of lower availability of generating station or generating unit shall not be allowed to be recovered at a later stage during the useful life and extended life.

Provided also that salvage value for IT equipment and softwares shall be considered as NIL and 100 % value of the assets shall be considered depreciable.

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 Date of Commercial operation 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 up to 31.3.2013 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) along with

justification and proposed life extension. The Commission based on prudence check of such submissions shall approve the depreciation on capital expenditure during the fag end of the project.

33.10 In case of de-capitalization of assets in respect of generating station or unit thereof, the cumulative depreciation shall be adjusted by taking into account the depreciation recovered in tariff by the de-capitalized asset during its useful services.”

Commission’s Analysis:-

130. The petitioner claimed depreciation by considering opening GFA of Rs. 4698.66 Crores whereas the CA certificate filed by the petitioner indicating total actual cash capital expenditure is Rs. 4330.08 Crores as on CoD of the generating unit.
131. In form TPS 11 of the petition, the petitioner worked out the weighted average rate of depreciation by applying the rate of depreciation for different capital cost components in accordance with the Regulations, 2015.
132. While determining the depreciation, the Commission has considered the opening GFA of Rs. 3662.42 Crore as on CoD of the Unit (Phase-I) as admitted in this order. The Commission has also considered assets addition of Rs. 252.06 Crore including undischarged liability as on CoD and paid during FY 2016-17 in respect of additional capitalization considered in this order. The additional capitalization is inclusive of the amount towards discharged liability paid during the year which is Rs. 258.35. As mentioned in preceeding part of this order, the Commission has not considered the cost claimed upto 31st March’ 2017 towards intermediate coal transportation arrangement. By additional affidavit dated 21st September’ 2018, the petitioner informed that it was not in the original scope of works. It was further submitted by the petitioner that the above-mentioned cost is included in the capital cost of the project. Hence, the total amount of additional capitalization during FY 2016-17 allowed in this order is Rs 252.06 Crore. The closing Gross Fixed Assets as on 31st March’ 2017, is worked out after considering the asset addition during the year.
133. Gross Fixed Assets (as on 31st March’ 2017) admitted above for FY 2016- 17 is considered as the base figures for Gross Fixed Assets as on 01st April’ 2017. The proposed additional capitalization during FY 2017-18 and FY 2018-19 and its corresponding depreciation is not considered in this order. Therefore, the Gross Fixed Assets as on 01st April’ 2017 is considered same for FY 2017-18 and FY 2018-19.

134. The petitioner has filed the assets cum depreciation register, wherein the weighted average depreciation rate of 4.60% for FY 2016-17, 5.05% for FY 2017-18 and 5.06% for FY 2018-19 is worked out based on the rates of depreciation specified in the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015.
135. However, the proposed asset addition during FY 2017-18 and FY 2018-19 is not considered by the Commission in this order. Therefore, it will not be appropriate to consider the weighted average rate of depreciation on the assets proposed to be capitalized during FY 2017-18. In view of the above, the Commission has considered the same weighted average rate of depreciation @ 4.60% for FY 2017-18 and FY 2018-19 as worked out by the petitioner for FY 2016-17 based on the Asset-cum-Depreciation register subject to true-up of the same for FY 2017-18 & FY 2018-19.
136. The depreciation on the Gross Fixed Assets (considered as on CoD) and additional capitalization during FY 2016-17 is worked out in this order on the following basis:
- i) For the purpose of depreciation, the opening Gross Fixed Assets is considered as the capital cost (as on CoD) and additional capitalization is considered during FY 2016-17.
 - ii) The depreciation during the year has been computed by applying the weighted rate of depreciation as filed by the petitioner for FY 2016-17.
 - iii) No de-capitalization of assets is considered in this order.
137. Based on the above, the depreciation is worked out in this order as given below:-

Table 33: Depreciation Admitted

Sr. No.	Particular	Unit	FY 2016-17	FY 2017-18	FY 2018-19
1	Opening Gross Fixed Assets	Rs Cr.	3662.42	3914.48	3914.48
2	Assets Addition during the year	Rs Cr.	252.06	0.00	0
3	Closing Gross Fixed Assets as on 31.03.2017	Rs Cr.	3914.48	3914.48	3914.48
4	Average Gross Fixed Assets	Rs Cr.	3788.45	3914.48	3914.4772
5	Weighted Average Rate of Depreciation (%)	%	4.60%	4.60%	4.60%
6	Annual Depreciation	Rs Cr.	174.43	180.24	180.24
7	Cumulative Depreciation	Rs Cr.	159.14	339.38	519.61

Operation & Maintenance Expenses

Petitioner's Submission

138. The petitioner filed the Operation and Maintenance expenses for FY 2016-17 to FY 2018-19 as given below:

Table 34: Operation & Maintenance Expenses claimed (Rs. in Crore)

Sr No.	Particular	FY 2016-17	FY 2017-18	FY 2018-19
1	Annual O&M expenses	89.06*	228.36	242.62

*(Post COD=333 days)

Provision in Regulations:-

139. Regarding the norms for operation & maintenance expenses of thermal power stations, Regulation 35.1 to 35.6 of MPERC (Terms & conditions for Determination of Generation Tariff) Regulations, 2015, provides as under:

35.1 Operation and Maintenance Expenses for thermal and hydro power stations for the Tariff period shall be determined based on normative O&M expenses specified by the Commission in these Regulations. The normative operation and maintenance expenses for the thermal generating stations are specified separately for the thermal power stations commissioned on or before 31.03.2012 and the power stations commissioned on or after 01.04.2012. The normative operation and maintenance expenses are also specified separately for the existing and new projects.

35.2 The cost components for employee expenses, repair & maintenance expenses and administrative and general expenses are considered as per Regulations 35.7 to 35.8 and 35.10 to 35.11 of these Regulations. The Operation and Maintenance expenses including employee expenses, repair and maintenance expenses, and administrative and general expenses, for the power stations commissioned prior to 01.04.2012 are derived by considering the average of these expenditures for past four years (i.e. FY2010-11 to FY2013-14) as per Annual Audited Accounts. The average expenditure of the aforesaid four years is considered as base opening figure for FY 2012-13. Thereafter, the figures of O&M expenditure are derived upto FY 2015-16 by applying the annual escalation rate specified for the relevant year in the applicable Regulations.

35.3 The O&M expenses for the subsequent years shall be determined by escalating the expenses of the base year i.e. FY 2015-16, as determined above with the escalation factor @ 6.30% and @ 6.64% for thermal power stations and hydro power stations

respectively as considered by the Central Commission in its Tariff Regulations, 2014 for the respective financial years to arrive at permissible O&M expenses for each year of the Control Period.. Provided that in case, the generating stations which have come in operation on or after 01.04.2012, the O&M expenses shall be as specified at Regulation 35.8 for New generating stations.

35.4 In respect of M.P. Power Generating Company Ltd., the employee expenses considered in the above Operation and Maintenance expenses are excluding the pension and other terminal benefits. The funding of pension and other terminal benefit in respect of personnel including existing pensioner’s of the Board and the pensioner’s of M.P. Power Generating Company Ltd. shall be allowed in accordance with MPERC (Terms and Conditions for allowing pension and terminal benefits liabilities of personal of the board and successor entities) Regulation’s, 2012 (G-38 of 2012).

35.5 Increase in O&M charges on account of war, insurgency or changes in laws, or like eventualities where the Commission is of the opinion that an increase in O&M charges is justified, may be considered by the Commission for a specified period.

35.6 Any saving achieved by a generating company in any Year shall be allowed to be retained by it. The generating company shall bear the loss if it exceeds the targeted O&M expenses for that Year.

140. The norms for Operation and Maintenance Expenses for thermal generating units commissioned on or after 01/04/2012 are prescribed under Regulation 35.7 of the Regulations, 2015 for the generating Unit of “600 MW and above” for control period FY 2016-17 to FY 2018-19. These norms are as given below:

Table 35: Norms for O&M Expenses

(Rs. lakh/MW/Year)

Units (MW)	FY 2016-17	FY 2017-18	FY 2018-19
<i>600 and above</i>	16.27	17.30	18.38

Commission’s Analysis

141. For Thermal Power Station, the Commission has worked out the Annual Operation and Maintenance Expenses as per the norms prescribed under aforesaid

Regulations, 2015 for the generating unit of “600 MW and above” for FY 2016-17 to FY 2018-19 as given below:

Table 36: O& M Expenses for Generating Unit

Particular	Units	FY 2016-17	FY 2017-18	FY 2018-19
Generating Unit Capacity	MW	600	600	600
Per MW O&M Expenses Norms	Rs in Lakh/MW	16.27	17.30	18.38
Annual O&M expenses	Rs in Crore	97.62	103.80	110.28

142. The petitioner has also claimed the Operation & Maintenance expenses of dedicated transmission lines & Bay over and above the norms provided in MPERC Tariff Regulations, 2015. The aforesaid O&M Expenses claimed for dedicated transmission lines and Bays are based on the transmission Regulations as given below:

Table 37: Statement of O & M expenses of Transmission Line & Bay

Particulars	Unit	FY 2016-17*	FY 2017-18	FY 2018-19
		Ckt km ^ = 65.2 Bays = 02		
O & M Expenses	Rs lakhs per100 ckm/annum	32	33.32	34.7
O & M Expenses	per Bay	9.58	9.98	10.39
O & M Expenses- Line (for 130.4 km)	Rs. Crore	0.38	0.43	0.45
O & M Expenses – bay	Rs. Crore	0.17	0.20	0.21
Total	Rs. Crore	0.56	0.63	0.66

143. On perusal of the aforesaid claim, the Commission observed that the petitioner claimed separate O&M expenses of transmission lines & Bay over and above the norms prescribed in MPERC Generation Tariff Regulations, 2015. The petitioner has claimed separate O&M expenses for dedicated transmission system on the basis of norms prescribed under MPERC(Terms & Condition for Determination of Transmission Tariff) Regulations, 2016.

144. Vide Letter dated 16th August’ 2018, the petitioner was asked to explain the reasons for claiming separate O&M expenses of such a dedicated transmission line , the cost of which has been appropriately considered in the capital cost of its power plant.

145. By affidavit dated 21st September’ 2018, the petitioner submitted the following:

“it is pertinent to mention that the MPERC (Terms and Condition for determination of Generation Tariff) Regulations, 2015 provides for normative O&M expenses for the Generating station only, which does not cover the expenses towards O&M of the said Transmission facility.

It is further submitted that it has developed the transmission system which needs to be maintained. Operation and Maintenance of 65.2 ckm long 400KV Double Circuit Line includes, inter alia, requirements like procurement of spares, deploying manpower and agencies for regular maintenance, patrolling and paying monthly maintenance fees to PGCIL for the bay maintenance charges at Jabalpur Pooling Station etc. While the Petitioner strives to deliver reliable power supply to its consumers, however maintaining such assets without commensurate recovery of the expenses shall immensely prejudice the Petition and cause grave financial burden on the Petitioner which may jeopardize the Petitioner’s capability to serve reliable and quality power to its consumers in the near future. Further, the normative O&M expenses of generating station does not include O&M expenses towards dedicated transmission lines. It would therefore be just and appropriate to allow the Petitioner to recover the O & M expenses for its transmission system meant for providing reliable power to the consumers of Madhya Pradesh as per the rates specified in MPERC (Terms and Condition for Determination of Transmission Tariff) Regulations, 2016.

The total allowable O&M expenses for the Transmission Licensee shall be calculated by multiplying the average number of bays and 100 ckt-km of line length for the Year with the applicable norms for O&M expenses per bay and per 100 ckt-km respectively. In support of its claim for allowable O&M expenses, the Licensee shall submit before the Commission, the actual or projected circuit kilometers of line lengths and number of bays for each voltage level separately for each Year of the Tariff Period as the case may be.”

The Petitioner based on the above Regulations has claimed the O&M Expenses for its dedicated Transmission Line. It is further submitted that the Hon’ble CERC has been allowing additional O&M Expenses for associated Transmission facility apart from the O&M expenses incurred towards the Generating Station. As the dedicated transmission line is addition to the capital cost of the project and Hon’ble CERC has also provided additional O&M expenses for dedicated transmission line in Petition No. 324/GT/2014 in case of the NCTPS generating station of NTPC, the Hon’ble Commission has allowed the O&M expenses incurred towards its 400 kV D/C Dadri-

Loni Road Transmission Line. Accordingly, the Petitioner has also rightfully requested the Hon'ble MPERC to allow the O&M Expenses incurred towards the Dedicated Transmission Line. The Copy of the Order is attached as Annexure 8.

146. With regard to above claim of the petitioner is seeking separate O&M expenses for dedicated transmission line/ system over and above the O&M norms provided in MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015, the Commission has noted the following:
- (i) The Commission on 21.12.2015 issued the MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 ("Regulations 2015") for the control period of FY 2016-17 to FY 2018-19 and the same was notified in official Gazette on 01.01.2016. The norms of O&M expenses for each year of the control period in respect of generating unit/power plant as a whole are provided in aforesaid Regulations and O&M expenses for dedicated transmission line were not provided separately in the said Regulations. It is pertinent to note that the petitioner had not challenged MPERC Tariff Regulations, 2015 before any forum. Hence, the provisions for O&M norms under MPERC Tariff Regulations, 2015 have attained finality.
 - (ii) In its Petition for determination of provisional generation tariff of the generating unit, the petitioner had not claimed any separate O&M expenses for the dedicated transmission lines of its project. The tariff of the unit was provisionally determined by the Commission strictly in accordance with the O&M norms provided in MPERC Tariff Regulations 2015 wherein no O&M expenses was considered separately for dedicated transmission lines.
 - (iii) The Commission has already considered the expenditure incurred on the construction of dedicated transmission line/system as part of the capital cost of Petitioner's power plant and allowed corresponding Return on Equity, interest charges and depreciation in the Annual Fixed Charges determined in this tariff Order. The claim of petitioner seeking separate O&M expenses over and above O&M norms provided in Tariff Regulations, 2015 is against the provisions of the Tariff Regulations, 2015. The petitioner has claimed the O&M expenses for dedicated transmission line in terms of MPERC Transmission Tariff Regulations whereas the subject petition is for determination of generation tariff of petitioner's power project in accordance with MPERC Generation Tariff Regulations in the capacity of petitioner as the generating company.

- (iv) It is further observed that the dedicated transmission line is neither a transmission line in terms of sub-section (72) of Section 2 of the Electricity Act' 2003 nor it is a distribution system connecting the point of a connection to the installation of consumer in terms of sub-section (19) of Section 2 of the Electricity Act, 2003. The O&M expenses of a transmission line are part of the Annual Fixed Cost (AFC) determined by the Commission under section 62 of the Electricity Act, 2003 for a transmission licensee whereas, the subject petition cannot be considered for determination of AFC for the transmission line under section 62 of the Electricity Act, 2003. The cost of dedicated transmission line has thus been considered in the capital cost of the generating station and the tariff of the said generating station has been determined in terms of the Tariff Regulations which do not provide for any O&M expenses of dedicated transmission line separately.
- (v) On perusal of the O&M expenses recorded in Annual Audited Accounts for FY 2016-17, it is observed that the actual O&M expenses of the Petitioner's power plant are less than the O&M expenses allowed in this Order based on O&M norms provided in the Regulations'2015.
147. In view of all aforesaid and taking a consistent approach on this issue in all other earlier Orders, the claim of petitioner seeking separate O&M expenses of dedicated transmission line over and above the norms/provisions in MPERC Tariff Regulations,2015 is not considered by the Commission in this Order.

Interest on Working Capital

Petitioner's submission

148. The petitioner filed the interest on working capital for the control period from FY 2016-17 to FY 2018-19 in accordance with Regulations 2015. Further the rate of interest on working capital has been taken on normative basis and considered as the bank rate as as on 1.4.2016 (Base rate 9.30% + 350 bps) for the tariff period. The following calculation of Interest on Working Capital is filed by the petitioner :-

Table 38: Interest on working Capital claimed

Sr. No.	Particulars	Unit	FY 2016-17	FY 2017-18	FY 2018-19
1	Cost of Coal/Lignite	Rs. Cr.	172.06	141.40	141.40
2	Cost of Secondary Fuel Oil	Rs. Cr.	1.61	1.78	1.78
3	O & M Expenses	Rs. Cr.	7.47	8.70	9.25

4	Maintenance Spares	Rs. Cr.	17.81	20.76	22.06
5	Receivables	Rs. Cr.	334.76	330.68	331.37
6	Total Working Capital	Rs. Cr.	533.70	503.33	505.85
7	Rate of Interest	%	12.80%	12.80%	12.80%
8	Interest on allowed Working Capital	Rs. Cr.	68.31	64.43	64.75

Provisions in Regulation:

149. With regard to Interest on Working Capital 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:

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

(a) Cost of coal for 60 days

151. Vide Commission's letter dated 16th August' 2018, the petitioner was asked to explain the basis of the cost of coal for 60 days considered in the subject petition against the provisions under Regulations, 2015. The petitioner was also asked to inform the basis of maximum coal stock storage capacity with all supporting documents for arriving at the rate of interest on working capital.

152. By affidavit dated 21st September' 2018, the petitioner submitted the following:

The Petitioner's Plant is a non-pit-head generating station. Therefore, as per Regulation 34.1(1)(a), cost of coal towards stock for 30 days for non-pit-head generating station for generation corresponding to the normative annual plant availability factor or the maximum coal stock storage capacity whichever is lower, is allowed to be covered in working capital. Here, the Petitioner humbly wishes to add that the coal stock storage capacity of Petitioner's Plant is to keep stock of coal of 206470 MT which consist of storage capacity of more than 30 days. As per Regulation 34.1(1)(b), cost of coal for 30 days for generation corresponding to the normative annual plant availability factor, is also allowed to be covered in working capital. For the reasons cited above, the Petitioner has considered cost of coal for 60 days (30 days for stock for generation corresponding to the normative annual plant availability factor and for cost of coal for 30 days for generation corresponding to the normative annual plant availability factor).

153. It is observed from the above reply, that the petitioner has storage capacity of more than one month. Accordingly, the Commission has considered cost of coal towards stock for 30 days for non-pit head generating stations and cost of coal for 30 days for

generation corresponding to the normative annual plant availability factor. Therefore, the cost of coal for 60 days has been considered for working capital purpose.

154. Accordingly, the following coal cost for 60 days is worked out based on the the weighted average rate of coal and GCV of coal worked out as per the details filed by the petitioner:

Table 39: Cost of coal for working capital

Particular	Units	FY 2016-17	FY 2017-18	FY 2018-19
Installed Capacity of the Unit	MW	600	600	600
Gross Station Heat Rate	kCal/kWh	2337.72	2337.72	2337.72
Gross Generation	MUs	4467.60	4467.60	4467.60
Gross Calorific Value of Coal	kCal/Kg	3978.00	3978.00	3978.00
Sp. Coal Consumption	kg/kWh	0.5911	0.5911	0.5911
Annual Coal Consumption	MT	2640952	2640952	2640952
60 Days Coal Stock	MT	434129	434129	434129
Rate of Coal	Rs./MT	3437.92	2975.30	2975.30
Coal Cost (60 days of stock)	Rs in Cr.	149.25	129.17	129.17

(b) Secondary Fuel Oil Cost

155. Regarding the cost of secondary fuel oil for working capital, provision of the aforesaid Regulation 34.1 (c) 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”.

156. Accordingly, the two month cost of fuel oil component for working capital is worked out based on the rate of oil and GCV of oil considered in this order as given below:

Table 40: Cost of Main Secondary Fuel Oil for 2 Months availability

Particulars	Units	FY 2016-17	FY 2017-18	FY 2018-19
Installed Capacity of the Unit	MW	600	600	600
NAPAF	%	85.00%	85.00%	85.00%
Gross Generation	MUs	4467.60	4467.60	4467.60
Normative Specific Oil Consumption	ml/kWh	0.50	0.50	0.50
Quantity of Sec Fuel Oil required	KL	2233.80	2233.80	2233.80
Two months' stock of fuel oil	KL	372.30	372.30	372.30
Weighted Avg. Rate of Secondary Fuel Oil	Rs./KL	40046.65	40046.65	40046.65
Oil Cost (Two Months Stock)	Rs. Crores	1.49	1.49	1.49

(c) O&M Expenses

157. Operation and Maintenance expenses of one month as determined in this order are considered for working capital of thermal power station as given below:

Table 41: O&M Expenses for 2 Months (Rs. in Crore)

Particulars	FY 2016-17	FY 2017-18	FY 2018-19
Annual O&M Expenses	97.62	103.80	110.28
O&M Expenses for one month	8.14	8.65	9.19

(d) Maintenance Spares

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

Table 42: Maintenance Spares (Rs. in Crore)

Particulars	FY 2016-17	FY 2017-18	FY 2018-19
Annual O&M Expenses	97.62	103.80	110.28
20% of O&M Expenses	19.52	20.76	22.06

(e) Receivables

159. Receivables for thermal power stations are worked out equivalent to two months' of Capacity (Fixed) charges and Energy Charges worked out on the basis of Normative Annual Plant Availability Factor as given below:

Table 43: Receivables for two months (Rs. in Crores)

Particular	FY 2016-17	FY 2017-18	FY 2018-19
Variable Charges- two months	152.81	132.45	132.45
Fixed Charges- two months	144.47	144.54	141.09
Receivables- two months	297.28	276.99	273.54

160. With regard to the rate of interest on working capital, Regulation 34.3 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 provides as under:

"34.3 Rate of interest on working capital shall be on normative basis and shall be

considered as the bank rate as on 1.4.2016 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.

161. The State Bank of India Base rate applicable/ prevailing as on 05.10.2015 (up to 1st April' 2016) is 9.30% + 3.50% = 12.80%. Accordingly, interest rate of 12.80% is considered for FY 2016-17. Further, the base rate as on 01.04.2017 and 01.04.2018 are 9.10% and 8.70% respectively. Accordingly, base rate for the year 2017-18 is worked out as 9.10% + 3.50% = 12.60% and base rate for the year 2018-19 is worked out as 8.70% + 3.50% = 12.20%.

162. Based on the above, the interest on working capital for FY 2016-17, FY 2017-18 and 2018-19 is determined as given below:

Table 44: Interest on Working Capital Admitted

Sr. No.	Particular	Norms	Unit	FY 2016-17	FY 2017-18	FY 2018-19
1	Cost of Coal	2 months	Rs Cr	149.25	129.17	129.17
2	Cost of Secondary Fuel Oil	2 months	Rs Cr	1.49	1.49	1.49
3	O&M Expenses for One Months	1 Month	Rs Cr	8.14	8.65	9.19
4	Maintenance Spares 20% of O&M expenses	20% of O&M	Rs Cr	19.52	20.76	22.06
5	Receivables for Two Months	2 Months	Rs Cr	297.28	276.99	273.54
6	Total Annual Working Capital		Rs Cr	475.68	437.06	435.44
7	Rate of Interest on Working Capital		%	12.80%	12.60%	12.20%
8	Annual Interest on Working Capital		Rs Cr	60.89	55.07	53.12

Non-Tariff Income

Petitioner's Submission:

163. The petitioner filed non-tariff income of Rs. 2.94 Crore during the control period FY 2016-17 to FY 2018-19.

Provisions in Regulation:

164. Regulation 53 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 provides that

53.1 "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 decapitalized /written off assets,

income from advertisements, interest on advances to suppliers/contractors, income from sale of fly ash/rejected coal, and any other miscellaneous receipts other than income from sale of energy shall constitute the non -tariff/other income

53.2 *The amount of Non-Tariff /Other 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.”

Commission’s analysis:

165. Vide Commission’s letter dated 16th August’ 2018, the petitioner was asked to file the detailed break-up of projected Non Tariff / other income in accordance to the Regulation 53 of MPERC (Terms and Conditions for Determination of Generation tariff) Regulations, 2015.

166. By affidavit dated 21st September’ 2018, the petitioner submitted the following:

As regards Query , the detailed break-up of projected Non-Tariff / Other Income is attached as Form TPS 13c filed along with the Petition.

(Rs. in Crores)			
Particulars	FY 2016-17	FY 2017-18	FY 2018-19
<i>Interest received on deposits</i>	0.50	0.50	0.50
<i>Income from Investment</i>	1.31	1.31	1.31
<i>Income from sale of scrap</i>	1.14	1.14	1.14
Total	2.94	2.94	2.94

167. In view of the above, the Commission has considered the non- tariff income for FY 2016-17 as filed by the petitioner. The Commission has provisionally considered the same Non-tariff income for FY 2017-18 and FY 2018-19 subject to true-up based on Annual Audited Accounts of each year respectively.

Table 45: Non-Tariff Income

(Rs. in Crore)

Year	Non-Tariff Income
2016-17	2.94
2017-18	2.94
2018-19	2.94

168. The petitioner is directed to file full details of actual non- tariff income for each year based on Annual Audited Accounts with the true-up petition of the respective year.

Normative Annual Plant Availability Factor

169. Normative Annual Plant Availability Factor for recovery of Annual Capacity (fixed) Charges is 85% as per MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations 2015.

Summary of Annual Capacity (fixed) Charges

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

Table 46: Summary of Annual Capacity (fixed) Charges

Sr. No	Particulars	FY 2016-17	FY 2017-18	FY 2018-19
1	Depreciation	174.43	180.24	180.24
2	Interest and Finance Charges	386.36	376.70	351.45
3	Return on Equity	147.53	151.44	151.44
4	Operation & Maintenance Expenses	97.62	103.80	110.28
5	Interest on Working Capital	60.89	55.07	53.12
6	Total Capacity (fixed) Charges	866.82	867.24	846.52
7	Less:-Non Tariff Income	2.94	2.94	2.94
8	Net AFC (after adjusting Other Income)	863.88	864.30	843.58
9	Number of Days in Operation	333.00	365.00	365.00
11	AFC apportioned in actual days of operation	788.14	864.30	843.58
12	Capacity Charges for contracted Capacity i.e. (30%) of Installed Capacity	236.44	259.29	253.07

171. The aforesaid Annual Capacity Charges have been computed based on norms specified under the Regulations, 2015. The above Annual Capacity (fixed) Charges are determined corresponding to the contracted capacity under PPA. The recovery of Annual Capacity (Fixed) charges shall be made by the petitioner in accordance with Regulations 36.2 to 36.4 of the Regulations, 2015.

Energy (Variable) Charges for FY 2016-17 to FY 2018-19

Petitioner's submission:

172. While claiming the Energy charges for FY 2017-18 & FY 2018-19, the petitioner considered parameters like Gross Station Heat Rate and Auxiliary Consumption, Specific fuel oil consumption, transit loss based on the provisions under MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015. However, the parameters for FY 2016-17, the petitioner has considered the actual values instead of norms provided in Regulations, 2015. The details of the Energy Charges claimed by the petitioner are as given below:

Table 47: Energy Charges claimed:

<i>Description</i>	<i>Unit</i>	<i>FY 2016-17 (from 03.05.2016 to 31.03.2017) Actual</i>	<i>FY 2017-18 Projected</i>	<i>FY 2018-19 Projected</i>
Capacity	MW	600	600	600
Gross Station Heat Rate	Kcal/kWh	2618.53	2338	2338
Auxiliary Energy Consumption*	%	10.22%	6.25%	6.25%
Specific Oil Consumption	ml/kWh	4.22	0.50	0.50
Wt. Avg. GCV of Oil	KCal/Lt	10500	10500	10500
Price of Oil	Rs./KL	44150	47591	47591
Wt. Avg. GCV of Coal	kCal/kg	3774	3963	3963
Price of Coal	Rs./MT	3798.42	3192.51	3192.51
Heat Contribution from SFO	Kcal/kWh	44.27	5.25	5.25
Oil Consumption	KL	978.81	2240	2240
Heat Contribution from Coal	Kcal/kWh	2574.26	2332.42	2332.42
Specific Coal Consumption	kg/kWh	1.4660	0.5885	0.5885
Normative Transit Loss	%	0.80%	0.80%	0.80%
Rate of Energy Charge from Secondary Fuel Oil ex-bus	Paise/kWh	20.73	2.54	2.54
Rate of Energy Charge from Coal ex-bus	Paise/kWh	313.75	202.01	202.01
Rate of Energy Charge ex-bus per kWh	Paise/kWh	334.48	204.55	204.55

Provisions in Regulation:

173. For determining the Energy Charges (variable charges) of thermal power stations, Regulation 28 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulation, 2015 provides that,

28. Energy Charges:

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.

174. Regulation 36.5, 36.6 and 36.7 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulation, 2015, further provides that:

36.5 "The energy charge shall cover primary and secondary fuel cost and shall be payable by every 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:

(i) For coal based stations

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

Where,

AUX= Normative Auxiliary Energy Consumption in percentage.

CVPF =(a) Weighted Average Gross Calorific Value of coal as received, in kCal per kg, for coal based stations.

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)

8SFC = 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 a copy of the bills and details of parameters of GCV and price of fuel i.e. domestic coal, imported coal, e-auction coal etc., details of blending ratio of the imported coal with domestic coal, proportion of e-auction coal shall also be displayed on the website of the Generating Company. The details should be available on its website for a period of a three months.

Commission's analysis:

175. The 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 to be supplied to beneficiary on ex-power plant basis.

176. 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 considered as per provisions under Tariff Regulations, 2015.

Operating Parameters:

177. The base rate of energy charges shall be determined based on the parameters like Gross Station Heat Rate, Auxiliary Energy Consumption, Specific Oil Consumption,

Gross calorific value of fuel and other operating parameters prescribed under MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015.

178. On perusal of the details regarding Energy charges filed with the petition, it is observed that the petitioner has considered actual Gross Station Heat Rate 2618.53 Kcal/KWh for FY 2016-17 whereas for FY 2017-18 and FY 2018-19, the petitioner considered normative SHR in accordance with MPERC (Terms & Conditions for Determination of Generation Tariff), Regulations, 2015.
179. Regarding the Gross Station Heat Rate of new thermal generating units, achieving CoD on or after 01.04.2016, Regulation 39.3 (C)(b) of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015, provides as under:

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

Where the Design Heat Rate of a Unit means the Unit heat rate guaranteed by the supplier at conditions of 100% MCR, zero percent make up, design coal and design cooling water temperature/back pressure: Provided that the design heat rate shall not exceed the following maximum design Unit heat rates depending upon the pressure and temperature ratings of the Units:

Table 48: Maximum design Unit Heat Rate as per Norms

Pressure Rating (Kg/cm²)	150	170	170	247
SHT/RHT (0C)	535/535	537/537	537/565	565/593
Type of BFP	Electrical Driven	Turbine Driven	Turbine driven	Turbine Driven
Max Turbine Cycle of Heat rate (kCal/kWh)				
Minimum Boiler Efficiency				
Sub-Bituminous Indian Coal	0.86	0.86	0.86	0.86
Bituminous Imported Coal	0.89	0.89	0.89	0.89
Max. Design Unit Heat Rate (kCal/kWh)				
Sub-Bituminous Indian Coal	2273	2267	2250	2151
Bituminous Imported Coal	2197	2191	2177	2078

Provided further that in case pressure and temperature parameters of a Unit are different from above ratings, the maximum design Unit heat rate of the nearest class shall be taken:

Provided also that where Unit heat rate has not been guaranteed but turbine cycle heat rate and boiler efficiency are guaranteed separately by the same supplier or different suppliers, the Unit design heat rate shall be arrived at by using guaranteed turbine cycle heat rate and boiler efficiency

Provided also that if one or more Units were declared under commercial operation prior to 1.4.2016, the heat rate norms for those Units as well as Units declared under commercial operation on or after 1.4.2016 shall be lower of the heat rate norms arrived at by above methodology and the norms as per the Regulation 35.

Note: In respect of Units where the boiler feed pumps are electrically operated, the maximum design Unit heat rate shall be 40 kCal/kWh lower than the maximum design Unit heat rate specified above with turbine driven BFP.

180. The Commission has observed that the generating unit of the petitioner's power plant achieved COD on 03rd May' 2016, therefore, the Station Heat Rate for Phase-I shall be determined under the Provisions of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations' 2015.

181. Vide Commission's order dated 06th September' 2016, the Commission determined the provisional tariff of Phase-I 1x600 MW. In the provisional tariff order, the Gross Station Heat Rate of 2337.72 kcal/kwh was determined by the Commission which was based on the documents for guaranteed performance parameters and other details and documents submitted by the petitioner.

182. In view of the above, the Gross Station Heat Rate of 2337.72 Kcal/kWh for the generating unit of the petitioner's Power Project is in accordance with MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 and same has been considered in this order also for the control period FY 2016-17 to FY 2018-19 as follows:

Table 49: Gross station Heat Rate considered

Technical Parameters	Unit of Measurement	Values
Designed Turbine Cycle Heat Rate (Actual) (a)	kCal/kWh	1,944.00
Designed Boiler Efficiency (Actual)(b)	%	86.90%
Designed Heat Rate (Actual) (c = a/b)	kCal/kWh	2237.05
Allowable Max Turbine Cycle Heat Rate(as per tariff Regulations) (d)	kCal/kWh	1,950.00
Min. Allowable Boiler Efficiency as per Tariff Regulations, 2015 (e)	%	86.00%
Maximum Allowable Heat Rate (as per Regulation) (f = d/e)	kCal/kWh	2267.44

Least of (c) & (f) = (g)	kCal/kWh	2237.05
Gross Station Heat Rate (h = 1.045 x g) determined and considered in this order	kCal/kWh	2337.72

a) Auxiliary Energy Consumption

183. Regarding Auxiliary Energy Consumption, it is observed that while determining the Energy Charges, the petitioner considered actual Auxiliary Energy Consumption of 10.22% for FY 2016-17, whereas for FY 2017-18 and FY 2018-19, the petitioner considered Auxiliary Energy Consumption of 6.25% which is also not in accordance to MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015.

184. The petitioner considered Auxiliary Energy Consumption of 6.25% for FY 2017-18 and FY 2018-19 which is over and above 0.5% of the normative Auxiliary Energy Consumption of 5.75% (with induced draft cooling tower). The petitioner submitted that the additional 0.50% Auxiliary Energy Consumption is considered towards transmission losses in 400 Kv dedicated transmission line.

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

Table 50: Norms for Auxilliary Energy Consumption

<i>200 / 300 MW series</i>	<i>8.50%</i>
<i>500 MW & above Steam driven boiler feed pumps</i>	<i>5.25%</i>
<i>500 MW & above Electrically driven boiler feed pumps</i>	<i>7.75%</i>
<i>45 MW Series</i>	<i>10%</i>

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

Provided also that Additional Auxiliary Energy Consumption as follows may be allowed for plants with Dry Cooling Systems -----“

186. As per the Provisions under aforesaid Tariff Regulations, 2015, normative Auxiliary Energy Consumption for 500MW and above units with natural draft cooling tower or without cooling tower is prescribed as 5.25%. The aforesaid Regulation further provides that for thermal generating stations with induced draft cooling tower, the norms shall be further increased by 0.50%.

187. In Form TPS-2 of the petition, the petitioner submitted that the cooling tower at the Thermal Power Project is induced draft type which were preferred over natural draft type due to climatic conditions. Further, in the provisional tariff order, the Commission considered normative Auxiliary Energy consumption of 5.75% for the generating station.(5.25% + 0.50%)
188. In view of the above, the Commission has considered normative Auxiliary Energy Consumption for the generating unit of 5.75% (5.25% + 0.50%(on account of induced draft cooling tower)) as considered in Provisional Tariff Order. However, there is no provision for additional Auxiliary Energy Consumption for dedicated transmission line, therefore the claim of the petitioner in this regard is not considered in this order. The details of the Auxiliary Energy Consumption considered are as follows:

Table 51: Auxiliary energy consumption

Sr. No.	Particular	Percentage
1	Auxiliary energy consumption for unit 500 MW & above	5.25%
2	Add: auxiliary energy consumption for induced draft cooling tower	0.5%
3	Total auxiliary energy consumption considered	5.75%

Specific Fuel Oil Consumption

189. With regard to Specific Fuel Oil Consumption, the petitioner in the subject petition considered the Specific Secondary Fuel Oil Consumption of 4.22 ml/kWh for FY 2016-17 whereas for FY 2017-18 and FY 2018-19, the normative Specific Fuel Oil Consumption of 0.50 ml/kWh is considered in accordance to Regulation 39.3 (D) of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015. The Commission has considered the normative Specific Secondary Fuel oil Consumption of 0.50 ml/kWh for the generating unit (Phase-I) in accordance with Regulations for the control period from FY 2016-17 to FY 2018-19 in this order.

Transit and Handling losses:

190. Regarding the normative transit and handling loss, Regulation 36.8 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015, provides as under:

“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%.

191. The Commission has observed that the petitioner's power project is Non pit-head and therefore, the normative transit and handling losses of 0.80 % is considered as per Provisions under Regulations in this order.
192. In view of the above, the following norms as prescribed in the Tariff Regulations, 2015 for the control period of FY 2016-17 to FY 2018-19 is considered for determination of Energy Charges in this order:

Table 52: Operating Parameters considered for FY 2016-17 to FY 2018-19

Sr. No.	Particular	Norms
1	Gross Station Heat Rate (kCal/kWh)	2337.72
2	Auxiliary Consumption (%)	5.75
3	Specific Fuel Consumption (ml/kWh)	0.50
4	Transit Losses (%)	0.80

Gross Calorific Value of Coal

193. With regard to GCV of coal for Coal based Thermal Power Stations, Regulation 36.6 (a) of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 provides that weighted average gross calorific value of coal "as received" in kCal per kg is considered for determination of energy charges. The aforesaid Regulation further provides that in case of blending of fuel from different sources, the weighted average GCV of primary fuel shall be arrived in proportion to blending ratio.

194. Regulation 34.2 of the Tariff Regulations, 2015 further provides for the Gross Calorific Value of the fuel as per actual for the three months preceeding the first month for which tariff is to be determined.
195. On scrutiny of the petition, the Commission observed that the petitioner filed Energy Charges based on the actual annual weighted average GCV of coal for FY 2016-17 and FY 2017-18. However, for FY 2018-19, the petitioner considered the same GCV as considered for FY 2017-18 in the petition. The aforesaid tariff Regulations, 2015 provides that the weighted average GCV of fuel for the preceeding three months should be considered for determination of Energy charges of thermal power stations.
196. Earlier the petitioner filed the Petition No 16/2016 for determination of provisional tariff. With the aforesaid petition, the petitioner filed the the weighted average GCV of coal was 3978 Kcal/kg as received basis and same had been applied for determination of energy charges in provisional tariff order dated 06th September' 2016. The petitioner had also filed the copy of the coal analysis report indicating date-wise GCV and other parameters of coal received from SECL during the preceeding three months from CoD of the generating unit.
197. In view of the above, the Commission had considered the weighted average GCV of of 3978 Kcal/kg for SECL in the provisional tariff order dated 06th September' 2016 "as received basis" in accordance to the Regulations, 2015 as indicated in coal analysis report submitted by the petition in Annexure 28 of its Petition No 16/2016.
198. Hence, the Commission has considered the same weighted average GCV of coal 3978 Kcal/Kg as considered in provisional tariff order dated 06th September' 2016, in this order also for the control period of FY 2016-17 to FY 2018-19.

Landed Cost of Coal

199. With regard to landed cost of coal, the petitioner submitted the following:
- i. As submitted in Petition No 16 of 2016, the main source of primary fuel, Coal, is from SECL and MCL of Coal India Ltd. According to LOAs and FSAs, the supply shall in the proportion of 76.4 % from SECL and 23.6 % from MCL. From SECL, the supply will be of G11 Grade (from Korba/Raigarh) and from MCL, the supply of coal shall be of G12 Grade (from IB Valley). The basic price of various grades of coal has last been notified by Coal India Ltd. on 29.05.2016. Thereon, various taxes, duty, levy,*

royalty and transportation cost shall be loaded to arrive at landed coal price as per provision of Clause 36.8 of the MPERC Tariff Regulations, 2015. As the Hon'ble Commission has already approved such duty, taxes, etc for other IPPs in the State, the copies of such notifications are not being attached with the instant Petition for the sake of brevity.

- ii. Till June 2017, the coal was being unloaded at Garha Station and was transported through trucks to the power station under an interim arrangement. However, since June 2017, the rail transportation from Garha to Binaiki was operationalized. Accordingly, the cost of transportation of coal through trucks was eliminated resulting in a reduction in transportation cost from about Rs 750 per MT to about Rs 150 per MT.*
 - iii. The Petitioner further submits that the landed cost of coal in FY 2018-19 has been considered lower by Rs 100MT in comparison to the cost in FY 2017-18. The same is on account of envisaged completion of last mile railway track completion.*
 - iv. Accordingly, the current charges of Rs 150/MT considered in the landed cost of coal in FY 2017-18 have been reduced by Rs 100/MT in landed cost for FY 2018-19. This has been done keeping in view the fact that approximately Rs 50/MT would be continued to be incurred as shunting charges and other operated expenses of the siding, wagon, tippler etc.*
200. Earlier with the provisional tariff petition, the petitioner filed the details of procurement of Linkage coal during the month of March and April, 2016. The petitioner had also worked out the weighted average landed price of linkage coal as Rs. 3437.93 / MT. The aforesaid weighted average landed price of coal was inclusive of Rs. 753 / MT road transportation. During the proceeding of the provisional tariff order, it was informed by the petitioner that the railway line from Binaiki Railway Station up to plant site is expected to be completed by January 2017. Based on the submission made by the petitioner, the Commission had considered Road Transportation of Rs 753/MT only till January 2017 in para 182 of the provisional tariff order.
201. 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%

202. Regulation 36.8 of Regulations, 2015 provides that the landed cost of coal shall be arrived at by considering normative transit and handling losses as percentage of the quantity of coal dispatched by the coal supply company during the month. The transit and handling losses are considered in determination of Energy charges rate in this order.
203. In the provisional tariff order dated 06th September' 2016, the Commission determined the weighted average landed cost of coal for preceeding three months as Rs of 3437.93/MT based on the details and documents filed by the petitioner and in light of the provisions under Regulations. The same norms for landed cost of coal as approved by the Commission in the provisional tariff order dated 06th September' 2016 is considered for FY 2016-17 in this order.
204. Regarding landed cost of coal for FY 2017-18, the petitioner In para 15(d) of the petition, the submitted the following:

The Petitioner submits that the average landed cost of coal for FY 2017-18 is Rs 3192.51/MT considering linkage coal sourced through CIL and its subsidiaries. However, with the operationalization of the Railway track till Binaiki and change in tax regime to GST, the overall landed cost of coal since July 2017 has reduced significantly. The average landed coal cost for FY 2017-18 is Rs 3192.51/MT

considering linkage coal sourced through CIL and its subsidiaries. However, the existing FSA with CIL will cater the requirement to the tune of 2.45 MMT against the requirement of 3.05 MMT to operate the plant at 85% PLF. However, CIL is contractually obligated to supply coal quantum upto trigger level without incurring any penalty. The trigger level which was earlier set at 80% has subsequently been revised to 70% (Central Electricity Authority vide letter CEA/Plan/FM/6055-6113 dated 08.11.2017 in paragraph 2 (b)). Therefore the petitioner is assured of supply of 1.8375 MMT of coal annually and will be required to source balance requirement of 1.2125 MMT from other sources like E-Auction, open market etc. therefore the ratio of linkage coal to E-Auction Coal/Market Coal is expected to be about 60.25% : 39.75%. Accordingly, for the purpose of computation of landed cost of coal, the petitioner has considered only E-Auction Coal procured through forward, special forward, spot auctions at an average premium of 20% above the average coal procurement cost (based on the recently discovered prices in similar auctions). The cost of coal for FY 2017-18 is considered as Rs. 3192.51/MT on actual and the same is considered for FY 2018-19.

Table 38: Computation of Landed cost of coal for FY 2017-18.

Month	Coal Quantity (MT)	Coal Invoice Value (Rs.)	Coal Rail Transport Value (Rs.)	Coal Road Transport Value (Rs.)	Total Cost (Rs.)	Rate (Rs./MT)
April'17	96348.27	159999448.78	119316797.23	58676096.43	337992342.44	3508.03
May'17	81135.43	156492348.66	86667491.59	49411476.87	292571317.12	3605.96
June'17	76027.19	144682806.40	93611910.51	10035589.08	248330305.99	3266.34
July'17	29448.46	46959321.96	34011937.46	3887196.72	84858456.14	2881.59
August'17	11191.25	16748729.00	12596830.00	1477245.00	30822804.00	2754.19
September'17	43477.34	65587448.21	49381149.47	5739008.88	120707606.56	2776.33
October'17	59088.42	85030585.31	77681934.95	7799671.44	170512191.69	2885.71
November'17	122507.29	188334134.41	161473353.61	16170962.28	365978450.30	2987.40
December'17	102119.23	154258951.00	138914364.99	13479738.36	306653054.35	3002.89
January' 18	145881.77	237184821.12	204631568.27	19256393.64	461072783.03	3160.59
February' 18	109033.41	187296922.12	157958298.81	14392410.12	359647631.05	3298.51
March'18	7333.86	201958598.54	175454919.28	15488069.52	392901587.34	3348.58
Average						3192.51

The details of landed cost of coal procured for FY 2017-18 is provided in the tariff formats Form 15.

205. In view of the above submission, the Commission observed that the rail transportation from Garha to Binaiki has been operationalized from the month of June 2017 which has resulted in the reduction of road transportation cost of coal. The Commission further observed that the landed cost of coal for FY 2017-18 is worked out by the petitioner as Rs 3192.51/ MT which includes the road transport cost from Binaiki to Power station. Taking a consistent approach in line with the provisional tariff order, the Commission has not allowed the road transportation cost in the calculation of weighted average landed cost of coal. Hence, considering the above facts and explanations, the Commission in this order has considered the weighted average landed cost of coal as Rs 2975.30/MT which excludes the cost of average coal road transport value of Rs 217.21/MT from the weighted average landed cost of coal for FY 2017-18 to FY 2018-19 as submitted by the petitioner. For FY 2016-17, the Commission has considered the same landed price of coal for three preceding months as considered in the Provisional tariff order dated 06th September' 2016.

Landed Cost of secondary fuel oil:

206. With regard to the Cost of Secondary Fuel Oil, the petitioner in para 15(e) of the petition filed the weighted average landed cost of oil for the month of August, September and October, 2017, whereas Regulation 34.2 of the Tariff Regulations, 2015 provides that the landed cost of fuel 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.

207. In the provisional tariff order dated 06th September' 2016, the petitioner had submitted the details of the fuel oil procurements during the three months preceding the date of the CoD.

208. In view of the above, the Commission observed that the petitioner in provisional tariff petition had worked out the weighted average rate of secondary fuel oil based on the oil purchased during preceding three months i.e. Feb. to April, 2016. The petitioner had also filed the copies of bills/invoices in respect of secondary fuel purchased during the last three months for determination of energy charges. The landed price of secondary fuel oil of Rs. 40,046.65 /KL as considered in the provisional tariff order is also considered for determination of energy charges in light of the Provisions under Regulations in this order.

209. Accordingly, the Energy Charges for the control period of FY 2016-17 to FY 2018-19 are worked out as given below:

Table 53: Energy Charges

Particular	Unit	FY 2016-17	FY 2017-18	FY 2018-19
Capacity	MW	600	600	600
NAPAF	%	85	85	85
Gross Generation at Generator Terminals	MUs	4467.60	4467.60	4467.60
Net generation at ex- bus	MUs	4210.71	4210.71	4210.71
Gross Station Heat Rate	kCal/kWh	2337.72	2337.72	2337.72
Sp. Fuel Oil Consumption	ml/kWh	0.5	0.5	0.5
Aux. Energy Consumption	%	5.75%	5.75%	5.75%
Transit Loss	%	0.80	0.80	0.80
Weighted average GCV of Oil	kCal/ltr.	10000	10000	10000
Price of oil(field)	Rs/ltr	40.047	40.047	40.047
Weighted average GCV of Coal (on received basis)	kCal/kg	3978.00	3978.00	3978.00
Weighted Average landed price of Coal	Rs./MT	3437.92	2975.30	2975.30
Heat Contributed from oil	kCal/kWh	5.00	5.00	5.00
Heat Contributed from Coal	kCal/kWh	2332.72	2332.72	2332.72
Specific Coal Consumption	kg/kWh	0.5864	0.5864	0.5864
Sp. Coal Consumption including Transit Loss	kg/kWh	0.5911	0.5911	0.5911
Energy Charge from Coal	Rs./kWh	2.032	1.759	1.759
Rate of Energy Charge from Oil	Rs./kWh	0.020	0.020	0.020
Total Energy Charges	Rs./kWh	2.052	1.779	1.779
Rate of Energy Charge at ex bus	Rs./kWh	2.178	1.887	1.887

210. 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 on received basis during the month. The recovery of energy charges shall be made in accordance with Regulations 36.6 to 36.8 of the Regulations, 2015.

211. The Commission would like to mention in this order that the approach for determination of Energy Charge Rate (ECR) in MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 has been changed from GCV of coal on “as fired basis” to “as received basis” as specified by the Central Commission in CERC (Terms and Conditions of Tariff) Regulations, 2014 for determination of tariff of Generation Companies. In Writ Petition No. 1641 of 2014 Hon’ble High Court of Delhi vide its order dated 07.09.2015, directed the Central Commission to decide the issue i.e. at what stage the GCV of coal on “as received

basis” should be measured. Vide order dated 25th June’ 2016, in Petition No. 283/GT/2014 CERC decide the issue. The relevant portion of aforementioned CERC’s order is extracted as under:

55. The only practicable alternative is to take samples from the wagons either manually or by installing Hydraulic Auger at the suitable places. GUVNL vide affidavit dated 30.11.2015 has submitted the video recording of the samples of coal being collected from the railway wagon at the generating stations of GSECL, namely at Ukai TPS and Wanakbori TPS. They have also filed the laboratory testing procedure of the samples taken from the wagons/ Coal Rakes at Wanakbori TPS. From the examination of the video recording, it is observed that samplings of coal were being collected from the railway wagons using Hydraulic Auger. The process of taking samples was found to be smooth, capable of taking representatives samples from any depth of the wagon, from different locations without taking too much of time and the process appears to be same and reliable. GSECL has been successfully using the Hydraulic Auger for collection of samples from the top of the wagons and NTPC and other generating companies can adopt and improvise the protocol for collection of samples from the wagons. As regards the threat to the safety of the personnel, the issue has been discussed in detail in para 41 of this order and the safeguards suggested in the said para should be adopted.”

“58. In view of the above discussion, the issues referred by the Hon’ble High Court of Delhi are decided as under:

- (a) there is no basis in the Indian Standards and other documents relied upon by NPTC etc. to support their claim that GCV of coal on as received basis should be measured by taking samples after crusher set up inside the generating station, in terms of Regulation 30(6) of the 2014 Tariff Regulations.*
- (b) The samples for the purpose of measurement of coal on as received basis should be collected from the loaded wagons at the generating stations either manually or through the Hydraulic Auger in accordance with provisions of IS 436(Part 1/Section 1)-1964 before the coal is unloaded. While collecting the samples, the safety of personnel and equipment as discussed in this order should be ensured. After collection of samples, the sample preparation and testing shall be carried out in the laboratory in accordance with the procedure prescribed in IS 436 (Part 1/ Section 1)-1964 which has been elaborated in the CPRI Report to PSERC.”*

212. In view of above, the petitioner and Respondents are directed to ensure that the GCV of coal on “received basis” be considered in accordance with the above methodology decided by CERC. The petitioner and Respondents are also directed to ensure compliance with Regulation 36.7 to 36.10 of the Regulations, 2015, for appropriate billing and payment of Energy Charges.

Other Charges

213. The petitioner in the subject petition prayed for recovery of ED and Cess on Auxiliary Energy Consumption and other taxes, if any, levied by the Statutory Authorities from the beneficiaries on Pro-rata basis. The petitioner also prayed for recovery of the fee paid to MPERC for determination of tariff and publication expenses from the beneficiary.

214. Regarding the Application fee, publication expenses and other statutory charges, Regulation 52 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015, provides as under:

“The following fees, charges and expenses shall be reimbursed directly by the beneficiary in the manner specified herein:

- 1. The application filing fee and the expenses incurred on publication of notices in the application for approval of tariff, may in the discretion of the Commission, be allowed to be recovered by the generating company directly from the beneficiaries*
- 2. The Commission may, for the reasons to be recorded in writing and after hearing the affected parties, allow reimbursement of any fee or expenses, as may be considered necessary.*
- 3. SLDC Charges and Transmission Charges as determined by the Commission shall be considered as expenses, if payable by the generating stations.*
- 4. RLDC/NLDC charges as determined by the Central Commission shall also be considered as expenses, if payable by the generating station.*
- 5. 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.”*

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

216. The petitioner is allowed to recover Electricity Duty, cess and water charges from the beneficiary on pro rata basis, if payable to the State Government for generation of electricity from its generating Unit in term of the provision under aforesaid Regulation 52 of MPERC Tariff Regulations, 2015 on submission of documentary evidence.

Implementation of the order

217. The final generation tariff for FY 2016-17 is determined for thermal generating unit (Phase-I) from its COD till 31st March' 2017 under Tariff Regulation' 2015. The tariff for FY 2017-18 and FY 2018-19 is provisionally determined subject to true-up based on Annual Audited Accounts

218. The petitioner must take steps to implement the Order after giving seven (7) days' public notice in accordance with Clause 1.30 of MPERC (Details to be furnished and fee payable by licensee or generating company for determination of tariff and manner of making application) Regulations, 2004 and its amendments and recalculate its bills for the energy supplied to Distribution Companies of the State/ M.P. Power Management Company Ltd. since COD of Unit.

219. The petitioner is also directed to provide information to the Commission in support of having complied with this order. The deficit/surplus amount as a result of this order shall be recovered by the petitioner or passed on to the MP Power Management Company Ltd / three Distribution Companies of the state in six equal monthly installments in terms of applicable Regulation in the ratio of energy supplied to them.

220. With the above directions, this Petition No. 28 of 2018 is disposed of.

(Anil Kumar Jha)
Member

(Mukul Dhariwal)
Member

(Dr. Dev Raj Birdi)
Chairman

Date: 30th November' 2018

Place: Bhopal

Annexure I

Commission's observations and the Petitioner's response on the observations/queries raised by the Commission:

On preliminary scrutiny of the subject petition, the Commission has observed the following information gaps/requirement of additional details/ data/ documents :

Issue:

- (a) In 2.1 notes to Accounts of the Annual Audited Accounts for FY 2016-17 filed by the petitioner, it is mentioned that “the financial statement of the company have been prepared in accordance with the Indian Accounting Standards (Ind AS) notified under the Companies (Indian Accounting Standards) Rules, 2015”.

In view of the above, the petitioner is required to file a comparative statement with detailed break-up indicating the values of Gross Fixed Assets as on 31.03.2017 and other components of Annual Fixed Cost mentioned in MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 as per Indian GAAP vis-a-vis IND AS duly certified by the Auditor. Any difference in figures be explained with supporting documents in this regard.

Petitioner's Response:

The Petitioner respectfully submits that there is no difference in the financial statements prepared by the Petitioner as per Indian GAAP vis-a-vis IND AS system. Therefore, there is no difference in the values of Gross Fixed Asset and other components of Annual Fixed Cost mentioned in MPERC (Terms and Condition for Determination of Generation Tariff) Regulations, 2015.

Issue:

- (b) Regarding the Scheduled Commercial Operation Date (SCOD) of the Generating Units, Clause 4.1.5 of the PPA dated 5th January' 2011 executed between the parties provides as under:

“The Company shall achieve Commercial Operation Date for the first Unit by 31st March' 2013”.

As per the aforesaid clause of PPA, the SCOD of Unit No.1 was 31.03.2013, but CoD of the Unit-1 achieved on 3rd May' 2016. Accordingly, there is delay of more than 36 months in achieving CoD of the unit. Further, Regulation 4.1 (zs) of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015, provides as under;

“Scheduled Commercial Operation Date or SCOD' shall mean the

date(s) of commercial operation of a generating station or generating unit or block thereof as indicated in the Investment Approval or as agreed in power purchase agreement, whichever is earlier;"

In view of the above, the petitioner is required to inform/explain the following:

- (i) The SCOD, start date and zero date of petitioner's Unit No. 1 if any, recorded in "Investment Approval" as defined at Regulation 4.1 (zd) of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 be informed to the Commission. A copy of such Investment Approval, be also submitted.
- (ii) Detailed reasons for delay in achieving CoD from SCOD mentioned in PPA and also from SCOD mutually revised with MPPMCL of the generating Unit.
- (iii) It is required to confirm with all relevant supporting documents, whether the delay in CoD was attributable to the delay in completion of works by the contractors/agencies?
- (iv) If yes, whether any Liquidated Damages/penalty is yet to be recovered from contractors/vendors? The provisions under the contract awarded to contractors/vendors for deduction of penalty/LD on account of delay in completion of works be informed.
- (v) The costs overrun due to delay in CoD of Unit No.1 from SCOD as mentioned in PPA and also up to SCOD mutually agreed with procurer be informed for each component of the capital cost.
- (vi) Delay in number of days on account of each reason be explained. All supporting documents wherever necessary be also filed in this regard.

Petitioner's Response:

a. *The Petitioner respectfully submits as under:*

i. *The details regarding schedule COD, start date and Zero date of the Petitioner's Unit No. 1 is as under:*

Zero Date as considered by JPL	Scheduled COD (SCOD)	Revised Scheduled COD	Actual COD
18.03.2010	31.03.2013	31.03.2015	03.05.2016

The Petitioner further submits that as such no Zero date is mentioned either in PPA or in Investment Approval, however, the Petitioner has considered

the Zero date of the project in accordance with the L1 Schedule which was developed after the award of BTG Contract to the BHEL on 25.02.2010 and after the actual start of work and is annexed as **Annexure -1**.

A copy of Investment Approval of the Board of Director of Jhabua Power Limited as well as the PPA executed between Jhabua Power Limited and MPPMCL has already been submitted along with the Petition No. 16 of 2016 as Annexure 13 (i, ii and iii) and Annexure 2A and 2B respectively.

- ii. The Petitioner respectfully submits that the detailed reason for delay in achieving COD from SCOD mentioned in PPA and also from SCOD mutually revised with MPPMCL of the generating Unit is explained in Para 8 of the Petition. The Petitioner would again like to submit the chronology of events that depict the entire delay in achieving the COD of the Plant. The Chronological event also depict that the delay was beyond the control of the Petitioner and was only on account of inclusion of construction of evacuation infrastructure in JPL scope of work which was earlier to be completed by Procurer i.e. MPPMCL. The Petitioner has made all efforts to ensure speedy execution of works despite frequent hindrances and delays and increase in scope of work. The Table showing chronological events is as under:

Table 1: Details of Time Over-run

Clearance	Date of Application by JPL	Issue of NOC/Approval	Time Taken in months
PPA Execution Date	05.01.2011	05.01.2011	
PGCIL granted the connectivity to JPL from Jhabua TPS to Jabalpur Pooling 400 kV D/C Sub-station	25.04.2011	05.08.2011	3 months
JPL awarded the contract to M/s L&T Ltd. for the power evacuation system till delivery point (i.e. ex bus of generating station) for the Power Project.		10.04.2012	
Govt. of India under Section 68 of the Electricity Act, 2003 granted the approval for construction of transmission line	25.01.2012	07.05.2012	4.5 months
Hon'ble MPERC Order shifting responsibility of constructing evacuation infrastructure from Procurer to JPL		07.09.2012	
Approval by PGCIL for under crossing proposal of 400 kV Barela-New Pooling Station Jabalpur	08.02.2013	29.05.2013	4 months

Clearance	Date of Application by JPL	Issue of NOC/Approval	Time Taken in months
<i>(JPL) with 400 kV Anuppur-Jabalpur Pooling and 765 kV Dharamjaygarh-Jabalpur-Pooling Transmission Line of PGCIL</i>	19.02.2013 and 04.04.2013		
<i>NOC from Air Force Authority for construction of 400 kV DC line</i>	19.06.2013	14.11.2013	5 months
<i>Approval by Madhya Pradesh Power Transmission Company Ltd. for crossing of 132 kV & 220 kV lines by proposed 400 kV D/C (AL59) Barela (Dist. Seoni)- New Pooling Station (Jabalpur) line of M/s JPL</i>		06.03.2013	
<i>Approval under Section-164 of the Electricity Act, 2003</i>		31.07.2013	
<i>Approval by Madhya Pradesh Power Transmission Company Ltd. for crossing proposal of 132 kV Bargi-Lakhnadon Line (Loc No. 78 & 79) by proposed 400 kV D/C (AL59) transmission line of M/s JPL Seoni Project</i>		15.05.2013	
<i>NOC by National Highway Authority of India for overhead crossing of 400 kV double circuit transmission line of JPL executed by M/s L&T for crossing of transmission line in between existing km 495 and 496 of NH 7</i>	16.05.2013	25.06.2013	
<i>Clearance by MoP, Gol under Section 164 of EA 2003 for construction of dedicated transmission line from switchyard of 600 MW Unit 1 to Jabalpur Pooling Station</i>	22.07.2013	01.08.2013	
<i>Approval by Ministry of Environment & Forests, Gol for diversion of 4.807 ha of reserved forest & revenue forest land (2.07 ha reserved forest & 1.058 ha revenue forest in Seoni District, 1.679 ha revenue forest in Jabalpur Dist.) for laying of 400 kV transmission line for 1260 MW thermal power plant in favour of M/s JPL in Seoni and Jabalpur dist. of Madhya Pradesh</i>	23.08.2013	07.11.2013	2.5 months
<i>NoC from Civil Aviation for construction of dedicated transmission line from switchyard of 600 MW Unit 1 to Jabalpur Pooling Station</i>	12.11.2013	24.04.2015	17.5 months
<i>Clearance for Railway Crossing 1, 2 and 3</i>		20.09.2013	

Clearance	Date of Application by JPL	Issue of NOC/Approval	Time Taken in months
<i>NOC/ approval from South East Central Railway for PTCC (Power and Telecommunication Coordination Committee)</i>	15.02.2013	29.07.2014	1 year and 5.5 months
<i>Completion of Transmission Line</i>		24.04.2015	No Delay (Within 32 months from the Hon'ble Commission Order dated 07.09.2012)
<i>Unit achieved COD</i>		03.05.2016	

- iii. *The Petitioner respectfully submits that the Petitioner had faced lot of issues with regards to non-cooperative attitude of M/s BHEL. However, the Petitioner was able to install, and Commission most of the required systems by adopting various proactive approaches like strengthening the construction of power line, direct sourcing from Sub-vendors etc,. As stated in the Petition the delay in achieving COD was on account of un-availability of startup power since HT drives like CW Pump, ID Fan, MDBFP etc. could not be run on the construction power. Further, as stated in Para 8.2.3 of the filed Petition the contract with M/s BHEL is still open and JPL is following up with M/s BHEL to close the contract and the LD amount once finalized & levied shall be submitted to the Hon'ble Commission.*
- iv. *It is submitted that as on today the LD amount has been finalized and levied only for two sub-contracts as per the details attached as **Annexure-2**. With regards to other contracts it is submitted that the provisions with regard to LD amount for each contract is stated in the contract documents that have already been submitted along with the Petition.*
- v. *The Petitioner respectfully submits that the initial estimates of the project was based on certain assumptions. It is humbly submitted that the comparison of actual cost with the estimated capital cost as per investment approval does not reflect the cost efficiency in procurement and execution of the project as actual prices are market determined. The Petitioner has the detailed breakup of the actual expenses as on 02.05.2016 and the first Investment Approval. The same details of breakup of capital cost are not available for subsequent revision in the price estimations which was approved by the Board of Directors of the Petitioner's company. The various*

investment approvals has already been submitted to the Hon'ble Commission in Petition No. 16 of 2016.

It is humbly submitted that the detailed reasons for delay in the COD of the Petitioner's Unit 1 is explained in Para 8 of the Petition.

Issue:

- (c) The documents/certificates with regard to monitoring the Commissioning test by the representative of the procurer i.e. MPPMCL and also declaring the unit under commercial operation in terms of Article 5.3 and 5.4 of the PPA be submitted.**

Petitioner's Response:

The Petitioner respectfully submits that the Independent Engineer certificate with regard to monitoring the Commissioning test by the representative of the procurer i.e. MPPMCL and also declaring the unit under commercial operation in terms of Article 5.3 and 5.4 of the PPA has been submitted as Annexure 3 of the Petition filed before the Hon'ble Commission. Further, the Petitioner also submits a letter of correspondence between MPPMCL and WRLDC stating that the Commissioning test has been carried out in accordance with Article 5 and provision of Schedule 3 of the PPA and is acceptable to the Independent Engineer. A Copy of the letter dated 05.05.2016 is attached as Annexure 3.

Issue:

- (d) Whether any of the activities mentioned in article 3.1.1.1 of PPA was subsequently waived in writing by the procurer i.e. MPPMCL. If so, the supporting documents be also provided?**

Petitioner's Response

The Petitioner has submitted that at the time of executing the PPA with MPPMCL, the Petitioner has met all the conditions and no such activity mentioned in Article 3.1.1.1 was waived off by the Procurer MPPMCL.

Issue:

- (e) On preliminary scrutiny of the capital cost claimed in the petition vis-à-vis recorded in CA certificate and also in Annual Audited Accounts filed with the subject petition , the following is observed:**
- (i) There is a difference in the figure of total capital cost of Rs. 4330.08 crore as mentioned in CA certificate dated 21st May' 2016 and Rs. 4694.38 crore (tangible and intangible assets) as recorded in Annual Audited Accounts as on 31st March, 2017.**
 - (ii) It is further observed that the capital cost as on 31st March, 2017 indicated in TPS 5A & TPS 12 is not reconciled with the capital cost**

- indicated in the aforesaid CA certificate and Annual Audited Accounts.
- (iii) The opening capital cost for Unit No. 1 as indicated in para 11.4 of petition is Rs. 4698.66 Crore

In view of the above, the petitioner is required to explain the following:

- (a) The reasons for claiming the capital cost of Rs. 4698.66 Crore as against the actual expenditure of Rs. 4330 Crore as on CoD as certified by CA.
- (b) The reasons for aforesaid discrepancies in the figures of capital cost mentioned in different documents/places.
- (c) The original scope of work with respect to BoD approval be filed.

Petitioner's Response

b. The sub-query wise reply is as stated below:

- a. & b. The Petitioner has submitted the total project cost of Rs. 4698.66 Crore which includes Un-discharge Liabilities of Rs. 368.58 Crore, however, the actual Capital Expenditure incurred on cash basis is Rs. 4330.08 Crore as certified by the Auditor. Further, the Petitioner has inadvertently mentioned the Capital Expenditure on cash basis as Rs. 4698.66 Crore in Table No. 20 of the Petition. It is requested that the same may be read as Rs. 4698.66 on accrual basis.*
- b. The Petitioner has already submitted the DPR of the Project which includes detailed original Scope of Work. The Petitioner in Para 7.1.2 and Table 4 of the Petition has submitted the scope of work as per the DPR. However, the Commission by its Order dated 07.09.2012 has envisaged additional scope to be executed by JPL for the construction of 65.2 km of 400 kV D/C Transmission Line which may also be considered as change in scope of work.*

Issue:

- (f) Detailed comparison of the capital cost of its project with other thermal power project/units in the country those are comparable with the petitioner's project under subject petition be filed. The capital cost of the unit / project is comparable with the capital cost benchmarked by CERC be justified. The reasons for exceeding the capital cost from benchmark norms be filed.

Petitioner's Response

- a. The Petitioner respectfully submits the detailed comparison of other projects for comparing the overall Capital Cost per MW of the similar Projects stated in the Table below:*

Table 2: Details of Capital Cost of Similar Projects

S.No	Name of the Plant	Company	Plant Size (MW)	BTG Make	Capital Cost (Rs Crore/MW)	COE
					Actual	
1	Korba West	CSPGCL	500*1	BHEL	7.39	2011
2	Koderma	DVC	500*2	BHEL	7.70	2014
3	Kalisindh	RVUN	600*2	Chinese	8.47	2015
4	Lalitpur	Lalitpur Power Genco (Bajaj)	660*3	BHEL	8.21	2015
5	Nigrie	Jai Prakash Ventures	660*2	L&T	7.63	2014

As can be inferred from above, the projects in the recent past have been commissioned at the cost of around Rs. 7-8.5 Crore per MW. It is also submitted that the most of the above plants have two units which will be lower than single unit power plant. Hence, it is humbly submitted that the cost as submitted by the Petitioner is just reasonable and as per the market trend.

Further, the comparison of the Capital Cost of the Petitioner's project with the benchmarked Capital Cost of CERC (Central Electricity Regulatory Commission) is already submitted with the Petition filed before the Hon'ble Commission. Please Refer Para 9.1 of the Petition.

Issue:

- (g) In para 7.3.3.1 of the petition, the contract value under BTG package to BHEL are shown in US Dollars and Euro. The reasons for mentioning foreign currency in this regard be informed in light of contract award documents.

Petitioner's Response:

The Petitioner respectfully submits that JPL had invited the Tender for its BTG Package under ICB bidding. As the Contract for BTG Package is based on ICB, the Prices were required to be quoted in US Dollars and in Euros.

Issue:

- (h) In format TPS 5B regarding break-up of capital cost, the petitioner has filed the detailed break-up of actual capital expenditure vis-à-vis the capital expenditure as per "initial investment approval" of the project. The detailed breakup of the revised capital cost of Unit No. 1 for all the revisions approved by the BoD be submitted.

Petitioner's Response:

- a. The Petitioner respectfully submits that the detailed break up of capital cost for subsequent revision of the project cost is not available. However, the revision in the project cost to Rs. 3777 Crore is mainly due to shifting of COD upto 01.10.2014 along with other associated approvals. Further, the project cost is again revised to Rs. 4950 Crore as per the following table:

Particulars	Rupees in Crore
Estimates of the Project Expenses upto March 31, 2016	4194
Interest Cost and Pre-operative Expenses during FY 2016-17	467
Total Estimate cost as on March 31, 2016	4661
Post COD Additional Capitalization	289
Total Estimate cost as on March 31, 2016	4950

Issue:

- (i) On further scrutiny of the form TPS 5B, it is observed that actual expenditure as on CoD is contended to be of Rs. 4698.66 Cr. which is 62 % higher than the expenditure as per original estimate of Rs. 2895.72 Cr. The detailed reasons for increase in initial project cost (as approved in Board's Resolution dated 01st July, 2008) to the actual project cost incurred upto COD of Unit No. 1 in respect of each component of capital cost separately on account of each of the following factors be filed.
- (a) Increase in Price/Rate variation in different packages from scheduled COD to actual COD.
 - (b) Additional works
 - (c) Taxes & Duties and others (Pls. Specify and quantify each item separately).
 - (d) The above items are to be mentioned in two parts:
 - (i) Cost increased upto Schedule COD of Unit-1
 - (ii) Between Schedule COD to actual COD of Unit-1

Petitioner's Response:

- a. The Petitioner respectfully submits that the Price Variation for all the major contracts has already been filed along with the Tariff Petition. It is pertinent to mention that most of the contracts of the Petitioner's generating station are firm contracts. Further, the Petitioner has also submitted the price variation from the Investment Approval cost vis-a-vis Actual capital cost incurred by the Petitioner (Please Refer Form TPS 5B). The Price variation is mainly on account of bid discovered value. The original price of the project was on the basis of assumptions whereas the actual price is determined based on the bid discovered value.

The Petitioner has also submitted that due to addition in scope of work of JPL due to inclusion of evacuation infrastructure also contributed to increase in the cost of the Project. Further, the details related to Taxes and Duties also submitted in Form TPS 5B along with the Tariff Petition.

Issue:

- (j) Complete details of penalty/LD, recovered and balance to be recovered from any contractor/vendor for delay in completion of works in light of provisions under the contracts awarded to them be submitted.**

Petitioners Response:

*The details of LD recovered till date is attached as **Annexure-2**.*

Issue:

- (k) In certain items provided in form TPS 5C, it is mentioned that the contracts were awarded under nomination/DCB nomination. The reasons awarding such contracts through nomination be explained in light of the provisions under MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 be submitted.**

Petitioner's Response:

The Petitioner submits that the BTG Package, which constitute the major cost of the generating station was awarded through International Competitive bidding, also, some of the contracts were awarded through Domestic Competitive Bidding. The Bidding route was followed in order to discover the minimum price[DK2][RB3]. The Petitioner further submits that few packages were awarded through nomination basis as the Petitioner has awarded these contracts to the vendors who have worked previously with JPL. The major contracts awarded through nomination basis are for Coal Handling Plant, Water Treatment plant, Vibration isolation system, Transformer Package and TG Building Elevators. The Petitioner further submits that previously in case of Korba West thermal power station of the Petitioner's Company, the Petitioner has awarded the Contract for Coal Handling Plant, Water Treatment Plant and other contracts to the major Contractors like FL Smidth, Thermax, GERB etc. based on DCB. In view of the satisfactory compliance of the contract by the Contractor, the Petitioner has again awarded the same contracts to the contractor on nomination basis. Further, it is pertinent to note that due to same design specification of both the generating stations of the Petitioner, the Petitioner has awarded some of the contracts on nomination basis to the same contractors.

Issue:

- (l) In para 13.7 of the petition, the petitioner has filed the detailed breakup of Rs. 6.29 Crore for cost towards intermediate coal transportation arrangement.**

Whether this cost is included in the capital cost of the project claimed by it and whether this cost is covered under original scope of work of the project.

Petitioner's Response:

- a. The Petitioner respectfully submits that the detailed break-up of cost pertaining to intermediate coal transportation arrangement is shown as under:

Table 3: Details of cost of intermediate coal transportation arrangement

Description of work	PO Value (Rs. Cr.)	Heads - Accounted in
Construction of siding	0.56	Additional Capitalization
Preparation of DPR	0.02	Roads & Drainage
ETC for Weighbridges for JPL	0.04	Coal Handling plant
Construction of internal roads & weigh bridge	4.44	Roads & Drainage
High Mast Erection Work	0.03	Coal Handling plant
Condition Assessment of Narmada Aqueduct	0.46	Roads & Drainage
Temporary repair of roads	0.01	Roads & Drainage
Coal Road Repairing-Binaiki to Plant area	0.05	Additional Capitalization
Repair of Coal Roads From Mehta to Plant	0.07	Additional Capitalization
Weighbridge	0.78	Coal Handling plant
Structure Work on Grizzly Feeder for Truck Unloading	0.16	Coal Handling plant
Civil Work of Unloading Platform	0.08	Roads & Drainage
Reinforcement Supply	0.11	Roads & Drainage
Steel Supply	0.31	Roads & Drainage
Supply of Portable Cabin	0.16	Roads & Drainage
Grading for Coal Unloading Platform	0.09	Roads & Drainage
Total	7.37	

However, the cost booked upto 31.03.2017 is Rs 6.29 Crores and the same has been claimed in the Petition. It is further submitted that the above-mentioned cost is included in the capital cost of the project. The Petitioner submits that though the cost incurred towards intermediate coal transportation arrangement was not in the original scope of work, the same needs to be undertaken at a nominal cost of Rs 7.37 Crore to ensure reliable coal supply and commercial generation. Presently, MPPMCL is not reimbursing the cost incurred by the petitioner for the last mile road transportation since the Hon'ble

Commission had allowed this cost to be billed till 31st January 2017, based on the extant estimation of the completion of the broad gauging works by Indian Railways. Had the petitioner incurred the cost, MPPMCL would have paid both the increased Fixed Cost (on account of the expenses for completion of the Railway works) as well as the increased Variable Cost. Moreover, shortages in linkage coal supply is expected to continue in the future. These infrastructures shall be used to receive the bridging coal quantities and maintain reliable power supply to the respondent. Accordingly, this cost may be allowed in the Capital cost. The Petitioner has also submitted Auditor's Certificate certifying the cost of intermediate coal transportation arrangement as Annexure 6 of the Petition.

Issue:

- (m) In para 1.4 of the subject petition, it is mentioned that two more PPAs under Case-I Competitive Bidding have been executed by the petitioner with Kerala State Electricity Board in 2014 for 115 MW and 100 MW. In view of aforesaid, the details about the tariff determined/ adopted under Section 63 of the Act be informed.**

Petitioner's Response:

The Petitioner respectfully submits that two more PPAs under Case-I Competitive Bidding have been executed by the Petitioner with Kerala State Electricity Board in 2014 for 115 MW & 100 MW at Rs. 4.15/kWh and at Rs 4.29 / kWh respectively

Issue:

- (n) In para 8.1 of the petition, while stating the reasons for delays/ time over-run in achieving COD, it is contended that the Commission vide order dated 07.09.2012 has shifted the responsibility of constructing evacuation infrastructure from MPPMCL to Jhabua Power Limited. The petitioner is required to explain and established its contention in light of Commission's order dated 07.09.2012 for approval of PPA between the petitioner and Respondent No. 1.**

Petitioner's Response:

- a. The petitioner respectfully submitted that JPL had entered into the Long Term PPA with Madhya Pradesh Power Trading Company Ltd. ("MP Tradeco" and erstwhile "MPPMCL") on 05.01.2011 for sale of Power equivalent to 30% of the installed capacity from Unit I, 1x600 MW of the Petitioner's Generating Station for a period of 20 years from COD at the tariff determined by the Appropriate Commission. As per Clause 4.1.5 of the PPA with MP Tradeco, JPL agreed to achieve COD of Unit 1 by 31.03.2013. Further, with regard to the construction of the evacuation infrastructure for the Jhabua Power Station, Clause 3.2(ii) of the PPA dated 05.01.2011 states that the MPPMCL (the Procurer) shall be responsible for establishment of*

necessary evacuation infrastructure beyond the delivery point required for evacuation of scheduled energy, at least 210 days prior to commissioning of the Phase I, 1x600 MW. The relevant extract of the PPA is as reproduced as under:

“3.2. Satisfaction of Conditions subsequent by the Procurer

The Petitioner agrees and undertakes to duly perform and complete the following activities within the time stipulated against each, unless such completion is affected due to any Force - Majeure Event or due to the Company's failure to comply with its obligations under this Agreement or if any of the activities is specifically waived in writing by the Company.

The Procurer shall have established the necessary evacuation infrastructure beyond the Delivery point required for evacuation of the Scheduled Energy at least 210 days prior to Commissioning of the first Unit;”
[Emphasis Supplied]

However, later on the onus to execute the entire evacuation system till the pooling point of the CTU was transferred to the Petitioner as per the directions of the Hon'ble Commission in its Order dated 07.09.2012. The Hon'ble Commission in its Order dated 07.09.2012 stated as under

“12. In view of the above and written submissions filed by the petitioners and the respondents during the proceedings held in the matter, the Commission hereby accords approval to the Power Purchase Agreements filed by the petitioner's subject to the incorporation of the following additions/modifications in various clauses being ordered on strength of provisions in Sub-Article 3.2(iii) of the PPAs:

iv) Sub-Article 3.2 (ii) in Article 3 of the PPAs be amended:

“The Procurer shall have ensured the availability of necessary evacuation infrastructure beyond the Delivery Point required for evacuation of the Scheduled Energy at least 210 days prior to Commissioning of the first Unit.”

[Emphasis Supplied]

It is further submitted that the above Order of the Hon'ble Commission has increased the scope of works of JPL substantially that too in the month of September 2012, less than 7 months prior to the date of SCOD agreed as per PPA dated 05.01.2011. The Petitioner also submitted that as per the PPA dated 05.01.2011 evacuation infrastructure beyond the delivery point required for evacuation of scheduled energy was to be ready at least 210 days (7 months) prior to commissioning of the Unit.

Issue:

- (o) With regard to infirm power, the following details as on date be filed:
- (i) Month-wise details of infirm power generated from the generating unit and revenue earned from the sale of infirm power along with the statement of concerned Load Despatch Centre duly reconciled with Annual Audited Accounts.
 - (ii) Detailed break-up of fuel expenses incurred for generation of infirm power duly certified by the Chartered Accountant. The break-up of quantity and landed cost of FSA and Non-FSA coal.
 - (iii) Whether the revenue earned from sale of infirm power has been accounted for in the capital cost of the project claimed in the petition? Supporting documents be filed in this regard.
 - (iv) The copy of bill/invoice for purchase of coal and oil for generation of infirm power be filed.
 - (v) The detailed break-up of quantity, rate and cost of coal and oil consumed during pre-commissioning activities and generation of infirm power from different sources.

Petitioner's Response:

c. The Petitioner respectfully submits that:

Month-wise details of Infirm Power generated from the generating unit and revenue earned from the sale of infirm power along with the statement of concerned Load Despatch Centre duly reconciled with Annual Audited Accounts is attached as **Annexure 24** of the Amended Tariff Petition of 2016. Break-up of fuel expenses incurred for generation of infirm power duly certified by the Chartered Accountant indicating the break-up of quantity and landed cost of FSA and Non-FSA coal is attached as **Appendix 23** of the Petition. The details of actual Start up Fuel Expenses are given below:

Table 4: Details of Start Up Fuel Expenses

Year	Fuel	Quantity	UOM	Price	Fuel Cost (Rs. In Crore)
2015-16	Coal	59707	MT	4694.58	28.03
	LDO	5122.41	kL	43989.89	22.53
	HFO	-	KL	-	-
2016-17	Coal	108637.72	MT	4280.82	46.51
	LDO	1158.85	KL	43934.13	5.09
	HFO	-	KL	-	-
Gross Cost of Start-up Fuel Cost					102.16

Less: Realization from Sale of Infirm Power	9.1
Net Cost of Start-up Fuels	93.06

- i. The Petitioner has adjusted the revenue earned from Infirm Power from the Capital Cost of the project claimed in the Petition. The Petitioner has already submitted the CA certified Capital cost of the project along with the Petition as **Appendix 25**.
- ii. The Petitioner has submitted the Copy of bills and invoices for purchase of Coal and Oil for generation of Infirm power, as **Annexure 26 and 27** of the Amended Tariff Petition (Petition No. 16 of 2016) filed by the Petitioner before Hon'ble MPERC.

The detailed break-up of quantity, rate and cost of coal and oil consumed during pre-commissioning activities and generation of infirm power from different sources is filed before the Hon'ble Commission as **Annexure 26** of the Amended Tariff Petition no. 16 of 2016.

Issue:

- (p) Regulation 17.3 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 (MPERC Tariff Regulations, 2015) provides that the Incidental expenditure during construction shall be computed from the zero date and after taking into account pre-operative expenses upto SCOD. The zero date of the project in terms of Regulation 4.1 (zv) of the Regulations, 2015 be informed. The detailed reasons for claiming IDC and IEDC beyond SCOD in light of the provision under Regulation 17.1 to 17.5 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 be filed.

Petitioner's Response:

- d. The Petitioner submits that the Zero date of the Project is 18.03.2010. Further, the Petitioner has also submitted the detailed reasons for claiming IDC and IEDC beyond SCOD in the Petition. The Petitioner has claimed IDC and IEDC beyond SCOD as the delay was not attributable to the Petitioner. The delay is due to the Uncontrollable factors beyond the control of the Petitioner which has affected the Commercial Operation date of the Petitioner's Project and are explained in Para 8 of the Petition filed.

Further, Hon'ble APTEL in its Judgment passed in Appeal No. 72 of 2010 while allowing the impact of increase in costs due to delay in achieving COD has categorically stated as follows:

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

- (i) due to factors entirely attributable to the generating company, e.g., imprudence in selecting the contractors/suppliers and in executing contractual agreements including terms and conditions of the contracts, delay in award of contracts, delay in providing inputs like making land available to the contractors, delay in payments to contractors/suppliers as per the terms of contract, mismanagement of finances, slackness in project management like improper co-ordination between the various contractors, etc.
- (ii) due to factors beyond the control of the generating company e.g. delay caused due to force majeure like natural calamity or any other reasons which clearly establish, beyond any doubt, that there has been no imprudence on the part of the generating company in executing the project.
- (iii) situation not covered by (i) & (ii) above.

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

“8.6 We agree with the State Commission that the infusion of debt & equity has to be more or less on paripassu basis as per normative debt equity ratio. However, the increase in IDC due to time over run has to be allowed only according to the principles laid down in para 7.4 above....”

Considering the facts and the related documents, as attached with the Petition, it is evident that the Petition falls under category (ii) described in the Hon'ble APTEL Judgment cited

above i.e. delay is due to any other reasons, which clearly establish beyond any doubt, that there has been no imprudence on the part of the generating company in executing the project. Accordingly, the Petitioner has claimed the IDC and IEDC beyond the SCOD as per the Principle laid down by the Hon'ble APTEL.

Issue:

- (q) (i) On preliminary scrutiny of the details regarding Interest during Construction filed by the petitioner, it is observed that the IDC was initially estimated to Rs. 388.37 Crores whereas, the actual IDC of Rs. 1434.76. Crores as on COD is claimed by the petitioner The IDC is increased by about 3.7 times of the initial estimated IDC and contributing to 31% of the actual capital expenditure as on CoD.
- (ii) On perusal of the correspondence made with the Respondent, MPPMCL and documents regarding revision of SCOD, it is observed that the Respondent had considered request of the petitioner for revision of SCOD of the unit from scheduled date to March' 2015, subject to the conditions that *“your request for extension of Scheduled COD for Jhabua Power Ltd. Phase-I (600 MW) till March 2015 has been considered and accepted subject to furnishing of Undertaking by M/s. Jhabua Power Ltd. that transmission Charges and/or any other incidental charges, if any levied by CTU with effect from April 1, 2014 to the actual COD, shall be borne by Jhabua Power Ltd.”*

In view of the above, the petitioner is required to submit the following:

- v. The reasons for abnormal increase in IDC of the project from SCOD mentioned in PPA to SCOD mutually revised with procurer and upto actual COD with supporting documents.
- vi. The amount of IDC increased due to delay in CoD of the project from SCOD mentioned in PPA to SCOD mutually revised with procurer and upto actual COD with supporting documents. .
- vii. The detailed unit-wise break-up of IDC as on the SCOD mentioned in PPA upto SCOD mutually revised with procurer and also as on actual CoD of the project duly reconciled with the Annual Audited Accounts and certified by the statutory auditor. Soft copy of computation in excel sheet he also submitted.

Petitioner's Response:

The Petitioner submits as under:

- v. *The initial estimates for the calculation of IDC was based on the assumptions carried out by JPL during the execution of the Project. Estimated capital cost*

as per investment approval does not reflect the efficiency in procurement and execution of the project when compared to market rates. The IDC was initially estimated to Rs. 388.37 Crores against a total project cost of Rs. 2895 Cr and it also assumed no time delay in execution of the project. As has been outlined above the capital cost got escalated from Rs. 2506.63 Cr to Rs. 3263.24 Cr. The delay in project execution is due to various reasons which were beyond the reasonable control of the Petitioner as already submitted in the Petition, leading to increase in IDC, overhead expenses etc. Based on the above the Capital cost as well as the IDC and IEDC of the project has increased significantly.

vi. The amount of IDC increased from SCOD to mutually agreed SCOD to the Actual COD is shown as under:

IDC as per IA	IDC as on 31.03.2015	IDC as on 03.05.2016
388.37	999.33	1434.76

The IDC submitted as on 31.03.2015 by the Petitioner is against partial expenditure incurred till that time and not on the entire hard cost of the project and the difference amount does not reflect inefficiency on part of the Petitioner. The Computation of IDC has already been submitted as Form 14 of the Petition.

Issue:

- (r) The details of interest and financing charges on the following various heads be submitted:
 - d. Finance Charges:
 - iv. Bank Charges
 - v. Processing Fees
 - vi. Other items to be specified
 - e. Interest during Construction
 - f. Additional interest over interest overdue and principle overdue & Penalty, if any.

Petitioner's Response:

The Petitioner submits the details of interest and financing charges as under:

Particulars	As on 31.03.2015	As on 02.05.2016
IDC	916.84	1,337.05

Processing fee/Bank charges /Financing costs/Other charges	82.49	97.72
Total Interest and Finance Charges	999.33	1,434.76

Further, with regards to additional interest over interest overdue and principle overdue and penal interest, the details for the same is attached as **Annexure 4**.

Issue:

- (s) Detailed break-up of pre-operating expenditure duly certified by the statutory auditor for Unit No. 1 be filed as on the following dates:
- a. Upto schedule COD of the unit as mentioned in PPA
 - b. As on mutually revised SCOD.
 - c. 03rd May, 2016 and
 - d. Up to 31st March' 2017.

Petitioner's Response:

The Petitioner respectfully submits the detailed break-up of pre-operating expenditure duly certified by the statutory auditor for the generating station is attached as Appendix 24 along with the Petition. Further, with regard to pre-operating expenditure upto 31.03.2013 it is submitted that the cost will not reflect the actual legitimate expenses which would have been incurred by JPL had the project been completed by 31.03.2013 on account of rate of mobilization of resources at site.

Issue:

- (t) Statement regarding contract package of all components of capital cost furnished in Format TPS 5C, indicating actual cost of each contract package vis-à-vis cost in contract awarded be filed. The reasons for increase in cost if any, over and above the contract packages need to be adequately explained.

Petitioner's Response:

The Petitioner has already submitted the details of the PO regarding contract package of all the major components of capital cost furnished in Format TPS 5C, indicating actual cost of each contract package vis-a-vis awarded cost of the contract. The reasons for increase in cost if any, over and above the contract packages also has been explained in the Petition. The Petitioner in Para 7 of its Petition has submitted the details of all major contracts in detail along with reasons for variation.

Issue:

- (u) Details of initial spares if any, capitalized as on COD of the unit and also as on 31.03.2017 in light of Regulation 19 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 be filed.

Petitioner's Response:

*The details of the Capital Spare have already Submitted by the Petitioner. Further, the Petitioner submits that the details of Capital Spares capitalized as on FY 2016-17 is attached as **Annexure 5**.*

Issue:

- (v) The petitioner has claimed Additional Capitalization of Rs. 15.78 Crore and deduction of Rs. 8.27 during FY 2016-17. The additional capitalization claimed in the petition with the figure recorded in Annual Audited Accounts be reconciled. The reasons for difference in figure regarding additional capitalization if any, recorded in Annual Audited Accounts and those filed in the petition be explained.

Petitioner's Response

As regards to Query V, the Petitioner submits that amount of Rs. 15.78 Crore as an additional Capitalization and deduction of Rs. 8.27 crore in FY 2016-17 is already been factored in the overall addition of Rs. 4637.93 Crore during FY 2016-17, which is indicated in the Audited Annual Account submitted by the Petitioner as Annexure 5 of the filed Petition.

Issue:

- (w) With regard to additional capitalization from FY 2016-17 to FY 2018-19 claimed in the petition, a comprehensive reply to the following issues with all relevant supporting documents be filed:
- (vi) Whether the amount claimed under additional capitalization for FY 2016-17 have been paid or it was undischarged liability as on 31.03.2017?
 - (vii) Whether the addition of assets is on account of the reasons (i) to (v) in Regulation 20.1 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015.
 - (viii) Whether the assets capitalized during the year are under original scope of work. Supporting documents need to be filed in this regard.
 - (ix) The assets addition of and deduction claimed in the petition need to be reconciled with the figures recorded in the Assets cum Depreciation Register.

- (x) **The details of actual funding for aforesaid additional capitalization claim for each year in the petition be filed.**

Petitioner's Response:

As regards query W, the Petitioner submits that:

- vi. The Petitioner submits that out of the total Un-discharge Liability of Rs. 368.58 Crore as on COD of the generating station and additional capitalization of Rs. 15.78 Crore during FY 2016-17, amount of Rs. 258.35 Crore has been discharged during FY 2016-17, and the same may be considered to be Capitalized during FY 2016-17 and should be considered for allowing Tariff. The Petitioner further submits that the closing Un-discharge Liability of Rs. 126.01 Crore as on 31.03.2017 is yet to be discharged and the same has been indicated in the Audited Annual accounts submitted by the Petitioner.*
- vii. The Additional Capitalization claimed by the Petitioner is on the basis of Regulation 20.1(ii) of the MPERC (Terms and Condition for Determination of Generation Tariff Regulations), 2015.*
- viii. It is submitted that the additional capital expenditure claimed by the Petitioner is within the original scope of work. The DPR supporting the same is already attached as Annexure 8 to the Petition.*
- ix. Asset cum depreciation register is attached as **Annexure 6**.*

The Petitioner has submitted that the same has been funded through additional funding of Rs. 440.40 Crore available from the lender PFC and also from the opening cash available with the Petitioner's Company.

Issue:

- (x) **In the balance sheet, the share capital and other equity of Rs 1147.37 Crore and (519.03) Crore as on 31st March, 2017 is recorded whereas, the equity of Rs 1312.08 Crore is claimed in the petition. Therefore, the aforementioned discrepancy be clarified. The complete details regarding sources of equity of Rs. 1312.08 Crore claimed in the petition with supported documents in this regard be filed.**

Petitioner's Response:

The Petitioner most respectfully submits that Equity component presented in balance sheet is under two heads: (a) As Pure Equity & (b) In form of structured equity drawn as Compulsory Convertible Debentures shown under borrowings. Out of this Rs. 1312.08 Crore has been considered as Equity (amount spent) which is part of the project cost.

Issue:

- (y) On perusal of the statement for weighted average rate of interest claimed by the petitioner, it is observed that the interest rate is on much higher side as compared to the weighted average rate of interest at which the funding has been made in the power sector during the same period. The reasons for high weighted average interest rate be explained with full justification.

Petitioner's response:

*The computation of weighted average interest rate includes penal interest. The year wise penal interest is submitted as **Annexure 4** along with the replies.*

Issue:

- (z) A soft and hard copy of detailed computation sheet in excel for arriving at the weighted average rate of interest claimed in the petition be submitted. The details should contain the date-wise draw down schedule of each project specific loan, the schedule date of repayments, the actual date of repayments, the interest amount as on due date of repayment, overdue interest amount, the rate of interest on the principle and interest due. The supporting documents like Banker's certificate regarding interest rate etc. be filed.

Petitioner's Response:

The Petitioner has already submitted the detailed computation of weighted average rate of Interest attached as Form TPS "13 & 13A WAROI" filed along with the Tariff Petition. Further, the detail of year wise penal interest is submitted along with the replies. The Petitioner has also provided the copy of Common Loan Agreement attached as Annexure 9 of the Petition No. 16 of 2016.

Issue:

- (aa) Regulation 30 (2) (c) of MPFRC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 stated as follows:

"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) as and when any of the above requirements are found lacking in a generating station based on the report submitted by the respective SLDC/RLDC, ROE shall be reduced by 1% for the period for which the deficiency continues".

The compliance of the above Regulation be informed. The petitioner is also required to file a copy of supporting documents in this regard.

Petitioner's Response:

The Petitioner submits that it has installed RGMO / FGMO in its generating station. Details of installation is attached as Annexure 7.

Issue:

- (bb) During FY 2016-17, the RoE is claimed in the petition on the base rate of return on equity. However, in FY 2017-18 and FY 2018-19, the Return on Equity is claimed by grossing up the base rate with MAT. The eligibility of petitioner's Jhabua Power Project for MAT in accordance with the balance sheet of Jhabua Power Project be explained with supporting documents?**

Petitioner's Response:

The petitioner submits that it is a Special Purpose Vehicle (SPV) Company and it had incurred a net loss in FY 2016-17 and hence, no income tax was payable by it in FY 2016-17. However, in the subsequent years, the Petitioner has considered MAT rate on projection basis and actual tax rate applicable shall be submitted at the time of truing up of the relevant years. Accordingly, the RoE has not been grossed up with the MAT tax rate of 20.961% for FY 2016-17 since there is no actual income tax liability. However, for the ensuing years FY 2017-18 and FY 2018-19, the Petitioner has grossed up the ROE with Minimum Tax Rate as per the formula given in Clause 30 and 31 of the MPERC Tariff Regulations, 2015.

Issue:

- (cc) In the subject petition, the petitioner has claimed O&M expenses of transmission lines and bay separately on the basis of norms prescribed under MPERC (Terms and Conditions for determination of Transmission Tariff) Regulations.**

In view of the above and in light of provisions under MPERC (Terms and Condition for Determination of Generation Tariff) Regulations, 2015, the petitioner is required to justify its claim for such a dedicated transmission line, the cost of which has been appropriately considered in the capital cost of its power plant.

Petitioner's Response:

With regards to query CC, it is pertinent to mention that the MPERC (Terms and Condition for determination of Generation Tariff) Regulations, 2015 provides for normative O&M expenses for the Generating station only, which does not cover the expenses towards O&M of the said Transmission facility.

It is further submitted that it has developed the transmission system which needs to be maintained. Operation and Maintenance of 65.2 ckm long 400KV Double Circuit Line includes, inter alia, requirements like procurement of spares, deploying man-power and

agencies for regular maintenance, patrolling and paying monthly maintenance fees to PGCIL for the bay maintenance charges at Jabalpur Pooling Station etc. While the Petitioner strives to deliver reliable power supply to its consumers, however maintaining such assets without commensurate recovery of the expenses shall immensely prejudice the Petition and cause grave financial burden on the Petitioner which may jeopardize the Petitioner's capability to serve reliable and quality power to its consumers in the near future. Further, the normative O&M expenses of generating station does not include O&M expenses towards dedicated transmission lines. It would therefore be just and appropriate to allow the Petitioner to recover the O & M expenses for its transmission system meant for providing reliable power to the consumers of Madhya Pradesh as per the rates specified in MPERC (Terms and Condition for Determination of Transmission Tariff) Regulations, 2016.

Further, the Petitioner has reiterated the norms for Operations and Maintenance Expense of a Transmission Line as specified Regulation 37 of the MPERC (Terms and Condition for Determination of Transmission Tariff) Regulations, 2016 as under:

“The O&M expenses comprise of employee cost, repairs & maintenance (R&M) cost and administrative & general (A&G) cost. The norms for O&M expenses have been fixed on the basis of circuit kilometers of transmission lines and number of bays in substation. These norms exclude Pension, Terminal Benefits, incentive and arrears to be paid to employees, taxes payable to the Government and fee payable to MPERC. The Transmission Licensee shall claim the taxes payable to the Government, fees to be paid to MPERC and any arrears paid to employees separately as actuals. The claim of pension and terminal benefits shall be dealt-with as per Regulation 27.5. The norms for O&M expenses per 100 ckt-km and per bay shall be as under:

Norms for O&M expenses per 100 Ckt. km and per bay

S. No.	Particulars	FY 2016-17	FY 2017-18	FY 2018-19
	<i>Lines</i>	<i>Rs. Lakh / 100 ckt Km / annum</i>		
1.	400 kV	32.00	32.00	34.70
2.	220 kV	29.88	29.88	32.40
3.	132 KV	31.44	31.44	34.10
	<i>Bays</i>	<i>Rs. Lakh / Bay / Annum</i>		
1.	400 kV Bay	09.58	09.98	10.39

2.	220 kV Bay	11.12	11.58	12.06
3.	132 kV Bay	11.16	11.62	12.10

The total allowable O&M expenses for the Transmission Licensee shall be calculated by multiplying the average number of bays and 100 ckt-km of line length for the Year with the applicable norms for O&M expenses per bay and per 100 ckt-km respectively. In support of its claim for allowable O&M expenses, the Licensee shall submit before the Commission, the actual or projected circuit kilometers of line lengths and number of bays for each voltage level separately for each Year of the Tariff Period as the case may be.”

The Petitioner based on the above Regulations has claimed the O&M Expenses for its dedicated Transmission Line. It is further submitted that the Hon’ble CERC has been allowing additional O&M Expenses for associated Transmission facility apart from the O&M expenses incurred towards the Generating Station. As the dedicated transmission line is addition to the capital cost of the project and Hon’ble CERC has also provided additional O&M expenses for dedicated transmission line in Petition No. 324/GT/2014 in case of the NCTPS generating station of NTPC, the Hon’ble Commission has allowed the O&M expenses incurred towards its 400 kV D/C Dadri-Loni Road Transmission Line. Accordingly, the Petitioner has also rightfully requested the Hon’ble MPERC to allow the O&M Expenses incurred towards the Dedicated Transmission Line. The Copy of the Order is attached as Annexure 8.

Issue:

- (dd) Whether the petitioner has claimed the O&M expenses of its dedicated transmission line and bay in its petition No. 16 of 2016 for determination of provisional tariff. If not, why such claim is being made in the subject petition beyond the scope of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015.**

Petitioner’s Response:

It is humbly submitted that the Petitioner has not sought additional O&M expenses in its Petition for provisional tariff. However, that does not debar the Petitioner from seeking its rightful expenditure in the Petition for final tariff. It is therefore requested that the Hon’ble Commission kindly considers the same.

Issue:

- (ee) The MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015, was notified on 21.12.2015 and published in official gazette on 01.01.2016 after seeking comments from all stake holders through public**

notice published in various news papers on 28.07.2015 followed by a public hearing conducted by the Commission on 25th August' 2015 wherein the Commission had received comments from several power utilities.

In view of the aforesaid, the petitioner is required to inform the following:

- (i) Whether any comments on O&M expenses for 600 MW thermal power station was offered by it in pre published Tariff Regulations' 2015.
- (ii) Why the petitioner has not challenged the MPERC Tariff Regulations' 2015 before any appropriate forum, if the petitioner was aggrieved with the provision under Regulations with regard to O&M expenses.
- (iii) Whether the petitioner is entitled to claim separate O&M expenses of its dedicated transmission line and bay in terms of MPERC (Terms and Conditions for determination of Transmission Tariff) Regulations, 2016.

Petitioner's Response:

As regards query EE, the Petitioner submits that:

- a. *The Petitioner respectfully submits that no comments on O&M Expense of 600 MW thermal power station was offered by the Petitioner.*
- b. *The Petitioner humbly submits that the petitioner company was unaware of the significant maintenance expense liabilities that would accrue to it while maintaining a 65 Km long dedicated 400 KV Double circuit transmission line as well as the line loss that would take place while filing the petition for the provisional tariff. Therefore, it had not challenged the MPERC Tariff Regulations 2015 neither with regard to the O&M expenses nor with regard to the line loss.*
- c. *As regards the claim of Petitioner for its dedicated Transmission Line and Bay, the Petitioner respectfully submits that the transmission line executed by the Petitioner for evacuation of power beyond the delivery point to Jabalpur Pooling Station. It is not part of any meshed network and cannot be utilized by any other person for evacuation of power and hence its Tariff should be determined as a part of the Generating Tariff. The Petitioner further submit that Section 2(16) of the Act, defines dedicated transmission line as under:*

“(16) dedicated transmission lines” means any electric supply-line for point to point transmission which are required for the purpose of connecting electric lines or electric plants of a captive generating plant referred to in section 9 or generating station referred to in section 10 to any transmission lines or sub-stations or generating stations, or the load centre, as the case may be”

Section 10 of the Electricity Act, 2003 provides that it shall be the duty of the

generating company to construct, own, operate and maintain the dedicated transmission line.

From the above provision it emerges that a dedicated transmission line is a point to point connection from the generating station to any transmission station or generating station or the load centre for evacuation of power from the generating station. JPL has constructed the dedicated Transmission line and it's the duty of JPL to construct, own, operate and maintain the dedicated transmission line for which it is not required to obtain a license under Section 12 of the Act. In other words, a dedicated transmission line is for all purposes a part of the generating station.

Further, the Petitioner also submits that Hon'ble CERC also has similar regulations wherein O&M expense for transmission line is not included in generation O&M but it has allowed additional Annual Fixed Charges for dedicated line to its generating station. Hon'ble CERC in Petition No. 324/GT/2014 in case of the NCTPS generating station of NTPC, the Hon'ble Commission has allowed the O&M expenses incurred towards its 400 kV D/C Dadri-Loni Road Transmission Line. On the basis of above, the Petitioner requests the Hon'ble Commission to allow the same.

Issue:

(ff) While Computing the Working Capital, the petitioner has claimed the cost of secondary fuel oil for two months, as per Regulation 34.1 of MPERC Tariff Regulations 2015, whereas, the aforesaid Regulations have further provided as under:

"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."

In light of the above provision under MPERC Tariff Regulations, the petitioner is required to confirm that the cost of only main fuel is considered in the petition while determining the working capital for FY 2016-17.

Petitioner's Response:

As regards query FF, the Petitioner submits that the cost of only main fuel oil is considered in the petition filed before Hon'ble Commission for computing the Working Capital Requirement.

Issue:

(gg) With regard to cost of coal for working capital of thermal power stations, Regulation 34.1 (1) of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 provides as under:

“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; Cost of coal for 30 days for generation corresponding to the normative annual plant availability factor;”

In view of the above, the basis of considering 60 days coal cost in the petition be submitted in light of the above provision under Regulations. The petitioner is also required to inform the maximum coal stock storage capacity be explained.

Petitioner’s Response:

The Petitioner’s Plant is a non-pit-head generating station. Therefore, as per Regulation 34.1(1)(a), cost of coal towards stock for 30 days for non-pit-head generating station for generation corresponding to the normative annual plant availability factor or the maximum coal stock storage capacity whichever is lower, is allowed to be covered in working capital. Here, the Petitioner humbly wishes to add that the coal stock storage capacity of Petitioner’s Plant is to keep stock of coal of 206470 MT which consist of storage capacity of more than 30 days. As per Regulation 34.1(1)(b), cost of coal for 30 days for generation corresponding to the normative annual plant availability factor, is also allowed to be covered in working capital. For the reasons cited above, the Petitioner has considered cost of coal for 60 days (30 days for stock for generation corresponding to the normative annual plant availability factor and for cost of coal for 30 days for generation corresponding to the normative annual plant availability factor.

Issue:

(hh) In para 131 of Commission’s order for provisional tariff (in petition No. 16 / 2016), the petitioner was directed to file a detailed year-wise Assets-Cum-Depreciation register with the subject petition for determination of final tariff of its generating unit. However, the same is not filed with the subject petition.

In view of the above, the petitioner is required to file Assets-Cum-Depreciation register in accordance to MPERC (Terms and Conditions for determination of generation tariff) Regulations, 2015.

Petitioner’s Response:

The Petitioner respectfully submits the Asset Cum Depreciation register attached as Annexure 6.

Issue:

(ii) The petitioner is required to explain the basis with supporting document for computing the rate of interest on working capital.

Petitioner's Response:

The Petitioner submits the SBI base rate as on 03.05.2016 is 9.3%. which is in accordance with Regulation 34 (3) of the MPERC (Terms and Condition for Determination of Generation Tariff) Regulations, 2015. The Petitioner further submits the link of the SBI Historical data <https://www.sbi.co.in/portal/web/interest-rates/base-rate-historical-data> from which the data for considering Interest Rates have been considered.

Issue:

(jj) The petitioner has filed the actual non-tariff income of Rs. 2.94 Crore for FY 2016-17. The petitioner has considered the same amount of Rs. 2.94 Crore for FY 2017-18 and FY 2018-19. The detailed break-up of projected Non Tariff / other income for FY 2017-18 to FY 2018-19 in accordance to the Regulation 53 of MPERC (Terms and Conditions for Determination of Generation tariff) Regulations, 2015 be filed.

Petitioner's Response:

As regards Query JJ, the detailed break-up of projected Non-Tariff / Other Income is attached as Form TPS 13c filed along with the Petition.

Issue:

(kk) While computing the weighted average rate of Secondary fuel oil, the petitioner has claimed the weighted average price of LDO/HFO. Whether the aforesaid claimed weighted average price pertains to oil consumed or purchased during three preceding months be clarified. As per Regulation 36.6(a) of the 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.

Petitioner's Response:

As regards query KK, the Petitioner has already submitted the weighted average landed fuel price of Oil for the Month of August September and October 2017. Further, the detailed calculation Oil received is already mentioned at Table 39 of the Petition and also the Copy of invoices / bills of oil received is attached as Appendix 29 of the Petition filed.

Issue:

(ll) In form TPS-15 of the petition, the petitioner has provided the detailed calculations for working out the landed price of coal for FY 2016-17. However, the calculations for landed price of coal for FY 2017-18 and FY 2018-19 is not filed by the petitioner. The detailed calculation for arriving at the weighted average landed cost of coal for FY 2017-18 and FY 2018-19 claimed in the petition be filed. The supporting documents like copy of the bills/invoices be

also filed in this regard. The Month-wise details of quantity and landed cost of oil and coal purchased from all sources be submitted.

Petitioner’s Response:

The Petitioner respectfully submits that the detailed calculation for arriving at landed price of coal for FY 2017-18 has already been submitted by the Petitioner in Form TPS 15 filed along with the Petition. Also, the Month-wise details of the quantity of coal procured along with the cost of transportation is attached as Form TPS “FSA Coal” submitted along with the filed Petition and to support the claim of the Petitioner, sample invoices for the month of March 2018 has also been submitted by the Petitioner which is attached as Appendix 29 of the filed Petition. Further the Petitioner submits that the landed cost of fuel for FY 2018-19 is partially available and will submit the same to the Hon’ble Commission upon completion of FY 2018-19.

Issue:

(mm) On scrutiny of the aforesaid form TPS-15, it is observed that the coal transportation charges is Rs. 1666 /MT. The reasons for high coal transportation cost claimed in the petition be explained. The complete month-wise details in excel sheet like cost of rail transportation, road transportation etc. be also filed.

Petitioner’s Response:

The Petitioner respectfully submitted that the Petitioner has inadvertently considered the cost of diesel for transportation of coal, which has already been factored in the Transportation charges by rail / road. The Petitioner would also like to submit that an amount of Rs. 1533.86 MT is actually incurred towards transportation of coal. The month wise details for arriving at the Coal Transportation charge of Rs. 1533.86/ MT is as under

Table 5: Details of Month-wise Transportation Charges

S. No.	Month	Coal Quantity (in MT)	Coal Invoice Value (In Rs.)	Coal Rail Transport Value (In Rs.)	Coal Road Transport Value (in Rs.)
1	April’17	96348.27	159,999,449	119,316,797	58,676,096
2	May’17	81135.43	156,492,349	86,667,492	49,411,477
3	June’17	76027.19	144,682,806	93,611,911	10,035,589
4	July’17	29448.46	46,959,322	34,011,937	3,887,197
5	August’17	11191.25	16,748,729	12,596,830	1,477,245

S. No.	Month	Coal Quantity (in MT)	Coal Invoice Value (In Rs.)	Coal Rail Transport Value (In Rs.)	Coal Road Transport Value (in Rs.)
6	September'17	43477.34	65,587,448	49,381,149	5,739,009
7	October'17	59088.42	85,030,585	77,681,935	7,799,671
8	November'17	122507.29	188,334,134	161,473,354	16,170,962
9	December'17	102119.23	154,258,951	138,914,365	13,479,738
10	January'18	145881.77	237,184,821	204,631,568	19,256,394
11	February'18	109033.41	187,296,922	157,958,299	14,392,410
12	March'18	152925.76	302,180,993	226,567,426	15,488,070
Total		1,029,183.82	1,744,756,510	1,362,813,063	215,813,858

The average of both Rail and Road transportation comes out to be Rs. 1533.86 / MT. The complete month-wise details for considering the transportation cost is attached as Form TPS "FSA Coal" filed along with the Petition. The Petitioner would also like to submit the revised Form TPS 15 attached as Annexure 12.

Further, the Petitioner has submitted the reason for considering higher transportation cost of coal as the Petitioner is unable to achieve its last mile connectivity through road transportation (about 2.5 Kms from Binaiki to Plant) due to the block imposed by the lenders on all capital expenditure since last 08 months and hence the complete work for transportation of coal was not completed. The Petitioner has to arrange some alternate arrangement for transportation of coal through road network which in turn has increased the overall cost of transportation of coal. The Petitioner would also like to submit that the increased transportation cost was due to the following factors:

- a. Increase in Railway Freight from 8th January, 2018 by approx. Rs. 200/MT.
- b. The cost incurred towards road transportation was of Rs. 610/MT for the month of April 2017 to May 2017 and from June 2017 onwards Road Transportation has reduced to Rs. 132/MT after the railway siding work upto Binaki is completed. However, the same is not being claimed to MPPMCL after January 2017 onwards.

Further, the Petitioner has submitted all the related details in Para 13 of the Petition filed.

Issue:

- (nn) Detailed calculation sheet in excel for arriving at the weighted average GCV of coal claimed in the petition along with supporting documents be filed. The laboratory report in support of GCV of coal be submitted.**

Petitioner's Response:

The detailed calculation for calculating the Weighted Average GCV of coal is attached as Form TPS "Plant Performance Details (New)" filed along with the Petition. Further, the Petitioner also submits the test report of lab test conducted for calculation of GCV of Coal on sample basis attached as Annexure 9.

Issue:

- (oo) While claiming the energy charges for FY 2016-17, the petitioner has considered Gross Station Heat Rate, Auxiliary Oil consumption and Secondary fuel oil consumption higher than the norms under Regulations, 2015. The reasons for considering these parameters higher than norms be justified.**

Petitioner's Response:

The Petitioner respectfully submits that the actual SHR in FY 2016-17 had been 2618.53 kCal/kWh. The key reason for deviation in SHR had been the low quantum of power scheduled by the Respondent. The overall PLF had been barely ~5% in the FY 2016-17. Despite being available, the unit remained under reserve shut down for a significant duration in FY 2016-17. Increased start-ups and partial loading of the unit warranted significant consumption of secondary oil for start-up and operational stability (~4.22 ml/kWh).

The Petitioner further submits that it has little control over the dispatch of the units under merit order principles and therefore the reliance on oil for stable operations was uncontrollable.

The Petitioner therefore requests the Hon'ble Commission to consider the submissions and allow recovery of energy charges based on the actual SHR of the station in FY 2016-17. It is pertinent to mention that IEGC 4th Amendment dated 06.04.2016 and the subsequent CERC Order on the detailed operating procedure stipulates deteriorated Heat Rate & APC for values for different conditions of partial loading. The same is also being adopted by MPERC as has been indicated in the draft MPERC Grid Code (Rev-II), 2017. However, the Gross Station heat rate for FY 2017-18 and FY 2018-19 has been considered in line with the SHR approved by the Hon'ble Commission in Case 16 of 2016. With regards to increase in Auxiliary Energy Consumption, the Petitioner has submitted that Clause 39.3 (E) of the MPERC Tariff Regulations, 2015 provide that the NAEC for 500 MW and above units having Steam driven Boiler Feed Pumps shall be 5.25%. The Regulations further provide that in case the station has installed Induced Drafts Cooling Towers, the norm shall be further increased by 0.5%. Pursuant to a low PLF, the auxiliary consumption in percentage terms is ~10.22%. It is pertinent to mention that IEGC 4th

Amendment and the subsequent CERC Order on the detailed operating procedure stipulates deteriorated Heat Rate & APC for values for different conditions of partial loading. The same is also being adopted by MPERC as has been indicated in the draft MPERC Grid Code (Rev-II), 2017.

With respect to the Secondary Fuel Oil Consumption, the Petitioner has submitted that due to low PLF, there were around 12 start-ups in FY 2016-17 leading to a very high consumption of oil during the year. The summary of oil procured during FY 2016-17 is stated in Table 39 of the Petition filed before Hon'ble MPERC.

Issue:

(pp) Regulation 8.7 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 provides that the generating company shall carry out the truing up of tariff of generating station based on the performance of following controllable parameters:

- **Station Heat Rate;**
- **Secondary fuel oil consumption;**
- **Auxiliary Energy consumption**

In view of the above, the monthly details of aforesaid performance parameters actually achieved vis-à-vis normative parameters under MPERC Tariff Regulations, 2015 along with supporting documents be filed. The details of financial gain if any, during FY 2016-17 on account of controllable parameters and shared with the beneficiaries in light of the Regulation 8.9 of Regulations, 2015 be filed.

In line with the Regulation 8.7 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015, the Petitioner would humbly like to submit that the Petitioner has incurred no financial gain on account of Controllable Performance Parameters including;

- **Station Heat Rate;**
- **Secondary Fuel Oil Consumption; and**
- **Auxiliary Energy Consumption.**

The month wise detailed comparison of aforesaid performance parameters actually achieved vis-à-vis normative parameters already submitted in the Form TPS "Energy Charges" attached along the filed Petition.

(qq) The certificate/statement of concerned Load Dispatch Centre certifying the Actual Plant Availability Factor achieved during FY 2016-17 be filed.

Petitioner's Response:

The Petitioner submits that the Certificate / Statement of the concerned Load Despatch Centre certifying the actual Plant Availability Factor achieved by the Petitioner's Generating station is attached as Annexure 10.

Issue:

- (rr) The petitioner has filed the Gross Turbine Cycle Heat Rate and steam generator thermal efficiency at 100% MCR and 0% make-up water guaranteed by the manufacturers. The manufacturer's certificate for guaranteed parameters in this regard be filed.**

Petitioner's Response:

The manufacturer's certificate for guaranteed parameter is attached as Annexure 16 of the Petition No. 16 of 2016.

Issue:

- (ss) With regard to performance parameters, the details of operating parameters actually achieved by its thermal generating units from CoD to 31st March' 2018 be filed.**

Petitioner's Response:

The Petitioner submits that the details of operating parameters actually achieved by its generating unit up 31st March, 2018 are attached as Annexure 11.

Further, in addition to the above replies the Petitioner would also like to submit that at the time of filing the Petition, the Petitioner has submitted the Band GCV for FY 2017-18, however, as per MPERC (Terms and Condition for Determination of Generation Tariff) Regulations, 2015, for calculation of Energy Charges the weighted average GCV of coal on received basis is required. The Petitioner further like to rectify and submit revised Form TPS 15, Energy Charges, 13B and Form TPS 1 attached as Annexure 12.

Also in addition to the above, the Petitioner would like to submit public notice indicating the gist of the Petition in Hindi and English version for your approval as Annexure-13.

Additional Responses submitted by the petitioner on the queries raised by the Commission

The Point wise reply to the queries raised by the Commission are as under:

- (i) Investment Approval dated 10.03.2016 for Project Cost of Rs. 4950 Crore:**

*The Petitioner humbly submits that the Investment approval for Rs. 4950 Crore passed by the Board of Director of Petitioner's company is attached as **Annexure 1.***

(ii) Price variation in the Hard Cost Component of the Project cost between 31st March 2015 to actual COD:

The Petitioner submits that mostly the Contracts awarded by JPL were firm price contracts. Any Price variation claimed by the vendor beyond SCoD has not been accepted by the Company and is not a part of the project cost claimed in the Petition.

(iii) Details of Un-discharge liabilities in IDC and IEDC as on 31st March 2015.

The Petitioner submits the details of IDC and IEDC as on 31st March 2015 as under:

Particulars	As on 31.03.2015	Undischarged Liability as on 31.03.2015 *
IEDC	229.00	5.60
IDC	999.33	35.70

- a. *The Undischarged liability as on 31.03.2015 is discharged during FY 2015-16.

(iv) Reconciliation of GFA as on 31.03.2017

The Petitioner has claimed total project cost of Rs. 4706.16 Crore as on 31.03.2017. The Bifurcation of the Project cost as on 31.03.2017, which is parked at different place in Balance Sheet is as under:

The break-up of GFA as on 31.03.2017 as per Balance Sheet of FY 2016-17 is as under:

Description	Amount
Plant and Machinery	45302166029
Other Intangible Assets	1638979
Stores and Spares	235466001
Depreciation	1522414474
Total	47061685483

From the above, it is observed that the project cost claimed as on 31.03.2017 is in line with the Audited Balance Sheet of the Petitioner's Company.

(v) Clarification regarding Rs. 15.78 Crores claimed under additional capitalization claimed during FY 2016-17.

The Petitioner has already submitted the breakup of Additional Capitalization claimed during FY 2016-17 along with the Tariff Formats. The additional Capitalization claimed during FY 2016-17 is Rs. 23.49 Crore out of which amount of Rs. 6.90 Crore and Rs. 0.81 Crore is transferred back to CWIP from fixed assets. This in turn reduces the additional Capitalization to Rs. 15.78 Crore. The Petitioner humbly submits the reconciliation of additional Capitalization as under:

Head of work / Equipment	Regulations under which claimed	Additional Capitalization claimed during FY 2016-17	Items transferred from Fixed Assets to CWIP
Transmission Line	20.1 (ii)	0	(6.90)*
Bal Mandatory Spares	20.1 (iii)	14.53	
MGR-S&T & Electrification & Loco	20.1 (ii)	0	(0.81)*
ABT System	20.1 (ii)	0.16	
Road & Drainage	20.1 (ii)	2.94	
Chemical & Electrical Lab	20.1 (ii)	0.06	
CHP Balance Works	20.1 (ii)	5.80	
Total Additional Capitalization		23.49	(7.71)

*Transferred from fixed assets to CWIP

The above table indicates that out of the total additional capitalization of Rs. 23.49 Crores incurred during FY 2016-17, the amount of Rs. 7.71 Crore is booked in CWIP. The Petitioner therefore, requested the Commission to consider its claim for additional Capital expenditure incurred during FY 2016-17.

The Petitioner respectfully submits that the total amount capitalized during the year is Rs. 250 Crore. Any part of Gross additional capitalisation of Rs. 23.49 Crore which [has[RB4] been spent during FY 2016-17 is included in Rs. 250 Crore in respective heads and balance is shown as undischarged liability.

(vi) Detailed Reconciliation of the amount of Rs. 258 Crores discharged during FY 2016-17 against the undischarged liability of Rs 368 Crore as on CoD.

a. The Petitioner submits the detailed Reconciliation of the amount of Rs. 258.35 Crore discharged during FY 2016-17 as under:

Particulars	Amount in Crore
Project cost as claimed in petition as on 31.3.2017 (Part of Balance Sheet)	4706.17

Less: Undischarged Liability as on 31.3.2017 (Part of Balance Sheet)	126.01
Amount spent towards Capitalized Project Cost	4580.16
Less: Amount already claimed as spent as on 02.05.2016 (CA Certificate for the same is already submitted to the Commission as Appendix 25 of the Original Petition)	4330.08
Additional Spent during 2016-17 towards capitalized Cost	250.08
Amount Recovered From LD	8.27
Total Discharged amount during FY 2016-17	258.35

The Petitioner would further like to submit that any amount spent towards items of CWIP has not been considered in Tariff form as same was not capitalised. Benefit of the same shall be taken when the same will be capitalised.

(vii) Detailed break – up of Equity filed in the Petition with reconciliation of the same in the Annual Audited Accounts:

The Petitioner submits the details of equity duly reconciled with the Audited Annual Accounts as under:

Issued[RB5] & subscribed Equity share capital Breakup

Particulars	As on 31.3.16	As on 02.05.16	As on 31.3.17
Issued & subscribed share capital	959.00	959.00	1147.37
Unsecured Loans from related parties- holding company's infusion	111.04	136.58	0
Total Equity contribution	1070.04	950.58	1147.37

The Petitioner further submits that the Equity component of the project is presented in the balance sheet under various components such as Equity share capital, Equity component of CCD (Other equity), Long-term borrowings (CCD Component), Other unsecured Loans from promoters/related parties. The details of which is already submitted by the Petitioner.

The Petitioner also submits the details of the CCD converted into Equity Share as on COD of the project and for FY 2016-17 as under:

- i. No. & value of CCD converted into Equity shares till 02.05.16 - NIL
- ii. No. & value of CCD converted into Equity shares in FY 16-17- NIL.

Annexure II

Respondent's (MPPMCL) comments on the petition and petitioner's reply on all such comments

The Respondent No.1, MP Power Management Company Ltd., Jabalpur most respectfully submits as under:

Comment:

1. That, the Petitioner has filed the present Petition for determination of Tariff of 1 x 600 MW Coal based Power Project at Barela-Gorakhpur, District: Seoni, Madhya Pradesh, for the period commencing from date of Commercial Operation (03.05.2016) till end of Control Period i.e. 31.03.2019 under MPERC(Terms and Conditions for determination of Generation Tariff) Regulation, 2015(Tariff Regulation, 2015 for short).
2. The Petitioner has made following prayers in the Petition :

“PRAYER

- i. *Approve the actual Capital Cost of the Project as submitted in this Petition towards, Unit-1 of 600 MW;*
- ii. *Determine the Final Generation Tariff (Fixed and Energy Charges) of Phase-I , 1 x 600MW Unit of the Petitioner which has achieved commissioning of the Unit on 23.03.2016 & Unit was declared commercial on 03.05.2016 for the period from COD of Generating Station till 31.03.2019, as required under the PPA dated 05.01.2011 to be paid by the Respondents for 30% of the installed capacity;*
- iii. *Determine the Energy(Variable) charges to be paid by the Respondent No. 1 for and on behalf of Government of Madhya Pradesh for the energy supplied under the PPA dated 27.06.2011 equivalent to 5% of net (ex-bus) energy generated;*
- iv. *Consider the submissions made by the Petitioner towards recovery of transmission losses in dedicated network, allow recovery of O & M expenses towards up-keep of the transmission line and approve the performance parameters for FY 2016-17 based on merits of the reasons submitted in this Petition;*

- v. *Allow to recover ED and cess on auxiliary power consumptions and other taxes, if any, levied by the Statutory Authorities from the beneficiaries on pro-rata basis;*
- vi. *Allow recovery of the filing fees as and when paid to the Hon'ble Commission and also the expenses on publication of public notice from the beneficiaries;*
- vii. *The Petitioner respectfully seeks an opportunity to present their case prior to the finalization of the tariff order. The petitioner believes that such an approach would provide a fair treatment to all the stakeholders and may eliminatethe need of a review or clarification;*
- viii. *Condone any inadvertent omissions / errors / rounding off differences / shortcomings and permit the petitioner to add/ alter this filing and make further submissions as may be required by the Hon'ble Commission.*
- ix. *Allow the Petitioner to submit any consequential impact on the submissions made in this Petition pursuant to the consideration of the request for change in SCOD of the Project for the Respondent during the course of the processing of this Petition or subsequently as the case may be; and;*
- x. *Pass such further and other order, as this Hon'ble Commission may deem fit and proper, keeping in view the facts and circumstances of the case.”.*

Petitioner's Response

The contents of para 1and 2 is a matter of fact and calls for no reply.

Comment:

- 3. The Respondent denies and disputes all the contentions made by the Petitioner in the Petition, except which are averment of facts and/ or specifically admitted by the Respondent.**
- 4. As the present Petition is voluminous and many contentions are repeated, the Respondent seeks liberty to file consolidated reply rather than a para-wise reply.It is therefore prayed that the reply to a contention made once, may be treated as the reply to the same contention raised by the Petitioner elsewhere in the Petition..**

Petitioner's Response

The contents of these paragraphs are general in nature wherein the Respondent has summarily disputed the facts placed by the Petitioner in the instant Petition. The Petitioner

has dealt with the specific contentions raised by the Respondent in the subsequent sections of this counter replies..

Comment:

5. In Para 6.1, the Petitioner has stated that originally approved cost was Rs. 2,800 Crore and the project cost of Rs. 2,909.89 Crore appraised to the lenders was taken on record by the Board of Directors of the Company.
6. In Para 6.3, it is stated by the Petitioner that Board of JPL has revised the Project Cost to Rs. 4,950 Crore at its meeting dated 10.03.2016. Finally, in Para 6.4, the Petitioner has summarized the Project Cost for Phase-1 as Rs. 4,698.66 Crore as on COD (i.e. 03.05.2016) including undercharged liabilities.
7. In Para 6.5. the petitioner has further indicated actual Additional Capital Expenditure of Rs. 15.78 Crore after COD for FY 2016-17, anticipated Additional Capital Expenditure of Rs. 122.03 Crore in FY 2017-18 and that for FY 2018-19 as Rs. 110 Crore, leading to total estimated project cost of Rs. 4,946.47 Crore.
8. It is evident from above that there is a whopping 1.8 times increase in estimated project cost. Therefore, it is most humbly prayed that the Hon'ble Commission may graciously be pleased to consider submissions made by the Respondent No. 1 in the following paras on the aspect of increase in the Capital Cost.

Petitioner's Response:

The Respondent has made a general submission highlighting the increase in Capital Cost which doesn't merit reply. As also stated earlier, the Petitioner intends to submit replies to specific contentions raised by the Respondent

Comment:

9. In Para 7 (sub-paras 7.1.1 to 7.3.12.4), the Petitioner has given alleged reasons for cost overrun, which are denied and disputed. The reasons alluded for cost overrun are not attributable to the Respondent and cannot be termed as uncontrollable. The same could have been mitigated with better project planning and management. It is therefore most humbly prayed that this Hon'ble Commission may graciously be pleased to reject the same.

Petitioner's Response

The Respondent has disputed and denied the reasons for cost overrun provided by the Petitioner in the Petition arguing that the reasons are not attributable to the Respondent

and cannot be termed as uncontrollable and could have been mitigated through better project management and therefore should be rejected.

The Petitioner would like to submit that the Respondent without going into the merits of the submissions made by the Petitioner has pre-maturely concluded upfront that the reasons for cost overrun were not uncontrollable. Instead, of first contesting the facts placed on record by the Petitioner, the Respondent has chosen to prematurely pass a general conclusion seeking rejection. The Petitioner, therefore, prays before the Hon'ble Commission not to consider the same unless specifically admitted by the Petitioner and evaluate each issue on merits.

Comment:

10. Some of the alleged reasons for the said cost overrun are discussed below to demonstrate that they could have been avoided/ mitigated by better project planning/ management.

(i.) Land and site development :

- (i) The petitioner has stated that land at Project site emerged to have solid rocky and uneven terrain which was not anticipated earlier. This averment of the Petitioner is hard to believe. Had the Petitioner or its executives/ engineers not surveyed the site to carefully assess the quantum of work/ earthmoving involved in leveling/ developing the site? Had they not carried out soil testing/ sample piling to examine sub-strata of the site to see if the terrain is rocky? If not, then the increase on account of this, shall be attributed entirely to the Petitioner. Besides, the rehabilitation and resettlement and the requirements stipulated for environmental clearance are also standard expenses, which the Petitioner should have factored into the Project Cost. The cost under this head is shown to have increased by Rs. 12.34 Crore, which is about 1.24 times the estimate.**

Petitioner's Response

The contents of this paragraph are denied and disputed to the extent the same are not specifically affirmed by the Petitioner. It is respectfully submitted that at the time of conceptualization estimations had been made based on the various study reports including but not limited to the Geo-Technical Investigation & Topological Survey Report. However at the time of implementation there were made certain variation as per actual scenario. It is therefore amply clear that The Petitioner has carried out its due diligence to access the quantum of work.

The Respondent, in the said para has merely stated the increase in the cost towards land and site development and has contested the increase by arguing that the same could have

been avoided by factoring in the cost in the Project Cost after carrying out proper soil testing and actual expenses towards R&R while estimating the project cost.

In this regard, the Petitioner would like to submit that there are always variations, to different degrees, between estimation based on study reports and actual implementation, whether it is a project concerning building of roads, bridges, dams or power plants, regardless of whether it is executed by Government authorities or Private developers.

The Petitioner in its Para 7.3.1 of the Petition has clearly provided detailed explanation for the increase which is mainly attributable to the increase in compensation paid toward R&R and CSR expenses. It is to be further submitted that these costs have been incurred on actual basis based on the norms stipulated by the State Government and hence is a legitimate cost and therefore the Petitioner prays that the same be allowed.

Comment:

Price Variation

- (ii) The graph given in Figure 1. is a generic one. The explanation given by the Petitioner is also too vague, thus does not justify the huge increase in the Project Cost.**

Petitioner's Response:

The Respondent has stated that the graph produced in Para 7.3.2 of the Petition is a Generic one and the explanation is vague. The Petitioner would like to submit that the graph is based on the actual data as per Labour Bureau, Government of India and Office of Economic Advisor, Ministry of Commerce and Industry which are the most appropriate data to consider and reflects the inflationary trend across the country. The Respondent has chosen to even refute the data from such authentic sources which only indicates the blunt approach unfortunately adopted by the Respondent in refuting all the factual depositions made by the Petitioner without going into the merits provided by the Petitioner.

Comment:

Plant and Equipment (BTG package including C & I Package)

- (iii) The Petitioner has failed to provide any documentary evidence to substantiate the claim that there were adverse feedback regarding Chinese equipment to Indian Coal and conditions. On the contrary, there are many Power Plants successfully running Chinese equipment, while taking advantage of their competitive pricing. Besides, the details of the contract awarded to M/s BHEL for BTG Package shows price components in Foreign Currency (Dollar/ Euro), which may have inflationary impact on final price due to FERV. It may be seen that there is a huge increase of Rs. 516.61 Crore i.e. an increase of about 1.4 times the estimate.**

Petitioner's Response

The contents of this paragraph are denied and disputed to the extent the same are not specifically affirmed by the Petitioner. It is submitted that suitability of Chinese Boilers to Indian conditions particularly Indian Coal with very high ash content (as high as 45%) has been widely debated. Had there been no such apprehension, MP Generating Company (which is a widely respected generating company of the country) would have chosen Chinese BTG sets in place of BHEL sets for their Sri Singhaji Thermal Power Project and Chinese Balance of Plant Suppliers instead of L&T.

It is respectfully submitted that the Petitioner has provided all the documentary evidences including the contract document. The Petitioner respectfully submits that JPL had invited the Tender for its BTG Package under ICB bidding. As the Contract for BTG Package is based on ICB, the Prices were required to be quoted in US Dollars and in Euros. Further, the Petitioner has explained the detailed reason for the increase in cost on Plant and Machinery in Para 7.3.3 of the filed Petition which has not been factually contested by the Respondent. The Petitioner prays before the Hon'ble Commission to allow these cost as the same are legitimate expenses actually incurred by the Petitioner.

Comment:

External Water Supply System

The cost of External Water Supply System is shown to have increased from estimated Rs. 16 Crore to Rs. 78.95 Crore, a whopping increase of 393 %. Such a huge increase has obviously result of poor strategy of the Petitioner and therefore it is requested that such an extremely high cost shall not be allowed.

Water Treatment Plant

The cost of Water Treatment Plant has increased from estimated Rs. 30.50 Crore to Rs. 40.71 Crore, an increase of 1.33 times.

Coal Handling Plant

The cost of Coal Handling Plant has increased from estimated Rs. 72.50 Crore to Rs. 210.08 Crore, an increase of whopping about 190 %, which is extremely high and it is therefore requested that such an extremely high cost shall not be allowed.

Induced Draft Cooling Tower

The cost of Induced Draft Cooling Tower is shown to increase from estimated Rs. 26.00 Crore to Rs. 33.59 Crore, an increase of about 1.29 times.

Petitioner's Response

The contents of these paragraphs are denied and disputed to the extent the same are not specifically affirmed by the Petitioner. It is respectfully submitted that at the time of conceptualization certain assumptions were made and prices were

estimated at base prices of March 2009, however at the time of implementation there were certain variation as per actual market conditions. The Petitioner also like to submit that the works related to External water supply system, WTP, CHP, IDCT, was awarded on the basis of prices discovered through Competitive bidding and the contract price were on firm basis with minor amendments, the details of which was attached along with the filed Petition. Further, the Petitioner has explained the detailed reason for the increase in cost in Para 7.3.4 to 7.3.7 of the filed Petition. It is humbly submitted that the above works were awarded on the basis of competitive bidding and therefore The Petitioner prays before the Hon'ble Commission to allow these costs as the same are legitimate expenses actually incurred by the Petitioner.

Comment:

Evacuation Infrastructure/ Transmission Line

- (a) **The cost of Evacuation Infrastructure/ Transmission Line is shown to have increased from estimated Rs. 36.00 Crore to Rs. 155.12 Crore, a whopping increase of about 331 %. The reasons offered for the said huge increase again show clear lack of planning/ coordination on part of the Petitioner. The Petitioner has stated that original estimate was based on original plan for termination of 400 KV transmission line at Seoni Pooling Sub-Station of PGCIL. However, PGCIL did not approve the power evacuation plan of JPL (Petitioner) intimating that Seoni Pooling Station was already loaded to its design capacity. This is again an example of poor planning and coordination. The estimate was made without assessing ground situation. Besides the Petitioner has not provided copies of correspondence with PGCIL in this regard. It is most humbly prayed that this Hon'ble Commission may kindly consider applying appropriate prudence check to the claim of the Petitioner.**
- (b) **The Petitioner in Sub-Paras 7.3.8.3 to 7.3.8.5 has contended that owing to shifting of responsibility of construction of transmission line for power evacuation *de hors* the provisions of Article 3.2 of the PPA dated 05.01.2011, on account of Order Dated 07.09.2012 passed by this Hon'ble Commission in Petition No. 08 of 2012. The Petitioner has also contended that “JPL in good faith and keeping positive frame of mind for betterment of beneficiaries didn't oppose the same.”**
- (c) **Sub-article (iii) of Article 3.2 of the PPA Date 05.01.2011 provides as following:**

“3.2 Satisfaction of Condition Subsequent by the Procurer

The Procurer agrees and undertakes to duly perform and complete following activities within the time stipulated against each, unless such completion is affected due to any Force Majeure Event or due to the Company's failure to comply with its obligations under this Agreement or if any of the activities

specifically waived in writing by the Company.

- i.)**
- ii.)**
- iii.) *The Procurer agrees and undertakes that the Procurer along with the Discoms shall file within three (3) months from the effective date, an appropriate petition with Appropriate Commission seeking the approval of the said Commission for this agreement. The Company shall duly furnish the requisite data, details, information and documents and assist the Procurer in such proceedings before the Appropriate Commission. Subject to the appellate remedies that may be availed by any of the parties hereto as provided under Section 111 and Section 125 of the Electricity Act 2003, the parties agree to implement this agreement with such modifications to the terms thereof, as may be decided by the Appropriate Commission.***

[Emphasis Added]

- (A) Therefore the stand of the Petitioner is surprising as after having agreed to all the conditions of the said PPA, the Petitioner has maintained complete silence during the proceeding of Petition No. 08 of 2012 also. The modifications to the terms of the PPA decided by the Appropriate Commission, are binding on parties. Therefore, the contention of the Petitioner, is not relevant and may kindly be ignored.**

Petitioner's Response

The contents of this paragraph are denied and disputed to the extent the same are not specifically affirmed by the Petitioner. The Petitioner would like to submit that available capacity at any Sub-station is dynamic and changes with time and one cannot expect the capacity available at the time of estimating cost (March 2009) will hold good five years down the line and therefore the contentions raised by the Respondents are baseless and devoid of any merit.

With respect to Petition No. 8/2012 filed by MP Power Management Co. Ltd., Jabalpur (MPPMCL), Hon'ble MPERC issued the Order on 07.09.2012, vide which the Commission had directed the Respondent for amendment of PPA dated 05.01.2011 regarding evacuation infrastructure to be ensured by the Respondent. Further, as regards the responsibility for construction of Transmission line beyond the delivery point, JPL would like to submit that the same query was raised by M/s BLA Power Pvt. Ltd. as Respondent no. 4 in Petition No. 7,8,9,10 and 12 of 2012 and as per the Order issued by Hon'ble MPERC on the subject Petition, the Hon'ble Commission specifically ruled as under;

*“The Commission observed that the procurer’s obligation under sub-article 3.2 and 4.2 of the PPAs to establish the necessary evacuation infrastructure/facilities beyond the interconnection point for evacuation of the contracted capacity is inconsistent with the submissions made by the Respondent No.4 and Petitioner No.1. **It has been confirmed that dedicated transmission line for necessary evacuation infrastructure beyond the delivery point is being erected/got erected by the respondents.**”*

The above decision of Hon’ble Commission clarifies that the Construction of evacuation line beyond the delivery point lies in the purview of the Respondent which in the above case were developers including Jhabua Power Limited. Accordingly, JPL had to amend its contract with L&T for the construction of transmission line till Jabalpur Pooling Sub-station. This resulted into further amendments in LoA and the contract price was revised to Rs. 133.60 Crore vide amendment dated 30.5.2014. Further, there were RoW issues in construction of transmission line, which increased the final cost to Rs. 155.12 Crore. The Petitioner has already submitted the detailed reasons for the increase in Para 7.3.8 of the Petition. JPL would like to further submit that even as today the responsibility to ensure the evacuation system is with MPPMCL and nothing has been evidenced by the Respondent staking claim to construct the line on its own nor JPL had agreed for any time bound commitment to MPPMCL to get the system ready. Further, MPPMCL has not been keen to take the above responsibility as no initiation of works was undertaken by MPPMCL neither monitoring of works and further no support was provided by MPPMCL to minimise the delay in execution of work.

It is humbly submitted that the above works were awarded on the basis of competitive bidding and therefore The Petitioner prays before the Hon’ble Commission to allow these cost as the same are legitimate expenses and delay to establish the system in place actually incurred by the Petitioner..

Comment:

Chimney

The cost of Chimney has increased from estimated Rs. 24.00 Crore to Rs. 46.51 Crore, an increase of about 1.94 times, which is very high.

Ash Disposal Area Development

The cost of Ash Disposal Area Development is shown to have increased from estimated Rs. 10.00 Crore to Rs. 30.61 Crore, a huge increase of about 300%, which is extremely high.

Petitioner’s Response

The contents of these paragraphs are denied and disputed to the extent the same are not specifically affirmed by the Petitioner. It is respectfully submitted that at the time of conceptualization estimations were made on the basis of March 2009 price, however at the time of implementation there were certain variation as per actual market conditions.

The Petitioner also like to submit that these works related to Chimney, Ash Disposal Area Development were awarded on the basis of Competitive bidding and the contract price were on firm basis with minor amendments, the details of which was attached along with the filed Petition. Further, the Petitioner has explained the detailed reason for the increase in cost for above equipment in Para 7.3.9 to 7.3.10 of the filed Petition. The Petitioner prays before the Hon'ble Commission to allow these costs as the same are legitimate expenses actually incurred by the Petitioner.

Comment:

Startup Fuel

The cost of Startup Fuel is shown to have increased from estimated Rs. 46.40 Crore to Rs. 93.06 Crore, an increase of about 1.94 times, which is 100% which is extremely high.

Overheads

the cost of Overheads is shown to have increased from estimated Rs. 90.00 Crore to Rs. 277.76 Crore, a whopping increase of about, which is 209 % which is extremely high. It is most humbly prayed that this Hon'ble Commission may kindly reject the claim of the Petitioner for the period of delay in achieving COD of the Project.

Petitioner's Response

The contents of this paragraph are denied and disputed to the extent the same are not specifically affirmed by the Petitioner. The Respondent in its reply has not contested the submission made by the Petitioner in its Petition instead has chosen to term the expenses as high when compared to the originally estimate cost. The Petitioner would like to submit that the Hon'ble Commission may consider the cost incurred by the Petitioner with merits of the justification submitted by the Petitioner in its Petition which is duly supported by Statutory Auditor Certificate. The expenditure, claimed and approved, on the heads of Start-up Fuel as well as Overhead expenses of other stations of NTPC approved by CERC as well as those JP Nigrie-2X660 MW and Sri Singhaji 2X600 MW, approved by MPERC ,Sri Singhaji – Start up Fuel is Rs 180.94 Cr against Rs 10.0 Cr in the Investment approval cost in this head and JP Nigrie – Start up Fuel is Rs 238.72 Cr against a “Nil” Investment approval cost in this head. With regard to the Respondent's submission to reject the claim for the period of delay in achieving the COD of the Plant, the Petitioner would like to submit that the Respondent has again prematurely sought rejection without going into the merits of the reasons provided by the Petitioner for the delay.

Comment:

11. It is most humbly prayed that this Hon'ble Commission may kindly consider applying appropriate prudence check to all above claims of increase in the costs as compared to the estimates.

Petitioner's Response

The contents of these paragraphs are formal in nature and calls for no reply.

Comment:

12. Similarly, in Para 8 (sub-paras 8.1 to 8.2.3.16), the Petitioner has given alleged reasons for time overrun, which are denied and disputed. The reasons alluded for time overrun are not attributable to the Respondent and cannot be termed as uncontrollable. The same could have been mitigated with better project planning and management. It is therefore most humbly prayed that this Hon'ble Commission may graciously be pleased to reject the same.
13. The Petitioner has stated that it has not been able to commission its Phase 1 by the date agreed only because of the delay in availability of start-up power, for which the delay in part of MPPMCL (the Respondent No. 1) is attributable. The Petition then goes on to repeat the same stand once again that the responsibility of construction of the complete evacuation system beyond delivery point was with MPPMCL (the Respondent No. 1), which was transferred to JPL (the Petitioner) by Hon'ble Commission vide its Order Dated 07.09.2012. JPL has humbly taken the responsibility on good faith.
14. The Respondent seeks to rely on the averments made in Para 10 (viii)(c) above, which are not being repeated for the sake of brevity.
15. This stand of the Petitioner is surprising as after having agreed to all the conditions of the said PPA, the Petitioner has maintained complete silence during the proceeding of Petition No. 08 of 2012 also. Therefore, now in 2018 the contention of the Petitioner is not relevant and may kindly be ignored.
16. Most of the other reasons given for time overrun make evident sheer lack of professional management and proper planning of the Project. There appears to have be no plan to handle contingencies leading to cascading delays.
17. The copies of documents filed evidencing law and order situation and strikes by the workers etc. clearly bring out apathy by the management towards the rehabilitation and labour issues, had they been handled properly would have saved lot of time, trouble and cost overrun could also have been avoided.

Petitioner's Response

The Petitioner respectfully submits that the Respondent in Para 12 of its reply with regards to time overrun has sought rejection on the premise that the same is not attributable to the

Respondent and cannot be termed as uncontrollable and could have been mitigated through better project management and therefore should be rejected.

The Petitioner would like to submit that the Respondent without going into the merits of the submissions made by the Petitioner has pre-maturely concluded upfront that the reasons for time overrun were not uncontrollable. Instead of first contesting the facts placed on record by the Petitioner, the Respondent has chosen to prematurely pass a general conclusion seeking rejection. The Petitioner, therefore, prays before the Hon'ble Commission not to consider the same unless specifically admitted by the Petitioner and evaluate each issue on merits.

Further, with regard to contentions raised by the Respondent in Para 13 to Para 17 of the reply the Petitioner would like to re-iterate its submissions made in the Petitioner that it was not able to commission its Phase I by the date only because of the delay in the availability of start-up Power.

This is because originally the responsibility of construction of the complete evacuation system beyond delivery point was with MPPMCL. However, this responsibility was transferred to JPL by MPPMCL vide MPERC Order dated 07.09.2012. JPL had humbly taken the responsibility of setting up of evacuation structure in good faith. In spite of all odds, JPL constructed the evacuation structure at its own expenses and start-up power was available by 24.04.2015 (within an approximate construction period of about 32 months). The reasons for delay have been explained in detail in the filed Petition (Para 8) filed before the Hon'ble Commission and the same are not repeated here for the sake of brevity. Despite all the efforts taken up by the Petitioner at the request of MPPMCL, it is unfortunate that while in none of its averments the respondent has contested the shifting of the responsibility of installing such a huge work as construction of the 400 KV Double Circuit Transmission Line from it to the petitioner, its main contention has been to disown the delay, as being not attributable to it or not un-controllable. It is submitted that there are a number of unforeseen and uncontrollable factors involved in executing a 65 Kms long high-capacity transmission line and respondent might very well be aware of it. The Respondent is now trying to disown the same.

The Petitioner would like to submit that it has made every possible effort to complete the Project on time which the Petitioner has been able to achieve with proper planning and Project management

Comment:

18. The data given to show incidence of excessive rainfall in Seoni District is grossly misleading. The Petitioner himself has stated that the rainfall occurred during 4 months, hence the delay of 4 months is justified. It is common knowledge that the work slows down during rainy season, which generally lasts for 3 to 4 months from mid-June to end of September every year. Therefore, there was nothing unusual in years in question including 2013 .

Petitioner's Response

The Petitioner with respect to the rainfall data submitted that during the monsoon season of 2013, there has been excessive rainfall in Seoni Barela-Gorakhpur region. During monsoon season very minimal amount of work has been carried out in the project. The actual rainfall in Seoni in 2013 was 42.87% more than the long term normal rainfall, respectively. It is also submitted that due to excessive rainfall in the region, the Petitioner was unable to make any appreciable progress of project construction jobs especially in civil works during the above monsoon season. The Petitioner would like to submit that 142.87% of average rainfall is abnormal and beyond the control of the Petitioner hence is uncontrollable in nature.

Comment:

- 19. Even more surprising and unusual is to cite the “unprofessional attitude of BHEL”, as a reason for delay and time overrun. It is purely a contractual issue between Petitioner and their major Project vendor. It is respectfully submitted that, any delay or increase in project cost due to attitude of BHEL could not be loaded on the Project and therefore shall not be allowed**

Petitioner's Response

The Petitioner would like to submit that most of the milestone inputs were delayed due to delay in timely receipt of material from BHEL. Once the Contracts with BHEL are closed, JPL will submit the details of LD levied to BHEL for delay in execution of the Project

Comment:

- 20. Therefore, it is most humbly prayed that this Hon'ble Commission may graciously be pleased to reject the reasoning given for time overrun.**
- 21. Hon'ble APTEL in its judgment in Appeal No. 71 of 2010 (Maharashtra State Power Generation Co. Ltd., Vs. Maharashtra Electricity Regulatory Commission & Ors.) has held that :**

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

- i) due to factors entirely attributable to the generating company, e.g., imprudence in selecting the contractors/suppliers and in executing contractual agreements including terms and conditions of the contracts, delay in award of contracts, delay in providing inputs like making land available to the contractors, delay in payments to contractors/suppliers as per the terms of contract, mismanagement of finances,***

slackness in project management like improper co-ordination between the various contractors, etc

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

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

7.5. In our opinion, the above principles will be in consonance with the provisions of Section 61(d) of the Act, safeguarding the consumers' interest and at the same time, ensuring recovery of cost of electricity in a reasonable manner."

- 22. It is clear from the facts of the present case that the delay (time overrun) in achieving COD is not attributable to the Respondent on the contrary it is entirely attributable to the Petitioner (Generating Company). Therefore, as per Sub-Para (i) of Para 7.4 of the above judgment, the additional cost (including IDC/ IEDC/ Financing Charges) shall be borne by the Petitioner.***

Petitioner's Response

The Petitioner respectfully submits that for reasons already submitted by the Petitioner in its Petition and its replies to Hon'ble Commission's query and as also stated above the reasons for delay in execution of the project are not attributable to the Petitioner and are also primarily uncontrollable in nature. Therefore, it is prayed that the Hon'ble Commission kindly considers the submission of the Petitioner and allow IDC, IEDC and FC based on the justification provided by the Petitioner.

The Petitioner would further like to submit that Hon'ble Commission may please take into consideration the minimal scheduling done by the Respondent post COD. It therefore goes without saying that had the Power Plant achieved COD, the respondent never had to resort for procuring of power from costlier sources (as compared to the petitioner's plant) due to low demand. MPPMCL has to bear the entire Capacity Charge which would have been way beyond the IDC impact which the Petitioner has claimed.

Comment:

- 23. In Para 9, under the heading "Allocation of Capital Cost", referring to the order passed by the Hon'ble Commission in Petition No. 16 of 2016, the Petitioner has ostensibly discussed major disallowances under heads of land, transmission line, BTG and BoP Package, IDC and IEDC.**
- 24. The Petitioner contended that Hon'ble Commission in its order dated 06.09.2016 had allocated the cost of land of Rs. 61.85 Crore on the basis of capacity and Rs. 26.08 Crore has been allocating to Phase II of the project. It is also said that the Petitioner has acquired 892 acres of land for the Project and allocation this on capacity basis results in allocation of only 424 acres for Phase-I of the project, which is grossly inadequate for a green field project of 600 MW.**
- 25. The Petitioner has then referred to the "Report on the Land Requirement of Thermal Power Stations" published by the Central Electricity Authority (CEA) 2007 and ostensibly based on observations of the said Report, estimated the land required for a 1x600MW indigenous coal based Project, which is summarized in Table 18 at Page 51 to 53 of the Petition. The Petitioner has arrived at a final figure of 1092.33 acres, thus justifying the "actually acquired 892 acres" of land being "well within the estimate".**
- 26. It is most humbly submitted that approach adopted by the Petitioner in estimating the land requirement for a 1x600 MW Project is vague, tentative and not based on any sound principle. On the contrary the estimate is based on assumptions which are leading to much higher requirement of land. For example, the Petitioner has considered 60 acres as Pitch (Centre to Center of Boilers). This requirement is relevant only to a Project which has more than one Unit, whereas, according to the Petitioner only one Unit of 600 MW is being constructed.**

:

It may kindly be recalled that the land was originally estimated on the basis of a Detailed Project Report (DPR) prepared by a renowned Consultant, who after considering all the needs and requirements of the two Phases (1 x 600 MW + 1 x 660 MW) of the Project assessed the requirement of land. On the basis of the said DPR adequate land was acquired. Therefore, it is prayed that this Hon'ble Commission may graciously be pleased to reject the reasoning given by the Petitioner that entire land (892 acres), originally acquired for two Phases of 1,260 MW capacity Project, now being said to be only sufficient for just one Unit of 600 MW. Therefore, it is most humbly prayed that the apportionment of land for one Unit of 600 MW as previously done by the Hon'ble Commission may kindly be maintained.

Petitioner's Response:

Further, the Petitioner would like to submit that in case of Shri Singaji Thermal Power station the Hon'ble MPERC vide its order dated 30.12.2017 in the Final Tariff order for Phase – I (2X600 MW) indicated Rs 117.5 Cr for approx. 1260 Hectares. MP Power Generating Company Limited (The Petitioner) has claimed 1107.28 Ha of land required for construction of 2 units of SSTPP Stage I and extension thereafter which includes two more units. Besides that, 168.93 Ha land has been acquired for Colony, Raw Water Intake Pipe Line, Approach Road and Railway Corridor. It is observed that for 2x600 MW power plant and extension of two units thereof, the Hon'ble Commission has approved 1200 Ha of land which is roughly around 2965 acres of land. This roughly translates to around 750 acres per unit. It is to be noted that a green field project with one Unit will always require considerably higher land and 892 Acres of land can definitely not be considered adequate to set up two units. The Petitioner therefore prays before the Hon'ble Commission that allocating the land acquired on both the units will gravely prejudice the Petitioner financially.

Comment:

27. The apportionment of cost between two phases of the Project was considered by the Hon'ble Commission in P. No. 16 of 2016, while determining Provisional Tariff. The relevant Paras of the Order Dated 06.09.2016 are extracted below :

“79. By affidavit dated 3rd August, 2016, the petitioner submitted that through all their submissions - in earlier Petition No. 53 of 2015, Original Petition No. 16 of 2016 as well as the instant Amended Petition No. 16 of 2016 – have maintained that it had originally envisaged the said Power Project to have a capacity of 1260 MW – to be executed in two phases - Phase-I having an Unit of 600 MW and Phase-II having an Unit of 660 MW. The petitioner submitted that while filing Petition No. 53 of 2015 it had reckoned some of the costs as common costs and inadvertently allocated them between Phase – I (1 x 600MW) & II (1 x 660MW). However, the Petition No. 53 of 2015 was dismissed by the Commission. The

date of commercial operation of the Phase-I unit got delayed due to reasons already informed and detailed in the Amended Petition and the Petitioner was directed by the Hon'ble Commission to approach for tariff determination with a fresh petition as and when the unit achieved CoD.

80.The petitioner further submitted that all the common facilities have been designed with philosophy of execution in two phases – first phase consisting of one 600 MW unit and the second phase consisting of one 660 MW unit. The petitioner further mentioned that the inadvertent error of treating some costs as common costs was detected by it subsequent to the filing of Petition No. 53 of 2015. The petitioner would have filed an amendment to rectify the inadvertent error. The detailed response on aforesaid issues filed by the petitioner are mentioned in Annexure-I of this order.

81.On perusal of the response filed by the petitioner and detailed scrutiny of the contract/orders placed to different vendors, the Commission observed that some of the facilities which are common for the phase I&II of the project need to be apportioned at this stage as per Regulations, 2015. Moreover, the Power Purchase Agreement entered by the petitioner with MPPMCL on 05.01.2011 is for the contracted capacity equivalent to 30% of the only first unit having installed capacity of 600 MW. So, the tariff for its second unit which has a reference in aforesaid PPA (and may be in conceptual stage as awaiting fuel linkage as contended by the petitioner) may not be determined by this Commission. Therefore the Commission has provisionally considered the basis of apportionment of most of the common facilities among Phase I and Phase II as filed by the petitioner in petition No. 53/2015.

82.With regard to cost of transmission line, the Commission has observed from the contract awards filed by the petitioner that the order was placed to M/s L&T for construction of transmission line for Phase I&II of the project. Therefore, the approach for apportionment of transmission cost as submitted by the petitioner is not found satisfactory. Therefore, the cost of transmission line has been apportioned on MW capacity basis as per Regulation 5.2 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015.

83.The Commission further observed that the land was procured by the petitioner for both the phases of the project. However, the land development charges and leasehold land is dedicatedly allocated to phase-I of the project. Therefore, the Commission has apportioned only cost of land purchased on MW capacity basis as per Regulation 5.2 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015.”

[Emphasis Added

In view of above, it is prayed that the contentions of the Petitioner against apportionment of cost of Land, Transmission Line, BTG, BoP Package, IDC and IEDC among two Phases of the Project may please be rejected.

Petitioner's Response

Further, as regards to the allocation of cost on Transmission Line, the Hon'ble Commission in its Order dated 06.09.2016 has allocated the total cost towards establishing transmission line into the Phase I and II on the basis of capacity. Accordingly, the transmission line cost of Rs. 78.39 Crore has been allocated to Phase-II of the Project. It is to be noted that even if Phase-II of the project was not envisaged, 400 kV D/C line is required in order to evacuate the power of around 600 MW as the same could not be evacuated through 220 kV line due to technical constraints and limitation including provision for N-1 contingency. Hence as the cost couldn't have been avoided, the entire cost of evacuation infrastructure rightly needs to be included in Phase-I of the project. Further for BTG, BoP Package, IDC and IEDC, the Petitioner has provided proper justification for its claim under para 9 of the filed Petition. In view of the same, the entire capital cost has been attributed to Phase-I, 1x600 MW only and as such there is no common expenditure. It is respectfully submitted that the provision of common facilities is done mainly for optimum utilization of resources benefit of which is ultimately passed on to the consumers.

Comment:

28. The petitioner under para 9.1, tried to justify the extremely high project cost based on the Hon'ble CERC order dated 28.09.2017 passed in petition no. 224/GT/2015. It is respectfully submitted that in the above referred order the Hon'ble CERC has determined the indicative bench mark cost as on April 2016 as Rs. 5.32 Crs. /MW inclusive of IDC & FC. Whereas, the cost of the project including IDC & FC is Rs. 4698.66 Crs i.e. Rs.7.83 Crs./MW which is extremely high and therefore shall not be allowed

Petitioner's Response:

The Petitioner respectfully submits that the contention raised by the Respondent is not based on the facts and figures as stated by the Hon'ble Central Commission in its Order dated 28.09.2017 in Petition No. 224/GT/2015. The Petitioner also submits that the Benchmark cost of one unit works out to be Rs. 5.50 Crore / MW. The Petitioner also like to clarify that the above cost does not include IDC and FC. The Relevant extract of the Order is shown under:

"The indicative benchmark norms for capital cost based on December, 2011 Index as base, needs to be escalated upto April, 2016 based on the WPI index for prudence check

of the capital cost. As per data available with Minister of Commerce and Industry, Government of India, the WPI index for April, 2016 is 177.80 as against the WPI index of 157.30 as on December, 2011 resulting in inflation of 1.130. Accordingly, the indicative benchmark hard cost is worked out as ₹5.50crore/MW (1.130x4.87) for Unit-I and ₹5.13crore/MW (1.130x4.54) for Unit-II. The average benchmark hard cost for both the units comes out to be ₹5.32crore/MW (1.130x4.70). The benchmark capital cost norms represent the hard cost of the project and do not include cost of land, financing cost, interest during construction, Taxes and duties, Right of way charges, Cost of R&R, Railway infrastructure etc. The approved Capital cost of the project as on COD is ₹498478.16 lakh which works out to ₹4.15crore/MW excluding IDC, IEDC etc. as claimed by the petitioner which is within the benchmark capital cost of ₹5.32Crore/MW at the April 2016 Price Level.”

Further the justification for the same is mentioned in Para 9.1.1.3 and based on the above the hard cost of the Phase I, 1x 600 MW Unit is worked out as Rs. 5.44 Crore/ MW as on COD, which is well within the benchmark norms of Rs 5.50 Crore/MW considered by the Hon'ble CERC for 600 MW coal based thermal power station. In view of the above, the Petitioner would like to state that the Respondent has factually erred in its submissions and the cost of project is well within the limits of the benchmark capital cost and therefore it is humbly prayed that the same may be allowed by the Hon'ble Commission.

Comment:

29. In Para 9.2 (Sub-Paras 9.2.1.1 to 9.2.1.4), admitting the delay in completion of the Project, the Petitioner has stated that there is increase in IDC and financing charges from Rs. 388.37 Crore to Rs. 1,434.76 Crore (an increase of about 269%). The Petitioner has also quoted Para 7.4 of judgment rendered by Hon'ble APTEL in P. No. 72 of 2011 laying down the criteria for aspect of who should bear the additional cost due to time overrun and how the Liquidated Damages recovered from contractors should be used to offset such increase in cost.

Petitioner's Response:

Does not merit any reply

Comment:

30. The petitioner under para 11, claimed the Additional Capitalisation and funding under Regulations 2014. It is respectfully submitted that the present petition is not governed by Regulations 2014. In fact, the petition is governed by MPERC (Terms& Conditions for determination of Generation Tariff) Regulations, 2015. It is therefore requested that Additional Capitalisation claimed by the petitioner may kindly be considered strictly in accordance with the MPERC Regulations 2015.

Petitioner's Response:

The Petitioner respectfully submits that it has inadvertently referred to Regulation 2014, however, the Petitioner has claimed additional capital expenditure as per MPERC Tariff Regulations 2015

Comment:

31. **As already clarified in foregoing paras, it is evident that the delay (time overrun) in achieving COD is not attributable to the Respondent No. 1, on the contrary it is entirely attributable to the Petitioner. Therefore, in view of the above referred judgment, the additional cost (including increase in IDC/ IEDC/ Financing Charges) shall be borne by the Petitioner**

Petitioner's Response:

The Petitioner for reasons submitted above, would like to submit that as per PPA the responsibility to ensure the evacuation system lies with Respondent and JPL cannot be held responsible for the delay as it was beyond the control of the Petitioner and therefore the Petitioner humbly prays to allow all cost associated with the delay.

Comment:

32. **In Sub-para (e) of Para 14.3, the Petitioner has discussed its claim of Operation and Maintenance Expenses towards Dedicated Transmission Facility to the tune of Rs 0.56 Crore for FY 2016-17, Rs. 0.63 Crore for FY 2017-18 and Rs. 2018-19 for FY 2018-19.**

This Hon'ble Commission has dealt with the issue of O & M expenses of Dedicated Transmission Line in Para 90 to 92 of the Order Dated 21.06.2017 passed in Petition No. 62 of 2016 seeking True-up of Generation Tariff of 2 x 250 MW (Phase-I) Bina Thermal Station of Jaiprakash Power Ventures Ltd. The relevant portion of the said Order is quoted below :

"90. By affidavit dated 25th April' 2017, the petitioner submitted the response on its claim towards the O&M expenses for transmission Line claimed in the petition.

91. The petitioner had first time claimed O&M expenses of transmission line in true-up petition for FY 2014-15. The Commission vide order dated 3rd June, 2016 disallowed the aforesaid O&M expenses of transmission line with the following observation :

"94. It is evident from the above submission of the petitioner that the Transmission line in the subject petition is a dedicated line and its cost has been appropriately included in the capital cost of the 2x250 MW (Phase-I) of

petitioner's power plant while determining its final tariff vide Commission's order dated 26.11.2014. Further, the petitioner had never claimed the operation and maintenance (O&M) expenses for the said dedicated transmission line in its any of the petitions filed for determination of provisional tariff of each generating unit and also the final tariff of the petitioner's power plant. For the first time in the subject true-up petition, the O&M expenses of dedicated transmission line is claimed by the petitioner.

95. The status of the aforesaid dedicated transmission line has already been dealt with in para 27 to 30 of the Commission's first order dated 12th December'2012 in Petition No. 40 of 2012. Further, the remaining issue has been dealt within relevant paras of Commission's order dated 26.11.2014.

96. The extract of the above-mentioned paragraphs of Commission's order is that the dedicated transmission lines is neither a transmission line in terms of subsection(72) of Section 2 of the Electricity Act' 2003 nor it is a distribution system connecting the point of a connection to the installation of consumer in terms of sub-section (19) of Section 2 of the Act. The O&M expenses of a transmission line are part of the Annual Fixed Cost of the line of a transmission licensee whereas, the petitioner is not a transmission licensee. The cost of dedicated line has been considered in the capital cost of the petitioner's power plant and the tariff of the said power plant has been determined in terms of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations' 2012 which does not provide for any O&M expenses of dedicated transmission line separately."

92. In view of the aforesaid and the approach of the Commission in last true-up order, the claim of petitioner for O&M expenses of dedicated transmission line has no merit hence not considered in this order."

[Emphasis Added]

The same ratio will apply to the present case also. It is therefore most humbly prayed that the Hon'ble Commission may graciously be pleased to reject the claim of the Petitioner in respect of O & M expenses in respect of the Dedicated Transmission Line.

Petitioner's Response:

The Petitioner respectfully submits that this Hon'ble Commission whilst rejecting the Petitioner's claim regarding the O&M expenses relating to transmission line and bay has failed to consider that as per the terms and conditions of the PPAs entered into with Madhya Pradesh Power Management Company Limited (MPPMCL), it is the procurer's liability / responsibility to ensure the evacuation of power from the bus bar of the Project.

To this extent, relevant extracts of the PPA have been reproduced below for ease of reference:

“Delivery Point shall mean the ex-bus point of the power station at the power station switch yard... Satisfaction of Conditions subsequent by the Procurer....

- i) The Procurer shall have obtained open access and/ or connectivity for evacuation of the Scheduled Energy from the delivery Point at least 60 (sixty) days prior to the commissioning of the first Unit*
- ii) The Procurer shall have established the necessary evacuation infrastructure beyond the delivery point required for evacuation of the Scheduled Energy at least 210 days prior to the commissioning of the first Unit....*

The Petitioner submits that even though the responsibility to ensure the evacuation infrastructure was part of MPPMCL’s obligation, the same was carried out by the Petitioner after the Order of the Hon’ble Commission in Petition No. 7, 8,9,10 and 12 of 2012, therefore forms part of the Project and Petitioner would be entitled to recover the O&M cost for the dedicated transmission line.

It is pertinent to note that the transmission line set up by the Petitioner is clearly covered by Section 2(72) of the Electricity Act, 2003. It accomplishes the function of a dedicated transmission line by carrying power from the source of generation to Jabalpur pooling Station. Therefore, the Petitioner is entitled to the capital cost of the transmission line so erected in addition to the O&M costs associated with the said transmission line as the same is owned, operated and maintained by the Petitioner.

It is respectfully submitted that in case the O&M costs of the dedicated transmission line is not allowed, this will result in MPPMCL enjoying a benefit / advantage at the cost of the Petitioner which will gravely prejudice the Petitioner financially. The two glaring facts - one that the Hon’ble Commission has allowed inclusion of the expenditure incurred for setting up the transmission line in the Capital Cost and the other that the energy accounting for billing purposes has been taken as the Jabalpur New Pooling Station, conclusively establish that “Ex-Bus” as defined in the PPA is the CTU connection point, located at the bays of the Jabalpur NPS. Therefore, all facilities up to this ex-bus point is part of the generating plant and therefore maintenance expenses incurred for upkeep of the transmission line is justifiably due to the petitioner. The Petitioner performed an action beneficial to MPPMCL under the PPA and is entitled to be compensated for the costs and time associated for undertaking the same. Therefore, it is requested that if the Learned Commission disallow the O&M costs of the dedicated transmission line to the Petitioner the same would result in a significant drop in the Return on Equity allowed in the tariff of the Petitioner and the Project would not be commercially viable. It is submitted that this Hon’ble Commission may kindly appreciate that that dedicated transmission line

essentially carries out the functions of a transmission line and therefore should be entitled to O&M expenses at par with what is prescribed for other transmission lines, especially in view of the fact that the line was originally planned to be developed by the MPPMCL.

It is respectfully submitted that the Electricity Act, the National Electricity Policy and the Tariff Policy require that consumer interest is protected while ensuring financial viability and growth of the power sector. It is submitted that the twin objectives of financial viability/sustainability and consumer interest are the cornerstone of the electricity sector.

Further, the Electricity [Removal of Difficulty] (fifth) Order, 2005 clearly provides that a generating company shall not be required to obtain license under the Electricity Act, 2003 for establishing, operating or maintaining a dedicated transmission line. Section 10 of the Electricity Act 2003 mandates the Generating Company to establish, operate and maintain the Dedicated Transmission Lines. Therefore, any cost incurred with regards to such activity must be adequately recovered so that the Generator can effectively run its business of power generation. This is primarily based on the rationale that the dedicated transmission line built by the generating company forms part of transmission line. The Hon'ble Tribunal in its Judgment dated 23.05.2012 in Appeal No. 145 of 2011 titled Tamil Nadu Electricity Board and Ors v. M/s IndBharath Thermal Power Ltd and Ors. has held as below:

“14.....On the contrary, Section 10 of the 2003 Act mandates that generating company shall establish, operate and maintain the dedicated transmission lines connected therewith in accordance with the provisions of this Act. Thus, the Section 10 of the 2003 Act becomes mandatory by which the generating company is mandated to construct its own dedicated transmission lines which connect the substation of the Appellant”.

In view of the aforementioned it is submitted that this Hon'ble Commission may kindly allow the recovery of O&M expenses relating to the transmission lines and bay.

Comment:

- 33. In Sub-para (a) of Para15, the Petitioner, invoking Regulation 54 (Power to Relax) of Tariff Regulations, has requested for relaxing Station Heat Rate citing certain difficulties and allowing SHR of 2,618.53 kCal/kWh. It is to submit that in P.No. 16 of 2016, Hon'ble Commission had approved SHR of 2,337.32 kCal/kWh for the Project. Therefore, it is most humbly submitted that the same SHR may kindly be maintained. It is a well settled principle that once Regulations are notified, they are binding and may not be relaxed on slightest pretext. Operational Norms are part of Tariff Regulations 2015, therefore are binding on all the entities.**

34. In Sub-para (b) of Para 15, the Petitioner has stated that pursuant to low PLF, the auxiliary consumption is 10.22% besides requesting to relax performance parameters for FY 2016-17. As prayed earlier, the norms being binding, may not be relaxed on slightest pretext. Further, the Petitioner has also sought to invoke Regulation 55 of Tariff Regulations 2015 (Power to Remove Difficulties) for treatment of Transmission Line losses in the Dedicated Network. Regarding this issue, it is respectfully submitted that, on the basis of the reasoning given in judgment Dated 21.06.2017 passed in Petition No. 62 of 2016 by this Hon'ble Commission, the "losses" occurring in the Dedicated Transmission Line cannot be allowed. Also Regulation 55 of Tariff Regulations 2015 (Power to Remove Difficulties) cannot be applicable for claiming something which is not specifically provided in the Tariff Regulations.
35. In Table 40, for FY 2016-17, the Petitioner has considered PLF of 4.42% and Auxiliary Energy Consumption of 10.22% leading to very high Energy Charges (Variable Charges). It is humbly prayed that the Hon'ble Commission may not permit any deviation from the normative parameters given in Tariff Regulations, while calculating Energy Charges (Variable Charges).

That, at this stage this Respondent has made above observations on the basis of documents/ information made available by the Petitioner. The Respondent craves liberty to amend, alter and add to the points or make further submissions as may be required at a later stage. The Respondent also seeks liberty to cite Case Laws or respond to the Case Laws referred/ quoted by the Petitioner at appropriate stage.

Petitioner's Response:

The Petitioner has sought relaxation of norms for the reason that major deviation in SHR and auxiliary consumption had been caused due to low quantum of power scheduled by the Respondent. The overall PLF had been barely ~5% in the FY 2016-17. Despite being available, the unit remained under reserve shut down for a significant duration in FY 2016-17. The actual Station Heat Rate turns out to be 2618.53 kCal/kWh for FY 2016-17. This in turn affected the Auxiliary Energy Consumption (approx. 10.22%) due to lower PLF.

With regard to transmission losses incurred in the dedicated transmission line, it is submitted that in case the length of the dedicated network were constructed by CTU/STU, the power would have been scheduled at the Delivery point in the power station and the procurer would have absorbed the transmission losses as per applicable regulations. However, the energy accounting for billing purposes has been taken as the Jabalpur New Pooling Station, conclusively establish that "Ex-Bus" as defined in the PPA is the CTU connection point, located at the bays of the Jabalpur NPS. Therefore, all facilities up to this ex-bus point is part of the generating plant. Presently, The losses in dedicated

transmission network are not getting accounted as the tariff is determined only as per normative auxiliary consumption in the power station. The same is causing significant financial impact on the Petitioner.

The Petitioner is therefore facing difficulty regarding the treatment of such line losses and the manner in which the same can be reflected in the tariff. The Petitioner has provided the detailed justification in para 15 of the filed Petition and accordingly prays to allow the same separately.

Annexure III

Stakeholder comments on the petition and petitioner's reply on all such comments

Comment:

1. This public notice no. MPERC/D (T) 2018/1461 dated 4/10/2018 was published in newspaper on 12/10/2018 or afterwards. This notice gives time up to 2/11/2018, from public side to submit objections to become eligible to be heard in public hearing scheduled on 30/10/2018.

- It can be said that the act mentioned above is against public interest.
- There seems some problem in the system of MPERC Bhopal conducting public hearing because public response is negligible /nil and orders are being passed without participation of public. The second public hearing is also not ordered.

Petitioner's Response

The contents of para 1 are related to Regulatory Proceedings and calls for no reply from Petitioner.

Comment:

2. Hon'ble Commission derives its power from Electricity Act 2003 regarding fixing of tariff order section 62 and hence, it's necessary for Hon'ble Commission to satisfy itself regarding its jurisdiction first, an MOU , Implementation Agreement and illegal PPA, signed between Govt. of M.P. and private parties, can not direct Hon'ble Commission to fix the tariff of those power plants under section 62 of Electricity Act 2003.

Petitioner's Response

It is submitted that under the Electricity Act, 2003 there are only two methodologies through which tariff can be determined viz. under Section 62 i.e. by determination of tariff by the appropriate commission and under Section 63 by adoption of a tariff discovered through bidding process.

It is also submitted that the Objector in guise of his above-mentioned contention is challenging the validity of the PPA approved by the State Commission. It is most respectfully submitted that the State Commission under the power conferred upon it by Section 86 (1)(b) of the Act has approved the PPA dated 05.01.2011 vide its Order dated 07.09.2012.

Comment:

3. With the filing of petition no 28/2018, all previous orders passed by Hon'ble Commission Section 151 of code of Civil Procedure 1908 also states as follows: *Saving of Inherent powers of Court – Nothing in this code shall be deemed to limit or otherwise affect the inherent power of the court to make such orders as may be necessary for the needs of justice or to prevent abuse of the process of the court.* Hence, we are not agreed with the petitioner, that all these previous orders have assumed finality.

There are several cases in which the decision taken by Govts. Regulatory Commissions, Appellate tribunals etc have been declared null and void even after lapse of sufficient time. Hon'ble CERC, New Delhi after the 18/SM/2015. Various orders were passed by Hon'ble CERC, New Delhi after the year 2012 & 2013. Various orders were passed by Hon'ble CERC, New Delhi after the year 2012 regarding CGPL Mundra and all the orders will be affected by this SMP NO. 18/2015 in which Shri, MC Bansal is advising Hon'ble CERC, New Delhi.

Hon'ble Supreme Court also declared null and void order dated 8/12/2016 regarding COD declared by Sasan Power ltd on dated 31/3/2013.

Petitioner's Response

It is submitted that the Objector in guise of his above-mentioned contention is challenging the orders approved by the Hon'ble State Commission. It is most respectfully submitted that the State Commission under the power conferred upon it by Section 62 and 63 of the Act has approved various order on the subject case

Comment:

4. Govt of M.P., formed the Industrial Policy and passed it on dated 5/12/2006 by cabinet to put up thermal power generating plant as industries. This policy was framed knowing fully well the directives issued by MoP, New Delhi, in the Gazette notification dated 6th Jan 2006 which does not allow to sign any MOU by procurer under Electricity Act 2003. This cabinet decision dated 5/12/2016, to sign MOUs was brought with criminal intent in mind and to collaborate with certain industrialists to give them benefit against public interest.

Petitioner's Response:

Contents of paras 3 are denied and disputed, to the extent the same does not relate to the matter of the record

5. There was no long term power requirement in M.P. in the year 2006 and Electricity Act 2003 does not allow any action on the part of procurer to carry out any activity to procure long term power, without any requirement of long term power. Hence, all the MOUs signed in compliance of Govt of M.P. policy dated 5/12/2006 are violative of Electricity Act 2003 and direction issued by MoP, New

Delhi vide Gazetted notification dated 6th January 2006 . Hence, all the actions taken including signing of MOUs and after that, are violative of Electricity Act 2003 and against public interest.

6. Procurers never utilise their right to purchase any power through open tenders under Section 63, after the year 2006, as mandated by MoP, New Delhi under electricity act 2003. This, itself indicates that there was no long term power procurement in M.P.

7. The power purchase agreement signed is illegal because the plants were installed on the basis of MoUs and implementation agreement signed and not under Electricity Act 2003. There was no requirement of purchase of long term power from the year 2006 onwards. The misuse of process of law, causing public loss by involving Hon'ble Commission cannot be allowed. The public of MP is suffering due to surplus power and paying huge amount towards increase in power tariffs.

Petitioner's Response

The issues raised are not related to the issued publication dated 9th October 2018 regarding Tariff Petition filed by the Petitioner for determination of Final Tariff.

Comment:

8. We submit before Hon'ble Commission that several power developers did not proceeded further after signing the MOUs and getting all favours including letters to claim coal blocks from Govt of India. The following may be quoted:

Reliance Power Ltd. refused to sign PPA to supply any power from Chitrangi Project after signing MOU. Reliance Power Ltd was successful in getting coal diverted from Sasan power Ltd to Chitrangi on the basis of this MOU. CBI investigation is in process in the matter on complaint of Shri MC Bansal.

Essar power refused to sign PPA to supply 30%, non concessional power to Govt of MP and commissioned the plant. Essar power was successful to retain Mahan coal block and get environmental clearance due to this MOU. CBI Investigation is in process in the matter on complaint of Shri MC Bansal.

This petitioner, itself has explained in para 5 of the petition that there was demand and supply gap when MOU was signed, which is totally false and there is no supporting document to prove it. However, dropping the setting up the second phase by petitioner indicates that MP is surplus state. This also establishes that signing of PPA for first phase was illegal, because MP was power surplus state on long term basis.

9. We once again emphasis that all power developers including petitioner coming through MOU route, that Hon'ble APTEL order dated 06th May' 2010 against

OA No. 44/2010 is binding on the all power developers, including petitioner. The order clearly states vide para no 61 of order, as follows:

“the state govt has retained the option to take the power under the MOU. If the rate to be worked out as proposal rate in MOU is cheaper than Rs. 2.45/Kwh and if it is costlier, there is an option provided not to take power. The above decision has been taken in the interest of State.

10. Hon’ble Commisison was fully aware that of this order and must have ensured the compliance of this order in all the PPAs signed on the basis of MOUs while passing any order after 6th May’ 2010.

We shall submit before Hon;ble Commission to decide following issues before proceeding to be carried out on this petition:

11. Hon’ble Commission doesn’t not have jurisdiction to decide the tariff under Section 62 of Electricity Act 2003, of various petitions filed by this petitioner.
12. The policy decided by cabinet, Govt of MP on dated 5/12/2006 was in violation of Electricity Act 2003 and was meant to give due benefit to selected industrialists including petitioner.
13. All the MOUs signed in compliance of GOVT of MP policy dated 5/12/2006 are violative of Electricity Act 2003.
14. IA Agreement signed are violative of Electricity Act 2003.
15. Hon’ble APTEL order has been violated intentionally.
16. No document are on record which shows that there was long term requirement of power which necessitates, need to signing the MOU, IA and PPA.
17. Signing of MOU, IA and PPA were against public interest and prevalent law including Electricity Act 2003.

Petitioner’s Response:

The issues raised are not related to issued publication dated 9th October 2018 regarding Tariff Petition filed by the Petitioner for determination of Final Tariff.

We wish to submit before Hon’ble Commission certain facts as available with us. These facts are also applicable to all earlier order passed by Hon’ble Commission in such type of cases and in relation to this petitioner also. Our submission are as follows:

Comment:

18. The petitioner has claimed that it is a generating company within the meaning of Section 2 (28) of the Electricity Act 2003. We shall submit that petitioner company unit signed MOU with Govt of MP to put up this power plant as industry and Electricity Act 2003 is not applicable on it.

19. Government of M.P. after conducting the study of long term power requirement of power in the year 2005, decided that this requirement for M.P was less than 2000 MW. Hence, the tender was floated under section 63 of electricity Act 2003, in the year 2005 to purchase 2000 MW, on long term basis.
20. Government of India also planned Sasan Power Ltd.(UMPP) in the year 2006 and M.P. was to get nearly 1500 MW power allocation from this plant. Hence long term power requirement of state reduced to only 500 MW, in the beginning of 2006 against which the tender to purchase 2000 MW was already in process.
21. Govt. of M.P., knowing fully well in the year 2006, that there is no long term power requirement in M.P. and not allowed to purchase any power under section 62 of electricity act 2003, as per directive issued by MoP in the year 2006.
22. Govt. of M.P, formed the industrial policy and passed it on dated 5/12/2006, to put up power generating plant as industries and nominated agency of Govt. Of M.P., was entitled to get minimum 5% power at concessional rate (only variable charges). Under this pretext, cheap land, allocation of water etc was to be done. The projects were being installed as industrial project. This whole exercise later provided to be the part of the coal scam, which CBI is investigating.
23. Govt. of M.P., signing the MOUs with these companies including petitioner, made them eligible illegally to apply for coal block and get subsidized coal from Coal India and hence maximizing their profit by getting cheap coal.
24. Financial Institutions were not willing to provide the loan to these companies due to risk and hence Govt. of M.P. inserted the clause in MOU & later in IA, which states as follows:
GoMP or its nominated agency has the first right to purchase power from the project, up to 30% of the installed capacity over a period of 20 years at a tariff to be determined by the Hon'ble Commission.

These companies show this clause to financial institutions and get the loan sanctioned. The cost of project was shown as nearly Rs. 4.50 Crores per MW and tariff was shown as Rs. 2.45 per Unit, on which it was said that project was viable. Once, the loan was sanctioned, the cost of project was increased by nearly 50% by almost all the companies including petitioner.

25. We are agreed that pursuant to terms of MOU and IA, the petitioner set up this project as industry and not under Electricity Act 2003. The petitioner was also not interested to supply the power under Electricity Act 2003 from this power plant and hence did not sign the PPA early and signed the IA only which was in violation of MoP notification DATED 6TH January 2006. The IA and Hon'ble APTEL order dated 6th May' 2010 clearly define the power supply to be made to the procurers. There was no long term power requirement in MP and all the

power, if purchased from these plants by Govt OF MP at the rates lower than Rs 2.45 per unit, were to become surplus power and were to be sold outside MP.

In the year 2010 onwards petitioner and respondent No 1 ended in to conspiracy against public interest. They signed PPA even when it was illegal. IA was in existent and this PPA was signed in to bring petitioner this power plant under Electricity Act 2003. This PPA signed to supply 30% of installed capacity of the project to the Respondent no 1 is illegal.

There was no need to sign PPA because power supply was already the part of MOU and IA.

26. Govt. of M.P. decided to put this highly polluting coal based thermal power plants as industry. It can be seen that these industries decided to burn low calorie coal including Petitioner, to produce power and hence will cause more pollution and generation of ash.
27. The use of low calorie coal added to requirement of more water because quantity of coal to generate per unit was more. The only concerns of these industries were to earn maximum profit at the cost of environment hazards created by them.
28. These industries were to export power, while the environmental hazards were to be borne by public of M.P.
29. The environment damage was to be caused as follows:
 - i) Burning of additional, huge quantity of coal due to these thermal power industries of 41775 MW.
 - ii) Adding of additional, huge quantity of CO₂ in atmosphere of M.P.
 - iii) Generation of additional huge quantity of fly ash due to burning of this additional coal.
 - iv) Requirement of additional, huge quantity of water to run these power plants causing shortage of water for irrigation & drinking purpose.
 - v) Additional huge no. of tree plantation was required to absorb this release of CO₂ in atmosphere.
- 30) We are giving following example regarding environmental disaster due to surplus power:
 - a) Govt. of M.P. exported 14910 MU in FY 2017-18, due to surplus power which burnt nearly 119.28 lacs tonnes coal in the year FY 2017-18, itself. This is going to increase exponentially in coming years with the addition of the petitioner plant and others to supply power. The burning of this coal caused huge smoke and ash, without supplying even single unit of this power generated to the public of M.P.

b) The burning of coal to generate surplus power of 14910 MU, generated & exported in FY 2017-18 from M.P. requires the planting of 201.14 Crore additional trees, in the state. These surplus units are sold, outside M.P. While the public of M.P. bears the coal smoke, ashes and other environmental hazards.

31) We wish to submit that this policy of Govt. of M.P. to promote the coal based thermal power plants in the state as industry was against public interest. The parties, who sign the MOU with Govt. of M.P. regarding these power plants as industry, assured that the cost of power will be lesser than Rs. 2.45 per kwh and cost of project will be near to Rs. 4.60 Crore/MW. Govt. of M.P. signed the MOU for total 41775 MW at the cost of Rs. 191888 Crores. This Cost of Power to be generated was stated to be comparable with rate of Rs. 2.45 per/kwh, obtained during the bidding carried out under section 63 of Electricity Act 2003, for 2000 MW at the time of signing of these MOUs. MOU also specifies that Govt or their nominated agency do not guarantee purchase of power from the Petitioner company and same stand was taken by gov. of M.P. before Hon'ble APLTEL as shown in para 60 of order dated 06th May' 2010 against OA No. 44 of 2010..

32) There was sudden change in the scenario of requirement of power in Indian and the companies putting these Thermal Power Stations as industry, became non competitive because fall in rated of power and much lesser requirement of power, outside M.P.

Petitioner's Response:

The Contentions raised by the objector at best is the outcome of irrational conclusions drawn and are factually incorrect and therefore denied.

33) We shall further submit as follows:-

- a) There is, power surplus in M.P. from last several years. The power available from these companies including petitioner will increase the surplus power only and state of M.P. will remain surplus power for long period.
- b) The tariff order passed for FY 2017-18 shows the power surplus at 26,369.00 MU. Out of this, 14910 MU were generated and sold outside M.P. while creating environment hazards in M.P. The back down charges was paid for remaining units which were not generated.
- c) The solar RPO will increase in coming years. This will create further surplus thermal power.
- d) These companies including Petitioner Company are receiving back down charges.

These back down charges have been paid without verifying following facts:

- i) **Grid Connectivity can't be allowed for thermal plants, operating at less than 55% of name plate capacity while in this case the back down charges were paid for not availing 30% capacity.**
- ii) **It was necessary that petitioner plants individually were operating at 55% of name plate capacity for the period for which back down charges were claimed and there must be sufficient coal to generate 85% of name plate capacity.**

- g) **The supply cost per unit will be near to 4.00 per unit while surplus units are sold @ Rs. 2.60 per unit. This difference cost will be paid by public of M.P.**
- h) **This plant will cause loss to public of M.P. for its entire life.**

34) The cost of project was much lesser per MW as per MOU of this petitioner. However, this has increased to much higher now, and burden of increase of this cost is to be borne by public of M.P. This is against public interest.

Petitioner's Response:

The Contentions raised by the objector corresponds to the Respondents and demands no reply from the Petitioner.

Comment:

35) There is no CAG audit of capital cost carries out by petitioner while its impact is being paid by public of M.P. Hon'ble Commission is fully empowered to order the CAG audit regarding capital cost incurred.

Petitioner's Response:

It is submitted that CAG Audit is not mandatory for Private IPP's. The Petitioner further submits the "Guidance Note on Direct Access to Private Sector Records for Audit by CAG- Protocol" which defines the scope of examination of Private Sector Records states as under;

"Scope of examination of private sector records

The scope and the extent of examination of private sector records needs to be clearly understood and mentioned in the justification proposal to the controlling DAI/ADAI. Following factors are crucial for determination of the scope of examination:

- *The access to private sector audit records and the audit of such records should be limited to compliance audit to ensure that the terms and conditions of the agreement/ contract in question have been complied with. A financial audit or the performance audit of the private sector organization is not to be undertaken.*
- *In case performance audits of public sector audited entities, there may be a need to access the records of private sector partners. However, even in such cases, the audit*

of private sector records would be restricted to checking of compliance with the agreed terms and conditions of the agreement/ contract.

- Only those underlying records are to be examined which are essential to provide assurance for the above; request for access to be restricted to such documents only.*
- The scope should clearly indicate the time period to be covered and the records to be accessed; audit should not be open ended.”*

From the above it is to be noted that CAG Audit for the private sector organization is not to be under taken

Comments

- 36) The arrangement of surplus power by signing illegal PPAs and then paying back down charges and selling surplus power at throw away prices is criminally against public of M.P.**
- 37) Indian Railway and seven H.T. Consumers are not availing power while carrying out their operation in M.P. due to high tariff resulted due to surplus power. It has resulted in the more surplus power and increase tariff for general public to unbearable extent.**
- 38) M.P. Genco spent more than Rs. 15000.00 Crore to increase generation capacity in last 15 years. But due to surplus power no increase in power generation in units was achieved despite troubling the installed capacity. Hence, these Rs. 15000.00 Crore along with interest has gone waste. The liability arising due to this is being recovered from public, by way of increase in power tariff.**
- 39) MPPMCL, Jabalpur as Petitioner and others against Petition No. 3/2018 before Hon'ble Commission have submitted in various paras under revenue at current % proposed tariffs. Our submission is as follows:**
- 1.1. MPPMCL, Jabalpur is trying to surrender its share in NTPC Mouda Stage I, ATPS Chachai-Ph 1 & Ph-2, NTPC Gandhar. The letter no. 1023 dated 16th August' 2016, addressed to Ministry of Power regarding surrender offer for 4023 MW and all is thermal Power. This surrender is being offered to reduce financial burden on state.**
- 1.2. The petitioner has shown the importance of competitive tariff for industries to retain them. This shows that tariff in M.P. are very high and the industry and railway has option not to avail this costly power.. However, the domestic consumers have no option but to avail the costly power.**

- 1.3. **The petitioner says that it would not be possible for the DISCOMs to maintain its operational viability without increasing its sale. Petitioner is selling surplus power, 12576 MU in FY 2017-18 @ Rs. 2.60 per kwh.**

Petitioner's Response

Contents of above paras are denied and disputed, to the extent the same pertains to Respondent No.1 and does not demands reply from the Petitioner

Comment:

- 40) **Hon'ble Commission Allowed the CoD of this project. Our submission is that Hon'ble Commission may kindly call all the papers related to commissioning of these units on the basis of which COD was declared. The CERC has also called the relevant papers (para 5 of order dated 30/12/2015 in petition no. 18/SM/2015.) and Tata Power has submitted all the papers as directed by Hon'ble CERC. This SMP has taken after several years of approval OF COD, in case of CGPL, Mundra.**
- 41) **Recently, it is found that COD declared and accepted by procurers were manipulated and cancelled even by Hon'ble Supreme court in case of Sasan power Ltd., Hon'ble CERC, New Delhi in case of NTPC and issue regarding CGPL Mundra is under consideration of Hon'ble CERC, New Delhi.**
- 42) **There are clear directions issued by Ministry of Power for Carrying out COD and applicable on thermal power station (other than UMPP) and hence all the companies including this petitioner has to ensure that COD is accepted only after the plant run on continuously for 72 hours at 95% of contracted capacity (name plate capacity) during commissioning test.**
- 43) **It is claimed that COD was delayed. The delay in COD has increased the cost of project and the same is being passed out to the public consumers. This is against public interest.**

Petitioner's response:

The issues raised are not related to the issued publication dated 9th October 2018 regarding Tariff Petition filed by the Petitioner for determination of Final Tariff.

Comment:

- 44) **India's Comptroller and Auditor General(CAG) published notice in Energy reports part 2 Volume no 34/2017 in para 2.1.11 where it is mentioned that the promoters of M/s Jhabua Power Limited are not experienced enough to set up such a large project with the help of whom this 600 MW capacity power station is being set up. On 7.03.2018 ,Indian parliament Report published a 37th**

volume parliamentary standing committee report where it is mentioned that Jhabua power station is included in these 34 projects which have been included under the category of stressed assets or non performing assets. It is also noticed that the petitioner has not explained any debt portfolio with the repayment schedule in the petition.

- 45) In the newspaper written articles of the month February 2017 that M/s Jhabua Power Limited made some gaming plan to the M.P. governments Department Of Commerce for the payable admission fee due to which there was a fine of Rs 1.2 Crore imposed on the company by the MP Govt , Department of Commerce which imposes a big question mark on the credibility of the company.
- 46) It is being heard from one of the promoters of Jhabua Power that due to failure of debt payments, it is in planning to sell whole project through lender Axis bank. And the highest quote bidding is the subject matter of motion.

Petitioner's Response

The issue raised is not relevant to the current petition filed by the Petitioner and hence does not merit reply.

Comment:

- 47) The petitioner through M/s Kodia Power Limited Registered office 6-B Express power Calcutta signed a PPA with the M.P. for 2X300 MW full capacity 600 MW power station which has a total project cost of Rs 2800 Crore which was being planned to set up in District Jhabua village of Madhya Pradesh being discussed in MoU with M.P government in Khajuraho dated 17/1/2007, for which Interlocutory Application dated 14.1.2008 was edited. Both agreements were being modified together on 14/1/2010. Both agreements were made up with the M.P. govt which clearly states that 30% of installed capacity charges would be decided by the Hon'ble Commission MPERC. It clearly states that it is a violation of the terms of the MOU and Implementation Agreement..

Petitioner's Response:

It is the contention of the Objector that according to Clause 12 of the Memorandum of Understanding (MOU), the Petitioner company has to supply 30% of its installed capacity of plant to the Government or its nominated agency at the rate to be approved by the Appropriate Electricity Regulatory Commission for which PPA has been executed by then M.P Power Trading Company on 5th January 2011. Further, clause 3.1 (i) and 3.1 (iii) of the Implementation Agreement is in line with the said provision of the MOU. However, the PPA dated 5th January 2011, approved by the State Commission at clause 10.1.1 states that the tariff for the contracted energy shall comprise only the variable charge/cost as "determined" by the State Commission.

That the above contention of the Objector is specifically denied for the following reasons:

(i) It is most respectfully submitted that the State Commission has the jurisdiction under Section 86 (1) (b) of the Act to regulate electricity purchase and procurement of the distribution licensees, including the price at which the electricity is to be procured from the generating companies and also to give approval to the PPA.

(ii) It is submitted that it is a settled position of law that all the previous understandings and agreements between the parties cease to exist once they enter into a mutually agreed concluded contract.

(iii) It is most respectfully submitted that a PPA is a legal contract entered between two parties, which defines all the commercial terms for sale of electricity between the parties. It is further submitted that the PPA having been approved by the State Commission has been elevated to a 'Statutory Contract' under Section 86 (1) (b) of the Act and has legal sanctity. It is further submitted that once the State Commission approves the PPA it becomes a legally binding document with respect to the rights and duties of the parties thereto.

(v) In view of the above submissions it is humbly submitted that a PPA is a mutually agreed, legally binding, Statutory Contract and stands on a much higher pedestal than a MOU and/or Implementation Agreement and hence the provisions of the MOU and the Implementation Agreement has not been violated in any way.

(vi) It is also pertinent to mention that the issue raised by the objector with regard to violation of the terms of the MOU and Implementation Agreement have no bearing on the present Tariff Petition. It is humbly submitted that the subject matter of these proceedings are the determination of Tariff for the Control Period FY 2016-17 -2018-19.

Comment:

48) It is mentioned in the petition that petitioner and MPPMCL signed a PPA on 05/01/2011 which states that 30% of the installed capacity charges will be decided by the Hon'ble Commission MPERC.

It is also seen that the petitioner has changed the tariff rate basis after the finalisation of PPA between the petitioner and MPPMCL which is not in the interest of MPPMCL as well as State Government.

It is also seen that the Petitioner entered into a long-term Power Purchase Agreement with Respondent No. 1 on 05.01.2011 which is completely doubtful because the signature of Shri Sanjay Mohase (Chief Engineer) of M.P. Paschim Chetra Vidyut Vitaran Company on the PPA has joined his services on 6/4/2011, the copy for easy reference is attached herewith.

Petitioner's Response

The above contention of the Objector is specifically denied for the following reasons: -

(i) It is humbly submitted that the Objector in guise of his above-mentioned contention is challenging the validity of the PPA approved by the State Commission. It is most respectfully submitted that the State Commission under the power conferred upon it by Section 86 (1)(b) of the Act has approved the PPA dated 05.01.2011 vide its Order dated 07.09.2012.

(iii) It is further submitted that the State Commission has approved PPA vide its Order dated 07-09-2012. It is a settled position of law that after passing an order the Court becomes *functus officio* and cannot reopen the matter. The Hon'ble Appellate Tribunal for Electricity in Appeal No. 57 of 2015 titled as "**Chhattisgarh State Power Distribution Company Limited Vs. Chhattisgarh State Electricity Regulatory Commission**" has also taken a similar view and held as under: -

"15. After passing the said orders, the State Commission has become functus officio. It could not have reopened the matter. The remedy of the Appellant lied elsewhere, which it did not choose to adopt. Appeal No.57 of 2015 is, therefore, not maintainable".

(Emphasis Added)

(iv) It is reiterated that the present Petition is filed for the limited purpose of determination of Tariff for the Control Period 2016 -2019 and hence the issue related to validity of the PPA being raised by the objector is completely irrelevant, as it has no bearing on the present Tariff petition.

Comment:

49) It is to be noted that according to Clause 8.4 of the MPERC (Terms and Condition for Determination of Generation Tariff) Regulations, 2015, the Petitioner should file its Petition for determination of tariff at the start of the control period. The petitioner was directed to submit its last petition by the Commission order dated 6Th September' 2016 but still the petitioner submitted its petition to the Commission after 2 years and petitioner has not even mentioned any details regarding the delay in filing the petition which is against the Commission's rules and regulations.

Petitioner's Response

It is the contention of the Objector that according to Clause 8.4 of the MPERC (Terms and Condition for Determination of Generation Tariff) Regulations, 2015, the Petitioner has to file its Petition for determination of tariff at the start of the control period. Here it is to be noted that the Petitioner has filed the petition (No. 16 of 2016) for approval of provisional tariff of Phase-1 (1 x 600 MW) under Section 62 read with 86 (1) (a) of the Electricity Act

2003 before Hon'ble Commission. The Hon'ble Commission invoking its powers as per Regulations 2 and 7 of the MPERC Tariff Regulations, 2015 passed an order on the aforesaid petition on 06.09.2016.

The Hon'ble Commission vide its order dated 06.09.2016 further directed the Petitioner to submit the petition for determination of final tariff at the earliest along with the Annual Audited Accounts and all other required details / documents ensuring compliance with the directives issued by the Commission in the order.

Thereafter, the Petitioner filed a Petition (No. 64 of 2017) for determination of final Tariff of 1 x 600 MW Coal Based Power Project for the period commencing from date of Commercial Operation (03.05.2016) till end of Control Period i.e. 31.03.2019. The Hon'ble Commission vide its Order dated 13.03.2018 directed the Petitioner to file fresh Petition with all requisite details and documents within 3 months i.e. by 13.06.2018. The Hon'ble Commission further stated that it may consider to adjust the processing fees already deposited by the petitioner on filing the fresh petition. Accordingly, the Petitioner has filed this Tariff Petition for determination of final Tariff for its 1x600 MW Thermal Power Station.

Comment:

50) In para 1.4 (1) of the petition it is mentioned that the petitioner has signed a PPA for the sale of 215 MW with the Kerala Electricity State Board under Case-1 Competitive bidding but the petitioner has not given any information regarding the detailed PPA. It is written in the PPA signed with MPPMCL that if the petitioner has tied any PPA through competitive bidding, the Commission can take decision of tariff determination on the basis of that PPA if it is in the interest of the consumers. It is a humble request from the Commission that kindly go through that PPA and then take the final decision for tariff determination.

Petitioner's Response:

The Objector has sought details of the long term PPA with KSEB which was secured through competitive bidding. The Petitioner in this regard would like to submit that the Petitioner in response to the query raised by the Hon'ble Commission has already submitted the tariff at which such long term PPA has been executed with KSEB.

The Objector has compared the cost of the Project with Shri Singaji TPP (SSTPP) for which the COD of unit 1 of SSTPP is 1st February, 2014, which is almost 28 months before the CoD of the Petitioner's Generating station i.e. (03rd May 2016). Considering the escalation of price due to inflation, and other uncontrollable reasons as stated in the Petition the Cost is bound to be higher. The Petitioner also like to submit that the hard cost achieved by the Petitioner's Generating station is well within the limits of the Benchmark norms as considered by the Hon'ble CERC. Further, single unit green field power plant

cannot be compared directly with multiunit power plants as the later enjoys the benefit of economies of scale.

The Petitioner to substantiate its case would also respectfully submits the detailed comparison of other projects for comparing the overall Capital Cost per MW of the similar Projects stated in the Table below:

S.No.	Name of the Plant	Company	Plant Size (MW)	BTG Make	Capital Cost (Rs Crore/MW)	COD
					Actual	
1	Korba West	CSPGCL	500*1	BHEL	7.39	2011
2	Koderma	DVC	500*2	BHEL	7.70	2014
3	Kalisindh	RVUN	600*2	Chinese	8.47	2015
4	Lalitpur	Lalitpur Power Genco (Bajaj)	660*3	BHEL	8.21	2015
5	Nigrie	Jai Prakash Ventures	660*2	L&T	7.63	2014

As can be inferred from above, the projects in the recent past have been commissioned at the cost of around Rs. 7-8.5 Crore per MW.

Comment:

51) It is requested from the Commission that if the petitioner has paid any custom duty/excise duty, then it should not be given in the capital cost as the petitioners project is not under mega power plant status.

There was no public hearing against Commissions provisional tariff order and there was no importance given to MPPMCL's protest. Moreover, interim rail transportation arrangement which was made to transport coal till power station has not been detailed anywhere in DPR nor PPA. Hence above provisional arrangement of transportation was completely notional, fictional and baseless.

Petitioner promised in June' 2016 that rail line till power station will be operationalized by January 2017 on the basis of which the Commission allowed the transportation of coal through partial road interim rail arrangement inspite of MPPMCL's strict opposition but the petitioner did not transported the coal from interim rail transportation arrangement due to which electricity generation was only upto 232 MU and plant load factor was only achieved upto 4.4%. This means that going against the Commission's order resulted only into recovering huge amount of fixed charges from the MPPMCL which ultimately put burden into consumers.

It is mentioned in the petition that rail line arrangement would be completed by March 2019 but the petitioner has not given any details about the financial system nor any planning of rail line arrangement. They have also not informed anything about the approval of Indian Railways for the work which will be completed by FY 2019 The petitioner is trying to astray the Commission.

It is a humble request from the Commission that it should question the affidavit dated 16.01.2017 signed by petitioner where it mentioned about the rail line which would reach till the power station by January 2017 and Commission should also disallow the road transportation charges till March 2019 that are being considered for the commercial generation.

Petitioner's Response

The Petitioner submits that though the cost incurred towards intermediate coal transportation arrangement was not in the original scope of work, the same needs to be done in order to ensure reliable coal supply and commercial generation. Presently, the Petitioner is not claiming the cost incurred by the petitioner for the last mile road transportation beyond 31st January 2017, since the Hon'ble Commission had allowed this cost to be billed till 31st January 2017, based on the estimation of the completion of the broad gauging works by Indian Railways. These infrastructure shall be used to receive the bridging coal quantities and maintain reliable power supply to the respondent. Accordingly, this cost may be allowed in the Capital cost. The Petitioner further submits that the Broad gauge conversion was completed by the Railways by March 2017. Work on the last mile connectivity is underway. It is submitted that in order to reduce the cost of road transportation and increase reliability of supply of coal, the petitioner put in the required efforts for obtaining approval to Binaiki as good shed from Indian Railways. Post this development, the distance of road transportation (from Garha siding) has significantly reduced from about 120 Kms (from Garha siding) to about 2.5 Kms (from Binaiki siding). Subsequently, the additional cost of transportation of coal by road has reduced drastically by around Rs 600 per MT - from the earlier Rs 750 per MT (approx.) to Rs 150 per MT (approx.).

At present balance work of approximate value of Rs. 38 Crore is still pending and remaining to be completed. Further, the Petitioner also submits that MPPMCL was scheduling the generating station of the Petitioner very sparingly. (In fact the station was scheduled for a paltry 3% in FY 2017-18) Suddenly, MPPMCL stopped all payments to the Petitioner from October, 2016 on the pretext that previous payments (May 2016 till September 2016) against fixed cost made to the petitioner, when the unit was off-bar, had to be first adjusted before processing any further payments. MPPMCL started scheduling the Petitioner for only 10MW for an hour everyday (Out of the 210 MW contracted capacity) to force the station to either remain ON-bar or forfeit the fixed cost. Since the Petitioner had no other PPA at that time (Long term / Medium term / Short term bilateral), it

had no other alternative but to resort to distress sale in the market, thus incurring heavy losses. The Petitioner has provided the detailed justification in para 13 of the filed Petition.

Further, it is to be submitted that the Petitioner has started the work, after getting the go ahead from lenders so as to complete the all remaining work by March 2019.. Hence, the Hon'ble Commission is requested to allow the road transportation charges till the completion of the remaining work by March 2019.

Comment:

- 52) The petitioner in its petition para no 40 has given the details of energy charges like plant load factor etc. But it is to be noted that the petitioner has not given any information about plant availability factor(PAF) which is necessary to determine fixed charges. This looks like some act from the petitioner's side. It is a humble request from the Commission that kindly go through the above mentioned facts and direct the petitioner to give satisfactory information over the same.**

Petitioner's Response:

The Petitioner has sought relaxation of norms for the reason that major deviation in SHR had been caused due to low quantum of power scheduled by the Respondent. The overall PLF had been barely ~5% in the FY 2016-17. Despite being available, the unit remained under reserve shut down for a significant duration in FY 2016-17. The actual Station Heat Rate turns out to be 2618.53 kCal/kWh for FY 2016-17. This in turn affected the Auxiliary Energy Consumption (approx. 10.22%) due to lower PLF. The Petitioner therefore requests the Hon'ble Commission to approve the performance parameters as requested by the Petitioner.