

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 123/2009 with IA. No.37/2009

Coram

- 1. Shri R.Krishnamoorthy, Member**
- 2. Shri.S.Jayaraman, Member**
- 3. Shri V.S. Verma, Member**

Date of hearing: 13.10.2009

Date of order: 11.1.2010

In the matter of

Approval of revision of fixed charges on account of additional capital expenditure incurred during the years 2007-08 and 2008-09 in respect of Ramagundam Super Thermal Power Station, Stage III (500 MW).

And in the matter of

NTPC Ltd, New Delhi
Vs

.....**Petitioner**

1. Transmission Corporation of Andhra Pradesh, Hyderabad
2. A.P. Eastern Power Distribution Company Ltd., Visakhapatnam
3. A.P. Southern Power Distribution Company Ltd., Tirupathi
4. A.P. Northern Power Distribution Company Ltd., Warangal
5. A.P Central Power Distribution Company Ltd., Hyderabad
6. Tamil Nadu Electricity Board, Chennai
7. Karnataka Power Transmission Corporation Ltd, Bangalore
8. Bangalore Electricity Supply Company Ltd., Bangalore
9. Mangalore Electricity Supply Company Ltd, Mangalore
10. Chamundeshwari Electricity Supply Corp. Ltd., Mysore
11. Gulbarga Electricity Supply Company Ltd., Gulbarga
12. Hubli Electric Supply Company Ltd, Hubli
13. Kerala State Electricity Board, Thiruvananthapuram
14. Electricity Department, Govt. of Puducherry, Puducherry

.....**Respondents**

The following were present

1. Shri V.K. Padha, NTPC
2. Shri A.K. Juneja, NTPC
3. Shri S.K. Mondal, NTPC
4. Shri S.Balaguru, TNEB
5. Shri R.Krishnaswami, TNEB

ORDER

The petitioner, NTPC, has made this application for approval of the revision of fixed charges in respect of Ramagundam Super Thermal Power Station, Stage III (500 MW) (hereinafter referred to as "the generating station") for the period 2004-09, after accounting for additional capital expenditure incurred during 2007-08 and 2008-09, based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 (hereinafter referred to as "the 2004 regulations"). The petitioner has made the following specific prayers:

(a) Approve the impact on fixed charges for 2004-09 (Annexure-I) for Ramagundam, Stage-III (500MW) due to:

(i) Revision of capital base for tariff from Rs.1313.56 Crores as on 25.03.2005 to Rs.1424.91 crore, based on judgment of Hon'ble ATE dated 10.12.2008 in Appeal No.152/2007 as brought out at para 5 & para 7 above.

(ii) inclusion of disallowed capital liabilities and IDC of Rs.314.52 Lacs and Rs.45.96 Lacs for the years 2005-06 and 2006-07, respectively in CERC order dated 24.11.2008 in PN.24/2008 into capital base for tariff for the years 2005-06 & 2006-07, respectively as per Hon'ble ATE Judgment brought out in para - 6 above.

(iii) additional capital expenditure incurred during 2007-08 & 2008-09.

(b) approve recovery of filing fee of this petition from respondents.

(c) allow reimbursement of Income Tax as per Tariff Regulations, 2004.

(d) pass any other order in this regard as the Hon'ble Commission may find appropriate in the circumstances pleaded above.

2. The generating station has a capacity of 500 MW. The date of commercial operation of the generating station was 25.3.2005. The Commission by its order dated 15.10.2007 in Petition No. 140/2005 determined the tariff for the generating station for the period 25.3.2005 to 31.3.2009. Subsequently, the Commission by order

dated 24.11.2008 in Petition No.24/2008 revised the annual fixed charges on account of additional capital expenditure during the years 2004-05, 2005-06 and 2006-07 after excluding un-discharged liabilities amounting to Rs.301.52 lakh and Rs.45.96 lakh during 2005-06 and 2006-07, respectively and reduction in IDC of Rs.13 lakh during 2005-06 on account of disallowance of FIFO method of repayment of loan. The capital cost approved by the Commission by order dated 24.11.2008 is as under:

(Rs in lakh)					
Particulars	25.3.2005 to 31.3.2005	2005-06	2006-07	2007-08	2008-09
Opening capital cost	131356.27	135469.51	148443.44	152390.81	152390.81
Liabilities discharged	4121.14	3353.16	1206.69	0.00	0.00
Additional capital expenditure	(-)7.9	9620.77	2740.69	0.00	0.00
Closing capital cost	135469.51	148443.44	152390.81	152390.81	152390.81
Average capital cost	133412.89	141956.47	150417.13	152390.81	152390.81

3. The annual fixed charges approved by the Commission by order dated 24.11.2008 is as under:

(Rs in lakh)					
Particulars	2004-05 (Pro-rata)	2005-06	2006-07	2007-08	2008-09
Interest on Loan	134	7058	6980	6340	5535
Interest on Working Capital	32	1625	1649	1666	1669
Depreciation	93	5151	5458	5530	5530
Advance Against Depreciation	81	1869	4074	4602	4879
Return on Equity	107	5962	6318	6400	6400
O & M Expenses	90	4865	5060	5260	5475
TOTAL	538	26530	29539	29798	29488

INTERLOCUTORY APPLICATION

4. The petitioner has filed interlocutory application (I.A No.37/2009) for

amendment of Annexure-I to the petition taking into account the revised calculations for fixed charges on the principles laid down in the tariff orders dated 22.9.2006 and 18.6.2008 of the Commission and the judgment dated 13.6.2007 of the Appellate Tribunal in Appeal Nos. 139 to142 etc of 2006 against the various tariff orders of the Commission for the period 2004-09 in respect of the generating stations of the petitioner.

5. The respondent No.6, TNEB has submitted that the prayer in the interlocutory application for amendment of Annexure-I of the petition based on revised calculations after taking into account the judgment dated 13.6.2007 of the Appellate Tribunal in Appeal Nos 139,140 etc of 2006 could not be permitted as it is against the interim order dated 10.12.2007 in Civil Appeal No. 5434 of 2007 pending before the Hon'ble Supreme Court. The respondent also submitted that the petitioner's claim for undischarged liabilities could not be considered by the Commission at this stage, since the Hon'ble Supreme Court had ordered notices on the stay and the appeal, in the Civil Appeal filed by it. In response, the representative of the petitioner submitted that the prayer in the interlocutory application should be allowed as the judgment of the Appellate Tribunal dated 13.6.2007 had not been stayed by the Hon'ble Supreme Court.

6. We now proceed to discuss as to whether the prayer of the petitioner for determination of tariff based on the revised calculations on the principles laid down in the judgments of the Appellate Tribunal dated 13.6.2007 in Appeal Nos. 139 to142 etc of 2006 can be considered.

7. The petitioner filed Appeal Nos. 139 to 142 etc of 2006 before the Appellate Tribunal challenging the various orders of the Commission determining tariff for its generating stations during the period 2004-09. The Appellate Tribunal by its judgment dated 13.6.2007 allowed the said appeals and remanded the matters for re-determination by the Commission. Against the said judgment the Commission has filed 20 appeals before the Hon'ble Supreme Court (in C.A. Nos. 5434/2007 to 5452/2007 and 5622/2007) on issues such as:

- (a) Consequences of refinancing of loan;
- (b) Treating of depreciation as deemed repayment of loan;
- (c) Cost of maintenance spares related to additional capitalization;
- (d) Depreciation availability up to 90% in the event of disincentive; and
- (e) Impact of de-capitalization of assets on cumulative repayment of loan

8. The Hon'ble Supreme Court on 26.11.2007 granted an interim order of stay of the operation of the order dated 13.6.2007 of the Appellate Tribunal. However, on 10.12.2007, the Hon'ble Supreme Court passed an interim order as under:

"Learned Solicitor General appearing on behalf of the National Thermal Power Corporation stated that pursuant to the remand order, following five issues shall not be pressed for fresh determination:

- (a) Consequences of refinancing of loan;*
- (b) Treating of depreciation as deemed repayment of loan;*
- (c) Cost of maintenance spares related to additional capitalization;*
- (d) Depreciation availability up to 90% in the event of disincentive; and*
- (e) Impact of de-capitalization of assets on cumulative repayment of loan*

The Commission may, however, proceed to determine other issues.

It is clarified that this order shall apply to other cases also.

In view of this, the interim order passed by the Court on 26th November, 2007, is vacated. The interlocutory applications are, accordingly, disposed of."

9. The petitioner in its application has submitted that it has been advised that the statement of the Solicitor General of India (SGI) before the Hon'ble Supreme

Court resulting in the interim order dated 10.12.2007 does not restrict it from claiming additional capitalization based on the principles laid down by the Appellate Tribunal in its judgment dated 13.6.2007 and that the effect of the statement of SGI was that it would not seek fresh determination pursuant to the remand order. The petitioner has also submitted that the Hon'ble Supreme Court has not stayed further proceedings before the Commission for determination of additional capitalization and even if it was construed as stay, the decision of the court (Appellate Tribunal) does not become *non est*.

10. The Hon'ble Supreme Court in its interim order dated 26.11.2007 had granted stay of the operation of the judgment dated 13.6.2007 of the Appellate Tribunal. In view of the undertaking given by the Solicitor General of India on behalf of the petitioner that "the five issues shall not be pressed for fresh determination", the Hon'ble Supreme Court vacated the interim order dated 26.11.2007 and directed that "the Commission may proceed to determine the other issues". It was clarified that "this order shall apply to other cases also". It is the contention of the petitioner that the undertaking before the Hon'ble Supreme Court does not restrict it from claiming additional capitalization based on the principle laid down by the Appellate Tribunal. In our view, the undertaking given by the petitioner before the Hon'ble Supreme Court that "the five issues shall not be pressed for fresh determination" is binding on the petitioner and the petitioner is estopped in law from seeking fresh determination of these issues. Moreover, the petitioner seems to create a distinction between the main tariff petition and the petition for additional capitalization by stating that while the undertaking is confined to the remand order

pertaining to the main petition, the additional capitalization can be considered as per the principles laid down by the Appellate Tribunal. Such an approach will lead to dichotomous situations wherein tariff for the main petition and petition for additional capitalization are determined on the basis of different principles. The tariff for the period 2004-09 is a complete package which needs to be determined on the same principle. From the point of view of regulatory uniformity and continuity and also in line with the spirit of the interim order of the Hon'ble Supreme Court, we are of the view that the implementation of the judgment of the Appellate Tribunal on the five issues should be deferred till the final disposal of the said Civil Appeals by the Hon'ble Supreme Court. Accordingly, tariff for additional capitalization is determined on the basis of the existing principles, subject to the final outcome of the Civil Appeals pending before the Supreme Court.

11. One more prayer of the petitioner in the application is for the revision of capital cost of the generating station considering the undischarged liabilities, in terms of the judgment of the Appellate Tribunal dated 10.12.2008 in Appeal Nos. 151 and 152 of 2007.

12. The Commission in some of the petitions filed by the petitioner (Rihand and Ramagundam generating stations) had revised the tariff for the period 2004-09 based on additional capital expenditure incurred, after deducting undischarged liabilities on the ground that "*the expenditure for the liability incurred for which payment was not made would not come under the category 'actual expenditure incurred'*". Against the orders, appeals were filed by the petitioner before the

Appellate Tribunal (Appeal No 151&152/2007) and the Appellate Tribunal by its judgment dated 10.12.2008 in the said appeals held as under:

"25. Accordingly, we allow both the appeals in part. We direct that the appellant be allowed to recover capital cost incurred including the portion of such cost which has been retained or has not yet been paid for. We also direct that in case the Commission attributes any loan taken at the corporate level to a particular project under construction and considers any repayment out of it before the date of commercial operation the sum deployed for such repayment would earn interest as pass through in tariff.

26. The Commission is directed to give effect to the directions given herein in the truing up exercise and consequent subsequent tariff orders."

13. Against the judgment of the Appellate Tribunal dated 10.12.2008 the Commission has filed Civil Appeal Nos. 4112-4113/2009 before the Hon'ble Supreme Court. The Civil Appeals are pending and there is no stay of the operation of the judgments of the Appellate Tribunal. Accordingly, it has been decided to revise the tariff of the generating station in terms of the directions contained in the judgment *ibid* subject to the final outcome of the appeals before the Supreme Court.

14. The Appellate Tribunal in its judgment dated 10.12.2008 had directed that the capital cost incurred in respect of the generating station including the portion of such cost which has been retained or has not been paid for shall be recovered in tariff. In other words, un-discharged liability in respect of works which have been executed but payments deferred for future date has to be capitalized. As regards IDC, if the loan amount has been repaid out of the internal resources before the date of commercial operation, such repayments would earn interest. The Commission has been directed by the Appellate Tribunal to give effect to the directions contained in the judgment in the truing up exercise and subsequent tariff

orders.

15. The directions of the Appellate Tribunal pertain to additional capitalization for the tariff period 2004-09 which has come to an end on 31.3.2009 and the exercise for implementation of the directions have been undertaken after the expiry of the said tariff period. Accordingly, tariff of the generating station is revised after considering the additional capital expenditure, capitalization of undischarged liabilities and IDC after truing up of the expenditure as on 31.3.2009. While truing up, the liabilities discharged, liabilities reversed on account of de-capitalization of assets during the tariff period have been accounted for.

16. The interlocutory application No. 37/2009 is disposed of as above. We proceed to consider the petition on merits.

17. The details of the additional capital expenditure for the period 2007-08 and 2008-09 claimed by the petitioner is as under:

(Rs. in lakh)			
Year	2007-08	2008-09	Total
Additional capital expenditure	2172	1562	3734

Additional Capitalization

18. Regulation 18 of the 2004 regulations provides for considering the additional capital expenditure for tariff as under:

"18. (1) The following capital expenditure within the original scope of work actually incurred after the date of commercial operation and up to the cut off date may be admitted by the Commission, subject to prudence check:

- (i) Deferred liabilities;*
- (ii) Works deferred for execution;*

- (iv) Procurement of initial capital spares in the original scope of work, subject to ceiling specified in regulation 17;
- (v) Liabilities to meet award of arbitration or for compliance of the order or decree of a court; and
- (v) On account of change in law.

Provided that original scope of work along with estimates of expenditure shall be submitted along with the application for provisional tariff.

Provided further that a list of the deferred liabilities and works deferred for execution shall be submitted along with the application for final tariff after the date of commercial operation of the generating station. .

(2) Subject to the provisions of clause (3) of this regulation, the capital expenditure of the following nature actually incurred after cut off date may be admitted by the commission, subject to prudence check:

- (i) Deferred liabilities relating to works/services with in the original scope of work;*
- (ii) Liabilities to meet award of arbitration or for compliance of the order or decree of a court;*
- (iii) On account of change in law;*
- (iv) Any additional works/services which have become necessary for efficient and successful operation of the generating station, but not included in the original project cost; and*
- (v) Deferred works relating to ash pond or ash handling system in the original scope of work.*

(3) Any expenditure on minor items/assets like normal tools and tackles, personal computers, furniture, air-conditioners, voltage stabilizers, refrigerators, fans, coolers, TV, washing machine, heat-convectors, carpets, mattresses etc. brought after the cut off date shall not be considered for additional capitalization for determination of tariff with effect from 1.4.2004.

(4) Impact of additional capitalization in tariff revision may be considered by the Commission twice in a tariff period, including revision of tariff after the cut-off date.

Note 2

Any expenditure on replacement of old assets shall be considered after writing off the gross value of the original assets from the original project cost, except such items as are listed in clause (3) of this regulation."

19. The year-wise details of additional capital expenditure claimed as per books of accounts are as under:

(Rs.in lakh)

	2007-08	2008-09	Total
Additional capitalization as per books of accounts, including capital expenditure (A)	2843.54	491.90	3335.44
Additional capitalization on Stages -I & II as per reconciliation statement (B)	717.69	(-)4116.15	(-)3398.46
Total additional capitalization	2125.85	4608.05	6733.9
Exclusion from additional capitalization vis-à-vis books of accounts (C)	(-)46.14	3046.11	2999.97
Net additional capital expenditure claimed (A-B-C)	2171.99	1561.94	3733.93

20. The summary of exclusions from the books of accounts claimed is as under:

(Rs. in lakh)

Particulars	2007-08	2008-09	TOTAL
FERV	0.00	3096.06	3096.06
Inter-unit transfers	(-) 18.32	0.00	(-) 18.32
De-capitalization of spares	(-) 27.82	(-) 49.95	(-) 77.77
Total	(-) 46.14	3046.11	2999.97

Exclusions

21. In the first instance, we consider the exclusions under different heads in the claim.

(a) FERV: The claim for exclusion of an amount of Rs.3096.06 lakh for the year 2008-09 on account of impact of FERV is allowed, as the petitioner has billed the said amount directly to the beneficiaries in accordance with the 2004 regulations.

(b) Inter-unit transfers: An amount of (-) Rs. 18.32 lakh for the year 2007-08 has been excluded under this head on account of transfer of jacking oil pump to other generating station of the petitioner. The petitioner has submitted that the

Commission in the past had permitted exclusion of such temporary transfers for tariff purposes and allowed it to be retained in the capital base of the originating station. Accordingly, the petitioner has excluded the amounts as per the entries in the books of accounts for its claim for additional capitalization. The Commission while dealing with applications for additional capitalization in respect of other generating stations of the petitioner has decided that both positive and negative entries arising out of inter-unit transfers of temporary nature shall be ignored for the purposes of tariff. In consideration of the said decisions, the exclusion of the amount of (-) Rs. 18.32 lakh on account of inter-unit transfer of equipments is allowed.

(c) De-capitalization of capital spares: The petitioner has de-capitalized capital spares in books amounting to (-) Rs. 77.77 lakh for 2007-09{(-) Rs 27.82 for 2007-08 and (-) Rs 49.95 lakh)} on account of it being unserviceable. The petitioner has submitted that the spares have been de-capitalized for accounting purposes only and are not to be de-capitalized for the purpose of tariff. The ground on which exclusion has been sought by the petitioner is as follows-

"These capital spares which rendered unserviceable have been de-capitalized and replacement of these spares is being ordered. Since Hon'ble Commission is not allowing the capitalization of spares in the period 2009-14 de-capitalization may also be excluded."

The petitioner's request for exclusion of de-capitalization of spares is justified if these de-capitalized spares are the ones which were not allowed to be capitalized by the Commission during the previous tariff period. Being a new generating station new station the de-capitalized spares are the ones which were in the capital base for the purpose of tariff and on becoming unserviceable have

to be taken out of the capital base.

22. The year-wise and category-wise break-up of the additional expenditure claimed by petitioner is as under:

(Rs.in lakh)

Nature of Capitalization	2007-08	2008-09	Total
Deferred liabilities relating to works with in original scope of work- 18(2)(i)	1272.57	876.31	2148.88
Any additional works/ services which have become necessary for efficient and successful operation of the generating station but not included in the original project cost- 18(2)(iv)	810.93	4.15	815.08
Deferred works relating to ash pond or ash handling system in original scope of work- 18(2)(v)	88.49	681.48	769.97
Total	2171.99	1561.94	3733.93

23. After examining the asset-wise details and justification for additional capitalization claimed by the petitioner, under various categories and by applying prudence check, the admissibility of additional capitalization is discussed in the subsequent paragraphs.

Deferred Liabilities relating to works with in original scope of work: Regulation 18 (2) (i)

24. The petitioner has claimed amounts of Rs.1272.57 lakh and Rs. 876.31 lakh for the years 2007-08 and 2008-09, respectively towards balance payments made in respect of works like various plant packages, civil works infrastructure etc which are within the original scope of work. Hence, capitalization of Rs. 2148.88 lakh for 2007-09 has been allowed.

Additional works/ services which have become necessary for efficient and successful operation of the generating station but not included in the original project cost: Regulation 18 (2) (iv)

2007-08

25. The claim of the petitioner for Rs. 810.93 lakh for 2007-08 is discussed as under:

(a) An expenditure of Rs. 11.95 lakh towards procurement of various hospital equipments is allowed as these equipments are required for the benefit of employees working at the remote areas. An amount of Rs.138.83 lakh towards procurement of Personal computers, scanners, software, projector, printers etc. are not allowed to be capitalized in terms of Regulation 18(3), being minor assets.

(b) An expenditure of Rs.588.35 lakh towards acquiring SAP – ERP system has been justified by the petitioner as under:

“To integrate all the projects and uniform solutions in the areas like project management O&M materials managements billing record keeping etc ERP system software has been launched in NTPC. Also the company vide launch of ERP has necessitated the upgradation of IT infrastructure to maintain compatibility with new system. This has resulted in fast retrieval of data and information thereby resulting in lower requirement of manpower quicker decision making and higher availability. The gain in efficiency is much higher in comparison to investment made. Hon'ble Commission may be pleased to allow the capitalization of the same”.

As the asset is considered necessary for efficient functioning of the generating station, the expenditure is allowed.

(c) The petitioner's claim of Rs.23.84 lakh on assets like office furniture, sports equipments, canteen facilities' etc. is not allowed to be capitalized in terms of Regulation 18(3), being minor assets.

(d) The petitioner has claimed expenditure of Rs. 47.96 lakh towards procurement of capital spares and has submitted that after accounting for these spares, the total value of initial spares remained within the limit of 2.5 % of project cost. In terms of the 2004 regulations, capitalization of initial spares is permitted up to cut-off date and the Commission had allowed relaxation of cut-off date till 31.3.2007. The claim of the petitioner relates to the period after the relaxed cut-off date and hence capitalization of spares amounting to Rs 47.96 lakh is not allowed.

2008-09

26. The petitioner has claimed an amount of Rs.4.15 lakh towards procurement of initial spares. The claim of the petitioner relates to the period after the relaxed cut-off date and hence capitalization of spares amounting to Rs 4.15 lakh is not allowed.

Deferred works relating to ash pond or ash handling system in original scope of work: Regulation 18 (2) (v)

27. The claim of the petitioner for an amount of Rs.88.49 lakh and Rs.681.48 lakh for 2007-09 is found to be justified based on environmental considerations, and hence capitalisation of the amounts are allowed.

28. Based on the above discussions, the net additional capital expenditure allowed during the years 2007-08 and 2008-09 is as under:

(Rs. in lakh)

Nature of Capitalizations	2007-08	2008-09	Total
Deferred liabilities relating to works with in original scope of work- 18(2)(i)	1272.57	876.31	2148.88
Any additional works/ services which have become necessary for efficient and successful operation of the generating station but not included in the original project cost- 18(2)(iv)	600.30	0.00	600.30
Deferred works relating to ash pond or ash handling system in original scope of work- 18(2)(v)	88.49	681.48	769.97
Total (before adjustment of exclusion)	1961.36	1557.79	3519.15
Add: Exclusions not allowed	(-)27.82	(-)49.95	(-)77.77
Additional capital expenditure allowed inclusive of un-discharged liabilities	1933.54	1507.84	3441.38
Less: Un-discharged liabilities disallowed	54.69	91.74	146.42
Net additional capital expenditure allowed	1878.85	1416.10	3294.96

Capital cost

29. As stated above, the Commission in order dated 24.11.2008 in Petition No. 24/2008 had admitted the capital cost of Rs.152391 lakh as on 31.3.2007.

30. Taking into account the capital cost as on 31.3.2007 and the additional capital expenditure approved at para 28 above, the capital cost as on 1.4.2007 is worked out as under:

(Rs. in lakh)

	2007-08	2008-09
Opening Capital cost	152390.81	154269.67
Additional capital expenditure	1878.85	1416.10
Closing capital cost	154269.67	155685.77
Average capital cost	153330.24	154977.72

Debt-Equity ratio

31. Clause (1) of Regulation 20 of the 2004 regulations provides as under:

"(1) In case of the existing generating stations, debt-equity ratio considered by the Commission for the period ending 31.3.2004 shall be considered for determination of tariff with effect from 1.4.2004:

Provided that in cases where the tariff for the period ending 31.3.2004 has not been determined by the Commission, debt-equity ratio shall be as may be decided by the Commission:

Provided further that in case of the existing generating stations where additional capitalisation has been completed on or after 1.4.2004 and admitted by the Commission under Regulation 18, equity in the additional capitalization to be considered shall be,-

(a) 30% of the additional capital expenditure admitted by the Commission;
or

(b) equity approved by the competent authority in the financial package, for additional capitalization; or

(c) actual equity employed,

Whichever is the least:

Provided further that in case of additional capital expenditure admitted under the second proviso, the Commission may consider equity of more than 30% if the generating company is able to satisfy the Commission that deployment of such equity of more than 30% was in the interest of general public".

32. The petitioner in its affidavit dated 17.8.2009 has submitted that the funding pattern in respect of additional capital expenditure for 2007-08 and 2008-09 is as under-

(Rs. in lakh)

Particulars	2007-08	2008-09	Total	%
Equity	2172	(-) 938	1234	33.05
Loan	0	2500	2500	66.95
Total capital for additional capital expenditure	2172	1562	3734	100.00

33. It is observed that the equity component of additional capitalization is more than 30%. Hence in terms of sub-clause (a) of clause (1) of Regulation 20 of the

2004 regulations, the debt-equity ratio of 70:30 has been considered for additional capitalization. Accordingly, additional notional equity of the generating station on account of capitalization approved, works out as under:

	(Rs. in lakh)	
	2007-08	2008-09
Additional Notional Equity	564	425

Return on Equity

34. Return on equity is allowed @ 14% on the average normative equity, as under:

	(Rs. in lakh)	
	2007-08	2008-09
Equity opening	45717	46281
Equity due to Additional capitalization	564	425
Equity closing	46281	46706
Average equity	45999	46493
Return on equity	6439	6509

Interest on loan

35. Interest on loan has been worked out as mentioned below:

- (a) Gross opening loan on normative basis on 1.4.2007 as considered in order dt.24.11.2008 in Petition No.24/2008 was Rs.106673.57 lakh corresponding to capital cost of Rs.152390.81 lakh.
- (b) Cumulative repayment of loan on 1.4.2007 as considered in the order dated 24.11.2008 was 16726.39 lakh.
- (c) Net opening loan on normative basis on 1.4.2007 as considered in order dated 24.11.2008 was Rs. 89947.18 lakh.

(d) There is addition of notional loan amounting to Rs.1315.20 lakh and Rs.991.27 lakh on account of additional capital expenditure during the years 2007-08 and 2008-09, respectively.

(e) Actual loans as considered in order dated 24.11.2008 along with addition of loans taken for additional capital expenditure has been considered to work out normative repayment applicable during the period/year.

$$\text{Normative repayment} = \frac{\text{Actual Repayment} \times \text{Normative Loan}}{\text{Actual Loan}}$$

(f) The petitioner has calculated interest on loan based on revised weighted average rate of interest. The revision of weighted average rate of interest is more than that on account of additional loan drawl during 2008-09. As no details for extra revision of weighted average rate has been furnished by the petitioner, the interest rates as considered in order dated 24.11.2008 has been considered along with addition of loan of Rs.2500.00 lakh drawn from SBI-IV (date of drawl 22.9.2008) for calculating the weighted average rate of interest. The petitioner vide letter dated 13.10.2009 has furnished that no IDC has been capitalized in the additional capital expenditure claimed for the years 2007-08 and 2008-09. Hence, no adjustment has been in respect of capitalized interest while calculating interest on normative loan.

(g) Normative repayment of loan considered is equal to the admissible depreciation for the year or normative repayment whichever is higher, as considered in the determination of the tariff for other generating stations of

the petitioner for the period 2004-09. This is however subject to the final decision of the Hon'ble Supreme Court in Civil Appeal No. 5434/2007 and other related appeals.

(h) Actual repayment of actual loans has been worked out on the basis of contracted loan terms (as furnished by the petitioner) as per average method.

36. Accordingly, the interest on loan has been computed as under:

(Rs. in lakh)		
Details	2007-08	2008-09
Gross Loan Opening	106674	107989
Cumulative repayment of loan up to previous year	16726	26858
Net Loan Opening	89947	81131
Addition of loan due to additional capital expenditure	1315	991
Repayment of loan during the year	10132	10581
Net loan Closing	81130	71541
Average Loan	85539	76336
Wt. average rate of Interest	7.4690%	7.4623%
Interest on Loan	6389	5696

Depreciation

37. The petitioner has calculated the weighted average rate of depreciation as 3.6288% in terms of order dated 24.11.2008 in Petition No.24/2008 and the same is considered for computation of revised tariff based on additional capital expenditure during 2007-08 and 2008-09. Adjustment of cumulative depreciation on account of de-capitalization of assets has been considered in the calculations as carried out in the tariff orders for the period 2004-09 for other generating stations of the petitioner. The necessary calculations are as under:

(Rs in lakh)

	2007-08	2008-09
Opening capital cost	152391	154270
Closing capital cost	154270	155686
Average capital cost	153330	154978
Depreciable value @ 90%	137997	139480
Balance depreciable value	121271	112625
Depreciation	5564	5624

Advance Against Depreciation

38. Advance Against Depreciation has been worked out after accounting for additional capital expenditure for the years 2007-08 and 2008-09 as under:

(Rs in lakh)

Advance against Depreciation	2007-08	2008-09
1/10th of Gross Loan(s)	10667	10799
Repayment of the Loan	10132	10581
Minimum of the above	10132	10581
Depreciation during the year	5564	5624
(A) Difference	4568	4957
Cumulative Repayment of the Loan	26858	37439
Cumulative depreciation	22290	32479
(B) Difference	4568	4960
Advance against Depreciation Minimum of (A) and (B)	4568	4957

O&M expenses

39. O&M expenses as considered in the order dated 24.11.2008 in Petition No.24/2008 have been considered.

Interest on Working capital

40. For the purpose of calculation of working capital, the operating parameters including the price of fuel components as considered in the order dated 15.10.2007 in Petition No.140/2005 have been kept unchanged. The "receivables" component of the working capital has been revised for the reason of revision of return on equity, interest on loan, etc. The necessary details in support of calculation of

interest on working capital are as under:

(Rs in lakh)		
	2007-08	2008-09
Coal Stock	4498	4485
Oil Stock	194	194
O & M expenses	438	456
Maintenance spares	1464	1552
Receivables	9673	9669
Total Working Capital	16268	16357
Rate of Interest	10.25%	10.25%
Interest on Working Capital	1667	1677

41. The revised annual fixed charges for the period from 1.4.2007 to 31.3.2009 is summarized as under:

(Rs. in lakh)		
Particulars	2007-08	2008-09
Interest on Loan	6389	5696
Interest on Working Capital	1667	1677
Depreciation	5564	5624
Advance Against Depreciation	4568	4957
Return on Equity	6440	6509
O & M Expenses	5260	5475
TOTAL	29888	29938

42. The target availability of 80% considered by the Commission in the order dated 24.11.2008 in Petition No. 24/2008 remains unchanged. Similarly, other parameters viz., specific fuel consumption, Auxiliary Power consumption and Station Heat rate etc considered in the order dated 24.11.2008 have been retained for the purpose of calculation of the revised fixed charges.

43. The petitioner shall claim the difference in respect of the tariff determined by order dated 24.11.2008 and the tariff determined by this order from the beneficiaries in three equal monthly installments.

44. In addition to the charges approved above, the petitioner is entitled to recover other charges like incentive, claim for reimbursement of income-tax, other taxes, cess levied by statutory authority, in accordance with the 2004 regulations, as applicable.

45. The petitioner's claim for reimbursement of filing fees is not allowed in terms of the Commission's general order dated 11.9.2008 in Petition No. 129/2005.

46. Petition No.123/2009 stands disposed of in terms of the above.

Sd/-
(V.S. VERMA)
MEMBER

Sd/-
(S.JAYARAMAN)
MEMBER

Sd/-
(R. KRISHNAMOORTHY)
MEMBER