

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 181/2009

Coram

- 1. Dr. Pramod Deo, Chairperson**
- 2. Shri S. Jayaraman, Member**
- 3. Shri V.S.Verma, Member**

DATE OF HEARING: 15.3.2011

DATE OF ORDER: 21.4.2011

In the matter of

Petition for determination of revised fixed charges on account of additional capital expenditure incurred for the period 1.1.2007 to 31.3.2009 at Feroze Gandhi Unchahar Thermal Power Station, Stage – III (210 MW).

And in the matter of

NTPC Ltd, New Delhi

.....**Petitioner**

Vs

- (1) Uttar Pradesh Power Corporation Ltd, Lucknow
- (2) Jaipur Vidyut Vitaran Ltd, Jaipur
- (3) Ajmer Vidyut Vitaran Ltd, Ajmer
- (4) Jodhpur Vidyut Vitaran Ltd, Jodhpur
- (5) Delhi Transco Ltd, New Delhi
- (6) North Delhi Power Ltd, Delhi
- (7) BSES-Rajdhani Power Ltd, New Delhi
- (8) BSES Yamuna Power Ltd, Delhi
- (9) Haryana Power Purchase Ltd, Panchkula
- (10) Punjab State Electricity Board, Patiala
- (11) Himachal Pradesh State Electricity Board, Shimla
- (12) Power Development Department, Govt. of J&K, Jammu
- (13) Power Department, Union Territory of Chandigarh, Chandigarh
- (14) Uttarakhand Power Corporation Ltd, Dehradun

.....**Respondents**

The following were present:

1. Shri Shanker Saran, NTPC
2. Shri Ajay Dua, NTPC
3. Ms. Alka Saigal, NTPC
4. Shri Sameer Agarwal, NTPC
5. Shri Manish Garg, UPPCL

ORDER

The petitioner, NTPC has made this petition for determination of revised fixed charges on account of additional capital expenditure incurred for the period 1.1.2007 to 31.3.2009 at Feroze Gandhi Unchahar Thermal Power Station, Stage – III (210 MW), (hereinafter referred to as “the generating station”) 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:

- (i) *Inclusion of disallowed capital liabilities of Rs. 61.55 crore in CERC order dated 10.07.2008 in Petition No. 84/2007 into capital base as on COD i.e. 01.01.2007 as per Hon’ble ATE judgment dated 10.12.2008 as brought out at para 5 above.*
- (ii) *Approve the revised fixed charges of this station after considering the impact of additional capital expenditure as per details given in Annexure-I for the period 01.01.2007 to 31.03.2009.*
- (iii) *Approve recovery of filling fees of this petition from Respondent.*
- (iv) *Allow recovery of Income Tax from the beneficiaries as per CERC Regulations for the period 2004-09.*
- (v) *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 total capacity of 210 MW and the date of commercial operation of the generating station is 1.1.2007. The tariff of the generating station for the period 1.1.2007 to 31.3.2009 was determined by the Commission vide its order dated 10.7.2008 in Petition No. 84/2007 based on the capital cost of ₹74397.06 lakh as on date of commercial operation i.e. 1.1.2007. The annual fixed charges approved by order dated 10.7.2008 is as under:

Particulars	(₹ in lakh)		
	2006-07 (1.1.2007 to 31.3.2007)	2007-08	2008-09
Interest on Loan	4055.71	3882.12	3558.44
Interest on Working Capital	921.07	922.79	945.39
Depreciation	2647.69	2647.69	2647.69
Advance Against Depreciation	710.56	679.78	1978.30
Return on Equity	3124.68	3124.68	3124.68
O & M Expenses	2362.50	2457.00	2555.70

TOTAL	13822.20	13714.05	14810.19
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3. The petitioner has claimed for revision of annual fixed charges of the generating station taking into account the principles laid down in the tariff orders of the Commission and the judgment dated 13.6.2007 in Appeal Nos.139 to142 etc of 2006, 10, 11 and 23 of 2007 and judgments dated 10.12.2008 and 16.3.2009 in Appeal Nos. 151 & 152/2007 and Appeal Nos.133,135 etc of 2008 of the Appellate Tribunal passed against the various tariff orders of the Commission for the period 2004-09 in respect of the generating stations of the petitioner.

4. We now proceed to examine the prayer of the petitioner for determination of tariff based on the principles laid down in the judgments of the Appellate Tribunal dated 13.6.2007 in Appeal Nos.139 to142 etc of 2006, 10, 11 and 23 of 2007 and judgments dated 10.12.2008 and 16.3.2009 in Appeal Nos. 151 & 152/2007 and Appeal Nos. 133,135 etc of 2008 of the Appellate Tribunal in subsequent paragraphs.

5. The petitioner filed Appeal Nos.139 to142 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 redetermination 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*

6. 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.”

7. The Hon'ble Supreme Court in its interim order dated 26.11.2007 had granted stay on 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.

8. One more prayer of the petitioner in the application is for revision of capital cost of the generating station considering the un-discharged liabilities, in terms of the judgments dated 10.12.2008 and 16.3.2009 in Appeal Nos. 151 & 152/2007 and Appeal Nos. 133,135 etc of 2008.

9. The Commission in some of the petitions filed by the petitioner (Rihand and Ramagundam generating stations) revised the tariff for the period 2004-09 based on additional capital expenditure incurred, after deducting un-discharged 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 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.”

10. Similar appeals (Appeal Nos.133, 135,136 and 148/2008) were filed by the petitioner before the Appellate Tribunal against the orders of the Commission in respect of other generating stations by the petitioner on the question of deduction of un-discharged liabilities, IDC etc. The Appellate Tribunal, following its judgment dated 10.12.2008 *ibid*, allowed the claim of the petitioner and directed the Commission to give effect to the directions contained in the said judgments.

11. Against the judgments of the Appellate Tribunal dated 10.12.2008 and 16.3.2009 as above, the Commission has filed Civil Appeal Nos. 4112-4113/2009 and Civil Appeal Nos. 6286 to 6289/2009 before the Hon’ble Supreme Court. These Civil Appeals are pending and there is no stay of the operation of the judgments of the Appellate Tribunal.

12. The distinction between the main tariff petition and the petition for additional capitalization could not be made since tariff for 2004-09 was a

composite package which needs to be determined on the same principle. Also, the Appellate Tribunal in its judgment dated 4.2.2011 in Appeal No. 92/2010 (NTPC-v-CERC & ors) has observed that pendency of civil appeals against the judgment of the Appellate Tribunal dated 13.6.2007 before the Hon'ble Supreme Court is not a ground to ignore the orders of the Appellate Tribunal. The Commission is in the process of filing Civil Appeal against this judgment. In line with the observations of the Appellate Tribunal in Appeal No. 92/2010 and keeping in view that tariff for 2004-09 is a composite package to be determined on the same principle, the tariff in respect of the generating station is revised by this order subject to the final outcome of the Civil Appeals pending before the Supreme Court.

13. The petitioner has claimed revised fixed charges based on additional expenditure as under:

Particulars	<i>(₹ in lakh)</i>		
	2006-07 (1. 1.2007 to 31.3.2007)	2007-08	2008-09
Additional capital expenditure	2388.48	4769.82	2431.35

14. Reply to the petition has been filed by the respondent No.1, UPPCL.

Additional Capitalization

15. 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;*
- (iii) Procurement of initial capital spares in the original scope of work, subject to ceiling specified in regulation 17;*
- (iv) 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 within 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-convector, carpets, mattresses etc. brought after the cutoff 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 1

Any expenditure admitted on account of committed liabilities within original scope of work and the expenditure deferred on techno-economic grounds but falling within the original scope of work shall be serviced in the normative debt equity ratio specified in regulation 20.

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.”

Note 3

Any expenditure admitted by the Commission for determination of tariff on account of new works not in the original scope of work shall be serviced in the normative debt-equity ratio specified in regulation 20.

Note 4

Any expenditure admitted by the Commission for determination of tariff on renovation and modernization and life extension shall be serviced on normative debt-equity ratio specified in regulation 20 after writing off the original amount of the replaced assets from the original capital cost.”

16. The additional capital expenditure claimed as per books of accounts is as under:

Particulars	<i>(₹ in lakh)</i>		
	2006-07 (1. 1.2007 to 31.3.2007)	2007-08	2008-09
Closing Gross Block	306547.29	313342.54	315601.09
Less: Opening Gross Block of the year	223683.50	306547.30	313342.54
Additional capital expenditure as per books	82863.79	6795.24	2258.55
Less: Additional capital expenditure pertaining to Stage-I,II (inclusive of capital cost of Stage-III as on the date	80475.31	2026.64	(-) 1367.57

of commercial operation)			
Additional capital expenditure (A)	2388.48	4768.60	3626.12
Less: Exclusions (B)	0.00	(-) 1.22	1194.77
Net Additional capital expenditure claimed	2388.48	4769.82	2431.35

17. The summary of exclusions from the books of account is as under:

Particulars	(₹ in lakh)		
	2006-07	2007-08	2008-09
FERV	0.00	(-) 1.22	1190.10
Inter-unit transfer	0.00		
a) Furniture	-	-	0.55
b) IT Equipments	-	-	0.77
c) Ambassador car	-	-	3.35
Sum-Total	0.00	(-) 1.22	1194.77

Exclusions

18. In the first instance, we consider the exclusions as under:

(a) Inter-unit transfers: Expenditure for ₹4.67 lakh has been claimed as exclusion under this head, on account of transfer of assets like furniture, IT equipments and Ambassador car etc., to other generating stations of the petitioner. The Commission in the past had permitted exclusion of such temporary transfers for the purpose of tariff and allowed these assets to be retained in the capital base of the originating station. Accordingly, the petitioner has excluded the amounts in the books of accounts for the purpose of its claim for additional capitalization. The Commission while dealing with additional capitalization petitions in respect of other generating stations of the petitioner had 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 line with the said decision, the exclusion of ₹4.67 lakh on account of inter-unit transfer of equipments has been allowed.

(b) FERV: The exclusion of an amount of ₹1188.88 lakh [(-) ₹1.22 lakh in 2007-08 and ₹1190.10 lakh during 2008-09] on account of FERV is allowed. The petitioner

is entitled to recover the FERV amount directly from the beneficiaries in accordance with the 2004 regulations.

19. The category-wise break-up of the additional capital expenditure claimed by petitioner during 2006-09 is as under:

Nature of capitalization	(₹ in lakh)		
	2006-07 (1.1.2007 to 31.3.2007)	2007-08	2008-09
Deferred liabilities [18(1) (i)]	2067.50	3856.01	1030.52
Works deferred for execution [18(1) (ii)]	0.00	380.64	1293.86
Initial capital spares in the original scope of work [18(1)(iii)]	320.98	533.17	106.97
Net additional capital expenditure claimed	2388.48	4769.82	2431.35

20. The year-wise claim for additional capitalization of the expenditure under Regulation 18(1)(i) to 18(1)(iii) of the 2004 regulations are discussed as under:

2006-07

21. The additional capital expenditure of Rs.2388.48 lakh claimed by the petitioner during the year is categorized and considered as under:

(a) Deferred liabilities of ₹2067.50 lakh for 2006-07 towards balance payments under approved cost capitalized as on the date of commercial operation. On prudence check, the claim of the petitioner is in order and is allowed under Regulation 18(1)(i).

(b) Procurement of spares amounting to ₹320.98 lakh for which the orders were placed prior to the date of commercial operation i.e.1.1.2007 and which were procured prior to the cut-off-date i.e 31.3.2008. On prudence check, the said claim has been allowed under Regulation 18(1)(iii) since the amount of initial spares capitalized is within the ceiling limit of 2.5% of the original project cost in terms of Regulation 17 of the 2004 regulations.

2007-08

22. The additional capital expenditure of ₹4769.82 lakh claimed by the petitioner during the year is categorized and considered as under:-

- (a) Expenditure for ₹3856.01 lakh incurred in respect of works under approved cost and awarded before the date of commercial operation and executed prior to the cut-off date. On prudence check, the expenditure in respect of deferred liabilities is in order and is allowed under Regulation 18(1)(i).
- (b) Expenditure for ₹380.64 lakh incurred in respect of works under approved cost and awarded after the date of commercial operation and executed prior to the cut-off date. On prudence check, the expenditure in respect of works deferred for execution is in order and is allowed under Regulation 18(1)(i).
- (c) Expenditure for ₹533.17 lakh towards procurement of spares prior to the cut-off-date of 31.3.2008. On prudence check, On prudence check, the said claim has been allowed under Regulation 18(1)(iii) since the amount of initial spares capitalized is within the ceiling limit of 2.5% of the original project cost in terms of Regulation 17 of the 2004 regulations.

2008-09

23. The petitioner has claimed additional capital expenditure of ₹2.431.35 lakh out of which an amount of ₹1030.52 lakh has been claimed under Regulation 18(1)(i) i.e. deferred liabilities, ₹1293.86 lakh under Regulation 18(1)(ii) i.e works deferred for execution and ₹106.97 lakh towards procurement of spares.

24. The date of commercial operation of the generating station is 1.1.2007. In terms of the definition under Clause (ix) of Regulation 14 of the 2004 regulations, the cut-off date for the generating station is 31.3.2008. As such, the additional capital expenditure after the cut-off-date is admissible under Regulation 18(2) of

the 2004 regulations. The expenditure on works deferred for execution and on procurement of spares is not admissible under Regulation 18(2).

25. The petitioner has submitted that the period available from the date of commercial operation up to the cut-off-date was only 15 months to complete the balance work and for procurement of spares and the said period was too short for completion of the balance activities of a new project. The petitioner in a way has sought for relaxation of the cut-off date by one more year.

26. We observe that some of the liabilities incurred in respect of works for which orders were placed prior to the cut-off date, could be executed by the petitioner only after the cut-off date and in some of the cases the works could be commenced only after the cut-off date. It is observed that these works are necessary for the generating station. The Commission in its 2009 Tariff Regulations applicable for the period from 1.4.2009 has provided more time for new generating stations which have been commissioned after 1.4.2009 to complete all works and it would not be reasonable to disallow the same to the generating stations which have been commissioned during the previous period. Moreover, the Appellate Tribunal by its judgment dated 18.8.2010 in Appeal No 66/2008 (pertaining to Talcher STPS-II) while remanding the matter to the Commission to consider the question of relaxation of cut-off date, has observed that the Commission could consider the relaxation of the cut-off date of the generating station as it was a fit case for the reasons stated therein. The facts and circumstances in this generating station being similar to the case of Talcher STPS-II have also convinced us to the need for relaxation of the cut-off date for capitalization. We therefore feel that it is a fit case for relaxation of the cut-off date and accordingly relax the cut-off period of the generating station for a period of one year i.e upto 31.3.2009, in exercise of our power to relax the provisions of the regulations in terms of Regulation 12 of the

2004 regulations. In view of this, we allow the additional capital expenditure claims of the petitioner after prudence check, in terms of Regulation 18(1) (i) and 18(1)(ii) and 18 (1)(iii) as under:

<i>(₹ in lakh)</i>	
Particulars	2008-09
Category 18(1)(i)	1,030.52
Category 18(1)(ii)	1,293.86
Category 18(1)(iii)	106.97
Add capital expenditure allowed	2431.35

27. Based on the above, the additional capital expenditure allowed for 2006-09 is as under:

<i>(₹ in lakh)</i>			
Nature of capitalization	2006-07 (1.1.2007 to 31.3.2007)	2007-08	2008-09
Deferred liabilities [18(1)(i)]	2067.50	3856.01	1030.52
Works deferred for execution[18(1) (ii)]	0.00	380.64	1293.86
Initial capital spares in the original scope of work [18(1)(iii)]	320.98	533.17	106.97
Net additional capital expenditure allowed	2388.48	4769.82	2431.35

Un-discharged liabilities

28. The un-discharged liabilities of ₹6155 lakh disallowed vide order dated 10.7.2008 (in Petition No.84/2007) have been allowed for the purpose of tariff as claimed in the petition. Further, un-discharged liabilities corresponding to assets allowed in the instant petition has been treated as part of capital cost for the purpose of tariff.

Capital cost

29. As stated, the Commission vide order dated 10.7.2008 in Petition No. 84/2007, had admitted the capital cost of ₹74397.06 lakh as on date of commercial operation i.e 1.1.2007

30. Taking into account the admitted capital cost of the generating station as on date of commercial operation, additional capital expenditure approved for the years

2006-07, 2007-08 and 2008-09 along with un-discharged liabilities disallowed earlier (and allowed now in terms of the judgment of the Appellate Tribunal), the capital cost for the period 2006-09 is worked out as under:

Particulars	(₹ in lakh)		
	2006-07 (1.1.2007 to 31.3.2007)	2007-08	2008-09
Capital cost as on 1.1.2007 (as considered in order dated 10.7.2008 in Petition No.84/2007)	74397.06	-	-
Add: Un-discharged liabilities disallowed earlier vide 10.7.2008 in Petition No.84/2007	6155.00	-	-
Opening capital cost (now considered)	80552.06	82940.54	87710.36
Additional capital expenditure (after considering un-discharged liabilities as part of capital cost)	2388.48	4769.82	2431.35
Closing Capital cost	82940.54	87710.36	90141.71
Average Capital cost	81746.30	85325.45	88926.03

Debt-Equity ratio

31. Regulation 20 of the 2004 Regulations provides as under:

“(1) In case of the existing project, 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 31.03.2004 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 capitalization 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. On account of treating un-discharged liabilities as a part of capital cost, the gross opening loan (normative) as on date of commercial operation has been revised to ₹56386.44 lakh from ₹52077.94 lakh

33. Further, the petitioner has submitted that the total capital expenditure claimed has been financed partly out of debt and partly out of internal resources. After applying prudence check, the debt-equity ratio of 70:30 has been considered for the additional capital expenditure approved in terms of sub-clause (a) of clause (1) of Regulation 20 of 2004 regulations. Accordingly, additional notional equity and notional loan of the generating station on account of additional capitalization approved above, works out as under:

Particulars	(₹ in lakh)		
	2006-07 (1.1.2007 to 31.3.2007)	2007-08	2008-09
Additional Notional Equity	716.54	1430.95	729.41
Additional Notional Loan	1671.94	3338.87	1701.95

Return on Equity

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

Particulars	(₹ in lakh)		
	2006-07 (1.1.2007 to 31.3.2007)	2007-08	2008-09
Equity – Opening considered now	24165.62	24882.16	26313.11
Addition of Equity due to admitted additional capital expenditure	716.54	1430.95	729.41
Equity-Closing	24882.16	26313.11	27042.51
Average equity	24523.89	25597.63	26677.81
Return on Equity @ 14%	3433.34	3583.67	3734.89

Interest on loan

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

- (a) As stated above, the gross opening loan on normative basis as on 1.1.2007 has been revised to ₹56386.44 lakh.
- (b) Cumulative repayment of loan on normative basis as on 1.1.2007 is Nil.

(c) Thus, the revised Net opening normative loan as on 1. 1.2007 is ₹56386.44 lakh.

(d) As stated above, there is addition of notional loan to the tune of ₹1671.94 lakh, ₹ 3338.87 lakh and Rs.1701.95 lakh for the years 2006-07 (1.1.2007 to 31.3.2007), 2007-08 and 2008-09, respectively on account of additional capital expenditure approved above.

(e) Weighted average rate of interest as considered in order dated 10.7.2008 after accounting for additional draws during 2006-09 has been considered for calculating interest on loan.

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

36. Interest on loan has been computed as under:

Particulars	(₹ in lakh)		
	2006-07 (1.1.2007 to 31.3.2007)	2007-08	2008-09
Gross Opening Loan considered now	56386.44	58058.38	61397.25
Cumulative Repayment of Loan upto previous year	0.00	909.02	4459.43
Net Loan Opening	56386.44	57149.36	56937.82
Addition of loan due to admitted additional capital expenditure	1671.94	3338.87	1701.95
Repayment of loan during the year (normative)	909.02	3550.40	5269.51
Less: Repayment adjustment corresponding to de-cap of assets	0.00	0.00	0.00
Net repayment of loan during the year	909.02	3550.40	5269.51
Net Loan Closing	57149.36	56937.82	53370.26
Average Loan	56767.90	57043.59	55154.04
Weighted Average Rate of Interest on Loan	7.9030%	7.7432%	8.0031%
Interest on Loan	4486.34	4417.02	4414.04

Depreciation

37. On account of change in capital cost as on date of commercial operation of the Unit of the generating station, the depreciation approved vide order dated 10.7.2008, would also undergo revision.

38. Weighted average rate of depreciation of 3.5589%, as considered in order dated 10.7.2008 has been considered in order to compute depreciation. The necessary calculations for depreciation is as under:

Particulars	(₹ in lakh)		
	2006-07 (1.1.2007 to	2007-08	2008-09

	31.3.2007)		
Opening capital cost	80552.06	82940.54	87710.36
Closing capital cost	82940.54	87710.36	90141.71
Average capital cost	81746.30	85325.45	88926.03
Depreciable value @ 90%	73571.67	76792.90	80033.43
Balance depreciable value	73571.67	75883.88	75574.00
Depreciation (annualized)	2909.23	3036.61	3164.75
Depreciation (pro-rata)	727.31	3036.61	3164.75
Cumulative depreciation / AAD (before adjustment for de-cap)	909.02	4459.43	9728.94
Depreciation adjustment on account of de-capitalization of assets	0.00	0.00	0.00

Advance Against Depreciation

39. Consequent upon the above changes, the Advance Against Depreciation allowed vide order dated 10. 7.2008 would undergo revision and the necessary calculations are as under:

(₹. in lakh)

Particulars	2006-07 (1.1.2007 to 31.3.2007)	2007-08	2008-09
1/10th of Gross loan(s)	5638.64	5805.84	6139.72
Repayment of the Loan	909.02	3550.40	5269.51
Minimum of the above	909.02	3550.40	5269.51
Depreciation during the year	727.31	3036.61	3164.75
(A) Difference	181.71	513.79	2104.76
Cumulative Repayment of the loan	909.02	4459.43	9728.94
Cumulative Depreciation / AAD	727.31	3945.63	7624.18
(B) Difference	181.71	513.79	2104.76
AAD [Minimum of (A) and (B)]	181.71	513.79	2104.76
AAD (annualised)	726.85	513.79	2104.76

O&M expenses

40. The O&M Expenses as considered in order dated 10.7.2008 has been kept unchanged for tariff revision.

Interest on Working capital

41. For the purpose of calculation of working capital the operating parameters including the price of fuel components as considered in the order dated 10.7.2008 have been kept unchanged except allowing the maintenance spares on additional capital expenditure. Also, the admitted additional capital expenditure after the date of commercial operation has been considered while computing the maintenance spares for calculating the interest on working capital. 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:

Particulars	(₹ in lakh)		
	2006-07 (1.1.2007 to 31.3.2007)	2007-08	2008-09
Coal Stock – 2 month	2774.15	2781.75	2774.15
Oil Stock- 2 months	96.60	96.86	96.60
O & M expenses	196.88	204.75	212.98
Maintenance Spares	829.41	889.90	966.18
Receivables	5348.41	5372.96	5699.66
Total Working Capital	9245.44	9346.23	9749.57
Rate of Interest	10.2500%	10.2500%	10.2500%
Total Interest on Working capital	947.66	957.99	999.33

42. The revised annual fixed charges for the period from 1.1.2007 to 31.3.2009 are summarized as under:

Particulars	(₹ in lakh)		
	2006-07 (1.1.2007 to 31.3.2007)	2007-08	2008-09
Interest on loan	4486.34	4417.02	4414.04
Interest on Working Capital	947.66	957.99	999.33
Depreciation	2909.23	3036.61	3164.75
Advance Against Depreciation	726.85	513.79	2104.76
Return on Equity	3433.34	3583.67	3734.89
O & M Expenses	2362.50	2457.00	2555.70
Total (annualized)	14865.93	14966.09	16973.48

43. The target availability of 80% considered by the Commission in the order dated 10.7.2008 remains unchanged. Similarly other parameters viz. specific fuel consumption Auxiliary Power consumption and Station Heat rate etc considered in the order dated 10.7.2008 have been retained for the purpose of calculation of the revised fixed charges.

Others

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 wherein it was directed that filing fee during the period 2004-09 would not be reimbursed, as the same has been factored in the normalized O&M expenses under the 2004 regulations.

46. The annual fixed charges determined in this order are subject to the outcome of Civil Appeals as stated above, pending before the Hon'ble Supreme Court

47. The petitioner shall claim the difference in respect of the tariff determined by order dated 10.7.2008 and the tariff determined by this order, from the beneficiaries in three equal monthly installments.

48. Petition No.181/2009 stands disposed of in terms of the above.

[V.S.VERMA]
MEMBER

[S.JAYARAMAN]
MEMBER

[Dr. PRAMOD DEO]
CHAIRPERSON