

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 278/2009

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

[Date of Hearing: 21.4.2011]

[Date of Order: 31.8.2012]

IN THE MATTER OF

Approval of tariff of Ramagundam Super Thermal Power Station, Stage-I & II (2100 MW) for the period from 1.4.2009 to 31.3.2014

AND

IN THE MATTER OF

NTPC Ltd, New Delhi

...Petitioner

Vs

- (1) Transmission Corporation of Andhra Pradesh Ltd, Hyderabad
- (2) AP Eastern Power Distribution Company Ltd, Visakhapatnam
- (3) AP Southern Power Distribution Company Ltd, Tirupathi
- (4) AP Northern Power Distribution Company Ltd, Warangal
- (5) AP 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 Corporation Ltd, Mysore
- (11) Gulbarga Electricity Supply Company Ltd, Gulbarga
- (12) Hubli Electricity Supply Company Ltd, Hubli
- (13) Kerala State Electricity Board, Thiruvananthapuram
- (14) Puducherry Electricity Department, Puducherry
- (15) Electricity Department, Govt. of Goa, Goa.

...Respondents

Parties present:

1. Shri V.P. Padha , NTPC
2. Shri Ajay Dua, NTPC
3. Shri G.K. Dua, NTPC
4. Shri Sandip Maite, NTPC
5. Shri A.K.Juneja, NTPC
6. Ms. Sulochana Murlidharan, NTPC
7. Shri S. Balaguru, TANGEDCO
8. Shri R.Krishnaswami, TANGEDCO

ORDER

This petition has been filed by the petitioner, NTPC for approval of tariff for Ramagundam Super Thermal Gas Power Station, Stage-I & II (2100 MW) (hereinafter referred to as “the generating station”) for the period from 1.4.2009 to 31.3.2014, based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (hereinafter referred to as “the 2009 Tariff Regulations”).

2. The generating station with a capacity of 2100 MW comprises of six units, three units of 200 MW each and three units of 500 MW each. The dates of commercial operation of different units of the instant station are as under:

Units	Dates of commercial operation
Unit-I	1.3.1984
Unit-II	1.11.1984
Unit-III	1.5.1985
Unit-IV	1.11.1988
Unit-V	1.9.1989
Unit-VI / Generating Station	1.4.1991

3. The tariff of the generating station for the period 2004-09 was determined by order dated 30.6.2006 in Petition No.148/2004. Thereafter, by order dated 30.7.2008 in Petition No. 29/2007, the annual fixed charges for the generating station were revised based on the additional capital expenditure incurred during 2004-05 and 2005-06. Subsequently, the tariff of the generating station was revised by Commission’s order dated 11.1.2010 in Petition No.142/2009 (along with I.A No.36/2009) after considering the additional capital expenditure incurred during the period 2006-09, based on the capital cost of ₹229480.49 lakh as on 31.3.2009. The annual fixed charges of the generating station were further revised by order dated 7.7.2011 in Petition No.142/2009 taking into consideration the judgment of the Tribunal dated 13.6.2007 in Appeal No. 216/2006, the judgment of the Tribunal dated 10.12.2008 in Appeal No. 151 & 152/2007 (as regards un-discharged liabilities) and the judgment dated 1.9.2010 in Appeal No. 58/2010, regarding adjustment of FERV, subject to the final outcome of the Civil Appeals (C.A. Nos. 5434/2007 to 5452/2007, 5622/2007 etc), C.A Nos.4112-4113/2009 and C.A Nos.6286 to 6288/2009 and other connected appeals)

pending before the Hon'ble Supreme Court. The annual fixed charges determined by order dated 7.7.2011 with the capital cost of ₹ 229482.22 lakh as on 31.3. 2009, is as under:

	(₹ in lakh)				
	2004-05	2005-06	2006-07	2007-08	2008-09
Interest on Loan	651.71	471.12	290.57	170.57	138.79
Interest on Working Capital	4837.16	4882.93	4930.49	4991.22	4950.56
Depreciation	8237.12	8263.17	8272.32	8283.03	3268.39
Advance Against Depreciation	0.00	0.00	0.00	0.00	0.00
Return on Equity	15923.79	15954.03	15964.66	15977.09	15992.14
O & M Expenses	20280.00	21087.00	21930.00	22800.00	23727.00
Total	49929.78	50658.25	51388.04	52221.91	48076.88

4. The annual fixed charges claimed by the petitioner for 2009-14 is as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	55	326	1458	2966	3239
Interest on Loan	133	178	297	307	123
Return on Equity	26843	26925	27177	27396	27452
Interest on Working Capital	10382	10511	10695	10823	10946
O&M Expenses	30420	32154	33999	35946	38004
Cost of secondary fuel oil	3200	3200	3209	3200	3200
Compensation Allowance	935	955	975	975	975
Special Allowance	1000	2114	3353	3545	3748
Total	72968	76362	81164	85157	87687

5. Reply to the petition has been filed by the respondent No.1, APTRANSCO (for and on behalf of respondent Nos. 2 to 5) and the respondent No.6, TNEB. The petitioner has filed its rejoinder to the replies of the said respondents and also its response to the written submissions filed by respondent No. 6, TNEB.

CAPITAL COST

6. Regulation 7 (1) (a) of the 2009 Tariff Regulations provides as under:

*"7. **Capital Cost.** (1) Capital cost for a project shall include: (a) the expenditure incurred or projected to be incurred, including interest during construction and financing charges, any gain or loss on account of foreign exchange risk variation during construction on the loan - (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, - up to the date of commercial operation of the project, as admitted by the Commission, after prudence check;"*

7. The annual fixed charges claimed in the petition are based on opening capital cost of ₹229482.22 lakh as on 1.4.2009. As stated, the annual fixed charges of the generating station was revised based on the judgments of the Tribunal dated 13.6.2007 and 16.3.2009 respectively,

considering the capital cost of ₹229482.22 lakh as on 31.3.2009. As such, the opening capital cost as on 1.4.2009 is ₹229482.22 lakh.

8. The petitioner vide its affidavit dated 6.5.2011 has furnished the value of capital cost and liabilities as on 1.4.2009 as per books of accounts in Form-9A. The details of liabilities and capital cost which have been reconciled with the records of the Commission are as under:

	(₹ in lakh)		
	As per Form-9A	As per records of Commission	Difference
Capital cost as on 1.4.2009, as per books	230998.24	230998.24	0.00
Liabilities included in the above	128.03	128.04	(-) 0.01

9. The difference in the liabilities of (-) ₹0.01 lakh is on account of rounding off the amounts, which has not been considered for the purpose of tariff.

10. The total liabilities included in the gross block, as on 1.4.2009 is ₹128.04 lakh. Out of this, un-discharged liabilities of ₹123.12 lakh (₹80.06 lakh relating to the period prior to 1.4.2004 and ₹43.06 lakh for 2004-09) has been included in the admitted capital cost of ₹229482.22 lakh.

11. The last proviso to Regulation 7 of the 2009 Tariff Regulations, as amended on 21.6.2011, provides as under:

"Provided also that in case of the existing projects, the capital cost admitted by the Commission prior to 1.4.2009 duly trued up by excluding un-discharged liability, if any, as on 1.4.2009 and the additional capital expenditure projected to be incurred for the respective year of the tariff period 2009-14, as may be admitted by the Commission, shall form the basis for determination of tariff"

12. Accordingly, the capital cost, after removal of un-discharged liabilities of ₹123.12 lakh, works out to ₹229359.10 lakh, on cash basis, as on 1.4.2009. The discharge of un-discharged liabilities, if any, made by the petitioner would be included in the capital base as additional capital expenditure, in the year of discharge.

13. The petitioner vide its affidavit dated 14.9.2011 has furnished the details of the liabilities discharged during 2009-11. Out of the un-discharged liabilities deducted as on 1.4.2009, the petitioner has discharged an amount of ₹41.06 lakh (₹39.06 lakh pertaining to liabilities corresponding to assets capitalized prior to 1.4.2004 and ₹2.00 lakh pertaining to liabilities

corresponding to assets capitalized during the period 2004-09) during 2009-10 and ₹2.57 lakh (pertaining to liabilities corresponding to assets capitalized during the period 2004-09), during the year 2010-11. The discharge of the above liabilities during 2009-10 and 2010-11 has been allowed during the respective years, as part of the projected additional capital expenditure considered for the generating station.

Actual/Projected Additional Capital Expenditure

14. Regulation 9 of the 2009 Tariff Regulations, as amended on 21.6.2011, provides as under:

“9. Additional Capitalisation. (1) *The capital expenditure 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:*

- (i) *Un-discharged liabilities;*
- (ii) *Works deferred for execution;*
- (iii) *Procurement of initial capital spares within the original scope of work, subject to the provisions of regulation 8;*
- (iii) *Liabilities to meet award of arbitration or for compliance of the order or decree of a court; and*
- (v) *Change in law:*

Provided that the details of works included in the original scope of work along with estimates of expenditure, un-discharged liabilities and the works deferred for execution shall be submitted along with the application for determination of tariff.

(2) *The capital expenditure incurred on the following counts after the cut-off date may, in its discretion, be admitted by the Commission, subject to prudence check:*

- (i) *Liabilities to meet award of arbitration or for compliance of the order or decree of a court;*
- (ii) *Change in law;*
- (iii) *Deferred works relating to ash pond or ash handling system in the original scope of work;*
- (iv) *In case of hydro generating stations, any expenditure which has become necessary on account of damage caused by natural calamities (but not due to flooding of power house attributable to the negligence of the generating company) including due to geological reasons after adjusting for proceeds from any insurance scheme, and expenditure incurred due to any additional work which has become necessary for successful and efficient plant operation; and*
- (v) *In case of transmission system any additional expenditure on items such as relays, control and instrumentation, computer system, power line carrier communication, DC batteries, replacement of switchyard equipment due to increase of fault level, emergency restoration system, insulators cleaning infrastructure, replacement of damaged equipment not covered by insurance and any other expenditure which has become necessary for successful and efficient operation of transmission system:*

Provided that in respect sub-clauses (iv) and (v) above, any expenditure on acquiring the minor items or the assets like tools and tackles, furniture, air-conditioners, voltage stabilizers, refrigerators,

coolers, fans, washing machines, heat convectors, mattresses, carpets etc. brought after the cut-off date shall not be considered for additional capitalization for determination of tariff w.e.f. 1.4.2009.

- (vi) In case of gas/liquid fuel based open/ combined cycle thermal generating stations, any expenditure which has become necessary on renovation of gas turbines after 15 year of operation from its COD and the expenditure necessary due to obsolescence or non-availability of spares for successful and efficient operation of the stations.

Provided that any expenditure included in the R&M on consumables and cost of components and spares which is generally covered in the O&M expenses during the major overhaul of gas turbine shall be suitably deducted after due prudence from the R&M expenditure to be allowed.

- (vii) Any capital expenditure found justified after prudence check necessitated on account of modifications required or done in fuel receipt system arising due to non-materialisation of full coal linkage in respect of thermal generating station as result of circumstances not within the control of the generating station.

- (viii) Any un-discharged liability towards final payment/withheld payment due to contractual exigencies for works executed within the cut-off date, after prudence check of the details of such deferred liability, total estimated cost of package, reason for such withholding of payment and release of such payments etc.”

15. The actual/projected additional capital expenditure claimed by the petitioner is as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Additional capital expenditure	291.43	2029.00	5143.02	1055.00	540.00

16. The cut-off date of the generating station has expired. Hence, the petitioner's claim for additional capital expenditure for 2009-14 has to be examined in terms of Regulation 9(2) of the 2009 Tariff Regulations. In this connection, we examine the submissions of the petitioner on the admissibility of the additional capital expenditure for 2009-14 in the subsequent paragraphs :

Submissions of the petitioner

17. In its petition, the petitioner has submitted that the estimated capital expenditure claims are of the following nature:

- (i) The additional capital expenditure (as per Regulation 9 (1) and 9 (2) of the Tariff Regulations, 2009) as per the original scope of work of the generating station which has been put to use;
- (ii) The other additional capital expenditure in respect of the existing generating stations which have to be done on on-going basis.

18. The petitioner has also submitted the following in support of its claim in the petition and in its affidavit dated 29.3.2010:

(a) In addition to the capital expenditure covered by Regulation 9 (1) and 9 (2) and 19 (e) of the 2009 Tariff Regulations, there will be capital expenditure of different nature which would be necessary for the efficient operation of the generating station within its life time. No generating station can operate on a sustainable basis to achieve the level of performance parameters specified by the Commission without incurring capital expenditure from time to time. The expenditure on such capital assets to be incurred by generating stations are therefore necessary for proper and effective working and therefore beneficial to the respondents. Over a long period of 25 years of the life of the stations, many a times the Original Equipment Manufacturer (OEM) stop providing spares & service and this necessitates the replacement of obsolete equipment's with new items, to ensure support from OEMs. Additional capital expenditure for this purpose had constantly been allowed by the Commission under the 2001 and 2004 tariff regulations. However, additional capital expenditure for successful and efficient operation of the generating station has not been included in Regulation 9 of 2009 Tariff Regulations. Accordingly, the petitioner has claimed additional capital expenditure on 'works considered necessary for the efficient operation of the generating stations' in addition to those specified under Regulation 9 (1) and (2) and 19 (e) of the 2009 Tariff Regulations.

(b) Regulations 7(1), 8 and 9 of 2009 Tariff Regulations pertain to the capital cost of new generating station commissioned after 1.4.2009 and do not cover the existing projects commissioned prior to 1.4.2009. Moreover, the term 'additional capital expenditure' defined in Regulation 3 (3) refers to the additional capital expenditure incurred or projected to be incurred, after the date of commercial operation of the project and admitted by the Commission after prudence check, subject to Regulation 9. The scope and meaning of additional capitalization is not confined to Regulation 9 but subject to Regulation 9, which would mean that if additional capitalization is of the nature as referred to in Regulation 9, it would be read subject to the provisions of Regulation 9 and if the additional capitalization is not of the nature as referred to in

Regulation 9, the provisions of Regulation 9 could not be applied. Regulation 9 has no application whatsoever to the existing projects and it does not limit the additional capitalisation in the case of existing projects.

(c) The last proviso to Regulation 7 is an independent provision dealing with the existing projects and additional capitalization for the existing projects is comprehensively covered by the said provision. In respect of the existing projects, the additional capital expenditure projected to be incurred from 1.4.2009 till 31.3.2014 and admitted by the Commission after prudence check would qualify to be capitalized, notwithstanding the fact that this expenditure is not covered under Regulation 9 (1) and (2).

(d) Regulation 19 (e) provides for a compensation allowance to meet the expenses of new assets of capital nature, including in the nature of minor assets and normative compensation allowance under Regulation 19 (e) has no relevance to the additional capitalization of a substantive nature incurred by the generating company from time to time. As the Regulations 9 (1) and (2) and 19 (e) do not exclude the additional capital expenditure of substantial nature in respect of the existing generating stations, the additional capital expenditure as projected by the petitioner, to be incurred during the tariff period 2009-14 for the existing generating stations, may be considered and allowed by the Commission.

(e) The additional capital expenditure claimed is necessary and expedient for efficient operation of the generating station and is not incurred on account of any failure or default or any other act of omission or commission on the part of the petitioner. This expenditure is such which has to be necessarily incurred in the ordinary course of running of a generating station and for operating machines for the life span of 25 years.

19. The respondent, No.6, TNEB vide its reply dated 31.3.2011 has submitted that in terms of the definition of 'additional capitalization' under Regulation 3(3) the additional capitalization sought for by the petitioner after the cut-off date, could only be admissible under Regulation 9(2). While objecting to the submissions of the petitioner, the respondent has submitted that the Explanatory

memorandum and the Statement of Reasons of the Commission pertaining to the 2009 Tariff Regulations does show a contrary intention and not as submitted by the petitioner. It has also submitted that the petitioner was making efforts to carve out an undue exception as against the regulations specified by the Commission. The respondent has further submitted that while the proviso is an exception to the main enactment, it cannot be interpreted so as to render the main enactment to a nullity. Further, in cases where proviso is construed as substantive clause, the same should be read along with the main enactment, the respondent has added. In its response, the petitioner has objected to the submissions of the respondent and has reiterated its submissions made in the petition and also its affidavit dated 29.3.2010.

20. Similar submissions of the petitioner in its petitions for determination of tariff for 2009-14 have been considered and disposed of by the Commission by its orders dated 20.4.2012, 7.5.2012, 23.5.2012, 25.5.2012, 14.6.2012 and 13.7.2012 in Petition Nos. 239/2009, 256/2009, 332/2009, 279/2009, 222/2009 and 323/2009 respectively, pertaining to the determination of tariff of some of the generating stations of the petitioner for 2009-14. The relevant portion of the order is extracted as under:

"We have considered the submissions of the petitioner. The following two issues arise for our consideration:

(a) Whether additional capitalization projected to be incurred after the cut-off date during period 2009-14 is admissible under Regulation 9(2) of the 2009 Tariff Regulations.

(b) Whether additional capital expenditure for successful and efficient operation of the thermal generating station including the gas power stations could be admissible under Regulation 9(2) of the 2009 Tariff Regulations.

As regards the first issue, it is noticed that the last proviso to Regulation 7(2) of the 2009 Tariff Regulations provides that in case of existing projects, capital cost admitted by the Commission prior to 1.4.2009 duly trued up by excluding the un-discharged liability, if any, as on 1.4.2009 and the additional capital expenditure projected to be incurred for the respective year and the tariff period 2009-14, as may be admitted by the Commission, shall form the basis of determination of tariff. Thus, as per the last proviso projected additional capital expenditure to be incurred for the respective years of the tariff period 2009-14 shall be considered by the Commission while determining the tariff in respect of the existing project. The said proviso does not make any distinction between the additional capital expenditure projected to be incurred before the cut-off date and additional capital expenditure projected to be incurred after the cut-off date. It therefore follows that in case of existing projects, additional capital expenditure projected to be incurred after the cut-off date can be considered by the Commission for determination of tariff. Regulation 9 of the 2009 Tariff Regulations provides for the additional capital expenditure to be admissible during the year 2009-14. While Clause (1) of Regulation 9 deals with the expenditure incurred before the cut-off date, Clause (2) of the said regulation deals with the expenditure incurred after the cut-off date. However, Clause (2) of Regulation 9 provides that only expenditure incurred after the cut-off date shall be admissible. It thus

emerges that while the additional capital expenditure can be claimed under last proviso to Regulation 7(2) on projection basis, the same is not admissible under Regulation 9(2), since the expenditure has not been incurred. It is a settled principle of law that the provisions of the Act or Regulations should be read harmoniously keeping in view the objective of the legislation. During the period 2004-09, the additional expenditure was being admitted after the same was incurred. However, the Commission decided to allow additional capital expenditure on projection basis during the period 2009-14. In this connection, reference is drawn to paragraphs 10.1.3 and 10.1.4 of the Statement of Reasons to the 2009 Tariff Regulations, wherein the concept of claiming additional capitalization on projection basis has been explained in the following terms:

"10.1.3 The Commission has carefully examined the issue again and is of the view that the generating companies/transmission licensees as well as the beneficiaries should appreciate the regulation in its proper perspective. Apart from meeting the intended objective of certainty of tariff and minimal retrospective adjustments, the procedure would have following additional advantages:

(a) From beneficiaries' perspective, they would be aware of the intended additional capitalization in advance and be able to voice their concern before the Commission about the reasonableness and necessity of additional capitalization before the actual expenditure is made by the generating companies/transmission licensees. As regards their concern about the expected expenditure being considered in capital base without putting assets to use, the Commission would like to clarify that anticipated expenditure would be considered only after it is found justified and reasonable with the expectation that asset would be put to use. In the absence of expenditure actually made, the same would be taken out from the capital cost at the time of truing up exercise with appropriate refund/adjustment with interest. Further, if the expenditure indeed materializes, the actual retrospective adjustment is expected to be bare minimum as a result of truing up exercise.

(b) From the prospective of the generating companies/transmission licensees, they would be assured of the expenditure to be admitted once accepted by the Commission in the capital cost before making the expenditure. Moreover, they would be more careful about the expenditure to be made as it would require to be justified before the Commission.

10.1.4 The Commission is of the view that the approach adopted with regard to consideration of the expenditure including additional capital expenditure projected to be incurred for the purpose of determination of capital cost is a win-win situation for all. The Commission has decided to retain the said provisions with regard to capital cost including projected additional capital expenditure in Regulations 7 and 9 of these regulations."

It thus emerges from the scheme of the 2009 Tariff Regulations that the additional capital expenditure projected to be incurred after the cut-off date can be admitted by the Commission after prudence check. Keeping in view the scheme of the 2009 Tariff Regulations and in order to remove the inconsistency between last proviso to Regulation 7(2) and Regulation 9(2), we have relaxed in our order dated 13.4.2012 in Petition No. 282 of 2009 the provisions of Regulation 9(2) of the 2009 Tariff Regulations in exercise of our power under Regulation 44 to allow additional capital expenditure projected to be incurred after the cut-off date. The said decision is applicable in the present case.

As regards the second issue, it is noticed that as per the scheme of the 2009 Tariff Regulations, additional capital expenditure incurred or projected to be incurred prior to the cut-off date and the additional capital expenditure incurred after the cut-off date is admissible under Regulation 9(1) and 9(2) of the 2009 Tariff Regulations. We have relaxed the provisions of the Regulation 9(2) to allow the expenditure on projected basis to be incurred after the cut-off date. Regulation 9(2) provides for the different provisions for admissibility of the additional capital expenditure. In respect of the hydro generating stations, Regulation 9(iv) provides for expenditure which has become necessary for successful and efficient operation of the hydro generating stations and similar provisions have been made under Regulation 9(v) in respect of the transmission systems. In case of the thermal generating stations, Regulation 19(e) provides for compensation allowance. Regulation 19(e) of 2009 Tariff Regulations is extracted as under:-

"(e) In case of coal-based or lignite-fired thermal generating station a separate compensation allowance unit-wise shall be admissible to meet expenses on new assets of capital nature including in the nature of minor assets, in the following manner from the year following the year of completion of 10, 15, or 20 years of useful life:

Years of operation	Compensation Allowance (₹in lakh/MW/year)
0-10	Nil
11-15	0.15
16-20	0.35
21-25	0.65

20. It is evident from the provisions of Regulation 19(e) that the expenditure in case of coal based or lignite fired thermal generating stations is admissible to meet the expenses on new assets of capital nature including in the nature of minor assets. Correspondingly, no provision has been made to admit additional capital expenditure of capital nature for successful operation of the thermal generating station under Regulation 9(2) of the 2009 Tariff Regulations. On the other hand, clear provisions have been made for admitting the expenditure for efficient and successful operation of the hydro generating stations and transmission systems under certain conditions. The provisions of the Regulation 9(2) are clear and unambiguous in that the expenditure for successful and efficient operation of the thermal generating stations have not been provided since a normative compensation allowance has been provided under Regulation 19(e) of 2009 Tariff Regulations to meet the expenses on new assets of capital nature. In our view, last proviso to Regulation 7(2) cannot be considered as independent of Regulation 9 of 2009 Tariff Regulations. The "additional expenditure projected to be incurred for the respective year of the tariff period 2009-14 as may be admitted by the Commission" occurring in last proviso to Regulation 7(2) have to be considered and allowed in terms of provisions of Regulation 9(2) of 2009 Tariff Regulations. The Commission after taking into account the requirements of the gas based generating stations and coal based thermal generating stations has made specific provisions under Regulation 9(2)(vi) and (viii) through second amendment to the 2009 Tariff Regulations as under:

"(vi) In case of gas/ liquid fuel based open/ combined cycle thermal generating stations, any expenditure which has become necessary on renovation of gas turbines after 15 year of operation from its COD and the expenditure necessary due to obsolescence or non-availability of spares for successful and efficient operation of the stations.

Provided that any expenditure included in the R&M on consumables and cost of components and spares which is generally covered in the O&M expenses during the major overhaul of gas turbine shall be suitably deducted after due prudence from the R&M expenditure to be allowed.

(vii) Any capital expenditure found justified after prudence check necessitated on account of modifications required or done in fuel receipt system arising due to non-materialization of full coal linkage in respect of thermal generating station as result of circumstances not within the control of the generating station."

21. Thus, the Commission has consciously provided for the expenditure of specific nature under Regulation 9(2)(vi) and (vii) which are considered necessary for the successful and efficient operation of the coal based thermal generating station and gas based stations. In other words, additional capital expenditure for successful and efficient operation of the generating stations for reasons other than those provided for under Regulation 9(2) of 2009 Tariff Regulations is not permissible.

21. In line with the above decision of the Commission in the said orders, the additional expenditure for the period 2009-14 for this generating station has been considered in terms of the provisions under Regulation 9(2) of the 2009 Tariff Regulations, as discussed in the succeeding paragraphs.

Actual/projected additional capital expenditure for 2009-14

22. The petitioner has claimed the actual capital expenditure for the period 2009-10 and projected additional capital expenditure for the years 2010-11, 2011-12, 2012-13 and 2013-14 as under:

(₹ in lakh)

	Regulations	Actual expenditure	Projected Additional Capital expenditure			
			2009-10	2010-11	2011-12	2012-13
Ash Pond						
Ash Pond	9(2)(iii)	0.00	0.00	553.00	0.00	250.00
Ash Pond earth cover	9(2)(iii)	0.00	0.00	0.00	0.00	150.00
Re-routing of roads as required for Ash Pond Management	9(2)(iii)	0.00	0.00	0.00	50.00	0.00
Dry Ash Extraction System (DAES)						
DAES-M/s RITES	9(2)(iii)	0.00	0.00	507.00	0.00	0.00
DAES-M/s Driplex	9(2)(iii)	0.00	2000.00	3700.00	0.00	0.00
New Canteen building	9(2)(iii)	0.00	0.00	0.00	0.00	130.00
Decant line diversification	9(2)(iii)	0.00	0.00	37.78	0.00	0.00
Civil works for evacuation of Dry Ash through Ash tanker	9(2)(iii)	0.00	0.00	0.00	525.00	0.00
Weigh bridge for Ash tankers	9(2)(iii)	0.00	19.00	0.00	0.00	0.00
Environment System						
AAQMS	9(2)(ii)	88.99	0.00	0.00	0.00	0.00
Online dual channel water flow meter	5, 6 & 7	8.18	0.00	0.00	0.00	0.00
Additional Fire Fighting system						
MVW spray for augmentation of Fire Fighting	9(2)(ii)	0.00	0.00	0.00	470.00	0.00
Energy Conservation						
Flue Gas conditioning Unit for multi gas	9(2)(ii)	1.00	10.00	10.00	10.00	10.00
Portable Flue gas analyzer	9(2)(ii)	6.25	0.00	0.00	0.00	0.00
Online Power measurement system	9(2)(ii)	0.00	0.00	107.24	0.00	0.00
R&M Phase- I						
Re-routing of riser pipes-Cooling Towers (Unit-VI)	5, 6 & 7	117.22	0.00	0.00	0.00	0.00
Railway Wagons		0.00	0.00	228.00	0.00	0.00
Township metering	9(2)(ii)	69.79	0.00	0.00	0.00	0.00
Total claimed		291.43 #	2029.00	5143.02	1055.00	540.00

This excludes un-discharged liability of ₹57.64 lakh to be discharged in due course.

Deferred works relating to ash pond or ash handling system in the original scope of works-Regulation 9(2)(iii)

23. The petitioner has claimed expenditure for ₹553.00 lakh during 2011-12 and ₹250.00 lakh during 2013-14 towards Ash Pond management. The petitioner has submitted that Ash pond management is of dynamic nature with respect to geographic usage and involves modifications such as raising pond height etc. As per Ash pond raising rolling plan, S2 and N2 pond is to be raised (from 191 M to 194 M) at an estimated cost of ₹553.00 lakh and ₹250.00 lakh respectively.

24. The respondent No.1, APTRANSCO has submitted that the petitioner has considered the approvals of CEA during 1996 towards additional capital expenditure and the reasons for the claim during 2009-14 based on approvals received from CEA during 1996 will have to be submitted by the petitioner. The respondent has also submitted that the Commission may consider the additional capital expenditure claimed subject to the rationale of justification submitted by the petitioner. In response, the petitioner has submitted that proper justification has been submitted for its claim for additional capital expenditure against respective items and the Commission has in the past allowed such additional expenditure only after prudent check. Based on prudence check and taking into consideration the documents available on record and the submissions made by the parties, the claims for additional capital expenditure by the petitioner is considered in terms of the provisions of the 2009 Tariff Regulations.

25. The respondent No.6, TNEB has submitted that the claim of the petitioner under this head could only be considered if the work forms part of the original scope of work and also if the work has the clearance under the CEA package dated 18.2.2007 under original scope of work. The petitioner, in its reply has submitted that the total claim under Regulation 9(2)(iii) form part of the original scope of work and the CEA vide its letter dated 18.2.2007 had approved the works related to Dry Ash Extraction System (DAES). It has also submitted that these works would be taken up from time to time based on the requirements of the generating station.

26. We have considered the submissions of the parties. The generating stations comprise of two stages viz Stages I and II and the Ash pond and ash handling system is a common facility for both the stages. It is observed that Stage-I (600 MW) has completed useful life of 25 years during May, 2010 and accordingly, the Stage-I units are entitled for Special allowance, as claimed by the petitioner in terms of Regulation 10 of the 2009 Tariff Regulations, in lieu of Renovation & Modernization. Since the Special Allowance, in lieu of R&M includes the work of ash handling system, the additional capital expenditure claimed towards Ash handling system for Stage-I under Regulation 9(2)(iii) is not permitted. Accordingly, after apportionment of the expenditure between

Stage-I (600 MW) and Stage-II (1500 MW) in the ratio of their capacity, the additional expenditure in respect of Stage-II is only allowed. With the above background and keeping in view that raising of ash pond embankments is a normal activity carried out in phases depending upon requirement of the generating station and the said work is covered under the original scope of work, an expenditure of ₹573.57 lakh (₹395.00 lakh during 2011-12 and ₹178.57 lakh during 2013-14) towards Ash pond has been allowed to be capitalized under Regulation 9(2)(iii) of the 2009 Tariff Regulations.

27. The petitioner has claimed an expenditure of ₹150.00 lakh during 2013-14 towards the work of Ash pond earth cover. The petitioner has submitted that after filling of Ash pond N1 with Ash, earth cover is required in order to prevent fugitive emissions and to facilitate growth of vegetation. As stated, the work of ash pond is covered within the original scope of work and is an activity which is required to be done on a regular basis. Hence, the claim of the petitioner for capitalization of ₹150.00 lakh during 2013-14 is allowed under this head.

28. The petitioner has claimed expenditure of ₹50.00 lakh during 2012-13 for re-routing of roads required for Ash pond management. Since the work is related to Ash pond management and is within the original scope of work as stated above, the claim of the petitioner for capitalization of ₹50.00 lakh for 2012-13 is allowed.

Regulation 9(2)(ii)

Dry Ash Extraction System (DAES)

29. The petitioner has claimed expenditure for ₹2000 lakh during 2010-11 and ₹3700.00 lakh during 2011-12 and ₹507.00 lakh during 2011-12 towards Dry Ash Extraction System (DAES) by M/s Driplex and M/s RITES respectively, under this head. The petitioner has submitted that the work is required to increase dry ash utilization to 100% towards maintaining environmental standards. It has also submitted that the said package has been approved by CEA vide its letter dated 18.6.2007 and forms part of Ash utilization management, which involve 'Rail-cum-Road infrastructure to evacuate Dry fly ash from Units IV and V. The respondent. No.6, TNEB has

submitted that the claim of the petitioner for DAES cannot be considered under Regulation 9(2)(iii) since it allows expenditure pertaining to Ash pond and Ash handling system. The respondent has also submitted that the Ministry of Environment & Forests, Government of India, vide its notification dated 3.11.2009 has directed that the expenditure on account of evacuation of Ash is to be met by the revenue generated from the sale of Ash and hence the petitioner has to bear the expenditure towards DAES. The petitioner in its response has clarified that the said guidelines dated 3.11.2009 do not mention that the development of infrastructure related to evacuation of fly ash is to be financed only through the returns from the sale of fly ash. The petitioner has also submitted that it has been distributing fly ash generated from the generating station free of cost and was not earning any returns from the same. It has also submitted that DAES is under installation at the various generating stations including this generating station and all efforts are being made to comply with the guidelines specified under the notification dated 3.1.2009 regarding disposal/use of fly ash. The petitioner has prayed that the submissions of the said respondent be rejected and the expenditure to be incurred during 2009-14 which is required to handle the ash generated at the generating station may be allowed. As stated earlier, this package has been approved by CEA and in compliance with the requirement under the guidelines specified by the Ministry of Environment & Forests, Government of India vide its notification dated 3.11.2009, the petitioner has undertaken the said work of Ash utilization management. In view of this, we consider the claim of the petitioner under Regulation 9(2)(ii) i.e change in law, instead of Regulation 9(2)(iii) and allow the capitalization of the said amount.

30. The petitioner has claimed ₹130.00 lakh during 2013-14 for construction of new canteen building, as a replacement of existing canteen building effected by the installation of Dry Ash Extraction system. We notice that the petitioner in its petition has not furnished the gross value of the old canteen building and its cumulative depreciation recovered. In the absence of any relevant details/information, the claim of the petitioner is not allowed. Hence, the claim of ₹130.00 lakh during 2013-14 has been disallowed.

31. The petitioner has claimed ₹37.78 lakh during 2011-12 towards decant line diversification. According to the petitioner, decant water has to be tapped from Ash pond to the generating station and this needs periodic changes based on pond geography and utilization. It has also submitted that as part of this ash, decant water channel, which forms part of the CEA approved package, has been planned during 2011-12. Since the work forms part of the CEA approved package and is required as a measure for water conservation, we allow the capitalization of ₹37.78 lakh during 2011-12 under Regulation 9(2)(ii) i.e. change-in-law, instead of Regulation 9(2)(iii).

32. The petitioner has claimed expenditure of ₹525.00 lakh during 2012-13 for Civil works for modification for evacuation of dry ash through Ash tankers. The petitioner has submitted that dry ash utilization system is more than 20 years old and requires modification for evacuation of dry ash through tankers. Since the expenditure related to utilization of dry ash is to meet the stringent targets of Ash utilization, we allow the same under Regulation 9(2)(ii) instead of Regulation 9(2)(iii).

33. The petitioner has claimed expenditure of ₹19.00 lakh during 2009-10 towards Weigh Bridge for Ash tankers. The petitioner has submitted that the said work/asset is essential for weighing the quantity of dry ash from ESP to assess the performance and develop statistics and provides necessary data for adhering to environmental data and analysis. The respondent No.6, TNEB has objected to the claim of the petitioner and has submitted that minor assets for which compensatory allowance has been provided for and items which are not covered under the 2009 Tariff Regulations may not be allowed for capitalization. We are in agreement with the submission of the said respondent. This is in the nature of minor assets and hence the capitalization of ₹19.00 lakh is not allowed.

34. The petitioner has claimed expenditure of ₹88.99 lakh during 2009-10 towards Ambient Air Quality Management System (AAQMS). The petitioner has submitted that the said work/asset is mandatory to track/monitor ambient air quality in and around the generating station and is in line with the requirement of the Andhra Pradesh Pollution Control Board (APPCB). The petitioner has

clarified that based on the consent received from APPCB, it has become mandatory to set up three ambient air quality monitoring stations for continuous recording of relevant critical parameter as per Central Pollution Control Board (CPCB). It has also submitted that the expenditure may be allowed as the consent from APPCB is given on periodic basis and any additional requirement for issuing consent needs to be complied with by the petitioner under the existing law. Considering the submissions of the petitioner and being a statutory requirement, we allow the capitalization of ₹88.99 lakh under this head.

35. The petitioner has claimed expenditure of ₹470.00 lakh during 2012-13 towards MVW spray for augmentation of firefighting, under this head. The petitioner has submitted that in view of high risk and system reliability, and in view of accidents at site, modernization and augmentation of firefighting equipment's, fire detection and protection system was necessary. The respondent No.6, TNEB has submitted that the said expenditure claimed under this regulation is beyond the scope of the 2009 Tariff Regulations and may not be allowed. Since compensation is admissible for the units of the generating station in terms of Regulation 19(e) of the 2009 Tariff Regulations, to meet the expenses on new assets of capital nature including in the nature of minor assets, the expenditure claimed under this head is not allowed.

36. The petitioner has claimed expenditure of ₹1.00 lakh during 2009-10 and ₹10.00 lakh each during the years 2010-11, 2011-12, 2012-13 and 2013-14, towards flue gas conditioning unit. The petitioner has claimed expenditure of ₹6.25 lakh during 2009-10 towards portable flue gas analyzer. The petitioner has submitted that these items were essential for Energy conservation to estimate the amount of un-burnt carbon, CO and other contents of flue gas. The petitioner in its submission vide affidavit 22.12.2010 has submitted that expenditure of ₹1.00 lakh during 2009-10 and ₹10.00 lakh each for the years 2010-11 to 2013-14 is towards purchase of new testing equipment essential for energy auditing like Water flow meter, Hand held power analyzer, Rotating vane anemometer, High Volume Sampler (HVS), Iso-kinetic coal samplers, portable DAS, etc. The respondent No.6, TNEB has submitted that these are minor items and capitalization of the same may not be allowed. Moreover, the need for installation of flue gas conditioning unit during the fag

end of life of generating station is not clear from the submissions of the petitioner. Considering the fact that these items are in the nature of minor assets, the expenditure is not allowed to be capitalized.

37. The petitioner has claimed expenditure for ₹107.24 lakh during 2011-12 for On-line Power measurement system under this head. The petitioner has submitted that as per guidelines of the Electricity Conservation Act, station internal energy consumption is to be monitored and audited periodically and huge data on energy consumption due to auxiliary equipment can be logged for analysis and audit only through on-line energy management system. Since the benefit of the reduction in auxiliary power consumption by the generating station is not passed on to the beneficiaries, during the tariff period, we are of the view that the said expenditure is to be borne by the petitioner. In view of this, capitalization of an expenditure of ₹107.24 lakh during 2011-12 is not allowed.

38. The petitioner has claimed expenditure of ₹69.79 lakh during 2009-10 towards township metering. The petitioner has submitted that capitalization of the said expenditure is necessary for installation of meters in township quarters to monitor consumption. The respondent No.6, TNEB has submitted that said expenditure is normally borne by the end users and the points where the meters are to be installed may be provided by the petitioner. It has also submitted that the reason for non-metering of such services till date by the generator needs elaboration as change in meter due to normal wear and tear cannot be claimed under change in law. In response, the petitioner has clarified that the expenditure is a one-time expenditure for providing meters for quarters and public buildings in township for monitoring of energy consumption and was not part of the O&M expenditure during 2004-08. Since, supply of electricity with meters is mandatory in terms of the provisions of the Electricity Act, 2003, the expenditure for its installation may be allowed. In view of the submissions of the petitioner and for the purpose of energy audit under the provisions of Energy Conservation Act, the expenditure of ₹69.79 lakh is allowed to be capitalized, under this head.

Regulation 5, 6 & 7

39. The petitioner has claimed expenditure of ₹8.18 lakh during 2009-10 for On-line dual channel water meter in terms of Regulation 5, 6 and 7 and on the ground that the asset is necessary for efficient operation of the generating station, notwithstanding the provisions contained in Regulation 9 and 19(e) of the 2009 Tariff Regulations. The petitioner has submitted that this item is essential to detect heavy metals in ash water, drinking water, boiler water and other waste disposals. It has also submitted that it is essential for predicting and correcting the chemical processing and the data developed is required for controlling environmental impact. We have already held in this order that the claim of the petitioner has to be considered in terms of the provisions of Regulation 9 (2) of the 2009 Tariff Regulations for the reasons stated thereunder. Moreover, the asset is in the nature of minor assets. Hence, capitalization of ₹8.18 lakh for 2009-10 under this head is not allowed.

40. The petitioner has claimed expenditure of ₹117.22 lakh during 2009-10 towards Re-routing of riser pipes for cooling towers under this head. The petitioner has submitted that the said item was approved under the CEA package for ₹104.59 lakh, out of which ₹43.02 lakh (excluding de-capitalization of ₹6.46 lakh for 2005-06) was allowed by the Commission while approving additional capitalization for 2005-06 in Petition No. 29/2007. The petitioner vide its affidavit dated 22.12.2010 has submitted reasons for increase in expenditure thereby justifying its claim in terms of Regulation 5, 6 and 7 and based on its submission that the asset is necessary for efficient operation of the generating station, notwithstanding the provisions contained in Regulation 9 of the 2009 Tariff Regulations. The respondent No.6, TNEB has submitted that additional capitalization towards R&M allowance as well as towards this item under R&M phase-I would only amount to double jeopardy, wherein the beneficiaries would be paying the allowance and servicing the expenditure. We have already held in this order that the claim of the petitioner has to be considered in terms of the provisions of Regulation 9 of the 2009 Tariff Regulations for the reasons stated thereunder. Moreover, to meet the expenses on new assets of capital nature including in the nature of minor assets, compensation allowance is admissible to the petitioner under

Regulation 19(e) of the 2009 Tariff Regulations. In view of this, capitalization of an expenditure of ₹117.22 lakh during 2009-10 is not allowed.

41. The petitioner has claimed expenditure of ₹228.00 lakh during 2011-12 for capitalization of Railway wagons based on its submission that the asset is necessary for efficient operation of the generating station, notwithstanding the provisions contained in Regulation 9 of the 2009 Tariff Regulations. The petitioner has submitted that six number of wagons were procured for replacement of the damaged wagons and the Commission while approving the additional capital expenditure for this generating station for the year 2007-08 in Petition No. 142/2009, had not considered the de-capitalization of these wagons under exclusions. In view of the fact that the Commission had allowed de-capitalization of these wagons, the corresponding capitalization sought for by the petitioner is allowed, under Regulation 9(2)(vii) of the 2009 Tariff Regulations.

42. Based on the above discussions, the additional capital expenditure allowed for 2009-14, is as under:

<i>(₹ in lakh)</i>						
	Regulations	Actual expenditure	Projected Capital expenditure			
			2009-10	2010-11	2011-12	2012-13
Ash Pond						
Ash Pond	9(2)(iii)	0.00	0.00	395.00	0.00	178.57
Ash Pond earth cover	9(2)(iii)	0.00	0.00	0.00	0.00	150.00
Re-routing of roads as required for Ash Pond Management	9(2)(iii)	0.00	0.00	0.00	50.00	0.00
Dry Ash Extraction System (DAES)						
DAES-M/s RITES	9(2)(ii)	0.00	0.00	507.00	0.00	0.00
DAES-M/s Driplex	9(2)(ii)	0.00	2000.00	3700.00	0.00	0.00
Decant line diversification	9(2)(ii)	0.00	0.00	37.78	0.00	0.00
Civil works for evacuation of Dry Ash through Ash Tanker	9(2)(ii)	0.00	0.00	0.00	525.00	0.00
Environment System						
AAQMS	9(2)(ii)	88.99	0.00	0.00	0.00	0.00
Energy Conservation						
Online Power measurement system	9(2)(ii)	0.00	0.00	0.00	0.00	0.00
Railway Wagons	Regulations 5, 6 & 7	0.00	0.00	228.00	0.00	0.00
Township metering	9(2)(ii)	69.79	0.00	0.00	0.00	0.00
Total Additional capital expenditure allowed		158.78	2000.00	4867.78	575.00	328.57

43. The additional capital expenditure allowed for the purpose of tariff, including liabilities discharged, is as under:

(₹ in lakh)					
	2009-10	2010-11	2011-12	2012-13	2013-14
Additional capital expenditure allowed	158.78	2000.00	4867.78	575.00	328.57
Add: Liabilities Discharged	41.06	2.57	0.00	0.00	0.00
Net Additional capital expenditure allowed	199.84	2002.57	4867.78	575.00	328.57

Capital Cost for 2009-14

44. Accordingly, the capital cost considered for the purpose of tariff for 2009-14 is as under:

(₹ in lakh)					
	2009-10	2010-11	2011-12	2012-13	2013-14
Opening Capital cost	229359.10	229558.93	231561.50	236429.28	237004.28
Additional capital expenditure	199.84	2002.57	4867.78	575.00	328.57
Closing Capital cost	229558.93	231561.50	236429.28	237004.28	237332.85
Average Capital cost	229459.02	230560.22	233995.39	236716.78	237168.57

Debt- Equity Ratio

45. Regulation 12 of the 2009 Tariff Regulations provides as stated under:

“(1) For a project declared under commercial operation on or after 1.4.2009, 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 where equity actually deployed is less than 30% of the capital cost, the actual equity shall be considered for determination of tariff.

Provided further that the equity invested in foreign currency shall be designated in Indian rupees on the date of each investment.

Explanation.- The premium, if any, raised by the generating company or the transmission licensee, as the case may be, while issuing share capital and investment of internal resources created out of its free reserve, for the funding of the project, shall be reckoned as paid up capital for the purpose of computing return on equity, provided such premium amount and internal resources are actually utilized for meeting the capital expenditure of the generating station or the transmission system.

(2) In case of the generating station and the transmission system declared under commercial operation prior to 1.4.2009, debt-equity ratio allowed by the Commission for determination of tariff for the period ending 31.3.2009 shall be considered.

(3) Any expenditure incurred or projected to be incurred on or after 1.4.2009 as may be admitted by the Commission as additional capital expenditure for determination of tariff, and renovation and modernization expenditure for life extension shall be serviced in the manner specified in clause (1) of this regulation.”

46. The gross loan and equity amounting to ₹115207.62 lakh and ₹114274.60 lakh, respectively approved as on 31.3.2009, vide order dated 7.7.2011 in Petition No.142/2009, has been considered as gross loan and equity as on 1.4.2009. However, un-discharged liabilities of ₹123.12

lakh deducted from the capital cost as on 1.4.2009 has been adjusted to debt and equity in the ratio of 50:50 for liabilities pertaining to the period prior to 1.4.2004 and in the ratio of 70:30 for liabilities pertaining to the period 2004-09. As such, the gross normative loan and equity as on 1.4.2009 is revised to ₹115137.45 lakh and ₹114221.65 lakh, respectively. Further, the projected additional expenditure admitted as above has been allocated in the debt-equity ratio of 70:30. The same is subject to truing-up in terms of the provisions contained in Regulation 6 of the 2009 Tariff Regulations.

Return on Equity

47. Regulation 15 of the 2009 Tariff Regulations provides as under:

“(1) Return on equity shall be computed in rupee terms, on the equity base determined in accordance with regulation 12.

(2) Return on equity shall be computed on pre-tax basis at the base rate of 15.5% to be grossed up as per clause (3) of this regulation.

Provided that in case of projects commissioned on or after 1st April, 2009, an additional return of 0.5% shall be allowed if such projects are completed within the timeline specified in Appendix-II.

Provided further that the additional return of 0.5% shall not be admissible if the project is not completed within the timeline specified above for reasons whatsoever.

(3) The rate of return on equity shall be computed by grossing up the base rate with the Minimum Alternate/Corporate Income Tax Rate for the year 2008-09, as per the Income Tax Act, 1961, as applicable to the concerned generating company or the transmission licensee, as the case may be.

(4) Rate of return on equity shall be rounded off to three decimal points and be computed as per the formula given below:

Rate of pre-tax return on equity = Base rate / (1-t)

Where t is the applicable tax rate in accordance with clause (3) of this regulation.

(5) The generating company or the transmission licensee, as the case may be, shall recover the shortfall or refund the excess Annual Fixed Charge on account of Return on Equity due to change in applicable Minimum Alternate/Corporate Income Tax Rate as per the Income Tax Act, 1961 (as amended from time to time) of the respective financial year directly without making any application before the Commission:

Provided further that Annual Fixed Charge with respect to the tax rate applicable to the generating company or the transmission licensee, as the case may be, in line with the provisions of the relevant Finance Acts of the respective year during the tariff period shall be trued up in accordance with Regulation 6 of these regulations.”

48. The respondent No.1, APTRANSCO has submitted that since useful life of some of the units of the generating station has already been completed and since the petitioner has made its claim for special allowance and compensation allowance, the equity portion of these may be reduced from the capital cost for the purpose of calculation of Return on Equity. The petitioner has submitted that it has opted for special allowance in terms of Regulation 10(4) and there were no

provisions for under the 2009 Tariff Regulations for reduction of equity. As stated by the petitioner there exists no provision under the 2009 Tariff Regulations for reduction of capital cost on the ground raised by the respondent. Return on equity has thus been worked out @23.481% per annum on the normative equity after accounting for the admitted additional capital expenditure.

	(₹ in lakh)				
	2004-05	2005-06	2006-07	2007-08	2008-09
Notional Equity- Opening	114221.65	114281.60	114882.37	116342.70	116515.20
Addition of Equity due to Additional capital expenditure	59.95	600.77	1460.33	172.50	98.57
Normative Equity-Closing	114281.60	114882.37	116342.70	116515.20	116613.78
Average Normative Equity	114251.63	114581.99	115612.54	116428.95	116564.49
Return on Equity (Base Rate)	15.500%	15.500%	15.500%	15.500%	15.500%
Tax Rate for the year 2008-09	33.990%	33.990%	33.990%	33.990%	33.990%
Rate of Return on Equity (Pre Tax)	23.481%	23.481%	23.481%	23.481%	23.481%
Return on Equity (Pre Tax)- (annualised)	26827.42	26905.00	27146.98	27338.68	27370.51

Interest on loan

49. Regulation 16 of the 2009 Tariff Regulations provides as under:

(1) The loans arrived at in the manner indicated in regulation 12 shall be considered as gross normative loan for calculation of interest on loan.

(2) The normative loan outstanding as on 1.4.2009 shall be worked out by deducting the cumulative repayment as admitted by the Commission up to 31.3.2009 from the gross normative loan.

3) The repayment for the year of the tariff period 2009-14 shall be deemed to be equal to the depreciation allowed for that year.

(4) Notwithstanding any moratorium period availed by the generating company or the transmission licensee, as the case may be 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.

(5) The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio at the beginning of each year applicable to the project.

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 or the transmission system, as the case may be, does not have actual loan, then the weighted average rate of interest of the generating company or the transmission licensee as a whole shall be considered.

(6) The interest on loan shall be calculated on the normative average loan of the year by applying the weighted average rate of interest.

(7) The generating company or the transmission licensee, as the case may be, 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 or the transmission licensee, as the case may be, in the ratio of 2:1.

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

(9) In case of dispute, any of the parties may make an application in accordance with the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, as amended from time to time, including statutory re-enactment thereof for settlement of the dispute.

Provided that the beneficiary or the transmission customers shall not withhold any payment on account of the interest claimed by the generating company or the transmission licensee during the pendency of any dispute arising out of re-financing of loan."

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

(a) The gross normative loan of ₹115137.45 lakh as on 1.4.2009 has been considered.

(b) Cumulative repayment as on 31.3.2009 works out to ₹113403.98 lakh as per order dated 7.7.2011 in Petition Nos.142/2009. The same has been considered as cumulative repayment as on 1.4.2009. However, after taking in to account the proportionate adjustment (taking into account the liability and debt position as on 1.4.2004 along with additions during the period 2004-09) to the cumulative repayment on account of un-discharged liabilities deducted from the capital cost as on 1.4.2009, the cumulative repayment as on 1.4.2009 is revised as ₹113337.45 lakh.

(c) Accordingly, the net normative opening loan as on 1.4.2009 works out to ₹1800.00 lakh.

(d) Addition to normative loan to the tune of 70% of the admitted additional capital expenditure above has been considered.

(e) Depreciation allowed subject to availability of loan, has been considered as repayment of normative loan during the respective year of the period 2009-14. Further, proportionate adjustment has been made to the repayments on account of de-capitalisation considered in the projected additional expenditure approved and the discharges of liabilities considered during the respective years on account of cumulative repayment adjusted as on 1.4.2009.

(f) In line with the first proviso to Regulation 16(5) of the 2009 Tariff Regulations, the weighted average rate of interest has been calculated applying the actual loan portfolio existing as on 1.4.2009, for the generating station. Further, in case of LIC-III (T4, D4) in addition to the normal rate of interest of 8.7281%, the petitioner has claimed financing charges of 0.02%, and the same has been considered for the purpose of tariff, subject to trueing-up.

(g) The weighted average rate of interest has been calculated applying the actual loan portfolio existing as on 1.4.2009, for the generating station and is enclosed as Annexure –I to this order.

51. The calculations for Interest on loan are as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Gross opening loan	115137.45	115277.33	116679.13	120068.58	120489.08
Cumulative repayment of loan upto previous year	113337.45	113404.22	113699.69	115077.90	117780.02
Net Loan Opening	1800.00	1873.11	2979.44	5008.68	2709.06
Addition due to additional capitalisation	139.89	1401.80	3407.45	402.50	230.00
Repayment of loan during the year	46.27	294.21	1378.20	2702.12	2703.41
Add: Repayment adjustment on discharges corresponding to un-discharged liabilities deducted as on 1.4.2009	20.51	1.26	0.00	0.00	0.00
Net Repayment	66.77	295.47	1378.20	2702.12	2703.41
Net Loan Closing	1873.11	2979.44	5008.68	2709.06	235.65
Average Loan	1836.56	2426.27	3994.06	3858.87	1472.35
Weighted Average Rate of Interest on Loan	7.1632%	7.1701%	7.2585%	7.5689%	8.1735%
Interest on Loan	131.56	173.97	289.91	292.07	120.34

Depreciation

52. Regulation 17 of the 2009 Tariff Regulations provides as under:

“(1) The value base for the purpose of depreciation shall be the capital cost of the asset admitted by the Commission.

(2) 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 longterm power purchase agreement at regulated tariff.

(3) Land other than the 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.

(4) Depreciation shall be calculated annually based on Straight Line Method and at rates specified in Appendix-III to these regulations for the assets of the generating station and transmission system.

Provided that, the remaining depreciable value as on 31st March of the year closing after a period of 12 years from date of commercial operation shall be spread over the balance useful life of the assets.

(5) In case of the existing projects, the balance depreciable value as on 1.4.2009 shall be worked out by deducting the cumulative depreciation including Advance against Depreciation as admitted by the Commission upto 31.3.2009 from the gross depreciable value of the assets.

(6) 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.”

53. Cumulative depreciation as on 31.3.2009 as per order dated 7.7.2011 in Petition No. 142/2009 is ₹204022.57 lakh. Further, proportionate adjustment has been made to the cumulative depreciation on account of un-discharged liabilities deducted as on 1.4.2009. Accordingly, the

revised cumulative depreciation as on 1.4.2009 works out to ₹203913.11 lakh. The value of freehold land as considered in said order dated 7.7.2011 as on 31.3.2009 is ₹2639.56 lakh and the same has been considered for the purpose of calculating the depreciable value. Accordingly, the balance depreciable value (before providing depreciation) for the year 2009-10 works out to ₹224.40 lakh. Since, the generating station has completed more than 12 years as on 1.4.2009 from the effective date of commercial operation of 12.6.1988, the depreciation has been calculated by spreading over of the balance depreciable value. The balance useful life as on 1.4.2009, as per order dated 7.7.2011 in Petition No.142/2009 works out to 4.85 years. Further, proportionate adjustment has been made to the cumulative depreciation corresponding to discharges of liabilities considered during the respective years on account of cumulative depreciation adjusted as on 1.4.2009. The necessary calculations in support of depreciation are as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Opening capital cost	229359.10	229558.93	231561.50	236429.28	237004.28
Closing capital cost	229558.93	231561.50	236429.28	237004.28	237332.85
Average capital cost	229459.02	230560.22	233995.39	236716.78	237168.57
Depreciable value @ 90%	204137.51	205128.59	208220.25	210669.50	211076.11
Remaining useful life at the beginning of the year	4.85	3.85	2.85	1.85	0.85
Balance depreciable value	224.40	1132.71	3927.87	4998.92	2703.41
Depreciation (annualized)	46.27	294.21	1378.20	2702.12	2703.41
Cumulative depreciation at the end	203959.38	204290.09	205670.57	208372.70	211076.11
Add: Cumulative depreciation adjustment on account of discharges out of un-discharged liabilities deducted as on 1.4.2009	36.50	2.28	0.00	0.00	0.00
Net Cumulative depreciation (at the end of the period)	203995.88	204292.37	205670.57	208372.70	211076.11

O & M Expenses

54. Clause (a) of Regulation 19 of Regulation of the 2009 Tariff Regulations provide the following O&M expense norms for Coal based and lignite fired generating stations is given overleaf:

	(₹ in lakh/MW)				
	2009-10	2010-11	2011-12	2012-13	2013-14
O&M expenses for 200 MW units	18.20	19.24	20.34	21.51	22.74
O&M expenses for 500 MW units	13.00	13.74	14.53	15.36	16.24

55. The petitioner has claimed the following O&M expenses during 2009-14:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
O&M expenses	30420.00	32154.00	33999.00	35946.00	38004.00

56. Based on above norms, the operation & maintenance expense claimed by the petitioner is in order and has been allowed.

Normative Plant Availability Factor (NAPAF)

57. The NAPAF of the generating station is considered as 85% for the period 1.4.2009 to 31.3.2014.

Interest on Working Capital

58. Regulation 18(1)(a) of the 2009 Tariff Regulations provides that the working capital for coal based generating stations shall cover:

(i) Cost of coal for 1.5 months for pit-head generating stations and two months for non-pithead generating stations, for generation corresponding to the normative annual plant availability factor;

(ii) Cost of secondary fuel oil for two months for generation corresponding to the normative annual plant availability factor, and in case of use of more than one liquid fuel oil, cost of fuel oil stock for the main secondary fuel oil;

(iii) Maintenance spares @ 20% of operation and maintenance expenses specified in regulation 19.

(iv) Receivables equivalent to two months of capacity charge and energy charge for sale of electricity calculated on normative plant availability factor; and

(v) O&M expenses for one month.

59. Clause (3) of Regulation 18 of the 2009 Tariff Regulations, as amended on 21.6.2011 provides as under:

"Rate of interest on working capital shall be on normative basis and shall be considered as follows:

(i) SBI short-term Prime Lending Rate as on 01.04.2009 or on 1st April of the year in which the generating station or unit thereof or the transmission system, as the case may be, is declared under commercial operation, whichever is later, for the unit or station whose date of commercial operation falls on or before 30.06.2010.

(ii) SBI Base Rate plus 350 basis points as on 01.07.2010 or as on 1st April of the year in which the generating station or a unit thereof or the transmission system, as the case may be, is declared under commercial operation, whichever is later, for the units or station whose date of commercial operation lies between the period 01.07.2010 to 31.03.2014.

Provided that in cases where tariff has already been determined on the date of issue of this notification, the above provisions shall be given effect to at the time of truing up.

60. The respondent No. 1, APTRANSCO has objected to the amount of interest on working capital, the amount of variable charges of coal and the rate of interest claimed for working capital. The respondent has also submitted that cost of coal during January 2009 to March, 2009 is on the higher side and that the average coal cost of three months prior to November, 2009 (date of filing

of petition) may be considered. It has also submitted that the interest on working capital adopted during 2004-09 at the rate of 10.25% may be considered instead of 12.25% claimed in the petition. The respondent has further submitted that income-tax/MAT may not be included in the receivable component of working capital every year. In response to these, the petitioner has submitted that the computations for working capital has been made in terms of the provisions of the 2009 Tariff Regulations and the objections of the respondent deserve to be rejected. We have considered the submissions of the parties and the components of working capital has been computed and allowed in terms of the 2009 Tariff Regulations, as discussed in subsequent paragraphs.

61. Working capital has been calculated considering the following elements:

Fuel Components in working capital

62. The petitioner has claimed the cost for fuel component in working capital in its petition, based on price and GCV of coal & secondary fuel oil (HFO) procured and burnt for the preceding three months from January, 2009 to March, 2009 as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Cost of coal for 1.5 months	27070.74	27070.74	27144.90	27070.74	27070.74
Cost of secondary fuel oil 2 months	533.32	533.32	534.78	533.32	533.32

63. The fuel component in the working capital claimed by the petitioner based on the norms is in order and hence allowed.

Maintenance Spares in working capital

64. The petitioner has claimed the following maintenance spares in the working capital.

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Cost of maintenance spares	6271	6622	6995	7384	7796

65. The 2009 Tariff Regulations provide for maintenance spares @ 20% of the operation and maintenance expenses as specified in Regulation 19. Accordingly, the maintenance spares for the purpose of tariff is worked out as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Cost of maintenance spares	6084.00	6430.80	6799.80	7189.20	7600.80

Receivables

66. Receivables have been worked out on the basis of two months of fixed and energy charges (based on primary fuel only) as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Variable Charges -2 months	36094.31	36094.31	36193.20	36094.31	36094.31
Fixed Charges - 2 months	12151.26	12712.13	13501.54	14130.04	14503.25
Total	48245.58	48806.45	49694.74	50224.35	50597.57

O&M Expenses

67. O & M expenses for 1 month claimed by the petitioner for the purpose of working capital are as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
O & M for 1 month	2613	2759	2915	3077	3248

68. The petitioner has claimed O & M expenses as above, for the working capital by including one month expenditure of compensatory allowance. Regulation 19 (e) of the 2009 Tariff Regulations provides that "a separate compensation allowance unit-wise shall be admissible to meet expenses on new assets of capital nature including in the nature of minor assets". Therefore, the above claim of petitioner is not considered. However, O&M expenses for one month considered for working capital based on the provisions of the 2009 Tariff Regulations is as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
O & M for 1 month	2535.00	2679.50	2833.25	2995.50	3167.00

69. SBI PLR of 12.25% has been considered in the computation of the interest on working capital. Necessary computations in support of calculation of interest on working capital are as under as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Cost of coal – 1.1/2 months	27070.74	27070.74	27144.90	27070.74	27070.74
Cost of secondary fuel oil – 2 month	533.32	533.32	534.78	533.32	533.32
O&M expenses – 1 month	2535.00	2679.50	2833.25	2995.50	3167.00
Maintenance Spares	6084.00	6430.80	6799.80	7189.20	7600.80
Receivables – 2 months	48245.58	48806.45	49694.74	50224.35	50597.57
Total working capital	84468.64	85520.81	87007.47	88013.11	88969.42
Rate of interest	12.2500%	12.2500%	12.2500%	12.2500%	12.2500%
Interest on working capital	10347.41	10476.30	10658.42	10781.61	10898.75

Cost of secondary fuel oil

70. Clause (1) of Regulation 20 of the 2009 Tariff Regulations provides as under:

*“20. Expenses on secondary fuel oil consumption for coal-based and lignite-fired generating station.
(1) Expenses on secondary fuel oil in Rupees shall be computed corresponding to normative secondary fuel oil consumption (SFC) specified in clause (iii) of regulation 26, in accordance with the following formula:*

SFC – Normative Specific Fuel Oil consumption in ml/kWh

= SFC x LPSFi x NAPAF x 24 x NDY x IC x 10

Where,

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

NAPAF – Normative Annual Plant Availability Factor in percentage

NDY – Number of days in a year

IC - Installed Capacity in MW.

71. In terms of the above, the cost of secondary fuel oil has been calculated on the normative specific fuel oil consumption, the weighted average landed price of secondary fuel price adopted and NAPF of 85%. Accordingly, the cost of secondary fuel is as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Cost of secondary fuel oil	3199.93	3199.93	3208.70	3199.93	3199.93

72. The cost of secondary fuel oil arrived at as above shall be subject to fuel price adjustment at the end of each year of tariff period in terms of the proviso to Regulation 20(2) as per the following formula:

SFC x NAPAF x 24 x NDY x IC x 10 x (LPSFy – LPSFi)

Where,

LPSFy = The weighted average landed price of secondary fuel oil for the year in Rs. /ml

Compensation Allowance

73. Regulation 19 (e) of the 2009 Tariff Regulations provides as under:

“In case of coal-based or lignite-fired thermal generating station a separate compensation allowance unit-wise shall be admissible to meet expenses on new assets of capital nature including in the nature of minor assets, in the following manner from the year following the year of completion of 10, 15, 20 years of useful life.”

Years of operation	Compensation allowance (₹ in lakh/MW/Year)
0-10	Nil
11-15	0.15
16-20	0.35
21-25	0.65

74. The petitioner has claimed following compensation allowance during the 2009-14 as under:

	Unit-1	Unit-II	Unit-III	Unit-IV	Unit-V	Unit-VI
Unit capacity in MW	200	200	200	500	500	500
Compensation allowance (₹ in lakh)	2009-10	2010-11	2011-12	2012-13	2013-14	
	935.00	955.00	975.00	975.00	975.00	

75. The compensation allowance claimed by the petitioner in terms of the above regulations is in order and hence allowed.

Special Allowance

76. Regulation 10 (4) of the 2009 Tariff Regulations provides as under:

“(4) A generating company on opting for the alternative in the first proviso to clause (1) of this regulation, for a coal-based/lignite fired thermal generating station, shall be allowed special allowance @ Rs.5 lakh/MW/year in 2009-10 and thereafter escalated @ 5.72% every year during the tariff period 2009-14, unit-wise from the next financial year from the respective date of the completion of useful life with reference to the date of commercial operation of the respective unit of generating station.

Provided that in respect of a unit in commercial operation for more than 25 years as on 1.4.2009, this allowance shall be admissible from the year 2009-10.”

77. The petitioner has claimed Special Allowance to meet the requirement of expenses including R & M, beyond the useful life of generating station or unit thereof in terms of the above provision as under:

Units	Capacity (MW)	Date of commercial operation	Year of completion of Useful life	Special allowance (₹ in lakh)				
				2009-10	2010-11	2011-12	2012-13	2013-14
I	200	1.3.1984	2008-09	1000	1057	1118	1182	1249
II	200	1.11.1984	2009-10	0	1057	1118	1182	1249
III	200	1.5.1985	2010-11	0	0	1118	1182	1249
IV	500	1.11.1988	2013-14	0	0	0	0	0
Total Claimed				1000.00	2114.00	3353.00	3545.00	3749.00

78. The Special Allowance claimed by the petitioner has been worked out in terms of the provisions of the said regulations and is allowed as under:

Units	Capacity (MW)	Date of commercial operation	Year of completion of Useful life	Special allowance				
				2009-10	2010-11	2011-12	2012-13	2013-14
I	200	1.3.1984	2008-09	1000.00	1057.20	1117.67	1181.60	1249.19
II	200	1.11.1984	2009-10	0.00	1057.20	1117.67	1181.60	1249.19
III	200	1.5.1985	2010-11	0.00	0.00	1117.67	1181.60	1249.19
IV	500	1.11.1988	2013-14	0.00	0.00	0.00	0.00	0.00
Total allowed				1000.00	2114.40	3353.01	3544.80	3747.57

Annual Fixed charges for 2009-14

79. The annual fixed charges for the period 2009-14 in respect of the generating station are summarized as under:

	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	46.27	294.21	1378.20	2702.12	2703.41
Interest on Loan	131.56	173.97	289.91	292.07	120.34
Return on Equity	26827.42	26905.00	27146.98	27338.68	27370.51
Interest on Working Capital	10347.41	10476.30	10658.42	10781.61	10898.75
O&M Expenses	30420.00	32154.00	33999.00	35946.00	38004.00
Cost of Secondary fuel oil	3199.93	3199.93	3208.70	3199.93	3199.93
Compensation Allowance	935.00	955.00	975.00	975.00	975.00
Special Allowance	1000.00	2114.40	3353.01	3544.80	3747.57
Total	72907.58	76272.80	81009.21	84780.22	87019.51

Note: (i) All figures are on annualized basis. (ii) All the figures under each head have been rounded. (iii) The figure in total column in each year is also rounded. Because of rounding of each figure the total may not be arithmetic sum of individual items in columns.

80. The recovery of the annual fixed charges shall be subject to truing up in terms of Regulation 6 of the 2009 Tariff Regulations.

Energy Charge Rate (ECR)

81. Sub-clause (b) of clause (6) of Regulation 21 of the 2009 Tariff Regulations provides as under:

“Energy charge rate (ECR) in Rupees per kWh on ex-power plant basis shall be determined to three decimal places in accordance with the following formulae:

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

Where,

AUX = Normative auxiliary energy consumption in percentage.

CVPF = Gross calorific value of primary fuel as fired, in kCal per kg, per litre or per standard cubic metre, as applicable.

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 litre or per standard cubic metre, as applicable, during the month."

82. The petitioner has claimed an Energy Charge Rate (ECR) of 149.27 paisa/kWh considering the normative transit and handling losses of 0.2% supplied through MGR system and 0.8% for coal supplied through Railway system. Accordingly, the weighted average price of coal works out to be ₹2321.74/MT. Based on the weighted average rate price, GCV of fuel procured and burnt for the preceding three months of January, 2009 to March, 2009 and operational norms, the Energy Charge Rate works out to 149.261 paise/kWh and the same is allowed. The relevant calculations are as under:

	Unit	For 2009-10, 2010-11, 2012-13 and 2013-14	For 2011-12
Capacity	MW	2100 MW (3 x 210+ 3 x 500)	-
Weighted average Gross Station Heat Rate	Kcal/kWh	2446.43	2446.43
Weighted average Auxiliary Energy Consumption	%	7.21	7.21
Weighted average price of oil	Rs/Kl	20464.35	20464.35
Weighted average price of coal	Rs/MT	2321.74	2321.74
Rate of energy charge ex-bus	paise/kWh	149.261	149.261

83. The petitioner shall be entitled to compute and recover the annual fixed charges and energy charges in accordance with Regulation 21 (6) (a) of the 2009 Tariff Regulations.

84. The claim of the petitioner towards recovery of RLDC fees & charges incurred by the petitioner is disposed of in terms of our order dated 6.2.2012 in Petition No.140/MP/2011 (NTPC-v-POSOCO Ltd & ors).

Expenditure incurred for implementation of scheme for provision of supply of electricity in 5 km area around Central Power plants:

85. The petitioner has submitted that in terms of the notification dated 27.4.2010 of the Government of India of a scheme for provision of supply of electricity in 5 km area around Central Power plants, the petitioner is required to create infrastructure for supply of reliable power to the rural households of the villages within a radius of 5 km of existing and new power stations and as per the scheme, the Appropriate Commission shall consider the expenditure incurred for

implementation of such scheme for the purpose of determining tariff of the generating station. The petitioner has submitted that DPR for implementation of the scheme is under preparation and it was not possible to estimate the projected expenditure at this stage. The petitioner has further submitted that it would approach the Commission for consideration of the cost incurred in implementation of this scheme for tariff purpose thereafter. The petitioner is at liberty to approach the Commission through an appropriate application, which would be considered in accordance with law.

Application fee and the publication expenses

86. The petitioner has sought approval for the reimbursement of fees amounting to ₹42.00 lakh each for the years 2009-10, 2010-11 and 2011-12 towards filing the petition and for towards expenses incurred for publication of notices in connection with the petition. The petitioner by its affidavit dated 26.4.2010 has submitted that an expenditure of ₹7,46,625/- has been incurred by it for publication of notice in the newspapers.

87. In terms of Regulation 42 of the 2009 Tariff Regulations and based on our decision in order dated 11.1.2010 in Petition No.109/2009, the expenses towards filing of tariff application and the expenses incurred on publication of notices are to be reimbursed. Accordingly, the expenses incurred by the petitioner for petition filing fees for the years 2009-10, 2010-11 and 2011-12 for publication of notices in connection with the present petition shall be directly recovered from the beneficiaries, on *pro rata* basis. The filing fee in respect of the balance years is recoverable by the petitioner as paid by its in terms of the Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012.

88. In addition to the above, the petitioner is entitled to recover other taxes etc., levied by statutory authorities in accordance with the 2009 Tariff Regulations, as applicable.

89. The petitioner is already billing the respondents on provisional basis in accordance with the Commission's order dated 6.7.2011. The provisional billing of tariff shall be adjusted in terms of the proviso to Regulation 5(3) of the 2009 Tariff Regulations.

90. This order disposes of Petition No.278/2009.

Sd/-
[V.S. Verma]
Member

Sd/-
[S. Jayaraman]
Member

Sd/-
[Dr. Pramod Deo]
Chairperson

CALCULATION OF WEIGHTED AVERAGE RATE OF INTEREST ON LOAN

(₹ in lakh)

Sl. No.	Name of Loan		2009-10	2010-11	2011-12	2012-13	2013-14
1.	UBI (T1,D1)	Net opening loan	51.43	25.71	-	-	-
		Add: Addition during the period	-	-	-	-	-
		Less: Repayment during the period	25.71	25.71	-	-	-
		Net Closing Loan	25.71	-	-	-	-
		Average Loan	38.57	12.86	-	-	-
		Rate of Interest	7.3560%	7.3560%	7.3560%	7.3560%	7.3560%
2.	UCO (T1,D5)	Net opening loan	285.71	142.86	-	-	-
		Add: Addition during the period	-	-	-	-	-
		Less: Repayment during the period	142.86	142.86	-	-	-
		Net Closing Loan	142.86	-	-	-	-
		Average Loan	214.29	71.43	-	-	-
		Rate of Interest	7.4000%	7.4000%	7.4000%	7.4000%	7.4000%
3.	SBI-II (T1,D4)	Net opening loan	285.71	142.86	-	-	-
		Add: Addition during the period	-	-	-	-	-
		Less: Repayment during the period	14.29	14.29	14.29	-	-
		Net Closing Loan	28.57	14.29	-	-	-
		Average Loan	35.71	21.43	7.14	-	-
		Rate of Interest	11.6500%	11.6500%	11.6500%	11.6500%	11.6500%
4.	LIC-III(T4,D4)	Net opening loan	510.00	450.00	390.00	330.00	270.00
		Add: Addition during the period	-	-	-	-	-
		Less: Repayment during the period	60.00	60.00	60.00	60.00	60.00
		Net Closing Loan	450.00	390.00	330.00	270.00	210.00
		Average Loan	480.00	420.00	360.00	300.00	240.00
		Rate of Interest	8.7481%	8.7481%	8.7481%	8.7481%	8.7481%
5.	IBRD-Main	Net opening loan	336.27	277.03	213.31	144.76	71.02
		Add: Addition during the period	-	-	-	-	-
		Less: Repayment during the period	59.24	63.72	68.55	73.74	71.02
		Net Closing Loan	277.03	213.31	144.76	71.02	-
		Average Loan	306.65	245.17	179.04	107.89	35.51
		Rate of Interest	4.2900%	4.2900%	4.2900%	4.2900%	4.2900%
6.	GOI-Loan 11.75%	Net opening loan	7.00	-	-	-	-
		Add: Addition during the period	-	-	-	-	-
		Less: Repayment during the period	7.00	-	-	-	-
		Net Closing Loan	-	-	-	-	-
		Average Loan	3.50	-	-	-	-
		Rate of Interest	11.7500%	11.7500%	11.7500%	11.7500%	11.7500%
7.	CBI (T1,D5)	Net opening loan	840.00	560.00	280.00	-	-
		Add: Addition during the period	-	-	-	-	-
		Less: Repayment during the period	280.00	280.00	280.00	-	-
		Net Closing Loan	560.00	280.00	-	-	-
		Average Loan	700.00	420.00	140.00	-	-
		Rate of Interest	7.0000%	7.0000%	7.0000%	7.0000%	7.0000%
8.	Gross Total	Net opening loan	2,073.27	1,484.17	897.60	474.76	341.02
		Add: Addition during the period	-	-	-	-	-
		Less: Repayment during the period	589.10	586.58	422.84	133.74	131.02
		Net Closing Loan	1,484.17	897.60	474.76	341.02	210.00
		Average Loan	1,778.72	1,190.88	686.18	407.89	275.51
		Rate of Interest	7.1632%	7.1701%	7.2585%	7.5689%	8.1735%
		Interest	127.41	85.39	49.81	30.87	22.52