

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Review Petition No. 19/2011

**in
Petition No. 90/2010**

**Coram: Shri S.Jayaraman, Member
Shri V.S.Verma, Member**

Date of Hearing: 12.1.2012

Date of Order: 31.8.2012

IN THE MATTER OF

Revision of the order dated 15.6.2011 in Petition No. 90/2010 regarding approval of generation tariff of Bairasiul Hydroelectric project (198 MW) for the period from 1.4.2009 to 31.3.2014.

AND

IN THE MATTER OF

NHPC Ltd, Faridabad

...Petitioner

Vs

1. Punjab State Electricity Board, Patiala
2. Haryana Power Purchase Centre, Panchkula
3. BSES-Rajdhani Power Ltd, New Delhi
4. BSES-Yamuna Power Ltd, New Delhi
5. North Delhi Power Ltd, Delhi
6. Himachal Pradesh State Electricity Board, Shimla

...Respondents

Parties Present:

1. Shri R.Raina, NHPC
2. Shri Amrik Singh, NHPC
3. Shri S.K.Meena, NHPC
4. Shri M.D.Faruque, NHPC
5. Shri C.Vinod, NHPC
6. Shri R.B.Sharma, Advocate, BRPL
7. Shri T.P.S.Bawa, PSPCL

ORDER

Petition No. 90/2010 was filed by the petitioner, NHPC, for approval of generation tariff of Bairasiul Hydroelectric Project (3 x 66 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 ('the 2009 Tariff

Regulations') and the Commission by its order dated 15.6.2011 determined the annual fixed charges for the period 2009-14, as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Return on Equity	1386.33	1392.44	1406.01	1416.93	1427.62
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Depreciation	744.30	760.59	800.89	839.10	885.68
Interest on Working Capital	344.82	362.47	381.76	401.99	423.49
O&M Expenses	6005.74	6349.26	6712.44	7096.39	7502.31
Total	8481.19	8864.76	9301.10	9754.42	10239.10

2. Aggrieved by the said order, the petitioner has filed this review application seeking review of the order dated 15.6.2011 on the following issues, namely:

(a) Disallowance of additional capitalization on certain assets/items for 2009-14 and;

(b) Error in the calculation of O&M expenses.

3. By order dated 14.11.2011, the application was admitted on the above issues and notices were issued to the respondents. Reply to the application has been filed by PSPCL (Respondent No.1) and BRPL (Respondent no.3) and the petitioner has filed its rejoinder to the said replies.

4. During the hearing on 12.1.2012, the representative of the petitioner made his submissions on the above issues and prayed that the order dated 15.6.2011 be reviewed for the reasons mentioned in the application. The learned counsel for the respondent, BRPL and the representative of the respondent, PSPCL have, in general, submitted that the Commission has given detailed reasons in its order for disallowance of the expenditure for capitalization and the petitioner cannot be allowed to give fresh justification now and/or re-argue his case on the ground that there is an error apparent on the face of record. They have also submitted that the power of review is to be exercised by the Commission only for correction of clerical or arithmetical errors/mistakes in the order and not for correction of any error in judgment and hence the application for review of order was not maintainable. The learned counsel for respondent, BRPL while pointing out that none of the grounds raised for

review of the order has been justified by the petitioner, has submitted that a review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. In this regard, the learned counsel placed reliance on the decision of the *Hon'ble Supreme Court in Parsion Devi & ors-v-Sumitra Devi & ors (1997) 8 SCC 715 and judgments of the Appellate Tribunal for Electricity dated 27.5.2011 in Review Petition No. 13/2010 (in Appeal No. 56/2008), judgment dated 12.8.2011 in Review Petition No. 2/2011 (in Appeal No. 26/2008, judgment dated 24.3.2009 in Review Petition No. 1/2009 (in Appeal No. 64/2008), judgment dated 26.8.2011 in Review Petition No. 1 of 2011 (in Appeal No. 24 of 2010) and the judgment dated 19.1.2011 in Review Petition No. 7/2009 (in Appeal No. 85/2007)* and submitted copies of the same.

5. Heard the parties and examined the documents on record. We now proceed to consider the issues raised by the petitioner, as discussed in subsequent paragraphs.

6. In accordance with Rule 1 Order 47 of the Code of Civil Procedure (CPC), a person aggrieved by an order may apply for a review under the following circumstances:

- (a) *On discovery of new and important matter or evidence which after exercise of due diligence was not within his knowledge or could not be produced by him at a time when the order was made;*
- (b) *An error apparent on the face of the record;*
- (c) *For any other sufficient reason.*

(A) Disallowance of additional capitalization on certain assets/items for 2009-14

7. The petitioner has sought review of order dated 15.6.2011 against the disallowance of certain assets for additional capitalization which are examined hereunder:

(i) Numerical Protection relays during 2009-10 and 33 kV Vacuum Circuit Breaker (VCB) during 2011-12

8. The petitioner in its original petition had claimed capitalization of expenditure of ₹21.00 lakh for purchase of Numerical protection relays during 2009-10 and for ₹5.00 lakh towards 33 kV Vacuum Circuit Breaker (VCB) during 2011-12 by submitting as under:

Numerical protection relays:

"Electromechanical relays are installed since commissioning of power House & become obsolete and spare relays/parts are not easily available in the market. Hence in order to decrease the down time and increase the reliability of the system it has been decided to purchase a new Numerical Protection Relays."

33 kV Vacuum Circuit Breaker (VCB)

"These are commissioned during the construction of Power Station and outlived their useful life. Hence proposed to purchase a new 33 kv VCB".

9. Based on the above submissions, the Commission in its order dated 15.6.2011 had disallowed the capitalization of these assets on the ground that *"the expenditure is on assets in the nature of replacement. Moreover, the gross value of the original assets has also not been furnished by the petitioner"*.

10. In justification of its claim, the petitioner has now submitted as under:

Numerical protection relays

"it is to submit that Electromagnetic Relays are installed since commissioning of power station & have become obsolete. Their spare relays / parts are also not easily available in the market. Hence in order to decrease the down time and increase the reliability of the system it has been decided to purchase new Numerical Protection Relays as technological advancement. However, existing Electro-mechanical relays shall not be taken out from the panel; it will work in parallel with the new Numerical Protection Relay as the scrap value of the Electro-mechanical relays is negligible.

Though old relays are purchased before commissioning along with relay panel which houses number of relays and no separate cost of individual relays are available. However, Engineering estimated Gross Value of old electro-mechanical relay is ₹3.40 lakh.

In view of above justification Hon'ble Commission is requested to reconsider the proposed capitalization of Numerical Protection Relay after deducting the gross value of old electro-mechanical relay."

33 kV Vacuum Circuit Breaker (VCB)

"In this regard it is to submit that existing Minimum Oil Circuit Breakers (MOCBs) were commissioned during the construction of Bairasiul Power Station in late seventies. These MOCBs are very old, obsolete in nature and spares are not easily available in the market. So for the smooth operation of power station it is proposed to purchase new 33 kV VCBs as replacement of old MOCBs. Gross value of old MOCBs is ₹4.46 lakh."

11. ***From the submissions made by the petitioner in the original petition it was ascertained that these expenditures were in the nature of replacement and hence were not allowed. Now, the petitioner has submitted that both the old electromagnetic relays and Minimum Oil Circuit Breakers (MOCBs) were installed at the commissioning of the power station and have become obsolete and its spare relays/parts are not easily available in the market therefore the purchase of Numerical protection relay and 33 kV Vacuum Circuit Breaker have become necessary for the smooth operation of the plant. The petitioner has now also submitted the estimated gross value of old electro-mechanical relay and old MOCBs as ₹3.40 lakh and ₹4.46 lakh, respectively. In view of the above, it is felt that the assets which are for successful, efficient and reliable plant operation could be considered for capitalization and additional capitalization may be allowed accordingly. Hence, review of order on this count is allowed.***

(ii) PMG/Tooth Generator

12. As regards capitalization of expenditure in respect of PMG/Tooth Generator for Rs 30.00 lakh during 2012-13, the petitioner in its original petition had submitted that the said asset is necessary "To make the system compatible with the existing / proposed control and automation system"

13. The Commission in its order, after considering the above submissions had disallowed the capitalization of expenditure on the ground that "the expenditure is on assets in the nature of replacement. Moreover, the gross value of the original assets has also not been furnished by the petitioner".

14. In justification of its claim, the petitioner has now submitted as under:

"the existing equipments was commissioned in the Bairasiul power station as part of main Generating Plant & Machinerics (GPM). Hence individual value of asset is not available in the records of Bairasiul Power Station. Tooth generator has been proposed in place of Permanent Magnet Generator (PMG), as OEM of PMG has intimated that these are currently not in use for Governor System.

In view of above justification Hon'ble Commission is requested to reconsider the proposed capitalization of Tooth Generator after deducting the gross value of old PMG as 10% of new asset."

15. ***Based on the submissions of the petitioner and the documents on record, the claim of the petitioner for additional capital of PMG/Tooth generator amounting to ₹30 lakh can be***

considered since these equipments were a part of the main generating plant and machineries therefore the value of the individual asset are not available on record of the power station. We have examined the issue and found that the above asset is necessary for efficient operation of the power station. Hence, the gross value of the old asset can be considered as 10% of the new asset. Hence, the review is allowed.

(iii) Digital Relay Test kit, DG Set and Unit's Mechanical over speed protection system

16. The petitioner, in its original petition had claimed expenditure of ₹25.00 lakh towards the purchase of Digital Relay Test kit during 2009-10, ₹3.00 lakh for DG Set during 2010-11 and ₹15.00 lakh for Units Mechanical over speed protection system' during 2011-12 by submitting as under:

Digital Relay Test kit

"Existing relay Test Kits were provided by OEM during commissioning of the power house. Hence models become obsolete and are not compatible with latest art of technology relays like Numerical and static relays. Hence it is proposed to purchase a new digital relay test Kit."

DG Set

"Existing D.G. set is more than 15 years old against scheduled life of 10 years. The equipment has outlived its useful life. Hence it is proposed to purchase 20 KVA acoustic type D.G. set."

Unit's mechanical over speed protection system

"To protect the machine, backup mechanical over speed protection is to be installed which is not installed. (One for each unit)."

17. In order dated 15.6.2011, the Commission had disallowed the capitalization of the expenditure on these assets on the ground that "the expenditure is on assets in the nature of replacement. Moreover, the gross value of the original assets has also not been furnished by the petitioner".

18. In justification of its claim, the petitioner has now sought capitalization of these assets submitting as under:

Digital Relay Test kit

"In this regard it is to submit that the equipment is to be purchased as new addition and not as replacement. Bairasiul Power Station has purchased and installed new Numerical Relays in

the feeder side. So, in order to test these new relays, Digital Relay Test kit is required for testing purpose".

DG Set

"In this regard it is to submit that the DG Set is to be purchased as new addition and not as replacement. The gate of Bhaledh Weir of Bairasiul Power Station was designed for manual & electrical operation. Earlier in case of failure of power supply, this gate was operated manually through available man-power. But due to superannuation of more number of employees from the power station, man-power at Bhaledh Weir has been reduced. Now at present it has become practically difficult to operate this gate manually. Hence it is proposed to purchase one DG set specifically for the operation of the gate at Bhaledh Weir.

In view of above justification Hon'ble Commission is requested to reconsider the above proposed additional capital expenditure."

Unit's mechanical over speed protection system

"In this regard it is to submit that there is no back-up protection available as of now for over speed protection to protect the machine in case of failure of main protection. Therefore, it is proposed to install a back-up mechanical over speed protection system to protect the system and it is not in the nature of replacement. In view of above justification Hon'ble Commission is requested to reconsider the above proposed additional capital expenditure."

19. We have examined the submissions of the petitioner. It is noticed that the petitioner has sought to reopen the issue by placing fresh submissions as justification for capitalization of these assets. This is not permissible on review. The Commission by a conscious decision after considering the submissions of the petitioner had disallowed the capitalization of these assets for the reasons stated thereunder. Hence, the justification now submitted by the petitioner, which were not raised by the petitioner in the original petition cannot be considered in review. As regards Digital relay test kit, it appeared from the submissions of the petitioner in its original petition that the same was replaced with a new one, being obsolete, and the gross value of original asset was also not submitted by the petitioner. Hence, the same was rejected. The petitioner has now submitted the equipment has been newly purchased and is not a replacement. Since the decision to disallow the expenditure was based on the submission of the petitioner, the fresh submission of the petitioner that the asset is not a replacement, cannot be considered in review. Even otherwise, the said asset is covered under 'tools and tackles' and cannot be allowed to be capitalized under proviso to Regulation 9(2) of the 2009 Tariff Regulations. Similarly, the claim for 'DG set' and 'Unit's mechanical over speed protection system' based on the justification of the petitioner that these assets are

a new addition and not a replacement cannot be considered on review, since the decision to disallow the expenditures on these assets, were based on the submissions of the petitioner in its original petition. The petitioner has not demonstrated the existence of any error in our order dated 15.6.2011 as regards the disallowance of these assets. In view of this, there exists no error apparent on the face of the order and the review on this count fails.

20. **Accordingly, the additional capital expenditure allowed for 2009-14 in the table under paragraph 20 of our order dated 15.6.2011, is revised as under:**

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Total additional capital expenditure allowed	75.27	175.29	343.09	100.91	333.67

(B) Error in calculation of O & M Expenses

21. The petitioner has pointed out that the Commission has excluded certain actual incurred expenditures while working out the normative O&M expenses to be allowed in tariff for the period 2009-10 to 2013-14 which has resulted in loss to the petitioner. The Commission has ignored the fact that the disallowed expenditures pertain to the previous period and these expenditures have already been incurred by the petitioner which has also been certified by statutory auditors. The respondent, BRPL has submitted that the Commission, in terms of Regulation 19(f) of the 2009 Tariff Regulations had considered the actual O&M expenses during the period 2003-04 to 2007-08 for any abnormal increase for the purpose of normalization duly considering the justification and arriving at the permissible O&M expenses for the year 2009-10, which is further escalated at the rate of 5.2% per annum to arrive at the permissible O&M expenses for the subsequent years of tariff period. The respondent has also submitted that the petitioner has not pointed out to any fundamental errors but has only made submissions pointing to errors in the judgment, which cannot be cured in review petition.

22. Taking into consideration the submission of the parties and the documents on record, we consider the issues raised by the petitioner as under:

(a) Repair and Maintenance (2005-06)

23. The petitioner in the original petition had submitted as under:

(a) ₹189.32 lakh more expended as compared to corresponding previous year on machinery repair due to change in accounting policy on machinery spares i.e. charging of machinery spares to expenditure head in the year of consumption and occasional replacement/repair of many machinery parts during the current year resulted to increase in expenditure.

(b) ₹41.51 lakh more expended on repair and maintenance of buildings as compared to corresponding previous year. As the repairs are made after a gap of 2-3 years, variations are necessary to occur e.g. painting on a building is made in 2002-03 and the next painting of the same building will be made 2005-06. Similar way the variation has occurred.

(c) ₹21.04 lakh more expended on other repairs of Roads, Dam, vehicles communication equipment etc.

24. Based on the above submission, the Commission disallowed ₹69.92 lakh towards R&M expenses for 2005-06 in paragraph 46 of the order by observing as under:

".....However, the balance expenditure has not been allowed as the petitioner has not submitted proper justification for the same."

25. In justification of its claim, the petitioner has now submitted as under:

"In this regard, it is to submit that one to one justification for increase in R&M expenses is not reasonable. For example if there are R&M expenses in 2004-05 as ₹100 lakh & in 2005-06 as ₹130 lakh. Then it cannot be perfectly right to assume that petitioner is required to submit the justification for increase of ₹30 lakh". If we exclude the incremental expenses for which proper justification has been given by the petitioner then the expenses are well within 120% of previous year expenses. If we further go through in the break-up of item-wise expenditure then also it is not possible that year-wise expenditure will be same under same head.

In view of above, Hon'ble Commission is requested to reconsider the amount of ₹69.92 lakh under R&M expenses.

26. The submissions of the petitioner are not acceptable. It is observed that the Commission in its order while considering R&M expenses for the said year, had allowed the additional claims over and above the expenditure for the previous year, under this head, taking into consideration the details submitted by the petitioner. Accordingly, without restricting the expenditure to 20% increase of the previous year, an amount of ₹602.33 lakh was allowed for 2005-06, under this head. In view of this, there is no error apparent on the face of the order and the review on this ground is rejected.

(b) Repair and Maintenance (R&M) 2007-08

27. The petitioner has pointed out that the Commission in its order had not considered R&M expenses for ₹98.51 lakh towards replacement of 'Static Excitation system' during 2007-08 on the grounds that "....., an expenditure of ₹98.51 lakh towards replacement of Static Excitation system during 2007-08 is not a recurring expenditure and hence the said amount has not been considered in the normalization of O&M expenses."

28. In justification of its claim, the petitioner has now submitted as under:

"It is to mention here that the Bairasiul Power station was commissioned in 1.4.1982 & was having rotating excitation system. Rotating Excitation system is an old technology & creating problem due to lack of spares. If otherwise not replaced with Static Excitation system by incurring onetime expenses it could have resulted in higher recurring expenses. Static excitation system increases the stability and improves the response time. So it is beneficial to incur onetime expenses rather than incurring recurring expenses.

Secondly, when non-recurring expenses are averaged out as per methodology prescribed in CERC Tariff Regulations, 2009 it becomes recurring e.g. ₹25 lakh incurred in some year are legitimate expense & allowed by the commission then it will become ₹5 lakh per annum (25/5) in averaging of 5 years expenses. Therefore expenses should have been allowed based on the legitimacy of expense.

Further, the scheduling of the Bairasiul is being done by NRLDC based on the changed excitation system."

29. It is observed that the petitioner has sought to reopen the issues on merits by making additional submissions justifying the capitalization of this asset, and has prayed for reconsideration of the same. The Commission by a conscious decision, on prudence check, had not considered the said asset based on the submissions of the petitioner. The prayer of the petitioner to reconsider the decision based on fresh submissions cannot be permitted in review. We are of the view that there exists no error apparent on the face of the order and accordingly, the submission of the petitioner is rejected. Hence, the review on this count fails.

(c) Filing Fees

30. As regards the claim for filing fees, the Commission in its order has observed as under:

"The amount of ₹25 lakh claimed towards filing fees for 2004-05 has not been considered during normalization of O&M expenses for the period 2003-08."

31. The petitioner has submitted that the expenses on account of filing fee paid to the Commission for determination of tariff of the generating station may be considered in O&M expenses. In addition, the petitioner has mainly submitted as under:

"In terms of CERC (Payment of Fees Regulations), 2004, NHPC had paid filing fee of ₹25 lakh in FY 2004-05 to CERC. In the tariff period 2001-04, CERC had allowed reimbursement of filing fee from the beneficiaries. CERC while allowing tariff of the Salal Power Station for the period 2004-09 vide order dtd. 09.05.2006 observed as under:

"92. The petitioner has sought reimbursement of filing fee of ₹ 25 lakh paid. A final view on reimbursement of filing fee is yet to be taken by the Commission for which views of the stakeholder have been called for. The view taken on consideration of the comments received shall apply in the present case as regards reimbursement of filing fee.

Further the Hon'ble Commission vide order dated 11.09.2008 in Petition No. 129/2005 (suo-motu) directed as under:

"12. Recently, the CPSUs have furnished to the Commission past data of O&M expenses. On analysis of the data it has been found that the application filing fee constitutes less than 0.5% of the actual O&M expenses. The proportion of the application filing fee will be infinitesimally small when compared to overall tariff for the generating station or the transmission system. Year-wise, escalation being allowed in whole lot of O&M expenses seems to take care of the enhanced application filing fee."

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"14 In the light of above analysis, we decline the claim of the CPSUs to allow reimbursement of expenditure on the application filing fee. This decision will, however, not be quoted as a precedent for any decision on similar issue arising in future." Further, NHPC has claimed this amount of filing fees under O&M expenses during 2005-06 in Form-15B of the petition. Regulation 42 deals with the filing fees paid for the tariff period 2009-14, not for filing fees of previous tariff period 2004-09."

32. The submissions of the petitioner have been examined. The norms of O&M expenses under sub-clauses (i) to (iii) of Regulation 19(f) of the 2009 Tariff Regulations is based on the actual O&M expenses for the period 2003-04 to 2007-08. Admittedly, the Commission by its order dated 11.9.2008 in Petition No. 129/2005 (*suo motu*) had rejected the claim of the petitioner for reimbursement of filing fees for 2004-09 by observing that the year-wise escalation allowed in O&M expenses has taken care of the enhanced application filing fee. Since the filing fee of ₹25.00 lakh claimed during 2004-09 has not been allowed to be reimbursed in terms of the decision contained in order dated 11.9.2008, the said expenditure has not been considered for the purpose of normalization of O&M expenses for the period 2009-14. Moreover, separate provision has been made by the Commission for reimbursement of expenditure for filing fees during the period 2009-14 under Regulation 42

of the 2009 Tariff Regulations. The expenditure on filing fees for the years 2009-10 and 2010-11 incurred by the petitioner has been allowed to be recovered from the beneficiaries in terms of para 95 of the order dated 15.6.2011. In view of this, there is no error apparent on the face of the record and accordingly, review on this count fails.

(d) Staff welfare Expenses (Employees cost) during 2006-07

33. The petitioner in the original petition had submitted as under:

“₹85.04 lakh payment made for compensation against compensatory appointment to legal heir of deceased employee and provision of ₹80.05 lakh made for LTC based on actuarial valuation for the first time and there is Increase in provision by ₹49.25 Lakh for Retired Employees Health Scheme based on actuarial valuation caused to increase in staff welfare expenditure compared to corresponding previous year.”

34. The Commission in its order had not considered the above expenditure on the ground that it was a “one-time payment and not a repetitive activity”.

35. In justification of its claim, the petitioner has now submitted as under:

“In this regard, it is to mention that such expenses are part & parcel of service terms & conditions of employees to give social security and not an incentive / disincentive anyway which may be borne by petitioner.

Secondly, when non-recurring expenses are averaged out as per methodology prescribed in CERC Tariff Regulations, 2009 it becomes recurring e.g. ₹25 lakh incurred in a particular year are legitimate expense & when allowed by the commission then it will become ₹5 lakh per annum (25/5) in averaging of 5 years expenses. Therefore expenses should have been allowed based on the legitimacy of expense.”

36. The submission of the petitioner has been examined. It is observed that the petitioner has made additional submissions for justification of its claim under this head and has sought to reopen the issues on merit. This is not permissible in review. The expenditure was not considered for purpose of normalization of O&M expenses, as the same was a onetime payment and not a repetitive activity. In our view, there is no error apparent on the face of the order and consequently, review on this count is rejected.

(e) Employee Cost

37. The Regional office (RO) expenses and Corporate office (CO) expenses allowed in paras 72 and 76 of the order dated 15.6.2011 is given overleaf:

(₹ in lakh)					
	2003-04	2004-05	2005-06	2006-07	2007-08
Corporate Office (CO) expenses proportionate for the generating station	51.06	46.27	48.63	63.36	54.56
Allocation of Regional Office (RO) expenses	RO expenses were shown under natural head of expenditure by the project under the region		70.27	60.79	72.53
Total	51.06	46.27	118.90	124.15	127.09

38. The petitioner has submitted that the Commission in its order has wrongly deducted an amount of ₹21.18 lakh and ₹30.93 lakh during 2003-04 and 2004-05 respectively, on account of 'Salary, Wages & Allowances' as under:

(₹ in lakh)						
S No.		2003-04	2004-05	2005-06	2006-07	2007-08
(i)	CO/RO Expenses – Employee cost as claimed in the petition (Page-47) (6(a)(ii) of Form-15B)	21.18	30.93	101.20	105.87	108.56
(ii)	CO/RO Expenses – Others claimed in the petition (Page-47) (of Form-15B)	51.53	47.54	26.01	28.72	29.78
(iii)	Total (i) + (ii)	72.71	78.47	127.21	134.59	138.34
(iv)	CO Expenses allocated to Bairasiul Power Station (Form-15B (CO), Page-53)	51.53	47.54	55.40	66.54	59.02
(v)	RO Expenses allocated to Bairasiul Power Station	27.56	40.52	71.81	68.05	79.32
(vi)	Total (iv) + (v)	79.09	88.06	127.21	134.59	138.34
(vii)	Difference (vi) – (iii)	6.38	9.59	0.00	0.00	0.00

39. The petitioner has submitted that the before 2005-06, all the expenses of RO were allocated to natural head of O&M expenses and therefore the difference of ₹6.38 lakh & ₹9.59 lakh during 2003-04 and 2005-06 respectively, shown above are merged under natural heads. The petitioner has also submitted that it has not taken any expenditure on account of employee cost out of CO expenses in employee cost of the power station during 2003-04 and 2004-05 and the same could be noticed from the CO expenses allocated to the power station during 2003-04 & 2004-05 as provided in Form-15B & Form-15B (CO), as under:

(₹ in lakh)		
	2003-04	2004-05
Corporate office expenses as per Form-15B-CO Expenses in Petition	51.53	47.54
Corporate office expenses as per Form-15B (Sl. No.9) in Petition	51.53	47.54

40. According to the petitioner, the CO expenses allocated to the instant generating station has been taken in Form-15B (Sl. No.9: Corporate Office expenses allocation) and have not been included in employee cost of this generating station, during 2003-04 and 2004-05.

41. The submissions of the petitioner have been examined. It is observed that employee cost of CO expenses considered does not include RO expenses for the period 2003-04 to 2004-05 as the RO expenses have been booked to the natural head of the generating station. Inadvertently, the share of RO expenses during 2003-04 and 2004-05 were excluded from the employee cost of the project. Moreover, the percentages of employee cost were also calculated based on this exclusion. In view of this, review on this count is allowed and the inadvertent error is corrected by this order.

42. Also, the error in calculation of percentage of employee cost component since CO expenses and RO expenses were not segregated into employee cost expenses and O&M expenses other than the employee cost, is corrected by this order.

43. After correction of the above errors, the total CO and RO expenses considered are as under:

		(₹ in lakh)				
		2003-04	2004-05	2005-06	2006-07	2007-08
(i)	CO Employee cost	35.17	33.56	36.66	49.00	41.97
(ii)	RO Employee cost	21.18 *	30.93 *	60.40	55.47	62.45
(iii)	Employee cost–CO/RO {(i) + (ii)}	56.35	64.49	97.06	104.47	104.42
(iv)	CO expenses other than employee cost	15.89	12.71	11.97	14.36	12.59
(v)	RO expenses other than employee cost	0.00	0.00	9.87	5.32	10.08
(vi)	CO / RO Expenses – other than employee cost {(iv) + (v)}	15.89	12.71	21.84	19.68	22.67

(f) Other expenses

44. The 'other expenses' considered during 2003-08 in paragraph 67 of the order is given overleaf:

	(₹ in lakh)				
	2003-04	2004-05	2005-06	2006-07	2007-08
Other expenses claimed	38.73	52.14	68.09	77.00	113.72
Other expenses allowed	38.73	40.82	54.21	65.05	85.64

45. Based on the submissions of the petitioner and the documents on record, the claim of the petitioner for 'other expenses' for the year of 2003-08 has been examined as under:

46. It is observed that out of the expenditure of ₹52.14 lakh claimed by the petitioner under this head for 2004-05, the Commission had disallowed ₹4.38 lakh towards 'miscellaneous expenditure' and ₹3.87 lakh, towards 'construction of class rooms' in Village Manzir, for the reasons stated therein. After deduction of these amounts, the total expenditure of ₹43.89 lakh should have been allowed instead of ₹40.82 lakh for 2004-05. It appears that the amount of ₹3.87 lakh had been deducted twice inadvertently. This is an arithmetic error and the same is rectified by this order.

47. Similarly, for the year 2007-08, out of the total claim for ₹113.72 lakh, the Commission in its order had not considered ₹13.30 lakh towards the 'community development scheme', ₹2.00 lakh towards 'celebration of festivities and ₹1.63 lakh on assets not belonging to the petitioner corporation, loss on sale of assets and fixed assets written-off for the reasons stated therein. Accordingly, the total allowable expenses should have been ₹96.79 lakh instead of ₹85.64 allowed for 2007-08. This is an arithmetic error and the same is rectified by this order. Based on the above corrections, the other expenses allowed are as under:

	(₹ in lakh)				
	2003-04	2004-05	2005-06	2006-07	2007-08
Other expenses	38.73	43.89	54.31	65.17	96.79

Methodology of 20% restriction of expenses

48. The petitioner in this application has objected to the methodology adopted by the Commission, by restricting the increase in expenses of a particular year to 20% of the expenses of the previous year. According to the petitioner, in some cases, the original claim

was well within 120% of previous year expenses and therefore following the prescribed footnote under Form-15B, justification was not given. However, due to reduction of previous year expenses by the Commission, the increase in expenses of subsequent years becomes more. Therefore, in the absence of proper justification, Commission has again restricted the incremental increase to 20% of the previous year and in this manner all future expenses have been restricted.

49. We have considered the submissions of the petitioner. As per Appendix-II to Form-15 B to the petition, the annual increase in O&M expenses under a given head in excess of 20% should be explained by the petitioner with proper justification. While normalization of O&M expenses, the abnormal expenses are to be excluded. It is not correct to assume that normal O&M expenses would increase by more than 20% every year and during the end of the five year period (2003-04 to 2007-08) these expenses would become 2.4 times the normal expenses. Normal O&M expenses would remain more or less constant, except on account of impact of inflation and other escalation factors. For the purpose of normalization of O&M expenses, based on prudence check, the abnormal increase in O&M expenses are either excluded or restricted to 20% increase (of the previous year) based on the justification submitted by the petitioner. If no justification for any increase is submitted by the petitioner the expenses are restricted on prudence check. In view of this, there is no error apparent on the face of the record and the submission of the petitioner for reconsideration of the issue is rejected.

50. Based on the discussions in the foregoing paragraphs, the revised O&M expenses considered for the period 2003-04 to 2004-09, for calculation of O&M expenses for 2009-14 is as under:

(₹ in lakh)						
Sl. No		2003-04	2004-05	2005-06	2006-07	2007-08
1	2	3	4	5	6	7
(A)	Breakup of O&M Expenses					
1	Consumption of stores & spares	0.00	0.00	0.00	0.00	0.00
2	Repair & Maintenance	377.49	350.55	602.33	550.32	729.16

3	Insurance	94.51	94.69	93.66	94.99	94.91
4	Security Expenses	3.03	0.60	2.29	3.31	12.90
5	Administrative Expenses					
a	Rent	0.46	1.06	19.11	27.75	24.06
b	Electricity charges	206.95	166.02	182.41	170.58	160.85
c	Travelling & Conveyance	46.33	58.15	34.43	53.85	33.41
d	Telephone, Telex & Postage	13.04	15.76	13.86	15.71	25.24
e	Advertisement & Publicity	4.31	3.73	1.67	6.36	2.75
f	Foundation laying & inauguration	0.00	0.00	0.00	0.00	0.00
g	Donation	0.00	0.00	0.00	0.00	0.00
h	Entertainment and hospitality expenses	0.15	0.13	0.16	0.19	0.22
i	Filing fees (CERC)	0.00	0.00	0.00	0.00	0.00
	Sub-total (Administrative expenses)	271.24	244.85	251.64	274.44	246.53
6	Employee Cost					
a(i)	Salaries, wages & allow. -Project	1868.05	2084.25	2179.79	2171.24	2814.97
a(ii)	Salaries, wages & allow. -CO	35.17	33.56	36.66	49.00	41.97
a(iii)	Salaries, wages & allow. -Region office	21.18	30.93	60.40	55.47	62.45
a(iv)	Salaries, wages & allow. -CISF/Police	176.86	205.79	205.05	219.74	392.95
b	Staff welfare expenses	209.44	276.64	218.87	370.56	310.72
c	Productivity Linked incentive	0.00	0.00	0.00	0.00	0.00
d	Ex-gratia	0.00	0.00	0.00	0.00	0.00
e	VRS	0.00	0.00	0.00	0.00	0.00
	Sub-total (Employee Cost)	2310.70	2631.17	2700.77	2700.31	3003.47
7	Loss of Store	0.00	0.00	0.00	0.00	0.00
8	Provisions		0.00	0.00	0.00	0.00
9	Corporate office Expenses Allocation	15.89	12.71	11.97	14.36	12.59
10	Regional office Expenses Allocation	0.00	0.00	9.87	5.32	10.08
11	Others (Specify items)					
(a)	Rates & Taxes	1.81	1.24	9.21	11.05	2.37
(b)	Expenses on staff car	22.28	26.65	29.63	35.56	40.13
(c)	Printing & Stationery	7.62	11.69	7.48	8.98	11.14
(d)	Books & Periodicals		0.00	1.11	1.21	1.06
(e)	Consultancy Charges - Indigenous	2.35	0.00	0.84	1.01	3.59
(i)	Loss on Sale of Assets		0.00	0.00	0.00	0.00
(j)	Fixed Assets written off		0.00	0.00	0.00	0.00
(k)	Other general expenses	4.31	4.31	6.04	7.36	38.50
(n)	Legal Expenses	0.36	0.00	0.00	0.00	0.00
	Sub-Total (Others)	38.73	43.89	54.31	65.17	96.79
11	Total (1 to 10)	3111.59	3378.46	3726.84	3708.22	4206.43
12	Revenue /Recoveries	30.51	38.53	48.01	50.07	89.43
13	Net O&M Expenses	3081.08	3339.93	3678.83	3658.15	4117.00

51. The average employee cost works out to 74.76% of the average O&M cost. Accordingly, the year-wise O&M expenses for the generating station after applying escalation @ 5.72% from 2008-09 and 50% increase of employee cost by considering the percentage of averaged normalized employee cost for the tariff period 2009-14 is revised and allowed as given overleaf:

(₹ in lakh)

	2003-04	2004-05	2005-06	2006-07	2007-08	Average normalized at 2007-08 price level
Employee cost (Considered)	2,310.70	2,631.17	2,700.77	2,700.31	3,003.47	
Average normalized Employee cost at 2007-08 price level	2826.91	3060.73	2987.25	2839.92	3003.47	2943.65
O&M Expense (Considered)	3081.08	3339.93	3678.83	3658.15	4117.00	
Average normalized O&M at 2007-08 price level	3769.39	3885.20	4069.06	3847.27	4117.00	3937.58
	$p1 = (P1)X(Esc)^4$	$p2 = (P2)X(Esc)^3$	$p3 = (P3)X(Esc)^2$	$p4 = (P4)X(Esc)^1$	$p5 = (P5)$	
Escalation rate (Esc)%	5.17	5.17	5.17	5.17	5.17	
Percentage of employee cost:	(2943.65/ 3937.58*100)					74.76 %

52. Accordingly, the O&M expenses under paragraph 81 of the order dated 15.6.2011 has been revised as under:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
O&M Expenses allowed	6045.99	6391.82	6757.43	7143.96	7552.59

53. Thus, the issues raised by the petitioner in this application, is disposed of in terms of the above. Based on this, the annual fixed charges determined by order dated 15.6.2011 is revised, as discussed below:

54. In view of the above, the Capital cost under paragraph 28 of order dated 15.6.2011 has been revised as under:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Opening Capital Cost	18199.26	18274.53	18449.82	18792.91	18893.82
Admitted additional capital expenditure	75.27	175.29	343.09	100.91	333.67
Capital Cost as on 31st March of the financial year	18274.53	18449.82	18792.91	18893.82	19227.49

55. Return on Equity under paragraph 33 of the order dated 15.6.2011 is revised as under:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Gross Notional Equity	7922.03	7944.61	7997.20	8100.13	8130.40
Addition due to Additional capitalization	22.58	52.59	102.93	30.27	100.10
Closing Equity	7944.61	7997.20	8100.13	8130.40	8230.50
Average Equity	7933.32	7970.91	8048.66	8115.26	8180.45
Return on Equity	1386.79	1393.36	1406.95	1418.59	1429.99

56. Depreciation worked out in paragraph 38 in order is revised as under:

57. The date of commercial operation of the generating station is 1.4.1982. Since, the generating station has completed 12 years of operation as on 1.4.1994, the remaining depreciable value has been spread over the balance useful life of the assets. Assets amounting of ₹18.60 lakh, ₹13.71 lakh, ₹9.91 lakh, ₹7.09 lakh and ₹77.33 lakh have been de-capitalized during 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14 respectively. The amount of cumulative depreciation allowed in tariff against these de-capitalized assets has been calculated on pro-rata basis and the same has been adjusted from the cumulative depreciation of the year of de-capitalization. Accordingly, depreciation has been worked out as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Gross block as on 31.3.2009	18199.26	18274.53	18449.82	18792.91	18893.82
Additional capital expenditure during 2009-14	75.27	175.29	343.09	100.91	333.67
Closing gross block	18274.53	18449.82	18792.91	18893.82	19227.49
Average gross block	18236.90	18362.18	18621.37	18843.37	19060.66
Depreciable value	16279.81	16392.56	16625.83	16825.63	17021.19
Balance useful life of the asset	8.0	7.0	6.0	5.0	4.0
Remaining Depreciable value	5962.31	5341.02	4820.06	4223.16	3579.13
Depreciation	745.29	763.00	803.34	844.63	894.78

58. The components of Interest on working capital under paragraph 84 and 86 in order dated 15.6.2011 is revised as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Maintenance Spares	906.90	958.77	1013.61	1071.59	1132.89
O & M expenses	503.83	532.65	563.12	595.33	629.38
Receivables	1420.82	1485.48	1558.63	1635.28	1717.27
Total	2831.55	2976.90	3135.37	3302.21	3479.54
Rate of Interest	12.25%	12.25%	12.25%	12.25%	12.25%
Interest on Working Capital	346.87	364.67	384.08	404.52	426.24

Annual Fixed Charges

59. Based on the above, the annual fixed charges approved for the period 2009-14 is given overleaf:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Return on Equity	1386.79	1393.36	1406.95	1418.59	1429.99
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Depreciation	745.29	763.00	803.34	844.63	894.78
Interest on Working Capital	346.87	364.67	384.08	404.52	426.24
O & M Expenses	6045.99	6391.82	6757.43	7143.96	7552.59
Total	8524.93	8912.85	9351.81	9811.71	10303.60

60. The petitioner shall claim the difference in respect of the tariff determined by order dated 15.6.2011 and the tariff determined by this order from the beneficiaries in six equal monthly installments.

61. Except the above, all other terms contained in the order dated 15.6.2011 remains unchanged.

62. Review Petition No. 19/2011 is disposed of as above.

Sd/-
[V.S.Verma]
Member

Sd/-
[S.Jayaraman]
Member