

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 155/2008

Coram:

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

Date of Order: 20.11.2012

IN THE MATTER OF

Revision of order dated 23.12.2009 in the light of the judgment of the Appellate Tribunal for Electricity dated 1.5.2012 in Appeal No. 40/2011 and the judgment dated 3.10.2012 in Review Petition No. 7/2012 in Appeal No. 40/2011.

AND

IN THE MATTER OF

Approval of tariff in respect of Mejia Thermal Power Station Extension, Unit No. 5 and Unit No. 6 (2 x 250 MW) from the respective dates of their commercial operation to 31.3.2009.

AND

IN THE MATTER OF

Damodar Valley Corporation, Kolkata

...Petitioner

Vs

1. West Bengal State Electricity Distribution Company Limited, Kolkata
2. Jharkhand State Electricity Board, Ranchi
3. Madhya Pradesh Power Trading Co. Ltd., Jabalpur

...Respondents

ORDER

The petitioner, DVC had filed this petition for approval of tariff of Mejia TPS Extension, Unit Nos. 5 & 6 (2 x 250 MW) (hereinafter referred to as “the generating station”) for the period 29.2.2008 to 31.3.2009, based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 (hereinafter referred to as “the 2004 regulations”) and the Commission by its order dated 23.12.2009 determined the annual fixed charges for the period 2004-09 based on the capital cost as under:

<i>(₹ in lakh)</i>		
		24.9.2008
Capital cost claimed		215204.90
Less: Notional IDC		11960.11
Capital cost after removal of notional IDC (as certified by Chartered Accountant)		203244.78
Less: Liabilities included in above capital cost		10549.34
Actual capital expenditure (including IDC)		192695.44
Less: IDC claimed		21723.76
Actual capital expenditure excluding IDC		170971.68
Allocation of capital cost to Unit Nos.5 & 6	29.2.2008	24.9.2008
Proportion considered	50%	100%
Actual capital expenditure excluding IDC	85485.84	170971.68
Add: Actual IDC as admissible	17711.04	21684.25
Admitted Capital cost upto the date of commercial operation for the purpose of tariff	103196.88	192655.93

2. The pro-rata annual fixed charges approved by order dated 23.12.2009 is as under:

	<i>(₹ in lakh)</i>		
	2007-08	2008-09	
	29.2.2008 to 31.3.2008	1.4.2008 to 23.9.2008	24.9.2008 to 31.3.2009
Depreciation	699	3854	7726
Interest on Loan	653	3505	6900
Return on Equity	379	2090	4190
Advance against Depreciation	0	0	0
Interest on Working Capital	111	611	1374
O&M Expenses	256	1467	3151

Interest on Capital (as per part IV of DVC Act)	0	0	0
Interest on Sinking Fund (as per part IV of DVC Act)	112	965	1037
Total	2210	12492	24378

Background

3. The Commission by its order dated 30.4.2008 in Petition No. 53/2008 (with IA No. 4/2008) had approved single part provisional tariff of ₹2.90/kWh for Unit-5 of the generating station. Subsequently, the Commission *vide* order dated 23.12.2009 in Petition No. 155/2009 approved the tariff for the period from 29.2.2008 to 23.9.2008 in respect of Unit-5 and from 24.9.2008 to 31.3.2009 for Unit Nos. 5 & 6 of the generating station. Aggrieved, the petitioner filed Appeal No.40/2011 before the Appellate Tribunal for Electricity (“the Tribunal”) challenging the Commission's order dated 23.12.2009. In the said appeal, the petitioner had raised the following issues for consideration of the Tribunal.

- (i) Notional interest during construction;
- (ii) Un-discharged liabilities duly incurred as on the date of the commercial operation but pending payment.
- (iii) Interest on Capital contribution admissible as per Section 38 of the Damodar Valley Corporation Act, 1958.
- (iv) O & M Expenses relating to payment made by virtue of the revision of pay to the DVC personnel as a result of the implementation of the Sixth Pay Commission Recommendations.
- (v) Contribution to the Sinking Fund as per provisions of Section 40 of the DVC Act, 1948.
- (vi) Rate of Interest on working capital.

4. However, during the proceedings before the Tribunal, the petitioner did not press for issues (v) and (vi) above. The Tribunal after considering the submissions of the parties had rejected the prayers of the petitioner relating to issues (i) and (iii) above by

its judgment dated 1.5.2012. As regards the issue at (ii) above viz., *Un-discharged liabilities duly incurred as on the date of the commercial operation but pending payment*, the Tribunal in its judgment dated 1.5.2012 had recorded the undertaking made by the Commission to allow the un-discharged liabilities deducted from the capital cost, subject to the final outcome of the Civil Appeals filed by the Commission, disposed of the prayer of the petitioner as under:

"28. In view of categorical undertaking made by the Central Commission to implement the judgment of this Tribunal in Appeal no. 151& 152 of 2009 dated 10.12.2007 and in Appeal nos. 133, 135, 136 and 148 of 2008 dated 16.3.2009 in respect of the generating stations of the Appellant i.e. Mejia unit 5 & 6 and would allow un-discharged liabilities deducted from the capital cost, subject to the final outcome of the Civil Appeals filed by the Central Commission before the Supreme Court against the orders of this Tribunal in the said Appeals, the issue is decided in favour of the Appellant"

5. As regards issue at paragraph 3(iv) above viz., *O & M Expenses relating to payment made by virtue of the revision of pay to the DVC personnel as a result of the implementation of the Sixth Pay Commission recommendations*, the Tribunal in its judgment dated 1.5.2012, after taking note of the submission of the Commission that Petition No. 148/GT/2011 was pending for consideration, disposed of the prayer of the petitioner as under:

"40.....It is further submitted that in terms of the liberty granted by the Commission in its order dated 23.12.2009 in Petition No.155 of 2008, the Appellant has also filed Petition No.148/GT/2011 before the Commission on 21.6.2011 in respect of this generating station, claiming amongst others the impact of additional O&M expenses due to pay revision during the period from 24.9.2008 to 31.3.2009. Both Petition No. 272/2010 and Petition No. 148/GT/2011 are presently under consideration by the Commission.

41. In view of the submission made by the Central Commission that the issue is already under consideration before it, we do not intend to interfere with the process. However, we give liberty to the Appellant to approach this Tribunal, if required, at appropriate stage."

6. Against the judgment of the Tribunal dated 1.5.2012, the petitioner filed Review Petition (R.P. No. 7/2012) on the issue relating to notional interest during construction and the Tribunal by its judgment dated 3.10.2012 has dismissed the same. Pursuant to this and in terms of the undertaking by the Commission (*as stated in para 4 above*) we allow the inclusion of un-discharged liabilities in the capital cost and thereby revise the annual fixed charges for the generating station for the period 2007-09 as stated in subsequent paragraphs.

7. The capital cost as approved *vide* order dated 23.12.2009 is revised as under:

(₹ in lakh)		
		24.9.2008
Capital cost claimed		215204.90
Less: Notional IDC		11960.11
Capital cost after removal of notional IDC (as certified by chartered Accountant)		203244.78
Less: IDC claimed		21723.76
Actual expenditure, excluding IDC (inclusive of liabilities)		181521.02
Allocation of above determined capital cost to Unit Nos. 5 & 6	29.2.2008	24.9.2008
Proportion considered	50%	100%
Actual capital expenditure excluding IDC	90760.51	181521.02
Add: Actual IDC admissible	17711.04	21684.25
Admitted Capital cost upto date of commercial operation for the purpose of tariff	108471.55	203205.27

8. Based on the revision in capital cost, the Return on Equity as worked out in order dated 23.12.2009 is revised as under:

(₹ in lakh)			
	2007-08	2008-09	
	29.2.2008 to 31.3.2008	1.4.2008 to 23.9.2008	24.9.2008 to 31.3.2009
Equity (Normative)- Considered now	32541.47	32541.47	60961.58
Return on Equity @14% (annualized)	4555.81	4555.81	8534.62

9. The Interest on loan computed in order dated 23.12.2009 is revised as under:

	(₹ in lakh)		
	2007-08	2008-09	
	29.2.2008 to 31.3.2008	1.4.2008 to 23.9.2008	24.9.2008 to 31.3.2009
Gross Normative Loan	75930.09	75930.09	142243.69
Cumulative Repayment upto previous year	0.00	734.48	4785.18
Net Loan-opening	75930.09	75195.61	137458.51
Repayment during the year	734.48	4050.70	8148.89
Net Loan-closing	75195.61	71144.91	129309.63
Average Loan	75562.85	73170.26	133384.07
Weighted Average Rate of Interest on Loan	10.3949%	10.4413%	10.5392%
Interest (Annualized)	7854.69	7639.94	14057.59

10. Depreciation as calculated in order dated 23.12.2009 is revised as under:

		(₹ in lakh)		
		2007-08	2008-09	
		29.2.2008 to 31.3.2008	1.4.2008 to 23.9.2008	24.9.2008 to 31.3.2009
Gross Block		108471.55	108471.55	203205.27
Value of freehold land included in the Gross block	38.33			
Rate of Depreciation		7.7445%	7.7445%	7.7445%
Depreciation value including amortization of lease land in 25 yrs @90%		97589.90	96855.42	178065.07
Remaining depreciable value		97590	96855	178065
Depreciation		734.48	4050.70	8148.89
Depreciation (annualized)		8400.60	8400.60	15737.27
Cumulative depreciation		734.48	4785.18	12934.07

11. The receivable component of working capital as worked out in order dated 23.12.2009 is revised as under:

	(₹ in lakh)		
	2007-08	2008-09	
	29.2.2008 to 31.3.2008	1.4.2008 to 23.9.2008	24.9.2008 to 31.3.2009
Variable charges- 2 months	2555.36	2548.38	5871.13
Fixed charges- 2 months	4172.16	4155.53	7853.84
Receivables	6727.52	6703.91	13724.97

12. Accordingly, Interest on working capital computed in order dated 23.12.2009 is revised as under:

	(₹ in lakh)		
	2007-08	2008-09	
	29.2.2008 to 31.3.2008	1.4.2008 to 23.9.2008	24.9.2008 to 31.3.2009
Coal stock- 2 months	2387.97	2381.45	5253.02
Oil stock- 2 months	167.39	166.93	618.11
O&M expenses	243.75	253.54	507.08
Spares	1060.08	1060.08	2007.42
Receivables	6727.52	6703.91	13724.97
Total Working Capital	10586.71	10565.90	22110.60
Rate of Interest	12.25%	12.25%	12.25%
Total Interest on Working Capital	1296.87	1294.32	2708.55

13. Based on the above discussions, the revised annual fixed charges (on annualized basis) for the period from 29.2.2008 to 31.3.2009 are summarized as under:

	(₹ in lakh)		
	2007-08	2008-09	
	29.2.2008 to 31.3.2008	1.4.2008 to 23.9.2008	24.9.2008 to 31.3.2009
Depreciation	8400.60	8400.60	15737.27
Interest on loan	7854.69	7639.94	14057.59
Return on Equity	4555.81	4555.81	8534.62
Advance against Depreciation	0.00	0.00	0.00
Interest on Working Capital	1296.87	1294.32	2708.55
O&M Expenses	2925.00	3042.50	6085.00
Interest on Capital (as per part IV of DVC Act)	0.00	0.00	0.00
Interest on Sinking Fund (as per part IV of DVC Act)	1284.47	2001.83	2001.83
Total	26317.44	26934.99	49124.85

14. Except the above, all other parameters, terms & conditions as considered in the order dated 23.12.2009 have been retained for the purpose of calculation of annual fixed charges in this order.

15. The annual fixed charges determined by this order are subject to the final outcome of the Civil Appeals filed by the Commission before the Hon'ble Supreme Court.

16. The petitioner shall claim the difference in tariff determined by order dated 23.12.2009 and the tariff determined by this order, from the beneficiaries in three equal monthly installments.

17. The directions contained in the judgment of the Tribunal dated 1.5.2012 in Appeal No. 40/2011 stands implemented by this order.

Sd/-
[M. Deena Dayalan]
Member

Sd/-
[V.S. Verma]
Member

Sd/-
[S. Jayaraman]
Member

Sd/-
[Dr. Pramod Deo]
Chairperson