CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Review Petition No. 15/2011
in
Petition No. 104/2010

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

Date of Hearing: 12.1.2012 **Date of Order: 20.6.2012**

In the matter of

Review of order dated 27.6.2011 in Petition No. 104/2010 regarding determination of generation tariff of Salal Hydroelectric Project (6x115 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 Generation Corporation Ltd., Panchkula
3. BSES-Rajdhani Power Ltd., New Delhi
4. Uttar Pradesh Power Corporation Ltd, Lucknow
5. BSES-Yamuna Power Ltd., New Delhi
6. Rajasthan Rajya Vidyut Prasaran Nigam Ltd., Jaipur
7. North Delhi Power Ltd., Delhi
8. Uttarakhand Power Corporation of Ltd., Dehradun
9. Jaipur Vidyut Vitaran Nigam Ltd., Jaipur
10. Himachal Pradesh State Electricity Board, Shimla
11. Jodhpur Vidyut Vitaran Nigam Ltd., Jodhpur
12. Engineering Department, UT Secretariat, Chandigarh
13. Ajmer Vidyut Vitaran Nigam Ltd., Ajmer
14. Power Development Department, Govt. of J&K, Jammu …**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. 104/2010 was filed by the petitioner, NHPC, for approval of generation tariff of Salal Hydroelectric Project, (6 x 115 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 and the Commission by its order dated 27.6.2011 determined the annual fixed charges for the generating station for the period 2009-14, as under:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Return on Equity	8464.63	8615.62	8779.95	8833.79	8872.76
Interest on Loan	0.00	69.61	74.18	4.58	0.00
Depreciation	1927.02	2057.27	2206.26	2268.03	2311.84
Interest on Working Capital	729.04	765.67	803.28	837.01	873.27
O & M Expenses	10244.83	10830.84	11450.36	12105.32	12797.75
Total	**21365.53**	**22339.01**	**23314.04**	**24048.72**	**24855.62**

2. Aggrieved by the said order, the petitioner has filed this review application seeking review of the order dated 27.6.2011 on the following issues, namely:

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

(b) Error in calculation of depreciation;

(c) Errors in the calculation of O&M expenses.

3. By order dated 2.11.2011, 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 27.6.2011 be reviewed for the reasons mentioned in the application.

5. 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 judgment 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), the judgment dated 19.1.2011 in Review Petition No. 7/2009 (in Appeal No. 85/2007) and Review Petition No. 1/2011 (in Appeal No. 24/2010)..

6. 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:

7. 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) <u>Disallowance of additional capitalization on assets/items for 2009-14</u>

8. The petitioner has sought review of order dated 27.6.2011 against disallowance of certain assets for additional capitalization, under this head, which are examined hereunder:

(a) Air circuit Breaker, Replacement of 220 kV Capacitive Voltage Transformers (CVTs), and Current Transformers 245 kV Crompton Greaves make.

9. The Commission in its order dated 27.6.2011 had disallowed the capitalization of these assets, on the ground that these are in the nature of spares, based on the submissions of the petition as under:

> ***Air circuit Breaker***
> *"Drawl type 415V, 1000 Amp& 1600 Amp C&S make LT breakers are installed in LT switchgear of Stage-I & II. Two numbers 1000 Amp and two numbers 1600 Amp of C&S make <u>are required as a spare</u> to ensure reduction in downtime of the system."*
>
> ***Replacement of 220 kV Capacitive Voltage Transformers (CVTs)***
> *"245 KV capacitor voltage transformers are installed in all six feeders for PLCC and LVT indication. Previous lot of spares has exhausted and being critical in nature, four number CVTs <u>may be kept as spares</u>."*
>
> ***Current Transformers 245 kV Crompton Greaves make***
> *"Three number of 245 KV current transformers of CGL make are installed at Salal-Jammu circuit-II feeder. Besides these three CTs, others are of BHEL make and having entirely different composition. <u>There is no spare of CGL make CTs available with</u> us."*

10. The petitioner has now submitted that the disallowance of capitalization of ₹4.79 lakh for Air circuit Breaker during 2009-10, ₹23.18 lakh for Replacement of 220 kV Capacitive Voltage Transformers (CVTs) during 2009-10 and ₹3.91 lakh for Current Transformers 245 kV Crompton Greaves make during 2010-11, on the ground that the same are in the nature of spares, is an error apparent on the face of the record. While justifying the need for these assets, the petitioner has submitted that these assets have been claimed as replacement, after deduction of the gross value of the old assets and that the same is not in the nature of spares. It has also submitted that replacement of these assets are essential for satisfactory operation of the generating units and associated system and has prayed that these assets may be allowed to be capitalized, after deduction of the gross value of the said assets.

11. The Commission by a conscious decision has disallowed the capitalization of these assets, on the ground that these are in the nature of spares, based on the submissions of the petitioner. The petitioner through this application seeks to re-agitate the issue on merits, and the same is not permissible in the proceedings for review. Hence, the justification now submitted by the petitioner, that these assets are required as 'replacement' and not as 'spares', is not acceptable. In the circumstances, in our view, there is no error apparent on the face of record and consequently, the petitioner's prayer for review of order on this count is rejected.

(b) Construction of Bachelor accommodation (20 nos)

12. The claim of the petitioner for capitalization of ₹100.00 lakh for the said asset during 2011-12 was disallowed by the Commission on the ground that these assets are in the nature of replacement and gross value of the original asset has not been furnished, based on the submission of the petitioner in original petition as under:

> *"The quarters at Salal Power Station are more than 35 years old and their proper up-keeping as well as structural safeties are under continuous assessment. Keeping in view the demand of mostly bachelor accommodation in the project, it is proposed that bachelor accommodation having one room set of 20 Nos is to be constructed."*

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

> *"…the Township of the generating station was constructed during 1970 and majority of the houses have completed its stipulated life and have become unsafe for dwelling purpose. Accordingly, owing to safety reason, ninety six numbers of houses have already been dismantled. NIT has already been issued for further dismantling 196 nos. of houses qwing to unsafe condition of houses and safety reason. Total houses dismantled /under dismantle is 292 nos. The gross value of houses dismantled / Under dismantle is Rs. 50,82,504/- and written down value is Rs. 24,19,883/- only. Accordingly, there is acute shortage of residential accommodation for the officials deployed at Salal Power Station. As per Geographic layout of Salal Power Station, the area is quite remote and residential accommodations are not available in nearby are also. Since, due to remoteness of site, Majority of officers and officials are living alone i.e. they need bachelor accommodation at Power Station site. Hence, against dismantling of 292 Nos. of houses, construction of Bachelor Accommodation (20 Nos.) has been proposed in additional capitalization for the year 2011-12. The availability of man power at site is essential for emergency restoration of Generating Units and associated system. For which, availability of residential accommodation at site is of prime concern. The construction of Bachelor Accommodation is essential for effective operation and maintenance of Generating Units i.e. necessary to increase the operational efficiency of Generating Station. Also those old quarters are more than 35 years old & there is safety concern for employees and therefore proposed to dismantle in phased manner.*

14. The submission of the petitioner that these are old quarters and more than 35 years old and their proper up-keeping as well as structural safety were under continuous assessment have been considered by the Commission and it was concluded that these assets were in the nature of replacement. Moreover, the gross value of original asset was also not submitted by the petitioner. Hence, based on the available documents on record the Commission had not allowed the capitalization of this asset. The petitioner cannot now re-agitate the issue on merits and seek review of the order which is not permissible in the review petition. In view of this, there is no error apparent on the face of the record and the justification submitted by the petitioner is not acceptable. Hence, review of order on this count fails.

(c) Centrifugal separator (1 no.)

15. The claim of the petitioner for capitalization of ₹12.99 lakh for the asset during 2011-12 was disallowed by the Commission on the ground that proper justification for the asset was not furnished, based on the submission of the petitioner in original petition as under.

> *"New purchase of Centrifugal separator, it has to be installed at silt excluding galary for filtration of oil."*

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

> *"The Salal Power Station is constructed on river Chenab under Distt. Reasi of J&K. The water in the Salal Reservoir is maintained as per specified norms through 12 nos. of Spillway Gates. The operations of Gates are Electro-Hydraulic system. The purity of hydraulic oil is of prime concern for satisfactory operation of Spillway Gates. Accordingly, the cleaning of Hydraulic oils is being done through Centrifugal Oil Purifier i.e. Centrifugal Separator at a regular interval. The existing Centrifugal Separator was purchased during the initial stage of power station. Due to continuous operation of existing Centrifugal separator, the same become none functional. Due to arrival of new efficient models of the Oil Purifier Plant, the production of old models of oil purifier has been discontinued and spares for old one is not available. Hence repairing /rectification of old Centrifugal Separator is not feasible. The same is required to be replaced by new one. The replacement of Centrifugal Oil Purifier i.e. Centrifugal Separator is essential to increase the operational efficiency of the Generating Station. Gross value of old Centrifugal Oil Purifier is Rs. 5.86 lakh."*

17. It is noticed that the justification/requirement for replacement of the said asset was admittedly not made available to the Commission at the time of filing of the original petition.

Accordingly, based on the available records, the capitalization of this new asset in a working plant was disallowed after considering the submissions of the petitioner. The petitioner cannot be permitted to reopen the issue in review petition, on the ground that the asset is essential to increase the operational efficiency of the generating station. In view of this, the justification submitted by the petitioner is not acceptable and in our view does not constitute an error apparent on the face of order. Accordingly, review on this count fails.

New bay for captive power 220 kV switchyard

18. The petitioner's claim for capitalization of ₹264.35 lakh during 2012-13 for this asset was not allowed by the Commission by its order, on the ground that proper justification for the asset has not been furnished. The petitioner in its original petition had submitted as under:

> *"Two numbers of 33 kV over head lines are laid from Jhajjarkotli to Bidda Power house and one feeder extended to Dhyangarh diesel power house which is presently charged at 11 kV. 33 kV line is stepped down to 11 kV at Bidda Sub-station and further distributed to Dhyangarh DPH, Jyotipuram colony, Talwara, Gujjarkothi & Bidda local. During rainy / stormy weather, 33KV grid supply lines from Jhajjarkotli to Biddal Power house are not reliable because of routing of these overhead lines through forest and hilly terrain. The frequent earth fault tripping occurs on these lines due to land sliding, falling of poles, touching of branch of trees. Voltage of these lines is not stable and fluctuated which may damage the electrical appliances and equipments installed at colonies as well as power house respectively. A continuous stable and reliable source is required round the clock for satisfactory operation of various system such as drainage dewatering, pumping installed at power house, compressor used for maintaining air pressure in operating vessels for 220KV SF6 breaker and spring charging motors for 220 KV MOCBs installed at Switchyard, supply required for penstock gate operations at dam, supply for mechanical equipment such as lathe machine, grinding machine, drill machine, shaper machine installed at workshop etc. The voltage level is regulated through OLTC auto transformer installed at bidda sub-station within certain limits beyond that it could not be stabilized. The supply source for catering the above essential loads is through DPH at Dhyangarh which is fetched from bidda sub-station through single line. The frequent tripping of this Bidda sub-station to Dhyangarh sub-station cause failure of pumps, motors, sensors & other equipments installed at Various location of power house and switchyard. Supply is provided during the failure of grid supply source through DG installed at DPH which is not so far economical / reliable".*

19. In justification of its claim, the petitioner, in its application has reiterated as under:

> "*The auxiliary power supply to Salal Power Station is supplied by J&K PDD from 132 / 33 kV Jhajjar Kotli Substation which is around 50 km from Jyotipuram. The power is further transmitted from Jhajjar Kotli to Salal Power Station at Bidda through two nos. 33 kV transmission line. The transmission line is passing through dense forest and hilly terrain. There is frequent damage of transmission line due to falling of tree or its branches or due to landslides in the areas. The restoration of transmission line is time consuming owing to non availability of road / passage. The majority of areas are covered on foot and accordingly tools and tackles are*

required for restorations are also being transported through head load or other manual process. Under such circumstances, the availability of auxiliary power to Salal Power House / dam areas becomes a Herculean Task. The continuous, stable and reliable power source is essential for satisfactory operation of Generating Units i.e. operation of various drainage / dewatering pumps to avoid flooding as well as operation of various outdoor 220kV switchyard equipments at Power House as well as operation of various Gates at Dam. Due to power supply constraint at J&K, there is frequent outage at J&K PDD substation at Jhajjar Kotli, DG sets are installed at Bidda / Dhyangarh to meet out emergency requirement for a shorter time but in the present case, the outage of auxiliary power becomes more than 24 hrs. For such a longer period, the chances of failure of DG sets can't be ruled out.

20. Though the Commission had considered the submissions of the petitioner (as in para 18 above) and rejected the capitalization of the said asset in order dated 27.6.2011, it is noticed that certain important aspects, as noted below, pertaining to the requirement of this asset appears to have been overlooked while arriving at the said conclusion.

"..the frequent tripping of this Bidda sub-station to Dhyangarh sub-station cause failure of pumps, motors, sensors & other equipments installed at various location of power house and switchyard. Supply is provided during the failure of grid supply source through DG installed at DPH which is not so far economical / reliable"

21. In our view, the non consideration of the above aspects in our order based on the submission of the petitioner constitutes an error apparent on the face of the record. In Grindlays Bank Vs Central Industrial Tribunal (AIR 1981 SC 606), the Supreme Court held that when a review is sought due to procedural defect, the inadvertent error committed by the tribunal must be corrected *ex debito justitiatae* to prevent the abuse of its process and such power inheres in every court or tribunal. In Mt. Rukmabai vs Ganpat Rao (AIR 1932 Nagpur 177) it was held that the omission to consider important facts which are on record and which the Judge himself immediately on passing his order realized that he had overlooked and which in his opinion would have led him to pass an order materially different, is a justified ground for entertaining an application for review. In the light of these reported decisions of the superior courts, it can be safely concluded that omission of the court to consider an important fact constitute a ground for review.

22. Based on the above, the submissions of the petitioner have been examined. Keeping in view the nature of the asset and its requirement for satisfactory operation of the generating station, we allow the capitalization of this asset under Regulation 9(2)(iv) of the 2009 Tariff Regulations.

23. Accordingly, the additional capital expenditure allowed for 2009-14 in the table under paragraph 19 of our order dated 27.6.2011, is revised as under:

(₹in lakh)

	2009-10	**2010-11**	**2011-12**	**2012-13**	**2013-14**
Additional Capital Expenditure allowed	138.49	5619.89	647.16	1670.46	80.05

(B) <u>Error in calculation of depreciation</u>

24. In our order dated 27.6.2011, depreciation was allowed as under.

(₹in lakh)

	2009-10	**2010-11**	**2011-12**	**2012-13**	**2013-14**
Gross block as on 31.3.2009	91159.37	91297.87	96917.76	97564.92	98971.03
Additional capital expenditure during 2009-14	138.49	5619.89	647.16	1406.11	80.05
Closing gross block	91297.87	96917.76	97564.92	98971.03	99051.08
Average gross block	91228.62	94107.82	97241.34	98267.98	99011.06
Rate of Depreciation	5.0511%	5.0511%	5.0511%	5.0511%	5.0511%
Depreciable value @ 90%	81632.18	84223.46	87043.63	87967.60	88636.38
Balance useful life of the asset	21.0	20.0	19.0	18.0	17.0
Remaining depreciable value	40467.46	41145.36	41918.86	40824.57	39301.35
Depreciation	**1927.02**	**2057.27**	**2206.26**	**2268.03**	**2311.84**

25. The petitioner has submitted that errors in calculation of depreciation needs rectification since the Commission had not considered depreciation on land under reservoir and depreciation on addition in land (stamp charges prorate attributable to land under reservoir) during 2010-11 onwards. The petitioner has also submitted that the amount of cumulative depreciation/Advance Against Deprecation (AAD) recovered upto 31.3.2009 is required to be corrected.

26. The submissions of the petitioner and the documents have been examined. It is noticed that while calculating depreciation, the details pertaining to ‘Land under reservoir’ amounting to ₹493.85 lakh as on 31.3.2009, Land Stamp duty and Court fee’ amounting to ₹5400 lakh and its *pro rata* apportionment to ‘land under reservoir’ amounting to ₹4443.17 lakh during 2010-11 have not been taken into consideration, inadvertently. This inadvertent error in not considering the said details in our order, constitute an error apparent on the face of the record and the same is sought to be corrected by this order. We direct accordingly.

(C) <u>Errors in the calculation of O&M expenses</u>

27. The petitioner has pointed out to certain errors in the calculation of various components under O&M expenses, and has prayed that the errors may be rectified for the reasons stated therein. 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.

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

(a) Repairs & Maintenance (R&M)

29. The expenditure under this head claimed in the original petition and allowed by the Commission in order dated 27.6.2011 is as under:

(₹ in lakh)

	2003-04	2004-05	2005-06	2006-07	2007-08
R&M expenses claimed	1642.60	1339.58	3258.37	857.37	942.00
R&M expenses allowed	1106.32	1339.58	2843.73	857.37	942.00

30. The Commission while disallowing the claim of the petitioner for ₹536.28 lakh during 2003-04 and ₹414.64 lakh during 2005-06 had in paragraph 40 of the said order, observed as under:

> *"40. As regards the expenditure under this head, the petitioner has submitted that the expenditure during 2003-04, includes repair of Runner by M/S BHEL amounting to ₹536.28 lakh. As the work is not of a recurring nature, the said amount has been deducted while normalizing the O&M expenses for future years. Further, during 2005-06, the expenditure on repair and maintenance increased by over 143 % to that of the previous year, which has been attributed to charging of Generating Plant & Machinery (GPM) spares to revenue and accumulated depreciation, amounting to ₹1602.27 lakh and ₹129.14 lakh respectively. This has been considered. In addition to this, it is noticed that an amount of ₹414.64 lakh has been incurred for payment towards special repair of GPM to outside agencies. The special repairs and payments made to outside agencies being one-time, the same has been deducted while normalizing the O&M expenses for future years ".*

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

> *"Salal is purely a Run-of-River power station due to implementation of Indus Water Treaty signed between Govt. of India & Pakistan. Consequence of this treaty, under-sluice gates were sealed permanently. Effectively petitioner has no regulation / control over silt coming into the river water. In view of this the consumption of stores / spares and repair & maintenance on under water parts i.e. Runner, labyrinth assembly, top cover, lower rings etc. increases considerable in every 2-3 years. This special repair & maintenance has been carried out by either OEM M/s BHEL or some other agency as per condition / severity of the damage of the underwater parts.*
>
> *Salal Power Station is situated under district Reasi of J&K on river Chenab. The water of Chenab River is full of silt and hence frequent damage of underwater components of Generating Units. Every year one or two Generating Units are taken under Capital Maintenance i.e. dismantling of generator and turbine completely being the top removal Generating Units. The underwater components are found badly eroded like Lower Ring, Guide Vane, Runner, Top cover, Stay Vanes and Draft Tube Cones etc. The components like Lower Ring, Guide Vane, Runner, Top Cover are replaced by new / repaired spares available with the Power Station. Since removal of Stay Vanes and Draft Tube Cones is not feasible, same is repaired in situ condition through welding and grinding by special electrodes. Since the damages in the Guide Vanes, Runner, Lower ring, Top Cover are much are due to erosion by silt, repair of same are done by outsourcing to maintain the original profile through special machining for efficient operation of Generating Units. In addition to above, repair of underwater components are also made every year during the Annual / Special Maintenance activities of Generating Units by welding, grinding etc. in situ condition. The capital maintenance of Generating Units is carried out every four year. The repair details of underwater components damaged due to silt is enclosed herewith for perusal. Annex-A"*
>
> *Merely being non-recurring / one-time expenses during the period 2003-04 to 2007-08, these expenses does not deserve disallowances by the commission as explained in following para:*
>
> *Firstly, these expenses may not be incurring every year but being incurred every 2-3 years. Also when non-recurring / one-time 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 becomes ₹5 lakh per annum (25/5) in averaging of 5 years expenses. Therefore, expenses should have been allowed based on the legitimacy of expense.*

Secondly, the R&M expenses of 2005-06 are well within 120% of expenses of 2004-05 expenses after allowing the Generating Plant Machinery (GPM) spares amounting to ₹1785.69 lakh (`3258.37 lakh – ₹1785.69 lakh = ₹1426.96 lakh < 120% of ₹1339.58 lakh). In view of this there shall be no further scrutiny required."

32. It is noticed that Salal hydroelectric project (this generating station) is a silt prone generating station and the underwater components are badly eroded and that the repair /special repair of these components are carried out for efficient operation of the units. This fact was overlooked by the Commission and the claim of the petitioner for capitalization of expenditure under this head was disallowed. In the instant case, the repairs of runners have been carried out by M/s BHEL. Considering the high silt in the river Chenab, the claim of the petitioner under this head cannot be considered to be an abnormal expenditure. Taking into consideration the above facts and being a recurring expenditure, we are of the view that there is error apparent on the face of the order dated 27.6.2011 and the claim of the petitioner should be allowed under this head. Accordingly, we allow the claim of the petitioner for the years 2003-04 and 2005-06 for the purpose of normalization. Accordingly, the R&M expenses allowed in the table under paragraph 40 of the order dated 27.6.2011 is revised as under:

(₹ in lakh)

	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008
Repair and Maintenance expenses	1642.60	1339.58	3258.37	857.37	942.00

(b) Security Expenses

33. The expenses on account of security claimed in the original petition and allowed by the Commission is as under:

(₹ in lakh)

	2003-04	2004-05	2005-06	2006-07	2007-08
Security Expenses claimed	98.44	8.45	35.99	19.34	22.75
Security Expenses allowed	40.59	8.45	35.99	19.34	22.75

34. The Commission while restricting the claim of the petitioner to ₹40.59 lakh during 2003-04 had in paragraph 44 of the said order, observed as under:

"44. During 2003-04, an excessively high expenditure of ₹98.44 lakh has been incurred towards security in comparison to the other years. The petitioner has attributed the increase in expenses due to purchase of

clothing and ammunition amounting to ₹87.85 lakh for CISF. It has also been submitted that some amount is required to be paid to CRPF for purchase of ammunition after 2 to 3 years. Considering the fact that in the year 2005-06 an amount of ₹30 lakh has been incurred towards purchase of ammunition for CISF, the same is assumed in the claim for 2003-04. Hence, the total amount considered for 2003-04 works out to ₹40.59 lakh {`30.0+ (₹98.44-₹87.85)} which is allowed.

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

"CERC has not considered security expenses of 2003-04 as claimed & arbitrarily restricted it to ₹ 40.59 lakh. Here it is to submit that petitioner have no control over the security expenses and bound to pay the bills raised by CISF.

It is pertinent to mention here that recently we have received letter of DIG (HQrs) for deployment of CISF in Loktak Power Station vide which the recurring & non recurring expenses estimated as approximately ₹27 crs. In comparison to it the security expenses in Salal Power Station in not much significant.

Salal is situated in J&K state where militancy is a big threat since 2-3 decade. Keeping this fact in view Hon'ble Commission in the matter of Uri Power Station, which is also located in J&K state, in Petition No. 74/2010 observed as under:

> *"48. The generating station located in the State of J&K is most sensitive form the security point of view and hence the charges forwards establishment of security of the generating station by CISF personnel is paid on the basis of bills raised by them. In addition to the cost towards establishment of CISF security, the supervision charges, clothing of the security personnel etc, has to be borne by the petitioner. Keeping in view the strategic location and the security aspects involved in the generating station, the expenditure as claimed by the petitioner is allowed."*

In view of above submissions, the legitimate security expenses of 2003-04 deserve to be allowed by the Hon'ble Commission."

36. The submissions of the petitioner have been examined. It is clear from the said order that claim of the petitioner for 2003-04 was restricted to ₹40.59 lakh based on the submissions of the petitioner that the increase in expenses during 2003-04 was attributable to expenses due to purchase of clothing for CRPF. No other justification was submitted. Accordingly, based on the materials available on record, the Commission had allowed the security expenses for 2003-04. The petitioner cannot now reargue the issue on merits by making additional submissions in this review petition and contend that the said expenses should have been allowed based on the order of the Commission in Petition No.74/2010 relating to Uri hydroelectric station. The order of the Commission in Petition No.74/2010 granting the said expenses was based on the submissions made by the petitioner therein, and the same cannot be considered for review of the order in this petition. In our view, the petitioner has not

demonstrated the existence of any error apparent on the face of the record and consequently, the review of order on this count fails.

(C) Filing Fees

37. As regards the claim for filing fees under administrative expenses, the Commission in paragraph 52 of the order dated 27.6.2011 has submitted as under:

> *"52.The claim of the petitioner for ₹25.00 lakh on account of fees for filing the tariff petition before the Commission has not been considered and the same would be dealt with separately in terms of Regulation 42 of the 2009 Regulations".*

38. 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 submitted as under:

> *"In terms of CERC (Payment of Fees Regulations), 2004, NHPC had paid filing fee of Rs. 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:*
>
> > *"94. The petitioner has sought reimbursement of filing fee of Rs. 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.*
>
> *Keeping above fact in mind, we had kept this amount as recoverable from the beneficiaries; till the final view was taken by the commission vides order dated 11.09.2008 in Petition No. 129/2005 (suo-motu) 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."*
> >
> > *"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, NPHC 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.*"

39. 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 for reimbursement of expenditure for filing fees during the period 2009-14 by the Commission 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 87 of the order dated 27.6.2011. In view of this, there is no error apparent on the face of the record and accordingly, review on this count fails.

(d) Error in Employee Cost

40. The Salary wages and allowances (project) pertaining to Employee cost claimed in the original petition and allowed by the Commission in the table under paragraph 65 of the order dated 27.6.2011 is as under:

(₹ in lakh)

	2003-04	**2004-05**	**2005-06**	**2006-07**	**2007-08**
Salary wages and allowances (project) claimed	3312.17	3395.05	3160.26	3325.12	4076.02
Salary wages and allowances (project) allowed	3239.39	3306.42	3160.26	3306.78	2943.25

41. The petitioner, in this application has submitted as under:

> *"The petitioner has not taken any expenditure on account of employee cost of corporate office in employee cost of power station. This can be seen from the corporate expenses allocated to power station as provided by the petitioner in Form-15B & Form-15B (CO).*

(₹ in lakh)

	2003-04	2004-05
Corporate office expenses as per Form-15 B (CO)	*206.40*	*225.51*
Corporate office expenses as per Form-15 B (Sl.no 9)	*206.40*	*225.51*

It is clear from the above that whatever CO expenses allocated to Salal power station have been taken inform-15B (Sl.no.9-Corporate Office expenses allocation) and not included in employee cost of Salal power station during 2003-04 and 2004-05"

42. The matter has been examined. It is noticed from the calculations, that the employee cost of Corporate Office (CO) does not include the Regional Office (RO) expenses during 2003-04 to 2004-05 as the RO expenses were booked to the natural head of the plant. It is also observed that the share of RO expenses during 2003-04 and 2004-05 have been excluded from the employees cost of the project and based on this exclusion, the percentage of employees cost have been calculated. This according to us, is an inadvertent error, which is apparent on the face of the record and is sought to be corrected by this order. Hence, review on this count is allowed.

(e) Staff Welfare Expenses

43. The petitioner has submitted that the Commission in paragraph 60 of the order dated 27.6.2011 had not considered the gratuity payment amounting to ₹111.26 lakh during 2004-05 made to employees who had opted for VRS. It has also submitted that it has restricted all the future staff welfare expenses as 120% of the previous year expenses and the claim for 2007-08 was well within the 120% of previous year expenses.

44. We have considered the submissions of the petitioner. It is observed that during 2004-05, the Staff welfare expenses (₹224.49 lakh) was about 30% more than the previous year on account of the provision created by Corporate office for post-retirement medical expenditure and gratuity payments to employees who opted for VRS. The expenditure of ₹111.26 lakh on account of gratuity payments made to employees who opted for VRS was not considered for

the purpose of normalization of O&M expenses for 2009-14, since VRS payments are required to be borne by the petitioner from its savings and the beneficiaries cannot be burdened on this count. We are of the view that the there is no error apparent on the face of the record and review on this count fails.

(f) Other Expenses

45. The petitioner has submitted that some of the other expenses claimed under the head administrative expenses in the table under paragraph 54 of the order had not been considered and the error on this count may be rectified. It has also submitted that since payment of sales tax is a statutory requirement, the non consideration of the expenditure of ₹149.79 lakh on that count, made under the Amnesty scheme on the ground that it related to the period prior to 2003-04, is an error which may be rectified.

46. The submissions of the petitioner have been considered and we are of the view that there is no error apparent on the face of the record. The payment made as Sales tax under the amnesty scheme, related to the period prior to 2003-04 and was not a normal expense. Hence, the same was not considered for the purpose of normalization of O&M expenses during 2009-14. There is no error apparent on the face of the record, as in our view, the reasons for deduction of 'other expenses' and the restriction of abnormal increase in expenses to 20% over the expense of the previous years have been adequately provided in the said order. It is noticed that the petitioner in this application has requested for reconsideration of the whole issue afresh, which is not permissible, in review. Hence, review on this count fails.

Methodology of 20% restriction of expenses

47. 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, again Commission has restricted the incremental increase to 20% of previous year and in this manner all future expenses are restricted.

48. 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 carrying out 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 four 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.

49. Based on the discussions in the foregoing paragraphs, the revised O&M expenses considered for the period 2003-08, for calculation of O&M expenses for 2009-14 is as under:

(₹ in lakh)

Sl. No.	ITEMS	2003-04	2004-05	2005-06	2006-07	2007-08
	Breakup of O&M expenses					
1	Consumption of Stores and Spares	0.00	0.00	0.00	0.00	0.00
2	Repair and Maintenance	1642.60	1339.58	3258.37	857.37	942.00
3	Insurance	478.20	475.00	466.07	462.78	464.75
4	Security	40.59	8.45	35.99	19.34	22.75
5	**Administrative Expenses**					
a	Rent	13.59	18.83	19.38	16.38	19.49
b	Electricity Charges	0.61	0.47	250.29	159.74	312.36
c	Travelling and conveyance	49.11	49.88	38.02	45.62	40.18
d	Communication expenses	23.56	19.98	23.27	25.83	24.44
e	Advertising	17.94	21.33	14.48	17.38	19.26
f	Foundation laying and inauguration	0.00	0.00	0.00	0.00	0.00
g	Donations	0.00	0.00	0.00	0.00	0.00
h	Entertainment	0.20	0.24	0.34	0.47	0.67
i	Filing Fees	0.00	0.00	0.00	0.00	0.00
	Sub-Total (Administrative Expenses)	**105.01**	**110.73**	**345.78**	**265.42**	**416.40**
6	**Employee Cost**					
a(i)	Salaries, wages and allowances (Project)	**3312.17**	**3395.05**	3160.26	3306.78	2943.25
a(ii)	Salaries, wages and allowances (CO/RO Exp.)	140.83	159.13	282.45	240.03	220.14
a(iii)	Salary, Wages and Allowances (CISF / KV / Central Security Forces)	453.38	480.40	401.62	413.69	413.69
b	Staff welfare expenses	172.68	113.23	135.88	163.05	195.66
c	Productivity linked incentive	0.00	0.00	0.00	0.00	0.00
d	Expenditure on VRS	0.00	0.00	0.00	0.00	0.00
e	Ex-gratia	0.00	0.00	0.00	0.00	0.00
	Sub-Total (Employee Cost)	**4079.06**	**4147.81**	**3980.20**	**4123.56**	**3772.74**
7	Loss of store	0.00	0.00	0.00	0.00	0.00
8	Provisions	0.00	0.00	0.00	0.00	0.00
9	CO expenses allocation except EC	63.62	60.29	49.11	45.43	43.47
	RO expenses allocation Except EC	0.00	0.00	21.59	8.16	12.15
10	**Others (Specify items)**	**2003-04**	**2004-05**	**2005-06**	**2006-07**	**2007-08**
(a)	Amount Written Off against Deferred Rev. Expenditure	0.00	0.00	0.00	0.00	0.00
(b)	Rates & Taxes	61.26	17.25	20.62	1.83	168.89
(c)	Printing and Stationery	11.83	12.23	12.16	8.99	21.20

(d)	Other Misc. Expenses	47.93	44.85	48.36	58.03	90.30
(e)	Loss on Sale of Assets	0.00	0.00	0.00	0.00	0.00
(f)	Books and Periodicals	-	-	0.43	0.45	0.38
(g)	Consultancy Charges	-	-	20.12	10.61	6.59
(h)	Expenses transferred to IEDC	-	-	0.00	0.00	0.00
(i)	Audit expenses	-	-	0.00	0.51	0.55
(j)	Interest payment on Court / Arbitration cases	-	-	94.95	0.00	0.00
	Sub-Total (Others)	121.02	74.33	196.65	80.43	287.92
11	Total (1 to 10)	6530.10	6216.19	8353.75	5862.49	5962.18
12	Revenue/ Recoveries, if any	117.83	104.02	75.03	98.71	108.19
13	**Net Expenses**	**6412.27**	**6112.17**	**8278.72**	**5763.78**	**5853.99**

50. The average employee cost works out to 62% 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 employee cost for the tariff period 2009-14 is revised and allowed as under:

(₹ in lakh)

	2009-10	**2010-11**	**2011-12**	**2012-13**	**2013-14**
O&M Expenses allowed	10549.90	11153.36	11791.33	12465.79	13178.84

51. 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 27.6.2011 is revised, as discussed below:

Capital Cost

52. The Capital cost approved in order dated 27.6.2011 is revised as under:

(₹ in lakh)

	2009-10	**2010-11**	**2011-12**	**2012-13**	**2013-14**
Opening Capital Cost	91159.37	91297.86	96917.75	97564.91	99235.37
Additional Capital Expenditure allowed	138.49	5619.89	647.16	1670.46	80.05
Capital cost as on 31.3.2009	**91297.86**	**96917.75**	**97564.91**	**99235.37**	**99315.42**

Return on Equity

53. Return on Equity worked out in order dated 27.6.2011 is revised as under:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Gross Notional Equity	48402.40	48443.95	50129.92	50324.06	50825.20
Addition due to Additional Capitalization	41.55	1685.97	194.15	501.14	24.02
Closing Equity	48443.95	50129.92	50324.06	50825.20	50849.22
Average Equity	48423.17	49286.93	50226.99	50574.63	50837.21
Return on Equity (Base Rate)	15.500%	15.500%	15.500%	15.500%	15.500%
Tax rate for the year 2008-09	11.330%	11.330%	11.330%	11.330%	11.330%
Rate of Return on Equity	17.481%	17.481%	17.481%	17.481%	17.481%
Return on Equity	**8464.63**	**8615.62**	**8779.95**	**8840.72**	**8886.62**

Interest on Loan

54. Interest on loan arrived at in order dated 27.6.2011 is revised as under:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Gross Normative Loan	42756.98	42853.92	46787.85	47240.86	48410.18
Cumulative Repayment up to Previous Year	42756.98	42853.92	44886.13	47067.32	48410.18
Net Loan-Opening	0.00	0.00	1901.72	173.54	0.00
Repayment during the year	96.95	2032.20	2181.19	1342.86	56.04
Addition due to Additional Capitalization	96.95	3933.93	453.01	1169.32	56.04
Net Loan-Closing	0.00	1901.72	173.54	0.00	0.00
Average Loan	0.00	950.86	1037.63	86.77	0.00
Weighted Average Rate of Interest on Loan	7.42%	7.42%	7.42%	7.42%	7.42%
Interest	**0.00**	**70.54**	**76.97**	**6.44**	**0.00**

Depreciation

55. Depreciation worked out in order dated 27.6.2011 is revised as under:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Gross block as on 31.3.2009	91159.37	91297.87	96917.76	97564.92	99235.38
Additional capital expenditure during 2009-14	138.49	5619.89	647.16	1670.46	80.05
Closing gross block	91297.87	96917.76	97564.92	99235.38	99315.43
Average gross block	91228.62	94107.82	97241.34	98400.15	99275.41
Rate of Depreciation	5.0511%	5.0511%	5.0511%	5.0511%	5.0511%
Depreciable Value	82010.04	83740.17	86560.35	87603.27	88391.00
Balance Useful life of the asset	21.0	20.0	19.0	18.0	17.0
Remaining Depreciable Value	40845.32	40644.08	41442.65	40492.25	39106.17
Depreciation	**1945.02**	**2032.20**	**2181.19**	**2249.57**	**2300.36**

Interest on Working Capital

56. Interest on Working Capital in order dated 27.6.2011 is revised as under:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Maintenance Spares	1582.49	1673.00	1768.70	1869.87	1976.83
O & M expenses	879.16	929.45	982.61	1038.82	1098.24
Receivables	3617.37	3775.50	3941.55	4069.56	4209.70
Total	6079.01	6377.95	6692.86	6978.24	7284.76
Rate of Interest	12.25%	12.25%	12.25%	12.25%	12.25%
Interest on Working Capital	**744.68**	**781.30**	**819.88**	**854.83**	**892.38**

Annual Fixed Charges

57. Based on the above, the annual fixed charges approved for the period 2009-14 is as under:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Return on Equity	8464.63	8615.62	8779.95	8840.72	8886.62
Interest on Loan	0.00	70.54	76.97	6.44	0.00
Depreciation	1945.02	2032.20	2181.19	2249.57	2300.36
Interest on Working Capital	744.68	781.30	819.88	854.83	892.38
O & M Expenses	10549.90	11153.36	11791.33	12465.79	13178.84
Total	**21704.23**	**22653.02**	**23649.32**	**24417.35**	**25258.21**

58. The petitioner shall claim the difference in respect of the tariff determined by order dated 27.6.2011 and the tariff determined by this order from the beneficiaries, in six monthly installments.

59. Review Petition No.15/2011 is disposed of as above.

Sd/-
[V.S.VERMA]
MEMBER

Sd/-
[S. JAYARAMAN]
MEMBER