

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 71/GT/2013

Coram:

Shri V.S.Verma, Member

Shri M.Deena Dayalan, Member

Date of Hearing: 25.7.2013

Date of Order: 20.11.2013

In the matter of

Revision of tariff of Salal Hydroelectric Power Station for the period 2009-14-Truing up of tariff determined by order dated 27.6.2011 in Petition No. 104/2010 and order dated 20.6.2012 in Review Petition No. 15/2011.

And

In the matter of

NHPC Limited
NHPC Office Complex
Sector-33, Faridabad
Haryana-121003

...Petitioner

Vs

1. Punjab State Power Corporation Ltd,
The Mall, Near Kali Badi Mandir,
Patiala – 147001(Punjab)

2. (a) Dakshin Haryana Bijili Vitaran Nigam Ltd,
(b) Uttar Haryana Bijili Vitaran Nigam Ltd
Shakti Bhawan, Sector – 6
Panchkula – 134 109(Haryana)

3. BSES-Rajdhani Power Ltd.
BSES Bhawan,
Nehru Place, New Delhi - 110019

4. Uttar Pradesh Power Corporation Ltd,
Shakti Bhavan, 14, Ashok Marg,
Lucknow – 226001(Uttar Pradesh)

5. BSES-Yamuna Power Ltd.,
Shakti Kiran Building,
Karkardooma, Delhi- 110072

6. (a)Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,
(b) Jaipur Vidyut Vitaran Nigam Ltd.,
Vidut Bhavan, Janpath, Jyoti Nagar, Jaipur-302005(Rajasthan)



7. Tata Power Delhi Distribution Ltd.,
Erst While North Delhi Power Ltd.,
Hudson Lane, Kingsway Camp, New Delhi-110009

8. Jodhpur Vidyut Vitaran Nigam Ltd.,
New Power House, Industrial Area, Jodhpur-342003

9. Uttaranchal Power Corporation Ltd
Urja Bhawan, Kanwali Road,
Dehradun-248001(Uttarakhand)

10. Ajmer Vidyut Vitaran Nigam Ltd
Old Power House,
Hatthi Bhatta, Jaipur Road,
Ajmer-305001(Rajasthan)

11. Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Kumar House,
Shimla-171004 (Himachal Pradesh)

12. Engineering Department, UT Secretariat
UT Secretariat, Sector 9D
Chandigarh-160009

13. Power Development Department,
Government of J&K
New secretariat,
Jammu-180001 (J&K)

...Respondents

Parties present:

Shri Parag Saxena, NHPC
Shri S.K. Meena, NHPC
Shri R.B. Sharma, Advocate, BRPL
Shri Padamjit Singh, PSPCL
Shri Alok Shankar, Advocate, TPDDL

ORDER

This petition has been filed by the petitioner, NHPC, for revision of tariff Salal Power station (690 MW) (hereinafter referred to as “the generating station”) for the period from 1.4.2009 to 31.3.2014 in terms of the proviso to Regulation 6 (1) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (hereinafter referred to as “the 2009 Tariff Regulations”).



2. Petition No.104/2010 was filed by the petitioner for determination of tariff of the generating station for the period 2009-14 and the Commission by its order dated 27.6.2011 determined the annual fixed charges for the generating station. Subsequently, the annual fixed charges determined by order dated 27.6.2011 was revised by Commission's order dated 20.6.2012 in Review Petition No.15/2011. The annual fixed charges determined by order dated 20.6.2012 in Review Petition No.15/2011 based on the capital cost of ₹91159.37 lakh as on 1.4.2009 was 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

3. The first proviso to Regulation 6 of the 2009 Tariff Regulations provides as under:

"6. Truing up of Capital Expenditure and Tariff

(1) The Commission shall carry out truing up exercise along with the tariff petition filed for the next tariff period, with respect to the capital expenditure including additional capital expenditure incurred up to 31.3.2014, as admitted by the Commission after prudence check at the time of truing up.

Provided that the generating company or the transmission licensee, as the case may be, may in its discretion make an application before the Commission one more time prior to 2013-14 for revision of tariff."

4. The petitioner in this petition has claimed revision of tariff for the period 2009-14 based on the actual additional capital expenditure incurred during the period 2009-12 and revised projections for additional capital expenditure for the period 2012-14. Reply to the petition has been filed by the respondents UPPCL, PSPCL, AVVNL, BRPL and TPDDL. The petitioner has filed its rejoinder to the said replies of the respondents.

5. The respondents, TPDDL, BRPL, AVVNL/JVVNL and PSPCL in their replies have submitted that for the purpose of truing-up, the petitioner should be directed to file the complete details of additional capital expenditure for the period 2009-12 duly audited and certified by the auditors in terms of Regulation 6(3) of the 2009 Tariff Regulations. It is noticed that pursuant to

the directions of the Commission in the Record of the Proceedings held on 25.7.2013, the petitioner by its affidavit dated 16.8.2013 has submitted the year-wise/item wise actual additional capital expenditure incurred for the years 2009-10, 2010-11 and 2011-12 duly certified by auditor and had served copies on the respondents. Accordingly, we proceed to examine this petition filed in terms of the proviso to Regulation 6(1) for revision of tariff of the generating station for 2009-14 after truing up, as discussed in the subsequent paragraphs.

6. The annual fixed charges claimed by the petitioner for the period 2009-14 in this petition are as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	1938.77	1959.00	1985.32	2028.07	2079.09
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on Equity	11359.99	11253.02	11152.49	8540.34	8586.24
Interest on Working Capital	804.89	833.27	863.64	843.82	881.51
O&M Expenses	10549.90	11153.36	11791.33	12465.79	13178.84
Total	24653.55	25198.65	25792.78	23878.02	24725.68

Capital cost

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

“7. Capital Cost. (1) Capital cost for a project shall include: (a) the expenditure incurred or projected to be incurred, including interest during construction and financing charges, any gain or loss on account of foreign exchange risk variation during construction on the loan - (i) being equal to 70% of the funds deployed, in the event of the actual equity in excess of 30% of the funds deployed, by treating the excess equity as normative loan, or (ii) being equal to the actual amount of loan in the event of the actual equity less than 30% of the funds deployed, up to the date of commercial operation of the project, as admitted by the Commission, after prudence check;”

8. The Commission had considered the capital cost of ₹91159.37 lakh as on 31.3.2009 in Petition No.154/2009 as the opening capital cost as on 1.4.2009 for the purpose of approval of tariff for the period 2009-14 in order dated 27.6.2011 in Petition No. 104/2010. Accordingly, this capital cost of ₹91159.37 lakh has been considered as on 1.4.2009 for the purpose of revision of tariff in this petition.

Actual/ Projected Additional Capital Expenditure during 2009-14

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

“9. Additional Capitalisation. (1) The capital expenditure incurred or projected to be incurred, on the following counts within the original scope of work, after the date of commercial operation and up to the cut-off date may be admitted by the Commission, subject to prudence check:

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

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

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

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

Provided that in respect sub-clauses (iv) and (v) above, any expenditure on acquiring the minor items or the assets like tools and tackles, furniture, air-conditioners, voltage stabilizers, refrigerators, coolers, fans, washing machines, heat convectors, mattresses, carpets etc. brought after the cut-off date shall not be considered for additional capitalization for determination of tariff w.e.f. 1.4.2009.

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

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

- (vii) *Any capital expenditure found justified after prudence check necessitated on account of modifications required or done in fuel receipt system arising due to non-materialisation of full coal linkage in respect of thermal generating station as result of circumstances not within the control of the generating station.*
- (viii) *Any un-discharged liability towards final payment/withheld payment due to contractual exigencies for works executed within the cut-off date, after prudence check of the details of such*

deferred liability, total estimated cost of package, reason for such withholding of payment and release of such payments etc.

(ix) Expenditure on account of creation of infrastructure for supply of reliable power to rural households within a radius of five kilometers of the power station if, the generating company does not intend to meet such expenditure as part of its Corporate Social Responsibility."

10. The reconciliation of the actual additional capital expenditure claimed with respect to the additional capital expenditure as per books of accounts certified by auditor for the period 2009-12 is as under:

	(₹ in lakh)		
	2009-10	2010-11	2011-12
Additions as per books (a)	(-) 290.22	1428.51	190.54
Additions claimed (b)			
Additions against works already approved by Commission	0.00	32.52	15.34
Additions not projected earlier but incurred and claimed	28.52	1075.74	17.16
Total (b)	28.52	1108.26	32.50
Deletions (c)	(-) 195.11	(-) 262.16	(-) 52.40
Exclusions in additions (incurred, capitalized in books but not to be claimed for tariff purpose) (d1)	54.46	601.65	226.56
Exclusions in deletions (de-capitalised in books but not to be considered for tariff purpose) (d2)	(-)178.09	(-)19.24	(-)16.11
Net value of exclusions (d=d1+d2)	(-) 123.63	582.41	210.44
Total (e) = (b)+(c)+(d)	(-) 290.22	1428.51	190.54
Net claim before un-discharged/discharged liabilities f=(b)+(c)	(-)166.60	846.10	(-)19.90
Add: Discharge of liabilities related to un-discharged liabilities as on 31.3.2009/1.4.2009	13.84	0.00	0.00
Less: Un-discharged liabilities in the claimed additional capital expenditure	0.00	0.00	0.00
Additional Capital Expenditure claimed	(-)152.76	846.10	(-)19.90

11. Based on the above reconciliation, the year-wise admissibility of the works, expenditure allowed by the Commission for these works, actual expenditure against these works along with admissibility of the actual expenditure in terms of the 2009 Tariff Regulations for 2009-10, 2010-11 and 2011-12 under various heads is discussed in the subsequent paragraph:

Additions against works already approved

12. The year-wise actual additional capital expenditure claimed by the petitioner vis-à-vis the additional capital expenditure allowed by the Commission on projected basis in order dated 27.6.2011 in Petition No.104/2010 and revised by order dated 20.6.2012 in Review Petition No. 15/2011 is as under:

(₹ in lakh)

	2009-10	2010-11	2011-12
Additional capital expenditure allowed earlier	138.49*	5619.89	647.16
Actual additional capital expenditure claimed now	0.00	32.52	15.34

* includes liabilities amounting to ₹13.84 lakh discharged during the year 2009-10, related to un-discharged liability as on 31.3.2009.

13. The details of works, the expenditure allowed by the Commission for the works, the actual expenditure against these works along with justification for admissibility of the actual expenditure in terms of the 2009 Tariff Regulations for 2009-10, 2010-11 and 2011-12 after prudence check and after considering the submissions of the parties, are summarized as under.

2009-10

14. No additional capitalization has been claimed by the petitioner during the said year in respect of the works already approved by Commission during the year 2009-10. The petitioner has submitted that capitalization of some of the works/assets has been carried out in the ensuing years i.e 2010-11 and 2011-12 and the capitalization of certain assets have been deferred to the years 2012-13 and 2013-14.

2010-11

15. The Commission in its order dated 27.6.2011 in Petition No. 104/2010 had allowed the projected capital expenditure of ₹5619.89 lakh during 2010-11. Against this, the petitioner has incurred only an expenditure of ₹2.98 lakh towards Water Purifier system, which was allowed to be capitalized for a projected expenditure of ₹2.87 lakh in order dated 27.6.2011. It is noticed that the major reason for such a huge variation in its claim for capitalization during the year is on account of 'deferment of payment of ₹5400.00 lakh as Stamp duty and Court fees which was allowed by the Commission during 2010-11 under Regulation 9(2)(ii) of the 2009 Tariff Regulations towards transfer of land from the Government of India to the petitioner in respect of the generating station, in terms of Section 140 D of the J & K Transfer of Property Act, 1977. In this regard, the petitioner has submitted as under:

NHPC has been continuously pursuing with state administration for transfer of Immovable property acquired or requisitioned on behalf and expense of Union in favor of NHPC Ltd. Though, the District Development Commissioner had effected an order of demarcation of land under use and possession of Salal Power Station. The matter got complicated due to passage of J&K Water



Resources Act. Presently, the chances of transfer of land in the name of NHPC seem to be remote and this does not seem likely to happen at least till March' 2014. It is, therefore, proposed to surrender this amount of ₹5,400.00 lacs till there is a positive movement in the issue from State Administration.

16. The submissions of the petitioner as above have been accepted. The capitalization of actual expenditure on Water Purifier system based on award of works through bidding process has been allowed under Regulation 9(2)(iv) of the 2009 Tariff Regulations. The capitalization of expenditure on the remaining asset/works approved by the Commission during the year has been deferred to ensuing years of the tariff period as submitted by the petitioner and the same has been examined as under.

Works allowed in 2009-10 but capitalized in 2010-11

17. The details of works/assets, expenditure allowed for these works/assets during 2009-10 and actual expenditure incurred against these works/assets along with justification for admissibility of the actual expenditure in terms of the 2009 Tariff Regulations for capitalization during 2010-11, after prudence check, are summarized as under:

<i>(₹ in lakh)</i>				
Sl.No.	Assets/works	Amount allowed earlier on projected basis	Actual expenditure incurred/claimed	Justification for admissibility of expenditure
1.	Multistage pumps – one pump with 125 HP rating & 2 pumps with 50 HP rating	15.37	8.25	Actual expenditure is based on award of the works through open tender. Accordingly, the said expenditure is allowed for already approved works, under Regulation 9(2)(iv) of the 2009 Tariff Regulations.
2.	Multistage pumps of 225 H.P rating (two Nos.), shaft motors, starter panels for pumps.	34.32	21.30	Actual expenditure is based on award of the works through open tender. Accordingly, the said expenditure is allowed for already approved works, under Regulation 9(2)(iv) of the 2009 Tariff Regulations.
	Total Claimed		29.54	
	Total allowed			29.54
	Total allowed during 2010-11 (29.54+2.98)			32.52

2011-12

18. No additional capitalization has been claimed by the petitioner during the said year in respect of the works already approved by Commission during the year 2011-12. It is noticed that the capitalization of expenditure on all the approved works/assets has been deferred to 2013-14.

Works allowed during 2009-10 and 2010-11 but capitalized in 2011-12

19. The details of works/assets, expenditure allowed for these works/assets and actual expenditure incurred against these works/assets during 2009-10 and 2010-11 along with justification for admissibility of the actual expenditure in terms of the 2009 Tariff Regulations for capitalization during 2011-12, after prudence check, are summarized as under:

<i>(₹ in lakh)</i>				
SI.No.	Assets/works	Amount allowed earlier on projected basis	Actual expenditure incurred/claimed	Justification for admissibility of expenditure
1	Replacement of EPABX installed in power house	9.26	7.34	The said expenditure is allowed for already approved works, under Regulation 9(2)(iv) of the 2009 Tariff Regulations.
2	Distribution transformer	15.17	7.99	The said expenditure is allowed for already approved works, under Regulation 9(2)(iv) of the 2009 Tariff Regulations.
	Total Claimed		15.34	
	Total allowed			15.34

Additions not projected earlier but incurred and claimed

2009-10

<i>(₹ in lakh)</i>			
SI.No.	Assets/works	Actual expenditure incurred/ claimed	Justification for admissibility of expenditure
1.	Installation & freight charges of Vibration monitoring system	0.92	The said expenditure is allowed as the corresponding asset has already been capitalized in the year 2007-08.
2.	Trucks	22.98	The capitalization of the asset is allowed under Regulation 9(2)(iv) of the 2009 Tariff Regulations against the replacement of old asset which was de-capitalized in 2006-07.

3.	Bullet proof jackets large size	1.97	The capitalization of the asset is allowed under Regulation 9(2)(iv) of the 2009 Tariff Regulations as the expenditure has been incurred by the petitioner for reinforcement of security measure on the recommendation of IB & State police
4.	Bullet proof jackets medium size	2.02	The capitalization of the asset is allowed under Regulation 9(2)(iv) of the 2009 Tariff Regulations as the expenditure has been incurred by the petitioner for reinforcement of security measure on the recommendation of IB & State police
5.	MAC ECG machine	0.62	The expenditure on hospital equipment, is allowed under Regulation 9(2)(iv) of the 2009 Tariff Regulations keeping in view that these equipment's are for the benefits of employees of the petitioner company working in remote areas of the project.
	Total claimed	28.52	
	Total allowed		28.52

2010-11

<i>(₹ in lakh)</i>			
Sl.No.	Assets/works	Additional Capital Expenditure claimed	Justification for admissibility of expenditure
1.	Land compensation	0.33	The expenditure is allowed under Regulation 9(2)(i) of the 2009 Tariff Regulations as the expenditure has been made as per the direction of Asstt. Commissioner (Revenue), Reasi on mutation of land compensation in favor of land outsee.
2.	Tail race tunnel	235.14	The expenditure is allowed under Regulation 9(2)(i) of the 2009 Tariff Regulations as the expenditure has been incurred and capitalized to meet liability pertaining to construction period, after arbitration award against the petitioner
3.	Tail race tunnel	833.29	The expenditure is allowed under Regulation 9(2)(i) of the 2009 Tariff Regulations as the expenditure has been incurred and capitalized to meet liability pertaining to construction period, after arbitration award against the petitioner
4.	High intensity long range swiveling type motorized security search light	6.99	The expenditure is allowed under Regulation 9(2)(iv) of the 2009 Tariff Regulations as the expenditure has been incurred by the petitioner for reinforcement of security measure at the power station on the recommendation of IB & State police .
	Total claimed	1075.74	
	Total allowed		1075.74

2011-12

(₹ in lakh)			
Sl.No.	Assets/works	Actual expenditure incurred/ claimed	Justification for admissibility of expenditure
1.	Tata Sumo	11.45	The capitalization of the asset is allowed under Regulation 9(2)(iv) of the 2009 Tariff Regulations against the replacement of old asset .
2.	Optical fibre splicing	2.35	The capitalization of the asset is not allowed under Regulation 9(2)(iv) of the 2009 Tariff Regulations as the asset is of a minor nature.
3.	Optical time domain Reflectometer	3.36	The capitalization of the asset is not allowed under Regulation 9(2)(iv) of the 2009 Tariff Regulations as the asset is of a minor nature.
	Total claimed	17.16	
	Total allowed		11.45

Deletions

20. The following year-wise expenditure has been de-capitalized by the petitioner on account of replacement of old assets or on assets becoming unserviceable/obsolete etc. The de-capitalized assets include submersible pumps, ECG machine, PLCC panels, welding machine, dumpers, air compressor, station wagons, cars, telephone exchange, sale of land & building to J&K Police Department, etc.

(₹ in lakh)			
	2009-10	2010-11	2011-12
Deletions	(-) 195.11	(-) 262.16	(-) 52.40

21. As the corresponding assets do not render any useful service in the operation of the generating station, the de-capitalization of the above said expenditure as affected in the books of accounts has been allowed for the purpose of tariff. Accordingly, the above said amounts have been deleted for the purpose of tariff.

Exclusions in additions (incurred, capitalized in books but not claimed for tariff purpose)

22. The following year-wise expenditure has been incurred by the petitioner on replacement of minor assets, purchase of capital spares, purchase of miscellaneous assets, additions on inter-unit transfers etc.

(₹ in lakh)

	2009-10	2010-11	2011-12
Exclusions in additions (incurred, capitalized in books but not to be claimed for tariff purpose)	54.46	601.65	226.56

23. The expenditure incurred on procurement/replacement of minor assets and procurement of capital spares after the cut-off date, is not permissible for the purpose of tariff as per the 2009 Tariff Regulations. Accordingly, the petitioner has considered these additions under exclusion category. As such, the exclusions of the positive entries under the head is in order and is allowed.

Exclusions in deletions (de-capitalized in books but not to be considered for tariff purpose)

24. The petitioner has de-capitalized the following expenditure in books of accounts towards minor assets like computers, TVs, projectors, fax machines, fixed assets of minor value less than ₹5000 etc., on the ground that these assets have become unserviceable/obsolete and also deletion on account of inter-unit transfer of minor assets.

(₹ in lakh)

	2009-10	2010-11	2011-12
Exclusions in deletions (de-capitalized in books but not to be considered for tariff purpose)	(-)178.09	(-)19.24	(-)16.11

25. The petitioner has prayed that the negative entries may be ignored/excluded for the purpose of tariff as the corresponding positive entries for purchase of such minor assets are not being allowed for the purpose of tariff in terms of the provisions of the 2009 Tariff Regulations. In support of this prayer, the petitioner has referred to the observation of the Commission in its order dated 7.9.2010 in Petition No.190/2009 pertaining to determination of impact of additional capital expenditure for the years 2006-07, 2007-08 and 2008-09 in respect of this generating station as under:

"Replaced Minor assets

20. After careful consideration, we are of the view that the cost of minor assets originally included in the capital cost of the projects and replaced by new assets should not be reduced from the gross block, if the cost of the new assets is not considered on account of implication of the regulations. In other words, the value of the old assets would continue to form part of the gross block and at the same time the cost of new assets would not be taken into account. The generating station should not be debarred from servicing the capital originally deployed on account of procurement of minor assets, if the services of those assets are being rendered by similar assets which do not form part of the gross block"

26. The respondent BRPL in its reply has submitted that reliance made by the petitioner to the observations contained in the Commission's order dated 7.9.2010 is not acceptable as the said order was covered under the 2004 Tariff Regulations, whereas the instant case is governed by the provisions of the 2009 Tariff Regulations. Accordingly, the respondent has prayed that the de-capitalized minor assets shall be deleted from the capital cost as per proviso to Regulation 7(1)(c) of the 2009 Tariff Regulations. In response, the petitioner in its rejoinder has clarified as under:

"There cannot be two approaches, one for capitalization and de-capitalization. For example, capitalization of tools and tackles, furniture & fixtures, AC, Minor assets etc. are not allowed for tariff purpose therefore by the same logic and regulation, de-capitalization of these assets are not allowed for tariff purpose and generator has to service these assets from the return earned from original capitalized assets. This has been justified by CERC in order dated 07.09.2010 in petition no. 190/2009.

If this methodology is not considered than one day generator would not have any value of tools and tackles, furniture & fixtures, AC, Minor assets etc. and its return would be reduced"

27. We have considered the submissions of the parties. The provisions of both, the 2004 and the 2009 Tariff Regulations provide that the expenditure on minor items/assets, tools and tackles etc brought after the cut-off date shall not be considered for additional capitalization for determination of tariff. Considering the fact that new assets of minor nature are not considered for capitalization on account of implication of the regulations, the Commission in its order dated 7.9.2010 had concluded that the value of the old assets would continue to form part of the gross block and at the same time the cost of new assets would not be taken into account. In our view, the generating station in this case, having been denied the capitalization of minor assets on account of the provisions of the regulations, should not be debarred from servicing the cost of minor assets originally included in the capital cost of the project and replaced by new assets. Accordingly, in line with the decision contained in order dated 7.9.2010 and for the purpose of consistency, the submissions of the petitioner is accepted. Hence, the negative entries corresponding to the deletion of minor assets have been allowed to be excluded/ignored for the purpose of tariff, as prayed for by the petitioner.

28. However, it is observed that the petitioner has de-capitalized expenditure of ₹149.50 lakh towards runner in books of accounts during the year 2009-10 which cannot be considered under

the category of 'minor assets'. As such, this expenditure can be excluded/ignored for the purpose of tariff provided it is the de-capitalization of the spare runner, whose capitalization was not allowed for the purpose of tariff during the previous tariff periods. In this regard, the petitioner was directed to clarify the position and the petitioner in response has submitted that the asset 'runner' was capitalized prior to the year 2001 and as such forms part of the capital base of the generating station for the purpose of tariff. Accordingly, as per proviso to Regulation 7(1)(c) of the 2009 Tariff Regulations, the exclusion/ignoring of negative entry for ₹149.50 lakh arising out of de-capitalization of 'runner' for the purpose of tariff is not allowed.

29. Based on the above, the following expenditure has been allowed/disallowed under this head:

	<i>(₹ in lakh)</i>		
	2009-10	2010-11	2011-12
Exclusions in deletions allowed	(-)28.59	(-)19.24	(-)16.11
Exclusions in deletion not allowed	(-)149.50	0.00	0.00

Discharge of liabilities (Related to un-discharged liability as on 31.3.2009)

30. In Commission's order dated 27.6.2011 in Petition No.104/2010, un-discharged liabilities amounting to ₹13.84 lakh existed as on 31.3.2009 against assets which were allowed for the purpose of tariff. The petitioner has discharged the same during the year 2009-10. Accordingly, following year wise amounts have been allowed as additional capital expenditure for the purpose of tariff on account of discharge of liabilities:

	<i>(₹ in lakh)</i>		
	2009-10	2010-11	2011-12
Liabilities discharged	13.84	0.00	0.00

Assumed deletions

31. It is noticed from the petition that for replacement of 225 HP pumps, the Commission had allowed the projected expenditure of ₹34.32 lakh during the year 2009-10 along with de-capitalization amount of ₹8.01 lakh. Against this asset allowed in the year 2009-10, the petitioner has incurred an expenditure of ₹21.30 lakh during the year 2010-11. This amount has been allowed for the purpose of tariff during the year 2010-11. However, the de-capitalization entry

corresponding to old assets (225 HP pumps) does not appear in the deletions allowed at para 20 above. In this regard, the petitioner has submitted that writing-off of old assets is under process. As the petitioner has not provided the de-capitalization value of old 225 H.P pumps, the de-capitalization value to be deducted for the purpose of tariff has been considered as ₹8.01 lakh as was considered in order dated 27.6.2011 in Petition No.104/2010.

32. Based on the above discussions, the actual additional capital expenditure allowed for the period 2009-12 for the purpose of tariff is as under:-

	<i>(₹ in lakh)</i>		
	2009-10	2010-11	2011-12
Additions			
Addition against works already approved by Commission	0.00	32.52	15.34
Additions not projected earlier but incurred and claimed	28.52	1075.74	11.45
Total additions allowed (a)	28.52	1108.26	26.79
Deletions allowed (b)	(-) 195.11	(-) 262.16	(-) 52.40
Exclusions in deletion not allowed (c)	(-) 149.50	0.00	0.00
Total additional capital expenditure allowed before un-discharged/assumed deletion/ discharged liabilities d= (a)+(b)+(c)	(-) 316.10	846.10	(-) 25.61
Less: Un-discharged liabilities in the allowed additional capital expenditure	0.00	0.00	0.00
Add: Liabilities discharged during the year out of additional capital expenditure during 2009-12	0.00	0.00	0.00
Add: Liabilities discharged (Related to un-discharged liability as on 31.3.2009)	13.84	0.00	0.00
Less: Assumed deletions	0.00	8.01	0.00
Additional Capital Expenditure allowed	(-) 302.26	838.09	(-)25.61

Projected Additional Capital Expenditure for 2012-13 and 2013-14

33. The petitioner has not made any revision in the projected additional capital expenditure for the years 2012-13 and 2013-14, as allowed by the Commission vide order dated 27.6.2011 in Petition No. 104/2010.

34. Accordingly, additional capital expenditure allowed for the purpose of tariff for the period 2009-14 is as under:

	<i>(₹ in lakh)</i>				
	2009-10 (actual)	2010-11 (actual)	2011-12 (actual)	2012-13 (Projected)	2013-14 (Projected)
Additional Capital Expenditure	(-) 302.26	838.09	(-)25.61	1670.46	80.05

Capital Cost for 2009-14

35. Accordingly, capital cost of the generating station for the period 2009-14 considered for the purpose of tariff is as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Opening Capital Cost	91159.37	90857.11	91695.20	91669.59	93340.05
Additional Capitalization allowed	(-) 302.26	838.09	(-) 25.61	1670.46	80.05
Capital Cost as on 31st March of the financial year	90857.11	91695.20	91669.59	93340.05	93420.10

Return on Equity

36. The petitioner has considered return on equity (pre-tax) @23.481% for 2009-10, 23.210% for 2010-11, 22.944% for 2011-12 and 17.481% each for the years 2012-13 and 2013-14. Considering the above rates on the normative equity after accounting for the admitted additional capital expenditure, the Return on Equity has been worked out as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Gross Notional Equity	48402.40	48311.72	48563.15	48555.46	49056.60
Addition due to additional capital expenditure	(-) 90.68	251.43	(-) 7.68	501.14	24.02
Closing Equity	48311.72	48563.15	48555.46	49056.60	49080.62
Average Equity	48357.06	48437.43	48559.31	48806.03	49068.61
Return on Equity (Base Rate)	15.500%	15.500%	15.500%	15.500%	15.500%
Tax rate for the year 2008-09 (MAT)	33.990%	33.218%	32.445%	11.330%	11.330%
Rate of Return on Equity	23.481%	23.210%	22.944%	17.481%	17.481%
Return on Equity	11354.86	11242.17	11141.58	8531.56	8577.46

Interest on loan

37. The normative loan in respect of the project has already been repaid. The normative loan on account of the admitted additional capital expenditure during the respective years of the entire tariff period have been considered as fully paid, as the admitted depreciation is more than the amount of normative loan in these years. As such, the Interest on loan during the period 2009-14 is 'Nil' as worked out under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Gross Normative Loan	42756.98	42545.39	43132.06	43114.13	44283.45
Cumulative Repayment upto Previous Year	42756.98	42545.39	43132.06	43114.13	44283.45
Net Loan-Opening	0.00	0.00	0.00	0.00	0.00
Repayment during the year	(-) 211.58	586.66	(-) 17.93	1169.32	56.04

Addition due to Additional Capitalisation(2009-14)	(-) 211.58	586.66	(-) 17.93	1169.32	56.04
Net Loan-Closing	0.00	0.00	0.00	0.00	0.00
Average Loan	0.00	0.00	0.00	0.00	0.00
Weighted Average Rate of Interest on Loan	7.42%	7.42%	7.42%	7.42%	7.42%
Interest on loan	0.00	0.00	0.00	0.00	0.00

Depreciation

38. The date of commercial operation of the generating station is 1.4.1995. Since the generating station has completed 12 years of operation as on 1.4.2007, the remaining depreciable value has been spread over the balance useful life of the assets. Assets amounting to ₹344.62 lakh, ₹270.17 lakh, ₹52.40 lakh, ₹152.55 lakh and ₹32.02 lakh have been de-capitalized during the years 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14 respectively. As per methodology adopted, the amount of cumulative depreciation allowed in tariff against those de-capitalized assets has been calculated on pro-rata basis. Further, proportionate adjustment has been made to the cumulative depreciation on account of de-capitalization of assets considered for the purpose of tariff. The necessary calculations in support of depreciation are as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Gross Block as on 31.3.2009	91159.37	90857.11	91695.20	91669.59	93340.05
Additional capital expenditure	(-)302.26	838.09	(-)25.61	1670.46	80.05
Closing gross block	90857.11	91695.20	91669.59	93340.05	93420.10
Average gross block	91008.24	91276.16	91682.40	92504.82	93380.08
Depreciable Value	81811.71	81191.68	81557.30	82297.48	83085.21
Balance Useful life of the asset	21.0	20.0	19.0	18.0	17.0
Remaining Depreciable value	40646.98	38254.24	36838.91	35666.85	34552.41
Depreciation	1935.57	1912.71	1938.89	1981.49	2032.49

O&M Expenses

39. The O&M expenses allowed by Commission's order dated 20.6.2012 in Review Petition No. 15/2011 (in Petition No. 104/2010) has been considered.

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
O&M Expenses	10549.90	11153.36	11791.33	12465.79	13178.84

Interest on Working Capital

40. In accordance with sub-clause (c) of clause (1) of Regulation 18 of the 2009 regulations, working capital in case of hydro generating stations shall cover:

- (i) *Receivables equivalent to two months of fixed cost;*
- (ii) *Maintenance spares @ 15% of operation and maintenance expenses specified in regulation 19;*
- (iii) *Operation and maintenance expenses for one month.*

41. Clauses (3) and (4) of Regulation 18 of the 2009 Tariff Regulations, the rate of interest on working capital shall be equal to the short-term Prime Lending Rate of State Bank of India as on 1.4.2009 or on 1st April of the year in which the generating station or a unit thereof is declared under commercial operation, whichever is later. Interest on working capital shall be payable on normative basis notwithstanding that the generating company has not taken working capital loan from any outside agency.

42. Accordingly, Interest on Working capital has been calculated as under:

	<i>(₹ in lakh)</i>				
	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	4107.51	4190.05	4289.04	3970.25	4111.53
Total	6569.15	6792.50	7040.35	6878.94	7186.59
Interest on Working Capital	804.72	832.08	862.44	842.67	880.36
12.25%					

Annual Fixed charges for 2009-14

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

	<i>(₹ in lakh)</i>				
	2009-10	2010-11	2011-12	2012-13	2013-14
Return on Equity	11354.86	11242.17	11141.58	8531.56	8577.46
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Depreciation	1935.57	1912.71	1938.89	1981.49	2032.49
Interest on Working Capital	804.72	832.08	862.44	842.67	880.36
O & M Expenses	10549.90	11153.36	11791.33	12465.79	13178.84
Total	24645.05	25140.32	25734.24	23821.51	24669.15

44. The annual fixed charges allowed as above are subject to truing up in terms of Regulation 6 of the 2009 Tariff Regulations.

45. The difference in the annual fixed charges determined by order dated 27.6.2011/20.6.2012 and those determined by this order shall be adjusted in accordance with the provisions of Regulation 6 (6) of the 2009 Tariff Regulations.

46. Petition No. 71/GT/2013 is disposed of in terms of the above.

Sd/-
[M.Deena Dayalan]
Member

Sd/-
[V. S. Verma]
Member