

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 142/GT/2013

Coram:

Shri V.S.Verma, Member

Shri M.Deena Dayalan, Member

Date of Hearing: 12.9.2013

Date of Order: 18.2.2014

In the matter of

Revision of tariff of Uri Hydroelectric Project (480 MW) for the period from 1.4.2009 to 31.3.2014. Truing-up of tariff determined by order dated 14.3.2011 in Petition No.109/2010 and order dated 18.9.2012 in R.P. No. 20/2011.

And in the matter of

NHPC Ltd,
NHPC Office Complex, Sector 33,
Faridabad – 121003

.....Petitioner

Vs

1. Punjab State Power Corporation Ltd
The Mall, Secretariat Complex,
Patiala – 147 001
2. Haryana Power Purchase Centre,
Shakti Bhawan, Sector, 6
Panchkula – 134 109
3. BSES Rajdhani Power Ltd
BSES Bhawan, Nehru Place,
New Delhi – 110 019
4. Uttar Pradesh Power Corporation Ltd
Shakti Bhawan,
14, Ashok Road,
Lucknow – 226 001
5. BSES Yamuna Power Ltd
BSES Bhawan, Nehru Place,
New Delhi – 110 019
6. Rajasthan Rajya Vidyut Prasaran Nigam Ltd
Vidyut Bhawan, Janpath,
Jyoti Nagar,
Jaipur – 302 205



7. Jaipur Vidyut Vitran Nigam Ltd
Vidyut Bhawan, Janpath,
Jaipur – 302 205
8. Jodhpur Vidyut Vitran Nigam Ltd
New Power House, Industrial Area,
Jodhpur – 342 003
9. Ajmer Vidyut Vitran Nigam Ltd
Old Power House,
Hatthi Bhatta, Jaipur Road,
Ajmer – 305 001
10. Uttranchal Power Corporation Ltd
Urja Bhawan, Kan wali Road,
Dehradun – 248 001
11. Tata Power Delhi Distribution Ltd
33 KV Sub-station, Kingsway Camp
Delhi – 110 009
12. Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Kumar House,
Shimla-171004
13. Engineering Department,
Union Territory of Chandigarh,
1st Floor, UT Secretariat, Sector 9D,
Chandigarh – 160 009
14. Principal Secretary,
Power Development Department,
Government of J&K,
New Secretariat
Jammu – 180001

....Respondents

Parties present

For Petitioner

Shri Parag Saxena, NHPC
Shri S.K.Meena, NHPC
Shri J.K.Jha, NHPC
Ms. Gayatri Devi, NHPC

For Respondents

Shri Padamjit Singh, PSPCL
Shri R.B.Sharma, Advocate, BRPL

ORDER

The petition has been filed by NHPC Ltd, a generating company owned and controlled by the Central Government, for revision of tariff in respect of Uri Hydroelectric Project (4 x 120 MW) ('the generating station'), for the period 1.4.2009 to 31.3.2014 in accordance with clause (1) of Regulation 6 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 ('the 2009 Tariff Regulations') after accounting for additional capital expenditure.

2. The generating station with a capacity of 480 MW was declared under commercial operation on 1.6.1997. Petition No. 74/2010 was filed by the petitioner for determination of tariff of the generating station for the period from 1.4.2009 to 31.3.2014 and the Commission by its order dated 16.6.2011 had determined the annual fixed charges for the generating station for the said period. Subsequently, the annual fixed charges determined by order dated 16.6.2011 were revised by Commission's order dated 18.9.2012 in Review Petition No.20/2011. The annual fixed charges determined by order dated 18.9.2012 was as under:

	(` in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Return on Equity	19017.71	19041.35	19058.32	19064.18	19068.84
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Depreciation	17681.79	4805.92	4819.92	4825.03	4829.19
Interest on Working Capital	1130.25	883.28	906.02	929.61	954.49
O & M Expenses	7304.01	7721.80	8163.49	8630.44	9124.10
Total	45133.77	32452.35	32947.75	33449.26	33976.62

3. 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.

4. The respondent No.4 Uttar Pradesh Power Corporation Ltd (UPPCL), Respondent No.3 BSES Rajdhani Power Ltd (BRPL) and Respondent No.9, Ajmer Vidyut Vitran Nigam Ltd (AVVNL) have filed replies to the petition. The petitioner has filed its rejoinder to the said replies.

5. 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."

6. The petitioner's claim for the revised annual fixed charges is summarized as under:

	(' in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Return on Equity	25541.32	25224.44	24907.95	18982.77	18987.43
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Depreciation	17692.70	4765.01	4775.68	4780.66	4784.83
Interest on Working Capital	1266.45	1011.30	1027.02	926.99	951.87
O & M Expenses	7304.01	7721.80	8163.49	8630.44	9124.10
Total	51804.48	38722.55	38874.14	33320.86	33848.23

Capital Cost

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

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

8. The Commission had considered the capital cost of `342260.46 lakh as on 31.3.2009 in order dated 16.6.2011 in Petition No. 74/2010 as the opening capital cost as on 1.4.2009 for the purpose of approval of tariff for the period 2009-14. Accordingly, this capital cost has been considered as on 1.4.2009 for the purpose of revision of tariff in this petition.

Additional Capital Expenditure

9. Regulation 9 of the 2009 Tariff Regulations, as amended on 21.6.2011 and 31.12.2012, 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 additional capital expenditure for 2009-14 approved by the Commission vide order dated 16.6.2011 in Petition No. 74/2010 is as under:

	(` in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Additional Capital Expenditure allowed on projected basis	327.29	574.00	73.50	150.00	27.50

11. The petitioner has stated that revision of the annual fixed charges has become necessary as there is significant difference between additional capital expenditure allowed and the actual capital expenditure incurred during the years 2009-10, 2010-11 and 2011-12, based on audited books of accounts for the respective year. It has been stated that certain works were not claimed / allowed earlier but have become necessary for efficient operation of the generating station. Capitalization of expenditure on these works has been claimed. The petitioner has sought capitalization of some of the projected additional capital expenditure allowed for the years 2009-10, 2010-11 and 2011-12, which the petitioner was not able to capitalize during these years, and for the remaining years of the tariff period.

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

(` in lakh)

	2009-10	2010-11	2011-12
Actual additional capital expenditure as per books (a)	(-) 694.53	(-) 963.57	(-) 30.13
Additions claimed (b)			
Additions against works approved	212.04	56.61	0.0
Additions not projected earlier but incurred and claimed	64.53	37.17	65.88
Total (b)	276.57	93.78	65.88
Deletions (c)	(-) 21.68	(-) 967.46	(-) 11.53
Net additions claimed expenditure for purpose of tariff {(b)+(c)}	254.89	(-) 873.68	54.35
Exclusions in additions (incurred, capitalized in books but not to be claimed for tariff purpose) (d1)	338.53	4.01	126.12
Exclusions in deletions (de-capitalized in books but not to be considered for tariff purpose) (d2)	(-) 1287.94	(-) 93.89	(-) 210.60
Net value of exclusions (d=d1+d2)	(-) 949.42	(-) 89.88	-84.48
Total (e)=(b)+(c)+(d) as per books of accounts	(-) 694.53	(-) 963.57	(-) 30.13
Net additional capital expenditure for tariff purpose {(b)+(c)}	254.89	(-) 873.68	54.35
Less: Un-discharged liability in add cap of 2009-12	49.71	26.65	0.41
Add: Liabilities discharged during the year out of Un-discharged liabilities in additional capital expenditure of 2009-12	0.00	48.51	3.05
Add: Liabilities discharged during the year out of Un-discharged liabilities as on 31.3.2009	18.65	0.69	0.00
Add : Assumed deletion	(-) 5.60	(-) 2.00	0.00
Additional Capital Expenditure claimed	218.23	(-) 853.14	56.99

13. Based on the above reconciliation, the year-wise admissibility of the works, the expenditure allowed by the Commission for these works, the 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, considering the submissions of the parties, are discussed in the subsequent paragraphs:

Additions against Works approved in Order dated 16.6.2011

14. 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 16.6.2011 in Petition No. 74/2010 is as under:

	(` in lakh)		
	2009-10	2010-11	2011-12
Additional capital expenditure allowed in order dated 16.6.2011	327.29	574.00	73.50
Actual additional capital expenditure claimed	212.04	56.61	0.00

15. The petitioner has clarified that the additional capital expenditure allowed by the Commission was on projection basis, whereas the actual expenditure incurred is lesser or higher due to competitive rates quoted by the bidders. 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, is summarized as under:

2009-10

(` in lakh)				
SI.No.	Assets/works	Amount allowed by order dated 14.6.2011	Actual expenditure incurred/ claimed	Decision on admissibility
1	Settlement of court cases	5.00	0.58	Allowed , under Regulation 9(2) (i) for payment of compensation as per decree of Court towards acquisition of land.
2	Protection works along river Jhelum at Barrage- Construction of stone masonry wall along river Jhelum	15.00	14.71	Allowed under Regulation 9(2) (iv) for approved works.
3	Purchase of Automatic weather station-Installation of Automatic weather station at Barrage	6.00	5.07	Allowed under Regulation 9(2) (iv) for up gradation of Man machine communication (MVI 850) system of ABB MASTER.
4	Enhancement of existing CCTV System at power House/ Barrage- Purchase		22.64	Allowed under Regulation 9(2) (iv) for approved works.

	of various security equipments as per IB recommendation.	14.00 (2009-10) 10.00 (2011-12)		
5	Plasma Display 50 DT for CCTV system		3.33	Allowed under Regulation 9(2) (iv) for CCTV system at power House/ Barrage.
6	Up-gradation of Man machine communication (MVI 850) system of ABB Master. Including server work stations, interface cards, software & colour printer	170.00	159.87	Allowed under Regulation 9(2) (iv) for up gradation of Man machine communication (MVI 850) system of ABB MASTER.
7.	PLCC Exchange, Model IP 406, Having 8 Digital Extension Ports, 2 Analog Extension Port, 8 Port Dual	10.00	5.84	Allowed under Regulation 9(2) (iv) for CERC approved works. De-capitalization of old asset considered in Assumed deletions.
Total Expenditure claimed			212.04	
Total Expenditure allowed				212.04

16. Out of the projected expenditure of `327.29 lakh allowed by the Commission for 2009-10, the petitioner has actually incurred expenditure of `212.04 lakh against the works/assets allowed on projected basis amounting to `230.00 lakh. Expenditure on remaining assets/works has been/would be claimed by the petitioner in the ensuing years.

2010-11

(` in lakh)				
Sl.No.	Assets/works	Amount allowed by order dated 14.6.2011	Actual expenditure incurred/ claimed	Decision on admissibility
1	Land compensation- Settlement of court cases	10.00	2.00	Allowed under Regulation 9(2)(i) for payment of compensation as per decree of Court towards acquisition of land.
2	Construction of boundary wall along river Jhelum from silt excluder flume towards de-silting basin at Barrage	7.00	6.43	Allowed under Regulation 9(2) (iv) for already approved works.
3	PLCC Panel (PLCC LINE-I & II) Protection panel at URI end.	20.00	18.39	Allowed under Regulation 9(2) (iv) for already approved works. De-capitalization of old asset considered in Assumed deletions
4	Installation of low vacuum	5.00	3.88	

	Dehydration unit			Allowed under Regulation 9(2) (iv) for already approved works.
5	Safety of offices & residential colony- AUTOMATIC BOOM BARRIOR (2 nos.)	5.00	2.19	
6	Safety of offices & residential colony -MOTORISED SIREN (7 nos.)		0.78	
7	Multistage Pump 50 HP with Motor & Accessories along with control panel (4 nos.)	30.00	20.66	
8	Electrostatic liquid Cleaning machine	2.50	2.29	Allowed under Regulation 9(2) (iv). Petitioner has submitted that CERC has allowed this work for FY 2011-12, however, actual work was completed during the year 2010-11.
Total Expenditure claimed			56.61	
Total Expenditure allowed				56.61

17. Out of the projected expenditure of `574.00 lakh allowed by the Commission for 2010-11, the petitioner has actually incurred expenditure of `56.61 lakh against the works/assets allowed on projected basis amounting to `79.50 lakh. Expenditure on remaining assets/works has been/would be claimed by the petitioner in the ensuing years.

18. No additional capitalization work was undertaken against the works approved by the Commission for the year 2011-12.

Capital expenditure not allowed /projected earlier, but incurred and claimed due to actual site requirements

2009-10

(` in lakh)			
Sl.No.	Assets/works	Actual expenditure incurred/ claimed	Decision on admissibility
1	Capitalization of CISF barrack at Gingle	49.43	Allowed under Regulation 9(2) (iv) for capitalization of expenditure incurred for new building, as the old building was damaged due to earthquake of March, 2005. (de-capitalization value of `13.27 lakh has been reduced in the year 2006-07)

2	Oil filtration unit for turbine/ generator bearing	1.53	Allowed under Regulation 9(2) (iv).
3	Centrifugal / other type monoblock pumps (10 nos.)	1.51	Allowed under Regulation 9(2) (iv) against replacement of old pumps. De-capitalization of old asset has been considered in Deletions
4	Submersible pump 5 HP	0.28	
5	Welding machine	0.60	Allowed under Regulation 9(2) (iv) against replacement of old welding machine. De-capitalization of old asset has been considered in Deletions
6	Fax machine	0.07	Not Allowed as the asset is of a minor nature.
7	Naveen Akshar software (2 nos)	0.16	
8	Software received from Corporate office (4 nos.), includes purchase of 37 nos. copies of MS office license for PCs installed at Uri PH.	4.43	Not allowed under Regulation 9(2) (iv), since minor assets (computers/ software) are not allowed after the cut-off date.
9.	RCC storage tank for water lifting to Gingle colony	6.51	Allowed under Regulation 9(2) (iv) for approved works. The petitioner has submitted that Commission has allowed this work for 2010-11. However, the actual work was completed in 2009-10. De-capitalization of old asset considered in Assumed deletions
Total Expenditure claimed		64.53	
Total Expenditure allowed			59.86

2010-11

(in lakh)			
Sl.No.	Assets/works	Actual expenditure incurred/ claimed	Decision on admissibility
1.	Construction of parking shed at Uranbua colony	2.18	Allowed under Regulation 9(2) (iv) as expenditure is for the benefit of employees.
2.	Multifunctional printer	2.02	Not allowed since Minor assets are not allowed after the cut-off date.
3.	Vibration meter	3.01	Allowed under Regulation 9(2) (iv), being an IMS requirement due to security reasons.
4.	Infrared thermometer	1.35	Allowed under Regulation 9(2) (iv), being a IMS requirement on account of security reasons.
5.	Supply of material, erection, testing & commissioning of 33 KV transmission line – Alibaba & sons	22.53	Allowed under Regulation 9(2) (i). The petitioner vide its affidavit dated 21.6.2013 has submitted that based on the decision of High Court, Delhi final payment was made in June,2013 and the claim for additional capital expenditure would be made in 2013-14. However, in view of the fact that petitioner has kept the amount of `22.53 lakh as un-discharged liability

			to be deducted for the purpose of tariff during the year 2010-11, allowing the expenditure as additional capital expenditure would have no impact on the tariff.
6.	Centrifugal/ submersible Pumps (5 nos.)	2.29	Allowed under Regulation 9(2)(iv) against replacement of old pumps. De-capitalization of old asset has been considered in Deletions
7.	Overhead platform & providing & fixing of Sintex storage tank at NHPC colony, Rajarwani	3.79	Allowed under Regulation 9(2) (iv) since expenditure on the said asset is for the benefit of CISF employees.
Total Expenditure claimed		37.17	
Total Expenditure allowed			35.15

2011-12

(' in lakh)			
Sl.No.	Assets/works	Actual expenditure incurred/ claimed	Decision on admissibility
1.	Extension of school building at NHPC colony Gingle	8.43	Allowed under Regulation 9(2) (iv) since expenditure on the said asset is for the benefit of employees of the project.
2.	Chain link fencing along NH-1A and along bank of river Jhelum at power house, Rajarwani	13.84	Allowed under Regulation 9(2) (iv) for the purpose of providing security to the employees of the PH.
3.	Construction and modification of existing morcha in barrage, Boniyar	2.67	Allowed under Regulation 9(2) (iv) for the purpose of security of the generating station in terms of the recommendations by IB and the State police considering the threat of miscreants.
4.	Const. of boundary wall for CISF barrack at NHPC colony, Gingle	11.62	
5.	Racet lever hoist capacity 2 – 5 TON (6 nos)	0.57	Not allowed under Regulation 9(2) (iv) as the asset is of minor nature and not allowed after the cut-off date.
6	Hydraulic pallet truck capacity 2.5 TON (2 nos)	0.51	Allowed under Regulation 9(2) (iv) against replacement of old assets. De-capitalization of old asset has been considered in Deletions
7	Hydraulic pallet truck capacity 2.5 TON (2 nos)	0.51	Allowed under Regulation 9(2) (iv) for transportation of heavy material.
6.	Potable welding set 230 V, Single phase (2 nos)	1.43	Allowed under Regulation 9(2) (iv) against replacement of old assets. De-capitalization of old asset has been considered in Deletions
7.	VOIP gateway with 02/08 port FXO (4 nos.)	1.16	Allowed under Regulation 9(2) (iv) to facilitate intercom facility from Gingle to Barrage & PH.
8.	Dewatering pump 1HP	0.40	Allowed under Regulation 9(2) (iv) against replacement of old assets. De-capitalization of old asset has been considered in Deletions

9.	Monoblock self priming pump 1 HP (2 nos)	0.34	Allowed under Regulation 9(2) (iv) for un-interrupted water supply to employees colony.
10.	Monoblock pump 10 HP	0.59	Allowed under Regulation 9(2) (iv) against replacement of old assets. De-capitalization of old asset has been considered in Deletions
11.	Submersible pumps (6 nos)	3.24	Allowed under Regulation 9(2) (iv) against replacement of 5 old pumps & 1 addl. pump without replacement. De-capitalization of old asset has been considered in Deletions
12.	Monoblock pump 10HP (2 nos.)	0.78	Allowed under Regulation 9(2) (iv) for the benefit of employees working at remote area as the assets have been procured for un-interrupted power supply to residential colony
13.	Auto folding aluminum ladder of 20FT with inner platform, 63MM wide	0.34	Not allowed under Regulation 9(2) (iv) as the asset is of the type tools & tackles, and not allowed after the cut off date.
14.	Construction of pump house near D.G Shed petrol pump at Gingle, (M/s Alim Khan)	3.19	Allowed under Regulation 9(2) (iv) for water supply to employees.
15.	Grass cutting machine (power lawn mower fitter with single phase motor (2HP)	0.43	Not allowed under Regulation 9(2) (iv) as the asset is minor in nature and not allowed after the cut-off date.
16.	Optimizer (12 nos.) for storage of electrical/electronic spares/components	15.83	Not allowed under regulation 9(2)(iv) as the asset is of minor nature
Total Expenditure claimed		65.88	
Total Expenditure allowed			48.71

Deletions

19. The petitioner has indicated the following amounts as year-wise de-capitalization on account of replacement of assets, deletion of assets on becoming obsolete/ unserviceable. These de-capitalized assets include monoblock pump sets, submersible pumps, welding set, truck, ambulance, Tata-409 trucks, Maruti Gypsy, Jeeps, drilling machines, stabilizer, EPBX exchange, water purifiers, laboratory oven and the de-capitalization of IEDC for refund of terminal excise duty, etc.

(` In lakh)

	2009-10	2010-11	2011-12
Deletions claimed	(-) 21.68	(-) 967.46	11.53

20. The de-capitalization of the above amounts as affected in books of accounts has been allowed for the purpose of tariff also as the corresponding assets do not render any useful service in the operation of the plant. However, in view of the fact that the capitalization of the fax machine and grass cutting machine has not been allowed, the corresponding de-capitalization of (-) ` 0.08 lakh has been ignored for the purpose of tariff. Accordingly, the following deletions have been considered:

(` in lakh)			
	2009-10	2010-11	2011-12
Deletions allowed	(-) 21.60	(-) 967.46	(-) 11.53

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

21. The petitioner has prayed that the following positive entries effected in books of accounts on account of replacement of minor assets, purchase of capital spares and assets transferred to obsolete head at W.D.V/Notional value may be excluded/ ignored for the purpose of tariff:

(` in lakh)			
	2009-10	2010-11	2011-12
Expenditure on replacement of minor assets, purchase of capital spares, Transfer to obsolete etc. (incurred, capitalized in books but not to be claimed for tariff purpose)	338.53	4.01	126.12

22. The expenditure incurred on procurement/replacement of minor assets and procurement of capital spares is not allowed for the purpose of tariff after the cut-off date under the 2009 Tariff Regulations. Accordingly, the petitioner itself has put these additions under exclusion category. The exclusion of positive entries arising due to assets transferred to obsolete head is allowable as the corresponding assets do not render any useful service in the operation of the plant. As such, the above exclusion of the positive entries are allowed for the purpose of tariff.

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

23. The petitioner has prayed that following negative entries as effected in the books of accounts pertaining to FERV loss, de-capitalized minor assets such as computers, office

equipment, furniture, fixed assets of minor value less than `5000 etc., de-capitalization of capital spares not in capital base for the purpose of tariff and sale of assets, may be excluded/ignored for the purpose of tariff:

(` In lakh)

	2009-10	2010-11	2011-12
De-capitalization on account of FERV	(-) 1246.58	0.00	0.00
Deletion on account of diminish in the value of assets as per AS-10	(-) 1.32	(-) 9.16	(-) 0.077
De-capitalization of capital spares not in capital base for the purpose of tariff	0.00	(-) 78.36	(-) 184.21
De-cap of minor assets, tools and tackles which are not considered by CERC for add-cap	(-) 40.04	(-) 6.37	(-) 26.31
Total Exclusions in deletions (de-capitalized in books but not to be considered for tariff purpose)	(-) 1287.94	(-) 93.89	(-) 210.60

24. Negative entries arising due to ERV has been allowed to be excluded/ignored for the purpose of tariff as the ERV gain/loss is being billed directly to the beneficiaries as per Regulation 41 of the 2009 Tariff Regulations.

25. Diminish in value of assets awaiting disposal as per AS-10, would only affect the extent of profit/loss when these assets are sold. As such, the profit/loss on disposal of obsolete assets is to be borne by the petitioner. Accordingly, exclusion/ignoring of negative entries arising out of 'diminish in value of assets awaiting disposal' has been allowed for the purpose of tariff.

26. The negative entry of (-) `78.36 lakh during the year 2010-11 and Rs. 184.21 lakh during the year 2011-12 corresponding to the de-capitalization of capital spares can be excluded/ignored for the purpose of tariff, provided the de-capitalized spares are the ones which are not in the capital base for the purpose of tariff i.e they were procured after the cut-off and disallowed for the purpose of tariff. The petitioner vide its affidavit dated 8.10.2013 has provided the details of the de-capitalized spares and confirmed that these capital spares are not part of the capital base. It is observed that these spares were procured after the cut-off date and the positive

entry corresponding to their purchase has also been excluded /ignored for the purpose of tariff. As such, the negative entry of (-) `78.36 lakh during 2010-11 and `184.21 lakh during 2011-12 has been allowed to be excluded/ignored for the purpose of tariff as the de-capitalized spares are not in the capital base for the purpose of tariff.

27. The negative entries arising out of de-capitalization of minor assets may be excluded/ ignored for the purpose of tariff as the corresponding positive entries for purchase of minor assets are not being allowed for the purpose of tariff. It is observed that the Commission in its order dated 7.9.2010 in Petition No.190/2009 has observed as under:

“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.”

28. 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:

“The contention of the respondent that de-capitalization of minor assets, tools and tackles, furniture and fixtures etc. is required to be adjusted in the capital cost as per proviso under regulation 7(1) (c) of the Tariff Regulations, 2009 is not justified, since proviso under Regulation 7(1) (c) is for the assets which are allowed by CERC under regulation-7,8 & 9 of CERC Tariff Regulations, 2009. This can be understood from the combined reading of regulation 7, 8 & 9. From combined reading of above regulations it is clear that those assets which are forming part of capital cost of hydro generating station i.e. (a) actual expenditure up to cut-off date within the original scope including initial spares for new generating stations (read regulation- 7(1)(a), 8(iii) & 9(1)) and (b) additional capitalization allowed under regulation 9(2)(i), (ii) & (iv), if declared not in use would be taken out from capital cost. Therefore, additional capitalization not allowed under the provision of 9(2) for the purpose of tariff, if declared not in use/obsolete/ de-capitalized should not be taken out from the capital cost for the purpose of tariff”

29. 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. However, on scrutiny of the details, it is observed that the petitioner has claimed the exclusion of negative entry of ` 4.62 lakh arising due to transfer of an accelorograph to Corporate office. The petitioner has not furnished the reasons for shifting of the same to Corporate office. Further, the asset cannot also be categorized as a minor asset. As such, the exclusion/ignoring of this negative entry is not allowed for the purpose of tariff in the year 2010-11. In view of the above, the exclusions in deletion allowed are as under:

(` In lakh)

	2009-10	2010-11	2011-12
De-capitalization on account of FERV	(-) 1246.58	0.00	0.00
Deletion on account of diminish in the value of assets	(-) 1.32	(-) 9.16	(-) 0.077
De-capitalization of capital spares not in capital base for the purpose of tariff	0.00	(-) 78.36	(-) 184.21
De-cap of minor assets, tools and tackles which are not considered by Commission for additional capitalization	(-) 40.04	(-) 1.75	(-) 26.31
Total Exclusions in deletions allowed	(-) 1287.94	(-) 89.27	(-) 210.60
Exclusions not allowed	0.00	(-) 4.62	0.00

Assumed deletions

30. As per consistent methodology adopted by the Commission, expenditure on replacement of assets, if found justified is allowed for the purpose of tariff provided that the capitalization of the said asset is followed by the de-capitalization of the value of the old asset. However, in certain cases where de-capitalization is proposed to be effected /affected during the future years to the year of capitalization of new asset, the de-capitalization of the old asset for the purpose of tariff is shifted to the very same year in which the capitalization of the new asset is allowed. Such de-capitalization which is not a book entry in the year of capitalization is termed as "Assumed deletion". The amounts considered by the petitioner under this head are as under:

(` In lakh)

	2009-10	2010-11	2011-12
Assumed deletions	(-) 5.60	(-) 2.00	0.00

31. It is observed that the de-capitalization value of old assets, wherever replacement has been claimed by the petitioner, have been included in the year-wise deletions as considered under the head 'deletions' above. However, in respect of the claim for `5.84 lakh for PLCC, EPABX and `6.51 lakh for RCC storage tank allowed during 2009-10, the de-capitalization value of the old assets do not form part of the deletions as per books of accounts as considered under the head 'deletions' above. Accordingly, the petitioner has provided the de-capitalization value of (-) `5.60 lakh under 'assumed deletions' against the assets claimed under replacement. Also, against the capitalization of `18.39 lakh allowed during the year 2010-11 for PLCC panels, the petitioner has furnished the de-capitalization value as `2.00 lakh under 'assumed deletions'. The 'assumed deletions' as indicated by the petitioner are allowed for the purpose of tariff.

Un-discharged liabilities

32. The petitioner has indicated the following un-discharged liabilities in the additional capital expenditure capitalized in books of accounts:

(` in lakh)

	2009-10	2010-11	2011-12
Un-discharged liabilities	49.71	26.65	0.41

Liabilities discharged

33. Out of above un-discharged liabilities the following liabilities have been discharged during the period 2009-12.

(` in lakh)

	2009-10	2010-11	2011-12
Liabilities discharged during the year out of un-discharged liability which existed as on 31.3.2009	18.65	0.69	0.00
Liabilities discharged during the year out of additional capital expenditure	0.00	48.51	3.05
Total liabilities discharged	18.65	49.20	3.05

34. The liabilities discharged as above (year-wise) have been allowed as additional capital expenditure for the purpose of tariff in terms of Regulation 9(2)(viii) of 2009 Tariff Regulations.

Actual additional capital expenditure allowed during 2009-12

35. In view of above deliberations, the actual Additional Capital Expenditure for period 2009-12 allowed for the purpose of revision of tariff, is as under:

(` in lakh)

	2009-10	2010-11	2011-12
Additions			
Addition against work approved by Commission	212.04	56.61	0.00
Addition not projected earlier but incurred and claimed	59.86	35.15	48.71
Total Addition	271.90	91.76	48.71
Deletions			
Deletion allowed	(-) 21.60	(-) 967.46	(-) 11.53
Exclusion in deletion (not allowed)	0.00	(-) 4.62	0.00
Net Additional Capital Expenditure allowed before assumed deletions, discharge of liabilities and un-discharged liabilities	250.30	(-) 880.32	37.18
Add: Assumed deletions	(-) 5.60	(-) 2.00	0.00
Less: Un-discharged liabilities in the allowed additional capital expenditure	49.71	26.65	0.41
Add: Liabilities discharged during the year out of the un-discharged liability which existed as on 31.3.2009	18.65	0.69	0.00
Add: Liabilities discharged during the year out of additional capital expenditure	0.00	48.51	3.05
Additional Capital Expenditure allowed	213.64	(-) 859.77	39.82

Additional Capital Expenditure during 2012-13 and 2013-14

36. The petitioner has revised the projected additional capital expenditure of `150.00 lakh for the year 2012-13 as allowed by the Commission vide order dated 16.6.2011 in Petition No. 74/2010. The petitioner in this petition has claimed additional capital expenditure of `150.41 lakh after discharging the liability amount of `0.41 lakh during 2012-13. In view of this, the additional capital expenditure claimed for the year has been considered and allowed. However, there is no change in the projected additional capital expenditure for 2013-14 allowed by the Commission.

Total Additional Capital Expenditure

37. The expenditure allowed to be capitalized during the tariff period 2009-14 is summarized as under:

(` in lakh)

		2009-10	2010-11	2011-12	2012-13	2013-14
		ACTUAL			PROJECTED	
Addition						
1	Addition against work already approved	212.04	56.61	0.00	150.00	30.00
2	Addition not projected earlier but incurred and claimed	59.86	35.15	48.71	0.00	0.00
3	Total Addition (1+2)	271.90	91.76	48.71	150.00	30.00
Deletion						
4	Deletion allowed	21.60	967.46	11.53	0.00	2.50
5	Exclusion in deletion (not allowed)	0.00	4.62	0.00	0.00	0.00
6	Assumed Deletion	5.60	2.00	0.00	0.00	0.00
7	Total Deletion (4+5+6)	27.20	974.08	11.53	0.00	2.50
8	Total additional capital expenditure allowed before adjustment of discharge/un-discharge of liabilities (3-7)	244.70	(-) 882.32	37.18	150.00	27.50
9	Less: Un-discharged liabilities in the allowed additional capital expenditure	49.71	26.65	0.41	0.00	0.00
10	Add: Liabilities discharged during the year out of additional capital expenditure during 2009-12	0.00	48.51	3.05	0.00	0.00
11	Add: Liabilities discharged during the year (related to un-discharged liabilities as on 31-3-2009)	18.65	0.69	0.00	0.41	0.00
12	Additional Capital Expenditure allowed (8-9+10+11)	213.64	(-) 859.77	39.82	150.41	27.50

Capital Cost

38. The capital cost allowed for the purpose of the annual fixed charges is as under:

	(in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Opening Capital Cost	342260.46	342474.10	341614.33	341654.15	341804.56
Additional Capital Expenditure	213.64	(-) 859.77	39.82	150.41	27.50
Closing Capital Cost	342474.10	341614.33	341654.15	341804.56	341832.06

Debt-Equity Ratio

39. In accordance with clause (2) of Regulation 12 of the 2009 Tariff Regulations, in case of the generating stations declared under commercial operation prior to 1.4.2009, debt-equity ratio allowed by the Commission for determination of tariff for the period ending 31.3.2009 is considered.

Return on Equity

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

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

*(2) Return on Equity shall be computed on pre-tax basis at the base rate of 15.5% for thermal generating stations, transmission system and run of the river generating station, and 16.5% for the storage type generating stations including pumped storage hydro generating stations and run of river generating station with pondage and shall be grossed up as per clause (3) of this regulation: Provided that in case of projects commissioned on or after 1st April, 2009, an additional return of 0.5% shall be allowed if such projects are completed within the timeline specified in **Appendix-II**:*

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

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

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

$$\text{Rate of pre-tax return on equity} = \text{Base rate} / (1-t)$$

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

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

Provided further that Annual Fixed Charge with respect to the tax rate applicable to the generating company or the transmission licensee, as the case may be, in line with the provisions of the relevant

Finance Acts of the respective year during the tariff period shall be trued up in accordance with Regulation 6 of these regulations.

Illustration.-

(i) In case of the generating company or the transmission licensee paying Minimum Alternate Tax (MAT) @ 11.33% including surcharge and cess:

$$\text{Rate of return on equity} = 15.50 / (1 - 0.1133) = 17.481\%$$

(ii) In case of generating company or the transmission licensee paying normal corporate tax @ 33.99% including surcharge and cess:

$$\text{Rate of return on equity} = 15.50 / (1 - 0.3399) = 23.481\%$$

41. The petitioner has claimed Rate of Return on Equity as follows:

Year	2009-10	2010-11	2011-12	2012-13	2013-14
	ACTUAL			PROJECTED	
Base Rate	15.5%	15.5%	15.5%	15.5%	15.5%
Applicable Tax Rate	33.990%	33.218%	32.445%	11.330%	11.330%
Tax Rate	30%	30%	30%	10%	10%
Surcharge	10%	7.50%	5%	10%	10%
Education cess	3%	3%	3%	3%	3%
Rate of ROE (pre-tax)	23.481%	23.210%	22.944%	17.481%	17.481%

42. Accordingly, the petitioner is entitled to Return on Equity as under:

	2009-10	2010-11	2011-12	2012-13	2013-14
	(` In lakh)				
Gross Notional Equity	108741.67	108805.76	108547.83	108559.77	108604.90
Addition due to Additional Capital Expenditure	64.09	(-) 257.93	11.95	45.12	8.25
Closing Equity	108805.76	108547.83	108559.77	108604.90	108613.15
Average Equity	108773.71	108676.79	108553.80	108582.33	108609.02
Return on Equity	25541.16	25223.88	24906.58	18981.28	18985.94

Interest on Loan

43. 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'

Depreciation

44. The date of commercial operation of the generating station is 1.6.1997. Since the generating station has completed 12 years of operation as on 1.6.2009, the weighted average rate of depreciation of 5.1677% calculated as per 2009 Tariff Regulations, has been considered for the calculation of depreciation during 2009-10. The remaining depreciable value has been spread over the balance useful life of the project from the year 2010-11 to 2013-14. Assets amounting `27.20 lakh, `974.08 lakh, `11.53 lakh, `nil and `2.50 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. The petitioner's entitlement to depreciation has been worked out as under:

	(` In lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Gross Block as on 31.3.2009	342260.46	342474.10	341614.33	341654.15	341804.56
Additional capital expenditure during 2009-14	213.64	(-) 859.77	39.82	150.41	27.50
Closing gross block	342474.10	341614.33	341654.15	341804.56	341832.06
Average gross block	342367.28	342044.22	341634.24	341729.36	341818.31
Rate of Depreciation	5.1677%				
Depreciable Value	308130.56	307839.80	307470.82	307556.42	307636.48
Balance Useful life of the asset	23.2	22.2	21.2	20.2	19.2
Remaining Depreciable Value	123750.14	105782.86	101229.80	96540.01	91832.96
Depreciation	17692.57	4772.16	4782.51	4787.11	4791.29

O & M Expenses

45. The following O & M expenses considered in the order dated 18.9.2012 in R.P. 20/2011 have been considered for revision of tariff:

(` In lakh)				
2009-10	2010-11	2011-12	2012-13	2013-14
7304.01	7721.80	8163.49	8630.44	9124.10

Interest on Working Capital

46. The petitioner is entitled to claim interest on working capital as per Regulation 18 of the 2009 Tariff Regulations. The components of the working capital and the petitioner's entitlement to interest thereon are discussed hereunder.

(i) Receivables

As per Regulation 18(1) (c) (i) of the 2009 Tariff Regulations, receivables as a component of working capital are equivalent to two months' of fixed cost. In the tariff being allowed, receivables have been worked out on the basis of 2 months' fixed cost.

(ii) Maintenance spares

Regulation 18 (1) (c) (ii) of the 2009 Tariff Regulations provides for maintenance spares @ 15% per annum of the O & M expenses as part of the working capital. The value of maintenance spares has accordingly been worked out.

(iii) O & M expenses

Regulation 18(1) (c) (iii) of the 2009 Tariff Regulations provides for operation and maintenance expenses for one month to be included in the working capital. The petitioner has claimed O&M expenses for 1 month of the respective year. This has been considered in the working capital.

(iv) Rate of interest on working capital

In accordance with clause (3) of Regulation 18 of the tariff regulations, as amended, rate of interest on working capital shall be on normative basis and 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. In the instant case, SBI PLR of 12.25% as on 1.4.2009 has been considered in for working out Interest on Working Capital.

47. Necessary computations in support of interest on working capital are appended hereunder:

(` in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Maintenance Spares	1095.60	1158.27	1224.52	1294.57	1368.62
O & M Expenses	608.67	643.48	680.29	719.20	760.34
Receivables	8634.03	6454.88	6479.95	5554.32	5642.22
Total	10338.30	8256.63	8384.77	7568.09	7771.17
Rate of Interest	12.25%	12.25%	12.25%	12.25%	12.25%
Interest	1266.44	1011.44	1027.13	927.09	951.97

Annual Fixed Charges

48. The Annual Fixed Charges approved for the generating station are consolidated in the table below:

	<i>(` in lakh)</i>				
	2009-10	2010-11	2011-12	2012-13	2013-14
Return on Equity	25541.16	25223.88	24906.58	18981.28	18985.94
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Depreciation	17692.57	4772.16	4782.51	4787.11	4791.29
Interest on Working Capital	1266.44	1011.44	1027.13	927.09	951.97
O & M Expenses	7304.01	7721.80	8163.49	8630.44	9124.10
Total	51804.18	38729.28	38879.72	33325.92	33853.30

49. The recovery of the Annual Fixed Charges shall be subject to truing up in terms of Regulation 6 of the 2009 Tariff Regulations. In all other respects, the order dated 16.6.2011/18.9.2012 shall continue to apply.

50. The difference between the Annual Fixed Charges already recovered by the petitioner and the Annual Fixed Charges determined under this order shall be mutually settled between the petitioner and the respondents within a period of six months from the date of this order, in terms of the clause (6) of Regulation 6 of the 2009 Tariff Regulations.

51. Petition No. 142/GT/2013 stands disposed of in terms of the above.

Sd/-
(M. Deena Dayalan)
Member

Sd/-
(V. S. Verma)
Member