

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 251/GT/2013**

**Coram:**

**Shri Gireesh B. Pradhan, Chairperson**

**Shri A.K.Singhal, Member**

**Shri A.S. Bakshi, Member**

**Dr. M.K. Iyer, Member**

**Date of Hearing: 22.09.2015**

**Date of Order: 21.03.2016**

**In the matter of**

Determination of tariff for generating stations and transmission systems of Bhakra-Beas Management Board for the period 2009-14 in accordance with the provisions of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009

**And**

**In the matter of**

Bhakhra-Beas Management Board  
Sector 19-B Madhya Marg,  
Chandigarh-160019

**...Petitioner**

Vs

1. Punjab State Power Corporation Limited,  
The Mall, Patiala-147 001
2. Haryana Vidyut Prasaran Nigam Limited,  
Shakti Bhawan, Sector 6,  
Chandigarh
3. Rajasthan Rajya Vidyut Prasaran Nigam Limited,  
Vidyut Bhawan, Janpath,  
Jaipur, Rajasthan-302 005
4. Himachal Pradesh State Electricity Board,  
Vidyut Bhawan, Shimla 171 004,  
Himachal Pradesh
5. Union Territory of Chandigarh,  
Sector 9D, UT Secretariat  
Chandigarh

**...Respondents**

**Parties present:**

Ms. Anushree Bardhan, Advocate, BBMB  
Ms. Poorva Saigal, Advocate, BBMB  
Ms. Pooja Gupta, BBMB  
Shri Sanjay Sidana, BBMB  
Ms. Akshi Seem, Advocate, PSPCL  
Ms. Tarini Tarrika, Advocate, UT of Chandigarh  
Shri Shrinder Kumar, UT of Chandigarh  
Shri A.K. Gupta, HVPNL



## ORDER

This petition has been filed by the petitioner, Bhakra Beas Management Board (BBMB) for approval of tariff of its generating stations and transmission systems for the period 2009-14 in accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (the 2009 Tariff Regulations).

### **Background**

2. The Commission by order dated 15.9.2011 in Petition No. 181/2011 (*suo motu*) held that the regulation and determination of tariff for generation and inter-State transmission of electricity by BBMB are vested in this Commission by virtue of the provisions of section 174 of the said Electricity Act, 2003 (the 2003 Act). Accordingly, BBMB was directed to file appropriate applications before this Commission for approval of tariff of its generating stations and transmission systems, in accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 ('the 2009 Tariff Regulations') for the period 2009-14. Aggrieved by the said order dated 15.9.2011, BBMB filed Appeal No.183/2011 before the Appellate Tribunal for Electricity ('the Tribunal') challenging the jurisdiction of the Commission to determine the tariff of its generating stations and transmission systems and the Tribunal by its judgment dated 14.12.2012 in Appeal No.183/2011 dismissed the said appeal on merits and upheld the jurisdiction of this Commission to determine the tariff of the generating stations and transmission systems of BBMB. The relevant portion of the judgment dated 14.12.2012 is extracted as under:

*"22. It is thus clear without any shadow of doubt that (a) the surplus capacity of the transmission lines are utilized for the transmission of power of the Central Public Sector Utilities, (b) the BBMB's transmission system is recognised as Inter-State Transmission System by the Indian Electricity Grid Code, (c) the tariff for the BBMB transmission system has to be included and calculated in the YTC recovery under the regulations as mentioned above, (d) IEGC applies to all entities including users and consumers of electricity, and (e) in the circumstance the Central Electricity Regulatory Commission is the only authority and has exclusive jurisdiction with regard to regulation of inter-state transmission of electricity and determination of tariff for inter-state transmission of electricity. The BBMB admits that it is in a position to give the details of O&M expenditure for transmission system as per the Central Electricity Regulatory Commission norms as well as interest on working capital on the prescribed formats and that the Commission can take the depreciated value of the BBMB's transmission system in the books of the participating States as the capital value and these can be taken for determination of transmission charges relating to the non-ISTS lines. It is, of course, submitted that considering the nature of generation project, the projects managed by the BBMB are essentially irrigation project, generation being incidental thereto. There is no difficulty in saying that the BBMB is a deemed transmission licensee. The argument of learned counsel for the appellant that the BBMB is an agent of the participating Govts. is in the circumstances difficult to accept. The BBMB cannot be regarded to be a substitute for the Central Electricity Regulatory Commission as it*



is a creature of the Central Govt. by and under a statute to serve certain purposes including generation, distribution and transmission of power. The operation and maintenance expenses at least so far as the transmission chapter is concerned, has to come under the scrutiny of the Central Electricity Regulatory Commission. Being it an inter-state transmission system, none of the State Commissions concerned, nor any of the participating States has any supervisory jurisdiction over the BBMB. In fact, in response to the BBMB's letter dated 09.04.2011, the Power System Operation Corporation Ltd., asked the BBMB to approach the Central Commission to have the transmission tariff determined. With reference to section 2 (16) and section 10 of the Act, 2003 it has been contended by the BBMB that its lines are akin to dedicated transmission line. In the context of what has surfaced above, it is difficult to say now that the lines of the BBMB are really the dedicated transmission lines. The lines are in fact used for conveyance of power from one State to another for the sake of other utilities. The submission of the appellant is that the BBMB is not the owner of the transmission lines but the participating States are, as such the BBMB is not answerable or accountable to the Central Electricity Regulatory Commission. We have found that as a Statutory Authority, the BBMB possesses a distinct legal identity which is not identical or cannot be equated with the participating States which in fact are the beneficiaries of the power generated out of the projects. It is argued that the Punjab Reorganization Act, 1966 does not provide for the transfer and vesting of power stations and the transmission lines in the BBMB and when this is not so, the BBMB cannot be asked to report to the Central Electricity Regulatory Commission. This is perhaps not the spirit of the Act, 1966 because, at the first instance, Bhakra-Nangal Project meant for the purpose of irrigation and of generation of power was entrusted to the Bhakra Management Board, not to any participating States and the Act was particular in telling that such Board shall be under the control of the Central Government. Again, so far as the Beas Project is concerned, Section 80 (5) provides that after completion of any component of the project it would stand transferred to the Board by the Central Government and then only the Board would be renamed as Bhakra Beas Management Board. The BBMB is not the creation of the States or of any statute of any of the States. The States are only the beneficiaries of power and water because the rights and liabilities vested in the States. In the circumstance, it can be said that the Central Electricity Regulatory Commission has regulatory jurisdiction over the affairs of the BBMB in so far as they are relatable to the Act, 2003."

3. Against the said order dated 14.12.2012, the petitioner has filed Civil Appeal before the Hon'ble Supreme Court of India and the same is pending.

4. Thereafter, the Commission by order dated 10.1.2013 in Petition No.181/2011 (*suo motu*) directed BBMB to file the tariff petitions in accordance with the provisions of the 2009 Tariff Regulations, separately for the generating stations and for the transmission systems, after serving copies of the said petitions on the beneficiary States and impleading them as respondents. The relevant portion of the order dated 10.1.2013 is extracted as under:

*"3. Accordingly, BBMB is directed to file the tariff petitions in accordance with the provisions of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 separately for the generating stations and for the transmission systems after serving copies of the petitions on the beneficiary States who shall be impleaded as respondents. While filing the petitions, the petitioner shall comply with the procedure laid down in the Central Electricity Regulatory Commission (Procedure for making of Application for Determination of Tariff, Publication of the Application and Other Related Matters) Regulations, 2004"*

5. In compliance with the directions of the Commission in order dated 14.3.2012 in Petition No.15/SM/2012, the Petitioner filed Petition No. 200/TT/2013 for approval of the annual transmission charges for 220 kV Panipat-Narela Ckt-1, 220 kV Panipat-Narela Ckt-2, 220 kV



Panipat-Narela Ckt-3, 220 kV BTPS-Ballabgarh Ckt-1 and 220 kV BTPS-Ballabgarh Ckt-1 inter-State transmission lines connecting two States for 2009-14. Similarly, in compliance with order dated 10.1.2013 in Petition No.183/2011 (*suo motu*), the Petitioner has filed this petition (Petition No.251/GT/2013) for determination of tariff of generation and transmission activities. As the transmission assets covered in Petition No.200/TT/2013 had been included as inter-state transmission lines in this petition, the Commission by order dated 7.8.2015 disposed of Petition No.200/T/2013 as *infructuous*.

6. The petition was heard on 10.3.2015, 7.5.2015, 9.6.2015, 25.8.2015 and the Commission after directing the petitioner to submit additional information reserved its orders in the petition on 22.9.2015.

7. Thereafter, the Commission, considering the fact that the tariff period 2009-14 was over, by order dated 12.11.2015 granted O&M expenses for the transmission elements covered in the petition for the period 2009-14. The Commission in the said order also directed the petitioner to file necessary petition for determination of transmission tariff for the period 2014-19 in accordance with the provisions of the 2014 Tariff Regulations. The relevant portion of the order is extracted as under:

"18. Therefore, for the purpose of determination of the annual transmission charges, it is imperative that the petitioner furnish complete information as required under the provisions of the 2009 Tariff Regulations. It is however noticed that the petitioner vide affidavit dated 19.4.2012 in Petition No.200/TT/2013 while pointing out that it is not feasible to file tariff petition as per formats specified under the 2009 Tariff Regulations, except for O&M expenses and Interest on Working Capital, had submitted that the Commission can take the depreciated value of BBMB's transmission system in books of the participating States as the capital value. It had also submitted that BBMB is taking steps to get such capital value of the said transmission systems from the participating stations and would submit the same immediately upon being made available to BBMB. Despite these submissions, no visible steps appear to have been taken by the petitioner to submit the said information. In our view, the non furnishing of the information and reiteration of the submissions which have been rejected by both, the Commission and the Tribunal amounts to violation of the findings of the Tribunal and the directions of the Commission. Therefore, BBMB is directed to file all necessary information regarding its transmission assets as per the applicable Tariff Regulations. Since the tariff period 2009-14 is already over, we direct BBMB to file necessary petition for determination of transmission tariff for the period 2014-19 in accordance with the provisions of the 2014 Tariff Regulations. However, for the tariff period 2009-14, we grant the O&M expenses for the transmission elements covered in the petition for the period 2009-14, as stated in the subsequent paragraphs".

8. The Commission in the order dated 12.11.2015 had observed that the annual fixed charges for the generating stations of the petitioner for the period 2009-14 shall be determined by a



separate order. In this background, we now consider the prayers of the petitioner for determination of tariff as per the formats submitted and for a direction that so long as the Operation and Maintenance expenses incurred by the petitioner is within the limit specified under the 2009 Tariff Regulations, necessary declaration may be filed before the Commission on yearly basis without any need for determination of tariff by following various process and procedures.

9. Reply to the petition has been filed by the respondents, HPVNL, PSPCL and UT of Chandigarh and the petitioner has filed its rejoinder to the reply filed by UT of Chandigarh.

10. Accordingly, we proceed to consider the submissions of the petitioner based on the documents available on record, as stated in the subsequent paragraphs.

### **Submissions of Petitioner**

11. The petitioner in the petition has submitted as under:

(a) The status of generation and transmission assets, their ownership, interest of the participating State, role of BBMB in managing the above assets, ownership in the units of the electricity generated and all matters connect there with are statutorily provided for under sections 70 to 80 of the Punjab Re-organization Act, 1966;

(b) BBMB is only the manager of the participating governments and their respective electricity utilities the respondents, to manage, maintain, operate the generating stations and also the transmission lines and assets as provided in Section 78 to 80 of the Punjab Reorganization Act;

(c) As per Section 78 to 80 of the Punjab Reorganization Act 1966, the ownership of the generating stations and the transmission assets are with the participating States and have not been given to BBMB;

(d) The ownership of the assets was vested in the erstwhile combined State of Punjab and in terms of the above provisions of the Punjab Reorganization Act, came to be vested in the successor participating States and in some respects in the State of Rajasthan by operation of law;

(e) The electricity boards/ entities of the above participating States have also been recognized as the beneficiaries of the electricity generated by these generation projects and the transmission lines and assets managed by BBMB;

(f) The BBMB acts only as manager and operator for and on behalf of the participating States;

(g) The ownership in the electricity generated vests in the participating States in a fixed proportion as agreed in the historical agreements / determined by the Central Government. The ownership in the electricity generated does not vest in the BBMB. Similarly the ownership in the transmission assets also vests in the participating States and not in the BBMB;

(h) The BBMB does not therefore generate and supply electricity to the participating States or undertake the business of inter-state transmission of electricity on a principal to principal basis but only as manager of the participating States;



- (i) The BBMB has no financial risk attached to its working. All expenses are paid by the participating States as provided in Section 79(5) of the Punjab Reorganization Act;
- (j) There is no gross block of assets in the BBMB's books and no capital expenditure including any additional capitalization takes place in the books of BBMB; all such capital expenditure are to the account of the participating States only;
- (k) There is no concept of return on equity or interest on loan or depreciation or incentive or disincentive etc. which are the basic tariff elements in the case of Generation and Transmission of electricity;
- (l) All expenses of the BBMB get paid for by the participating States. There is no equity capital contributed by the participating States to the BBMB;
- (m) The BBMB manages the transmission network connected to the generating stations for the purpose of evacuation of power up to the periphery of the participating States;
- (n) Even the consultancy work undertaken by the BBMB is with the approval of the participating States and the revenues earned there from are accounted for the benefit of the participating States;
- (o) As BBMB does not hold any capital assets and there is no gross value of the capital assets, most of the tariff filing forms specified under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 will not have any application;
- (p) In order to determine the O&M expenses permissible for the generating stations and transmission assets of BBMB, the only format relating to operation and maintenance expenses specified under the 2009 Tariff Regulations will have a bearing. However, the actual aggregate O&M expenses incurred by BBMB on the O&M of the generating stations and transmission assets are less than the normative expenditure provided under Regulation 19 of the 2009 Tariff Regulations. In view of the peculiar nature of BBMB's activities, the normative interest on working capital should also be included in the O&M expenses;
- (q) Even if the O&M expenses determined by the Commission in regard to the generating stations and transmission assets is more than the actual O&M expenses, BBMB will not be entitled to receive the differential amount from the beneficiary States and appropriate the same as its income.

12. Accordingly, the petitioner has submitted that the ownership of generating stations and transmission assets belong to the participating States and the petitioner only operates and maintains the same, without there being any transfer of ownership to BBMB, for the participating States. The petitioner has also submitted that the transmission lines operated by the petitioner are primarily dedicated transmission lines connected to the generating stations for evacuation of power up to the periphery of the participating states. It has added that such lines are owned by the participating States and not by the petitioner. It has further submitted that the use of such transmission lines for others such as the transmission of power of the Central Public sector utilities is in regard to the surplus capacity available after meeting the dedicated use of the respondents and the revenues from such use is accounted for the benefits of the respondents. In the





circumstances above and considering the special status and the nature of the activities of the petitioner namely, undertaking the generating and transmission on behalf of the respondents and not owning any of the capital assets, not making any capital investments and getting reimbursement from all the respondents, the tariff determination based on the 2009 Tariff regulations has to take into account the above features, the petitioner has stated. Similar submissions were made by the petitioner during the hearing of the petition on 10.3.2015.

13. We have examined the matter and the submissions of the parties. It is noticed that the submissions of the Petitioner as noted in the paragraph above were already considered and rejected by the Commission in order dated 15.9.2011. Similar submissions raised by the petitioner before the Tribunal in Appeal No. 183/2011 was also rejected by the Tribunal in its judgment dated 14.12.2012, thereby affirming the order of the Commission dated 15.9.2011. The relevant portion of the judgment has been extracted as under:

*“19.....After the Bhakra-Nangal Project and the Beas Project were completed, they were transferred to the BBMB. As of now, it is the BBMB that generates electricity on behalf of the States and deals with inter-state transmission thereof. The Act, 1966 gives explicit power to the BBMB to regulate supply of power to the Electricity Boards or any other authority in charge of distribution of power. Prima facie, one will not be wrong to say at this stage that these are the functions dealt with for supervision by the Appropriate Commission under the Act, 2003.*

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*24..... As a Govt. company as the BBMB now is, it cannot escape scrutiny and regulatory jurisdiction of the Central Commission. The BBMB cannot be compared to that of a contractor as is contended in the written note of argument. Though there is no actual sale by the BBMB and supply is made in terms of the Act, 1966 such supply does not become absolutely divorced from any consideration. The provision of section 79 (5) of the Act, 1966 will apply also to the Beas Project mutatis mutandis in terms of sub-section (5) of section 80. Thus expenses including salaries and allowances of the staff and other amounts to meet expenses shall have to be provided to the BBMB and the amount shall be apportioned having regard to the benefit of the States / Boards as the Central Govt. may specify. Therefore, there are operation and maintenance expenses, renovation and modernisation expenses which are associated with components of tariff and it is the BBMB that has to meet all these expenses. Regulation of these expenses so far is not the function of any of the State Commission because it is an inter-state Central Govt. owned generation entity. The mere fact that such power of regulation has not been exercised so far is no ground to deny this jurisdiction to the Central Electricity Regulatory Commission when the Act, 2003 is an exhaustive Code. Yes, section 79 (1) has to be read with section 62(1) of the Act, 2003, but if any of the components of section 62(1) is attracted then the jurisdiction of the Central Electricity Regulatory Commission is attracted. With the re-organisation of the then existing State of Punjab, the control of the Bhakra Projects ceased to remain in the hands of that State and it vested in the BBMB. It is the BBMB that has the statutory power to supply electricity to the Boards or authority in charge of distribution. Under section 79 (3) (c) of the Act, 1966, the BBMB has to carry out construction of the remaining works connected with the Right Bank Power House. There is force in the argument of the learned senior counsel appearing for the Central Electricity Regulatory Commission that as the BBMB maintains the charges and costs, it is necessary to scrutinise the same as ultimately charges are passed on to the consumers. The concept of prudence check is a jurisprudential concept under the Electricity laws.*



*Therefore, there is no illegality in bringing the BBMB which is an entity controlled by the Central Govt. and distinct from the States within the purview of the Central Electricity Regulatory Commission. It may be that the Central Electricity Regulatory Commission finds that there is no necessity of fixing generation tariff in the same lines as are ordinarily done in other Central Govt. owned generating entities."*

14. The Tribunal having decided the jurisdiction in favour of this Commission to determine the tariff of the generating stations and inter-state transmission systems of the petitioner as above, the Commission by order dated 10.1.2013 had directed the petitioner to file tariff application in accordance with the provisions of the 2009 Tariff Regulations. Further, the Commission vide ROP of the hearing dated 9.6.2015 had directed the petitioner to submit the following additional information:

*(i) Station-wise actual O&M expenses for the period 2008-09 to 2013-14 including expenses on pay revision, if any.*

*(ii) Actual installed capacity and COD of all the stations.*

*(iii) Submission of details as per formats specified under the CERC (Terms and Conditions of Tariff) Regulations, 2009.*

15. However, contrary to the directions of the Commission and the findings of the Tribunal, the petitioner, vide affidavit dated 23.8.2013 has submitted that BBMB does not hold assets and there is no capital value of the assets and hence the tariff filing forms in terms of the provisions of the 2009 Tariff Regulations has not been filed. In response to the directions of the Commission vide ROP of the hearing dated 9.6.2015, the petitioner vide affidavit dated 28.7.2015 has only submitted the actual installed capacity and COD of all the BBMB stations including the Station-wise details of actual O&M expenses for the period 2008-09 to 2013-14 in terms of the provisions of the 2009 Tariff Regulations. It has further submitted that the aspects relating to expenditure incurred by the petitioner on behalf of the participating states on the works of capital nature & RM & U works, expenditure required for unforeseen problems and other expenses like payment of ex-gratia may also be considered while deciding the petition.

16. In our view, the non submission of the required information and the reiteration of the submissions which have been rejected by both, the Commission and the Tribunal, is contrary to the findings of the Tribunal and the directions of this Commission. Therefore, BBMB is directed to file all necessary information regarding its generating stations as per the applicable Tariff Regulations.





Since the tariff period 2009-14 is already over, we direct BBMB to file necessary petition for determination of generation tariff for the period 2014-19 in accordance with the provisions of the 2014 Tariff Regulations. However, for the tariff period 2009-14, we proceed to examine the O&M expenses for the generating stations of the petitioner for the period 2009-14, as stated in the subsequent paragraphs.

17. The details of generating stations of the petitioner are summarized as under:

Power House	Unit No	Date of Commissioning	Installed Capacity (MW)	RMU 1st Stage		RMU 1st Stage	
				Date of Commissioning	Installed capacity (MW)	Date of Commissioning	Installed capacity (MW)
Bhakra Left Bank	1	14.11.1960	90	22.02.1985	108		
	2	02.02.1961	90	11.03.1984	108	19.7.2013	126
	3	07.07.1961	90	10.04.1983	108		
	4	08.11.1961	90	6.2.1982	108		
	5	10.12.1961	90	21.1.1981	108	2.10.2013	126
Bhakra Right Bank	1	24.05.1966	120	16.10.1980	132	18.6.1997	157
	2	05.12.1966	120	16.10.1980	132	12.2.2001	157
	3	13.03.1967	120	16.10.1980	132	5.4.1998	157
	4	13.11.1967	120	16.10.1980	132	29.2.1996	157
	5	19.12.1968	120	16.10.1980	132	8.6.2000	157
Ganguwal	1	23.01.1962	27.99				
	2	02.01.1955	24.20				
	3	02.01.1955	24.20				
Kotla	1	14.07.1961	28.94				
	2	23.05.1956	24.20				
	3	27.08.1956	24.20				
Dehar	1	02.11.1957	165				
	2	03.03.1978	165				
	3	12.06.1979	165				
	4	12.06.1979	165				
	5	17.07.1983	165				
	6	10.11.1983	165				
Pong	1	20.01.1978	60	15.2.2002	66		
	2	30.03.1978	60	11.4.2000	66		
	3	26.10.1978	60	23.2.1998	66		
	4	06.03.1979	60	11.2.2001	66		
	5	19.09.1982	60	25.1.2003	66		
	6	25.02.1983	60	7.2.2004	66		
<b>Total Installed Capacity of BBMB Power Houses is 2900.73 MW</b>							

18. Regulation 19 (f) of the 2009 Tariff Regulations provides the following O&M expense norms in respect of the existing hydro generating stations for the period 2009-14:

*“19(f) (i) Operation and maintenance expenses, for the existing generating stations which have been in operation for 5 years or more in the base year of 2007-08, shall be derived on the basis*



*of actual operation and maintenance expenses for the years 2003-04 to 2007-08, based on the audited balance sheets, excluding abnormal operation and maintenance expenses, if any, after prudence check by the Commission.*

*(ii) The normalized operation and maintenance expenses after prudence check, for the years 2003-04 to 2007-08, shall be escalated at the rate of 5.17% to arrive at the normalized operation and maintenance expenses at the 2007-08 price level respectively and then averaged to arrive at normalized average operation and maintenance expenses for the 2003-04 to 2007-08 at 2007-08 price level. The average normalized operation and maintenance expenses at 2007-08 price level shall be escalated at the rate of 5.72% to arrive at the operation and maintenance expenses for year 2009-10:*

*Provided that operation and maintenance expenses for the year 2009-10 shall be further rationalized considering 50% increase in employee cost on account of pay revision of the employees of the Public Sector Undertakings to arrive at the permissible operation and maintenance expenses for the year 2009-10.*

*(ii) The operation and maintenance expenses for the year 2009-10 shall be escalated further at the rate of 5.72% per annum to arrive at permissible operation and maintenance expenses for the subsequent years of the tariff period..."*

19. The petitioner vide affidavit dated 21.3.2014 has submitted that at present there is about 30% shortage in manpower in BBMB against the sanctioned strength and the employee cost reflected in the tariff petition was based on the existing strength of employees with 30% shortage in manpower. The petitioner has also prayed that the aspects i.e. expenditure incurred by BBMB on behalf of the participating States on works of capital nature, RM&U works, shortage in manpower, expenditure required for unseen problems and other expense like ex-gratia may also be considered by the Commission while deciding the petition.

20. In the absence of proper details and considering the fact that the tariff period 2009-14 is already over, the question of shortage of manpower *vis-a-vis* sanctioned strength and its effect on O&M expenses has not been considered in this order. Mere shortage of staff cannot be a justifiable ground for non maintenance of statutory records. Therefore, the petitioner is directed to submit on affidavit, all relevant details on this count at the time of filing the tariff petition for the period 2014-19 for consideration of the Commission. Other aspects raised above by the petitioner and which have an impact on the admissible O&M expenses for the period 2009-14 are dealt with as stated in the subsequent paragraphs.

21. In order to work out the admissible O&M expenses for 2009-14 in line with Regulation 19(f) of the 2009 Tariff Regulations, the "Revenue received and expenditure of Power wing" data



submitted by the petitioner for the period 2003-04 to 2007-08 has been examined. It is observed that the break-up details consists of following categories:

- a. Works of capital nature chargeable to revenue including suspense.
- b. Normal operation and maintenance works including losses written off.
- c. Expenditure transferred from Irrigation Wing.
- d. Expenditure transferred to Irrigation Wing.
- e. RM&U expenditure.
- f. Revenue receipt

22. Out of above, the expenses under the head "Normal operation and maintenance works including losses written off" (hereinafter referred to as "the Actual O&M expenditure") have only been examined. In the absence of any details in respect of the losses written off as a distinct element, these have been considered at zero value, for the purpose of working out the admissible O&M expenditure (hereinafter referred to as "the Normative O&M expenditure") as per the 2009 Tariff Regulations. The expenses under other heads have however not been considered for the following reasons:

**(a) Works of capital nature chargeable to revenue:** The accounting head indicates that this expenditure is of "capital nature" which has been charged to revenue by the petitioner. Thus, by its nature, such expenditure cannot be treated as part of O&M expenditure. Further, in the absence of accounting/regulatory treatment of the same in the books/ARR of the beneficiaries, the expenditure cannot be considered.

**(b) Expenditure transferred from/to Irrigation Wing:** The year on year expenditure under this head show huge variations. In the absence of specific details of the basis of transfer to and fro the Irrigation and Power Wing as well as the arrangement made between the petitioner and the beneficiary States, this expenditure cannot also be considered.

**(c) RM&U expenditure:** As the expenditure is of a "capital nature", the same cannot be considered for the purpose of arriving at the Normative O&M expenditure.

**(d) Revenue receipt:** The respondent, UT of Chandigarh has submitted that the power supplied as *ad hoc* assistance of 1 LU/day to UT of Chandigarh at Common Pool rates w.e.f, 1.1.1973 is decided by the Board of the petitioner from time to time. It has also submitted that the power supplied as Special Assistance of 10 LU/day is being charged at Badarpur Thermal Power Station rate which varies on month to month basis. It has further been submitted that the energy bill rendered by the petitioner for the month of April, 2015 is @



₹7.17 per KWh. This being a revenue receipt on sale of energy cannot be considered for the purpose of working out the Normative O&M expenditure for the period 2009-14.

23. Accordingly, the year-wise data for the period from 2003-04 to 2007-08 considered for working out the Normative O&M expenditure for the period 2009-14 are as under:

	(₹ in lakh)				
	2003-04	2004-05	2005-06	2006-07	2007-08
Bhakra (including GWL & KTL)	3223.95	2851.42	2860.68	3050.24	3431.69
Dehar	2113.76	1903.29	2013.25	2071.31	4018.55
Pong	786.58	864.31	896.75	981.72	1119.41
<b>Total</b>	<b>6124.29</b>	<b>5619.02</b>	<b>5770.68</b>	<b>6103.27</b>	<b>8569.65</b>

24. The year on year variation in the O&M expenses during the period had taken into consideration the various events like annual maintenance, major overhauling, capital overhauling, etc., which occur after a definite interval/period of time. Accordingly, the above expenditure has been considered for the calculation of Normative O&M expenditure for the period 2009-14.

25. Based on the above data, the year-wise Normative O&M expenditure worked out for the various hydro generating stations of the petitioner, in terms of Regulation 19(f) of the 2009 Tariff Regulations, is as under:

	(₹ in lakh)					
Station/Year	2009-10	2010-11	2011-12	2012-13	2013-14	Total
Bhakra (including GWL & KTL)	5217.80	5516.26	5831.79	6165.37	6518.03	<b>29249.25</b>
Dehar	3738.63	3952.48	4178.56	4417.58	4670.26	<b>20957.51</b>
Pong	1607.14	1699.07	1796.25	1899.00	2007.62	<b>9009.08</b>
<b>Total</b>	<b>10563.57</b>	<b>11167.81</b>	<b>11806.6</b>	<b>12481.95</b>	<b>13195.91</b>	<b>59215.84</b>

26. As stated, the tariff period 2009-14 is already over and the petitioner had already billed the beneficiary States. Hence, it would only be prudent to make a comparison of the Actual O&M expenditure incurred by the petitioner for the period 2009-14 with that of the Normative O&M expenditure worked out as above, in terms of the 2009 Tariff Regulations. The Actual O&M expenditure incurred for the period 2009-14 for the generating stations of the petitioner are as under:

	(₹ in lakh)					
Station/Year	2009-10	2010-11	2011-12	2012-13	2013-14	Total
Bhakra (including GWL & KTL)	4021.21	5081.2	6107.05	6638.61	7543.35	29391.42
Adjustment of salary arrears*	429.20	0.00	(-) 1175.26	(-) 845.68	(-) 845.68	(-) 2437.43
Total for Bhakra (including GWL & KTL)	4450.41	5081.20	4931.79	5792.93	6697.67	26953.99



Dehar	2936.75	3017.59	4393.15	5451.15	5680.08	21478.72
Adjustment of salary arrears	459.36	0.00	(-) 772.91	(-) 541.40	(-) 541.40	(-) 1396.35
Total for Dehar	3396.11	3017.59	3620.24	4909.75	5138.68	20082.37
Pong	1257.2	1589.58	1926.74	2110.81	2578.35	9462.68
Adjustment of salary arrears	40.84	0.00	(-) 169.29	(-) 123.56	(-)123.56	(-) 375.56
Total for Pong	1298.04	1589.58	1757.45	1987.25	2454.79	9087.12
<b>Grand Total for all stations after adjustment of wage arrears</b>	<b>9144.56</b>	<b>9688.37</b>	<b>10309.48</b>	<b>12689.93</b>	<b>14291.14</b>	<b>56123.48</b>

It is noticed that in respect of the adjustment of salary arrears, the petitioner while submitting the above data has not specified whether the salary arrears pertaining to Power Wing are prior to or after adjustments in respect of Irrigation Wing.

27. It is observed that the Actual O&M expenditure indicated in table above includes adjustment of salary arrears. The salary arrears pertaining to the period prior to 2009-10 have been paid during the period 2011-14. On overall basis, the Normative O&M expenditure of ₹59215.84 lakh in the table under para 25 above, is higher than the Actual O&M expenditure of ₹56123.48 lakh incurred by the petitioner, as above. In the absence of the (i) basis of transfer of expenditure to and fro the Irrigation and Power Wing (ii) salary details, specifically related to the Power Wing (iii) amount of losses written off and (iv) other details mentioned in preceding paragraphs, we are inclined to allow the Actual O&M expenditure incurred by the petitioner, as above, as against the Normative O&M expenditure worked out in terms of the 2009 Tariff Regulations. We order accordingly.

28. The actual O&M expenditure allowed for the generating stations of the petitioner are in deviation of the methodology adopted by the Commission in order dated 12.11.2015 wherein the Commission had allowed the Normative O&M expenses for the transmission elements of the petitioner. It is pertinent to mention that the normative O&M expenses allowed for transmission elements are based on the technical parameters like line length, ckt km etc., and thus cannot be compared.

29. Also, the specific prayer of the petitioner for grant of Normative Interest on Working Capital limited to one month has not been allowed, as the same is dependent upon the determination of



other components of tariff, the details for which has not been made available by the petitioner, despite repeated directions of the Commission.

**Normative Annual Plant Availability Factor (NAPAF), Auxiliary Energy Consumption (AEC) and Design Energy (DE)**

30. As stated, the petitioner has not filled the relevant formats (like Forms 2 & 3) required for consideration and fixation of operational norms viz., NAPAF and A.E.C. It has also not submitted the details of Design Energy approved by CEA for its various hydro generating stations. Accordingly, we direct the petitioner to submit the details of the Operational norms applicable for the hydro generating stations in accordance with the provisions of the 2014 Tariff Regulations at the time of filing the petition for determination of tariff for the period 2014-19. We also direct that from 1.6.2016, the process of scheduling, metering and accounting shall be followed by the generating stations of the petitioner in terms of the provisions of the Indian Electricity Grid Code (IEGC), 2010, as amended from time to time. In addition, NRLDC shall generate/ certify the requisite data pertaining to Plant Availability Factor, actual AEC, etc., as is being done in respect of other Central Generating stations which are under the regulatory jurisdiction of the Commission.

31. The petitioner vide affidavit dated 25.5.2015 has submitted that BBMB is not maintaining any fixed register and as such the physical verification report of assets and stock from the period 1.4.2009 to 31.3.2014 is not available. It has further submitted that the petitioner is in the process of hiring a Consultant to prepare an extensive inventory of the assets being operated and maintained by BBMB. In our view, the petitioner cannot be absolved from its responsibility of maintaining the Fixed Asset Register. Therefore, the petitioner is directed to develop a fixed Asset Register and submit schedule of Fixed Assets to enable the Commission to determine the tariff.

32. The respondent, UT of Chandigarh vide its reply dated 21.7.2015 has submitted that the rates charged by the petitioner is on the higher side as compared to short term power purchase through competitive bidding /power purchase through exchange. It has further submitted that the action of the petitioner in charging rates which are applicable to thermal plant is illegal and arbitrary and has prayed that the Commission may direct the petitioner to review the decision to charge the respondent at normal rates. The respondent has pointed out that the petitioner has never apprised





of the adjustment of the revenue receipts derived from the Common pool consumers in their O&M charges/bills raised to UT Chandigarh (the respondent) and that the petitioner has never supplied such adjustment, if any, made against such revenue receipts from Common pool consumers in the O&M charges/bills of 3.5% share of the respondent. The petitioner vide its rejoinder dated 15.10.2015 has clarified that the supply of 11 LU/day [(1 LU (*ad hoc*) + 10 LU (special assistance))] to the respondent is on specific request and is over and above the scheduled allocation and accordingly, the rate for this supply is charged as approved by the Board of the Petitioner Company from time to time. It has further submitted that the revenue received from the respondent for 11 LU/day supply is duly accounted for in the statement of revenue realized from the common pool consumers and is apportioned among the constituents including this respondent in agreed ratio.

33. The respondent, PSPCL vide affidavit dated 18.9.2015 has submitted that the capital expenditure including additional capital expenditure, the O&M expenses, working capital requirements, repair, renovation, modernization etc., is incurred by BBMB (the petitioner) out of its resources and the same will be serviced through tariff for the sale of electricity.

34. The submissions have been considered. In the absence of any specific and clear details / information being made available, the issues raised by the parties as above cannot be looked into, at this stage. The Commission in para 31 of this order has directed the petitioner to develop a fixed Asset Register and submit schedule of fixed Assets. However, keeping in view that tariff for the generating stations and inter-state transmission elements of the petitioner are required to be determined by the Commission for the period 2014-19 in terms of the 2014 Tariff Regulations, we deem it fit to issue the following directions:

(i) The petitioner shall commence the scheduling of power from its generating units/transmission assets under ABT from 1.6.2016.

(ii) The petitioner is directed to file appropriate application for determination of tariff of the generating and inter-state transmission systems for the period 2014-19 in terms of the 2014 Tariff Regulations, within two months from the date of this order. The said petition shall also contain, in addition to the information sought in paras 20 and 31, the following information:



- (a) Details of the capital base of its individual assets, billing pattern for all beneficiaries and methodology for deciding rates for charging to the Common Pool customers;
- (b) Auxiliary Energy Consumption for past five years for all of its generating stations;
- (c) Annual Design Energy for generating stations as approved by CEA, with details of 10-daily average discharge and 10-daily design energies, efficiency of turbine and generator, net head etc;
- (d) Month-wise average peaking capacity of storage based hydro stations as approved by CEA for the purpose of arriving at NAPAF of these stations.
- (e) Details of PAF achieved during last five years, if available, for all of its generating stations.

35. Petition No.251/GT/2013 is disposed of in terms of the above.

*Sd/-*  
**(Dr. M.K.Iyer)**  
**Member**

*Sd/-*  
**(A. S. Bakshi)**  
**Member**

*Sd/-*  
**(A. K. Singhal)**  
**Member**

*Sd/-*  
**(Gireesh B. Pradhan)**  
**Chairperson**

