

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 28/RP/2016

In

Petition No. 198/GT/2013

Coram:

Shri A.K. Singhal, Member

Shri A.S. Bakshi, Member

Dr. M.K. Iyer, Member

Date of Order: 18th April, 2017

In the matter of

Review of order dated 8.2.2016 in Petition No. 198/GT/2013 as regards determination of tariff of NTPC- Vallur Thermal Power Plant for the period from the respective dates of COD of Units till 31.3.2014.

And

In the matter of

NTPC Tamil Nadu Energy Company Ltd

Vallur Thermal Power Project

P.O. Vellivoyal Chavadi,

Thiruvallur, Chennai- 600103

.....Petitioner

Vs

1. A.P Transmission Corporation Limited
Vidyut Soudha, Khairatabad,
Hyderabad-500082
2. A.P Central Power Distribution Company Ltd.
2nd floor, house No.6-1-50, Mint Compound,
Hyderabad-500063
3. A.P Eastern Power Distribution Company Ltd.
P&T Colony, Seemandhara,
Vishakapatnam-503013
4. A.P Southern Power Distribution Company Ltd
Beside Srinivassakalyana Mandapam, Tiruchanur Road,
Kesavayana Gunta, Tirupati- 517501
5. A.P Northern Power Distribution Company Ltd
House No. 1-1-504, opp. NIT Petrol Pump, Chaitanapuri colony
Hanmkonda, Warangal- 506004



6. Power Company of Karnataka Ltd.
KPTCL complex, KaveriBhawan,
Bengaluru- 560009
7. Bangalore Electricity Supply Company Ltd.
Krishna Rajendra circle,
Bangalore- 506001
8. Mangalore Electricity Supply Company Ltd.
Paradigm plaza, AB Shetty circle,
Mangalore- 575001
9. Chamundeshwari Electricity Supply Company Ltd.
927, L J Avenue, New Kantharaj Urs Road
Saraswatipuram, Mysore- 570009
10. Gulbarga Electricity Supply Company Ltd.
Main Road, Gulbarga- 585102
11. Gulbarga Electricity Supply Company Ltd.
Navanagar, PB Road,
Hubli- 580025
12. Kerala State Electricity Board
Vaidyuthibhavanam, Pattom,
Thiruvananthapuram- 695004
13. Tamil Nadu generation & Distribution Corporation Ltd.
NPKRR Maaligai, 144, Anna Salai,
Chennai- 600002
14. Electricity department
Govt. of Puducherry,
137, NetajiSubhash Chandra Bose Salai,
Puducherry- 605001

.....Respondents

Parties present:

Ms. Suparna Srivastava, Advocate, NTPC
Shri Rohit Chhabra, NTPC
Shri Patanjali Dixit, NTPC
Shri Arun Nair, NTPC
Shri Ashish, NTPC
Shri S. Vallinayagam, Advocate, TANGEDCO

ORDER

This review application has been filed by the petitioner, NTPC Tamil Nadu Energy Co. Ltd (hereinafter 'the petitioner') for review of the order dated 8.2.2016 in



Petition No. 198/GT/2013, whereby the Commission had determined the tariff of NTPC Vallur Thermal Power Project (1500 MW) ('the generating station') for the period from the respective dates of COD of units till 31.3.2014 in terms of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 ('the 2009 Tariff Regulations').

2. Aggrieved by the said order dated 8.2.2016, the petitioner has submitted that there are certain errors apparent on the face of the order and sought review on the following issues:

- (i) *Pro- rata reduction of overhead expenses;*
- (ii) *Deduction of revenue earned from sale of infirm power;*
- (iii) *Disallowance of actual capital expenditure till the completion of COD of Unit-I and Unit-II;*
- (iv) *Disallowance of the claim for share application money as part of equity;*
- (v) *Disallowance of notional IDC;*
- (vi) *Rate of interest on loan considered as 11.25% instead of 11.27% in 2013-14 as claimed;*
- (vii) *Double deduction of un-discharged liabilities in capital cost;*
- (viii) *Allowance of IDC in loan capital*
- (ix) *Apportionment of projected additional capital beyond COD of Unit-II; and*
- (x) *Computation of fixed charges*

3. The matter was heard on 29.9.2016 and the Commission by interim order dated 5.10.2016 had admitted the review petition on the above grounds and notice was issued to the respondents. The respondent TANGEDCO has filed its reply and the petitioner has filed the rejoinder to the same.

4. We have examined the matter. Based on the submissions of the parties and the documents available on record, we proceed to examine the issues raised in this review petition as stated in the subsequent paragraphs.



Pro- rata reduction of overhead expenses

5. The petitioner vide affidavit dated 20.6.2014 has submitted that the IEDC for Unit-I as on 28.11.2012 was ₹131.53 crore and upto Unit-II as on 24.8.2013 ₹ 244.72 crore. According to the petitioner, owing to time overrun, there was cost overrun also on account of the delay in declaration of the COD of units and this led to increase in the overhead expenses in Establishments under IEDC such as salary, office expenditure, transportation, etc. The petitioner has pointed out that corresponding to the disallowance of time overrun of 5.63 months for Unit I and 6.5 months for Unit-II, a pro rata disallowance of overhead expenses was worked out by the Commission. Accordingly, pro- rata deduction in overhead expenses was carried out due to the delay of 5.63 months in COD of unit-I and 6.5 months on COD of unit-II. The petitioner has submitted that in the table under para 41 of the order dated 8.2.2016, it is evident that the Commission has erred in considering the IEDC for COD of unit-I as ₹92.87 crore instead of ₹131.53 crore as submitted vide affidavit dated 20.6.2014. Similarly, the petitioner has submitted that the IEDC upto unit-II as on 25.8.2013 was ₹244.72 crore instead of 255.18 crore as considered by the Commission in the above said table while calculating the pro-rata IEDC. The petitioner has further submitted that while pro rating the IEDC, the Commission had not carried out the pro rata reduction of the overhead expenses for Unit-I and unit- II separately and consequently, the pro rata deduction of overhead expenses for Unit-I had been deducted twice. According to the petitioner, the IEDC of unit- II ought to have been calculated after subtracting IEDC of unit-I from the cumulative figure of IEDC upto Unit-II ($244.72 - 131.53 = 113.19$) while calculating the pro- rata IEDC for unit-II. The petitioner has submitted that the cumulative pro rata reduction of overhead expenses as on COD of Unit-II is a calculation error while computing the amount disallowed for IEDC. It has further submitted that when the pro rata reduction



of overhead expenses is carried out for Units I and II separately by considering the time overrun disallowed for the said units separately, the said pro rata reduction works out to be ₹11.64 crore for Unit-I and ₹10.15 crore for Unit-II. Accordingly, it has prayed that the error may be corrected and review on this ground may be allowed.

6. The respondent, TANGEDCO has submitted that the Commission has considered the details as furnished by the petitioner and has rightly deducted the excess overhead expenses from IEDC for the period disallowed. Accordingly, it has prayed that the claim of the petitioner may be rejected. The petitioner by its rejoinder has submitted that the expenses under IEDC as on COD of unit-I amounting to ₹92.87 crore reflects the IEDC upto COD and does not include other expenses under the head Establishments viz. BOA, consultancy packages, etc. It has also clarified that the overhead expenses under IEDC as on COD of unit- II (25.8.2013) amounting to ₹255.18 crore were those as existing on 31.3.2014 and not up to the COD.

7. We have examined the matter. It is observed that the petitioner in Form 5B of the affidavit dated 20.6.2014 had furnished the actual capitalization under establishment charge as ₹131.53 crore as on 28.11.2012 capitalized in the cost of unit-I and ₹113.19 crore from 29.11.2012 to 24.8.2013 as additional capitalization in the cost of unit- I and II. Accordingly, as per submission of the petitioner in Form 5B, the total IEDC as on COD of unit-II (25.8.2013) works out to ₹244.72 crore. It is further noticed that the petitioner in Form 9A had submitted the amount of IEDC as ₹92.87 crore as on COD of Unit-I and ₹165.5136 crore as on COD of unit-II which works out to ₹258.38 crore as on COD of unit-II. Thus there is a difference in the value of IEDC considered by the petitioner in Form 5B and Form 9A of the petition. The petitioner was directed to furnish the detailed break- up of increase in IEDC and the petitioner vide affidavit dated 12.11.2014 had submitted the consolidated value of



IEDC as ₹255.18 crore as on 24.8.2013 but had not furnished the break- up of IEDC in unit-I and II. Accordingly, the Commission in order dated 8.2.2016 had considered the IEDC of ₹255.18 crore as on COD of unit-II based on the submission of the petitioner in its affidavit dated 12.11.2014 and the amount of IEDC for unit-I as ₹ 92.86 crore based on the submission of the petitioner in Form 9A. Having considered the submissions of the petitioner in affidavit dated 12.11.2014, while passing the order dated 8.2.2016, the petitioner cannot dispute the said amount of ₹255.18 crore. The submission of the petitioner that the amount indicated in Form 5B should have been considered has no basis since no explanation has been submitted by the petitioner as regards the reasons for the variation in the figures in the forms and affidavits furnished by the petitioner. It is also noticed that petitioner vide affidavit dated 12.11.2014 had not furnished the unit wise bifurcation of IEDC and hence the Commission had considered the IEDC of ₹92.87 crore as per Form 9A of the petition. As the IEDC of ₹92.87 crore as on COD of unit-I and ₹255.18 crore as on COD of unit-II was considered by the Commission in order dated 8.2.2016 based on the submission of the petitioner, there is no error apparent on the face of the record. Accordingly, there is no reason to review the order on this count. As regards the submission of the petitioner that there is double deduction of pro- rata reduction of IEDC of Unit-I as on COD of Unit- I and II, we find no merit as the closing gross block of ₹6035.65 crore as on COD of Unit- II considered in order dated 8.2.2016 also included IEDC of ₹92.87 crore for unit-I. In this background, we find no error apparent on the face of the record and review on this ground is rejected.

Deduction of revenue earned from sale of infirm power

8. As regards revenue earned from sale of infirm power, the petitioner has submitted that the revenue earned has been adjusted in the petitioner's account with the start up fuel expenses for construction and pre- commissioning activities and that the



petitioner had certified the figures from revenue earned from sale of infirm power that had been adjusted in the capitalization along with respective units- I to III. The petitioner has also submitted that the auditor's certificate clearly demonstrate that the revenue earned from sale of infirm power has been already capitalized (deducted) and not withstanding this the Commission has again deducted the revenue earned from sale of infirm power from the capital cost while passing the order dated 8.2.2016. This according to the petitioner is an error apparent on the face of the order as revenue from sale of infirm power has been deducted twice.

9. The respondent, TANGEDCO vide affidavit dated 26.9.2016 has submitted that despite submission of the Auditor's certificate indicating the correctness of net income from sale of infirm power, the Commission in its order dated 8.2.2016 has observed that the capitalization of infirm power with the respective units was not clear from the documents furnished by the petitioner. Therefore, there is no error in the order and the claim of the petitioner may be rejected.

10. We have examined the matter. The prayer of the petitioner for treatment of the revenues earned from sale of infirm power was rejected in order dated 8.2.2016 as under:

"37. The petitioner has submitted that the revenue earned from sale of infirm power is `36.17 crore as on COD of Units-I & II (combined). Though the petitioner has submitted that the infirm power has been capitalised with the respective units, the same is not clear from the documents submitted by the petitioner. Hence, the revenue earned from sale of infirm power has been deducted from the capital cost claimed by the petitioner. However, the petitioner is granted liberty to submit the details of infirm power and its adjustment in the capital cost as on COD of Unit-I and Unit-II at the time of revision of tariff of the generating station based on truing-up exercise in terms of Regulation 6 (1) of the 2009 Tariff Regulations."

11. The Commission had deducted the revenue earned from sale of infirm power from the capital cost claimed by the petitioner as the adjustment of infirm power against the capital cost was not clearly evident from the Auditor's certificate. The



Commission had not rejected the claim of the petitioner but had granted liberty to the petitioner to submit the details of infirm power and its adjustment in the capital cost as on COD of Units-I and II at the time of revision of tariff based on truing up exercise in terms of Regulation 6(1) of the 2009 Tariff Regulations. However, as the details of infirm power amounting to ₹36.17 crore submitted by the petitioner, duly audited by chartered accountant, the adjustment of (-)₹29.07 crore as on COD of Unit- I and ₹7.09 crore as on COD of unit-II made on account of revenue earned from infirm power in order dated 8.2.2016 would be revised to zero.

12. Consequent upon the adjustment in values in regard to sale of infirm power, the table under para 42 of the order dated 8.2.2016 in Petition No. 198/GT/2013 stand revised as under:

	As on COD of unit-I	As on COD of unit-II
Capital cost including IDC, FC and FERV, etc. after un-discharged liabilities	338278.29	562319.30
IDC, FC and FERV, etc	51584.32	98039.80
Capital cost excluding IDC, FC and FERV, etc.	286693.97	464279.50
Pro rata reduction and adjustment due to IEDC as on COD	822.00	2288.00
Capital cost excluding IDC after pro rata reduction in IEDC	285871.97	461991.50
Adjustment due to infirm power	0.00	0.00
Pro rata reduction on account of cost overrun due to time overrun of activities	1164.00	2358.00
Capital cost excluding IDC	284707.97	459633.50

Disallowance of actual capital expenditure till the completion of COD of Unit-I and Unit-II

13. The petitioner has submitted the statement of actual expenditure vis- a vis award value in civil packages based on the materials filed before the Commission as under:



(₹ in crore)

Activity	Award value	Actual capital expenditure till the completion or COD whichever is earlier	Difference between actual expenditure and award value
Main plant and offsite civil works	286	488.28	202.26
Chimney and chimney elevators	23	41.86	18.86
C.W system and make up water system civil	57	98.93	41.93
TOTAL	366	629.07	263.05

14. The petitioner vide affidavit 12.11.2014 had submitted that there had been no increase in contract packages due to time overrun from scheduled COD till actual COD of the generating station and the escalation was due to increase in price and quantity value up to the scheduled COD only. The petitioner has further submitted that the actual capital expenditure in these packages till actual COD also included the value of free issue materials such as reinforcement steel, cement, etc. by the petitioner. The petitioner has stated that the Commission in its order dated 8.2.2016 had allowed the difference between the actual expenditure and the award value while computing the cost overrun for the period condoned instead of allowing the expenditure in full which is an error apparent in the said order. The petitioner has reiterated that no price escalation amount beyond the scheduled delivery date in the contract agreement has been paid or included in the capitalization value and hence the Commission ought to have allowed the expenditure on this count. Accordingly it has prayed that the order may be reviewed.

15. The respondent, TANGEDCO has submitted that there is no error apparent on the face of the order dated 8.2.2016 since the Commission has calculated the difference in actual expenditure and award value amounting to ₹ 263.05 crore and has disallowed the excess expenditure of ₹ 35.22 crore for time overrun disallowed in respect of Unit-I and II after considering the judgment dated 27.4.2011 of the Tribunal in Appeal No. 72 of 2010. The petitioner in its rejoinder has reiterated that



there has not been any increase in the expenditure in contract packages due to time overrun. It has also clarified that the escalation was due to increase in price value and quantity and the petitioner had claimed the same. It has further stated that the expenditures also include cost of free issue material such as cement, reinforcement steel, etc.

16. We have examined the matter. In the order dated 8.2.2016, the Commission while considering the claim of the petitioner under this head has pro rata deducted the increase in cost of main plant package, civil work, etc. due to disallowance of time overrun based on the information furnished by the petitioner. The relevant portion of the said order is as under:

“38. As per the information furnished by petitioner vide its affidavits dated 20.6.2014 and 12.11.2014, there is cost overrun due to time overrun. On account of the delay in the declaration of commercial operation of the units, the Overhead expenses in Establishments under IEDC, such as salary, transportation, Office expenditure etc. have increased. This requires a pro-rata disallowance of overhead expenses for the period of 5.63 months as on COD of Unit-I and 6.5 months as on COD of Unit-II. The petitioner vide affidavit dated 12.11.2014 has submitted that there has not been any increase in prices in contract packages due to time overrun from scheduled COD to actual COD. It has also submitted that there is increase in works cost (contract price) from original estimate to actual award since estimate was done in November, 2007 and major packages could be awarded only after investment approval of Phase-II and due to this package cost has increased by the time they were actually awarded. However, the petitioner has stated that there has not been any increase in contract price from awarded value due to time overrun from scheduled COD to actual COD as of now (Form 5D). The activities in which there is cost overrun due to time overrun are as stated below.

(₹ in crore)			
Activity	Award value	Actual Capital expenditure till the completion or COD whichever is earlier	Difference between Actual Expenditure & award value
Main plant & offsite civil works	286	488.28	202.26
Chimney & chimney elevator	23	41.86	18.86
C.W. system & makeup water system civil	57	98.93	41.93
TOTAL	366	629.07	263.05

39. The pro rata reduction of cost overrun due to time overrun of the activities is computed as under:

Total exceeded Capital expenditure till	Total period taken from zero date to actual	Time overrun disallowed (months)	Time overrun disallowed for Unit-I (in crore)	Time overrun disallowed for Unit-II (in crore)



the completion or COD whichever is earlier (` in crore)	COD (months)					
	Unit-I	Unit-II	Unit-I	Unit-II		
(1)	(2)	(3)	(4)	(5)	(6)=[((1)x(4))/(2)] /2	(7) ((1)x(5))/(3)
263.05	63.60	72.5	5.63	6.5	11.64	23.58

17. It was noticed that there was a difference of ₹202.86 crore in main plant and offsite civil works, ₹18.86 crore in chimney and chimney elevator and ₹41.93 crore in C. W system and makeup water system civil in actual expenditure as on COD and award value. It is also noticed that the increase in package includes escalation from scheduled COD to actual COD. The petitioner vide affidavit dated 10.6.2014 has mentioned the date of award and date of start of work from the main plant package as 18.2.2008 and by affidavit dated 12.11.2014 has mentioned that there is no increase in prices in contract packages due to time overrun from scheduled COD to actual COD. Accordingly, from the submission of the petitioner, it is clear that the increase in prices in contract packages is after award of the work to the actual COD. There is time overrun involved in the actual COD as against the scheduled COD and as a result there is price escalation in the actual expenditure incurred in the main plant package and accordingly the Commission in its order dated 8.2.2016 had deducted the escalation on pro- rata basis. The commission in its order had considered the increase in actual expenditure in the main plant civil works as compared to awarded value based on figures furnished in Form 5D. The petitioner was directed to furnish the escalation in prices of different contract packages due to time overrun and in response the petitioner vide affidavit date 12.11.2014 had submitted that there has not been any increase in contract packages due to time overrun from scheduled COD to actual COD. Thus it is evident that there is increase in contract prices from original estimate to actual award since estimate was done in November 2007 and some major packages could be awarded only after the



investment approval of phase-2 and due to this the package had increased by the time they were actually awarded. The petitioner has now submitted that the actual expenditure in these packages till actual COD also included the value of free materials issued such as reinforcement steel, cement, etc by the petitioner. This submission of the petitioner as above do not find mention in Form 5D in the affidavit dated 20.6.2014. Accordingly, based on the information available on record, the Commission had rejected the claim of the petitioner on prudence check. The petitioner having not submitted the relevant clarifications/ information as sought for by the Commission on this issue, the petitioner cannot be heard to say that the Commission had not considered its submissions while disallowing the claim. In our considered view, there is no error apparent on the face of the order as the Commission had considered the available information submitted by the petitioner while deciding the issue in order dated 8.2.2016. Accordingly, the prayer of the petitioner for review of order dated 8.2.2016 on this ground is rejected.

Disallowance of the claim for share application money as part of equity

18. The petitioner in the original petition had claimed debt equity as on COD based on the funds deployed towards the entire project and accordingly claimed the share application money as part of equity for the purpose of claiming return on equity. The petitioner has pointed out that the Commission while rejecting the claim of the petitioner had failed to consider that in the case of the petitioner, the share application money had been considered as part of equity and the whole amount was converted into equity when shares were issued to shareholders (NTPC and TNEB). The petitioner had also submitted that the apprehension of the Commission that the share application money could be refunded to the shareholders, pending allotment of shares was unwarranted and has led to an error apparent in the order dated 8.2.2016. The petitioner has further submitted that though the Commission had



granted liberty to approach the Commission with all supporting documents at the time of revision of tariff based on truing up exercise, the claim may be considered in this petition.

19. The respondent, TANGEDCO has submitted that the claim of the petitioner is liable to be rejected as it had not furnished the details of conversion of share application money into equity shares and also in terms of Commission's order dated 31.8.2015.

20. The matter has been examined. It is noted that the petitioner has furnished balance sheet as on COD of the generating station which had indicated share application money pending allotment of share. Though the said funds had been deployed for capital purpose, servicing of the same has been allowed as loan since, as on the date of COD, the same had not attained the colour of equity capital. Similar view was taken by the Commission in its order dated 31.8.2015 in Petition No. 199/GT/2013 and hence the decision on this issue arrived at by the Commission is consistent with the earlier decisions and in line with the relevant regulations and the documents available on record. It is also noticed that the auditor's certificate enclosed with the review petition do not indicate the details as regards the date of conversion of share application money into equity capital. It is however noticed that the petitioner has filed Petition No. 277/GT/2014 for determination of tariff of this generating station for the period 2014-19 and the same is yet to be disposed of. It is also noticed that the share application money has been converted into equity after COD of Unit-III (26.2.2015) i.e during the tariff period 2014-19. Accordingly, this issue is not considered in this order. However the same would be considered at the time of determination of tariff of the generating station for the period 2014-19. The prayer of the petitioner for review on this ground is disposed of.



Disallowance of notional IDC

21. The petitioner has submitted that the Commission in order dated 8.2.2016 had disallowed the notional IDC for the period 2003-04 to 2007-08 claimed by the petitioner by considering the rate of interest @10.75% per annum up to the first drawl of loan on the ground that there was no actual loan of the generating station and the petitioner company as a whole before 26.6.2008 and hence there was no weighted average rate of interest available to work out the notional IDC before the actual drawl of loan. The petitioner has further submitted that the Commission ought to have decided rate of interest based on certain criteria for calculation of notional IDC instead of rejecting the same in order dated 8.2.2016. It has also submitted that no opportunity was given to submit any alternate rate of interest in case the Commission was not to consider the rate of interest submitted by the petitioner for calculation of notional IDC. The petitioner has accordingly prayed that the rate of interest of REC loans for the years 2003-04 to 2007-08 may be considered while calculating the notional IDC. The petitioner has added that the Commission has allowed notional IDC only up to the date of scheduled COD and not till the extended COD and the same is an error apparent on the face of the order. Accordingly it has prayed that the review may be allowed on the ground as stated above.

22. The matter has been examined. It is observed that the Commission had disallowed the notional IDC considering the fact that there was no actual loan for the station or the petitioner company as a whole before 26.6.2008. Accordingly, no weighted average rate of interest was available to work out the notional IDC before the actual drawl of loan. In this background, IDC has not been allowed prior to the actual drawl of loan. We find no error apparent on the face of the order and accordingly the prayer of the petitioner for review of order on this ground is not maintainable.



Rate of interest on loan considered as 11.25% instead of 11.27% in 2013-14 as claimed

23. The petitioner has submitted that for the year 2013-14 under Phase-II Drawl-I loan, the Commission has erroneously considered the rate of interest on loan as 11.25% instead of 11.27% as claimed by the petitioner. Accordingly, the petitioner submitted that an error has occurred in the order while calculating the weighted average rate of interest on loan. The respondent, TANGEDCO has submitted that the Commission has considered the rate of interest as 11.25% based on the details furnished by the petitioner and hence there is no ground for review in order dated 8.2.2016

24. The matter has been examined. It is noticed that the rate on interest on loan for the year 2013-14 under Phase-II was inadvertently considered as 11.25% instead of 11.27% as claimed by the petitioner. This error is arithmetical/ clerical error and the same is required to be corrected. Accordingly, review on this ground is allowed and the apparent error is rectified by consideration of 11.27% as rate of interest on loan for 2013-14 under Phase-II drawl in this order.

Double deduction of un-discharged liabilities in capital cost

25. The petitioner has submitted that un-discharged liabilities of ₹4819.09 lakh has been erroneously deducted twice in the order dated 8.2.2016 while computing the capital cost as on COD of the generating station. Accordingly, the petitioner has submitted that the error may be corrected and the tariff of the generating station may be revised.

26. The respondent, TANGEDCO has submitted that the petitioner had not furnished the details of double deduction made while arriving at the capital cost and accordingly, the claim of the petitioner may not be allowed.



27. The matter has been examined. It is observed that the additional capital expenditure of ₹2921.00 lakh for the period 25.8.2013 to 31.3.2014 is after adjustment of liabilities of ₹ 4819.09 lakh. Thus it is observed that there has been a double deduction of ₹4819.09 lakh towards un-discharged liabilities in the table under para 58 of the order dated 8.2.2016. This is an error apparent on the face of the record and the same is required to be rectified. Accordingly, review on this ground is allowed and the order dated 8.2.2016 is revised accordingly.

Allowance of IDC in loan capital

28. The petitioner has submitted that as per the loan agreement dated 28.3.2008 between the petitioner and Rural Electrification Corporation, the petitioner was to pay the interest quarterly. It has also submitted the Commission in order dated 8.2.2016 has observed that drawl of the fresh loan has been made to meet the repayment obligation which became part of loan capital and the same was allowed to be capitalized. The petitioner has further submitted that while calculating the average rate of interest in Form 13 the same was not considered in the calculation of capital cost and hence there is an error apparent in the order dated 8.2.2016. The petitioner has pointed out that the Commission had erroneously ignored the loan of ₹920.34 crore drawn for interest payment and ₹ 93.86 crore additional drawl aggregating ₹ 1014.20 crore for calculation of interest which is an error on the face of the record. Accordingly it has prayed that the review may be allowed on this ground.

29. The respondent, TANGEDCO has submitted that the Commission has relied on the agreement dated 6.3.2010 executed between the petitioner and REC while determining the IDC/ Financing charges. It has also submitted that the detail of unit wise apportionment of IDC has not been furnished by the petitioner and therefore, the claim of the petitioner is liable to be rejected.



30. We have examined the matter. The Commission while determining the IDC/ financing charges in order dated 8.2.2016 has observed as under:

“47.As per agreement with REC, the petitioner was required to pay the interest quarterly. It is also evident from the submissions of the petitioner that the drawl of fresh loan has been made to meet the repayment obligation as well, which in our opinion becomes part of loan capital, borrowed for the project. Hence the same is allowed to be capitalized.”

31. From the above, it is observed that the Commission in order dated 8.2.2016 had considered the drawl of the said loan made by the petitioner to meet the repayment obligations while calculating the IDC and has also allowed the same to be capitalized. Accordingly, we find no error apparent on the face of order dated 8.2.2016 and review on this ground is rejected.

Apportionment of projected additional capital beyond COD of Unit-II

32. The petitioner has submitted while apportioning the projected additional capital expenditure beyond COD of Unit-II, the Commission has applied the equity ratio of 27.19% as on COD of Unit-I instead of equity ratio of 30% as per regulations. It has further submitted that the Commission ought to have considered the equity ratio of 30% for additional capitalization beyond COD of Unit-II. Accordingly, the petitioner has submitted that there is error apparent on the face of the order dated 8.2.2016 and prayed that the same may be rectified.

33. The respondent, TANGEDCO has submitted that the Commission has considered the equity in terms of Regulation 7(a) of the 2009 Tariff Regulations and hence there is no error apparent in the Tariff order dated 8.2.2016 and the claim of the petitioner may be disallowed.

34. The matter has been examined. It is observed that while apportioning the add-cap beyond COD of Unit-II, the debt- equity ratio of 27.19% as worked out as on COD of Unit-I has been considered. In the present case, the debt equity ratio of



71.59:28.41 was arrived at as on COD of Unit-II based on the actual capital expenditure incurred, the actual debt incurred and the actual equity deployed. It is however noticed that the debt – equity ratio arrived at as on COD of Unit-II should have been considered for admitted additional capital expenditure beyond the COD instead of considering the debt-equity ratio of 71.59:28.41 in terms of Clause (1) of Regulation 12 of the 2009 Tariff Regulations. This according to us is an error apparent on the face of the record and the same is required to be rectified. Accordingly, the prayer of the petitioner is allowed and the debt equity ratio is considered as on COD of Unit-II has been considered for admitted additional capital expenditure beyond the COD of Unit-II instead of DER as arrived at COD of Unit-I.

Computation of fixed charges

35. The petitioner has submitted that the Commission in para 96 of the order dated 8.2.2016 had determined the annual fixed charges from the respective COD of the units of the generating station till 31.3.2014. It has also submitted that the fixed charges were approved up to COD of Unit-I and II on pro rata basis for the period only without indicating the same on annualized basis. This according to the petitioner is an error apparent on the face of the order and has prayed that the review may be allowed.

36. The respondent, TANGEDCO has submitted that the annual fixed charges for the year 2012-13 has been determined from COD of Unit-I to 31.3.2013 and from 1.4.2013 to 24.8.2013 and thereafter for combined units from 25.8.2013 to 31.3.2014. The respondent has further submitted that though the fixed charges has been computed on annual basis for each year, the petitioner may collect the same from the actual COD of the respective units and accordingly the Commission has determined it on pro rata basis. Therefore, there is no error apparent on the face of the order and review on this ground may be rejected.



37. We have examined the matter. The submission of the petitioner is not acceptable. The Commission in its order dated 8.2.2016 had determined the annual fixed charges considering the COD of Unit-I from 29.11.2012 to 31.3.2013 and for the combined units - I and II from 1.4.2013 to 24.8.2013 and 25.8.2013 to 31.3.2014. Thus as per consistent practice, the annual fixed charges were determined on pro-rata basis for this generating station also. We find no reason to deviate the order on this ground and accordingly the prayer of the petitioner is rejected.

Suo moto Correction

38. It has been noticed that there has been gap of funding of actual cash expenditure as per Form 14-A.

		As on COD of Unit-I	As on COD of Unit-II
A	Capital expenditure (Form 14-A)	697090.00	785116.00
B	Equity (share capital)	189800.00	228721.22
C	Debt (Actual)	482233.00	544343.00
D	Share application money	19921.22	13500.00
E	Gap in Funding (A-B-C-D)	5135.78	(-) 1448.22

39. Accordingly, debt equity ratio has been revised as under:

		As on COD of Unit-I	As on COD of Unit-II
A	Capital expenditure (Form 14-A)	697090.00	785116.00
B	Equity (share capital)	189800.00	228721.22
C	Debt: Debt (Actual) + share application money	502154.22	557843.00
	Total	691954.22	786564.22
	Debt in percentage	72.57%	70.92%
	Equity in percentage	27.43%	29.08%

40. The gap in the funding for Unit-I of the generating station given in the above table has not been explained by the petitioner. Accordingly the said gap in for Unit-I has been considered as un-discharged liability and has been deducted from the capital cost allowed for the purpose of tariff on the respective COD. As per balance sheet, an amount of ₹267.66 lakh for Unit-I and ₹5651.04 lakh for Unit-II has been



shown under Reserve and Surplus as negative entries. For the purpose of calculation of debt equity ratio, the negative entries as above have not been considered while determining the equity capital as on COD of Units-I and II. In addition to this, certain linkage errors in Annexure-I of the order dated 8.2.2016 pertaining to calculation of weighted average rate of interest on actual loan has been rectified and the same is annexed to this order.

41. Accordingly, in line with the findings in the review petition, the capital cost and the components of tariff have been revised as stated in subsequent paragraphs.

Capital cost

(₹ In lakh)

	Unit-I (COD- 29.11.2012)	Total
Capital Cost excluding IDC, FC & FERV	284707.97	459633.50
Add: IDC	38660.53	73139.32
Add: Financial Charges	213.29	329.88
Add: Notional IDC	879.35	1533.54
Less: unexplained gap of funding	5135.78	-
Opening capital cost including IDC	319325.36	534636.24
Add: Discharge of liabilities	6446.56	6446.56
Add: Additional capitalization	28.00	28.00
Capital cost as on 31.3.2013	325799.92	-
Add: Discharge of liabilities	2289.01	2289.01
Add: Additional capitalization	479.00	479.00
Capital cost as on 24.8.2013	328567.93	543878.80
Add: Discharge of liabilities		12076.36
Add: Additional capitalization		2921.00
Capital cost as on 31.3.2014		558876.17

Return of Equity

(₹ in lakh)

	2012-13	2013-14	
	29.11.2012 to 31.3.2013	1.4.2013 to 24.8.2013	25.8.2013 to 31.3.2014
	1 Unit	1 Unit	2 Units
Gross Notional Equity	87589.54	89365.48	158151.90
Additional Capitalisation	1775.94	759.25	4361.01
Closing Equity	89365.48	90124.74	162512.91
Average Equity	88477.51	89745.11	160332.40
Return on Equity (Base Rate)	15.50%	15.50%	15.50%
Tax rate	0.00%	0.00%	0.00%
Rate of Return on Equity (Pre Tax)	15.50%	15.50%	15.50%
Return on Equity (Pre Tax)	4608.81	5564.20	14910.91



Interest on loan

(₹ in lakh)

	2012-13	2013-14	
	29.11.2012 to 31.3.2013	1.4.2013 to 24.8.2013	25.8.2013 to 31.3.2014
	1 Unit	1 Unit	2 Units
Gross Notional loan	231735.82	236434.43	385726.91
Cumulative Repayment of loan upto previous year	0.00	5379.78	11939.95
Net Opening loan	231735.82	231054.65	373786.95
Addition due to additional capitalization	4698.61	2008.76	10636.35
Repayment of Loan during the period	5379.78	6560.17	16452.66
Net Closing loan	231054.65	226503.24	367970.64
Average loan	231395.23	228778.94	370878.80
Weighted Average Rate of Interest on loan	11.286%	11.374%	11.420%
Interest on loan	8776.71	10408.64	25412.02

Depreciation

(₹ in lakh)

	2012-13	2013-14	
	29.11.2012 to 31.3.2013	1.4.2013 to 24.8.2013	25.8.2013 to 31.3.2014
	1 Unit	1 Unit	2 Units
Opening Gross Block	319325.36	325799.92	543878.80
Additional capital expenditure	6474.56	2768.01	14997.36
Closing Gross Block	325799.92	328567.93	558876.17
Average Gross Block	322562.64	327183.92	551377.48
Rate of Depreciation	4.9628%	5.0126%	4.9732%
Remaining Depreciable Value	290306.38	289085.75	484299.78
Depreciation	5379.78	6560.17	16452.66

Interest on Working capital

(₹ in lakh)

	2012-13	2013-14	
	29.11.2012 to 31.3.2013	1.4.2013 to 24.8.2013	25.8.2013 to 31.3.2014
	1 Unit	1 Unit	2 Units
O&M expense	215.08	270.67	812.00
Receivables (Fixed Charges)	3896.32	4696.02	12535.09
Receivables (Variable Charges)	2918.88	3474.18	17264.62
Maintenance Spare	516.20	649.60	1948.80
Secondary Fuel oil cost	103.14	122.76	352.34
Fuel Stock	2815.74	3351.42	16912.29
Total Working Capital	10465.36	12564.64	49825.14
Rate of Interest	13.50%	13.20%	13.20%
Interest on Working Capital	1412.82	1658.53	6576.92



Annual Fixed charges

(₹ in lakh)

	2012-13	2013-14	
	29.11.2012 to 31.3.2013	1.4.2013 to 24.8.2013	25.8.2013 to 31.3.2014
	123 days	146 days	219 days
	1 Unit	1 Unit	2 Units
Return on Equity	4608.81	5564.20	14910.91
Interest on Loan	8776.71	10408.64	25412.02
Depreciation	5379.78	6560.17	16452.66
Interest on Working Capital	1412.82	1658.53	6576.92
O&M Expenses	2580.98	3248.00	9744.00
Secondary fuel oil cost	618.83	736.56	2114.02
Total annual fixed charges	23377.94	28176.10	75210.54

42. Review petition 28/RP/2016 is disposed of in terms of the above.

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

Sd/-
(A. S. Bakshi)
Member

Sd/-
(A. K. Singhal)
Member

