

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 77/GT/2013**

**Coram:**

**Shri Gireesh B. Pradhan, Chairperson  
Shri A.K. Singhal, Member**

**Date of order: 11.10.2017**

**In the matter of**

Revision of order dated 12.11.2015 in terms of the judgment of the Appellate Tribunal for Electricity dated 15.5.2017 in Appeal Nos. 35 of 2016 and 45 of 2016

**And**

**In the matter of**

Determination of generation tariff in respect of 262.5 MW gross capacity sale from Kamalanga Power Plant of GMR-Kamalanga Energy Ltd to GRIDCO for the period from 1.4.2013 to 31.3.2014.

**And**

**In the matter of**

GMR-Kamalanga Energy Limited,  
Skip House, 25/1 Museum Road,  
Bangalore-560 025

**.....Petitioner**

**Vs**

1. GRIDCO Limited  
Janpath, Bhubaneswar-751022, Orissa
2. Western Electricity Supply Company of Orissa Limited  
Burla, Sambalpur, Orissa
3. Southern Electricity Supply Company of Orissa Limited  
Courtpetta, Berhampur (GM) 760004
4. North Eastern Electricity Supply Company of Orissa Limited  
Januganj, Balasore, Orissa
5. Central Electricity Supply Utility of Orissa  
2nd Floor, IDCO Tower, Janpath,  
Bhubaneswar-751022

**.....Respondents**

**Parties Present:**

Shri Amit Kapur, Advocate, GKEL  
Shri Vishrov Mukerjee, Advocate, GKEL  
Shri Rohit Venkat Advocate, GKEL



Shri V. Akshaya Babu, GKEL  
Shri Rohan Jadhav, GMR  
Shri Tarun Mahajan, GMR  
Shri Jatinder Kumar, GMR  
Shri R.B. Sharma, Advocate, GRIDCO

### **ORDER**

Petition No. 77/GT/2013 was filed by the Petitioner, GMR-Kamalanga Energy Ltd, for determination of tariff of Kamalanga Thermal Power Plant, Stage-I, (262.5 MW) ('the generating station') for the period from 2013-14 in terms of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (the 2009 Tariff Regulations) and the Commission vide order dated 12.11.2015 determined the fixed charges for the said period as under:

	<b>30.4.2013 to 11.11.2013</b>	<b>12.11.2013 to 24.3.2014</b>	<b>25.3.2014 to 31.3.2014</b>
Depreciation	6399.35	7019.47	499.55
Interest on Loan	12174.95	12928.63	890.47
Return on Equity	5117.72	5684.55	447.63
Interest on Working Capital	2421.96	3198.64	263.94
O&M Expenses	3757.02	5098.82	402.54
Secondary fuel oil cost	781.87	1156.82	98.73
<b>Total fixed charges</b>	<b>30652.87</b>	<b>35086.93</b>	<b>2602.87</b>

2. Aggrieved by the order dated 12.11.2015, the Petitioner had filed Review Petition (Petition No. 3/RP/2016) on the issues (a) Computation of Non EPC cost (b) Computation of Pre-operative expenses; and (c) Computation of IDC based on time over-run. The Petitioner also filed Appeal No. 35/2016 before the Appellate Tribunal for Electricity (the Tribunal) on various issues, including the disallowance of time overrun on account of (a) acquisition of land and (b) Change in Visa Policy. Similarly, the respondent, GRIDCO also filed Appeal No. 45/2016 against the order dated 12.11.2015 before the Tribunal on various issues, including the jurisdiction of this Commission to regulate the tariff of this generating station.



3. While so, the Commission by order dated 17.3.2017 disposed of the review petition (with the following observations

*“13.....Since the decision of the Tribunal on the issue of time over-run would necessarily have an impact on the computation of IDC, we are of the considered view that the correction of errors in the order, if any, as stated by the petitioner, in the review petition could be undertaken only after a final decision of the Tribunal in the said appeal. We are therefore not inclined to consider the relief prayed for by the petitioner at this stage.*

*14. As stated, the petitioner has submitted that the review petition has been filed for correction of errors in the computation of Non-EPC cost, pre-operative expenses and computation of IDC.....*

*15. It has been given to understand that the appeal filed by the petitioner is pending before the Tribunal. In line with the above provision of CPC, the errors, if any, in the order dated 12.11.2015 would be undertaken after the final decision of the Tribunal in the said appeal filed by the petitioner. Alternatively, the petitioner will be at liberty to approach the Commission for rectification of the errors pursuant to the judgment of the Tribunal in the said appeal.”*

4. Thereafter, the Tribunal vide judgment dated 1.8.2017 dismissed Appeal No. 45/2016 filed by GRIDCO. On the issue of jurisdiction, the Tribunal, referred to its full bench judgment dated 7.4.2016 in Appeal No. 74/2014 (filed by GRIDCO) and the judgment of the Hon'ble Supreme Court dated 11.4.2017 in Appeal No. 5415 of 2016 (filed by GRIDCO against Tribunal judgment dated 7.4.2016) and upheld the jurisdiction of the Central Commission for determination of tariff of the generating station of the Petitioner. The Appeal No. 35 of 2016 filed by the Petitioner was also rejected by judgment dated 1.8.2017, except to the extent of time overrun from 27.7.2009 to 9.2.2010 due to the delay in possession of land by the Petitioner. The relevant portion of the judgment dated 1.8.2017 in Appeal No. 35/2016 is extracted as under:

*“10. After having a careful examination of all the arguments and submissions of the rival parties on various issues raised in the present Appeal, our observations are as follows:-*

*xxxxx*

*xi. In view of our discussions at 10 b) A. ii to x above we hold that the initial delay in possession of land to the Appellant was due to reason beyond the control of the Appellant and the impugned findings of the Central Commission denying time overrun in initial delay of handing over possession of land to the Appellant by GoO/IDCO is set aside. The Central Commission is hereby directed to rework and grant consequential reliefs to the Appellant by considering time overrun from 27.7.2009 to 9.2.2010 i.e. initial delay in handing over possession of land to the Appellant for all the three units of the Station.”*



5. Accordingly, the Tribunal in the said judgment dated 1.8.2017 ordered as under:

*“We are of the considered opinion that the issues raised in the present Appeal are devoid of merit except on one issue related to time overrun due to initial delay in handing over possession of land to the Appellant by GoO/IDCO which needs fresh consideration by the Central Commission in line with our decision taken above and accordingly the Appeal and I.A. are hereby partially allowed.*

*The Impugned Order dated 12.11.2015 passed by the Central Commission is confirmed except to the extent above. Matter is hereby remanded to the Central Commission only to the extent to grant consequential reliefs to the Appellant on account of our decision of allowing initial delay in handing over possession of land to the Appellant as ordered above”*

6. In compliance with the above directions of the Tribunal and the Commission's order dated 17.3.2017, the tariff of the generating station determined vide order dated 12.11.2015 in Petition No. 77/GT/2013 is required to be revised. It is noticed that Petition No. 61/GT/2016 filed by the Petitioner for revision of tariff for the period from COD to 31.3.2014 after truing exercise and approval of tariff for the period 2014-19 in respect of this generating station is pending and the hearing is yet to be completed. In this background, we, in line with the directions of the Tribunal, allow the time overrun of 6.5 months (from 27.7.2009 to 9.2.2010) and revise the capital cost as on COD of units of the generating station, by this order. However, consequential reliefs, based on the revised capital cost, shall be carried out at the time of disposal of Petition No. 61/GT/2016. We proceed accordingly.

7. The Commission in order dated 12.11.2015 had allowed/disallowed the time overrun for Units I, II and III as under:

<b>Units</b>	<b>Schedule COD as per LOA</b>	<b>Revised scheduled COD</b>	<b>Time overrun allowed (in months)</b>	<b>Time overrun disallowed (in months)</b>
I	27.11.2011	15.9.2012	3	14
II	27.1.2012	26.2.2013	6.5	15
II	27.3.2012	11.05.2013	7	17

8. Considering the time overrun of 6.5 months (from 27.7.2009 to 9.2.2010) allowed for initial delay in handing over possession of land to the Petitioner for all three units, the time overrun allowed (against the actual time overrun) for Units-I, II & III and the schedule COD (reset) for the



purpose of computation of IDC in the table under para 41 of the order dated 12.11.2015 shall stand revised as under:

Units	Schedule COD as per LOA	Revised scheduled COD	Time overrun allowed (in months)	Time overrun disallowed (in months)
I	27.11.2011	15.9.2012	9.5	7.5
II	27.1.2012	26.2.2013	13	8.5
II	27.3.2012	11.05.2013	13.5	10.5

9. The pro-rata reduction in overhead expenses based on the time overrun disallowed for the units as allowed in the table under para 52 of the order dated 12.11.2015 is revised as under:

	Total period taken from zero date to actual COD (months)	Time overrun disallowed (months)	Overhead Expenses (₹ in crore)	Pro-rata reduction = (col.4x col.3) /col.2 (₹ in crore)
(1)	(2)	(3)	(4)	(5)
Unit-I	47	7.5	157.16	25.08
Unit-II	47.5	8.5	258.28	46.22
Unit-III	51	10.5	367.74	75.71

10. Based on the above, the capital cost as on COD of Units-I, Unit-II and Unit-III of the generating as approved in the table under para 54 of order dated 12.11.2015 is revised as under:

(₹ in lakh)			
Description	Actual capital expenditure as on COD of Unit-I (30.4.2013)	Actual capital expenditure as on COD of Unit-II (12.11.2013)	Actual capital expenditure as on COD of Unit-III/Station (25.3.2014)
Land cost	4399.00	4399.00	10136.00
EPC cost with taxes & duties	195662.00	310768.00	412966.00
Non- EPC Costs	7446.00	21236.00	26012.00
Pre-operating costs	17497.00	30482.00	44146.00
(after pro-rata deduction due to time overrun)	(20005.00-2508.00)	(35104.00-4622.00)	(51717.00-7571.00)
IDC & FC	30567.00	57620.00	82732.00
<b>Capital Cost including IDC &amp; FC</b>	<b>255571.00</b>	<b>424505.00</b>	<b>575992.00</b>



11. The capital cost as on COD of the units till 31.3.2014 along with other components of tariff as approved in order dated 12.11.2015 shall be revised at the time of truing up/approval of tariff of the generating station in Petition No. 61/GT/2016. With this, the directions contained in the judgment of the Tribunal dated 1.8.2017 in Appeal No. 35/2016 stands implemented.

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

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

