

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.268/GT/2012**

Determination of Tariff for BTPS for the Tariff period 2009-14.

**Petition No.269/GT/2012**

Determination of Tariff for MTPS-1 to 3 for the Tariff period 2009-14.

**Petition No.270/GT/2012**

Determination of Tariff for T & D for the Tariff period 2009-14.

**Petition No.271/GT/2012**

Determination of Tariff for MHS for the Tariff period 2009-14.

**Petition No.272/GT/2012**

Determination of Tariff for PHS for the Tariff period 2009-14.

**Petition No.273/GT/2012**

Determination of Tariff for THS for the Tariff period 2009-14.

**Petition No.274/GT/2012**

Determination of Tariff for MTPS-4 for the Tariff period 2009-14.

**Petition No.275/GT/2012**

Determination of Tariff for CTPS for the Tariff period 2009-14.

**Petition No.276/GT/2012**

Determination of Tariff for DTSPS for the Tariff period 2009-14.

**Date of hearing: 5.2.2013**

Coram: Shri V.S.Verma, Member  
Shri M.Deena Dayalan, Member

Petitioner: DamodarValley Corporation, Kolkatta

Respondents: WBSEDCL, JSEB & ors

Parties present: Shri M. G. Ramachandran, Advocate, DVC

Shri Anand K Ganesan, Advocate, DVC  
Shri P.Jena, DVC  
Shri D.K.Aich, DVC  
Shri P.Bhattacharya, DVC  
Shri A. Biswas, DVC  
Shri R.B.Sharma, JSEB  
Shri Amit Kapur, Advocate, BSAL  
Shri G.Shroff, Advocate, BSAL  
Shri R.Gupta, Advocate, BSAL  
Shri M.Prahladka, BSAL  
Shri Rajiv Shankar Dvivedi, Advocate, SAIL-BSL  
Ms. Tulika Mukherji, Advocate, SAIL-BSL  
Ms. Divya Pandey, Advocate  
Shri Hiren Dasan, Advocate, BDG Power & Metals Ltd  
Shri Devashish Bhamke, BFCL

### **RECORD OF PROCEEDINGS**

These petitions have been filed by the petitioner, Damodar Valley Corporation for determination of generation and inter-state transmission tariff in respect of the generating stations and transmissions systems of the petitioner for the period 1.4.2009 to 31.3.2014 and in compliance with the directions contained in the order of the Commission dated 23.6.2011 in Petition No. 240/2009.

2. During the hearing, the learned counsel for the petitioner submitted that in terms of the directions of the Commission and the letters of the Commission calling for submission of additional information, the petitioner has filed the relevant information and the Commission may proceed to determine the tariff for the period 2009-14.

3. The learned counsel for the objector, M/s Bhaskar Sharchi Alloys (HT consumer) intervened and submitted that since copies of the affidavit/additional information submitted by the petitioner before the Commission had not been served upon them, difficulty was being faced in filing of replies in all the petitions. He also pointed out to certain letters addressed to the petitioner requesting for certain documents/information and submitted that no documents/information were forthcoming from the petitioner. The learned counsel prayed that the petitioner may be directed to submit consolidated information of all the filings made in the matter so that replies could be filed by the objector. In response, the learned counsel for the petitioner referred to the said letters sent by the objector and submitted that the information sought for by the objector related only to the annual accounts of the petitioner for the period 2010-11 and 2011-12 and the question of supplying copies to the objector does not arise as the same does not form part of the records in the instant case. He also submitted that the petitioner has served copies of the petitions on the respondent beneficiaries and had posted the same

on the website of the petitioner company for a period of 30 days in compliance with the regulations of the Commission and the question of serving copies on all the objectors who are HT consumers of the petitioner does not arise. The learned counsel further pointed out that the HT consumers should have obtained copies of the petition from the website of the petitioner company and filed their replies and prayed that the submissions made by the objectors be rejected.

4. On a specific query by the Commission as to why copies of the petitions were not taken /downloaded from the website of the petitioner company, the learned counsel for the objector clarified that the copies of the additional information filed have not been posted in the website of the petitioner company and that the petitioner was duty bound to serve copies on the objectors, in the interest of justice and transparency. The learned counsel for the petitioner objected to the same. The Commission however observed that the objectors should have either obtained copies from the petitioner or the same could have been obtained from the Commission after inspection of the records in the said cases.

5. The learned counsel for another objector, Maithon Alloys Ltd (HT consumer) while pointing out that replies have been filed by it in respect of all the petitions separately filed by the petitioner in terms of the directions of the Commission including Petition No. 240/2009, copies of additional information filed by the petitioner has not been received as the same were not available on the website of the petitioner company. He prayed that the that the petitioner may be directed to submit consolidated information of all the filings made in the matter so that response to the same could be filed by the objector. Objecting to the submission of the learned counsel for the petitioner that Petition No. 240/2009 has been disposed of since separate petitions have been filed, the learned counsel for the objector pointed out that since certain documents filed in Petition No. 240/2009 have been referred to by the petitioner in the revised petitions filed in terms of the directions of the Commission and since the Petition No.240/2009 has not been disposed of by any order of the Commission, the Petition No. 240/2009 form part and parcel of the proceedings in the instant case. After hearing the parties, the Commission observed that Petition No. 240/2009 has not been finally disposed of and shall be disposed of along with the present petitions. The Commission clarified that since station-wise petitions have been filed in place of the consolidated Petition No.240/2009, the pleadings in the station-wise petitions will be considered for tariff determination.

6. On being pointed out by the Commission that the additional information filed by the petitioner were based on the directions/clarifications sought for by the Commission through the process of technical validation of data and information and the Commission is required to determine the final tariff within a period of two months as directed by the Hon'ble High Court in its judgment dated 7.12.2012, the learned counsel for Maithon Alloys Ltd submitted that if needed, steps could be taken by it to approach the Hon'ble High Court, Calcutta with a prayer for extension of the time limit for disposal of the tariff petitions. The Commission observed that all parties including the objectors need to

cooperate for completion of pleadings and hearing of the petitions so that the Commission can go ahead with determination of tariff.

7. The Commission directed the learned counsel for objector Maithon Alloys Ltd. to make his submissions. Learned counsel made his preliminary submissions in Petition No. 269/2011 as under:

(a) The Commission should have rejected these petitions as not maintainable in terms of Section 64(3) of the Act, since no admitted capital cost has been determined by the Commission as on 31.3.2009, in accordance with Regulation 5(a) of the 2009 Tariff Regulations. Also, the petitioner has revised these figures from time to time, which cannot also be considered.

(b) Most of the additional capital expenditure claimed for the period 2009-14 is beyond the scope of Regulation 9 of the 2009 Tariff Regulations and the same is not acceptable. Moreover, the issues claimed in respect of this generating station are already under challenge in the Civil Appeal filed by the petitioner and is pending before the Hon'ble Supreme Court. The legal issues involved in the matter have been submitted in the reply filed by the objector.

(c) The expenditures claimed by the petitioner in respect of the Corporate and Regional offices are required to be apportioned to their respective shares of the generating station for consideration.

8. In response, the learned counsel for the petitioner submitted that the claims made in the petition are strictly in terms of the judgments of the Tribunal and was subject to the final outcome of the Civil Appeals pending before the Hon'ble Supreme Court.

9. The learned counsel for the respondent, JSEB submitted that it has filed its reply to the petitions pertaining to hydro generating stations of the petitioner and prayed that it may be granted some more time to file its reply in respect of other generating/transmission systems of the petitioner. None was present on behalf of West Bengal State Electricity Distribution Company Limited.

10. Considering the submissions of the learned counsel for the objectors and the respondent, JSEB and keeping in view the directions of the High Court, Calcutta in its judgment dated 7.12.2012, the Commission directed as under:

(a) Soft Copies (CD) of the petition/additional information filed by the petitioner in these petitions shall be handed over to the learned counsel appearing for the objectors, the names of which shall be given to the learned counsel for the petitioner;

(b) Copies of the petition/additional information filed by the petitioner shall be posted on the web site of the petitioner and shall be kept till the disposal of the petitions.

(c) The respondents and the objectors including HT consumers shall file their replies in these petitions, with copy to the petitioner, who shall file its rejoinder thereafter.

12. The learned counsel for the petitioner undertook to hand over the CDs containing details of the petition/ additional information's filed in the matter to the learned counsels appearing for the objectors (as per list submitted) in course of the day.

13. Accordingly, the respondent/objectors are directed to file their replies/responses on or before 4.3.2013, with advance copy to the petitioner, who shall file its rejoinder on or before 11.3.2013. The parties are directed to complete their pleadings before the said date. No request for extension of time to file replies and/or for postponement of the hearing shall be entertained.

14. Matters shall be listed for final hearing on **21.3.2013**.

By order of the Commission

Sd/-  
(T Rout)  
Joint Chief (Law)