CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Petition No. 197/MP/2016

Coram:

Shri P.K.Pujari, Chairperson
Dr. M.K.Iyer, Member
Shri I.S.Jha, Member

Date of Order: 4th September, 2019

In the matter of

Petition seeking requirement of revenue in relation of pension and gratuity contribution for the control period 1.4.2014 to 31.3.2019 in respect of the employees of all the generating stations, transmission activity, including retired personnel of DVC

And

In the matter of

Damodar Valley Corporation
DVC Towers, VIP Road,
Kolkata- 700054 **…..Petitioner**

Vs

1. West Bengal State Electricity Distribution Company Limited
Block 'DJ' Sector-11, Salt Lake City,
Kolkata-700091

2. Jharkhand State electricity Board
Engineering Building, HEC, Dhurwa,
Ranchi-834004

3. Delhi Transco Ltd
Shakti Sadan, Kotla Road,
New Delhi- 110002

4. BSES Rajdhani Power Limited
BSES Bhawan, Nehru Place,
New Delhi- 110019

5. BSES Yamuna Power Limited
2nd Floor, Shakti Kiran Bldg., Karkardooma,
New Delhi- 110092

6. TATA Power Delhi Distribution Limited
1st Floor, Cennet Scada Building,
Near PP-3 Grid, Pitampura,
Delhi- 110034

7. Haryana Power Generation Company Limited
Shakti Bhavan, Sector- 6, Panchkula- 134109

8. Punjab State Power Corporation Limited
Interstate Billing, Thermal Sheds, T1-A,
Patiala- 147001

9. Kerala State Electricity Board
8th Floor, Vydyuthi Bhawan,
Thiruvananthapuram- 695004

10. M.P. Power Management Company Limited
Shakti Bhavan, Vidyut Nagar, Rampur,
Jabalpur- 482008

11. Bangalore Electricity Supply Company Ltd
Krishna Rajendra Circle, Bangalore-560001

12. Hubli Electricity Supply Company Ltd
P.B. Road, Nava Nagar, Hubli -580025, Karnataka

13. Gulbarga Electricity Supply Company Ltd
Main Road, Gulbarga-585102, Karnataka

14. Mangalore Electricity Supply Company Ltd
Paradingm Plaza, A.B. Shetty Circle,
Mangalore-575001

15. Chamundeshwari Electricity Supply Corp. Ltd.
Corporate Office, 927, L.J. Avenue,
New Kantharajaurs Road, Saraswathipuram,
Mysore-570009

16. Tata Steel Limited,
PGP works, General Office (W-175)
Jamshedpur- 831001 **.....Respondents**

17. Damodar Valley Power Consumers Association **.......Objector**

Parties present:

Shri M.G. Ramachandran, Advocate, DVC
Ms. Anushree Bardhan, Advocate, DVC
Ms. Swapna Seshadri, Advocate, PSPCL
Shri Anand K. Ganesan, Advocate, PSPCL
Shri Ashwin Ramanathan, Advocate, PSPCL
Shri Ravi Sharma, Advocate, MPPMCL
Shri Rajiv Yadav, Advocate, DVPCA
Ms. Ranjana Roy Gavai, Advocate, TPDDL
Ms. Vasudha Sen, Advocate, TPDDL
Ms. Shefali Sobti, TPDDL
Shri R.B. Sharma, Advocate, BRPL
Shri Mohit Mudgal, Advocate, BRPL
Shri Sanjay Srivastava, BRPL

ORDER

The Petitioner, Damodar Valley Corporation (DVC) has filed this Petition seeking the following reliefs:

> *"(a) admit the present Petition in respect of the revenue requirements of DVC for the power business as a whole;*
>
> *(b) allow DVC to recover the Pension and Gratuity contribution as claimed by DVC over and above the O&M expenses provided for in Regulation 29 of the Tariff Regulations 2014 and allow DVC to apportion the same amongst the various generating stations and transmission assets; and*
>
> *(c) pass such further order or orders as this Commission may deem just and proper in the circumstances of the case."*

2. The Petitioner is a statutory body established by the Central Government under the Damodar Valley Corporation Act, 1948 (hereinafter referred to as the 'DVC Act') for the development of the Damodar Valley, with three participating Governments, namely, the Central Government, the Government of West Bengal and the Government of Jharkhand. The Petitioner has been engaged in the generation, transmission, distribution, bulk/ wholesale and retail sale of electricity to consumers in the Damodar valley. The Petitioner owns and operates the following generating stations:

Bokaro TPS
Chandrapura TPS (Units-1 to 3)
Chandrapura TPS (Units- 7&8)
Durgapur TPS
Mejia TPS (Units 1 to 3)
Mejia TPS (Unit-4)
Mejia TPS (Units- 5&6)
Mejia TPS (Units- 7&8)
Maithon HPS
Panchet HPS
Tilaiya TPS
Durgapur Steel TPS (Units- 1&2)
Raghunathpur TPS
Koderma TPS (Units- 1 & 2)

3. The Commission by its various orders had determined the tariff of the aforesaid generating stations for the respective years of the tariff period in terms of the applicable regulations.

Submissions of Petitioner

4. In the above background, the following are the submissions of the Petitioner:

(a) The Petitioner, in the aforesaid tariff petitions, has claimed, amongst others, the Pension & Gratuity (P&G) contribution in respect of each of the five years forming part of period 2014-19 and impact of pay revision in 2016 on projected basis. The relevant table filed with each petition has been submitted as Annexure-A to this Petition.

(b) The P&G contribution has been claimed in the said Petition in addition to the O&M expenses. The aggregate P&G contribution related to the Power business of DVC, which DVC is entitled under the revenue requirements to be decided by the Commission has been apportioned to various generating stations and transmission assets in accordance with the principles approved by this Commission in earlier years.

(c) During the hearing of some of the tariff petitions, the Petitioner had pointed out the difference between the P&G contribution of DVC as compared to the Contributory Provident Fund (CPF) and the reason as to why O&M expenses inclusive of employees cost and CPF will not cover the revenue requirements of the Petitioner on account of such P&G contribution.

(d) In course of the arguments, it transpired that the Petitioner should file separate petition in regard to the admissibility of the P&G contribution over and above the O&M expenses provided on a normative basis in the CERC (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as 'the 2014 Tariff Regulations'). By this petition, the Petitioner is providing the reasons and justifications as to why the P&G contribution in the case of DVC need to be allowed independent of the CPF forming part of the O&M expenses.

(e) The contribution to P&G fund cannot possibly be said to be covered by the quantum of CPF factored in O&M expenses on normative basis by the Commission. While the CPF is in respect of the actual amount of contribution during the relevant year and does not involve adjustments for that year in future years, the P&G contribution is to be constantly adjusted for past period of services also and is dependent on the actuary valuation to be undertaken from time to time. The period of past services rendered by the employees including the deficit amount of contribution in the past in order to meet the pension payment to the employees upon their retirement need to be necessarily considered. Similarly, in case the contribution already made is in excess of the requirement, suitable adjustment is made through actuary valuation. There is, therefore, implication of contribution not restricted to actual current year fixed contributions as in CPF.

(d) The amount of P&G contribution in the case of DVC is significantly more in the recent past. i.e. from 1.1.2016 onwards on account of the following factors:

(i) Previously, there was no fund maintained for receiving the P&G contribution. The P&G liability was being discharged by DVC on revenue basis (pay as you go basis) as in the case of any other Government Department. However, as per the mandate of the C&AG and in accordance with directions given by the Central Government, DVC has now to maintain the P&G fund. Accordingly, the contributions are being made not only for the present year of all the working employees but also for all the past years of services including for persons who have retired from DVC in the past.

(ii) There has been a substantial increase in P&G payments to the employees on account of wage revision pursuant to the decision taken by the Central Government, during 2006 and 2016. These higher contributions to be made are not confined to the current year but also relate to the payment for the past services including the services rendered by the retired employees.

(iii) The liability under CPF ceases with the year in which it is contributed. There is no actuary valuation or adjustment for upward revision on account of any wage revision etc. The pension payment is payable by DVC after the retirement of the employees on a continuous basis along with revision of pension from time to time. Further, the pension liability continues even after the death of the employee and family pension needs to be given to the widows and other eligible members under the Pension Scheme.

(e) Even as per AS-15, these aspects have been dealt separately. The disallowance of P&G contribution would have serious financial impact on DVC as the entitlement of revenue contribution of Rs. 1446.50 crore in aggregate in respect of all generating stations and transmission assets of DVC will stand disallowed. Thus, P&G contribution is a necessary, unavoidable and legitimate claim based on statutory mandate.

(f) In the facts and circumstances above, the normative O&M expenses for DVC's generating stations and transmission assets for the period 2014-19 under the 2014 Tariff Regulations based on the actual expenditure incurred during the years 2008-09 to 2012-13 does not include the P&G contribution. In those years, P&G contribution was allowed by the Commission in addition to the O&M expenses. Accordingly, no part of P&G contribution of DVC related to power business were factored in the O&M expenses during the base years and accordingly, should be considered as being included in the normative O&M expenses under Regulation 29 of the 2014 Tariff Regulations. In view of this, the revenue requirements on account of P&G contribution cannot be said to have been covered under CPF forming part of O&M expenses.

5. Based on the above, the Petitioner has prayed that the Commission may consider the P&G contribution made by DVC independently and subject to the prudence check and allow the same over and above the O&M expenses under the 2014 Tariff Regulations. The Petitioner has also prayed that the Commission may in exercise of its "Power to Relax" as well as "inherent power" consider the claim of DVC for P&G contribution, in the event, the Commission is of the view that the Tariff Regulations does not cover the same. Accordingly, the Petitioner has made the prayers as in Para 1 above.

6. The Commission after hearing the learned counsel for the Petitioner on 8.12.2016 issued notice to the Respondents on admissibility. During hearing on 21.8.2018, the learned counsel for the Petitioner had clarified that the Petitioner had filed Appeal against the orders passed by the Commission in the tariff

petitions and the same was pending before the APTEL. Accordingly, the hearing in the Petition was adjourned with directions to the parties to complete pleadings in the matter.

7. The Respondents MPPMCL, BRPL, PSPCL and the objector M/s Damodar Valley Power Consumers Association have filed their replies to the Petition. The Petitioner has filed its rejoinder to the said replies. The Petitioner has filed additional submissions in the matter.

Submissions of the Respondents

8. The Respondent No. 7, MPPMCL vide its affidavit dated 30.10.2018 has submitted that the Commission has considered the actual O&M expenses of the various generating units owned by different companies like NTPC, DVC, NLC etc. to arrive at the normative O&M expenses for the period 2014-19 and therefore, the statement of the Petitioner that no part of P&G contribution of the Petitioner related to power business were factored in the O&M expenses during the base year is factually incorrect and without basis. It has further submitted that if the employee expenses have to be allowed over and above normative O&M expenses, then all other normative parameters will also be required to be examined to assess the overall loss/ gain to the Petitioner for arriving at a reasonable and justifiable proposition. The Respondent No. 4, BRPL vide affidavit dated 7.12.2018 has submitted that all the reasons and justifications furnished by the Petitioner tend to claim double benefits to get CPF as well as P&G contribution which is not permissible. It has further submitted that the statement of the Petitioner that significant increase in the P&G contribution in the recent past (on account of the plea that there was no fund maintained for receiving P&G fund contribution) is purely the problem of DVC and is required to be resolved by DVC and cannot be thrusted on the new beneficiaries. The Respondent No. 5, PSPCL

vide its affidavit dated 24.1.2019 has submitted that the Commission has notified the O&M expense norms in a conscious manner and after thorough analysis of the requirements of various plants. The Petitioner cannot claim O&M expenses despite being given a special treatment under the 2014 Tariff Regulations and, therefore, Pension, Gratuity and CPF cannot be claimed over and above the O&M expenses allowed. The Respondent has further submitted that if DVC has created P&G under Section 40, it will automatically get a pass through under Regulation 53(2)(iv) of the 2014 Tariff Regulations. Therefore, DVC cannot claim a relaxation on the basis that normative O&M expenses are not sufficient for it. The Respondent has further submitted that there cannot be any further relaxation when the contours of relaxation have been incorporated in Regulation 53(2)(iv) itself. The objector, DVPCA vide affidavit dated 1.2.2017 has submitted that the Petition is not maintainable, since the issue of P&G contribution has been conclusively decided by this Commission in the tariff orders for the period 2014-19. It has further submitted that DVC is seeking P&G contribution for 2009-14 even though, the same has been disallowed by this Commission in the truing up order for the said period. DVPCA has further submitted that the liberty granted by the Commission in the tariff order dated 20.9.2016 in Petition No. 353/GT/2014 was premised upon the fulfilment of certain conditions by DVC which evidently has not been fulfilled in the present case. Accordingly, DVPCA has submitted that the Petition is not maintainable and the same may be rejected.

Rejoinder of the Petitioner

9. The Petitioner vide its rejoinder affidavit dated 8.12.2018 has clarified that the contribution to P&G Fund Trust are made based on actuarial valuation undertaken from time to time by actuaries appointed for purpose. It has submitted that the actuarial valuation is in regard to all employees and workmen

of DVC working in the power as well as other activities who are eligible for P&G scheme. The Petitioner has submitted that based on the actuarial valuation, the contribution to P&G Fund Trust related to employees related to power is decided based on the number of employees working in the power sector vis-à-vis the total number of employees. It has stated that in regard to the CPF, the amount contributed is maintained by DVC but dedicated to the employees and workmen. In view of this, the Petitioner has submitted that there is a difference between P&G contribution of DVC as compared to the CPF. Referring to the judgment dated 23.7.2018 of the Hon'ble Supreme Court in Bhaskar Shrachi Alloys Limited v DVC [(2018) 8 SCC 281], the Petitioner has stated that the contribution to P&G fund has to be considered over and above the normative O&M expenses to be allowed for the Petitioner, DVC under the 2014 Tariff Regulations. The Petitioner has further stated that the Commission in its tariff orders for the period 2014-19 has simpliciter rejected the claim of DVC for expenditure towards P&G on the ground that the same relates to 2009-14 tariff block and that the same can be met through the normative O&M expenses specified by the Commission. The Petitioner has reiterated that that the present Petition has been filed under Regulations 54 & 55 of the 2014 Tariff Regulations. The Petitioner has also undertaken to file all requisite details with regard to its claim of P&G contribution as and when directed by the Commission including the actuarial valuation forming the basis of the quantum claimed in the Petition. Accordingly, the Petitioner has prayed that the submissions of the Respondents may be rejected.

10. Thereafter, the Petition was heard on 15.2.2019 and the Commission after hearing the learned counsels for the parties, reserved its order in the Petition. Based on the submissions of the parties and the documents available on record,

we proceed to examine the prayers of the Petitioner in this petition, as stated in the subsequent paragraphs.

Analysis & decision

11. The Commission while determining the tariff of the generating & transmission systems of the Petitioner had, in its order dated 3.10.2006, in Petition No. 66/2005 admitted the P&G liability of ₹153449.00 lakh during the period 2006-09 based on actuarial valuation. Subsequently, by order dated 6.8.2009 in Petition No. 66/2005, the Commission had allowed the Petitioner to recover 60% of the admitted P&G liability of ₹153449.00 lakh during 2006-09 period and the balance 40% of liability during 2009-14 in compliance of the directions contained in the judgment of APTEL dated 23.11.2007 in Appeal No.273/2006 and other connected appeals. In line with this, the Commission vide its order dated 8.5.2013 in Petition No. 272/2010 had allowed the recovery of an amount of ₹92069.40 lakh, being 60% of ₹153449.00 lakh towards Pension and Gratuity Fund for all its generating stations along with tariff for the period 2006-09 and ₹61379.60 lakh, being the balance 40% amount in five equal yearly instalments along with the tariff for the period 2009-14 (excluding Mejia TPS Unit-IV). In addition, 40% of the difference in the P&G liability as per Actuarial valuation (as on 31.3.2009 and as on 31.3.2006), amounting to ₹52897.69 lakh was allowed to be recovered as share of other generating stations & transmission system of the Petitioner (excluding Mejia TPS Unit-IV). Thus, the amount towards P&G liability for 2006-09 was allowed to be recovered by the Petitioner in five annual equal installments during the period 2009-14 in addition to the staggered P&G contribution allowed by the Commission for the period 2006-09. A total amount of ₹206346.69 lakh was allowed to the Petitioner for creation of the P&G fund. The recovery of P&G fund has been upheld by the Hon'ble Supreme Court in

its judgment dated 23.7.2018 in the Civil Appeal Nos. 971-973/2008 (BSAL V DVC & ors) filed by the HT Consumers.

12. The Petitioner, in its tariff petitions for true-up for the period 2009-14, had made additional claims towards P&G liability based on actuarial valuation. This prayer was, however, rejected by the Commission by its various orders on the ground that the P&G liability formed part of the O&M expense norms specified under the 2009 Tariff Regulations. Aggrieved by this decision, the Petitioner has challenged the same before APTEL (Appeal Nos. 268-275 of 2016) and the same is pending. Similar prayer of the Petitioner in respect of the tariff Petitions for the period 2014-19 was also rejected by the Commission on the ground that the Petitioner's contribution to P&G fund is required to be met through the normative O&M expenses allowed to the generating station.

13. Though the P&G liability claims of the Petitioner for the periods 2009-14 & 2014-19 were rejected by the Commission as aforesaid, the Commission vide its order dated 20.9.2016 in Petition No. 353/GT/2014 (approval of tariff for Panchet Hydel Power Station, Units-I &II for the period 2014-19) had granted liberty to the Petitioner to file separate Petition for consideration of P&G liability admissible for all generating stations under the 2014 Tariff Regulations. The relevant portion of the order is extracted hereunder:

> *"72. During the hearing, the learned counsel for the petitioner has submitted that the Commission may consider allowing the contribution to P&G fund, keeping in view the addition/deletion of employees and the differential amount on account of pay revision of employees thereby impacting the pension fund. The learned counsel of the petitioner further submitted that out of pension and gratuity fund, the pension fund has not been considered in the normative O&M expenses admissible for all generating stations of the petitioner under the 2014 Tariff Regulations. We have examined the matter. Considering the fact that the issue of contribution to P&G fund is common to all the generating stations/T&D systems of the petitioner and since full details are not available on records, we do not consider the prayer of the petitioner at this stage. However, we are inclined to grant liberty to the petitioner, to claim the said relief through a separate application along with all relevant details, so that a holistic view can be taken in the matter, in accordance with law."*

14. Based on the liberty granted as above, the present Petition has been filed by the Petitioner claiming the P&G contribution of ₹3228.86 crore and the impact of pay revision from January 2016 for ₹420.27 crore with the prayer that the same may be considered and allowed over and above the normative O&M expenses specified under Regulation 29 of the 2014 Tariff Regulations.

(A) Decision on Maintainability

15. Before examining the claim of the Petitioner, we notice the preliminary objection raised by the Objector, DVPCA as regards 'maintainability' of the Petition. DVPCA has submitted that since the issue of P&G liability is pending for consideration of APTEL in the appeals filed by the Petitioner, revisiting this issue will create an anomalous situation. It is, however, noticed that the APTEL vide its order dated 29.10.2018 in IA No. 1235/2018 in Appeal No. 10/2017, has observed that pendency of appeal will not come in the way of consideration of this Petition on merits. The extract of the direction of APTEL is as under:

> *"……We make in clear that the Commission can proceed with hearing of the Petition No. 197/MP/2016 on merits and pendency of this appeal will not come in the way of such consideration. On the other hand, to a large extent, the controversies may be reduced between the parties."*

The Petition is therefore maintainable.

16. One more objection of DVPCA is that the liberty granted by Commission's order dated 20.9.2016 to file separate application was premised with fulfilment of conditions, namely, the submission of details which were not available earlier and since the Petitioner has not furnished any such details, the Petition is not maintainable. This submission of DVPCA merits no consideration. As stated above, the Commission, in order to take a holistic view, had granted liberty to the Petitioner to claim relief with regard to contribution to P&G fund by way of a separate application. The Petitioner while claiming the said relief has also

undertaken to file all requisite details, as and when directed by the Commission, including the actuarial valuation, which form the basis of the quantum claimed in the Petition. In view of this, the submission of the Objector, DVPCA is rejected and we hold that the Petition is maintainable.

(B) Decision on Merits

17. Having held that the Petition is maintainable, we now proceed to examine the relief prayed for the Petitioner, on merits. The Petitioner has filed this Petition under Section 79(1)(a) of the Act read with Regulation 54 & 55 of the 2014 Tariff Regulations for determination of revenue requirements and consequential tariff elements with regard to P&G contribution. It has submitted that the Commission, while deciding the normative O&M expenses for the Petitioner's generating stations and transmission assets for the period 2014-19 under the 2014 Tariff Regulations, had considered the actual expenditure incurred during the period from 2008-09 to 2012-13, which in fact, does not include the P&G contribution. Accordingly, the Petitioner has submitted that no part of P&G contribution of the Petitioner related to 'power business' were factored in the O&M expenses during the base years and, therefore, should be considered as having been included in the normative O&M expenses under Regulation 29 of the 2014 Tariff Regulations. The Petitioner has stated that the Commission may, therefore, consider the P&G contribution made by the Petitioner independently and subject to prudence check and allow the same over and above the normative O&M expenses, in exercise of its power under Regulation 54 (Power to relax) of the 2014 Tariff Regulations.

18. Per contra, the Respondent MPPMCL has opposed the prayer of the Petitioner and has submitted that, for all other generating stations (except Chandrapura and Durgapur), generic O&M expense norms have been prescribed by

the Commission. The Respondent has pointed out that the employee expenses covers a considerable part of O&M expenses and includes all types or employee related expenses like Salary, contribution to CPF, gratuity, pension on pay as you go basis etc., and has submitted that these expenses have been averaged out and escalated to arrive at the O&M norms for the period 2014-19. Referring to the explanatory memorandum to the draft regulations for the period 2014-19, the Respondent has submitted that the Commission had considered the actual O&M expenses of various generating units owned by different companies like NTPC, DVC and NLCIL etc., to arrive at the normative O&M expenses for 2014-19 and, therefore, the submission of the Petitioner that no P&G contribution related to power business was factored in the O&M expenses during the base year, is factually incorrect and without any basis.

19. The Respondent PSPCL has submitted that the normative O&M expenses specified under Regulation 29 of the 2014 Tariff Regulations was arrived at after giving due consideration to the requirements of various generating stations. It has submitted that the O&M expenses have been provided as per unit-wise design type of generating station and year-wise requirements. Referring to the provisions of Regulation 29, the Respondent has submitted that the Commission in a conscious manner and after thorough analysis of the requirements of various plants has specified the O&M expense norms. The Respondent has further stated that if the Petitioner has created the P&G fund under Section 40 of the DVC Act, 1948, it will automatically get a pass through in tariff under Regulation 53(2)(iv) of the 2014 Tariff Regulations.

20. The Respondent BRPL has submitted that the Petitioner has not furnished reasons and justifications as to why the P&G contribution is required to be allowed independent of the CPF fund forming part of O&M expenses. It has stated

that the reasons furnished by the Petitioner is intended to claim double benefits to get CPF as well as the P&G contribution, which is not permissible and thus the same is liable to be rejected.

21. We have considered the submissions. Regulation 29 of the Tariff Regulations, 2014 has been extracted hereunder:

"29. Operation and Maintenance Expenses:

(1) Normative Operation and Maintenance expenses of thermal generating stations shall be as follows:

(a) Coal based and lignite fired (including those based on Circulating Fluidised Bed Combustion (CFBC) technology) generating stations, other than the generating stations/units referred to in clauses (b) and (d):

(in Rs. Lakh/MW)

Year	*200/210/250 MW Sets*	*300/330/350 MW Sets*	*500 MW Sets*	*600 MW Sets and above*
FY 2014-15	*23.90*	*19.95*	*16.00*	*14.40*
FY 2015-16	*25.40*	*21.21*	*17.01*	*15.31*
FY 2016-17	*27.00*	*22.54*	*18.08*	*16.27*
FY 2017-18	*28.70*	*23.96*	*19.22*	*17.30*
FY 2018-19	*30.51*	*25.47*	*20.43*	*18.38*

Provided that the norms shall be multiplied by the following factors for arriving at norms of O&M expenses for additional units in respective unit sizes for the units whose COD occurs on or after 1.4.2014 in the same station:

200/213/250 MW	*Additional 5th& 6th units*	*0.90*
	Additional 7th& more units	*0.85*
300/330/350 MW	*Additional 4th& 5th units*	*0.90*
	Additional 6th& more units	*0.85*
500 MW and above	*Additional 3rd& 4th units*	*0.90*
	Additional 5th& above units	*0.85*

(b) Talcher Thermal Power Station (TPS), Tanda TPS, Badarpur TPS Unit 1 to 3 of NTPC and Chandrapura TPS Unit 1 to 3 and Durgapur TPS Unit 1 of DVC:

(in ₹ Lakh/MW)

Year	***Talcher TPS***	***Chandrapura TPS (Units 1 to 3), Tanda TPS, Badarpur TPWS (Unit 1 to 3), Durgapur TPS (Unit 1)***
2014-15	*43.16*	*35.88*
2015-16	*45.87*	*38.14*
2016-17	*48.76*	*40.54*
2017-18	*51.83*	*43.09*
2018-19	*55.09*	*45.80*

(c) Open Cycle Gas Turbine/Combined Cycle generating stations:

(in ₹Lakh/MW)

Year	***Gas Turbine/Combined***	***Small gas turbine***	***Agartala GPS***	***Advance F Class***

	Cycle generating stations other than small gas turbine power generating stations	power generating stations		Machines
2014-15	14.67	33.43	41.32	26.55
2015-16	15.59	35.70	44.14	28.36
2016-17	16.57	38.13	47.14	30.29
2017-18	17.61	40.73	50.35	32.35
2018-19	18.72	43.50	53.78	34.56

(d) Lignite-fired generating stations

(in ₹Lakh/MW)

Year	125 MW Sets	TPS-I of NLC
2014-15	29.10	38.12
2015-16	30.94	40.52
2016-17	32.88	43.07
2017-18	34.95	45.78
2018-19	37.15	48.66

(e) Generating Stations based on coal rejects:

Year	O&M Expenses (in ₹Lakh/MW)
2014-15	29.10
2015-16	30.94
2016-17	32.88
2017-18	34.95
2018-19	37.15

(2) The Water Charges and capital spares for thermal generating stations shall be allowed separately:

Provided that water charges shall be allowed based on water consumption depending upon type of plant, type of cooling water system etc., subject to prudence check. The details regarding the same shall be furnished along with the petition:

Provided that the generating station shall submit the details of year wise actual capital spares consumed at the time of truing up with appropriate justification for incurring the same and substantiating that the same is not funded through compensatory allowance or special allowance or claimed as a part of additional capitalisation or consumption of stores and spares and renovation and modernization.

(3) Hydro Generating Station

(a) Following operations and maintenance expense norms shall be applicable for hydro generating stations which have been operational for three or more years as on 01.04.2014:

(in Rs lakh)

Sr. No	Name of Station	2014-15	2015-16	2016-17	2017-18	2018-19
A. NHPC						
1	Bairasul	8696.25	9274.03	9890.19	10547.30	11248.06
2	Loktak	9673.64	10316.36	11001.78	11732.74	12512.26
3	Salal	14429.58	15388.29	16410.68	17501.01	18663.78
4	Tanakpur	7101.62	7573.45	8076.63	8613.24	9185.51
5	Chamera - I	10664.95	11373.53	12129.19	12935.05	13794.46
6	Uri	7419.40	7912.34	8438.04	8998.66	9596.54
7	Rangit	4576.46	4880.52	5204.78	5550.58	5919.36
8	Chamera - II	7256.54	7738.66	8252.82	8801.14	9385.89
9	Dhauliganga	7181.89	7659.05	8167.92	8710.59	9289.33
10	Dulhasti	13746.97	14660.32	15634.36	16673.10	17780.86
11	Teesta- V	8297.32	8848.59	9436.50	10063.46	10732.07
12	Sewa-II	6157.56	6566.67	7002.96	7468.24	7964.43
D. NHDC						
1	Indira Sagar	8607.73	9179.63	9789.52	10439.94	11133.57
2	Omkareshwar	4515.31	4815.30	5135.23	5476.42	5840.27
E. NEEPCO						
1	Kopili –I	6132.72	6540.18	6974.71	7438.11	7932.3
2	Ranganadi	7033.08	7500.36	7998.68	8530.12	9096.86
3	Doyang	3900.10	4159.22	4435.56	4730.26	5044.54
4	Khandong	1233.87	1317.89	1405.45	1498.82	1598.41
5	Kopili II	321.00	342.33	365.07	389.32	415.19
F. DVC						
1	Panchet	1546.42	1649.17	1758.74	1875.59	2000.20
2	Tilaiya	698.99	745.43	794.95	847.77	904.10

Sr. No	Name of Station	2014-15	2015-16	2016-17	2017-18	2018-19
3	Maithon	1914.46	2041.66	2177.31	2321.97	2476.24

(b) For hydro generating stations of Satluj Jal Vidyut Nigam Limited (SJVNL) and Tehri Development Corporation Limited (THDC), the O&M expenses shall be approved as per the following methodology:

i. The operation and maintenance expenses shall be derived on the basis of actual operation and maintenance expenses for the years 2008-09 to 2012- 13, based on the audited balance sheets, excluding abnormal operation and maintenance expenses, if any, after prudence check by the Commission.

ii. The normalised operation and maintenance expenses after prudence check, for the years 2008-09 to 2012-13, shall be escalated at the rate of 6.04% to arrive at the normalized operation and maintenance expenses at the 2012-13 price level respectively and then averaged to arrive at normalized average operation and maintenance expenses for the 2008-09 to 2012-13 at 2012- 13 price level. The average normalized operation and maintenance expenses at 2012-13 price level shall be escalated at the rate of 6.04% to arrive at the operation and maintenance expenses for year 2013-14 and thereafter escalated at the rate of 6.64% p.a., to arrive at the O&M expenses for the period FY 2014-15 to FY 2018- 19.

(c) In case of the hydro generating stations, which have not been in commercial operation for a period of three years as on 1.4.2014, operation and maintenance expenses shall be fixed at 2% of the original project cost (excluding cost of rehabilitation and resettlement works) for the first year of commercial operation. Further, in such case, operation and maintenance expenses in first year of commercial operation shall be escalated @6.04% per annum up to the year 2013- 14 and then averaged to arrive at the O&M expenses at 2013-14 price level. It shall be thereafter escalated @ 6.64%per annum to arrive at operation and maintenance expenses in respective year of the tariff period.

(d) In case of the hydro generating stations declared under commercial operation on or after 1.4.2014, operation and maintenance expenses shall be fixed at 4% and 2.50% of the original project cost (excluding cost of rehabilitation & resettlement works) for first year of commercial operation for stations less than 200 MW projects and for stations more than 200 MW respectively and shall be subject to annual escalation of 6.64% per annum for the subsequent years.

(4) Transmission system

(a) The following normative operation and maintenance expenses shall be admissible for the transmission system:

Norms for sub-stations (in Rs Lakh per bay)	2014-15	2015-16	2016-17	2017-18	2018-19
765 kV	84.42	87.22	90.12	93.11	96.20
400 kV	60.30	62.30	64.37	66.51	68.71

Norms for sub-stations (in Rs Lakh per bay)	2014-15	2015-16	2016-17	2017-18	2018-19
220 kV	42.21	43.61	45.06	46.55	48.10
132 kV and below	30.15	31.15	32.18	33.25	34.36
400 kV Gas Insulated Substation	51.54	53.25	55.02	56.84	58.73
Norms for AC and HVDC lines (in Rs Lakh per km)					
Single Circuit (Bundled Conductor with six or more sub-conductors)	0.707	0.731	0.755	0.780	0.806
Single Circuit (Bundled Conductor with four sub-conductors)	0.606	0.627	0.647	0.669	0.691
Single Circuit (Twin & Triple Conductor)	0.404	0.418	0.432	0.446	0.461
Single Circuit (Single Conductor)	0.202	0.209	0.216	0.223	0.230
Double Circuit (Bundled conductor with four or more sub-conductors)	1.062	1.097	1.133	1.171	1.210
Double Circuit (Twin & Triple Conductor)	0.707	0.731	0.755	0.780	0.806
Double Circuit (Single Conductor)	0.303	0.313	0.324	0.334	0.346
Multi Circuit (Bundled conductor with four or more sub-conductors)	1.863	1.925	1.989	2.055	2.123
Multi Circuit (Twin & Triple Conductor)	1.240	1.282	1.324	1.368	1.413
Norms for HVDC Stations					
HVDC Back-to-back stations (Rs. Lakh per 500 MW)	578	627	679	736	797
Rihand-Dadri HVDC bi-pole scheme (Rs. Lakh)	1511	1637	1774	1922	2082
Talcher- Kolar HVDC bi-pole scheme (Rs. Lakh)	1173	1271	1378	1493	1617
Balia-Bhiwadi HVDC bi-pole scheme (Rs. Lakh)	1537	1666	1805	1955	2119

Provided that operation and maintenance expenses for new HVDC bi-pole scheme for a particular year shall be allowed pro-rata on the basis of normative rate of operation and maintenance expense for 2000 MW, Talcher-Kolar HVDC bi-pole scheme for the respective year:

Provided further that the O&M expenses norms for HVDC bi-pole line shall be considered as Single Circuit quad AC line.

(b) The total allowable operation and maintenance expenses for the transmission system shall be calculated by multiplying the number of bays and kms of line length with the applicable norms for the operation and maintenance expenses per bay and per km respectively.

(c) The operation and maintenance expenses of communication system forming part of inter-state transmission system shall be derived on the basis of the actual O&M expenses for the period of 2008-09 to 2012-13 based on audited accounts excluding abnormal variations if any after prudence check by the Commission. The normalised O&M expenses after prudence check, for the years 2008-09 to 2012-13 shall be escalated at the rate of 3.02% for computing base year expenses for FY 2012-13 and 2013-14 and at the rate of 3.32% for escalation from 2014-15 onwards."

22. Regulation 54 and 55 are extracted hereunder:

"54. Power to Relax: The Commission, for reasons to be recorded in writing, may relax any of the provisions of these regulations on its own motion or on an application made before it by an interested person."

"55. Power to Remove Difficulty: If any difficulty arises in giving effect to the provisions of these regulations, the Commission may, by order, make such provision not inconsistent with the provisions of the Act or provisions of other regulations specified by the Commission, as may appear to be necessary for removing the difficulty in giving effect to the objectives of these regulations."

23. While the Petitioner has contended that the revenue requirements on account of P&G contribution cannot be said to have been factored in the O&M expenses, the Respondents have submitted that the Commission by a conscious decision and after thorough analysis of the requirements of various plants have specified the O&M expense norms and therefore the Petitioner is not entitled for any relief.

24. As stated earlier, the Commission in its various orders while determining the tariff of the generating stations and transmission systems of the Petitioner had rejected the claim of the Petitioner for P&G liability over and above the O&M expenses specified under the 2014 Tariff Regulations for the period 2014-19. To illustrate, the relevant portion of Commission's Order dated 17.2.2017 in Petition No. 180/GT/2015 (approval of tariff for Chandrapura Thermal Power Station Units 7&8 for the period 2014-19) is extracted hereunder:

"99. We have examined the matter. It is observed that the liability claimed by the petitioner pertains to the period 2009-14 and does not pertain to the tariff period 2014-19. In this regard it is observed that the Commission in Para 101 of the order dated 29.7.2016 in Petition No. 471/GT/2014, had disallowed the claim of the petitioner and had observed as under:

> *"101. As stated, the Commission in order dated 7.8.2013 in Petition No. 275/GT/2012 had allowed the recovery of 40% of the difference in liability as per Actuarial valuation 31.3.2009 and 31.3.2006 in five equal installments. The Commission in the said order had allocated the same on its generating stations except Mejia Unit 5 & 6. The Commission has revised the allocation and has also allocated share of P&G liability to Mejia Unit 5 and 6 on the basis of capital cost of ₹205946.66 lakh admitted by it as on 31.3.2009. It is observed that the O&M expenses norms specified by the Commission under the 2009 Tariff Regulations applicable for the period 2009-14 had taken into consideration the P&G liability as part of O&M expenses. The statement of reason of the 2009 Tariff Regulations, at para 20.3 clearly states that O&M cost for purpose of tariff covers expenditure incurred on the employees including gratuity, CPF, medical, education allowances etc. The expenses on account of CPF considered in Public Sector Undertakings take care of pension liability applicable in Government Undertaking."*

100. In line with the above observation, these expenses maybe met from the normative O&M Expenses allowed to the generating station. In view of this, the share of pension and gratuity is not allowed"

25. It is therefore evident from the above that the P&G claim of the Petitioner for the period 2014-19 was rejected based on the decision taken by the Commission in respect of P&G liability claimed by the Petitioner for the period 2009-14. While framing the 2014 Tariff Regulations, the Commission had sought details of the actual O&M expenses for the period from 2008-09 to 2012-13 incurred by the various generating units & transmission systems owned by different companies like the Petitioner, NTPC, NLCIL, PGCIL etc. Based on the details furnished, the O&M expenses incurred by the central generating stations, were broadly classified by the Commission into three heads namely (i) Repair and Maintenance Expenses (ii) Administrative & General Expenses and (iii) Employee Expenses. The employee expenses, in general, form a considerable part of O&M expenses and includes all types of employee related expenses like Salary, contribution to CPF, gratuity, pension, etc., However, the submission of the Petitioner that no part of P&G contribution related to power business were factored in the O&M expenses during the base years cannot be appreciated in the

absence of any supporting details/data being furnished by the Petitioner. As stated, the normative O&M expenses were specified under Regulation 29 of the 2014 Tariff Regulations after giving due consideration of the requirements of various generating companies. The Petitioner DVC has argued that in so far as the liability of pension for its employees is concerned, it is unique and different from those prevalent in other central generating stations regulated by this Commission since the revision of pension from time to time, is based on the decision of the Central Govt. However, the information/details available on record do not support the aforesaid submission of the Petitioner that it incurs extra expenditure on terminal benefits to the employees over and above the normative O&M expenses under the 2014 Tariff Regulations. In the above background and in the absence of any supporting details/data, the prayer of the Petitioner cannot be granted in this order. However, the Petitioner is at liberty to claim the said relief with all relevant information/ documents including the (a) actuarial valuation; (b) actual data duly audited and certified by the auditor and (c) annual accounts of the pension fund, at the time of truing up of tariff in terms of Regulation 8 of the 2014 Tariff Regulations.

26. The Petitioner, in this Petition, has also claimed the impact of pay revision on account of pending implementation of the 7th Central Pay Commission (CPC), on projected basis. This claim is, however, based on the recommendations of the 6th Pay Commission, as the recommendations of the 7th Pay Commission are yet to be implemented. It is noticed that the O&M expenses incurred by the central generating stations, including DVC, were broadly classified by the Commission into three heads namely (i) Repair and Maintenance Expenses (ii) Administrative & General Expenses and (iii) Employee Expenses. Accordingly, in the draft Tariff Regulations, the Commission had provided for a normative percentage (40%) of

Employee cost to the total O&M expenses for different type of generating stations. However, in the Statement of Reasons to the 2014 Tariff Regulations, the Commission had made it clear that as regards the increase in employee cost, it would like to review the same on case to case basis. The relevant portion is extracted hereunder:

> *"29.26. Some of the generating stations have suggested that the impact of pay revision should be allowed on the basis of actual share of pay revision instead of normative 40% and one generating company suggested that the same should be considered as 60%. In the draft Regulations, the Commission had provided for a normative percentage of employee cost to total O&M expenses for different type of generating stations with an intention to provide a ceiling limit so that it does not lead to any exorbitant increase in the O&M expenses resulting in spike in tariff. The Commission would however, like to review the same considering the macroeconomics involved as these norms are also applicable for private generating stations. In order to ensure that such increase in employee expenses on account of pay revision in case of central generating stations and private generating stations are considered appropriately, the Commission is of the view that it shall be examined on case to case basis, balancing the interest of generating stations and consumers."*

27. We notice that subsequently, the Petitioner has implemented the recommendations of the 7th Pay Commission for its employees with effect from 1.1.2016. In view of this, the impact of pay revision, after implementation of the 7th Pay Commission, is required to be examined on actual basis, on prudence check of the information/ details to be submitted by the Petitioner. Accordingly, we direct the Petitioner to furnish the actual impact of pay revision based on the recommendations of the 7th CPC, effective from 1.1.2016, along with details of HRA and transport allowance from July, 2017. The aforesaid details/information shall be furnished by the Petitioner at the time of truing up of tariff and the same will be considered in accordance with law.

28. Petition No. 197/MP/2016 is disposed of in terms of the above.

Sd/-	***Sd/-***	***Sd/-***
(I.S.Jha)	**(Dr. M.K. Iyer)**	**(P.K.Pujari)**
Member	**Member**	**Chairperson**