

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No: 364/MP/2019**

**Coram:**

**Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member**

**Date of Order: 23.12.2022**

**In the matter of**

Increase in Operation and Maintenance expenses incurred by NLC TAMILNADU POWER LIMITED (NTPL) on account of Pay/Wage Revision to Executives w.e.f. 1.1.2017, Non Executives & workmen w.e.f. 1.1.2017 & CISF w.e.f. 1.1.2016 posted to NLC TAMILNADU POWER LIMITED (NTPL) and other hikes like gratuity ceiling increase & GST impact etc. and to allow the recovery of the same from the beneficiaries of NLC TAMILNADU POWER LIMITED (NTPL) Power Station for the period 1.4.2014 to 31.03.2019.

**AND**

**IN THE MATTER OF**

NLC Tamilnadu Power Limited  
First Floor, No.8, Mayor Sathyamurthy Road,  
FSD, Egmore Complex of Food Corporation of India,  
Chetpet, Chennai-600031,  
Tamil Nadu, India

**..... PETITIONER**

**Vs**

1. Tamil Nadu Generation and Distribution Company Ltd.,  
NPKRR Maaligai, 144, Anna Salai,  
Chennai – 600002.
2. The Chief Engineer (Commercial), APPCC  
APTRANSCO, Vidyut Soudha,  
Khairatabad, Hyderabad-500082.
3. The Managing Director,  
Southern Power Distribution Company of A.P. Ltd. (APSPDCL)  
D.NO:19-13-65/A  
Srinivasapuram, Tiruchanoor Road  
Tirupathi (AP)-517501.
4. The Managing Director,  
Eastern Power Distribution Company of A.P. Ltd. (APEPDCL)  
P&T Colony, Seetammadhara, Vishakapatnam (AP)-503013



5. The Chief Engineer (Commercial), TSPCC  
TSTRANSCO,  
Vidyut Soudha,  
Khairatabad, Hyderabad-500082.
6. The Managing Director,  
Northern Power Distribution Company of Telangana Ltd. (TS NPDCL)  
H.No. 1 -1-504, Opp. NIT petrol Pump,  
Chaityanayapuri colony, Hanmkonda,  
Warangal (Telangana) - 506 001.
7. The Managing Director,  
Southern Power Distribution Company of Telangana Ltd. (TS SPDCL)  
2<sup>nd</sup> Floor, H.No.6-1-50, Mint Compound,  
Hyderabad-500063.
8. The Director(Commercial)  
Power Company of Karnataka Ltd,  
KPTCL Complex, Kaveri Bhavan,  
Bangalore – 560009.
9. The Managing Director,  
Bangalore Electricity Supply Company Ltd (BESCOM)  
Krishna Rajendra Circle  
Bangalore - 560 001.
10. The Managing Director,  
Mangalore Electricity Supply Company Limited (MESCOM)  
Corporate Office, MESCOM Bhavana, Bejai, Kavour Cross Road,  
Mangalore 575 004.
11. The Managing Director,  
CESC Mysore (Chamundeshwari Electricity Supply Co. Ltd.)  
Corporate Office No CA 29,  
Vijayanagar 2<sup>nd</sup> Stage  
Hinakal, Mysore -570017
12. The Managing Director,  
GESCOM (Gulbarga Electricity Supply Company Ltd.)  
Main road, Gulbarga, Gulbarga -585 102  
Karnataka.
13. The Managing Director,  
HESCOM (Hubli Electricity Supply Company Ltd.) Corporate office  
P.B.Road, Navanagar, Hubli - 580 025.
14. The Chief Engineer (Commercial & Tariff)  
Kerala State Electricity Board Ltd,



Vaidyuthi Bhavanam,  
Pattom, Thiruvananthapuram-695004.

15. The Superintending Engineer I (HOD),  
Puducherry Electricity Department,  
137, NSC Bose Salai, Puducherry – 605 001.

.... **RESPONDENTS**

**Parties present:**

Ms. Anushree Bardhan, Advocate, NLCIL  
Ms. Surbhi Kapoor, Advocate, NLCIL  
Shri Anukirat Singh, Advocate, NLCIL  
Ms. Srishti Kindaria, Advocate, NLCIL  
Shri Aneesh Bajaj, Advocate, NLCIL  
Shri D. Tulasi Kumar, NLCIL  
Shri J. Subbiah, NTPL  
Shri K. Srujan Babu, NTPL  
Shri S. Vallinayagam, Advocate, TANGEDCO

**ORDER**

The Petitioner, Neyveli Lignite Corporation Tamil Nadu Power Limited (hereinafter referred to as NTPL), has filed this petition seeking appropriate directions of the Commission to allow the Petitioner to increase and recover O&M expenses of NTPL generating station due to increase in employee cost on account of wage revision of executives w.e.f. 1.1.2017, non-executives and workmen w.e.f. 1.1.2017 and CISF security personnel with effect from 1.1.2016 posted in NTPL's Power Stations including Gratuity ceiling limit increase & GST impact. The Petitioner has filed the petition with the following prayers:

- a. *To take on record the present petition filed by NLC Tamil Nadu Power Limited (NTPL) in respect of the increase in the O&M expenses on account of Pay/Wage Revision to Executives w.e.f. 1.1.2017, Non Executives & workmen w.e.f. 1.1.2017 & CISF w.e.f. 1.1.2016 posted to NLC Tamil Nadu Power Limited (NTPL) and other hikes like gratuity ceiling increase & GST impact etc. for the period 1.4.2014 to 31.3.2019*
- b. *To allow the recovery of increase in O&M Expenses from beneficiaries of NLC Tamil Nadu Power Limited (NTPL) Power Station on account of Pay/Wage Revision to Executives w.e.f. 1.1.2017, Non Executives & workmen w.e.f. 1.1.2017 & CISF w.e.f. 1.1.2016 posted to NLC Tamil Nadu Power Limited (NTPL) and other hikes like gratuity ceiling increase & GST impact etc. for the period 1.4.2014 to 31.3.2019 as*



per table 5 under power to relax (Regulation 54) and power to remove difficulties (Regulation 55) and

c. To Pass such order(s) as deemed fit by the Hon'ble Commission.

### Submission of the Petitioner

2. The Petitioner is a generating company owned and controlled by the Central Government. The tariff for sale of electricity generated at the Petitioner's generating stations is regulated by the Commission in terms of clause (a) of sub-section (1) of Section 79 of the Electricity Act, 2003. The Commission vide order dated 11.7.2017 had approved the tariff of the generating station NTPL (2x500 MW) for the period from the date of commercial operation (COD) of Unit-I (18.6.2015) and Unit-II (29.8.2015) till 31.3.2019.

3. The Wage Revision for Non-Executives and workmen, which was due w.e.f. 1.1.2017, was implemented by the NTPL/NLCIL wage revision order dated 9.3.2019. The Pay revision to executives was due from 1.1.2017 and was implemented as per the guidelines of Department of Public Enterprises dated 3.8.2017. The pay revision order for executives was issued by NLCIL on 21.2.2018. The Payment of Gratuity Act, 1972 was amended on 28.3.2018 with increase of gratuity ceiling limit from Rs. 10 lakhs to Rs.20 lakhs. The pay revision of CISF security personnel deployed in the thermal stations took place w.e.f 1.1.2016.

4. The Petitioner in its submission has furnished the pay revision impact for Non Executives & workers, Executives, CISF, impact of gratuity and GST for the period 2016-17 to 2018-19 and tabulated as under:-

<b>(A) Non-Executives &amp; Workers Wage Revision</b>				<i>(Amount in Rs)</i>
<b>Station</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>TOTAL</b>
NTPL	30,60,282.22	1,17,21,987.97	1,19,73,923.41	2,67,56,193.60

  

<b>(B) Executives Pay Revision</b>				<i>(Amount in Rs)</i>
<b>Station</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>TOTAL</b>
NTPL	2,78,24,485.52	11,57,15,198.45	13,33,70,124.52	27,69,09,808.49

  

<b>(C) CISF Pay Revision</b>					<i>(Amount in Rs)</i>
<b>Financial Year</b>	<b>No. of personnel deployed</b>	<b>Pre-Revision Wages</b>	<b>Post-Revision Wages</b>	<b>Incremental Wages</b>	
2017-18 (from 5.5.2017)	74	3,62,75,814	4,58,04,003	95,28,189	



2018-19	74	3,73,80,481	5,80,15,680	2,06,35,199
<b>Total</b>				<b>3,01,63,388</b>

**(D) Impact of Gratuity ceiling limit increase to Rs.20 lakhs and other Terminal benefits w.r.t. Executives and Non Executives.**

*(Amount in Rs)*

Employee	2016-17	2017-18	2018-19	Total
Executives	4,07,081.00	17,35,288.08	24,29,439.75	45,71,808.83
Non-Executives	43,630.79	1,69,840.62	1,76,179.65	3,89,651.06
<b>Total</b>				<b>49,61,459.89</b>

5. The total financial impact of increase in O&M Expenses for the tariff period 2014-19 and the total station and year wise expenditure on account of all the above aspects are tabulated below.

**Total Financial Impact**

*(Amount in Rs)*

Particulars	2016-17	2017-18	2018-19	TOTAL
Wage Revision - Non-Executives	3060282	11721,988	11973923	26756194
Wage Revision - Executives	27824486	115715198	133370125	276909808
Gratuity - Executives	407081	1735288	2429440	4571809
Gratuity - Non-Executives	43631	169841	176180	389651
CISF	-	9528189	20635199	30163388
GST Impact	-	-	11039004	11039004
<b>Total increase in O&amp;M Expenses</b>	<b>31335480</b>	<b>138870504</b>	<b>179623870</b>	<b>349829854</b>

6. The Petitioner in the instant petition in the facts and circumstances mentioned above, has submitted that the Commission may be pleased to consider and allow the recovery of increase in O&M Expenses considering Pay/wage revision and other benefits to Employees, Executives w.e.f. 1.1.2017, Non Executives & workmen w.e.f. from 1.1.2017 & CISF security personnel w.e.f. 1.1.2016 posted to NLC Tamil Nadu Power Limited.

7. Accordingly, the Petitioner under Regulation 54 Power to Relax and Regulation 55 Power to Remove difficulty of 2014 Tariff Regulations, has prayed to allow the recovery of the above mentioned expenses.

**Reply filed by the Respondent KSEB Ltd.**



8. KSEB Ltd., the 14<sup>th</sup> Respondent in its reply vide affidavit dated 26.12.2019 has submitted that it is not against allowing revision of pay and other allowances to Petitioner's employees. However, the petitioner wants to recover the entire additional liabilities on account of revision of pay and allowances through the beneficiaries. Since the Commission has allowed liberal norms for fixing the O&M expenses, the actual O&M costs incurred by the utilities might be much less than the normative values approved by the Commission. Till date the petitioner has not furnished the details of the actual O&M cost incurred or not passed on the benefits earned through allowing higher O&M costs through the regulations.

9. KSEB has submitted that, there is no provision in the regulation to allow the increase in O&M expenses etc. due to wage revision etc. The Commission has finalized the regulations through consultative process including inviting comments of stake holders, public hearings etc. on the draft tariff regulations. However, even during the deliberations, Commission has not considered it appropriate to provide due consideration for the increase in O&M costs due to wage revision etc.

#### **Rejoinders to the reply filed by KSEB Ltd.**

10. The Petitioner NTPL in its rejoinder vide affidavit dated 24.1.2020 has submitted that that the pay revision is the additional commitment by the company in the employee cost which was not envisaged at the time of fixation of tariff and hence the same is claimed separately. Further, it is agreed that O&M expenses as approved by the commission for the period 2014-19 is based on the normal expenses that a generating station shall incur towards day to day upkeep of the plant. For Coal based thermal plant, the commission has considered annual escalation rate of 6.29% which is for meeting out the normal increase in the actual O&M expenses based on average CPI and WPI indices to cover the inflation rate. The wage revision will have a separate impact in the employee cost in a power generating company which could not be matched with normal escalation rate of 6.29% as considered by the Commission. The Petitioner has further submitted that in the statement of reasons it is mentioned that the increase in the employee cost due to wage revision would be considered appropriately by the commission balancing the interest of generating station and consumers.



In view of the above, the request for considering the impact of wage revision, which was not envisaged at the time of Tariff fixation, is appropriate and the Commission has the power to relax under Regulation 54 & power to remove difficulties under Regulation 55 of the Tariff Regulations, 2014, to recover the above-mentioned expenses on account of these aspects.

### **Reply filed by the Respondent TANGEDCO**

11. The Respondent TANGEDCO in its reply dated 8.1.2020 has submitted that the claim of the Petitioner in the present Petition does not fall under the ambit of “Regulation 54- Power to Relax” and “Regulation 55-Power to Remove Difficulties”. Further, the Commission has provided a normative percentage of employee cost (including the pay hikes) to the total O&M expenses for different type of generating stations and the O&M norms provides for escalation of 6.35% Year over Year, is on the higher side when compared to earlier Regulations. Allowing the inclusion of wage revision expenditures in the O&M will enrich the generators further at the cost of the beneficiaries and will affect the end consumer. NTPL has not furnished the statement showing the existing Basic Pay and the revised basic pay in respect of Non-Executives & workmen, Executives and CISF personnels, and has only furnished the yearwise impact of wage revision in respect of the above categories. Further, the data with regard to number of employees in each category is also not furnished in the Petition.

12. With regard to claim of the Petitioner towards gratuity ceiling limit increase, the Respondent TANGEDCO has submitted that the Tariff Regulations, 2019 does not provide for reimbursement of the expenses towards Gratuity as a separate item. Further, the Petitioner is not eligible to claim the expenditure under the Regulation 54- Power to Relax and Regulation 55 – Power to Remove Difficulty of Tariff Regulations, 2014.

13. Accordingly, the Respondent has requested the Commission to do a prudence check on the claim made by the Petitioner and to reject the claim of the Petitioner for revision of O&M expenses due to wage revision, duly taking into account of the provisions towards employee cost and wage revision already provided in the normative O&M expenses allowed by the Commission in the Tariff Regulations, 2014.



14. Further, the Respondent TANGEDCO vide affidavit dated 1.11.2022 in its reply has submitted as under:

- (a) The Petitioner has not furnished duly audited details.
- (b) The Petitioner may be directed to confirm that the water charges booked under O&M expenses do not include the consent fees claimed under water charges in Petition No. 528/GT/2020.
- (c) The petitioner has included RLDC fee and charges of Rs 2275.46 lakhs for the year 2015-16. The Petitioner while raising the Power Bills for the respective Generating Station for any month recovers the RLDC Fee and charges from the beneficiaries itself proportionate to the generation share. Hence, including the same under O&M expenses tantamount to double claim.
- (d) The transit and handling losses @ 0.8% for non-pithead stations has been included in the landed cost of fuel already as per Regulation 30 (8) of Tariff Regulations 2014-19 and the same has been serviced by the beneficiaries. Hence the Hon'ble Commission shall disallow the claim under O&M expenses in this regard.
- (e) Since all expenses related to employees have been already covered in the detail furnished, the CERC may direct the Petitioner to furnish the details of 'Other staff welfare expenses'.
- (f) The Petitioner in the petition has booked Rs 298.55 lakhs as 'Interest to Beneficiaries' under miscellaneous expenses. The Petitioner may be directed to furnish the details of any such interest shares with beneficiaries.
- (g) It is not clear how the corporate services of NLCIL can be booked under O&M expenses of M/s. NTPL.
- (h) Considering the four year operational period of the Station, there is huge balance of O&M expenses of Rs. 490.63 lakhs available with the Petitioner even after considering the wage revision arrears. Further, various entries made under O&M expenses as discussed above are illegitimate and double claims, warranting further





reduction of actual O&M expenses. In light of the above, the additional claim in lieu of wage revision need not be entertained.

#### **Rejoinders to the reply filed by TANGEDCO**

15. The Petitioner in response to the reply filed by TANGEDCO on 8.1.2020, vide rejoinder dated 24.1.2020, has submitted that the power of relaxation under the Tariff Regulations, is in general terms and its exercise is discretionary. This has been reiterated by the Commission in various orders and also upheld by the APTEL in its various judgements. The Petitioner has also agreed that O&M expenses as approved by the commission for the period 2014-19 is based on the normal expenses that a generating station shall incur towards day to day upkeep of the plant. For Coal based thermal plant, the commission has considered annual escalation rate of 6.35% which is for meeting out the normal increase in the actual O&M expenses based on average CPI and WPI indices to cover the inflation rate and wage revision will have a separate impact in the employee cost in a power generating company which could not be matched with normal escalation rate of 6.35% as considered by the Commission.

16. The Petitioner with respect to Pay and Revised Pay details have submitted that it has already submitted the details in Miscellaneous petition dated 27.9.2019 and TANGEDCO may appreciate that the average no of employee employed by the company is only 0.23 per MW which is very well below the normal standard. Further, the Gratuity ceiling limit has been increased due to notification dated 29.3.2018 issued by the Ministry of Labour and Employment, Government of India under the Payment of Gratuity Act, 1972 which has to be necessarily adhered to the Act and Rules of Government of India. Hence, the contention raised by TANGEDCO is devoid of any merit.

17. Further, in response to the reply dated 1.11.2022 filed by the Respondent TANGEDCO, the Petitioner vide rejoinder dated 11.11.2022 has submitted as under:

- (a) The details of actual O&M expenses after including the pay revision impact furnished as per additional information dated 18.10.2022 in present petition were taken from the Audited Financial Statements of NTPL.



(b) The water charges shown in additional information dated 18.10.2022 in present petition are the charges paid to Tamil Nadu water supply and drainage (TWAD) Board for supply of water to the plant from 2015-16 to 2017-18 and it does not include consent fee claimed under the head 'Water Charges' in Truing up Petition 528/GT/2020 dated 29.10.2019.

(c) Regarding RLDC fee & charges, NTPL submits that the RLDC fee & charges shown in additional information dated 18.10.2022 during the year 2015-16 is mainly attributable to Deviation Charges and it does not include Monthly SRLDC fees and charges recovered from beneficiaries.

(d) Regarding Transit and handling loss, NTPL submits that the expenses booked in transit and handling loss is the loss over and above the normative transit and handling loss allowed by CERC.

(e) Regarding other staff welfare expenses, NTPL submits that rental charges paid towards accommodation of NTPL employees in VOC Port Trust/SPIC/TAC Quarters during the period of non-availability of NTPL Quarters, death relief contribution, reimbursement of CUG BSNL bills, Travelling Allowance (TA) for superannuated employees, scholarship to wards of employees, safety personnel protective equipment etc. are booked under the head 'Other staff welfare expenses'

(f) Regarding Interest to beneficiaries, NTPL submits that the rebate given to DISCOMS for early settlement of power bills is booked under Interest to beneficiaries.

(g) NLCIL is providing Corporate and Support function team for rendering advisory services in relation to the overall operation and maintenance of the plant as per the scope of the agreement entered by NTPL which includes generation and maintenance planning, fire and safety management, sustainability, environmental including clean technologies for complying pollution control and other applicable laws, human resource management including management of pay roll, employee benefit scheme, training coordination, recruitment, industrial relations, labour law



compliance, general administration and corporate human resources function services, procurement and contract management, fuel logistic management, procedure related to legal and regulatory compliance including company secretarial service, finance including financial control concepts, SoA, treasury management, taxation planning, income tax assessment, IT infrastructure of plant including SAP architecture etc.

(h) Regarding O & M agreement, NTPL employees have been deputed by NLCIL on secondment basis for carrying out operation and maintenance activities by NLCIL as per the terms and conditions as mentioned in the O&M agreement entered by NTPL. Accordingly, the amount incurred has been booked under the head 'Corporate Services' and 'O&M services' and shown appropriately.

(i) O&M expenditure during the years 2015-16 & 2016-17 is comparatively lesser than the years 2017-18 & 2018-19 due to the reason that the commercial operation of Unit 1 & Unit 2 was declared on 18.6.2015 and 29.8.2015 respectively and hence the allowable expenditure is lesser. The plant Operation & Maintenance (O&M) was under the coverage of respective package contractors till provisional takeover of the packages as per the applicability of the contract clause and warranty obligation of the respective package contractors resulted in lower O&M cost during the years 2015-16 & 2016-17 and the mandatory spares procured had also been consumed in the year 2015-16 & 2016-17 resulted in lower O&M Cost. However, it is evident from the comparative table (Normative v/s actual O&M expenses) submitted in the additional information dated 18.10.2022 that the O&M cost in the subsequent years is higher than the normative due to impact of wage revision and other related hikes. Hence, analyzing the wage revision impact considering the four-year operational period starting from the period of commercial operation may not be appropriate. The difference between normative O&M and actual O&M must be analyzed year wise to ascertain the impact of wage revision in the O&M expenses.



18. The matter was last heard on 27.9.2022. The Commission directed the Petitioner to file additional information after serving copy to the Respondents. The Commission also directed the Respondents to file reply, with advance copy to the Petitioner, who may file its rejoinder. Subject to above, the order was reserved by the Commission. The Petitioner in compliance vide affidavit dated 18.10.2022 has submitted its response. The Respondent TANGEDCO vide affidavit dated 1.11.2022 has submitted the reply and rejoinder to the same was submitted by the Petitioner vide affidavit dated 11.11.2022.

**Analysis and Decision:**

19. The instant petition has been filed by the Petitioner NTPL for wage revision of its Executives, Non Executives & workmen with effect from 1.1.2017 and wage revision of CISF security personnel deployed in the NTPL thermal generating station that took place with effect from 1.1.2016. Further, the Petitioner has also claimed the impact of gratuity due to increase of the gratuity ceiling limit from Rs. 10 lakhs to Rs.20 lakhs vide, the Payment of Gratuity Act, 1972 dated 28.3.2018.

20. We have considered the submissions of the Petitioner and the Respondent and perused all the documents on record. The Petitioner has filed the instant petition under Regulation 54 and 55 of 2014 Tariff Regulations, which provides as under:

***“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.”*

21. The Petitioner has submitted that the Commission has the power to recover the above mentioned expenses on account of wage revision under power to relax Regulation 54 & under power to remove difficulties Regulation 55 of the Tariff Regulations, 2014.

22. We have considered the submissions of the parties and all the documents available on records. The Commission, while deciding the O&M expense norms applicable for the



2014-19 tariff period, had considered the comments/ suggestions of the stakeholders, including the Petitioner herein, with regard to the recovery of additional impact of wage/ pay revision, on actual basis, and vide SOR to the 2014-19 Tariff Regulations, observed the following:

*“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.*

*29.32 NLC suggested that the norms for Barsingsar TPS are not sufficient to cater to the O&M expenses of the stations as the plant was under warranty and therefore, the Repair & Maintenance expenses for the station was lower. The Commission has examined the data submitted for the station. As per data submitted, it has been observed that NLC has incurred around `13.69 Crore towards Repairs & Maintenance and consumption of stores for the station which works out to ` 5.48 lakh/MW, which in case of NLC TPS-II is ` 4.72 lakh/MW for FY 2012-13. These data indicate that there is substantial consumption of stores and at the same time, significant expenses have been incurred towards Repairs & Maintenance of Barsingsar TPS. Therefore, the contention of the generating station doesn't hold merit and hence, the Commission is of the view that there is no case for relaxation on the above premise.*

*29.33 As regards NLC's suggestion that the norms for TPS-I should be based on the actual expenses incurred by the generating station, it is clarified that norms have been determined on the basis of actual normalised O&M expenses and the norm so determined for FY 2014-15 is higher than the norms already specified for FY 2013-14. Further, the Commission is of the view that the Man:MW ratio of 2.62/MW in FY 2012-13 for the station is on the higher side, which indicates scope for reduction of O&M expenses through man power rationalisation, and the generating station is expected to*



*rationalise its manpower by at least 25-30% during the Tariff Period 2014-19. Further, the station has very high heat rate and is in the process of being phased out, and the Commission is not inclined to incentivise such plants.*

*29.34 NLC has further submitted that the Commission should not restrict its corporate expenses and should allow the actual corporate expenses. In this context, it has been observed in the Explanatory Memorandum to the draft Regulations that the corporate expenses allocated to its generating station is very high, to the tune of around `8 lakh/MW for TPS-I owing to considerably higher manpower employed. Keeping in view the interest of the consumers, the Commission is of the view that actual corporate expenses in this case cannot be allowed and the methodology as adopted in the draft Regulations is justified, and the generating company should meticulously carry out manpower rationalisation to bring such expenses to normal levels.*

*Xxxxx*

*30.18 In response to the suggestions of the generators to recover additional impact of pay revisions on actual basis, it is clarified that the Commission in the draft Regulations had provided 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 the same should not lead to any exorbitant increase in the O&M expenses resulting in spike in tariff. The Commission, however, would 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 is justified, the Commission is of the view that it shall examine the increase on case to case basis and shall consider the same if found appropriate to ensure that overall impact at the macro level is sustainable and justified.*

### **Commission's Views**

*33.2 The draft Regulations provided for a normative percentage of employee cost to total O&M expenses for generating stations and transmission system with an intention to provide a ceiling limit so that the same should not lead to any exorbitant increase in the O&M expenses resulting in spike in tariff. The Commission shall examine the increase in employee expenses on case to case basis and shall consider the same if found appropriate, to ensure that overall impact at the macro level is sustainable and thoroughly justified. Accordingly, clause 29(4) proposed in the draft Regulations has been deleted. The impact of wage revision shall only be given after seeing impact of one full year and if it is found that O&M norms provided under Regulations are inadequate/insufficient to cover all justifiable O&M expenses for the particular year*



*including employee expenses, then balance amount may be considered for reimbursement.*

23. From the statement of reason above it is apparent that the pay revision with effect from 1.1.2016 and wage revision with effect from 1.1.2017, were not taken into consideration while fixing the O&M expense norms for similar capacity generating stations under the 2014 Tariff Regulations. If the impact of pay revision or wage revision is denied, it would result in under-recovery of cost of electricity by the generating company. Therefore, in our considered view, a clear case has been made out to remove the difficulty arising out of the non-consideration of the impact of wage/ pay revision in the O&M expense norms for the 2014-19 tariff period.

24. Further, it is noticed that the Petitioner has claimed wage revision impact of Executives, Non Executives & workmen w.e.f. 1.1.2017 of NTPL generating Station & CISF security personnel w.e.f. 1.1.2016 including Gratuity ceiling limit increase.

25. The Petitioner NTPL is a new generating station whose COD was declared on 29.8.2015. From the SOR of the Tariff Regulations 2014, it is observed that the normative O&M expenses for the period 2014-19 were based on the actual normalization of O&M expenditure of NTPC and NLCIL generating stations and the fact that the claim in this petition pertains to wage revision of non-executives of NLCIL, which happens once in 5 years unlike NTPC where wage revision is considered after every 10 years, Executives and CISF which happens once in 10 years. As such, considering the fact that while deciding the norms for the period 2014-19, the data available for the period 2007-08 to 2012-13 of other similar generating stations were taken into consideration.

26. In the instant petition the generating station being a new plant, the Petitioner itself has claimed the wage revision impact of Executives, Non-executives and workmen w.e.f. 2016-17. Further, the wage revision impact of CISF claimed by the Petitioner is w.e.f. 5.5.2017. Accordingly, the Petitioner is entitled for the impact of wage revision on the basis of actual expenditure over and above the escalation factored in the O&M norms. In our view, the claim of the Petitioner can be considered subject to verification that actual O&M





expenditure for the period 2014-19 is in excess of normative O&M expenditure allowed to the NTPL generating station.

27. In compliance to the direction of the Commission vide ROP of the hearing dated 27.9.2022, the Petitioner vide affidavit dated 18.10.2022 has furnished the actual O&M expenditure for the period 2014-19 as under:

Unit	NLC Tamil Nadu Power Limited (Rs.in Lakhs)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19	Total
Actual O&M including wage revision (A)	-	8844.21	11561.19	24535.33	23980.44	68921.17
Actual O&M excluding wage revision (B)	-	8844.21	11247.86	23146.63	22294.59	<b>65533.29</b>
O&M Norm(Rs.Lakhs/MW)	-	17.01	18.08	19.22	20.43	
Normative O&M (C)	-	17010.00	18080.00	19220.00	20430.00	74740.00
Difference including wage revision (A-C)	-	-8165.79	-6518.81	5315.33	3550.44	-5818.83
Difference excluding wage revision (B-C)	-	-8165.79	-6832.14	3926.63	1864.59	-9206.71
<b>Wage Revision impact claimed in Petition as per auditor</b>						
Non Executives	-	-	30.60	117.22	119.74	267.56
Executives	-	-	278.24	1157.15	1333.70	2769.10
Gratuity - Executives	-	-	4.07	17.35	24.29	45.72
Gratuity – Non-Executives	-	-	0.44	1.70	1.76	3.90
CISF	-	-	-	95.28	206.35	301.63
GST	-	-	-	-	110.39	110.39
<b>Total</b>	-	-	<b>313.35</b>	<b>1388.71</b>	<b>1796.24</b>	<b>3498.30</b>

28. The Commission has determined and approved the Tariff of the generating station vide order dated 11.7.2017 for the tariff period 2014-2019. The instant generating station being a new generating station, the Petitioner has claimed the wage revision impact of non-executives and workmen, executives and CISF for the period 2016-17 to 2018-19. The Wage Revision for Non Executives and workmen, which was due w.e.f. 1.1.2017, was implemented by the NTPL wage revision order dated 9.3.2019. The Pay revision to executives was due from 1.1.2017 and was implemented as per the guidelines of the Department of Public Enterprise dated 3.8.2017. The pay revision order for executives was





issued on 21.2.2018. Further, the Payment of Gratuity Act, 1972 was amended on 28.3.2018 with an increase of the gratuity ceiling limit from Rs. 10 lakhs to Rs.20 lakhs. Other terminal benefits consequent to Pay/Wage revision have increased the O&M expenses of the petitioner and pay revision of CISF security personnel deployed in the thermal stations took place w.e.f. 1.1.2016. Accordingly, prayed the Commission to allow the recovery of increase in the O&M expenses.

29. The methodology indicated in SOR as above, suggests a comparison of the normative O&M expenses with the actual O&M expenses, on a year to year basis. However, in this respect, the following facts need consideration:

- (a) The norms are framed based on the averaging of the actual O&M expenses of past five years to capture the year on year variations in sub-heads of O&M;*
- (b) Certain cyclic expenditure may occur with a gap of one year or two years and as such adopting a longer duration i.e. five years for framing of norms also captures such expenditure which is not incurred on year to year basis;*
- (c) When generating companies find that their actual expenditure has gone beyond the normative O&M in a particular year put departmental restrictions and try to bring the expenditure for the next year below the norms.*

30. In consideration of above facts, the Commission finds it appropriate to compare the normative O&M expenses with the actual O&M expenses for a longer duration, so as to capture the variation in the sub-heads due to above-mentioned facts. Accordingly, it is decided that for ascertaining that the O&M expense norms provided under the 2014 Tariff Regulations are inadequate/ insufficient to cover all justifiable O&M expenses, including employee expenses, the comparison of the normative O&M expenses and the actual O&M expenses incurred shall be made for five years i.e. 2014-19 on a combined basis for the generating station, which is commensurate with the wage revision claim being spread over five years. However, in this case the generating station being a new generating station and the Petitioner has claimed the wage revision impact for the period 2016-17 to 2018-19, the comparison of the normative O&M expenses and the actual O&M expenses incurred shall be



made based on the normative O&M expenses allowed to the generating station and actual O&M expenses claimed by the Petitioner for the period 2014-19.

31. First step is to compare the normative O&M expenses allowed to the generating station with the actual O&M expenses for the period from 2015-16 to 2018-19 (Since COD of the generating station is during the year 2015-16), commensurate to the period for which wage revision impact has been claimed. For like to like comparison, the components of O&M expenses like productivity linked incentive, expenses on superannuated employees, expenditures on VRS, Ex-gratia and performance related pay, which were not considered while framing the O&M expenses norms for the 2014-19 tariff period, have been excluded from the yearly actual O&M expenses of the generating station as well as corporate center. Having brought the normative O&M expenses and actual O&M expenses at same level, if normative O&M expenses for the period 2015-19 are higher than actual O&M expenses (normalized) for the same period, the impact of wage revision (excluding PRP and ex-gratia) as claimed for the period is not admissible/ allowed as the impact of pay revision gets accommodated within the normative O&M expenses. However, if the normative O&M expenses for the period 2015-19 are less than the actual O&M expenses (normalized) for the same period, the wage revision impact (excluding PRP and ex-gratia) to the extent of under recovery or wage revision impact (excluding PRP and ex-gratia), whichever is lower, is required to be allowed as wage revision impact for the period 2015-19.

32. As stated, for a like to like comparison of the actual O&M expenses and normative O&M expenses, the expenditure against O&M expenses sub-heads as discussed above, has been excluded from the actual O&M expenses to arrive at the actual O&M expenses (normalized) for the instant generating station. Accordingly, the following table portrays the comparison of normative O&M expenses versus the actual O&M expenses (normalized) along with wage revision impact claimed by the Petitioner for the generating station for period 2015-19 (on combined basis) commensurate with the wage revision claim being spread over these four years:



Unit	NLC Tamil Nadu Power Limited (Rs.in Lakhs)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19	Total
Actual O&M expenditure for generating station (a)	-	8844.21	11561.19	24535.33	23980.44	<b>68921.17</b>
Actual O&M expenses (normalized) (b)	-	7903.89	11313.06	23918.58	23504.64	<b>66640.17</b>
Normative O&M as allowed by the Commission vide order dated 11.7.2017 under Regulation 29(1) (c)	-	11711.80	18080	19220	20430	<b>69441.80</b>
<b>Under recovery/Over recovery (d) =(b)-(c)</b>	-	-3807.91	-6766.94	4698.58	3074.64	<b>-2801.63</b>
<b>Wage revision impact claimed including impact of gratuity</b>	-	-	<b>313.35</b>	<b>1388.71</b>	<b>1685.85</b>	<b>3387.91</b>

33. From the above details, it is observed that during the period 2015-16 to 2018-19, the normative O&M expenses is more than the actual O&M expenses (normalized) incurred and the over recovery is to the tune of Rs. 2801.63 lakh. As such, in terms of methodology as discussed above, the wage revision impact (excluding PRP/incentive) of Rs.3387.91 lakh is not allowable for this generating station.

34. Further, the Petitioner has also claimed Rs 110.39 during 2018-19 as an impact of Goods and Service Tax (GST). The matter has been considered. While framing the 2014 Tariff Regulations, the variation in taxes and duties have been captured in the normative O&M expenses allowed and any change in taxes is not admissible separately. Further, the 2014 Tariff Regulations has not specifically mentioned any consideration for allowing taxes separately. The escalation rates considered in the normative O&M expenses is only after consideration of the variations during last five years, which also takes care of variation in taxes also. It may be noted that in case of reduction of taxes or duties, the Petitioner is not required to reimburse any taxes in tariff. Therefore, for any increase in taxes and duties, the Petitioner is not entitled to claim any additional expenses. As such, additional O&M expenses on account of GST are not admissible separately.

35. Petition No. 364/MP/2019 is disposed of in terms of the above.

**sd/-**  
**(P.K.Singh)**  
**Member**

**sd/-**  
**(Arun Goyal)**  
**Member**

**sd/-**  
**(I.S.Jha)**  
**Member**

