

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 4/RP/2022
In
Petition No. 408/GT/2020

Coram:

Shri P K Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member

Date of Order: 26th May, 2022

In the matter of:

Petition for the review of the Commission's order dated 8.1.2022 in Petition No. 408/GT/2020 pertaining to truing-up of tariff for the 2014-19 tariff period and determination of tariff for the 2019-24 tariff period in respect of Maithon Right Bank Thermal Power Project (1050 MW) of the Petitioner, Maithon Power Limited.

And

In the matter of:

Maithon Power Limited
Jeevan Bharti, 10th Floor,
Tower I, 124, Connaught Circus,
New Delhi – 110001.

...Review Petitioner

Vs

1. Tata Power Delhi Distribution Limited,
33 kV Grid Sub Station Building,
Hudson Lane, Kingsway Camp,
New Delhi – 110 009.
2. Damodar Valley Corporation,
DVC headquarters, DVC Towers, VIP Road,
Kolkata – 700054
3. West Bengal State Electricity Distribution Company Limited
Vidyut Bhavan, Bidhannagar, Sector 11,
Kolkata- 700 091.
4. Kerala State Electricity Board Limited
Vydyuthi Bhavanam, Pattom,
Thiruvananthapuram – 695004



5. Tata Power Trading Company Limited
Corporate Centre, 'A' Block, 34,
Sant Tukaram Road, Carnac Bunder,
Mumbai 400 006.

... Respondents

Parties present:

Shri Venkatesh, Advocate, MPL
Shri Asutosh K Srivastava, Advocate, MPL
Shri Nihal Srivastava, MPL
Shri Pankaj Prakash, MPL
Shri Dilip Kumar, MPL

ORDER

Petition No. 408/GT/2020 was filed by the Review Petitioner, Maithon Power Limited for truing-up of tariff of Maithon Right Bank Thermal Power Project (1050 MW) (hereinafter called the 'generating station') for the 2014-19 tariff period in terms of the 2014 Tariff Regulations and for determination of tariff of the generating station for the 2019-24 tariff period in terms of the 2019 Tariff Regulations and the Commission vide its order dated 8.1.2022 (in short 'the impugned order') disposed of the said petition. Aggrieved by the impugned order dated 8.1.2022, the Review Petitioner has filed this Review Petition seeking review on the ground that there are errors apparent on the face of record, limited to the following issues:

(A) Disallowance of the following expenditure incurred/ proposed to be incurred for the enhancement of security at the generating station:

- (i) Expenditure incurred for construction of Gate House/Security Infra/E-Security for the period 2014-19 and proposed to be incurred for the period 2019-24;*
- (ii) Expenditure to be incurred for automation of Boom Barrier for 2020-21;*
- (iii) Expenditure to be incurred for the installation of CCTV camera for 2020-21 to 2022-23*

(B) Wrongful disallowance of relaxation of Station Heat Rate for the period 2019-24; and

(C) Disallowance of Normative IDC on Capital Works in Progress.



Hearing dated 29.3.2022

2. The Review Petition was heard on 'admission' through 'video conferencing' on 29.3.2022. During the hearing, the learned counsel for the Review Petitioner made detailed oral submissions in the matter and prayed that the Review Petition may be allowed on the grounds raised in paragraph 1 above. The Commission, after hearing the learned counsel for the Review Petitioner, reserved its order on 'admissibility' of the Review Petition.

3. In accordance with Order 47 Rule 1 of the Civil Procedure Code ('CPC') read with Section 94 of the Electricity Act, 2003 any person feeling aggrieved by any order made by the Commission, may apply for review of the order under the following circumstances:

- (a) *on discovery of new and important matter or evidence which after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the order was made, or*
- (b) *on account of a mistake or error apparent on the face of the record, or*
- (c) *for any other sufficient reasons.*

4. Based on the submissions of the Review Petitioner and the documents available on record, the grounds submitted by the Review Petitioner are examined in the subsequent paragraphs.

Wrongful disallowance of relaxation of Station Heat Rate for the period 2019-24

5. The Commission in the impugned order dated 8.1.2022 while rejecting the prayer of the Review Petitioner, had observed the following:

"305. The Petitioner has considered PG Test performance based on the quality of coal permissible to the Boiler and Plant characteristics. Also, the PPA was executed by the Petitioner based on demonstrable plant characteristics. The Boiler efficiency had undergone changes due to receipt of poor quality of coal in comparison to the quality envisaged at the time of PG test. The deterioration of coal quality is temporary and cannot alter the plant characteristics on a perpetual basis. Coal is being procured by the Petitioner after execution of the Fuel Supply Agreement with the coal supplier. It was the obligation of the Petitioner, while entering into FSA, to ensure the desired



quality of coal, by enforcing the provisions of FSA or by exploring any other alternate sources of coal. The Petitioner, having not been prevented from exploring alternate source of coal, cannot, on a perpetual basis, be permitted to pass on the burden on the beneficiaries on this count, more so when the Petitioner has not fulfilled the said obligations. It is further noticed that the Petitioner has not furnished any documentary evidence substantiating the efforts taken by it to ensure the good quality of coal. In our view, the relaxation of SHR of the generating station, in perpetuity, based on coal quality, will render the operational parameters specified under the 2019-24 Tariff Regulations for all generators redundant, as more often than not, the coal quality may no match with design coal. In view of this, there is no merit in the prayer of the Petitioner for relaxation of SHR on grounds of deterioration in quality of coal. The Petitioner is directed to ensure the required quality of coal as envisaged during the PG test. Accordingly, considering the operating margin of 5% as specified in Regulation 49(C)(b)(i) of the 2019 Tariff Regulations, the GSHR of the generating station works out as 2326.03 kcal/kWh $[1945 \times 1.05] / 0.878$ and the same is considered and allowed.”

6. The Review Petitioner, in the Review Petition, has submitted the following:

(a) The Commission vide ROP for the hearing dated 2.6.2020 in the main petition had directed the Review Petitioner to furnish the actual coal quality (GCV, proximate and ultimate analysis) received in generating station during the year 2019-20 and the coal quality of worst coal, design coal and best coal envisaged by the Original Equipment Manufacturer for guaranteed parameter of boiler efficiency. In response, the Review Petitioner vide additional affidavit dated 20.6.2020 had furnished the requisite details and the same has also been considered by this Commission in paragraph 302 of the impugned order;

(b) The Review Petitioner, in the main petition as well as in the additional affidavit dated 20.6.2020, apprised the Commission about the sub-optimal quality of the coal. In fact, the Commission in paragraph 304 of the impugned order had observed that the quality of coal received during the year 2019-20 has improved the efficiency by 0.05% only. Therefore, the Commission was also of the view, that there is no appreciable change in the quality of coal. However, despite affirming the submissions of the Review Petitioner, this Commission did not grant the relaxation sought by the Review Petitioner.

(c) The Commission, on previous occasions, had taken note of the poor quality of coal, had relaxed the SHR for the Review Petitioner. The Commission in its order dated 19.11.2014 in Petition No. 274/2010 (tariff of the generating station for 2011-14) had allowed the SHR of 2425 kCal/kWh on the ground of inferior quality of the coal. As per the 2009 Tariff Regulations, the normative Station Heat Rate works out as 2360.47 Kcal/kWh.

(d) The Commission in its order dated 26.12.2017 in Petition No. 152/GT/2015 (approval of tariff of generating station for 2014-19), had approved the SHR of 2375 kCal/kWh in terms of the 2014 Tariff Regulations. The GSHR of generating station was 2377 kCal/kWh $(1.045 \times 1945) / 0.855$ considering the boiler efficiency of 85.5% and Turbine Heat Rate of 1945 kCal/kWh in terms of



the 2014 Tariff Regulations. Considering the submissions of the Review Petitioner and noting the poor quality of coal received at the plant, this Commission had approved the boiler efficiency of 85.5% obtained during PG test with actual coal compared to 87.80% as guaranteed by OEM (M/s BHEL) using design coal.

(e) It is evident that the Commission, even after recording that there has been no significant improvement in the quality of coal and allowing the same in previous occasions, has not relaxed the SHR for the Review Petitioner, stating, that no documentary evidence on efforts made by the Petitioner on improving quality has been submitted, which is an error apparent on the face of the record. The Review Petitioner has no control whatsoever on the quality of coal and the quality of coal has neither improved nor expected to improve in future. Therefore, the same dispensation as provided in the earlier orders referred above should continue to be granted and SHR be relaxed. Therefore, disallowing the relaxation in SHR which have been allowed earlier, on the same ground, is an error apparent on the face of record, as nothing material has changed from the previous orders.

(f) Further, the finding given by the Commission in the impugned order that the deterioration of coal quality is temporary and cannot alter the plant characteristics on a perpetual basis, and such relaxation cannot be allowed in perpetuity, does not appear to be on sound basis. It is submitted that (i) There is no market for domestic coal supply in India and coal supply companies are Government owned and have monopoly over supply. The Review Petitioner has no control over the coal supply and its quality. Domestic coal is available only under linkage (cheapest and regular) or e-auction (costlier and intermittent/irregular) allocated by Government owned companies (ii) The station is landlocked and relies on domestic coal supplies; there are no alternate coal sources for regular supplies of requisite quantity of coal in the region that can meet the station's needs. Imported coal is also not a viable or cost-effective alternative (iii) Review Petitioner has entered into the revised FSA with Bharat Coking Coal Limited and Central Coalfields Limited on 16.01.2013 and 16.12.2013 respectively. The FSA is a one-sided standard document with provisions for coal quality favoring the coal supply company. There is no penalty provision for variation in coal quality from the quality as per Schedule III of FSA. However, there is a provision for price adjustment for variations in coal quality.

(g) Further, even if there was a penalty provision in the FSA, that could only be in the form of adjustment in coal price and had to be passed on to the beneficiaries in the cost-plus tariff for the generating station similar to adjustment in quantity and price for the grade slippage or the quantity



variation. Whereas, any deterioration in SHR due to poor coal quality must be borne by the generating station and is not to be compensated.

(h) The Commission, on valid grounds, had allowed relaxations in operational parameters in many generating stations on a continuous basis, such as DVC stations, gas-based stations of NEEPCO, etc. It is pertinent to highlight that the Commission on the ground of sub-optimal quality of coal had relaxed the norms for the 2009-14 and 2014-19 tariff periods as mentioned above. Hence, after noting that the factual scenario had not changed or likely to change, the Commission ought to have granted the same relief to the Review Petitioner which is an error apparent on the face of the record.

(i) By denying the continuation of the relaxation for the period 2019-24, the Review Petitioner is forced to follow unachievable norms, due to factors beyond its control, and is made to suffer for the generating station's balance life, for no fault of its own. This is despite the fact that the Review Petitioner has passed on the full benefit of adjustment in coal price, due to grade variation, for variation in coal quality to the beneficiary.

(j) GCV of coal is beyond the control of generator and the same has been recognized by this Commission in the Explanatory Memorandum issued in December 2018 along with the Draft Tariff Regulations, 2019. It is an accepted fact that quality of actual coal received, particularly GCV of coal, impacts the efficiency of boiler, which has also been recognized by this Commission in preceding two tariff orders for the Review Petitioner as quoted above. While the Review Petitioner had designed the project as per grade of coal in FSA, due to supply of coal different from the grade of coal mentioned in FSA, the actual GCV of coal received at the generating station is much lower than the design coal GCV, which is totally beyond its control. Therefore, it is clear that actual boiler efficiency of the Review Petitioner is lower than the design boiler efficiency due to lower GCV of the coal received, which is beyond the control of the Petitioner.

(k) Further, with respect to the finding of the Commission that the Review Petitioner has not submitted any documentary evidence substantiating the efforts taken by it to ensure good quality of coal, it is submitted that the coal supplier of the Review Petitioner namely BCCL has refused to entertain sampling by the independent third-party appointed by the Review Petitioner. This Commission could not take into account the letters dated 1.6.2017, 25.5.2017 and 10.4.2017 issued to CCL, the coal supplier, which were annexed as sample communications addressing the issue of coal quality based on third-party sampling. These letters were filed by the Review Petitioner in the Petition in the context of allowing additional capital expenditure on augmentation of ash handling system and have escaped the



attention of this Commission. The Review Petitioner would furnish these communications at a later stage of the proceedings, if the same is sought by this Commission.

(l) The letter dated 6.9.2019 issued by GM (QC), BCCL, is highlighted which clearly shows the dominant position of coal supplier companies that they are not willing to listen on quality complaints of the Review Petitioner and have summarily dismissed its request. Therefore, it is evident that the Review Petitioner had taken adequate steps to ensure that good quality of the coal can be procured, however, due to the reasons mentioned above, which were beyond the reasonable control of the Review Petitioner, the quality of the coal cannot be substantially improved.

(m) While the receipt of lower GCV coal at the Review Petitioner's premises is completely beyond its control, the Review Petitioner has been able to take a few steps within FSA constraints that have resulted in a reduction in coal cost leading to a reduction in ECR from Rs. 2.87/kWh to Rs. 2.18/kWh, saving beneficiaries nearly Rs. 500 crore over the last three calendar years. In fact, the Review Petitioner's entire focus in last 2-3 years has been on optimizing (reducing) the fuel cost for beneficiaries.

(n) Against the above savings, the corresponding cost implication on beneficiaries due to relaxation in earlier approved SHR of 2375 kCal/kWh (which the Review Petitioner is required to refund to beneficiaries as per impugned order) in place of 2326.03 kCal/kWh as per the 2019 Tariff Regulations, i.e., with SHR difference of 48.97 kCal/kWh is about Rs. 95 Crores. On the other hand, heat rate compensation for this period will have to be re-computed with reference to SHR of 2326.03, instead of 2375 kCal/kWh. As actual SHR during this period has been around 2380 kCal/kWh, the degradation with respect to normative SHR would increase and, hence, compensation amount would need to be revised to Rs. 68 crore, negating the major part of savings in ECR due to SHR reduction.

Analysis and Decision

7. We have examined the matter. The Review Petitioner has mainly submitted that the impugned order dated 8.1.2022 suffer from error apparent on the face of the record, on the ground that the Commission, while passing the impugned order, had not considered the fact that, it had, in earlier tariff orders for the period 2011-14 and 2014-19, in respect of the generating station, approved the Station Heat Rate (SHR) in relaxation of the regulations. According to the Review Petitioner, since there is no



appreciable change in the quality of coal, the failure to grant relaxation in SHR, as prayed for by the Petitioner, is an error apparent on the face of the order. We observe from records that though the Petitioner, in Petition No.274/2010 (tariff for the period 2011-14) had sought relaxation in SHR norms to 2443 kcal/kWh (based on design heat rate), on the ground of inferior quality of coal being received, the Commission by its order dated 19.11.2014 had relaxed the Heat Rate norm for this generating station as 2425 kcal/kWh (instead of SHR of 2443 kcal/kWh claimed), on the ground that the generating stations of NTPC have been allowed the same Heat Rate norm. Similarly, in Petition No. 152/GT/2015 for the period 2014-19, the SHR of 2375 kcal/kwh as claimed by the Petitioner was approved by order dated 26.12.2017, on the ground that the same was lesser than the GSHR allowed during the 2009-14 period. The relevant portion of the orders dated 19.11.2014 and 26.1.2017 in Petition No. 152/GT/2015 is extracted below:

Order dated 19.11.2014 in Petition No. 274/2010

“100. ...However, due to inferior coal quality now being received by the generating station than the coal used for design, the petitioner has not been able to achieve Heat Rate of 2360.47 kCal/ kWh. Accordingly, the petitioner has prayed for relaxation of norms of Station Heat Rate to 2443 kCal/ kWh based on designed heat rate. Further, as per the performance guarantee test results, the Station Heat Rate has been worked out as 2280 Kcal/kWh. This leaves a margin of 3.55% only instead of 6.5% over the design heat rate. However, due to less PLF of 65% (approx) during the years 2012-13 and 2013-14, this margin of 3.5% is not sufficient. It is noticed that generating stations of NTPC similar to the instant generating station have been allowed the Heat Rate norm in the order of 2425 kCal/ kWh in instant case. In the light of above, we consider it prudent to relax the heat rate norm to 2425 kCal/ kWh for the instant generating station, subject to the condition that any saving due to actual Heat Rate being lower than 2425 kCal/kWh and up to 2360.47 kCal/kWh should be passed on to the beneficiaries in full and the benefit of heat rate achieved below 2360.47 kCal/ kWh, may be retained by the petitioner”

Order dated 26.12.2017 in Petition No. 152/GT/2015

153. The petitioner has submitted that Boiler Efficiency is 85.5% by using actual coal received by the petitioner as the quality of coal received remains the same. By considering the boiler efficiency of 85.5% and Turbine cycle heat rate of 1945 Kcal/kWh, the Gross Station Heat Rate of the generating station works out as 2377 kCal/kWh (1.045x1945/0.855) for the period 2014-19. However, the petitioner has considered the Gross Station Heat Rate of 2375 kCal/kWh. The GSHR claimed by the petitioner during 2014-19 is less than the GSHR allowed during 2009-14 period. In view



of this, the Gross Station Heat Rate of 2375 Kcal/ kWh for the period 2014-19 has been allowed

8. It is therefore evident that the SHR allowed to the generating station in these orders, were not based on any finding with regard to the inferior quality of coal received by the generating company. Even otherwise, prayer of the Review Petitioner for relaxation of SHR, cannot be granted, as the Commission, after examining the submissions of the Review Petitioner, had, in the impugned order dated 8.1.2022, concluded that the relaxation of SHR, based on coal quality, cannot be granted in perpetuity, as it would render the operational parameters specified under the 2019 Tariff Regulations redundant, as more often than not, the coal quality may not match with design coal. Having rejected the prayer of the Review Petitioner for relaxation of SHR by a conscious decision, the Petitioner cannot be permitted re-argue the same in review. The impugned order, does not suffer from any infirmity.

9. Further, the submissions of the Review Petitioner, in support of relaxation of SHR, on the grounds that (i) there is no market for domestic coal supply in India and coal supply companies are Government owned and have monopoly over supply, (ii) the FSA is a one-sided standard document with provisions for coal quality favoring the coal supply company, (iii) the Review Petitioner has no control over the coal supply and its quality (iv) BCCL refusing to entertain sampling by the independent third-party appointed by the Review Petitioner (v) further, the way norms have been fixed in the 2019 Tariff Regulations, works injustice in the case of the Review Petitioner, if applied without relaxation, thereby warranting exercise of power to relax (vi) the Review Petitioner being put to undue hardship and is expected to meet unachievable SHR with existing coal for the 2019-24 tariff period etc., cannot also be considered, as these submissions of the Review Petitioner, touches upon the merits of the case. It is an established law that the scope of review proceedings is very



limited. A review does not mean an appeal in disguise, whereby the matter is reheard on merit and the decision is taken afresh. A review lies only on account of patent error and not for rehearing. In our view, the acceptance of the submissions of the Review Petitioner would amount to reopening the impugned order on merit, which is beyond the scope of the review proceedings. Accordingly, the review of the impugned order on this count is not maintainable.

Disallowance of Normative IDC on Capital Works in Progress

10. As regards normative IDC on additional capitalization, the Commission in the impugned order dated 8.1.2022 decided as under:

“111. We have considered the submissions of the Petitioner. It is noticed that the Petitioner has neither submitted the normative IDC, duly certified by Auditors, nor the date of infusion of funds, the corresponding dates of capitalization, the applicable interest rates etc. and their supporting documents, if any. Hence, in the absence of the aforesaid information, we have worked out the normative IDC based on assumptions as follows:

- a. Infusion of funds has been assumed to be at the beginning of the year of additional capital expenditure incurred;*
- b. Date of capitalization has been assumed to be at the mid of the year; and*
- c. Weighted Average Rate of Interest (WAROI) on actual loan of respective years have been applied for calculation of normative IDC of respective years*

*112. The normative IDC on additional capital expenditure has been worked out by applying WAROI on actual loan of the particular year on the average normative loan for the respective year, applied for half of the year of the time span. Accordingly, the normative IDC on additional capital expenditure is as follows:
xxxx,”*

11. The Petitioner, in the Review petition, has submitted that the Commission, while deciding the issue of normative IDC, could not take into account the submissions made by the Review Petitioner and has disallowed the normative IDC on Capital Works in Progress (CWIP). The Review Petitioner has also submitted that it had claimed normative IDC on 70% of the average funds deployed during the year for the additional capitalisation claimed and had furnished the computation of normative IDC as follows:



- (i) *Computation of CWIP schedule during the year;*
- (ii) *Computation of normative IDC on normative loan used in CWIP schedule; and*
- (iii) *Computation of IDC capitalised.*

12. The Review Petitioner has submitted that though the Commission, in the impugned order, had computed normative IDC on excess equity employed beyond the 30% limit, considering the assumptions (as in paragraph 111 of the impugned order) due to absence of information as to the actual date of infusion of funds, dates of capitalisation etc, it had not factored the impact of IDC on CWIP at the beginning, during the year, and at the end of the year, which had resulted in lower approval of normative IDC for the 2014-19 tariff period and 2019-24 tariff period. According to the Review Petitioner, the non-consideration of CWIP for computation of normative IDC, is not in consonance with accepted financial principles and is therefore an error apparent on the face of record. The Review Petitioner, has, therefore, prayed that the Commission may allow normative IDC on CWIP also, on the basis of yearly opening and closing CWIP, as per methodology proposed by the Review Petitioner or any other methodology and grant liberty to the Petitioner to bring actual details before the Commission, if necessary.

Analysis and Decision

13. We have examined the matter. It is noticed that in Petition No. 408/GT/2020, the Review Petitioner had claimed normative IDC on 70% of the average funds deployed during the year for additional capitalization as well as for the Capital Work in Progress (CWIP). Though the submissions of the Review Petitioner with regard to the computation of normative IDC, under the heads viz., (i) Computation of CWIP schedule during the year (ii) Computation of normative IDC on normative loan used in CWIP schedule and (iii) Computation of IDC capitalized, were considered, but in the absence of relevant information, as stated in paragraph 111 of the impugned order,



only the normative IDC on additional capitalization (not in CWIP) was worked out based on assumptions mentioned therein in the said paragraph of the impugned order. It is therefore evident that the treatment of normative IDC, in the impugned order dated 8.1.2022, was based on the available information as furnished by the Petitioner and in terms of the Commission's order dated 2.11.2021 in Petition No. 588/TT/2020 [based on the judgment of the Appellate Tribunal for Electricity in its judgment dated 3.10.2019 in Appeal No. 231 of 2017 (Powerlinks case)]. We therefore find no error apparent on the face of the impugned order dated 8.1.2022. The prayer of the Review Petitioner for review of the impugned order on this ground is therefore not allowed.

Errors/omissions

14. In addition, the Review Petitioner has submitted that there are certain computational errors with regard to the approval of additional capitalization schemes and segregation of approved schemes under the head "Within original scope or beyond original scope" for determination of Return on Equity as per the 2019 Tariff Regulations. The Review Petitioner has further submitted that though it is not seeking correction on account of the errors/omissions, as truing-up of tariff of the generating station will be undertaken at the end of the tariff period, it reserves its right to bring the following errors/omissions before the Commission at time of filing of petition for truing-up of tariff of the generating station for the 2019-24 tariff period.

(a) In para 191 of the impugned order dated 8.1.2022, the projected additional capitalization for centrifugal compressor & motor for boiler turbine generator and centrifugal compressors for ash plant was allowed under Regulation 25(2)(c) of the 2019 Tariff Regulations, which falls within the 'original scope of work'. However, it appears that the additional capitalization approved under aforesaid schemes have been incorrectly considered under net additional capitalization allowed 'beyond the original scope of work' of the project, consequentially impacting the ROE approved.

(b) The projected additional capitalization of Rs.40 lakh for 'Soak-pit for station transformer in switchyard' has been allowed in paragraph 215 of the impugned order dated 8.1.2022. However, it appears that the same was not included while approving



the projected additional capitalization for the 2019-24 tariff period under paragraph 241 of the impugned order.

(c) The projected de-capitalization was proposed by the Review Petitioner in the main petition considering the schemes proposed. The same has been considered in entirety, regardless of whether the proposed schemes have been allowed or disallowed. Hence, same is subject to truing-up based on actual/or as proposed by the Review Petitioner at the time of truing-up of tariff.

(d) The scheme of 'Augmentation of Ash Handling System' and 'Upgradation of ABT for RRAS & SCED' was proposed under tables 61 and 62 of the main petition, under Regulation 25(2)(b) of the 2019 Tariff Regulations. However, in the tariff filing formats, it was incorrectly mentioned by the Review Petitioner to be under Regulation 26(1)(c) and Regulation 26(1)(a) of the 2019 Tariff Regulations respectively. Whereas, these schemes have been approved under Regulation 26(1)(a) of the 2019 Tariff Regulations. Since the above schemes involve the replacement of certain assets deployed under original scope work, it squarely falls under original scope of work and be approved under Regulation 25(1)(a) in place of Regulation 26(1)(a) of the 2019 Tariff Regulations.

15. In view of the submissions, we permit the Review Petitioner to raise the aforesaid issues/errors/omissions with proper justification, at the time of truing-up of tariff of the generating station for the 2019-24 tariff period and the same will be considered in accordance with the provisions of the 2019 Tariff Regulations.

16. Based on the submissions of the Review Petitioner and the documents available on record, the Review Petition is 'admitted' on the ground [A(i) to A(iii)] in paragraph 1 above and grounds (B) and (C) raised in paragraph 1 above are disposed of at the 'admission stage' itself as discussed in the foregoing paragraphs.

17. The Review Petitioner is directed to serve the copy of the Review Petition along with this order on the Respondents by 31.5.2022. The Respondents shall file their replies, on the issues [A (i) to A(iii)] in paragraph 1 above, on or before 15.6.2022, after serving a copy to the Review Petitioner, who shall file its rejoinder, if any, by 22.6.2022. The parties shall ensure the completion of pleadings within the due date mentioned above.



18. Review Petition shall be listed for hearing in due course for which separate notice will be issued to the parties.

Sd/-
(Arun Goyal)
Member

Sd/-
(I S Jha)
Member

Sd/-
(P.K. Pujari)
Chairperson

