

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 337/GT/2014**

**Coram:**

**Shri Jishnu Barua, Chairperson  
Shri Ramesh Babu V., Member  
Shri Harish Dudani, Member**

**Date of Order: 5<sup>th</sup> January, 2025**

**In the matter of:**

Revision of tariff of Sipat Super Thermal Power Station, Stage-I (1980 MW) for the period 2009-14 and 2014-19- Implementation of the judgements of APTEL.

**And**

**In the matter of**

NTPC Limited  
NTPC Bhawan, Core-7, SCOPE Complex,  
7, Institutional Area, Lodhi Road,  
New Delhi-110003

**.....Petitioner**

Vs

1. Madhya Pradesh Power Management Company Limited,  
Shakti Bhawan, Vidyut Nagar,  
Rampur, Jabalpur – 482 008
2. Maharashtra State Electricity Distribution Company Limited,  
Prakashgad, Bandra (East), Mumbai – 400 051
3. Gujarat Urja Vikas Nigam Limited,  
Sardar Patel Vidyut Bhawan, Racecourse, Vadodara  
Gujarat – 390 007
4. Chhattisgarh State Power Distribution Company Limited,  
Sundar Nagar, Danganiya, Raipur- 492013
5. Electricity Department, Department of Goa,  
Vidyut Bhawan, Panaji Goa – 403 001
6. Electricity Department,  
Administration of Daman & Diu  
Daman – 396 210
7. Electricity Department,  
Administration of Dadra & Nagar Haveli  
Silvassa – 396 230

**.... Respondents**



## ORDER

### Background

Sipat Super Thermal Power Station, Stage-I (1980 MW) (in short, the generating station') of the Petitioner comprises three units of 660 MW each. Unit-I, Unit-II and Unit-III of the generating station have been declared under commercial operation on 1.10.2011, 25.5.2012, and 1.8.2012, respectively. The tariff for this generating station for the period from 1.10.2011 to 31.7.2012 and the projected additional capital expenditure for the period 1.8.2012 to 31.3.2013 and for the year 2013-14 was determined vide Commission's order dated 22.8.2013 in Petition No. 28/GT/2011. Thereafter, vide order dated 6.12.2016 in Petition No. 295/GT/2014, the tariff of the generating station was revised after truing-up exercise, based on the actual additional capital expenditure incurred for the period 1.10.2011 to 31.3.2014, in accordance with the 2009 Tariff Regulations. Subsequently, vide order dated 29.3.2017 in Petition No. 337/GT/2014, the tariff of the generating station was approved for the period 2014-19, based on projected additional capital expenditure. Aggrieved by the order dated 29.3.2017, the Petitioner filed Appeal No.311/2017 before APTEL on the following issues:

- (a) Reduction of the O&M expenses by applying the multiplication factor for 2014-19.*
- (b) Reduction of the Normative O&M expenses for the period 2009-14; and*
- (c) Disallowance of the additional capital expenditure towards Wagon tippler and associated systems.*

2. During the pendency of the aforesaid appeal, the Petitioner filed Petition No. 240/GT/2020 before this Commission for truing up of tariff of the generating station, for the period 2014-19, and the same was disposed of vide order dated 14.2.2022, in terms of the 2014 Tariff Regulations. The Petitioner had also filed Petition No. 425/



GT/2020 for approval of the tariff of the generating station for the period 2019-24 and the same was approved vide order dated 6.6.2022, in terms of the provisions of the 2019 Tariff Regulations.

### **Revision of O&M expenses for the period 2014-19**

3. While so, the issue of the reduction of the O&M expenses for the period 2014-19, by application of the multiplying factor, was examined by APTEL in Appeal Nos 101/2017 and 110/2017 and APTEL vide its judgment dated 11.1.2022 set aside the orders passed by the Commission and remanded the same for passing a reasoned order. In line with this decision, the Commission, in Petition No. 240/GT/ 2020, while truing up the tariff of the generating station of the Petitioner for the period 2014-19, had revised the normative O&M expenses by order dated 14.2.2022. Thus, the issue of revision of the normative O&M expenses for the period 2014-19, in line with the APTEL judgment dated 11.1.2022 stands implemented.

### **Revision of O&M expenses for the period 2009-14**

4. As stated in para 1(b) above, the Petitioner had also challenged before APTEL, the reduction of the normative O&M expenses vide Commission's order dated 29.3.2017 in Petition No.337/GT/2014 in the exercise of the power under Regulation 103(A) of Conduct of Business Regulations. However, APTEL, vide its judgment dated 1.12.2022 in Appeal No. 311/2017, held that changing the principle for determination of O&M expenses by treating the new station units as additional units of the already existing stations is not in consonance with the intent of Regulation 103A of the Conduct of Business Regulations. The relevant portion of the judgment is extracted below:

*30. Thus, as per Regulation 103A it is clear that the Regulations 103A can be invoked for correcting clerical or arithmetic mistakes/errors, however in the instant case, the*



*Central Commission has changed the principal of determination of O&M expenses by treating the new station units as additional units of already existing stations, which is not in consonance with the intent of Regulation 103A of Conduct of Business Regulations considering that any other interpretation of the aforesaid regulations is bad in law, we are inclined to accept the prayer of the Appellant.”*

5. Consequent to the above, the tariff of the generating station for the period 2009-14, as approved vide order dated 6.12.2016, which was later revised vide order dated 29.3.2017 in Petition No.337/GT/2014, is required to be modified in line with the above decision of APTEL. We proceed accordingly.

#### **Revision of tariff for the period 2009-14**

6. The Commission, vide its order dated 29.3.2017 in Petition No.337/GT/2014, had revised the annual fixed charges earlier approved for the period 2009-14 (vide order dated 6.12.2016 in Petition No. 295/GT/2014) as under:

*(Rs. in lakh)*

	2011-12	2012-13			2013-14
	(1.10.2011 to 31.3.2012)	(1.4.2012 to 24.5.2012)	(25.5.2012 to 31.7.2012)	(1.8.2012 to 31.3.2013)	
Depreciation	19145.18	19710.14	31051.62	42438.78	43990.79
Interest on Loan	19743.55	20015.77	31535.14	42241.02	41367.47
Return on Equity	25829.59	26670.96	42140.88	57495.18	60967.94
Interest on Working Capital	3475.63	3529.07	7186.38	12745.29	12930.84
O&M Expenses	8632.80	9121.20	18242.40	26451.48	27982.68
Cost of Secondary Fuel Oil	1900.68	1895.49	4711.09	7704.43	7704.43
<b>Total</b>	<b>78727.43</b>	<b>80942.62</b>	<b>134867.52</b>	<b>189076.19</b>	<b>194944.15</b>

7. In consideration of the APTEL judgment dated 1.12.2022 (on the issue of reduction of the O&M expenses for the period 2011-14), the O&M expenses and Maintenance spares forming part of Interest on working capital for the period from 1.10.2011 to 31.3.2014 stands revised below:

*(Rs. in lakh)*

O&M expenses for 1 month	2011-12	2012-13			2013-14
	(1.10.2011 to 31.3.2012)	(1.4.2012 to 24.5.2012)	(25.5.2012 to 31.7.2012)	(1.8.2012 to 31.3.2013)	
Allowed in the order dated 29.3.2017	647.46	684.09	1368.18	2014.27	2130.87
<b>Allowed in this order</b>	<b>719.40</b>	<b>760.10</b>	<b>1520.20</b>	<b>2204.29</b>	<b>2331.89</b>



*(Rs. in lakh)*

Maintenance spares for Interest on working capital	2011-12 (1.10.2011 to 31.3.2012)	2012-13			2013-14
		(1.4.2012 to 24.5.2012)	(25.5.2012 to 31.7.2012)	(1.8.2012 to 31.3.2013)	
Allowed in the order dated 29.3.2017	1553.90	1641.82	3283.63	4834.24	5114.08
<b>Allowed in this order</b>	<b>1726.56</b>	<b>1824.24</b>	<b>3648.48</b>	<b>5290.30</b>	<b>5596.54</b>

8. Accordingly, the interest on working capital and annual fixed charges approved in respect of the generating station for the period 2009-14, vide order dated 29.3.2017 in Petition No. 337/GT/2014, stands revised as under:

***Interest on working capital***

*(Rs. in lakh)*

	2011-12	2012-13			2013-14
	(1.10.2011 to 31.3.2012)	(1.4.2012 to 24.5.2012)	(25.5.2012 to 31.7.2012)	(1.8.2012 to 31.3.2013)	
Cost of Coal for 1.5 months	5974.48	5958.15	10850.38	23470.41	23470.41
Cost of Secondary Fuel Oil 2 months	316.78	315.91	785.18	1284.07	1284.07
O & M expenses for 1 month	719.40	760.10	1520.20	2204.29	2331.89
Maintenance Spares	1726.56	1824.24	3648.48	5290.30	5596.54
Receivables for 2 months	21092.09	21439.80	36957.00	62821.46	63800.31
<b>Total Working Capital</b>	<b>29829.31</b>	<b>30298.21</b>	<b>53761.24</b>	<b>95070.53</b>	<b>96483.22</b>
Rate of interest (%)	11.75%	11.75%	13.50%	13.50%	13.50%
<b>Interest on working capital</b>	<b>3504.94</b>	<b>3560.04</b>	<b>7257.77</b>	<b>12834.52</b>	<b>13025.24</b>

***Annual fixed charges***

*(Rs. in lakh)*

	2011-12	2012-13			2013-14
	(1.10.2011 to 31.3.2012)	(1.4.2012 to 24.5.2012)	(25.5.2012 to 31.7.2012)	(1.8.2012 to 31.3.2013)	
Depreciation	19145.18	19710.14	31051.62	42438.78	43990.79
Interest on Loan	19743.55	20015.77	31535.14	42241.02	41367.47
Return on equity	25829.59	26670.96	42140.88	57495.18	60967.94
Interest on working capital	3504.94	3560.04	7257.77	12834.52	13025.24
O&M Expenses	8632.80	9121.20	18242.40	26451.48	27982.68
Cost of Secondary Fuel Oil	1900.68	1895.49	4711.09	7704.43	7704.43
<b>Total</b>	<b>78756.74</b>	<b>80973.59</b>	<b>134938.90</b>	<b>189165.42</b>	<b>195038.54</b>

Note: 1) All figures are on annualized basis.

2) All the figures under each head have been rounded. The figure in total column in each year is also rounded. Because of rounding of each figure, the total may not be arithmetic sum of individual items in columns.

3) Apart from IoWC, all figures as approved in order dated 29.3.2017 in Petition No 337/GT/2014 have been retained.

9. The tariff revision in respect of the generating station for the period 2011-14, as above, does not have any consequential impact on the tariff approved for the generating station for the period 2014-19 vide order dated



14.4.2022 in Petition No.240/GT/2020 and for the period 2019-24 vide order dated 6.6.2022 in Petition No.425/GT/2020. Accordingly, the issue regarding the 'reduction of the normative O&M expenses for the period 2009-14' also stands implemented in terms of the APTEL judgment dated 1.12.2022.

### **Disallowance of additional capital expenditure towards Wagon Tippler**

10. In Petition No. 337/GT/2014, the Petitioner had claimed the total projected additional capital expenditure of Rs 2500.00 lakh in 2014-15 and Rs. 5980.00 lakh in 2015-16 (@ Sl. No. 6 (for 2014-15) and Sl. No. 21(for 2015-16) in the table under Para 17 of the order dated 29.3.2017) in respect of the 'Wagon tippler' under Regulation 14(3)(ii) and 14(3)(x) of the 2014 Tariff Regulations and the Commission vide order dated 29.3.2017 rejected the claim as under:

*"33. Against the amount of ₹1500.00 lakh allowed towards Wagon tippler in 2013-14 in order dated 22.8.2013 in Petition No. 28/2011, the petitioner has claimed projected additional capital expenditure of ₹2500.00 lakh in 2014-15 and ₹5980.00 lakh in 2015-16 under Regulation 14(3)(ii) & 14(3)(x) of the 2014 Tariff Regulations. In justification of the same, the petitioner has submitted that as per the Presidential directive for New Fuel Security Agreement (FSA), the receipt of coal at the generating station through MGR system is not sufficient to run the plant at PLF/PAF of 85%, necessary for the generator for fixed charge recovery as per the 2014 Tariff Regulations. The petitioner has also submitted that as per the presidential directive, the coal company is bound to supply only upto 80% of the Annual Contracted Quantity (ACQ) without penalty, which does not secure the availability of fuel to the generator even to the extent of generation corresponding to NAPAF required for Fixed Cost recovery of the plant. The petitioner has further submitted that the non-availability of coal shall also not ensure the supply of power at sustainable basis to the beneficiaries at higher PLF. The petitioner has submitted that the Wagon Tippler and associated accessories/locos is required to overcome the deficiency in coal receipt system so that the quantum of coal being received from non linked mines through Box-N wagons of Indian Railways, may be unloaded properly at site. Accordingly, the petitioner has submitted that the Commission may allow the expenditure against the augmentation of fuel receipt system under the Regulation 14(3)(x) as well as under the Regulation 14(3)(ii) of the 2014 Tariff Regulations.*

34. xxx.

35. We have examined the matter. It is noticed that the petitioner in support of its claim for Capitalization of Wagon Tippler had not substantiated the shortage of coal experienced by the generating station and its impact on the Plant Availability Factor for the period 2012-13 to 2014-15. As pointed out by the respondent, MPPMCL the Plant Availability Factor of the generating station has been above the normative availability since 2013-14. The details of the cumulative plant availability factor for the year 2012-13 to 2015-16 is as under:



	Cumulative plant availability factor (%)
2012-13	83.3533
2013-14	89.6247
2014-15	89.0274
2015-16	87.8533

36. It is evident from the above that the cumulative Plant Availability Factor for the generating station is well above the normative plant availability factor, except for the year 2012-13. The petitioner has also not substantiated the shortage of coal for the generating station. In this background, we are not inclined to allow the additional capital expenditure of ₹2500 lakh in 2014-15 and ₹5980 lakh in 2015-16 claimed by the petitioner. We direct accordingly.”

11. In Appeal No.311/2017 filed by the Petitioner, APTEL has rejected the findings of the Commission and vide its judgment dated 1.12.2022 held as under:

“106. From the submissions of Appellant, it is seen that the Appellant has taken up the scheme based on coal shortage situation faced during 2009-14, there is no denying of the fact that in view of coal shortage situation in the country, the Central Commission itself provided lower availability norms and the manual unloading of BoXN wagons is highly unsafe and inefficient way of unloading the coal.

107. It is pertinent to note here that the Central Commission has recorded the importance of Wagon Tippler, as seen from the order dated 23.05.2012 in Petition No 245/2009, as under:

“31. The submissions of the parties have been examined. It is noticed that substantial quantity of coal was being received through the railway system supplied in Box-N wagons. From the submissions made by the petitioner in Petition No.189/2010 (as referred to in the tabular Order in Petition No. 2452009 Page 16 of 31 statement in Table-I under paragraph 7(b) of the order dated 25.4.2012), it is evident that this generating station was in operation with a Target Availability of 91-92% (approx) during the period 2005-06 to 2007-08 even without Wagon Tippler. However, considering the fact that installation of Wagon tippler would bring about reduction in unloading time of coal rakes and shall give flexibility in overall movement of rakes which would reduce the apprehension of diversion of wagons by the railways, the claim of the petitioner is justified. Also, if the petitioner is unable to arrange coal for generation up to the specified NAPAF of 85%, it would not be able to recover the full fixed charges which include the cost of Wagon tippler. This, according to us, would adequately take care of the concerns raised by the respondent beneficiaries. Moreover, the utilities are resorting to blending of imported coal taking into account the overall shortage of coal in the country. Considering the above factors in totality, we allow the expenditure claimed by the petitioner for Wagon Tippler and its associated works, under Regulation 9 (2) (vii) of the 2009 Tariff Regulations, -----”



*108. We, therefore, opined that the decision of the Central Commission to this extent is not justifiable, as such, the prayer is allowed.”*

12. Thus, APTEL, vide its judgment dated 1.12.2022, allowed the prayer of the Petitioner for additional capitalization of Wagon Tippler. Though the projected additional capital expenditure towards Wagon Tippler during 2014-15 and 2015-16, as stated above, was disallowed, it is noticed that the Petitioner had not claimed the said item/asset on an actual basis in Petition No. 240/GT/2020 (truing up of tariff for the period 2014-19) as it could not capitalize the same during that period. We further note that the said asset/item had not been claimed by the Petitioner in Petition No. 425/GT/2020 (approval of tariff for the period 2019-24), which was disposed of on 6.6.2022. However, it is observed that the Petitioner has claimed the actual additional capital expenditure of this asset, viz., (Wagon Tippler) in the Petition (Dy no. 949/2024) filed before this Commission, for truing -up of the tariff of the generating station for the period 2019-24 and the same is pending. Accordingly, the claim of the Petitioner for Wagon Tippler shall be considered at the time of the truing-up of the tariff of the generating station for the period 2019-24, in line with the APTEL judgment dated 1.12.2022.

13. For the above-mentioned reasons, the tariff of the generating station for the period 2014-19 (in Petition Nos. 337/GT/2014 and 240/GT/2020) has not been revised in this order. The APTEL judgement dated 1.12.2022 in Appeal No. 311 of 2017 stands implemented in terms of the above discussions.

**Sd/-  
(Harish Dudani)  
Member**

**Sd/-  
(Ramesh Babu V.)  
Member**

**Sd/-  
(Jishnu Barua)  
Chairperson**

