CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Review Petition No. 20/2011
in
Petition No. 74/2010

Coram: Dr. Pramod Deo, Chairperson
Shri S.Jayaraman, Member
Shri M.Deena Dayalan, Member

Date of Hearing: 15.12.2011 **Date of Order: 18.9.2012**

IN THE MATTER OF

Review of order dated 16.6.2011 in Petition No. 74/2010 regarding approval of generation tariff of Uri Hydroelectric Project (4 x 120 MW) for the period from 1.4.2009 to 31.3.2014.

AND

IN THE MATTER OF

NHPC Ltd, Faridabad **…Petitioner**
Vs
1. Punjab State Electricity Board, Patiala
2. Haryana Power Generation Corporation Ltd., Panchkula
3. BSES-Rajdhani Power Ltd., New Delhi
4. BSES-Yamuna Power Ltd., New Delhi
5. Uttar Pradesh Power Corporation Ltd, Lucknow
6. Rajasthan Rajya Vidyut Prasaran Nigam Ltd., Jaipur
7. North Delhi Power Ltd., Delhi
8. Jaipur Vidyut Vitaran Nigam Ltd., Jaipur
9. Uttaranchal Power Corporation of Ltd., Dehradun
10. Jodhpur Vidyut Vitaran Nigam Ltd., Jodhpur
11. Himachal Pradesh State Electricity Board, Shimla
12. Engineering Department, UT Secretariat, Chandigarh
13. Ajmer Vidyut Vitaran Nigam Ltd., Ajmer
14. Power Development Department, Govt. of J&K, Jammu …**Respondents**

Parties Present:

1. Shri R. Raina, NHPC
2. Shri Amrik Singh, NHPC
3. Shri Jitender Kumar Jha, NHPC
4. Shri M.D Faruque, NHPC
5. Shri C. Vinod, NHPC
6. Shri R.B Sharma, BSEB & BRPL
7. Shri T.P.S Bawa, PPSCL

ORDER

Petition No. 74/2010 was filed by the petitioner, NHPC Ltd, for approval of tariff of Uri Hydroelectric Project, (4 x 120 MW) (hereinafter referred to as "the generating station") for the period from 1.4.2009 to 31.3.2014, based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 ('the 2009 Tariff Regulations") and the Commission by its order dated 16.6.2011 determined the annual fixed charges for the generating station for the period 2009-14, as under:

(₹ in lakh)

	2009-10	**2010-11**	**2011-12**	**2012-13**	**2013-14**
Return on Equity	19017.22	19040.85	19057.83	19063.69	19068.34
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Depreciation	17681.79	4805.67	4819.44	4824.43	4828.60
Interest on Working Capital	1126.89	879.73	902.26	925.63	950.28
O&M Expenses	7237.05	7651.01	8088.65	8551.32	9040.46
Total	**45062.96**	**32377.25**	**32868.18**	**33365.07**	**33887.68**

2. Aggrieved by the said order, the petitioner has filed this review application seeking review of the order dated 16.6.2011 on the following issues, namely:

(a) Disallowance of certain additional capital expenditure for 2009-14*;*

(b) Error in calculation of Depreciation; and

(c) Errors in the calculation of O&M expenses.

3. During the hearing on 1.11.2011, the representative of the petitioner made his submissions on the above issues and prayed that the order dated 16.6.2011 be reviewed for the reasons mentioned in the application. The Commission by its order dated 21.11.2011, admitted the review application on the above issues and notices were issued to the respondents. Reply to the review application has been filed by Respondent No.1, PSPCL and the Respondent No.3, BRPL.

4. The learned counsel for the respondent, BRPL and the representative of the respondent, PSPCL have, in general, submitted that the Commission has given detailed reasons in its order for disallowance of the expenditure for capitalization and the petitioner cannot be allowed to give

fresh justification now and/or re-argue his case on the ground that there is an error apparent on the face of record. During the hearing, the learned counsel for the respondent, BRPL, submitted that the power of review is to be exercised by the Commission only for correction of clerical or arithmetical errors/mistakes in the order and not for correction of any error in judgment and hence the application for review of order was not maintainable. The learned counsel while pointing out that none of the grounds raised for review of the order has been justified by the petitioner, has submitted that a review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. In this regard, the learned counsel placed reliance on the decision of the Hon'ble Supreme Court in *Parsion Devi & ors-v-Sumitra Devi & ors (1997) 8 SCC 715* and the judgments of the Appellate Tribunal for Electricity dated 27.5.2011 in Review Petition No. 13/2010 (in Appeal No. 56/2008), judgment dated 12.8.2011 in Review Petition No. 2/2011 (in Appeal No. 26/2008, judgment dated 24.3.2009 in Review Petition No. 1/2009 (in Appeal No. 64/2008) and the judgment dated 19.1.2011 in Review Petition No. 7/2009 (in Appeal No. 85/2007).

5. After hearing the parties and examining the documents on record. We now proceed to consider the issues raised by the petitioner, as discussed in subsequent paragraphs:

6. In accordance with Rule 1 Order 47 of the Code of Civil Procedure (CPC), a person aggrieved by an order may apply for a review under the following circumstances:

(a) On discovery of new and important matter or evidence which after exercise of due diligence was not within his knowledge or could not be produced by him at a time when the order was made;

(b) An error apparent on the face of the record;

(c) For any other sufficient reason.

Disallowance of additional capital expenditure for certain assets/items during 2009-14

7. The petitioner has submitted that the Commission has erred in disallowing the amounts of additional capital expenditure during 2009-14 and the expenditure disallowed by the Commission

under various heads is more than the expenditure claimed. The year-wise additional capital expenditure claimed and disallowed in respect of the assets are as under:

(₹ in lakh)

	Assets	Additional Capital Expenditure claimed	Additional Capital Expenditure Disallowed
2009-10	Computers & peripherals	5.00	8.00
2010-11	-	-	-
2011-12	Computers & Peripherals	3.00	8.00
2012-13	Computers & Peripherals	3.00	8.00
2013-14	Testing & measuring instrument, Water supply lines	20.00	25.00

8. The petitioner has submitted that the correct amount of additional capital expenditure for 2009-14 may be allowed in the order, after rectification of the above errors.

9. The matter has been examined. It is observed that the total amount of additional capital expenditure disallowed in respect of the above assets is ₹8.00 lakh each for the years 2009-10, 2011-12, 2012-13 and ₹25.00 lakh for 2013-14 in respect of the above assets, as shown in the order, which also include the expenditure of ₹3.00 lakh for 2009-10 and ₹5.00 lakh each for the years 2011-12, 2012-13 and 2013-14, towards the installation of safety equipments at different locations of the generating station. Though the expenditure in respect of this asset was deducted, the nature of the asset was not indicated in our order. The omission to indicate the nature of the asset (installation of safety equipment) in the relevant column of the above table, despite deduction of the amounts for the said years, is an inadvertent error. In view of the clarification that the expenditure for installation of safety equipments has been considered along with the expenditure towards computer peripherals, Testing & measuring instrument, Water supply lines, and disallowed, as shown in the order, there is no change in the additional capital expenditure allowed in our order dated 16.6.2011 for the period 2009-14.

Replacement of one circuit of 400 kV Oil filled Cable with 400 KV XLPE Cable and New Dry type Excitation transformer and Stator Air Cooler (1 set)

10. The petitioner has pointed out that the Commission in its order has disallowed the capitalization of 400 kV XLPE cable, New Dry type Excitation transformer and Stator Air Cooler

(1 set) along with other items. It has also submitted that while New Dry type Excitation transformer and Stator Air Cooler (1 set) are now proposed to be capitalized during 2011-12 , the replacement of 400 kV XLPE cable is being claimed during 2013-14.

11. The Commission in its order dated 16.6.2011 had disallowed the capitalization of the above said assets on the ground that these assets are in the nature of spares, based on its submissions in the main petition as under:

> ***Replacement of one circuit of 400 kV oil filled cable with 400 kV XLPE cable during 2009-10***
>
> *"one no. 400KV Oil filled cable of line # 1 W Phase had failed during 2004. The same was replaced with spare cable. The repair of faulty cable was not found feasible and it was decided to procure one length XLPE Cable. Supply order is already placed to M/s Brugg Cable. LC has been opened and execution of the order is yet to be completed during 2009-10.*
>
> ***New Dry type Excitation transformer***
>
> *"The said excitation transformer required to be purchased as spare for Power House to meet any urgent need in case of failure of any operating once. Case is already under process for procurement.*
>
> ***Stator Air Coolers***
>
> *"only one healthy cooler is available for replacement as spare. So to reduce the down time. One complete set (6 No.) is required to be kept ready to use for expediting the maintenance work in peak season as well as annual maintenance works*

12. In justification of its claim, the petitioner has now submitted as under:

> ***Replacement of one circuit of 400 kV oil filled cable with 400 kV XLPE cable during 2009-10***
>
> *"Replacement of one circuit of 400 KV Oil filled cable with 400 KV XLPE Cable: Frequent problem of oil leakages has been encountered in the oil filled cables at URI Power station since 1997 resulting in extended repairs and even replacement of one length by a spare cable. Fault & repair history of oil leakages from the cables is furnished. The detection of fault in the oil filled cable is very difficult. In case of line-I, W phase finding the location of fault has taken almost one year because of delay in hiring agency and non-availability of shut down of the line. From the fault history it is evident that all the six cables have been got repaired at least once. Due to expansion and contraction of oil in oil filled cable and ageing of OFC, oil leakage observed at repair points. These leakages and pressure drop may further lead to serious earth fault in future.*
>
> *Now, commissioning of URI–II project in the close vicinity of URI-I has reached advanced stage and the plant is likely to be commissioned around December 2011. The integrated power evacuation scheme approved by the CEA provides for a 400 KV link between URI-I and URI-II .This scheme would ensure optimum utilization of power evacuation infrastructure with minimum cost while ensuring the required reliability (Actually, the cost of one circuit of approximately 100 Km 400 KV URI II to Wagoora line has already been saved due to this integrated scheme).The URI-I – URI-II 400 KV link has already been executed as part of this scheme against URI-II contracts package. As per the attached single line diagram of the integrated power evacuation system of URI-I and URI-II Projects, the double circuit 400 KV line between URI-I & Wagoora would also cater as a back-up evacuation arrangement for URI-II Power. It is important to mention that URI-II – Wagoora single circuit 400 KV line was planned as a single circuit line on the strength of the backup available at URI-I. Therefore, URI-I Power evacuation system has to be equally reliable. For achieving the*

acceptable level of efficiency, reliability and optimality of the integrated evacuation arrangement for URI-I- URI-II, it is necessary to have a reliable 400 KV XLPE cable connection between GIS to Pothead yard at URI-I, otherwise this weak link (in the form of the present 400 KV oil Filled Cable) will defeat the objectives of the whole scheme. Coupled with above, a close look at the history of frequent oil leakages from the oil filled cables (a serious problem), would necessitate replacement of the 400 KV oil filled cable circuits by XLPE cable circuits one by one for efficient operation of the plant. Definitely, this proposition is not a case of providing any spare cable but it is a replacement of complete circuit which is necessary for efficient plant operation. The old oil filled cable circuit shall be disposed off after installation of new XLPE cable circuit. Second 400KV circuit shall also be replaced with XLPE cable shortly after replacement of the first circuit.

Accordingly, one circuit consisting of 3 cable lengths between GIS to Pothead yard at URI-I is proposed to be replaced at this stage. The actual cost of supply and erection of one circuit would be known after finalization of the supplier through the tendering process. The point worth mentioning here is that the efficient plant operation while ensuring reliability of evacuation of bulk power is ensured by the above arrangement. If the financial loss due to outage of power plant on account of cable failure is compared with the cost of supply and erection of the cable, it would clearly emerge that the financial loss on account of loss of generation would be far more than the cost of replacement of the cables.

It may also further be mentioned that the oil filled cable technology is getting obsolete very fast and it is being used very rarely. Worldwide, there is a trend of replacement of oil filled cables with XLPE cables. Also, there is frequent problem of availability of spares and repair expertise in respect of oil filled cables. In the past also, NHPC has experienced lot of problems in getting the specialist services and tools and tackles for repair of the oil filled cables at URI-I Power Station. In this regard, view of the Original Equipment Manufacturer (OEM) i.e., ABB, Switzerland is reproduced below.

"As it is a difficult / risky and a very costly task to repair the damaged oil filled cable, we suggest that the cable should be replaced with a XLPE –insulated cable. It can neither be guaranteed that the OFC cable insulation system has not been previously damaged or the insulation system is not intact today. Hence after a repair work it cannot be guaranteed that the insulation system is intact and the new fault will not occur."

Further, due to rising environmental concerns with regard to the oil being used in the oil filled cables, the trend is fast shifting in favor of XLPE Cables.

At this stage, the replacement of one circuit of 400 KV oil field cable with 400 KV XLPE cable (i.e. 3 lengths) at the generating station is in tendering process, the actual expenditure for the same shall be claimed at the time of truing up. The said expenditure being unavoidable in nature and necessary for efficient plant operation, the Hon'ble Commission may kindly be impressed upon to allow the same at the time of truing up.

New Dry type Excitation transformer

"The existing dry type transformer has been installed since commissioning and is in the operation since then. Excitation transformer is an essential component as its failure leads to complete shutdown of unit and generation loss. As these transformers are dry type hence any fault in excitation transformer cannot be rectified easily. Accordingly, a new excitation transformer is planned to purchase for use in case of fault in any excitation transformer so as to minimize down time of the unit and to save the generation loss."

Stator Air Coolers

"The present stator air coolers are installed since commissioning and are in the operation for more than 14 years and they have completed their useful life then. Most of tube got punctured either due to completion of useful life or due to plugging. Due to puncture & plugging .The efficiency of the Air coolers have decreased, leading to frequent rise in stator winding temperature. The condition of existing stator air cooler is beyond repairable. Accordingly, it is required to replace the existing

stator air coolers of each unit with new once in phased manner so that machine can run at full load within the permissible stator winding temperature."

13. The Commission by a conscious decision based on the submissions of the petitioner, had disallowed the capitalization of these assets, on the ground that the said assets are in the nature of spares. The details submitted now were available with the petitioner at the time of filing of the original petition. The petitioner by this application has sought to re-argue the issue on merits, and the same is not permissible in review. Hence, the submissions of the petitioner to justify the claim for expenditure in respect of the above assets cannot be considered on review. The petitioner has not demonstrated the existence of any error apparent on the face of the order or any sufficient reason for review of the order dated 16.6.2011 on this count. In the circumstances, review of order on this count is rejected. In view of this, the additional capital expenditure allowed in our order for the period 2009-14 remains unchanged.

Error in calculation of O & M Expenses

14. The petitioner has pointed out certain errors in the calculation of expenses for various components under O&M expenses, and has prayed that the errors may be rectified for the reasons stated therein. The respondent, BRPL has submitted that the Commission in terms of Regulation 19(f) of the 2009 Tariff Regulations had considered the actual O&M expenses during the period 2003-04 to 2007-08 for any abnormal increase for the purpose of normalization duly considering the justification and arriving at the permissible O&M expenses for the year 2009-10, which is further escalated at the rate of 5.72% per annum to arrive at the permissible O&M expenses for the subsequent years of tariff period. The respondent has also submitted that the petitioner has not pointed out to any fundamental errors but has only made submissions pointing to errors in the judgment, which cannot be cured in review petition.

15. Taking into consideration the submission of the parties and the documents on record, we consider the issues raised by the petitioner as under:

(A) Consumption of Stores & Spares during 2005-06 and 2006-07

16. Based on the submissions of the petitioner in its original petition that the expenditure had increased due to de-capitalization of capital spares during the years 2005-06 and 2006-07, the Commission in its order dated 16.6.2011 had disallowed the expenses for ₹169.47 lakh and ₹143.08 lakh, during 2005-06 and 2006-07 respectively, towards the Consumption of Stores & Spares, observing as under*:*

> *"It is observed that the expenditure on consumption of stores and spares during the years 2005-06 and 2006-07 is higher in comparison to the previous years. The petitioner has submitted that the higher expenditure is on account of de-capitalization of capital spares during these years. The justification submitted by the petitioner is not reasonable. Even after considering the depreciation amount (₹12.15 lakh) on capital spares, the total expenditure for these years is high. In view of this, the expenditure allowed for the year 2005-06 is restricted to an increase of 20% over the expenditure for 2004-05, which works out to ₹26.96 lakh. Similarly, the expenditure allowed for 2006-07 is restricted to an increase of 20% over the expenditure allowed for 2005-06, which works out to ₹32.36 lakh."*

17. In justification of its claim, the petitioner has now submitted as under:

> *"the increase in expenditure during 2005-06 in this head in comparison to the previous period (2004-05) is due to de-capitalization of capital spares during the years. Due to change in the accounting policy of the Corporation, the actual consumption of stores & spares duly audited by the statutory auditor has been claimed by the petitioner in Form No-15B, by charging the capital spares to O&M expenses on their consumption. This is in accordance with the direction of the Hon'ble Commission in Petition No. 88/2005 dated 3.2.2006 in respect of the generating station:*
>
> > *"The petitioner has claimed an amount of ₹229.15 lakh (₹132.46 lakh in 2002-03 and ₹96.69 lakh in 2003-04) towards capitalization of spares, as per its accounting policy and based on Accounting Standard-2 of the Institute of Chartered Accountants of India. Capitalization of additional spares over and above the reasonable spares already capitalized as initial spares within the approved capital cost. The generating station has been in operation for nearly 8 years. Capitalization of spares claimed by the petitioner cannot be allowed at this stage. However, the spares to the extent actually consumed for repairs & maintenance works during the years 2002-03 and 2003-04 may be considered as part of O&M expenses."*
>
> *Further, the claim of the actual expenses on consumption of stores & spares during 2006-07 being lesser than the claim against the same head during 2005-06, no justification was furnished by the petitioner in the tariff petition. The Hon'ble Commission has restricted and allowed the expenses under the head consumption of stores & spares by 20 % during 2005-06 & 2006-07. In view of the above justification, the Hon'ble Commission is requested to reconsider & allow the actual expenses of the petitioner under the head consumption of stores & spares amounting to ₹169.47 and ₹143.08 lakh during 2005-06 & 2006-07 respectively."*

18. The submissions of the petitioner have been examined. It is observed that the consideration of actual consumption of spares as part of the O&M expenses is in accordance with the order of the Commission dated 3.2.2006 in Petition No.88/2005 and this aspect had been overlooked by the Commission, in its order, while disallowing the claim of the petitioner for the years 2005-06

and 2006-07 under this head. This according to us, is an error apparent on the face of the order and review on this count is allowed. Accordingly, the expenditure towards consumption of stores & spares amounting to ₹169.47 lakh and ₹143.08 lakh during 2005-06 and 2006-07, respectively is allowed for calculation of O&M expenses for 2009-14.

(B) Security Expenses

19. The petitioner has submitted that the Commission in paragraph 48 of order dated 16.6.2011 has allowed the total expenditure as claimed by the petitioner under "Security Expenses" for 2003-08. However, in the table under paragraph 67 of the said order, pertaining to the O&M expenses considered during 2003-04 to 2007-08, an expenditure of ₹13.55 lakh only has been considered under Security expenses (*Sl.No.4*) during 2006-07, instead of ₹17.39 lakh allowed for 2006-07.

20. The matter has been examined and it is observed that the expenditure of ₹13.55 lakh for 2006-07 has been considered in place of ₹17.39 lakh in the said order, as submitted by the petitioner. This is an inadvertent clerical error and the same is corrected by this order. Accordingly, the Security expenses (other than salary and wages) shown in the table under paragraph 67 of the order dated 16.6.2011 is corrected as under:

(₹ in lakh)

	2003-04	2004-05	2005-06	2006-07	2007-08
Security Expenses allowed	18.29	12.64	11.29	17.39	11.67

(C) Administrative Expenses

(a) Advertisement Expenses

21. The petitioner in the original petition had claimed advertisement expenses and justified the same by submitting that the increase in expenditure was due to visiting Parliamentary committee on energy and expenses incurred on cost of press Tender for 400 KV XLPC cable. However, the Commission in its order dated 16.6.2011 has observed as under:

“Since the expenses incurred do not relate to the operation of the generating station, the same is restricted to an increase of 20% over the expenses during 2003-04 and 2004-05 respectively, which works out to ₹0.49 lakh for 2005- 06, ₹0.59 lakh for 2006-07 and ₹0.71 lakh for 2007-08 and the same has been allowed.”

22. The petitioner in its application has submitted as under:

“the increase in expenses during 2006-07 is due to expenses on press tender for 400 KV XLPE cable. The justification for replacement of 400 KV oil filled cable stands submitted in this review application. Accordingly, ₹18.58 lakh claimed under advertising expenses during 2006-07 may kindly be allowed by the Hon’ble Commission. Further, the expenses on this head for 2007-08 being lesser than 2006-07, no justification was provided in the tariff petition. Now, in view of the above justification, it is requested to kindly revise the advertisement expenses allowed during 2007-08 and allow ₹8.87 lakh on this head.”

23. The Commission by a conscious decision after considering the submissions of the petitioner, had restricted the expenses incurred by the petitioner, in the said order. The petitioner cannot be allowed to re-open the matter on merits, in review. In our view, the advertisement expenses cannot increase abnormally due to visit of the Parliamentary Committee and hence the restriction of expenses to an increase of 20% over the previous year is in order. Thus, there is no error apparent on face of the order and review on this ground is rejected.

Filing Fees

24. The petitioner has submitted that the expenses on account of filing fee paid to the Commission for determination of tariff of the generating station may be considered in O&M expenses. In addition, the petitioner has mainly submitted as under:

"In terms of CERC (Payment of Fees Regulations), 2004, NHPC had paid filing fee of ₹25 lakh in FY 2004-05 to CERC. In the tariff period 2001-04, CERC had allowed reimbursement of filing fee from the beneficiaries. CERC while allowing tariff of the Salal Power Station for the period 2004-09 vide order dtd. 09.05.2006 observed as under:

"92. The petitioner has sought reimbursement of filing fee of ₹ 25 lakh paid. A final view on reimbursement of filing fee is yet to be taken by the Commission for which views of the stakeholder have been called for. The view taken on consideration of the comments received shall apply in the present case as regards reimbursement of filing fee.

Further the Hon’ble Commission vide order dated 11.09.2008 in Petition No. 129/2005 (suo-motu) directed as under:

"12. …… Recently, the CPSUs have furnished to the Commission past data of O&M expenses. On analysis of the data it has been found that the application filing fee constitutes less than 0.5% of the actual O&M expenses. The proportion of the application filing fee will be infinitesimally small when compared to overall tariff for the generating station or the transmission system. Year-wise, escalation being allowed in whole lot of O&M expenses seems to take care of the enhanced application filing fee."

xxxx

"14 In the light of above analysis, we decline the claim of the CPSUs to allow reimbursement of expenditure on the application filing fee. This decision will, however, not be quoted as a precedent for any decision on similar issue arising in future." Further, NHPC has claimed this amount of filing fees under O&M expenses during 2005-06 in Form-15B of the petition. Regulation 42 deals with the filing fees paid for the tariff period 2009-14, not for filing fees of previous tariff period 2004-09".

25. The submissions of the petitioner have been examined. The norms of O&M expenses under sub-clauses (i) to (iii) of Regulation 19(f) of the 2009 Tariff Regulations is based on the actual O&M expenses for the period 2003-04 to 2007-08. Admittedly, the Commission by its order dated 11.9.2008 in Petition No. 129/2005 (*suo motu*) had rejected the claim of the petitioner for reimbursement of filing fees for 2004-09 by observing that the year-wise escalation allowed in O&M expenses has taken care of the enhanced application filing fee. Since the filing fee of ₹25.00 lakh claimed during 2004-09 has not been allowed to be reimbursed in terms of the decision contained in order dated 11.9.2008, the said expenditure has not been considered for the purpose of normalization of O&M expenses for the period 2009-14. Moreover, separate provision has been made by the Commission for reimbursement of expenditure for filing fees during the period 2009-14 under Regulation 42 of the 2009 Tariff Regulations. The expenditure on filing fees for the years 2009-10 and 2010-11 incurred by the petitioner has been allowed to be recovered from the beneficiaries in terms of para 83 of the order dated 16.6.2011. In view of this, there is no error apparent on the face of the record and accordingly, review on this count fails.

(D) <u>Other expenses (Specific/administrative items)</u>

26. The petitioner in its original petition had submitted that the increase in expenses during 2005-06 is due to the reason that ₹97.37 lakh incurred on community development near surrounding of Gingle and due to relief given to earthquake victim residing in the surrounding of the generating station. Further, the increase during 2007-08 was due to the expenses incurred on community development near surrounding of Gingle and due to prior period expenditure booked in 2007-08. The petitioner has submitted as under:

"In the tariff order dated 16.6.2011, the Hon'ble Commission has not considered the expenses on loss on sale of fixed asset, expenses made for payments towards compensation for land and prior period adjustment. However, expenses made for payments towards compensation for land being the genuine expenditure of the petitioner is claimed in the review application. Further, by adjusting the expenses as per the approach of the Hon'ble Commission, the expenditure on the head "Other expenses (Specific/ administrative items)" works out to ₹44.40 lakh, ₹33.11 lakh, ₹180.75 lakh, ₹ 57.37 lakh and ₹70.52 lakh during 2003-04, 2004-05, 2005-06, 2006-07 & 2007-08 respectively. Being the legitimate expenditure incurred in the interest of the general public of the vicinity of the project area, the Hon'ble Commission is humbly requested to kindly reconsider and allow the expenses under the head 'Other expenses (Specific/ Administrative items) claimed in the petition."

27. From the submissions above, it is observed that the petitioner has sought to re-agitate the issue on merits, which has already been considered and rejected by the Commission in its order dated 16.6.2011. This is not permissible in review. We are of the view that the expenses on loss on sale of fixed asset and expenses made for payments towards compensation for land and prior period adjustment and expenditure for the benefit of general public for community development program is required to be borne by the petitioner and is not to be recovered from the beneficiaries. The submissions made by the petitioner on merits, cannot be considered on review and hence, the order does not suffer from any infirmity. Hence, review on this count is rejected.

(E) <u>Employee Cost</u>

(i) Salary, wages and Allowances (Project)

28. The petitioner in the original petition had justified the increase in the expenses towards 'Salary, Wages and allowances (Project)' as under:

"*due to allocation of ₹398.21 lakh on account of Corporate Office expenses and balance is due to wage revision arrear for the period from 1.1.1997 to 31.3.2004 paid to employees of project. Therefore, the increase of ₹692.62 lakh in the expenses on the above head during 2005-06 over the previous year i.e. 2004-05, is due to ₹398.21 lakh of Corporate Office expenses allocation & balance is due to wage revision arrear paid to project employees. This amount does not pertain to wage revision effective from 1.1.2007."*

29. The petitioner has submitted that the Commission has not allowed the entire amount under 'Salary, Wages and Allowances (Project)' as claimed during 2005-06 and has restricted the same to 120% of previous year (i.e. 2004-05) expenses in para 58 of the order dated 16.6.2011 as under:

"…..The petitioner has justified the increase in the expenses for the year 2005-06 and has submitted that the arrears due to wage revision paid to the Executives of the petitioner corporation and an amount of ₹398.21 lakh pertaining to the salary wages and allowances of corporate office booked in this head during this year, had contributed to the increase in the expenses during 2005-06. After deduction of ₹398.21 lakh or the maximum allocated corporate expenses of ₹444.31 lakh, from the expenses incurred for 2005-06, the amount works out to ₹1224.14 lakh, which is higher than the permissible limit of 20%. Hence, the expense for 2005-06 is restricted to an increase of 20% over the expenses for 2004-05, which works out to ₹1171.09 lakh. This has been considered……"

30. In justification of its claim, the petitioner has now submitted as under:

"*In view of the separate treatment given to the corporate office expenses in the tariff order, the expenditure under the head 'Salary, Wages and allowances (Project) works out to ₹1270.24 lakh after deducting the Corporate Office expenses of ₹398.21 lakh from the total claim of ₹1668.45 lakh under this head. Being the legitimate expenditure already incurred by the petitioner, it is requested to kindly allow ₹1270.24 lakh under 'Salary, Wages and allowances (Project)' for 2005-06 for tariff purpose."*

31. The matter has been examined. The expenses for 2005-06 was restricted to an increase of 20% over the expenses of the previous year which worked out to for ₹1171.09 lakh, on account of abnormal increase due to inclusion of arrear of the period from 1.1.1997 to 31.3.2004 and after deduction of the allocated corporate expenses of ₹444.31 lakh from total claim of ₹1668.45 lakh. Also, the details of arrears pertaining to previous periods were also not given by the petitioner. The Commission after prudence check had allowed the said expenditure after examining the submissions of the petitioner. The petitioner is not permitted to reopen the issues on merits, in review. In view of this, there is no error apparent on the face of the record and review on this count is rejected.

Regional Office Expenses allocation (other than employee cost)

32. The petitioner has submitted that the Commission after prudence check allowed the regional office expenses at para 66 of the order dated 16.6.2011. These amounts were further bifurcated into two expenses as 'Regional office employee cost allocated to the generating station' and 'Regional Office expenses other than employee cost allocated to the generating station' as under:

(₹ in lakh)

	2003-04	2004-05	2005-06	2006-07	2007-08
Allocation to the generating station	The expenses have been booked in relevant heads of the project		68.35	47.43	41.78
Regional office employee cost allocated to generating station			58.75	43.28	35.97
Regional office expenses other than employee cost generating station			9.60	4.15	5.81

33. The petitioner has submitted that the Commission while calculating the net O&M expenses for 2003-04 to 2007-08, has not considered the the impact of "Regional Office expenses other than employee cost of the generating station" i.e. ₹9.60 lakh, ₹4.15 lakh and ₹5.81 lakh have not been considered by the Hon'ble Commission during 2005-06, 2006-07 & 2007-08, respectively. This needs to be rectified by the Hon'ble Commission. The matter has been examined. It is observed that though the Commission in the table under paragraph 67 of its order has allowed the said expenses for the said years, the same has been inadvertently left out while working out the net O&M expenses. This is an error apparent on the face of the order and the same is corrected by this order, by considering the expenses for 2005-06, 2006-07 and 2007-08 respectively. Accordingly, review on this count is allowed.

<u>Methodology of 20% restriction of expenses</u>

34. The petitioner in this application has objected to the methodology adopted by the Commission, by restricting the increase in expenses of a particular year to 20% of the expenses of the previous year. According to the petitioner, in some cases, the original claim was well within 120% of previous year expenses and therefore following the prescribed footnote under Form-15B, justification was not given. However, due to reduction of previous year expenses by the Commission, the increase in expenses of subsequent years becomes more. Therefore, in the absence of proper justification, Commission has again restricted the incremental increase to 20% of the previous year and in this manner all future expenses have been restricted.

35. We have considered the submissions of the petitioner. As per Appendix-II to Form-15 B to the petition, the annual increase in O&M expenses under a given head in excess of 20% should be explained by the petitioner with proper justification. While normalization of O&M

expenses, the abnormal expenses are to be excluded. It is not correct to assume that normal O&M expenses would increase by more than 20% every year and during the end of the five year period (2003-04 to 2007-08) these expenses would become 2.4 times the normal expenses. Normal O&M expenses would remain more or less constant, except on account of impact of inflation and other escalation factors. For the purpose of normalization of O&M expenses, based on prudence check, the abnormal increase in O&M expenses are either excluded or restricted to 20% increase (of the previous year) based on the justification submitted by the petitioner. If no justification for any increase is submitted by the petitioner the expenses are restricted on prudence check. In view of this, there is no error apparent on the face of the record and the submission of the petitioner for reconsideration of the issue is rejected.

36. Based on the discussions in the foregoing paragraphs, the O&M expenses considered for the period 2003-04 to 2007-08 for calculation of O&M expenses for the period 2009-14 as worked out in paragraph 67 of the order dated 16.6.2011 is revised as under:

(₹ in lakh)

Sl. No.		**2003-04**	**2004-05**	**2005-06**	**2006-07**	**2007-08**
A	**Breakup of O & M Expenses**					
1	Consumption of Stores & Spares	39.51	22.47	169.47	143.08	21.89
2	Repair & Maintenance	223.45	771.09	345.72	250.48	299.27
3	Insurance	1746.24	1749.93	1756.75	1748.95	1750.51
4	Security Expenses (Other than Salary & wages)	18.29	12.64	11.29	17.39	11.67
5	Administrative Expenses					
(a)	Rent	15.05	19.48	21.67	5.40	3.85
(b)	Electricity Charges	4.55	6.98	6.55	7.28	4.37
(c)	Travel & Conveyance	25.2	27.16	36.29	39.51	32.23
(d)	Communication Expenses	22.27	39.34	36.99	20.08	22.36
(e)	Advertising	0.44	0.41	0.49	0.59	0.71
(h)	Entertainment	0.47	0.41	0.49	0.26	0.22
(i)	Filing Fee	0	0		0	0
	Sub -Total (Administrative Expenses)	**67.98**	**93.78**	**102.48**	**73.12**	**63.74**
6	Employee Cost					
a(i)	Salary, Wages and Allowances (Project)	932.34	975.83	1171.09	1115.17	985.99
a(ii)	Salary, Wages and Allowances- (Allocation of Corporate Office expenses)	416.14	385.49	294.04	383.45	236.02
a(iii)	Salary, Wages and Allowances- (Allocation of Regional Office)			58.75	43.28	35.97
a(iv)	Salary, Wages & Allowances - CISF & KV	572.11	608.41	677.42	704.48	845.38
B	Staff Welfare Expenses (Excluding exp. Of KV Gingle only in the year 2003-04, 2004-05)	159.84	191.28	229.54	255.97	216.05
C	Productivity Link Incentive					

	TOTAL EMPLOYEE COST	**2080.43**	**2161.01**	**2430.83**	**2502.35**	**2319.41**
9	Corporate office expenses allocation (other than employee cost)	188.01	146.08	95.98	112.48	70.82
10	Regional office expenses allocation (other than employee cost)	-	-	9.60	4.15	5.81
11	Other (specific Items)	32.35	31.29	48.66	51.37	58.68
12	**TOTAL (1 to 10)**	**4396.26**	**4988.29**	**4970.79**	**4903.37**	**4601.79**
13	Revenue Recoveries (if any)	15.72	23.6	30.2	13.56	17.97
14	**Net Expenses**	**4380.54**	**4964.69**	**4940.59**	**4889.81**	**4583.82**

Employee Cost percentage

37. The normalized average employee cost for the period 2003-04 to 2007-08 at 2007-08 price level works out to 48.24% of normalized average operation and maintenance expenses for the period 2003-04 to 2007-08 (at 2007-08 price level) , as per calculations shown under:

(₹ in lakh)

	2003-04	**2004-05**	**2005-06**	**2006-07**	**2007-08**	Average normalized at 2007-08 price level
Employee cost (Considered)	2080.43	2161.01	2430.83	2502.35	2319.41	
Average normalized Employee cost at 2007-08 price level	2545.19	2513.81	2688.68	2631.72	2319.41	**2539.76**
O&M Expense Considered)	4380.54	4964.69	4940.59	4889.81	4583.82	
Average normalized O&M at 2007-08 price level	5359.14	5775.21	5464.65	5142.61	4583.82	**5265.09**
	$(P1)X(Esc)^4$	$(P2)X(Esc)^3$	$(P3)X(Esc)^2$	(P4)X(Esc)	(P5)	
Escalation rate (Esc)%	5.17	5.17	5.17	5.17	5.17	
Percentage of employee cost (**2539.76**/ **5265.09***100)						**48.24 %**

38. The average employee cost works out to 48.24% of the average O&M cost. Accordingly, the year-wise O&M expenses for the generating station for the period 2009-14, after applying escalation @5.72% from 2008-09 and 50% increase of employee cost by considering the percentage of averaged normalized employee cost is revised and allowed as under:

(₹ in lakh)

	2009-10	**2010-11**	**2011-12**	**2012-13**	**2013-14**
O&M Expense allowed	7304.01	7721.80	8163.49	8630.44	9124.10

39. Thus, the issues raised by the petitioner in this application, is disposed of in terms of the above.

40. Based on this, the annual fixed charges determined by order dated 16.6.2011 is revised, as discussed below:

Depreciation

41. Depreciation as worked out in order dated 16.6.2011 is revised as under:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Gross Block as on 31.3.2009	342260.46	342587.75	343161.75	343235.25	343385.25
Additional capital expenditure during 2009-14	327.29	574.00	73.50	150.00	27.50
Closing gross block	342587.75	343161.75	343235.25	343385.25	343412.75
Average gross block	342424.11	342874.75	343198.50	343310.25	343399.00
Depreciable Value	308181.70	308587.28	308878.65	308979.23	309059.10
Balance Useful life of the asset	23.2	22.2	21.2	20.2	19.2
Remaining Depreciable Value	123801.28	106531.29	102021.57	97304.69	92559.54
Depreciation	**17681.79**	**4805.92**	**4819.92**	**4825.03**	**4829.19**

Interest on Working Capital

42. Interest on Working Capital in order dated 16.6.2011 is revised as under:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Maintenance Spares	1095.60	1158.27	1224.52	1294.57	1368.62
O & M expenses	608.67	643.48	680.29	719.20	760.34
Receivables	7522.21	5408.64	5491.21	5574.79	5662.69
Total	9,226.48	7,210.39	7,396.02	7,588.56	7,791.64
Rate of Interest	12.25%	12.25%	12.25%	12.25%	12.25%
Interest on Working Capital	**1,130.24**	**883.27**	**906.01**	**929.60**	**954.48**

Return on Equity

43**.** Due to rounding up of the figures of the rate of return on equity upto three decimal points, the Return on Equity allowed vide order dated 16.6.2011 for the period 2009-14 is modified as under:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Return on Equity	19017.71	19041.35	19058.32	19064.18	19068.84

Annual Fixed Charges

44. Based on the above, the annual fixed charges approved by order dated 16.6.2011 stands revised 2009-14 as under:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Return on Equity	19017.71	19041.35	19058.32	19064.18	19068.84
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Depreciation	17681.79	4805.92	4819.92	4825.03	4829.19
Interest on Working Capital	1130.25	883.28	906.02	929.61	954.49
O & M Expenses	7304.01	7721.80	8163.49	8630.44	9124.10
Total	**45133.77**	**32452.35**	**32947.75**	**33449.26**	**33976.62**

45. The petitioner shall claim the difference in respect of the tariff determined by order dated 16.6.2011 and the tariff determined by this order from the beneficiaries in six equal monthly installments.

46. Except the above, all other terms contained in the order dated 16.6.2011 remains unchanged.

47. Review Petition No. 20/2011 is disposed of as above.

Sd/-	Sd/-	Sd/-
[M.DEENA DAYALAN]	[S.JAYARAMAN]	[DR.PRAMOD DEO]
MEMBER	MEMBER	CHAIRPERSON