CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Petition No.17/RP/2011
in
Petition No.231/2009

Coram:
Shri V. S. Verma, Member
Shri M. Deena Dayalan, Member

Date of Hearing: 10.1.2012
Date of Order: 25.6.2013

In the matter of

Review of order dated 27.6.2011 in Petition No. 231/2009 pertaining to fixation of tariff in respect of NLC TPS, Stage-**I** (630 MW) & **II** (840 MW) for the period from 1.4.2009 to 31.3.2014**.**

And

In the matter of

Neyveli Lignite Corporation Ltd, Chennai …..**Petitioner**

Vs

1. Tamil Nadu Electricity Board, Chennai
2. Power Company of Karnataka Limited, Bangalore
3. Kerala State Electricity Board, Thiruvananthapuram
4. Puduchery Electricity Department, Puducherry **.....Respondents**

Parties present:

1. Shri R.Suresh, NLC
2. Shri S.Vallinayagam, Advocate, TNEB

ORDER

Petition No. 231/2009 was filed by the petitioner, NLC for determination of tariff in respect of NLC TPS Stage-**I** (630 MW) & Stage-**II** (840 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 (hereinafter referred to as "the 2009 Tariff Regulations") and the Commission by order dated 27.6.2011 determined the annual fixed charges for the generating station for the said period.

2. The annual fixed charges for the generating station for the period 2009-14 determined by the Commission in its order dated 27.6.2011 are as under:

(₹in lakh)

Stage-I	2009-10	2010-11	2011-12	2012-13	2013-14
Return on Equity	2829.14	2622.70	2311.44	1901.06	1676.27
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Depreciation	1423.07	1610.40	1769.34	1801.09	113.49
Interest on Working Capital	2574.85	2611.32	2652.16	2703.75	2733.47
O&M Expenses	11466.00	12121.20	12814.20	13551.30	14326.20
Cost of secondary fuel oil	1514.91	1514.91	1519.06	1514.91	1514.91
Compensation allowance	409.50	409.50	409.50	273.00	136.50
Special allowance in lieu of R&M	0.00	0.00	0.00	1240.68	2623.30
TOTAL	**20217.47**	**20890.03**	**21475.71**	**22985.79**	**23124.14**
Stage-II					
Return on Equity	6050.49	5753.05	5442.58	5098.71	4754.83
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Depreciation	1432.01	1449.36	1464.47	1464.47	1464.47
Interest on Working Capital	3464.79	3508.99	3561.52	3604.28	3657.88
O&M Expenses	15288.00	16161.60	17085.60	18068.40	19101.60
Cost of secondary fuel oil	2019.88	2019.88	2025.41	2019.88	2019.88
Compensation allowance	252.00	294.00	294.00	357.00	483.00
TOTAL	**28507.16**	**29186.88**	**29873.59**	**30612.74**	**31481.66**

3. Aggrieved by the said order, the petitioner has sought review on the following issues:

(i) Additional Capitalization for the period 2007-09 and 2009-14 for Common Assets for Stage-I and Stage-II;

(ii) Capital cost as on 1.4.2009;

(iii) Evaluation of direct assets under Regulation 9(2)(iv) for the period 2009-14 for Stage-I & II and allow the same by relaxation of provision of regulation; and

(iv) Adoption of revised lignite rates for the period 2009-14 in the computation of Interest on Working Capital.

4. The review petition was heard on 3.11.2011 and the Commission admitted the review petition and ordered notice on the respondents. Reply has been filed by the respondent, No.1, TANGEDCO (*erstwhile* TNEB).

5. Heard the parties in review petition. We now proceed to examine the issues raised by the petitioner as discussed in the subsequent paragraphs.

Additional Capitalization of Common Assets for 2007-09

6. In terms of the liberty granted by the Commission in its order dated 30.12.2009 in Petition No.11/2009, the petitioner had claimed additional capitalization of ₹60.26 lakh for Stage-I and ₹48.83 lakh for Stage-II in Petition No. 231/2009 towards Common Assets under the head "Furniture & Equipments' and 'Office Equipments' in terms of Regulation 9(2)(ii) of the 2009 Tariff Regulations. Since the additional capitalization relate to the tariff period 2004-09, the Commission after considering the said claim in terms of the provisions of the 2004 Tariff Regulations disallowed the additional capitalization of ₹60.26 lakh for Stage-I and ₹48.83 lakh for Stage-II for the period 2007-09 by its order dated 27.6.2011 observing as under:

> *"14. From the details submitted, it is observed that the assets are either minor in nature or in the nature of O&M. In terms of clause (3) of Regulation18 of the 2004 regulations, any expenditure on minor assets is not admissible. Moreover, these Common Assets are generally booked under corporate assets and the normative O&M expenses also include corporate expenses. These, expenses are recovered by the petitioner through O&M cost. In view of this, the claim of the petitioner for ₹60.26 lakh for Stage-I and ₹48.83 lakh for Stage-II pertaining to Common Service Assets under the heads Furniture & Equipment" and 'Office Equipments' for the period 2007-08 and 2008-09 is disallowed"*

7. The petitioner, in the instant petition has submitted that the observations of the Commission classifying the disallowed portions of additional capitalization for Common Assets as either minor in nature or in the nature of O&M needs to be reviewed taking into consideration the following relevant facts:

(a) The Commission in its order dated 4.6.2008 in Petition No.118/2007 pertaining to additional capitalization for the period 2004-07 in respect of this generating station had allowed the claim of the petitioner for capitalization of expenditure for Common Assets based on the justification submitted by the petitioner as under:

> *"48 The petitioner vide affidavit dated 7.3.2008 had stated that the generating station is integrated and consists of production units of mines and power stations and in order to augment the production units, service units like the centralized material management, services, township administration, corporate office, hospital and regional offices are functioning and the asset additions are apportioned to the service units. The reasons furnished by the petitioner for allocation of expenditures on common assets and the land additions which have been certified by the auditors are in order. Hence, the expenditure on these assets is allowed to be capitalized.*

Having accepted the justification and allowed the claim for 2004-07 in its order dated 4.6.2008 as above, the Commission has adopted a different yardstick in respect of the claim of the petitioner for capitalization of common assets for the period 2007-09, in its order dated 24.6.2011. The capital additions of the same nature under the same regulations have to be viewed in the same manner.

(b) The expenditure which is revenue in nature is only claimed through O&M expenses while these Common Assets are capital in nature and hence not claimed under O&M.

(c) Categorization of additions as specified under Regulation 18 of the 2004 Tariff Regulations are applicable to direct assets and not Common Assets.

Accordingly, the petitioner has submitted that it is an integrated utility having mines and thermal stations along with services units and medical facilities to cater to the needs of the company and Common Assets occur and gets assigned to the generating station after duly getting distributed among various plants. The petitioner has therefore prayed that additional capitalization due to Common Assets has to be considered in full only as done in the earlier order for the generating station for which regulatory tool cannot be applied as such. Based on the above submissions, the petitioner has prayed that the error in the order dated 31.8.2010 be corrected.

8. The respondent, TANGEDCO in its reply vide affidavit dated 1.10.2011 has submitted that the prayer of the petitioner to include the disallowed additional capitalization on minor assets and common works under Regulation 9(2)(ii)i.e Change in law, in exercise of power under Regulation 44 of the 2009 Tariff Regulations is not maintainable. Accordingly, it has prayed that the claim of the petitioner be rejected.

9. Pursuant to the hearing of the matter on 4.8.2011, the petitioner was directed to segregate the expenses pertaining to different assets under the nomenclature of Assets of minor nature, Capital nature of assets, Assets required for hospital purposes and O&M assets, along with their cost claimed in the Common Assets for the period 2007-09 and 2009-14, and to ensure that there was no duplicity in the claim of Common Assets and direct assets. In response, the petitioner vide its affidavit dated 3.8.2011 has submitted the details of the Common Assets after segregation for the period 2007-09 and has stated that the common assets have been created for NLC complex as a whole to service all the core activities like power generation and mining as under:

(₹ in lakh)

	2007-08	2008-09
Assets like furniture	14.32	349.28
Office Equipments	38.82	140.73
Assets costing less than Rs. 5000	19.55	0.00
Total	**72.69**	**490.01**
Apportioned to Stage-I @ 8% in 2007-08 and @ 11.1108% in 2008-09	**5.82**	**54.44**
Apportioned to Stage-II @ 11% in 2007-08 and @ 8.3331% in 2008-09	**8.00**	**40.83**

10. The submissions of the parties have been considered. The petitioner has submitted that the Commission in its order dated 4.6.2008 in Petition No.118/2007 had allowed the capitalization of Common Assets for the period 2004-07 in respect of this generating station, but has disallowed the same for the period 2007-09 in order dated 27.6.2011. It has also submitted that Commission having allowed the capitalization of Common Assets for 2004-07 under the provisions of the 2004 Tariff Regulations by order dated 4.6.2008, the same should have been considered at the time of considering the claims of the petitioner for capitalization of Common Assets for the period 2007-09 in Petition No. 231/2009, specially considering the fact that the petitioner was given the liberty to claim the same along with detailed justification. According to the petitioner, capitalization of assets of same nature under the same regulations cannot be considered in a different manner and hence the order of the Commission requires to be reviewed. We have examined the matter. It is observed that some of the Common assets during the period 2007-09 as claimed by the petitioner were not allowed as the petitioner did not provide proper justification for the same. Accordingly, the Commission while disallowing such claims granted liberty to the petitioner to approach the Commission with detailed justification of the assets disallowed. Based on the liberty granted, the petitioner had preferred its claim for common assets for 2007-09, which the Commission had disallowed on the ground that the common assets were minor in nature. We are of the view that the non-consideration of the decision in order dated 4.6.2008 in Petition No.118/2007 as regards the capitalization of Common Assets while passing the order dated 27.6.2011 in Petition No.231/2009 with regard to common assets, is an error apparent on the face of the order, which needs to be reviewed. We order accordingly. The

petitioner has pointed out that the break-up of assets during 2007-09 were general with the nomenclature of furniture etc, whereas in actual they included assets of capital nature and hospital equipments. Based on the details of the segregated Common Assets submitted by the petitioner in Annexure –I of this petition as per directions of the Commission, it is noticed that assets of capital nature have been included in the common assets, which admittedly was overlooked while passing the order dated 27.6.2011. In view of this, review of order dated 27.6.2011 is allowed. Accordingly, the matter has been examined along with the justification submitted by the petitioner and on prudence check, the capitalization of those assets which are necessary for efficient operation of the generating station, are allowed to be capitalized as discussed under:

(A) Assets for hospital purposes

11. The details of Common Assets for hospital purposes as claimed by the petitioner and allowed after prudence check for the years 2007-08 and 2008-09 are as follows:

(in ₹)

	2007-08	
	Claimed	**Allowed**
Storage water heater	57735	0.00
Pedestal fan-2 Nos	9639	0.00
Water dispenser – 15 Nos	94485	0.00
Needle destroyer – 2 Nos	2900	2900
BP apparatus	6300	6300
Pulmo Aid Neumaliser system – 10 Nos	35000	35000
Micro peak flow meter	11336	11336
Digital weighing machine – 2 Nos	7000	7000
Total	**224395**	**62536**
Total ***(in lakh)***	**2.24**	**0.63**
Percentage allocation for Stage-I of the generating station [@8%] ***(in lakh)***	**0.18**	**0.05**
Percentage allocation for Stage-II of the generating station [@11%] ***(in lakh)***	**0.25**	**0.07**
	2008-09	
Diatherapy machine ENT – 2 Nos.	31200	31200
Tata motors Ambulance	1377411	1377411
Dermatology equipment	39000	39000
Spiral binding	8750	8750
Print/scan/fax machine	21440	0.00
Godrej 3 nos fire resisting	218400	218400
Projector light	58500	0.00
Cordless hand mike model	6300	0.00
Cordless hand mike model	18900	0.00
Fax machine	5150	0.00
Digital temperature controller	46940	46940
X-ray machine	2035000	2035000
Mobile 660 MA X-ray unit	245000	245000

Fully automated haematology Analyser	498488	498488
Blood donor coach	140400	140400
Automatic BP monitor with monitor	150850	150850
Pulse Oxymeter 2 Nos	90480	90480
Oracle software for IHMA	9990000	9990000
Laying of Oxygen pipe line in various Department	169546	169546
Total	15151755	15041465
Total ***(₹in lakh)***	**151.52**	**150.41**
Percentage allocation for Stage-I of the generating station [@ 11.1108%] ***(in lakh)***	**18.84**	**16.71**
Percentage allocation for Stage-II of the generating station [@8.3331%] ***(in lakh)***	**12.63**	**12.53**

12. Expenditure on assets like Storage water heater for ₹0.58 lakh, pedestal fans for ₹0.09 lakh, Water dispensers for ₹0.94 lakh during 2007-08 and Print/scan/fax machine for ₹ 0.21 lakh, projector light for ₹ 0.59 lakh, cordless hand mike model for ₹0.25 lakh and fax machine for ₹0.05 lakh claimed during 2008-09 are not in the nature of hospital equipments. Hence the expenditure on these assets totalling ₹3.22 lakh during 2007-08 and ₹1.10 lakh during 2008-09 have not been allowed for capitalization. Accordingly, expenditure of ₹0.63 lakh during 2007-08 and ₹150.41 lakh during 2008-09 is justified and is allowed to be capitalised in terms of Regulation 18(2)(iv) of 2004 Tariff Regulations towards successful and efficient operation of the generating station. Based on this, the apportioned amount of ₹0.05 lakh (8% of ₹0.63 lakh) and ₹0.07 lakh (11.1108% of 0.63 lakh) for Stage-I during 2007-08 and ₹16.71 lakh (11.1108% of ₹150.41 lakh) and ₹12.53 lakh (8.3331% of ₹150.41 lakh) for Stage-II during 2008-09 allocated to this generating station has been allowed to be capitalised.

(B) <u>Assets of minor nature</u>

13. It is observed that some of the common assets claimed during 2007-08, other than hospital equipments are in the nature of minor assets or in the nature of O&M like furniture, water dispenser, pedestal fan, wall mounting fans, motor cycle, fax machine, photocopier machine, mobile phone, exhaust fan, steel cots, dining table, chairs, TV cabinet, shoe rack, water heater, vacuum cleaner etc. In terms of clause (3) of Regulation 18 of the 2004 Tariff Regulations, any expenditure on minor assets is not admissible. Moreover, these assets are generally booked under corporate assets and the normative O&M expenses also include corporate expenses. In view of this, expenditure of ₹15.88 lakh (11.1108% of ₹142.91 lakh)

for Stage-I and ₹11.91 lakh (8.3331% of ₹142.91 lakh) for Stage-II pertaining to common assets for the period 2008-09 is allowed.

(C) Assets of capital nature

14. It is observed that the Common Assets claimed during 2008-09 include some assets of capital nature like 16 mtr high mast light for ₹6.07 lakh, Capacitor bank for ₹0.96 lakh, 700 litres HDPE tanks for ₹123.46 lakh, 660 Volts LT panel for ₹1.49 lakh, School bus for ₹1.00 lakh, Ultra sonic cleaner card for ₹0.44 lakh and Carbon dioxide analyser for ₹9.49 lakh. Since these assets are considered necessary for successful and efficient operation of the generating station, the total expenditure of ₹142.91 lakh is allowed to be capitalised in terms of Regulation 18(2)(iv) of the 2004 Tariff Regulations. Based on this, the apportioned amount of ₹43.50 lakh (60.26-16.76) for Stage-I and ₹36.23 lakh (48.83-12.60) for Stage-II pertaining to common assets for the period 2007-09 has been disallowed.

15. Based on the above discussions, the expenditure on Common Assets allowed during the years 2007-08 and 2008-09, in terms of Regulation 18(2)(iv) of the 2004 Tariff Regulations, is summarised as under:

(₹ in lakh)

		2007-08	2008-09	Total
Assets for hospital purposes (a)	Stage-I	0.05	16.71	16.76
Assets for hospital purposes (b)	Stage-II	0.07	12.53	12.60
Assets of capital nature (c)	Stage-I	0.00	15.88	15.88
Assets of capital nature (d)	Stage-II	0.00	11.91	11.91
Total Stage-I (a + c)		**0.05**	**32.59**	**32.64**
Total Stage-II (b + d)		**0.07**	**24.44**	**24.51**

Capital cost for 2007-09

16. In view of the above, the capital cost as on 31.3.2009 after considering the capitalisation of towards Common Assets, stands revised as under:

(₹ in lakh)

	Stage-I		Stage-II	
	2007-08	**2008-09**	**2007-08**	**2008-09**
Opening capital cost as on 1st April of the financial year (a)	60407.72	60584.50	119534.24	119772.25
Additional Capitalization allowed in the order dated 27.6.2011 in Petition No. 13/2009 (b)	176.73	1118.51	237.94	1467.32
Additional Capitalization allowed in the Review (c)	**0.05**	**32.59**	**0.07**	**24.44**
Accordingly, Closing Capital cost as on 31st March of the financial year (a+b+c)	**60584.50**	**61735.60**	**119772.25**	**121264.01**

17. Based on the above, the annual fixed charges of the generating station for the period 2007-09 stands revised as under:

Stage-I

(₹in lakh)

	2007-08	2008-09
Interest on Loan	0	0
Interest on Working Capital	1775	1789
Depreciation	1111	1236
Advance against Depreciation	0	0
Return on Equity	1813	1748
O&M Expenses	7371	7667
Total Annual Fixed Charges	**12070**	**12440**

Stage-II

(₹in lakh)

	2007-08	2008-09
Interest on Loan	0	0
Interest on Working Capital	2467	2490
Depreciation	1268	1342
Advance against Depreciation	0	0
Return on Equity	3746	3691
O&M Expenses	9828	10223
Total Annual Fixed Charges	**17309**	**17745**

18. The marginal difference between the fixed charges approved vide order dated 30.12.2009 in Petition No. 11/2009 and those approved now shall be adjusted by the parties.

19. As stated, the closing capital cost as on 31.3.2009 is ₹61735.60 lakh for Stage-I and ₹121264.01 lakh for Stage-II of the generating station. The same is considered as the opening capital cost as on 1.4.2009, for the purpose of tariff for the period 2009-14.

Additional Capitalization of Common Assets for 2009-14

20. The petitioner has claimed additional capital expenditure on Common assets amounting to ₹3325 lakh for Stage-I and ₹2495 lakh for Stage-II for the period 2009-14. In response to the directions of the Commission during the hearing on 3.11.2011(in Petition No. 6/RP/2011-NLC TPS-I Exp), the petitioner has submitted the details of the segregated Common Assets in Annexure –IA of the petition as under:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Assets of minor nature	873.00	0.00	0.00	0.00	0.00
Assets of capital nature other than hospital	3697.00	5012.00	5307.00	5619.00	5950.00
Assets for hospital purpose	600.00	658.00	697.00	738.00	781.00
O&M nature	0.00	0.00	0.00	0.00	0.00

Total	5170.00	5670.00	6004.00	6357.00	6731.00
Claim as apportioned to NLC TPS-II Stage-I for Common Assets	**574.00**	**630.00**	**667.00**	**706.00**	**748.00**
Claim as apportioned to NLC TPS-II Stage-II for Common Assets	**431.00**	**473.00**	**500.00**	**530.00**	**561.00**

21. The petitioner in this petition has submitted as under:

(a) Additional capitalization of individual plant arising out of individual elements sustaining the said plant is different from the additional capitalization arising out of common assets that is only created to support the plant by actively helping both men & machines.

(b) Additional capitalization due to common assets has to be considered in full only, as done in the earlier order for the same plant for regulatory tools cannot be applied as such.

(c) Hence, categorization of additions as specified under Regulations 9 of Tariff Regulations 2009 is to be applied to direct assets only and not to be applied for the common assets.

(d) In NLC, the expenditure on these common assets have been booked under “Capital head” and not loaded in the O&M expenses as presumed by the Commission.

(e) The assumption of the Hon’ble Commission that assets are revenue in nature is fundamentally wrong. ‘Operation and Maintenance expenses’ or ‘O&M expenses’ means the expenditure incurred on operation and maintenance of the project, or part thereof, and includes the expenditure on manpower, repairs, spares, consumables, insurance and overheads;

(f) The expenditure in revenue nature are only claimed through O&M Expenses while these fixed assets which are in capital nature are to be claimed as additional assets as and when these assets are put in to use.

(g) The Commission has rejected the justifications submitted by NLC for the commons assets after having accepted the same justifications for the common assets since the year 2001 and up to the period 2004-07.

22. From the details of common assets, it is observed that the assets are either minor in nature or in the nature of O&M. Moreover, these common assets are generally booked under corporate assets and the normative O&M expenses also include corporate expenses. These expenses are recovered by the petitioner through O&M expenses. However, the petitioner has submitted that the common assets have been booked under capital head and not loaded in the O&M expenses as presumed by the Hon’ble Commission. There is no provision to allow expenditure on common assets under the 2009 Tariff Regulations. However, a separate unit-wise Compensation Allowance has been allowed for units with more than 10 years of operation till the completion of useful life under Regulation 19(e) to meet the expenses on new assets of capital nature or in the nature of minor assets. The arguments of

the petitioner that such common assets were allowed during the tariff period 2001-04 and 2004-09 and hence the same principle should be adopted during the tariff period 2009-14 is not acceptable, since the provisions of the 2009 Tariff Regulations were notified after undergoing the process of consultation of all stakeholders and it has been the conscious decision of the Commission not to allow the said expenses as separate unit-wise compensation allowance was applicable. The petitioner cannot reargue the case on merits in the review petition. Hence, there is no error apparent on the face of order and as such the review sought on this count is not accepted**.**

Projected Additional Capital Expenditure for direct assets for 2009-14

23. The Commission in its order dated 27.6.2011, had disallowed the entire claims of the petitioner under Regulation 9(2)(iv) of the 2009 Tariff Regulations amounting to ₹5561.06 lakh and ₹6630.81 lakh for Stage-I and Stage-II respectively.

24. The petitioner, in this petition has submitted that as per definition of Regulation 3(3) read with Regulation 5(2) of the 2009 Tariff Regulations, it is clear that the Commission can admit additions after prudence check. It has also submitted that since there is no other category available in the 2009 Tariff Regulations, for booking capital additions that are capitalised after cut-off date for efficient and successful operation, it was constrained to categorize such additions under Regulation 9(2) (iv). It has also submitted that if all additions capitalised proposed for efficient operation by thermal generating company is disallowed for the sole reason that categorisation is not in line with specified clause in Regulation 9 and taking into consideration that there is no category available under Regulation 9 for capitalising the additions, then Regulation 5(2) also becomes pointless. The petitioner has further submitted that disallowing the entire direct assets claimed under Regulation 9(2)(iv) of the 2009 Tariff Regulations when there is no compensatory allowance for the generating station is an error apparent on the face of the record. The respondent, TANDEGCO in its reply has submitted that Regulation 9(2) (iv) is applicable to hydro generating stations to compensate for any expenditure on account of damage caused by natural calamities

including geological reasons and hence the argument of the petitioner has no merit. The submissions have been examined. As per the scheme of the 2009 Tariff Regulations, additional capital expenditure incurred or projected to be incurred prior to the cut-off date and the additional capital expenditure incurred after the cut-off date is admissible under Regulations 9(1) and 9(2) of the 2009 Tariff Regulations. Regulation 9(2) provides for the different provisions for admissibility of the additional capital expenditure. Regulation 9(2)(iv) provides for expenditure which has become necessary for successful and efficient operation of the hydro generating stations and similar provisions have been made under Regulation 9(2)(v) in respect of the transmission systems. Regulation 9(2)(iv) of the 2009 Tariff Regulations do not provide for capitalization of expenditure in respect of generating stations like the petitioner and hence the same was not allowed by the Commission by its order dated 27.6.2011. The Commission in its order dated 27.6.2011 had taken a conscious decision not to allow the said expenditure under Regulation 9(2)(iv) of the 2009 Tariff Regulations, keeping in view the above. Moreover, the units of the generating station were allowed compensation allowance as claimed by the petitioner in terms of Regulation 19(e) of the 2009 Tariff Regulations, in order to meet the expenses on new assets and assets of capital nature including in the nature of minor assets. Hence, there is no reason to consider the prayer of the petitioner in this petition. In our view, the petitioner has sought to reopen the case on merits, which is not permissible in review. Hence, there is no error apparent on the face of the order and the submissions of the petitioner are rejected. Accordingly, review on this ground fails.

Capital Cost for 2009-14

25. There is no change in the capital cost for the period 2009-14 as allowed in the order dated 27.6.2011 as under:

(₹in lakh)

Stage-I	**2009-10**	**2010-11**	**2011-12**	**2012-13**	**2013-14**
Opening Gross Block	61735.60	62357.03	63010.69	63085.69	63085.69
Addition during 2009-14	621.43	653.66	75.00	0.00	0.00
Closing Gross Block	**62357.03**	**63010.69**	**63085.69**	**63085.69**	**63085.69**

(₹ in lakh)

Stage-II	2009-10	2010-11	2011-12	2012-13	2013-14
Opening Gross Block	121264.01	121342.58	121612.01	121612.01	121612.01
Addition during 2009-14	78.57	269.43	0.00	0.00	0.00
Closing Gross Block	**121342.58**	**121612.01**	**121612.01**	**121612.01**	**121612.01**

Computation of Lignite rate for Interest on Working Capital

26. The petitioner in this petition has submitted as under:

(a) The stipulation of not providing actual fuel prices of the respective year is very much detrimental to NLC, especially during the present tariff period as there is a quantum jump of more than 30% increase in the fuel price of 2009-10 (with regard to 2008-09) with further escalation @ 5-8%.

(b) Further, under Regulation 2001, the actual lignite price of respective year was considered in the computation of working capital. During the period 2004-09, though it was not denoted in the Regulation 2004, Hon'ble Commission in the respective tariff orders adopted the lignite rate corresponding to the base energy charges in the computation of working capital. NLC is requesting the Hon'ble Commission to consider the actual lignite cost of respective years in the computation of working capital. Also, two months receivables are embedded in the working capital expenses to provide for delay in payment by a beneficiary and hence, beneficiary is entitled for a rebate of 2% if payment is made on the date of presentation (through (LoC). It is to be noted that the rebate given to the beneficiaries for payment is based on the energy charges corresponding to the actual lignite rate at the time of billing. Under the circumstances, it is imperative to compute the working capital expenses with the actual prices of fuel so that the interest on working capital provided to the generators is realistic.

27. As per the 2009 Tariff Regulations, the cost of fuel is based on the landed cost and GCV of fuel as per actual for the three months preceding the first month for which tariff is to be determined and no fuel price escalation shall be provided during the tariff period. The petitioner while on the one hand has submitted that the interest on working capital computed by the Commission for the period 2009-14 is in line with Regulation 18(2) of the 2009 Tariff Regulations, has on the other hand requested the Commission to consider the actual lignite cost of respective years in the computation of working capital. Having computed the interest on working capital as per regulations, the petitioner cannot raise extraneous issues in the review petition challenging the regulations on the ground that the stipulation of not providing actual fuel prices for the respective years is very detrimental to it. The regulations have been framed by the Commission after undergoing the transparent process of consultation of all stakeholders including the petitioner. The petitioner, by way of review petition cannot now seek to reopen the matter and seek remedy after a long distance of time by invoking 'power to relax'. Also, no proper justification has been submitted by the petitioner in review petition

to consider the said prayer. In view of this, we are of the considered view that there is no error apparent on the face of the order and review of order dated 27.6.2011 on this ground is not acceptable.

Annual Fixed Charges

28. Based on the above discussions, the annual fixed charges of the generating station for the period 2009-14 are revised as under:

(₹in lakh)

Stage-I	**2009-10**	**2010-11**	**2011-12**	**2012-13**	**2013-14**
Return on Equity	2,835.96	2,627.81	2,314.86	1,902.78	1,677.09
Interest on Loan	-	-	-	-	-
Depreciation	1,430.30	1,617.63	1,776.57	1,808.32	113.95
Interest on Working Capital	2,575.14	2,611.58	2,652.39	2,703.93	2,733.49
O&M Expenses	11,466.00	12,121.20	12,814.20	13,551.30	14,326.20
Cost of secondary fuel oil	1,514.91	1,514.91	1,519.06	1,514.91	1,514.91
Separate Compensation Allowance	409.50	409.50	409.50	273.00	136.50
Special Allowance	-	-	-	1,240.68	2,623.30
Total	**20,231.81**	**20,902.63**	**21,486.58**	**22,994.93**	**23,125.44**

(₹in lakh)

Stage-II	**2009-10**	**2010-11**	**2011-12**	**2012-13**	**2013-14**
Return on Equity	6,055.98	5,758.03	5,447.05	5,102.65	4,758.26
Interest on Loan	-	-	-	-	-
Depreciation	1,434.21	1,451.56	1,466.67	1,466.67	1,466.67
Interest on Working Capital	3,464.95	3,509.14	3,561.66	3,604.41	3,658.00
O&M Expenses	15,288.00	16,161.60	17,085.60	18,068.40	19,101.60
Cost of secondary fuel oil	2,019.88	2,019.88	2,025.41	2,019.88	2,019.88
Special Allowance	252.00	294.00	294.00	357.00	483.00
Total	**28,515.02**	**29,194.21**	**29,880.39**	**30,619.01**	**31,487.41**

29. The marginal difference between the annual fixed charges determined by this order and those determined by order dated 27.6.2011 shall be adjusted by the parties, in terms of the proviso to Regulation 5(3) of the 2009 Tariff Regulations.

30. Except the above, all other terms contained in the order dated 27.6.2011 remains unchanged.

31. Review Petition No. 17/2011 is disposed of in terms of the above.

Sd/-	***Sd/-***
[M. Deena Dayalan]	**[V. S. Verma]**
Member	**Member**