CENTRAL ELECTRCITY REGULATORY COMMISSION
NEW DELHI

Petition No. 50/RP/2016
In
Petition No. 294/GT/2014

Coram:
Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member

Date of Order: 1.5.2017

In the matter of

Review of Commission's order dated 29.7.2016 in Petition No. 294/GT/2014 in respect of determination tariff of Simhadri Super Thermal Power Station Stage-II for the period 2014-19

And

In the matter of

NTPC Ltd
NTPC Bhawan,
Core-7, SCOPE Complex,
7, Institutional Area, Lodhi Road,
New Delhi-110003 **……..Petitioner**

Vs

1. Andhra Pradesh Power Coordination Committee,
Vidyut Soudha, Khairatabad, Hyderabad-500 082

2. Andhra Pradesh Eastern Power Distribution Company Ltd
Corporate Office, P&T Colony, Seethammadhara,
Visakhapatnam-530013

3. Andhra Pradesh Southern Power Distribution Company Ltd,
Corporate Office, Back side Srinivasa Kalyana Mandapam Tiruchhanur Road,
Kesavayana Gunta, Tirupati-517503

4. Telengana Northern Power Distribution Company Ltd,
H. No. 2-5-31/2 Vidyut Bhavan, Naralacutta, Hanamkonda
Warangal-506001

5. Telengana Southern Power Distribution Company Ltd,
Mint Compound, Corporate Office,
Hyderabad -500063

6. Tamil Nadu Generation & Distribution Corporation Ltd
144, Anna Salai,
Chennai-600002

7. Power Company of Karnataka Limited
KPTCL Complex, K.G Road
Kaveri Bhawan, Bangalore-560009

8. Bangalore Electricity Supply Company Ltd,
Krishna Rajendra Circle, Bangalore-560009

9. Mangalore Electricity Supply Company Ltd,
Paradigm Plaza, A.B Shetty Circle, Mangalore-575001

10. Chamundeshwari Electricity Supply Corp Ltd,
Corporate Office, 927 L.J Avenue, New Kantharajaurs Road,
Saraswathipuram, Mysore-570009

11. Gulbarga Electricity Supply Company Ltd
Main Road, Gulbarga-585102, Karnataka

12. Hubli Electricity Supply Company Ltd
Corporate Office, P.B Road Navannagar, Hubli-580025

13. Kerala State Electricity Board
Vaidyuthi Bhavanam, Pattom, Thriruvanathapuram-695004

14. Electricity Department
Govt. of Puducherry 137, NSC Bose Salai,
Puducherry-605001 **…….Respondents**

Parties present

Shri Sanjay Sen, Senior Advocate, NTPC
Shri Saahil Kaul, Advocate, NTPC
Shri Rajeev Choudhary, NTPC
Shri Bhupinder Kumar, NTPC
Shri A.K.Bishoi, NTPC
Shri Nishant Gupta, NTPC
Shri Rohit Chhabra, NTPC
Shri B.S. Rajput, NTPC
Shri S. Vallinayagam, Advocate , TANGEDCO
ShriR. Jayaprakash, TANGEDCO

ORDER

This Review petition has been filed by the petitioner, NTPC for review of order dated 29.7.2016 in Petition No. 294/GT/2014 ("the original petition") whereby the Commission had determined the tariff of Simhadri Super Thermal Power Station Stage-II (1000 MW) ("the generating station") for the period from 1.4.2014 to 31.3.2019 in terms of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 ("the 2014 Tariff Regulations").

2. Aggrieved by the said order dated 29.7.2016, the petitioner has sought review of the said order on the ground of errors apparent on the face of the order on the following issues:

a. *Disallowance of the claim of extension of cut-off date on account of Force Majeure/ uncontrollable factors;*

b. *Disallowance of projected additional capital expenditure qua work towards construction of railway siding for the years 2014-15 and 2015-16; and*

c. *Reduction of the O & M expenses*

3. The matter was heard on 29.9.2016 and the Commission after hearing the parties reserved order in the petition. None of the respondents have filed replies in the matter. Based on the documents available on record, we proceed to examine the issues raised in this review petition as stated in the subsequent paragraphs.

Disallowance of the claim of extension of cut-off date on account of Force Majeure/ uncontrollable factors

4. The petitioner has submitted that the scheduled COD of the units of the generating station were 1.2.2011 and 1.8.2011 respectively and the same was delayed due to factors beyond the control of the petitioner. It has further submitted that the Commission vide orders dated 26.9.2012 in Petition No. 55/2011 and 2.11.2015 in Petition No. 303/GT/2014 had condoned the delay in completion of the project and accordingly the cut off date of the generating station is 31.3.2015. Accordingly, the petitioner has submitted that it had prayed for extension of the cut-off date of the project on account of the occurrence of certain uncontrollable/ force majeure events. It has further submitted that the Commission in the said order dated 29.7.2016 had however disallowed the extension of cut-off date on the sole ground that an extension in the COD had already been allowed by the Commission in the previous orders. It has also pointed out that the Commission has ignored the material fact that the grounds based on which the

extension in COD was granted to the petitioner are entirely different from the grounds based on which the extension in cut- off date was prayed for. Referring to the disallowance of additional capital expenditure towards Main Plant and Offsite, including plant roads and the construction of residential quarters by extending the cut- off date of the generating station beyond 31.3.2015 in exercise of Power to Relax, the petitioner has submitted that the findings of the Commission that the delay in getting the work executed from its contractors is attributable to the petitioner is erroneous and contrary to the facts and evidence placed on record and the earlier orders dated 26.9.2012 and 2.11.2015. The petitioner has submitted that the Commission has failed to consider that the project could not be completed initially within the scheduled completion period due to certain force majeure/ uncontrollable events, as a result of which the work to be carried out by the contractors spilled over beyond the cut- off date. The petitioner has further submitted that the Commission in its earlier orders had acknowledged that the delay up to COD was not attributable to the petitioner and had accordingly condoned the same. Accordingly, the petitioner has submitted that the order dated 29.7.2016 suffers from an error apparent on the face of the record whereby a contradictory stand has been taken, by relying on the reasons for delay in COD on one hand and denial of agreeing upon such force majeure events which resulted in adverse impact on the schedule of the work conducted after the COD.

5. The petitioner has also submitted that merely because an extension has been granted for force majeure/ uncontrollable events prior to the COD, the same cannot be the ground for denying the said relief to the petitioner for force majeure/ uncontrollable events that occur post COD but prior to the revised cut- off date. It has further submitted that the progress of work at site after COD got adversely affected due to the occurrence of two severe cyclonic storms namely Phalin in October 2013 and HudHud in October 2014. It has stated the aforesaid events were uncontrollable in nature and could not have been reasonably foreseen by the petitioner and as such the Commission has erred in not considering the impact of the force majeure events. Referring to the order dated 26.9.2012 in Petition No. 55/2011, the petitioner has

submitted that while the Commission had condoned the delay in achieving COD on account of rainfall and cyclone during the year 2010 which affected the progress of work at site had not granted similar relief when cyclones occurred during the year 2014 (after the COD but prior to the cut off date). It has also submitted that the Commission grossly erred in ignoring the various letters placed on record by the petitioner wherein the contractor was requested to expedite the work at site. The petitioner has submitted that despite such adverse circumstances, the petitioner took all reasonable steps to ensure timely completion of work at site and as such cannot be held liable for the consequent delay due to uncontrollable events. Accordingly it has prayed that the additional capitalization claims on account of Main plant and offsite including roads and residential quarters for the year 2015-16 may be allowed.

Analysis and decision

6. The matter has been examined. As against the scheduled COD (as per investment approval) of 1.2.2011 for Unit-I and 1.8.2011 for Unit-II, the actual COD of Units- I and II of the generating station was 16.9.2011 and 30.9.2012. Thus, the time overrun of 7.5 months for Unit-I and 14 months for Unit-II was condoned by orders dated 16.9.2012 and 2.11.2015 respectively based on the submissions of the petitioner. The petitioner in the original petition had claimed projected additional capital expenditure of ₹3752.88 lakh in 2014-15 under Regulation 14 (1)(ii) i.e. works deferred for execution and ₹900.00 lakh in 2015-16 under Regulation 14 (1)(ii) read with Regulation 54 of the 2014 Tariff Regulations towards Main plant and offsite including Plant roads. In justification of the delay in completion of balance works beyond the cut-off date, the petitioner had submitted that the reasons for the delay were beyond the control of the petitioner. The Commission after considering the submission of the parties, rejected the prayer of the petitioner to extend the cut off date of the generating station after 31.3.2015 and observed as under:

> "23…….*In our view, the condonation of delay in declaration of COD has necessarily impacted the cut-off date of the generating station by at least one year. Despite this and the additional capital expenditure being allowed in the previous orders towards plant off site works, these works have been deferred to the year 2015-16. It is noticed that the communications made to the agency M/s ERA by the petitioner through its letters are only after the scheduled date of completion of the said*

works by the said agency. It cannot be said that the cyclone PHALIN in October, 2013 and HUD-HUD in October, 2014 had impacted the said work since the process of cancellation of the contract due to failure of M/s ERA and awarding the contract to other agency had began only during the period from January, 2014 to March 2014. There has been laxity on the part of the petitioner in coordinating with the contractor/agency for completion of the work prior to the scheduled date of completion of the said work by M/s ERA for which the petitioner is responsible. It is evident from the above that delay in completion of the said work is attributable to the petitioner and the question of cyclone affecting the said work after the same was awarded to another contractor cannot be a ground to condone the delay and extend the cut-off date of the generating station beyond 31.3.2015 by exercise of the „Power to relax" under Regulation 54 of the 2014 Tariff Regulations. No case has been made out by the petitioner for relaxing the cut-off date. In these circumstances, we reject the prayer of the petitioner for extending the cut-off date of the generating station and the claim for capitalization of the additional capital expenditure of `900.00 lakh in 2015-16 is not allowed."

7. The petitioner has submitted that while the Commission had condoned the delay in achieving COD on account of heavy rainfall and cyclones during the year 2010, the relief was denied to the petitioner in the order dated 29.7.2016 when such cyclones had occurred during the years 2013 and 2014 after the COD but prior to the cut-off date. It has also submitted that there was no laxity on part of the petitioner in coordination with its contractors to get the work completed within the scheduled completion period and the Commission has erred in ignoring the various letters placed on record by the petitioner wherein it had repeatedly request to its contractors to expedite the work at site. This submission of the petitioner is not acceptable. The extension of cut-off date as considered in order dated 26.9.2012 was based on the facts and circumstances stated by the petitioner therein and cannot be a ground for granting relief in the instant petition. In fact, the Commission in this order dated 29.7.2016 had considered the impact of cyclone Phalin in October 2013 and cyclone Hudhud in October 2014 and had observed that these natural calamities cannot be said to have impacted the work since the process of cancellation of the contract due to failure of the contract M/s ERA and awarding the contract to other agency had begun only during the period from January 2014 to March 2014. The Commission had also examined the various correspondences between the petitioner and the contractor including the letters referred to by the petitioner and had observed that there has been laxity on the part of the petitioner in coordinating with the contractors/ agency for completion of the said works by M/s ERA for which the petitioner was responsible. Hence the contention of the petitioner that the Commission had not considered the letters between the

parties for grant of relief is baseless and arbitrary. Accordingly, the Commission after considering the submissions of the petitioner had by a conscious decision rejected the prayer of the petitioner for extending the cut-off date of the generating station and thereby the claim for capitalization of ₹900.00 lakh in 2015-16 was also not allowed. In this circumstances, we find no reason to review the order dated 29.7.2016 on this ground. The petitioner has sought to reargue the case on merits and the same is not permissible in review. In our considered view, no valid ground exists for review of order dated 29.7.2016 and hence the review sought for by the petitioner on this ground fails.

Disallowance of projected additional capital expenditure qua work towards construction of railway siding for the years 2014-15 and 2015-16

8. The petitioner in the original petition had claimed ₹2431.99 lakh in 2014-15 and ₹733.51 lakh in 2015-16 towards construction of railway siding required for ash utilization. However, the same was disallowed by the Commission on the ground that the income generated from the sale of fly ash was not passed on to the beneficiaries and therefore, it would be imprudent to load the expenditure on construction of railway siding as additional capital expenditure.

9. The petitioner has submitted that the Commission, by disallowing the projected additional capital expenditure qua work towards construction of railway siding has taken decision contrary to those drawn in its earlier orders namely Petition Nos. 55/2011 (tariff of Simhadri from 2011-14), 226/GT/2013 (truing-up of tariff of Simhadri in Petition No. 55/2011) and 303/GT/2014 (truing-up of tariff of Simahdri in Petition no. 226/GT/2013). It has further submitted that the above said orders indicate that the commission has considered the work pertaining to construction of Railway Siding as part of the original scope of work and therefore allowed such expenditures. The relevant portions of orders are extracted as under:

<u>Petition No. 55/2011</u> - "........*Taking into consideration the documents on record and after examining the submissions made by parties in the light of provisions of Regulation 9(1) of the 2009 Tariff Regulations, we allow the claim of the petitioner for ₹58571.95 lakh as additional capital expenditure for 2012-14, subject to truing up in terms of Regulation 6 of 2009 Tariff Regulations.*"

<u>Petition No. 226/GT/2013</u> – "*........Taking into consideration the submissions of the parties and the documents available on record, the claim of the petitioner for total additional capital expenditure of ₹54470.00 lakh for 2012-14 has been allowed on prudence check, in terms of the provisions of Regulation 9(1) of the 2009 Tariff Regulations. However, the additional capital expenditure allowed as above, is subject to subject to truing up in terms of Regulation 6(1) of the 2009 Tariff Regulations."*

<u>Petition No. 303/GT/2014</u> – "**.......***The matter has been examined. The COD of the generating station is 30.9.2012 and hence the cut-off date of the generating station in terms of the 2009 Tariff Regulations is 31.3.2014. The Commission in order dated 19.3.2015 in Petition No. 226/GT/2013 has allowed additional capital expenditure of ₹54470 lakh for the period from 30.9.2012 to 31.3.2014. The petitioner has now claimed additional capital expenditure of ₹44191.84 lakh from 30.9.2012 to 31.3.2014 towards items like buildings, plant & machinery, railway siding, office equipments, capital spares etc. Considering the fact that the cut-off date of the generating station is 30.9.2012, the admissibility of the additional capital expenditure claimed is to be considered in terms of the provisions of Regulation 9(1) of the 2009 Tariff Regulations. We do so accordingly, based on prudence check and the submissions and documents available on record."*

10. The petitioner has stated that in view of the above decisions, denial of the expenditure pertaining to construction of railway siding in the original petition is an error apparent on the face of order and needs consideration in this review petition. It has also submitted that the Commission had failed to consider that the expenditure to the tune of ₹733.51 lakh in 2015-16 had got spilled over on account of force majeure events as stated above.

11. The petitioner has also submitted that the Commission has erroneously not considered the fact that the above said expenditure also falls within the ambit of Regulations 14 (3)(ii) and (iv) of the 2014 Tariff Regulations. It has also submitted that any capital expenditure, which is incurred after the cut-off date, may be admitted by the Commission in the event that the same has been incurred due to "change in law" or "in compliance of existing law". The petitioner has further submitted that the notification dated 3.11.2009 of the Ministry of Environment & Forests (MoEF), GOI has envisaged 100% fly ash utilization in a phased manner and mandated every generating station to ensure adequate evacuation facility for sale of fly ash to cement manufacturing/ other related industries that utilize fly ash as raw material. It has further submitted that the project was envisaged in 2007 when there was no such existing mandate and it was only in 2009 when the aforesaid notification made it mandatory for all generating stations to have evacuation facilities for fly ash. In this background, the petitioner has contended that the denial of the expenditure towards construction of railway siding in the original petition is contrary

to the earlier orders as well as Regulations 14(l)(ii), 14(3)(ii) and 14 (3) (iv) of the 2014 Tariff Regulations. Accordingly, it has prayed that the review may be allowed on the ground as stated above.

Analysis and decision

12. The matter has been examined. As regards the disallowance of the additional capital expenditure on Railway Siding the Commission vide order dated 29.7.2016 had observed as under:

> "*31 The matter has been examined. It is also observed that the said notification provides that all coal/lignite based thermal stations would be free to sell the fly ash to user agencies subject to certain conditions as mentioned therein. Moreover, the amount collected from sale of fly ash or fly ash based products by coal and/or lignite based thermal power stations or their subsidiary or sister concern unit, as applicable should be kept in a separate account head and shall be utilized only for development of infrastructure or facilities, promotion and facilitation activities for use of fly ash until 100% fly ash utilization level is achieved. Since the said notification provides that the money collected from the sale of fly ash or fly ash based products should be utilized for development of infrastructure for use of fly ash, the petitioner is not prevented from utilizing the money for the work of railways siding. Moreover, the income generated from sale of fly ash is not passed on to the beneficiaries. Hence, we are of the view that it would not be prudent to load the said expenditure on railway siding as additional capital expenditure, when such expenditure is neither covered under change in law nor the income from fly ash utilization is shared with the beneficiaries. Based on the above, the projected additional capital expenditure is not allowed."*

13. It is evident from the above that the Commission had disallowed the additional capital expenditure of ₹2431.99 lakh in 2014-15 and ₹733.51 lakh in 2015-16 towards Railway siding mainly on the ground that the notification of the MoEF dated 3.11.2009 provides for 100% ash utilization and that the money collected from the sale of fly ash or fly ash based products should be utilized for the development of infrastructure for use of fly ash. It also observed that the income generated from the sale of fly ash was not being passed on to the beneficiaries and that the petitioner is not prevented from utilizing the money for the work of Railway siding. The petitioner has submitted that the denial of expenditure of ₹2431.99 lakh in 2014-15 is contrary to the earlier orders as the expenditure on railway siding forms part of the original scope of work and has been deferred for work of execution. It is however noticed from the submissions of the petitioner and the earlier orders of the Commission dated 26.9.2012 in Petition No. 55/2011 and 2.11.2015 in Petition No. 303/GT/2014 that the expenditure towards

railway siding had been allowed to the petitioner as it is within the original scope of work of the generating station and within the original cut-off date of 31.3.2015. This aspect was overlooked by the Commission while passing order dated 29.7.2016 wherein the said expenditure was disallowed. This in our view is an error apparent on the face of the order and the same is required to be reviewed. Accordingly we are inclined to allow the additional capital expenditure of ₹2431.99 lakh in 2014-15 towards railway siding which form part of the original scope of work of the project. Hence review of order dated 29.7.2016 is allowed on this ground. As regards the expenditure of ₹733.51 lakh in 2015-16, it is noticed that the same is for the work of transportation of dry ash through railway rakes to nearby cement industries and hence the money collected from the sale of fly ash and fly ash based products should be utilized by the petitioner towards fulfilling the obligations of 100% ash utilization as per MoEF notification dated 3.11.2009. Accordingly we find no reason to review the order dated 29.7.2016 and allow the additional capital expenditure of ₹733.51 lakh in 2015-16. There exists no sufficient reasons to review the order dated 29.7.2016 on this ground and accordingly the submissions of the petitioner are rejected. As stated above the expenditure of ₹2431.99 lakh is allowed to be capitalized in 2014-15.

Reduction of O & M expenses

14. The petitioner has submitted that the Commission has exercised its power to remove difficulties under Regulation 55 of the 2014 Tariff Regulations to reduce the allowable O&M expenses for Stage II of the generating station for the period 2014-19 by holding that the proviso under Regulation 29 (1) (a) of the 2014 Tariff Regulations also applies to those units whose COD occurred on or after 1.4.2009. This, according to the petitioner is an error apparent on the face of order. The petitioner has further submitted that the Commission had determined the O & M expenses in the 2009 Tariff Regulations based on the data of O & M expenses of the existing plants for the period 2003-08. It has stated that the intent behind reduction of admissible O&M expenses for additional units, under the 2009 Tariff Regulations, was that the same would be

able to take advantage of economies of scale and further sharing of certain resources/ facilities would lead to reduction in the operating cost of the additional/ expansion units of an existing generating plant. It has also stated that the generating station, which was commissioned during the period 2009-14, was governed by the proviso to Regulation 19 of the 2009 Tariff Regulations, which had reduced its allowable O&M expenses by a factor of 0.9 qua of stage- I of the generating station. This was because the generating station was an expansion project of Simhadri- I and was thus an additional unit for the purpose of the 2009 Tariff Regulations and the O&M norms determined by the Commission for the period 2009-14 did not consider the O&M data of this generating station. The petitioner has further submitted that the Commission had directed to furnish the data of actual O&M expenses incurred by existing plants during the period 2008-13. However, the said data for the period 2008-13 also included the actual O&M expenses of both Simhadri Stage- I (2x500 MW) and this generating station as units of this generating station was declared under commercial operation during the period 2008-13. Therefore, the data furnished to the Commission, based on which the O&M norms for the period 2014-19 had been formulated, had already reflected the benefit of economies of scale accrued to the additional units declared under commercial operation during the period 2008-13. The petitioner has submitted that the application of the proviso to Regulation 29(1)(a) to this generating station of the petitioner is unsustainable in law since the new O & M expense norms had already taken into account the benefit of economies of scale accrued to the generating station of the petitioner. It has also stated that if the permissible O & M expenses is further reduced by a factor of 0.9 it would amount to double jeopardy as the petitioner would be penalized twice on account of the alleged benefit of economies of scale, first by defining the reduced O & M norm and secondly by applying the 0.9 factor for this generating station. This according to the petitioner is contrary to the intent and purpose behind the 2014 Tariff Regulations as well as the principles enumerated under the section 61 (d) of the Electricity Act 2003. Accordingly, the petitioner has submitted that the actual O & M expenses of the generating station has already been taken into consideration while determining the normative

O & M expenses of thermal generating station under Regulation 29 (1) (a) and thereafter applying 0.9 factor already averaged normative O & M expenses in the case of the petitioner would amount to subjecting the interest of the petitioner twice in peril. Thus the petitioner has prayed that the order may be reviewed on this count and tariff may accordingly be revised.

Analysis and decision

15. The Commission in order dated 29.7.2016 had determined the O & M expenses of the generating station for the period 2014-19 based on the following observations:

> *"58. Therefore, some of the relevant factors to be considered while specifying the terms and conditions of tariff would relate to the economical use of resources, efficiency, good performance, safeguarding the consumer interest while ensuring the recovery of the cost of electricity in a reasonable manner. During the making of the 2009 Tariff Regulations, the Commission took note of the facts that the generators like NTPC are going for expansion of the existing generating stations for optimum utilization of the resources. Since, the expansion units would be sharing some of the common facilities already in place and the normative O&M expenses allowed in the regulation captures the economic scale for a capacity range of 1000 to 1200 MW on an average, the Commission felt that the O&M expenses for the extension unit of the same type at the same location should not be of the same order. Accordingly, the Commission provided for multiplying factors to be applied to the normative O&M expenses to arrive at the O&M expenses in respect of future additional units whose COD would occur on or after 1.4.2009. In this connection, Para 20.9 and 20.10 of the Statement of Reasons issued for 2009 Tariff Regulations is extracted below:*
>
> *…xxxxxxx*
>
> *59. It is apparent from the above that the intention of providing multiplying factor for determination of O&M charges for additional units was to pass on the benefits of economic scale to the consumers. The said provisions are also in conformity with the provisions of the Act particularly sub-section (c) and (d) of Section 61 of the Act. However, while framing the 2014 Tariff Regulations, the above aspects could not be captured in respect of the expansion units which were commissioned on or after 1.4.2009 but before 31.3.2014. The Commission considers it appropriate to remove the difficulty by exercise of its power under Regulation 55 of the 2014 Tariff Regulations by providing that the proviso under sub-clause (a) of Clause 1 of Regulation 29 of 2014 Tariff Regulations shall be made applicable to the units whose COD occurred on or after 1.4.2009. We have exercised our power to remove difficulty in order to give effect to the Regulations in the true letter and spirit of the Act."*

16. As stated, the generating station of the petitioner consisting of 2 units of 500 MW each is an expansion project to the existing Simhadri STPS Stage-I. It was noticed that in the tariff orders pertaining to the period 2009-14 in respect of the generating station, the O & M expenses were not determined as per the 2009 Tariff Regulations which required that for Units-III and IV of the project having capacity of 500 MW or above, O & M expenses should be determined by multiplying a factor of 0.9 with the O & M norms. Accordingly, the Commission in the said order had rectified the anomaly by revisiting the O & M expenses for the generating station by

exercising the power of *suo moto* review and had revised the O & M expenses allowed for generating station for the period 2009-14 in supercession of the O & M allowed vide orders dated 26.9.2012 and 19.3.2015. As regards determining the O & M expenses for the period 2014-19, the O & M expenses of Units-III and IV of the generating station having capacity of 500 MW and above whose COD had occurred on or after 1.4.2014 are required to be worked out by multiplying the O & M norms by 0.9%. However, there is no corresponding provision in the 2014 Tariff Regulations for determination of O & M expenses for units commissioned on or after 1.4.2009 but before 31.3.2014 i.e during the period 2009-14. This had given rise to anomalous situation wherein the restrictions on the admissible O & M expenses in respect of the 3rd and 4th units of the generating station commissioned during the period 2009-14 are not continued during the period 2014-19. The intent of the regulation is to rationalize the O & M expenses by multiplying by a factor of 0.9 as these units are sharing certain common facilities developed for units- I and II of the generating station. Accordingly, in order to address the anomalous situation and to balance the interest of the generating station and the beneficiaries the Commission by invoking its Power to remove difficulties under Regulation 55 of the 2014 Tariff Regulations has made applicable the provision to Regulation 29 (1)(a) of the 2014 Tariff Regulations in respect of this generating station whose additional units have been commissioned on or after 1.4.2009. The exercise of Power to remove difficulties was made in order to give effect to the regulations in true letter and spirit of the Act. Accordingly, the contention of the petitioner that the alleged reduction of O & M expenses in terms of proviso to Regulation 29 (1)(a) would amount of double jeopardy and runs contrary to the intent and purpose of the 2014 Tariff Regulations is untenable and therefore not acceptable. The prayer of the petitioner for review of order dated 29.7.2016 on this ground is rejected.

17. The petitioner has also submitted that the Commission has inadvertently recorded the total additional capital expenditure claimed as ₹141425 lakh instead of the correct figure of ₹41425 lakh. Accordingly it has prayed that the aforesaid typographical in the order dated 29.7.2016

may be corrected and tariff may be revised accordingly. The prayer of the petitioner is accepted and the typographical errors as pointed out by the petitioner is rectified by this order.

18. Based on the above discussions, the tariff of the generating station is revised as stated in the subsequent paragraphs.

19. The projected additional capital expenditure and capital cost for the period 2014-19 in the tables under paragraph nos. 35 and 36 of the order dated 29.7.2016 is modified as under:

Projected Additional Capital Expenditure

(₹ in lakh)

	2014-15*	2015-16*	2016-17*	2017-18*	2018-19*
Projected additional capital expenditure approved in order dated 29.7.2016	25383.58	3494.88	2200.00	2640.00	1000.00
Add: Expenditure on Railway Siding admitted in the instant review petition	2431.99	0.00	0.00	0.00	0.00
Net Additional capital expenditure (on cash basis)	**27815.57**	**3494.88**	**2200.00**	**2640.00**	**1000.00**

**Projected*

Capital cost

(₹in lakh)

	2014-15	2015-16	2016-17	2017-18	2018-19
Opening Capital Cost	503884.86	531700.43	535195.31	537395.31	540035.31
Projected additional capital expenditure	27815.57	3494.88	2200.00	2640.00	1000.00
Closing Capital Cost	**531700.43**	**535195.31**	**537395.31**	**540035.31**	**541035.31**
Average Capital Cost	517792.65	533447.87	536295.31	538715.31	540535.31

Return on Equity

(₹ in lakh)

	2014-15	2015-16	2016-17	2017-18	2018-19
Normative Equity- Opening	151165.46	159510.13	160558.59	161218.59	162010.59
Addition to Equity on account of additional capitalization	8344.67	1048.46	660.00	792.00	300.00
Normative Equity - Closing	159510.13	160558.59	161218.59	162010.59	162310.59
Average Normative Equity	155337.79	160034.36	160888.59	161614.59	162160.59
Rate of Return on Equity (Base Rate)	15.500%	15.500%	15.500%	15.500%	15.500%
Effective Tax Rate	20.961%	21.342%	21.342%	21.342%	21.342%
Rate of Return on Equity (Pre Tax)	19.610%	19.705%	19.705%	19.705%	19.705%
Return on Equity (Pre Tax)-Annualised	**30461.74**	**31534.77**	**31703.10**	**31846.16**	**31953.75**

Interest on loan

(*₹ in lakh*)

	2014-15	2015-16	2016-17	2017-18	2018-19
Gross Normative Loan - Opening	352719.41	372190.30	374636.72	376176.72	378024.72
Cumulative repayment of loan upto previous year / period	50518.22	77036.39	104356.33	131822.09	159411.79
Net Normative Loan - Opening	302201.18	295153.91	270280.39	244354.63	218612.93
Addition to Normative Loan on account of additional capitalization	19470.90	2446.42	1540.00	1848.00	700.00
Repayment of loan during the year	26518.17	27319.93	27465.76	27589.70	27682.91
Net Loan Closing	295153.91	270280.39	244354.63	218612.93	191630.02
Average Loan	298677.55	282717.15	257317.51	231483.78	205121.48
Weighted Average Rate of Interest on Loan	9.3138%	9.2149%	9.1875%	9.2763%	9.1716%
Interest on Loan	**27818.19**	**26052.23**	**23640.97**	**21473.15**	**18812.98**

Depreciation

(*₹ in lakh*)

	2014-15	2015-16	2016-17	2017-18	2018-19
Average Capital Cost	517792.65	533447.87	536295.31	538715.31	540535.31
Freehold land included above	0.00	0.00	0.00	0.00	0.00
Depreciable value @ 90%	466013.38	480103.09	482665.78	484843.78	486481.78
Remaining useful life at the beginning of the year	22.98	21.98	20.98	19.98	18.98
Balance depreciable value	415081.59	402653.12	377895.88	352608.12	326656.42
Depreciation (annualized)	**26518.17**	**27319.93**	**27465.76**	**27589.70**	**27682.91**
Cumulative depreciation at the end	77449.97	104769.90	132235.67	159825.37	187508.28

Receivables

(*₹ in lakh*)

	2014-15	2015-16	2016-17	2017-18	2018-19
Variable Charges - for two months	24697.36	24765.03	24697.36	25292.48	25292.48
Fixed Charges – for two months	18224.60	18410.04	18225.99	18115.57	17894.10
Total	**42921.96**	**43175.07**	**42923.35**	**43408.05**	**43186.58**

20. Due to revision in the receivable component of working capital as above, the Interest on Working Capital in order dated 29.7.2016 stands revised as under:

(*₹ in lakh*)

	2014-15	2015-16	2016-17	2017-18	2018-19
Cost of coal toward stock – 30 days	12019.19	12019.19	12019.19	12308.80	12308.80
Cost of coal towards generation - 30 days	12019.19	12019.19	12019.19	12308.80	12308.80
Cost of secondary fuel oil - 2 months	325.26	326.15	325.26	333.10	333.10

Maintenance Spares - 20% of O&M	2979.23	3165.99	3363.80	3574.47	3798.02
Receivables	42921.96	43175.07	42923.35	43408.05	43186.58
O&M expenses - 1 month	1241.35	1319.16	1401.58	1489.36	1582.51
Total Working Capital	**71506.17**	**72024.74**	**72052.37**	**73422.59**	**73517.81**
Rate of Interest	13.500%	13.500%	13.500%	13.500%	13.500%
Interest on Working capital	**9653.33**	**9723.34**	**9727.07**	**9912.05**	**9924.90**

21. Consequent upon the above, the Annual Fixed Charges approved vide order dated 29.7.2016 stands revised as under:

(₹ in lakh)

	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	26518.17	27319.93	27465.76	27589.70	27682.91
Interest on Loan	27818.19	26052.23	23640.97	21473.15	18812.98
Return on Equity	30461.74	31534.77	31703.10	31846.16	31953.75
Interest on Working Capital	9653.33	9723.34	9727.07	9912.05	9924.90
O&M Expenses	14896.16	15829.97	16819.02	17872.37	18990.09
Total	**109347.59**	**110460.24**	**109355.91**	**108693.42**	**107364.63**

22. All other terms contained in the order dated 29.7.2016 remains unchanged.

23. Petition No. 50/RP/2016 is disposed of in terms of the above.

-Sd/-	-Sd/-	-Sd/-	-Sd/-
(Dr. M.K. Iyer)	**(A. S. Bakshi)**	**(A. K. Singhal)**	**(Gireesh B. Pradhan)**
Member	**Member**	**Member**	**Chairperson**