

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 192/GT/2020**

**Coram:**

**Shri I.S. Jha, Member**

**Shri Arun Goyal, Member**

**Shri Pravas Kumar Singh, Member**

**Date of Order: 4<sup>th</sup> August, 2022**

**IN THE MATTER OF**

Petition for revision of tariff of Bhilai Expansion Power Plant (500 MW) for the period 2014-19, after truing up exercise.

**AND**

**IN THE MATTER OF**

NTPC-SAIL Power Company Limited,  
4<sup>th</sup> Floor, 15 Bhikaiji Cama Place,  
New Delhi – 110066

**....Petitioner**

Vs

1. DNH Power Distribution Corporation Limited  
UT of DNH,  
Silvassa – 396230

2. Electricity Department,  
Administration of Daman & Diu,  
Daman – 396210

3. Chhattisgarh State Power Distribution Company Limited  
Vidyut Sewa Bhawan, Dagonia,  
Raipur – 492001

4. Steel Authority of India Limited  
Ispat Bhawan, Lodhi Road,  
New Delhi – 110003

**....Respondents**

**Parties Present:**

Ms. Poorva Saigal, Advocate, NTPC SAIL

Ms. Tanya Sareen, Advocate, NTPC SAIL

Shri Nirnay Gupta, Advocate, CSPDCL

Shri Arvind Banerjee, CSPDCL



## ORDER

This petition has been filed by the Petitioner, NTPC-SAIL Power Company Limited for truing up of tariff of Bhilai Expansion Power Plant (2 x 250 MW) (hereinafter referred to as 'the generating station') for the period from 1.4.2014 to 31.3.2019, in accordance with Regulation 8(1) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as 'the 2014 Tariff Regulations').

2. The Petitioner is a joint venture company of NTPC Ltd. and Steel Authority of India Ltd. (SAIL) having equity participation of 50:50. The power generated from the generating station is consumed to the extent of 51% for captive requirement of SAIL and the balance power is to be supplied to the Respondents 1 to 3 in terms of the Power Purchase Agreements (PPA) entered into between them. The generating station with a capacity of 500 MW comprises of two units of 250 MW each. Unit-I and Unit-II of the generating station achieved COD on 22.4.2009 and 21.10.2009 respectively.

3. The Commission vide its order dated 2.8.2016 in Petition No. 257/GT/ 2014 had determined the tariff of the generating station for the 2014-19 tariff period. Accordingly, the capital cost and the annual fixed charges approved vide order dated 2.8.2016 are as under:

### Capital Cost allowed

*(Rs. in lakh)*

	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Opening capital cost	275920.76	276860.76	277974.47	278177.93	278364.77
Add: Projected additional capital expenditure	940.00	1113.71	203.46	186.84	0.00
<b>Closing capital cost</b>	<b>276860.76</b>	<b>277974.47</b>	<b>278177.93</b>	<b>278364.77</b>	<b>278364.77</b>
Average capital cost	276390.76	277417.61	278076.20	278271.35	278364.77



## Annual Fixed Charges allowed

(Rs. in lakh)

	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	14224.73	14277.58	14311.47	14321.52	14326.32
Interest on Loan	11622.38	10394.09	9145.13	7882.09	6688.47
Return on Equity	15674.41	15811.05	15849.98	15861.51	15867.04
Interest on Working Capital	4251.64	4278.67	4298.80	4382.95	4412.94
O&M Expenses	13670.59	14434.92	15249.74	16115.07	17035.83
<b>Total</b>	<b>59443.75</b>	<b>59196.30</b>	<b>58855.12</b>	<b>58563.14</b>	<b>58330.59</b>

## Present Petition

4. The Petitioner vide affidavit dated 10.1.2020 had filed the present petition for truing-up of tariff of the generating station for the 2014-19 tariff period, in terms of Regulation 8(1) of the 2014 Tariff Regulations. Thereafter, the Petitioner vide affidavit dated 16.12.2020 has revised its claim for capital cost and annual fixed charges for the 2014-19 tariff period as under:

## Capital Cost claimed

(Rs. in lakh)

	2014-15	2015-16	2016-17	2017-18	2018-19
Opening capital cost	275920.76	276191.47	276532.73	276598.28	276659.93
Add: Addition during the year/ period	76.37	374.94	202.93	40.67	510.46
Less: De-capitalization during the year/ period	0.00	(-) 76.29	(-) 147.41	(-) 0.44	0.00
Less: Reversal during the year/ period	0.00	0.00	0.00	0.00	0.00
Add: Discharges during the year/ period	194.34	42.60	10.03	21.42	0.00
<b>Closing capital cost</b>	<b>276191.47</b>	<b>276532.73</b>	<b>276598.28</b>	<b>276659.93</b>	<b>277170.39</b>
Average capital cost	276056.11	276362.10	276565.51	276629.10	276915.16

## Annual Fixed charges claimed

(Rs. in lakh)

	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	14207.51	14143.95	14160.40	14171.91	14193.41
Interest on Loan	11596.89	10287.26	8961.80	7073.31	5742.90
Return on Equity	15654.72	15748.65	15760.67	15764.43	15823.79
Interest on Working Capital	4595.89	4625.49	4669.95	4804.83	4898.15
O&M Expenses	13662.23	14549.34	15808.10	17589.49	19553.84
<b>Total</b>	<b>59717.24</b>	<b>59354.68</b>	<b>59360.92</b>	<b>59403.97</b>	<b>60212.10</b>



5. The Respondent, CSPDCL has filed its reply vide affidavit dated 17.3.2021 and the Petitioner vide affidavit dated 12.4.2021 has filed its rejoinder to the said reply. In compliance to the directions of the Commission vide ROP dated 17.3.2021, the Petitioner has filed the additional information on 31.5.2021. Thereafter, the Petition was heard through video conferencing on 29.6.2021 and the Commission, after directing the Petitioner to file certain additional information, reserved its order in the matter. In compliance to the directions of the Commission, the Petitioner vide affidavit dated 16.7.2021, has filed the additional information after serving copies to the Respondents. Further, the Petitioner, in compliance to the directions of this Commission vide letter dated 23.9.2021, has filed additional submissions on 1.10.2021. However, as the order in the petition could not be passed, prior to the Chairperson Shri P.K. Pujari demitting office, the Petition was re-listed and heard through virtual hearing on 24.6.2022 and the Commission, after permitting the Respondent DNHPDCL to its reply, reserved its order in the petition. The Respondent DNHPDCL has filed its reply vide affidavit dated 1.7.2022 and the Petitioner has filed its rejoinder vide affidavit dated 20.7.2022. Based on the submissions of the parties and the documents available on record and on prudence check, we proceed to true-up the tariff of the generating station for the 2014-19 tariff period, as stated in the subsequent paragraphs.

### **Capital Cost**

6. Clause (1) of Regulation 9 of the 2014 Tariff Regulations provides that the capital cost as determined by the Commission after prudence check, in accordance with this regulation, shall form the basis of determination of tariff for existing and new projects. Clause 3 of Regulation 9 of the 2014 Tariff Regulations provides as under:

*“(3) The Capital cost of an existing project shall include the following:*



- (a) *the capital cost admitted by the Commission prior to 1.4.2014 duly tried up by excluding liability, if any, as on 1.4.2014;*
  - (b) *additional capitalization and de-capitalization for the respective year of tariff as determined in accordance with Regulations 14;*
  - (c) *expenditure on account of renovation and modernization as admitted by this Commission in accordance with Regulation 15;*
- xxxx”

7. As against the closing capital cost of Rs.275920.81 lakh, on cash basis, as on 31.3.2014, approved vide order dated 29.12.2015 in Petition No. 220/ GT/ 2013 & Petition No.132/GT/2014, the Commission vide order dated 2.8.2016 in Petition No. 257/GT/2014 had approved the capital cost of Rs.275920.81 lakh as on 31.3.2014. The Petitioner has claimed the annual fixed charges for the 2014-19 tariff period, based on the opening capital cost of Rs.275920.76 lakh, as on 1.4.2014. Accordingly, the opening capital cost considered of Rs.275920.76 lakh, on cash basis, has been considered, as on 1.4.2014.

### **Additional Capital Expenditure**

8. Regulation 14 of the 2014 Tariff Regulations, provides as under:

*“14. Additional Capitalization and De-capitalization:*

*(1) The capital expenditure in respect of the new project or an existing project incurred or projected to be incurred, on the following counts within the original scope of work, after the date of commercial operation and up to the cut-off date may be admitted by the Commission, subject to prudence check:*

*(i) Un-discharged liabilities recognized to be payable at a future date;*

*(ii) Works deferred for execution;*

*(iii) Procurement of initial capital spares within the original scope of work, in accordance with the provisions of Regulation 13;*

*(iv) Liabilities to meet award of arbitration or for compliance of the order or decree of a court of law; and*

*v) Change in law or compliance of any existing law:*

*Provided that the details of works asset wise/work wise included in the original scope of work along with estimates of expenditure, liabilities recognized to be payable at a future date and the works deferred for execution shall be submitted along with the application for determination of tariff.”*

*(2) The capital expenditure incurred or projected to be incurred in respect of the new project on the following counts within the original scope of work after the cut-off date may be admitted by the Commission, subject to prudence check:*



(i) Liabilities to meet award of arbitration or for compliance of the order or decree of a court of law;

(ii) Change in law or compliance of any existing law;

(iii) Deferred works relating to ash pond or ash handling system in the original scope of work; and

(iv) Any liability for works executed prior to the cut-off date, after prudence check of the details of such un-discharged liability, total estimated cost of package, reasons for such withholding of payment and release of such payments etc.

(3) The capital expenditure, in respect of existing generating station or the transmission system including communication system, incurred or projected to be incurred on the following counts after the cut-off date, may be admitted by the Commission, subject to prudence check:

(i) Liabilities to meet award of arbitration or for compliance of the order or decree of a court of law;

(ii) Change in law or compliance of any existing law;

(iii) Any expenses to be incurred on account of need for higher security and safety of the plant as advised or directed by appropriate Government Agencies of statutory authorities responsible for national security/internal security;

(iv) Deferred works relating to ash pond or ash handling system in the original scope of work;

(v) Any liability for works executed prior to the cut-off date, after prudence check of the details of such un-discharged liability, total estimated cost of package, reasons for such withholding of payment and release of such payments etc.;

(vi) Any liability for works admitted by the Commission after the cut-off date to the extent of discharge of such liabilities by actual payments;

(vii) Any additional capital expenditure which has become necessary for efficient operation of generating station other than coal /lignite based stations or transmission system as the case may be. The claim shall be substantiated with the technical justification duly supported by the documentary evidence like test results carried out by an independent agency in case of deterioration of assets, report of an independent agency in case of damage caused by natural calamities, obsolescence of technology, up-gradation of capacity for the technical reason such as increase in fault level;

(viii) In case of hydro generating stations, any expenditure which has become necessary on account of damage caused by natural calamities (but not due to flooding of power house attributable to the negligence of the generating company) and due to geological reasons after adjusting the proceeds from any insurance scheme, and expenditure incurred due to any additional work which has become necessary for successful and efficient plant operation;

(ix) In case of transmission system, any additional expenditure on items such as relays, control and instrumentation, computer system, power line carrier communication, DC batteries, replacement due to obsolescence of technology, replacement of switchyard equipment due to increase of fault level, tower strengthening, communication equipment, emergency restoration system, insulators cleaning infrastructure, replacement of porcelain insulator with polymer insulators, replacement of damaged equipment not covered by insurance and any other expenditure which has become necessary for successful and efficient operation of transmission system; and

(x) Any capital expenditure found justified after prudence check necessitated on account of modifications required or done in fuel receiving system arising due to non-materialization of coal supply corresponding to full coal linkage in respect of thermal



generating station as result of circumstances not within the control of the generating station:

Provided that any expenditure on acquiring the minor items or the assets including tools and tackles, furniture, air-conditioners, voltage stabilizers, refrigerators, coolers, computers, fans, washing machines, heat convectors, mattresses, carpets etc. brought after the cut-off date shall not be considered for additional capitalization for determination of tariff w.e.f. 1.4.2014:

Provided further that any capital expenditure other than that of the nature specified above in (i) to (iv) in case of coal/lignite-based station shall be met out of compensation allowance:

Provided also that if any expenditure has been claimed under Renovation and Modernization (R&M), repairs and maintenance under (O&M) expenses and Compensation Allowance, same expenditure cannot be claimed under this regulation.”

9. The Commission vide its order dated 2.8.2016 in Petition No. 257/GT/2014 had allowed the projected additional capital expenditure of Rs.2444.01 lakh for the 2014-19 tariff period. The additional capital expenditure claimed by the Petitioner for the 2014-19 tariff period, based on auditor certified statement, is as under:

	<i>(Rs. in lakh)</i>				
	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Closing Gross Block as per IGAAP	266235.04	266815.47	270559.34	271715.96	276235.15
Less: Opening Gross Block as per IGAAP	266041.42	266235.04	266815.47	270559.34	271715.96
Additional capital expenditure as per IGAAP	193.62	580.42	3743.86	1156.62	4519.19
Less: Additional capital expenditure pertaining to other Stages	0.00	0.00	0.00	0.00	0.00
Additional capital expenditure pertaining to the generating station as per IGAAP	193.62	580.42	3743.86	1156.62	4519.19
Less: Exclusions	105.29	224.16	3660.31	1111.39	3924.63
Additional capital expenditure claimed (on accrual basis)	88.33	356.26	83.55	45.23	594.56
Less: Un-discharged Liabilities	11.97	57.60	28.03	5.00	84.10
Additional capital expenditure claimed (on cash basis)	<b>76.37</b>	<b>298.66</b>	<b>55.52</b>	<b>40.22</b>	<b>510.46</b>
Add: Discharge of Liabilities	194.34	42.60	10.03	21.42	0.00
<b>Net Additional capital expenditure (including discharges of liabilities)</b>	<b>270.71</b>	<b>341.26</b>	<b>65.55</b>	<b>61.65</b>	<b>510.46</b>





## Exclusions

10. The summary of exclusions from books of accounts as claimed by the Petitioner, on accrual basis, for the 2014-19 tariff period is as under:

	<i>(Rs. in lakh)</i>				
	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Capital spares (capitalization)	173.02	156.50	1720.66	354.60	1251.85
De-capitalization of spares (not forming part of capital cost)	0.00	0.00	(-) 118.30	(-) 6.24	-9.92
Inter-unit transfer of assets	3.16	0.00	0.00	0.00	0.00
Other capitalized items	33.41	12.54	2012.62	645.97	2633.29
MBOA's (Miscellaneous Bought Out Assets)	34.60	81.48	73.44	113.76	117.57
De-capitalization of MBOAs	(-) 6.85	(-) 25.30	(-) 28.11	(-) 2.32	-67.85
Reversal of liabilities	(-) 132.05	(-) 1.06	0.00	0.00	-0.31
<b>Total Exclusions claimed</b>	<b>105.29</b>	<b>224.17</b>	<b>3660.31</b>	<b>1105.77</b>	<b>3924.63</b>

11. We now examine the exclusions claimed by the Petitioner for the 2014-19 tariff period as under:

### ***Capitalization of capital spares***

12. The Petitioner has claimed exclusion of capital spares of Rs.173.02 lakh in 2014-15, Rs.156.50 lakh in 2015-16, Rs.1720.66 lakh in 2016-17, Rs.354.60 lakh in 2017-18 and Rs.1251.85 lakh in 2018-19. In justification the Petitioner has submitted that capital spares capitalized after cut-off date are not allowable as per the 2014 Tariff Regulations and accordingly the same has been claimed as exclusions. Since capitalization of spares over and above the initial spares procured after the cut-off date of the generating station is not allowed as part of the capital cost in terms of the 2014 Tariff Regulations, the Petitioner's claim under this head is allowed.

### ***De-capitalization of spares (not forming part of capital cost)***

13. The Petitioner has claimed exclusion of de-capitalization of capital spares of Rs.118.30 lakh in 2016-17, Rs.6.24 lakh in 2017-18 and Rs.9.92 lakh in 2018-19. In





justification, the Petitioner submitted that these capital spares do not form part of the capital cost and accordingly their de-capitalization has been claimed under exclusion. In respect of de-capitalization of spares claimed as exclusion in 2016-17, on scrutiny of Form-9Bi for 2016-17, it is observed that the year of capitalization of these spares is 2009-10 i.e. within the cut-off date of the generating station. Similarly, in respect of de-capitalization of spares claimed as exclusion in 2018-19, on scrutiny of Form-9Bi for 2018-19 it is observed that spares of Rs.9.58 lakh were procured and put to use in 2009-10 i.e. within the cut-off date of the generating station. Therefore, the Petitioner's contention that these spares do not form part of the allowed capital cost is incorrect. Accordingly, the exclusion for de-capitalization of spares for Rs. 118.30 lakh in 2016-17 and Rs 9.58 lakh in 2018-19 are not allowed. However, the exclusion pertaining to the balance amount of Rs. 0.34 lakh in 2018-19 is allowed. Also, the claim of Petitioner for exclusion of de-capitalization of Rs. 6.24 lakh in 2017-18 is in order and hence allowed.

#### **Inter-unit transfer of assets**

14. The Petitioner has claimed exclusion of Rs.3.16 lakh in 2014-15 on account of inter-unit transfer of assets. In justification of the same, the Petitioner submitted that inter-unit transfer of assets is not allowed for the purpose of tariff and accordingly, the same has been kept under exclusion. The Petitioner vide affidavit dated 24.5.2021 also submitted that these assets are in exclusion list and have been transferred from NSPCL stations, which are captive power plants, and there is no impact on the additional capitalization, on account of these items. The Commission in its various orders had consistently allowed the exclusion of both positive and negative inter-unit transfer of assets of temporary nature for the purpose of tariff. Since, the Petitioner has claimed



positive exclusion of Rs.3.16 lakh in 2014-15 on account of inter-unit transfer of assets, the same is allowed.

### **Other capitalized items**

15. The Petitioner has claimed exclusion of capitalized expenditure of Rs.33.41 lakh in 2014-15, Rs.12.54 lakh in 2015-16, Rs.2012.62 lakh in 2016-17, Rs.645.97 lakh in 2017-18 and Rs.2633.29 lakh in 2018-19 pertaining to assets consumed during overhauling/capital maintenance. In justification of the same, the Petitioner has submitted that the expenses against the overhauling/ capital maintenance of the plant are capitalized in the books as per IND AS and are migrated through normative O&M expenses in tariff, in terms of the Tariff Regulations and hence kept under exclusions. It is evident that the Petitioner has excluded the capitalization of expenses towards overhauling/capital maintenance of plant and equipment, which are generally covered under the normative O&M expenses allowed to the generating stations. Accordingly, the Petitioner's claim under this head is allowed.

### **Capitalization of MBOAs**

16. The Petitioner has claimed exclusion of capitalization of expenditure towards procurement of miscellaneous bought out assets (MBOA) of Rs.34.60 lakh in 2014-15, Rs.81.48 lakh in 2015-16, Rs.73.44 lakh in 2016-17, Rs.113.76 lakh in 2017-18 and Rs.117.57 lakh in 2018-19. In justification of the same, the Petitioner has submitted that in terms of the Tariff Regulations, MBOAs is not allowed for tariff after the cut-off date. The Commission in its various orders had consistently allowed the exclusions of MBOAs procured after the cut-off date. Accordingly, the Petitioner's claim under this head is allowed.

