MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION

5th Floor, "Metro Plaza", Bittan Market, Bhopal (M.P.) - 462 016

Petition No. 62 of 2016

PRESENT:

Dr. Dev Raj Birdi, Chairman

A.B. Bajpai, Member

Alok Gupta, Member

IN THE MATTER OF:

True-up of Generation Tariff of 2 x 250 MW (Phase-I) coal based thermal power station at Bina, District Sagar (M.P.) for FY 2015-16 determined by MP Electricity Regulatory Commission vide order dated 26th November' 2014 and subsequently revised vide order dated 08th May' 2015.

M/s Jaiprakash Power Ventures Ltd., Noida (UP): PETITIONER

Vs.

1. **M.P. Power Management Company Ltd., Jabalpur**
2. **M. P. Poorv Kshetra Vidyut Vitaran Co. Ltd., Jabalpur**
3. **M. P. Madhya Kshetra Vidyut Vitaran Co. Ltd., Bhopal**
4. **M. P. Paschim Kshetra Vidyut Vitaran Co. Ltd., Indore**

RESPONDENTS

ORDER

(Passed on this day of 21st June' 2017)

1. M/s Jaiprakash Power Ventures Limited (hereinafter called "the petitioner" or JPVL) has filed the subject petition on 15th November' 2016 for True-up of Generation Tariff for FY 2015-16 in respect of its 2 x 250 MW (Phase I) coal based Bina Thermal Power Station determined by Madhya Pradesh Electricity Regulatory Commission (hereinafter called "the Commission or MPERC") vide order dated 26th November' 2014 and subsequently revised vide order dated 8th May' 2015.

2. The subject true-up petition has been filed under Section 62 and 86(1)(a) of Electricity Act, 2003 and in terms of proviso 8.4 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 (herein after referred to as "the Regulations' 2012").

3. The Bina Thermal Power Station (Phase I) under the subject petition comprises of two generating units of 250 MW each. Date of Commercial Operation (CoD) of both units of the petitioner's power plant are as given below:

Table 1: CoD of Unit No. 1 and 2

Sr. No.	Units	Installed Capacity (in MW)	Date of Commercial Operation
1	Unit No. 1	250 MW	31st August' 2012
2	Unit No. 2	250 MW	07th April' 2013

<u>Background</u>

4. Vide tariff order dated 26th November' 2014 in petition No. 40 of 2012, the Commission determined final generation tariff for 2 x 250 MW (Phase-I) of Bina Thermal Power Station for FY 2012-13 and FY 2013-14 based on Annual Audited Accounts. The generation tariff for FY 2014-15 and FY 2015-16 was determined on provisional basis subject to true-up on availability of Annual Audited Accounts.

5. On 23rd January' 2015, the petitioner filed a Review Petition No. 05 of 2015, seeking review of the aforesaid Commission's order dated 26th November' 2014 on the following issues:

   a. Pre commissioning fuel expenses
   b. Double Deduction of Infirm Power

c. Interest and Finance Charges on Loan Capital

d. Inadequate Recovery of Capacity Charges

6. Vide order dated 8th May' 2015 in the review petition no. 05 of 2015, the Commission revised the Annual Capacity (fixed) charges on the basis of revision in only one issue i.e. interest and finance charges on loan. Aggrieved with aforesaid order, the petitioner filed an appeal with the Hon'ble Appellate Tribunal for Electricity, New Delhi on other three issues.

7. Hon'ble Appellate Tribunal for Electricity, pronounced its Judgement on 13th February' 2017. The Appeal has been partially allowed. Two issues regarding inadequate recovery of Capacity charges and post-facto deduction of non tariff income have been decided against the petitioner. The impugned order is remanded back to the Commission on the issues regarding pre-commissioning expenses and double deduction of revenue earned from sale of infirm power.

8. In terms of the aforesaid judgment of Hon'ble Tribunal, the petitioner M/s JPVL has filed a Petition No. 11/ 2017 with the Commission and the same is under proceedings with the Commission.

9. Vide order dated 3rd June' 2016, the Commission had issued the true-up order for FY 2014-15 for the tariff determined for petitioner's power plant based on the Annual Audited Accounts for FY 2014-15

10. In the final tariff order, the capital cost of ₹ 3471.73 Crores as on 31st March' 2016 was considered by the Commission. Based on the aforesaid capital cost, the Annual Capacity Charges for FY 2015-16 were provisionally determined by the Commission. The details of Annual Capacity (fixed) Charges for both the units of Bina Thermal Power Plant provisionally determined for FY 2015-16 vide Commission's order dated 8th May' 2015 (in review petition no. 05/2015) are as given below:

Table 2: Annual Capacity (Fixed) Charges (₹ in Crores)

Particulars	FY 2015-16
Return on Equity	204.24
Interest Charges on loan	250.69
Depreciation	172.20
Operation & Maintenance Expense	107.30
Secondary Fuel Oil Expenses	22.53
Interest on Working capital	55.12

Annual Capacity (Fixed) Charges	**812.08**
Less: Non-Tariff Income	**-**
Net Annual Capacity Charges	**812.08**
Annual Capacity (Fixed)charges corresponding to 65% of the installed capacity of the units	**527.85**

11. In the subject petition, the petitioner sought true-up of Annual Capacity (fixed) Charges for FY 2015-16 based on the actual additional capital expenditure incurred during FY 2015-16 in accordance with Regulation 8.4 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 which provides as under:

    "A Generating Company shall file a petition at the beginning of the Tariff period. A review shall be undertaken by the Commission to scrutinize and true up the Tariff on the basis of the capital expenditure and additional capital expenditure actually incurred in the Year for which the true up is being requested. The Generating Company shall submit for the purpose of truing up, details of capital expenditure and additional capital expenditure incurred for the period from 1.4.2013 to 31.3.2016, duly audited and certified by the auditors."

12. The petitioner filed the additional capitalization of ₹ 21.57 Crores and write off/deletion of ₹ 0.11 Crores i.e. net additional capitalization of ₹ 21.46 Crores during FY 2015-16. Based on the aforesaid additional capitalization and written off/deletion during FY 2015-16, the petitioner claimed the following Annual Capacity (fixed) charges and energy charges for Unit No. 1 & 2 of its Bina Thermal Power Station in the subject petition:

Table 3: Capacity and Energy Charges claimed for FY 2015-16 (₹ in Crore)

Sr. No.	Particulars	FY 2015-16
1	**Capacity Charge or Fixed Charge**	
1.1	Depreciation	173.13
1.2	Interest on Loan	244.26
1.3	Return on Equity	207.39
1.4	Interest on Working Capital	58.16
1.5	O & M Expenses	107.30
1.5 A	O & M Expenses (400kV Transmission Lines & Bay)	0.51
1.6	Secondary Fuel Oil cost	22.53
1.7	Compensation Allowance (if applicable)	-
1.8	Lease rent payable for land (yearly)	0.25

2	**Variable Charges recoverable**	
	Coal Cost(Fuel Cost)	853.27
	Total Annual Capacity Charges	**1666.81**
3	**Total Capacity charges (1)**	**813.54**
	Less:- Non Tariff Income	**2.29**
4	**Net Annual Capacity charges**	**811.25**
5	**No. of days applicable for the period**	**366.00**
6	**Total Capacity charges for Applicable days (S.No 4/366*S.No5)**	**811.25**
7	**Total Cost of Fuel for Applicable days (S.No 2/366*S.No 5)**	**853.27**
8	**68.42% of Capacity charge (S.No 4*.6842)**	**555.07**
	(Capacity charge of the 5% loaded on 65%-{65%/95%})	

13. The above-mentioned Annual Capacity (Fixed) Charges were mentioned in the public notice published in news papers by the petitioner seeking comments/ suggestions from stakeholders. The petitioner filed a copy of the Annual Audited Accounts of Jaypee Bina Thermal Power Plant (JBTPP), along with the Consolidated Balance Sheet of Jaypee Power Ventures Limited (JPVL) as on 31st March, 2016.

14. With the above submission, the petitioner prayed the following:

 a) *True Up of the Tariff order dated 26th November' 2014 & subsequently revised vide order dated 8th May' 2015 in terms of the additional capital expenditure incurred by the petitioner.*

 b) *Pass appropriate orders directing recovery of capacity charges worked out by petitioner after additional capitalization of ₹ 21,56,86,672 and deletion of ₹ 11,21,249 i.e. net additional capitalization of ₹21,45,65,423/-.*

15. The Commission has examined the instant petition in accordance with the provisions under Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) (Revision-II) Regulations, 2012 {RG-26 (II) of 2012} and Annual Audited Accounts of Jaypee Bina Thermal Power Project and M/s JPVL for FY 2015-16. The Commission has also examined the subject true up petition in light of the comments/suggestions offered by the Respondent No. 1 (MPPMCL) / other stakeholder and the response of petitioner on the same.

Procedural History

16. Motion hearing in the subject true up petition was held on 21st March' 2017. Vide Commission's order dated 21st March' 2017, the petition was admitted and the petitioner was directed to serve copies of its petition to all Respondents in the matter. The Respondents were also asked to file their response on the petition by 28th April' 2017.

17. By affidavit dated 10th April' 2017, Respondent No. 1 (M.P. Power Management Co. Ltd.) filed its reply/ comments on the subject petition.

18. Vide Commission's letter dated 27th March' 2017, the information gaps on preliminary scrutiny of the petition were communicated to the petitioner seeking its comprehensive reply by 25th April' 2017.

19. By affidavit dated 25th April' 2017, the petitioner filed its reply to the issues raised by the Commission. Issue-wise response of petitioner to all information gaps/ requirement of additional information/ documents sought by the Commission is mentioned in **Annexure I** of the order.

20. By affidavit dated 2nd May' 2017, the petitioner filled rejoinder to the reply/ comments filled by the Respondent No. 1 (MPPMCL). The petitioner's responses on each comment offered by the Respondent no. 1 are mentioned in Annexure II of this Order.

21. The Commission has also received the comments from one stakeholder. The petitioner by affidavit dated 3rd June' 2017 filled its response on each issue raised by the Stakeholder. The issues raised in the aforesaid comments are neither found relevant to the subject true-up petition nor in accordance with the Regulations' 2012.

22. The public notice for inviting comments/ suggestions from stakeholders was published on 4th May' 2017 in the following newspapers:

    (i) Danik Jagran (Hindi), Bhopal,
    (ii) Danik Jagran (Hindi), Rewa and
    (iii) The Times of India (English)

23. In this matter the public hearing was held on 30th May' 2017, wherein only representatives of the petitioners and Respondent No. 1 were appeared.

CAPITAL COST AND ADDITIONAL CAPITALIZATION

Petitioner's Submission:

24. The petitioner filed opening Gross Fixed Asset of ₹ 3497.38 Crores as on 1st April' 2015. The petitioner also claimed additional capitalization of ₹ 21.57 Crore and de-capitalization of ₹ 0.11 Crore during FY 2015-16. The details of opening Gross Fixed Assets along with asset additions, write off/ deletion during FY 2015-16 and closing Gross Fixed Assets as filed by the petitioner are as given below:

Table 4: Opening Gross Block and Asset Addition claimed (₹ in Crore)

Particulars	Original Upto 31-03-2015	Addition during 2015-16	Deletions/ Adjustment during 2015-16	Capital Cost Upto 31-03-2016
Land	6.86	-	-	6.86
BTG	1740.80	0.56	-	1741.36
BOP	1153.70	3.51	0.11	1157.10
Civil Cost	596.02	17.49	-	613.51
Gross Fixed Assets	**3497.38**	**21.57**	**0.11**	**3518.83**

25. With regard to the aforesaid additional capitalization claimed in the petition, the petitioner submitted the following:

(i) ***<u>BTG:</u>***

Details of additions in BTG during FY 2015-16 are as follows:

- *₹ 0.04 Crores were incurred towards the construction of bunker way building for Boiler II.*
- *₹ 0.07 Crores were spent towards boiler piping system.*
- *₹ 0.39 Crores were incurred towards the purchase of motor for vacuum pump.*
- *₹ 0.03 Crores were incurred towards procurement of boiler parts.*
- *₹ 0.03 Crores were incurred under the head lube oil pump for PA Fan.*

(ii) ***<u>BOP:</u>***

Details of additions in BOP during 2015-16 are as follows:-

- *₹ 3.38 Crores were incurred towards work execution against original package of AC /ventilation system through Voltas Ltd;*
- *₹ 0.03 Crores were incurred towards the procurement of centrifugal pump for CW system;*
- *₹ 0.04 Crores were incurred towards motor for Conveyor Belt and motor for vibrating greazly in coal crusher;*

- *₹ 0.06 Crores were spent towards Public Address System and some minor expenses towards Lab Equipments & motor for Ash Silo along with other tools.*

(iii) <u>Civil Cost:</u>

- *₹ 10.20 Crores were incurred to complete civil works of Township buildings, sewage treatment, water proofing, etc;*
- *₹ 5.844 Crores were incurred towards the construction of roads and drainage system for the plant and township*
- *₹ 1.38 Crores spent towards the cost of construction of Boundary wall of Ash Pond Area for safety and demarcation of our land;*
- *Around ₹ 0.07 Crores were spent in other miscellaneous works such as construction work related to installation of Grouting pump, Booster pumps for water system;*

Provision in Regulations:

26. With regard to capital cost of the power project, Regulation 17.1 and 17.2 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 provide as under:

17.1 Capital cost for a Project shall include:

a) "the Expenditure Incurred or Projected to be incurred on original scope of work, including interest during construction and financing charges, any gain or loss on account of foreign exchange risk variation during construction on the loan - (i) being equal to 70% of the funds deployed, in the event of the actual equity in excess of 30% of the funds deployed, by treating the excess equity as normative loan, or (ii) being equal to the actual amount of loan in the event of the actual equity less than 30% of the funds deployed, - up to the Date of Commercial operation of the Project, as admitted by the Commission, after prudent check shall form the basis for determination of Tariff.

b) Capitalized initial spares subject to the ceiling norms as specified below:

i) Coal-based thermal generating stations - 2.5% of original Project Cost.

ii) Hydro generating stations - 1.5% of original Project Cost.

Provided that where the benchmark norms for initial spares have been published as part of the benchmark norms for capital cost under first proviso to 17.2, such norms shall apply to the exclusion of the norms specified herein

c) Additional capital expenditure determined under Regulation 20

17.2 Subject to prudent check, the capital cost admitted by the Commission shall form the basis for determination of Tariff:

Provided that, prudent check of capital cost may be carried out based on the benchmark norms to be specified by the Central Commission from time to time:

Provided further that in cases where benchmark norms have not been specified by the Central Commission, prudent check may include scrutiny of the reasonableness of the capital expenditure, financing plan, interest during construction, use of efficient technology, cost over-run and time over-run, and such other matters as may be considered appropriate by the Commission for determination of Tariff :………"

27. Regarding additional capitalization of the generating station, Regulation 20.1 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 provides as under:

20.1 The capital Expenditure 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 cut-off date may be admitted by the Commission, subject to prudent check:

a) Undischarged liabilities
b) Works deferred for execution
c) liabilities to meet award of arbitration or for compliance of order or decree of a court,
d) Change in Law,
e) Procurement of initial capital spares within the original scope of work, subject to the provisions of Regulation 17.1(b)

Provided that the details of works included in the original scope of work along with estimates of expenditure, un-discharged *liabilities and works deferred for execution shall be submitted along with the application for Tariff.*

Commission's Analysis:

28. The petitioner filed the Annual Audited Accounts of Jaypee Bina Thermal Power Plant (JBTPP), along with the Consolidated Balance Sheet of Jaypee Power Ventures Limited (JPVL) as on 31st March, 2016.

29. In the subject petition, the petitioner filed the Opening Gross Fixed Assets (GFA) of ₹ 3497.38 Crores (as on 01st April' 2015), whereas, as per Annual Audited Accounts of Jaypee Bina Thermal Power Plant (JBTPP), the Opening Gross Fixed Assets is ₹ 3473.89 Crores and the Closing GFA of ₹3484.12 Crores (as on 31st March' 2015) was admitted by the Commission in last True Up order for FY 2014-15.

30. Vide Commission's letter dated 27th March' 2017, the petitioner was asked to explain the reasons for aforementioned discrepancies.

31. By affidavit dated 25th April' 2017, the petitioner submitted the following reconciliation:

Table 5: Reconciliation **(₹ in Crore)**

Sl. No.	Particular	₹ Cr.	Remarks
1	Opening Gross Fixed Assets as on 01-04-2015	3,473.89	**Recorded in Audited Accounts**
2	**Add:-** Interest for 218 days (intervening period between COD of Unit I & COD of Unit II) on Debt Component of unallocated costs allowed by Hon'ble Commission vide its Order dated Nov 26th, 2014. **(Please refer Para 4.30 & 4.31 of the said Order)**	23.46	
3	Opening Gross Fixed Assets as on 01.04.2015	**3,497.38**	**Filed in the Petition**

32. The petitioner further submitted that, with regard to difference in GFA of ₹3497.38 Crores (as per petition) and ₹ 3484.12 Crores (as admitted by the Commission), this difference of ₹13.26 Crores is on account of cost (Pre-commissioning coal cost of ₹4.01 Crores and revenue earned from sale of infirm power of ₹ 9.23 Crores) disallowed by the Commission in its final Tariff order as also in its review order. The petitioner was contesting on these disallowances through an appeal filed by it before Hon'ble APTEL.

33. The appeal filed by the petitioner on this issue has been disposed of vide Hon'ble Tribunal's Judgement dated 13th February' 2017. The Hon'ble APTEL has partly allowed the appeal and directed the petitioner to approach the Commission on one issue. The petitioner has filed a Petition No. 11/2017 on 13.04.2017 with the Commission, which is under process.

34. Therefore, pending decision of the Commission in Petition No. 11/2017, the Commission has considered the same opening Gross Fixed assets of ₹ 3484.12 Crores as admitted by the Commission (as on 31st March' 2015) for FY 2014-15 in its true-up order dated 3rd June' 2016.

Additional Capitalization

35. The petitioner filed the additional capitalization of ₹ 21.57 Crores during FY 2015-16. Out of this, ₹0.56 Crores pertains to BTG, ₹3.51 Crores towards BOP and the balance of ₹ 17.49 Crores towards civil cost. The petitioner also filed the write off/deletion of ₹ 0.11 Crores. Accordingly, the petitioner claimed the net additional capitalization of ₹ 21.46 Crores.

36. Vide Commission's letter dated 27th March' 2017, the petitioner was asked to file a comprehensive reply on the various issues raised by the Commission:

37. By affidavit dated 25th April' 2017, the petitioner filled its response on each issue raised by the Commission. The issue wise response filled by the petitioner are as given below:

a) Issue:

With regard to the additional capitalization during FY 2015-16 claimed in the petition, a comprehensive reply to the following issues with all relevant supporting documents was sought:

i) Whether the addition of assets is on account of the reasons (a) to (e) in clause 20.1 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012.

ii) Whether the assets capitalized during the year are under original scope of work. Supporting documents in this regard were also sought.

iii) Whether the additional capitalization is within the cut-off date of the project.

iv) Statement showing the detailed break-up of the project cost originally approved by the competent authority along with the Revised Project cost if any, need to be filed by the petitioner.

Petitioner's Response:

a) i)& ii) That the additional net capitalization of ₹ 21.46 Crs falls within the norms specified under Regulation 20.1 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012. The said Regulation reads as under:-

"The Capital Expenditure 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 cut-off date may be admitted by the Commission, subject to prudent check:

- *Undisclosed liabilities*
- *Work deferred for execution*
- *Liabilities to meet award of arbitration or for compliance of order or decree of a court,*
- *Change in Law,*
- *Procurement of initial spares within the original scope of work, subject to the provisions of Regulation 17.1(b)*

Provided that the details of works included in the original scope of along with estimates of expenditure, un-discharged liabilities and works deferred for execution shall be submitted along with the application for Tariff."

ii) That the said additional capitalization is within the original scope of the work of ₹ 3,575/- Crores authorized by the Resolution of Board of Directors dated May 17th, 2014.Resolution of Board of Directors dated May 17th, 2014 is attached as Annexure-2.

iii) That the definition of cut off date as laid out by MPERC (terms and Conditions for Determination of Generation Tariff) Regulations, 2012 states that "Cut off date" means 31st March of the year closing after two years of the year of commercial operation of the Project. In view of the same the Petitioner would like to submit that Unit II of Jaypee Bina Thermal Power Project achieved COD on April 7th 2013. Therefore, the cut off date for the Project falls on 31st March 2016 i.e. 31st March of the Year closing after two years of the year of the commercial operation of the

Project. Hence the additional capitalization made by the Petitioner is well within the cut off date of the project.

iv) *The petitioner submitted that "Break up of Originally Approved Project Cost, Revised Project Cost and Completion Project Cost are given as under":-*

Table 6: Original, Revised and Final Project Cost **(₹ in Crore)**

Particulars	Original Project Cost	Revised Project Cost	Completion Cost
Land	7	7	7
BTG	1294	1338	1381
BOP	480	575	954
Civil Cost	433	686	479
Overhead & Pre-Operative	201	201	253
IDC/IEDC	294	398	524*
Margin Money	45	35	
Total	**2754**	**3240**	**3598**

** This includes ₹ 23.46 Crs approved by Hon'ble Commission towards interest from COD of Unit I to COD II on unallocated capital cost as on COD of Unit I vide Para 4.30 and 4.31 of Order dated 26/11/2014, i.e. ₹ 3575/- Crore + ₹ 23.46/- =₹ 3598/-.*

b) Issue:

Details of the works completed and to be completed as on 31st March' 2016 along with supporting documents were sought.

Petitioner's Response:

Details of work completed in the up to 31st March' 2016 has been mentioned in the Asset-cum-depreciation register and the same is attached as Annexure – 3.

c) Issue:

The petitioner filed the additional capitalization of ₹ 21.57 Crore whereas at page no 98 of the petition in Note 9B of the Annual Audited Accounts, the capitalization during the year is ₹ 20.88 Crore. The above difference in figures of additional capitalization be clarified.

Petitioner's Response:

The Petitioner would humbly like to submit that the Petitioner has made an additional capitalization of ₹ 21.57 Crores during the FY 2015-16. Simultaneously, the Petitioner has also made deletions/ adjustments of ₹ 0.11 Crores. Therefore, the net addition *during FY 2015-16 works out to be ₹ 21.46 Crores. Furthermore, out of the net addition, various assets capitalized during the FY 2015-16 were bought out items and were not routed through CWIP ledger. The value of such additional assets capitalized during FY 2015-16 amounts to 0.57 Crore. The value of assets routed through CWIP during the FY 2015-16 amounts to ₹ 20.88 Crores. The detailed explanation and breakup of the same is as follows:-*

Sl. No.	Particular	*Amount in ₹.*
1	Additional Capitalization made during FY 2015-16	21,56,86,672.82
2	**Less:** Deletion/ Adjustments made during FY 2015-16	-11,21,249.00
3	**Net Addition during FY 2015-16**	**21,45,65,423.82**
4	**Less:** Assets directly Bought Out which were not routed through CWIP ledger	-57,75,442.82
6	**Total Capitalization during FY 2015–16 Routed through CWIP Ledger (As per Note 9B of Annual Audited Accounts)**	**20,87.89,981.00**

d) Issue:

In TPS-5B, the petitioner filed the break-up of capital cost. The petitioner was asked to file the break-up of original project cost also in the same form in this regard.

Petitioner's Response:

The break-up of original project cost in TPS-5B format is attached herewith as Annexure-4. The Hon'ble Commission may be pleased to note that though there are some minor variations within the sub-groups of the Project Cost, the overall capital expenditure as on 31.03.2016, is well within the estimated cost of completion of ₹ 3,575 Crores. The details are as under:-

Particulars	***₹ in Crs***
Estimated Cost of Completion	*3,575.00*
Add: Interest for intervening period between COD of Unit I & COD of Unit II on Debt Component of unallocated costs allowed by Hon'ble Commission vide its Order dated Nov 26th, 2014.	*23.46*
Adjusted Cost of Completion	***3598.46***
Current Project Cost upto 31.03.2016	***3,518.83***

e) Issue:

The petitioner claimed ₹ 3.38 Crores in respect of the works against the original package of AC/ ventilation system under BOP. The petitioner was asked to explain the reasons for delay in completion of aforesaid works. The impact on cost if any, due to delay in completion was also sought.

Petitioner's Response:

As reflected in the TPS 5-B, filed with the main petition, the additions during FY 2015-16 of ₹ 3.38 Crores in respect of works against the original package of A/C and ventilation system were made under BOP and the same is explained as under:

AC Ventilation System consisted of AC System of main plant, Air washing system, Ventilation System of all buildings, package ACs, CHP tunnel, Ventilation System, etc. The work was executed as per priority requirement and the same was carried out after further associated work was completed in these areas. CHP Tunnel Ventilation System and air washing were put under last priority and were executed accordingly. Furthermore, there has been no impact on cost due to the delayed execution of such works.

In the light of above explanations, it is submitted that though being part of original scope of work, none of the above jobs were of such nature that in the absence of any of the above, Commissioning/operation of our plant could be hampered but at the same time they were necessary to be carried out for better efficiency.

f) Issue:

The petitioner claimed ₹ 17.49 Crores towards additional capitalization in Civil Works. The petitioner was asked to explain how the generating unit was commissioned and remained under operation for the period of more than three years without aforesaid works. The petitioner was also asked to inform whether any component of the aforesaid civil works pertains to phase-II of the project.

Petitioner's Response:

The Petitioner has claimed ₹ 17.49 Crores towards additional capitalization in the civil works. The Petitioner would humbly like to submit that majority of these civil works included the construction of roads & drainage system which were deferred earlier and were carried out during FY 2015-16. Though the generating unit was operational since 30.08.2012, drainage & roads at Township & Colony and in the plant complex were completed during FY 2015-16. Prior to this Kachcha roads and drainage were being used until March 2015.

In the light of above explanations, it is submitted that though being part of original scope of work, none of the above jobs were of such nature that in the absence of any of the above, Commissioning/operation of our plant could be hampered but at the same time they were necessary to be carried out for better sanitation and infrastructure facilities.

The Petitioner would humbly like to confirm that none of the components of the aforesaid civil works pertains to Phase II of the project.

g) Issue:

The petitioner was asked to file a list of the orders placed to different vendors for the civil works under additional capitalization along with date of order, price at which contract awarded and anticipated date of completion of each work. If there is any delay in completion of works from contractor side, the details of penalty if any, imposed on the contractor be informed.

Petitioner's Response:

A detailed list of work orders placed to the different vendors for the civil works covering additional capitalization is being attached herewith as Annexure-5. This list includes:-

- *work orders issued before COD and the job completed during FY 2015-16 or likely to be completed during FY 2016-17;*
- *Work orders issued after COD for those works which were part of original scope of works but the job completed during FY 2015-16 or likely to be completed during FY 2016-17.*
- *Though being part of original scope of work but work Orders yet to be issued due to cash flow constraints and/or other issues.*

h) Issue:

It is observed from TPS-5B that out of total addition of ₹ 17.49 Crores towards Civil works, the additional works of ₹ 10.20 Crores and ₹ 5.84 Crores are claimed to be done towards Township and coloney, road and drainage respectively.

Petitioner's Response:

Total addition of ₹. 17.49 Crores was capitalized towards civil works. Out of which the additional assets were acquired under Township & Colony (₹. 10.20 Crores), Roads & Drainage (₹ 5.84 Crores), Main Plant/ Administration Building (₹ 1.38 Crores) and Coal Handling Plant (₹ 0.07 Crores) respectively as rightly observed by the Hon'ble

Commission. The detailed Break-up of all the above assets is attached as Annexure-6.

The Petitioner would humbly like to submit that civil cost incurred upto 31.03.2016 is ₹449.86 Crores vis-a-vis 479 Crore as originally planned as already mentioned in Reply to Para (b)(iv). Moreover, the nature and description of the same provided above establishes the fact that above works are covered under original scope of work. Furthermore, the Petitioner hereby confirms that additional cost claimed in the petition does not pertain to R&M and O&M costs.

i) Issue:

The aforesaid additions are about 10% of the costs on these heads as on 31.03.2015. Further, additions of ₹ 1.38 Crores and ₹ 0.07 Crore is also claimed under main plant/ Administration building and coal handling plant respectively. In view of the above, the petitioner was required provide the following:

- Detailed break-up for the additional assets acquired towards all above heads.
- Establish that all above works are covered under original scope of work.
- To confirm that the additional cost claimed in the petition do not pertain to R&M or O&M costs.
- Reconcile the addition of ₹ 21.57 Cr. claimed in the petition with the figure recorded in Note-9 of the Annual Audited Accounts and the Assets cum Depreciation Register.

Petitioner's Response:

The Reconciliation between addition 21.57 Cr. Claimed in the petition and Note 9 of Annual Audited Accounts and Asset cum Depreciation Register is as under:

Description	***Amount in ₹***
Buildings	*17,40,15,670*
Plant & Machinery	*4,13,96,337*
Furniture & Fixtures	*96,600*
Office Equipments	*1,78,065*
Total addition as per Note 9 of Annual Audited Accounts	***21,56,86,672***
Addition claimed in the Petition	***₹ 21.57 Crores***
Difference	***NIL***

38. Regarding the Cut of date of the project, Regulation 4.1 (j) of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations 2012 provides as under:

"cut of date" means 31st March of the year closing after two years of the

year of commercial operation of the Project, and in case the Project is declared under commercial operation in the last quarter of a year, the Cut off date shall be 31st March of the year closing after three years of the year of commercial operation;

39. The Bina thermal Power Project (Phase-I) under subject petition has achieved CoD on 7th April' 2013, therefore, the cut of date of the project shall be 31st March 2016 in accordance with Regulations 2012.

40. On detail scrutiny of the petition, it is observed that the additional capitalization of ₹ 21.57 Crores as claimed by the petitioner is recorded in Annual Audited Accounts of Jaypee Bina Thermal Power Plant (JBTPP) for FY 2015-16. Further, the aforesaid additional capitalization is within the cut-off date in terms of aforesaid Tariff Regulations.

41. The said additional capitalization is as per provisions under Regulation 20.1 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2012 and it is within the **original scope of work with a Project completion cost of ₹ 3575 Crores**. Therefore, the Commission has considered the additional capitalization of ₹ 21.57 Crores in this order.

42. It is further observed that write off/deletion of gross fixed assets of ₹ 0.11 Crores during FY 2015-16 is also recorded in Annual Audited Books of Accounts for FY 2015-16. Thus, the Commission has considered the write off/deletion of ₹ 0.11 Crores as claimed by the petitioner.

43. In view of the above, the following Opening Gross Fixed Assets, addition/write off during the year and Closing Gross Fixed Asset is considered by the Commission in this order:

Table 7: Capital Cost **(₹ in Crore)**

Particulars	Capital Cost already admitted as on 1.04.2015 by the Commission	Additions during FY 2015-16	Write-Off / Deletions during FY 2015-16	Capital Cost admitted Upto 31.03.2016 in this Order
Land	6.86	-	-	6.86
BTG	1710.95	0.56	-	1711.51
BOP	1179.62	3.51	0.11	1183.02
Civil Cost	586.69	17.49	-	604.18
Total	**3484.12**	**21.57**	**0.11**	**3505.58**

DEBT –EQUITY RATIO

Petitioner's Submission:

44. The petitioner submitted the additional capitalization of ₹ 21.57 Crores and write-off/deletion of ₹0.11 Crores i.e. net additional capitalization of ₹ 21.46 Crores during FY 2015-16.

45. Regarding the sources of funding of aforesaid additional capitalization, by affidavit dated 25th April' 2017, the petitioner submitted that there was no fresh draw down of loan and the additional capitalization had been financed entirely out of the equity/reserve/internal accruals. Thus, for the purpose of computation of ROE and Interest on loan, the petitioner considered the funding of net additional capitalization of ₹21.46 Crores in the ratio of 70:30. i.e. ₹15.02 Crores by normative loan component and ₹ 6.44 Crores by equity component.

Provision in Regulation:

46. Regulation 21 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations 2012 provides as under:

> *"In case of the generating station declared under commercial operation prior to 1.4.2013, debt-equity ratio allowed by the commission for determination of Tariff for the period ending 31.3.2013 shall be considered. For the purpose of determination of Tariff of new generating station Commissioned or capacity expanded on or after 01.04.2013, debt-equity ratio as on the Date of Commercial operation shall be 70:30. The debt-equity amount arrived in accordance with this clause shall be used for calculation of interest on loan, return on equity and foreign exchange rate variation. Where equity actually employed is in excess of 30%, the amount of equity for the purpose of Tariff shall be limited to 30% and the balance amount shall be considered as loan. The interest rate applicable on the equity in excess of 30% treated as loan has been specified in Regulation 23. Where actual equity employed is less than 30%, the actual equity shall be considered."*

Commission's Analysis

47. The petitioner submitted that net additional capitalization of ₹ 21.46 Crores has been completely funded by the equity, keeping in view of above Regulation *"Where equity actually employed is in excess of 30%, the amount of equity for the purpose of Tariff shall be limited to 30% and the balance amount shall be*

considered as loan", The Commission has considered the excess equity i.e. above 30% of additional capitalization, as normative loan."

48. With regard to write off/deletion of ₹ 0.11 Crores, the Commission has considered the corresponding reduction of debt and equity in the ratio of 70:30 as admitted by the Commission while approving the capital cost, in its order dated 26th November' 2014.

49. The detail of additional capitalization and write off/ deletion during the year and its corresponding debt and equity as admitted by the Commission for FY 2015-16 is as follows:

Table 8: Source of Funding **(₹ in Crores)**

Sr. No.	Particulars	Addition/Write-off/deletion and Source of Funding Admitted for FY 2015-16		
		Addition/Write off	Loan Addition	Equity Addition
1	Addition Capitalisation	21.57	15.10	6.47
2	Less: Write off	0.11	0.08	0.03
3	**Net Addition**	**21.46**	**15.02**	**6.44**

Annual Capacity (fixed) Charges:

50. The tariff for supply of electricity from a thermal power generating station comprises of Capacity (fixed) charge and Energy (variable) charge is to be derived in the manner specified in the Regulations 40 and 41 of "Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012. {RG-26 (II) of 2012}. The Annual Capacity (fixed) Charges consist of:

ii) Return on Equity;
iii) Interest and Financing Charges on Loan Capital;
iv) Depreciation;
v) Lease/Hire Purchase Charges;
vi) Operation and Maintenance Expenses;
vii) Interest Charges on Working Capital;
viii) Cost of Secondary Fuel Oil;
ix) Special allowance in lieu of R&M or separate compensation allowance, wherever applicable:

a. Return on Equity:

Petitioner's Submission:

51. The petitioner claimed the Return on Equity in the petition as given below:

Table 9: Opening, Closing and Average Normative Equity(₹ in Crores)

Sr. No.	Particular	Unit	FY 2015-16
1	Opening Equity Normative	₹ Cr.	1049.21
2	Equity Additions Normative	₹Cr.	6.44
3	Closing Equity Normative	₹Cr.	1055.65
4	Average Equity Normative	₹Cr.	1052.43
5	Base Rate of Return On Equity	%	15.50%
6	Tax rate considered MAT	%	21.34%
7	Rate of Return on Equity	%	19.71%
	Return on Equity		**207.39**

52. While claiming the Return on Equity, the petitioner considered the base rate of return on equity as 15.50%, which is grossed up with MAT rate of 21.34%.

Provision in Regulations:

53. Regulation 22 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012, provides as under:

"Return on equity shall be computed in rupee terms, on the paid up equity capital determined in accordance with Regulation 21.

Return on equity shall be computed on pre-tax basis at the base rate of 15.5% to be grossed up as per Regulation 22.3 of this Regulation:

Provided that in case of Projects commissioned on or after 1st April, 2013, an additional return of 0.5% shall be allowed if such Projects are completed within the timeline specified in Appendix-I :

Provided further that the additional return of 0.5% shall not be admissible if the Project is not completed within the timeline specified above for reasons whatsoever.

The rate of return on equity shall be computed by grossing up the base rate with the normal tax rate for the Year 2015-16 applicable to the Generating Company:

Provided that return on equity with respect to the actual tax rate applicable to the Generating Company, in line with the provisions of the *relevant Finance Acts of the respective Year during the Tariff period shall be trued up separately.*

Rate of return on equity shall be rounded off to three decimal points and be computed as per the formula given below:

Rate of pre-tax return on equity = Base rate / (1-t)

Where is the applicable tax rate in accordance with Regulation 22.3."

Illustration.-

i). In case of Generating Company paying Minimum Alternate Tax (MAT) say @ 20.01% including surcharge and cess: Rate of return on equity = 15.50/ (1-0.2001) = 19.377%

ii). In case of Generating Company paying normal corporate tax say @ 33.99% including surcharge and cess:

Rate of return on equity = 15.50/ (1-0.3399) = 23.481%

Commission's Analysis:

54. For the purpose of computation of Return on Equity, the normative closing equity as on 31st March' 2015 as admitted in the true up order dated 3rd June' 2016, has been considered as the opening equity as on 1st April' 2015.

55. The petitioner filed the additional capitalization of ₹ 21.57 Crores and also filed the write off/ deletion of fixed assets of ₹ 0.11 Crores i.e. net additional capitalization of ₹ 21.46 Crores. The petitioner mentioned that the aforesaid additional asset have been funded through equity component. Accordingly, the petitioner claimed corresponding normative equity infusion of ₹ 6.44 Crores (i.e. 30% of net additional capitalization as per the provision under Regulations, 2012).

56. Vide Commission's letter dated 27th March' 2017, the petitioner was asked to mention/indicate the amount of ₹ 6.44 Crores as equity addition in the relevant part of its balance sheet and approvals of its Board of Directors for equity infusion in additional assets.

57. By affidavit dated 25th April' 2017 the petitioner submitted that since this addition is part of original scope of work with a Project completion cost of ₹3575 Crores;

hence it does not require fresh approval of its Board of Director.

58. Further, with regard to grossing up the rate of Return on Equity with MAT, vide Commission's letter dated 27th March' 2017, the petitioner was asked to explain with the supporting documents for its eligibility for MAT in light of figures recorded in its balance sheet and the provisions under the Regulations, 2012:

i. As per the Annual Audited Account of JPVL Bina project for FY 2015-16, the tax amount is indicated as NIL, while the petitioner claimed ROE grossing up with MAT. Therefore, the petitioner was asked to file the basis of tax amount claimed, whereas it has not paid any income tax for Bina TPS in FY 2015-16.

ii. It needs to be explained with supporting documents whether the petitioner is eligible for MAT in light of figures recorded in its balance sheet and the provisions under MPERC (Terms and Condition for determination of Generation Tariff) Regulations, 2012.

iii. The detailed break up of plant wise Income and Expenditure and tax on profit, if any reconcile with the Annual Audited Accounts was sought.

59. By affidavit dated 25th April' 2017, the petitioner submitted the following:

> *"The Petitioner would humbly like to submit that since the Generating Station has recorded a profit of ₹ 111.17 Crores during the Year 2015- 16, the Petitioner has accordingly claimed ROE grossing up with MAT.*
>
> *The break up and allocation of income, expenditure and profit/ loss of M/s. JPVL among all its power stations duly certified by Statutory Auditor to arrive at overall loss of ₹ 294.50 Crores in M/s. JPVL is attached as Annexure-8."*

60. On perusal of the aforesaid response filed by the petitioner on MAT, the Commission observed the following:

i. The petitioner filed the Annual Audited Accounts including balance sheet, profit and loss accounts and annexure thereto, of Jaypee Bina Thermal Power Plant (JBTPP) along with Consolidated Financial Statement of Jaypee Power Ventures Limited (JPVL) as on 31st March, 2016.

ii. The Consolidated Financial statement of Jaypee Power Ventures Limited (JPVL) comprises of the financials of following power plants also including 500 MW Bina TPS in the subject petition:

a) 300 MW Jaypee Baspa-II Hydro Electric Project (HEP),
b) 400 MW Jaypee Vishnuprayag HEP,
c) 1091 MW Jaypee Karcham Wangtoo HEP,
d) 500 MW Bina TPS
e) 1320 MW Jaypee Nigrie Super Thermal Power Station.

iii. In FY 2015-16, Generating Company i.e. M/s. Jaypee Power Ventures Ltd. (JPVL) has shown a loss of ₹ 294.50 Crore in its Books of Account and has not paid any tax, therefore, the grossing up of ROE with MAT is not considerable as the company (JPVL) has not paid income tax.

iv. Moreover, in the Annual Audited Accounts of Bina Thermal Power Plant, the payment towards Income Tax or MAT during FY 2015-16 is shown as NIL. While carrying out the true up exercise, the base rate of ROE is required to be grossed up with the actual tax rate. In the subject matter of Jaypee Bina Thermal Power Plant, the payment towards income tax or MAT is NIL. Thus, the Commission does not find any basis for grossing up the base rate of ROE grossing up with MAT.

61. In view of the observations, the Commission has not considered grossing up the base rate of ROE with MAT. Accordingly, the Return on equity for FY 2015-16 is worked out as given below:

Table 10: Return on Equity for FY 2015-16 **(₹ in Crores)**

Sr. No.	Particular	Unit	FY 2015-16
1	Opening Normative Equity	₹ Cr.	1045.23
2	Equity Addition during the Year	₹ Cr.	6.44
3	Closing Normative Equity	₹Cr.	1051.68
4	Average Normative equity	₹Cr.	1048.46
5	Base rate of Return on Equity	%	15.50%
6	**Annual Return On Equity**	₹Cr.	**162.51**

62. With regard to the issue of grossing up RoE with MAT in last true-up order, the petitioner has filed a Review Petition No. 47/2016 for review of the Commission's last true-up order dated 6th June' 2016 (in petition No. 70/2016 for true-up of FY 2014-15) seeking grossing up of ROE with MAT. At the fag end of the proceedings in aforesaid review petition, the petitioner has also filed an Interlocutory Application (IA-1/2017 in P-47/2016) on 26th April, 2017 seeking amendment in aforesaid review petition for incorporation of one more issue for review of "O&M expenses for dedicated transmission line". The aforesaid review petition is under proceedings with the Commission.

b. Interest and finance charges on loan:

Petitioner's Submission:

63. The petitioner submitted the detailed break-up of opening loan balances, net addition, repayment during the year, closing balance of loan, weighted average rate of Interest and Interest on loan in form TPS 13 A of the petition as given below:

Table 11: Interest on Loan Claimed for FY 2015-16 (₹ in Crores)

Particulars	FY 2015-16
Gross Normative Loan – Opening	2448.16
Cumulative Repayment of Normative Loan upto Previous Year	378.43
Net Normative Loan-Opening	**2069.73**
Loan Additions during the year	15.02
Repayment During the year	173.13
Closing Loan	**1911.62**
Average Loan-Normative	**1990.68**
Weighted average Rate of Interest on actual Loans	12.27%
Interest on Normative loan	**244.26**

Provision in Regulations:

64. Regulation 23 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations 2012, provides as under:

"The loans arrived at in the manner indicated in Regulation 21 shall be considered as gross normative loan for calculation of interest on loan.
The normative loan outstanding as on 1.4.2013 shall be worked out by deducting the cumulative repayment as admitted by the Commission up to 31.3.2013 from the gross normative loan.

The repayment for the Year of the Tariff period 2013-16 shall be deemed to be equal to the depreciation allowed for that Year.

Notwithstanding any moratorium period availed by the Generating Company, the repayment of loan shall be considered from the first Year of commercial operation of the Project and shall be equal to the annual depreciation allowed.

The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio at the beginning of each Year applicable to the Project:

Provided that if there is no actual loan for a particular Year but normative loan is still outstanding, the last available weighted average rate of interest shall be considered.

Provided further that if the generating station does not have actual loan, then the weighted average rate of interest of the Generating Company as a whole shall be considered.

The interest on loan shall be calculated on the normative average loan of the Year by applying the weighted average rate of interest.

The Generating Company shall make every effort to re-finance the loan as long as it results in net savings on interest and in that event the costs associated with such re-financing shall be borne by the Beneficiaries and the net savings shall be shared between the Beneficiaries and the Generating Company, in the ratio of 2:1.

The changes to the terms and conditions of the loans shall be reflected from the date of such re-financing--------".

Commission's Analysis:

65. For the purpose of determination of interest on term loan, the Commission is considered normative closing loan balance as on 31st March' 2015 as admitted in the true up order dated 3rd June' 2016 for FY 2014-15, has been considered as the opening loan balance as on 1st April' 2015.

66. The petitioner filed the additional capitalization of ₹ 21.57 Crores and also filed the write off/ deletion of fixed assets of ₹0.11 Crores during FY 2015-16 i.e. net additional capitalization of ₹21.46 Crores. The petitioner mentioned that the asset under additional capitalization has been funded through equity component. Accordingly, the petitioner claimed corresponding net normative loan of ₹15.02 Crores i.e. 70% of net additional capitalization.

67. With regard to weighted average rate of interest filed in the petition, vide letter dated 27th March' 2017, the petitioner was asked to file the documents in support of weighted average rate of interest for all the lenders/ bankers.

68. By affidavit dated 25th April' 2017, the petitioner filed a summary of actual amount of monthly interest paid, rate of interest, sample payment instructions to Bank along with the true copy of bank statement showing payment thereof.

69. In view of the above, the interest on loan has been worked out by the Commission as under:

(a) Gross normative opening loan of ₹ 2061.37 Crores has been considered as per True up Order for FY 2014-15.

(b) Net Addition of normative loan amount of ₹15.02 Cr. (70% of net additional capital expenditure approved above) has been considered.

(c) Annual repayment of loan equal to annual depreciation has been considered.

(d) Weighted average rate of interest @ 12.27% filed by the petitioner based on the actual loan portfolio has been considered.

70. Based on the above, the interest on loan is worked out as given below:

Table 12: Interest on Loan **(₹ in Crores)**

Sr. No.	Particulars	FY 2015-16
		Unit I & II
1	Opening Loan	2061.37
2	Net normative loan addition	15.02
3	Normative repayment equal to depreciation	172.48
4	Closing Loan balance	1903.91
5	Average Loan	1982.64
6	Applicable weighted average rate of interest	12.27%
7	**Annual interest amount on loan**	**243.27**

c. Depreciation:

Petitioner's Submission

71. The petitioner submitted the break-up of opening Gross Fixed Assets, addition, write off/deletion during the year, closing Gross Fixed Assets, depreciation rates as per MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 depreciation rate schedule and depreciation in form TPS 11 of the petition is as given below:

Table 13: Depreciation on Assets **(₹ in Crores)**

Particulars	Total Opening Gross Block as on 1st April' 2015	Addition during the Year	Deletion during the Year	Total Closing Gross Block as on 31st March' 2016	Average Gross Block as on 31st March' 2016	Depreciation as per Regulation	Depreciation
Land	6.86	0	0	6.86	6.86	0.00%	0.00
BTG	1740.8	0.56	0	1741.36	1741.08	5.28%	91.93
BOP	1153.7	3.51	0.11	1157.10	1155.4	5.28%	61.01
Civil Cost	596.02	17.49	0	613.51	604.765	3.34%	20.20
Gross Fixed Assets	**3497.37**	**21.57**	**0.11**	**3518.83**	**3508.1**		**173.13**

Provision in Regulations:

72. Regulation 24 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 provides as under:

"For the purpose of Tariff, depreciation shall be computed in the following manner:

(a) The value base for the purpose of depreciation shall be the capital cost - of the assets as admitted by the Commission.

(b) The approved/accepted cost shall include foreign currency funding converted to equivalent rupee at the exchange rate prevalent on the date of foreign currency actually availed.

(c) The salvage value of the asset shall be considered as 10% and depreciation shall be allowed up to maximum of 90% of the capital cost of the asset:

Provided that in case of Hydro generating stations, the salvage value shall be as provided in the agreement signed by the developers with the State Government for creation of the site:

Provided further that the capital cost of the assets of the hydro generating station for the purpose of computation of depreciable value shall correspond to the percentage of sale of electricity under Long-term power purchase agreement at regulated Tariff.

(d) Land other than land held under lease and the land for reservoir in case of hydro generating station shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset.

(e) Depreciation shall be calculated annually based on 'Straight Line Method' and at rates specified in Appendix-II to these Regulations for the assets of the generating station:

Provided that, the remaining depreciable value as on 31st March of the Year closing after a period of 12 Years from the Date of Commercial operation shall be spread over the balance Useful life of the assets.

(f) In case of the existing Projects, the balance depreciable value as on 1.4.2013 shall be worked out by deducting the cumulative depreciation including Advance against Depreciation if any as admitted by the Commission upto 31.3.2013 from the gross depreciable value of the assets. The rate of Depreciation shall be continued to be charged at the rate specified in Appendix-II till cumulative depreciation reaches 70%. Thereafter the remaining depreciable value shall be spread over the remaining life of the asset such that the maximum depreciation does not exceed 90%.

(g) Depreciation shall be chargeable from the first Year of commercial operation. In case of commercial operation of the asset for part of the Year, depreciation shall be charged on pro rata basis."

Commission's Analysis:

73. For the purpose of computation of Depreciation, the closing Gross Fixed Assets as on 31st March' 2015, as admitted in the true up order dated 3rd June' 2016 for FY 2014-15, has been considered as the opening Gross Fixed Assets as on 1st April' 2015.

74. The petitioner filed the additional capitalization of ₹ 21.57 Crores during the year. The petitioner also filed the write off/ deletion of fixed assets of ₹ 0.11. Thus, the Commission has considered net addition to fixed assets of ₹21.46 Crores in this order.

75. The closing Gross Fixed Assets as on 31st March' 2016, is worked out after considering the addition due to additional capitalization and reduction due to assets write off/deletion during the year.

76. The Commission has observed with deep concern that despite repetitive directions, the petitioner has not filed a proper Asset-cum-Depreciation register with the Commission. Vide letter dated 27th March' 2017, the petitioner was once again asked to file the Asset-cum-depreciation registers for Bina Thermal Power Project duly reconciled with the Annual Audited Accounts. The petitioner was

asked to file Asset-cum-depreciation registers in light of the provisions under MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012. The weighted average rate of depreciation claimed in the petition be also reconciled with the depreciation rates specified in Appendix-II of the MPERC (Terms and Conditions for Determination of Generation tariff) Regulations, 2012.

77. By affidavit dated 25th April' 2017, petitioner submitted that *"the Asset-cum-Depreciation Register in light of provisions under MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 is a voluminous task. Hence the petitioner humbly expresses its inability to file the Asset-cum-Depreciation Register as per the requirement of MPERC.* ***The Petitioner undertakes to file Asset-cum-Depreciation Register as per MPERC requirement from the True Up of FY 2016-17*** *onwards. However the Asset-cum-Depreciation Register as on 31-03-2016 as per Companies Act 2013, duly audited & reconciled is attached with the Reply to Para A(c)".*

78. In view of the above, the petitioner is once again directed to ensure submission of appropriate Asset-cum-depreciation Register (in accordance with MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012) along with the next true-up petition for FY 2016-17. The next true up petition shall be considered if the appropriate Asset-cum-depreciation register as desired is filed with the Commission.

79. The petitioner has filed the weighted average rate of depreciation in Form TPS 11 in accordance with Regulations' 2012. Therefore, the depreciation on average Gross Fixed Assets is worked out after taking into account the opening Gross Fixed Assets, additions, write off during the year, closing Fixed Assets as considered in this order and weighted average rate of depreciation as filed by the petitioner in Form TPS 11 as per Regulations, 2012, as given below:

Table 14: Deprecation (₹ Crores)

Sr. No.	Particular	Units.	FY 15-16
1	Opening GFA	₹ Cr.	3484.12
2	Addition during the year	₹ Cr.	21.57
3	Write-off during the year	₹ Cr.	0.11
4	Net GFA Addition	₹ Cr.	21.46
5	Closing GFA Average GFA	₹ Cr.	3505.58
6	Average GFA	₹ Cr.	3494.85

7	Applicable Rate of Depreciation	**%**	4.94%
8	Annual Depreciation	**₹ Cr.**	172.48
9	**Closing Cumulative Depreciation**	**₹ Cr.**	**549.99**

d. Lease/Hire Purchase Charges

80. In the subject true up petition, the petitioner filed ₹ 0.25 Crore as yearly lease rent payable for FY 2015-16.

Provision in Regulation:

81. Regarding the lease/Hire purchase charges of thermal power stations, Regulation 25.1 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012, provides as under,

    "Lease charges for assets taken on lease by a Generating Company shall be considered as per lease agreement provided they are considered reasonable by the Commission."

Commission's Analysis:

82. The petitioner claimed ₹ 0.25 Cr. against lease rent payable for land during the year. Vide Commission's letter dated 27th March' 2017, the petitioner was asked to provide supporting document in this regard and to reconcile with the amount recorded in its Annual Audited Accounts in light of the Regulation 25.1 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012.

83. By affidavit dated 25th April' 2017, the petitioner submitted that "*it has claimed Lease Rent of ₹ 5,81,059/-(₹ 5,20,512+Rs 60,547) & Railway Land Lease Rent of Rs 19,47,364/-, totalling ₹ 25,28,423/-. Both these figures are grouped under "Other Expenses" (Note-23 of P&L A/c). Out of these figures, ₹ 5,81,059/- is shown against sub-head "Lease Rent" and Railway Lease Rent of ₹ 19,47,364/- is grouped under sub-head "Taxes & Fees". The Break-up of sub-head Taxes and Fees is as under:*

S.No.	*A/c Code*	*A/c Description*	*Amount*
1	*O020000*	*Rates & Taxes*	*2,616,610*
2	*O101905*	*Tender Fee*	*707,644*
3	*O102000*	*License Fee*	*1,947,364*
4	*O103102*	*Service Tax Paid*	*4,233,536*
5	*O102704*	*Taxes & Fee*	*323,918*
6		***Grand Total***	***9,829,072***

However, relevant documents in support of "Lease Rent" payment are attached *as Annexure-12.*

84. In view of the above, the Commission considered the lease rent payment of ₹0.25 Crore as claimed by the petitioner for FY 2015-16 in this order.

e. Operation and Maintenance Expenses:

Petitioner's Submission:

85. The petitioner filed the Operation and Maintenance expenses for generating units in Form F5 of the petition is as given below:

Table 15: O&M Expenses claimed for generating unit (₹ in Crores)

Phase – 1	Particulars	FY 2015-16
Unit I & II	O & M Expense	107.30

86. The petitioner also filed the Operation & Maintenance expenses on Transmission lines & Bay in form F5A of the petition is as given below:

Table 16: Statement of O & M expenses of Transmission Line & Bay (₹ in Crores)

Sr. No.	Particulars		FY 2015-16
1	O&M Expenses of 400kV Transmission Line	39.294 ckt km	0.15
2	O&M Expenses of 400kV Bay	2 Nos of 400kV Bay	0.36
	Total O & M Expenses		**0.51**

Provision in Regulations:

87. Regarding the Operation and Maintenance expenses of thermal power stations, Regulation 36.1 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012, provides as under:

"The Operation and Maintenance expenses admissible to existing thermal power stations comprise of employee cost, Repair & Maintenance (R&M) cost and Administrative and General (A&G) cost. These norms exclude Pension, Terminal Benefits and Incentive to be paid to employees, taxes payable to the Government, MPSEB expenses and fees payable to MPERC. The Generating Company shall claim the taxes payable to the Government and fees to be paid to MPERC separately as actual. The claim of pension and Terminal Benefits shall be dealt as per Regulation."

Table 17: *O&M Norms for Thermal Generating (₹ in Lakh/MW)*

Units (MW)	FY 2015-16
45	30.17
200/210/250	21.46

500	16.08
600 and above	15.09

Commission's Analysis:

88. For Thermal Power Station, the Commission worked out the annual operation and maintenance expenses as per the above Regulations. Accordingly, the operation and maintenance expenses for generating units are determined as given below:

Table 18: Operation & Maintenance Expenses admitted (₹ in Crores)

Sr. No.	Phase - 1	Capacity	Normative O & M Expenses	Annual O&M Expenses as per norms
		MW	₹ Lack/MW	₹ Crore
1	Unit I & II	2 X 250	21.46	107.30

89. With regard to operation & maintenance expenses on Transmission lines & Bay, vide Commission's letter dated 27th March' 2017, the following was communicated to the petitioner"

"In the subject true-up petition, the petitioner also claimed ₹ 0.51 Crores for FY 2015-16 for O&M expenses of transmission line and bay on the basis of the norms prescribed under MPERC (Terms and Conditions for Determination of Transmission Tariff) Regulations. The contention /claim of the petitioner in this regard is found unreasonable since the components of the Annual Fixed Cost of any dedicated transmission line, whose capital cost has been considered while determining generation tariff of the power plant, cannot be claimed in the subject petition. Hence, the petitioner is not eligible to claim aforesaid O&M expenses of its dedicated transmission line. Therefore, the petitioner is required to justify its claim in this regard in light of the MPERC (Terms and Condition for determination of Generation Tariff) Regulations, 2012."

90. By affidavit dated 25th April' 2017, the petitioner submitted the response on its claim towards the O&M expenses for transmission Line claimed in the petition.

91. The petitioner had first time claimed O&M expenses of transmission line in true-up petition for FY 2014-15. The Commission vide order dated 3rd June, 2016 disallowed the aforesaid O&M expenses of transmission line with the following observation:

"94. It is evident from the above submission of the petitioner that the Transmission line in the subject petition is a dedicated line and its cost has been appropriately included in the capital cost of the 2x250 MW (Phase-I) of petitioner's power plant while determining its final tariff vide Commission's order dated 26.11.2014.

Further, the petitioner had never claimed the operation and maintenance (O&M) expenses for the said dedicated transmission line in its any of the petitions filed for determination of provisional tariff of each generating unit and also the final tariff of the petitioner's power plant. For the first time in the subject true-up petition, the O&M expenses of dedicated transmission line is claimed by the petitioner.

95. The status of the aforesaid dedicated transmission line has already been dealt with in para 27 to 30 of the Commission's first order dated 12th December' 2012 in Petition No. 40 of 2012. Further, the remaining issue has been dealt with in relevant paras of Commission's order dated 26.11.2014.

96. The extract of the above-mentioned paragraphs of Commission's order is that the dedicated transmission lines is neither a transmission line in terms of sub-section (72) of Section 2 of the Electricity Act' 2003 nor it is a distribution system connecting the point of a connection to the installation of consumer in terms of sub-section (19) of Section 2 of the Act. The O&M expenses of a transmission line are part of the Annual Fixed Cost of the line of a transmission licensee whereas, the petitioner is not a transmission licensee. The cost of dedicated line has been considered in the capital cost of the petitioner's power plant and the tariff of the said power plant has been determined in terms of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations' 2012 which does not provide for any O&M expenses of dedicated transmission line separately."

92. In view of the aforesaid and the approach of the Commission in last true-up order, the claim of petitioner for O&M expenses of dedicated transmission line has no merit hence not considered in this order.

f. Cost of Secondary Fuel Oil

Provision in Regulation:

93. Regulation 38 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 provides as under:

"Expenses on Secondary fuel oil in Rupees shall be computed corresponding to normative Specific Fuel Oil Consumption (SFC) specified in Regulation 35, in accordance with the following formula:
= SFC x LPSFi x NAPAF x 24 x NDY x IC x 10

Where,
SFC -Normative Specific Fuel Oil Consumption in ml/kWh
LPSFi -Weighted Average Landed Price of Secondary Fuel in ₹/ml considered initially
NAPAF - Normative Annual Plant Availability Factor in percentage NDY - Number of Days in a Year
IC - Installed Capacity in MW"
With regard to landed cost of oil, Regulation 38.2 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 provides as under;

"Initially, the landed cost incurred by the Generating Company on secondary fuel oil shall be taken based on actuals of the weighted average price of the three preceding months and in the absence of landed costs for the three preceding months, latest procurement price for the generating station, before the start of the Year.

The secondary fuel oil expenses shall be subject to fuel price adjustment at the end of the each Year of Tariff period as per following formula:
SFC x NAPAF x 24 x NDY x IC x 10 x (LPSFy – LPSFi) Where,
LPSFy = The weighted average landed price of secondary fuel oil for the Year in ₹/ml."

Commission's Analysis:

94. The above Regulation provides for a mechanism/formula for the adjustment of fuel oil expenses with actual rate at the end of each financial year of the tariff period. Therefore, there is no need for true up of secondary fuel oil by the Commission in terms of the aforesaid Regulation.

g. Interest on Working Capital:

Petitioner Submission:

95. The petitioner claimed the interest on working capital in form TPS 13B of the petition as given below:

Table 19: Interest on Working Capital Claimed (₹ in Crores)

Sr. No.	Particulars	Norms	FY 2015-16
1	Cost of Coal/Lignite	2 months of coal purchase	119.32
2	Cost of Main Secondary Fuel Oil	2 months of sec oil purchase	3.11
3	O & M expenses	1 month of O&M Expenses	8.94
3A	O & M expenses (Transmission Lines & Bay)	1 month of O&M Expenses	0.04
4	Maintenance Spares	20% of O&M Expenses	21.46
4A	Maintenance Spares (Transmission Line & Bay)	20% of O&M Expenses	0.10
5	Recievables	2 months of total Revenue	277.80
6	**Total Working Capital**		**430.77**
7	Rate of Interest		13.50%
8	**Interest on Working Capital**		**58.16**

Provision in Regulations:

96. Regulation 37.1 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 regarding working capital for coal based generating stations provides that:

"*The Working Capital for Coal based generating stations shall cover:*

(i) Cost of coal for 45 Days for pit-head generating stations and two months for non-pit-head generating stations, corresponding to the normative availability;

(ii) Cost of secondary fuel oil for two months corresponding to the normative availability: Provided that in case of use of more than one secondary fuel oil, cost of fuel oil stock shall be provided for the main secondary fuel oil.

(iii) Maintenance spares @ 20% of the normative O&M expenses;

(iv) Receivables equivalent to two months of capacity charges and energy charges for sale of electricity calculated on the Normative Annual Plant Availability Factor; and

(v) Operation and Maintenance expenses for one month.

97. Regulation 37.2 of the MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 provides as under:

The cost of fuel shall be based on the landed cost incurred (taking into account normative transit and handling losses) by the Generating Company and Gross Calorific Value of the fuel as per actual for the preceding three months and ***no fuel price escalation shall be provided during the Tariff period."(Emphasis Supplied)***

98. With regard to the rate of interest on working capital, Regulation 27.1 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 provides as under:

"Rate of interest on working capital to be computed as provided subsequently in these Regulations shall be on normative basis and shall be equal to the State Bank of India's Base Rate as on 1st of April of that year plus 3.50%....."

Commission's Analysis:

99. In the above mentioned provision under Regulations, 2012, no fuel price escalation shall be provided during the tariff period for calculating the working capital. The details of working capital are worked out as per the provisions under the Regulations, 2012 as given below:

(i) Cost of coal oil for 2 months as considered in order dated 08.05.2015:

(ii) Cost of secondary fuel of main oil for two months equivalent to normative plant availability factor as considered in order dated 08.05.2015 as stated below is considered:

Particulars	**FY 2015-16 (₹ in Cr.)**
Cost of Coal for Two Months	119.72
Cost of Secondary Fuel Oil for Two Months	3.11

(iii) Maintenance spares as considered in order dated 08.05.2015 as stated below is considered:

Particulars	**FY 2015-16 (₹ in Cr.)**
Maintenance Spares	21.46

(iv) Receivable have been worked out on the basis of two months of fixed and energy charges as given below:

Particulars	**FY 2015-16 (₹ in Cr.)**
Variable Charges- 2 Months	119.72
(As considered on Order dated 08.05.2015)	
Annual Fixed Charges- 2 Months	126.67
(Worked Out in this Order)	
Total	**246.39**

(v) O&M expenses for one month for the purpose of working capital as considered in order dated 08.05.2015 has been considered:

Particulars	FY 2015-16 (₹ in Cr.)
O & M Expenses for One Month	8.94

100. The State Bank of India Base rate applicable/ prevailing as on 07.11.2013 (up to 1st April 2014) is 10.0% + 3.50% = 13.50%. Accordingly, no variation in the Interest rate is observed.

101. Considering the above, the interest on working capital worked out by the Commission for FY 2015-16 in this true-up order is as given below:

Table 20: Interest on Working Capital Claimed (₹ in Crores)

Sr. No.	Particulars	Norms	FY 2015-16
1	Cost of Coal/Lignite	2 months of coal purchase	119.72
2	Cost of Main Secondary Fuel Oil	2 months of main oil purchase	3.11
3	O & M expenses	1 month of O&M	8.94
4	Maintenance Spares	20% of O&M	21.46
5	Receivables	2 months of total revenue	246.39
6	**Total Working Capital**		**399.62**
7	Rate of Interest (SBI PLR)*		13.50%
8	**Interest on Working Capital**		**53.95**

h. Non-Tariff Income:

Provision in Regulations:

102. Regulation 31 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012 provides as under:

"(a) Any income *being incidental to the business of the Generating Company derived from sources, including but not limited to the disposal of assets, income from investments, rents, income from sale of scrap other than the de-capitalized/written off assets, income from advertisements, interest on advances to suppliers/contractors, income from sale of ash/rejected coal, and any other miscellaneous receipts other than income from sale of energy shall constitute the non tariff income.*

(b) The amount of Non-Tariff Income relating to the Generation Business as approved by the Commission shall be deducted from the Annual Fixed Cost in determining the Annual Fixed Charge of the Generation Company:

Provided that the Generation Company shall submit full details of its forecast of Non-Tariff Income to the Commission in such form as may be stipulated by the Commission from time to time. Non tariff income shall also be Trued-up based on audited accounts.

Commission's Analysis:

103. Aforesaid provision under the Regulations, 2012 provides that the non-tariff income shall also be trued up based on the Audited Accounts. On scrutiny of the subject petition, it was observed that the petitioner claimed the non-tariff income of ₹ 2.29 Crores.

104. Vide Commission's letter dated 27th March' 2017, the petitioner was asked to provide break-up of non-tariff income as recorded in Note-17 & 18 of the Annual Audited Accounts.

105. By affidavit dated 25th April' 2017, the petitioner provide the break-up of Non-Tariff income as under:

Sl. No.	Particular	Amount in ₹
1	Sale of Fly Ash	18,529,335.00
2	Sale of Floater Ash	157,600.00
3	Interest Received – FDRs	963,759.00
4	Excess/Short Provision W/back	147,348.00
5	Sale of Scrap	1,545,724.00
6	Rent Received	1,068,700.00
7	Insurance Claim Receipts	214,557.00
8	Handling Charges	237,879.00
9	**TOTAL**	**22,864,902.00**

106. Therefore, the total non-tariff income as claimed by the petitioner of ₹2.28 crores is considered by the Commission in this order.

107. In response to issues raised by the Commission, the petitioner by affidavit dated 25th April' 2017 revised its Annual Capacity Charges mentioning the following:

"the Petitioner would humbly like to put forth the fact that during FY 2015-16 the procurer i.e. MPPMCL gave the Petitioner very erratic scheduling and was subjected to run the plant below Technical Minimum for want of third party buyer including collective transaction. ***This issue is before the Hon'ble Commission***

in Petition No. 5/2017. *However due to such erratic scheduling the operational parameters of the Petitioner's plant was adversely impacted i.e. against the Normative GSHR of 2450 Kcal/ kWh the Plant during the Year 2015-16 registered actual GSHR at 2534.39 Kcal/ kWh. The same is reflected at Page No. 85 of the present Petition. Keeping in view the adverse impact of increased GSHR on power station, the Petitioner is compelled to make a revised claim of Capacity Charges based on actual GSHR. The revised TPS 1, TPS 13B along with the relevant supporting calculations is attached as Annexure-1"* **(Emphasis Supplied)**

108. On perusal of above submission made by the petitioner, the Commission observed the following status:

(i) M/s. Jaiprakash Power Ventures Ltd. had earlier filed a Petition No. 54 of 2015 for adjudication of dispute between the petitioner generating company and the other respondents in this petition challenging the legality, validity and proprietary of a letter issued by State Load Despatch Centre MP. Issues in the aforesaid petition were mainly related to the Technical Minimum, generating capacity of the petitioner's power plant. Vide Commission's order dated 7th January' 2016, the aforesaid petition was dismissed and disposed of by the Commission.

(ii) Aggrieved by the aforesaid order, the petitioner (M/s. Jaiprakash Power Ventures Ltd.) filed an Appeal (No. 34 of 2016) before the Hon'ble Tribunal for Electricity challenging the aforesaid order of the Commission. Hon'ble Tribunal for Electricity by its judgment dated 22nd August' 2016 dismissed aforesaid appeal No. 34 of 2016. The Commission's order was upheld by the Hon'ble Tribunal after indepth deliberation on various issues raised in the aforesaid Appeal.

(iii) Subsequently, M/s. Jaiprakash Power Ventures Ltd. (the petitioner herein) filed a review petition (RP No. 22 of 2016) before the Hon'ble Tribunal for Electricity challenging the judgment of Hon'ble Tribunal.

(iv) Hon'ble Tribunal for Electricity in its judgment dated 15th February' 2017 in RP No. 22 of 2016, after examination of all the aspects brought before the Hon'ble Tribunal, found no error apparent on the face of record in its aforesaid judgment dated 22nd August' 2016 in Appeal No. 34 of 2016.

109. As per the directions of the Hon'ble Tribunal, the petitioner (JPVL) has now filed a petition (Petition No. 05/2017) with the Commission and the same is under proceedings. Therefore, the contention of petitioner in the subject true-up petition is irrelevant at this stage hence not considered in this order.

110. In the subject petition, the petitioner filed the true-up of energy charges also. It was mentioned in para 6.76 of the Commission's main order dated 26.11.2014 (in Petition No. 40 of 2012) that the energy charges were calculated for the purpose of calculation of two months' billing purpose for computation of interest on working capital in that order. The actual monthly billing of energy charges has been done during FY 2015-16 on the basis of actual landed price and GCV of primary fuel (coal) in accordance with the formula and other provisions detailed in Regulation 41 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2012. Therefore, there is no need for truing up of energy charges in light of the provisions under the aforesaid Regulations, 2012.

Summary of Annual Capacity (fixed) charges considered in this order:

111. The details of the Annual Capacity (fixed) Charges for FY 2015-16 as determined in Commission's order dated 08th May' 2015 vis-a-vis allowed in this true-up order at normative Plant Availability Factor are summarized in the following table:

Table 21: Head wise Annual Capacity Charges at normative availability

(₹ in Crore)

Particulars/Years	MPERC Order dated 08.05.2015 for FY 2015-16	Allowed in This order for FY 2015-16 on Normative Availability	True-up amount at Normative Availability
	A	B	(B-A)
Depreciation	172.20	172.48	0.28
Interest on Loan	250.69	243.27	(7.42)
Return on Equity	204.24	162.51	(41.73)
Interest on Working Capital	55.12	53.95	(1.17)
O & M Expenses	107.30	107.30	0.00
Secondary Fuel Oil expenses	22.53	22.53	0.00
Lease rent payable for land (yearly)	0	0.25	0.25
Annual Capacity (fixed) charges	**812.08**	**762.29**	(49.79)
Less: Non-Tariff Income	-	2.29	2.29
Net Annual Capacity charges	**812.08**	**760.00**	**(52.08)**
Annual Capacity (fixed) charges corresponding to 65% of the installed capacity of the units	**527.852**	**494.00**	**(33.85)**

112. The Annual Capacity (fixed) Charges as determined above for FY 2015-16 are at Normative Availability and these charges are based on Annual Audited Accounts of Japyee Bina Thermal Power Plant for FY 2015-16.

113. The recovery of Annual Capacity (fixed) Charge for FY 2015-16 shall be made by the petitioner in accordance with clause 40.2 and clause 40.3 of the Regulations 2012 on pro-rata basis with respect to actual Annual Plant Availability Factor.

Implementation of the order

114. The petitioner must take steps to implement the order after giving seven (7) days' public notice in accordance with Clause 1.30 of MPERC (Details to be furnished and fee payable by licensee or generating company for determination of tariff and manner of making application) Regulations, 2004 and its amendments and recalculate its bills for the energy supplied to Distribution Companies of the State/ M.P. Power Management Company Ltd. since 1st April' 2015 to 31st March' 2016.

115. The petitioner is also directed to provide information to the Commission in support of having complied with this order. The deficit/ surplus amount as a result of this order shall be passed on to MP Power Management Company Ltd/ three Distribution Companies of the state in terms of applicable Regulation in six equal monthly installments during FY 2017-18.

With the above directions, this Petition No. 62 of 2016 is disposed of.

(Alok Gupta) Member	(A. B. Bajpai) Member	(Dr. Dev Raj Birdi) Chairman

Date : 21st June'2017
Place : Bhopal

Annexure 1

Issue-wise reply of the petitioner to the queries raised by the Commission:-

a) Issue:

The figures regarding fixed assets filed in the subject petition and those recorded in the note 9 of the Annual Audited Accounts for FY 2015-16 are at variance as given below:

S. No.	Particular	Filed in the petition (₹ Cr.)	Recorded in Audited Account (₹Cr.)
1.	Opening GFA as on 01.04.2015	3497.38	3473.89
2.	Addition during FY 2015-16	21.57	21.57
3.	Deletion/ Adjustment during FY 2015-16	0.11	0.11
4.	Closing up to 31.03.2016	3518.83	3495.35

In view of the above, the petitioner is required to explain the reasons for the above variance/discrepancies in the figures.

Petitioner's Response:

Reconciliation of variances observed by the Hon'ble Commission between the figures of fixed assets filed in the Petition and the Audited Financial Accounts are as under:-

Sl. No.	***Particular***	***Rs. Cr.***	***Remarks***
1.	*Opening Gross Fixed Assets as on 01-04-2015*	*3,473.89*	***Recorded in Audited Accounts***
2.	***Add:-*** *Interest for 218 days (intervening period between COD of Unit I & COD of Unit II) on Debt Component of unallocated costs allowed by Hon'ble Commission vide its Order dated Nov 26th, 2014.* ***(Please refer Para 4.30 & 4.31 of the said Order)***	*23.46*	
3.	*Opening Gross Fixed Assets as on 01-04-2015*	***3,497.37***	***Filed in the Petition (Rounding off 0.02Crs)***
4.	*Addition during FY 2015-16*	*21.57*	
5.	*Deletion/Adjustment during FY 2015-16*	*0.11*	
6.	***Closing Capital Cost upto 31.03.2016***	***3,518.83***	***Filed in the Petition***
7.	***Less:*** *Interest at Sl. No.2*	*23.46*	
8.	***Closing Capital Cost upto 31.03.2016***	***3,495.37***	***Recorded in Audited Accounts (Rounding off 0.02 Crs)***

b) Issue:

With regard to the additional capitalization during FY 2015-16 claimed in the petition, a comprehensive reply to the following issues with all relevant supporting documents be filed.

(i) Whether the addition of assets is on account of the reasons (a) to (e) in clause 20.1 of the MPERC (Terms and Conditions for determination of Generation tariff) Regulations, 2012.

(ii) Whether the assets capitalized during the year are under original scope of work. Supporting documents be also filed in this regard.

(iii) Whether the additional capitalization is within the cut-off date of the project.

(iv) Statement showing the detailed break-up of the project cost originally approved by the competent authority along with the Revised Project cost if any, need to be filed by the petitioner.

Petitioner's Response:

(i) Reply to Para (b)(i)&(ii)

The Petitioner humbly submits that the additional net capitalization of Rs 21.46 Crs falls within the norms specified under Regulation 20.1 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2012. The said Regulation reads as under:-

> *"The Capital Expenditure 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 cut-off date may be admitted by the Commission, subject to prudent check:*
>
> *(a) Undisclosed liabilities*
>
> *(b) Work deferred for execution*
>
> *(c) Liabilities to meet award of arbitration or for compliance of order or decree of a court,*
>
> *(d) Change in Law,*
>
> *(e) Procurement of initial spares within the original scope of work, subject to the provisions of Regulation 17.1(b)*
>
> *Provided that the details of works included in the original scope of along with estimates of expenditure, un-discharged liabilities and works deferred for execution shall be submitted along with the application for Tariff."*

The Petitioner would humbly like to draw the kind attention of the Hon'ble Commission in the light of the above Regulation that the said additional capitalization is within the original scope of the work of Rs. 3,575/- Crores authorized by the Resolution of Board of Directors dated May 17th, 2014.

Resolution of Board of Directors dated May 17th, 2014 is attached as ***Annexure-2.***

(ii) Reply to Para (b)(iii)

The Petitioner would humbly like to apprise the Hon'ble commission that the definition of cut off date as laid out by MPERC (terms and Conditions for determination of Generation Tariff) Regulations, 2012 states that "Cut off date" means 31st March of the year closing after two years of the year of commercial operation of the Project.

In view of the same the Petitioner would like to submit that Unit II of Jaypee Bina Thermal Power Project achieved COD on April 7th 2013. Therefore, the cut off date for the Project falls on 31th March 2016 i.e. 31st March of the Year closing after two years of the year of the commercial operation of the Project. Hence the additional capitalization made by the Petitioner is well within the cut off date of the project.

(iii) Reply to Para (b)(iv)

Break up of Originally Approved Project Cost, Revised Project Cost and Completion Project Cost are given as under:-

(Rs in Crores)

Particulars	***Original Project Cost***	***Revised Project Cost***	***Completion Cost***
Land	*7*	*7*	*7*
BTG	*1294*	*1338*	*1381*
BOP	*480*	*575*	*954*
Civil Cost	*433*	*686*	*479*
Overhead & Pre-Operative	*201*	*201*	*253*
IDC/IEDC	*294*	*398*	*524**
Margin Money	*45*	*35*	
Total	***2754***	***3240***	***3598***

** This includes Rs 23.46 Crs approved by Hon'ble Commission towards interest from COD of Unit I to COD II on unallocated capital cost as on COD of Unit I vide Para 4.30 and 4.31 of Order dated 26/11/2014, i.e. Rs. 3575/- Crore + Rs. 23.46/- = Rs. 3598/-.*

c) Issue:

Details of the works completed and to be completed as on 31st March' 2016 along with supporting documents be filed by the petitioner.

Petitioner's Response:

Details of work completed in the up to 31st, March 2016 has been mentioned in the Asset-cum-depreciation register and the same is attached as Annexure 3.

d) Issue:

The petitioner has filed the additional capitalization of ₹21.57 Crore whereas at page no 98 of the petition in Note 9B of the Annual Audited Accounts, the capitalization during the year is ₹ 20.88 Crore. The above difference in figures of additional capitalization be clarified.

Petitioner's Response:

The Petitioner would humbly like to submit that the Petitioner has made an additional capitalization of Rs 21.57 Crores during the FY 2015-16. Simultaneously, the Petitioner has also made deletions/ adjustments of Rs. 0.11 Crores. Therefore, the net addition during FY 2015-16 works out to be Rs 21.46 Crores. Furthermore, out of the net addition, various assets capitalized during the FY 2015-16 were bought out items and were not routed through CWIP ledger. The value of such additional assets capitalized during FY 2015-16 amounts to 0.57 Crore. The value of assets routed through CWIP during the FY 2015-16 amounts to Rs 20.88 Crores. The detailed explanation and breakup of the same is as follows:-

Sl. No.	***Particular***	***Rs.***
1	*Additional Capitalization made during FY 2015-16*	*21,56,86,672.82*
2	***Less:** Deletion/ Adjustments made during FY 2015-16*	*(11,21,249.00)*
3	***Net Addition during FY 2015-16***	***21,45,65,423.82***
4	***Less:** Assets directly Bought Out which were not routed through CWIP ledger*	*(57,75,442.82)*
6	***Total Capitalization during FY 2015–16 Routed through CWIP Ledger (As per Note 9B of Annual Audited Accounts)***	***20,87.89,981.00***

e) **Issue:**

In TPS-5B, the petitioner has filed the break-up of capital cost. The petitioner is required to file the break-up of original project cost also in the same form in this regard.

Petitioner's Response:

*The break-up of original project cost in TPS-5B format is attached herewith as **Annexure-4.** The Hon'ble Commission may be pleased to note that though there are some minor variations within the sub-groups of the Project Cost, the overall capital expenditure as on 31.03.2016, is well within the estimated cost of completion of Rs 3,575 Crores. The details are as under:-*

Particulars	***Rs in Crs***
Estimated Cost of Completion	*3,575.00*
Add: Interest for intervening period between COD of Unit I & COD of Unit II on Debt Component of unallocated costs allowed by Hon'ble Commission vide its Order dated Nov 26th, 2014.	*23.46*
Adjusted Cost of Completion	***3598.46***
Current Project Cost upto 31.03.2016	***3,518.83***

f) Issue

The petitioner has claimed ₹ 3.38 Crores in respect of the works against the original package of AC/ ventilation system under BOP. The petitioner is required to explain the reasons for delay in completion of aforesaid

works. The impact on cost if any, due to delay in completion be also informed in this regard.

Petitioner's Response:

As reflected in the TPS 5-B, filed with the main petition, the additions during FY 2015-16 of Rs. 3.38 Crores in respect of works against the original package of A/C and ventilation system were made under BOP and the same is explained as under:

AC Ventilation System consisted of AC System of main plant, Air washing system, Ventilation System of all buildings, package ACs, CHP tunnel, Ventilation System, etc. The work was executed as per priority requirement and the same was carried out after further associated work was completed in these areas. CHP Tunnel Ventilation System and air washing were put under last priority and were executed accordingly. Furthermore, there has been no impact on cost due to the delayed execution of such works.

In the light of above explanations, it is submitted that though being part of original scope of work, none of the above jobs were of such nature that in the absence of any of the above, Commissioning/operation of our plant could be hampered but at the same time they were necessary to be carried out for better efficiency.

g) Issue:

The petitioner has claimed ₹ 17.49 Crores towards additional capitalization in Civil Works. The petitioner is required to explain how the generating unit was commissioned and remained under operation for the period of more than three years without aforesaid works. The petitioner is also required to inform whether any component of the aforesaid civil works pertains to phase-II of the project.

Petitioner's Response:

The Petitioner has claimed Rs 17.49 Crores towards additional capitalization in the civil works. The Petitioner would humbly like to submit that majority of these civil works included the construction of roads & drainage system which were deferred earlier and were carried out during FY 2015-16. Though the generating unit was operational since 30.08.2012, drainage & roads at Township & Colony and in the plant complex were completed during FY 2015-16. Prior to this Kachcha roads and drainage were being used until March 2015.

In the light of above explanations, it is submitted that though being part of original scope of work, none of the above jobs were of such nature that in the absence of any of the above, Commissioning/operation of our plant could be *hampered but at the same time they were necessary to be carried out for better sanitation and infrastructure facilities.*

The Petitioner would humbly like to confirm that none of the components of the aforesaid civil works pertains to Phase II of the project.

h) Issue:

The petitioner is required to file a list of the orders placed to different vendors for the civil works under additional capitalization along with date of order, price at which contract awarded and anticipated date of completion of each work. If there is any delay in completion of works from contractor side, the details of penalty if any, imposed on the contractor be informed.

Petitioner's Response:

A detailed list of work orders placed to the different vendors for the civil works covering additional capitalization is being attached herewith as Annexure-5. This list includes:-

- *work orders issued before COD and the job completed during FY 2015-16 or likely to be completed during FY 2016-17;*
- *Work orders issued after COD for those works which were part of original scope of works but the job completed during FY 2015-16 or likely to be completed during FY 2016-17.*

Though being part of original scope of work but work Orders yet to be issued due to cash flow constraints and/or other issues.

i) Issue:

It is observed from TPS-5B that out of total addition of ₹ 17.49 Crores towards Civil works, the additional works of ₹ 10.20 Crores and ₹ 5.84 Crores are claimed to be done towards Township and coloney, road and drainage respectively.

The aforesaid additions are about 10% of the costs on these heads as on 31.03.2015. Further, additions of ₹ 1.38 Crores and ₹0.07 Crore is also claimed under main plant/ Administration building and coal handling plant respectively. In view of the above, the petitioner is required provide the following:

- **Detailed break-up for the additional assets acquired towards all above heads.**
- **Establish that all above works are covered under original scope of work.**

- **To confirm that the additional cost claimed in the petition do not pertain to R&M or O&M costs.**
- **Reconcile the addition of ₹ 21.57 Cr. claimed in the petition with the figure recorded in Note-9 of the Annual Audited Accounts and the Assets cum Depreciation Register.**

Petitioner's Response:

- *Total addition of Rs. 17.49 Crores was capitalized towards civil works. Out of which the additional assets were acquired under Township & Colony (Rs. 10.20 Crores), Roads & Drainage (Rs. 5.84 Crores), Main Plant/ Administration Building (Rs. 1.38 Crores) and Coal Handling Plant (Rs. 0.07 Crores) respectively as rightly observed by the Hon'ble Commission. The detailed Break-up of all the above assets is attached as Annexure-6 (Colly.).*

- *The Petitioner would humbly like to submit that civil cost incurred upto 31.03.2016 is Rs. 449.86 Crores vis-a-vis 479 Crore as originally planned as already mentioned in Reply to Para (b)(iv). Moreover, the nature and description of the same provided above establishes the fact that above works are covered under original scope of work. Furthermore, the Petitioner hereby confirms that additional cost claimed in the petition does not pertain to R&M and O&M costs.*

- *The Reconciliation between addition 21.57 Cr. Claimed in the petition and Note 9 of Annual Audited Accounts and Asset cum Depreciation Register is as under:*

Description	*Amount in Rs.*
Buildings	*17,40,15,670*
Plant & Machinery	*4,13,96,337*
Furniture & Fixtures	*96,600*
Office Equipments	*1,78,065*
Total addition as per Note 9 of Annual Audited Accounts	*21,56,86,672*
Say,	*Rs 21.57 Crores*
Addition claimed in the Petition	*Rs 21.57 Crores*
Difference	*NIL*

j) Issue

The petitioner has not informed the status of funding actually incurred for additional capitalization during FY 2015-16. The funding status incurred for additional capitalization be informed.

Petitioner's Response:

Details of funding pertaining to additional capitalization during FY 2015–16 have been provided in TPS 10 at Page No. 61 of the subject Petition.

However, the said Page No. 61 of the subject Petition is enclosed by the Petitioner as Annexure-7. It is pertinent to note here that there was no fresh draw down of loan and this addition had been financed entirely out of the internal accruals.

k) Issue:

The petitioner has filed write-off/adjustment of assets during FY 2015-16. The petitioner is required to confirm whether the funding and cost components pertain to write-off/adjustment assets have been accounted for in its claim.

Petitioner's Response:

The Petitioner has made an addition of Rs 21.57 Crs and reduced its Gross Block by Rs 0.11 Crs during FY 2015-16. Thereby, net addition works out to be Rs 21.46 Crs. The Petitioner hereby confirms that the write-off/ adjustment of Rs 0.11 Crs has been duly accounted for in the Books of Accounts with a net addition of Rs 21.46 Crs (being Gross Addition Rs 21.57 Crs minus reduction of Rs 0.11 Crs).

l) Issue:

The opening and closing normative equity filed in the subject petition for FY 2015-16 is ₹ 1049.21 Crores and ₹ 1055.65 Crore respectively. The petitioner has also claimed equity addition of ₹ 6.44 Crores during FY 2015-16. The petitioner is required to mention/indicate the amount of aforesaid equity addition in the relevant part of the balance sheet. Approvals of its Board of Directors for equity infusion in additional assets need to be filed by the petitioner.

Petitioner's Response:

The Petitioner has made an addition of Rs 21.57 Crs and reduced its Gross Block by Rs 0.11 Crs during FY 2014-15. Thereby, net addition works out to be Rs 21.46 Crs. It is pertinent to note here that there was no fresh draw down of loan and this addition has been financed entirely out of the equity/ reserves/ internal accruals.

Since, this addition is part of original scope of work with a Project Completion Cost of Rs 3,575 Crs, hence it does not require fresh approval of Board of Directors. The approval for Rs 3,575 Crs is attached as "Annexure -2" in reply to Reply to Para (b) (i) & (ii).

m) Issue:

The petitioner has claimed ROE by grossing up the rate of return on equity with MAT. The petitioner is required to clarify the following in light of the proviso under Regulation 22.3 of MPERC (Terms and

Conditions for determination of Generation Tariff) Regulations, 2012, which provides as under:

"Provided that return on equity with respect to the actual tax rate applicable to the Generating Company, in line with the provisions of the relevant Finance Acts of the respective Year during the Tariff period shall be trued up separately."

(i) As per the Annual Audited Account of JPVL Bina project for FY 2015-16, the tax amount is indicated as NIL, while the petitioner has claimed ROE grossing up with MAT. Therefore, the petitioner is required to file the basis of tax amount claimed, whereas it has not paid any income tax for Bina TPS in FY 2015-16.

(ii) It needs to be explained with supporting documents whether the petitioner is eligible for MAT in light of figures recorded in its balance sheet and the provisions under MPERC (Terms and Condition for determination of Generation Tariff) Regulations, 2012.

(iii) Provide the detailed break up of plant wise Income and Expenditure and tax on profit, if any reconcile with the Annual Audited Accounts.

Petitioner's Response:

i. Reply to Para (i) & (ii)

The Petitioner would humbly like to submit that since the Generating Station has recorded a profit of Rs. 111.17 Crores during the Year 2015-16, the Petitioner has accordingly claimed ROE grossing up with MAT.

ii. Reply to Para (iii)

The break up and allocation of income, expenditure and profit/ loss of M/s. JPVL among all its power stations duly certified by Statutory Auditor to arrive at overall loss of Rs. 294.50 Crores in M/s. JPVL is attached as Annexure-8.

n) Issue:

The petitioner is required to file the Asset-cum-depreciation registers for Bina Thermal Power Project duly reconciled with the Annual Audited Accounts. The Asset-cum-depreciation registers be prepared in light of the provisions under MPERC (Terms and conditions for determination of Generation Tariff) Regulations, 2012. The weighted average rate of depreciation claimed in the petition be also reconciled with the depreciation rates specified in Appendix-II of the MPERC (Terms and Conditions for determination of Generation tariff) Regulations, 2012.

Petitioner's Response:

Asset-cum-Depreciation Register in light of provisions under MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2012 is a voluminous task. Hence the petitioner humbly expresses its inability to file the Asset-cum-Depreciation Register as per the requirement of MPERC. The Petitioner undertakes to file Asset-cum-Depreciation Register as per MPERC requirement from the True Up of FY2016-17 onwards. However the Asset-cum-Depreciation Register as on 31-03-2016 as per Companies Act 2013, duly audited & reconciled is attached with the Reply to Para A(c).

o) Issue:

The petitioner has worked out the weighted average rate of interest on loan of different lenders. The petitioner is required to file documents in support of weighted average rate of interest claimed for FY 2015-16 claimed in the petition.

Petitioner's Response:

To substantiate the Rate of Interest, a summary of Actual amount of monthly interest paid, rate of interest, sample payment instructions to Bank along with the true copy of bank statement showing payment thereof has been attached herewith as Annexure-9.

p) Issue:

With regard to cost of secondary fuel oil, the petitioner is also required to file invoice/bills in support of oil purchased during the year.

Petitioner's Response:

To support the claim of cost of Cost of Secondary Fuel, copies of LDO and HFO bills are attached as Annexure-10 for the FY 2015-16. Similarly, copies of transportation bills thereof are attached as Annexure-11 for the FY 2015-16.

q) Issue:

In the subject true-up petition, the petitioner has also claimed ₹0.51 Crores for FY 2015-16 for O&M expenses of transmission line and bay on the basis of the norms prescribed under MPERC (Terms and Conditions for determination of Transmission Tariff) Regulations. The contention /claim of the petitioner in this regard is found unreasonable since the components of the Annual Fixed Cost of any dedicated transmission line, whose capital cost has been considered while determining generation tariff of the power plant, cannot be claimed in the subject petition. Hence, the petitioner is not eligible to claim aforesaid O&M expenses of its dedicated transmission line. Therefore,

the petitioner is required to justify its claim in this regard in light of the MPERC (Terms and Condition for determination of Generation Tariff) Regulations, 2012.

Petitioner's Response:

The O&M expenses of Transmission lines & bay has been claimed on the basis of the norms prescribed under MPERC (Terms and Conditions for determination of Transmission Tariff) Regulations and the detailed calculation of the same has been same provided on the Page No.27 of the subject petition. The same is being reproduced as under:-

Statement of O&M Expenses of Transmission Line & Bay

Rs.inCrores

Sl. No.	Particulars		FY 2015-16
1	O&M Expenses of 400kV Transmission Line	39.294 ckt km	0.15
2	O&M Expenses of 400kV Bay	2 Nos of 400kV Bay	0.36
	Total O&M Expenses		0.51

Length of Transmission Line	Circuit Kms	
13.444 kms 400kV Double Circuit Line	26.888	ckt km
Single Circuit MPPTCL Line	6.177	ckt km
Single Circuit PGCIL Line	6.229	ckt km
Total Circuit Kms	39.294	ckt km

Note:-

(1) As per MPERC (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2012, O&M Expenses of 400 kV Transmission Line @ 36.20 Lacs Per 100 ckt km Per Annum is allowable for 2014-15 & @ 39.10 Lacs Per 100 ckt km Per Annum is allowable for 2015-16.

(2) As per MPERC (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2012, O&M Expenses of 400 kV Bay @ 16.70 Lacs Per Bay Per Annum is allowable for 2014-15 & @ 18.00 Lacs Per Bay Per Annum is allowable for 2015-16.

The Generation Project of the Petitioner having two units of 250 MW each achieved COD of Unit – 1 on 31-08-2012 and Unit – 2 on 07-04-2013. The PPA entered into with MPPMCL (Procurer) dated 05-01-2011 in Article 4.8 has the following provision:-

"The Contracted Capacity shall be evacuated by a dedicated transmission line of 400 KV to be constructed by the Company from the Delivery Point to 400 KV S/s of MPPTCL at Bina. Since contracted capacity has been increased from 42% (forty two percent) to 70% (seventy percent) for Phase – I (i.e. 2X250 MW), the sharing of the cost of dedicated transmission line shall be decided mutually between the Company and the GoMP. In this arrangement, the procurer shall not be liable to pay transmission charges of PGCIL's (Power Grid Corporation of India Limited) network of Western Region transmission system."

During the proceedings for determination of final tariff for the station, there were two options to be mutually agreed between the Generator and the Procurer. The first being sharing of the cost of construction of this transmission line in a mutually agreeable ratio wherein the original percentage of 50% of sharing of cost was based on 42% supply of power to Procurer which increased to 70% at the time of signing of PPA. The second option was to include the cost of this dedicated transmission line as a part of the Generation Project.

The Procurer agreed to Option No.2 i.e. to include the cost of this dedicated transmission line as a part of the Generation Project and the Hon'ble Commission was pleased to determine the capital cost of the Generation Project which included the cost of this dedicated transmission line.

Due to an inadvertent mistake on the part of the Petitioner, the O&M cost of this transmission line was not claimed for the periods 2012-13 and 2013-14. Since the provisions for O&M in the generation tariff are based on per MW cost which caters only for the generation assets, hence the only option left with the Petitioner to be compensated for the expenditure incurred against operation and maintenance of this dedicated transmission line was to adopt per Circuit km and per Bay O&M cost as provided under the MPERC (terms and conditions for determination of tariff) Regulations.

Moreover, while adjudicating in the Petition No. 70 of 2015 for FY 2014-15 vide its Order dated 03-06-2016 the Commission has disallowed the O&M Expenditure claimed by the Review Petitioner on 'Dedicated Transmission Line' built for supplying power to the Respondents on the incorrect premise that the O&M Expense allowed for the Power Plant will also cover the O&M Expense required for the Transmission Line.

Further, the Hon'ble Commission in disallowing the claim of the Petitioner in Petition No. 70 of 2015 has held that MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2012 does not provide for any O&M expenses of dedicated transmission line separately and therefore the Claim of the Petitioner cannot be granted. The said contention is incorrect as even the Central Commission and its Regulations do not provide *specifically for O&M Expense of Dedicated Transmission Line to be given. However, CERC in Petition No. 308 of 2009 in its Order dated 11.03.2010 has held as follows:-*

> *"51. The petitioner has submitted that O&M charges for dedicated transmission lines and sub-stations /bays for captive power generating station has not been provided in the O&M expenses for thermal power generating stations under the 2009 regulations specified by the Commission. Hence, the petitioner has claimed the following O&M expenses for the dedicated transmission line:*
>
> *…*
>
> *52. The petitioner has submitted <u>that out of the 7 no. of bays for associated transmission system, 3 no. of bays fall within the side of the petitioner and the rest 4 no. of bays fall within the Raipur sub-station of Power Grid Corporation of India (PGCIL) for connection to the double bus scheme. The petitioner has also submitted that the assets included in the 4 bays at Raipur sub-station belonged to the petitioner and it has awarded the O&M contract to PGCIL for O&M of these 4 bays. The submission of the petitioner is found to be in order and the O&M expenses claimed is allowed. Accordingly, the total O&M expenses allowed for the generating station and transmission system is as under</u>:"*

From the perusal of the above quoted extracts of the Order of the Hon'ble CERC it is evident that as a matter of practice the Central Commission allows O&M on dedicated Transmission Lines as if the same is not allowed then it will lead to under-recovery for the generator. Further, it is most respectfully submitted that neither the CERC 2009 Regulations or the recently 2014 Regulations provide for such dispensation. Hence, the Hon'ble Commission's reasoning that because the MPERC Regulations, 2012 did not provide for the same, the Commission will not grant O&M is contrary to the principles of Tariff determination to be undertaken under Section 62 of the Act.

Further, in terms of the PPA dated 05.01.2011 signed between the Petitioner and the Respondents the entire onus of evacuating power beyond the inter-connection point vests with the Respondents. Hence, the O&M Expense for such line also has to be borne by the Respondents. The relevant extracts of the PPA are being reproduced as follows:-

> *"3.2 -Satisfaction of Conditions Subsequent by the Procurer*

(ii) The Procurer shall have established the necessary evacuation infrastructure beyond the Interconnection Point, necessary for evacuation of the Contracted Capacity at least 201 days prior to COD.

It is pertinent to mention that the Normative O&M expenses of a power plant is a complete package determined after considering all the elements/components of Operation and Maintenance and other overhead *costs of a generating stations. The O&M expenses of a generating station do not include any cost incurred by the generator with regards to maintenance of the Dedicated Transmission Line. Therefore, such costs have to be allowed separately to the generator.*

The Petitioner is entitled to the O&M expenses with regards to the Dedicated Transmission Line as these lines are installed, owned and maintained by the Petitioner. The Petitioner incurs substantial amount of cost in maintaining these dedicated Transmission lines and disallowance of the same would lead to under recovery of the cost to the Petitioner, which is against the mandate of Act and the National Tariff policy.

Section 10 of the Electricity Act 2003 mandates the Generating Company to establish, operate and maintain the Dedicated Transmission Lines. These dedicated transmission lines are required for evacuation of power from the generating station of the Petitioner. Therefore, any cost incurred with regards to such activity must be adequately recovered so that the Generator can effectively run its business of power generation. The Hon'ble Tribunal in its Judgment dated 23.05.2012 in Appeal No. 145 of 2011 has held as below: -

"14…………On the contrary, Section 10 of the 2003 Act mandates that generating company shall establish, operate and maintain the dedicated transmission lines connected therewith in accordance with the provisions of this Act. Thus, the Section 10 of the 2003 Act becomes mandatory by which the generating company is mandated to construct its own dedicated transmission lines which connect the substation of the Appellant".

It is also humbly submitted that the cost of Dedicated Transmission Line is to be fully serviced through the Tariff, as any under recovery with regards to the cost of installing and maintain the Dedicated Transmission Line will result in significant drop in the Return on Equity allowed in the tariff of the Petitioner and the project of the Petitioner will not be commercially viable. The Hon'ble Appellate Tribunal for Electricity vide its Judgment dated 17.11.2015 in Appeal No. 220 of 2014 titled as 'Chhattisgarh State Power Distribution Co. Ltd Vs Chhattisgarh State Electricity Regulatory Commission &Ors' has held as under: -

"6

……

xx. In our opinion it is now not open to the Appellant to raise issues on consideration of the additional capital cost on account of conversion from 32 KV Dedicated Transmission Line to 132 KV Dedicated Transmission Line at the stage of determination of the tariff. This being a very small power plant and has been set up to promote renewable energy and would not be able to sustain after such an additional cost for conversion is not allowed. <u>We have also noticed if a cost on Dedicated Transmission Line is not fully serviced through the tariff there will be significant drop in the Return on Equity allowed</u>

in the tariff of the Respondent no.2 and the project of the Respondent no.2 will not be commercially viable".

In view of the above it is submitted that the Petitioner is mandated under the Act to install and maintain the Dedicated Transmission Line. Further as per the Hon'ble Tribunal Judgment, the Petitioner must be allowed to recover the entire cost with regards to the installation and maintenance of the Dedicated Transmission Line. It is pertinent to mention that the CERC being cognizant of the above fact allows such cost, even without there being any specific provision in its Regulation. It is settled position that in a cost plus Tariff the State Commission must allow all the reasonable expenditure to the Generator after prudence check.

The Petitioner humbly requests the Hon'ble Commission to allow this in view of the aforesaid circumstances.

r) **Issue:**

In Form TPS-1, the petitioner has claimed an amount of ₹ 0.25 Crores during FY 2015-16 as lease rent payment for land. Supporting document in this regard need to be filed by the petitioner. This amount is required to be reconciled with the relevant part of its Annual Audited Accounts.

Petitioner's Response:

*We have claimed Lease Rent of Rs 5,81,059/-(Rs 5,20,512+Rs 60,547) & Railway Land Lease Rent of Rs 19,47,364/-, totalling Rs 25,28,423/-. Both these figures are grouped under **"Other Expenses" (Note-23 of P&L A/c).** Out of these figures, Rs 5,81,059/- is shown against sub-head **"Lease Rent"** and Railway Lease Rent of Rs 19,47,364/- is grouped under sub-head **"Taxes & Fees".** The Break-up of sub-head Taxes and Fees is as under:*

S.No.	***A/c Code***	***A/c Description***	***Amount***
1	*O020000*	*Rates & Taxes*	*2,616,610*
2	*O101905*	*Tender Fee*	*707,644*
3	*O102000*	*License Fee*	*1,947,364*
4	*O103102*	*Service Tax Paid*	*4,233,536*
5	*O102704*	*Taxes & Fee*	*323,918*
6		***Grand Total***	***9,829,072***

However, relevant documents in support of "Lease Rent" payment are attached as Annexure-12.

s) **Issue:**

The petitioner has claimed the non-tariff income of ₹ 2.29 Crores. Break-up of non-tariff income as recorded in Note-17 &18 of the Annual Audited Accounts be submitted.

Petitioner's Response:

The break-up of other Non-Tariff Income is as under:-

Sl. No.	*Particular*	*Rs.*
1	*Sale of Fly Ash*	*18,529,335.00*
2	*Sale of Floater Ash*	*157,600.00*
3	*Interest Received – FDRs*	*963,759.00*
4	*Excess/Short Provision W/back*	*147,348.00*
5	*Sale of Scrap*	*1,545,724.00*
6	*Rent Received*	*1,068,700.00*
7	*Insurance Claim Receipts*	*214,557.00*
8	*Handling Charges*	*237,879.00*
9	***TOTAL***	***22,864,902.00***

t) Issue:

The petitioner is required to file actual Plant Availability Factor achieved during FY 2015-16 duly certified by SLDC.

Petitioner's Response:

Actual Plant Availability achieved during FY 2015-16 was 99.81% as reflected in the State Energy Account for the month of March '16 issued by State Load Despatch Centre vide their Letter No.07-05/PM-68A/SEA-3.0/108 dated 07-04-2016. The Page A-1 of the said letter specifying above PAFY is attached herewith as Annexure-13.

u) Issue:

The petitioner claimed Annual Capacity Charges 68.42% of total AFC.

Hon'ble Appellate Tribunal for Electricity in its Judgment dated 13th February' 2017 in Appeal No. 25/2016 (filed by the petitioner) observed the following:

"In view of the above discussion and provisions of the MoU, IA and PPAs, it is very clear that no capacity charges are required to be payable by the Respondent No. 2 for this 4% contracted energy. Hence this is decided against the Appellant and the impugned order of the State Commission to this extent is upheld"

In view of the above, the petitioner is required to revise its claim of Annual Capacity Charges

Petitioner's Response:

The Petitioner would like to humbly request the Hon'ble Commission to allow the justifiable claim on the issue of recovery of capacity charge at 68.42% instead of 65%.

"The Petitioner would humbly submit before this Hon'ble Commission that the power tied up for the Petitioner Jaypee Bina TPS is as follows:-

(i)	*Under two parts tariff to Respondent No.1*	*-*	*65%*
(ii)	*Merchant capacity*	*-*	*30%*
(iii)	*To GoMP on various charge only*	*-*	*05%*
	Total		*100%*

On perusal of the above it may be noted that 100% of the Capital Cost of the power project is being recovered from 95% generation. Therefore, accordingly the Petitioner had sought determination of Tariff for 68.42% in place of 65%. This logic is also supported by various tariff orders passed in case of hydro MoU projects, including but not limited to the Petitioner's hydro project namely 400 MW Vishnuprayag HEP. In this project the balance power after reducing the quantum of free energy to the home state is used to recover 100% of the capacity charges.

Further, it is most respectfully submitted that as per Section 62 of the Electricity Act, 2003 and various Regulations of the Respondent Commission and the Central Electricity Regulatory Commission the Petitioner is entitled for complete pass through of the expenses incurred in generation. Further the above contention of the Petitioner is also in consonance with the National Electricity Policy and the National Tariff Policy. The relevant extracts of the same are being reproduced as follows:-

National Electricity Policy: -

"4.0 ISSUES ADDRESSED

The policy seeks to address the following issues:

- *Rural Electrification*
- *Generation*
- *Transmission*
- *Distribution*
- *Recovery of Cost of services &Targeted Subsidies.*
- *Technology Development and Research and Development (R&D)*
- *Competition aimed at Consumer Benefits*
- *Financing Power Sector Programmes Including Private Sector Participation.*
- *Energy Conservation*
- *Environmental Issues*
- *Training and Human Resource Development*
- *Cogeneration and Non-Conventional Energy Sources*
- *Protection of Consumer interests and Quality Standards…*

5.8 FINANCING POWER SECTOR PROGRAMMES INCLUDING PRIVATE SECTOR PARTICIPATION

5.8.1 To meet the objective of rapid economic growth and "power for all" including household electrification, it is estimated that an investment of the order of Rs.9,00,000 Crores at 2002-03 price level would be required to finance generation, transmission, sub-transmission, distribution and rural electrification projects. Power being most crucial infrastructure, public sector investments, both at the Central Government and State Governments, will have to be stepped up. Considering the magnitude of the expansion of the sector required, a sizeable part of the investments will also need to be brought in from the private sector. The Act creates a conducive environment for investments in all segments of the industry, both for public sector and private sector, by removing barrier to entry in different segments. Section 63 of the Act provides for participation of suppliers on competitive basis in different segments which will further encourage private sector investment. Public service obligations like increasing access to electricity to rural households and small and marginal farmers have highest priority over public finances.

5.8.2 The public sector should be able to raise internal resources so as to at least meet the equity requirement of investments even after suitable gross budgetary support from the Government at the Centre and in the states in order to complete their on-going projects in a time-bound manner. Expansion of public sector investments would be dependent on the financial viability of the proposed projects. It would, therefore, be imperative that an appropriate surplus is generated through return on investments and, at the same time, depreciation reserve created so as to fully meet the debt service obligation. This will not only enable financial closure but also bankability of the project would be improved for expansion programmes, with the Central and State level public sector organizations, as also private sector projects, being in a position to fulfil their obligations toward equity funding and debt repayments."

National Tariff Policy: -

"4.0 OBJECTIVES OF THE POLICY

The objectives of this tariff policy are to:

(a) Ensure availability of electricity to consumers at reasonable and competitive rates;

(b) Ensure financial viability of the sector and attract investments;

(c) Promote transparency, consistency and predictability in regulatory approaches across jurisdictions and minimise perceptions of regulatory risks;

(d) Promote competition, efficiency in operations and improvement in quality of supply."

In view of the above it is submitted that the recovery prayed by the Petitioner is in accordance with the mandate of the Policy.

Annexure II

Petitioner's response on the comments offered by the Respondent No. 1:

1. **Comment:** The Petitioner has filed the present Petition under Section 62 of Electricity Act 2003 read with MPERC (Terms and conditions for determination of Generation Tariff) (Revision –II) Regulations, 2012 (*for short the Tariff Regulations*) for true up of Tariff determined for the Petitioner's 2x250 MW (Phase-I) Coal based Power Project at Bina, Dist. Sagar (MP), due to Additional Capital expenditure said to be incurred by the Petitioner during FY 2016-17.

2. **Comment:** that, in the present Petition the Petitioner, *inter-alia,* has made following prayers before this Hon'ble Commission
   - *(a) True Up the order dated 26.11.2014 & 08.05.2015 in terms of the Additional Capital Expenditure incurred by the Petitioner as enumerated in Para 13 above,*
   - *(b) Pass appropriate Orders directing recovery of Capacity Charges worked out by petitioner after addition of Rs. 21,56,86,672/- (Rupees Twenty One Crore Fifty Six Lacs Eighty six Thousand Six Hundred Seventy Two only) and deletion of Rs. 11,21,249/- (Rupees Eleven Lacs Twenty One Thousand Two Hundred Forty Nine Only) i.e., net addition of Rs. 21,45,65,423/- (Rs. Twenty One Crores Forty Five Lacs Sixty Five Thousand Four Hundred Twenty Three Only);*
   - *(c) ……………….*
   - *(d) ……………*

3. **Comment:** In view of above, it is most humbly prayed that the Petitioner may kindly be directed to clarify whether increases claimed under each head in Para 13 (i) to (iii) are as per the Regulation 20 of the Tariff Regulations 2012, justifying each figure individually. The Petitioner has failed to justify the reasons for incurring such additional expenditure including the benefits expected to be drawn, how will it increase the efficiency of the plant and how will this additional expenditure reduce the cost of energy generated from the Plant and be beneficial to end consumer of the State.

4. **Comment:** That, the Respondent No. 1 humbly prays for application of prudence check on all the individual claims for Additional Capital Expenditure. It is humbly prayed that the prudence check, carried out by the Hon'ble MPERC, be shared with this respondent.

Petitioner's Reply

That the additional capitalization claimed under each head in para 13 (i) to (iii) are as per the regulation 20 of tariff regulations 2012, justifying each figure individually. The answering respondent also has asked about the benefit accruals due to additional capitalization to the efficiency of the plant and cost of energy.

That the contents of Para 13 of the Para Wise Reply of the Respondent No.1 are wrong and denied. It is submitted that the detailed reasons for increase in each head have already been explained under Para 13 of the present Petition and is not being repeated again for the sake of brevity. It is further submitted that all the additions were part of the original scope of works and they were necessary to be carried out for the smooth and efficient running of the generating station. Some other balance expenditures to be carried falling under Regulation 20.2 shall be claimed during the True Up exercise for FY 2016-17.

5. **Comment:** That, Per MW cost of project, as prayed by the Petitioner, comes to ₹3518.83 Cr/ 500MW = ₹ 7.03 Cr/MW which is one of the highest in the country and not in line with CERC guidelines. Here, it is pertinent to mention that the cost of 2x250 MW Chhabra TPS in Rajasthan, which is of same capacity and which was commissioned in recent past on 04.05.2010, comes to only ₹5.55 Cr./ MW, excluding the cost of barrage & Transmission line. In Petitioner's case, out of project cost of ₹3518.83 Cr, barrage cost is claimed to be ₹117 Cr and Transmission line cost is ₹61 Cr. So comparative Project Cost=₹3518.83- ₹117- ₹61=₹3340.83 Cr. and Per MW cost=₹ 3340.83/500=₹6.68 Cr/MW, which is still much higher than that of Chhabra TPS. It is humbly prayed that benchmark for 250 MW plants may kindly be evolved. Till such time the benchmark are specified by MPERC, the benchmark specified by CERC for plants of 500 MW and above capacity may be considered at arriving at a just and reasonable capital cost. The cost of Satpura TPS is also much lower at ₹6.065 Cr/MW without barrage & transmission lines. Therefore, it can be seen that the per MW cost, either approved earlier or claimed now by the Petitioner, is on very high side and not in line with other plants of similar capacity. It is humbly requested that the capital cost of JPVL Bina TPS may be approved/ revised on the basis of ROSA Stage-1, which was commissioned in 2012, the same year in which JPVL, Bina was commissioned.

6. **Comment:** That, it is humbly prayed that the prudence check, carried out by the Hon'ble MPERC, be shared with this respondent and any reasoning/ rationale advanced in support for inclusion of above indicated Costs with the Capital Cost of the Project deserves to be summarily rejected/ ignored. The

Respondent also seeks liberty to deal with/ respond to the Case Laws referred/ quoted in this Additional Affidavit at appropriate stage

7. **Comment:** That, it is further prayed that per MW cost of similar plants in India, which have been commissioned in recent past, may be kept in mind at the time of decision in this instant Petition

Petitioner's Reply

It is submitted that the Capital Cost as on 31-03-2014 and 31-03-2015 have already been determined by this Commission in the Final Tariff Petition and True Up Petition for FY 2014-15 respectively, and the same cannot be raised again in the present Petition. It is further submitted that Comparison of the project cost has to be done for similar cost of the other projects and cost deviations are due to certain project specific conditions and ought not to be equated with other projects. Moreover, it is most respectfully submitted that the aforesaid issue has been adjudicated upon by the Hon'ble Commission in Petition No. 40 of 2012 and therefore, cannot be re-agitated by the Respondent No.1.