



the period of 25 years except certain variation as mentioned therein.

- 1.1.6 Further, the parties in their submission dated 19.02.2016 submitted that fuel related risks are not under their control, therefore, commitment on variable charges for a period of 25 years will be unsustainable. Further, in compliance to Commission's direction, the parties submitted the summary of deviations in the PPA in tabular form with reasons on 19.02.2016. Subsequently, PPA was approved by the Commission vide Order dated 20.04.2016 read with Order dated 15.01.2016.
- 1.1.7 The Commission also noted that the DIL shall be entitled to variation due to CERC escalation rates, over and above the escalation rates taken in calculation of levelized tariff of Rs. 4.79/kWh, which would be additionally allowed in variable charges. Further, in case of any short fall in the quantity of fuel from domestic linkage, the parties can approach the Commission for prior approval of procurement of fuel from alternative sources. The Order dated 15.01.2016 and 20.04.2016 are hereinafter jointly and severally referred to as '**PPA Approval Order**'.
- 1.1.8 Thereafter, DIL filed petition No. 1235/2017 for approval of ARR & Multi Year Tariff for the period from FY 2016-17 to FY 2018-19 for sale of 187 MW capacity from 300 MW Unit 2 of DIL to NPCL. Vide Order dated 05.02.2019, the Commission approved the fixed charges as submitted by the Petitioner considering the capital expenditure of Rs. 1903.58 Crore (as on cut-off date, i.e., 31.03.2017) and the actual interest on loan for FY 2016-17 to FY 2018-19. As regards, the additional capitalization of Rs. 10.50 Crore (incurred) and Rs. 13.57 Crore (Projected) on cash basis during FY 2017-18 and FY 2018-19 respectively, the Commission directed the Petitioner to submit such claim for additional capital expenditure during truing up in terms of the Regulations.
- 1.1.9 The Commission approved the energy charge same as approved in PPA considering allowable variation in CERC escalation rates and as per Generation Tariff Regulations, 2014. Any claim regarding energy charge on account of change in law and additional procurement of coal were held to be dealt separately. The energy charges approved by the Commission in the Order considered the Escalation rate of CERC as applicable till 31.03.2014 which was held to be subject to true-up. It was also clarified in the Order that the tariff approved therein shall be subject to true up based on the Generation Tariff Regulations, 2014 for which the Petitioner shall be required to submit all relevant details including actual figures on coal quality (GCV as received basis tested at plant) corresponding to each FY in the entire control period certified by an independent agency of repute for scrutiny of the Commission while truing up. The Order dated 05.02.2019 is hereinafter referred to as **1<sup>st</sup> 'MYT Order'**.



Approval of ARR and MYT for supply of 187 MW from 300 MW Unit-II of DIL to NPCL for FY 2019-20 to FY 2023-24.

1.1.10 In the meanwhile, on 06.08.2021, Hon'ble APTEL dismissed the appeals filed by Shri Rama Shankar Awasthi challenging Commission's decisions in PPA Approval Order and 1st MYT Order. Hon'ble APTEL upheld both the orders passed by the Commission holding as follows:

*"For the foregoing reasons stated supra, we are of the considered view that the issues raised in the present appeal Nos. 150 of 2017 and 185 of 2019 are devoid of merits and hence Appeals are dismissed. The Impugned Orders dated 20.04.2016 and dated 05.02.2019 passed by the Uttar Pradesh Electricity Regulatory Commission are hereby upheld."*

1.1.11 Subsequently, the Commission vide Order dated 22.11.2021 in Petition No. 1500/2019 granted approval of the true-up and final generation tariff for supply of 187 MW from 300 MW Unit 2 of DIL to NPCL for FY 2016-17 to FY 2018-19.

## 1.2 Generation Tariff Regulation

1.2.1 The Uttar Pradesh Electricity Regulatory Commission (Terms and Conditions of Generation Tariff) Regulations, 2019 ("Generation Tariff Regulations, 2019") were notified on 11.09.2019 reckoned to have come into force with effect from 01.04.2019 for a period of 5 years, i.e., up to 31.03.2024.

1.2.2 These regulations are applicable in all cases where a tariff for a generating station or unit thereof is required to be determined by the Commission under Section 62 of the Act read with Section 86 thereof.

1.2.3 The Power procurement from Petitioner's project by the Respondent have been subjected to the Commission's Order dated 15.01.2016 read with Order dated 20.04.2016, the provisions of Generation Tariff Regulations.

## 1.3 DIL's Petition for Approval of ARR and MYT for FY 2019-20 to FY 2023-24

DIL has filed the present petition on 22.11.2019 as per the relevant provisions of the Uttar Pradesh Electricity Regulatory Commission (Terms and Conditions of Generation Tariff) Regulations, 2019 ('**Generation Tariff Regulations 2019**') and Uttar Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations 2004, read with the Power Purchase Agreement ('**PPA**') dated 26.09.2014 approved by the Commission vide its Order in Petition No. 971 of 2014 dated 20.04.2016 read with the Order dated 15.01.2016.

1.3.1 The ARR and Generation Tariff as submitted by DIL are as below:

**Annual Revenue Requirement and Generation Tariff of Unit 2 for 2019-24 submitted by the Petitioner**



Particulars	UoM	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Operationalized Contracted Capacity (Gross)	MW	187	187	187	187	187
Normative Auxiliary Power Consumption	%	8.5	8.5	8.5	8.5	8.5
Normative Annual Plant Availability Factor (NAPAF)	%	85	85	85	85	85
Operationalized Contracted Capacity (Net)	MW	171	171	171	171	171
Ex-Bus Generation	Mus	1277.54	1274.05	1274.05	1274.05	1277.54
Annual Fixed Charges for Operationalized Contracted Capacity for NPCL	Rs Cr	247.22	243.01	238.58	234.13	229.73
<b>Ex- Bus Fixed Charges Rate at NAPAF</b>	<b>Rs/k Wh</b>	<b>1.935</b>	<b>1.907</b>	<b>1.873</b>	<b>1.838</b>	<b>1.798</b>
Energy Charges considering Escalation Indices and actual As Received GCV of Coal	Rs Cr	323.61	344.45	359.75	375.97	394.16
<b>Ex-Bus Energy Charge Rate at Scheduled Generation</b>	<b>Rs/k Wh</b>	<b>2.533</b>	<b>2.704</b>	<b>2.824</b>	<b>2.951</b>	<b>3.085</b>
Application Fees & Statutory	Rs Cr	0.34	0.25	0.26	0.27	0.28
<b>Total Annual Revenue Requirement for FY 2019-24 for supply to NPCL</b>	<b>Rs Cr</b>	<b>571.15</b>	<b>587.77</b>	<b>598.67</b>	<b>610.37</b>	<b>624.16</b>
<b>Ex- bus Generation Tariff for FY 2019-24 for Supply to NPCL</b>	<b>Rs/k Wh</b>	<b>4.471</b>	<b>4.613</b>	<b>4.699</b>	<b>4.791</b>	<b>4.886</b>

1.3.2 DIL vide instant Petition prayed for the following:

- Admit the instant Petition and consider the same along with Truing-up Petition for FY 2016-19 submitted before the Commission on 16.08.2019;
- Approve the Annual Revenue Requirement and ex-bus Generation Tariff for FY 2019-24 as proposed by the Petitioner in the instant Petition in accordance with appropriate provisions of Generation Tariff Regulations, 2019 and other UPERC Regulations along with the PPA approved by the Commission vide its Order dated 20.04.2016 read with its Order dated 15.01.2016;
- Allow the Petitioner to recover the Fixed Charges from the Respondent under Regulation 25 of Generation Tariff Regulations, 2019 read with appropriate provisions of the PPA approved by the Commission vide its Order dated 20.04.2016 read with the Order dated 15.01.2016 as the



proposed Fixed Charges for each of financial year in the Tariff Period FY 2019-24 is lower than the committed Fixed Charges approved by the Commission at the time of approval of the PPA on 20.04.2016;

- d) Allow the Petitioner to recover Energy Charge Rate through monthly energy bills from the Respondent based on the allowable variation due to CERC Escalation Indices over and above the escalation indices considered for the calculation of levelized tariff as per the Order of the Commission dated 15.01.2016 and adjustment of 'As Received' GCV of Coal as per Generation Tariff Regulations, 2019 for the Tariff Period FY 2019-24;
- e) Allow the Petitioner to recover the costs on account of claims due to occurrence of 'Change in Law' events, as may be determined by the Commission under separate Petition, through supplementary bills or monthly bills, as applicable, once the same are approved by the Commission;
- f) Allow the Petitioner in-principle to procure Additional Coal for the period FY 2020-24 in the event of shortfall in supply of FSA Grade Coal from SECL in order to meet the Scheduled Generation of the NPCL in accordance with Regulation 28 (iv) of Generation Tariff Regulations, 2019 and claim the cost of such procurement and use of Additional Coal from the NPCL through monthly Energy Bills subject to Petitioner submitting the relevant details before the Commission at the end of each year;
- g) Allow the Petitioner to recover additional LTA charges from NPCL for increase in the LTA capacity to the extent of about 1 MW upon permission being granted by the CTU/PGCIL;
- h) Allow the Petitioner to approach the Commission with Truing-up Petition for the Tariff Period FY 2019-24 at appropriate time under applicable Regulations;
- i) Allow the Petitioner to recover the Application Fees and Statutory Charges from NPCL separately as per the provisions of Regulation 33 of Generation Tariff Regulations, 2019;
- j) Allow the Petitioner to approach the Commission at appropriate time under applicable Regulations and directions from the Commission for seeking approval for any expenditure under "Change in Law" events for the Tariff Period FY 2019-24;
- k) Allow the Petitioner to approach the Commission at appropriate time