

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 578/GT/2020**

**Coram:**

**Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri Pravas Kumar Singh, Member**

**Date of Order: 16<sup>th</sup> February, 2023**

**In the matter of**

Petition for truing up of annual fixed charges for the period 2014-19 and for determination of tariff for the period 2019-24 in respect of Maithon Hydel Power Station, Units-I to III (63.2 MW)

**And**

**In the matter of**

Damodar Valley Corporation,  
DVC Towers, VIP Road  
Kolkata

**.....Petitioner**

**Vs**

1. West Bengal State Electricity Distribution Company Limited  
Block 'DJ' Sector-11, Salt Lake City  
Kolkata – 700 091

2. Jharkhand Bijli Vitran Nigam Limited  
Engineering Building, HEC, Dhurwa,  
Ranchi- 834 004

**.....Respondents**

3. Damodar Valley Power Consumers Association,  
9, A J C Bose Road, 4<sup>th</sup> Floor, Kolkata – 700017

**.....Objector**

**Parties Present:**

Shri M.G. Ramachandran, Senior Advocate, DVC  
Ms. Anushree Bardhan, Advocate, DVC  
Ms. Srishti Khindaria, Advocate, DVC  
Shri Ravi Nair, Advocate, DVC  
Shri Manik Rakshit, DVC  
Shri Subrata Ghosal, DVC  
Shri Subrata Ganguly, DVC  
Shri Samit Mandal, DVC  
Shri Arnab Kr. Sinha, DVC  
Shri Rajiv Yadav, Advocate, DVPCA



## **ORDER**

This petition has been filed by the Petitioner, Damodar Valley Corporation for truing-up of tariff of Maithon Hydel Power station, Units-I to III (2 x 20 + 1 x 23.2 MW) (in short 'the generating station') for the period 2014-19, in terms of Regulation 8 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (in short 'the 2014 Tariff Regulations') and for determination of tariff of the generating station for the period 2019-24, in accordance with the provisions of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 (in short 'the 2019 Tariff Regulations').

2. The Petitioner is a statutory body established by the Central Government under the Damodar Valley Corporation Act, 1948 (in short 'DVC Act') for the development of the Damodar Valley, with three participating Governments, namely, the Central Government, the Government of West Bengal and the Government of Jharkhand. This entity is a deemed licensee within the meaning of Section 14 of The Electricity Act, 2003 and governed by the provisions of The DVC Act, 1948, in so far as they are not inconsistent with The Electricity Act, 2003. The generating station, with a total capacity of 63.2 MW, comprising of two units of 20 MW each and one unit of 23.2 MW and the date of commercial operation of the units of the generating station are as under:

|                  | <b>Actual COD</b> |
|------------------|-------------------|
| Unit-I           | October, 1957     |
| Unit-II          | March, 1958       |
| Unit-III/Station | December, 1958    |

### **Background**

3. Petition No. 66/2005 was filed by the Petitioner for approval of the revenue requirements and for determining the tariff for electricity related activities, that is, the generation, transmission and distribution of electricity, undertaken by it for the period from 1.4.2004 to 31.3.2009. The Commission by its order dated 3.10.2006 determined tariff in respect of the generating stations and inter-state transmission systems of the Petitioner, after allowing a special dispensation to the



Petitioner to continue with the prevailing tariff till 31.3.2006. Against the Commission's order dated 3.10.2006, the Petitioner filed Appeal No.273/2006 before the Appellate Tribunal for Electricity (hereinafter referred to as 'the APTEL') on various issues. Similarly, appeals were also filed before the APTEL by some of the objectors / consumers, namely, Maithon Alloys Ltd and others (Appeal No.271/2006), Bhaskhar Shrachi Alloys Ltd. and others (Appeal No. 272/2006), State of Jharkhand (Appeal No.275/2006) and the West Bengal State Electricity Regulatory Commission (Appeal No.8/2007) challenging the order of the Commission dated 3.10.2006 on various grounds. The APTEL by its judgment dated 23.11.2007 disposed of the said appeals ('Appeal Nos. 273/2006 & batch') as under:

*"113. In view of the above, the subject Appeal No. 273 of 2006 against the impugned order of Central Commission passed on October 3, 2006 is allowed to the extent described in this judgment and we remand the matter to Central Commission for denovo consideration of the tariff order dated October 3, 2006 in terms of our findings and observations made hereinabove and according to the law. Appeal No. 271, 272 and 275 of 2006 and No. 08 of 2007 are also disposed of, accordingly"*

4. Against the above judgment dated 23.11.2007, some of the parties namely, the Central Commission (Civil Appeal No.4289/2008), the West Bengal State Electricity Regulatory Commission (Civil Appeal No.804/2008), M/s Bhaskhar Shrachi Alloys Ltd & ors (Civil Appeal No 971-973/2008), the State of Jharkhand (Civil Appeal No.4504-4508/2008) and the State of West Bengal (Civil Appeal No.1914/2008) filed Civil Appeals before the Hon'ble Supreme Court. Thereafter, in terms of the directions contained in the judgment of APTEL dated 23.11.2007 in Appeal No.273/2006 and other connected appeals, for a denovo consideration of the order dated 3.10.2006, the Petition No. 66/2005 (with I.A. Nos.19/2009 and 23/2009) was heard by the Commission and tariff of the generation and inter-state transmission systems of the petitioner for the period 2006-09 was re-determined by order dated 6.8.2009, subject to the final outcome of the said Civil Appeals pending before the Hon'ble Supreme Court. Against the Commission's order dated 6.8.2009, the Petitioner filed appeal (Appeal No.146/2009) before APTEL on various issues. However, APTEL by its judgment dated 10.5.2010, rejected the prayers of the Petitioner



and upheld the order of the Commission dated 6.8.2009. Against the judgment of APTEL dated 10.5.2010, the Petitioner filed appeal (Civil Appeal No.4881/2010) before the Hon'ble Supreme Court and the Hon'ble Court by interim order dated 9.7.2010 stayed the directions of APTEL for refund of excess amount billed, until further orders. However, on 17.8.2010 the Hon'ble Court had passed interim order in the said appeal. During the pendency of these appeals, the Commission, in terms of the judgment of APTEL, while notifying the 2014 Tariff Regulations, applicable for the period 2014-19, incorporated Regulation 53, containing special provisions related to the generating stations of the Petitioner. Accordingly, the tariff of the generating stations of the Petitioner for the period 2014-19, were determined by this Commission, subject to the final decision of the Hon'ble Supreme Court, in the said civil appeals. Similar provisions were made by the Commission under Regulation 72, while notifying the 2019 Tariff Regulations, applicable for the tariff period 2019-24.

5. Meanwhile, the Hon'ble Supreme Court vide its common judgment dated 23.7.2018 in Civil Appeal No(s) 971-973/2008 (along with C.A Nos. 1914/2008, C.A No. 4504-4508/2008 and C.A No. 4289/2008) dismissed all the Civil Appeals thereby affirming the judgment of APTEL dated 23.11.2007 in Appeal Nos. 273/2006 & batch. Further, vide judgment dated 3.12.2018, the Hon'ble Supreme Court dismissed the Civil Appeal No. 4881/2010 filed by the Petitioner, against the judgment of APTEL dated 10.5.2010. In this background and in terms of the special provisions under the 2014 and 2019 Tariff Regulations, the tariff of the generating station of the Petitioner, is tried-up for the period 2014-19 and also determined for the period 2019-24, as stated in the subsequent paragraphs.

6. The Commission vide its order dated 20.9.2016 in Petition No. 354/GT/2014 had approved the capital cost and the annual fixed charges for the 2014-19 tariff period as under:



### Capital cost allowed

(Rs. in lakh)

|                                    | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 |
|------------------------------------|---------|---------|---------|---------|---------|
| Opening Capital Cost (A)           | 6343.40 | 6416.25 | 6485.77 | 6496.79 | 6496.79 |
| Add: Net Additions allowed (B)     | 72.85   | 69.52   | 11.020  | 0.00    | 0.00    |
| Closing Capital Cost (C)=(A) + (B) | 6416.25 | 6485.77 | 6496.79 | 6496.79 | 6496.79 |
| Average Capital Cost (D)=(A+B /2   | 6379.83 | 6451.01 | 6491.28 | 6496.79 | 6496.79 |

### Annual fixed charges allowed

(Rs. in lakh)

|   | 2014-15        | 2015-16        | 2016-17        | 2017-18        | 2018-19        |
|---|----------------|----------------|----------------|----------------|----------------|
| Depreciation  | 347.38         | 351.26         | 353.45         | 353.75         | 353.75         |
| Interest on loan  | 0.00           | 0.00           | 0.00           | 0.00           | 0.00           |
| Return on Equity  | 489.50         | 493.02         | 495.02         | 495.29         | 495.29         |
| Interest on Working Capital   | 125.02         | 132.22         | 139.81         | 147.82         | 156.34         |
| O&M Expenses  | 1914.46        | 2041.66        | 2177.31        | 2321.97        | 2476.24        |
| <b>Sub-Total (A)</b>  | <b>2876.36</b> | <b>3018.16</b> | <b>3165.59</b> | <b>3318.82</b> | <b>3481.62</b> |
| <b>Additional Claims allowed</b>  |                |                |                |                |                |
| Share of Common Office Expenses   | 10.00          | 9.21           | 8.60           | 8.59           | 8.49           |
| Additional O&M on account of Ash Evacuation, Mega Insurance, CISF Security and Share of subsidiary activities | 0.00           | 0.00           | 0.00           | 0.00           | 0.00           |
| Share of Pension & Gratuity Contribution  | 0.00           | 0.00           | 0.00           | 0.00           | 0.00           |
| Sub-Total (B)   | 10.00          | 9.21           | 8.60           | 8.59           | 8.49           |
| <b>Total Annual Fixed Charges (C = A+B)</b>   | <b>2886.36</b> | <b>3027.37</b> | <b>3174.19</b> | <b>3327.41</b> | <b>3490.11</b> |

### Truing-up of tariff for the 2014-19 Tariff Period

7. Regulation 8(1) of the 2014 Tariff Regulations provides as under:

*“(1) The Commission shall carry out truing up exercise along with the Tariff petition filed for the next Tariff period, with respect to the capital expenditure including additional capital expenditure incurred up to 31.3.2019, as admitted by the Commission after prudence check at the time of truing up.*

*Provided that the generating company or the transmission licensee, as the case may be, shall make an application for interim truing up of capital expenditure including additional capital expenditure in FY 2016-17.”*

8. In terms of the above regulation, the Petitioner has filed the present petition for truing-up of tariff for the period 2014-19 and has claimed the capital cost (in Form 1(I) of the petition) and the annual fixed charges. However, the Petitioner vide its affidavit dated 11.11.2021 has revised its claim for annual fixed charges for the period 2014-19, as under:



**Capital Cost claimed***(Rs. in lakh)*

|  | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 |
|--|---------|---------|---------|---------|---------|
| Opening Capital Cost (A)                             | 6343.40 | 6359.08 | 6365.14 | 6382.02 | 6335.19 |
| Add: Addition during the year / period (B)           | 16.29   | 6.07    | 16.88   | -46.83  | 9.35    |
| Less: De-capitalisation during the year / period (C) | 0.62    | 0.00    | 0.00    | 0.00    | 0.00    |
| <b>Closing Capital Cost (D)=(A+B-C)</b>              | 6359.08 | 6365.14 | 6382.02 | 6335.19 | 6344.54 |
| Average Capital Cost (E)=(A+D)/2                     | 6351.24 | 6362.11 | 6373.58 | 6358.60 | 6339.87 |

**Annual fixed charges claimed***(Rs in lakh)*

|   | 2014-15        | 2015-16        | 2016-17        | 2017-18        | 2018-19        |
|---|----------------|----------------|----------------|----------------|----------------|
| Depreciation  | 492.26         | 492.74         | 492.63         | 488.33         | 2.03           |
| Interest on loan  | 0.02           | 0.02           | 0.00           | 0.00           | 0.23           |
| Return on Equity  | 617.52         | 621.20         | 621.92         | 620.98         | 621.43         |
| Interest on Working Capital   | 142.95         | 154.07         | 165.77         | 176.51         | 158.94         |
| O&M Expenses  | 1914.46        | 2041.66        | 2177.31        | 2321.97        | 2476.24        |
| <b>Sub-Total (A)</b>  | <b>3167.20</b> | <b>3309.68</b> | <b>3457.63</b> | <b>3607.79</b> | <b>3258.87</b> |
| <b>Additional Claims Allowed</b>  |                |                |                |                |                |
| Impact of Pay Revision due to recommendation of 7 <sup>th</sup> Pay Commission      | 0.00           | 0.00           | 76.76          | 96.62          | 68.05          |
| Impact of GST as "Change in Law"  | 0.00           | 0.00           | 0.00           | 31.17          | 58.48          |
| Interest & Contribution on Sinking Fund (As per section 40, Part IV of DVC Act)     | 175.74         | 188.65         | 216.59         | 0.00           | 0.00           |
| Share of P&G  | 92.40          | 237.37         | 261.36         | 588.71         | 112.73         |
| Share of Common Office Expenditure  | 12.31          | 11.52          | 9.79           | 10.60          | 11.35          |
| Expenses due to Mega insurance, CISF Security & expenditure for Subsidiary activity | 225.26         | 242.07         | 297.13         | 259.41         | 87.71          |
| <b>Sub-total: B</b>   | <b>505.72</b>  | <b>679.60</b>  | <b>861.64</b>  | <b>986.51</b>  | <b>338.32</b>  |
| <b>Grand Total (A + B)</b>  | <b>3672.92</b> | <b>3989.29</b> | <b>4319.27</b> | <b>4594.30</b> | <b>3597.19</b> |

9. The Petitioner had filed certain additional information vide affidavit dated 3.6.2020 after serving copies on the Respondents. The Objector, DVPCA has filed its reply vide affidavit dated 19.4.2021. In response, the Petitioner has filed its rejoinder vide affidavit dated 1.10.2021. Thereafter, the Petitioner has filed additional information vide affidavits dated 20.9.2021, 19.10.2021, 11.11.2021 after serving copies on the Respondents. The matter was heard through

