

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 567/GT/2020**

**Coram:**

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

**Date of Order: 19<sup>th</sup> May, 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 Durgapur Thermal Power Station, Unit- III (140 MW) and Unit-IV (210 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 – 700091

2. Jharkhand Bijli Vitran Nigam Limited  
Engineering Building, HEC, Dhurwa,  
Ranchi- 834004

**...Respondents**

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

**....Objector**

**Parties Present:**

Shri M. G. Ramachandran, Senior Advocate, DVC  
Ms. Anushree Bardhan, Advocate, DVC  
Shri Srikanta Pandit, DVC  
Shri Subrata Ghosal, DVC  
Shri Samit Mandal, DVC  
Shri Rajiv Yadav, Advocate, DVPCA



## **ORDER**

This Petition has been filed by the Petitioner, Damodar Valley Corporation for truing-up of tariff of Durgapur Thermal Power Station (DTPS), Unit-III (140 MW) and Unit IV (210 MW) (in short “the generating station”) for the period 2014-19, in terms of Regulation 8(1) 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, the '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. The generating station is a non-pit head station with a capacity of 350 MW, comprising of Unit III & Unit IV having capacity of 140 MW & 210 MW, respectively. The dates of commercial operation of the different Units of the generating station are as under:

	<b>Actual COD</b>
Unit – III	1.12.1966
Unit – IV	1.9.1982

### **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 (in short, 'APTEL') on various issues. Similarly, appeals were also filed before 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. 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 Bhaskar 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 2006-09 tariff period 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, was 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 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 being



trued-up for the period 2014-19 and is also determined for the period 2019-24, as stated in the subsequent paragraphs.

6. The Commission vide its order dated 20.7.2017 in Petition No. 348/GT/2014 had approved the capital cost and the annual fixed charges for the period 2014-19 as under:

**Capital Cost allowed**

(Rs. in lakh)

	2014-15	2015-16	2016-17	2017-18	2018-19
Opening Capital Cost (A)	25700.10	29516.71	31255.40	32238.42	32827.13
Add: Additional Capital Expenditure allowed (B)	3816.60	1738.69	983.02	588.71	288.14
<b>Closing Capital Cost (C) = (A) + (B)</b>	<b>29516.71</b>	<b>31255.40</b>	<b>32238.42</b>	<b>32827.13</b>	<b>33115.26</b>
Average Capital Cost (D) = (A+B) / 2	27608.41	30386.05	31746.91	32532.77	32971.20

**Annual Fixed Charges allowed**

(Rs. in lakh)

	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	1837.87	2199.89	1772.98	825.98	503.74
Interest on loan	43.81	49.20	4.94	0.00	0.00
Return on Equity	1863.02	1992.18	2055.46	2092.00	2112.39
Interest on Working Capital	3120.97	3175.17	3204.02	3227.32	3267.58
O&M Expenses	10042.20	10673.60	11345.60	12059.60	12819.10
<b>Sub-Total (A)</b>	<b>16907.88</b>	<b>18090.04</b>	<b>18383.00</b>	<b>18204.91</b>	<b>18702.81</b>
<b>Additional Claims Allowed</b>					
Share of Common Office Expenses	55.36	50.98	47.62	47.57	47.02
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
<b>Sub-Total (B)</b>	<b>55.36</b>	<b>50.98</b>	<b>47.62</b>	<b>47.57</b>	<b>47.02</b>
<b>Total Annual Fixed Charges (C = A+B)</b>	<b>16963.23</b>	<b>18141.02</b>	<b>18430.62</b>	<b>18252.48</b>	<b>18749.82</b>

**Truing-up of tariff for the period 2014-19**

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

“8. *Truing up*

(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 as stated below:

**Capital Cost claimed**

(Rs. in lakh)

	2014-15	2015-16	2016-17	2017-18	2018-19
Opening Capital Cost (A)	25700.10	30379.89	19914.17	20272.67	20418.03
Add: Addition during the year / period (B)	5261.97	1292.17	210.00	96.72	91.97
Less: De-capitalization during the year / period (C)	212.40	11727.67	18.75	17.01	10.42
Less: Reversal during the year / period (D)	-	-	-	-	-
Less: Undischarged liabilities (E)	369.77	30.21	7.18	1.10	1.31
Add: Discharges during the year / period (F)	-	-	174.43	66.74	-
<b>Closing Capital Cost (G)=(A+B-C-D-E+F)</b>	<b>30379.89</b>	<b>19914.17</b>	<b>20272.67</b>	<b>20418.03</b>	<b>20498.26</b>
Average Capital Cost (H)=(A+G)/2	28040.00	25147.03	20093.42	20345.35	20458.14

**Annual Fixed Charges claimed**

(Rs in lakh)

	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	2103.34	-	723.78	243.61	116.82
Interest on loan	5.93	6.02	0.49	0.93	0.72
Return on Equity	2382.47	2222.99	1924.24	1939.13	1950.94
Interest on Working Capital	3505.67	3940.58	2140.82	2150.16	2138.17
O&M Expenses	10042.20	10381.02	5670.00	6027.00	6407.10
Water Charges	-	8391.53	132.50	153.66	161.31
Special Allowance	2625.00	2730.50	1781.38	1894.49	2014.79
<b>Sub-Total (A)</b>	<b>20664.61</b>	<b>27672.64</b>	<b>12373.20</b>	<b>12408.99</b>	<b>12789.85</b>
<b>Additional Claims</b>					
Capital Spares	532.78	305.60	146.00	67.00	116.07
Impact of Pay Revision due to recommendation of 7 <sup>th</sup> Pay Commission	-	-	255.07	321.04	226.13
Impact of GST as "Change in Law"	-	-	-	61.28	143.10
Interest & Contribution on Sinking Fund (As per section 40, Part IV of DVC Act)	973.27	1021.86	719.68	-	-
Share of P&G	519.28	1304.25	879.27	1990.61	376.12
Unrecovered depreciation up to 31.03.2014 on account of lower availability of the generating station	849.01	-	-	-	-
Share of Common Office Expenditure	68.18	62.40	32.54	35.23	37.70
Expenses due to Ash evacuation, Mega insurance, CISF expenditure & Expenditure for Subsidiary activity	2622.07	2514.62	3373.70	2667.58	2670.63
<b>Sub-Total (B)</b>	<b>5564.59</b>	<b>5208.73</b>	<b>5406.26</b>	<b>5142.75</b>	<b>3569.75</b>
<b>Total annual fixed charges claimed (C = A+B)</b>	<b>26229.20</b>	<b>32881.36</b>	<b>17779.46</b>	<b>17551.74</b>	<b>16359.60</b>



9. The Petitioner vide affidavits dated 20.9.2021, 19.10.2021 and 11.11.2021 had submitted certain additional information, after serving copies on the Respondents/ Objector, DVPCA. The Objector, DVPCA has filed its objections vide affidavit dated 19.4.2021 and the Petitioner has filed its response to the same, vide affidavit dated 1.9.2021. The Petition was heard on 30.11.2021, through video conferencing and the Commission, directed the Petitioner to submit certain additional information and reserved its order in the petition. In response, the Petitioner vide affidavit dated 20.12.2021 has filed the additional information and has served copies on the Respondents/Objector. However, as the order in the petition, could not be issued prior to the then Chairperson Shri P. K. Pujari demitting office, the Petition was re-listed and heard through virtual hearing on 10.8.2022 and the Commission, after hearing the parties, further directed the Petitioner to submit additional information and reserved its order in the petition. In response, the Petitioner vide affidavit dated 9.9.2022, has filed additional information after serving copy on the Respondents/Objector. Taking into consideration the submissions of the parties and the documents available on record, we proceed to examine the claims of the Petitioner in this petition, on prudence check, as stated in the subsequent paragraphs.

### **Capital Cost**

10. Regulation 9 (3) of the 2014 Tariff Regulations provides as follows:

*“9. Capital Cost:*

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

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

11. The Commission vide its order dated 20.7.2017 in Petition No. 348/GT/2014 had

