



## **ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION**

**4<sup>th</sup>Floor, Singareni Bhavan, Red Hills, Hyderabad 500004**

THURSDAY, THE TENTH DAY OF JUNE

TWO THOUSAND AND TWENTY ONE

**:Present:**

**Justice C.V. Nagarjuna Reddy, Chairman  
Sri P. Rajagopal Reddy, Member  
Sri Thakur Rama Singh, Member**

**O.P.No.57 of 2014**

M/s Sardar Power Pvt. Ltd. ... Petitioner

**A N D**

Eastern Power Distribution Company of A.P. Ltd. ... Respondent

**I.A.No.8 of 2015**

Eastern Power Distribution Company of A.P. Ltd. ... Petitioner

**AND**

M/s Sardar Power Pvt. Ltd. ... Respondent

The Original Petition came up for hearing on several dates and finally through video conferencing on 25.11.2020 in the presence of Sri K.Gopal Choudhary, learned counsel for the petitioner and Sri P. Shiva Rao, learned standing counsel for the respondent. After hearing the arguments of the learned counsel for both parties and after carefully considering the material available on record, the Commission passed the following:

## **ORDER**

By its order in case of RP No 84/2003 in OP.No.1075/2000 dated 20th March 2004, this Commission determined generic tariff for all Non-conventional Energy Projects including mini hydel projects with a uniform capital cost of Rs 3.625 Cr /MW which was subsequently increased to Rs 3.75 Cr/MW vide review order dated 07.07.2004. This was carried in appeal to Hon'ble APTEL, which then passed a common order dated 02.06.2006. Further, the above said order was challenged in the Hon'ble Supreme Court and the apex court had remanded the matter back to this commission, interalia, directing to determine the tariff vide its order dated 8th July, 2010. Pursuant to the above said order, this commission has given three(3) different orders by each of the Hon'ble Members and Hon'ble Chairman. These were carried in appeal to Hon'ble APTEL, which vide its order dated 20.12.2012 having determined the parameters for tariff determination for all classes of NCE projects including mini hydel, directed this commission to determine tariff on the basis of the norms fixed by it (the commission has since issued the consequential orders on 22.06.2013) while giving liberty to the petitioner to separately approach the state commission with complete data of capital cost. The state commission shall then consider the same and determine the tariff for the petitioner. In pursuance of this liberty given, the petitioner filed the present petition praying for (i) determination of the capital cost of the petitioner's 1.725 MW mini hydel power project at Rs.9,40,49,092/- (Rupees nine crores forty lakhs forty nine thousand and ninety two only) for the purposes of determination of tariff; and consequently (ii) to determine the tariff thereupon applicable to the supply of electricity by the Petitioner to the Respondent from the CoD of 17-07-2008 and for the first ten years of operation thereafter and according to the other parameters determined by the Hon'ble Appellate Tribunal for Electricity in the Judgment dated 20-12-2012 and the Review Order dated 30-04-2013.

2. The main averments of the petitioner are briefly stated hereunder.
  - a) That the petitioner, a generating company was allotted a mini Hydro power project of an aggregate capacity of 3 MW on the Nagavali river and a Power Purchase Agreement (PPA) was entered into with the APTRANSCO and the same subsists presently with the respondent- APEPDCL. That as the State Government had started construction of a new regulator in 2004 and proposed a new right canal for irrigation which would affect the discharges to the project as originally envisaged, it was considered expedient to set

up the project in two phases and that after obtaining the approval of NEDCAP, the first phase of the project with a capacity of 1.725 MW was established in 2007-08 and the Commercial Operation (CoD) was declared on 17.07.2008.

- b) That after the CoD, the operation of the power plant was affected by unforeseen problems of excessive trash, excess sand and flooding and consequently, after the season in 2008-09 was over, certain additions had to be necessarily made by way of construction of additional trash rack structure at the mouth of the power canal, installation of dredging pump and raising the height of the intake structure walls and that some balance works relating to the weir were also completed.
- c) That the energy generated from the project is being purchased by the APEPDCL and the tariff is being paid in accordance with the tariff for mini hydel power projects determined by the Commission in the order dated 22.06.2013 in R.P.No.84 of 2003 in O.P.No.1075 of 2000 pursuant to the Hon'ble Appellate Tribunal's judgment dated 20-12-2012 and Review Order dated 30-04-2013.
- d) That the main reasons for the higher civil cost for the Project are:
  - (i) That the project is a run-of-river project and therefore the layout of the Power House had to be selected so as to be protected from floods.
  - (ii) That the petitioner had selected a higher elevation of +7 m to protect the Power House from the Maximum Flood Level, which has resulted in more excavation.
  - (iii) That the additional excavation quantity is approximately 24,000 m<sup>3</sup> (5,000 m<sup>3</sup> for Power House complex, 11,000 m<sup>3</sup> for approach canal & 8000 m<sup>3</sup> for tailrace canal).
  - (iv) That the hard rock excavation @ Rs.325 per m<sup>3</sup> resulted in additional cost and the raising of the Power House walls to the extra height of +7 m with reinforced concrete also entailed additional cost. The cost of the weir is also high due to the maximum flood discharge and the 140m width of the river and that the expenditure was also incurred to deal with operational hydrology problems.

e) That the actual capital cost of the first stage of 1.725 MW is as follows:

S. No.	Description	Total Amount (Rs.)	Capitalization of Pre-operative & Financial Charges including IDC (Rs.)	Grand Total Amount (Rs.)
1.	Land	7,68,880	0	7,68,880
2.	Civil Works	3,30,79,139	49,13,786	3,79,92,925
3.	Gates & Structures	68,08,358	11,27,770	79,36,128
4.	Electro & Mechanical Works	3,89,84,138	68,67,629	4,58,51,767
5.	Transmission Lines	12,21,459	2,16,723	14,38,182
6.	Computers	48,600	0	48,600
7.	Furniture	12,610	0	12,610
<b>Total</b>		<b>8,09,23,184</b>	<b>1,31,25,908</b>	<b>9,40,49,092</b>

The petitioner has submitted a copy of the Chartered Accountant's certificate of the particulars of expenses incurred in setting up the project stated to be as per the audited final accounts of the Company as at 31.03.2010 and the copies of the audited final accounts of the Company as at 31.03.2009 (for FY 2008-09) and at 31.03.2010 (for FY 2009-2010) .

- The respondent, on 07.02.2015, filed an interlocutory application (I.A.No.8 of 2015 in the O.P. No.57 of 2014), praying to defer the proceedings on the grounds that aggrieved by the Hon'ble APTEL's order it has filed Civil Appeals vide C.A.No.1376-1385 before the Hon'ble Supreme Court. The petitioner in its reply, inter-alia, stated that the Hon'ble Supreme Court has not granted stay of the operation of the judgment of the Hon'ble Appellate Tribunal and sought to dismiss the Interlocutory Application. Subsequently, both the learned counsel submitted that the matter can be heard subject to the final orders or directions of the Hon'ble Supreme Court in the Appeals pending before it, as there are no orders of any stay of the proceedings of this Commission. Accordingly, the Commission proceeded to hear the OP.

4. The respondent APEPDCL, in its counter filed on 04.07.2015, sought dismissal of the original petition, inter-alia, on the following grounds:
- a) That the additional expenditure claims that are stated to have been incurred towards higher elevation of +7m are at the pleasure of the petitioner and the DISCOMs are no way responsible for such additional facilities / comforts reported to have been made by the petitioner, more particularly after the COD. That, at any rate, since the petitioner is already posted with the information as to the tariff payable to him, it could have taken a decision either to go with the project or not and that having developed the project for which the tariff is already decided, the petitioner has no liberty to thrust the reported additional expenditure on DISCOMs.
  - b) That the purported documents claiming to be the evidence of additional expenditure are self made and self serving, without any authenticity and that the same are created for the purpose of wrongful gain. That the correctness of the additional expenditure and the genuineness of the documents are stoutly denied and the petitioner is put to strict proof of the same.
  - c) That even otherwise the petitioner having knowledge of the prevailing tariff and capital cost as decided by the Commission, ventured to develop the project and therefore, the petitioner is estopped-and-precluded from claiming additional capital cost of the project.
  - d) That in light of the large number of NCE projects at various locations with different capacities, it is necessary to benchmark the norms of different parameters and taking cognizance of the above fact, the Commission adopted generic tariff procedure uniform to all NCE projects categorically and that station specific problems and issues cannot be taken into consideration for tariff fixation.
  - e) That the APERC orders dt.20.03.2004 / 22.06.2013 are towards determination of tariff for the NCE projects for the control period 2004-09 applicable to all the projects existing as on 01.04.2004 & commissioned during the period from 01.04.2004 to 31.03.2009 and as such, the parameters & consequently determined tariff are equally applicable to the petitioner's plant as well, since the project is commissioned in the said control period.
  - f) That the tariff fixation by APERC order dt:20.03.2004 / 22.06.2013 is normative tariff fixation and various issues & details in regard to different generating stations were taken into consideration and tariff was determined on the basis of different parameters, applicable to all the developers and that any re-determination of capital cost in regard to

a particular plant will open the door for other developers to approach the Commission for revision of their capital cost.

- g) That for the tariff beyond 10 years of operation also, the Commission observed that the performance of all the project developers is broadly consistent with the existing norms and determined generic tariff to the Mini Hydel projects.
  - h) That the Commission's report (KPMG report) while determining tariff for the Mini Hydel projects beyond 10 years of operation vide order dt. 23.08.2014 states that revised APERC order of June, 2013 provided a significant relief to the Mini Hydel players in terms of a higher fixed cost per unit. That the revised APERC order of June, 2013 has ensured that mini hydel players got additional revenue to the tune of Rs. 2.0 Cr. / MW even while operating at a low PLF and that this revenue is sufficient to meet any cost overrun during the last 10 years or to pay off any outstanding liabilities.
  - i) That the APERC order dt.20.03.2004 / 22.06.2013 is towards determination of tariff for the NCE projects for the control period 2004-09 and applicable to all the projects existing as on 01.04.2004 & commissioned during 01.04.2004 to 31.03.2009. If the capital cost of M/s Sardar Power is revised, the same logic should be applied for other projects also which were set up earlier (Most of the Mini hydel projects were commissioned during 2001). That in their case capital cost should be reduced, which leads to determination of tariff project-wise resulting in complicating the tariff determination process for the NCE projects.
5. In response to the counter, the petitioner's averments made in its rejoinder dated 10.08.2015, inter-alia, are as follows:
- a) That there is no such consideration as "pleasure of petitioner" or "additional facilities / comforts" as alleged and / or imputed for selecting the higher elevation. That it was a technical necessity based on hydrology and topology. The Manual on Planning & Design of Small Hydro Electric Schemes (Publication No.280 of Central Board of Irrigation & Power) provides in paragraph 6.1.9.1, that "The setting level of reaction turbines is also determined by parameters of turbine considered with flood levels of the stream just downstream of the power house...", and in paragraph 6.1.9.3, that "The service bay and machine hall of the power house including the approach road should be protected by retaining walls against maximum High Flood Level (HFL) or maximum tail water level". In paragraph 6.1.9.4, that "The powerhouse should be sited above the HFL of the stream into which the tailwater is to be discharged in the case of Pelton turbine installation. In

other types of installations also, the powerhouse is generally sited above the HFL. Powerhouse structure should be checked for safety against the high flood level around the powerhouse and wherever necessary protective works are provided.” In all cases the Irrigation Department has also instructed that the power house be constructed at ground level off the water course and above maximum flood level so that there would not be any obstruction of water flow during flood and that in the circumstances it was a necessary technical requirement.

- b) That the allegations that any documents filed with the petition are “self made” or “self serving”, as alleged or otherwise, are incorrect and misconceived. That the documents comprise a Chartered Accountant's certificate and copies of audited statements of accounts.
6. Upon verification by the office of the Commission of the data provided, a letter dt.17.07.2017 was issued to the petitioner requiring certain information and by their letter dated 3.11.2017 the petitioner furnished information/certain documents. The respondent, on 5.05.2018, submitted its views on the information/documents submitted by the petitioner and asserted that documentary evidence was provided only for a capital expenditure of Rs.3,08,40,600/- as against the total capital expenditure of Rs.9,40,49,092/- claimed in the petition.
7. In its daily order dated 05.05.2018, the Commission observed that, as a perusal of the various items showed that the item relating to purchase orders placed for supply of equipment, plant and machinery might have been in the ordinary and natural course of events, a significant item of expenditure and Sri K. Gopal Choudary, learned counsel for the petitioner was requested to cause verification of any major items of expenditure forming part of the capital expenditure not being supported by the documents filed by the petitioner already and file them to the extent available.
8. The petitioner filed a Memo on 18.06.2018 with additional information and the respondent filed its objections on the same. The stand of the parties on the capital cost as in the Memo and the objections filed thereon is as follows:

S. No.	Description	Claimed by the Petitioner (Rs.)	As per the respondent (Rs.)	Difference (Rs.)
1.	Land	7,68,880	3,97,556	3,71,324

2.	Civil Works	3,30,79,139	1,08,65,624	2,22,13,515
3.	Gates and Structures	68,08,358	60,20,632	7,87,726
4.	Electro-Mechanical Works	3,89,84,138	3,87,35,107	2,49,031
5.	Transmission Lines	12,21,459	10,96,875	1,24,584
6.	Computers	48,600	0	48,600
7.	Furniture	12,610	0	12,610
<b>Total</b>		<b>8,09,23,184</b>	<b>5,71,15,794</b>	<b>2,38,07,390</b>
Capitalization of preoperative & financial charges including IDC		1,31,25,908	75,32,451	55,93,457
<b>Grand Total</b>		<b>9,40,49,092</b>	<b>6,46,48,245</b>	<b>2,94,00,847</b>
Cost per MW of the project (Rs.Cr./MW) with 1.725 MW		5.45	3.75	1.70

9. Later, the Commission felt it appropriate to refer the issue of determination of Capital Cost to a Chartered Accountant of repute. Accordingly, as agreed by the parties, M/s Brahmayya & Company were requested to determine the Capital Cost with reference to the material to be produced by the petitioner, vide record of proceedings dt 14.02.2020.
10. M/s Brahmayya & Company, vide their letter dated 19.03.2020 informed, inter-alia, that from verification of the information in the form of vouchers / bills and account statements for the expenditure incurred by the petitioner in setting up the project, they have noticed that all vouchers are prepared by the Company and does not have any supporting bills / invoices and that they have found that most of the payments were made by cash. Accordingly, they have informed that in the absence of third party evidence produced by M/s Sardar Power Ltd. towards the cost of the project incurred by them, they could not determine the cost of the project.
11. The petitioner filed an affidavit on 26.09.2020 stating, inter-alia, that the observations of M/s Brahmayya & Co. are contrary to the material on record of the Commission which was



made available to them. That a mere glance through the compilation of statements and bills / invoices filed would show that the large number of bills and vouchers are issued by various suppliers and contractors and the sweeping remark that almost all vouchers are prepared by the Company is wholly unwarranted and unfair. That there are only two parties (supplier and buyer or the Company) and except the cash recipient, there cannot be any third-party evidence in transactions between the two parties / persons. That, it is an established, accepted and normal practice that when cash is paid, the Company staff making payment prepare a cash voucher and obtain the signature of the recipient as acknowledgement and these cannot reasonably be dismissed as self prepared vouchers. That the accounts of the company have been subjected to a statutory audit and the contemporaneous statutory auditor's report has been placed on record. That the reasons stated by M/s Brahmayya & Co. are not true and real and that they may have found the task beyond their ability and competence and / or not worth their time.

12. Vide memo dated 2.12.2020, the petitioner stated, inter-alia, that the APTEL relied on and accepted in principle the Respondent's workings of capital cost for the years 2004-05 to 2009-10 based on CERC's determination for 2009-10; and that the capital cost worked out therein for 2008-09 was Rs 5.29 Cr./MW. That it had earlier filed bills and vouchers for the major expenses and substantial part of the actual project cost and that in addition to those bills and vouchers already filed, the Petitioner has a large number of bills and vouchers for various amounts. That it is impractical to file copies of all these vouchers due to the sheer volume and that the Petitioner is willing to produce before the Commission the entire available bills and vouchers at the office of the Commission for perusal and return, or to make available such records for perusal by the Commission's staff at the Petitioner's Office at Hyderabad. The petitioner filed a statement of the sources of funds from 31.03.2007 to 31.03.2009, the break-up of preoperative charges of Rs.55,93,457/- and a statement of major invoices relating to the professional fees and rates and taxes along with the invoices.
13. The Commission, vide record of proceedings dt. 30.06.2020, inter-alia, ordered as under:

*"With reference to the letter of M/s Brahmayya & Co. an affidavit is filed on behalf of the petitioner disputing the observations made in the said letter, as regards the absence of documentary evidence in support of the expenditure relating to civil works. As the documents are voluminous and there is no possibility of physical hearing at the court, it is agreed during the hearing that the learned counsel for both sides would sit with officers concerned of the Commission and explain the material already filed. Both*

*the learned counsel indicated that 13.07.2020 is convenient for them for meeting. Accordingly, the officers concerned of the Commission shall sit with the learned counsel for both the parties on the said day and after examination of the material the officers shall prepare a detailed note and place before the Commission. Sri K.Gopal Chowdary also undertook to file written submissions within one month. He has also requested for arranging physical court hearings for making his submissions. As the physical hearing is not conducive at present and to allow the above mentioned exercise to be completed, the case is adjourned by six weeks. If on the next date of hearing, physical hearing is possible, the same will be notified by the Commission”.*

14. Pursuant to the above order, the Joint Director and Deputy Director(planning & power procurement) sat with the counsel for the parties on 13.07.2020 and again on 22.07.2020. During the meetings, the learned counsel for the petitioner Sri.Gopal Choudary has submitted the following documents.
  - (a) List of documents submitted by the petitioner in the court of proceedings upto 13.07.2020 (2 pages)
  - (b) Civil works expenditure details classified according to nature of expenditure with comparison to contemporaneous valuation by financing bank appointed civil engineer(11 Pages).
  - (c) List of invoices of civil works not considered by the respondent APEPDCL (2 Pages)
15. The material papers are explained under the following heads:
  - (a) Land
  - (b) Lease rentals
  - (c) Civil works
  - (d) Gates and structures
  - (e) Electro mechanical works
  - (f) Transmission lines expenditures
  - (g) Computer & furniture
  - (h) Pre-operative expenditure

16. Sri K.Gopal Choudary, learned counsel for the petitioner on 13.07.2020 explained the following:

(I) That the basis for the claim of the capital cost of the project at Rs.9,40,49,092/-

(Rs. 5.45 Cr./MW) is,

(A) The certificate Dt.28.04.2014 issued by the chartered accountant (Jeetendra Kulakarni) stated to be based on the audited financial account of the company as at 31.03.2010.

That the different heads under claim of capital costs are

(a) Land	- Rs.7,68,880/-
(b) Civil works	- Rs.3,79,92,925/-
(c) Gates and structures	- Rs.79,36,128/-
(d) Electro and mechanical works	- Rs.4,58,51,767/-
(e) Transmission lines	- Rs.14,38,182/-
(f) Computers	- Rs.48,600/-
(g) Furniture	- Rs.12,610/-
<b>Total</b>	<b>- Rs.9,40,49,092/-</b>

(B) That the above details are also stated under the head "Gross Block" in the statement at annexure (Schedule) - IV of the petition.

(II) Breakup

**(A) Land;**

(a) That the cost of the land as per the sale deeds - Rs.2,41,000/-

(Rs.46,000/- + Rs.93,000/- + Rs.1,02,000/-)

- This is not disputed by the respondent APEPDCL

(b) That the registration charges for the land - Rs.23,135/-

Stating that discoms raised questions on this head, the counsel for the petitioner referred to the following in support of their claim;

Sale deed - Rs.3890 + 230 + 50 + 250 = Rs.4420

Sale deed - Rs.8270 + 465 + 95 + 100 = Rs.8930

Sale deed - Rs.8780 + 510 + 95 + 400 = Rs.9785

As per the respondent, the amount eligible is Rs.20,940/- only.

**(B) Lease rentals:**

- (a) Rs.89,000/- (for the period from 01.03.2001 to 28.02.2006 at Rs.17,800/- per annum for five years as per the district collector proceedings,
- (b) Rs.19,580/- (for the period from 01.03.2006 to 28.02.2007)
- (c) Rs.19,580/- (for the period from 01.03.2007 to 28.02.2008)
- (d) Rs.7,456/- (pro-rata for the period from 01.03.2008 to 17.07.2008, COD)

That as there is ambiguity as to whether the lease rentals can be considered part of the capital cost or they are to be taken as part of O&M expenditure, the learned counsel for the parties requested that the matter is to be decided by the Commission and suggested that;

Lease rental upto COD - to be considered under capital cost.

Lease rental after COD - to be considered under capital cost with NPV duly applying interest discount factor OR to include under O&M.

**Other Payments:**

- That cash of Rs.1,24,600/- is paid to allottees of Govt. land to expedite for surrender where upon lease to project and there are no vouchers for the same.
- That cash of Rs.1,97,950/- is paid to farmers towards crop compensation and no vouchers are available for the same.
- That amount of Rs.46,579/- is paid towards non-encumbrance and miscellaneous expenses.

That the respondent stated that cash payments cannot be taken into consideration.

**(C) Civil works:**

That a detailed statement of expenditures and bills and invoices for civil works in the compilation of documents is given. That contemporaneously with the time of construction, the financing bank appointed civil engineer carried out a valuation

of civil works. That in order to appreciate and compare the actual expenses incurred on civil construction with the engineer's valuation, the items in both have been grouped according to the nature of expenditure and that the overall variations of actuals over the engineer's valuation can be seen to be less than a mere 5 percent.

- (a) Amount with bills - Rs.2,65,87,946/-
- (b) Amounts without bills - Rs.64,91,193/-
- (c) Total civil expenditure - Rs.3,30,79,139/-

(The total civil expenditure includes common expenditure of Rs.7,87,002/- and expenditure of Rs.15,79,117/- after the bank appointed engineer's inspection)

- (d) As per engineer's valuation, total expenditure on civil works comes to Rs.3,01,16,800/- (but, the engineer's valuation shows a total of Rs.3,03,53,750/- which is an arithmetic error). Sri P. Shiva Rao, learned standing counsel stated that certain expenditure totalling Rs.1,35,91,705/- is not supported by proper / valid bills (like in respect of M/s Saravana Constructions which comes to Rs.14,86,870/-) Sri K. Gopal Choudary, learned counsel stated that payments in respect of M/s Saravana constructions are totalling Rs.14,86,870/- which are supported by proofs and such and certain other proofs submitted by the petitioner are being objected to by the respondents.

#### **(D) Gates & Structures**

Sri K. Gopal choudary stated that the amount claimed towards gates and structures is Rs.68,08,358/- for which bills and invoices to the extent of Rs. 68,00,632/- are enclosed and that the difference is only Rs.7762/-. Sri. P. Shiva Rao stated that proof of payments (like in respect of M/s Yugandhar fabricators for Rs.2,20,000/-) submitted in respect of an amount of Rs.7,80,000/- are not acceptable and that accordingly this amount shall be disallowed.

#### **(E) Electro & Mechanical works**

Sri K.Gopal choudary stated that the expenditure towards electro & mechanical

works is Rs.3,89,84,138/- as per the books of accounts. The total amount as per invoice is Rs.3,89,60,107/- and that the difference of Rs.24,031/- is an aggregate of several small miscellaneous expenses.

Sri P. Shiva Rao referred to the respondent's objections that the developer has entered in to a contract agreement with M/s Boving fouress Ltd. for supply, transport and erection of electro & mechanical (E&M) equipments and invoice bills furnished by M/s Boving fouress Ltd. and other agencies are for an amount Rs.3,87,35,107/- and the same can be allowed.

**(F) Transmission lines Expenditure**

Sri K.Gopal Choudary stated that the amount claimed towards transmission lines is Rs 12,21,459/- for which bills and invoices to the extent of Rs 11,64,071/- are enclosed and that the difference of Rs.57,388/- is towards labour expenses and civil material for transmission lines.

Sri P.Shiva Rao stated that the expenditure of an amount of Rs 67,196/- is to be disallowed as the material for this amount was already envisaged in the supply and laying of 33 KV line works and additional bay works and that the same was accounted for in the invoice of M/s Kranthi Enterprises.

**(G) Computers and Furnitures**

Sri P. Shiva Rao has stated that the claim of developer towards purchase of computers and furniture of Rs.48,600/- and Rs.12,610/- respectively in the project cost needs to be disallowed and that these are not considered under the project cost

**(H) Pre-operative expenditure;**

Sri P. Shiva Rao has stated that the service charges and other charges paid to NEDCAP claimed under preoperative charges cannot be allowed in the capital cost as the authority to collect such charges is not stated and the professional fee should not be included in the project cost.

Sri Gopal Choudary has stated that the petitioner is obligated to pay the said charges without which further process of project implementation was not possible.

17. The learned counsel for the petitioner referred to the indexed capital cost calculation (as placed before APTEL) submitted by them which stated that the capital cost of the project comes to Rs.646.20 lakhs per MW calculated with the indexation formula based on the capital cost of Rs.450 lakhs per MW for financial year 2004-05 and that the cost of Rs 450 lakhs per MW has no basis. The actual project cost claimed by them at APTEL is Rs 5.39 crores per MW .
18. During the meeting it was observed by the office from the record that the respondent has also submitted capital cost calculation done backwards by applying indexation mechanism specified in CERC regulations, 2009, on the benchmark capital cost of Rs 5.5 Cr. per MW specified by CERC for the year 2009-10 and the capital cost arrived thus for 2008 is Rs.471.2974 lakhs per MW which is less than the actual cost of Rs.5.45 Cr. per MW claimed by the petitioner.
19. The learned counsel for the petitioner contended that the indexation formula has to be applied for subsequent (future) years only and not for backward calculation for previous years and that no regulation supports such a calculation.
20. Later, the respondent filed written submissions on 05.01.2021. The petitioner, on 01.02.2021, filed its written submissions including the responses to respondent's submissions from time to time and to those in the written submissions.

**Commission's Analysis:**

21. We shall now discuss the approach or framework related to the issues that need to be kept in mind or to be settled upfront while determining the capital cost, with reference to the respective stands of the parties:
  - a) The respondent averred that since the petitioner is already posted with the information as to the tariff payable, it could have taken a decision either to go with the project or not. That, however, having knowledge of the prevailing tariff and capital cost as decided by the Commission, it ventured to develop the project and having developed the project for which the tariff is already decided, the petitioner has no liberty to thrust the reported additional expenditure on DISCOMs.

The mandate given to this Commission by the Honourable Appellate Tribunal for Electricity vide its order dated 20.12.2012 in Appeal No.172 of 2011 and batch is to determine the capital cost and the tariff based on complete data to be submitted by the

petitioner. In view of the above, the objection of the respondent cannot be accepted.

- b) The respondent also averred that the additional expenditure claims that have been incurred towards higher elevation of +7m are at the pleasure of the petitioner and the DISCOMs are no way responsible for such additional facilities / comforts reported to have been made by the petitioner, more particularly after the CoD.

In reply, the petitioner stated that there is no such consideration as "pleasure of petitioner" or "additional facilities / comforts" as alleged and / or imputed for selecting the higher elevation. That it was a technical necessity based on hydrology and topology. The Manual on Planning & Design of Small Hydro Electric Schemes (Publication No.280 of Central Board of Irrigation & Power) provides in paragraph 6.1.9.1, that "The setting level of reaction turbines is also determined by parameters of turbine considered with flood levels of the stream just downstream of the power house...", and in paragraph 6.1.9.3, that "The service bay and machine hall of the power house including the approach road should be protected by retaining walls against maximum High Flood Level (HFL) or maximum tail water level". In paragraph 6.1.9.4, that "The powerhouse should be sited above the HFL of the stream into which the tailwater is to be discharged in the case of Pelton turbine installation. In other types of installations also, the powerhouse is generally sited above the HFL. Powerhouse structure should be checked for safety against the high flood level around the powerhouse and wherever necessary protective works provided." In all cases the Irrigation Department has also instructed that the power house be constructed at ground level off the water course and above maximum flood level so that there would not be any obstruction of water flow during flood and that in the circumstances it was a necessary technical requirement.

We have examined the rival contentions. Obviously, the higher elevation of +7 meters and the associated expenditure thereof are in compliance of CBIP Manual and the instructions of the Irrigation department in order to protect the power house from floods on considerations of hydrology and topology, thus being a technical necessity as contended by the petitioner. In view of the above, we are inclined to accept the contentions of the petitioner and accordingly allow the associated costs to the extent they are validated and found prudent in the circumstances.

- c) The respondent further averred that the purported documents claiming to be the evidence of additional expenditure are self made and self serving, without any



authenticity and the same are created for the purpose of wrongful gain and that the DISCOMs stoutly denies the correctness of the additional expenditure and the genuineness of the documents and the petitioner is put to strict proof of the same.

The petitioner replied that the allegations that any documents filed with the petition are “self made” or “self serving”, as alleged or otherwise, are incorrect and misconceived. That the documents comprise a Chartered Accountant's certificate and copies of audited statements of accounts.

In this context, when the matter was referred to M/s Brahmayya & Co., they have stated that the petitioner has provided them certain information in the form of vouchers / bills and account statements for the expenditure incurred by them in setting up the project and from verification of the same they have noticed that almost all vouchers are prepared by Company and does not have any supporting bills/invoices, and that they have also found that most of the payments were made by Cash. That in the absence of third-party evidence produced by Sardar Power Private Limited towards the cost of the project incurred by them, they could not determine the cost of the Project.

The petitioner, vide their written submissions, stated that the averments of the respondent are misconceived, particularly with respect to the letter of Brahmayya & Co. That the auditor shirked work, abdicated and sent a wholly unwarranted letter with unwarranted observations without even following the procedure set out by the Commission in its order. That letter cannot be countenanced. That the petitioner's uncontradicted affidavit on the matter is on record.

Notwithstanding the petitioner's uncontradicted affidavit, the onus of passing on only prudent costs which are substantiated by proper documentary evidence onto the DISCOMs and in turn the end consumers lies with the Commission which is the custodian of the public interest. The contentions of the parties and the observations of M/s Brahmayya & Co. will be duly considered while examining the claims.

- d) The respondent stated that while the petitioner claims that the capacity of the project is 1.725 MW as one unit, it has initially contemplated two units with 1.5 MW each which is reflected in the PPA dated 06-12-2003 and the Generator has established only one unit of 1.5 MW and therefore payment is also made accordingly all through for the last 7 years. That the Petitioner did not file any proceedings on this issue and raising the same now is not tenable in view of the PPA.

The petitioner averred that the issue is sought to be illegitimately raised by the respondent as to the capacity of the power plant in the written submissions. That there was no pleading on this at any time and it is impermissible to raise such issues at this stage wherein incomplete and misleading facts are stated by gross and wilful suppression of material facts without a signature of a responsible officer of the Respondent and without an affidavit and that the petitioner finds it difficult at such later stage to properly reply to the same. That the issue as to capacity is not relevant at such a later stage, and if it is considered otherwise for any specific reason, the Petitioner may be permitted to make further oral submissions on this behalf. That, the Petitioner generating company was allotted a mini hydro power project by NEDCAP for an aggregate of 3 MW capacity on the Nagavali River. That as the State Government had started construction of a new upstream regulator in 2004 and proposed a new right canal for irrigation (which was not contemplated at the time of NEDCAP approval), it was considered prudent to set up the project in two phases as there was possibility of water availability being significantly reduced. NEDCAP accorded approval by letter dated 16.10.2005. That subsequently, at the time of procurement of equipment, the supplier offered a 1.725 MW turbine and generator as being readily available. That, the Petitioner approached NEDCAP for approval of 1.725 MW capacity in Phase-1 and balance 1.275 in Phase-2. That NEDCAP accorded approval by proceedings dated 03.05.2007 and thereupon, the first phase of the project with a capacity of 1.725 MW was established in 2007-08 and the Commercial Operation Date was declared on 17.07.2008. That by respondents' U.O. Note Order dated 23.08.2012, with reference to the Petitioner's request for amendment of PPA for 1.725 MW capacity and for payment to be made on the basis of the installed capacity of 1.725 MW, an inspection team was constituted by the Respondent for physical verification of the entire unit, head level, quantum of discharge of water and its corresponding electrical power output. That, the inspection was carried out in November, 2014 and the petitioner was given to understand that a report was submitted to APPCC but a copy of the report was not made available to the Petitioner. That by letter dated 29.01.2018, APPCC communicated that the Chairman, APPCC & CMD/APTRANSCO had approved to constitute a committee to ascertain the actual capacity of the Petitioner's mini hydel power plant and to carry out the inspection during the 4<sup>th</sup> week of February 2018. That by letter dated 31.01.2018, the Petitioner informed that the plant was presently operating at 1050 kW capacity due to low water discharge in the winter season, and

that records for 4<sup>th</sup> week of February can be checked, and that actual generation at full load cannot be assured at that time and that the plant can generate full load after commencement of rainy season. That by letter dated 28.09.2018, the Petitioner informed the APPCC that the water discharge was then conducive for full generation and requested a date for inspection of the plant. That, another letter dated 26.11.2019 was given to APPCC stating that the plant was operating at 1725 kW and for inspection at the earliest. That by letter dated 03.12.2019 the Petitioner informed that the plant was operating at over full capacity and requested inspection. That by letter dated 5.12.2020 (probably 5.12.2019) the APPCC replied by merely asking for unit-wise details which was responded to by Petitioner's letter dated 7.12.2019 stating that there is only one unit. The Petitioner sent further letters dated 16.2.2019 (probably 16.12.2019) and 01.01.2020 giving generation details asking for inspection and decision by the Committee. Meanwhile, the respondent's Divisional Engineer had sent 92 statements of recorded generation to the APPCC under cover of a letter dated 10.01.2018 which clearly establishes the 1.725 MW capacity of the power plant. That no inspection by the APPCC Committee was done so far despite repeated pleas of the Petitioner and no decision has yet been taken and or communicated to the Petitioner. That the matter remains pending due to inaction by the Respondent / APPCC. That the new upstream regulator and right canal was completed by the Government in 2015 and consequently, there is no scope for any further addition to power generation capacity at this project.

We have examined the rival contentions of the parties. As things stand and based on the schedule of the PPA in vogue there is no dispute that the capacity of the plant is 2 units each of 1.5 MW and only one unit stands commissioned. According to the petitioner, recognising the capacity of 1.725 MW has not reached finality and remains pending due to the alleged inaction of the respondent / APPCC. That being the case, for the exercise on hand, the Commission feels it reasonable to recognise the capacity of the unit as 1.5 MW only. As such the per MW Capital cost at the claim of Rs.9,40,49,092/-, will be Rs.6.27 Cr./MW.

- e) The petitioner submitted a calculation of the indexed capital cost as per the CERC Regulations, 2009 which was placed by them before the APTEL and the Capital cost of the project comes to Rs.646.20 lakhs per MW calculated with the indexation formula based on the capital cost of Rs.450 lakhs per MW for FY 2004-05.

The respondent has submitted a capital cost calculation stated to be done backwards by applying indexation mechanism specified in CERC Regulations, 2009, on the benchmark capital cost of Rs.5.5 Cr./MW specified by CERC for the year 2009-10 and stated that the Capital Cost arrived thus for 2008 (meant 2008-09) is Rs.471.2974 lakhs per MW which is less than the actual cost of Rs.5.45 Cr./MW claimed by the petitioner.

The respondent vide the written submissions submitted that during oral arguments the Petitioner has canvassed that in the proceedings before the Hon'ble APTEL, DISCOMs have given a table showing that the capital cost of the Projects of capacity of less than 5 MW can be derived as Rs.4.5 Cr. for the year 2004-05 and that Rs.5.28 Cr. for the year 2008-09 from the CERC Regulation of 2009. That the said tables contained in the written submissions were submitted in a batch of Appeals filed by generators to justify the capital cost that was determined by the Commission in the order impugned therein. That it is not submitted with reference to the capital cost of either in disputing the claim of the petitioner or any other mini hydel project, made before APTEL. That the context of submission of the said tables as part of written submissions is not connected to the present issue of exercise of determination of capital cost of the Petitioner being made in pursuance of the direction given by the APTEL to determine the capital cost of the Petitioner. That the memo dt. 02-12-2020 is selectively furnished from written submissions of the respondent made in APTEL, but not in full. That the said document deserves to be ignored. That the contents of prior paragraphs of the said table clearly show the context for which the said tables are given. That the said context is only to justify the impugned order where capital cost of Rs.4.5 Cr. per MW was determined as a generic tariff in respect of mini hydel projects. That since the said context is unconnected to the present issue of determination of capital cost of the Petitioner, the said tables cannot be taken as either admission or as the stand of DISCOM in respect of the petitioner's project. That therefore, the said argument of the Petitioner deserves no merit and that as per the acceptable evidence the expenditure incurred by the petitioner is much less than the capital cost that was decided in generic tariff and that the capital cost of Rs 4.5 Cr. may be adopted for this Project also.

The petitioner however opposed the said contention and maintained that the capital cost indexation formula is to be applied only for future periods based on a base capital

cost. That the said formula cannot be used retroactively for a previous period and such an approach is irrational and unauthorized and impermissible and that the contentions of the respondent in this regard are without any basis and merit. That, the Hon'ble Tribunal had confirmed the capital cost of the projects set up till 2004-05 at Rs.4.5 Cr. by considering the capital cost of Rs.5.5 Cr. set by the CERC in the 2009 Regulations and applying a backward 4% inflation rate. The table set out in the Judgment on that basis shows the capital cost for 2008-09 as Rs 5.29 Cr. That the capital cost norm for 2008-09 is Rs.5.29 Cr. / MW as per the methodology mooted by the Respondent which was considered and accepted by the Tribunal. That, in its written submissions, Respondent takes the petty objection to the extract document filed, on the ground that it is not filed in its entirety. That the document is not denied and its contents are admitted by the Respondent in the written submission. That the document is also part of the Commission's record as it was a party to those proceedings and that the objection is wholly misconceived and untenable. That the Respondent incorrectly submits that its submission was in a different context but it was not. That the submission was with respect to the reasonable capital cost discerned from a capital cost determined for a later point of time. The Tribunal also observed that indexed cost for 2008-09 on the basis of Rs.4.5 Cr./MW for 2004-2005 on the CERC indexation formula would be much higher than that claimed by the Petitioner. If the backward application of the formula as put forth by the Respondent is applied further, the capital cost for 2004-2005 would be Rs.3.28 Cr./MW which is absurd and that the Commission and the Tribunal have determined the capital cost of Rs.4.5 Cr./MW for 2004-05.

That the actual capital cost as certified by the statutory auditor merits serious weight, reliance and consideration as to the facts of expenditure having been incurred and accounted for as such in the books of account of the Petitioner Company as contemporaneously audited by the said auditor.

The Commission has noted the claims of the petitioner and the objections of the respondent as to what should be the reasonable capital cost for the FY 2008-09 (during which time the petitioner's plant has achieved commercial operation) based on the CERC Regulations, 2009, following the approach of indexation, either forward with reference to FY 2004-05 or backward with reference to FY 2009-10. The petitioner was harping on what the respondent had allegedly admitted before the APTEL in respect of

the capital cost which was stoutly denied by the respondent. It is not necessary to delve into these issues inasmuch as, the APTEL itself in its order dated 20.12.2012 in Appeal No.172 has clearly given a go by to the application of indexation mechanism and directed this Commission to determine the Capital Cost based on the complete data to be submitted by the petitioner. We accordingly proceed to determine capital cost from that perspective.

- f) The respondent stated that as per the CERC Regulations, 2009 the life of the project is 35 years, whereas the PPA period is only 20 years and therefore, the arrived capital cost by the Commission needs to be reduced to 70% only.

The petitioner averred that the respondent's contention that the capital cost be reduced to 70% only because the life of the project is 35 years and the PPA is only for 20 years is wholly misconceived, absurd, perverse and unheard of. That this was neither pleaded nor done by the Commission or the Tribunal in the case of projects covered by the Tribunal's Judgment and that this submission is wholly untenable.

On careful examination, We find that It has never been the practice to proportionately reduce the capital cost in cases where the period of agreement is less than the life of the plant. Therefore, the respondents' contention does not hold water.

22. The task before the Commission is that of determination of Capital Cost of the petitioner's mini hydel project of 1.5 MW capacity and the consequent tariff pursuant to a remand from Hon'ble APTEL, wherein the petitioner was given liberty to approach the Commission with complete data. Since it is ultimately a matter of determination of tariff under Section 62 read with Section 86 (1) (a) of the Electricity Act, 2003, and not an adversarial proceeding, the duty is primarily cast on the Commission to make such determination, with due regard to the rival contentions of the parties. It is brought to our attention by the respondent that a major portion of the expenditure is not supported by proper proof (cheque, DD etc.). On the other hand, the petitioner averred that the expenditure is essential for the project. Even upon the perusal of the bank statement it is found that the money is disbursed by way of demand draft only in the case of M/s Boving Fouress Ltd. This gives us an impression that the other disbursements are done by way of cash. Against the above background, the Commission is now embarking on the exercise to assess the acceptability or otherwise of the claimed expenditure through cash transactions.

23. While doing the above exercise item wise, we would like to cover the cost of land, computers and furniture first. Thereafter, we would like to deal with Civil Costs, Gates and Structures, Electro Mechanical Works and Transmission line expenditure as they have some commonalities. As the preoperative expenses are a separate class by themselves, they are dealt with at the end.

I. **Land**

- a) The petitioner stated that future land lease capitalisation amount is Rs.1,93,625/- (for the period from 17.07.2008 to 28.02.2043 as per the calculation given by an attachment), which has not been capitalised in the books of accounts. That if the above amount is not considered as capital cost of the land, the lease rental merits consideration as additional O & M expense over and above the O & M expenses on a normative basis. The lease rental for the year 2001-02 is Rs.17,800/- and is subject to an increase of 10% every five years as per the lease rental agreement.
- b) The respondent stated that the documentary evidence submitted by the developer for the expenditure incurred towards purchase of land as per sale deeds to the extent of Rs.2,41,000 and Rs.1,35,616 towards lease rentals can be allowed. That, as per the documents furnished by the developer, the expenditure incurred towards registration charges is Rs.20,940 only as against the claim of Rs.23,135. That the claim of the developer for the expenditure incurred in cash of Rs.1,24,600 paid to allottees of Government land to expedite lease process, cash paid of Rs.1,97,950 towards crop compensation and cash paid of Rs.46,579 towards miscellaneous expenses cannot be taken into consideration and that considering the above, the total actual expenditure to be allowed is Rs.3,97,556 as against the claim of Rs.7,68,880 furnished by the developer towards the land.
- c) The respondent also stated that though the land was procured for establishment of two units, ultimately only one unit is established and therefore 50% of the land value needs to be deducted. That, as per the Petitioner, part of the land was acquired on lease basis from the Govt. and part of the land was acquired by way of purchase and in respect of the land that was purchased, the cost incurred by the petitioner shall not be computed in the capital cost, since the developer retains the said land after the expiry of PPA period of 20 years. That the area of the extent of the land required for one unit may be arrived at by the Commission and lease

rental being paid now in respect of leased land only may be taken into consideration for entire land that may be required for one unit.

- d) The petitioner in its reply stated that the objection on the expenditure towards registration is petty and trivial and that the expenditure is actually Rs.23,135/- from the details evident from the documents themselves. That the cash payments to the allottees were by way of necessary expediency to expedite possession of land upon re-allotment and to avoid protracted delay and legal proceedings and the purchase having been in November & December, crop compensation was a necessary expenditure and that the encumbrance and miscellaneous expenses are expenses which have to be allowed.
- e) The petitioner further stated that the project is on 6.49 acres of land and 2.93 acres were patta lands purchased from farmers under three (3) sale deeds at a total cost of Rs.2,64,135/- including sale consideration, stamp duty, registration and other charges. That, it has made cash payments of Rs.1,97,000/- to the farmers towards crop compensation which are accounted for in the books for which there are no receipts now available. That cash expenses of Rs.46,479/- were also made for encumbrance certificates and miscellaneous expenses for preparing and registering the sale of property which are accounted in the books of account. That 3.56 acres of land was taken on lease from the Government after resumption of assigned land with a market value of Rs.1,26,380/-. That, the terms of the 30 years' lease provide for lease rental at Rs.17,800/- for the first year with 10% increase once in every 5 years. That, as leasehold is a capital asset, the actual lease rentals of Rs.1,35,616/- upto the COD may be considered as part of cost of land and for subsequent periods the net present value (NPV) of the future rentals amounting to Rs.1,93,625/- may be considered.
- f) The petitioner also stated that the respondent has erroneously considered only the deficit stamp duty omitting the registration, stamp paper value and other charges. That there is no difference between the area of land required for one unit or for two units as the layout would remain the same. That, if a second unit were to be installed, the space within the powerhouse would need to be somewhat larger to accommodate the second turbine. That the powerhouse can now accommodate only one unit and the question of an additional unit is not possible any more due to the new upstream regulator and right canal. That the Land is a capital cost of the project, and it has to be included. That capital and financing costs incurred and



return on equity are required to be allowed and that merely because land would remain with the developer after 20 years, there is no reason to exclude cost of land from the capital cost.

**Commission's Decision:**

As per the sale deeds / land lease order, the extent of land stated to be acquired / leased by the developer and the details of land value etc. as submitted by the petitioner are as given hereunder:

S. No.	Land Survey Nos.	Extant of Land	Date of document	Purchase / Lease	Value (Rs.)	Annual Lease Rent (Rs.)
1	137/10	Ac. 0-57 cents	16.11.2006	Purchase	46,000	--
2	137/11 to 137/14	Ac. 1-27 cents	12.12.2006	Purchase	1,02,000	--
3	137/8	Ac. 1-09 cents	12.04.2007	Purchase	93,000	--
4	136/1 to 6	Ac. 3-56 cents	01.03.2001	Lease	--	17,800

As can be seen from the above, land to the extent of Ac.2-93 cents was purchased on behalf of the company at a total price of Rs.2,41,000/- covered by three (3) separate sale deeds dated from 16.11.2006 to 12.04.2007. Land to the extent of Ac.3-56 cents was taken on lease from the Government at an annual lease rent of Rs.17,800/- from the year 2001-02 and is subject to an increase of 10% every five years.

With reference to the respondent's objection on inclusion of land cost in the capital cost, It is true that the land ownership lies with the developer from the date of purchase and even beyond the PPA period of 20 years and such cost need not be borne by the DISCOMs and consequently the end consumers. In view of the above, the cost of the land purchased cannot be allowed as part of the Capital Cost. However, as a principle, reasonable lease charges are to be generally allowed for the construction period within

the gestation period as indicated by the NEDCAP (being the nodal agency, inter-alia, for approving mini hydel projects) and the same can be capitalized. In capitalizing the lease charges in lieu of the cost of the land, which is disallowed, the lease charges are adopted based on the Government leased rates (claimed by the petitioner for the portion of the land acquired on lease basis) and worked out (with the NPV factors as calculated by the petitioner for the leased portion of the land) proportionally for the period of two years before CoD and for the period of 20 years after CoD. It comes to Rs.31,616/- and Rs.1,41,915/- respectively.

The respondent contended that the land was procured for establishment of two units, but ultimately only one unit is established and therefore 50% of the land value needs to be deducted. The petitioner stated that there is no difference between the area of land required for one unit or for two units as the layout would remain the same and if a second unit were to be installed, the space within the powerhouse would need to be somewhat larger to accommodate the second turbine.

On this, although the contention of the respondent appears to be correct at the first blush, on a deeper analysis, such an approach would be erroneous for it can not be a matter of simple arithmetic division, having regard to the position on the ground as pleaded by the petitioner, which is not disputed by the respondent. The petitioner's contention in this regard therefore deserves acceptance and the respondent's objection is accordingly rejected.

While capitalizing the lease charges of the land acquired on lease basis, it should be done for a period of 24 months being the standard period prescribed by NEDCAP for completion of the project. Since the project was commissioned on 17.07.2008, the allowable lease rentals can be for the period from 17.07.2006 to 17.07.2008. This works out to Rs.39,630/-. This is notwithstanding the fact that lease rentals are being paid as applicable from 2001. The underlying factor in the cost plus approach is that not all the costs are allowed on an as-incurred basis, but duly sieving the costs by the principle of prudence. As regards the lease charges post CoD, the same can be capitalized instead of providing it as additional O&M as the O&M stands fixed by the Hon'ble APTEL in its order dated 20.12.2012 and following this approach might raise issues with other developers more so, when the liberty given to the petitioner for approaching the Commission is limited to the determination of capital cost alone. On

this, the petitioner claimed an amount of Rs.1,93,625/-. However, the calculations were based on 35 years, the expected life of the project.

As per Article 7 (Duration of Agreement) of the Power Purchase Agreement, the agreement shall continue to be in force from the commercial operation date (COD) and until the twentieth (20th) anniversary that is for a period of twenty years from the commercial operation date (COD) and the agreement may be renewed for such a further period of time and on such terms and conditions as may be mutually agreed upon by the parties subject to the consent of APERC. As such, since there is no binding commitment on either of the parties to supply or receive power beyond 20 years, the computation is to be limited to twenty (20) years in which event, it works out to Rs.1,72,430/- which can be capitalized.

The respondent contended that as per the documents furnished by the developer, the expenditure incurred towards Registration charges is Rs.20,940/- only as against their claim of Rs.23,135/-. In this regard, on perusal of the copies of the three sale deeds and their enclosures (though the customer copies of the challans for the stamp duty paid are furnished in respect of two sale deeds only, the details of amounts paid and also the stamp papers value are evident from each of the sale deeds) as submitted by the developer, it is found that the claim of Rs.23,135/- is in order. However, this need not be delved into at this stage, as the land cost is anyway disallowed as stated supra, the registration charges also get disallowed as they form part of land cost.

The respondent contended that the claim of the developer for the expenditure allegedly incurred by way of cash of Rs.1,24,600/- in paying to the allottees of Government land to expedite the lease for the project, cash of Rs.1,97,950/ allegedly paid towards crop compensation and cash of Rs.46,579/- allegedly paid towards Miscellaneous expenses cannot be taken into consideration.

We find justification in the said objection inasmuch as these are cash expenses which are not supported by any valid documentary evidence besides this expenditure forming part of land cost, which is any way not allowed for the reasons stated supra. Accordingly, the allowable cost is as under:

S. No.	Description	Cost Allowed (Rs.)
1.	Lease charges for the leased land for a period of 24 months prior to CoD	39,630
2.	Lease charges for the leased land for the term of the PPA	1,72,430
3.	Lease charges for the purchased land for a period of 24 months prior to CoD	32,616
4.	Lease charges for the purchased land for the term of the PPA	1,41,916
<b>Total</b>		<b>3,86,592</b>

## II. **Computers and Furniture**

- The petitioners have claimed an amount of Rs.48,600/- and Rs.12,610/- towards computers and furniture respectively and no bills are submitted.
- The respondent contended that the claim needs to be disallowed as the same are not considered under the project cost and that the said items are not required at all.
- The petitioner replied that the objection to the computer and furniture expenditure is petty and absurd. That the claimed expenditure is minimal and that the Respondent strangely and inexplicably contends that the expenditure cannot be considered as capital cost and that the contention is absurd, perverse apart from being wholly anachronistic.

### **Commission's decision:**

The respondent's contention that the said items, namely, computers and furniture are not required at all, does not stand to reason as they are essential paraphernalia and the claim is not unreasonable and hence is to be allowed.

## III. **Civil Works**

- The petitioner stated that the amount incurred towards civil works is Rs.3,30,79,139/- and the total amount for which bills are available is Rs.2,65,87,946/-. That the difference of Rs.64,91,193/- is towards expenditure on

purchase of construction materials from casual market sources from time to time for which no formal bills are available as several civil works were carried out directly without contracting to others.

- b) The petitioner further submitted that the financing bank has appointed an Engineer for valuation of civil works and as per the engineer's valuation report, the total expenses as on 9.7.2008 was Rs.3,03,53,750/-. The valuation report notes that the diversion structure had not been fully done as on that date and such balance work & also additional necessary work done thereafter is not included in the valuation report. That the valuation report is submitted for the purpose of reference and corroboration of the actual expenditure of Rs.3,30,79,139/- as claimed.
- c) The respondent submitted that the expenditure of Rs.64,91,193/- incurred by the developer towards purchase of construction materials from the casual market cannot be ascertained in the absence of proof of payment made to the various suppliers in the form of cheque or demand draft. That, the bills furnished by the developer towards expenditure of Rs.2,65,87,946/- incurred for civil works have been verified and an expenditure to the extent of Rs.1,08,65,624/- only can be allowed and the balance amount of Rs.1,35,91,705 needs to be disallowed in the absence of material evidence such as proper invoice / details of the Cheque / Demand Draft payments made to certain agencies. That, the claim of the developer of the payments of Rs.21,07,490 to various agencies towards diesel charges needs to be disallowed in the absence of material evidence such as proper invoice / details of the cheque / demand draft for the payments made. Accordingly, the respondent submitted that an amount of Rs.1,08,65,624 can only be allowed as against the claim of Rs.3,30,79,139 towards civil works expenditure claimed by the developer for determination of capital cost of the Project.
- d) The respondent also stated that the cost claimed by the petitioner is not tenable for the reasons that in respect of said selection of higher elevation of land than normal required level, the DISCOMs / consumers are not responsible and such additional burden needs to be deducted from the computation of capital cost. That in respect of civil works there is no acceptable documentary evidence and even the independent Auditors (M/s Brahmayya & Co), could not accept the said claim on the ground that most of the vouchers submitted by the Petitioner cannot be taken into consideration, and accordingly the respondent stated that only the bills for Rs.1,08,65,624/- are acceptable.

- e) The petitioner in its reply stated that the objections with regard to civil works expenditure are unreasonable, pedantic and unjustified and that the objections to bills / invoices on letterheads are without any merit. That civil works necessarily involve a number of cash payments from time to time, and that too when the project site is located in an isolated area. That the contemporaneous valuation of the civil works by the financing bank's civil engineer may be relied upon and seen together with the audited accounts on record.
- f) The petitioner further stated that the project is of a small mini hydel run of the river at a remote site. That it was not possible to get a single civil contractor for the whole of the civil works despite efforts and advertisement. That the civil works were carried out by Petitioner by arranging for materials and engaging labour directly for several works and by engaging local small contractors, labour contractors, local fabricators etc. for some works. That as is invariably the case with such civil constructions, more particularly in remote rural locations, periodic cash payments are made to enable the small contractors to make labour payments at site and these payments are made to whoever the mestri or supervisor that the contractor sends to site from time to time. That local fabrication works at site were also paid in cash. That cash payments are also made for sand, aggregates and materials sourced locally, transport, equipment repairs and maintenance at site, and for miscellaneous works from time to time from varying sources. That it is often impossible for proper receipts to be obtained from the truck drivers delivering at any time of day or night. That it is well known and accepted that this is the usual and prevalent practice at such sites. The extent and value of such payments as recorded in the books of account has been placed in the statements on record and that it is not reasonably possible for all the bills, receipts and vouchers to be produced due to the sheer volumes involved and also due to the elapse of a decade. That there are a large number of bills and vouchers for various amounts in addition to those filed, and that it is not practicable to file copies of all vouchers due to sheer volume. That, the actual cost of construction is Rs.3,30,79,139/-. That a statement of the expenses together with available bills as per the statement aggregating to Rs.2,65,87,946/- is filed and expenses to the extent of Rs.64,91,193/- were incurred in cash at the remote project site as per the details in the statement for construction materials, labour, equipment maintenance, transport, valuer charges etc. That the respondent's objection that only

Rs.1,08,65,624/- out of Rs.2,65,87,946/- could be allowed and Rs.1,35,91,705/- needs to be disallowed in the absence of material evidence such as proper invoice etc. made to certain parties set out by them is without any merit. That the Petitioner has given the details of the invoices / bills filed in respect of the parties named by the Respondent and there is nothing improper about the bills as alleged or otherwise. On the Respondent's objection to the cash expenditure of Rs.64,91,193/- for which bills were not filed for the reasons stated above, the petitioner has stated that clearly, the civil works cannot be completed without aggregates, sand and other items mentioned in the list in view of the position and the practical issues. That the averments of the Respondent's submissions are misconceived, particularly with respect to the letter of Brahmayya & Co. That auditor shirked work, abdicated and sent a wholly unwarranted letter with unwarranted observations without even following the procedure set out by the Commission in its order and that the auditor's letter cannot be countenanced. That the Petitioner's uncontradicted affidavit on the matter is on record. That the financing bank had appointed a qualified professional valuer, being a former Engineer-in-Chief of the Irrigation & CAD Department and an approved valuer of the Income Tax Department, to value the civil construction contemporaneously for the purposes of disbursement of loan. That the valuer carried out a detailed inspection along with the Manager of the financing bank and issued a report dated 09.07.2008 with progress on civil works and quantities and rates for civil works completed up to 09.07.2008 arriving at a value of Rs.3,01,16,800/-. That, the valuers report shows the value of civil works as Rs.3,03,53,750/-. That there is an arithmetical error in totalling the amount column and the correct total is Rs.3,01,16,800/-. That the valuer has stated the progress of civil works as at the time of valuation, and some incomplete works are also shown. That the expenditure incurred after 09.07.2008 is Rs.15,79,117/- and that the actual variation from the valuation is a mere 4.59% warranting the Petitioner's claim at actuals to be accepted.

**Commission's Decision:**

We have carefully noted the claims and the objections of the petitioner and the respondent respectively. While the petitioner made a total claim of Rs.3,30,79,139/- (With bills - Rs.2,65,87,946/- and without bills - Rs.64,91,193/-), the respondent

contended that only an amount of Rs.1,08,65,624/- can be allowed from out of the claimed bills and that the claim without bills should not be allowed. Further, the petitioner also relied on the valuer's report which indicated an amount of Rs.3,01,16,800/-.

As regards the amount of Rs.64,91,193/- stated to be incurred towards expenditure on purchase of construction materials from casual market sources from time to time for which no formal bills are available on the reason that several civil works were carried out directly without contracting to others, it is to be noted that the burden lies heavily on the petitioner who is claiming capital cost of Rs.5.45 Cr./MW which is in excess of the generic capital cost of Rs.4.5 Cr./MW allowed for the mini hydel plants in the State, during the five year control period from 01.04.2004 to 31.03.2009, to produce incontrovertible evidence in support of its claim of expenditure, if the same is to be allowed and passed on to DISCOMs and in turn to the consumers whose interest is to be guarded by the Commission. The claim of Rs.64,91,193/- is not backed by formal bills, receipts etc.

As regards the valuation report submitted by the petitioner as a parallel proof of the expenditure incurred, the same is not counter signed by the Manager, Andhra Bank. Moreover, in the absence of supporting evidence, such reports cannot have conclusive evidentiary value and consequently, it cannot constitute the sole basis for accepting the petitioner's plea of expenditure.

In this context, we have examined the record and found that there are 133 numbers of individual claims under the head of Civil works covering an amount of Rs.2,65,87,946/-. The task before the Commission is to examine each of the claims, in the backdrop of the respondent's contention. For this purpose, the Commission has, as a first step, decided to consider the claims based on bills / invoices / delivery challans that bear TIN number, APGST number, VAT etc. as genuine claims subject to they being essential and related to the project besides being prudent. The list of such bills numbering 82 for an amount of Rs.83,80,813/- is placed hereunder:

The bills falling under the above category predominantly cover expenses towards cement, steel and certain other essential and relevant materials for the project.



S. No.	DATE	BILL No.	NAME OF THE COMPANY	MATERIAL DESCRIPTION	AMOUNT
1	24.11.06	4	SPECTRUM INSTRUMENTS	1)SOKKIA AUTO LEVEL WITH TELESCOPIC TRIPOD,ALUMINIUM LEVELLING STAND,5 MTS TAPE	17485
2	15.12.06	46	VYSHNAVI ENTERPRISE,RAJAHMUND RY	Booster 83 mm -1000,Lead Wire -15 etc	300000
3	15.12.06	46	VYSHNAVI ENTERPRISE,RAJAHMUND RY	Blasting	23244
4	3.04.07	CM6394	LAWRENCE & MAYO,SECUNDERABAD	Service & Calibration	955
5	3.04.07	CN6393	LAWRENCE & MAYO,SECUNDERABAD	Stands for Levels	2080
6	8.04.07	2	TOSHALI CEMENTS,HYDERABAD	CEMENT(17.5 MT) 350 bags	66500
7	5.4.07	445	ANDHRA CEMENTS,VISAKHAPATNAM	CEMENT(17.5 Mt), 350 bags	40722
8	14.4.07	185	STEEL EXCHANGE LTD,VISAKHAPATNAM	Rebar 25mm(24.4 6MT)	695985
9	18.04.07	179	STEEL EXCHANGE LTD,VISHAKA PATNAM(DELIVERY CHALLAN)	MS BARS(12mm-1.55MT,16mm-11.11MT,20mm-9.14MT)	629271
10	18.04.07	258	STEEL EXCHANGE LTD,VISAKHAPATNAM	Rebar 25mm(2.56 MT)	81570
11	12.04.07	31	TOSHALI CEMENTS,HYDERABAD	Cement(17.5 MT)-350 bags	66500
12	15.05.07	64	SRI VIJAYALAKSHMI STEEL ENTERPRISES,VIZAG	100X12 MM FLATS	6620
13	21.05.07	8881	ANDHRA CEMENTS	GGB(17.5 NT)S SLAG	40721
14	29.05.07	17	TOSHALI CEMENTS,HYDERABAD	GGBS SLAG(17.5 MT)-350 bags	39200
15	29.06.07	31	TOSHALI CEMENTS,HYDERABAD	Cement(17.5 MT)-350 bags	63000
16	6.6.07	474	SRIRAM TEXTILES PVT LTD,VIZAG	REBARS(16.95 MT)	458328
17	17.6.07	18	TOSHALI CEMENTS,HYDERABAD	Ground Granulated Blast Furnace SlagCement(17.5 MT)-350 bags	39200
18	17.7.07	123	TOSHALI CEMENTS,HYDERABAD	Ground Granulated Blast Furnace SlagCement (17.5 MT; 350 bags)	63000
19	20.6.07	467	SRIRAM TEXTILES PVT LTD,VIZAG	REBARS(10.13 MT)	292750
20	20.06.07	757	STEEL EXCHANGE LTD,VISAKHAPATNAM	MS BARS(10 MT)	298000
21	17.7.07	342	TOSHALI CEMENTS,HYDERABAD	CEMENT(17.5 MT)-350 bags.	60900

22	24.07.07	19	TOSHALI CEMENTS, HYDERABAD	GGBC(17.5 MT)-350 bags	39200
23	24.07.07	232	TOSHALI CEMENTS, HYDERABAD	CEMENT(17.5 MT)-350 Bags	63000
24	21.07.07	20	TOSHALI CEMENTS, HYDERABAD	GRANULATED SLAG(17.5MT)-350 bags	39200
25	2.08.07	251	TOSHALI CEMENTS, HYDERABAD	CEMENT(17.5MT)-350 bags	63000
26	15.9.07	293	TOSHALI CEMENTS, HYDERABAD	CEMENT(17.5 MT)-350 bags.	63000
27	17.9.07	22	TOSHALI CEMENTS, HYDERABAD	CEMENT(17.5 MT)-350 bags.	39200
28	29.9.07	1406	SRIRAM TEXTILES PVT LTD, VIZAG	REBARS(10.15MT)	286226
29	1210.07	28	TOSHALI CEMENTS, HYDERABAD	GRANULATED BLASTFURNACE SLAG(17.5 MT)-350 bags.	39200
30	1210.07	307	TOSHALI CEMENTS, HYDER	CEMENT(17.5 MT)-350 bags.	63000
31	3010.07	24	TOSHALI CEMENTS, HYDER	GRANULATED BLASTFURNACE SLAG	39200
32	31.10.07	1682	SRIRAM TEXTILES PVT LTD, VIZAG	REBARS(10.37MT)	308175
33	31 10.07	314	TOSHALI CEMENTS, HYDER	CEMENT(17.5 MT)-350 bags.	71760
34	5.11.07	139	VENKATESWARA ENGG HOUSE	VIBRATING NEEDLE	3300
35	6.11.07	1748	SRIRAM TEXTILES PVT LTD, VIZAG	REBARS(10.29MT)	304995
36	6 11.07	323	TOSHALI CEMENTS, HYDER	CEMENT(17.5 MT)-350 bags.	71750
37	6711.07	26	TOSHALI CEMENTS, HYDER	CEMENT(17.5 MT)-350 bags.	39200
38	29 11.07	327	TOSHALI CEMENTS, HYDER	CEMENT(17.5 MT)-350 bags.	71750
39	26 11.07	26	TOSHALI CEMENTS, HYDER	CEMENT(17.5 MT)-350 bags.	38500
40	29.11.07	2077	SRIRAM TEXTILES PVT LTD, VIZAG	REBARS(10.20MT)	305319
41	3011.07	31	TOSHALI CEMENTS, HYDER	GRANULATED BLAST FURNACE SLAG CEMENT SLAG(17.5 MT)-350 bags.	38500
42	3011.07	358	TOSHALI CEMENTS, HYDER	CEMENT(17.5 MT)-350 bags.	71750
43	1.12.07	2115	SRIRAM TEXTILES PVT LTD, VIZAG	REBARS(10.12MT)	300567
44	11.12.07	32	TOSHALI CEMENTS, HYDER	GRANULATED BLAST FURNACE SLAGCEMENTSLAg (17.5 MT)-350 bags.	38500
45	12 12.07	371	TOSHALI CEMENTS, HYDER	CEMENT(17.5 MT)-350 bags.	71750
46	12 12.07	380	TOSHALI CEMENTS, HYDER	CEMENT(17.5 MT)-350 bags.	71750
47	24.12.07		SRI GOPAL AUTOMOTIVE LTD	HYD PUMP	2507
48	4.01.08	22	SRI VIJAYA LAKSHMI STEEL ENTERPRISES, VIZAG	Binding wire(50 Kg)	2100
49	09 01.08	371	TOSHALI CEMENTS, HYDER	GRANULATED BLAST	38600

				FURNACE SLAG CEMENT SLAG (sand, stone supplied by you)	
50	10.01.08	302	TOSHALI CEMENTS,HYDE	CEMENT(sand, stone supplied by you)	71760
51	17.01.08	2605	SRIRAM TEXTILES PVT LTD,VIZAG	REBARS(10.12MT)	491400
52	22.01.08	2678	SRIRAM TEXTILES PVT LTD,VIZAG	REBARS(5.11MT)	177830
53	31.01.08	6021	SRIRAM TEXTILES PVT LTD,VIZAG	REBARS(17.09MT)	497661
54	04.02.08	302	TOSHALI CEMENTS,HYDER	CEMENT(17.5 MT)-350 Bags	71750
55	10.01.08	302	TOSHALI CEMENTS,HYDE	CEMENT(17.5 MT)-350 Bags	38600
56	11.02.08	413	TOSHALI CEMENTS,HYDE	CEMENT(17.5 MT)-350 Bags	71750
57	22.02.08	60	TOSHALI CEMENTS,HYDE	SLAG((17.5 MT)-350 Bags	38500
58	22.02.08	425	TOSHALI CEMENTS,HYDE	CEMENT(17.5 MT)-350 Bags	71750
59	23.03.08	37	TOSHALI CEMENTS,HYDE	SLAG((17.5 MT)-350 Bags	38500
60	27.02.08	431	TOSHALI CEMENTS,HYDE	CEMENT(17.5 MT)-350 Bags	71750
61	28.02.08	302	TOSHALI CEMENTS,HYDE	SLAG(17.5 MT)-350 Bags	38500
62	04.03.08	440	TOSHALI CEMENTS,HYDE	CEMENT(17.5 MT)-350 Bags	71750
63	04.03.08	18	TOSHALI CEMENTS,HYDE	SLAG(17.5 MT)-350 Bags	38500
64	19.05.08	95	TOSHALI CEMENTS,HYDE	SLAG(17.5 MT)-350 Bags	38500
65	21.03.08	468	TOSHALI CEMENTS,HYDE	CEMENT(17.5 MT)-350 Bags	71750
66	10.04.08	28	DRK ALUMINIUM CENTER,VIZAG	Aluminium works	40000
67	11.04.08	19	USHASRI STEEL ENTERPRISES,RAJAHMUND RY	SIKAGROUT	11000
68	15.04.08	2	DRK ALUMINIUM CENTER,VIZAG	Aluminium Works	16003
69	15.04.08	3	DRK ALUMINIUM CENTER,VIZAG	DOOR CLOSURE RUBBER	1249
70	16.04.08	21	USHASRI STEEL ENTERPRISES,RAJAHMUND RY	SIKAGROUT	11000
71	12.05.08	40	TOSHALI CEMENTS,HYDE	CEMENT(17.5 MT)-350 Bags	71750
72	11.05.08	74	SOWBHAGYASRI TRADERS,PARVATHIPURAM	LUB OIL	2950
73	11.06.08	12	TOSHALI CEMENTS,HYDE	SLAG(17.5 MT)-350 Bags	38500
74	11.06.08	98	TOSHALI CEMENTS,HYDE	CEMENT(17.5 MT)-350 Bags	71750
75	21.07.08		VELLAMPATI ANANDA RAO,PARVATIPURAM	CEMENT(5MT)-	25000
76	30.10.08	2863	TOSHALI CEMENTS,HYDE	CEMENT(17.5MT)-350bags	80500
77	31.10.08	1920	TOSHALI CEMENTS,HYDE	CEMENT1 Slag 7.5 MT)-350 bags(	45500
78	02.12.08	2119	TOSHALI CEMENTS,HYDE	CEMENT slag (17.5MT)-350 bags	45500

79	12.12.08	3470	TOSHALI CEMENTS,HYDE	CEMENT-(17.5MT)-350 bags	78750
80	07.04.09	89	TOSHALI CEMENTS,HYDE	CEMENT slag-10MT- 200bags	21000
81	21.06.09	1192	TOSHALI CEMENTS,HYDE	CEMENT(0.5 MT)-100 bags	10500
82	30.06.09	64	Sri Ramanjaneya traders, Khadgavalasa	Cement-145 bags. 13 bags	38580
<b>TOTAL</b>					<b>8380813</b>

Coming to the other bills, upon scrutiny, we found that they are not strictly in the form for qualifying as a bill / receipt. They are, for the most part, given on letter heads and claiming huge amounts running into lakhs of Rupees. There are also no signed agreements with the suppliers / contractors etc. In the absence of proper proof of payments, namely, cheque or demand draft, it has to be construed that the payments are made in cash overlooking the mandate of the Income Tax Act that cash payments cannot be made beyond Rs.20,000/-. It is also not known whether any TDS has been deducted and paid to the income tax department. Strictly speaking, such claims cannot pass the muster for clearance.

However, it is a matter of fact that under the civil works front, the project cannot fructify without such other essential and relevant major constituent cost components like excavation costs and construction costs inasmuch as the above 82 bills predominantly cover cement and steel.

Under the major constituent component of excavation cost, costs towards blasting, hiring of excavating machinery together with its fuel consumption cost etc. become incidental and ancillary costs. The bills submitted by the petitioner in respect of excavation costs are categorised component-wise and are presented hereunder:

**EXCAVATION COSTs:**

**a) EXCAVATION OF SOIL**

S. No.	DATE	BILL NO	NAME OF THE COMPANY	MATERIAL DESCRIPTION	AMOUNT
1	31.10.07	3	ANISHK ENGG CONSTRUCTIONS, VIZAG	EXCAVATION of soil and SDR(2465 Cub.mts @Rs. 100 per m3). -EXCAVATION of HDR and HR( 355m3@ Rs.330)	1551650
2	30.04.08	01/08	J.VENKATAGIRI, EXCAVATION CONTRACTOR,VIZAG	EXCAVATION OF SOIL & ROCK(1367.5 hrs @Rs. 1250)	1709375
<b>TOTAL</b>					<b>3261025</b>

**b) EXCAVATING MACHINERY HIRING**

S. No	Date	Bill No.	Agency	Description	Amount (Rs.)
1	5.01.07	017	KSK BOREWELLS,RAJAM	Supply of excavation Machinery	660563
2	24.5.07	001	ANISHK ENGINEERING CONSTRUCTION,VIZAG	Hiring of equipment for Excavation(Ex-200 -Rs 6000 per day for 13 days: Daewoo, for 82.5 days @ Rs 6000 per day: breakers, 16 days @2500 per day, BEML -31 days @ Rs 5000 per day: IR compressor-53.5 days @ 2000 per day: Rig spares and Tractor compressor -lumpsum: Tippers 3 units @ 1500 per day: Tippers 6 units 130.5 days at Rs 4000 per day)	1600000
3	28.01.08	23	KSK BOREWELLS,RAJAM	Supply of Excavating machinery(EX-200)-267.15 hrs@1250/-: Tippers-125 days@ Rs 3000: Borewell for blasting purpose (Rs225000 lump sum):	933938
4	30.04.08	1/08	J.VENKATAGIRI,EXCAVATION CONTRACTOR,VIZAG	EXCAVATION OF SOIL & ROCK(1367.5 hrs @Rs 1250)	1709375
<b>TOTAL</b>					<b>3594501</b>

**c) BLASTING**

S. No.	Date	Bill No.	Agency	Description	Amount (Rs.)
1	30.10.07	2	ANISHK ENGG CONSTRUCTIONS,VIZAG	BLASTING MATERIAL	503000
2	31.01.08	126	VIJAYALAKSHMI GRANITES,DASUPURAM	BLASTING MATERIAL	250000
3	31.03.08	188	VIJAYA LAKSHMI GRANITES	BLASTING MATERIAL	400000
4	30.06.08	35	VIJAYA LAKSHMI GRANITES,	Blasting material	353000
<b>TOTAL</b>					<b>1506000</b>

d) DIESEL

S. No.	Date	Bill No.	Agency	Description	Amount (Rs.)
1	31.01.07	1	PETROLEUM SYNDICATE, PARVATI PURAM	2000 Lts Diesel for Jan 07	68740
2	28.02.07	9679	SIREESHA PETROLEUM,, KANCHALI	6000 Lts HSD	198480
3	30.04.07	847	SIREESHA PETROLEUM,, KANCHALI	6000 Lts HSD	198180
4	30.06.07	1962	SIREESHA PETROLEUM,, KANCHALI	6000 Lts HSD	199740
5	31.03.07	2	PETROLEUM SYNDICATE, PARVATI PURAM	1200 Lts Diesel for Jan 07	39948
6	31.05.07	1	PETROLEUM SYNDICATE, PARVATI PURAM	1200 Lts Diesel for May 07	79896
7	31.07.07		PETROLEUM SYNDICATE	600 Lts DIESEL FOR JULY 07	19968
8	31.08.07	3	PETROLEUM SYNDICATE	800 Lts DIESEL FOR AUG 07	26624
9	31.09.07	4	PETROLEUM SYNDICATE	1200 Lts DIESEL FOR AUG 07	39936
10	31.10.07	5	PETROLEUM SYNDICATE	1200 Lts DIESEL FOR AUG 07	39936
11	30.11.07	6	PETROLEUM SYNDICATE	800 Lts DIESEL FOR AUG 07	26624
12	31.12.07	7	PETROLEUM SYNDICATE	1400 Lts DIESEL FOR DEC 07	46592
13	31.01.08	8	PETROLEUM SYNDICATE, VIZAG	3955 Lts diesel for Jan	131622
14	29.02.08		PETROLEUM SYNDICATE	6600 Lts diesel	222482
15	31.03.08	1	PETROLEUM SYNDICATE	3879 Lts Diesel	133554
16	30.04.08	1	PETROLEUM SYNDICATE	7200 Lts Diesel	260246
17	31.05.08	2	PETROLEUM SYNDICATE	5600 Ltr Diesel +30 Ltr Engine Oil	196732
18	31.07.08	4	Petroleum Syndicate	400 Ltr Diesel + 7 Ltr engine oil	16126
19	30.06.08	3	Petroleum Syndicate	4400 Lts Diesel	162064
<b>TOTAL</b>					<b>2107490</b>

Having presented the details of excavation costs as above, the details of construction costs are as under:

**CONSTRUCTION:**

CONSTRUCTION COST CALCULATED BASED ON SSR RATES								
S. No.	DATE	ITEM	QTY	RATE CLAIMED	PER	AMOUNT CLAIMED (Rs.)	RATE AS PER SSR (Rs.)	AMOUNT AS PER SSR (Rs.)
1	04.06.07	REINFORCEMENT	22.3501	2600	MT	222832	1152	25747.32
		FORM WORK	68.454	170	SQ MT		170	11637.18
		CONCRETE	271.082	550	CUM		387	104876.20
		LABOUR	6072		lumpsum		6072	6072.00
2	30.07.07	REINFORCEMENT	18.261219	2600	MT	318518	1152	21036.92
		FORM WORK	478.506	170	SQ MT		170	81346.02
		CONCRETE	344.244	550	CUM		550	189334.20
		LABOUR	0		lumpsum		0	0.00
3	14.10.07	REINFORCEMENT	8.37	2600	MT	233382	1152	9642.24
		FORM WORK	195	170	SQ MT		170	33150.00
		CONCRETE	315	550	CUM		387	121905.00
		LABOUR	5210		lumpsum		5210	5210.00
4	09.12.07	REINFORCEMENT	21.2	2600	MT	343998	1152	24422.40
		Shuttering (FORM WORK)	603.988	170	SQ MT		170	102677.96
		CONCRETE	332	550	CUM		550	182600.00
5	31.12.07	Construction of Wing Wall of Intake pool	390.25	1050	CUM	982538	535	208783.75
		Construction of Wing Wall of tail nok pool	545.5	1050	MT CUM		535	291842.50
6	31.03.08	Masonry Wing wall intake Canal	168.75	1050	MT CUM	650208	535	90281.25
		Masonry Work for Power house building	212.4	1050	MT CUM		535	113634.00
		Brickwork for Power house	250000		Lumpsum			0.00
7	31.05.08	REINFORCEMENT	28.7	2600	MT	368500	1152	33062.40
		Shuttering (FORM WORK)	675.85	170	SQ MT		170	114894.50
		CONCRETE	317.346	550	CUM		387	122812.90
		LABOUR	4500		lumpsum			4500.00

8	30.06.08	Charges towards construction of Masonry works	1550	1050	CUM	1207500	535	829250.00
9	30.06.08	Rod bending and tie up of steel shuttering works (Reinforcement)	79.257	2600	MT		1152	91304.06
		Rod bending and tie up of steel shuttering works (Reinforcement)	2184.37	170	MT	577393	170	371342.90
10	24.08.08	Fabrication and fixing of rolling shutters	75000		lump sum	75000		0.00
11	30.09.08	Charges towards construction of masonry work	2179	1050	CUM	2287950	535	1165765.00
12	14.10.07	Charges towards construction of masonry work regulator for trash rock	212.65	1050	CUM	223283	535	113767.75
Total						7491102		4470898.46

In addition to the above excavation costs and construction costs, the following are the miscellaneous costs:

#### **MISCELLANEOUS**

S. No.	DATE	BILL No.	NAME OF THE COMPANY	MATERIAL	AMOUNT (Rs.)
1	23.06.06	275	SRI DATTA CAD SERVICES, HYD	LAYOUTS & POWERHOUSE DRAWING	2060
2	23.06.06	278	SRI DATTA CAD SERVICES, HYD	POWERHOUSE LAYOUT	1000
3	10.11.06	2069	SUN ADS, VISAKHAPATNAM	NEWS PAPER/ADVERTISMENT/HYD EDITION	21380
4	21.01.08	98	SRI VENKATA PADMA TRADERS	P P ROPE	1750
5	29.06.08	-	INDIAN RUBBER INDUSTRIES,	O ring coad	788
<b>TOTAL</b>					<b>26978</b>



In the above tables we have presented the costs under three major heads namely, Excavation cost, Construction cost and miscellaneous cost. Now the question before us is, as to how much of the above cost is to be allowed against the backdrop of the claims not being supported by proper bills / vouchers / delivery challans / payments. The same is examined hereunder:

Excavation Cost:- A close look at the above costs under the head “excavation cost” reveals that the constituent components are linked in a sequential manner starting with blasting, hiring of excavation machinery / excavation and the associated fuel cost. In order to validate the above premise, we have referred to the Common Standard Schedule of Rates (SSR) for all Engineering departments, GoAP, for FY 2007-08 and FY 2008-09. It is observed that all the above said costs namely, blasting, hiring of excavation machinery and associated fuel cost, are embedded into the excavation cost. Extract of Note II of Para 11 of the said schedule of rates is as follows:

*"II) The machinery rates for earth work excavation for soil classification should be adopted as per G.O. Ms. No. 10 Dated : 26.07.2005 Finance(works & Projects) Dept. The machinery rates for soil classification from Extracts of the above G.O are as follows.(The machinery rates for earth work excavation should be adopted for 1000 Cum or more.)*

<i>1. Excavation of all soils upto SDR</i>	<i>Rs. 13.00/Cum</i>
<i>2. Excavation in H.D.R-I &amp; II</i>	<i>Rs. 19.50/Cum</i>
<i>3. Excavation in F &amp; F rock</i>	<i>Rs. 43.50/Cum</i>
<i>4. Excavation of Hard rock and boulders of more than 3 Cum in Size requiring blasting by machinery."</i>	<i>Rs. 87.00/ Cum</i>

In order to examine the claim of excavation cost for an amount of Rs.1,04,69,016/-, we have relied on the Common Standard Schedule of Rates. We are however confronted with the difficulty of absence of clear data furnished by the petitioner. The only source through which we can verify the quantities is the valuation report furnished by the petitioner. Hence we had no choice, other than relying on this report for this limited purpose only. The expenditure is accordingly computed hereunder:

Excavation Quantities As per Bank appointed Civil Engineer		Applying Rates as per SSR for 2007-08	
HG & HDR (Cum)	HR (Cum)	HG & HDR @ Rs.13 per Cum (Rs.)	HR @ Rs.87 per Cum (Rs.)
4000	10850	52000	943950
250	2200	3250	191400
560	6600	7280	574200
210	2250	2730	195750
1500	6000	19500	522000
2000	2000	26000	174000
<b>Total</b>		<b>1,10,760</b>	<b>26,01,300</b>
<b>Grand Total</b>		<b>27,12,060</b>	

As can be seen from the above, while the claim made broadly on letter heads towards excavation is Rs.1,04,69,016/-, the cost of these items works out to Rs.27,12,060/- by adopting the quantities claimed by the petitioner and applying the SSR rates for the relevant years.

**Construction Cost:-** The various items of works stated to be undertaken relating to construction works are construction reinforcement, concrete, labour, formwork, construction of masonry works, construction of wing wall, brick work, rod bending and tie-up of steel, shuttering works, fabrication works etc. The total amount claimed against the above said bills is Rs.74,91,102/-. As in the case of excavation, we would like to rely on SSR for the FY 2007-08. The following costs become relevant in arriving at the construction cost. While labour charges and machinery charges are applicable for concreting, the other two items of Costs, namely, centring charges and Steel reinforcement cost are stand alone costs. While applying these costs to the volumes or quantities indicated in the claims, we have followed the following approach viz., a) In respect of labour charges for concreting, where they are claimed separately and as a lump sum, only machine charges are allowed with the claimed rate as ceiling in case the machine charges are higher so that higher payment than the claim is not given, while allowing the lump sum labour charges. b) Where lump sum amount is appearing as an isolated item without giving either quantum or price, since it is impossible to validate such costs, the same are disallowed. c) Coming to the centering charges, it appears that they have no one to one correspondence on the form work charges

inasmuch as the units themselves are different in that while centering charges are levied on a per CUM basis, the form work is claimed in Sq.mts. In such situations we have allowed the rate of Rs.170/- per Sq.mt. as claimed for the form work. The tables derived from the SSR for working out construction costs are given here under

**Labour Charges for M 20 concrete:**

S. No.	No. of Labour required (Nos.)	Description	Rate per person (Rs.)	Amount (Rs.)
1	0.167	Mason I class*	180	30.06
2	0.167	Mason II class*	160	26.72
<b>Total</b>				<b>56.78</b>

Note:

\* - Rate as per Page no. 23 of SSR 2007-08

**Machinery Charges for M 20 concrete:**

S. No.	No. of Labour required (Nos.)	Description	Rate per person (Rs.)	Amount (Rs.)
1	1	Concrete Mixer (1 cum) capacity*	450	450
2	1	Vibrator hire charges	225	225
<b>Total</b>				<b>675</b>

Note

\* - Rate as per Page no.23 of SSR 2007-08

**Centering Charges:**

S. No.	Quantity required (m3)	Description	Rate per m3 (Rs.)	Amount (Rs.)
1	1	Centering Charges*	829	829
<b>Total</b>				<b>829</b>

Note

\* - Rate as per Page no.114 of SSR 2007-08

**Labour for cutting, bending, shifting to site, tying and placing in position:**

S. No.	No. of Labour required (Nos.)	Description	Rate per person (Rs.)	Amount (Rs.)
1	2	Bar Bender*	160	320
2	6.4	Mazdoor*	130	832
<b>Total</b>				<b>1152</b>

Note

\* - Rate as per Page no. 28 of SSR 2007-08

**Masonry Wall Charges:**

S. No.	Quantity required (m3)	Description	Rate per m3 (Rs.)	Amount (Rs.)
1	1	Masonry wall	535	535
<b>Total</b>				<b>535</b>

Note

- Rate as per Page no. 40 of SSR 2007-08

Accordingly an amount of Rs.44,70,898/- is admitted against the claim of Rs.74,91,102/- based on the above workings.

As regards the bills classified under “miscellaneous”, the first three items namely, Sri Datta CAD services, Hyderabad (two bills) and Sun Ads, Visakhapatnam appear to be admissible which can be fully allowed. However, as regards the other two bills one of which (Sri Venkata Padma Traders, dated 21.01.2008) is not in a proper form of bill and the other (Indian Rubber Industries dated 29.06.08) being not in the name of the petitioner, are disallowed. Accordingly, the miscellaneous cost works out to Rs.24,440/-.

Thus, the total amount that can be allowed under the head ‘Civil Cost’ works out to Rs.1,55,88,211/- (Rs.83,80,813 + Rs.27,12,060 + Rs.44,70,898+ Rs.24,440).

**INSURANCE CLAIMS:**

The petitioner claimed an expenditure of Rs.1,89,902/- towards insurance ,the details of which are as under:

S. No.	DATE	BILL No.	NAME OF THE COMPANY	MATERIAL DESCRIPTION	AMOUNT
1	30.4.07	-	THE ORIENTAL INSURANCE CO LTD,GUNTUR	Insurance	Rs.155474
2	29.01.08	-	THE ORIENTAL INSURANCE COMPANY LTD	Insurance	Rs.34428
			<b>TOTAL</b>		<b>189902</b>

From the receipts enclosed, it is not clear as to for what purpose these have been procured. That being the case, there is no need to specifically allow them under the civil cost inasmuch as the same generally form part of Operation and Maintenance cost, which were increased to 3.5% of the capital cost in the APTEL order dated 20.12.2012 as against the earlier figure of 1.5% fixed by this Commission.

**IV. GATES & STRUCTURES:**

- a) The petitioner claimed an amount of Rs.68,08,358/- towards Gates & Structures and submitted copies of bills & invoices to the extent of Rs.68,00,632/- stating that the difference of Rs.7,762/- is insignificant.
- b) The respondent submitted that out of the total expenditure of Rs.68,08,358/- an amount of Rs.60,20,632/- only can be allowed as the bills for the balance amount have no authenticity and that the balance amount of Rs.7,80,000/- is liable to be disallowed in the absence of material evidence such as proper invoice / details of the cheque / demand draft payments allegedly made to the following agencies.

Name of the Agency	Amount (Rs.)
M/s Yugandhar fabricators	2,20,000
M/s Sai Santoshi fabricators	4,50,000
M/s Sri Sai fabricators	1,10,000
<b>Total</b>	<b>7,80,000</b>

- c) The petitioner contended that there is nothing improper about the bills and invoices of the three contractors that have been objected to and that the objection is without merit.
- d) The petitioner has further submitted that Gates and Structures were fabricated at site by purchasing the materials and engaging small local fabricators on a job work basis. That the actual cost of Gates & Structures is Rs.68,08,358/- and a statement of the expenses together with bills aggregating to Rs.68,00,632/- is filed. That expenses to the extent of Rs.7,762/- were incurred in cash towards miscellaneous expenses. That the Respondent objected to the bills of certain parties without merit and these are job work bills issued by the fabricators for job work. That merely because they are handwritten, they cannot be considered improper and job workers normally issue bills in this manner and that fabrication was indisputably done, and the cost of fabrication has to be allowed.

**Commission's decision:**

The respondent stated that out of the total expenditure of Rs.68,08,358/- as claimed by the petitioner, an amount of Rs.60,20,632/- only can be allowed as the bills for the balance amount have no authenticity and the balance amount of Rs.7,80,000/- is liable to be disallowed in the absence of material evidence such as proper invoice / demand draft payments allegedly made to the agencies indicated supra. Accordingly, there is no dispute to the extent of Rs.60,20,632/-. The amount in dispute is only Rs.7,80,000/-. A substantial portion of the petitioner's claim is agreed to by the respondent. The expenditure claimed by the petitioner and disputed by the respondent is not supported by proper invoices/bills and proof of payments., we are not inclined to allow this item of expenditure.

The miscellaneous expenses of Rs.7,762/- cannot in any way be allowed as being unsupported by bills.

Accordingly, the amount that can be allowed under this head is Rs.60,20,632/-.

V. **Electro Mechanical Works Expenditure:**

- a) The petitioner submitted that the expenditure towards Electro Mechanical Works is Rs.3,89,84,138/- as per the books of accounts. That the total amount as per invoices is Rs.3,89,60,107/- and that the difference of Rs.24,031/- is an aggregate of several small miscellaneous expenses.
- b) The respondent stated that the developer has entered into a contract agreement with M/s Boving Fouress Limited for supply, transport and erection of Electro & Mechanical (E&M) equipment. That, the developer has submitted 80 invoice bills furnished by M/s Boving Fouress Limited and other agencies for an amount of Rs.3,87,35,107/- and the same can be allowed.
- c) The petitioner stated that the objection with regard to Electro Mechanical works expenditure is petty, incorrect and without merit and that the amount as claimed is to be allowed. Electro-Mechanical Works include supply, erection and commissioning of turbine and purchase and installation of associated switchgear and electricals. That the actual cost of Electro-Mechanical Works is Rs.3,89,84,138/- and a statement of the expenses together with bills aggregating to Rs.3,89,60,107/- is filed. That several small miscellaneous expenses aggregating to Rs.24,031/- were also incurred. That the Respondent accepts the amount of Rs.3,87,35,107/- against Boving Fouress bills and that there is no specific objection against the other amounts.

**Commission's Decision:**

As the respondent accepted the amount of Rs.3,87,35,107/- under this head based on the invoice bills furnished by M/s Boving Fouress Limited and other agencies, the same needs to be allowed

The miscellaneous expenses of Rs.24,031/- cannot be allowed as they are not supported by bills..

VI. **Transmission Lines Expenditure:**

- a) The petitioner submitted that the amount claimed towards Transmission Lines is Rs.12,21,459/- for which bills & invoices to the extent of Rs.11,64,071/- are enclosed and that the difference of Rs.57,388/- is labour expenses & civil material for Transmission Lines.

- b) The respondent submitted that out of the claimed expenditure of Rs.11,64,071/- an amount of Rs.10,96,875/- can only be allowed. That the balance amount of Rs.67,196 is liable to be disallowed as the materials for the balance amount was already envisaged in the supply and laying of the 33 kV Line works and additional bay works and that the same was accounted for in the invoice of M/s Kranthi Enterprises.
- c) The petitioner stated that the objection with regard to transmission line expenses is trivial, vague, unclear and incorrect. That Poles were separately purchased and not included in the Kranti Enterprises scope of supply & work and that it is pertinent to note that the APEPDCL itself had given an estimate of Rs.20,68,500/- for the same work, and it is wholly unreasonable to object to the amount claimed which is less than half of their own estimate.
- d) The petitioner further submitted that the transmission lines for evacuation of power were erected by the petitioner. That the expenses to the extent of Rs.57,388/- were incurred in cash towards labour, civil material and miscellaneous expenses. , it appears to be wrongly contended that the bill for Kranti Enterprises also includes the poles and structural steel and the bill was only for supply of line materials and laying of lines. That the poles and necessary structural steel were separately purchased.

**Commission's decision:**

We have examined all the bills under this head. Except for the bills of M/s Kranthi Enterprises dt.15.06.08 (which is for laying 33 kV Line for a total amount of Rs.8,71,875/-) and that of APEPDCL, all other bills have TIN / APGST. The bills that have TIN / APGST are 3 in number ( viz., M/s Sri Sai Pole Industries, M/s Vijaya Lakshmi Steel - 2 Nos.) for a total amount of Rs.85,346/- and can be allowed straight away. As regards the objection of the respondent in relation to bill of M/s Kranthi enterprises dt.15.06.08, the same is vague, unclear and incorrect and hence the amount as indicated above needs to be allowed. Coming to the bill of APEPDCL for an amount of Rs.2,06,580/- paid by way of demand draft towards supervision charges the same can be allowed. Accordingly, an amount of Rs.11,64,071/- is to be allowed under this head. not only based on the reasons stated as above but also as the total amount itself is much less than the estimate given by APEPDCL for an amount of Rs.20.68,500/-.



However, the amount of Rs.57,388/- which is stated to be spent on labour expenses & civil material is not supported by bills and vouchers and hence cannot be allowed.

**VII. Preoperative & Financial Charges including IDC:**

- a) The petitioner submitted that as per the Chartered Accountant's Certificate, the total capitalisation of pre-operative and financial charges including IDC is Rs.1,31,25,908/- which consists of (i) Rs.55,93,457 towards preoperative expenses viz. Professional charges (Rs.17,26,003), employee benefit expenses (Rs.23,22,633), travelling & communication expenses (Rs.5,36,697), office expenditure (Rs.7,05,048) and fringe benefit taxes (Rs.3,03,075), (ii) Rs.70,20,237/- towards IDC, loan processing & bank charges and (iii) Rs.5,12,214 towards NEDCAP service charges.
- b) The respondent contended that the developer's claim of Rs.55,93,457 towards pre-operative expenditure covering payment of professional charges, employees benefit expenses, travelling and communication expenditures and other sundry items need to be disallowed as the same cannot be part of project cost. That, in support of the same, the Government of Uttar Pradesh in its policy for allotment of projects to Mini Hydel Projects has incorporated a condition that Government shall not reimburse any expense incurred by private developers on investigating survey or pre-operative expenses whatsoever regarding small hydro projects in question.
- c) The respondent further submitted that except the liability of reasonable interest during the construction, which needs to be ascertained since the petitioner has unreasonably delayed the completion of the project, other components are not required to be computed in capital cost. Even otherwise there is no acceptable evidence in respect of other items. As per Section 7 of the Electricity Act, 2003, any generating company may establish a generating station without licence or permission. That, therefore the claim of the Petitioner that it has paid an amount of Rs.5,12,214/- for two units to NEDCAP is not to be accepted and that if the same is accepted it offends the said provision of the Electricity Act.
- d) The petitioner stated that the objection to pre-operative and financial charges is wholly vague and without any merit whatsoever. That anything stipulated by Govt. of UP is wholly irrelevant, and in any case no such inference as suggested by the respondent would be justified in relation to tariff determination by the Commission.

That preliminary and preoperative expenses are certainly to be considered as a part of the capital cost.

- e) The petitioner further submitted that the construction period was from 28.03.2007 to 17.07.2008 and that interest during construction is Rs.59,57,626/- as per the statement and the extracts of the term loan account and term loan agreement. That the expenditure for Loan processing and Bank Charges is Rs.10,62,611/- as per the statement. That the NEDCAP service fees expenditure is Rs.5,12,214/- as per the statement and receipts and that the total of these items is Rs.75,32,451/- and that this is not disputed by the Respondent. That the Pre-operative expenses incurred by the Petitioner are Rs.55,93,456/- and a more detailed statement of the expenses was filed with Memo dated 02.12.2020 along with invoices and other documents. That as there are a large number of vouchers relating to pre-operative expenses, and as it is not practicable to furnish copies of all of them due to sheer volume, the Petitioner has filed a transaction statement from the computerized accounts. That the Petitioner has submitted all available bills and vouchers can be produced for the perusal of the Commission and return. That the entire amount of Rs.55,93,457/- is objected to by the Respondent on the specious and misconceived ground of their incorrect comprehension of a UP Government's policy which has no application whatsoever to the clause. That the Petitioner has given sufficient details and further bills are available for perusal by the Commission. That NEDCAP is the designated Nodal Agency, and its approval is essential for proceeding with the project. That the PPA entered into by the Respondent is also pursuant to the NEDCAP approval and agreement with NEDCAP as evidenced by the recitals in the PPA and that the fees paid to NEDCAP are an essential pre-operative expenditure.

**Commission's Decision:**

While the petitioner made a claim of preoperative expenses based on the Chartered Accountant's certificate, the respondent relied upon the policy of Government of Uttar Pradesh for allotment of projects to Mini Hydel Projects to the effect that Government shall not reimburse any expense incurred by private developers on investigating survey or pre-operative expenses whatsoever regarding small hydro projects.

The petitioner claimed an amount of Rs.70,20,237/- towards Interest during construction and loan processing & bank charges. Upon verification it is found that, Rs.59,57,626/- towards IDC, Rs.2,50,000 towards agreement, Rs.7,14,688 towards processing fee can be allowed in view of the proofs being available. The amount of Rs.37,489/- towards valuation charges and Rs.60,434/- towards bank charges cannot be allowed as no proof of expenditure is submitted in this regard. In the result an amount of Rs.69,22,314 is allowable under IDC and loan processing charges.

As regards the objection raised by the respondent based on UP.Government's order,we have not felt persuaded to accept the same.Preoperative expenses being essential for setting up a power project,it would be unreasonable to disallow them, if they are genuinely incurred. We shall therefore examine the petitioner's claim in this regard.

The petitioner claimed preoperative expenses of Rs.55,93,457/- towards professional charges, employee benefit expenses, travelling & communication expenses, office expenditure and fringe benefit taxes. The petitioner furnished break-up of the expenses, some invoices (stated to be major invoices) relating to professional fees and rates and taxes and a transaction statement stated to be taken from the computerized accounts relating to the entire pre-operative expenses. The purported major invoices are furnished in support of an expenditure of Rs.18,29,584/-. However, upon examination of the same, it is found that the documents included invoices, formats of challan and letters informing / requesting payments and transaction statements relating to the entire pre-operative expenses, whose authenticity is questionable; in the absence of receipts evidencing payments made by the petitioner.

The factom of expenditure should be a matter of evidence and not a matter of mere inferences or surmises.A company executing a power plant is not expected to just pay money to different agencies without obtaining receipts. Unfortunately the petitioner failed to produce proof of payments such as cheques/DDs through which such payments are made and bank statements in proof of such payments. The petitioner also failed to produce receipts from various agencies in proof of such payments. This is the most unprofessional way of execution of a power project.

Even if the petitioner incurred such expenditure as claimed by it,that cannot be taken into consideration based on its self-serving statements and in the absence of any legal

proof. The petitioner failed to display any modicum of diligence in making payments under various heads. No explanation whatsoever has been offered in this regard by the petitioner. Therefore, the Commission is not inclined to accept any claim of expenditure which is not supported by the acceptable evidence as discussed above. By Applying this criterion, the only item of expenditure which is supported by proper proof is Rs.51,600/- .

As regards the various charges stated to be paid to NEDCAP totalling an amount of Rs.5,12,214/-, the following may be noted.

- a. Only a copy of the banker's cheque drawn in favour of M/s NEDCAP is submitted in respect of the Registration charges of Rs.37,500/- but no receipt / bill is furnished. The petitioner failed to produce its bank statement showing payment to the nodal agency. Hence, it cannot be allowed.
- b. The receipt towards payment of service charges of Rs.3,65,140/- to NEDCAP is dated on 20.10.2003 at which point of time 3 MW capacity project stands granted to the petitioner and as such the service charges to the extent of 1.5 MW may only be eligible to be allowed as only one unit stands commissioned. The allowable amount under this head comes to Rs.1,82,570/-
- c. An amount of Rs.75,000 is claimed towards Bank guarantee. However, the concept of bank guarantee is such that the bank gives an assurance to the third party in whose favour the bank guarantee is issued so that the same can be invoked by such third party upon certain identified default events committed by the party arranging for the bank guarantee. In such cases, only the bank guarantee charges are paid and hence the amount of Rs.75000/- cannot be allowed and furthermore since the bank guarantee charges are not indicated, no amount can be allowed under this head.
- d. As regards the application fee of Rs.500, the receipt attached is clearly stating that the amount is paid towards "Registration fee for MHS business meet" and that too it is dated 13.12.2000 much before the project's conceptualization. Hence, the same cannot be allowed.
- e. There is no receipt furnished nor any document is referred to as proof for the payment of bank guarantee charges of Rs.33,074. Hence, the same cannot be allowed.

Accordingly, the net amount allowable under preoperative & financial charges including IDC is Rs.71,56,484 (Rs.69,22,314 + Rs.51,600 + Rs.1,82,570)

24. In the light of the above analysis, the net capital cost allowable as can be arrived at, is given in the Table hereunder:

S. No.	Particulars	Net Allowable Cost (Rs.)
1	Land	3,86,592
2	Civil Works	1,55,88,211
3	Gates and Structures	60,20,632
4	Electro Mechanical Works	3,87,35,107
5	Transmission lines	11,64,071
6	Computers	48,600
7	Furniture	12,610
8	Preoperative & Finance Expenses	71,56,484
<b>Total (Rs.)</b>		<b>6,91,12,307</b>
<b>Capital Cost / MW (Rs.) considering the capacity of 1.5 MW</b>		<b>4.61</b>

25. Based on the capital cost determined as above, the tariff for the first 10 years of operation is as under.

Year of operation	Tariff payable in Rs.per unit
1st year	3.98
2nd year	3.88
3rd year	3.78
4th year	3.69
5th year	3.59

6th year	3.50
7th year	3.41
8th year	3.33
9th year	3.25
10th year	3.18

26. The petition is disposed of accordingly. No Costs.

**Sd/-**

**Thakur Rama Singh**  
**Member**

**Sd/-**

**Justice C.V. Nagarjuna Reddy**  
**Chairman**

**Sd/-**

**P. Rajagopal Reddy**  
**Member**

