

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 74 of 2011

In the matter of
Implementation of Hon'ble Appellate Tribunal for Electricity's Judgment dated
27th April, 2011 in Appeal No. 72 of 2010 – MSPGCL v/s MERC & Ors.

Shri. V.P. Raja, Chairman
Shri Vijay. L. Sonavane, Member

ORDER

Dated: July 26, 2011

1. BACKGROUND AND BRIEF HISTORY :

1.1 In exercise of powers conferred under Section 61 & 62 of the Electricity Act, 2003 and in accordance with the Maharashtra Electricity Regulatory Commission (Terms & Conditions of Tariff) Regulations, 2005, the Commission issued the Order in Case 26 of 2008 on October 21, 2009 in the matter of Maharashtra State Power Generation Company Limited's (MSPGCL) Petition for Determination of Tariff for Unit No. 6 of Parli Thermal Power Station.

1.2 The Commission vide the above referred Order approved the Capital Cost of the project and determined the tariff for the Unit No. 6 of Parli Thermal Power Station. While doing so, the Commission had disallowed certain claims made by MSPGCL, and accordingly, the approved Capital Cost was lesser than the Capital Cost submitted by MSPGCL.

1.3 Aggrieved by the above referred Order of the Commission, MSPGCL preferred an Appeal No 72 of 2010 before the Hon'ble Appellate Tribunal for Electricity (ATE). The Hon'ble ATE on having heard the Appeal delivered a Judgement in

Appeal No. 72 of 2010 dated 27th April, 2011 and gave directions in regard to the following:-

- A. Reason for delay in commissioning of the Parli Unit no. 6 and consequential disallowance of the Capital Cost;
- B. Disallowance of actual Capital Cost incurred;
- C. Disapproval of Advance Against Depreciation (AAD);
- D. Deferment of Additional Capitalization;
- E. Disallowance of Return on Equity on investments;
- F. Non-consideration of carrying cost.

1.4 Based on the above direction, the Commission conducted hearing on June 10, 2011 and additional submissions were requested from MSPGCL on the respective matters. Subsequently, further hearings on the same matter were held on June 28, 2011 & July 08, 2011. The Commission, after having heard MSPGCL and after scrutiny of details provided by the Petitioner, issues this Order to revise the capital expenditure and the corresponding tariff as approved by the Commission under its previous Order in the matter in Case 26 of 2008.

1.5 Base Capital Cost:

On February 5, 2010, MSPGCL filed its original Petition for “Approval of Truing up for FY 2007-08 and FY 2008-09 for Parli Unit 6 and Truing up of Paras Unit 3, Annual Performance Review for FY 2009-10 and Determination of Tariff for FY 2010-11 for Parli Unit 6 and Paras Unit 3”.(Case 107 of 2009). Technical validation session in the said matter was held on August 24, 2010, in which the Commission directed MSPGCL to submit a revised petition based on the Capital Costs as approved by the Commission in its Orders in the matter of Case 26 of 2008 on October 21, 2009 for Parli Unit 6 and Case 95 of 2008 on December 15, 2009, for Paras unit 3 respectively. On October 22, 2010, as per the directions of the Commission as above, MSPGCL submitted its revised petition for the same, in which it submitted two scenarios as under:

Scenario-1: Submissions as per MSPGCL (considering capital cost as per CA certification)

Scenario-2: Capital cost as per principles adopted by the Commission in MYT Orders dated October 21, 2009 and December 15, 2009.

MSPGCL submitted that it has considered the capital cost as per CA certification under Scenario -1 and the capital cost adopting the principles followed by the Commission in the MYT Order under Scenario-2.

Thereafter, on scrutiny of the all the relevant submissions, the Commission issued its Order in the matter of Case 107 of 2009 on April 13, 2011, in which the Commission made the following observation:

“Scenario 2 is substantially different than the Capital Cost approved by the Commission in its MYT Orders for both the Units. The Commission is of the view that MSPGCL, in its revised APR Petition, has submitted the break-up of Capital Cost as per CA certification, which is substantially different than the Cost Break-up submitted by MSPGCL in the MYT Petitions, which were based on the audited accounts. The analysis of detailed break-up indicates that the Works Cost have increased while the Overheads component has been reduced, as compared to that submitted by MSPGCL in the MYT Petition, and approved by the Commission in its MYT Orders. The Commission, in its MYT Orders, has already held that the Capital Cost (Works Cost) of these two Units is significantly high in absolute terms as well as in comparison to the order placement costs, considering the fact that these Units were brown-field expansion Projects at existing Stations. The Commission is of the view that if the revised Works Cost as submitted by MSPGCL based on re-stated cost by CA is considered, it will further increase the total Capital Cost of these two Units in absolute terms, which as observed by the Commission is already on the higher side.

“Further, as submitted by MSPGCL in its APR Petition, MSPGCL has filed Appeals with the ATE on the MYT Orders of the Commission and has raised the issues of variation in Capital Cost approved by the Commission and actual Capital Cost. The Commission is of the view that as the Judgment on the Appeals filed by MSPGCL with ATE against the capital cost approved by the Commission for Parli Unit 6 and Paras Unit 3 in its MYT Orders is still pending, it may not be appropriate to revise the Capital Cost of these Units as on COD at this stage. The Commission will revise the Capital Cost of Parli Unit 6 and Paras Unit 3 as on COD, if required, after the Judgment on Appeals

filed by the MSPGCL and at that time only, the Commission will re-examine the Capital Cost re-statement submitted by MSPGCL as certified by CA.

“The Commission, therefore, for the purpose of this Order has considered the Capital Cost as approved by the Commission for Parli Unit 6 and Paras Unit 3 in its MYT Orders dated October 21, 2009 and December 15, 2009 respectively. Accordingly, the Commission has considered Capital Cost as on COD for Parli Unit 6 as Rs. 1155.35 Crore and Paras Unit 3 as Rs. 1207.29 Crore.”

As observed by the Commission, the “Works Cost” under for Parli Unit 6 under Scenario 2 has increased to Rs 1111.17 Crores from approved Rs 1029.32 Crores; the Overheads have been halved from Rs 154.55 Crores to Rs 72.36 Crores. Similarly there are variations in each sub-head of Capital cost. However, the net variance as shown therein is just approx. Rs 58 Crores. The Commission has noted that although in its judgment the Hon’able ATE has given directions and not approved any specific costs, the entire judgment is based on the facts and figures presented to the Hon’able Appellate Tribunal from the Commission’s Orders in Case 26 of 2008 for Parli Unit 6 and Case 95 of 2008 for Paras Unit 3. The Hon’able Appellate Tribunal has not considered any of the revised submissions of MSPGCL nor the directives issued by the Commission in the Order of Case 107 of 2009 of April 13, 2011, as chronologically the matter came much later.

In view of these circumstances as explained above, the Commission has implemented herein, the judgment given by the Hon’able Appellate Tribunal by re-visiting its Orders issued in Case 26 of 2008 for Parli Unit 6 and in Case 95 of 2008 for Paras Unit 3. The Commission, in discussion with MSPGCL, intends to undertake a separate exercise later, to true up the costs, if called for, after detailed scrutiny of aspects leading to “scenario 2” submitted by MSPGCL.

2. Observation of the Hon'able ATE

2.1 The Hon'ble ATE dealt with the above issues vide its Judgment dated April 27, 2011 in Appeal No. 72 of 2010. The Hon'able ATE's ruling on various aspects raised in MSPGCL's Appeals have been summarised below:

A. Reason for delay in commissioning of the Parli Unit no. 6 and consequential disallowance of the capital cost:

The Hon'able ATE directed the Commission to re-calculate the excess IDC and Overhead costs for time over-run from the scheduled date of commissioning to the actual date of commissioning on a pro-rata basis with respect to the total actual time taken in commissioning of the unit. 50% of the excess IDC and Overhead costs are allowed to the Petitioner. The Hon'able ATE held that the cost of time over run has to be shared equally between the generating company and the consumers. The Hon'able ATE also held that excess IDC and Overhead costs for time overrun from scheduled date of commissioning to actual date of commissioning has to be worked out on prorata basis with respect to total actual time taken in commissioning of the unit. 50% of the excess IDC and Overhead costs will have to be disallowed. Deduction on account of 50% of the Liquidity Damages received by MSPGCL from its suppliers/contractors has also to be allowed from the capital cost, to give due credit of LDs to the consumers.

B. Disallowance of actual capital cost incurred:

- i. The Hon'able ATE directed the Commission to consider the actual cost of the initial spares subject to maximum of 3% of the approved Capital Cost.
- ii. The Hon'able ATE directed the Commission to re-determine the Capital Cost, and accordingly, recalculate the debt and interest on debt

C. Disapproval of Advance Against Depreciation (AAD):

Regarding Advance Against Depreciation the Hon'able ATE directed the Commission to re-determine station-wise AAD as per its Regulations i.e. MERC (Terms and Conditions of Tariff) Regulations, 2005

D. Deferment of Additional Capitalization:

The Hon'able ATE directed the petitioner to submit the desired information to the State Commission in the matter of Additional Capitalization and directed the Commission to consider it at the earliest.

E. Disallowance of Return on Equity on investments:

The Hon'able ATE directed the Commission to allow capitalization of only such common facilities which were essential for commissioning of Parli Unit no. 6.

F. Non-consideration of carrying cost:

The Hon'able ATE upheld that if the final tariff is higher than the provisional tariff, the Appellant is entitled to carrying cost.

3. IMPACT OF JUDGMENT OF THE HON'ABLE APPELLATE TRIBUNAL FOR ELECTRICITY (ATE)

3.1 Non-consideration of reasons for delay in commissioning of Parli Unit No. 6 and consequential disallowance of the capital cost.

In accordance with the Hon'ble ATE Judgment on this issue, the Commission has recalculated the capital cost which is explained in the following sections

3.2 Disallowance of actual Capital Cost incurred:

The Commission, while approving the Capital Cost for the Parli Unit No.6 in Case No.26 of 2008 dated October 21, 2009 had disallowed a part of the Capital Cost under the following heads

- i. Overheads
- ii. Cost of Initial Spares
- iii. Interest During Construction and Finance Charges (IDC & FC)
- iv. Liquidated Damage
- v. Cost of Common Facilities
- vi. Interest on loans due to pro-rata reduction in debt component as per debt equity ratio

The Commission has recomputed each of the above mentioned items in the following sections as per the direction of the Hon'ble ATE.

3.2.1 Overheads:

As regards to the Overheads, the Commission in its Order dated October 21, 2009 in Case No. 26 of 2008 had approved the cost of Overheads, based on the percentage ("%") of the Capital Cost provided by CEA in TEC process. Overheads considered by CEA were 8.09% of the Capital Cost, excluding IDC and FC. Accordingly, for the purpose of computing the Capital Cost for the Project, the Commission had considered Overheads as 8.09% of the then allowed Capital Cost, excluding IDC and FC, which amounts to Rs. 89.00 Crore as against Rs. 154.55 Crore considered by MSPGCL.

In this regard, the Hon'able ATE, in its Judgment dated April 27, 2011 in Appeal No. 72 of 2010, ruled as under:

“Excess IDC and overhead costs for time overrun from scheduled date of commissioning to actual date of commissioning has to be worked out on prorata basis with respect to total actual time taken in commissioning of the unit. 50% of the excess IDC and overhead costs will have to be disallowed”

As per the direction of the Hon'able ATE the Commission recomputed the Overheads on a prorata basis with respect to the actual Commissioning of the Project and allowed 50% the excess Overheads so calculated. The summary of the calculations is provided in the table below.

Table 1: Overheads (All figures are in Rs. Crore)

Sl. No	Description	(Rs. Crores)
1	Overheads Approved by the Commission	89.00
2	Excess Overheads as per the Hon'able ATE Judgement Considering the actual project Commissioning	38.94
3	50% of the Excess Overheads	19.47
4	Net Overheads As per the Hon'able ATE Judgement (1+3)	108.47

3.2.2 Cost of Initial Spares:

As regards to the Cost of Initial Spares, the Commission in its Order dated October 21, 2009 in the matter of Case No. 26 of 2008 had calculated the cost of Initial Spares in line with its Tariff Regulations and had restricted the Cost of Initial Spares to 2.5% of the Capital Cost.

In this regard, the Hon'able ATE, in its Judgment dated April 27, 2011 in Appeal No. 72 of 2010, ruled as under:

“8.8. We find substance in the arguments of the Appellant. It is true that the tariff has been determined according to the 2005 Regulations. However, the State Commission has powers to relax under the provisions of the Regulations. When the Appellant placed the orders, there were no regulations and it could be guided only by the CEA's TEC which allowed capital spares @ 3% of capital cost. Admittedly the Appellant has incurred the cost of capital spares.

Looking into the circumstances of the case, it is fit case where the State Commission may exercise its power to relax the norms. Accordingly, we direct the State Commission to consider the actual cost of initial spares subject to maximum of 3% of the approved capital cost”

As per the direction of the Hon’able ATE the Commission recomputed the Cost of Initial Spares @ 3% of the Capital Cost of the Project, the summary is provided in the table below.

Table 2: Initial Spares (All figures are in Rs. Crore)

Description	As per MSPGCL	As approved by MERC	Re-calculated and approved as per Hon’able ATE judgment
Initial spares	47.25	29.60	35.09

3.2.3 Interest During Construction and Finance Charges (IDC & FC)

As regards the calculations for Interest during Construction (IDC), the Commission in its Tariff Order dated October 21, 2009 in the matter of Case No. 26 of 2008 had disallowed excess IDC on account of the project completion delay. The Commission had re-computed the IDC considering the original schedule (phasing of expenditure) and revised debt: equity ratio arrived at, based on total equity funding including equity brought in to repay certain proportion of debt.

In this regard, the Hon’able ATE, in its Judgment dated April 27, 2011 in Appeal No. 72 of 2010, ruled as under:

“Accordingly, following the principles of prudence check laid down by us, the cost of time over run has to be shared equally between the generating company and the consumers. Admittedly, there is no enhancement in cost of the contract price of the equipment as no price variation escalation was permissible to BHEL beyond the schedule date of completion of the Project according to the terms of the agreement. The impact of time over run beyond the contractual schedule is only on IDC and overhead costs. Accordingly, the same have to be shared between the generating company and the consumers. Excess IDC and overhead costs for time overrun from scheduled date of commissioning to actual date of commissioning has to be worked out on prorata basis with respect to total actual time taken in commissioning of the unit. 50% of the excess IDC and overhead costs will have to be disallowed.

Deduction on account of 50% of the Liquidity Damages received by the Appellant from its suppliers/contractors has also to be allowed from the capital cost, to give due credit for LDs to the consumers. This issue is answered accordingly”

As per the direction of the Hon’able ATE the Commission has recomputed the Interest on Working Capital on a prorata basis with respect to the actual Commissioning of the Project. Further, the Commission allowed 50% of the excess IDC so calculated, to be considered for addition to the Capital Cost of the Project. The summary is provided in the table below.

Table 3: Interest During Construction (All figures are in Rs. Crore)

Sl. No	Description	(Rs. Crores)
1	IDC&FC Approved by the Commission	135.97
2	Excess IDC&FC as per the Hon’able ATE Judgement Considering the actual project Commissioning	59.49
3	50% of the Excess IDC&FC	29.74
4	Net IDC&FC As per the Hon’able ATE Judgement (1+3)	165.71

3.2.4 Liquidated Damage

As regards the Liquidated Damage (LD) calculation, the Commission, in its Tariff Order dated October 21, 2009 in the matter of Case No. 26 of 2008 had not reduced the Liquidated Damages from the project cost, which MSPGCL had recovered from M/S. BHEL, as it had not allowed the excess IDC claimed by MSPGCL

In this regard, the Hon’able ATE, in its Judgment dated April 27, 2011 in Appeal No. 72 of 2010, ruled as under:

“Deduction on account of 50% of the Liquidation Damages received by the Appellant from its suppliers/contractors has also to be allowed from the capital cost, to give due credit for LDs to the consumers”

As per the direction of the Hon’able ATE, the Commission has recomputed the project cost by deducting therefrom, 50% of the Liquidated Damage received by MSPGCL from the suppliers/ contractors.

3.2.5 Cost of Common Facilities

As regards the Cost of Common facilities the Commission had observed in its Order dated October 21, 2009 in Case No. 26 of 2008, that apportioning of the cost of Common facilities between the Parli Unit 6 and Unit 7 had been done as per the submission made by the MSPGCL. The relevant extract of the said Order is reproduced as under;

“The Commission obtained the cost of the common facilities, which have been considered as part of Project Cost of this Unit, but the facilities are proposed to be shared with the other Unit yet to be commissioned at Parli. MSPGCL submitted the allocation of common facilities cost into Rs. 92.33 Crore for Parli Unit No. 6 and Rs. 82.23 Crore for Parli Unit No. 7 (yet to be commissioned). Accordingly, the Commission has considered the reduction in capital cost as on COD to the extent of Rs. 81.29 Crore (i.e., not considering the cost of Rs. 0.94 Crore towards rising of Khadka Barrage as such expenses has been petitioned by MSPGCL to be incurred after COD) pertaining to Parli Unit No. 7”

For re-computation of the Cost of Common Facilities the Commission has followed the rulings given by the Hon’ble ATE in its Judgment dated April 27, 2011 in Appeal No. 72 of 2010, ruled as under.

“Accordingly, the State Commission is directed to allow capitalization of only such common facilities, commissioning of which were essential for commissioning of Unit no. 6, in capital cost of Unit no. 6”

In this regard the Commission directed the MSPGCL to submit a report identifying the elements of Common Facilities which are essential for the Commissioning of the Parli Unit 6.

MSPGCL submitted that the entire Common facilities were essential for the Commissioning of the Parli Unit 6. Accordingly the Commission has considered the entire Cost of the Common facilities in the project Cost of Parli Unit 6.

3.3 Project Cost of Unit 6 of Parli Thermal Power Station:

Based on the directives of the Hon'able ATE the Commission has recomputed the Capital Cost for the Unit 6 of the Parli Thermal Power Station and the summary is provided in the Table below:

Table 4: Project Cost (All figures are in Rs. Crore)

Sr. No.	Description	MSPGCL Submission	MERC Approved	Revised as per the Hon'able ATE judgment
1	Land & Land development	1.98	1.98	1.98
2	Fuel Cost of infirm power	-	66.05	66.05
3	Mandatory and initial spares	47.25	29.60	35.09
4	Work Cost (Including Taxes & Duties)	1,200.69	1,164.24	1,169.74
5	Actual Overheads	154.55	154.55	154.55
6	Project Cost excluding overheads	1,048.12	1,011.67	1,017.17
7	Approved Overheads	-	89.00	108.47
Project Cost (Excluding IDC & FC)		1,249.92	1,100.67	1,125.64
8	Less, Cost of Common Facilities	(81.29)	(81.29)	
9	Net Project Cost (Excluding IDC & FC)	1,168.63	1,019.38	1,125.64
10	IDC & FC	212.41		
11	Less: Interest on account of repay of loan	(11.00)	135.97	138.38
12	Less: Liquidated Damages	(54.66)		
Net Project Cost		1,315.38	1,155.35	1,264.02

3.3 Interest on loans due to pro-rata reduction in debt component as per debt equity ratio:

3.3.1 As regards the interest on loans the Hon'able ATE has directed the Commission to re-determine the capital cost based on the principles laid down by the Hon'able ATE with respect to the computation of IDC, Overheads, and Liquidated Damages. The relevant paragraphs of the Hon'able ATE Judgment in Appeal No. 72 of 2010 in the matter is reproduced as under:

"8.9. As regards disallowance of interest on loan, we have directed the State Commission to re-determine the capital cost according to our findings on cost of spares, overheads, etc. Accordingly, the amount of debt and interest on debt will have to be re-determined"

3.3.2 In accordance with the Hon’able ATE judgment, the Commission has recomputed the Loan Repayment & Interest on Loan. The detail calculation is summarised in the table below:

Table 5: Interest on Loan (All figures are in Rs. Crore)

Particulars	FY 2007-08	FY 2008-09	FY 2009-10
A. PFC			
Opening Loan Balance	770.66	738.55	661.48
Repayment during the year	32.11	77.07	77.07
Closing Balance	738.55	661.48	584.42
Interest Expense	35.26	77.55	75.59
B. GoM			
Opening Loan Balance	148.94	142.73	127.84
Repayment during the year	6.21	14.89	14.89
Closing Balance	142.73	127.84	112.94
Interest Expense	7.10	15.64	13.93

3.3.3 Disapproval of Advance Against Depreciation (AAD);

As regards the Advance Against Depreciation (AAD) calculation, the Commission, in its Tariff Order dated October 21, 2009 in Case No. 26 of 2008 had observed as under

The Commission is of the view that AAD is intended to meet shortfall in meeting loan repayment obligations of the Generating Company, and is not intended to provide additional cash flow to the Generation Company. While tariff is determined on a station-wise basis, AAD is a special provision, which enables the Utility to meet its loan repayment obligations as a whole rather than for each Station. Giving AAD on a station-wise basis may result in a situation, where the generation tariffs are determined higher to account for the component of AAD, even though the Company has enough funds to meet its loan repayment obligations.”

In this regard, the Hon’able ATE, in its Judgment dated April 27, 2011 in Appeal No. 72 of 2010, ruled as under:

“This issue has already been decided by this Tribunal in its Judgment dated 27th April, 2011 in Appeal no. 191 of 2009 in the matter of Maharashtra State Power Generation Co. Ltd. vs. Maharashtra Electricity Regulatory Commission & Ors. which would apply to the present facts of this case. Accordingly, the State Commission is directed to re-determine station-wise AAD as per its Regulations by following the Judgment of this Tribunal referred to above.”

“9.2. In view of above we decide this issue in favour of the Appellant. The State

Commission is accordingly directed to re-determine station-wise AAD, as per its Regulations”.

In accordance with the Hon’able ATE judgment, the Commission has recomputed the Advance Against Depreciation station wise. The detail calculation is summarised in the table below:

Table 6: Advance Against Depreciation (All figures are in Rs. Crore)

Particulars	2007-08	2008-09	2009-10
Advance Against Depreciation	19.68	47.22	47.22

3.3.4 Deferment of Additional Capitalization.

As regards the Additional Capitalization, the Commission in its Tariff Order dated October 21, 2009 in Case No. 26 of 2008 had observed as under;

“The Commission observed that though MSPGCL has submitted the amount of additional capitalisation, it has not submitted the detailed scope of work along with estimate, list of deferred liabilities and works deferred for execution. Accordingly, the Commission has not considered the additional capitalisation as submitted by MSPGCL for FY 2007-08 and FY 2008-09, and directs MSPGCL to submit the details of the additional capitalisation in accordance with the MERC (Terms and Conditions of Tariff) Regulations, 2005 based on the actual expenditure incurred. Though the Commission has not considered the impact of the additional capitalisation at this stage, the Commission may consider the same after detailed scrutiny of the additional capitalisation actually incurred subject to prudence check during final truing up”.

Subsequently, the Commission revisited the same issue during the Annual Performance Review Petition filed by the MSPGCL. The Commission, after scrutiny of the data of actual expenditure incurred along with the financing of such capitalisation, as provided by MSPGCL, in its Order in Case 107 of 2009 issued on April 13, 2011, finalized the Additional Capitalization of Rs 139.76 Crores in accordance with the MERC (Terms and Conditions of Tariff) Regulations, 2005.

The Hon'ble ATE has not taken cognisance of the said Order in Case 107 of 2009 issued on April 13, 2011 and therefore, in its judgment under reference here, has directed the Commission to consider the matter expeditiously. The relevant extract of the said Order is reproduced as under;

“10.2. Tariff Regulation 30.2 provides for additional capitalization for inclusion in the original cost of project, subject to prudence check. In our opinion, the Additional capitalization should be considered expeditiously by the State Commission as the delay would only add IDC or carrying cost besides delaying return on equity to the Appellant. Accordingly, the Appellant is directed to submit the desired information to the State Commission and the State Commission would consider it at the earliest. This issue is answered accordingly”.

Accordingly, the Commission, has already complied with the judgment of the Hon'ble ATE vide its Order of Case 107 of 2009 as aforesaid.

4. Revised Annual Fixed Charges (AFC) for the FY 2007-08, FY 2008-09 & FY 2009-10

4.1 Based on the direction of the Hon'ble ATE, the Commission has recomputed the Annual Fixed Charge for Parli Unit 6. The detail calculation is summarised in the table below:

Table 7: Annual Fixed Charges (All figures are in Rs. Crore)

	2007-08		2008-09		2009-10	
	MERC Approved	Revised as per the ATE judgment	MERC Approved	Revised as per the ATE judgment	MERC Approved	Revised as per the ATE judgment
Depreciation	17.04	18.64	40.89	44.74	40.89	44.74
Advance Against Depreciation	0.00	19.68	0.00	47.22	0.00	47.22
Operation & Maintenance Expenses	12.35	12.35	31.24	31.24	33.13	33.13
Interest on Long Term Loan	39.00	42.35	86.07	93.19	81.76	89.52
Interest on Working Capital	5.27	5.88	14.58	16.01	12.67	14.12
Return on Equity Capital	18.37	20.09	44.08	48.22	44.08	48.22

Total Annual Fixed Charges	92.03	118.99	216.85	280.63	212.52	276.94
Variation from the earlier Order	26.96	63.77	63.77	63.77	64.42	64.42

5. Carrying Cost & Net Impact

5.1 As regards the allowance of carrying cost, the Commission has allowed the same in accordance with the ruling given by the Hon'ble ATE in another matter, in its Judgment in Appeal No. 117 of 2008 filed by Reliance Infrastructure Ltd.- Distribution Business- (RInfra-D) against the Commission's Order dated June 4, 2008 on APR Petition for FY 2007-08. The relevant extract of the said Judgment regarding carrying cost is reproduced as under:

“47. As the MERC Regulations deploy the Short Term Prime Lending Rate of State Bank of India for working out interest on Working Capital there is no reason why the same yardstick is not used when it comes to applying interest rate on deferred payments. The licensee shall have to arrange the amount of deferred payment in the same way as the Working Capital. We, therefore, direct the Commission to allow Short Term Prime Lending Rate of SBI for deferred payments and incorporate the same while carrying out the truing up exercise for the year 2008-09.”

5.2 Accordingly, the Commission has allowed the carrying cost based on the SBI PLR rate as approved by the Commission for the respective year in various APR Orders on the under-recovered amount. The detail calculation is summarised in the table below:

Table 8: Carrying Cost & Net Impact (All figures are in Rs. Crore)

Sl. No.		2007-08	2008-09	2009-10	2010-11	Till First Quarter of FY 2011-12
1	Opening	0	28.26	103.77	190.05	213.33
2	Addition in Annual Fixed Charges after ATE judgment	26.96	63.77	64.42	-	-
3	SBI PLR Rate	11.50%	12.75%	13.00%	12.25%	13.25%
4	Carrying Cost	1.29	11.73	21.86	23.28	7.07
5	Final Amount	28.26	103.77	190.05	213.33	220.40

6. Recovery of under-recovered amount from MSEDCL

6.1 As regards the recovery of amount of previous years, the Commission hereby allows MSPGCL to recover the approved amount of Rs. 220.40 Crore in 6 equal monthly instalments from MSEDCL, in order to avoid any tariff shock to the consumers.

With this Order, the Commission disposes Case No. 74 of 2011.

Sd/-
(Vijay. L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman