

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
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**Case No. 75 of 2011**

**In the matter of**

**Implementation of Hon'ble Appellate Tribunal for Electricity's Judgment dated 24<sup>th</sup>  
May, 2011 in Appeal No. 99 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 95 of 2008 on December 15, 2009 in the matter of Maharashtra State Power Generation Company Limited's (MSPGCL) Petition for Determination of Tariff for Unit No. 3 of Paras 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. 3 of Paras 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 99 of 2010 before the Hon'ble Appellate Tribunal for Electricity (ATE). The Hon'ble ATE on having heard the Appeal issued a Judgement on Appeal No. 99 of 2010 dated 24th May, 2011 and gave directions in regard to the following:-

- a) Non-consideration of reasons for delay in commissioning of Unit No. 3 of Paras Thermal Power Station 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;

The Hon'able ATE further decided "The State Commission is directed to give effect to the findings in this Judgment at the earliest"

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 details provided issues this Order to revise the capital expenditure and the corresponding tariff.

### **1.5 Base Capital Cost:**

On February 5, 2010, MSPGCL filed original Petition for "Approval of Truing up for FY 2007-08 and FY 2008-09 for Parli Unit 6 and 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 No. 107 of 2009). Technical validation session in the said matter was held on August 24, 2010, in which the Commission had directed MSPGCL to submit a revised petition based on the Capital Cost as approved by the Commission in its Orders in Case 26 of 2008 on October 21, 2009 for Parli Unit 6 and Case 95 of 2008 on 15 December 2009, for Paras Unit 3. On October 22, 2010, as per the directions of the Commission as above, MSPGCL submitted 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 all relevant submission, the Commission issued Order in Case 107 of 2009 on April 13, 2011, in which the Commission made the following observations:

*“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” 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’ble ATE has given directions and not approved any specific cost, the entire judgment is based on the facts and figures presented to the Hon’ble 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 revised submission of MSPGCL and the directives issued by the Commission in Case 107 of 2009 dated April 13, 2011 were not considered by the Hon’ble ATE.

In view of these circumstances as explained above, the Commission has implemented herein, the judgment given by the Hon'ble 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'ble ATE**

2.1 The Hon'ble ATE dealt with the above issues vide its Judgment dated May 24, 2011 in Appeal Nos. 99 of 2010. The Hon'ble ATE's ruling on various aspects raised in MSPGCL's Appeals have been summarised below:

### **A. Non-consideration of reasons for delay in commissioning of Paras Unit No. 3 and consequential disallowance of the Capital Cost;**

The Hon'ble ATE upheld MSPGCL's appeal regarding consideration of delays in commissioning of the Paras Unit No. 3 and consequential disallowance of the capital cost. The Hon'ble ATE directed the Commission to recalculate the excess IDC and Overhead costs for time overrun from scheduled date of commissioning to actual date of commissioning on a pro-rata basis with respect to total actual time taken in commissioning of the unit and 50% of the excess IDC and Overhead costs are allowed to the Petitioner. Further the Hon'ble ATE directed to deduct 50% of the Liquidated Damages received by the Appellant from its suppliers/contractors from the capital cost, to give due credit of Liquidated Damages to the consumers.

### **B. Disallowance of actual Capital Cost incurred;**

- i. The Hon'ble 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'ble 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'ble 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'ble 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.

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

**3.1 Non-consideration of reasons for delay in commissioning of Paras Unit No. 3 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 Paras Unit No.3 in Case No. 95 of 2008 dated December 15, 2009 had disallowed the capital under following heads

- i. Overheads
- ii. Cost of Initial Spares
- iii. Interest During Construction and finance Charges (IDC & FC)
- iv. Refund of interest subsidy under Accelerated Generation & Supply Programme Scheme (AG&SP)
- v. Liquidated Damage
- vi. Cost of Common Facilities
- vii. 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'able ATE.

**3.2.1 Overheads:**

As regards to the Overheads, the Commission in its Order dated December 15, 2009 in Case No. 95 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 6.85% 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 6.85% of the allowed Capital Cost, excluding IDC and FC, which amounts to Rs. 82.23 Crore as against Rs. 139.28 Crore considered by MSPGCL.

In this regard, the Hon’ble ATE, in its Judgment dated May 24, 2011 in Appeal No. 99 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 pro-rata basis with respect to the actual Commissioning of the Project. Further the Commission disallowed 50% the excess Overheads from the Capital Cost of the Project, the summary 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	82.23
2	Excess Overheads as per the Hon’able ATE Judgement Considering the actual project Commissioning	35.98
3	50% of the Excess Overheads	17.99
4	Overheads As per the Hon’able ATE Judgement (1+3)	100.22

### 3.2.2 Cost of Initial Spares:

As regards to the Cost of Initial Spares, the Commission in its Order dated December 15, 2009 in Case 95 of 2008, had calculated the cost of initial spares based on the industry practices & as per the Regulation 30.1 of the MERC (Terms and Conditions of Tariff) Regulations, 2005. The industry norm applicable for Initial Spares is 2.5% of the capital cost, and accordingly, the

Commission has restricted the cost of spares to 2.5% of the approved project cost accordingly.

In this regard, the Hon'ble ATE, in its Judgment dated May 24, 2011 in Appeal No. 99 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'ble 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: Cost of Initial Spares (All figures are in Rs. Crore)**

<b>Description</b>	<b>As per MSPGCL</b>	<b>As approved by MERC</b>	<b>As per Hon'able ATE judgment</b>
<b>Initial spares</b>	53.84	32.00	37.83

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

As regards the Interest during Construction (IDC) calculation, the Commission in its Tariff Order dated December 15, 2009 in Case No. 95 of 2008 had disallowed excess IDC on account of the project delay. The Commission had re-computed the IDC considering the original schedule (phasing of expenditure) and revised debt equity ratio arrived based on total equity funding including equity funded to repay certain proportion of debt.

In this regard, the Hon'able ATE, in its Judgment dated May 24, 2011 in Appeal No. 99 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’ble ATE, the Commission recomputed the Interest on Working Capital on a pro-rata basis with respect to the actual Commissioning of the Project. Further, the Commission disallowed 50% the excess IDC from 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)**

<b>Sl. No</b>	<b>Description</b>	<b>(Rs. Crores)</b>
<b>1</b>	IDC&FC Approved by the Commission	103.14
<b>2</b>	Excess IDC&FC as per the Hon’ble ATE Judgement Considering the actual project Commissioning	45.12
<b>3</b>	50% of the Excess IDC&FC	22.56
<b>4</b>	IDC&FC As per the Hon’ble ATE Judgement (1+3)	125.70

### **3.2.4 Liquidated Damage**

As regards the Liquidated Damage (LD) calculation, the Commission in its Tariff Order dated December 15, 2009 in Case No. 95 of 2008 had not reduced

the Liquidated Damage from the project cost, which MSPGCL had recovered from M/S. BHEL, as it had not considered the increase in the project cost due to delay in the execution of the project.

In this regard, the Hon'ble ATE, in its Judgment dated May 24, 2011 in Appeal No. 99 of 2010, ruled as under:

*“Deduction on account of 50% of the Liquidated 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'ble ATE the Commission has recomputed the project cost by reducing 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 December 15, 2009 in Case No. 95 of 2008, that the apportion of the Cost of Common facilities between the Paras Unit 3 And Unit 4 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 Paras. MSPGCL submitted the allocation of common facilities cost as Rs. 118.12 Crore for Paras Unit No. 3 and Rs. 78.30 Crore for Paras Unit No. 4 (yet to be commissioned). Accordingly, the Commission has considered the reduction in capital cost as on COD to the extent of Rs. 78.30 Crore pertaining to Paras Unit No. 4”*

For re-computation of the Cost of Common Facilities the Commission has followed the rulings given by the Hon'able ATE in its Judgment dated April 27, 2011 in Appeal Number 72 of 2010. The relevant extract of the said Order is reproduced 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 Paras Unit 3.

In its reply, MSPGCL submitted that the entire Common facilities were essential for the Commissioning of the Paras Unit 3. Accordingly the Commission has considered the entire Cost Common facilities in the project Cost of Paras Unit 3.

### **3.2.6 Refund of interest subsidy under Accelerated Generation & Supply Programme Scheme (AG&SP)**

As regards the interest subsidy under Accelerated Generation & Supply Program Scheme, the Commission in its Order dated December 15, 2009 in Case No. 95 of 2008 had observed as under;

*“the MSPGCL had envisaged its debt funding from PFC under AG&SP of Ministry of Power. The guidelines issued under this programme were that the project should be completed/ commissioned within the X Five Year Plan. However, since Paras Unit 3 was not able to achieve its commissioning up to the end of 10th Five year plan, MSPGCL had to refund the entire amount of AG & SP subsidy passed on for Paras Unit 3 PFC. The Commission further observed as und that had the Project been commissioned on time, the amount of Rs. 18.47 Crore received as subsidy under AG&SP would have reduced the project cost by that amount. The amount refunded by MSPGCL under AG&SP cannot be passed on to consumers as the consumers in Maharashtra have already suffered in terms of load shedding as well as higher purchase costs from the costlier sources due to delay in the Project. Therefore, the Commission had not considered the refund of Rs 18.47 Crore under AG&SP as pass through to the consumers and has considered the benefit of interest subsidy while computing the tariff”*

In this regard, the Hon'ble ATE, in its Judgment dated May 24, 2011 in Appeal No. 99 of 2010, ruled as under:

*“The State Commission is directed to determine the IDC accordingly. The principle laid down by us for IDC and overheads will also be applicable to the amount of AG&SP loan subsidy”*

As per the direction of the Hon'ble ATE the Commission has reduced the 50% of the subsidy received under AG&SP Scheme from the Capital Cost of the Project.

### 3.2.6 Project Cost of Unit 3 of Paras Thermal Power Station:

Based on the directives of the Hon'ble ATE the Commission has recomputed the Capital Cost for the Unit 3 of the Paras 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	Cost as on Commissioning (Rs Cr)		
		As per MSPGCL	As approved by MERC	Revised as per Hon'able ATE judgment
1	Land & Land development	2.93	2.93	2.93
	Fuel Cost of infirm power	-	47.40	47.40
	Mandatory and Initial spares	53.84	32.00	37.83
2	Work Cost (Including Taxes & Duties)	1,324.28	1,255.04	1,260.87
	Project Cost excluding overheads	1,187.93	1,118.69	1,124.52
3	Approved Overheads	-	82.23	100.22
<b>Project Cost (Excluding IDC &amp; FC)</b>		<b>1,327.21</b>	<b>1,200.92</b>	<b>1,224.74</b>
4	Less, Cost of Common Facilities	(78.30)	(78.30)	-
5	<b>Net Project Cost (Excluding IDC &amp; FC)</b>	<b>1,248.91</b>	<b>1,122.62</b>	<b>1,224.74</b>
6	IDC & FC	216.07	103.14	112.87
7	Less: Interest on account of repay of loan		-	
8	Less: Liquidated Damages	(25.66)	-	
9	Less: Interest subsidy under AG&SP		18.47	9.24
<b>Net Project Cost</b>		<b>1,439.32</b>	<b>1,207.29</b>	<b>1,328.37</b>

### 3.2.7 Interest on loans due to pro-rata reduction in debt component as per debt equity ratio;

As regards the interest on loans the Hon'ble ATE has directed the Commission to re-determine the Capital Cost based on the principles laid down by the Hon'ble ATE with respect to the computation of IDC, overheads, LD and AG&SP. The

relevant paragraphs of the Hon’ble ATE Judgment in Appeal No. 99 of 2010 in the matter are reproduced as under:

*“8.4. 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.”*

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

**Table 5: Loan Repayment (All figures are in Rs. Crore)**

Particulars	FY 2008-09 (Rs. Crore)	FY 2009-10 (Rs. Crore)
<b>A. PFC</b>		
Opening Loan Balance	879.71	791.74
Repayment during the year	87.97	87.97
Closing Balance	791.74	703.77
Interest Expense	96.11	85.99
<b>B. GoM</b>		
Opening Loan Balance	127.22	114.49
Repayment during the year	12.72	12.72
Closing Balance	114.49	101.77
Interest Expense	13.90	12.44

### **3.2.7 Disapproval of Advance Against Depreciation (AAD);**

As regards the Advance Against Depreciation (AAD) calculation, the Commission in its Order dated December 15, 2009 in Case No. 95 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 as a whole. Accordingly, for the purpose of determination of tariff for Paras Unit No. 3, the Commission has not considered any AAD”*

In this regard, the Hon’ble ATE, in its Judgment dated May 24, 2011 in Appeal No. 99 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.”*

In accordance with the Hon’ble 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	(Rs. Crore)	
	2008-09	2009-10
Advance Against Depreciation	53.06	53.06

### **3.2.8 Deferment of Additional Capitalization.**

As regards the Additional Capitalization, the Commission in its Order dated December 15, 2009 in Case No. 95 of 2008 had observed as under

*“Since, the details of the additional capitalisation have not been submitted, the Commission has not considered the impact of the additional capitalisation at this stage, however, the Commission will consider the same provided that the requisite information stated hereinabove are submitted and detailed scrutiny of the additional capitalisation actually incurred is carried out 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 finalized the Additional Capitalization in accordance with the MERC (Terms and Conditions of Tariff) Regulations, 2005 based on the actual expenditure incurred along with the financing of such capitalisation.

In this regard the Hon’ble ATE 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”.

The Commission has already complied with the judgment of the Hon’ble ATE vide its Order in Case 107 of 2009.

#### 4. Revised Annual Fixed Charges (AFC) for the 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 Pars Unit 3. The detail calculation is summarised in the table below:

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

Elements of Fixed Cost	2008-09			2009-10		
	MSPGCL Submission	MERC Approved	Revised as per the Hon’ble ATE judgment	MSPGCL Submission	MERC Approved	Revised as per the Hon’ble ATE judgment
Depreciation	51.61	43.29	47.64	51.96	43.29	47.64
Advance Against Depreciation	51.69	-	53.06	51.35	-	53.06
Operation & Maintenance Expenses	31.24	31.24	31.24	32.92	33.13	33.13
Interest on Long Term Loan	121.71	99.81	110.01	112.65	88.93	98.43
Interest on Working Capital	16.81	8.67	11.73	17.52	14.91	14.88
Return on Equity Capital	48.76	40.90	45.00	48.76	40.90	45.00
Income tax paid/payable	5.52	-	-	5.52	-	-
<b>Total Annual Fixed Charges</b>	<b>327.35</b>	<b>223.91</b>	<b>298.67</b>	<b>320.69</b>	<b>221.17</b>	<b>292.13</b>
<b>Variation from the earlier Order</b>	74.76			70.96		

## 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 of Hon'ble ATE Judgement (All figures are in Rs. Crore)**

Sl. No		2008-09	2009-10	2010-11	Till First Quarter of 2011-12
1	Opening	-	84.29	175.43	196.93
2	Addition in Annual Fixed Charges after Hon'able ATE judgment	74.76	70.96	-	-
3	SBI PLR Rate (%)	12.75%	13.00%	12.25%	13.25%
4	Carrying Cost	9.53	20.18	21.49	6.52
5	Final Amount	84.29	175.43	196.93	203.45



**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. 203.45 Crore in 6 (“Six”) equal monthly instalments from MSEDCL, in order to avoid any tariff shock to the consumers.

With this Order, the Commission disposes Case No. 75 of 2011.

Sd/-  
(Vijay L. Sonavane)  
Member

Sd/-  
(V. P. Raja)  
Chairman