



TELANGANA ELECTRICITY REGULATORY COMMISSION
‘Vidyut Niyantran Bhavan’, G.T.S. Colony, Kalyan Nagar, Hyderabad 500 045

R.P.(SR) No.53 of 2024

in

O.P.No.4 of 2024

Dated 28.10.2024

Present

Sri. T. Sriranga Rao, Chairman
Sri. M. D. Manohar Raju, Member (Technical)
Sri. Bandaru Krishnaiah, Member(Finance)

Between.

1. Southern Power Distribution Company of Telangana Limited,
Corporate Office, 6-1-50, 1st floor, Mint Compound,
Hyderabad, Telangana 500 063.
2. Northern Power Distribution Company of Telangana Limited,
Corporate Office, Vidyut Bhavan,
Nakkalagutta, Warangal 506 001.

...Petitioners

AND

M/s Singareni Collieries Company Limited (SCCL),
Kothagudem Collieries, Bhadradi Kothagudem District,
Telangana 507 101.

...Respondent

The review petition came up for hearing on 09.09.2024. Sri. Mohammad Bande Ali, Law Attaché being the representative of the petitioner along with Sri. H. T. Vivekananda, Superintending Engineer TGPCC, Sri. K. Vijay Kumar Divisional Engineer, TGPCC, Smt. P. Sowjanya, Assistant Divisional Engineer, TGPCC, Smt. B. Sandhya Rani, Assistant Engineer, TGPCC, Smt. N. Malathi, Assistant Divisional Engineer, TGSPDCL, Smt. Swetha, Assistant Engineer and Sri. Eshwardas Divisional Engineer, TGSPDCL being representatives of the petitioner have appeared in the matter. The petition having been heard and having stood over for consideration to this day, the Commission passed the following:

ORDER

Southern Power Distribution Company of Telangana Limited (TGSPDCL) and Northern Power Distribution Company of Telangana Limited (TGNPDCL) (together TGDISCOMs or review petitioners) have filed a petition under Section 94(1)(f) of the Electricity Act, 2003 (Act, 2003) read with clause 32 of the TGERC conduct of business Regulations 2015 (Regulation No.2 of 2015) and also read with Order 47 Rule 1 of the Code of Civil Procedure 1908 seeking review of order dated 28.06.2024 in O.P.No.4 of 2024.

- a. It is stated that the review petitioners entered into a power purchase agreement (PPA) with the respondent M/s Singareni Coal Company Limited (SCCL) for supply of power from its 2x600 MW Singareni Thermal Power Project (STTP) for a period of 25 years from the COD of the project that is 02.12.2016 at a tariff decided by the Commission.
- b. It is stated that M/s SCCL was allotted Naini captive coal mine in the state of Orissa in respect of 2x600 MW STPP by the Ministry of Coal (MoC), Government of India (GoI) on 13.08.2015. As per the letter dated 30.08.2016 of MoC and as per minutes of special meeting of the standing linkage committee (SLC) (long term-LT) held on 18.03.2016, Naini coal block was expected to start production of coal from in the month of December 2020.
- c. It is stated in order to facilitate immediate requirement of coal to STPP project, a short-term linkage was granted from M/s SCCL mines under bridge linkage policy for a fixed period of 3 years that is from 13.08.2015 to 12.08.2018. The Commission vide orders dated 19.06.2017 and 28.08.2020 passed directions to M/s SCCL to actively pursue with the MoC for swapping of coal allocation from Naini coal blocks in Odisha to own mines of M/s SCCL which are closer to its generating station so that the cumbersome task of transportation of coal from Odisha and associated losses in quantity and GCV could be mitigated.
- d. It is stated that in pursuance thereof, TGDISCOMs addressed letter to M/s SCCL requesting to pursue with the MoC for swapping of coal allocation from Naini coal blocks in Odisha to own mines of M/s SCCL. M/s SCCL neither commenced the production from its captive coal block nor swapped coal allocation to the mines of M/s SCCL, even after lapse of 3 years. M/s SCCL got bridge linkage coal extension initially till March 2021. Subsequently, M/s SCCL got further extension up to 2024.

- e. It is stated that as a result of which various MoUs came to be entered for supply of bridge linkage coal to STPP from M/s SCCL mines up to 2024 with additional premium of 10% to 30% on notified basic price of coal. Consequently, variable cost/unit increased, which burdened the TGDISCOMs and ultimately the end consumers.
- f. It is stated that the review petitioners filed petition in O.P.No.13 of 2023 before the Commission praying
- "to issue directions to M/s SCCL to charge the Coal at the Notified Basic Price corresponding to the Coal grade, without any additional charge/premium, for the period from FY 2021-22 to till the date of operationalization of Naini Coal Block and later to adopt the CERC Input Price determination methodology, in the interest of end Consumers",*
- g. It is stated that the Commission after hearing the arguments of both parties, allowed O.P.No.13 of 2023 by order dated 01.04.2024. The relevant portion of the order is extracted below:
- "... .. the petitioners are entitled to the relief as prayed for, whereby the respondent is estopped from levying any premium on the coal price for whatever quantities agreed to be supplied in terms of the PPA. The respondent also shall continue to desist from levying any premiums henceforth until it has started production from the Naini coal block allotted to it as it is denuding the petitioners the benefit of cheaper coal availability through the variable cost paid by the petitioners, which is ultimately beneficial to the end consumers."*
- h. It is stated that in the month of January in 2024 when the order in O.P.No.13 of 2023 filed by TGDISCOMs was not pronounced since the same was reserved for order, M/s SCCL filed a petition in O.P.No.04 of 2024 on multi year tariff (MYT) approval for the control period FY 2024-25 to FY 2028-29 and true-up for FY 2022-23 matter, taking the premium coal price into consideration instead of notified basic coal price as prayed by TGDISCOMs in O.P.No.13 of 2023. The Commission finally passed order dated 01.04.2024 in O.P.No.13 of 2023, in favour of TGDISCOMS, directing M/s SCCL not to levy premium coal price.
- i. It is stated that the Commission disposed of O.P.No.4 of 2024 by order dated 28.06.2024 approved energy charge rate (ECR), fixed charge taking the premium coal price into consideration instead of notified basic coal price, in spite of the objection raised by the petitioners herein that premium coal price cannot be taken into consideration. Apart from this, R&M expenses (part of

O&M expenses) approved are contradictory to the Commission's earlier orders dated 28.08.2020 and 23.03.2023.

- j. It is stated that by the date of final hearing in O.P.No.4 of 2024 and reservation of the matter for orders, order dated 01.04.2024 in O.P.No.13 of 2023 was not pronounced. The Commission in O.P.No.13 of 2023 has categorically held that M/s SCCL is estopped from levying any premium on the coal price for whatever quantities agreed to be supplied in terms of PPA. Hence, the petitioners herein could not cite the order dated 01.04.2024 in O.P.No.13 of 2023 at the time of hearing. It is stated that after disposal of O.P.No.13 of 2023, the petitioners discovered the new and important evidence of prohibiting the M/s SCCL from levying premium on the coal price. Since the said new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of the petitioner, the same could not be produced before the Commission. Hence, the present review petition is being filed for rectification of error in computation of ECR, interest on working capital and fixed charges in the true-up for FY 2022-23 and also for the control period FY 2024-25 to FY 2028-29 in the order dated 28.06.2024 in O.P.No.04 of 2024 by reviewing the same in line with TGERC order dated 01.04.2024 in O. P. 13 of 2023, apart from this it is also requested for rectification of the error in computation of R&M expenses by reviewing the order dated 28.06.2024 in O.P.No.4 of 2024. The said errors are apparent on the face of record.

2. The review petitioner has stated about the present petition is on the following lines.

A) Error in the ECR approved in the true-up for FY 2022-23 and for the control period FY 2024-25 to 2028-29

- i) It is stated that Commission has dealt with the approval of ECR for FY 2022-23 in paragraph 4.1.52 of the order dated 28.06.2024.
- ii) The Commission in the aforesaid paragraph stated that Commission has recomputed the ECR for FY 2022-23 based on the details placed by M/s SCCL.
- iii) It is stated that however, in the petition O.P.No.4 of 2024 filed by M/s SCCL, dated 30.01.2024 before the Commission for true up of aggregate revenue requirement (ARR) for FY 2022-23 and for Multi Year Tariff (MYT) for the control period FY 2024-25 to FY 2028-29, M/s SCCL claimed ECR for FY 2022-23 based on the MOU entered with M/s SCCL wherein additional premium of 20% over and above the notified basic price of coal has been levied. Further, M/s SCCL in the petition O.P.No.4 of 2024, stated that the estimated energy charge for the first year of the

control period FY 2024-25 has been worked out based on coal and oil data for September 2023, October 2023 and November 2023 wherein additional premium of 30% over and above the notified basic price of coal has been levied and the same has been projected for the control period FY 2024-25 to FY 2028-29 also.

iv) It is stated before the Commission that TGDISCOMs vide their reply dated 14.03.2024, in O.P.No.4 of 2024, has already objected the high priced coal claimed by M/s SCCL that additional premium over and above the notified basic price of coal being used by M/s SCCL for power generation in the STPP project, by filing a petition, O.P.No.13 of 2023 before the Commission, which was heard and orders were reserved at the time of filing of counter by TGDISCOMS in O.P.No.4 of 2024 and the same was recorded at para 3.1.42 of the order dated. 28.06.2024 in O.P.No.4 of 2024.

v) It is stated that after concluding the arguments of both the parties, the Commission vide order dated 01.04.2024 in O. P No.13 of 2023 has allowed the prayer of TGDISCOMs by stating the following:

"... .. the petitioners are entitled to the relief as prayed for, whereby the respondent is estopped from levying any premium on the coal price for whatever quantities agreed to be supplied in terms of the PPA. The respondent also shall continue to desist from levying any premiums henceforth until it has started production from the Naini coal block allotted to it as it is denuding the petitioners the benefit of cheaper coal availability through the variable cost paid by the petitioners, which is ultimately beneficial to the end consumers."

vi) It is stated in this connection that the landed price of coal approved by Commission vide its subsequent order dated 28.06.2024 in O.P.No.4 of 2024 filed by M/s SCCL includes additional premium of 20% over and above the notified basic price of coal for the FY 2022-23 and 30% additional premium for the control period FY 2024-25 to FY 2028-29, due to which approved ECR is very high. The ECR approved by Commission in O.P.No.4 of 2024 for FY 2022-23 and for the control period FY 2024-25 to FY 2028-29 are as stated in the table below:

Table 4-21: ECR approved for FY 2022-23

Particulars	Units	Approved in MYT order 28.08.2020		Claimed in true- up petition	Approved in true-up order
Auxiliary consumption	%	5.75		6.05	5.75
Gross station heat rate	kcal/kWh	2303.88		2305.47	2303.88
Secondary fuel oil consumption	ml/kWh	0.5		0.19	0.19
Calorific value of secondary fuel	kcal/ml	9.97		10.01	10.01
Landed price of secondary fuel	Rs/ml	0.04		0.07	0.07
Weighted average. gross calorific value of coal	kcal/kg	3866.17		4002.83	4002.83
Landed price of	Rs/kg	3.68		5.44	5.44

Particulars	Units	Approved in MYT order 28.08.2020		Claimed in true- up petition	Approved in true-up order
coal					
Specific coal consumption	kg/kWh	0.59		0.58	0.58
ECR	Rs/kWh	2.345		3.343	3.332

Table 5-25: Base ECR approved for the period FY 2024-25 to FY 2028-29

Particulars	Units	Claimed by SCCL in MYT	Approved for base year FY
Auxiliary Consumption	%	5.75	5.75
Gross station heat rate	kcal/kWh	2300	2300
Secondary fuel oil consumption	ml/kWh	0.5	0.5
Calorific value of secondary Fuel	kcal/ml	10.00	10.00
Landed price of secondary fuel	Rs/ml	0.07	0.07
Weighted average gross calorific value of coal	kcal/kg	3719	3719
Landed price of coal	Rs/kg	5.867	5.86
Specific coal consumption	kg/kWh	0.617	0.60
ECR	Rs/kWh	3.876	3.785

vii) It is stated that as could be seen from the above, it has been observed from the Commission order dated 28.06.2024 that the landed price of coal approved includes 20% additional premium on notified basic price of coal for FY 2022-23 and 30% additional premium for FY 2024-25, that is as claimed by SCCL, which is contrary to the Commission order in O.P.No.13 of 2023 and TGDISCOMs assume this as an apparent error. This resulted into increase in ECR ultimately. Further, it is to submit that TGDISCOMs requested M/s SCCL vide letter dated. 15.04.2024 to revise the bills without any additional premium from FY 2021-22 onwards to till that dated and also requested not to levy premium henceforth until production from the Naini coal block allotted to it is started, by referring Commission order dated 01.04.2024.

viii) It is stated that in response M/s SCCL filed Appeal No.256 of 2024 before Hon'ble Appellate Tribunal for Electricity (ATE) challenging the Commission order dated 01.04.2024 in O.P.No.13 of 2023 and M/s SCCL in the hearing dated 29.07.2024 before ATE averred that "Commission has now allowed the pass through of the entire cost of coal vide order dated 28.06.2024, it follows that the order 01.04.2024 in O.P.No.13 of 2023 is contradictory to the stand taken by the Commission itself in the tariff proceedings vide order dated 28.06.2024. To this extent as well, the order dated 01.04.2024 in O.P.No.13 of 2023 deserves to be set aside."

In this connection, it is to stated that the additional premium on coal prices allowed by Commission in the subsequent order dated 28.06.2024 in O.P.No.4 of 2024, actually is an error that crept into this order as per TGDISCOMs and needs a review by this Commission.

- ix) It is stated that M/s SCCL vide letter dated 26.07.2024 stated that tariff of STPP is to be determined by the Commission as per clause 4.1.1 of the PPA and will revise the bills as per the pricing methodology approved by the Commission in MYT order dated 28.06.2024 in O.P.No.4 of 2024. It is pertinent to state that the Appeal No.256 of 2024 filed by M/s SCCL against the Commission order dated 01.04.2024, is listed for next hearing on 20.08.2024 before APTEL. In light of the above, TGDISCOMs earnestly request the Commission to correct the order dated 28.06.2024 in O.P.No.4 of 2024 in line with the Commission order dated 01.04.2024 at the earliest, else, the ATE order may translate into higher energy charges and may ultimately burden the end consumers.
- x) It is stated that the ECR to be approved as per the Commission in order in O.P.No.13 of 2023, vis-a-vis ECR approved in O.P.No.4 of 2024 is tabulated below:

Parameter	Approved by the Commission vide order dated 28.06.2024 in O.P.No.4 of 2024	To be approved in line with the Commission order dated 01.04.2024 in O.P.No.13 of 2023	Variation
Landed price of coal for FY 2022-23 (Rs/kg)	5.44	4.755	0.685
ECR for (Rs/kWh) FY 2022-23	3.332	2.913	0.42
Landed price of coal for FY 2024-25 (Rs/kg)	5.86	4.818	1.04
ECR for (Rs/kWh) FY 2024-25	3.785	3.118	0.67

From the above, it is stated that, the financial burden on TGDISCOMs in the energy charges for FY 2024-25 will be approximately Rs.562 crore/annum for the generation corresponding to NAPAF and for FY 2022-23 will be approximately Rs.364 crore/annum for 8721.47 MU generation admitted by TGDISCOMs. This will ultimately burden the end consumers of the state. It is stated that the approved ECR with additional premium over and above the notified basic price of coal not only resulted in increased energy charge rate but also increased annual fixed charges and is as detailed below.

B) Fixed charges approved in the true up for FY 2022-23

- i) It is stated that the interest on working capital, which is one of the fixed charge component comprise of the following as per Commission's Regulation No.1 of 2019:
- Cost of coal towards stock corresponding to 30 days generation corresponding to target availability (NAPAF).
 - Cost of coal for 30 days of generation at the rate of NAPAF.
 - Cost of secondary fuel oil for two months of generation at the rate of NAPAF.
 - Maintenance spares at the rate of 20% of the O&M expenses.
 - O&M expenses for one month.

- f. Receivables equivalent to two months of FC and VC charges for sale of electricity calculated on target availability.
- g. Minus payables for fuel (including secondary fuel oil) to the extent of thirty days of the cost of fuel computed at target availability as shown at Table 4-7: Interest on Working Capital as approved for FY 2022-23 in the order dated 28.06.2024.

Table 4.7: Interest on working capital computation in line with Commission's order dated 01.04.2024 in O.P.No.13 of 2023 for FY 2022-23 would be approximately

(Rs.crore)

Particulars	Approved in MTR order 23.03.2023	Claimed in true-up petition	Approved in true-up Order
Cost of coal		233.62	229.71
Cost of coal generation		233.62	229.71
Cost of secondary fuel oil		1.83	1.83
O&M expenses		25.58	19.11
Maintenance spares		61.38	45.87
Receivables		726.24	699.15
Minus: payables for fuel		234.54	230.62
Total working capital		1047.73	994.75
Rate of Interest		9.42%	9.30%
Interest on working capital	83.51	98.65	92.50

Interest on working capital computation in line with TGERC order dated 01.04.2024 in O.P.No.13 of 2024 for FY 2022-23 would be approximately

Particulars	Approved in MTR order 23.03.2023	Approved in true-up order 28.06.2024	Ought to have been approved in line with order dated 01.04.2024 in O.P.No.13 of 2023
Cost of coal		229.71	200.83
Cost of coal generation		229.71	200.83
Cost of secondary fuel oil		1.83	1.83
O&M expenses		19.11	19.11
Maintenance spares		45.87	45.87
Receivables		699.15	628.88
Minus: payables for fuel		230.62	201.75
Total working capital		994.75	895.6
Rate of interest		9.30%	9.30%
Interest on working capital	83.51	92.50	83.29

- ii) It is stated as could be seen from the above, it is very clear that Commission computed the working capital requirement with bridge linkage coal pricing, which is higher priced compared to the notified price of coal, by 20% for FY 2022-23 and 30% for the control period FY 2024-25 to FY 2028-29. By considering this high price of coal, the working capital got increased and consequently the Interest claimed on working capital got higher, which in turn translated to increase in annual fixed charges (AFC) for FY 2022-23 and also for the next control period FY 2024-25 to FY 2028-29.
- iii) It is stated that the AFC approved by the Commission is as detailed below:

Table 4-22: Annual Fixed Charge (AFC) approved for FY 2022-23

Sl. No	Item particulars	Approved in MTR order 23.03.2023	Claimed in true-up petition	Approved in true up petition	Variation over MTR order
1	Depreciation	400.36	400.54	400.36	0
2	Interest and finance charges on loan	224.24	266.65	239.65	15.41
3	Interest on working capital	83.51	98.65	92.5	8.99
4	O&M expenses	220.09	304.61	229.33	9.23
5	Return on equity	436.40	481.81	436.40	0
6	Less non-tariff income	13.33	9.27	9.27	-4.06
7	Total AFC	1351.27	1542.99	1388.97	37.69
8	Other charges (water charges, audit fees tariff filing fee)	--	2.30	2.30	2.30
9	Total AFC including other charges	1351.27	1545.3	1391.27	39.99

iv) It is stated that the huge variation in interest on working capital in the true up for FY 2022-23 in the order dated 28.06.2024 is mainly due to consideration of additional premium of 20% over and above the notified basic coal price in the computation of working capital which actually was disallowed by the Commission in order dated 01.04.2024 in O.P.No.13 of 2023, filed by TGDISCOMs.

v) It is stated that, this increase in working capital resulted into high variation in total AFC and other charges to the tune Rs.39.99 crore and these charges are to be shared between TGDISCOMS that is Rs.27.84 crore and M/s SCCL for Rs.12.15 crore in the form of sharing of gains/losses as detailed below:

Approved sharing of gains/losses

Sl. No.	Item Particulars	Variation of AFC with MTR order	Sharing of gains/losses
1	Depreciation	0.00	0.00
2	Interest and finance charges on Loan *	15.41	15.41
3	Interest on working capital	8.99	3.00
4	O&M expenses	9.23	3.8
5	Return on equity	0.00	0.00
6	Less non-tariff income	-4.06	-4.06
7	Other charges (water charges, audit fee and tariff filing fee)	2.3	2.3
Sharing of gains/losses (+/-)			27.84

vi) It is stated that the Commission directions to M/s SCCL in O.P.No.4 of 2024 at para 4.1.56 to bill the claim to the beneficiaries' viz., TGDISCOMs towards total sharing/passing through of gains/losses approved in the order as per the AFC and other charges approved after truing-up, for FY 2022-23, is contrary to the Commission's own orders dated 01.04.2024 in O.P.No.13 of 2023. In view of the above

submissions, the approved sharing of gains/losses of Rs.27.84 crore for FY 2022-23 needs to be revised in line with TGERC order dated 01.04.2024 in OP 13 of 2023.

C) Annual fixed charges approved in the MYT for FY 2024- 25 to FY 2028-29

i) It is stated that the interest on working capital, one of the fixed charge component, applicable for the control period for FY 2024-25 to FY 2028-29 has been dealt by the Commission at para 5.1.32 and 5.1.33 of the order dated 28.06.2024 and is comprise of the following components as per MYT Regulation No.2 of 2023:

- (a) Cost of coal towards stock, if applicable, for ten (10) days for pit-head generating stations and twenty (20) days for non-pithead generating stations, for generation corresponding to target availability, or the maximum coal stock storage capacity, whichever is lower;
- (b) Cost of coal for thirty (30) days for generation corresponding to target availability;
- (c) Cost of secondary fuel oil for one (1) month corresponding to target availability;
- (d) Normative operation and maintenance expenses for one (1) month;
- (e) Maintenance spares at one percent (1%) of the opening gross fixed assets for the year; and
- (f) Receivables for sale of electricity equivalent to forty five (45) days of the sum of annual fixed charges and energy charges approved in the tariff order, computed at target availability and excluding incentive, if any.
- (g) Minus payables for fuel, including oil and secondary fuel oi, to the extent of thirty (30) days of the cost of fuel computed at target availability, depending on the modalities of payment:

ii) It is stated that the interest on working capital approved by the Commission based on the claims of M/s SCCL is tabulated below:

Table 5-12: Interest on working capital as approved for the period FY 2024-25 to FY 2028-29

Particulars	2024-25	2025-26	2026-27	2027-28	2028-29
Cost of coal	172.97	172.97	172.97	172.97	172.97
Cost of coal generation	259.45	259.45	259.45	259.45	259.45
Cost of secondary fuel oil	2.46	2.46	2.46	2.46	2.46
O&M expenses	20.79	21.54	22.34	23.18	24.07
Maintenance spares	77.45	77.45	77.45	77.45	77.45
Receivables	560.44	557.98	555.61	552.89	551.16
Minus: payables for fuel	261.90	261.90	261.90	261.90	261.90
Total working capital	831.65	829.65	831.65	831.65	831.65
Rate of interest	10.15%	10.15%	10.15%	10.15%	10.15%
Interest on Working	84.41	84.24	84.08	83.89	83.80

Table 5-19: Annual Fixed Charges as approved for the period FY 2024-25 to FY 2028 – 29

(Rs.crore)

Particulars	2024-25		2025-26		2026-27		2027 -28		2028-29	
	Claimed	Approved	Claimed	Approved	Claimed	Approved	Claimed	Approved	Claimed	Approved
Operation maintenance expenses	356.29	249.48	376.17	262.85	397.25	276.95	419.52	291.82	443.05	307.48
Depreciation	403.52	400.36	404.17	100.36	404.17	400.36	404.17	400.36	404.17	400.36
Interest and finance charges on loan	217.44	191.85	181.14	158.88	144.14	125.90	107.15	92.93	70.15	59.96
Interest on working capital	96.66	84.41	96.59	84.24	96.49	84.08	96.66	84.41	96.59	84.24
Return on equity	485.68	436.40	486.33	436.40	486.33	436.40	485.68	436.40	486.33	436.40
Less: Non-tariff income	3.90	3.90	4.09	4.09	4.29	4.29	4.51	4.51	4.73	4.73
Annual Fixed Charges	1555.60	1358.60	1540.30	1338.63	1524.09	1319.40	1509.04	1300.88	1495.35	1238.26

- iii) It is stated that similarly, from the above table, it is noticed that landed price of coal with 30% additional premium claimed by M/s SCCL was considered while approving the ECR of Rs.3.785/kWh in O.P.No.4 of 2024 for the control period FY 2024-25 to FY 2028-29 and the same was taken into consideration while arriving the interest on working capital in the Multi Year Tariff for the control period FY 2024-25 to FY 2028-29 due to which FC charges was also increased as explained above and this approval is not in consonance with the Commission order dated: 01.04.2024 in O.P.No.13 of 2023, wherein the Commission clearly disallowed the levy of additional premium by M/s SCCL on the basic price of coal for the corresponding coal grade.

D) Errors in computation of R&M expense that is part of operation and maintenance expenses:

- i) It is stated that the Commission has dealt with the issue of the operation and maintenance expenses in paragraphs 5.1.7 to 5.1.12 of the order dated 28.06.2024.
- ii) The O&M expenses comprise of
- Employee cost (EMP_n)
 - Administrative and general expenses (A&G)
 - Repairs and maintenance expenses (R&M)
- iii) In regard to R&M expenses, the Commission has computed the k factor based on the approved R&M expenses for previous control period. The normative R&M expenses of each financial year for the period FY 2024-25 to FY 2028-29 is computed by multiplying the opening GFA, with k factor and average WPI inflation factor of last 5 financial years which is being escalated for each year of the period FY 2024-25 to FY 2028-29, subject to truing up in accordance with regulation.

Table 5-4: Normative R&M expenses as approved for the period FY 2024-25 to FY 2028-29

(Rs.crore)

Particular	K (a)	GFA _n (b)	WPI Inflation (c)	R&M _n (a*b*c)
FY 2024-25	1.08%	7745.32	1.049	87.89
FY 2025-26	1.08%	7745.32	1.101	92.23
FY 2026-27	1.08%	7745.32	1.155	96.78
FY 2027-28	1.08%	7745.32	1.212	101.55
FY 2028-29	1.08%	7745.32	1.272	106.56

- iv) It is stated that it has been observed in the computation of the R&M expenses ($k \times \text{GFA} \times \text{WPI inflation}$) (that is part of O&M expenses) for the control period FY 2024-25 to FY 2028-29 "k" factor has been considered as 1.08%.
- v) In this regard, it is stated that the R&M expenses approved by the Commission in the previous orders dated 28.08.2020 & 23.03.2023 are as detailed below

Table 61: R&M expenses computed for FY 2019-20 to FY 2023-24 (order dated 28.08.2020)

(Rs.crore)

Year	K _n	GFA _n	WPI Inflation	R&M _n
FY 2019-20	1.04%	7745.32	1.04	83.67
FY 2020-21	1.04%	7745.32	1.09	97.26
FY 2021-22	1.04%	7745.32	1.13	91.00
FY 2022-23	1.04%	7745.32	1.18	94.90
FY 2023-24	1.04%	7745.32	1.23	455.79

Table 3.29: R&M expenses computed by the Commission for MTR order dated 23.03.2023.

(Rs.crore)

Year	K _n	GFA _n	WPI Inflation	R&M _n
FY 2019-20	1.04%	7745.32	1.04	83.67
FY 2020-21	1.04%	7745.32	1.02	81.59
FY 2021-22	1.04%	7745.32	1.01	81.27

- vi) It is submitted that as could be seen from the above, the 'K' is a constant factor, which is fixed depending on the GFA approved. WPI inflation is only varying component and is taken average of last 5 years. Whereas, in the order dated: 28.06.2024, the Commission has considered the 'K' factor as 1.08% instead of 1.04% though there is no change in the GFA approved for the control period from FY 2019-2020 to FY 2023-2024 vis a vis GFA for FY 2024-25 to FY 2028-29.
- vii) It is stated that in the computation of R&M expenses ($k \times \text{GFA} \times \text{WPI inflation}$) (that is part of O&M expenses) for the control period FY 2024-25 to FY 2028-29 'K' factor has been considered as 1.08% instead of 1.04% though there is no change in the GFA approved, due to which approved R&M expenses increased which resulted into increase in O&M expenses and consequently increase of annual fixed charges approved for the control period FY 2024-25 to FY 2028-29, as explained in the order.

- viii) It is stated that from the above, it can be seen that the allowance of R&M expenses in the order dated 28.06.2024 was made contrary to the procedure in vogue and as a result TGDISCOMs are going to suffer financially with this order, if suitable review is not taken up by the Commission.
- ix) It is stated that considering the above facts, the Commission is requested to review the 'K' factor approved in the computation of R&M expenses and consequently result into review of annual fixed charges for the control period FY 2024-25 to FY 2028-29 in the order dated 28.06.2024 in line with the Commission orders dated 28.08.2020 and 23.03.2023 in view of the submissions made and in the interest of end consumers.

Hence, it is prayed that the Commission may be pleased to review the order dated 28.06.2024 in O.P.No.4 of 2024 in line with its order dated 01.04.2024 in O.P.No.13 of 2023 which was issued to regulate the pricing of coal supply to STPP at notified prices, in terms of regulatory powers under Section 86(1)(b) of the Act, 2003, and also to review the R&M expenses by considering the submissions made by TGDISCOMs, else, it translates into higher energy charges and fixed charges and burden TGDISCOMs, ultimately the end consumers.

E. Summary of impact on TGDISCOMs:

The following table shows the summary of year-wise impact on TGDISCOMs due to erroneous order dated 28.06.2024 in O.P.No.4 of 2024.

(Rs.crore)

Particulars	2022-23	2023-24	2024-25	2026-27	2027-28	2028-29
a. Impact with ECR	364	562	562	562	562	562
Fixed Charges						
i. Impact with error R&M in computation	-	3.4	3.53	3.73	3.92	4.0
ii. Impact on working capital	3	10	10	10	10	10
b. Impact on annual Fixed Charges (i+ii)	3	13.4	13.53	13.73	13.92	14.00
Total impact on tariff approximate (a+b)	353	513.4	513.53	513.73	513.92	514.00

2. The review petitioner have sought the following prayer before the Commission:
- To admit review petition.*
 - Review the order dated 28.06.2024 passed in O.P.No.4 of 2024 by rectifying the error in computation of (a) energy charge rate (ECR), (b) interest on working capital, (c) annual fixed charges in the true-up for FY 2022-23 and also for the control period FY 2024-25 to FY 2028-29*

by reviewing the same in line with Commission's order dated 01.04.2024 in O.P.No.13 of 2023.

- iii. To rectify the error in computation of R&M expenses and consequently to review the annual fixed charges for the control period FY 2024-25 to FY 2028-29 in the order dated 28.06.2024 by allowing submissions made above in the interest of consumers.*

3. The Commission has heard the review petitioners and also perused the material available on record. The submissions made on the date of hearing are extracted herein below for ready reference.

Record of proceedings dated 09.09.2024

"... .. The representatives of the review petitioner stated that the Commission has considered the MYT filing of M/s Singareni Collieries Company Limited towards its generating plant of 2x600 MW power plant while doing so did not consider the aspect of premium on coal which was decided in favour of the review petitioner in O.P.No.13 of 2023. The said issue is causing hinderance to the review petitioners. Since the Commission has taken view in earlier matter some other Commission may consider revisiting the order to facilitate incorporation of the findings in the matter of petition filed by the TGDISCOMs in O.P.No.13 of 2023 in the matter of MYT petition of M/s SCCL. Thus, the Commission would be bringing uniformity in the matter. Having considered submissions of the representatives of the review petitioner, the Commission reserved the matter for orders."

4. The Commission notices that the present review petition stems from the fact that the Commission has taken a view that the generator cannot undertake levy of premium over the notified price of coal, which was not followed while determining the petition filed by the generator towards true up and ARR for the control periods FYs 2019-24 and FYs 2024-29 respectively for the 2x600 MW STPP.

5. While it is the fact that the Commission had decided the grievance raised by the review petitioners in O.P.No.13 of 2023 by its order dated 01.04.2024, the Commission also undertook determination of the Multi Year Tariff in respect of M/s SCCL being the generator. This order came to be passed subsequently on 28.06.2024. The petition filed by the review petitioners is in exercise of the right to raise dispute under Section 86(1)(f) read with 86(1)(b) and other connected provisions, on the other hand the MYT petition of the generator is in exercise of regulations relating

to tariff determination read with the provisions on tariff under the Act, 2003. The parameters of the regulation would come into play while undertaking determination of MYT of the generator including true up.

6. The review petitioners appear to be under a misunderstanding that the issue relating to charging of premium over notified coal price has to be uniform across all the matters. It is not correct understanding of the review petitioners merely because the Commission has considered the dispute raised by them in their favour in the earlier proceedings, it is not necessary that the same principle can be applied to a proceeding involving the implementation of the regulation along with the provisions of tariff in the Act, 2003. It is also worth mentioning that the petition for dispute resolution is dependent on actual difficulty perceived by one party and refused by other party. On the other hand, proceeding initiated for determination of tariff based on the regulation does not involve any dispute and have to be in conformity with the regulation. Moreover, the consideration shown in the MYT petition is based on preponderance of probabilities which cannot be sanctified to be facts as the background of the same is certain assumptions and certain presumptions are taken into consideration.

7. Basically, as the review petitioners and the generator have entered into an agreement for undertaking power purchase/sale inter se, they are bound by the clauses of the agreement. Suffice it to state any issue which runs contrary to the regulation would invariably fall in line with the regulation as it is settled by the Hon'ble Supreme Court. No doubt in the instant case the Commission had taken different stands and consequently there arose a dichotomy in the calculation of coal price, but however it is for the review petitioners to act in a manner whereby they have to give effect to both the orders and implement payment mechanism over coal price in a way which is beneficial to them.

8. Turning to the present petition, the review petitioners have raised not only the issue of coal price but also sought review of ECR, interest on working capital, annual fixed charge in the true ups and connected issues. At any rate the contentions of the review petitioners that new and vital information has been discovered subsequent to the passing of the impugned order to bring it into the realm of review cannot be sustained. The commission is of the view that the subtle distinctions between both the orders have not been understood by the review petitioners.

9. At this stage, it may be appropriate and relevant to notice the ingredients of review under the Code of Civil Procedure which are provided under Section 94(1)(f) of the Act, 2003. The review petitioner has not been able to show as to the following aspects for undertaking a review of the order.

- a. *Where there is a typographical mistake that has crept in the order;*
- b. *When there is an arithmetical mistake that has crept in while effecting calculation or otherwise;*
- c. *When there is a mistake committed by the Commission, which is apparent from the material facts available on record and/or in respect of application of law;*
- d. *When the Commission omitted to take into consideration certain material facts on record and 'law on the subject' and that if on taking into consideration those aspects, there is a possibility of Commission coming to a different conclusion contrary to the findings given;*
- e. *If the aggrieved party produced new material which he could not produce during the enquiry in spite of his best efforts and had that material or evidence been available, the Commission could have come to a different conclusion;*

10. The Commission does not find any infirmity in the order passed by it nor it calls for interference by way of review. None of the ingredients of reviewing an order as set out in Order 47 of Civil Procedure Code, 1908 have been satisfied. In this case the review petitioner while presenting the objections to the original petition and making submissions thereof had sought to presume and assume that the orders passed by the Commission would be considered while determining the MYT petition of the generator. Such understanding appears to be an afterthought and not borne on record. At best the issues raised in the present review petition may be grounds for appeal but not worth consideration in a review petition.

11. In view of the failure to satisfy the ingredients of review, the Commission is constrained not to entertain the review petition even though and assuming that there was a bonafide impression on part of the review petitioner that the Commission ought to have considered its earlier view with regard to notified coal price while determining the MYT petition of the generator.

12. For the foregoing reasons and discussion, the Commission finds no valid grounds for entertaining the review petition worth admitting the same. Accordingly, the review petition is rejected as not maintainable but in the circumstances without any costs.

This order is corrected and signed on this the 28th day of October, 2024.

Sd/- (BANDARU KRISHNAIAH) MEMBER	Sd/- (M. D. MANOHAR RAJU) MEMBER	Sd/- (T. SRIRANGA RAO) CHAIRMAN
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