



DELHI ELECTRICITY REGULATORY COMMISSION
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17.

No. F.11(512)DERC/2009-10/

Petition No.11/2009

In the matter of : **Petition for approval of Terms & Conditions entered between NDPL-G & NDPL-D for purchase of entire capacity of Rithala Combined Cycle Power Plant being put by NDPL Generation.**

Petition No. 07/2010

In the matter of : **Petition for approval for usage of 6 acres of land located in the licensed are of the Petitioner to set up 108 MW Power Generation Plant at Rithala Delhi.**

Petition No.06/2013

In the matter of : **Petition seeking of Final Generation Tariff for 94.80MW Rithala Combined Cycle Power Plant u/S 62 read Part VII of E.A. 2003 and the Delhi Electricity Regulatory Commission (Terms and Conditions for determination of Generation Tariff) Regulation 2007 & 2011 for 2010-11, FY 2011-12 and FY 2012-13 to 2014-15.**

Tata Power Delhi Distribution Ltd.
(erstwhile North Delhi Power Limited)
Through its : Managing Director
Sub-Station Building,
Hudson Lane, Kingsway Camp
Delhi 110 009

...Petitioner

Coram: Sh. B.P. Singh, Member.

ORDER

(Date of Order: 31.08.2017)

1. Three separate petitions, viz., 11/2009, 07/2010 and 06/2013 have been filed by the Petitioner, Tata Power Delhi Distribution Limited (TPDDL) (erstwhile NDPL), wherein the Petitioner has sought relief in respect to approval of Power Purchase Agreement (PPA) of Rithala Combined Cycle Power Plant (hereinafter referred to as 'Rithala Plant'), usage of 6 acres land located in the licensed area of the Petitioner for setting up Rithala Plant and determination of tariff of Rithala Plant. Since the issues for consideration are correlated and interlinked in the three petitions concerning Rithala Plant, a common order is being passed.

2. The genesis for arising of the three petitions as aforesaid is basically to seek relief for enhancing power requirement during the Commonwealth Games 2010 by setting up a plant for power generation and co-related issues thereupon. There are number of issues which required clarification and accordingly on numerous hearings held by Commission collated the information and thereupon arrived at a conclusion which is reflected in the operative part of the order.
3. Hon'ble APTEL's order /judgement dated 10.02.2015 in Appeal No. 171/2012 has been taken into consideration whilst deliberating issues, i.e., to first consider to approve procurement of power from Rithala Plant as a long term source of power and decide the tariff for procurement of power from Rithala Plant.
4. During the hearing on numerous occasions, a need was felt to examine the requirement of ensuring transparent process of bidding and by calling for information from a department having engineering expertise after visiting the site.
5. In order to dwell upon and assimilate the petitions it would be in the interest of an equity and just to first set out the facts out of the three petitions.
6. The Commission has perused the entire records and the available documents being relied upon by the Petitioner placed before it. Case in brief as emerged out from the records is that a proposal was mooted out by the TPDDL in June 2007 for change of usage of 6 acres of land in Delhi for the purpose of setting up gas based power plant and subsequently, the case was processed by Government of National Capital Territory of Delhi (GoNCTD).
7. On 08.01.2008, GoNCTD forwarded the No Objection Certificate (NOC) to NDPL issued by Delhi Development Authority (DDA) for establishment of Rithala Plant in Sector 11, Rohini, Delhi keeping intact of the ownership of the said land with GoNCTD. The Commission was intimated on 17.05.2008 by applicant of its intention to establish and operate the Rithala Plant.
8. In the month of April, 2009, the Commission granted "in principle"

approval of the scheme for Evacuation of Power for Rithala Plant based on Petitioner's scheme submitted in August, 2008. The TPDDL-G and TPDDL-D on 27.07.2009 signed terms and conditions for sale and purchase of Power from Rithala Plant being set up by NDPL-G.

9. The date of commissioning (COD) of Rithala Plant was declared in Open Cycle Mode on 04.02.2011 and COD of Rithala Plant in Combined Cycle Mode was declared on 04.09.2011.
10. Thereafter, the Petitioner had filed Petition No. 66/2011 before the Commission seeking determination of provisional generation tariff of Rithala Plant. Subsequently, on a request from the Petitioner, the Commission allowed the Petitioner to withdraw the said petition and gave liberty to file fresh petition for determination of tariff for the Rithala Plant. Accordingly, a fresh Petition No. 6/2013 came forth from the Petitioner for determination of final tariff before the Commission on 20.02.2013.
11. To commence the process, the Commission *vide* order dated 17.04.2013 directed the Petitioner to submit additional information with regard to the expenditure incurred by the Petitioner for Rithala Plant. The matter was heard, consequently on 3 dates and finally the order was reserved on 27.11.2015.
12. The Commission *vide* order dated 22.01.2016 sought information from the Ministry of Power (MoP), Government of India and Department of Power, GoNCTD since they had facilitated the process of installation of plant viz. approval to the Petitioner to commence construction of the plant on six acre of land, import benefits and gas allocation to the project etc.
13. The MoP, Government of India recommended to make additional gas available for three stations including Rithala Plant to be commissioned during 2009-10. This was basically to meet the enhanced power requirement during the Commonwealth Games 2010.
14. The permission was granted by GoNCTD on temporary basis in 2009 for a period of 5-6 years only. TPDDL was directed to obtain all necessary regulatory approvals well in time before starting the generation.

15. Records reveal that Petitioner *vide* letter dated 11.06.2007 clarified to the Hon'ble Lieutenant Governor that the Gas Based Power Plant will be removed as and when adequate supply for Delhi is available and permission may be granted for setting up Rithala Plant on temporary basis.
16. Matter was heard on 26.07.2016 and Engineering Division was directed by the Commission to visit the plant jointly with the Petitioner and submit a report regarding the feasibility of keeping any part of the plant for distribution business of the Petitioner, along with cost bifurcation. Consequently, the order was reserved.
17. On receipt of the report, Executive Summary of the Petition along with the Petition was uploaded on the website of the Commission on 25.02.2017 for seeking comments of the Stakeholders. A Public notice in this regard was published in the news papers. The matter was heard on 25.04.2017, wherein the Petitioner requested the Commission to grant one (1) week time to explain competitive bidding process which was granted and the Petitioner was directed to submit a written submission giving details of bidding including the quoted prices and accepted price.
18. The Petitioner *vide* letters dated 31.05.2017, 27.06.2017 and 29.06.2017 provided documents and comments to elaborate the issue of procurement through competitive bidding process. The Petitioner was afforded meeting with the Tariff Division of the Commission, which had prepared a report on competitive bidding process adopted by the Petitioner.
19. **PETITIONER'S SUBMISSION**

Based on the pleadings, and the available records and the documents being relied upon, the Petitioner made the following submissions: -

- a) The Petitioner while justifying the installation of Rithala Plant, contended that no doubt that the responsibility for arranging power for the areas of distribution lies upon the respective Distribution Licensees of Delhi, it was the need for enhancement of power availability, that the establishment of Rithala Plant was envisaged keeping the objective of having captive, load centre (in Delhi) power generation for enhancing reliability and islanding capabilities in case of Grid Distress/ collapse.

- b) The Petitioner asserted that he had taken all the permissions and followed due process for installation of plant, he intimated that GoNCTD *vide* letter dated 25.01.2008 granted approval to the Petitioner to initiate activities related to construction of power plant at the 6 acre plot in Rithala. The plant was being commissioned primarily for catering to the requirement of consumers of Delhi, specifically for consumers of TPDDL. The Commission was informed *vide* letter dated 17.05.2008, about its intention to establish and operate the Rithala Plant along with the Technical Feasibility Report.
- c) Justification for allocation of gas to Rithala Plant especially for Commonwealth Games to be organized in Delhi in year 2010, that Rithala Plant was considered as a necessity.
- d) The Petitioner argued that the Commission had accorded in-principle approval for evacuation plan of power from Rithala Plant *vide* letter dated 23.04.2009. The Petitioner has vehemently contended that there is a requirement for determination of tariff for Rithala Plant to recover the cost of generation and in order to carry out the same, it is incumbent to decide the terms and conditions for the PPA to be enforced. The Petitioner pleaded that when the PPA for procurement of Power from Pragati Power Corporation Limited (PPCL) III i.e. (Bawana) was approved by the Commission, there should not have been any embargo in approving Rithala Plant.
- e) The environmental clearance for construction of 108 MW Rithala Plant from Delhi Pollution Control Committee (DPCC) had been obtained *vide* letter dated 24.04.2009 which is an essential requirement.
- f) The DDA issued NOC to Department of Power, Delhi Government for conversion of land use change for setting up Rithala Plant and it is properly recorded.
- g) The Petitioner contended that Rithala Plant had to operate within the emission norms specified by DPCC while granting environmental clearance. The 2nd hand plant brought from China had to be retrofitted with suitable steam injection system to meet the emission norms prescribed by DPCC for this plant i.e. 60 ppm. These norms are much

more stringent than the environmental standards prescribed for Gas Based Thermal Power Plants i.e. 100 ppm for units burning Natural Gas/Naptha as fuel and unit size less than 100MW.

h) The Petitioner argued that M/s CENGRS a Geotechnical expert for carrying out geotechnical analysis of the soil for establishment of Rithala Plant and Ramgarh Plant has opined that for a similar plant like Rithala to be put up in Ramgarh, it would not require piling due to very good soil strata available at a depth of 2-3 meters.

i) Additional cost incurred on account of site specific conditions of Rithala Plant:

(in Rs. Cr)

Sr.No.	Particulars	Amount
1.	DDA Land use change charges - Conversion charges for land use change for setting up of Rithala Plant.	10.16
2.	Steam Injection system to meet NOx emission - Rithala Plant had to operate within the emission norms specified by DPCC while granting environmental clearance. The 2 nd hand plant brought from China had to be retrofitted with suitable steam injection system to meet the emission norms prescribed by DPCC for this plant i.e. 60 ppm.	4.82
3.	Charges towards effluent treatment plant	
a.	User charges paid to DJB for land plus ground rent.	1.43
b.	Construction of Reservoir on Turnkey basis including civil, mechanical, electrical and C&I works in DJB premises.	4.36
c.	Design, Manufacture, erection, testing & commissioning of Water Treatment Plant with Auxiliaries and mandatory spares.	10.11
d.	Additional costs incurred for Reservoir, Neutralization pit and Clarifier.	4.50
4.	Charges towards ground improvement and piling.	8.70*
5.	Additional charges incurred in IDC.	35.97
6.	Additional capital cost incurred on infirm fuel.	26.35
7.	Total additional Site Specific Expenses	106.40

***Subsequently the Petitioner submitted a revised figure of Rs. 9.11 Cr.**

In view of the submissions made by the Petitioner as aforesaid, he argued that prayer clause in all the three petitions be accepted.

19. **COMMISSION'S ANALYSIS**

- a) The submission of the Petitioner and the arguments advanced while relying on the various documents, permissions, policy decisions and justifications for seeking relief on the prayers were considered and analysed by the Commission. The clarifications provided by the Tariff Division of the Commission were also considered. In addition, the adequacy of the documents being relied upon by the petitioner was also taken on record.
- b) During the hearing held on 28.06.2012, the Petitioner was asked to clarify and explain the deficiency observed on the following issues : -
- i. Useful life of the plant;
 - ii. Renewal of gas supply agreement after 31.03.2014; and
 - iii. Operating norms and cost
- c) The information sought for was provided by the Petitioner. The "Third Party Evaluation and Operating Norms" certified by M/s Protocol Insurance Surveyor and Loss Assessors Pvt. Ltd was found to be prepared on the basis of visual inspection of machines at site and historical data available. Reference to 'maintenance and overhaul' documents and the assessment of operating norms and estimation of residual life of assets was not assessed based on the actual status of the plant by making trial run of the plant, which is a fact admitted by the Petitioner.
- d) The report of the Tariff Division on procurement through competitive bidding process, as adopted by the Petitioner being a Distribution Licensee, depicts the following:
- i) Packages above Rs. 1 Cr. value should have been awarded through Open Tender;
 - ii) Approval of Cost Estimate has not been resorted to;
 - iii) Selection of vendors for limited tendering has not been explained; and
 - iv) Package-wise Interest during Construction (IDC) have not been identified.

e) The detailed report has been analysed and it is observed that the competitive bidding process (Open tendering) has not been followed during procurement of various equipments pertaining to establishment of Rithala Plant. Therefore, it is not possible to dwell upon the transparency, reasonableness and authenticity of transactions entered by the Petitioner in procuring various equipments in their installation in setting up 2nd hand Rithala Plant. Hence, in the given situation the Benchmark cost arrived for Rithala Plant, can at best be considered for ascertaining capital cost of the Plant which had also been uploaded on the Commission's website for stakeholders comments.

20. Various costs of Rithala Plant has been computed as follows:

A. CAPITAL COST

- a) The Commission shall now dwell upon on the subject of capital cost which is required to be fixed for the purpose of determination of tariff. The Petitioner has sought relief of Rs. 320.17 Crore for the Rithala Plant whereas the calculation carried out by the Commission comes out to be Rs.197.70 Crore. The reasons for benchmarking the capital cost have been explained in the succeeding paragraphs.
- b) It is an admitted fact that the Petitioner has procured 2nd hand Power Plant from China for installation at Rithala site without following competitive, fair and reasonable procedure of inviting tenders for procurement of equipments as specified in clause no. 10.5 of the Licence condition. No approval was sought from the Commission as mandated in clause 10.5 & 10.6 of the Licence condition for capital investment in setting up of Rithala Plant before placing the Purchase Order for procurement of second hand Power Plant to UNIONIX (Far East Ltd.) on 26.11.2007. The Petitioner has installed the Rithala Plant without following the due procedure provided in Clause 5.1 of the National Tariff Policy notified on 06.01.2006 that all the Generation projects, owned and controlled by private utilities, whose PPA's are signed after 06.01.2006 shall be routed through competitive bidding process.

- c) The Commission analysed the report submitted by Tata Consulting Engineers Limited (TCE) engaged by the Petitioner for assessment of suitability of the plant in India who have recommended that:
- (i) Operate the plant at its present location to ascertain the equipment capabilities and reduce the risk of accepting non performing plant; and
 - (ii) Contract Clause may be introduced on selling agency to guarantee the plant's performance after it is installed in India.
- d) The Commission observed that admittedly, no trial run was conducted in China before importing the same to India and no Guarantee Clause has been incorporated in the Contract for performance after it is installed in India.
- e) In view of above, the Commission *vide* letters dtd. 24.09.2014 and 15.01.2015 directed the Petitioner to certify useful life by Govt. agency as useful life is an important parameter to determine the Fixed Charges.
- f) However, The Petitioner got certified the 2nd hand Rithala Plant by M/s Protocol Insurance Surveyors and Loss Assessors Pvt. Ltd. (non Govt. agency) based on historical data and not by actually running the plant.
- g) There is no break-up of capital cost related to the equipment and their associated civil cost.
- h) Scrutiny of detailed cost break up of Rithala Plant equipment wise it is evident that most of the equipment in Rithala Plant had not been procured through competitive bidding process (Open Tendering) as mandated in the Licence condition, therefore, establishment of the transparency, reasonableness and authenticity of transactions entered by the Petitioner in procuring various equipments and their installation in setting up 2nd hand Rithala Plant was not justified.
- i) Benchmark of the Capital Cost of Rithala Plant with various other power plants and the comparative capital cost considering the size and vintage of the plant, following is emerged:

Sr. No	Project Name	Useful life (Years)	Capacity (MW)	Project Cost (Rs. Cr.)	Rs. Cr./MW/Year
1	Rithala CCPP*	15	94.80	320.17	0.225
2	Gautami Power	25	464	1798	0.155
3	Kondapalli Power – ph-II	25	366	1188	0.130
4	Kondapalli Power-ph-III	25	732	2610	0.143
5	Vemagiri Expansion Project	25	768	3250	0.169
6	Tripura Gas based CCPP	25	101	623.44	0.247
7	Ramgarh GTPS	25	110.5	313.63	0.114

* **Petitioner's plant under reference**

- j) Based on analysis of above plants to identify the identical plant capacity and unit size, it may be observed that except Tripura Gas based Combined Cycle Power Plant (CCPP) and Ramgarh GTPS, no other power plant has comparable capacity and unit size.
- k) However, the bench mark of Capital Cost for Rithala Plant may not be comparable with Tripura Gas based CCPP due to different geological locations of Delhi and Tripura having different ambient conditions which have impact on civil cost, SHR and other operational parameters.
- l) Therefore, most appropriate and nearest possible identical plant capacity and unit size is of Ramgarh GTPS with plant capacity of 110.5 MW (GT#1 35.50 MW, GT#2 37.50 MW and ST 37.50 MW) against Rithala Plant of 94.80 MW (GT#1 36.75 MW, GT#2 36.75 MW and ST 37.50 MW).
- m) Per MW cost of Ramgarh GTPS as per the value of Gross Fixed Asset of Rs. 313.63 Cr. for 110.50 MW indicated in the Tariff Order dated 17.07.2006 for FY 2006-07 approved by Rajasthan Electricity Regulatory Commission (RERC), is as follows:
- Rs. 313.63 Cr./110.50 MW = Rs. 2.84 Cr./MW
- n) The useful life of Rithala Plant after refurbishment, as certified by various agencies appointed by the Petitioner is 15 years (TCE and M/s Protocol Insurance Surveyors and Loss Assessors Pvt. Ltd.).

o) Therefore, considering the Capital Cost of Rithala Plant of 94.80 MW, after applying correction factor, pro-rated for 15 years useful life, considering per MW cost of RGTPS plant works out as:

$$[2.84 \times (94.80/25) \times 15] = \text{Rs. 161.44 Cr.}$$

p) However, over and above this benchmarked cost of Rs.161.44Cr. some additional site specific cost particular to the Rithala Plant as indicated below, may merit consideration:

i) **DDA Land Conversion Charges**

Payment of Rs. 10.16 Cr to DDA for change in land usage for installation of 2nd hand Rithala Plant. The said amount has also been confirmed by GoNCTD vide letter dated 23.09.2010. Therefore, this amount may be considered over and above the benchmark capital cost.

ii) **IDC and Infirm Fuel**

The expenses related to IDC and infirm fuel are already factored in benchmarked Capital Cost of Rithala Plant as these costs are part in setting up a normal gas based Power Plant including Ramgarh. Therefore, no cost on these accounts may be considered over and above the benchmarked Capital Cost.

iii) **Steam Injection system to meet NOx emission**

It is observed from the Report of Central Pollution Control Board (CPCB) that for Gas Power Plants commissioned after 01.06.1999 the limit for NOx emission burning Natural Gas/Naptha is 100 ppm. However, as per DPCC letter dtd. 28.08.2009, the Petitioner was directed to maintain site specific NOx level from individual stack at less than 60 ppm.

Therefore, the submission of the Petitioner that additional cost for installation of steam injection system as specified by DPCC while granting environmental clearance may be considered as site specific additional equipment over and above CPCB

norms of Rs. 4.82 Cr.

iv) **Charges towards ground improvement and piling**

The Petitioner has submitted that the soil condition at Rithala Plant is different from that at Ramgarh Power Plant, which has been compared for benchmarking. In support of its argument the Petitioner has produced a report submitted by M/s CENGRS indicating that piling may not be required for most of the facilities at Ramgarh site. However, if, loose aeolian sand is met at some locations to substantial depth, the option of using piles may be considered. M/s CENGRS, is a Geotechnical expert for carrying out geotechnical analysis of the soil for establishment of Rithala Plant and Ramgarh Plant.

Accordingly, the additional cost on account of various item for piling and vibro stone columns incurred at Rithala Plant installation of Rs. 9.11 Cr. may be approved.

v) **Charges towards effluent treatment plant**

The Petitioner's submission for additional cost on account of establishment of Bacteria Treatment Plant, Ultrafiltration and RO Plant required to be installed at Rithala which was not required at Ramgarh because the water was provided at Ramgarh is through canal whereas the water required for Rithala Plant has been allocated from sewage is acceptable. Therefore, the additional cost directly attributable to establishment of the sewage treatment plant of Rs. 4.39 Cr may be considered additionally. Since, apportioned cost of Rs. 0.69 Cr. as submitted by the Petitioner is considered in DM plant, which is already factored in benchmarked cost, hence may not be considered additionally.

vi) **Civil Cost**

The Petitioner had submitted during the hearing held on 25.04.2017 that the civil cost of Rithala Plant should not be considered in the benchmarked cost with Ramgarh Plant as the civil cost remains same whether the plant is new or 2nd

hand.

Therefore, a need was felt to arrive at the basis of percentage of Civil Cost out of total capital cost in Gas based Combined Cycle Power Plant. It was observed from the reports of U.S. Energy Information Administration dated April 2013 and Nov. 2016 that Civil Cost comprise of 7.34% and 7.16% of total Capital Cost in Gas based Combined Cycle Power Plant. The reports are available at the following links:

https://www.eia.gov/analysis/studies/powerplants/capitalcost/pdf/capcost_assumption.pdf

https://www.eia.gov/outlooks/capitalcost/pdf/updated_capcost.pdf

Accordingly, a factor of 7.25% (average of 7.34% and 7.16%) has been considered to arrive at civil cost for new plant of same capacity and this civil cost has been added in benchmarked capital cost (except civil cost) of the Rithala Plant, as a separate line item without considering the useful life of Rithala Plant.

- q) Keeping in view the aforesaid analysis, total Capital Cost for Rithala Plant has been considered as Rs. 197.70 Cr. as computed based on bench marking principles:

Capital Cost computed on bench marking principle

Sr. No.	Particulars	Submitted by Petitioner	Approved by the Commission
1	Project Cost excluding Civil & site specific expenses	159.38	149.74*
2	Additional Site Specific Expenses (2a+2b+2c+2d+2e+2f)		
2a	DDA Land use change charges	10.16	10.16
2b	Charges towards effluent treatment plant	4.39	0.00
2ba	User charges paid to DJB	1.43	4.38
2bb	Construction of Reservoir etc.	4.36	
2bc	Design, Manufacture, erection, testing & commissioning of Water Treatment Plant	10.11	
2bd	Additional costs incurred for Reservoir	4.50	
2c	Steam Injection system to meet NOx emission	4.82	4.82
2d	Additional charges incurred in IDC	35.97	0.00
2e	Additional capital cost incurred on infirm fuel	26.35	0.00
2f	Charges towards ground improvement and Piling	9.10	9.10
3	Sub Total Plant and Machinery Cost (1+2)	266.18	178.20

Sr. No.	Particulars	Submitted by Petitioner	Approved by the Commission
4	Civil Cost other than Piling	53.99	19.50
5	TOTAL PROJECT COST (3+4)	320.17	197.70

*Factors site specific expenses other than that allowed separately.

21. **FIXED CHARGES**

Keeping in view the total Capital Cost of Rs. 197.70 Cr., the Fixed Charges have been considered based on the DERC MYT Regulations 2007 and DERC MYT Regulations 2011 as follows:

Annual Fixed Charges for different heads

Sr. No.	Particulars	FY 2010-11		FY 2011-12			
		05.02.11 - 31.03.11 (Open Cycle)		01.04.11 - 03.09.11 (Open Cycle)		04.09.11 - 31.03.12 (Closed Cycle)	
		Submitted by The Petitioner	Approved by Commission	Submitted by The Petitioner	Approved by Commission	Submitted by the petitioner	Approved by Commission
1	O&M expenses	1.14	1.14	3.36	3.36	6.78	6.78
2	Depreciation	1.51	0.99	4.26	2.79	10.41	6.81
2a	Advance Against Depreciation	0.00	0.00	0.65	0.46	0.49	1.13
3	Interest on Loans	1.25	1.12	4.71	3.09	11.34	7.41
4	Return on Equity	1.06	0.69	2.99	1.95	7.28	3.70
5	Interest on Working Capital	1.47	0.92	4.64	2.74	6.79	4.46
6	Total	6.42	4.85	20.61	14.39	43.08	30.29

22. **ENERGY CHARGES**

The Operational norms like Station Heat Rate, Auxiliary consumption, PLF etc. for determination of Energy Charges of the plant may be considered as specified in the DERC MYT Regulations, 2007 because the plant was commissioned in Sep.'11 during that period these Regulations were applicable. Therefore, the Operational norms to be followed for determination of Energy Charges is as follows:

- I. The Commission had directed the Petitioner to certify Station Heat Rate and Auxiliary Consumption by a Govt. agency. However, the same has not yet been submitted by the Petitioner.
- II. The Petitioner has submitted the report of M/s Protocol. It is observed that M/s Protocol have estimated SHR based on the reports and statements submitted by the Petitioner to them, which means that M/s

Protocol has not actually verified SHR and has relied upon the data submitted by the Petitioner. Being a second hand power plant it is observed that the actual SHR has submitted by the Petitioner is on the higher side as compared to the SHR indicated in the DERC Tariff Regulations 2007.

- III. Based on Regulations 7.3 of the Tariff Regulations 2007, the SHR, PLF and Auxiliary Consumption for the plant having date of commercial operation on or after 01.04.2004 shall be as follows:

Particulars	Advance Class Machine	E/EA/EC/E2 Class Machine
Open Cycle	2685 kCal/kWh	2830 kCal/kWh
Combined Cycle	1850 kCal/kWh	1950 kCal/kWh

Availability: The Target Availability for recovery of full capacity (fixed) charges shall be **80%**.

...

Auxiliary Energy Consumption:

Gas-based and Naphtha-based generating stations

Combined cycle	3.0%
Open cycle	1.0%

- IV. The SHR as applicable to Advance Class Machine has not been considered. However E/EA/EC/E2 Class Machine's SHR has been considered. The comparative parameters for Operational Norms as submitted by the Petitioner and as considered by the Commission is as follows:

Operational Parameters for Rithala Plant

Particulars	UoM	Open Cycle		Closed Cycle	
		Submitted by the petitioner	Approved by the Commission	Submitted by the petitioner	Approved by the Commission
SHR	kCal/kWh	3810	2830	2560	1950
PLF	%	80	80	80	80
Auxiliary Consumption	%	2	1	6	3

23. To wind up, it is on record that the instant case has a chequered history. Nonetheless, after a protracted litigation, the case has now attained finality in so far as petitions pending before the Commission. It may be

worth mentioning that undoubtedly certain guidelines in the form of policy decisions were loosely interpreted and the spirit behind such policy decisions were not adhered to in letter and spirit but apparently, no drastic irregularity came-forth to apparently indicate of any malafide. The Rithala Plant, as has emerged out, was established basically to enhance the power availability in Delhi and cater urgent need and requirement of power for Commonwealth Games. The competitive bidding process was not followed. Therefore, the element of transparency and reasonableness could not be commented upon. Notwithstanding the fact that no approval was sought from the Commission to install such a plant, but the Petitioner did intimate of his intention in establishing a plant in Rithala.

24. As regard PPA and the determination of tariff, viz-a-viz the prayers of the Petitioner in the said petitions as stated in the preceding paragraph seeking approval of terms and conditions for sale and purchase of power could be allowed subject to certain conditions. Regarding seeking approval for usage of 6 acres of land located in the Petitioner's licensed area is to be allowed as the land belongs to GoNCTD and DDA has issued NOC for the establishment of the power plant on temporary basis. The fixed charges and the operational parameter could be considered for approval. Thereafter the Petitioner shall file true-up petitions for finalising of generation tariff for the respective year.
25. It may be worthwhile mentioning here that whilst referring to and relying upon famous case of Maithon Power Limited, it emerged that the Maithon Power Limited despite being a private company having 74% stake held by Tata Power Company Limited was, though, coming within the purview of National Tariff Policy, 2006, whereby PPA could not have been approved, the Petition was admitted and the PPA was approved by the Commission. In the instant case, it is also observed that the Power Sale Agreement dated 24.12.2008 executed between Tata Power Trading Co. Ltd. (TPTCL) and West Bengal State Electricity Distribution Co. Ltd. (WBSEDCL) for supply of 150 MW of power from the Maithon Power Ltd. on 16.2.2010 by West Bengal Electricity Regulatory Commission (WBERC). Till date, there has not been any objection, though the matter is pending before Hon'ble Supreme Court of India, but no injunction has been passed or there is no embargo on the order/judgement passed by Hon'ble APTEL on 31.03.2010. The same analogy can be drawn in the subject case wherein

the interest of developer had been protected by the Central Government in relaxing the conditions and the plant was recognised as Ultra Mega Power Plant. Based on the said premises, the Central Electricity Regulatory Commission (CERC) determined the tariff and the Commission had approved the PPA since TPDDL comes under the jurisdiction of DERC for the purpose of exercising power of Regulator. Accordingly, the modalities as exercised in the above mentioned case could also be taken care of by taking cue from the same.

26. Notwithstanding, perusal of the previous tariff orders of the Petitioner reveals, inter-alia that the cost of power from Rithala Plant, where Petitioner was drawing power and selling under UI, the Commission in the past, had provisionally considered the average power purchase cost of gross power procured as tariff had not been determined for Petitioner's Rithala Plant.
27. In view of the foregoing discussion and the deliberations carried out in the preceding notes ante and the records placed before the Commission, the petitions are decided as follows:
 - (a) **Petition No. 11 of 2009:** under Section 62, 86(1) of the Electricity Act, 2003 seeking approval of Terms and Conditions for Sale and Purchase of Power between two divisions of the Petitioner viz. TPDDL (G) and TPDDL (D) is allowed to the extent of permission granted by Govt. of Delhi for operation of the Plant i.e. 06 year from the year of COD in Combined Cycle Mode which comes out to be March, 2018.
 - (b) **Petition No. 7 of 2010:** under clause 5.5 and 11 of the License Conditions of the Petitioner's Distribution and Retail Supply License issued by this Commission, seeking approval regarding usage of 6 Acres of land located in the Petitioner's licensed area for setting up the Rithala Plant is allowed as the land belongs to GoNCTD and DDA has issued NOC for establishment of the power plant on temporary basis. Further the profit, if any, from the plant shall be governed by the provisions of DERC (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) Regulations, 2005.

(c) **Petition No. 6 of 2013** : under Section 62, 86(1) of the Electricity Act, 2003 seeking approval of the generation tariff, the Commission approves fixed charges and operational parameter required for computation of energy charges as indicated in para 21 and 22, respectively for The Petitioner's 94.80 MW Rithala Plant. The Petitioner shall file true up petitions based on the applicable Regulations for the aforesaid parameters for finalization of generation tariff for the respective years.

The Petitions stand disposed off accordingly.

Sd/-
(B.P. Singh)
Member