Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)

Appeal No. 244 of 2012

Dated: 26th August, 2014

Present: Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. Rakesh Nath, Technical Member

In the matter of:

DPSC Limited ….Appellant(s)
Plot X – 1, 2 & 3, Block EP,
Sector V, Salt Lake City,
Kolkata – 700 091

Versus

1. **West Bengal Electricity Regulatory Commission ….Respondent(s)**
   FD - 415A, Poura Bhawan
   3rd Floor, Sector – III,
   Bidhannagar, Kolkata – 700 106

Counsel for the Appellant (s): **Mr. Buddy A. Ranganadhan**
Mr. Debnath Ghosh
Mr. Subir Kumar
Ms. Shruti Verma
Mr. Shounak Mitra
Mr. Atul Shankar Mathur
Mr. Sandip Mitra
Ms. Ranjitha Ramachandran
Mr. A. Bairagi

Counsel for the Respondents (s): **Mr. Prathik Dhar**
Mr. C.K. Rai
Mr. Ravin Dubey

JUDGMENT

RAKESH NATH, TECHNICAL MEMBER

The present Appeal has been filed by DPSC Ltd. against the order dated 24.08.2012 passed by the West Bengal Electricity Regulatory Commission ("State Commission") approving the Annual Performance Review of the Appellant for the FY 2009-10.

2. The Appellant is a generation and distribution utility operating in the Asansol-Raniganj belt of District Burdwan in the State of West Bengal. The Appellant is a Distribution Licensee for the area. The State Commission is the Respondent.

3. The brief facts of the case are as under:

a) The Appellant had submitted a Petition on 31.03.2010 for Annual Performance Review (APR) for the FY 2009-10 in terms of Regulation 5.4.2 of the Tariff Regulations 2007, as amended.

b) The said APR Petition was disposed of by the State Commission in terms of Tariff Regulations, 2011 vide the impugned order dated 24.08.2012 wherein part of amounts claimed by the Appellant in relation to Coal and Ash Handling charges, Water charges, Operation and Maintenance charges and Fixed Cost of Dishergarh Power Plant have been disallowed.

c) Aggrieved by the disallowance of the above expenditure in the impugned order dated 24.08.2012, the Appellant has filed this Appeal.

4. The Appellant has made the following submissions:

A. Coal and Ash Handling charges:

i) In the APR, the Appellant had claimed an amount of Rs. 103.2 lakhs on account of Coal and Ash Handling charges for its Dishergarh and Chinakuri Power Plants, as against Rs. 92.45 lakhs allowed in the tariff order for FY 2009-10. The Appellant gave detailed justification for increase in the expenses along with the difficulties faced by the Appellant in procurement of coal. None of the contentions of the Appellant have been considered by the State Commission in the impugned APR Review Order. On the other hand the State Commission only

considered the actual generation at the two power plants and since the actual generation was less than the target set in the tariff order for FY 2009-10, the State Commission admitted the expenses of only Rs. 92.45 lakhs as allowed in the tariff order.

ii) In the original tariff order, the State commission had not passed the Coal and Ash Handling charges with the actual quantum of generation and had only permitted an increase in such expenditure over the previous years to cover the inflationary increase. Hence, while undertaking the APR the State Commission has adopted an entirely new basis of correlating the Coal and Ash Handling charges with actual generation of the power plants.

iii) Coal and Ash Handling charges are a part and parcel of fuel cost. The Coal and Ash Handling charges cannot

said to vary only with generation but there are multiple factors like quality of coal, distance travelled for disposing of ash, labour contract rate, revision in minimum wages, etc., which are also responsible for increase in cost under this head. Accordingly, the Coal and Ash Handling charges are uncontrollable.

iv) Under clause 2.5.5 of 2011 Regulations, any uncontrollable cost has to be passed through in the tariff in an appropriate manner by the State Commission.

B. Water charges

i) The contentions of the Appellant in respect of Water charges are the same as the contentions on the issue of Coal and Ash Handling charges.

ii) In respect of water charges also the State Commission considered the actual generation at the power plants and as the actual generation was less than the generation target fixed in the original tariff order, the State Commission allowed the same water charges of Rs. 7.17 lakhs as allowed in the original tariff order. This was against the claim of Rs. 7.30 lakhs in the APR Petition.

iii) The Water charges are not only for the boiler but are also meant for water consumed by workers and staff in the Appellant's housing colony which is adjacent to the generation station.

iv) Under the Removable of Difficulties (Fourth) order, the supply of electricity by a generating plant to the colony of its employees is deemed to be part of integral activities of a generating station. On a parity of

reasoning, if the maintenance of employees' colony is deemed to be part of the integral activities of generation, the provision of water to the employees would also be an integral part of the activities of a generating station. The associated cost of such activity would not be correlative to the actual generation.

C. Repairs and Maintenance costs (R&M):

i) This issue arises only for the distribution system of the Appellant. Repair and Maintenance is a part of the Operation and Maintenance expenses.

ii) In the impugned order the State Commission has merely proceeded on the basis of O&M for distribution functions as "controllable" and has restricted the amount to what was allowed in the main tariff order in contravention to the Tariff Regulations.

D. Annual Fixed charges:

i) The recovery of Annual Fixed charges for the generating stations has been determined in the impugned APR order on the basis of actual generation vis-à-vis the targeted generation i.e. the targeted Plant Load Factor.

ii) Under the 2011 Tariff Regulations, the Plant Load Factor is defined differently from the availability of the generating station. The Regulations clearly provide that Fixed charges for non-ABT generating plants is to be calculated on the basis of availability and not Plant Load Factor ("PLF"). However, the capacity charges recovery of the generating stations that are not covered by on-line monitoring display arrangement at SLDC along with dedicated audio communication has to be done on the basis of normative PLF meant for incentive

purpose. Thus, the Regulations prescribe different norms of PLF and availability for the thermal generating stations of the Appellant. However, in the impugned order the State Commission has determined the capacity charges not on the basis of availability but on the basis of PLF contrary to the 2011 Tariff Regulations.

5. On the above issues we have heard Mr. Buddy Ranganadhan, Learned Counsel for the Appellant and Mr. Pratik Dhar, Learned Counsel for the State Commission.

6. On the basis of the rival contentions of the parties, the following questions would arise for our consideration:

i) Whether the State Commission has erred in correlating Coal and Ash Handling charges to the

actual generation of the power plants and restricting the actual expenses under this head in the APR to that approved in the original tariff order?

ii) Whether the State Commission has erred in correlating the water charges to the actual generation of the power plants and restricting the actual water charges in the APR to that approved in the original tariff order?

iii) Whether the State Commission has erred in considering the Repair and Maintenance charges for the distribution business of the Appellant as "controllable" and not allowing the increase in expenditure under this head in the APR over that allowed in the original tariff order?

iv) Whether the State Commission has erred in disallowing part of Annual Fixed Charges for the power plant in contravention to the Tariff Regulations.

7. Let us take up the first issue regarding Coal and Ash Handling charges.

8. The main contention of the Appellant is that Coal and Ash Handling charges should not be correlated with the actual generation as these are dependent on several factors such as quality of coal, transportation cost, increase in labour cost, quantity of ash handled and the distance where the ash is disposed of, etc., and the State Commission has not considered the reasons for increased expenditure under this head. Further, the Coal and Ash Handling charges are a part of fuel cost

as per the definition and thereby it is an uncontrollable expenditure.

9. According to Mr. Pratik Dhar, the Learned Counsel for the State Commission, the Commission has given reasons while disallowing the amount claimed under Coal and Ash Handling charges. The actual generation at Dishergarh power station was less than 50% of the target generation given in the original tariff order. At Chinakuri power station also the actual generation was only 181.13 MU as against the target of 210.24 MU. When the Appellant was not aggrieved by the expenses under this head allowed in the main tariff order for the targeted generation which is much more than the actual generation, there is no reason to be aggrieved with the expenses allowed at the same level in the APR order for much lower generation.

10. Regarding contention of the Appellant that Coal and Ash Handling charges are a part of fuel cost, Mr. Pratik Dhar, Learned Counsel for the State Commission has argued that the APR order is truing up of fixed charges and not variable charges. If the contention of Appellant is accepted then the truing up of Coal and Ash Handling charges should have been carried out through Fuel and Power Purchase Cost Adjustment mechanism (FPPCA) and not by APR. The Coal and Ash handling charges is a separate item as may be found from the statutory form being Form E(b) of the 2007 tariff Regulations.

11. Let us first examine the components of Coal and Ash handling charges.

12. We find that the Appellant has claimed Coal and Ash Handling charges as part of the fixed costs. The Coal Handling expenses claimed by the Appellant in its

Petition before the State Commission comprises the cost of stone adjustment in coal received from the coal supplier, transit loss during transportation of coal and service charges for manual loading of oversize coal, removal of ballast, transportation of coal from boiler house to coal bunker, etc. The Ash Handling charges claimed by the Appellant are the expenses incurred in disposal of ash produced after combustion of coal in the boiler. It is also seen that the major expenses out of the total Coal and Ash Handling charges claimed is on account of Ash handling charges (85.7% of total expenses claimed under this head in case of Dishergarh and 62.6% in case of Chinakuri).

13. We find that the “Fuel Cost” is defined in the 2007 Regulations as under:

"Fuel Cost" means all expenditure related to procurement of fuel that is required for combustion in thermal generating station for generation of electricity only and the associated transportation and handling charges inclusive of fuel quality assurance service cost, fuel delivery assurance cost, fuel quality enrichment cost and any other incidental charges as specified in the regulation 4.8 of these Regulations. Similar definition has been incorporated in 2011 Regulations also.

14. Regulation 4.8 *interalia* includes the basic fuel price and transportation of Coal and other charges related to fuel procurement. Thus, "fuel cost" includes the basic fuel price and the expenditure incurred in transportation and handling charges incurred outside the power plant premises. Once the fuel is received inside the power plant premises all expenses incurred on unloading of

wagons or trucks, separation of boulders, dust suppression, conveying of coal from coal yard to the coal bunkers in the boiler is a part of Operation and Maintenance expenses and cannot be a part of fuel cost. By no stretch of imagination, the Ash Handling charges which are major component of coal and Ash Handling charges can be included in the fuel cost.

15. We also notice from the 2007 Tariff Regulations that the landed cost of fuel shall *interalia* include the transit and handling losses at the rate to be decided by the State Commission but not more than 1.5% in the first control period. However, we find that the Appellant has claimed transit loss in transportation of coal as part of Coal Handling charges which should have been claimed as part of fuel cost. We also feel that stone adjustment of coal as claimed by the Appellant as part of fixed cost should have been claimed as part of fuel cost. We find

that the amount of transportation loss in the claim of the Appellant is Rs. 1.39 lakhs for Dishergarh and Rs. 4.95 lakhs for Chinakuri power station i.e. Rs. 6.34 lakhs in the total claim of Rs. 103.20 lakhs. Similarly stone adjustment in coal consumption which has been claimed as Rs. 3.43 lakhs in case of Dishergarh and Rs. 18.11 lakhs in case of Chinakuri should have been claimed as part of fuel cost.

16. We also find force in the argument of Learned Senior Counsel for the State Commission that the Form E(b) of the Tariff Regulations, 2007 shows the Coal and Ash Handling charges as a separate item and is not a part of the fuel cost.

17. In view of above, we do not find any force in the argument of the Appellant that Fuel and Ash handling charges are part of fuel cost and, therefore, should be

allowed as a pass through in tariff, being uncontrollable expenses.

18. We feel that the Coal and Ash Handling charges would depend on quantity and quality of coal handled by the generating station.

19. We find that the State Commission in the impugned order has stated that the actual expenditure under Coal and Ash Handling charges has not been separately classified in the audited accounts. The State Commission has given directions to the Appellant to henceforth provide the auditor's certificate separately in regard to the heads of expenses which are not directly available from the audited accounts. The State Commission has held that the Coal and Ash Handling charge are variable with the quantum of generation and use of coal. In the absence of the audited accounts, the

State Commission has compared the actual generation with the target generation and on finding that the actual generation was much less than the target generation on which the Coal and Ash handling charges were approved in the tariff order, retained the charges under this head as per the original tariff order.

20. Thus, the State Commission has interlinked the Coal and Ash Handling charges to energy generation alone without considering the quality of coal.

21. In view of our findings in paragraph 14 above, we feel that the stone adjustment in coal consumption and transit loss should have been claimed by the Appellant under true up of fuel cost and are not payable under Coal Handling charges in APR. The other expenses claimed under the Coal Handling charges will mainly

depend upon the quantity of coal consumption which may be correlated to the generation level.

22. As far as Ash Handling expenses are concerned, the same are dependent mainly upon the quantity of ash handled which in turn is dependent upon actual quantity of coal consumption and ash content of coal and the distance of ash disposal area from the main plant. Therefore, while computing the Ash Handling charges, these factors have to be considered. Thus, while examining the Ash Handling expenses in APR/true up the State Commission can consider the actual quantity of coal vis-à-vis the estimated quantity of coal based on the target generation, any abnormal increase in the ash content of coal and any increase in haulage of ash to the disposal area due to change in disposal area during the year in question and accordingly allow variation in Ash Handling charges if deemed necessary.

23. We find that the amount of Rs. 92.45 lakhs approved by the State Commission adequately covers the expenses claimed for Coal Handling (excluding stone adjustment and transit loss adjustment) and Ash Handling charges as claimed by the Appellant in its Petition. However, we give liberty to the Appellant to approach the State Commission to claim the transit loss and stone adjustment in coal under true up of fuel cost. If such a claim is made, the State Commission will consider the same and decide as per law. Though we do not want to interfere with the amount allowed as Coal and Ash Handling charges in the APR order, we direct the State Commission and the Appellant may note our findings in the matter and to pass the appropriate order.

24. Let us take up the second issue regarding Water Charges.

25. The contention of the Appellant in respect of water charges is the same as for Coal and Ash Handling charges. Additionally, the Appellant has claimed that the cost of water consumed in employee's residential colony should also be included in the water expenses on the analogy of treatment given to electricity supply to the employees' colony under Removal of Difficulties (Fourth) Order.

26. According to Mr. Pratik Dhar, Learned Counsel for the State Commission, there is no rule or regulation which allows the expenses incurred in water consumed in the employees' colony to be allowed as an expenditure in the ARR of the Appellant.

27. Let us examine the Electricity (Removal of Difficulty) Fourth Order, 2005.

28. The above order was issued due to difficulties arisen due to the requirement of licence for supplying power to the housing colonies or township housing the operating staff of the generating stations by the generating company. The relevant portion of the order is reproduced below :

"2. Supply of electricity by the generating companies to the housing colonies of its operating staff.- The supply of electricity by a generating company to the housing colonies of, or townships housing, the operating staff of its generating station will be deemed to be an integral part of its activity of generating electricity and the generating company shall not be required to obtain licence under this Act for such supply of electricity."

29. We are not inclined to accept the contention of Mr. Buddy Ranganadhan, learned counsel for the Appellant that water charges for water consumed in the employees' colony should be allowed in the APR on the analogy that housing colony of the operating staff has to be considered as an integral part of the generating

station for supply of electricity by the generating company as per the above Removal of Difficulty order due to the following reasons:

i) Firstly, the Removal of Difficulty Forth order does not include supply of water to the housing colony of the generating station by the generating company.

ii) Secondly, the above order was issued only to obviate the requirement of licence by the generating company for supplying electricity out of its generating station to the housing colony of the operating staff of the generating station, which is otherwise required to be taken by the supplier of electricity under the Electricity Act, 2003 and not for allowance of expenses so incurred to be passed on in the tariff of the generating company.

Accordingly, the expenses for water supplied to the housing colony of the Appellant's generating station cannot be included in the water charges to be recovered in the tariff of the generating station.

30. The State Commission in the impugned order has found that the actual energy generation at the power plants of the Appellant was much less than the target generation considered in the original tariff order and on that basis retained the same Water charges as allowed in the original order. We find that the finding of the State Commission is perfectly in order. The actual generation at Dishergarh was 25.35 MU against the target of 51.29 MU i.e. less than 50% and the generation at Chinakuri was 181.13 MU as against the target of 210.24 MU i.e. about 86% of the target. Under such a situation, there is no justification for any increase in the water charges as allowed in the main tariff order. The only reason given

by the Appellant for increase in water charges is on account of cost of water supplied for consumption in the housing colony of the operating staff of the Appellant's generating station which has been rejected by us for inclusion in the water charges to be recovered in the tariff. Accordingly this issue is decided as against the Appellant.

31. The third issue is regarding Repair and Maintenance charges:

32. The main contention of the Appellant is that Repair and Maintenance charges are uncontrollable as per the Regulations and, therefore, the State Commission should have considered the actual Repair and Maintenance expenditure incurred.

33. Shri Pratik Dhar, Learned Counsel for the State Commission has submitted that the Repair and Maintenance charges are a part of the Operation and Maintenance expenses. In the 2011 Regulation vide Clause 2.6.10(i) it is specifically stated that no additional cost shall be allowed in the APR for a controllable item except that specified in the Regulation. As per Regulation 2.5.6.3 of the 2007 Tariff Regulations, Repair and Maintenance expenses and A & G expenses are controllable items. It is an admitted fact that by an amendment dated 22.05.2007 of 2007 Tariff Regulations it was specifically clarified that repair and maintenance for distribution and transmission system would be a controllable item. In the original tariff order dated 28.07.2009 it was clearly stated that in case the actual expenditure under R&M head of distribution system is found to be less than the admitted amount, the Commission will allow the actual

expenditure under this head in APR. This tariff order dated 28.07.2009 was not challenged by the Appellant.

34. We find that the 2011 Tariff Regulations provide that no additional cost shall be allowed in APR on any item of controllable factor over the amount permitted in the tariff order except for allowable specific condition based variation as specified in the Regulations or specifically mentioned in the tariff order. These Regulations do not specify any variation to be allowed to Repair and Maintenance expenses.

35.. The original tariff order did specify adjustment of Repair and Maintenance expenses to actual if the actual Repair and Maintenance expenses are found to be lower than that allowed in the tariff order. However, we do not find any direction for adjustment in case the actual Repair and Maintenance expenses exceed that

allowed in the original tariff order. We find that the Regulation 2.5.6.7 of the 2007 Tariff Regulations specifies that Repair and Maintenance expenses and Administration and General expenses are both controllable items for the generating company or licensee. By amendment dated 31.12.2007 of the 2007 Tariff Regulations, the Operating and Maintenance expenses as per Schedule 9 A of the Regulations were specified as controllable. The heading of Table 2.5-1 showing the uncontrollable or controllable factors indicates both the generating company and a Licensee. However, Schedule 9A pertains to only generation.

36. The State Commission vide amendment dated 22.05.2009 specified Repair and Maintenance expenses for distribution licensee as “controllable”. The Amendment Regulation comes into effect from the date of publication in the Official Gazette i.e. 22.05.2009 and

interalia apply to APR for FY 2008-09 and onwards. Therefore, it would also cover APR for FY 2009-10. The original tariff order was also passed subsequent to the notification of the Amendment Regulations.

37. When there are specific provisions regarding treatment of Repair and Maintenance expenses as controllable in the Regulations, we cannot find fault with the finding of the State Commission to restrict the Repair and Maintenance expenses to the amount as decided in the original tariff order. Accordingly, this issue is also decided as against the Appellant.

38. The fourth issue is regarding Annual Fixed charges.

39. According to the Learned Counsel for the Appellant, 2011 Regulations clearly provide *interalia* that fixed charges for a non-ABT generating plant is to be

calculated on the basis of “availability” and not “PLF”. Shri Buddy Ranganadhan has strenuously taken us through the Regulation 6.4.2 to establish this.

40. According to Shri Pratik Dhar, Learned Counsel for the State Commission, Dishergarh power plant was not covered by ABT and Chinakuri Power Plant was not connected on-line with SLDC during the entire period 2009-10. Consequently, the capacity charges were correctly determined on the basis of PLF in accordance with the proviso to the Regulation 6.4.2.

41. Let us now examine the provisions of 2011 Tariff Regulations. The relevant Regulation 6.4.2 is reproduced below

“The recovery of capacity charges for all the generating stations of the licensees shall be against the normative availability and for ABT complaint generating station of generating company shall be against regulation 6.11 of

these regulations for which the schedule of availability for all the 15 minutes time block shall be provided to the SLDC directly by each generating station of a generating company or by the ALDC in respect of a licensee's generating stations for recording and subsequent demonstration of their declared capacity as mentioned in regulation 6.7 of these regulations and for this purpose the licensees/generating companies shall also provide on-line monitoring display arrangement of generation/sent – out of the generating stations along with dedicated voice communication at SLDC to meet the need of regulation 6.7 of these regulations and also paragraph 2 and 5 of Schedule – 10 of these regulations for incentives. For generating stations of licensee, the full capacity charge will be recovered at the targeted availability factor as per paragraph C of Schedule – 9A and for performance beyond the targeted availability factor it shall be entitled to no further capacity charge but will be entitled to incentive as per Paragraph – 1 of Schedule – 10 only. While submitting the availability schedule by the ALDC of any licensee for the generating stations of the licensee to the SLDC, ALDC shall also provide the schedule of injection by those generating stations. For subsequent revision in availability schedule and/or injection schedule for such generating stations of the licensee, the ALDC of the licensee shall follow the methodology as applicable for generating stations of generating companies to submit revised schedule to the SLDC.

Provided that capacity charge recovery of the generating stations, that have not yet been covered by on-line monitoring display arrangement at SLDC along with dedicated audio communication, shall be done on the basis of normative PLF meant for incentive purpose

in paragraph B of Schedule – 9A or as per Schedule 9D of these regulations and such generating stations shall not be entitled to any incentive under paragraph 2 and 5 of Schedule – 10 of these regulations."

42. According to 2011 Tariff Regulations for recovery of capacity charges on the basis of "availability", the generating company has to provide on-line monitoring display arrangement of generation/sent-out of the generating station along with dedicated voice communication to SLDC. The availability has also to be declared in advance to facilitate advance scheduling of power generation. However, the power plant which have not been covered by on-line monitoring display arrangement along with the dedicated audio communication, the capacity charges recovery shall be done on the basis of normative PLF meant for incentive purpose as given under paragraph B of Schedule 9A.

43. In the impugned order it is clearly stated that Dishergarh power station was not covered by ABT and Chinakuri power station was not connected on-line with SLDC during the entire period of 2009-10. Consequently, the capacity charges have to be recovered on the basis of PLF.

44. As evident from the definition of the availability, the availability has to be declared in advance to the SLDC. According to the Regulation, the SLDC has to be provided with on-line monitoring display arrangement for generation and dedicated voice communication system by the generating company, to be able to verify the declared availability. Admittedly, the monitoring stem and the dedicated voice communication and the system of submission of generation schedule to the SLDC was not prevalent during the FY 2009-10. It has been pointed out by Learned Counsel for the State

Commission that the Appellant could establish the connection between the power plant at Chinakuri and SLDC control room only in the month of October 2010 and started with the submission of generation schedule only with effect from 15.10.2010. If that be the position, the Appellant cannot claim recovery of fixed charges as per the plant availability during FY 2009-10 when the system of declaration of availability to SLDC and the verification mechanism had not been established by the Appellant. Thus, the Appellant is entitled to capacity charges based on PLF during FY 2009-10.

45. Learned Counsel for the Appellant has cited (2004) 1 SCC 574 and various other judgments of Hon'ble Supreme Court to emphasize that the proviso cannot be read as overriding the main part of the section. We feel that the quoted rulings will not be of any help to the Appellant. In the present case, the requirement of

determination of availability and its verification by SLDC as given in the main Regulation are not met. Admittedly the mechanism for scheduling of generation on the basis of plant availability through SLDC as specified in the main Regulation was not prevalent during FY 2009-10. Therefore, we have decided, the matter after comprehensive reading of the Regulations including the proviso which covers the power plant which are not covered by on-line monitoring argument at SLDC along with dedicated communication system.

46. Accordingly, the last issue is also decided as against the Appellant.

47. **Summary of our findings:**

(i) Coal & Ash Handling Charges: These charges cannot be considered part of fuel cost and form part of fixed cost which is to be determined in the

APR. However, transit loss and stone adjustment in coal consumption have been wrongly claimed by the Appellant under the Coal and Ash Handling Charges. We find that the amount of Rs. 92.45 lakhs approved by the State Commission adequately covers the expenses claimed for Coal and Ash Handling charges as claimed by the Appellant in its Petition. However, we give liberty to the Appellant to claim the transit loss and stone adjustment in coal under true up of fuel cost and if such claim is made by the Appellant, the State Commission shall consider the same and decide as per law. However, we have not giving any finding on the merits of adjustment of transit loss and stone adjustment as claimed by the Appellant in the fuel cost.

(ii) <u>Water charges:</u> We do not agree with the contention of the Appellant that water charges for

water consumed in the housing colonies of the Power Plants should be allowed in the APR on the analogy of housing colony to be considered as an integral part of the generating station for supply of electricity by the generating company as per Electricity (Removal of Difficulty) Fourth Order, 2005. We do not find any infirmity in the State Commission's findings allowing the same water charges as allowed in the main Tariff Order.

(iii) Repair & Maintenance Charges: The Repair & Maintenance expenses for the distribution licensee are controllable according to the Regulations. Accordingly, we do not find any infirmity with the findings of the State Commission to restrict the repair and maintenance expenses to the amount as decided in the original Tariff Order.

(iv) Annual Fixed Charges: The State Commission has correctly decided to allow recovery of fixed charges as per the Plant Load Factor in accordance with the Regulations.

48. In view of above the Appeal is dismissed. No order as to costs.

49. Pronounced in the open court on this 26th day of August, 2014.

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

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REPORTABLE/NON-REPORTABLE

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