

Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17

No. F. 3(149)/Tariff/DERC/2006-07

Petition No. 54/2006

In the matter of:

Review Petition under the provisions of the Electricity Act, 2003 against Order dated 22nd September, 2006 passed by Delhi Electricity Regulatory Commission on the Petition of the Company for determination of generation tariff for the FY 2006-07.

And

In the matter of:

Indraprastha Power Generation Co. Ltd.,
Regd. Office: Himadri,
Rajghat Power House Complex,
New Delhi.

Before
Delhi Electricity Regulatory Commission

Coram:

**Sh. Berjinder Singh, Chairman, Sh. K. Venugopal, Member &
Sh. R. Krishnamoorthy, Member.**

ORDER

(Date of Hearing -19.12.2006)
(Date of Order - 30.03.2007)

This Review Petition has been filed under the provision of section 94(1)(f) of the Electricity Act, 2003, by Indraprastha Power Generation Company Limited (IPGCL), hereinafter called the Petitioner, against the Commission's Order dated 22nd September, 2006 in Petition No. 02/2006. In order to appreciate the issues raised in this Review Petition, it would be proper to state the facts giving rise to filing of this Review Petition.

2. The Delhi Electricity Regulatory Commission (DERC) (hereinafter referred to as "Commission") was established under the Electricity Regulatory Commission Act, 1998 and has been assigned the functions as described under Delhi Electricity Reform Act, 2000 and Electricity Act, 2003. The Commission as per Section 86(1)(a) of the Electricity Act, 2003, is vested with the powers to determine tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State.

3. A Petition for approval of the Annual Revenue Requirement (ARR) and determination of Tariff for FY 2006-07 was filed by IPGCL on 19th December, 2005.

4. The Petition for Annual Revenue Requirement (ARR) and determination of Tariff for FY 2006-07 filed by IPGCL was admitted by the Commission after seeking additional information/clarifications necessary for the admission of the said Petition. The Commission passed its Order on 22nd September, 2006 on the aforesaid Petition after examining the information submitted by the Petitioner and also keeping in mind the subsequent interaction/submissions with the Petitioner and the views expressed by various stakeholders.

5. The Policy Directions, issued by the Government of NCT of Delhi, envisages uniform retail supply tariffs across the DISCOMs and tariffs have to be determined in a manner that allows the DISCOMs to recover all permissible expenses and return for the year. Therefore, the BST for the DISCOMs cannot be determined in isolation. The tariff of Generating Company is an input to the Power Purchase Cost of the TRANSCO. The Commission processed the ARR and Tariff Petitions of IPGCL, PPCL, TRANSCO and three DISCOMs simultaneously. The Commission passed its orders on the ARR and tariff Petitions of IPGCL and PPCL, Transco and DISCOMs on 22nd September, 2006 and revised the electricity Retail Supply Tariff and the electricity Bulk Supply Tariff in Delhi w.e.f 1st October, 2006.

6. This Review Petition has been filed subsequent to the said impugned Order. According to the Petitioner, the impugned Order passed by the Commission suffers from mistakes and errors apparent on the face of the record, which are required to be corrected and that there are other sufficient reasons for reviewing and/or modifying the impugned Order.

7. While touching the issues raised in this Petition, it is important to understand that while dealing with an application for a review of an Order, it is very necessary to process the application with utmost caution as the powers of review are not ordinary powers.

8. The provisions relating to review of an Order constitute an exception to the general Rule to the effect that once a judgement is signed and pronounced, it cannot be altered. Therefore, the Orders are not generally interfered with, till there are circumstances as defined under the law which make it necessary for a Court to alter or modify or reverse its original judgement. The application and the scope of the review of an Order are circumscribed under Order 47, Rule 1, of Code of Civil Procedure. The power of review is not

inherently vested with a Court or a Tribunal or a Commission. The right and power of review does not exist unless conferred by law expressly or by necessary implication.

9. With the enactment of the Electricity Act, 2003, the State Electricity Regulatory Commissions have been vested with powers for reviewing its decision, directions and Orders by virtue of sub-Section 1(f) of Section 94 of the Electricity Act, 2003. The application, made before the Commission, for the review of its decision, directions and Orders, therefore, derives its scope and authority from the aforesaid section of Electricity Act, 2003 read with Order 47, Rule 1, of the Code of Civil Procedure.

10. The scope of review, at the very outset, is much restricted than that of an appeal. The Court of review has only a limited jurisdiction under Order 47, Rule 1.

11. The review power, under the aforesaid provision are re-produced as below: -

“Application for review of judgement – (1) Any person considering himself aggrieved –

- (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred; or
- (b) by a decree or order from which no appeal is allowed; or
- (c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter of evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgement of the Court which passed the decree or made the order”.

12. The above mentioned provisions of CPC mandates that a Court of review may allow a review only on three specific grounds which are as under: -

- (a) Discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the aggrieved person or such matter or evidence could not be produced by him at the time when the order was made; or

- (b) Mistake or error apparent on the face of the record; or
- (c) For any other sufficient reason which is analogous to the above two grounds.

Under Order 47, Rule 1, CPC, Order/Judgement may be open to Review, inter-alia, if there is a mistake or an error apparent on the face of the record. An error which is not self-evident has to be detected by process of reasoning and such an error can hardly be said to be an error apparent on the face of the record, justifying the Court to exercise its power of review under the above said provisions.

13. An error apparent on the face of record may not be defined precisely and exhaustively, as there is an element of indefiniteness inherited in term so used and it must be left to the Court to determine judicially, on the basis of the fact of each case. However, an error must be one which speaks of itself and it glares at the face, which renders it difficult to be ignored. The error is not one limited to one of the fact but it also included obvious error of law. Further, the error is not just limited to error of fact or law but an error apparent on the face of the record is a ground, which would render a particular judgement to be reopened. Whether, the error may have crept by oversight or by mistake may need to be established. The exercise of review of judgement under Order 47, Rule 1, is not permissible for an erroneous judgement so as to render the judgement as "reheard and corrected". The law has made clear distinction between what is an erroneous decision and an error apparent on the face of the record. While the first can be corrected by a higher forum, the latter can be corrected by exercise of review jurisdiction. A Review Petition has a limited purpose that cannot be allowed to be an appeal in disguise.

14. The application for review on the discovery of new evidence should be considered with great caution. The applicant should show that: -

- (a) That such evidence was available and of undoubtable character.
- (b) That it was so material that the absence might cause miscarriage of justice.
- (c) That it could not with reasonable care and diligence have been brought forward at the time of decree/order. It is well settled that new evidence discovered must be relevant and of such character that it has clear possibility of altering the judgement and just not merely reopening the case for the sake of it.

15. On the question of scope of review, the Supreme Court in the case of Aribam Tuleshwar Sharma Vs. Aribam Pishak Sharma (AIR 1979 SC 1047) held that: -

"There are definitive limits to the exercise of power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made. It may be exercised where some mistake or error apparent on the face of the record is found. It may also be exercised on any analogous ground. But it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a Court of Appeal. A power of review is not to be confused with appellate power which may enable an appellate Court to correct all manner of errors committed by the Subordinate Court".

16. The Supreme Court, in the case of Smt. Meera Bhanja Vs. Nirmala Kumari Choudhury (AIR 1995 SC 455), while discussing the scope and jurisdiction of mistake apparent on the face of record has held that:

"The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of order 47, Rule 1, CPC. The Review Petition has to be entertained only on the ground of error apparent on the face of the record and not on any other ground. An error apparent on the face of record must be such an error which must strike one on mere looking at the record and would not require any long drawn process of reasoning on points where there may conceivably be two opinions. The limitation of powers of court under Order 47, Rule 1, CPC is similar to the jurisdiction available to the High Court while seeking review of the orders under Article 226".

17. Under Order 47, Rule 1, CPC Order/Judgement may be opened to review inter-alia, if there is a mistake or an error apparent on the face of record. An error which is not self-evident has to be detected by process of reasoning and can hardly be said to be an error apparent on the face of record justifying the Court to exercise its power of review under Order 47, Rule 1, CPC. In exercise of the jurisdiction under Order 47, Rule 1, CPC, it is not permissible for an erroneous decision to be "reheard and corrected". There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter only can be corrected by exercise of the review jurisdiction. A Review Petition has a limited purpose and cannot be allowed to be "an appeal in disguise".

18. Further also in the case of Parsion Devi Vs. Sumitri Devi, the Supreme Court has held that:

"A review of a judgement is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility. A mere repetition, through different Counsel, of old

and overruled arguments, a second trip over ineffectually covered ground or minor mistakes of inconsequential import are obviously insufficient. The very strict need for compliance with these factors is the rationale behind the insistence of Counsel's certificate which should not be a routine affair or a habitual step. It is neither fairness to the Court which decided nor awareness of the precious public time lost what with a huge backlog of dockets waiting in the queue for disposal, for counsel to issue easy certificates for entertainment of review and fight over again the same battle which has been fought and lost (The review) stage is not a virgin ground but review of an earlier order which has the normal feature of finality."

19. Keeping in view the statutory provisions and the pronouncements of the Supreme Court of India, the scope of review has been limited into the following words: -

- (a) That the power of review can be exercised only within the domain prescribed under Order 47, Rule 1, for the rectification of an error patent and glaring on the face which would warrant reconsideration of the judgement/order so pronounced.
- (b) Where there is nothing to contest that the error is so convincingly parched in the order that at the face of the record it would be unacceptable to continue.
- (c) The error should be self-evident.
- (d) Review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected.

ISSUES RAISED

A) O&M charges

Petitioner's Submission:

1. The Petitioner has submitted that in the ARR Petition for FY 2006-07, they had prayed for allowing the actual O&M expenses incurred during FY 2005-06 and the estimated O&M expenses of Rs. 153.51 crore for FY 2006-07. However, the Commission in its impugned order dated 22nd September, 2006 has allowed the O&M expenses of Rs. 95.61 crore only for FY 2005-06 based on norms recommended by CEA and the same is inclusive of an extra allowance of Rs. 4 crore towards insurance of the plants. Further, it has been added that the Commission has in its earlier Order dated 7th July, 2005 approved station-wise O&M expenses of Rs. 38.62 crore, Rs. 23.87 crore and Rs. 29.33 crore for I.P Power Station, Rajghat Power Station and GTPS, respectively for FY 2005-06, totalling to Rs. 91.81 crore.

2. The Petitioner, in support of its contention, has submitted that the Units at I.P. Station are more than 38 years old and the Units at Rajghat and GT Power Stations are 15-20 years old. The Petitioner has added that the Waste Heat Recovery Units (WHRUs) of GT are about 10 years old, but are still not operating at name plate rating since its Commissioning. Further, it has been submitted that the Company has been incurring substantial amount on the essential repair and maintenance activities and modernization of the plants to have reliable and enhanced power generation.
3. The Petitioner has further submitted that despite the fact that the Company was transferred with sizeable number of employees, resulting in substantial wage bill for the Company, efforts have been made by the Company to optimize the manpower for improving the quality of work and maintain the wage bill of the Company. In this pursuit, VRS was given to 383 employees in the past.
4. In view of the above, the Petitioner has requested the Commission to allow some breathing time to bring its man power cost and other O&M cost within the possible level and accordingly, prayed for allowing the actual O&M expenditure of Rs. 113.75 crore for FY 2005-06 (as per audited accounts) and revise the O&M expenditure for FY 2006-07 as claimed by the Petitioner in the ARR.

COMMISSION'S ANALYSIS

1. The Commission is of the view that the actual O&M expenditure of IPGCL for FY 2005-06 is on a higher side keeping in view all relevant parameters of operation which had been considered by CEA while recommending normative O&M expenses for FY 2004-05 for these stations and also taking into consideration the vintage and size of the generating units. However, the Commission after duly considering the vintage of the units has allowed an extra allowance of approx. Rs. 4 crore towards insurance of the plant, over and above the O&M expenses of Rs. 91.81 crore approved by the Commission for the FY 2005-06 based on norms recommended by CEA. For FY 2006-07, the Commission has allowed an increase of 4% over the O&M expenses allowed for FY 2005-06.
2. In view of above, it is the considered view of the Commission that the Petitioner has not presented a case that would allow the submissions

made by them to fall within the ambit of a review. Hence, the Commission does not admit this issue for review.

B) Heat Rate

Petitioner's Submission:

1. The Petitioner has submitted that they had requested the Commission in their submission for approval of ARR for FY 2006-07 to allow the actual heat rate of the Stations for FY 2005-06. However, the Commission in its tariff order dated 22nd September, 2006 has not considered the actual heat rates and allowed the following heat rates:

Name of Power Station	2005-06	2006-07
I.P. Station	3235 Kcal/kwh	3235 Kcal/kwh
Rajghat Power House (RPH)	3200 Kcal/kwh	3200 Kcal/kwh
G.T.P.S	2450 Kcal/kwh (GCV basis)	2450 Kcal/kwh (GCV basis)

2. The Petitioner has, therefore, requested the Commission to consider the actual heat rate for IP Station and Rajghat Power Station for FY 2005-06 as the higher heat rate was beyond its control due to the condition of the units. It has also been submitted by the Petitioner that at the time of taking over, the plants were very old and were poorly maintained and the efforts are on to bring the heat rate within the accepted norms. However, the heat rate of IP Station is still not manageable due to low PLF and bad condition of the plant.
3. Further, it has been submitted that the heat rate of Rajghat Power House will be within the norms approved by the Commission in FY 2006-07 after the overhauling.
4. In the case of I.P. Gas Turbine Station (IP GTPS), the Petitioner has requested the Commission to enhance the heat rate to their projected level of 2497 Kcal/Kwh for FY 2006-07 due to expected low PLF on account of restrictions on gas.

In this connection, the Petitioner has also drawn the attention of the Commission to clause (f) of the National Tariff Policy, 2005 wherein the

relaxed norms have been specified for below par old stations. The relevant extracts of the policy has been reproduced as under: -

"In case where operations have been much below the norms for many previous years, the SERC's may fix relaxed norms suitably and draw a transition path over the time for achieving the norms notified by the Central Commission."

5. In view of the above, the Petitioner has prayed to allow the actual heat rate for IP Station and Rajghat Power House for FY 2005-06 and projected heat rate for FY 2006- 07 for IP Station and GT Station.

COMMISSION'S ANALYSIS

1. Insofar as the actual heat rate of the IP Station is concerned, it has already been mentioned in the Commission's Tariff order dated 22nd September, 2006 for FY 2006-07 that the actual Station Heat Rate of 3907Kcal/kWh is very high on account of low operating levels and it needs to be improved. It has also been mentioned in the Commission's Tariff order dated 22nd September, 2006 that due to non-availability of design heat rate data of the units of the IP Station, the Commission could not estimate the reasonable heat rate in accordance with the principles recommended by the CEA. As such, the Commission has retained the earlier approved figure of 3235 Kcal/Kwh for IP Station which is in line with the draft PPA submitted by TRANSCO.
2. As far as actual heat rate of the Rajghat Power House is concerned, it has already been mentioned in the Commission's Order dated 22nd September, 2006 for FY 2006-07 that the actual Station Heat Rate of Rajghat Power House of 3586Kcal/kWh is very high on account of low operating levels and it needs to be improved. As such, the Commission has retained the earlier approved heat rate of 3200Kcal/Kwh for both the years i.e. FY 2005-06 and FY 2006-07, which is as per the draft PPA submitted by TRANSCO. The Commission has taken a conscious view to relax the PLF/Availability for the years 2005-06 and 2006-07 for recovery of Full Fixed charges for various reasons listed out in the impugned Order and is of the view that additional relaxation in Station Heat Rate will affect the consumers' interest.
3. For IP Gas Turbine Station, the Commission has considered a normative heat rate of 2450 Kcal/kWh for both FY 2005-06 and FY 2006-07 on the basis of Gross Calorific Value of Gas. The Commission in its Tariff Order

dated 22nd September, 2006 for FY 2006-07 has reiterated its views that the gains due to efficient operation should be allowed to the generating companies to act as incentive for further improvement in performance.

4. In view of the above, the Commission is of the opinion that there is no need to revise the heat rate. The Commission is of the view that neither the Petitioner has made out a case wherein any error apparent on the face of the record is established, nor the Petitioner has revealed that the Commission had overlooked the important facts while issuing the impugned Order. As such, the Commission does not admit this issue for review.

C) Rebate on Timely Payment

Petitioner's Submission:

1. The Petitioner has submitted that they had requested the Commission in the Tariff Petition for FY 2006-07 to consider and allow the expenditure on account of rebate given to TRANSCO in FY 2005-06 as well as in FY 2006-07 for timely payment of bills. However, the Commission in its Tariff Order for FY 2006-07 has not considered the same, as the rebate on timely payment was considered as trade off with the interest on 2 months receivables, taken in working capital computation.
2. The Petitioner has submitted that the interest allowed by the Commission on Working Capital is 10.25% p.a. on monthly rest basis which in the case of 2 months receivables comes to 20.50% p.a. while the 2% rebate on timely payment works out to 24% p.a. in annual percentage. As such, even with trade off criteria, they will be losing Rs. 1.94 crore annually.
3. The Petitioner has further submitted that all the rebates and discounts received by the Company on its payments/expenditure are being accounted in the working of the tariff. Therefore, the rebate/discount allowed by the Petitioner on its revenue earnings should also be considered and allowed in the tariff. The Petitioner has, therefore, prayed to allow the liability on account of rebate given to TRANSCO on timely payment of the bills.

COMMISSION'S ANALYSIS

1. The issue of rebate allowed by the Petitioner to TRANSCO for timely payment has been discussed in para 3.13.4.5 of the Tariff Order of the Commission dated 22nd September, 2006 for FY 2006-07 and it is the considered view of the Commission that the rebate offered by the Petitioner to TRANSCO is a commercial arrangement so as to expedite receipt of payment only. Therefore, the Commission did not allow any rebate allowed by the Petitioner to TRANSCO on account of timely payment while computing the interest charges.

The Commission in para 3.13.4.5 of the ARR order dated 22nd September, 2006 for FY 2006-07 has discussed this issue at length and mentioned as under:

"The issue of rebate allowed by the Petitioner to TRANSCO for timely payment has been considered by the Commission in its Review Order on Tariff for FY 2005-06. The Commission has further considered the matter in detail and is of the view that the rebate offered by Petitioner to TRANSCO is a commercial arrangement so as to expedite receipt of payment. The Commission has considered receivables for 2 months based on the projected sales keeping in view the norms for realisation of payment, for estimating the working capital requirement and the interest is allowed accordingly. The rebate on timely payment is therefore a trade-off with the interest on 2 months receivables considered in working capital requirement, hence does not merit any separate consideration."

2. As such, any error apparent on the face of the record cannot be found and hence, the Commission does not admit this issue for review.

D) Generation from Rajghat Power House (RPH)

Petitioner's Submission:

1. The Petitioner has submitted that they had prayed before the Commission in their submission for approval of ARR for FY 2006-07 to allow the actual generation of 574 MUs for Rajghat Power House during the FY 2005-06 and the target of 800 MUs given for the FY 2006-07. It has been further submitted that though the Commission has been kind enough to accept the actual generation for the FY 2005-06 in view of the long shut down for rectifying the chronic problems of axial shift and vibration in unit No. 2 turbine, but the Commission has put up a condition for recovery of full fixed cost for Rajghat Power House. The Commission has mentioned in its Tariff order dated 22nd September, 2006 for FY 2006-07 that the target availability of FY 2005-06 and FY 2006-07 shall be clubbed together and

recovery of full fixed cost shall be allowed if the availability of both the years put together exceed 60%.

2. The Petitioner has further submitted that the Unit No. 1 was overhauled during the period April to August, 2006 and the unit is now performing at more than 80% PLF. The overhauling of the unit has taken about one month more due to non-availability of some critical spares with M/s. BHEL. It has been further submitted that even with the PLF of 80%, the Company would not be able to achieve a generation of more than 792 MUs during the current FY 2006-07. As such, the combined PLF for both FY 2005-06 and 2006-07 could not in any case exceed the target of 60% as fixed by the Commission.
3. The Petitioner has, therefore, requested the Commission to review the condition of 60% combined PLF for FY 2005-06 and FY 2006-07 for recovery of fixed cost.

COMMISSION'S ANALYSIS

1. This issue was deliberated in Para 3.21.1 of the Commission's Order dated 22nd September, 2006. Para 3.21.1 mentions that while fixing the target for recovery of fixed cost in case of Rajghat Power House, the Commission has considered the fact that the major repairs taken up by the Petitioner for the two units of Rajghat Power House during the FY 2005-06 and FY 2006-07 has resulted in lower availability. However, given the positive results of enhanced and reliable generation at PLF of above 80% after the repairs, the Commission had clubbed the Target Availability for FY 2005-06 and FY 2006-07 together for recovery of full fixed Cost of Rajghat Power House. The Petitioner vide their submission dated 17th November, 2006 has also submitted that the combined PLF of both the units of Rajghat Power House during the first two weeks of November 2006 after overhauling of the units is 96.56%.
2. The Commission, therefore, is of the view that the issue raised by the Petitioner has been deliberated in its tariff Order for FY 2006-07 and the Petitioner has not shown anything to indicate that the Commission has left in its Order that can be addressed as an "error apparent on the face of the record". The Petitioner cannot raise an issue in the Review Petition which does not qualify and succeed in invoking the review jurisdiction of the Commission. Therefore, the Commission does not admit this issue for review.

E) Variable Cost for GT Station

Petitioner's Submission:

1. The Petitioner has submitted that in the Tariff Order for FY 2006-07, the Commission has allowed the heat rate of 2450 Kcal/KWh for GT station for FY 2005-06 as against the actual heat rate of 2426 Kcal/KWh. It has also been submitted that the actual fuel cost as per provisional accounts was Rs. 265.18 crore at the actual heat rate of 2426 Kcal/KWh. Whereas the Commission has allowed heat rate of 2450 Kcal/KWh, but approved Rs. 260.07 crore only towards the fuel cost.
2. The Petitioner has further submitted that there seems to be some anomaly as the approved heat rate is more than the actual heat rate of the Station, whereas the allowed fuel cost is less than the actual fuel cost. According to the Petitioner, the total fuel cost works out as Rs. 265.44 crore which after the audit was revised to Rs. 263.88 crore.
3. The Petitioner has, therefore, requested the Commission to allow the actual fuel cost in Combined Cycle Operation during the FY 2005-06 and allow the Open Cycle generation at heat rate of 3125 Kcal/KWh for FY 2005-06 and fix the heat rate in Open Cycle generation for FY 2006-07.

COMMISSION'S ANALYSIS

1. In this regard, the Commission would like to clarify that since the same price and same MSCM of gas as considered by the Petitioner has been considered while computing the cost of APM gas, the difference in fuel cost as proposed by the Petitioner and as considered by the Commission is due to less LNG cost considered by the Commission. Further, the Commission would like to clarify that the LNG gas cost has been worked out by using the heat at GCV for LNG gas and the conversion factor for converting the gas quantity to MMBTU. As such, the difference in total fuel cost may be due to difference in conversion factor adopted by the Commission for converting the gas quantity to MMBTU and that adopted by the Petitioner.
2. However, if it has caused under-recovery of fuel expenses, the Petitioner is granted liberty to provide necessary details in support of his claims to the satisfaction of the Commission during the subsequent tariff filing and

the Commission would consider variation, if any, in actual fuel expenses with respect to the fuel expenses approved in the Order during the truing up of expenses.

3. The Open Cycle Station Heat Rate norms for FY 2006-07 for GT station has been separately communicated to the Petitioner by the Commission vide letter No. F. No. 3(114)/Tariff/DERC/2006-07/3307 dated 15th December, 2006. However, for the period 2007-08 onwards, the same shall be as per Multi year Tariff (MYT) Regulation for generation tariff to be finalised by the Commission.
4. As such, the above issue does not form the basis for review of the Order issued by the Commission on 22nd September, 2006 and hence, the Commission does not admit this issue for review of the Order.

On the basis of the records produced before the Commission during the processing of the ARR and Tariff Petitions of the Petitioner, in the present Review Petition and the averments made before the Commission, the Petitioner has not been able to make out any case which would endorse a case for review of the Commission's Order dated 22nd September, 2006 issued for the purpose of determining the Tariff of the Petitioner. The Petitioner has not been able to show that there is any error apparent on the face of the record, which would justify the review. The Commission opines that the issues raised by the Petitioner in its review application, and enumerated in this Order, have already been heard and deliberated in detail in the Commission's Order of 22nd September, 2006. The issues were decided by the Commission based upon the prevalent law, practice and principles for determination of generation tariff. Further, the Commission has been guided by the principles, which are in the interest of the public at large. On these considerations, this Review Petition is dismissed.

The Commission orders accordingly.

Sd/-
(K. Venugopal)
Member

Sd/-
(R. Krishnamoorthy)
Member

Sd/-
(Berjinder Singh)
Chairman