ORDER

OF THE

WEST BENGAL ELECTRICITY REGULATORY COMMISSION

IN CASE NO.: APR-8/08-09

IN RE THE APPLICATION OF THE DURGAPUR PROJECTS LIMITED FOR ANNUAL PERFORMANCE REVIEW FOR THE FINANCIAL YEAR 2007 – 2008 IN TERMS OF REGULATION 2.6 OF THE WEST BENGAL ELECTRICITY REGULATORY COMMISSION (TERMS AND CONDITIONS OF TARIFF) REGULATIONS, 2007, AS AMENDED.

DATE: 28.05.2009

CHAPTER – 1
INTRODUCTION

1.1 In terms of the provisions contained in regulation 2.6 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2007 and amendment thereof (referred to hereinafter as the 'Tariff Regulations'), the generating companies or the licensees, as the case may be, are subject to an Annual Performance Review (in short 'APR'). The West Bengal Electricity Regulatory Commission (hereinafter referred to as the 'Commission') introduced Multi Year Tariff procedure and as such, APR aims at carrying out adjustments arising out of difference between the actual performances and projected performances under different factors/heads of accounts. Such adjustments are to be done in the manner as specified in the Tariff Regulations. Accordingly, the Durgapur Projects Limited (in short 'DPL') submitted its application for the same on 30 December, 2008 for the financial year 2007 – 2008. It provided the requisite data / information in the specified proforma along with the copy of its audited annual accounts for the concerned year. The application was admitted by the Commission for processing and the same was numbered as APR-8/08-09.

1.2 The instant application of DPL is its second application for the APR, the first one being for the year 2006 – 2007. The adjustments as were found necessary on review of the first application registered as Case No. APR-3/07-08 were effected while determining the amount recoverable through tariffs during the year 2008 – 2009. Similarly, the adjustments as may arise out of the review of the instant application for 2007 – 2008 will be considered for giving effect while determining the amount of revenue recoverable through tariffs during the year 2009 – 2010.

1.3 The APR is to cover the annual fixed charges allowed to the licensee, incentives and the effect of gain sharing as per Schedule – 10 and Schedule – 9B to the Tariff Regulations. No element of performance incentive or gain sharing on account of achieving better operational norms, however, was considered for DPL while determining its Aggregate Revenue Requirement (in short 'ARR') for the year 2007 – 2008. Moreover, the incentives and the sharing of gains in terms of the referred schedules to the Tariff Regulations are made allowable for the year 2008 – 2009 onwards.

1.4 The APR for the year 2007 – 2008 is, therefore, the review of the different factor elements of fixed charges, categorized as controllable and uncontrollable, allowed to DPL through the ARR for the year 2007 – 2008, vis-à-vis the actuals as per the audited accounts. The Tariff Regulations (vide regulation 2.5.1) provides that the variations out of uncontrollable factors of expenses are to be passed through the tariffs in an appropriate manner as may be decided by the Commission. The variations arising out of the controllable factors shall, however, be on the accounts of the licensee. The instant application of DPL for the year 2007 – 2008 is being viewed in the subsequent parts of this order.

1.5 On an initial scrutiny of the referred application, certain additional information / clarifications were asked for from DPL, vide Commission's letter No. WBERC/APR-8/08-09/1622 dated 25 February, 2009. Such information / clarifications received in reply, vide DPL's letter No. DPL/GM(F&A)/188 dated 14 March, 2009, had duly been considered in the process of review.

CHAPTER – 2
FIXED CHARGES

2.1 The uncontrollable elements of fixed charges are those elements where variations of actual expenditure with the expenditure allowed by the Commission in the tariff order for the concerned year are caused by the factors beyond the control of the generating company or the licensee. The amounts of actual expenses / charges under such different heads of accounts are, therefore, to be considered on prudent check for carrying out positive or negative adjustments, as the case may be. The review of each of such uncontrollable heads of fixed charges with reference to the amount allowed through tariff and the actuals based on the audited accounts of DPL is being taken up hereunder one by one.

2.2 **Employee Cost**:

2.2.1 DPL was allowed a total amount of Rs. 2277.99 lakh in the tariff for the year 2007 – 2008 towards employee cost which includes salaries, wages, bonus, contribution to PF etc. as well as staff welfare expenses. The function wise break-up to the total amount so allowed was as under:

Rs. In Lakh

Particulars	Amount	Amount
Generation		
Old existing units	1546.41	
Incoming VIIth unit	253.34	
		1799.75
Distribution		478.24
Total		**2277.99**

The total amount of expenses incurred on this uncontrollable head of account came as under:

Rs. In Lakh

Particulars	Generation Function	Distribution Function	Total
Salary & Wages	1792.40	233.12	2025.52
Bonus	54.18	7.05	61.23
Contribution to funds	391.70	50.94	442.64
Staff Welfare expenses	10.59	1.37	11.96
Total	**2248.87**	**292.48**	**2541.35**

2.2.2 The excess of total actual expenditure over the amount considered in the tariff, i.e. Rs. 263.36 lakh, was mainly due to merger of 50% DA with the basic pay with effect from 01.04.2007 and subsequent release of additional D.A. Such merger / additional DA resulted in the hike of contributions to employees' P.F., Gratuity Funds etc. DPL further clarified in their letter No. DPL/GM(F&A)/188 dated 14 March, 2009 that employees cost included production incentive paid in 2007 – 2008 amounting to Rs. 108.84 lakh and added that the said amount of production incentive was paid to the employees for an improved stable generation to the extent achievable. During the year under review, DPL is not entitled to any incentive in terms of the Tariff Regulations. They also did not achieve any improved performance. Since this production incentive is not a part of wage agreement or revision of pay and allowances by the State Government / DPL, no amount has been considered on this account for 2007 - 2008. DPL, however, in future, should exclude any amount paid to its employees as incentive in real sense from the employees' cost of the corresponding year.

2.2.3 The Commission admits the amount of actual expenditure incurred on this uncontrollable head of account after deducting an amount of Rs. 108.84 lakh, being the production incentive paid to its employees by DPL, necessitating an overall positive adjustment of Rs. 154.52 lakh. The function wise break-up of the amount admitted by the Commission in the APR for 2007 – 2008 is given hereunder:

Rs. In Lakh

Particulars	Generation Function	Distribution Function	Total
Salary & Wages	1696.09	220.59	1916.68
Bonus	54.18	7.05	61.23
Contribution to funds	391.70	50.94	442.64
Staff Welfare expenses	10.59	1.37	11.96
Total	2152.56	279.95	**2432.51**

2.3 **Water Charges**:

2.3.1 DPL meets its processed water supply requirements for its generation plants as well as for colony consumption taking supply from its sister water plant unit at the inter plant rate of Rs. 4.00 (Rupees four only) per kilolitre (KL). The amount charged to power plant account at this rate during 2007 – 2008 came to Rs. 688.73 lakh as against Rs. 1317.69 lakh considered in the tariff. The savings of Rs. 628.96 in this account is mainly due to short fall of 855.449 MU in the commercial generation target for the year.

2.3.2 DPL, however, submitted that the amount of expenditure on this account would have been Rs. 887.57 lakh had the supply of water by the sister unit been rated at the market price of industrial water. It requested to consider the adjustment on the basis of market price. The Commission does not agree to that and decides to go by the actual amount of expenditure towards water charges accounted for.

2.3.3 The Commission, thus, admits the actual amount of Rs. 688.73 lakh charged to the generation through inter-unit transfer.

2.3.4 DPL is, however, directed henceforth to provide adequate data and break-up of expenses relating to water charges. DPL is also directed to mention separately the element of penalty, if any, included in the water charge.

2.4 **Coal and Ash Handling Charges**:

2.4.1 An amount of Rs. 525.74 lakh was allowed in the tariff order for 2007 – 2008 as against that the actual expenditure as per audited accounts came to Rs. 377.79 lakh. The expenditures in this uncontrollable head of account are exclusively for generation function and as such, the savings thereon is on account of short fall in the target generation for 2007 – 2008.

2.5 **Operation & Maintenance Expenses**:

2.5.1 In terms of the Tariff Regulations, Operation and Maintenance Expenses (O&M expenses in short) are controllable (vide Table 2.5-1 below regulation 2.5.6.3 of the Tariff Regulations). The amount of fixed charges allowed to DPL under different heads of accounts, vide order dated 26.07.2007 in Case No. TP-29/07-08 read with order dated 31.08.2007 in the same case were as under:

Rs. In Lakh

Particulars	Generation Function	Distribution Function	Total
(a) Repairs & Maintenance (including cost of consumables)	2636.99	759.29	3396.28
(b) Rent, Rates & Taxes	0.89	0.18	1.07
(c) Legal Charges	0.58	0.11	0.69
(d) Audit Fees	0.28	0.05	0.33
(e) Other Administrative & General Expenses	1667.47	328.58	1996.05
Total	**4306.21**	**1088.21**	**5394.42**

2.5.2 As details provided in Annexure A(1) in the application, the actual expenditures incurred during 2007 – 2008 under the aforesaid heads of accounts were as under:

Rs. In Lakh

Particulars	Total
(a) Repairs & Maintenance (including cost of consumables)	4265.93
(b) Rent, Rates & Taxes	0.81
(c) Legal Charges	NIL
(d) Audit Fees	0.90
(e) Other Administrative & General Expenses	2631.83
Total	**6899.47**

2.5.3 DPL is a multi functional organisation. Its primary segments consist of the activities of power generation and distribution, manufacture of coke and by-products and processing of raw water. It also maintains common service and central workshop units for which apportionment of such common expenses and depreciation to the various segments are being done at predetermined rates as approved by the management. The amounts of other Admn. & General Expenses as shown above are inclusive of the expenses incurred under various heads for common services and a part allocated to power business. The Commission is presently going by the methods of apportionment being followed consistently by the management. DPL is, however, directed to identify the amounts of expenses under various uncontrollable heads of common expenses allocated to its power business while submitting application for APR in future for consideration of the Commission.

2.5.4 As may be seen from foregoing two sub-paragraphs, the amount of actual expenditure for the Repairs & Maintenance exceeded the amount allowed in the tariff by Rs. 869.65 lakh. The total expenditure incurred on other four heads of accounts also exceeded such amount allowed in the tariff by Rs. 635.40 lakh.

2.5.5 As the O&M expenses are controllable factors, the variations in actual expenditures are to be on the accounts of the licensee. The amount of total O&M expenses incurred by DPL in excess of such amount allowed in the tariff is not generally required for carrying out adjustment through the APR. But the Commission decides to review the amount of actual expenditure incurred by DPL on account of Repairs & Maintenance. The VIth Unit (with 110 MW capacity) of the power station had been under major repairs for long 17 months and was considered not to be in operation during 2007 – 2008. No provision was considered for attending the necessary repair works of the said unit. The Commission desired (vide paragraph 19.0 in Annexure – B to the Commission's Tariff Order dated 26.07.2007 for the year 2007 – 2008) that the expenditure in this regard were to be capitalized. The referred unit came back to operation on 26.03.2008. In terms of provisions contained in Accounting Standard – 10 (As-10), the capitalization of Repairs & Maintenance expenses can be done only in case of increase in the rated capacity of the concerned asset or extension of its remaining useful life. As this was not the case for attending repair works of Rotor of Unit No. VI, DPL could not capitalize the total expenditure of Rs. 742.35 lakh incurred by it on this account. The compliance of the provision of the AS-10 is mandatory for DPL as a company. Using its inherent power as provided in regulation 6.4 of the Tariff Regulations, the Commission decides to allow an additional amount of Rs. 742.35 lakh to DPL towards Repairs & Maintenance expenses. This amount will be exclusively for generation function. The excess expenditure incurred on the remaining heads of accounts is not considered for reimbursement through APR. Thus the admitted amount comes to Rs. 6136.77 lakh.

2.6 **Interest and Finance Charges**:

2.6.1 The amount of interest and finance charges allowed to DPL for its generation and distribution functions, vide order dated 26.07.2007 in Case No. TP-29/07-08 read with order dated 31.08.2007 in the same case were as under:

Rs. In Lakh

Particulars	Amount
1. Generation Function	
(a) Interest on borrowed capital relating to Unit I – VI	1359.09
(b) Interest chargeable on revenue account in respect of new VIIth unit	3782.34
(c) Finance charges	381.57
Total	**5523.00**
2. Distribution Function	
Interest on borrowed capital	490.60
Total	**490.60**
Grand Total (1+2)	**6013.60**

2.6.2 In terms of the Tariff Regulations (vide 4th and 13th rows of Table 2.5-1 below regulation 2.5.6.3 of the Tariff Regulations), the interest and finance charges are uncontrollable. The adjustments in this regard were to arise only due to variations between the projected rates of interest / charges and the actual of such rates experienced. DPL's long term capital borrowings are from the Central Electricity Authority (CEA), Power Finance Corporation, Government of West Bengal and market borrowings through bonds. Loans from these sources are found on fixed rate basis without experiencing any variations. As such, no adjustments will be required on account of the variation in borrowing rate. But adjustments are considered necessary due to other reasons resulting in a considerable amount of savings in the interest and finance charges in the revenue accounts of DPL.

The actual such payments and charges as per the accounts were found as under:-

Rs. in Lakh

Particulars	Amount
1. Generation Function	
a) Interest on borrowed capital and finance charges relating to Unit – I – VI	1447.61
b) Interest & other finance charges in the revenue account relating to new VIIth Unit	910.05
Total	**2357.66**

2. Distribution Function	
Interest & Finance Charges	255.48
Grand Total (1+2)	**2613.14**

2.6.3 As it comes out from the foregoing sub-paragraph, the total savings in the interest and finance charges during the year 2007-08 was Rs. 3400.46 lakh. Such savings were mainly due to delay of VIIth unit in coming into commercial operation. This unit came to commercial operation on 22.02.2008 as against 1 November, 2007, considered in the tariff order, and as such considerable amount of interest and finance charges relating to this unit had to be charged to capital account. The amount of total short fall in actual expenditure will require for adjustments as under:

Rs. in Lakh

Particulars	Amount considered in Tariff Order	Amount admitted in APR for 2007 - 2008
Generation	5523.00	2357.66
Distribution	490.60	255.48
Total	**6013.60**	**2613.14**

2.7 **Interest on Consumers' Security Deposit**:

2.7.1 DPL did not project any amount of interest payable to consumer on their security deposits. No provision was, therefore, considered on this account in the tariff order for the year 2007 - 2008. As it comes out from the audited accounts, an amount of Rs. 25.37 lakh was charged towards interest on Consumers' Security Deposit. The Commission observed from the comments of the Hon'ble Comptroller and Auditor General of India on the accounts for the earlier year that DPL did not pay or provide for payment of interest on the total qualifying amount of Rs. 4.12 crores received from the consumers as security deposits. The total amount of interest / penal interest liability on this account upto the end of the year 2006 - 2007, as reported, came to Rs. 56.68 lakh. In its earlier order on APR for the year 2006 – 07, the Commission directed DPL to take corrective actions and made it clear that no element of penal interest would be considered for adjustment. DPL did not make it clear whether any part of the penal interest was included in the amount of Rs. 25.37 lakh accounted for in 2007 - 2008. It has, however, been observed from the audited Balance Sheet of power plants (vide page 232 of Volume III) that the amount of consumers' security deposit at the end of 2006 - 2007 was Rs. 230.60 lakh and additional amount of Rs. 59.00 was received during 2007 – 08. Based on such information, the total interest payable to consumers for the year 2007 – 2008 works out as under:-

Rs. in Lakh

Particulars	Amount
@ 6% on opening balance of Rs. 230.60 lakh for full year	13.84
@ 6% on the amount of Rs. 59.00 lakh received during the year for six months in average	1.77
Total	**15.61**

The Commission, in its tariff order of DPL for 2008 – 2009, directed that the amount of security deposit received / to be received from the consumers of DPL should be utilized to supplement the normative level of working capital requirement of DPL in its core business in terms of the Tariff Regulations and the balance, if any, over the normative working capital, should be properly invested. DPL was directed to do the needful and to submit a report, supported by necessary audited data, in its application for APR and also for determination of tariff showing as to how the amount of security deposit has been employed by it. Since DPL has not submitted the report along with its application for APR for 2007 – 2008, DPL is again directed to submit the report asked for along with the application for APR for 2008 – 2009. DPL is further directed to pay interests on Consumers' Security Deposits to the eligible consumers in terms of the relevant regulations of the Commission and submit the compliance report indicating year-wise the amounts of actual payment of interests and penal interests to the consumers on their security deposits or adjustments made in this regard separately, supported by audited figures. If DPL does not comply with the directives of the Commission mentioned above, the Commission may deduct from the return on equity, allowed to DPL, the amounts admitted as interest on Consumers' Security Deposits for different years, but not actually paid to the consumers. Since, however, it is not clear from the audited accounts of DPL for the year 2007 – 2008 whether such interests to the consumers on their security deposits have actually been paid, the Commission admits the amount of Rs. 15.61 lakh towards interest on Consumer's Security Deposits provisionally in its application for APR for 2007 – 2008, pending compliance of the directives mentioned above by DPL. The entire amount relates to distribution function.

2.8 **Interest on Working Capital**:

2.8.1 An amount of Rs. 660.70 lakh was allowed to DPL towards interest on working capital through tariff for the year 2007 – 2008. The function wise break up of the amount so allowed was Rs. 548.77 lakh for generation function and Rs. 111.93 lakh for distribution function. As it appears from the submission, no borrowings from any outside agency were done by DPL for meeting up the working capital need. The Commission, therefore, considers carrying out negative adjustment in this regard through APR.

2.9 **Bad Debts**:

2.9.1 Bad Debts have not specifically been categorized as controllable or uncontrollable element of fixed cost in the concerned Table 2.5-1 below regulation 2.5.6.3 of the Tariff Regulations. Regulation 4.10.1 of the Tariff Regulations provides for allowing Bad Debts as actually written off in the latest available audited accounts subject to a ceiling of 0.5% of the annual gross sale value of power at the end of the current year.

An amount of Rs. 11.30 lakh was allowed on this account in tariff for 2007 - 2008. As seen from the audited accounts for the year 2007 - 2008, the actual amount charged in the books in this regard was Rs. 114.21 lakh. The actual amount of sale (excluding inter-plant transfer) was Rs. 46505.56 lakh and 0.5% of that comes to Rs. 232.53 lakh. The amount of Bad and Doubtful Debts actually charged in the books of accounts of the power plant, i.e. Rs. 114.21 lakh, being well within the admissible limit, is admitted for adjustment and the same is related to distribution function.

2.10 **Depreciation**:

2.10.1 Depreciation has been categorized as a controllable item of fixed charges as per the Tariff Regulations. DPL is to charge depreciation following the methods and rates specified in regulation 4.6.2 read with Annexure – A to the Tariff Regulations, and as such, the amount of chargeable depreciation on the original cost of assets at the time of the submission of the tariff application can precisely be worked out and to that extent it is controllable. But the amount of depreciation chargeable on the value of the fixed assets subsequently capitalized during the year or withdrawn from the operation may vary with the projected amount depending on the variations in the projected amount of capitalization / withdrawal. The Commission, therefore, decides to go by the actual amount of depreciation charged in the books of accounts for carrying out adjustments as shown hereunder:

Rs. In Lakh

Particulars	Amount provided in Tariff	Amount admitted in APR for 2007 - 2008	Adjustments required
Generation Function			
a) Unit I – VI	1212.30	1169.30	(-) 43.00
b) VIIth Unit	2023.89	527.53	(-) 1496.36
Total	**3236.19**	**1696.83**	**(-) 1539.36**
Distribution	436.97	305.33	(-) 131.64

Function			
Total	**436.97**	**305.33**	**(-) 131.64**
Grand Total	**3673.16**	**2002.16**	**(-) 1671.00**

The negative adjustment is mainly due to delay in putting the VIIth unit of the generation station into commercial operation.

2.11 **Advance against Depreciation**:

2.11.1 Regulation 4.6.3 read with regulation 4.5.2 of the Tariff Regulations provides for allowing advance against depreciation to the licensees to enable them to repay the Capital loan where the amount of depreciation charges falls short of the amount required for loan repayment. Accordingly, an amount of Rs. 3246.89 lakh was allowed to DPL in the tariff for the year 2007-08. Based on the information / data available in the audited accounts, DPL's entitlement of having such advance against depreciation works out as under:

Rs. In Lakh

Sl. No.	Particulars		Amount
(a)	**Repayment of Capital Loans**		
	Redemption of Bonds (Relating to Power Plant)		619.06
	Loan from PFCL		2793.05
	No. 50404005	60.45	
	No. 50404007	18.12	
	No. 50404008	2714.48	
	Total loan repayment		**3412.11**
(b)	Actual Depreciation charged		2002.16
(c)	Additional Fund required for repayment of loans (a-b)		1409.95
(d)	Maximum ceiling of advance depreciation		3227.99
(e)	Allowable advance against depreciation (lower of c & d)		1409.95

The allowable advance against depreciation, as worked out above, being less than the amount allowed in tariff, a negative adjustment of Rs. 1836.94 is done under cost of generation function.

2.12 **Reserve for Unforeseen Exigencies**:

2.12.1 An amount of Rs.140.28 lakh was allowed in the ARR of DPL for the year 2007-08 towards reserve for unforeseen exigencies. In terms of regulation 4.11.1 of the Tariff Regulations, such reserve was allowable @ 0.25% of the projected value of gross block of fixed assets at the beginning of the year, i.e. on Rs.56113.34 lakh. It has been observed from the audited balance sheet that no such reserve was created and invested outside following the guidelines provided in the aforesaid regulation. It is considered as a serious lapse and violation of the provisions of the aforesaid regulation. During APR of DPL for the year 2006-07, it was observed that no such reserve was created in the Books of Accounts of the DPL nor invested outside following the guidelines provided in the aforesaid regulation. The Commission, however, in its order dated 15.9.2008 on APR of the DPL for 2006-07 in Case No.APR-3/0708 allowed appropriations for such reserve for the year 2006-07 and for the ensuing years also with the directives that investment of the amounts (including the arrears of earlier years) must be done in accordance with the provisions of the Tariff Regulations and that for failure to comply with the provisions of the regulation referred to above, double the amount allowed for the purpose will be deducted from the amount of return on equity, allowed to DPL, during APR of any succeeding years. In the Tariff Order dated 26.9.2008 of DPL for the year 2008-09, the Commission also allowed appropriation for the reserve for unforeseen exigencies for the years 2008-09, 2009-10 and 2010-2011, though the Commission had noticed from the latest submitted accounts of DPL for the period ended 31.3.2007 that no reserve had been created for unforeseen exigencies in its Books of Accounts, and directed DPL that investment of the amounts (including the arrears of earlier years) must be done in accordance with the provisions of the Tariff Regulations and that for failure to comply with the provisions of the Tariff Regulations, double the amount allowed for the purpose will be deducted from the amount of return on equity, allowed to DPL, during APR of any succeeding years. Since, however, the order on APR of DPL for the year 2006-07 and the Tariff Order of DPL for the year 2008-09 were issued in late September, 2008, it is not known whether DPL has created such reserve for unforeseen exigencies in accordance with the Tariff Regulations and directives of the Commission during 2008-09. The Commission, therefore, allows Rs.134.64 lakh for the year 2007-08 computed @ 0.25% on the actual value of the gross fixed assets at the beginning of 2007 – 2008 i.e., on Rs. 53854.71 lakh as against Rs.140.28 lakh allowed earlier in the tariff order for the year 2007-08 for creation of such reserve for unforeseen exigencies. DPL is once again directed to create the aforesaid reserve for unforeseen exigencies for the amounts admitted in APR for 2006-07 and 2007-08 and also allowed in the tariff order for the year 2008-09 and report compliance within two months from the date of issue of this order. For failure to comply with the provisions of the Tariff Regulations in this regard and the directives of the Commission, double the amount mentioned above allowed for the purpose may be deducted from the amount of return on equity, allowed to DPL for the year 2008-09, during APR of DPL for the year 2008-09. Income from such investment of the reserve for unforeseen exigencies shall be re-invested for the said purpose and shall be shown separately in the next application for APR. The allocation of Rs.140.28 lakh as in the tariff order for 2007 – 2008 and Rs. 134.64 lakh as admitted in the APR for 2007-08 are as follows:

Rs. in Lakh

Particulars	Approved in Tariff order for 2007 – 2008	Admitted in APR for 2007 - 2008
Generation	122.85	109.78
Distribution	17.43	24.86
Total	**140.28**	**134.64**

2.13 **Intangible Assets Written Off**:

2.13.1 An amount of Rs. 3.85 lakh was allowed in the tariff order for 2007 – 2008 towards write off of the value of Intangible Assets with following break-up:

		Rs. in Lakh
Generation function		3.39
Distribution function		0.46
	Total:	**3.85**

2.13.2 The amount of actual write off had been shown as Rs. 46.50 lakh relating to power business of DPL and the same is being claimed by DPL in APR for 2007 – 2008. The reason for such a wide variation although was not clarified but it is observed from the Schedule H attached to Balance Sheet as on 31.03.2008 that DPL has made some adjustment with the amount of the opening balance of miscellaneous expenditure and has written off around 41.43% of the adjusted opening balance in one single year. This appears to be un-usual as the balance under this head is generally written off in installments over a number of years. But, in this case, the entire amount of Rs. 46.50 lakh related to deferred revenue expenditure have been written off in one go. Moreover, auditors of DPL also did not make any adverse comments on it. The Commission decides to go by the actual amount reflected in their power business and admits Rs. 46.50 lakh in the APR for 2007 – 2008. The amount relates to generation function.

2.14 **Income Tax**:

2.14.1 The power business of DPL is not a separate entity for assessment of income tax. Its tax liability will depend on the overall taxable income of the company as a whole. Hence, till the time the income tax is assessed and the part of that is identified pertaining to power business, the Commission is not to allow any provision in this regard. It has, however, been seen that total amount of expenditure incurred on employees' remuneration and benefits during the year 2007 – 08 for the company as a whole was Rs. 8289.43 lakh out of which an amount of Rs. 2541.35 lakh was for power business. DPL provided an amount of Rs. 14.18 lakh in the books of accounts towards Fringe Benefit Tax under the provisions of Income Tax Act. The proportionate amount of such tax chargeable to power business comes to Rs. 4.35 lakh only. The allocation of this amount to generation and distribution function in the ratio of chargeable amounts of employees' remuneration and benefits come Rs. 3.85 for generation and 0.50 lakh for distribution function. The negative adjustments on this accounts come as under:

Rs. in Lakh

Particulars	Amount allowed in Tariff	Amount admitted in APR 2007 - 2008	Adjustments
Generation function	26.08	3.85	(-) 22.23
Distribution function	3.70	0.50	(-) 3.20
Total	**29.78**	**4.35**	**(-) 25.43**

2.15 **Returns**:

2.15.1 DPL is entitled for returns @ 14% on the equity capital deployed in generation function and in distribution function for the concerned year. The equity capital of DPL for the fixed assets in operation for the entire year was Rs. 40500.00 lakh. The VIIth generating unit of the company had been in commercial operation for 38 days only during the year. The equity for this new unit was 36256.00 lakh. The total amount of return allowable for old assets work out as under:

Rs. in Lakh

Particulars	Cost of Fixed Assets	Proportionate Equity	Rate of Return	Assessment of Return
Generation function	43051.11	32114.30	14%	4496.00
Distribution function	11241.53	8385.70	14%	1174.00
Total	**54292.64**	**40500.00**		**5670.00**

The return allowable on the equity deployed for new VIIth unit @ 14% on 38 days works out to Rs. 527.00 lakh. The total amount of allowable return, therefore, comes as under:

		Rs. in Lakh
Generation function		5023.00
Distribution		<u>1174.00</u>
	Total	**<u>6197.00</u>**

2.15.2 The amount of return allowed to DPL through tariff for the year was Rs. 7414.26 lakh. The adjustment will now require as under:

Rs. in Lakh

Particulars	Amount allowed in Tariff	Amount admitted in APR 2007 - 2008	Adjustments through APR
Generation	6493.26	5023.00	(-) 1470.26
Distribution	921.00	1174.00	(+) 253.00
Total	**7414.26**	**6197.00**	**(-) 1217.26**

2.16 **Demurrage Charges**:

2.16.1 Demurrage charge of railway rake, being commercial terms and conditions of freight, which are also indication of efficiency of rake unloading capability of the generating station, is a part of fuel cost and may be considered in computation of fuel and power purchase cost adjustment. However, it is to be proved with justification and evidence that the demurrage charges became payable inspite of no delay on the part of DPL in unloading the railways wagons. Since no justification in this regard has been submitted by DPL, no expenditure is allowed under this head in the APR for 2007 – 2008.

2.17 **Income from Unscheduled Interchange (UI) Charges**:

2.17.1 The net income from Unscheduled Interchange (UI) charges is an uncontrollable factor in terms of theTariff Regulations. The net amount of UI Charges earned by DPL during the year 2007 - 2008 was Rs.530.90 lakh. In terms of regulation 4.17.3 of the Tariff Regulations, DPL, as a distribution licensee, is to share such earnings with the consumers. The share of consumers on such earning during 2007 – 2008, i.e. the first control period under the Multi Year Tariff approach, is to be decided by the Commission. The Commission considers to allow the entire amount of net earning to the consumers for 2007 – 2008 and to deduct the same from the gross allowable fixed charges pertaining to distribution function.

2.18 **Income from other Sources**:

2.18.1 Incomes derived for DPL during 2007 – 2008 from the sources other than sale of electricity were for a total amount of Rs.401.81 lakh as against Rs.424.59 lakh comprising Rs. 174.65 lakh for generation and Rs. 249.94 lakh for distribution system considered in the tariff order for the concerned year. Out of the total amount so earned, an amount of Rs.163.21 lakh was from the sale of steam and pertained to generation function. The balance amount of Rs.238.60 lakh was earned by way of the recovery of different charges from the consumers and pertained to distribution function.

Annexure – 2A

Figures in Rs. in Lakh

Sl. No.	HEAD OF FIXED CHARGES		AS PER TARIFF ORDER			AS ADMITTED IN APR		
			GENERATION	DISTRIBUTION	TOTAL	GENERATION	DISTRIBUTION	TOTAL
1	Employee Cost		1799.75	478.24	2277.99	2152.56	279.95	2432.51
2	Water Charges		1317.69	0.00	1317.69	688.73	0.00	688.73
3	Coal & Ash Handling Expenses		525.74	0.00	525.74	377.79	0.00	377.79
4	Operation & Maintenance Expenses:							
	a.	Repairs & Maintenance Expenses	2636.99	759.29	3396.28	3379.34	759.29	4138.63
	b.	Rent, Rates & Taxes	0.89	0.18	1.07	0.89	0.18	1.07
	c.	Legal Charges	0.58	0.11	0.69	0.58	0.11	0.69
	d.	Audit Fees	0.28	0.05	0.33	0.28	0.05	0.33
	e.	Other Administratiion & General Expenses	1667.47	328.58	1996.05	1667.47	328.58	1996.05
	f.	Total O&M	4306.21	1088.21	5394.42	5048.56	1088.21	6136.77
5	Interest & Finance Charges		5523.00	490.60	6013.60	2357.66	255.48	2613.14
6	Interest on Consumers' Security Deposit		0.00	0.00	0.00	0.00	15.61	15.61
7	Interest on Working Capital		548.77	111.93	660.70	0.00	0.00	0.00
8	Bad Debts		0.00	11.30	11.30	0.00	114.21	114.21
9	Depreciation		3236.19	436.97	3673.16	1696.83	305.33	2002.16
10	Advance Against Depreciation		3246.89	0.00	3246.89	1409.95	0.00	1409.95
11	Reserve for unforeseen Exigencies		122.85	17.43	140.28	109.78	24.86	134.64
12	Intangible Assets Written Off		3.39	0.46	3.85	46.50	0.00	46.50
13	Demurrage		0.00	0.00	0.00	0.00	0.00	0.00
14	Income Tax		26.08	3.70	29.78	3.85	0.50	4.35
15	Returns		6493.26	921.00	7414.26	5023.00	1174.00	6197.00
16	Gross Fixed Charges relating to 2007 - 2008 (1 to 15)		27149.82	3559.84	30709.66	18915.21	3258.15	22173.36
17	Less: Income other than Sale of Energy		174.65	249.94	424.59	163.21	238.60	401.81
18	Less: Net UI Charge Receivable		0.00	0.00	0.00	0.00	530.90	530.90
19	Net Fixed Charges relating to 2007-08 (16 - 17 - 18)		26975.17	3309.90	30285.07	18752.00	2488.65	21240.65

CHAPTER – 3
AMOUNT ADJUSTABLE ON ANNUAL PERFORMANCE REVIEW

3.1 Based on the forgoing analyses and admissions of the adjustments under different uncontrollable factors / elements of fixed charges, the Commission now proceeds to sum up the findings as to ascertain the total amount adjustable on APR for the year 2007 – 2008. In the statement as given in the Annexure – 2A to the previous chapter, the figures in respect of expenses / factors being controllable in nature and to the extent applicable as per the Tariff Regulations have been extracted from the tariff order for the concerned year. The expenses / elements of fixed charges defined / considered as uncontrollable have been taken after carrying out adjustments under the respective heads as explained in the previous chapter.

3.2 It may be noted from the statement at Annexure - 2A to the previous chapter that the net amount of allowable fixed charges comes to Rs. 21240.65 lakh out of which Rs. 18752.00 lakh pertains to generation function and the balance Rs. 2488.65 lakh is in respect of distribution function. The adjustments in the respective functional heads come as under:

Amount in Rs. in Lakh

Particulars	As allowed in Tariff	As found admissible	Adjustments
Generation function	26975.17	18752.00	(-) 8223.17
Distribution function	3309.90	2488.65	(-) 821.25
Total	**30285.07**	**21240.65**	**(-) 9044.42**

3.3 As per audited statement of operating revenue of DPL for the year ended 31.03.2008, the total revenue from sale of electricity is Rs. 47159.63 lakh, which includes the energy sent out for inter plant transfer of DPL. The Commission, in its Fuel and Power Purchase Cost Adjustment (in short 'FPPCA') order dated 22.03.07 for DPL for 2004 – 2005 and 2005 – 2006, allowed DPL to recover Rs. 4060.00 lakh in 60 equal monthly instalments from its consumers and West

Bengal State Electricity Distribution Company Limited (in short 'WBSEDCL'). DPL accordingly recovered Rs. 800.54 lakh in 2007 – 2008 from consumers, as reported by DPL vide their letter No. DPL/GM(F&A)/317 dated 05.05.2009. Thus, the balance amount of Rs. 46359.09 lakh has been considered as amount realized from sale of energy to consumers including that of inter-plant transfer and to WBSEDCL by DPL during 2007 – 2008.

3.4 The amount of total allowable variable costs for the year 2007 – 2008, as was found in FPPCA (vide Order dated 27.05.09 in Case No. FPPCA-29/08-09) are as below:

		Rs. In Lakh
Fuel Cost		18008.35
Purchase Cost		13106.16
	Total	**31114.51**

3.5 The Commission vide its letter no. WBERC/APR-3/07-08/1096 dated 21 November, 2008 advised DPL to claim an amount of Rs. 775.27 lakh being the difference of total revenue to be recovered through the tariff for 2008 – 2009 due to certain inadvertent error that occurred in the Commission's order dated 15 September, 2008 in regard to APR of DPL for the year 2006 – 2007. Accordingly, DPL has claimed the matching amount in their application for APR 2007 – 2008 and the Commission has admitted the same. Since the aforesaid adjustment is related to variable cost only, the allocation between generation and distribution system is made in proportion to share of fuel cost and power purchase cost as admitted in APR for 2006 - 2007.

3.6 Based on the analyses as done in the foregoing paragraphs, the amount adjustable on the instant case of APR for the year 2007 – 2008 works out as under:

Sl No	Particulars	Amount in Rs. in Lakh
1	Variable cost admitted in APR for 2007 - 2008 (vide paragraph 3.4)	31114.51
2	Fixed cost in APR for 2007 – 2008 (vide paragraph 3.2)	21240.65
3	Total admitted variable cost and fixed cost in APR for 2007 - 2008 [3 = (1 + 2)	52355.16
4	Adjustment relating to APR for 2006 – 2007 (vide paragraph 3.5)	775.27
5	Total sales revenue realizable in 2007 - 2008 [5 = (3+4)	53130.43
6	Actual Sales Revenue (vide paragraph 3.3)	46359.09
7	**Net amount (+) recoverable / (-) refundable [7 = (5-6)**	(+) 6771.34

3.7 The aforesaid amount of Rs. 6771.34 lakh, recoverable by DPL from its consumers, other licensees and inter-plant transfer is allocated as below:

Amount in Rs. in Lakh

Sl. No.	Particulars	Amount
1	Generation	6293.36
2	Distribution	477.98
	Total	**6771.34**

3.8 In terms of the Tariff Regulations, the entire amount of such short recovery, i.e., Rs. 6771.34 lakh or a part thereof may be adjusted with the amount of Aggregate Revenue Requirement for the year 2009 – 2010 or that for any other ensuing year, as may be decided by the Commission. The decision of the Commission in this regard is given in the tariff order of DPL for 2009 – 2010.

3.9 DPL is to take a note of this order.

Sd/- 28.05.2009	**Sd/- 28.05.2009**	**Sd/- 28.05.2009**
(R. P. SAMADDAR) **MEMBER**	**(PRITITOSH RAY)** **MEMBER**	**(PRASADRANJAN RAY)** **CHAIRPERSON**

DATED: 28.05.2009