



ORDER

OF THE

**WEST BENGAL ELECTRICITY REGULATORY
COMMISSION**

IN CASE NO.: APR – 15 / 09 – 10

**IN RE THE APPLICATION OF THE DURGAPUR PROJECTS
LIMITED FOR ANNUAL PERFORMANCE REVIEW FOR THE
FINANCIAL YEAR 2008 – 2009 IN TERMS OF REGULATION 2.6
OF THE WEST BENGAL ELECTRICITY REGULATORY
COMMISSION (TERMS AND CONDITIONS OF TARIFF)
REGULATIONS, 2007, AS AMENDED.**

DATE: 26.07.2010



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 3 December, 2009 for the financial year 2008 – 2009. 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-15/09-10.
- 1.2 The instant application of DPL is its third application for the APR, the first and the second ones were for the financial years 2006 – 2007 and 2007 – 2008 respectively. The adjustments, as were found necessary on review of the performances of those years, were effected while determining the amount recoverable through tariff during the years following the years of such review. Similarly, the adjustments, as may arise out of the review of the instant application for 2008 – 2009 will be considered for giving effect while determining the amount of revenue recoverable through tariff during the year 2010 – 2011.
- 1.3 In its instant application for APR in respect of the financial year 2008 – 2009, DPL brought out the following major issues for the consideration of the Commission.



1.3.1 DPL could achieve 3050.430 MU of generation as against the target generation of 4219.17 MU. The reasons for not achieving the overall target generation were stated as under:

1.3.1.1 In view of nearing the closure and in pursuance of the advice of the Commission as well as for non-availability of good quality of coal and scarcity of fuel oil, Units 1 & 2 of the generating station were not operated on regular basis. The actual PLFs for those units came to 13.07% and 18.92% respectively as against 20% considered in the tariff order.

1.3.1.2 Though the availability of the remaining 4 (four) units could be kept almost in conformity with the norms, PLF of those units remained low for the use of coal of much below the designed grade. The anticipated load growth in the DPL system also could not be catered due to problems in commissioning of new sub-stations mainly due to way leave of transmission line and other factors beyond the control of DPL.

1.3.1.3 The new unit no. 7 faced some teething trouble since its inception of commercial production in April, 2008. The total non-availability of this unit was for 114 days of which 35 days were for leakages of boiler tube. The remaining days of non-availability were due to wear and tear of coal units leading to mill outage resulting from poor quality of coal which differed widely from the designed coal grade parameter.

1.3.1.4 DPL therefore prayed for not to restrict the recovery of its fixed charges on account of short fall in achieving the target generation.

1.3.2 DPL requested for release of the amount of Rs. 4285.40 lakh withheld for non-submission of Performance Guarantee (PG) Test Reports for the newly commissioned 7th unit from the amount of Aggregate Revenue Requirement (in short "ARR") for the year 2008 – 2009. It has been highlighted that due to



- delayed commissioning of some of the units in the State, there was a huge shortfall between the demand and supply in the state grid and there had been an understanding that unit no. 7 of DPL was to continue operation, if possible, to make available maximum supply in the grid during the first part of 2008 – 2009. The PG test was deferred with a view to carry out the same later on a convenient time. The test, thereafter, was scheduled sometime in July, 2009. But that too could not be materialized due to visa problem. DPL is in constant touch with Donfang Electric Company (DEC) and formalities are being carried out so that necessary visa can be obtained from their side to conduct PG test sometime in January, 2010. Pending the submission of the required test report to the Commission, DPL requested to release the withheld amount of Rs. 4285.40 lakh.
- 1.3.3 As online training of the company's employees in operating newly commissioned 1 x 300 MW 7th unit was considered necessary, the employees of M/s DEC were hired and the actual amount spent for that came to Rs. 2721.11 lakh. The amount had been classified under the head operation and maintenance. DPL requested for treating the amount of actual expenditure so incurred as employees' cost which is categorised as uncontrollable.
- 1.4 The Commission has taken careful note of the above representations made by DPL. The relevant issues will be addressed to and the views will be taken accordingly while examining the admissibility of expenses under different heads of accounts. 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. Element of performance incentive or gain sharing on account of achieving better operational norms, however, was not considered for DPL while determining its Aggregate Revenue Requirement (in short 'ARR') for the year 2008 – 2009, as 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. APR for the year 2008 – 2009 is the review of



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the different factor elements of fixed charges, categorised as controllable and uncontrollable, allowed to DPL through the ARR for the year 2008 – 2009, vis-à-vis the actuals as per the audited accounts. It is, however, to be mentioned that DPL is a multi functional organization, business in electricity being one of such functions. The analyses of the Commission and taking views thereon will be with reference to the audited data pertaining to electricity business only.



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. On the contrary, in case of controllable head of expenses, the applicant is supposed to contain the expenditure within the total amount so allowed and any savings located under controllable head will go to their account. The review of each of such controllable and uncontrollable heads of fixed charges with reference to the amounts 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. 3051.55 lakh towards employee cost which includes salaries, wages, bonus, contribution to PF etc. as well as staff welfare expenses. As against this amount, the actual expenditure claimed by DPL was for a total amount of Rs. 7834.01 lakh. The function-wise break-up to the total amount considered in the tariff order and total amount claimed are found as under:

Particulars	Rs. In Lakh	
	As considered in Tariff Order	As claimed in APR
A. Generation		
Old units (I – VI)	1817.03	3419.30
Unit VII	429.28	3232.40
Total A	2246.31	6651.70
B. Distribution	561.93	1182.31
C. Central Overhead	243.31	N.A.
Total	3051.55	7834.01



- 2.2.2 As mentioned earlier, DPL being a multi product / functional organization, its power business gets an allocation of the net expenditures of its centralized service department and workshop on the basis of pre-determined allocation ratio. Such allocations include the employees cost components and are separately treated as part of operation and maintenance expenses. DPL did not, therefore, make any claim separately in this regard. The amount of Rs. 3232.40 lakh as claimed towards employees' cost for the newly commissioned unit no. VII, includes an amount of Rs. 2721.11 lakh paid for outsourcing the operation of that unit for a specified period to M/s DEC and the expenditure was booked under R&M of unit VII.
- 2.2.3 The pay structure of DPL was revised with effect from 1 January, 2006, vide notification no. 71-PO/O/C-IV/IE-06/09 dated 17 February, 2009. Such pay revision also necessitated higher provisions towards employees' fringe benefits on account of gratuity and leave salary in compliance with provision of Accounting Standard (AS) – 15. The considerable increase in the employees cost over the amounts considered in tariff order was due to such pay revision.
- 2.2.4 The Commission viewed the claims of DPL with reference to its audited accounts. As it came out from schedule – K and schedule – L to the audited accounts for the concerned year, the actual amount of total expenditure towards employees' cost for its power business came as under:

Sl. No.	Particulars	Amount (Rs. in Lakh)
1	Expenditure incurred for the year (vide Schedule – K)	4289.82
2	Payment of arrear resulting in on account of pay revision (vide Schedule – L)	823.08
	Total	5112.90

Along with Rs. 5112.90 the payment made to M/s DEC amounting to Rs. 2721.11 booked under R&M of Unit VII needs to be considered.



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2.2.5 The total employees' as claimed by DPL for its power business during 2008 – 2009, thus, came to Rs. 7834.01 lakh (Rs. 5112.90 lakh + Rs. 2721.11 lakh).

2.2.6 As mentioned in paragraph 2.2.2, DPL is a multi product organization and in addition to its power business, it has coke oven group of plants and water works. A centralized servicing department as well as a central workshop caters to the need of production units. As per the policy, consistently being followed by the management, 56.18% and 17% of the employees' cost of servicing department (Rs. 4763.08 lakh) and central workshop (Rs. 245.67 lakh) respectively, are being allocated to the power business. As is found on analyses of the audited accounts, such allocation to power business for 2008 – 2009 came as under:

Sl. No.	Particulars		Amount (Rs. in Lakh)
1	Servicing Department		
	56.18% of Rs. 4763.08 lakh	2675.90	
	Arrear	459.52	3135.42
2	Central Workshop		
	17% of Rs. 245.67 lakh	41.76	
	Arrear	9.03	50.79
	Total Allocation		3186.21

2.2.7 The actual employees' cost charged to the power business during 2008 – 2009, thus, came to Rs. 8299.11 lakh (Rs. 5112.90 lakh + Rs. 3186.21 lakh).

2.2.8 The Commission, in its tariff order of DPL for the year 2008 – 2009 vide Case No. TP-38/08-09 dated 26 September, 2008 has clarified that the performance incentive paid to employees to improve the various technical parameters of the power plant will not form part of employees cost. Thus Rs. 26.94 lakh considered as performance incentive including arrears thereof to the regular employees for Units I to VI is to be excluded from the submitted employees cost. The Commission had also critically examined the DPL's proposal of hiring of manpower from main contractor of unit no. VII, who was involved in the



- construction stage and decided to consider the employees cost for unit VII at par with that of units I to VI. The Commission also ordered to provide employees cost charge for Operation and Maintenance separately which was not given. DPL also did not furnish break up of employees cost as required under form 1.17(h) and 1.17(i) and also cost of outsourcing under form no. 1.17(k). This has been considered as a serious lapse on the part of DPL and DPL is reminded to be careful about that in future.
- 2.2.9 Based on above, the Commission decides to admit the actual employees cost of DPL being uncontrollable in nature in APR for 2008 – 2009 amounting to Rs. 8272.17 lakh (Rs. 8299.11 lakh – Rs. 26.94 lakh) and allocate the same between generation and distribution functions as below based on allocation ratio of DPL:

Sl. No.	Particulars	Amount Rs. in Lakh
1	Generation Function	6349.18
2	Distribution Function	1922.99
	Total	8272.17

2.3 Water Charges:

- 2.3.1 DPL meets its processed water supply requirements for its generation plants taking supply from its sister water plant unit. The inter plant transfer rate for such processed water during the year was fixed to Rs. 5.00 per kilolitre (KL). The actual amount of Rs. 1422.42 lakh was charged to power plant unit as against Rs. 2207.15 lakh considered in the tariff order for the concerned year. The Commission admits the actual expenditure booked amounting to Rs. 1422.22 lakh on this score in APR for 2008 – 2009. The amount is considered chargeable to generation function.



2.4 Coal and Ash Handling Charges:

2.4.1 An amount of Rs. 1124.00 lakh was allowed in the tariff order for 2008 – 2009 towards coal and ash handling expenses. DPL claimed an amount of Rs. 757.22 lakh on this account. As shown in schedule – K to the audited accounts of generating station, the amount of actual expenditure came to Rs. 691.85 lakh and the same is admitted in APR for 2008 - 2009. The amount claimed by DPL includes Rs. 65.37 lakh for consumption of stores materials for the maintenance of the ash handling equipments and is to be considered under O&M expenses for generating stations and hence excluded here. The admitted amount of Rs. 691.85 lakh is chargeable to generation function.

2.5 Interest on Capital Borrowings:

2.5.1 As it reveals from the data submitted in Form – C of the instant application for APR, borrowings of DPL for its power business are of two categories i.e., borrowings from M/s Power Finance Corporation Limited (in short “PFCL”) and Central Electricity Authority (in short “CEA”). In addition to those, part of the borrowings from the Government of West Bengal and through the issuance of Bonds was allocated to power. The position of outstanding balances, at the beginning of the year, repayments made during the year, fresh borrowings and interest charges for the year are found as under:

Rs. in Lakh

Sl. No.	Sources	Opening balance	Repayment	Fresh drawal	Closing balance	Interest charges
1	PFCL					
	i) No. 50403001	0.00	0.00	4213.01	4213.01	142.53
	ii) No. 50401001	81967.51	1726.65	1494.60	81735.46	9206.27
	iii) No. 50404007	27.17	18.11	0.00	9.06	0.99
	iv) No. 50404008	12215.07	2714.46	0.00	9500.61	821.04
	Total	94209.75	4459.22	5707.61	95458.14	10170.83
2	CEA	1181.00	0.00	0.00	1181.00	161.46
3	Bonds allocated	260.50	19.50	0.00	241.00	28.71



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4	Government of West Bengal	7673.57	0.00	0.00	7673.57	574.94
5	Total (5=1+2+3+4)	103324.82	4478.72	5707.61	104553.71	10935.94
6	Less: Interest to be capitalized					142.53
7	Interest chargeable to Revenue Account					10793.41

2.5.2 The statement submitted by DPL in Form – C had not been properly drawn and, as such, some errors came in showing the overall positions. DPL is advised to show the position in respect of his power business only and not the company as a whole when filling up the forms for tariff application.

2.5.3 It has been observed with great concern that DPL obtained loans amounting to Rs. 1181.00 lakh from CEA long back. The rates of interest on such loans are ranging between 8.25% and 10.50%. As being claimed by DPL, interest charges on those loans had regularly been allowed in the ARR since 2000 – 2001. It now came out from the accounts of power plant, separately submitted by DPL vide schedule C-1 [Unsecured loans (Guaranteed by Govt. of West Bengal)] at page 831 in volume – II, that DPL had neither been making repayments of loans nor the payment of interest to CEA. The accumulated interest due but not paid to CEA on those loans stands to Rs. 2766.47 lakh and the outstanding dues to CEA in this regard as on 31 March, 2009 rose to Rs. 3947.47 lakh. In its instant application for APR 2008 – 2009 also DPL claimed an amount of Rs. 161.46 lakh including penalty of Rs. 58.73 lakh for default. The Commission disallows the entire interest admitted but not paid as on date amounting to Rs. 2766.47 lakh and directs DPL to submit the reasons for non-payment of interest in due time inspite of the fact that the same was allowed in the ARR for the respective years within one month of receipt of this order. The Commission also decides not to allow any interest on CEA loan to DPL in APR for the year 2008 – 2009. Disallowing this amount of Rs. 161.46 lakh as well as deducting Rs. 2766.47



- lakh, as stated above, from the computed total interest charges of Rs. 10793.41 lakh, the Commission admits Rs. 7865.48 lakh on this account.
- 2.5.4 Out of the total amount of Rs. 7865.48 lakh admitted towards interest charges, Rs. 6439.80 lakh is considered for the generating station and Rs. 1425.68 lakh is considered for the distribution system based on the purpose of the loan.
- 2.6 **Interest on Working Capital:**
- 2.6.1 It has been observed that DPL made no specific borrowing for meeting the working capital requirement. The total borrowing pertaining to power business, as shown in the preceding paragraph, includes borrowing to meet up such needs. The Commission, therefore, does not admit any amount separately for working capital.
- 2.7 **Interest on Consumers' Security Deposit:**
- 2.7.1 An amount of Rs. 24.72 lakh was allowed to DPL towards interest payable to consumers on their security deposits. The actual amount of interest charges on such deposits came to, as per the schedule – K to the audited accounts, Rs. 18.25 lakh. The same amount is admitted on APR for 2008 – 2009 and pertains to distribution function.
- 2.7.2 It has been observed from sub-schedule G to the account of generating station that the opening balance of consumers' security deposit was Rs. 289.60 lakh and the same rose to Rs. 345.01 lakh at the end of the year. A status report in regard to the utilization of the amounts of such deposits was asked from DPL along with its application of APR for 2008 – 2009. No such report had been submitted. DPL is once again asked to take note of directives given in paragraph 6.14 of the Commission's order dated 26 November, 2008 in case no. TP-38/08-09 and to submit the desired information within one month from the date of issue of this order.



2.8 Finance Charges:

2.8.1 The actual amount of finance charges incurred by DPL during 2008 – 2009 are found as under:

Sl. No.	Particulars	Amount Rs. in Lakh
1	Guarantee Fees	899.75
2	Bank charges	20.22
	Total	919.97

2.8.2 This is as against Rs. 1015.68 lakh allowed in the tariff order for 2008 – 2009. The amount of guarantee fee is in regard to capital loans from PFC for the construction of power plant and the same amounting to Rs. 899.75 lakh is, therefore, charged to generation function. Bank charges of Rs. 20.22 lakh are in regard to distribution function. The total of Rs. 919.97 lakh is admitted by the Commission in APR for 2008 – 2009.

2.9 Depreciation:

2.9.1 The amounts of depreciation considered in the tariff and actually came chargeable to accounts for the year 2008 – 2009 are as under:

Rs. In Lakh

Particulars	Amount as per Tariff Order	Actual
Generation	5861.02	6066.85
Distribution	557.11	674.54
Total	6418.13	6741.39

2.9.2 The amount of Rs. 6741.39 actually charged to accounts is admitted in APR for 2008 – 2009.



2.10 Advance Against Depreciation:

2.10.1 DPL claimed for an amount of Rs. 1044.43 lakh towards advance against depreciation as against Rs. 272.35 lakh allowed in the ARR for the year 2008 – 2009. The claim was made on an erroneous concept. Advance against depreciation is allowable, in terms of regulation 4.6.3.1 read with regulation 4.5.2 of the Tariff Regulations, to facilitate the scheduled repayments of loans where the amount of chargeable depreciation falls short of the total amount so required for loan repayment. As shown in the paragraph 2.5.1 above, the total amount of loans repaid by DPL during 2008 – 2009 was Rs. 4478.72 lakh and that is much less than the amount of depreciation of Rs. 6741.39 charged in the accounts and admitted by the Commission in APR 2008 – 2009. As such, no amount towards advance against depreciation is found allowable.

2.10.2 DPL is to take note that the amounts of scheduled repayments should pertain to capital borrowings specifically made or allocated for its power business. Repayments of borrowings pertaining to any of its purpose other than power plant account are not eligible for advance against depreciation.

2.11 Intangible Assets Written Off:

2.11.1 An amount of Rs. 3.91 lakh was allowed in the ARR for 2008 – 2009 towards write off of intangible assets. No amount was found charged in the audited accounts. Thus, no fund is admitted in APR for 2008 - 2009.

2.12 Bad Debts:

2.12.1 It has been highlighted by DPL that it had more than Rs. 10000.00 lakh of age old debtors against the dues recoverable from the sick or referred to BIFR or are under liquidation or closure companies. It had to take provisions for bad and doubtful debts totaling to Rs. 1881.05 lakh for the year 2005 – 2006, 2006 – 2007 and 2007 – 2008. As against such provision, the Commission allowed a total sum



of Rs. 261.55 lakh after restricting the claims to the ceiling amount in terms of regulation 4.10.1 of the Tariff Regulations. DPL did not, however, take any provision in this regard in its accounts for 2008 – 2009. It has now requested for admission of the balance amount of Rs. 1619.50 lakh on APR for the year 2008 – 2009.

2.12.2 The Commission viewed the claims of DPL in terms of the concerned regulation 4.10.1 of the Tariff Regulations. Going by the regulation, the Commission may allow such amount of bad debt as actually had been written off in the latest available audited accounts subject to a ceiling of 0.5% of the annual gross sales value of power at the end of the current year. Since DPL has not written off any amount as bad debt in its books of accounts during 2008 - 2009, DPL is not entitled to any sum on this score in APR for 2008 – 2009.

2.13 **Income Tax:**

2.13.1 The power business of DPL is not a separate entity for assessment of income tax. The company as a whole was having an amount of negative profit (loss) for the year 2008 – 2009. DPL, therefore, did not claim for any amount in this regard.

2.14 **Reserve for Unforeseen Exigencies:**

2.14.1 An amount of Rs. 139.15 lakh was allowed in the ARR of DPL for the year 2008 – 2009 towards reserve for unforeseen exigencies. In terms of regulation 4.11.1 of the Tariff Regulations, such reserve was allowed @ 0.25% of the gross block of the fixed assets at the beginning of the year. In the year 2008 – 2009, original cost of fixed assets in operation stood at Rs. 191643.55 lakh at the beginning of the year and amount to be provided towards reserve for unforeseen exigencies reckons to Rs. 479.11 lakh in APR for 2008 – 2009. The aforesaid amount of Rs. 479.11 lakh is allocated between generation function and distribution function as Rs. 446.15 lakh and Rs. 32.96 lakh respectively based on proportion of opening



gross value of fixed assets. 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 provision of the aforesaid regulation on the part of DPL.

2.14.2 In terms of regulation 4.11.1 of the Tariff Regulations, the following amounts were allowed to DPL by the Commission in its order on APR in the respective years for creation of funds towards reserve for unforeseen exigencies as shown in the table given below:

In APR for	Amount admitted in APR for 2008 – 2009 Rs. in Lakh
2006 – 2007	131.36
2007 – 2008	134.64
2008 – 2009	479.11
Total	745.11

2.14.3 In compliance of the referred regulations, DPL was to create a reserve fund in its accounts in this regard and to invest the amounts prudently outside. DPL neither made the provisions in this regard in the accounts nor invested the funds. It has been observed that the Comptroller and Auditor General (CAG), in its report on 11 September, 2009, pointed out the non-compliance of Commission's concerned regulation and made adverse comments in this regard.

2.14.4 While issuing the tariff order for the year 2008 – 2009, the Commission also observed such non-compliance of the provisions for creation of the reserve for unforeseen exigencies and investment of the same. It was specifically stated in the referred tariff order that, in case of not doing the needful in this regard, double the amount of reserve allowed through tariffs would be deducted from the amount of returns on equity allowable to DPL. In its subsequent amendment to the Tariff Regulations, vide notification no. 41/WBERC dated 22 May, 2009, the



Commission specified in regulation 4.11.2 as to how such cases of non-compliances would be dealt with. According to the provisions contained therein, the Commission decides not to deduct the double but the amount of default, i.e. Rs. 745.11 lakh from the return on equity for the year 2008 – 2009. Out of the deductible amount of Rs. 745.11 lakh, Rs. 591.86 lakh and Rs. 153.25 lakh relate to generation and distribution functions respectively. It will be an obligation on the part of DPL to make provisions for this amount in its books of accounts towards reserve for unforeseen exigencies for the period upto 31 March, 2009 and to invest the same following the guidelines provided in regulation 4.24 of the Tariff Regulations. After doing the needful in this regard, a report of compliance should be sent to the Commission for deciding upon the matter

2.15 Returns on Equity:

2.15.1 The admissible equity base of DPL at the beginning of the year 2008 – 2009 for the purpose of computation of return on equity separately for generation and distribution functions are as below:

Sl. No.	Particulars		Amount Rs. in Lakh
1	Generation Function		
	Units I to VI	32114.30	
	Unit VII	36256.00	68370.30
2	Distribution Function		8385.70
	Total		76756.00

2.15.2 Actual addition to equity base during the year 2008 – 2009 is through share capital provided by the Government of West Bengal amounting to Rs. 4244.00 lakh. It is, however, to mention that DPL is not having any free reserve for deployment in its power business. It has been found from the audited balance sheet in regard to power business that the net addition to the value of fixed assets in operation during the year 2008 – 2009 was Rs. 2601.75 lakh and has been considered under generation assets.



2.15.3 Based on the data as referred to above, the amount of return allowable to DPL works out as under:

Sl. No.	Particulars	Amount (Rs. in Lakh)
1	Admissible equity base at the beginning of the year 2008 – 2009	76756.00
2	Actual addition to equity base during the year	4244.00
3	Actual equity base at the end of the year (1+2)	81000.00
4	Admissible capital expenditure during the year	2601.75
5	Normative addition to equity base (30% of 4)	780.53
6	Addition to equity base considered for the year (lower of 2 and 5)	780.53
7	Admissible equity base considered at the end of the year (1+6)	77536.53
8	Admissible average equity base during the year for allowing returns (1+7)/2	77146.27

2.15.4 Based on the above, the amount of return on equity as considered for 2008 – 2009 and the function wise allocation of the same is as under:

Particulars	Average equity base of 2008-09 (Rs. in Lakh)	Return on equity (in percent)	Return admitted in APR for 2008-09 (Rs. in Lakh)
Generation	68760.57	14	9626.48
Distribution	8385.70	15	1257.85
Total	77146.27		10884.33

2.16 Operation & Maintenance Expenses:

2.16.1 Operation & Maintenance (O&M) expenses viz. Repairs and Maintenance including cost of consumables, rent, legal and professional charges, audit fees, administrative and general expenses are categorized as controllable in terms of the Tariff Regulations. The total expenditures under the above heads of accounts were considered as Rs. 8013.29 lakh in the tariff order for 2008 – 2009. Out of



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the above Rs. 8013.29 lakh, the Commission allowed Rs. 7197.05 lakh for generation function in accordance with the norms specified in schedule 9A of the Tariff Regulations, whereas for distribution system adoption was made individual item wise which aggregated to Rs. 816.24 lakh.

2.16.2 The Commission directed that in case the actual expenditure under repair and maintenance head in respect of distribution system is found to be less than the admitted amount, the Commission will allow the actual expenditure under this head in APR for the concerned year. Rs. 535.86 lakh was allowed towards repair and maintenance including consumables for distribution operation. DPL in its submission at form E (5) indicated that actual expenditure on repairs and maintenance including consumables is Rs. 4394.40 lakh. In the allocation statement for 2008 – 2009, DPL allocated the above Rs. 4394.40 lakh between generation and distribution operations as below:

Rs. in Lakh			
Particulars	Generation Function	Distribution Function	Total
Units I – VI			
Consumption of Stores	1264.96	181.20	1446.16
Repairs & Maintenance	1206.74	347.53	1554.27
Total Units I to VI	2471.70	528.73	3000.43
Unit – VII			
Consumption of Stores	394.00	-	394.00
Repairs & Maintenance	999.97	-	999.97
Total Unit VIII	1393.97	-	1393.97
Total Repair & Maintenance	3865.67	528.73	4394.40

2.16.3 Based on above analysis, it is found that actual expenditure on repair and maintenance including consumables for distribution system is less than the amount allowed in tariff order under this head and the Commission decides to restrict the expenditure on this score to actual amount of Rs. 528.73 lakh and deduct the balance amount of Rs. 7.13 lakh (Rs. 535.86 Lakh – Rs. 528.73 lakh) from the amount allowed for operation and maintenance under distribution



system. Thus, the admitted amount in APR for 2008 – 2009 for operation and maintenance under distribution system comes to Rs. 809.11 lakh.

2.16.4 The comprehensive position is given in the table below:

Rs. In Lakh

Particulars	Amount allowed in Tariff Order	Amount admitted in APR for 2008 - 2009
Generation		
Unit I – VI	5634.05	5634.05
Unit VII	1563.00	1563.00
Total Generation	7197.05	7197.05
Distribution	816.24	809.11
Total	8013.29	8006.16

2.17 Demurrage Charges:

2.17.1 Demurrage charges for railway rake, being commercial terms and conditions of freight, is a kind of freight charges connected with the rake unloading capability of the generating station, which is a part of fuel cost and may be considered in computation of fuel and power purchase cost adjustment. The Commission already in its Tariff Regulations stressed upon the fact that allowance for the demurrage will gradually be reduced to a target in phased manner within a stipulated period. However, for new generating station or extension of existing generating station it will not be considered unless railways reduces the unloading free time by more than 20%. The estimated amount on this score so approved in the tariff order for 2008 – 2009 was Rs. 251.22 lakh. Actual amount spent on demurrage during the year is Rs. 257.99 lakh as claimed by DPL. 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. DPL did not provide any data regarding occurrence of demurrage and reason thereof, nor have they established that they are attempting measures to gradually



reduce the demurrage. DPL did not also mention the incidence of demurrage at Units I to VI or at Unit VII. The amount provided on demurrage in tariff order was purely on estimation basis and do not bestow any right to the applicant to claim demurrage without assigning detailed justification for the same. The Commission decides not to admit any amount separately on this score in APR for 2008 – 2009 and directs DPL to claim only the inevitable amount of demurrage as a part of transportation cost of coal in future with due justification thereof.

2.18 Income from Non-Tariff Sources:

2.18.1 The incomes from other non-tariff sources, as considered in the tariff order for the year 2008 – 2009 and as actually came as per audited accounts are found as under:

Sl. No.	Particulars	Amount (Rs. in Lakh)	
		As considered in Tariff Order	Actual
1	Rental of meters etc.	87.09	63.88
2	Sale and repair of meters & apparatus	2.49	0.43
3	Income from investments and bank balances	5.76	12.45
4	Surcharge for late payments	20.90	40.26
5	Income from consumers job	38.71	117.13
6	Sale of Steam	174.16	164.70
7	Others	62.29	163.45
	Total	391.40	562.30

2.18.2 The income from sale of steam amounting to Rs. 164.70 lakh is considered under generation function and the rest of the income of Rs. 397.60 lakh is attributed to distribution function. The Commission admits total income from non-tariff sources as Rs. 562.30 lakh, the actual income submitted by DPL.



2.19 Interest Credit:

2.19.1 The total amount of depreciation charges exceeded the total amount of loans repayments made by DPL. An amount of Rs. 248.89 lakh, as computed hereunder, relates to generation function and is deductible from the gross amount of fixed charges in terms of regulation 4.5.3 of the Tariff Regulations.

Sl. No.	Particulars	Amount (Rs. in Lakh)
1	Amount of Depreciation	6741.39
2	Loan repayment	4478.72
3	Excess of depreciation over loan repayment (1 – 2)	2262.67
4	Weighted average rate of interest	11%
5	Interest credit	248.89

2.20 Income from Unscheduled Interchange (UI) of Power:

2.20.1 DPL earned an amount of Rs. 2127.99 lakh during the year from the unscheduled interchange charges. In terms of regulation 4.17.3 of the Tariff Regulations, the Commission decides to pass on the entire amount, relates to distribution function, to the benefit of consumers and West Bengal State Electricity Distribution Company Limited (WBSEDCL).

2.21 Deductions for Non-Compliance of the Provisions of Tariff Regulations in regard to Reserve for Unforeseen Exigencies:

2.21.1 As explained in paragraph 2.14.4 earlier, the deduction of Rs. 745.11 lakh, allocated between generation and distribution functions, towards referred non-compliances is shown in the table given below:

In APR for	Amount Rs. in Lakh
Generation	591.86
Distribution	153.25
Total	745.11



2.21.2 However, it will be adjusted with the net amount payable / receivable through APR for 2008 – 2009 giving effect of all the adjustments necessary prior to it.

2.22 Amount withheld for non-submission of Performance Guarantee (PG) Test Report:

2.22.1 DPL was supposed to submit the performance guarantee test certificate in regard to its newly commissioned 300 MW VII unit of its generating station. No such certificate has yet been submitted. An amount of Rs. 4285.40 lakh out of its ARR for 2008 - 2009 was withheld in this regard. In terms of regulation 2.8.1.4.10 of the Tariff Regulations, the Commission decides not to release the said amount in APR for 2008 – 2009. This will be dealt in the tariff order for 2010 – 2011. .

2.23 Admissibility of recovery of Capacity Charge in full and treatment of inoperative assets of generating station for more than 3 (three) months and consequential impact on recovery of Fixed Charges:

2.23.1 In terms of provisions of regulation 5.4.2 of the Tariff Regulations, for the second control period, the recovery of capacity charge for all the generating stations of the licensee and the generating company shall be against the normative availability.

2.23.2 In case of generating station of DPL, the fixed cost recovery is not done on the basis of availability because for those who are not covered by on-line monitoring display arrangement at State Load Despatch Centre (SLDC) along with dedicated audio communication, recovery shall be done on the basis of normative Plant Load Factor (PLF) in the year 2008 – 2009 only. Hence, actual PLF is to be compared with the normative PLF as per paragraph B of schedule 9A of the Tariff Regulations. DPL in its application for APR for 2008 – 2009 submitted that the Units III, IV and VII remained inoperative for 107 days, 137 days and 114 days respectively. In terms of regulation 4.25.1 of Tariff Regulations, in case any asset of the generating station remained inoperative for



more than 3 (three) months resulting in shortfall in achieving target availability for that generating station, then except employees' cost, interest on borrowed capital, depreciation and advance against depreciation, if any, the other fixed costs will be allowed to be recovered proportionately to the actual generation with respect to normative generation. Return on equity and depreciation, however, shall be determined in pursuance of regulations 4.6.1 and 4.6.2 of the Tariff Regulations.

2.23.3 Since the unit wise cost details are not available, nor the amount admitted in APR for 2008 – 2009 is unit wise, the Commission decided to go by generation and distribution functions as a whole to arrive at aggregate impact because of such inoperativeness and to deal it as per regulation 4.25.2 of Tariff Regulations considering DPL as a whole.

2.23.4 As it comes out from the submission of DPL, the actual PLF achieved during 2008 – 2009 at different Units of DPL in comparison to norms set for the year was as under:

Particulars	Target Generation at targeted PLF (MU)	Actual Generation at actual PLF (MU)	Shortfall of Actual Generation over Target Generation in %
DPL as a whole during 2008 – 2009	4219.166	3050.43	27.70%

2.23.5 As may be seen from above, there had been shortfall in achieving generation at normative level by 27.70% which calls for adjustment of Rs. 10727.08 lakh as per regulation 5.4.2 of the Tariff Regulations. However, DPL is entitled to recover certain capacity charges in terms of regulation 4.25.2 of the Tariff Regulations.



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2.23.6 The fixed charges made allowable so far for DPL in APR for 2008 – 2009 is regrouped for convenience of applying provisions under regulation 4.25.2 of the Tariff Regulations.

Rs. in Lakh

Particulars	Amount allowable in APR for 2008 – 2009	Amount of Capacity Charge deductible for shortfall in actual PLF than targeted PLF during 2008 - 2009	Amount of Capacity Charge made allowable for inoperative units for more than 3 months as per regulation 4.25.2	Net amount not admitted for recovery of Capacity Charge
Employees cost	6349.18	1758.72	1758.72	-
Interest on Capital loan	6439.80	1783.82	1783.82	-
Return on Equity	9626.48	2666.53	1333.27	1333.26
Depreciation	6066.85	1680.52	-	1680.52
Advance against Depreciation	-	-	-	-
Other than specifically mentioned above	10243.63	2837.49	-	2837.49
Total	38725.94	10727.08	4875.81	5851.27

2.23.7 The entire deduction is to be made from generation operation.

2.24 Fixed Charges as Admitted:

2.24.1 Based on the foregoing analyses, the amounts of net fixed charges allowable under different heads in respect of generation function of DPL have been shown in Annexure 2A. As shown in the referred annexure, the gross amount of fixed charges (less other income) for DPL for the year 2008 – 2009 come to Rs. 38725.94 lakh as against Rs. 40401.80 lakh allowed in ARR for 2008 – 2009.

2.24.2 The net amount of fixed charges for DPL for the year 2008 – 2009, has been derived deducting the items specified in paragraphs 2.21, 2.22 and 2.23, and the same comes to be Rs. 35765.57 lakh. This has been shown in Annexure 2A with break-up in generation and distribution functions as Rs. 32282.81 lakh and Rs. 3482.76 lakh respectively.



2.25 Re-determined Fixed Charges:

2.25.1 The amount of admitted fixed charge in APR for 2008 – 2009 for DPL, as shown in Annexure – 2A, require to be adjusted with the amounts determined on APR in regard to fixed charges for the year 2006 – 2007. Such refundable amounts, vide paragraph 7.2 of Commission's order dated 26 September, 2008 in Case No. TP-38/08-09, are Rs. 1660.61 lakh and such refundable amount is allocated to generation and distribution functions as Rs. 1445.39 lakh and Rs. 215.22 lakh respectively.

2.25.2 The amount of re-determined fixed charges for DPL for the year 2008 – 2009, after carrying out the adjustments in regard to fixed charges for 2006 – 2007 come as under:

Particulars	Amount in Rs. in Lakh		
	Generation	Distribution	Total
Net Fixed charges of 2008 – 2009 admitted for recovery in APR for 2008 – 2009	32282.81	3482.76	35765.57
Less: Fixed charges relating to 2006 – 2007 as appeared in the Tariff Order for 2008 - 2009	1445.39	215.22	1660.61
Re-determined fixed charges	30837.42	3267.54	34104.96



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						
	(a) Direct for Power Business	2246.31	561.93	2808.24	6349.18	1922.99	8272.17
	(b) Allocation of Central Overhead	187.12	56.19	243.31			
2	Water Charges	2189.91	17.24	2207.15	1422.42	0.00	1422.42
3	Coal & Ash Handling Expenses	1124.00	0.00	1124.00	691.85	0.00	691.85
4	Operation & Maintenance Expenses:	7197.05	816.24	8013.29	7197.05	809.11	8006.16
5	Interest on Capital Borrowings	10424.64	1850.00	12274.64	6439.80	1425.68	7865.48
6	Finance Charges	863.33	152.35	1015.68	899.75	20.22	919.97
7	Interest on Consumers' Security Deposit	0.00	24.72	24.72	0.00	18.25	18.25
8	Interest on Working Capital	0.00	0.00	0.00	0.00	0.00	0.00
9	Bad Debts	0.00	503.00	503.00	0.00	0.00	0.00
10	Depreciation	5861.02	557.11	6418.13	6066.85	674.54	6741.39
11	Advance Against Depreciation	272.35	0.00	272.35	0.00	0.00	0.00
12	Reserve for unforeseen Exigencies	110.53	28.62	139.15	446.15	32.96	479.11
13	Intangible Assets Written Off	2.91	1.00	3.91	0.00	0.00	0.00
14	Demurrage	251.22	0.00	251.22	0.00	0.00	0.00
15	Income Tax	0.00	0.00	0.00	0.00	0.00	0.00
16	Returns	9909.24	1540.16	11449.40	9626.48	1257.85	10884.33
17	Gross Fixed Charges relating to 2008 - 2009 (1 to 16)	40639.63	6108.56	46748.19	39139.53	6161.60	45301.13
18	Less: Adjustments on account of other Income:						
	Other Non-Tariff Income	237.83	153.57	391.40	164.70	397.60	562.30
	Interest Credit	0.00	0.00	0.00	248.89	0.00	248.89
	Net receipt of UI Charges	0.00	0.00	0.00	0.00	2127.99	2127.99
	Total (18)	237.83	153.57	391.40	413.59	2525.59	2939.18
19	Gross Fixed Charge after adjustment of Other Income for 2008 - 2009 (17-18)	40401.80	5954.99	46356.79	38725.94	3636.01	42361.95



Sl. No.	HEAD OF FIXED CHARGES	AS PER TARIFF ORDER			AS ADMITTED IN APR		
		GENERATION	DISTRIBUTION	TOTAL	GENERATION	DISTRIBUTION	TOTAL
	Less: Deduction as per Regulations						
20	Disallowance of fixed charge for not achieving normative PLF	0.00	0.00	0.00	5851.27	0.00	5851.27
	Deduction for non-compliance of the provisions in regard to Reserve for Unforeseen Exigencies.	0.00	0.00	0.00	591.86	153.25	745.11
	Amount withheld for non-submission of P.G. Test Report	4285.40	0.00	4285.40	0.00	0.00	0.00
	Total (20)	4285.40	0.00	4285.40	6443.13	153.25	6596.38
21	Net Fixed Charges admitted (19-20)	36116.40	5954.99	42071.39	32282.81	3482.76	35765.57



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 redetermined allowable fixed charges during 2008 – 2009 for generation and distribution functions of DPL came as under:

Particulars	Amount (Rs. in Lakh)
Generation	30837.42
Distribution	3267.54
Total	34104.96

- 3.2 In its order dated 30 June, 2010 in case no. FPPCA – 41 / 09 – 10, the Commission also re-determined the fuel and power purchase cost allowable to DPL totaling to Rs. 36696.34 lakh. The entire amount of Rs. 36696.34 lakh relates to generation function.
- 3.3 As it comes out from above, DPL's total realizable sales revenue from its consumers and WBSEDCL during the year 2008 – 2009 comes as follows:

	Amount (Rs. in Lakh)
Fuel and Power Purchase Cost	36696.34
Fixed Charges	34104.96
Total	70801.30

- 3.4 The Commission is now to see how much revenue had been earned by DPL from sale of power to its consumers and WBSEDCL including inter-plant transfer with reference to its audited accounts. The amount of total sales revenue comes as under:



Order on APR of DPL for the year 2008-09

Sl. No.	Particulars	Amount (Rs. in Lakh)
1	Sales of power as per Schedule 'I'.	70992.44
2	Add: Inter-plant transfer of Energy.	662.50
	Total	71654.94
3	Less: Unbilled amount recoverable by DPL on account of APR for 2007 – 2008 included in the tariff order for 2009 – 2010 but treated as revenue during 2008 – 2009.	6771.34
4	Less: Proportionate amount recovered from the consumers in 12/60 monthly instalments of Rs. 4060.09 lakh towards FPPCA for the financial years 2004 – 2005 and 2005 – 2006.	812.02
5	Sales revenue realized during 2008 – 2009 pertaining to this year	64071.58

- 3.5 Based on the analyses as done in the foregoing paragraphs, the amount adjustable on the instant case of APR for the year 2008 – 2009 works out as under:

Sl No	Particulars	Generation	Distribution	Total (Rs. in Lakh)
1	Variable cost admitted in FPPCA for 2008 - 2009	36696.34	-	36696.34
2	Fixed cost in APR for 2008 – 2009	30837.42	3267.54	34104.96
3	Total sales revenue realizable in 2008 - 2009	67533.76	3267.54	70801.30
4	Actual Sales Revenue recovered for 2008 - 2009	61114.62	2956.96	64071.58
5	Net amount (+) recoverable / (-) refundable [5 = (3-4)]	6419.14	310.58	6729.72

- 3.6 In terms of the Tariff Regulations, the entire recoverable amount of Rs. 6729.72 lakh or a part thereof may be adjusted with the amount of Aggregate Revenue Requirement for the year 2010 – 2011 or that for any other ensuing year, as may



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be decided by the Commission. The decision of the Commission in this regard will be given in the tariff order of DPL for 2010 – 2011.

3.7 DPL is to take a note of this order.

Sd/- 26.07.2010
(R. P. SAMADDAR)
MEMBER

Sd/- 26.07.2010
(PURNENDU GUPTA)
MEMBER

Sd/- 26.07.2010
(PRASADRANJAN RAY)
CHAIRPERSON

DATED: 26.07.2010