

DPL REVISED TARIFF ORDER DATED 24/05/2004

ORDER

FURTHER ORDER

OF

**WEST BENGAL ELECTRICITY REGULATORY COMMISSION
IN**

Case No. T.P. - 4 of 2000 - 01

AND

Case No. T.P. - 5 of 2001 - 02

IN RE THE TARIFF PETITION OF DURGAPUR PROJECT LIMITED FOR THE YEARS 2000-01 AND 2001-02 ON REMAND OF THE MATTER FROM THE HON'BLE HIGH COURT AT CALCUTTA BY ITS ORDER DATED NOVEMBER 21, 2003 IN FMAT NO 3824 OF 2001 AND CONNECTED APPEALS.

Present :

MR. S. N. GHOSH - CHAIRPERSON
MR. A. K. JAIN - MEMBER (F&A)
MR N. C. ROY - MEMBER (TECH)

For the Petitioners:

1. Shri Ghosh, Chairman, DPL
2. Shri S. P. Datta, M.D., DPL.

For Parties to Appeal:

1. Shri P. K. Bagchi WBSEB
2. Durgapur Chemicals

Parties who filed Written Submission:

1. Durgapur Projects Limited
2. West Bengal State Electricity Board

CHAPTER - 1

1.1 The West Bengal State Electricity Regulatory Commission was constituted in the year 1999 under section 17 of the Electricity Regulatory Commission Act, 1998 (Act 14 of 1998) after repeal of 1998 Act vide section 185 of Electricity Act 2003, The West Bengal Electricity Regulatory Commission is the Commission in terms of provision to Section 82(1) of the Electricity Act, 2003.

1.2 The commission has passed a tariff order dated 21st September 2001 in case of Durgapur Projects Limited (DPL) for the years 2000 - 01 and 2001 - 02, after inviting objections through the leading newspapers and also having the public hearing.

1.3 Being aggrieved by the order of the Commission, DPL moved to the Hon'ble High Court at Calcutta in FMAT No. 3824 of 2001, under section 27 of the Electricity Regulatory Commission (ERC) Act, 1998.

1.4 Several other interested parties did appear before the Hon'ble High Court to have their says in the matter. The Hon'ble Division Bench of the Calcutta High Court heard the matter and set aside the order of the Commission dated 21st September 2001 and sent back the matter to the Commission for reassessment of the cost under some heads determining revenue requirements and re-determination of the tariff in the light of the judgment. The Hon'ble High Court also clarified that some findings of the Commission have not been interfered by the Court and same will remain. It was further directed that except such finding and findings, which have not been set aside, the Commission has to re-determine and / or reassess only in respect of the findings under different heads mentioned specifically in the judgement after hearing the parties. The Hon'ble High Court has also given several other directions in the order.

1.5 The Commission vide its letter dated 21st November 2003 sought certain information from DPL which in the opinion of the Commission was essential before implementation of the Hon'ble High Court's order dated November 21, 2003

1.6 DPL submitted the information vide their letter dated 21st January 2004.

1.7 The Commission vide its notice dated 4th February 2004 requested the parties in the appeal to take copies of the letter of Commission and the information forwarded by DPL in the above referred letter, if they so desire. The parties in the appeal in the aforesaid case were also required to file written submission to the Commission by 18th February, 2004 with copies to the parties in the proceedings. It was noted that only one submission from WBSEB has been received in this regard.

1.8 Hearing of the above matter was held on 20th February 2004.

CHAPTER - 2: HEARING.

2.1 The hearing of the matter of the case remanded by the Hon'ble High Court at Calcutta was held on 20th February 2004. Sri S. P. Dutta, Managing Director of Durgapur Project Limited (DPL) confirmed that he has already given copies of his submission to other parties in the appeal. Mr Dutta informed that the cost for enhancement per MW in the written submission may be read as 1.43 crores instead of 1.36 crores. On the Fixed expenses Mr Dutta argued that DPL's old unit should not be equated with the new units and also for other parameters for fixing the tariff. Sri Dutta brought out the provision of 4th National Power Plan 1997 - 2012 issued by the CEA, Government of India in March 1997 and felt that the parameters stipulated therein should be taken into consideration for the purpose of fixing the fixed cost and other tariff parameters. Sri Dutta also further argued that when they have taken renovation and modernization work of the plant, it would not be possible for the company to dismiss the workforce for the intervening period when the R&M and LEP were being carried out. Sri Dutta further argued that DPL could not stabilize the generation of power and unless the high tariff is given to them. Sri Dutta was asked by Member (F&A) to clarify the applicability of norms in regard to O&M expenses if the K.P. Rao Committee's norms are not applicable after the ERC Act came in operation. It was further pointed out to Sri Dutta that CEA's power plan of 1997 quoted by him is for the purpose of planning new projects only and not for determination of fixed cost. It was further pointed out by Member (F&A) that even as per Power Plan 1997, the PLF for future units is 68.5% and not 48% / 40% as has been stated by him before the Commission and Hon'ble High Court. Sri Dutta was, however, advised to see the technical feasibility report prepared by DPL for such renovation of old units and filed before the Commission along with tariff petition. In this feasibility report plant availability factor is shown as 80% and plant load factor as 68.5% during first 5 years which was gradually reduced to 56% in 20 years. Various performance parameters of the plant for which the renovation and modernization and LEP has been taken up form part of the feasibility report and approved by various authorities including CEA. It was also pointed out that this was the basis to justify incurrence of expenditure of Rs. 330.00 crores for such renovation and modernization and LEP. It was also pointed out that in case there was delay in completion of such renovation and modernization due to negligence on the part of the contractor, then it was the contractor who was responsible and the penal action was to be taken against them in terms of the technical report submitted along with tariff petition and cost of such was not to be passed on to the consumer through fixed cost. Similarly the data of performance as per technical report and actually achieved was pointed out which shows that the performance was much far below than the projected and

really was poor in comparison to such parameters. DPL was asked to give proper explanations and justifications on these points and if they are not able to give in the hearing, they were asked to give through a written submission.

2.2 On working capital, Member (F&A) wanted to know that in case the schedule Sixth cannot be followed as per the contention of DPL now, then how they propose to see that the orders of Hon'ble High Court at Calcutta is complied with. The variation taken by them in implementing the schedule Sixth was also pointed out to them including bank and cash balance.

2.3 Though the representatives of Durgapur Chemicals were present, but they did not want to speak on the matter.

2.4 Sri P. K. Bagchi of WBSEB stated that in case the purchase price to be adopted for WBSEB is re-determined, tariff for WBSEB for the years 2000 - 2001 and 2001 - 2002 will be required to be reassessed. He, however, informed that the matter regarding finalisation of tariff for WBSEB for these 2 years is already in appeal. It was pointed out to WBSEB that if there is any increase or decrease in the tariff of DPL based on implementation of the order of Hon'ble High Court at Calcutta, then the same can be passed on through FPPCA claim.

CHAPTER - 3:

3.1 The Commission has carefully considered the submission made by the DPL, WBSEB and the written submission made by DPL and WBSEB as well as information furnished by DPL. The Commission has also gone into the direction issued to Commission by the Hon'ble High Court at Calcutta remanding the matter back and felt that in view of the clear directions of the Hon'ble High Court at Calcutta, the Commission will only look into those matters which have been specifically directed to be looked into by the Hon'ble High Court at Calcutta. The Commission will not look into or open any findings of the Commission which have not been interfered by the Hon'ble High Court. According to Commission, the following are the directions or the matters on which the Commission has to assess / reassess the cost for re-determination of tariff for 2000 - 01 and 2001 02 as per the order of the Hon'ble High Court at Calcutta.

3.2 2000 - 2001:

A) T & D LOSS:

The Hon'ble High Court at Calcutta has directed that the T & D Loss of 22.7% for the year 2000 - 2001 should be accepted by the Commission. The same is accordingly being maintained while working out the revenue requirement and determining the tariff. However, Commission noted that the actual T & D Loss is 21.45% against 20% allowed for the year. Similarly, for 2001-02, the actual T & D Loss reported is 13.35% against 18% allowed by the Commission. However, 18% is not interfered with keeping in view the directions of the Hon'ble High Court at Calcutta.

B) EMPLOYEES COST:

The Hon'ble High Court at Calcutta has directed to reassess the employees cost by allowing interest of Rs. 25.22 lakhs as estimated and proposed by DPL. DPL, however, has now stated actual expenditure on this account as Rs. 22.25 lakhs. The employees cost is accordingly reassessed by allowing Rs. 25.22 lakhs as directed by the Hon'ble High Court at Calcutta and the revised employees cost works out to Rs. 1418.90 lakhs.

C) ADMINISTRATIVE AND GENERAL EXPENSES:

The Hon'ble High Court at Calcutta has directed that the Administrative and General expenses should be reassessed in view of the reasons stated in the order. The Hon'ble High Court at Calcutta also directed that the sum of Rs. 0.98 crores reduced on account of interest paid on differential amount of salary should be allowed. Also the Hon'ble High Court at Calcutta directed that the 7% increase towards employees cost is to be reviewed. The Commission noted that as per order of the Hon'ble High Court at Calcutta the demand of DPL was 19.26 crores whereas the Commission has allowed 18.28 crores and the difference was of the order of Rs. 0.98 crores. If the same amount is added then the claim of DPL extends to Rs. 19.26 crores, which was their original

claim. Therefore, there appears to be no need to review the earlier decision of 7% increase towards employees' cost (direction on account of Cost of Living Index) and the Commission therefore allows the full claim of Rs. 1925.55 lakhs as claimed by DPL.

D) FIXED COST:

On fixed cost, the Hon'ble High Court at Calcutta has felt that the principles of K.P.Rao Committee's Report, even though adopted by the Commission, but how the report will be applicable in the instant case has not been considered in the orders as the report is in respect of Super Thermal Units having capacity of 210 MW and above. The Hon'ble High Court at Calcutta also observed that no reason has been recorded why the norms laid down by the Central Electricity Authority for the power utility having unit of installed capacity of 100 MW and below have not been followed. The court directed the Commission to reassess the amount towards the fixed cost.

It may be important to record that as per the Hon'ble High Court's order, the proposal of DPL for fixed costs was stated to be 63.61 crores whereas the Commission has allowed as 43.49 crores. The argument of DPL before the Hon'ble High Court at Calcutta was that -

The fixed cost of 50% allowed for the units having PLF between 0 to 50%, as the K.P.Rao Committee's report is not applicable. Fixed cost mainly comprises of establishment cost and salary and wages. Renovation of the units does not effect the total amount of fixed cost.

As per CEA, PLF is 40% for generation unit having capacity less than 200 MW.

The Commission has gone through the submission of DPL as well as the documents and the information submitted by them and the queries raised by the Commission during the hearing. The Commission is of the view that the PLF of 40% as contended by DPL based on the norms of CEA is not correct and applicable in the present case. Moreover, as per CEA report of 1997, which has been filed by DPL now the PLF for new station is 68.5%. It is also not correct to say that DPL plant is of old vintage and should be judged accordingly, particularly when they have spent about Rs. 330.00 crores for renovation and modernization and LEP mainly after 1997. Also the technical report submitted with the petition indicates projected plant availability of 80% and PLF of 68.5% whereas for the respective years, the plant availability and plant load factor indicated for different units are abnormally low and in all units for which renovation and modernisation and LEP has been completed. Out of 5 units, one has nil PLF, 4 has 5% to 19% and that too unreliable. There is hardly any worthwhile penalty imposed on the contractor. Even if we consider the capacity of all the 5 units it is 167 MW instead of 181 MW as per technical report of R&M and LEP. If we adopt the norms of CEA then the fixed cost recovery of DPL will come down substantially as PLF should have been 68.5%. It may be added here that DPL is not able to produce any documents which shows that PLF for such renovated situation is less as per CEA but on the contrary the approved Technical Report proves PLF at 68.5%. The Commission took a somewhat liberal view by allowing DPL 50% of the fixed cost on generation of 100% on transmission and distribution, even though the PAF & PLF of such units were abnormally low. It may also be pointed out that entire expenditure of Fixed Costs on units cannot be charged to Revenue after the units have come in R&M and LEP and part of the fixed cost is to be considered for capitalization as the units are now under construction and also keeping in view of nature of expenses and cost allocations from other business, etc. The Commission recognize the fact that if it links the PAF & PLF actually achieved vis-à-vis the projection in Technical Report based on which investment was made and / or CEA Planning then the utility will suffer badly but the Commission cannot pass the cost of inefficiencies of DPL fully on the consumers. Similarly, the PLF for the R&M unit of 110 MW was well below the norm of 68.5% i.e. 44.21%. The Commission, therefore, keeping in view the above, has reassessed the fixed cost for the year 2000 - 2001 based on the above analysis on adhoc basis and allows Rs. 4830.75 lakhs as fixed cost for the year after disallowing Rs. 1610.25 lakhs from the admissible fixed costs which is about 75% of the total costs of Rs. 6441.00 lakhs.

E) REASONABLE RETURN:

The Hon'ble High Court at Calcutta has accepted the submission of DPL that in the matter of determining the cost of working capital, the Commission has not applied such principle properly. The principle relates to the Sixth schedule of Electricity (Supply) Act 1948. We have to re-

determine reasonable return keeping appropriate principles in mind. As already earlier pointed out and also raised during the hearing, the working capital calculation as given by DPL is not based on sixth schedule and they have also conceded that it cannot be worked out. In the absence of the adequate and proper information as per schedule Sixth, the Commission has tried to reassess the requirement based on reasonable basis and according to Commission the Working Capital comes to 3120 lakhs and Reasonable Return to Rs. 344.88 lakhs.

3.3 2001 - 2002:

A) EMPLOYEES COST AND ADMINISTRATIVE COST:

The Hon'ble High Court at Calcutta has directed that the employees cost and administrative and general cost should be reassessed and/or re-determined as has been directed by the Court for determination of the employees cost and administrative and general expenses for 2001-02. Keeping in view of the specific directions of the Hon'ble High Court at Calcutta for the year 2000-2001 wherein specific items to be included has been given. The amount of interest included in the employees cost is Rs. 12.39 and adding the same in the Employees Cost, it works out to Rs. 1503.63 lakhs. The amount of interest on arrear salary in Administration & General Expenses is Rs. 12.28 lakhs and adding the same in the figure allowed i.e. Rs. 1955.78 lakhs, the revised figure works out to Rs. 1968.06 lakhs against the actual expenses of Rs. 1985.52 lakhs as reported now against their earlier claim of Rs. 2118.11 lakhs. The Commission accepts the figure of Rs. 1985.52 lakhs.

B) FIXED COST:

The Hon'ble High Court at Calcutta has directed for the assessment and re-determination of the fixed cost keeping in view of the observations for the financial year 2000-2001. The Commission has already given the detail basis and reasons on the issue of determination of fixed cost in earlier part of the order for 2000-2001. The Commission observed that the PLF projected for I to V units, which were renovated, was 55%, whereas for VIth Unit of 110 MW it is only 46.70% against norms of the 68.5%. The Commission, as a special case, do not impose a cut in I to V units' low PLF, but for VIth unit of 110 MW, imposed a penalty on the basis of 68.5% PLF, and allows recovery of overall fixed costs of 91.27% of the total Fixed Costs, on adhoc basis. Keeping in the light of the same discussion and conclusion, the revised fixed cost for the year 2001-2002 comes to Rs. 8435.96 lakhs after disallowing Rs. 806.90 lakhs against Total Fixed Costs of Rs. 9242.86 lakhs.

3.4 CONCESSIONAL TARIFF:

The Hon'ble High Court at Calcutta has directed Commission to re-determine tariff structure considering the impact of the tariff concession including the impact which will be there for undertaking of rationalised scheme and make available clarification to DPL as sought by them. It may be added here to include the submission of DPL before the Hon'ble High Court at Calcutta that the Commission has overlooked the case that none of the concessional tariff holders can be denied concessional tariff which is now being granted until expiry of the respective tenure of 6 years and concessional tariff holders constitute about 75% of the total consumers of DPL. This submission of DPL as clarified by them vide their Affidavit dated 27th January 2004 is being quoted in verbatim.

"Since DPL has been continuing with the Tariff Notification issued in May 1999 based on the order of the Department of Power, Government of West Bengal, copy of which was submitted to Hon'ble Commission earlier, the concessional tariff as incorporated in the said notification has been continuing. However, there is a provision in the Power Supply Agreement with Consumers for substitution of the tariff along with tariff related issues including concessions based on any subsequent notification issued by the appropriate authority giving such effect from the date provided in such notification"

This statement and the submission to the Hon'ble High Court at Calcutta, in the opinion of the Commission, is contradictory as in the submission in the High Court gives the impression that all

concessional tariff holders cannot be denied concessional tariff till expiry of the respective tenure of 6 years. Whereas, as per PPA being quoted now, continuation of this concession or modification of this concession is subject to a ratification issued by an appropriate authority and from the date provided in such notification. This will also cover abolition of this concession. DPL, on a point raised by the Commission on how the cost of concession given to such concessional tariff categories will be met and whether DPL is getting any grant or subsidy for the same, has stated that the matter relating to grant / subsidy went before the Hon'ble Apex Court and the question of differential tariff under section 29(3) of the ERC has been distinguished by the Hon'ble High Court vis-à-vis subsidy under section 29(5) of the 1998 Act.

The Commission, therefore, after taking due note to submissions of DPL now made before the Commission, is not inclined to allow on its own the concession to the industry as it does not fall within the parameters of section 29(3) of ERC Act in terms of the interpretation of the same by the Hon'ble High Court at Calcutta read with order of the Apex Court dated 3.10.2002. The Commission will, therefore, try to fix to tariff also keeping in view with the directions of the Hon'ble High Court at Calcutta dated 1st August 2003 in case of CESC which also clarifies the directions of the Hon'ble Apex Court as are relevant and applicable in the present matter and also keeping in view the directions of the Hon'ble Court vide judgement and order dated 21. 11. 2003.

CHAPTER – 4: REVENUE REQUIREMENT:

4.1 The revised revenue requirement of DPL for the financial years 2000-2001 and 2001-2002 will be as under keeping in view of the observations of the Hon'ble High Court at Calcutta and the discussions made in the earlier chapters.

4.2 2000-2001:

(Rs. in Lakhs)

Sl. No.	Expenditure Head	As allowed by Commission
1.	Purchase of Power	-
2.	i) Generation cost (Fuel)	5961.00
	ii) Water Charges	284.05
3.	Employees Cost	1418.90
4.	Administration and General Expenses	1925.55
5.	Other expenses	32.10
6.	Write off of intangible assets	146.00
7.	Repairs and Maintenance cost	411.00
8.	Consumable Stores	235.00
9.	Ash Handling	5.43
10.	Rent, rate and taxes	0.73
11.	Insurance	47.00
12.	Maintenance expenses	1.80
13.	Audit Fee	0.10
14.	Depreciation	882.18
15.	Interest and Finance Charges	990.12
	Total Expenses	12340.96
16.	Special appropriation for Contingency Reserve	-
17.	Reasonable Return	344.88
	TOTAL	12685.84
18.	Less Non- Triff Income	488.88
19.	TOTAL	12196.96

20.	Less: Disallowance of Fixed Cos as per 3.2(D)	1610.25
21.	Net Revenue Required to be recovered through Triff	10586.71
	Say	10587 Lakhs

4.3 2001-2002:

(Rs. in

Lakhs)

Sl. No.	Expenditure Head	As allowed by Commission
1.	Purchase of Power	-
2.	i) Generation cost (Fuel)	15143.09
	ii) Water Charges	584.85
3.	Employees Cost	1503.63
4.	Administration and General Expenses	1985.52
5.	Other expenses	33.71
6.	Write off of intangible assets	93.33
7.	Repairs and Maintenance cost	452.10
8.	Consumable Stores	613.40
9.	Ash Handling	14.17
10.	Rent, rate and taxes	0.88
11.	Insurance	47.00
12.	Maintenance expenses	2.00
13.	Audit Fee	0.10
14.	Depreciation	1045.02
15.	Interest and Finance Charges	3394.73
	Total Expenses	24913.53
16.	Special appropriation for Contingency Reserve	-
17.	Reasonable Return	365.53
	TOTAL	25279.06
18.	Less Non- Triff Income	307.90
19.	TOTAL	24971.16
20.	Less: Disallowance of Fixed Cos as per 3.3(B)	806.90
21.	Net Revenue Required to be recovered through Triff	24164.26
	Say	24164 Lakhs

On the basis of the aforesaid revenue requirement, the total revenue requirement works out to Rs. 10587 lakhs for 2000-2001 and Rs. 24164 lakhs for 2001-2002 and the tariff for the respective years comes out to 251.66 paise per Kwh for 2000-2001 and 190.88 paise per Kwh for 2001-2002. Sale of Energy for the years 2000-2001 and 2001-2002 is 420.69 MU and 1265.91 MU respectively.

CHAPTER – 5: TARIFF.

5.1 While fixing the tariff structure, the Commission has taken into account the direction of the Hon'ble High Court at Calcutta in case of CESC for differential tariff under section 29(3) of the 1998 Act which has also taken into consideration the interpretation of the judgement of Hon'ble Supreme Court of India dated 3rd October, 2002 in case of CESC on certain matters.

5.2 The tariff schedule for 2000-2001 and 2001-2002 and its associated conditions are given below:

	2000-2001		2001-2002	
	Demand Charges Rs./KVA/month	Energy Charge P/KWH(Gross)	Demand Charges Rs./KVA/month	Energy Charge P/KWH(Gross)
HT Supply				
i) Industrial	180	215	180	170
ii) Public utility	180	200	180	160
iii) Non-Industrial/non-domestic including Cold Storage	180	210	180	170
LV/MV Supply				
i) Industrial	-	250	-	220
ii) Public utility	-	230	-	200
iii) Domestic				
Upto 25 units	-	160	-	165
Upto 60 units	-	165	-	170
Upto 100 units	-	170	-	175
Upto 300 units	-	205	-	200
Above 300 units	-	225	-	210
Bulk Supply	-	230	-	200
iv) Commercial				
Upto 60 units	-	210	-	200
Upto 100 units	-	225	-	200
Upto 300 units	-	240	-	200
Above 300 units	-	260	-	220
Supply to Board/Licensee	-	225	-	175
Inter- plant transfer	-	225	-	200

5.3 There will not be any change in the general terms and conditions as has been given in the tariff order dated 21st September 2001 except in respect of the following and the same shall also be applicable for the year 2000-2001.

- i) The cold storage and dairies mill chilling plant will get a rebate of 8% on the energy charge provided the payment is made within the due date.
- ii) There shall not be any concession in tariff unless the cost of the same is borne by the respective authorities under whose order such concession has been extended and it should not be charged on the other consumers of DPL.
- iii) The Load factor rebate shall be paise 10 / Kwh to the consumers having load factor above 55% on the consumption above 55%.
- iv) There shall be no fixed charge, but existing minimum charge will continue.

5.4 Recoveries of the arrear and the refund may become necessary in view of the implementation of the tariff from retrospective effect as tariff has been determined in terms of the direction of the Hon'ble High Court of Calcutta and as also DPL has not chosen to implement the tariff determined by the Commission earlier. DPL now may require some time to implement the order of the Commission. The Commission felt that since the total number of consumers of DPL is not large, it will not be difficult for them to implement the directions of the Commission at an early date. The Commission, therefore, directs that the revised tariff based on the present order is to be made effective from the supply month of June 2004. For arrears, either for realization or for refund / adjustment, should start from the billing month of August 2004 and to be completed within a period of 18 months in equated monthly instalments. It is further made clear that the revision in terms of this order is to be made only after adjusting the previous arrears, if any, due to or from the consumers and be made provisional to all persons entitled to refund / receive or the sum realization from the arrears.

The Commission further directs that no interest shall be paid to or by the DPL for realization / refund / adjustment. The Commission, however, noted that DPL has chosen not to implement the order of the Commission without obtaining a proper stay from the appropriate competent court. However, the Commission do not like to go into the merits or demerits of the same at this stage but directs that if DPL fails to recover / refund in terms of this order to the consumers as stipulated herein, then DPL will also be liable to pay interest to the consumers at the rate of 1.25% for first 3 months of the default and thereafter at the rate of 2% per annum till the refund is made and such interest shall not be allowed as an expense in the revenue requirements / tariff in future. No charge will be admissible for the delay in recovery on the part of DPL from the Consumer but delay on the part of consumer to pay arrears as per schedule will attract Delayed Payment Surcharge.

5.5 It is open to the State Government to grant any subsidy to any consumer or any class of consumer in the tariff determined by the Commission. If at all any such subsidy under the provision of the act is intimated to DPL and to the Commission by the Government of West Bengal with clear indication of the consumer or class of consumer to be subsidized and the amount of subsidy is paid in advance, the tariff of such consumer and / or class of consumer shall be deemed to have been reduced accordingly as has been indicated by the Government of West Bengal. However, such direction of the Government shall not be operative if the payment is not made in accordance with the provision of the Act and stipulation made in this order and the tariff as fixed by the Commission shall be applicable.

5.6 The Commission has determined the tariff keeping in view of the provisions 29(3) of 1998 Act as interpreted by the Hon'ble High Court at Calcutta taking into account the decision of the Hon'ble Supreme Court of India as indicated earlier. The earlier tariff structure and the consumption pattern does not match in some cases and due to such deviation there may be some under / over recovery which may affect the over all approved revenue requirement, either more than revenue requirement or less than revenue requirement. The Commission recognise this problem and directs that DPL may keep suitable separate detailed accounts based on Sales figures considered in the Tariff Order and work out the difference solely on account of change in sales mix for applicable sub-categories for the respective years separately, if any, and come out with the same in next tariff petition so that the same can be duly considered by the Commission and allow either to be recovered or to be refunded as the case may be. However, it is made clear that no reimbursement will be allowed related to shortfall on total sales as per the Order (which is also not

to be changed as per the orders of the Hon'ble High Court at Calcutta by its order dated 21.11.2003) but will only be restricted due to effect of modification in consumption slabs due to re-classifications of categories / sub-categories.

Sd/- 24.05.04
N.C. ROY
GHOSH
MEMBER (T)

Sd/- 24.05.04
A.K. JAIN
CHAIRPERSON

Sd/- 24.05.04
S.N.
MEMBER (F&A)

Date: 24.05.04

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