



THE SINGARENI COLLIERIES COMPANY LIMITED

(A Government Company)

2 X 600 MW SINGARENI THERMAL POWER PROJECT

Jaipur (V&M)-504216, Mancherial (Dist), T.S.

Ref no: STPP/COML/2023-24/354

Dt:19.03.2024

To,
The Secretary,
T.S. Electricity Regulatory Commission,
5th Floor, Singareni Bhavan, Red Hills,
Lakdi ka pool, Hyderabad – 500 008.

Sir,

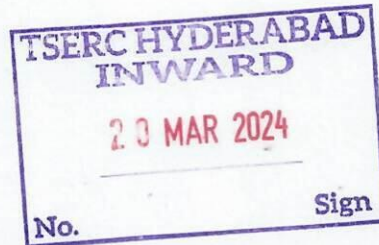
Sub: SCCL – Reply to the Submissions/objections by **TSDISCOMs** regarding O.P No.04 of 2024 on MYT for the control period (2024-25 to 2028-29) and true-up for FY 2022-23 in respect of Singareni Thermal Power Project, Phase-I (2X600 MW) – Reg.

Ref: Email dated 14.03.2024 received from ED (Commercial), TSPCC on O.P No.04 of 2024 on MYT for the control period (2024-25 to 2028-29) and true-up for FY 2022-23 of STPP.

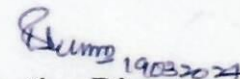
The SCCL reply to the Submissions/objections made by the TSDISCOMs related to 2X600MW STPP vide reference email relating to O.P No.04 of 2024 on MYT for the control period (2024-25 to 2028-29) and true-up for FY 2022-23 in respect of Singareni Thermal Power Project, Phase-I (2X600 MW) is hereby submitted with six copies each.

The Hon'ble commission is kindly requested to accept the same.

Thanking you.



Yours sincerely


Executive Director
(STPP)
EXECUTIVE DIRECTOR
2X600MW, STPP

Encl: Reply to the email dated 14.03.2024 with 6 copies.

TYPED BY
11/11/2024

**SCCL – Reply to the Submissions/objections
by TSDISCOMs regarding O.P. No.4 of 2024
on MYT for the control period (2024-25 to
2028-29) and true up for FY 2022-23 in
respect of 2X600 MW Singareni Thermal
Power plant.**

SCCL REPLIES TO THE OBJECTIONS / SUGGESTIONS FILED ON BEHALF OF RESPONDENTS NUMBER 1 AND 2, SOUTHERN POWER DISTRIBUTION COMPANY OF TELANGANA LIMITED (TSSPDCL) & NORTHERN POWER DISTRIBUTION COMPANY OF TELANGANA LIMITED (TSNPDCL) IN O.P. No.4 of 2024.

THE PETITIONER RESPECTFULLY SUBMITS PARA WISE RESPONSE TO OBJECTIONS / SUGGESTIONS FILED BY TSSPDCL AND TSNPDCL, AS UNDER.

1. **Re -para number 1 to 2:** These Submissions by the respondents are statements of general facts. Hence, no comments to offer.
2. **Re -para number 3 to 5:**
 - a. It is to humbly submit that requirement of stringent future norms would be proper only if the present norms are giving over achievement to generator. But, where the normative figures are unachievable in FY 2019-24, more stringent norms for future period of 2024-29 would make the generator to go worse than present situation as it would impact more & more under-recovery for the generating station. Therefore such more stringent regulation is of no use and in fact contradicts section 61 of Electricity act 2003. As such a course is not permissible in law.
 - b. The objective of Electricity Act 2003 made it clear, while the consumer interest to get power at more competitive price is important, it is also made clear that the generator should recover the full cost of power generated towards its investment. Any mismatch or imbalance between cost of production and its recovery is not permitted under electricity Act 2003.
 - c. Accordingly submissions made by the respondents have no merit.
3. **Re-para number 6 to 8:** These are mainly reproduction of some figures and rules. The Hon'ble Commission was requested by the respondents in para 6 that the tariff determination to be undertaken for Multiyear tariff 2024-29 based on actual audited figures of expenditure for FY 2022-23 subject to prudence check while truing up of expenditure for FY 2023-24 can be taken up subsequently in the Midterm review. To this extent we agree as to the procedure for truing up and determination of multi-year tariff for FY 2024-29.
4. **Re -9 (i): Computation of return on Equity:-**
 - a. The respondents have submitted that claimed equity by SCCL is more by Rs.18.09 cr due to consideration of additional capitalization of Rs.16.96 cr and Rs.43.35 cr during FY

2022-23 and FY 2023-24 respectively. It was further pointed out that regular income tax @25.17% have been grossed up with the simple RoE.

b. The reason for this objection by the discoms appears to be relying on midterm review order dated 23.03.2023 passed by Hon`ble Commission, but without considering the fact that the order dated 23.03.2023 is applicable only for trued up period of 2019-22 .This Hon`ble Commission needs to again apply prudence of the expenditures, facts and reasons submitted before them in terms of specified tariff regulation in the present petition.

c. As per as the tariff regulations are concerned, nowhere in the clause 11.3.4 & 11.3.5 it was stated to exclude income of non generation business for income tax computation in truing up. The clause 11.3.4 & 11.3.5 are reproduced below:

"11.3.4. Rate of return on equity shall be rounded off to three decimal places and shall be computed as per the formula given below Rate of pre-tax return on equity = Base rate / (1-t) Where "t" is the effective tax rate in accordance with Clause 11.3.1 of this Regulation and shall be calculated at the beginning of every Financial Year based on the estimated profit and tax to be paid estimated in line with the provisions of the relevant Finance Act applicable for that financial Year to the generating entity on pro-rata basis by excluding the income of non-generation and the corresponding tax thereon.

11.3.5. In case of Generating Entity paying Minimum Alternate Tax (MAT), "t" shall be considered as MAT rate including surcharge and cess. "

d. The clause 11.3.4 provides for using effective tax rate and for projection purpose which shall be computed at the beginning of every financial year based on estimated profit and tax to be paid by the generating entity on pro-rata basis by excluding the income of non generation and the corresponding tax thereon. It provides that though there will be reduction of income and tax paid with respect to non generation business on absolute basis there shall not be any change in tax rates.

e. In fact the use of "pro-rata" confirms that the effective income tax rate shall be unchanged. Consider the following illustration where a company's total income is Rs.1200 cr and effective tax rate is @25.17% and income of Rs.200 cr is obtained from non generation business then the effective tax rate for both the generation and non generation business shall be @25.17%. However, on absolute basis the tax payable by the generation business would be 251.7 crore and by the non generation business would be 50.34 crore.

f. The respondents submitted that the State Commission is not bound by the certificates of auditors.

- g. It cannot be denied that the State Commission is not bound by the figures as given in the audited statements, since the audit only reflects the amount that has been incurred, but the issue of prudence check, i.e., whether such expenditure was required or not at the first place lies with the Hon'ble Commission.
- h. Not bound simply does not mean that the Hon'ble Commission has to totally disregard the certified amounts. However, the Hon'ble Commission can scrutinize the reasonableness of the expenditure. A recent judgment dated 18.10.2022 by the Hon'ble apex court in the matter between BSES Rajadani Power Ltd vs DERC clearly specifies the process of truing up and application of the prudence on certified audited expenditures by the State Commission. The relevant portion is reproduced below:

"52. 'Truing up' has been held by APTEL in SLDC v. GERC4 to mean the adjustment of actual amounts incurred by the Licensee against the estimated/projected amounts determined under the ARR. Concept of 'truing up' has been dealt with in much detail by the APTEL in its judgment in NDPL v. DERC5 wherein it was held as under:—

"60. Before parting with the judgment we are constrained to remark that the Commission has not properly understood the concept of truing up. While considering the Tariff Petition of the utility the Commission has to reasonably anticipate the Revenue required by a particular utility and such assessment should be based on practical considerations. ... The truing up exercise is meant (sic) to fill the gap between the actual expenses at the end of the year and anticipated expenses in the beginning of the year. When the utility gives its own statement of anticipated expenditure, the Commission has to accept the same except where the Commission has reasons to differ with the statement of the utility and records reasons there of or where the Commission is able to suggest some method of reducing the anticipated expenditure. This process of restricting the claim of the utility by not allowing thereasonably anticipated expenditure and offering to do the needful in the truing up exercise is not prudence."

53. This view has been consistently followed by the APTEL in its subsequent judgments and we are in complete agreement with the above view of the APTEL....."

- i. The apex court held that "this process of restricting the claim of utility by not allowing the reasonable anticipated expenditure is **not prudence**".
- j. The above ratio decided by apex court for determination truing up is required to be followed by this Hon'ble Commission.
- k. Accordingly submissions made by the Discoms lack merit and need to be ignored.

5. Re - 9 (ii): Interest and financing charges on loan:-

- a. The respondents have objected to claim of revised rates of interest for refinanced loan.
- b. In this respect, it is to humbly submit that variation in market interest rates for long-term loan is **uncontrollable factor** which is beyond the control of the petitioner. Further, regulation 12.6.3 of TSERC tariff regulation 2019 provides that the changes to the terms and conditions of the refinanced loans shall be reflected from the date of refinancing and it is easy to understand that how interest rates change falls within these terms and conditions. Further, clause 12.5 of the same regulation provides that the rate of interest on loan shall be based on weighted average rate of actual loan portfolio.
- c. Accordingly, in terms of the said regulations, post refinancing, the rate of interest applicable for actual refinanced loan portfolio is required to be allowed in the tariff.
- d. Further, the respondents stated that the methodology for loan refinancing as allowed by the Hon`ble TSERC in its mid-term order is final and should be the basis for truing up of interest and financing charges even for forth coming FY`s of 2022-23 & 2023-24 in this petition.
- e. It is to humbly submit that non sharing of gain out of loan refinancing in FY 2021-22 which is in deviation with clause 12.6 of TSERC tariff regulation 2019 has been challenged before Hon`bie Appellate Tribunal for Electricity. However, the approval for refinancing was never been under challenge.
- f. Therefore, once the approval for refinancing of the loan have been allowed by the TSERC and as the truing up of FY 2022-23 was not done in the MYT order dated 23.03.2023 the Hon`ble Commission may decide sharing ratio of benefit out of this refinancing arrangement for FY 2022-23 considering the actual audited interest rates and other factual aspects which were not available earlier. The clause 12.6.1 of TS 01 of 2019 regulation clearly specifies such ratio as 2:1 between beneficiary and generating entity.
- g. Further, respondents stated that the petitioner has not carried out the calculation exercise to find out annuity in net savings and the petitioner can only make claim for refinancing in FY 2024-29 if further loan refinancing is taken up in FY 2024-29.
- h. It is to humbly submit that loan refinancing was already approved by this Commission in its order dated 23.03.2023 and this aspect was not under any challenge. Further, the clause 31.10 of regulation 2 of 2023 provides that net savings out of refinancing loan shall be shared between the beneficiaries and generating entity in the ratio of 2:1.

- i. The last proviso of 31.10 states that the net savings in interest shall be calculated as an annuity for the term of the loan but the net savings shall be shared between the parties on **annual basis**. Therefore, it is clear that the calculation of net savings in interest based on **annuity method is only required to apply prudence to approve refinancing**. In STPP's case refinancing have already been approved in the previous control period. Hence, the annuity method as suggested by the Discom is not relevant in this matter. In fact, the same proviso stipulates that **annual net savings** shall be shared which STPP has calculated and submitted.
- j. In view of the above, the Hon'ble Commission is requested to decide the sharing ratio of net savings for FY 2022-23 and also to apply the prescribed ratio of 2:1 for gain sharing in the control period 2024-29.
- k. Accordingly, the submissions made by the respondents are devoid of any merit and need not to be relied upon.

6. Re - 9 (iii): Claim for Depreciation:-

The respondents, without understanding fact that there are certain requirements for compliance of CEA regulation which is in the nature of change in law event, has stated that the depreciation should not increase. Accordingly, this needs to be considered for capitalization, and consequently the effect of depreciation is required to be allowed by the Hon'ble Commission.

7. Re - 9 (iv): Interest on Working Capital:-

- a. The respondent requested Hon'ble Commission to regulate for pricing of bridge linkage coal supplied to the STPP.
- b. The petitioners submit that the said claim of respondents is not tenable under the law as Hon'ble Supreme Court India has already held the price notifications of CIL is to be considered as change in law.
- c. It is to humbly submit that Ministry of Coal, Govt. of India has allocated captive Coal Block/Mine (NAINI) to STPP/SCCL in the year 2016. The coal produced from the Naini Block in Odisha State would be utilized at STPP (being the Specified End Use Plant). However to facilitate the immediate requirement of Coal to STPP project, a Short-term Linkage was granted under the Policy of Bridge Linkage, till the commencement of Coal Supply to STPP gets from its Captive Coal Block (Naini).
- d. It is to further submit that Singareni Collieries Company Limited (SCCL) supplies Coal to Singareni Thermal Power Plant (STPP) as per recommendation of standing linkage

committee by signing MOU. The extension of bridge linkage will be decided by standing linkage committee (SLC), MoC, Govt. of India after deliberation in the meeting duly considering the recommendations received from Ministry of Power (MoP).

- e. SCCL is supplying coal to Power sector (Bridge Linkage and Non Bridge Linkage holders) by regulating supplies to Non Power (NRS) Customers. Sales realization from NRS is more by Rs. 1,628/T than sales realization from Bridge Linkage & Non Bridge Linkage supplies. Therefore, by foregoing revenues, SCCL is supplying coal to Bridge Linkage and Non Bridge Linkage customers considering the request, recommendation of Ministry of Power, Ministry of Coal and importance of the Power sector in Telangana and India.
- f. As per the instructions of SLC given in the bridge linkage allotment order of 2016, SCCL has to decide the source of Coal supply for meeting the bridge linkage quantity i.e the mines, Coal grade and the quantity along with the price there from. Further, in the most recent order of SLC it was clearly stated that the price of such bridge linkage supply has to be solely decided by SCCL/CIL.
- g. Therefore the submissions made by the respondents are devoid of any merit and deserves to be rejected.

8. Re - 9 (v): Operating and Maintenance (O&M) Expenses:-

- a. The respondents submitted that the Hon'ble Commission is not bound by the auditor certification and the Commission has to undertake prudence check of expenses claimed under O&M expenditure.
- b. A recent judgment dated 10.18.2022 by the Hon'ble apex court in the matter between BSES Rajadani Power Ltd vs DERC clearly specifies the process of truing up and application of the prudence on certified audited expenditures by the State Commission. The relevant portion is reproduced below:

"52. 'Truing up' has been held by APTEL in SLDC v. GERC4 to mean the adjustment of actual amounts incurred by the Licensee against the estimated/projected amounts determined under the ARR. Concept of 'truing up' has been dealt with in much detail by the APTEL in its judgment in NDPL v. DERC5 wherein it was held as under:-"

"60. Before parting with the judgment we are constrained to remark that the Commission has not properly understood the concept of truing up. While considering the Tariff Petition of the utility the Commission has to reasonably anticipate the Revenue required by a particular utility and such assessment should be based on practical

considerations. ... The truing up exercise is meant (sic) to fill the gap between the actual expenses at the end of the year and anticipated expenses in the beginning of the year. When the utility gives its own statement of anticipated expenditure, the Commission has to accept the same except where the Commission has reasons to differ with the statement of the utility and records reasons there of or where the Commission is able to suggest some method of reducing the anticipated expenditure. This process of restricting the claim of the utility by not allowing the reasonably anticipated expenditure and offering to do the needful in the truing up exercise is not prudence."

53. This view has been consistently followed by the APTEL in its subsequent judgments and we are in complete agreement with the above view of the APTEL."

- c. The apex court held in the above judgment that "this process of restricting the claim of utility by not allowing the reasonable anticipated expenditure is **not prudence**".
- d. The above ratio decided by apex court for determination of truing up is also required to be followed by this Hon'ble Commission.
- e. Accordingly, submissions made by the Discoms lack merit and need to be ignored.

9. Re - 9 (vi): Operating norms:-

- a. It is to humbly submit that requirement of stringent future norms would be proper only if the present norms are giving over achievement to generator. But, where the normative figures are unachievable as reflected in FY 2019-24, proposed more stringent norms for future period of 2024-29 would make the generator to go worse than present situation as it would impact more & more under-recovery of cost of the generating station.
- b. Therefore such more stringent regulation is of no use and in fact contradicts section 61 of Electricity act 2003. The objective of electricity act 2003 made it clear, while the consumer interest to get power at more competitive price is important, it is also made clear that the generator should recover the full cost of power generated towards its investment. Any mismatch or imbalance between cost of production and its recovery is not permitted under electricity Act 2003.
- c. Accordingly submissions made by the respondents have no merit.

10. Re - 9 (vii): Energy Charges:-

- a. The respondent has raised a question of supplying high priced coal under bridge linkage pricing. In this respect, it is to humbly submit that STPP always comes among the top

five State sector generating stations in the Merit order. Further the petitioner submits the following price chart which was discovered under unbiased competitive bids which reflects the most efficient energy prices.

"Prices of power procurement discovered in medium and long term bids since 2022"			
Procurer State	1st Year Quoted tariff (Rs/Kwh)	Levelized Tariff for 25 Years (Rs/Kwh)	PPA Duration
Adani Mumbai - 2022	5.98	8.78	2.1 years
J & K - 2023	6.05	8.22	5 years
Haryana - 2023	6.05	8.22	5 years
NDMC - 2023	6.05	8.22	5 years
Madhya Pradesh - 2023	6.05	8.22	5 years
Uttarakhand - 2023	7.97	11.72	3.5 years
Noida Power - 2023	6.30	9.18	3 years"

- b. The average price of STPP in FY 2023-24 till date is around Rs 5.39/Kwh (Energy Charge @ 3.81+ fixed charge at normative generation @1.58).
- c. Considering the above table of competitive supply, it can be stated that the supply of STPP with the present pricing of the coal are completely aligned with the best interest of consumers in the State of Telangana since the same is much lesser than the most efficient prices discovered through bidding.
- d. Based on the above facts, the objections raised by the Discoms has no merit.

11. Re - 9 (viii):Incentive:-

It is to respectfully submit that Discoms are required to follow merit order as per rules while scheduling power and if actual PLF reaches more than normative PLF, the incentive is required to be paid in terms of clause 46.6 of regulation 2 of 2023.

12. Re - 9 (ix): Integrated Mine (Naini):-

Since, the transfer of forest land by the Orissa Government is not completed yet, the production from Naini mine could not be started. This issue is beyond the control of SCCL. However, SCCL is working for starting of the mine at the earliest and swapping the same as per the directive of the Hon'ble TSERC.

13. Re - 9 (x): Additional Capitalization allowed for FY 2024-29:-

- a. The respondent stated that STPP has not submitted the justification for capital expenditure proposal during FY2024-25 for implementation of flexible operation scheme as per CEA regulation. The respondent also stated that the aforesaid proposal was not approved by the Hon'ble Commission.

- b. In this respect, the petitioners humbly submit that the relevant CEA regulations and other technical details are given at page 199 to 217 of MYT submission dated 30.01.2024, further, the Hon'ble Commission in the order for Capital investment plan gave liberty to SCCL to undertake capital works for compliance of CEA regulations. The relevant portions of said order is reproduced below:

"4.2.22 If the need arises, SCCL may seek the approval of the Commission for undertaking the capital works required for complying with CEA Regulations in accordance with the provisions of the Multi Year Tariff Regulation to be issued by the Commission."

- c. Further, it is to submit that all relevant justification and information have been submitted at page 196 to 231 and in page 241 of MYT submission dated 30.01.2024 and the proposed capital work was claimed under regulation 22(3)(ii) of TS 02 of 2023. Accordingly, the issues raised by the Discoms have no merit.

The Hon'ble commission is prayed to consider the above para wise replies submitted by SCCL in respect of objections / suggestions filed by respondents, to determine the tariff in the trueing up of 2022-23 and for determining the tariff for MYT period of 2024-29.