

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION  
SCO NO. 220-221, SECTOR 34-A, CHANDIGARH**

**Petition No. 57 of 2012**

**(Suo-motu)**

**(On remand back from Hon'ble APTEL**

**vide Judgment dated 18.10.2012**

**in Appeal Nos. 7, 46 & 122 of 2011 )**

**Date of Order: 07.01.2013**

In the matter of: Judgment dated 18.10.2012 of Hon'ble APTEL in Appeal Nos. 7, 46, 122 of 2011

AND

In the matter of: Tariff Orders dated 08.09.2009 in Petition No.1 of 2009 for erstwhile PSEB for Financial Year 2009-2010 and dated 23.04.2010 in Petition No.25 of 2009 for erstwhile PSEB for Financial Year 2010-2011 and dated 09.05.2011 in Petition No.49 of 2010 for PSPCL for Financial Year 2011-2012

AND

In the matter of: Punjab State Power Corporation Limited and Punjab State Transmission Corporation Limited

Present: Smt.Romila Dubey, Chairperson  
Shri Virinder Singh, Member  
Shri Gurinderjit Singh, Member

**ORDER**

PSPCL filed three Appeals before Hon'ble Appellate Tribunal for Electricity (APTEL) challenging the Tariff Order passed by the Commission for FY 2009-10, 2010-11 and 2011-12 as under :-

Appeal No.	Impugned Order of the Commission
7 of 2011	Order dated 16.04.2010 in Review Petition No.23 of 2009 for review of Tariff Order dated 08.09.2009 passed by the Commission in Petition No.1 of 2009 for erstwhile PSEB for FY 2009-10.
46 of 2011	Order dated 06.01.2011 in Review Petition No.23 of 2010 to review the Tariff Order dated 23.4.2010 passed by the Commission in Petition No.25 of 2009 for erstwhile PSEB for FY 2010-11.
122 of 2011	Tariff Order dated 09.05.2011 passed by the Commission for PSPCL for FY 2011-12 in Petition No. 49 of 2010

2. The Hon'ble APTEL framed following 15 No. issues in these Appeals:-

- 1) Whether the Commission was justified in allowing return on equity at 14% instead of 15.5% as claimed by the appellant?
- 2) Whether the Commission was justified in its treatment of thermal generation units of GNDTP and other thermal power station for plant availability and incentive / disincentive on thermal generation?
- 3) Whether the Commission was justified in its treatment of auxiliary consumption of GNDTP?
- 4) Whether the Commission was justified in its treatment of interest on working capital?
- 5) Whether the Commission was justified in refusing interest on the loan taken for the SPVs?
- 6) Whether the Commission was justified in refusing employees expenses including terminal benefits actually incurred by the appellant?
- 7) Whether the Commission was justified in its treatment on A&G and R&M expenses for Financial Year 2008-09, 2009-2010 and 2010-2011?
- 8) Whether the Commission was justified in its treatment of station heat rate in respect of GGSSTP without considering the age factor of the units?
- 9) Whether the Commission was justified in its treatment on diversion of fund, interest and finance charges, alleged disallowance of carrying cost and interest on revenue gap?

- 10) Whether the Commission was justified in its treatment on T&D loss and agricultural pump set consumption?
- 11) Whether the Commission was justified in its treatment on power purchase cost and price of coal?
- 12) Whether the Commission was justified in its treatment on additional UI surcharge?
- 13) Whether the Commission was justified in its treatment on non-tariff income for Financial Year 2008-2009?
- 14) Whether the Commission was justified in its treatment on regulatory assets?
- 15) Whether the Commission was justified in its treatment on discount to consumers for advance payment of Bills?

The Hon'ble APTEL decided the appeals through a combined Judgement dated 18.10.2012 remanding back the appeals with directions to the Commission on each issue as under:-

Issue No.1

“..... Accordingly, we decide the issue in favour of the appellant”.

Issue No.2

“.....Accordingly, there is merit in the contention of the appellant and the Commission is required to revisit this issue”.

Issue No.3

“.....We, therefore, direct the State Commission to pass appropriate order in the light of the above discussion”.

Issue No.4

“..... Therefore, the Commission correctly allowed working capital and interest on working capital on the basis of the amended Regulations for the year 2009-10 but rightly not in the true up proceedings for the year 2007-08 and

2008-09 in the Tariff Order for 2009-10 as claimed by the appellant. The issue is decided accordingly”.

Issue No.5

“.....As the Commission concluded that the appellant provided incomplete picture of loans raised on behalf of the SPVs, the interest paid or payable thereon and also the recovery effected from these SPVs and credited to the accounts of the appellant we direct that the Commission shall re-examine the issue and pass appropriate order only when to the satisfaction of the Commission, the appellant would be able to provide with the Commission with all the details as the Commission would be wanting for consideration of the matter in details”.

Issue No.6

“.....Again, reduction as usual on regular basis in terms of the practice of the past by 28.48% does not appear to be justified. Our finding on this issue is the same plus the observation that in course of true up in respect of the tariff order for 2011-12 the Commission will review the matter. The issue is answered in favour of the appellant”.

Issue No.7

“.....We, therefore, direct the Commission to re-examine the point and pass appropriate order according to the law”.

Issue No.8

“.....There is, however, no reason to differ from the view taken by the Central Electricity Regulatory Commission and as Tanda TPS and GGSSTP or GNDTP do not stand on different footing, the Commission can not be faulted with the finding made by it”.

Issue No.9

“.....We, therefore, direct the Commission to re-examine the issues upon consideration of the detailed particulars as are and as further may be provided by the appellant before the Commission according to the law”.

Issue No.10

“.....We decide the issue against the appellant”.

Issue No.11 & 12

“.....The issue does not have any merit”.

Issue No.13

“.....The Commission will re-examine the issue and pass appropriate order”.

Issue No.14

“.....Having considered the amount of the revenue gap the approach of the Commission cannot be said to be imprudent and the matter can be reviewed only in course of true up proceedings in respect of the tariff year in question. The Tribunal also has given a detailed direction in this regard in OP No.1 of 2011 in respect of such regulatory assets and we recall those directions here also. We decide the issue accordingly”.

Issue No.15

“.....We therefore direct the Commission to reconsider the matter and pass appropriate order”.

3. The Commission decided to institute a Suo-Motu Petition, bearing Petition No.57 of 2012 to implement the directions of the Hon'ble Tribunal in its Judgment dated 18.10.2012 in these appeals remanding back the issues related to Tariff Orders for erstwhile Punjab State Electricity Board for FY 2009-10 and FY 2010-11 and for Punjab State Power Corporation Limited for FY 2011-12. Punjab State Power Corporation Limited (PSPCL), the appellant and Punjab State Transmission Corporation Limited (PSTCL), the second successor entity of erstwhile PSEB were directed to file their submissions by 16.11.2012 in view of the Judgment of Hon'ble Tribunal, vide Order dated 01.11.2012. Both PSTCL and PSPCL did not file any submissions upto the next date of hearing on 20.11.2012 and were again directed to do so by 06.12.2012 vide Order dated 21.11.2012. PSTCL filed its submissions dated 05.12.2012 and PSPCL filed its submissions dated 06.12.2012. The submissions filed by PSPCL were found to be deficient for deciding the issues as per directions of Hon'ble

APTEL. The deficiencies were communicated to PSPCL vide memo No.PSERC/Sr.A.O./2012-13/116/8674 dated 11.12.2012 and it was directed to file complete information / justification by 21.12.2012 vide Order dated 13.12.2012. PSPCL has filed the information vide C.E./ARR & TR memo No.4130/TR-4/100 dated 21.12.2012. An examination of the same in the Commission has revealed that all the queries / deficiencies pointed out have not been fully addressed and clarified by PSPCL in its submissions dated 06.12.2012. The Commission vide memo No.9072 dated 24.12.2012 conveyed the deficiencies to PSPCL but complete and specific information has not been filed by PSPCL. The Commission reiterated the same during hearing on 26.12.2012 and directed PSPCL to file the information/clarifications supported by documents and details by 28.12.2012 failing which it will be presumed that PSPCL has nothing to offer further in the matter and the petition shall be decided on merit based on the information/record already made available in this petition.

Further hearing of the petition was closed vide Commission's Order dated 27.12.2012 and Order was reserved.

4. PSPCL has filed parawise reply vide C.E./ARR & TR memo No.4134/TR-4/100 dated 27.12.2012 to the deficiencies pointed out by the Commission vide No.9072 dated 24.12.2012.

The Commission has gone carefully through the Judgment dated 18.10.2012 of Hon'ble APTEL and the submissions and information supplied by PSPCL / PSTCL. The Commission decides the issues as under :

#### **Issue No. 1: Return on Equity**

The appellant PSPCL had preferred an appeal before the Hon'ble APTEL stating that the Commission had allowed Return on Equity @ 14% in place of @ 15.5% in the true-up of FY 2009-10 in Tariff Order for FY 2011-12. It had stated that Regulation 25 of the PSERC Tariff Regulations, 2005 provides that the State Commission shall, in computation of Return on Equity, be guided by the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 as amended from time to time. The Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 provides for allowing RoE @ 15.5% (pre-tax) to be grossed up to 23.48%. The Hon'ble APTEL has decided the issue in favour of the appellant whereby RoE @ 15.50% is to be

allowed instead of @ 14% already allowed in the true-up for FY 2009-10. The Commission is convinced that the RoE at the grossed up rate is not admissible to PSPCL since it has accumulated losses of Rs.1150.82 crore at the end of FY 2009-10 and as such it is not in profit and therefore, not paying tax on its income. Moreover, Regulation 32 of the PSERC Tariff Regulations, 2005 as amended from time to time provides for allowing obligatory taxes if any, on the income of the utility. It states as under:

*“Regulation 32 (1): Obligatory taxes, if any, on the income of the generating company or the licensee from its core/licensed business shall be computed as an expense and shall be recovered from the customers/consumers.*

*Provided that tax on any income other than the core/licensed business shall not constitute a pass through in tariff and tax on such other income shall be payable by the generating company or the licensee.*

*(2) Tax on income, if actually liable to be paid, shall be limited to tax on return on equity allowed, excluding incentives.*

*(3) The tax on income shall be considered at income tax rate including surcharge, cess, etc. as applicable during the relevant year in accordance with the provisions of Income Tax Act, 1961 duly amended from time to time.*

*(4) The benefits of tax holiday and the credit for carrying forward losses applicable as per the provisions of the Income Tax Act, 1961 shall be fully passed on the customers/consumers. “*

From the above, it is clear that allowing 15.5% (pre-tax) to be grossed up to 23.48% would tantamount to allowing double benefit to the Utility as it would entail allowing ROE at a grossed up rate at 23.48% and also taxes as per Regulation 32. Therefore, the Commission thinks it fit to allow ROE @ 15.5%. This issue has been discussed at length in the Commission's Order dated 10/10/2012 passed in petition no 45 of 2012 filed by PSTCL. The relevant extract is reproduced as under:

*“The Commission observes that the intention of the Petitioner in claiming ROE at the grossed up rate implies that he will claim a tax amount on advance whether his liability to pay the obligatory taxes arises or not. It also needs to be stressed that in case the liability of*

tax payment of the licensee is ascertained as nil/less during true up the amount allowed in excess, if any, by way of applying grossed up rate will become recoverable from him along with interest at the SBI Advance Rate. This principle is applicable in order to maintain parity with allowability of interest to the licensee on the amount of revenue gap for any year.

Thus, the decision of the Commission to allow ROE for FY 2011-12 and FY 2012-13 @ 15.5% was a well considered and conscious one, keeping in view the existing provisions of Regulations 25 and 32 of the PSERC Tariff Regulations, 2005 which provide for allowing ROE and obligatory taxes under two separate Regulations”.

On the equity of Rs. 2946.11 crore for the integrated utility i.e erstwhile PSEB, the allowable amount of RoE is worked out to Rs.456.65 crore @15.50% against which Rs. 412.46 crore @ 14% stands already allowed in the Tariff Order for FY 2011-12. As such, additional RoE of Rs. 44.19 (456.65 – 412.46) crore is approved for FY 2009-10. The Commission also considers it appropriate to allow carrying cost on this additional RoE in terms of the PSERC Tariff Regulations at the short term prime lending rate of State Bank of India as on 1<sup>st</sup> of April, 2009, 2010, 2011, 2012 and 2013. The carrying cost of Rs 23.42 crore is allowed for the period 2009-10 to 2013-14, the year in which recovery of this amount will finally accrue to the appellant as under:

Sr. No.	Year	Amount of additional RoE	Carrying cost period	Rate of interest (SBI PLR/SBAR)	Carrying cost allowed (Rs. crore)	Total amount allowable (Rs. crore)
1	2009-10	44.19	6 months	12.25%	2.71	<b>67.61</b>
2	2010-11		1 year	11.75%	5.19	
3	2011-12		1 year	13.00%	5.74	
4	2012-13		1 year	14.75%	6.52	
5	2013-14		6 months	Not available as yet, hence applied rate of 14.75% of FY 2012-13	3.26	
	Total:	44.19			23.42	

The gross amount of Rs. 67.61crore is payable and shall be accounted for in the Tariff Order for FY 2013-14.

**Issue No.2: Plant Availability:**

1. The plant availability of GNDTP for 2009-10 was projected by the Board as 74.57% in the ARR for FY 2009-10. However, as per its revised maintenance schedule intimated vide letter dated 16.4.2009 during the course of processing of ARR, the Unit-IV of GNDTP was to remain under major R&M work from 1.10.2009 to 1.7.2010 (182 days during 2009-10) and shutdown of Units-I,II&III for 30 days each on account of annual overhauling. The availability of GNDTP was thus worked out as 81.37%, which the Commission adopted in computation of generation for the year 2009-10 in the Tariff Order for FY 2009-10.

2. As per CERC Tariff Regulations, 2004, applicable w.e.f. 1.4.2004 for five years, the Target Availability for recovery of full capacity (Fixed) charges for various thermal plants of the Board should be as under:

i)	GNDTP	60% (Before R&M), 80% after R&M
ii)	GHTP	80%
iii)	GGSSTP	80%

(Recovery of capacity (fixed) charges below the level of target availability was specified on pro-rata basis, in the CERC Regulations. At zero availability, no capacity charges were payable).

3. The annual capacity (fixed) charges for a thermal power generating station consisted of:

- i) Interest on loan capital.
- ii) Depreciation, including Advance against depreciation.
- iii) Return on Equity.
- iv) Operation and Maintenance expenses, and
- v) Interest on Working Capital.

4. The following Regulations of PSERC Tariff Regulations, 2005, for determination of Tariff need to be **kept in view**: -

Regulation-10: Excess or Under Recovery with respect to norms and Targets.

- (1) The generating company or the licensee, as the case may be, shall retain the entire gain arising from over achievement of the norms laid down by the Commission in these Regulations or targets set by the Commission from time to time.
- (2) The generating company or the licensee, as the case may be, shall bear the entire losses on account of its failure to achieve the norms laid down by the Commission or targets set by the Commission from time to time.

Regulation-20: Cost of Generation

While determining the cost of generation of each thermal/gas/hydro **electric** generating station located within the State, the Commission shall be guided, as far as feasible, by the principle and methodologies of CERC, as amended from time to time.

Regulation-44: Special Provisions

During the period, the PSEB remains an integrated utility, the Commission may waive any of the provisions of these Regulations in any matter if, in the opinion of the Commission, it is impracticable or inexpedient to proceed as per these Regulations. In such a situation, after recording its reasons, the Commission may adopt any other approach which is reasonable and is consistent with the overall approach of these Regulations.

5. During the year 2009-10, the Board was an integrated utility. No separate figures/accounts used to be submitted by the Board for its various functions of generation, transmission, SLDC and distribution (retail supply and wheeling) of electricity. It was therefore not possible to determine the capacity charges separately for generation function, and then determine and approve the capacity charges on the basis of target

availability projected by the Board in the ARR, as per the provisions of CERC Tariff Regulations, 2004. Regulation-10 of PSERC Tariff Regulations, 2005 provide for norms laid down or the targets set by the Commission. The Commission, in the absence of availability of fixed cost for each thermal plant separately, adopted the measure of targets set by the Commission in allowing the incentives/disincentives in respect of generation business of the Board.

6. In view of the non-availability of fixed costs for the generation function, the Commission has been following consistently the policy of targeted generation, in place of norms, computed on the basis of averages of past three years actual availability and actual generation. The policy followed by the Commission takes into consideration the actual generation and the actual availability (which takes into account the maintenance schedules and forced outages during these years) during the past three years. It is pertinent to mention here that the Commission has been allowing incentives at the time of true up, as and when actual generation is more than as determined/fixed by the Commission in the first instance, with the above methodology. The Commission has approved the incentive for higher generation in its various Tariff Orders as under: -

- (i) For FY 2004-05 (in Tariff Order for 2006-07)= Rs. 15.71 crore
- (ii) For FY 2005-06 (in Tariff Order for 2007-08)= Rs. 48.04 crore
- (iii) For FY 2006-07 (in Tariff Order for 2008-09)= Rs. 185.35 crore
- (iv) For FY 2007-08 (in Tariff Order for 2009-10)= Rs. 79.12 crore
- (v) For FY 2007-08 (in Tariff Order for 2010-11)= Rs. 24.16 crore
- (vi) For FY 2009-10 (in Tariff Order for 2011-12)= Rs. 83.59 crore

7. The Punjab State Electricity Board was an integrated utility carrying out the functions of generation, transmission, SLDC, wheeling and retail supply. There was no independent body like SLDC to verify/certify the availability of the generating stations.

8. In view of the position brought out above, the Commission finds no merit in the contention of the appellant regarding this issue.

### **Issue No.3. Auxiliary consumption of GNDTP**

1. PSPCL has alleged that the Commission did not allow 12% auxiliary consumption of GNDTP as being allowed by Central Commission for Tanda Station. PSPCL has also submitted that the auxiliary consumption submitted was inclusive of losses in generator transformer, unit auxiliary transformers, station transformers, excitation power and cooling water system based on the system followed by the NTPC Limited in calculating the auxiliary consumption of Tanda Station.

2. The Hon'ble APTEL in its judgement dated 18<sup>th</sup> Oct, 2012 in Appeal No.7 of 2011 has observed that CERC Tariff Regulations, 2009 provide auxiliary consumption at 12% for Tanda Station and if the circumstances of Tanda Station are applicable to GNDTP units, then there will be not too much of rationale in deviation from CERC norms. Accordingly, the Commission has been directed to examine the issue and pass appropriate order.

3. PSERC Tariff Regulations provide that '**CERC norms wherever specified will be followed**'. CERC in its notification dated 26.3.2004 has framed Tariff Regulations for the five year period wherein operation norms for thermal plants were also specified. CERC had, however, not specified any norms for 110 MW units and the Commission had in the case of GNDTP adopted the norms specified for the Tanda Station of NTPC (11%), which like GNDTP has 4 Units of 110 MW each. The Commission while passing the Tariff Order for the year 2008-09 observed that Units-I&II were renovated after spending crore of rupees and as per terms and conditions of contract, the auxiliary consumption of 9.1% was to be achieved which the Commission decided to adopt. The R&M work of units-III&IV was yet to be taken up, as such, the auxiliary consumption for these units was taken as 11%.

4. While reviewing its Tariff Order for the year 2008-09 in the Tariff Order for the year 2009-10, the Commission observed that CERC has revised the operation norms of Tanda Thermal Power Station after R&M in its order dated 24<sup>th</sup> January, 2007 and notified the same as under

	Target Availability	Target PLF	Station Heat Rate (kCal/kWh)	Auxiliary Energy Consumption Norm (%)	Specific Fuel Oil Consumption (ml/kWh)
Prior to R&M	60%	60%	3000	11.00	3.5
After R&M	80%	80%	2850	12%	2

The Commission noted that while fixing the norm of auxiliary consumption at 12% for the Tanda Thermal Station, CERC has in its order of 24<sup>th</sup> Jan, 2007 included in it energy consumed as detailed below:

- (a) 0.83% on account of the three staged pumping and bearing cooling water system provided at Tanda Thermal Station.
- (b) 0.95% on account of losses in generator transformer, unit auxiliary transformers, station transformers and excitation power.

In view of the absence of equipments/energy consumption as brought out above at (a) and (b) in case of GNDTP, the Commission determined and fixed the auxiliary consumption norm as 10.22% (12-0.95-0.83) for GNDTP units I&II for the year 2008-09.

5. At the time of true-up of the year 2008-09, in its Tariff Order for the year 2010-11, the Commission observed the reduction of 0.95% as inappropriate as these represent losses which theoretically occur both in Bathinda and Tanda Stations. The deduction of only 0.83% alone on account of three stage water cooling system at Tanda and not at Bathinda was considered justified. On that basis the auxiliary consumption of GNDTP Units-I&II was worked out as 11.17% (10.22+0.95). However, the Commission found no justification in allowing auxiliary consumption after R&M works of Units-I&II in excess of pre R&M value. Assuming that the auxiliary consumption in the case of Units-I&II was less than 11% and for Units-III&IV in excess thereof, the Commission compositely determined auxiliary consumption for all four Units of GNDTP at 11%. Also, as per the data supplied by the office of CE/Thermal, GNDTP, Bathinda, vide letter dated 7.11.2012, the post R&M auxiliary consumption of Units I&II remained less than 11% for the various years.

The Commission has thus been liberal in allowing the auxiliary consumption at the previous norm even after R&M works **costing Rs. 216 crore to the public** were carried out, though as per contract with the firm carrying out R&M, it should have come down to 9.1%. Hence, no further relief is admissible to the appellant on this account.

#### **Issue No. 5: Interest on loans for Special Purpose Vehicles (SPVs)**

According to the appellant, the State Commission disallowed the interest cost on the loans taken by the appellant on behalf of the SPVs such as Nabha Power Ltd., Talwandi Sabo Power Ltd. for the year 2007-08 and Gidderbaha Power Ltd. for the year 2008-09 and onwards. These projects were, of course, later transferred to third parties for execution on Build Operate Own (BOO) basis. The appellant had raised loans for these SPVs which were later on recovered from the successful bidders along with interest. The appellant stated that on recovery of the interest amount it had accounted for the same in the non-tariff income for the year. In its ARR, the appellant had claimed interest payable on the loans as expenditure. Thus, the interest income received from the SPVs was accounted for in the income of the appellant. For the year 2007-08, the appellant claimed to have received an interest income of Rs.5.72 crore from the SPVs which was included in its non-tariff income. Similarly, for the Tariff Order 2008-09, the utility claimed that an amount of Rs. 46.22 crore was included in its Non Tariff Income. The Commission's reasoning was that the execution of the projects by SPVs of Talwandi Sabo Power Ltd., Gidderbaha Power Ltd., Nabha Power Ltd., etc. is being done on Build Own Operate (BOO) basis as such investment outlays of such SPVs do not form part of the investment plan of the utility. The amount of interest along with the principal amount of loan taken for SPVs was, therefore, not allowed by the Commission in the ARR of the utility. Also, the utility failed to provide sufficient evidence at the time of finalization of Tariff Order or at the time of review petition to substantiate its claim that the interest on loans recovered from the SPVs was credited to the Non Tariff Income head and as such interest income was treated as Non Tariff Income in the hands of the utility by the Commission. The Hon'ble APTEL in its order dated 18<sup>th</sup> Oct., 2012 observed and directed that

*“As the Commission concluded that the appellant provided incomplete picture of loans raised on behalf of the SPVs, the interest paid or payable thereon and*

*also the recovery effected from these SPVs and credited to the accounts of the appellant we direct that the Commission shall re-examine the issue and pass appropriate order only when to the satisfaction of the Commission, the appellant would be able to provide with the Commission with all the details as the Commission would be wanting for consideration of the matter in details”.*

Consequent upon the order of the Hon'ble APTEL, the utility pleaded for

- a) Reduction of Non Tariff Income to the tune of Rs.3.48 crore for FY 2007-08.
- b) Reduction of Non Tariff Income to the tune of Rs.32.87 crore for the F Y 2008-09.

In order to re-examine the issue, the Commission vide its letter dated 10.12.2012 asked PSPCL to supply the following information.

*“1. In annexure ‘AA’, PSPCL requested for reduction of NTI by Rs 3.48 crore for FY 2007-08. However, in column 7 PSPCL has shown ‘nil’ as on 31<sup>st</sup> March of the year. In case there was nil balance of interest at the year end, how Rs. 3.48 crore is said to be still included in non tariff income for the year. Evidentiary documents in support of PSPCL’s contention that the amount is credited to GH - 62.280 be supplied.*

*2. The Commission disallowed Rs. 16.25 crore only in T.O 2010-11. Evidentiary documents in support of PSPCL’s contention that the amount is credited to GH - 62.280 be supplied.*

*3. Details of interest i.e., Rs. 16.72 crore stated to have been disallowed by PSPCL is not correct. Evidentiary documents in support of PSPCL’s contention be supplied.*

*4. It may be certified that the amount credited to head 62.280 was not withdrawn in the succeeding years and paid to the financing institutions as prior period expenses.”*

The Commission again vide its letter dated 24.12.2012 asked PSPCL to supply the aforementioned information. In addition PSPCL was also asked to produce following information:

*“1. It may be certified that the amount credited to head 62.280 was not withdrawn in the succeeding years and paid to the financing institutions as prior period expenses.*

2. Evidentiary documents i.e., date/year-wise details of payments made to the financing institutions about the interest amount be made available. It may also be certified that the expenditure in the subsequent years are not included in the expenses under the Head Interest in subsequent years. “

Now the utility has submitted certificates of tax deductions at source issued by SPVs in favour of PSPCL and details of loans paid to SPVs along with loan agreement with the financial institutions and at the time of submission of its replies it claimed that

“In 2007-08, we have received interest of Rs.5.72 crore from SPVs (Rs.5 crore from TSPL + Rs.0.72 crore from NPL, A/C Head -62.280 JVs attached). This has 2 components:

Total interest received	=Rs.5.72 crore
Interest paid to banks on WCL	=Rs.2.32 crore

We have paid Rs.3.40 crore to PFC as interest on loan of Rs.265 crore for the period 20.2.2008 and 22.02.2008 to 31.03.2008. Out of this, Worthy Commission has specifically disallowed Rs.1.16 crore (Sr. No.8, Table 2.11Page 31 of TO 2009-10). Thus a total of Rs. 2.32 crore ( Bank's interest ) + Rs.1.16 crore (PFC interest) = Rs.3.48 crore is requested to be allowed as expense and conversely Rs.3.48 crore is requested to be reduced from NTI, as Rs.5.72 crore is already added up in NTI, as per attached JVs.

We have received Rs.26.93 crore from NPL in Financial Year 2008-09 as interest on loans given to them, its break up is:-

Interest paid to REC on 20.12.2008	Rs.5.13 crore
Interest paid to REC on 20.03.2009	Rs.11.13 crore
Interest paid to Banks on loans (From Common Kitty)	Rs.10.68 crore

This amount of Rs.16.25 crore(16.25 = 5.12. + 11.13) is included in Rs.26.93 crore taken as GH 62.280 (JV attached)

Total interest received	Rs.46.20 crore
Disallowed on NPL loan, paid to REC	(-) Rs.16.25 crore
	Rs.29.95 crore
Interest on PFC loan of Rs.265 crore for	

<i>TSPL 1.4.2008 to 1.9.2008</i>	<i>(-)</i>	<i>Rs.13.33 crore</i>
<i>Balance Disallowed on bank loans from common kitty</i>		<i>Rs.16.62 crore</i>

1. *It is certified that the amount credited to head 62.280 was not withdrawn in the subsequent year and also not paid to the Financing Institutions as prior period expenses.*
2. *Evidentiary documents regarding detail of payment of interest made to the Financial Institutions are attached herewith, where one to one co-relation exists.”*

An examination of the Tariff Order for FY 2009-10 reveals that an amount of Rs 1.16 crore was disallowed under the head interest charges consequent upon the submission of PSPCL that an amount of Rs 1.16 crore was interest paid on loan taken for SPV Talwandi Sabo Ltd during the FY 2007-08. Similarly, an examination of the Tariff Order for 2010-11 shows that an amount of Rs 16.25 crore was disallowed under the head Interest expenses consequent upon the submissions of PSPCL that this interest was paid on a loan for SPV Rajpura Thermal Plant for the year 2008-09. Interest charges to the extent of Rs 3.48 (including Rs.1.16 ) crore and Rs 32.87 (including Rs.16.25) crore recovered from the SPVs by the utility were also claimed to have been credited under the Non Tariff Income head by the utility for the aforementioned years. This claim was substantiated by the utility by submitting copies of TDS certificates of income received from SPVs. Since the claim of the utility has been substantiated by necessary documents, the Commission allows a reduction of Rs 3.48 crore from the Non Tariff Income of the utility for FY 2007-08 and Rs 32.87 crore from Non Tariff Income for FY 2008-09. The effect of this order will be given in Tariff Order of FY 2013-14. However, the claim of the utility that interest on loans taken for SPVs may also be allowed has no locus standii as the investment outlays for SPVs do not form part of investment plan of the utility and such loans/interest will be recovered from the SPVs. If interest on loans recovered from SPVs is not income of the utility, the interest paid on such loans cannot be treated as expenditure of the utility. It would amount to a double benefit in the hands of the utility.

The Commission considers it appropriate to allow carrying cost to the utility in terms of Regulation 9 of the PSERC Tariff Regulations on the above noted amount. The Commission is, however, of the view that carrying cost cannot be allowed for the entire

period but has to be restricted to a period of 9 months i.e. three months for FY 2012-13 and six months for FY 2013-14 since the recovery of this amount will be available to the utility from the increased tariff determined for FY 2013-14. This is so because the non production of evidentiary documents was on account of the negligence of the utility. This is very clear from the observations of the Commission in its various orders.

In the Review petition 23 of 2010 the Commission observed:

*“PSPCL has produced no evidence to establish that this sum has been refunded to any private company or the same was paid to financial institutions from where loans were raised for setting up the SPVs, In the circumstance, the Commission has little option but to conclude that the accounts and other filings of the Board do not establish that a sum of Rs 46.22 crore was received as interest from SPV and needs to be excluded from the other income of the Board.....In the circumstances, the Commission holds that there is insufficient evidence on record to exclude the above two amounts from the other income of the Board. “*

In the Tariff Order for F Y 2011-12, the Commission in para No.2.22.2 observed as under:

*“PSPCL has also made a plea that as interest on loans to SPVs are disallowed by the Commission, interest recovered from SPVs which stood included in Non-Tariff Income, may also be excluded. The Commission notes that a similar plea was made in the last ARR as well as the Review Petition No.23 of 2010. However, the Commission could not allow the claim in the absence of evidence to substantiate this plea.”*

In its judgment the Hon'ble APTEL has also observed that:

*“It is more than evident that the complete picture of loans raised on behalf of the SPVs, the interest paid/payable thereon and the recovery effected from these SPVs and credited into the accounts of the Board (PSEB) was not made available to the Commission and therefore, the Commission was left with no alternative but to conclude that there was insufficient documentary evidence to substantiate the claim of PSEB/Successor Entity.”*

It is clear from the above that the utility failed to provide relevant documents to the Commission. The observations of the Hon'ble APTEL in its judgment at page 50 is also relevant in this context:

*“Revenue requirements cannot be restricted to a period of two years unless of course the appellant itself is responsible for late submission of true-up petition.”*

The above observations establish beyond doubt that the plea of the utility had not been accepted by the Commission in the absence of documents to substantiate its claim despite repeated opportunities allowed in this regard. Repeated opportunities were also accorded to the utility from 1<sup>st</sup> Nov 2012 onwards during the course of finalization of current order but it was only on 28<sup>th</sup> Dec., 2012 that the documents were produced for perusal of the Commission. The Commission holds that since the late production of evidentiary documents was on account of the utility's fault, the carrying cost for the entire period cannot be allowed but must be restricted to a period of 9 months as mentioned above. The carrying cost allowable works out to Rs.0.38 crore for FY 2007-08 for Rs. 3.48 crore and Rs.3.64 crore for Rs.32.87 crore for FY 2008-09 as under:

Sr. No.	Year	Interest recovered from SPVs and credited to NTI (Rs crore)	Carrying cost period	Rate of interest (SBAR)	Carrying cost allowed (Rs. crore)	Total allowable amount (Rs. crore)
1	2012-13	3.48	3 months	14.75%	0.13	<u>3.86</u>
	2013-14		6 months	Not available as yet, hence applied rate of 14.75% of FY 2012-13	0.25	
	Total	3.48			0.38	
2	2012-13	32.87	3 Months	14.75 %	1.21	<u>36.51</u>
	2013-14		6 months	Not available as yet, hence applied rate of 14.75% of FY 2012-13	2.43	
	Total:	32.87			3.64	
	<b>G. Total</b>	<b>36.35</b>				<b>40.37</b>

Thus, total amount allowable under this head works out to Rs.40.37 crore. The allowable amount of Rs.40.37 crore is payable and shall be accounted for in the Tariff Order for FY 2013-14.

**Issue No. 6: Employee Cost**

This issue relates to Employee Cost and disallowance thereof by 28.48% and also a lump sum reduction of Rs.100 crore. Hon'ble APTEL did not approve the practice of blanket reduction of 28.48% as well as reduction of Rs.100 crore of Employee Cost by the Commission and has ordered to review the matter in course of True up in respect the Tariff Order for FY 2011-12. Accordingly, the issue shall be considered during course of True up for the year 2011-12.

**Issue No. 7: A & G and R & M expenses:**

This issue relates to allowing A&G expenses on normative basis instead of actual basis for FY 2008-09 to 2010-11. Hon'ble APTEL had directed that

*“Since the true-up for this period is yet to come the Commission will have relook into the matter according to Regulations in vogue.”*

The matter will be considered during the true- up for FY 2011-12.

**Issue No 9. Carrying cost on Revenue Gaps**

The Appellant had stated in its petition that despite submission of particulars for the year 2007-08 and 2008-09, the Commission did not allow carrying cost for the entire revenue gap for the period from 2006-07 to 2009-10 but held that the appellant was entitled to carrying cost for the revenue gap for the years 2008-09 and 2009-10 in the Tariff Order of 2010-11. The Commission held that a maximum period for which carrying cost can be allowed is two years in the case of a gap created during true-up and one year in the case of review and as such the appellant was entitled to have carrying cost only for the gaps of 2008-09 and 2009-10 in the Tariff Order of 2010-11. Hon'ble APTEL in its judgment stated that

*“Carrying cost is normally required to be allowed for late recovery of the revenue requirement and the purpose is to compensate the utility for the revenue requirements that fell short of recovery but to be recovered in future. Therefore,*

*revenue requirements cannot be restricted to a period of two years unless of course the appellant itself is responsible for late submission of true-up petition.....*

*We would like to add that the Appellant is entitled to carrying cost on his claim of legitimate expenditure if the expenditure is:*

*(a) accepted but recovery is deferred, e.g. interest on regulatory assets;*

*(b) claim not approved within a reasonable time; and*

*(c) disallowed by the State Commission but subsequently allowed by the superior authority”.*

Hon'ble APTEL has directed the Commission to re-examine the issue upon consideration of the detailed particulars as are and as further may be provided by the appellant to the Commission.

The issue has been examined at length by the Commission in the light of the existing Regulations as also the judgment of the Hon'ble APTEL.

Regulation 9 of the PSERC (Terms and Conditions of Determination of Tariff) Regulations, 2005 provides for 'Review 'and 'True up' exercises of the ensuing year. Regulation 9 (3) *ibid* provides that the Revenue gap of ensuing year shall be adjusted as a result of Review and Truing up. Regulation 9 (4) further provides that the Commission may allow carrying cost at the interest rate approved for working capital for such expenses/revenues.

The principle adopted by the Commission in allowing Carrying cost for Revenue Gaps is clear and has been enunciated in the Commission Order dated 6.01.2011 in Petition No. 23 of 2010 filed by PSPCL. An extract from the said Order is as under:

*“Consequently, the Commission had while considering the ARR for 2010-11 thought it fit to re-examine the entire issue. It was noted that the revenue gap, if any, emerging in true-up was built up over a period of 12 months in the initial year and remained as such in the ensuing year and was recouped in the third year through increase in tariff. In the case of review, the gap is built up in the first year and is recouped in the next. In order to allow carrying cost in either case, the Commission has decided to allow interest on the gap for six months in the year it got built up, 12 months in the subsequent year and another six*

*months for the year it gets recouped through recovery from increased tariff. In this manner, the maximum period for which carrying cost can be allowed is two years in the case of a gap created during true up and one year in the case of review”.*

The Commission is allowing carrying cost on revenue gap for two years in the True – up and one year in the Review in its Tariff Orders. The Commission had been devising/ revising the tariff in such a way that the entire gap (deficit in revenue) for the years covered in any Tariff Order gets recovered in the year (one) of Tariff Order itself except in exceptional cases when the Commission determines a Regulatory Asset to the extent the gap which cannot be met through increase/revision of tariff. Thus, in order to allow carrying cost for a revenue gap of any year, interest is allowable on the gap amount for six months (mean period) in the year it got built up plus interest for twelve months of the ensuing year and for a period of another six months (mean period) in the third year in which it gets recouped through recovery by way of increased tariff. In this way, the maximum period for which carrying cost is allowable works out to two years. The Commission has also been allowing carrying cost for a period beyond two years where recovery is deferred for a period beyond two years on account of establishment of a Regulatory Asset.

In compliance of the Hon'ble APTEL order dated 18.10.2012, the Commission considers it appropriate to re-examine the issue of allowing carrying cost to the utility in terms of Regulation 9 of the PSERC Tariff Regulations till the recovery of the gap rather than as per the principle followed and enunciated above. The recovery of the carrying cost for the revenue gaps now approved will be available to the utility during FY 2013-14 i.e. after the issue of Tariff Order for FY 2013-14 as the impact of this order shall be reflected in the Tariff Order of 2013-14.

Based on the Hon'ble APTEL judgment, carrying cost on short fall of recovery which was not allowed earlier is to be allowed in subsequent years e.g. carrying cost for the Revenue Gap determined for FY 2006-07(True-up ) which was allowed in the TO 2008-09, need not be allowed again in subsequent Tariff Orders. The Revenue Gap determined based on review exercise for FY 2007-08 will be allowed carrying cost in the Tariff Order of FY 2008-09. Since the Revenue Gap determined in the review exercise gets adjusted as a result of True Up , the carrying cost will be allowable on the

additional revenue gap in the subsequent Tariff Order for FY 2009-10 because there had been shortfall in the recovery of additional Revenue Gap as also the carrying cost thereon.

The detailed calculations for carrying cost already allowed by the Commission in various Tariff Orders vis-a- vis the carrying cost allowable is given in **Annexure – A**.

Perusal of Annexure 'A' would reveal that an amount of Rs.677.63 crore was earlier allowed as carrying cost in the Tariff Orders from FY 2008-09 to 2011-12 by the Commission. However, the allowable amount of carrying cost in the light of Hon'ble APTEL judgment works out to Rs.429.27 crore. Thus, carrying cost of Rs.248.36 crore was allowed in excess to the utility till the Tariff Order for FY 2011-12. This amount is lying with the utility since 2008-09 onwards. The Commission is of the view that as this excess amount represents excess recovery from the consumers through tariff therefore, it will be fair and in the interest of justice that carrying cost on this account is also charged to maintain parity of the principle of allowing carrying cost to the utility vis-a-vis consumers. The details of carrying cost recoverable on this account works out to Rs. 118.68 crore as per **Annexure –B**. Thus, total amount of carrying cost and interest thereon works out to Rs.367.04 (248.36 + 118.68) crore which is recoverable from the utility. This amount shall be accounted for in the Tariff Order for FY 2013-14.

#### **Issue No. 13: Non Tariff Income**

The Commission in its Tariff Order for FY 2010-11 included an amount of Rs.91.10 crore as Non Tariff Income of the utility for FY 2008-09. This sum included an amount of Rs.46.24 crore being advances against the sale of scrap, Rs.0.97 crore being deposits against burnt meters and Rs.43.89 crore being deposits outstanding under this head.

In this regard, the Hon'ble APTEL directed that

*"In respect on non-tariff income Commission considered Rs. 91.10 crore for the year 2008-2009. According to the appellant, taking cognizance of the audit notes is not a sound practice because the revenues based on audit notes are not included in the actual accounts and when truing-up is based on the actual audited accounts non-tariff income should be worked out on the basis of the auditory statement of accounts. If this is the case of the Commission that a sum*

*of Rs. 91.10 crore has been worked out on the basis of the revenues based on the audit notes then there is scope for review of the matter because the general principle is that true-up is done on the basis of the actuals as compared to what was projected in the revenue requirement. The submission of the learned advocate for the appellant that the audit notes are only in the nature of certain reservations and observations of the auditor and are required to be clarified in the subsequent financial year cannot be rejected outright. The Commission will re-examine the matter and pass appropriate order.”*

The Commission vide its letter dated 24.12.2012 had requested PSPCL to supply the following:

*“1) PSPCL may confirm that the audit comment in this regard stands settled. Reply to the para along with audit observations thereon, if any, be supplied. In case the Audit comment has not been settled, please supply the following:*

*a) A copy of the VAT Provisions and copies of the sale orders issued in case of sale of stores and scrap may also be supplied.*

*b) PSPCL may confirm that the receipts on account of sale of store, scrap have not been taken into account during the last five years (till date). Date/year of the account of these receipts as non tariff income may be supplied along with evidentiary documents. The document (page 35 of the enclosure of letter dt.21.12.2012) supplied by the utility shows that Rs.46.24 crore is still outstanding as unadjusted advance received for sale of stores. The document supplied is not sufficient since it does not corroborate the statement of PSPCL that the amount of Rs.46.24 crore stands accounted for as income in the subsequent years.*

*2) Details of the misc. receipts which are being collected from the field offices (as mentioned in letter dt: 6.12.2012) may also be supplied as stated by PSPCL.*

*3). It may be certified that these receipts have not been taken into account as prior period receipts/revenue in ‘Other Income’ of Rs.20.33 crore for FY 2009-10 or thereafter till date.*

*4) Details of credit of income in regular books of accounts, if any, may be given along with photo-copy of appropriate ledger.”*

Regarding Non Tariff Income of Rs 46.24 crore, PSPCL vide letter dated 27.12.2012 submitted as under:

*“Total amount outstanding under accounting Head 46.922 as on 31.3.2010 was Rs.20.19 crore against the outstanding amount of Rs.46.24 crore as on 31.3.2008. Out of Rs.20.19 crore outstanding under group head 46.922 as on 31.3.2010, Rs.19.09 crore pertains to the office of Controller of Stores. So far as account of income is concerned, it is intimated that during the year 2009-10 an amount of Rs.16,40,17,168/- has been credited to G.H. 65.9 (prior period income) as the amount pertains to the period before 2009-10 by debiting the amount to G.H. 46.922. Copy of the journal voucher No.47 of 3/2010 is enclosed as Annexure ‘E’ as evidentiary document for crediting the amount received from sale of scrap to the Income of the Board.*

*Further sale orders along with voucher No.81 dated 16.1.2008 (Annexure F) sale orders along with voucher No.91 dated 11.12.2008 (Annexure G), sale orders along with voucher No.47 dated 7.9.2012 (Annexure H), sale orders along with voucher No.434 dated 3/2009 (Annexure I) and sale orders along with voucher dated 8/2008 (Annexure J) are enclosed as evidentiary document for crediting the amount received from sale of scrap to the income of the Board.”*

The Commission examined the documents submitted by PSPCL and it was noted that PSPCL has submitted only one relevant evidence in the nature of JV No 47 of 3/2010 showing an adjustment of Rs 16.40 crore as prior period income. The other documents referred to above do not pertain to the concerned year and in fact are variously dated 16.01.08, 11.12.08 & 07.09.2012 & cannot be treated as evidence for the year 2009-10. As such amount of non tariff income to the extent of Rs 16.40 crore which was adjusted against prior period expenses in the true up of FY 2009-10 (para 2.19 of TO for FY 2011-12) resulted in double accounting of Rs.16.40 crore as income and is therefore, allowed. However, as regards utility’s plea for the remaining amount of Rs.29.84 ( 46.24 – 16.40) crore, the same is not allowed for want of evidentiary documents.

Similarly, PSPCL explained that Rs 0.97 crore was received as Advance against burnt meters and that amount of advance and balance amount are being treated as Income after finalization report of ME Labs. No relevant document has been produced by PSPCL as evidence in this regard. In its submissions, PSPCL stated that the requirement of producing evidentiary documents be dispensed with as the cases are spread over entire Punjab State. PSPCL was given ample time to produce the documents to substantiate its claim. However, despite repeated opportunities in this regard accorded at the time of finalization of the Tariff Order as well as at the time of finalization of the instant order, the requisite evidence to substantiate its claim has not been produced. The Commission, therefore, is left with no alternative but to reject the claim for want of evidentiary documents in this regard.

Regarding an amount of Rs. 43.89 crore treated as Non Tariff Income by the Commission, the utility claimed that it was in the nature of Advance receipts and as such it should not be treated as Non Tariff Income. However, despite repeated opportunities accorded to the utility, no evidence to substantiate claim was produced by the utility. PSPCL in its submission dated 27.12.2012 submitted

*“Misc. receipts of Rs.43.89 crore relates to the following heads:*

*GH 44,210 and 211: Unpaid salaries of regular staff as well as unpaid wages of work charged/daily labour establishment.*

*GH 46.926: Pertains to public works miscellaneous deposit – Deposits for which no specific account head is provided/cannot be classified to any account head/ shall be accounted for through this account.*

*From the nomenclature of above sub heads, it is clear that these heads are not strictly termed as deposits. Amount outstanding in these sub heads cannot be charged to revenue straight way. Delayed analysis of each item is required before it is credited to misc. receipts. Deposits under the account head 46.926 requires certain completion of formalities such as finalization of enquiries, disciplinary actions and even pending court case etc. As such the contention of the audit to credit the amount to the head Misc. receipts seems to be incorrect“.*

The Commission has examined the above reply furnished by PSPCL. The Misc. receipts of Rs.43.89 crore pertain to the year 2007-08 or even earlier. The Commission finds that PSPCL has failed to provide satisfactory reply supported with evidentiary documents even after a period of about 5 years to prove that these receipts are not the

income of Board. During the course of hearing and prior to finalization of the instant order, the utility was provided adequate opportunity from 1<sup>st</sup> December to 26<sup>th</sup> December, 2012 but they were unable to produce necessary evidence to substantiate their claim. The Commission is, therefore, left with no alternative but to reject the claim of PSPCL for want of evidentiary documents to substantiate claim.

The Commission considers it appropriate to allow carrying cost to the utility in terms of Regulation 9 of the PSERC Tariff Regulations on the above noted amount of Rs. 16.40 crore allowed now. The Commission is of the view that carrying cost on the amount allowed shall be restricted to a period of 9 months i.e. three months for FY 2012-13 and six months for FY 2013-14 since the recovery of this amount will be available to the utility from the increased tariff determined for FY 2013-14. This is so because the Commission had to restrict the claim of the utility as the utility failed to produce necessary evidence to substantiate claim not only during filing of ARR but also during finalization of Tariff Order and filing of review petition in this regard. The observations of the Commission are relevant in this regard.

In the Review petition No. 23 of 2010 the Commission observed:

*“It is prudent to take cognizance of audit notes and on this basis, an amount of Rs.91.10 crore has rightly been treated as non-tariff income for the year 2008-09. This is in line with the past practice and a specific observation had been made in para 5.9 of the Tariff Order for the year 2009-10 which spelt out the manner in which audit notes need to be dealt with. Moreover, no evidence to the contrary was furnished by the Board during the finalization of the ARR”*

In the Tariff Order for F Y 2009-10, the Commission in para No.5.9 observed:

*“Audit comments on the annual statement of accounts of the Board for the year 2007-08 indicate that the income of the Board has been understated to the extent of Rs.151.10 crore by not including (i) deposits of Rs.103.89 crore outstanding for more than three years, (ii) deposits of Rs. 0.97 crore received against burnt meters and (iii) advance of Rs.46.24 crore received against sale of scrap.”*

In its response the Board has stated

*“out of Rs.103.89 crore, Rs.60.00 crore approximately has been identified as the receipt on account of Central Plan Assistance and efforts are being made to*

*identify the details of the remaining amount. The receipt of Rs.0.97 crore against burnt meters can be treated as income only after the meters are checked and repaired in the Board's laboratories and repair charges are accounted for as receipt and the balance is refunded to the consumers. In case a meter has been burnt owing to any fault attributable to the consumer and is declared irreparable, the deposit is transferred to revenue of the Board. As regards the advance of Rs.46.24 crore received against sale of scrap in auction, this is adjusted as receipt only after the scrap is lifted by the bidder. In case the advance is treated as income before lifting the scrap, the Board will unnecessarily become liable to pay VAT and other taxes if the bidder fails to lift the material.*

*The Commission observes that there may be some merit in the interim reply of the Board. Accordingly, these receipts are for the present not being taken into account while determining the Non -Tariff Income of the Board.*

***The Commission decides that the final outcome of these audit comments be reported by the Board in the next ARR, failing which the non tariff income of the Board would be re-determined on the basis of these audit comments in the next Tariff Order“.***

In the Tariff Order for the F Y 2010-11 the Commission observed in para No.2.18.3:

*“The Commission, in para 5.9 of the Tariff Order of 2009-10, had directed the Board to report the final outcome of the audit notes on the Board's accounts for the year 2007-08 regarding its miscellaneous income failing which the non tariff income of the Board would be re-determined on the basis of those audit notes. As per the audit notes, the Misc income was understated to the extent of Rs.151.10 crore and comprised of (i) deposits of Rs.103.89 crore outstanding for more than 3 years, (ii) deposits of Rs.0.97 crore received against burnt meters and (iii) advance of Rs.46.24 crore received against sale of scrap. During processing of the ARR, the Board had intimated that out of Rs.103.89 crore, Rs.60.00 crore relates to receipts on account of Central Plan Assistance and efforts were being made to identify the details of the remaining amount. However, the Board has not submitted any clarification regarding the remaining amount of Rs.43.89 crore under the head 'deposits outstanding'. Regarding*

*deposits on account of burnt meters, the Board has submitted that it is a continuing process and due credit has been reflected in the Suspense Schedule for the year 2008-09. Similar treatment has been given to the advance against sale of scrap. This explanation of the Board is not acceptable as any credit to the Suspense account is made pending final credit in the books of account. Further clarification sought on this account did not yield any results. Therefore, the Commission is left with no alternative but to treat the balance amount of Rs.91.10 (43.89+0.97+46.24) crore as understated miscellaneous income of the Board and count the same towards non-tariff income of the Board for the year 2008-09. Accordingly, the non tariff income of the Board for the year is determined at Rs.523.96 (432.86+91.10) crore. “*

From the above observations of the Commission, it is clear that despite repeated opportunities accorded to the utility, the utility was unable to produce evidentiary documents to substantiate its claim. Also, document pertaining to an amount of Rs. 16.40 crore could only be produced during the course of the current hearing. Hence, the carrying cost is allowed for only a period of 9 months on the amount now allowed by the Commission. The carrying cost on Rs. 16.40 crore works out to Rs.1.81 crore.

Sr. No.	Year	Reduction of Non Tariff Income approved (Rs crore)	Carrying cost period	Rate interest (SBAR)	Carrying cost allowed (Rs. crore)	Total amount allowable (Rs. crore)
1	2012-13	16.40	3 months	14.75%	0.60	
	2013-14		6 months	Not available as yet, hence applied rate of 14.75% of FY 2012-13	1.21	
	Total:	16.40			1.81	<b>18.21</b>

Thus, total amount allowed under this head works out to Rs.18.21 crore. The Commission decides that this amount will be accounted for in the Tariff Order for FY 2013-14.

#### **Issue No. 15 : Interest & Finance Charges**

The Commission disallowed the interest and finance charges of Rs 52.45 (49.45 + 0.23 + 2.77) crore as it represented discounts allowed to consumers for advance payment.

The appellant during the course of review petition claimed that out of total amount of Rs. 52.45 crore, a sum of Rs. 49.45 crore pertains to interest paid to coal suppliers/contractors as per award given by the Umpire for settlement of disputes between Coal India and PSEB for the period given 1.4.1989 to 31.3.1995. The Commission held that the submission of the petitioner did not amount to discovery of new and important matter or evidence and as such disallowed the claim.

Hon'ble APTEL in its order dated 18<sup>th</sup> Oct., 2012 directed

*“Even if there was wrong representation the mistake if it is apparent can be rectified and review admits of correction of calculations and arithmetical errors. We therefore direct the commission to reconsider the matter and pass appropriate order.”*

Clarification was sought from PSPCL who submitted as under :

*“Rs. 52.45 crore was shown under account head “ **Discount to consumers for advance payment of bills, interest on refund amount decided by DSA etc.**” in Schedule 12 of the Annual Accounts of PSEB for the year 2008-09 because there was no separate head in Chart of Accounts of PSEB for the booking of such interest to be paid on account of Umpire award. “*

PSPCL had also produced the copies of Award and payment made to various coal suppliers after deducting income tax as per Income Tax Act, 1961. Accordingly, The Commission approves Rs. 49.45 crore as expenditure for FY 2008-09 and also directs that suitable amendment in Chart of Accounts may be made to segregate various income to avoid complication at a later stage.

The Commission considers it appropriate to allow carrying cost to the utility in terms of Regulation 9 of the PSERC Tariff Regulations on the above noted amount since the recovery of the said amount will be available to the utility during FY 2013-14 i.e. after the issue of Tariff Order for FY 2013-14. The allowable carrying cost works out to Rs.32.27 crore for Rs. 49.45 crore for the period from 2008-09 to 2013-14, the year in which PSPCL will be getting recovery of this amount along with its carrying cost for the same.

Sr. No.	Year	Amount of Interest allowable (Rs. crore)	Carrying cost period	Rate of interest (SBI PLR/SBAR)	Carrying cost allowed (Rs. crore)	Total amount allowable (Rs. crore)
1	2008-09	49.45	6 months	12.25 %	3.03	81.72
2	2009-10		1 year	12.25%	6.06	
3	2010-11		1 year	11.75%	5.81	
4	2011-12		1 year	13.00%	6.43	
5	2012-13		1 year	14.75%	7.29	
6	2013-14		6 months	Not available as yet, hence applied rate of 14.75% of FY 2012-13	3.65	
	Total:	49.45			32.27	

Thus, total amount allowed under this head works out to Rs.81.72 crore. The Commission decides that the amount of Rs.81.72 crore will be accounted for in the Tariff Order for FY 2013-14.

PSPCL also claimed that Rs 0.23 crore relate to award of various Dispute Settlement Committees but no evidence in this regard has been produced. In its submissions dated 21.12.2012, PSPCL stated that

*“an amount of Rs.0.23 crore is the interest paid to the consumers while refunding the disputed amount deposited by the consumers as decided by various Court/DSCs. This amount pertains to the accounting head (sub division) all over the Punjab and accordingly, it is requested that providing of details be dispensed with and interest paid and as appearing in central ledger may kindly be allowed. “*

The Commission notes that the reply of PSPCL is not specific and it reflects a casual approach of the utility with regard to the decisions delivered by the Courts and DSCs. PSPCL has not been able to provide details of such cases in which the so called interest amount of Rs.0.23 crore has been paid based on the decisions of various courts/DSCs even after sufficient time gap of more than 3 years till now. In the absence of production of evidentiary documents in support of its claim, in this regard, the Commission is left with no alternative but to reject the same.

In its submission dated 21.12.2012; PSPCL stated that

*“an amount of Rs.2.77 crore is amount allowed to the consumers against advance payment of bills. This amount pertains to the accounting head (sub division) all over the Punjab and accordingly, it is requested that providing of details be dispensed with and discount allowed to consumers and as appearing in central ledger may kindly be allowed. “*

As regards its claim towards allowing of expenses of Rs.2.77 crore stated to be pertaining to discount allowed to consumers, the Commission is of the firm view that the same is not allowable since PSPCL received the payment of bills in advance and thus it had set off its requirement of Working Capital Loan (WCL) to that extent. Thus, PSPCL has already been compensated by advance receipt of its bills amount from consumers and as such the claim of the appellant is without merit and is accordingly rejected.

The petition is disposed of accordingly.

**Sd/-**

**(Gurinderjit Singh)  
Member**

**Chandigarh**

**Dated: 07.01.2013**

**Sd/-**

**(Virinder Singh)  
Member**

**Sd/-**

**(Romila Dubey)  
Chairperson**

[Click here for Annexure A and B](#)