

PETITION NO: - 66/2005

**REJOINDER TO THE COUNTER-REPLIES
FILED BY M/S BHASKAR SHRACHI ALLOYS
LIMITED & OTHERS SUBSEQUENT TO THE
SUBMISSION OF DVC AGAINST CERC
ORDER DATED 21.07.06**

**POWER SYSTEM
OF
DAMODAR VALLEY CORPORATION**



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Commission for its consideration and appropriate decision on the issues arising for adjudication in connection with determination of tariff for the generating stations and the transmission assets owned by the petitioner, Damodar Valley Corporation. One Member Bench has submitted his recommendations to the Commission under order dated 5.5.2006. We direct that a copy of the said order dated 5.5.2006 be sent to the petitioner, respondents and objectors with a further direction that they may file their views/comments on the recommendations contained in the said order dated 5.5.2006 latest by 30.6.2006.”

On 14.7.2006, this Hon’ble Commission, after considering the objections raised by different parties (including the applicant) to the recommendations of Shri K.N.Sinha, learned Member on different tariff related aspects and after hearing the parties, for proper consideration of the points raised by the parties, directed the petitioner to submit certain additional information, which has been done.

From the above, it is clear that there is no review or rehearing, as alleged. The applicant had not challenged any of the orders referred to above. The prayer in this application to adopt the recommendation dated 5.5.2006 passed by the one Member Bench is premature and is an attempt to put the clock back. It is result of afterthought. This application, therefore, should be dismissed at the thresh-hold

Reply on merit without prejudice to preliminary submissions:

- 2 Contents of Para 1 are wrong and are denied. There is no re-opening and/or re-adjudication of the issue, which has already been decided by the one-Member Bench, as alleged or at all. It is the recommendation of the one Member Bench dated 5.5.2006, which is under examination for taking final decision on the issues involved.
- 3 Contents of paragraphs 2, 3 & 4 are matters of record and need no reply. The allegation that DVC inflated its tariff manifolds taking advantage of the situation prior to enactment of the Electricity Act, 2003 is wrong and baseless.
- 4 In reply to contents of paragraph 5 (i) it is submitted that the Demand Charge and Energy Charge of Damodar Valley Corporation (DVC) have increased from Rs.229/- per KVA/Month and Rs.1.17/Kwh respectively in 1996 to Rs.365/- per KVA/Month and

Rs.1.63/Kwh respectively in 2005. DVC has not revised its tariff since September 2000. The fuel surcharge at the end of the year 2005-06 is 63.81 paise /Kwh only.

- 5 Contents of paragraph 5 (ii) are wrong and are denied. It is denied that the tariff rate of DVC is the highest in the entire State of West Bengal. On the other hand the tariff rate of DVC is the second lowest. The overall tariff of different power utilities in the state of West Bengal supplying power to Industrial consumers at 33 KV having average 85% LF & 0.92 PF with TOD facility is enumerated below:

WBSEB -	325.21 paise/Kwh
CESC -	336.71 paise /Kwh
DVC -	272.65 paise /Kwh
DPL -	234.71 paise/Kwh

However, in DVC's command area the overall tariff of JSEB for the said category of consumers is 365.87 paise per Kwh.

- 6 In reply to contents of paragraph 5 (iii) it is submitted that the Demand Charge/KVA/Month of DVC is higher than that of both WBSEB and DPL but the energy charge of DVC is comparatively much lower than that of the said utilities as shown in the table below:

	WBSEB	DPL	DVC
Demand Charge in Rs./KVA/Month	180	198	365
Energy Charge in Paise./kwh	349	209	163
Overall rate in Paise/kwh for consumers with 85% LF & 0.92 PF with TOD	325.21	234.71	272.65 (including FCS of 63.81p/kwh)

- 7 In reply to paragraph 5 (iv) it is stated that the statement made is in reference to distribution tariff and does not have any relevance to the present context. However the statement made that "*DVC earning exorbitant profitcontribution from the consumers*" is strongly denied and disputed.

- 8 In reply to paragraph 5 (v) it is submitted that the tariff rates mentioned in the petition relates to figures shown are for distribution tariff and is not directly related to determination of Generation and Interstate Transmission Tariff of DVC. More over DVC offers incentive both on Demand and Energy charges to consumers having TOD facilities as per terms and condition of the tariff schedule of DVC.

9 In reply to paragraph 5 (vi) it is stated that the submission of the respondent to the extent they have stated that DVC retained the profits unlawfully and earned profits on profits is misleading. The statutory capital structure of DVC as mandated in terms of the provisions of Section 30 of the Damodar Valley Corporation Act, 1948 has been misconceived by the respondent. In fact, DVC's equity comprises of the following three elements :-

- a) The initial direct capital contribution from the three participating Member Governments viz. Central Government, Bihar Government (now Jharkhand) & West Bengal Government totaling to Rs. 214 Crores (approx.) up to the year 1968-69
- b) 55% of the net profit which is transferred to General Reserve after charging adequate provision to the Sinking Fund for repayment of loan and
- c) 45% of the net profit which is distributable to the three participating Governments but ploughed back as capital in absence of direct capital forthcoming from 1969-70 as resolved by the Board of DVC each year which constitute of three representatives from the three Participating Governments.

In terms of the Section 30 of the DVC Act, the entire capital as above has been invested in the various projects which is reflected under the Head "Fixed Assets" in the Accounts of the Corporation. The Respondent has overlooked the statement of sources of fund and utilization as on 31.03.2004 (Annexure -VIII) as submitted in DVC's Petition No. 66/2005 dated 30.06.2006, which clearly explains how the net worth (equity) which comprises of capital and general reserves have been invested in the fixed assets of the power plants.

10 In reply to paragraph 5 (vii) it is stated that the respondent has challenged the wisdom behind the DVC Act, 1948 which statutorily stipulates that interest is payable on owner's net worth in addition to share of profit on the same. Such provision for remuneration both by way of interest as well as share of profit on the same capital is prevalent in other statutes viz. in the case of Partnership Act. The contention of the Respondent that the provision of the Section 38 has been misused is therefore misconceived.

11 In reply to paragraph 5 (viii) it is stated that the submission of the respondent that the profit earned by the Corporation during the year 2003-04 & 2004-05 are due to resultant effect of

illogical charging is also misleading and misconceived. In coming to the conclusion as contended by the respondent, the basic principles of accounting have been overlooked. The profit shown against the years 2003-04 and 2004-05 include a large portion of other income which mainly include non-operating income from interest earned in the process of one time settlement of SEB dues under the Securitization Scheme of Govt. of India. Therefore the respondent has made loose comments without going into detailed analysis and interpretation of the financial results of the Corporation as audited and certified by the C&AG.

- 12 In reply to paragraph 6 it is stated that DVC's overall tariff rates for Industrial consumers specially for Ferro Alloys Group having high LF & PF is the second lowest in the state of West Bengal. More over DVC could continue with the existing tariff without any upward revision since September 2000 through implementation of modern O&M practices resulting in gradual improvement of plant performance.
- 13 In reply to paragraph 7 it is stated that with the introduction of Electricity Act, 2003, DVC has been brought under the Regulatory regime. A licensee like DVC, with its field of operations spread over in two adjoining States does not come under the jurisdiction of a single Regulatory Commission.

From the beginning, DVC has drawn Ministry's attention about lack of clarity in the provisions of Electricity Act 2003 to deal with Regulatory affairs of a multipurpose organization like DVC constituted under the DVC Act, 1948. DVC has been pleading for fixing up an appropriate Regulatory Commission to be able to carry on its mandated functions under the DVC Act maintaining its independent identity and composite structure.

As per the direction of MOP, GOI dated 02.06.05; DVC has been placed under jurisdiction/control of three Regulatory Commissions viz. CERC – for Generation and Interstate Transmission, WBERC and JSERC – for Distribution and Intrastate Transmission.

DVC has submitted application to CERC on 10.06.05 registered as Petition No: 66/2005 for determination of tariff for sale of electricity and interstate transmission of electricity against CERC order dated 29.03.05 in line with the above direction of MOP, GOI.

- 14 In reply to paragraph 8 to 13 it is stated that DVC has submitted all the documents from time to time as per the direction of Hon'ble one member bench.
- 15 In reply to paragraph 14 it is stated that the respondent in their submission dated 03.08.2006 has contended that the order dated. 17.02.2006 of the learned one member bench was accepted by DVC and no appeal was preferred there from and practically the order was passed by the consent of DVC. The submissions of the respondent are misrepresentation and misleading and without any reference to the petition submitted by the petitioner i.e. Damodar Valley Corporation in response to the Order dated 17.02.2006. In this connection reference may also kindly be had to DVC's submissions below against Para 15 to 17.
- 16 In reply to paragraph 15, 16 & 17 it is stated that the petitioner submits that one member Commission was appointed to submit a report on factual aspects on the activities of the Petitioner to enable the full bench of the Commission to consider the legal and other aspects of the claims of the petitioner. These include aspects such as (a) the Debt Equity ratio (b) the expenses of the petitioners to be taken into account.

The Respondent has misrepresented the order of the Hon'ble Commission which had directed the Learned one Member Bench in terms of the order dated 18.10.2005 to make appropriate recommendations to the Commission for its consideration and appropriate decision on the issues arising for adjudication in connection with determination of tariff for the Generating Station and the Transmission Assets owned by the petitioner, Damodar Valley Corporation. The contention of the respondent in both the above mentioned paragraphs stating that the learned One Member Bench passed the tariff order is in departure from the factual contents of the order of the learned Commission and is misconceived and misrepresented.

The petitioner respectfully submits that the Hon'ble Commission may hear the matters in issue uninfluenced by the comments on the views of the Respondent.

- 17 The contents of paragraph 18 are matter of record and need no reply.
- 18 In reply to paragraph 19, 20, 24 to 38 it is stated that the submission of the respondent in these paragraphs that DVC sought to reopen all the issues in particular reference to Debt

Equity ratio and Pension Fund is also misleading and misrepresentation of the facts. A reference to the order of the learned one Member Bench dated. 29.05.06 will clearly reveal that the learned Commission authorized DVC to file its views/comments on the recommendations contained in the order dated. 05.05.06 which includes the issues brought out in the original Petition of DVC including Debt Equity ratio and Pension & Gratuity Fund.

As regards Pension & Gratuity Fund, the learned one Member Bench though admitted the creation of pension liability fund in Para 45 of the order dated 05.05.06 failed to make any specific recommendation on the amount of fund to be created in absence of actuarial valuation and Chartered Accountant's Certificate was not acceptable to the learned Bench. However, in the penultimate line of Para 45 of the order of the learned one Member Bench the present Pension & Gratuity Fund liability and Pension Relief both for existing Employees and Pensioners have been admitted to be accounted for to arrive at the reasonable O&M expenses for the Generating Station/Transmission System. The learned Bench has therefore very clearly allowed Pension & Gratuity Fund to be created and liabilities accounted for as distinct from the existing system of "Pay as you Go" method of Accounting.

It is submitted that the submissions have been considered and rejected by the learned Commission. There is no application for review of the said order dated 21.07.2006 filed by the applicant. Preliminary submission may be referred to.

It is respectfully submitted that the petitioner is not seeking any review of any order dated 5.5.2006 of the one Member bench. As final decision has not yet been passed by the learned Commission on the application of the petitioner, the question of filing any appeal does not arise.

The Learned Commission is not sitting on appeal or revising or reviewing any order passed by the one Member Bench. It is the recommendation of the one Member bench which is being considered after giving opportunity to all the parties for a final decision.

19 In reply to paragraph 21, 22, 39 & 40 it is stated that the Section – 47 states that the Accounts of the Corporation shall be maintained and audited in such manner as may, in

consultation with the Comptroller & Auditor General of India, be prescribed. Section – 59 (5) states that Central Government may by Notification in the Official Gazette make rules on the manner in which the Accounts of the Corporation shall be maintained and audited. Accordingly, the manner in which the Accounts and Budget of the Corporation shall be maintained and audited has been notified in the Damodar Valley Corporation Rules, 1948 vide Notification dated 23.04.1948 in the Official Gazette. Sections-19 to 33 of the Damodar Valley Corporation Rules, 1948 deal with the general Guidelines on maintenance and classification of accounts. Rule 21, in particular, states that in the maintenance of accounts and classification of charges, the objects served by the expenditure rather than the agency incurring the expenditure should be the Guiding Principles and the accounts shall be maintained subject to this general requirement. In terms of Rule 28, C&AG has been mandated to give direction and control in matters of audit of accounts. **Section 33, in particular thereof, clearly states that the Audit Officer shall be consulted before any modification is made in any form in which accounts are maintained, which therefore vests power to the C&AG to incorporate any modification in the manner in which the accounts shall be maintained.** Pursuant to these Rules and Powers given to C&AG, C&AG has directed DVC to provide for liabilities for retirement benefits viz. Pension & Gratuity and Leave Encashment based on Actuarial Valuation in terms of Accounting Standard – 15, copies of which has already been furnished as Annexure to the Supplementary Petition No.66/2005 dated 31.07.2006. The Respondent while making comments on the DVC Act and Rules has misinterpreted the law of the land without complete appreciation of the holistic purpose of the provision in letter and spirit and also ignoring the test of the time it has passed for more than five decades DVC has been operating.

- 20 The contents of paragraph 41 are wrong and are denied. DVC has not withheld any documentary information from the Learned Commission, as alleged or at all.
- 21 In reply to paragraph 42 to 49, in view of whatever have been stated above, no separate reply is required to these paragraphs. No interim relief, as prayed for, can be granted to the applicant.

The respondent has made observations without understanding of the Accounting principles and method of computation of Return on Equity. Return on Equity as allowed by CERC @

14% p.a. Post-Tax represents net profit expressed as a percentage of Equity (Net-worth) component of Gross Fixed Assets whereas Gross Margin percentage represents Gross Margin as a percentage of Sales. Thus comments of the Respondent with comparison of two different financial ratios are misleading.

**BEFORE THE HON'BLE CENTRAL ELECTRICITY REGULATORY
COMMISSION, NEW DELHI**

IN

PETITION NO: 66 OF 2005

In Re:

Damodar Valley Corporation	Petitioner
Vrs.		
Government of West Bengal & Others	Respondents

**Reply on behalf of the Petitioner to the Application for Objection
filed by M/s. Bhaskar Shrachi Alloys Ltd. & others on 8.8.2006**

Most Respectfully Sheweth:

1. In reply to contents of the paragraph 1 to 4 (a) it is stated that the submissions of the objectors are misleading and irrelevant and attempt to divert the main issue, which has been raised by the petitioner. By an order dated 21.6.2005 the Commission directed DVC to give notices inviting suggestions from public and it was also suggested inter-alia that “The petitioner (DVC) shall continue to charge the tariff as applicable on 31.3.2004 on provisional basis, till further order, which shall be subject to the tariff that may be finally determined.” And as such the question of implementation of order dated May 5, 2006 is irrelevant and without any justification.
2. In reply to Paragraph 4 (b), (c) & (d) it is stated that the petitioner has given sufficient grounds in its earlier petitions submitted to the Hon’ble Commission. The creation of pension and gratuity funds for existing employees and pensioners of DVC is a statutory obligation, which emanates from the following:
 - a) As mandated by C&AG, who is authorized to do so under the Damodar Valley corporation rules, 1948 as notified on 23rd April 1948, in the Gazette by the Central Government under Section 59 of the DVC Act, 1948 and read with Section 47 which deals with the manner in which the Accounts and Audit would be maintained and authority of the C&AG under the Act.

b) Section 48 of the DVC Act 1948 empowers Central Government to direct the Corporation by such instructions on questions of policy as may be given to it.

The Ministry of Power, Government of India vide letter No.13/6/2004-DVC dated 8.8.2006 has issued directions to DVC to provide for the Gratuity, Pension, Leave Encashment etc. if not already done in respect of its existing employees and pensioners to meet the statutory obligations.

The objector has also furnished false information to the Hon'ble commission by contending that the report of M/s. A.F. Ferguson & Co, which includes recommendation for adaptation of AS - 15, has not been approved by the DVC Board. In fact, the same recommendation was approved vide resolution No. 7377 (item No.14) in the 566th Meeting of the Corporation held 31st August 2005.

3. In reply to paragraph 4 (e) it is stated that the submission of the objector is again misleading on the ground that no tariff order has yet been passed nor the learned one Member Bench has been authorized to do so by the Hon'ble Commission. This is blatant lie mentioned by the petitioner to mislead the Commission and create confusion. At no place such instruction has been passed as indicated.
4. In reply to paragraph 4 (g) it is to state that by making un-warranted comments in this paragraph, the objector has attempted to encroach into the authority of the Hon'ble Commission which is placed for kind attention of the Commission for appropriate action. It appears that the petitioner in this paragraph has sat himself on the issue and delivered judgement on behalf of the Commission. It indicates that the petitioner is in hurry and twist the order to get a favourable verdict.
5. In reply to paragraph 4 (h) it is to state that by quoting the selected provisions from AS -15 the objector has attempted to confuse and mislead the learned Commission. The pension and gratuity fund as required to be now created by DVC should be adequate to ensure availability of enough cash-flow therefrom, so that the pension disbursement after retirement to the pensioners on future dates can be serviced with out any chance of default. The acturist as per its own approved methodology has evaluated the total amount of fund required as on 31st March 2006 for ensuring necessary cash flow for payment of pension liabilities to the existing employees as well as pensioners on the future dates. In respect of existing employees, the fund amount as

assessed by the acturist represent discounted cash-flow of their future pension liabilities after scheduled retirement as already earned by them for the services rendered. In respect of the existing pensioners of DVC, the fund amount represents the discounted cash-flow of future pension liabilities of the Corporation after considering normative criteria. Thus, creation of pension and gratuity fund being a cash-flow oriented issue, the number of installments in which the fund may be created purely depends on the criteria that there should not be any short fall in fund at any point of time on a future date. DVC has therefore, prayed before the Hon'ble Commission after taking into consideration the dynamics of the cash-flow requirements, that the number of annual installments should not be more than five, considering the likely variation arising out of pay revision for which the 6th Pay Commission has already been constituted by the Government of India, which will be applicable to the DVC employees suo- motu. This apart, deferment of creation of full amount of pension and gratuity fund will also tend to increase the compounded interest incidence thereon which will increase the future burden of the consumers. This goes against the letter and spirit of the Tariff Policy vide paragraph 5.3 (h) (4), which says that un-controllable costs should be recovered speedily to ensure that future consumers are not burdened with past costs. The objector by making selected references to the provisions of the accounting of AS - 15, has made an attempt to hoodwink the Hon'ble Commission by suppressing the above mentioned provisions of the Tariff Policy by dint of which DVC is required to create the pension and gratuity fund in minimum number of installments and therefore AS - 15 need to be read with the mandate of the Tariff Policy. In other words while the AS - 15 provides the general guidelines covering all the industries, the Tariff Policy is suo - motu applicable to the power sector in particular.

6. In reply to paragraph 4 (i) (1 to 4) it is to state that the objector has misquoted and twisted the data in such a fashion to have a favourable judgement from the Commission instead of giving a legal point he had tried to manipulate the data given in the Annual Report of DVC. The objectors by doing so have actually endorsed the actuarial valuation made by the acturist, who is the fellow of the Institute of Actuaries, UK and also fellow of Actuarial Society of India. In terms of the Actuary's Certificate, the fund to be created amounts to Rs.1,708 crores approx. as on 31st March 2006.
7. In reply to paragraph 4(i) (5) it is to state that formulation of this paragraph is totally irrelevant and un-called for. The function of the DVC has been clearly mentioned in DVC Act as such the issue requires to be seen in totality and cannot be taken as an isolated manner as indicated in

this paragraph. Moreover, DVC is continuing since 1948 and cannot be compared with a PSU that came into existence from 1975.

8. In reply to paragraph 4 (i) (6) it is to state that the submission of the objector in this paragraph is also an attempt to mislead the learned Commission by suppressing the fact that power generation, transmission and distribution are beneficiaries of the non-power activities. Based on this rationale, the cost of common services including pension and gratuity liabilities are also allocated to power by way of two tier distribution once at primary level and subsequently at secondary level which have been amply clarified in the last petition no.66/2005 dated 31.7.2006.
9. In reply to paragraph 5, 6 & 7 it is to state that the submissions of DVC in this regard have already been filed in our petition No.66/2005 made on 31st July 2006.
10. In reply to paragraph 8, 9 & 10 it is to state that the contentions of the objector in this paragraph are again an encroachment in to the authority of the Hon'ble CERC with an attempt to un-duly influence the tariff order of the learned Commission.
11. In reply to paragraph 11 it is to state that the objector has mentioned the order dated July 14, 2006 but, has failed to enclose the copy of the order dated 14.7.2006. In fact, hearing and the argument was made on 14th July 2006 and the order was passed on 21st July 2006. This indicates that the respondent had tried to confuse the commission by giving wrong information in this regard.

In this connection it is further submitted that the defendant had made an annexure, the opinion of Shri Umesh C. Bannerjee, former Chief Justice of High Court of Andhra Pradesh and former Judge of Supreme Court of India with a view to influence the commission only. Though the opinion has been given for his personnel guidance and has been forbidden by Hon'ble former justice not to be placed before any Court of Law, but the same has not been followed, rather it has been made an annexure. So this cannot be treated as a valid document or opinion to decide this issue by the Commission and hence the Corporation refrains from making any comment on that.

ADDITIONAL SUBMISSION ON

❖ DEBT EQUITY RATIO

CERC, vide Notification dated 21.12.2000, decided that for determination of tariff the debt equity ratio will not be considered retrospectively. The Hon'ble One Member Bench has also considered the actual GFA as on 31.3.04 as the basis for arriving at equity capital. It means that the actual capital structure of DVC as on 31.3.04 as the opening COD in respect of the old projects of DVC taken together and commissioned prior to the year 2000 has been considered by CERC. The DVC's net worth (equity component) as on 31.3.04 constituted the following:

Capital Account of the owner Govts.	- Rs.1105.40 Cr.
Reserves	- Rs.1759.17 Cr.
Total	- Rs.2864.57 Cr.

In terms of the various provisions of the DVC Act, DVC has prayed before the Hon'ble Commission for allowing return on actual net worth as belonging to the participating governments' viz. Central Govt., Bihar Govt. (now Jharkhand) & West Bengal Govt. DVC has also further prayed that normative principle can not be made applicable for determination of equity component of gross fixed assets due to its unique characteristic of capital composition which has strictly statutory in terms of DVC Act, 1948. The DVC Act has mandated an Equity oriented Capital Structure in terms of Sec.30 of the DVC Act. This Equity oriented structure is intended to ensure minimum exposure of DVC to financial risk due to unique statutory function which largely serves Public Interest.

For the same reason, the Act has also restricted Borrowing for projects to be minimum in terms of both Sec 31 and 42, where the borrowing amount is limited to deficit in Equity Fund (instead of any norm) and that too requiring Borrowing approval from Govt. of India in addition to approval by the DVC Board.

It is, therefore, prayed before the Hon'ble Commission to allow on actual basis both Capital and Reserves of Rs.2864.57 Cr. as equity component of gross fixed assets of Rs.3543.65 Cr. as on 31.3.04. On the above basis, the return on equity component of COD as on 1.4.04 @ 14% p.a. Post Tax works out to Rs.401.04 Cr. DVC has obtained legal opinion in this respect and a copy of the same has already been submitted as an Annexure-I of the petition submitted on 31.7.06.

❖ **ESCALATION OF O&M EXPENDITURE**

CERC Regulation has allowed escalation in successive years in O&M expenditure per MW for the tariff period 04-09 which has not been considered by One Member Bench for Thermal Plants of DVC. The Hon'ble One Member Bench, in his order, has disallowed this escalation on the ground of possible savings from rationalization of man-power by way of redeployment or by offering VRS Scheme. DVC who has historic background emerging from rehabilitation on account of its past projects, a large proportion of man-power who do not have technical and engineering background cannot be redeployed in new projects. Thus rationalization of man-power of DVC will follow natural attrition. In the last petition dated 31.7.06. DVC has submitted table for the portion of actual increase in O&M expenditure which are of revenue nature to restore the Plant from outages during the years 03-04, 04-05 & 05-06 based on audited accounts for three thermal stations viz. CTPS, BTPS, DTPS. This apart, the composite package for Capital Expenditure towards major repair has been proposed for a tune of Rs.655 Cr. in the submission dated 30.06.2006. Till the major repair works of the old units of DVC are completed the number of forced outage hours is to a large extent uncontrollable by DVC and, therefore, emergency repair to restore operation of plant will be required and being of routine nature the same has been booked under the revenue of O&M expenditure. It is, therefore, proposed that there should not be any normative ceiling of the O&M expenditure of DVC till the old units are repaired fully with major repair works and restored from the year 2008-09. Further, DVC employees are paid at par with the Pay Scale of Central Govt. employees. As per the Central Pay Commission's recommendation of merger of 50% of DA with Basic Pay as dearness pay with effect from 1.4.04 has also resulted in escalation of O&M expenditure.

DVC, therefore, has prayed before the Hon'ble Commission for escalation in O&M expenditure as per actual on account of increase in normal pay as well as consumption of stores and spares for repair of old units of DVC till the year 07-08.

❖ **INTEREST ON CAPITAL:**

As per the provision of Sec.38 of the DVC Act, Corporation shall pay interest on the Capital provided by each participating governments and at such rates as may from time to time be fixed by the Central Govt. and as per Sec.37(1) of the DVC Act stipulates DVC for disposal of profit to the owners Governments. In this connection, it is worth mentioning that the same Capital Investment amount of the owner's government is a perpetual nonrefundable loan on one hand and perpetual Equity on the other hand and the DVC Act has also no provision of Capital reduction. On this platform, the remuneration on Capital is partly as interest and partly has returned on Equity. In strict consonance, both the interests on Capital as well as the profit as explained above are required to be paid to the owner's Government.

In the background of the DVC Act and DVC's unique nature of Capital as distinct from the Companies governed under the Company Act 1956, the tariff of DVC merit consideration of interest as payable on Capital for the owners Government.