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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 263 New Delhi, 9 September 2014

NOTIFICATION

This Authority, in exercise of the powers conferred on it under Section 48 of the Major Port Trusts Act, 1963, had disposed of the proposal received from the Bharat Petroleum Corporation Limited (BPCL) for general revision of its Scale of Rates, in the Meeting of the Authority held on 4 August 2014. However, considering the time required for notifying (Speaking) Order along with the Scale of Rates, approved by this Authority and considering that the revised Scale of Rates is based on the financial / cost position of the BPCL for the period of 18 months from 01 October 2014 to 31 March 2016, this Authority decided to notify only the revised Scale of Rates immediately. Accordingly, the Scale of Rates so approved were notified in the Gazette of India on 19 August 2014 by an Order dated 4 August 2014 vide Gazette No.242. Further, it was stated in the said Notification dated 19 August 2014 that this Authority will notify the Order, in due course of time. Accordingly, this Authority hereby notifies the reasoned Speaking Order connected with disposal of the proposal of the BPCL for general revision of its Scale of Rates as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/68/2012-BPCL

Bharat Petroleum Corporation Limited - - - - Applicant

QUORUM

(i). Shri. T.S. Balasubramanian, Member (Finance)
(ii). Shri. Chandra Bhan Singh, Member (Economic)

O R D E R

(Passed on this 4th day of August 2014)

This case relates to a proposal received from Bharat Petroleum Corporation Limited (BPCL) for general revision of its Scale of rates.

2.1 The existing Scale of Rates of the BPCL was last revised vide Order dated 3 September 2010. Vide the said Order, the then existing Wharf Management charges were increased by 36.82%, pipeline pigging etc. were increased by 50.36% and an across the board increase of 6.78% in the then existing wharfage rates was granted and status quo in the bunkering activity was maintained. The validity of the SOR prescribed in the said Order was till 31 March 2013.

2.2. In exercise of the powers conferred by Sections 48, 49 and 50 of the Major Port Trust Act, 1963, this Authority had passed a Common Order in September 2008 refining / clarifying certain areas of the approach / practice followed in tariff setting exercise of major port trusts and private terminals thereat. In the said Order, the major port trusts and private terminals are, inter alia, required to file their tariff proposals by 30 June of the financial year in which tariff revision falls due. Since the validity of the Scale of Rates of BPCL fixed in September 2010 fell due in 2012-13, the BPCL was required to submit its proposal for revision of its tariff by 30 June 2012.

2.3. Accordingly, the BPCL was reminded in this regard well in time vide our letter No.TAMP/39/2005-Misc dated 7 May 2012. In response, the BPCL vide its letter dated 25 June 2012 requested for time till 15 August 2012 to file its proposal for revision of its tariff on the ground that it wanted to include a new tariff item to operate the LPG cryogenic facilities at its jetty. The BPCL was allowed time, as requested by it, to file its proposal.

2.4. Since the BPCL did not file its proposal by 15 August 2012, the BPCL was again advised to file its proposal vide our letter no. TAMP/39/2005-Misc dated 30 August 2012. In response, the BPCL vide its letter dated 4 September 2012 by stating that it would not be able to submit the proposal within the stipulated time period, requested time till 30 September 2012. The request of the BPCL was acceded to and the position was communicated to BPCL vide our letter dated 21 September 2012. In response the BPCL vide its letter dated 27 September 2012 by pleading their inability to submit their proposal due to half yearly closing, requested an extension for 20 more days.

3.1. In this backdrop, the BPCL under cover of its letter No. BPCL/JNP/OPS dated 16 October 2012 filed its proposal for general revision of its Scale of Rates. However, on a preliminary scrutiny of the proposal, it was seen that the BPCL did not furnish its proposed draft Scale of Rates. In this regard, it is relevant here to mention that Clause no.3.2.4 of the tariff guidelines of March 2005, *inter alia,* stipulates to circulate the revised proposed tariff to the users. Since the BPCL had not furnished the proposed draft Scale of Rates, it was not found possible to circulate an incomplete proposal without the proposed draft Scale of Rates to the users.

3.2. In view of this, we had vide our letter dated 29 October 2012 requested the BPCL to furnish the proposed draft Scale of Rates and the audited Annual Accounts for the years 2009-10 to 2011-12. The BPCL was also informed that the proposal dated 16 October 2012 filed by the BPCL would be taken up for further processing only after receipt of the requisite documents.

3.3. In response, the BPCL vide its letter dated 19 November 2012 furnished only the changes proposed in the Scale of Rates in a tabular form and not the complete proposed draft Scale of Rates i.e., alongwith conditionalities.

3.4. The BPCL was once again requested vide our letter dated 4 December 2012 to furnish its proposed draft Scale of Rates alongwith the governing conditionalities. The BPCL was also requested to furnish all revenue and capital transactions pertaining to the Liquid Cargo Jetty at JNPT duly certified by a practicing Chartered Accountant along with the audited Annual Accounts for the years 2009-10 to 2011-12 of the Company as a whole.

4.1. The BPCL vide its letter dated 12 February 2013 furnished the certified statement/s showing Income & Expenditure and Capital Employed for the year 2009-10 to 2011-12. However, the BPCL did not furnish the draft Scale of Rates as was requested earlier. Further, it was seen from the documents furnished by the BPCL that-

(i) In the Income & Expenditure statement the BPCL furnished the consolidated figure of Total Income for each of the years 2009-10, 2010-11 and 2011-12 and did not furnish the breakup of total income.

(ii) With reference to the statement of capital employed at BPCL Jetty, the BPCL furnished the data in the form of three tables but did not mention the year to which each of the table pertains to.

(iii) The BPCL did not furnish the audited Annual Accounts for the years 2009-10 to 2011-12 of the Company as a whole, as requested by us earlier.

4.2. In the meanwhile, the BPCL under cover of its letter dated 18 February 2013 furnished its proposed draft Scale of Rates.

4.3. On receipt of the proposed draft Scale of Rates, the proposal of BPCL was taken up on consultation with the Jawaharlal Nehru Port Trust (JNPT), being the Licensor port and the relevant users/ user organisations.

5. The main submissions made by the BPCL in its proposal dated 16 October 2012 are summarised below:

(i). The proposal is for the tariff cycle 2013-14 to 2015-16.

(ii). The actual traffic for the years 2009-10 to 2012-13 and estimated traffic for the years 2013-14 to 2015-16, as furnished by the BPCL, is given below:

Years	Traffic (in MT)
2009-10	64,99,886
2010-11	65,88,900
2011-12	65,00,722
2012-13	57,15,064
2013-14	57,48,400
2014-15	57,56,100
2015-16	58,03,100

(iii). The estimated financial/ cost implications at the existing level of tariff as shown in the consolidated income and cost statement furnished by the BPCL are summarised below:

(₹ in lakhs)

Sl. No	Particulars	At existing tariff		
		2013-14	**2014-15**	**2015-16**
(i).	Traffic (in MTs/TEUs)	5,748,400	5,756,100	5,803,100
(ii).	Operating income	3,750.55	3,759.72	3,790.32
(iii).	Net surplus / deficit	-2,420.70	-2,443.28	-2,359.24
(iv).	Net deficit as a percentage of operating income	-64.54%	-64.99%	-62.24%
(v).	Average net deficit as a percentage of operating income	-63.92%		

(iv). The BPCL has sought an across the board increase of 63.92% over the existing rates.

(v). The BPCL is seeking revision in the following categories of charges:
- (a). Wharfage
- (b). Wharfage Management
- (c). Loading Arm
- (d). Pipelines charges
- (e). Use of Compressor
- (f). Use of Vaporiser
- (g). Hard Pigging
- (h). Soft Pigging
- (i). Liquid Nitrogen
- (j). Bunkering services through pipeline
- (k). Fresh water – Coastal vessel
- (l). Fresh water – Foreign vessels

(vi). The BPCL has proposed to introduce a new tariff item viz. wharfage for LPF cryogenic facility.

6.1. While acknowledging the proposal vide our letter dated 27 February 2013, the BPCL was requested to furnish the Income and the Expenditure statement showing complete details of total Income under various heads for the years 2009-10 to 2011-12 instead of the consolidated figure of the total income. The BPCL was also requested to confirm that the statement of Capital employed at BPCL jetty furnished by it under cover of its letter dated 12 February 2013 is with reference to the years 2009-10 to 2011-12. The BPCL was also requested to furnish the audited annual accounts for the years 2009-10 to 2011-12 for the company as a whole.

6.2. The BPCL vide its letter dated 23 March 2013 has furnished product wise income statement as requested vide our letter dated 29 October 2012 and 27 February 2013.

6.3. The BPCL vide its letter dated 23 March 2013 had responded only with reference to the details of the total income. The BPCL was, therefore, again requested vide our letter dated 2 May 2013 to confirm that the statement of Capital Employed at BPCL jetty furnished by BPCL under cover of its letter dated 12 February 2013 is with reference to the years 2009-10 to 2011. Also, the BPCL was requested to furnish copy of the Audited Annual Accounts for the years 2009-10 to 2011-12 of the Company as a whole.

Further, since the financial year 2012-13 was already over, the BPCL was requested to furnish all revenue and capital transaction pertaining to the Liquid Cargo Jetty at JNPT duly certified by a Chartered Accountant alongwith the audited Annual Accounts for the year 2012-13 for the Company as a whole.

6.4. In response, the BPCL vide its letter dated 24 May 2013 has furnished the statement of capital employed at BPCL related to the financial year 2009-10 to 2011-12 and financial document of the company as a whole for the period 2009-10 to 2011-12. Further, the BPCL has stated that annual expenditure account and statement of capital employed at BPCL jetty for the financial year 2012-13 is under process and the same would be submitted soon.

7. In accordance with the consultative procedure prescribed, the proposal of BPCL vide its letter dated 16 October 2012 and 18 February 2013 was forwarded to the licensor port JNPT as well as to the concerned users/ user organizations seeking their comments. The comments received from the users were forwarded to BPCL as feedback information. The BPCL has furnished its comments on the comments of some of the users.

8.1. Based on the preliminary scrutiny of the proposal, the BPCL was requested to furnish additional information/clarifications on various points vide our letter dated 18 June 2013. The BPCL vide its letter dated 16 September 2013 has responded. While responding to the queries, the BPCL has revised its proposal. The queries raised by us and the response of the BPCL are tabulated below:

Sl. No.	Queries raised by us	Response of BPCL
A.	**GENERAL:**	
(i).	In respect of Sl.No.3 of Form -1, BPCL has stated that its pricing strategy is cost based. BPCL to bring out the impact of the anticipated improvement in the productivity and on the unit price.	BPCL pricing strategy is cost based. The hike in tariff is to provide sufficient surplus to sustain and maintain the level of services being provided and also to improve safety and environmental measures.
(ii).	The tariff guidelines of 2005 stipulate that tariff should be linked to benchmark of the levels of productivity. The BPCL at Sl. No. 6 of its Form – 1 has furnished the details relating to the current performance, which is nothing but capacity utilization. It has, however, not furnished the details about the targeted objectives for productivity enhancement measures. The BPCL to furnish the requisite details. Such benchmark in the level of productivity may be included in the Scale of Rates as a conditionality governing the respective tariff items.	BPCL has following facility; (a). The BPCL jetty is used by private tank farm operator. (b). Loading Arm-used for petroleum products excluding crude oil, oils and chemicals. (c). BPCL Pipeline users are less than 5% of POL users (Mostly BPCL and IOC). All other user have their own pipeline extending to the water front at berth. BPCL cannot influence the discharge rates at cargo which is dependent on ship pumping rate, pipeline diameter, and storage capacity. BPCL also cannot influence the loading rate for cargo since shore pump are operated by the respective tank farm operators. Berth availability is governed by queuing and discharge rate at berth which are not under BPCL control. BPCL cannot guarantee berth availability since it does not have total control over berthing norms, which are formed by JNPT. Under the circumstances, the best measure of efficiency is the capacity utilization.
(iii).	Since the financial year 2012-13 is already over, the BPCL to furnish the following: (a). Provisional annual accounts for the year 2012-13, if audited annual accounts are not available.	(a). BPCL has furnished audited financial statement for the year 2012-13.

(b). The Income & Expenditure statement reflecting the actuals for the year 2012-13 relating to the BPCL Liquid cargo jetty, duly certified by a Chartered Accountant.

(b). BPCL has furnished Certified Income Expenditure statement for the year 2012-13 relating to BPCL Liquid Cargo jetty.

₹ in Lakhs

PARTICULARS	2012-13
Income (A)	
Total Income	3700.30
Less : Royalty paid to JNPT	1,219.75
Net Revenue	**2480.55**
Expenditure (B)	
Employee Cost	100.04
Travel Cost	17.50
Repair & Maintenance	118.48
Jetty Operating Cost	211.21
Electricity & Water Charges	57.71
Security Charges	187.33
Communication Expenses	0.61
Courier Postal expenses	0.09
Printing & Stationery	0.77
Insurance Cost	7.83
Rent	27.01
Other Admn Expenses	14.59
Depreciation	1,466.70
MGT Charges	281.67
Total Expenditure	**2,491.54**
Profit/(Loss) (A-B)	**(10.99)**

(c). Statement of Capital employed at BPCL jetty reflecting the actuals for the year 2012-13, duly certified by a Chartered Accountant.

(c). BPCL has furnished certified statement of capital employed at BPCL jetty reflecting the actual for the year 2012-13.

Class	Description	₹ Lakhs		
		Acquis. Val.	Accum. Dep.	Book val.
2022	Building-General	87.90	(0.52)	87.38
3031	Plant & Machinery	877.84	(434.66)	443.18
3039	P & M < ₹5000/-	0.12	(0.12)	-
3066	Jetties & Dry Docks	10,510.46	(5,574.96)	4,935.50
3132	Tank & Pipelines	11,294.46	(1,969.45)	9,325.02
5041	Furniture General	10.85	(3.78)	7.06
5051	Refrigeration Plant	0.71	(0.09)	0.62
5052	Aircon Machinery	6.67	(0.49)	6.18
7089	Vehicle < ₹5000/-	0.07	(0.07)	-
8142	Office Equipment	15.86	(5.10)	10.76
8143	Mobile Phones	0.17	(0.16)	0.01
8153	Electrical Eqmt	264.59	(106.35)	158.24
8154	Sundry Mech. Eqmt	113.08	(60.64)	52.44
8155	Multi Media Eqpts	82.77	(35.63)	47.14
8158	IT Asset	4.44	(2.58)	1.86
8162	Fire Fighting Eqmt	2,200.96	(369.23)	1,831.74
8163	Sundries < ₹5000/-	0.04	(0.04)	-
	Total	**25,470.99**	**(8563.86)**	**16,907.13**

(d). to review the estimates for the years 2013-14 to 2015-16 based on the actuals for the year 2012-13, if required, and submit its revised proposal in the prescribed formats.

(d). The BPCL does not feel the requirement to revise the estimates for the period 2013-14 to 2015-16, on the basis of certified income expenditure for the year 2012-13.

(iv).	Rebates and discounts, it any, over the notified ceiling tariff, allowed by BPCL during the years 2010-11 to 2012-13 to be furnished year wise.	BPCL has not allowed any rebates and discount over the notified ceiling tariff during the years 2010-11 to 2012-13.
(v).	It may be recalled that the BPCL in September 2012 had approached this Authority for fixation of tariff for handling LPG at JNPT liquid cargo jetty and had envisaged to adopt the rates prevailing at Jawahardweep on adhoc basis. Since the proposal filed by BPCL was neither supported by any costing nor was any document furnished by BPCL reflecting the consent of the users, as stipulated in Clause 2.17.1 to 2.17.3 of the tariff guidelines of 2005, the BPCL was requested vide our letter no.TAMP/56/2012-BPCL dated 17 September 2012 to file a proposal in compliance with the tariff guidelines of 2005. Subsequently, we did not hear from BPCL. Now, the BPCL in its general revision proposal have stated that it has commenced with the new facility of LPG and that the rate of ₹60 per MT prevailing at Jawahar Dweep has been taken as per the guidelines. It is also seen from the cost statement that it has handled LPG from 2011-12 onwards. In this connection, the BPCL to:	
	(a). Clarify whether the action taken by it to implement the prevailing rate at Jawahardweep as the rate for the LPG to be handled at the Liquid cargo jetty is in line with clause 2.17.1 to 2.17.3 of the tariff guidelines of March 2005.	(a). BPCL has taken the rate prevailing at Jawahar Dweep as the rate for handling LPG at our jetty. As per clause 2.12 of tariff guidelines of March 2005, when new facility is commissioned initial tariff shall not exceed the tariff at same port for comparable facilities. If such comparison is not available, prevailing tariff at comparable nearby port will be considered as the reference level. The initial tariff so adopted will be valid for the first year of operation where after revised tariff will be fixed based on the admissible cost and investment of the private operator. Hence, the BPCL have taken the rate prevailing at Jawahar Dweep for LPG and subsequently have submitted their proposal for revision of tariff.
	(b). Furnish the date of commencement of the LPG facility.	(b). The date of commencement of LPG facility is 30/01/2012.
	(c). Furnish a copy of the trade Circular that would have been issued by the BPCL to the trade in this regard.	(c). BPCL has furnished copy of Trade Notice dated. 24.02.2012. The Trade Notice states that the LPG Cryogenic facility has been completed and that the first vessel MT MAERSK HONOUR will be handled on 07.03.2012.
	(d). As stipulated in the guidelines, furnish workings along with the cost elements to arrive at the proposed rate of ₹60 per MT and also furnish the consent of the users.	(d). In connection with consent of current user it is stated that currently only BPCL is the user of LPG facility. The BPCL has arrived at proposed rate of 60/MT by adopting the rate prevailing at nearby Port Jawahar Dweep.

<table>
<tr><td></td><td>It may be noted that in case of non-compliance to the stipulation contained in the tariff guidelines of 2005, this Authority may not be in a position to accord retrospective approval to the rate levied for the LPG facility on adhoc basis.</td><td></td></tr>
<tr><td>B.</td><td><u>Comparison of actuals vis-à-vis estimates provided earlier</u>:</td><td></td></tr>
<tr><td></td><td>Clause 2.13 of the tariff guidelines of 2005 requires this Authority to review the actual physical and financial performance at the end of the prescribed tariff validity period with reference to the projections relied upon at the time of fixing the prevailing tariff. In this context and with reference to Form – 7 of the tariff proposal filed by BPCL, the BPCL to clarify/ furnish the following:</td><td></td></tr>
<tr><td>(i).</td><td>In the Form – 7, the BPCL has compared the estimates of the years 2009-10 to 2011-12 with the actuals for the said period. It may be recalled that during the general revision of BPCL in September 2010, the estimates for the years 2010-11 to 2012-13 have been relied upon. Therefore, the Form – 7 may be modified by excluding the comparison for the year 2009-10 and instead including the comparison of actuals vis-à-vis estimates for the year 2012-13. The BPCL also to furnish reasons for variation in the actuals vis-à-vis estimates in each of the parameters contained in the cost statement.</td><td>In connection with inclusion of financial year 2012-13 and exclusion of financial year 2009-10 from Form no 7 it is stated that the same has been done. The reasons for variation between actual vis-à-vis estimates are as under;

Financial Year 2010-11
<u>(a).Increase in throughput by 20.13%</u>

The main reason for increase in throughput by 20.13% was better throughput performance from estimated throughput of Edible Oil, MEG and Furnace Oil. The statement is furnished in tabular form:

<table>
<tr><th colspan="4">Statement of Actual Vis a Vis Estimate Throughput comparison for 2010-11</th></tr>
<tr><th>S. No.</th><th>Product</th><th>Estimated Throughput</th><th>Actual Throughput</th></tr>
<tr><td>1</td><td>Edible Oil</td><td>600000</td><td>843669</td></tr>
<tr><td>2</td><td>MEG</td><td>120000</td><td>392305</td></tr>
<tr><td>3</td><td>Furnace Oil</td><td>100000</td><td>608570</td></tr>
<tr><td colspan="2">Total</td><td>820000</td><td>1844544</td></tr>
</table>

<u>(b).Increase in Total Operating Income by 24.18%</u>

Better throughput performance of Edible Oil, MEG and Furnace Oil had resulted in increase in total Operating Income by 24.18% as compared to the estimated operating income.

<u>(c).Increase in actual Overhead by 191.74% as compare to estimated Overhead</u>
In financial year 2010-11, the overhead has increased by 191.74%. The main factor for this increase is rent expense. In current financial year, the company has paid Rent of ₹383.47 lacs. This can be verified from audited financial statement that in this year company has paid excess rent as compared to other year since company has paid past arrears of Rent to JNPT.</td></tr>
</table>

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<tr>
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<td><u>(d).Actual Capital Employed is lesser as compare to estimated Capital Employed by 22%</u>

The company has incurred expenditure on LPG project, and firefighting facility during the year, however, same were under work in progress. The same was capitalized in Financial Year 2011-2012. Hence, there is a difference between actual and estimated capital employed.

<u>Financial Year 2011-12</u>
<u>(a).Increase in operating Income by 27.15%</u>

Increased throughput of Edible Oil, MEG, and Crude Oil, as compared to the estimated throughput had resulted in increase in operating income by 27.15%. The increase in throughput has resulted in increase in operating income.

(b).<u>Actual Capital Employed is more as compared to estimated Capital Employed by 62.51%</u>

As explained above, in current year LPG project was commissioned. Further, the firefighting facility was also capitalized in same year.

<u>Financial Year 2012-13</u>
<u>(a).Actual Operating Surplus lesser as compare to estimated surplus by 49.05%</u>
Increased CISF cost which is included in other expenses increased which resulted in increase in overhead. Further, due to more capital employed, actual depreciation is also increased from estimated depreciation. Hence, there is decrease in operating surplus by 49.05%.</td>
</tr>
<tr>
<td>(ii).</td>
<td>In Form – 7, the estimates considered by BPCL for the years 2010-11 and 2011-12 do not match with the projections for the years 2010-11 and 2011-12, relied upon in the Order of September 2010. The BPCL to modify the Form – 7 so as to capture the estimates considered in the tariff Order of September 2010 for the years 2010-11 and 2011-12.</td>
<td>BPCL has considered the estimated figure as considered in the tariff Order of September 2010 for the financial year 2010-11 to 2012-13.</td>
</tr>
<tr>
<td>(iii).</td>
<td>This Authority had granted an increase of 36.82% in the then existing rate prescribed for the wharfage management activity, an increase of 50.36% in the then existing rates prescribed for the activity of providing pipeline services, compressor, hard pigging, foam pigging, liquid nitrogen and vaporizing charges etc. The BPCL to update the estimated income for the years 2010-11 to 2012-13 as reflected in the Cost statement of BPCL, forming part of the Order of November 2010, so as to give effect to the increase in the estimated income considered in the said Order.</td>
<td>BPCL has updated the estimated income for year 2010-11 to 2012-13 as reflected in cost statement of BPCL forming part of order of November 2010. The Tariff in said order was increased by 6.785% and accordingly, we have increased the estimated income by 6.78% for the Financial Year 2010-11 to 2012-13. The BPCL has furnished the working which is tabulated below:
<table>
<tr><th>S. No.</th><th>Year</th><th>Estimated Income as per cost statement filed in last proposal</th><th>Estimated Income based on increased tariff</th></tr>
<tr><td>1</td><td>2010-11</td><td>2917.34</td><td>3115.14</td></tr>
<tr><td>2</td><td>2011-12</td><td>3009.04</td><td>3213.05</td></tr>
<tr><td>3</td><td>2012-13</td><td>3295.87</td><td>3519.33</td></tr>
</table>
</td>
</tr>
</table>

(iv).	The BPCL to furnish a statement reconciling the actuals considered in the cost statements with the actuals reported in the certified Income and Expenditure Account in respect of operating expenses, management and general overheads and depreciation for all the years 2010-11 to 2012-13. The BPCL to furnish a statement reconciling the profit reflected in the certified Income and Expenditure Account and the net profit before return as per cost statements for the years 2010-11 to 2012-13.	BPCL has furnished reconciliation statement between actual considered in cost statement with actual reported in certified Income Expenditure account in respect of operating expenses, Management and General O/h for the years 2010-11 to 2011-12.The reconciliation statement contain the head wise bifurcation of each of activity. The BPCL have furnished revised cost statement based on auditor's certification hence, depreciation in both the statements is same. (The BPCL is seen to have furnished the Reconciliation statement for the year 2010-11 and 2011-12 only.)
(v).	BPCL has shown the royalty payment made to JNPT as an item of cost in the Cost statement for the years 2010-11 to 2015-16. In this regard, it may be recalled that for the reasons brought out at para 10(iv)(j) of the tariff Order of September 2010, the royalty payment made by BPCL to JNPT was not allowed as a pass through. The BPCL has also not made a mention about any direction received by it from the Government on the royalty issue. If the Government has not issued any direction, then this Authority may have to continue with the approach adopted by it earlier of not allowing the royalty payment as an item of cost in case of BPCL. Reference is also drawn to the letter No. TAMP/26/2006-(BPCL) JNPT dated 10 May 2007 wherein it has been made clear that without the clarification of the Ministry, it will not be possible for this Authority to include the royalty payment as a pass through.	The License Agreement for the terminal has been signed prior to July 2003. BPCL as a terminal operator is not generating sufficient surplus from operations of the terminal at the existing tariff levels. Even at the revised tariff levels the surplus would be less than the allowed ROCE assuming that the revenue share is treated as a cost for tariff fixation purposes. If such revenue share were not to be allowed as a cost for tariff fixation purposes then the losses on account of such revenue share would be the equivalent amount of royalty payable for such period that the revenue share is not allowed and will result in increase in the extent of deficit in relation to the allowed ROCE. The clause 2.8.1 clearly states that the tariff computation should take into account Royalty payment as cost for tariff fixation in such a manner as to avoid likely loss to the operator on account of the Royalty. On the basis of this principle, royalty should be considered as a cost incurred and should be included in tariff computation.
(vi).	The operating income as reflected in the Cost statement for the year 2011-12 does not match with the operating income as reflected in the Income & Expenditure account for the year 2011-12. BPCL to reconcile the difference.	BPCL has furnished revised cost statement based on certified Income Expenditure Account
(vii).	The sum total of the operating expenses (excluding royalty), depreciation and overheads as reflected in the Cost statement for the year 2010-11 does not match with the operating expenses as reflected in the Income & Expenditure account for the year 2010-11. BPCL to reconcile the difference.	BPCL has furnished revised cost statement based on certified Income Expenditure Account.
(viii).	The opening balance of the Gross Block of assets as on 01 April 2012 in the Form – 4A does not match with the closing Gross Block as on 31 March 2012, as reflected in the Statement of Capital Employed for the BPCL jetty for the year 2011-12. BPCL to reconcile the difference.	BPCL has furnished revised cost statement based on certified Income Expenditure Account.

<table>
<tr><td>C.</td><td><u>Financial/ Cost Statement:</u></td><td></td></tr>
<tr><td>1.</td><td>Capacity:

The BPCL to furnish workings to arrive at the designed capacity of the port for the years 2013-14 to 2015-16. The BPCL to assess and furnish along with workings, the capacity of the liquid cargo jetty at JNPT considering the capital investment proposed to be made during these years and the productivity improvements expected to be achieved.</td><td>Design capacity has been calculated based on assumptions relating to tanker configuration for handling of FO, SKO, HSD and Naphtha in the following manner with full unloading and ullage availability

(a).FO and SKO assumed to be handled in 25000 DWT tankers carrying 22,500 MT
(b).HSD and Naphtha assumed to be handled in 40000 DWT tankers carrying 36,000 MT

<table>
<tr><th rowspan="2">Year</th><th colspan="3">Throughput TMT</th><th colspan="2">Tanker calls</th></tr>
<tr><th>Proj Total</th><th>In 40000 DWT tankers</th><th>In 25000 DWT Tankers</th><th>40000 DWT</th><th>25000 DWT</th></tr>
<tr><td>1999-00</td><td>3469</td><td>2306</td><td>1163</td><td>64</td><td>51</td></tr>
<tr><td>2001-02</td><td>3069</td><td>1895</td><td>1174</td><td>53</td><td>52</td></tr>
<tr><td>2006-07</td><td>6582</td><td>4349</td><td>2233</td><td>120</td><td>99</td></tr>
</table>

On completion of construction in 2001-02, the design throughput of the jetty as per the estimates of Engineers India Ltd is 5.5 M Tones, assuming service time per vessel of 34 hrs.

As can be seen the throughput calculations are influenced based on assumptions relating to traffic in terms of number of vessels. Changes in the actual vessel traffic characteristics, (which is the reality) vis-à-vis the assumptions impact the throughput of the facility.</td></tr>
<tr><td>2.</td><td><u>Traffic</u>:
With reference to estimation of traffic, BPCL to clarify/ furnish the following:</td><td></td></tr>
<tr><td>(i).</td><td>Clause 2.5.1. of tariff guidelines of 2005 stipulates that the traffic projections should be in line with the projections in the 5 year annual plan and current / expected growth. In this context, the BPCL to explain the basis of estimation of traffic for the years 2013-14 to 2015-16.</td><td>Throughput (Traffic) depends on various economic and market conditions. In connection with estimation of throughput the trend has been analyzed based on last financial year’s performance of particular product. The BPCL have also compared that trend with current performance. Afterwards, the current market situation of that product has been analyzed. All these activities undertaken has helped the BPCL to estimate the Traffic for Financial Year 2013-14 to 2015-16. The estimation of traffic for the Financial Year 2012-13 is very much near to actual traffic handled by BPCL.
(The BPCL has furnished the Trend Analysis for various cargo items.)</td></tr>
<tr><td>(ii).</td><td>Though the traffic of Crude oil handled through coastal vessels has increased by around 20% during the year 2011-12 as compared to the year 2010-11, the traffic estimates of Crude oil handled through coastal vessels furnished by the BPCL for the years 2012-13 to 2015-16 reflects around 33% reduction as compared to the year 2011-12. BPCL to justify the reason for anticipating a drop in the traffic</td><td>Crude oil is major contributor to in BPCL Traffic, as given below:
<table>
<tr><th>S. No</th><th>Year</th><th>Traffic of Crude (Actual)</th><th>% of Crude traffic to Total Traffic handled at Jetty</th></tr>
<tr><td>1.</td><td>2010-11</td><td>2623764</td><td>39.81%</td></tr>
<tr><td>2.</td><td>2011-12</td><td>3140736</td><td>48.33%</td></tr>
<tr><td>3.</td><td>2012-13</td><td>2004009</td><td>35.08%</td></tr>
</table></td></tr>
</table>

<table>
<tr><td></td><td>of Crude oil handled through coastal vessels. Also, the traffic estimates of Crude oil handled through coastal vessels furnished by the BPCL for the years 2012-13 to 2015-16 remains stagnant at 21 lakh metric tonnes per annum. The reason for the stagnation in the Crude oil traffic may also be explained.</td><td>From above table it is evident that there is 20% increase during the year 2011-12 as compared to 2010-11. However, it can also be seen that the actual traffic of Crude Oil for the Financial Year 2012-13 has reduced by around 35% as compared to year 2011-12. ONGC in this connection has clarified that they will restrict their traffic for Crude Oil to 21 Lacs M.M.T. p.a.</td></tr>
<tr><td>(iii).</td><td>The reason for projecting around 31% reduction in the traffic of High speed Diesel (HSD) handled through coastal vessels for the years 2012-13 to 2015-16 as compared to the actuals for the year 2010-11 to be explained. Also, the traffic estimates of HSD handled through coastal vessels furnished by the BPCL for the years 2012-13 to 2015-16 remains stagnant at 4 lakh metric tonnes per annum. The reason for the stagnation in the HSD traffic may also be explained.</td><td>BPCL has handled 6.26 MMT HSD in the year 2010-11. However, earlier BPCL was bringing HSD in India and moving it through IOT tank farms to their destination. After the commissioning of Sina refinery, this practice was not required. Reliance has stopped import of HSD. Due to all these factors traffic of HSD has reduced to 3.85 MMT in year 2011-12 and 3.74 in year 2012-13. Hence, in view of above estimated throughput 4.00 MMT for HSD is justifiable.</td></tr>
<tr><td>(iv).</td><td>The reason for projecting the traffic of Xylene at 7500 metric tonnes each for all the years under consideration i.e. 2013-14 to 2015-16 without anticipating any growth, to be explained.</td><td>The Xylene is mostly imported hence only foreign movement is projected. In last three year xylene handled at jetty is as under:
<table>
<tr><th>S.No.</th><th>Year</th><th>Actual Traffic Handled</th></tr>
<tr><td>1.</td><td>2010-11</td><td>5,520</td></tr>
<tr><td>2.</td><td>2011-12</td><td>7,396</td></tr>
<tr><td>3.</td><td>2012-13</td><td>985</td></tr>
</table>
From above it is appears that maximum quantity handled in last three year for xylene is 7,396 MT. Further, the actual quantity of xylene handled in year 2012-13 is reduced to only 985 MT. Hence, estimation traffic for the year 2013-14 to 2015-16 at 7500 MT for xylene is justifiable.</td></tr>
<tr><td>(v).</td><td>The reason for projecting a steep decline in the traffic of Furnace oil (almost 70%) handled through coastal vessels during the years 2012-13 to 2015-16 as compared to the actuals for the year 2010-11 to be explained.</td><td>The movement of Furnace Oil in last financial years is as under:
<table>
<tr><th>S. No.</th><th>Year</th><th>Quantity Handled</th><th>% of Total Capacity Utilization</th></tr>
<tr><td>1.</td><td>2010-11 (Actual)</td><td>608570</td><td>9.23%</td></tr>
<tr><td>2.</td><td>2011-12 (actual)</td><td>146318</td><td>2.25%</td></tr>
<tr><td>3.</td><td>2012-13 (Estimated)</td><td>120200</td><td>2.35%</td></tr>
<tr><td>4.</td><td>2012-13 (Actual)</td><td>42090</td><td>0.74%</td></tr>
</table>
In financial year 2012-13, jetty has handled only 42090 MT traffic of Furnace oil whereas, the BPCL have projected the traffic 120200 MT. The traffic of Furnace oil is decreasing every year. The main reason for decline in movement is reduction in Bunkering activity at JNPT. Further, power companies also shifted from Furnace Oil to gas based power plant. Hence, there is a steep decline in the Traffic of Furnace Oil handled through coastal vessels during the year 2012-13 to 2015-16 as compared to actuals for the year 2010-11 is justifiable.</td></tr>
</table>

(vi).	The reason for projecting around 12% reduction in the traffic of AFS handled through coastal vessels during the years 2012-13 to 2015-16 as compared to the actuals for the year 2011-12 to be explained. The reason for not projecting any growth in the traffic during the years 2014-15 and 2015-16 to be explained.	In year 2012-13 the movement of AFS has decreased as compared to earlier years. AFS is imported in India to extract Poly Proplin which is used in yarn. However, the user is now using other substitutes to extract the Poly Proplin. Hence, demand of AFS has decreased. In view of this factor, no growth in traffic is projected during the years 2014-15 and 2015-16.
(vii).	The reason for not projecting any growth in the traffic of Furnace oil handled through coastal vessels during the years 2014-15 and 2015-16 to be explained.	For reasons brought out in point no. v. above the BPCL have not projected any growth in the traffic during the year 2014-15 to 2015-16.
(viii).	The reason for not anticipating any traffic in respect of AHE, Motor Spirit, Naptha to be handled through coastal vessels to be explained.	Due to increase in Refining capacity in India, Petroleum products are hardly imported now days. Motor spirit, AHE, and Naphtha indigenous availability has increased. Hence coastal cargo handling is not projected.
(ix).	The basis for determining the traffic of LPG handled through coastal vessels during the years 2012-13 to 2015-16 to be explained.	There is huge gap in demand and supply of LPG in India. Government Policy has advised to opening new rural distribution ship in India. Based on the requirement of LPG for above, the traffic of LPG has been estimated.
(x).	The reason for not anticipating any traffic in respect of Furnace Oil and HSD to be handled through foreign going vessels to be explained.	There is no export of HSD and FO, as the demand of HSD in Indian market itself is more and the quality of Furnace Oil in India is not so good. Hence, the BPCL has not anticipated any movement in HSD and FO for foreign going vessel.
(xi).	Though the traffic of Base oil handled through foreign vessels has increased by around 12% during the year 2011-12 as compared to the year 2010-11, the traffic estimates of Base oil handled through foreign going vessels furnished by the BPCL for the years 2012-13 to 2015-16 reflects around 12% reduction as compared to the year 2011-12. BPCL to explain the reason for anticipating a drop in the traffic of Base oil handled through foreign going vessels.	The actual traffic handled in respect to Base Oil is decreased in year 2012-13 as compared to year 2010-11 and 2012-13. This reduction is due to present market condition and increase in competition in market.
(xii).	No growth in the traffic is projected in respect of Caustic soda, Naptha, Acetic acid, CBFS, Crude Glycol, Edible oil, MEG, Molasses, Styn Monomar, LAB, Butyl Acrylate, B Class chemicals handled through foreign vessels during the year 2015-16 as compared to the year 2014-15. BPCL to explain the reason for projecting a stagnant traffic during the years 2014-15 and 2015-16.	BPCL has increased the traffic of all these products in year 2013-14 and 2014-15 as compared to previous years. This increase is based on current trend of this product. However, movement of all these products depends upon various factors. Some of these factor are even out of BPCL's control i.e. Government policy, dollar/rupees price etc. Hence, on rational side, the same traffic for these products has been anticipated.
(xiii).	The reason for projecting a reduction in the traffic of Edible oil, Styn Monomar and Molasses handled through foreign vessels during the year 2014-15 and 2015-16 as compared to the year 2013-14, to be explained.	A slight reduction in traffic of Edible Oil, SM and Molasses handled through foreign vessel during the year 2014-15 and 2015-16 as compared to year 2013-14 is projected. Edible oil imports are expected to be handled more at Kandla due to availability of refining / processing facilities in Gujarat. BPCL has handled very less actual traffic as compared to estimated traffic for the year 2012-2013 for SM and Molasses. Hence, the traffic estimate for these products in year 2014-15 and 2015-16 is justifiable.

<table>
<tr><td>(xiv).</td><td>The reason for projecting a steep decline in the traffic of Molasses (almost 70%) handled through foreign going vessels during the years 2012-13 to 2015-16 as compared to the actuals for the year 2010-11 to be explained</td><td>The movement of Molasses in last financial years is as under:
<table>
<tr><th>S. No.</th><th>Year</th><th>Quantity Handled</th><th>% of Total Capacity Utilization</th></tr>
<tr><td>1.</td><td>2010-11 (Actual)</td><td>233412</td><td>3.54%</td></tr>
<tr><td>2.</td><td>2011-12 (actual)</td><td>83985</td><td>1.29</td></tr>
<tr><td>3.</td><td>2012-13 (Estimated)</td><td>80200</td><td>1.02%</td></tr>
<tr><td>4.</td><td>2012-13 (Actual)</td><td>58168</td><td>1.01%</td></tr>
</table>

In financial year 2012-13, jetty has handled only 58168 MT traffic of Molasses, whereas the BPCL have projected the traffic 80200 MT. The traffic of Molasses is decreasing every year. Hence, steep decline in the Traffic of Molasses handled through foreign going vessels during the year 2012-13 to 2015-16 as compare to actual for year 2010-11 is justifiable.</td></tr>
<tr><td>(xv).</td><td>The reason for projecting a reduction in the traffic of MEG and LAB handled through foreign going vessels during the years 2012-13 to 2015-16 as compared to the actuals for the year 2010-11 to be explained.</td><td>Based on current trend of movement of MEG and LAB handled, a reduction in movement of MEG and LAB through foreign going vessel is anticipated during the years 2012-13 to 2015.</td></tr>
<tr><td>(xvi).</td><td>With regard to providing services like Loading arm, usage of pipeline, supply of hard pig, use of compressor, use of vaporizer, supply of water to foreign going and coastal vessels, wharf management, bunkering etc., the BPCL is seen to have estimated the instances for a particular year by taking an average of the previous two years for the years 2012-13 to 2015-16. This has led to projecting a fall in the number of instances during the years 2012-13 to 2015-16. The rationale behind taking an average of the previous two years instances to be furnished.</td><td>Income for providing services like Loading arm, usage of pipeline, supply of hard pig, use of compressor, use of vaporizer, supply of water to coastal and foreign going vessel, wharf management and bunkering have been taken on average of previous two year. In this connection, it is stated that the estimation of these above mentioned service is very complex. There are various factors which affect the number of instances at which this service is to be provided. The BPCL has taken the average of last two year instances for estimating for the years 2013-14 to 2015-16. In these years, the estimated traffic is in similar range. Hence, average of two year would not mislead the results.</td></tr>
<tr><td>(xvii).</td><td>The JNPT in its general revision proposal has indicated the estimated traffic of BPCL at 7.19 MMTPA, 7.27 MMTPA and 7.34 MMTPA for the years 2013-14 to 2015-16. Whereas, the BPCL has estimated its traffic at a lower level at 5.75 MMTPA, 5.76 MMTPA and 5.80 MMTPA for the years 2013-14 to 2015-16. BPCL to clarify the position.</td><td>JNPT in its general revision proposal has indicated the estimated traffic of BPCL at 7.19 MMTPA, 7.27 MMTPA and 7.34 MMTPA for years 2013-14 to 2015-16 respectively. In this connection, it is stated that JNPT has not consulted BPCL for this prediction. Further, as explained above, BPCL has estimated the traffic based on some scientific assumption. Further, the actual traffic handled by BPCL in Year 2012-13 is also within the scope of estimation. The projection of JNPT regarding throughput are not realistic unless fresh investment is made in jetty for capacity building. Also, JNPT has planned to handle liquid cargo at their Shallow berth which may have been added to their projected throughput.</td></tr>
<tr><td>3.</td><td><u>Operating Expenses</u>:</td><td></td></tr>
<tr><td>(i).</td><td>As is the practice followed by us every year, we would be, in due course, communicating the escalation factor that would be considered for projecting the expenditure in the cost statement, in respect of the cases to be disposed in the</td><td>BPCL have taken the escalation factor for expenditure in cost statement submitted at 7.50% p.a. The revised cost statement has been drawn by taking 7% p.a. as escalation factor for expenditure as per communication from TAMP vide letter no. TAMP/27/2005-Misc dated 27/06/2013.</td></tr>
</table>

<table>
<tr><td></td><td>year 2013-14. The BPCL to take note of the said escalation factor and project the expenditure for the years 2013-14 to 2015-16, by considering the said escalation factor to be communicated by us, by taking the actuals for the year 2012-13 as base, in its revised proposal.</td><td></td></tr>
<tr><td>(ii).</td><td>The Form – 3B furnished by the BPCL is incomplete. The BPCL has not furnished the requisite information, as sought in the Form–3B. The BPCL to furnish the Form–3B, complete with all the requisite details.</td><td>The BPCL has furnished the following statement relating to the estimated expenditure:
(Amount in ₹)
<table>
<tr><th>Allocation as per Income and Expenditure A/c</th><th>2013-14</th><th>2014-15</th><th>2015-16</th></tr>
<tr><td>Communication Expenses</td><td>63233</td><td>67659</td><td>72395</td></tr>
<tr><td>Employee Cost</td><td>13382394</td><td>14319161</td><td>15321503</td></tr>
<tr><td>Insurance</td><td>877126</td><td>938525</td><td>1004222</td></tr>
<tr><td>Jetty Operating Cost</td><td>14736332</td><td>15767876</td><td>16871627</td></tr>
<tr><td>Mgt Exp</td><td>26215036</td><td>26215036</td><td>26215036</td></tr>
<tr><td>Other Expenses</td><td>5886581</td><td>6196583</td><td>6523183</td></tr>
<tr><td>Postage Expense</td><td>12633</td><td>13517</td><td>14463</td></tr>
<tr><td>Printing Stationery Expenses</td><td>77250</td><td>82658</td><td>88444</td></tr>
<tr><td>Rent</td><td>3019369</td><td>3170338</td><td>3328855</td></tr>
<tr><td>Repair & Maintenance</td><td>13396140</td><td>16333870</td><td>19477241</td></tr>
<tr><td>Security Expenses</td><td>17293145</td><td>18503666</td><td>19798922</td></tr>
<tr><td>Travel Expenses</td><td>2519038</td><td>2695370</td><td>2884046</td></tr>
<tr><td>Depreciation</td><td>126522165</td><td>130179665</td><td>133409665</td></tr>
<tr><td>Royalty</td><td>111377251</td><td>110935820</td><td>111943940</td></tr>
<tr><td>Water & Electricity Charges</td><td>8194362</td><td>8767968</td><td>9381726</td></tr>
<tr><td>Grand Total</td><td>343572055</td><td>354187710</td><td>366335266</td></tr>
</table></td></tr>
<tr><td>(iii).</td><td>BPCL to furnish detailed workings with regard to the projected expenses viz., Operating & Direct labour, Repairs and Maintenance cost, Insurance, Other expenses, Management & Administration Overheads and General Overheads for the years 2013-14 to 2015-16.</td><td>BPCL has furnished a statement showing expenditure under various heads with regard to projected expenses for the years 2013-14 to 2015-16.</td></tr>
<tr><td>(iv).</td><td>The application of escalation factor in the range of 20%–22% in the estimation of Repairs and Maintenance cost during the years 2013-14 to 2015-16 to be justified.</td><td>The jetty was commissioned \ long back in the year 2002. There is frequent need of repair due to ageing of equipment. Due to corrosive nature of atmosphere, the wear and tear of parts and corroding of metal causes increase in maintenance requirement. The increase in cost of repair in year 2011-12 (Actual) as compared to year 2010-11 (Actual) is also around 25%. Further, in year 2012-13 also there is major increase in cost of repairs and maintenance.</td></tr>
<tr><td>(v).</td><td>The reason for reduction in the expenditure relating to Insurance during the years 2012-13 to 2015-16 as compared to the year 2010-11, to be explained.</td><td>In the year 2011-12 the insurance cost was net of claims received from insurance company. The BPCL have applied escalation factor on this figure to calculate the estimated insurance cost.</td></tr>
<tr><td>(vi).</td><td>BPCL to list out the items covered under the head of expenditure ‘Other Expenses’ in the Cost statement.</td><td>BPCL has listed out the items while responding to point (iii) above.</td></tr>
<tr><td>(vii).</td><td>BPCL to furnish basis for allocation of all expenses covered under the head of ‘Operating Expenses’, ‘Depreciation’ and ‘Overheads’ to the various activities and sub-activities along with workings.</td><td>BPCL has furnished working of basis for allocation of all expenses covered under head “Operating expenses”, “depreciation” and “overhead” to various activities for the year 2013-14. They have taken same in all the years 2010-11 to 2015-16. The BPCL have furnished the working that contains the percentage of expenses attributed to each activity.</td></tr>
</table>

<table>
<tr><td></td><td></td><td>Statement showing distribution of expenses in various activities:
Year 2013-14
<table>
<tr><th>Head of Expenditure</th><th>Facility Management and wharfage</th><th>Loading Arm and Wharfage Management</th><th>Pipeline Compressor and vaprisor</th><th>Water Bunkering and Others</th></tr>
<tr><td>Direct operating Expenses</td><td>80%</td><td>10%</td><td>5%</td><td>5%</td></tr>
<tr><td>General Overhead</td><td>100%</td><td>0%</td><td>0%</td><td>0%</td></tr>
<tr><td>Insurance</td><td>60%</td><td>20%</td><td>10%</td><td>10%</td></tr>
<tr><td>Management and Admin Cost</td><td>100%</td><td>0%</td><td>0%</td><td>0%</td></tr>
<tr><td>Other Operating Expenses</td><td>60%</td><td>20%</td><td>10%</td><td>10%</td></tr>
<tr><td>Repair and Maintenance</td><td>0%</td><td>50%</td><td>30%</td><td>20%</td></tr>
<tr><td>Royalty</td><td>100%</td><td>0%</td><td>0%</td><td>0%</td></tr>
</table></td></tr>
<tr><td>(viii).</td><td>BPCL to confirm that the depreciation for the years 2013-14 to 2015-16 has been computed in line with the Clause 2.7.1 of the tariff guidelines. The BPCL to furnish a detailed working for the depreciation cost for the years 2010-11 to 2015-16 indicating details of assets, rate of depreciation, method followed and life norms adopted as per Companies Act.</td><td>BPCL computed depreciation for three years 2013-14 to 2015-16 in line with the clause 2.7.1 of tariff guidelines. The working have been furnished.</td></tr>
<tr><td>4.</td><td><u>Capital employed</u>:</td><td></td></tr>
<tr><td></td><td><u>Fixed Assets</u>:</td><td></td></tr>
<tr><td>(i).</td><td>The details of additions to the Gross block in the Form – 4B furnished by the BPCL is not found to be in tandem with the additions shown in the Form – 4A. In the Form – 4A, the additions to the Gross Block is estimated at ₹223 lakhs, ₹1233 lakhs, ₹770 lakhs and ₹680 lakhs for the years 2012-13 to 2015-16 respectively. However, in the Form – 4B furnished by the BPCL, the additions have been estimated at ₹600 lakhs, ₹1550 lakhs, ₹250 lakhs for the years 2012-13 to 2014-15 respectively. In fact, no details have been furnished with regard to the proposed additions during the year 2015-16. The BPCL to furnish the details in Form – 4B, so as to correlate it with the additions reflected in the Form – 4A.</td><td>The proposed addition to the Gross Block is ₹223 lacs, ₹1233 lacs, ₹770 lacs, and ₹680 lacs for the years 2012-13 to 2015-16. In the cost statement submitted, the financial year written on Form 4B is the year in which project would start. The Form 4B is in agreement with the proposed Capex for the year 2012-13 to 2015-16. The Statement of proposed capital expenditure as furnished by BPCL is as follows:
Statement of Proposed Capital Expenditure (₹ in lakhs)
<table>
<tr><th>Addition details</th><th colspan="5">YEARS</th></tr>
<tr><th>BLOCK</th><th></th><th></th><th></th><th></th><th></th></tr>
<tr><th>PM</th><th>2012-13</th><th>2013-14</th><th>2014-15</th><th>2015-16</th><th>TOTAL</th></tr>
<tr><td>FENDERS</td><td>25</td><td>45</td><td>45</td><td>35</td><td>150</td></tr>
<tr><td>Jetty Repair BLDG</td><td>0</td><td>400</td><td>0</td><td>0</td><td>400</td></tr>
<tr><td>Loading Arm</td><td>0</td><td>50</td><td>500</td><td>500</td><td>1050</td></tr>
<tr><td>Compressor</td><td>58</td><td>0</td><td>0</td><td>0</td><td>58</td></tr>
<tr><td>Bunkering P/L</td><td>0</td><td>60</td><td>0</td><td>0</td><td>60</td></tr>
<tr><td>Safty Tank</td><td>5</td><td>6</td><td>0</td><td>0</td><td>11</td></tr>
<tr><td>Water Maintain</td><td>0</td><td>55</td><td></td><td></td><td>55</td></tr>
<tr><td>Ows</td><td>20</td><td>55</td><td>0</td><td>0</td><td>75</td></tr>
<tr><td>Oil Spil</td><td>100</td><td>400</td><td></td><td></td><td>500</td></tr>
<tr><td>P/L Replace</td><td>10</td><td>30</td><td>0</td><td>0</td><td>40</td></tr>
<tr><td>Interloac</td><td>0</td><td>22</td><td>0</td><td>0</td><td>22</td></tr>
<tr><td>Nitrogen Facility</td><td>5</td><td>20</td><td>0</td><td>0</td><td>25</td></tr>
<tr><td>Ormh</td><td>0</td><td>40</td><td>0</td><td>0</td><td>40</td></tr>
<tr><td>Remvamping Electriciy Subsititution</td><td>0</td><td>0</td><td>100</td><td>0</td><td>100</td></tr>
<tr><td>Platform</td><td>0</td><td>50</td><td>50</td><td>0</td><td>100</td></tr>
<tr><td>Mass Flew Meter</td><td>0</td><td>0</td><td>0</td><td>70</td><td>70</td></tr>
<tr><td>Movs Acturators</td><td></td><td></td><td>75</td><td>75</td><td>150</td></tr>
<tr><td>Total</td><td>223</td><td>1233</td><td>770</td><td>680</td><td>2906</td></tr>
</table></td></tr>
</table>

(ii).	Further, the BPCL does not appear to have covered all the additions proposed by it during the years 2013-14 to 2015-16, whose value exceeds ₹1 crore, in the Form – 4B. The BPCL to furnish Form – 4B in respect of all the investments proposed to be made (exceeding ₹1 crore) and giving complete details regarding additions to the gross block for the years 2013-14 to 2015-16 along with justification for the proposed investments. The impact of the additional investment may also be specified.	BPCL has covered all the additions proposed during the financial years 2012-13 to 2015-16 whose value excess ₹1 Crore in Form 4B.
(iii).	The present status in respect of additions proposed for the year 2013-14 to be furnished.	The present status in respect of additions proposed for the year 2013-14 and 2014-15 is as under: (a).Replacing/repair of all fender at jetty: The process of repair/replacement has already started. ₹30 lacs has already been spent on the process. (b).Jetty Repair: The process has already started. Job is awarded to IIT Madras. Survey has been completed. Non-destructive test have conducted and repair is expected by December 2013. (c).Provision of cabling of electrical Compressor: Installation of equipment is in final stages. To be ready within next two months. (d).Replacement of Bunkering Pipe Line; Replacement needs to be done. The BPCL have already decommissioned the required portion of pipeline. (e).Procurement of new OWS at jetty: The existing OWS is beyond repair. New is to be procured. (f).Pipe Line Replacement at jetty: Tendering is in process. The process may be completed within 6 months as per shut down time. (g).Revamping and re-commissioning of Nitrogen Facility at jetty: New storage tank is required. Talk with BOC is in progress . (h).Platform: Tendering is in progress. The process to be completed within 6 months. (i).MOVS: Tendering is in progress. To be executed as per budget availability and shut down period. (j).Replacement of Mass flow meter for LPG at jetty: To be taken up in the year 2015-16. (k).Replacement QRMH at jetty: To be taken up in year 2014-15. (l).Interlocking of Marine Loading arms at jetty: To be taken up in year 2014-15.

		(m).Replacement of sump tank and pump at jetty: The BPCL have already incurred the full amount and replace the assets. (n). Procurement of Oil Spill equipment at jetty; they have already procured part of equipment by incurring cost of ₹25 lacs. (o).Loading arm: Maintenance activity is going on round the year. Revamping of Marine Loading Arm has been planned at OEM.
(iv).	The status of action initiated in respect of additions proposed for the year 2014-15 may also be intimated.	-
(v).	It may be noted that only completed and commissioned assets should alone be counted for capital employed. The work-in-progress shall not be taken into account. A confirmation in this regard to be furnished.	The BPCL has confirmed to have taken only completed and commissioned assets as capital employed.
(vi).	BPCL to justify the capital outlay in the form of additions to the gross block of assets proposed for the years 2013-14 to 2015-16.	The justification for capital outlay is already stated in Form 4B and Capex proposal of cost statement submitted by BPCL.
(vii).	BPCL to furnish basis for allocation of the net block of assets to the various activities and sub-activities along with workings.	BPCL has furnished working for allocation of proposed capital expenditure in the years 2013-14 to 2015-16. The existing block is allocated on the basis of last proposal submitted by BPCL.
5.	**Working Capital:** BPCL to furnish the reason for not estimating any working capital for the years 2012-13 to 2015-16.	A Review of operation of jetty indicates that no working capital is required by the facility as all dealing is done without any credit period. Accordingly, BPCL has assumed nil working capital requirement for the facility.
6.	**Scale of Rates:**	
(i).	The BPCL has formulated its proposed Scale of Rates considering an increase in the existing tariff at BPCL. The additional services/ facilities proposed to be provided to the users and the benefit of productivity improvements accruing to users justifying this hike to be listed out.	The hike in tariff is to provide sufficient surplus to sustain and maintain the level of services being provided as also to improve safety and environmental measures.
(ii).	The penal interest prescribed in clause (vi) of 1.2 General Terms and conditions of the existing SoR of BPCL may be updated based on the Prime Lending Rate (PLR) of State Bank of India prevailing at present.	The rate of interest will be 16.50%. The penal interest rate will apply to both BPCL liquid cargo jetty and the port users equally.

9. The JNPT was also requested vide our letter dated 28 June 2013 to furnish its comments on the proposal filed by BPCL. Further, the JNPT was also requested to furnish its specific comments with regard to some points. After reminder, the JNPT vide its letter dated 15 October 2013 has responded. The points raised by us and the response of the JNPT are tabulated below:

Sr. No.	Points raised by us	Response of JNPT
(i).	The JNPT in its general revision proposal in Form-9 has indicated the estimated traffic of BPCL at 7.19 MMTPA, 7.27 MMTPA and 7.34 MMTPL	The traffic estimates of BPCL was revised based on latest trend of business for the year 2013-14 to 2015-16 and accordingly JNPT in its revised proposal to TAMP filed on 12 September 2013

	for the years 2013-14 to 2015-16, whereas, the BPCL has estimated its traffic at a lower level at 5.75 MMTPA, 5.76 MMTPA and 5.80 MMTPA only for the years 2013-14 to 2015-16.	has considered BPCL traffic at 5.80 MMTPA, 6.00 MMTPA and 6.00 MMTPA for year 2013-14, 2014-15 and 2015-16 respectively. This is similar to the traffic indicated by BPCL in its proposal.
(ii).	The traffic forecast of BPCL jetty for the years 2013-14 to 2015-16 as per the port's business plan / annual plan/ five year plan to be furnished.	The traffic forecast for BPCL Jetty for year 2013-14 to 2015-16 as per port's business plan/ annual plan/ five year plan are 5.80 MMTPA, 6.00 MMTPA and 6.00 MMTPA for year 2013-14, 2014-15 and 2015-16 respectively.
(iii).	Additions to the gross block of assets proposed by the BPCL during the years 2013-14 to 2015-16.	Reasons for addition to gross block of assets proposed by BPCL are already indicated by BPCL in its proposal. JNPT has no further comments to offer in this matter.

10. A joint hearing in this case was held on 30 August 2013 at the Office of this Authority. The BPCL has made a PowerPoint presentation of its proposal. At the joint hearing, the BPCL, JNPT and the concerned user's organizations have made their submissions.

11.1. As stated earlier, the BPCL while responding to the queries, has furnished a revised proposal. A comparative position between the estimated financial/ cost position at the existing level of tariff as shown in the consolidated income and cost statements furnished by the BPCL in its original proposal dated 16 October 2012 and updated proposal dated 16 September 2013 is summarized below:

(₹ . in lakhs)

Sl. No.	**Particulars**	**Original proposal dated 16 October 2012**			**Revised proposal dated 16 September 2013**		
		2013-14	**2014-15**	**2015-16**	**2013-14**	**2014-15**	**2015-16**
1.	Traffic (in million tonnes)	5.74	5.76	5.80	5.74	5.76	5.80
2.	Operating income	3750.55	3759.72	3790.32	3750.55	3759.72	3790.32
3.	Net surplus / deficit after return	(2,420.70)	(2,443.28)	(2,359.24)	(2,415.56)	(2,427.45)	2,413.68)
4.	Net deficit as a percentage of operating income	(-)64.54%	(-) 64.99%	(-) 62.24%	(-)64.41%	(-) 64.56%	(-) 63.68%
5.	Average net deficit as a percentage of operating income	(-) 63.92%			(-) 64.22%		

11.2. In view of change in the financial / cost position in its revised cost statement, the BPCL has sought about 64.22% increase in rates of the majority of the tariff items in its revised proposal as compared to an increase of about 63.92% sought in its initial proposal.

12.1. Since the validity of the Scale of Rates of BPCL has expired on 31 March 2013, this Authority vide its Order dated 9 May 2013 has extended the validity of the Scale of Rates of the BPCL till 30 September 2013. The validity of the Scale of Rates was extended subject to fully adjusting the additional surplus, if any, over and above the admissible cost and permissible return accruing to the BPCL for the period post 1 April 2013 in the tariff to be determined, as assessed during the review of its performance.

12.2. Thereafter, this Authority vide its Orders dated 29 October 2013, 10 January 2014, 4 April 2014 and 15 July 2014 has extended the validity of the Scale of Rates of the BPCL till 31 December 2013, 31 March 2014, 30 June 2014 and 30 September 2014 respectively subject to fully adjusting the additional surplus, if any, over and above the admissible cost and permissible return accruing to the BPCL for the period post 1 April 2013 in the tariff to be determined, as assessed during the review of its performance.

13. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made by the concerned parties will be sent separately to the relevant parties. These details will also be made available at our website http://tariffauthority.gov.in

14. With reference to the totality of information collected during the processing of this case, the following position emerges for consideration:

(i). The existing Scale of Rates of the Bharat Petroleum Corporation Limited (BPCL) was last revised vide Order dated 3 September 2010. Vide the said Order, an increase of 36.82% in the then existing rate prescribed for the wharfage management activity, an increase of 50.36% in the then existing rates prescribed for the activity of providing pipeline services, compressor, hard pigging, foam pigging, liquid nitrogen and vaporizing charges etc., an across the board increase of 6.78% in the then prevailing wharfage charges of all cargo items and status quo in the bunkering activity was maintained. The said Order prescribed a tariff validity upto 31 March 2013.

Subsequently, the validity of the Scale of Rates of BPCL has been extended till 30 September 2014 or the date of effect of the revised Scale of Rates, whichever is earlier, subject to fully adjusting the additional surplus, if any, over and above the admissible cost and permissible return accruing to the BPCL for the period post 1 April 2013 in the tariff to be determined.

(ii). After protracted correspondence, the BPCL filed its proposal for general revision of its Scale of Rates in October 2012 and February 2013. This proposal was taken up for consultation with the relevant users. During the processing of the case, since the financial year 2012-13 was already over, the BPCL was requested to update the cost statements with actuals for the year 2012-13. The BPCL was also requested to review the estimates for the years 2013-14 to 2015-16 based on the actuals for the year 2012-13. In this connection, the BPCL furnished a revised proposal in September 2013, based on the actuals for the year 2012-13 and in the light of the queries raised by us. The revised cost statements furnished by the BPCL under cover of its letter dated 16 September 2013 along with the submissions made by BPCL during the processing of the case, are considered for the purpose of this analysis.

(iii). Clause 2.13 of the tariff guidelines of 2005 mandates review of the actual physical and financial performance of the port operator at the end of the prescribed tariff validity period with reference to the projections relied upon at time of fixing the prevailing tariff. In the last review of the Scale of Rates of BPCL done in September 2010, the tariff of BPCL was fixed by relying upon the estimates for the years 2010-11 to 2012-13. Thus, the estimates vis-à-vis actuals for the years 2010-11 to 2012-13 are to be analyzed to assess the actual performance of BPCL during the said period. The actual performance of the BPCL during the said period as compared to the estimates is discussed below:

(a). The aggregate of the actual traffic handled by BPCL during the three year period from 2010-11 to 2012-13 works out to 18.80 million metric tonnes as against the estimated traffic of 17.08 million metric tonnes, registering a positive variation of about 10%.

(b). The figure of the operating income as given in the Cost statement for the years 2010-11 and 2011-12 is seen to be in line with the income figures reflected in the Income & Expenditure Statement for the said years respectively. With reference to the year 2012-13, the BPCL is seen to have considered the operating income at ₹3738.59 lakhs in the cost statement, as against the income of ₹3700.30 lakhs reported as operating income in the Income & Expenditure Statement. The operating income as reported in the Income & Expenditure Statement for the year 2012-13 is considered for the purpose of this analysis.

Further, to have a like to like comparison between the actuals and the estimates, the estimates of operating income for the period from the effective date of implementation of the Order dated 03 September 2010 to

31 March 2013 is modified to reflect the increase granted in the wharfage management activity, activity of providing pipeline services etc. and wharfage charges.

With reference to the discounts/ rebates allowable by the operator at his discretion which are not recognized in tariff fixing exercise, the BPCL while responding to our queries has categorically mentioned that they have not allowed any rebates and discount over the notified ceiling tariff during the years 2010-11 to 2012-13.

(c). The figure of the overall operating expenses as given in the Cost statement for the years 2010-11 and 2011-12 is seen to be in line with the expenditure figures reported in the Income & Expenditure Statement for the said years respectively. Some minor differences in the individual cost components forming part of the cost statement has been modified to reflect the position reported in the Income & Expenditure Statement. With reference to the year 2012-13, the BPCL is seen to have considered the overall operating expenditure (excluding depreciation and including royalty) at ₹ 2269.06 lakhs in the cost statement, as against the expenses of ₹ 2244.59 lakhs (excluding depreciation and including royalty) reported as Expenditure in the Income & Expenditure Statement. The reason for the difference remains unexplained. The Expenditure as reported in the Income & Expenditure Statement for the year 2012-13 is considered for the purpose of this analysis, subject to disallowance of penalty for non-achieving Minimum Guarantee Throughput (MGT) as discussed below.

(d). The Income & Expenditure Statement of BPCL for the years 2010-11 to 2012-13 disclose an amount of ₹ 334.04 lakhs, ₹ 262.15 lakhs and ₹ 281.67 lakhs respectively towards MGT Expenses. It is understood from BPCL that the MGT Expenses are the payment made by the BPCL to JNPT in the scenario where they do not meet the minimum guaranteed throughput of any individual cargo item, though the BPCL would have achieved the capacity utilization on aggregate basis. Since the said expenditure is penal in nature, it is not appropriate to burden the user for the penalty suffered by the BPCL. Therefore, the said expenditure is not considered in this analysis for all the years under consideration viz., 2010-11 to 2015-16.

(e). The BPCL in the Cost statement for the years 2010-11 to 2015-16 has considered the amount of Royalty as a pass through. The royalty payment made by BPCL to JNPT was not allowed as a pass through in the last review undertaken in September 2010 for the reasons recorded in the tariff Order of September 2010. In the said Order, it was also mentioned that the matter has been referred to the Government and that if any decision contrary to the approach adopted by this Authority is received from the Government, this Authority would undertake a review of the tariff of the BPCL to correctly reflect the decision of the Government. The BPCL has not made a mention about it receiving any direction from the Government on the royalty issue, contrary to the approach adopted by this Authority. In such a scenario, it will not be possible for this Authority to allow the royalty payment as a pass through. Therefore, this Authority is inclined to continue with the approach adopted by it earlier of not allowing the royalty payment as an item of cost in case of BPCL, in the current tariff general revision also.

(f). Though the Income & Expenditure statement provided by the BPCL for the years 2010-11 to 2012-13 reflect the depreciation at ₹ 690.80 lakhs, ₹837.23 lakhs and ₹1466.70 lakhs respectively, the depreciation considered by the BPCL in the cost statement for the said three years is seen to be at ₹689.43 lakhs, ₹837.25 lakhs and ₹1206.65 lakhs for the corresponding years. The difference in the figure of depreciation for the year 2010-11 is very meagre and therefore, the depreciation figure as reported in the Income & Expenditure statement is considered in the analysis. There appears to be typographical error while considering depreciation for the year 2011-12 by BPCL as it has considered the deprecation as a negative figure. The amount of depreciation (positive figure) reported in the Income & Expenditure statement for the year 2011-12 is considered in the analysis. The difference in the amount of depreciation between the cost statement and the Income & Expenditure statement to the tune of ₹ 260.05 lakhs in the year 2012-13 remains unexplained. The BPCL has also not furnished the Reconciliation Statement for the year 2012-13, inspite of a specific request made in this regard, as brought out in the earlier part of this Order relating to the factual position. The figure of depreciation as reported in the Income & Expenditure Statement has been considered in this analysis.

(g). (i). The figure of the Capital employed as given in the Cost statement for the years 2010-11 and 2011-12 at ₹ 8736.22 lakhs and ₹ 18080.79 lakhs is seen to be in line with the Net value of assets as reported in the Auditor Certified Capital employed Statement for the said years respectively. With reference to the year 2012-13, the BPCL is seen to have considered the Capital employed at ₹17097.14 lakhs in the cost statement, as against the net value of assets at ₹ 16907.13 lakhs as reported in the Auditor Certified Capital employed Statement. The difference in the capital employed to the tune of ₹190.01 lakhs during the year 2012-13 remains unexplained. The figure of the net value of assets in the Auditor Certified Capital employed Statement has been considered in this exercise.

(ii). Actual capital employed in the year 2011-12 as compared to the estimates is more by around 63% due to commissioning of LPG cryogenic facility and capitalization of firefighting equipment.

(h). On the ground that all the dealings are done by it without any credit, BPCL has not considered any working capital requirement for the facility for all the years under consideration. Based on this position, no working capital is considered in this analysis. It is noteworthy that even during the last revision of tariff of BPCL, working capital requirement has not been considered. Thus, the Capital employed comprises of only net value of assets for all the years under consideration.

(i). In the last tariff Order, Return on capital employed was allowed at 16% for the years 2010-11 to 2012-13. Considering the capacity of the BPCL at 5.5 million tonnes per annum, the actual capacity utilization during the years 2010-11 to 2012-13 works out at 119.80%, 118.91%, and 103.91% respectively. During the last review of tariff of BPCL, the capacity of BPCL has been considered at 5.5 MTPA. Subsequently, in the year 2011-12, the BPCL has commissioned LPG cryogenic facility to handle LPG. The details regarding the addition to the capacity are not made available inspite of a request made to the BPCL to file a proposal in this regard for fixation of tariff for LPG even prior to filing of the general revision proposal. Though the traffic is inclusive of LPG traffic, the capacity is devoid of capacity of LPG facility. It may, therefore, appear that the BPCL has overstated its capacity utilisation, which may not be true. Even if we consider the capacity of LPG facility, the utilization may still be above 60%. Hence full return at 16% is allowed for the years 2010-11 to 2012-13.

(iv). (a). A statement showing the analysis of the performance of BPCL for the years 2010-11 to 2012-13 is attached as **Annex-I**. A summary of the comparison of the actuals vis-à-vis the estimates considered in the last tariff Order is tabulated below:

(₹ In Lakhs)

Particulars	Aggregate of the Estimates relied upon in the last Order for the years 2010-11 to 2012-13	Aggregate of Actuals for the years 2010-11 to 2012-13	% Variation
Traffic (in MTs)	17,085,000	18,804,686	10.07%
Op. Income	9,865.19	11,654.04	18.13%
Total Exps (incl. Depn)	4,911.02	5,412.19	10.21%
Surplus before Return	4,954.17	6,241.91	25.99%

***** The operating income estimates are adjusted to reflect the increase granted in the wharfage management activity, activity of providing pipeline services etc. and wharfage charges in the September 2010 Order.

The details regarding the Actual Return earned by BPCL on the Capital Employed are given in the following table:

Particulars	2010-11	2011-12	2012-13	Total	Average
Actual Surplus (deficit) before Return earned by BPCL	2169.30	2582.11	1490.43	6,241.91	2080.61
Actual Capital Employed	8,736.22	18,080.80	16,907.08	43,724.10	14574.72
Return on actual capital employed at eligible rate of 16%	1397.79	2892.92	2705.14	6,995.85	2331.95
Actual Return on Capital Employed	24.83%	14.28%	8.82%	14.28%	15.98%

(b). As per clause 2.13 of the tariff guidelines, if review of actual physical and financial performance for the previous tariff cycle shows the variation of more than + or – 20%, then 50% of such accrued benefit / loss has to be adjusted in the next tariff cycle. As can be seen from the above tables, the variation in actual physical performance and financial performance as compared to the estimates is seen to be less than 20%. Therefore, in terms of the stipulation contained in Clause 2.13, there is no case to adjust the past deficit pertaining to the years 2010-11 to 2012-13 in the current tariff cycle of BPCL.

(v). The traffic estimated by BPCL for the years 2013-14 to 2015-16 is 5.748 million metric tonnes, 5.756 million metric tonnes, 5.803 million metric tonnes respectively. The estimated traffic for the year 2013-14 to 2015-16 is seen to be comparable with the actual traffic handled by the BPCL at 5.715 million metric tonnes during the year 2012-13. However, when compared to the level of traffic handled by BPCL at about 6.5 million metric tonnes during the years 2010-11 and 2011-12, the traffic estimated by BPCL for the years 2013-14 to 2015-16 appears to be on the lower side.

In this connection, the BPCL has explained the various factors leading to estimation of lower traffic during the years 2013-14 to 2015-16. The factors listed by BPCL are like, cap imposed by one of users in respect of Crude Oil, stoppage in the import of HSD by one of the users, reduction in Bunkering activity at JNPT and shift of the power companies to gas based power plant instead of use of Furnace oil leading to reduction in the traffic of Furnace Oil, use of substitutes to extract the

Poly Proplin, reduction in the import of Petroleum products due to increase in Refining capacity in India, handling of Edible oil imports at Kandla due to availability of refining/ processing facilities in Gujarat. From the submissions made by the BPCL, it is seen that the reduction in the individual cargo traffic has contributed to projecting an overall lower traffic during the years 2013-14 to 2015-16.

The traffic forecast for BPCL Jetty for years 2013-14 to 2015-16 as per the projection of JNPT at 5.80 Million Tonnes, 6.00 Million Tonnes and 6.00 Million Tonnes is as per business plan/ annual plan/ five year plan of JNPT. It is noteworthy that the estimate of BPCL is closer to the projection of JNPT.

It is relevant here to mention that none of the user/ user organizations have objected to the traffic forecasts made by BPCL. Also, this Authority does not carry out any independent study so as to determine the likely traffic at a port/ private terminal. Since the traffic projection for the years 2013-14 to 2015-16 is based on specific analysis of BPCL, the traffic forecasts for the years 2013-14 to 2015-16 as furnished by BPCL is considered for the purpose of this analysis.

(vi). The operating income of BPCL comprises of Income from activities viz., Wharfage, Wharfage Management & Loading Arm, Pipeline, compressor, Pigging etc., and Bunker & Water Supply. The BPCL has furnished detailed workings for estimation of income from the above mentioned activities for each of the years 2013-14 to 2015-16. In this regard, it is relevant here to mention that the income as worked out by the BPCL is based on the estimated traffic for the years 2013-14 to 2015-16 and the relevant rates prescribed in the existing Scale of rates of BPCL.

It is seen that the income from supply of fresh water to coastal vessels has been calculated by the BPCL by considering a rate of ₹ 87.30 per MT, instead of the rate of ₹ 87.13 prescribed in the Scale of Rates. The income estimation in this regard is, therefore, moderated for all the years under consideration. Further, in the estimation of income from supply of fresh water to foreign vessels, which is a dollar denominated tariff, the BPCL is seen to have applied the exchange rate of ₹ 52/- per Dollar. In this regard, it is relevant here to mention that the exchange rate prevailing at the time of analysis of the case is considered uniformly for estimation of income from dollar denominated tariff items for all the years under consideration. In our analysis, since the financial year 2013-14 is already over, and since the actual dollar exchange rate for the said period is available, the said income for the year 2013-14 is estimated based on the average exchange rate of ₹ 60.35 per US$ that prevailed during the said year. For the years 2014-15 and 2015-16, an exchange rate of ₹ 60.30 per US$ prevailing at the time of concluding the analysis of this case is considered. In view of the above position, there is a slight variation in the income of the Bunker & Water supply activity. The income estimation in respect of other activities is relied upon, as furnished by the port.

(vii). The operating expenses estimated for the years 2013-14 to 2015-16 are analysed as under:

(a). The annual escalation of the cost estimates is considered in terms of Clause 2.5.1 of the Tariff Guidelines of 2005 which requires that the expense projections of the major ports and terminal operators should be in line with traffic adjusted for price fluctuation with reference to current movement of Wholesale Price Index for all commodities as announced by the Government of India. The escalation factor to be adopted in respect of tariff cases to be disposed during the year 2014-15 is announced at 6%. Though the case of BPCL is being decided during the year 2014-15, the expenditure for the years 2013-14 to 2015-16 has been estimated by BPCL considering the actuals for the year 2012-13 as base. Therefore, an escalation factor of 7% over the actuals for the year 2012-13 (being the escalation factor applicable for the year 2013-14) is considered in the analysis to estimate the expenditure for the year 2013-14 and the escalation factor of 6% is considered in the analysis to estimate the expenditure for the years 2014-15 and 2015-16, over the respective previous year as against the escalation factor considered by the BPCL in its calculations.

(b). Operating & Direct labour:

The BPCL has considered the jetty operating expenses under the head of Operating & Direct Labour. As compared to the actuals reported in the Auditor Certified Income and Expenditure Statement towards jetty operating expenses for the year 2012-13 at ₹ 211.21 lakhs, the BPCL has estimated the said expenditure to the tune of ₹ 115.57 lakhs for the year 2013-14.Though the actuals for 2012-13 is on the higher side as compared to the estimate for 2013-14, the actuals for 2010-11 and 2011-12 are ₹ 107.73 Lakhs and ₹ 128.92 Lakhs respectively comparable to the estimates of 2013-14. The estimate for the year 2013-14 is relied upon and escalated by 6% per annum during the years 2014-15 and 2015-16, over the respective previous years, taking the estimate of the year 2013-14 as base.

(c). Equipment running Cost:

The BPCL has considered the cost towards Repairs and Maintenance under the said head of expenditure. The actual for the year 2012-13 at ₹ 118.48 is escalated by 7% to arrive at the expenditure for the year 2013-14. Thereafter, it is escalated by 6% per annum during the years 2014-15 and 2015-16, over the respective previous years, taking the estimate of the year 2013-14 as base.

(d). For the reasons stated earlier, revenue share is not allowed as an item of cost for the years 2013-14 to 2015-16.

(e). Insurance cost is estimated by taking the actuals for the year 2012-13 as base and thereafter escalating it by 7%, 6% and 6% for the years 2013-14 to 2015-16 over the respective previous year respectively.

(f). The Other Expenses are seen to be inclusive of ₹ 262.15 lakhs pertaining to MGT expenses for each of the year 2013-14 to 2015-16. Again, for the reasons recorded earlier, MGT expenses are not taken into account in this analysis. For the remaining component, it is estimated by taking the actuals for the year 2012-13 as base and thereafter escalating it by 7%, 6% and 6% for the years 2013-14 to 2015-16 respectively.

(g). The Overheads comprise of Management & Administration Overheads and General Overheads. The Overheads cost is estimated by taking the actuals for the year 2012-13 as base and thereafter escalating it by 7%, 6% and 6% for the years 2013-14 to 2015-16 respectively.

(viii). The BPCL has not estimated any financial and miscellaneous income and expenditure for the years 2013-14 to 2015-16.

(ix). The BPCL has estimated additions to the gross block of assets to the tune of ₹ 1233 lakhs, ₹ 770 lakhs and ₹ 680 during the years 2013-14 to 2015-16. The BPCL has confirmed to have taken into account only completed and commissioned assets as capital employed.

(a). Year 2013-14:

Out of the total additions proposed to the tune of ₹ 1233/- lakhs during the year 2013-14, the following capital additions to the tune of ₹ 216 lakhs are only considered for the year in reference:

Particulars	**₹ in lakhs**
Replacing/ Repair of Fenders	45
Loading Arm (Replacement)	50
Bunkering Pipeline	60
Safety Tank	6
Water Maintenance	55
Total	**216**

Based on the status of the capital additions as furnished by the BPCL as brought out in the factual position relating to the note, the remaining capital additions to the tune of ₹ 1017 lakhs are shifted to the year 2014-15, as given below:

Particulars	**₹ in lakhs**
Procurement of new OWS at jetty	55
Oil Spill Equipment at jetty	400
Pipeline Replacement at Jetty	30
Interlocking of Marine loading arms at jetty	22
Revamping & Re-commissioning of Nitrogen Facility	20
Replacement of QRMH at jetty	40
Platform	50
Jetty Repairs	400
Total	**1017**

(b). Year 2014-15:

The following capital additions to the tune of ₹ 770/- lakhs has been proposed during the year 2014-15:

Particulars	**₹ in lakhs**
Replacing/ Repair of Fenders	45
Loading Arm (Replacement)	500
Revamping Electricity Sub-station	100
Platform	50
MOVS	75
Total	**770**

Based on the status of the capital additions as furnished by the BPCL as brought out in the factual position relating to the note, the above additions are considered in the analysis over and above the spill over of additions from the year 2013-14, as discussed above.

(c). Year 2015-16:

The following capital additions to the tune of ₹ 680/- lakhs has been proposed by BPCLduring the year 2015-16:

Particulars	**₹ in lakhs**
Replacing/ Repair of Fenders	35
Loading Arm (Replacement)	500
Mass Flew Meter	70
MOVS	75
Total	**680**

Based on the status of the capital additions as furnished by the BPCL as brought out in the factual position relating to the note, the above additions are considered in the analysis.

(d). As already brought out earlier, no working capital has been claimed by the BPCL for the years 2013-14 to 2015-16.

(x). As per Clause 2.7.1 of tariff guidelines of March 2005, depreciation has to be calculated as per Straight Line Method following the life norms as per Companies Act or based on the life norms prescribed in the Concession agreement, whichever is higher. The BPCL has furnished separate workings in respect of calculation of depreciation and has confirmed that the depreciation provided in the cost statement is in line with clause 2.7.1 of the tariff guidelines of March 2005. Accordingly, the estimated depreciation on the gross block of assets for the years 2013-14 to 2015-16 is considered as furnished by the BPCL, except for change in the amount of depreciation for the years 2013-14 and 2015-16 due to shift in the capital additions, as discussed earlier.

(xi). The operating expenses, management and administration overheads have been apportioned between various activities, viz. Wharfage, Loading arm Wharfage management, pipelines compressor etc. and water bunkering & others in an individual uniform ratio during all the years under consideration. The capital employed and depreciation has been apportioned to various activities by BPCL based on different ratios for each of the year under consideration. The reason for considering a different approach in respect of capital employed and depreciation remains unexplained. Therefore, the average ratio of the past three years viz., 2010-11 to 2012-13 is uniformly applied among all activities for all the years under consideration.

(xii). Considering the capacity of 5.5 MTPA, the capacity utilisation for the years 2013-14 to 2015-16 based on the estimated throughput works out to 104.52%, 104.66% and 105.51% respectively. Though, this appears to be over stretched, for the reasons as brought out earlier, the capacity of 5.5 MTPA is devoid of the capacity of the LPG facility. Nevertheless, the capacity utilisation of the BPCL would be beyond 60% for the years 2013-14 to 2015-16. The tariff policy guidelines of March 2005 provide for allowing maximum permissible return on capital employed, if the capacity utilisation is more than 60%. Accordingly, the BPCL is eligible for maximum permissible return. Therefore, the return on capital employed at the maximum permissible rate of 16% is considered for the years 2013-14 to 2015-16.

(xiii). Subject to the discussion above, the cost statements for the BPCL as a whole and different sub-activities stand modified. As stated earlier, the extension granted to the validity of the existing SOR of BPCL beyond 31 March 2013 was subject to the condition that the additional surplus over and above the admissible cost and permissible return accruing to the BPCL for the period post 1 April 2013 will be set off fully in the tariff to be fixed. However, the Cost statement for the year 2013-14 reflects a deficit to the tune of ₹ 6.92 crores. The said deficit is taken into account fully in the analysis. The modified cost statements for the BPCL as a whole and different sub-activities are attached as **Annex-II (a)** to **(e)**. The summarised results of cost statements are presented in the table given below:

(₹ in crores)

Sr. No.	Particulars	Operating Income				Net Surplus / (Deficit)				Net Surplus / (Deficit) as a % of operating income			Average Surplus/ Deficit %
		2013-14	2014-15	2015-16	Total	2013-14	2014-15	2015-16	Total	2013-14	2014-15	2015-16	
1	**BPCL as a whole**	37.58	37.67	37.97	113.22	-6.92	-9.20	-8.61	-24.73	-18.41%	-24.42%	-22.67%	-21.83%
2	Wharfage	33.30	33.35	33.67	100.32	-3.24	-5.13	-4.46	-12.83	-9.74%	-15.39%	-13.24%	-12.79%
3	Loading Arm Wharf Management	2.69	2.72	2.71	8.12	-0.54	-0.70	-0.75	-1.99	-20.20%	-25.81%	-27.78%	-24.60%
4	Water Bunkering and others	0.73	0.75	0.74	2.22	-0.11	-0.14	-0.18	-0.43	-14.61%	-19.03%	-24.44%	-19.36%
5	Pipeline, Pigging, Compressor, Vaporizer	0.85	0.86	0.85	2.56	-3.02	-3.22	-3.22	-9.46	-356.16%	-376.23%	-376.99%	-369.79%

(a). As can be seen from the above table, the BPCL would be in a net deficit to the tune of ₹ 24.73 crores at the existing level of tariff during the years 2013-14 to 2015-16. Accordingly, there is a case for effecting an upward increase in the existing level of tariff of BPCL. The JNPT LCBUA, ONGC, MANSA and IOTIESL have objected to the proposal of BPCL seeking increase in the existing tariff. The tariff of BPCL is being reviewed following the cost plus regime as per the tariff guidelines of 2005 and this Authority is not in a position to brush aside the estimated deficit problem and maintain status quo in the tariff level.

(b). Considering the time taken for the Order passed to be notified in the Gazette of India and the lead period of 30 days for the revised Scale of Rates of BPCL to come into effect, it would be October 2014. Thus, to enable BPCL recover the deficit of ₹ 24.73 crores from the overall estimated income at the existing level of tariff over the remaining tariff cycle of 18 months from 1 October 2014 to 31 March 2016, it is seen that the cost position warrants an across the board increase of 43.52% as against the across the board increase of 64.22% sought by the BPCL in its revised proposal of September 2013.

(c). In this connection, it is relevant here to mention that though the wharfage activity warrants an increase of about only 25.49%, so as to enable it recover its deficit of ₹ 12.83 crores over the remaining tariff cycle of 18 months from 1 October 2014 to 31 March 2016, by giving an across the board increase of 43.52%, the wharfage activity would end up cross subsidising the other deficit making activities. Since the 2005 Guidelines stipulate phasing out of the impact of cross subsidisation among various activities, the BPCL is advised to take steps to make each of the activity self-sufficient.

(d). In view of the above position, this Authority grants an across the board increase of 43% (rounded off, so as to take into account estimation error, if any) over the existing level of tariff of BPCL.

(xiv). In the proposed draft Scale of Rates, the BPCL has proposed a minor amendment in the definition of “Compressor” so as to elaborate carrying out cargo operation of the vessel at jetty. Since the proposed change gives clarity to the term “compressor” and also since such a similar provision is available in the definition of ‘Wharf Management’, the proposed amendment to definition of “compressor” is approved.

(xv). In line with clause 2.18.2 of the tariff guidelines, the proposed note 1.2(vi)(b) has been modified to reflect the prevailing Prime Lending Rate of State Bank of India at 14.75 %.

(xvi). Under the Wharfage Schedule, the BPCL has proposed to introduce wharfage charges on a new tariff item viz. LPG. The BPCL has reported that it has commissioned the LPG cryogenic facility on 30 January 2012 by issue of a Trade Notice on 24 February 2012 In this connection, it is relevant here to mention that the BPCL in September 2012 had approached this Authority for fixation of tariff for handling LPG at the liquid cargo jetty and had envisaged to adopt the rates prevailing at Jawahardweep on adhoc basis. Since the proposal filed by BPCL then, was neither supported by any cost details nor was any document furnished by BPCL reflecting the consent of the users, as stipulated in Clause 2.17.1 to 2.17.3 of the tariff guidelines of 2005, the BPCL was requested to file a proposal in compliance with the tariff guidelines of 2005. Subsequently, we did not hear from BPCL. Now, the BPCL in its general revision proposal has reported to have commenced with the handling of LPG and has reported to have adopted the rate of ₹ 60 per MT prevailing at Jawahar Dweep.

In support of its action, the BPCL is seen to have taken refuge under Clause 2.12 of the 2005 guidelines. In this regard, it is noteworthy that the said Clause is with reference to privatisation of the port facilities i.e. allowing a private operator, who is to commence the operations at the new facility, to adopt either the licensor port’s rate or the rate at any nearby port. BPCL is an existing operator. The situation of the existing operator intending to introduce a service/ cargo and tariff for the said service/ cargo being not available in its notified Scale of Rates, is covered by Clause 2.17.1 to 2.17.4 of the 2005 guidelines, where the operator has the option to submit a proposal to this Authority and simultaneously start levying the proposed rate on an adhoc basis, till the rates are finally approved by this Authority. In this connection, it is to be noted that well after around seven months after commissioning of the facility, the BPCL has approached this Authority for approval of the rate. Further, inspite of a specific request made to BPCL to submit its proposal in line with the stipulation contained in Clause 2.17.1 to 2.17.4 of the 2005 guidelines, the BPCL has chosen to remain silent and has started to levy the rates on its own, thereby keeping this Authority in dark. In view of this position, this Authority is not inclined to approve the levy of the wharfage charges on LPG retrospectively.

Even now, the BPCL has not furnished any cost details for the proposed wharfage rate of ₹ 60/- per MT except for stating that it is as per the rates prevailing at Jawahardweep. Since the BPCL has not furnished the requisite cost details in support of the rate of ₹ 60/- per mt. inspite of operating facility for a couple of years now, this Authority is not inclined to approve the wharfage rate for LPG, unless the BPCL comes up with a well analysed proposal in this regard.

15.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the revised Scale of Rates of BPCL. The effective date of the revised Scale of Rates and conditionalities governing the application of revised Scale of Rates will remain the same as already indicated in the separate Order dated 4 August 2014 notified on 19 August 2014 2014.

15.2. The revised Scale of Rates and conditionalities in respect of BPCL will come into effect after expiry of 30 days from the date of notification of the Order in the Gazette of India or 01 October 2014, whichever is later, and shall be in force till 31 March 2016. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

15.3. The BPCL shall furnish to this Authority through JNPT its Annual Accounts and performance report within 60 days of closing of the respective accounting year. If BPCL fails to provide such information within the stipulated time limit, the JNPT may initiate appropriate action against BPCL.

15.4. The tariff of the BPCL has been fixed relying on the information furnished by the operator and based on various assumptions made as explained in the analysis. If this Authority at any time during the prescribed tariff validity period, finds that the actual position varies substantially from the estimations considered or there is deviation from the assumptions accepted herein, it may require the BPCL to file a proposal ahead of the schedule to review its tariff and to set off fully the advantage accrued on account of such variations in the revised tariff.

15.5. In this regard, the BPCL is requested to furnish a report of the actual physical and financial performance within 15 days of completion of each quarter of a year in the same format in which the cost statement for the tariff proposals are filed. The report should also be accompanied with the reasons for variation from the estimates relied upon for fixing the tariff in force. If a variation of (+)/(-)20% is observed between the actual and the estimates for two consecutive quarterly period, this Authority will call upon the BPCL to submit its proposal for an ahead of scheduled review. If the BPCL fails to file a tariff proposal within the time limit to be stipulated by this Authority, this Authority will proceed *suo motu* to review the tariff.

(T.S. Balasubramanian)
Member (Finance)

Annex - I

BHARAT PETROLEUM CORPORATION LIMITED

Analysis of the performance of BPCL for the years 2010-11 to 2012-13

(₹ in Lakhs)

Sr. No.	Particulars	Estimates relied upon in the Tariff Order dated 12 October 2010			Actuals		
		2010-11	2011-12	2012-13	2010-11	2011-12	2012-13
	Traffic (In MTs)	**5,485,000**	**5,600,000**	**6,000,000**	**6,588,900**	**6,500,722**	**5,715,064**
I	**Total Operating Income**	**3,014.63**	**3,270.10**	**3,580.46**	**3,868.25**	**4,085.49**	**3,700.30**
II	**Operating Costs (excluding depreciation)**						
	(i) Operating & Direct Labour.	205.87	213.61	221.64	107.73	128.92	211.21
	(iii) Equipment Running Costs	138.15	149.21	161.14	67.30	84.41	118.48
	(viii) Insurance	11.89	12.36	12.36	12.23	5.39	7.83
	(ix) Other expenses	143.03	148.41	153.99	114.53	151.34	187.33
	Total (i to v)	**498.94**	**523.59**	**549.13**	**301.79**	**370.06**	**524.85**
III	Amortisation	0.00	0.00	0.00	0.00	0.00	0.00
IV	Depreciation	836.45	874.45	874.45	690.80	837.24	1,466.70
V	Overheads						
	(i) Management & Administration overheads	210.70	218.62	226.84	706.36	296.01	218.32
	(ii) General Overheads	31.42	32.60	33.83	-	-	-
	Total (i & ii)	**242.12**	**251.22**	**260.67**	**706.36**	**296.01**	**218.32**
VI	**Total Expenditure (II + III + IV + V)**	**1577.51**	**1649.26**	**1684.25**	**1698.95**	**1503.31**	**2209.87**
VII	**Operating Surplus (I) – (VI)**	**1437.12**	**1620.84**	**1896.21**	**2169.30**	**2582.18**	**1490.43**
VIII	**Surplus Before Interest and Tax**	**1437.12**	**1620.84**	**1896.21**	**2169.30**	**2582.18**	**1490.43**
IX	**Capital Employed**	11191.98	11117.52	10243.07	8,736.22	18,080.80	16,907.08
X	**Return on Capital Employed**	1790.72	1778.80	1638.89	1,397.80	2,892.93	2,705.13
XI	**Capacity Utilization**	99.73%	101.82%	109.09%	119.80%	118.19%	103.91%
XII	**RoCE adjusted for capacity utilization**	1,790.72	1,778.80	1,638.89	1,397.80	2,892.93	2,705.13
XIII	**Net Surplus/(Deficit) (VIII) - (XII)**	**-353.60**	**-157.97**	**257.32**	**771.50**	**-310.75**	**-1214.70**
XVI	**Impact of amortisation amount wrongly considered**	16.67	16.67	16.67	-	-	-
XVII	**Total adjusted Surplus/ (Deficit) (XI+XII)**	-336.93	-141.30	273.99	771.50	-310.75	-1214.70

Annex - II (a)

BHARAT PETROLEUM CORPORATION LIMITED
Consolidated Income & Cost statement

(₹ in Lakhs)

Sr. No.	Particulars	Actuals			Estimates as given by BPCL at existing level of tariff in September 2013			Estimates at existing level of tariff as moderated by us		
		2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2013-14	2014-15	2015-16
	Traffic (In MTs)	**6,588,900**	**6,500,722**	**5,715,064**	**5,748,400**	**5,756,100**	**5,803,100**	**5,748,400**	**5,756,100**	**5,803,100**
I	**Total Operating Income**									
	Wharfage	3,441.69	3,601.20	3,271.60	3,329.72	3,334.56	3,367.32	3,329.72	3,334.56	3,367.32
	Wharfage Management & Loading Arm	242.31	268.57	274.08	269.48	271.78	270.63	269.48	271.78	270.63
	Pipeline, Compressor, Pigging, Vaporiser etc	75.56	83.20	85.76	84.87	85.70	85.29	84.87	85.70	85.29
	Bunker & Water Supply	108.69	132.52	68.85	66.48	67.68	67.08	73.47	74.80	74.12
	Total (i to iv)	**3,868.25**	**4,085.49**	**3,700.30**	**3,750.55**	**3,759.72**	**3,790.32**	**3,757.54**	**3,766.85**	**3,797.36**
II	**Operating Costs (excluding depreciation)**									
	Operating & Direct Labour	107.73	128.92	211.21	115.57	123.66	132.32	115.48	122.41	129.75
	Equipment Running Costs	67.30	84.41	118.48	133.96	163.34	194.77	126.77	134.38	142.44
	Royalty/ Revenue Share				1,113.77	1,109.36	1,119.44	-	-	-
	Insurance	12.23	5.39	7.83	8.77	9.39	10.04	8.38	8.88	9.41
	Other expenses	114.53	151.34	187.33	467.11	481.46	496.81	200.44	212.47	225.22
	Total (i to v)	**301.79**	**370.06**	**524.85**	**1,839.19**	**1,887.20**	**1,953.38**	**451.07**	**478.13**	**506.82**
III	**Depreciation**	690.80	837.24	1,466.70	1,265.22	1,301.80	1,334.10	1,220.24	1,305.12	1,337.42
IV	**Overheads**	706.36	296.01	218.32	331.31	352.88	375.87	233.60	247.62	262.48
	Total Expenditure	**1,698.95**	**1,503.31**	**2,209.87**	**3,435.72**	**3,541.88**	**3,663.35**	**1,904.91**	**2,030.87**	**2,106.72**
V	**Operating Surplus (I) – (II) – (III) - (IV)**	**2,169.30**	**2,582.18**	**1,490.43**	**314.83**	**217.84**	**126.97**	**1,852.63**	**1,735.97**	**1,690.64**
VI	**Surplus Before Interest and Tax**	2,169.30	2,582.18	1,490.43	314.83	217.84	126.97	1,852.63	1,735.97	1,690.64
VII	**Capital Employed**	8,736.22	18,080.80	16,907.08	17,064.00	16,533.12	15,879.02	15,902.85	16,599.79	15,945.70
VIII	**Return on Capital Employed**	1,397.80	2,892.93	2,705.13	2,730.24	2,645.30	2,540.64	2,544.46	2,655.97	2,551.31
IX	**Capacity Utilization**	119.80%	118.19%	103.91%	104.52%	104.66%	105.51%	104.52%	104.66%	105.51%
X	**RoCE adjusted for capacity utilization**	1,397.80	2,892.93	2,705.13	2,730.24	2,645.30	2,540.64	2,544.46	2,655.97	2,551.31
XI	**Net Deficit (VI) - (X)**	771.50	(310.75)	(1,214.70)	(2,415.41)	(2,427.45)	(2,413.68)	(691.83)	(919.99)	(860.68)
XII	**Net Deficit as a percentage of operating income (XI / I)**				-64.40%	-64.56%	-63.68%	-18.41%	-24.42%	-22.67%
XIII	**Average deficit as a percentage of operating income**					**-64.22%**			**-21.83%**	

Annex - II (b)

BHARAT PETROLEUM CORPORATION LIMITED
Cost statement for Wharfage

(₹ in Lakhs)

Sr. No.	Particulars	Actuals			Estimates as given by BPCL at existing level of tariff			Estimates at existing level of tariff as moderated by us		
		2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2013-14	2014-15	2015-16
I	**Operating Income**	**3,441.69**	**3,601.20**	**3,271.60**	**3,329.72**	**3,334.56**	**3,367.32**	**3,329.72**	**3,334.56**	**3,367.32**
II	**Direct Operating Expenses**									
	Operating & Direct Labour	86.18	103.14	168.38	92.46	98.93	105.86	92.38	97.93	103.44
	Equipment Running Costs	-	-	-	-	-	-	-	-	-
	Royalty/ Revenue Share	-	-	-	1,113.77	1,109.36	1,119.44	-	-	-
	Insurance	7.34	3.23	4.70	5.26	5.63	6.03	5.03	5.32	5.65
	Other expenses	68.72	90.92	112.40	280.26	288.87	298.08	120.27	127.48	135.13
	Total	**162.24**	**197.29**	**285.47**	**1,491.76**	**1,502.80**	**1,529.41**	**217.68**	**230.73**	**244.22**
III	Depreciation	557.62	686.98	1,283.05	1,107.96	1,120.78	1,129.33	1,017.89	1,088.70	1,115.64
IV	Allocated share of Overheads									
	Management & Administration overheads	706.36	296.01	218.32	324.54	345.63	368.12	233.60	247.62	262.48
	Others	-	-	-	-	-	-			
	Total (i to iv)	**706.36**	**296.01**	**218.32**	**331.31**	**352.88**	**375.87**	**233.60**	**247.62**	**262.48**
V	**Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)**	**2,015.46**	**2,420.92**	**1,484.76**	**398.69**	**358.10**	**332.71**	**1,860.54**	**1,767.51**	**1,744.98**
VI	**Surplus / deficit**	**2,015.46**	**2,420.92**	**1,484.76**	**398.69**	**358.10**	**332.71**	**1,860.54**	**1,767.51**	**1,744.98**
VII	Capital Employed for the activity	6,782.34	16,275.96	15,209.42	15,375.43	14,524.65	13,575.32	13,655.86	14,254.33	13,692.65
VIII	Return on Capital Employed	1,085.17	2,604.15	2,433.51	2,460.07	2,323.94	2,172.05	2,184.94	2,280.69	2,190.82
IX	Capacity Utilization	119.80%	118.19%	103.91%	104.52%	104.66%	105.51%	104.52%	104.66%	105.51%
X	RoCE adjusted for Capacity utilization	1,085.17	2,604.15	2,433.51	2,460.07	2,323.94	2,172.05	2,184.94	2,280.69	2,190.82
XI	**Net Surplus / (Deficit) (VI) - (X)**	930.29	(183.23)	(948.75)	(2,061.38)	(1,965.84)	(1,839.34)	(324.39)	(513.18)	(445.84)
XII	**Net Deficit as a percentage of operating income (XI / I)**				-61.91%	-58.95%	-54.62%	-9.74%	-15.39%	-13.24%
XIII	**Average deficit as a percentage of operating income**				**-58.50%**			**-12.79%**		

Annex - II (c)

BHARAT PETROLEUM CORPORATION LIMITED

Form 5 B (i) Cost statement for Loading Arm , Wharfage Management

(₹ in Lakhs)

Sr. No.	Particulars	Actuals			Estimates as given by BPCL at existing level of tariff			Estimates at existing level of tariff as moderated by us		
		2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2013-14	2014-15	2015-16
I	**Operating Income**	**242.31**	**268.57**	**274.08**	**269.48**	**271.78**	**270.63**	**269.48**	**271.78**	**270.63**
II	**Direct Operating Expenses**									
	Operating & Direct Labour	10.77	12.89	21.05	11.56	12.37	13.23	11.55	12.24	12.93
	Equipment Running Costs	33.65	42.21	59.24	66.98	81.67	97.39	63.38	67.19	71.22
	Royalty/ Revenue Share	-	-	-	-	-	-	-	-	-
	Insurance	2.45	1.08	1.57	1.75	1.88	2.01	1.68	1.78	1.88
	Other expenses	22.91	30.21	37.47	93.42	96.29	99.36	40.09	42.49	45.04
	Total	**69.78**	**86.39**	**119.32**	**173.71**	**192.20**	**211.99**	**116.70**	**123.70**	**131.08**
III	Depreciation	49.47	55.81	66.86	57.38	81.13	104.88	74.78	79.98	81.96
IV	Allocated share of Overheads	0.00	0.00	0.00	0.00	0.00	0.00	-	-	-
	(i) Management & Administration overheads	-	-	-	-	-	-			
	(ii) General Overheads	-	-	-	-	-	-			
	Total (i to iv)									
V	**Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)**	**123.07**	**126.37**	**87.90**	**38.38**	**(1.55)**	**(46.24)**	**78.00**	**68.10**	**57.59**
VI	**Surplus / deficit**	**123.07**	**126.37**	**87.90**	**38.38**	**(1.55)**	**(46.24)**	**78.00**	**68.10**	**57.59**
VII	**Capital Employed for the activity**	725.73	670.37	608.52	607.98	1,026.84	1,421.96	827.69	863.96	829.92
VIII	**RoCE - Maximum permissible (16%/ 6.35%)**	116.12	107.26	97.36	97.28	164.30	227.51	132.43	138.23	132.79
IX	**Capacity Utilization**	119.80%	118.19%	103.91%	104.52%	104.66%	105.51%	104.52%	104.66%	105.51%
X	**RoCE adjusted for Capacity utilization**	116.12	107.26	97.36	97.28	164.30	227.51	132.43	138.23	132.79
XI	**Net Surplus / (Deficit) (VI) - (X)**	6.95	19.11	(9.46)	(58.89)	(165.85)	(273.75)	(54.43)	(70.14)	(75.19)
XII	**Net Deficit as a percentage of operating income (XI / I)**				-21.85%	-61.02%	-101.15%	-20.20%	-25.81%	-27.78%
XIII	**Average deficit as a percentage of operating income**				**-61.34%**			**-24.60%**		

Annex - II (d)

BHARAT PETROLEUM CORPORATION LIMITED
Cost statement for Water , Bunkering & others

(₹ in Lakhs)

Sr. No.	Particulars	Actuals			Estimates as given by BPCL at existing level of tariff			Estimates at existing level of tariff as moderated by us		
		2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2013-14	2014-15	2015-16
I	**Operating Income**	108.69	132.52	68.85	66.48	67.68	67.08	73.47	74.80	74.12
II	**Direct Operating Expenses**									
	Operating & Direct Labour	5.39	6.45	11.26	5.78	6.18	6.62	5.77	6.12	6.92
	Equipment Running Costs	13.46	16.88	23.70	26.79	32.67	38.95	25.35	26.88	28.49
	Royalty/ Revenue Share	-	-	-	-	-	-	-	-	-
	Insurance	1.22	0.54	0.78	0.88	0.94	1.00	0.84	0.89	0.94
	Other expenses	11.45	15.11	18.73	46.71	48.15	49.68	20.04	21.25	22.52
	Total	**31.52**	**38.97**	**35.33**	**80.16**	**87.94**	**96.26**	**52.01**	**55.13**	**58.87**
III	Depreciation	7.61	8.59	10.58	12.50	12.50	12.50	11.59	12.39	12.70
IV	Allocated share of Overheads	0.00	0.00	0.00	0.00	0.00	0.00	-	-	-
	Management & Administration overheads	-	-	-	-	-	-			
	General Overheads	-	-	-	-	-	-			
	Total (i to iv)	-	-	-	-	-	-			
V	**Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)**	**69.56**	**84.96**	**22.94**	**(26.18)**	**(32.76)**	**(41.68)**	**9.88**	**7.28**	**2.55**
VI	**Surplus / deficit**	**69.56**	**84.96**	**22.94**	**(26.18)**	**(32.76)**	**(41.68)**	**9.88**	**7.28**	**2.55**
VII	**Capital Employed for the activity**	111.65	103.13	98.32	166.93	154.43	141.93	128.81	134.46	129.16
VIII	**RoCE - Maximum permissible**	17.86	16.50	15.73	26.71	24.71	22.71	20.61	21.51	20.67
IX	**Capacity Utilization**	119.80%	118.19%	103.91%	104.52%	104.66%	105.51%	104.52%	104.66%	105.51%
X	**RoCE adjusted for Capacity utilization**	17.86	16.50	15.73	26.71	24.71	22.71	20.61	21.51	20.67
XI	**Net Surplus / (Deficit) (VI) - (X)**	51.70	68.46	7.21	(52.89)	(57.47)	(64.39)	(10.73)	(14.23)	(18.12)
XII	**Net Deficit as a percentage of operating income (XI / I)**				-79.56%	-84.91%	-95.99%	-14.61%	-19.03%	-24.44%
XIII	**Average deficit as a percentage of operating income**				**-86.82%**			**-19.36%**		

Annex - II (e)

BHARAT PETROLEUM CORPORATION LIMITED

Form 5 B (i) Cost statement for Pipeline, Compressor, Vapouriser, Pigging

(₹ in Lakhs)

Sr. No.	Particulars	Actuals			Estimates as given by BPCL at existing level of tariff			Estimates at existing level of tariff as moderated by us		
		2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2013-14	2014-15	2015-16
I	**Operating Income**	72.56	83.20	85.76	84.87	85.70	85.29	84.87	85.70	85.29
II	**Direct Operating Expenses**									
	Operating & Direct Labour	5.39	6.45	10.52	5.78	6.18	6.62	5.77	6.12	6.47
	Equipment Running Costs	20.19	25.32	35.54	40.19	49.00	58.43	38.03	40.31	42.73
	Royalty/ Revenue Share	-	-	-	-	-	-	-	-	-
	Insurance	1.22	0.54	0.78	0.88	0.94	1.00	0.84	0.89	0.94
	Other expenses	11.45	15.11	18.73	46.71	48.15	49.68	20.04	21.25	22.52
	Total	**38.25**	**47.42**	**65.58**	**93.56**	**104.27**	**115.73**	**64.68**	**68.57**	**72.66**
III	Depreciation	76.10	85.86	106.22	87.38	87.38	87.38	115.98	124.05	127.12
IV	Allocated share of Overheads	0.00	0.00	0.00	0.00	0.00	0.00	-	-	-
	Management & Administration	-	-	-	-	-	-			
	General Overheads	-	-	-	-	-	-			
	Total (i to iv)	-	-	-	-	-	-			
V	**Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)**	(41.79)	(50.08)	(86.04)	(96.07)	(105.95)	(117.83)	(95.79)	(106.91)	(114.49)
VI	**Surplus / deficit**	**(41.79)**	**(50.08)**	**(86.04)**	**(96.07)**	**(105.95)**	**(117.83)**	**(95.79)**	**(106.91)**	**(114.49)**
VII	Capital Employed for the activity	1,116.50	1,031.34	990.81	914.57	827.19	739.81	1,290.49	1,347.05	1,293.97
VIII	RoCE - Maximum permissible	178.64	165.01	158.53	146.33	132.35	118.37	206.48	215.53	207.03
IX	Capacity Utilization	119.80%	118.19%	103.91%	104.52%	104.66%	105.51%	104.52%	104.66%	105.51%
X	RoCE adjusted for Capacity utilization	178.64	165.01	158.53	146.33	132.35	118.37	206.48	215.53	207.03
XI	**Net Surplus / (Deficit) (VI) - (X)**	(220.43)	(215.09)	(244.57)	(242.40)	(238.30)	(236.20)	(302.27)	(322.44)	(321.52)
XII	**Net Deficit as a percentage of operating income (XI / I)**				-285.61%	-278.05%	-276.95%	-356.16%	-376.23%	-376.99%
XIII	**Average deficit as a percentage of operating income**					**-280.20%**			**-369.79%**	

SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / DIFFERENT USER ORGANISATIONS AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY.

F. No.TAMP/68/2012-BPCL	**-**	**Proposal from the Bharat Petroleum Corporation Limited for general revision of its Scale of Rates.**

A summary of the comments received from the users/ user organisations and response of the BPCL thereon are tabulated below:

<table>
<tr><th>Sl. No.</th><th>Comments of user organisation</th><th>Response of BPCL</th></tr>
<tr><td>1.</td><td><u>J.N.P.T Liquid Chemical Berth Users' Association</u> (JNPTLCBUA)</td><td></td></tr>
<tr><td>(i).</td><td>BPCL has proposed a very steep revision in tariff for wharfage and various other services, which is approximately 63% for the next 3 years, which is not at all justifiable under any circumstances.</td><td>The proposal submitted by BPCL for revision of price is as per guidelines prescribed by TAMP. The increase in tariff of 63% is necessary to cover all the expenditure including Royalty and Return on capital Investment. Further, BPCL has invested on new facility for LPG. This will result in increase in RoCE and depreciation for the period under consideration. The total projected expenditure for year 2013-14 to 2015-16 also includes Royalty of ₹11.14 crores (Average of total royalty for the period 2009-10 to 2011-12) which were not considered as admissible cost in last proposal submitted by us in the year 2010. In view of this if royalty is not considered as admissible cost as per tariff guidelines prescribed by TAMP then the increase in tariff in next 3 years will be restricted to 34% instead of 63%.
The major share in our revenue is contributed by Crude oil which is 32% of total wharfage in the year 2010-11 and 38% in the year 2011-12. In 2012-13, in a meeting held with ONGC, ONGC has decided to reduce the quantity of crude oil. Accordingly, our projected throughput and projected revenue would decrease in the projected years.
In view of above to obtain fair return and to provide better facility to port users, the increase in tariff is justifiable.</td></tr>
<tr><td>(ii).</td><td>Wharfage and other tariff at neighboring Port i.e. MbPT are highly competitive compared to the tariff proposed by BPCL. The tariff proposed by BPCL is extremely higher than the tariff charged by MbPT. In this connection, comparative statement showing existing tariff at JNPT and MBPT and proposed rate at JNPT/BPCL for handling Liquid Cargo is given below:
<table>
<tr><th>Products</th><th colspan="2">JNPT</th><th colspan="2">JNPT/BPCL (proposed)</th><th colspan="2">MbPT</th></tr>
<tr><th></th><th>Foreign going</th><th>Coastal</th><th>Foreign going</th><th>Coastal</th><th>Foreign going</th><th>Coastal</th></tr>
<tr><th></th><th>Rate (₹ MT)</th><th>Rate (₹ MT)</th><th>Rate (₹ MT)</th><th>Rate (₹ MT)</th><th>Rate (₹ MT)</th><th>Rate (₹ MT)</th></tr>
<tr><td>POL</td><td colspan="6"></td></tr>
<tr><td>SKO,LDO</td><td>31.71</td><td>31.71</td><td>51.98</td><td>51.98</td><td>34.25</td><td>34.25</td></tr>
</table></td><td>JNPTLCBUA has compared wharfage charges and other charges of MbPT with BPCL proposed tariff. In this connection, it is stated that the pricing model is same for the both the entities. Tariff is dependent upon capital expenditure, revenue expenditure and other factors such as capacity etc. MbPT's Jetty was established long back than BPCL modernized jetty. In other words, the said jetty has recovered its capital investment first. BPCL also has</td></tr>
</table>

<table>
<tr>
<td></td>
<td>
<table>
<tr><td>HSD, FO, Base Oils, CBFS, AHE</td><td>49.01</td><td>49.01</td><td>80.34</td><td>80.34</td><td>44</td><td>44</td></tr>
<tr><td>Naptha, MS</td><td>77.84</td><td>77.84</td><td>127.6</td><td>127.6</td><td>44</td><td>44</td></tr>
<tr><td>AFS</td><td>98.02</td><td>98.02</td><td>160.68</td><td>160.68</td><td>44</td><td>44</td></tr>
<tr><td>Crude Oil</td><td>43.25</td><td>43.25</td><td>70.9</td><td>70.9</td><td>52.1</td><td>52.1</td></tr>
<tr><td colspan="7"></td></tr>
<tr><td>Chemicals</td><td colspan="6"></td></tr>
<tr><td>MEG, SM, BA, Crude Glycol, LAB, Xylene</td><td>98.02</td><td>58.81</td><td>160.68</td><td>96.4</td><td>88</td><td>52.8</td></tr>
<tr><td>Unenumerate chemicals</td><td>121.09</td><td>72.65</td><td>*197</td><td>119.09</td><td>88</td><td>52.8</td></tr>
<tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>Other Liquid Cargo</td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>Edible Oil</td><td>51.9</td><td>31.14</td><td>85.08</td><td>51.05</td><td>24</td><td>14.4</td></tr>
<tr><td>Acid</td><td>98.02</td><td>58.81</td><td>160.68</td><td>96.4</td><td>88</td><td>52.8</td></tr>
<tr><td>Molasses</td><td>40.36</td><td>24.22</td><td>66.16</td><td>39.7</td><td>Not specifi-ed **</td><td>Not specifi -ed **</td></tr>
</table>
References
1. JNPT-BPCL Trade Notice dated 01.11.2010
2. MbPT-TAMP Notification SOR dated 22.11.2011
3. * - Not specified but assumed @63% revision approx.
4. ** - Given at ID/VD.

This is when BPCL Jetty is enjoying more than 100% berth occupancy as per their own calculations as against worldwide norm of best occupancy at 70%.
</td>
<td>to incur extra expenses in the form of Way leave charges, Rent, and Royalty as BPCL operates its Jetty under BOT contract with JNPT. The royalty payable to JNPT is very high. These extra costs have lead to higher price than the MbPT. The facility provided by BPCL is much better than the MbPT's Pir Pau jetty. Accordingly, in view of this, the proposed price is reasonable and justifiable.</td>
</tr>
<tr>
<td>(iii).</td>
<td>It is pointed out that BPCL, in their working, have shown Royalty (income shared with JNPT as per BOT agreement) as cost net of which is used for ROCE calculation proposed @16%. In other words, BPCL is recovering the royalty paid to JNPT from Trade & Industry. BPCL should calculate the profitability on the basis of gross revenue i.e. revenue inclusive of royalty which is what Trade & Industry pays to BPCL for use of their Jetty.</td>
<td>In connection with calculation of RoCE, it is stated that the RoCE is calculated on the basis of guidelines prescribed by the TAMP.</td>
</tr>
<tr>
<td>(iv).</td>
<td>Product pipelines (24''X3Nos.X6km) etc. are lying unused since inception of the Jetty. These facilities are not properly maintained and the same have never been offered to trade or users since beginning, with the exception of pipelines in the beginning for a few months. In addition, BPCL has failed to evolve a policy and methodology to allow berth users to use these facilities. Many users, when approached for usage of these assets, did not receive any concrete response from BPCL. Hence, it is strongly contended that Trade and Industry should not be made to pay for BPCL's inefficient use of assets/ investments in facilities which are not used or maintained.</td>
<td>The claim made by JNPTLCBUA on unutilized assets is incorrect. Out of the three 24" dia pipelines, one pipeline is regularly used by IOCL/ IOT etc. The second 24" dia pipeline is also being re-tested & readied for use shortly.

These pipelines are designed to handle POL products only & hence cannot be shared for other oils/chemicals. Moreover, the oil import scenario changes with Govt. Policy etc. & BPCL does not have direct control for the POL throughput.

BPCL had offered their 24" dia Black oil pipeline to the trades but have not received any positive response.

However, BPCL is exploring to utilise pipeline for IOT/ ONGC services in future.</td>
</tr>
<tr>
<td>(v).</td>
<td>JNPTLCBUA is concerned about the intention of BPCL to ask for such unjustifiable, uncompetitive and exorbitant revision in tariff for wharfage and various other services.</td>
<td rowspan="2">In view of the above, the tariff proposed by us is just and fair to the trade. Hence, the same should be approved.</td>
</tr>
<tr>
<td>(vi).</td>
<td>It is requested that TAMP may reject BPCL's proposal, as current tariff are more or less at par with the tariff charged by MbPT and that there is no justification in giving any further revision.</td>
</tr>
<tr>
<td>2.</td>
<td><u>(a) Oil & Natural Gas Corporation Limited</u></td>
<td></td>
</tr>
</table>

<table>
<tr><td></td><td><u>(ONGC)</u></td><td></td></tr>
<tr><td>(i).</td><td>After ONGC started loading crude oil through JNPT from 19.01.08, the berth occupancy at JNPT liquid jetty has increased considerably.</td><td rowspan="5">The BPCL has not furnished its reply for the comment raised by ONGC</td></tr>
<tr><td>(ii).</td><td>ONGC has created facilities at JNPT including the loading arms at a cost of ₹150 crores, which are otherwise to be provided and maintained by the service provider.</td></tr>
<tr><td>(iii).</td><td>ONGC has to pay compensation charges to MbPT for the crude oil loaded from JNPT (as per the terms and conditions of the Agreement between MbPT and ONGC signed on 28.01.05). ONGC has requested MbPT for waiving the same which is yet to be considered.</td></tr>
<tr><td>(iv).</td><td>There is no change in crude oil pricing pattern introduced in 2002. Therefore, any increase in wharfage will be an additional expenditure to ONGC as it is borne by ONGC.</td></tr>
<tr><td>(v).</td><td>In view of the above points, further increase of the wharfage rates is to be avoided.</td></tr>
<tr><td></td><td>(b) <u>Additional comments by (ONGC)</u></td><td></td></tr>
<tr><td>(i).</td><td>ONGC created crude oil loading facility at JNPT with the sole aim of having an alternate loading point to meet any exigencies at MbPT port at Jawahar Deep (JD). For tanker loading, ONGC has installed 2 Nos Marine loading arms at BPCL jetty and carrying out their maintenance, which are other wise to be provided and maintained by the service provider i.e. M/s BPCL.(MbPT is providing such facilities at JD without any charge). Likewise, no customs clearance is needed for JD whereas ONGC is required to take custom clearance for every tanker loaded from JNPT.</td><td>ONGC has installed 2 Nos. Marine Loading Arms at our jetty. However, the regular maintenance of the marine loading arms is not being done. One of the two loading arms is non-functional for the past three years. In fact, BPCL is suffering loss of throughput and trade is incurring demurrages due to the non-functional loading arm. This has also increased congestion at the jetty.</td></tr>
<tr><td>(ii).</td><td>Of late, the berth occupancy at BPCL jetty has increased considerably specially after commencement of LPG import by M/s BPCL. In future, the berth occupancy is likely to increase further as more quantity of LPG shall be imported by M/s BPCL.</td><td>The berth occupancy is increased currently. But the future scenario may not sustain this increase. JNPT is commissioning liquid cargo handling facilities at their shallow berth from October 2013 onwards. They are also planning to construct a new liquid terminal of 15 MMTPA capacity. Both the above proposals shall greatly affect the throughput of BPCL liquid cargo jetty.</td></tr>
<tr><td>(iii).</td><td>ONGC has to pay compensation charges to MbPT at the rate of 50% of Wharfage charges applicable for JD for the quantity loaded from JNPT as per terms & condition of the agreement between MbPT & ONGC signed on 28.1.2005 as per the directive of Ministry of Petroleum & Shipping. The comparison for gross expenditure for loading of crude oil at JD and JNPT are as follows:
<table>
<tr><th>S. NO</th><th>Item</th><th>JD</th><th>JNPT</th></tr>
<tr><td>1</td><td>Wharfage Charges- ₹ /MT</td><td>52.1</td><td>43.25</td></tr>
<tr><td>2</td><td>Wharfage Management charges- ₹ /MT</td><td>-</td><td>3.69</td></tr>
</table></td><td>The rates being charged at jetties are dependent on the Capital Investment made for the project and current valuation of its assets. This varies from port to port depending on the age of jetty, facilities offered etc. from the table of rates, which ONGC has provided, still it is found that the wharfage charges at BPCL JNPT are much lower than those charged by JD. ONGC is losing due to the compensation clause in their agreement with JD, which they need to take up and resolve in consultation with JD. BPCL Jetty should not be held</td></tr>
</table>

<table>
<tr>
<td></td>
<td>
<table>
<tr><td>3</td><td>Service Tax- ₹ MT</td><td>6.41</td><td>5.78</td></tr>
<tr><td>4</td><td>Compensation to MbPT- ₹ /MT</td><td>-</td><td>26.05</td></tr>
<tr><td>5</td><td>Gross Expenditure</td><td>58.51</td><td>78.77</td></tr>
</table>
It is evident from the above table that ONGC is incurring additional expenditure of ₹ 20.26/ MT for loading crude oil from JNPT as compared to JD
</td>
<td rowspan="2">responsible for the same.</td>
</tr>
<tr>
<td>(iv)</td>
<td>The above mentioned points may also be considered for general revision of the BPCL jetty. In case of, Further increase in Wharfage & Wharfage Management charges, ONGC may be forced to reduce the loading from the JNPT and increase loading from JD to avoid additional expenditure arising out of revision of rates.</td>
</tr>
<tr>
<td>3.</td>
<td><u>Mumbai And Nhava-Sheva Ship-Agents Association (MANSA)</u></td>
<td></td>
</tr>
<tr>
<td>(i).</td>
<td>Increase in Wharfage Charges:
There is no reasonable justification for the proposed quantum of increase of above 50 percent in wharfage charges by BPCL, when especially the entire EXIM Trade is under pressure due to existing recession in international Trade. The increase in tariff becomes heavy burden and act as retrograde step for shipments of oil products. However, the Authority may consider a reasonable revision, say, an increase of approx. 10 to 20 percent, considering the overall increase in cost.</td>
<td rowspan="3">(i). The proposal submitted by BPCL for revision of price is as per guidelines prescribed by TAMP. The 63% increase in tariff is necessary to cover all the expenditure including Royalty and Return on capital investment. Further, BPCL has invested on upgradation of the Fire Fighting Facilities. This will result in increase in ROCE and depreciation for the period under consideration. The total projected expenditure for year 2013-14 to 2015-16 also include Royalty being a sum of ₹11.14 crores (Average of total royalty for the period 2009-10 to 2011-12 which were not considered as admissible cost as per tariff guidelines prescribed by TAMP than the increase in tariff in next 3 years will be restricted to 34% instead of 63%. In view of above to obtain fair return and continue to provide better facility to port users, the increase in tariff is justifiable.

(ii). (a). It is clarified that any delay of vessel at the Jetty due to any reasons attributed to BPCL

(b). The submission by MANSA cannot be accepted.

(iii). There has been instances when the vessel has been delayed at Berth for want of ship stores, the Officer who have gone out to visit their relatives have not returned on time etc. The provision has been provided to act as a deterrent and not any revenue generating mechanism. Hence it should be accepted.</td>
</tr>
<tr>
<td>(ii).</td>
<td>General Terms and Condition:
It is not clear what charges are mentioned in this line. If it is Vessel related charges which is paid to JNPT authorities accordingly the terms and conditions should be in line with JNPT tariff guidelines.

It appears that MANSA has reffered to note no. (ix) in Section 1.2 of BPCL SOR, which pertains to n on payment of charges by users for delays beyond a reasonable level attributable to BPCL.

The Terminals decision to accept the responsibility for the delay attributed by the shore based Terminals operating from JNPT and BPCL jetty is appreciated. It is requested to make modification to this in the following manner to avoid dispute at later stage with the users.

“in case a vessel idles due to non-availability or break down of the shore based facilities of the Terminals operating at BPCL or any other reasons attributable to the BPCL-IOCL liquid cargo jetty, rebate equivalent to berth hire/penal berth hire charges payable to JNP accrued during the period of idling of vessel shall be paid by BPCL-IOCL authorities”.</td>
</tr>
<tr>
<td>(iii).</td>
<td><u>Miscellaneous charges:</u>
It is requested not to levy multiple penalties for occupying the berth after completion of discharges, as per present tariff of JNP, following charges are applicable if a vessel stays after cargo operation</td>
</tr>
</table>

	even though for no fault of the vessel. (a). Normal berth hire charges (b). Penal berth hire charges (c). Penal berth hire equal to one day berth hire In addition to this, respective Terminal also charge/ propose to charge berth hire for the same reason.	
(iv).	There is absolutely no justification to penalize the vessel with multiple penalties by different Authorities due to lack of availability of anchorage at JNPT and most of times it is not attributable to the vessel.	

2. A joint hearing in this case was held on 30 August 2013 at the Office of the Authority. At the joint hearing, the BPCL, JNPT and the concerned user's organizations have made the following submissions:

BPCL

(i). Our royalty is about ₹12 Crores per month. Royalty may be allowed as cost. We are pre-2003 BOT operator.

(ii). We operate equal to 100% capacity of the facility. We cannot operate more than the capacity.

JNPT

(i). We agree to their proposal.

IOT Infrastructure & Energy Services Limited (IOTIESL) representing JNPLCBUA

(i). We bear the increased cost. BPCL does not have major import cost.

(ii). We strongly oppose the tariff increase.

(iii). Volume is increasing. Berth is over utilized. There is congestion. Traffic volume is assumed.
(BPCL: Past data shows that our traffic estimate is realistic. It will not go up to 7 million tonnes). Moreover, the BPCL jetty is old and we plan to carry out revamping, which would involve shut downs in the jetty.

(iv). BPCL should look at increasing the capacity.

JNPLCBUA

(i). There is already delay of 6 to 7 days as compared to MBPT. We pay demurrage.

(ii). The pipelines are not being put to use. It is a dead investment and BPCL wants to recover it from users.

(iii). Petroleum products can be transported through pipe lines.
With increase in tariff, BPCL will be incompetitive.
[BPCL: When the jetty was built up, it was 1 shift per week. Now there are more shifts. Trade is not coming forward for use of the pipeline.]

ONGC

(i). We have created facilities at JNPT including loading arms which are otherwise to be provided and maintained by BPCL.
We have undertaken additional responsibilities at JNPT.

(ii). Compensation charges for handling at JNPT is payable to MBPT for the cargo loaded from JNPT.

(iii). This year, Ministry of Petroleum has given more cargo to BPCL & HPCL. There will be reduction in traffic if tariff is increased.

(iv). We are getting berth after 2 or 3 days in spite of paying priority berthing charges.

MANSA

(i). We have given our written comments

(ii). BPCL is charging penal berth hire though JNPT also charges.
[BPCL: We have not charged so far]

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