

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

- 1. Shri Ashok Basu, Chairperson**
- 2. Shri Bhanu Bhushan, Member**
- 3. Shri A.H. Jung, Member**

Petition No. 3/2006

In the matter of

Approval of recovering the fixed charges on account of capital expenditure at the various offices of NTPC

And in the matter of

National Thermal Power Corporation Ltd Petitioner

Vs

1. Uttar Pradesh Power Corporation Ltd., Lucknow
2. Ajmer Vidyut Vitran Nigam Ltd., Ajmer
3. Jaipur Vidyut Vitran Nigam Ltd., Jaipur
4. Jodhpur Vidyut Vitran Nigam Ltd., Jodhpur
5. Delhi Transco Ltd., New Delhi
6. Punjab State Electricity Board, Patiala
7. Haryana Vidyut Prasaran Nigam Ltd., Panchkula
8. Haryana Power Generation Company Ltd., Panchkula
9. Himachal Pradesh State Electricity Board, Shimla
10. Power Development Department, Govt. J&K, Jammu
11. Chief Manager, Chandigarh Admn, Chandigarh
12. Uttaranchal Power Corporation Ltd., Dehradun
13. Madhya Pradesh State Electricity Board, Jabalpur
14. Maharashtra State Electricity Distribution Co. Ltd., Mumbai
15. Gujarat Urja Vikas Nigam Ltd., Vadodara
16. Chattisgarh State Electricity Board, Raipur
17. Electricity Department, Govt. of Goa, Panaji
18. Electricity Department, Admn of Daman & Diu, Daman
19. Electricity Department, Admn of Dadra & Nagar Haveli, Silvassa
20. Transmission Corporation of Andhra Pradesh Ltd., Hyderabad
21. AP Eastern Power Distribution Co.Ltd., Vishakapatnam
22. AP Southern Power Distribution Co.Ltd., Tirupathi
23. AP Northern Power Distribution Co.Ltd., Warangal
24. AP Central Power Distribution Co.Ltd., Hyderabad
25. Karnatka Power Transmission Corporation Ltd., Bangalore
26. Bangalore Electricity Supply Co. Ltd., Bangalore
27. Mangalore Electricity Supply Co.Ltd., Mangalore
28. Chamundeshwari Electricity Supply Corp.Ltd., Mysore
29. Gulbarga Electricity Supply Co.Ltd., Karnataka
30. Hubli Electricity Supply Co.Ltd., Hubli
31. Kerala State Electricity Board, Thiruvananthapuram

32. Electricity Department, Govt. of Pondicherry, Pondicherry
33. Electricity Department, Govt. of Goa, Panaji
34. Tamil Nadu Electricity Board, Chennai
35. Gird Corporation of Orissa Ltd., Bhubaneshwar
36. Damodar Valley Corporation, Kolkata
37. Bihar State Electricity Board, Patna
38. West Bengal State Electricity Board, Kolkata
39. Department of Power, Govt. of Sikkim, Gangtok
40. Jharkhand State Electricity Board, Ranchi

...**Respondents**

The following were present:

1. Shri V.B.K. Jain, NTPC
2. Shri I.J. Kapoor, NTPC
3. Shri S.N. Goel, NTPC
4. Ms Alka Saigal, NTPC
5. Shri G.K. Dua, NTPC
6. Shri S.K. Samui, NTPC
7. Shri Balaji Dubey, NTPC
8. Shri Vivake Kumar, NTPC

ORDER
(DATE OF HEARING: 23.2.2006)

The petitioner, through this petition has sought approval for recovery of fixed charges on account of certain capital expenditure from the respondents, in accordance with the methodology proposed in the petition.

2. We heard Shri V.B.K. Jain for the petitioner on admission.

3. The petitioner, a generating company owned or controlled by the Central Government owns the generating stations in four regions of the country, namely Northern, Western, Southern and Eastern Regions. The power generated at these generating stations is supplied to the Bulk Power Customers who are generally the State Utilities located in these regions, for which the Bulk Power Supply Agreements/Power Purchase Agreements are signed with the petitioner.

4. For effective coordination of the activities of the generating stations/projects in a region, the petitioner has established certain offices which it calls the Regional Headquarters, stated to be six in number. The activities of the Regional Headquarters Offices are further regulated through the Corporate Offices stated to be located at New Delhi and NOIDA. The Corporate Offices lay down the policy for guidance to the Regional Headquarters and the generating stations/projects, to meet their needs related to engineering, procurement, technical, commercial and financial matters. The petitioner has also established Central Satellite Earth Station at Muradnagar which caters to the communication links of different generating stations/projects and other offices. In addition, the petitioner is said to have established Transport and Custom Clearance offices at Chennai and Kolkata to facilitate functioning of different field offices/generating stations. The capital expenditure incurred by the petitioner on establishment of all these offices which is stated to be Rs.370.30 crore as on 1.4.2004, is not taken into consideration for determination of tariff for supply of electricity generated at the generating stations owned by the petitioner, though the revenue expenditure of all these offices is allocated to different generating stations. The capital assets are stated to have been financed entirely through equity and the petitioner has claimed return on equity @ 14%, as applicable during the current tariff period on the capital expenditure incurred on their establishment.

5. The matter is to be considered in the historical perspective. Prior to 1992, the tariff in respect central power sector utilities was determined through the Power Purchase Agreements signed by such utilities with the State beneficiaries, as

single part tariff. With effect from 15.10.1991 section 43A (2) was introduced in the Electricity (Supply) Act, 1948, which enabled the Central Government and CEA to prescribe norms for determination of tariff. The proviso to section 43A (2) further empowered the appropriate Government to determine the terms, conditions and tariff for sale of electricity in respect of the generating companies wholly or partly owned by that Government. By virtue of powers under Section 43 A(2), the Central Government in Ministry of Power issued a general notification dated 30.3.1992 to determine factors in accordance with which the tariff for sale of electricity by Generating Companies to the State Electricity Boards and to other persons was to be determined. Para 1.2 of this notification provided, *inter alia*, that the actual capital expenditure incurred on completion of the project was to be the criterion for fixation of tariff. It was further provided that where the actual expenditure exceeded the approved project cost the excess as approved by the Central Electricity Authority was to be deemed as the capital expenditure for the purpose of determining the tariff. In keeping with the principles contained in the notification dated 30.3.1992 the tariff for the generating stations owned by the petitioner was determined by the Central Government under proviso to Section 43 A(2) based on the actual capital expenditure incurred.

6. The terms and conditions prescribed by the Central Government were continued up to 31.3.2001. With effect from 1.4.2001, the terms and conditions for determination of tariff as contained in the Central Electricity Regulatory Commission (Terms & Conditions of Tariff) Regulations, 2001 (the 2001 regulations) became applicable. The 2001 regulations also provided that the

actual expenditure on the project was to be the basis for computation of tariff. With effect from 1.4.2004, the tariff is determined under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004. Under these regulations also, the actual expenditure incurred on completion of the project has to form the basis for determination of final tariff. The term “project” used in the regulations from time to time is synonymous with the generating station and there are not two views on this.

7. Traditionally, the actual expenditure incurred on the generating station only reckons for the purpose of determination of tariff. The petitioner has not brought to our notice any provision of law which may enable the petitioner to reckon the capital expenditure incurred on offices other than on the project for the purpose of determination of tariff. The tariff is to be determined in accordance with the regulations and the regulations do not contain any provision for consideration of capital cost at other offices for tariff determination. Therefore, it is not possible to concede to the prayer of the petitioner made in the present petition.

8. The general accounting practice is that the expenditure on an administrative establishment is charged to productive units in the form of overheads. The expenditure on an administrative establishment includes depreciation, interest and other O & M expenses. The petitioner in the petition has stated that as per audited accounts, the depreciation on the capital assets of all these offices becomes part of the Corporate Centre revenue expenses and is booked to various projects and stations and thus depreciation on these assets gets recovered through tariff.

Similarly, revenue expenses of these offices, are also recovered through tariff as O&M expenses, by apportioning these expenses among all the generating stations owned by the peititoner. The petitioner is thus already availing of the benefits available under the established financial accounting practices.

9. We have considered the matter and are unable to persuade ourselves that the petitioner has made out a prima facie case in support of the relief prayed for. Accordingly, the petition is dismissed at the admission stage.

Sd/-
(A.H. JUNG)
MEMBER

Sd/-
(BHANU BHUSHAN)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRPERSON

New Delhi dated the 26th April 2006