

**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.10/2006**

**In the matter of**

Petition under regulations 12 and 13 of the CERC (Terms and Conditions of Tariff) Regulations, 2004 for removal of difficulties and for relaxation of norms/provisions in regard to additional capitalisation from the date of commercial operation up to the cut off date for determination of tariff of Ramagundam STPS Stage III and also for exercise of inherent powers to do substantial justice.

**And in the matter of**

National Thermal Power Corporation Ltd.

**Petitioner**

Vs

1. Transmission Corporation of Andhra Pradesh Ltd, Hyderabad
  2. AP Eastern Power Distribution Co.Ltd., Visakhapatnam
  3. AP Southern Power Distribution Co.Ltd, Tirupathi
  4. AP Northern Power Distribution Co. Ltd., Warrangal
  5. AP Central Power Distribution Co. Ltd., Hyderabad
  6. Tamil Nadu Electricity Board, Chennai
  7. Karnataka Power Transmission Corp. Ltd, Bangalore
  8. Bangalore Electricity Supply Co. Ltd., Bangalore
  9. Mangalore Electricity Supply Co.Ltd., Mangalore
  10. Chamundeswari Electricity Supply Corp. Ltd., Mysore
  11. Gulbarga Electricity Supply Co. Ltd., Gulbarga
  12. Hubli Electricity Supply Co.Ltd., Hubli
  13. Kerala State Electricity Board, Thiruvananthapuram
  14. Electricity Department, Govt. of Pondicherry, Pondicherry
- Respondents**

**The following were present:**

1. Shri S.K. Mandal, NTPC
2. Shri V.B.K. Jain, NTPC
3. Shri D. Saha, NTPC
4. Shri A.K. Juneja, NTPC
5. Shri C.S. Srinivas, NTPC
6. Shri D. Muralikrishna, NTPC
7. Shri S. Naik, NTPC
8. Shri G.S. Aghesh, NTPC
9. Shri A. Radhakrishna, NTPC
10. Shri N.K. Narang, NTPC
11. Ms. Pranav Kapoor, NTPC

**ORDER**  
**(DATE OF HEARING: 20.4.2006)**

The application has been made for relaxation of norms relating to the cut off date for additional capitalization in the case of Ramagundam Super Thermal Power Station Stage III (Ramagundam STPS Stage III) and for computing the cut off date up to 31.3.2007.

2. The investment approval for establishment of Ramagundam STPS Stage III was accorded by the Board of Directors of the petitioner company on 16.5.2001. In accordance with the investment approval, commissioning was to be within 48 months from the placement of the main plant order or within 55 months from the date of the investment approval, whichever is earlier. It has been stated that the main plant order was placed on 22.8.2001 and accordingly, Ramagundam STPS Stage III could be declared under commercial operation by 16.12.2005. The generating station was, however, declared under commercial operation on 25.3.2005, ahead of scheduled date of commissioning.

3. In accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 (the 2004 regulations), the additional capitalization of the capital expenditure within the original scope of work but actually incurred from the date of commercial operation and up to the cut off date is allowed. The "cut off date" is defined as the date of first financial year closing after one year of the date of commercial operation of the generating station. The "date of commercial operation" is further defined, in relation to a unit, as the date declared by the generator after demonstrating the maximum continuous rating or

installed capacity through a successful trial run after notice to the beneficiaries and in relation to the generating station as a whole, the date of commercial operation means the date of commercial operation of the last unit or the block of the generating station.

4. The petitioner has submitted that the generating station was declared under commercial operation from a date anterior to the scheduled date of commercial operation by preponing various activities. It is stated that some of the capital works required for smooth and safe operation in the long run are taken up in due course of time after the date of commercial operation. In terms of the definition of cut off date given in the 2004 regulations, in respect of Ramagundam STPS such date is 31.3.2006. The petitioner, however, has prayed that cut off date should be relaxed up to 31.3.2007 to enable it to claim capitalization of additional expenditure up to that date. The petitioner has submitted that by antedating the date of commercial operation vis-à-vis the scheduled date of commercial operation, the respondents have been substantially benefited since the power generated at Ramagundam STPS Stage III has become available to them from an earlier date; this has resulted in lower fixed charges as on the date of commercial operation because of lower IDC and IEDC and savings on account of income tax. It has been further submitted that the planning for the execution of works for Ramagundam STPS Stage-III was completed before the notification of the 2004 regulations wherein the concept of cut off date was introduced for the first time. It has been urged by the petitioner that in terms of the definition of 'cut off date' given in the 2004 regulations, the time available for additional

capitalization ranges between one year to nearly two years. It has been illustrated that in respect of a generating station declared under commercial operation in the month of March, only one year is available before arrival of the cut off date. However, in case of a generating station declared under commercial operation in the month of April, period of nearly 2 years becomes available for seeking capitalization of the additional expenditure. Under these circumstances, the petitioner has prayed for relaxation of cut off date in case of Ramagundam STPS Stage III from 31.3.2006 to 31.3.2007.

5. None of the respondents has filed any reply opposing the prayer made by the petitioner. None appeared on their behalf at the hearing.

6. We have considered the prayer made by the petitioner. The intention of providing the cut off date for capitalization of the expenditure incurred after the date of commercial operation is to ensure that all works are completed as early as possible, since in the past it was observed that the proposals for additional capitalization of expenditure were received years after the commissioning of a generating station. On these considerations, relaxation or extension of cut off date cannot be allowed in routine. Nevertheless, relaxation may be considered in extreme cases. In the present case, it has been found that the petitioner could defer commissioning of Ramagundam STPS Stage III by about a week and would still have been within the scheduled date of commercial operation of 22.8.2005, that is, within 48 months from the date of main plant order, placed on

22.8.2001. In that case, the cut off date for capitalization of additional expenditure would have automatically been extended up to 31.3.2007.

7. On consideration of the facts on record placed before us by the petitioner, we are satisfied that it is a fit case for invoking powers under Regulations 12 and 13 of the 2004 regulations for removal of difficulty or relaxation of the relevant provisions. We accordingly direct that in respect of Ramagundam STPS Stage III, cut off date for the purpose of additional capitalization shall be taken as 31.3.2007. The relaxation granted in the present case will not be quoted on precedent in any of the future cases as each case is to be considered and decided on its own merits. The petition accordingly stands disposed of.

Sd/-  
**(A.H. JUNG)**  
**MEMBER**

Sd/-  
**(BHANU BHUSHAN)**  
**MEMBER**

Sd/-  
**(ASHOK BASU)**  
**CHAIRPERSON**

New Delhi dated the 6<sup>th</sup> February 2007