

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram**

1. **Shri Bhanu Bhushan, Member**
2. **Shri R Krishnamoorthy, Member**

**Review Petition No.153/2006  
in  
Petition No.79/2005**

**In the matter of**

Review of the order dated 16.11.2006 in Petition No 79/2005 determining tariff for Kawas GPS for the period 1.4.2004 to 31.3.2009.

**And in the matter of**

M.P. Power Trading Company Ltd, Jabalpur      ...      **Review Petitioner**  
Vs

1. National Thermal Power Corporation Ltd, New Delhi
2. Maharashtra State Electricity Distribution Company, Mumbai
3. Gujarat Urja Vikas Nigam Limited, Vadodara
4. Chhattisgarh State Electricity Board, Raipur
5. Electricity Dept., Administration of Dadra & Nagar Haveli, Silvassa
6. Goa Electricity Department. Panaji
7. Electricity Department., Administration of Daman & Diu, Daman

.... **Respondents**

**The following were present:**

1. Shri Deepak Shrivastava, MPPTC
2. Shri Harish Chander, MPPTCL
3. Shri S.N. Goel, NTPC
4. Shri S. K. Sharma, NTPC
5. Shri, S.K. Johar, NTPC
6. Shri D. S. Pandey, NTPC
7. Shri P. J. Jani, GUVNL

**ORDER  
(DATE OF HEARING: 22.5.2007)**

This application was made for review of order dated 16.11.2006 in Petition No. 79/2005, determining the tariff in respect of Kawas Gas Power Station

(hereinafter referred to as “the generating station”) for the period 1.4.2004 to 31.3.2009 on different grounds.

2. The application for review was heard on 22.2.2007 and by order dated 26.2.2007 review was admitted on the limited issue of computation of fuel stock as a component of working capital for the purpose of calculation of interest thereon.

3. The Commission in the order dated 16.11.2006 had considered liquid fuel stock for ½ month for the purpose of working capital. According to the review petitioner, while doing so, the Commission has considered neither the available storage capacity of Naphtha at the generating station nor the liquid fuel stock as on 31.3.2004. The review petitioner has alleged that the Commission accepted the claim of NTPC Ltd (hereinafter “the respondent”) for Rs.5307 lakh as cost of fuel stock without any prudence check. It has been further alleged that the storage capacity at the generating station is only 6800 KL, which would work out only Rs.1369 lakh in monetary terms. On the other hand, as per the annual accounts for the year 2003-04, Naphtha stock as on 31.3.2004 was only Rs.1020 lakh. According to the review petitioner, allowing claim of Rs.5307 lakh on account of ½ month liquid fuel stock is an error apparent on the face of the impugned order which needs to be corrected. In this regard, the review petitioner has also relied upon the Commission’s order dated 7.4.2005 in Petition No.31/2001 (Determination of tariff for Kawas GPS) for the period 1.4.2001 to 31.3.2004 wherein the Commission had considered the actual stock as on

31.3.2001 as a component of working capital. Hence, the present application for review has been made.

4. The respondent has opposed the application for review on a number of grounds. The following is the gist of the submissions made by the respondent:

(a) Under the guise of review of order dated 16.11.2006, the review petitioner is seeking re-determination of norms or re-hearing of the case.

(b) The Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004, (hereinafter referred to as “the regulations”) provide for normative half month liquid fuel stock in the case of Combined Cycle Generating Stations.

(c) It is for the respondent to manage its affairs in such a manner as it considers appropriate with regard to maintenance of liquid fuel stock to enable operation of the generating station. The risk and cost of failure to maintain adequate supply of fuel will be borne by the generating station in the form of loss of generation and inability to achieve the targeted PLF.

(d) The review petitioner has relied on the tariff order dated 7.4.2005 in Petition No 31/2001 which pertains to the period 2001-04. As the order dated 7.4.2005 is based on the tariff regulations applicable during the period 2001-04, the same cannot be applied to the instant case.

5. We have perused the records of the case and have heard the representatives of the parties including that of the third respondent, who has supported the review petitioner.

6. The basic contention of the review petitioner is that liquid fuel stock should be computed based either on the storage capacity available at the generating station for Naphtha or on the declared stock of liquid fuel stock as per the annual statement of accounts for the year 2003-04.

7. We are unable to agree with the contention of the review petitioner. The regulations (applicable for the period 1.4.2004 to 31.3.2009) expressly lay down that for the purpose of computation of working capital in case of Combined Cycle Generating Stations, liquid fuel stock for ½ month is to be considered. These regulations which have statutory flavour and cannot be overlooked, have been consistently followed, at times even to the discomfiture of the respondent. Under the regulations, the storage capacity or for that matter the actual stock of liquid fuel held at the generating stations has no relevance. Also, reliance by the review petitioner on the order dated 7.4.2005 in Petition No.31/2001 for the period 1.4.2001 to 31.3.2004 is of no assistance to it as the current regulations indicate a marked departure from the corresponding provision contained in regulation 2.7 (e) (i) of the Central Electricity Regulatory Commission (Terms & Conditions of Tariff) Regulations, 2001 applicable during 2001-04, which provided as under:

“Fuel cost for one month and reasonable fuel stocks as actually maintained but limited to fifteen days for pit head stations and thirty days for non pit-head stations, corresponding to the “Target Availability”. (Emphasis supplied)

8. Further, data available with the Commission indicates that there have been instances where the stock of liquid fuel considered in the working capital for the period 2004-09 has been more than the storage capacity in respect of some of the generating stations and less in some others. Irrespective of the storage capacity of a generating station, the Commission has been computing working capital based on the norms prescribed in the regulations.

9. The review petitioner, after the hearing filed some additional submissions in support of its contention. The review petitioner’s thrust in the additional submission has been there is considerable change in the operating pattern of the generating station since 1.4.2004 and, therefore, interest on working capital should be recomputed based on the average mode of operation of the last two years. In the additional submissions, it has been pointed out that fuel component in working capital has been computed by considering the operating pattern for 2003-04 as 25% by gas and 75% by Naphtha, furnished by the respondent, but the actual operation pattern between gas and liquid fuel for the years 2004-05 and 2005-06 has been in the ratio 10:90 and 56:44 respectively. This issue was neither raised in the original petition nor in the application for review. This is, therefore, beyond the scope of the present application for review. We may, however, add that in all cases the Commission has allowed interest on working

capital, based on the position obtaining on 1.4.2004 and has not considered revision thereof in the light of any subsequent changes, though in certain cases the respondent sought review of interest on working capital consequent to upward revision of coal prices for coal-based generating stations.

10. In view of the above discussion, the application for review fails being dehors the statutory provisions contained in Order XLVIII of the Code of Civil Procedure. The application is accordingly dismissed.

**Sd/-**  
**(R KRISHNAMOORTHY)**  
**MEMBRER**

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

**New Delhi dated 25<sup>th</sup> May, 2007**