

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

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

Petition No. 40/2005

In the matter of

In-principle approval of capital cost for Nagarjuna Power project for the period 1.9.2008 onwards.

And in the matter of

Nagarjuna Power Corporation Ltd., Bangalore

..Petitioner

Vs

1. Karnataka Power Transmission Corporation Ltd, Bangalore
2. Kerala State Electricity Board, Thiruvananthapuram

..Respondents

The following were present

1. Shri. Praveer Sinha NPCL
2. Shri. K. S. Balachandra, NPCL
3. Shri T.C.Upreti, ED, NPCL
4. Shri T.P.S.Bawa, PSEB
5. Shri S. Prasad, Advocate, Jan Jagran Simiti, the objector

ORDER

(DATE OF HEARING: 14.6.2007)

The petitioner had filed this petition for `in principle` approval of capital cost of Nagarjuna Power Project being established by it.

2. The Commission, vide its order dated 25.10.2005 accorded `in principle` approval of the capital cost of US\$ 40.0 million+ Euro 66.0 million + Rs. 3745.86 crore including IDC and financing charges of Rs. 350.14 crore, which totals to Rs. 4299.12 crore at the exchange rate of Rs. 43.72 per US\$ and Rs. 57.33 per Euro.

The `in principle` approval was accorded subject to the following conditions, namely:

- (a) For the purpose of tariff, the completed capital cost shall not exceed the total capital cost approved;
 - (b) The petitioner shall achieve the financial closure within 120 days from the date of the order;
 - (c) The norms specified in the 2004 regulations for determination of tariff are the ceiling norms and parties may agree to improved norms and where the improved norms are agreed to, such norms shall be the basis for determination of tariff; and
 - (d) No additional capital expenditure incurred on maintaining operational and performance parameters shall be admissible for tariff enhancement during the rated life of the generating station.
3. Subsequently, the petitioner vide its IA No. 4/2006 sought clarification on the order dated 25.10.2005 and also extension of time to achieve the financial closure. This IA was disposed off vide order dated 9.3.2006 wherein the Commission allowed time up to 30.6.2006 to achieve financial closure.
4. The petitioner filed another IA, being IA No. 45/2006 on 29 Jun 2006 praying for further extension of time by 120 days for achieving financial closure. In support of its prayer, the petitioner gave details of the progress made in concluding PPA agreements with the State utilities and procuring loans from Banks/financial institutions. The petitioner also forwarded Power Finance Corporation's letter dated 19.7.2006, wherein the letter give approval for enhancement in the loan sanction amount from Rs. 75000 lakh to Rs. 95000 lakh. Vide order dated 7.8.2006, the

petitioner was allowed extension of time for financial closure, up to 31.10.2006. The petitioner vide letter dated 18.10.2006 has informed that financial closure of the project was achieved on 17.10.2006.

5. Initially petitioner had proposed to sell power to the utilities in the State of Karnataka and Kerala State Electricity Board. Accordingly, by order dated 7.8.2006, the petitioner was directed to conclude PPA with both the State utilities before 30.9.2006. The petitioner vide its letter dated 29.9.2006 submitted PPA signed with Punjab State Electricity Board dated 29.9.2006, in place of Kerala State Electricity Board on 30.9.2006. It has been explained that PPA with KSEB could not be signed. Therefore, the petitioner has signed PPA with PSEB on 29.9.2006.

6. Meanwhile, Jana Jagriti Samiti, District Udupi has filed certain objections stating that the project is not economically or environmentally viable and has prayed for rejection of the project.

7. Heard representatives of petitioner and respondent, PSEB and learned counsel for the objector.

8. The petitioner has informed that the project is under execution and for development of the project, necessary steps are being taken. Based on the progress made, as stated by the representative of the petitioner, the 1st unit is likely to be commissioned by the end of 2009. Shri TPS Bawa, representative of the PSEB has submitted that capital cost and financial plan for which in principle approval has been accorded by the Commission is acceptable for the purpose of tariff. We direct that the PPA signed with PSEB be taken on record. Accordingly, the beneficiaries of the power project are the utilities in the State of Karnataka and PSEB.

9. The learned counsel for the objector raised certain issues relating to the establishment of the project. It has been pointed out that the location of the generating station is in dispute and therefore, the project cost already approved is unenforceable. He also raised certain issues regarding the environmental clearance obtained by the petitioner.

10. We have given our careful consideration to submission made on behalf of the objector. The members of the Jan Jagran Samiti had raised similar issues earlier. Before according `in principle` approval, notices were issued to the objectors and none appeared on their behalf. However, the representations received were duly considered in the order dated 25.10.2005. The `in principle` approval to the project cost has already been accorded, and it cannot be undone on account of the issues now raised by the learned counsel. No useful purpose would, therefore, be served by going into these issues at this stage.

sd/-
(R.KRISHNAMOORTHY)
MEMBER
New Delhi dated the 14th June 2007

sd/-
(BHANU BHUSHAN)
MEMBER