

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

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

**IA No.25/2007
in Petition No.40/2004**

In the matter of

Approval of tariff of Badarpur Thermal Power Station (705 MW) for the period from 1.4.2004 to 31.3.2009.

And in the matter of

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|---|------|--------------------|
| Badarpur Thermal Power Station, New Delhi | | Petitioner |
| Vs | | |
| Delhi Transco Limited, New Delhi | ... | Respondents |

And in the matter of

| | | |
|----------------------------------|-------|-----------|
| Delhi Transco Limited, New Delhi | | Applicant |
|----------------------------------|-------|-----------|

The following were present:

1. Shri A.K. Gupta, DTL
2. Shri H. Vyas, DTL
3. Shri A.K. Kaul, DTL
4. Shri V. Venugopal, DTL
5. Shri S.N. Goel, NTPC
6. Shri D.C. Pandey, NTPC
7. Shri Neeraj Sharma, NTPC
8. Shri A.K. Samui, NTPC
9. Shri Shankar Saran, NTPC

**ORDER
(DATE OF HEARING: 19.07.2007)**

The application is made for clarification on the order dated 9.5.2006, limited to the aspect of payment of incentive, that is, whether incentive is payable based on target PLF of 80% or 75%.

2. We have heard the representatives of the parties present at the hearing.

3. The Commission by its order dated 9.5.2006 had approved tariff for Badarpur Thermal Power Station (hereinafter referred to as “the generating station”) for the period 1.4.2004 to 31.3.2009. The Commission, inter alia, decided as under:

“On consideration of the analysis of the situationTarget Availability/PLF at 75% has been considered for recovery of full fixed charges and computation of fuel element in the working capital for the period from 1.4.2004 to 31.3.2009”

4. While concluding, the Commission further observed as under:

“70. In addition to the charges approved above, the petitioner is entitled to recover other charges also like incentive, claim for reimbursement of income tax, other taxes, cess levied by a statutory authority, and other charges in accordance with the Regulations 2004, as applicable”

5. The applicant has pointed out that in terms of Clause (ii) of Regulation 16 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) 2004, Regulations (hereinafter referred to as “the 2004 regulations”), incentive is payable on attaining PLF of 80%. The representative of the applicant pointed out that by reason of the order dated 9.5.2006, target availability/PLF of 75% have been considered for recovery of full fixed charges and computation of fuel element of the working capital and the order does not speak of payment of incentive. It has also been urged that in view of para 70 of the order dated 9.5.2006 reproduced above, the applicant is liable to pay incentive based on target PLF of 80% as stipulated in clause (ii) of Regulation 16 of the 2004 regulations. It has been stated that the petitioner (NTPC) has claimed incentive on PLF exceeding 75%. The applicant is said to have released the full amount claimed by NTPC, reserving its right to approach the Commission for a clarification. Accordingly, the present application has been made.

6. We have very carefully considered the issue raised by the applicant. For proper appreciation of the matter, we consider it appropriate to extract the relevant provisions of the 2004 regulations, which regulate determination of tariff for the period 2004-09.

“2. Scope and extent of application: (1) Where tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government, the Commission shall adopt such tariff in accordance with the provisions of the Act.”

(2) These regulations shall apply in all other cases where tariff is to be determined by the Commission based on capital cost.

Provided that the Commission may prescribe the relaxed norms of operation, including the norms of target availability and Plant Load Factor contained in these regulations for a generating station the tariff which is not determined in accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2001, and the relaxed norms shall be applicable for determination of tariff for such a generating station.”

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16. Norms of Operation: The norms of operation as given hereunder shall apply:

(i) Target Availability for recovery of full Capacity (Fixed) charges

(a) All thermal power generating stations, except those covered under clauses (b) and (c) below - 80%

(b) Thermal power generating stations of Neyveli Lignite Corporation Ltd (TPS-I, TPS-II, Stage I&II and TPS-I Expansion) and Talchar Thermal Power Station of National Thermal Power Corporation Ltd. - 75%

(c) Tanda Thermal Power Station of National Thermal Power Corporation Ltd. - 60%

Note

Recovery of capacity (fixed) charges below the level of target availability shall be on *pro rata* basis. At zero availability, no capacity charges shall be payable.

(ii) Target Plant Load Factor for Incentive

(a) All thermal power generating stations, except those covered under clauses (b) and (c) below - 80%

(b) Thermal power generating stations of Neyveli Lignite Corporation Ltd (TPS-I, TPS-II, Stage I&II and TPS I Expansion) and Talcher Thermal Power Station of National Thermal Power Corporation Ltd. - 75%

(c) Tanda Thermal Power Station of National Thermal Power Corporation Ltd. - 60%

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23. **Incentive:** Incentive shall be payable at a flat rate of 25.0 paise/kWh for ex-bus scheduled energy corresponding to scheduled generation in excess of ex-bus energy corresponding to target Plant Load Factor.”

7. As may be noted from the proviso under Regulation 2 of the 2004 regulations reproduced above, the Commission is empowered to prescribe the relaxed norms of operation including the norms of target availability and PLF for the generating stations whose tariff was not determined in accordance with the Central Electricity Regulatory Commission (Terms & Conditions of Tariff) Regulations, 2001 (the 2001 regulations) and the relaxed norms as may be prescribed by the Commission are applicable for determination of tariff. In case of the generating station the tariff for the period prior to 1.4.2004 was not determined in accordance with the 2001 regulations. Therefore, by virtue of power under Regulation 2 of the 2004 regulations, the Commission by its order dated 9.5.2006 prescribed the relaxed norms of target availability and PLF considering the peculiar facts applicable to the generating station. The Commission prescribed target availability and PLF of 75%.

8. Historically, target availability and target PLF have been considered two different concepts, the former is related to recovery of fixed charges whereas payment of incentive is linked to the latter. In the order dated 9.5.2006 the Commission has prescribed the threshold limits for these two purposes, which are same. Under clause (i) of Regulation 16, target availability for recovery of fixed charges has been specified and under clause (ii) thereof target PLF is laid down, but the levels fixed under both these clauses are the same. It necessarily follows that in case of the generating station incentive will be recoverable at PLF exceeding 75%, as the Commission in the order dated 9.5.2006 has decided to fix target PLF of 75%. Regulation 23 of the 2004

regulations lays down that incentive is payable at flat rate of 25 paise per kWh for ex-bus scheduled energy corresponding to scheduled generation in excess of ex-bus energy corresponding to target PLF. Para 70 of the order dated 9.5.2006 reproduced above is to be read, *inter alia*, in the context of Regulation 23. As the Commission in Para 35 of its order dated 9.5.2006, extract placed at para 3 above, has specifically decided the target PLF of 75%, clause (ii) of Regulation 16 of the 2004 regulations, which is a general provision, has no application to the generating station. For this purpose, the two paras of the order dated 9.5.2006 (Paras 35 and 70) are to be read together.

9. We, therefore, clarify that threshold PLF level for recovery of incentive in the present case is 75% and NTPC is entitled to recover incentive at the flat rate of 25 paise/kWh for ex-bus scheduled energy corresponding to scheduled generation in excess of ex-bus energy corresponding to 75% PLF.

10. With this, the IA stands disposed of.

Sd/-
(R. KRISHNAMOORTHY)
MEMBER

Sd/-
(BHANU BHUSHAN)
MEMBER

New Delhi dated the 24th July, 2007