

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram

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

**Review Petition No. 79/2007
In
Petition No. 5/2002**

In the matter of

Review of the order dated 23.3.2007 in Petition No. 5/2002 – determination of tariff of TPS-II of NLC for the period from 1.4.2001 to 31.3.2004.

And in the matter of

Tamil Nadu Electricity Board, Chennai

....Review Applicant

Vs.

1. Neyveli Lignite Corporation Limited
2. Karnataka Power Transmission Corporation Ltd., Bangalore.
3. Kerala State Electricity Board, Thiruvananthapuram.
4. Pondicherry Electricity Department, Pondicherry.
5. Transmission Corporation of Andhra Pradesh Ltd., Hyderabad. **...Respondents**

The following were present:

Shri R. Krishnaswami, TNEB

**ORDER
(Date of Hearing : 18.9.2007)**

The review applicant, Tamil Nadu Electricity Board has made this application seeking review of the order of the Commission dated 23.3.2007 in Petition No. 5/2002 determining the tariff in respect of Thermal Power Station-II of the Neyveli Lignite Corporation Ltd for the period 1.4.2001 to 31.3.2004. Review of the order has been sought on the following grounds:

- (a) Award of reimbursement of FERV based on actuals in addition to capitalization in respective years.
- (b) Non-deduction of 1/5th of the value of the mandatory spares capitalized from the value of spares considered for working capital requirement.
- (c) Revision of target availability after considering the additional mine capacity.
- (d) Station Heat Rate.
- (e) O & M expenses in respect of Mine-I Expansion & Mine-I (A).
- (f) Gross block in respect of Mine-I Expansion & Mine-II, Stage-I.

2. We have heard the representative of the review applicant. Review petition is admitted on the grounds mentioned in sub-paras (a) and (d) of Para 1 above. We do not find any merit in other grounds for the reasons recorded in the succeeding paragraphs.

Non- deduction of 1/5th of value of Spares for working capital requirement

3. In accordance with the provisions of Central Electricity Regulatory Commission (Terms & Conditions of Tariff) Regulations, 2001 (hereinafter referred to as “the tariff regulations, 2001”), maintenance spares at actual subject to a maximum of 1% of the capital cost but not exceeding one year’s requirement less value of 1/5th of initial spares already capitalized for the first five years is permissible. Since the generating station was more than five years old, the Commission had, without deducting 1/5th of initial spares, allowed actual spare consumption/one year requirement of maintenance spares restricted to 1% of the capital cost as on 1.4.2001.

4. The review applicant has submitted that the decision of the Central Commission for not considering 1/5th of the initial spares while calculating the maintenance spares is not in conformity with the provisions of Tariff Regulations, 2001 which needs to be rectified in review.

5. The provisions of the tariff regulations, 2001 are clear that one fifth of the initial spares every year are required to be deducted during the first five years of the commercial operation of the generating station. The same benefit cannot be extended indefinitely when it is not permissible as per the regulation. This ground is accordingly rejected.

Revision of Target Availability on account of additional mine capacity

6. As per the tariff regulations, 2001, the target availability of NLC TPS-II has been fixed at 72% based on 100% machine capacity. The review applicant has submitted that as per the admission of NLC, part of the expenditure incurred for acquiring a machine for Mine I has been booked to Mine II Stage II which has resulted in increased production of lignite for Mine II. The Commission should have revised target availability for recovery of full fixed charges for Mine-II to 75% as provided for in tariff regulation 2004.

7. The Commission in its order dated 23.3.2007 has fixed the target availability of the station as 72% in accordance with the provisions of tariff regulation, 2001. Any deviation from the prescribed norms cannot be given effect without corresponding amendment of the regulations of 2001. The review of the order on this count is rejected.

O & M Expenses of Mine-I Expansion and Mine-IA

8. The Commission in para 35 of the order dated 23.3.2007 had allowed O&M expenses for Mine-I (Expansion) and Mine-IA at 9.94% and 6.12% of the gross block based on the PIB note dated 8.6.2001 for approval of capital expenditure by the Central Government in the absence of specified norms for the mines. The Commission had also clarified that the O&M expenses approved for Mine-I (Expansion) and Mine-1A should not be taken as a precedent in future cases.

9. The review applicant has stated that during the meeting between NLC and SEBs held on 22.1.2004, NLC had agreed for limiting the O&M expenses to 6% of the project cost for the first year of operation. The review applicant has sought review of the order for limiting the O & M expenses to 6% as was agreed by NLC earlier.

10. The review applicant had raised this point during the hearing of the main petition and the Commission had taken note of the same in para 34 of the order dated 23.3.2007. Nothing new has been brought to our notice, which would warrant our indulgence to reconsider our decision on O&M expenses. Hence this ground for review is rejected.

Gross Block of Mine-I Expansion and Mine-II Stage-I

11. The Commission in its order dated 23.3.2007 had adopted the following gross blocks for arriving at the net block as on 1.4.2001 for Mine-II Stage-I & II and as on 1.4.2003 for Mine-I (Expansion) and Mine-IA:

	As on 1.4.2001	As on 1.4.2003
Mine-II Stage-I	72161	-
Mine-II Stage-II	89050	-
Mine-I (Expansion)	-	172272
Mine-IA	-	82086

12. The review applicant has stated that NLC in its affidavit dated 25.3.2006 had submitted an opening investment of Rs.133808 lakh in respect of Mine-I (Expansion) duly certified by the Auditor which was subsequently revised to Rs.172272 lakh vide affidavit dated 23.9.2006 without being supported by Auditor's certificate. The increase was attributable to omission of Rs.41763 lakh in the gross block on account of depreciation during construction. It has been submitted that NLC had commissioned all the equipments pertaining to Mine-I (Expansion) by August, 2000 but declared the mine for commercial operation only in March, 2003. This has resulted in additional burden of Rs.41763 lakh on the beneficiaries/end users without any corresponding benefits since the Mine-I (Expansion) went into commercial operation in March, 2003. The review applicant has prayed that the opening investment as certified by the auditor for working out the transfer price of lignite be adopted and the depreciation accrued during construction of Mine-I (Expansion) be amortized if found payable by the beneficiaries.

13. The Commission, in para 15 to 18 of its order dated 23.3.2007, has examined all these issues in detail and has adopted the gross block as on the date of commercial operation for calculation of lignite transfer price for Mine-I (Expansion).

The review applicant has agitated the same issues, which already stand settled in our order dated 23.3.2007. This ground does not satisfy the statutory requirement for review and is accordingly rejected.

14. The applicant is directed to serve copy of the petition on the respondents along with a copy of this order latest by 10.10.2007, who may file their reply by 26.10.2007 with advance copy to the applicant. The applicant may file its rejoinder, if any latest by 8.11.2007.

15. List on 22.11.2007 for further directions.

**Sd/-
(R.KRISHNAMOORTHY)
MEMBER**

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

New Delhi dated the 28th September 2007

