

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

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

Petition No. 65/2007

In the matter of

Approval of generation tariff of Muzaffarpur Thermal Power Station (2x110 MW) for the period 8.9.2006 to 31.3.2009.

And in the matter of

Vaishali Power Generating Company Ltd. , New Delhi	Petitioner
Vs	
Bihar State Electricity Board, Patna	.. Respondent

Following were present:

1. Shri S.N.Goel, NTPC
2. Shri S.K. Samui, NTPC
3. Shri Balaji Dubey, NTPC
4. Ms. Pranav Kapoor, NTPC
5. Shri R.B.Sharma, Advocate, BSEB

**ORDER
(DATE OF HEARING: 21.8.2007)**

The petitioner, Vaishali Power Generating Company Ltd. has made this application for approval of generation tariff in respect of Muzaffarpur Thermal Power Station (hereinafter referred to as "the generating station") for the period from 8.9.2006 to 31.3.2009 in terms of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 (hereinafter referred to as " the 2004 regulations") and based on certain terms agreed to between NTPC Ltd. (the promoter and holding company of the petitioner) and the respondent as per the Power Purchase Agreement dated 22.8.2006.

2. The petitioner company is a joint venture of NTPC Limited and Bihar State Electricity Board, the respondent, and has been set up with the object to take over

the assets and business of the generating station and to operate and maintain it. NTPC Ltd. is holding more than 51% equity share in the petitioner company.

3. The generating station which comprises of two units of 110 MW was established by the respondent in 1986 and has been transferred and vested in favour of the petitioner company at a transfer price of Rs. 84.53 crore w.e.f. 8.9.2006 in terms of the Bihar Electricity Reform (Transfer of Muzaffarpur Thermal Power Station) Scheme, 2006 vide Govt. of Bihar Notification No.8, dated 15.5.2006 and notification No.35, dated 8.9.2006. The entire power generated at the generating station is to be supplied to the respondent as per terms and conditions of the PPA, effective from 8. 9.2006 initially for a period of 15 years.

4. Heard representative of the petitioner and Shri R.B.Sharma, Advocate for the respondent.

5. During the hearing, the representative of the petitioner sought the Commission's approval for the annual fixed charges and energy charges as claimed in the petition, subject to terms and conditions of the PPA.

6. In response to the observations made by us, the representative of the petitioner submitted that the generating station was under shut down since October 2003 and extensive R & M with the grant provided by Central Government was being carried out. He stated that one of the units of the generating station was under revival. In this regard it was stated that the contract for R & M had already been awarded and was likely to be completed by February-March, 2010, that is, within 31 months after the signing of the contract. The representative of the petitioner further submitted that revival work of the second unit would be started

soon after completion of work at the first unit. It was stated on behalf of the petitioner that it would be possible to make a fair assessment of operational parameters and power which could be scheduled on firm basis only after observing the actual performance for about 3 months after revival of the first unit.

7. Shri R.B. Sharma, Advocate for the respondent submitted that the petitioner had claimed provisional tariff of Rs. 6 crore per month as the provisional capacity charges. Shri Sharma further submitted that as the petitioner had not restored the supply even after 9 months of take over of the generating station, it was not entitled to provisional tariff claimed.

8. We have considered the rival submissions.

9. The operational parameters considered by the petitioner to work out the annual fixed charges and energy charges (eg 25-40% for target availability, 23-21% for auxiliary energy consumption etc.) are much inferior to the norms prescribed in the 2004 regulations for other generating stations with similar configuration. Therefore, we are not in a position to approve the annual fixed charges and energy charges claimed in the petition, based on these inferior norms. Further, on consideration of the facts submitted by the petitioner that power cannot be scheduled on firm basis till operation of the first unit is stabilized, we are of the view that supply of power from the generating station at this stage may be treated as infirm power and charged at UI rates as specified in the 2004 regulations, as amended from time to time. This shall be in conformity with clause 7.1.6 of the PPA, when schedule is assumed to be zero. For this purpose, metering, accounting, billing, etc. shall be finalized by the petitioner in consultation with the respondent. The revenue earned from the sale of infirm power in excess of fuel cost shall be adjusted against the capital cost as per Regulation 19 of the 2004 regulations. Therefore, the petitioner shall not charge provisional annual fixed

charges till further order and the past bills, if any, raised by the petitioner in this regard shall be ignored by the respondent. We are constrained to point out that provisions in clauses 7.1.3 to 7.1.5 of the PPA are not in order, and should be kept in abeyance.

10. The petitioner shall file a revised petition when the first unit is reaching a stage wherein its MW capability could be declared and it could be operated on a scheduled basis, after fresh assessment of the operational parameters achievable as a result of on going R & M. The petitioner at the time of making revised petition shall firm up the transfer price after stock verification in terms of the PPA, assessment of R&M expenditure, expected time frame of completion and expected operational parameters likely to be achieved as result of R&M and assessment of extended life.

11. The petitioner has paid the filing fee of Rs. 25 lakh, as applicable to the petitions for approval of generation tariff. For the view we have taken, the present petition is to be considered as a miscellaneous petition for which fee payable is Rs, one lakh. Therefore, while making the revised petition for approval of tariff for the generating station, the excess fee of Rs. 24 lakh now deposited shall be adjusted.

12. With the above directions, the present petition stands disposed of.

Sd/-
(R.KRISHNAMOORTHY)
MEMBER
New Delhi, dated the 11th September 2007

sd/-
(BHANU BHUSHAN)
MEMBER