

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram:**

- 1. Shri Ashok Basu, Chairperson**
- 2. Shri Bhanu Bhushan, Member**
- 3. Shri A.H. Jung, Member**

**Review Petition No.140/2006  
in  
Petition No.148/2004**

**In the matter of**

Review of order dated 30.6.2006 in Petition No.148/2004, for approval of tariff in respect of Ramagundam Super Thermal Power Station, for the period 1.4.2004 to 31.3.2009.

**And in the matter of**

NTPC Ltd., New Delhi

**....Petitioner**

Vs

1. Transmission Corporation of Andhra Pradesh Ltd, Hyderabad
2. A P Eastern Power Distribution Company Ltd, Visakhapatnam
3. A P Southern Power Distribution Company Ltd, Tirupathi
4. A P Northern Power Distribution Company Ltd, Warangal
5. A P Central Power Distribution Company Ltd, Hyderabad
6. Tamil Nadu Electricity Board, Chennai
7. Karnataka Power Transmission Corporation Limited, Bangalore
8. Bangalore Electric Supply Company Ltd, Bangalore
9. Mangalore Electric Supply Company Ltd, Mangalore
10. Chamundeshwari Electricity Supply Corporation Ltd, Mysore
11. Gulbarga Electricity Supply Company Ltd, Gulbarga
12. Hubli Electricity Supply Company Ltd, Hubli
13. Kerala State Electricity Board, Thiruvananthapuram
14. Electricity Department Government of Pondicherry, Pondicherry,
15. Electricity Department , Government of Goa, Panaji.

**.... Respondents**

The following were present

1. Shri A.S.Pandey, NTPC
2. Shri I.J.Kapoor, NTPC
3. Shri L.Agrawal, NTPC

4. Shri N.N.Sadasivan, NTPC
5. Shri D. Kar, NTPC
6. Shri V.Kumar, NTPC
7. Shri B.Dash, NTPC
8. Shri S.N.Goel, NTPC

## **ORDER**

**(Date of Hearing: 28.11.2006)**

This application has been made for review of order dated 30.6.2006 in Petition No.148/2004, determining the tariff in respect of Ramagundam Super Thermal Power Station, Stage I and II (hereinafter called “the generating station”) for the period 1.4.2004 to 31.3.2009.

2. The petitioner has contended that there are certain fundamental errors in the said order dated 30.6.2006 and accordingly has sought its review. According to the petitioner, the order needs to be reviewed on account of the following errors present therein :

(a) De-capitalisation of liabilities-Impact adjustment for prior period.

(b) Spreading of depreciation from 2005-06 instead of 2004-05.

### **De-capitalisation of liabilities-Impact adjustment for prior period**

3. While determining tariff, the Commission in its the order dated 30.6.2006 has directed mutual settlement of impact of de-capitalisation of liabilities pertaining to the past periods.

4. The petitioner has submitted that it is maintaining accounts on accrual basis as per the requirement of the Companies Act,1956 and as laid down in Accounting Standards issued by the Institute of Chartered Accountants of India. The capital expenditure is entered in the books of accounts when the legal obligations to pay it arises, that is, all obligations of liabilities are to be recognized. Further, efforts are made to reduce the liabilities and/or otherwise to reduce the impact of the liabilities considering the interest of the beneficiaries. During implementation of a project, once actual liability is frozen, the liabilities in books of accounts on provisional basis are replaced with actual capital expenditure and this, at times, results in reduced capital base. According to the petitioner, it has been decapitalising the liabilities to the extent it had been able to effect reduction.

5. The petitioner has claimed that during the period 2001-04, it de-capitalized the liabilities to the extent of Rs.78 lakh in regard to the generating station. The reduction in the liability during the above financial years was on account of its conscious efforts.

6. According to the petitioner, while the benefit of reduction in the liabilities by way of de-capitalisation has accrued to the respondent beneficiaries, retrospective reduction in the fixed charges will adversely affect the petitioner whose efforts have resulted in reduced liabilities. The petitioner has stated that retrospective implementation of the decision would lead to reopening of the tariff in respect of its generating station since the dates of commercial operation of

various units. The petitioner has, therefore, submitted that the decision taken in regard to de-capitalised liability should be applied prospectively and not retrospectively and accordingly seeks review of this particular direction.

7. We are aware that accounts are maintained by the petitioner as per commercial accounting system by which revenue, costs, assets and liabilities are reflected in the accounts for the period in which they accrue. Under the system, all subsequent increases or decreases in capital expenditure are identified to relevant assets and the costs accounted for earlier assets are charged accordingly.

8. The petitioner has de-capitalised the over-capitalised amounts under various heads (Balance Payments-10A) after many years. During all these years the over-capitalised amount was earning tariff to which the petitioner was not entitled, as the expenditure was not actually incurred. In the interest of justice and fair play, the excess amount recovered by the petitioner deserves to be adjusted. However, past period calculations towards impact on tariff have not been re-opened by the Commission but these have been ordered to be mutually settled between petitioner and the beneficiaries. The decision does not involve any illegality or irregularity, much less an error apparent on the face of the record calling for review.

9. The petitioner maintains accounts on accrual basis and claims tariff on the same principles. Almost all tariffs up to 31.3.2004 were based on the capital cost

calculated on accrual basis. In other words, some liabilities included in the capital cost, did not materialize and were de-capitalised later on. In fairness to the petitioner, while reducing the capital cost from the gross block, the cumulative depreciation already recovered against the de-capitalised liabilities has also been adjusted to the extent of assets de-capitalized created out of the liabilities. In this way, the interest of the petitioner has been duly protected.

10. We consider it appropriate to point out that in a large number of cases, the benefit of increased tariff has been extended to the petitioner from retrospective dates. Therefore, it is not proper that the question of retrospective adjustment should be raised in a situation where excess tariff was recovered previously.

**Depreciation for 2004-05 not allowed at rates prescribed in 2004 regulations**

11. The petitioner's grievance on this account has its genesis in the order dated 24.8.2004 in Petition No. 34/2001, relating to computation of tariff for the period 1.4.2001 to 31.3.2004. The regulations applicable during that period provided that after the loan was fully repaid, the balance depreciation was to be recovered over the balance useful life of the generating station. It was noted that the loan was fully repaid during the year 2002-03. Therefore, by order dated 24.8.2004, depreciation chargeable for the year 2003-04 was worked out by spreading the remaining depreciable value to 14.80 years, the balance useful life of the generating station. However, subsequently additional capitalization of Rs.1834 lakh on works and FERV for the years 2001-04 was approved and added to the capital cost as on 1.4.2004 for determination of tariff for the period

2004-09. As a consequence, the loan component of Rs.917 lakh was notionally arrived at for the year 2004-05. However, the depreciation was allowed for the entire tariff period @ Rs.3618 lakh each year by continuing the principle considered while approving tariff for the period 2001-04.

12. The petitioner has submitted that since normative loan gets fully repaid only in 2004-05, the petitioner is entitled to full depreciation of Rs.8158 lakh @ 3.62% of Rs.226362 lakh, being the capital cost allowed in order dated 30.6.2006. The petitioner has contended that depreciation should be spread over from 2005-06 and onwards instead of 2004-05.

13. We are unable to agree with the contention of the petitioner. The 2004 regulations in clause 21(1) (ii) (a) (iii) provide that on repayment of entire loan, the remaining depreciable value shall be spread over the balance useful life of the asset. The provision is similar to that applicable for the period 2001-04. As we have noted above, in the case on hand, the entire loan was originally repaid during 2002-03 and there was no outstanding loan as on 1.4.2003. Therefore, depreciation was spread over the balance useful life from the year 2003-04 itself in accordance with the terms and conditions applicable during that period. The loan component of Rs.917 lakh mentioned in the order dated 30.6.2006 is due to apportionment of additional capitalization in normative debt-equity ratio and is only notional. The additional capitalization has not been funded by taking any additional actual loan. The notional repayment of the apportioned to loan also gets adjusted in 2004-05. The petitioner's own case is that the principle

considered by the Commission becomes applicable for the year 2005-06 and onwards. The petitioner's contention that it should get depreciation at weighted average rate on additional capitalization of Rs.1408 lakh on works and admitted FERV of Rs.426 lakh, which works out to Rs.1834 lakh is not tenable. It will further widen the difference between cumulative depreciation collected and cumulative repayment of loan made. The petitioner in its tariff petition, original as well as amended, had calculated depreciation for the tariff period 2004-09 by spreading it over the balance useful life of the asset. The contention of the petitioner in the present application for review therefore, is not tenable as it does not satisfy the conditions laid down in section 114 read with order XLVII of the Code of Civil Procedure.

14. In the light of above discussion, even a prima facie case for review of the order dated 30.6.2006 in Petition No.148/2004 has not been made out. The review petition is accordingly dismissed at the admission stage.

**Sd/-**

**(A.H.JUNG)  
MEMBER**

**Sd/-**

**(BHANU BHUSHAN)  
MEMBER**

**Sd/-**

**(ASHOK BASU)  
CHAIRPERSON**

**New Delhi dated the 1<sup>st</sup> December 2006**