

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

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

Petition No.33/2003

In the matter of

Approval of tariff in respect of Assam Gas Based Power Station (291 MW) for the period from 1.4.2003 to 31.3.2004

And in the matter of

North Eastern Electric Power Corporation Ltd.

.....**Petitioner**

Vs

1. Assam State Electricity Board, Guwahati
2. Meghalaya State Electricity Board, Shillong
3. Department of Power, Govt. of Tripura, Agartala
4. Power & Electricity Department, Govt. of Mizoram, Aizawl
5. Electricity Department, Govt. of Manipur, Imphal
6. Department of Power, Govt. of Arunachal Pradesh, Itanagar
7. Department of Power, Govt. of Nagaland, Kohima
8. North-Eastern Regional Electricity Board, Shillong
9. North-Eastern Regional Load Despatch Centre, Shillong

...**Respondents**

ORDER

The petitioner, North Eastern Electric Power Corporation Ltd (NEEPCO) had filed this petition for approval of tariff in respect of Assam Gas Based Power Station (291 MW) (hereinafter referred to as “the generating station”) for the period from 1.4.2003 to 31.3.2004 based on the terms and conditions contained in the Commission’s notification dated 26.3.2001, (hereinafter referred to as “the notification dated 26.3.2001”). On completion of pleadings and after hearing the parties, final tariff in respect of the generating station for the said period was awarded vide the Commission’s

order dated 22.8.2005. Subsequently, the petitioner filed Review Petition No 115/2005 for revision of tariff of the generating station. Consequently, the tariff of the generating station was revised vide the Commission's order dated 14.12.2006. The summary of the Annual Fixed Charges awarded is given hereunder:

(Rs in lakh)	
Particulars	2003-04
Interest on Loan	5668
Interest on Working Capital	723
Depreciation	6998
Advance against Depreciation	0
Return on Equity	11627
O & M Expenses	4568
TOTAL	29584

2. The petitioner filed Appeal No 162 of 2005 before the Appellate Tribunal for Electricity (hereinafter referred to as "the Appellate Tribunal") which was disposed vide order dated 31.10.2007. The Appellate Tribunal vide the above order had held as under:

(a) Interest on loan capital shall be determined based on normative debt repayment formula.

(b) Cost of refinancing shall be shared by the beneficiaries who are benefited as a result of refinancing.

3. The above judgment of the Appellate Tribunal has necessitated recalculation of the annual fixed charges of the generating station. Accordingly, we proceed to recalculate the tariff of the generating station.

4. Interest on Loan has been recalculated in the following manner:

(a) The gross opening loan amount has been worked out based on normative debt - equity ratio of 1:1.

(b) The cumulative repayment of loan upto 31.3.2003 has been worked out considering the scheduled repayment based on loan details given in the petition and in the subsequent submissions of the petitioner.

(c) Annual repayment for the year 2003-04 has been worked out on normative basis using the formula:

$$\frac{\text{Actual repayment during the year X normative net loan at the beginning of the year}}{\text{actual net loan at the beginning of the year}}$$

(d) The loan draws upto 31.3.2003 have been considered.

(e) Some of the Government of India loans having higher rate of interest were pre-paid during 2002-03 by taking loans from HUDCO, United Bank of India and PSU Bonds of 8th and 9th series. Subsequently, HUDCO loan and the balance Government of India loan were repaid by syndicated loan having floating rate of interest on 19.3.2004. Interest rates applicable on refinanced/substituted loans with fixed rate of interest have been considered in the calculation. As such the interest rate applicable on HUDCO loan, UBI loan and PSU Bonds of 8th and 9th series have been considered in the calculation.

(f) Refinancing/substitution of HUDCO loan and balance Government of India loan by syndicated loan having floating rate of interest has not been considered in the calculation because as per the Commission's order dated 13.12.2002 in Petition No(s). 94/2002, 95/2002, 96/2002, 98/2002 and 99/2002, the benefit of re-financing should be passed on to the beneficiaries and through them the ultimate consumer only when a costlier loan is re-financed through cheaper loan with fixed rate of interest.

(g) In the above context, para 38 (f) of the Commission's order dated 22.8.2005 in Petition No. 33/2003 is reproduced herein:

"In the present case, some of the GOI loans having higher rate of interest were pre-paid during 2002-03 by taking loans from HUDCO, United Bank of India (UBI) and PSU Bonds of 8th and 9th series. Subsequently, HUDCO loan and the balance GOI loan were repaid by syndicated loan having floating rate of interest on 19.3.2004.

The Commission in its order dated 13.12.2002 in petition no 94/2002, and other petitions of NTPC stations observed that the benefit of re-financing should be passed on to the beneficiaries and through them the ultimate consumer when a costlier loan is re-financed through cheaper loan with fixed rate of interest.

In line with the Commission's above decision, the interest rate applicable on re-financed /substituted loans with fixed rate of interest have been considered in the working. As such, the interest rate applicable on HUDCO loan, UBI loan and PSU Bonds of 8th and 9th series have been considered in the working.

The re-financing/substitution of HUDCO loan and balance GOI loan by syndicated loan having floating rate of interest has not been considered in the working as the above order dated 13.12.2002 permitted passing of the benefits to the beneficiaries

only when costlier loan is re-financed through cheaper loan with fixed rate of interest. As such, the interest on HUDCO loan has been worked out by considering the original loan and its repayment schedule.

On analysis of terms and conditions of refinanced loans, it is noted that the total interest on loan after considering refinancing is lower than the total interest on loans without considering refinancing.”

(h) The above matter came up in Review Petition No. 115/2005 in Petition No 33/2003 and decided as follows in the Commission's order dated 14.12.2005:

“6. In the order dated 22.8.2005, loan draws upto 31.3.2003 were considered. It was noted that some of the Government of India loans having higher rate of interest were pre-paid during 2002-03 by taking loans from HUDCO, United Bank of India and PSU Bonds of 8th and 9th series. Subsequently, HUDCO loan and the balance of Government of India loan were repaid by syndicated loan having floating rate of interest on 19.3.2004. While calculating interest on loan, the interest rate applicable on HUDCO loan, UBI loan and PSU Bonds of 8th and 9th series were considered. The refinancing/substitution of HUDCO loan and balance of Government of India loan by syndicated loan having floating rate of interest were not considered while computing interest on loan. Arranger's fees, Processing fees, Commitment fees claimed as financing charges against HUDCO loan and Legal Advisory fees and Trusteeship Acceptance fee claimed against PSU 8th and 9th series bonds were also not allowed.

7. The petitioner has submitted that the methodology given in para 5 above considered by the Commission is inappropriate and inequitable since, according to the petitioner it does not cover a part of interest on loan. The Petitioner has submitted that either actual repayment or the normative repayment during the year should have been considered for working out interest on loan. The petitioner has also questioned the validity of the process delineated at para 6 for the purpose of computation of interest on loan. Accordingly, the petitioner seeks review.

8. We have considered the matter. The methodology considered in the order dated 22.8.2005 for computation of interest on loan has been consistently followed by the Commission in the previous tariff orders concerning Central Power Sector Utilities. This methodology has been followed for the sake of uniformity. Earlier, in some of the cases, NTPC had sought review of the methodology adopted. NTPC had sought review of the methodology adopted. These review petitions were dismissed. Accordingly, in the present case also, the ground for review is rejected. A similar view has been taken by the Commission in Review Petition No. 132/2005 in Petition No. 33/2003, separately filed by the petitioner.”

(i) One time arrangers fees, processing fees, front end fees and loan pre-payment fees claimed as financing charges against HUDCO loan and legal advisory fees and trusteeship acceptance claimed against PSU 8th and 9th series Bonds have been allowed in compliance with the Appellate Tribunal order dated 31.10.2007.

(j) Annual *trusteeship* fees @0.03% and service tax thereon @10.2% against PSU 8th and 9th series bonds have been allowed.

(k) The onetime financing charges allowed have been added to the tariff under interest on loan in the year 2003-04 and annual trusteeship fees have been added to the yearly interest rate.

5. Interest on Loan has been recalculated, by applying on the normative average loan, the weighted rate of interest on average loan worked out on the basis of actual rate of interest on actual loans as per the following details:

(Rs in lakh)

Particulars	2003-04
Gross Loan Opening	72668
Cumulative repayments of loans upto previous year	18623
Net loan – Opening	54045
Increase/Decrease due to FERV	0
Increase/Decrease due to additional capitalization	0
Total	54045
Repayments of Loan during the year	2127
Net loan – Closing	51919
Average Net loan	52982
Rate of interest on loan	10.71%
Interest on loan	6047

6. Revision of the Interest on Loan has resulted in the revision of interest on working capital as interest on loan is a component of 'receivables' included in the working capital. Accordingly, interest on working capital has been recalculated as under:

(Rs in lakh)

Particulars	2003-04
Fuel cost	670
O&M expenses (1 Month)	381
Spares	288
Receivables	6335
Total Working Capital	7673
Rate of Interest	9.50%
Total Interest on Working Capital	729

7. The annual fixed charges for the year 2003-04 revised on the basis of the above are as under:

Rs in lakh)

Particulars	2003-04
Interest on Loan	6047
Interest on Working Capital	729
Depreciation	6998
Advance against Depreciation	0
Return on Equity	11627
O & M Expenses	4568
TOTAL	29970

8. The petitioner shall recover the balance amount within three months immediately following the date of this order.

Sd/=
(R KRISHNAMOORTHY)
MEMBER

Sd/=
(BHANU BHUSHAN)
MEMBER

New Delhi, dated 7th January, 2007