

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram**

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

**Review Petition No. 39/2008  
In  
Petition No.179/2004**

**In the matter of**

Approval of tariff in respect of Talcher STPS, Stage-II (2000 MW) for the period 1.4.2004 to 31.3.2009.

**And in the matter of**

NTPC Limited.

.... **Petitioner**

Vs

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

....**Respondents**

**The following were present:**

1. Shri A. K Juneja NTPC
2. Shri S.K Mandal, NTPC
3. Shri Vivek Kumar, NTPC
4. Shri Balaji Dubey, NTPC
5. Shri.K.Kar, NTPC

## **ORDER**

(Date of Hearing: 22.4.2008)

The petitioner, NTPC Limited, seeks review of the order dated 31.1.2008 in Petition No. 179/2004.

2. Heard the representative of the petitioner on admission.
3. Petition No 179/2004 was filed by the petitioner for approval of tariff in respect of Talcher Super Thermal power Station, Stage-II (2000 MW) (hereinafter referred to as "the generating station") for the period from 1.4.2004 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"). On perusal of pleadings and hearing the parties, tariff in respect of the generating station was awarded vide order dated 31.1.2008.
4. This review petition has been filed mainly for extension of the cut off date for additional capitalization of the generating station up to 31.3.2008. The petitioner has also stated that there are some typographical errors in the impugned order which have been sought to be corrected.
5. It is seen that the order dated 31.1.2008 contains the following typographical errors which are hereby corrected;

S.No	Reference in the order dated 31.1.2008	For	Read
1.	Para No 15 (a) (Page No. 7)	15.8.2005 (for Unit – I)	1.8.2003 (for Unit – I)
2.	Para No 15 (a) (Page No. 7)	1.4.2006 (for Units I and II)	1.3.2004 (for Units I and II)
3.	Para No 20 (Page No. 8) (last line)	Cost as on the cut off date i.e. 1.8.2005	Cost as on the cut off date i.e. 31.3.2007
4.	Para 20 (Page No 9) (last line )	Rs. 48276 lakh	Rs. 4827 lakh

6. In addition, para 30 (a) of the order dated 31.1.2008 may be amended as under:

“Gross normative loan corresponding to 70% of admissible capital cost works out to Rs. 160274 lakh as on 1.4.2004, Rs. 234830 lakh as on 1.11.2004, Rs. 240460 as on 1.4.2005 and Rs. 306270 lakh as on 1.8.2005.”

7. Further, the amount “Rs. 152669 lakh” appearing in the opening sentence of para 30(c) shall be substituted by the amount “Rs. 152666 lakh”.

8. We make it clear that the correction of the typographical errors do not call for any revision in the tariff already awarded.

9. The petitioner has also submitted that depreciation mentioned as “Rs. 3910 lakh” in para 35 (page 28) of the order dated 31.1.2008 is also a typographical error and has sought correction thereof so as to read “Rs. 3893 lakh”. The tariff for Units I & II of the generating station for the period 1.8.2003 to

31.3.2004, was determined by the Commission by order dated 13.6.2005 in Petition No.1/2003. Depreciation amounting to Rs. 3910 lakh arrived at in the order dated 31.1.2008 is based on the cumulative depreciation and Advance Against Depreciation computed while awarding tariff for the period up to 31.3.2004. This does not call for any correction. It is also noticed that the petitioner has not given any reason in support of its plea for amendment of figure of depreciation recovered up to 31.3.2004.

10. The petitioner has also pointed out that weighted average price of HFO for the period 1.11.2004 to 31.3.2005 and 1.4.2005 to 31.7.2005 stated as “Rs. 15090.34 per KL” is a typographical error which needs to be corrected as “Rs. 15249.41 per KL”. Weighted average price of HFO as Rs. 15090.34 KL for the period 1.11.2004 to 31.7.2005, was considered based on the data submitted by the petitioner in Form 19 of the petition reproduced below:

	August 2004	September 2004	October 2004	Total
Quantity of HFO supplied by Oil Company (KL)-A	7363.932	1350.427	1345.544	10059.903
Adjustment in the quantity supply made by Oil Company (KL)-B	(-) 104.939	-	-	(-) 104.939
Net oil supplied (KL): A+B	7258.993	1350.427	1345.544	9954.964
Amount charged by Oil company (Rs.)- D	110601637	21134266	20071430	151807333
Adjustment in amount charged by Oil Company (Rs.)-E	-	-	-	-
Total amount charged (Rs.): D+E	110601637	21134266	20071430	151807333

11. As adjustment in the amount of quantity supplied by the oil company in the month of August 2004 was not indicated, necessary adjustment to this effect was

made by the Commission. After excluding the adjustment in the quantity of supply made by the oil company in the month of August 2004, the weighted average rate of HFO comes to Rs. 15090.34/KL. Accordingly, there is no error in this regard.

12. The petitioner has strenuously urged that the cut off date for the purpose of additional capitalization in respect of the generating station be extended to 31.3.2008 against 31.3.2007 considered in the order dated 31.1.2008. According to the petitioner, commercial operation has been achieved earlier than scheduled as indicated below:

	Actual	Scheduled
Unit-I	1.8.2003	February 2004
Unit-II	1.3.2004	November 2004
Unit-III	1.11.2004	August 2005
Unit-IV	1.8.2005	May 2006

13. The petitioner has submitted that the 2004 regulations came into force on 1.4.2004, having been notified by the Commission on 26.3.2004. The petitioner had, however, planned and begun implementation of the generating station much earlier, way back in the year 1999. As per the petitioner, Regulations 14 and 18 of the 2004 regulations prescribing the cut off date to be calculated in a specified manner should be given effect to only in the case of those generating stations in which the work for establishing generating stations commenced on or after 26.3.2004 or 1.4.2004 and not for those generating stations, as in the case of Talcher STPS, Stage-II, where the work had commenced much prior to the

specification of the 2004 regulations. The petitioner has contended that if it had postponed the commercial operation of the fourth unit of the generating station to May 2006, as originally scheduled, the cut off date for the purpose of additional capitalization under Regulation 18(1) of the 2004 regulations would have been 31.3.2008. However, based on the actual date of commercial operation of the fourth unit that is 1.8.2005, the cut off date for the purpose of Regulation 18 (1) has been taken as 31.3.2007.

14. The petitioner has further submitted that commercial operation of the various units was expedited by it by postponing certain activities relating to capital works such as off-site civil and admn. building, MGR doubling, MGR siding, PTS quarters, plant civil works, land payments, TG air compressors, cabling and station lighting and capital spares etc. essentially required for smooth and safe operation in the long run and were taken up in due course of time. Deferment of cut off date has been sought on the above premises.

15. This aspect has already been considered in detail by the Commission in the following words:

“CUT-OFF DATE

*61. While submitting the above information, the petitioner vide its affidavit dated 28.2.2007, has raised an incidental issue of computation of cut-off date meant for the purpose of additional capital expenditure. The petitioner has submitted that cut-off date be computed from the approved scheduled commercial operation date of May 2006. The petitioner has made the following submissions in support of its submission:*

*(a) As per the approved schedule for the generating station, commercial operation was to commence in May 2006. Against the above, the*

*petitioner has commissioned the project and declared commercial operation on 1.8.2005 i.e. about 10 months prior to the approved scheduled date of commercial operation.*

*(b) The implementation of the project was taken up much before the notification of the 2004 regulations.*

*(c) If commercial operation were declared on the scheduled date i.e. in May 2006, it would have enabled the petitioner to complete the residual capital works up to 31.3.2008 which would be the cut-off date as per clause (ix) of Regulation 14 of the 2004 regulations.*

*(d) Commercial operation of the generating station was advanced by pre-poning the activities relating to commissioning and commercial operation. Some of the capital works such as off-site civil and administrative building, MGR doubling, MGR siding, PTS quarters, plant civil works, land payments, TG air compressors, cabling and station lighting and capital spares, etc, which though essentially required for smooth and safe operation in the long run have been taken up in due course of time.*

62. *According to clause (1) of Regulation 18 of the 2004 regulations, the kind of expenditure specified therein incurred after the date of commercial operation and up to the cut-off date may be admitted subject to prudence check. Clause (ix) of Regulation 14 defines the cut-off date as the date of first financial year closing after one year of the date of commercial operation of the generating station.*

63. *We have considered the submission of the petitioner in the light of above statutory provisions but are unable to agree with the petitioner. The first unit of the generating station was commissioned in August 2003 and the date of commercial operation of the generating station as a whole is 1.8.2005. The date of commercial operation of the generating station is about one and half years after the notification of the 2004 regulations. Moreover, Regulation 18 of the tariff regulations 2004 contains provision for additional capitalization of the balance works under the approved scope of works. In view of this, the submission of the petitioner for considering 31.3.2008 as the cut-off date for the purpose of additional capitalization cannot be entertained. The cut-off date for the purpose of clause (1) of Regulation 18 shall be 31.3.2007.”*

16. In view of the above conscious decision of the Commission, we are unable to agree that there is a valid ground for review of this aspect of the order dated 31.1.2008. It is apparent that under the guise of review, the petitioner has endeavoured to re-open the matter, which is not permissible under the law applicable to review of orders.

17. For the reasons mentioned above, this review petition is not maintainable and is disposed of at the admission stage with correction of ministerial errors in accordance with paras 5, 6 and 7 above.

**Sd/  
(R KRISHNAMOORTHY)  
MEMBER**

**Sd/  
(BHANU BHUSHAN)  
MEMBER**

**New Delhi dated 21<sup>st</sup> May 2008**