

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

- 1. Shri Ashok Basu, Chairman**
- 2. Shri K.N. Sinha, Member**
- 3. Shri Bhanu Bhushan, Member**
- 4. Shri H.L. Bajaj, Member (EO)**

**IA No. 1/2004 in
Petition No. 62/2000**

In the matter of

Miscellaneous Application seeking clarification of order dated 25.9.2003

**IA No. 4/2004 in
Petition No. 62/2000**

In the matter of

Miscellaneous application under Section 61, 62, 79 and 94 of the Electricity Act, 2003 read with Regulations 111, 113, 114 and 115 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking clarification of the order dated November 5, 2003.

And in the matter of

National Thermal Power Corporation Ltd.

..Petitioner

Vs

Grid Corporation of Orissa Ltd.

..Respondent

The following were present:

1. Shri Amit Kapur, Advocate, NTPC
2. Shri Guryog Singh, NTPC
3. Shri A. Sardana, NTPC
4. Shri R. Majumdar, NTPC
5. Shri Balaji Dube, NTPC
6. Shri V.B.K.Jain, NTPC
7. Shri R.S. Sharma, NTPC
8. Shri R. Das, NTPC
9. Shri S.B. Dasgupta, NTPC
10. Shri M.S. Chawla, AGM (Comml), NTPC
11. Shri A.K. Dhar, GM (Finance), NTPC
12. Shri R.K. Mehta, Advocate, GRIDCO
13. Ms. M. Sarada, Adv., GRIDCO
14. Shri K.K. Pande, Liaison Officer, GRIDCO

ORDER
(DATE OF HEARING : 22.4.2004)

The petitioner had made an application (Petition No. 62/2000) to seek approval of tariff for the electricity supplied from Talcher Thermal Power Station to the respondent during the years 2000-2001 to 2003-2004. The application was disposed of vide order dated 19.6.2002. Both, the petitioner as also the respondent filed applications for review of the order dated 19.6.2002. The applications for review were allowed on certain limited aspects of the order. Accordingly, the main application, that is, Petition No. 62/2000 was reheard on the limited aspects on which review was allowed. The tariff was finally determined by the Commission by its order dated 5.11.2003.

2. In the order dated 19.6.2002, the Commission held that for the purpose of computation of PLF, the period under R&M would not reckon and that relatable fixed charges for the unit under R&M would not be paid.

3. Meanwhile, the petitioner had filed an interlocutory application (No. 30/2003) to seek clarification in regard to the recovery of fixed charges relatable to units of Talcher Thermal Power Station under R&M. The petitioner sought a clarification on the exact scope of the phrase "relatable fixed charges for the units under R&M" that appeared in the order dated 19.6.2002. The Commission in its order of 25.9.2003 on the interlocutory application clarified that "relatable fixed charges for units under R&M" shall be the proportion of fixed charges for the capacity of units under R&M. The clarification was further illustrated as under:

“Annual Fixed Charges for full capacity considering all the units = ‘AFC’
Crore.

Total capacity of the generating station = 460 MW (4x60 MW + 2x110 MW)

Capacity under R&M = 170 MW (1 Unit of 60 MW and 1 Unit of 110 MW),
and

Duration of R&M = 60 days

Relatable fixed charges for units under R&M shall be = Rs. AFC x
(170/460) x (60x365) Crore.

Amount of Fixed charge for available capacity payable during the period of
R&M = Rs. AFC x (460-170)/460 x (365-60)/365 Crore.”

IA No. 1/2004

4. In the Interlocutory Application No. 1/2004, it has been pointed out by the petitioner that while calculating the relatable fixed charges for units under R&M and the amount of fixed charges for available capacity payable during the period of R&M, there is an apparent error on the face of the order. The petitioner has, therefore, prayed for correction. It has been further submitted that whenever units are taken under R&M, the complete units including the auxiliaries are neither replaced nor renovated and modernised but a part of the main plant and their auxiliaries are only renovated and modernised. The remaining plants are overhauled and replaced as per R&M practice. Therefore, while undertaking R&M, the petitioner continues to incur O&M expenses on capital overhaul of the balance of plant and incur substantial expenditure on R&M on such equipment and also the other overhead expenses, including the corporate office expenses. It is further submitted that during R&M period, the petitioner continues to service the loans and charge depreciation on investments made and working capital etc. which are over and above the expenses incurred on R&M of the generating station and that equity employed by the petitioner also need to earn return. In this context, the

petitioner has prayed the Commission to establish appropriate modalities for recovery of the expenditure incurred during the period of R&M, which would otherwise remain uncovered.

5. We heard Shri Amit Kapur, Advocate for the petitioner and Shri R.K. Mehta, Advocate for the respondent on this IA. As we have noted above, the Commission in its order dated 19.6.2002, had held that relatable fixed charges for the unit under R&M would not be paid. The petitioner through this application in the guise of clarification, has sought fresh review of the direction, though the issue was not raised in the application for review filed by the petitioner, a reference to which has been made in para 1 of this order. On these facts, we are clearly of the opinion that the prayer made is outside the scope of the present application, which is christened as an application seeking clarification. Accordingly, learned counsel for the petitioner after arguing the matter at some length, decided not to press the issue. Therefore, this prayer made in the application is disposed of as not pressed.

6. As regards the error given in the illustration for computation of R&M expenses, we find that there is a ministerial error although it does not affect the substantive clarification given by the Commission. The illustration given in the order dated 25.9.2003 shall, therefore, be substituted as under:

“Annual Fixed Charges for full capacity considering all the units = ‘AFC’ Crore.
Total capacity of the generating station = 460 MW (4x60 MW + 2x110 MW)

Capacity under R&M = 170 MW (1 Unit of 60 MW and 1 Unit of 110 MW), and
Duration of R&M = 60 days

Relatable fixed charges for units under R&M shall be = Rs. $AFC \times (170/460) \times (60/365)$ Crore.

Amount of Fixed charge for available capacity payable during the period of R&M = Rs. $(AFC \times 60/365) - AFC \times (170/460) \times (60/365)$ crore = Rs. $AFC \times (60/365) \times (290/460)$ Crore.”

7. Accordingly, IA No. 1/2004 stands disposed of.

IA No. 4/2004

8. The manner of computation of interest on loan was one of the issues on which review was allowed. The matter was reconsidered in the order dated 5.11.2003. In this regard, the Commission observed as under:

“Interest on Loan

5. In the petition, the petitioner had claimed interest on loan by adjusting the repayments in the year of repayment itself in the tariff for the period from 3.6.1995 to 31.3.2000, in view of the agreement between the parties arrived at in a meeting held on 23.9.1996. However, in its order dated 19.6.2002, the Commission had considered repayments in the following year. On re-consideration of the matter, we feel that in conformity with the methodology followed for computation of tariff for the period ending 31.3.2000 interest on loan should be allowed by computation of interest on loan by considering the repayments during the year of repayment of the notional loan. The repayments of installments towards additional capitalisation during different years is also to be considered in the same year, while computing the interest on loan in accordance with the above methodology. Accordingly, the entitlement of the petitioner to interest on loan has been revised”.

9. The principle that can be culled out of the above observation is that while computing interest on loan the repayment of loan has been adjusted in the year of repayment itself, though the general practice is to adjust the repayment in the following year. The departure was made in view of the agreement between the parties.

10. It has been stated by the petitioner that while calculating the interest on loan, the Commission had modified the interest on loan calculation for the period from 1995-1996 to 1999-2000, already settled with the respondent, though the approval of tariff was sought for the period 2000-2001 to 2003-2004. According to the petitioner, this is an apparent error on the face of the order and has sought rectification of the calculations of interest on loan in the order dated 5.11.2003.

11. The petitioner has not elaborated how the settled position has got unsettled as a result of the order dated 5.11.2003, the relevant part of which is reproduced above. However, on scrutiny we find that in the order dated 5.11.2003, the opening balance of loan, as on 3.6.1995 has been considered as Rs.169.59 crore against Rs.170.49 crore considered by the petitioner in the tariff calculations for the period from 1995-96 to 1999-2000. The Commission in its order dated 5.11.2003, considered the opening balance of Rs.169.59 crore as explained hereafter. As per MOU signed between the petitioner and the respondent, the base capital as on 3.6.1995 was Rs.327.68 crore. Further, a sum of Rs.11.50 crore was added on account of initial spares capitalised. Therefore, the gross block as on 3.6.1995 worked out to Rs.339.18 crore. The petitioner and the respondent had agreed to follow debt and equity in the ratio of 50:50. Therefore, the loan component worked out to Rs.169.59 crore, which represents 50% of the gross block of Rs.339.18 crore as on 3.6.1995. Thus, there is no error in computation of interest on loan when seen in the light of the principle contained in para 5 of the order dated 5.11.2003 and reproduced above. Similarly, while computing the repayment instalment on account of additional capitalisation, the

principle as adopted for computation of interest on notional loan has been applied. This implies that repayment instalment towards additional capitalisation has been considered in the same year for computing the interest on loan, for the sake of uniformity. In our considered view, this too does not involve any error as the principle has been uniformly applied for adjustment of repayment of loan against the original notional loan and the loan component of additional capitalisation.

12. For the above reasons, we do not find any merit in the IA 4/2004 and the same is accordingly dismissed.

13. Before parting, we are constrained to observe that through the IAs the petitioner itself has tried to unsettle the position settled by the orders of the Commission, by filing repeated applications, one after the other. We do not appreciate this tendency. We hope that this will not be followed in future.

Sd/-
(H.L. BAJAJ)
MEMBER(EO)

Sd/-
(BHANU BHUSHAN)
MEMBER

Sd/-
(K.N. SINHA)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRMAN

New Delhi dated the 7th June 2004