

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

- 1. Shri Ashok Basu, Chairman**
- 2. Shri K.N. Sinha, Member**
- 3. Shri Bhanu Bhushan, Member**

Petition No.80/2003

In the matter of

Giving direction to NTPC for billing of variable costs for power drawn by GEB from Kawas Gas Power Station (KGPS) of NTPC on Gas and Naphtha separately on the basis of energy scheduled from KGPS commensurate with requisition related to specific fuel (generation) usage.

And in the matter of

Gujarat Electricity Board	...	Petitioner
Vs		
1. National Thermal Power Corporation Ltd		
2. Western Regional Electricity Board	Respondents

The following were present:

1. Shri T.R. Andhyarujina, Sr. Advocate, GEB
2. Shri S.B. Khyalia, CFM, GEB
3. Ms. H. Wahi, Advocate, GEB
4. Ms. Archana Palkar, Advocate, GEB
5. Shri Ashish Chugh, Advocate, GEB
6. Shri V.B.K. Jain, NTPC
7. Shri M.S. Chawla, AGM (C), NTPC
8. Shri S.K. Johar, NTPC
9. Shri S.K. Sharma, Sr. Manager (C), NTPC
10. Shri Balaji Dubey, Sr. Law Officer, NTPC
11. Shri P.G. Salpekar, NTPC
12. Shri T.R. Sohal, AGM(C), NTPC
13. Shri S.D. Jha, Sr. Manager(C), NTPC
14. Shri R. Singhal, Manager (C), NTPC
15. Shri S.G. Tenpe, Superintending Engineer, WREB

**ORDER
(DATE OF HEARING: 05.02.2004)**

The petitioner in this petition has prayed for a direction to the respondents to adopt fuel-wise energy/variable charge accounting and billing in keeping with the Commission's order dated 4.1.2000, with retrospective effect.

2. The Commission in its order dated 4.1.2000 in Petition No. 2/99 had, inter alia, directed that in case of gas turbine/combined cycle stations, the generator shall give declared capacity for units/modules on gas fuel and liquid fuel separately and the two shall be scheduled separately. It was further ordered that the total declared capacity and total scheduled generation for the stations shall be sum of the two.

3. The petitioner, among other constituents of Western Region is drawing power from Kawas Gas-based Combined Cycle Power Station (for short, "Kawas GPS") belonging to the first respondent, and operates on dual-fuel firing facility. According to the petition, the petitioner schedules purchase of electricity from Kawas GPS limited to generation by gas unit, since units on gas and liquid (naphtha) fuel, are being despatched separately. However, the petitioner is being billed energy/variable charge on the basis of weighted average cost of the dual fuel, namely, gas and naphtha, which results in inflated billing since the cost of generation of electricity with naphtha is Rs.4-5 per kWh, whereas the cost of generation of power with gas is around Re.1 per kWh. The petitioner is reported to have taken up the matter at WREB (second respondent) forum. However, no agreement on the issue could be reached with other beneficiaries of the Western Region. The petitioner has accordingly filed the present petition with the substantive prayer noted above.

4. The first respondent in its reply has raised the question of non-impleadment of other constituents of the Western Region. According to this

respondent, the petitioner has sought to change the present arrangement, which would adversely affect the other beneficiaries. Therefore, this respondent has sought the direction for impleadment of other beneficiaries of Western Region, namely, Madhya Pradesh State Electricity Board, Maharashtra State Electricity Board, Chhattisgarh State Electricity Board, Government of Goa, Administration of Dadra and Nagar Haveli and Administration of Daman and Diu, in addition to Western Regional Load Despatch Centre. It is stated that Kawas GPS is declaring its capacity separately for gas and liquid fuel generation and the units on gas and liquid are being scheduled separately, but billing of energy/variable charges is being done in accordance with the fuel price adjustment formula contained in Ministry of Power notification dated 30.4.1994, applicable to Kawas GPS since the tariff for the station has not yet been notified by the Commission and that notified earlier by Ministry of Power under notification dated 30.4.1994 is being charged on provisional basis in accordance with the Commission's orders. According to the first respondent, liquid fuel facilities at Kawas GPS were set up as a result of decision of WREB meetings held on 18.3.1994 and 13.8.1994, when the petitioner was duly represented, when the combined fuel price adjustment formula for billing of energy/variable charge was agreed to. It is also contended that in case billing is done separately for gas and liquid-fired units, it will adversely affect the overall generation availability in the region as the cost of liquid fuel would discourage power purchase and may warrant more load shedding in the system.

5. The second respondent in its letter dated 5.1.2004 has generally supported the contention raised by the first respondent though it has also added that "merit

order operation and separate billing for gas and liquid are essential from regulation point of view.” Thus, in essence the second respondent, in principle at least, is not opposed to separate billing of energy/variable charge for gas and liquid-fired units.

6. We heard Shri T.R. Andhyarujina, Senior Advocate for the petitioner, Shri V.B.K. Jain, General Manager for the first respondent and Shri S.G. Tempe for the second respondent.

7. Firstly, we consider the preliminary question of non-impleadment of other constituents of Western Region raised by the first respondent. We have already noticed that the petitioner has sought direction to the respondents to adopt fuel-wise energy/variable charge accounting and billing by reference to the Commission’s order dated 4.1.2000. The direction is sought against the two respondents on record before us and not against any particular beneficiary of the Western Region. In this background, we consider it unnecessary to have other beneficiaries of the Western Region to be brought on record and impleaded as respondents. In our view, in these proceedings the necessary parties are already on record and in absence of other beneficiaries of Western Region an effective decision can be rendered by the Commission. Approaching the matter from this angle, the preliminary submission made by first respondent regarding the non-impleadment of other beneficiaries of Western Region is rejected, particularly when the petitioner’s claim is based on an earlier order of the Commission. As we have considered in later part of the order, there will be no adverse implication on

any of the beneficiaries of the Western Region, even if the relief prayed for is granted. We do not consider WRLDC also to be a necessary party since WRLDC, as a system operator is primarily concerned with scheduling, and units/modules working on gas and liquid fuel are in any case being scheduled separately.

8. We now consider the case on merits. The Commission in its order of 4.1.2000 had directed that a generating station shall declare its capacity separately for the units/modules working on gas and liquid fuel. The Commission had further directed that the units/modules working on gas and liquid fuel shall be scheduled separately. The order of the Commission has been translated into a notification dated 26.3.2001 on terms and conditions of tariff, which has come into force from 1.4.2001. The obvious purpose of the direction of separate scheduling is to enable the beneficiaries to exercise their option on the question of despatch of power from a generating station based on the merit order, so that ultimately the cheapest power is available to the consumer. By combining billing on weighted average price of gas and liquid fuel, the very purpose of the direction of the Commission gets defeated. We, therefore, find merit in the contention raised by the petitioner. In fact, in case of certain other stations belonging to the first respondent in Northern Region and running on dual fuel firing facility, the Commission has already directed separate billing for gas and liquid units.

9. It is true that tariff for Kawas GPS has not yet been determined by the Commission and the first respondent is provisionally billing the beneficiaries of Western Region based on Ministry of Power notification dated 30.4.1994. Though

tariff order in respect of Kawas GPS will be issued shortly, in our view this fact should not come in the way of separate billing of the gas and liquid units by the first respondent. We may take note of the fact that even if the beneficiaries do not avail of power generated from liquid-fired units consequent to separate billing for gas and liquid-fired units, the first respondent or for that matter any of the beneficiaries of Kawas GPS, is not likely to be affected adversely since full capacity charges will be paid as the question raised is about recovery of energy/variable charge only which is the actual cost of generation of power. The beneficiaries who opt for or opt out of supply of power generated from liquid-fired units, will be doing so based on the cost-benefit analysis.

10. In view of the foregoing, we direct that the petitioner shall be billed separately by the respondents for the electricity supplied from the gas and liquid-fired units of Kawas GPS.

11. With this direction, the petition stands disposed of.

Sd/-
(BHANU BHUSHAN)
MEMBER

Sd/-
(K.N. SINHA)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRMAN

New Delhi dated the 23rd February 2004