

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

CORAM:

1. **Shri Ashok Basu, Chairman**
2. **Shri K.N. Sinha, Member**

Pet No. 105/2002

In the matter of

Tariff for NLC Thermal Power Station – I Expansion

And in the matter of

Neyveli Lignite Power Corporation Ltd.

... **Petitioner**

Vs

1. Tamil Nadu Electricity Board, Chennai
2. Karnataka Power Transmission Corporation Ltd., Bangalore
3. Kerala State Electricity Board, Trivandrum
4. Electricity Department, Pondicherry
5. Transmission Corporation of Andhra Pradesh, Hyderabad.....**Respondents**

The following were present:

1. Shri K Sekar, GM, NLC
2. Shri R. Suresh, DGM, NLC
3. Shri P. Vasudevan, NLC
4. Shri S. Sowmyanarayanan, Consultant, TNEB

**ORDER
(DATE OF HEARING: 8.1.2004)**

The petition has been filed for approval of provisional tariff for Unit I of TPS I expansion (2x210 MW). The specific prayers made in the petition extracted hereinbelow, are for:

"(a) fixing a provisional energy charges pending the finalisation of lignite price by Gol and the capacity charge as worked out and submitted vide Annexure IV for Unit I of TPS 1 Expansion.

(b) refer the issue of determining the lignite price of individual constituent Mines and the pooled price of lignite to the competent authority in Gol, ie, Ministry of Coal, and

(c) adjustment of the energy charges with retrospective effect from the date of synchronisation based on the lignite price to be determined by the competent authority in the Gol and capacity charges from the date of commercial operation of Unit I of TPS 1 Expansion."

2. The petitioner has expanded its TPS I by adding two units of 210 MW each. The source of primary fuel for this station is stated to be linked with the extension of Mine I by 4 million tonnes per annum. The power generated from the station is shared by the respondents. As per the techno-economic clearance dated 8.6.1995 issued by CEA, the project cost was approved at a cost of Rs.1590.68 crore, including IDC of Rs.252.46 crore. Subsequently, Ministry of Coal and Mines, Department of Coal, vide its letter dated 12.2.1996 accorded its approval for the project cost indicated by CEA in the techno-economic clearance. The revised cost estimates of Rs.1420.27 crore, including IDC of Rs.34.75 crore and foreign exchange component of Rs.547.74 crore at December, 2000 price level was approved by Department of Coal vide letter dated 3.12.2001. The completion cost of TPS I Expansion is stated to be Rs.1423.47 crore, including foreign exchange component of Rs.547.74 crore at December, 2000 price level. Unit I of TPS Expansion has been declared under commercial operation with effect from 9.5.2003. The petitioner has, therefore, sought provision approval for tariff for the electricity supplied from Unit I for the period from 9.5.2003 to 31.3.2004, based on capital cost of Rs.846.37 crore, including IDC of Rs.23.22 crore. The petitioner has claimed Rs.26358.77 lakh on account of capacity charges for the said period. The petitioner has further claimed energy charges at the rate of 100.03 paise/kWh during stabilisation period and at the rate of 94.03 paise/kWh subsequent thereto.

3. It is stated that as per the directions of the Central Government, the pricing of lignite has to be pooled whenever any new Mine is put into operation. Therefore, the weighted average price of lignite of all Mines except Mine I will have to be arrived at for the purpose of tariff calculation. The petitioner has discussed the matter of fixing the lignite price with the respondents. However, no firm decision in this regard could be arrived at by them. Therefore, the petitioner has sought a direction to the Central Government, Department of Coal for fixation of transfer price of lignite. Pending, however, fixation of such price by the Central Government, the petitioner has sought approval for provisional tariff, to be adjusted with retrospective effect from the date of synchronisation of the lignite price to be determined by the Central Government, the capacity charges from the date of commercial operation of Unit I of TPS I Expansion.

4. The petition was earlier heard on 28.1.2003. The Commission, after hearing, vide its order dated 5.2.2003 had approved the energy charge of 98.10 paise/kWh for the infirm power supplied from Unit I of TPS I Expansion from the date of synchronisation, on provisional basis. The petitioner was, however, directed to file a revised petition based on norms notified by the Commission with all the supporting details, considering the actual expenditure on the date of commercial operation, duly certified by the statutory auditors, latest by 5.4.2003. The details have, however, been filed only on 10.11.2003. We have taken serious note of the delay in filing the revised petition and this has been conveyed to the representatives of the petitioner present at the hearing.

5. We further find that all the necessary details in accordance with the notification issued by the Commission have not been filed. The provisional tariff claimed is not in accordance with the norms notified by the Commission as some of the parameters like depreciation ROE etc, have been deviated from those notified by the Commission. The representative of the petitioner explained that the modified norms were adopted consequent to agreement with the respondents. Shri S. Sowmyanarayanan, who is present on behalf of TNEB (the only respondent represented at the hearing) has contested this version since, according to him, no agreement was arrived at by the respondents on these issues and during the discussions, the respondents had agreed to certain parameters for fixing of transfer price of lignite and not the parameters for the purpose of fixing tariff. Thus, there are differences between the parties on this issue. Be that as it may, it was appropriate for the petitioner to file the revised petition based on norms notified by the Commission in accordance with the directions contained in the order dated 5.2.2003, and the deviations, if any, could be properly explained by the petitioner separately. As the tariff has not been claimed in accordance with terms and conditions notified by the Commission, the petition, *prima facie*, is not maintainable.

6. In view of the differences between the parties on the question of fixation of transfer price, the representative of petitioner prayed that the matter be referred to Department of Coal for its decision. We are not inclined to accept to the prayer made by the representative of the petitioner, since it will be outside the scope of functions of the Commission to give any direction in this regard to Central Government. The petitioner as a company of the Central Government may take necessary steps to

persuade the owner to fix the transfer price for lignite and file the proposals for approval of tariff based on transfer price so fixed. The Commission will thereafter look into the proposal for fixation of tariff. On our expressing the reluctance to refer the matter to the Central Government, the representative of the petitioner and that of TNEB agreed to have fresh negotiation on the issue of fixation of transfer price of lignite, of course by involving other respondents as well, (they were not represented at the hearing). It was submitted before us that the meeting for this would be held by 30.1.2004 and a fresh petition for fixation of tariff would be filed by 29.2.2004.

7. We grant liberty to the petitioner to file fresh petition for approval of firm tariff in accordance with the time schedule noted above.

8. Shri R. Suresh appearing for the petitioner submitted that although the Unit I has been under commercial operation since 9.5.2003, the respondents are paying only the energy charges at the rate of 98.10 paise/kWh, approved by the Commission by its order dated 5.2.2003. He prayed that direction for payment of capacity charges in addition to the energy charges be given to the respondents. Since the petition has not been filed in accordance with the terms and conditions of tariff prescribed by the Commission, we are unable to take a firm view on payment of capacity charges by the respondents and the matter is to be considered after a fresh petition is filed by the petitioner. However, as the respondents are being supplied power from the generating station, it is in the fitness of the things that a reasonable amount of charges are paid by them for the purchase of power. We, therefore, direct that the petitioner shall be entitled to charge from the respondents, 65% of the capacity charges claimed

in the petition. In addition, the petitioner will be entitled to energy charges at the rate of 98.10 paise/kWh during the period of stabilisation and at the rate of 92.77 paise/kWh thereafter. These charges approved by us are provisional, and shall be continued till the final tariff is approved by the Commission.

9. The Petition No.105/2002 stands disposed of.

**Sd/-
(K.N. SINHA)
MEMBER**

**Sd/-
(ASHOK BASU)
CHAIRMAN**

New Delhi dated the 14th January, 2004