

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

1. **Shri Ashok Basu, Chairperson**
2. **Shri K.N. Sinha, Member**
3. **Shri Bhanu Bhushan, Member**
4. **Shri A.H. Jung, Member**

IA No.1/2006 in
Petition No.66/2005

In the matter of

Approval of tariff of Damodar Valley Corporation (IA has been filed by DPSC Ltd for clarification of the order dated 21.6.2005).

And in the matter of

Damodar Valley Corporation, Kolkata **Petitioner**

Vs

1. Department of Energy, Govt. of West Bengal, Kolkata
2. Department of Energy, Govt. of Jharkhand, Ranchi
3. West Bengal State Electricity Board, Kolkata
4. Jharkhand State Electricity Board, Ranchi
5. Ministry of Power, New Delhi **Respondents**

And in the matter of

DPSC Ltd., Kolkata **Applicant**

The following were present:

1. Shri M.G. Ramachandran, Advocate, DVC
2. Ms. Taruna S. Baghel, Advocate, DVC
3. Dr. S. Chakraborty, Advocate, DPSC Ltd.
4. Shri A. Choudhari, DPSC Ltd.,

**ORDER
(DATE OF HEARING 7.2.2006)**

The interlocutory application has been made by DPSC Ltd., formerly known as Dishergarh Power Supply Company Limited to seek a clarification on the scope and effect of para 5 of the Commission's order dated 21.6.2005 in the main petition.

2. The main petition is filed by DVC for approval of tariff from 1.4.2004 to 31.3.2009 based on the terms and conditions contained in the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004, though DVC has sought relaxation of some of the norms applicable. The petition was heard by the Commission on 14.6.2005 and in para 5 of its order dated 21.6.2005 passed after the hearing, the Commission directed as under:

“5. The petitioner shall continue to charge the tariff as applicable on 31.3.2004 on provisional basis, till further order, which shall be subject to the tariff that may be finally determined.”

3. The applicant in the present interlocutory application has stated that it was a licensee under the repealed Indian Electricity Act, 1910 for supplying power in Asansol-Ranigunj belt in West Bengal covering about 618 sq. kms, and deemed to be a licensee under the Electricity Act, 2003. It has been stated that the licenced area of the applicant falls within the command area of DVC and about 80% of the applicant's demand is met through purchases from DVC. The applicant is said to have entered into Power Purchase Agreements (PPAs) with DVC for purchase of electricity. These PPAs provide that the demand charge, energy charge, fuel cost surcharge, guaranteed annual energy charge and overall unit rate set out in the Schedule II of the PPA be amended by DVC at any time after three months' notice. It is stated that DVC had finalized on 7.12.2004 the fuel surcharge rate for the half year ended 30.9.2004 and also simultaneously increased provisionally the fuel surcharge rate for the half year ending 31.3.2005. Subsequently on 6.6.2005 DVC finalized fuel surcharge rate for the half year ended 31.3.2005 at 60.84 paise/kWh and also proposed to provisionally increase

the fuel surcharge rate for the half year ending 31.9.2005 to 62.84 paise/kWh from 54.13 paise/kWh being charged provisionally prior to 6.6.2005.

4. The applicant is aggrieved by the revision of fuel surcharge rate by DVC. It took up the matter with DVC but did not succeed in persuading DVC. Accordingly, the applicant has sought a clarification on the exact scope and effect of para 5 of the order dated 21.6.2005, extracted above.

5. We have heard Shri S. Chakraborty, Advocate for the applicant and Shri M.G. Ramachandran, Advocate for DVC.

6. The norms for approval of tariff for the period 1.4.2004 to 31.3.2009 were notified in the official Gazette on 29.3.2004. There was no time left for the utilities to approach the Commission for approval of tariff for the period commencing 1.4.2004. Therefore, the Commission through a general notification had directed that the tariff charged as on 31.3.2004 would be continued to be charged, though with slight modifications. Based on a direction from the Commission, DVC has filed the main petition for approval of tariff. The direction contained in para 5 of the Commission's order dated 21.6.2005 is to be seen in this context.

7. Fuel cost surcharge is a component of tariff being charged by DVC. Learned Counsel for DVC has clarified that fuel cost surcharge has been revised in accordance with the formula in electricity tariff for HT supply effective from

1.9.2000. This has not been disputed by the learned counsel for the applicant. The energy charge in case of the generating stations owned by NTPC is subject to fuel price variation adjustment. For the period subsequent to 31.3.2004, NTPC has been claiming energy charge after adjustment based on price adjustment formula given in the tariff applicable as on 31.3.2004. On that principle, the fuel surcharge rate charged by DVC is also subject to adjustment based on the terms of the PPA. Therefore, we do not find any infirmity with the revision of fuel cost surcharge by DVC. It is, however, once again clarified that the tariff being charged by DVC since 1.4.2004 is provisional and shall abide the final tariff to be approved by the Commission in the main petition.

8. With the above directions, IA stands disposed of. The parties may appear before the one-member Bench for further proceedings on 13.2.2006 as already decided.

Sd-
(A.H. JUNG)
MEMBER

Sd/-
(BHANU BHUSHAN)
MEMBER

Sd/-
(K.N. SINHA)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRPERSON

New Delhi dated the 14th February 2006.