

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

1. **Shri K.N. Sinha, Member**
2. **Shri Bhanu Bhushan, Member**

Petition No.174/2004

In the matter of

Approval of revised fixed charges on account of additional capital expenditure
for the period 1.4.2001 to 31.3.2004 in respect of Anta Gas Power Station

And in the matter of

National Thermal Power Corporation Ltd.

...Petitioner

Vs

1. Uttar Pradesh Power Corporation Ltd., Lucknow
2. Jaipur Vidyut Vitran Nigam Ltd., Jaipur
3. Ajmer Vidyut Vitran Nigam Ltd., Jaipur
4. Jodhpur Vidyut Vitran Nigam Ltd., Jaipur
5. Delhi Transco Ltd., New Delhi
6. Haryana Vidyut Prasaran Nigam Ltd., Haryana
7. Punjab State Electricity Board, Patiala
8. Himachal Pradesh State Electricity Board., Shimla
9. Power Development Department, Govt.of J&K, Srinagar
10. Power Department, Chandigarh
11. Uttaranchal Power Corporation Ltd., Dehradun

.....Respondents

The following were present:

1. Shri A.M Misra, NTPC
2. Shri Shri D.G. Salpekar, NTPC
3. Shri S.K. Kapoor, NTPC
4. Shri R.A. Goyal, NTPC
5. Shri V.B.K. Jain, NTPC
6. Shri I.J. Kapoor, NTPC
7. Shri R.M. Arya, NTPC
8. Shri C.P. Singh, NTPC
9. Shri Sanjay Madan
10. Shri Shankar Saran, NTPC
11. Shri S.K. Samvi, NTPC
12. Shri C.S. Gupta, NTPC
13. Shri M.G. Ramachandran, NTPC
14. Shri S.K. Johar, DGM(C), NTPC
15. Shri N.N. Sadasivan, NTPC

16. Shri S.K. Sharma, NTPC
17. Shri Manoj Saxena, NTPC
18. Shri S.D. Jha, Sr. Manager (C), NTPC
19. Shri J. Roy, NTPC
20. Ms. Taruna Singh Baghel, NTPC
21. Shri A.K. Juneja, NTPC
22. Shri Manoj Mathur, DGM(C), NTPC
23. Shri C.S. Srinivas, NTPC
24. Shri A. Ravindra, NTPC
25. Ms. Alka Saigal, NTPC
26. Shri G.K. Dua, NTPC
27. Shri Balaji Dubey, Dy. Mgr. Law, NTPC
28. Shri S. Naik, Mgr (Commerce), NTPC
29. Shri P.B. Venkatesh, Dy. Mgr. (Comml), NTPC
30. Shri Surendra, NTPC
31. Shri A. Sardana, NTPC
32. Shri K.K. Mittal, XEN, RVPN
33. Shri T.C. Nigohya, JVVNL
34. Shri A.K. Sharma, JVVNL
35. Shri P.K. Gupta, JVVNL
36. Shri R.K. Arora, HVPN
37. Shri O.P. Srivastava, UPPCL
38. Shri T.K. Srivastava, UPPCL
39. Shri V.K. Goel, SE, HVPN
40. Shri C.K. Sahajevani, XEN, HVPN
41. Shri P.K. Gupta, DTL

ORDER
(DATE OF HEARING: 13.1.2005)

Through this petition, the petitioner seeks approval for the revised fixed charges in respect of Anta Gas Power Station (Anta GPS) for the period 1.4.2001 to 31.3.2004 after considering the impact of additional capital expenditure incurred during the period.

2. Anta GPS comprises of three gas turbines each with a capacity of 88.71 MW and one steam turbine of 153.20 MW. The Central Government in Ministry of Power by its letter dated 2.11.1994 had accorded revised investment approval for Rs.418.97 Crore, including IDC of Rs. 26.63 Crore, Working Capital Margin of Rs.8.57 Crore and FERV of Rs. 77.03 Crore.

3. The terms and conditions for determination of tariff for the period 1.4.2001 to 31.3.2004 were notified by the Commission on 26.3.2001 in terms of the Central Electricity Regulatory Commission (Terms & Conditions of Tariff) Regulations 2001 (hereinafter referred to as “the notification dated 26.3.2001”). A petition (No.45/2001) was filed by the petitioner for approval of tariff, for the period 1.4.2001 to 31.3.2004, the basis for which was stated to be the notification dated 26.3.2001. In the tariff claimed, the petitioner had considered the impact of additional capitalisation for the period 1.4.2001 to 31.3.2004. The tariff was approved by the Commission by its order dated 30.4.2004. For the purpose of tariff, the capital cost of Rs.451.67 Crore as on 1.4.2001 was considered. The additional capitalisation claimed by the petitioner was not considered since it was based on the estimated capital expenditure without the supporting auditor’s certificate.

4. The year-wise details of additional capitalisation claimed with reference to the balance sheet are as follows:

	(Rs. In lakh)			
	2001-02	2002-03	2003-04	Total
Additional Capitalization in the books of accounts (A)	(-)1.817	2694.512	920.247	3612.942
Exclusions (B)				
FERV capitalized	(-) 316.723	1708.501	0.00	1391.778
Works not allowed by the Commission	(-) 0.789	(-)1.391	(-)2.212	(-)4.392
Spares not admitted earlier by the Commission	0.00	0.00	(-)7.328	(-)7.328
Replacement	0.00	0.00	(-)1.882	(-)1.882
Sub-Total Exclusions (B)	(-)317.512	1707.110	(-)11.422	1378.176
Additional capital expenditure Claimed (A)-(B)	315.695	987.402	931.669	2234.766

5. Based on the above, the petitioner has claimed the revised fixed charges.

6. The petitioner's claim for additional capitalisation and the revised fixed charges is based on Clause 1.10 of the notification dated 26.3.2001, reproduced hereunder:

“1.10 Tariff revisions during the tariff period on account of capital expenditure within the approved project cost incurred during the tariff period may be entertained by the Commission only if such expenditure exceeds 20% of the approved cost. In all cases, where such expenditure is less than 20%, tariff revision shall be considered in the next tariff period.”

7. The response to the petition has been filed by Haryana Vidyut Prasaran Nigam Ltd (HVPNL), Uttar Pradesh Power Corporation Ltd. (UPPCL) and Punjab State Electricity Board (PSEB). The common ground running through these responses is that tariff revision as claimed by the petitioner on account of additional capital expenditure incurred during the tariff period cannot be entertained in view of Clause 1.10 of the notification dated 26.3.2001, reproduced above, since the additional capital expenditure does not exceed 20% of the approved capital cost. Some of the respondents have questioned the manner of computation of the revised fixed charges.

Exclusions

8. It is observed that additional capitalization as per books of accounts is Rs.3612.942 lakh including FERV of Rs.1391.778 lakh. Since impact of FERV was being claimed separately from the beneficiaries, the total capital expenditure claimed for the station after excluding FERV should be Rs. 2221.164 lakh. However, the petitioner has claimed additional capitalization of Rs. 2234.766 lakh. The difference is mainly on account of re-inclusion (negative entries in exclusions in above table) of certain assets in capital base.

9. In the first instance we consider the exclusions in the claim for additional capital expenditure

(a) **FERV**:-The exclusion of an amount of Rs. 1391.778 lakh for 2001-04 on account of FERV claimed has been allowed as the impact of this FERV amount has been billed directly to the beneficiaries as per notification dated 26.3.2001.

(b) **Replacement exclusion** -The petitioner by way of negative entries in exclusions has sought to re-include certain assets like unserviceable heat convector, room heaters, Jeep & Ambassador car, etc. The petitioner has submitted that the Commission, while considering additional capitalization for the years 1997-2001 did not allow capitalization of such items, and in accordance with new regulations also these items will not be allowed for capitalization. It is submitted by the petitioner that since, capitalization of these items was not allowed; their de-capitalization also should not be considered.

It is noted that these items were the part of the admitted capital cost for the purpose of tariff and have been de-capitalized on becoming unserviceable. Therefore, re-inclusion of such items as replacement (23) cannot be allowed.

(c) **Spares not admitted by the Commission earlier** - An amount of (-) Rs.7.328 lakh has been excluded on account of spares not admitted by the Commission earlier. Accordingly, de-capitalization of the spares on becoming unserviceable need to be excluded. As such exclusion has been allowed.

(d) **Works not allowed by the Commission** - An amount of (-) 4.392 lakh pertains to adjustment of works not allowed by the Commission and as such exclusion is in order and has been accepted.

Additional Capitalisation

10. Now we consider the admissibility of additional capital expenditure claimed in the present petition. The year-wise and category-wise break up of the additional expenditure claimed by the petitioner is as follows-

(Rs. in lakh)

(A) Works with in the scope of approved cost					
	Category Code	2001-02	2002-03	2003-04	Total
(a) Balance payments against works admitted by the Central Government/Commission	10 A	0.999	0.00	(-)3.437	(-)2.438
(b) Balance payments against works not admitted by the Commission	10 B	3.108	0.00	0.00	3.108
(c) Replacements	23	92.169	460.980	204.142	757.291
Total within the scope of approved cost (A)= (a)+(b)+(c)		96.276	460.980	200.705	757.961
(B) Works not within the scope of approved cost.					
(a) New works: capitalized under other than approved cost	21 B	43.970	55.603	57.219	156.792
(b) Spares : capitalized under other than approved cost	22 B	175.449	470.819	673.747	1320.015
Total Additional Capitalisation Not within the scope (B) = (a)+(b)		219.419	526.422	730.966	1476.807
Total additional capitalization claimed (A)+(B)		315.695	987.402	931.671	2234.768

11. The expenditure claimed for additional capitalisation and our decisions thereon have been discussed as under:

Additional capital expenditure within the scope of approved cost/ admitted works by the Central Government/Commission

(a) Additional Capital Expenditure relating to balance payments against works admitted by the Central Government/Commission - The balance

payments of (-)Rs. 2.438 lakh against works admitted by the Central Government/Commission is found to be in order and has been allowed.

(b) Balance payment against works not admitted by Commission - An expenditure of Rs. 3.108 lakh relates to works not admitted by the Commission and is not within the original scope. Therefore, capitalisation of the expenditure cannot be considered.

(c) Additional Capital Expenditure on replacements – The petitioner has claimed an amount of Rs.757.29 lakh as additional capitalization on account of replacement of assets during 2001-04 within the original scope of approved project cost. Out of this, Rs.752.892 lakh is expenditure on items in the nature of spares for the gas turbine. The total value of items purchased in the respective year and the amount de-capitalized on the old assets are given below :-

	(Rs. in lakh)			
	2001-02	2002-03	2003-04	Total
(a) Amount of Purchased Items	93.23	534.89	222.64	850.76
(b) Amount De-capitalized	---	75.62	22.24	97.86
Net Claimed (a) – (b)	93.23	459.27	200.40	752.90

The above expenditure relates to replacement of defective inlet segment/heat shield segment, Rotor Blade Row, Vane Row 1 & 2 and inner liner etc. on different gas turbines of the generating station. The petitioner has not given item-to-item de-capitalization of the old assets and there is no de-capitalization in the year 2001-02. It has been stated by the petitioner that against the year

2002-03, de-capitalization cost on complete inner lines shall be done in the year 2004-05.

In the tariff petition No.45/2001 for the period 2001-04, the Commission has disallowed inclusion of such items in the O&M cost additionally because supply of such spares was covered under warranty clause with OEM to supply free of cost during the first ten years. The Commission decided that supply of such warranty spares free of cost must have been factored in the capital cost of the generating station and the cost was recovered by way of depreciation. In addition, the petitioner earned return on such cost factored in the capital cost.

On all these considerations, capitalization of the spares claimed has not been allowed.

Other expenditure relating to chairs, desks, tables, photocopy machine, vacuum cleaner and printers etc. has been admitted as the original value of old assets has been deducted from the gross block. The position in this respect is summarized below:

Year	Claimed (Rs.)	Allowed (Rs.)	Not allowed (Nature Of Spares) (Rs.)
2001-02	9216883	(-)106589	9323472
2002-03	46097985	171651	45929334
2003-04	20414158	374756	20039402
Total	75729026	439818	75289208

Additional Capital Expenditure on works not within the approved cost

(a) Additional Capital Expenditure on New works not within the approved

cost- An expenditure to the tune of Rs. 156.792 lakh on new works not within the original scope has been claimed. The matter has been examined in the light of the justification furnished by the petitioner for incurring the expenditure. An amount of Rs. 99.964 lakh has been found admissible out of a total of Rs.156.792 lakh. The year-wise break up of allowed/disallowed expenditure for this head is as follows-

Year	Claimed (Rs.)	Allowed(Rs.)	Disallowed(Rs.)
2001-02	4397031	2880254	1516777
2002-03	5560281	4241074	1319207
2003-04	5721875	3125487	2596388
Total	15679187 (156.792 lakh)	10246815 (Rs. 102.468 lakh)	5432372 (Rs. 54.324 lakh)

(b) Additional Capital Expenditure on spares not in approved cost- An expenditure of Rs.1320.015 lakh relates to capitalization of spares during 2001-04. The petitioner has submitted that these spares are required for safety against break down, which if not available in time could lead to loss of generation and aggravation of already power deficit condition. It is further submitted that since these critical spares are required to be procured from the Original Equipment Manufacture (OEM), lead-time for procurement could be one to one and a half-year. To avoid long outage of units it is necessary to maintain sufficient stock of these spares in capital account of spares.

We have considered the matter in right earnest. The station is in operation for about 13 years. Capitalization of such spares is on account of revised

accounting standards and is over and above the spares capitalized as initial spares. The Commission while dealing with additional capitalization petitions of the generating stations belonging to the petitioner, for the period prior to 1.4. 2001, did not allow capitalization of such spares as consumption of such spares should form part of O&M expenses. On the same considerations, capitalization of spares not within the approved cost should not be permitted.

12. The following additional capital expenditure has been allowed based on discussions in the above paragraphs:

(Rs. In lakh.)					
Details of additional capitalization claim	CATEGORY CODE @	2001-02	2002-03	2003-04	TOTAL
(A) works with in the scope of approved cost					
(a) BALANCE PAYMENTS	10A	0.999	0.00	(-)3.437	(-)2.438
(b) Balance payments against works not admitted by the Commission	10 B	0.00	0.00	0.00	0.00
(b) REPLACEMENTS	23	(-)1.065	1.716	3.747	4.398
Total within the scope of approved cost (A) = (a)+(b)		(-)0.066	1.716	0.310	1.960
(B) works not within the scope of approved cost					
(a) NEW WORKS, NOT IN APPROVED RCE	21B	28.802	42.411	31.255	102.468
(b) SPARES NOT IN APPROVED COST	22B	0	0	0	0
Total not within the scope of approved cost (B) = (a)+(b)		28.802	42.411	31.255	102.468
TOTAL (A)+(B)		28.736	44.127	31.565	104.428
Exclusions Not permitted (C)					
(a) Exclusions- De-capitalization (Replacement)	23	0.00	0.00	-1.882	-1.882
Total of Exclusions not permitted (C) =(a)		0.00	0.00	-1.882	-1.882
Additional capitalization allowed (A)+(B)+(C)		28.736	44.127	29.683	102.546

13. Next arises the question of revision of fixed charges for the period 1.4.2001 to 31.3.2004. In the order dated 31st March 2005 in Petition No. 139/2004, (National Thermal Power Corporation Ltd Vs Uttar Pradesh Power Corporation Ltd and others) the Commission has held that the additional capital expenditure incurred during the tariff period, not exceeding 20% of the approved capital cost, does not qualify for retrospective revision of tariff. In the present case, the additional capital expenditure approved is less than 20% of the approved cost. For the reasons given in the said order dated 31st March 2005, the retrospective revision of fixed charges for the period 1.4.2001 to 31.3.2004 is not warranted. However, the additional capital expenditure approved shall be added to the gross block as on 1.4.2001 to arrive at the gross block as on 1.4.2004 for the purpose of fixation of tariff for the tariff period 2004-05 to 2008-09.

14. After taking into account additional capitalization allowed, the opening gross block as on 31.3.2004 works out as follows:

(Rs. in Crore)			
	2001-02	2002-03	2003-04
Capital cost as on 1 st April of respective financial year	451.67	451.957	452.398
Additional capitalisation	0.287	0.441	0.296
Capital cost as on 31 st March of respective financial year	451.957	452.398	452.694

15. Further, for the reasons recorded in order dated 31.3.2005 in Petition No.139/2004, the petitioner shall be entitled to earn return on equity @ 16% on the equity portion of additional capitalisation now approved by us. Similarly, the petitioner shall also be entitled to interest on loan at the rate, as applicable, during the relevant period. Return on equity and interest shall be worked out on the additional

capitalisation from 1st April of the financial year following the financial year to which additional capital expenditure relates and up to 31.3.2004. The lump sum of the amount of return on equity and interest on loan so arrived shall be payable by the respondents along with the tariff for the period 2004-09 to be approved by the Commission. The exact entitlement of the petitioner on this account shall be considered by the Commission while approving tariff for the period 2004-09.

16. With the above observations, the petition stands disposed of.

Sd/-
(BHANU BHUSHAN)
MEMBER

Sd/-
(K.N. SINHA)
MEMBER

New Delhi dated the 13th April, 2005