

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram:**

1. **Shri Ashok Basu, Chairman**
2. **Shri G.S. Rajamani, Member**
3. **Shri K.N. Sinha, Member**

**Review Petition No. 92/2002 in  
Petition No. 62/2000**

**In the matter of**

Review of Commission's order dated 19.6.2002 in Petition No. 62/2000

**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 Kapoor, Advocate, NTPC
2. Shri D. Negi, Advocate, NTPC
3. Shri Shyam Wadhera, ED (Comml.), NTPC
4. Shri D.S. Sharma, GM (Comml.), NTPC
5. Shri M.S. Chawla, AGM (Comml.), NTPC
6. Shri R. Datt, AGM (Comml.), NTPC
7. Ms. Gayatri Bedi, NTPC
8. Shri R. Mazumdar, Sr. Manager (Comml.), NTPC

**ORDER  
(DATE OF HEARING 21.11.2002)**

The Commission in its order dated 19.6.2002 in Petition No. 62/2000 had approved terms and conditions and tariff for the power supplied by the petitioner to the respondent from Talcher Thermal Power Station. The petitioner has filed application for review of some of the terms and conditions decided by the Commission in the said order dated 19.6.2002.

2. The grievances projected by the petitioner in this review petition are as under:
- (a) Tariff order dated 19.6.2002 does not provide for recovery of fixed charges on account of additional capitalisation due to R&M of the plant or otherwise during the tariff period from April 2001 to March 2004,
  - (b) O&M charges allowed are exclusive of water charges, though the order states that the water charges are included in O&M charges,
  - (c) While deciding O&M charges for the year 2000-2001, the Commission has selectively relied upon the Power Purchase Agreement (PPA) which as per the findings of the Commission had expired on 2.6.2000,
  - (d) The computation of working capital for the purpose of interest does not include the receivables on account of variable charges, income tax recoverable from the respondent and that escalation in fuel prices had not been considered,
  - (e) Operating parameters namely PLF, station heat rate and auxiliary consumption decided by the Commission are unachievable.
  - (f) Recovery of levies, taxes, duties, cess, filing fee, etc. (other than income tax) had not been ordered by the Commission though a prayer to that effect was made in the petition.

3. We have heard Shri Amit Kapoor, Advocate on behalf of the petitioner. Upon hearing and perusal of record, we are satisfied that, prima facie, a case for review of certain aspects of the order as per sub-paras (a), (b), (d) and (f) of para 2 above is made out.

4. After hearing learned counsel for the petitioner, we are not satisfied with the contention of the petitioner for review of order on the alleged ground of selective use of PPA for deciding O&M charges for the year 2000-2001. Similarly, in our opinion, there is no scope for review of operating parameters.

5. The Commission in its order dated 19.6.2002 had directed that O&M charges for the year 2000-2001 should be computed based on the terms and conditions contained in the PPA signed between the petitioner and the respondent. In the order it was held that the stipulations contained in Clause 6 of the PPA could not *ipso facto* be applied to determination of tariff as the PPA had expired on 2.6.2000. The petitioner has averred that in view of this finding recorded by the Commission, the terms and conditions contained in the PPA could not be relied upon for the purpose of computation of O&M charges for the year 2000-2001. In our opinion, the averment made by the petitioner is unsound. The Commission in its order dated 19.6.2002 had also held that “we may consider extending them (the terms and conditions contained in the PPA) to the extent they are considered reasonable and relevant”. The Commission, on finding the terms and conditions contained in the PPA to be relevant and reasonable directed computation of O&M expenses for the year 2000-2001 on that basis in consonance with the view recorded in earlier part of the order. The contention raised by the petitioner in our opinion, does not fall within any of the grounds laid down under Rule 1 Order 47 CPC.

6. Similarly, on the question of norms on operating parameters, a prima facie case for review is not made out. The Commission while deciding the norms on operating parameters has elaborately considered the rival submissions and arrived at the norms

as per the order of 19.6.2002. The difficulty in achieving the norms decided by the Commission cannot be a ground for review of order.

7. In the light of above discussion, we direct that the petitioner shall supply copy of the petition to the respondent latest by 5.12.2002. The respondent may file its reply, limited to the issues mentioned in para 3 above, latest by 31.12.2002 with an advance copy to the petitioner who may file its rejoinder latest by 15.1.2003.

8. List the review petition on 14.01.2003 along with Review Petition No. 93/2002.

9. Meanwhile, subject to the decision in the review petition, the terms and conditions and tariff ordered by the Commission in Petition No. 62/2000 shall continue to apply.

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

**Sd/-**  
**(G.S. RAJAMANI)**  
**MEMBER**

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

New Delhi dated the 29<sup>th</sup> November 2002