

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

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

Petition No. 5/2002

In the matter of

Revised Tariff for Thermal Power Station II of NLC for the period from
2001-2002 to 2003-2004.

And in the matter of

Neyveli Lignite Corporation Ltd. **Petitioner**

Vs

1. Tamil Nadu Electricity Board, Chennai
2. Karnataka Power Transmission Corp. Ltd., Bangalore
3. Kerala State Electricity Board, Thiruvananthapuram
4. Pondicherry Electricity Deptt., Pondicherry
5. Andhra Pradesh Power Transmission Corp. Ltd.,
Hyderabad.... **Respondents**

The following were present

1. Shri K. Sekar, NLC
2. Shri R. Suresh, NLC
3. Shri A. Ganesan, NLC
4. Ms. Ratna Choudhury, NLC
5. Shri S. Sowmyanarayanan, Consultant, TNEB
6. Shri V.G. Pandit, Controller, KPTCL

**ORDER
(DATE OF HEARING: 21.4.2005)**

We have heard Shri K. Sekar and Shri R. Suresh for the petitioner and Shri
S. Swomyanarayanan for the Respondent, TNEB.

2. The petitioner has filed the petition for approval of tariff based on “gross fixed assets” concept. The tariff for the period ending 31.3.2001 was governed by the Bulk Power Supply Agreement which took into account “net fixed assets” concept. The respondent No.1, TNEB has opposed the methodology adopted by the petitioner for computation of tariff. In the interest of continuity of approach, we have decided that the tariff in the present petition shall be determined by taking the “net fixed assets” concept. In this decision, we are also guided by the consideration that in accordance with the terms and conditions of tariff applicable for the period 1.4.2004 to 31.3.2009, “net fixed asset” approach is to govern the determination of tariff for TPS-II.

3. The tariff in the present petition has been claimed based on the transfer price of lignite decided by the Board of Directors of the petitioner and approved by Ministry of Coal vide its letter dated 21.3.2005. The transfer price considered by the petitioner has been disputed on behalf of the respondent No. 1.

4. According to the petitioner, under the Allocation of Business Rules of the Government of India, pricing of lignite is the subject allocated to Ministry of Coal who after due consideration has approved the transfer price decided by the Board of Directors. Therefore, in the present proceedings for approval of tariff, the price as approved by Ministry of Coal, needs to be considered by the Commission. It has been pointed out on behalf of the petitioner that the Commission in its order dated 4.1.2000 in Petition No. 2/1999 has already taken a view that it would admit

the transfer price for lignite for the purpose of tariff though the petitioner had suggested that in case of an integrated utility like that of the petitioner, the fixed charges should cover the cost of mining operations, as the Commission felt that the mining activities were regulated by Ministry of Coal and did not fall within the regulatory jurisdiction of the Commission. Shri Sowmyanarayanan has submitted that the proposal in the petition relates to approval of tariff for the period 1.4.2001 to 31.3.2004 whereas the transfer price has been approved by Ministry of Coal only on 21.3.2005. He has submitted that the transfer price now approved cannot be applied retrospectively, even if for argument sake it is to be considered that the price approved by the Ministry is final.

5. The issue raised by the petitioner and considered in the order dated 4.1.2000 was in the context of payment of capacity charges by the beneficiaries for the lignite mines. However, subsequently while considering the norms for fixation of energy charges, the Commission in its order dated 21.12.2000 in Petition No. 4/2000 and other related petitions at para 5.2.3 directed the petitioner to furnish the details of transfer price mechanism for Commission's examination at the time of submission of tariff petition for the purpose of determination of energy charges. The direction is based on sound logic. The petitioner is the producer of lignite, and also the generator of electricity using this lignite. The Commission is mandated by law to ensure transparency in its operation. The Commission, in the matter of fixation of tariff for sale of power is also guided by the consumer interest under Section 61 (d) of the Electricity Act. Therefore, it is, not only desirable, but

essential to consider the aspect of the transfer price of lignite, used as an input for power generation by the petitioner itself. The petitioner should have furnished the necessary details for examination of the Commission in the present petition for approval of tariff. We also take note of the fact that the petitioner had earlier entered into the bulk power supply agreement with the beneficiaries for the period prior to 1.4.2001 and the transfer price of lignite considered therein was the negotiated price. In the interest of transparency and consumer justice, it is expected that the petitioner will furnish the necessary details to the Commission.

6. Therefore, the petitioner is directed to file on affidavit the detailed methodology adopted, including the computations in support of the of the transfer price for lignite considered in the proposal for tariff, latest by 31.5.2005. These details shall be filed in a sealed cover, shall be treated as “Confidential” and shall not be open for inspection to any person, including the respondents, without specific prior approval of the Commission.

7. At the hearing a letter written by CMD of the petitioner company addressed to the Joint Secretary in Ministry of Power has been produced, wherein CMD has offered to explain broad parameters considered by the Board of Directors, for fixing the transfer price of lignite. The representative of the petitioner has submitted that CMD will explain these parameters to the Chairman/Managing Director of the respondent Boards/Companies in a meeting. He has further submitted that a meeting will be convened shortly by CMD for this purpose. Let

the meeting be convened. We direct that the outcome of the meeting shall be reported to the Commission by 31.5.2005.

8. In addition, the petitioner shall also file the following details on affidavit by 31.5.2005, separately for TPS-II, Stage I and Stage-II:

- (a) Capital cost as on the date of commercial operation and that considered for tariff in the respective year for the tariff period 1.4.1996 to 31.3.2001;
- (b) Capitalized initial spares included in the capital cost;
- (c) Details of year-wise and asset-wise additional capitalization during the period 1996-97 to 2000-01, along with detailed justification therefor, duly reconciled with audited accounts;
- (d) Audited accounts for the years 1996-97 to 2000-01;
- (e) Break-up of stores consumed year-wise; details of employee cost separately for corporate office and the generating station; and the reasons for abnormal increases in O&M expenses under certain heads, namely, employee cost, corporate office expenses, repair and maintenance expenses, etc;
- (f) Copy of Government of India sanction of cost estimates, along with details of the funding pattern approved;
- (g) Details of loans as on the date of commercial operation and thereafter, year-wise, with following information, namely:

- (i) Date of drawal and other terms and conditions, like moratorium period, if any, repayment/redemption period, interest rate, etc and
 - (ii) Cumulative repayment as on 31.3.2001;
- (h) Asset-wise depreciation rate on the basis of capital cost as on 31.3.2001;
- (i) Amount of cumulative depreciation recovered through tariff up to 31.3.2001;
- (j) Actual amount/value of lignite stock maintained as on 31.3.2001;
- (k) Amount of spares consumed during 1995-96 to 1999-2000; and
- (l) Amount of spares capitalized up to 31.3.2001.

9. List on 21st June, 2005.

Sd/-
(A.H. JUNG)
MEMBER

Sd/-
(BHANU BHUSHAN)
MEMBER

Sd/-
(K.N. SINHA)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRMAN

New Delhi dated the 3rd May, 2005