

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Coram
Dr.Pramod Deo, Chairperson
Shri R.Krishnamoorthy, Member
Shri V.S.Verma, Member**

**Review Petition No. 172/2009
In Petition No. 139/2008**

In the matter of

Review of order dated 9.6.2009 in Petition No.139/2008 pertaining to approval of revised capacity charges in respect of Rajiv Gandhi Combined Cycle Power Project (RGCCPP) situated at Kayamkulam after accounting for the capital cost of switchyard transferred to NTPC from Power Grid Corporation of India Ltd (PGCIL).

And the in the matter of

Tamil Nadu Electricity Board, Chennai ... Petitioner
Vs
NTPC Ltd, New Delhi
Kerala State Electricity Board, Thiruvananthapuram... Respondents

The following was present:

Shri. R.Krishnaswami, TNEB

**ORDER
(Date of Hearing: 25.8.2009)**

The petitioner, TNEB, has filed this application seeking review of the order dated 9.6.2009 in Petition No.139/2008 under which the capacity charges in respect of Rajiv Gandhi Combined Cycle Power Project (hereinafter referred to as 'the generating station') of NTPC situated at Kayamkulam, were revised, after accounting for the capital cost of switchyard transferred from Power Grid Corporation of India Ltd (PGCIL).

2. Brief background of the case is as under:

(a) The Commission vide its order dated 17.6.2008 in Petition No. 53/2007 allowed de-capitalisation of Rs. 8709.94 lakh on account of cost of the switchyard and determined the revised transmission charges for the years 2007-2008 and 2008-2009 for PGCIL.

(b) By the same order, the Commission allowed NTPC to recover provisional charges on account of switchyard. The Commission further directed NTPC to file a separate petition for approval of revised capacity charges for the generating station after accounting for the capital cost of the switchyard transferred to it.

(c) In pursuance of the above direction of the Commission, NTPC filed Petition No. 139/2008 seeking determination of the capacity charges. The Commission, vide its order dated 9.6.2009 revised the fixed charges of the generating station for the years 2007-08 and 2008-09 as under:

(Rs in lakh)

Annual Fixed Charges	2007-08		2008-09
	1.4.2007 to 31.8.2007	1.9.2007 to 31.3.2008	
Depreciation	2202	3291	5655
Interest on Loan	794	1127	1633
Return on Equity	2076	3069	5274
Advance against Depreciation	1617	2059	0
Interest on working capital	1176	1641	2759
O & M Expenses	1318	1835	3279
Total	9184	13023	18601

3. The review petitioner has made the following prayers:
- (a) Pass an order by either adopting the method of Act of Parliament in toto or the Commission's regulation in toto instead of hybrid method which is disadvantage to the beneficiaries and affects the interest of the consumers.
 - (b) Pass an order by adopting the weighted average depreciation rate of 4.4179% in lieu of 4.554% adopted by the Commission in the impugned order would not result in loss to the beneficiaries is not correct; whereas the actual loss is about Rs. 167 lakh.
 - (c) Pass an order by revising the notional loan repayment which has resulted in higher Advance against depreciation due to ministerial error and wrong consideration of actual repayment.
4. Representative of the petitioner contended that the gross block of the switch yard needed to be revised. In this regard he referred to the observations of the Commission at para 11 of the order dated 9.6.2009 that the gross block of the switchyard transferred to NTPC had been considered based on the principle followed by the Central Government while transferring assets to Power Grid in 1992. According to him this was incorrect, because the Govt. of India by its notification had transferred the transmission assets from generating companies, on formation of Power Grid, only on the book value thereof and not on the gross value. He also urged that the Commission ought not to have considered the debt-

equity ratio in terms of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 (the 2004 regulations) for revision of tariff, and instead the debt equity ratio as per the Govt. of India notification should have been considered as the assets were transferred on book value along with loan and equity. He submitted that consideration of the gross block of the switchyard was not in line with the definition of 'price' as defined in the Sale of Goods Act, 1930. The representative further submitted that the order of the Commission considering the gross block as per the Govt. of India notification and the debt-equity ratio as per the 2004 regulations, had caused dichotomy in the methodology for revision of tariff and had resulted in unjust enrichment to NTPC at the cost of the consumers.

5. The representative of the petitioner also sought revision of the weighted average rate of depreciation by considering the depreciation rate of switchyard transferred. According to him the rate of depreciation of the switchyard was less than the weighted average rate of depreciation of the generating station. He also questioned the observation of the Commission in its order that adoption of higher depreciation amount would result in reduction of the amount of Advance Against Depreciation and submitted that it was incorrect, as the beneficiaries of the generating station would be paying higher tariff by Rs.167 lakh for the year 2008-09, by upfront payment of depreciation. He prayed that the order be reviewed on this ground also.

6. Seeking revision of notional repayment of loan, the representative of the petitioner pointed out that the Commission in the order dated 9.6.2009 had considered a higher notional repayment of loan for the period 1.9.2007 to 31.3.2009 and a higher actual loan repayment for the year 2007-08 while arriving at the weighted average rate of interest and submitted that the said ministerial/clerical errors had resulted in excess tariff. He prayed that the order be reviewed and the ministerial/clerical errors be corrected.

7. We have considered the submissions made on behalf of the review petitioner and observe that the review petitioner has endeavoured to re-open the settled issue on merit without providing any justification of review. The review petitioner has neither produced any new evidence nor cited any error apparent on the face of the impugned order. As the conditions for review are not met, this review petition is liable to be dismissed.

8. Notwithstanding the above, certain ministerial errors in the impugned order have come to notice. Accordingly, we direct that the tariff awarded vide the Commission's order dated 9.6.2009 in Petition No. 139/2008 be revised as under:

(Rs. in lakh)

	1.4.2007 to 31.8.2007	1.9.2007 to 31.3.2008	2008-09
Depreciation	2202	3291	5655
Interest on Loan	795	1149	1705
Return on Equity	2076	3069	5274
Advance against Depreciation	1548	1111	0
Interest on Working Capital	1175	1625	2761
O & M Expenses	1318	1835	3279
Total	9114	12081	18675

9. The detailed calculation in respect of the components of the annual fixed charges in respect of the generating station consequent to the addition of switchyard are annexed as annexure to this order.

10 With this, review petition No. 172/2009 stands disposed of.

Sd/-
(V.S. VERMA)
MEMBER

Sd/-
(R. KRISHNAMOORTHY)
MEMBER

Sd/-
(Dr. PRAMOD DEO)
CHARIPERSON

New Delhi, dated the 23rd December 2009

Annexure

(Rs. in lakh)

	1.4.2007 to 31.8.2007	1.9.2007 to 31.3.2008	2008-09
ACE -Due to Transfer of Switchyard	0.00	8709.94	0.00
Capital cost-opening	118257	126967	126967
Capital cost closing	118257	126967	126967
Average Capital cost	118257	126967	126967
Financing of ACE for tariff as per regulation 20 amended on 1.6.2006			
Notional Loan		6514.58	
Notional Equity		2195.36	
Total			
Depreciation			
90% Depreciable Value	102596	110435	110435
Balance Depreciable Value	52495	56584	52182
Balance useful life			
Depreciation to be recovered	2202	3291	5655
Cumulative Depreciation and AAD	53851	58253	63908
Cumulative Depreciation reduction due to de-capitalization			
Cumulative Depreciation and AAD after adjustment due to de-capitalization	53851	58253	63908
Gross Opening Loan	82780	89295	89295
Cumulative Repayment of Loan up to previous year	51730	58195	62597
Net Loan Opening after addition	31050	31100	26698
Repayment of loan during the year	3750	4402	5655
Net Loan Closing	27300	26698	21043
Average Loan	29175	28899	23870
Weighted Average Rate of Interest on Loan	6.5212%	6.8311%	7.1445%
Interest on Loan	795	1149	1705
Equity	35477	35477	37672
Addition of Equity due to ACE	0	2195	0
Total	35477	37672	37672
Average equity	35477	36575	37672
Return on Equity	2076	3069	5274
Advance against Depreciation			
1/10th of Gross Loan(s)	8278	8929	8929
Repayment of the Loan	3750	4402	5655
Minimum of the above	3750	4402	5655
Depreciation during the year	2202	3291	5655
(A) Difference	1548	1111	0
Cumulative Repayment of the Loan	58195	62597	68252
Cumulative Depreciation	52303	57142	63908
(B) Difference	5891	5455	4344
Advance against Depreciation Minimum of (A) and (B)	1548	1111	0

(Rs. in lakh)

Reviewed Annual Fixed Charges			
Depreciation	2202	3291	5655
Interest on Loan	795	1149	1705
Return on Equity	2076	3069	5274
Advance against Depreciation	1548	1111	0
Interest on Working Capital	1175	1625	2761
O & M Expenses	1318	1835	3279
Total	9114	12081	18675
Actual Loan as per order dated 9.5.2006 with addition			
Net Loan-Opening	31892.22	28040.86	27871.73
Addition SBI-IV Drawal IV on 28.3.08 Floating 13.75% margin -2.25%		3800.00	
Repayment during the year	3851.37	3969.12	4602.53
Net Loan-Closing	28040.86	27871.73	23269.21
Average Loan	29966.54	27956.30	25570.47
Rate of Interest	6.5212%	6.8311%	7.1445%
Interest	1954.18	1909.73	1826.87