

CENTRAL ELECTRICITY REGULATORY COMMISSION
RECORD OF PROCEEDINGS

Petition No.140/2009

Subject: Determination of impact of additional capital expenditure incurred during the period from 1.1.2009 to 31.3.2009 on fixed charges of Sipat STPS, Stage-II (1000 MW).

Coram: Shri R.Krishnamoorthy, Member
Shri S. Jayaraman, Member
Shri V.S.Verma, Member

Date of hearing: 13.10.2009

Petitioner: NTPC Ltd

Respondents: MPPTCL, MSEDCL, GUVNL, CSPDCL, Electricity Dept, Goa, Electricity Dept, Daman and Diu, Electricity Dept, Dadra and Nagar Haveli.

Parties present: 1. Shri V.K.Padha, NTPC
2. Shri A.S.Pandey, NTPC
3. Shri S.K.Sharma, NTPC
4. Shri S.K.Samui, NTPC
5. Shri S. Dheman, NTPC
6. Shri Deepak Srivastava, MPPTCL
7. Shri P.V.Sajeev, CSPDCL

This petition has been filed by the petitioner, NTPC, for determination of impact of additional capital expenditure incurred during the period from 1.1.2009 to 31.3.2009 on fixed charges in respect of Sipat STPS, Stage-II (1000 MW) (hereinafter referred to as "the generating station"), based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004, (hereinafter referred to as "the 2004 regulations"). The interlocutory application has been filed for amendment of Annexure-I of the petition.

2. The representative of the petitioner submitted that the additional capital expenditure had been incurred on works which were part of the original scope of work but executed after the cut-off date are required for efficient and successful operation of the generating station and prayed that the Commission allow the additional capital expenditure incurred for the purpose of tariff. The representative of the petitioner submitted that it had filed the additional information as directed by the Commission during the hearing on 31.7.2009 and had served copy on the respondents.

3. The representative of the respondent No.1, MPPTCL submitted that in terms of sub-section (5) of section 62 read with sub-section (3) of section 79 of the Electricity Act, 2003, the Commission should direct the petitioner to submit the actual expenditure incurred and profits earned in respect of the generating station before the determination of tariff. He also submitted that the petitioner has filed the petition after expiry of the tariff period and there was no provision under the 2004 regulations to allow retrospective revision in tariff. The representative further submitted that the claim of the petitioner towards un-discharged liabilities should be considered only after disposal of the Civil Appeal filed by TNEB, on this issue, by the Hon'ble Supreme Court. On merits, the representative submitted that in terms of the 2004 regulations, FERV was payable directly by the beneficiaries and hence the claim for exclusion of an amount of Rs 58.68 lakh towards FERV on loan capitalized in books of accounts should not be allowed. He also submitted that the instant petition be considered only after tariff for the period from 20.6.2008 to 31.12.2008 in respect of the generating station was determined in Petition No. 63/2009.

4. The representative of the respondent No.4, CSPDCL, submitted that the petitioner's claim for additional capitalization should not include un-discharged liabilities, in terms of the provisions under Regulation 17 of the 2004 regulations. He also pointed that some of the expenditures shown against Sl.Nos 22, 23, 30, 32, 36, 37, 54, 60 and 66 of Annexure-6 of the petition do not fall within the capital works on which depreciation could be claimed.

5. In response, the representative of the petitioner submitted that the prayer in the interlocutory application and the claim for additional capitalization in respect of un-discharged liabilities should be allowed as the judgments of the Appellate Tribunal as referred to by the respondents had not been stayed by the Hon'ble Supreme Court. He also submitted that the petition for additional capitalization had been filed in terms of the 2004 regulations and hence the prayer of the respondent MPPTCL for consideration in terms of sub-section (5) of section 62 of the Act, was not tenable. The representative prayed that the additional capital expenditure claimed in the petition be allowed for the purpose of tariff.

6. On a specific query as to whether the parties agreed to the disposal of the present petition along with Petition No. 63/2009, by a common order, the representatives of parties submitted that they had no objection.

7. The Commission, after hearing the parties, reserved orders on the petition.

Sd/-
(K.S.Dhingra)
Chief (Legal)