

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Record of Proceedings

Petition No.72/2008

Subject: : Problems encountered by NLC on account of fixation of UI cap for coal/lignite/APM gas fired generating stations.

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

Date of Hearing : 17.3.2009

Petitioner : Neyveli Lignite Corporation Limited

Respondents : TNEB, KSEB, PED, SRLDC, SPPCC, PCK, BESCOM, MESCOM, GESCOM, HESCOM, CESCO, NTPC

Parties present : Shri N.A.K. Sarma, Advocate
Shri R Suresh, NLC
Shri E. Gnanaprakasam, NLC
Shri R Krishnaswami, TNEB
Shri V Suresh, SRLDC

The petitioner has made this application highlighting the problems encountered by NLC on account of introduction of UI Cap for coal/lignite/APM gas fired stations through the notification of Central Electricity Regulatory Commission (Terms & Conditions of Tariff) (Fourth Amendment) Regulations, 2007 which came into effect from 7.1.2008. It has been stated that there is a physical cap on generation at 101% of average generation for the day. Over and above the same, the concept of UI cap through amendment of the tariff regulations has been introduced at 406 paise/kWh at 49.66 Hz against the maximum UI payable at 1000 paise/kWh. The petitioner has prayed that in view of the difficulties and losses being suffered by NLC due to newly introduced UI price cap, the Commission may consider to put both generators and beneficiaries at par by removing UI cap on generators. If the Commission considers it necessary to retain the UI Cap, the same should be provided on UI rates for both injections above as well as below the schedule for the generators.

2. The learned counsel appearing on behalf of the petitioner submitted that the cap on UI rates for the generator at 406 paise introduced through the

amendment to the tariff regulations w.e.f. 7.1.2008 had created a dichotomy between the generation above the schedule and generation below the schedule and was thus discriminatory against the generator. He submitted that the generator is under a statutory obligation to generate up to 101% of its capacity and was therefore legitimately entitled to the price at which electricity was being sold to the beneficiaries under UI. When a generator generates below the schedule it is required to pay the penalty at the rate of 1000 paise/kWh. When it generates above the schedule, its income is capped at 406 paise/kWh. It is, therefore, not fair to deprive the generator of its legitimate dues arising out of the discharge of its statutory obligations. The learned counsel further submitted that if for any reason the UI Cap could not be dispensed with, then it should not be made applicable to injection during the frequency from 49.2 Hz to 49.5 Hz, because a generator is mandated to support the grid in such situations as per IEGC. The learned counsel further submitted that applying the UI cap in case of TPS-I was totally unjustified as this was vintage plant with small units of 50 MW to 100 MW and used lignite as fuel which has marcasite and other impurities affecting the generation. Therefore, TPS-I deserved special consideration and the Commission may consider to take out the plant from the ambit of the UI cap. The learned counsel further submitted that the beneficiaries would not have any grievance as they would not be required to pay anything more than what they were actually paying. He also said that the cap was not applicable to the generators embedded in the State system.

3. The representative of the respondent, TNEB submitted that the Commission decided the price cap as the generators were getting unjust enrichment by selling the power through UI. Moreover, the benefit of the price cap had not been passed on to the beneficiaries and surplus fund out of the UI collection was still lying with Powergrid. The Commission was in the process of deciding the manner of utilization of the funds lying in the UI pool. He further submitted that the sample data produced by the petitioner was not the representative data and the Commission may call for the data for the entire year in order to ascertain whether any loss had been suffered by NLC as a result of introduction of UI cap.

4. The counsel for the petitioner in its rejoinder submitted that the petitioner should not be penalized for optimum utilization of the funds sunk in by the Government of India in the petitioner company. He further emphasized that issue involved was not whether NLC was making profits but whether the price cap on UI was discriminatory to the generators.

5. The representative for SRLDC submitted its feedback on the weekly UI data of NLC TPS-II Stages I and II and NLC TPS-I (Expansion) for the period from 1.9.2008 to 1.3.2009. The submission of SRLDC was taken on record.

6. The Commission directed the petitioner to submit the UI data in respect of TPS-I from 7.1.2008 till the date of hearing within three weeks. The Commission also directed the petitioner to submit the data pertaining to performance of Stage I units vis-à-vis Stage II units as well as the analysis of lignite being fed to Stage I and Stage II respectively to confirm that Stage I units deserved special attention, within three weeks.

7. Subject to the above, order in the petition is reserved.

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