

CENTRAL ELECTRICITY REGULATORY COMMISSION

RECORD OF PROCEEDINGS

Review Petition No. 172/2009

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).

Date of hearing: **25.8.2009**

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

Petitioner: TNEB

Respondents: NTPC and KSEB

Parties present: Shri. R.Krishnaswami, TNEB

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. The representative of the petitioner submitted that it had sought review of the order dated 9.6.2009 for revision of:

- (a) the gross block of the switchyard transferred;
- (b) the weighted average rate of depreciation by considering the depreciation rate of switchyard transferred; and
- (c) the notional repayment of loan

3. As regards (a) above, the representative of the petitioner submitted that 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. He stated that it was incorrect, since 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. The representative also submitted 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. He prayed that the order be reviewed on this ground.

4. As regards (b) above, the representative of the petitioner submitted that the rate of depreciation of the switchyard was less than the weighted average rate of depreciation of the generating station. He also submitted that 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 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.

5. As regards (c) above, 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.

6. The Commission on consideration of the submissions made, has reserved its order.

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