

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
New Delhi**

Coram:

1. Dr. Pramod Deo, Chairperson
2. Shri R. Krishnamoorthy, Member
3. Shri S. Jayaraman, Member
4. Shri V.S. Verma, Member

Review Petition No.7/2009  
in  
Petition No 48/2007

**In the matter of**

Review of the order dated 20.11.2008 in Petition No. 48/2007, in respect of revision of fixed charges after considering impact of additional capital expenditure incurred during 2004-05 and 2005-06 of Korba STPS (2100 MW).

**And in the matter of**

NTPC Ltd.

**Petitioner**

Vs

1. Madhya Pradesh Power Trading Co Ltd, Jabalpur
  2. Gujarat Urja Vikas Nigam Ltd., Vadodara
  3. Chhattisgarh State Electricity Trading Co. Ltd., Raipur
  4. Electricity Department, Government of Goa, Panaji
  5. Electricity Department, Daman & Diu, Daman
  6. Electricity Department, Dadra & Nagar Haveli, Silvassa
- Respondents**

**Following were present:**

1. Shri A.S. Pandey, NTPC
2. Shri V.K. Padha, NTPC
3. Shri S. Dheman, NTPC

**ORDER  
(Date of Hearing 14.5.2009)**

The application has been made for review of order dated 20.11.2008 in Petition No. 48/2007 whereby the Commission approved the revised fixed charges for Korba STPS (2100 MW).for the period 2004-09 after considering impact of additional capital expenditure incurred during 2004-05 and 2005-06.

2 The applicant while seeking revision of annual fixed charges in Petition No 48/2007 had claimed additional capital expenditure of Rs. 1726.11 lakh during 2004-05 and Rs. 2008.21 lakh during 2005-06. The additional capitalization claimed for the year 2004-05 included an amount of Rs. 77.62 lakh on account of procurement of new electrolyser rectifier under CEA approved R&M scheme. The Commission in its order dated 20.11.2008 rejected the applicant's claim on this account on the ground that the old electrolyser rectifier was in good working condition and the new one procured was over and above the requirement. The extract of the Commission's order dated 20.11.2008 in this regard is placed below:

*"21. The petitioner has claimed capital expenditure of Rs.77.62 lakh for procurement of new Electrolyser rectifier during 2004-05 under R&M scheme approved by CEA. However, it is observed that old Electrolyser rectifier is still in good working condition and the item has been procured for use as a spare machine. In view of this, capitalization of Rs. 77.62 lakh for purchase of new Electrolyser rectifier as spares is disallowed".*

3. Aggrieved by rejection of its claim for capitalization of additional electrolyser rectifier under CEA approved R&M scheme, the applicant seeks review of the said order dated 20.11.2008.

4. The applicant has submitted that original Hydrogen plant was having only one stream of electrolyser rectifier. The electrolyser rectifier was running at low capacity and this necessitated procurement of Hydrogen from nearby power plants of MPSEB. Since existing electrolyser rectifier was unable to sustain the required quantity of Hydrogen, the additional electrolyser was procured under CEA approved R&M scheme. It has stated that a failure of the old electrolyser would have adversely affected the availability of the

generating station. The applicant has submitted that non-consideration of capitalization of electrolyser rectifier is an error apparent on the face of record and thus there are sufficient reasons for review of the order.

5. The first respondent, MPPTCL, vide its affidavit dated 27.2.2009 has opposed the review. It has been submitted that power of review can be exercised only on discovery of new and important matter or evidence which was not within the knowledge of the person concerned or which could not be produced despite exercise of due diligence and that review cannot be sought merely for fresh hearing or argument or correction of an erroneous view taken earlier.

6. After the hearing held on 14.5.2009, the applicant vide its affidavit dated 28.5.2009 has submitted that old electrolyser rectifier was able to produce only 15 cylinders per day which was just sufficient to meet the routine requirements of the generating station of 13-15 cylinders. However, unit(s) of the generating station were often required to be shutdown for planned or forced outages caused by emergency conditions. The requirement of Hydrogen cylinders to purge and refill the generators surged to 200-250 cylinders depending upon unit size. The applicant has further submitted that during a financial year, normally 4-5 shutdowns were needed for planned maintenance and the emergency shutdowns added to consumption of Hydrogen cylinders. In view of inadequate output of the existing facilities, the additional requirement was to be met either from nearby plants of erstwhile MPSEB or by providing for additional electrolyser rectifier. According to the

applicant, latter course was adopted after CEA's approval under R & M scheme.

7. The petitioner while seeking capitalization of expenditure incurred on electrolyser rectifier in Petition No. 48/2007, furnished the justification as under:

*“Our station capacity is 2100 MW. All the units’ hydrogen requirement was met from our Hydrogen Generation Plant which had single electrolyser and rectifier set. The OEM KERBS Germany has been already closed and we were unable to get any spares from them. Secondly, there is no nearby source for the procurement of H2 for KSTPS. Hence as safety measures, additional Electrolyser was procured under R&M scheme.”*

8. The justification submitted by the applicant to CEA for augmentation of Hydrogen system was on similar lines, as follows:

*“Our station capacity is 2100 MW consisting of 3x200 MW stage-I, 3x500 MW stage-II. All the units hydrogen requirement is met from our Hydrogen generation plant. Which has single electrolyser and rectifier set which was supplied M/s KREBS, COSMOS. The OEM Kerbs, Germany is already closed and we are unable to get any spares from them. In case of problem with electrolyser whole station will be affected. Secondly there is no nearby source for procurement of H2 for KSTPS.”*

9. From the above account, it emerges that the Commission, through a reasoned decision, disallowed capitalization of an amount of Rs.77.62 lakh on account of the electrolyser rectifier procured during 2004-05. It cannot be said to be a case of an apparent error on face of record. The applicant has sought to justify the requirement of the additional electrolyser rectifier on merits. In our view, this is not permissible in review proceedings whose scope is limited in terms of Section 114 read with Order XLVII, Rule 1 of the Code of Civil Procedure (the Code). There is no specific averment in the application for

review that these points were ever urged in the proceedings in the main petition.

10. Having regard to the foregoing discussion, the application for review is dismissed as it is outside the statutory limits prescribed under the Code. No order as to costs.

Sd/-	Sd/-	Sd/-	Sd/-
<b>[V.S.Verma]</b>	<b>[S.Jayaraman]</b>	<b>[R.Krishnamoorthy]</b>	<b>[Dr. Pramod Deo]</b>
<b>Member</b>	<b>Member</b>	<b>Member</b>	<b>Chairperson</b>

New Delhi, dated the 7<sup>th</sup> September, 2009