

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEWDELHI**

Petition No.245/2009

Coram

1. Dr. Pramod Deo, Chairperson
2. Shri S.Jayaraman, Member
3. Shri V.S.Verma, Member
4. Shri M.Deena Dayalan, Member

DATE OF HEARING: 25.5.2010

DATE OF ORDER: 29.6.2010

In the matter of

Approval of tariff of Kahalgaon Super Thermal Power Station, Stage-I (840 MW) for the period from 1.4.2009 to 31.3.2014.

And in the matter of

NTPC Ltd, New Delhi

.....Petitioner

Vs

1. West Bengal State Electricity Board, Kolkata
2. Bihar State Electricity Board, Patna
3. Jharkhand State Electricity Board, Ranchi
4. Grid Corporation of Orissa Ltd., Bhubaneswar
5. Damodar Valley Corporation, Kolkata
6. Power Department, Govt. of Sikkim, Gangtok
7. Tamil Nadu Electricity Board, Chennai
8. Union Territory of Pondicherry, Electricity Deptt, Pondicherry
9. Uttar Pradesh Power Corporation Ltd, Lucknow
10. Power Development Department, Govt. of J&K, Srinagar
11. Power Deptt. Union Territory of Chandigarh, Chandigarh
12. Madhya Pradesh Power Trading Ltd., Jabalpur
13. Gujarat Urja Vikas Nigam Limited, Baroda
14. Electricity Deptt, Administration of Daman & Diu, Daman
15. Electricity Deptt. Administration of Dadra and Nagar Haveli, Silvassa
16. BSES Rajdhani Power Limited, New Delhi
17. BSES Yamuna Power Limited, Delhi
18. North Delhi Power Ltd, New Delhi
19. Maharashtra State Electricity Distribution Company Ltd., Mumbai....**Respondents**

The following were present:

1. Shri V.K.Padha, NTPC
2. Shri S.K.Mandal, NTPC
3. Shri A.K.Juneja, NTPC
4. Shri S.K.Samui, NTPC
5. Shri S.Saran, NTPC
6. Shri R.B.Sharma, Advocate, BSEB and GRIDCO
7. Shri R.Krishnaswami, TNEB
8. Shri Deepak Srivastava, MPPTCL

ORDER

This petition has been filed by the petitioner, NTPC, for approval of tariff for Kahalgaon Super Thermal Power Station, Stage-I (840 MW) for the period from 1.4.2009 to 31.3.2014 (hereinafter referred to as "the generating station") based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (hereinafter referred to as "the 2009 regulations").

2. The petitioner has submitted that the tariff for the generating station for the period 2009-14 has been filed in terms of the 2009 regulations specified by the Commission. The petitioner also submitted that in addition to the additional capital expenditure covered under Regulations 9(1), 9(2) and 19(e) of the 2009 regulations it has claimed additional expenditure which are necessary for the efficient operation of the generating station during its life time and detailed legal submissions on the admissibility of such expenditure has been filed. The petitioner has further submitted that the additional information sought for by the Commission had been filed and copy served on the respondents.

3. The learned counsel for the respondent No. 2 and 4(BSEB and GRIDCO) took preliminary objection and submitted that the present petition filed during October 2009,

was incomplete, as the petitioner had not considered the impact of the order of the Commission dated 11.1.2010 in Petition No. 120/2005 pertaining to capitalization of FERV in respect of the generating station. The learned counsel also submitted that the claim of the petitioner in Petition No. 126/2009, for revision of fixed charges on account of additional capitalization incurred by the petitioner during the period 2006-09 should also be considered after orders are issued by the Commission. To substantiate, the learned counsel referred to the last proviso to Regulation 7 of the 2009 regulations, and submitted that as the capital cost admitted by the Commission prior to 1.4.2009 formed the basis of tariff for the period 2009-14, the impact of the orders of the Commission, in respect of the generating stations as above, should be considered by the petitioner by amendment of the petition. This, according to the learned counsel would enable the respondents to know the correct figures in respect of the capital cost, etc and prepare suitable reply.

4. Respondent No.7, TNEB has submitted that the impact of the order dated 11.1.2010 in Petition No. 120/2005 if considered, would reduce the tariff of the generating station and hence, the same should be accounted for by amendment of the petition.

5. In response, the petitioner has submitted that since the Petition No. 126/2009 was pending for consideration by the Commission on the date of filing of the instant petition, the capital cost considered by the petitioner in Petition No. 126/2009 has not been taken into account for the purpose of opening capital cost as on 1.4.2009. The petitioner has also submitted that there is no impediment for the Commission to hear

the petition in its present form. He further submitted that the Commission may consider all orders pertaining to the generating stations passed after filing of the petitions while determining tariff in respect of the generating station for the period 2009-14.

6. We have heard the petitioner and the respondents. We propose to dispose of the preliminary objection by this order.

7. As per the first proviso to clause (2) to Regulation (5) of 2009 Regulations, the application for determination of tariff in case of an existing project shall be based on admitted capital cost including any additional capitalization admitted up to 31.3.2009 and estimated additional capital expenditure for the respective orders of the tariff period 2009-14. Further, the last proviso to Regulation 7 of the 2009 regulations provides as under:

" Provided also that in case of the existing projects, the capital cost admitted by the Commission prior to 1.4.2009 and the additional capital expenditure projected to be incurred for the respective year of the tariff period 2009-14, as may be admitted by the Commission, shall form the basis for determination of tariff."

8. From the above provisions of the 2009 regulations, it emerges that the capital cost as on 1.4.2009 needs to be determined in respect of the existing project after taking into account the additional capitalization incurred prior to 1.4.2009. This is required as the capital cost as on 1.4.2009 shall form the basis for determination of tariff for the period 2009-14.

9. In respect of the generating station, Petition No. 126/2009 pertaining to additional capital expenditure for the period 2006-09 and Petition No. 120/2005 pertaining to the apportionment of FERV were pending consideration of the

Commission at the time of filing the present petition. Accordingly, the petitioner has considered in the present petition the admitted capital cost as on 31.3.2006 and the additional capitalization claimed for the years 2006-09 for determination of tariff for the period 2009-14. In the meantime, the Commission has allowed Petition No. 120/2005 in its order dated 11.1.2010 apportioning FERV on normative basis against loan for the period 2001-04 and Petition No. 126/2009 in its order dated 15.6.2010.

10. As the orders in Petition No. 120/2010 and Petition No. 126/2009 have impact in the opening capital cost, we direct the petitioner to amend the petition through an affidavit taking into account the revised figures, with copy to the respondents within a period of one month from the date of this order. The respondents may file their replies within two weeks thereafter.

11. We also direct the petitioner to follow the above procedure where the orders in the petitions for additional capitalization for the respective generating station have been issued after filing of the petitions for tariff for the period 2009-14.

Sd/-
(M.DEENA DAYALAN)
Member

Sd/-
(V.S.VERMA)
Member

Sd/-
(S.JAYARAMAN)
Member

Sd/-
(DR. PRAMOD DEO)
Chairperson