

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 212/2009

Coram:

- 1. Dr. Pramod Deo, Chairperson**
- 2. Shri S. Jayaraman, Member**
- 3. Shri V.S.Verma, Member**

DATE OF HEARING: 18.2.2010

DATE OF ORDER: 11.5.2010

In the matter of

Approval of two-part tariff for Agartala Gas Turbine Power Project (4 x 21 MW) for the period from 1.4.2004 to 31.3.2009 after inclusion of actual additional capital expenditure and application of actual interest rates incurred on the syndicated loan and Deutsche Bank loan for the period 1.4.2006 to 31.3.2009.

And in the matter of

North Eastern Electric Power Corporation Ltd, Shillong **Petitioner**
Vs

1. Assam State Electricity Board, Guwahati
2. Meghalaya State Electricity Board, Shillong
3. Department of Power, Govt. of Tripura, Agartala
4. Power and Electricity Department, Govt. of Mizoram, Aizawl
5. Electricity Deptt, Govt. of Manipur, Imphal
6. Department of Power, Govt. of Arunachal Pradesh, Itanagar
7. Department of Power, Govt. of Nagaland, Kohima
8. North Eastern Regional Electricity Board, Shillong
9. North Eastern Regional Load Despatch Centre, Shillong **Respondents**

The following were present:

1. Shri P. K. Borah, NEEPCO
2. Shri Rana Bose, NEEPCO
3. Shri A.K.Jain, NERPC

ORDER

The petitioner has filed this petition for revision of tariff in respect of Agartala Gas Turbine Power Project (4x21 MW) (hereinafter referred to as "the generating station") for the period from 1.4.2004 to 31.3.2009, after inclusion of actual additional capital expenditure and application of actual interest rates incurred on the

syndicated loan and Deutsche Bank loan for the period 1.4.2006 to 31.3.2009, in accordance with the provisions of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 (hereinafter referred to as "the 2004 regulations"). The petitioner has made the following specific prayers:

- (a) Allow the additional capital expenditure capitalized during the period 1.4.2006 to 31.3.2009 ;
- (b) Allow the actual interest rates incurred on the syndicated loan during the period 1.4.2006 to 31.3.2009;
- (c) Allow the petitioner to recover from the beneficiaries the relevant components of annual fixed charges arising from such additional capital expenditure and application of actual interest rates incurred on the syndicated loan;
- (d) Allow the petitioner to recover from the beneficiaries the relevant components of annual fixed charges arising from such additional capital expenditure and application of actual interest rates incurred on the Deutsche Bank loan;
- (e) Allow reimbursement of filing fee by the beneficiaries to the petitioner; and
- (f) Pass any such order or orders as the Hon'ble Commission may deem just and proper in the circumstances of the case.

2. The first unit of the generating station was commissioned on 1.4.1998 and the date of commercial operation of the generating station as a whole is 1.8.1998. The tariff for the generating station for the period from 1.4.2004 to 31.3.2009 along with additional capitalization/de-capitalization during the years 2004-05 and 2005-06, based on the capital cost of Rs 33037.19 lakh was determined by the Commission vide its order dated 20.2.2008 in Petition No.135/2005. The annual fixed charges approved by the Commission by order dated 20.2.2008 is as under:

Particulars	(Rs in lakh)				
	2004-05	2005-06	2006-07	2007-08	2008-09
Depreciation	1828	1828	1829	1829	1829
Interest on Loan	322	249	204	95	19
Return on Equity	2287	2288	2288	2288	2288
Advance Against Depreciation	0	0	0	0	0
Interest on Working capital	195	197	200	202	205
O & M Expenses	795	824	860	895	930
TOTAL	5427	5386	5381	5309	5271

3. Reply to the petition has been filed by the respondent No.1, ASEB.

Additional capitalization

4. Clauses (2) and (3) of Regulation 18 of the 2004 regulations provides for considering the additional capital expenditure for tariff as under:

“(2) Subject to the provisions of clause (3) of this regulation, the capital expenditure of the following nature actually incurred after cut-off date may be admitted by the commission, subject to prudence check:

- (i) Deferred liabilities relating to works/services with in the original scope of work;*
- (ii) Liabilities to meet award of arbitration or for compliance of the order or decree of a court;*
- (iii) On account of change in law;*
- (iv) Any additional works/services which have become necessary for efficient and successful operation of the generating station, but not included in the original project cost; and*
- (v) Deferred works relating to ash pond or ash handling system in the original scope of work.*

3. Any expenditure on minor items/assets like normal tools and tackles, personal computers, furniture, air-conditioners, voltage stabilizers, refrigerators, fans, coolers, TV, washing machine, heat-convectors, carpets, mattresses etc. brought after the cut-off date shall not be considered for additional capitalization for determination of tariff with effect from 1.4.2004”.

5. The petitioner has claimed additional capital expenditure for the years 2006-07, 2007-08 and 2008-09 as under:

(Rs in lakh)

Particulars	2006-07	2007-08	2008-09
Additional capital expenditure	307.74	584.06	37.57

6. The petitioner vide affidavit dated 18.9.2009, has submitted a certificate from the chartered accountant certifying that the books of accounts of the petitioner have been verified and the additional capital expenditure/ transfer of assets has been accounted for by the petitioner in respect of the generating station. The

additional capital expenditure as per books vis-à-vis the additional capital expenditure claimed by the petitioner is as under:

(Rs. in lakh)

Year	2006-07	2007-08	2008-09
Closing balance as per Book of Accounts	33506.87	34090.93	34128.50
Less: Opening balance as per Books of Accounts	33199.13	33506.87	34090.93
Additional capitalization claimed	307.74	584.06	37.57

7. The year-wise and category-wise break-up of the additional capital expenditure claimed by petitioner is as under:

(Rs. in lakh)

Capitalization	2006-07	2007-08	2008-09
Deferred liabilities relating to works/services within the original scope of work- Regulation 18(2)(i)	28.29	537.33	0.00
Additional works/services necessary for efficient and successful operation of the generating station, but not included in the original project cost- Regulation 18(2)(iv)	28.11	24.12	13.83
Recovery of income-tax and Foreign Exchange Rate Variation- Clause 10	251.34	22.60	23.74
Total additional capital expenditure claimed	307.74	584.06	37.57

8. After applying prudence check on the asset-wise details and justification of additional capitalization claimed by the petitioner the admissibility of additional capitalization is discussed in the succeeding paragraphs

Deferred liabilities relating to works/services within the original scope of work-Regulation 18(2)(i)

9. The petitioner has claimed amounts of Rs.28.29 lakh and Rs.537.33 lakh during the years 2006-07 and 2007-08 respectively under this head. The expenditure pertains to capitalization of deferred payment made towards consultancy charges to Central Electricity Authority (CEA) during the project execution for main plant building, gas

turbine and switchyard and the deferred capital expenditure incurred towards the construction of de-mineralization water treatment plant. As these deferred expenditure pertains to works/services within the original scope of work, the said amounts are allowed to be capitalized under this head.

Additional works/services necessary for efficient and successful operation of the generating station, but not included in the original project cost- Regulation 18(2)(iv):

10. The petitioner has claimed amounts of Rs.28.11 lakh, Rs.24.12 lakh and Rs.13.83 lakh during the years 2006-07, 2007-08 and 2008-09 respectively, under this head. The expenditure pertains to assets like directors guest house, ordinary tools and plants, special tools and plants, furnitures, office equipments, EDP equipments, truck and miscellaneous equipments. The claim for the respective years is examined as under:

2006-07

11. The claim for Rs 6.50 lakh in respect of assets like directors guest house etc in order to accommodate officials visiting the project from outside is not allowed as the asset does not contribute to the efficiency of the generating station. The claim for Rs. 0.63 lakh for assets like ordinary tools and plants, Rs. 5.56 lakh for special tools and plants like explosimetre, transformer oil testing kit, digital multimeters and other assets are of the nature of O & M expenses and not allowed for capitalisation. The claim for Rs.8.91 lakh for assets like furniture and Rs. 6.52 lakh for office equipments like air-conditioner, printers, UPS and other assets are in the nature of minor assets and hence disallowed.

2007-08

12. The claim for Rs. 8.32 lakh for assets like special tools and plants like electro static liquid, low vacuum de-hydration unit, gas filtering kit, hydraulic flat jack and

other assets are in the nature of O & M expenses and are not allowed to be capitalized. The claim for Rs. 15.57 lakh for assets like EDP equipments like red hat linux supplier, dual intel zeon processor, color monitors, printers and other assets and Rs. 0.23 lakh for office equipments are in the nature of minor assets and hence not allowed for capitalization. In view of this, the expenditure on these assets is not allowed.

2008-09

13. The claim for Rs. 4.32 lakh in respect of assets like director's guest house in order to accommodate officials visiting the project from outside has not been allowed as the asset does not contribute to the efficiency of the generating station. The claim for Rs 0.17 lakh for assets like ordinary tools and plants like electric weighing machine and Rs.0.23 lakh for special tools and plants like slogging wrench, bi-hexagonal heavy duty are in the nature of O & M expenses and hence disallowed. Similarly, the claim for Rs 3.18 lakh for assets like furniture and fixtures, Rs 0.78 lakh for EDP equipments like laptop and laser printers, and Rs 0.09 lakh for miscellaneous equipments like color TV set, are in the nature of minor assets and hence disallowed. However, the claim for Rs.5.06 lakh for "one truck" is in order and allowed.

14. Based on the above discussions, amounts of Rs. "nil" for 2006-07 and 2007-08 each and Rs.5.06 lakh for 2008-09, has been allowed.

Recovery of income-tax and Foreign Exchange Rate Variation-Clause 10

15. Clause 10 of the 2004 Regulation stipulates as under:

"10. Recovery of Income-tax and Foreign Exchange Rate Variation: Recovery of Income-tax and Foreign Exchange Rate Variation shall be done directly by the generating company or the transmission licensee, as the case may be, from the beneficiaries without making any application before the Commission.

Provided that in case of any objections by the beneficiaries to the amounts claimed on account of income-tax or Foreign Exchange Rate Variation, the generating company or the transmission licensee, as the case may be, may make an appropriate application before the Commission for its decision.

16. The petitioner has claimed amounts of Rs.251.34 lakh, Rs.22.60 lakh and Rs.23.74 lakh during the years 2006-07, 2007-08 and 2008-09 respectively under this head. The expenditure pertains to adjustment of foreign exchange fluctuation as per relevant accounting standards relating to gas turbines. As capitalization of foreign exchange rate variation is not permitted by the Commission during additional capitalization, the petitioner has withdrawn the claim subsequently. In view of this, the claim under this head has not been considered.

17. Based on the above discussions, the additional capital expenditure (before adjustment of un-discharged liabilities) is approved as under:

(Rs in lakh)			
Additional Capitalization	2006-07	2007-08	2008-09
Deferred liabilities relating to works/services within the original scope of work- Regulation 18(2)(i)	28.29	537.33	0.00
Additional works/services necessary for efficient and successful operation of the generating station, but not included in the original project cost- Regulation 18(2)(iv)	0.00	0.00	5.06
Recovery of income-tax and Foreign Exchange Rate Variation- Clause 10	0.00	0.00	0.00
Total additional capital expenditure allowed	28.29	537.33	5.06

Un-discharged liabilities

18. The petitioner vide affidavit dated 18.9.2009 has submitted that there is no un-discharged liabilities in its claim for additional capital expenditure as on 31.3.2007, 31.3.2008 and 31.3.2009.

Capital Cost

19. As stated earlier, the Commission had considered the capital cost of Rs. 33037.19 lakh, as on 31.3.2006, for the purpose of tariff for the period 2004-09 in Petition No. 135/2005. The same is considered as the capital cost as on 1.4.2006.

20. Taking into account the capital cost as on 1.4.2006 and the additional capital expenditure as approved at para 17 above, the capital cost considered for the purpose of tariff is as under:

(Rs. in lakh)

Year	2006-07	2007-08	2008-09
Opening capital cost as on 1 st April of the financial year	33037.19	33065.47	33602.80
Additional Capitalization approved for the purpose of tariff	28.29	537.33	5.06
Capital Cost as on 31 st March of the financial year	33065.47	33602.80	33607.86

Debt-Equity ratio

21. Regulation 20 of the 2004 Regulations provides that:

“(1) In case of the existing project, debt-equity ratio Considered by the Commission for the period ending 31.3.2004 shall be considered for determination of tariff with effect from 1.4.2004.

Provided that in cases where the tariff for the period ending 31.03.2004 has not been determined by the Commission, debt equity ratio shall be as may be decided by the Commission:

Provided further that in case of the existing generating stations where additional capitalization has been completed on or after 1.4.2004 and admitted by the Commission under regulation 18, equity in the additional capitalization to be considered shall be:-,

- (a) 30% of the additional capital expenditure admitted by the Commission; or*
- (b) Equity approved by the competent authority in the financial package, for additional capitalization; or*
- (c) Actual equity employed,*

Whichever is the least:

Provided further that in case of additional capital expenditure admitted under the second proviso, the Commission may consider equity of more than 30% if the generating company is able to satisfy the Commission that deployment of such equity of more than 30% was in the interest of general public.

(2) In case of the generating stations for which investment approval was accorded prior to 1.4.2004 and which are likely to be declared under commercial operation during the period 1.4.2004 to 31.3.2009, debt and equity in the ratio of 70:30 shall be considered:

Provided that where equity actually employed to finance the project is less than 30%, the actual debt and equity shall be considered for determination of tariff:

Provided further that the Commission may in appropriate cases consider equity higher than 30% for determination of tariff, where the generating company is able to establish to the satisfaction of the Commission that deployment of equity higher than 30% was in the interest of general public”.

(3) In case of the generating stations for which investment approval is accorded on or after 1.4.2004, debt and equity in the ratio of 70:30 shall be considered for determination of tariff:

Provided that where equity actually employed is more than 30%, equity in excess of 30% shall be treated as notional loan;

Provided further that where deployment of equity is less than 30%, the actual debt and equity shall be considered for determination of tariff.

(4) The debt and equity amount arrived at in accordance with above clause (1), (2) or (3), as the case may be, shall be used for calculation of interest on loan, return on equity, advance against depreciation and foreign exchange rate variation.”

22. The petitioner has stated that the additional capital expenditure has been financed through internal resources. Debt-equity ratio of 70:30 has been considered for additional capitalization in terms of the above regulations after adjustment of undischarged liability. Accordingly, additional notional equity for the generating station on account of capitalization approved, works out as under:

	(Rs in lakh)		
	2006-07	2007-08	2008-09
Additional Notional equity	8	161	2

Return on Equity

23. Return on equity has been worked out @14% per annum on the normative average equity, as under:

(Rs in lakh)

Return on Equity	2006-07	2007-08	2008-09
Opening Balance	16343	16351	16512
Increase/ decrease due to FERV	0	0	0
Increase/ decrease due to additional capitalization	8	161	2
Closing Equity	16351	16512	16514
Average Equity	16347	16432	16513
Rate of Return on Equity	14%	14%	14%
Return on Equity	2289	2300	2312

Interest on loan

24. The petitioner has provided a statement of actual interest rate incurred on the syndicate loan carrying floating rate of interest, for the period 2004-09. However, no details as regards the actual interest rates incurred on Deutsche Bank loan have been provided by the petitioner.

25. The petitioner has claimed simple average interest rates for syndicate loan as 8.967%, 9.119% and 8.813% for the years 2006-07, 2007-08 and 2008-09 respectively. However, as regards syndicate loan, instead of simple interest rate, the weighted average rate of interest of 8.967%, 9.119% and 8.817% for the years 2006-07, 2007-08 and 2008-09 respectively has been considered. Accordingly, In view of the availability of actual floating rate of interest, the weighted average rate of Interest has been re-calculated as 6.34%, 6.92% and 7.92% for the years 2006-07, 2007-08 and 2008-09 respectively. Based on the above, the Interest on loan has been computed as under:

(Rs in lakh)

Interest on Loan	2006-07	2007-08	2008-09
Gross loan-Opening	16695	16714	17091
Cumulative repayments of loans up to previous year	12559	14388	16233
Net loan-Opening	4136	2326	858
Increase/ decrease due to additional capitalization	20	376	4

Increase/ decrease due to FERV	0	0	0
Total	4156	2703	861
Repayments of loans during the year	1829	1845	861
Net loan-closing	2326	858	0
Average Net loan	3231	1592	429
Rate of Interest on loan	6.34%	6.92%	7.92%
Interest on loan	205	110	34

Depreciation

26. Cumulative depreciation recovered up to 31.3.2006 has been considered as Rs.15237 lakh, as per order dated 20.2.2008 in Petition No.135/2005. Depreciation has been worked out as under:

	(Rs in lakh)		
	2006-07	2007-08	2008-09
Opening Balance	33037	33065	33603
Increase/ decrease due to FERV	0	0	0
Increase/ decrease due to Additional Capitalization	28	537	5
Closing Balance	33065	33603	33608
Average Capital Cost	33051	33334	33605
Rate of depreciation	5.53%	5.53%	5.53%
Depreciation value 90%	29497	29752	29996
Balance depreciation to be recovered at the beginning of the year	14261	12686	11085
Depreciation	1829	1845	1860

Advance against depreciation

27. As considered in order dated 20.2.2008 in Petition No.135/2005, Advance against depreciation has been computed as under:

	(Rs in lakh)		
Advance against Depreciation	2006-07	2007-08	2008-09
1/10th of Gross Loan(s)	1669	1671	1709
Repayment of the Loan	1829	1845	861
Minimum of the above	1669	1671	861
Depreciation during the year	1829	1845	1860
(A) Difference	0	0	0
Cumulative Repayment of the Loan	14388	16233	17094
Cumulative Depreciation/AAD	17066	18911	20771
(B) Difference	0	0	0
Advance against Depreciation	0	0	0

O&M Expenses

28. O&M Expenses as considered in order dated 20.2.2008 in Petition No.135/2005 have been considered.

Interest on Working Capital

29. For the purpose of calculation of working capital, the operating parameters as considered in the order dated 20.2.2008 in Petition No. 135/2005 have been kept unchanged. The "receivables" component of the working capital in the order dated 20.2.2008 in Petition No. 135/2005 have been revised for the reason of revision of return on equity, interest on loan, etc.

30. The SBI PLR of 10.25% as on 1.4.2004 has been considered as the rate of interest on working capital during the tariff period as considered in order dated 20.2.2008 in Petition No. 135/2005. The necessary details in support of calculation of interest on working capital are as under:

Particulars	(Rs in lakh)		
	2006-07	2007-08	2008-09
Fuel Cost	433	434	433
Maintenance Spares	466	494	524
O & M expenses	72	75	78
Receivables	984	979	977
Total	1955	1982	2011
Interest	200	203	206

Annual Fixed Charges

31. The revised annual fixed charges for the period from 1.4.2006 to 31.3.2009 are summarized as under:

Particulars	(Rs in lakh)		
	2006-07	2007-08	2008-09
Depreciation	1829	1845	1860
Interest on Loan	205	110	34
Return on Equity	2289	2300	2312
Advance Against Depreciation	0	0	0

Interest on Working Capital	200	203	206
O & M Expenses	860	895	930
TOTAL	5383	5354	5342

32. The petitioner's prayer for reimbursement of the filing fee is not allowed in view of the Commission's general order dated 11.9.2008 in Petition No.129/2005, wherein it was directed that filing fee during the period 2004-09 would not be reimbursed, as the same has been factored in the normalized O&M expenses under the 2004 regulations.

33. The petitioner shall be reimbursed the difference between the fixed charges approved vide order dated 20.2.2008 in Petition No. 135/2005 and those approved now, from the beneficiaries in three equal monthly installments.

34. Petition No.212/2009 stands disposed of in terms of the above.

Sd/-
(V.S.VERMA)
MEMBER

Sd/-
(S. JAYARAMAN)
MEMBER

Sd/-
(DR.PRAMOD DEO)
CHAIRPERSON