

CENTRAL ELECTRICITY REGULATORY COMMISSION

Record of Proceedings

Petition No.195/2009

Sub: Revision of fixed charges for the period 2004-09 due to additional capital expenditure incurred for the period 2004-09 at Talcher Super Thermal Power Station, Stage-I (1000MW).

Date of hearing : 18.3.2010

Coram : Dr. Pramod Deo, Chairperson
Shri S.Jayaraman, Member
Shri V.S.Verma, Member
Shri M.Deena Dayalan, Member

Petitioner : NTPC Ltd, New Delhi

Respondents : WBSEDCL, BSEB, JSEB, GRIDCO, DVC, PD SIKKIM, TNEB,
UT Pondicherry, UPPCL, PDD J&K, PD Chandigarh,
MPSEB, GEB, ED Daman & Diu, ED Dadra & Nagar
Haveli, DTL, MSEB.

Parties present : 1. Shri M.G.Ramachandran, Advocate, NTPC
2. Shri V.K.Padha, NTPC
3. Shri S.K.Samui, NTPC
4. Shri Shyam Kumar, NTPC
5. Shri Ajay Dua, NTPC
6. Shri R.B.Sharma, Advocate, BSEB & GRIDCO
7. Shri R.Krishnaswami, TNEB
8. Shri Manish Garg, UPPCL

This petition has been filed by the petitioner NTPC, for revision of fixed charges for the period 2004-09 due to additional capital expenditure incurred for the period 2004-09 at Talcher Super Thermal Power Station, Stage-I (1000MW) (hereinafter referred to as "the generating station") based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004.

2. The learned counsel for the petitioner submitted that the petition has been filed for revision of fixed charges after considering the additional capital expenditure incurred during the period 2004-09. He also submitted that the additional capital expenditure claimed included the liabilities in terms of the judgment dated 16.3.2009 of the Appellate Tribunal in Appeal Nos. 133,135 etc of 2008. The learned counsel also submitted that the Commission may consider its claim on the issues such as refinancing on loan, recovery of depreciation on

disincentive etc which are pending for consideration by the Hon'ble Supreme Court in Appeal Nos. 5434 etc of 2007 filed by the Commission, since the petitioner had been advised that the undertaking "not to raise the issues for fresh determination" given by the petitioner before the Supreme Court in those appeals would not preclude it from claiming tariff based on the principles laid down in the judgment of the Appellate Tribunal. The learned counsel also submitted that it had submitted the additional information as directed by the Commission and copies served on the respondents.

3. The representative of the respondent No.7, TNEB pointed out to the negative balance of payments in the petition and submitted that exclusion of de-capitalized wagons and initial spares which formed part of the tariff for the generating station have now become unserviceable and should not be allowed to remain part of the capital cost for the purpose of tariff. He also submitted that the petitioner be directed to justify the reasons for balance payments claims in view of the fact that the petitioner was maintaining books of accounts under accrual system of accounting. He further submitted that claim of the petitioner in respect of expenditure like black topping of roads and renovation and modernization of guest house and club was of the nature of revenue expenditure and prayed that the Commission may disallow the same. The representative also submitted that the petitioner had not furnished the auditor certificate in respect of its additional capitalization claim.

4. The representative of the respondent No. 9, UPPCL submitted that the petitioner has claimed weighted average interest rate of more than 16% as against against the 9% allowed by the Commission in the tariff order dated 9.5.2006 for the period 2004-09. The representative also submitted that negative balance payments amounting to Rs.10.47 crore de-capitalized during the period 2005-07 had earned tariff from the date of commercial operation of the generating station and prayed that the petitioner may be directed to return the excess profit earned by the petitioner on the said amount. The representative also submitted that the petitioner had not furnished the auditor certificate in respect of its additional capitalization claim.

5. As regards the negative balance payments raised by TNEB and UPPCL as above, the learned counsel for the petitioner submitted that efforts are made by it to reduce the capital cost by way of court cases and arbitration and to ultimately pass on the benefits to the respondent /beneficiaries. As regards other issues, the representatives of the petitioner pointed out these issues have been dealt with suitably in its rejoinder filed against the replies of the respondents.

6. The learned counsel for the respondent No. 2 and 4 (BSEB and GRIDCO) submitted that the petitioner had not furnished the auditor certificate in respect of its additional capitalization claim.

7. Due to paucity of time, the submissions of the learned counsel for respondent No. 2 and 4 could not be concluded. Meanwhile, the petitioner was

directed to furnish the stage-wise reconciliation statement in respect of additional capital expenditure claimed from the books of accounts

8. Matter part-heard. The petition shall be re-notified on 8.4.2010 for hearing.

Sd/-
(T. Rout)
Joint Chief (Law)