

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**RECORD OF PROCEEDINGS**

**Petition No.184/2009**

Subject: Approval of revised fixed charges for the period 2004-09, due to additional capital expenditure incurred during 2007-08 and 2008-09 for Talcher STPS, (460 MW)

Date of hearing: 7.9.2010

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

Petitioner: NTPC Ltd

Respondents: Grid Corporation of Orissa Ltd.

Parties present: 1. Shri V.K.Padha, NTPC  
2. Shri M.K.V.Ramarao, NTPC  
3. Shri V.Kumar, NTPC  
4. Shri Ajay Dua, NTPC  
5. Shri Manoj Saxena, NTPC  
6. Shri Shayam Kumar, NTPC  
7. Shri Shri D.G.Salpekar, NTPC  
8. Shri P.P.Francis, NTPC  
9. Shri R.B.Sharma, Advocate, GRIDCO

This petition has been filed by the petitioner, NTPC, for approval of revised fixed charges for the period 2004-09, due to additional capital expenditure incurred during 2007-08 and 2008-09 for Talcher STPS, (460 MW), (hereinafter referred to as "the generating station") in terms of the Central Electricity Regulatory Commission (Terms and conditions of Tariff) Regulations, 2004 (hereinafter 'the 2004 regulations')

2. The representative of the petitioner submitted as under:

(a) The petition has been filed for revision of fixed charges for the generating station for the period 2007-09 and has claimed ₹99 crore towards R&M of phase-III, including an amount of ₹14.66 crore towards supply, installation and commissioning of Turbine Rotor for Stage-I.

(b) The R&M of phase-III has been carried out after the prior approval of the respondent, subject to the availability of the generating station.

- (c) The RLA study was carried out by the Original Equipment Manufacturer OEM (M/s GE) for the entire project and it has been reported by the OEM that the blades of the Turbine Rotor had outlived its useful life and needed replacement.
- (d) The new asset would replace the original asset which was being repaired/refurbished and as per accounting standards no de-capitalization would be reflected in the books of accounts. However, the corresponding de-capitalization value may be considered as 6% of the replacement cost of the turbine rotor.
- (e) The additional expenditure on account of the turbine rotor will improve the availability of more energy to the beneficiary and hence the Commission may consider to allow the claim in terms of Regulation 18(2)(iv) of the 2004 regulations.

3. The learned counsel for the respondent submitted as under:

- (a) The claim of the petitioner for Rs 14.66 crore for turbine rotor, is in the nature of spares, which could not be capitalized in terms of Regulation 18(2)(iv) of the 2004 regulations. The Commission has in a number of cases held that spares form part of O&M expenses and could not be capitalized.
- (b) The impact of R&M on performance and O&M cost expenses has been discussed by the Commission in its order dated 29.3.2004 in Petition No. 67/2003.
- (c) The sharing of benefits of the efficiency is the rightful claim of the beneficiaries in terms of Par 5.3(g) of the Tariff Policy.
- (d) The Appellate Tribunal in its order dated 3.6.2010 has upheld the decision of the Commission regarding the disallowance of R&M expenses, if the said expenditure did not accrue any benefit to the beneficiaries, in the Appeal filed by the petitioner. If the expenses under R&M do not bring about higher efficiency level in the performance and or sustenance of higher level in performance, then such expenses could not be treated as R&M expenses of capital nature, but would only be in the nature of O&M expenses. This has been decided by the Appellate Tribunal in its judgment dated 27.7.2010 in appeal No.82/2009. As the generating station was not operating in an efficient manner by operating at ceiling norms, the question of higher levels of performance does not arise.
- (e) No proposal has been submitted by the petitioner for sharing the benefits of efficiency improvements till date.
- (f) The order dated 8.6.2005, of the MoP, GoI, do not provide that the supply of power to housing colonies or township by the petitioner would not be adjusted or accounted for by the petitioner.
- (g) As regards claim under Regulation 18(2)(v), for deferred works relating to ash pond or ash handling system covered in the original scope of work, if the said works are pending for a long time, the presumption would be that the works are not necessary.

- (h) The replies filed in the matter may be considered and the claim of the petitioner be rejected.

4. The representative of the petitioner clarified as under:

- (a) The submissions of the respondent was not tenable as the respondent being a sole beneficiary of the generating station has fully availed the benefits of reliable, efficient and successful operation of the generating station. The availability of higher energy as a result of R&M has been fully availed by the respondent.
- (b) The capital work for replacement of turbine rotor was part of R&M phase-III which has been approved by the respondent. In order to save down time of units, one rotor was procured and installed in one unit of stage-I and repair job has been undertaken in another one.
- (c) The work of ash dyke was a continuous and required to be done on an ongoing basis over the period of operation of the generating station.
- (d) In terms of the Electricity Act 2003 (Removal of Difficulty) Fourth order, 2005 the expenditure for the purpose of installation of energy meter has been claimed under additional capitalization.
- (e) The rejoinder filed by it to the replies of the respondent may be considered by the Commission and the claim for additional capitalization may be allowed.

5. On the issue of replacement of turbine rotor, the Commission observed that re-blading of the rotor was normally required when proper maintenance had not been done or in case the blades had burned out.

6. The petitioner was directed to furnish/clarify, with details, on affidavit, the following:

- (i) Why replacement of rotor had not been carried out during comprehensive R&M of stage-I units in R&M phase-I and phase-II when RLA study was carried out during the years 2002 and 2003.
- (ii) Details of R&M scheme submitted to the respondent for approval of R&M along with additional submissions, if any, prior to its approval pertaining to R&M of phase-III.
- (iii) Copy of the letter containing specific approval of the respondent in respect of R&M of phase-III scheme.

7. In addition to the above, the Commission directed the petitioner to clarify the following:

- (i) Whether the sale of power from the generating station to the respondent constitute sale to a distribution company in terms of Section 62 of the Electricity Act, 2003.
- (ii) Whether PPA with the OSEB has been assigned to one or more distribution companies of Orissa and if so, documentary evidence to be submitted.

8. The information as above may be filed by the petitioner, latest by 30.9.2010.  
Subject to this, order in the petition was reserved.

Sd/-  
T.Rout  
Joint Chief (Law)