

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 44/2009

Coram

- 1. Shri S. Jayaraman, Member**
- 2. Shri M.Deena Dayalan, Member**

DATE OF HEARING: 28.10.2010

DATE OF ORDER: 21.1.2011

IN THE MATTER OF

Determination of impact of additional capital expenditure incurred during the years 2004-05, 2005-06, 2006-07 and 2007-08 for Kawas GPS (656.20 MW).

AND IN THE MATTER OF

NTPC Ltd, New Delhi

.....**Petitioner**

Vs

1. Madhya Pradesh Power Trading Company Ltd., Jabalpur
2. Maharashtra State Electricity Distribution Co. Ltd, Mumbai
3. Gujarat Urja Vikas Nigam Ltd, Vadodara
4. Chhattisgarh State Electricity Board, Raipur
5. Electricity Department, Govt. of Goa, Panjim
6. Electricity Department, Administration of Daman & Diu, Daman
7. Electricity Department, Administration of Dadra and Nagar Haveli, Silvassa

.....**Respondents**

The following were present:

1. Shri S.K.Sharma, NTPC
2. Shri Ajay Dua, NTPC
3. Shri A.S.Pandey, NTPC
4. Shri Manoj Dubey, Advocate, MPPTCL
5. Shri D.K. Srivastava, MPPTCL

ORDER

The petitioner, NTPC had filed this petition for approval of the revised fixed charges for the period 2004-09, after considering the impact of additional capital expenditure incurred during the years 2004-05, 2005-06, 2006-07 and 2007-08 for Kawas GPS (656.20 MW), (hereinafter referred to as "the generating station") based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 (hereinafter referred to as "the 2004 regulations").



2. The tariff for the generating station for the period from 1.4.2004 to 31.3.2008 was determined by Commission's order dated 30.12.2009 based on capital cost of ₹151422.86 lakh as on 31.3.2008. Subsequently, after correction of certain ministerial errors in para 56 of the said order, the tariff of the generating station was revised by the Commission by its order dated 10.2.2010. Thereafter, the tariff for the generating station was further revised by order of the Commission dated 28.5.2010 in Petition No. 160/2009, after taking into account the impact of the additional capital expenditure incurred during the year 2008-09, based on the capital cost of ₹153527.32 as on 1.4.2008.

3. The annual fixed charges approved by the Commission by order dated 28.5.2010 was as under:

Particulars	(₹ in lakh)				
	2004-05	2005-06	2006-07	2007-08	2008-09
Interest on loan	188.25	0.00	0.00	0.00	0.00
Interest on Working Capital	4455.10	4393.13	4414.06	4446.11	4874.50
Depreciation	8214.43	3709.21	3715.21	3717.90	3652.92
Advance Against Depreciation	0.00	0.00	0.00	0.00	0.00
Return on Equity	10596.64	10596.63	10598.25	10598.85	10585.35
O & M Expenses	5118.36	5321.78	5538.33	5754.87	5984.54
Total	28572.78	24020.75	24265.85	24517.73	25097.31

4. Also, Review Petition No. 27/2010 was filed by the petitioner for review of order dated 30.12.2009 on the following issues:

- (a) *Disallowance of an amount of ₹78.31 lakh claimed towards capitalization of Enterprise Resource Planning (ERP module); and*
- (b) *Correction of ministerial error in table of revised fixed charges at para 56 of the order dated 30.12.2009.*

5. As regards the issue at (b) above, the Commission by its order dated 10.2.2010 had revised the order dated 30.12.2009 after correction of the said ministerial error.



6. As regards the issue at (a) above, the review petition was heard on 27.7.2010 and the Commission by its order dated 28.9.2010 allowed the review of order dated 30.12.2009 with a direction to list the main petition for hearing on the question of capitalization of an expenditure of ₹78.31 lakh towards Enterprise Resource Planning (ERP) module.

7. The matter was heard on 28.10.2010 on merits. Reply to the petition has been filed by the respondent Nos.1 and 2 namely, MPPTCL and MSEDCL.

8. The petitioner has submitted that the only issue to be considered by the Commission was the capitalization of Enterprise Resource Planning (ERP) expenditure during the year 2007-08 and in terms of the Commission's order dated 28.9.2010 in the review petition, the tariff for the generating station should be revised.

9. The respondent No.1 MPPTCL in its reply dated 9.11.2010 has reiterated the submissions made by it during the hearing on 28.10.2010. The respondent No.1 MPPTCL, while objecting to the Commission's order dated 28.9.2010 has submitted that there was no question of any further review of the claim of ₹1,13,33,996/- in respect of the said assets as the claim had been considered and rejected by the Commission in order dated 30.12.2009, under Regulation 18(3) of the 2004 regulations. The respondent has also submitted that the claim towards ERP expenditure could be adjusted against the unutilized O&M amounts over and above the actual expenses, which was available to the petitioner, pursuant to the order of the Commission dated 3.2.2009 in Petition No.79/2005 which allowed O&M norms as applicable to the gas based generating station without warranty spares. The respondent further submitted that the generating station was not being able to generate the desired PLF due to non-availability of gas and hence allowing more investment was of no use from the generation point of view. The

respondent added that the issue of capitalization of ERP expenditure was a subject matter of Appeal No.63/2010 filed by the petitioner before the Appellate Tribunal for Electricity ('the Tribunal') and since the same was pending for consideration by the Tribunal, no relief should be granted by the Commission.

10. The respondent No.2, MSEDCL by affidavit dated 27.10.2010 has generally objected to the claim of the petitioner and has prayed that the Commission should not consider the same as it would cause unnecessary burden on the beneficiaries and the end consumers.

11. In response to the submissions of the respondent No.1 MPPTCL, the petitioner by its rejoinder dated 25.11.2010 has submitted that the claim for capitalization of an amount of ₹1,13,33,996/- made under Regulation 18(2)(iv) of the 2004 regulations towards miscellaneous brought out assets (MBOA), communication and IT (information Technology) equipments/items, included an amount of ₹78,30,765/- as expenditure on Enterprise Resource Planning (ERP) module which has been installed at the generating station as part of ERP system launched across the petitioner company and other IT infrastructure items. The petitioner also submitted that the expenditure towards ERP was to augment IT infrastructure in order to meet higher levels of performance and optimization of resources and the benefits which manifest over a period of time are being availed by the respondents. The petitioner has further submitted that the submission of the respondent MPPTCL that excess unutilized O&M amounts were available with the petitioner was incorrect as the actual O&M expenses incurred for the generating station was much higher than the normative O&M expenses allowed by the Commission. The petitioner has clarified that the issue of capitalization of ERP expenditure though raised in appeal was not under the consideration of the Tribunal pending disposal of the same by the Commission. The petitioner further added that the expenditure on ERP had been

allowed for other generating stations of the petitioner on the ground that it contributed to the efficiency of the generating station.

12. We have considered the submissions of the parties. The affidavit dated 3.12.2009 for capitalization of ₹1,13,33,996/- towards MBOA , communication and IT equipments, which includes an amount of ₹78,30,765/-towards Enterprise Resource Planning (ERP) module, filed by the petitioner on 7.12.2009 could not be considered in our order dated 30.12.2009 and for this reason the review petition was allowed, on the ground that it constituted an error apparent on the face of the record. It is observed that the petitioner has claimed capitalization of ₹78,30,765/- on Enterprise Resource Planning (ERP) in terms of Regulation 18(2)(iv) of the 2004 regulations. Also, the Commission by its various orders had allowed the expenditure on this count to other generating stations of the petitioner, on the ground that it contributes to the efficiency of the generating station. Since the claim made by the petitioner under Regulation 18(2)(iv) is in respect of assets which are necessary for the successful and efficient operation of the generating station, there is no reason for us to deviate from the decisions taken in the past for allowing such expenditure. In view of this, the contentions of the respondent No.1 MPPTCL are rejected. Therefore, the claim of the petitioner for capitalization of ₹ 78,30,765/- on Enterprise Resource Planning (ERP) in terms of Regulation 18(2)(iv) of the 2004 regulations is allowed. Consequently, the tariff for the generating station is revised as discussed in the subsequent paragraphs.

13. The net additional capital expenditure allowed for the year 2007-08 vide order dated 30.12.2009 is revised as under:

<i>(₹ in lakh)</i>	
Particulars	2007-08
Additional capital expenditure allowed vide order dated 30.12.2009	(-) 1.85
Add: Expenditure on ERP	78.31
Net additional capital expenditure for the year 2007-08	76.46

Capital cost

14. Accordingly, the capital cost as approved by order dated 28.5.2010 in Petition No. 160/2009 is revised as under:

	(₹ in lakh)				
Year	2004-05	2005-06	2006-07	2007-08	2008-09
Opening Capital cost as on 1.4.2004 considered vide order dated 30.12.2009	151394.75				
Add: Additional FERV on normative basis for tariff period 2001-04	2745.70				
Opening Capital cost	154140.45	154093.29	154140.07	154170.41	154246.87
Additional capital expenditure allowed	(-) 47.16	46.79	30.34	76.46	(-) 641.25
Closing Capital cost	154093.29	154140.07	154170.41	154246.87	153605.62
Average Capital cost	154116.87	154116.68	154155.24	154208.64	153926.25

Debt Equity ratio

15. In terms of the judgment of the Tribunal dated 1.9.2010 in Appeal No.58/2010 pertaining to apportionment of FERV for 2001-04, the differential FERV amounting to ₹2745.70 lakh allowed vide order dated 28.5.2010 in Petition No.160/2009 has been adjusted in the debt-equity ratio of 50:50 as against the debt-equity of 100:0 considered earlier.

Return on Equity

16. Return on Equity as allowed by order dated 28.5.2010 in Petition No. 160/2009 is revised as under:

	(₹ in lakh)				
Particulars	2004-05	2005-06	2006-07	2007-08	2008-09
Equity-Opening considered vide order dt.30.12.2009	75697.38	-	-	-	-
Addition of Equity due to additional FERV on normative basis for tariff period 2001-04 and on account of allocating FERV to debt only	1372.85	-	-	-	-
Equity -Opening	77070.22	77056.08	77070.11	77079.21	77102.15
Addition of Equity due to additional capital expenditure	(-) 14.15	14.04	9.10	22.94	(-) 192.37
Equity-Closing	77056.08	77070.11	77079.21	77102.15	76909.78
Average equity	77063.15	77063.09	77074.66	77090.68	77005.96
Return on Equity @ 14%	10788.84	10788.83	10790.45	10792.70	10780.83



Interest on loan

17. Interest on loan considered in order dated 28.5.2010 pertaining to interest on loan is revised as under:

	(₹ in lakh)				
	2004-05	2005-06	2006-07	2007-08	2008-09
Gross Opening loan as per order dated 30.12.2009	75697.38	-	-	-	-
Addition of loan due to additional FERV on normative basis for tariff period 2001-04 & on account of allocating FERV to debt only	1372.85	-	-	-	-
Gross Opening loan	77070.22	77037.21	77069.96	77091.20	77144.72
Cumulative Repayment of loan upto previous year	71775.00	77037.21	77069.96	77091.20	77144.72
Net loan Opening	5295.22	0.00	0.00	0.00	0.00
Addition of loan due to additional capital expenditure	(-) 33.01	32.75	21.24	53.52	0.00
Repayment of loan during the year	5262.21	32.75	21.24	53.52	0.00
Net loan Closing	0.00	0.00	0.00	0.00	0.00
Average loan	2647.61	0.00	0.00	0.00	0.00
Weighted Average Rate of Interest on loan	5.6462%	8.0868%	8.0873%	8.1067%	9.5800%
Interest on loan	149.49	0.00	0.00	0.00	0.00

Depreciation

18. Depreciation as worked out in order dated 28.05.2010 is revised as under:

	(₹ in lakh)				
	2004-05	2005-06	2006-07	2007-08	2008-09
Opening capital cost	154140.45	154093.29	154140.07	154170.41	154246.87
Closing capital cost	154093.29	154140.07	154170.41	154246.87	153605.62
Average capital cost	154116.87	154116.68	154155.24	154208.64	153926.25
Depreciable value @ 90%	138044.01	138043.85	138078.55	138126.61	137872.45
Balance depreciable value	35589.61	27411.10	23740.18	20074.74	16100.24
Balance useful life	8.39	7.39	6.39	5.39	4.39
Depreciation	8214.43	3709.21	3715.21	3724.44	3667.48

Interest on working capital

19. Interest on working capital as worked out in order dated 28.5.2010 is revised as stated overleaf:



(₹ in lakh)					
Particulars	2004-05	2005-06	2006-07	2007-08	2008-09
Fuel Cost (Gas) - 1 month	10405.97	10405.97	10405.97	10434.48	11562.18
Liquid Fuel Cost (Naptha) - 1/2 months	4772.92	4772.92	4772.92	4786.00	5303.25
O & M expenses	426.53	443.48	461.53	479.57	498.71
Maintenance Spares	2284.92	2422.02	2567.34	2721.38	2884.66
Receivables	25600.08	24847.98	24888.83	24989.22	27342.87
Total Working Capital	43490.42	42892.37	43096.59	43410.65	47591.68
Rate of Interest	10.2500%	10.2500%	10.2500%	10.2500%	10.2500%
Interest on Working capital	4457.77	4396.47	4417.40	4449.59	4878.15

20. Based on the above, the annual fixed charges approved by order dated 28.5.2010 has been revised as under:

(₹ in lakh)					
Particulars	2004-05	2005-06	2006-07	2007-08	2008-09
Interest on loan	149.49	0.00	0.00	0.00	0.00
Interest on Working Capital	4457.77	4396.47	4417.40	4449.59	4878.15
Depreciation	8214.43	3709.21	3715.21	3724.44	3667.48
Advance Against Depreciation	0.00	0.00	0.00	0.00	0.00
Return on Equity	10788.84	10788.83	10790.45	10792.70	10780.83
O & M Expenses	5118.36	5321.78	5538.33	5754.87	5984.54
Total	28728.89	24216.29	24461.39	24721.60	25311.00

Note: The figures stated above are on annualized basis.

21. The petitioner shall claim the difference between the fixed charges approved vide order dated 28.5.2010 and those approved now from the beneficiaries in three equal monthly installments.

22. Petition No.44/2009 stands disposed of in terms of the above.

Sd/-
(M.DEENA DAYALAN)
MEMBER

Sd/-
(S.JAYARAMAN)
MEMBER

