

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 189 of 2010

Subject: Petition for revision of Normative Annual Plant Availability Factor in respect of NTPCs Power Stations in Eastern Region, namely Farakka STPS (1600MW) at Kahalgaon STPS, Stage -I (840MW) & Khalgaon STPS, Stage-II (1500MW) on account of acute shortage of coal at all these stations and non-availability of cooling water at Farakka STPS.

Petition No. 245 of 2009

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

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

Date of hearing: 13.12.2011

Petitioner: National Thermal Power Corporation (NTPC)

Respondents: West Bengal State Electricity Distribution Co. Ltd. and others

Parties present: Shri Ajay Dua, NTPC
Shri C.K.Mondal, NTPC
Shri Rohit Chhabra, NTPC
Shri R.B.Sharma , Advocate, BSEB, JSEB and GRIDCO
Shri R.K.Shah, PFCCL
Shri Sanjay Rai, PFCCL
Shri Shwetebh Verma, FCCL
Shri C.A. Manish Garg, UPPCL
Shri Sanjay Srivatsav, BRPL

Record of Proceedings

The representative of the petitioner in the above petitions submitted that the information, as sought for by the Commission during the proceedings held on 6.9.2011, has been filed and the respondent BSEB, is to continue with its submissions.

2. The representative on behalf of respondent No.11, UPPCL (in Petition No. 189/2010) submitted that with regard to the options suggested by the petitioner for

apportionment of capital expenditure, the option –II appear to be reasonable as the apportionment is based on usage of wagon tippler and since tariff of the generating station is determined on normative basis.

3. The learned counsel for the respondent No.21, BRPL prayed for time to file its written submissions in both the above petitions.

4. The learned counsel for the respondent Nos. 2, 3 and 4 (BSEB, JSEB and GRIDCO) continued with his submissions as under:

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- (i) Referring to various datas for 2007-08 obtained from the web-site of the petitioner, regarding machine availability, the learned counsel submitted that there was no justification for the reduction of Normative Annual Plant Availability Factor (NAPAF) to 80% on the grounds of reduced coal availability/supply.
- (ii) The availability of the plant for operation has no relationship with supply of coal. Moreover, the operating performance of coal based generating stations for the years 2010-11, 2009-10, 2008-09 and 2007-08 and was never below 85%.
- (iii) Referring to the additional information dated 30.8.2011 filed by the petitioner, it was submitted that the Wagon Tippler System may not be considered for Stage-I of generating station and the same has to be diverted to Stage II of the generating station.
- (iv) The petitioner has given its assurance that units of the Stage-II would not be run at the expense of coal allocated from units of Stage-I, as referred to in the minutes of the 53rd meeting of ERPC held on 13.8.2010 at Kolkata wherein the issue was raised by the respondent, BSEB.

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- (i) Assets required for Fuel Receipt System are adequate and hence no additional capital expenditure is to be allowed in terms of Regulation 9(2)vii) of the 2009 regulations.
- (ii) The additional capital expenditure for Ash handling system & Ash dyke claimed under Regulation 9(2)(iii) cannot be considered since no documentation has been filed in support of its claim. Moreover, the capitalization can be allowed only if adequate amount is available in the original scope of work.
- (iii) As regards claim under Environment system, claimed under change in law can be considered only if the petitioner could show that consequent upon occurrence of a change the investment was made. The petitioner has not shown any justification on this count.

- (iv) As regards expenditure towards Wagon Tippler, elaborate submissions have been made in Petition No. 189/2010 which may be adopted in this petition also.
- (v) In terms of Regulation 9(2), the petitioner may claim capitalization only after expenditure is incurred. Hence, additional capital expenditure claimed may not be allowed.
- (vi) The increase in O&M expenses for 2009-10 over the year 2008-09 are higher by 49.5%. This additional amount in O&M expenses is adequate to maintain the equipments at the current level performance. In terms of Regulation 19(e) of the 2009 regulations, the petitioner could avail compensation allowance instead of additional capital expenditure.
- (vii) As regards Fuel Price Adjustment (FPA) , huge benefits are derived by the petitioner (*as regards import of coal higher cost with low calorific value of coal and vice versa*). This needs to be investigated by the Commission in terms of the provisions of the Act.
- (viii) A regards Energy Charge Rate (ECR), the energy charge/unit calculated arrived at by the Commission may be provided to the respondents, since the beneficiaries are also under an obligation to get their tariffs determined before the respective State Electricity Regulatory Commission.
- (ix) As regards the supply of power to housing colonies considered as part of the generating station, the same cannot form part of the auxiliary consumption, as entire power belong to the beneficiaries, except the auxiliary consumption as per regulations.
- (x) It is not clear from the notification as to whether the beneficiaries are to bear the costs as regards the scheme notified by the Ministry of Power for provision of supply of electricity in 5 km. area around Central Power Plants. The actual statement of the Hon'ble Minister in Parliament may be directed to be provided by the petitioner.

5. In response, the representative of the petitioner clarified as under:

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- (a) The higher availability in Farakka and Kahalgaon was only due to coal being arranged through Railway transportation and not through linked mines. The maximum availability of Farakka during 2004-05 to 2008-09 was 84% as is evident from records.
- (b) The issues raised in ERPC meeting on 13.8.2010 as submitted by the respondent BSEB, is not relevant for this case.

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- (a) The expenditure for Ash dyke & Ash handling system is necessary to run the generating station with augmentation to be undertaken from time to time failing which the station would be shut down.
- (b) As regards claim towards AAQM and Dry ash, additional information as sought for by the Commission has been filed giving details of the requirement under change in law.
- (c) O&M Expenses have been claimed as per the 2009 regulations, even though higher O&M expenses are incurred by the petitioner.
- (d) The respondent, BSEB without examining the details, as regards import of coal higher cost with low calorific value of coal and vice versa cannot make incorrect submissions. Certain adjustment made during a particular month cannot be utilized to find fault on the petitioner. The statement of the said respondent is strongly denied.
- (e) As regards ECR, the actual value of coal and other details, the petitioner has been furnishing data, as decided in the ERPC forum.
- (f) As regards supply to housing colonies, free supply is not provided to the employees of the petitioner.
- (g) The Government notification for provision of supply of electricity in 5 km area around Central Power Plants, is clear that the Appropriate Commission shall consider the expenditure incurred for implementation of such scheme for the purpose of determining tariff of the generating station.
- (h) As regards apportionment of capital expenditure on usage of Wagon tippler, the petitioner would exercise option -III. However, the same would be subject to the discretion of the Commission.

6. The learned counsel for the respondent, BSEB pointed out that in case the employees of the petitioner are charged for supply of power to housing colonies, the said amounts should be passed on the respondents. The representative of the petitioner clarified that the same is utilized for reduction of O&M cost of the generating station.

7. The Commission after hearing the parties reserved its order in the petitions.

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