

**Central Electricity Regulatory Commission
New Delhi**

Review Petition No. 3/2011

in

Petition No.194/2009

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

Date of Hearing: 31.3.2011

Date of Order: 15.3.2012

In the matter of

Review of order dated 28.9.2010 in Petition No.194/2009 pertaining to the determination of revised fixed charges due to additional capital expenditure during the years 2006-07, 2007-08 and 2008-09 at Badarpur Thermal Power Station (705 MW).

And in the matter of

NTPC Ltd, New Delhi

.....Petitioner

Vs

1. Delhi Transco Ltd, New Delhi
2. North Delhi Power Ltd, Delhi
3. BSES Rajdhani Power Ltd, New Delhi
4. BSES Yamuna Power Ltd, Delhi
5. New Delhi Municipal Council, New Delhi

....Respondents

The following were present

1. Shri D.G.Salpekar, NTPC
2. Shri Ajay Dua, NTPC
3. Shri Sameer Aggarwal, NTPC

ORDER

The application for review has been filed by NTPC Ltd, (hereinafter called 'the petitioner') against the order of the Commission dated 28.9.2010 in Petition No.194/2009 determining the revised fixed charges due to additional capital expenditure incurred during the years 2006-07,2007-08 and 2008-09 on fixed charges in for Badarpur Thermal Power Station, (705MW) (hereinafter called the "the generating station"). Aggrieved by the said order, the petitioner has sought review on the ground that the Commission has not allowed the capitalization of the following expenditure:

- (i) Digital control system closed loop control for ₹1590668/-
- (ii) Replacement of condenser tubes for a 210 MW unit for ₹83966279/-
- (iii) Renovation of 'A' type quarters into ET hostel for ₹4106931/-
- (iv) Replacement of battery Bank (High Discharge Performance Type) for ₹5789977/- and
- (v) Liabilities incurred but not discharged for ₹7.29 lakh.

2. We have heard the representative of the petitioner, on admission. Review petition is admitted on the issues mentioned in sub-paras (ii), (iii) and (iv) of paragraph 1 above. We do not find any merit in the issue raised in sub-paras (i) above for the reasons recorded in the succeeding paragraphs.

Digital control system closed loop control for ₹15.90 lakh

3. In our order dated 28.9.2010, the expenditure of ₹15.90 lakh towards Digital control system closed loop control was disallowed with the following observation:

“29. In addition to the above, in respect of an expenditure of ₹15.90 lakh incurred for the purchase of ‘digital control system closed loop control’, the petitioner has not submitted any justification for the same. However, considering the nature of the asset, which falls under the category of ‘minor asset’, capitalization of the same has not been allowed.”

4. The petitioner in its review application has submitted as under:

“Justifications in general for carrying out Add-Cap expenditure in Stage I units were given in the main petition itself for all add cap expenditure incurred for Stage-I units. It was therefore felt that since adequate justifications have already been provided in the main petition, any further justification may not be required for this particular item. However, it is submitted that the expenditure on the digital Control system was incurred on this critical items instead of any major Renovation & Modernization to sustain the operation of Phase 1 and because no support is being given by the vendor due to obsolescence of the current technology. This is a one-time capital expenditure and not a routine O&M expenditure, hence may be allowed by the Hon’ble Commission.

5. Admittedly, the capitalization of the expenditure for 2007-08 in respect of said asset was disallowed as the petitioner had not submitted any justification for the same. The petitioner by way of a review application has sought to bring in additional facts which were not made available in its pleadings, in order to justify the expenditure. The Commission by a conscious decision has disallowed the capitalisation of the said asset since the asset falls under the category of 'minor asset'. Hence, there is no error apparent on the face of the record and review of the order on this count fails.

Liabilities incurred but not discharged for ₹7.29 lakh

6. As regards the issue raised in sub-para (v) of paragraph 1 above, the petitioner has submitted that the Commission in its order dated 28.9.2010 has not allowed the capitalization of liabilities amounting to ₹7.29 lakh which are to be discharged despite the judgments of the Appellate Tribunal for Electricity (“the Tribunal”) dated 10.12.2008 and 16.3.2009 in Appeal Nos.151 & 152/2007 and Appeal Nos. 133, 135, 136 and 148/2008 respectively.

7. As regards the capitalization of liabilities, the Commission has filed Civil Appeals against the above said judgments of the Tribunal. Since there is no stay of operation of the said judgments, the Commission has implemented the directions of the Tribunal as contained in the said judgments in the generating stations of the petitioner. Accordingly, review on this count is allowed and in compliance with the above judgments, the capitalization of liabilities amounting to ₹7.29 lakh would be considered at the time of disposal of this application.

8. The petitioner is directed to serve copy of the petition on the respondents along with a copy of this order latest by 21.3.2012, who may file their reply by 28.3.2012 with advance copy to the petitioner. The applicant may file its rejoinder, if any latest by 4.4.2012.

9. Matter to be listed for hearing on 17.4.2012.

Sd/-
[M.DEENA DAYALAN]
MEMBER

Sd/-
[V.S.VERMA]
MEMBER

Sd/-
[S. JAYARAMAN]
MEMBER

Sd/-
[DR.PRAMOD DEO]
CHAIRPERSON