

**Central Electricity Regulatory Commission
New Delhi**

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

Date of hearing: **17.4.2012**

Petition No.3/RP/2011

Subject: Review of order dated 28.9.2010 in Petition No.194/2009 pertaining to 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).

Petitioner: NTPC Ltd.

Respondents: DTL, NDPL, BSES-BRPL, BSES-BYPL, and NDMC

Parties present: Shri C.K.Mondol, NTPC Ltd.
Shri A.Basu Roy, NTPC Ltd.
Shri Rohit Chhabra, NTPC Ltd.
Shri R.B.Sharma, Advocate, BRPL

Record of Proceedings

During the hearing, the representative of the petitioner submitted that the Commission by its interim order dated 15.3.2012 has admitted the review petition on issues such as:

- (a) *Replacement of Condenser Tubes for a 210 MW unit for an amount of ₹839.66 lakh;*
- (b) *Renovation of 'A' Type quarters into ET Hostel for ₹41.07 lakh; and*
- (c) *Replacement of Battery Bank (High Discharge Performance Type) for Units 2 and 3 of the generating station for ₹57.90 lakh;*
- (d) *Liabilities incurred but not discharged.*

2. The representative of the petitioner made elaborate arguments on the issues admitted by the Commission and prayed that the error apparent on the face of the order be corrected and tariff of the generating station be revised accordingly for the period 2004-09.

3. The learned counsel for the respondent, BRPL pointed out that the petitioner under the guise of review has sought to re-argue the matter, on issues which have been examined and disallowed by the Commission on prudence check, and submitted that the same is not

permissible in review. He also submitted that the petitioner has not pointed out to any factual errors in the said order but has only pointed out to the 'errors in the judgment' for which no review is maintainable. He further submitted that there are definite limits to seek review of order and it is settled law that review cannot be an appeal in disguise. In this connection, the learned counsel referred to the judgments of the Supreme Court and the Appellate Tribunal for Electricity and submitted that copies of the same had already been submitted by him to the Commission in a similar matter. To sum up, the learned counsel prayed that the review application be dismissed as not maintainable as no case has been made out by the petitioner for review of the said order.

4. In response, the representative of the petitioner pointed out that the issues raised by the respondent were considered by the Commission at the time of admission of the review petition. He also submitted that in the review application, it has amply demonstrated the errors apparent in the said order and prayed that the review application be allowed.

5. On a specific query by the Commission as regards renovation of 'A' type quarters and the reasons for not utilizing the O&M expenses for its maintenance, the representative of the petitioner submitted that it may be permitted to file additional information as per details required by the Commission.

6. The Commission after hearing the parties directed the petitioner to file the following details on affidavit, on or before 10.5.2012:-

- (i) *Dates from which these 'A' type quarters were lying vacant;*
- (ii) *The reasons for not maintaining these quarters properly from the O&M expenses allowed to the generating station during the period it was lying vacant;*
- (iii) *The details of work carried out to renovate these quarters with item-wise cost.*

7. Subject to the above, order in the petition was reserved.

By Order of the Commission

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