

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 91/2004

Subject: Approval of tariff of Talcher Thermal Power Station (460 MW) for the period from 1.4.2004 to 31.3.2009 –In terms of the directions contained in the judgment of the Appellate Tribunal dated 19.4.2012 in Appeal No. 88/2007 (NTPC-v-CERC & arr)

Date of Hearing: 6.11.2012

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

Petitioner: NTPC Ltd., New Delhi

Respondent: Grid Corporation of Orissa Ltd., Bhubaneshwar

Parties Present: Shri M.G. Ramachandran, Advocate, NTPC
Ms. Swapna Seshadri, NTPC
Shri Rohit Chhabra, NTPC
Shri B. S. Rajput, NTPC
Shri Shyam Kumar, NTPC
Shri Ajay Dua, NTPC
Shri Shankar Saran, NTPC
Shri A.K.Bishoi, NTPC
Shri Sameer Aggarwal, NTPC
Shri Shailendra Singh, NTPC
Shri S.K.Jain, NTPC
Shri R.K Mehta, Advocate, GRIDCO

RECORD OF PROCEEDINGS

During the hearing, the learned counsel for the petitioner submitted that since the Civil Appeal filed by the respondent is to come up for hearing before the Hon'ble Supreme Court on 7.12.2012, the Commission may defer the hearing of the matter till such time. The learned counsel for the petitioner objected to the above and submitted that the Commission may hear the parties and pass final orders in the matter subject to the final outcome of the civil appeals pending before the Hon'ble Supreme Court. The Commission directed the parties to make its submissions on the issue.

2. The learned counsel for the petitioner submitted that based on the findings of the Tribunal in its judgment dated 19.4.2012 as regards normative transit loss for

transport of coal, the Commission may pass consequential orders revising the tariff of the generating station for the period 2004-09.

3. The learned counsel for the respondent submitted that the judgment of the Tribunal dated 13.6.2007 in Appeal Nos. 139 to 142/2006 & other connected cases based on which the prayer of the petitioner in Appeal No. 88/2007 was allowed by the Tribunal cannot be made applicable in the instant case. He also submitted that the order of the Commission with regard to normative transit loss for transport of coal does not call for any interference mainly for the following reasons:

- (a) The generating station is a pit head station having 100% linkage from jagannath open cast coal mine which is situated near the generating station. In case of non-pit generating stations, the regulations of the Commission provide for 0.8% normative transit loss in view of long distance between the plant and mine and not because railway system is used for transportation of coal. The distance of the mine in case of the generating station is 5 to 10 kms.
- (b) The higher transit loss was allowed in respect of coal required to be arranged from sources other than linked mines since it was the case of the petitioner that the coal linkage from linked mines was corresponding to 62.8% PLF operation and it has to procure coal from other sources to operate at higher PLF. It is on account of short distance between plant and coal mine and not because of MGR system that a lower level of 0.3% is prescribed in case of pit head plants.

4. In response, the learned counsel for the petitioner pointed out to the written submissions filed by the respondent before the Tribunal in Appeal No. 88/2007 with regard to normative transit loss for transportation of coal and submitted that the Tribunal after taking into consideration the submissions of the respondent and the petitioner on this issue had allowed the prayer of the petitioner in its judgment dated 19.4.2012. He also clarified that it was for the respondent to seek review of the said judgment, in case it was aggrieved by the observations/findings of the Tribunal on this issue. The learned counsel further submitted that the Tribunal having decided the issue in favour of the petitioner and directed the Commission to pass consequential orders, it was not open to the respondent to challenge the findings of the Tribunal on this issue at the stage of implementation of the said judgment. He therefore prayed that the Commission may implement the judgment of the Tribunal subject to the final outcome of the civil appeal pending before the Supreme Court.

5. The Commission after hearing the parties reserved the order in the matter.

(By order of the Commission)

Sd/-
T.Rout
Joint Chief (Law)