

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 17/GT/2013 (Docket No. 58/GT/2012)

Subject: Revision of tariff of National Capital Thermal Power Station, Stage-II (980 MW) for the period from 31.1.2010 to 31.3.2014-Truing up of tariff determined by order dated 30.9.2011 in Petition No. 14/2010.

Date of Hearing: 5.3.2013

Coram: Shri S. Jayaraman, Member
Shri V.S. Verma, Member
Shri M. Deena Dayalan, Member

Petitioner: NTPC Ltd., New Delhi

Respondents: UPPCL and 12 others

Parties Present: Shri Ajay Dua, NTPC
Shri S. Saran, NTPC
Shri Sameer Aggarwal, NTPC
Shri S.K.Jain, NTPC
Shri Rohit Chhabra, NTPC
Shri Vivek Kumar, NTPC
Shri R.B.Sharma, Advocate, BRPL
Shri Manish Gupta, BYPL

RECORD OF PROCEEDINGS

The petition has been filed by the petitioner, NTPC in terms of the proviso to Regulation 6(1) for truing-up of tariff of National Capital Thermal Power Station, Stage-II (980 MW) ('the generating station') based on the final tariff order dated 30.9.2011 in Petition No. 14/2010 determined for the period from 31.1.2010 to 31.3.2014, in accordance with the CERC (Terms and Conditions of Tariff) Regulations, 2009 ('the 2009 Tariff Regulations').

2. During the hearing, the learned counsel for the petitioner submitted as under:
 - (a) The tariff of the generating station for the period 31.1.2010 to 31.3.2014 was determined by the Commission in order dated 30.9.2011 in Petition No. 14/2010 based on the admitted capital cost and the projected additional capital expenditure after prudence check.
 - (b) In terms of the proviso to Regulation 6(1) of the 2009 Tariff Regulations, the present petition has been filed for revision of tariff determined by the said order dated 30.9.2011 based on the admitted capital cost as on 31.3.2009 and the actual capital expenditure (on cash basis) for the period 2009-12 and projected expenditure for 2012-14 based on estimates and status of works.

(c) The additional information as sought for by the Commission has been filed and copy served on the respondents. Rejoinder to the reply of UPPCL has been filed.

(d) The prayer of the petitioner may be considered and tariff of the generating station may be revised as prayed for.

3. The representative of the respondent, UPPCL submitted as under:

(a) The variation in tariff claimed is only 0.72% of the total annual fixed charges for 2009-14. Since there is no substantial variation in tariff as approved by the Commission and the tariff claimed by the petitioner in this petition, the request of the petitioner may be denied.

(b) Additional capital expenditure actually incurred and duly audited and certified by the auditors shall be submitted by the petitioner.

(c) The rate of return on equity shall be trued up in terms of the Regulation 15 of the 2009 Tariff Regulations and its amendment dated 23.6.2011.

(d) The reasons for the variation in the capital cost may be justified by the petitioner.

4. The learned counsel for the respondent, BRPL submitted as under:

(a) Reply has been filed by the respondent.

(b) The petitioner may be directed to file complete details of the additional capital expenditure incurred for the period 2009-12 duly audited and certified by the auditors as per Regulation 6(3) of the 2009 Tariff Regulations.

(c) The actual tax rate paid against the generating station duly audited and certified by the auditors may be furnished by the petitioner. The petitioner may also clarify as to whether any benefits of tax holiday under Section 80-IA of the Income tax Act, 1961 has been availed.

(d) Details as regards the list of assets forming part of the project but not in use and which is required to be taken out of capital cost for tariff shall be furnished by the petitioner.

(e) As IDC is included in the capital cost of the project including the equity portion, the issue of claiming notional IDC may be justified by the petitioner.

(f) The petitioner may be directed to furnish the works in progress and the assets added on account of additional capital expenditure and de-capitalization, if any, during the respective years of 2010-13.

(g) The additional capital expenditure of ₹29.17 crore has been claimed during 2012-13 for supply of electricity within the radius of 5 km of power station set up by the CPSU around central power plants, under Regulation 9(1) of the 2009 Tariff Regulations. As there is no statutory provision covering the said expenditure, the same may be disallowed.

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

(a) Regulation 15 of the 2009 Tariff Regulations clearly provide for grossing up of MAT/Corporate Income Tax rate applicable to the generating company, which has been considered.

(b) The audited balance sheet with schedules and annexure as per regulations has been submitted by the petitioner.

(c) Details of the list of assets de-capitalized have been furnished by the petitioner.

(d) The expenditure for ₹29.71 crore during 2012-13 towards creation of infrastructure for supply of power to rural households within a radius of 5 km of the power station has been claimed as per Regulation 92(ix) of the 2009 Tariff Regulations.

6. The learned counsel for the respondent, Tata Power Delhi Distribution Ltd (TPDDL) prayed for grant of two weeks' time to file reply in the matter. This was accepted by the Commission.

7. Meanwhile, the petitioner is directed to furnish on affidavit, with copy to the respondents, on or before 25.3.2013, the following:

(a) the year-wise/item wise actual additional capital expenditure incurred during the years 2009-10, 2010-11, 2011-12 duly certified by auditors.

(b) The reasons for the inability of the petitioner to meet the expenditure towards creation of infrastructure for supply of power to rural households within a radius of 5 km of the power station as part of the Corporate Social Responsibility (CSR) giving details of expenditure incurred towards CSR out of the total funds allocated for CSR during the year 2012-13.

8. Based on the above, the respondents shall file their reply by 4.4.2013, with copy to the petitioner, who may file its rejoinder, if any by 11.4.2013.

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

By order of the Commission

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