

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 151/MP/2012

Subject: Petition for relaxation of provisions in regard to Additional Capitalization from the date of commercial operation up to the cut-off date for determination of tariff of Bhilai Expansion Power Plant (2 x 250 MW) and also for exercise of inherent powers to do substantial justice.

Date of Hearing: 21.5.2013

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

Petitioner: NTPC-SAIL Power Company Private Ltd, New Delhi

Respondents: ED, UT of Dadra & Nagar Haveli, ED, UT of Daman Diu, CSPDCL, SAIL

Parties present: Shri M. G. Ramachandran, Advocate, NTPC-SAIL
Shri G. Basu, NTPC- SAIL
Shri S. D Jha, NTPC-SAIL
Shri Sakesh Kumar, Advocate, ED, UT of Dadra & Nagar Haveli

RECORD OF PROCEEDINGS

During the hearing the learned counsel for the petitioner submitted that the provisions relating to the cut-off date for capitalization of expenditure may be relaxed considering the reasons for delay in respect of site development works, sewerage and drainage work etc. He also submitted that these works are within the original scope of work and hence the relief prayed for may be granted.

2. On a specific query by the Commission as to whether the reasons for delay could be attributable to the petitioner, the learned counsel clarified that the reasons such as the delay in construction of boundary wall due to non clearance from Bhilai Municipal Corporation and the stoppage of work due to unprecedented monsoon cannot be made attributable to the petitioner. He also submitted that elaborate reasons for the delay has been furnished in the petition for consideration of the Commission. The learned counsel added that in addition to the above prayer for relaxation of cut-off date for capitalization, deferred liabilities as and when paid by the petitioner may also be considered.

3. In response, the learned counsel for the respondent No. 1 objected to the prayer of the petitioner and submitted that reasons submitted by the petitioner for delay is not acceptable. He also submitted that though the investment approval was accorded on 28.9.2007, the orders for construction package for various civil works

were placed by the petitioner only on 23.10.2009. The learned counsel further submitted that had the orders been placed on time, the project could have been completed before the stipulated deadline with proper planning and hence the delay in execution and completion of works is attributable to the petitioner. The learned counsel further submitted that there has been normal monsoon for the last 5 years. He further submitted that the norms regarding additional capitalization as specified by the Commission may be strictly adhered to while considering the claims of the petitioner as the 'power to relax' has to be exercised in exceptional circumstances only.

4. In response to the above, the learned counsel for the petitioner clarified that these works are within the original scope of work and adequate reasons have been submitted by the petitioner for the delay in execution of these works. Accordingly, the learned counsel prayed that the relief prayed for may be granted by the Commission.

5. The Commission after hearing the parties reserved orders in the petition.

By order of the Commission

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