

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.229/2010

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

Date of Order: 29.5.2013

In the matter of

Approval of tariff of Indira Gandhi Super Thermal Power Project (3 x 500 MW) for the period from the anticipated date of commercial operation of Units-I, II and III to 31.03.2014

And

In the matter of

Grant of provisional tariff of Unit-III (500 MW) of Indira Gandhi Super Thermal Power Station (3 X 500 MW) from the actual date of commercial operation of Unit-III i.e from 26.4.2013 to 31.3.2014

And

In the matter of

Aravalli Power Company Private Ltd, New Delhi

.....**Petitioner**

Vs

1. Haryana Power Purchase Centre, Panchkula
2. North Delhi Power Ltd, Delhi
3. BSES-Rajdhani Power Ltd, New Delhi
4. BSES-Yamuna Power Ltd, Delhi

.... **Respondents**

ORDER

The petitioner, Aravali Power Company Private Limited (APCPL) is a company incorporated under companies Act 1956. It is a joint venture company with a shareholding of 50% by NTPC, 25% by Haryana Power Generation Company Ltd and 25% by Indraprastha Power Generation Co. Ltd.

2. The petitioner filed the instant petition for approval of tariff of Indira Gandhi STPP (3x500 MW) for the period from 1.10.2010 to 30.3.2011 for Unit-I and from 31.3.2011 to 31.8.2011 for Unit-I & II (combined) and from 1.9.2011 to 31.3.2014 for Units-I, II & III combined, in accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (hereinafter referred to as "the 2009 Tariff Regulations").

3. The investment approval of the project was accorded by the Board of the petitioner company on 5.7.2007 at a project cost of ₹7892.428 crore. The Commission vide its order dated 2.11.2011 has allowed the annual fixed charges of ₹75790.05 lakh for Unit-I of the generating station from the actual date of commercial operation (COD) i.e. 5.3.2011 till the COD of Unit-II based on the anticipated capital cost of ₹ 372852.00 lakh as claimed by the petitioner, subject to truing-up. In the order, the petitioner was directed to amend the petition taking into consideration the anticipated COD of Unit-II of the generating station in terms of the provisions of the 2009 Tariff Regulations. In compliance with the above directions, the petitioner vide its affidavit dated 16.2.2012 filed amended petition revising the tariff based on the actual audited capital expenditure as on COD of Unit-1 and the projected additional capital expenditure from the COD of Unit-1 to anticipated COD of Unit-II on 1.3.2012 along with the projected additional capital expenditure from COD of Unit-II to anticipated COD of Unit-III (and generating station) on 1.9.2012. The petitioner in the amended petition revised the capital cost as on actual COD of Unit-I and the projected capital cost as on anticipated COD of Unit-II & Unit-III as under:

<i>(₹ in lakh)</i>		
Actual audited Capital Cost of Unit-I as on COD of Unit-I as on 5.3.2011	Projected Capital Cost as on COD of Unit-II as on 1.3.2012	Projected Capital Cost of Station as on 1.9.2012
311705	518692	733911

4. Subsequently, the petitioner by its letter dated 3.4.2012 submitted that Unit-II of generating station was likely to be declared under commercial operation on 20.4.2012 and accordingly, prayed for grant of provisional tariff of Unit-I & II (combined). Subsequently, it has

been informed that Unit-II of the generating station has been declared under commercial operation on 21.4.2012. Based on this, the Commission vide its order dated 1.5.2012 granted provisional tariff of Unit-I & II (combined) from the COD of Unit-II i.e. 21.4.2012 till the anticipated date of commercial operation of Unit-III by restricting the capital cost to 90% of the projected capital cost of ₹518693 lakh.

5. While so, the petitioner vide its letter dated 22.2.2013 has submitted that Unit-III of the generating station commissioned on 7.11.2012 was expected to be declared under commercial and prayed for grant of provisional tariff for the generating station from the anticipated COD of the Unit-III, based on the projected capital expenditure up to COD of Unit-III. Subsequently, the petitioner by its letter dated 18.4.2013 has informed that since the declaration of commercial operation of the Unit-III was scheduled in a few days, the Commission may grant provisional tariff of the generating station based on the projected capital expenditure claimed as per amended petition filed vide affidavit dated 16.2.2012. Thereafter, the petitioner informed that Unit-III of the generating station has been declared under commercial operation on 26.4.2013.

6. Clauses (1) and (2) of Regulation 5 of the 2009 regulations provides as under:

“5. Application for determination of tariff. (1) *The generating company or the transmission licensee, as the case may be, may make an application for determination of tariff in accordance with Central Electricity Regulatory Commission (Procedure for making of application for determination of tariff, publication of the application and other related matters) Regulations, 2004, as amended from time to time or any statutory re-enactment thereof, in respect of the units of the generating station or the transmission lines or sub-stations of the transmission system, completed or projected to be completed within six months from the date of application.*

(2) *The generating company or the transmission licensee, as the case may be, shall make an application as per **Appendix I** to these regulations, for determination of tariff based on capital expenditure incurred duly certified by the auditors or projected to be incurred up to the date of commercial operation and additional capital expenditure incurred duly certified by the auditors or projected to be incurred during the tariff period of the generating station or the transmission system:*

Provided that in case of an existing project, the application shall be based on admitted capital cost including any additional capitalization already admitted up to 31.3.2009 and estimated additional capital expenditure for the respective years of the tariff period 2009-14:

Provided further that application shall contain details of underlying assumptions for projected capital cost and additional capital expenditure, where applicable.

7. The petitioner has filed the petition in compliance with Clause (1) and (2) of Regulation 5 of the 2009 regulations. Since Unit-III of the generating station has been declared under commercial operation with effect from 26.4.2013, we consider the grant of provisional tariff in respect of Unit-III from the date of commercial operation (i.e. 26.4.2013) by this order, based on the petition filed in terms of Regulation 5(1) of the 2009 Tariff Regulations.

8. Regulation 5 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) (First Amendment) Regulations, 2011 provides as under:

“(4) Where application for determination of tariff of an existing or a new project has been filed before the Commission in accordance with clauses (1) and (2) of this regulation, the Commission may consider in its discretion to grant provisional tariff upto 95% of the annual fixed cost of the project claimed in the application subject to adjustment as per proviso to clause (3) of this regulation after the final tariff order has been issued:

Provided that recovery of capacity charge and energy charge or transmission charge, as the case may be, in respect of the existing or new project for which provisional tariff has been granted shall be made in accordance with the relevant provisions of these regulations.”

9. In exercise of power under Clause 4 of Regulation 5 of the 2009 regulations and after prudence check, we hereby grant provisional tariff in respect of Unit-III of the generating station from 26.4.2013 to 31.3.2014, pending determination of the final tariff, as stated in the subsequent paragraphs.

Time and Cost overrun

10. It is observed that in the present case that there is time over run in respect of the units considered from the scheduled date of commercial operation as per investment approval of the petitioner's Board till the actual date of commercial operation as indicated by the petitioner. We are of the view that the submissions of the parties as regards delay in the commissioning of the project and its impact on time and cost overrun, including IDC, are required to be looked into in detail after hearing all the parties on merit, at the time of determination of final tariff. Hence, we allow only 90% of the estimated capital cost for the purpose of grant of provisional tariff for the generating station for the period 2013-14 by this order.

Capital Cost

11. The estimated capital cost as on the anticipated date of commercial operation of the generating station (i.e 1.9.2012) as furnished by the petitioner vide its affidavit dated 16.2.2012 is ₹733911 lakh. The actual COD of the generating station is 26.4.2013 and the estimated additional capital expenditure during 2012-13 claimed by the petitioner is ₹ 25124 lakh. In order to arrive at an estimated capital cost close to the actual COD of the generating station, the projected additional capital expenditure of ₹ 25124 lakh has been considered along with the capital cost of ₹733911 lakh as on 1.9.2012. Thus, the estimated capital cost allowed for the purpose of provisional tariff is ₹759035 lakh (733911 + 25124) as on 26.4.2013, which is inclusive of ₹104792 lakh towards IDC and ₹14 lakh towards FERV gain. Considering 90% of the estimated capital cost of ₹759035 lakh, the capital cost allowed for the purpose of grant of provisional tariff is ₹683132 lakh as on 26.4.2013.

Projected Additional Capital Expenditure during 2013-14

12. The petitioner has claimed projected additional capital expenditure of ₹22732 lakh during 2013-14. Since, the COD of Unit-III (generating station) is 26.4.2013, the projected additional capital expenditure for 2013-14 after the COD, will be considered at the time of determination of final tariff of the generating station. Hence, the same has not been considered for the purpose of provisional tariff.

13. Return on Equity has been considered as per the provisions of the 2009 Tariff Regulations. The interest rates on loans, rate of depreciation and working capital as claimed by the petitioner as on the anticipated date of commercial operation of the respective units have been considered. All other components have been considered as per the provisions of the 2009 Tariff Regulations.

14. The O&M expenses claimed by the petitioner as per the provisions of the 2009 Tariff Regulations for the period from 26.4.2013 to 31.3.2014 considered for the purpose of provisional tariff is ₹23548 lakh (annualized)

15. The annual fixed charges claimed by the petitioner for 2012-13 (1.9.2012 to 31.3.2013) for Units-I, II and III (combined) are ₹181381 lakh. Based on the discussions in the preceding paragraphs, the annual fixed charges allowed for the generating station from 26.4.2013 to 31.3.2014 are ₹162500.41 lakh. The provisional annual fixed charges allowed are subject to adjustment in terms of clause (4) of Regulation 5 of 2009 Tariff Regulations.

16. The provisional annual fixed charges determined on annualized basis as above is applicable *pro rata* to the number of days the units have run during the corresponding year.

17. The petitioner shall revise the figures in the petition taking into consideration the actual date of commercial operation of the units of the generating station in terms of the provisions of the 2009 Tariff Regulations, which will be considered in accordance with law.

Sd/-
[V.S.Verma]
Member

Sd/-
[Dr.Pramod Deo]
Chairperson