

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Review Petition No. 21/2012**

**in**

**Petition No. 224/2009**

**Coram:**

**Dr. Pramod Deo, Chairperson**

**Shri S. Jayaraman, Member**

**Shri V. S. Verma, Member**

**Date of Hearing: 20.9.2012**

**Date of Order: 1.5.2013**

**IN THE MATTER OF**

Review of order dated 14.6.2012 in Petition No. 224/2009 regarding determination of tariff for Dadri Gas Power Station (829.78 MW) for the period from 1.4.2009 to 31.3.2014.

**AND**

**IN THE MATTER OF**

NTPC Ltd

**...Petitioner**

Vs

1. Uttar Pradesh Power Corporation Limited, Lucknow
2. Jaipur Vidyut Vitran Nigam Limited, Jaipur
3. Ajmer Vidyut Vitran Nigam Limited, Ajmer
4. Jodhpur Vidyut Vitran Nigam Limited, Jodhpur
5. Tata Power Delhi Distribution Ltd., Delhi
6. BSES Rajdhani Power Ltd., New Delhi
7. BSES Yamuna Power Ltd., Delhi
8. Haryana Vidyut Prasaran Nigam Limited, Panchkula
9. Punjab State Power Corporation Ltd, Patiala
10. Himachal Pradesh State Electricity Board, Shimla
11. Power Development Department Government of Jammu & Kashmir, Jammu
12. Power Department, Union Territory of Chandigarh, Chandigarh
13. Uttarakhand Power Corporation Limited, Dehradun

**.....Respondents**

**Parties Present:**

Shri A. Basu Roy, NTPC

Shri Rohit Chhabra, NTPC

Shri C. K. Mondol, NTPC

Shri Ajay Dua, NTPC

Shri Shankar Saran, NTPC

Shri G. K Dua, NTPC



Shri Sameer Aggarwal, NTPC  
 Shri Vivek Kumar, NTPC  
 Shri R. B. Sharma, Advocate, BRPL  
 Shri Paresh B. Lal, BYPL  
 Dr. Meena Mishra, BYPL  
 Shri Raju Aggarwal, BYPL

## ORDER

Petition No.224/2009 was filed by the petitioner, NTPC, for approval of generation tariff in respect of Dadri Gas Power Station (829.78 MW) (hereinafter referred to as 'the generating station') for the period from 1.4.2009 to 31.3.2014, based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 ('the 2009 Tariff Regulations'). The Commission by its order dated 14.6.2012 approved the capital cost for the period 2009-14 as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Opening Capital cost	87954.32	87954.32	88195.58	97589.44	116483.46
Additional capital expenditure	0.00	241.26	9393.86	18894.02	9352.03
<b>Closing Capital cost</b>	<b>87954.32</b>	<b>88195.58</b>	<b>97589.44</b>	<b>116483.46</b>	<b>125835.49</b>
<b>Average Capital cost</b>	<b>87954.32</b>	<b>88074.95</b>	<b>92892.51</b>	<b>107036.45</b>	<b>121159.48</b>

2. The annual fixed charges approved by Commission *vide* order dated 14.6.2012 is as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	26.28	32.96	322.07	1429.66	2853.72
Interest on Loan	135.78	143.75	555.67	1731.99	2788.52
Return on Equity	10326.28	10334.77	10674.14	11670.48	12665.35
Interest on Working Capital	6655.44	6704.43	6792.23	6899.49	7029.00
O&M Expenses	12280.74	12986.06	13724.56	14512.85	15342.63
<b>Total</b>	<b>29424.52</b>	<b>30201.97</b>	<b>32068.67</b>	<b>36244.48</b>	<b>40679.22</b>

3. Aggrieved by the said order, the petitioner has filed this review petition seeking review of the order dated 14.6.2012 on the following aspects, namely:

(a) Life to be considered for calculation of depreciation before R&M; and

(b) *Typographical error in the projected capitalization value for the scheme 'Renovation of Generator & Transformer Protection Relays.*

4. The matter was heard on 7.8.2012 on 'admission'. Based on the submission of the petitioner, the Commission vide its interim order dated 9.8.2012 admitted the review petition on the issues mentioned above. Reply to the petition has been filed by UPPCL (respondent no.1), BRPL (respondent no. 6) and BYPL (respondent no.7). The petitioner has filed its rejoinder to the said replies.

5. Heard the parties present and examined the documents on record. We now proceed to consider the issue raised in this petition as discussed in subsequent paragraphs.

**Life to be considered for calculation of depreciation before R&M**

6. The Commission in its order dated 14.6.2012 had calculated the balance useful life of the generating station as on 1.4.2009 after R&M for the purpose of depreciation observing as under:

**"Balance Useful life of the generating station after R&M of Gas Turbines**

43. *The details of the date of commercial operation of the different units of the generating station, the period of operation up to 1.4.2009 and 1.4.2014 (completion of major R&M works) and the extended life after R&M of GTs and their weighted average period of operation on above dates and weighted average life are as under.*

Units	Capacity (MW)	COD	Elapsed life up to 31.3.2009	Elapsed life up to 31.3.2014	Useful life after extension of life by 15 years for GTs	Balance life as on	
						1.4.2009	1.4.2014
GT-I	130.19	1.5.1992	16.92	21.92	36.92		
GT-II	130.19	1.6.1992	16.83	21.83	36.83		
GT-III	130.19	1.8.1992	16.67	21.67	36.67		
GT-IV	130.19	1.12.1992	16.33	21.33	36.33		
ST-I	154.51	1.8.1996	12.67	17.67	25.00		
ST-II	154.51	1.4.1997	12.00	17.00	25.00		
<b>Total</b>	<b>829.78</b>		<b>15.07</b>	<b>20.07</b>	<b>32.33</b>	<b>17.27</b>	<b>12.27</b>

44. *The weighted average of the elapsed life (period of operation) of the generating station, as on 1.4.2009 works out to 15.07 years. The major expenditure on R&M of the GTs are allowed for enhancing the life of the generating station by 1,00,000 Equivalent*

*Operating Hours (EOH) which translates into 15 years, considering the low PLF of the generating station. The major part of R&M works i.e. complete R&M work of all GTs would be completed by 31.3.2014. The weighted average of the period of operation of the generating station as on 1.4.2014 works out to 20.07 years. Considering the life extension of GTs by 15 years from 1.4.2014, the weighted average life of the generating station after R&M of GTs works out to 32.33 years in relation to the date of commercial operation of the respective units of the generating station, as stated above. Accordingly, the balance useful life of the generating station works out to 17.27 years as on 1.4.2009 and 12.27 years on 1.4.2014."*

7. The petitioner in this petition has submitted as under:

*"7. Without prejudice to its right to challenge the conversion of 1,00,000 - EOH to 15 years, the petitioner submits that taking extended life for calculation of balance life from 2009-10 itself and calculating depreciation based on extended balance life is not logical. It is submitted that Hon'ble Commission has calculated the extended life of GTs post R&M i.e. 31.3.2014. The period prior to R&M, therefore, is period before extension of life through R&M, ought to have been based on the normative life of 25 years as per Tariff Regulations 2009. The use of extended balance life post R&M is also contrary to the Hon'ble Commission's stipulation in the order which clearly specify that the life will be extended after completion of R&M i.e. on 31.3.2014. The petitioner will suffer as this result in lower recovery of depreciation during the tariff period 2009-14 than the petitioner is entitled to as Tariff Regulations 2009. It is submitted that this error may be corrected and the petitioner may be allowed depreciation during 2009-14 tariff period taking balance life based on normative life of 25 years."*

8. The learned counsel for the respondent, BRPL has objected to the claim of the petitioner for review of the said order. Referring to the judgment of the Appellate Tribunal for Electricity in Review Petition No.1/2009 (in Appeal No. 64/2008), the learned counsel submitted that there are definitive limits to the exercise of the power of review under Order 47 Rule 1 of the CPC. He also submitted that as laid down by the Hon'ble Supreme court in the case of Parsion Devi and others V Sumitra Devi and others (1997) 8 SCC 715, a review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected and prayed that the review petition be rejected. It has also been pointed out by the respondent, BRPL in its reply dated 16.8.2012 that there are arithmetical errors in the order dated 14.6.2012 such as, the weighted average life of the generating station after R&M of GTs should be 35.24 years instead of 32.33 years, the extended balance life as on 1.4.2014 being 15.17 years instead of 12.27 years and the balance life as on 1.4.2009 to be 20.07 years and not 17.27 years and the same may

be corrected in accordance with the proviso to Regulation 103 of the CERC (Conduct of Business) Regulations, 1999. The respondent, UPPCL in its reply dated 30.8.2012 has submitted that the scope of review is limited to rectification of mistake or error apparent on the face of record. It has also submitted that the Commission had considered the issue in detail in its order dated 23.5.2012 and hence there is no reason for review of the said order. It has further submitted that the fact that the Commission had allowed capitalization of R&M expenditure of ₹376.40 crore during 2009-14, is a case for considering the revision of balance life of the plant to be 17.27 years as on 1.4.2009. The respondent, BYPL has submitted that the petitioner has not demonstrated the existence of any error apparent on the face of the record and the petition may hence be rejected. It has also submitted that the petitioner has challenged the methodology followed by the Commission while computing the balance useful life for calculation of depreciation before R&M and the same is not maintainable in review. The petitioner in its rejoinder has objected to the above submissions of the respondents.

9. Pursuant to the hearing of the matter on 20.9.2012, it is noticed that the petitioner has filed additional submissions vide its affidavit dated 9.4.2013 bringing to the notice of the Commission that it has filed True-up Petition No.16/GT/2013 in respect of this generating station on 19.7.2012 and as mentioned in para 12 of therein, some of the schemes approved by the Commission by order dated 14.6.2012 have been made part of the true-up petition. It has also submitted that other schemes namely, R&M of GTs and R&M of C&I equipments are presently not expected to be capitalized by March, 2014 and will be claimed as and when executed and the expenditure is capitalized. It has further submitted that since R&M has now been postponed to the tariff period 2014-19, the issue of applying post R&M life to pre-R&M period for the purpose of depreciation

calculation no longer survives in case of this generating station during the current tariff period. It has therefore prayed that the issue of pre-R&M life for calculation of depreciation may kindly be allowed in the true-up petition.

10. The submissions of the petitioner in its affidavit dated 9.4.2013 are taken on record. In consideration of submissions of the petitioner and since the expenditure on R&M of GTs and R&M of C&I equipments have been revised by the petitioner and are likely to materialize during the next tariff period i.e 2014-19, the issue of revision of the balance useful life of the generating station for the purpose of depreciation as claimed by the petitioner in this review petition no longer survives. Accordingly, review of order dated 14.6.2012 on this ground is dismissed as infructuous. However, the question of calculation of the balance useful life of the generating station based on the revised phasing of expenditure would however be considered by the Commission at the time of disposal of the True-up Petition No.16/GT/2013, based on the submissions of the parties there under.

**Typographical error in the projected capitalization value for the scheme 'Renovation of Generator & Transformer Protection Relays'**

11. The petitioner has submitted that the projected capitalization of expenditure for the scheme 'Renovation of Generator & Transformer Protection Relays' during 2013-14 as given in the petition and the expenditure indicated in the table under Para 19 of the order dated 14.6.2012 is ₹60 lakh. However, the Commission while approving the projected capital expenditure for 2013-14 in respect of this asset had indicated the said amount as ₹6.00 lakh and after de-capitalization of ₹1.60 lakh in para 40 of the said order, had allowed an expenditure of ₹4.40 lakh in the table under para 42 of the order dated

14.6.2012. Accordingly, the petitioner has prayed that the error apparent on the face of record may be corrected.

12. The submission of the petitioner has been examined. The petitioner had claimed the projected capital expenditure of ₹60.00 lakh during 2013-14 for the said asset. However, the Commission in its order while allowing the said expenditure had inadvertently considered an expenditure of ₹6.00 lakh for the said asset instead of ₹60.00 lakh. This is rectified in review being an error apparent on the face of the order. Accordingly, considering the estimated value of original component to be 26.67% of the value of new assets, the de-capitalization value of the Generator & Transformer Protection Relays works out to ₹16.00 lakh (60.00 x 0.2667). Based on this, an expenditure of ₹44.00 lakh (60.00-16.00) on net basis, is allowed to be capitalized during 2013-14 in terms of Regulation 9(2)(vi) of the 2009 Tariff Regulations. However, revision of tariff based on the corrections as above would be considered at the time of disposal of the true up petition filed by the petitioner for the period 2009-14 in respect of the generating station.

22. Review Petition No. 21/2012 is disposed of in terms of the above.

*Sd/-*  
**[V. S. Verma]**  
Member

*Sd/-*  
**[S. Jayaraman]**  
Member

*Sd/-*  
**[Dr. Pramod Deo]**  
Chairperson

