

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Review Petition No. 19/2012

in

Petition No.245/2009

Coram:

- 1. Dr. Pramod Deo, Chairperson**
- 2. Shri S. Jayaraman, Member**
- 3. Shri V.S. Verma, Member**

Date of Hearing: 25.9.2012

Date of Order: 3.5.2013

IN THE MATTER OF

Review of Order dated 23.5.2012 in respect of approval of tariff of Kahalgaon Super Thermal Power Station Stage-I (840 MW) for the period 1.4.2009 to 31.3.2014.

AND

IN THE MATTER OF

NTPC Ltd, New Delhi

...Petitioner

Vs

1. West Bengal State Electricity Board, Kolkata
2. Bihar State Electricity Board, Patna
3. Jharkhand State Electricity Board, Ranchi
4. Grid Corporation of Orissa Ltd., Bhubaneshwar
5. Damodar Valley Corporation, Kolkata
6. Power Department, Government of Sikkim, Gangtok
7. Union Territory of Pondicherry, Electricity Department, Pondicherry
8. Tamil Nadu Electricity Board, Chennai
9. Uttar Pradesh Power Corporation Ltd, Lucknow
10. Power Development Department, Government of J&K, Srinagar
11. Power Department, Union Territory of Chandigarh, Chandigarh
12. Madhya Pradesh Power Trading Ltd., Jabalpur
13. Gujarat Urja Vikas Nigam Limited, Baroda
14. Electricity Department, Administration of Daman & Diu, Daman
15. Electricity Department, Administration of Dadra and Nagar Haveli, Silvassa
16. BSES Rajdhani Power Limited, New Delhi
17. BSES Yamuna Power Limited, Delhi
18. North Delhi Power Ltd, New Delhi
19. Maharashtra State Electricity Distribution Company Ltd., Mumbai **...Respondents**

Present:

1. Shri M.G.Ramachandran, Advocate, NTPC
2. Ms. Swapna Seshadri, Advocate, NTPC
3. Shri C.K.Mondal, NTPC

4. Shri Ajay Dua, NTPC
5. Shri Rohit Chhabra, NTPC
6. Shri A.Basuroy, NTPC
7. Shri Sankar Saran, NTPC
8. Shri Sudesh K Jain, NTPC
9. Shri Rajiv Kumar, NTPC
10. Shri Sameer Agarwal, NTPC
11. Shri I.Uppal, NTPC
12. Shri A.N.Ghosh, Consultant

ORDER

Petition No. 245/2009 was filed by the petitioner, NTPC, for approval of tariff for Kahalgaon Super Thermal Power Station, Stage-I (840 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 (hereinafter referred to as “the 2009 Tariff Regulations”). The Commission by its order dated 23.5.2012 determined the tariff of the generating station as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	3800.27	4046.05	4608.07	5035.28	5128.49
Interest on Loan	41.58	0.00	18.91	15.81	0.00
Return on Equity	23880.69	24070.37	24534.69	24854.01	24916.39
Interest on Working Capital	5480.17	5539.29	5625.01	5685.62	5746.68
O&M Expenses	15288.00	16161.60	17085.60	18068.40	19101.60
Cost of Secondary fuel oil	1219.45	1219.45	1222.79	1219.45	1219.45
Compensation Allowance	126.00	210.00	252.00	294.00	294.00
Total	49836.16	51246.74	53347.07	55172.57	56406.61

2. Aggrieved by the said order, the petitioner has filed this review petition seeking review of the order dated 23.5.2012 on the following issues, namely:

- (a) Disallowance of capital expenditure on installation of condenser on load tube cleaning system;
- (b) Non-consideration of exclusion of de-capitalization corresponding to 10th Wagon in 2008-09.

3. The matter was heard on 25.9.2012 on 'admission'. During the hearing, the learned counsel for the petitioner did not press for the issue relating to the disallowance

of capital expenditure on installation of condenser on load tube cleaning system as listed at clause (a) in para 2 above. As regards the issue raised in clause (b) above, the learned counsel for the petitioner submitted that the error apparent on the face of the order may be corrected and tariff of the generating station may accordingly be revised. Reply to the petition has been filed by the respondent no. 1 (UPPCL).

4. In accordance with Rule 1 Order 47 of the Code of Civil Procedure (CPC), a person aggrieved by an order may apply for a review under the following circumstances:

- (a) On discovery of new and important matter or evidence which after exercise of due diligence was not within his knowledge or could not be produced by him at a time when the order was made;
- (b) An error apparent on the face of the record;
- (c) For any other sufficient reason.

5. We have heard the learned counsel for the petitioner and examined the documents available on record. We now proceed to consider the issues raised by the petitioner, as discussed in subsequent paragraphs.

Non-consideration of exclusion of de-capitalization corresponding to 10th Wagon in 2008-09

6. The Commission in paragraph 33 of the order dated 23.5.2012 while disallowing the capitalization of ₹367.00 lakh during 2010-11 towards procurement of 10 nos. of wagons had also ignored the corresponding de-capitalization of ₹171.80 lakh for old wagons, observing as under:

"Procurement of new wagons

33. The petitioner has claimed expenditure for ₹367.00 lakh during 2010-11 towards the procurement of 10 nos. of new wagons against replacement of damaged / condemned wagons. The provision of Regulation 9(2) under which capitalization is sought for has not been mentioned. However, there is no provision under Regulation 9 (2) of the 2009 Tariff Regulations for capitalization of this asset after the cut-off date. Since, compensation allowance is admissible to the generating station under Regulation 19(e) of the 2009 Tariff Regulations the petitioner shall be able to meet the expenditure on this asset. Hence, capitalization of the

expenditure claimed by the petitioner is not allowed. Since, additional capital expenditure for procurement of new wagons has not been considered, the corresponding de-capitalization has also been ignored."

7. The petitioner has submitted that the Commission has not admitted the capitalization of 10 new wagons against replacement in 2010-11 and has in turn ignored the corresponding de-capitalization of 9 wagons in the year 2009-10. It has also submitted that the exclusion of de-capitalization of 10th wagon for ₹19.18 lakh which was de-capitalized in 2008-09 and admitted by the Commission has not been considered. It has therefore prayed to consider the exclusion of ₹19.18 lakh as above against the capitalization of 10th wagon.

8. The matter has been examined. The Commission in its order dated 15.6.2010 in Petition No. 126/2009 while disallowing the exclusion of negative entries with respect to unserviceable assets de-capitalized had observed as under:

"De-capitalization of unserviceable assets

The petitioner has de-capitalized an amount of (-) ₹19.18 lakh in books of accounts during 2008-09, in respect of unserviceable assets (10 nos. of wagons). However, the petitioner has prayed that negative entries arising out of de-capitalization of these assets be retained in the capital base for the purpose of tariff. The ground on which the exclusion is sought by the petitioner is as under:-

"Procurement action for capitalization against the same is in progress. De-capitalization of these wagons may be considered at the time of capitalization."

The petitioner's prayer for exclusion of negative entries arising due to de-capitalization of unserviceable assets on the ground that corresponding new assets would be purchased in future, is not allowed as these assets do not provide service to the beneficiaries. The petitioner is at liberty to approach the Commission after procurement of new assets."

9. The petitioner in its original petition had not indicated the specific provision of Regulation 9(2) of the 2009 Tariff Regulation under which the expenditure in respect of 10 nos wagons against replacement of damaged/condemned wagons were claimed. Moreover, no provision existed under Regulation 9(2) of the 2009 Tariff Regulations for

capitalization of this asset after the cut-off date. Since the generating station was in operation for more than 10 years and was entitled for compensation allowance to meet the expenditure on this asset in terms of Regulation 19(e) of the 2009 Tariff Regulations, the capitalization of the expenditure claimed by the petitioner was not allowed by our order dated 23.5.2012. As the additional capital expenditure for procurement of new wagons was not considered, the corresponding de-capitalization was also ignored. It has been the consistent stand of the Commission in respect of the tariff orders pertaining to the generating stations of the petitioner that any assets which form part of the capital base and has outlived its useful life and does not render any service to the generating station shall be taken out from the capital base for the purpose of tariff. As the capitalization of the expenditure in respect of this new asset (wagons) was not allowed on account of compensation allowance allowed to the generating station, we are of the view that the de-capitalized value of ₹171.80 lakh for 9 Nos. old wagons which formed part of capital base and had become unserviceable and not rendering any useful service to the generating station should have been taken out of the capital cost of the generating station, while determining tariff by order dated 23.5.2012. The non consideration of the same in order dated 23.5.2012 is an error apparent on the face of the order which is required to be rectified *suo motu* in review. We order accordingly. In view of this, there is no justification for the exclusion of the negative entry of ₹19.18 lakh for the 10th wagon, which was disallowed by the Commission by its order dated 15.6.2010 in Petition No.126/2009 as prayed for by the petitioner in the review petition.

10. Based on the above discussions, the additional capital expenditure allowed in the table under para 35 vide of the order dated 23.5.2012 is revised as under:

(₹ in lakh)

Sl. No	Head of work/ Equipment	Actual/Projected Capital Expenditure				
		2009-10 (actual)	2010-11	2011-12	2012-13	2013-14
i	Ash Dyke Raising work	203.80	267.90	523.50	500.00	301.00
ii	Pipe Line Pedestal in Ash Dyke	0.00	10.00	15.00	0.00	0.00
1.3	Ash Slurry Series P/Ps (3 nos) 2 sets	0.00	0.00	40.00	40.00	40.00
1.4	CISF Security Post in Ash Dyke	0.00	13.00	0.00	0.00	0.00
1.5	Dredging in Ash Dyke overflow Lagoon/Ganga Make up P/H	0.00	200.00	100.00	0.00	0.00
	Tower Light in Ash Dyke & Ash Brick Plant	0.00	0.00	120.00	0.00	0.00
A.	Total- Ash Handling System	203.80	490.90	798.50	540.00	341.00
B						
i.	Dry Ash System for Unit # 3 & 4 including Silo	0.00	0.00	974.00	0.00	0.00
ii.	AAQM	95.90	0.00	0.00	0.00	0.00
B	Total- Environmental System	95.90	0.00	974.00	0.00	0.00
C						
1	Wagon Tippler (M/s Elecon)	0.00	3509.88	3509.88	0.00	0.00
1.1	Locomotives (3 Nos)	0.00	736.00	1338.71	0.00	0.00
1.2	Track work	0.00	800.00	1000.00	890.10	0.00
1.3	S&T and in-motion Weigh bridge	0.00	10.00	15.00	0.00	0.00
2	Condenser on Line tube cleaning systems	0.00	0.00	0.00	0.00	0.00
3	Procurement of wagon (10 nos) against replacement	(-)171.80	0.00	0.00	0.00	0.00
C	Total- Other Capital Cost	(-) 171.80	5055.88	5863.59	890.10	0.00
D						
1	De-capitalization of construction equipments	(-) 445.90	0.00	0.00	0.00	0.00
2	De-capitalization of vehicles	(-)16.10	0.00	0.00	0.00	0.00
D	Total- Others	(-) 462.00	0.00	0.00	0.00	0.00
	Grand Total (A+B+C+D)	(-) 334.10	5546.78	7636.09	1430.10	341.00

11. Taking into account the discharges of liabilities during 2009-10, the additional capital expenditure approved for the purpose of tariff, is revised as under:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Additional capital expenditure	(-) 334.10	5546.78	7636.09	1430.10	341.00
Discharges of liabilities	0.67	0.00	0.00	0.00	0.00
Additional capital expenditure allowed	(-) 333.43	5546.78	7636.09	1430.10	341.00

12. Based on the above, the capital cost considered for the purpose of tariff for 2009-14 is revised as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Opening Capital cost	203951.87	203618.44	209165.22	216801.31	218231.41
Projected Additional capital expenditure	(-) 333.43	5546.78	7636.09	1430.10	341.00
Closing Capital cost	203618.44	209165.22	216801.31	218231.41	218572.41
Average Capital cost	203785.16	206391.83	212983.27	217516.36	218401.91

13. Return on Equity allowed in the table under para 41 of the order dated 23.5.2012 is revised as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Notional Equity- Opening	101726.44	101626.42	103290.45	105581.28	106010.31
Addition of Equity due to Additional capital Expenditure	(-) 100.03	1664.03	2290.83	429.03	102.30
Normative Equity-Closing	101626.42	103290.45	105581.28	106010.31	106112.61
Average Normative Equity	101676.43	102458.43	104435.86	105795.79	106061.46
Return on Equity (Base Rate)	15.500%	15.500%	15.500%	15.500%	15.500%
Tax Rate for the year 2008-09	33.990%	33.990%	33.990%	33.990%	33.990%
Rate of Return on Equity (Pre Tax)	23.481%	23.481%	23.481%	23.481%	23.481%
Return on Equity(Pre Tax)- Annualised	23874.64	24058.26	24522.58	24841.91	24904.29

Interest on loan

14. Interest on loan computation in the table under paragraph 44 is revised as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Gross opening loan	102225.43	101992.03	105874.77	111220.03	112221.10
Cumulative repayment of loan upto previous year	100982.93	101992.03	105874.77	110476.29	112221.10
Net Loan Opening	1242.50	0.00	0.00	743.74	0.00
Addition due to Additional capitalisation	(-) 233.40	3882.75	5345.26	1001.07	238.70
Repayment of loan during the year	1452.36	3880.09	4601.52	1744.81	238.70
Less: Repayment adjustment on account of de-capitalization	443.66	0.00	0.00	0.00	0.00
Add: Repayment adjustment on account of discharges / reversals corresponding to un-discharged liabilities deducted as on 1.4.2009	0.40	2.65	0.00	0.00	0.00
Net Repayment	1009.10	3882.75	4601.52	1744.81	238.70
Net Loan Closing	0.00	0.00	743.74	0.00	0.00

Average Loan	621.25	0.00	371.87	371.87	0.00
Weighted Average Rate of Interest on Loan	6.6927%	6.2103%	5.1314%	4.2900%	4.2900%
Interest on Loan	41.58	0.00	19.08	15.95	0.00

Depreciation

15. The necessary calculations in support of depreciation in the table under para 47 of the order is revised as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Opening capital cost	203951.87	203618.44	209165.22	216801.31	218231.41
Closing capital cost	203618.44	209165.22	216801.31	218231.41	218572.41
Average capital cost	203785.16	206391.83	212983.27	217516.36	218401.91
Depreciable value @ 90%	180756.95	183102.96	189035.25	193115.04	193912.03
Remaining useful life at the beginning of the year	12.55	11.55	10.55	9.55	8.55
Balance depreciable value	47616.13	46656.15	48546.06	48024.33	43792.60
Depreciation (annualized)	3794.11	4039.49	4601.52	5028.73	5121.94
Cumulative depreciation at the end	136934.94	140486.30	145090.71	150119.44	155241.38
Less: Cumulative depreciation reduction due to de-capitalization	488.56	0.00	0.00	0.00	0.00
Less: Cumulative depreciation adjustment on account of discharges / reversal of liabilities out of liabilities deducted as on 01.04.2009	(-) 0.44	(-) 2.89	0.00	0.00	0.00
Net Cumulative depreciation (at the end of the period)	136446.81	140489.19	145090.71	150119.44	155241.38

Interest on Working Capital

16. The Receivable component of the working capital is revised as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Variable Charges -2 months	18225.81	18225.81	18275.75	18225.81	18225.81
Fixed Charges - 2 months	8303.95	8537.95	8888.03	9192.28	9397.93
Total	26529.76	26763.76	27163.78	27418.09	27623.74

17. The calculation of Interest on working capital in the table under para 62 of the order is revised as under:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Coal Stock – 1.1/2 month	13669.36	13669.36	13706.81	13669.36	13669.36
Oil Stock – 2 months	203.24	203.24	203.80	203.24	203.24
O&M expenses – 1 month	1274.00	1346.80	1423.80	1505.70	1591.80
Maintenance Spares	3057.60	3232.32	3417.12	3613.68	3820.32
Receivables – 2 months	26529.76	26763.76	27163.78	27418.09	27623.74
Total working capital	44733.96	45215.49	45915.31	46410.07	46908.46
Rate of interest	12.2500%	12.2500%	12.2500%	12.2500%	12.2500%
Interest on working capital	5479.91	5538.90	5624.63	5685.23	5746.49

Annual Fixed Charges

18. Based on the above discussions, the annual fixed charges for the period 2009-14 are revised as under.

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	3794.11	4039.49	4601.52	5028.73	5121.94
Interest on Loan	41.58	0.00	19.08	15.95	0.00
Return on Equity	23874.64	24058.26	24522.58	24841.91	24904.29
Interest on Working Capital	5479.91	5538.90	5624.63	5685.23	5746.29
O&M Expenses	15288.00	16161.60	17085.60	18068.40	19101.60
Cost of secondary fuel Oil	1219.45	1219.45	1222.79	1219.45	1219.45
Compensation Allowance	126.00	210.00	252.00	294.00	294.00
Special Allowance	0.00	0.00	0.00	0.00	0.00
Total	49823.69	51227.70	53328.20	55153.67	56387.57

19. The difference between the annual fixed charges determined by this order and those determined by order dated 23.5.2012 shall be adjusted by the parties.

20. Except the above, all other terms contained in the order dated 23.5.2012 remains unchanged.

21. Review Petition No. 19/2012 is disposed of in terms of the above

Sd/-
[V. S. Verma]
Member

Sd/-
[S. Jayaraman]
Member

Sd/-
[Dr. Pramod Deo]
Chairperson