

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 195/2009

Coram

Dr. Pramod Deo, Chairperson

Shri S. Jayaraman, Member

Shri V.S.Verma, Member

Shri M.Deena Dayalan, Member

Date of Order: 26.2.2013

In the matter of

Revision of annual fixed charges for Talcher STPS, Stage-I (1000 MW) in terms of the judgment of the Appellate Tribunal for Electricity dated 2.1.2013 in Appeal No. 99/2011.

And in the matter of

Determination of revised fixed charges due to additional capital expenditure incurred during the period 2004–09 respect of Talcher STPS, Stage- I (1000 MW).

And in the matter of

NTPC Ltd, New Delhi

.....**Petitioner**

Vs

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

....**Respondents**



ORDER

The petitioner had filed this petition for approval of revised fixed charges after considering the impact of additional capital expenditure incurred during the period 2004-09 for Talcher STPS, Stage-I (1000 MW), (hereinafter referred to as “the generating station”) based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 (hereinafter referred to as “the 2004 Tariff Regulations”) and the Commission by its order dated 20.1.2011 revised the annual fixed charges for the generating station. Aggrieved by the said order, petitioner filed Review Petition (R.P. No.1/2011) raising the following issues:

(a) Disallowance of exclusion of de-capitalization of “bogie” for ₹23.61 lakh during the year 2007-08.

(b) Non-consideration of escalation of 6% per annum in the maintenance spares cost based upon historical cost of the station as on COD, for the period from 1.7.1997 (COD) to 31.3.1998 for calculating interest on working capital (IWC) for the period 2004-09.

(c) Consideration of opening capital cost in place of average capital cost for determining the total depreciable value during the corresponding year.

2. The review application was disposed by the Commission at the admission stage on 1.6.2011 by rejecting the prayer in sub-clause (a) above pertaining to the exclusion of de-capitalisation of bogie for ₹23.61 lakh during 2007-08 and after rectification of the errors in respect of the issues raised in sub-clause (b) and (c) in paragraph 1 above. Against the said order dated 1.6.2011, the petitioner filed Appeal No. 99/2011 before the Appellate Tribunal for Electricity (the Tribunal) raising the following issues:

(a) Treatment of de-capitalization of Wagons as exclusion;

(b) Treatment of de-capitalization of Bogies as exclusion;

(c) Exclusion of the cost of initial spares for computation of interest on working capital.



3. Meanwhile, the Commission by its order dated 23.6.2011 in Petition No.195/2009 revised the annual fixed charges of the generating station for the period 2004-09 after taking into consideration the order dated 1.6.2011 in Review Petition No.1/2011 and the directions contained in the judgment of the Tribunal dated 13.6.2007 in respect of the five issues, subject to the final outcome of the Civil Appeals pending before the Hon'ble Supreme Court. The annual fixed charges approved by order dated 23.6.2011 in Petition No. 195/2009 are as under:

	(₹ in lakh)				
	2004-05	2005-06	2006-07	2007-08	2008-09
Interest on loan	6136.32	4836.93	3520.81	2397.06	1645.02
Interest on Working Capital	2009.08	2018.24	2029.01	2048.24	2074.33
Depreciation	8884.93	8883.91	8870.79	8874.84	8910.78
Advance Against Depreciation	0.00	0.00	0.00	0.00	0.00
Return on Equity	17597.45	17596.24	17580.63	17585.45	17628.17
O & M Expenses	9360.00	9730.00	10120.00	10520.00	10950.00
Total	43987.78	43065.31	42121.24	41425.59	41208.30

3. The Tribunal by its judgment dated 2.1.2013 while rejecting the issue at paragraph 2(a) and (b) above, decided the issue in 2(c) above in favour of the petitioner and directed the Commission to pass consequential orders in terms of the said judgment.

4. The Tribunal in its judgment dated 2.1.2013 while allowing the prayer of the petitioner for inclusion of the value of initial spares for determination of the amount of maintenance spares for computation of interest on working capital has observed as under:

"19. As pointed out by the Learned Counsel for the Appellant, this issue has already been decided by this Tribunal and ordered in favour of the NTPC by various judgments of this Tribunal. One of the recent judgments is rendered in Appeal No.169 of 2010 dated 31.5.2011. The relevant portion of the judgment on this issue is as follows:

15. Admittedly, the Central Commission has not followed this Regulation quoted above which states the value of the maintenance spares should be taken at 1% of the historical cost escalated at 6% per annum from the date of commercial operation. This would make it clear that the Central Commission excluded the cost of initial spares from the

historical capital cost on which the working capital is calculated even though such cost of initial spares duly formed part of capital cost as per the Regulation 21 (v) (a) (iv) of the Tariff Regulation.

16. Therefore, the findings on this issue in the impugned order is set aside. The Central Commission is directed to pass a consequential order in the light of the Regulations referred to above. Accordingly, this issue is decided."

5. Regulation 21 (v) (a) (iv) of the 2004 Tariff Regulations provides as under:

(v) Interest on Working Capital

(a) Working Capital shall cover

Coal based/Lignite fired generating stations

(i).....

(ii).....

(iii).....

(iv) Maintenance spares @ 1% of the historical cost escalated @ 6% per annum from the date of commercial operation; and

(v).....”

6. Accordingly, in compliance with the directions contained in the judgment of the Tribunal and after taking into consideration the relevant provisions of the 2004 Tariff Regulations, the annual fixed charges of the generating station has been revised as discussed below.

7. After inclusion of the value of initial spares for determination of maintenance spares, the computation of interest on working capital is revised as under:

	(₹ in lakh)				
	2004-05	2005-06	2006-07	2007-08	2008-09
Coal Stock – 1.5 months	3096.08	3096.08	3096.08	3104.56	3096.08
Oil Stock- 2 months	312.26	312.26	312.26	313.12	312.26
O & M expenses	780.00	810.83	843.33	876.67	912.50
Maintenance Spares	3729.38	3946.96	4182.55	4437.24	4720.01
Receivables	11773.21	11619.56	11462.31	11358.64	11310.37
Total Working Capital	19690.94	19785.69	19896.54	20090.23	20351.23
Rate of Interest	10.2500%	10.2500%	10.2500%	10.2500%	10.2500%
Total Interest on Working capital	2018.32	2028.03	2039.40	2059.25	2086.00

8. Consequently, the annual fixed charges of the generating station for the period from 1.4.2004 to 31.3.2009 is revised as under:

	2004-05	2005-06	2006-07	2007-08	2008-09
Interest on loan	6136.32	4836.93	3520.81	2397.06	1645.02
Interest on Working Capital	2018.32	2028.03	2039.40	2059.25	2086.00
Depreciation	8884.93	8883.91	8870.79	8874.84	8910.78
Advance Against Depreciation	0.00	0.00	0.00	0.00	0.00
Return on Equity	17597.45	17596.24	17580.63	17585.45	17628.17
O & M Expenses	9360.00	9730.00	10120.00	10520.00	10950.00
Total	43997.02	43075.11	42131.62	41436.59	41219.97

9. The annual fixed charges determined by this order are subject to the outcome of Civil Appeals filed by the Commission which are pending before the Hon'ble Supreme Court.

10. The petitioner shall claim the difference in respect of the tariff determined by order dated 23.6.2011 and the tariff determined by this order from the beneficiaries in three equal monthly installments.

Sd/-
[M. Deena Dayalan]
Member

Sd/-
[V.S. Verma]
Member

Sd/-
[S. Jayaraman]
Member

Sd/-
[Dr. Pramod Deo]
Chairperson

