

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Review Petition No. 15/2012**

**in**

**Petition No. 270/2009**

**Coram:**

**Dr. Pramod Deo, Chairperson**

**Shri S. Jayaraman, Member**

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

**Date of Hearing: 25.9.2012**

**Date of Order: 29.4.2013**

**IN THE MATTER OF**

Review of order dated 23.5.2012 in Petition No.270/2009 regarding determination of generation tariff for Auraiya Gas Power Station (663.36 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 Ltd., Lucknow
2. Jaipur Vidyut Vitran Nigam Ltd., Jaipur
3. Ajmer Vidyut Vitran Nigam Ltd., Ajmer
4. Jodhpur Vidyut Vitran Nigam Ltd., Jodhpur
5. Tata Power Delhi Distribution Ltd., Delhi
6. BSES Rajdhani Power Ltd., New Delhi
7. BSES Yamuna Power Ltd., Delhi
8. Haryana Power Purchase Centre, Haryana
9. Punjab State Power Company Ltd, Patiala
10. Himachal Pradesh State Electricity Board, Shimla
11. Power Development Department (J&K), Government of J&K, Jammu
12. Power Department, Union Territory of Chandigarh, Chandigarh
13. Uttrakhand Power Corporation Ltd., Dehradun

**.....Respondents**

**Parties Present:**

Shri Ajay Dua, NTPC

Shri C. K. Mondol, NTPC

Shri Rohit Chhabra, NTPC

Shri A. Basuroy, NTPC



Shri Shankar Saran, NTPC  
 Shri Sameer Aggarwal, NTPC  
 Shri. Sudesh K Jain, NTPC  
 Shri Rajiv Kumar, NTPC  
 Shri R. B. Sharma, Advocate, BRPL  
 Shri Padamjit Singh, PSPCL  
 Shri A.N.Ghosh, Consultant

## ORDER

Petition No. 270/2009 was filed by the petitioner, NTPC, for approval of generation tariff in respect of Auraiya Gas Power Station (663.36 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 23.5.2012 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	251595.54	252535.01	253088.98	253834.98	254904.98
Additional capital expenditure	939.47	553.97	746.00	1070.00	1240.00
<b>Closing Capital cost</b>	<b>252535.01</b>	<b>253088.98</b>	<b>253834.98</b>	<b>254904.98</b>	<b>256144.98</b>
<b>Average Capital cost</b>	<b>252065.28</b>	<b>252811.99</b>	<b>253461.98</b>	<b>254369.98</b>	<b>255524.98</b>

2. The annual fixed charges approved by Commission *vide* order dated 23.5.2012 is as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	12.69	15.81	45.20	313.04	1460.18
Interest on Loan	87.05	89.65	113.22	350.54	1196.22
Return on Equity	8718.39	8723.37	8754.25	9015.64	9954.40
Interest on Working Capital	4152.15	4191.15	4242.53	4292.83	4399.55
O&M Expenses	9817.73	10381.58	10971.97	11602.17	12265.53
<b>Total</b>	<b>22788.01</b>	<b>23401.56</b>	<b>24127.17</b>	<b>25574.22</b>	<b>29275.88</b>

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

(a) Wrong consideration of balance life of 15.59 years as on 1.4.2009 instead of 6.57 years.

4. The matter was heard on 19.7.2012 on 'admission'. Based on the submission of the petitioner, the Commission vide its interim order dated 31.7.2012 admitted the review petition on the issue mentioned above. Reply to the petition has been filed by UPPCL (respondent no.1) and BRPL (respondent no. 6). 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.

**Wrong consideration of balance life of 15.59 years as on 1.4.2009 instead of 6.57 years**

6. The Commission in its order dated 23.5.2012 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:

"48. 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 GT and their weighted average period of operation on above dates and weighted average life are as under:

Description	Capacity MW	COD	Elapsed life up to 31.3.2009	Extension of life of 15 years for GTs	Balance life as on	
					1.4.2009	1.4.2014
GT-I	111.19	1.10.1990	18.50	23.50		
GT-II	111.19	1.10.1990	18.50	23.50		
GT-III	111.19	1.11.1990	18.42	23.42		
GT-IV	111.19	1.11.1990	18.42	23.42		
ST-I	109.3	1.11.1990	18.42	23.42		
ST-II	109.3	1.12.1990	18.33	23.33		
<b>Total</b>	<b>663.36</b>		<b>18.43</b>	<b>23.43</b>	<b>15.59</b>	<b>10.59</b>

49. The weighted average of the elapsed life (period of operation) of the generating station, as on 1.4.2009 works out to 18.43 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 would be completed by 31.3.2014. The weighted average of the period of

operation of the generating station as on 31.3.2014 works out to 23.43 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 34.02 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 15.59 years as on 1.4.2009 and 10.59 years as on 1.4.2014.

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

"6. The Hon'ble Commission while determining the balance useful life of the generating station after R&M for the purpose of Depreciation, has at para 48 of the said order , calculated the balance life of station as on 1.4.2014 as 10.59 years. The same has been calculated on the premise that the major part of R&M works would be completed by 31.3.2014 and therefore 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 34.02 years in relation to the date of commercial operation (COD) of the respective units of the generating station.

7. It is submitted that the Hon'ble Commission has calculated the extended balance life of 10.59 years as 1.4.2014 considering the life extension of GTs post R&M. The period prior to 1.4.2014, therefore, is the period before life extension through R&M. The residual life in the period 2009-14 would therefore be based on original COD and the life of 25 years as now provided in the Tariff Regulations, 2009 for combined cycle gas projects.

...Accordingly, the residual life at the beginning of each FY for the period 2009-14 will be as follows:

2009-10	2010-11	2011-12	2012-13	2013-14
6.57	5.57	4.57	3.57	2.57

The depreciation for each year and consequent loan repayment shall therefore be calculated based on the balance life at the beginning of each year.

8. NTPC, therefore, respectfully submits that by recognizing the life extension only from 1.4.2014 (post R&M) but at the same time considering the extended life from 1.4.2009 itself (pre R&M) by the Hon'ble Commission, there is an error apparent on the record in regard to the wrong consideration of balance life as on 1.4.2009 as 15.59 years instead of 6.57 years and there are sufficient grounds for rectifying the order in regard to the same. The same may therefore be rectified."

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 23.5.2012 such as, the weighted average life of the generating station after R&M of GT should be 38.43 years instead of 34.02 years, the extended balance life as on 1.4.2014 being 15 years instead of 10.59 years and the balance life as on 1.4.2009 to be 20 years and not 15.59 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 23.8.2012 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 ₹272.27 crore during 2009-14, is a case for considering the revision of balance life of the plant to be 15.59 years as on 1.4.2009. The petitioner in its rejoinder has objected to the above submissions.

9. Pursuant to the hearing of the matter on 25.9.2012, 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.28/GT/2013 in respect of this generating station on 27.7.2012 based on the actual progress/award position of various schemes for the years 2009-10, 2010-11 and 2011-12 and the revised projected expenditure for the years 2012-13 and 2013-14 and as indicated in page 14 of the said petition, the R&M expenditure on Gas Turbines has been revised as the same is likely to materialize during the tariff period 2014-19. It has also 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 calculation of depreciation no longer survives in case of this generating station during the current tariff period.

10. The submissions of the petitioner in its affidavit dated 9.4.2013 are taken on record. In Petition No.28/GT/2013 filed by the petitioner on 27.7.2012 for revision of tariff of the generating station for 2009-14 based on trueing up exercise, it is noticed from the submissions of the petitioner in Form-9 of the petition that major part of R&M on GTs have been postponed based on the actual progress/award position of various schemes and these works are expected to be capitalized beyond March, 2014. In other words, the expenditure on R&M of GTs has been revised and is likely to materialize during the next tariff period i.e 2014-19. Consequent upon this, 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, this review petition is dismissed as infructuous.

11. 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.28/GT/2013, based on the submissions of the parties there under.

12. Review Petition No. 15/2012 is disposed of in terms of the above.

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

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

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

