

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 121/MP/2011**

Subject : Petition for recovery of additional cost incurred due to abnormal increase in water charges at NTPC stations.

Date of hearing : 8.5.2014

Coram : Shri Gireesh B. Pradhan, Chairperson  
Shri M.Deena Dayalan, Member  
Shri A.K. Singhal, Member

Petitioner : NTPC Limited, New Delhi

Respondents : Uttar Pradesh Power Corporation Limited and others

Parties present : Shri M.G.Ramachandran, Advocate, NTPC  
Ms. Anushree Bardhan, Advocate, NTPC  
Ms. Swagatika Sahoo, Advocate, NTPC  
Shri Ajay Dua, NTPC  
Shri Rajiv Kumar, NTPC  
Shri Padamjit Singh, PSPCL  
Shri T.P.S.Bawa, PSPCL  
Shri Manish Garg, UPPCL  
Shri R.B.Sharma, Advocate, GRIDCO, BRPL & JSEB  
Shri S. Vallinayagam, Advocate, TANGEDCO  
Shri K. Thenmozhi, TANGEDCO  
Shri Arvind Banerjee, CSPDCL  
Shri S.R. Sarangi, GRIDCO  
Shri Anurag Naik, MPPMCL

**Record of Proceedings**

Learned counsel for the petitioner submitted that by virtue of State Government notification, there was increase in water charges in respect of NTPC stations located in States of Orissa, Chhattisgarh and Madhya Pradesh. Learned counsel further submitted that the increase in water charges was in terms of statutory notification and is beyond the control of the petitioner. The Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (2009 Tariff Regulations) provide for normative O&M expenditure inclusive of water charges based on the pre-existing water charges. Hence, the petitioner is deprived of actuals. He further submitted that the present

petition is similar to the Petition No. 35/MP/2011 in which the Commission vide order dated 12.10.2012 allowed the increase in employee cost as additional O & M charges.

2. Learned counsel for GRIDCO submitted as under:

(a) The increase in the O&M expenses allowed by the Commission during tariff period 2009-14 has been quite substantial in comparison to the tariff period 2004-09 in actual terms and there is hardly any case for such an increase.

(b) Tariff is a complete package, its reasonability is required to be examined in its totality and hence the issue related to increase in water charges is liable to be rejected.

(c) Safeguarding of consumer interest and at the same time recovery of the cost of electricity in a reasonable manner is an important consideration while framing the tariff regulations under section 61(d) of the Act. The balance is made by the Commission by specifying the Tariff Regulations and specifying norms. Any re-opening of such norm would disturb the balance so made by the Commission.

(d) Since the petitioner does not believe in the sanctity of the norms, the Commission may introduce the concept of truing up and undertake yearly revision of tariff based on the audited information so that all parties are assured that the cost of electricity is reasonable.

(e) Petitioner may be directed to furnish station-wise profit and loss accounts of all the generating stations for the last 5 years which would clearly show the huge profits earned by the generating stations of the petitioner.

3. The representative of the Uttar Pradesh Power Corporation Limited submitted that increase in employee cost allowed by the Commission does not necessarily make the case in favour of the petitioner.

4. The representative of Uttar Pradesh Power Corporation Limited submitted that the total expenses on account of water charges of 22 generating stations of the petitioner have increased from ₹ 90.67 crore in 2008-09 to ₹ 477.73 crore in the year 2012-13. The petitioner was allowed water charges as per O&M expenditure based on actual as per audited financial statements. Since, in 2009 Tariff Regulations, an escalation of 5.72% has already been provided, the petitioner is eligible for only additional expenditure incurred by the petitioner on account of revision in water charges. The representative of Uttar Pradesh Power Corporation Limited requested the Commission to direct the petitioner to provide details of water charges claimed and paid during the period 2001-04 and 2004-09.

5. The representative of Uttar Pradesh Power Corporation Limited referred to CEA's report on designed capacity and actual consumption and submitted that CEA in its report has clarified that power stations were designed with water system with liberal consideration for various requirements and high design margins. The consumptive water requirement for coal-based plants with cooling tower used to be 3.6 m<sup>3</sup>/hrs/MW without ash water circulation and 3.0 m<sup>3</sup>/hrs/MW metric hours with ash water circulation. Therefore, water charges should be determined based on the normative water requirement.

6. The representative of MP Power Management Company Limited submitted that tariff is a complete package and cannot be looked into isolation.

7. The representative of MP Power Management Company Limited submitted that O&M expenses are escalated every year. During 2004-09, there was no increase in water charges but the escalation was provided in normative O &M, where in water is also one component which was retained by the petitioner. The representative of MPPMCL further submitted that water requirement of the thermal plant is to be established before calculating the amount claimed by the petitioner for its thermal plants.

8. Learned counsel for the Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) submitted that the copy of the petition has not been served on TANGEDCO. Learned counsel submitted that the Regulation 44 of the 2009 Tariff Regulations cannot be used to override the regulations. The power to relax cannot be used to modify the Regulation 21 of the 2009 Tariff Regulations, which deals with O&M expenses. Learned counsel further submitted that the claim of the petitioner for payment of "increase in water charges" on actual would be inconsistent with 2009 Tariff Regulations which mandates determination of tariff by the Commission on normative basis. Learned counsel submitted that once tariff order has been passed it cannot be re-opened by filing of the petition. In this regard, learned counsel was relied upon the various judgments of Hon`ble Supreme Court.

9. The representative of Punjab State Power Corporation Limited (PSPCL) requested the Commission to direct the petitioner to file the following information:

- (a) Station-wise and year-wise expenditure on account of O&M and amount recovered from beneficiaries, during 2009-10 to 2013-14;
- (b) Expenditure on fuel;
- (c) Expenditure on running of the station and recovered from the beneficiaries through tariff;

(d) Implementation agreement against cost of water charges

(e) Whether the petitioner has contested the hike in the water charges rate to concerned authority or all legal remedy was exhausted by the petitioner before burdening the consumers.

10. The representative of Chhattisgarh State Power Distribution Company Limited submitted that it has not received copy of the petition and sought two weeks time to file reply to the petition.

11. Learned counsel for the petitioner submitted that information regarding water charges claimed indicating rate and actual water consumption has already been filed under affidavit dated 5.5.2014. In response, the representative of UPPCL submitted that UPPCL has not received the said affidavit dated 5.5.2014.

12. The Commission directed the petitioner to immediately serve copies of the petition and affidavit dated 5.5.2014 on the respondents who have not received the same. The respondents were directed to file their replies by 6.6.2014 with an advance copy to the petitioner, who may file its rejoinder, if any, by 20.6.2013.

13. The Commission further directed PSPCL to file its reply within one week with an advance copy to the petitioner.

14. The petition shall be listed for hearing on 10.7.2014.

By order of the Commission

Sd/-  
(T. Rout)  
Chief (Law)