

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 257/2010

Subject : Approval of tariff of Pragati-III Combined Cycle Power Project (1371 MW) from the date of commercial operation upto 31.3.2014

Date of hearing : 11.11.2014

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

Petitioner : Pragati Power Corporation Limited

Respondents : BSES Yamuna Power Limited & 5 Others

Parties present : Shri Surendra Kumar, PPCL
Shri Rajesh Chattarwal, PPCL
Shri Amit Nagpal, PPCL
Shri R.K. Yadav, PPCL
Shri Suresh Yadav, PPCL
Shri R.B. Sharma, Advocate, BRPL

Record of Proceedings

This petition has been filed by the petitioner, Pragati Power Corporation Limited for determination of tariff of Pragati-III Combined Cycle Power Project (1371 MW) (the generating station) from the date of its commercial operation till 31.3.2014, based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 ("2009 Tariff Regulations").

2. During the hearing, the representative for the petitioner submitted that the information sought by the Commission has been filed and copies served on the respondents. Accordingly, the respondent prayed for approval of capital cost and determination of tariff of the generating station.

3. The learned counsel for the respondent, BRPL, mainly submitted as under:

- (i) Since Block-II of the generating station has attained commercial operation during tariff period 2009-14, the capital expenditure incurred as on CoD in respect of the Block-II is also required to be submitted and to this extent the petition is incomplete. The petitioner may be asked to furnish reasons for variations for different packages.
- (ii) The justification furnished by the petitioner for the reduction of the capacity 1371 MW on the ground of detail engineering at site conditions and operating conditions and the consequent reduction in the capacity has brought about reduction in the capital cost and has not been sufficiently explained. The petitioner may be directed to make clarification for the same.

- (iii) Clarification as to why the State Government withdrew from its commitment to fund the 50% of the debt capital as loan.
- (iv) The details of the Actual/ Projected additional capital expenditure, if any, in Form-9 has not been duly filled, the same may be sought from petitioner.
- (v) The problems narrated by the petitioner are casual problems which are faced day in and day out during the erection of a project of this nature for which EPC contractor is equally responsible. EPC contractor is liable to make good through the LD clause for the delay in the execution of the contract. The petitioner may not be allowed the IDC and IEDC for the time overrun period.
- (vi) The prudence check of time overrun and cost overrun may be considered in terms of the judgment dated 24.7.2011 in Appeal No. 72/2010.
- (vii) The petitioner has not clarified the deductions allowed under Section 80IA of the Income Tax Act, 1961 and its benefits under the project.
- (viii) The petitioner has clarified that the generating station has consumed fuel of ₹86.01 crore from October, 2010 to November, 2011 and the total UI amount received by the generating station upto 20.11.2011 is ₹41.20 crore. The information and details furnished by the petitioner are ambiguous as the revenue earned by the petitioner from sale of infirm power after accounting for the fuel expenses is required to be applied for reduction of the capital cost. The revenue earned is to be reduced from the capital cost as per the proviso to Regulation 11 of the 2009 Tariff Regulations, therefore, upsets the regulatory calculations.
- (ix) With regard to O & M Expenses it has been observed that the amount claimed is more than the normative norms as prescribed in the Tariff Regulations, 2009. No sanctity in the norm based tariff will be left, if these norms are questioned on day-to-day basis. Therefore, exercise of 'Power to Relax' in terms of monetary benefit may not be allowed.

4. In response to the above, the representative of the petitioner, clarified as under:

- (i) The feasibility report prepared by NTPC is for a nominal capacity of 1500 MW. However, based on actual evaluation, the said capacity has been reduced to 1371 MW. The actual configuration of the combined cycle plants was not available and capacity of the generating station differs from site position while making the of feasibility report.
- (ii) The information regarding loan agreement, the additional capitalisation and the year-wise depreciation has already been submitted vide affidavit dated 13.10.2014.

5. On a specific query by the Commission on whether LD has been recovered from the EPC Contractor, the representative of the petitioner clarified that LD has not been adjusted from the total capital cost. The Commission in its provisional tariff order dated 25.5.2012 has deducted the said amount.

6. On a further query, as regards to claim of O & M Expenses higher than the normative values for the period 2011-12, the representative of the petitioner clarified that since O & M Expenses for advance class machines have not been provided under 2009 Tariff Regulation and power to relax has been prayed for. The Commission in similar cases of SUGEN and Ratanagiri stations has already allowed the O & M Expenses for advance class machines in exercise of 'Power to Relax'.

7. The Commission after hearing the parties directed the petitioner to submit additional information, on affidavit, with advance copy to the respondents, on or before 5.12.2014 on the following:

- (i) The detailed break-up of time overrun (in a tabular form) giving reasons of delay and total working days lost due to each reason for delay. Documentary evidence wherever necessary to support the reason for delay and to support the efforts that the petitioner had undertaken to commission the project within the schedule as per the format mentioned in Annexure – I.
- (ii) Cost overrun due to time overrun from scheduled CoD to actual CoD should be quantified with detailed computation, giving break up of increase due to escalation in prices in different contract packages, increase in IDC & FC, increase in IEDC, etc., and increase due to change of scope, if any.
- (iii) Documentary evidence i.e. approval of competent authority for the scheduled COD of different Units/ Blocks considered in additional submission filed on 13.10.2014, for calculation of time overrun.
- (iv) Allocation of water, copy of the agreement with Delhi Jal Board for use of sewage treated water from Rithala sewage plant, actual consumption / supply of sewage water and documentary evidence in respect of actual payments made to Delhi Jal Board for the quantity of water actually used from Rithala sewage plant in respective period.
- (v) Audited Balance Sheet along with all the schedules, of the station for the year 2011-12, 2012-13 and 2013-14.
- (vi) Year-wise details of additional capitalization proposed to be done till the cut off date of the generating station.
- (vii) Detailed unit-wise calculation of IDC, with the editable soft copy.
- (viii) Reasons for not considering deduction and retention of ₹166.89 crore on account of liquidated damage (LD) from M/s BHEL as mentioned under Form 5A while arriving at the capital cost.
- (ix) Furnish relevant schedule of the accounts for each year duly certified by the Auditors.
- (x) Details regarding party-wise and asset-wise un-discharged liability during each year.
- (xi) Weighted average rate of depreciation as well as detailed working of depreciation as given in Form 12 shall be furnished.

8. The above information shall be submitted by the petitioner within the due date mentioned above, failing which the petition shall be disposed of based on available records.

9. Subject to the above, order in the petition was reserved

By Order of the Commission

-S/d-
(T. Rout)
Chief (Legal)

