

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 6/RP/2011**

- Subject : Review of Order dated 31.8.2010 in Petition No. 230/2009 pertaining to fixation of tariff in respect of NLC TPS-I Expansion (2X210MW) for the period from 1.4.2009 to 31.3.2014– In compliance with the judgment of the Appellate Tribunal for Electricity dated 14.7.2014 in Appeal No. 201/2013.
- Date of hearing : 14.10.2014
- Coram : Shri Gireesh B. Pradhan, Chairperson  
Shri M. Deena Dayalan, Member  
Shri A.K. Singhal, Member  
Shri A.S. Bakshi, Member
- Petitioner : Neyveli Lignite Corporation Limited
- Respondents : Tamil Nadu Electricity Board and 3 others
- Parties present : Shri M.G. Ramachandran, Advocate, NLC  
Ms. Anushree Bardhan, Advocate, NLC  
Shri J. Dhasekaran, NLC  
Shri S. Vallinayagam, Advocate, TANGEDCO  
Shri A. Axilium Jayamary, TANGEDCO

**Record of Proceedings**

Pursuant to the judgment of the Appellate Tribunal for Electricity (APTEL) dated 14.7.2014 in Appeal No. 201/2013, the present petition was heard on the issue of "*Disallowance of the capital expenditure for the purchase of turbine rotor for the year 2013-14.*"

2. During the hearing the learned counsel for the petitioner submitted as under:

(a) The matter has been remanded to the Commission for non consideration of the affidavit dated 6.1.2012 filed by the petitioner in Petition No. 230/2009. Accordingly, the merits regarding the claim of the petitioner for capitalization of Spare Turbine Rotor based on the justification given may be considered by the Commission.

(b) In the said affidavit dated 6.1.2012, the reasons for the development of crack in the rotors of Unit-I and Unit-II and the findings of the Original Equipment Manufacturer (OEM) had been submitted. The OEM had strongly recommended for replacement of the rotor with a new one.

(c)The petitioner has acted in a prudent manner in acquiring the Turbine Rotor, removing the turbine rotor which had developed crack and is sustaining the operation of the generating station in the largest interest of the procurers.

(d)The OEM had only provided recommendations for preservation of Steam Turbine during shut down periods but has not stated the non-preservation to be the exact cause for cracking. Even though the petitioner had insisted the OEM to investigate from design and manufacturing angle, the root cause for development of cracks had not been addressed by the OEM.

(e) The affidavit submitted clearly establish that the necessity of Spare Turbine Rotor had arisen without any failure or default or any other factor attributable to the petitioner. The petitioner has a number of generating stations in which such Spare Turbine Rotor are in existence and there has been no instances of failure of such rotor. The Turbine Rotor had developed crack on account of mechanical reason not attributable to the petitioner. *(judgment of the Tribunal dated 27.4.2011 in Appeal No. 72/2010 (MSPGCL &ors -v- MERC was referred to)*

(f) Similar claim of the petitioner for Excitor rotor in Rihand TPS of NTPC was allowed on the ground of efficiency in the operation of the power plant. Also some of the claims for additional capitalization after the cut-off date was allowed for smooth and efficient operation of the generating station in respect of Badarpur TPS and Kahalgaon STPS of NTPC, in exercise relaxation of the provisions under Regulation 44 of the 2009 Tariff Regulations.

(g) Even if the claim is not covered under any of the provisions of the 2009 Tariff Regulations, necessary relief can be granted by the Commission in exercise of its power to relax under Regulation 44 of the 2009 Tariff Regulations *(judgments of the Hon'ble SC regarding the exercise of Power to relax was referred to)*

(h) Accordingly, the Commission may consider the submissions of the petitioner in the said affidavit dated 6.1.2012 and the capitalization towards procurement of Spare rotor may be allowed.

3. In response, the learned counsel for the respondent, TANGEDCO submitted as under:

(a)The procurement of spare turbine rotor as additional capitalization under Regulation 9(2)(i) of the 2009 Tariff Regulations was rightly disallowed by the Commission in order dated 31.8.2010 in Petition No. 230/2009 on the ground that procurement of spare rotor after the cut-off date does not fall under the provisions of the Regulations.

(b)The petitioner in this review petition has submitted that only after major overhaul conducted on 6.10.2009, the defects on the steeples of row have been detected and immediately informed the OEM. The details of the dates of communication with OEM and the defects noticed in the rotor after conducting the overhaul on 6.10.2009 had not been furnished by the petitioner. The additional capitalization claimed as spares in Petition No. 230/2009 has been now claimed as replacement due to crack in rotor.

(c)The OEM in its recommendations had mentioned that no preservation procedures have been put in place by the petitioner during shut down periods.

(d) The inclusion of the claim for ₹4000 lakh on this item will escalate the ceiling norms to 6.29% of the revised capital cost allowed in Petition No. 230/2009.

(e)The claim of the petitioner for the said expenditure in Petition No.230/2009 was under Regulation 9(2)(i) which was earlier rejected by the Commission in order dated 31.8.2010. However, the petitioner has argued for the consideration of the said expenditure under Regulation 9(2)(iv) of the 2009 Tariff Regulations or in exercise of the 'Power to relax' under Regulation 44 of the 2009 Tariff Regulations though no formal prayer had been made in the original petition or in the affidavit dated 61.2011. The prayer of the petitioner is not permissible since there are definitive limits to the scope of review. Even otherwise, the claim of the petitioner under Regulation 9(2)(iv) cannot be considered since capitalization under the said provision is applicable only for hydro generating stations.

(f) The additional capital expenditure claim could be met from the Compensation Allowance permissible to the generating station after completion of 10 years of useful life in terms of Regulation 19(e) of the 2009 Tariff Regulations.

4. The Commission after hearing the parties reserved its order in the petition.

By order of the Commission

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