

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No. 143/MP/2015
With I.A.No. 2542015**

- Subject : Petition under section 79 of the Electricity Act, 2003 for providing clarification on sharing of capacity charges among beneficiaries of the generating station as per Regulation 30 (4) of Central Electricity Regulatory Commission (Terms and Conditions of tariff) Regulations, 2014 read with Regulation 42 of the Central Electricity Regulatory Commission(Terms and Conditions of tariff) Regulations, 2014.
- Date of hearing : 19.11.2015
- Coram : Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member
- Petitioner : NTPC Limited
- Respondents : Western Regional Power Committee and others
- Parties present : Ms. Suchitra Maggon, NTPC
Shri Rajesh Jain, NTPC
Shri Rajnish Bhagat, NTPC
Shri Nishant Gupta, NTPC
Shri S. Vallinayagam, Advocate, TANGEDCO
Shri R.B. Sharma, Advocate, GRIDCO and BRPL
Shri Aashish Bernard, Advocate, MPPMCL
Shri Anurag Naik, MPPMCL
Shri Rishabh Singh, MPPMCL
Shri Anil. J, KSEBL
Shri Latha S.V., KSEBL

Record of Proceedings

Learned counsel for GRIDCO and BRPL submitted that the petition has been filed under Regulation 30 (4) read with Regulation 42 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as "2014 Tariff Regulations"). Regulation 30 (4) deals with the incentive to a generating station and it does not deal with the sharing of capacity charges among

beneficiaries of generating station which is subject matter in the petition. Learned counsel submitted that Regulation 30 of the 2014 Tariff Regulations deals with the calculation of the capacity charges on monthly basis payable by the beneficiaries. The formulae for calculation of monthly capacity charge for all the 12 months in the year would show that the only variable factor in the calculation of monthly capacity charge is Percent Plant Availability Factor during the month, actually attained by the generating station. As per the proviso under Regulation 30 (2) of the 2014 Tariff Regulations, if a generating station is under shutdown due to Renovation and Modernization, the generating company would be allowed to recover part of AFC which shall include O&M expenses and interest on loan. It is under this situation, Percent Plant Availability Factor achieved up to the end of the month would be taken into consideration for calculation of the capacity charge.

2. The representative of the Kerala State Electricity Board Limited submitted that Regulation 42 of the 2014 Tariff Regulations stipulates the procedure for sharing of capacity charges among the beneficiaries of the generating station. As per the said provision, the fixed cost of a thermal generating station shall be as computed and recovered on monthly basis under capacity charge based on formula stipulated in Regulation 30 (2) of the 2014 Tariff Regulations. However, the petitioner is seeking to share the capacity charges among beneficiaries based on the cumulative share of allocation up to the month of billing. The petitioner is also not doing year-wise reconciliation.

3. Learned counsel for MPPMCL submitted that the petitioner has sought a clarification that beneficiaries are liable to pay the capacity charges in the ratio of allocation upto the month and not restricted to availability/entitlement during the said month. He further submitted that Regulation 30 (1) provides that the total capacity charges payable for a generating shall be shared by its beneficiaries as per respective percentage share/allocation in the capacity of the generating station. Therefore, it implies that when there is no share in the capacity of the generating station for a particular beneficiary, that beneficiary would not be required to pay the capacity charges of that generating station. As per Regulation 40 (2), the payment of capacity charges shall be shared by the beneficiaries of the beneficiaries as per their percentage shares for the month. However, where there is no allocation of share in the installed capacity of the generating station, the beneficiaries would not be required to pay the capacity charges for that particular month. Learned counsel for MPPMCL further submitted that MOP had allocated 285 MW surrendered firm share of Delhi from Badarpur TPS and 99 MW out of the unallocated power from 1st unit of Barh STPS with effect from 1.10.2014 and 15.11.2014 respectively. On the request of Govt. of Madhya Pradesh, Ministry of Power cancelled the above allocation vide its letter dated 24.12.2014. However, NTPC has raised the bills even after the cancellation of allocation by Ministry of Power and has claimed that the billing has been done in accordance with the 2014 Tariff Regulations. Learned counsel requested to direct the petitioner to raise the bills for capacity charges strictly in accordance with the provisions of Regulation 42 of the

2014 Tariff Regulations i.e. on the basis of “for the month” and not on the basis of “up to the month”.

4. Learned counsel for TANGEDCO submitted as under:

(a) 2014 Tariff Regulations provides that the capacity charges for a thermal generating station shall be shared by the beneficiaries as per their percentage share for the month. However, due to change in allocation from month to month percentage allocation for the month and the cumulative percentage allocation upto the month would be different thus leading to difference in capacity charges sharing amongst the beneficiaries.

(b) In the methodology adopted by the petitioner, if a beneficiary surrenders its full share during a month and the same is allocated to others, the surrendered beneficiary is liable to pay the capacity charges even though there is no drawl of power during the respective months.

(c) Even though there is no allocation/no drawal of share during certain months in respect of a beneficiary, under cumulative allocation method such beneficiary is liable to pay the capacity charges to the extent of upto 3-4% of the total capacity charges. The beneficiaries who are allocated lower shares during certain months are also liable to pay in excess of the actual allocation under the cumulative allocation methodology adopted by NTPC, which is against the interest of the beneficiaries.

5. The representative of the petitioner requested for time to file rejoinders to the replies filed by BRPL, GRIDCO and JVVNL.

6. After hearing the learned counsels for the parties, the Commission directed the petitioner to file its rejoinders to the replies of BRPL, GRIDCO and JVVNL by 18.12.2015.

7. The Commission directed the petitioner to furnish the following information, on affidavit, by 18.12.2015 for the year 2014-15 in respect of any one generating station of NTPC where un-allocated quota were re-allocated:

(a) The capacity charges payable for each month of the year by the beneficiaries as per their respective percentage of shares / allocations on monthly basis as well as cumulative basis for the generating station; and

(b) The difference in payments in each month for each beneficiary.

8. The Commission directed that due date of filing the information shall be strictly complied with and no extension on that account shall be granted.

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

By order of the Commission

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