

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 25/RP/2016

In

Petition No. 205/GT/2013

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri A.K. Singhal, Member

Shri A.S. Bakshi, Member

Dr. M.K. Iyer, Member

Date of Order: 27.12.2016

In the matter of

Review of Commission's order dated 14.3.2016 in Petition No. 205/GT/2013 regarding approval of generation tariff of Rihand Super Thermal Power Station-III, (1000 MW) for the period from the actual date of commercial operation of Unit-I & II to 31.3.2014.

And

In the matter of

NTPC Ltd
NTPC Bhawan,
Core-7, SCOPE Complex,
7, Institutional Area, Lodhi Road,
New Delhi-110003

.....**Petitioner**

Vs

1. Uttar Pradesh Power Corporation Ltd
Shakti Bhawan, 14, Ashok Marg,
Lucknow – 226001
2. Jaipur Vidyut Vitaran Nigam Ltd.,
Vidyut Bhawan, Janpath, Jaipur – 302005
3. Jodhpur Vidyut Vitaran Nigam Ltd.
New Power House, Industrial Area,
Jodhpur – 342003
4. Ajmer Vidyut Vitaran Nigam Ltd.
Old Power House, HatthiBhatta,
Jaipur Road, Ajmer – 305001
5. Tata Power Delhi Distribution Ltd
33 kV Sub-station, Kingsway Camp,
Delhi –110009



6. BSES Rajdhani Power Ltd
2nd Floor, B-Block BSES Bhawan,
Nehru Place, New Delhi – 110019
7. BSES Yamuna Power Ltd Shakti
Kiran Building, Kakardooma,
Delhi – 110 092
8. Haryana Power Purchase Centre,
Shakti Bhawan, Sector, VI
Panchkula – 134109
9. Punjab State Power Corporation Limited
The Mall, Secretariat Complex,
Patiala – 147001
10. Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Kumar House,
Shimla-171004
11. Power Development Department,
Govt of J&K, Secretariat, Srinagar
12. Engineering Department,
Union Territory of Chandigarh,
Sector 9D, Addl. Office Building
Chandigarh-160009
13. Uttarakhand Power Corporation Ltd,
Urja Bhawan, Kanwali Road,
Dehradun-248001

.....Respondents

Parties present:

Shri Ajay Dua, NTPC
Shri R. K. Sood, NTPC
Shri Neeraj Kumar, NTPC
Shri Nishant Gupta, NTPC
Shri A.K. Bishoi, NTPC
Shri Rajeev Chaudhary, NTPC
Shri Bhupinder Kumar, NTPC
Shri R.B. Sharma, Advocate, BRPL
Ms. Megha Bajpeyi, BRPL

ORDER

This application has been made by the petitioner, NTPC, for review of order dated 14.3.2016 in Petition No 205/GT/2013, whereby the Commission had determined the tariff of Rihand Super Thermal Power Station-III (1000 MW) (the generating station) for the period from the actual date of commercial operation of Units-I & II to 31.3.2014 in terms of the Central Electricity Regulatory Commission



(Terms and Conditions of Tariff) Regulations, 2009 ('the 2009 Tariff Regulations'). Accordingly, the annual fixed charges determined by order dated 14.3.2016 is summarized as under:

(₹ in lakh)

	2012-13	2013-14	
	19.11.2012 to 31.3.2013	1.4.2013 to 26.3.2014	27.3.2014 to 31.3.2014
Depreciation	14344.82	18317.08	32862.23
Interest on Loan	11875.48	13620.74	23941.66
Return on Equity	11171.89	14619.58	25877.97
Interest on Working Capital	3110.20	3268.42	6372.69
O&M Expenses	6528.00	6902.00	13804.00
Secondary fuel oil cost	2270.99	2270.99	3983.04
Annual Fixed Charges	49301.39	58998.81	106841.59

2. Aggrieved by the said order dated 14.3.2016, petitioner has sought review of the said order on the following issues:

- (i) Non consideration of reduced IEDC in the capital cost;
- (ii) Consideration of less liability discharge.
- (iii) Deduction of (-) ₹389.67 lakh of Loan ERV from the capital cost;
- (iv) Consideration of annualized values for repayments of loan/depreciation recovered for part periods instead of periodic value;
- (v) Consideration of wrong rate of Interest on Working Capital;
- (vi) Error in computation of receivables for the period from COD of Unit-I (i.e. 19.11.2012) to 31.3.2014 and weighted average GCV of coal for the period from COD of Unit-II (i.e. 27.3.2014) to 31.3.2014;

3. The Commission by interim order dated 8.8.2016 admitted the review petition on all issues mentioned above and ordered notice to the respondents. The respondents, UPPCL and BRPL have filed their replies in the matter and the petitioner has filed its rejoinder to the reply filed by UPPCL.

4. During the hearing of the review petition, the representative of the petitioner pointed out certain errors in the impugned order and prayed for rectification of the errors in exercise of the power of review by the Commission. The respondents have submitted that only those mistakes or errors apparent on the face of the order should be rectified by the Commission in terms of Order 47 Rule 1 of the Civil Procedure Code. Based on the submissions of the parties and the documents available on



record, we proceed to examine the issues raised in the petition as stated in the subsequent paragraphs.

Non-consideration of reduced IEDC in Capital cost

5. The petitioner has submitted that the Commission in order dated 14.3.2016 has disallowed IEDC of ₹320.88 lakh on account of non-consideration of delay of 47 days in respect of Unit-II whereas the said amount has not been deducted from the opening capital cost as on 27.3.2014. As a result, excess capital cost has been calculated incorrectly which may be rectified by adjusting the disallowed of ₹320.88 lakh. The respondent, BRPL has submitted that this is an error on the face of record which needs to be rectified in review.

6. The matter has been examined. The Commission has not condoned the delay of 47 days for COD of Unit-II (i.e. 27.3.2014) while calculating the capital cost for the period from 27.3.2014 to 31.3.2014 and has allowed the *pro rata* deduction of the overhead expenses (IEDC of ₹320.88 lakh) on account of the said delay. However, the said amount has been inadvertently not deducted from the opening capital cost, thereby allowing excess capital cost to the petitioner. This in our view is an error apparent on the face of the record which satisfies the condition of review in terms of Rule 1 Order 47 of the Code of Civil Procedure. Review on this ground is allowed and accordingly, the said amount of ₹320.88 lakh has been deducted from the opening capital cost of the generating station for the period from COD of Unit-II (27.3.2014) to 31.3.2014.

Consideration of less liability discharge

7. The petitioner has submitted that the Commission in its order dated 14.3.2016 had considered and allowed capitalization of the discharged liability of ₹1655.69 lakh during the period from 27.3.2014 to 31.3.2014. However, in para 87 of the impugned order, the Commission while calculating the opening the capital cost as on 27.3.2014



had considered the discharged liability of ₹1628.00 lakh instead of ₹1655.69 lakh. The petitioner has submitted that this is an arithmetical error and may be rectified through review. The respondent, BRPL has submitted that the petitioner should first establish that the Commission had allowed discharged liability to be capitalized, and then only order may be reviewed to rectify the arithmetical errors.

8. The matter has been examined. The petitioner in Form IB submitted vide affidavit dated 8.8.2014 had indicated the discharged liabilities as ₹1628.00 lakh for the period 27.3.2014 to 31.3.2014. However, by a subsequent affidavit dated 30.9.2014, the petitioner had revised the discharged liability to ₹1655.69 lakh for the corresponding period. It is observed that the amount indicated in the affidavit dated 30.9.2014 could not be inadvertently considered even though the said affidavit was on record. This in our view is an error apparent on the face of the order and needs to be rectified. Accordingly, the review on this ground is allowed and the discharged liabilities amounting to ₹1655.69 lakh submitted vide affidavit dated 30.9.2014 for the period from 27.3.2014 to 31.3.2014 has been considered for calculating the opening capital cost as on 27.3.2014.

Deduction of (-) ₹389.67 lakh of Loan ERV from capital cost

9. The petitioner has submitted that an amount of (-) ₹389.67 lakh was claimed as Loan Exchange Rate Variation (ERV) under exclusion for the period from COD of Unit II (27.3.2014) to 31.3.2014 which has been allowed in para 76 of the impugned order. The petitioner has pointed out that while calculating the additional capital expenditure for the corresponding period, the Commission in para 87 of the order had erroneously deducted the Loan ERV from the capital cost which is an error apparent on the face of the record and needs to be rectified through exercise of the power of review by the Commission. The respondent, BRPL has submitted that it has no objection to the correction of the calculation mistake, if any, in the order.



However, the respondent UPPCL has submitted that the Loan ERV should be excluded from the capital cost.

10. The matter has been examined. It is noticed that the Loan ERV amount of (-) ₹389.67 lakh for the period 27.3.2014 to 31.3.2014 was allowed as exclusion in para 76 of the order dated 14.3.2016. However, while calculating the capital cost for the corresponding period in the table under para 87 of the order dated 14.3.2016, the said amount had inadvertently been deducted from the capital cost. The deduction of this amount in our view is an error apparent on the face of the order and the same is sought to be rectified. Accordingly, review on this ground is allowed and the Loan ERV amount of (-) ₹389.67 lakh has not been considered while working out the capital cost of the generating station for the period from 27.3.2014 to 31.3.2014.

Consideration of annualized values for repayments of loan/depreciation recovered for part periods instead of periodic value.

11. The petitioner has submitted that the Commission has determined the annual fixed charges of the generating station for the period from COD of Unit-I and COD of Unit-II till 31.3.2014 and the petitioner has recovered the same on pro rata basis during the respective periods. The petitioner has submitted that as per Regulation 17(6) of the 2009 Tariff Regulations, depreciation shall be chargeable for the first year of commercial operation and in case of commercial operation of the asset for the for the part of the year, depreciation shall be charged on pro rata basis. The petitioner has submitted that in terms of Regulation 16 (3), the repayment for the year of tariff period 2009-14 shall be deemed to be equal to the depreciation allowed for that year. According to the petitioner as per Regulation 16 (3) read with Regulation 17 (6), the normative loan allowed for part of the year shall be equal to the depreciation allowed for the corresponding part of the year. The petitioner has submitted that while calculating the interest on loan and determining the recovery of



depreciable value the Commission in paras 97 and 99 of the order has erroneously considered annualized repayment of loan/depreciation recovered instead of the part repayment of loan/depreciation recovered for the part periods in the order. The petitioner has prayed that this is an error apparent on the face of record and should be rectified. The respondent, BRPL has submitted that as both interest on loan and depreciation had been calculated on annualized basis, there is no error apparent on the face of the record and the review on this ground is liable to be rejected.

12. The matter has been examined. It is noticed that that the Commission in para 97 of the order dated 14.3.2016 has considered the repayment of loan for part periods i.e. from COD of Unit-I to 31.3.2013, from 1.4.2013 to 26.3.2014 and from 27.3.2014 to 31.3.2014. However, depreciation has been worked out on annualized basis whereas depreciation should have been worked out on pro-rata basis in accordance with Regulation 17 (6) of the 2009 Tariff regulations. Since Regulation 16 (3) of the 2009 Tariff Regulations provides that the depreciation allowed during a year should be equal to repayment of loan during the year, was a requirement to calculate the depreciation on pro-rata basis corresponding to the period covered for repayment of loan. Non consideration of pro-rata depreciation corresponding to the period considered for repayment of loan is, in our view, an error apparent on the face of the order and is required to be rectified. Accordingly, review of order on this ground is allowed and the order dated 14.3.2016 is rectified.

Consideration of wrong rate of Interest on Working Capital

13. The petitioner has submitted that in accordance with Regulation 18(3) of the 2009 Tariff Regulations, rate of interest of 13.50% for the periods (i) from COD of Unit-I (19.11.2012) to 31.3.2013 and (ii) 1.4.2013 to 26.3.2014 and the rate of interest of 13.20% for the period from COD of Unit-II (27.3.2014) to 31.3.2014 were required to be considered for calculation of Interest on Working Capital. The petitioner has submitted



that the Commission in the impugned order has considered the rate of interest of 13.20% for calculating the Interest on working capital for the period from 1.4.2013 to 26.3.2014 instead of the applicable rate of 13.50%. The petitioner has prayed that this is an error apparent on the face of the record and may be rectified by exercising the power of review. The respondent, BRPL has submitted that the COD of the generating station is 27.3.2014 and therefore, rate of interest on working capital should be allowed for that date as per Regulation 18(3) of the 2009 Tariff Regulations and accordingly, the prayer of the petitioner cannot be allowed.

14. The matter has been examined. It is observed that the weighted average rate of interest on loan during the period from 1.4.2013 to 26.3.2014 was 13.50% per annum. Instead of considering the rate of interest of 13.50%, the Commission had considered the rate of interest as 13.20% which was the rate of interest prevailing after 26.3.2014. This in our view is an error apparent on the face of the record and needs to be rectified through review. Accordingly, review on this ground is allowed and the rate of interest of 13.50% has been considered for calculation of interest on working capital for the period from 1.4.2013 to 26.3.2014.

Error in computation of receivables for the period from COD of Unit-I (19.11.2012) to 31.3.2014 and the weighted average GCV of coal for the period from COD of Unit-II (27.3.2014) to 31.3.2014.

15. The Commission in order dated 14.3.2016 in para 117 and 118 had calculated the Energy Charge Rate as under:

“117. The petitioner vide affidavit dated 8.8.2014 has revised the tariff filing forms and has claimed Energy Charge Rate (ECR) of 126.754 paisa/kWh based on the weighted average price and GCV of coal procured and burnt for three months prior to the actual COD of Unit-I (19.11.2012) till 26.3.2014 and ECR of 134.902 p/kWh based on the weighted average price and GCV of coal procured and burnt for three months prior to COD of Unit-II for period from 27.3.2014 to 31.3.2014 and operational norms based on the 2009 Tariff Regulations as under :



Description	Unit	2012-13	2013-14	
		19.11.2012 to 31.3.2013	1.4.2013 to 26.3.2014 (Unit-I)	19.11.2012 to 31.3.2013 (Units I & II)
Capacity	MW	500	500	1000
Gross Station Heat Rate	kCal/kWh	2423.94	2423.94	2423.94
Auxiliary Energy Consumption	%	6.50	6.50	6.50
Weighted Average GCV of Oil	kCal/l	9869	9869	9869
Weighted Average GCV of Coal	kCal/Kg	3547.00	3547.00	3547.00
Weighted Average Price of Oil	Rs./KL	60999.02	60999.02	53492.34
Weighted Average Price of Coal	Rs./MT	1741.35	1741.35	1707.75
Rate of Energy Charge from Coal	Paise/kWh	118.515	118.515	126.133
Rate of Energy Charge ex-bus per kWh Sent	Paise/kWh	126.754	126.754	134.902

118. *The Energy Rate (ECR) claimed by the petitioner is in order and is allowed. The Energy charge on month to month basis shall be billed by the petitioner as per Regulation 21 (6) (a) of the 2009 Tariff Regulations.”*

16. The petitioner has submitted that in column 5 of the table under para 117 of the said order, the Commission has considered the GCV of coal as 3574 kcal/kg, whereas as per the submission in the petition the GCV was 3268.67 kcal/kg. The petitioner has submitted that it is a typographical error and needs to be corrected.

17. We have considered the submissions of the petitioner. The GCV of coal procured and burnt for three months prior to the COD of Unit-II for the period from 27.3.2014 to 31.3.2014 was to be considered. As per the Form-15 submitted by the petitioner, the GCV for the relevant period is 3268.67 kcal/kg and accordingly, the relevant entry in the table under para 117 shall be modified.

18. It is further noticed that in the heading of last column of the table under para 117, it has been inadvertently mentioned as “19.11.2012 to 31.3.2013 (Unit-I & II)” whereas it should be “27.3.2014 to 31.3.2014”. The said heading shall stand modified accordingly.

19. The Commission in para 112 of the order dated 14.3.2016 had calculated the receivables under the “Interest on Working Capital” as under:



“112. Receivables equivalent to two months of capacity charge and energy charge for sale of electricity has been calculated on normative plant availability factor. Accordingly, receivables have been worked out on the basis of two months of fixed and energy charges (based on primary fuel only) as shown below.”

(₹ in lakh)

	2012-13	2013-14	
	19.11.2012 to 31.3.2013	1.4.2013 to 26.3.2014	27.3.2014 to 31.3.2014
Fixed Charges	8216.90	9833.14	17806.93
Variable Charges	7078.12	7078.12	14156.24

20. The petitioner has submitted that the variable charges for 2 months calculated in the table under para 112 were less than the variable charges calculated in terms of para 117 of the impugned order. The petitioner has submitted the difference in calculations as under:

	2012-13	2013-14	
	19.11.2012 to 31.3.2013	1.4.2013 to 26.3.2014	27.3.2014 to 31.3.2014
Variable charges as per order dated 14.3.2016 at para 112	7078.12	7078.12	14156.24
Variable charges as calculated based on the parameters in para 117	7353.62	7353.62	15652.92

21. The petitioner has submitted that the variable charges as calculated in para 112 may be rectified and correspondingly the interest on working capital be revised. The petitioner has further submitted that on account of change in the variable charges, there will be slight change in the fixed charges under the head ‘receivables’ which may be rectified. The respondent, BRPL has submitted that the petitioner has not filed any information as to how the variable charges have been erroneously computed and the basis for the same has not been disclosed. It has also submitted that since the petitioner has not shown any error apparent on the face of the order, the claim is liable to be rejected. The respondent has further submitted that the various submissions in the form of reply and petition of GCV of coal regarding NTPC plants may be considered while deciding the present matter.



22. We have examined the matter. It is observed that an arithmetical error had crept in while working out the variable charges in para 112 of the order dated 14.3.2016 and the same is sought to be rectified. Accordingly, review on this ground is allowed. Based on Form-15 submitted by the petitioner vide affidavit dated 8.8.2014 in Petition No. 205/GT/2013, the fixed charges and energy charges have been computed for the purpose of variables in interest on working capital. Accordingly the table under para 112 of the order dated 14.3.2016 shall be substituted as under

(₹ in lakh)

	2012-13	2013-14	
	19.11.2012 to 31.3.2013	1.4.2013 to 26.3.2014	27.3.2014 to 31.3.2014
Fixed Charges	8274.65	9954.62	18117.21
Variable Charges	7353.83	7353.83	15653.12

23. Based on the above discussions, the capital cost allowed for the purpose of tariff in para 87 of the order dated 14.3.2016 is revised as under:

(₹ in lakh)

Sl No.		2012-13	2013-14	2013-14
		19.11.2012 to 31.3.2013	1.4.2013 to 26.3.2014	27.3.2014 to 31.3.2014
1	Opening Capital Cost on cash basis	188615.55	228239.20	467130.67
	IDC claimed	16932.00	-	51047.00
	FC claimed	820.00	-	1004.00
	FERV claimed	7967.00	-	27148.00
	Hedging cost claimed	0.00	-	0.00
	Interest on Normative loan claimed	641.78	-	1722.61
2	Total IDC, FC, FERV and Hedging cost	26360.78	-	80921.61
3	Hard cost allowed (1-2)	162254.77	-	386209.06
	Add: IDC allowed (including Financial charges)	17751.21	-	50346.23
	Add: FERV allowed	7967.00	-	27148.00
	Add: Interest on Normative loan allowed	641.78	-	1655.94
4	Total IDC, FC, FERV allowed	26360.00	-	79150.16
5	Opening Capital cost allowed including IDC, FC and FERV	188614.76	228239.20	465359.23
6	Add: Additional capital expenditure allowed	22033.11	63442.01	28.11
7	Add: Discharge of liabilities	17591.33	192.70	1655.69
8	Closing Capital cost	228239.20	291873.91	467043.03



24. Due to revision of the Interest rate and the receivable component of the working capital as discussed above, the Interest on Working Capital and Annual Fixed Charges allowed in paras 114 and 115 of the order dated 14.3.2016 stand revised as under:

Interest on Working Capital

	(₹ in lakh)		
	2012-13	2013-14	
	19.11.2012 to 31.3.2013	1.4.2013 to 26.3.2014	27.3.2014 to 31.3.2014
O&M expense (1 month)	544.00	575.17	1150.33
Receivables (Fixed Charges)	8274.65	9954.62	18117.21
Receivables (Variable Charges)	7353.83	7353.83	15653.12
Maintenance Spare	1305.60	1380.40	2760.80
Secondary Fuel oil cost	378.50	378.50	663.84
Fuel Stock	5515.41	5515.41	11739.83
Total Working Capital	23371.99	25157.93	50085.14
Rate of Interest	13.50%	13.50%	13.20%
Interest on Working Capital	3155.22	3396.32	6611.24

Annual Fixed Charges

	(₹ in lakh)		
	2012-13	2013-14	
	19.11.2012 to 31.3.2013	1.4.2013 to 26.3.2014	27.3.2014 to 31.3.2014
Return on Equity	14346.45	18319.16	32840.61
Interest on Loan	12175.36	14219.67	25592.65
Depreciation	11171.89	14619.58	25871.74
Interest on Working Capital	3155.22	3396.32	6611.24
O&M Expenses	6528.00	6902.00	13804.00
Cost of secondary fuel oil	2270.99	2270.99	3983.04
Total	49647.92	59727.73	108703.28

25. All other terms contained in the order dated 14.3.2016 remains unchanged.

26. Petition No. 25/RP/2016 is disposed of in terms of the above.

-Sd/-
(Dr. M.K.Iyer)
Member

-Sd/-
(A. S. Bakshi)
Member

-Sd/-
(A. K. Singhal)
Member

-Sd/-
(Gireesh B. Pradhan)
Chairperson

