

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No. 36/RP/2016
in
Petition No.270/GT/2014**

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

Date of Order: 27.1.2017

In the matter of

Review of Commission's order dated 27.6.2016 in Petition No.270/GT/2014 pertaining to approval of tariff of Simhadri Super Thermal Power Station (1000MW) for the period 2014-19.

And

In the matter of

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

...Petitioner

Vs

1.Andhra Pradesh Eastern Power Distribution Company Ltd
Corporate Office P&T Colony, Seethammadhara,
Visakhapatnam-530013-(AP)

2. Andhra Pradesh Southern Power Distribution Company Ltd,
Corporate Office, Back side SrinivasaKalyanaMandapam
Tiruchhanur Road, KesavayanaGunta, Tirupati-517503-(AP)

3.Telangana State Southern Power Distribution Company Ltd
Mint Compound, Corporate Office,
Hyderabad-500 063

4.Telangana State Northern Power Distribution Company Ltd
H.No 2-5-31/2, VidyutBhawan
Nakkalagutta, Hanamkonda,
Warangal-506001

...Respondents

Parties present:

Shri Ajay Dua, NTPC
Shri Neeraj Kumar, NTPC
Shri R. K. Sood, NTPC
Shri A.K. Bishoi, NTPC
Shri Nishant Gupta, NTPC
Shri Rohit Chhabra, NTPC
Shri B. S. Rajput, NTPC
Shri Rajeev Choudhary, NTPC
Shri Bhupinder Kumar, NTPC



ORDER

This application has been made by the petitioner, NTPC for review of order dated 27.6.2016 in Petition No. 270/GT/2014, whereby the Commission had determined the tariff of Simhadri Super Thermal Power Station, (1000 MW) for the period 2014-19 in terms of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 ('the 2014 Tariff Regulations').

2. Aggrieved by the order dated 27.6.2016, the petitioner has submitted that there is error apparent on the face of record and has sought review of the said order, on the issue of "Disallowance of expenditure of ₹280.00 lakh incurred towards Augmentation of fire fighting system".

3. The matter was heard on 24.8.2016 and the Commission by interim order dated 6.9.2016 admitted the petition and issued notice to the respondents. Thereafter, the matter was heard on 29.9.2016 and the Commission after hearing the petitioner reserved its order in the petition.

4. None of the respondents have filed replies in the matter. We now consider the submissions of the petitioner and the documents on record, as stated in the subsequent paragraphs.

Disallowance of Augmentation of Fire fighting system

5. The petitioner in the original petition had claimed projected additional capital expenditure of ₹280.00 lakh in 2015-16 towards Augmentation of fire fighting system under Regulation 14(3)(ii) and 14(3)(iii) of the 2014 Tariff Regulations and had submitted as under:

"To comply with existing regulations of CEA (Technical Standards for construction of Electric Plants & Electric Lines) Regulations 2010 notification issued on 20.8.2010 and CEA (safety requirement of construction, O & M of electric plants & electric lines) regulations 2011 notification dated 24.1.2011. This is also recommended by Dy. Commandant of CISF (Ministry of Home Affairs) vide letter dated 15.7.2014."

6. However, the Commission vide order dated 27.6.2016 had rejected the claim of the petitioner and had observed as under:



“17....the petitioner has not established that the augmentation of firefighting system is due to any change in law. A proper well equipped fire fighting system was the requirement in any thermal power station even prior to the CEA safety standards which came in the year 2010. Therefore CEA Regulations, 2010 cannot be said to be a Change-in-law. Further, the plant was operating with the existing fire fighting system since its COD. In addition, the petitioner has not furnished any supportive document or notification which suggests that the letter from Deputy Commandant CISF is due to advice or direction from the Appropriate Government/ agency. Hence, the claim under Regulation 14(3) (iii) towards security and safety of plant cannot be entertained under this regulation. ”

7. The petitioner in the petition has submitted that the projected additional capital expenditure claimed towards Augmentation of fire fighting system is in line with Regulations 14 (3) (ii) and 14 (3) (iii) of the 2014 Tariff Regulations. It has further submitted that the major works carried towards the augmentation of fire fighting system for CHP includes the following:

- (i) *Fire hydrant system for high rise conveyors and bunker conveyors;*
- (ii) *Fire protection system for coal stack yard conveyors;*
- (iii) *Linear Heat Sensing Cable (LHSC) & Medium Velocity Water (MVW) spray system for stacker reclaimers;*
- (iv) *Hydrant booster pump house consisting of motor driven and diesel driven pumps with all accessories.*

8. Referring to Regulation 12(5) of the CEA (Technical standards for construction of Electrical plants and Electrical lines) Regulations, 2010, (the CEA Regulations, 2010), the petitioner has submitted that the works carried out for augmentation of fire fighting system are in line with the CEA Regulations mentioned above and these systems were not existing earlier. The petitioner has further submitted that the Commission in its order had not considered the other part of Regulation 14(3)(ii) i.e compliance of any existing law i.e, CEA Regulations,2010 in the present case, which was also the claim of the petitioner. As regards the observation of the Commission in the order that the claim has been rejected for not furnishing any supporting document or notification, the petitioner has stated that CISF is a statutory authority formed under the Central Industrial Security Force Act, 1968, which provides for the constitution and regulation of armed force of the Union for better protection and security of industrial undertaking owned by the Central Government etc., Accordingly, the petitioner has submitted that the letter dated 15.7.2014 of the Dy. Commandant, CISF is



statutory in nature and the claim of the petitioner is as per Regulation 14(3)(iii) and the disallowance of the said claim is an error apparent on the face of record.

9. During the hearing, the representative of the petitioner reiterated the above submissions and prayed that the order dated 27.6.2016 may be reviewed accordingly. None appeared on behalf of the respondents.

Analysis and decision

10. Sub-clauses (ii) and (iii) of clause (3) of Regulation 14 of the 2014 Tariff Regulations provides as under:

“14. (3) The capital expenditure, in respect of existing generating station or the transmission system including communication system, incurred or projected to be incurred on the following counts after the cut-off date, may be admitted by the Commission, subject to prudence check:

(i) Liabilities to meet award of arbitration or for compliance of the order or decree of a court of law;

(ii) Change in law or compliance of any existing law;

(iii) Any expenses to be incurred on account of need for higher security and safety of the plant as advised or directed by appropriate Government Agencies of statutory authorities responsible for national security/internal security;

11. After considering the claim of the petitioner, the Commission in order dated 27.6.2016 disallowed the additional capital expenditure under Regulations 14(3)(ii) and 14(3)(iii) of the 2014 Tariff Regulations. The petitioner has submitted that Regulation 12(5) of the CEA Regulations 2010 requires thermal generating station to be equipped with comprehensive/automatic fire detection alarm and fire protection system and since these requirements were not existing earlier, the petitioner has installed the same by augmentation of the fire fighting system. The petitioner has submitted that the Commission has also not considered the other part of the Regulation 14(3) (ii) which provides for compliance of existing law which is the CEA Regulations, 2010 in the present case. None of the respondents have filed any reply. The submission of the petitioner is not acceptable. It is observed that the Units-I & II of the generating station have achieved COD during the years 2002 and 2003 respectively and hence, the CEA Regulations, 2010 and the CEA Regulations, 2011 cannot be made applicable to the existing generating station of the petitioner. There is also no mention in the



said regulation to claim this status existing as on date of the notification of the CEA. In this background it was observed that the petitioner had not established the fact that the augmentation of the fire fighting system in CHP was due to any change in law and was therefore, disallowed in order dated 27.6.2016. Similarly, clause 4(2)(3) of the CEA Regulations (Safety provisions relating to owner), 2011 though applicable to the existing electrical plants and electric lines, is limited to obtaining the accreditation of electric plants and electric lines (IS-18001 certification) within two years from the date of coming into force. Moreover, the petitioner had not furnished any justification or documentary evidence to substantiate that the fire fighting system was necessary for which certification is to be obtained by the petitioner in respect of the generating station. Accordingly, in our view there is no error apparent on the face of the order and prayer of the petitioner for review of the order dated 27.6.2016 under Regulation 14 (3) (ii) of the 2014 Tariff Regulations fails.

12. On more contention of the petitioner is that the Deputy Commandant, CISF letter dated 15.7.2014 for augmentation of fire fighting system is statutory in nature and is covered by Regulation 14 (3) (iii) of the 2014 Tariff Regulations and hence, the rejection of the claim of the petitioner in order dated 27.6.2016 on the ground that no supportive document or notification has been furnished is an error apparent on the face of the order.

Analysis and decision

13. It is observed that the Commission in order dated 27.6.2016 while rejecting the claim of the petitioner under Regulation 14 (3) (iii) of the 2014 Tariff Regulations had observed that no documentary evidence was submitted by the petitioner to suggest that the letter from the Deputy Commandant, CISF was due to advice or direction from the appropriate government/ agency. It is however, noticed that the said regulation also provides for considering the expenditure for security or safety of the plant based on the advice or direction of statutory authorities responsible for national security/ internal security. The CISF is a statutory authority formed under CISF Act, 1968 and the said Act provides for the constitution and regulation of the armed forces of the union and the duties of which include doing any other



act conducive to better protection and security of the industrial undertakings and the employees. In this background, the letter of the Deputy Commandant, CISF dated 15.7.2014 is for the safety and security of the plant and is required to be complied by the petitioner. Admittedly, this aspect was not considered by the Commission while passing the order dated 27.6.2016. To this extent, the order dated 27.6.2016 suffers from infirmity and the claim of the petitioner in compliance with the said letter of the Dy. Commandant, CISF fall within the scope of Regulation 14 (3)(iii) of the 2014 Tariff Regulations. Accordingly, we as a special case allow the prayer of the petitioner and direct the petitioner to recover the expenditure incurred over a period of 3 years i.e from 2016-17, 2017-18 and 2018-19. The relief so granted is applicable to the present case and cannot be considered as precedent in future. However, it is not clear as to whether the directions of the Dy. Commandant, CISF is in terms with the TAC guidelines established under the Insurance Act 1938 and whether the petitioner has obtained any discount from the insurance companies for augmentation of the fire fighting system in terms of the said guidelines. The petitioner shall place on record the compliance with TAC guidelines and the discount received from the insurance companies at the time of truing up of tariff of the generating station.

14. Petition No. 36/RP/2016 is disposed of in terms of above.

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

Sd/-
(A. S. Bakshi)
Member

Sd/-
(A. K. Singhal)
Member

Sd/-
(Gireesh B. Pradhan)
Chairperson

