

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.275/MP/2019

Subject : Petition pursuant to the directions of the Supreme Court vide Order dated 2.7.2019 in Civil Appeal No. 11133 of 2011 and applicable provisions of the Electricity Act, 2003 including Sections 62 and 79(1)(b)

Petitioner : Adani Power (Mundra) Limited

Respondent : Gujarat Urja Vikas Nigam Limited

Date of hearing : **18.12.2019**

Coram : Shri P.K.Pujari, Chairperson
Dr. M.K. Iyer, Member
Shri I.S.Jha, Member

Parties present : Shri Amit Kapur, Advocate, AP(M)L
Ms. Poonam Verma, Advocate, AP(M)L
Shri Sidhant Kaushik, Advocate, AP(M)L
Shri Saunak Rajguru, Advocate, AP(M)L
Shri Mehul Rupera, AP(M)L
Shri Malav Deliwala, AP(M)L
Shri M.G.Ramachandran, Senior Advocate, GUVNL
Ms. Ranjitha Ramachandran, Advocate, GUVNL
Ms. Poorva Saigal, Advocate, GUVNL
Ms. Anushree Bardhan, Advocate, GUVNL
Shri Shubham Arya, Advocate, GUVNL
Ms. Tanya Sareen, Advocate, GUVNL
Shri S.P.Jangid, GUVNL
Shri S.K.Nair, GUVNL

Record of Proceedings

During the hearing, learned counsel for the Petitioner submitted that in compliance with the directions of the Commission, the Petitioner has filed tariff filing formats along with other necessary details/ documents for determination of compensatory tariff in terms of the Hon'ble Supreme Court judgment dated 2.7.2019 in Civil Appeal No. 11133 of 2011. He also submitted that it has filed its rejoinder to the reply filed by the Respondent, GUVNL. Accordingly, learned counsel prayed that the Commission may determine compensatory tariff in terms of the said judgment of the Hon'ble Supreme Court in terms of Section 62 of the Electricity Act 2003 read with the 2009 Tariff Regulations.

2. Learned senior counsel for the Respondent, GUVNL submitted that the Petitioner has not furnished the requisite details for computation of compensatory tariff. Referring to the reply filed by GUVNL, learned senior counsel further submitted that the Petitioner be directed to file the documents indicated therein, in the absence of which the claims of the Petitioner may not be considered. Learned senior counsel submitted that the claims of the Petitioner cannot be considered on the basis of Auditors Certificate only and requested the Commission to carry out detailed prudence check of the claims for grant of any relief, subject to submission of



documents mentioned in the reply of GUVNL. Learned senior counsel however reserved his right to make legal submissions as regards the claim of the Petitioner for capacity charges.

3. In response, learned counsel for the Petitioner clarified that the Petitioner has filed all necessary documents as directed by the Commission and undertook to submit further documents/ information, if so, directed by the Commission. Learned counsel for the Petitioner however pointed out that the Review Petition (C) No. 2012/2019 filed by GUVNL against the Hon'ble Supreme Court order dated 2.7.2019 had been rejected by the Court vide its order dated 3.9.2019. He accordingly prayed for issue of direction to the Respondent, GUVNL to furnish a copy of the said Review Petition.

4. The Commission after hearing the parties observed that it would take a decision as regards the documents/information which are necessary to be called from the Petitioner for the purpose of determination of compensatory tariff, as directed by the Hon'ble Supreme Court.

5. After considering the submissions of the parties, the Commission directed the Petitioner to submit that the following documents for the purpose of determination of tariff:

(a) Auditor certificate showing reconciliation of capital cost claimed with the Gross Block as per Audited Financial Statement as on 31.3.2012.

(b) Auditor certificate showing Net Block of assets as on 31.3.2012, pertaining to Unit-5 & Unit-6.

(c) As per Form-5B, FERV corresponding to Hard cost (i.e. capital cost excluding IDC, FC & Loan FERV) is Rs. 319.25 crore . In addition to above, the Petitioner has shown corresponding FERV discharges of Rs.27.03 crore (upto 30.6.2019) and balance FERV liability of Rs.35.10 crore. Clarify whether these FERV liabilities of Rs.27.03 crore & Rs.35.10 crore were existing as on SCOD/31.3.2012. If not, year-wise details of its capitalisation in the books. The above statements need to be certified by the Auditor.

(d)As per Form-5B, total loan of FERV as on SCOD/31.3.2012 is Rs.662.11 crore (Rs.288.65 crore discharged and Rs.373.46 crore outstanding). Submit Auditor certified showing the following details:

(Rs. in crore)

Year	Opening outstanding FERV	Addition during the period	Reversal during the period	Discharged during the period	Closing outstanding FERV
2012-13	-	-	-	-	373.46
2013-14	373.46				
2014-15					
2015-16					
2016-17					
2017-18					
2018-19					
2019-20 (upto 9.7.2019)					

(e) Clean copies of Form-4 and Form-11 which are not legible be submitted.



(f) Details of revenue earned (from sale of electricity/other income), if any, from commissioning date of Unit-5 (i.e. 26.12.2010) and Unit-6 (i.e. 20.07.2011) till 31.3.2012 and how the same has been adjusted to arrive at the claimed capital cost.

(g) Details in respect of loans drawn for Unit-5 & 6 of the project along with Bank's Sanction Letter:

Date	Amount Drawn			Repayment			Applicable ROI, with date wise resets, if any	Closing Exchange Rates *
	INR	Foreign currency	Exchange Rate	INR	Foreign currency	Exchange Rate		

* Information to be furnished as on commissioning date of Unit-5, Unit-6, SCOD and 1.3.2012.

(h) As per Form-5B, total FERV as on SCOD / 31.3.2012 is Rs.662.11 crore. However, as per Form-13, total FERV till 31.3.2012 is only Rs.384.66 crore. This variance needs to be reconciled & clarified.

(i) Submit the following details in respect of refinanced loans:

Date of Refinancing	Original Loan			Refinanced Loan		
	Lender	Outstanding Amount	Applicable Rate of Interest*	Lender	Refinanced Amount	Applicable Rate of Interest*

* as on date of refinancing

(j) Clarify whether loans as shown at Form-13 have been utilised only for the purpose of funding the capital cost of Unit-5 & 6 and not for any other purpose.

(k) Auditor certificate stating that all the assets forming part of capital cost as on SCOD/31.3.2012 have not been de-capitalised and were in service as on 31.3.2019.

(l) Submit the following details regarding additional capitalisation:

Particulars	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20 (1.4.2019 to 9.7.2019)
Closing GB							
Less: Opening GB							
ACE as per books							
Less: ACE pertaining to other projects (included above)							
Less: ACE pertaining to units other than Unit-5&6 (included above)							
ACE as per books, pertaining to Unit-5&6							
Less: Loan FERV included in above, if any							
Less: Other exclusions							
Net ACE claimed for Unit-5&6 (on accrual basis)							
Less: Un-discharged liabilities (included above)							
Add: Discharges of liabilities (out of outstanding liabilities)							



as on 31.3.2012 or ACE claimed for Unit-5&6							
Net ACE claimed for Unit-5&6 (on cash basis)							

* GB means Gross Block as per IGAAP i.e. Historical Cost

(m) The Petitioner has grossed up base rate of 15.50% with applicable MAT rate for the purpose of computing ROE. Clarify that MAT was applicable to the Petitioner Company (i.e. APL upto 31.3.2017 & APMuL thereafter) for the period from 1.4.2011 to 31.3.2020 and that the company has paid tax at MAT rate during this period.

(n) Statement showing the following details in respect of IDC calculation:

Year	Interest for the period	FERV treated as borrowing cost	Transferred to P&L	Capitalised to Gross Block	Lying in CWIP

* Information to be furnished as on commissioning date of Unit-5, Unit-6, SCOD & 31.3.2012.

(o) Statement showing the following details in respect of FC calculation:

Year	FC for the period	Transferred to P&L	Capitalised to Gross Block	Lying in CWIP

* Information to be furnished as on commissioning date of Unit-5, Unit-6, SCOD & 31.3.2012.

(p) Statement showing the following details in respect of FERV calculation:

Year	Loan FERV for the period	FERV treated as borrowing cost	Transferred to P&L	Capitalised to Gross Block	Lying in CWIP

* Information to be furnished as on commissioning date of Unit-5, Unit-6, SCOD & 31.3.2012.

(q) Submit the following details in respect of various loans utilised for Unit-5 & Unit 6:

Lender (1)	Page Ref. in the loan agreement * (2)	Total sanctioned loan (as per Loan agreement) (3)	Phase wise allocation to the project (Amount in crs) (4)	Phase wise allocation to Unit – 5 & 6 out of column 4 (Amount in crs) (5)	Total Drawl upto SCOD/31.3.2012 (6)	Drawl Allocated to Unit-5&6 out of column 6 (7)

* if provided in the Petition else, furnish loan agreement.

(r) Submit details of capital advances and CWIP, if any, included in the claimed capital cost as on 31.3.2012.

(s) With regard to operational parameters, submit the following:

(i) Design Unit Heat Rate, Turbine Cycle Heat Rate and Boiler Efficiency as specified by Original Equipment manufacturer supported by Heat Balance Diagram; and

(ii) Units of the plant characteristics parameters, wherever not mentioned in Form-2.



(t) With regard to determination of capital cost and fixed charges submit the following:

(i) Breakup of capital cost of Unit-5 and Unit-6 as on SCOD/31.3.2012 in various heads as required under the format of Form-5B;

(ii) Complete details of all packages awarded in respect of Units 5 and 6 as per Form-5D;

(iv) Value of initial spares included in capital cost as on SCOD/31.3.2012; and

(v) Details of additional capital expenditure from 31.3.2012 onwards and thereafter year-wise, cumulative depreciation and repayment upto SCOD/31.3.2012 duly certified by Auditor.

(u) With regard to determination of Energy Charges/ interest on working capital-

(i) Details of coal received for Units 5 and 6 as per Form 15 for the months of Nov, 2011, Dec, 2011 and Jan, 2012 duly supported by Auditor Certificate.

(ii) Details of HFO and/or LDO fuel in Form 15 for the months of Nov, 2011, Dec, 2011 and Jan, 2012 dully supported by Auditor Certificate.

(v) Clarify method of scheduling, declaration and payment settlement after issuance of termination notice.

6. The Respondent, GUVNL is directed to furnish the copy of the Review Petition filed by it before the Hon'ble Supreme Court against the judgment dated 2.7.2019 to the Petitioner by 5.1.2020.

7. The Petitioner is directed to file the information sought vide para 5 above by 5.1.2020 with advance copy to the Respondent.

8. Matter shall be listed for hearing in due course for which separate notice will be issued to the parties.

By order of the Commission

**sd/-
(V. Sreenivas)
Dy. Chief (Law)**

