

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

1. **Shri D.P. Sinha, Member**
2. **Shri G.S. Rajamani, Member**
3. **Shri K.N. Sinha, Member**

Petition No. 78/2001

In the matter of

Incentive/Disincentive for Kawas GPS and Gandhar GPS

And in the matter of

National Thermal Power Corporation Ltd. **Petitioner**

Vs

1. Madhya Pradesh State Electricity Board, Jabalpur
2. Maharashtra State Electricity Board, Mumbai
3. Gujarat Electricity Board, Vadodara
4. Goa Electricity Department, Goa
5. Electricity Department, Admn. Of Daman & Diu, Daman
6. Electricity Department, Admn. Dadra and Nagar Haveli, Silvassa
7. Chhattisgarh State Electricity Board, Raipur
8. Central Electricity Authority, New Delhi
9. Western Regional Electricity Board, Mumbai **Respondents**

The following were present:

1. Shri Satish Agnihotri, Advocate, MPSEB
2. Shri Rohit Singh, Advocate, MPSEB
3. Shri S.P. Degwekar, Commercial Officer, MPSEB
4. Shri S.G. Bakshi, MSEB
5. Shri S.K. Sharma, Sr. Mgr (Comml.), NTPC
6. Shri K.K. Garg, GM (Comml.), NTPC
7. Shri M.S. Chawla, DGM (Comml.), NTPC
8. Shri Balaji Dubey, Sr. Law Officer, NTPC
9. Shri Lekraj, Sr. Mgr (Finance), NTPC
10. Shri C.K. Mondal, Sr. Mgr (Comml.), NTPC

**ORDER
(DATE OF HEARING 2-4-2002)**

In the petition, as originally filed, the petitioner had prayed for a direction to CEA to expedite certification of deemed generation for Kawas Gas Power Station (Kawas GPS) and Gandhar Gas Power Station (Gandhar GPS) based on data verified by Member Secretary, WREB up to 31.3.1998 and thereafter to determine incentive/disincentive for the said periods. The petition was heard on 30.10.2001. After hearing the representatives of the petitioner and respondent No.1, we concluded that it was the petitioner's own responsibility to obtain "deemed generation" certificate from CEA on this matter. Thereafter, an amended petition was filed by the petitioner for approval of incentive/disincentive payable for Kawas GPS for the years 1992-93 to 1997-98 and for Gandhar GPS for the years 1994-95 to 2000-01.

2. The different units of Kawas GPS and Gandhar GPS commenced commercial operation as given in Table I and Table II below :

**TABLE I
KAWAS GPS**

Unit No.	Capacity/MW	Date of Commercial Operation
GT-1A	106	1.6.92
GT-1B	106	1.8.92
GT-2A	106	1.9.92
GT-2B	106	1.11.92
ST-1	116.10	1.11.93
ST-2	116.10	1.9.93

TABLE II
GANDHAR GPS

Unit No.	Capacity/MW	Date of Commercial Operation
GT-1	144.30	1.3.95
GT-2	144.30	1.7.95
GT-3	144.30	1.3.95
ST-1	224.49	1.11.95

3. The tariff and terms and conditions for electricity supplied from Kawas GPS were initially notified by the Central Government in Ministry of Power on 30.4.1994 through two separate notifications. One notification determined tariff and terms and conditions for supply of power from Kawas GPS for the period from 1.6.1992 to 31.8.1993 when the station was in open cycle mode. The other notification related to determination of tariff and terms and conditions for power supplied from Kawas GPS in combined cycle mode for the period from 1.9.1993 to 31.3.1998. These notifications were subsequently amended vide notifications issued on 19.6.1995 and 14.5.1999. The notification dated 19.6.1995 in respect of Kawas GPS provided for billing and payment of incentive and disincentive on monthly basis. The tariff and terms and conditions for supply of power from Gandhar GPS were determined by the Central Government in Ministry of Power vide notification dated 28.4.1997 as amended vide notification dated 14.5.1999. The notifications dated 14.5.1999 determined the revised fixed charges in respect of Kawas GPS and Gandhar GPS on account of additional capitalisation based on audited accounts up to the year 1996-97.

4. These notifications provided for payment of incentive/disincentive to/by the petitioner by/to the beneficiaries drawing power from these stations. According to these notifications, where the Actual Generation Level (AGN) in kwh/kw/year as certified by Regional Electricity Board (REB) and Central Electricity Authority (CEA) in any financial years exceeded the Normative Upper Limit of operating range (NGU) in kwh/kw/year the petitioner became entitled to incentive. However, where AGN in kwh/kw/year fell below the Normative Lower Limit of operating range (NGL) in kwh/kw/year for the reasons attributable to the petitioner, the petitioner became liable to pay disincentive to the beneficiaries drawing power from the stations. As provided in these notifications, for the purpose of incentive/disincentive calculation, AGN achieved in any financial year would include the backing down as certified by REB due to lack of system demand and due to other conditions not attributable to the petitioner as certified by CEA, as deemed generation.

5. The incentive and disincentive were to be determined by the Central Government in exercise of power under Section 43A (2) of the Electricity (Supply) Act, 1948. However, consequent to omission of Section 43A (2) with effect from 15.5.1999 in respect of the Central generating stations, the petition for determination of incentive/disincentive was filed before the Commission.

6. According to the petitioner, non-availability of necessary quantity of gas has caused loss of generation at Kawas GPS and Gandhar GPS and

consequently these stations could not achieve the Normative lower limit of operative range for certain years. It has been contented by the petitioner that it does not have any control over supply of gas, loss of generation on account of non-availability of gas should be considered as due to the conditions not attributable to the petitioner, which should be taken as the deemed generation in addition to the deemed generation certified by Member Secretary, WREB because of lack of system demand. The petitioner has furnished the details of actual generation and the deemed generation in respect of Kawas GPS and Gandhar GPS as given in Table III and Table IV respectively.

TABLE III

KAWAS GPS

Year	Actual Generation (MU)	Backing Down Due to High Frequency (MU)	Loss of Generation Due to Gas Shortage(MU)	Total Deemed Generation (MU)	Total Deemed PLF (%)
1992-93	1219.536	132.178	0	1351.714	58.39
1993-94	2005.691	43.053	1340.226	3388.970	71.71
1994-95	2104.629	5.066	2683.064	4792.759	83.38
1995-96	1960.192	2.524	2628.266	4590.982	79.65
1996-97	1700.944	0.121	1979.846	3680.911	64.03
1997-98	4131.298	77.903	0	4209.201	73.22
1998-99	4411.886	400.148	0	4812.034	83.71
1999-00	4776.849	310.766	0	5087.615	88.26
2000-01	4696.295	265.203	0	4961.498	86.31

TABLE IV
GANDHAR GPS

Year	Actual Generation (MU)	Backing Down Due to High Frequency (MU)	Loss of Generation Due to Gas Shortage(MU)	Total Deemed Generation (MU)	Total Deemed PLF (%)
1994-95 (March 95)	109.901	0	0	109.901	51.18
1995-96	2135.863	1.689	700.955	2838.51	65.91
1996-97	2886.956	0.432	1955.55	4842.94	84.10
1997-98	2641.870	21.425	2083.311	4746.61	82.42
1998-99	2151.273	11.622	0	2162.90	37.56
1999-00	2281.704	21.213	0	2302.92	39.88
2000-01	2790.517	0.366	0	2790.88	48.86

7. The petitioner has listed the efforts made by it for obtaining "deemed generation" certificate from CEA for loss of generation on account of non-availability of gas. The petitioner has submitted that in brief the CEA gave the following decision on the subject :

(a) Deemed generation benefit on account of non-availability of gas would not be available to the petitioner with effect from 1.4.1998.

(b) For the period from August 1996 to 31.3.1998, the petitioner would furnish information/documents to Member Secretary, WREB who after verification would forward the same to CEA for issue of "deemed generation" certificate.

(c) For the period prior to August 1996, certification of "deemed generation" would be based on data furnished by the petitioner and agreed to by the regional constituents.

(d) The deemed generation benefit due to short supply of gas should be available to the petitioner only if the actual generation at a station is less than the normative lower limit of operative range so that the petitioner is able to recover full fixed charges.

8. It is averred by the petitioner that despite the above noted decisions, CEA has not given "deemed generation" certificate for the period from August 1996 to 31.3.1998 in respect of Kawas GPS and Gandhar GPS even though data for the said period, duly verified, was sent by Member Secretary, WREB. As regards the period prior to August 1996, it is stated that Respondent No.2 (Maharashtra State Electricity Board) and Respondent No.3 (Gujarat Electricity Board) had agreed for certification of "deemed generation" based on data furnished by the petitioner, in keeping with decision of CEA. However, MPSEB had not agreed to the proposal of the petitioner for certification of "deemed generation" due to non-availability of gas. It is further stated in the petition that there was no dispute with State Govt of Goa and Union Territory Administration of Daman & Diu and Dadra & Nagar Haveli on this issue. The petitioner has claimed that it had also furnished the data to WREB and said data was verified by WREB, but necessary certification has not been done by CEA. The petition for approval of incentive/disincentive has been

filed after taking into account "deemed generation" due to non-availability of gas subject to the condition that "deemed generation" on account of non-availability of gas has not been considered for claiming incentive in view of CEA decision at Para 7(d) above.

9. Replies to the petition have been filed by Respondent No.1 (MPSEB) and Respondent No.2 (MSEB). Respondent No.2 has averred that the agreement for certification of "deemed generation" for period prior to August 1996 was arrived at under duress, though the petitioner, in its rejoinder has denied the allegation. Respondent No.1 (MPSEB) has contested the claim of the petitioner to account for loss of generation due to non-availability of gas as "deemed generation". According to Respondent No.1, it is the responsibility of the petitioner to arrange for necessary fuel for generation of power and in the event of its failure to arrange for fuel, the loss should be to its own account.

10. Before we consider the rival contentions on merits it would be necessary to dwell upon certification of "deemed generation". As was provided in the respective tariff notifications, the benefit of "deemed generation" for reasons not attributable to the petitioner can be available to the petitioner if it is so certified by CEA. But as we have already noticed, CEA has not so far issued such a certificate. When the petition was heard on 30.10.2001, the representative of the petitioner prayed for 3 months time for the purpose of obtaining certificate from CEA. The time prayed for was allowed, but certificate of "deemed generation"

was not placed on record. The petitioner was again heard on 2.4.2002, when it was stated on its behalf that efforts for obtaining necessary certificate from CEA were still continuing. We had allowed the petitioner time up to 2.5.2002 to file "deemed generation" certificate due to non-availability of gas, issued by CEA. Nothing has been filed so far. In all, we have allowed nearly one year's time to enable the petitioner to arrange for the "deemed generation" certificate, which the petitioner has failed to obtain. In the absence of "deemed generation" certificate from CEA, we are unable to entertain the claim of the petitioner for computation towards incentive/disincentive the loss of generation on account of non-availability of gas.

11. The generation level in respect of Kawas GPS up to 1996-97 and in respect of Gandhar GPS up to 2000-01 after taking into account the "deemed generation" for backing down on account of lack of system demand as claimed in the petition, has been below the Normative Lower Limit of operative range. Accordingly, petitioner is liable to pay disincentive to the beneficiaries of these power stations. Incentive/disincentive in respect of Kawas GPS and Gandhar GPS as given in table V below is allowed :

TABLE V

Year	Kawas GPS	Gandhar GPS
1992-93	0.00	-
1993-94	(-)16.13	
1994-95	(-)41.51	0.00
1995-96	(-)58.29	(-)18.61
1996-97	(-)60.33	(-)44.97
1997-98	1.29	(-)44.93
1998-99	Incentive already allowed by the Commission	(-)92.99
1999-00	-do-	(-)71.46
2000-01	-do-	(-)48.72
Total	(-)174.97	(-)321.68

12. The calculations of incentive/disincentive take into account the revised fixed charges on account of additional capitalisation and FERV up to 1997-98 in respect of Kawas GPS and up to 1999-2000 in respect of Gandhar GPS. Disincentive for Gandhar GPS for the year 2000-01 is provisional and shall be subject to revision after final decision on tariff in petition No.94/2002 (Generation tariff for Gandhar GPS for the year 2000-01).

13. The incentive/disincentive decided by us shall be shared by the beneficiaries in proportion to energy drawn in the respective year and shall be adjusted towards outstanding dues.

14. This disposes of petition No.78/2001.

Sd/-
(K.N. SINHA)
MEMBER

Sd/-
(G.S. RAJAMANI)
MEMBER

Sd/-
(D.P. SINHA)
MEMBER

New Delhi dated the 24th October, 2002