

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

- 1. Shri Ashok Basu, Chairman**
- 2. Shri G.S. Rajamani, Member**
- 3. Shri K.N. Sinha, Member**

**Review Petition No.146/2002
In
Petition No. 29/2002**

In the matter of

Review of order dated 9.10.2002 in Petition No.29/2002 for approval of revised fixed charges from 1.4.1997 to 31.10.1997 and tariff from 1.11.1997 to 31.3.2001 of Ramagundam Super Thermal Power Station

And in the matter of

Tamil Nadu Electricity Board (TNEB)

....Petitioner

Vs

1. National Thermal Power Corporation Ltd.
2. Transmission Corporation of Andhra Pradesh Ltd, Hyderabad
3. Karnataka Power Transmission Corporation Ltd., Bangalore
4. Kerala State Electricity Board, Thiruvananthapuram
5. Electricity Department, Govt. of Pondicherry, Pondicherry
6. Goa Electricity Department, Panaji, Goa

....Respondents

Present:

Shri S. Sowmyanarayanan, Consultant, TNEB

**ORDER
(DATE OF HEARING 7.2.2003)**

This application for review of filed under Section 12 of the Electricity Regulatory Commissions Act, 1998 read with Section 114 and Order 47 of the Code of Civil Procedure arises out of the Commission's order dated 9.10.2002 in Petition No.29/2002. The application for review is placed before us for admission.

2. National Thermal Power Corporation Limited (NTPC), Respondent No.1 herein, had filed Petition No.44/2000 to claim revised fixed charges due to additional capital expenditure and FERV capitalised during the years 1997-98 to 2000-2001 in respect of Ramagundam STPS. The Commission while disposing of the said petition, in its order of 2.1.2002, directed NTPC to file fresh petition for determination of tariff for the period from 1.11.1997 to 31.3.2001, based on the terms and conditions notified by the Central Government as contained in the notification dated 2.11.1992, applicable from 1.11.1992 to 31.10.1997. Petition No.29/2002, was filed by NTPC in compliance of these directions. The Commission in its order dated 9.10.2002 (sought to be reviewed) has approved the revised fixed charges from 1.4.1997 to 31.10.1997 and also the tariff for the period from 1.11.1997 to 31.3.2001 in respect of Ramagundam STPS based on the terms and conditions contained in Central Government's said notification dated 2.11.1992. The petitioner herein, TNEB, seeks review of some of the directions contained in the Commission's said order dated 9.10.2002.

Additional Capitalisation

3. NTPC in its Petition No.29/2002 had claimed certain amount on account of additional capitalisation during the tariff period, which were partly allowed. The year-wise consolidated amount of additional capitalisation allowed by the Commission was indicated in the said order dated 9.10.2002. TNEB, in its present petition has submitted that the break-up details for additional capitalisation allowed by the Commission are not furnished. It is submitted in the petition that additional capitalisation after more than 10 years of commercial operation of the project was not in order. Although this issue was not pressed by the representative of the petitioner at the hearing of the petition, we may state that the voluminous details of expenditure

allowed/disallowed to be capitalised could not be incorporated in the order. These details form part of the judicial record of the Commission which are available for inspection, etc, in accordance with the prescribed procedure. The petitioner or for that matter any of the parties are at liberty to obtain certified copies of the statement of expenditure allowed/disallowed to be capitalised and the reasons therefor.

Debt-Equity Ratio

4. It is next submitted that the Commission while approving tariff for Ramagundam STPS has maintained normative equity of 50%, though loan has been reduced based on actual repayment. According to the petitioner, based on K.P. Rao Committee recommendations, while setting tariff for the period from 1.11.1997, the equity should have been reduced considering the net fixed asset value reduced after actual repayment of loan. This would reduce the amount of equity and consequentially return on equity payable by the petitioner.

5. As we have already noted, the Commission had decided to determine tariff for the period from 1.11.1997 to 31.3.2001 based on the terms and conditions of tariff as contained in Central Government's notification dated 2.11.1992, which was applicable for the period from 1.11.1992 to 31.10.1997. The norms contained in the said notification dated 2.11.1992 have been applied without any deviation therefrom. In fact, the petitioner has not been able to pinpoint any departure from the said notification of 2.11.1992. In support of the claim, reliance has been placed by the petitioner on the recommendation made by K.P. Rao Committee in this regard. We do not find any indication to this effect in the said notification dated 2.11.1992. The recommendation of K.P. Rao Committee does not seem to have been accepted by the

Central Government while issuing tariff notification. In view of the earlier decision of the Commission to follow the norms and terms and conditions of tariff as contained in the notification dated 2.11.1992, there is no substance in the point now raised on behalf of the TNEB for review.

Repayment of Loan

6. In the petition, it is stated that the cumulative repayment of loan as on 1.4.1997 was Rs.421.08 crores, whereas the Commission has adopted Rs.399.53 crores for the purpose of calculation of interest on loan. However, at the hearing, the representative of the petitioner did not press this issue and as such we are not recording any findings/views thereon.

O&M Expenses

7. It is further stated on behalf of the petitioner that the Commission has adopted the actual expenses for 1996-97 as the base for calculation of O&M charges, for the tariff period from 1.11.1997 to 31.3.2001, which have been further escalated @ 10% each year to arrive at O&M charges for a particular year. It is the contention of the petitioner that the normative base figure of 1996-97 as arrived at based on the tariff setting by the Central Government, as per the notification of 2.11.1992 ought to have been considered and escalated thereafter for the purpose of base O&M expenses for 1997-98.

8. We have noticed that the tariff for the period from 1.11.1997 to 31.3.2001 has been determined based on the Ministry of Power notification dated 2.11.1992. While notifying tariff for the period 1.11.1992 to 31.10.1997, the Central Government had

considered actual expenses for the year 1991-92, which were notionally escalated @ 10% for each subsequent year. While determining tariff for the period from 1.11.1997 to 31.3.2001, the same methodology has been followed and accordingly actual O&M expenses for 1996-97 have been taken as the base. This methodology is followed uniformly for all the stations. The alternative methodology for calculation advocated on behalf of the petitioner for calculation of O&M charges cannot be said to be within the scope of review of order.

Revision of Operational Parameters for Variable Charges

9. Basing his argument on the recommendation made by K.P. Rao Committee, it was submitted on behalf of the petitioner that operational parameters for determination of variable charges ought to have been reviewed and revised based on actuals after expiry of tariff period, that is, after 31.10.1997 and tariff should have been determined based on the revised operational parameters. We may notice that the Commission has already taken a conscious decision to continue up to 31.3.2004 the operational norms applicable prior to vesting of jurisdiction in the Commission,. Therefore, the plea taken on behalf of the petitioner is not a ground for review of order dated 9.10.2002.

Depreciation

10. On the question of depreciation recovered from tariff, it has been stated that the cumulative depreciation as on 31.3.2001 in respect of Ramagundam STPS is more than 66% and the balance amount is likely to be depreciated in full during the period from 1.4.2001 to 31.3.2004. It has been submitted that to ensure that no excess

recovery of depreciation is made by NTPC, a cumulative depreciation as on 1.4.2001 should be finalised, and details thereof be indicated by the Commission.

11. The details of depreciation recovered in tariff from 1.4.1992 onward form part of the judicial records and the petitioner is at liberty to inspect and obtain copies of the relevant documents in accordance with the procedure prescribed under the Regulations notified by the Commission if so advised. For information of the petitioner, the relevant details are incorporated hereinbelow also :-

(Rs. in lakhs)		
(i)	1.4.1992 to 31.10.1992	23,857
(ii)	1.11.1992 to 31.3.1993	27,660
(iii)	1993-94	37,367
(iv)	1994-95	47,578
(v)	1995-96	63,679
(vi)	1996-97	79,456
(vii)	1.4.1997 to 31.10.1997	88,457

Conclusion

12. We have considered the issues raised by the petitioner in the present application for review in the light of statutory provisions of order 47, Rule I, CPC. In our considered view, the grounds raised in the petition do not fall within the statutory provisions. The directions given by the Commission are being contested on merits and are sought to be re-opened, which is outside the province of review of the orders as per the above referred statutory provisions. We, therefore, do not find any merit in the present application for review and the same is dismissed at the admission stage.

**Sd/-
(K.N. SINHA)
MEMBER**

**Sd/-
(G.S. RAJAMANI)
MEMBER**

**Sd/-
(ASHOK BASU)
CHAIRMAN**

New Delhi dated the 13th February, 2003