

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram

- 1. Shri Bhanu Bhushan, Member**
- 2. Shri R.Krishnamoorthy, Member**

Petition No. 24/2008

In the matter of

Approval of revised fixed charges for the period 2004-09, after considering the impact of additional capital expenditure incurred during 2004-05 and 2005-06 and 2006-07 for Ramagundam Super Thermal Power Station, Stage III (500 MW)

And in the matter of

NTPC Ltd, New Delhi

.....Petitioner

Vs

1. Transmission Corporation of Andhra Pradesh, Hyderabad
2. A.P. Eastern Power Distribution Company Ltd., Visakhapatnam
3. A.P. Southern Power Distribution Company Ltd., Tirupathi
4. A.P. Northern Power Distribution Company Ltd., Warangal
5. A.P Central Power Distribution Company Ltd., Hyderabad
6. Tamil Nadu Electricity Board, Chennai
7. Karnataka Power Transmission Corporation Ltd, Bangalore
8. Bangalore Electricity Supply Company Ltd., Bangalore
9. Mangalore Electricity Supply Company Ltd, Mangalore
10. Chamundeshwari Electricity Supply Corp. Ltd., Mysore
11. Gulbarga Electricity Supply Company Ltd., Gulbarga
12. Hubli Electric Supply Company Ltd, Hubli
13. Kerala State Electricity Board, Thiruvananthapuram
14. Electricity Department, Govt. of Puducherry, Puducherry **...Respondents**

The following were present

1. Shri Bhupinder Kumar, NTPC
2. Shri A.K.Juneja, NTPC
3. Shri S.K.Mondal, NTPC
4. Shri Balaji Dubey, NTPC
5. Shri R.Krishnaswami, TNEB

ORDER
(DATE OF HEARING: 26.6.2008)

The petitioner has made this application for approval of the revised fixed charges in respect of Ramagundam Super Thermal Power Station, Stage III (500 MW) (hereinafter referred to as "the generating station") for the period 2004-09, after accounting for the impact of additional capital expenditure incurred during 2004-05, 2005-06 and 2006-07, based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 (hereinafter referred to as "the 2004 regulations"). The petitioner has made the following specific prayers:

- "(i) Approve the impact on fixed charges due to liabilities discharged from 25.3.2005 to 31.3.2007 out of Rs.108.17 crore of capitalized expenditure disallowed by the Hon'ble Commission in tariff order dated 15.10.2007 in Petition No. 140/2005 as per details in Annexure-2.*
- (ii) Approve the impact on fixed charges on account of additional capital expenditure as per details given in Annexure -3 for the period 25.3.2005 to 31.3.2007.*
- (iii) allow the servicing of the expenditure from the year the same is incurred.*
- (iv) allow the petitioner to approach the Hon'ble Commission for another revision of fixed charges before 31.3.2009 and one revision after the end of tariff period i.e after 31.3.2009 for FY 2008-09.*
- (v) Take on record the list of balance works, which are part of original scope of this station but are not completed as on cut-off date of 31.3.2007 and allow capitalization of the same as and when this petitioner approaches Hon'ble Commission after their execution.*
- (vi) Approve recovery of filing fees of this petition from respondents.*
- (vii) pass any other orders in this regard as the Hon'ble Commission may find appropriate in the circumstances pleaded above".*

2. The generating station has a capacity of 500 MW. The date of commercial operation of the generating station was 25.3.2005. The

Commission by its order dated 15.10.2007 in Petition No.140/2005 approved the tariff for the generating station for the period 25.3.2005 to 31.3.2009, based on the capital cost of Rs.131356 lakh including de-capitalisation of Rs 485 lakh on account of FERV and excluding undischarged liabilities of Rs 10817 lakh. The annual fixed charges approved by the Commission are as under:

(Rs in lakh)

Particulars	2004-05 (Pro-rata)	2005-06	2006-07	2007-08	2008-09
Interest on Loan	91	4767	4767	4767	4767
Interest on Working Capital	132	6615	5990	5271	4529
Depreciation	106	5517	5517	5517	5517
Advance Against Depreciation	83	2040	4089	4428	4428
Return on Equity	32	1605	1606	1616	1615
O & M Expenses	90	4865	5060	5260	5475
TOTAL	534	25409	27028	26858	26331

3. The petitioner has claimed revision of fixed charges on account of liabilities discharged out of the deferred liability of Rs.10817 lakh which was disallowed by the Commission in order dated 15.10.2007 and additional capital expenditure incurred during the period from 25.3.2005 to 31.3.2007 (i.e from the date of commercial operation of the generating station till the cut-off date). The details of the claims of the petitioner are as under:

(Rs. in lakh)

Year	2004-05 (25.3.2005 to 31.3.05)	2005-06	2006-07	Total
Additional capital expenditure	(-) 7.9	9935.60	2786.65	12714.35
Liabilities discharged	4121.14	3353.16	1206.69	8680.99
Total	4113.24	13288.76	3993.33	21395.34

4. The sixth respondent (TNEB) has filed its reply to the petition.

Additional Capitalization

5. Regulation 18 of the 2004 regulations provides for considering the additional capital expenditure for tariff as under:

“18. (1) The following capital expenditure within the original scope of work actually incurred after the date of commercial operation and up to the cut off date may be admitted by the Commission, subject to prudence check:

- (i) Deferred liabilities;*
- (ii) Works deferred for execution;*
- (iii) Procurement of initial capital spares in the original scope of work, subject to ceiling specified in regulation 17;*
- (iv) Liabilities to meet award of arbitration or for compliance of the order or decree of a court; and*
- (v) On account of change in law.*

Provided that original scope of work along with estimates of expenditure shall be submitted along with the application for provisional tariff.

Provided further that a list of the deferred liabilities and works deferred for execution shall be submitted along with the application for final tariff after the date of commercial operation of the generating station.

(2) Subject to the provisions of clause (3) of this regulation, the capital expenditure of the following nature actually incurred after cut off date may be admitted by the commission, subject to prudence check:

- (i) Deferred liabilities relating to works/services within the original scope of work;*
- (ii) Liabilities to meet award of arbitration or for compliance of the order or decree of a court;*
- (iii) On account of change in law;*
- (iv) Any additional works/services which have become necessary for efficient and successful operation of the generating station, but not included in the original project cost; and*

(v) *Deferred works relating to ash pond or ash handling system in the original scope of work.*

(3) *Any expenditure on minor items/assets like normal tools and tackles, personal computers, furniture, air-conditioners, voltage stabilizers, refrigerators, fans, coolers, TV, washing machine, heat-convectors, carpets, mattresses etc. brought after the cut off date shall not be considered for additional capitalization for determination of tariff with effect from 1.4.2004.*

(4) *Impact of additional capitalization in tariff revision may be considered by the Commission twice in a tariff period, including revision of tariff after the cut off date.*

Note 2

Any expenditure on replacement of old assets shall be considered after writing off the gross value of the original assets from the original project cost, except such items as are listed in clause (3) of this regulation.”

6. The year-wise details of additional capital expenditure claimed as per books of accounts are as under:

(Rs.in lakh)

	2004-05	2005-06	2006-07	Total
Additional capitalization as per books of accounts, including capital expenditure (A)	142268	12096	3361	
Additional capitalization on Stages –I & II as per reconciliation statement (B)	1216	1791	574	
Less: Capital expenditure claimed upto the date of commercial operation (C)	141060	-	-	
Total additional capitalization (A-B-C)	(-) 8	10305	2787	13084
Exclusion from additional capitalization vis-à-vis Books of Accounts (D)	-	370	-	
Net additional capital expenditure claimed (A-B-C-D)	(-) 8	9935	2787	12714

7. The claim for exclusion of an amount of Rs.370 lakh for the year 2005-06 on account of impact of FERV is allowed, as the petitioner has billed the said amount directly to the beneficiaries in accordance with the 2004 regulations.

8. The sixth respondent in its reply dated 3.4.2008 has submitted that out of the capital cost amounting to Rs.142491 lakh claimed by the petitioner as on the date of commercial operation of the generating station, that is, 25.3.2005 in Petition No. 140/2005, (approval of tariff for Stages I and II) the petitioner has adjusted only Rs.141060 lakh in the claim for additional capitalization and has thus recovered an excess amount of Rs.1431 lakh.

9. The Commission by its order dated 28.4.2008 directed the petitioner to furnish the accounts reconciliation statement of gross block (year-wise) for Stages-I , II and III of the generating station, duly certified by auditor and in response, the petitioner has furnished the said information under its affidavit dated 26.5.2008. From the reconciliation statement furnished by the petitioner, it is observed that for the period 1.4.2004 to 25.3.2005 the petitioner capitalized an amount of Rs.141060 lakh. However, the petitioner has claimed capital cost amounting to Rs.142491 lakh which includes capitalization of certain assets for Stage-III of the generating station during the period 2001-04 as under:

(Rs in lakh)

2001-02	136
2002-03	177
2003-04	1154
Total	1467

10. The petitioner has submitted that the above amounts were excluded from its claim for additional capitalization for Stages I&II of the generating station in Petition No. 173/2004 and that the amount of Rs.1154 lakh for the year 2003-04 also included an amount of Rs.36.33 lakh towards procurement

of software for the generating station which was not considered for capitalization up to the date of commercial operation of the generating station. Thus, the total gross block of the generating station as on date of commercial operation works out to Rs.142527 lakh against the amount of Rs.142491 lakh considered in Petition No. 140/2005. Therefore, there is no merit in the contention of the sixth respondent that the petitioner is claiming an excess amount of Rs.1431 lakh.

11. The year-wise and category-wise break-up of the additional expenditure claimed by petitioner is as under:

(Rs.in lakh)				
	2004-05	2005-06	2006-07	Total
Deferred liabilities-18(1)(i)	(-) 29.96	6848.06	1412.28	8230.39
Works deferred for execution-18(1)(ii)	22.06	2383.35	1091.47	3496.87
Procurement of initial spares in the original scope of work, subject to ceiling specified in regulation 17-18(1)(iii)	-	704.19	282.90	987.09
TOTAL	(-) 7.90	9935.60	2786.65	12714.35

12. The petitioner has claimed an amount of Rs.8681 lakh, for the period 25.3.2005 to 31.3.2007 towards liabilities actually discharged out of the undischarged liability of Rs.10817 lakh. As the petitioner has not specifically mentioned the category under which the amount of Rs.8681 lakh has been claimed, the same is considered in terms of sub-clause (i) of clause (1) of Regulation 18 of the 2004 regulations, under the category "deferred liabilities". Hence, the total claim for additional capital expenditure works out to Rs.21395 lakh after taking into account amount of Rs.8681 lakh discharged after the date of commercial operation.

Undischarged liability

13. The Commission by its order dated 28.4.2008 had directed the petitioner to furnish the details of undischarged liability included in the additional capital expenditure as on 1.4.2005, 1.4.2006 and 1.4.2007. The petitioner vide affidavit dated 26.5.2008 has submitted that undischarged liability of Rs.301 lakh as on 1.4.2006 and Rs.46 lakh as on 1.4.2007 is included in the claim for additional capitalization. The petitioner has also submitted that no undischarged liability as on 1.4.2005 has been included in the claim. The undischarged liabilities as on 1.4.2006 and 1.4.2007 have been adjusted against the petitioner's claim for additional capitalization.

14. After examining the asset-wise details and justification for additional capitalisation/ de-capitalisation claimed by the petitioner under various categories and by applying prudence check, the admissibility of additional capitalization is discussed in the succeeding paragraphs.

Deferred liabilities relating to works/services within the original scope of work {Regulation 18(1)(i)}

15. The petitioner has claimed capital expenditure of Rs.8230.39 lakh for the period 25.3.2005 to 31.3.2007 on account of the balance payments against the works admitted by the Commission like main plant package, electrical system, coal handling plant, water treatment plant, cooling towers and other off-site civil works etc. The expenditure incurred by the petitioner is of the nature of deferred liabilities, on account of balance payments against works/services within the original scope of work already admitted. As such,

capitalization of an amount of Rs.8230.39 lakh for the period 25.3.2005 to 31.3.2007, on account of balance payments after excluding the undischarged liability, is allowed in terms of sub-clause (i) of clause (1) of Regulation 18 of the 2004 regulations.

Additional capital expenditure relating to new works deferred for execution within the original scope of work - (Regulation 18(1)(ii))

16. The petitioner has claimed capital expenditure of Rs.3496.87 lakh under this head on account of new works under original scope of work like coal handling plant, civil works, generator transformer, residential quarters, hydraulic mobile crane, fork lift, trucks, computers and associated items, software, LAN system, communication equipment, water treatment system, C&I and other minor assets/items. The above works have been capitalized upto the cut-off date under the approved project cost and hence, the capitalization of expenditure of Rs.3496.87 lakh under this head after excluding undischarged liability is allowed.

Initial spares capitalized within the original scope of work - {Regulation 18(1)(iii)}

17. The petitioner has claimed capital expenditure on spares amounting to Rs.987.09 lakh for the period 25.3.2005 to 31.3.2007, on account of new works under the approved scheme like main plant supply (C&I, G.S. equipment, transformer), coal handling plant, infrared thermometer, trailer fire pump, portable dew point monitor, water treatment package, circulating water system, online dissolved gas analyzer, communication equipment, software package for administration training etc, The petitioner has submitted that the

2004 regulations allow capitalization of spares up to 4% of the original capital cost and spares amounting to Rs.1169 lakh were capitalized upto 25.3.2005. After adding the petitioner's claim for capitalization for spares of Rs.987.09 lakh, the total claim is Rs.2156 lakh which works out to 1.21% of the approved cost of Rs 178098 lakh (including IDC and FC of Rs.33935 lakh) and is within the limits of the ceiling norms specified in the regulations.

18. On scrutiny, it is observed that the original project cost approved by the CEA was Rs.178098 lakh and the capitalization of spares is within the ceiling norms specified by the Commission. Hence, capitalization of initial spares after excluding the undischarged liability, is allowed

Assets not in use as on 1.4.2005, 1.4.2006 and 1.4.2007

19. The Commission vide order dated 28.4.2008 directed the petitioner to furnish the details of assets which were not in use or were unserviceable. The petitioner vide affidavit dated 26.5.2008 has submitted that all assets as per gross block provided in the balance sheet, including the assets for which additional capitalization has been claimed were in use as on 1.4.2005, 1.4.2006 and 1.4.2007.

20. Based on the discussions in the preceding paragraphs, the additional capital expenditure allowed during the period 25.3.2005 to 31.3.2007 including discharged liabilities after the date of commercial operation is as under:

(Rs in lakh)

Category	Total Amount claimed	Additional Capital Expenditure approved			
		2004-05 (from 25.3.2005 to 31.3.2005)	2005-06	2006-07	Total
1. Deferred liabilities (balance payment) relating to works/services with in the original scope of work - 18(2)(i)					
i) Liabilities discharged against the deferred liabilities upto the date of commercial operation	8680.98	4121.14	3353.16	1206.68	8680.98
ii) Deferred liabilities created after the date of commercial operation /balance payment	8230.39	(-) 29.96	6848.06	1412.28	8230.39
2. Works deferred for execution-18(1)(ii)	3496.87	22.06	2383.35	1091.47	3496.87
3. Initial spares under original scope of work -18(1)(iii)	987.09	-	704.19	282.90	987.09
4. Less -undischarged liability included in the claim		-	301.52	45.96	347.48
Total (1+2+3-4)	21395.34	4113.24	12987.24	3947.38	21047.86

Capital cost

21. As already noted, the Commission had admitted the capital cost of Rs.131356 lakh (including de-capitalisation on account of FERV for Rs.485 lakh) as on the date of commercial operation, for determining tariff for the period 2004-09.

22. It is observed from affidavit dated 16.7.2008 of the petitioner that it has included claim for IDC and financing charges amounting to Rs.697 lakh and Rs.0.52 lakh for the year 2005-06 and 2006-07. IDC claimed by the petitioner is based on the FIFO method of repayment of loan. The Commission, in its previous orders has uniformly followed the average method of repayment of loan since FIFO method results in higher IDC in on-going projects under construction and higher AAD in case of the existing generating stations.

Accordingly, for the generating station also, IDC has been worked out with average method of loan repayment. Based on the average repayment method as adopted by the Commission, the admissible IDC for the year 2005-06 is Rs.684 lakh. Accordingly, adjustment of reduction of IDC is made in the additional capitalisation amount allowed. For the year 2006-07 the applicable ratio of capitalization is negligible and hence adjustment being miniscule has not been made.

23. Based on the above and in terms of the additional capital expenditure for the years 2004-05, 2005-06 and 2007 approved by para 20 above, the capital cost for the period 2004-09 is worked out as follows:

	(Rs. in lakh)				
Year	2004-05	2005-06	2006-07	2007-08	2008-09
Opening capital cost	131356.27	135469.51	148443.44	152390.81	152390.81
Discharged liability	4121.14	3353.16	1206.69	-	
Additional capital expenditure	(-) 7.9	9620.77	2740.69	-	
Closing capital cost	135469.51	148443.44	152390.81	152390.81	152390.81
Average capital cost	133412.89	141956.47	150417.13	152390.81	152390.81

Debt-Equity ratio

24. Clause (1) of Regulation 20 of the 2004 regulations, as amended, provides that:

“(1) In case of the existing generating stations, debt-equity ratio considered by the Commission for the period ending 31.3.2004 shall be considered for determination of tariff with effect from 1.4.2004:

Provided that in cases where the tariff for the period ending 31.3.2004 has not been determined by the Commission, debt-equity ratio shall be as may be decided by the Commission:

Provided further that in case of the existing generating stations where additional capitalisation has been completed on or after 1.4.2004 and admitted by the Commission under Regulation 18, equity in the additional capitalization to be considered shall be,-

- (a) 30% of the additional capital expenditure admitted by the Commission; or
 (b) equity approved by the competent authority in the financial package, for additional capitalization; or
 (c) actual equity employed,
 Whichever is the least:

Provided further that in case of additional capital expenditure admitted under the second proviso, the Commission may consider equity of more than 30% if the generating company is able to satisfy the Commission that deployment of such equity of more than 30% was in the interest of general public”.

25. The petitioner in its affidavit dated 28.4.2008 has stated that the additional capital expenditure has been financed from its internal accruals/resources. Further, since the equity component of additional capitalization is more than 30%, debt-equity ratio of 70:30 has been considered for additional capitalization in terms of sub-clause (a) of clause (1) of Regulation 20 of the 2004 regulations. Accordingly, additional notional equity of the generating station on account of capitalization approved, works out as under:

	(Rs. in lakh)		
	2004-05	2005-06	2006-07
Notional Equity	1234	3892	1184

Return on Equity

26. Return on equity is allowed @ 14% on the average normative equity, as under:

		(Rs. in lakh)				
	Order dated 15.10.2007	2004-05	2005-06	2006-07	2007-08	2008-09
Equity opening	39407	39407	40641	44533	45717	45717
Equity due to Additional capitalization		1234	3892	1184	0	0
Equity closing		40641	44533	45717	45717	45717
Average equity		40024	42587	45125	45717	45717
Return on equity	14%	107 <i>(pro rata)</i>	5962	6318	6400	6400

Interest on loan

27. Interest on loan has been worked out as mentioned below:

- (a) As there was no repayment of loan prior to the date of commercial operation, the normative loan outstanding as on 25.3.2005 as per order dated 15.10.2007 was Rs.91949.39 lakh.
- (b) The notional loan arising out of additional capitalization, including discharged liabilities during the year 2004-05, 2005-06 and 2006-07 was Rs.2879 lakh, Rs.9082 lakh and Rs.2763 lakh respectively. Hence, the total notional loan outstanding during 2005-06, 2006-07 and 2007-08 was Rs.94829 lakh, Rs.103910 lakh and Rs.106674 lakh respectively.
- (c) Normative repayment of the loan is worked out as under:
- $$\frac{\text{Normative repayment} = \text{Actual repayment} \times \text{Normative Loan outstanding}}{\text{Actual loan outstanding}}$$
- (d) Interest rate is worked out based on loans considered in the order dated 15.10.2007 along with loans drawn for additional capital expenditure based on details furnished by the petitioner. Repayment of actual loans considered is based on average method instead of FIFO repayment method as considered in order dated 15.10.2007. Weighted average interest rate has been calculated after accounting for capitalized interest.

28. Interest on loan has been computed as under:

(Rs in lakh)

Details	Order dated 15.10.2007	2004-05	2005-06	2006-07	2007-08	2008-09
Gross Loan Opening	91949	91949	94829	103910	106674	106674
Cumulative repayment of loan upto previous year	0	0	174	7194	16726	26858
Net loan opening	91949	91949	94654	96716	89947	79816
Addition of loan due to additional capital expenditure		2879	9082	2763	0	0
Repayment of loan during the year		174	7020	9532	10132	10409
Net loan Closing		94654	96716	89947	79816	69406
Average Loan		93302	95685	93332	84881	74611
Wt.average rate of Interest		7.5067%	7.3765%	7.4788%	7.4690%	7.4180%
Interest on Loan		134 <i>(pro rata)</i>	7058	6980	6340	5535

Depreciation

29. The petitioner has calculated the weighted average rate of depreciation as 3.63% in terms of order dated 15.10.2007 and the same is considered for computation of revised tariff on account of the discharged liabilities and the additional capital expenditure. The necessary calculations are as under:

(Rs in lakh)

	Upto 31.3.2004	2004-05	2005-06	2006-07	2007-08	2008-09
Opening capital cost		131356	135470	148443	152391	152391
Closing capital cost		135470	148443	152391	152391	152391
Average capital cost		133413	141956	150417	152391	152391
Depreciable value @ 90%	118221	120072	127761	135375	137152	137152
Balance depreciable value	118221	120072	127587	128181	120425	110294
Depreciation		93 <i>(pro rata)</i>	5151	5458	5530	5530
Cumulative depreciation		174	7194	16726	26858	37267

Advance Against Depreciation

30. The petitioner has not claimed revision of Advance Against Depreciation. However, Advance Against Depreciation has been worked out after accounting for discharged liabilities and additional capital expenditure, in terms of sub-clause (b) of clause (1) of Regulation 21 of the 2004 regulations.

Therefore, the petitioner's entitlement to Advance Against Depreciation is as under:

(Rs in lakh)

Advance against Depreciation		2004-05	2005-06	2006-07	2007-08	2008-09
1/10th of Gross Loan(s)	10%	9195	9483	10391	10667	10667
Repayment of the Loan		174	7020	9532	10132	10409
Minimum of the above		174	7020	9532	10132	10409
Depreciation during the year		93	5151	5458	5530	5530
(A) Difference		81	1869	4074	4602	4879
Cumulative Repayment of the Loan		174	7194	16726	26858	37267
Cumulative Depreciation		93	5326	12652	22256	32388
(B) Difference		81	1869	4074	4602	4879
Advance against Depreciation Minimum of (A) and (B)		81 <i>(pro rata)</i>	1869	4074	4602	4879

O&M expenses

31. O&M expenses as considered in the order dated 15.10.2007 in Petition No.140/2005 have been considered.

Interest on Working capital

32. For the purpose of calculation of working capital, the operating parameters including the price of fuel components as considered in the order dated 15.10.2007 have been kept unchanged. The "receivables" component of the working capital has been revised for the reason of revision of return on equity, interest on loan, etc. The necessary details in support of calculation of interest on working capital are as under:

(Rs in lakh)

	2004-05	2005-06	2006-07	2007-08	2008-09
Coal Stock	4623	4551	4485	4498	4485
Oil Stock	436	308	194	194	194
O & M expenses	390	405	422	438	456
Maintenance spares	1302	1303	1382	1464	1552
Receivables	9737	9281	9602	9658	9594
Total Working Capital	16488	15849	16085	16253	16282
Rate of Interest	10.25%	10.25%	10.25%	10.25%	10.25%
Interest on Working Capital	32 <i>(pro rata)</i>	1625	1649	1666	1669

33. The revised annual fixed charges for the period from 1.4.2004 to 31.3.2009 are summarized as under:

Particulars	(Rs. in lakh)				
	25.3.2005 to 31.3.2005	2005-06	2006-07	2007-08	2008-09
Interest on Loan	134	7058	6980	6340	5535
Interest on Working Capital	32	1625	1649	1666	1669
Depreciation	93	5151	5458	5530	5530
Advance Against Depreciation	81	1869	4074	4602	4879
Return on Equity	107	5962	6318	6400	6400
O & M Expenses	90	4865	5060	5260	5475
TOTAL	538	26530	29539	29798	29488

34. There is a substantial increase in the revised tariff qua the additional amount claimed by the petitioner. This is for the reason of inclusion of advance against depreciation in the revised calculation of fixed charges, though not claimed by the petitioner, since the petitioner is considered entitled in accordance with the 2004 regulations.

35. The target availability of 80% considered by the Commission in the order dated 15.10.2007 remains unchanged. Similarly, other parameters viz., specific fuel consumption, Auxiliary Power consumption and Station Heat rate etc considered in the order dated 15.10.2007 have been retained for the purpose of calculation of the revised fixed charges.

36. The petitioner shall claim the difference from the beneficiaries in three equal monthly installments.

37. The petitioner's prayer in clause (iv) as extracted in para 1 of this order, is disposed of in terms of the decision of the Commission in para 46 of the order dated 29.9.2008 in Petition No. 27/2007{(pertaining to revision of fixed charges based on impact of additional capital expenditure in respect of Kahalgaon Super Thermal Power Station, Stage-I (840 MW))}

38. The petitioner in clause (v) as extracted in para 1 of this order has prayed to take on record the list of balance works, which are part of original scope of the generating station but are not completed as on cut-off date of 31.3.2007 and to allow capitalization of the same as and when it approaches the Commission after their execution. The petitioner has submitted that despite all efforts for expeditious capitalisation of balance works, it could only complete/ execute majority of the balance works up to the extended cut-off date of 31.3.2007, but certain items of works like township, administration office facilities, roads, culverts, railway siding enabling works required for smooth and safe operation in the long run which were taken up in due course of time, could not be completed by 31.3.2007.

39. The sixth respondent has opposed further extension of cut-off date beyond 31.3.2007. The petitioner in its rejoinder filed vide affidavit dated 21.4.2008 has submitted that the generating station achieved commercial operation on 25.3.2005 as against the scheduled date of commercial operation of December 2005 which has resulted in substantial benefits to the beneficiaries. On account of early commissioning of the generating station,

certain capital works essentially required for smooth and safe operation in the long run was taken up in due course of time.

40. The petitioner had earlier filed Petition No. 10/2006 under Regulations 12 and 13 of the 2004 regulations for removal of difficulties and for relaxation of norms/provisions in regard to additional capitalization from the date of commercial operation up to the cut-off date for determination of tariff of the generating station. The Commission by its order dated 6.2.2007 directed as under:

"6. We have considered the prayer made by the petitioner. The intention of providing the cut off date for capitalization of the expenditure incurred after the date of commercial operation is to ensure that all works are completed as early as possible, since in the past it was observed that the proposals for additional capitalization of expenditure were received years after the commissioning of a generating station. On these considerations, relaxation or extension of cut off date cannot be allowed in routine. Nevertheless, relaxation may be considered in extreme cases. In the present case, it has been found that the petitioner could defer commissioning of Ramagundam STPS Stage III by about a week and would still have been within the scheduled date of commercial operation of 22.8.2005, that is, within 48 months from the date of main plant order, placed on 22.8.2001. In that case, the cut off date for capitalization of additional expenditure would have automatically been extended up to 31.3.2007.

7. On consideration of the facts on record placed before us by the petitioner, we are satisfied that it is a fit case for invoking powers under Regulations 12 and 13 of the 2004 regulations for removal of difficulty or relaxation of the relevant provisions. We accordingly direct that in respect of Ramagundam STPS Stage III, cut off date for the purpose of additional capitalization shall be taken as 31.3.2007. The relaxation granted in the present case will not be quoted on precedent in any of the future cases as each case is to be considered and decided on its own merits. The petition accordingly stands disposed of.

41. On scrutiny of the list of balance works submitted by the petitioner, it is found that most of the left over works are civil works amounting to Rs.7931 lakh. The petitioner has included capital spares amounting to Rs.2200 lakh in the left over works without furnishing the details of spares and the reason for their capitalisation after the cut-off date. In our view, under the afore-noted

circumstances, there is no justification to extend the cut-off date of the generating station for the purpose of capitalisation of balance works. The petitioner may approach the Commission for capitalisation of any additional works/services after the cut-off date, in terms of the 2004 regulations.

42. As regards the prayer of the petitioner for recovery of filing fees from the beneficiary, the decision of the Commission in order dated 11.9.2008 in Petition No. 129/2005 (*suo motu*) pertaining to reimbursement of application fee and publication charges would be applicable.

43. Petition No.24/2008 stands disposed of in terms of the above.

Sd/-
(R. KRISHNAMOORTHY)
MEMBER

Sd/-
(BHANU BHUSHAN)
MEMBER

New Delhi dated the 24th November, 2008