

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram

1. **Shri Ashok Basu, Chairperson,**
2. **Shri. Bhanu Bhushan, Member**
3. **Shri A.H. Jung, Member**

Petition No.8/2006

In the matter of

Fixation of tariff in respect of NLC Thermal Power Station-I (Expansion) for the period from 9.5.2003 to 31.3.2004.

In the matter of

Seeking increase in capital cost on account of FERV.

And in the matter of

Neyveli Lignite Corporation Ltd.Chennai

.... Petitioner

Vs

1. Tamil Nadu Electricity Board, Chennai
2. Karnataka Power Transmission Corporation Ltd, Bangalore
3. Kerala State Electricity Board, Trivandrum
4. Electricity Department, Pondicherry

.....Respondents

The following were present

1. Shri K Sekar, GM, NLC
2. Shri R. Seetharaman, DGM, NLC
3. Shri S. Sowmyanarayanan, Consultant, TNEB

**ORDER
(DATE OF HEARING: 4.4.2006)**

The petitioner owns, among others, Thermal Power Station-I (Expansion), (TPS-I Expansion) comprising two units of 210 MW each; Unit I was declared under commercial operation on 9.5.2003 and Unit II on 5.9.2003. Thus, the station as a whole was declared under commercial operation on 5.9.2003. The petitioner had made an application (petition No.105/2002) for approval of tariff from 9.5.2003 to

31.3.2004 based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2001. The tariff was approved by order dated 7.4.2005.

2. In petition No.105/2002, the petitioner had sought approval of tariff based on capital cost of Rs.1390.33 crore with following break up of debt and equity:

	(Rs. in crore)
Equity component	- 962.38
Loan component	- 427.95 (98.97 million Euro @ Rs.43.24/Euro)
Total	- <u>1390.33</u> -----

3. It was noticed that the petitioner had recovered an amount of Rs.91.19 crore as liquidated damages. Therefore, capital cost of Rs.1299.14 crore, after adjustment of liquidated damages of Rs.91.19 crore was considered in the order dated 7.4.2005, for tariff purposes. While approving tariff, the Commission had considered exchange rate of Rs.50.59/Euro as applicable on the date of commercial operation of the generating station, that is, 5.9.2003 and in this manner arrived at loan of Rs.500.60 crore. Keeping the capital cost at Rs.1390.93 crore, and after adjusting loan of Rs.500.60 crore, the balance was considered as equity.

4. The petitioner has submitted that equity actually employed is Rs.962.38 crore and the loan component of capital cost works out to Rs.500.60 crore @ Rs.50.59/Euro against a total loan of 98.77 million Euro contracted by the petitioner. Thus, according to the petitioner the capital cost as on 5.9.2003 works out to Rs.1462.98 crore as detailed below:

		(Rs. in crore)
Equity component	-	962.38
Loan component	-	500.60
Total		<u>1462.98</u>

5. Accordingly, the petitioner has prayed that the additional amount of Rs.72.65 crore (Rs.500.60 crore – Rs.427.95 crore) arising out of the exchange rate variation should be adjusted for approval of tariff for the period 1.4.2004 to 31.3.2009, a petition for which has been filed by the petitioner on 6.6.2005; this petition has been registered as petition No.68/2005.

6. Reply to the petition has been filed by KSEB. None of the other respondents has filed their reply. KSEB in its reply has stated that the petitioner should not be given relief retrospectively since tariff for the period ending 31.3.2004 has already been approved. Although KSEB has, in the prayer, stated that the amount of Rs.72.65 crore towards the net liability in terms of exchange rate variation may not be admitted, but no reasons are contained in the reply filed on its behalf.

7. We have considered the matter in the light of submissions made on behalf of the parties present at the hearing.

8. In this context, it may be noted that Schedule-VI to the Companies Act, 1956, provides, inter alia, that where the original cost and additions and deductions thereto, relate to any fixed asset which has been acquired from a country outside India, and in consequence of a change in the rate of exchange at any time after the acquisition of

such asset, there has been an increase or reduction in the liability of the company, as expressed in Indian currency, for making payment towards the whole or a part of the cost of the asset or for repayment of the whole or a part of moneys borrowed by the company from any person, directly or indirectly, in any foreign currency specifically for the purpose of acquiring the assets (being in either case the liability existing immediately before the date on which the change in the rate of exchange take effect), the amount by which the liability is so increased or reduced during the year, shall be added to, or a, as the case may be deducted from the cost, and the amount arrived at after such addition or deduction shall be taken to be the cost of the fixed asset.

9. In the light of this provision, the request made by the petitioner to enhance the capital cost by the exchange rate variation to the tune of Rs.72.65 crore appears to be reasonable. While claiming tariff for the period ending 31.3.2004, the petitioner committed an error in claiming impact of exchange rate variation on capital cost. The tariff has already been approved by the Commission and for its error the petitioner has already suffered. In the present petition, the petitioner does not seek retrospective revision of tariff but seeks correction of capital cost for tariff for the period from 1.4.2004. In the interest of justice we consider it necessary to rectify the error which has been brought to our notice for the future and to which there is no serious objection from the respondents.

10. In the light of above, we accept the prayer of the petitioner. We direct that the capital cost of Rs.1371.79 crore shall be taken as the opening cost as on 1.4.2004 for the purpose of determination of tariff for the period ending 31.3.2009 as per the following details:

		(Rs. in crore)
Equity component	-	962.38
Loan component	-	500.60
Total		----- 1462.98
Less liquidated damages		91.19
Net capital cost		1371.79

11. Based on the above decision, the petitioner is granted liberty to file an amended petition No.68/2005 by 15.6.2006, as already ordered.

12. With this, the present petition stands disposed of.

Sd/-
(A.H. JUNG)
MEMBER

Sd/-
(BHANU BHUSHAN)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRPERSON

New Delhi dated the 26th April, 2006