

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

1. Shri Ashok Basu, Chairman
2. Shri Bhanu Bhushan, Member

**Review Petition No. 86/2004
in
Petition No. 99/2002**

In the matter of

Review of order dated 18th May 2004 passed by the Commission approving the tariff for Kawas Gas Power Station from 1.4.1998 to 31.3.2001

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. Chhattisgarh State Electricity Board, Raipur
5. Electricity Deptt., Govt. of Goa, Panaji
6. Electricity Deptt., Admn of Daman & Diu, Daman
7. Electricity Deptt., Admn of Dadra & Nagar Haveli, Silvassa**Respondents**

The following were present:

1. Shri M.G. Ramachandran, Advocate, NTPC
2. Shri V.B.K. Jain, GM, NTPC
3. Shri I.J. Kapoor, GM, NTPC
4. Shri S.K. Johar, DGM, NTPC
5. Shri S.K. Sharma, Sr. Mgr(C), NTPC

**ORDER
(DATE OF HEARING : 07.10.2004)**

The petitioner, NTPC through this application seeks review of the order dated 18.5.2004 in Petition No. 99/2002 limited to the following aspects, namely:

- (a) Non-inclusion of the naphtha fuel in the calculation of the working capital;
- (b) Calculation of the interest on loan based on actual or normative annual repayment , whichever is higher; and
- (c) Provision of heat rate of 3190 Kcal/kWh in place of 3150 Kcal/kWh

2. The petition was heard on admission. Issue notice to the respondents on sub-para (a) and (c) above.

3. As regards sub-para (b), Shri M.G. Ramachandran, Advocate, submitted that while calculating repayment of loan for the purpose of calculation of interest on loan, the Commission should not base the claim on the actual repayment or normative repayment, whichever is higher, as considered by the Commission in the order dated 18.5.2004. According to the learned counsel, the methodology considered by the Commission is inequitable and has caused hardship to the petitioner. He argued that the Commission may consider either the normative repayment or the actual repayment uniformly in all cases. Accordingly, the learned counsel sought review of computation of interest on loan.

4. We have considered the submission. We are not inclined to admit review on the ground listed at sub-para (b). The same issue as presently raised, was earlier raised by the petitioner in Review Petition No. 126/2002 in Petition No. 29/2002 and a number of other cases. The review on this ground was not allowed by the Commission. The relevant extract from the order dated 2.5.2003 in review petition No. 126/2002 is reproduced below:

“14. On the issue of interest on loan, the annual repayment amount has been arrived at in accordance with the given formula or as given in the petition, whichever is higher, through a conscious decision of the Commission. In our opinion, the review of this decision does not lie, as it does not fall within any of the grounds prescribed by law. It was argued on behalf of the petitioner that the adoption of the principle by the Commission has caused hardship. **The application for review of order on the ground of hardship is not justified, unless it falls within the four walls of the conditions prescribed under Rule 1, Order 47 of the Code.** (Emphasis added)”

5. For the reasons already recorded, review on ground at sub-para (b) above is not maintainable.

6. So far as other two grounds are concerned, the petitioner is directed to serve copy of the petition on the respondents by 20.10.2004 along with a copy of this order. The respondents may file their reply by 20.11.2004 with advance copy to the petitioner who may file its rejoinder, if any, by 10.12.2004.

6. List this petition on 28th December, 2004.

Sd/-
(BHANU BHUSHAN)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRMAN

New Delhi dated the 14th October, 2004