

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

- 1. Shri Ashok Basu, Chairperson**
- 2. Shri K.N. Sinha, Member**
- 3. Shri Bhanu Bhushan, Member**
- 4. Shri A.H. Jung, Member**

**IA No.52/2005 in
Petition No.151/2004**

In the matter of

Approval of tariff of Rihand Super Thermal Power Station (1000 MW) for the period from 1.4.2004 to 31.3.2009.

And in the matter of

National Thermal Power Corporation Ltd

.... **Petitioner**

Vs

1. Uttar Pradesh Power Corporation Ltd., Lucknow
2. Jaipur Vidyut Vitran Nigam Ltd., Jaipur
3. Ajmer Vidyut Vitran Nigam Ltd., Ajmer
4. Jodhpur Vidyut Vitran Nigam Ltd., Jodhpur
5. Delhi Transco Ltd., New Delhi
6. Haryana Vidyut Prasaran Nigam Ltd., Panchkula
7. Punjab State Electricity Board, Patiala
8. Himachal Pradesh State Electricity Board, Shimla
9. Power Development Deptt., Govt. of J&K, Srinagar
10. Power Deptt., Union Territory of Chandigarh, Chandigarh
11. Uttranachal Power Corporation Ltd., Dehradun **Respondents**

The following were present:

1. Shri V.B.K. Jain, NTPC
2. Shri I.J.Kapoor, NTPC
3. Shri S.D.Jha, NTPC
4. Shri Manoj Saxena, NTPC
5. Shri Shankar Saran, NTPC
6. Shri Gaurav Maheshwari, NTPC
7. Shri D.G.Salpaker, NTPC
8. Shri A. Sardana, NTPC
9. Shri S.K.Samvi, NTPC
10. Shri Balaji Dubey, NTPC

11. Shri R. Singhal, NTPC
12. Shri S.K. Yadav, JVVNL Jaipur
13. Shri P.K. Gupta, Jodhpur Discom, Jaipur
14. Shri B.K. Paliwal, DTL
15. Shri V.K. Malhotra, DTL
16. Shri T.K. Srivastava, UPPCL
17. Shri T.P.S. Bawa, OSD, PSEB
18. Shri R.K.Arora, HPGCL

ORDER
(DATE OF HEARING: 21.2.2006)

Heard the representatives of the parties. IA No.52/2005 for amendment of main petition has been allowed. Let the amended petition be taken on record.

2. The present petition relates to approval of tariff in respect of Rihand STPS for the period 1.4.2004 to 31.3.2009. Another petition (No.38/2001) for approval of tariff for the earlier period, namely, 1.4.2001 to 31.3.2004 is also pending.

3. The tariff in respect of Rihand STPS for the period ending 31.10.1997 was notified by Ministry of Power under its notification dated 2.11.1992, which was subsequently amended to account for, inter alia, additional capitalization for the period ending 31.3.1997. The capital cost considered by Ministry of Power was Rs.229713 lakh up to 31.3.1997. The petitioner also filed petition No.30/2002 for approval of additional capitalization on works and FERV for the period 1.4.1997 to 31.3.2001, revised fixed charges for the period 1.4.1997 to 31.10.1997 and the fixed charges for the period 1.11.1997 to 31.3.2001. The Commission by its order dated 4.10.2002 approved additional capitalization from 1.4.1997 to 31.3.2001 as per details given below:

(Rs. in lakh)

| | 1997-98 | 1998-99 | 1999-2000 | 2000-01 |
|---------------------------------------------------------------|---------|---------|-----------|---------|
| Opening Capital Cost as on 1 st April | 229713 | 232582 | 233480 | 236241 |
| Additional capitalization on Works | 2003 | 346 | 2193 | 1254 |
| Additional capitalization on FERV | 866 | 552 | 569 | (-)268 |
| Closing Capital Cost as on 31 st March of the year | 232582 | 233480 | 236241 | 237227 |

4. The Commission also approved the revised fixed charges for the period up to 31.3.2001 by the said order dated 4.10.2002. One of the beneficiaries, namely, Rajasthan Rajya Vidyut Prasaran Nigam Ltd. (RRVPL) filed an appeal before Jaipur Bench of Rajasthan High Court against the Commission's order dated 4.10.2002. The Hon'ble High Court by its order dated 10.1.2003 stayed operation of the said order dated 4.10.2002. Though RRVPL subsequently applied for modification of the stay order, we have been informed that the stay granted by the Hon'ble High Court still continues to be in force.

5. In the present cost plus tariff regime, the capital cost is a necessary input and base for determination of tariff for the subsequent periods. In view of the stay order dated 4.10.2002 by the Hon'ble High Court, a view on the opening capital cost as on 1.4.2001 in petition No.38/2001 was not possible because the capital cost of Rs.237227 lakh as on 31.3.2001 arrived at in the order dated 4.10.2002 could not be considered because of the stay. The tariff could also not be determined based on capital cost of Rs.229713 lakh as on 31.3.1997 since this could involve another exercise of tariff determination after disposal of the appeal by the Hon'ble High Court. Therefore, by way of caution the petition (No.38/2001) for approval of tariff from 1.4.2001 to 31.3.2004 was kept pending till disposal of appeal by the Hon'ble High Court or modification of the stay order based on an application to that effect filed by

RRVPNL. In the normal course, the present petition for approval of tariff for the period 1.4.2004 to 31.3.2009 was also to be kept pending.

6. Meanwhile, in an appeal (No.187/2005) filed by Uttar Pradesh Power Corporation Ltd. (UPPCL) before the Appellate Tribunal for Electricity, the Appellate Tribunal by its order dated 10.1.2006, has directed that the pending applications and petition made by the petitioner for determination of tariff for the period 1.4.2001 to 31.3.2004 as well for subsequent periods should be disposed of expeditiously.

7. In view of the above directions of the Appellate Tribunal, the present petition as also petition No.38/2001 are to be considered. Accordingly, the petitioner as also the respondents are directed to file affidavits spelling out their view as regards the consideration of capital cost for the purposes of tariff during the currency of stay order passed by Hon'ble High Court. The affidavit shall be filed by 20.3.2006.

8. List petition No.38/2001 along with the present petition on 30.3.2006.

Sd/-
(A.H. JUNG)
MEMBER

Sd/-
(BHANU BHUSHAN)
MEMBER

Sd/-
(K.N. SINHA)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRMAN

New Delhi dated the 3rd March, 2006