

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram:**

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

**I.A. No. 67/2006 in  
Petition No.67/2003  
(SUO MOTU)**

**In the matter of**

Bringing generating stations of Central Public Sector Undertakings (CPSU's) supplying power to single beneficiary State under provision of Availability Based Tariff (ABT).

**The following were present:**

1. Shri R. K.Mehta, Advocate, GRIDCO
2. Shri A.S.Mallick, GRIDCO
3. Shri S.N.Goel, NTPC
4. Shri I.J.Kapoor, NTPC
5. Shri Lali Agrawal, NTPC
6. Shri B.Dash, NTPC
7. Shri S.K.Sumai, NTPC
8. Shri V.Kumar, NTPC
9. Shri S.K.Sharma, NTPC

**ORDER  
(DATE OF HEARING: 28.11.2006)**

The Commission in its order dated 4.7.2005 had decided to implement Availability Based Tariff (ABT) on all single beneficiary generating stations in the central sector, which included Talcher Thermal Power Station owned by NTPC Limited, a generating company owned or controlled by the Central Government with effect from 1.12.2005. For this purpose, an action plan for implementation of ABT was to be prepared by NTPC Ltd and Grid Corporation of Orissa Limited (GRIDCO) and ABT was in fact implemented w.e.f. 1.12.2005, as directed by the Commission.

2. Through this interlocutory application, GRIDCO has sought that ABT be kept in abeyance.

3. Heard Shri Raj Kumar Mehta, Advocate for GRIDCO and Shri S.N.Goel, General Manager for NTPC.

4. Shri Mehta submitted that GRIDCO had agreed for implementation of ABT on trial basis and payment was being made as per ABT and UI mechanism under protest. Shri Mehta urged the following grounds in support of the prayer for deferment:

- (a) Non-implementation of intra-State ABT by OERC;
- (b) Non-installation of ABT compliant energy meters; and
- (c) Lower declaration and injection of more power by NTPC to take an undue advantage of UI mechanism.

5. It is observed that State Commissions are free to implement ABT for the intra-State generating stations, other than those owned by the Central Power Sector Utilities. In this regard, OERC has already issued a draft notification on 26.10.2006. Therefore, the first ground urged on behalf of GRIDCO has lost relevance, since ABT on other intra-State generating stations would be implemented sooner than later in the State of Orissa. It is pointed out that ABT has already been implemented on seven central sector generating stations supplying power to single beneficiary State, even in the absence of implementation of ABT for intra-State generating stations in those States.

6. Now we consider the second ground. Installation of the Special Energy Meters is no doubt a pre-requisite for ABT implementation. In the joint action plan, both the parties agreed to a methodology for recording the actual energy dispatched at the bus bar (ex-bus) from the existing energy meters. At that time the parties had also agreed that there was no need of new Special Energy Meters. In case it is felt that the installation of Special Energy Meters is necessary, then the SLDC/GRIDCO/NTPC should immediately take appropriate steps in that direction. Talcher TPS is the only central sector intra-State generating station in Orissa. GRIDCO/SLDC shall have to organize the compatible metering for other intra-State entities as and when intra-State ABT is introduced in State in due course of time. It would be more appropriate if the metering responsibility for Talcher TPS is also taken over by GRIDCO/SLDC, at this stage itself. However, ABT need not be suspended and the present arrangement should continue as hitherto till such time the required Special Energy Meters are installed.

7. This leaves only the last ground urged by GRIDCO for suspension of ABT. Although the Commission's regulations allow generation up to 105% of the declared capacity in a time block and 101% during the day without being categorized as gaming, yet this cannot be a regular feature. Clause 6.4.13 of the Indian Electricity Grid Code (IEGC), which must be complied with by all inter-State generating stations (ISGS), is reproduced below:

“13. It shall be incumbent upon the ISGS to declare the plant capabilities faithfully, i.e., according to their best assessment. In case, it is suspected that they have deliberately over/under declared the plant capability contemplating to deviate from the schedules given on the basis of their

capability declarations (and thus make money either as undue capacity charge or as the charge for deviations from schedule), the RLDC may ask the ISGS to explain the situation with necessary backup data.”

8. Clause 6.4.16 of the IEGC is also reproduced below:

“16. RLDC shall periodically review the actual deviation from the dispatch and net drawal schedules being issued, to check whether any of the constituents are indulging in unfair gaming or collusion. In case any such practice is detected, the matter shall be reported to the Member Secretary, RPC for further investigation/action.”

9. Thus, under ABT regime, the injection schedule specified by RLDC for an inter-State generating station depends on the availability declared by the generating station, and its merit order position amongst the various sources of power. In case of single beneficiary generating station in the State of Orissa, like Talcher TPS, Orissa State Load Despatch Centre (OSLDC) schedules and monitors the injection of power. Therefore, OSLDC is empowered to keep a check on the activities on generation by NTPC, and may insist on compliance of the above provisions of IEGC by the generating station, even when the limit of 101% prescribed in Regulation 24 (2) (i) of the 2004 tariff regulations is not exceeded and provisions of Regulation 24 (2) (ii) do not get attracted.

10. In case of excess generation over the declared capacity on regular basis, it may amount to gaming by the generating station. SLDC in the State of Orissa under these circumstances is competent to conduct an inquiry into the matter to ascertain the reasons. Therefore, OSLDC is directed to file a detailed report latest by 31.12.2006 on the declaration of capacity by NTPC for Talcher TPS, the schedule given by OSLDC and actual generation and whether NTPC resorted to

gaming at any point of time since the implementation of ABT with effect from 1.12.2005.

11. List this interlocutory application on 9.1.2007 for further directions. Meanwhile, Talcher TPS shall continue to be governed by ABT regime.

**Sd-/  
(A.H.JUNG)  
MEMBER**

**sd-/  
(BHANU BHUSHAN)  
MEMBER**

**sd-/  
(ASHOK BASU)  
CHAIRPERSON**

**New Delhi dated the 7th December 2006**