

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

1. **Shri K.N. Sinha, Member**
2. **Shri Bhanu Bhushan, Member**

Petition No.167/2004

In the matter of

Approval of revised fixed charges on account of additional capital expenditure for the period 1.4.2001 to 31.3.2004 in respect of Dadri Gas Power Station

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., Jaipur
4. Jodhpur Vidyut Vitran Nigam Ltd., Jaipur
5. Delhi Transco Ltd., New Delhi
6. Haryana Vidyut Prasaran Nigam Ltd., Haryana
7. Punjab State Electricity Board, Patiala
8. Himachal Pradesh State Electricity Board., Shimla
9. Power Development Department, Govt.of J&K, Srinagar
10. Power Department, Chandigarh
11. Uttaranchal Power Corporation Ltd., Dehradun**Respondents**

The following were present:

1. Shri A.M Misra, NTPC
2. Shri Shri D.G. Salpekar, NTPC
3. Shri S.K. Kapoor, NTPC
4. Shri R.A. Goyal, NTPC
5. Shri V.B.K. Jain, NTPC
6. Shri I.J. Kapoor, NTPC
7. Shri R.M. Arya, NTPC
8. Shri C.P. Singh, NTPC
9. Shri Sanjay Madan
10. Shri Shankar Saran, NTPC
11. Shri S.K. Samvi, NTPC
12. Shri C.S. Gupta, NTPC
13. Shri M.G. Ramachandran, NTPC
14. Shri S.K. Johar, DGM(C), NTPC
15. Shri N.N. Sadasivan, NTPC

16. Shri S.K. Sharma, NTPC
17. Shri Manoj Saxena, NTPC
18. Shri S.D. Jha, Sr. Manager (C), NTPC
19. Shri J. Roy, NTPC
20. Ms. Taruna Singh Baghel, NTPC
21. Shri A.K. Juneja, NTPC
22. Shri Manoj Mathur, DGM(C), NTPC
23. Shri C.S. Srinivas, NTPC
24. Shri A. Ravindra, NTPC
25. Ms. Alka Saigal, NTPC
26. Shri G.K. Dua, NTPC
27. Shri Balaji Dubey, Dy. Mgr. Law, NTPC
28. Shri S. Naik, Mgr (Commerce), NTPC
29. Shri P.B. Venkatesh, Dy. Mgr. (Comml), NTPC
30. Shri Surendra, NTPC
31. Shri A. Sardana, NTPC
32. Shri K.K. Mittal, XEN, RVPN
33. Shri T.C. Nigohya, JVVNL
34. Shri A.K. Sharma, JVVNL
35. Shri P.K. Gupta, JVVNL
36. Shri R.K. Arora, HVPN
37. Shri O.P. Srivastava, UPPCL
38. Shri T.K. Srivastava, UPPCL
39. Shri V.K. Goel, SE, HVPN
40. Shri C.K. Sahajevani, XEN, HVPN
41. Shri P.K. Gupta, DTL

ORDER
(DATE OF HEARING: 13.1.2005)

Through this petition, the petitioner seeks approval for the revised fixed charges in respect of Dadri Gas Power Station (Dadri GPS) for the period 1.4.2001 to 31.3.2004 after considering the impact of additional capital expenditure incurred during the period.

2. Dadri GPS comprises of four gas turbines each with a capacity of 130.19 MW and two steam turbine of 154.51 MW each. The Central Government in Ministry of Power by its letter dated 2.11.1994 had accorded the investment approval for Rs.924.26 Crore, including IDC of Rs. 20.80 Crore, excluding Working Capital Margin of Rs.36.09 Crore.

3. The terms and conditions for determination of tariff for the period 1.4.2001 to 31.3.2004 were notified by the Commission on 26.3.2001 in terms of the Central Electricity Regulatory Commission (Terms & Conditions of Tariff) Regulations 2001 (hereinafter referred to as “the notification dated 26.3.2001”). A petition (No.44/2001) was filed by the petitioner for approval of tariff for the period 1.4.2001 to 31.3.2004, the basis for which was stated to be the notification dated 26.3.2001. In the tariff claimed, the petitioner had considered the impact of additional capitalisation for the period 1.4.2001 to 31.3.2004. The tariff was approved by the Commission by its order dated 24.10.2003. For the purpose of tariff, the capital cost of Rs.866.32 Crore as on 1.4.2001 was considered. The additional capitalisation claimed by the petitioner was not considered since it was based on the estimated capital expenditure and was without the supporting auditor’s certificate.

4. The year-wise details of additional capitalisation claimed with reference to the balance sheet are as follows:

(Rs. in lakh)				
	2001-02	2002-03	2003-04	Total
Additional Capitalization in the books of accounts	457.512	1435.935	2879.611	4773.058

5. Based on the above, the petitioner has claimed the revised fixed charges.

6. The petitioner’s claim for additional capitalisation and the revised fixed charges is based on Clause 1.10 of the notification dated 26.3.2001, reproduced hereunder:

“1.10 Tariff revisions during the tariff period on account of capital expenditure within the approved project cost incurred during the tariff period may be entertained by the Commission only if such expenditure exceeds 20% of the approved cost. In all cases, where such expenditure is less than 20%, tariff revision shall be considered in the next tariff period.”

7. The response to the petition has been filed by Haryana Vidyut Prasaran Nigam Ltd (HVPNL), Uttar Pradesh Power Corporation Ltd. (UPPCL) and Punjab State Electricity Board (PSEB). The common ground running through these responses is that tariff revision as claimed by the petitioner on account of additional capital expenditure incurred during the tariff period cannot be entertained in view of Clause 1.10 of the notification dated 26.3.2001, reproduced above, since the additional capital expenditure does not exceed 20% of the approved capital cost. Some of the respondents have questioned the manner of computation of the revised fixed charges.

Additional Capitalisation

8. In the first instance, we consider the admissibility of additional capital expenditure claimed in the present petition.

9. The year-wise and category-wise break up of the additional expenditure claimed by the petitioner is as follows-

(Rs. in lakh)

(A) Works with in the scope of approved cost					
	Category Code	2001-02	2002-03	2003-04	Total
(a) Balance payment against works admitted by the Central Government/Commission	10 A	180.551	591.634	162.995	935.180
(b) Balance payment against works not admitted by the Commission	10 B	6.940	0.518	0.00	7.458
(c) New Works – Capitalisation under approved cost	21A	108.061	(-) 0.376	(-) 0.217	107.468
Total with in the scope of approved cost (A)= (a)+(b)+(c)		295.552	591.776	162.778	1050.106
(B) Works not within the scope of approved cost.					
(a) New works: capitalized under other than approved cost	21 B	75.174	11.390	2673.587	2760.151
(b) Spares : capitalized under other than approved cost	22 B	86.783	832.768	43.245	962.796
Total Additional Capitalisation Not with in the scope (B) = (a)+(b)		161.957	844.158	2716.832	3722.947
Total additional capitalization claimed (A)+(B)		457.509	1435.934	2879.610	4773.053

10. The expenditure claimed for additional capitalisation and our decisions thereon have been discussed as under:

Additional capital expenditure within the scope of approved cost/ admitted works by the Central Government/Commission-

(a) Additional Capital Expenditure relating to balance payments against works admitted by the Central Government/Commission - The balance payments of Rs. 935.180 lakh against works admitted by the Central Government/Commission is found to be in order and has been allowed to be capitalised.

(b) Balance payments against works not admitted by Commission - An expenditure of Rs. 7.458 lakh relates to works not within the original scope of the project and, therefore, not admitted by the Commission for capitalisation.

(c) New works Capitalisation under approved cost - An expenditure of Rs.107.468 lakh for three years on new works within the original scope has been claimed under this head. This expenditure relates to works of HVAC of new administrative building meant for functioning of officials and employees. The construction of administrative building got delayed due to contractual problems. Work of HVAC of a building can be started only after completion of the building. Since the expenditure relates to works under approved cost, the same has been allowed for capitalization.

Additional Capital Expenditure on New works not within the approved cost-

(a) Additional Capital Expenditure on New works not within the approved cost- An expenditure of Rs. 2760.151 lakh on new works not within the original scope of the project has been claimed. The matter has been

examined in the light of the justification furnished by the petitioner for incurring the expenditure. An amount of Rs. 298.836 lakh has been found admissible out of a total of Rs.2760.151 lakh. The year-wise break up of allowed/disallowed expenditure for this head is as follows-

Year	Claimed (Rs.)	Allowed(Rs.)	Disallowed(Rs.)
2001-02	7517460	7517460	0.00
2002-03	1139004	1139004	0.00
2003-04	267358712	21227105	246131607
Total	276015176 (Rs.2760.151 lakh)	29883569 (Rs.298.836 lakh)	246131607 (Rs. 2461.316 lakh)

The amount of Rs.2461.316 lakh disallowed in the year 2003-04 pertains to capitalization of GT blades of Stage-1 & 2 of GT-3, on account of replacement of defective GT-3 blades. There is no corresponding de-capitalisation of old blades. The petitioner, however, vide its affidavit dated 21.2.2005 has submitted that the de-capitalization of old blades worth Rs.545.74 lakh shall be done in the year 2004-05. Such replacement of GT blades is required to be done at regular intervals and should be charged to O&M.

(b) Additional Capital Expenditure on spares not in approved cost- An expenditure of Rs.962.796 lakh relates to capitalization of spares during 2001-04. The petitioner has submitted that these spares are required for safety against break down, which if not available in time could lead to loss of generation and aggravation of already power deficit condition. It is further submitted that since these critical spares are required to be procured from the Original Equipment Manufacture (OEM), lead-time for procurement could be

one to one and a half-year. To avoid long outage of units it is necessary to maintain sufficient stock of these spares in capital account of spares.

We have considered the matter in right earnest. The station is in operation for about 8 years and capitalization of such spares is over and above the spares capitalized as initial spares. The Commission while dealing with additional capitalization petitions of the generating stations belonging to the petitioner, for the period prior to 1.4. 2001, did not allow capitalization of such spares as consumption of such spares forms part of O&M expenses.

In the tariff petition No.44/2001 for the period 2001-04, the Commission has disallowed inclusion of such items in O&M cost additionally because supply of such spares was covered under warranty clause with OEM to supply free of cost during the first ten years. The Commission decided that supply of such warranty spares free of cost must have been factored in the capital cost of the generating station and the cost was recovered by way of depreciation. In addition, the petitioner earned return on such cost factored in the capital cost.

On these considerations, capitalization of the spares claimed has not been allowed.

11. The following additional capital expenditure has been allowed based on discussions in the above paragraphs:

(Rs. in lakh.)

(A) Works with in the scope of approved cost				
	2001-02	2002-03	2003-04	Total
(a) Balance payments against works admitted by the Central Government/Commission (10 –A)	180.551	591.634	162.995	935.180
(b) Balance payment – against works not admitted by Commission (10 –B)	0.00	0.00	0.00	0.00
(c) New work- Capitalisation under approved cost (21-A)	108.061	(-) 0.376	(-) 0.217	107.468
Total with in the scope of approved cost (A)= (a)+(b)+(c)	288.612	591.258	162.778	1042.648
(B) Works not with in the scope of approved cost.				
(a) New works: capitalized under other than approved cost (21-B)	75.174	11.390	212.271	298.835
(b) Spares : capitalized under other than approved cost (22-B)	0.00	0.00	0.00	0.00
Total Additional Capitalisation Not with in the scope (B) = (a)+(b)	75.174	11.390	212.271	298.835
Total additional capitalization allowed (A)+(B)	363.786	602.648	375.049	1341.483

12. Next arises the question of revision of fixed charges for the period 1.4.2001 to 31.3.2004. In the order dated 31st March 2005 in Petition No. 139/2004, (National Thermal Power Corporation Ltd Vs Uttar Pradesh Power Corporation Ltd and others) the Commission has held that the additional capital expenditure incurred during the tariff period, not exceeding 20% of the approved capital cost, does not qualify for retrospective revision of tariff. In the present case, the additional capital expenditure approved is less than 20% of the approved cost. For the reasons given in the said order dated 31st March 2005, the retrospective revision of fixed charges for the period 1.4.2001 to 31.3.2004 is not warranted. However, the additional capital expenditure approved shall be added to the gross block as on 1.4.2001 to arrive at the gross block as on 1.4.2004 for the purpose of fixation of tariff for the tariff period 2004-05 to 2008-09.

13. After taking into account additional capitalization allowed, the opening gross block as on 31.3.2004 works out as follows:

(Rs. in Crore)			
	2001-02	2002-03	2003-04
Capital cost as on 1 st April	866.324	869.961	875.987
Additional capitalisation	3.637	6.026	3.750
Capital cost as on 31 st March of respective financial year	869.961	875.987	879.737

14. Further, for the reasons recorded in order dated 31.3.2005 in Petition No.139/2004, the petitioner shall be entitled to earn return on equity @ 16% on the equity portion of additional capitalisation now approved by us. Similarly, the petitioner shall also be entitled to interest on loan at the rate, as applicable, during the relevant period. Return on equity and interest shall be worked out on the additional capitalisation from 1st April of the financial year following the financial year to which additional capital expenditure relates and up to 31.3.2004. The lump sum of the amount of return on equity and interest on loan so arrived shall be payable by the respondents along with the tariff for the period 2004-09 to be approved by the Commission. The exact entitlement of the petitioner on this account shall be considered by the Commission while approving tariff for the period 2004-09.

15. With the above observations, the petition stands disposed of.

Sd/-
(BHANU BHUSHAN)
MEMBER

Sd/-
(K.N. SINHA)
MEMBER

New Delhi dated the 13th April 2005