

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

RECORD OF PROCEEDINGS

Petition No: 31/2008

Subject: Revision of fixed charges for the period 2004-09 after considering the impact of additional capital expenditure for the years 2004-05,2005-06 and 2006-07 for Talcher TPS (460 MW).

Date of hearing: **22.10.2009**

Coram: Shri R.Krishnamoorthy, Member
Shri S.Jayaraman, Member
Shri V.S.Verma, Member

Petitioner: NTPC

Respondents: GRIDCO

Parties present: (1) Shri. V.K.Padha, NTPC
(2) Shri. D.Kar, NTPC
(3) Shri. G.K.Dua, NTPC
(4) Shri. R.B.Sharma, Advocate, GRIDCO

Based on the directions contained in order dated 29.9.2009 in Review Petition No. 67/2009, the main petition was set down for hearing to consider the question of revision of IWC component of the annual fixed charges for the period 1.10.2007 to 31.3.2009.

2. The representative of the petitioner submitted that it had sought review of the order dated 3.2.2009 in the petition on the ground that while computing IWC for the period 1.10.2007 to 31.3.2009, the Commission considered fuel prices for the months of January, February and March 2004 rather than the prices for the months of July, August and September 2007 and the Commission had allowed review of the order on the question of revision of IWC component of the annual fixed charges for the period 1.10.2007 to 31.3.2009. Accordingly, the representative prayed that the tariff determined in the petition be revised, after consideration of fuel prices for the months of July, August and September 2007 for the purpose of computation of IWC.

3. Learned counsel for respondent No.2, BSEB, submitted that the claim of the petitioner for revision of IWC component of the annual fixed charges based on fuel prices for the months of July, August and September 2007 was not maintainable as it had raised the issue in Appeal No.82/2009, which was pending for consideration before the Appellate Tribunal for Electricity. He also submitted that the petitioner had

questioned the findings of the Commission in the said order dated 22.7.2008 which could only be considered in an appeal, and not on a review, as there existed definitive limits for exercise of the power of review. To substantiate, the learned counsel referred to para 3 of the judgment dated 24.3.2009 of the Appellate Tribunal in Review Petition No. 1/2009 in Appeal No.64/2008 (H.M.Steel Ltd & ors-v-HPERC & ors) and submitted that the claim of the petitioner should be rejected. He also submitted that the petitioner is not entitled to claim revised IWC as there exists no provision in the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 for revision of IWC. The learned counsel further pointed out that the Commission had revised the operational norms in respect of the generating station by order dated 20.8.2007 in Petition No. 59/2007 and submitted that the order had attained finality as the petitioner had neither filed a review application nor an appeal against the said order. On merits, the learned counsel submitted that consequent upon the revision of operational norms of the generating station only with effect from 1.10.2007, the respondent had been deprived of the benefits of efficiency improvement from 1.4.2004 to 30.9.2007. On the question of similarity of the generating station with Tanda TPS (another generating station of the petitioner), raised by the petitioner, the learned counsel clarified that the only similarity was that the generating stations were handed over to the petitioner by the respective boards as they could not be operated due to financial constraints. The learned counsel also submitted that the stock position of coal had never been for more than a week during the period of claim and the petitioner had derived huge financial benefits, contrary to the provisions of the 2004 regulations. The learned counsel further pointed out that the information contained in letter dated 20.1.2009 had not been furnished by the petitioner in a routine manner and prayed that the matter be dealt by the Commission as deemed appropriate.

4. In response, the representative of the petitioner submitted that the question of maintainability of the claim, raised by the respondent would not arise at this stage as the matter had already been admitted by the Commission. He also submitted that it was only aggrieved by the methodology adopted by the Commission for computation of IWC and had not sought for review of the operational norms. The representative pointed out that it was within the jurisdiction of the Commission to decide the effective date of operation of norms for the generating station and submitted that the issue of sharing of efficiency gains, raised by the respondent was irrelevant. The representative of the petitioner further added that the respondent had availed the benefits of improved parameters of the generating station and that all the details of the generating station, including that of Tanda TPS were available with the Commission, for consideration of its claim.

5. The Commission after hearing the parties, reserved orders on the petition.

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T.Rout
Joint Chief (Legal)