

CENTRAL ELECTRICITY REGULATORY COMMISSION

RECORD OF PROCEEDINGS

Petition No.128/2009 along with I.A 53/2009

Subject: Determination of impact of additional capital expenditure incurred during 2006-09 on fixed charges in respect of Korba STPS (2100 MW)-Interlocutory Application has been filed for amendment of Annexure-I of the petition.

Coram: Dr. Pramod Deo, Chairperson
Shri R.Krishnamoorthy, Member
Shri S. Jayaraman, Member
Shri V.S.Verma, Member

Date of hearing: 14.10.2009

Petitioner: NTPC Ltd

Respondents: MPPTCL, MSEDCL, GUVNL, CSPDCL, Electricity Dept, Goa, Electricity Dept, Daman and Diu, Electricity Dept, Dadra and Nagar Haveli.

Parties present: 1. Shri V.K.Padha, NTPC
2. Shri A.S.Pandey, NTPC
3. Shri S.K.Sharma, NTPC
4. Shri Deepak Srivastava, MPPTCL
5. Shri P.V.Sajeev, CSPDCL

This petition has been filed by the petitioner, NTPC, for determination impact of additional capital expenditure incurred during 2006-09 on fixed charges in respect of Korba STPS (2100 MW) (hereinafter referred to as "the generating station"), based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004, (hereinafter referred to as "the 2004 regulations").

2. The representative of the petitioner submitted that the interlocutory application had been filed for amendment of Annexure-I of the petition taking into account the revised calculations for fixed charges, based on the orders /judgments of the Appellate Tribunal and prayed that the application be taken on record. He submitted that additional capital expenditure had been incurred on works which are required for efficient and successful operation of the generating station and prayed that the Commission allow the additional capital expenditure incurred for the purpose of tariff. The representative further submitted that capital liabilities disallowed by the Commission for the years 2004-05 and 2005-06 in order dated 20.11.2008, be considered in terms of the judgment dated 16.3.2009 of the

Appellate Tribunal in Appeal Nos. 133,135,136 and 148 of 2008. The representative of the petitioner submitted that it had filed additional information as directed by the Commission during the hearing on 2.9.2009 and had served copy thereof on the respondents.

3. The representative of the respondent No.1, MPPTCL submitted that in terms of sub-section (5) of section 62 read with sub-section (3) of section 79 of the Electricity Act, 2003, the Commission should direct the petitioner to submit the actual expenditure incurred and profits earned in respect of the generating station before the determination of tariff. He also submitted that the petitioner has filed the petition after expiry of the tariff period and there was no provision under the 2004 regulations to allow retrospective revision in tariff. The representative further submitted that the claim of the petitioner towards un-discharged liabilities should be considered only after disposal of the Civil Appeals filed by UPPCL and TNEB, on this issue, by the Hon'ble Supreme Court. On merits, the representative of MPPTCL submitted that in terms of the judgment of the Appellate Tribunal, FERV should be apportioned only towards the loan component. The representative pointed out the delay in filing the petition and submitted that the accounts of the generating station for the years 2006-07 and 2007-08 had been finalized during March 2008. He also submitted that in respect of some of the assets which had been de-capitalized during the years 2006-07, 2007-08 and 2008-09, the petitioner had not mentioned the year of replacement of such assets or the period from which such assets had become unserviceable.

4. The representative of the respondent No.4, CSPDCL, submitted that the petitioner be directed to serve a copy of the petition and sought time to file its reply, after receipt of the copy of the petition.

5. In response, the representative of the petitioner submitted that the claim for additional capitalization in respect of un-discharged liabilities should be allowed as the judgment of the Appellate Tribunal as referred to by the respondent MPPTCL, had not been stayed by the Hon'ble Supreme Court. He also pointed out that FERV had been considered under 'exclusions' and submitted that the petition for additional capitalization had been filed in terms of the 2004 regulations and hence the prayer of the respondent MPPTCL for consideration in terms of sub-section (5) of section 62 of the Act, was not tenable. As regards delay, the representative submitted that the petition had been filed after finalization of accounts and in terms of the liberty granted by the Commission by order dated 29.9.2008 in Petition No.27/2007 in respect of Kahalgaon STPS. The representative of the petitioner clarified that it had served the copy of the petition on the respondent CSPDCL and proof submitted. The representative prayed that it may be permitted to file its rejoinder to the reply filed by the respondents, within a week.

6. On a specific query as to whether the schemes under R&M for which additional capitalization had been claimed were analysed and examined by CEA and if details of the reconciliation had been filed, the representative of the petitioner submitted that the

claims in respect of the schemes approved by CEA have been identified and indicated separately in the petition.

7. The prayer of the petitioner in the I.A. for amendment was allowed. The amended calculations were taken on record. The tariff, after amendment, will be considered in accordance with law.

8. The Commission granted liberty to the petitioner to file its rejoinder and the respondent CSPDCL to file its written submissions, if any, latest by 5.11.2009.

9. Subject to the above, order in the petition was reserved.

Sd/-
(T.Rout)
Joint Chief (Legal)