

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Record of Proceedings

Petition No.33/2009

Subject: Approval of revised fixed charges on account of additional capitalization for the period 25.8.2005 to 31.3.2009 in respect of Indira Sagar Power Station (8 x 125 MW).

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

Date of Hearing: 12.5.2009

Petitioners: NHDC Ltd.

Respondents: MPPTCL & Narmada Valley Development Department

Parties present: Shri Rajeev Sachdeva, NHDC
Shri S.Sanyal, NHDC
Shri Anurag Seth, NHDC
Shri M.Shivkumar, NHDC
Shri Ashish Jain, NHDC
Shri Ranjan Satapathy, NHDC
Shri D.D.Khandelwal, MPPTCL
Shri S.K.Khiani, NVDD, GoMP

This petition has been filed by the petitioner, NHDC Ltd, for approval of revised fixed charges on account of additional capitalization for the period 25.8.2005 to 31.3.2009 in respect of Indira Sagar Power Station (8 x 125 MW). (hereinafter referred to as “the generating station”)

2. The representative of the petitioner submitted that the Commission by its order dated 6.2.2007 in Petition No. 119/2005 while determining the tariff for the generating station had allowed O&M expenses on the capital cost on the power component as on date of commercial operation, after excluding the capital cost towards SSP component, irrigation component, and the subvention for R&R works by the Govt.of Madhya Pradesh. The representative of the petitioner also submitted that the generating station being the owner of the dam is responsible for maintenance of the dam and its appurtenant structure as a whole irrespective of its cost apportionment, and as such, the O&M expenses should be allowed on the gross capitalized expenditure which include the cost of irrigation and SSP

component value of the dam and not to be limited only to the power component. The representative of the petitioner further prayed that the O&M expenses pertaining to SSP component and the irrigation component is recoverable from the Sardar Sarovar Nigam Ltd and the Govt. of Madhya Pradesh respectively and that the Govt. of MP (NVDA) could be the nodal agency for disbursement of the O&M charges to the petitioner.

3. The representative of the second respondent, Narmada Valley Development Department, Govt. of Madhya Pradesh, submitted that in terms of clause (2) of Regulation 4 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2004, (referred to as "the 2004 regulations") for determination of tariff of the generating station, capital cost chargeable to the power component of the project should only be considered. The representative of the second respondent also submitted that the apportionment of cost of Unit-I between irrigation and power component and SSP subvention is as per NWDT award and hence the petitioner's prayer for recovery of O&M charges on the above component is irrelevant as these components do not form part of the power component. The representative of the second respondent further submitted that the Commission had rightly allowed the O&M expenses on the power component in its order dated 6.2.2007 in Petition No.119/2005 and in case of any grievance the petitioner could approach other appropriate forum instead of the Commission.

4. In reply, the representative of the petitioner, pointed out that during the year 2007-08 actual O&M expenses was more than Rs.60 crore as against Rs.47.12 crore allowed by the Commission. The representative of the petitioner further stated that main reason for higher operating expenditure was that it had to maintain the entire Unit including the dam and appurtenant structures, for smooth operation of the generating station.

5. The representative of the first respondent, MPPTCL, raised the issue of maintainability of the petition. The representative of the first respondent pointed out sub-clause (4) of Regulation 34 of the 2004 regulations which provide for revision of tariff by the Commission twice in a tariff period, on account of additional capitalization, including revision of tariff after the cut-off date and submitted that the CERC (Terms and Conditions of Tariff) Regulations, 2009 are in vogue and the petition which has been filed now cannot be considered as there exists no provision in the 2004 regulations to claim additional capital expenditure during the next tariff period. The representative of the first respondent objected to the claim of the petitioner and submitted that the order of the Commission dated 6.2.2007 had attained finality as the petitioner had neither raised the issue of revision of O&M expenses earlier nor had filed any review application against the said order. The representative of the first respondent further submitted that the petitioner should be directed to file a separate application for revision of O&M expenses, if any. The representative of the first

respondent referred to judgment of the Hon'ble Supreme Court dated 3.3.2009 (UPPCL-v- NTPC & others) and submitted that in terms of certain observations of the Court in the said judgment, the prayer of the petitioner for revision of annual fixed charges should not be considered. The representative of the first respondent prayed for time to file detailed written submissions within two weeks which was allowed.

6. In response to the above, the representative of the petitioner submitted that it had approached the Commission, in terms of the liberty granted by the Commission in its order dated 6.2.2007. The representative of the petitioner clarified that the cut-off date of the generating station was 31.3.2007 and that the capital expenditure beyond 25.8.2005 was incurred mainly of execution of balance R&R works as per order of the Hon'ble High Court of Madhya Pradesh, which had allowed filling of the Indira Sagar Reservoir upto EL 260.0 m, acquisition of properties beyond FRL upto backwater level and compensation to affected families, to meet the deferred liabilities, works deferred for execution etc within the original scope of work. The representative of the first respondent also submitted that the additional capital expenditure amounting to Rs.329.63 crore had been incurred after the date of commercial operation upto 31.3.2008 and the tariff had been worked out based on the parameters already admitted by the Commission in its order dated 6.2.2007. The representative of the petitioner further submitted that it be allowed to bill the beneficiaries for consequent increase in capacity index for the period 25.8.2005 onwards and for recovery of revised fixed charges from 25.8.2005 with interest at the rate of 6% p.a.

7. The Commission reserved its order on the petition.

Sd/-
(K.S.Dhingra)
Chief (Legal)