

CENTRAL ELECTRICITY REGULATORY COMMISSION

RECORD OF PROCEEDINGS

Review Petition No.100/2008

- Subject: Review of order dated 22.7.2008 in Petition No. 32/2007, pertaining to revision of fixed charges for the period 2004-09 after considering the impact of additional capital expenditure incurred during 2004-05 and 2005-06 in respect of Farakka STPS, (1600 MW).
- Coram: Dr. Pramod Deo, Chairperson
Shri R.Krishnamoorthy, Member
Shri S.Jayaraman, Member
- Date of hearing: **20.8.2009**
- Petitioner: NTPC Ltd, New Delhi
- Respondents: WBSEDCL, BSEB, JSEB, DVC, GRIDCO, TNEB, MPPTCL, MSEDCL, UPPCL.
- Parties present: 1. Shri V.K.Padha, NTPC
2. Shri G.K Dua, NTPC
3. Shri Vivek Kumar, NTPC

This application has been filed by NTPC for review of order dated 22.7.2008 in Petition No. 32/2007, pertaining to revision of fixed charges for the period 2004-09 after considering the impact of additional capital expenditure incurred during 2004-05 and 2005-06 in respect of Farakka STPS , (1600 MW).

2. The representative of the petitioner submitted that the Commission had, after correction of ministerial errors in the order and rejection of the claim for capitalization of expenditure on RLA studies, admitted the plea for review of order on the issue of disallowance of the claim for capitalization of Interest During Construction (IDC) by order dated 25.6.2008. The representative also submitted that it had actually incurred expenses towards IDC and the same ought to be considered as capital cost for the purpose of tariff, or otherwise, the interest component would remain un-serviced. The representative added that the accounting rules also permitted capitalization of IDC. The representative further submitted that IDC in respect of loan applied to the works executed under R&M forms part of the capital cost of the work executed and was admissible as additional capital expenditure. The representative also pointed out that the Commission had in the past, allowed capitalization of IDC for other generating stations. He reiterated that the claim of Rs 23.09 lakh towards IDC, be allowed.

3. Learned counsel for the second respondent, BSEB, submitted that the petitioner was not entitled to the claim for capitalization of IDC as the Commission in its order

dated 22.7.2008 had given sufficient reasons for its rejection on merits. The learned counsel also pointed out that the petitioner had not questioned the existence/non-existence of the regulations regarding capitalization and submitted that if the 2004 regulations of the Commission were silent on the issue of capitalization of IDC, the same should not be allowed to the petitioner. The learned counsel further submitted that determination of tariff of the generating station was guided by the 2004 regulations framed by the Commission, and not the accounting rules, as adopted by the petitioner, and since the 2004 regulations of the Commission were clear, the petitioner could not rely on the accounting rules. The learned counsel submitted that the petitioner had challenged the findings of the Commission in the order dated 22.7.2008 in the present application, and the issues raised could only be considered in an appeal, and not on a review, as there existed definitive limits for exercise of the power of review. The learned counsel pointed out that Section 61(d) of the Electricity Act, 2003 provides for recovery of cost of electricity in a reasonable manner and therefore, the petitioner is entitled to recover the costs incurred, only in terms of the 2004 regulations laid down by the Commission. As regards the claim of the petitioner that IDC was allowed by the Commission in the past, the learned counsel referring to para 4 of the reply submitted that the issue had neither been raised in the body of the petition nor in the annexure to the petition. The learned counsel added that the claim of Rs 23.09 lakh as IDC had not been mentioned clearly and the submission of the petitioner was a bald statement. The learned counsel reiterated that the issues raised do not deserve consideration of the Commission and prayed that the application be dismissed.

4. In rejoinder, the representative of the petitioner objected to the submission of the respondent, BSEB, and submitted that the provisions of capital cost and additional capital expenditure in the 2004 regulations would also include IDC and that the relevant statements/formats for determination of tariff had been filed by the petitioner, in terms of the said regulations. The representative further submitted that the accounting standards followed while arriving at the cost of the asset, when put to use, are in conformity with the 2004 regulations laid down by the Commission. He reiterated that the cost of the asset would remain un-serviced, in case the claim of IDC was not allowed.

5. The Commission reserved orders on the petition.

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