

**Central Electricity Regulatory Commission  
New Delhi**

**Petition No. 228/2009**

Subject: Approval of tariff of Talcher Super Thermal Power Station, Stage-I (1000 MW) for the period from 1.4.2009 to 31.3.2014

Date of Hearing: 11.10.2011

Coram: Shri S.Jayaraman, Member  
Shri V.S.Verma, Member  
Shri M.Deena Dayalan, Member

Petitioner: NTPC, New Delhi

Respondents: WBSEDCL, BSEB, JSEB, GRIDCO, DVC, Power Department-Sikkim, TNEB, Union Territory of Pondicherry, UPPCL, PDD, Power Department, MPPTCL, MSEDCL, GUVNL, Electricity Department, (DD), Electricity Department (DNH), BSES Rajdhani, BSES Yamuna and NDPL.

Parties present: Shri C.K.Mondol, NTPC  
Shri Ajay Dua, NTPC  
Shri K.P.Satpathy, NTPC  
Shri Balaji Dubey, NTPC  
Shri R.B.Sharma, Advocate for BSEB, GRIDCO, JSEB & BSES

**RECORD OF PROCEEDINGS**

This petition has been filed by the petitioner, NTPC, for approval of tariff of Talcher Super Thermal Power Station, Stage-I (1000MW) (hereinafter referred to as 'the generating station') for the period from 1.4.2009 to 31.3.2014 based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 ("the 2009 regulations").

2. The representative of the petitioner submitted as under:

- (a) The projected additional capital expenditure claimed is mainly on account of Ash Dyke works and other ash handling related works in the original scope of work for the period 2009-14.
- (b) Additional capitalization for procurement of 24 wagons during 2011-12, as replacement (against de-capitalization of wagons during 2009-10) may be allowed as these are required to maintain coal requirement at the generating station.
- (c) O&M expense norms specified by the Commission are not sufficient to meet the additional expenses due to increase in water charges by the

State Government of Orissa. The additional increase on this count may be allowed to be recovered as pass through in tariff.

- (d) The cost incurred towards development of infrastructure for implementation of the scheme based on the Government of India notification dated 27.4.2010, which require the generating stations to supply power to rural households within the radius of 5 km from the existing /upcoming projects, may also be allowed.
- (e) Additional information as sought for by the Commission and rejoinder to the replies of respondents has been filed and copies served on the respondents.

3. The representative of the respondent No.9, UPPCL submitted as under:

- (a) The claim of the petitioner is beyond the 2009 regulations, since the expenditure on wagons has not been indicated in Form-9 of the original petition.
- (b) The petitioner has not specified as to whether the maintenance spares is inadequate for the generating station. If so, clarification for such inadequacy/shortfall needs to be explained by the petitioner.
- (c) The petitioner in paragraph 18 of the petition has submitted that the capital works planned/undertaken during 2004-09 are likely to be completed during 2009-14. Since compensation allowance is allowed under Regulation 19(e), the claim of the petitioner may be rejected.
- (d) The petitioner submission for change in methodology of loan at paragraph 20 of the petition may not be considered.
- (e) There is huge discrepancy/variation in the un-discharged liabilities statement submitted by the petitioner. The petitioner may be called upon to explain the reasons for such variation.
- (f) The claim of the petitioner for additional expenditure on water charges may not be considered in isolation as it forms part of the O&M expense norms.

4. The learned counsel for the respondents, BSEB, JSEB, GRIDCO & BSES submitted as under:

- (a) On behalf of the Consumers, the learned counsel, submitted that the Profit & Loss Account of the generating station would reveal huge amount of profits garnered by the petitioner in utter disregard to the statutory provisions relating to safeguarding the interest of consumers. He prayed that the Commission may look into this issue while determining tariff of the generating station.

(b) The learned counsel on behalf of the said respondents made submissions as under:

(i) As regards the capital cost claimed by the petitioner, the petitioner has not furnished the list of assets forming part of the project, but not in use. In terms of the proviso to Regulation 7(1)(c) of the 2009 regulations, the petitioner may be directed to give details of the assets not in use. In case of any un-discharged liability, the same may be deducted from the capital base of the generating station.

(ii) The claim of the petitioner under Regulation 9(2) of the 2009 regulations for expenditure incurred after the cut-off date may be allowed by Commission in its discretion, and the petitioner cannot claim the same as a matter of right.

(iii) As regards Fuel Price Adjustment, the petitioner may be directed to disclose information with the beneficiaries as to the details of 'import of coal' and its blending with domestic coal. These aspects may also be investigated upon by the Commission in exercise of its powers under Section 128(2) of the Electricity Act, 2003 (the Act). The Commission may consider framing of regulations/guidelines as regards import of coal by the generating companies in order to protect the interest of beneficiaries.

(iv) The additional expenses due to increase in water charges may not be permitted as tariff is a complete package and its reasonableness is required to be examined in totality.

(v) Supply of power to the housing colonies or township from the generating station is to be accounted for and accordingly adjusted.

(vi) Calculation of depreciation is not in accordance with the 2009 regulations.

(vii) As regards notification dated 27.4.2010 of the scheme for provision of supply of electricity within a radius of 5 km around the central power generating stations, the petitioner may be directed to file a copy of the statement made by the Hon'ble Minister of Power in the Parliament.

5. In response to the above, the representative of the petitioner clarified as under:

(a) The allegation of the respondents that the petitioner was making profits either on account of liberal norms or due to claims being allowed beyond the regulations is baseless. Tariff is charged as permitted by the Commission by its various tariff orders. Even otherwise, the issue do not form part of the petition, since tariff is determined based on the regulations specified by the Commission.

(b) Assets which have become unserviceable are taken out of gross block and have not been considered for the purpose of tariff. Details of such

assets which were de-capitalized and not considered for tariff for 2009-10 have been provided in the amended petition filed on 16.3.2011.

- (c) Details of un-discharged liabilities have been filed in terms of the Regulations, in Form 9A and 9B.
- (d) The claim for projected additional capital expenditure under Regulation 9(2) is permissible under the 2009 regulations and the Commission after prudence check allows the same for the purpose of tariff.
- (e) The shortage of coal due to non-supply by Coal India Ltd, being national phenomena, import of coal was considered and this was finalized in the ERPC forum after discussion.
- (f) Investigation under Section 128(2) of the Act could only be in respect of the certain matters mentioned therein.
- (g) There is substantial hike in water charges by the State Government through notification, which is beyond the control of the petitioner. Hence, escalation on this count may be permitted under the 'Force Majeure Clause'.
- (h) Section 2(3) of the Act defines a generating station and in terms of the said definition housing colonies form part of the generating station.
- (i) Depreciation has been calculated as pr provisions of the 2009 regulations.
- (j) As regards the scheme for provision of supply of electricity within a radius of 5 km around the central power generating stations, the Ministry of Power notification dated 27.4.2010 along with its annexure has been submitted to the Commission and copy served on the beneficiaries.

6. The Commission directed the petitioner to submit on affidavit, on or before 31.10.2011, with copy to the respondents, information on the following:

- (a) Detailed note on coal stock position at NTPC pit -head and non-pit head stations with respect to tariff norms;
- (b) Justification for use of high cost and lower GCV imported coal even when adequate domestic coal was available in the Month of July, 2009. Also, in the month of August, 2009 lower use of imported coal when the price was lower and GCV higher;
- (c) Whether judicious process is adopted by petitioner for blending of imported coal with domestic coal and what methodology is considered for equitable distribution of price and GCV of coal to keep the fuel price adjustment to bare minimum;

(d) Details of assets and their capital values, not in use as on 1.4.2009 or not likely to be in use during the period 2009-14 and in case all the assets are likely to continued to be in use during the period 2009-14, to be submitted.

7. The respondents are directed to file replies on or before 4.11.2011, with copy to the petitioner, who may file its rejoinder by 11.11.2011.

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

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