

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 282/2009

Subject : Approval of tariff of Kahalgaon Super Thermal Power Station, Stage-II (1500MV) of NTPC, for the period from 1.4.2009 to 31.3.2014.

Date of hearing : 1.11.2011

Coram : Dr. Pramod Deo, Chairperson
Shri S. Jayaraman, Member
Shri M. Deena Dayalan, Member

Petitioner : NTPC Ltd

Respondents : West Bengal State Electricity Board, Kolkata & 23 others.

Parties present : Shri V.K Padha, NTPC
Shri D. Kar, NTPC
Shri A. Basu Roy, NTPC
Shri K.P.Satpathy, NTPC
Mrs. Alka Saigal, NTPC
Shri Ajay Dua, NTPC
Dr. Meenu Mishra, NTPC
Shri G. K. Dua, NTPC
Shri Manish Garg, UPPCL
Shri R.B. Sharma, Advocate, BSEB, JSEB and GRIDCO
Shri Dushyant Manocha, Advocate, BYPL
Shri V.P. Singh, BYPL
Shri Haridas Maity, BYPL
Shri Anurag Sharma, BYPL
Shri Sunil Kakkar, BYPL
Shri Abhishek Srivastava, BYPL

Record of Proceedings

The learned counsel for the respondents, BSEB, JSEB and GRIDCO continued with the submissions, as under:

- (a) Information regarding Tax holiday availed for the generating station was sought for from the petitioner and the reply filed by the petitioner in this connection vide affidavit dated 3.9.2010, is vague. The petitioner may be directed to provide complete information to

the beneficiaries regarding tax holiday availed for the generating station.

- (b) The petitioner has claimed Rs.1383.24 crore towards Fuel Price Adjustment for the period from December, 2008 to March, 2011 owing to import of coal. The import of coal being a normal feature, the Commission may consider framing of guidelines on this count to protect the interest of the beneficiaries. Also, the petitioner may be directed to share information with the beneficiaries as regards the import of coal, price, GCV of coal etc.
- (c) The petitioner has not provided information relating to imported coal and it's blending with indigenous coal. Hence, the Commission may consider investigation of the same in terms of Section 128 (2) of the Electricity Act, 2003 (the Act).
- (d) Auxiliary Energy Consumption does not include the power supply made by petitioner to its housing colonies. Hence, supply of power to housing colonies or township from the generating station is to be accounted for and accordingly adjusted. The undue benefit derived by the petitioner on this count is not in consonance with the provisions of Section 61(d) of the Act.

2. The representative of the respondent No.9, UPPCL submitted that there was substantial variation in the position of liabilities from the figures submitted earlier to the figures indicated in Form-9A & 9B. The representative prayed that the petitioner may be called upon to reconcile the same and submit a final statement.

3. The learned counsel for the respondent, BSES-BYPL prayed that it may be granted liberty to file written submissions in the matter.

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

- (a) There is distinct change in the tax recovery mechanism under the Regulations notified for 2009-14 in comparison to the Regulations for 2004-09.
- (b) The tariff petition has been filed in terms of the 2009 regulations and the claims regarding capital cost are supported by audited statements.
- (c) The petitioner was required to import coal to maximize generation at its stations and the same was at times recommended by the beneficiaries including the respondent, GRIDCO. Also, the issue of import of coal was discussed in various forums which included the respondent GRIDCO. The petitioner is providing the details of coal

with break-up of domestic coal, e-auction and imported coal to the beneficiaries in the format agreed in the ERC forum.

(d) Section 128 (2) deals with investigation in case of failure to comply with any provisions of the Act and therefore not relevant to this case.

(e) In terms of the definition under Section 2(30) of the Act, colony consumption constitutes part of auxiliary consumption and no undue benefit is derived out of this.

(f) The details of un-discharged liabilities have already been filed vide affidavit dated 9.6.2010 and copies served on the beneficiaries.

5. The respondent, BSES-BRPL is granted liberty to file its written submissions on or before 2.12.2011.

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

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