

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 283/GT/2014**

- Subject** : Approval of tariff of Kahalgaon Super Thermal Power Station (3 X 500 MW) for the period 1.4.2014 to 31.3.2019.
- Date of hearing** : 10.3.2015
- Coram** : Shri Gireesh. B. Pradhan, Chairperson  
Shri A.K.Singhal, Member  
Shri A.S. Bakshi, Member
- Petitioner** : NTPC
- Respondents** : GRIDCO Ltd. & 20 Others
- Parties present** : Shri M.G. Ramachandran, Advocate, NTPC  
Ms. Poorva Saigal, Advocate, NTPC  
Shri A. Basu Roy, NTPC  
Shri R.B. Sharma, Advocate, BRPL  
Shri Alok Shankar, Advocate, TPDDL

**Record of Proceedings**

This petition has been filed by the petitioner, NTPC for approval of tariff of Kahalgaon Super Thermal Power Station (3 X 500 MW) (“the generating station”) for the period from 1.4.2014 to 31.3.2019, based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (“the 2014 Tariff Regulations”).

2. During the hearing, the learned counsel of the petitioner filed additional affidavit and made preliminary submissions in the matter as under:-

- (i) The provisions of the 2014 Tariff Regulations relating to the consideration of GCV of coal on “as received” basis is a departure from the 2001 Tariff Regulations (applicable for the period 2001-04), the 2004 Tariff Regulations (applicable for the period 2004-09) and the 2009 Tariff Regulations (applicable for the period 2009-14) and also the methodology adopted by Government of India for tariff determination in case generating stations of the petitioner prior to the 2001 Tariff Regulations.
- (ii) The Explanatory Memorandum in respect of the draft 2014 Tariff Regulations had proposed the measurement of coal only on “as fired” basis, even after considering the possibility of shifting to “as received” basis, holding that standards need to be developed for the same.

- (iii) For the change in methodology of GCV of the coal from “as fired” to “as received” basis, the report of the CEA based on the study conducted by the CPRI (with reference to the generating stations of PSPCL) in August 2012 has been relied upon by the Commission. Without prejudice of the rights and contentions of the NTPC that the GCV of coal should be measured on “as fired” basis. In the event of the measurement of the GCV of coal on “as received” basis, it is necessary to provide for an adjustment as envisaged by the CPRI and approved by CEA report as per explanation to the 2014 Tariff Regulation given in the affidavit filed by the Commission before the Hon’ble High Court in Writ Petition (Civil) No. 1641 of 2014.
- (iv) In terms of the explanation submitted by the Commission in the said affidavit filed before the High Court NTPC is preparing Form-15, giving the details of GCV of coal measured at this stage after the secondary crusher at the power station before stocking of coal in coal yard, the GCV of imported coal at the coal stockyard, blending ratio and the weighted average of GCV of coal.
- (v) Accordingly, the Commission may consider the GCV of coal as measured after the stage of secondary crusher and further give suitable adjustment of the loss of GCV at the subsequent stage till the firing subject to the decision of the High Court.
- (vi) The operating norms such as Gross Station Heat Rate, Auxiliary Consumption, exclusion of the consumption in housing colonies and township, secondary oil consumption specified under the 2014 Tariff Regulations are based on the data of only few generating stations, without considering the performance of all generating stations while deciding the norms. Also, the operating norms have been decided on the premise that the PLF in respect of the generating stations governed by the regulations could be very high as compared to the years from 2009-10 and 2010-11 (Para 37.5 of the counter affidavit filed by the CERC was referred to). As against this, the actual PLF of Kahalgaon station during the period from 1.4.2014 to 28.2.2015 is only 72.42% though the PLF was 86.44%. The fundamental premise based on which the operating parameters have been specified under the 2014 Tariff Regulations has not been there in actuals. Accordingly, the Commission shall exercise the powers under Regulation 54 (Power to Relax) and Regulation 55 (Power to Remove Difficulty) as deemed fit and proper.
- (vii) Time may be granted to file rejoinder to the reply filed by respondent, MPPMCL.

3. The learned counsel for the respondent, TPDDL, prayed for grant of time to file its reply in the mater. He however objected to the prayer of the petitioner for exercise of the Power to relax and Removal of difficulties to grant relief to the petitioner.

4. The learned counsel for the respondent, BRPL submitted as under:
- (i) The Commission has notified the terms and conditions for the determination of tariff for the period 2014 by balancing the divergent interest of the parties in terms of Section 61 (d) of the Electricity Act, 2003. No attempts can be made by NTPC to seek further benefits over and above the regulatory provisions which would disturb the delicate balance made by the Commission through the said regulations.
  - (ii) The report of CPRI, relied upon by the petitioner, is not based on a recent study. Moreover, there is no storage of coal for a period more than 5 – 6 days at present. Hence, the heat loss on account of storage of coal is negligible and is of no consequence on the same being absorbed in the margins already available in the norms of the Station Heat Rate of the plant.
  - (iii) No reference can be made by the petitioner to the counter affidavit filed by the Commission before the High Court as the same will be considered by the High Court while deciding the said writ petition. Hence, the petitioner cannot rely upon the said counter affidavit in the proceedings before this Commission for the determination of tariff. Also, the submissions of the petitioner would amount to the challenge to the provisions of the 2014 Tariff Regulations before this Commission which is not permissible;
  - (iv) Reply filed in the matter may be considered.

5. In response to the above, the learned counsel of the petitioner clarified that the submissions made before this Commission do not amount to the challenge to the 2014 Tariff Regulations. He further clarified that the petitioner has only made prayers for consideration of the explanation and interpretation made by the Commission in the counter affidavit filed before the High Court in respect of the methodology for measurement of GCV of coal. The learned counsel further prayed for liberty to file rejoinder to the reply filed by the respondent, TPDDL.

6. After hearing the parties, the Commission directed the petitioner to file the following additional information on affidavit, with advance copy to the respondents, on or before 6.4.2015:

- (i) GCV of coal on “as received” basis at unloading point of power plant from the wagons for the months of January, February and March 2014.
- (ii) Actual water consumption along with rate of water charges for 2009-10 (from COD of Unit-I) to 2013-14 giving details of water consumed, rates of water charges, type of cooling, along with copies of relevant notification of water charges.
- (iii) Capital spares along with details of consumption of capital spares for 2009-10 (from COD of Unit-I) to 2013-14 along with list of spares consumed as per Form-17.

(iv) Details of estimated expenditure of ash dyke, MGR land, Township, O&M workshop building and EOT crane ,Wagons, additional DM plant stream and MGR (Hurra C mines) along with scope of work and justification for undertaking such expenditure.

(v) The difference between the boiler efficiency indicated as 82.73% for Unit I & Unit II and 82.38% for Unit-III and the guaranteed boiler efficiency of 83.29% indicated for all units in Petition No 272/GT/2014 for the period 2009-14.

(vi) Reasons for seeking the guaranteed turbine cycle heat rate at 89.46% of MCR and 3% make up instead of 100% MCR and 0% make-up from the OEM along with the value of turbine cycle heat rate corresponding to 100% MCR and 0% make-up. In support of this, the characteristics curve giving variation in turbine cycle heat with unit loading and computation of effect on turbine cycle heat rate from 0% make up to 3% make up shall be furnished.

(vii) Effective tax rate needs to be computed in accordance with Regulation 25 of the 2014 Tariff Regulations. The petitioner has claimed the effective tax rate of 23.9394% for each year of the tariff period. The petitioner is directed to furnish the workings in respect of effective tax rate of 23.9394% along with tax audit report for financial year 2013-14. The petitioner is further directed to submit the details of deferred tax liability and its treatment in the books of accounts for the period 2014-19.

7. Matter shall be listed for hearing on 7.5.2015. Parties are directed to complete their pleadings in the matter before the next date of hearing.

By Order of the Commission

-S/d-  
(T. Rout)  
Chief (Legal)