

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 68/MP/2013

Coram:

**Shri Gireesh B. Pradhan, Chairperson
Shri A. K. Singhal, Member**

Date of Order : 07.05.2015

In the matter of

Petition for revision of pooled lignite price on account of inclusion of Mine-II Expansion lignite cost for the period from 2010-11 to 2013-14.

And in the matter of

Neyveli Lignite Corporation Limited
Neyveli House, 135,
EVR Periyar Road,
Kilpauk, Chennai-600 010

...Petitioner

Vs

1. Tamil Nadu Generation and Distribution Corporation Limited
7th Floor, Eastern Wing, 144, Anna Salai,
Chennai-600 002

2. Kerala State Electricity Board
9th Floor, VidyuthBhavanam,
Pattom, Thiruvananthapuram-695 004

3. State Power Purchase Co-ordination Committee
Power Company of Karnataka Ltd.
Kavery Bhavan, Bangalore-560 009

4. Andhra Pradesh Power-Co-ordination Committee
Vidhyuti Soudha, Khairatabad,
Hyderabad-500 082

5. Puducherry Electricity Department
Beach Road, Puducherry-605 001

...Respondents

Parties present:

Ms. Anushree Bardhan, Advocate, NLC



Ms. Swagatika Sahoo, Advocate, NLC
 Shri K. Nambirajan, NLC
 Shri R. Mohan, NLC
 Shri S. Vallinayagam, Advocate, TANGEDCO
 Shri N. Sivanandan, TNEB

ORDER

The petitioner, Neyveli Lignite Corporation Limited (NLC), has filed the present petition for revision of pooled lignite prices for the period from 2010-11 to 2013-14 by pooling the expenditure of Mine-II Expansion with the existing pooled expenditure of Mine-I Expansion, Mine- IA and Mine-II in terms of the Ministry of Coal guidelines issued vide Letter No. 43011/4/91-CM (Vol. VI) dated 2.2.1998. The petitioner is an integrated mining-cum-power company with core activities of lignite excavation and power generation using lignite from captive mines. The lignite mined from the NLC mines is utilized for generation of power from the Thermal Generating Stations of NLC and an Independent Power Producer ST-CMS. All Southern States including Union Territory of Puducherry and the State of Rajasthan are beneficiaries of the power generated from NLC plants. The details of the existing mines and Thermal Power Stations as submitted by the petitioner are under:

Thermal Unit	Capacity (MW)	LI Lignite Mines (Captives)	Capacity (MTPA)
TPS-I	600	Mine-I	6.5
TPS-I (Expansion)	420	Mine -I Expansion	4
		Mine -I A	3
TPS-II	1470	Mine –II	10.5
		Mine II Expansion	4.5
Barsingar TPP (Rajasthan)	250	Barsingar Mines	2.1
Total	2740	Total	30.6

2. Government of India vide Letter No. 43011/3/2004.Lig/CPAM dated 18.10.2004 sanctioned an integrated project consisting of NLC Mine-II (Expansion) with capacity of 4.5 million tonne per annum and Thermal Power Station-II (Expansion) with two units of 250 MW each. The sanctioned parameters of the project were as under:

		MINE-II Expansion	TPS-II EXPANSION
i)	Target Output	4.5 million tones of lignite per annum	2x250 MW
ii)	Sanctioned Cost (₹ in crore)	2161.28	2030.78
iii)	Date of achieving the target output capacity/Date of commissioning	Start of lignite production: on 53 rd month from the date of sanction (Feb 2009) Full production capacity- On 57 th month from the date of sanction(June 2009)	Unit 1 on 53th month from the date of sanction (Feb 2009) Unit-2 on 57 th month from the date of sanction(June 2009)

3. The petitioner has submitted that Government of India, Ministry of Coal approved the first Revised Cost Estimates vide its letter dated 10.7.2008 at a total cost of ₹4749.50 crore at June 2007 price level (₹2295.93 crore for Mine-II Expansion and ₹2453.57 crore for TPS-II Expansion). Mine-II Expansion project was commissioned on 12.3.2010 with a time overrun of 9 months and TPS-II Expansion was yet to be commissioned. The petitioner has prepared the Revised Cost Estimates-II at January 2002 price level duly approved by its Board of Directors on 9.4.2009 according to which the cost of Mine-II Expansion is ₹2125.83 crore and the estimated cost of TPS-II Expansion is ₹3027.59 crore. The petitioner has submitted that RCE-II cost in respect of Mines-II

Expansion is lesser than the sanctioned cost due to cost savings in procurement and overburden removal etc.

4. The petitioner has submitted that as per the Ministry of Coal letter dated 2.2.1998, the basic principle enunciated by High Power Board (HPB) and approved by the Cabinet is that the pricing of lignite on new projects would be on the basis of pooled cost for the Corporation as a whole (in respect of Neyveli Mines) as in the case with other coal based projects, with Mine-I excluded from such pooling. In the said letter dated 2.2.1998, it has been further stated that "as and when projects like Mine I (Expansion) and Mine IA go into production, the price of lignite from these projects would also enter into the pooled price" .

5. The petitioner has submitted that Mine-I (Expansion) and Mine-IA were commissioned on 24.3.2003 and 31.3.2003 respectively and as per the Ministry of Coal letter dated 2.2.1998, pooled lignite price was arrived at from the year 2003-04 onwards by excluding the 6.5 MTPA of Mine-I from the pooled price. The petitioner has submitted that as per the said letter, pricing of lignite on new projects need to be based on pooled cost for the petitioner Corporation as a whole. Accordingly, the Mine-II (Expansion) which was commissioned and went into production on 12.3.2010 has to be brought into the pooled lignite price from the year 2010-11 onwards.

6. The petitioner has submitted that since TPS-II (Expansion) and Mine-II (Expansion) were sanctioned as one integrated project, it was first considered

to include Mines-II (Expansion) in the tariff petition to be filed for TPS-II (Expansion). However, considering the fact that TPS-II (Expansion) is not able to achieve COD due to technical snags and that already three years have elapsed since Mine-II (Expansion) went into production, pooling of Mine-II (Expansion) lignite cost cannot be delayed further. Therefore, the petitioner has filed the present petition for revision of the approved pooled lignite transfer price which is being adopted for realization of energy charges from TPS-I (Expansion) and TPS-II from the year 2010-11 onward.

7. The petitioner has stated that the project completion cost of Mine-II (Expansion) is ₹2125.83 crore and the price of lignite excavated from the mine is calculated on the capital investment based on the parameters and principles spelt out by Ministry of Coal's order dated 11.6.2009 for determination of lignite pricing for the period 2009-14. The petitioner has furnished the year-wise lignite price from Mine-II (Expansion) as certified by the Cost Accountant as under:

Year	₹/tonne			
	2010-11	2011-12	2012-13	2013-14
Lignite Price for Mine-II (Expansion)	1457	1754	1800/1823*	1954

*Royalty revision from 10.5.2012

8. The petitioner has submitted that since fuel lignite for its generating stations is supplied from the linked mines as an integrated mining-cum-power project, lignite price for the tariff block, computed in line with the Ministry of Coal's guidelines on lignite pricing, be approved by the Commission for realisation of energy charges in the respective tariff orders.

9. The petitioner has submitted that the lignite price of Mine-I is a Stand-alone price and the lignite prices of Mine-I(Expansion), Mine-IA and Mine- II are pooled together to arrive at the pooled lignite price of its mines. The lignite prices for the period 2009-14 were determined by the Commission as per the Ministry of Coal`s guidelines dated 11.6.2009 vide orders dated 31.8.2010 and 27.6.2011 in the tariff orders for TPS-I (Expansion) and TPS-II as under:

₹/tonne					
Year	2009-10	2010-11	2011-12	2012-13	2013-14
Pooled transfer price of lignite	1411	1477	1556	1568	1642

The above rates are exclusive of Clean Energy Cess w.e.f 1.7.2010 @ ₹ 50 per tonne and excise duty on lignite and other taxes and duties.

10. The petitioner has submitted that the above lignite price allowed by the Commission also included estimated mine closure and land restoration cost based on internal estimates of NLC, pending issue of Ministry of Coal`s approved Mines Closure Cost. The petitioner has further submitted that Ministry of Coal, Government of India vide letter dated 31.3.2011 had approved the actual Mine Closure Cost based on which the petitioner revised lignite price downward as the approved cost was less than the estimated cost considered in the pooled transfer price and approved by this Commission. The petitioner has submitted the revised pooled lignite price for the period 2009-10 to 2013-14 as under:

₹/tonne					
Year	2009-10	2010-11	2011-12	2012-13	2013-14
Revised Pooled transfer price of lignite (Based on actual mine closure cost)	1376	1443	1522	1535	1610

11. The petitioner has submitted that pooled lignite prices for the period from 2010-11 are undergoing further revision from 12.3.2010 due to inclusion of Mine-II (Expansion) lignite cost in the existing pool of lignite prices of Mine-I (Expansion), Mine-IA and Mine-II as under:

Year	₹/tonne			
	2010*11	2011-12	2012-13	2013-14
Pooled transfer price of lignite including Mine- II (Expansion)	1444	1569	1588/1604**	1692

** Based on Royalty revision from 10.5.2012

◆ The above rates are exclusive of Clean Energy Cess w.e.f 1.7.2010 @ ₹50 per tonne and excise duty on lignite and other taxes and duties.

12. In the light of the above submissions, the petitioner has made the following prayers in the petition:

“(a) To take on record the present petition being filed by NLC in respect of the revision of the pooled lignite price on account of inclusion of Mine-II(Expansion) lignite cost from the year 2010-11;

(b) Approve the pooled lignite price of NLC mines Mine-I (Expansion), Mine-IA, Mine-II and Mine-II (Expansion) as specified in para 7 of the Petition;

(c) To permit NLC to adopt the pooled lignite transfer price specified in para7 ,in the computation of energy charges of TPS-I (Expansion) and TPS-II for the period from 2010-1;

(d) To permit NLC to claim the differential energy charges between the billed energy charges and that of revised energy charges on account of revised pooled price specified in para 7 on inclusion of Mine-II (Expansion); and

(e) To Pass such order (s) as deemed fit by the Hon'ble Commission.”

13. TANGEDCO in its reply dated 8.5.2013 has submitted as under:

(a) Since Mine-II (Expansion) and TPS-II(Expansion) are integrated projects, Mine-II (Expansion) can be included in the Pooled Price only

when TPS-II (Expansion) is commissioned and put into commercial operation.

(b) In the Ministry of Coal's letter No. 43011/4/01/CM (Vol-VI) dated 2.2.1998, there is no reference to Mine-II and Mine-II (Expansion). There is no further concurrence from Ministry of Coal for the Mine-II(Expansion)commissioning/entering into the pooled price. As TPS-II (Expansion) and Mine-II (Expansion) were sanctioned as integrated project, it implies that lignite from Mine-II (Expansion) is for exclusive use in TPS-II Expansion. The petitioner should be directed to obtain concurrence of Ministry of Coal for Mine-II Expansion to be included in the Pooled Price.

(c) In case the date of commissioning of Mine –II Expansion is accepted as 12.3.2010, the petitioner may be directed to submit the quantum of production of lignite from the Mine-II Expansion from the date of inception and the details of quantum utilized in each of the petitioner's thermal power stations.

(d) When the lignite from Mine-II Expansion is utilized for TPS-II(Stage-I&II) and TPS-I (Expansion), the energy generated from these stations will get increased by using the lignite from Mine-II (Expansion) and therefore, this benefit should be passed on to the end beneficiaries of the respective thermal stations of NLC by keeping the pooled lignite

price exclusive of Mine-II(Expansion) lignite price, until TPS-II (Expansion) is commissioned.

(e) The petitioner be directed to furnish the annual balance sheet for Mine-II Expansion along with O&M cost, Working capital, Depreciation, Interest on Loan, etc., with necessary auditor's certificate. IDC and IEDC claimed by the petitioner in respect of Mine-II (Expansion) be restricted to 53 months from the original date of sanction i.e., up to February, 2009 for start of lignite production and 57 months from the date of sanction (June 2009) for the full production capacity.

14. The petitioner was directed to submit certain information which the petitioner submitted vide its affidavit dated 17.8.2013. The queries and the replies of the petitioner thereto are as under:

(a) The petitioner has submitted a Certificate dated 18.3.2013 from S Mahadevan & Co., Cost Accountant regarding detailed computation of lignite transfer price from Mine-II Expansion for the period 2010-11 to 2012-13.

(b) As regards the year-wise actual production of lignite since 12.3.2010 from Mine-II Expansion alongwith Gross Calorific Value (GCV) of lignite, the petitioner has submitted that Mine-II and Mine-II Expansion are a single unit and by expansion project, the total production capacity of

Mine-II has been expanded from 10.5 MTPA to 15 MTPA by annexing additional area and by deploying additional equipment. The production reported is from the single unit of capacity 15 MTPA resulting from combined deployment of all equipments. The petitioner has submitted the total combined year-wise production from Mine-II and Mine-II Expansion as under:

In MTPA				
2009-10	2010-11	2011-12	2012-13	2013-14
10.443	11.711	13.096	13.944	13.052

The petitioner has submitted that the lignite produced over and above the 10.5 MTPA capacity has been utilized primarily for the increased PLF operation of TPS-II and to make up the shortfall requirement of other plants and for outside sales. As regards GCV, the petitioner has submitted that the reporting is for Mine II as a single unit only and there is no GCV reporting separately for Mine-II and Mine II Expansion. The petitioner has furnished year-wise weighted average GCV of the fuel used in NLC TPS II as under:

(c) The petitioner has also submitted the annual availability of each of its generating stations during the years 2009-10, 2010-11, 2011-12 and 2012-13 and the incentives and disincentives earned by these stations.

15. During the course of hearing, learned counsel for the petitioner submitted that in accordance with the guidelines of the Ministry of Coal issued vide letter dated 2.2.1998, the petitioner be allowed to compute the pooled lignite price by

taking into account the lignite price of Mine-II (Expansion). Learned counsel for TANGEDCO reiterated the submission made in the reply affidavit. Learned counsel sought a direction to the petitioner to submit the details of increased plant load factor of operation with respect to TPS-II and also to furnish Transfer Price Agreements executed between NLC and other generating company, who has purchased lignite. The petitioner was directed to furnish the information sought by TANGEDCO and also to submit the information regarding the provision under which lignite from Mine-II (Expansion) is sold to outside agencies.

16. The petitioner vide its affidavit dated 23.6.2014 has submitted that Mine II Expansion is a project similar to Mine I Expansion and Mine I A production and therefore, the MoC letter dated 2.2.1998 is applicable in case of Mine II Expansion also. The petitioner has further submitted that in Clause 4.4 of the BPSA dated 18.2.1999 in respect of TPS-II, the provisions of the MoC letter dated 2.2.1998 was incorporated for ensuring recovery of any investment for future mines/augmentation in Neyveli as pooled lignite price which is translated to energy charges in tariff. The petitioner has submitted that the MoC letter dated 2.2.1998 advocates pooling of lignite independent of linked NLC thermal power stations and therefore, pooling of lignite from Mine II Expansion as soon as it went into production, irrespective of commissioning of its linked TPS II Expansion, is not in contravention of MoC letter dated 2.2.1998. The petitioner has also submitted the combined year-wise production from Mine II and Mine II

Expansion and the quantum of lignite used in TPS II & TPS II Expansion, the year-wise weighted average of GCV used in TPS II, the annual availability of each of the stages of NLC TPS II for the years from 2009-10 to 2013-14.

17. In reply to the query regarding the provision under which NLC is selling Lignite from Mine II Expansion to outside agencies, the petitioner has submitted that as per the Feasibility Report of Mine IA, the balance lignite available after fulfilling the fuel requirement of a maximum of 1.9 MT to STCMS (renamed as TAQA power plant) can be utilized in the best commercial interest of the company. The FR has been approved by Government of India and accordingly, NLC is permitted to sell lignite to outside agencies. The petitioner has further submitted that in the production projection and plan outlay for the 12th and 13th Plan periods approved by Government of India, NLC and projected lignite sales of 2.40/3.40/3.6 MT from NLC mines out of which 1.9 MT lignite only is projected to be supplied to TAQA and the balance to outside agencies. The petitioner has also placed a copy of the Fuel Supply Agreement with TAQA power station on record.

18. TANGEDCO in its affidavit dated 5.9.2014 has submitted that Mine-II is linked to TPS-II (Expansion) thereby aligning the date of start date of lignite production and DOCO of unit-I of TPS-II (Expansion) and the reaching of full capacity level of Mine-II (Expansion). Therefore, Mine-II cost should not be included for the purpose of arriving at pooled cost lignite unit achieving its full

capacity level and declaration of COD of linked TPS-II (Expansion). TANGEDCO has further submitted that Mine-II Expansion cost to be taken for pooled costing only from the date of achievement of full capacity as the petitioner has not provided the actual production data of Mine-II Expansion.

Analysis and Decision

19. After consideration of the submissions of the petitioner and the respondent TANGEDCO, the following issues arise for our consideration:

(a) Issue No.1: Whether the lignite transfer price of Mine-II Expansion can be taken into account in the pooled lignite price, even though TPS II has not been commissioned?

(b) Issue No.2: How will the interest of the beneficiaries of the TPS II Expansion be protected since the generating station has not been commissioned?

Issue No.1: Whether the lignite transfer price of Mine-II Expansion can be taken into account in the pooled lignite price, even though TPS II has not been commissioned?

20. Ministry of Coal & Mines, Government of India vide Letter No.43011/3/2004.Lig/CPAM dated 18.10.2004 sanctioned expansion of Mine-II from 10.5 MTPA to 15.0 MTPA of lignite and expansion of TPS-II from 1470 MW to 1970 MW by installation of two units of 250 MW capacity each at Neyveli. As per the sanction letter, the start date of lignite production from Mine

II Expansion is 53rd month from the date of sanction (i.e. February 2009) and full capacity production is from 57th month from the date of sanction (i.e. June 2009). Correspondingly, the date of commissioning of Unit I of TPS II Expansion is 53rd month from the date of sanction and that of Unit II is 57th month from the date of sanction. The sanction for revised cost estimate for Mine –II Expansion and TPS-II Expansion was issued vide MoC letter No. 43011/124/2007-CPAM dated 10.7.2008 by keeping the schedule of production from mines and the schedule of commissioning of units of TPS-II Expansion intact. The Board of Directors of NLC in its meeting dated 9.4.2012 has approved the Revised Cost Estimates II with revised Project Time Cycle as under:

(a) Mine II Expansion:

- (i) Commencement of Lignite Production and Supply- March 2010 as against the originally scheduled date of February 2009.
- (ii) Attaining targeted lignite production capacity of 4.5 MPTA- March 2010 as against originally scheduled date of June 2009.

(b) TPS II Expansion:

- (i) Commercial operation of Unit I – June 2012 as against February 2009.
- (ii) Commercial Operation of Unit II- March 2013 as against June

2013.

Though the Mine II Expansion and TPS II Expansion were planned to be commissioned synchronously, the separate dates of commercial operation of the mines and generating stations have been indicated in RCE II based on the progress of TPS-II Expansion. The petitioner has not placed on record the Revised Cost Estimates duly approved by Government of India.

21. The petitioner has submitted that Mine II Expansion was commissioned on 12.3.2010 and started production of lignite from that date. According to the petitioner, it originally planned to include the Mine II Expansion in the Tariff Petition for TPS II but on account of delay in commissioning of TPS II Expansion due to unforeseen exigencies, the petitioner has filed the present petition for pooling of the lignite transfer price with that of Mine I Expansion and Mine II. The petitioner has relied upon the MoC letter dated 2.2.1998 for pooling of the lignite transfer price with the pooled price of other generating stations of the petitioner.

22. The respondent TANGEDCO has objected to the proposed pooling on the ground that since Mine II Expansion and TPS II Expansion are integrated projects, Mine II Expansion can be included in the pooled price only when TPS Expansion is commissioned and put into commercial operation. TANGEDCO has further submitted that the availability of lignite from NLC TPS II(Stage I and II) and TPS I Expansion is increased by using lignite from Mine II Expansion

and hence energy generated gets increased and this benefit is passed on to the end beneficiaries by keeping the pooled lignite price exclusive of Mine II Expansion lignite price until TPS II Expansion is commissioned. As regards the principle for lignite pricing provided in MoC letter dated 2.2.1998, TANGEDCO has submitted that MoC letter dated 2.2.1998 has no reference to Mine II Expansion and the petitioner should be directed to obtain the concurrence of MoC for inclusion of Mine II Expansion lignite to be included in the Pooled price.

23. We have considered the submissions of the petitioner and TANGEDCO. It appears from the submission of the TANGEDCO that the lignite transfer price of Mine II Expansion can be included in the pooled price only after commissioning of TPS II Expansion and not before. If at all, the lignite transfer price of Mine II Expansion is to be included before the commissioning of TPS II Expansion, then concurrence of MoC is required. On the other hand, NLC has submitted that the MoC letter dated 2.2.1998 lays down the principle for pooling of lignite transfer price of future mines and therefore, pooling of price of Mine II Expansion should be treated in accordance with the said principle. MoC letter No. 43100/4/91-CML (Vol.VI) dated 2.2.1998 is extracted as under:

“In continuation of this Ministry’s letter of even number cited above, I am to inform you that the basic principle enunciated by HPB and approved by the Cabinet , as set out in the Cabinet Note, is “HPB noted that Government would expect an appropriate return on any new investment, but the basis of pooled cost for the Corporation as a whole, as in case of other coal based projects.” As per the HPB and Cabinet decision, Mine I has been excluded from such pooling. It is understood that NLC is negotiating a new contract with Southern States regarding tariff and the new contracts may be negotiated in accordance with the clearance accorded by the Cabinet.

As and when the projects like Mine I Expansion and Mine IA go into production, the price of lignite from these projects would also enter into the pooled price.”

24. It is noted from the above that even though Ministry of Coal had conveyed the decision of the High Power Board and Cabinet decision in the context of the Fuel Supply Agreement between NLC and ST-CMS, the letter as extracted above gives the sufficient guidelines for treatment of the lignite price of any future projects to be undertaken by NLC. The letter talks about the ‘basic principle’ for lignite pricing of any new project of NLC and further provides that as and when projects like Mine I Expansion and Mine IA go into production, the same principle of pooled price shall be applied for determining the lignite transfer price from the new projects. It is further noticed that NLC and the constituent beneficiaries of the Southern States have taken note of the above principle in the Bulk Power Supply Agreement (BPSA) dated 18.2.1999 for supply of power from TPS-II (Stage-I and II). Para 4.4 of the BPSA provides as under:

“4.4 The tariff for the Power Station II-Stage I and Power Station II Stage II indicated in clause 4.2 above are based on the transfer prices of Mine II Stage I and Mine II Stage II respectively. As per the decision of Government of India, to ensure appropriate return on new investments, pricing of lignite could be on the basis of pooled price for the company as a whole by excluding Mine I as and when a new project goes into operation. The tariffs for Power Station II – Stage I and Power Station II Stage II will be revised by adopting the pooled price of lignite.”

25. Thus it is the understanding of the parties that whenever a new mine goes into production it will be included in the lignite pooled price as per the decision

of Government of India. The petitioner vide its affidavit dated 23.6.2014 has submitted that the additional lignite produced from Mine-II (Expansion) is being used primarily for the increased PLF operation of TPS-II and to make up the shortfall requirement of other generating stations and outside sale. In our view, in the light of the basic principle approved by the Cabinet and conveyed through the MoC letter dated 2.2.1998, NLC Mines II Expansion as and when it goes into production shall be included in the pooled lignite price since the lignite produced from Mine II Expansion is also used in the TPS II and other generating stations of NLC.

26. TANGEDCO has raised the issue that since TPS-II (Expansion) and Mine-II (Expansion) were sanctioned as an integrated project, transfer price of Mine-II(Expansion) should be determined after the TPS II (Expansion) is commissioned. We are of the view that production of lignite from Mine-II (Expansion) and commissioning of TPS-II (Expansion) should have been matched for the purpose for which Mine-II (Expansion) has been developed. However, the generation project TPS-II (Expansion) has been delayed due to certain unforeseen problems and Mine-II (Expansion), having achieved COD in March, 2010, started production of lignite. The lignite produced from Mine II expansion is supplied to the existing generating stations of NLC and to other users of lignite. In other words, the lignite production from Mine-II (Expansion) is meeting the additional fuel requirements of the existing generating stations of NLC and in the absence of such supply from NLC-II Expansion, the additional

fuels would have been sourced from alternative sources for generation of power and the cost of fuel would have been included in the energy cost. Looked at from this angle, inclusion of the cost of Mine II Expansion in the pooled lignite price is in the interest of beneficiaries. If the pooling of the lignite price from the date of commissioning of Mine II Expansion is not allowed from the date of its commissioning, it would give adverse signal for further investment as the project developer would not be able to earn adequate return during the period of delay in the commissioning of the integrated generating station. Considering the above factors, the pooling of lignite price of Mine-II (Expansion) is allowed from the date of commissioning of NLC Mines II Expansion.

Issue No.2: How will the interest of the beneficiaries be balanced since NLC II Expansion has not been commissioned?

27. The petitioner is getting lignite at pooled price as approved by the Commission which does not include lignite price of Mine-II (Expansion). Based on the actual Mine Closure Cost as approved by Ministry of Coal, the revised lignite cost has been approved by the Commission in the tariff orders as under:

	₹/tonne				
Year	2009-10	2010-11	2011-12	2012-13	2013-14
Revised Pooled transfer price of lignite (Based on actual mine closure cost)	1376	1443	1522	1535	1610

28. The petitioner has submitted Lignite Transfer Price of Mine-II (Expansion) during 2010-11 to 2013-14 as under:

	₹/tonne			
Year	2010-11	2011-12	2012-13	2013-14
Lignite Price for Mine-II (Expansion)	1457	1754	1800/1823*	1954

*Royalty revision from 10.5.2012

Lignite cost as above includes Return on Equity (RoE) and covers all costs including Interest on Loan and O&M expenses of mines.

29. The petitioner has submitted year-wise availability of its generating stations during 2009-10 to 2012-13 as under:

	(in % age)		
Year	TPS -I (Expansion)	TPS -II Stage-I	TPS- II Stage- II
2009-10	81.78	77.26	84.06
2010-11	82.04	82.16	82.90
2011-12	83.70	84.91	85.65
2012-13	90.73	86.35	87.69
Normative Availability	80%	75%	75%
Average Availability	84.56%	82.67%	85.08

30. It is pertinent to mention that the relaxed NAPAF of 75% was specified for TPS -II Stage-I and Stage-II stations in due consideration of limited mining capacity of linked mines. It is however noted from the data regarding year-wise availability of TPS II Stage I & II during the years 2009-10, 2010-11, 2011-12 and 2012-13 that use of lignite from Mine-II (Expansion) led to higher availability in case of TPS -II Stage-I and Stage-II stations than the norms of 75% Normative Annual Plant Availability Factor (NAPAF) as major portion of lignite produced from Mine-II (Expansion) is being used in TPS-II stations. Consequently the petitioner is getting more incentive corresponding to enhanced availability of TPS II Stage I & II from the beneficiaries.

31. In order to balance the interest of beneficiaries on account of inclusion of

the cost of Mines II Expansion in the pooled price without commissioning of TPS II Expansion, we direct that any incentive earned corresponding to enhanced availability above the NAPAF of 75% in case of TPS-II Stage-I and Stage-II stations shall be refunded to the beneficiaries corresponding to their allocation from TPS-II Stage-I and Stage-II. Further, the revenue earned by selling lignite to outside agencies shall be apportioned to the beneficiaries corresponding to their share of power in the stations where pooled lignite price approved by the Commission is applicable for computation of energy charges.

32. With the above directions, the petition stands disposed of.

sd/-
(A. K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson