

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No.14/MP/2017
alongwith I.A. No. 5/2017**

Subject : Petition under Section 79 (1) (a) and (f) of the Electricity Act, 2003 read with the provisions of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 for relies on account of a Change in Law affecting Stage- II of the Badarpur Thermal Power Station.

Date of hearing : 25.4.2017

Coram : Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member

Petitioner : NTPC Limited (NTPC)

Respondents : BSES Rajdhani Power Limited (BRPL) and Others

Parties present : Shri Sitiesh Mukherjee, Advocate, NTPC
Shri Gautam Chawla, Advocate, NTPC
Ms. Akansha Tyagi, Advocate, NTPC
Shri Kousik Mandal, NTPC
Shri Manoj Kumar Sharma, NTPC
Shri E.P. Rao, NTPC
Shri Manoj Sharma, NTPC

Record of Proceedings

Learned counsel for the petitioner submitted that the present petition has been filed seeking relief on account of Change in Law event which has led to the shutdown of two units of Stage-II (2x210 MW) of Badarpur Thermal Power Station (BTPS). Learned counsel for the petitioner further submitted as under:

- (a) Delhi Pollution Control Committee (DPCC) vide its letters dated 6.11.2016, 16.11.2016 and 11.2.2016 directed NTPC to shut down all units of BTPS Stage- II in the light of the severe ambient air pollution levels in Delhi.
- (b) On 2.1.2014, DPCC issued Consent to Operate to NTPC which was valid up to 31.1.2018 *inter alia* prescribing the environmental norms which were to be adhered to by BTPS Stage-II. Subsequently, DPCC modified the Consent to Operate vide its letter dated 11.2.2016. BTPS Stage-II is compliant with the emission norms and all other environmental standards prescribed by DPCC in the Consent to Operate and DPCC by issuing directions dated 6.11.2016 and 16.11.2016 has in effect over ridden the Consent to Operate from 7.11.2016 up to 31.1.2017, thereby preventing BTPS Stage-II from operating.

- (c) NTPC vide its letter dated 2.12.2016 requested SLDC, Delhi to consider Declared Capacity (DC) of Stage-II while certifying monthly energy account. In response, SLDC, Delhi vide its letter dated 6.1.2017 informed NTPC that BTPS is not in a position to demonstrate its capacity and therefore, the DC of the generating station would be zero from 7.11.2016 onwards.
- (d) Direction of DPCC to shut down the BTPS Stage-II constitute the Change in Law event in terms of Regulation 3(9)(d) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014.
3. Learned counsel for the petitioner requested the Commission to admit the petition and issue notice to the respondents.
4. After hearing the learned counsel for the petitioner, the Commission admitted the petition and directed to issue notice to the respondents.
5. The Commission directed the petitioner to serve copy of the petition on the respondents immediately if already not served. The respondents were directed to file their replies by 19.5.2017 with an advance copy to the petitioner, who may file its rejoinder, if any, on or before 31.5.2017.
6. The Commission directed the petitioner to submit the documentary evidence of the Declared Capacity (DC) of Stage-II units furnished to SLDC during the period of shutdown starting from 7.11.2016, on an affidavit, by 19.5.2017:
7. The Commission directed that due date of filing the replies, rejoinder and information should be strictly complied with. No extension shall be granted on that account.
8. The petition shall be listed for hearing on 13.6.2017.

By order of the Commission

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