

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 13/RP/2017

In

Petition No. 283/GT/2014

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri A.K. Singhal, Member

Shri A.S. Bakshi, Member

Dr. M.K. Iyer, Member

Date of Order: 26.9.2017

In the matter of

Review Petition against order dated 21.01.2017 passed by the Commission in Petition No 283/GT/2014 in the matter of approval of tariff of Kahalgaon Super Thermal Power Station Stage-II (1500 MW) for the period 1.4.2014 to 31.3.2019.

**AND
IN THE MATTER OF**

NTPC Ltd
NTPC Bhawan,
Core-7, SCOPE Complex,
7, Institutional Area, Lodhi Road,
New Delhi-110003

.....**Petitioner**

Vs

1. GRIDCO Ltd
24, Janpath
Bhubaneshwar-751007

2. Power Department,
Govt of Sikkim, Kazi Road,
GangtokSikkim-737101

3. Gujarat Urja Vikas Nigam Limited,
VidyutBhavan, Race Course,
Vadodara-390 007



4. Madhya Pradesh Power Management Company Limited,
Shakti Bhavan, Vidyut Nagar,
Jabalpur-482 008

5. Maharashtra State Electricity Distribution Company Ltd,
'Prakashgad', Bandra (East),
Mumbai-400 051

6. Chhattisgarh State Power Distribution Company Ltd,
Dhagania, Raipur-492 013

7. Electricity Department
Administration of Dadra and Nagar Haveli,
Silvassa Via VAPI

8. Electricity Department,
Administration of Daman & Diu,
Daman-396 210

9. Uttar Pradesh Power Corporation Ltd
Shakti Bhawan, 14, Ashok Road,
Lucknow– 226001

10. Uttarakhand Power Corporation Ltd
Urja Bhawan, Kanwali Road,
Dehradun – 248001

11. Jaipur Vidyut Vitran Nigam Ltd
Vidyut Bhawan, Janpath,
Jaipur – 302205

12. Ajmer Vidyut Vitran Nigam Ltd
Old Power House, Hatthi Bhatta,
Jaipur Road, Ajmer – 305001

13. Jodhpur Vidyut Vitran Nigam Ltd
New Power House, Industrial Area,
Jodhpur – 342003

14. Power Development Department,
Government of J&K, Secretariat,
Srinagar-19009

15. BSES Rajdhani Power Ltd
BSES Bhawan, Nehru Place,
New Delhi – 110019

16. BSES Yamuna Power Ltd
BSES Bhawan, Nehru Place,
New Delhi – 110 019



17. Tata Power Delhi Distribution Ltd 33
kV Sub-station, Kingsway Camp,
Delhi –110009

18. Haryana Power Purchase Centre,
Shakti Bhawan, Sector-6
Panchkula– 134 109

19. Punjab State Power Corporation Ltd
The Mall, Secretariat Complex,
Patiala – 147 001

20. Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Kumar House,
Shimla-171004

21. Power Department,
Union Territory of Chandigarh,
1st Floor, UT Secretariat, Sector 9D,
Chandigarh – 160 009

...Respondents

ORDER

The Commission by order dated 21.1.2017 in Petition No. 283/GT/2014 determined the tariff of Kahalgaon Super Thermal Power Station, Stage-II (1500 MW) (the generating station) for the period from 1.4.2014 to 31.3.2019 in accordance with the provisions of the Central Electricity Regulatory Commission (Terms & Conditions of Tariff) Regulations, 2014 (“The 2014 Tariff Regulations”).

2. Aggrieved by the said order dated 21.1.2017; the Petitioner has filed this petition seeking review of the said order on the following issues, on the ground that there are certain errors apparent on the face of the order:-

(I) Disallowance of expenditure of Rs. 500.00 Lakh incurred towards MGR
Land.

(II) Difference in values of rate of interest on loan.

3. The matter was heard on 23.5.2017 and the Commission after hearing the petitioner reserved its order in the petition.



4. The Respondent, Madhya Pradesh Power Management Co. Ltd. (MPPMCL) has filed its reply vide its affidavit dated 22.05.2017 but no rejoinder has been filed by the Petitioner NTPC. Based on the submissions of the parties and the documents available on record, we proceed to examine the reliefs prayed for by the petitioner as stated in the subsequent paragraphs.

Issue No. 1: Disallowance of expenditure of Rs. 500 Lakh incurred towards MGR Land

5. The Petitioner has claimed projected additional capital expenditure of Rs 500.00 lakh in 2014-15 towards land required for MGR (Merry Go Round) under Regulation 14(1) (ii) read with Regulation 54 of the 2014 Tariff Regulations. The said work was allowed earlier in the tariff period 2009-14 by the Commission in the order dated 13.4.2012 in Petition No. 282/2009.

6. The Petitioner has submitted that the linked mines of the generating station were yet to be developed by ECL and the expenditure is a part of the ongoing works already allowed by the Commission in the original scope of work towards land acquisition including mine end for development of said MGR to facilitate transport of coal from linked mines to the generating station. Accordingly, the petitioner had prayed that the expenditure may be allowed and liberty may be granted to claim the said works on completion and capitalization. Further, it was prayed that petitioner shall approach the Commission with revised projections at the time of truing-up of tariff, if any, depending upon the status of development of linked mines. Commission in Petition No.206/GT/2013 vide order dated 22.1.2016 had also granted liberty to the petitioner to approach the Commission for capitalization of MGR. The relevant portion of the said order is extracted hereunder:-

“23. The petitioner has submitted that it has deferred the expenditure on MGR system matching with the development of mines and has sought liberty for capitalizing the expenditure as and when incurred under the applicable tariff regulations. In line with the observations contained in Para 44 of this order, the petitioner is granted liberty to approach the Commission for capitalization of MGR and the same shall be dealt as per prevailing regulations.”



7. However, Commission has rejected this claim of petitioner in the instant order dated 21.01.2017 stating that:

“22. The provisions of Regulations 14 (3) of the 2014 Tariff Regulations do not provide for capitalization of such deferred works after the cut-off date of the generating station. Hence, the claim of the petitioner for capitalization of the said expenditure is not permitted. Though the expenditure for MGR is to facilitate the transportation of coal from linked mines to the generating station, it is noticed that the linked mines are yet to be developed by ECL. In this background, there is no reason to permit the capitalization of the expenditure. Accordingly, the projected additional capital expenditure of Rs 500.00 lakh claimed in 2014-15 is not allowed.”

8. This expenditure is related with land required for MGR and Commission in its order dated 22.01.2016 in Petition No. 206/GT/2013 read with Petition No.272/GT/2014 for truing up of tariff for Kahalgaon –II for the period 2009-14, has already given the liberty to approach the Commission for capitalization of MGR. The work was deferred by the petitioner with an objective to match the completion of MGR with development of linked mine. The deferment was done for bonafide reasons and has only helped the beneficiaries by way of reduced tariff. In the circumstances and based on the liberty given in order dated 22.1.2016, the Additional capitalization claim of additional land for putting up MGR is required to be allowed by Commission. It is further submitted that the expenditure also falls under regulation 14(3) (x) as there is non-materialization of full coal linkage.

9. Accordingly, the Petitioner has prayed that the expenditure of Rs. 500 Lakh incurred towards MGR Land may be allowed in the interest of justice and the Commission has the inherent power to allow the same.

10. The Respondent Madhya Pradesh Power Management Company Limited has submitted that Kahalgaon STPS comprises of three units of 500 MW each having its COD on 01.08.2008, 30.12.2008 and 20.03.2010 respectively. Thus the cut-off date of the plants was on 31.03.2013 and hence the additional capital expenditure of Rs. 500 lakh being claimed by petitioner toward MGR land during 2014-15 has to be considered in accordance with Regulation 14(2) of Tariff Regulations, 2014 which inter-alia provides as under:

"14(3) The capital expenditure, in respect of existing generating station or the transmission system including communication system, incurred or projected to be incurred on the following counts after the cut-off date, may be admitted by the Commission, subject to prudence check:



- (i) Liabilities to meet award of arbitration or for compliance of the order or decree of a court of law;
- (ii) Change in law or compliance of any existing law;
- (iii) Any expenses to be incurred on account of need for higher security and safety of the plant as advised or directed by appropriate Government Agencies of statutory authorities responsible for national security/internal security;
- (iv) Deferred works relating to ash pond or ash handling system in the original scope of work;
- (v) Any liability for works executed prior to the cut-off date, after prudence check of the details of such undischarged liability, total estimated cost of package, reasons for such withholding of payment and release of such payments etc.;
- (vi) Any liability for works admitted by the Commission after the cut-off date to the extent of discharge of such liabilities by actual payments;
- (vii) "

11. In view of above it is stated by MPPMCL that above claim of petitioner is beyond the scope of Regulations and thus is liable to be rejected.

Analysis and Decision

12. We have examined the matter in the light of observation of the Commission in earlier order dated 22.01.2016 in Petition No. 206/GT/2013 and 272/GT/2014. It is observed from the Commission's order dated 22.01.2016 where in the Commission trued up additional capital expenditure for the period 2009-14 on the basis of actual expenditure and revised tariff for the period 2009-14, that the Commission examined the claims of petitioner for coal transportation system under Regulation 9(i)(ii) (works deferred for execution within the original scope of work & within cut-off date) of Tariff Regulations, 2009 which includes MGR Line, Railway siding & MUTH and cost of land for new MGR Line. The Commission granted liberty to the petitioner to approach the Commission only when supplies from linked mines had started and these assets are put to use knowing fully well that these are included in original scope of work.

13. In the light of the above, the Commission in the order dated 21.01.2017 did not consider the additional capitalisation of land for MGR line as the supplies from the linked mine had not started and the expenditure not yet made. As such, there is no error apparent in the order so far as disallowing of additional capitalisation on projection basis is concerned.

14. However, the Commission in the 2014-19 tariff order dated 21.1.2017 in petition No.283./GT/2014, while deliberating on the claim of petitioner for additional capitalization on MGR system (other than the cost of land) for MGR line under



Regulation 14(1)(ii) (i.e. works deferred for execution within original scope & within in cut of date), granted liberty to the petitioner to claim the same at the time of truing-up after completion of work. No such liberty was however, given for additional capitalisation of MGR land which was also a part of the total MGR system.

To this extent we find that there is an error apparent in the order dated 21.1.2017.

15. Accordingly, the petitioner is granted liberty to claim the expenditure of MGR Land since it form part of the total MGR system at the time of truing-up of tariff of this generating station provided supplies from linked mines get started.

Issue No. 2: Difference in value of rate of interest on loan

16. The Petitioner has submitted that the claimed and approved weighted average rate of interest is as follows:

Rate of Interest (%)	2014-15	2015-16	2016-17	2017-18	2018-19
As filed by NTPC in Additional submission dt 29.10.2014 (%)	8.5868 %	8.7255%	9.0418%	9.2256%	9.2090%
As approved by CERC order dt 21.01.2017 (%)	8.5425%	8.7247%	9.0412%	9.2252%	9.2087%

17. The petitioner further submitted that while considering rate of interest on loan by Hon'ble Commission, the following error has occurred:

- a) The interest rate for ADB Tranche A has been considered as 0.9600% in place of 0.9733% as submitted in the additional submission dated 29.10.2014.
- b) While taking average gross loan, IDBI loan of Rs 625 lakhs has been considered, whereas, the interest on the same has not been considered.

Due to these two issues at (a) and (b) above, there is an impact of 0.0408% in the weighted average rate of interest which may be rectified.

Analysis and Decision

18. We have examined the matter in regard to difference in the value of rate of interest on loan: The rate of interest for ADB Tranche A has been considered as



0.96% instead of 0.9733%. The rate of interest for IDBI loan has been considered as 0.00%. This gap is because of inadvertent linkage error and therefore, to this extent we find that there is an error apparent in the order dated 21.1.2017. The error in calculation of weighted average rate of interest having minor impact on tariff shall be corrected at the time of true-up of tariff for the period 2014-19.

19. Petition No. 13/RP/2017 is disposed of in terms of above.

Sd/-
(Dr. M.K.Iyer)
Member

Sd/-
(A. S. Bakshi)
Member

Sd/-
(A. K. Singhal)
Member

Sd/-
(Gireesh B. Pradhan)
Chairperson

