

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 46/RP/2016
in
Petition No. 279/GT/2014

Coram:

**Shri A.S. Bakshi, Member
Dr. M. K. Iyer, Member**

Date of Order : 21.02.2017

In the matter of

Review of order dated 30.7.2016 in Petition No. 279/GT/2014 regarding approval of tariff of Kahalgaon Super Thermal Power Station, Stage-I (840 MW) for the period from 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. Bihar State Power Holding Company Limited
(erstwhile Bihar State Electricity Board)
Vidyut Bhawan, Bailey Road
Patna – 800 001
2. Jharkhand State Electricity Board,
Engineering Building,
HEC, Dhurwa, Ranchi – 834004
3. GRIDCO Limited
24, Janpath,
Bhubaneswar – 751007
4. Power Department
Government of Sikkim, Kazi Road,
Gangtok, Sikkim-737101



5. Assam Power Distribution Company Ltd.
Bijulee Bhawan, Paltan Bazar
Guwahati-781001.
6. Tamil Nadu Generation and Distribution Corporation Limited
NPKRP Maaligail, 800, Anna Salai
Chennai – 600002
7. Uttar Pradesh Power Corp. Limited
Shakti Bhawan,14, Ashok Marg
Lucknow – 226001
8. Jaipur Vidyut Vitran Nigam Ltd (JVVN)
Vidyut Bhawan, Janpath
Jaipur 302 005
9. Ajmer Vidyut Vitran Nigam Ltd (AVVN)
Old Power House, Hathi Bhata
Jaipur Road, Ajmer
10. Jodhpur Vidyut Vitran Nigam Ltd (JdVVN)
New Power House Road, Industrial Area,
Jodhpur
11. Power Development Department (J&K)
Government of J&K Secretariat,
Srinagar
12. Haryana Power Purchase Centre (HPPC)
Shakti Bhawan, Sector-VI, Panchkula
Haryana-134109
13. Punjab State Power Corporation Limited
The Mall, Patiala- 147001
14. BSES Rajdhani Power Ltd.
BSES Bhawan, Nehru Place
New Delhi-110019
15. BSES Yamuna Power Ltd.
Shakti Kiran Bldg., Karkardooma, Delhi
16. Tata Power Delhi Distribution Ltd.
NDPL House,Hudson Lane,
Kingsway Camp,
Delhi-110009.

...Respondents



Parties present:

For Petitioner: Shri Ajay Dua, NTPC
Shri E. P. Rao, NTPC
Shri Vivek Kumar, NTPC
Shri Nishant Gupta, NTPC
Shri A. Basu Roy, NTPC
Shri Rajeev Chaudhary, NTPC

For Respondents: Shri R. B. Sharma, Advocate, BRPL, GRIDCO & BSP(H)CL
Shri Madhusudan Sahoo, GRIDCO
Shri G S Panigrahi, GRIDCO
Shri B D Ojha, GRIDCO

ORDER

This application has been made by the petitioner, NTPC for review of order dated 30.7.2016 in Petition 279/GT/2014, whereby the Commission had determined the tariff of Kahalgaon Super Thermal Power Station (4x210 MW) for the period from 1.4.2014 to 31.3.2019 in terms of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (“the 2014 Tariff Regulations”).

2. Aggrieved by the order dated 30.7.2016, the petitioner has submitted that there is an error apparent on the face of record and has sought review of the said order, on the issue of “disallowance of expenditure of ₹510.00 lakh incurred towards augmentation of fire fighting system”.

3. The matter was heard on 5.10.2016 and the Commission by interim order dated 7.10.2016 admitted the petition and issued notice to the respondents.



Thereafter, the matter was heard on 11.11.2016 and after hearing the petitioner and the respondents, the Commission reserved its order in the petition.

4. The respondents, UPPCL, BRPL, GRIDCO and Rajasthan Discoms have filed replies in the matter and the petitioner has filed its rejoinder. We now consider the submissions of the petitioner and the documents on record, as stated in the subsequent paragraphs.

Disallowance of Augmentation of Fire fighting system

5. The petitioner, in the original petition, had claimed projected additional capital expenditure of ₹460.00 lakh in 2015-16 and ₹50.00 lakh in 2016-17 towards Augmentation of fire fighting system under Regulation 14(3)(ii) and 14(3)(iii) of the 2014 Tariff Regulations and had submitted as under:

“.....assessment of availability, reliability and design adequacy of Fire detection and Protection system of all coal based thermal stations of the petitioner company was carried out in line with Regulation 12(5) of Central Electricity Authority (Technical Standards for construction of Electrical Plants and Electric Lines) Regulations, 2010 published in the Gazette of India no. 211 dated 20.7.2010.”

6. However, the Commission vide order dated 30.7.2016 had rejected the claim of the petitioner and had observed as under:

“31. As regards the additional capital expenditure projected towards augmentation of fire fighting system in CHP etc. based on the Central Electricity Authority (Technical Standards for construction of Electrical Plants and Electric Lines) Regulation, 2010, it is observed that the petitioner has not demonstrated that the augmentation of a fire fighting system is on account of change in law. In our view, proper well equipped fire fighting system was the requirement in any thermal power station even prior to the



CEA safety standards which came in the year 2010. Therefore the CEA Regulations, 2010 as referred by the petitioner cannot be considered as a Change-in-law. Moreover, the plant has been operating with the existing fire fighting system since its COD and therefore the submission of the petitioner that the same is required for security and safety of plant is not sustainable. The petitioner has been allowed compensation allowance for meeting such expenditure and the petitioner shall meet such expenditure from the said compensation allowance. Accordingly, expenditure of ₹510.00 lakh in 2015-18 for augmentation of a fire fighting system is not allowed.”

7. The petitioner in the petition has submitted that the projected additional capital expenditure claimed towards Augmentation of fire fighting system is in line with Regulations 14 (3) (ii) and 14 (3) (iii) of the 2014 Tariff Regulations. It has further submitted that the major works carried towards the augmentation of fire fighting system for CHP includes the following:

1. *Internal Hydrant system for coal conveyors running at elevation higher than 30.0 mtrs;*
2. *Automatic fire detection cum medium velocity water spray system for following areas/ equipments:*
 - i. *Cable Gallery at EL.(+) 0.0M of stage-I;*
 - ii. *Cable Gallery at EL.(+) 9.2M of stage-I ;*
 - iii. *Fuel oil pump house of stage-I;*
 - iv. *Coal Conveyers, TPs and CH of stage-I;*
 - v. *Stacker Reclaimer Machine of Stage-I & II.*
3. *Automation of existing manual foam system for HFO Tanks of Stage-I;*
4. *Analogue addressable type fire Alarm System/ Annunciation Panels & PLC based control system consisting of:*
 - i. *Multi sensor type and photo electric type smoke detector for cable galleries at EL. 0M & 9.2M, stacker reclaimer machine and fuel oil pump house MCC/CR.*
 - ii. *LHSC detector for cable galleries, coal conveyers and stacker reclaimer machine.*
 - iii. *Fire Alarm cum control panels along with PC & printer to be located in control equipments room/ control room/ CHP control room.*
 - iv. *Micro PLC based control system complete with power supply system , HMI and accessories for automated foam system.*



8. Referring to Regulation 12(5) of the CEA (Technical standards for construction of Electrical plants and Electrical lines) Regulations, 2010, (the CEA Regulations, 2010), the petitioner has submitted that the works carried out for augmentation of fire fighting system are in line with the CEA Regulations mentioned above and these systems were not existing earlier. The petitioner has further submitted that the Commission in its order had not considered the other part of Regulation 14(3)(ii) i.e. compliance of any existing law i.e, CEA Regulations,2010 in the present case, which was also the claim of the petitioner.

9. During the hearing, the representative of the petitioner reiterated the above submissions and prayed that the order dated 30.7.2016 may be reviewed accordingly. None appeared on behalf of the respondents.

Analysis and decision

10. Sub-clauses (ii) and (iii) of clause (3) of Regulation 14 of the 2014 Tariff Regulations 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;

11. After considering the claim of the petitioner, the Commission in its order dated 30.7.2016 disallowed the additional capital expenditure under Regulations 14(3)(ii) and 14(3)(iii) of the 2014 Tariff Regulations. The petitioner has submitted that Regulation 12(5) of the CEA Regulations, 2010 requires thermal generating station to be equipped with comprehensive/automatic fire detection alarm and fire protection system and since these requirements were not existing earlier, the petitioner has installed the same by augmentation of the fire fighting system. The petitioner has submitted that the Commission has also not considered the other part of the Regulation 14(3) (ii) of the 2014 Tariff Regulations which provides for compliance of existing law which is the CEA Regulations, 2010 in the present case.

12. The respondent, UPPCL submitted that the petitioner has not given any details of the deficiencies of the current fire-fighting system. The respondent has further submitted that by quoting Regulation 12(5)(f)(iii) of the 2014 Tariff Regulations, the petitioner is implying that either the current system is not a Automatic medium velocity water spray system complying with TAC guidelines or it does not cover areas prescribed in the regulation, and the petitioner has nowhere explained how the current system does not meet the CEA Regulations 2010. The respondent further submitted that the prayer of the petitioner is beyond the scope of review petition as the issues raised are neither 'new evidence' nor 'an error apparent, of fact or of law, on the face of the record' and has accordingly prayed that the review petition may be rejected. In response, the petitioner has



submitted that the Regulation 12 (5) of CEA Regulations 2010 requires thermal generating stations to be equipped with comprehensive/automatic fire detection alarm and fire protection system and the petitioner has taken a review of existing/current fire-fighting systems in its stations, which were not in compliance of CEA Regulations 2010 and thereafter based on study, the action plan for augmentation of fire-fighting systems was initiated to comply with existing CEA Regulations 2010. Accordingly, the petitioner has prayed that the augmentation of the fire-fighting system may be allowed under Regulations 14(3)(ii) of 2014 Tariff Regulations i.e. “change-in-law or compliance of existing law”.

13. The respondents, BRPL and GRIDCO have submitted that the petitioner is attempting to re-argue his case which is not permissible in the review petition and is also attempting to indicate that there is error in judgement. Accordingly, the respondents have submitted that the contentions raised by the petitioner are in the alternative and without prejudice to one another and have prayed that the same may be dismissed with costs. In response, the petitioner has submitted that the Regulation 12 (5) of CEA Regulations 2010 requires thermal generating stations to be equipped with comprehensive/automatic fire detection alarm and fire protection system and the petitioner has taken a review of existing/current fire-fighting systems in its stations, which were not in compliance of CEA Regulations 2010 and thereafter based on study, the action plan for augmentation of fire-fighting systems was initiated to comply with existing CEA Regulations, 2010. Accordingly, the petitioner has prayed that the augmentation of the fire-fighting system may be allowed under Regulations 14(3)(ii) of 2014 Tariff Regulations i.e. “change-in-law or compliance of existing law”.



14. The respondent, Rajasthan Discoms has submitted that the petitioner should produce a detailed report issued by appropriate authority or agency through which the requirement of augmentation of fire-fighting system can be justified. The respondent has further submitted that is no need for augmentation of fire-fighting system and the generating station is designed and already running in compliance to all the standards of safety and security as defined in CEA 2010 Regulations. Accordingly, the respondent has prayed that the Commission may not allow the same.

15. We have examined the matter. In the present review petition, the petitioner has sought review on the ground that the provisions in the CEA Regulations, 2010 for Augmentation of Fire- Fighting system constitutes change in law in terms of Regulation 14 (3) (ii) i.e. compliance of any existing laws, which has been overlooked by the Commission in order dated 30.7.2016. The Commission has considered the similar claim of the petitioner in Petition No. 293/GT/2014 (tariff of Talcher STPS, Stage-II for 2014-19) and had decided as under:

“27. We have examined the matter. It is observed that similar claim of the petitioner under Regulations 14(3)(ii) and 14(3)(iii) of the 2014 Tariff Regulations for Augmentation of Fire fighting system was considered by the Commission in Petition No. 270/GT/2014 (tariff of Simhadri STPS for 2014-19) and the Commission by order dated 27.6.2016 had rejected the claim of the petitioner. On a review filed by the petitioner (in Petition No.36/RP/2016), the Commission by order dated 27.1.2017 allowed the prayer of the petitioner under Regulation 14(3)(iii) of the 2014 Tariff Regulations. The petitioner in this petition has claimed the expenditure due to Change in law/compliance with existing law under Regulation 14(3)(ii) and for Safety and security of the plant under Regulation 14(3)(iii) of the 2014 Tariff Regulations in terms of the CEA Regulations 2010 and 2011. Though the prayer of the petitioner in the review petition was not allowed under Regulation 14(3)(ii) of the 2014 Tariff Regulations, the Commission is of the view that the matter needs to be examined in the larger perspective i.e whether the CEA Regulations 2010



and 2011 are applicable to the existing generating stations and if so, whether the implementation of the augmentation of fire fighting system should be considered as Change in law and is required for Safety and security of the plant in terms of Regulation 14(3)(ii) and (iii) of the 2014 Tariff Regulations. Accordingly, the Commission has decided to consult the CEA in this regard. Therefore, the Staff of the Commission is directed to refer the matter to CEA for necessary clarification. Pending clarification in the matter, the claim of the petitioner has not been decided in this order. If on the basis of the report of the CEA, the Commission comes to a decision to allow the expenditure for augmentation of fire fighting/protection system under Change in law and for Safety and security of the plant, and in that event, the claim of the petitioner shall be considered at the time of truing-up of tariff in terms of Regulation 8 of the 2014 Tariff Regulations. The petitioner shall also place on record the confirmation that the expenditure on augmentation of fire fighting system/protection system is in compliance with the TAC guidelines and the discount, if any, received from the Insurance companies at the time of truing-up.”

16. Accordingly, the prayer of the petitioner in this review petition is allowed and the decision regarding the claim of the petitioner for capitalization of expenditure towards Augmentation of fire fighting system is kept open pending report of the CEA. The review petition is disposed of in terms of the above.

17. Petition No. 46/RP/2016 is disposed of in terms of above.

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

**Sd/-
(A. S. Bakshi)
Member**

