

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 86/MP/2016

Coram:

**Shri P.K.Pujari, Chairperson
Dr. M.K.Iyer, Member**

Date of Order: 3rd December, 2018

In the matter of

Petition seeking decommissioning and/or closure of Stage-I units (3 x 95 MW) / determination of Annual Fixed Charges for Stage-II units (2 x 210 MW) of Badarpur Thermal Power Station.

And

In the matter of

1. BSES Rajdhani Power Limited
BSES Bhawan, Nehru Place,
New Delhi- 110019

2. BSES Yamuna Power Limited
Shakti Kiran Building, Karkardooma,
Delhi- 110032

.....Petitioners

Vs

1. Badarpur Thermal Power Station
NTPC Bhawan, Core -7, SCOPE Complex,
Institutional Area, Lodhi Road,
New Delhi- 110003

2. Delhi SLDC
33 kV Grid Sub-Station Building, Minto Road
New Delhi- 110002

3. Delhi Pollution Control Committee
Department Of Environment,
Govt. of NCT of Delhi,
4th Floor, ISBT Building, Kasmere Gate
Delhi- 110006

4. Power Department,
Govt. of NCT of Delhi
8th Floor, Delhi Secretariat,
Delhi- 110002

5. Delhi Transco Limited
Shakti Sadan, Kotla Marg,
New Delhi- 110002

.....Respondents



Parties present:

Shri Qasim Ali Khan, Advocate, BRPL & BYPL
Shri Sitesh Mukherjee, Advocate, NTPC
Shri Divyanshu Bhatt, Advocate, NTPC
Shri Deep Rao, Advocate, NTPC
Shri Kousik Mandal, NTPC
Shri E.P. Rao, NTPC

ORDER

The Petitioners, BRPL & BYPL have filed the present Petition seeking the following reliefs:

- “(a) Consider the difficulties submitted in the Petition and direct for phasing out the closure and / or decommissioning of specified units of Badarpur Thermal power Station (BTPS) Stage-I (3 x 95 MW) and direct BTPS to withdraw the selected units from service;*
- (b) Pass directions to revise the norms of operation of BTPS for 2 x 210 MW only, on account of closure/ decommissioning of 3 x 95 MW units of BTPS;*
- (c) Pass directions for determination of Annual fixed Cost for only 2 units of BTPS Stage-II (2 x 210 MW) thereby excluding Stage-I (3 x 95 MW);*
- (d) Recommend to the Central Govt. that the coal linkage presently reserved for (3 x 95 MW) of BTPS be re-allocated to APCPL Jhajjar; and*
- (e) Respondent No. 5 to ensure that there will be no transmission constraints due to phasing out or decommissioning of the 3 units of 95 MW of BTPS.”*

Background

2. Badarpur Thermal Power Station (hereinafter called ‘BTPS’) with a total capacity of 705 MW (3 x 95 MW + 2 x 210 MW) was originally set up the Govt. of India in 1973 and was later transferred to NTPC with effect from 1.6.2006. The COD of the different units of Stages-I & II of BTPS are as under:

Stage- I	Stage-II
Unit-I (95 MW): 1.11.1973	Unit-IV (210 MW) : 17.3.1980
Unit-II (95 MW): 1.9.1974	Unit-V (210 MW) : 1.4.1982
Unit-III (95 MW): 1.4.1975	



3. Subsequent to the transfer, Delhi Transco Ltd entered into PPA with NTPC on 21.3.2007 for purchase of power. Pursuant to the Delhi Electricity Regulatory Commission's (DERC) order dated 1.4.2007, the said PPA along with other PPAs were re-assigned to the various distribution licensees in Delhi. Accordingly, NTPC has the following PPAs with the distribution licensees in Delhi for sale of the entire quantum of power generated by BTPS.

Sl. No	Distribution licensees	PPA dated	Capacity Allocation (in MW)
1	New Delhi Municipal Corporation (NDMC)	6.5.2008	125
2	Tata Power Delhi Distribution Ltd (TPDDL)	8.5.2008	176
3	BSES Rajdhani Power Ltd (BRPL)	5.6.2008	236
4	BSES Yamuna Power Ltd (BYPL)	5.6.2008	118
5	Military Engineering Services (MES)	31.7.2008	50

4. NTPC, BTPS has been operating and selling power to the above said distribution licensees and the scheduling of power from BTPS is carried out by the State Load Despatch Centre, Delhi (hereinafter called 'the Delhi SLDC'), the Respondent No. 2 herein.

Submissions of Petitioners

5. The Petitioners' in this Petition has made the following submissions:

(a) The Commission vide order dated 23.5.2012 in Petition No. 332/2009 while approving the tariff of BTPS for the period 2009-14, had not allowed Special Allowance claimed by BTPS for Stage-I units in order to meet the requirement for expenses including R & M beyond the useful life of the generating station for the reason that (i) units of Stage-I are in depleted condition and (ii) the same would be phased out in future.

(b) Delhi Pollution Control Committee (DPCC) vide its letter dated 31.12.2015 issued directions to BTPS (a) not to operate four out of five units of the plant upto 15.3.2016 except one unit of 210 MW, subject to meeting the standard of 'Particulate Matter' i.e 50 mg/Nm³ and (b) in case of exceeding the standards, BTPS shall not operate it and would be liable



to pay penalty for polluting the environment on 'Polluter Pay' principle.

(c) The Petitioner No.1 vide letter dated 4.1.2016 and Petitioner No.2 vide letter dated 11.1.2016 apprised the Delhi SLDC that the declaration of Declared Capacity (DC) by the four units of BTPS is in violation of the DPCC directions dated 31.12.2015. The Petitioners also requested the SLDC to ensure that DC from only one unit (210 MW) be considered with effect from 1.1.2016.

(d) NTPC, BTPS undertook R&M of Stage-II units at a cost of 59.42 crore to reduce the emission levels below 50 mg/Nm³. For Stage-I units, petition was filed by BTPS before this Commission to take up R&M work for up-gradation work including ESP. Accordingly, NTPC, BTPS requested DPCC to allow them to run Unit no.4 as and when scheduled by SLDC and extend help in getting permission for expenditure for Stage-II units and also schedule power from Stage-I units in case of requirement of power in Delhi under emergency conditions.

(e) In a meeting held at GoNCTD on 15.3.2016, it was concluded to allow the operation of two units of 210 MW and other three units of 95 MW to remain closed. However, NTPC is still charging the composite heat rate of 2750 kcal/kWh which is applicable to BTPS as a whole.

(f) It is imperative that Stage-I units of BTPS be closed down as it not only has high cost on public health, its power production is expensive, due to inefficient operation and high coal transport. The closure of 3 x 95 MW units would result in clear saving in the annual fixed charges payable by Delhi discoms as well as reduction in variable charges. Also, diversion of coal from BTPS stage-II units to Aravali will reduce the costly coal purchase from market and will help in reducing the energy charge of Aravali plant. Approximate saving to the Delhi discoms would be to the tune of ₹48.93 crore. DTL should ensure that there will no transmission constraints due to phasing out / decommissioning/ closure of Stage-I units.

(g) Despite incurring additional expenditure for R & M, the plant is not in the position to match the performance standard set by the Central



Commission and is allowed to operate on relaxed norms. This has led to high tariffs.

(f) While exercising its functions under the 2003 Act, this Commission is to act in furtherance of promotion of environmentally benign policies. The Commission can also direct other measures to ensure that BTPS plant operated at lowest possible load through the year. BTPS, Stage- I units are 40 years old and has completed its useful life. All the units are designed for a very high GCV of coal and due to shortfall in coal quantity and quality shortfall and uncertainty, NTPC BTPS is unable to obtain high GCV coal for its old units.

(g) In view of the detriment caused by BTPS to human life and health, BTPS Stage-I units should be de-commissioned. Despite incurring such expenditure, these plants are not in a position to match the performance standard set by the Central Commission and are allowed to operate under relaxed norms. The continued operation of BTPS Stage-I units would put a stress on precious resources like water and land and air pollution will worsen, unless corrective measures are taken.

(h) In view of the above, the Commission may direct the Respondent NTPC, BTPS to decommission and/or close the generating station comprising of three units of Stage-I (3 x 95 MW) which is being rendered unviable and highly polluting thereby affecting the consumers not only in terms of higher electricity prices but also has become health hazardous to the society at large.

Accordingly, the Petitioners have sought the reliefs as stated in para 1 above.

6. This Petition was listed for hearing along with similar other Petitions viz., Petition No. 33/MP/2016 filed by NTPC (for relief under change in law) and 91/MP/2016 (filed by Tata Power Delhi Distribution Private Ltd (for re-determination of Gross Station Heat Rate) in respect of BTPS. Accordingly, this



Petition was admitted on 6.10.2016 and notice was served on the respondents with direction to the parties to complete pleadings in the matter. The Commission vide ROP of the hearing dated 8.12.2016 directed the staff of the Commission to refer the Petitions to CEA and seek its technical advice with regard to the closedown or phasing out of the units of BTPS, keeping in view the islanding scheme and grid requirement of NCT of Delhi in consultation with NRLDC and SLDC Delhi. NTPC vide affidavit dated 16.1.2017 has filed its reply in the matter.

Reply of NTPC, BTPS

7. The Respondent, NTPC, BTPS vide reply affidavit dated 16.1.2017 has submitted that the petitioners by way of this Petition has sought an amendment to the existing regulations of the Commission. It has also submitted that the Petitioners have sought the effective nullification of the Fuel Supply Agreement (FSA) of Stage-I units over which the Commission does not exercise jurisdiction. The Respondent has pointed out that operational norms for Station Heat Rate (SHR) Auxiliary Power Consumption (APC) have been specified by the Commission after considering all factors and after hearing the views of stakeholders (including the Petitioners). It has stated that the operational norms applicable to BTPS were never segregated or computed on unit-wise basis but for the BTPS units as a whole and hence not capable of revision by an order in this Petition. The Respondent has further submitted that the decision to decommission Stage-I units, if at all, may be effected after involving the concerned authorized agencies in terms of Regulation 3(17) of the 2014 Tariff Regulations, as it also caters to the demand of distribution utilities of Delhi, other than the Petitioners including NDMC & MES, whose allocation from the plant is significant. The



Respondent has added that if the Commission deems it fit to close down/ decommission Stage-I units, then Respondent, NTPC would be entitled to recover all costs of closure/ decommissioning from the beneficiaries, including capacity charges and would also be entitled to compensation, in accordance with the scheme & provisions of the Tariff Regulations and PPA with beneficiaries.

8. In terms of the request of the Commission vide ROP dated 8.12.2016, CEA vide letter dated 13.12.2017, has filed its technical report with regard to closing down or phasing out of units of BTPS. Accordingly, CEA in its report has stated the following:

“Hence, keeping in view the islanding scheme and grid requirement of Delhi, CEA is of the opinion that BTPS may be decommissioned after commissioning of 400/200 kV Tughlakabad S/S and 220 kV lines emanating therefrom”

9. During the hearing of this Petition on 18.10.2018, the learned counsel for the Respondent, NTPC submitted that units of Stages-I & II of BTPS have been permanently shut down/ceased to operate with effect from 15th October, 2018 and hence the reliefs prayed for by the Petitioners does not survive and the Petition has become infructuous. The learned counsel appearing for the Petitioner submitted that the Commission may pass appropriate orders in the said Petition. Accordingly, the Commission reserved its order in the Petition.

Analysis & Decision

10. The Petitioner has prayed for a direction for phasing out/closure and / or decommissioning of the specified units of BTPS, Stage-I (3 x 95 MW) and direct BTPS to withdraw the selected units from service. The Respondent, NTPC has submitted that decision to de-commission may be effected after involving the concerned authorised agency and being a policy decision it requires wider consultations. It is observed that the Environment Pollution (Prevention and



Control) Authority for the National Capital Region has, in terms of the directions of the Hon'ble Supreme Court, finalised a comprehensive action plan for air pollution control with the objective to meet ambient air quality standards in the National Capital Territory of Delhi and National Capital Region, including states of Haryana, Rajasthan and Uttar Pradesh on 5.4.2017. The action plans includes the permanent closure of BTPS, after commissioning of Tughlakabad sub-station, or move towards a cleaner natural gas, with a time line for commissioning of Tuglakabad sub-station as June, 2018 from the date of approval and the permanent closure of BTPS, post this, by mid-2018. The Respondent NTPC, BTPS vide affidavit dated 5.11.2018 has placed on record its submission that the operation of Stage-I & II units of BTPS has permanently been discontinued with effect from 15.10.2018. The relevant portion of the submission is extracted hereunder:

“By this affidavit, NTPC is placing on record the fact that operation of BTPS has permanently been discontinued with effect from 15.10.2018 924.00 hrs). All the units of BTPS i.e Stage-I units (3 x 95 MW) and Stage-II units (2 x 210 MW) have been permanently ceased to operate.”

In view of the permanent closure of operations of Stage-I & II units of BTPS, the prayers of the Petitioners' in para 1 (a) & (b) above, namely, for a direction for phasing out/closure/de-commissioning of the specified units of BTPS, Stage-I and for revision of norms of operation of Stage-II units, consequent upon the closure/ decommissioning of Stage-I units, does not survive anymore. Accordingly, these prayers of the Petitioners' are dismissed as infructuous.

11. The Petitioners' in their prayer at 1(c) above has sought the determination of annual fixed cost for only two units of BTPS Stage-II. The Respondent, NTPC has submitted that the de-commissioning of Stage-I would amount to novation of the PPAs, as a consequence of which the Respondent, NTPC would be entitled to



all costs and capacity charges including compensation on account of closure/ decommissioning of BTPS in accordance with the provisions of the Tariff philosophy, the Tariff Regulations and the PPAs with the beneficiaries. The matter has been considered. According to us, NTPC has executed PPAs with the distribution licensees in Delhi (the Petitioners herein), including NDMC and MES, for sale of the entire quantum of power generated by BTPS. It has been supplying power to these discoms/utilities from Stage-I & II units (as the case may be) based on the tariff determined by this Commission. Since the generating station has ceased to operate from 15.10.2018, the prayer of the Petitioners for de-commissioning of Stage-II units and determination of tariff of Stage-II units is rendered infructuous. With regard to the submission of NTPC that it would be entitled to all costs and capacity charges including compensation on account of closure/ decommissioning of BTPS, NTPC is at liberty to approach the Commission with an appropriate application with all relevant documents/ information which will be considered in accordance with law.

12. The Petitioners have also prayed for a recommendation to the Central Government for reallocation of coal linkage of BTPS to APCPL Jhajjar and for a direction to DTL to ensure that there will be no transmission constraints due to phasing out or decommissioning of Stage-II units of BTPS. The Respondent, NTPC has submitted that BTPS' fuel supply agreements with its coal suppliers are binding agreements and fall outside the jurisdiction of this Commission. The matter has been considered. In our view, coal linkage is decided as per the policy of the Central Government/Appropriate authorities and accordingly, the reallocation of coal linkage granted to BTPS will be considered and decided by concerned authorities. The Petitioners are at liberty to take up the matter with



NTPC and the appropriate authorities in this regard. As regards the transmission constraints due to phasing out or decommissioning of the units of BTPS, the Petitioners may take up the matter with DTL and Delhi SLDC.

13. Petition No. 86/MP/2016 is disposed of in terms of above. Petition Nos. 33/MP/2016 and 91/MP/2016 shall be listed in due course for which separate notices will be issued.

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

Sd/-
(P.K.Pujari)
Chairperson

