

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.241/GT/2017**

Subject : Petition for determination of tariff of Muzaffarpur Thermal Power Station Stage-I Unit-2 (110 MW) for the period from 15.10.2010 (COD) to 31.3.2014.

Petitioner : Kanti Bijli Utpadan Nigam Limited

Respondents : BSP(H)CL & ors.

**Petition No.240/GT/2017**

Subject : Petition for approval of tariff of Muzaffarpur Thermal Power Station Stage-I (2x 110 MW) from 1.4.2014 to 31.3.2019

Petitioner : Kanti Bijli Utpadan Nigam Limited

Respondents : BSP(H)CL & ors.

Date of hearing : **13.3.2019**

Coram : Shri P.K.Pujari, Chairperson  
Dr. M.K. Iyer, Member  
Shri I.S. Jha, Member

Parties present : Shri M.G.Ramachandran, Advocate, KBUNL  
Ms. Poorva Saigal, Advocate, KBUNL  
Mr. Abhinav Jindal, KBUNL  
Shri Nishant Gupta, NTPC  
Shri Shailendra Singh, NTPC  
Shri Ashutosh Kr. Srivastava, Advocate, BSPHCL  
Shri Rahul Kinra, Advocate, BSPHCL

**Record of Proceedings**

These petitions were taken up for hearing today.

2. During the hearing, the learned counsel for Respondent, BSP(H)CL, submitted as under:

- (a) The DPR does not form part of the record in this Petition.
- (b) The claim for IDC is liable to be rejected as the Petitioner has not claimed any uncontrollable factors like Force Majeure events and Change in Law events.
- (c) The issue regarding delay in re-commissioning, is contractual in nature and due to default on the part of suppliers of the Petitioner. This delay is on account of BHEL and is not a Force Majeure event.
- (d) The date of re-commissioning of Unit-II claimed by the Petitioner as 15.11.2014 was rejected by the Commission in its Order dated 3.7.2016 in Petition No. 259/GT/2014.



- (e) As regards Target Availability, the forced outage occurred due to of technical deficiencies/faults and negligence on the part of the Petitioner for not maintaining and running the power plant in an efficient manner. The Petitioner should have approached the Respondent in terms of the PPA for infusion of additional fund as was done for associated expenses such as pre-commissioning expenses, IEDC and IDC. Therefore, the Petitioner's contention that the funds for R&M were inadequate is not tenable.
- (f) As regards auxiliary power consumption and specific oil consumption, substantial expenditure has been incurred towards R&M for both Units-I and II. The Petitioner while claiming additional capitalisation R&M, however has claimed relaxed operating norms.
- (g) As regards Gross Station Heat Rate, the performance parameters for Tanda Thermal Power Station(TTPS) of NTPC should be considered while determining the Station Heat Rate for this generating station. The Petitioner has relied upon the tariff norms adopted for TTPS for determining the O&M expenses.
- (h) The Water charges may be allowed based on water consumption depending upon the type of plant, type of cooling water system etc, subject to prudence check. The claim for Capital Spares may be dealt with at the time of truing up of the generating station.
- (i) The issue of enhancement of O&M Expenses on account of pay revision has to be examined on a case to case basis. It may be subject to the implementation of pay revision as per DPE guidelines and the filing of an appropriate application by the Petitioner in this regard.
- (j) As regards Measurement of GCV and refund of excess energy charges, during April, 2014 to October, 2016, the Petitioner has been taking samples from secondary crusher for measurement of GCV on 'as received' basis.
- (k) Reply filed in the matter may be considered at the time of determination of tariff.

4. In response, the learned counsel for the Petitioner submitted as under:

(a) In terms of the Judgment dated 27.4.2011 of the Tribunal in MSGPCL v MERC and Ors in Appeal No. 72 of 2010, the delay cannot be held to be solely attributable to the generating company.

(b) There is no cost overrun since the contract between Petitioner and its contractors does not allow any cost escalation in case of time overrun.

(c) The liquidated damages recovered, if any, from the contractor at the time of closure of contract, shall be submitted and adjusted in the capital cost capitalized along with any package.

5. The Commission after hearing the parties, directed the Petitioner to submit following information, on affidavit by 15.4.2019, with advance copy to the Respondents:

- (i) Details regarding take over price of Unit-2 duly certified by the auditor.
- (ii) Statement duly certified by the Auditor, with respect to undischarged liability as on COD of each unit and period wise/ year wise discharge thereof for 2009-14 and 2014-19 tariff periods.
- (iii) Auditor's certificate to the effect that the income from infirm power as on each COD



has been adjusted against the capital cost claimed for tariff alongwith the details of the same.

- (iv) Auditor's certificate with respect to the capital cost for each year for which the Normative IDC has been claimed along with calculations.
- (v) Details of the liquidated damages/ Insurance claim recovered, if any, duly certified by the Auditor.
- (vi) The taken over cost of Unit-I, Unit-II and common assets with bifurcation duly certified by the Auditor.
- (vii) Clarification with regard to the difference of ₹ 311.40 lakh in the opening capital cost as on 15.10.2010 and the audited capital cost furnished in Form-5 in Petition No. 241/GT/2017.

6. The Respondents shall file their replies, on or before, 26.4.2019, with advance copy to Petitioner. Rejoinder, if any, by 3.5.2019.

7. Subject to above, the Commission reserved order in the Petitions.

**By order of the Commission**

**Sd/-  
(B. Sreekumar)  
Deputy Chief (Law)**

