

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 510/MP/2020

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Regulation 29 of the Central Electricity Regulatory Commission (Terms and Condition of Tariff) Regulations, 2019 for approval of additional expenditure on account of installation of various Emission Control Systems at Singrauli Super Thermal Power Station (2000 MW) in compliance with the Ministry of Environment and Forests and Climate Change, Government of India notification dated 7.12.2015.

Date of Hearing : 12.3.2021

Coram : Shri P.K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri Pravas Kumar Singh, Member
Shri Prakash S. Mhaske, Member, Ex-Officio

Petitioner : NTPC Ltd.

Respondents : Uttar Pradesh Power Corp. Ltd. (UPPCL) and 10 others

Parties present : Shri Amit Kumar, Advocate, BRPL
Shri Anupam Varma, Advocate, BRPL
Shri Rahul Kinra, Advocate, BRPL
Shri Shivam Sinha, Advocate, TPDDL
Ms. Suparna Srivastava, Advocate, PSPCL
Shri Tushar Mathur, Advocate, PSPCL
Shri Rohit Chhabra, NTPC
Shri Parimal Piyush, NTPC
Shri V. V. Sivakumar, NTPC
Shri A.S. Pandey, NTPC
Shri V. K. Garg, NTPC
Shri Anjum Jargar, NTPC
Shri Brijesh Kumar Saxena, UPPCL
Ms. Megha Bajpeyi, BRPL
Shri Deepak Singh, PSPCL



Record of Proceedings

The matters were called out for virtual hearing.

2. The representative of NTPC submitted that the Ministry of Environment, Forest and Climate Change, Government of India (MoEFCC), vide Notification No. S.O. 3305(E) dated 7.12.2015 (in short, “the MoEFCC Notification”) amended the Environment (Protection) Rules, 1986 introducing/ amending the emission standards for environmental pollutants to be followed by all existing and new thermal power plants. As per the MoEFCC Notification, all thermal power plants are required to comply with the revised emission standards within a stipulated period. The instant Petitions are filed by NTPC for approval of additional capital expenditure (ACE) towards installation of various Emission Control Systems (ECS) at its thermal generating stations to comply with the revised emission standards as per the MoEFCC Notification dated 7.12.2015. NTPC has proposed to install Wet Lime Based Flue Gas Desulphurisation (WFGD) for reduction in SO₂ and Selective Non-Catalytic Reduction (SNCR) technology for reduction in NO₂. However, with relaxation of the emission standards for NO₂ vide subsequent notification of MoEFCC dated 19.10.2020, requirement for installation of ECS for NO₂ control in case of the thermal power plants (TPPs) covered in the instant petitions may need to be revisited. Accordingly, NTPC has submitted the revised indicative tariff and has shared the proposal with the beneficiaries.

3. In response to a query of the Commission, the representative of NTPC submitted that two separate bids were called for installation of ECS for reduction in SO₂ and NO₂ emissions. With relaxation in the norms for NO₂ from 300 mg/Nm³ to 450 mg/Nm³ for plants installed between 1.1.2004 and 31.12.2016 vide MoEFCC notification dated 19.10.2020, installation of SNCR technology for NO₂ control is not required at present and the Petitioner sought liberty to approach the Commission in future, if required.

4. In response to another query regarding status of installation of ECS, the representative of NTPC submitted that owing to strict timeline for complying with the revised emission standards (i.e. by December 2022), NTPC floated the tender, work was awarded and civil work has already commenced in many of its generating stations. It is further submitted that the proposal in terms of provisions of Regulations 29(2) and 29(3) of the 2019 Tariff Regulations has been shared with the beneficiaries in terms of the Commission’s directions vide ROP (record of proceedings) vide hearing dated 21.7.2020.

5. In response to another query of the Commission regarding re-phasing of implementation of ECS, the representative of NTPC submitted that re-phasing proposed by CEA is being considered by MoEFCC and it has not yet been notified.

6. In response to another query of the Commission regarding bidding process, the representative of NTPC explained the bidding process and submitted that it was carried out in fair and transparent manner. He submitted that its Board of Directors have



approved the expenditure towards installation of ECS to comply with the norms specified in Notification 7.12.2015.

7. Learned counsel for BRPL made the following submissions:

- a) NTPC invited the bids before filing of the instant petition. In the 481st meeting of the Board of Directors of NTPC held on 7.2.2020, the cost for installation of ECS equipment of the Singrauli plant was approved after inviting the bids. NTPC did not share the proposal, bid documents, copy of the contract or outcome of the bids before filing the petition. In the absence of these vital documents, prudence check cannot be done. The mandate of Regulation 29(1) of the 2019 Tariff Regulations was not followed by NTPC. The Petitioner should have shared the proposal before or at the time of the bidding and all the relevant details for purpose of conducting the prudence check.
- b) NTPC filed the instant petition on 20.5.2020 i.e., one year after the notification of the 2019 Tariff Regulations and has failed to explain the gap of more than a year in filing the petition. Further, no explanation has been provided by NTPC as to why the proposal was not shared with the beneficiaries as required under Regulation 29(1) of the 2019 Tariff Regulations.
- c) NTPC shared the proposal for installation of ECS on 4.9.2020 after filing the instant petition along with the details of the summary of ECS proposed for Singrauli Power Plant only after the directions of the Commission vide RoP of hearing dated 21.7.2020. NTPC has bypassed the procedure laid down in Regulation 29 and directly filed the Petition for determination of "Indicative Tariff" based on "Estimated Costs" of implementation of ECS.
- d) The capital cost of Rs.1327.59 crore proposed for Singrauli Power Plant is higher than the CEA benchmark cost and, therefore, prudence check of the cost may be done before according approval by the Commission. However, in the absence of the details like the date of issue of notice inviting the tender, date of bid opening and the date of award, it will not be possible to conduct such prudence check.
- e) CEA, in its recommendations regarding appropriate technology for FGD, has observed that balance plant life is an important criterion for selection of appropriate technology. Therefore, if the plant has completed its useful life or has become inefficient, there is no justification to extend the life of plant on the basis of installation of FGD and burden the consumers.
- f) NTPC has made an averment that it plans to operate the Singrauli Power Plant for at least 5 years. No studies are placed on record to show that the station will run for at least 5 years. NTPC has neither provided any clarity on the useful life nor placed on record the relevant orders allowing Special Allowances. NTPC has



failed to show the details of the repairs, the viability of the repairs and their impact on the increase of life of the station

- g) NTPC has failed to explain as to why the depreciation has been proposed to be spread over 5 years for the instant plant. The Petitioner has merely relied on 2019 Tariff Regulations (as amended) and no other explanation has been given.

8. The Commission observed that extension of useful life of a generating station is covered in Regulation 33(10)(c) of the 2019 Tariff Regulations. In terms of these provisions, as regards investment for the purpose of installation of FGD technology in case a generating station or its units which have completed useful life, it can be extended for a period of ten years or a period mutually agreed by the generating company and the beneficiaries.

9. Learned counsel for BRPL submitted that in the light of Regulation 33(10)(c) of the 2019 Tariff Regulations, NTPC should have placed on record the consent of the beneficiaries, at the time of filing of the petition, in cases where the useful life of the plant has been completed.

10. Learned counsel for Punjab State Power Company Ltd. (PSPCL) submitted that it is adopting the arguments advanced by the learned counsel for BRPL. She further submitted that NTPC be also directed to submit the details of the process followed to arrive at the estimated cost. She also sought time to file additional reply to the information filed by NTPC.

11. The representative of UPPCL submitted that NTPC has not shared the proposal for installation of ECS as mandated in Regulations 29(2) and 29(3) of the 2019 Tariff Regulations. He raised the issue of high estimated cost of ECS and extension of useful life of the plant. He further submitted that reply to the instant petition has been filed by UPPCL. In response, the representative of NTPC submitted that rejoinder to the reply of UPPCL has been filed vide affidavit dated 27.8.2020. The representative of NTPC further submitted that the difference in the tariff details furnished in the petition and shared with UPPCL in proposal is due to the amendment in the 2019 Tariff Regulations. He also submitted that the depreciation for Singrauli Power Plant has now been reduced by considering its remaining life as 10 years instead of 5 years.

12. As regards the issue of cost, the representative of NTPC submitted that the CEA benchmark cost was determined two/three years back and CEA has itself observed that during this period, the cost of FGD might have increased. Accordingly, CEA may consider revising the benchmark/ estimated cost recommended by it. He also submitted that in most of the petitions listed for hearing today, the estimated cost is within the CEA benchmark cost.

13. After hearing the parties, the Commission observed that in order dated 20.7.2018 in Petition No.98/MP/2017, it has already been held that the MoEFCC Notification dated



7.12.2015 constitutes Change in Law and the additional capital expenditure incurred by NTPC towards implementation of ECS for meeting the revised emission standards shall be admissible under Change in Law after prudence check by the Commission. The Commission observed that CEA has recommended technologies to meet the revised norms and NTPC is required to select the most appropriate technology for its generating stations as per the CEA's guidelines/ recommendations. CEA has also specified benchmark/ estimated hard cost which does not include taxes, duties, cess, etc. and NTPC's claim will be examined against such benchmark/ estimated cost. In case of any deviation in the technology adopted and cost, NTPC should explain the same and it will be allowed only after prudence check. The Commission observed that NTPC being a PSU is expected to choose the technology best suited from the technologies suggested by CEA, follow a fair and transparent bidding process and discover the most competitive price. It is the endeavour of the Commission to balance the interest of the generators and consumers. The Commission also observed that as NTPC is bound to comply with revised emission standards as stipulated in the MoEFCC Notification dated 7.12.2015 and to complete the installation of ECS latest by December 2022, the beneficiaries should extend their cooperation for a fair and just consideration of NTPC's claim and timely disposal of the petitions.

14. The Commission, on the basis of requests of the Respondents, directed NTPC to submit the following information on affidavit, by 25.3.2021 with an advance copy to the Respondents/ beneficiaries:

- a) Certificate from the competent authority to the effect that the ECS technology selected is as per the recommendations made by CEA and is the best suited cost-effective technology in terms of CEA's advisory dated 7.2.2020, that would meet the ECS norms as specified in the MoEFCC Notification.
- b) Copy of the decision by NTPC with resolution and date to issue NIT to procure FGD installation.
- c) Copy of NIT along with bid opening/ closing dates.
- d) Copy of the recommendations of the Bid Evaluation Committee and approval of the competent authority to award the work.
- e) Certificate from the competent authority that bidding and award of the work have been carried out in a fair and transparent manner as per the applicable GOI/ NTPC guidelines.
- f) A note on the process of bidding for award of different packages of ECS, with names of the bidders who participated in the bid. Provide name of the successful bidder, with a copy of the Letter of Award/ Letter of Intent issued to the successful bidder.



- g) Present status of implementation of FGD. If commissioned, the date of commissioning.
- h) Studies, if any, conducted to show that the adopted FGD technology would meet the evaluation criteria indicated by CEA in its advisory dated 7.2.2020 and is the best suited cost-effective technology.
- i) Station-wise/unit-wise break-up of the capital cost claimed for FGD as per the following table:

Unit No.	Capacity (MW)	CEA's indicative hard cost (Rs. in lakh per MW)	Hard cost claimed (Rs. in lakh per MW)	Total IDC claimed (Rs. in lakh)	Total IEDC claimed (Rs. in lakh)	Total FERV claimed (Rs. in lakh)	Total taxes & duties claimed (Rs. in lakh)	Total of Other costs claimed (Rs. in lakh)	Total cost claimed (Rs. in lakh)
1									
2									
3									
4									
5									
6									

- j) Reasons for deviation from CEA's indicative hard cost, if applicable.
- k) If any contract for NOx reduction at the generating station has also been awarded, the cost of the same is to be segregated and the capital cost for FGD is to be provided separately and distinctly.
- l) Any other information considered appropriate by the Petitioner.

15. The Commission further directed the beneficiaries to submit their response, if any, by 29.3.2021 with a copy to NTPC.

16. The petitions will be listed for final hearing on 31.3.2021.

By order of the Commission

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(V. Sreenivas)
Deputy Chief (Law)

