

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

- Petition No.** : 67/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 Sipat Super Thermal Power Station Stage-I (3 x 660 MW) in compliance with the Ministry of Environment and Forests and Climate Change, Government of India notification dated 7.12.2015.
- Petition No.** : 515/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 Solapur Super Thermal Power Station (2x 660 MW) in compliance with the Ministry of Environment and Forests and Climate Change, Government of India notification dated 7.12.2015.
- Date of Hearing** : 29.4.2021
- Coram** : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri Pravas Kumar Singh, Member
- Petitioner** : NTPC Ltd.
- Respondents** : Madhya Pradesh Power Management Company Ltd.
(MPPMCL) and others
- Parties present** : Shri Venkatesh, Advocate, NTPC
Shri Ashutoudh K. Srivastava, Advocate, NTPC
Shri Abhiprav Singh, Advocate, NTPC
Shri Abhishek Nangia, Advocate, NTPC
Shri Anant Singh, Advocate, NTPC
Shri Ravi Sharma, Advocate, MPPMCL
(Petition No.515/MP/2020)
Shri Ravin Dubey, Advocate, MPPMCL
(Petition No. 67/MP/2020)



Shri A. S. Pandey, NTPC
Shri Siddhart Joshi, NTPC
Shri V. K. Garg, NTPC
Shei Parimal Piyush, NTPC
Shri Ishpaul Uppal, NTPC
Shri Anurag Naik, MPPMCL

Record of Proceedings

The matters were called out for virtual hearing.

2. The learned counsel for the Petitioner submitted that the Petitioner has submitted the information sought by the Commission vide Record of Proceeding (RoP) dated 12.3.2021, vide affidavit dated 24.3.2021 and has also provided the same to the beneficiaries. The learned counsel reiterated the submissions made on 12.3.2021 and explained in detail the circumstances which led to commencing the process of tendering and awarding FGD systems. He submitted that while examining the mandate for the Petitioner under Regulation 29 of the 2019 Tariff Regulations, the Commission should take into consideration the circumstances under which the Petitioner proceeded to award the contracts for installation ECS and the fact that the implementation of ECS was being monitored by Hon'ble Supreme Court of India, which had prescribed a strict timeline for implementation of revised emission norms.

3. On the aspect of selection of technology, the learned counsel for the Petitioner submitted that neither the MOEFCC Notification dated 7.12.2015 nor the 2014 and 2019 Tariff Regulations provides for selection of particular type of technology for a power plant. He further submitted that the CEA also does not prescribe selection of any particular type of technology for power plants. Regulation 29 of the 2019 Tariff Regulations does not mandate consulting CEA for selection of technology for installation of ECS. He submitted that the Petitioner has invited bids for installation of ECS in lots instead of plant/station wise to reap the benefits of economies of scale and discover the lowest possible price through domestic competitive bidding. He submitted that owing to the space constraints at Tanda Power plant, the Petitioner selected Dry Sorbent Technology at Tanda. The contractual obligations arising between the Petitioner and the beneficiaries regarding the methodology to be adopted in case of "beyond the useful life of the plant" is to be adjudicated in an independent proceedings. He submitted that the Board of Directors approved the proposal to award the contracts for the FGD package. The investment approval for the each project has also been approved by the Board of Directors. He submitted that the Petitioner has now shared all the possible information in compliance of Regulation 29 of the 2019 Tariff Regulations with respect to installation of ECS at various stations/plants of the Petitioner. Accordingly, the obligation of the Petitioner under Regulation 29 of the 2019 Tariff Regulations stands discharged.



4. Learned counsel for MPPMCL in Petition No. 67/MP/2020 submitted that the before taking any action the Petitioner ought to have obtained technological guidance and advise from the competent authority The CEA regarding the project/ plant specific technology. He further submitted that the Commission, in its order dated 20.7.2018 in Petition No. 98/MP/2017, had issued clear directives, wherein the Petitioner was specifically directed to consult with CEA before approaching the Commission. This direction has been ignored by the Petitioner and till now the Petitioner has not submitted any documentary evidence to show that the Petitioner has obtained specific advise from CEA in technology selection. He submitted that the Petitioner has claimed that the Wet Lime based Flue Gas De-Sulfurization (FGD) system is most suitable for units of 500 MW and above capacity and also for units having higher balance useful life etc. However, contrary to the claim, the said technology has been selected for VSTPS I (6 X 210 MW) and Korba STPS-I & II (3 X 200 MW) (3 X 500 MW) also, which have units of 200/210 MW and have also completed their useful life. The claim of the Petitioner that the work has been taken up in phased manner in different lots appears to be incorrect. The learned counsel for MPPMCL has submitted that the Lot I taken up first is more expensive as compared to Lot VI which is most recent and most economical in comparison to prior lots. This reflects that the Petitioner has incurred higher cost in the garb of urgency and stringent timeline and now the beneficiary has to bear higher financial burden. The Petitioner had failed to comply with Regulations 29(1) and 29(2) as it has not conducted proper study for technology selection and cost benefit analysis. The submission of the Petitioner that the Commission in order dated 20.7.2018 in Petition No. 98/MP/2017 had granted "in-principle" approval to the Petitioner for installation of ECS is incorrect. Learned counsel for MPPMCL submitted that the Commission had directed the Petitioner to approach the Commission only after consulting CEA on the aspect of adoption of technology and finalizing the cost individual plants. The Petitioner did not comply with the said direction and approached the Commission directly for the approval of expenditure incurred in installation of ECS. The Petitioner has not filed the copy of decision by NTPC with the resolution and date and has merely provided with the extracts from minutes of meeting of Board of Directors which is merely an interim approval to the environmental action plan. The Petitioner has neither provided the copy of recommendation of the Bid Evaluation Committee nor Certificate from the Competent Authority to the effect that the bidding and award of the work has been carried out in a fair and transparent manner as per applicable GOI/ NTPC guidelines.

5. Learned counsel for MPPMCL in Petition No. 515/MP/20202 made submissions similar to the submissions made by the learned counsel for MPPMCL in Petition No. 67/MP/2020. He has further submitted that the Petitioner may be asked to submit certificate from competent authority, who can certify that the ECS technology adopted by the NTPC is in accordance with the guidelines of CEA and is the best suited cost effective technology in terms of CEA's advisory dated 7.2.2020. He has submitted that the Petitioner has neither submitted any cost benefit study of the technologies available nor have obtained project/plant specific recommendations from CEA as directed by the Commission, and accordingly the petitioner's claim may be rejected. Learned counsel further submitted that the Petitioner has not explained as to why the International



Competitive Biddings (ICB) were not called for and this has resulted in loss of the opportunity for selection of most cost effective and best suited technology by way of ICB. He also submitted that the submissions made in its reply may also be considered.

6. The Commission directed the Petitioner to clarify the issues raised by the beneficiaries/ Respondents, especially MPPMCL by 20.5.2021, and the beneficiaries/ Respondents to file their comments, if any, by 4.6.2021. The Commission further directed the parties to comply with the directions with the timeline specified and observed that no extension of time shall be granted.

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

By order of the Commission

sd/-
(V. Sreenivas)
Deputy Chief (Law)

