

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 348/GT/2022

Subject : Petition for determination of tariff on installation of various Emission Control Systems at National Capital Thermal Power Station (NCTPS), Dadri Stage-II (980MW) in compliance of Revised Emission Standard.

Petitioner : NTPC Limited

Respondents : UPPCL and 3 others.

Date of Hearing : **30.6.2023**

Coram : Shri I.S. Jha, Member
Shri Arun Goyal, Member
Shri Pravas Kumar Singh, Member

Parties Present : Shri Venkatesh, Advocate, NTPC
Shri Anant Singh Ubeja, Advocate, NTPC
Shri Kunal Veer Chopra, Advocate, NTPC
Shri Buddy A. Ranganadhan, Advocate, BYPL and BRPL
Shri Rahul Kinra, Advocate, BYPL and BRPL
Shri Aditya Ajay, Advocate, BYPL and BRPL
Ms. Megha Bajpeyi, BRPL
Shri Shivam Sinha, Advocate, TPDDL
Shri Sam C. Mathew, Advocate, TPDDL

Record of Proceedings

During the hearing, learned counsel for the Petitioner circulated written submissions and made detailed oral submission based on written submissions and the pleadings made in the petition. The learned counsel for the Respondent BRPL& BYPL submitted that the petitioner has not filed a rejoinder and in response, the learned counsel for the Petitioner submitted that the Petitioner is not willing to file rejoinder at this stage.

2. The learned counsel for the Respondent TPDDL submitted that they may be granted time to file their reply, which was accepted by the Commission.

3. The learned counsel for the Respondent BRPL and BYPL made detailed submission summarized as under:

- (a) The Petitioner has itself fixed the tariff and has been billing the beneficiaries, which is in violation to the Section 62 of the Electricity Act, 2003. No tariff can be charged by a generating company without approval of the Commission.
- (b) The Respondent beneficiaries were compelled to pay the amount billed as their bank guarantee and letter of credit (for consolidated PPA) was to be



invoked in case of default in the payments, including levy of LPS on the amount billed by the Petitioner.

- (c) The Regulations bar the Petitioner for claiming/billing any amount prior to COD of unit-II, as the unit-II is yet to achieve COD. However, the Petitioner has been billing the Respondent beneficiaries and receiving the payments for both unit-I and unit-II.
- (d) The Commission had not approved the Petitioner's request for in-principle approval of capital costs in its order dated 17.11.2021 in Petition No. 499/MP/2020.

4. The learned counsel for the Petitioner submitted that presently, it is only making submissions in respect of unit-I. He also submitted that the amount so billed by the Petitioner was elaborated to the beneficiaries in terms of PPA provisions and it was explicit that no Respondent is under compulsion to pay the amount as the amount billed was based on actual cost incurred and in case payment was to be made in future by the beneficiaries, they would have to pay the carrying cost over and above the amount so billed. He further submitted that the Respondent beneficiaries have made payment voluntarily and it ought not be held against the Petitioner.

5. The learned counsel for the Respondent BRPL and BYPL submitted that any amount billed by the generating company automatically puts beneficiaries under compulsion to pay due to their bank guarantee and letter of credit being at risk of being invoked and levy of LPS, therefore, the amount not approved by the Commission as part of tariff, billed to the beneficiaries is in itself a highly objectionable action by the Petitioner.

6. The learned counsel for the Respondent TPDDL adopted the submission made by the learned counsel for the Respondent BRPL and BYPL. The learned counsel for the Petitioner submitted the pleadings are complete and the Commission may decide the matter on merits.

7. After hearing the parties, the Commission directed the Petitioner to file following additional information, on or before **4.8.2023**, after serving copy to the Respondents:

- (a) *The details regarding scheduled milestones in implementation of FGD for each unit, and actually achieved milestones for each unit along with supporting documents and justification for delay and cost overrun w.r.t. investment approval, if any;*
- (b) *In reference to additional capitalization claimed, it is noted that the forms are incomplete i.e. entries, relevant regulation etc., Accordingly, the petitioner is directed to submit duly filled and verified forms along with relevant details;*
- (c) *The scope of works exclusively associated with unit 1, scope of works exclusively associated with unit 2 and common facilities associated with both unit 1 and 2;*
- (d) *With regard to form B furnished, the unit wise detailed break up for FGD works i.e. Plant & Machinery (component wise cost), Civil Works, Buildings, Pre-Commissioning, Initial Spares, IDC, IEDC, Financial Charges etc, viz-a-viz Investment Approval;*
- (e) *In regards to Combustion Modification (CM) works, the unit wise detailed break up of works i.e. Plant & Machinery (component wise cost), Civil Works, Buildings, Pre-*



Commissioning, Initial Spares, IDC, IEDC, Financial Charges etc, viz a viz Investment Approval;

- (f) The complete document No. 0002176180035 and detailed calculation sheet mentioned as Annexure II;*
- (g) The unit wise quantity of lime stone consumed and expenditure incurred thereof; and Gypsum produced and revenue realized;*
- (h) The unit wise actual operational parameters such as SHR, Aux. Consumption, O & M expenses, Plant Availability Factor, SOx at 6 % O2 level prior (for last 5 years) and post to installation of FGD; and*
- (i) The month wise availability of FGD since its commissioning, the information furnished to concerned authority and reasons for the shortfall, if any.*

8. The Respondents to file their replies by **25.8.2023**, after serving copy to the Petitioner, who may file its rejoinder, if any, on or before **8.9.2023**.

9. The matter shall be listed for hearing on **15.9.2023**.

By order of the Commission

Sd/-
(Deepak Pandey)
Assistant Chief (Law)

