

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

1. Shri Ashok Basu, Chairman
2. Shri G.S. Rajamani, Member
3. Shri K.N. Sinha, Member

Petition No. 31/2001

And in the matter of
Approval of generation tariff for Kawas GPS in Western Region for the
period from 1.4.2001 to 31.3.2004

Petition No. 33/2001

And in the matter of
Approval of generation tariff for Gandhar GPS in Western Region for the
period from 1.4.2001 to 31.3.2004

And in the matter of		
National Thermal Power Corporation Ltd.	Petitioner
Vs		
Madhya Pradesh State Electricity Board and others	Respondents

The following were present:

1. Shri K.K. Garg, GM, NTPC
2. Ms. Alka Saigal, NTPC
3. Shri M.S. Chawla, AGM (Comml.), NTPC
4. Shri S.K. Sharma, Sr Mgr (Comml.), NTPC
5. Shri S.K. Samui, SM(C), NTPC
6. Shri sandeep Mehta, Dy. Manager (Comml.), NTPC
7. Shri D. Khandelwal, SE, MPSEB
8. Shri K.V. Shekar, Comml. Officer, GEB
9. Shri K.V. Pandya, DE, GEB
10. Shri A. Velayutham, MS, WREB

**ORDER
(DATE OF HEARING 29.5.2003)**

In our order dated 23.4.2003, we had directed the petitioner to furnish the notional cost of the spares supplied by the manufacturer free of cost along with machinery and their firmed up future requirement of spares. The petitioner was

further directed to file detailed break up of fuel cost and corresponding Gross Calorific Value (GCV) on the prescribed formats.

2. Shri K.K. Garg, General Manager, appearing on behalf of the petitioner, NTPC submitted that the detailed break-up of fuel cost and corresponding Gross Calorific Value (GCV) had been filed on the prescribed formats. He further submitted that the notional cost of spares consumed in Kawas GPS and Gandhar GPS during the last 5 years had been filed. The Commission found that there was wide variation in the notional cost of the spares consumed in Kawas GPS and in Gandhar GPS during the period 1996 to 2001 and 1995 to 2001 respectively. The total notional cost of the spares consumed in Kawas GPS and Gandhar GPS was Rs.268.52 crore and 3.87 crore respectively. The petitioner was asked to explain the reasons for such a wide variation in the notional cost of spares consumed in Kawas GPS and Gandhar GPS and also methodology used for calculation of the cost of spares. Shri Garg explained that the cost of spares was indicated in the respective contracts with manufacturer of the machinery. The notional cost of spares was worked out after allowing the subsequent escalation and foreign exchange rate variation on the cost of spares. However, he could not explain the reasons for the variation in the cost of spares consumed in these two plants.

3. The petitioner was further asked to explain whether 10 year warranty spares were offered by the manufacturer of the machinery on its own or it was the part of tender enquiry. Shri Garg submitted that the bidders were asked to quote the prices for 10 year warranty spares in the tender enquiry itself. He, however,

was not able to identify the cost of the initial spares, even in approximate terms supplied free of cost by the suppliers. Shri Khandelwal, SE for MPSEB and Shri. K.V. Shekar, Commercial Officer, for GEB submitted that the cost of such spares might have been included in the cost of the project.

4. On the issue of grant of relaxation of target availability for recovery of full capacity (fixed) charges for Kawas GPS and Gandhar GPS during the period 1.4.2001 to 30.6.2002, Shri Garg submitted that the Commission in its order dated 1.12.2002 in Petition No. 86/2002 on implementation of ABT in Western Region had already relaxed the target availability from 80% to 65% with effect from 1.7.2002 to 31.3.2004 and allowed recovery of full capacity (fixed) charges in respect of both Kawas GPS and Gandhar GPS. He further submitted that the same considerations would apply for relaxation of target availability for the period from 1.4.2001 to 30.6.2001 since due to shortage/non-availability of gas, during this period, 80% target availability could not be achieved and therefore, it also needed to be relaxed to 65%.

5. Shri Khandelwal, SE on behalf of MPSEB submitted that the Commission in its order dated 15.12.2000 had stated that fuel supply risk was the commercial risk and it should be borne by the generator. In the present case, the gas was available in both the fields of GAIL and was also allotted to the private parties. Though the petitioner might not be getting the full and proper supply of gas, but it had never invoked arbitration clause of their agreement with GAIL to obtain the

full supply of gas. The petitioner had also made no efforts to get gas from other sources. Therefore, there was no justification for relaxation of target availability, particularly when beneficiaries had agreed to pay for cost of liquid fuel as well as cost of the separate gas pipe line to Gandhar from HBJ pipe line. Shri K.V. Shekar, CO, GEB supported the above contention of Shri Khandelwal. He further stated that any relaxation in target availability would adversely effect the interest of beneficiaries.

6. Shri Khandelwal, for MPSEB further submitted that CEA had also taken a decision that it would not issue any certificate for deemed generation with effect from April 1998 on the ground of to non-availability/shortage of gas and that this further supported his contention that arranging for supply of gas was the responsibility of the petitioner.

7. Shri Garg appearing on behalf of the petitioner opposed the above contention of Shri Khandelwal. He submitted that the issue of shortage/non-availability of gas was discussed in the meetings of REB from time to time and all possible efforts were made to augment the supply of gas for Kawas GPS and Gandhar GPS. Dual fuel firing system was arranged at Kawas GPS to overcome the shortage of gas. He further submitted that other gas suppliers were supplying Naphtha and not the gas when there was shortage of it at Kawas and Gandhar GPS during 1.4.2001 to 30.6.2002. Moreover, Government of Gujarat had

imposed a sales tax @ 22% on Naphtha which made its use, in place of gas, very expensive.

8. Shri Garg submitted that the Kawas GPS and Gandhar GPs were conceived with allocation of gas corresponding to 62.79% PLF. Therefore, the contracted quantity of gas was less than the quantity required at 65% PLF. He further submitted that arbitration clause in their agreement was not invoked to procure more gas.

9. Shri A. Velayutham, MS, WREB submitted that the complete data regarding availability of machines for the period from 1.4.2001 to 30.6.2002 was not available with WREB. He had to verify the records available at the power stations belonging to the petitioner, NTPC and for verification of these records, at least three months time was required. The Commission was of the view that WREB required to verify the date from the log books at the power stations belonging to the petitioner, NTPC. We, therefore, directed that the necessary records would be produced by the petitioner at WREB office to enable the Member Secretary, WREB to verify the record and issue the necessary certificate regarding availability of the machines for the period from 1.4.2001 to 30.6.2002 within 45 days. The certificates issued by Member Secretary, WREB shall be filed by the petitioner, duly supported by an affidavit with advance copy to the respondents.

10. Shri D. Khandelwal, SE, on behalf of MPSEB further submitted that for calculation of variable charges, actuals or norms, whichever, was less, should be considered. Clause 1.1 of the CERC notification dated 26.3.2001 provided that the norms prescribed therein were ceiling norms only and this should not preclude a generating company and other beneficiaries from agreeing to improve norms. He further submitted that explanation clause of 2.4. of CERC notification dated 26.3.2001 provided that for the purpose of calculating tariff, operating parameter should be determined on the basis of actual or norms, whichever is lower and pleaded that it should be given over riding effect. We have noted the contentions would deal with them appropriately in the final order.

11. We found that the petitioner had not provided the additional details/information. We, therefore, direct the petitioner to furnish the following additional details/information on prescribed formats within two weeks duly supported by an affidavit with advance copy to the respondents.

- a) Details of Government of India loans along with interest rates and other terms and conditions with regard to the payment period, moratorium period, etc.
- b) Details of three series of bonds along with interest rates and other terms and conditions with regard to maturity of bonds, etc.,

- c) Date of drawals of foreign currency loans, amount, repayment schedule in foreign and Indian currency, in respect of both French credit and Belgian credit after 1.4.1994.
- d) Copies of agreements for foreign loans
- e) Copies of Government of India's notification and tariff calculation for the period before the date of commercial operation of the station, that is, 1.11.1993.

12. Subject to directions above, hearing concluded and order reserved.

Sd/-
(K.N. SINHA)
MEMBER

Sd/-
(G.S. RAJAMANI)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRMAN

New Delhi dated the 16th June, 2003