

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

1. Shri A.K. Basu, Chairperson
2. Shri K.N. Sinha, Member
3. Shri Bhanu Bhushan, Member
4. Shri A.H. Jung, Member

Petition No. 122/2005

In the matter of

Revision of O&M expenses for the period 1.4.2001 to 31.3.2004 in respect of Feroze Gandhi Unchahar Thermal Station Stage –II (420 MW).

And in the matter of

National Thermal Power Corporation Ltd. **Petitioner**

Vs

1. Uttar Pradesh Power Corp. Ltd., Lucknow
2. Jaipur Vidyut Vitran Nigam Ltd., Jaipur
3. Ajmer Vidyut Vitran Nigam td., ajmer
4. Jodhpur Vidyut Vitran Nigam Ltd., Jodhpur
5. Delhi Transco Ltd, New Delhi
6. Haryana Vidyut Prasaran Nigam Ltd., Panchkula
7. Punjab State Electricity Board, Patiala
8. Himachal Pradesh State Electricity Board, Shima
9. Power Development Department, Srinagar
10. Power Department, UT of Chandigarh, Chandigarh
11. Uttaranchal Power Corporation Ltd., Dehradun **Respondents**

The following were present:

1. Shri V.B.K. Jain, NTPC
2. Shri D.G. Salpekar, NTPC
3. Shri S.D. Jha, NTPC
4. Shri Shankar Saran, NTPC
5. Shri Surendra, NTPC
6. Shri A. Sardana, NTPC
7. Shri G. Maheshwari, NTPC
8. Shri R.K. Arora, XEN/T, HPGCL

**ORDER
(DATE OF HEARING: 10.1.2006)**

Introductory Remarks

The application is made by the petitioner, National Thermal Power Corporation Ltd. (NTPC) to seek revision of O&M expenses for the period 1.4.2001 to 31.3.2004 in respect of Feroze Gandhi Unchahar Thermal Station Stage–II (420 MW)(FGUTPS–II).

2. The petitioner had filed Petition No. 1/2000 for approval of tariff for FGUTPS-II for the period up to 31.3.2004. This petition was based on the terms and conditions for determination of tariff contained in Ministry of Power notification dated 30.3.1992. Subsequently, the petitioner filed the amended petition, based on the terms and conditions notified by the Commission under Section 28 of the Electricity Regulatory Commissions Act, 1998. The application was disposed of by order dated 18.6.2004 when the Commission determined the final tariff for the period in question.

Petitioner's contention

3. In the present application, the petitioner has pleaded that it had actually incurred an expenditure of Rs.15979 lakh under O&M during the period 1.4.2001 to 31.3.2004, though the Commission has approved O&M expenses amounting to Rs.9832 lakh, leaving an uncovered gap of Rs.6146 lakh. The details submitted by the petitioner in this regard are extracted hereunder:

Year	Allowed by the Commission	Actually incurred by NTPC @	Difference
2001-02	3170	5259	(-)2089
2002-03	3256	5264	(-)2008
2003-04	3406	5456	(-)2049
Total (2001-04)	9832	15979	(-)6146

@ Excluding ex-gratia

4. Accordingly, the petitioner has sought revision of O&M expenses allowed by the Commission. It has been stated that the completion cost of FGUTPS-II, which is an expansion project of FGUTPS-I is lower because of the sharing of certain common

facilities of FGUTPS-I and also the special efforts made by the petitioner to contain the capital cost. Since the Commission has allowed O&M expenses @ 2.5% of the capital cost, it is not sufficient to cover actual O&M expenses in this particular project. Accordingly, the petitioner seeks reimbursement of actual O&M expenses for FGUTPS-II since under-recovery of O&M expenses will be a cause of hardship to the petitioner.

5. We heard Shri V. B. K. Jain for the petitioner on admission.

Analysis

6. The tariff for the period 1.4.2001 to 31.3.2004 was regulated in terms of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2001 notified on 26.3.2001 (hereinafter referred to as "the notification"). As per the notification, O&M expenses for the generating stations in operation for five years or more in the base year of 1999-2000 were to be derived on the basis of actual O&M expenses, excluding abnormal O&M expenses, if any, for the years 1995-96 to 1999-2000 duly certified by the statutory auditors. The average of actual O&M expenses for the years 1995-96 to 1999-2000 was considered as O&M expenses for the year 1997-98. The expenses for 1997-98 were escalated twice @ 10% per annum to arrive on O&M expenses for the base year 1999-2000. Thereafter, the base O&M expenses for the year 1999-2000 are further escalated @ 6% per annum to arrive at permissible O&M expenses for the relevant year. However, in case of the generating stations not in existence for a period of five years in the base year of 1999-2000, O&M expenses were allowed at the rate 2.5% of the capital cost which were further escalated based on the specified escalation factor. The notification further provides for adjustment of O&M expenses based on actual escalation factor, which is

not relevant for the present proceedings and accordingly, the provision relating to adjustment of actual expenses is not being referred to. The relevant provision of the notification is reproduced below:

“In the case of new thermal stations of NTPC and NLC which have not been in existence for a period of five years, the base O&M expenses shall be fixed at 2.5% of the actual capital cost as approved by Authority or an appropriate Independent agency, as the case may be, in the year of commissioning and shall be escalated @10% p.a. for subsequent years to arrived at O&M expenses for the base year 1999-2000 level. Thereafter, the base O&M expenses shall be further escalated at the rate of 6% p.a. to arrive at permissible O&M expenses for the relevant year”.

7. FGUTPS-II was declared under commercial operation on 1.1.2001 and as such, O&M expenses for generating station for the period 1.4.2001 to 31.3.2004 were determined in terms of the notification, relevant portion of which is extracted above. Based on the above, the Commission by its order dated 18.6.2004 allowed O&M expenses as given here under:

	2001-02	2002-03	2003-04
O&M expenses allowed in Rs. Lakh	3227	3421	3626

8. For the purpose of computation of O&M expenses, the capital cost of Rs.1234.82 Crore, as on the date of commercial operation of the generating station was considered. These were further escalated in accordance with the methodology specified in the notification. Therefore, the petitioner’s plea for reimbursement of actual expenses for FGUTPS-II cannot be allowed on the ground that normative O&M expenses allowed based on actual capital expenditure are lower. It has been further urged by the petitioner that FGUTPS-I, also with capacity of 420 MW has been allowed O&M expenses of Rs.14.58 lakh/MW for the year 2001-02 as against Rs.7.55 lakh per MW allowed for FGUTPS-II and thus there is an anomaly. It is noted that O&M expenses for the FGUTPS-I were allowed based on the actual expenditure for

the period 1995-96 to 1999-2000 after normalization in accordance with the notification as the generating station was in existence for more than 5 years. Thus, while allowing O&M expenses for FGUTPS-I and FGUTPS-II, the provisions of the notification have been strictly followed.

9. The petitioner was directed to place on record, the actual O&M expenses for FGUTPS-I and FGUTPS-II separately for the period 1.4.2001 to 31.3.2004. The petitioner has expressed its inability to do so on the ground that separate accounts for FGUTPS-I and FGUTPS-II are not being maintained. It has been submitted by the petitioner that the actual O&M expenses for the period 1.4.2001 to 31.3.2004 have been divided into FGUTPS-I and FGUTPS-II notionally in the ratio of 50:50 since the two stations have equal installed capacity. The petitioner has placed on record, the necessary data which is extracted below, after some adjustment:

(Rs. In lakh)

	TARIFF		ACTUAL	
	FGUTPS Stage-I	FGUTPS Stage-II	FGUTPS Stage-I	FGUTPS Stage-II
2001-02	6125	3170	5369	5259
2002-03	6290	3256	5324	5264
2003-04	6581	3406	5516	5456
	18996	9832	16209	15979

10. In case the petitioner's plea is considered, it is seen that against the actual expenses of Rs.5369 lakh for FGUTP-I, the petitioner has been allowed O&M expenses of Rs.6125 lakh for the year 2001-02, expenses allowed are on the higher side. Similar is the position for the remaining years. Thus, excess O&M expenses have been allowed for FGUTPS-I. The petitioner should be satisfied with that.

11. It bears notice that the notification does not guarantee reimbursement of actual expenses in every case, but has specified the norms for computation of different

components of tariff. There are situations as in the case of FGUTPS-I, where the petitioner has been paid in excess of the actual expenses, based on the norms specified in the notification. Thus, the tariff approved is the complete package.

12. The revision of O&M expenses on the ground of hardship is not maintainable since O&M expenses were computed in the tariff order dated 18.6.2004 on normative basis in accordance with the methodology prescribed under the notification which is statutory in nature.

Result

13. As a result, the present application fails and is dismissed at the admission stage.

**Sd/-
(A.H. JUNG)
MEMBER**

**Sd/-
(BHANU BHUSHAN)
MEMBER**

**Sd/-
(K.N. SINHA)
MEMBER**

**Sd/-
(ASHOK BASU)
CHAIRPERSON**

New Delhi dated the 19th January 2006