

**BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW**

Petition No. 695 of 2010

IN THE MATTER OF: Realization of capacity charges for existing generating plants in case of deration of capacity of unit or for unit under Renovation and Modernization (R&M).

AND

Petitioner:

UP Rajya Vidyut Utpadan Nigam Limited (UPRVUNL), 14th Floor, Shakti Bhawan Ext., 14, Ashok Marg, Lucknow

Respondents:

1. The Chairman and Managing Director, U.P. Power Corporation Ltd., 7th Floor, Shakti Bhawan, 14, Ashok Marg, Lucknow
2. The Managing Director, Purvanchal Vidyut Vitran Nigam Ltd., 132KV Substation, Bhikari Vidyut Nagar, Varanasi.
3. The Managing Director, Pachimanchal Vidyut Vitran Nigam Ltd., Victoria Park Meerut.
4. The Managing Director, Madhyanchal Vidyut Vitran Nigam Ltd., Prag Narain Road, Lucknow.
5. The Managing Director, Dakchinanchal Vidyut Vitran Nigam Ltd., Gailana Road, Agra.
6. The Managing Director, KESCO, Kesa House, Kanpur
7. The CEO, Noida Power Company Limited, H Block, Alpha II, Greater Noida.

The following were present:

1. Sri. P.K. Agarwal, Director (Tech), UPRVUNL
2. Sri A.K. Agarwal, CGM (F), UPRVUNL.
3. Sri Mahendra Kumar, CE (Comm.), UPRVUNL.
4. Sri S.P. Chubey, SE (Comm.), UPRVUNL.
5. Sri U.S. Gupta, EE (Comm.), UPRVUNL.
6. Sri H. Aslam, E.E (Comm.), UPRVUNL.
7. Sri Bhushan Rastogi, Consultant, UPRVUNL
8. Sri K. B. Singh, Dy. GM, NTPC Ltd.
9. Sri S. Mohan, Sr. Mgr. (Comm.) NTPC Ltd.
10. Sri Prashant Chaturvedi, Mgr. NTPC Ltd.
11. Sri B.S. Goel
12. Sri Z.M. Faruqui
13. Sri B.B. Jindal

ORDER

(Date of Public Hearing 7.09.2010)

1. The Petitioner has requested to allow recovery of annual capacity charges in case of deration of capacity of generating unit or for unit under Renovation and Modernization (R&M) for the existing generating plants of UPRVUNL.
2. To provide sufficient opportunity to all the stakeholders and interested parties, a notice was given for public hearing. Comments/ objections/ suggestions were invited in writing directly to the Commission to be submitted so as to reach to the Commission on or before 6.9.2010. In this matter, no comments, objections or suggestions from any of the stakeholder have been received by the Commission.
3. In the petition, the Petitioner has submitted that most of its thermal generating stations are vintage power stations which have outlived their useful life. A comprehensive programme for R&M has been planned for their life extension and for efficiency improvement of such plants. The R&M and deration of generating unit brings consequential impossibility of operation of such capacities which has been recognized in the first part of the Note-2 of Regulation 16 (i) of UPERC (Terms & Conditions of Generation Tariff) Regulations, 2009, as reproduced below:

“In case of non-availability of unit (s) due to Renovation and Modernization or deletion of capacity or deration of capacity, the effective capacity left after discounting capacity of such unit(s), shall be considered for the purpose of calculation of plant availability. The depreciation and interest on working capital in the annual capacity (fixed) charges shall only be prorated to such effective capacity. The return on equity shall be utilized for payment of loan. The above provision shall apply in case of generating station covered under sub clauses (a) and (b) above.”

The first part provides opportunity for recovery of annual capacity charges whereas the second part restricts from doing so. The Petitioner has further submitted that all components of annual capacity charges are inelastic in nature and as such cannot be reduced. The interest on loan would continue to be paid, depreciation would be required to meet debt repayment, return on

equity would be inseparable, O&M expenses consisting of employee cost and administrative cost would not get reduced and certain amount of interest on working capital would be unavoidable. Thus, based on above facts, the Petitioner has requested the Hon'ble Commission to allow recovery of above components of annual capacity charge in case of deration of capacity of generating unit or for unit under Renovation and Modernization (R&M) for existing generating plants.

4. The Petitioner has further requested to suitably amend the Note-2 of Regulation 16 (i) of UPERC (Terms & Conditions of Generation Tariff) Regulations, 2009 for the existing generating plants.
5. In the public hearing, there were few representations from NTPC and the Public but neither there was anyone present nor any written representation submitted by the Respondents. In these circumstances, the Commission believes that through the public notice enough opportunity has been given to all stakeholders including the Respondents to submit their views. As no one has submitted any objections, it could be assumed that there is no objection from any one on the issues raised by the petitioner in this petition. As the issue of determination of tariff for thermal generating stations of UPRVUNL is in process which also covers old, derated or under R&M units, the subject matter requires early intervention. Therefore, the Commission decides to proceed in the matter which also requires amendment in the UPERC (Terms & Conditions of Generation Tariff) Regulations, 2009 for the existing plants having vintage value.
6. During the hearing, the petitioner reiterated the need for amendment in the Regulation for the tariff period 2009-10 to 2013-14 so as to recover the annual capacity charges in case of deration of capacity of generating unit or for unit under Renovation and Modernization (R&M). Sri B.B. Jindal, present during the hearing, raised certain issues like taxes on income and incentive. As the issues were beyond the scope of this petition, it was replied by the representative of the petitioner that it would be better if the queries are submitted to them separately in writing which they would answer accordingly.
7. In the matter, it is observed by the Commission that the averred plea put forward by the petitioner has reasonableness. A unit which has been derated or is under R&M incurs expenditures of capital nature as expressed above and thereby needs to be recovered through annual capacity charges. If such

costs are not allowed to be recovered for the old generating units then it would discourage the R&M plans for life extension and diminish further plans for improvement in the operating performance. In this light, the Commission observes that the request made by the petitioner has substantial ground for amendment in the Regulations.

8. Therefore, the Commission decides to allow realization of capacity charges in case of deration of capacity of generating unit or for unit under Renovation and Modernization (R&M) for the existing old generating plants as prayed by the petitioner for the period covered under UPERC (Terms & Conditions of Generation Tariff) Regulations, 2009.
9. Consequently, Note – 2 of Regulation 16 (i) of UPERC (Terms & Conditions of Generation Tariff) Regulations, 2009 shall be amended and read as below:
“In case of non-availability of unit (s) due to Renovation and Modernization or deletion of capacity or deration of capacity, the effective capacity left after discounting capacity of such unit(s), shall be considered for the purpose of calculation of plant availability. The above provision shall apply in case of generating stations existing on 31.3.09.”
10. The necessary amendments in Regulation 16 (i) Note - 2 of UPERC (Terms & Conditions of Generation Tariff) Regulations, 2009 shall be made accordingly.
11. The petition is disposed of.

(Meenakshi Singh)
Member

(Shree Ram)
Member

(Rajesh Awasthi)
Chairman

Lucknow; Dated: 13th September, 2010