CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Coram:
1. Shri Bhanu Bhushan, Member
2.Shri R. Krishnamoorthy, Member

Petition No.79/2005

In the matter of

Approval of tariff in respect of Kawas Gas Power Station (656.20 MW) for the period 1.4.2004 to 31.3.2009.

And in the matter of

NTPC Limited. **…. Petitioner**

Vs

1. Madhya Pradesh State Electricity Board, Jabalpur
2. Maharastra State Electricity Distribution Co Ltd, Mumbai
3. Gujarat Urja Vikas Nigam Ltd, Vadodara
4. Chhattisgarh State Electricity Board, Raipur
5. Electricity Department, Govt. of Goa, Panaji
6. Electricity Department, Administration of Daman & Diu, Daman
7. Electricity Deptt, Administration of Dadra and Nagar Haveli, Silvassa.

....**Respondents**

ORDER

The petitioner, NTPC Limited, had filed this petition for approval of tariff in respect of Kawas Gas Power Station (656.20 MW) (hereinafter referred to as “the generating station”) for the period from 1.4.2004 to 31.3.2009 in terms of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 (hereinafter referred to as “the 2004 regulations”). On completion of pleadings and after hearing the parties, final tariff in respect of the generating station for the said period was awarded vide the Commission's order dated 16.11.2006. The summary of the Annual Fixed Charges awarded is given hereunder:

(Rs in lakh)

Particulars	2004-05	2005-06	2006-07	2007-08	2008-09
Interest on Loan	1	0	0	0	0
Interest on Working Capital	4768	4785	4804	4836	4845
Depreciation	4947	4947	4947	4947	4947
Advance against Depreciation	0	0	0	0	0
Return on Equity	10598	10598	10598	10598	10598
O & M Expenses	3412	3550	3688	3839	3990
TOTAL	**23725**	**23880**	**24037**	**24219**	**24380**

2. The target availability for the full recovery of above annual fixed charges was 80% in terms of the 2004 regulations. The same norm was also used for working out the fuel cost components of the working capital.

3. The petitioner had filed a separate Petition No.46/2005 seeking relaxation of target availability norms in respect of the generating station as well as Gandhar GPS. The petitioner's contention was that despite its best efforts, it was not possible to procure sufficient quantity of gas to enable these generating stations to operate at the normative capacity. It had further stated that the beneficiaries were not requisitioning the power from Kawas GPS generated by using Naphtha, because of the very high cost of generation. Accordingly, the petitioner sought to be allowed to treat Kawas GPS and Gandhar GPS as single integrated unit for the purpose of recovery of capacity charges on the "unit" achieving 80% machine availability at individual station and 65% combined PLF. The prayer in Petition No. 46/2005 was adopted from the order dated 1.11.2002 in Petition No.86/2002 wherein a one-time dispensation was made for the period upto 31.3.2004. The request of the

petitioner was rejected vide order dated 16.2.2006 with the following observations:

> "7. The relaxation in the normative target availability level granted by order dated 1.11.2002 was "one time" act. This, inter alia, was for the reason that target availability level for recovery of capacity (fixed) charges was increased from 62.78% to 80% with effect from 1.4.2001. While granting relaxation, the Commission had noted that the special dispensation being allowed was to be reviewed, while considering revision of norms for the period beyond 31.3.2004. The terms and conditions for determination of tariff for the period 1.4.2004 onwards have already been notified. The target availability of 80% has been retained in respect of the generating stations belonging to the petitioner except for Tanda TPS. When specifying the fresh norms for tariff determination applicable from 1.4.2004, the Commission did not consider it appropriate to provide for relaxed target availability for any generating station in case of inability of the petitioner to obtain sufficient quantity of fuel. Sufficient time was available with the petitioner to make necessary arrangements for supply of gas from alternative sources after grant of relaxation by order-dated 1.11.2002. The petitioner as a commercial entity has to bear the responsibility to ensure that its generating stations are available to the respondents who do not have any role in arranging availability of fuel for the generating stations in question. Therefore, considering the totality of the circumstances we do not consider it to be a fit case for grant of relaxation in target availability, as prayed for, by invoking powers under regulation13. The petitioner is, however, at liberty to divert gas supply from Kawas GPS to Gandhar GPS in terms of the consent already given by the beneficiaries in the Western Region. The petitioner is also at liberty to declare availability of Kawas GPS based on liquid fuel for which also the beneficiaries have given their consent. **"**

4. Aggrieved by the said order dated 16.2.2006, the petitioner filed Appeal No 89 of 2006 before the Appellate Tribunal for Electricity (hereinafter "the Tribunal"). The Tribunal, vide its judgment dated 22.1.2007 disposed of the appeal with the following directions:

> *"42. Looking to the average combined PLF for the two stations together for the years 2000-2001; 2001-2002; 2002-2003; 2003-04 and 2004-2005, we are of the view that the recovery of full capacity charges in respect of Kawas and Gandhar GPS should be permitted on their together achieving 80% machine availability and 72% PLF.*

43. Having regard to the aforesaid discussion, the appeal is allowed and the impugned order passed by the CERC is set aside. In relaxation of the norms, the combined target availability for the years April 1, 2004 to March 31, 2008, for recovery of full capacity charges for Kawas and Gandhar GPS together, is fixed at 72% PLF. Thereafter, no relaxation will be available to the appellant. "

5. Subsequently, in the Review Petition No. 27 of 2007 filed by the Commission in Appeal No 89 of 2006, the Tribunal, vide its order-dated 2.8.2007, clarified that "para 43 of the judgment should be read in the context of and with reference to para 42."

6. On combined reading of the para 42 and 43 of the Tribunals order dated 22.1.2007, it is clear that the target availability norm of 80% is now relaxed to combined PLF of 72% but with a caveat that machine availability at both the generating stations taken together should be 80% and above.

7. The relaxation in target availability norm as above has necessitated the re-calculation of Interest on Working Capital component of the Annual Fixed charges. It is because the 2004 regulations provide for computation of fuel cost, liquid fuel stock and receivables considering generation and sale of power corresponding to target availability. Accordingly, fuel component and receivables admissible under the working capital were worked out considering the normative target availability and PLF, which were both specified as 80% in the 2004 regulations, Now since PLF norm is relaxed to 72% for the period upto 31.4.2008, the fuel component and receivables in the working capital are to be computed for generation and sale of electricity at 72% PLF. It is also significant to note that the methodology we are adopting herein is the same as

the one adopted in the Commission's order dated 7.4.2005 in Petition No 31/2005 in respect of the generating station for the period 1.4.2001 to 31.3.2004. As the re-calculation flows out of the judgment of the Tribunal, we proceed to revise the interest on working capital component of tariff for the generating station.

8. Accordingly, fuel cost and receivables in the working capital have been reworked as follows, considering sale of electricity at 72% PLF for the period upto 31.3.2008:

(Rs.in lakh)

	2004-05	2005-06	2006-07	2007-08	2008-09
Variable Charges for the year	124871	124871	124871	125214	138745
Fuel cost (one month)	10406	10406	10406	10434	11562
Variable Charges - 2 Months	20812	20812	20812	20869	23125
Fixed Charges- 2 Months	3885	3910	3937	3967	4063
Receivables – 2 Months	**24697**	**24722**	**24749**	**24836**	**27188**

9. Accordingly, in supersession of the computation arrived at in para 40 of the order dated 16.11.2006, interest on working capital has been reworked as follows:

(Rs.in lakh)

	2004-05	2005-06	2006-07	2007-08	2008-09
Fuel cost (one month)	10406	10406	10406	10434	11562
Naptha stock-15 days	4773	4773	4773	4786	5303
O&M expenses	284	296	307	320	333
Spares	2285	2422	2567	2721	2885
Receivables – 2 Months	24697	24722	24749	24836	27188
Total working capital	42445	42619	42802	43097	47270
Rate of interest	10.25%	10.25%	10.25%	10.25%	10.25%
Interest on working capital	**4351**	**4368**	**4387**	**4417**	**4845**

10. The revised Annual Fixed Charges computed on the basis of the above interest on working capital shall be as under in supersession of the charges worked out in para 41 of the order dated 16.11.2006:

(Rs.in lakh)

Particulars	2004-05	2005-06	2006-07	2007-08	2008-09
Interest on Loan	1	0	0	0	0
Interest on Working Capital	4351	4368	4387	4417	4845
Depreciation	4947	4947	4947	4947	4947
Advance against Depreciation	0	0	0	0	0
Return on Equity	10598	10598	10598	10598	10598
O & M Expenses	3412	3550	3688	3839	3990
TOTAL	**23308**	**23463**	**23620**	**23801**	**24380**

11. The petitioner shall adjust the excess recoveries within three months from the date of this order.

Sd/-
(R. KRISHNAMOORTHY)
MEMBER

Sd/-
(BHANU BHUSHAN)
MEMBER

New Delhi dated, 29th October, 2007