

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 54/MP/2012

**Coram: Dr. Pramod Deo, Chairperson
Shri S.Jayaraman, Member
Shri V.S.Verma, Member
Shri M.Deena Dayalan, Member**

Date of Hearing: 27.3.2012

Date of Order: 15.5.2012

In the matter of

Miscellaneous petition under Regulations 24, 111 and 113 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for seeking clarification in regard to reimbursement of the liability on account of FERV and the cost of hedging with regard to the operation of Regulation 40 of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009.

And

In the matter of

Power Grid Corporation of India Limited, New Delhi **Petitioner**

Vs

Rajasthan Rajya Vidyut Prasaran Nigam Limited, Jaipur
Jaipur Vidhut Vitran Nigam Ltd., Jaipur
Ajmer Vidhut Vitran Nigam Ltd., Ajmer
Jodhpur Vidyut Vitran Nigam Ltd., Jodhpur
Himachal Pradesh State Electricity Board, Shimla
Punjab State Electricity Board, Patiala
Haryana Power Purchase Centre, Panchkula
Power Development Deptt., Govt. of J&K, Srinagar
Uttar Pradesh Power Corporation Ltd., Lucknow
Delhi Transco Ltd., New Delhi
BSES Yamuna Power Ltd., Delhi
BSES Rajdhani Power Ltd., New Delhi
North Delhi Power Ltd., New Delhi
Power Department (Union Territory of Chandigarh), Chandigarh
Uttarakhand Power Corporation Ltd., Dehradun
North Central Railway, Allahabad
New Delhi Municipal Council, New Delhi

Bihar State Electricity Board, Patna
West Bengal State Electricity Distribution Co. Ltd., Kolkata
Grid Corporation of Orissa Ltd., Bhubaneswar
Damodar Valley Corporation, Kolkatta
Power Department, Govt. of Gangtok, Sikkim
Jharkhand State Electricity Board, Ranchi
Assam State Electricity Board, Guwahati
Meghalaya Energy Corporation Ltd., Shillong
Deptt. of Power, Govt. of Arunachal Pradesh, Itanagar
Power and Electricity Deptt. Govt. of Mizoram, Aizwal
Electricity Deptt., Govt. of Manipur, Imphal
Deptt. of Power, Govt. of Nagaland, Kohima
Tripura State Electricity Corporation Ltd., Agartala
Madhya Pradesh Power Trading Co. Ltd., Jabalpur
Maharashtra State Electricity Distribution Co. Ltd., Mumbai
Gujarat Urja Vikas Nigam Ltd., Vadodara
Electricity Department, Govt. of Goa, Panaji, Goa
Electricity Department, Administration of Daman & Diu, Daman
Electricity Department, Administration of Dadra & Nagar Haveli
Chhattisgarh State Power Distribution Co. Ltd., Raipur
Madhya Pradesh Audyogik Kendra, Indore
Karnataka Power Transmission Corporation Ltd. , Bangalore
Transmission Corporation of Andhra Pradesh Ltd., Hyderabad
Kerala State Electricity Board, Thiruvananthapuram
Tamil Nadu Generation and Distribution Corporation Ltd., Tamil Nadu
Electricity Deptt. Govt. of Pondicherry, Pondicherry
Eastern Power Distribution Company Ltd., Visakhapatnam
Southern Power Distribution Company Ltd., Tirupathi
Northern Power Distribution Company Ltd., Warangal
Central Power Distribution Company Ltd., Hyderabad
Bangalore Electricity Supply Company, Bangalore
Mangalore Electricity Supply Company, Mangalore
Chamundeswari Electricity Supply Corporation, Mysore
Gulbarga Electricity Supply Corporation, Gulbarga
Hubli Electricity Supply Company, Hubli
MESCOM Corporate Office, Managalore
Chamundeswari Electricity Supply Corporation Ltd. ... **Respondents**

Following were present:

Shri M. M. Mondal, PGCIL
Shri R.K. Arora, PGCIL

ORDER

The petitioner, Power Grid Corporation of India Limited has filed this petition with the following prayer:

"issue necessary direction to the petitioner regarding applicability of the clarificatory order dated 21.12.2011 in regard to reimbursement of the liability on account of FERV and the cost of hedging with respect to the operation of Regulation 40 of the 2009 tariff regulations under Petition No. 151/2010 filed by NTPC Ltd."

2. The petitioner has submitted that the 2009 tariff regulations are applicable to both the generating companies and the Inter-State Transmission Licensees and clarifications are relevant and necessary to make operation of Regulation 40 of the 2009 tariff regulations by the generating companies and the Inter-State Transmission Licensees. The petitioner has further submitted that while addressing point-wise clarifications on various issues in the order dated 21.12.2011 in Petition No.151/2010, the Commission has used the term generating companies and transmission licensees interchangeably with regard to operation of Regulation 40 of the 2009 tariff regulations on account of FERV. However, in para 56 of the order dated 21.12.2011, the Commission has issued directions to NTPC for filing its hedging policy after taking into consideration of the clarification on the issues raised by NTPC. The petitioner has submitted that the issues raised in Petition No. 151/2010 and the clarifications issued by the Commission in the said petition have general applicability with regard to the operation of Regulation 40 of 2009 tariff regulations. The petitioner has prayed that the directions issued in the order dated 21.12.2011 in Petition No.151/2010 be extended in its favour in order to

avoid any disparity between the generating companies and the Inter-State Transmission Licensees.

3. We have heard the representative of the petitioner. He submitted that since the directions in the order dated 21.12.2011 in Petition No.151/2010 pertain to NTPC, the said order cannot be implemented by the petitioner in the absence of similar directions to other generating companies and inter-State transmission licensees.

4. In petition No. 151/2010, NTPC had raised the following issues for clarification with regard to the operation of Regulation 40 of 2009 Tariff Regulations:

- (a) Problems arising out of difference between normative and actual loan:
- (b) Problems arising out of difference between normative and actual loan:
- (c) Cost Recovery Issues;
- (d) Hedging of Interest Rate Risk.

The Commission after hearing NTPC Ltd and the respondents has issued necessary clarifications in paras 20, 31, 35, 39, 43, 47, 51 and 55 of the order dated 21.12.2011.

5. Regulation 40 of 2009 Tariff Regulations provides as under:

"40. Foreign Exchange Rate Variation (1) The generating company or the transmission licensee, as the case may be, may hedge foreign exchange exposure in respect of the interest on foreign currency loan and repayment of foreign loan acquired for the station in part or full, as per their judgment considering the market behaviour.

(2) Every generating company and transmission licensee shall recover the cost of hedging of foreign exchange rate variation corresponding the normative foreign debt, in the relevant year on year-to-year basis as expense in the period in which it arises and extra rupee liability corresponding to such foreign exchange rate variation shall not be

allowed against the hedged foreign debt.

(3) To the extent the generating company or the transmission licensee is not able to hedge the foreign exchange exposure, the extra rupee liability towards interest payment and loan repayment corresponding to the normative foreign currency loan in the relevant year shall be permissible provided it is not attributable to the generating company or the transmission licensee or its suppliers or contractors.

(4) Every generating company and the transmission licensee shall recover the cost of hedging and foreign exchange rate variation on year-to-year basis as income or expense in the period in which it arises.”

6. The provisions of Regulation 40 as quoted above is applicable to generating companies as well as inter-State transmission licensees whose tariff is being determined by the Commission in accordance with the provisions of 2009 Tariff Regulations. Therefore while considering the issues raised by NTPC, the Commission has clarified the said issues in respect of generating companies and transmission licensees. The clarifications are generic in nature and are applicable to both generating companies and transmission licensees in the context in which clarifications have been made.

7. The petitioner has prayed for directions with regard to the applicability of the clarifications given in order dated 21.12.2011 in case of the petitioner. As we have already noted in the preceding para that the clarifications are applicable to generating companies and transmission licensees in terms of the order dated 21.12.2011, we consider it appropriate to dispose of the present

petition at the admission stage without issuing notice to the respondents. It is however made clear that the clarifications given in the order dated 21.12.2011 are not exhaustive and if the petitioner or any other inter-State transmission licensee or any generating company encounters any difficulty in giving effect to Regulation 40 of 2009 Tariff Regulations, it is at liberty to approach the Commission for clarification which will be considered in accordance with law.

8. The Commission in its order dated 21.12.2011 had issued the following directions to NTPC with regard to Hedging Policy:

"56. The petitioner is directed to finalise its Hedging Policy after taking into consideration the clarifications given hereinabove to the issues raised by the petitioner. The petitioner shall submit a copy of its Hedging Policy duly approved by its Board of Directors to the Commission with copies to the beneficiaries."

9. We are of the view that in the light of the above decision, the petitioner shall formulate its Hedging Policy keeping in view the provisions of Regulation 40 of 2009 Tariff Regulations and the clarifications given in our order dated 21.12.2011 in Petition No.151 of 2010. Hedging Policy duly approved by the Board or competent authority of the company should be submitted to the Commission with copies to the beneficiaries.

10. Since the cost of hedging would be borne by the beneficiaries, they are entitled to know about the hedging decision of the petitioner. In this connection, our decision in Petition No.151/2010 is extracted as under:

"22. A point has been made that the beneficiaries need to be consulted prior to entering into any hedging transactions. In our view, this is not a viable

solution as the financial markets are characterised by a very high degree of volatility and hedging decisions are extremely time sensitive. However, we direct the petitioner to communicate to the beneficiaries concerned about the hedging decision within 30 days of entering into hedging transaction."

In the light of the above decision, we direct the petitioner to communicate the concerned beneficiaries about its decision regarding hedging within 30 days of entering into hedging transaction.

11. Our directions in paras 9 and 10 above shall be applicable in case of other generating companies and inter-State transmission licensees whose tariff is being determined by the Commission.

12. Petition No. 54/MP/2012 is disposed of in terms of the above.

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(M.DEENA DAYALAN)
MEMBER

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(V.S.VERMA)
MEMBER

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(S.JAYARAMAN)
MEMBER

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(Dr. PRAMOD DEO)
CHAIRPERSON