

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Review Petition No. 1/RP/2023**

in

**Petition 190/GT/2020**

**Coram:**

**Shri I.S Jha, Member  
Shri Arun Goyal, Member  
Shri Pravas Kumar Singh, Member**

**Date of Order: 25th October 2023**

**In the matter of**

Petition for review of order dated 21.5.2022 in Petition No. 190/GT/2020 in respect of revision of tariff of the National Capital Thermal Power Station Stage-II (980 MW) for the period from 1.4.2014 to 31.3.2019.

**And**

**In the matter of**

NTPC Limited,  
Core-7, Scope Complex,  
7, Institutional Area, Lodhi Road,  
New Delhi-110 003.

**...Petitioner**

**Vs**

1. Uttar Pradesh Power Corporation Limited (UPPCL),  
Shakti Bhawan,  
14, Ashok Marg,  
Lucknow – 226 001.
2. Tata Power Delhi Distribution Limited (TPDDL),  
Grid Substation, Hudson Road,  
Kingsway Camp,  
New Delhi – 110009.
3. BSES Rajdhani Power Limited (BRPL),  
BSES Bhawan, Nehru Place,  
New Delhi – 110019.
4. BSES Yamuna Power Limited (BYPL),  
Shakti Kiran Building,



**Parties present:**

Shri Parimal Piyush, NTPC  
Shri Siddhant, NTPC  
Shri Anand Shrivastava, Advocate, TPDDL  
Ms. Ishita Jain, Advocate, TPDDL  
Shri Sam C. Mathew, Advocate, TPDDL  
Shri Rahul Kinra, Advocate, BRPL  
Shri Aditya Ajay, Advocate, BRPL  
Shri Isnain, Advocate, BRPL

**ORDER**

Petition No. 190/GT/2020 was filed by the Review Petitioner, NTPC Limited, for truing-up of tariff of National Capital Thermal Power Station Stage-II (980 MW) (hereinafter referred to as 'the generating station') for the 2014-19 tariff period, in accordance with Regulation 8(1) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (in short 'the 2014 Tariff Regulations') and the Commission vide order dated 21.5.2022 (in short the 'impugned order') disposed of the said petition.

Aggrieved by the impugned order dated 21.5.2022, the Review Petitioner has filed this Review Petition on the ground that there is an error apparent on the face of the record on the following issue:

*a) Error in Non-consideration of GCV with moisture correction for computation of Working Capital*

**Hearing dated 27.4.2023**

2. The Review Petition was heard on 27.4.2023 and the same was admitted on the issue in paragraph 1 above and notice was served on the Respondent. No



representative of Respondent attended the hearing. The Commission also directed the parties to complete pleadings in the matter.

3. In response, the Respondent, TPDDL, filed its reply vide affidavit dated 29.5.2023 and the Review Petitioner vide affidavit dated 4.7.2023 has filed its rejoinder to the said reply.

#### **Hearing dated 5.7.2023**

4. The Review Petition was heard on 5.7.2023. The learned counsel appearing for the Respondents TPDDL sought time to file its reply, which was accepted by the Commission and the matter was adjourned.

#### **Hearing dated 30.8.2023**

5. Thereafter, the Review Petition was heard on 30.8.2023. The learned counsel appearing for the Respondents TPDDL and BRPL made detailed oral submissions on the aforesaid issue. The Commission, after hearing the representative of the Review Petitioner and the Respondents reserved its order in the matter. Based on the submissions of the Review Petitioner, the Respondents and the documents available on record, we proceed to examine the issue raised by the Review Petitioner in the subsequent paragraphs.

#### **A. Error in Non-consideration of GCV with moisture correction for computation of Working Capital**

##### **Submissions of the Review Petitioner, NTPC**

6. The Review Petitioner has submitted that the impugned order has considered the fuel component and energy charges based on 'as received' GCV of the preceding three months (January 2014 to March 2014) of the period 2014-19, for the purpose of computation of IWC without adjustment for Total Moisture (TM).



7. In compliance to the direction of the Commission, the Petitioner had submitted the following GCV details in respect to instant station vide additional submission dated 4.6.2021:

Month	Wt Avg GCV of coal received (EM basis) (kcal/kg) A	Total Moisture (TM) (in %) B	Equilibrated Moisture/Air Dried Moisture (EM/AD) (in %) C	Wt Avg GCV of coal received (TM basis) (kcal/kg) $D=A*(1-B\%)/(1-C\%)$
January 2014	4268.77	9.53	5.48	4085.98
February 2014	4031.15	10.82	6.57	3847.61
March 2014	4157.5	11.10	7.00	3974.19
<b>Average</b>	<b>4152.47</b>			<b>3969.26</b>

8. The Petitioner had claimed weighted average GCV of coal (as received) on TM basis after applying adjustment for moisture content (for Total moisture in as received coal) on the weighted average GCV of coal on Equilibrated Moisture (EM)/ Air-dried (AD) basis determined in laboratory as per relevant IS codes. Further, the Commission in its recent orders has allowed adjustment for total moisture on “as received GCV” during the preceding three months (January 2014 to March 2014) of the 2014-19 Period, for the calculation of Fuel component of IWC. However, in case of instant station, the Commission has deviated from its own established principle and disallowed adjustment for Total moisture on GCV “as received” causing loss to the Petitioner and has prayed to consider the GCV “as received basis” after applying adjustment for moisture content.

### **Reply of the Respondents**

#### ***Respondent TPDDL***

9. The Respondent Tata Power Delhi Distribution (TPDDL) has submitted that the relief sought is an appeal in disguise of review. The issue stands decided and any alteration sought by the Petitioner would amount to reappreciation of the case and



substitution of views given by the Commission. TPDDL has further submitted that the Adjustment of Total Moisture (TM) as sought to be considered by the review petitioner is mis-conceived. The submissions made in present petition were never placed on record before the Commission in Petition No. 190/GT/2020 at any stage, and now by way of afterthought, the petitioner has preferred the present petition which is not permissible under Law. TPDDL has further submitted that the review petitioner has considered an incorrect/ erroneous/ misconceived reading of the impugned order and other orders passed by the Commission. The Commission has considered GCV on 'as Received' basis in all these orders.

***Respondent BRPL***

10. The Respondent BRPL has submitted that the Commission has considered GCV as per 2014 Regulations, wherein no mechanism for adjustment of TM factor is provided. Further, BRPL has submitted that in the orders relied upon by NTPC, the Commission has merely recorded the fact that adjustment of TM factor had been allowed provisionally, at the determination stage, on account of absence of GCV data. There is no scope for NTPC to base its contentions by relying upon the said orders and / or the provisional dispensation provided therein. Thus, as evident from the said findings, NTPC's reliance upon the said order is misplaced and erroneous.

***Rejoinder of Review Petitioner to reply of Respondent TPDDL***

11. The Review Petitioner in its rejoinder (to reply of Respondent TPDDL) has pointed out that the petitioner has filed this review petition for merely correction of apparent error on the face of records. The Commission has allowed Weighted average GCV for the Months of Jan, Feb & Mar 2014 without adjustment for Total Moisture (TM). The same adjustment for Total Moisture (TM) has been allowed by the Commission vide an



established principle/methodology in similarly placed orders in the petitions of other Thermal Generating Stations during the 2014-19 period. It is submitted that the Petitioner has placed on record the relevant details in compliance to the direction of the Commission, vide additional submission dated 30.6.2021 and the same are matter of record. It is pointed out that the submissions made by the petitioner have also been mentioned in the impugned order. It is further submitted that the Petitioner has only contended the error apparent with respect to “Adjustment for Total Moisture” in GCV on Received basis as done on other orders Passed by the Commission for the same period and pointed out that The Commission in its latest order dated 4.7.2023 with respect to Dadri- Stage I in Petition No. 388/GT/2020 has allowed GCV on Received basis with Adjustment for Total Moisture.

***Rejoinder of Review Petitioner to reply of Respondent BRPL***

12. The Review Petitioner in its rejoinder (to reply of Respondent BRPL) has submitted that the reliance placed by BRPL on the Judgments & Orders of the APTEL and the Commission is misplaced. It is submitted that the instant petition by any stretch of imagination is not re-opening of an already adjudicated issue. The Petitioner has further submitted that Interest on Working Capital has to be computed in terms of Regulation 28(2) of the Tariff Regulations,2014 on actual GCV i.e ‘as Recieved GCV’ and GCV cannot be measured without including total moisture as held by the Hon’ble Supreme Court vide Order dated 7.8.2019 in Contempt Petition (Civil) Nos. 1766-1767 of 2018 in Civil Appeal Nos. 10525-10526 of 2017 – Talwandi Sabo Power Limited vs Baldev Singh Sran & Ors. Further, the Commission has rightly considered the moisture corrected GCV (i.e. GCV on Total Moisture Basis) as the ‘actual GCV’ in various stations in petitions 300/GT/2020/, 451/GT/2020, 297/GT/2020, 240/GT/2020 etc.



before issuing the order in the instant station, and also in Petitions 241/GT/2020, 388/GT/2020 etc. subsequent to issuance of this order. Accordingly, the Petitioner has submitted that there is no merit in the reply filed by BRPL.

### **Analysis and Decision**

13. We have considered the rival submissions. It is observed that the Commission, as discussed in para 6, 7, 8 and 8 had considered the fuel component and energy charges based on 'as received' GCV of the preceding three months (January 2014 to March 2014) of the period 2014-19, for the purpose of computation of IWC without adjustment for Total Moisture (TM). This, in our view, is an error apparent on face of the impugned order dated 21.5.2022 and the same is accordingly needs to be rectified, and the energy charges determined vide order dated 21.5.2022 are being modified as stated in the subsequent paragraphs.

14. The paras 119 to 123 of the impugned order dated 21.5.2022 are rectified as under and it shall be read as:

"119. The Petitioner has calculated GCV of 3752.13 kcal/kg which represents the simple average of GCV of the preceding three months. The weighted average GCV for three months, based on the net coal quantities as per Form-15 of the petition and the monthly GCVs as submitted by the Petitioner in the table under paragraph 98 above, works out to 3969.26 kcal/kg.

120. Accordingly, the cost for fuel components in working capital has been computed considering the fuel details (price and GCV) as per Form-15 of the petition, except for 'as received' GCV of coal, which is considered as 3969.26 kCal/kg, as discussed above. All other operational norms such as Station Heat Rate Auxiliary Energy Consumption and



Secondary Fuel Cost have been considered as per the 2014 Tariff Regulations for calculation of fuel components in working capital.

121. Based on the above discussion, the cost of fuel components in working capital is worked out and allowed as follows:

<i>(Rs. in lakh)</i>					
<b>Particulars</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Cost of Coal towards stock (30 days)	16219.20	16219.20	16219.20	16610.02	16610.02
Cost of Coal towards generation (30 days)	16219.20	16219.20	16219.20	16610.02	16610.02
Cost of Secondary fuel oil 2 months	216.58	217.18	216.58	221.80	221.80

122. The cost of coal towards stock and generation allowed for the 2014-19 tariff period is less than the cost claimed by the Petitioner for the following reasons:

123. The Petitioner has considered average GCV of coal for 30 months as 3752.13 kCal/kWh (including adjustment of GCV of 120 kCal/kg) and weighted average price of coal as 4649.19 Rs/MT while the Commission has considered the same as weighted average GCV 3969.26 kCal/kg and 4631.35 Rs/MT respectively, as submitted by the Petitioner vide affidavit dated 4.6.2021 for 3 months i.e., January 2014, February 2014 and March, 2014. Storage loss of 120 kCal/kg as considered by the Petitioner has not been considered as there is no such provision in 2014 Tariff Regulations. ”

15. The para 125 of the impugned order dated 21.5.2022 is rectified as under and it shall be read as:

“125. The Petitioner has claimed Energy Charge Rate (ECR) ex-bus of 312.32 Paise/kWh for the generating station based on the landed cost of coal during preceding three months, GCV of coal [on ‘as received’ basis for average of 30 months] along with the storage loss of 120 kCal/kWh} & GCV and price of Oil procured and burnt for the





preceding three months of 2014-19 tariff period for the generating station. Since these claims of the Petitioner has not be allowed, as stated above, the allowable ECR, based on the operational norms as specified under the 2014 Tariff Regulations and on weighted average of 'as received' GCV of 3969.26 kCal/kg is worked out as follows:

Particulars	Unit	2014-19
Capacity	MW	980.00
Gross Station Heat Rate	kCal/kWh	2378.42
Aux. Energy Consumption	%	5.25%
Weighted average GCV of oil	kCal/lit	9780.12
Weighted average GCV of Coal for Jan to March 2014	kCal/kg	3969.26
Weighted average price of oil	Rs. /KL	36475.40
Weighted average price of Coal	Rs. /MT	4631.35
Rate of Energy Charge ex-bus	Rs. /kWh	<b>2.9420</b>

”

16. The table under para 128 of the impugned order dated 21.5.2022 is rectified as under:

“

<i>(Rs. in lakh)</i>					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Variable Charges - for two months (A)	33103.88	33194.58	33103.88	33901.56	33901.56
Fixed Charges – for two months (B)	17660.01	17501.42	17213.05	16985.22	16867.46
<b>Total (C) = (A+B)</b>	<b>50763.89</b>	<b>50696.00</b>	<b>50316.93</b>	<b>50886.79</b>	<b>50769.03</b>

”

17. The table under para 133 of the impugned order dated 21.5.2022 is rectified as under and it shall be read as:

“

<i>(Rs. in lakh)</i>					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Working capital for Cost of Coal Stock (30 days generation corresponding to NAPAF) (A)	16219.20	16219.20	16219.20	16610.02	16610.02
Working capital for Cost of Coal/Lignite for generation (30 days generation corresponding to NAPAF) (B)	16219.20	16219.20	16219.20	16610.02	16610.02



<b>Particulars</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Working capital for Cost of secondary fuel oil (2 months generation corresponding to NAPAF) (C)	216.58	217.18	216.58	221.80	221.80
Working capital for O & M expenses (1 month of O&M Expenses) (D)	1322.31	1425.14	1492.02	1601.62	1711.41
Working capital for Maintenance Spares (20% of Annual O&M Expenses) (E)	3173.54	3420.34	3580.85	3843.88	4107.39
Working capital for Receivables – (2 months of sale of electricity at NAPAF) (F)	50763.89	50696.00	50316.93	50886.79	50769.03
<b>Total Working Capital (G) = (A+B+C+D+E+F)</b>	<b>87914.72</b>	<b>88197.05</b>	<b>88044.79</b>	<b>89774.13</b>	<b>90029.68</b>
Rate of Interest (H)	13.50%	13.50%	13.50%	13.50%	13.50%
Total Interest on Working capital (I) = (GxH)	<b>11868.49</b>	<b>11906.60</b>	<b>11886.05</b>	<b>12119.51</b>	<b>12154.01</b>

”

18. The para 134 of the impugned order dated 21.5.2022 is rectified as under, it shall be read as:

“118. Based on the above, the annual fixed charges approved for the 2014-19 tariff period in respect of the generating station is summarized as follows:

<b>Particulars</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Depreciation	24964.07	25098.28	25167.18	25197.73	25190.66
Interest on Loan	23270.59	20628.03	18002.30	15031.37	12903.06
Return on Equity	29989.25	30273.94	30318.52	30343.33	30420.10
Interest on Working Capital	11868.49	11906.60	11886.05	12119.51	12154.01
O&M Expenses	15867.68	17101.68	17904.26	19219.39	20536.95
<b>Total</b>	<b>105960.07</b>	<b>105008.53</b>	<b>103278.30</b>	<b>101911.33</b>	<b>101204.78</b>

”

19. The table under para 136 of the impugned order dated 21.5.2022 is rectified as under:

<b>Particulars</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Total Annual Fixed Charges	105960.07	105008.53	103278.30	101911.33	101204.78
Impact of Pay Revision	0.00	54.93	2488.13	2719.55	2602.33

”



20. Review Petition No. 1/RP/2023 is disposed of in terms of the above.

Sd/-  
**(Pravas Kumar Singh)**  
Member

Sd/-  
**(Arun Goyal)**  
Member

Sd/-  
**(I. S. Jha)**  
Member

