

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 21/GT/2021

Subject : Petition for truing-up of tariff for the 2014-19 tariff period and for determination of tariff for the 2019-24 tariff period in respect of Udupi Thermal Power Plant (1200 MW).

Petitioner : Udupi Power Corporation Limited

Respondents : Power Company of Karnataka Limited & 6 ors.

Date of Hearing : **25.1.2022**

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

Parties Present : Shri Hemant Sahai, Advocate, UPCL
Shri Nitish Gupta, Advocate, UPCL
Ms. Shefali Tripathi, Advocate, UPCL
Shri Nishant Talwar, Advocate, UPCL
Shri M.G. Ramachandran, Senior Advocate, PCKL
Shri Prashant Kumar, Advocate, PCKL
Shri Ahaan Mohan, Advocate, PCKL
Shri Arunav Patnaik, Advocate, PCKL
Ms. Savithramma, Advocate, PCKL
Shri Prasanna K.S., PCKL
Ms. Padmalatha T.L., PCKL

Record of Proceedings

Case was called out for virtual hearing.

2. During the hearing, the learned representative of the Petitioner made presentation on technical issues relating to certain additional capital expenditure claimed in the petition. Thereafter, the learned counsel for the Petitioner circulated note of arguments and made detailed oral submissions, justifying the claims made by the Petitioner. He also submitted that the additional information sought by the Commission had been filed vide affidavits dated 30.6.2021 and 28.10.2021. Referring to the judgments of APTEL dated 25.3.2011 and 24.3.2015 in Appeal No.130 of 2009 (RGPPL v CERC & ors) and Appeal Nos. 55, 77, & 193 of 2013 (BYPL v CERC & ors), the learned counsel submitted that the additional capital expenditure claimed for certain assets/ items, which are necessary for the efficient operation of the plant, may be allowed by the Commission in exercise of its powers, under Regulations 76 and 77 of the 2019 Tariff Regulations. At the request of the learned counsel, the Commission permitted to place on record the note of arguments.

3. The learned Senior counsel for the Respondents PCKL, circulated note of arguments and made detailed oral submissions, objecting to the claims of the Petitioner.



Referring to the judgments of the Hon'ble Supreme Court in *Energy Watchdog v CERC & Ors [(2017) 14 SCC 80, State of Orissa & Ors v Sukanti Mohapatra & Ors [1993 SCC (2) 486], Madava Upendra Sinai & Ors v UOI & ors [(1975) 3 SCC 765], APTEL judgment in BYPL & ors v CERC & ors [2015 ELR (APTEL) 643]*, the learned Senior counsel submitted that additional capital expenditure may be allowed only under the relevant regulations governing the subject and not in exercise of regulatory powers. He also submitted that the Petitioner has not made out any case for considering certain additional capital expenditure claims under power to relax/ removal of difficulties. At the request of the learned counsel, the Commission permitted to place on record the note of arguments, if not done earlier.

4. The Commission, after hearing the parties, directed the Petitioner to file additional information on the following, after serving copy to the Respondents, on or before 15.2.2022:

- (a) *Whether the jurisdiction of the Commission under Section 62 of the Electricity Act, 2003 for determination of tariff of the generating station, for the 2019-24 tariff period would lie, keeping in view the current long-term beneficiaries being supplied power from the generating station;*
- (b) *Details of actual plant availability and actual PLF of the generating station from COD till December, 2021, duly certified by Load Dispatch Centre;*
- (c) *Relevant documents / communication in support of prior approval taken from Karnataka Discoms for incurring the additional capital expenditure, as per Article 4.1(d) & Article 6.12 of the PPA dated 26.12.2005;*
- (d) *The value of decapitalization and year put to use, of each assets claimed under additional capital expenditure;*
- (e) *Furnish Form-J, Form-L and Form-M for the 2019-24 tariff period.*

5. The Respondent, PCKL shall furnish the copy of report of the joint site visit done with Karnataka Power Corporation Ltd to the Petitioner's plant in July 2017, in furtherance to M/s Lahmeyer International India Pvt. Ltd report of January 2017 with regard to the need for additional capital expenditure, as directed in order dated 11.10.2021 in IA No. 62/IA/2021, by 14.2.2022, with copy to the Petitioner, if not already done.

6. Replies on the information (in paragraphs 4 and 5 above) shall be filed by the Respondents and Petitioner, on or before 22.2.2022, after serving copy to the Petitioner/ Respondents, who may file their rejoinder/ response, if any, by 28.2.2022. The additional information shall be filed within the due dates mentioned and no extension of time shall be granted.

7. Subject to the above, order in the Petition was reserved.

By order of the Commission

Sd/-
(B. Sreekumar)
Joint Chief (Law)

