



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

4thFloor, Singareni Bhavan, Red Hills, Hyderabad - 500004

Present

Sri Justice C.V. Nagarjuna Reddy, Chairman

Sri Thakur Rama Singh, Member

Sri P.V.R. Reddy, Member

TUESDAY, THE SECOND DAY OF APRIL, TWO THOUSAND AND TWENTY-FOUR

(02.04.2024)

O.P.No.1 of 2024

Between:

Hinduja National Power Corporation Limited ... Petitioner

and

Southern Power Distribution Company of Andhra Pradesh Limited (APSPDCL)

Andhra Pradesh Central Power Distribution Corporation Limited (APCPDCL)

Eastern Power Distribution Company of Andhra Pradesh Limited (APEPDCL) ... Respondents

This Original Petition has come up for final hearing before the Commission on 21-02-2024, in the presence of Sri Avinash Desai, learned Senior Counsel assisted by Sri P.Ravicharan, learned counsel for the petitioner; and Sri P.Shiva Rao, learned Standing Counsel for the respondents; that after hearing the learned counsel for both the parties, and on consideration of the entire material on record, the Commission passed the following:

ORDER

1. Hinduja National Power Corporation Limited (for short “the petitioner”) has filed this petition under Section 62 read with Clause 13 of the Andhra Pradesh Electricity Regulatory Commission (Terms and conditions for Determination of Tariff for Supply of Electricity by a Generating Company to a Distribution Licensee and Purchase of Electricity by Distribution Licensees) Regulation, 2008 (Regulation 1 of 2008) seeking - (a) determination of Base Rate of Variable Charges as on 01.04.2023 for 1040 MW (2 x 520 MW) Thermal Power Project, and (b) extension of time for implementation of the Railway Corridor, consequent on the Order dated 05-12-2023 passed by the Honourable APTEL disposing of IA No.1954 of 2023 in Appeal No.743 of 2023 granting liberty to the petitioner to move this Commission seeking a change of the Base Rate from the year 2016-17 to 01-4-2023 and permitting the respondents to put forth all their contentions before this Commission. The aforesaid Appeal was filed challenging the Common Order dated 01-8-2022 passed by this Commission in O.P.Nos.19 of 2016 and 21 of 2015.
2. O.P.No.21 of 2015 was filed by the petitioner herein against the Andhra Pradesh Eastern Power Distribution Company Limited (APEPDCL) and others (the “DISCOMs”) seeking determination of Capital Cost and Multi-Year Tariff (MYT) for its 1040 MW (2x 520 MW) coal-fired thermal power station at Visakhapatnam; whereas O.P No.19 of 2016 was filed by the DISCOMS against the petitioner herein seeking grant of approval to the Power Purchase Agreement (PPA) entered into by the DISCOMS with the petitioner herein for purchase of Power from the latter's 1040 MW (2x 520 MW) coal based thermal power station at Visakhapatnam.
3. On 01-8-2022, this Commission disposed of both the said OPs granting consent to the Continuation Agreement dated 28.04.2016 and the amended and restated PPA dated 15.04.1998 with the tariff as determined and the amendments/modifications stated therein and directed the DISCOMS to incorporate the changes as directed therein and submit a fresh PPA signed by both the parties after duly consolidating the amended and restated PPA dated 15-04-1998 and the Continuation Agreement dated 28-04-2016 within 30 days from the date of the said Order for final approval by the Commission.
4. The petitioner filed Review Petition No.8 of 2022 before this Commission seeking review of the aforesaid Common Order dated 01-8-2022 on the following aspects, viz., (a) Alleged non-furnishing of reports to the Respondents, from time to time, on

the Capital Costs incurred; (b) Determination of Capital Cost; (c) Comparison of Capital Costs with benchmark costs; (d) Interest During Construction (IDC) and Financing Charges (FC); (e) Tariff for the period up to 31-07-2022; (f) Modification of norms; and (g) Amendments to the PPA, which was dismissed by this Commission as devoid of any merits, vide order dated 19-6-2023.

5. Challenging the said Common order dated 01-8-2022 and the Review Order dated 19-6-2023, the petitioner filed Appeal No.743 of 2023 before the Honourable APTEL, along with I.A.No.1954 of 2023, *inter alia*, seeking the following reliefs:

“

- a) Direct the AP Discoms to make payments to the Appellant/Applicant to the extent of the actual energy charges being incurred in generation of electricity in terms of Regulation 13.1 of the APERC Tariff Regulation 1 of 2008 and on the basis of the bills received by the Appellant from Mahanadi CoalFields Limited from time to time;
- b) Stay the enforcement of the direction contained in Para 79 of the impugned order to the extent that Appellant shall not be allowed the cost incurred on Road Transportation if it fails to complete the Railway Corridor work within one year from the date of impugned order ... ”

6. Pending disposal of the main Appeal, the Honourable APTEL disposed of the said IA, with the consent of the learned Senior Counsel appeared for both the parties, vide: order dated 05-12-2023, which reads as under:

"Elaborate submissions were put-forth earlier both by Mr. M. G. Ramachandran, learned Senior Counsel appearing on behalf of the Appellant, and Mr. Sanjay Sen, learned Senior Counsel appearing on behalf of Respondent No. 2 & 3. After arguing for some time, learned Senior Counsel on both sides had earlier sought time to examine whether, instead of having the IA for interim relief adjudicated on merits, the Appellant could approach the 1st Respondent-Commission in terms of both the original order dated 01.08.2022 and the review order dated 19.06.2023.

In so far as the energy charge rate/variable rate is concerned, the Commission had, in the original order dated 01.08.2022, adopted the values filed by the Appellant for the Financial Year 2016-17 as the landed cost of coal, the price of oil, GCV of coal, and GVC of oil, and had observed as under:

“Energy Charge Rate/ Variable Charges

72. HNPCL claimed the following variable charges for the third and fourth control

periods in accordance with the norms and formula specified by the Commission in APERC Regulation 1 of 2008.

Clause 13.1.a. of Regulation 1 of 2008 specifies the formula for the computation of variable charges (Rs./kWh). The components used in the formula are the landed cost of coal, price of oil, GCVs of coal and oil, normative values for specific fuel oil consumption, auxiliary consumption, and Station Heat Rate. Regulation 1 of 2008 does not specify the normative values for parameters such as auxiliary consumption and Station Heat Rate for units above 500 MW capacity. As stated in supra, the Commission has already adopted the norms for these parameters which are derived based on the norms specified in the relevant CERC Tariff Regulations (for units of 500 MW and above capacity). As regards the specific fuel oil consumption also, the Commission adopted the CERC norm as stated in supra. For the landed cost of coal, the price of oil, GCV of coal, and GCV of oil, the Commission adopts the values filed by HNPCL for FY 2016-17 (the year in which both units of the project commenced commercial operation together) i.e., Rs.3,711/MT, Rs.35,975/KL, 3,850 Kcal/Kg and 10,000 Kcal/L respectively.

As against the claim of variable costs for different years in the third and fourth control periods by HNPCL, the Commission determines a single base variable cost of Rs. 2.44/kWh as per the formula specified in APERC Regulation 1 of 2008 after adopting the above values (See Table-3 of the Schedule for details).

The above, approved base variable cost is indicative only. If there are any variations in the landed cost of fuel or freight charges or GCV of coal and oil, the variable costs will vary from the indicated value, which HNPCL can collect/pass from/to APDISCOMs strictly in accordance with the procedure specified in clause 13.1 of Regulation 1 of 2008 duly adopting the norms approved in this order.

Further, the FCA (Fuel Cost Adjustment) bills shall be limited to +15% of the approved base value. Variation over and above 15% of the approved base value is subject to scrutiny and approval by the Commission”.

In the Order passed by it in the Review Petition (i.e., order dated 19-6-2023), the 1st respondent-Commission had opined as under:

‘H. Pass through of variable cost.

The Commission imposed the cap of +15% over the base variable cost in order to scrutinise the claims that are over and above the 15% cap and only pass on the

costs to the consumers that are legitimate in order not to burden them. The same conditions have been imposed on APGENCO's power plants also. Further, as per para 129(f) of the Retail Supply Tariff Order for FY 2023-24, the Petitioner can approach the Commission through a proper petition if they incur extra expenditure over the variable cost approved in the said order for consideration of the same by the Commission and passing of necessary orders after prudent check'.

During today's hearing, both the learned Senior Counsel, appearing on either side, agreed that, in the light of the aforesaid orders, the appellant be permitted to file a petition before the Commission seeking change of the base rate from the year 2016-2017 to 01.04.2023; and it would suffice if this Tribunal were to direct the Commission to dispose of the said petition within a specified timeframe.

Mr. M. G. Ramachandran, learned Senior Counsel, would further state that the Commission had also directed the Appellant to expedite and complete the rail corridor work within one year from the date of its order (i.e. before 31.07.2023); and, in the light of subsequent events, they would seek extension of time by way of the very same petition, which they now seek permission to file before the Commission.

Mr. Sridhar Potaraju, learned Counsel for the 1st Respondent, on instructions, states that, on a petition being filed by the Appellant, appropriate orders would be passed by the Commission within two months thereafter, after giving the parties an opportunity of being heard.

Granting the Appellant liberty, to move a petition as aforementioned, the IA stands disposed of. It is made clear that we have not expressed any opinion on the merits of the rival submissions, and leave it open to the Respondents herein, in case a petition is moved by the Appellant, to put forth all such contentions as are available to them in law before the Commission."

7. Hence, the petitioner filed the present petition for the aforementioned reliefs.

It is, *inter alia*, stated in the petition that -

(a) the petitioner is seeking a determination of the Base Variable Cost as on 01-4-2023 for application for the period from 01-4-2023 to 31-3-2024 with reference to the actual variable cost incurred by it during the period from 01-01-2023 to 31-3-2023 in terms of Clause-13 of Regulation 1 of 2018. In support of the said claim, the petitioner filed duly filled up Form-I to Regulation 1 of 2008 incorporating the technical parameters; copies of sample bills raised

by it to the DISCOMs between the period from January 2023 to March 2023, and the Invoices of fuel purchases, road transportation etc, in the electronic mode. Further, the petitioner also filed the details of the Variable Cost actually incurred for the period from April 2022 to October 2023 along with soft copies of the Bills raised with the APDISCOMs for the months of April 2022 to October 2023, receipts of payments made by the petitioner to Mahanadi Coalfields Limited (MCL) during the said period, invoices of fuel purchase, road transportation cost etc.

- (b) It is further stated that the petitioner is willing to furnish such other information, as may be required by this Commission, for determination of the Base Variable Cost for the Financial Year from 01-4-2023 to 31-3-2024; that the Variable Cost as per Base Variable Cost of Rs.2.44/kWh with reference to FY 2016-17 is significantly inadequate to cover the actual cost and the expenses of generation and supply of electricity for FY 2023-24; and, therefore, the petitioner prayed for fixation of Base Variable Cost at Rs.3.16/kWh for FY2023-24.
- (c) As regards the Railway Corridor work, it is, *inter alia*, stated that the petitioner is actively pursuing various options to implement the Railway Corridor since NTPC has shown its unwillingness in September, 2023 to construct the same; that the petitioner is pursuing with East Coast Railway for construction of the siding under the Indian Railways recently announced “Gati Shakti Scheme”; that the Railways, in principle, has agreed to consider implementation of the said Scheme for laying down the Railway line for the petitioner’s Project; that, as per the said Scheme, Railways will acquire the land required for siding at the petitioner’s cost; that the petitioner has the option either to construct the rail line by itself or to request the Railways to carry out the construction; that the siding, once constructed, would belong to the Railways, but the facility will be available to the petitioner safeguarding its interests; that on 07-11-2023 RITES Limited (a Navaratna & Schedule-A Central Public Sector Enterprise, under the Ministry of Railways, dealing with the construction of Railway Siding from Jaggayyapalem to the Power Project Site of the petitioner), issued a letter, *inter alia*, stating that it would be looking forward to associate as the PMC for aforesaid work; that the implementation of the Railway Corridor has been delayed due to the extraneous events not under the petitioner’s control; that the petitioner has to take further steps for implementation of the Railway Corridor under the said Gati Shakti Scheme and it is proactive and bonafide in approaching the concerned authorities for implementation of the Railway

Corridor; that by 30-6-2024 the petitioner will be informed by the Railways on the timeline for acquisition of land and implementation of the Project and prayed for extension of the time specified in the Common Order dated 01-8-2022 till 31-7-2024 for the present and by that date it would be in a position to file the exact time schedule for implementation and completion of the Project; and that, if the extension of time for construction of the Railway Corridor is not allowed, it would cause serious prejudice to the petitioner.

8. On 03-2-2024 a counter-affidavit was filed on behalf of the respondents denying the averments in the petition. Along with the said counter, the modified Fuel Supply Agreement (FSA) entered into by the petitioner with Mahanadi Coalfields Limited (MCL) and letters dated 09-8-2023, 13-9-2023 and 11-01-2024 communicated to the petitioner, have been filed.

It is, *inter alia*, stated in the counter affidavit that:

- (a) the petitioner has furnished copies of invoices issued by the MCL claiming that it has received lesser grade coal than the contracted coal agreed to be supplied by the MCL under the FSA entered into between the parties; that if the petitioner is receiving lesser grade coal, it ought to have raised a dispute with MCL and submitted a Test Analysis Report of Joint samples conducted by the third party sampling agency showing the grade of coal received by it at its delivery point; that, despite several reminders, the petitioner failed to furnish any test results conducted by third party sampling agency or any credit notes given by the MCL to it; and that the petitioner may be directed to submit the third party analysis report along with credit notes, if any, given by the MCL and determine the Base Value of the Variable Cost in respect of the project of the Petitioner.
 - (b) As regards the issue of non-completion of the Railway Corridor, it is stated that since the Commission has already specified the time limits and the consequences for non-completion of the Railway Corridor, the DISCOMs are not agreeing to the request of the petitioner for extension of time.
9. On 16.02.2024, a rejoinder was filed by the petitioner to the counter filed by the respondent DISCOMs. The main points advanced are as under.
 - a. The construction of the railway corridor project suffered a setback on account of the sudden unwillingness of NTPC to proceed with the earlier proposal, a fact which had been conveyed to the petitioner very recently in September 2023. Further, as soon as the petitioner was informed of NTPC's unwillingness to construct the railway corridor /allow the petitioner to use

its existing facilities, the petitioner approached the East Coast Railways to construct the Railway Corridor under the Gati Shakthi scheme. In case the extension of time for the construction of the Railway Corridor is not allowed. It will cause serious prejudice to the petitioner.

- b. In terms of the Gati Shakthi scheme and as directed by the Railways, HNPCL has submitted a pre-feasibility study report prepared by RITES Limited for the railway corridor on 24.01.2024.
- c. The Respondents have made a bare denial regarding the issue of extension of the time limit for the Railway Corridor work without considering the seriousness and concerted efforts of the petitioner.
- d. APERC Regulation 1 of 2008 provides for both rail & road transportation of coal. Thus, the movement of coal by road transport is not prohibited or ultra vires the APERC Regulations.
- e. The petitioner has submitted all the test results details as required under the PPA along with the monthly billing. The issue of the Grade of Coal and the test analysis of the coal received by the petitioner at the loading point does not pertain to the calculation of base variable cost in terms of clause 13 of the APERC Regulation No. 1 of 2008 and is not relevant in that regard.
- f. With regard to MCL giving credit notes to the petitioner, it is submitted that the petitioner routinely furnishes the list of debit/credit notes issued by the MCL along with the FCA invoice every month to enable adjustment of variable charges.
- g. The petitioner has been furnishing bills duly attaching the invoices of fuel purchase, road transportation costs and all relevant information to the DISCOMs since April 2022.
- h. The averments raised by the respondents are unsubstantiated and devoid of any merit.
- i. In the light of the submissions made hereinabove, the Hon'ble Commission may be pleased to allow the instant petition.

10. Heard both sides.

11. Having regard to the respective pleadings of the parties, the points that emerge for adjudication are:

- A) Whether the petitioner is entitled to higher variable cost than what has been fixed in the Commission's order dated 01-8-2022 in OP Nos.19 of 2016 and 21 of 2015?
- B) Whether the petitioner is entitled to the relief of extension of time for execution

of Railway Corridor work?

Re Point A: Whether the petitioner is entitled to higher variable cost than what has been fixed in the Commission's order dated 01-8-2022 in OP Nos.19 of 2016 and 21 of 2015?

i. While determining the energy charge rate/variable charges by the Commission at para 72 in the Order dated 01.08.2022, it stated that the approved base variable cost is indicative only. If there are any variations in the landed cost of fuel or freight charges or GCV of coal and oil, the variable costs will vary from the indicated value, which HNPCL can collect/pass from/to APDISCOMs strictly in accordance with the procedure specified in clause 13.1 of Regulation 1 of 2008 duly adopting the norms approved in the order. Further, it stated that the FCA (Fuel Cost Adjustment) bills shall be limited to +15% of the approved base value. Variation over and above 15% of the approved base value is subject to scrutiny and approval by the Commission. In pursuant of this clause, HNPCL has filed the present application for determination of Base Variable Cost as of 01.04.2023 for application from 01.04.2023 till 31.03.2024 based on the actual variable cost incurred by it from 01.01.2023 till 31.03.2023, in terms of clause 13 of APERC's Regulation 1 of 2008 without prejudice to the rights and contentions of the parties. Contending that the base variable cost of Rs 2.44 per unit fixed by APERC based on the parameters in FY 2016-17 is significantly inadequate to cover the actual cost and the expenses of generation, HNPCL has estimated Base Variable Cost at Rs 3.16 per unit for FY 2023-24 and requested the APERC to fix the same. We accordingly examine this claim infra.

ii. Clause 13.1 (b) of APERC Regulation No. 1 of 2008 reads as under:

“Adjustment of rate of energy charge (REC) on account of variation in price or heat value of fuels. Initially, gross calorific value of coal/lignite or gas or liquid fuel shall be taken as per actuals of the preceding three months. Any variation shall be adjusted on month to month basis on the basis of gross calorific value of coal/lignite or gas or liquid fuel received and burnt and landed cost incurred by the Generating Company for procurement of coal/lignite, oil, or gas or liquid fuel, as the case may be. In case of any dispute, an appropriate application in accordance with the Conduct of Business Regulations shall be made before the Commission.”

The above clause does not specify any ceiling on variable cost and the generator shall be paid a rate of energy charge (variable cost per unit) based on the actual parameters month on month. However, as the variable cost is two-thirds of the total unit cost of power to be procured by DISCOMS, to have regulatory scrutiny, while determining tariff for third and fourth control periods in the Order dated 01.08.2022, exercising the powers conferred on it under section 86 (1) (b) of the Electricity Act, 2003, this Commission has fixed a Base Variable Cost of Rs. 2.44 per unit with plus 15 per cent ceiling on the same to take care of the actual energy cost as per Regulation 1 of 2008. The base variable cost was determined based on the data of the COD year of the plant. The contentions raised by the Respondents and rejoinder furnished to the same by the petitioner have been carefully examined. Also, the additional data regarding the GCV, coal transportation costs, sample testing procedures etc furnished by the petitioner in response to the email of the Commission's office, have been verified carefully to examine whether HNPCL is entitled to higher variable costs than what has been fixed in the Commission's order dated 01.08.2022.

The main contention of the Respondents is that despite several reminders, the petitioner failed to furnish any test results conducted by a third-party sampling agency at the loading end or any credit notes given by the MCL. The Petitioner's stand is that the issue of the Grade of Coal and the test analysis of the coal received by the petitioner at the loading point does not pertain to the calculation of base variable cost. On examination of the data furnished in the petition and subsequent data, the petitioner has been submitting the weighted average GCV results along with the invoices of FCA duly incorporating credit and debit notes from MCL. In this regard, it shall be noted that the Respondents are at liberty to seek any data relating to the fuel costs while admitting the FCA claims and the petitioner shall furnish the same.

- iii. Upon such scrutiny and examination, the Commission observes as under:
 - a. The actual Gross Calorific Value (GCV) on as fired basis during the above period of data submission is significantly lower than the value considered while determining the base variable cost in the order dated 01.08.2022. The minimum GCV on as fired basis is 3083.39 Kcal per Kg and the Maximum is 3492.86 Kcal per Kg as against the value of 3850 Kcal per kg considered in the computation of base variable cost in the order dated 01.08.2022. The variation in actual GCV as fired ranges between -20% to -9.28% compared to the value adopted in the Order dated 01.08.22.

- b. Imported coal has been used for blending with domestic coal in certain months. Since the GCV of imported coal is higher than that of domestic coal, net generation has increased.
 - c. Compared to the value adopted in the computation of the base energy charges in the order dated 01.08.22, the variation in the Landed cost of Coal ranges between 3% to 53% due to the use of imported coal in certain months.
 - d. Due to variations in the landed cost of coal and the GCV as stated above, the Landed Cost of one kcal of Coal has increased from 28% to 69%.
 - e. The cost of secondary fuel oil has increased to Rs 90,000 per kL compared to Rs 35,975 per kL considered in the order dated 01.08.22. The increase is more than 150%.
 - f. The weighted average of GCV of coal at the receiving end has been arrived at based on the tests conducted by a third party as per PPA.
 - g. From the receiving end to the firing end, a norm of 120 kcal per kg has been taken as a loss of GCV by HNPCL for computation of variable cost.
 - h. In the current financial year, the petitioner received the highest GCV coal value of 3351 kcal/Kg corresponding to the landed cost of coal at Rs. Rs.3826 per ton during May 2023
 - i. The weighted average cost of road transportation is Rs 800 per MT including handling charges from the railway sidings to the plant premises.
 - j. The weighted average freight charges for Railway Transportation is Rs 2.39 per MT per KM.
- iv. Based on the above observations, as there are significant variations in costs, the Commission is inclined to revise the base variable costs from 01.04.2023. Accordingly, considering the landed cost of coal & oil, and the GCV of coal of May 2023 in the current financial year since the data is available by the time of preparation of this Order and allowing the GCV loss from “as received” to “as fired” at 105 Kcal/Kg in the band suggested by CEA (105-120 kcal/kg for non-pithead stations), the Commission proposes to determine the base variable cost for FY 2023-24. The parameters proposed to be considered in the present Order vis a vis the Order dated 01.08.22 for determination of base variable costs are shown in the table below.

Parameter	As per APERC Order (Dt. 01.08.2022)	Present Order

Station Heat Rate-Kcal/kWh	2372	2372
Auxiliary Consumption	5.75%	5.75%
Landed Cost of Coal including Transit Loss-Rs/Ton	3711	3857
GCV of Coal-As fired Basis-kcal/kg	3850	3246
GCV of Oil-kcal/L	10000	10793
Price of Oil-Rs/kL	35975	80000
Specific Oil Consumption-ml/kWh	0.5	0.5

- v. Due to the revision of values as shown in the table above, as per the formula provided in Regulation 1 of 2008, the revised base variable cost comes to Rs. 3.03 ps (computation is shown in the Annexure), to be applicable from 01.04.2023 as against the Rs.3.16 ps per unit claimed by the petitioner. Similar to the Order dated 01.08.2022, the Commission fixes an upper limit of 15 percent over the base value for admitting and payment of bills to HNPCL by DISCOMS as per Regulation 1 of 2008, and the value exceeding the 15 per cent on base value shall be paid by the DISCOMS only on scrutiny and approval of the Commission on the filing made by the HNPCL in this regard.

Re Point B: Whether the petitioner is entitled to the relief of extension of time for execution of Railway Corridor work?

- i. As noted in the foregoing paras, it is the plea of the petitioner that since NTPC has shown its unwillingness in the construction of New Railway Corridor in September 2023, the petitioner is pursuing with East Coast Railway for construction of the siding under the Indian Railways' recently announced "Gati Shakti Scheme; that the Railways, in principle, has agreed to consider implementation of the said Scheme for laying down the Railway line for the petitioner's Project; that, as per the said Scheme, Railways will acquire the land required for siding at the petitioner's cost; and that the petitioner has the option either to construct the rail line by itself or to request the Railways to carry out the construction. The petitioner also pleaded that implementation of the Railway Corridor has been delayed due to the extraneous events not under its control; and that by 30-6-2024 it would be informed by the Railways on the timeline for acquisition of the land and implementation of the Project. The petitioner, accordingly, prayed for extension of the time specified in the

Common Order dated 01-8-2022 till 31-7-2024 for the present and by that date it would be known the exact time schedule for implementation and completion of the Project.

- ii. The respondents, however, opposed the prayer for extension of the timelines.
- iii. We have given our earnest consideration to the request for extension of timelines for completion of the Railway Corridor. In this regard, one cannot lose sight of the fact that, while arriving at the Capital Cost, the entire expenses incurred/to be incurred towards the Railway Corridor has been included therein, so that the petitioner shall not raise any claims in future on AP DISCOMs towards transportation costs. However, as the Railway Corridor work up to the petitioner's premises is not completed, the petitioner has been claiming expenditure required for coal transportation by Road, which is much higher than the transportation through Rail. Once the expenditure for constructing Railway Corridor is included in the Capital Cost, ordinarily the petitioner cannot claim additional expenditure incurred on account of coal transportation by Road. However, on the plea of the petitioner, the Commission was considerate in allowing one year time for completion of the construction of the Railway Corridor, subject to the condition that if the petitioner fails to complete the construction within one year time, the cost incurred towards Road Transport will be disallowed by the Commission.
- iv. However, without completing the work, the petitioner has come out with the present application. Even according to the petitioner's pleadings, there is no certainty in the timelines within which the petitioner would be able to complete the work. The petitioner only stated that by 30-6-2024 it would be informed by the Railways on the timeline for acquisition of land and implementation of the Project. It, thus, appears that the Railway Corridor work is not likely to be completed in the near possible future.
- v. It is trite that the determination of Tariff has a nexus to the public interest. Consumers being the ultimate stakeholders, it is the obligation of the licensees to serve the consumers' interest in the most efficient and economical manner. If the request, such as this, is accepted on misplaced considerations of equity, the interest of the consumers will be seriously jeopardised. As noted above, expenses towards Railway Corridor work are included in the Capital Cost, which means that tariff would have been less if that expenditure is not included. Thus, the petitioner is getting the benefit of higher tariff on the assumption that coal will be conveyed up to its factory premises through Rail. That being so, whether the Railway work is in place or not, the petitioner

cannot claim additional expenditure incurred on account of the coal transportation through any other means. Irrespective of the problems being faced by the petitioner, the respondents are liable to pay only the cost incurred for coal transportation through Rail only. Claiming higher tariff on account of the inclusion of expenditure for execution of Railway Corridor work on one hand and claiming additional expenditure incurred on account of the Road transport on the other, the petitioner is enjoying double benefit at the cost of the consumers. So long as the Railway Corridor expenditure is included in the Capital Cost, the petitioner cannot be allowed to have additional expenditure over and above what ought to have been incurred through Rail transportation. If the petitioner continues to claim additional expenditure on account of non-completion of the Railway Corridor, the tariff is required to be reduced in proportion to the Capital Cost attributable to Rail Corridor work. But, the petitioner cannot have the best of both worlds. If for any reason, as pleaded by the petitioner, Railway Corridor work is not getting completed within the time stipulated by the Commission, the petitioner has to necessarily bear the additional expenditure itself since, as already noted, it is enjoying the higher tariff on account of inclusion of Railway Corridor expenditure in the Capital Cost.

For the aforementioned reasons, we are not inclined to allow the prayer for extension of time for the completion of the Railway Corridor so as to allow the petitioner to claim extra expenditure incurred towards the transportation of coal by Road. This Point is, accordingly, answered against the petitioner.

12. As HNPCL could not complete the certain length of Rail corridor work up to its plant within the time as stipulated in the Order dated 01.08.2022, the Commission is not inclined to extend the timeline for the reasons mentioned supra. Consequently, the road transport charges shall be disallowed with effect from 01.08.2023. As per the information provided by HNPCL, the weighted average road transportation & handling charges are Rs. 800 per ton. Discounting the same with a likely increase in Rail Transport cost when the pending corridor is completed for about 26 Km with Rs 2.39 per ton per km as the rail freight, the resultant cost towards Road Transport in the total variable cost works out to Rs.0.58 per unit. Accordingly, the DISCOMS are directed to deduct Rs.0.58 ps per unit from the claims of HNPCL while paying the energy charges with effect from 01.08.2023 while following the base price as determined in this order for FY 2023-24 plus 15 per cent ceiling over it.
13. For the variable cost per unit using imported coal blending with domestic coal, the

Commission's permissions given were based on the MoP's advisory and hence, any claims and interim payments made as per the Order of this Commission are subject to the determination of final tariff under Section 11 (2) of the Electricity Act, 2003 on the filings made by HNPCL in this regard.

14. In terms of the above, the petition is disposed of.

Sd/-
P.V.R Reddy
Member

Sd/-
Justice C.V. Nagarjuna Reddy
Chairman

Sd/-
Thakur Rama Singh
Member



Annexure:

The Formula specified in clause 13.1 of Regulation 1 of 2008.

“ 13. ENERGY CHARGES

13.1 Thermal generating stations a. Energy charges shall cover fuel costs and shall be worked out on the basis of ex-bus energy sent out corresponding to scheduled generation as per the following formula:

Energy Charges (Rs.) = Rate of Energy Charges in Rs/kWh X Ex-bus energy sent out corresponding to scheduled generation for the month in kWh

Where,

Rate of Energy Charges (REC) shall be the sum of the cost of normative quantities of primary and secondary fuel for one kWh of ex-bus energy sent out corresponding to scheduled generation and shall be computed as under:

$$REC = \frac{100 \{P_p \times (Q_p)_n + P_s \times (Q_s)_n\}}{\{100 - (AUXr)\}} \text{ (Rs./kWh)}$$

Where,

P_p = Landed cost of primary fuel namely coal or lignite or gas or liquid fuel in Rs/Kg or Rs/cubic-metre (m³) or Rs./litre, as the case may be

(Q_p)_n = Quantity of primary fuel required for generation of one kWh of electricity at generator terminals in Kg or litre or m³, as the case may be, and shall be computed on the basis of normative Gross Station Heat Rate (less heat contributed by secondary fuel oil for coal/lignite based generating stations) and gross calorific value of coal/lignite or gas or liquid fuel as fired.

P_s = Landed cost of Secondary fuel oil in Rs./ml

(Q_s)_n = Normative Quantity of Secondary fuel oil in ml/kWh as per clause 11.1.4, as the case may be, and AUX_n = Normative Auxiliary Energy Consumption as percentage of gross generation as per clause 11.1.2, as the case may be.”

Parameter		Approved by the Commission
GCV of Coal-As fired Basis-kcal/kg	-	3246
GCV of Oil-kcal/L	-	10793
Station Heat Rate-Kcal/kWh	SHR	2372
Auxiliary Consumption	(AUXr)	5.75%
Landed Cost of Coal including Transit Loss-Rs/Ton	(P _p)	3857
Specific Coal Consumption-kg/kWh	<i>(Q_p)_n = {(SHR - (GCV of Oil X Specific Oil Consumption / 1000)) / GCV of Coal}</i>	0.73
Price of Oil-Rs/kL-	(P _s)	80000
Specific Oil Consumption-ml/kWh	(Q _s) _n	0.5

Substituting the above parameter values in the formula, the base variable cost determined is Rs. 3.03/- per unit.