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No. 551 /CE/PPA/

Date 04 /08/2017

Secretary
U.P. Electricity Regulatory Commission.
2nd Floor, Kisan Mandi Bhawan
Vibhuti Khand, Gomti Nagar.
Lucknow.

Sub :- Counter affidavit against Petition filed by UPRVUNL under Section 62 and Section 86(1)(a) of the Electricity Act ,2003 for determination of final tariff and approval of capital cost for Anpara D Thermal Power Plant comprising of Unit 1 and Unit 2 for 500 MW each.

Dear Sir,

Kindly find enclosed herewith counter affidavit (01 original+05 Photo copies) against Petition filed by UPRVUNL under Section 62 and Section 86(1)(a) of the Electricity Act ,2003 for determination of final tariff and approval of capital cost for Anpara D Thermal Power Plant comprising of Unit 1 and Unit 2 for 500 MW each, for kind consideration of Hon'ble Commission.

Enclosures: As above.

Your's faithfully

(V.P. Srivastava)
Chief Engineer (PPA)

Copy to followings for kind information and necessary action :-

1. PS to Managing Director, UPRVUL, 7th Floor, Shakti Bhawan, Lucknow.
2. Chief Engineer (Commercial), UPRVUNL, 14th Floor, Shakti Bhawan Extn. Lucknow.

Petition No. 1899/2017
Petitioner UPRVUNL
Respondent UPPCL
Generating Station Anpara D TPS

Nature of Petition Capital Cost and Determination of Tariff for
FY 2016-17 to 2018-19
Index

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Submission by:

M/s UPPCL Limited

Form 1

(see Regulation 30)

BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION,

LUCKOW

Petition No. /2017

IN THE MATTER OF:

Petition under Section 62 and Section 86(1)(a) of the Electricity Act ,2003 for determination of final tariff and approval of capital cost for Anpara D Thermal Power Plant comprising of Uni1 and Unit 2 for 500 MW each.

Between:

M/s UP Rajya Vidyut Utpadan Nigma Limited,

Shakti Bhawan , 14,Ashok Marg ,

Lucknow (UP)

....Petitioner

Vs

Uttar Pradesh Power Corporation Ltd. (UPPCL)

Shakti Bhawan, 14-Ashok Marg,

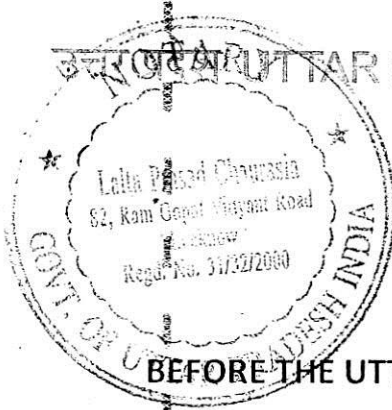
Lucknow – 226 001 & Others

.....Respondent



उत्तर प्रदेश UTTAR PRADESH

26AD 070763



Form 2

(see Regulation 31)

BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION,

Lucknow

Receipt Register No.:.....

Petition No. 209/2017


IN THE MATTER OF:

Petition under Section 62 and Section 86(1)(a) of the Electricity Act, 2003 for determination of final tariff and approval of capital cost for Anpara D Thermal Power Plant comprising of Uni1 and Unit 2 for 500 MW each.

AND IN THE MATTER OF:

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LALTA PRASAD CHAURASIA
Advocate & Notary
82, Ram Gopal Vidyant Road
Lucknow U.P. (INDIA)
R. N. No. 31/32/2000


CB-11
10/2/17
30/1/17
10/2/17

Between:

M/s UP Rajya Vidyut Utpadan Nigam Limited
Shakti Bhawan , 14,Ashok Marg ,
Lucknow (UP)

.....Petitioner

Vs

Uttar Pradesh Power Corporation Ltd. (UPPCL)
Shakti Bhawan, 14-Ashok Marg,
Lucknow – 226 001 & others


.....Respondent

AFFIDAVIT

I, Vinay Prakash Srivastava, aged about 56 years, son of Late C P Srivastava, is working as Chief Engineer in PPA Directorate, UPPCL, Lucknow, having its registered office at Shakti Bhawan, 14-Ashok Marg, Lucknow 226001, do hereby solemnly affirm and declare as under that :-

1. That the deponent is working as Chief Engineer with U.P. Power Corporation Ltd., the Respondent in the above matter and is duly authorized by the said Respondent to make this affidavit.
2. The deponent is filing this Reply , which is true to my knowledge and belief.

Dated:-


Deponent

VERIFICATION

I, the above Deponent to hereby verify that the contents of this affidavit are true to my knowledge and belief, no part of its false and nothing material has been concealed.

Signed and verified this the ⁰⁸ day of ^{August} 2017

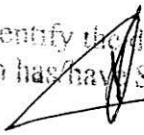
Dated:-

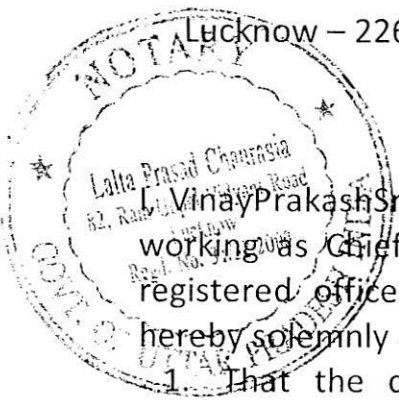

Deponent

CB. (P.P.A.)
U.P.P.C.L.

Sworn and Verified
before me

Page 4 of 12

I Identify the Deponent 
who has/have Signed/T. before me


Lata Prasad Choudhary
82, Raj... Road
Lucknow - 226 001
PIN No 226001

With reference to the Petition submitted vide affidavit dated 20th May 2017 and Additional Submission submitted vide affidavit dated 10th July 2017, We humbly submit herewith :-

A. Facts of the Case

- i. COD of the First Unit of Anpara D was declared on 8th May 2016.
- ii. COD of Second Unit was declared on 18th October 2016.
- iii. The total capital expenditure till date of project COD i.e. 18th October 2016 is Rs.6872.52 crores.
- iv. Total additional capital expenditure from date of project COD (18th October 2016 to 31.3.2017) is Rs.213.76 crores
- v. Total additional capital expenditure projected for 2017-18 is Rs.12.72 crores.
- vi. No additional capital expenditure is projected for 2018-19.
- vii. Petitioner has considered normative approach of financing of the capital expenditure in the ration of 70% debt and 30% equity.
- viii. The loan (debt component) was taken from Rural Electrification Corporation.
- ix. The weighted average rate of interest based on the actual draws upto the date of COD works out at 11% and the same has been considered for FY 2016-17 to FY 2018-19 by the Petitioner.

B. Capital Cost of the Project

1. Total Capital Cost of the Project is summarized below :-

Description	Rs.Crores
Capital Expenditure Till Date of Project COD	6872.52
Capital expenditure from 18.10.2016 to 31.3.2017	213.76
Capital Expenditure from 1.4.2017-31.3.2018	712.72
Total Capital Cost of the Project	7799

- i. The Board of Directors of UPRVUNL in the 169th Board Meeting accorded its approval to the project cost of Rs.7,799/- crores on 14.9.2016.
- ii. The Energy Task Force has also approved capital cost of Rs.7799/- crores on 28th sept. 2016.
- iii. The Cabinet approval for the capital cost of Rs.7799 crore was accorded on 24th November 2016.



M/s UPPCL submits that capital cost of Rs.7799/-crores was determined based on anticipated COD of Unit 2 (31st October 2016). With actual COD date of Unit 2 being October 18th 2016 there should have been a reduction in IDC. However, the project cost has remained unchanged.

- a) As per approval of energy Task force, IDC was estimated Rs.2353.37 crores based on which total project cost was estimated as Rs.7799 crores.
- b) Actual IDC is Rs.2153.15 crores. Thus total cost must be reduced by 200.22 crores.
- c) However, this saving of Rs.200.22 crores is not reflected in total project cost.

We request Hon'ble Commission that Petitioner may be directed to furnish reasons for not factoring reduction in IDC of Rs.200.22 crores.

2. Comparison of Budgeted Expenditure with Actual Expenditure (Form 5B, page 31/32 of additional submission)

Rs. Crores				
S.No.	Break Down	As per Original Estimates	As on COD	Variation
1	Cost of Land and Site Development	1.80	26.08	24.28
2	Steam Generator Island	1065.52	1769.56	704.04
3	Turbine Generator Island	738.26	421.57	-316.69
4	BOP Mechanical	571.45	811.69	240.24
5	BOP Electrical	548.39	471.47	-76.92
6	C&I Package	60.77	0.00	-60.77
7	Taxes and duties	517.95	0.00	-517.95
8	Initial Spares	118.23	66.21	-52.02
9	Civil Works	745.78	700.51	-45.27
10	Erection Testing and commissioning	22.50	578.70	556.20
11	Overheads	347.23	-126.42	-473.65
12	Capital cost Excluding IDC & FC	4737.88	4719.37	-18.51
13	<i>Additional capital Expenditure 2016-17</i>		213.76	213.76
14	<i>Additional capital Expenditure 2017-18</i>		712.72	712.72
15	Total capital Cost Excluding IDC & FC	4737.88	5645.85	907.97
16	IDC	990.30	2153.15	1162.85
17	Financing Charges	16.33	0.00	-16.33
18	Foreign Exchange Rate Variation	98.54	0.00	-98.54
19	Total capital Cost Including IDC & FC	5843.05	7799.00	1955.95
	Total capital Cost Excluding Taxes including IDC and FC	5325.10	7799.00	2473.90
	Increase on account of IDC			1162.85
	Increase on account of reasons other than IDC			1311.05

It is humbly submitted that Project Cost escalated from Rs.5843.05 crores to Rs.7799/- crores. An increase of 1955.95 crores.

If we exclude impact of Taxes and Duties (being a factor which is uncontrollable) , the increase is all the more pronounced. Against initial projected amount of Rs. 5325.10 crores, the actual completion cost shall be Rs.7799/- crores. An increase of Rs. 2473.90 crores.

We request Hon'ble Commission that reasons for increase may be investigated at the time of prudence check.

Few abnormalities are highlighted below :-

- i. **Expenditure on Initial Capital Spares-** Against projected expenditure of Rs.118.23 crores , an expenditure of Rs.66.21 crores has been incurred. Initial capital spares are critical to running of plant. Reasons for not procuring adequate amount of capital spares may result in higher maintenance cost and downtime in future.
- ii. **Expenditure on erection,Testing and Commissioning** has increased from Rs.22.5 crores to Rs.243.69 crores . Increase of 11 times. Reasons for this abnormal increase have not been furnished.
- iii. **Expenditure on start up fuel** was Rs.335.01 Crores. The expenditure seems to be on abnormally higher side.
- iv. There is arithmetical mistake in computation in form 5D. Capital cost excluding IDC and FC has been shown as Rs.4619.65 and Rs.4653.16 crores. It should be Rs.4737.88 and Rs.5645.85 crores.
- v. Further in form 5D of additional submission expenditure on start up fuel (Rs. 335.01 crores) has been inadvertently omitted .
- vi. A detailed like for like comparison would be possible if Petitioner would show total capital expenditure of Rs.7799 crores against budgeted expenditure.



3 Additional capital expenditure beyond COD date

Petitioner has claimed an additional capital expenditure of Rs. 213.76 crores in 2016-17 and Rs. 712.72 crores in 2017-18. However requisite details of expenditure required to be furnished under Form 9A have not been furnished.

We request Hon'ble Commission to direct petitioner to furnish detail of additional capital expenditure during 2016-17 and 2017-18. We further request Hon'ble commission that claim for additional capital expenditure may be examined as part of prudence check of capital cost incurred.

4 Computation of IDC

Petitioner has claimed Fixed Charges in respect of Unit 1 from date of COD i.e. 8th May 2016 and for Unit II from date of COD i.e. 18th October 2016.

The capital cost of Unit 1 and II have not been segregated. Based on total capital cost and additional capital expenditure during 2016-17 fixed charges have been determined for full year. Then based on number of days for which UNIT 1 and II have been working and based on capacity , fixed charges have been prorated.

It needs to be ensured that IDC for UNIT 1 is claimed only till COD date i.e. 8th May 2016. From the submission made (IDC computation not furnished in Form 14) we were unable to establish that IDC for period 8th May 2016 to 18th October 2016 is not claimed in respect of Unit I .Since fixed charges are claimed for this period, claim for IDC during this period would result in duplication in claim – once for IDC and once for fixed charges.

We request Hon'ble Commission to ensure as part of prudence check that there is no duplication in claim, as stated above , for the period 8th May 2016 to 18th October 2016 in respect of IDC /Capacity Charges for UNIT 1.

5. Significant Time and Cost Overrun

Against scheduled COD of Unit 1 on 12.4.2011 ,actual COD of Unit 1 was on 8th May 2016. For Unit II against scheduled COD date on 12.7.2011, actual COD was 18th October 2016. Petitioner has stated reasons for delay in commissioning of the project in the Petition.

We request Hon'ble Commission that the reasons for delay may be examined in detail by the Hon'ble Commission as part of prudence check. We further request Hon'ble Commission that M/s UPPCL may be given an opportunity to offer comments in respect of prudence check conducted by the Commission.



6. IDC/IEDC beyond scheduled COD date

Reg.20 of UPERC 2014 Tariff Regulations is the operative regulation dealing with IDC/IEDC. It is submitted that IDC/IEDC is allowable :-

- i. Only on account of uncontrollable factors (being force majeure and change in law)
- ii. Only on actual loan amount.

It is submitted that reasons for delay need to be classified under uncontrollable factors mentioned in Reg.21 (being force majeure and change in law).

The reasons listed by the petitioner are primarily in nature of Controllable Factor as defined under Reg.21(1). For eg. Non availability of sufficient required man power and material at BHEL site, shifting of 400 Kv/132 KV transmission line are neither a force majeure event nor a change in law event. Rater they are classified as controllable event under Reg.21.Reg.20 and Reg.21 are reproduced below for ready reference:-

Quote

“20. Interest during Construction (IDC), Incidental Expenditure during Construction (IEDC):

(a) Interest During Construction :

(1) Interest during construction shall be computed corresponding to the loan from the date of infusion of debt fund, and after taking into account the prudent phasing of funds upto SCOD.

(2) In case of additional costs on account of IDC due to delay in achieving the SCOD, the generating company shall be required to furnish detailed justifications with supporting documents for such delay including prudent phasing of funds:

Provided that if the delay is not attributable to the generating company and is due to uncontrollable factors as specified in Regulation 21 of these regulations, IDC may be allowed after due prudence check:

Provided further that only IDC on actual loan may be allowed beyond the SCOD, to the extent the delay is found beyond the control of generating company after due prudence and taking into account prudent phasing of funds.



(b) Incidental Expenditure During Construction :

(1) Incidental expenditure during construction shall be computed from the zero date and after taking into account pre-operative expenses upto SCOD:

Provided that any revenue earned during construction period up to SCOD on account of interest on deposits or advances, or any other receipts may be taken into account for reduction in incidental expenditure during construction.

(2) In case of additional costs on account of IEDC due to delay in achieving the SCOD, the generating company shall be required to furnish detailed justification with supporting documents for such delay including the details of incidental expenditure during the period of delay and liquidated damages recovered or recoverable corresponding to the delay:

Provided that if the delay is not attributable to the generating company and is due to uncontrollable factors as specified in Regulation 21 of these regulations, IEDC may be allowed after due prudence check:

Provided further that where the delay is attributable to an agency or contractor or supplier engaged by the generating company the liquidated damages recovered from such agency or contractor or supplier shall be taken into account for computation of capital cost. 21. Controllable and Uncontrollable factors :

The following shall be considered as controllable and uncontrollable factors leading to cost escalation impacting Contract Prices, IDC and IEDC of the project:

- (1) The "**controllable factors**" shall include but shall not be limited to the following:
- (a) Variations in capital expenditure on account of time and/or cost overruns on account of land acquisition issues;
 - (b) Efficiency in the implementation of the project not involving approved change in scope of such project, change in statutory levies or force majeure events; and
 - (c) *Delay in execution of the project on account of contractor, supplier or agency of the generating company.*

2) The "**uncontrollable factors**" shall include but shall not be limited to the following:

- (a) Force Majeure events.; and
- (b) Change in law.



Provided that no additional impact of time overrun or cost over-run shall be allowed on account of non-commissioning of the generating system or associated transmission system by SCOD, as the same should be recovered through Implementation Agreement between the generating company and the transmission licensee:

Provided further that if the generating station is not commissioned on the SCOD of the associated transmission system, the generating company shall bear the IDC or transmission charges if the transmission system is declared under commercial operation;

Provided also that if the transmission system is not commissioned on SCOD of the generating station, the transmission licensee shall arrange the evacuation from the generating station at its own arrangement and cost till the associated transmission system is commissioned..”

Unquote

We request Hon’ble Commission that Petitioner may be directed to classify reasons for delay as controllable/uncontrollable and claim IDC /IEDC only for uncontrollable factors.

C. Financing Plan (Debt and Equity)

The petitioner has availed of loan from REC for Anpara D project. Details of loan from REC are summarized as under :-

Date	Particulars.	Rs. Crores
27.6.2008	Loan Agreement	3693.00
4.3.2014	Supplementary loan agreement	397.11
26.12.2014	Supplementary loan agreement	829.07
	Sub Total	4919.18
30.3.2017	Loan Agreement	540.12
	Total Loan	5459.30

The Petitioner has considered Debt : Equity ratio of 70:30 on normative basis. The total capital cost as on project COD date is Rs.6875.52 crores.Placed below is comparative statement of actual financing plan vis a vis normative financing plan (as proposed by petitioner).

Particulars	As Per Actuals	As per Normative Basis	Variation
	Rs. Crores	Rs. Crores	Rs. Crores
Capital Cost as on Project COD (18.10.2016) RsCrores	6872.52	6872.52	
Debt Drawdown till Project COD date	4919.18	4810.764	-108.416
Equity(residual)	1953.34	2061.756	108.416

As per Actuals , Debt amount is higher by Rs.108.41 Crores. As per Proviso (i) of reg. 24(1) 'In case of a generating station where actual equity employed is less than 30%, the actual debt and equity shall be considered for determination of tariff.'

We request Hon'ble Commission that since the actual debt employed is higher than 70% , actual debt deployed amount needs to be considered and only the residual amount needs to be considered as Equity.

D. Gross Heat Rate (GSHR)

Petitioner has considered Gross Heat Rate of 2369 Kcal/kwh.However methodology for determination of GSHR has not been furnished.

As per Reg. 18(iii)(c) , for coal based thermal power stations achieving COD after 1.4.2014 GSHR shallbe determined based on Design Heat Rate .

We request Hon'ble Commission that Petitioner may be directed to furnish details of design heat rate alongwith documentary evidence based on which technical specifications have been derived.



Chief Engineer (PPA)
M/s UPPCL