

TAMIL NADU ELECTRICITY REGULATORY COMMISSION
(Constituted under section 82 (1) of the Electricity Act, 2003)
(Central Act 36 of 2003)

PRESENT:-

Thiru S.Akshayakumar	Chairman
Thiru G.Rajagopal	Member
	and	
Dr.T.Prabhakara Rao	Member

I.A.No.1 of 2017
in
R.P.No.3 of 2017
and
R.P.No.3 of 2017

Tamil Nadu Generation and Distribution Corporation Ltd.
(TANGEDCO)
N.P.K.R.R. Maaligai
144, Anna Salai
Chennai – 600 002.

... Petitioner
(Thiru M.Gopinathan
Standing Counsel for TANGEDCO)

Vs.

NIL

...Respondent

Date of hearing : 02-06-2017

Date of Order : 02-06-2017

The R.P.No.3 of 2017 came up for hearing on 02-06-2017. The Commission upon perusal of the Petition and connected records and after hearing the submissions of the Petitioner hereby makes the following:

ORDER

1. Prayer of the Petitioner in R.P.No.3 of 2017:-

The prayer of the Petitioner in the above R.P.No.3 of 2017 is to review the order dated 31-01-2017 made by the Commission in M.P.No.39 of 2012, the

year-wise phasing of capital expenses, capitalization and the closing capital work in progress for FY 2014-15 to FY 2015-16 in respect of Valuthur Gas Turbine Power Station (VGTPS), Thirumakkottai (T(K)GTPS) and Kuttalam Gas Turbine Power Station (KGTPS) and approve the disallowed amount as in Table-5 below which the Commission may find deem fit.

2. Prayer of the Petitioner in I.A. No.1 of 2017 in R.P.No.3 of 2017:-

The prayer of the Petitioner in the above I.A. No.1 of 2017 in R.P.No.3 of 2017 is to condone the delay of 51 days in filing the Review Petition on the order dated 30-01-2017 in M.P.No.39 of 2012 issued by the Tamil Nadu Electricity Regulatory Commission and / or pass such other / further order as this Commission may deem fit and proper in the facts and circumstances of the present case.

3. Facts of the Case:-

The Petitioner TANGEDCO is seeking to review the approval of Capital Investment Plan for the FY 2014-15 & 2015-16 in respect of Valuthur Gas Turbine Power Station (VGTPS), Thirumakkottai (T(K)GTPS) and Kuttalam Gas Turbine Power Station (KGTPS) granted by the Commission in its order dated 31-01-2017 in M.P.No.39 of 2012.

4. Contentions of the Petitioner in R.P.No.3 of 2017:-

4.1. The Commission in its order dated 31-01-2017 in M.P.No.39 of 2012 has accorded in-principle approval of Capital Investment Plan for the FY 2014-15 & 2015-16 in respect of Generation and Distribution as under:-

Table-1: Approved Capital Investment Plan for the FY 2014-15 & 2015-16**(Rs. in crores)**

Description	FY 2014-15		FY 2015-16	
	Petitioner's allocation	Commission's approval	Petitioner's allocation	Commission's approval
Total-Generation	1243.67	521.38	2032.49	772.49
Total-Distribution	3482.62	3264.51	4034.88	3795.66
Total – TANGEDCO	4726.29	3785.89	6067.37	4568.15

4.2. The Commission by invoking the provisions applicable to Diesel-electric and gas plants contained for considering the expenditure incurred in replacement of old assets and also the useful life of the asset indicated as per Depreciation Schedule furnished in Annexure to the Tariff Regulations, 2005 has admitted only Rs.2.20 crores and Rs.7.89 crores as against TANGEDCO's claim of Rs.250.04 crores and Rs.49.56 crores respectively in respect of capital works carried out in the gas turbine power stations during FY 2014-15 and FY 2015-16 which are detailed hereunder.

Table-2: Generation function–Gas stations CIP approval for the FY 2014-15 & 2015-16**(Rs. in crores)**

Description	FY 2014-15		FY 2015-16	
	Petitioner's allocation	Commission's approval	Petitioner's allocation	Commission's approval
Valuthur Gas Turbine Power Station (VGTPS) (187 MW)	143.91	2.18	21.41	6.88
Thirumakkottai Gas Turbine Power Station (T(K)GTPS) (107.88 MW)	70.96	0	14.36	0

Kuttalam Gas Turbine Power Station (KGTPS) (101 MW)	35.17	0.02	13.79	0.98
Basin Bridge GT Power Station (BBGTPS) (120 MW)	-----	-----	-----	-----
Total Amount	250.04	2.20	49.56	7.86

4.3. Most of the capital expenditures are relating to the statutory inspection to be carried out as per the recommendation of OEM so as to avoid the failure and to achieve the estimated life period of gas turbines. Unlike in thermal power equipments, gas turbines wear differently in continuous duty application and cyclic duty application which is operating at firing temperatures upto 2084 degree Fahrenheit. Thermal mechanical fatigue is the dominant life limiter for peaking machines, while creep, oxidation and corrosion are the dominant life limiters for continuous duty machines. Hence, regular inspection as recommended by the OEM is considered as statutory requirement.

4.4. TANGEDCO is carrying out these capital works through financial assistance from M/s.Power Finance Corporation Ltd., and all along the interest on loan capital is claimed in the ARR. The expenses incurred towards capital works are finally transferred to fixed assets account as additional capitalization which were audited by statutory auditors.

4.5. The Capital Investment Plan for the FY 2014-15 & 2015-16 submitted to the Commission does not include O&M expenditures which are being incurred during the useful life of 15 years of the gas plants. The details of PO's and WCT's placed for the

Repairs and Maintenance works carried out in the Thirumakkottai(K)GTPS, Kuttalam GTPS and Valuthur-I & II GTPS during the FY 2014-15 & 2015-16 which were not submitted in the M.P.No.39 of 2012 are furnished now as below in Tables 3 & 4.

Table-3 Repairs and Maintenance works carried out in the FY 2014-15

Sl. No.	Name of the Stations	No. of P.O's/ WCTS	Value in Rs. (Crores)	Remarks
1	Thirumakkottai (K) GTPS	269	5.09	These expenses have not been booked under the capital works
2	Kuttalam GTPS	85	4.39	
3	Valuthur-I & II GTPS	330	7.70	
	Total amount		17.18	

Table-4 Repairs and Maintenance works carried out in the FY 2015-16

Sl. No.	Name of the Stations	No. of P.O's/ WCTS	Value in Rs. (Crores)	Remarks
1	Thirumakkottai (K) GTPS	187	6.92	These expenses have not been booked under the capital works
2	Kuttalam GTPS	73	2.01	
3	Valuthur-I & II GTPS	217	4.09	
	Total amount		13.02	

4.6. The relevant provisions in the Tariff Regulations, 2005 is reproduced as below:-

“19. Additional Capitilization

(1) The capital expenditure within the original scope of work actually incurred in respect of the following items after the date of commencement of operation and upto the cut off date may be admitted by the Commission, subject to prudence check.

.....

(vi) Any additional works / services which have become necessary for efficient and successful operation of the Generating station, but not included in the original project cost.

.....

Note: The list is illustrative and not exhaustive.

(2) Any expenditure on minor items/assets like normal tools and tackles, personal computers, furniture, air conditioners, etc. bought after the cutoff date shall not be considered for additional capitalisation for determination of tariff.

(3) The impact of additional capitalisation in tariff revision may be considered by the Commission twice in a tariff period, including revision of tariff after the cutoff date.

Note:-

.....
 2. Any expenditure incurred on replacement of old assets shall be considered after writing off the gross value of the original assets from the original capital cost except the minor assets brought after cut off date and not considered for additional capitalisation vide clause (2) of this Regulation.”

4.7. TANGEDCO's claim of allocation of CAPEX in the FY 2014-15 & 2015-16 pertaining to Valuthur Gas Turbine Power Station(VGTPS), Thirumakkottai (T(K)GTPS) and Kuttalam Gas Turbine Power Station (KGTPS) as discussed in Table-2 supra may be considered as reasonable.

4.8. The balance disallowed amount to be reviewed by the Commission is as follows:-

Table-5: Balance disallowed amount to be reviewed for the FY 2014-15 & 2015-16

Rs.in crores

Description	FY 2014-15			FY 2015-16		
	Petitioner's allocation	Commission's approval dated 31-01-2017	Balance amount to be reviewed	Petitioner's allocation	Commission's approval dated 31-01-2017	Balance amount to be reviewed
Valuthur Gas Turbine Power Station (VGTPS) (187 MW)	143.91	2.18	141.73	21.41	6.88	14.53
Thirumak kottai Gas Turbine Power Station (T(K)GTPS) (107.88 MW)	70.96	0	70.96	14.36	0	14.36

Kuttalam Gas Turbine Power Station (KGTPS) (101 MW)	35.17	0.02	35.15	13.79	0.98	12.81
Basin Bridge GT Power Station (BBGTPS) (120 MW)	---	---		---	---	
Total Amount	250.04	2.20	247.84	49.56	7.86	41.70

5. Affidavit filed by the Petitioner for Condonation of delay:-

The Petitioner has also filed I.A.No.1 of 2017 in the said R.P.No.3 of 2017 for condonation of delay in filing the Review Petition on the ground that collection of information from Thirumakkottai(K)GTPS, Kuttalam GTPS and Valuthur-I&II GTPS on the Repairs and Maintenance works carried out in the Gas Turbine Stations during the FY 2014-15 & 2015-16 with authentication has taken more time and after processing the same the Review Application could be filed only on 21-04-2017 after a delay of 51 days and prayed that the delay may be condoned by the Commission for the reasons stated therein and in the interest of justice.

6. Findings of the Commission:-

6.1. The delay in filing the Review Petition is condoned. On the merits of the Review Petition, we have heard the arguments of the Chief Financial Controller/Regulatory Cell/TANGEDCO. We are not inclined to traverse and deliberate upon the justifications given by the Review Petitioner as it would amount to sitting in appeal in review jurisdiction. Hence, we confine ourselves to the maintainability of Review Petition as to whether the bare requirements for review have been satisfied.

6.2. In this connection, it is relevant to point out that Regulation 43(1) of the Tamil Nadu Electricity Regulatory Commission–Conduct of Business Regulations, 2004 provides only three grounds for review namely, mistake of fact, ignorance of any material fact or any error apparent on the face of the record. In our view, none of the grounds set out by the Petitioner in para 4 above satisfies the grounds for review of the earlier orders of the Commission dated 31-01-2017 in M.P.No.39 of 2012, as the Petitioner has failed to point out any case of mistake of fact, ignorance of material fact or any error apparent on the face of the record. All the averments of the Petitioner in our view seek to reopen the decision rendered in M.P.No.39 of 2012. It is a settled position of law that an appeal cannot be entertained in the disguise of a Review Petition. Accordingly, the Review Petition is not admitted.

With the above orders, the I.A.No.1 of 2017 in R.P.No.3 of 2017 and R.P.No.3 of 2017 are finally disposed of.

7. Appeal:-

An appeal against this order shall lie before the Appellate Tribunal for Electricity under section 111 of the Electricity Act, 2003 within a period of 45 days from the date of receipt of a copy of this order by the aggrieved person.

(Sd)
(Dr.T.Prabhakara Rao)
Member

(Sd.....)
(G.Rajagopal)
Member

(Sd.....)
(S.Akshayakumar)
Chairman

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission