

**Before the Appellate Tribunal for Electricity  
Appellate Jurisdiction**

**Appeal Nos. 81,82,83,84,85,86,87,89,90,91,92,93,95,98,99,  
100,101 and 153 of 2005**

**Dated 22<sup>nd</sup> January, 2007**

**Present: Hon'ble Mr. Justice Anil Dev Singh, Chairperson  
Hon'ble Mr. A. A. Khan, Technical Member**

**Under Section 111 (2) of Electricity Act, 2003**

In the matter of :

**Appeal No. 81 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

Appellant

Versus

1. West Bengal State Electricity Board  
Vidyut Bhawan, Block DJ,  
Sector 11, Salt Lake City, Kolkata
2. Bihar State Electricity Board  
Viidyout Bhawan, Baily Road, Patna - 800021
3. Jharkhand Stat Electricity Board  
Engineering Bhawan, Heavy Engineering Corporation  
DHURWA, Ranchi – 834004
4. Grid Corporation of Orissa Ltd.  
Vidyout Bhawan, Janpath, Bhubaneshwar-751007
5. Damodar Valley Corporation  
DVC Towers, VIP Road, Kolkata – 700054
6. Power Department, Govt., of Sikkim  
Kazi Road, Gangtok, Sikkim – 737101
7. Assam State Electricity Board  
Bizulee Bhawan, Palton Bazar, Guwahati

8. The Transmission Corporation of A.P. Ltd.  
Vidyut Soudha, Hyderabad – 500049
9. Tamil Nadu Electricity Board  
NPKRP Maaligail, 800, Anna Salai  
Chennai – 600002
10. Kerala State Electricity Board  
Vaidyuthi Bhawanam, Pattom,  
Thriuvananthapuram – 695004
11. Karnataka Power Transmission Corporation Ltd.  
Cauvery Bhawan, Bangalore- 560009
12. Uttar Pradesh Power Corporation Ltd,  
Shakti Bhawan, 14, Ashok Marg, Lucknow-226 001.
13. Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,  
Vidyut Bhawan, RC Dave Marg,  
Jaipur- 302 005.
14. Haryana Vidyut Prasaran Nigam Ltd.,  
Shakti Bhawan, Sector- VI, Panchkula,  
Haryana- 134 109.
15. Power Department (Chandigarh),  
Union Territory of Chandigarh,  
Addl. Office Building,  
Sec. 9D, Chandigarh.
16. Madhya Pradesh State Electricity Board  
Shakti Bhawan, Vidyut Nagar  
Jabalpur – 482008
17. Gujarat Electricity Board  
Sardar Patel Vidyut Bhawan  
Race Course, Baroda-390007
18. Union Territory of Pondicherry  
Electricity Department, 58,  
Subhash Chandra Bose Salai, Pondicherry – 605001
19. Central Electricity Regulatory Commission,  
7<sup>th</sup> Floor, Core, 3, Scope Complex,

Lodhi Road, New Delhi-110 003.

...Respondents

**Appeal No. 82 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

...Appellant

Versus

1. Uttar Pradesh Power Corporation Ltd,  
Shakti Bhawan, 14, Ashok Marg, Lucknow-226 001.
2. Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,  
Vidyut Bhawan, RC Dave Marg,  
Jaipur- 302 005.
3. Delhi Transco Ltd, Shakti Shadan,  
Kotla Road, ITO, New Delhi.
4. Haryana Vidyut Prasaran Nigam Ltd.,  
Shakti Bhawan, Sector- VI, Panchkula,  
Haryana- 134 109.
5. Punjab State Electricity Board,  
The Mall, Patiala- 147 001.
6. Himachal Pradesh State Electricity Board,  
Kumar Housing Complex Building-11  
Vidyut Bhawan, Shimla- 171 004.
7. Power Development Department,  
Govt. of J&K Secretariat, Srinagar.
8. Power Department (Chandigarh),  
Union Territory of Chandigarh,  
Addl. Office Building,  
Sec. 9D, Chandigarh.
9. Uttranchal Power Corporation Ltd.,  
Urja Bhawan, Kanwali Road,  
Dehradun- 248 001.
10. Central Electricity Regulatory Commission,

7<sup>th</sup> Floor, Core, 3, Scope Complex,  
Lodhi Road, New Delhi-110 003.

...Respondents

**Appeal No. 83 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

Appellant

Versus

1. Uttar Pradesh Power Corporation Ltd,  
Shakti Bhawan, 14, Ashok Marg, Lucknow-226 001.
2. Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,  
Vidyut Bhawan, RC Dave Marg,  
Jaipur- 302 005.
3. Delhi Transco Ltd. (DTL)  
Shakti Sadan, Kotla Road, Near ITO  
New Delhi
4. Haryana Vidyut Prasaran Nigam Ltd.,  
Shakti Bhawan, Sector- VI, Panchkula,  
Haryana- 134 109.
5. Punjab State Electricity Board  
The Mall, Patiala - 147109
6. Himachal Pradesh State Electricity Board,  
Kumar Housing Complex Building-11  
Vidyut Bhawan, Shimla- 171 004.
7. Power Development Department  
Govt. of J & K  
Secretariat, Srinagar
8. Power Department (Chandigarh),  
Union Territory of Chandigarh,  
Addl. Office Building,  
Sec. 9D, Chandigarh.
9. Uttranchal Power Corporation Ltd.,  
Urja Bhawan, Kanwali Road,  
Dehradun- 248 001.

10. Central Electricity Regulatory Commission,  
7<sup>th</sup> Floor, Core, 3, Scope Complex,  
Lodhi Road, New Delhi-110 003.

...Respondents

**Appeal No. 84 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

...Appellant

Versus

1. Uttar Pradesh Power Corporation Ltd,  
Shakti Bhawan, 14, Ashok Marg, Lucknow-226 001.
2. Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,  
Vidyut Bhawan, RC Dave Marg,  
Jaipur- 302 005.
3. Delhi Transco Ltd, Shakti Shadan,  
Kotla Road, ITO, New Delhi.
4. Haryana Vidyut Prasaran Nigam Ltd.,  
Shakti Bhawan, Sector- VI, Panchkula,  
Haryana- 134 109.
5. Punjab State Electricity Board,  
The Mall, Patiala- 147 001.
6. Himachal Pradesh State Electricity Board,  
Kumar Housing Complex Building-11  
Vidyut Bhawan, Shimla- 171 004.
7. Power Development Department,  
Govt. of J&K Secretariat, Srinagar.
8. Power Department (Chandigarh),  
Union Territory of Chandigarh,  
Addl. Office Building,  
Sec. 9D, Chandigarh.
9. Uttranchal Power Corporation Ltd.,  
Urja Bhawan, Kanwali Road,  
Dehradun- 248 001.

10. Central Electricity Regulatory Commission,  
7<sup>th</sup> Floor, Core, 3, Scope Complex,  
Lodhi Road, New Delhi-110 003.

...Respondent

**Appeal No. 85 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

...Appellant

Versus

1. Uttar Pradesh Power Corporation Ltd,  
Shakti Bhawan, 14, Ashok Marg, Lucknow-226 001.
2. Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,  
Vidyut Bhawan, RC Dave Marg,  
Jaipur- 302 005.
3. Delhi Transco Ltd, Shakti Shadan,  
Kotla Road, ITO, New Delhi.
4. Haryana Vidyut Prasaran Nigam Ltd.,  
Shakti Bhawan, Sector- VI, Panchkula,  
Haryana- 134 109.
5. Punjab State Electricity Board,  
The Mall, Patiala- 147 001.
6. Himachal Pradesh State Electricity Board,  
Kumar Housing Complex Building-11  
Vidyut Bhawan, Shimla- 171 004.
7. Power Development Department,  
Govt. of J&K Secretariat, Srinagar.
8. Power Department (Chandigarh),  
Union Territory of Chandigarh,  
Addl. Office Building,  
Sec. 9D, Chandigarh.
9. Uttranchal Power Corporation Ltd.,  
Urja Bhawan, Kanwali Road,  
Dehradun- 248 001.

10. Central Electricity Regulatory Commission,  
7<sup>th</sup> Floor, Core, 3, Scope Complex,  
Lodhi Road, New Delhi-110 003.

**Appeal No. 86 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

...Appellant

Versus

1. West Bengal State Electricity Board  
Vidyut Bhawan, Block DJ,  
Sector 11, Salt Lake City, Kolkata
2. Bihar State Electricity Board  
Viidyout Bhawan, Baily Road, Patna - 800021
3. Jharkhand Stat Electricity Board  
Engineering Bhawan, Heavy Engineering Corporation  
DHURWA, Ranchi – 834004
4. Grid Corporation of Orissa Ltd.  
Vidyout Bhawan, Janpath, Bhubaneshwar-751007
5. Damodar Valley Corporation  
DVC Towers, VIP Road, Kolkata – 700054
6. Power Department, Govt., of Sikkim  
Kazi Road, Gangtok, Sikkim – 737101
7. Assam State Electricity Board  
Bizulee Bhawan, Palton Bazar, Guwahati
8. The Transmission Corporation of A.P. Ltd.  
Vidyut Soudha, Hyderabad – 500049
9. Tamil Nadu Electricity Board  
NPKRP Maaligail, 800, Anna Salai  
Chennai – 600002
10. Kerala State Electricity Board  
Vaidyuthi Bhawanam, Pattom,

Thriuvananthapuram – 695004

11. Karnataka Power Transmission Corporation Ltd.  
Cauvery Bhawan, Bangalore- 560009
12. Uttar Pradesh Power Corporation Ltd,  
Shakti Bhawan, 14, Ashok Marg, Lucknow-226 001.
13. Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,  
Vidyut Bhawan, RC Dave Marg,  
Jaipur- 302 005.
14. Haryana Vidyut Prasaran Nigam Ltd.,  
Shakti Bhawan, Sector- VI, Panchkula,  
Haryana- 134 109.
15. Power Department (Chandigarh),  
Union Territory of Chandigarh,  
Addl. Office Building,  
Sec. 9D, Chandigarh.
16. Madhya Pradesh State Electricity Board  
Shakti Bhawan, Vidyut Nagar  
Jabalpur – 482008
17. Gujarat Electricity Board  
Sardar Patel Vidyut Bhawan  
Race Course, Baroda-390007
18. Union Territory of Pondicherry  
Electricity Department, 58,  
Subhash Chandra Bose Salai, Pondicherry – 605001
19. Central Electricity Regulatory Commission,  
7<sup>th</sup> Floor, Core, 3, Scope Complex,  
Lodhi Road, New Delhi-110 003.

...Respondents

**Appeal No. 87 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

...Appellant



Versus

1. Kerala State Electricity Board  
Vaidyuthi Bhawanam, Pattom,  
Thriuvananthapuram – 695004
2. Tamil Nadu Electricity Board  
NPKRP Maaligail, 800, Anna Salai  
Chennai – 600002
3. Central Electricity Regulatory Commission,  
7<sup>th</sup> Floor, Core, 3, Scope Complex,  
Lodhi Road, New Delhi-110 003.

...Respondents

**Appeal No. 88 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

...Appellant

Versus

1. Transmission Corporation of Andhra Pradesh  
Vidyut Saudha,  
Kairatabad, Hyderabad- 500049
2. Central Electricity Regulatory Commission,  
7<sup>th</sup> Floor, Core, 3, Scope Complex,  
Lodhi Road, New Delhi-110 003.

...Respondents

**Appeal No. 89 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

...Appellant

Versus

1. Delhi Transco Ltd, Shakti Shadan,  
Kotla Road, ITO, New Delhi.
2. Uttar Pradesh Power Corporation Ltd,

Shakti Bhawan, 14, Ashok Marg, Lucknow-226 001.

3. Central Electricity Regulatory Commission,  
7<sup>th</sup> Floor, Core, 3, Scope Complex,  
Lodhi Road, New Delhi-110 003.

...Respondents

**Appeal No. 90 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

...Appellant

Versus

1. Haryana Vidyut Prasaran Nigam Ltd.,  
Shakti Bhawan, Sector- VI, Panchkula,  
Haryana- 134 109.
2. Central Electricity Regulatory Commission,  
7<sup>th</sup> Floor, Core, 3, Scope Complex,  
Lodhi Road, New Delhi-110 003.

...Respondents

**Appeal No. 91 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

...Appellant

Versus

1. Uttar Pradesh Power Corporation Ltd,  
Shakti Bhawan, 14, Ashok Marg, Lucknow-226 001.
2. Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,  
Vidyut Bhawan, RC Dave Marg, Jaipur- 302 005
3. Delhi Transco Ltd, Shakti Shadan,  
Kotla Road, ITO, New Delhi.
4. Haryana Vidyut Prasaran Nigam Ltd.,  
Shakti Bhawan, Sector- VI, Panchkula,  
Haryana- 134 109.

5. Punjab State Electricity Board,  
The Mall, Patiala- 147 001.
6. Himachal Pradesh State Electricity Board,  
Kumar Housing Complex Building-11  
Vidyut Bhawan, Shimla- 171 004.
7. Power Development Department,  
Govt. of J&K Secretariat, Srinagar.
8. Power Department (Chandigarh),  
Union Territory of Chandigarh, Addl. Office Building,  
Sec. 9D, Chandigarh.
9. Uttranchal Power Corporation Ltd.,  
Urja Bhawan, Kanwali Road, Dehradun- 248 001.
10. Central Electricity Regulatory Commission,  
7<sup>th</sup> Floor, Core, 3, Scope Complex,  
Lodhi Road, New Delhi-110 003.

...Respondents

**Appeal No. 92 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

...Appellant

Versus

1. Uttar Pradesh Power Corporation Ltd,  
Shakti Bhawan, 14, Ashok Marg, Lucknow-226 001.
2. Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,  
Vidyut Bhawan, RC Dave Marg, Jaipur- 302 005
3. Delhi Transco Ltd, Shakti Shadan,  
Kotla Road, ITO, New Delhi.
4. Haryana Vidyut Prasaran Nigam Ltd.,  
Shakti Bhawan, Sector- VI, Panchkula,  
Haryana- 134 109.
5. Punjab State Electricity Board,  
The Mall, Patiala- 147 001.

6. Himachal Pradesh State Electricity Board,  
Kumar Housing Complex Building-11  
Vidyut Bhawan, Shimla- 171 004.
7. Power Development Department,  
Govt. of J&K Secretariat, Srinagar.
8. Power Department (Chandigarh),  
Union Territory of Chandigarh, Addl. Office Building,  
Sec. 9D, Chandigarh.
9. Uttranchal Power Corporation Ltd.,  
Urja Bhawan, Kanwali Road, Dehradun- 248 001.
10. Central Electricity Regulatory Commission,  
7<sup>th</sup> Floor, Core, 3, Scope Complex,  
Lodhi Road, New Delhi-110 003.

...Respondents

**Appeal No. 93 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

...Appellant

Versus

1. Madhya Pradesh State Electricity Board  
Shakti Bhawan, Vidyut Nagar  
Jabalpur – 482008
2. Maharashtra State Distribution Company  
(MSDC, formerly MSEB)  
Prakashgad, Bandra (East), Mumbai – 400051
3. Gujarat Urja Vikas Nigam (GUVNL, formerly GEB)  
Sardar Patel Vidyut Bhawan  
Race Course, Vadodra – 390007
4. Chattisgarh State Electricity Board  
P.O. Sundar Nagar, Daganiya, Raipur – 492913
5. Government of Goa  
Though its Chief Engineer (electrical)  
Electricity Department, Vidyut Bhawan, Panaji, Goa-403001

6. Administration of Daman & Diu,  
Electricity Department, Daman – 396210
7. Administration of Dadra and Nagar Haveli  
Electricity Department , U.T. Silvassa – 396230
8. Central Electricity Regulatory Commission,  
7<sup>th</sup> Floor, Core, 3, Scope Complex,  
Lodhi Road, New Delhi-110 003.

...Respondents

**Appeal No. 95 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

...Appellant

Versus

1. Madhya Pradesh State Electricity Board  
Shakti Bhawan, Vidyut Nagar  
Jabalpur – 482008
2. Maharashtra State Distribution Company  
(MSDC, formerly MSEB)  
Prakashgad, Bandra (East), Mumbai – 400051
3. Gujarat Urja Vikas Nigam (GUVNL, formerly GEB)  
Sardar Patel Vidyut Bhawan  
Race Course, Vadodra – 390007
4. Chattisgarh State Electricity Board  
P.O. Sundar Nagar, Daganiya, Raipur – 492913
5. Government of Goa  
Though its Chief Engineer (electrical)  
Electricity Department, Vidyut Bhawan, Panaji, Goa-403001
6. Administration of Daman & Diu,  
Electricity Department, Daman – 396210
7. Administration of Dadra and Nagar Haveli  
Electricity Department , U.T. Silvassa – 396230
8. Central Electricity Regulatory Commission,  
7<sup>th</sup> Floor, Core, 3, Scope Complex,

Lodhi Road, New Delhi-110 003.

...Respondents

**Appeal No. 98 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

...Appellant

Versus

1. The Transmission Corporation of A.P. Ltd.  
Vidyut Soudha, Hyderabad – 500049
2. Karnataka Power Transmission Corporation Ltd.  
Cauvery Bhawan, Bangalore- 560009
3. Tamil Nadu Electricity Board  
NPKRP Maaligail, 800, Anna Salai  
Chennai – 600002
4. Kerala State Electricity Board  
Vaidyuthi Bhawanam, Pattom,  
Thriuvananthapuram – 695004
5. Union Territory of Pondicherry  
Electricity Department, 58,  
Subhash Chandra Bose Salai, Pondicherry – 605001
6. Government of Goa  
Through its Chief Engineer (electrical)  
Electricity Department, Vidyut Bhawan, Panaji, Goa-403001
7. Central Electricity Regulatory Commission,  
7<sup>th</sup> Floor, Core, 3, Scope Complex,  
Lodhi Road, New Delhi-110 003.

...Respondents

**Appeal No. 99 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

...Appellant

Versus

1. Madhya Pradesh State Electricity Board  
Shakti Bhawan, Vidyut Nagar  
Jabalpur – 482008
2. Maharashtra State Distribution Company  
(MSDC, formerly MSEB)  
Prakashgad, Bandra (East), Mumbai – 400051
3. Gujarat Urja Vikas Nigam (GUVNL, formerly GEB)  
Sardar Patel Vidyut Bhawan  
Race Course, Vadodra – 390007
4. Chattisgarh State Electricity Board  
P.O. Sundar Nagar, Daganiya, Raipur – 492913
5. Government of Goa  
Though its Chief Engineer (electrical)  
Electricity Department, Vidyut Bhawan, Panaji, Goa-403001
6. Administration of Daman & Diu,  
Electricity Department, Daman – 396210
7. Administration of Dadra and Nagar Haveli  
Electricity Department , U.T. Silvassa – 396230
8. Central Electricity Regulatory Commission,  
7<sup>th</sup> Floor, Core, 3, Scope Complex,  
Lodhi Road, New Delhi-110 003.

...Respondents

**Appeal No. 100 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

...Appellant

Versus

1. Madhya Pradesh State Electricity Board  
Shakti Bhawan, Vidyut Nagar  
Jabalpur – 482008
2. Maharashtra State Distribution Company  
(MSDC, formerly MSEB)  
Prakashgad, Bandra (East), Mumbai – 400051

3. Gujarat Urja Vikas Nigam (GUVNL, formerly GEB)  
Sardar Patel Vidyut Bhawan  
Race Course, Vadodra – 390007
4. Chattisgarh State Electricity Board  
P.O. Sundar Nagar, Daganiya, Raipur – 492913
5. Government of Goa  
Through its Chief Engineer (electrical)  
Electricity Department, Vidyut Bhawan, Panaji, Goa-403001
6. Administration of Daman & Diu,  
Electricity Department, Daman – 396210
7. Administration of Dadra and Nagar Haveli  
Electricity Department , U.T. Silvassa – 396230
8. Central Electricity Regulatory Commission,  
7<sup>th</sup> Floor, Core, 3, Scope Complex,  
Lodhi Road, New Delhi-110 003.

...Respondents

**Appeal No. 101 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

...Appellant

Versus

1. Madhya Pradesh State Electricity Board  
Shakti Bhawan, Vidyut Nagar  
Jabalpur – 482008
2. Maharashtra State Distribution Company  
(MSDC, formerly MSEB)  
Prakashgad, Bandra (East), Mumbai – 400051
3. Gujarat Urja Vikas Nigam (GUVNL, formerly GEB)  
Sardar Patel Vidyut Bhawan  
Race Course, Vadodra – 390007
4. Chattisgarh State Electricity Board  
P.O. Sundar Nagar, Daganiya, Raipur – 492913
5. Government of Goa



Though its Chief Engineer (electrical)  
Electricity Department, Vidyut Bhawan, Panaji, Goa-403001

6. Administration of Daman & Diu,  
Electricity Department, Daman – 396210
7. Administration of Dadra and Nagar Haveli  
Electricity Department , U.T. Silvassa – 396230
8. Central Electricity Regulatory Commission,  
7<sup>th</sup> Floor, Core, 3, Scope Complex,  
Lodhi Road, New Delhi-110 003.

...Respondents

**Appeal No. 153 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

...Appellant

Versus

1. West Bengal State Electricity Board  
Vidyut Bhawan, Block DJ,  
Sector 11, Salt Lake City, Kolkata
2. Bihar State Electricity Board  
Viidyout Bhawan, Baily Road, Patna - 800021
3. Jharkhand Stat Electricity Board  
Engineering Bhawan, Heavy Engineering Corporation  
DHURWA, Ranchi – 834004
4. Grid Corporation of Orissa Ltd.  
Vidyout Bhawan, Janpath, Bhubaneshwar-751007
5. Damodar Valley Corporation  
DVC Towers, VIP Road, Kolkata – 700054
6. Power Department, Govt,. of Sikkim  
Kazi Road, Gangtok, Sikkim – 737101
7. Assam State Electricity Board  
Bizulee Bhawan, Palton Bazar, Guwahati

8. The Transmission Corporation of A.P. Ltd.  
Vidyut Soudha, Hyderabad – 500049
9. Tamil Nadu Electricity Board  
NPKRP Maaligail, 800, Anna Salai  
Chennai – 600002
10. Kerala State Electricity Board  
Vaidyuthi Bhawanam, Pattom,  
Thriuvananthapuram – 695004
11. Karnataka Power Transmission Corporation Ltd.  
Cauvery Bhawan, Bangalore- 560009
12. Uttar Pradesh Power Corporation Ltd,  
Shakti Bhawan, 14, Ashok Marg, Lucknow-226 001.
13. Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,  
Vidyut Bhawan, RC Dave Marg,  
Jaipur- 302 005.
14. Haryana Vidyut Prasaran Nigam Ltd.,  
Shakti Bhawan, Sector- VI, Panchkula,  
Haryana- 134 109.
15. Power Department (Chandigarh),  
Union Territory of Chandigarh,  
Addl. Office Building,  
Sec. 9D, Chandigarh.
16. Madhya Pradesh State Electricity Board  
Shakti Bhawan, Vidyut Nagar  
Jabalpur – 482008
17. Gujarat Electricity Board  
Sardar Patel Vidyut Bhawan  
Race Course, Baroda-390007
18. Union Territory of Pondicherry  
Electricity Department, 58,  
Subhash Chandra Bose Salai, Pondicherry – 605001
19. Central Electricity Regulatory Commission,  
7<sup>th</sup> Floor, Core, 3, Scope Complex,  
Lodhi Road, New Delhi-110 003.

...Respondents

**Appeal No. 89 of 2005**

N.T.P.C. Ltd, Scope Complex, 7 Industrial Area,  
Lodhi Road, New Delhi-110 003.

...Appellant

Versus

1. Uttar Pradesh Power Corporation Ltd,  
Shakti Bhawan, 14, Ashok Marg, Lucknow-226 001.
2. Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,  
Vidyut Bhawan, RC Dave Marg,  
Jaipur- 302 005.
3. Delhi Transco Ltd, Shakti Shadan,  
Kotla Road, ITO, New Delhi.
4. Haryana Vidyut Prasaran Nigam Ltd.,  
Shakti Bhawan, Sector- VI, Panchkula,  
Haryana- 134 109.
5. Punjab State Electricity Board,  
The Mall, Patiala- 147 001.
6. Himachal Pradesh State Electricity Board,  
Kumar Housing Complex Building-11  
Vidyut Bhawan, Shimla- 171 004.
7. Power Development Department,  
Govt. of J&K Secretariat, Srinagar.
8. Power Department (Chandigarh),  
Union Territory of Chandigarh, Addl. Office Building,  
Sec. 9D, Chandigarh.
9. Uttranchal Power Corporation Ltd.,  
Urja Bhawan, Kanwali Road,  
Dehradun- 248 001.
10. Central Electricity Regulatory Commission,  
7<sup>th</sup> Floor, Core, 3, Scope Complex,  
Lodhi Road, New Delhi-110 003.

...Respondents

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### **Judgement**

#### **Per Hon'ble Mr. A.A. Khan, Technical Member**

All the above mentioned 18 appeals have been preferred by the Appellant, National Thermal Power Corporation Ltd. (hereinafter referred to as the 'NTPC') against the orders passed on different dates by the Central Electricity Regulatory Commission (hereinafter called the 'Central Commission') in different petitions,

whereby the Central Commission has determined the tariff for the period from 01.04.2001 to 31.03.2004 for generation and sale of electricity by the various Thermal Power Plants of the 'NTPC'. The appellant has submitted that the aforesaid 18 appeals listed hereunder involved common issues and can be clubbed together for decision by a common order.

#### LIST OF THE CASES

S. No.	Appeal No.	Name	Against order dated / petition No.	Against Order dated/Review Petition No.	Grounds
1	81 of 2005	Talcher STPS Stage -I	24.08.04/35 of 2001		(i) Implications of decision on norms in Appeal Nos. 53,54,55 and 56 of 2006 (ii) Computation of interest on loan-normative or actual whichever is higher
2	82 of 2005	Dadri GPS	24.10.03/44 of 2001	01.07.2004/104 of 2003	(i) Implications of decision on norms in Appeal Nos. 53,54,55 & 56 of 2006 (ii) Computation of Interest on loan-normative or actual whichever is higher <b>(iii) O &amp; M Expenses</b>
3	83 of 2005	Singrauli STPS	23.07.03/39 of 2001	08.0304/59 of 2003	(i) Implications of decision on norms in Appeal nos. 53,54,55 and 56 of 2006 (ii) Computation of Interest on Loan-normative or actual, whichever is less <b>(iii) O &amp; M Expenses</b> <b>(iv) Cost of spares in working capital</b>
4	84 of 2005	Feroge Gandhi Unchahar TPS Stage -II	18.06.04/1 of 2000		(i) Implications of decision on norms in Appeal Nose. 53, 54, 55 and 56 of 2006
5	85 of 2005	Auraiya GPS	04.03.04 &	31.08.04/ 42 of	(i) Implications of decision on

			19.11.04/46 of 2001	2004	norms in Appeal Nose. 53, 54, 55 and 56 of 2006 (ii) Computation of interest on loan–normative or actual whichever is higher.  (iii) <b>O &amp;M Expenses</b>  (iv) <b>Cost of spares in working capital</b>
6	86 of 2005	Farrakka TPS	19.07.04/ 36 of 2001		(i) Implications of decision on norms in Appeal Nose. 53, 54, 55 and 56 of 2006 (ii) Computation of interest on loan–normative or actual whichever is higher. (iii) <b>O &amp;M Expenses</b> (iv) <b>Cost of spares in working capital</b>
7	87 of 2005	Kayamkulam	05.03.04/ 22 of 1999 subsequently amended by order dated 18.05.2004		(i) Implications of decision on norms in Appeal Nos. 53, 54, 55 and 56 of 2006 (ii) Computation of interest on loan – normative or actual whichever is higher.
8	89 of 2005	Dadri TPS	20.07.04/ 81 of 2002		(i) Implications of decision on norms in Appeal Nos. 53, 54, 55 and 56 of 2006 (ii) Computation of interest on loan–normative or actual whichever is higher. (iii) <b>O &amp;M Expenses</b> (iv) <b>Cost of spares in working capital</b>
9	90 of 2005	Faridabad GPS	30.06.03/ 81 of 2002		(i) Implications of decision on norms in Appeal Nos. 53, 54, 55 and 56 of 2006 (ii) Computation of interest on loan–normative or actual whichever is higher.

10	91 of 2005	Feroze Gandhi Unchahar TPS Stage-I	24.10.03/41 of 2001	01.07.04/103 of 2003	(i) Implications of decision on norms in Appeal Nos. 53, 54, 55 and 56 of 2006  (ii) Computation of interest on loan–normative or actual whichever is higher. <b>(ii) O &amp;M Expenses</b> <b>(iii) Cost of spares in working capital</b>
11	92 of 2005	Anta GPS	30.04.04/ 45 of 2001		(i) Implications of decision on norms in Appeal Nose. 53, 54, 55 and 56 of 2006  (ii) Computation of interest on loan–normative or actual whichever is higher. <b>(iii) O &amp;M Expenses</b>
12	93 of 2005	Gandhar GPS- II	01.04.05/ 33 of 2001		(i) Implications of decision on norms in Appeal Nose. 53, 54, 55 and 56 of 2006  (ii) Computation of interest on loan–normative or actual whichever is higher. <b>(iii) O &amp;M Expenses</b>
13	95 of 20054	Kawas GPS – II	07.04.05/ 31 of 2001		(i) Implications of decision on norms in Appeal Nose. 53, 54, 55 and 56 of 2006

					<p>(ii) Computation of interest on loan–normative or actual whichever is higher.</p> <p>(iii) <b>O &amp;M Expenses</b></p>
14	98 of 2005	Ramagundam	06.08.03/34 of 2001 subsequently amended by order dated 24.08.204 & 21.12.04	08.03.04/74 of 2003	<p>(i) Implications of decision on norms in Appeal Nose. 53, 54, 55 and 56 of 2006</p> <p>(ii) Computation of interest on loan–normative or actual whichever is higher.</p> <p>(iii) <b>O &amp;M Expenses</b></p> <p>(iv) <b>Cost of spares in working capital</b></p>
15	99 of 2005	06.08.03/30 of 2001	08.03.04/68 of 2003		<p>(i) Implications of decision on norms in Appeal Nose. 53, 54, 55 and 56 of 2006</p> <p>(ii) Computation of interest on loan–normative or actual whichever is higher.</p> <p>(iii) <b>O &amp;M Expenses</b></p> <p>(iv) <b>Cost of spares in working capital</b></p>
16	100 of 2005	Vindhyachal –STPS-II	01.08.03/20 of 299 & 77 of 2002	08.03.04/69 of 2003	<p>(i) Implications of decision on norms in Appeal Nose. 53, 54, 55 and 56 of 2006</p> <p>(ii) Computation of interest on loan–normative or</p>



					actual whichever is higher.
17	101 of 20054	Vindhyachal STPS-I	06.11.03/3 of 2004	19.03.04/3 of 2004	(i) Implications of decision on norms in Appeal Nose. 53, 54, 55 and 56 of 2006 (ii) Computation of interest on loan–normative or actual whichever is higher. <b>(iii) O &amp;M Expenses</b> <b>(iv) Cost of spares in working capital</b>
18	153 of 2005	Kahalgaon STPS	04.08.2005/37 of 2001		(v) Implications of decision on norms in Appeal Nose. 53, 54, 55 and 56 of 2006 (vi) Computation of interest on loan–normative or actual whichever is higher. <b>(vii) O &amp;M Expenses</b> <b>(viii) Cost of spares in working capital</b>

The appellant has submitted that even though issues are of common nature separate appeals have been filed by it as the Central Commission has passed separate tariff orders which are similar in nature for different generation stations.

**FACTS OF THE CASE:**

1. The appellant, NTPC, in all its above mentioned 18 appeals while challenging the respective orders passed by the Central Commission in

respect of different generating stations have raised issues which are primarily, related to the following:

- (a) **Issue No. 1:** NTPC in appeal nos. 53, 54, 55 and 56 of 2006 has challenged the orders of the Central Commission dated 04.01.2000, 15.12.2000 and 21.12.2000, which basically lay down the norms for determination of tariff on the ground of ‘discrimination and absence of level playing field’.
- (b) **Issue No. 2:** The methodology adopted by the Central Commission for computation of interest on loan.
- (c) **Issue No. 3:** Operation and Maintenance expenses with specific grievance of:
  - (i) Inadequate provisions of employees costs as part of the O&M expenses due to revision of salary and wages.
  - (ii) Non-inclusion of incentives and ex-gratia payment to employees
- (d) **Issue No. 4:** Costs of spares for calculation of interest on working capital.

## **Discussion and Analysis of Issues**

- 2 (a) **Issue No. 1:** Issue No. 1 pertains to the orders passed by the Central Commission in regard to the norms to be followed while determining the tariff. Not only in the instant appeals but in appeal nos. 53, 54, 55 and 56 of 2006 as well the NTPC had challenged the said orders passed by the Central Commission before this Tribunal. The orders which were challenged laid down the norms of operational and financial parameters to be considered while determining the tariffs. The aforesaid orders were precursors to the CERC (Terms and conditions of Tariff) Regulations, 2001 (for short 'Regulations, 2001') which were notified on 26.03.2001. On hearing the aforesaid appeals (appeal Nos. 53,54,55 & 56 of 2006), this Tribunal by an order passed on 06.12.2006 dismissed them on the ground that this Tribunal has no jurisdiction to enquire into the validity of the regulations framed by the Central Commission. It may be pointed out that the Tribunal in its full bench judgement, rendered in appeal nos. 114 and 115 of 2005 between Nayveli Lignite Corporation Ltd Vs Tamil Nadu Electricity Board and others, has held that it has no power to deal with challenge to the Regulations.

*“we have no hesitation in holding that the Regulations framed under Sections 61 & 178 of the Electricity Act 2003, are in the nature of subordinate legislation and we have no jurisdiction to examine the validity of the Regulations in exercise of our appellate jurisdiction under Section 111 of the Act of 2003. Even, under section 121, which confers on the Tribunal supervisory jurisdiction over the Commission, we cannot examine the validity of the Regulations framed by the Commission, as we can only issue orders, instructions or directions to the Commission for the performance of its statutory functions under the Act.”*

- (b) In view of the above decisions hold that the Regulations framed under the Act, are in the nature of subordinate legislation and the challenge to their validity falls outside the preview of the Tribunal.

3. **Issue No. 2 :**

- (a) This issue relates to the methodology adopted by the Central Commission for computation of interest on loan on the actual repayment basis or normative repayment whichever is higher. This Tribunal in its decision dated 14.11.2006 in Appeal Nos. 94 and 96 of 2005 preferred by the Appellant, NTPC, against the orders of the

Central Commission has set aside the methodology adopted by the Central Commission of computation of interest on loan and held that the computation should be only on normative loan repayment basis.

- (b) In view of the above, the appeals which relate to this issue stand decided in light of the order dated 14.11.2006 passed by this Tribunal.

4. **Issue No. 3 (Operation & Maintenance Expenses)**

- (a) *Inadequate provision of employee costs as part of O&M Expenses, due to revision in salary and wages.*

- (i) In the appeals before this Tribunal, the appellant has submitted that the Central Commission has calculated the employee cost for determining allowable O&M expenses based on the average of the actual employee cost taken for the period from 1995-96 to 1999-2000 and thereafter escalating this base employee costs of 1997-98 by applying the escalation factor. It has been observed that employee costs were revised in FY 2000-01 with retrospective effect from 1<sup>st</sup> January, 1997. The Commission took average of employee cost for the period 1995-96 and 1996-97 based on pre-revised scale and 1997-98, 1998-99 and 1999-2000 based on revised scale. The appellant has suggested that the Commission

ought to have taken the actual salary prevalent during the period 2000-01 and not average salary for the period 1995-96 to 1999-2000 as the salary of 2000-01 correctly represents the employee cost estimation for the subsequent period 2001-02 to 2003-04.

- (ii) By adopting the above methodology the Commission has followed the Regulations, 2001 in force for the relevant time. The scheme of recovery of cost pertaining to O&M provides for recovery of costs based on the average of actual costs incurred during the period 1995-96 to 1999-2000. The Regulations provide for exclusion of abnormal O&M expenses, if any, during this period of 5 years. Such average O&M expenditure, in the base year 1997-98, is then escalated twice by 10%. This escalated figure becomes the base of 1999-2000 and further escalated by 6% every year to arrive at the permissible O & M expenses for the relevant year. It is observed that the Commission has not deviated from the Regulations 2001, which provide a pre-defined methodology to arrive at the admissible amount of O&M expenses. We do not find any ambiguity in so far as adherence to the specified Regulations is concerned.

- (iii) The Regulations, 2001 cover various heads of expenditure including employee cost as components of O&M expenses, and give identical treatment to all heads of expenditure. It is quite likely that due to adoption of average O&M expenditure during 1995-96 to 1999-2000 which is escalated twice by 10% there might be an under-recovery of actual expenditure under certain heads; while under some other heads there might be an over-recovery (more than the actuals). The Regulations also provide that during the tariff period, the deviation of the escalation factor of 6% within the range of  $\pm$  to 20% is to be absorbed by the generators/beneficiaries. Adopting a different treatment in respect of one constituent head of expenditure in the O&M expenses as submitted by the appellant will be violative of the said Regulations.
- (iv) The fact that salaries and wages for the employees were due for/under revision was known to the Central Commission during the formulation process of the Regulations, 2001. It will not be wrong to assume that the Commission, therefore, would have considered the likely impact of the said revision and, thus the mechanism proposed in the Regulations, 2001 is expected to have addressed the legitimate concerns of the issue.

- (v) The learned counsel for the NTPC while relying on the decision of the Supreme Court in the case of WBERC Vs. CESC Ltd submitted that the Commission ought to have taken actual employees' cost incurred by the NTPC for determining tariff. The decision in the case of WBERC Vs. CESC Ltd. related to determination of tariff in respect of the year 2000-01, for which the WBERC did not issue any specific Regulations to arrive at the amount of admissible employee costs. In that case, the WBERC had to determine the tariff in accordance with the Electricity Regulatory Commission Act, 1998 and the Electricity (Supply) Act, 1948. The Schedule VI of Electricity Supply Act of 1948 contained a detailed scheme about the admissibility of various heads of expenditure. The instant case is different from the West Bengal case as the CERC has laid down a specific methodology to arrive at the admissible amount of O&M expenses. Here, the CERC has followed the Regulations laid down in this regard and did not take recourse to ad-hocism.
- (vi) The Appellant has submitted that increase in employee cost has not been on account of any increase in manpower and that during the period man/MW ratio has decreased. We find it to be of no relevance if the Regulations are to be adhered to.



(b) *Non-inclusion of incentives and ex-gratia payment to employees.*

- (i) The Commission in its Order dated 23.07.2003 has stated that the Commission's policy in this regard is to allow only the obligatory minimum bonus payable under the Payment of Bonus Act and as such, part of employee cost pertaining to incentive and ex-gratia was not considered for the purpose of tariff. We agree with the approach of the Commission. The payment of incentive or ex-gratia with a view to achieve higher productivity brings in additional benefits to the appellant in the form of higher sale of energy as also incentive as provided under the Regulations. The incentive earned through tariff by the NTPC from the beneficiaries on account of improved performance and higher productivity is much higher than the incentives and ex-gratia payment made to employees and, thus, expenditure on latter should be financed by the earning from the former. The beneficiary states are under obligations to pay incentive at applicable rates, if the appellant achieves availability beyond a specified level. As far as the beneficiaries are concerned, such provision has been made in the Regulations, 2001 to give them the benefit of increased productivity on the part of the

Appellant. There is no justification to recover the cost of incentives and ex-gratia payment to employees through tariff again, when the tariff, already allows incentives for higher performance and productivity to the appellant.

- (ii) The appellant's submission that the total manpower cost including incentives and ex-gratia payments to the employees constitute a very low percentage of the average per unit tariff is not of any relevance here. Similarly the Submission that Appellant's percentage of manpower cost is significantly lower than the manpower costs incurred in the generating stations of the respondent, is not sustainable as historically both have been operating and continue to do so under different environment and regime of Rules and Regulations.
- (iii) In view of the above, we find no reason to differ with the observations of the Commission on the aforesaid aspect of the matter.

5. **Issue No. 4 (Cost of spares for calculation of working capital)**

- (i) It has been observed that the Commission had followed the mechanism provided in the Regulations to arrive at the cost of spares

for inclusion in the working capital amount. In view of the appellant, the Commission ought to have adopted the same basis as adopted in the Commission's Order dated 21.12.2000, which came before the Regulations dated 26.03.2001. After the Regulations issued on 26.03.2001 came into force, earlier notifications/orders have lost their force and relevance. The Regulations issued on 26.03.2001 are in the nature of delegated legislation and are to be followed during the period they are applicable.

- (ii) As regards information sought as part of form no. 14 (provided vide order dated 14.09.2001 in Petition no. 29/2001 by the Commission), if there appears to be any contradiction between the main Regulations and forms attached thereto, the spirit contained in the Regulations needs to be followed. As the Regulations provide for restricting the amount of spares to be included in the working capital requirement to 1% capital cost, the requirements of Form 14 being contrary to the provisions of Regulations would not over-ride the Regulations.
  
- (iii) In this view of the matter, we agree with the views of the Commission on the aforesaid issue.

6. Having regard to the aforesaid discussion, we dispose of appeal nos. 81, 82, 83, 84, 85, 86, 87, 89, 90, 91, 92, 93, 95, 98, 99, 100, 101 and 153 of 2005 in terms of the decisions on various issues and direct the Central Commission to modify its impugned orders in accordance with this judgement and provide relief wherever applicable.

( A.A. Khan )  
**Member Technical**

( Justice Anil Dev Singh )  
**Chairperson**