

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

1. **Shri Bhanu Bhushan, Member**
2. **Shri R. Krishnamoorthy, Member**

**Review Petition No.55/2007
In Petition No.65/2005**

In the matter of

Review Petition against the order dated 29.1.2007 of the Commission in Petition No.65/2006 of North Eastern Electric Power Corporation (NEEPCO) in the matter of additional capitalization of Assam Gas Based Power Project, Kathalguri for the year 2003-04.

And in the matter of

Assam State Electricity Board, Guwahati

... **Petitioner**

Vs

1. Northern Eastern Electric Power Corp. Ltd, Shillong
2. North Eastern Regional Power Committee, Shillong
3. National Hydro Electric Power Corpn., Faridabad
4. Power Grid Corporation of India Ltd, New Delhi
5. Meghalaya State Electricity Board, Shillong
6. Govt. of Arunachal Pradesh, Itanagar
7. Power & Electricity Department, Govt. of Mizoram, Aizwal
8. Electricity Department, Govt. of Manipur, Imphal
9. Department of Power, Govt. of Nagaland, Kohima
10. Department of Power, Govt. of Tripura, Agartala

.... **Respondents**

The following were present:

1. Shri K. Goswami, Sr. Manager, ASEB
2. Shri P.K. Bora, NEEPCO
3. Smt. D. Dey, NEEPCO

**ORDER
(DATE OF HEARING : 20.11.2007)**

The application has been made by Assam State Electricity Board (hereinafter referred to as "the applicant") for review of order dated 29.1.2007 in Petition No.65/2006 whereby the Commission had determined the revised fixed charges for

the year 2003-04 in respect of Assam Gas Based Power Project, (hereinafter referred to as “the generating station”) after accounting for additional capitalization for that year. In the application for review the following grounds have been urged.

- (i) Transparency;
- (ii) Safeguarding the consumers’ interest; and
- (iii) Retrospective effect.

Transparency

2. In support of the first ground, it has been stated that the Commission while approving the revised fixed charges has not ensured transparency, as mandated by sub-section (3) of Section 79 of the Electricity Act, 2003. It has been stated that the first respondent had filed before the Commission certain documents which were taken into account by the Commission while passing the order dated 29.1.2007 but the copies of these documents were not supplied to the respondents.

3. In order to verify the maintainability of the application for review on this ground, the first respondent was directed to place on record the evidence in support of service of the documents filed before the Commission, to the beneficiaries. An affidavit has been filed on behalf of the first respondent annexing copies of the speed post booking lists for 13.11.2006, 22.11.2006 and 23.11.2006, which give an indication that the copies of the documents filed before the Commission were sent to the beneficiaries, including the petitioner. At the hearing, the fresh set of documents was served on the petitioner in the court. More than six months have already elapsed. However, the petitioner has not pointed any discrepancy in the order dated 29.1.2007, in the light of copies of the documents supplied to the petitioner at the hearing on 20.11.2007. We,

therefore, conclude that there is no error in placing reliance upon the documents which, as per the evidence placed on record by the first respondent, were supplied to the petitioner and other beneficiaries and again to the petitioner at the time of hearing, while passing the order dated 29.1.2007. Therefore, in our opinion, the application on the ground of lack of transparency is not maintainable.

Safeguarding the Consumers' Interest

4. The applicant has submitted that as result of the order dated 29.1.2007 there has been an increase in cost of power supplied by the first respondent, by about 20 paise/kWh. It has been pointed out that as per clause (d) of Section 61 of the Act, it is one of the responsibilities of the Commission to safeguard the consumers' interest. It has been argued that by allowing increase in tariff, the Commission has overlooked the consumers' interest, thereby unjustly enriching the first respondent, a generating company, at former's cost.

5. We are unable to appreciate the submission made by the applicant. It is the Commission's responsibility to ensure recovery of cost of electricity in a reasonable manner; as also provided in clause (d) of Section 61 of the Act. In the scheme of tariff determination applicable at the relevant time, the capital cost was the fundamental input. Therefore, with the increase in capital cost, increase in tariff was inevitable and could not be avoided, since otherwise a part of the capital cost will remain unserved. Accordingly, the application for review fails on this ground also.

Retrospective Revision of Tariff

6. It has been stated that the tariff for supply of electricity to the consumers for the period ending 31.3.2007 had already been determined by the Assam State Regulatory Commission and the Regulatory Commissions in other States who are the beneficiary of the generating station. It is urged that there is no scope for the petitioner or other beneficiaries to recover the increased tariff allowed by the Commission vide order dated 29.1.2007, for the year 2003-04 from its consumers. In these circumstances, it has been stated, the increased tariff will affect the applicant's financial health.

7. Even this submission of the applicant does not commend to us and cannot be the ground for review of the order. The additional amount on account of increased tariff for the year 2003-04, can be reflected in the Annual Revenue Requirement for the year in which the payment is made, before the State Regulatory Commission. Therefore, this ground too cannot be the basis for review of the order.

8. In view of the above discussion, the application for review fails and is dismissed with no order as to costs.

Sd/-
(R. KRISHNAMOORTHY)
MEMBER

Sd/-
(BHANU BHUSHAN)
MEMBER

New Delhi dated the 26th May 2008