

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

1. Dr. Pramod Deo, Chairperson
2. Shri Bhanu Bhushan, Member
3. Shri R.Krishnamoorthy, Member
4. Shri S.Jayaraman, Member

Petition No. 114/2008

In the matter of

Approval of inclusion of provisions of Hydro Power Policy, 2008 with regard to local area development in new projects of NHPC.

And in the matter of

NHPC Limited, Faridabad

Vs

..Petitioner

1. Punjab State Electricity Board, Patiala
2. Haryana Vidyut Prasaran Nigam Ltd., Panchkula
3. BSES Yamuna Power Limited, New Delhi
4. Uttar Pradesh Power Corporation Ltd, Lucknow
5. BSES Rajdhani Power Ltd., New Delhi
6. Rajasthan Rajya Vidyut Prasaran Nigam Limited, Jaipur
7. North Delhi Power Ltd., New Delhi
8. Jaipur Vidyut Vitaran Nigam Ltd, Jaipur
9. Jodhpur Vidyut Vitaran Nigam Ltd, Jodhpur
10. Uttaranchal Power Corporation Ltd, Dehradun
11. Ajmer Vidyut Vitaran Nigam Ltd., Ajmer
12. Himachal Pradesh State Electricity Board, Shimla
13. Chief Engineer, Chandigarh Administration, Chandigarh
14. Power Development Department, Govt. of J&K, Jammu
15. West Bengal State Electricity Distribution Company Ltd., Kolkata
16. Damodar Valley Corporation, Kolkata
17. Jharkhand State Electricity Board, Ranchi
18. Bihar State Electricity Board, Patna
19. Department of Power, Govt. of Sikkim, Gangtok
20. Assam State Electricity Board, Guwahati
21. Department of Power, Govt. of Arunachal Pradesh, Itanagar
22. Electricity Department, Govt. of Mizrom, Aizwal
23. Tripura State Electricity Corporation Ltd., Agartala
24. Meghalaya State Electricity Board, Shillong
25. Electricity Department, Govt. of Manipur
26. Electricity Department, Govt. of Nagaland, Kohima ... **Respondents**

Following were present:

1. Shri Prashant Kaul, NHPC
2. Shri T.K.Mohanty, NHPC
3. Shri S.K. Meena, NHPC
4. Shri C.Vinod, NHPC

**ORDER
(DATE OF HEARING: 23.12.2008)**

The application has been made to seek approval for applicability of certain provisions of Hydro Power Policy, 2008 (the policy), issued by the Central Government, with regard to Local Area Development, stated to be applicable to private project developers, to new projects of the petitioner awaiting sanction of the Central Government or signing of implementation agreement. The petitioner has summarized these provisions as hereunder:-

“(a) An additional 1% free power from the project would be provided and earmarked for Local Area Development Fund, which should be a separate account aimed at providing regular stream of revenue for financing income Generation and Welfare Schemes, Creation of additional infrastructural and common facilities etc. on a sustained and continual basis over the life of the project.

(b) To provide direct benefits to the Project Affected People, village nearby project area would be electrified under Rajiv Gandhi Gramin Vidyutikaran Yojna (RGGVY) and the project developer should provide the share of 10% of the cost from their resources.

(c) For a period of 10 years from the date of commissioning of the project, 100 units of electricity per month, free of cost, shall be made available by the project authority to each Project Affected Family.”

2. The petitioner has sought to be allowed additional 1% free power as part of the annual fixed charges recovery mechanism, expenditure towards providing benefits under Rajiv Gandhi Gramin Vidyutikaran Yojna as part of capital cost and cost of

providing 100 units per month of free electricity to be made available to the Project Affected Families, as part of O & M expenses.

3. We heard Shri Prashant Kaul on admission.

4. The petitioner, a public sector undertaking is engaged in the business of development of hydro power in the country. It has been submitted that the policy has created a disparity between private developers and the public sector undertakings, like the petitioner, since provisions summarized above are not made applicable to the public sector units. The petitioner has argued that the private developer will, under the policy, have an edge over the public sector undertakings so far as the hydro development is concerned, as the State Governments are likely to prefer to allocate hydro projects to the private project developers because of the additional facilities to be provided by them towards Project Area Development. The petitioner apprehends that the public sector undertakings may even face resistance/opposition from the local people in development of hydro projects because of the said disparity. The petitioner proposes to include the provisions of the policy, applicable to project developers other than the State-controlled or State owned projects, in its own Rehabilitation and Resettlement (R & R) policy while implementing its upcoming projects so that the Project Affected Families of new projects to be developed also get the same benefits as announced in the policy in respect of private project developers.

5. The petitioner has stated that it proposes to cater for the facilities under the policy, with regard to Local Area Development in its R & R policy in respect of the

following new projects for which Government sanction is either awaited or implementation agreement is yet to be signed, namely:

(a)	Kotli Bhel – 1A	(195 MW), Uttarakhand,
(b)	Kotli Bhel - 1B	(320 MW), Uttarakhand,
(c)	Kotli Bhel -II	(530 MW), Uttarakhand,
(d)	Dibang	(3000 MW), Arunachal Pradesh
(e)	Tawang -I	(750 MW), Arunachal Pradesh
(f)	Tawang -II	(750 MW), Arunachal Pradesh
(g)	Pakal Dul	(1000 MW) , Jammu & Kashmir
(h)	Subansiri Lower	(2000 MW), Arunachal Pradesh
(i)	Teesta –IV	(495 MW), Sikkim

6. We very carefully considered the matter.

7. The Central Government has revised the tariff policy to incorporate various provisions of the tariff policy, as amended on 31.3.2008, to be made applicable to the developer of a hydro-electric projects, not being a State controlled/owned company. The provision of the policy noticed at opening para of the order are based on these amendments of the tariff policy. These provisions are not applicable for the projects owned or controlled by the public sector undertakings.

8. The R & R policy has been devised by the petitioner of its own. Therefore, the Commission does not consider it appropriate to assign to itself any role to give directions for incorporation of any of the provisions of the policy into the R & R policy of the petitioner. Further, the policy has been formulated by the Central Government, the owner of the petitioner for the purpose of fixation of tariff. In case the petitioner considers that certain provisions of the policy should be applicable for development of hydro-electric projects being undertaken by it, it should, in all fairness, approach the Central Government for appropriate relief by way of amendment in the policy.

