

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEWDELHI**

Petition No.121/2010

Coram

1. **Dr. Pramod Deo, Chairperson**
2. **Shri S.Jayaraman, Member**
3. **Shri V.S.Verma, Member**
4. **Shri M.Deena Dayalan, Member**

DATE OF HEARING: 16.9.2010

DATE OF ORDER: 3.11.2010

In the matter of

Approval of tariff of Rangit Hydroelectric Project (3x 20 MW) for the period from 1.4.2009 to 31.3.2014.

And in the matter of

NHPC Ltd, Faridabad

.....Petitioner

Vs

1. West Bengal State Electricity Board, Kolkata
2. Damodar Valley Corporation, Kolkata
3. Jharkhand State Electricity Board, Ranchi
4. Bihar State Electricity Board, Patna
5. Department of Power, Govt. Of Sikkim, Gangtok

....Respondents

The following were present

1. Shri Prashant Kaul, NHPC
2. Shri S.K. Meena, NHPC
3. Shri N.K.Chadha, NHPC
4. Shri K.K.Goel, NHPC
5. Shri A.Singh, NHPC
6. Ms. Reshma Hemrajan, NHPC
7. Ms. Niti Singh, NHPC
8. Shri R.B.Sharma, Advocate, BSEB
9. Shri Gopal Prasad, JSEB

ORDER

This petition has been filed by the petitioner, NHPC, for approval of generation tariff for Rangit Hydroelectric Project (3 x 20 MW) for the period from 1.4.2009 to



31.3.2014 (hereinafter referred to as “the generating station”) based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (hereinafter referred to as “the 2009 regulations”).

2. The petitioner has submitted that the tariff for the generating station for the period 2009-14 has been filed in terms of the 2009 regulations specified by the Commission. The petitioner also submitted that it has considered the additional capital expenditure for the generating station for the period 2004-05 and 2005-06 approved by the Commission by order dated 12.10.2009 in Petition No. 40/2009 and the claims made by it in Petition No.176/2009 pertaining to additional capital expenditure for the period 2006-09 in the present petition. The petitioner has further pointed out that in view of the order of the Commission dated 3.9.2010 in Petition No. 176/2009 determining the annual fixed charges for the period 2006-09, based on the additional capital expenditure for the period 2006-09, the annual fixed charges claimed in the present petition should accordingly be substituted by the Commission, as it was in agreement with the said order of the Commission. The petitioner submitted that except for the issue pertaining to Return on Equity based on the applicable MAT tax rate, which was being considered by the Commission, no other issues arose in the present petition and the Commission may approve the tariff for the generating station.

3. The learned counsel for the respondent No. 4, BSEB took preliminary objection and submitted that the Commission by its order dated 3.9.2010 has determined the tariff for the generating station based on the additional capital expenditure for the period 2006-09, and hence the petitioner should be directed to amend the present

petition taking into account the revised figures approved by the Commission in said order. The learned counsel pointed out that in a similar case pertaining to the determination of tariff for the generating stations of NTPC for the period 2009-14, the Commission by an interim order dated 29.6.2010 in Petition No.245/2009 had directed NTPC to amend the petitions in respect of the generating stations where the additional capital expenditure for the period 2004-09 had been approved and the direction contained in the said order may be applied to the present petition also.

4. The petitioner submitted that the contentions of the respondent cannot be considered since there was no order of the Commission directing the petitioner to amend the said petition. The petitioner also submitted that it was in full agreement with the Commission's order dated 3.9.2010 in Petition No. 176/2009 and hence the annual fixed charges approved in the said order should only be substituted. The petitioner further added that amendment of the present petition based on the figures approved by the Commission and which were not disputed by it, would only amount to duplication and wastage of time. The petitioner thus prayed that the submission of the respondent be rejected.

5. We have heard the parties and it is proposed to dispose of the preliminary objection by this order.

6. As per the first proviso to clause (2) to Regulation (5) of 2009 Regulations, the application for determination of tariff in case of an existing project shall be based on admitted capital cost including any additional capitalization admitted up to 31.3.2009 and estimated additional capital expenditure for the respective orders of the tariff

period 2009-14. Further, the last proviso to Regulation 7 of the 2009 regulations provides as under:

“Provided also that in case of the existing projects, the capital cost admitted by the Commission prior to 1.4.2009 and the additional capital expenditure projected to be incurred for the respective year of the tariff period 2009-14, as may be admitted by the Commission, shall form the basis for determination of tariff.”

7. From the above provisions of the 2009 regulations, it emerges that the capital cost as on 1.4.2009 needs to be determined in respect of the existing project after taking into account the additional capitalization incurred prior to 1.4.2009. This is required as the capital cost as on 1.4.2009 shall form the basis for determination of tariff for the period 2009-14. The petitioner has submitted that it was in full agreement with the capital cost approved by the Commission in order dated 3.9.2010 and hence the said amount should be considered as the opening capital cost, as on 10.4.2009. In Petition No.176/2009, the Commission by its order dated 3.9.2010 approved the additional capital expenditure for 2006-09 and the capital cost as on 31.3.2009 only after a transparent process of hearing the parties. The petitioner has submitted that the approved capital cost, as on 31.3.2009 should be considered as the opening capital cost as on 1.4.2009 as it was in full agreement with the amount approved. We have considered the submissions of the representative of the petitioner and the learned counsel for the respondent. As per submissions of the learned counsel for the respondent BSEB, the tariff petition for 2009-14 in respect of the generating station should be amended for incorporating the additional capitalization allowed in order dated 3.9.2010 in Petition No.176/2009. We are of the view that the order dated 3.9.2010 allowing the additional capitalization has been passed by the Commission through a transparent process of hearing and after considering the objections filed in the petition. We feel that no useful purpose would be served if the petitioner is

directed to amend the petition for incorporation of the charges allowed in the petition for additional capitalization since the respondents had the occasion to raise its objections during the course of the proceedings in the additional capitalization petition. We also feel that amendment of the petition, if allowed, would once again set in motion the process of technical validation, thereby causing delay in the disposal of the petition.

8. However, keeping in view the submissions of the respondent, in a slight departure from the direction contained in the order dated 29.6.2010 in Petition No. 245/2009, we direct the petitioner to file on affidavit, with advance copy to the respondents, an adjustment statement showing the revised calculations, based on the additional capitalization for 2006-09, latest by 15.11.2010, for consideration of the present petition.

9. The respondents are directed to file replies to the said petition, with copy to the petitioner, on or before 19.11.2010. Rejoinder, if any, by 25.11.2010.

10. Matter to be listed for hearing on 7.12.2010.

Sd/-
(M.DEENA DAYALAN)
MEMBER

Sd/-
(V.S.VERMA)
MEMBER

Sd/-
(S.JAYARAMAN)
MEMBER

Sd/-
(DR. PRAMOD DEO)
CHAIRPERSON

