

**Central Electricity Regulatory Commission
New Delhi**

RECORD OF PROCEEDINGS

Petition No. 106/2011

Subject: Miscellaneous Petition for reimbursement of water usage charges for generation of Electricity and license fee levied by Govt. of J&K under the Jammu Kashmir Water Resources (Regulation and Management), Act, 2010.

Date of Hearing: 28.6.2011

Coram: Dr. Pramod Deo, Chairperson
Shri V.S.Verma, Member
Shri M.Deena Dayalan, Member

Petitioner: NHPC Ltd

Respondents: PSPCL, Haryana Power Utilities (UHBVNL & DHBVNL), BSES-BRPL, UPPCL, BYPL, RRVNL, JVVNL, JoVVNL, NDPL, UPCL, AJVNL, HPSEB, ED-UT, Chandigarh and PDD-Jammu (J&K).

Parties present: Shri Amrik Singh, NHPC
Shri S.K.Meena, NHPC
Shri Amit Kumar, NHPC
Shri R.Raina, NHPC
Shri Md. Faruque, NHPC

In response to the specific query of the Commission during the hearing on 19.5.2011 as to the relevant provision of the 2009 Tariff Regulations under which the recovery of expenditure towards water usage charges and license fee was made, the learned counsel for the petitioner during the hearing clarified as under:

- (a) In terms of Regulation 44 of the CERC (Terms and Conditions of Tariff) Regulations, 2009, the Commission has the power to relax the provisions of the said regulations and allow recovery of the said expenditure.
- (b) No provision for recovery of water charges and license fees was made in the 2009 Tariff Regulations since the same was not envisaged at the time of framing the said Regulations.
- (c) The levy of water usage charges and license fees by the Government of J&K is based on the Jammu and Kashmir (Water Resources (Regulation and Management) Act, 2010, passed during October 2010 and the cost incurred is based on the said Act.
- (d) The Commission in similar circumstances exercised its 'power to relax' under Regulation 44 in petitions pertaining to Power Grid (PGCIL) and had allowed the additional cost claimed towards security. The same should be considered in the instant petition.

- (e) In a writ petition filed by the petitioner before the High Court of J&K challenging the imposition of the water charges and license fees, the High Court by its interim order dated 4.5.2011 has directed the petitioner to deposit the amount of water usage charges raised by the J&K Water Resources Regulatory Authority which is to be maintained in a separate account, subject to the result of the writ petition.
2. On a specific query by the Commission as to whether the said payments were made, the learned counsel clarified that payment of the amounts are being made in terms of the directions of the High Court.
3. Matter heard. The petitioner is directed to submit the following information on affidavit, on or before 10.8.2011.
- (a) Copy of the order dated 4.5.2011 of the High Court of J&K in the writ petition filed by the petitioner;
 - (b) Copy of the bill received from the J&K Water Resource Regulatory Authority; and
 - (c) Calculation of water usage in respect of the four generating stations situated in the State of J&K.
4. Subject to the above, order in the petition was reserved.

Sd/-
(T.Rout)
Joint Chief (Law)