

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition (*suo motu*) No. 181/2011**

**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 Order: 15.9.2011**

**In the matter of**

Determination of tariff for generation and inter-State transmission of electricity from Bhakra-Nangal and Beas Projects of Bhakra Beas Management Board.

**And in the matter of**

Bhakra Beas Management Board, Chandigarh

**.....Respondent**

**ORDER**

The Electricity Act, 2003 (hereinafter “the EA 2003”) came into force with effect from 10.6.2003, repealing the earlier Acts such as the Indian Electricity Act, 1910, Electricity Supply Act, 1948 and Electricity Regulatory Commission Act, 1998. Section 173 of the EA 2003 provides that “nothing contained in this Act or any rule or regulation made thereunder or any instrument having effect by virtue of this Act, rule or regulation shall have effect in so far as it is inconsistent with any other provisions of the Consumer Protection Act, 1986 or the Atomic Energy Act, 1962 or the Railways Act, 1989.” Further, Section 174 of the EA 2003 provides that “Save as otherwise provided in section 173, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than

this Act.” After the operation of the EA 2003, all functions and activities covered under the Act shall have overriding effect on similar functions and activities under any other Act in force except in case of the Consumer Protection Act, 1986 or Atomic Energy Act, 1962 or the Railways Act, 1989.

2. Chapter II of the EA 2003 deals with generation of electricity. Chapter III deals with licensing. Section 12 provides that no person shall transmit or distribute or undertake trading in electricity unless he is authorised to do so by a licence issued under section 14 of the EA Act. Section 14 provides that the Appropriate Commission may, on an application made to it under section 15, grant a licence to any person to transmit electricity as a transmission licensee or to distribute electricity as a distribution licensee or undertake trading in electricity as an electricity trader in any area as may be specified in the licence. Chapter V of the EA 2003 deals with transmission of electricity. Chapter VII deals with determination of tariff for generation, transmission and distribution of electricity. Chapter X deals with the powers and functions of the Central Commission and State Commissions. Section 79 provides for the functions of the Central Commission as under:

*“Section 79. (Functions of Central Commission): (1) The Central Commission shall discharge the following functions, namely:-*

*(a) to regulate the tariff of generating companies owned or controlled by the Central Government;*

*(b) to regulate the tariff of generating companies other than those owned or controlled by the Central Government specified in clause (a), if such generating companies enter into or otherwise have a composite scheme for generation and sale of electricity in more than one State;*

*(c) to regulate the inter-State transmission of electricity ;*

*(d) to determine tariff for inter-State transmission of electricity;*

*(e) to issue licenses to persons to function as transmission licensee and electricity trader with respect to their inter-State operations;*

*(f) to adjudicate upon disputes involving generating companies or transmission licensee in regard to matters connected with clauses (a) to (d) above and to refer any dispute for arbitration;*

*(g) to levy fees for the purposes of this Act;*

*(h) to specify Grid Code having regard to Grid Standards;*

*(i) to specify and enforce the standards with respect to quality, continuity and reliability of service by licensees;*

*(j) to fix the trading margin in the inter-State trading of electricity, if considered, necessary;*

*(k) to discharge such other functions as may be assigned under this Act.”*

3. The Central Electricity Regulatory Commission (hereinafter referred to as the “Central Commission”) has been vested with the power to regulate the tariff of generating companies owned or controlled by the Central Government, to regulate the inter-state transmission of electricity and to determine the tariff for inter-state transmission of electricity among other functions. By virtue of section 174, the Central Commission is the appropriate authority to regulate such functions notwithstanding that such functions were discharged by other bodies prior to 10.6.2003 subject to the exceptions in section 173 of the EA 2003.

4. The genesis of Bhakra Beas Management Board may be traced to the provisions of Sections 78 to 80 of the Punjab Reorganisation Act, 1966 (hereinafter “1966 Act”). Section 78 provides for the manner of transfer of rights and liabilities in regard to Bhakra-Nangal and Beas Projects to the successor States after operation of the 1966 Act. Section 79 of the 1966 Act provides that the Central Government shall constitute a Board to be called the Bhakra Management Board for the administration, maintenance and operation of the works of Bhakra Dam, Nangal Dam and Nangal-Hydel Channel upto Kotla Power House, the irrigation headworks at Rupar, Harike and Ferozpur, Bhakra Power House, Gunguwal and Kotla Power Houses, sub-stations at Ganguwal, Ambala, Panipat, Delhi, Ludhiana, Sangrur and Hissar and the main 220 kV transmission lines connecting the said sub-sections and power houses. Sub-section (2) of section 79 of the 1966 Act provides for constitution of

Bakra Management Board consisting of a whole time Chairman and two whole time members to be appointed by the Central Government and a representative each of the Governments of the States of Punjab, Haryana and Rajasthan and Himachal Pradesh to be nominated by the respective Governments. The functions of Bhakra Management Board include the regulation of power generated at the power-houses to any Electricity Board or authority in charge of distribution of power as per the existing agreement or arrangements. Sub-section (6) of section 79 of 1966 Act provides that the Bhakra Management Board shall be under the control of the Central Government and shall comply with such directions as may, from time to time, be given to it by the Central Government.

5. The administration, maintenance and operation of Bhakra Nangal Project were handed over to Bhakra Management Board w.e.f. 1<sup>st</sup> October 1967. The Beas Project Works, on completion, were transferred by Government of India from Beas Construction Board (BCB) to Bhakra Management Board as per the provisions of Section 80 of the Punjab Reorganization Act, 1966. Pursuant to this, Bhakra Management Board was renamed as Bhakra Beas Management Board (BBMB). It is noticed from the website of BBMB that it has an installed capacity of 2804.73 MW from the Bhakra-Nangal and Beas Project and has a transmission network of 3735 km of 400 kV, 220 kV, 132 kV and 66 kV transmission lines for supply of power to the States of Punjab, Rajasthan, Haryana, Himachal Pradesh, Delhi and Union Territory of Chandigarh.

6. It is evident from the provisions of 1966 Act that the BBMB is functioning under the control of the Central Government and has been vested with the responsibilities to supply power from the projects to the States of Punjab, Rajasthan, Haryana, Himachal Pradesh Delhi and Union Territory of Chandigarh through wide network of

transmission lines and sub-stations. In other words, the functions assigned to BBMB under 1966 Act establishes beyond doubt that BBMB is a generating company owned or controlled by the Central Government and is also involved in inter-state transmission of electricity. Accordingly, after coming into effect of the EA 2003, regulation and determination of tariff for generation and inter-State transmission of electricity by BBMB are vested in the Central Commission by virtue of the provisions of section 174 of the said Act.

7. BBMB is, therefore, directed to make appropriate applications before the Central commission for approval of tariff of its generating stations and transmission systems, in accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 for the period 2009-14.

sd/-

**[M.DEENA DAYALAN]**  
**MEMBER**

sd/-

**[V.S.VERMA]**  
**MEMBER**

sd/-

**[S.JAYARAMAN]**  
**MEMBER**

sd/-

**[DR.PRAMOD DEO]**  
**CHAIRPERSON**