

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Review Petition No. 14/2011 in Petition No. 75/2010

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: 18.10.2011

Date of Order: 2.11.2011

In the matter of

Review of Order dated 10.5.2011 in Petition No.75/2010 regarding fixation of generation tariff of Tanakpur Hydroelectric Project (3 x 31.4 MW) for the period from 1.4.2009 to 31.3.2014.

And in the matter of

NHPC Ltd, Faridabad.

Vs

...Petitioner

1. Punjab State Electricity Board, Patiala
2. Haryana Power Generation Corporation Ltd., Panchkula
3. BSES-Yamuna Power Ltd., New Delhi
4. Uttar Pradesh Power Corporation Ltd, Lucknow
5. BSES-Rajdhani Power Ltd., New Delhi
6. Rajasthan Rajya Vidyut Prasaran Nigam Ltd., Jaipur
7. North Delhi Power Ltd., Delhi
8. Uttarakhand Power Corporation of Ltd., Dehradun
9. Jaipur Vidyut Vitaran Nigam Ltd., Jaipur
10. Himachal Pradesh State Electricity Board, Shimla
11. Jodhpur Vidyut Vitaran Nigam Ltd., Jodhpur
12. Engineering Department, UT Secretariat, Chandigarh
13. Ajmer Vidyut Vitaran Nigam Ltd., Ajmer
14. Power Development Department, Government of J&K, Jammu

...Respondents

Parties present:

1. Shri S.K.Meena, NHPC
2. Ms.Gayatri Devi, NHPC
3. Shri R.Raina, NHPC
4. Shri Amrik Singh, NHPC

ORDER

This application has been made by the petitioner, NHPC Ltd, for review of order dated 10.5.2010 in Petition No. 75/2010, whereby the Commission determined the tariff of Tanakpur Hydroelectric Project (3 x 31.4 MW) (hereinafter "the generating station") for the period 2009-14. The petitioner has sought review of the said order dated 10.5.2011 on the following issues, namely –

- (a) Disallowance of additional capitalisation on certain assets/items for 2009-14; and
- (b) Errors in calculation of O&M expenses.

Condonation of delay

2. In its application, the petitioner has prayed for condonation of delay of 82 days in filing the review application. The petitioner has submitted that the order of the Commission dated 10.5.2011 was received on 24.5.2011 and the same was distributed to the different divisions of the petitioner company and the generating station for comments, as the original petition was filed based on the information/data of different sections /projects of the petitioner. The petitioner has also submitted that it had addressed letter dated 17.6.2011 to the Secretary of the Commission for reconsideration/review of errors and inconsistencies in the tariff order dated 10.5.2011 and there would be no delay in filing the application if the letter dated 17.6.2011 was considered. The petitioner has further submitted that there is effectively a delay of 66 days in filing the present applications from the date of receipt of the said order on 24.5.2011. The petitioner has prayed that the delay in filing the review application was not deliberate and the same may be condoned by the Commission in exercise of power under Regulation 116 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 on 'sufficient reason'.

3. The period of limitation for making an application for review is 45 days from the date of receipt of the order. In the present case, the order dated 10.5.2011 in Petition No. 75/2010 was received by the petitioner on 24.5.2011 and the review application which should have been filed by 8.7.2011, has been filed only on 14.9.2011. The letter dated 17.6.2011 addressed to the Commission by the petitioner would not in any manner extend the period of limitation for filing the review application. Thus, there is a delay of 66 days in filing the review application. However, this period could be extended or abridged by the Commission for "sufficient reason". The expression "sufficient reason" needs be interpreted in the same manner as the expression "sufficient cause" under Section 5 of the Limitation Act, 1963. The Commission under Regulation 116 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 is authorized to condone delay in appropriate cases, on the petitioner showing "sufficient reason". We are also aware that a liberal approach needs to be adopted while considering such applications, to advance the cause of justice. In view of this, we accept the prayer of the petitioner and the delay of 66 days in filing the review application is condoned.

4. Heard the representative of the petitioner. Admit. Issue notice.

5. The petitioner is directed to serve copy of the application for review on the respondents, latest by 11.11.2011. The respondents may file their reply by 21.11.2011 on, with advance copy to the petitioner, who may file its rejoinder, if any, by 29.11.2011.

6. Matter to be listed for hearing on 8.12.2011.

Sd/-
[M.DEENA DAYALAN]
MEMBER

Sd/-
[V.S.VERMA]
MEMBER

Sd/-
[S.JAYARAMAN]
MEMBER

Sd/-
[DR. PRAMOD DEO]
CHAIRPERSON