

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Review Petition No. 24/2011 in Petition No. 108/2010

**Coram: 1. Shri S.Jayaraman, Member
2. Shri V.S.Verma, Member
3. Shri M.Deena Dayalan, Member**

[Date of Hearing: 15.12.2011]

[Date of Order: 26.12.2011]

In the matter of

Review of Order dated 14.6.2011 in Petition No.108/2010 regarding approval of generation tariff of Loktak Hydroelectric project, (105 MW) for the period from 1.4.2009 to 31.3.2014.

And in the matter of

NHPC Ltd, Faridabad.
Vs

...Petitioner

1. Assam State Electricity Board, Patiala
2. Department of Power, Government of Arunachal Pradesh
3. Electricity Department, Government of Mizoram
4. Tripura State Electricity Corporation Ltd., Agartala, Tripura
5. Meghalaya State Electricity Board, Shillong, Meghalaya
6. Electricity Department, Government of Manipur
7. Electricity Department, Government of Nagaland

...Respondents

Parties Present:

1. Shri R.Raina, NHPC
2. Shri Amrik Singh, NHPC
3. Shri Jitendra Kumar Jha, NHPC
4. Shri M.D.Faruque, NHPC

ORDER

This application has been made by the petitioner, NHPC Ltd, for review of order dated 14.6.2011 in Petition No. 108/2010, whereby the Commission had determined the tariff of Loktak Hydroelectric Project (105 MW) (hereinafter "the generating station')

for the period 2009-14. The petitioner has sought review of the said order dated 14.6.2011 on the following issues, namely –

- (a) Disallowance of expenses towards consumption of stores and R&M expenses for normalization of OM expenses;
- (b) Errors in calculation of administrative expenses and Annual Fixed Charges; and
- (c) Re-computation of interest on working capital.

Condonation of delay

2. In its application, the petitioner has prayed for condonation of delay of 122 days in filing the review application. The petitioner has submitted that the order of the Commission dated 14.6.2011 was received on 29.6.2011 and the same was distributed to the various departments /power station authentication and processing thereof. The petitioner has also submitted that it had addressed letter dated 11.7.2011 to the Secretary of the Commission for reconsideration/review of errors and inconsistencies in the tariff order dated 14.6.2011. The petitioner has further submitted that there is effectively a delay of 122 days in filing the present applications from the date of receipt of the said order on 14.6.2011. 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 14.6.2011 in Petition No. 108/2010 was received by the petitioner on 29.6.2011 and the review application which should have been filed by 15.8.2011, has been filed only on 29.11.2011. The

letter dated 11.7.2011 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 106 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 106 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 2.1.2012. The respondents may file their reply by 9.1.2012, with advance copy to the petitioner, who may file its rejoinder, if any, by 16.1.2012.

6. Matter shall be listed for hearing on 19.1.2012.

Sd/-
[M.DEENA DAYALAN]
MEMBER

Sd/-
[V.S.VERMA]
MEMBER

Sd/-
[S.JAYARAMAN]
MEMBER