

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Review Petition No. 20/2011 in Petition No. 74/2010

**Coram: 1. Dr. Pramod Deo, Chairperson
2. Shri S.Jayaraman, Member
3. Shri M.Deena Dayalan, Member**

**Date of Hearing: 1.11.2011
Date of Order: 17.11.2011**

In the matter of

Review of Order dated 16.6.2011 in Petition No.74/2010 regarding approval of generation tariff of Uri Hydroelectric project, (4 x 120 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-Rajdhani Power Ltd., New Delhi
4. BSES-Yamuna Power Ltd., New Delhi
5. Uttar Pradesh Power Corporation Ltd, Lucknow
6. Rajasthan Rajya Vidyut Prasaran Nigam Ltd., Jaipur
7. North Delhi Power Ltd., Delhi
8. Jaipur Vidyut Vitaran Nigam Ltd., Jaipur
9. Uttaranchal Power Corporation of Ltd., Dehradun
10. Jodhpur Vidyut Vitaran Nigam Ltd., Jodhpur
11. Himachal Pradesh State Electricity Board, Shimla
12. Engineering Department, Union Territory of Chandigarh, Chandigarh
13. Ajmer Vidyut Vitaran Nigam Ltd., Ajmer
14. Power Development Department, Government of J&K, Jammu **...Respondents**

Parties present:

1. Shri V.K.Singh, NHPC
2. Shri S.K.Meena, NHPC

ORDER

This application has been made by the petitioner, NHPC Ltd, for review of order dated 16.6.2011 in Petition No. 74/2010, whereby the Commission had determined the tariff of Uri Hydroelectric Project (4 x 120 MW) (hereinafter "the generating station") for



the period 2009-14. The petitioner has sought review of the said order dated 16.6.2011 on the following issues, namely –

- (a) Disallowance of certain additional capital expenditure for 2009-14;
- (b) Error in calculation of Depreciation; and
- (c) Errors in calculation of O&M expenses.

Condonation of delay

2. In its application, the petitioner has prayed for condonation of delay of 62 days in filing the review application in terms of Regulations 103 and 116 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999. The petitioner has submitted that the order of the Commission dated 16.6.2011 was received on 24.6.2011 and the delay in filing the application had occurred due to collection of information from the project/various departments and authentication and processing of the same by the petitioner corporation. Accordingly, the petitioner has prayed that the delay of 64 days 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 16.6.2011 in Petition No.74/2010 was received by the petitioner on 24.6.2011 and the review application which should have been filed by 8.8.2011, has been filed only on 5.10.2011. Thus, there is a delay of 58 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 58 days in filing the review application is condoned.

4. Heard the representative of the petitioner on the issues raised at paragraph 1 above. The review application is admitted on the issues (a) and (c) in paragraph 1 above. The issue raised at paragraph 1(b), namely error in calculation of depreciation is not admitted for the reasons stated in the subsequent paragraphs.

Error in calculation of Depreciation

5. The Commission in its order dated 16.6.2011 has worked out depreciation for 2009-14 in terms of the observations made in paragraph 34 as under:

"34. As stated in paragraphs 15 to 19 above, assets amounting to ₹10.55 lakh, ₹8.00 lakh, ₹4.00 lakh and ₹2.50 lakh have been de-capitalized during the years 2009-10, 2010-11, 2011-12 and 2013-14 respectively. The amount of cumulative depreciation allowed in tariff against those de-capitalized assets has been calculated on pro rata basis and the same has been adjusted from the cumulative depreciation of the year of de-capitalization. Accordingly, depreciation has been worked out as under."

6. The petitioner, in its application has submitted that the effect of de-capitalised items in the respective years has not been considered by the Commission in the calculation of depreciation in Paragraph 34 of the order dated 16.6.2011.

7. The Commission in paragraphs 15 to 19 of the order dated 16.6.2011 had worked out the total de-capitalisation amount for the reasons stated there under and has allowed the same for the years 2009-10, 2010-11, 2011-12 and 2013-14. Accordingly, the assets amounting to ₹10.55 lakh, ₹8.00 lakh, ₹4.00 lakh and ₹ 2.50 lakh which were allowed for de-capitalisation during the years 2009-10, 2010-11, 2011-12 and 2013-14, have been duly considered in the calculation of depreciation vide order dated 16.6.2011. Moreover, the amount of cumulative depreciation allowed against these de-capitalized



assets has been calculated on *pro rata* basis and adjusted from the cumulative depreciation of the year of de-capitalization. In view of this, the submissions of the petitioner cannot be accepted and review of order dated 16.6.2011 on this ground stands rejected.

8. The petitioner is directed to serve copy of the application for review on the respondents, latest by 25.11.2011. The respondents may file their reply by 2.12.2011, with advance copy to the petitioner, who may file its rejoinder, if any, by 9.12.2011.

6. Matter to be listed for hearing on 15.12.2011.

Sd/-
[M.DEENA DAYALAN]
MEMBER

Sd/-
[S.JAYARAMAN]
MEMBER

Sd/-
[DR. PRAMOD DEO]
CHAIRPERSON

