

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Review Petition No. 18/2011 in Petition No. 84/2010

**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: 14.11.2011]**

In the matter of

Review of Order dated 12.7.2011 in Petition No.84/2010 regarding approval of generation tariff of Chamera-I Hydroelectric project, (540 MW) for the period from 1.4.2009 to 31.3.2014.

And in the matter of

NHPC Ltd, Faridabad.

...Petitioner

Vs

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 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 12.7.2011 in Petition No. 84/2010, whereby the Commission had determined the tariff of Chamera-I Hydroelectric Project (540 MW) (hereinafter "the generating station")

for the period 2009-14. The petitioner has sought review of the said order dated 12.7.2011 on the following issues, namely –

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

Condonation of delay

2. In its application, the petitioner has prayed for condonation of delay of 33 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 12.7.2011 was received on 3.8.2011 and the delay had occurred due to collection of information from the project/various departments of the petitioner corporation. Accordingly, the petitioner has prayed that the delay of 33 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 12.7.2011 in Petition No.84/2010 was received by the petitioner on 3.8.2011 and the review application which should have been filed by 19.9.2011 has been filed only on 30.9.2011. Thus, there is effectively delay of 11 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 11 days in filing the review application is condoned.

4. Heard the representative of the petitioner on the issues raised at paragraph 1 above. Admit. Issue notice.

5. The petitioner is directed to serve copy of the application for review on the respondents, latest by 18.11.2011. The respondents may file their reply by 25.11.2011, with advance copy to the petitioner, who may file its rejoinder, if any, by 2.12.2011.

6. Matter to be listed for hearing on 8.12.2011.

Sd/-
[M.DEENA DAYALAN]
MEMBER

Sd/-
[S.JAYARAMAN]
MEMBER

Sd/-
[DR. PRAMOD DEO]
CHAIRPERSON