

CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Review Petition No. 9/2012

in
Petition No. 66/2010

Coram: Dr. Pramod Deo, Chairperson
Shri S. Jayaraman, Member
Shri V.S Verma, Member
Shri M. Deena Dayalan, Member

Date of Hearing: 6.9.2012

Date of Order: 1.10.2012

IN THE MATTER OF

Review of order dated 27.1.2012 in respect of Chamera Hydroelectric Project Stage-II (3 x 100 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-Rajdhani Power Ltd., New Delhi
4. Uttar Pradesh Power Corporation Ltd, Lucknow
5. BSES-Yamuna Power Ltd., New Delhi
6. Rajasthan Rajya Vidyut Prasaran Nigam Ltd., Jaipur
7. North Delhi Power Ltd., Delhi
8. Jaipur Vidyut Vitaran Nigam Ltd., Jaipur
9. Jodhpur Vidyut Vitaran Nigam Ltd., Jodhpur
10. Uttaranchal Power Corporation of Ltd., Dehradun
11. Ajmer Vidyut Vitaran Nigam Ltd., Ajmer
12. Himachal Pradesh State Electricity Board, Shimla
13. Engineering Department, UT Secretariat, Chandigarh
14. Power Development Department, Government of J&K, Jammu

...Respondents

Parties Present:

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

ORDER

The petitioner, NHPC Limited filed Petition No. 66/2010 for approval of tariff in respect of Chamera Hydroelectric Project Stage-II (3x100 MW) (hereinafter referred to as "the generating station") for the period from 1.4.2009 to 31.3.2014 based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009, and the Commission by its order dated 27.1.2012 in Petition No. 66/2010 determined the annual fixed charges of the generating station for the period 2009-14, based on the capital cost of ₹200334.77 lakh as on 31.3.2009, as under:

| | <i>(₹ in lakh)</i> | | | | |
|-----------------------------|--------------------|-----------------|-----------------|-----------------|-----------------|
| | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
| Return on equity | 10738.13 | 10740.22 | 10741.97 | 10743.28 | 10743.44 |
| Interest on loan | 7133.24 | 6184.34 | 5247.76 | 4289.30 | 3209.08 |
| Depreciation | 10491.66 | 10493.75 | 10495.49 | 10496.80 | 10496.96 |
| Interest on working capital | 903.34 | 901.50 | 900.94 | 900.97 | 899.56 |
| O&M expenses | 6241.13 | 6598.12 | 6975.53 | 7374.53 | 7796.35 |
| Total | 35507.50 | 34917.93 | 34361.69 | 33804.89 | 33145.39 |

2. Aggrieved by the said order, the petitioner has filed this review application on the ground of error apparent on the face of the order on the following issues:

- (a) Error in the amounts of Annual Fixed Charges claimed;*
- (b) Error in the calculation of Return on Equity; and*
- b) Error in calculation of O&M Expenses*

3. The matter was heard on 'admission' on 6.9.2012 and the representative of the petitioner, during the hearing submitted that the delay of 31 days in filing the review application may be condoned for the reasons stated therein and review petition be admitted. He also submitted that that the errors in the calculation of Return on Equity and O&M expenses in the order dated 27.1.2012 may be corrected and tariff of the generating station may accordingly be revised.

4. We have examined the matter. The petitioner has submitted that the copy of the Commission's order dated 27.1.2012 was received by it on 7.2.2012 and the review application was filed on 13.4.2012

instead of 21.3.2012, causing a delay of 31 days. The petitioner has also submitted that the delay in filing the said application was on account of time taken for collection of information from various departments and has prayed that the same may be condoned. It is noticed that there is a delay of 22 days in filing the said application considering the period of limitation from 7.2.2012 (the date of receipt of the order by the petitioner). The period of limitation for making an application for review is 45 days from the date of receipt of the order. However, this period could be extended or abridged by the Commission for "sufficient reason". The expression "sufficient reason" needs to 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 in filing the review application is condoned.

5. We have examined the submissions of the petitioner. It is noticed that certain inadvertent clerical/arithmetical errors have crept in our order dated 27.1.2012 as regards the computation of Return on Equity and the O&M expenses. Hence, in exercise of the powers under Regulation 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and keeping in view the prayers made, it has been decided to correct the arithmetical/clerical errors as pointed out by the petitioner and accordingly dispose of the application as stated in the subsequent paragraphs.

6. The claim of the petitioner for annual fixed charges for 2009-14 as shown in paragraph 3 of the order dated 27.1.2012, shall be substituted as under:

| | (₹ in lakh) | | | | |
|-----------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
| Return on Equity | 11476.61 | 11481.19 | 11484.99 | 11487.04 | 11487.32 |
| Interest on Loan | 7138.02 | 6191.25 | 5256.16 | 4297.59 | 3216.34 |
| Depreciation | 10496.66 | 10500.94 | 10504.50 | 10506.41 | 10506.67 |
| Interest on Working Capital | 935.36 | 934.60 | 935.14 | 936.25 | 935.94 |
| O & M Expenses | 6569.46 | 6945.24 | 7342.51 | 7762.50 | 8206.51 |
| Total | 36616.12 | 36053.22 | 35523.30 | 34989.79 | 34352.78 |

Error in calculation of Return on Equity

7. The petitioner has submitted that the calculation of Return on Equity, the rate of return on equity was considered as 17.48055% instead of 17.481% as per Regulation 15(4) of the 2009 Tariff Regulations which provides for rate of return on equity to be rounded off to three decimal points. The submission of the petitioner is in order. Accordingly, the rounding off error on this count is corrected and the Return on Equity arrived at in the table under paragraph 21 of the order dated 27.1.2012 is revised as under:

| | (₹ in lakh) | | | | |
|--|-----------------|-----------------|-----------------|-----------------|-----------------|
| | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
| Gross Notional Equity | 61491.63 | 61438.48 | 61443.49 | 61458.49 | 61458.49 |
| Additions due to additional capitalization | 18.85 | 5.01 | 15.00 | 0.00 | 1.79 |
| Closing Equity | 61438.48 | 61443.49 | 61458.49 | 61458.49 | 61460.29 |
| Average Equity | 61429.06 | 61440.99 | 61450.99 | 61458.49 | 61459.39 |
| Return on Equity (Base Rate) | 15.500% | 15.500% | 15.500% | 15.500% | 15.500% |
| Min Alt. Tax rate for the year 2008-09 | 11.330% | 11.330% | 11.330% | 11.330% | 11.330% |
| Rate of Return on Equity | 17.481% | 17.481% | 17.481% | 17.481% | 17.481% |
| Return on Equity | 10738.41 | 10740.50 | 10742.25 | 10743.56 | 10743.72 |

Error in calculation of O&M expenses

8. The O&M expenses allowed for the period 2009-14 in paragraph 68 of the order dated 27.1.2012 was as under:

| | (₹ in lakh) | | | | |
|--------------|-------------|---------|---------|---------|---------|
| | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
| O&M expenses | 6241.13 | 6598.12 | 6975.53 | 7374.53 | 7796.35 |

9. The petitioner has submitted that the date of commercial operation of the generating station is 31.3.2004 and only part year O&M expenses for 2003-04 was available. The petitioner has submitted that the Commission has converted the part year O&M expenses of 2003-04 in to full year O&M

expenses by the multiplying factor of 2.42 (365/121) and allowed O&M expenses by order dated 27.1.2012. It has also pointed out that the year 2003-04 was a leap year and hence 366 days ought to have been considered instead of 365 days while calculating multiplying factor for yearly data. The petitioner has further submitted that all the three units of the generating station were in commercial operation for different periods of the year 2003-04 and the actual machine days during the said year was 243 days and accordingly, the multiplying factor of 4.52 (1098/243) should have been considered instead of 2.42 for proportioning the part year O&M expenses. This, according to the petitioner is an error apparent on the face of the order and the same needs to be corrected.

10. We have examined the matter. Units-I, II and III of the generating station was commissioned on 2.11.2003, 1.1.2004 and 31.3.2004, respectively. The actual operating machine days is 243 days for all three machines and since the year 2003-04 was a leap year, 366 days ought to have been considered instead of 365 days. Accordingly, the total machine days would have been 1098 days. Since, the actual machines days were 243 days, if the O&M expenses are increased on a proportionate basis for the full year, considering the multiplying factor, of 4.52, the total O&M expenses during the year 2003-04 works out to ₹5525.83 lakh (1098/243x1222.93). However, with the increase in number of machine days, expenditure on security expenses, certain items of administrative expenses and other expenses also do not undergo any proportionate changes. It is also observed that the O&M expenses of ₹4091.55 lakh during 2004-05 and ₹4191.93 lakh during 2005-06 has been considered. Being new units and the equipments under warranty period, the O&M expenses for 2003-04 has been considered equal to the O&M expenses allowed for 2004-05 at the 2004-05 price level for the purpose of normalization.

11. Based on the correction of errors and the revision of O&M expenses for 2003-04, as aforesaid, the average normalised O&M expenses at 2007-08 level undergo revision and accordingly, the employee cost percentage in paragraph 67 of the order dated 27.1.2012 is re-worked out as under:

| | ₹ in lakh) | | | | | |
|---|------------|---------|---------|---------|---------|---|
| | 2003-04 | 2004-05 | 2005-06 | 2006-07 | 2007-08 | Average normalized at 2007-08 price level |
| Employee cost (considered) | 2580.20 | 2580.20 | 2505.57 | 2373.50 | 2282.77 | |
| Average normalized employee cost at 2007-08 price level | 3001.44 | 3001.44 | 2771.34 | 2496.21 | 2282.77 | 2710.64 |
| O&M expenses considered | 4091.55 | 4091.55 | 4191.93 | 4296.26 | 4029.06 | |
| Average normalized O&M at 2007-08 price level | 4759.53 | 4759.53 | 4636.58 | 4518.37 | 4029.06 | 4540.61 |
| Percentage of employee cost (2710.64/4540.61 = 59.70%) | | | | | | |

12. Considering the weighted average of 59.7% employee cost, escalation of 5.72% and wage hike of 50% during 2009-10, the O&M expenses for the period 2009-14 is worked out as under:

| | (₹ in lakh) | | | | |
|--------------|-------------|---------|---------|---------|---------|
| | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
| O&M expenses | 6589.78 | 6966.71 | 7365.21 | 7786.50 | 8231.89 |

13. The petitioner has also claimed that the expenses of ₹25 lakh on account of filing fees paid to the Commission during 2004-05 for determination of tariff of the generating station may be considered in O&M expenses. This aspect has already been considered and rejected by the Commission in its orders dated 15.6.2012, 20.6.2012, 31.8.2011 and 18.9.2012 in Review Petition Nos. 14, 15, 19 and 20/2011 filed by the petitioner challenging the orders of the Commission determining tariff of the various generating stations of the petitioner for the period 2009-14. The relevant portion is extracted as under:

"The submissions of the petitioner have been examined. The norms of O&M expenses under sub-clauses (i) to (iii) of Regulation 19(f) of the 2009 Tariff Regulations is based on the actual O&M expenses for the period 2003-04 to 2007-08. Admittedly, the Commission by its order dated 11.9.2008 in Petition No. 129/2005 (suo motu) had rejected the claim of the petitioner for reimbursement of filing fees for 2004-09 by observing that the year-wise escalation allowed in O&M expenses has taken care of the enhanced application filing fee. Since the filing fee of ₹25.00 lakh claimed during 2004-09 has not been allowed to be reimbursed in terms of the decision contained in order dated 11.9.2008, the said expenditure has not been considered for the purpose of normalization of O&M expenses for the period 2009-14. Moreover, separate provision has been made by the Commission for reimbursement of expenditure for filing fees during the period 2009-14 under Regulation 42 of the 2009 Tariff Regulations. The expenditure on filing fees for the years 2009-10 and 2010-11 incurred by the petitioner has been allowed to be recovered from the beneficiaries in terms of In view of this, there is no error apparent on the face of the record and accordingly, review on this count fails"

14. In line with the decision of the Commission in the above said orders, the claim of the petitioner in this application is rejected.

Interest on Working capital

15. Based on the above, the component of the working capital worked out in paragraph 71 of the order dated 27.1.2012 is revised as under:

(a) Receivables

| | <i>₹ in lakh</i> | | | | |
|-------------|------------------|---------|---------|---------|---------|
| | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
| Receivables | 5978.98 | 5884.21 | 5795.19 | 5706.29 | 5600.50 |

(b) Maintenance spares

| | <i>₹ in lakh</i> | | | | |
|----------------------|------------------|---------|---------|---------|---------|
| | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
| Maintenance expenses | 988.47 | 1045.01 | 1104.78 | 1167.98 | 1234.78 |

(c) O&M expenses

| | <i>₹ in lakh</i> | | | | |
|--------------|------------------|---------|---------|---------|---------|
| | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
| O&M expenses | 549.15 | 580.56 | 613.77 | 648.88 | 685.99 |

16. Accordingly, the interest on working capital worked out in paragraph 73 of the order dated 27.1.2012 is revised as under:

| | <i>₹ in lakh</i> | | | | |
|------------------------------------|------------------|----------------|----------------|----------------|----------------|
| | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
| Maintenance expenses | 988.47 | 1045.01 | 1104.78 | 1167.98 | 1234.78 |
| O&M expenses | 549.15 | 580.56 | 613.77 | 648.88 | 685.99 |
| Receivables | 5978.98 | 5884.21 | 5795.19 | 5706.29 | 5600.50 |
| Total | 7516.60 | 7509.77 | 7513.74 | 7523.14 | 7521.27 |
| Rate of Interest | 12.25% | 12.25% | 12.25% | 12.25% | 12.25% |
| Interest on working capital | 920.78 | 919.95 | 920.43 | 921.58 | 921.36 |

17. Accordingly, the annual fixed charges for the generating station for the period from 2009-14 stands revised as under:

| | <i>₹ in lakh</i> | | | | |
|-----------------------------|------------------|-----------------|-----------------|-----------------|-----------------|
| | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
| Return on equity | 10738.41 | 10740.50 | 10742.25 | 10743.56 | 10743.72 |
| Interest on loan | 7133.24 | 6184.34 | 5247.76 | 4289.30 | 3209.08 |
| Depreciation | 10491.66 | 10493.75 | 10495.49 | 10496.80 | 10496.96 |
| Interest on working capital | 920.78 | 919.95 | 920.43 | 921.58 | 921.36 |
| O&M expenses | 6589.78 | 6966.71 | 7365.21 | 7786.50 | 8231.89 |
| Total | 35873.59 | 35305.25 | 34771.14 | 34237.74 | 33603.01 |

18. The petitioner shall claim the difference in respect of the tariff determined by order dated 27.1.2012 and the tariff determined by this order from the beneficiaries in six equal monthly installments.

19. Except the above, all other terms contained in our order dated 27.1.2012 remains unchanged.

20. Review Petition No. 9/2012 is disposed of in terms of the above.

Sd/-
[M. Deena Dayalan]
Member

Sd/-
[V.S. Verma]
Member

Sd/-
[S. Jayaraman]
Member

Sd/-
[Dr. Pramod Deo]
Chairperson