

Central Electricity Regulatory Commission
New Delhi

Review Petition No.5/2012

in
Petition No. 265/2010

Coram: Dr. Pramod Deo, Chairperson
Shri S. Jayaraman, Member
Shri V.S. Verma, Member
Shri A. S. Bakshi, Member (Ex-officio)

Date of hearing: 14.6.2012

Date of order: 5.9.2012

In the matter of

Revision of order dated 16.1.2012 in Petition No.265/2010 regarding fixation of final tariff of Omkareshwar Hydroelectric Project (8 x 65 MW) for the period 20.8.2007 to 31.3.2009.

And in the matter of

NHDC Ltd, Bhopal

.....Petitioner

Vs

1. Madhya Pradesh Power Trading Company Ltd, Jabalpur
2. Narmada Valley Development Department, Bhopal

....Respondents

Parties Present:

1. Shri Anurag Seth, NHDC.
2. Shri Ashish Jain, NHDC.
3. Shri A.Gupta, MPPTCL

ORDER

This petition has been filed by the petitioner, NHDC Ltd for review of order dated 16.1.2012 in Petition No.265/2010 pertaining to the fixation of final tariff of Omkareshwar Hydroelectric Project (8 x 65 MW) (hereinafter the generating station") for the period from 20.8.2007 to 31.3.2009. The grounds on which review of the said order was sought for in the review petition, is as under:

- (i) *Error in the calculation of depreciation;*
- (ii) *Non consideration of un-discharged liability of ₹8.96 crore during the period from 1.4.2008 to 31.3.2009 in the capital cost;*
- (iii) *Error in the computation of Advance Against Depreciation;*
- (iv) *Error in the computation of Weighted Average Rate of Interest on loan; and*
- (v) *Error in the computation of Maintenance spares for Working capital for 2008-09.*

2. During the hearing on 22.3.2012, the representative of the petitioner submitted that the review of order dated 16.1.2012 may be restricted to the grounds raised in sub-clauses (iv) and (v) of paragraph 1 above, since the Commission by its order dated 14.3.2012 had revised the tariff of the generating station after correction of the errors indicated in sub-clauses (i) to (iii) of paragraph 1 above. After considering the submissions of the petitioner, the review petition was admitted by order dated 3.4.2012 on the issue raised in sub-para (iv) of paragraph 1 above, namely, the error in the consideration of weighted average rate of interest on loan. However, the error in computation of maintenance spares for working capital (*as in sub para(v) of paragraph 1above*) was directed to be corrected at the time of disposal of the petition. We now examine the issue raised by the parties as under:

Error in the consideration of weighted average rate of interest on loan

3. In the instant petition, the petitioner has submitted that it has worked out the weighted average rate of Interest on loan as 10.71% for the period from 1.4.2008 to 31.3.2009 based on the actual loan portfolio throughout the year and taking into consideration the time factor for which the particular loan was serviced. It has also submitted that refinancing was done with effect from 28.6.2008 and during the period from 1.4.2008 to 28.6.2008 (88 days) the applicable rate of interest 7% and whereas for the balance period from 28.6.2008 to 31.3.2009 (277 days) the applicable rate was 11.89%. As such, the petitioner has submitted that while calculating the weighted average rate of interest, the impact of time dimension should have been given due weightage. The petitioner has also pointed out that under similar circumstances, the Commission vide its order dated 19.4.2011 in Petition No. 207/2010 had followed this

methodology and the same should have been adopted *mutatis mutandis* in the instant case while computing the weighted average rate of interest . The petitioner during the hearing on 14.6.2012 has reiterated the submissions above and has prayed that the weighted average rate of Interest on loan be revised to 10.71% instead of 9.38% as in order dated 16.1.2012.

4. The respondent No.1, MPPTCL in its reply dated 26.4.2012 has submitted that the Commission had in its order dated 16.1.2012 adopted the correct methodology for working out the rate of interest on loan on the basis of actual rate of interest applied on yearly average loan and therefore the petitioner is not entitled to an relief on this count. It has also pointed out that the petitioner has refinanced loan at a higher rate of interest which is in violation of Regulation 38(1)(c) of the 2004 Tariff Regulations. As regards the claim of the petitioner to adopt the methodology as in order dated 19.4.2011 in Petition No. 207/2010, the said respondent has submitted that the Commission in all its tariff orders pertaining to the determination of tariff for 2004-09 for other central generating stations had adopted and approved the average net loan as average of opening and closing loan for the purpose of calculating the interest on loan capital and the same has been adopted in the instant case. It has therefore prayed that the review petition is not maintainable and is liable to be rejected.

5. Pursuant to the directions of the Commission during the hearing on 14.6.2012, the respondent No.1, MPPTCL vide its affidavit dated 11.7.2012 has submitted that the methodology considered by the Commission in all its other tariff orders for 2004-09 for calculation of weighted average rate of interest on loan, without considering the time factor, may be considered in the instant case also.

6. Heard the parties and examined the documents available on record. In order dated 16.1.2012 in Petition No. 265/2010 the Commission had worked out the weighted average rate of interest of loan as 7.00% and 9.38% for the years 2007-08 (20.8.2007 to 31.3.2008) and 2008-09, on the basis of actual rate of interest applied on the yearly average loan, applied on the normative average loan during the

year, to arrive at the interest on loan on the basis of Form-13 under the provisions of the 2004 Tariff Regulations. The petitioner has submitted that the interest on loan may be worked out on the weighed average rate of interest of 10.71% from 1.4.2008 to 31.3.2009 based on actual loan portfolio throughout the year and taking into consideration the time factor for which a particular loan was served. According to the petitioner, the above said methodology considered in order dated 19.4.2011 in Petition No. 207/2010, pertaining to another generating station of the petitioner, is required to be adopted in this case also. The submission of the petitioner is not acceptable. The Commission in all its orders determining the tariff of central generating stations for the period 2004-09, has consistently adopted the weighted average rate of interest on loan computed on the basis of average of interest on loans, taking into account the simple average gross loans (i.e opening+ closing)/2 in accordance with Form-13 of the 2004 Tariff Regulations. We are of the view that the methodology adopted consistently to all other tariff orders of the central generating stations for calculation of interest on loan, in terms of Form -13 under the 2004 Tariff Regulations, as stated, should be applicable in the instant case also. Moreover, the methodology considered in Commission's order dated 19.4.2011 in Petition No. 207/2010, being a one off case, there is no reason to adopt the same in the present case. In view of this, the prayer of the petitioner is rejected and accordingly, review on this count fails.

7. As regards the error in computation of maintenance spares for working capital for 2008-09, the impact of *pro rata* escalation of 6% per annum, which was inadvertently not considered in order dated 16.1.2012, has been considered for the year 2008-09, in this order.

8. The prayer of the petitioner in the review petition is disposed of in terms of the above. Consequent upon the correction of error as aforesaid, the computation for Interest on Working Capital is revised overleaf:

(₹ in lakh)

	From 20.8.07 to 24.8.07 (For 1 Machine)	From 25.8.07 to 10.9.07 (For 2 Machine)	From 11.9.07 to 25.9.07 (For 3 Machine)	From 26.9.07 to 18.10.07 (For 4 Machine)	From 19.10.07 to 29.10.07 (For 5 Machine)	From 30.10.07 to 9.11.07 (For 6 Machine)	From 10.11.07 to 14.11.07 (For 7 Machine)	From 15.11.07 to 31.3.08 (For 8 Machine)	2008-09
Maintenance Spares	2.28	16.66	23.52	51.27	32.54	41.32	23.11	760.24	2061.91
O & M expenses	0.29	2.08	2.94	6.41	4.07	5.17	2.89	95.03	255.84
Receivables	5.05	36.92	52.12	113.59	72.10	91.55	51.21	1681.77	5326.89
Total	7.61	55.66	78.58	171.27	108.72	138.03	77.21	2537.04	7644.64
Rate	12.25%	12.25%	12.25%	12.25%	12.25%	12.25%	12.25%	12.25%	12.25%
Interest on Working Capital	0.93	6.82	9.63	20.98	13.32	16.91	9.46	310.79	936.47

9. Accordingly, the annual fixed charges determined for 2007-09 by order dated 16.1.2012 is revised as under:

(₹ in lakh)

	From 20.08.07 to 24.08.07 (For 1 Machine)	From 25.08.07 to 10.09.07 (For 2 Machine)	From 11.09.07 to 25.09.07 (For 3 Machine)	From 26.09.07 to 18.10.07 (For 4 Machine)	From 19.10.07 to 29.10.07 (For 5 Machine)	From 30.10.07 to 09.11.07 (For 6 Machine)	From 10.11.07 to 14.11.07 (For 7 Machine)	From 15.11.07 to 31.03.08 (For 8 Machine)	2008-09
Depreciation	5.20	38.05	53.72	117.09	74.32	94.37	52.79	1737.83	4644.46
Interest on Loan	11.16	81.65	115.27	251.23	159.47	202.47	113.25	3705.70	12865.76
Return on Equity	9.56	69.98	98.80	215.34	136.69	173.55	97.08	3195.97	8541.44
Advance against Depreciation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1903.19
Interest on Working Capital	0.93	6.82	9.63	20.98	13.32	16.91	9.46	310.79	936.47
O & M Expenses	3.42	24.99	35.29	76.91	48.82	61.98	34.67	1140.36	3070.05
Total	30.28	221.49	312.71	681.56	432.61	549.28	307.24	10090.64	31961.36

10. The petitioner shall claim the difference in respect of the tariff determined by order dated 16.1.2012 and the tariff revised by this order from the beneficiaries in three equal monthly installments.

11. Review Petition No. 5/2012 is disposed of as above.

Sd/-
[A.S.BAKSHI]
MEMBER (EO)

Sd/-
[V.S.VERMA]
MEMBER

Sd/-
[S.JAYARAMAN]
MEMBER

Sd/-
[DR. PRAMOD DEO]
CHAIRPERSON