

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.177/GT/2013**

Subject: Revision of tariff for the period 2009-14 in respect of Tanakpur HE Project.

Date of hearing: **24.10.2013**

Coram: Shri Gireesh B. Pradhan, Chairperson  
Shri M.Deena Dayalan, Member  
Shri A.K. Singhal, Member

Petitioner: NHPC Ltd

Respondents: PSPCL & others

Parties present: Shri Parag Saxena, NHPC  
Shri S.K.Meena, NHPC  
Shri Padamjit Singh, PSPCL  
Shri R.B.Sharma, Advocate, BRPL

**RECORD OF PROCEEDINGS**

This petition has been filed by the petitioner, NHPC for revision of tariff for the period from 1.4.2009 to 31.3.2014 in respect of Tanakpur HE Project (the generating station) in terms of Regulation 6(1) of the 2009 Tariff Regulations.

2. During the hearing, the representative of the petitioner submitted as under:
  - a) There is significant difference between additional capital expenditure allowed and the actual capital expenditure incurred by the petitioner during the period 2009-10, 2010-11 and 2011-12.
  - b) Additional information as sought for by the Commission has been submitted and copies have been served on the respondents.
  - c) Rejoinder to the reply filed by the respondent, UPPCL, BRPL and AVVNL has been submitted.
  - d) Tariff of the generating station may be determined as prayed for in the petition.
3. The representative of the respondent, PSPCL filed its reply and submitted as under:
  - (a) The additional capital expenditure claimed towards protection of power channel embankment and protection of Sharda River along power channel during 2011-12 is not justifiable since these expenditures form part of the O&M expenses.
  - (b) The expenditure of ₹6 lakh claimed on account of arbitration award may be considered only after the details as to the nature of works/claim and the period to which it relates are submitted by the petitioner.
4. The learned counsel for the respondent, BRPL referred to his reply and submitted as under:
  - (a) The petitioner may be directed to submit details of additional capital expenditure incurred for the period 2009-12 duly audited and certified by auditors as per Regulation 6(3) of the 2009 Tariff Regulations.

(b) The petitioner claimed and was allowed grossing up of normal tax rate paying minimum alternate tax with rate of return @ 17.481% but in the truing up petition, return on equity is grossed up with 23.481% paying normal corporate tax rate @ 33.99%. The petitioner may be asked to submit and claim the actual tax paid to the government duly audited and certified by the auditor.

(c) Any claim for additional capitalization under Regulation 9(2) can be allowed at the discretion of the Commission only when such capital expenditure has been incurred. However, it was pointed out that the said provision had been amended on 31.12.2012 by incorporation of the words 'projected to be incurred' after the word 'capital expenditure incurred'.

(d) Most of the claims of the petitioner for additional capital expenditure under Regulation 9(2)(iv) which were earlier not approved by the Commission for the period 2009-12 have been claimed in this petition on the ground that the same has been actually incurred. These claims are not permissible since the expenditures pertain to minor assets/items which are not permissible in terms of proviso to Regulation 9(2)(v) of the 2009 Tariff Regulations.

(e) The de-capitalization of minor items are required to be adjusted in the capital cost as per proviso under regulation 7(1)(c) of the 2009 Tariff regulation.

(f) The written note of arguments circulated may be taken on record.

5. In response to the above, the representative of the petitioner clarified as under:

(a) Audited capital cost of the additional capital expenditure for the period 2009-12 has already been submitted on 28.3.2013 in terms of the direction of the Commission on 5.8.2013 and copies of the same have been served on the respondents.

(b) The provisions of the 2009 Tariff regulations regarding applicability/treatment of Income tax are very clear and have been in force since 1.4.2009. The provisions of Regulation 15 for computation of return on equity provide that grossing up and truing up of tax rate are applicable to the generating company as a whole and not for the generating station in isolation. Moreover, income tax is calculated on income of the generating station and not on the units of the station.

(c) Detailed response to the reply of the respondent, BRPL as regards additional capitalization and de-capitalization for the period 2009-12 as raised by the said respondent has been furnished in the rejoinder which may be considered.

(d) Rejoinder to the reply of the respondent, PSPCL may be permitted.

6. The Commission after hearing the parties, directed petitioner to file its rejoinder on or before 7.11.2013, with copy to the respondent, PSPCL. The Commission also directed the petitioner to submit the following information, on affidavit, with copy to the respondents, on or before 11.11.2013.

(a) Clarification as to the major reasons for changes in taxability (MAT/Corporate Tax) during the period from 2009-10 to 2012-13 with supporting computation/documents

(b) Details of capital spares de-capitalized during 2009-10, 2010-11 and 2011-12 including the year of their capitalization with the certificate that these were not a part of the capital base for the purpose of tariff along with the details of petition/orders in which they were allowed for the purpose of tariff.

7. Subject to the above, the Commission reserved its order in the petition.

By order of the Commission

Sd/-  
(T. Rout)  
Chief (Law)