

**Central Electricity Regulatory Commission
New Delhi**

RECORD OF PROCEEDINGS

Petition No. 45/2010

Subject: Petition under Section 79 of the Electricity Act, 2003, seeking directions to M.P. Power generating company Ltd (Respondent No. 3) for filing of ARR and petition for determination of tariff in respect of the Rajghat Hydro Power Project.

Date of Hearing: 3.1.2013

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

Petitioner: Uttar Pradesh Power Corporation Ltd (UPPCL)

Respondents: Secretary Energy Dept, State of M.P., MPSEB, MPPGCL and MPTradeco,

Parties present: Shri S.Venkatesh, Advocate, UPPCL
Ms. Ambica Garg, Advocate, UPPCL
Shri Kapil Agarwal, UPPCL
Shri G.Umapathy, Advocate, MPPMCL
Shri K.K.Agrawal, MPPTCL
Shri Dilip Singh, MPPTCL

At the outset, the learned counsel for the petitioner objected to the filing as regards the details audited capital cost the computation of interest payable by the petitioner as directed by the Commission during the hearing on 8.11.2012 and submitted that the said details submitted by the respondent MPPMCL are contrary to the Regulations specified by the Commission. He also submitted that no headway could be made in the present case based on the own computations filed by the said respondent.

2. On a specific query by the Commission as regards the filing of petition for determination of tariff of the generating station, the learned counsel for the respondent, MPPMCL, referred to paragraph 20 of the interim order dated 9.8.2012 and submitted that the question of jurisdiction to regulate the tariff of the generating station is yet to be decided by the Commission. Referring to the written submissions filed on 6.5.2011, the learned counsel submitted that the present case does not involve a sale of electricity but only sharing of cost of power generated by the unit which has been developed jointly by joint financing by the two State Electricity Boards. He also submitted that the 50% share of power would be at the cost of generation plus 5% which does not require the determination of tariff for sale of power. The learned counsel further submitted that MPGENCO had already filed tariff petition before the State Commission (MPERC) towards 50% share of power and had furnished the capital cost of this project for determination of tariff for the State of MP which had

been since been determined by the Commission. The learned counsel submitted that the judgment of the Appellate Tribunal in Appeal No. 35/2008 was not applicable to the present case as the issue involved therein was with regard to inter-state transmission of electricity which squarely fall under Section 79(1)(c) of the Act. The present case is identical to the case pertaining to Rihand & Matatila as regards sharing of power at the cost of generation plus 5% but is different to the extent that this project has been jointly developed by both the State Electricity Boards of UP and MP on 50:50 cost sharing basis. He also submitted that the audited details of capital cost, funds borrowed by MPEB and computation of interest payable by the petitioner as directed by the Commission have been filed on affidavit, with detailed computation for prudence check of the Commission. He therefore submitted that the petition filed by the petitioner is liable to be dismissed. The learned counsel for the petitioner objected to the above submissions.

3. On a specific query by the Commission as regards the charges decided by the State Commission in the said tariff order, the representative of the respondent, MPPMCL submitted that it would provide the details by the next date of hearing.

4. The learned counsel for both the parties prayed that they may be granted liberty to file additional submissions on the question of jurisdiction of the Commission to determine the tariff of the project.

5. The Commission accepted the prayer and directed the parties to file their additional submissions on the issue of jurisdiction, with copies to the other, on or before 17.1.2013, in addition to the details to be submitted by the respondent MPPMCL on affidavit, as in paragraph 3 above.

6. Subject to the above, order in the petition on the issue of 'jurisdiction of the Commission to determine tariff of the project' is reserved.

By order of the Commission

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