

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.229/GT/2013

Subject: Revision of tariff in respect of Dhauliganga Hydroelectric Project for the period 2009-14.

Date of hearing: **7.11.2013**

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

Petitioner: NHPC Ltd

Respondents: PSPCL & others

Parties present: Shri A.K.Pandey, NHPC
Shri S.K.Meena, NHPC
Shri R.B.Sharma, Advocate, BRPL
Shri Padamjit Singh, PSPCL
Shri T.P.S. Bawa, PSPCL

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 Dhauliganga Hydroelectric Project (280 MW) (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) The actual capital expenditure incurred by the petitioner during the period 2009-10, 2010-11 and 2011-12 and projected expenditure for the period 2012-14 has been claimed in this petition.
 - (b) Additional information as sought for by the Commission has been filed and copies have been served on the respondents.
 - (c) Rejoinder to the replies filed by the respondents, UPPCL, and AVVNL has been submitted.
 - (d) Tariff of the generating station determined by order dated 14.3.2011 in petition No. 109/2010 may be revised as prayed for in the petition.
3. The representative of the respondent, PSPCL submitted as under:
 - (a) In page 44 of the petition it is noticed that the petitioner has made certain payments (SI Nos. 1, 6 & 7 of the table) in respect of works pursuant to the decision of the District Court, Pithoragarh. In this connection the petitioner may be directed to clarify as to whether the petitioner had filed appeal against the decision of the District Court and if not, why no appeal was filed.
 - (b) The petitioner may be directed to clarify the status as regards the expenditure of ₹1.00 lakh claimed by the petitioner during the period 2013-14.

- (c) Time may be granted to file reply in the matter.
4. The learned counsel for the respondent BRPL submitted as under:
- (a) Reply in the matter has been filed which may be considered.
- (b) The petitioner may be directed to submit details of additional capital expenditure incurred for the period 2009-10 to 2011-12 duly audited and certified by auditors as per Regulation 6(3) of the 2009 Tariff Regulations.
- (c) 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.
- (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. The Commission may accordingly allow the capitalization of expenditure based on prudence check. (Details as mentioned in the reply were referred to for consideration of the Commission).
- (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 Regulations. The petitioner reliance to order dated 7.9.2010 in Petition No. 109/2009 is not acceptable as the said order was covered under the 2004 Tariff Regulations, whereas the instant case is governed by the provisions of the 2009 Tariff Regulations.
- (f) Out of the actual additional capital expenditure allowed by the Commission for 2009-12, it is noticed that expenditure amounting to 40.32% has only been considered by the petitioner.
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 in terms of the direction of the Commission and copies of the same have been served on the respondents.
- (b) Certain additional capital assets which were not claimed/allowed by the Commission in Petition No.109/2010 and which have become necessary have been undertaken as per requirement and the capital expenditure along with detailed justification have been included in the claim.
- (c) Detailed justification for the variation between the actual additional expenditure and the projected/actual additional capitalization allowed by the Commission has been furnished, which may be considered.
- (d) 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. In this regard the information filed by the petitioner in Petition No. 177/GT/2013 (Tanakpur HE Project) for 2009-14 as sought for by the Commission may be considered.

(e) Time to file rejoinder to the reply of the respondent PSPCL may be permitted.

6. The Commission after hearing the parties directed the respondent PSPCL to file its reply with advance copy to the petitioner, on or before 19.11.2013. Rejoinder, by the petitioner, on or before 25.11.2013.

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

By order of the Commission

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