

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 229/GT/2012

Subject: Revision of Annual Fixed Charges on account of additional capital expenditure incurred during 2008-09 in respect of Teesta HE project Stage-V.

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: NHPC Ltd.

Respondent: WBSEDCL and 5 others

Parties present: Shri R. Raina, NHPC
Shri S .K. Meena, NHPC
Shri Piyush Kumar, NHPC
Shri R. B. Sharma, Advocate, JSEB & GRIDCO

RECORD OF PROCEEDINGS

During the hearing the representative of the petitioner submitted as under:

(a)The petitioner had filed Petition No.132/2009 for determination of tariff of the generating station for the period 1.3.2008 to 31.3.2009 based on the capital cost of ₹2619.60 crore as on date of commercial operation i.e 10.4.2008, which included an amount of ₹130.16 crore as un-discharged liability. Out of this total un-discharged liability, an amount of ₹100.64 crore was discharged during the year 2008-09.

(b)The Commission in its order dated 5.1.2010 had allowed the capital cost of ₹248943.71 lakh as on COD of the generating station, being less than the sanctioned capital cost without inclusion of ₹130.16 crore towards un-discharged liability.

(c)The matter regarding disallowance of the discharged liability of ₹100.64 crore was raised in Petition No. 216/2009 pertaining to additional capitalization for 2008-09 and the claim for discharged liability was clubbed along with the additional

capital expenditure by amendment of the said petition. However, the Commission by its order dated 8.6.2011 disposed of the said petition giving liberty to the petitioner to approach the Commission for revision of tariff after approval of RCE.

(d) The RCE as approved by the Central Government vide letter dated 13.9.2012 is ₹2656.95 crore. Accordingly, the Commission may consider the total un-discharged liability of ₹130.16 crore in the instant case.

(e) The difference in the tariff already billed and tariff approved by the Commission by order dated 5.1.2010 in Petition No.132/2009 shall be adjusted along with a simple interest rate of 6% p.a. in terms of Regulation 5A of the 2004 Tariff Regulations.

2. In reply, the learned counsel for the respondents, JSEB and GRIDCO submitted as under:

(a) The discharged liability of ₹100.64 crore during the year 2008-09 out of the total liability of ₹130.16 crore could only be considered for the purpose of tariff. Similarly, out of the total additional capitalization amount of ₹39.31 crore, the net expenditure of ₹38.84 crore could only be considered for tariff, since an expenditure of ₹0.47 crore is yet to be discharged.

(b) The judgment of the Appellate Tribunal dated 10.12.2007 in Appeal Nos.151 &152/2007 pertaining to the generating stations of NTPC as regards consideration of un-discharged liabilities for the purpose of tariff cannot be extended and implemented in respect of the hydro generating stations of the petitioner as neither the petitioner nor the respondents were parties in those proceedings. The petitioner had also not filed appeal against the Commission's order dated 5.1.2010 in Petition No. 132/2009 and thus the same had attained finality.

(c) The simple interest rate of 6% p.a. is permissible only when provisional tariff or provisional billing is allowed by the Commission on an application of the generating company. The tariff approved by the Commission vide order dated 5.1.2010 was neither the provisional tariff nor provisional billing, but the final tariff of the generating station. Thus, the provisions of Regulation 5A have no application.

3. The Commission after hearing the parties reserved its order in the petition.

By order of the Commission

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