

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 09/RP/2016

in

Petition No.46/GT/2015

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri A.K. Singhal, Member

Shri A.S. Bakshi, Member

Date of Order: 7.07.2017

In the matter of

Review of Commission's order dated 13.1.2016 in Petition No.46/GT/2015 regarding approval of generation tariff of Kopili Hydro Electric Power plant (4 x 50 MW) of North Eastern Electric Power Corporation Limited for the period from 1.4.2014 to 31.3.2019.

And

In the matter of

North Eastern Electric Power Corporation Ltd
Brookland Compound, Lower New Colony
Shillong-793 003

.....Petitioner

Vs

1. Assam Power Distribution Company Ltd.
"BijuleeBhawan", Paltanbazar
Guwahati-781 001
2. Meghalaya Energy Corporation Ltd.
Meter Factory Area, Short Round Road
Integrated Office Complex
Shillong-793 001
3. Tripura State Electricity Corporation Ltd.
BidyutBhavan, North Banamalipur
Agartala-799 001
4. Power and Electricity Department
Govt. of Mizoram P&E Office Complex,
Electric Veng, Aizwal-796 001
5. Manipur State Power Distribution Co. Ltd.,
Electrical Complex, Khawai Bazar,
Keishampat, Imphal-795 001



6. Department of Power
Govt. of Arunachal Pradesh, VidyutBhawan,
Itanagar-791 111

7. Department of Power
Govt. of Nagaland
Kohima-797 001

8. North Eastern Regional Power Committee
NERPC Complex, Dong Parmaw
Lapalang, Shillong-793 003

9. North Eastern Regional Load Despatch Centre
Dongtieh, Lower Nongrah
Lapalang, Shillong-793 006

...Respondents

Parties present:

Shri Paresh Ch.Barman, NEEPCO
Shri BhaskarGoswami, NEEPCO

ORDER

This application has been filed by the petitioner, NEEPCO for review of order dated 13.1.2016 in Petition Nos. 46/GT/2015 whereby the Commission had approved the tariff of Kopili Hydro Electric Power plant (4 x 50 MW) (hereinafter referred to as "the generating station") for the period from 1.4.2014 to 31.3.2019 in terms of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 ("the 2014 Tariff Regulations").

2. Aggrieved by the said order dated 13.1.2016, the petitioner has sought review in respect of "approval of works/assets as additional capitalisation for the purpose of tariff".

3. During the hearing of the matter on admission, the representative of the petitioner submitted that most of the projected additional capital works allowed for the period 2009-14 in order dated 30.9.2011 could not be completed for various unavoidable reasons and hence, these works were deleted from the claims in Petition Nos. 238/GT/2013 and 456/GT/2014 for the period 2009-14. He therefore submitted that these works were



projected for execution during the period 2014-19 and was accordingly included in the claim for additional capitalisation during the period 2014-19 in the original petition. The representative further submitted that only a minor portion of the work completed and allowed for the period 2009-14 were in the nature of O&M and could not be capitalised and hence only these minor expenditure were charged to O&M expenses and deleted from the claims for additional capitalization during the period 2009-14. He also stated that the rest of the capital works allowed in 2009-14 could not be executed during the said period and hence the new works were projected for execution during the period 2014-19. The representative of the petitioner also submitted that none of the new works now projected for capitalization for the period 2014-19 includes the works which could not be completed during the period 2009-14. He further stated that since these works are proposed for execution for the first time, they do not qualify to be termed as frequent in nature. Accordingly, the representative of the petitioner prayed for review of the order dated 13.1.2016 and allow the additional capitalization claimed on projected basis (as indicated in Annexure-A attached) for the period 2014-19 and also revise the annual fixed charges of the generating station.

4. We have examined the matter. It is observed that the petitioner had claimed projected additional capital expenditure of ₹12933.79 lakh for the period 2014-19 which included expenditure of ₹12497.94 lakh towards replacement of assets and ₹435.85 lakh towards new assets/works. However, the Commission in its order dated 13.1.2016 had disallowed the additional capitalisation of these assets/works (as indicated in Annexure A of this petition) and had observed under:-

"13. It is evident from the above submission that though the petitioner had incurred expenditure on replacement of corroded components during 2009-14, major portion of the expenditure which are in the nature of O&M expenses could not be capitalized. The



expenses towards replacement of worn out/ corroded components have been charged to O&M expenses by the petitioner for the period 2009-14 and the same has been considered in the normative O&M expenses allowed to the generating station under the 2014 Tariff Regulations applicable for the period 2014-19. Accordingly, the projected additional capital expenditure claimed by the petitioner during the period 2014-19 i.e expenditure on replacement of cooler tubes, small valves, annual overhauling of turbines etc., which are in the nature of O&M expenses have not been considered for capitalization for the purpose of tariff by this order."

5. It is evident from the above order that the claim of the petitioner for additional capitalization in 2014-19 was not allowed as major portion of the expenses towards replacement of assets/works in 2009-14 were charged to O&M expenses for the said period and the same had been considered in the normative O&M expenses allowed to the generating station for the period 2014-19 in terms of the 2014 Tariff Regulations. It is also pointed out that the Commission while revising the tariff of the generating station for the period 2009-14 in Petition No. 238/GT/2013 had by order dated 4.7.2014 allowed the year-wise normative O&M expenses amounting to ₹19745.50 lakh, based on the actual O&M expenses incurred during the period from 2002-03 to 2007-08 as detailed under:

<i>(₹ in lakh)</i>				
2009-10	2010-11	2011-12	2012-13	2013-14
3522.42	3723.90	3936.91	4162.10	4400.17

6. Similarly, the Commission while approving the tariff of the generating station for the period 2014-19 by order dated 13.1.2016 in the original petition had allowed the year-wise normative O&M expenses amounting to ₹35018.02 lakh, based on the actual O&M expenses incurred during the period from 2008-09 to 2012-13 as under:-

<i>(₹ in lakh)</i>				
2014-15	2015-16	2016-17	2017-18	2018-19
6132.72	6540.18	6974.71	7438.11	7932.30

7. It is observed from the above tables that the difference between the O&M expenses allowed for the period 2009-14 and 2014-19 is ₹15272.52 lakh. Further, the increase in O&M expenses allowed for the period 2014-19 vide order dated 13.1.2016 is on account of



the increase in expenses allowed under the heads "Repair and Maintenance Cost" and "Cost of Spares" during the period 2008-13 towards repairing/replacing the components worn out due to acidic nature of water. This cost on replacement of assets due to acidic nature of water for the period 2008-13 had been considered in the O&M expense norms specified by the Commission under the 2014 Tariff Regulations applicable for the period 2014-19. Considering the fact that the O&M expenses allowed vide order dated 13.1.2016 is in terms of the 2014 Tariff Regulations (which include the actual O&M expenses incurred during the period 2008-13), the capitalization of the cost for replacement of assets/works (as at Annexure A) were accordingly not allowed in the said order. In view of this, there is no error apparent on the face of the record for review of the order dated 13.1.2016. The petitioner has sought to argue the case on merits and the same is not permissible in review. Accordingly, the prayer of the petitioner for review of the order dated 13.1.2016 is not maintainable and is therefore rejected.

8. The petitioner has also submitted that all the new works projected for capitalization for the period 2014-19 which includes works not completed in 2009 are capital in nature and do not qualify to be termed as frequent in nature to be booked against the O&M expenses. Accordingly, the petitioner has submitted that the disallowance of these capital works/assets in order dated 13.1.2016 is an error apparent on the face of the order. This submission of the petitioner is an afterthought and cannot be accepted. It is noticed from order dated 13.1.2016 that the claim of the petitioner for additional capital expenditure also included an expenditure towards replacement of assets. Moreover, the major expenses claimed by the petitioner under the head "replacement" included machinery components which had been worn out/corroded due to the acidic nature of water. It is pertinent to mention that the problem of acidic nature of water and replacement of assets/repair of



assets and procurement of new assets on account of damage caused on this count had already been considered by the Commission while determining the tariff of the generating station for the period 2009-14 by order dated 30.9.2011 in Petition No. 297/2009 wherein, the Commission while allowing the expenditure for replacement of some of the assets towards efficient operation of the generating station, had made it clear that the expenditure towards treatment of assets should not be frequent and should be for a longer period failing which these expenses would not be allowed and would fall under the category of O&M expenses. The relevant portion of the order is extracted as under:-

"23. We now examine the claim of the petitioner for replacement of assets damaged due to acidic nature of water. It is observed that most of the items/assets which have been damaged and replaced or repaired due to acidic nature of water (pH value 3.36 to 5.44 instead of the normal pH value of 6.5 to 8.5) are sought to be replaced. The quality of the water became evident during the period after June, 2006, when the same was tested by the Geological Survey of India, North Eastern Region, Shillong, the Meghalaya State Pollution Control Board and the Centre for Soil and Material Research Station (CSMRS), New Delhi. The expert committee comprising of the CEA, CWC and the CSMRS had also visited the project site during the period from 27.2.2009 to 3.3.2009 and has suggested for routine testing of water in the area, concrete core drilling at specified locations in Khandong Dam, test of silt & slush, monitoring of seepage etc., Repair and replacement of corroded machine components, replacement of guide vanes with stainless steel materials, replacement of cooling pipes and tubes with suitable materials with epoxy coating. The expert committee had also recommended various short-term and long-term measures to be taken up. In the light of the recommendations of the expert committee, the petitioner has sought the replacement of assets/repair of assets and procurement of new assets, on account of damage caused due to the acidic nature of water. Taking into consideration the recommendations of the expert committee and since these assets are necessary for the efficient operation of the generating station, we are of the view that the expenditure to be incurred for replacement of the assets/repair of the assets and the procurement of new assets on account of the damage caused due to the acidic nature of water should be allowed in terms of Regulation 9(2)(iv) of the 2009 regulations. We proceed accordingly. However, it is expected that the expenditure towards treatment of the assets in order to encounter the acidic nature of water should not be frequent (within a year or two) and should be for a longer period (more than five years), failing which, the expenses cannot be capitalized and would fall under the category of O & M expenses"

9. As stated, the expenses towards replacement of worn out/ corroded components have been charged to O&M expenses by the petitioner for the period 2009-14 and the same had already been considered in the normative O&M expenses allowed to the generating station



for the period 2014-19, In this background, the Commission in its order dated 13.1.2016 had disallowed the claim of the petitioner for additional capitalisation of assets/works. Therefore, there is no error apparent on the face of the order dated 13.1.2016 and the prayer of the petitioner is accordingly rejected.

10. Petition No. 9/RP/2016 is disposed of at admission stage.

-Sd/-
(A.S. Bakshi)
Member

-Sd/-
(A.K. Singhal)
Member

-Sd/-
(Gireesh B. Pradhan)
Chairperson

