

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 19/MP/2017**

**Coram:  
Shri P.K. Pujari, Chairperson  
Shri A. K. Singhal, Member  
Shri A.S. Bakshi, Member  
Dr. M.K. Iyer, Member**

**Date of Order: 15<sup>th</sup> May, 2018**

**In the matter of**

Revision of the Declared Capacity of Nathpa Jhakri Hydro Power Station (6 x 250 MW) of SJVN Limited on 15.7.2016 and 9.8.2016 by the Northern Regional Load Dispatch Centre.

**And  
In the matter of**

SJVN Limited  
Shakti Sadan, Corporate Office Complex  
Shanan, Shimla-171006

..... **Petitioner**

**Versus**

1. Punjab State Power Corporation Ltd.  
The Mall, Patiala-147001
2. Haryana Power Purchase Centre,  
Shakti Bhawan, Sector-VI, Panchkula-134019
3. Tata Power Delhi Distribution Limited  
33 kV Sub-Station, Hudson Lines,  
Kingsway Camp, Delhi-110009
4. BSES Rajdhani Power Ltd.  
2<sup>nd</sup> Floor, B Block, Nehru Place,  
New Delhi-110019
5. BSES Yamuna Power Ltd.  
Shakti Kiran Building,  
Karkardooma, Delhi-110092
6. Ajmer Vidyut Vitran Nigam Limited  
Old Power House, Hathi Bhasta, Jaipur Road, Ajmer
7. Jaipur Vidyut Vitran Nigam Limited  
Vidyut Bhawan, Janpath, Jaipur-302005

8. Jodhpur Vidyut Vitran Nigam Limited  
New Power House, Industrial Area,  
Jodhpur-342003
9. Himachal Pradesh State Electricity Board Limited  
Vidyut Bhawan,  
Shimla-171004
10. Power Development Department, (J&K),  
Government of J&K  
Mini Secretariat, Jammu
11. Power Department, Union Territory of Chandigarh  
Additional Office Building, Sector 9D,  
Chandigarh
12. Uttar Pradesh Power Corporation Limited  
Shakti Bhawan, 14, Ashoka Marg,  
Lucknow-226001
13. Uttarakhand Power Corporation Limited  
Urja Bhawan, Kanwali Road,  
Dehradun-248001
14. Government of Himachal Pradesh,  
H.P. Secretariat, Shimla-171002
15. Northern Regional Power Committee  
18-A, Qutab Institutional Area,  
Shaheed Jeet Singh Marg,  
Katwaria Sarai, New Delhi-110016
16. Northern Regional Load Dispatch Centre  
(Power System Operation Corporation Limited)  
18-A, Qutab Institutional Area, Shaheed Jeet Singh Marg,  
Katwaria Sarai, New Delhi-110016

**..Respondents**

**Parties Present:**

Shri M.G. Ramachandran, Advocate, SJVNL  
Ms.Ranjitha Ramachandran, Advocate, SJVNL  
Ms.Poorva Saigal, Advocate, SJVNL  
Ms.Anushree Bardhan, Advocate, SJVNL  
Shri Romesh Kapoor, SJVNL  
Shri Rajeev Agrawal, SJVNL  
Shri R.B.Sharma, Advocate, BRPL  
Shri Sameer Singh, BYPL  
Shri Manoj Kumar Agrawal, NRLDC

## ORDER

The Petitioner, SJVN Limited has filed the present petition under Section 79 of the Electricity Act, 2003 for seeking direction to Northern Regional Despatch Centre (NRLDC) to revise the Declared Capacity of Nathpa Jhakri Hydro Power Station (hereinafter referred to as 'the generating station') for 15.7.2016 and 9.8.2016 and similarly for other periods where the generation could not be undertaken on account of high silt/reservoir flushing, despite the generating units and machines of the Petitioner's project being available for generation.

2. The generating station, located in the State of Himachal Pradesh, with an installed capacity of 1500 MW (6X250 MW) has been constructed by the Petitioner, a joint venture between the Government of India and Government of Himachal Pradesh, as a run-of-river project with pondage.
  
3. The Petitioner has submitted that the following facts have led to the filing of the instant petition:
  - (a) During peaking period, namely from June to September every year, the generating station operates continuously round-the-clock on account of large availability of water due to melting of glacier in Sutlej River. During the above period, there are exceptional situations where the project, despite machines being ready to operate is kept under shut-down, for reasons of high silt/requirement of reservoir flushing or opening of silt flushing gate in the generating station or in the upstream hydro power projects such as Karcham

Wangtoo Hydro Power Station and such silt flushing/reservoir flushing are duly intimated to NRLDC.

(b) The above phenomena of high silt/reservoir flushing is beyond the control of the Petitioner and the Petitioner is required to shutdown its generating units despite the fact that the machines and equipment of the generating station are in order and are available for generation. Such a shut-down is imminent to avoid any damage to the power plant/equipment and to prevent silt water entering into the tunnel beyond the permissible limit. In such circumstances, the shut-down of the machines should be regarded on account of non-availability of water for generation of electricity and not for any defect or deficiency in the machines or power plant system maintained by the Petitioner.

(c) The Petitioner has submitted the details of incidents occurred on 15.7.2016 and 9.8.2016 when the generating station was shut down due to high silt/reservoir flushing as under:

(i) On 15.7.2016: The Petitioner was operating at full load capacity including over load capability on 14.7.2016 till 22:20 Hrs and thereafter, unit(s) were gradually shut down due to persistent high silt. On reduction of silt level around 05:15 Hrs on 15.7.2016, units of the generating station were synchronized with grid one by one and the generating station could operate on full load including overload capability for 1:45 hours and partial load for 2 hours. Thereafter on the same day, the unit(s) of the generating station were again shut down gradually due to increasing trend of silt level beyond permissible limit.

(ii) On 9.8.2016: The Petitioner was operating at full load capacity including over load capability on 9.8.2016 till 01:15 hours. Thereafter, unit(s) were gradually shut down due to persistent high silt. On reduction of silt level around 08:00 hours, the unit(s) of the generating station were again synchronized with the grid gradually and the generating station was operated on full load till 13:00 Hrs. During the day, generating station was operated on full load including overload capability for 5 hours and partial load for 2:15 hours.

(d) As per the provisions of the Electricity Act, 2003 read with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as the "2014 Tariff Regulations"), the Petitioner is entitled to maintain the Declared Capacity of its generating station for the above two (2) days when the generating station could not be operated on account of high silt/reservoir flushing. However, NRLDC reduced the Declared Capacity of the generating station to `Zero` (0) in regard to its availability on the aforesaid two (2) dates.

(e) As per 2014 Tariff Regulations, 'Declared Capacity' or 'DC': in relation to a generating station means, the capability to deliver ex-bus electricity in MW declared by such generating station in relation to any time-block of the day as defined in the Grid Code or whole of the day, duly taking into account the availability of fuel or water, and subject to further qualification in the relevant regulation. Further, as per Regulation 31 of the 2014 Tariff Regulations, DCi: Declared Capacity (in ex-bus MW) for the i<sup>th</sup> day of the month is the capability in

MW which the station can deliver for at least three(3) hours, as certified by the nodal load dispatch centre after the day is over.

(f) As per Regulation 6.4 (17) of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 (hereinafter referred to as the Grid Code), provides that while making or revising its declaration of capability, except in case of Run-of-River (with up to three hour pondage) hydro stations, the ISGS shall ensure that the declared capability during peak hours is not less than that during other hours. However, exception to this rule shall be allowed in case of tripping/re-synchronization of units as a result of forced outage of units. Further, Regulation 6.5(12) of the Grid Code provides that Run-of-river hydro station with pondage and storage type hydro stations are designed to operate during peak hours to meet system peak demand. Maximum capacity of the station declared for the day shall be equal to the installed capacity including overload capability, if any, minus auxiliary consumption, corrected for the reservoir level. The Regional Load Despatch Centres shall insure that generation schedules of such type of stations are prepared and the stations despatched for optimum utilization of available hydro energy except in the event of specific system requirements /constraints.

(g) In terms of the above Regulations, action of NRLDC in treating the Declared Capacity as Zero (0) for the aforesaid two (2) days is wrong. When the generating station has operated for a period of three hours on 15.7.2016 and 9.8.2016, the Petitioner vide its letters dated 9.8.2016 and 2.9.2016 requested NRLDC to revise the Declared Capacity of the generating station from Zero (0) MW to 1605 MW. NRLDC vide its letter dated 31.8.2016 informed the Petitioner that since the generating station has not delivered during the notified period, the Declared

Capacity has been considered as Zero (0) in accordance with the CERC Regulations.

(h) Subsequently, in the 127<sup>th</sup> OCC Meeting held on 23.9.2016, the Petitioner raised the above issue for consideration and sought revision of the Declared Capacity of the generating station for 15.7.2016 and 9.8.2016. In the said meeting, SE, NRPC stated that as the matter is related to interpretation of CERC Regulations, OCC may not be the appropriate forum to resolve the issue. OCC decided that as NRLDC has not agreed to the interpretation of SJVNL, the Petitioner may opt for suitable remedy under law. The Petitioner also raised the issue in the 34<sup>th</sup> Technical Coordination Sub Committee Meeting and the 38<sup>th</sup> Northern Regional Power Committee Meeting held on 24/25<sup>th</sup> October, 2016. In the said meeting, TCC members stated that since the matter related to interpretation of the CERC Regulations, the same cannot be decided in that forum.

(i) Despite repeated efforts in the OCC meetings as well as TCC/NRPC Board meetings, the matter relating to the revision of the Declared Capacity of the Petitioner's Project could not be resolved so far. The Petitioner would suffer irreparably if the matter concerning the revision of the Declared Capacity for 15.7.2016 and 9.8.2016 is not resolved. According to NRLDC, the matter should be decided by the Commission before any rectification in DC could be undertaken.

4. Against the above background, the Petitioner has approached the Commission with the following prayers:

“(a) Declare that the Petitioner shall be entitled to maintain the Declared Capacity so long the generating units, namely, the machines and equipments

are maintained and ready for generation of electricity but the generation of electricity is not possible on account of high silt/reservoir flushing and the same is beyond the control of the Petitioner or for reasons not attributable to the Petitioner; and

(b) Hold that the Petitioner is entitled to maintain the Declared Capacity for two days, namely, 15.7.2016 and 9.8.2016 and the said Declared capacity shall be taken into account for the purpose of computation and payment of tariff to the Petitioner by the Respondent beneficiaries.”

5. Notices were issued to the respondents to file their replies. Replies to the petition have been filed by Northern Regional Load Despatch (NRLDC) and BSES Rajdhani Power Limited (BRPL) which have been discussed in succeeding paragraphs.

6. NRLDC vide its affidavit dated 20.6.2017 has submitted that the contention of the Petitioner that DC should be considered based on the machine availability is not correct. NRLDC has submitted that for considering capability to deliver power, availability of machine and water are not mutually exclusive and both are important for considering the DC. Relying upon the Regulations 3(15) and 31 of the 2014 Tariff Regulations and Statement of Reasons to the 2014 Tariff Regulations, along with the Commission's order dated 10.7.2015 in Petition No. 157/MP/2013, NRLDC has submitted that the Petitioner is getting full DC if it is available only for 3 hours during peak hours as certified by NRLDC. However, if the plant is not able to deliver during peak hours even though machine is available, there is no parameter for entitlement of DC. NRLDC has argued that if the prayer of the Petitioner is considered by Commission, there will not be any commercial implication on hydro generators to carry out proper operational planning, silt management, optimisation of reservoir flushing operation, outage management of generating units working in tandem, etc., to provide peaking support to the grid. NRLDC has submitted that with 24X7 power supply



aspirations of the country and 175 GW renewable integration, ramping and peaking requirement is becoming more pronounced and the Commission has been conscious of the said fact and has been making regulations to improve peaking capability in the country. Therefore, any relaxation would be against the basic intent of the Regulations as it is not only the energy but peaking capability delivery from hydro stations which is of paramount importance. The Petitioner itself has admitted that the phenomenon of silt/reservoir flushing occurs every year during high inflow of water during the season and such a phenomenon occurred in 2016-17 also. According to NRLDC, the Commission decides the NAPAF of generating stations for each 5 year tariff control period and takes into consideration all hydrological risks, silt conditions, etc. In the previous i.e. 2009-14 Tariff Regulations, NAPAF for the generating station was 82% and has been increased to 90% in the 2014 Tariff Regulations, considering the past data. NRLDC has submitted that the contention of Petitioner that it will suffer irreparably if the issue regarding revision of the Declared Capability for the two dates in question are not resolved is not factually correct. Actual Annual PAF for the generating station for financial year 2016-17 is above the NAPAF decided by the Commission. NRLDC has submitted the details of month-wise actual PAF of the generating station as per NRPC regional energy account. NRLDC has submitted that the actual annual PAF for the generating station for financial years 2015-16 and 2016-17 are 104.6% and 104.9% respectively against the NAPAF of 90%. Similarly, the actual PAFM for Rampur HBP for financial years 2015-16 and 2016-17 are 99.6% and 102.2% respectively against the NAPAF of 90%. NRLDC has submitted that if the prayer of the Petitioner to allow DC considering only machine availability without taking into consideration the capability to deliver during peak hours as certified by NRLDC is accepted, it will be in violation of the CERC Regulations.

7. BRPL vide its reply dated 22.9.2017 has submitted that the Nathpa Jhakri and Rampur Hydro generating stations were planned, designed and executed by the Petitioner to be operated in tandem and accordingly, the six units of Rampur Hydro Power Station can be run only if the corresponding unit of 250 MW each of Nathpa Jhakri is run. Both these generating stations are owned and operated by the Petitioner and is required to co-ordinate the operational aspects of the Nathpa Jhakri as well as Rampur Hydro generating stations. Relying on the Regulation 3(15) of the 2014 Tariff Regulations, Regulation 6.5(12) of the Grid Code and Regulation 31(2) and (3) of the 2014 Tariff Regulations, BRPL has submitted that combined reading of the above regulations would show clearly that the Nathpa Jhakri Hydro Power Station which is a 'Run-of-River' with pondage will be subject to the following cumulative conditions:

(i) DC in relation to the generating station is the capability to deliver duly taking into account the availability of water. The hydro generating plant is called upon to generate only during three hours in a day for claiming recovery of full capacity charge.

(ii) As per the provisions of the Grid Code relating to the scheduling and despatching procedure, the Petitioner is bound to ensure that the declared capacity during peak hours for the generating station is maintained during the period of three hours.

(iii) It is noted that the Petitioner except claiming the full fixed charges on these two days, does not feel that it is duty bound to operate during peak hours for those two days. Paying full capacity charges only for three hour operation during the day without any commensurate benefit of peak hour supply and grid security owing to hydro power operation would be too much to expect from the beneficiaries.

Further, the Petitioner owing to the persistent high silt shut down his plant one by one after 22.20 hrs of 14.7.2016 and on reduction of silt the plant was again synchronized with the grid. The plant could operate again on full load including overload capability for 1.45 hrs and partial load for 2.00 hrs. Thereafter, the plant was again shut down due to increasing trend of silt beyond permissible level. Similarly, on 9.8.2016, the plant was shut down due to persistent high silt and after reduction of silt, the plant was synchronized with the grid and could operate again on full load including overload capability for 5 hrs and partial load for 2.15 hrs. The plant was again shut down due to increasing trend of silt beyond permissible level.

(iv) NRPC and NRLDC are the statutory bodies under the Electricity Act, 2003 in the Northern Region. As per the Act, NRPC is required to agree from time to time on matters concerning the stability and smooth operation of the integrated grid and economy and efficiency in the operation of the power system in Northern Region. In the Minutes of the 127<sup>th</sup> OCC Meeting of NRPC, NRLDC had not agreed to the interpretation of the Petitioner and it was decided that the Petitioner might opt for suitable remedy under law. This position was also reiterated in the TCC and NRPC meetings.

(v) As per Regulation 3(15) of the 2014 Tariff Regulations, 'Declared Capacity' or 'DC' as is required to be declared by such generating station in relation to any time block of the day. Once, the DC is declared by the generating station, NRLDC is responsible for optimum scheduling and despatch of electricity within the region in accordance with the contracts entered between the Discoms and the generating companies. However, it is not understood as to how the Petitioner can claim DC

without considering the capability of the plant for scheduling and despatch of electricity by the NRLDC. Once the DC is declared by the generating station, it should be ready for scheduling and despatch by NRLDC. DC in relation to Regulation 3(15) of the 2014 Tariff Regulations means the capability to deliver ex-bus electricity in MW. This cannot be interpreted as the availability of machines but being incapable for generating and without subjecting to schedule and despatch of electricity. If all hydro generating stations in the region follow this interpretation, it would lead to a chaotic condition in the integrated operation of the regional grid and the secure and economic operation of the regional grid cannot be ensured by NRLDC. The Petitioner has misconceived the whole issue by simply misinterpreting Regulation 3(15) of the 2014 Tariff Regulations. The contention of the Petitioner for allowing DC so long as the machines and equipment are maintained is misconceived and without any basis.

(vi) It has become very handy for the generating company to claim that the situation is beyond its control. If the situation cannot be controlled by the generating company then who else will control. Obviously, the beneficiaries have no control on such situations. Ultimately, the situation was brought under control by the Petitioner only through operational mechanism. The situation can be tackled by the Petitioner through an improved operational protocol keeping in view the high silt content in river Sutlej.

### **Analysis and Decision:**

8. We have considered the submissions of the Petitioner and the Respondents. The Petitioner has alleged that NRLDC has reduced the DC of Nathpa Jhakri and Rampur Hydro generating stations to 'zero' in regard to its availability on 15.7.2016

and 9.8 2016. According to the Petitioner, Rampur hydro generating station has been utilizing the pondage of Nathpa Dam and giving peaking power commonly with Nathpa Jhakri generating station. The Petitioner has submitted that the issue of DC and availability of machines ought to be determined taking into account the peculiar nature of the operation of the Petitioner at Nathpa Jhakri and Rampur hydro generating stations.

9. NRLDC has pointed out that the Petitioner is getting full DC if it is available only for 3 hours during peak hours as certified by NRLDC. However, if the plant is not able to deliver during peak hours even though machine is available, there is no parameter for entitlement of DC. NRLDC has argued that actual annual PAF for the Petitioner's generating station for the year 2017 is above the NAPAF decided by the Commission. NRLDC has placed on record the month-wise actual PAF of the generating station as per NRPC regional energy account as under:

<b>Month</b>	<b>NJPC PAFM</b>	<b>Rampur PAFM</b>
Apr-15	107.77	104.06
May-15	108.30	106.57
Jun-15	108.30	103.43
Jul-15	108.30	102.88
Aug-15	107.16	103.92
Sep-15	104.38	101.87
Oct-15	108.30	99.65
Nov-15	108.01	105.91
Dec-15	92.29	89.21
Jan-16	96.74	85.21
Feb-16	107.69	96.56
Mar-16	99.42	96.21
Apr-16	102.18	91.32
May-16	108.30	105.71
Jun-16	108.30	108.36
Jul-16	104.81	108.36
Aug-16	100.20	104.51
Sep-16	108.30	108.36

Oct-16	108.30	107.83
Nov-16	108.38	108.36
Dec-16	108.87	105.71
Jan-17	101.18	96.19
Feb-17	95.61	90.86
Mar-17	104.46	90.44
Apr-17	108.30	104.53
May-17	102.41	102.45

10. NRLDC has submitted that actual annual PAF for NJHPS for the financial years 2015-2016 and 2016-2017 are 104.6% and 104.9% respectively against the required NPAF of 90%. Similarly, the actual PAFM for Rampur HEP for the financial years 2015-2016 and 2016-2017 are 99.6% and 102.2% respectively against the required NPAF of 90%.

11. BRPL has argued that as per Regulation 3 (15) of the 2014 Tariff Regulations, DC is required to be declared by the generating station in relation to any time block of the day. Once the DC is declared by the generating station, NRLDC is responsible for optimum scheduling and despatch of electricity within the region in accordance with the contracts entered between the Discoms and the generating companies. BRPL has submitted that DC means the capability to deliver ex-bus electricity in MW and same cannot be interpreted and linked to the availability of machines but being incapable to generating and without subjecting to schedule and despatch of electricity.

12. Regulation 24 (2) of 2014 Tariff Regulations provides as under:

**“24. Return on Equity:**

.....

(2) Return on equity shall be computed at the base rate of 15.50% for thermal generating stations, transmission system including communication system and run of the river hydro generating station, and at the base rate of 16.50% for the storage type hydro generating stations

including pumped storage hydro generating stations and run of river generating station with pondage.”

As per the above provisions, return on equity is required to be computed at the rate of 15.50% for run-of-river hydro generating station and at the base rate of 16.50% for run of river generating station with pondage. Run-of-river generating stations with pondage and storage are designed to operate during peak hours to meet system peak demand. Regulation 24 (2) of the 2014 Tariff Regulations provides for additional ROE to such plants which are able to provide peaking support during peaking hours as notified by system operator. For this purpose, the RLDCs notify the peaking hours at their respective web sites. Therefore, the generating station of the Petitioner being a Run-of-river hydro station with pondage is required to provide peaking support to the power system during peaking hours of the day as notified by NRLDC.

13. Further, Regulation 31 of 2014 Tariff Regulations provides as under:

**“31. Computation and Payment of Capacity charge and Energy Charge for Hydro Generating Stations:**

.....

(2) The capacity charge (inclusive of incentive) payable to a hydro generating station for a calendar month shall be :

$AFC \times 0.5 \times NDM / NDY \times (PAFM / NAPAF)$  (in Rupees)

Where,

AFC = Annual fixed cost specified for the year, in Rupees

NAPAF = Normative plant availability factor in percentage

NDM = Number of days in the month

NDY = Number of days in the year

PAFM = Plant availability factor achieved during the month, in percentage

(3) The PAFM shall be computed in accordance with the following formula :

N

$$\text{PAFM} = \frac{10000 \times \sum_{i=1}^N \{N \times \text{IC} \times (100 - \text{AUX})\}}{N}$$

Where

AUX = Normative auxiliary energy consumption in percentage

**DC<sub>i</sub> = Declared capacity (in ex-bus MW) for the *i*th day of the month which the station can deliver for at least three (3) hours, as certified by the nodal load dispatch centre after the day is over.**

IC = Installed capacity (in MW) of the complete generating station

N = Number of days in the month

As per the above Regulation, a hydro generating station is eligible for full plant availability for a day even if it has generated only for three peak hours as notified by the concerned RLDC on its website.

14. Regulation 6.4 (17) of the Grid Code provides as under:

“(17) While making or revising its declaration of capability, except in case of Run of the River (with up to three hour pondage) hydro stations, the ISGS shall ensure that the declared capability during peak hours is not less than that during other hours. However, exception to this rule shall be allowed in case of tripping/re-synchronization of units as a result of forced outage of units.

Perusal of above regulations reveals that except in case of RoR with pondage up to three hours hydro generating stations, DC of a hydro generating station during peak hours should not be less than the DC during off-peak hours.

15. Regulation 31 of the 2014 Tariff Regulations states that availability of hydro generating station for three hours during peak hours would imply that the station is available for the full day. Regulation 6.4 (17) of the Grid Code requires that availability during peak hours is not less than that during other hours. It is noted that during peak



hours on 15.7.2016 and 9.8.2016, the DC of the Petitioner`s plant was `zero`. The Petitioner`s plant did not provide peak hour support and consequently the DC for peak hours (zero) was less than off-peak hours. In our considered view, DC for hydro generating stations are to be judged as per its capability during peak hours. Therefore, in terms of the Regulation 31 of 2014 Tariff Regulations read with Regulation 6.4 (17) of the Grid Code, DC for the above days should be considered as 'zero'. In our view, NRLDC had correctly considered the DC of the Petitioner on these days.

16. The Petitioner has argued that its plant was available, but had to be shut down due to silt flow and it is not at fault. It has argued that it would be put to loss if the Declared Capacity for 15.7.2016 and 9.8.2016 is not revised. In our view, Normative Annual Plant Availability Factor (NAPAF) of the hydro generating stations as notified by the Commission in tariff Regulations duly takes care of planned outages, forced outages and abnormal stoppage due to silt. Therefore, pondage plants significantly affected due to silt have lower NAPAF by 5%. In case of the Petitioner`s generating station, NAPAF was set at 82% during the period up to 2014. After accounting for number of days the plant had to be shut down by the Petitioner due to high level of silt and increased number of maintenance days. However, considering the actual PAF achieved by the generating station during last five years, which duly takes care of the plant stoppage due to high silt, the NAPAF of this plant was re-set at 90% for the tariff period 2014-19. Therefore, a realistic NAPAF based on actual performance during past years ensures that a generator would be able to recover its capacity charges along with reasonable incentive as long as it out performs the NAPAF. As regards the Petitioner`s contention that it should be allowed full DC since machine are available, we are of the view that availability of machine and water is required for DC and not machine alone.

17. According to NRLDC, the Petitioner has achieved Average Annual PAF of 104.91% for Nathpa Jhakri HEP during the year 2016-17 despite stoppage of plant due to high silt on 15.7.2016 and 9.8.2016 as claimed by the Petitioner. The Petitioner has not stated/quantified the loss that it may incur due to declaration of DC for these two dates as zero. NRLDC has submitted that since NAPAF/PAFM is above the threshold of 90%, the Petitioner does not incur any loss. We are not inclined to grant the prayer of the Petitioner since we are of the view that NRLDC has acted as per provisions of the applicable Regulations by treating the DC as zero for 15.7.2016 and 9.8.2016. Thus, the prayer of the Petitioner for revision of DC is rejected.

18. The petition is disposed of in terms of the above.

Sd/-  
**(Dr.M.K.Iyer)**  
**Member**

sd/-  
**(A.S. Bakshi)**  
**Member**

sd/-  
**(A. K. Singhal)**  
**Member**

sd/-  
**(P.K.Pujari)**  
**Chairperson**