

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 133/MP/2019

Coram:

Shri P. K. Pujari, Chairperson

Dr. M. K. Iyer, Member

Shri I. S. Jha, Member

Date of Order: 22nd August, 2019

In the matter of:

Petition under Regulation 79(1) and 86 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, Section 62(1)(a) of the Electricity Act, 2003 and Regulation 8(3)(ii) and 52(3) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 for reimbursement of additional tax paid by NHPC Power Stations dues to implementation of Goods and Services Tax Act, 2017.

And

In the matter of:

NHPC Limited,
NHPC Office Complex, Sector-33,
Faridabad (Haryana) - 121 003.

Versus

1. The Chairman,
Punjab State Power Corporation Ltd.,
The Mall, Near Kali Badi Mandir,
Patiala-147001 (Punjab)
2. The Chairman,
Haryana Power Utilities (UHBVNL and DHBVNL),
Shakti Bhawan, Sector-6,
Panchkula-134 109 (Haryana)
3. The Chairman,
Uttar Pradesh Power Corporation Ltd.,
Shakti Bhawan, 14-Ashok Marg,
Lucknow-22600 1 (Uttar Pradesh)
4. The Chief Engineer & Secretary,
Engineering Dept. 1st Floor,
UT Chandigarh, Sector 9D,
Chandigarh-160 009.
5. The Chief Executive Officer,
BSES Rajdhani Power Ltd., BSES Bhawan,



Nehru Place, New Delhi-110019.

6. The Chief Executive Officer,
BSES Yamuna Power Ltd.,
Shakti Kiran Building, Karkadooma,
Delhi-110 072.
7. The Chief Operating Officer,
Tata Power Delhi Distribution Ltd.
Grid Sub-station Building,
Hudson Lines, Kingsway Camp,
Delhi-110 009.
8. The Chairman-Cum-Managing Director,
Uttaranchal Power Corporation Ltd.,
Urja Bhawan, Kanwali Road,
Dehradun - 248 001 (Uttarakhand)
9. The Managing Director,
Jaipur Vidyut Vitaran Nigam Ltd. (JVVNL) ,
Vidyut Bhawan, Janpath, Jyoti Nagar,
Jaipur-302 005 (Rajasthan)
10. The Managing Director,
Ajmer Vidyut Vitaran Nigam Ltd. Old Power House,
Hatthi Bhatta, Jaipur Road,
Ajmer - 305 001 (Rajasthan)
11. The Managing Director,
Jodhpur Vidyut Vitaran Nigam Ltd.,
New Power House, Industrial Area,
Jodhpur - 342 003(Rajasthan).
12. The Principal Secretary,
Power Development Department, New Secretariat
Jammu (J&K) - 180 001.
13. The Chairman,
Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Kumar House,
Shimla - 171 004 (Himachal Pradesh)
14. The Chairman & Managing Director,
West Bengal State Electricity Distribution Company Ltd.,
Bidyut Bhawan (8th Floor)
Block-DJ, Sector-II, Salt Lake,
Kolkata -700091 (West Bengal)
15. The Chairman,
Damodar Valley Corporation,



DVC Towers, VIP Road,
Kolkata - 700 054 (West Bengal)

16. The Chairman,
Jharkhand State Electricity Board,
Doranda, Ranchi- 834 002 (Jharkhand)
17. The Managing Director,
North Bihar Power Distribution Company Ltd.,
Vidyut Bhawan, Bailey Road,
Patna – 800 001 (Bihar)
18. The Managing Director,
South Bihar Power Distribution Company Ltd
Vidyut Bhawan, Bailey Road,
Patna – 800 001 (Bihar)
19. The Chief Secretary,
Department of Power,
Govt. of Sikkim, Kazi Road,
Gangtok -737 101 (Sikkim)
20. The Chairman & Managing Director,
GRIDCO, 4th Floor, Janpath,
Bhuvaneshwar - 751 022 (Orissa)
21. The Chairman & Managing Director,
Assam Power Distribution Company Ltd. (APDCL),
4th Floor, Bijulee Bhawan, Paltan Bazar,
Guwahati -781 001 (Assam)
22. The Chief Engineer (Power),
Department of Power,
Vidyut Bhawan, Govt. of Arunachal Pradesh,
Itanagar -799 111 (Arunachal Pradesh)
23. Engineer-in-Chief (P&E),
Power & Electricity Department,
Govt. of Mizoram, Khatla,
Aizawl-796 001 (Mizoram)
24. The Chairman & Managing Director,
Tripura State Electricity Corp. Ltd.,
Bidyut Bhawan, Banamalipur,
Agartala -799 001 (Tripura)
25. The Chairman,
Meghalaya Energy Corporation Ltd.,
Lum Jingshai, Short Round Road,
Shillong -793 001 (Meghalaya)



26. The Chief Engineer (Power),
Department of Power,
Govt. of Manipur, Keishampat,
Imphal - 795 001 (Manipur)
27. The Chief Engineer (Power),
Department of Power,
Govt. of Nagaland,
Kohima - 797 001 (Nagaland)
28. Executive Director (Comml.),
Chhattisgarh State Power Distribution Co. Ltd.,
Vidyut Seva Bhavan, Danganiya
Raipur - 492 013 (Chhattisgarh)

Parties Present:

- (1) Shri Prashant Kaul, NHPC
- (2) Shri Ashish Saigal, NHPC
- (3) Shri Piyush Kumar, NHPC
- (4) Shri Dhanush CK, NHPC
- (5) Shri R. B. Sharma, Advocate, BRPL and BSP(H)CL
- (6) Shri Mohit Mudgal, Advocate, BYPL
- (7) Shri Manish Garg, UPPCL

ORDER

The Petitioner, NHPC Limited, has filed the present Petition under Section 62 (1) (a) of the Electricity Act, 2003, Regulation 8 (3) (ii) and Regulation 52 (3) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as '2014 Tariff Regulations) along with the following prayers:

“(a) To consider implementation of GST Act, 2017 as “Change in Law” for allowing reimbursement of additional tax burden; and

(b) To allow reimbursement of additional tax paid by the petitioner after implementation of GST Act, 2017 from the beneficiaries of respective power stations in proportion to their allocation in the generating stations.”

2. During the course of hearing, learned counsel appearing on behalf of the Respondents, BSES Rajdhani Power Ltd. and Bihar State Power (Holding) Company Limited submitted that the Petitioner in the present Petition has invoked the



provisions of Regulation 8 and Regulation 52 of the 2014 Tariff Regulations. However, Regulation 8 (1) of the 2014 Tariff Regulations is related to the truing up exercise which is required to be undertaken by the Commission along with the tariff Petition filed for the next tariff period of 2019-24 in respect of capital expenditure including additional capital expenditure. Learned counsel submitted that the Petitioner has relied upon the Regulation 8 (3) (ii) of 2014 Tariff Regulations which provides that for truing-up of tariff of generating station on account of uncontrollable factors including Change in Law, has to be read in context of Regulation 8(1) of the 2014 Tariff Regulations and such application can only be filed along with the tariff Petition for the next control period. Therefore, the present Petition is not maintainable.

3. In response, the Representative of the Petitioner submitted that the Petitioner is in the process of filing the true-up Petition along with the determination of tariff for next tariff period i.e. 2019-24 and sought permission to withdraw the present Petition with liberty to raise the claim for reimbursement of additional tax on Operation and Maintenance expenses due to implementation of Goods and Service Act, 2017 along with the truing up Petition to be filed.

4. The prayer of the Petitioner is allowed. Accordingly, Petition No.133/MP/2019 is disposed of as withdrawn.

5. Petition No.133/MP/2019 is disposed of in terms of the above.

Sd/-
(I.S. Jha)
Member

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

Sd/-
(P. K. Pujari)
Chairperson

