

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram:**

1. **Shri Ashok Basu, Chairman**
2. **Shri G.S. Rajamani, Member**
3. **Shri K.N. Sinha, Member**

**Review Petition No. 104/2002  
In  
Petition No. 60/2001**

**In the matter of**

Review of order dated 26.8.2002 in Petition No.60/2001 - Generation tariff for Chamera Hydroelectric Project for the period from 1.4.2001 to 31.3.2004.

**And in the matter of**

National Hydroelectric Power Corporation Ltd.                      ...                      **Petitioner**

Vs

- |   |                        |
|---|------------------------|
| 1. Punjab State Electricity Board, Patiala<br>2. Haryana Vidyut Prasaran Nigam Ltd., Panchkula<br>3. Delhi Vidyut Board, Delhi<br>4. Uttar Pradesh Power Corporation Ltd., Lucknow<br>5. Uttaranchal Power Corporation, Dehradun<br>6. Rajasthan Rajya Vidyut Prasaran Nigam Ltd., Jaipur<br>7. Himachal Pradesh State Electricity Board, Shimla<br>8. Power Development Deptt., Jammu (J&K)<br>9. Engineering Deptt., Chandigarh | ... <b>Respondents</b> |
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**The following were present:**

1. Shri H.D. Khunteta, ED (F&A), NHPC
2. Shri R.K. Sharma, Dir (Tech.), NHPC
3. Shri Sachin Datta, Advocate, NHPC
4. Shri S.K. Agarwal, GM (Comml.), NHPC
5. Shri D.S. Ahluwalia, Sr. Manager (F&A), NHPC
6. Shri Rupesh Sood, DM(F&A), NHPC
7. Shri T.K. Mohanty, SM (Law), NHPC
8. Shri Ashok Chopra, NHPC
9. Shri Rupesh Sood, DM (F&A), NHPC
10. Er. P. Kumar, NHPC

11. Shri S.K. Meena, NHPC
12. Shri D.S. Ahluwalia, SM (F&A), NHPC
13. Shri V.K. Kanjlia, NHPC
14. Shri R.K. Arora, XEN (T), HVPNL
15. Shri G.M Agrawal, Dy. CE (CommI), RVPN
16. Shri K.K. Mittal, XEN (ISP), RVPN
17. Shri D. Chandra, XEN, NREB
18. Shri Amarjeet Singh, S.E., NREB
19. Shri T.P.S. Bawa, S.E., PSEB
20. Shri S.R. Narasimhan, NRLDC
21. Shri H.C. Verma, EE, UPPCL
22. Shri S.P. Srivasta, Sr. AE, UPPCL

**ORDER**  
**(DATE OF HEARING 6.3.2003)**

The application for review has been filed by National Hydroelectric Power Corporation Ltd. (in short, NHPC) with a prayer for modification of the order dated 26.8.2002 in Petition No.60/2001, (hereinafter referred to as “the order under review”), to the extent of alleged errors and on the grounds mentioned in the application, with further prayers to modify and allow the annual fixed charges for the power sold from Chamera Hydro Electric Project (in short, Chamera HEP) for the period from 2001-02 to 2003-04 as per paragraph (N) of the application and additional fixed charges for the years 2001-02, 2002-03 and 2003-04 on account of additional interest liability on the funds to be raised during the tariff period for repayment of loan. NHPC has also prayed for prescribing the methodology for calculation of incentive/disincentive and Capacity Index for the period prior to implementation of ABT in Northern Region.

2. Prior to enactment of Electricity Regulatory Commissions Act, 1998, the terms, conditions and tariff for sale of electricity by a generating company wholly or partly owned by the Central Government was determined by the Central Government by virtue

of powers under Section 43A (2) of the Electricity (Supply) Act, 1948. In exercise of these powers, the Central Government in Ministry of Power had notified on 8.2.1999 read with notification dated 14.5.1999, tariff for the period from 1.4.1997 to 31.3.2002 for electricity sold from Chamera HEP. However, after the enactment of Electricity Regulatory Commissions Act, 1998 and establishment of the Commission, these powers came to be vested in the Commission. The Commission notified the terms and conditions of tariff, which came into effect on 1.4.2001. Therefore, NHPC filed an application (Petition No 60/2001) for approval of tariff for the period from 1.4.2001 to 31.3.2004 based on terms and conditions of tariff notified by the Commission. The application was disposed of vide the order under review.

3. The Commission in the order under review had approved tariff, which included annual fixed charges as well as the energy charges for the power sold from Chamera HEP to the respondents, based on the norms contained in the Commission's notification dated 26.3.2001. The prayer for review is confined to the annual fixed charges only.

4. The replies to the application for review have been filed on behalf of respondent No 2, Haryana Vidyut Prasaran Nigam Ltd (HVPNL) and respondent No.4, Uttar Pradesh Power Corporation Ltd (UPPCL). The contentions raised on behalf of HVPNL and UPPCL, which are on merits of the claim of NHPC for capitalization of FERV and not on maintainability of review, can be considered at the time of re-hearing of the matter.

5. The issues raised in the application for review are discussed in the succeeding paragraphs.

**Adjustment of amount of Exchange Rate Variation**

6. The Commission's notification dated 26.3.2001 on terms and conditions of tariff lays down that extra rupee liability towards interest payment and loan repayment incurred in the relevant year and arising out of foreign exchange rate variation shall be admissible. The notification further enjoins upon the utilities to follow the method as per the Accounting Standard – 11 (AS-11) issued by the Institute of Chartered Accountants of India to calculate the impact of exchange rate variation.

7. NHPC in its original petition for approval of tariff for the period 1.4.2001 to 31.3.2004 had calculated the impact of exchange rate variation at the end of each year, based on details audited and certified by the statutory auditors since, according to NHPC, it had been following the method prescribed under AS-11, as mandated by the Commission's notification. Accordingly, NHPC had claimed additional capitalisation of Rs.47.16 crores on account of FERV during the period from 1997-98 to 2000-01. The Commission in its order under review did not allow capitalization of FERV claimed on the ground that FERV had already been allowed to be reimbursed on actual basis by the Central Government/ Commission, from 1997-98 to 2000-2001.

8. NHPC has now submitted that the Central Government/ Commission had allowed FERV for the years 1997-98 to 2000-2001 on the amount of repayment of foreign loan made during the year. FERV so calculated from the date of commercial

operation to the date of repayment of installment and that FERV allowed was not as per AS-11. It is submitted that since AS-11 provides for capitalisation of FERV by adjustment of exchange difference arising on carrying amount of assets at the end of each year, FERV capitalized as per AS-11 will have its effect on tariff. NHPC, therefore, seeks review of the decision of capitalization of FERV for tariff computation.

9. HVPNL in its response has submitted that FERV arising during the period 1.4.2001 to 31.3.2004 is to be allowed as per the Commission's notification dated 26.3.2001 and for the prior period, FERV is to be dealt with as per the instructions of the Central Government in Ministry of Power. It is stated that since FERV for the period 1997-98 to 2000-01 has already been allowed on the amount of repayment, made during the respective year, there was no basis for capitalization. UPPCL in its reply has taken a similar stand. It has been stated on behalf of UPPCL that since FERV for the years 1997-98 to 2000-2001 has been separately approved by Ministry of Power/Commission and has been allowed on actual payment basis, claim under FERV capitalisation cannot be allowed for tariff purposes. It is further stated that in view of the fact that scope of review under the law is limited, the issue cannot be reopened since NHPC has failed to establish that its case falls under the norms applicable for review of order.

10. We have considered the rival submissions. The Central Government in Ministry of Power had considered FERV vide notification dated 14.5.1999 from 1994-95 to 1998-99. Two different methods were applied by the Central Government while allowing

FERV for this period. From 1994-95 to 1996-97, FERV was capitalized, added to capital cost and notionally divided into debt and equity in the ratio of 50: 50. The fixed charges were allowed accordingly. However, FERV was allowed on actual basis on repayment of loan installment and payment of interest for the years 1997-98 and 1998-99. FERV for the years 1999-2000 and 2000-2001 also was allowed by the Commission, based on Petitions (No. 20/2000 and 7/2001) filed by NHPC, on repayment of loan installment and actual payment of interest. The Commission, while determining tariff for the period from 1.4.2001 to 31.3.2004, did not allow capitalisation of FERV for the years 1997-98 to 2000-2001 for the purpose of tariff fixation holding that FERV had been allowed by the Central Government/Commission on actual basis on repayment of loan installment and payment of interest as per the notification prevailing during that period. The Commission while allowing tariff in its order under review had not considered the impact of FERV on capital cost as per AS-11, though the Commission's notification dated 26.3.2001 requires the utilities to maintain accounts as per AS-11. In view of this, we consider it necessary that the issue needs to be deliberated in detail to consider whether or not amount of FERV is required to be capitalized in accordance with AS-11. We, therefore, allow review on the issue of treatment of FERV for the purpose of tariff.

### **Computation of Gross Block**

11. NHPC in the petition for approval of tariff had submitted details of gross block of Rs.2147.94 crore as on 31.3.1997, which was inclusive of FERV of Rs.40.64 crore from 1.5.1994 to 31.3.1997. The Commission, however, for the purpose of determination of tariff considered the gross block of Rs.2063.84 crore (exclusive of FERV), as on

31.3.1997, excluding cost of initial spares of Rs.2.66 crore, as considered by the Central Government in Ministry of Power while notifying tariff for the period from 1.4.1997. An amount of Rs. 48.71 crore (though NHPC had claimed capitalization of Rs. 40.64 crore on account of FERV) was added on account of capitalization of FERV allowed by Ministry of Power for the years 1994-95 to 1996-97 and also considered by it for the purpose of fixation of tariff for 1997-98 to 2001-02. Thus, the Commission arrived at gross block of Rs. 2112.55 crore, as on 31.3.1997. It has been stated by NHPC that Rs. 125.90 crore was reduced from the gross block during 1997-98. After adjusting additional capitalization during that year, NHPC claimed net de-capitalization of Rs. 104.59 crore during the year. Therefore, NHPC had claimed a total de-capitalization of Rs. 48.81 crore (after adjusting the claim of Rs. 47.16 crore for additional capitalization on account of FERV) during the period from 1.4.1997 to 31.3.2001. Against the above claim, the Commission rejected the claim of NHPC for additional capitalization on account of FERV and also disallowed claim for additional capitalization of Rs. 1.89 crore. In this manner, the Commission allowed de-capitalization of Rs. 97.86 crore [(-) Rs.48.81 crore as claimed by NHPC (-) Rs. 47.16 crore on account of rejection of claim for capitalization of FERV (-) Rs. 1.89 crore on account of rejection of claim for additional capitalization on other counts] only. Thus, a gross block of Rs. 2014.69 crore (Rs. 2112.55 crore - Rs. 97.86 crore), as on 31.3.2001, was considered by the Commission for the purpose of tariff for the period 2001-02 to 2003-04. The consideration of gross block of Rs. 2014.69 crore against the claim of Rs. 2097.24 crore has reduced the loan and equity components in tariff.

12. According to NHPC, the Commission ought to have considered the gross block of Rs.2147.94 crore (inclusive of Rs. 40.64 crore on account of capitalization of FERV up to 31.3.1997) the details of which, duly audited and certified by statutory auditors, were furnished along with the petition. It is further submitted that in order to arrive at gross block, as on 31.3.2001, the Commission ought to have considered the additional capitalization of Rs. 47.16 crore on account of FERV claimed for the period 1.4.1997 to 31.3.2001. It is contended by NHPC that accordingly the Commission ought to have considered the gross block of Rs.2097.24 crore, [Rs. 2147.94 crore (gross block as on 31.3.1997) - Rs. 97.86 crore (de-capitalization allowed by the Commission) + Rs. 47.16 crore (on account of FERV)], as on 31.3.2001, for the purpose of tariff fixation. According to NHPC, non-consideration of gross block of Rs.2147.94 crore & additional capitalization of Rs. 47.16 crore on account of FERV and adoption of gross block considered by the Central Government without proper scrutiny of the material on record are the errors apparent on the face of record and need be corrected through the process of review.

13. The respondents have supported the order of the Commission and have submitted that gross block decided by Ministry of Power for earlier tariff period should not be deviated from. HVPNL in its reply has submitted that there could be no reason to reopen the issue of gross block, considered by the Central Government in the past, which has been recognised by the Commission. The Commission has considered the gross block as on 31.03.98 as was considered by Ministry of Power while notifying the tariff and needs no review. HVPNL has further stated that NHPC has to repay for



additional capitalization as allowed/ disallowed by the Commission. In this respect, it has been submitted that since the entire data was placed before the Commission and the Commission has passed its order after considering all the details, there is no justification for reviewing the same.

14. We have considered the matter very carefully. The Commission in the order under review had adopted the gross block of Rs.2112.55 crore, excluding the initial spares of Rs.2.66 crore, as on 31.3.1997, from Ministry of Power notification dated 8.2.1999 read with notification dated 14.5.1999 against the claim of NHPC for gross block of Rs.2147.94 crore. The Commission further allowed gross block of Rs.2014.69 crore, as on 31.3.2001, though NHPC had claimed gross block of Rs. 2097.24 crore. The reasons for differences in the claim of NHPC for the gross block of Rs 2147.94 crore as on 31.3.1997 and that of Rs.2097.24 crore allowed were not deliberated in detail, though the claims by NHPC were supported by the auditor's certificate. These differences are primarily on account of difference in approach towards capitalization of FERV and decapitalisation of depreciation which was capitalised in the earlier years. We have also held in earlier part of this order that the manner of treatment of FERV for the purpose of tariff also needs to be reviewed. The cumulative effect of these factors is that the issue of consideration of gross block opens up and deserves to be reconsidered. Accordingly, we allow review on the issue of calculation of gross block as on 31.3.1997 and 31.3.2001.

### **Calculation of amount of loan and interest on loan**

15. The Commission while approving tariff vide the order under review had taken into account the outstanding loan of Rs.197.55 crore, as on 1.4.2001, after adjustment of repayments made up to the year 2000-01. The interest on loan was allowed on the outstanding amount of Rs.197.55 crore (which included Rs.24.36 crore as FERV for the period 1994-95 to 1996-97), by considering the repayments during the tariff period. According to NHPC, the outstanding loan as on 1.4.2001 was Rs.217.09 crore, including notional loan of Rs. 43.90 crore on account of 50% of FERV claimed to be capitalized. Here again, the basic grievance of NHPC is that notional loan of Rs.43.90 crore, representing 50% of total FERV amount from the date of commercial operation to 31.3.2001 had not been fully taken into account by the Commission for the purpose of arriving at outstanding loan as on 1.4.2001.

16. We have allowed review on the issue of capitalisation of FERV as also calculation of gross block as on 31.3.1997 and 31.3.2001. The decision on these issues will automatically reopen the issue of calculation of outstanding loan to be taken, as on 1.4.2001, for the purpose of interest on loan. Therefore, the question of calculation of amount of loan as also interest thereon are just incidental to the decision on treatment of FERV and consideration of gross block for the purpose of tariff. As a corollary of our decision to review capitalization of FERV and gross block for computation of tariff, the issue of calculation of amount of loan, as on 1.4.2001, as also the interest thereon during the tariff period is to be allowed. The contention raised by

HVPNL is on merits of calculation of amount of loan and not on the question of review of the decision on loan as per the order under review. Accordingly, we also review on this count also.

### **Calculation of Equity and Return on Equity**

17. The Commission in the order under review had considered financing of additional capital expenditure from the loan disbursed during respective years and the balance amount was considered from equity. The return on equity was allowed by considering equity so arrived at. By this methodology, the Commission in its order under review had considered equity of Rs. 614.09 crore as on 1.4.1997 and notional equity of Rs. 24.35 crore, 50% of FERV allowed to be capitalized up to 1996-97. Thus the Commission considered a total equity of Rs. 638.44 crore as on 1.4.1997. Further the Commission considered equity of Rs. 530.05 crore inclusive of FERV as on 1.4.2001. NHPC has stated that equity provided by the Central Government till 1.4.1997 was Rs. 613.31 crore (and not Rs. 614.09 crore considered in the order under review) and the notional equity was Rs. 20.32 crore, the details of which were given in the original tariff petition. It has been further stated that some additional equity had been provided by the Central Government, therefore, additional capitalisation ought to have been considered by the Commission as met out of the additional equity so provided and thereafter from the loan and the balance amount, if any, from the internal resources. It has been averred by NHPC that the Commission had not considered the additional equity provided by the Central Government for financing of additional capitalisation and on the contrary it allowed return on equity for 2001-02, 2002-03 and 2003-04 on the reduced amount of

Rs. 530.05 crore, even though no part of equity was surrendered and its claim was for equity of Rs. 663.21 crore. According to NHPC, the Commission should have considered equity of Rs. 633.64 crore, as on 1.4.1997, as claimed in the original petition; Rs.613.31 crore as contributed by the Central Government up to 1.4.1997 and notional equity of Rs. 20.32 crore consequent to capitalization of FERV for the period up to 31.3.1997. Further, NHPC has stated that equity as on 1.4.2001 should be taken as Rs. 663.21 crore after accounting for notional equity of Rs. 43.90 crore, representing 50% of FERV sought to be capitalized from the date of commercial operation (1.5.1994) to 31.3.2001 and additional equity provided by the Central Government. The respondents have not commented on maintainability of review on this account. HVPNL has stated that if there has been some calculation error, the same could be rectified. However, when the amount of FERV has been paid, there could be no reason to include 50% of FERV as notional equity.

18. We have considered the issue raised on behalf of NHPC. We are satisfied that the issue needs to be reconsidered in the light of discrepancies pointed by NHPC. The issue that also needs to be examined further in detail is whether the part of additional capitalization/de-capitalization could be considered as financed through equity first as contended by NHPC or through loan disbursed during the year, as decided in the order under review or debt-equity ratio for the additional capitalisation needed to be maintained as per the approved financial package. Also, the decision on gross block, to be reviewed in the light of this order, will have its consequence on equity and return thereon. We, therefore, allow review of calculation of equity and return on equity.

Whether or not to allow 50% of FERV as notional equity would be decided after hearing the parties.

### **Depreciation**

19. The Commission, for the purpose of tariff, had considered the weighted average depreciation rate of 2.44% and it allowed depreciation of Rs.49.16 crore to be recovered through tariff each year during 2001-02 to 2003-04. For the purpose of calculation of depreciation, the sum of Rs.2.66 crore, the cost of initial spares was excluded and depreciation was calculated on gross block of Rs.2014.69 crore.

20. It has been pointed out by NHPC that amount of Rs.2.66 crore could not be excluded for the purpose of calculation of depreciation as the initial spares capitalized are recoverable through depreciation only. Therefore, according to NHPC, depreciation ought to have been worked out on the gross block without deducting the amount of initial spares and has sought review of order on this count also. The respondents in their replies have not questioned the maintainability of review.

21. HVPNL has submitted that the contention of NHPC does not merit consideration since basically the amount of depreciation is to be utilized for repayment of loans only. However, the principle of depreciation applies to the replacement of any asset, which outlives its useful life. In the case of initial spares the amount is not to be recovered through depreciation because neither this amount has to be repaid as a loan nor the spares have to be replaced because recurring

spares are provided through yearly O&M expenses. HVPNL has prayed that the request of NHPC needs no consideration. On this issue, the views of UPPCL are similar to HVPNL.

22. On perusal of the order under review it is revealed that based on the weighted average depreciation rate of 2.44%, the depreciation has been allowed on the gross block of Rs. 2014.69 crore which excludes initial spares of Rs.2.66 crore as per GOI tariff notification. Further, review of gross block already ordered by us will also have its impact on the amount of depreciation to be recovered. Therefore, we allow review on this count also.

#### **Advance Against Depreciation**

23. NHPC has also sought review of Advance Against Depreciation amounts allowed in tariff. We have earlier allowed review of gross block as on 31.3.1997 and 31.3.2001, which will have implications on allocation of debt and equity, during the years 1997-98 to 2000-01. The recalculation of debt and interest thereon will have its impact on calculation of Advance Against Depreciation. Therefore, we allow review of amount of Advance Against Depreciation allowed in the order under review as consequential to the decision on debt and equity components of the gross block, as on 31.3.2001.

#### **Interest on Working Capital**

24. In accordance with the Commission's notification dated 26.3.2001, interest on working capital covers the following:

- (a) Operation and Maintenance expenses for one month;
- (b) Maintenance spares at actuals but not exceeding one year's requirements less value of one fifth of initial spares already capitalized for the first five years;
- (c) Receivables equivalent to two months of average billing for sale of electricity.

25. The issues on which review has been allowed as per our decision in the preceding paragraphs will necessitate review of interest on working capital as some of the elements form the ingredients for calculation of working capital. Accordingly, the interest on working capital as a component of tariff (fixed charges) will be considered based on decision on the issues on which review has been allowed as per this order. Thus interest on working capital allowed by the Commission in the order under review shall also be subject to reconsideration and accordingly review is allowed on Interest on Working Capital element of the fixed charges.

### **O & M expenses**

26. The Commission in the order under review did not allow additional capitalisation to the extent of Rs.1.89 crore, the details of which along with reasons for disallowing additional capitalization, were duly incorporated in the order. According to NHPC, the Commission has erred in not considering the amount of Rs.1.89 crore as part of O&M expenses during the period 1997-98 to 2000-01, once additional capitalization of this amount had not been allowed. NHPC has sought review of the relevant part of the

order. Further, the Commission in the order under review had not allowed the expenses on account of incentive under the category "staff welfare expenses", as claimed by NHPC in the petition as part of O&M expenses. According to NHPC, the incentive is payable and has been paid as "staff welfare expenses." to all employees and is considered as a part of salary and irrespective of any profit from the project and, therefore, should be considered as O&M expenses for the relevant years. NHPC seeks review of O&M expenses allowed in the order under review on these two counts. The replies filed by the respondents are silent on the maintainability of review of O&M expenses sought by NHPC. The respondents have though submitted that O&M expenses allowed by the Commission are very high and further review may hike them further. The replies filed by the respondents are silent on the maintainability of review of O&M expenses sought by NHPC.

27. So far as the question of considering the amount of Rs.1.89 crore not allowed to be capitalized is concerned, we are of the opinion that this issue needs further deliberation and decision by the Commission as to whether or not the amount be considered as a part of actual O & M expenses during the relevant year. Therefore, we allow review of O&M expenses authorized by the Commission in the order under review to this extent. However, as regards payment of incentive to the staff under the head "staff welfare expenses", NHPC has submitted before the Commission that incentive being paid was the productivity-linked bonus under Section 31A of the Payment of Bonus Act, 1965. That being the position, the incentive paid by NHPC to its employees has the effect of increasing its productivity, which enables it to earn incentive from the



respondents, in addition to normal tariff approved by the Commission. Therefore, we do not feel that the productivity-linked bonus paid by NHPC to its employees as incentive should qualify to be considered as a part of O&M expenses for the purpose of tariff. In our opinion this expenditure should be met out of incentive earned by NHPC for achieving higher productivity. Therefore, we do not allow review of O&M expenses for the purpose of consideration of "staff welfare expenses".

28. The entire Annual Fixed Charges will be required to be recalculated based on the decisions on the issues allowed to be reviewed.

#### **Recovery of tariff and Calculation of incentive/disincentive**

29. In addition to Annual Fixed Charges, NHPC is entitled to incentive from the respondents or liable to pay them disincentive depending upon the Capacity Index achieved, which, among others, is a function of availability of the generating station declared by NHPC during peak hours.

30. The necessary details for calculation of Capacity Index are available w.e.f. 1.12.2002 after implementation of ABT. NHPC has prayed for prescription of methodology for calculation of incentive/disincentive Capacity Index for the period prior to implementation of ABT. According to HVPNL, the issue needs to be decided in the light of the provisions of the notification dated 26.3.2001.

31. At the time of hearing of the Review petition on 6.3.2003 we had called the representatives of NREB and NRLDC to hear them on this issue. It was stated by them that the data for calculation of Capacity Index, incentive/disincentive for the period from 1.8.2001 and onwards was available. However, as regards the period from 1.4.2001 to 31.7.2001, data for calculation of Capacity Index, etc. was not available. In the light of the position stated by the representatives of NREB and NRLDC, we do not envisage any difficulties in calculation of Capacity Index, incentive/disincentive from 1.8.2001 onwards. However, for the prior period, Shri RK Sharma, Director, NHPC stated that the necessary data was available with NHPC. Upon this we had directed that the data be made available by NHPC to NREB/NRLDC for their consideration and decision on calculation of Capacity Index, incentive/disincentive. It was further directed by us that in case of any difficulty, these may be brought to the notice of the Commission. We have not been apprised of any difficulties in this regard and we presume that the issued stands resolved, If the still remains unresolved, the parties are at liberty to approach the Commission for guidance and decision.

32. The Commission in the order under review had directed that the tariff approved would be shared by the respondents in proportion of the “energy” supplied from Chamera HEP. It has been submitted by NHPC that energy supplied is the sum of primary energy and secondary energy and since the annual fixed charges is the sum total of primary energy charges and capacity charges, the recovery of tariff should in proportion of primary energy supplied to the respondents. NHPC has sought a

correction. We agree with the views of NHPC. The word “energy” in paragraph 40 of the order under review shall be substituted by the words “primary energy”.

33. Review petition is allowed to the extent indicated in the preceding paras of this order.

34. .We direct that Petition No.60/2001 be set down for hearing on 12.8.2003. However, the respondents shall continue to pay tariff as approved by the Commission in its order dated 26.8.2002 till further orders.

35. With the above order, Review Petition No. 104/2002 stands disposed of.

**Sd/-  
(K.N. SINHA)  
MEMBER**

**Sd/-  
(G.S. RAJAMANI)  
MEMBER**

**Sd/-  
(ASHOK BASU)  
CHAIRMAN**

New Delhi dated the 2<sup>nd</sup> June, 2003