

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

- 1. Shri D.P. Sinha, Member**
- 2. Shri G.S. Rajamani, Member**
- 3. Shri K.N. Sinha, Member**

Petition No. 7/2001

In the matter of

Approval of Foreign Exchange Variation in respect of Chamera HE Project of NHPC for the year 2000-2001.

And in the matter of

National Hydro Electric Power Corp. Ltd.	Petitioner
Vs		
1. Punjab State Electricity Board		
2. Haryana Vidyut Prasaran Nigam Ltd		
3. Delhi Vidyut Board		
4. Uttar Pradesh Power Corporation Ltd		
5. Rajasthan Rajya Vidyut Prasaran Nigam Ltd		
6. Himachal Pradesh State Electricity Board		
7. Power Development Department, Govt, of J&K		
8. Power Deptt., Union Territory of Chandigarh		Respondents

The following were present

1. Shri S.K. Agarwal, CE (Tariff), NHPC
2. Shri A.K. Jain, Addl CE(Comm), RVPNL
3. Shri V.K. Gupta, SE(ISF), RVPNL R.C.
4. Shri Mehta, XEN (ISF), RVPNL R.K.
5. Shri Arora, XEN (Tariff), HVPN
6. Shri Gurcharan Singh, Sr. AO/EE, HVPN

**ORDER (DATE OF HEARING
5.7.2001)**

National Hydro Electric Power Corporation (NHPC), the petitioner filed this petition on 12th February 2001 for approval of Foreign Exchange Rate Variation in respect of Chamera (Stage - I) Hydroelectric Power Project for the year 2000-2001.

2. The terms, conditions and tariff for power supply from Chamera (Stage-I) HEP Project of the petitioner for the period from 1.4.97 to 31.3.2002 were notified by Ministry of Power

vide Notification No. F.N.2/9/NHPC/Tariff/98 dated 8.2.1999. This notification was issued by the Ministry of Power by virtue of powers under Section 43 A (2) of Electricity (Supply) Act, 1948 and based on Notification dated 30th March 1992 which prescribes the general principles for tariff determination. Central Government is the competent authority to determine the effect of Foreign Exchange Rate Variation at the end of each financial year. As per the notification dated 14.5.1999 the Foreign Exchange Rate Variation in respect of this project up to the year 1998-99 has already been notified by the Ministry of Power and recovered by the petitioner from the beneficiaries. Foreign Exchange Rate Variation for the year 1999-2000 has been approved by this Commission vide its order dated 7.12.2000 in Petition No. 20/2000. The foreign exchange rate variation is now to be determined for the period 2000-2001, hence this petition.

3. As per submissions made by the petitioner in the petition, extra rupee liability towards loan repayment and interest payment directly arising out of Foreign Exchange Rate Variation paid by NHPC during the year 2000-2001 in respect of Chamera HEP is as follows:

PARTICULARS	AMOUNT in Rs.
a) Repayment of loan	21,81,18,013.00
b) Interest payment	4,30,70,517.00
TOTAL	26,11,88,530.00

The petitioner has claimed that the above mentioned amount arising out of foreign exchange rate variation is payable to it in the same proportion of generation tariff of Chamera HEP as is payable for the year 2000-2001.

4. Respondent No. 1 (Punjab State Electricity Board), has submitted in its reply that the foreign exchange liability for 2000-2001 has been claimed by the petitioner without getting its financial accounts of the year audited and approved by independent auditors. Further, it has submitted that foreign exchange conversion rate has not been certified by the statutory authority of Govt, of India/RBI and copies of bank receipts etc. showing the deposit of money does not show the particular project for which it has been deposited. Respondent No. 4 (UP Power Corporation Ltd) has submitted that the petitioner may be asked to submit original approved cost, revised cost estimate, and approval of CEA on revised cost estimate of the

project. Respondent No. 5 (Rajasthan Rajya Vidyut Prasaran Nigam Ltd) made similar submissions besides submitting that the respondents may be allowed to make payment of bill raised by NHPC on this account within three months period in one go instead of within a month as prayed by NHPC. No reply was filed by other respondents.

5. In its rejoinder, the petitioner has submitted that the petition has been filed after the last instalment of loan as well as interest on loan due during the financial year 2000-2001 have been paid in full by it. Hence, there would be no change in the amount of loan repayment as well as interest at the close of financial year 2000-2001. So far as bank receipts not showing the name of project is concerned, it has been submitted that the document is in standard format of State Bank of India and duly certified by the auditor. In addition to this, we feel that once a liability has arisen it is sufficient condition for payment by respondents, as long as it is permissible under law. Physical discharge of the liability by NHPC cannot be a pre-condition. We, therefore, do not accept the contention of respondents. So far as rates of foreign exchange (US \$) is concerned, the rates have been taken from the document of State Bank of India - the authorised foreign exchange dealer. In respect of submissions made by UPPCL the respondent no. 4, it has been submitted by the petitioner that the claim for foreign exchange variation is as per clause 3 of the tariff notification dt. 8.2.99 issued of Govt, of India in respect of Chamera HEP under proviso Section 43 (a) (ii) of Electricity Supply Act 1948. Hence, its variance with Govt, of India Notification No. S.O. 251(E) dt. 30.3.1992 and information in respect of original cost of project etc. are not relevant in this case. In view of this, the objections raised by the respondents in their preliminary submissions failed to survive.

6. We have heard Shri S.K. Agrawal, CE (Tariff), NHPC on behalf of the petitioner and also the representatives of PSEB, HVPNL and RVPNL. Shri R.K. Arora, appearing for HVPNL prayed that at least two months time may be granted for making payments of bills which may be raised to the petitioner consequent to the Commission's order. We are not inclined to delve into this issue.

7. We have considered all the submissions made by the petitioner and the respondent and looked into the amount of FERV claimed by the petitioner. We therefore, direct that respondents shall make payment of Rs.21,81,17,967/- towards the principal component of FERV and Rs.4,30,70,502/- towards interest component of FERV totaling to

Rs.26,11,88,469/- The basis for arriving at the amount of FERV of Rs.26,11,88,469/= is as

given in the chart below:-

Petition 7/2001		
CHAMERA H.E. PROJECT		
EXCHANGE RATE VARIATION	2000-01	
Impact of FERV on Loan Payment	EDC LOAN	
Unit	USD	USD
Payment Date	31.7.2000	31.1.2001
Loan Payment	8405174.33	8630161.47
PGCIL Portion	804589.23	804589.23
NHPC Portion	7600585.10	7825572.24
Exchange Rate on date of payment	44.9425	46.4150
Exchange Rate on date of Capitalisation	31.5500	31.5500
Difference in Exchange Rate	13.3925	14.8650
Amount recoverable from beneficiaries	101790835.90	116327131.41
Total impact of FERV	218117967	
Impact of FERV on Interest Payment		
Payment Date	31.7.2000	31.1.2001
Interest Amount	1816151.68	1565493.96
PGCIL Portion	175461.00	146217.00
NHPC Portion	1640690.68	1419276.96
Exchange Rate on date of payment	44.9425	46.4150
Exchange Rate on date of Capitalisation	31.5500	31.5500
Difference in Exchange Rate	13.3925	14.8650
Amount recoverable from beneficiaries	21972949.97	21097552.00
Total impact of FERV	43070502	
GRAND TOTAL(Amount Recoverable)	261188469	

8. The payments on account of FERV shall be made by the respondents in the ratio of power drawn by them latest up to 30-6-2002, unless a different time schedule for payment of these dues is agreed to mutually between the parties.

(K.NrSINHA)

MEMBER

(G.S. RAJAMANI)

MEMBER

(D.P.SmH[^])

MEMBER

New Delhi dated the February, 2002.