

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.168/GT/2013**

Subject: Approval of generation tariff of Nathpa Jhakri Hydro Electric Power Station for the period from 1.4.2009 to 31.3.2014

Date of hearing: **24.10.2013**

Coram: Shri Gireesh B. Pradhan, Chairperson  
Shri M.Deena Dayalan, Member  
Shri A.K. Singhal, Member

Petitioner: SJVNL Limited, New Shimla

Respondents: PSPCL & others

Parties present: Shri Rajeev Agarwal, SJVNL  
Shri Sanjay Kumar, SJVNL  
Shri Romesh Kapoor, SJVNL  
Shri V. Sankaranarayanan, SJVNL  
Shri R.B. Sharma, Advocate, BRPL  
Shri Gaurav Singh, Advocate, TPDDL  
Shri Padamjit Singh, PSPCL

**RECORD OF PROCEEDINGS**

This petition has been filed by the petitioner, SJVNL for approval of generation tariff in respect of Nathpa Jhakri HE Power station (6x250 MW) (the generating station) for the period from 1.4.2009 to 31.3.2014 in accordance with the CERC (Terms and Conditions of Tariff) Regulations, 2009 ('the 2009 Tariff Regulations').

2. The representative of the petitioner clarified that it has served copies of the petition on all the respondents and further submitted as under:

(a) The Commission has determined the tariff of the generating station for the period 2004-09 vide its order dated 31.12.2008 in Petition No 20/2008. Subsequently by order dated 16.1.2013 in Petition No. 27/2011, the Commission had granted liberty to the petitioner to approach the Commission for capitalization of expenditure after Revised Cost Estimate-IV (RCE-IV) is approved by the Central Government. As the tariff for the generating station for the period 2004-09 and 2009-14 is yet to be finally decided by the Commission due to want of RCE IV, there is huge cash flow problem in respect of this generating station.

(b) RCE-III has been approved by the Central Government for ₹8187.713 crore. However, the Commission in its order dated 31.12.2008 had approved tariff of generating station for the period 2004-09 based on the capital cost for ₹7990.80 crore including additional capitalization till the year 2006-07.

(c) Against the approved cost of ₹7990.80 crore, the petitioner has incurred actual cost of ₹8868.05 crore till 31.3.2013 and hence there is a difference of ₹878 crores. However, capital cost as on 31.3.2009 amounting to ₹8454.85 crore as on 31.3.2009 has been considered as the base for purpose of tariff in the petition. The impact of the huge arrears for the tariff period 2004-09 and 2009-14 will cause severe financial burden on the consumers.

(d) In view of settlement of various claims, advances and payments besides adjustment of advances has been claimed in this petition. Also liabilities discharged against un-discharged liabilities have been claimed and the Commission may consider the same for tariff.

(e) The Commission may consider the grant of provisional tariff up to 95% of the annual fixed charges of the project considering the actual capital cost of ₹8868.05 crore, subject to adjustment as per Regulation 5(3) of the 2009 Tariff Regulations.

3. On a specific query by the Commission as to the status of RCE, the representative of the petitioner clarified that the same is pending for approval of the Central Government. On a further query as regards the capital cost on which the tariff was determined, the representative of the petitioner clarified that though RCE-III was approved for ₹8187.713 crore, the Commission in its order dated 31.12.2008 had allowed the capital cost for ₹7990.80 crore after prudence check.

4. The representative of the respondent, PSPCL submitted as under:

(a) The submission of the petitioner that the generating station is suffering from huge cash flow problem due to the delay in determination of final tariff for the period 2004-09 and 2009-14 is not correct since there is huge accumulation of profit after tax for the generating station for the period from 2011-13.

(b) Page 9 of the petition shows the design energy of 6612 MU approved by CEA on the basis of the capacity of 1500 MW. The generating station has a continuous overload capacity of 10% and is capable of operating at 1650 MW continuously. The NRLDC daily reports for the period from 19.5.2013 to 25.5.2013 show that the generating station is actually operating above 1600 MW continuously during the high flow period. The design energy as worked out by CEA should therefore be increased to 6809 MU. Accordingly, the matter may be referred to CEA for recalculation of the design energy.

(c) No proper explanation/justification has been given by the petitioner as regards the difference between the expenditure allowed by the Commission and the actual expenditure incurred for the period 2009-12.

(d) The Central Government being the owner of the generating station should have expedited the approval of the RCE-IV of the generating station. In view of the delay, tariff could only be allowed based on the capital cost of ₹7990.80 crore only.

5. The learned counsel for the respondent, BRPL pointed out to certain defects in the petition and submitted as under:

(a) The petitioner has not submitted the relevant forms (Form -5) duly filled in terms of the check list in page 18 of the petition.

(b) Since tariff for the period 2004-09 has not been finalized, the capital cost as claimed by the petitioner in this petition cannot be considered.

(c) While the petition has been filed for determination of tariff of the generating station for the period 2009-14, it is not clear as to why the petitioner has prayed for grant of provisional tariff of the generating station.

(d) There is time overrun and cost overrun involved in the generating station and the RCE-IV has also not yet been approved by the Central Government. Hence, provisional tariff, if any to be granted for the generating station shall be based only on the capital cost of ₹7990.80 crore as allowed by the Commission in its earlier order.

(e) The Commission may grant time to file its detailed reply in case the final tariff of the generating station is to be determined.

6. The learned counsel of the respondent, TPDDL submitted that it has not received the copy of the petition filed by the petitioner and prayed for two weeks' time to file its reply after receipt of the petition. The representative of the petitioner clarified that copies of the petition/additional information

had already been served on all the respondents and proof of service has been filed before the Commission. He however, undertook to handover a copy of the same to the said respondent in course of the day.

7. In response to the submissions of the respondents, PSPCL and BRPL, the representative of the petitioner clarified as under:

(a) The profit after tax referred to by the respondent PSPCL is in respect of the petitioner company and not the generating station.

(b) As per CEA Regulations, 2004, Design Energy means the quantum of energy which could be generated in a 90% dependable year with 95% availability of installed capacity of station on annual basis. Comparison of design energy on day to day basis with actual generation does not truly reflect the operation of the plant. As per grid requirement, sometimes overload capacity is utilized by plant when conditions are favourable and sometimes plant remains under shut down for high silt or grid disturbance or for any other reasons beyond the control of the generating company. Thus, the design energy of the generating station as approved by CEA has been considered.

(c) The prayer for grant of provisional tariff was made considering the fact that the tariff petition was filed during the year 2012. The petitioner has incurred huge expenses over and above the RCE-III approved cost of ₹8187.713 crores and RCE-IV is yet to be approved. Considering the fact that final determination of tariff for the period 2004-09 and 2009-14 is pending for want of approval of RCE-IV by the Central Government, the Commission may consider the grant of provisional tariff up to 95% of the annual fixed charges in terms of the 2009 Tariff Regulations, based on RCE III approved cost subject to adjustment after determination of final tariff.

8. The Commission directed the respondent, TDPPL and BRPL to file replies within 12.11.2013, with copy to the petitioner who shall file its rejoinder by 19.11.2013.

9. Subject to the above, the Commission reserved its order in the petition.

By order of the Commission

Sd/-  
(T. Rout)  
Chief (Law)