

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 7/RP/2013

Subject: Review of order dated 16.4.2013 in Petition No 250/2010 for Tehri HPP (1000 MW) for determination of tariff for the period from 22.9.2006 to 31.3.2009.

Date of Hearing: 27.8.2013

Coram: Shri V.S. Verma, Member
Shri M. Deena Dayalan, Member

Petitioner: THDC Ltd

Respondents: PSPCL & 11 others

Parties Present: Shri M. Siddiqi, THDC
Shri Anil Raghewaran, THDC
Shri Ajay K Mathur, THDC
Shri M.K.Tyagi, THDC
Shri J.K. Hatwal, THDC
Ms. Poorva Saigal, PSPCL
Shri A.B.Goel, THDC
Shri L.P. Joshi, THDC
Shri H. Chakraborty, THDC
Shri Anand Baba, THDC
Shri R.Sanjeev, THDC
Shri R.B.Sharma, Advocate, BRPL
Shri Padamjit Singh, PSPCL
Shri T.P.S.Bawa, PSPCL

RECORD OF PROCEEDINGS

During the hearing, the learned counsel for the petitioner reiterated his submissions made on 16.7.2013 and pointed out that the error apparent on the face of the record may be rectified and order may be reviewed.

2. The learned counsel for the respondent, BRPL submitted as under:

- (a) As explained in paras 32 to 35 of the order, the debt-equity ratio has been made in accordance with the provision of Regulation 36 of the 2004 Tariff Regulations. Moreover, the apportionment of additional capital expenditure between debt and equity has been made as per Note 1 & 3 of the 2004 Tariff Regulations. There is no error apparent on the face of the order and the petitioner cannot enforce his views through the review petition.
- (b) As regards time overrun, the Commission has based its decision considering the totality of circumstances including the report of the Standing committee and inputs of the respondents. The time overrun has allowed upto 30.3.2007 despite objections of

respondents on the delay in commissioning of 1st Unit (Unit IV) resulting in spillage of water due to non-commissioning of units. As there is a clear finding of the Commission, the review of orders may not be accepted.

- (c) As regards the claim related to design energy, the Commission after considering the request of the petitioner had allowed the same with the stipulation that secondary energy benefits shall be recoverable only beyond the design energy level of 27977 MW approved by CEA. The findings of the Commission in this regard are clear and there is no error apparent.
- (d) As regards capital cost of shared/ common assets, the Commission in the absence of details of the unit wise breakup of capital cost with apportionment of common facilities being submitted by the petitioner, had to resort to the provision of the 2004 Tariff Regulations.
- (e) There are definitive limits to the exercise of power of review and the review proceedings are to be strictly confined to the ambit and scope of order 47 Rule 1 of CPC. A review petition cannot be an appeal in disguise, but lies only for patent error. Decision of Hon'ble SC in Parsion Devi and others Vs. Sumitra devi and others (1997) 8 SCC 715 was referred to.

3. In response, the learned counsel to the petitioner submitted that it had only pointed to the patent errors in the order in respect of the said issues. He accordingly prayed that the order may be reviewed.

4. The representative of the respondent, PSPCL submitted that the submissions of respondent, BRPL as above are adopted. He however submitted that it may be granted some time to file its reply.

5. On a specific query by the Commission as regards the reasons for the delay from the date of commissioning of the project (19.3.2007) to the declaration of COD (9.7.2007), the learned counsel for petitioner submitted that the period from 19.3.2007 to 9.7.2007 was taken to align the project and declare commercial operation after removing the issues which occur during such period. However, the Commission directed the petitioner to furnish on affidavit, detailed justification giving reasons for the said delay with copy to the respondents.

6. The respondent, PSPCL shall file reply in the matter on or before 10.9.2013, with copy to the petitioner, who may file its rejoinder, if any, by 17.9.2013. The petitioner is also directed to submit the information as stated in para 5 above, on or before the said date.

7. Subject to the above, order in the petition was reserved.

By order of the Commission

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