

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Coram:
Shri Gireesh B. Pradhan, Chairperson
Shri A.K.Singhal, Member
Shri A. S. Bakshi, Member
Dr. M. K. Iyer, Member**

Date of Order: 15th March, 2017

Petition No. 8/GT/2016

In the matter of

Revision of tariff of Nathpa Jhakri Hydroelectric Power Station (1500 MW) for the period 01.04.2004 to 31.03.2009

AND

Petition No. 262/GT/2014

In the matter of

Petition for revision of tariff of Nathpa Jhakri Hydroelectric Power Station for the period from 1.4.2009 to 31.3.2014- Truing-up of tariff determined by order dated 20.6.2014 in Petition no. 168/GT/2013.

AND

Petition No. 261/GT/2014

In the matter of

Approval of generation tariff of Nathpa Jhakri Hydro Electric Power Station (6x250 MW) for the period 01.04.2014 to 31.03.2019

AND

In the matter of

SJVN Limited.
(A Joint Venture of Govt. of India and Govt. of Himachal Pradesh)
Himfed Building,
New Shimla – 171009

.....Petitioner

Vs

1. Punjab State Power Corporation Ltd.
The Mall, Patiala – 147001

2. Haryana Power Purchase Centre,
Shakti Bhawan, Sector VI,
Panchkula - 134019,

3. Delhi Transco Ltd,
Shakthi Sadan, Kotla Road
New Delhi -110002



4. Tata Power Delhi Distribution Ltd.
33 kV Sub-station, Hudson Lines,
Kingsway Camp, Delhi – 110009
5. BSES Rajdhani Power Ltd.
2nd Floor, B Block, Nehru Place,
New Delhi 110019
6. BSES Yamuna Power Ltd.
Shakti Kiran Building, Karkardooma,
Delhi – 110092
7. Ajmer Vidyut Vitran Nigam Ltd.
Old Power House, Hathi Bhsata,
Jaipur Road, Ajmer
8. Jaipur Vidyut Vitran Nigam Ltd.
Vidyut Bhawan, Janpath,
Jaipur – 302005
9. Jodhpur Vidyut Vitran Nigam Ltd.
New Power house, Industrial Area, Jodhpur
10. Himachal Pradesh State Electricity Board Ltd,
Vidyut Bhawan,
Shimla – 171004
11. Power Development Department (J&K),
Government of J&K,
Mini Secretariat, Jammu
12. Power Department,
Union Territory of Chandigarh,
Additional Office Building, Sector 9D,
Chandigarh
13. Uttar Pradesh Power Corporation Ltd.
Shakti Bhawan, 14, Ashoka Road,
Lucknow – 226001
14. Uttranchal Power Corporation Ltd.
Urja Bhawan, Kanwali Road,
Dehradun- 248001
15. Government of Himachal Pradesh,
H.P. Secretariat,
Shimla -171002

.....Respondents

Parties Present

Shri Rajeev Aggarwal, SJVNL
Shri Sanjay Kumar, SJVNL
Shri Romesh Kapur, SJVNL
Shri Naveen Yadav, SJVNL
Shri Ashok Kumar, SJVNL
Shri Atul Harkat, SJVNL
Shri R.B Sharma, Advocate, BRPL



Ms. Ranjana Roy, Advocate, TPDDL
Ms. Vasudha Sen, Advocate, TPDDL
Ms. Arunima Gautam, Advocate, TPDDL
Shri Abhay Pratap, Advocate, TPDDL
Shri S.P Das, Advocate, Rajasthan Discoms
Shri S.K Agarwal, Advocate, Rajasthan Discoms
Shri Kuldeep Singh Pathania, HPSEB
Shri Shanti Swaroop, Govt. of HP
Shri Ashok Kumar, Govt. of HP

ORDER

Petition No.8/GT/2016 has been filed by the petitioner SJVN Ltd for determination of generation tariff of Nathpa Jhakri Hydroelectric Power Station (6 x 250 MW) (hereinafter referred to as "the generating station") for the period 2004-09 based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 (the 2004 Tariff Regulations). Petition No.262/GT/2014 has been filed by the petitioner for determination of tariff of the generating station for the period 2009-14 based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 and Petition No.261/GT/2014 has been filed by the petitioner for determination of tariff of the generating station for the period 2014-19 in terms of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014.

2. The generating station, located in the State of Himachal Pradesh, with an installed capacity of 1500 MW (6 x 250 MW) has been constructed by the petitioner, a joint venture between the Government of India and Government of Himachal Pradesh, as a run-of-river project with pondage. The generating station is designed to generate energy to the extent of 6984 MUs per annum in a 90% dependable year and 1500 MW of peak power. The dates of commercial operation of the different units of the generating station are as under:

.Units	Date of commercial operation
Unit- 5	6.10.2003
Unit – 6	2.1.2004
Unit – 4	30.3.2004
Unit – 3	31.3.2004
Unit – 2	6.5.2004
Unit – 1 (generating station)	18.5.2004



3. Petition No. 20/2008 was filed by the petitioner for approval of tariff of the generating station for the period 2004-09 based on the actual additional capitalization upto 2006-07 and projected additional capital expenditure for the period 2007-09 and the Commission vide order dated 31.12.2008 approved the tariff for 2004-09, considering the actual additional capital expenditure incurred upto 31.3.2007. Thereafter, Petition No. 27/2011 was filed by the petitioner for revision of tariff of the generating station for the period from 1.4.2004 to 31.3.2009, based on the 2004 Tariff Regulations and the Commission by order dated 16.1.2013 disposed of the said petition as under:

"11..... In our view, the petitioner should approach the Commission for capitalization of additional expenditure included in the present petition after approval of RCE-IV in accordance with the provisions of the 2009 Tariff Regulations, which is consistent with our order dated 31.12.2008 granting liberty to the petitioner to approach the Commission in accordance with the prevailing regulations. Though the order in the petition was reserved on the issue of maintainability, we consider it fit to dispose of this petition finally, since all expenditure claimed in the present petition have been included in RCE-IV, and there is no claim left in the petition for consideration and approval. The petitioner is however granted liberty to approach the Commission for capitalisation of expenditure after RCE-IV is approved by Central Government. The staff of the Commission is directed to process the tariff petition filed by the petitioner for the period 2009-14 for disposal at the earliest"

4. Aggrieved by the said order, the petitioner filed Review Petition (Petition No. 1/RP/2013) on various issues and the Commission by its order dated 22.8.2013 disposed of the same and observed as under:

"14.Accordingly, we are of the considered view that the claim of the petitioner for actual additional capital expenditure incurred during the period 2004-09 is to be governed by the 2004 Tariff Regulations, and not the 2009 Tariff Regulations. We direct accordingly. However, since RCE-IV is yet to be approved by the Central Government, the revision of tariff of the generating station for 2004-09 shall be considered by the Commission after submission of the approved RCE by the petitioner, through an appropriate application. However, the petitioner shall not be entitled for any carrying costs till the approval of RCE-IV by the Central Government"

5. Thereafter, Petition No. 168/GT/2013 was filed by the petitioner for determination of tariff of the generating station for the period 2009-14 in accordance with the provisions of the 2009 Tariff Regulations and the Commission by order dated 20.6.2014 determined the tariff of the generating station for 2009-14 based on the approved RCE-III cost of Rs 818771.30 lakh including IDC of Rs 195181 lakh as on 31.3.2009 as against the capital cost of Rs 845485.00 lakh claimed by the petitioner as on 31.3.2009.

"14.Considering the above factors in totality and in order to minimize the burden on the respondents in terms of the impact of huge differential annual fixed charges, we are of the considered view that the approved RCE-III cost of `818771.30 lakh, including IDC of `195181 lakh as on 31.3.2009 should be considered for determination of tariff as against the capital cost of `845485.00 lakh claimed by the petitioner as on 31.3.2009. This according to us, would help the petitioner recover some portion of the expenditure actually incurred on assets put



to use, and would thereby lessen the burden on the respondents. We order accordingly. The tariff determined as above would however be subject to submission of liability flow from the date of COD of the generating station to 31.3.2014 and based on RCE-IV approved by the Central Government, at the time of truing-up in terms of Regulation 6(1) of the 2009 Tariff Regulations. However, the Revised Capital cost has to be first approved by the Company as per their system of investment and submitted to the Commission.

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67. As stated in order dated 22.8.2013 in Petition No.1/RP/2013, the tariff of the generating station for 2004-09 shall be revised after submission of the approved RCE-IV by the petitioner, through an appropriate application.

6. Accordingly, the annual fixed charges determined by the Commission in order dated 20.6.2014 is as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Return on Equity	71868.20	72604.72	73088.37	74332.67	77986.98
Interest on Loan	14243.78	11108.42	7571.67	3282.35	551.96
Depreciation	41640.20	42181.71	43069.51	43305.53	43409.56
Interest on Working Capital	3854.96	3884.45	3911.42	3929.10	4031.11
O & M Expenses	23836.31	25199.75	26641.18	28165.05	29776.09
Total	155443.46	154979.04	154282.16	153014.70	155755.70

7. Petition No. 262/GT/2014 was filed by the petitioner for revision of tariff of the generating station for the period 2009-14 and the Commission after hearing the matter on 13.1.2015 reserved its order after directing the petitioner to submit Board Approval in respect of the RCE-IV submitted to the Ministry of Power, GOI and the same has been submitted by the petitioner.

8. Thereafter, Petition No. 261/GT/2014 was filed by the petitioner for determination of tariff of the generating station for the period 2014-19 in accordance with the provisions of the 2014 Tariff Regulations and the matter was heard on 12.1.2016. During the pendency of this petition, the petitioner filed Petition No.8/GT/2016 for revision of tariff of the generating station for the period 2004-09 (in terms of the order dated 22.8.2013 in Petition No. 1/RP/2013) based on the RCE approved by the Board of the Petitioner Company amounting to Rs 8575.28 crore.

9. It is noticed from the above orders that the Commission had directed that the tariff of the generating station for the periods 2004-09 and 2009-14 shall be revised after submission of approved RCE-IV by the Central Government. The petitioner in this petition has submitted that the Ministry of Power, GOI had approved the RCE-III of the generating station for Rs 8187.713 crore excluding unsettled claims of the contractors on 14.8.2007. It has also submitted that the



RCE-IV amounting to Rs 8575.283 crore inclusive of settled claims was submitted by the Ministry of Power, GOI on 1.4.2013 for approval. During the hearing of the petitions (Petition Nos. 8/GT/2016 and 261/GT/2014) on 28.7.2016, the petitioner has submitted that RCE has been recommended by CEA and is pending before the MOP, Govt. of India for approval. Accordingly, Commission reserved orders in these petitions.

10. The respondent, BRPL has raised preliminary issues during the hearing and has submitted that the petitioner can approach the Commission in respect of claims only after the approval of RCE-IV by the Central Government.

11. We have examined the matter. As stated, the petitioner was directed to submit the approved RCE-IV for revision/approval of tariff of the generating station for the periods 2004-09, 2009-14 and 2014-19 and the same has not been furnished by the petitioner. It has however submitted that the RCE has been recommended by the CEA and the same is pending for approval of the Central Government. In view of this and considering the fact there will be revision in the capital cost of the generating station after approval of RCE-IV by the Central Government, we find no reason to keep these petitions pending. Similar issue was considered by the Commission in respect of determination of tariff of Teesta Low Dam Hydroelectric Power Station-III (132 MW) of NHPC for the period 2013-14 and 2014-19 in Petition Nos.193/GT2015 and 248/GT/2014 and the Commission vide order dated 6.2.2017 disposed of the said petition as under:

“10. we are inclined to dispose of this petition, with liberty to the petitioner to approach the Commission with fresh tariff petition in respect of the generating station after approval of RCE by the Central Government. We direct accordingly. We also direct that the annual fixed charges determined by order dated 22.1.2015 and 18.9.2015 shall however continue to be in operation till the tariff of the generating station for the period 2009-14 and 2014-19 is determined based on the approved RCE. This is however subject to final decision of the Tribunal in the appeals filed by the respondent. The filing fees deposited by the petitioner shall be adjusted against the fresh petition to be filed for the period 2014-19 in terms of the liberty granted above.”

12. In line with the above decision, we are inclined to dispose of this petition, with liberty to the petitioner to approach the Commission with fresh tariff petition in respect of the generating station after approval of RCE-IV by the Central Government. We direct accordingly. We also direct that the annual fixed charges determined by order dated 20.6.2014 in Petition No.168/GT/2013 shall however continue to be in operation till the tariff of the generating station for the periods 2004-09,



2009-14 and 2014-19 are determined based on the approved RCE. The filling fees deposited by the petitioner in respect of these petitions shall be adjusted against the fresh tariff petitions to be filed for the said periods in terms of the liberty granted above.

13. Petition Nos. 261/GT/2014, 262/GT/2014 and 8/GT2016 are disposed of in terms of the above.

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

**Sd/-
(A.S. Bakshi)
Member**

**Sd/-
(A.K. Singhal)
Member**

**Sd/-
(Gireesh B Pradhan)
Chairperson**

