

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 295/MP/2019

Subject : Petition under Regulation 31(6) of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 for recoupment of under-recovered energy charges due to shortfall in energy generation for reasons beyond the control of generating station during FY 2018-19 in respect of Chamera-III Power Station.

Petitioner : NHPC Limited (NHPC)

Respondents : Punjab State Power Corporation Limited (PSPCL) & Ors.

Petition No. 320/MP/2019

Subject : Petition under Regulation 31(6) of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 for recoupment of under-recovered energy charges due to shortfall in energy generation for reasons beyond the control of generating station during FY 2018-19 in respect of Sewa-II Power Station.

Petitioner : NHPC Limited (NHPC)

Respondents : Punjab State Power Corporation Limited (PSPCL) & Ors.

Petition No. 411/MP/2019

Subject : Petition under Regulation 31(6) of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 read with Regulation 44(8) and 44(7) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 for recoupment of under-recovered energy charges due to shortfall in energy generation for reasons beyond the control of generating station during FY 2018-19 in respect of Teesta Low Dam-III Power Station.

Petitioner : NHPC Limited (NHPC)

Respondent : West Bengal State Electricity Distribution Co. Ltd.

Petition No. 412/MP/2019

Subject : Petition under Regulation 31(6) of Central Electricity Regulatory Commission (Terms and Conditions of Tariff)



Regulations, 2014 read with Regulation 44(8) and 44(7) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 for recoupment of under-recovered energy charges due to shortfall in energy generation for reasons beyond the control of generating station during FY 2018-19 in respect of Teesta Low Dam-IV Power Station.

Petitioner : NHPC Limited (NHPC)

Respondents : Punjab State Power Corporation Limited (PSPCL) & Ors.

Petition No. 458/MP/2019

Subject : Petition under Regulation 31(6) of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 for recoupment of under-recovered energy charges due to shortfall in energy generation for reasons beyond the control of generating station during FY 2017-18 in respect of Chamera-II Power Station.

Petitioner : NHPC Limited (NHPC)

Respondents : Punjab State Power Corporation Limited (PSPCL) & Ors.

Petition No. 464/MP/2019

Subject : Petition under Regulation 44(8) and 44(7) of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 for recoupment of under-recovered energy charges due to shortfall in energy generation for reasons beyond the control of generating station during FY 2018-19 in respect of Dhauliganga Power Station.

Petitioner : NHPC Limited (NHPC)

Respondents : Punjab State Power Corporation Limited (PSPCL) & Ors.

Date of Hearing : 27.9.2022

Coram : Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Parties Present : Shri Ravi Shankar Dvivedi, Advocate, NHPC
Shri Sushant Sarkar, Advocate, NHPC
Shri Anand Ganesan, Advocate, PSPCL
Shri Amal Nair, Advocate, PSPCL
Shri Sachin Dubey, Advocate, BRPL
Shri S. K. Meena, NHPC

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Petitions have been filed for recoupment of under-recovered energy charges due to shortfall in energy generation for the reasons beyond the control of the Petitioner in respect of its various hydro generating stations for the stated period. Learned counsel submitted that in each Petition, the Petitioner has furnished the requisite details including shortfall in generation and the reasons thereof. Learned counsel further submitted that the Petitioner has furnished the various details as sought for by the Commission vide its previous Record of the Proceedings in these matters. He added that except for Petition Nos. 458/MP/2019 & 464/MP/2019, the pleadings in these Petitions are completed and in these two Petitions, the Petitioner may be permitted to file its rejoinder(s) to the reply filed by the Respondent, PSPCL.

2. Learned counsel for the Respondent, PSPCL in the Petition Nos. 295/MP/2019, 320/MP/2019, 458/MP/2019 and 464/MP/2019 submitted that the Respondent has already filed its reply in these matters. Learned counsel submitted that the difference between the scheduled energy (ex-bus) and actual generation of these generating stations, having been accounted for under the DSM, any revenue earned by the Petitioner therein also needs to be factored into/adjusted while arriving at the shortfall in the energy charges to be recovered. The Commission has already considered this aspect in its recent orders, including order dated 4.2.2021 in Petition No. 348/MP/2018, order dated 9.2.2021 in Petition No. 328/MP/2018 and order dated 19.3.2021 in Petition No. 369/MP/2018, etc. and the Respondent may be permitted to place on record such orders vide additional affidavit. Further, by referring to the daily generation data furnished by the Petitioner, learned counsel pointed out that for period corresponding to 4.4.2018 to 8.4.2018, the Petitioner has stated that there was shortfall in generation due to less inflow from the design inflow but on 10.4.2018 when there was less inflow from the design in flow, the Petitioner has taken steps to rectify the less inflow by generating excess energy by depleting reservoir level thereby clearly showing its ability to mitigate the reason of less inflow.

3. Learned counsel for the Respondent, BRPL in Petition Nos. 295/MP/2019, 320/MP/2019, 458/MP/2019 and 464/MP/2019 submitted that the Respondent has already filed its detailed reply in Petition No. 295/MP/2019, which may be taken into consideration for the other Petitions as well. Learned counsel further submitted that the shortfall in the energy generation had been due to the mismanagement while dealing with the inflows and spills and that the details furnished by the Petitioner have not been vetted by any independent agency. Learned counsel further pointed out that the Petitioner has not identified any other regulation except for Regulation 31(6) of Tariff Regulations for claiming recoupment of under-recovered energy charges and the said regulation only provides for treatment in case actual total energy generated by hydro generating station during a year is less than design energy which is by way of modification of design energy equal to the actual energy generated during the year of shortfall till the energy charge shortfall of previous year has been made up. Learned counsel submitted that the said regulation does not permit the Petitioner to claim recoupment of under-recovered energy charges due to shortfall in energy generation directly without modification of design energy.

4. In rebuttal, learned counsel for the Petitioner submitted that the Petitioner has already filed its rejoinder to the reply filed by PSPCL and BRPL in Petition No. 295/MP/2019 addressing their concerns. Learned counsel further added that CWC in past has already indicated its inability to certify the inflow data and such data is collected on the basis of flow measurement and gate opening, etc. and are further linked to SCADA system.

5. In response to the specific query of the Commission regarding revision of design energy, learned counsel for the Petitioner submitted that as per the Tariff Regulations in case the actual generation from the hydro generating station is less than the design energy for a continuous period of 4 years on account of hydrology factor, the generation station is required approach CEA with relevant hydrology data for revision of design energy of such station. The representative of the Petitioner added that for these hydro projects of the Petitioner, the actual generation had not been less than the designed energy for a continuous period of 4 years due to hydrology factor. He further submitted that apart from hydrology data, there are also other factors such as transmission constrain and silt flushing, etc. which may cause the actual generation to be lower than the designed energy.

6. After hearing the learned counsel for the parties, the Commission ordered as under:

- (i) The Petitioner to furnish the following details/information on affidavit within two weeks with copy to the Respondents:

Petition No. 295/MP/2019

- (a) Actual inflow data to be certified by CWC;
- (b) Status of certified data of planned and forced outages from CEA/ RLDC;

Petition No. 320/MP/2019

- (a) Actual inflow data to be certified by CWC;
- (b) Design Energy calculation (MS Excel);
- (c) Methodology for calculating daily maximum possible generation during financial year 2018-19 as claimed in the Petition (MS Excel);
- (d) Planned/Forced Outages certified by CEA/NRLDC and its correlation with generation data vis-à-vis available average inflows during the period of outages, if any;
- (e) Day-wise details of scheduled energy, actual energy injected in the grid and energy accounted for in DSM along with the revenue earned from the DSM for such energy.
- (f) Rainfall data for financial year 2018-19 of IMD for the district in which plant is located and adjoining districts to correlate the inflows.
- (g) It is observed from the daily generation analysis submitted by the Petitioner that during high inflow periods, overload capacity of 10% has not been utilized fully i.e. unit loading is less than 110% in spite of water availability. Reason for the same may be furnished by the Petitioner; and
- (h) Any other relevant information/document to justify the claims in the Petition.

Petition No. 411/MP/2019

- (a) Actual inflow data to be certified by CWC;
- (b) Status of certified data of planned and forced outages from WBSLDC;

Petition No. 412/MP/2019

- (a) Actual inflow data to be certified by CWC;
- (b) Status of certified data of planned and forced outages from WBSLDC;
- (c) Update the Petition based on Design Energy of 717.717 MUs as allowed by the Commission;

Petition No. 458/MP/2019

- (a) Actual inflow data to be certified by CWC;
- (b) Design Energy calculation (in MS Excel);
- (c) Methodology for calculating daily maximum possible generation during financial year 2018-19 as claimed in the Petition (in MS Excel);
- (d) Planned/Forced Outages certified by CEA/NRLDC and its correlation with generation data vis-à-vis available average inflows during the period of outages, if any;
- (e) Day-wise details of scheduled energy, actual energy injected in the grid and energy accounted for in DSM along with the revenue earned from the DSM for such energy.
- (f) Rainfall data for financial year 2018-19 of IMD for the district in which plant is located and adjoining districts to correlate the inflows.
- (g) It is observed from the daily generation analysis submitted by the Petitioner that during high inflow periods, overload capacity of 10% has not been utilized fully i.e. unit loading is less than 110% in spite of water availability. Reason for the same may be furnished by the Petitioner; and
- (h) Any other relevant information/document to justify the claims in the Petition

Petition No. 464/MP/2019

- (a) Actual inflow data to be certified by CWC;
 - (b) Design Energy calculation (in MS Excel);
 - (c) Methodology for calculating daily maximum possible generation during financial year 2018-19 as claimed in the Petition (in MS Excel);
 - (d) Planned/Forced Outages certified by CEA/NRLDC and its correlation with generation data vis-à-vis available average inflows during the period of outages, if any;
 - (e) Day-wise details of scheduled energy, actual energy injected in the grid and energy accounted for in DSM along with the revenue earned from the DSM for such energy.
- (ii) The Petitioner to also furnish the details of actual generation vis-à-vis the designed energy for previous 4 years and in case the actual generation being lesser the design energy then, the reasons thereof for the generating stations involved in the present petitions.

- (iii) The Respondents to file their reply/comments on the aforesaid details, if any within two weeks with copy to the Petitioner who may file its response thereon within two weeks thereafter.
 - (iv) The Respondent, PSPCL is directed to file additional affidavit to place on record the subsequent orders of this Commission as relied upon within a week.
 - (v) The Petitioner is permitted to file its rejoinders to the reply filed by PSPCL in Petition Nos. 458/MP/2019 & 464/MP/2019 within a week;
 - (vi) Parties to comply with the above directions within the specified timeline and no extension of time shall be granted.
7. Subject to the above, the Commission reserved the order in these matters.

By order of the Commission

**Sd/-
(T.D. Pant)
Joint Chief (Law)**