

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 40/RP/2023**

in

**Petition No. 632/GT/2020**

**Coram:**

**Shri Jishnu Barua, Chairperson**

**Shri Arun Goyal, Member**

**Shri Pravas Kumar Singh, Member**

**Date of Order: 11<sup>th</sup> May, 2024**

**In the matter of:**

Review of the Commission's order dated 14.10.2023 in Petition No. 632/GT/2020 pertaining to the truing-up of tariff in respect of Teesta Low Dam Hydroelectric Power Station-III (132 MW) for the period 2014-19.

**And**

**In the matter of:**

NHPC India Limited,  
NHPC Office Complex, Sector-33,  
Faridabad (Haryana)- 121003

**...Review Petitioner**

**Vs**

West Bengal State Electricity Distribution Company Limited,  
Vidyut Bhawan, 8th Floor, Block DJ, Sector-II, Salt Lake,  
Kolkata, West Bengal – 700091

**...Respondent**

**Parties Present:**

Shri Venkatesh, Advocate, NHPC  
Ms. Himangi Kapoor, Advocate, NHPC  
Shri Kunal Veer Chopra, Advocate, NHPC  
Shri Mohd. Faruque, NHPC  
Shri Piyush Kumar, NHPC  
Shri Jitendra Kumar Jha, NHPC  
Ms. Anushree Bardhan, Advocate, WBSEDCL  
Ms. Shirsa Saraswati, Advocate, WBSEDCL

**ORDER**

Petition No. 632/GT/2020 was filed by the Review Petitioner, NHPC India Ltd, for truing-up of the tariff of Teesta Low Dam Hydroelectric Power Station-III (132 MW) (in



short, “the generating station”) for the period 2014-19, in accordance with the provisions of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (in short, 'the 2014 Tariff Regulations') and the Commission, vide order dated 14.10.2023 (in short, the 'impugned order'), disposed of the said petition. The annual fixed charges determined vide the impugned order dated 14.10.2023 are as under:

*(Rs. in lakh)*

	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Depreciation	9332.98	9482.81	9594.00	9673.10	9715.95
Interest on Loan	11614.82	10622.92	9319.10	7218.21	6371.63
Return on Equity	11559.54	11790.01	11944.41	12043.22	12125.88
Interest on Working Capital	970.05	970.70	962.50	934.99	936.25
O&M Expenses	4014.90	4281.49	4565.78	4868.95	5192.25
<b>Total</b>	<b>37492.29</b>	<b>37147.92</b>	<b>36385.79</b>	<b>34738.47</b>	<b>34341.95</b>

2. Aggrieved by the said order, the Petitioner has sought the review of the impugned order on the ground of error apparent on the face of the record on the following issues:

- a) *Erroneous application of the rate of depreciation @ 5.056% as against 5.257% claimed for the period 2018-19; and*
- b) *Clerical error in considering the Design Energy as 533.53 MUs.*

#### **Hearing dated 4.4.2024**

3. The Review Petition was heard on 'admission' on 4.4.2024. During the hearing, the learned counsel for the Review Petitioner made detailed oral submissions in the matter and prayed that the review on the aforesaid issues may be allowed. The learned counsel also pointed out that certain clerical errors had occurred in the impugned order, wherein, while calculating the Design Energy, the Commission had inadvertently recorded a reasoning that did not relate to the project of the Review Petitioner. Accordingly, the learned counsel prayed that the errors may be corrected. The Commission admitted the Review Petition and directed the Respondent WBSEDCL to file its reply after serving a copy to the Review Petitioner. However,



based on the consent of the parties, the Commission reserved its order in the matter.

4. In compliance with the above, the Respondent WBSEDCL has filed its reply on 23.3.2024. The Respondent, in its reply, has submitted that on perusal of the documents and submissions made by the Review Petitioner in the Review Petition, it appears that the above two issues are indeed errors, and the same may be considered and allowed by the Commission. Accordingly, the Respondent has prayed that the Commission may undertake a prudence check and review/clarify/modify the impugned order dated 14.10.2023 to the extent of the above two issues.

5. Based on the submissions of the Review Petitioner and the documents available on record, we proceed to examine the issue raised by the Review Petitioner in the subsequent paragraphs.

**A. Erroneous application of the rate of depreciation @ 5.056% as against 5.257% claimed for the period 2018-19.**

6. The Commission in para 41 of the impugned order dated 14.10.2023, held as under:

*“41. The COD of the generating station is 19.5.2013 and the generating station has not completed 12 years of operation, as on 1.4.2014. Accordingly, depreciation has been computed as under:*

*(Rs. in lakh)*

	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Opening Gross block (A)	182918.57	186230.75	188465.54	191137.85	191605.86
Net Additional capital expenditure during 2014-19 (B)	3312.18	2234.79	2672.31	468.01	1151.14
Closing gross block (C=A+B)	186230.75	188465.54	191137.85	191605.86	192757.00
Average gross block (D)=(A+C)/2	184574.66	187348.14	189801.69	191371.86	192181.43
Value of Free Hold Land	0.00	0.00	0.00	0.00	0.00
Depreciable Value (E= (D-Land value) *90%))	166117.19	168613.33	170821.52	172234.67	172963.29
Remaining Depreciable Value at the beginning of the year (F=E-Cum Dep at 'L' at the end of previous year)	157462.25	150849.84	143615.98	135436.08	126497.21



<b>Rate of Depreciation (G)</b>	<b>5.056%</b>	<b>5.062%</b>	<b>5.055%</b>	<b>5.055%</b>	<b>5.056%</b>
Balance useful Life (H)	34.13	33.13	32.13	31.13	30.13
Depreciation (I=D*G)	9332.98	9482.81	9594.00	9673.10	9715.95
Cumulative Depreciation at the end of the year (J=I+ Cum Dep at 'L' at the end of previous year)	17987.92	27246.30	36799.54	46471.69	56182.02
Less: Depreciation adjustment on account of de-capitalization (K)	224.43	40.76	0.95	5.62	0.82
Cumulative Depreciation at the end of the year (L)	17763.49	27205.54	36798.59	46466.08	56181.21

\*Cumulative Depreciation as on 31.3.2014 is Rs.8654.94 lakh”

### **Submission of the Review Petitioner**

7. The Review Petitioner has submitted the following:

- (a) The Commission has erroneously applied the provisional/weighted average rate of depreciation that was claimed by the Review Petitioner in Petition No. 320/GT/2018 i.e. @5.056% as against the claim for 5.257% by the Review Petitioner in the truing-up Petition (632/GT/2020) for the period 2018-19, based on “gross block asset” in the balance sheet of the generating station for 2018-19 and the applicable rate indicated in the 2014 Tariff Regulations.
- (b) In Petition No. 632/GT/2020, the weighted average rate of depreciation claimed by the Review Petitioner was as per the applicable schedule rate of depreciation for assets for 2018-19, which were duly audited by a statutory auditor. This calculation of depreciation was based on the audited balance sheet of the generating station for 2018-19 (pages 289 to 291 of the pleadings). The actual rate of depreciation claimed in the truing-up Petition for the period of 2018-19 is 5.257%.
- (c) It is apparent from the face of the record that the Commission allowed the rate of depreciation for the period 2014-15, 2015-16, and 2017-18 at the same rate which was claimed by the Review Petitioner in the truing-up Petition. The Commission wrongly and inadvertently reduced the rate of depreciation of the Review Petitioner. The same is abundantly clear from the fact that the Commission had inadvertently applied the projected rate of depreciation @5.056% for 2018-19, which was claimed by the Review Petitioner in Petition No. 320/GT/2018, as against the actual rate of depreciation @ 5.257% (based



on the schedule rate of depreciation and as per balance sheet 2018-19) claimed in the truing-up Petition, without giving any reason. This has resulted in a reduction in the depreciation amount during 2018-19, as detailed below:

	<i>(Rs. in lakh)</i>	
	<b>2018-19</b>	
	<b>Allowed by Commission</b>	<b>Ought to have been allowed by Commission</b>
Opening Gross block (A)	191605.86	191605.86
Net Additional capital expenditure during 2014-19 (B)	1151.14	1151.14
Closing gross block (C=A+B)	192757.00	192757.00
Average gross block (D)=(A+C)/2	192181.43	192181.43
Value of Free Hold Land	0.00	0.00
Depreciable Value (E= (D-Land value *90%))	172963.29	172963.29
Remaining Depreciable Value at the beginning of the year (F=E-Cum Dep at 'L' at the end of previous year)	126497.21	126497.21
Rate of Depreciation (G)	5.056%	5.275%
Balance useful Life (H)	30.13	30.13
Depreciation (I=D*G)	9715.95	10102.67
Cumulative Depreciation at the end of the year (J=I+ Cum Dep at 'L' at the end of previous year)	56182.02	56568.73
Less: Depreciation adjustment on account of de-capitalization (K)	0.82	0.82
Cumulative Depreciation at the end of the year (L)	56181.21	56567.91

*The impact on depreciation amount works out to be Rs. 386.72 lakhs.*

8. Accordingly, the Review Petitioner has submitted that there is an error apparent on the face of the record and the Commission may review the same and allow the rate of depreciation @5.257% for the period 2018-19, as claimed in the truing-up Petition.

### **Analysis and Decision**

9. We have considered the submissions of the parties. On perusal of Form-11 furnished by the Review Petitioner, it was observed that the Review Petitioner had claimed the rate of depreciation as 100% in respect of Railway Siding while calculating the weighted average rate of depreciation of 5.257% for the year 2018-19, which is not as per the depreciation schedule in 2014 Tariff Regulations. Therefore, the same



was rectified, and the weighted average rate of depreciation was recomputed to 5.056% in Petition No. 632/GT/2020. As the Weighted Average Rate of Depreciation has been worked out and allowed in terms of the 2014 Tariff Regulations, we find no force in the submissions of the Review Petitioner to review the impugned order on this ground. Accordingly, we hold that there is no error apparent on the face of the impugned order dated 14.10.2023, and review on this ground is not maintainable.

**B. Clerical error in considering the Design Energy as 533.53 MUs**

10. The Commission, while allowing the DE of 594.07 MUs in the table under paragraph 60 of the impugned order dated 14.10.2023, had observed the following:

***Design Energy (DE)***

60. The Commission in order dated 3.7.2014 in Petition No.322/GT/2018 had considered the annual DE of 533.53 million units for this generating station. Accordingly, the same has been considered for this generating station for the period 2014-19 as per month-wise details as under:

<i>Month</i>	<i>10 Daily</i>	<i>Design Energy (MUs)</i>
<i>April</i>	<i>I</i>	<i>6.91</i>
	<i>II</i>	<i>8.73</i>
	<i>III</i>	<i>14.46</i>
<i>May</i>	<i>I</i>	<i>10.37</i>
	<i>II</i>	<i>10.59</i>
	<i>III</i>	<i>20.15</i>
<i>June</i>	<i>I</i>	<i>19.03</i>
	<i>II</i>	<i>29.04</i>
	<i>III</i>	<i>28.76</i>
<i>July</i>	<i>I</i>	<i>30.10</i>
	<i>II</i>	<i>30.10</i>
	<i>III</i>	<i>33.11</i>
<i>August</i>	<i>I</i>	<i>30.10</i>
	<i>II</i>	<i>30.10</i>
	<i>III</i>	<i>33.11</i>
<i>September</i>	<i>I</i>	<i>28.37</i>
	<i>II</i>	<i>20.60</i>
	<i>III</i>	<i>25.50</i>
<i>October</i>	<i>I</i>	<i>22.54</i>
	<i>II</i>	<i>23.69</i>
	<i>III</i>	<i>24.55</i>
<i>November</i>	<i>I</i>	<i>13.03</i>
	<i>II</i>	<i>7.27</i>
	<i>III</i>	<i>6.20</i>
<i>December</i>	<i>I</i>	<i>8.78</i>



	II	8.09
	III	6.35
January	I	8.13
	II	7.52
	III	7.92
February	I	6.06
	II	6.01
	III	4.70
March	I	7.36
	II	7.72
	III	9.02
<b>Total</b>		<b>594.07</b>

### ***Submissions of the Review Petitioner***

11. The Review Petitioner has submitted that the Commission, in the table under paragraph 60 of the impugned order [under the head Design Energy (DE)] had allowed the Design Energy of 594.07 MUs. However, it has been submitted that the reasoning recorded in the said paragraph does not relate to the generating station of the Review Petitioner. Accordingly, the Review Petitioner has submitted that the review on this count may be allowed, and the error apparent from the face of the record may be rectified.

### **Analysis and Decision**

12. We have examined the matter and agree with the submissions of the Review Petitioner. In para 60 of the impugned order, the Commission's observation that in an order dated 3.7.2014 in Petition No.322/GT/2018, the annual DE of 533.53 million units had been considered for this generating station does not relate to this generating station of the Review Petitioner. Hence, the review of the impugned order on this count is allowed and the inadvertent error in the said para is rectified as under:

***In para 60 of the impugned order, rows 1 and 2, the sentence stands corrected and shall be read as:***

As per Commission's order dated 14.10.2023 in Petition No. 632/GT/2020	Corrected version after the Review.
<i>The Commission in order dated 3.7.2014</i>	<i>CEA has approved an annual Design</i>



<i>in Petition No.322/GT/2018 had considered the annual DE of 533.53 million units for this generating station.</i>	<i>Energy of 594.07 Million Units (MU) for the generating station.</i>
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13. Other terms and conditions of the impugned order dated 14.10.2023 remain unchanged.

14. Review Petition No. 40/RP/2023 (in Petition No. 632/GT/2020) is disposed of in terms of the above.

**Sd/-  
(Pravas Kumar Singh)  
Member**

**Sd/-  
(Arun Goyal)  
Member**

**Sd/-  
(Jishnu Barua)  
Chairperson**

