

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 153/MP/2021**

**Coram:**

**Shri Jishnu Barua, Chairperson  
Shri Ramesh Babu V., Member  
Shri Harish Dudani, Member  
Shri Ravinder Singh Dhillon, Member**

**Date of Order: 2<sup>nd</sup> June , 2025**

**In the matter of:**

Petition under Section 79(1)(a) and (f) of the Electricity Act, 2003 for deciding the NAPAF and consequent adjudication of disputes under the PPA dated 7.5.2004 between Punjab State Power Corporation Limited and NHPC Limited in respect of Parbati Hydroelectric Project-III.

**And**

**In the matter of:**

Punjab State Power Corporation Limited  
The Mall, Patiala, Punjab - 147001

**...Petitioner**

**Vs.**

1. NHPC Limited,  
NHPC Office Complex, Sector-33  
Faridabad, Haryana – 121003
2. Haryana Power Purchase Centre,  
Shakti Bhawan, Sector- 6, Panchkula-134109
3. BSES Rajdhani Power Ltd.,  
BSES Bhawan, Nehru Place, New Delhi-110 019
4. BSES Yamuna Power Ltd.,  
BSES Bhawan, Nehru Place, Shakti Kiran Building,  
Karkardooma, New Delhi-110 032
5. Uttar Pradesh Power Corporation Ltd.,  
Shakti Bhawan, 14, Ashok Marg,  
Lucknow – 226 001 (U.P.)
6. Engineering Department,  
UT of Chandigarh, 1<sup>ST</sup> floor, UT Secretariat,  
Sector 9-D, Chandigarh – 160 009
7. Tata Power Delhi Distribution Ltd.,  
33 KV Sub-station, Hudson Lane, Kingsway Camp, Delhi-110 009



8. Uttaranchal Power Corporation Ltd.,  
Urja Bhawan, Kanwali Road, Dehradun-248001
9. Jaipur Vidyut Vitran Nigam Ltd.,  
Vidyut Bhawan, Janpath, Jaipur-302 005
10. Ajmer Vidyut Vitran Nigam Ltd.,  
Old Power House, Hatthi Bhatta,  
Jaipur Road, Ajmer-305 001
11. Jodhpur Vidyut Vitran Nigam Ltd.,  
New Power House, Industrial Area,  
Jodhpur-342 003
12. Power Development Department,  
New Secretariat, Jammu (J&K) -180001
13. Himachal Pradesh State Electricity Board,  
Vidyut Bhawan, Kumar House, Shimla-171004  
Himachal Pradesh

...Respondents

**Parties Present:**

Ms. Swapna Seshadri, Advocate, PSPCL  
Shri Amal Nair, Advocate, PSPCL  
Shri Rajiv Shankar Dwivedi, Advocate, NHPC  
Shri S. K. Meena, NHPC  
Shri Piyush Kumar, NHPC  
Shri Aman Mahajan, NHPC

**ORDER**

The Petitioner, Punjab State Power Corporation Limited (in short 'PSPCL') has filed this petition with the following prayers:

- a) *Direct NHPC to reimburse to the Petitioner the excess capacity charges billed to the Petitioner as per the details mentioned in Annexure G;*
- b) *Direct NHPC to strictly adhere to the NAPAF decided by this Hon'ble Commission in its various Orders while billing the capacity charges to the Petitioner;*
- c) *Award interest at the rate of 18% per annum on account of the amount payable in terms of prayer (a) above from the day when the amounts became due and payable till the date of actual payment by NHPC to the Petitioner.*
- d) *Award the costs of the present litigation in favour of the Petitioner and against NHPC;*
- e) *Pass such further order(s) as deemed fit and proper.*



## **Background**

2. The Petitioner, PSPCL, had entered into a PPA dated 7.5.2004, with the Respondent, NHPC, for the purchase of power from the Parbati-III Hydroelectric Project (520 MW) (in short, 'the generating station') of the Respondent, NHPC. While Units-I and II of the generating station achieved COD on 24.3.2014, Unit-III achieved COD on 30.3.2014. The anticipated COD of Unit-IV was 1.1.2014. In Petition No.228/MP/2013 filed by the Respondent NHPC, the Commission vide its order dated 25.6.2014 determined the fixed charges for Units-I to III, for the period 24.3.2014 to 31.3.2014, on a provisional basis. In the said order, the annual Design Energy (DE) of 701.40 MUs (as approved by CEA till the commissioning of the upstream Parbati-II HEP) and the NAPAF of 68% were allowed subject to review, after the COD of the upstream Parbati-II HEP of the Respondent. Unit-IV of the generating station achieved COD on 6.6.2014. Accordingly, the Commission by order dated 5.4.2019 in Petition No. 7/GT/2017 determined the fixed charges of the generating station for the period from 24.3.2014 till 31.3.2014. Thereafter, the Commission vide its order dated 23.4.2019 in Petition No.6/GT/2017 approved the tariff of the generating station for the period 2014-19, with the DE of 1963.29 MUs and NAPAF of 68%, as allowed vide order dated 5.4.2019. Subsequently, Petition No.96/GT/2020 was filed by the Respondent, NHPC, for truing-up of the tariff of the generating station for the period 2014-19 and for approval of the tariff for the period 2019-24.

3. During the pendency of Petition No.96/GT/2020, PSPCL has filed the present Petition, seeking the relief(s) as in para 1 above, based on the following submissions:

## **Submissions of the Petitioner, PSPCL**

4. The Petitioner PSCPL, in this petition, mainly submitted the following:



(a) In view of the above orders of the Commission, the NAPAF for Parbati-III HEP stood fixed at 68% till the time Parbati-II HEP is commissioned. It is pertinent here to mention that Parbati-II HEP is yet to be commissioned as of the date of filing of the present petition. Therefore, till the time the commissioning of Parbati-II HEP is achieved, there cannot be any deviation from the findings of the Commission in Petition Nos. 228/GT/2013, 7/GT/2017, and 6/GT/2017 *qua* NAPAF. The Commission had noted that both Parbati-III HEP and Parbati-II HEP were part of the same scheme and had to be commissioned in tandem. However, in the absence of the commissioning of Parbati-II HEP, the Commission decided that no incentive is to be allowed to Parbati-III HEP on account of a higher PAF. This principle has also attained finality.

(b) At the time of filing the present appeal, the truing up for Parbati-III HEP for the period 2014-19 and the tariff petition for the period 2019-24 (Petition No. 96/GT/2020) have been filed and are pending before this Commission. The Petitioner is also raising the issue of NAPAF as a response to the above petitions. However, the present petition is being filed due to the methodology adopted by NHPC for the computation of capacity charges in the provisional and supplementary (for AFC revisions) energy bills raised by it, as the methodology so adopted is in direct contravention of the orders of the Hon'ble Commission.

(c) The capacity charges payable by PSPCL to NHPC are governed by the Regulations as formulated by the Commission under the 2014 Tariff Regulations and the 2019 Tariff Regulations. Regulation 31 of the 2014 Tariff Regulations deals with the computation and payment of capacity and energy charges for hydro generating stations. The methodology adopted by Respondent NHPC for computing the monthly capacity charges is erroneous on the two counts viz., incorrectly taking into account PAFM at actuals, for computing the monthly capacity charges for certain months, instead of capping the same at 68% and incorrectly cumulating the PAFM, for calculating the capacity charges for the month of March during the period 2014-19 and 2019-20 and 2020-21. Further, NHPC has cumulated the PAFM while calculating the capacity charges for the months of March 2014-19, 2019-20, and 2020-21.

(d) The incorrect approach as taken by NHPC is evidenced from the table as under:

| FY      | Month     | PAFM considered by NHPC on actual basis | PAFM to be considered |
|---------|-----------|-----------------------------------------|-----------------------|
| 2015-16 | June 2015 | 70.71 %                                 | 68%                   |
|         | Sept 2015 | 72.045 %                                | 68%                   |
| 2016-17 | July 2016 | 76.795%                                 | 68%                   |
|         | Aug 2016  | 87.202%                                 | 68%                   |
|         | Sept 2016 | 94.818%                                 | 68%                   |



|         |           |         |     |
|---------|-----------|---------|-----|
| 2017-18 | May 2017  | 91.888% | 68% |
|         | June 2017 | 98.546% | 68% |

(e) As per NHPC, the PAFM was not capped at 68%. NHPC is resorting to a self-serving interpretation of the Commission's orders to claim that PAFM was in fact not capped for the months of April to October. The Commission in its orders has clearly mentioned that no incentive on account of higher PAF has been allowed to Parbati-III HEP till such date as Parbati-II HEP is commissioned. The interpretation given by NHPC to the orders of the Commission negates the ratio behind the decisions of the Commission, which was to the effect that no incentive is given to NHPC "on account of higher PAF" till it commissions its upstream Parbati-II HEP. By taking into account PAFM on actuals, NHPC is incorrectly raising the quantum of monthly capacity charges. NHPC, thus, while computing the capacity charges, ought to cap the PAFM to 68% during months where it exceeds the same. By not capping the PAFM to 68%, NHPC has incorrectly inflated the numerator forming part of the formula for calculating the capacity charges as per Regulation 31 and Regulation 44 of the 2014 Tariff Regulations and the 2019 Tariff Regulations, respectively.

(f) NHPC computation is in direct contravention to the formulae laid down to calculate the capacity charges by way of the 2014 Tariff Regulations and the 2019 Tariff Regulations. Owing to the incorrect methodology being applied by NHPC, the same has resulted in an excess billing of Rs. 14,51,85,069/- (approx) to PSPCL (as on date of filing of the present petition), which ought to be reimbursed by NHPC, in the forthcoming bills along with interest.

### **Hearing dated 23.11.2021**

5. The Petition was heard on 'admission' on 23.11.2021. On a specific observation by the Commission that the present petition may not be kept pending, considering the fact that the issues raised in the present petition, were raised by the Petitioner, PSPCL, in its reply to Petition No.96/GT/2020 (filed by Respondent NHPC), which was pending for consideration, the learned counsel for the Petitioner, PSCPL, requested that the present petition may be kept pending, till the final disposal of Petition No.96/GT/2020. Accordingly, based on the consent of the parties, the present petition was directed to be listed after the disposal of Petition No. 96/GT/2020.

6. Thereafter, the Commission, vide its order dated 31.3.2024 in Petition No.96/GT/2020, revised the tariff of the generating station, after a truing-up exercise for the



period 2014-19, and also approved the tariff for the period 2019-24. In the said order, the issue of NAPAF raised by PSCPL was addressed by the Commission after hearing the parties, as under:

*“8. The matter has been considered. As stated, the Commission has notified the NAPAF of 68% for the generating station under Regulation 37(4) of the 2014 Tariff Regulations after extensive stakeholder consultations and the data on record. In this background, the above submissions of the Respondent PSPCL, if accepted, would amount to a review of the said norms, which is not permissible in the tariff determination proceedings. Further, the Petitioner, in its submission dated 27.2.2024, has submitted that the actual annual PAF achieved by the power station during the period 2014-19 is less than the NAPAF of 68% as determined by the Commission during the entire period. It is also noticed from the submissions of the Petitioner that it has not claimed any incentive since the actual PAF was below the NAPAF of 68%. Accordingly, the NAPAF of 68% as claimed by the Petitioner and as worked out vide order dated 25.6.2014 in Petition No. 228/GT/2013, is allowed. However, the calculation of incentive on capacity charges shall be considered for NAPAF above 90%, on an annual basis.”*

7. Aggrieved by the said order, PSPCL filed Review Petition (Petition No.22/RP/2024) seeking review of the aforesaid order dated 31.3.2024, on the following grounds:

*(a) The calculation of incentive on the capacity charges for NAPAF above 90%, on an annual basis, is contrary to the findings of the Commission in orders dated 25.6.2014, 5.4.2019, and 23.4.2019 in Petition Nos 228/GT/2013, 7/GT/2019 and 6/GT/2017, respectively; and*

*(b) Incorrect methodology adopted by Respondent NHPC for the computation of capacity charges in the energy bills.*

8. Subsequently, the Commission, after hearing the parties, rejected the aforesaid review petition, vide its order dated 24.2.2025, holding as under:

*“12...As regards the NAPAF of the generating station, the Respondent herein, in Petition No 228/GT/2013 filed by it for approval of tariff of the generating station for the period from COD till 31.3.2014, had claimed the NAPAF of 31% for this project, while operating it as a ROR scheme, prior to the commissioning of the upstream Parbati-II HEP. The Commission, based on the '10-daily Design Energy' approved by CEA along with the provision of providing 3 hours of daily peaking (in two slots of morning & evening each for 1.5 hours), had worked out and allowed the NAPAF of 68% till the commissioning of upstream Parbati-II HEP vide its order dated 25.6.2014. The Commission, in the said order, clarified that no incentive on account of a higher PAF is allowed for this generating station till the commercial operation of all the units of the upstream Parbati-II HEP. This decision was retained by the Commission in its subsequent orders dated 5.4.2019 and 23.4.2019 in Petition No. 7/GT/2019 and 6/GT/2017, respectively. In the impugned order dated 31.3.2024, the Commission, with the same intent, did not allow the incentive to this generating station till achieving the PAF of 90% (which was only possible after the commissioning of upstream Parbati-II HEP). Accordingly, the intent of the Commission was the same, i.e., to incentivize the generating company only after the commissioning*



*of the upstream project. Accordingly, we do not find any error apparent on the face of the impugned order warranting review”*

*Xxx*

*With regard to the submissions of the Review Petitioner that the Respondent NHPC adopted an incorrect methodology for the computation of the capacity charges in the energy bills, we note that similar issues were raised by the Review Petitioner in the original petition and mentioned in para 77 of the impugned order and the same was considered and disposed of vide para 78 of the impugned order. The Review Petitioner, in our view, has sought to reargue the case on merits, which cannot be permitted in review. Accordingly, we find no error apparent on the face of the impugned order warranting review of the impugned order on this count. Therefore, the review on this count is rejected.”*

### **Hearing dated 7.5.2025**

9. During the hearing of the present Petition on 7.5.2025, the learned counsel for NHPC pointed out that the issues raised in the present petition had already been considered and decided vide Commission’s order dated 31.3.2024 (in Petition No. 96/GT/2020) and the order dated 24.2.2025 in Petition No.22/RP/2024. The learned counsel for PSPCL submitted that the Commission may dispose of the present petition.

### **Decision**

10. As stated, the present Petition was kept pending till a final decision was taken in Petition No. 96/GT/2020, wherein the issue of NAPAF was raised by PSCPL, which was pending for consideration. Pursuant to the disposal of Petition No.96/GT/2020, wherein, the issue of NAPAF (raised by PSPCL) was also decided vide order dated 31.3.2024, PSPCL filed Review Petition (Petition No. 22/RP/2024) raising the issue of NAPAF, which was also decided and rejected by the Commission vide order dated 24.2.2025. Since the issue of NAPAF raised by the Petitioner PSPCL in the present Petition and the reliefs sought thereof, had already been examined and considered by the Commission in its orders dated 31.3.2024 and 24.2.2025, as stated above, nothing survives for the consideration of the Commission in the present petition. Accordingly, the present petition is disposed of as infructuous.



11. Petition No. 153/MP/2021 stands disposed of in terms of the above.

|                                                                 |                                                        |                                                         |                                                            |
|-----------------------------------------------------------------|--------------------------------------------------------|---------------------------------------------------------|------------------------------------------------------------|
| <b>Sd/-</b><br><b>(Ravinder Singh Dhillon)</b><br><b>Member</b> | <b>Sd/-</b><br><b>(Harish Dudani)</b><br><b>Member</b> | <b>Sd/-</b><br><b>(Ramesh Babu V.)</b><br><b>Member</b> | <b>Sd/-</b><br><b>(Jishnu Barua)</b><br><b>Chairperson</b> |
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