

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

1. Shri Ashok Basu, Chairperson
2. Shri K.N. Sinha, Member
3. Shri A.H. Jung, Member

**Review Petition No.113/2005
in Petition No.36/2003**

In the matter of

Review of order dated 16.8.2005 in Petition No.36/2003 for approval of generation tariff of Kopili Hydroelectric Project for the tariff period 1.4.2001 to 31.3.2004.

And in the matter of

North Eastern Electric Power Corporation Ltd. **Petitioner**

Vs

1. Assam State Electricity Board, Guwahati
2. Meghalaya State Electricity Board, Shillong
3. Dept. of Power, Govt. of Arunachal Pradesh, Itanagar
4. Electricity Dept., Govt. of Manipur, Imphal
5. Power and Electricity Dept., Govt. of Mizoram, Aizawl
6. Dept. of Power, Dept. of Nagaland, Kohima
7. Dept. of Power, Govt. of Tripura, Agartala **Respondents**

The following were present:

1. Shri P.K. Bora, NEEPCO
2. Shri R. Mallik, NEEPCO
3. Ms C. Rane, NEEPCO
4. Shri H.M. Sharma, ASEB
5. Shri R. Kapoor, ASEB

**ORDER
(DATE OF HEARING : 29.11.2005)**

Through this application, the petitioner seeks review of order dated 16.8.2005 in Petition No.36/2003.

2. In Petition No.36/2003 the petitioner sought approval of tariff for the year 2001-04 in respect of Kopili Hydroelectric Project. The tariff was approved by order dated 16.8.2005, presently sought to be reviewed on the following grounds:

- (a) Calculation of capital cost;

- (b) Computation of interest on loan;
- (c) Calculation of interest on working capital;
- (d) Calculation of O&M expenses.

3. Heard Ms.C. Ranee for the petitioner on admission.

4. Admit the petition for review of capital cost considered for the purpose of computation of tariff in the order dated 16.8.2005. In case the review is allowed, this will also necessitate review of other components of tariff for which capital cost is an input, consequential to review of the capital cost. Similarly, review of the order dated 16.8.2005, as regards computation of O&M expenses is also admitted.

COMPUTATION OF INTEREST ON LOAN

5. In the order dated 16.8.2005, interest on loan was allowed by taking actual repayment year-wise or repayment year-wise worked out, in accordance with the following methodology, whichever was higher:

*Actual repayment during the year x normative net loan at the beginning of the year/
actual net loan at the beginning of the year.*

6. In the order dated 16.8.2005, Arrangers fees, Processing fees, Commitment fees claimed as financing charges against HUDCO loan and Legal Advisory fees and Trusteeship Acceptance fees claimed against PSU 8th series Bonds were also not allowed.

7. The petitioner has submitted that the methodology given in para 5 above considered by the Commission is inappropriate and inequitable since, according to the

petitioner it does not cover a part of interest on loan. The petitioner has submitted that either actual repayment or the normative repayment during the year should have been considered for working out interest on loan. The petitioner has also questioned the validity of the process delineated at para 6 for the purpose of computation of interest on loan. Accordingly, the petitioner seeks a review.

8. We have considered the matter. The methodology considered in the order dated 16.8.2005 for computation of interest on loan has been consistently followed by the Commission in the previous tariff orders concerning Central Power Sector Utilities. This methodology has been followed in the said order dated 16.8.2005 for sake of uniformity. Earlier, in some of the cases, NTPC had sought review of the methodology adopted. These review petitions were dismissed. Accordingly, in the present case also, the ground for review is rejected. A similar view has been taken by the Commission in Review Petition No.132/2005 in Petition No.33/2003, separately filed by the petitioner.

9. We, however, admit the petition for review of computation of interest on loan as regards the process adopted for refinancing/substitution of Government of India loan and HUDCO loan.

CALCULATIONS OF INTEREST ON WORKING CAPITAL

10. In Petition No.36/2003, the petitioner had claimed interest on working capital @ 11% per annum which was allowed. The petitioner has submitted that it is entitled to interest on working capital @ 11.5% per annum, in accordance with para 2.7 (e) (vi) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2001, the applicable prime lending rate of interest on 1.4.2001. It has

been submitted that the petitioner has been deprived of the benefit of interest on working capital available under the regulations *ibid*.

11. We do not find any force in the petitioner's contention for review on this account. The regulations were notified on 26.3.2001 and have been in operation since 1.4.2001. The petitioner was well aware of the provisions of these regulations as also the prime lending rate applicable. Despite that the petitioner claimed interest on working capital @ 11% per annum which has been allowed. The petitioner waived the right available to it under the regulations and has relinquished a part of the claim. Under these circumstances, the rate of interest on working capital specified under the regulations could be the ceiling rate. The petitioner cannot be permitted to reopen the matter at this stage, particularly by extending the principles contained in Order II, Rule 2 of the Code of Civil Procedure. Accordingly, review of order dated 16.8.2005 on this ground is also disallowed. The view taken in the present petition is in conformity with the view taken in order dated 9.12.2005 in Review Petition No.132/2005.

12. The petitioner is directed to furnish a copy of the petition along with the copy of this order to the respondents latest by 31.12.2005. The respondents may file their reply by 25.1.2006 with a copy to the petitioner who may file its rejoinder if any, by 10.2.2006.

13. List this petition on 14th February 2006.

Sd/-
(A.H. JUNG)
MEMBER

Sd/-
(K.N. SINHA)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRPERSON

New Delhi dated the 20th December 2005