

In the matter of:-

Filing of proposed tariff for the financial years 2005-06 to 2008-09 for DHAKRANI generating station of Uttranchal Jal Vidyut Nigam Ltd for the determination of Hydro Generation Tariffs for its Electricity Generation Stations under section 62 and 86 of the Electricity Act, 2003, read with the relevant regulations and guidelines of the Himachal Pradesh Electricity Regulatory Commission.

And in the matter of:-

Uttranchal Jal Vidyut Nigam Ltd;
(UJJWAL) Maharani Bagh,
GMS Road, Dehradun.

...Petitioner

V/s

1. Uttranchal Power Corporation Ltd, Dehradun
2. H.P. State Electricity Board, Shimla
3. U.P. Jal Vidyut Nigam Ltd,
Lucknow.

... Respondents

Petition No. 80/2007

In the matter of:-

Filing of proposed tariff for the financial years 2005-06 to 2008-09 for CHIBRO generating station of Uttranchal Jal Vidyut Nigam Ltd for the determination of Hydro Generation Tariffs for its Electricity Generation Stations under section 62 and 86 of the Electricity Act, 2003, read with the relevant regulations and guidelines of the Himachal Pradesh Electricity Regulatory Commission.

And in the matter of:-

Uttranchal Jal Vidyut Nigam Ltd;
(UJJWAL) Maharani Bagh,
GMS Road, Dehradun.

...Petitioner

V/s

1. Uttranchal Power Corporation Ltd, Dehradun
2. H.P. State Electricity Board, Shimla

3. U.P. Jal Vidyut Nigam Ltd,
Lucknow.

... Respondents

...

Petition No. 81/2007

In the matter of:-

Filing of proposed tariff for the financial years 2005-06 to 2008-09 for KHODRI generating station of Uttranchal Jal Vidyut Nigam Ltd for the determination of Hydro Generation Tariffs for its Electricity Generation Stations under section 62 and 86 of the Electricity Act, 2003, read with the relevant regulations and guidelines of the Himachal Pradesh Electricity Regulatory Commission.

And in the matter of:-

Uttranchal Jal Vidyut Nigam Ltd;
(UJJWAL) Maharani Bagh,
GMS Road, Dehradun.

...Petitioner

V/s

1. Uttranchal Power Corporation Ltd, Dehradun
2. H.P. State Electricity Board, Shimla
3. U.P. Jal Vidyut Nigam Ltd,
Lucknow.

... Respondents

Petition No. 82/2007

In the matter of:-

Filing of proposed tariff for the financial years 2005-06 to 2008-09 for DHALIPUR generating station of Uttranchal Jal Vidyut Nigam Ltd for the determination of Hydro Generation Tariffs for its Electricity Generation Stations under section 62 and 86 of the Electricity Act, 2003, read with the relevant regulations and guidelines of the Himachal Pradesh Electricity Regulatory Commission.

And in the matter of:-

Uttranchal Jal Vidyut Nigam Ltd;
(UJJWAL) Maharani Bagh,
GMS Road, Dehradun.

...Petitioner

V/s

1. Uttranchal Power Corporation Ltd, Dehradun
2. H.P. State Electricity Board, Shimla
3. U.P. Jal Vidyut Nigam Ltd,
Lucknow.

... Respondents

Petition No. 83/2007

In the matter of:-

Filing of proposed tariff for the financial years 2005-06 to 2008-09 for KULHAL generating station of Uttranchal Jal Vidyut Nigam Ltd for the determination of Hydro Generation tariffs for its Electricity Generation Stations under section 62 and 86 of the Electricity Act, 2003, read with the relevant regulations and guidelines of the Himachal Pradesh Electricity Regulatory Commission.

And in the matter of:-

Uttranchal Jal Vidyut Nigam Ltd;

...Petitioner

V/s

1. Uttanchal Power Corporation Ltd; Dehradun
2. H.P. State Electricity Board

... Respondents

(Petition Nos. 79/2007, 80/2007, 81/2007, 82/2007 and 83/2007)

(Date of Decision 7.5.2008)

CORAM
YOGESH KHANNA
CHAIRMAN

Counsel

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|-----|--|------------------------------|
| for | for the petitioners | Sh. T.S. Chauhan Advocate |
| for | H.P. State Electricity Board | Sh. Bimal Gupta Advocate |
| for | Uttranchal Power Corporation Dehradun | -- |
| for | U.P. Jal Vidyut Nigam Ltd; Lucknow | Sh. B.S. Goel. |

Order

(Last heard on 29.3.2008 and order reserved)

The petitioner Uttranchal Jal Vidyut Ltd (UJVNL), UJJWAL, Maharani Bagh, GMS Road, Dehradun, which is a registered company constituted by the Govt. of Uttranchal, under section 63 (4) of the U.P. Reorganisation Act, 2000, has moved five petitions i.e. 79/2007, 80/2007, 81/2007, 82/2007 and 83/2007 for determination of the generation tariff of five hydro generating stations viz. Dhakrani, Chibro, Khodri, Dhalipur and Kulhal, owned and operated by the petitioner UJVNL, for the financial years 2005-06 to 2008-09, under sections 62 and 86 of the Electricity Act, 2003.

2. An agreement was signed between the State of erstwhile UP and the State of Himachal Pradesh on 21.11.1972, for supply of Power from its 5 inter State Hydro Stations, which inter-alia, states that:-

- (i) Certain components/portions of the Yamuna Hydel scheme come under the territory of the State of Himachal Pradesh and the Uttar Pradesh Govt. utilize the waters contributed partly from the catchment area in Himachal Pradesh.
- (ii) The usage rights of water of the Yamuna, and its tributaries (including the river Tons) emanating from the Himachal Pradesh territory, upstream of Yamuna Hydel Scheme will be conveyed by H.P. exclusively to UP for the purpose of power development, but subject to any existing facilities of irrigation, running of water mills and transport of timber enjoyed by the people of HP being safeguarded. The H.P. Govt. reserves the rights to develop power themselves from any river or stream inside their own territory, provided such development does not reduce the natural flow and supply of water or otherwise adversely affect the said Yamuna Hydel Scheme.
- (iii) H.P. shall share 25% of the total energy generated from the power stations of Yamuna Hydel Scheme stage-I and stage-II (Dhakrani, Dhalipur, Chibro, Khodri hydro project, less energy consumed in the maintenance and operation of these power stations.
- (iv) The share of energy of H.P. of Yamuna stage-I will be made available to H.P. at the bus bars against payment at the cost of generation of power stations of Yamuna Hydel Scheme stage-II, the cost of generation to be paid by H.P. shall be the pooled cost of generation at the bus bars of both stage-I & II.
- (v) H.P. shall not share the capital cost of the said scheme.

3. An important aspect of agreement between the States of Uttranchal (erstwhile U.P.) and the State of Himachal Pradesh is that H.P. Government reserves the right to develop power from any river or stream inside its own territory, provided such development does not reduce the natural flow and supply of water or otherwise adversely affects the Yamuna Hydel Scheme. The said agreement further stipulates that:-

- (i) Himachal Pradesh shall not share the capital cost of the said scheme, and
- (ii) The share of energy of Himachal Pradesh from these 5 stations of Yamuna Hydel Scheme will be made available to HPSEB at the bus bars at the cost of generation.

4. None of the aforementioned power stations is within the territory of H.P., but the power in pursuance of the agreement is to be supplied/released in the areas falling in the State of H.P. Thus apart from the provisions of section 62 and 86, the provisions of sub-section (5) of section 64 of the Electricity Act, 2003, which read as under, has also been invoked:-

“(5) Notwithstanding anything contained in Part X, the tariff for any inter-State supply, transmission or wheeling of electricity, as the case may be, involving the territories of two States may, upon application made to it by the parties intending to undertake such supply, transmission or wheeling, be determined under this section by the State Commission having jurisdiction in respect of the licensee who intends to distribute electricity and make payment therefor.”

5. These petitions, after scrutiny and removal of deficiencies, were admitted for consideration and subsequently, after due process and providing opportunity to the respondents/stakeholders, the pleadings were completed. These petitions are pending for adjudication before the Commission and proceedings are in advance stage of disposal.

6. The HPSEB in its application dated 14.12.2007, in para No. 6, 27 and 28 and UPJVNL, in its application dated 12.12.2007, have specifically stated that this Commission has no jurisdiction to decide the present petitions. The applicant-petitioner, conceding the stand taken by the respondents UPJVNL and HPSEB, has now prayed for withdrawal of the said petitions with the liberty to file them before the appropriate Commission. This application is accompanied by a request for refund of the filing fee already deposited by the petitioner.

7. The respondents have no objection for the withdrawal of the tariff petitions filed by the petitioner for determination of the generation tariff for its generating stations namely, Dhakrani, Chibro, Khodri, Dhalipur and Kulhal for the financial years 2005-06 to 2008-09. In regard to the refund of the filing fee deposited by the petitioner, the attention is invited to sub-regulation (4) of regulation 58 of the HPERC (Conduct of Business) Regulations, 2005 which empowers the Commission to waive the amounts of fees provided in the said regulations.

8. In view of the foregoing discussion and after taking into consideration the circumstances of the case, the advance stage of proceedings and to advance the cause of justice the Commission dismisses the tariff petitions, filed by the petitioner for determination of the generation tariff for its five generating stations namely, Dhakrani, Chibro, Khodri, Dhalipur and Kulhal, as withdrawn with the liberty to file them before the appropriate Commission and orders the Secretary of the Commission to refund 60 percent of the filing fee deposited by the petitioner in each of the withdrawn petition, within thirty days of this order.

This order is passed and signed on 7th day of April, 2008.

(Yogesh Khanna)
Chairman.