

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the matter of:

Petition seeking amendment in tariff of 5 MW Debal Small Hydro Project in light of clarification given by MNRE on Capital Subsidy and Change in Tax Rates U/S 62 and 86 of the Electricity Act 2003 read with the relevant regulations and guidelines of the Commission.

And

In the matter of

Chamoli hydro Power Private Limited

M/s Parvatiya Power Private Limited

- Petitioners

Vs.

Uttarakhand Power Corporation Limited and Others

- Respondent

Coram

Shri V.J. Talwar Chairman

Shri Anand Kumar Member

Date of Order: 27th October, 2010

ORDER

M/s Chamoli Hydro Power Pvt. Limited (i.e. the owner of 5 MW Debal Hydro Generating Station), has filed a petition seeking amendment of tariff for its 5 MW Debal Small Hydro Project, under section 62(4) read with Section 86 of the Electricity Act 2003 and Regulation 49 of UERC (Tariff & other terms for supply of Electricity for Non-Conventional and Renewable Energy Sources) Regulation 2008. It has been submitted by

the petitioner that it had opted for tariffs as specified by the Commission under UERC (Tariff & other terms for supply of Electricity for Non-Conventional and Renewable Energy Sources) Regulations 2008, however, since the Commission, while fixing the tariff in the above regulation has considered a total Capital Subsidy of Rs. 6.354 Cr. (i.e. $2.25 \times (\text{MW})^{0.645}$ Cr.) for its above project in terms of MNRE Scheme dated 26th December 2006, whereas it is entitled to a subsidy of Rs. 3.75 Cr. only in terms of MNRE Scheme issued in the FY 2003-04, therefore, its tariff needs to be revised. In support of its above contention the petitioner has enclosed letter no. 7/25/2005-SHP dated 26.6.2009 from the Ministry of New and Renewable Energy. The petitioner has further submitted that since the MAT rates have been revised by Government of India from 10 % of Book Profits to 15% of Book Profits w.e.f. 1st April 2009 its tariff is required to be revised w.e.f. 1st April 2009 on this account also.

Since a similar application had also been filed by M/s Parvatiya Power Limited, for its 4.8 MW Loharkhet Small Hydro Project, a common hearing in the matter was conducted by the Commission on 23rd April 2009 wherein the Commission asked both M/s Chamoli Power and M/s Parvatiya Power Pvt Ltd. to clarify whether the reduction in subsidy was due to any default by the petitioner companies. The Commission also directed M/s Parvatiya Power Pvt. Ltd. to file a proper petition in accordance with the UERC (Conduct of Business) Regulations 2004. UPCL did not object to any of the submissions made by the petitioners during the hearing.

In response to above, a supplementary petition was filed by M/s Chamoli Hydro Power Pvt. Limited, in which it has been submitted that the petitioner has not defaulted in any manner and received the entire eligible subsidy amount of Rs. 3.75 Cr, in terms of MNRE scheme issued in 2003-04. The petitioner also enclosed the final subsidy release letter from MNRE dated 22nd December 2009 in support of its above claim. Further, M/s Parvatiya Power Limited also filed a petition in accordance with UERC (Conduct of Business) Regulations, 2004, in which it also enclosed the final subsidy release letter from MNRE, which indicates release of Rs. 3.675 Cr. as subsidy to Loharkhet Small Hydro Power Project by the MNRE. The petitioners have stated that it was only after MNRE clarified in 2009 that they came to know their subsidy entitlement was under 2003-04 Policy, which was made applicable for all projects which started construction till 31.12.2006.

With regard to above claims of M/s Chamoli Hydro Power Pvt. Limited and Loharkhet Small Hydro Power Project that their tariffs are also required to be revised in view of above changes it is to be clarified that the levellised tariffs are determined by the Commission on normative basis for the life of the plant. MAT rates as claimed by the developers are bound to change almost every year based on the rates laid down in the Finance Act passed by the Parliament. Hence, if the same is changed in the Regulation, it would be a recurring phenomenon and hence, the practice of specifying normative tariffs would not be feasible. Therefore, the Commission does not find any merit in changing the MAT rates as considered by it in UERC (Tariff & other terms for supply of Electricity for Non-Conventional and Renewable Energy Sources) Regulation 2008.

Regarding the issue of subsidy, the Commission while issuing UERC (Tariff & other terms for supply of Electricity for Non-Conventional and Renewable Energy Sources) Regulation 2008 had considered the subsidies worked out on the basis of the formulae laid down in the MNRE notification of December, 2006. However, the letter no. 7/25/2005-SHP dated 26.06.2009 relating to Ms. Chamoli Hydro Power Private Ltd. and letter no. 7/23/2005-SHP dated 29.09.2009 relating to M/s. Parvatiya Power Private Limited from MNRE addressed to this Commission clarifies that all the SHP projects where the work commenced before 26.12.2006 would be given the subsidy as per the scheme issued by MNRE 2003-04 and hence, the two developers would be covered under the Scheme 2003-04. Further, MNRE's subsequent notification dated 11.12.2009 provides that the SHP projects where construction work commenced upto 31.12.2006 the amount of financial support would be decided as per SHP Scheme of 2003-04 and for all other SHP projects where construction work commenced after 01.01.2007, the amount of financial support would be eligible as per the present scheme.

Thus, based on the above developments, the Commission, in exercise of powers available to it under the Electricity Act 2003 & UERC (Tariff & other terms for supply of Electricity for Non-Conventional and Renewable Energy Sources) Regulation 2008, re-determines the tariff of the Petitioners considering the subsidy as availed by them in line with MNRE scheme issued in FY 2003-04 which works out to Rs. 2.89/unit. This revised tariff shall be applicable from the date they were entitled to get tariff of Rs. 2.80/unit. The petitioners can, accordingly, raise revised bills for their respective plants @ Rs. 2.89/unit

and claim it from the beneficiary. However, to reduce the impact of such bills on the cash flows of the beneficiary i.e. Uttaranchal Power Corporation Limited, **the Commission directs that the same may be claimed in 12 equal installments along-with monthly bills raised after the date of issuance of this order.**

Further, it would be relevant to mention here that M/s. Chamoli Hydro Power Private Limited had approached the Commission in 2007 seeking fixation of its provisional tariff and final tariff of its hydro station for the period 01.09.2007 to 31.03.2008 and the Commission issued the Orders in the matter on 05.06.2007 and 28.03.2008 respectively. However, during the course of those proceedings the Petitioner Company was asked if it had received any capital/interest subsidy which was denied by it. The tariffs was determined by the Commission in accordance with the Commission's Order dated 10.11.05 for SHPs with capacity 1-25 MW read with original regulations viz. Uttaranchal Electricity Regulatory Commission (Terms & Conditions for Determination of Hydro Generation Tariff) Regulations, 2004 which clearly specified that the subsidies received by the Petitioner Company was to be adjusted while determining the tariffs. However, since the Petitioner Company did not receive any subsidy no such adjustments were made in the tariffs.

Since now it has come to the notice of the Commission that M/s. Chamoli Hydro Power Private Limited has received the subsidy of Rs. 3.75 Crore necessary corrections will have to be made in the tariffs charged by the Petitioner Company during the period 01.09.2007 to 31.03.2008. However, since it would not be appropriate to make any correction in the tariffs without hearing the Petitioner and UPCL. Hence, the Commission is not making any corrections at this moment. However, both UPCL and M/s. Chamoli Hydro Power Private Limited are hereby directed that they are required to submit their response in the matter within 15 days of the date of this Order failing which it would be presumed that they have nothing to say and the Commission would proceed to deal with the same in the manner deemed appropriate by it. The Petition is disposed off accordingly.

Sd-

(Anand Kumar)
Member

Sd-

(V.J. Talwar)
Chairman