

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram**

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

**Petition No. 103/2005**

**In the matter of**

Petition under Section 62 and 79 of the Electricity Act, 2003 seeking permission for filing the proposed tariffs for financial years 2005-06 to 2008-09 of Uttaranchal Jal Vidyut Nigam Limited and for determination of hydro generation tariff for its inter-state electricity generation stations.

**And in the matter of**

Uttaranchal Jal Vidyut Nigam Limited

**. Petitioner**

Vs

1. Uttaranchal Power Corporation Limited, Dehradun
2. Himachal Pradesh State Electricity Board, Shimla

**.....Respondents**

**The following were present:**

1. Shri Hemant Sahai, Advocate UJVNL
2. Shri Sitesh Mukherjee, Advocate, UJVNL
3. Shri Vivek Singh, ED, UJVNL

**ORDER  
(DATE OF HEARING : 10.11.2005)**

The present application is made by the petitioner seeking permission to file an appropriate petition for determination of tariff in respect of five hydro generating stations, namely, Dhakrni (33.75 MW), Dhalipur (51 MW), Chibro (240 MW), Khodri (120 MW) and Kulhal (30 MW) owned by it for the period 2005-06 to 2008-09. Uttaranchal Power Corporation Limited and Himachal Pradesh State Electricity Board are impleaded as respondents.

2. It is stated that the above-named five generating stations owned and operated by the petitioner were set up under a composite scheme for generation and sale of electricity in the unified State of Uttar Pradesh and State of Himachal Pradesh, based on an agreement dated 21.11.1972 between the two State Governments. After reorganization of the State of Uttar Pradesh, these generating stations have been allocated to State of Uttaranchal and are presently operated by the petitioner.

3. The petitioner had filed petitions for approval of tariff before the Uttaranchal Electricity Regulatory Commission (UERC) and Himachal Pradesh Electricity Regulatory Commission (HPERC) for the year 2004-05 under clauses (a) and (b) of Section 86 (I) of the Electricity Act, 2003 (the Act). It has been stated that tariff determined by UERC is presently under appeal before the Appellate Tribunal for Electricity. HPERC, though determined tariff on provisional basis, is awaiting disposal of the appeal filed by the petitioner against the order of UERC, before confirming final tariff.

4. Notice for hearing of the petition of admission was issued to the respondents. None has appeared before us. Neither has any response been filed by the respondents.

5. We have heard Shri Hemant Sahai, Advocate along with Shri Sitiesh Mukherjee for the petitioner.

6. The learned counsel clarified that tariff petitions were earlier filed before the State Commissions on an erroneous understanding of sub-section (5) of Section 64 of the Act. He urged that on detailed examination of different provisions of the Act and the legal advice received, the petitioner felt convinced that tariff for generation of electricity at the above-named five generating stations is to be regulated by the Central Commission. Accordingly, the present petition has been filed for permission for filing of the petitions. When it was pointed that no permission was required for making an application for determination of tariff, the learned counsel submitted that in view of the provisions of sub-section (5) of Section 64 and Clause (a) and (b) of sub-section (1) of Section 86 on one hand and clause (b) of sub-section (1) of Section 79 on the other, the issue of determination of jurisdiction was involved and accordingly, the present application was made. He submitted that he would amend the prayer clause suitably. Let the prayer clause be suitably amended. A copy of the amended prayer clause shall be sent by the petitioner to the respondents.

7. The learned counsel further submitted that the question of determination of jurisdiction in the present proceedings, either way, shall not re-open the tariff determined by the respective State Commission for the year 2004-05 on the ground of

jurisdiction, and shall be implemented subject to the outcome of the appeal presently pending before the Appellate Tribunal.

8. Admit. Issue fresh notice to the respondents for hearing on 8.12.2005. Meanwhile, the parties shall file their legal submissions latest by 30.11.2005 on the issue raised in the present application.

9. The petitioner shall also service notice on the respondents along with a copy of this order.

10. Keeping in view of the fact that it will involve interpretation of the provisions of the Act having implications on the jurisdiction of UERC and HPERC, we request the Chairman of the respective Commission to suitably advise their Secretariat to render necessary assistance to this Commission in resolving the issue.

11. List on 8.12.2005.

Sd/-  
**(A.H. JUNG)**  
**MEMBER**

Sd/-  
**(BHANU BHUSHAN)**  
**MEMBER**

Sd/-  
**(K.N. SINHA)**  
**MEMBER**

Sd/-  
**(ASHOK BASU)**  
**CHAIRPERSON**

**New Delhi dated the 10<sup>th</sup> November 2005**