

**Before**  
**UTTARAKHAND ELECTRICITY REGULATORY COMMISSION**  
**Misc. Appl. No. 70 of 2017**

**In the Matter of:**

Petition for approval of "Additional Capital Works amounting to Rs. 44.05 Crore of 4X76 MW Maneri Bhali-II HEP".

**And**

**In the Matter of:**

UJVN Ltd.

"UJJWAL", Maharani Bagh, G.M.S, Road, Dehradun.

.....**Petitioner**

**Coram**

**Shri Subhash Kumar    Chairman**

**Date of Hearing: February 06, 2018**

**Date of Order: March 13 , 2018**

**ORDER**

This Order relates to the Petition filed by UJVN Ltd. (hereinafter referred to as "UJVN Ltd" or "the Petitioner") under Section 61 and 86 of the Electricity Act, 2003 read with Regulation 22 & 23, Chapter-III: Financial Principles for Computing Costs and Return" of UERC (Terms & Conditions for Determination of Multi Year Tariff) Regulations, 2015 (hereinafter referred to as MYT Regulations, 2015) for seeking approval of "Additional Capital Works amounting to Rs. 44.05 Crore of 4X76 MW Maneri Bhali-II HEP".

**Background & Submissions**

2. UJVN Ltd. vide its letter No. 518/UJVNL/04/D(F)/UERC dated 14.12.2017 had filed an Application under Section 61 and 86 of the Electricity Act, 2003 read with Regulation 22 & 23, MYT Regulations, 2015 seeking approval in the matter of "Additional Capital Works amounting to Rs. 44.05 Crore of 4X76 MW Maneri Bhali-II HEP".

3. 4X76 MW Maneri Bhali Stage-II HEP is a run-of-river with pondage type project. It is constructed on the Bhagirathi River. The project was commissioned on 15.03.2008.

4. The Petitioner in its Petition has submitted that:

*"4) ... the Board of Directors of the Petitioner has directed to submit the Detailed Project Report on Additional Capital Works of Maneri Bhali Stage-II to the Hon'ble UERC for approval. Therefore, the present petition for approval of "Additional Capital Works amounting to Rs. 44.05 Crore of 4 x 76 MW Maneri Bhali Stage-II HEP" is being filed under provisions contained in Regulation 22 & 23 Chapter Part III 'Financial Principles for Computing Costs and Return' of the Tariff Regulations, 2015."*

5. Further, the Petitioner has submitted that:

*"...*

*6) The DPR for "Additional Capital Works amounting to Rs. 44.05 Crore of 4 x 76 MW Maneri Bhali Stage-II HEP" has been approved by the Board of Directors of UJVN Limited in their 82nd Meeting held on dated 28.03.2017. Relevant extract of the MoM is placed at Annexure-I enclosed.*

*...*

*8) There are some essential and urgent works of Maneri Bhali stage-II HEP, which were not envisaged in approved DPR of balance capital works of Maneri Bhali Stage-II HEP, while these works are as important as the works taken in balance capital works for proper completion of the project. Some of these works are under progress and some works are yet to be carried out.*

*9) For this purpose estimate of different works for additional capital works of MB-II has been prepared which is proposed to be completed by FY 2018-19.*

*..."*

6. With regard to the liabilities of Arbitration/Court cases against major civil contracts of MB-II Project Petitioner has submitted that:

*14) Since the Liabilities of Arbitration/Court cases against major civil contracts of MB-II Project has to be borne by UJVN Ltd, which were not considered in the approved DPR of balance capital works of MB-II Project, Rs 18.01 Crore is proposed in the estimated cost of Additional Capital Works of MB-II.*

*15) ... that 50% of awarded amount i.e. Rs 18.0057 Crore (say Rs 18.01 Crore) with interest has been deposited in Hon'ble High Court on 30-04-2015 through Cheque and have booked in Additional capital works in F.Y. 2015-16, while the rest 50% of*

*awarded amount i.e. Rs 18.00 Crore with interest has been deposited in Hon'ble High Court as per order of Hon'ble High Court in form of Bank Guarantee.*

7. The Commission decided to schedule a hearing on admissibility of the Petition on 23.01.2018 and issued notice for hearing in the matter to the Petitioner vide letter dated 22.12.2017.
8. On the scheduled date of hearing i.e. on 23.01.2018 the Commission heard the Petitioner on admissibility of the instant Petition. During the hearing, the Petitioner reiterated its earlier submission made in the Petition. The said submissions of the Petitioner has been examined for the test of admissibility.

### **Commission's observations, views and decision**

9. The Commission has observed that the present Petition has been filed under Section 61 and 86 of the Electricity Act, 2003 read with Regulation 22 & 23, of the MYT Regulations, 2015. Since, section 61 & 86 are enabling provisions of the Act and are general in nature therefore, test of admissibility shall primarily be conducted under the guards of Regulation 22 & 23 of the MYT Regulations, 2015. The said Regulations are reproduced hereunder:-

“

#### **22. *Additional capitalisation and De-capitalisation:***

- (1) *The following capital expenditure within the original scope of work actually incurred or projected to be incurred after the date of commercial operation and up to the cut-off date may be admitted by the Commission, subject to prudence check:*
  - a) *Undischarged liabilities;*
  - b) *Works deferred for execution;*
  - c) *Procurement of initial capital spares within the original scope of work, subject to the provisions of Regulation 21(11);*
  - d) *Liabilities to meet award of arbitration or for compliance of the order or decree of a court; and*
  - e) *On account of change in law.*

*Provided that the details included in the original scope of work along with estimates of expenditure, deferred liabilities and the works deferred for execution shall be submitted along with the application for determination of tariff.*

- (2) *The capital expenditure of the following nature actually incurred after the cut-off date may be admitted by the Commission, subject to prudence check:*
- a) *Liabilities to meet award of arbitration or for compliance of the order or decree of a court;*
  - b) *Change in law;*
  - c) *Works deferred for execution within the original scope of work;*
  - d) *Any liability for works admitted by the Commission after the cut-off date to the extent of discharge of such liabilities by actual payments;*
  - e) *Any additional capital expenditure which has become necessary for efficient operation of generating station or transmission system as the case may be. The claim shall be substantiated with the technical justification duly supported by the documentary evidence like test results carried out by an independent agency in case of deterioration of assets, report of an independent agency in case of damage caused by natural calamities, obsolescence of technology, up-gradation of capacity for the technical reason such as increase in fault level;*
  - f) *In case of hydro generating stations, any additional expenditure which has become necessary on account of damage caused by natural calamities (but not due to flooding of power house attributable to the negligence of the generating company), including due to geological surprises, after adjusting for proceeds from any insurance scheme, and expenditure incurred due to any additional work which has become necessary for successful and efficient plant operation;*

*Provided that additional capitalisation on this account would only be allowed if appropriate and adequate insurance cover was available at the time of occurrence of natural calamities referred to above;*

...

- h) *In case of replacement of any asset/equipment (e.g. transformer, circuit breaker, C.T.,P.T. etc.) on account of non-performance/failure of the same, the following approach shall be adopted:*
  - (i) *In case of non-performance/failure of assets/equipment, it shall be sent to Store for assessment to check whether it is repairable or not at zero cost;*
  - (ii) *In case the asset is repairable, then such asset/equipment shall not be retired from Books of Assets.  
Provided, proper tracking should be available for the material like location, asset number etc.*
  - (iii) *In case the asset is not repairable, then following process shall be carried out:*
    - *The asset is retired from the Books of Assets, at depreciated value.*

- Transfer the failed assets/equipments from failed to scrap material.
- Dismantle it into of scrap inventory like iron, brass etc.
- Build up scrap inventory.

*Provided, exercise of dismantling of scrap inventory and build-up of scrap inventory shall be done simultaneously. Dismantled scrap value would be decided on the basis of last scrap sale value. Control Account (Dismantling) will be expense account. Difference of Control account, i.e. either profit or loss shall be booked accordingly.*

*(iv) In case a new asset/equipment is issued, then it will be issued at weighted average cost and capitalized respectively, and accordingly, new asset would be created and corresponding entries shall be done in the Books of Accounts.*

### **23. Renovation and Modernisation**

- (1) *The generating company for meeting the expenditure on renovation and modernization (R&M) for the purpose of extension of life beyond the useful life of the generating station shall make an application before the Commission for in-principle approval of the proposal with a Detailed Project Report giving complete scope, justification, cost-benefit analysis, estimated life extension from a reference date, financial package, phasing of expenditure, schedule of completion, reference price level, estimated completion cost including foreign exchange component, if any, record of consultation with beneficiaries and any other information considered to be relevant by the generating company:*
- (2) *Where the Generating Company makes an application for the in-principle approval of its proposal for renovation and modernisation, the in-principle approval shall be granted after due consideration of reasonableness of the cost estimates, financing plan, schedule of completion, interest during construction, use of efficient technology, cost-benefit analysis, and such other factors as may be considered relevant by the Commission.*
- (3) *Any expenditure incurred or projected to be incurred and admitted by the Commission after prudence check based on the estimates of renovation and modernization expenditure and life extension, and after writing off the original amount of the replaced assets and deducting the accumulated depreciation including advance against depreciation already recovered from the Original project cost, shall form the basis for determination of Tariff."*

10. On examining the Petition with respect to Regulation 23 of the Regulations, it is understood that the nature of the capital works are not of Renovation and Modernisation of Plant more so when the Plant has not lived its useful life which is the case in the present matter. Further, it is also observed that the works proposed

in the instant Petition are nothing but the left out works of Balance Capital Works of a Project having COD on 15.03.2008 and cut-off date of 31.03.2011, which is contrary to the provisions of the aforesaid Regulation with regard to RMU works. Hence, the works proposed in the Petition do not fall under the ambit of Regulation 23 of the MYT Regulations 2015.

11. Further, Regulation 40(1) of UERC (Conduct of Business) Regulations, 2014 provides that:

**“40. Requirement for Investment Approval by the Commission**

- (1) *Unless otherwise directed by the Commission, every licensee and SLDC shall obtain prior approval of the Commission for making investment in its business if such investment is above the limits laid down by the Commission from time to time by a general or special Order.*

*Provided that in case of force majeure events, the Commission may consider relaxing the requirement of seeking prior approval of the Commission for making investment in the business by every licensee and SLDC. However, such events would have to be demonstrated that they were not within the control of the utilities.”*

From the above, it is clear that the requirement of seeking prior approval for making investment in the business lies only with the licensee & SLDC unless otherwise directed by the Commission.

Besides above, Regulation 40(2) of the aforesaid Regulations provides a generating company to seek investment approvals from the Commission, however, the same is restricted for meeting the expenditures on RMU for the purpose of extension of life beyond the useful life of generating station or unit thereof.

12. Notwithstanding the above, the Petitioner is directed to strictly comply with the provisions of Regulation 22 of MYT Regulations, 2015 while planning/proposing any Additional Capital Works/Expenditure particularly after the cut-off date as specified in the aforesaid Regulations. The Petitioner is also hereby cautioned that any such Additional Capital Works/Expenditure carried out by the Petitioner after the cut-off date shall be subject to prudence check by the Commission during the Tariff proceedings and in case it is found out that any such expenditure proposed to be incurred or incurred by the Petitioner is not in conformity with the provisions of Regulation 22 of the MYT Regulation then the cost to the extent expenditure is

disallowed shall not be considered by the Commission in the ARR of the relevant year.

13. In light of the above, the Commission finds no reason to proceed with Petition delving into its merits and the Petition is hereby disposed off as not maintainable.

Ordered accordingly.

**(Subhash Kumar)**  
**Chairman**