

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

I.A. No. 2/2014 in Petition No. 252/GT/2013

Subject: Interlocutory Application for fixation of provisional tariff –Petition for determination of generation tariff of Karcham Wangtoo HEP (4 x 250 MW) for the period from 26.5.2011 to 31.3.2014.

Date of Hearing: 13.3.2014

Coram: Shri Gireesh B. Pradhan, Chairperson
Shri M. Deena Dayalan, Member
Shri A.K. Singhal, Member

Petitioner: Jaiprakash Power Venture Ltd (JPVL)

Respondents: PTC, HPGCL, JVVNL, AVVNL, JoVVNL, PSPCL and UPPCL

Parties Present: Shri Vishal Gupta, Advocate, JPVL
Shri Sanjiv K Goel, JPVL
Shri Suresh Kumar, JPVL
Shri Kapil Ahuja, JPVL
Shri Pankaj Saknuja, JPVL
Shri Suren Jain, JPVL
Shri Varun Pathak, PTC
Shri Saurabh Mehra, PTC
Shri Anand Ganesan, Advocate, HPGCL & PSPCL
Ms. Swapna Seshadri, Advocate, HPGCL & PSPCL
Shri Vikrant Saini, HPPC

RECORD OF PROCEEDINGS

The learned counsel for the petitioner made elaborate submissions in the matter placing the entire background leading to the filing of the tariff petition. He also pointed out that the respondents HPGCL & PSPCL has not filed their replies even though copies of petition were served on these utilities after the impleadment application was allowed. The learned counsel further submitted that the objections of these respondents for grant of provisional tariff is untenable as the Commission can grant provisional tariff in terms of the Regulation 5(4) of the 2009 Tariff Regulations for the units of the generating station which were declared under commercial operation during May, 2011 and September, 2011 respectively. He accordingly prayed that the Commission, pending final determination of tariff, may consider the grant of provisional tariff, applicable from the

date of supply of power (1.4.2014) to the respondent utilities based on back to back long term arrangements made by petitioner with PTC.

2. On a specific query by the Commission as to the status of the PPA signed by the parties, the learned counsel clarified that pursuant to the order of the High Court of Delhi dated 15.5.2012 setting aside the majority award, the PPA entered into by parties is effective and valid.

3. The learned counsel for PTC adopted the submissions of the petitioner and clarified that it has back to back Power Supply Agreement with the respondent HPGCL. He also submitted that the Haryana Electricity Regulatory Commission had in its order observed that tariff of the generating station would be determined by this Commission. Since power supply on short term market is to be discontinued and long term power supply is to be effected by the petitioner from 1.4.2014, tariff for the generating station may be determined by this Commission.

4. The learned counsel for the respondent, HPGCL referred to his reply and made preliminary objections to the determination of provisional tariff and submitted as under:

(a) In terms of Section 79 of the Electricity Act, 2003 read with Section 62(1)(a), tariff shall be determined for supply of electricity by a generating company to a distribution licensee and not otherwise. Since the petitioner is to commence supply to the respondents (distribution licensees) only from 1.4.2014, the question of granting provisional tariff from COD of the generating station does not arise. Judgment of the Hon'ble Supreme Court in Tata Power Ltd-v-Reliance Energy Ltd (2009 16 SCC 659) was referred to.

(b) The petitioner has not sold single unit of power to the respondents from the generating station for the period from COD till 31.3.2014 and the supply of electricity in long term basis is to be effected by the petitioner from 1.4.2014 only. No tariff is determined for sale of power by generating company in short term market. Hence, tariff for such supply from 1.4.2014 is to be determined in accordance with the provisions of the 2014-19 Tariff Regulations specified by the Commission.

(c) The prayer of the petitioner in the original petition is for determination of tariff from 20.5.2011 to 31.3.2014, whereas the prayer in the IA is for determination of provisional tariff for supply of power from the generating station from 1.4.2014.

(d) The legal submissions made above may be adopted for the respondent, PSPCL also.

(e) Determination of tariff, if any by the Commission, may be considered only for supply of power by the generating station to the respondents from 1.4.2014 and not from the date of COD of the generating station.

5. In response, the learned counsel for the petitioner clarified that the provisional tariff to be determined by the Commission would only be applicable from the date of supply of power to the respondents from 1.4.2014 and not from COD of the generating station. He also submitted that since final tariff of the generating station would take some time keeping in view the additional information which is required to be submitted in due course, provisional tariff considering the actual cost incurred etc as on 31.3.2009 may be granted for supply of power from 1.4.2014, subject to adjustment.

6. The representatives of CEA submitted clarifications as regards the installed capacity and the design energy of the generating station.

7. The Commission after hearing the parties observed that it would consider the grant of interim tariff for supply of power to the respondents from 1.4.2014 from the generating station, pending determination of final tariff. Accordingly, the petitioner was directed to submit the following information on affidavit, on or before 26.3.2014, with copy to the respondents:

(a) The details of Gross Block, Cumulative depreciation and Net block of Capital Assets and other details as on 1.4.2014 duly certified by the Auditor along with audited financial statement of the generating station.

(b) The detailed reconciliation statement/s duly signed by auditor showing the reconciliation of capital cost, additional capitalization, un-discharged liabilities etc. with the financial accounts of the stations as on COD and after wards (as on 31st March of each year).

(c) The audited station balance sheet as on COD and for the years 2010-11, 2011-12 and 2012-13.

(d) The year-wise details of the revenue earned through supply of power on the basis of competitive bidding/ sale of power in the short term power market, the details of bid and bidding basis etc. along with the copies of agreements.

(e) The month-wise details of the electricity generated in MUs from COD to till date.

(f) The details of the infirm power of ₹7.54 crore as submitted in the petition, showing the quantity generated, quantity supplied and rate etc. Details of quantum of power sold after COD of Unit-I, income earned, expenditure/cost incurred and profit from the sale of power on short term basis from 26.5.2011(COD of first unit) till date, along with balance sheets of the relevant years.

(g) CEA's view/concurrence/approval of deemed installed capacity of 1091 MW.

(h) CEA's view in regard to revised design energy of 4114.60 MUs based on hydrological data for the years 1972-73 to 2008-09 and enhanced mandatory release for aquatic life.

By order of the Commission

sd/-
(T. Rout)
Chief (Law)