

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 434/GT/2014

Subject : Approval of tariff of Jaypee Karcham Wangtoo Hydroelectric Project for the period 2014-19

Date of Hearing : **16.7.2015**

Coram : Shri Gireesh B Pradhan, Chairperson
Shri A.K.Singhal, Member
Shri A.S. Bakshi, Member

Petitioner : Jaiprakash Power Ventures Limited

Respondents : PTC India Limited & 6 Others

Parties present : Shri Vishal Gupta, Advocate, JPVL
Shri Sanjeev K. Goel, JPVL
Ms. Rimali Batra, Advocate, PTC
Ms. Pooja Nuwal, Advocate, PTC
Shri R. C. Choudhary, PTC
Shri Rajiv Srivastava, Advocate, UPPCL
Ms Swapna Seshadri, Advocate, HPGCL & PSPCL
Shri Anand K Ganesan, Advocate, HPGCL & PSPCL
Ms.Ranjitha Ramachandran, Advocate, Discoms of Rajasthan

Record of Proceedings

This petition has been filed by petitioner JPVNL for determination of tariff of Jaypee Karcham Wangtoo Hydroelectric Project (generating station) for the period 2014-19 in accordance with the provisions of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (“the 2014 Tariff Regulations”).

2. During the hearing, the learned counsel for the petitioner made submissions on various issues including the question of approval of installed capacity of the generating station, mainly as under:

- (i) The generating station comprises of four units of 250 MW each and tariff of the generating station is to be determined by the Commission in accordance with the 2014 tariff Regulations. The generating units are designed for a rated capacity of 250 MW with continuous overload capacity of 20% and thus the total maximum generation can be upto 1200 MW.
- (ii) In terms of Section 79 (1) (b) read with Section 61 of the Electricity Act, 2003 (the 2003 Act), the Commission has the jurisdiction and powers to approve the installed capacity of the generating station.

- (iii) Section 8 of the 2003 Act provides for concurrence by the Authority of a scheme for setting up of hydro generating station estimated to involve a capital expenditure as fixed by the Central Government from time to time, by notification. This section is an exception to Section 7 and does not override the provisions of Section 61 of the 2003 Act which provides the guidelines to be adopted by the Commission for determination of tariff. Therefore, Section 8 and Section 61 are independent of each other. The petitioner has not violated any of the provisions of Section 8 as no material/evidence contrary to the dam design and safety of the plant has been furnished by any party.
- (iv) The project was conceptualised in the year 1980 and the implementation agreement was entered into during 1999. The Techno-Economic Clearance which was accorded on 31.3.2003 in terms of the provisions of the Electricity Supply Act, 1948 does not mention any specific overload provision in the generating units.
- (v) The word 'regulate' does not mean 'to restrict' and is intended to promote the objectives of the 2003 Act. Thus, for optimising the generation during the few days of the monsoon season, it was considered prudent to provide a higher overload capacity, without compromising the safety and security of the plant. In order to provide an independent opinion about the adequacy/ safety of the project components and the designs for 20% overload condition the petitioner had engaged the services of IIT Roorkee to carry out the assignment and a report dated 9.6.2015 has been submitted to the Commission for consideration.
- (vi) Section 3 (33) of the 2014 tariff Regulation define the term installed capacity to mean the submission of the name place capacities of all the generating station or the capacity of the generating station reckoned at the generated terminals as may be approved by the Commission. The generating station is capable of generating upto 110% of installed capacity on continuous basis. Keeping in view the spirit of CEA (Technical Standards Connectivity to the Grid) Regulations, 2007 (clause 1 (8) of Part-II of the Schedule) and for optimum use of natural resources, the deemed rated/ installed capacity can therefore be considered as 1091 MW (4 X 272.5 MW) with 10% overload on 1091 MW. The observations of CEA that hydro generators should be adequately compensated and allowed a liberal treatment to promote hydro-electric capacity addition in the country, thereby leading to much needed improved hydro-thermal mix in the country has been referred in Commission's order dated 10.7.2015 in Petition No. 157/MP/2013.
- (vii) In response to CEA's letter for considering the capacity of the generating station as 1000 MW, the petitioner has submitted a request to CEA for considering the deemed installed capacity as 1091 MW. It is evident from the letter of POSOCO dated 22.5.2012 that the permission has been granted to the generating station to generate upto 1200 MW. Even from the minutes of the meeting taken by CEA on 15.5.2013 it is clear that the generating station has been permitted to generate 1200MW. The Govt. of Himachal Pradesh has also given its no objection for generation of 1200 MW from the generating station.

- (viii) The petitioner has not incurred any additional cost in providing 20% overload capacity, since payments to EPC Contractor were restricted to the contract price awarded based on TEC cost. However, in terms of the guidelines of the Commission, the vetting of capital cost of the project has been assigned to M/s. Energy Infra-tech Pvt. Ltd., the Designated Independent Agency (DIA). The report of the DIA has been submitted to the Commission on 29.6.2015.
- (ix) Against the Design Energy of 4131.06 Mu approved by the CEA, the petitioner has made a representation and the same is pending. Hence, the liberty may be granted to the petitioner to approach the Commission for revision if any, based on the decision of CEA.
- (x) The increase in project cost is attributable to factors which are beyond the control of the petitioner. As regards the other components of tariff, the Commission may consider the submissions made in the petition alongwith the tariff filling forms.

3. In reply to the above, the learned counsel for the respondents HPGCL & PSPCL mainly submitted the following:

- (i) The respondents do not have objection in the Commission deciding the installed capacity of the generating station while determining tariff. The DIA in its report dated August, 2012 has also recommended the installed capacity of the project to be considered as 1091 MW with a capital cost of ₹6900 crore. However, the capacity so decided by the Commission may be subject to restriction in capital cost and no additional cost burden may be imposed on the beneficiaries.
- (ii) The CEA (Technical Standards Connectivity to the Grid) Regulations, 2007 restricts the generating station to generate upto the maximum limit of 110% of rated capacity on continuous basis. Hence, the contention of the petitioner for providing an overload capacity of 20% may be accepted.
- (iii) The revenue earned from the sale of power from May 2011 to May 2014 may be deducted from the capital cost of ₹6900 crore claimed by the petitioner in addition to ₹7.54 crore of revenue earned from sale of infirm power. The Commission may however, direct the petitioner to submit details of the amounts earned from sale of power in open market during the period.
- (iv) The project was envisaged to be commissioned by 18.11.2009 i.e. within 120 months of the signing of the implementation agreement entered into by the petitioner with Govt. H.P. on 18.11.1999. However, in the second supplementary agreement entered into by the parties above on 20.11.2007 the date of commissioning of the project was shifted to 18.11.2011. Since, this respondent was not a party to the said implementation dated 20.11.2007, it is not liable to pay any IDC or IEDC for the period between 2009 and 2011.
- (v) IDC may be allowed under Regulation 11 of the 2014 Tariff Regulations. The factors resulting in the delay in completion of the project as stated by the petitioner are covered under Regulation 12 (1) of the 2014 Tariff Regulations.

The cost overrun if any shall be examined by the Commission keeping in view Article 11 of the PPA.

- (vi) The NAPAF of the generating station may be decided as per Regulation 37 (1) (d) of the 2014 Tariff Regulation instead of the claim made under Regulation 27 (i) (1) (iii) of the 2009 Tariff Regulations.
- (vii) Regulation 47 of the 2014 Tariff Regulation provides that the norms specified are the ceiling norms and in case the improved norms are agreed to by the parties the same shall be applicable for determination of tariff. Though, the said regulation provide for 4% of the original capital cost as on the cut-off date to be allowed as initial spares, only 1.5% of initial spares may be allowed in terms of the contractual agreement entered into the parties. Similarly, Auxiliary Energy Consumption of 0.5% and Transformation Loss of 0.7% may be considered in terms of the contractual agreement entered into the parties.
- (viii) Reply to the petition has been filed which may be considered by the Commission. However, time to file reply to the DIA report filed on 29.6.2015 by the petitioner may be granted.

4. The learned counsel for UPPCL, made submissions as under:

- (i) The submissions made by the respondent, HPGCL above are adopted by this respondent.
- (ii) The installed capacity shall be considered in terms of the CEA letter dated 27.3.2015 however, in case of revision in the installed capacity and design energy considering the overload capacity of 10% the project needs to be redesigned and fresh concurrence has to be obtained from CEA by the petitioner
- (iii) Reply to the petition has been filed which may be considered by the Commission. However, time to file reply to the DIA report filed on 29.6.2015 by the petitioner may be granted.

5. The learned counsel for the Rajasthan discoms submitted as under:

- (i) The submissions made by the respondent, HPGCL above are adopted by this respondent.
- (ii) Any additional taxes, levies, cess, etc., are to be as per the provisions of the PPA, PSA and the 2014 Tariff Regulations.
- (iii) The filling fees, expenses related to publication, RLDC charges may be allowed as per Regulation 52 of the 2014 Tariff Regulations. The legal fees claimed by the petitioner cannot be permitted.
- (iv) Reply to the petition has been filed which may be considered by the Commission. However, time to file reply to the DIA report filed on 29.6.2015 by the petitioner may be granted.

6. The learned counsel for the petitioner submitted that it may be granted a weeks time to file its response to the replies of the respondents on the DIA report dated 29.6.2015. He accordingly prayed that the matter may be listed for hearing the petitioner on the submissions made by the respondents.

7. The Commission after hearing the parties, directed the respondents to file their replies/ objections to the DIA Report filed on 29.6.2015 on affidavit, on or before 10.8.2015 with advance copy to the petitioner who shall file its rejoinder/ response by 17.8.2015. The petitioner is also directed to include in the said affidavit, the details of the amounts received towards sale of power in the open market from the period from May 2011 to May 2014.

8. Matter shall be listed for hearing the petitioner on 25.8.2015. Pleadings in the matter shall be completed by the parties prior to the date of hearing. No extension of time shall be granted for any reason whatsoever.

By Order of the Commission

-Sd/-
(T. Rout)
Chief (Legal)