

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 160/MP/2015

Subject : Petition under section 79(1) (f) of the Electricity Act, 2003 read with Regulation 8 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff determination from Renewable Energy Sources) Regulations, and Regulation 111 and 119 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for applicability of Generic Tariff for 50 MW Rajgarh Solar PV Station of NTPC Limited.

Date of hearing : 15.10.2015

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

Petitioner : M/s NTPC

Respondents : Madhya Pradesh Power Management Company Limited and Others

Parties present : Shri M.G. Ramachandran, Advocate, NTPC
Ms. Ranjitha Ramachandran, Advocate, NTPC
Ms. Poorva Saigal, Advocate, NTPC
Shri A.K. Brishai, NTPC
Ms. Suchitra Maggon, NTPC
Shri Shyam Kumar, NTPC
Shri Sachin Jain, NTPC
Shri G. Umamathy, Advocate, MPPMCL
Shri Manoj Dubey, Advocate, MPPMCL
Shri Shubham Arya, Advocate for respondent
Ms. Anushree Saigal, Advocate for respondent

Record of Proceedings

Learned counsel for the petitioner submitted as under:

(a) The present petition has been filed for adjudication of dispute with regard to applicability of generic tariff for 50 MW Solar PV Project of NTPC Ltd at Rajgarh Solar PV Station.

(b) Proviso of Regulation 8(2) of Central Electricity Regulatory Commission (Terms and Conditions for Tariff determination for Renewable Energy Sources) Regulations, 2012 (RE Regulations) provides that (i) the Power Purchase Agreements in respect of the Solar PV projects and Solar thermal projects as mentioned in this clause are signed on or before last day of the year for which generic tariff is determined, and (ii) the entire capacity covered by the Power Purchase Agreements is commissioned on or before 31st March of the next year in respect of Solar PV projects and on or before 31st March of subsequent two years in respect of Solar thermal projects. The expression 'on or before the last date of the year' appearing in the proviso could be one or two years before commissioning of the plants as the case may be.

(c) Regulation 3 of the RE Regulations provides that the said regulation shall be applicable in cases where tariff for a generation station or unit thereof based on renewable sources of energy is to be determined. Therefore, Regulation 3 and Regulation 8(2) of RE Regulations are to be interpreted harmoniously.

(d) On 28.11.2011, the petitioner entered into a PPA with M.P.Power Trading Company Limited, i.e. before the 31.3.2014 (last day of the financial year 2013-14) for 50 MW out of which 30 MW was commissioned on 31.3.2014 and balance 20 MW was commissioned by 30.4.2014 (before the financial year 2014-15). Therefore, the generic tariff applicable for the 50 MW power project shall be at ₹ 9.35/KWh and ₹ 7.87/ KWh for 30 MW and 20 MW respectively.

(d) Clause 5.1 of PPA provides that the tariff for electricity supplied from the station/module would be applicable rate in Rs./kWh for the relevant year of commissioning as notified by the Commission based on the RE Regulations.

(f) Regulation 2 (14) of CEA (Regulation Technical Standards for connectivity to Grid) Regulations, 2007 also provides that in case of solar photo voltaic generating station, each inverter along with associated modules will be reckoned as a separate generating unit. Accordingly, the module-wise commissioning of solar PV project is admissible to the solar PV project developer.

2. Learned counsel for MPPMCL submitted as under:

(a) The petitioner and MPPTCL entered into a PPA on 28.12.2011 for 50 MW. Out of 50 MW, 30 MW was commissioned in the year 2013-14 and the remaining 20 MW was commissioned in the subsequent year i.e. 2014-15. The generating station, as a whole was commissioned on 30.4.2014 i.e. in the period 2014-15 only. The generating station was commissioned after a period of two years and four months, approximately from the date of signing of the PPA. Thus, tariff for the year 2014-15 should be applied for the entire 50 MW, considering the

generating station as a whole. However, the petitioner, in total misinterpretation of Regulation 8 (2) RE Regulations, is applying tariff of 2012-13 for the initial 30 MW and tariff of 2013-14 for the remaining 20 MW.

(b) As per Article 1.2 (ix) of the PPA, 'the date of Commercial Operation' mean the date on which the entire Station capacity is commissioned. Thus, neither the Regulation nor the PPA provide for aggregating the tariffs applicable for two different years. Hence, the intent is that the tariff should be applicable to the entire capacity once the commissioning is complete. There is no provision of charging a weighted average in the RE Regulations.

(c) As per RE Regulations, tariff for the entire contracted capacity shall only be a single tariff. The applicability of tariff for the next year is conditional not in general sense, i.e subject to the fulfillment of the condition that entire capacity covered by the PPA is commissioned on or before 31st March of the next year. Therefore, the project qualifies only for applicability of current year tariff determined for 2014-15, i.e when the entire contracted capacity was commissioned. Accordingly, MPPMCL requested the petitioner to revise claim of applicable tariff to Rs. 6.95/kWh (with AD benefit), instead of Rs. 8.76/kWh, i.e. weighted average tariff based on the tariff for 30 MW and 20 MW separately applicable during 2012-13 and 2013-14 respectively.

3. After hearing the learned counsels for the parties, the Commission reserved the order in the petition.

By order of the Commission

**Sd/-
(T. Rout)
Chief (Law)**