

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 107/GT/2016

Coram:

Shri A.S. Bakshi, Member

Dr. M. K. Iyer, Member

Date of Hearing: 06.10.2016

Date of Order : 08.11.2016

In the matter of

Grant of interim tariff for Teesta Low Dam Project, Stage-IV (4 x 40 MW) for the period from actual COD of Units I & II and from anticipated COD of Units-III & IV till 31.3.2018

And

In the matter of

Approval of generation tariff for Teesta Low Dam Project, Stage-IV (4 x 40 MW) for the period from actual COD of Units-I & II and anticipated COD of Units-III & IV till 31.3.2019

And

In the matter of

NHPC Limited
NHPC Office Complex,
Sector-33, Faridabad – 121 003

.....Petitioner

Vs

1. West Bengal state Electricity Distribution Company Ltd.
Vidyut Bhawan (8th Floor), Block-DJ
Sector-II, Salt Lake, Kolkata-700091 (West Bengal)

....Respondent

Parties present:

For Petitioner:

Shri A K Pandey, NHPC
Shri Jay Kishor Prasad, NHPC
Shri Jitendra Kumar Jha, NHPC

For Respondents:

Shri Sakya Singha Chaudhari, Advocate, WBSEDCL
Shri Molshree Bhatnagar, Advocate, WBSEDCL



INTERIM ORDER

This petition has been filed by the petitioner, NHPC Ltd., for approval of tariff of Teesta Low Dam Project Stage-IV (4 x 40 MW) (hereinafter referred to as “the generating station”) from the date of commercial operation (COD) Units-I & II and anticipated COD of Units- III & IV till 31.3.2019 in accordance with the provisions of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 ('the 2014 Tariff Regulations').

2. The generating station comprises of 4 units of 40 MW capacity each and is situated on river Teesta in the district of Darjeeling in the State of West Bengal. The project was sanctioned by the Govt. of India during the Month of September, 2005 at the cost of ₹1061.38 crore (Including IDC & FC of ₹69.71 crore) at March, 2005 Price level. The design energy of the project is 720 MU. The generating station has been designed as a ROR with small pondage. The rated head being 25.05 meters and capacity of each machine 40 MW, rated discharge is only 174.95 cumecs per unit which enables the project to supply peaking power.

3. As per Memorandum of Understanding (MOU) signed with the State of West Bengal, the respondent, West Bengal State Electricity Distribution Company Limited (WBSEDCL), is sole beneficiary of this project and full power from the generating station is allocated to the respondent, WBSEDCL vide MoP letter dated 10.6.2015.

4. The petitioner has filed this petition for determination of tariff from the actual COD of Units I (11.3.2016) and Unit-II (31.3.2016) and from the anticipated COD of Units III (30.6.2016) and Unit-IV (30.9.2016) in terms of Regulation 7(1) of the 2014 Tariff Regulations and has made publication of the notice of application for determination of tariff in accordance with Regulation 3(6) of the Central Electricity Regulatory Commission (Procedure for making of application for determination of tariff, publication of the application and other related



matters) Regulations, 2004. Copies of the petition have also been served on the respondents. Preliminary reply to the petition has been filed by the respondent, WBSEDCL.

5. The petition was heard on 6.9.2016 and 5.10.2016. During the hearing, the petitioner has submitted that Units III and IV of the generating stations have also been declared under commercial operation on 17.7.2016 and 19.8.2016 respectively and prayed that the Commission may consider the grant of interim tariff in order to bill the respondents for supply of power made to them pending determination of final tariff of the generating station.

6. The learned counsel for the respondent raised preliminary objection and submitted that the petitioner has claimed huge increase in cost and till such time the Commission examines the capital cost submitted by the petitioner, tariff at a levelised rate as provided in the Detailed Project Report may be payable by the respondent. He also submitted that since the project received CCEA clearance on 30.9.2005, all units ought to have been commissioned by 30.9.2009. The learned counsel also submitted that the project has been delayed by 84 months with huge cost overrun and consequential increase in IDC &FC. He also submitted that the delay due to force majeure, stated as uncontrollable factor by the petitioner, is required to be established on facts of occurrence of events, under the 2014 Tariff Regulations. He added that as per terms of the PPA, the petitioner was required to satisfy the respondent about the existence of force majeure and having not been informed, the petitioner cannot claim the benefit of the same. The learned counsel further pointed out that the flash flood date submitted by the petitioner are within the estimates provided in the DPR and cannot be held to be unprecedented. He further submitted that there has been delay on the part of the petitioner to appoint the Designated Independent Agency (DIA) for submission of the report on time and cost overrun involved in the project. Accordingly, he submitted that the Commission may consider the above factors in case of grant of interim tariff for the generating station.



7. In the present case, there is time over run of 84 months (approx) in the completion of the project. Consequent upon the time overrun, the capital cost of this project has increased from ₹1061.38 crore (including IDC & FC of ₹69.71 crore) to the completion cost of ₹1837.62 crore (including IDC & FC of ₹423.71 crore and excluding normative IDC of ₹44.46 crore). The petitioner in the petition has furnished the reasons for the delay in the commissioning of the units and the respondent, WBSEDCL in its preliminary reply has submitted that the reasons for the delay may not be acceptable. In our considered view, the question of time overrun and cost overrun involved in the completion of the project and its impact on capital cost is required to be considered in detail, after hearing the parties on merits, based on the report of the DIA and the submissions of the parties thereof, at the time of determination of final tariff of the generating station. Accordingly, the question of time and cost overrun has not been considered in this order.

8. The petitioner has claimed capital cost as on the anticipated COD of the generating station (30.9.2016) vide Form-5B of the petition. While the petitioner has incurred expenditure for the generating station, the respondent is reaping the benefits of such expenditure by way of supply of power. In this background and in order to enable the petitioner to meet its ongoing financial obligations through reasonable recovery of cost of supply of electricity by the petitioner, we consider the grant of interim tariff for the generating station for the period from the actual/anticipated COD of the units i.e from 11.3.2016 to 31.3.2018, as stated in the subsequent paragraphs.

Approved Capital Cost

9. As stated, the project was sanctioned by Govt. of India during the month of September, 2005 at the cost of ₹1061.38 crore (Including IDC & FC of ₹9.71 crore) at March, 2005 Price level.



10. The petitioner has claimed completion cost of ₹188208.71 lakh as on cut-off date i.e., 31.03.2019. The DIA report on vetting of capital cost and the approved RCE from the Central Government is pending. Considering the fact that the project involves significant time and cost overrun, we grant interim tariff from the actual/anticipated COD the said units i.e from 11.3.2016 to 31.3.2018, based on the original sanctioned cost of ₹106138.00 lakh, pending the determination of final tariff of the generating station from COD of the units till 31.3.2019.

11. Based on the above, the interim fixed charges allowed for the generating station for the period from 11.3.2016 (COD of Unit-I) till 31.3.2018 are as under:

	(₹ in lakh)					
	11.3.2016 to 30.3.2016	31.3.2016	1.4.2016 to 29.6.2016	30.6.2016 to 29.9.2016	30.9.2016 to 31.3.2017	1.4.2017 to 31.3.2018
Return on Equity	80.45	8.06	725.60	1160.68	3235.59	6585.42
Interest on Loan	95.12	9.52	732.74	1087.75	3035.45	6007.98
Depreciation	32.86	3.29	296.32	474.00	1321.36	2689.38
Interest on Working Capital	2.15	0.18	29.12	45.27	177.93	599.73
O&M Expenses	57.50	5.75	518.92	795.67	2110.26	4488.48
Total	268.07	26.81	2302.70	3563.38	9880.60	20370.99

12. The interim tariff allowed as above is subject to adjustment after determination of final tariff of the generating station for the period 2015-19 in accordance with the provisions of the 2014 Tariff Regulations.

NAPAF

13. The generating station is located on the river Teesta. The petitioner has claimed NAPAF of 85% in accordance with Regulation 37 of the 2014 Tariff Regulations considering that the fact that the river Teesta is affected by silt. The Commission in its various other orders had allowed the NAPAF of 85% to both TLDP-III and TLDP-V H.E.P (upstream projects to TLDP-IV located at river Teesta) projects of the petitioner. In line with this, we consider the NAPAF of 85% for the purpose of interim tariff. However, the same is subject to review based on scrutiny of the actual operation data.



14. Since Units III and IV of the generating station have been declared under commercial operation during the pendency of this petition, we direct the petitioner to amend the tariff petition along with the tariff filing forms and the information sought for vide record of proceedings of the hearing dated 6.9.2016, with copy to the respondent. The petitioner shall also take expeditious steps for submission of the DIA report and approved RCE by the Central Government.

15. The petition shall be listed for hearing on 22.12.2016. Pleadings shall be completed by the parties prior to the date of hearing.

**Sd/-
(Dr. M. K. Iyer)
Member**

**Sd/-
(A.S. Bakshi)
Member**

