

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.298/GT/2019

Subject : Petition for revision of tariff of Assam Gas Based Power Plant (291 MW) for the period 1.4.2014 to 31.3.2019 after truing-up exercise.

Petitioner : NEEPCO

Respondent : Assam Power Distribution Company Limited & ors

Date of hearing : **27.7.2020**

Coram : Shri I.S. Jha, Member
Shri Arun Goyal, Member

Parties present : Shri Prabal Mukhopadhaya, NEEPCO
Shri Devapriya Choudhury, NEEPCO
Shri Elizabeth Pyrbot, NEEPCO
Shri Indrajit Tahbildar, APDCL
Shri Nil Madhab Deb, APDCL

Record of Proceedings

The matter was heard through video conferencing.

2. During the hearing, the representative of the Petitioner submitted that the present petition has been filed for revision of tariff of Assam Gas Based Power Plant (called 'the generating station') for the 2014-19 tariff period, based on truing-up exercise. The representative also submitted that the Petitioner has incurred additional O&M expenses of ₹19.44 crore on account of revision of wages of its employees and Meghalaya home guards from 1.1.2017 to 31.3.2019. He accordingly prayed that the said expenses may be permitted to be recovered from the Respondents by the Commission as one-time payment, in exercise of the power under Regulation 54 (Powers to Relax) and Regulation 55 (Powers to Remove Difficulties) of the 2014 Tariff Regulations. The representative of the Petitioner added that the tariff filing forms have been submitted in accordance with the provisions of the 2014 Tariff Regulations and copies have been served on the Respondents.

3. The representative of the Respondent, APDCL, pointed out the statement of the Petitioner in the petition wherein it is mentioned that the additional O&M expenses for Rs.19.44 crore are recoverable only from the Respondent APDCL and it is an apparent error. He requested that the same be rectified by the Petitioner, as the said expenses are recoverable from all the beneficiaries of the generating station. He however prayed for grant of time to file its reply in the matter.

4. In response, the representative of the Petitioner accepted the submission of the Respondent APDCL and clarified that the said additional O&M expenses claimed are recoverable from all the beneficiary respondents, including the Respondent APDCL. The representative prayed for grant of time to file its rejoinder to the reply of the Respondents.



5. The Commission after hearing the parties directed the Petitioner to file additional information on the following, with advance copy to the Respondents, on or before **20.8.2020**:

- a) *Regulation 25(1) of the 2014-19 Tariff Regulations envisages effective tax rate to be considered on the basis of actual tax paid in the respective financial year in line with the provisions of Finance Acts by the concerned generating Company. Further, the actual tax on other income stream shall not be considered for calculation of effective tax rate. As against the above provision, it is seen that the Petitioner, instead of claiming Company level rate for grossing up equity has claimed Station level rate which are different for different stations within the Company. Also, the mandated bifurcation between the generation earnings and earnings from other activities has not been provided. The Petitioner is therefore directed to submit the Auditor certified calculation of effective tax rate in line with the above regulation clearly depicting the bifurcation of earnings into generation earnings and earnings from other activities. The Tax Audit Report for the period COD to 31.3.2019 and details as per proforma in Annexure 'A' enclosed shall also be submitted;*
- b) *Cost Audit Report for the period 2014-19;*
- c) *Interest on normative loan in Form 13A has been calculated at the rate of 13.50%, 13.50%, 12.80%, 12.60% and 12.20% during 2014-19. However, Form 13 has not been furnished and Interest on loan claimed in Summary Sheet (Form-1) is 'Nil'. This may be clarified by the Petitioner;*
- d) *Reconciliation Statement (Form 9C) and Liability Flow Statement (Form 18) duly certified by Auditor;*
- e) *An affidavit stating that there is no asset appearing in the books and claimed in tariff, but not in use, because of misplaced/stolen or transferred to other project as per Annual Physical Verification Report of the plant for the period 2014-19;*
- f) *Whether any component of IDC has been included in the additional capitalization?*
- g) *The Petitioner has claimed some new assets in this petition and has only furnished the brief reasons in Form-9A for claiming these assets. Petitioner to furnish the detailed reasons and along with the relevant provisions of the Regulations under which the new assets have been claimed;*
- h) *Reconciliation of the actual additional capital expenditure claimed for the purpose of tariff for the period 2014-19 with the additional capital expenditure as per books of account;*
- i) *As regards the claim of ₹19.44 crore towards additional O&M expenses due to impact of wage revision, the following information may be furnished:*
 - (i) *Comparative statement between Normative O&M expenses allowed to the generating station versus the actual audited O&M expenses for the period 2014-19;*
 - (ii) *PRP/Incentive included in the wage revision impact claimed (year wise details duly certified by the Auditor).*

6. The Commission also directed the Respondents to file their reply on or before **7.9.2020**, with advance copy to the Petitioner, who shall file its rejoinder, if any, by **17.9.2020**. The Commission further directed that the due date of filing the additional information and reply/rejoinder should be strictly complied with and no extension of time shall be granted for any reason.



7. Matter shall be listed in due course for which separate notice will be issued to the parties.

By order of the Commission

Sd/-
(B. Sreekumar)
Deputy Chief (Law)



Annexure-A

Please specify below information regarding income tax pertaining to O&M/Generation related activities for the grossing up of the ROE together with supporting documents.

Sr. No.	Particulars	As per Income Tax Return					As per Assessment Order (if completed)				
		2014-15	2015-16	2016-17	2017-18	2018-19	2014-15	2015-16	2016-17	2017-18	2018-19
A	Information pertaining to the years when MAT rate is applicable										
(i)	Applicable MAT rate for the respective years										
(ii)	Tax paid by the petitioner										
(iii)	Book Profit										
(iv)	Interest Paid to the Income tax department										
(iv)	Interest paid other than interest on additional tax demand (specify section wise details)										
(a)	(I) Section 234 (A)										
	(II) Section 234 (B)										
	(III)										
	(IV)										
(iv)	Interest Paid on additional tax demand										
(b)											
(v)	Details about appeal filed with regard to interest payments on additional tax demand, as specified above										
	(I) Appeal filed and allowed in favour of petitioner										
	(II) Appeal filed and disallowed										
	(III) Appeal is pending										
	(IV) Interest on additional tax demand for which appeal not filed										
(vi)	Effective tax rate based on (tax paid plus interest paid on additional tax demand excluding for which appeal filed and allowed in favour of petitioner) divided by Book profit as stated above										
B	Information pertaining to the years when Corporate Tax rate is applicable										
(i)	Applicable Corporate Tax rate including cess for the respective years as per I.T. Act										
(ii)	Income Tax including cess paid by the petitioner (A)										
(iii)	Taxable Income as per Income tax provisions (B)										
(iv)	Corporate Tax rate including cess for the respective years (C) [(C) = ((A)/(B))X100] (Note: If tax rate under Sr. no. (i) and (iv) are different, reason for the same shall be detailed as a note below the table.)										
(v)	PBT as per audited financial statements (D)										
(vi)	Effective tax rate based on tax paid by petitioner and PBT as per audited financial accounts (E) [(E) =										



	((A)/(D))X100]																		
(vi i)	Interest Paid to the Income tax department																		
(vii a)	Interest paid other than interest on additional tax demand (specify section wise details)																		
	(I) Section 234 (A)																		
	(II) Section 234 (B)																		
	(III)																		
	(IV)																		
(vii b)	Interest Paid on additional tax demand																		
(vi ii)	Details about appeals filed with regard to interest payments on additional tax demand, as specified above																		
	(I) Appeal filed and allowed in favour of petitioner																		
	(II) Appeal filed and disallowed																		
	(III) Appeal is pending																		
	(IV) Interest on additional tax demand for which appeal not filed																		
(ix)	Effective tax rate based on (tax paid plus interest paid on additional tax demand excluding for which appeal filed and allowed in favour of petitioner) divided by PBT as per audited financial accounts																		

Note:

- Above data shall be certified by the auditor.
- In case the corporate tax rate is applicable and if the effective tax rate reported above is more than the applicable corporate tax rate, the auditor shall specify the reason for such variances. The Auditor shall verify and certify that the reasons for such variances have been checked and found correct from the accounting point of view as well as the provisions of the Income Tax Act. The Auditor shall specify adjustment needed in books of accounts, if any, observed during verification and reconciliation of above variances.

