

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 52/MP/2022

Subject : Petition under Section 79(1)(f) of the Electricity Act, 2003 for adjudication of dispute between NHPC Ltd and PGCIL regarding interpretation of Regulation-6(5) of CERC (Terms and Conditions of Tariff) Regulations, 2009.

Petitioner : NHPC Limited

Respondent : PGCIL

Date of Hearing : **18.8.2023**

Coram : Shri Jishnu Barua, Chairperson
Shri I.S Jha, Member
Shri Arun Goyal, Member
Shri Pravas Kumar Singh, Member

Parties Present : Shri Rajiv Shankar Dvivedi, Advocate, NHPC
Shri S. K. Sarkar, Advocate, NHPC
Shri Gursharan Singh, NHPC
Shri S.K. Meena, NHPC
Ms. Swapna Seshadri, Advocate, PGCIL
Shri Chitikena Abhijith, PGCIL

Record of Proceedings

During the hearing, the learned counsel for the Petitioner made detailed oral submissions, summarized as under:

- (i) The interest on the differential tariff of Assets I and II should be levied from the date of billing of the provisional tariff, i.e. 17.6.2015, and not from the COD of Assets I and II (1.8.2013, as determined by Order dated 26.5.2015 in Petition No. 91/TT/2012);
- (ii) No interest should be levied on the tariff of Assets III and IV since the tariff of Assets III and IV was determined for the first time vide truing up Order dated 17.8.2020 in Petition No. 107/TT/2017 and the question of the differential tariff and the interest on Assets III and IV does not arise;
- (iii) Regulation 5 and Regulation 6 of the 2009 Tariff Regulations state that the interest is to be calculated on the amount to be recovered from/refunded to from the date of billing till the date of final/truing-up order;
- (iv) The Commission, in its Order dated 18.9.2015 in 5/RP/2015, held that there is no provision in the 2009 Tariff Regulations for charging interest from the COD of the unit/station till the date of order;



(v) The Respondent has not charged such interest for any other project.

2. In reply, the learned counsel for the Respondent mainly submitted as under:

- (i) The determination and recovery of transmission tariffs under Sections 61 and 62 of the Electricity Act, 2003, are based on the capital cost incurred and relate to the COD of the project;
- (ii) In the case of the generation tariff, the generating company files tariff petitions prior to six months of the anticipated COD and they bill an amount in accordance with the PPA provisions; however, this is not the case with the transmission system;
- (ii) Respondent had filed the tariff Petition for anticipated COD of these Assets but the determination of tariff takes time (e.g. the tariff orders for the period 2014-19 got passed in the years 2022 and 2023 but they relate back to the period 2014-19). Similarly, when a provisional tariff is not granted and only a final tariff is granted, it also relates to the COD date;
- (iii) The Respondent is only recovering the due cost and interest, which have accrued since COD of assets, which could only be determined at a later stage without any default on the part of the Respondent.

3. On a specific query by the Commission, the learned counsel for the Respondent submitted that the 2009 Tariff Regulations provide for the difference between provisional tariff and final tariff, and the same has to be applied in the present case as the provisional tariff will be zero in the present case, and accordingly, the Respondent is only asking for simple interest from the date of COD.

4. The Commission, after hearing the parties, directed the Respondent to file information on whether it is charging interest on all bills raised in similar cases, on or before, **12.9.2023**, after serving a copy to the Petitioner, who may file its rejoinder, if any, till **26.9.2023**.

5. Subject to the above, order in the petition was reserved.

By order of the Commission

Sd/-
(Deepak Pandey)
Assistant Chief (Law)

