

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram:**

- 1. Shri Ashok Basu, Chairman**
- 2. Shri G.S. Rajamani, Member**
- 3. Shri K.N. Sinha, Member**

**Petition No. 5/2000**

**In the matter of**

Tariff for Agartala Gas Turbine Power Project

**Petition No. 6/2000**

**And in the matter of**

Tariff for Assam Gas Based Power Project

**And in the matter of**

North Eastern Electric Power Corporation Ltd. .... **Petitioner**

**Vs**

1. Assam State Electricity Board, Guwahati
2. Meghalaya State Electricity Board, Shillong
3. Department of Power, Govt. of Tripura, Agartala
4. Power & Electricity Deptt., Govt. of Mizoram, Aizwal
5. Electricity Department, Govt. of Manipur, Imphal
6. Department of Power, Govt. of Arunachal Pradesh, Itanagar
7. Department of Power, Govt. of Nagaland, Kohima
8. National Hydroelectric Power Corporation Ltd., Faridabad
9. Powergrid Corporation of India Ltd., New Delhi
10. NEREB, Shillong

.... **Respondents**

**The following were present:**

1. Shri M.D. Roy, Ex. Dir. (Comml), NEEPCO
2. Shri P.K. Singha, Sr. Manager (EL), NEEPCO
3. Shri P. Tripathy, Sr. Advocate, NEEPCO
4. Shri S Mishra, Advocate, NEEPCO
5. Shri Pankaj Singh, Advocate, NEPCO
6. Shri M.G. Rawat, DGM, PGCIL
7. Shri R.P. Rath, PGCIL
8. Shri Sunil Agrawal, CM (SO), PGCIL
9. Shri A. Varghese, NEREB
10. Shri H.M. Sharma, ASEB

11. Shri S Borthakumar, Advocate, ASEB
12. Shri D. Deka, ASEB

**ORDER  
(DATE OF HEARING 17.1.2003)**

Petition No.5/2000 was filed by North Eastern Electric Power Corporation Ltd. (NEEPCO) for approval of two-part tariff in respect of Agartala Gas Turbine Power Project (AGTPP) for the years 1998-99 and 1999-2000. Similarly, in Petition No.6/2000, NEEPCO had prayed for approval of two-part tariff for the years 1998-99 and 1999-2000 in respect of Assam Gas Based Power Project (AGBPP). The petitioner subsequently filed amended petitions in both these cases on 18.8.2000 seeking the Commission's approval to two-part tariff for the year 2000-01 as well in addition to years 1998-99 and 1999-2000. As these two petitions involve common questions, these were heard together and are being disposed of through this common order.

2. AGTPP located at Ramchandernagar was approved by Central Government in December 1994 at a revised estimated cost of Rs.294.05 crores, including working capital margin of Rs.2.36 crores for a capacity of 84 MW, comprising of four gas turbines of 21 MW each. The first unit of the project came into commercial operation with effect from 5.2.1998.

3. AGBPP located at Kathalguri and having a total capacity of 291 MW came into commercial operation on 22.3.1995. The revised cost estimate of Rs.1347.57 crores, including working capital margin of Rs.15.94 crores, for this project was approved by the Central Government in September 1997. The cost of the project was further revised to Rs.1532.32 crores vide Ministry of Power letter dated 14.2.2000.

4. In respect of AGTPP, a provisional tariff @ 190 paisa per kwh, for the power drawn, was adopted by NERE Board. So far as AGBPP is concerned, a provisional tariff was adopted @ 225 paisa per kwh of power sold had been agreed to at NERE Board. The provisional tariff in both these cases which came into force with effect from 1.2.1998, was subject to finalisation of tariff by the competent authority. It bears notice that the Central Government had not notified the tariff for either of these projects prior to constitution of the Commission. Thus, a provisional single part tariff has been prevailing in the North Eastern Region since 1.2.1998 and is being continued by virtue of interim orders of the Commission. The petitions for approval of two-part tariff are based on the terms and conditions contained in Government of India, Ministry of Power notification dated 30.3.1992, issued under Section 43A of the Electricity (Supply) Act, 1948, omitted with effect from 15.5.1999.

5. The respondents, the constituents of North Eastern Region have opposed the introduction of two-part tariff due to technical difficulties.

6. Before we deal with respective contentions, we consider it necessary to briefly notice the scheme of two-part tariff as contained in the said notification dated 30.3.1992. The two-part tariff for sale of electricity from thermal generating stations comprises the recovery of annual fixed charges (with different components), at a normative level of generation and energy (variable) charges covering fuel cost, recoverable for each unit of energy supplied. As provided further in the said notification dated 30.3.1992, full fixed charges are recoverable at generation level of 6,000 hours/kw/year - the normative level of generation. The payment of fixed charges below the normative level of generation is to be on pro-rata basis. In case

the generation exceeds the normative generation level of 6,000 hours/kw/year, no fixed charges are payable by the state utilities and the generating company becomes entitled to additional incentive. However, at this stage we are not concerned with the question of payment of incentive. The said notification dated 30.3.1992 also provides that while computing the level of generation, the extent of backing down as ordered by the Regional Electricity Board, due to lack of system demand in common parlance is termed as "deemed generation", is to be reckoned as generation achieved.

7. According to the petitioner, the beneficiaries in the North Eastern Region are not drawing their full share of power from these two projects, as a result of which, the capacity remains unutilised, causing thereby losses to the petitioner. The petitioner has placed on record the details of revenue loss on account of under-drawal of power by respondent No.1, ASEB, alone during the period from May 2002 to December 2002 as under :-

| Month  | MU           |                       |               |              | Revenue loss (Cr.) |
|--------|--------------|-----------------------|---------------|--------------|--------------------|
|        | Availability | Share of ASEB(52.85%) | Actual drawal | Under drawal |                    |
| May-02 | 121.96       | 64.46                 | 39.83         | 24.63        | 5.54               |
| Jun-02 | 118.59       | 62.67                 | 47.99         | 14.68        | 3.30               |
| Jul-02 | 93.12        | 49.21                 | 26.36         | 22.85        | 5.14               |
| Aug-02 | 139.68       | 73.82                 | 16.5          | 57.32        | 12.90              |
| Sep-02 | 147.36       | 77.88                 | 18.96         | 58.92        | 13.26              |
| Oct-02 | 145.44       | 76.87                 | 15.95         | 60.92        | 13.71              |
| Nov-02 | 129.60       | 68.49                 | 0             | 68.49        | 15.41              |
| Dec-02 | 127.68       | 67.48                 | 0             | 67.48        | 15.18              |
|        |              |                       |               | <b>Total</b> | <b>84.44</b>       |

8. The petition for approval of two-part tariff has been filed with a view to ensuring recovery of full capacity (fixed) charges in case the constituents refuse to draw power, for whatever reason.

9. Per contra, the respondents have submitted that the central sector transmission facilities in North Eastern Region are insufficient to carry power generated from these projects owned by the petitioner, to each of the state in the region. After introduction of two-part tariff, the states would be required to pay the capacity charges even though they are unable to use the required quantity of power from the generating stations because of transmission bottlenecks and this will put the beneficiaries in the region to loss. It is further submitted on behalf of the respondents that the load in the region is not properly developed and there are wide variations in peak and off-peak demand. Under these circumstances, according to respondents, per unit fixed charge for the power generated from AGTPP and AGBPP would be very high, exorbitant and beyond the payment capacity of the consumers in the region. It is further stated by the respondents that a *sine qua non* for proper administration of two-part tariff is the availability of efficient communication network. However, because of poor communication facilities in the region, the two-part tariff will not be workable.

10. These petitions were initially kept pending because the Commission was in the process of evolving operational norms of small gas turbine stations of capacity 50 MW or less. The operational norms for such stations have since been decided by the Commission in its order dated 25.9.2002 in Petition No.56/2002 (suo motu). Therefore, to that extent decks for introduction of two-part tariff have been cleared. However, as the issue of fixation of two-part tariff is to be based on recovery of capacity charges at normative level of generation, which includes "deemed generation", it became necessary for us to ensure that "deemed generation" for the past periods could be certified by Member Secretary, NERE Board. Therefore, we afforded an opportunity to Member Secretary, NERE Board to place on record his

views whether "deemed generation" certificate for the past periods could be issued based on records available with NEREB. We also issued notice for hearing to officer-in-charge, NERLDC. Member Secretary, NERE Board expressed his inability to issue such certificates for the past periods. He, however, informed that in case of two-part tariff was decided from a prospective date, it would be possible for NERE Board to give deemed generation certificates, where necessary. He stated that NERE Board was ready to deal with day-to-day scheduling after determination of two-part tariff. The petitioner agreed that the data needed for the purpose of scheduling, etc, could be sent through e-mail and any other viable mode of communication to Member Secretary, NERE Board in a regular manner. However, Member Secretary, NERE Board apprehended difficulties in collection of data relating to states' scheduled drawals, etc, as the data from the states could get delayed because of inadequate communication facilities in the Region.

11. Shri Parag P. Tripathi, Senior Advocate, appearing for the petitioner submitted that the norms decided by the Commission in its order dated 25.9.2002 in Petition No.56/2002, could be applied retrospectively for setting two-part tariff for AGTPP and AGBPP from the year 1998-99 and onwards.

12. In order to overcome the difficulties enumerated in its counter-reply, the representative of ASEB prayed for 3 to 6 months time to enable the states to improve their transmission network for carrying power generated from the power stations belonging to the petitioner. None was present on behalf of other respondents.

13. Against the above background, we have given our anxious thought to the question of fixation of two-part tariff in respect of AGTPP and AGBPP from the period prayed for in the petition. Considering the inability of NERE Board to certify "deemed generation" for the past periods, two-part tariff in respect of these stations cannot be applied retrospectively. We consider it necessary that some more time should be available to the constituents of the region to prepare themselves for introduction of two-part tariff. Accordingly, we direct that the norms decided by the Commission in its order of 25.9.2002 in Petition No.56/2002 (suo motu) shall apply with effect from 1.4.2003. The beneficiaries in the region shall make all necessary preparations by way of improving the transmission system, etc and communication of their demand to NEREB/NERLDC, before that date. Member Secretary, NEREB and officer in-charge NERLDC are also directed to take necessary steps to ensure proper preparation of generation/drawal schedule and certification of "deemed generation". The petitioner shall file fresh petitions for approval of tariff based on these norms and furnish the complete details/data as per the Commission's notification dated 26.3.2001, as amended on 8.7.2002 and on the prescribed performae. Meanwhile, the petitioner shall be entitled to charge provisional tariff as already approved by the Commission, that is, @ 190 paisa per unit in respect of AGTPP and 225 paisa per unit in respect of AGBPP up to 31.3.2003 which shall also be the final tariff for these two stations.

14. With the above directions, the Petitions No.5/2000 and 6/2000 stand disposed of.

**Sd/-**  
**(K.N. SINHA)**  
**MEMBER**

**Sd/-**  
**(G.S. RAJAMANI)**  
**MEMBER**

**Sd/-**  
**(ASHOK BASU)**  
**CHAIRMAN**

New Delhi dated the 5<sup>th</sup> February, 2003