

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 157/MP/2013

Subject : Petition under Regulation 22 (3) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 for revision of Declared Capacity for a day (in MW) for the generating stations of the THDC India Limited.

Date of hearing : 27.2.2014

Coram : Shri Gireesh B. Pradhan, Chairperson
Shri M. Deena Dayalan, Member
Shri A.K. Singhal, Member

Petitioner : THDC India Limited, Rishikesh

Respondents : Northern Regional Load Despatch Centre, New Delhi

Parties present : Shri M.G. Ramachandran, Advocate, THDCL
Ms. Anushre Bandhari, Advocate, THDCL
Shri D.K. Jain, THDCL
Shri Rakesh Kumar, THDCL
Shri M.K. Tyagi, THDCL
Shri Rajeev Jain, THDCL
Ms. Supriya Singh, NRLDC

Record of Proceedings

Learned counsel for the petitioner submitted that the present petition has been filed against the incorrect and illegal methodology being followed by the respondent, Northern Regional Load Despatch Centre to calculate the declared capacity for each day cumulating to the plant availability factor for the hydro stations of the petitioner. The methodology being followed by the respondent is contrary to the express provisions of Regulation 22(3) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (hereinafter referred to as Tariff Regulations, 2009). The respondent has suddenly changed the methodology from June 2011 without any reason.

2. Learned counsel for the petitioner submitted that matter was taken up with the officials of NRLDC and the position was explained but NLRDC refused to revise the declared capacity.

3. Learned counsel for the petitioner submitted that it is not appropriate for NRLDC to proceed on the basis that the machine should be available for all 24 hours in order to qualify as DC. NRLDC did not implement the DC as per the Tariff Regulation, 2009 from June, 2012 onwards. He further submitted that generally the declaration of capacity is with reference to 24 hrs taking into account the availability of fuel or water and subject to further qualification in the relevant regulations. In support of its contention, learned counsel relied upon Supreme Court judgment in the State of Andhra Pradesh Vs Vallabhapuram Ravi [(1984) 4 Supreme Court Cases 410]] and submitted that where law provides for a deeming provision, such deeming provision should in law be carried to its logical end. It is not appropriate for NRLDC to proceed on the basis that the machine should be available for all the 24 hrs in order to qualify as DC. Therefore, once the generating station delivers for 3 hours in a day, it should be treated as declared capacity for the day. Learned counsel further submitted that if the petitioner is satisfying Regulation 22 (3) in regard to DC, there is no restriction on the petitioner to undertake maintenance in the remaining hours of the day.

4. After hearing learned counsel of the petitioner, the Commission directed to admit the petition and issue notice to the respondent.

5. The Commission directed the petitioner to serve copy of the petition on the respondent by 7.3.2014. The respondents were directed to file their replies by 21.3.2014 with an advance copy to the petitioner, who may file its rejoinder, if any, on or before 31.3.2014.

6. The petition shall be listed for hearing on 15.4.2014.

By order of the Commission
Sd/-
(T. Rout)
Chief (Law)