

**CENTRAL ELECTRICITY REGULATORY
COMMISSION
NEW DELHI**

Petition No. 154/MP/2021

Subject : Petition under Section 79(1)(a) of the Electricity Act, 2003 read with Regulation 76 and 77 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 praying for declaration of deemed availability for the period from 1.4.2020 to 30.4.2020 in respect of Ramagundam Super Thermal Power Station Stage-III (500 MW)

Petitioner : NTPC Limited

Respondents : APEPDCL & 11 ors.

Date of Hearing : **23.11.2021**

Coram : Shri P.K. Pujari, Chairperson
Shri I.S.Jha, Member
Shri Arun Goyal, Member
Shri Pravas Kumar Singh, Member

Parties present : Shri Venkatesh, Advocate, NTPC
Shri Ashutosh Srivastava, Advocate, NTPC
Shri Abhishek Nangia, Advocate, NTPC
Shri Vinay Garg, NTPC
Shri S. Vallinayagam, Advocate, TANGEDCO
Shri B. Rajeswari, TANGEDCO
Ms. R.Ramalakshmi, TANGEDCO
Ms. R.Alamelu, TANGEDCO
Shri Arunav Patnaik, Advocate, Karnataka Discoms
Ms. Bhabna Das, Advocate, Karnataka Discoms
Ms. Padmalatha, PCKL

Record of Proceedings

Case was called out for virtual hearing.

2. During the hearing on 'admission', the learned counsel for the Petitioner submitted that the present petition has been filed under Section 79(1)(a) of the Electricity Act, 2003 read with Regulations 76 (Power to relax) and 77 (Power to remove difficulties) of the 2019 Tariff Regulations seeking deemed availability for the period from 1.4.2020 to 30.4.2020 in respect of Ramagundam Super Thermal Power Station Stage-III (500 MW) (hereinafter referred to as 'the generating station'). The learned counsel made the following submissions:

(a) The Southern Regional Load Despatch Centre (in short 'SRLDC') recognized



the high demand season as April 2020, February 2021 and March 2021 and the remaining nine months as low demand season for the Southern Region, in accordance with the Regulation 42(7) of the 2019 Tariff Regulations;

(b) On account of steam leakage from High Pressure Turbine Seal Ring area of the generating station, on 11.3.2020, the operation of the unit was not possible, causing safety issues for the equipment and personnel working in the area. On 16.3.2020, the contract for repair of the turbine seal ring was awarded to M/s Power Mech. However, due to reasons beyond the control of the Petitioner, the repair work could not be initiated due to the onset of Covid-19.

(c) The Government of Telangana on 22.3.2020 imposed a complete lockdown in the entire State of Telangana from 22.3.2020 till 31.3.2020. Due to the onset of Covid-19 and the consequent lockdown, the planned repair work of the Petitioner was delayed as the contractor, M/s Power Mech vide its email dated 23.3.2020 informed that the resources were being demobilized from the work site. Despite the request of the Petitioner, the repair and maintenance work could not be resumed. On 24.3.2020, the Petitioner intimated SRPC that the delay was apprehended due to non-commencement of repair work at the generating station on account of Covid-19.

(d) Due to the aforesaid reason, the generating station was under shutdown from 11.3.2020 and could not be synchronized till 8.6.2020. The revival of unit was possible only after the complete lockdown order was withdrawn by the Central Government. Accordingly, the Petitioner could not declare the Target Availability during the month of April 2020. The reasons for above delay are akin to 'Force Majeure' as per Regulation 3(25) of the Tariff Regulations, 2019 and therefore the Petitioner has invoked Regulation 76 and 77 of the 2019 Tariff Regulations.

3. The learned counsel for the Respondent No.5, TANGEDCO referred to reply and submitted that the petition was not 'maintainable' for the following reasons:

(a) The notification dated 22.3.2020 of the Government of Telangana had clarified the power sector as essential services and lock down was not applicable for power sector. As the power sector activity was permitted under the said notification, there was no embargo on the Petitioner or their contractor in plying men and materials to the site.

(b) The Petitioner has erroneously contended that the reasons for delay were beyond its control and akin to 'Force Majeure' as it was not able to declare availability of the generating station. There is no provision under the 2019 Tariff Regulations or under the Power Purchase Agreement to seek 'deemed availability' of thermal generating station under 'Force Majeure'. There is no merit in the claim of the Petitioner that the Covid-19 lock down resulted in non-availability during April 2020. The claim seems to be an afterthought, as the petition has been uploaded on 28.6.2021, more than a year after the said problem had occurred.

(c) The steam leakage from High Pressure Turbine Seal Ring Area was caused on account of poor maintenance of the generating station by the Petitioner. Further, the failure on part of the contractor M/s Power Tech cannot be the basis for shifting of burden on the beneficiaries.



4. The Commission, after hearing the parties, reserved its order on 'admissibility' of the petition.

By order of the Commission

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

