

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.220/MP/2021

Subject : Petition under Section 79(1)(a) of the Electricity Act, 2003 read with Regulation 3 (25), 76 and 77 of the CERC (Terms and Conditions of Tariff) Regulations, 2019 praying for declaration of Deemed Availability for the period from 24.7.2020 to 2.10.2020 in respect of MTPS Stage-II (380 MW).

Petitioner : KBUNL

Respondents : Bihar State Power Holding Company Ltd & 7 ors

Date of Hearing : **21.3.2022**

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

Parties Present : Ms. Swapna Seshadri, Advocate, KBUNL
Shri Anand K. Ganesan, Advocate, KBUNL
Ms. Ritu Apurva, Advocate, KBUNL
Shri Jai Dhanani, Advocate, KBUNL

Record of Proceedings

Case was called out for virtual hearing 'on admission'.

2. During the hearing, the learned counsel for the Petitioner mainly submitted that that the delay in carrying out testing and overhauling job and consequent loss of 'availability' during the months of August and September was beyond the reasonable control of the Petitioner and the same is akin to Force Majeure as per Regulation 3 (25) of the 2019 Tariff Regulations. Accordingly, the learned counsel submitted that the Petitioner has invoked Regulation 76 and 77 of the 2019 Tariff Regulations to relax the provision of achieving Target Availability, season-wise, separately in respect of the generating station for a total period of 33 days i.e. 26.7.2020 to 5.8.2020 (10 days) and 9.9.2020 to 2.10.2021 (23 days).

3. The Commission 'admitted' the petition and directed to issue notice to the Respondent.

4. The Petitioner is directed to submit additional information on the following on or before 12.4.2022, after serving copy to the Respondents:

(a) The Petitioner has prayed for deemed availability for different number of days in different places of the petition i.e. 71 days (24.7.2020 to 2.10.2020), 35 days (26.7.2020 to 5.8.2020 and 9.9.2020 to 2.10.2020) and for 33 days. The Petitioner shall indicate clearly the period and the number of days for which deemed availability relief has been sought along with the period and number of days



claimed for over hauling, and whether the period of overhauling is claimed for deemed availability;

(b) The Petitioner shall indicate the Force Majeure provision under which deemed availability is claimed;

5. The Respondents shall file its reply on or before 22.4.2022, after serving copy to the Petitioner, who shall file its rejoinder, if any, by 29.4.2022. The parties shall ensure the completion of pleadings within the due dates mentioned and no extension of time shall be granted.

6. The Petition shall be listed for hearing in due course for which separate notice will be issued.

By order of the Commission

Sd/-

(B. Sreekumar)
Joint Chief (Law)

