

**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 : BSPHCL and 7 others

Date of Hearing : **30.6.2023**

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

Parties Present : Ms. Swapna Sheshadri, Advocate, KBUNL  
Ms. Rohini Prasad, Advocate, BSPHCL

**Record of Proceedings**

During the hearing, the learned counsel for the Petitioner submitted that the present petition has been filed for declaration of deemed availability and made detailed submissions summarized as under:

- (a) The unit-IV of generating station tripped on 24.7.2020 and was under shutdown for inspection and testing of 'Generator Rotor'. There was delay of 10 days in conducting test on rotor, and after test, it was established that it could be repaired at OEM (BHEL).
- (b) There was another delay in transporting the rotor from BHEL, Haridwar to generating station by road. All of these delays were due to Covid-19 restrictions imposed by the government and it was beyond the control of the Petitioner.
- (c) This shutdown occurred in the high demand season (July to September 2020), as declared by ERLDC.
- (d) Due to tripping of the unit and non-availability of rotor, the Petitioner preponed the overhauling, which was scheduled during low demand season in the month of October, 2020. ERPC was informed about this preponement of overhauling.
- (e) There was a delay of 33 days as overhauling took a total time of 68 days (as against the usual overhauling time of 35 days), which may be considered for declaration of deemed availability.
- (f) The delay is not attributable to the Petitioner and occurred due to Covid-19 restrictions and lockdowns, therefore, the delay is akin to *force majeure*. Therefore, it is an apt case for exercising the discretion of the Commission under Regulation 77 of the 2019 Tariff Regulations.



2. The learned counsel of the Respondent BSPHCL opposed the request of the Petitioner and mainly submitted as under:

- (a) Section 10 of the Electricity Act binds the Petitioner to maintain the generating station in accordance with the Act, Rules and Regulations made thereunder. Any fault is to be primarily attributed to the generating company.
- (b) The clause 8 of the PPA defines *force majeure*. The Petitioner was to give notice in the event of *force majeure* and no notice was given by the Petitioner to the Respondent.
- (c) The fault occurred on 24.7.2020, and by that time, unlocking instruction were already issued by the government. Therefore, the Petitioner is not entitled to any relief.
- (d) The reply has already been placed on record and may be considered.

3. After hearing the parties, the Commission directed the Petitioner to file following additional information, on or before **4.8.2023** after serving copy to the Respondents:

- (a) *The monthly availability of each unit along with generation during 2020 – 21;*
- (b) *The fault analysis report submitted on 'Generator Tripped on Vibration High' and trend of X, Y and Z transmitters, Shaft Temperature, Bearing Temperature, Lubrication level, Lubrication Temperature, Event Logger and Disturbance Recorder for the dates 23.7.2020 and 24.7.2020;*
- (c) *The details of tripping of unit 4 since its COD - reasons and outage duration thereof;*
- (d) *The details regarding availability of spares including rotor shaft, bearing, LP Gen coupling bolt, other items etc.;*
- (e) *The sequence of actions taken along with supporting documents for restoration of unit from 5.9.2020 to 2.10.2020, including completion of O/H works;*
- (f) *The delay claimed on account of LP Gen Coupling bolt and reasons thereof, particularly, when the same was ordered on 28.9.2020 and unit was restored on 2.10.2020;*
- (g) *The reasons and justification along with supporting documents for postponement of Scheduled O/H from March, 2020 to November / December, 2020 instead of preponing Combustion Modification from November / December, 2020 and approval of Competent Authority and communication exchanged with beneficiaries thereof.*

4. The Respondents to file their replies by **25.8.2023**, after serving copy to the Petitioner, who may file its rejoinder, if any, on or before **8.9.2023**. The parties are also at liberty to file further written submission, if any, till **15.9.2023**. **It was agreed by the learned counsels that any further oral hearing is not required.**

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

**By order of the Commission**

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

