

**BEFORE THE CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.25/2000

Present:

1. Shri S.L. Rao, Chairman
2. Shri D.P. Sinha, Member
3. Shri G.S. Rajamani, Member
4. Shri A.R. Ramanathan, Member

In the matter of

Fixation of Tariff for Kopili Hydro Electric Project for the Year 2000-2001

In the matter of

M/s. North Eastern Electric Power Corporation Ltd.,
Brookland Compound, Lower New Colony,
SHILLONG – 793 003, MEGHALAYA. Petitioner

AND

Assam State Electricity Board and Others Respondents

O R D E R

(Date of Hearing 4.5.2000)

The present petition has been filed by North Eastern Electric Power Corporation Ltd. (NEEPCO) for fixation of tariff for the year 2000-01 in respect of power supplied from Kopili Hydro Electric Project. The beneficiaries include the Assam State Electricity Board, Meghalaya State Electricity Board, Department of Power, Govt. of Tripura, Power and Electricity Department, Govt. of Mizoram, Electricity Department, Govt. of Manipur, Deptt. of Power, Govt. of Arunachal Pradesh and Department of Power, Govt. of Nagaland who have been impleaded as respondents in the present petition.

2. It has been stated that Kopili HEP comprises of two power stations, namely, Khandong and Kopili. Khandong power station came into operation during 1984. Two units of Kopili power station were put into commercial operation during 1988 and another two units during 1997. It has been stated that in the 41st Board meeting of NEREB, held in May, 1997 a tariff of 69.8 paisa /kWhr was provisionally agreed to be charged. The tariff provisionally agreed to was a single part tariff. According to the petitioner, a two-part tariff proposal was sent to CEA during March 1997. However, the tariff was not finalised even till jurisdiction to regulate tariff was vested in the Commission. Hence the present petition has been filed before the Commission. It has been explained that due to poor development of load in the region, and also due to other constraints like inadequate transmission and distribution system, it has not been possible to generate the design energy as stipulated and the generating units had to be backed down which affected the generation from the units.

3. The replies have been filed on behalf of Meghalaya State Electricity Board and Assam State Electricity Board. It may be stated that the reply filed by Meghalaya State Electricity Board is not in the form prescribed by the Commission. The averment relating to backing down of the plant has been denied by the respondents. At the

hearing, today, Shri D.N. Deka, SE (Comm.), ASEB was present. The representatives of other respondents were not present at the hearing.

4. Shri Parag.P. Tripathi, Sr.Advocate appearing for the petitioner stated that the provisional tariff @ 69.8 paise/kWhr is being charged by the petitioner since 1984. The provisional tariff being charged presently is a single part tariff NEEPCO has now submitted a proposal for a two-part tariff for the year 2000-01. He stated that the legal basis for a two-part tariff is laid in the Commission's order dated 4.1.2000 relating to Availability Based Tariff. In support of the proposal for two-part tariff Shri Tripathi drew support from the notification dated 30th March, 1992 issued by Ministry of Power. He has also pointed out that the respondents are in huge arrears since 1984 as they have not deposited the full amount due on account of the provisional tariff.

5. The application of the principle contained in Government of India, Ministry of Power notification dated 30th March, 1992 has been disputed by the respondents. It has been stated on behalf of the respondents that as laid down in para 3.4 of the above referred notification, the principles contained therein apply to hydro power generating stations which commenced operation on or after 1st January, 1997. By referring to para 3.3 of the notification it has been further stated that the notification applies for determining of the tariff for the sale of electricity from such generating stations whose financial package for investment is approved by CEA on or after the date of its publication in the official gazette. On the basis of these two conditions prescribed in the notification, the applicability of the notification to Kopili and Khandong project has been disputed. It has also been alleged that the plant has not produced to its full capacity and, therefore, the petitioner is not entitled to recover full capacity charges.

6. At the hearing it was explained by the learned senior counsel for the petitioner that about 150 kms of transmission line from BTPS to Sarusajai has not been in commercial use for about 1 ½ years because of the theft of certain portions of the line and, therefore, power could not be evacuated to Assam beyond Sarusajai. He emphasised that repair of the transmission line was the responsibility of ASEB. He further explained that 3 transformers of 230 MW capacity were out of operation. The representative of Assam State Electricity Board present at the hearing denied the point made by the learned senior counsel. He stated that Assam State Electricity Board has been drawing power from the plant as per its allocated quota. The representative of Assam State Electricity Board contended that the provisional tariff agreed to between the parties at NEREB forum cannot be continued since it was not the competent authority for determination of tariff, as such authority was vested in the Government of India, Ministry Power.

7. We do not propose to go into the merits of the rival contentions at this stage. We may note that the jurisdiction to regulate tariff of central generating companies is vested in the Commission w.e.f. 15/5/1999. A notification was issued by the Commission on 12th May, 1999 setting out that w.e.f. 15th May, 1999 the existing tariff on that date would continue to be charged for the period for which the tariff was approved or till any further order in this regard is passed by the Commission. However, we in the interest of continuity, have no hesitation to extend the principle contained in the said notification dated 12th May, 1999 to the present petitioner. We, therefore, direct that the petitioner shall be entitled to a provisional tariff of 69.8 paise/kWhr on provisional basis till final determination of the tariff by the Commission. We direct that the respondents shall honour the bills for provisional tariff.

8. As we have already noted, the learned senior counsel appearing for the petitioner has informed that huge arrears have accumulated since the respondents are not paying the full amount of provisional charges since 1984. We are conscious of the fact that recovery of arrears of charges under the provisional tariff is not the subject matter of the present petition and, therefore, we are not in a position to give any direction to the respondents for payment. The petitioner is at liberty to file an appropriate petition in accordance with law before the Commission for recovery of arrears.

9. At the hearing a claim has been made that the Assam State Electricity Board has not been drawing its full allocation of power because a part of the transmission lines within its area was stolen and has not been restored so far and because of poor development of transmission and distribution system, the plant had to be backed down. These allegations have been denied. In view of the dispute, we direct Member-Secretary, NEREB to submit a report to the Commission on the question whether or not Assam State Electricity Board has been able to draw full share of power on the basis of capacity available because of the transmission constraints noted above or for any other reason and whether NEREB Secretariat had ordered backing down of capacity in view of transmission constraint and/or inability of the beneficiaries to draw full share(s). The Member-Secretary, NEREB shall submit his report latest by 31st May, 2000.

10. The present petition shall be kept pending till finalisation of the tariff norms. It shall be competent for the petitioner to seek amendment to the petition in the light of the norms that may be prescribed by the Commission.

Sd\-	Sd\-	Sd/-	Sd/-
(A.R. Ramanathan) Member	(G.S.Rajamani) Member	(D.P. Sinha) Member	(S.L. Rao) Chairman

New Delhi,
Dated 04.05.2000

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