



ASSAM ELECTRICITY REGULATORY COMMISSION

FILE NO. AERC. 613/2017

Petition No.: 05/2017

ORDER SHEET

06.05.2017

Before the Assam Electricity Regulatory Commission
ASEB Campus, Dwarandhar,
G. S. Road, Sixth Mile, Guwahati – 781 022

M/s Pahumara Hydrel Power Company Pvt. Ltd.(PHPCL) ----- Petitioner
Assam Power Distribution Company Ltd. (APDCL) -----Respondent-1

Date of Hearing: 06.05.2017

Representative for Petitioner:

Ms. Swapna Seshadri, Advocate
Mr. A Jaina, Director, Agnipa Energo Pvt. Ltd.
Mr. G Jaina, Director, Agnipa Energo Pvt. Ltd.
Mr. Sanjay Kumar, Advisor
Mr. N K Harlalka

Representative for Respondent-1:

Mr. B M Saikia, DGM(Com)
Mr. A.N.Dev Choudhury, AGM (TRC)
Mr. I Tahbildar, DM (TRC)

In the matter of

Petition No. 5 of 2017 filed by M/s Pahumara Hydrel Power Company Pvt. Ltd.(PHPCL) under Regulation 18.4 of the AERC (Payment of Fees) Regulations, 2015 read with provisions of AERC (Terms and Conditions for Tariff Determination from Renewable Sources) Regulations, 2012 and applicable provisions of the Electricity Act, 2003

CORAM

Shri Naba Kr. Das Chairperson
Shri Dipak Chakravarty, Member
Shri Subhash Ch. Das, Member

ORDER

1. A Hearing was held on 06.05.2017 on the Petition No 5/2017 filed by M/s Pahumara Hydrel Power Company Pvt. Ltd.(PHPCL) under Regulation 18.4 of the AERC (Payment of Fees) Regulations, 2015 read with provisions of AERC (Terms and Conditions for Tariff Determination from Renewable Sources) Regulations, 2012 and applicable provisions of the Electricity Act, 2003.
2. The Counsel of the Petitioner gave a presentation on the Petition. The key submissions made by the Petitioner are:
 - a. The project is in the advance stage of Commissioning.
 - b. For the project of the Petitioner, even though a provisional tariff order was passed in 2009 and later on vide two review orders the provisional tariff order was upheld, there were certain new developments afterwards such notification of AERC (Terms and Conditions for Tariff Determination from Renewable Sources) Regulations, 2012 and passing of several Orders/Judgments by the Hon'ble Supreme Court and Hon'ble APTEL.
 - c. The Counsel highlighted that it has been established that Review and

Revision are two separate exercises. In the present case, even though there is no scope of Review of the already passed Provisional Tariff Order, the Commission has got the power to revise the Tariff. The counsel shared certain Orders of Hon'ble Supreme Court in this regard.

3. The representative of the Respondent gave a presentation on their submission dated 03.05.2017 on the Petition. The key submissions made by the Respondent are:
 - a. Though the Petitioner has submitted that the project is in advance stage of Commissioning, the actual status of the project is not known.
 - b. The representative referred to Order dated 15.09.2010 of the Commission, where the Commission has opined that the tariff may be revised at the time of commercial date of operation on submission of data and other information as required by the Commission. Therefore, any revision in Tariff may be done only after COD on the basis actual expenditure and other parameters.
 - c. The Petitioner has filed the present Petition to consider the change in rules & regulations etc. However, considering the delay in commissioning of the project, it cannot be ruled out that in future, before actual commissioning of the project, the petitioner may again come for revision of tariff stating change in rules, regulation & policy etc.
 - d. The terms of the PPA got expired on May 2013, thereafter the Petitioner approached the Respondent, GoA & APPDCL for extension of PPA upto May 2015. However, thereafter no further correspondence has been made by the Petitioner for extension of the validity period of PPA.
4. On query regarding passing of two Review Orders rejecting the Petitioner's plea for revision of Tariff and Commission's opinion regarding revision of Tariff after COD when all parameters will be known, the Petitioner submitted that as per the Regulations 8 of the AERC RE Tariff Regulations, 2012, small hydro project is not covered for Project Specific determination of Tariff. Therefore, Generic Tariff may be approved on normative basis with an exception for revision of Capital Cost to facilitate the Petitioner for commissioning of the project.
5. With regard to the Petitioner's proposal for fixation of Generic Tariff, the Respondent submitted that for fixation of Generic Tariff proper regulatory process need to be exercised. Furthermore, in case Generic Tariff is fixed, the whole process of signing of PPA etc may need to be started from the beginning.
6. The Commission after hearing the parties has ordered the following:
 - a. The Petitioner will submit rejoinder to APDCL's submission along with additional submissions if any on or before 09.05.2017.
 - b. The Petitioner should give a written submission, explaining the reasons why they have petitioned for a revision of the provisional tariff at this stage as final tariff will be fixed on COD of their project.
 - c. The Respondent-1 may submit its views and comments on the submissions of the Petitioner and Rejoinder, if any on or before 18.05.2017.
 - d. The Petitioner and Respondents will make submissions in the Format prescribed vide Regulations of the Commission and will provide copies of their submissions to the opposite party.

The matter is posted for further Hearing on 22nd May, 2017.

Sd/-
(Subhash Ch.Das)
Member
AERC

Sd/-
(Dipak Chakravarty)
Member
AERC

Sd/-
(Naba Kumar Das)
Chairperson
AERC