



## ASSAM ELECTRICITY REGULATORY COMMISSION

FILE NO. AERC. 664/2017

Petition No.: 30/2017

### ORDER SHEET

19.01.2018

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

#### CORAM

Shri Dipak Chakravarty, Member & Chairperson (Officiating)  
Shri Subhash Chandra Das, Member

Assam Power Distribution Company Ltd. (APDCL) ----- Petitioner

Date of Public Hearing: 19.01.2018

Representative for Petitioner:

Mr. Ramen Choudhury, DGM (TRC)  
Mr. P K Baishya, DM (TRC)  
Mr. Nilmadhab Deb, Asst. Manager (F&A)

#### In the matter of

Misc. petition No. 30 of 2017 filed by Assam Power Distribution Company Ltd. (APDCL) for liquidated damage for substantial delay in commissioning of project as envisaged as per the terms of the PPA.

#### ORDER

1. APDCL filed a misc. petition before the Commission (Registered as petition no. 30/2017) for invoking the provision of Para 17 of the PPA entered between APDCL and M/S Pahumara Hydel power co ltd. (renamed as M/S Agnipa Energo Pvt Ltd.)
2. The petitioner was heard for admission of the petition on 19.01.2018.
3. The reasons submitted by APDCL for filing this petition inter alia are as follows:
  - a) As per Para 17 of the PPA the Generating Company shall commission the project by May, 2013. In case the plant is not commissioned for the reasons attributable to generating Company, the Generating Company shall pay liquidated damages for the delay decided by the competent Regulatory Authority. However, in case of delay in commissioning of the plant for reasons beyond the reasonable control of the generating company, the provisions of Para 26 (force majeure) of the PPA shall apply.
  - b) M/S Agnipa Energo Pvt Ltd. failed to commission the project within the stipulated date as per the PPA.
  - c) Delay in commissioning of the project has put additional burden on APDCL on the following counts:
    - Procurement of additional power from other sources with added cost.
    - Shortfall in targeted RPO compliance to the extent of proposed

generation from the Project.

- d)** Though Govt. of Assam has accorded approval for extension of time of COD it is not acceptable to APDCL.
- 4.** APDCL has estimated the loss at Rs 10.47Cr and prayed before the Commission to approve recovery of the liquidated damage.
  - 5.** The Commission noted that, the GoA has accorded approval for extension of commissioning of the project upto June, 2018. There is no record to show that the said order of Govt. was challenged by APDCL.
  - 6.** The Commission after hearing the petitioner issued the following directives:
    - a.** The Petitioner shall submit an Interlocutory Application (IA) with an affidavit regarding acceptance or otherwise of the terms of Govts letter no. pEl.89/2007/Pt I(A)/ 206 dated 26<sup>th</sup> April, 2017 approving extension of the date of commissioning of the Pahumara Small Hydro Electric project upto 30.06.2018.
    - b.** APDCL shall also serve notices to GoA and M/S Agnipa Energo Pvt Ltd. as respondents.
    - c.** The petition will be considered for admission on receipt of the above interlocutory petition.

The next date of hearing is fixed on 28.02.2018 for admission of hearing.

Sd/-  
(Subhash Chandra Das)  
Member  
AERC

Sd/-  
(Dipak Chakravarty)  
Member & Chairperson (Officiating)  
AERC