



ASSAM ELECTRICITY REGULATORY COMMISSION

FILE NO. AERC. 395/2012

Petition No.: 13/2015

ORDER SHEET

06.08.2016

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

M/s Eastern India Powertech Limited (EIPL) ----- Petitioner
Government of Assam represented by Chief Secretary -----Respondent-1
Assam Power Distribution Company Ltd. (APDCL) -----Respondent-2
Assam Gas Company Ltd. (AGCL) -----Pro Forma Respondent-3

Counsel for Petitioner:

Mr. R Kumar, CFO, EIPL
Mr. G. Sivasankaran, VP (Operation), EIPL
Mr. G.N.Sahewalla, Sr. Advocate
Mr. D Senapati, Advocate

Counsel for Respondent-1:

Mr. M. Barua, Jt. Secretary, Dept. of Power

Counsel for Respondent-2:

Mr. M. C. Gogoi, CGM (Com), APDCL
Mr. K Talukdar, GM (TRC), APDCL
Mr. H M Sharma, GM, APDCL
Mr. R. Mahmud, APDCL
Mr. M Bhattacharya, APDCL
Mr. B Hazarika, APDCL

Counsel for Pro Forma Respondent-3:

Mr. V. Kumar L., CFO, AGCL

In the matter of

Hearing dated 06.08.2016 on the Petition No. 13 of 2015 filed by M/s Eastern India Powertech Limited requesting for invocation of Section 11(2) of the Electricity Act'2003 in view of imposition of Section 11 of the Electricity Act'2003 by the Govt. of Assam for running of EIPL plants

CORAM

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

ORDER

1. A Hearing was held on 06th August, 2016, on the Petition No. 13 of 2015 filed by M/s Eastern India Powertech Limited requesting for invocation of Section 11(2) of the Electricity Act'2003 in view of imposition of Section 11 of the Electricity Act'2003 by the Govt. of Assam for running of EIPL plants.
2. The counsel of the Petitioner (EIPL) made a brief presentation highlighting salient points raised vide the Petition No 13 of 2015.
3. On query regarding signing of Fuel Supply Agreement (FSA) with AGCL for 15 years as against Power Purchase Agreement (PPA) with APDCL for 33 years (from the date of signing of Agreement), the Petitioner stated that considering the uncertainty in the availability of gas, the Petitioner had signed FSA for 15 years only.

The Petitioner stated that, they didn't have any alternate arrangement for getting Fuel Supply and to run the plants they had to depend on the Fuel supply from AGCL only. The Petitioner further stated that in the event of non supply of fuel by AGCL after 15 years, they had planned stopped generation of power.

4. On query regarding status of ongoing Arbitration case between the Pro-Forma Respondent-3 and the Petitioner, the counsel of the Petitioner stated that the matter is ongoing and no decision is reached yet.
5. The representative of the Respondent-2 (APDCL) submitted that the present case should be restricted to the period of imposition of Section 11 (1) & (2). The counsel of Respondent-2 stated that only after Tariff is determined for the period of imposition of Section 11, the extra cost incurred during the period of imposition of Section 11 may be computed.
6. The counsel of the Respondent-2 stated that during the period of imposition of Section 11 of the Electricity Act'2003, APDCL has been regularly making payment towards variable charge also and therefore the Petitioner should have passed on the payment against variable charge to AGCL. However, by not paying the amount, EIPL has kept the variable charge as profit.
7. The representative of the Respondent-2 further pointed out that the Respondent-2 has also certain claims on the Petitioner, which are yet to be settled.
8. The representative of the Respondent-2 prayed that the Commission should investigate the matter of GSA and quality & quantity of gas received by EIPL as per Section 128 of the Electricity Act'2003. The representative of Respondent-2 further mentioned that the Petitioner did not take the Respondent-2 into confidence regarding terms & conditions of FSA including tenure of FSA at the time of signing of FSA.
9. Thereafter, the counsel of Pro-Forma Respondent-3 submitted that they want to be part of the proceedings. However, they are neither against nor for the Petition No. 13 of 2015. The counsel of the Pro-Forma Respondent-3 further stated that their only concern is getting payment for their dues from the Petitioner (EIPL).
10. Then the Commission asked the Respondent-1 for their views and comments on the matter. The counsel of the Respondent-1 sought some time for submission of their view and comments.

The Commission heard both the Petitioner & Respondent and ordered the following:

- The Petitioner to submit year wise Tariff Petition for the plants of EIPL from FY 2009-10 till closure of the plants on or before 24th August, 2016 along with Audited Statement of Accounts for the respective years. Further, regarding the Fees payable for submission of Tariff Petition, the Commission will give appropriate direction at a later point of time.
- The Respondent-1 to submit their views and comments on or before 24th August, 2016.
- Both the Petitioner and Respondent 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 24th October, 2016 at 11:00 AM.

Sd/-
(Subhash Ch.Das)
Member
AERC

Sd/-
(Dipak Chakravarty)
Member
AERC

Sd/-
(Naba Kumar Das)
Chairperson
AERC