



ASSAM ELECTRICITY REGULATORY COMMISSION

FILE NO. AERC.395/2012/286

Petition No.:13 /2015

ORDER SHEET

CORAM: SMTI BULBULI BORTHAKUR, HON'BLE MEMBER (LAW)
SHRI SATYENDRA NATH KALITA, HON'BLE MEMBER (TECHNICAL)

In the matter of

Petition No. 13 of 2015 filed by EIPL requesting for invocation of Section 11(2) of the EA'03 in view of the imposition of Section 11 of the EA'03 by GoA for running of EIPL plants

And

In the matter of

M/s Eastern India Powertech Limited (EIPL)

----Petitioner

v/s

Assam Power Distribution Company Limited

----Respondent

1. Petitioner -----
2. Respondent -----

Absent

Mr. Pranab Kr. Bordoloi, GM (Com&EE),APDCL
Mr. Nilmadhab Deb, AGM (F&A), APDCL
Mr. Sumit Kr Singh, AGM, APDCL

ORDER – 24.05.2022

The instant matter has been pending for a long without final disposal. Hence, Commission decided to dispose the matter after hearing both the parties. Accordingly decided to issue notice to the petitioner as well as respondent fixing 24.05.2022 for hearing.

- 1) M/s Eastern India Powertech Limited (EIPL) filed a Petition No. 13 of 2015 before AERC for invocation of Section 11(2) of the Electricity Act,2003 in view of the imposition of Section 11.
- 2) The Petitioner company EIPL (formerly DLP Power Limited till 20.06.2008) entered into a Power Purchase Agreement (PPA) on 9.02.1995 with ASEB(APDCL) and Petitioner also sign a Fuel Supply Agreement (FSA) for 15 years i.e till Oct 2010.
- 3) The Petitioner submitted that the Government of Assam, had by way of notification under the provisions of Section 11 of the Electricity Act 2003 directed the Petitioner company to generate and supply power on a compulsory basis on 12.08.2010.
- 4) The Petitioner by this petition has prayed before the Commission to invoke Section 11(2) of the Electricity Act 2003 and offset the adverse financial impact.
- 5) The Commission vide order dated 13.12.2016 decided inter alia as below –
 - a) The issue of any adverse financial impact of the directions issued vide Section 11(1) can be ascertained only after the determination of tariff for the period from FY 2010-11 till closure of the plant.

- b) The Petitioner shall submit a supplementary petition after the Tariff for the period from FY 2010-11 onwards is finalized giving the details of the calculation of the adverse financial impact, if any including the plant wise details of the cost of generation of power.
- 6) The Commission vide order dated 30.12.2016 on Petition No. 20/21/22/23/24/25/26/27/28/29/30/31 of 2016 passed order determining the tariff for Adamtilla (9 MW) and Banskandi (15.5 MW) Power Plant of EIPL for FY 2009-10, FY 2010-11, FY 2011-12, FY 2012-13, FY 2013-14, FY 2014-15.
- 7) The said orders of the Commission have been challenged before the APTEL by EIPL and these are pending before the APTEL.
- 8) As the matter is pending before the Commission for a long period of time, the Commission decided to dispose of the matter after hearing the parties.
- 9) The Commission issued notice to both the petitioner and respondent fixing 24.05.2022 as the date of hearing.
- 10) At the time of hearing on 24.05.2022, petitioner was absent without taking any step.
- 11) Respondent APDCL present and submitted that as per the order dated 13.12.2016, the Commission directed the Petitioner to submit a supplementary petition quantified the financial impact after determination of tariff from 2010 onwards. The Commission issued the tariff order on 30.12.2016. But the said orders are under challenged before the APTEL and are still pending. So they prayed before the Commission to dispose of the matter in its present form.

After hearing the respondent side and proper perusal of the record with relevant documents, the Commission is of the considered view that since the Petitioner has not submitted any supplementary petition before the Commission after the Commission order's dated 30.12.2016 to till date, and also it is a fact that petitioner filled appeal before the APTEL against the Commission order dated 30.12.2016 on Petition No. 20/21/22/23/24/25/26/27/28/29/30/31 of 2016 which is still pending before the APTEL, so Commission is now not inclined to pass any other effective order in respect of the above mentioned petition, and decided only to dispose the matter. However, the petitioner is at liberty to approach the Commission with a fresh petition, if there is any cause after the tariff order passed by the Commission attains finality.

The Petition is disposed of accordingly.

Sd/-

(S.N.KALITA)
Member
AERC

Sd/-

(B. BORTHAKUR)
Member
AERC