CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Petition No. 180/MP/2013

Coram:
Shri Gireesh B.Pradhan, Chairperson
Shri V.S.Verma, Member
Shri M. Deena Dayalan, Member
Shri A.K.Singhal, Member

Date of Hearing: 19.11.2013
Date of order: 03.01.2014

In the matter of

Petition under Section 178 of the Electricity Act, 2003 read with Regulation 35 of Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2004.

And
in the matter of

A.D.Hydro Power Limited
Bhilwara Towers, A-12, Sector-1,
Noida-201 301 **….Petitioner**

The following were present:

Dr. Seema Jain, Advocate, ADHPL
Shri Dushyant Mahant, Advocate,ADHPL
Shri P.K.Giri, ADHPL
Shri Sumit Garg, ADHPL

ORDER

The petitioner, A.D.Hydro Power Limited has filed the present petition with following prayers to :

"(a) Make provisions in the relevant regulations to provide an equal playing field for different type of generators, so that the transmission charges for all generators are same for the equal amount of energy injected by them.

(b) Issue specific regulations containing the terms and conditions for payment of transmission charges by different types of generators on energy actually injected by them.

(c) Pass other or further order that this Hon`ble Commission may deem fit and proper in the facts and circumstances of the present case."

2. The petitioner has set up a hydro electric power station in district Kullu in Himachal Pradesh having an installed capacity of 192 MW (2X96 MW) and operating a 'Run of River' (ROR) with small pondage and utilizes the waters of the Allain and Duhangan Nallahs for the purpose of generation of electricity. The petitioner has been selling its power on merchant power sale concept on short term contract to various utilities. The petitioner has submitted that any 'Run of River' hydro electric plant solely depends on the availability of water obtained from the water sources. The petitioner is taking water from two nallahs which are snow fed as well as rain fed and the water available at any point of time depends upon the vagaries of nature. During the peak monsoon and summer seasons, the inflow available in Nallahs, feed water in large quantities to the project which can be used for the generation of electricity round the clock at full design energy. During lean season, the water in the Nallahs is mainly from the melting snow from the higher reaches and the quantity of water depends upon climatic conditions. However, the flow of water is not sufficient to run the station at full capacity and the water from the Nallahs is first stored in the pondage and when the quantity of water in the pondage is sufficient to generate electricity at full installed capacity, the plant is run to generate electricity. The petitioner has submitted that since the water in the

pondage can generate power only for a fixed period of time, its plant is sufficient to run for about three hours in a day only.

3. On 17.7.2009, the petitioner was granted Long Term Open Access (LTOA) which required the petitioner to execute Bulk Power Transmission Agreement (BPTA). On 11.9.2009, the petitioner signed BPTA wherein LTOA was granted.

4. The petitioner has submitted that in ROR hydro generating station, generation of electricity varies grossly from month to month, even day to day due to variation in the availability of water depending upon the climatic conditions. Therefore, a ROR hydro generating station is capable of operating at the full capacity during the peak season. The energy generation grossly varies from similar size of hydro generating stations located at different locations/river basins as the availability of water in each river basin is different. Therefore, the LTOA granted on installed capacity to a ROR generating station is not used and capacity in the ISTS remains unutilized by such generator who has granted LTOA and executed BPTA and TSA.

5. The petitioner has illustrated the energy actually injected in ISTS by a ROR hydro generating station and coal based thermal plant of an equal sized installed capacity of 200 MW based on PLF as under:

S. No.	**Description**	**Thermal Power station with installed capacity of 200 MW**	**ROR hydro Power Station with installed capacity of 200 MW**
1.	Plant Load Factor	90%	45%

2.	Energy available	1577 Mu`s (approx.)	789 Mu`s (approx)
3.	Auxiliary and transformation losses as per CERC norms	142 Mu`s (approx.)	10 Mu`s (approx)
4.	Free Power/Royalty payable to State Govt.	nil	94 Mu`s (approx)
5.	Energy actually injected in ISTS	1435 Mu`s (approx.)	685 Mu`s (approx)

6. The petitioner has submitted that the energy actually injected will further get reduced by virtue of the transmissions losses in a dedicated transmission line connecting the power generating plant with ISTS. In case of ROR hydro generating station, the actual injection of energy will also depend on the amount of royalty being charged by the State Government which in case of the petitioner is 12% in the first 12 years and 18% thereafter. Therefore, the actual injection of energy to the account of petitioner will substantially reduce over a period of time.

7. The petitioner has submitted that it is not covered under the Sharing Regulations. However, it is covered by Open Access Regulations and BPTA singed. All bills are being paid to PGCIL under protest and the issue is being taken up with PGCIL and NRLDC.

8. The petitioner has submitted that in absence of level playing field, the cost of the electricity sold by it increases substantially due to cost of transmission, which is double as compared to thermal power plant, payable by virtue of the LTOA charges on installed capacity. The petitioner has further submitted as under:

(a) The present regulations are discouraging the hydro electric power generation by making them pay transmission charges in excess as compared to the generation from other sources;

(b) In order to provide a level playing field to hydro, the hydro power projects need to be incentivized and which in turn would also encourage the hydro power developers to come forward and harness the vast untapped hydro potential;

(c) The present regulations are making the projects unviable instead of promoting them. Therefore, need of hour is to make special provisions in the prevailing regulations for different source of power generation including hydro electric power;

(d) The Regulations in regard to the payment of LTOA charges need to be looked by CERC.

9. During the course of hearing of the petition, learned counsel for the petitioner submitted that the purpose of the present petition is to bring to the notice of Commission the difficulties being faced by the petitioner for payment of transmission charges. Learned counsel submitted that present system of claiming of transmission charges in terms of 'MW per month' instead of actual flow of energy from generating stations from different sources such as thermal and hydro is not in line with National Electricity Policy, 2005 and National Tariff Policy, 2006. Learned counsel further

submitted that national tariff framework should be related to quantum of power flow and the ultimate objective of the regulations should be to get the transmission system users to share the total transmission cost in proportion to their respective utilization of the transmission system based on a 'Pragmatic Method'. Since the Hydro Power Policy, 2008 proposed a thermal hydro mix of 60:40, there is need to promote investment in hydro power sector to bring the installed capacities atleast to the tune of 61,000 MW by way of providing the level playing field for cost of transmission. Since the petitioner being a Run of River hydro electric project is a peculiar one and it cannot be compared or brought at par with the thermal or other generators, there is need to factor in some regulations to bring the petitioner at par with the other generators.

10. We have perused the petition and heard the learned counsel for the petitioner. After going through the contents of the petition, it appears to us that the petitioner is seeking to get incorporated certain provisions in the relevant Regulations so that transmission charges for all types of generators are same for equal amount of energy injection i.e independent of LTA. According to the petitioner, regulation is required to provide for a level playing field to sustain in the competition and CERC has the power to make regulations at any time for removal of difficulties. The Commission is of the view that the existing provisions of Sharing Regulations are adequate for calculation of transmission charges. Without going into the merit of the issues raised, we intend to clarify that filing of the petition is not the proper process for initiating the amendment to the existing regulations. The

Commission under Section 178 of the Act has been vested with the power to make, amend and repeal the regulations on the subjects which have been authorized under various provisions of the Act. Action to make or amend the regulations is initiated when the Commission is satisfied that there is a need for such regulations or amendment to the existing regulations. Therefore, no direction is required to be issued on the prayers of the petitioner.

11. The petition is disposed of terms of the above.

Sd/-	sd/-	sd/-	sd/-
(A.K.Singhal)	**(M. Deena Dayalan)**	**(V.S.Verma)**	**(Gireesh B.Pradhan)**
Member	**Member**	**Member**	**Chairperson**