

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.179/MP/2023

- Subject : Petition under Section 11(2) of the Electricity Act, 2003 read with 79 of the Electricity Act, 2003, along with Regulation 111-113 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 *inter-alia* seeking a declaration/direction with regard to the principles/ methodology to be adopted for computation of the rate/ compensation at which such supply of power to Respondent Nos. 1 to 8 for the period between being 15.03.2023 to 16.06.2023, or such other period as extended by Ministry of Power from time to time, based on principles laid down with respect to Section 11(2) of the Electricity Act, 2003.
- Date of Hearing : **18.8.2023**
- Coram : Shri Jishnu Barua, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : Tata Power Company Limited (TPCL)
- Respondents : Gujarat Urja Vikas Nigam Limited (GUVNL) and 8 Ors.
- Parties Present : Shri Sanjay Sen, Sr. Advocate, TPCL
Shri Shreshth Sharma, Advocate, TPCL
Ms. Shubhi Sharma, Advocate, TPCL
Ms. Mandakini Ghosh, Advocate, TPCL
Shri Deepak Thakur, Advocate, TPCL
Shri Neelkanan Rahate, Advocate, TPCL
Shri M. G. Ramachandran, Sr. Advocate, HPPC GUVNL & PSPCL
Shri Ravi Nair, Advocate, HPPC & PSPCL
Ms. Srishti Khindaria, Advocate, GUVNL
Shri G. Sai Kumar, Advocate, MSEDCL
Shri Akash Lamba, Advocate, MSEDCL

Record of Proceedings

Learned senior counsel for the Petitioner submitted that the present Petition has been filed, *inter alia*, seeking a declaration/direction with regard to the principles/ methodology for the computation of the rate/compensation for the power supplied under Section 11 (1) directions issued by the Ministry of Power on 20.2.2023 (“2023 Directions”) to the Respondent Nos. 1 to 8 for the period during which the 2023 Directions are in subsistence under Section 11(2) of the Electricity Act, 2003. Learned senior counsel further submitted as under:

- (a) For the previous Section 11 Directions issued by the Ministry of Power on 5.5.2022 (“2022 Directions”), the Commission, vide its order dated 3.1.2023 in Petition No. 128/MP/2022, has already provided the methodology to compute

the compensatory tariff to allow recovery of the cost of generation along with a reasonable margin.

(b) Accordingly, the Petitioner is also pressing for an ad-interim prayer, namely, that pending final adjudication, the Respondents 1 to 8 be directed to make timely and complete payments at the interim/provisional tariff @ Rs. 6.25 per unit (presently, Rs.5.24/unit) which is the rate calculated as per the methodology adopted by the Commission in its order dated 3.1.2023 in Petition No. 128/MP/2022.

(c) The rates prescribed by the Ministry of Power for the supply of power under Section 11 of the Act are inadequate compared to the actual cost of generation and supply of power by the Petitioner. The Petitioner is constrained to pay out of pocket for generation and supply of power during the currency of the 2023 Directions augmenting the already financially precarious position of the Petitioner.

(d) The Petitioner is also pressing for an ad-interim direction to Respondents 7 & 8 to furnish the Letter of Credit amounting to Rs. 5 crore in terms of the express provisions of the 2023 Directions. Although the Petitioner has also prayed for direction for them to make the payments towards fixed charges for the availability declared, the Respondents have already made the payments towards such fixed charges.

(e) There is no bar on grant of an ad-interim tariff during the currency of Section 11 Directions as prayed for by the Petitioner and this aspect has been considered by the Commission, during the 2022 Directions, in its order dated 13.9.2022 in IA No. 50/2022 in Petition No. 128/MP/2022.

2. Learned senior counsel for Respondent Nos. 1, 2, 7 & 8 accepted the notice and sought time to file a reply to the Petition. Learned senior counsel also submitted that any interim tariff, at this stage, would amount to modifying the 2023 Directions which already provide for an interim tariff for the generation and supply of power during the currency of such a direction. Learned senior counsel also added that HPPC has already maintained the Letter of Credit as per the requirement. Learned senior counsel submitted that for working out the impact of the 2023 Directions, the Petitioner has mainly relied upon the Commission's order dated 3.1.2023 passed in Petition No. 128/MP/2022 for the 2022 Directions and has not provided any independent details for the period covered under the 2023 Directions, and the Petitioner may thus be asked to furnish the requisite /supporting details, if any.

3. Learned counsel for the Respondent No.3, MSEDCL accepted the notice and sought time to file a reply to the Petition.

4. The learned senior counsel for the Petitioner indicated that the Petitioner has already filed relevant details towards the computation of costs till 30.4.2023 and will file all other relevant details / computations for the period till 31.7.2023.

5. Considering the submissions made by the learned senior counsel and learned counsel for the parties, the Commission ordered as under:

(a) Admit. Issue notice to the Respondents;

(b) The Respondents to file their replies to the Petition, if any, within three weeks from the receipt of the details under (b) above with copy to the Petitioner, who may file its rejoinder, within two weeks thereafter; and

(c) Insofar as the interim directions/reliefs as prayed for by the Petitioner, the Commission did not find it proper to issue any such direction at this stage.

6. The Petition shall be listed for hearing on **13.10.2023**.

By order of the Commission

**Sd/-
(T.D. Pant)
Joint Chief (Law)**