CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi

Petition No. 270/MP/2023

Coram:
Shri Jishnu Barua, Chairperson
Shri Pravas Kumar Singh, Member

Date of Order: 15th May, 2024

In the matter of

Petition under Section 79 (1) (a) of the Electricity Act, 2003 ("the Act") seeking deemed availability for the period from 01.06.2020 to 30.08.2020 in respect of Singrauli Super Thermal Power Station- 2000 MW ("SSTPS") under Regulation 76 and Regulation 77of the Central Electricity Regulatory Commission (Terms and Condition of Tariff) Regulations, 2019

And

In the matter of
National Thermal Power Corporation Limited,
NTPC Bhawan,
Core-7, Scope Complex,
7, Institutional Area, Lodhi Road,
New Delhi-110 003 **…….Petitioner**

Vs

1. Uttar Pradesh Power Corp. Limited,
   Shakti Bhawan, 14, Ashok Marg,
   Lucknow-226 001

2. Rajasthan Urja Vika Nigam Limited (RUVNL)
   Vidyut Bhawan, Janpath, Jaipur 302 005

3. Tata Power Delhi Distribution Limited,
   Grid Substation, Hudson Road,

Kingsway Camp,
New Delhi-110009

4. BSES Rajdhani Power Limited,
   BSES Bhawan, Nehru Place,
   New Delhi-110019

5. BSES Yamuna Power Limited,
   Shakti Kiran Building, Karkardooma,
   Delhi-110092

6. Haryana Power Purchase Centre,
   Shakti Bhawan, Sector-VI,
   Panchkula-134109

7. Punjab State Power Corporation Limited,
   Through its Managing Director,
   The Mall,
   Patiala-147001

8. Himachal Pradesh State Electricity Board Limited,
   Kumar Housing Complex Building-II,
   Vidyut Bhawan, Shimla-171004

9. Power Development Department,
   Government of J&K, Civil Secretariat,
   Srinagar

10. Electricity Department of Chandigarh.
    Union Territory of Chandigarh,
    Additional Office Building, Sector-9 D,
    Chandigarh

11. Uttarakhand Power Corporation Limited,
    Urja Bhavan, Kanwali Road,
    Dehradun-248 001 **…….Respondents**

Parties Present:
Shri Venkatesh, Advocate, NTPC
Shri, Nihal Bhardwaj, Advocate, NTPC
Shri Shivam Kumar, Advocate, NTPC
Shri Rahul Kinra, Advocate, BRPL & BYPL
Shri Aditya Ajay, Advocate, BRPL & BYPL
Ms. Isnain, Advocate, BRPL & BYPL
Ms. Megha Bajpai, Advocate, BRPL
Ms. Shweta Choudhary, BRPL & BYPL
Ms. Jaya, BRPL & BYPL
Shri Mansoor Ali Shoket, Advocate, TPDDL
Shri Nitin Kala, Advocate, TPDDL
Shri Kunal Singh, Advocate, TPDDL
Shri Tanmay Jain, Advocate, TPDDL
Ms. Kanishka Rawat, Advocate, TPDDL

ORDER

The present Petition has been filed by the Petitioner NTPC Limited, praying to relax the provisions for achieving the target availability and further to grant deemed availability equal to the Normative Annual Plant Availability Factor, i.e., 85% as per the Tariff Regulations, 2019, during the High demand Season as well as Low Demand season of FY2020-21 for non-achieving of NAPAF due to the onset of COVID-19 (1st wave) and the consequent lockdown. The Petitioner has prayed as under:

(a) Grant deemed availability of 85% for the period from 01.06.2020 to 30.08.2020 for Singrauli STPS.

(b) *Pass such orders* as deemed fit and necessary in the facts and *circumstances* of the present case.

Submission of the Petitioner: -

2. The Petitioner in the petition has mainly submitted as under: -

a) The Petitioner has power stations in different regions and places in the country. Singrauli Super Thermal Power Station is one such station located in the State of Uttar Pradesh with an Installed Capacity of 2000 MW (2X500 MW+2X500 MW). The power generated from Singrauli Super Thermal Power Station is being supplied to the Respondents herein, who are Distribution Companies.

b) With the introduction of recovery of Annual Fixed Charge ("AFC") based on the seasonal target availability w.e.f. 01.04.2020, the operational flexibility to achieve the NAPAF season-wise has, in effect, been reduced as now a Generating Station for recovery of full AFC has to achieve target availability separately for two seasons, namely High Demand Season (period of three months, consecutive or otherwise) and Low Demand Season (period of remaining nine months, consecutive or otherwise) w.e.f. 01.04.2020.

c) For the purpose of full recovery of Annual Fixed Charges (AFC) of a thermal generating station, the Normative Annual Plant Availability Factor (NAPAF or Target Availability) is tightened over the control periods from the period from 2001-2004 to 2009-14 from 62.8% to 85% respectively. Thereafter, for the period 2014- 24, the Target Availability for full recovery of AFC of a generating station was specified at 85% except for the period from 2014 to 2017, wherein NAPAF for the period 2014-17 was lowered slightly to 83% in view of the coal shortage scenario in the country.

d) On 07.03.2019, this Commission notified the Tariff Regulations, 2019 w.e.f. 01.04.2019, which remains in force for five years. Regulation 42 of the Tariff Regulations, 2019 introduced a new mechanism for recovering AFC based on the seasonal normative target availability w.e.f. 01.04.2020, which has further reduced the operation flexibility.

e) As per the provisions of Tariff Regulations 2019, a generating station for recovery of full AFC the generator has to achieve target availability separately for two seasons, namely High Demand Season (period of three months, consecutive or otherwise) and Low Demand Season (period of remaining nine months, consecutive or otherwise) w.e.f. 01.04.2020. Further, High Demand Season and Low Demand Season months are different in different Regions, and these months are defined based on the Regional seasonal/ demand variations. The same has to be declared by respective RLDCs six months in advance.

f) Northern Regional Power Committee (NRPC) on 30.09.2019 declared High Demand Season for the Year 2020-21 as June 2020, July 2020, and August 2020 and the remaining 09 months of FY 2020-21, i.e., from April 2020 to March 2021 (excluding the above months), to be Low Demand Season for the Northern Region stakeholders.

g) Based on the above, NTPC carried out detailed shutdowns/ overhauls planning/ Additional Capitalization works, etc., keeping enough margin for forced shutdown /Partial Availability arising out of operational exigencies so that each

station of Northern Region, including Singrauli STPS, could achieve the seasonal Target Availability of 85% for both High Demand and Low Demand season separately. Accordingly, all the works for Singrauli STPS were planned such that the operational flexibility for achieving the target availability separately for both the High and Low demand seasons was secured, and it could supply cheaper power to the benefit of beneficiaries as per their demand.

h) However, due to some unforeseen and unfortunate circumstances t beyond the reasonable control of the petitioner, there was under-achievement of availability during the High Demand Season (June 20 to Aug 20) and Low Demand Season (April to May 20 and September 20 to March 21) despite all-out efforts by the petitioner to mitigate the effect of those circumstances.

i) The overall availability achieved for the year 2020-21 by Singrauli STPS is as tabulated below:

PAF Cumm. 2020-21	PAF High Demand Season		PAF Low Demand Season	
	Peak Hour	Off Peak Hour	Peak Hour	Off Peak Hour
84.893%	81.378%	81.562%	85.982%	86.034%

j) Singrauli STPS has achieved overall availability of 86.03% and 81.52% in the Low demand and High demand seasons, respectively. Accordingly, there has been an under-achievement of 3.75%, equivalent to approximately. 142.07 MUs during the High Demand Season with respect to normative availability of 85%.

Electrostatic Precipitator ("ESP") Augmentation & Modification Works

a) Singrauli STPS has been undergoing ESP Augmentation & Modification Work to meet the revised Emission Norms as directed by the UPPCB as well as by the MoEF&CC vide its Notification dated 07.12.2015. As per the Revised emission norms, Singrauli STPS has been mandated to meet the particulate limit of 100 mg/NM3. Accordingly, the Petitioner has been carrying on ESP Augmentation & Modification works to meet the prescribed particulate matter limits mandated for the instant station. The Augmentation & Modification ESP package in Singrauli-STPS (5X200MW+2X500MW) is on the verge of completion with 27 out of 28 passes (@ four passes per unit) completed to date.

b) Petitioner has been carrying out shutdowns/ overhauls / Add-cap works in a planned and phased manner in Singrauli STPS station so that the maximum energy/ power is made available to the beneficiaries and at the same time achieves the required overall availability of the station as specified in the Tariff Regulations,2019. To enable the same, for carrying out ESP augmentation works, the ESP in each Unit was isolated partially (both mechanically and electrically), and the unit was running in partial load instead of taking complete shutdown.

c) Accordingly, at any given time, one ESP pass (out of four in case 500 MW unit ESP) or two ESP Passes (out of four in case of 200 MW unit ESP) have been isolated and taken up for requisite Augmentation & Modification works. This partial isolation of ESP passes for carrying out augmentation work in a phased manner unit-wise and running the unit on partial load (without oil support) enabled the

petitioner to make cheaper energy available to the beneficiary to the maximum extent possible.

d) The average completion time for carrying out the augmentation work, each ESP pass by partial isolation, i.e., one ESP pass of 500 MW unit /two Passes of 200 MW unit, is around 180 to 200 days under normal conditions.

e) During the years 2019-20 & 2020-21, NTPC had planned ESP modification for its units as under:

Unit	ESP Pass No	Scheduled Start of Work	Scheduled End of Work	Duration (days)
Unit 6 (500 MW)	6D	23-Sep-19	10-April-20	200
Unit 2 (200MW)	2CD	16-Mar-20	03-Oct-20	201

f) Accordingly, resources were mobilized, and equipment/ parts were ordered in advance to carry out the above planned work. The modification and augmentation work ESP Pass-2CD of Unit-2 was planned to start in mid-March 2020 so that days of partial loading of Unit-2 could be spread over two financial years without substantial loss of annual generation/ availability.

g) It is submitted that during March 2020, the ESP modification work for Pass-D in Unit-6 (500 MW) was going on at full scale and was expected to be completed as planned.

h) However, due to the outbreak of the COVID-19 pandemic around the Globe and under which the country is still reeling, various restrictions were imposed in

relation to it, which have resulted in an adverse impact on the performance of industrial activities.

i) On account of the pandemic, the lockdown was imposed across the country, which lasted till 31.05.2020. However, even after 31.05.2020, there were restrictions imposed upon people's movements.

j) The above-stated Nationwide lockdown of 68 days affected all works at the station & the ESP modification and augmentation work came to a standstill condition. Due to the said standstill, the workers/laborers went back to their native places as is evident from the letter dated 10.04.2020 issued by BHEL, thereby hampering the ESP work/activities. Further, the supply of the material/equipment from manufacturers was also completely disrupted due to issues with supplies as well as logistics

k) Due to the difficulty in mobilization even after the lifting of the lockdown and despite all precautionary measures being taken by the Petitioner, the construction activity of balance works for ESP work of Pass-6C of Unit-6 and Pass-2CD of Unit-2 at the instant station could not be normalized. Albeit social distancing norms were and are strictly being followed at the work site, the fear of infection was more as the ESP work is carried out in an enclosed area. The non-availability of a required number of Skilled/Semi-skilled labourers hampered the progress of work and caused a delay in completing the ESP modification activities of Unit-6 and Unit-2 as detailed below:

ESP Pass	Work start date	scheduled completion Date	Actual Completion Date	Delay in Days in completion
6D (Unit-6)	23-Sep-19	10-Apr-20	10-Sep-20	153
2CD (Unit-2)	16-Mar-20	3-Oct-20	07-Jan-21	96

l) It is submitted that due to the Pandemic, the work of ESP passes of these two units was prolonged, and the units continued to run on partial load for a long duration leading to generation loss. The unit's loading was restored to full after the completion of work as per the date mentioned above.

m) As a result, the ESP Modification work for Unit-2 in the High Demand season was as per the contracted schedule, and the delay caused by the imposition of Lockdown/Restrictions in the ESP Modification works of Unit-2 affected the availability of this Unit in subsequent Low Demand season.

n) Had there been no Lockdown and subsequent fallout, the Petitioner would have easily restored its Unit-6 to its full capacity well before the start of High Demand Season (i.e., 01.06.2020 to 30.08.2020) & there would have been no DC Loss as demonstrated during previous years.

o) It is submitted that the delay in the completion of ESP Modification works in Unit-6 caused due to the imposition of Lockdown and the consequent loss of 147.38 Mus availability during the High Demand Season was unforeseen, unfortunate, and was completely beyond the reasonable control of the Petitioner.

p) As a result, the Petitioner was not able to achieve the Target availability as specified in the Tariff Regulations, 2019, and hence, the Petitioner has approached this Hon’ble Commission as the situation changed little with the lifting of the

lockdown since the country was and continues to reel under the Pandemic and the associated restrictions on mobility and logistics.

q) It is submitted that the Petitioner had practiced prudently to achieve the Target availability as specified in the Tariff Regulations, 2019. But, due to unforeseen circumstances, as stated above, the Petitioner was not able to achieve the Target Availability. Therefore, the difference between the NAPAF of 85% and the availability achieved for the Period 01.06.2020 to 30.08.2020 should be treated as deemed available for computing fixed charges payable by the Respondents to the Petitioner.

r) In view of the above submission, it is submitted that due to unforeseen circumstances, the Petitioner was not able to achieve the Target Availability as specified in the Tariff Regulations, 2019. Therefore, it is humbly prayed that the instant station be declared as deemed available for the period from 01.06.2020 to 30.08.2020.

Delay in Revival after Forced Outage in Unit-5 (200 MW)

a) In addition to the effect of COVID-19 on the ESP Augmentation and Modification works, it is noteworthy to mention herein that on 28.07.2020, Singrauli STPS, Unit 5 (200 MW) was stopped due to sudden High Vibrations observed in the Turbine bearings. Since the Thermal Power Station Turbine is a High RPM Machine operating in very high Temperature and pressure conditions, such problems occur sometimes and are usually identified & rectified within 10 to 15 days in normal conditions. The problem was identified to be normal wear & tear in

LP rotor and bearings, and the revival of the unit was estimated within the duration of 15 to 20 days.

b) However, the said incident took place amidst the lockdown that was imposed by the Government of India due to which the revival activities were severely hampered on account of restrictions, related testing, and Quarantine requirements at the site.

c) Further, the problem got aggravated when the majority of the manpower engaged in turbine maintenance work tested COVID positive which resulted in the extension of maintenance work beyond the estimated schedule.

d) It is submitted that the loss of generation during peak season (i.e., 28.07.2020 to 30.08.2020) caused due to Unit-5 outage was nearly around 153.72 MU equivalent to a DC loss of 3.75%. Had there been no COVID-19 spread and lockdown/restrictions, Petitioner would have revived Unit-5 in 15 to 20 days (as done in other stations for similar work), i.e., by 17.08.2020, that would have resulted in a generation loss of only 87.84 Mus instead of 153.72 Mus during the High Demand Season.

e) It is humbly submitted that the delay in repair works in Unit-5 due to the COVID-19 fallout and consequent loss of a further 65.88 Mus availability during the High Demand Season was unintended, unfortunate, and beyond the reasonable control of the Petitioner.

f) The Annual Fixed Charges (AFC) of Singrauli STP's for FY 20-21 is around Rs. 987.71 Crore, and the amount to be recovered in the High demand period is Rs. 247.18 Cr. Singrauli STPS. The Petitioner could not achieve the target of 85%

DC in the High demand season due to reasons beyond its reasonable control as a result of the COVID-19 Pandemic, as submitted in the above paras, resulting in AFC recovery loss of nearly Rs 10.11 Crore.

g) That for recovery of full AFC corresponding to the High Demand Season (i.e., June 2020, July 2020, and August 2020) for Singrauli STPS, the total permissible outage (@ 15%) is equivalent to 610 MUs in the said three months with respect to total 4067 Mus (@ 100% availability) for 2000 MW capacity of Singrauli STPS. Singrauli STPS has achieved an Availability of 81.53% during the High Demand season of FY 2020-21 & the loss of 3.47% has been caused with respect to the Normative Availability factor of 85%, which is equivalent to only 141.12 Mus during the high demand season.

h) It is submitted that the cumulative generation loss in the High Demand Season due to ESP Modification works in Unit-2 & 6 has been 285.37 MU (Unit-2 138.05 MU & U-6 147.38 MU). Further, the Loss due to Forced Outage in Unit 5 is nearly 153.72 Mus. The above two factors have resulted in a total loss of nearly 439.09 MUs, equivalent to a 10.79% DC loss during the High Demand Season.

i) Had there been no COVID-19 spread, lockdown, and subsequent fallout, the Petitioner would have completed the ESP modification works of Unit-6 well before High Demand Season & should have revived Unit-5 in 15 to 20 days (as done in other stations for similar work), i.e., by 17.08.2020.

j) Accordingly, the effective availability achievement during the High Demand Season for Singrauli STPS would have been 213.26 MUs more (147.38 Mus for Unit-6 & 65.88 MUs for Unit-5). Singrauli STPS, which stands on shortfall of just

141.14 MUs (equivalent to only 3.47% DC loss in High Demand Season), would have easily been able to achieve overall availability of 86.77% during the High Demand season and secured recovery of full AFC corresponding to the Season.

k) Therefore, due to the unprecedented, unfortunate & unimaginable situation prevailing in the country, Singrauli STPS was not able to recover the full AFC corresponding to the High demand Season for reasons mentioned herein above.

l) In view of the above submissions, it is requested that the Commission be pleased to consider the unforeseen situation in which the Petitioner was struggling on one hand to maintain a reliable and continuous supply of power from its stations, including Singrauli STPS during the unprecedented and humanitarian crisis, and at the same time trying its best to revive all its Units of the station to their full capacity.

Replies and Rejoinders in the petition.

3. The Respondent, TPDDL, has filed its reply to the petition vide affidavit dated 23.2.2024. The Petitioner vide affidavit dated 18.3.2024 has filed its rejoinder to the above reply of TPDDL.

Hearing in the matter dated 19.1.2024

4. The matter was heard on 15.5.2023. The Commission, after hearing the learned counsel for the Petitioner, admitted the Petition.

Hearing in the matter dated 15.3.2024

10. The matter was heard on 15.3.2024. The Commission, after hearing the parties, reserved the order in the matter.

Analysis and Decision

11. We have perused and considered the submissions of the parties. The claim of the Petitioner is for the deemed availability of the generating station mainly on the ground that the ESP modification works of Unit-6 and repair works in Unit-5 for Singrauli STPS-2000MW were delayed beyond the scheduled period due to the COVID-19 lockdown, which was beyond the control of the Petitioner. Accordingly, the Petitioner has prayed to grant deemed availability equal to NAPAF, i.e., 85% as per the Tariff Regulations, 2019, during the High demand Season of FY 2020-21.

12. As per the 2019 Tariff Regulations, to recover full AFC, the Petitioner must achieve Target Availability separately for two seasons, namely High Demand Season and Low Demand Season.

13. Regulation 42 of the Tariff Regulations 2019 provides as under:

> *"42. Computation and Payment of Capacity Charge for Thermal Generating Stations:*
> *(1) The fixed cost of a thermal generating station shall be computed on annual basis based on the norms specified under these regulations and recovered on monthly basis under capacity charge. The total capacity charge payable for a generating station shall be shared by its beneficiaries as per their respective percentage share or allocation in the capacity of the generating station. The capacity charge shall be recovered under two segments of the year,*
> *i.e. High Demand Season (period of three months) and Low Demand Season (period of remaining nine months), and within each season in two parts viz., Capacity Charge for Peak Hours of the month and Capacity Charge for Off- Peak Hours of the month as follows:*
>
> *…*
>
> *(3) Normative Plant Availability Factor for "Peak" and "Off-Peak" Hours in a month shall be equivalent to the NAPAF specified in Clause (A) of Regulation 49 of these regulations. The number of hours of "Peak" and*

"Off-Peak" periods during a day shall be four and twenty respectively. The hours of Peak and Off-Peak periods during a day shall be declared by the concerned RLDC at least a week in advance. The High Demand Season (period of three months, consecutive or otherwise) and Low Demand Season (period of remaining nine months, consecutive or otherwise) in a region, shall be declared by the concerned RLDC, at least six months in advance:

Provided that RLDC, after duly considering the comments of the concerned stakeholders, shalldeclare Peak Hours and High Demand Season in such a way as to coincide with the majorityof the Peak Hours and High Demand Season of the region to the maximum extent possible:

Provided further that in respect of a generating station having beneficiaries across different regions, the High Demand Season and the Peak Hours shall correspond to the High Demand Season and Peak Hours of the region in which majority of its beneficiaries, in terms of percentage of allocation of share, are located.

4) Any under-recovery or over-recovery of Capacity Charges as a result of under- achievement or over-achievement, vis-à-vis the NAPAF in Peak and Off-Peak Hours of a Season (High Demand Season or Low Demand Season, as the case may be) shall not be adjusted with under-achievement or over-achievement, vis-à-vis the NAPAF in Peak and Off-Peak Hours of the other Season… "

14. The Petitioner has submitted that for Singrauli STPS-2000MW, it had planned ESP modification for Unit-6 from 23.9.2019 to 10.4.2020, i.e., 200 days and revival of Unit-5 in 15 to 20 days, i.e., by 17.08.2020. The above works were going on as per schedule. However, due to the outbreak of the COVID-19 pandemic around the Globe and under which the country is still reeling, various restrictions were imposed in relation to it, which have resulted in an adverse impact on the performance of industrial activities.

15. Petitioner further submitted that due to the onset of COVID-19 and the consequent lockdown, the planned work for ESP modification for Unit-6 and revival of Unit-5 of Singrauli STPS-2000MW was delayed by 153 days and 13 days, respectively. The above delay is akin to 'Force Majeure' as per Regulation 3 (25) of the Tariff

Regulations, 2019, and hence, the Petitioner has requested the invocation of Regulations 76 and 77 of the Tariff Regulations, 2019.

16. The Petitioner has sought relief for grant of deemed availability under Regulation 76 and Regulation 77 of the 2019 Tariff Regulations.

17. Regulation 76 of the 2019 Tariff Regulations provides as under: -

> ***"76. Power to Relax:*** *The Commission, for reasons to be recorded in writing, may relax any of the provisions of these regulations on its own motion or on an application made before it byan interested person."*

18. The Power to Relax under the 2019 Tariff Regulations is in general terms, and its exercise is discretionary. As regards the exercise of power to relax, the APTEL vide its judgment dated 25.3.2011in appeal No. 130/2009 (RGPPL v. CERC & anr.) has observed the following: -

> *"18.1 The Regulations of the Central Commission and the decision of the Tribunal and the Supreme Court confer the judicial discretion to the Central Commission to exercise power to relax in exceptional case. However, while exercising the power to relax there should be sufficient reason to justify the relaxation and non-exercise of discretion would cause hardship and injustice to a party or lead to unjust result. It has also to be established by the party that the circumstances are not created due to act of omission or commission attributable to the party claiming relaxation. Further, the reasons justifying relaxation have to be recorded in writing."*

19. It is clear from the above observation of the APTEL that the Central Commission has discretionary power to relax norms based on the peculiar facts and circumstances of the case. However, there has to be asufficient and reasonable justification, and such a case has to be one of those exceptions to the general rule. There must also be sufficient reason to justify the Power to relax. However, we observe that the order of the Ministry of Home Affairs, dated 24.3.2020, clearly exempted the units and services relating to

generation, transmission, and distribution from the lockdown. In view of the above, we are of the considered view that such relaxation cannot be allowed to the generating station by way of burdening the extra cost on the beneficiaries. Accordingly, power under Regulation 76 of the 2019 Tariff Regulation cannot be invoked.

20. Regulation 77 of the 2019 Tariff Regulations provides as under: -

> ***"77. Power to Remove Difficulty:*** *If any difficulty arises in giving effect to the provisions of these regulations, the Commission may, by order, make such provision not inconsistent with the provisions of the Act or provisions of other regulations specified by the Commission, as may appear to be necessary for removing the difficulty in giving effect to the objectives of theseregulations.*

21. In our considered view, the regulation of power to remove difficulty is to be exercised only when there is difficulty in effecting the Regulations and not when difficulty is caused by an adherence to the Regulations. Thus, the exercising of power to remove difficulties does not arise in the present case.

22. Further, it is pertinent to mention that the Petitioner had filed Petition No. 154/MP/2021 with a similar issue, wherein the Petitioner had claimed deemed availability of its Ramagundam Super Thermal Power Station Stage-III (1X500 MW) for the period from 1.4.2020 to 30.4.2020 due to COVID-19 lockdown on account of 'Force Majeure' as per Regulation 3(25) of the Tariff Regulations, 2019. The Commission, vide order dated 20.9.2023, in the said Petition, had not considered the COVID-19 as a Force Majeure event in terms of the order of the Ministry of Home Affairs dated 24.3.2020, whereby the units and services relating to generation, transmission, and distribution were exempted from the restrictions imposed on account of the COVID-19 lockdown.

23. In light of the above deliberations and to balance the interests of the generator and the beneficiaries, the Commission is of the considered view that it is not a fit case for the Commission to invoke Regulation 76 and Regulation 77 of the 2019 Tariff Regulations.

24. Accordingly, we are not inclined to grant deemed availability equal to NAPAF, i.e., 85% as claimed by the Petitioner during the High demand Season of FY 2020-21.

25. Petition No. 270/MP/2023 is disposed of in terms of the above discussions and findings.

Sd/-	Sd/-
(P.K. Singh)	**(Jishnu Barua)**
Member	**Chairperson**