



MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION

TARIFF ORDER ON MYNTDU LESHKA HYDEL ELECTRIC PROJECT (MLHEP) FOR 2014-15

MEGHALAYA POWER GENERATION CORPORATION LIMITED

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BEFORE THE MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION

In the matter of:

Approval of Aggregate Revenue Requirement and Tariff of the Meghalaya Power Generation Corporation Limited (MePGCL) for the FY 2014-15.

And

In the matter of:

The Meghalaya Power Generation Corporation Limited, Lumjingshai, Shillong, Meghalaya.

CORAM

Shri Anand Kumar, Chairman

Date of Order: 10.04.2014

This order is to determine the Annual Revenue Requirement (ARR) relating to the Myntdu Leshka Hydro Electric Project for the year 2014-15 and to fix the tariff thereof. Petitioner Meghalaya Power Generation Corporation Ltd (MePGCL), as the generating company, has filed the ARR petition dated 20.01.2014 generally complying with the provisions of the Electricity Act, 2003 and the Meghalaya State Electricity Regulatory Commission (Terms and conditions for Determination of Tariff) Regulations, 2011 (herein-after referred to as the Regulations).

2. The petition was scrutinized by the Commission before it was admitted. Some more information and clarification were required and the same called for from petitioner MePGCL. The information required relates to financial outlay of the project, the capital expenditure, the audit report, the revised estimates with justification thereto, the report of the Technical Expert Committee constituted by Government to examine the cost of the entire project, the cost and time over-run with reasons therefor, the original and revised cost of the 3rd unit of the project and the authority which had approved the technical, hydrological and economic feasibility of the unit, the optimum utilization of the installed capacity of each unit, the designed energy or rated energy in millions units (MU) of each unit vis-à-vis the monthly energy generated and other information related to the project.

3. The response of MePGCL vide its letter dated 03.02.2014 was of a general reply to the enquiries. MePGCL stated that the Statement of Accounts for 2010-11 and 2011-12 had been sent, with approval of the Board of Directors of the Corporation, to auditor A. Biswas and Co. It stated that it had approached the Central Electricity Authority with a request that the Authority examine and vet the entire cost of the project (that is, cost pertaining to all the three units) but the latter declined. MePGCL also stated in the response that the Technical Expert Committed constituted by Government had not yet given its report. As regards generation capacity it is stated that units 1 and 2 generated 149.49 MUs during April 2012 to March 2013 against the designed energy of 372.68 MUs and after commissioning the 3rd unit, the entire generation was 399.10 MUs against the designed energy of 486.22 MUs. MePGCL added that MLHEP is a Run-of-the River Plant and the generation during the rainy season from May 2013 to August 2013 was closer to the designed energy.

4. The information and clarification given by MePGCL is not complete as some vital issues have not been fully answered. However, since the tariff for 2014-15 has to be passed the Commission admitted the petition and proceeded with the exercise to determine the ARR and to fix the tariff. Commission then directed the MePGCL to make the salient features of the ARR proposal public and the same was complied with by publishing it in English and two other local languages in the local newspapers like the Shillong Times, U Mawphor, Salantini Janera and Chitylli in their respective issues of 08.01.2014.

5. A public hearing was also held on 19.03.2014 where a number of consumers and representatives of welfare organizations attended. Officers of MeECL also were present to give clarifications to issues raised by the participants. Some of the issues raised during the hearing are briefly summarised in the following paragraphs.

6. Meghalaya Pensioners' Association (MPA) objected to the proposed increase in retail tariff and felt that MLHEP was responsible for the increase because it was servicing the loan component. MPA stated that when the generation by the first two units was so low the addition of the 3rd unit of (1 x 42) MW cannot be justified as it leads to a wastage of Rs.350 or Rs.400 crores of public funds and costs a burden on the public.

7. The reply of MePGCL to the issues raised by MPA as in paragraph 6 above is that with 3 units in operation (3x42 MW), MLHEP is designed to generate 486.23 MUs of energy in a year but that happens

when all the 3 units run simultaneously during monsoon months. During lean seasons one of the 3 units is rested to facilitate maintenance and ensure smooth operation of the system.

8. The Civil Society of Women's Organization (CSWO) was critical of MLHEP and the high expenditure incurred. It charged the Corporation that the 3rd unit was only to cover up the already overshoot cost of the project. Inefficiency, mismanagement and other reasons contributed to the escalation of the cost from the initial Rs.363.08 crores to Rs.1286.83 crores, the organization alleged.

9. To the objection by CSWO as in paragraph 8 above, MePGCL's reply is that the 3rd unit was constructed in order to optimize the system. The need was felt after liberalization of the industrial policy by the State Government and more power was needed and that scenario changed the 'power surplus state' to 'power deficit state'. The 3rd unit alone from April 2013 to February 2014 generated 146.53 MU. As regard audit, petitioner sought to clarify that inspection by Accountant General had been done since 2000 and that it was continuing from year to year.

10. Byrnihat Industries Association (BIA) pointed out that petitioner MLHEP did not submit the audited accounts of the project though the Commission in its Tariff order dated 30.03.2013 had directed it to do so, nor was the Technical Expert Committee report on the capital cost made ready and available. BIA was critical and expressed that the capital expenditure shown as Rs 1286.53 crores was doubtful. For the anticipated generation of 126 MW, it would have worked out to Rs 10.21 crores per MW as against the normative cost of Rs 5.18 crores. Other objections raised related to Return on Equity, depreciation, interest on loans and working capital, OM expenses, fixed costs and other items of expenditure. BIA submitted that there was no justification to revise the tariff for 2014-15.

11. MePGCL's response is that the complete cost of the project including that of the 3rd unit which achieved COD in 2013-14 would be shown in the audited accounts for 2013-14. As regards the Technical Expert Committee, Government had since constituted it in November 2013. The report is awaited. In the meantime the IIT, Guwahati, was also approached to vet the major part of the project cost. MePGCL also referred to other hydro projects in other States where capital cost is either same or even more than MLHEP. As regards interest on loans and working capital, MePGCL stated that the claims were computed as per Regulations. It sought to justify the depreciation, the annual fixed costs and other expenses as contained in their ARR proposal which it had submitted to this Commission for approval.

12. Concluding the deliberations in the public hearing the Chairman assured that the issues discussed were noted down and would be examined and considered while determining the tariff for 2014-15.

13. Commission has given the ARR proposal of MePGCL a due consideration in all the available perspectives. The specific proposal of the MePGCL is that Commission –

- (a) approve the ARR amounting to Rs 237.68 crores; and
- (b) approve the completion cost of MLHEP of Rs 1286.53 crores.

The analysis of the proposal by the Commission is in the succeeding paragraphs of this order..

14. In its petition, MePGCL has proposed an ARR requirement of Rs 237.68 crores under the following components:

Sl. No.	Particulars	Rs. Cr.
1	Interest on loan capital	99.73
2	Depreciation	57.16
3	O & M Expenses	28.76
4	Interest on Working Capital	6.66
5	Return on Equity	44.80
6	SLDC Charges	0.57
	Total	237.68

On an analysis it is seen that the components above are based on the assumptive completion project cost of Rs. 1286.53 crores, which cannot be accepted since it has not been vetted and audited by competent authorities.

15. The History of MLHEP in brief is that sometime in September 1999 Central Electricity Authority (CEA) accorded techno-economic clearance of the 2 unit project of (2 x 42) MW at an estimated cost of Rs 363.08 crores including IDC & FC. The project cost underwent revision and in February 2007, CEA vetted it at Rs 671.29 crores including IDC. The completion cost of the project has now been claimed as Rs.1286.53 crores with the addition of the 3rd unit of 42 MW capacity in March 2013 when work was completed and commercial operation commenced from April 2013. The 3rd unit did not get approval from any competent authority. CEA expressed its inability to vet the unit. For the commission to be able to determine the ARR and fix the tariff the completion cost of the project is inevitably required. It is noted that MLHEP is a Run-of-the River Plant and optimum generation will obviously be during the heavy rain season. Be that as it may, the cost of the 3rd unit has not been examined, vetted or certified

yet by any competent authority. It is understood that the matter is being looked into by the Government and an expert body is being assigned with the work to look into and assess the cost and time over-run and other financial implications while constructing the project. When received, the report of the expert body and also the audit report on expenditure will be scrutinized by the Commission and a final view on the tariff will be taken.

16. Coming to the question of cost escalation and time over-run, it is worth to note that APTEL in its judgment dated 27.04.2011 in a case which arose from the State of Maharashtra held that the delay in execution could occur due to-

- (a) factors entirely attributable to the generating company itself such as imprudence in selecting contractors, execution of contractual agreements including the terms and conditions, slackness on the part of the project management and such other factor;
- (b) factors beyond the control of the generating company such as force majeure like natural calamity, or other reasons which clearly establish, beyond doubt, that there has been no imprudence on the part of the company in executing the project; and
- (c) situation not covered by (a) or (b) above.

The expert body appointed by Government as mentioned in paragraph 15 above can also perhaps look into the principles as enunciated by APTEL while examining the cost and time over-run of the MLHEP.

17. MePGCL has prayed that the Commission approve the completion cost of the MLHEP at Rs 1286.53 crores. Commission has made its stand known that it is not within its ambit to approve or vet the cost of the project as it also involves factors relating to hydrological and other technical aspects apart from financial consideration as a whole. This matter concerning the completion cost has been discussed in para 15 above and Commission will only await the Technical Expert Committee's report and examine if any further information or data is required. To simply approve it for Rs 1286.53 crores as prayed for will be an empty formality with no factual or legal ground. For the present, the ARR is provisionally accepted for Rs 135.54 crores, same as that for 2013-14, which will include Rs.67.77 crores as fixed charges and Rs.1.415 per unit as energy charges. The fixed charges shall be paid by MePDCL in twelve monthly installments provided that machines are available for generation. Similarly, energy charges shall be paid on actual generation.

18. This order is ad interim. The Commission will take a final view when the report of the independent expert panel and the audited accounts are made available and if necessary, suitable modifications will be made.

19. The ARR petition of MePGCL for 2014-15 is disposed of accordingly.

(ANAND KUMAR)
CHAIRMAN