



ORDER

OF

WEST BENGAL ELECTRICITY REGULATORY COMMISSION

FOR THE YEARS 2023 – 24 AND 2024 – 25

IN

CASE NO: TP – 106 / 22–23

**IN REGARD TO THE APPLICATION SUBMITTED BY THE
DURGAPUR PROJECTS LIMITED FOR DETERMINATION OF TARIFF
UNDER THE EIGHTH CONTROL PERIOD FOR THE YEARS 2023 – 24,
2024 – 25 AND 2025 – 26**

PRESENT:

**DR MALLELA VENKATESWARA RAO, CHAIRPERSON
SRI PULAK KUMAR TEWARI, MEMBER**

DATE: 11.03.2024



CHAPTER 1 INTRODUCTION

1.1 The West Bengal Electricity Regulatory Commission (hereinafter referred to as the 'Commission'), a statutory body under the first proviso to section 82(1) of the Electricity Act, 2003 (hereinafter referred to as the 'Act'), has been authorized in terms of the section 86 and section 62(1) of the Act to determine the tariff for a) supply of electricity by a generating company to a distribution licensee, b) transmission of electricity, c) wheeling of electricity and d) retail sale of electricity, as the case may be, within the State of West Bengal.

1.2 The Durgapur Projects Limited (hereinafter referred to as 'DPL') was a sanction holder under Section 28 of the Indian Electricity Act, 1910 and had become a deemed licensee in terms of the first proviso to section 14 of the Act with effect from 10.06.2003 ie. the date of coming into force of the Act, for distribution of electricity in Durgapur area of West Bengal. Subsequently, in terms of the Government of West Bengal Notification No. 328/PO/O/C-IV/1E-60/13 (Part-VA) dated 26.12.2018 and order of this Commission in Case No. A-6/14 dated 31.12.2018, with effect from 01.01.2019 the entire distribution and transmission business and activities under the DPL along with all associated assets and liabilities are now transferred to the West Bengal State Electricity Distribution Company Limited (WBSEDCL) and the West Bengal State Electricity Transmission Company Limited (WBSETCL) respectively. In view of above notification of the Government of West Bengal and order of this Commission, DPL, a distribution licensee with embedded thermal generating station, becomes generating company since 01.01.2019.

1.3 In terms of definition contained in regulation 1.2.1 (xxx) of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended from time to time (hereinafter referred to as the 'Tariff Regulations'), each control period after third control period shall be normally for a period of five ensuing years or such other period of number of ensuing years as may be decided by this Commission from time to time.

1.4 This Commission vide its order dated 31.08.2022 in case no. SM-31/22-23 decides



that the 8th Control Period shall be for three years consisting of 2023-24, 2024-25 and 2025-26.

1.5 On 27.02.2023, DPL has submitted the petition for determination of tariff for the 8th Control Period consisting of the years 2023-24, 2024-25 and 2025-26 in three parts (Vol-I: Petition for Revenue requirement; Vol-II: Filled-in Formats of WBERC and Vol-III: Annual Reports for 2016-17 to 2021-22), in accordance with the Tariff Regulations, 2011 and Tariff Regulations, 2013 and as amended. After receiving the tariff petition for 8th Control Period of DPL, the same has been registered by this Commission in Case No: TP-106/22-23.

1.6 As approved by this Commission, DPL is next asked to publish the gist in the newspapers and also in the website of DPL as per provisions of the Tariff Regulations. The gist is, accordingly, published simultaneously on 29.04.2023 in the newspapers: (i) 'Ei Samay' (Bengali), (ii) 'The Telegraph' (English), (iii) 'Aajkal' (Bengali) and (iv) 'Bartaman' (Bengali). The gist along with the tariff application are also posted in the website of DPL. The publication invites the attention of all interested parties, stake holders and the members of the public to the application for determination of tariff of DPL for the 8th Control Period and requests for submission of suggestions, objections and comments, if any, on the tariff application to this Commission within 21 days from the date of publication.

1.7 No suggestion or objection or comment on the tariff application of DPL is received within the stipulated time.

1.8 Further, in view of notification of the fourth amendment to the Tariff Regulations, this Commission gives opportunity to all utilities for submitting supplementary petition. DPL vide their reply dated 12.04.2023 submits that DPL would not apply supplementary petition for determination of tariff for the 8th Control Period and conveyed that DPL would supply the required information if sought for by this Commission. Thus, this Commission decides to determine the tariff for 8th Control Period of DPL based on the already submitted petition, termed as 'tariff application for 2023-24, 2024-25 and 2025-26', considering the



Tariff Order of DPL for 2023-24 & 2024-25

provisions of the Tariff Regulations, as amended from time to time in the subsequent chapter.

1.9 Legal proceedings pending before the Hon'ble High Court at Calcutta: This Commission, in the past, passed different tariff orders for DPL from 2000-01 to 2019-20 in fourteen orders [five joint orders covering the years (1) 2000-01 and 2001-02, (2) 2002-03, 2003-04 and 2004-05, (3) 2011-12 and 2012-13, (4) 2014-15, 2015-16 and 2016-17 (5) 2018-19 (01.01.2019 to 31.03.2019) and 2019 - 2020 and nine single orders for the years 2005-06, 2006-07, 2007-08, 2008-09, 2009-10, 2010-11, 2013-14, 2017-18 and 2018-19 (01.04.2018 to 31.12.2018). DPL felt aggrieved by the tariff order dated 24.5.2004 determining its tariffs for the years 2000-01 and 2001-02 and filed a writ petition [W. P. No. 12108 (W) of 2004] and subsequent petition bearing No. AST 1019 of 2004 in the Hon'ble High Court at Calcutta challenging the order of this Commission dated 24.05.2004. The matter has been pending before the hon'ble High Court at Calcutta for final disposal. Again, DPL felt aggrieved by the order of this Commission dated 09.06.2004 and moved the Hon'ble High Court at Calcutta against the said tariff order [No. AST 1134 of 2004 and WP No. 14128 (W) of 2004]. The Hon'ble High Court by an order dated 15th July, 2004 has stayed the operation of one part of the tariff order of this Commission dated 09.06.2004 involving a question of refund to the consumers of DPL while the rest of the tariff order is, not interfered with. This matter is sub-judice before the Hon'ble High Court at Calcutta.



CHAPTER 2 CASE OF DPL

2.1 In its tariff application for the 8th control period comprising the financial years 2023-24, 2024-25 and 2025-26, DPL submits that presently, the total generating capacity of DPL is 550 MW consisting of Unit-VII (300 MW) and Unit-VIII (250 MW). DPL further submits that in compliance with the communication from this Commission vide its Order no. WBERC/B-3/5/5805 dated 20.07.2020, Unit-VI (110 MW) is considered as decommissioned w.e.f. 01.04.2019.

2.2 The petitioner highlights that the **Operating Parameters** and **Financial Parameters** set forth in the Tariff Regulations are not commensurate with the past performance of the generating station and are, therefore, unachievable. Further, it is submitted that adoption of these norms for the purpose of tariff determination for generating stations by this Commission would lead to financial difficulties for DPL in future and may impact the sustainability of the utility. DPL prays to this Commission to consider actual attainment of operating parameters as well as actual expenditure incurred while determining the variable and fixed charges for generating stations.

2.3 DPL projects the different operating parameters and financial parameters for the Base Year of 2022-23 as well as for the Ensuing Years of 2023-24, 2024-25 and 2025-26 on the basis of Audited financial statements of 2021-22.

2.4 DPL in their petition considers the **Operating Parameters** as per norms in the Tariff Regulations for 2023-24, 2024-25 and 2025-26 along with the major reasons for not achieving normative operating parameters as below:

a) The actual **Plant Availability Factor** (PAF) and **Plant Load Factor** (PLF) achieved by DPL in the past years are tabulated in Form: 1.1 and Form: 1.2 respectively. DPL submits that the PLF and PAF parameters specified in the Tariff Regulations are unachievable mainly on account of inadequate availability of coal owing to fund constraint,