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ORDER

OF THE

WEST BENGAL ELECTRICITY REGULATORY COMMISSION

IN THE MATTER OF

CASE NO: WBERC/OA-444/22-23

IN REGARD TO PETITION SUBMITTED BY THE WEST BENGAL STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED (WBSEDCL) FOR SEEKING APPROPRIATE DIRECTION TO RECOVER THE PRELIMINARY EXPENDITURE FOR ALL THE ELEVEN HYDRO PROJECTS WHICH HAVE BEEN DROPPED EITHER BEFORE / AFTER BEING TAKEN UP AFTER INVESTIGATION IN TERMS OF REGULATION 2.11.1 AND 5.21.1 OF THE WEST BENGAL ELECTRICITY REGULATORY COMMISSION (TERMS AND CONDITIONS OF TARIFF) REGULATIONS, 2011 AS AMENDED FROM TIME TO TIME.

PRESENT:

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

DATE: 06.10.2023



CASE IN BRIEF

- 1.0 The present petition has been filed by WBSEDCL on 10.01.2023 in terms of regulation 2.11.1 and 5.21.1 of the West Bengal Electricity Regulatory Commission (Terms and Commission of Tariff) Regulations, 2011 as amended from time to time (in short Tariff Regulations) seeking appropriate direction to recover the preliminary expenditure amounting to Rs. 2818.80 lakhs for all the eleven (11) projects which have been dropped before or after being taken up but subsequent to the investigation.
- 2.0 The prayers of the petitioner (WBSEDCL) which has been admitted by the Commission on 20.02.2023 are as follows:
 - 2.1 *“Accord in-principal approval under regulation 2.11.1 of Tariff regulations allowing preliminary expenditure, incurred on dropped non-potential generating projects under the jurisdiction of WBSEDCL in the Aggregate Revenue Requirement of relevant years in R&D heads as per Regulation 5.21.1 or any other head of expenditure as the Hon'ble Commission may deem pro per or pass appropriate direction to recover the preliminary expenses of the projects which have already been taken up or to be taken up & dropped subsequently after investigation.*
 - 2.2 *Pass an order as the Hon'ble Commission may deem fit and proper keeping in mind the facts and circumstances of the case.”*
- 3.0 In support of the prayer as above, the petitioner has submitted as under:
 - 3.1 *“That WBSEDCL is required to look for addition in its hydro generation capacity as per directions of the Project Appraisal Committee (PAC), Department of Power, Government of West Bengal in order to fulfill its peak power demand and also to increase the ratio of renewable energy in its power portfolio. Prior to undertaking any such generation project, the approval of the Commission is sought as per the laid down procedure in the*



- tariff regulations for investment approval providing, inter alia, the Detailed Project Report (DPR) and details of financing of the project.*
- 3.2 *That preparation of DPR of a project requires preparation of project feasibility report after survey and investigation of a potential site for any project. Based on the outcome of survey and investigation & feasibility report, further action on the proposed project i.e. preparation of DPR, arrangement for funding etc. is contemplated. In case the outcome of such project feasibility report indicates that the project may not be viable, no further action on the potential site is considered.*
- 3.3 *That the survey and investigation of any potential site entails some expenditure, such expenditure is booked in accounts as "preliminary Expenditure". As per accounting practice in WBSEDCL, the preliminary expenditure relating to the potential projects is capitalized with the project cost if such project is ultimately undertaken and completed. In all such cases the preliminary expenditure is recoverable in ARR through depreciation as per provisions of tariff regulations.*
- 3.4 *That the Hon'ble Commission may appreciate that WBSEDCL has to survey and investigate potential hydro generation projects as per direction of Govt. of West Bengal, to harness renewable energy and also to fulfill peak power demand of WBSEDCL. Incurring preliminary expenditure, which includes survey and investigation expenditure, is inherent to any study for a potential project. It may also be appreciated that not all potential projects study results in a feasible project.*
- 3.5 *That the preliminary expenditure for the non-potential projects which are dropped, are charged as expenditure in the accounts of relevant year. Since such expenditure is not part of any capital project, it is not recoverable through depreciation in ARR, also, there is no specific head in tariff regulation to claim such expenditure. Thus, the preliminary expenditure incurred on non-feasible projects, although a necessary expenditure, will*



remain unrecovered in the heads of WBSEDCL if not allowed as an expenditure item in ARR.”

- 3.6 The petitioner at paragraph 8 of the petition has submitted that the Hon'ble Commission did not allow a sum of Rs. 50.94 lakhs against dropped Pedong Small Hydro Project, Ragnu SHP and Farrakka Hydro Electric Project under Regulation 5.21.1 of Tariff Regulations, 2011 as R&D expense.
- 4.0 The petitioner (WBSEDCL) at paragraph 9 of the petition has submitted that survey and investigation work together with the preparation of Project Feasibility Report (PFR) and also Detailed Project Report (DPR) have been taken up for the following project with the approval of Department of Power, Government of West Bengal or the Board of Directors of WBSEDCL in order to fulfill its peak power demand and also to increase the ratio of renewable energy in its power portfolio. The Board of Directors of WBSEDCL approved the following expenditure for preparation and updating of DPR/ PFR of the following hydro project.

Sl. No.	Project	Amount (Rs. Lakh)	Status
1.	Balason Hydro Electric Project (HEP) - 38 MW	124.60	PFR is prepared & DPR is under preparation.
2.	Balawas & Chota Rangit Small Hydro project (SHP) - 18 MW	43.45	DPR is prepared. Geotechnical work and Discharge measurement work are in progress.
3.	Rishi SHP - 5 MW	10.37	DPR is prepared
4.	Rammam stage - I HEP - 48 MW	558.40	Draft PFR is prepared & submitted by WAPCOS on 30.08.2022. PFR is under scrutiny.
5.	TLDP - V HEP - 60 MW	553.50	Draft PFR prepared & submitted by WAPCOS in April, 2022. PFR is under scrutiny.



Order of the West Bengal Electricity Regulatory Commission on an application submitted by West Bengal State Electricity Distribution Company Limited for seeking appropriate direction to recover the preliminary expenditure for all the eleven projects which have already been taken up or to be taken up and dropped subsequently after investigation in terms of regulation 2.11.1 and 5.21.1 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011 as amended.



6.	TLDP - I & II HEP -71 MW and Teesta Intermediate HEP - 90 MW	1100.11	Draft PFR of TLDP-I & II HEP is prepared & In-principle approval obtained from Department of Power, Government of West Bengal. PFR submitted to MoEF&CC for 1 st stage TOR clearance. Not recommended the same by MoEF&CC and is under review.
7.	Bandu PSP - 900 MW	132.52	PFR is prepared & submitted by WAPCOS in November, 2018. 1st stage TOR clearance obtained from MoEF&CC.
8.	Kulbera PSP - 800 MW	88.61	Preliminary assessment has been done.
9.	Katlajore PSP -1000 MW	88.61	Preliminary assessment has been done.
10.	Lodhama - II SHP -10 MW	25.89	DPR is prepared. Project construction work will be started soon through EPC (Engineering, Procurement and Construction) mode
11.	Rammam Intermediate SHP - 12 MW	92.74	Administrative approval for implementation of Rammam Intermediate Stage SHP (2x6 MW) with loan assistance from other financial institutions viz. RECL, IREDA, PFCL etc. is hereby accorded in view of non-admissibility of Loan Assistance from NABARD.
TOTAL		2818.80	

5.0 At para 10 of the petition, the petitioner has further submitted that, in view of the fact as stated in the petition, the Commission may consider in-principle approval allowing preliminary expenditure incurred on dropped non-potential hydro generating projects under the jurisdiction of WBSEDCL for Rs. 2818.80 lakh as above to mitigate the regulatory



uncertainty under Regulation 2.11.1 of the Tariff Regulation or in the ARR of the relevant years under the head R&D in accordance with Regulation 5.21.1 or any other head of expenditure as the Commission may deem proper or pass appropriate direction to recover the preliminary expenses of the projects which have been dropped before or after being taken up but subsequent to the investigation.

OBSERVATIONS OF THE COMMISSION

- 6.0 The petitioner in the instant petition has sought to invoke the Regulation 2.11.1 and 5.21.1 the Tariff Regulations, 2011 as amended from time to time, which are reproduced as under:

“2.11 Mitigation of Regulatory Uncertainty and Risk

2.11.1 In order to remove any uncertainty in electricity business any licensee or generating company may submit any application to the Commission for getting ‘in principle’ clearance on any issue and/or for incurring any expenditure for which there is no specific approval mechanism mentioned under these regulations and have an impact on the tariff of the licensee or generating company prospectively:

Provided that in issuing such ‘in principle’ clearance, the Commission shall follow such procedure as is deemed necessary.”

“5.21 Research and Development Expenditure

5.21.1 The Commission may allow a licensee or a generating company an expenditure on account of Research & Development upto 0.10% of the ARR of the preceding year for the year for which ARR is determined.

5.21.2 Such expenditure on Research & Development will be allowed only when there is prior project-wise approval from the Commission or where the Commission has directed to undertake any such project.”



Order of the West Bengal Electricity Regulatory Commission on an application submitted by West Bengal State Electricity Distribution Company Limited for seeking appropriate direction to recover the preliminary expenditure for all the eleven projects which have already been taken up or to be taken up and dropped subsequently after investigation in terms of regulation 2.11.1 and 5.21.1 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011 as amended.



- 7.0 The regulation 2.11.1 is invoked only when *“there is no specific approval mechanism mentioned under these regulations.”* However, these preliminary expenditures could be capitalized as part of the project cost unless declared abandoned by the competent authority. That stage has not yet come as is evident from the status of various hydro projects as per information submitted on record by the petitioner, which is reproduced at para # 4.0 above.
- 8.0 Similarly, recovery of these preliminary expenditures under Regulation 5.21 as R&D expenditure is ill conceived since the same *“will be allowed only when there is prior project-wise approval from the Commission or where the Commission has directed to undertake any such project”*. It is observed that no such petition was submitted by the petitioner nor any approval/direction has been issued by this Commission for preliminary investigation of these eleven (11) hydro projects.

ORDER

- 9.0 The Commission, after noting that the eleven no. of hydro projects listed by the petitioner are at different stages of investigation/ implementation and none of the project has yet been declared as abandoned, hereby directs WBSEDCL to submit fresh petition for consideration of post facto approval of the Commission as a special case. This relaxation can not be cited as a precedence by WBSEDCL or any other utility.
- 10.0 Further, in future, WBSEDCL is required to take prior approval of the Commission before undertaking any of such exploratory works failing which the entire financial risk associated with such work is to be entirely borne by WBSEDCL.
- 11.0 The petition is thus disposed of.



Order of the West Bengal Electricity Regulatory Commission on an application submitted by West Bengal State Electricity Distribution Company Limited for seeking appropriate direction to recover the preliminary expenditure for all the eleven projects which have already been taken up or to be taken up and dropped subsequently after investigation in terms of regulation 2.11.1 and 5.21.1 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011 as amended.



- 12.0 A copy of the order shall be posted on the website of the Commission.
- 13.0 WBSEDCL shall download the copy from the website of the Commission and act on it. Certified copy of the order if applied for, be given to the parties on completion of formalities laid down in the West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013, as amended and on submission of necessary fees.

Sd/-
(PULAK KUMAR TEWARI)
MEMBER

Sd/-
(MALLELA VENKATESWARA RAO)
CHAIRPERSON

Dated: 06.10.2023

Sd/-
SECRETARY