



## ASSAM ELECTRICITY REGULATORY COMMISSION

FILE NO. AERC. 395/2012

Petition No.: 13/2015

### ORDER SHEET

13.12.2016

Before the Assam Electricity Regulatory Commission  
ASEB Campus, Dwarandhar,  
G. S. Road, Sixth Mile, Guwahati – 781 022

M/s Eastern India Powertech Limited (EIPL) ----- Petitioner  
Government of Assam represented by Chief Secretary -----Respondent-1  
Assam Power Distribution Company Ltd. (APDCL) -----Respondent-2  
Assam Gas Company Ltd. (AGCL) -----Pro Forma Respondent-3

Date of Hearing: 13.12.2016  
Counsel for Petitioner:

Mr. D. Senapati, Advocate, EIPL  
Mr. A. Jalan, Advocate, EIPL  
Mr. P Lal, Advocate, EIPL  
Ms. A. Agarwal, Advocate, EIPL  
Ms. S Katakey, Advocate, EIPL

Counsel for Respondent-1:

Ms. U Saikia, Govt. of Assam

Counsel for Respondent-2:

Mr. H M Sharma, GM, APDCL  
Mr. K Talukdar, GM(TRC), APDCL  
Mr. M Bhattacharya, Dy AO, APDCL  
Mr. Avijit Roy, Advocate, APDCL

#### **In the matter of**

Petition No. 13 of 2015 filed by M/s Eastern India Powertech Limited requesting for invocation of Section 11(2) of the Electricity Act'2003 in view of imposition of Section 11 of the Electricity Act'2003 by the Govt. of Assam for running of EIPL plants

#### **CORAM**

Shri Naba Kr. Das Chairperson  
Shri Dipak Chakravarty, Member  
Shri Subhash Ch. Das, Member

#### **ORDER**

1. A Hearing was held on 13.12.2016, on the Petition No. 13 of 2015 filed by M/s Eastern India Powertech Limited requesting for invocation of Section 11(2) of the Electricity Act'2003 in view of imposition of Section 11 of the Electricity Act'2003 by the Govt. of Assam for running of EIPL plants.
2. During the Hearing, the representative of the Petitioner submitted referring to the Para 6.2 of the Commission's order dated 18.11.2016, the Section 62 and 11 of the EA 2003 can be treated parallelly. The representative of the Petitioner requested the Commission to take up the matter of Tariff determination as well as determination of adverse financial impact to EIPL parallelly, as the process for finalization of tariff takes considerable time. The Petitioner also insisted on

continuation of the petition to take care of issues related to limitation as well as cause of action.

3. The representative of the Respondent-2 submitted that there is no relation to Section 62 and 11 of the EA 2003 and should be treated individually. They also submitted that any adverse financial impact to EIPL as per Section 11(2) can be ascertained only after determination of tariff for 2010-11 onwards till closure of the plants. As such, representative of the Respondent-2 again reiterated that Petition No 13 of 2015 is infructuous at this point of time and is liable to be dismissed, as the matter can be decided only after the determination of Tariff and true-up for the respective years are completed.
4. The Hon'ble commission enquired from the Petitioner as well as Respondent – 2 about non submission of comments on the submissions made by Respondent- 1 vide letter dated 26.08.2016 as per direction of the Commission dated 18.11.2016
5. The Commission after hearing the parties has ordered the following:
  - 5.1. The Commission directed the parties to submit their comments on the submission made by Respondent-1 immediately.
  - 5.2. The issue of any adverse financial impact of the directions issued vide Section 11(1) can be ascertained only after determination of tariff for the period from FY 2010-11 till closure of the plant..
  - 5.3. The Petitioner will submit a supplementary petition after Tariff for period from FY 2010-11 onwards is finalized giving the details of the calculation of the adverse financial impact, if any, including the plant wise details of cost of generation of power.
  - 5.4. With the above observation the Commission decided to keep the matter in abeyance until further order.
  - 5.5. The Petitioner and Respondents will make submissions in the Format prescribed vide Regulations of the Commission and will provide copies of their submissions to the opposite party.

Sd/-  
(Subhash Ch.Das)  
Member  
AERC

Sd/-  
(Dipak Chakravarty)  
Member  
AERC

Sd/-  
(Naba Kumar Das)  
Chairperson  
AERC