



ASSAM ELECTRICITY REGULATORY COMMISSION

FILE NO. AERC. 342/2010/Pt -I

Petition No.: 04/2010

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
Assam Power Distribution Company Ltd. (APDCL) ----- Respondent-1
Govt. of Assam represented by the Secretary, Dept of Power ----- Respondent-2

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

Representative for Respondent-1:

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

Representative for Respondent-2:

Ms. U Saikia, Govt. of Assam

In the matter of

Petition No. 4 of 2010 filed by M/s Eastern India Powertech Limited in the matter of commercial disputes and Non Payment of contractually due payments by ASEB/APDCL to EIPL

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. 04 of 2016 filed by M/s Eastern India Powertech Limited in the matter of commercial disputes and Non Payment of contractually due payments by ASEB/APDCL to EIPL.
2. During the Hearing, the Petitioner submitted that the reply to the Commission's notice dated 30.11.2016 has been submitted on 12.12.2016. The Petitioner requested the Hon'ble Commission for more time to reply all the matters related to Commission's notice dated 30.11.2016, as it requires data/ information of around 8 to 18 years old. It is also submitted that the Hon'ble Commission has already filed an Interlocutory Application in Writ Petition, before the Hon'ble Guwahati High Court seeking clarification/modification/alteration of the Hon'ble Guwahati High Court order dated 20.07.2016. The Petitioner reiterated that the dispute can be resolved through Arbitration & Conciliation Act 1996 read with Electricity Act 2003.

3. Respondent – 1 submitted that the reply to the Commission's notice dated 30.11.2016 has been submitted on 12.12.2016 along with an additional affidavit. The Respondent – 1 again reiterated vide submission dated 12.12.2016, all issues of payment with Petitioner till 31.03.2008 is mutually settled, citing copy of reconciliation statement signed by both Petitioner and Respondent – 1. As such there are no issues of commercial dispute and hence the Petition 4 of 2010 has to be dismissed as it does not survive.
4. Respondent-2 submitted the reply in affidavit form related to the direction of the Commission order dated 18.11.2016 on 12.12.2016 with the submission that the State Government Guarantee, submitted by the Petitioner is not an authentic document and as such prayed before the Commission not to implead Government.
5. The Commission after hearing the parties has ordered the following:
 - a. The Petitioner and Respondent-1 will submit reply to the submissions made by Respondent – 2 on 12.12.2016.
 - b. The submissions made by Respondent -1 to the Commission's notice dated 30.11.2016 is for general in nature and hence they are directed for submission of para wise comments on or before 03.02.2017
 - c. The Petitioner is granted time till 03.02.2017 for submission of reply to the Commission's notice dated 30.11.2016
 - d. The Petitioner and Respondents will submit reply to the submissions of Respondent-2 in the Format prescribed vide Regulations of the Commission and will provide copies of their submissions to the opposite party.

The matter is posted for further Hearing on 10th February, 2017.

Sd/-
(Subhash Ch.Das)
Member
AERC

Sd/-
(Dipak Chakravarty)
Member
AERC

Sd/-
(Naba Kumar Das)
Chairperson
AERC