

CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Review Petition No. 12/RP/2013 in Petition No.2/TT/2011 & 57/TT/2011

Coram:

Shri V.S. Verma, Member
Shri M. Deena Dayalan, Member

Date of Hearing: 12.9.2013

Date of order : 17.9.2013

In the matter of

Review of order dated 9.5.2013 in Petition No. 2/TT/2013 & 57/TT/2011 in the matter of approval of transmission tariff for Koldam-Nalagarh 400 kV D/C (Quad) line along with bays at Nalagarh Sub-station and bays at Ludhiana under Transmission System associated with Koldam-Hydro Electric Project for tariff block 2009-14.

And in the matter of

Power Grid Corporation India Limited, Gurgaon

Vs

1. Rajasthan Rajya Vidyut Prasaran Nigam Limited, Jaipur
2. Ajmer Vidyut Vitran Nigam Limited, Jaipur
3. Jaipur Vidyut Vitran Nigam Limited, Jaipur
4. Jodhpur Vidyut Vitran Nigam Limited, Jaipur
5. Himachal Pradesh State Electricity Board, Shimla
6. Punjab State Electricity Board, Patiala
7. Haryana Power Purchase Centre, Panchkula
8. Power Development Department, Government of J&K, Jammu
9. Uttar Pradesh Power Corporation Ltd., Lucknow
10. Delhi Transco Limited, New Delhi
11. BSES Yamuna Power Limited, New Delhi
12. BSES Rajdhani Power Limited, New Delhi
13. North Delhi Power Limited, New Delhi
14. Chandigarh Administration, Chandigarh



15. Uttarakhand Power Corporation Limited, Dehradun
16. North Central Railway, Allahabad
17. New Delhi Municipal Council, New Delhi

.....**Respondents**

Parties present:

Shri S.S. Raju, PGCIL
Mrs. Sangeeta Edwards, PGCIL
Shri Abhay Srivastava, NTPC
Shri Amit Arora, NTPC

ORDER

The present review petition has been filed by Power Grid Corporation India Limited seeking review of the order dated 9.5.2013 in Petition No. 2/TT/2011 and 57/TT/2011, whereby the Commission has determined the tariff for Koldam-Nalagarh 400 kV D/C (Quad) line along with bays at Nalagarh Sub-station and bays at Ludhiana under Transmission System associated with Koldam-Hydro Electric Project (hereinafter referred to as "transmission assets") for the period 2009-14. The review petitioner has made the following prayers:-

- (a) Allow the partial review of order dated 9.5.2013 and allow the restricted IEDC of 6 months as the reasons for delay are not within the control of the petitioner and the agreement with NTPC does not cover the IEDC and
- (b) Allow the last date of filing subject petitioner as 12.8.2013 (45 days from communication from NTPC denying 6 months IEDC payment) in line with the spirit underlying Regulation 103 of the Conduct of Business Regulations, 1999.

2. The representative of the review petitioner has submitted that delay in commissioning of the transmission assets was not within the control of the petitioner and as per the agreement entered into between the review petitioner and NTPC, in case



of time over-run, NTPC has to bear only IDC for a period of six months from the date of scheduled commissioning of the transmission assets. The Commission while disallowing IDC and IEDC for a period of six months has asked the review petitioner to claim both IDC and IEDC from NTPC. NTPC has refused to pay IEDC for 6 months as it is not covered in the agreement. Only indemnification of IDC is covered in the agreement and IEDC is not covered in the agreement. The review petitioner has submitted that disallowing of IEDC is an error apparent on the face of record and requested to partially review the impugned order and allow the IEDC for a period of 6 months.

3. The second prayer of the review petitioner is to count the period of limitation for filing the review petition from the date of receipt of reply from NTPC and not from the date of issue of order. The impugned order was issued on 9.5.2013 and the order was stated to have been received by review petitioner on 31.5.2013. The review petitioner took up the matter with NTPC for payment of IDC and IEDC on 27.5.2013. NTPC in its letter dated 10.6.2013 has intimated the review petitioner that IEDC cannot be claimed in accordance with the provisions of agreement. The said letter is stated to have been received by the review petitioner on 27.6.2013. The review petitioner has filed the petition on 22.7.2013. The review petitioner is counting the period of limitation for revision with reference to 27.6.2013 and states that period of limitation so counted expires on 12.8.2013 and therefore, the petitioner is within the period of limitation.



4. It is plain and unambiguous that as per Regulation 103 of the Conduct of Business Regulations, the review petition is required to be filed within 45 days from the date of issue of the order. Therefore, the period of limitation expires on 24.6.2013. The petition has been filed on 22.7.2013. Therefore, there is a delay of 28 days. This delay is explainable as the review petitioner was hopeful that NTPC would reimburse the IEDC as per the order of the Commission and it could file the review petition after it received the communication from NTPC. The review petitioner instead of interpreting Regulation 103 of the Conduct of Business Regulations, 1999, should have sought condonation of delay. Under the Conduct of Business Regulations, 1999, the Commission is empowered to condone the delay in appropriate cases on the review petitioner showing "sufficient cause". We are of the view that sufficient reason exists for the delay in filing the review petition. Accordingly, we condone the delay and admit the review petition and issue notice to the respondents.

5. The petitioner is directed to serve a copy of the review petition on the respondents on or before 23.9.2013. The respondents shall file their reply latest by 2.10.2013, with advance copy to the petitioner, who may file its rejoinder, if any, by 10.10.2013.

6. The petition shall be listed for hearing on 15.10.2013.

sd/-
(M. Deena Dayalan)
Member

sd/-
(V.S. Verma)
Member

