

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No. 3/RP/2013 in
Petition No. 179/SM/2012**

**Coram:
Shri V.S. Verma, Member
Shri M. Deena Dayalan, Member**

**Date of Hearing: 28.05.2013
Date of Order : 24.10.2013**

In the matter of:

Petition for review of order dated 14.3.2013 in Petition No. 179/SM/2012 for non-compliance of Commission's directions and the provisions of the Electricity Act, 2003 and Central Electricity Regulatory Commission (Indian Grid Code) Regulations, 2010.

And

In the matter of:

1. Shri S.K. Agarwal, Chairman and Managing Director, Rajasthan Rajya Vidyut Prasaran Nigam Limited
2. Shri R.P. Barwar, Chief Engineer (LD), State Load Despatch Centre, Rajasthan, Jaipur

The following were present:

Shri Pradeep Mishra, Advocate, RRVPNL
Shri S.K. Agarwal, RRVPNL
Shri R. P. Barwar, RRVPNL

ORDER

The Review Petitioners, Shri S.K. Agarwal, Chairman and Managing Director, Rajasthan Rajya Vidyut Prasaran Nigam Limited and Shri R.P. Banwar, Chief Engineer (LD), State Load Dispatch Center, Rajasthan, have filed this



petition seeking review of the Commission's order dated 14.3.2013 in Petition No.179/SM/2012, wherein a penalty of ₹90,000 each was imposed on the Review Petitioners. The specific prayers made by the petitioners are extracted hereunder:

"(a) Review the order dated 14.3.2013 passed by this Hon`ble Commission and withdraw the direction to deposit the penalty of Rs. 90,000/- each on the petitioners.

(b) Pass such other or further order(s), which this Hon`ble Commission may deem fit and proper in the interest of justice."

2. The Review Petitioners have submitted the following factual matrix leading to the issue of the impugned order whose review has been sought:

(a) Northern Regional Load Despatch Centre(NRLDC) filed Petition No.125/MP/2012 seeking directions to the constituents of the Northern region to comply with the Regulation 6.4.8 of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 (Grid Code) based on the data of overdrawal for the period 1.1.2012 to 25.3.2012. Subsequently, NRLDC filed IA No. 25/2012 to place on record the data of overdrawal from 1.5.2012 to 14.5.2012. The Commission heard the matter on 17.5.2012 and in the Record of Proceedings directed the officers in charge of the respective State Load Despatch Centre, State Transmission utilities and Distribution Companies of the constituent States of the Northern Region to explain the reasons for non-compliance with the various provisions of the Grid Code and directions of NRLDC. The Review Petitioners filed their replies on 1.6.2012.

(b) The Commission further heard the matter on 31.5.2012 and the Commission in its order dated 10.7.2012 issued specific directions for compliance by the constituents of the Northern Region. It was also clarified

that it would be the responsibility of the officers in charge of the STUs/SLDCs to ensure compliance of the directions in paras 22 and 23 of the order dated 10.7.2012. Pursuant to the said order, the Chairmen/Managing Directors of the distribution companies in the State of Rajasthan have filed their affidavits dated 26.7.2012 assuring to restrict the overdrawal sincerely and informing about the formation of a Committee to study the Automatic Demand Management Scheme and the commitment of the distribution companies to implement the scheme based on the recommendations of the committee.

(c) NRLDC filed IA Nos.35/2012 and IA 38/2012 regarding the overdrawal for the period from 1.6.2012 to 30.6.2012 and from 10.7.2012 to 17.7.2012. Petition No.125/MP/2012 alongwith IAs were heard on 26.7.2012 and the Commission in its order dated 30.7.2012 directed the officers in charge of the STUs/SLDCs in the State of Uttar Pradesh, Haryana, Punjab, Uttarakhand and J&K to personally appear before the Commission on 14.8.2012. As the messages issued to the Review Petitioners were very less and there was only one C message, the Commission did not direct personal appearance of the officers of Rajasthan. However, on the basis of the hearing on 14.8.2012, the Commission issued order dated 17.8.2012 proposing to initiate action against the officers in charge of the STUs/SLDCs of the States of Uttar Pradesh, Haryana, Rajasthan, Punjab, Uttarakhand and J&K for imposition of penalty for non-compliance of the directions of the Commission and the provisions of the grid Code.

(d) The Commission initiated Review Petition No.179/2012 and directed the Review Petitioners to show cause by 17.9.2012. In compliance with the said

directions, the Review Petitioners filed affidavits on 17.9.2012. In the affidavits, it was categorically submitted that the Review Petitioners took following steps to restrict overdrawal:

(i) Messages issued by NRLDC were communicated by the SLDC to the distribution companies in the State for opening of the lines.

(ii) Several feeders were opened when the frequency got down.

(iii) Sometimes distribution companies have overdrawn from the grid as wind power scheduled in the State of Rajasthan was not reliable and sometimes, generation of such power was drastically reduced.

(iv) During the hearing of the Petition No. 179/SM/2012, the Review Petitioners had pointed out that as and when A, B, and C messages were received from NRLDC, instructions/messages were issued to the distribution companies. The Review Petitioners have filed as Annexure 3 to the affidavit the details of the messages issued by SLDC and the load reduced by the distribution companies.

(e) However, the Commission in the order dated 14.3.2013 has found that the STU and SLDC have not taken effective steps for restricting the overdrawal and has imposed a penalty of Rs.90,000/- each on the Review Petitioners.

3. The Review Petitioners have submitted that some of the documents produced in reply to the show cause notices and during the hearing have not been considered by the Commission while passing the order dated 14.3.2013 which has resulted in an error on the face of the record and therefore, review of the said order is necessary in the interest of justice. The Review Petitioners have pointed

out the following which constituted error on the face of the record:

(a) In the order dated 14.3.2013, the Commission considered the data from 11.7.2012 to 31.7.2012, though as per the earlier order, the reply from the respondents was called only in respect of data from 10.7.2012 to 16.7.2012 which was submitted by the Review Petitioners.

(b) The Commission has observed in the order dated 14.3.2012 that the Review Petitioners have not taken necessary steps to restrict the overdrawal whereas the Review petitioners have furnished a list of identified feeders to NRLDC which can be opened in case of low frequency. The petitioners had submitted during the hearing of the petition on 14.8.2012 a statement showing the feeders/lines which were opened for load shedding from January to July 2012 which was not considered by the Commission.

(c) The Commission in the impugned order has observed that on 20.7.2012, there was huge overdrawal by Rajasthan. The Review Petitioners have submitted that on 19.7.2012, the wind power available was between 1498 MW to 1452 MW with lowest point of 1266 MW. On that basis, the power was scheduled for the next date i.e. on 20.7.2012. However, on 20.7.2012, the wind power was between 1253 MW to 659 MW and between 0-7 hours, there was a drop of about 1000 MW and lowest level was 226 MW between 14-15 hours. Since the wind generation suddenly dropped, it would have been a cause of overdrawal on 20.7.2012. The Review Petitioners have placed on record the graph showing the availability of wind power on 19.7.2012 and 20.7.2012.

(d) The Review Petitioners had received 155 A messages, 120 B messages and 20 C messages from January to July 2012 whereas SLDC has issued a total of 2660 messages to the distribution companies directing them to restrict the overdrawal. The Review Petitioners have placed on record a chart showing absence of overdrawal from November 2012 to April 2013 and the details of lines opened between January 2012 till 12.4.2013.

(e) As regards the observation of the Commission in the order dated 14.3.2013 that SLDC should have approached the State Electricity Regulatory commission for appropriate directions to the distribution companies, the Review Petitioners have submitted that since the distribution companies had already filed the affidavit before this Commission that they would ensure nil overdrawal and would take steps for implementation of Automatic demand Management scheme, SLDC did not approach the State Commission. However, the Review Petitioners have already initiated action against the distribution companies for not shedding the load as per the instructions of NRLDC communicated through SLDC.

(f) Rajasthan has about 2300 MW installed capacity of wind power. Their generation is infirm in nature. The availability of wind is from April to August. Even sometimes during the period of availability, there is drastic reduction in wind power. In such eventuality, overdrawal is done sometimes by the distribution companies. However, Review Petitioners have taken steps to restrict the overdrawal and results have been achieved.

(g) Overdrawal by the State of Haryana and messages received from NRLDC are much higher in comparison to the State of Rajasthan. However, the officers of STU and SLDC of Haryana have been issued only a warning and no penalty has been imposed whereas from the record it is evident that the petitioners are taking steps to restrict the overdrawal, even then personal penalty has been imposed on them.

4. During the hearing, learned counsel for the Review Petitioners submitted that in compliance with the Commission`s directions, the Review Petitioners had filed affidavit dated 15.9.2012 containing status of compliance of Regulations 5.4.2 (d) and 6.4.8 of the Grid Code which escaped the attention of the Commission while passing the impugned order. Learned counsel further submitted that during the months of November 2012 to April, 2013, there was no overdrawal by Rajasthan which was made possible on account of the effective steps taken by the STU and SLDC. Learned counsel submitted that the impugned order be reviewed and the penalties imposed on the Review Petitioners be withdrawn as the Review Petitioners have diligently pursued with the distribution companies to restrict overdrawal, but desired results could not be achieved due to reasons beyond the control of the Review Petitioners.

5. We have perused the review petition, the documents on record and the submissions of the learned counsel for the Review Petitioners. The Commission`s power of review is governed in accordance with section 94(1)(f) of the Electricity Act, 2003 read with Order 47 Rule 1 of the Code of Civil procedure, 1908 (CPC).



Section 94 (1) (f) of the Electricity Act, 2003 provides that the Commission shall have the same power as vested in a civil court under the CPC for reviewing its decisions, directions and orders. Order 47 Rule 1 of CPC provides that any person considering himself aggrieved by an order may apply for its review to the court, which passed the order under the following circumstances:

- (a) on discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced at the time when the decree was passed or order made, or
- (b) on account of some mistake or error apparent on the face of the record, or
- (c) for any other sufficient reasons.

The Review Petitioners have sought the review on the ground that certain documents which were available on record were not considered while passing the impugned order and hence non-consideration of these documents constituted error apparent on the face of the record.

6. One of the issues raised by the Review Petitioners is that the Commission has considered the data from 11.7.2012 till 31.7.2012 though the reply from the Review Petitioners was called for the period from 10.7.2012 to 16.7.2012. The contention of the Review Petitioners is not correct. The Commission in its order dated 10.7.2012 had issued the following directions:

"22. Considering the seriousness of the situation, notice is issued to Head of State Load Despatch Centres, State Transmission Utilities and State Electricity Boards/the Distribution licensees in the Northern Region as to why they will not be held personally liable for the penalty for non-compliance with the directions of the Commission and provisions of the Grid Code with regard to maintenance of required grid frequency demand estimate and installation of automatic demand management schemes.

23. The petitioner has sought directions to the respondents for ensuring safety and security of the grid and to obviate any possibility of grid disturbance. We are



convinced that urgent actions are called for to maintain the grid at the frequency specified in the Grid Code and to ensure smooth operation of the grid. Accordingly, the following directions are issued for strict compliance by the respondents:

(a) The respondents shall not resort to any overdrawal from the NEW grid when the frequency is below 49.5 Hz. and shall comply with the provisions of Grid Code.

(b) The respondents shall ensure that the directions of NRLDC issued under section 29 of the Act are faithfully complied with and compliance of these directions are reported to NRLDC immediately.

(c) The respondents shall ensure that the Under Frequency Relays (UFR) are kept in service at all times and the feeders used for load shedding through UFRs are different from the feeders used for manual load shedding so that the security of the grid is not compromised.

(d) The respondents shall submit the status of compliance of Regulations 5.4.2 (d) and 6.4.8 as well as Commission`s directions contained in order dated 15.12.2009.

24. We direct that it shall be the personal responsibility of the officers in overall charge of the State Transmission Utilities/ State Load Dispatch Centres to ensure compliance of the directions in Para 22 and 23 above and non-compliance of the above directions in any form will be viewed seriously and appropriate actions under provisions of the Act shall be taken.”

From the above directions, it was quite clear that the officers in charge of STUs and SLDCs were made personally accountable for ensuring compliance with the directions of the Commission to ensure grid security. The show cause notice was issued to the Review Petitioners for non-compliance of the directions of the Commission in the order dated 10.7.2012 as reiterated in the order dated 30.7.2012. The Review Petitioners in their replies produced the data for the period 10.7.2012 to 16.7.2012 and for the month of August 2012. Though there was no prohibition to submit the data for the period 17.7.2012 to 30.7.2012, the Review Petitioners chose not to submit the data for the said period. While issuing the order dated 14.3.2013, the Commission was considering whether the Review Petitioners had complied with the directions in the order dated 10.7.2012. Therefore, the Commission considered the data submitted by the Review Petitioners and the data for the period 11.7.2012 to 31.7.2012 which was available

on the website of NRLDC in order to ascertain the extent of compliance of the directions of the Commission by the Review Petitioners. In this connection, para 9 of the impugned order dated 14.3.2013 is relevant which is extracted as under:

“9. First of all we consider the status of overdrawal by Rajasthan after issue of the directions by the Commission vide order dated 10.7.2012. The respondents in their affidavit have given the data for the period 10.7.2012 till 16.7.2012 and for the month of August 2012. It has been noted in our order dated 17.8.2012 that during the period from 10.7.2012 to 16.7.2012, Rajasthan has been issued 9 A messages, 5 B messages and 1 C message. If we consider the data for the period 11.7.2012 to 31.7.2012, it is noticed that Rajasthan has been issued 16 C messages during the period. The maximum overdrawal was 1374 MW on 17.7.2012 when the frequency was 49.17 Hz. During the period, frequency went down below 49.5 Hz in 465 time blocks in Northern Region and Rajasthan was overdrawing in 412 time blocks. On 20.7.2012, Rajasthan was drawing 3191 MW against its schedule of 1235 MW in the 34th time block, thus resulting in an overdrawal of 1995 MW. Therefore, the claim of Rajasthan that it had restricted its overdrawal consequent to the directions of the Commission is not correct as Rajasthan was drawing more than double its schedule.”

The Review Petitioners for the reasons best known to them did not submit the data for the period 17.7.2012 to 31.7.2012 while submitting the data for the entire month of August 2012. In our view there is no infirmity in the impugned order for consideration of the data for the period 11.7.2012 to 31.7.2012 only because the Review Petitioners did not submit the data for the said period.

7. The Review Petitioners have submitted that they had provided a list of pre-identified feeders to NRLDC which can be opened in case of low frequency. The review Petitioners are stated to have submitted a statement of feeders/lines which were opened during the period from January to July 2012 which has been annexed as Annexure 10 to the review petition. These data have not been considered at the time of passing the impugned order dated 14.3.2013. Perusal of the said statement shows that during the month of July 2012, the number of 33 kV

feeders opened was 4828 and the number of 132 kV feeders opened was 874. It is observed that the timing of opening of these feeders has not been furnished and it is not clear whether the feeders were opened in response to RLDC messages or were opened as part of regular load shedding. However, we take note of the fact that the Review Petitioners had taken some action for restricting the overdrawal from the grid.

8. In our order dated 14.3.2013, we had come to a finding that on 20.7.2012, Rajasthan was drawing 3191 MW against its schedule of 1235 MW in 34th time block, resulting in an overdrawal of 1995 MW. The Review Petitioners have explained that on the basis of the availability of wind power on 19.7.2012 (1498 MW to 1452 MW), the schedule for the next date i.e.20.7.2012 was given. However, on account of drop of wind power by about 1000 MW on 20.7.2012, there was overdrawal on 20.7.2012. The Review Petitioners have also placed a graph showing the wind generation on 20.7.2013 in support of the contention. On consideration of the materials on record, we are of the view that overdrawal on 20.7.2012 cannot be entirely attributed to the Review Petitioners as it was caused due to drop in wind generation by a huge quantum which could not have been foreseen by the Review Petitioners.

9. The Review Petitioners have submitted that while Rajasthan had received 155 A messages, 120 B messages and 20 C messages from January to July 2012, it has issued 2660 messages to the distribution companies during the said period directing them to restrict overdrawal. In our view, issuing messages to distribution companies is not enough. Under section 29(3) of the Electricity Act,

2003, it is the responsibility of the State Load Despatch Centre to ensure that the directions of the RLDC are duly complied with by the licensee or generating stations. Therefore, mere issuing the messages to the distribution companies does not absolve the Review Petitioners from their statutory responsibilities.

10. The Commission had observed in the order dated 14.3.2013 that in the event of non-compliance of its directions by the generating companies or licensees, the Review Petitioners should have approached the State Commission for appropriate directions. It has been submitted in behalf of the Review Petitioners that distribution companies in the State of Haryana had filed the affidavits before this Commission stating therein that they would be no overdrawal and in view of the said assurance of the distribution companies, the Review Petitioners had not approached the State Commission. However, the Review Petitioners are now stated to have initiated action against the distribution companies for not shedding the load as per the directions of NRLDC. In the RoP for the hearing dated 17.5.2012, we had directed the officers in charge of SLDCs, STUs and distribution companies in the State of UP, Rajasthan, Punjab and Haryana to explain the reasons for non-compliance of various provisions of Grid Code with regard to overdrawal from the grid and non-compliance with the directions of NRLDC. In compliance with the directions of the Commission, the distribution companies of Rajasthan had filed the replies wherein they had assured the Commission to restrict overdrawal. However, the distribution companies had not given any concrete plan for compliance with the Grid Code and directions of NRLDC. In our view, merely because the distribution companies have filed the responses before this Commission does not prevent the Review

Petitioners to initiate appropriate action against the distribution companies under section 33 of the Act. It needs to be appreciated that grid management is a dynamic function and the SLDC should be alert to any instance of grid violation by the licensees or generating stations under it and take appropriate legal measures to ensure compliance with the Grid Code. Therefore, the observation of the Commission regarding the failure of the Review petitioners to approach the State commission does not suffer from any infirmity.

11. The Review Petitioners have submitted that Rajasthan has about 2300 MW installed capacity of wind power and wind power being infirm in nature, overdrawal is sometimes resorted to by the distribution companies. However, the Review petitioners have taken steps to restrict the overdrawal. In para 12 of the order dated 14.3.2013, the Commission had observed the following:

“12. The respondents and the distribution companies have attributed the overdrawal to the variability and unpredictability of wind generation. This in our view is an internal issue of Rajasthan Control area and needs to be handled in such a manner that it did not impact the operation of the Regional Grid. As the load generation balance is to be maintained by SLDC, variation in wind generation cannot be always be blamed for overdrawal as is evident from overdrawal data of 20.7.2012. xx.”

We have come to the conclusion in para 8 of this order that drop in the wind generation on 20.7.2012 was beyond the control of the Review Petitioners. Therefore, we are of the view that the Review Petitioners cannot be held accountable for overdrawal resulting from sudden variations in wind generation. We however direct the Review petitioners to take steps to ensure that the Wind Energy generators give realistic schedules to SLDC based on the forecast so that the SLDC is in a position to harness the alternative sources of generation in case

of sudden drop in wind generation.

12. In the light of the above discussion, we are of the view that there are certain mitigating factors in favour of the Review Petitioners which could not be considered at the time of passing the impugned order dated 14.3.2013. Considering all aspects, we are inclined to waive the penalty amount imposed on the Review Petitioners. However, we direct that the Review Petitioners shall faithfully comply with the provisions of the Grid Code and the directions of NRLDC for maintaining grid discipline. Any laxity on the part of the Review Petitioners in future will be viewed seriously and dealt with accordingly.

13. Review Petition No.3/RP/2013 is disposed of in terms of the above.

sd/-
(M. Deena Dayalan)
Member

sd/-
(V. S. Verma)
Member