

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Review Petition No. 07/RP/2016

In Petition No.291/TT/2013

Coram:

**Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member**

Date of Order : 29.09.2016

In the matter of:

Review Petition under Section 94(1) (f) of the Electricity Act, 2003 read with Regulation 103(1) of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, seeking review of order dated 24.11.2015 in Petition No. 291/TT/2013.

And in the matter of:

Power Grid Corporation of India Limited,
"Saudamini", Plot No. 2,
Sector 29, Gurgaon-122001
Haryana

.....**Petitioner**

Vs

1. Karnataka Power Transmission Corporation Limited,
Kaveri Bhawan, K.G. Road,
Bangalore-560 009
2. Transmission Corporation of Andhra Pradesh Limited,
Vidyut Soudha, Khairatabad,
Hyderabad-500 082
3. Kerala State Electricity Board,
Vaidyuthi Bhavanam,
Pattom, Thiruvananthapuram-695 004



4. Tamil Nadu Generation and Distribution Corporation Limited,
NPKRR Maaligai, 800, Anna Salai,
Chennai-600 002
5. Electricity Department,
Government of Goa,
Vidyut Bhawan, Panaji, Goa-403001
6. Electricity Department,
Government of Puducherry, 58, MSC Bose Salai,
Puducherry-605 001
7. AP Eastern Distribution Company Limited,
Sai Shakti Bhavan, 30-14-09, Near Saraswathi Park,
Vishakhapatnam-530 020, Andhra Pradesh
8. AP Southern Power Distribution Company Limited,
(APSPDCL), H. No. 193-93 (M) Upstairs,
Renigunta Road, Tirupathi-517 501 (AP)
9. AP Northern Power Distribution Company Limited,
(APNPDCL), H. No. 1-1-504, Opp. NIT Petrol Pump,
Chaitanyapuri, Warangal-506 004 (AP)
10. AP Central Power Distribution Company Limited,
Singareni Bhavan, Red Hills,
Hyderabad-500 063 (AP)
11. Bangalore Electricity Supply Company Limited,
(BESCOM), Krishna Rajendra Circle,
Bangalore-560 001
12. Mangalore Electricity Supply Company Limited,
(MESCOM), Paradigm Plaza, AB Shetty Circle,
Mangalore-575 001
13. Chamundeswari Electricity Supply Corporation Limited,
(CESC Mysore), Corporate Office, 927, L J Avenue,
New Kanthara jUrs Road,
Saraswatipuram, Mysore-570009
14. Gulbarga Electricity Supply Company Limited,
(GESCOM), Main Road,
Gulbarga-585 102, Karnataka



15. Hubli Electricity Supply Company Limited,
PB Road, Nava Nagar, Hubli,
Karnataka-580 025
16. Madhya Pradesh Power Management Company Limited,
Shakti Bhawan, Rampur,
Jabalpur-482 008
17. Maharashtra State Electricity Distribution Company Limited,
Prakashgad, 4th floor,
Andehri (East), Mumbai-400 052
18. Gujarat Urja Vikas Nigam Limited,
Sardar Patel Vidyut Bhawan,
Race Course Road, Vadodara-390 007
19. Electricity Department,
Administration of Daman and Diu,
Daman-396 210
20. Electricity Department,
Administration of Dadra and Nagar Haveli,
U.T., Silvassa-396 230
21. Chhattisgarh State Electricity Board,
P.O. Sunder Nagar, Dangania, Raipur,
Chhattisgarh-492 013
22. Madhya Pradesh Audyogik Kendra Vikas Nigam (Indore) Limited,
3/54, Press Complex, Agra-Bombay Road,
Indore-452 008

....Respondents

For petitioner : Ms. Swapna Seshadri, Advocate for PGCIL
Shri S.S Raju, PGCIL
Shri Jasbir Singh, PGCIL

For respondent: Shri Ravnish Advani, LANCO



ORDER

This review petition has been filed by Power Grid Corporation of India Limited (PGCIL) seeking review of the order dated 24.11.2015 in Petition No.291/TT/2013 under which the tariff of Line Bays and Reactor at 765/400 kV Raichur and Solapur PGCIL Sub-stations for Raichur-Solapur Transmission Line under Transmission System associated with Synchronous Inter-Connection between SR and WR in SR and WR was not allowed.

Brief facts of the case

2. The review petitioner had filed Petition No. 291/TT/2013 under the 2009 Tariff Regulations for approval of tariff transmission tariff for 765 kV Bay Extension at Sholapur and Raiachur Sub-station alongwith switchable Line Reactor for 765 kV S/C Raichur-Sholapur Transmission Line. The provisional tariff of ₹236.86 for the year 2013-14 was allowed for the combined asset vide order dated 16.12.2013 under Regulation 5 of the 2009 Tariff Regulations. PGCIL submitted vide affidavit dated 29.10.2014 that the combined asset was put under commercial operation in two parts, viz- Asset-I: 765 kV 240 MVAR Line Switchable Line Reactor for 765 kV S/C Raichur-Solapur Line-II (Pvt. Line) at Solapur Sub-station (COD:1.1.2014) and Asset-II: 765 kV 240 MVAR Switchable Line Reactor at Raichur Sub-station alongwith associated Bay and Equipment (COD:1.2.2014). PGCIL submitted that the assets were ready for regular service after successful charging and commissioning with effect from 1.1.2014 and 1.2.2014 but was prevented from providing regular service as the 765 kV Raichur-Sholapur S/C transmission line executed by another inter-State transmission licensee



was not commissioned which event was beyond the control of PGCIL. PGCIL prayed for approval of tariff for the assets from 1.1.2014 and 1.2.2014 respectively. As per the tariff regulations, the transmission licensee including deemed transmission licensee is entitled for tariff after the date of commercial operation of the assets. While granting the final tariff, the petitioner's decision to declare the COD of the assets from 1.1.2014 and 1.2.2014 was not accepted on the ground that the bays and lines could not have been charged for trial operation without the commissioning of the related transmission line. Accordingly, the petition was disposed of with the direction to declare the commercial operation matching with the commercial operation of Raichur-Sholapur Transmission line and to file a fresh petition in accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014. Relevant paras of the order dated 24.11.2015 are extracted as under:-

"22. As per the judgment of the Tribunal, an element of transmission system can be declared as having attained commercial operation only if it has been charged successfully after successful trial operation and is in regular service. Though the petitioner has submitted that the asset was ready for regular service but was prevented from providing regular service, it has not furnished any documentary evidence to justify that it was regularly coordinating with the transmission licensee for commissioning of the assets. Though the bays and reactors covered in this petition was ready, the successful trial operation and charging could not be carried out without the 765 kV S/C Raichur-Solapur Transmission line II getting commissioned. As per the information submitted, Raichur-Solapur Transmission line II was commissioned only on 1.7.2014. As the Bays and Line Reactors could not have been charged for trial operation without the availability of this transmission line, the case is not covered under the second proviso of Regulation 3(12)(c) of the 2009 Tariff Regulations. Accordingly, the date of commercial operation of Asset-I and Asset-II cannot be approved as 1.1.2014 and 1.2.2014 respectively as claimed by the petitioner.

23. The petitioner has claimed tariff for the transmission assets as per the 2009 Tariff Regulations. We are of the view that the instant transmission assets could be charged and trial operation could be successfully carried out only on commissioning of the Raichur-Solapur Transmission line II, which is stated to have been commissioned on 1.7.2014. Accordingly, the date of commercial operation of the transmission assets could be only during the 2014-19 tariff period and will be governed by the provisions of the 2014 Tariff Regulations. As such, the petitioner is



directed to file a fresh petition claiming tariff for the transmission assets as per the 2014 Tariff Regulations within 30 days of issue of this order.”

Submissions of the Review Petitioner

3. The review petitioner has submitted that the Commission while not approving the dates of commercial operation of Asset-I and Asset-II as 1.1.2014 and 1.2.2014 respectively proceeded on the basis of the Judgement dated 2.7.2012 of the Hon'ble Appellant Tribunal of Electricity (Appellate Tribunal) in Appeal No. 123 of 2011 (Punjab State Power Corporation Limited Vs CERC & Others). According to the review petitioner, the facts of the case decided in the Appeal No. 123 of 2011 are different from the instant case. While the case decided in the appeal pertained to the COD of a transmission line in the absence of bays and switchyard in the generating station to which it was to be connected, in the instant case the assets are switchable line reactors at the Raichur and Solapur Sub-stations along with the bays which were already connected to the existing sub-stations and were ready for operation. The review petitioner has further submitted that the Appellate Tribunal in the said judgement observed that an element of transmission system could be declared as having attained COD only if the following three conditions are met, namely, (a) it has been charged successfully; (b) its trial operation has been successfully carried out, and (c) it is in regular service. According to the review petitioner, these three conditions for declaring assets under commercial operation for claiming the benefit of Regulation 3(12)(c) have been satisfied in the instant case. The review petitioner has explained that the bays and reactors have been charged and commissioned successfully as is evident from the Certificate of Energisation issued by Regional Inspectorial Organisation of CEA and



accordingly, the first condition has been satisfied. As regards the second condition of trial operation and testing, the review petitioner has submitted that the pre-commissioning and commissioning tests of these bays and reactors were conducted both at Raipur and Solapur Sub-stations. As regards the third condition of assets being in regular use, the review petitioner has submitted that the assets were put under commercial operation after the same was discussed in the 23rd meeting of TCC and 92nd meeting of OCC of SRPC. The extracts of the minutes of the said meetings have been placed on record. The review petitioner has submitted that the finding of the Commission in the impugned order that the successful trial operation and charging of the bays and line reactors could not have been carried out without the commissioning of the 765 kV S/C Raichur-Solapur Transmission Line II is an error apparent and on the face of record and needs to be rectified by the Commission in exercise of the power of review.

4. The review petitioner has further submitted that the bays and reactors have to be charged simultaneously since the reactor is being used as a bus reactor at both Raichur and Solapur to control the problem of high voltage at the respective sub-stations as per the directive issued by POSOCO in its letter dated 20.11.2012. The review petitioner has submitted that commissioning of the bays and reactors has resulted in technical and commercial benefit to the beneficiaries of the transmission system. Therefore, in terms of Regulation 3(12)(c) of the 2009 Tariff Regulations, the instant transmission assets should be considered under commercial operation with effect from 1.1.2014 and



1.2.2014 respectively, even if regular service is not possible for reasons which are not attributable to the review petitioner.

5. The review petitioner has also submitted that it was directed to file a fresh tariff petition in accordance with the 2014 Tariff Regulations within 30 days of the order sought to be reviewed in the present petition. The review petitioner has submitted that till a final view is taken in the review petition, the review petitioner should not be coerced to file tariff petition as per the 2014 Tariff Regulations.

6. The review petition was admitted on 15.3.2016 and notices were issued to the respondents. Tamil Nadu Generation and Distribution Corporation Limited, (TANGEDCO), Respondent No. 4 and M.P. Power Management Company Limited (MPPMCL), Respondent No. 16 have filed replies to the petition. The submissions of the respondents have been discussed in brief as under:-

(a) TANGEDCO in its reply, filed vide affidavit dated 25.4.2016 submitted that The 765 kV Raichur-Solapur S/C line, executed by Raichur Sholapur Transmission Company Limited (RSTCL) was commissioned on 4.7.2014, whereas the review petitioner commissioned the associated bays on 1.1.2014 and 1.2.2014 respectively. The review petitioner could not have suo-moto declared commercial operation of the assets without taking into account the commissioning schedule of the transmission line. Secondly, the statement of the review petitioner regarding satisfaction of the conditions in the proviso of Regulation 3(12)(c) of 2009 Tariff Regulations is not correct as none of the three mandatory conditions are satisfied in the present case. The judgement of the Appellate Tribunal specifically holds that



transmission line is complete only with the bays. As such, bays and reactors are the associated systems with the transmission line and in the absence of any one of them, the transmission system is incomplete and cannot be said to have satisfied the three conditions. Thirdly, the certificate of energisation issued by CEA is not a proof that the assets have undergone successful trial operation and have been put under regular service. As the assets were put into beneficial use on or after 1.7.2014, the test certificates referred to by the review petitioner do not satisfy the third condition laid down by the Appellate Tribunal. Fourthly, the availability certificates issued by SRPC and WRPC reveal nothing other than that these assets are available. The review petitioner is trying to establish that even without connecting the terminal ends, the bays are put into beneficial use, which is not correct. Fifthly, the present petition is an abuse of process of law as the documents produced in the review petition were with the review petitioner at the time of filing the tariff petition but were not relied upon in the proceedings of tariff petitions. TANGEDCO has submitted that there is no error apparent on the face of the record in the findings of the order dated 24.11.2015 in Petition No. 291/TT/2013.

(b) MPPMCL has filed its reply vide affidavit dated 11.5.2016 has submitted that the review petition has been filed on the strength of judgement of the judgement dated 2.7.2012 in Appeal No. 123 of 2011, though the order dated 24.11.2015 in Petition No. 291/TT/2013 has been passed after due consideration of this judgement. Therefore, this is not a fit case for a review. Secondly, though the bays and reactors covered in the petition were ready, the successful trial operation



and charging could only be carried out with the availability of 765 kV Raichur-Solapur Transmission Line-II, which was commissioned on 1.7.2014. As the bays and line reactors could not have been charged for trial operation without availability of Raichur-Solapur Transmission line-II, the assets were not covered under the second proviso to Regulation 3(12)(c) of the 2009 Tariff Regulations.

7. The review petitioner in its rejoinders dated 23.5.2016 and 27.5.2016 in response to the replies filed by TANGEDCO and MPPMCL respectively has submitted that the testing and commissioning including the pre-commissioning and commissioning tests of each of these assets was conducted both at Raipur and Solapur Sub-stations in the instant case. The review petitioner has submitted that there was no unilateral declaration of COD as is evident from the relevant extracts of the Minutes of Meeting of 23rd TCC and 92nd OCC of SRPC wherein it has been clearly recorded that the subject transmission assets were declared under commercial operation with notice to all the beneficiaries including the TANGEDCO. Further, all the assets are being used and the availability certificate as certified by SRPC and WRPC have also been filed along with the review petition. The review petitioner has submitted that there is no finding in the judgment of the Appellate Tribunal that a transmission line is only complete with the bays. According to the review petitioner, the transmission system consists of several elements such as lines, reactor, bays, etc. and the transmission elements come into commercial service serially on different dates. Therefore, it is not possible to declare COD of all assets on one particular date. In the instant case, the bays and reactors



have come into commercial service prior to the COD of the 765 kV Raichur-Solapur Transmission Line and are being used.

Analysis and Decision

8. We have considered the submissions of the review petitioner and the respondents. The review petitioner has contended that the three conditions laid down by the Tribunal in judgement dated 2.7.2012 for declaring the COD of the asset and claiming the benefit of Regulation 3(12)(c) of the 2009 Tariff Regulations have been met in the case of instant assets. The review petitioner has also contended that the line reactors were used as bus reactors to control the voltage problems. Regulation 3(12)(c) of 2009 Tariff Regulations on which reliance has been made by the review petitioner to claim COD of the bays with effect from 1.1.2014 and 1.2.2014 respectively is extracted as under:-

"3. (12) "Date of commercial operation" or "COD" means:

.....

(c) in relation to the transmission system, the date declared by the transmission licensee from 0000 hour of which an element of the transmission system is in regular service after successful charging and trial operation:

Provided that the date shall be the first day of a calendar month and transmission charge for the element shall be payable and its availability shall be accounted for, from that date:

Provided further that in case an element of the transmission system is ready for regular service but is prevented from providing such service for reasons not attributable to the transmission licensee, its suppliers or contractors, the Commission may approve the date of commercial operation prior to the element coming into regular service."



The Appellate Tribunal has interpreted these provisions in its judgement dated 2.7.2012 in Appeal No. 123 of 2011 has examined the provisions of Regulation 3(12)(c) as under:-

“10. A transmission system may comprise of one or more transmission lines and substation, inter-connecting transformer, etc. According to above definition an element of the transmission system which includes a transmission line, could be declared as attained COD if the following conditions are met:

- i) It has been charged successfully,
- ii) its trial operation has been successfully carried out, and
- iii) it is in regular service.”

9. The review petitioner has submitted that the three conditions laid down by the Appellate Tribunal in judgement dated 2.7.2011 has been satisfied in the instant case, contrary to the findings of the Commission in the order sought to be reviewed. It is therefore necessary to consider whether the three conditions laid down by the Appellate Tribunal for declaring the COD of an asset have been complied with in the case of instant assets. The first and the second conditions viz. successful charging and successful trial operation are inter-related and have been considered together. The review petitioner has submitted that in the instant case, the assets are switchable line reactors at the Raichur and Solapur Sub-stations along with the bays which were already connected to the existing sub-stations and were ready for operation. The review petitioner has submitted that the pre-commissioning and commissioning tests of these bays and reactors were conducted both at Raipur and Solapur Sub-stations. The review petitioner has further submitted that the bays and reactors have been charged and commissioned successfully as is evident from the Certificate of Energisation issued by Regional Inspectorial Organisation of CEA and accordingly, the first and second



conditions have been satisfied. As regards the third condition, the review petitioner has submitted that the assets were put under commercial operation after the same was discussed in the 23rd meeting of TCC and 92nd meeting of OCC of SRPC. In our view, the bays and line reactors at Raichur and Solapur and the 765 kV Raichur-Solapur Transmission Line were part of the Transmission System associated with Synchronous Inter-Connection between SR and WR in SR and WR. Therefore, the bays, line reactors and the transmission lines can be tested, charged and put to regular service simultaneously. Without the transmission line, the line bays and reactors cannot be tested and charged successfully. The review petitioner is stated to have tested and charged the line reactor and bays independent of the 400 kV transmission line as they are connected to the existing sub-stations at Raichur and Solapur. In our view, such testing and charging do not meet the requirement of Regulation 3(12)(c) of 2009 Tariff Regulations. In Petition No.42/TT/2013, the Commission by interpreting the provisions of Regulation 3(12)(c) in the light of the judgement of the Appellate Tribunal held that the line bays and reactors cannot be successfully tested and charged in the absence of the transmission line to which they are connected. Relevant para in the order dated 10.6.2015 in Petition No.42/TT/2013 is extracted as under:-

“11. As per the Tribunal’s judgement, an element of transmission system can be declared as having attained commercial operation only if it has been charged successfully after successful trial operation and is in regular service. In the instant case, Bays and Line Reactors covered in the petition were ready, but the successful trial operation and charging could not be carried out without the Bongaigaon-Siliguri Transmission Line getting commissioned. As per the information available in the website of CEA, Bongaigaon-Siliguri Transmission Line was got completed in November, 2014. As the Bays and Line Reactors could not have been charged for trial operation without the availability of the transmission line, the case is not covered under the second proviso of Regulation 3(12)(c) of the 2009 Tariff Regulations. Accordingly, the date of commercial operation of Asset-1 and Asset-2 cannot be approved as 1.4.2013 and 1.6.2013 respectively as claimed by the petitioner.”



The Appellate Tribunal in its order dated 11.12.2015 in I.A. No. 336 of 2015 in Appeal No.198 of 2015 did not stay the Commission's order dated 29.9.2015 in Petition No.42/TT/2013 with the following observations:

"12.....This Tribunal held that second proviso to Regulation 12(c) will be applicable if the transmission line is ready in all respect for regular use but is prevented for use due to some reasons beyond the control of transmission licensee, e.g. high voltage in the system. In the present case, bays and line reactors covered in the petition were ready but the successful trial operation and charging could not be carried out without the Bongaigaon-Siliguri Transmission line getting commissioned. We have already quoted the relevant portion of Punjab State Power Corporation Limited herein above. Therefore, this case, in our prima facie opinion, is also not covered by second proviso to Regulation 3(12)(c) of the 2009 Tariff Regulations. 13. Our attention is drawn by counsel for Respondent No.13 to the Memorandum dated 19.9.2011 issued by the Appellant which contains investment approval for the Appellant's sub-station works. It is clearly stated therein that subject assets are required for Bongaigaon-Siliguri 400 KV D/C transmission line and are to be matched with it. Prima facie, therefore, there is substance in the submission of counsel for Respondent No.13 that the subject assets can be in regular service only when the 400 regular KV station line is ready."

The Appellate Tribunal has however made it clear in para 14 of the said order that "all observations made by us which touch the merits of the case are prima facie observations made for the purpose of deciding the interim application." Therefore, consistent with our order dated 10.6.2015 in Petition No.42/TT/2013 and the prima facie view of the Appellate Tribunal in its order dated 11.12.2015, we do not find any infirmity in our order dated 24.11.2015 in Petition No. 291/TT/2013 with regard to the successful charging and successful trial operation of the instant assets.

10. As regards the third condition that the asset should be in regular use, the review petitioner has submitted that in the 23rd TCC and 92nd OCC of SRPC Minutes of Meeting it was recorded that the assets were put into commercial operation. The review



petitioner has also submitted that the assets are being used and has submitted the availability certificates issued by SRPC and WRPC. We have perused the minutes of the 23rd meeting of TCC of SRPC held on 14.3.2014, in which it has been recorded as under:

“28.5 Grid events/highlights during February, 2014
.....

- 765 kV 240 MVAR switchable Line Reactor at Raichur SS was declared COD w.e.f. on 01.02.2014 by PGCIL.”

In the minutes of the 92nd meeting of OCC Meeting held on 13.2.2014, the following has been recorded:

“765 kV 240 MVAR switchable Line Reactor at Raichur SS was declared COD w.e.f. on 01.02.2014 by PGCIL.”

It is observed that only the statements of the review petitioner with regard to commissioning of the Line Reactors at Raichur and Solapur have been recorded and there is no deliberation and decision with regard to the actual use of these reactors and bays. Further, the certificates issued by SRPC and WRPC do not support the claim of the review petitioner that the line reactors and the bays at Raichur and Sholapur are being used.

11. In view of the analysis in paras 9 and 10 above, the petitioner’s contention that the instant assets satisfy the three conditions laid down by the Tribunal is rejected.

12. The review petitioner has contended that the line reactors at Raichur and Solapur sub-stations are being used as bus reactors. It is observed that the review petitioner had neither stated in the main petition nor submitted any document in support to show



that the beneficiaries were taken into confidence for the use of line reactors as bus reactors at Raichur and Solapur Sub-stations. In the review petition, the review petitioner has submitted for the first time that the line reactors are being used as bus reactors to control over voltage at both Raichur and Solapur as per directive issued by POSOCO vide its letter dated 20.11.2012. The review petitioner is trying to reargue the matter by bringing in new facts which is not allowed at the stage of review. Further, we have also perused POSOCO letter dated 20.11.2012 and find that the letter refers to a few specific lines which were already commissioned prior to 20.11.2012 and neither contains the instant assets nor any principle that in future, line reactors should be installed as switchable reactors for voltage control. It is clarified that whenever the petitioner intends to put any asset into any alternate use that is originally envisaged, it should approach the respective Regional Power Committee for its approval in terms of Regulation 2.4.2 of Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010.

13. In the light of the above discussion, we are of the view that there is no error apparent in the impugned order and accordingly, the grounds for review made in the petition are rejected.

14. Review Petition No.07/RP/2016 is disposed of in terms of the above.

| | | | |
|-------------------------------------|---------------------------------------|--|---|
| Sd/- | Sd/- | Sd/- | Sd/- |
| (M.K. Iyer) Member | (A.S. Bakshi) Member | (A.K. Singhal) Member | (Gireesh B. Pradhan) Chairperson |

