

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

PETITION NO. 43/RP/2016 alongwith

I. A. No. 45/IA/2016

Coram:

**Shri A.S. Bakshi, Member
Dr. M. K. Iyer, Member**

**Date of Hearing: 19.09.2016
Date of Order : 27.10.2016**

In the matter of:

Petition under section 94(1) (f) of the Electricity Act, 2003 read with Regulation 103 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking review of the Order dated 18.3.2016 in Petition No. 113/TT/2013.

And in the Matter of:

Power Grid Corporation of India Ltd,
SAUDAMINI, Plot No. 2,
Sector-29, Gurgaon-122001 (Haryana)

.....Petitioner

Versus

1. Madhya Pradesh Power Management Company Ltd.
Shakti Bhawan, Rampur
Jabalpur - 482 008
2. Maharashtra State Electricity Distribution Co. Ltd.
Prakashgad, 4th Floor
Andheri (East), Mumbai - 400 052
3. Gujarat Urja Vikas Nigam Ltd.
Sardar Patel Vidyut Bhawan,
Race Course Road
Vadodara - 390 007
4. Electricity Department Govt. Of Goa
Vidyut Bhawan, Panaji,
Near Mandvi Hotel, Goa - 403 001
5. Electricity Department
Administration of Daman & Diu
Daman - 396 210



6. Electricity Department
Administration Of Dadra Nagar Haveli
U.T., Silvassa - 396 230
7. Chhattisgarh State Electricity Board
P.O.Sunder Nagar, Dangania, Raipur
Chhatisgarh-492013
8. Madhya Pradesh Audyogik Kendra
Vikas Nigam (Indore) Ltd.
3/54, Press Complex, Agra-Bombay Road,
Indore- 452 008
9. Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,
Vidyut Bhawan, Vidyut Marg,
Jaipur - 302005.
10. Ajmer Vidyut Vitran Nigam Ltd.,
400 kV GSS Building (Ground Floor), Ajmer Road,
Heerapura, Jaipur.
11. Jaipur Vidyut Vitran Nigam Ltd.,
400 kV GSS Building (Ground Floor), Ajmer Road,
Heerapura, Jaipur.
12. Jodhpur Vidyut Vitran Nigam Ltd.,
400 kV GSS Building (Ground Floor), Ajmer Road,
Heerapura, Jaipur
13. Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Kumar House Complex Building II,
Shimla - 171 004.
14. Punjab State Electricity Board,
The Mall, Patiala - 147 001.
15. Haryana Power Purchase Centre,
Shakti Bhawan, Sector - 6
Panchkula (Haryana) - 134 109
16. Power Development Department,
Govt. of Jammu and Kashmir
Mini Secretariat, Jammu.
17. Uttar Pradesh Power Corporation Ltd.,
Shakti Bhawan, 14, Ashok Marg,
Lucknow - 226 001.
18. Delhi Transco Ltd.,
Shakti Sadan, Kotla Road, New Delhi - 110 002



19. BSES Yamuna Power Ltd.,
Shakti Kiran Building, Karkardooma,
Delhi – 110 092.
20. BSES Rajdhani Power Ltd.,
BSES Bhawan, Nehru Place,
New Delhi.
21. North Delhi Power Ltd.,
Power Trading & Load Dispatch Group,
Cennet Building,
Adjacent to 66/11kV Pitampura - Grid Building,
Near PP Jewellers,
Pitampura, New Delhi - 110 034
22. Chandigarh Administration,
Sector - 9, Chandigarh
23. Uttarakhand Power Corporation Ltd.,
Urja Bhawan, Kanwali Road,
Dehradun
24. North Central Railway,
Allahabad
25. New Delhi Municipal Council,
Palika Kendra, Sansad Marg,
New Delhi - 110 002

....Respondent(s)

The following were present:

For Petitioner: Shri Heman Singh, Advocate, PGCIL
 Shri Nimesh Kumar Jha, Advocate, PGCIL
 Shri S. S. Raju, PGCIL
 Shri Rakesh Prasad, PGCIL
 Shri Amit Yadav, PGCIL
 Shri S. K. Venketesan , PGCIL
 Shri R. P. Padhi, PGCIL

For Respondents: None

ORDER

The instant review petition is filed by Power Grid Corporation of India (PGCIL) seeking review of the order dated 18.3.2016 in Petition No. 113/TT/2013, wherein



the tariff for (i) 400 kV 1X63 MVAR Bus Reactor along with associated 400 kV bays at Satna Sub-station (hereinafter referred as "Asset-I") and (ii) 400 kV D/C Quad Bassi-Jaipur (RPVNL) line (hereinafter referred as "Asset-II") was allowed for the tariff period 2014-19 under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred as "2014 Tariff Regulations").

2. As per the investment approval dated 17.3.2010, the assets were scheduled to be commissioned on 1.12.2012. However, the assets were commissioned on 1.4.2013 and 1.1.2014. There was a time over-run of 4 months and 13 months in case of Asset I and II respectively, out of which the time over-run of 4 months in Asset I and 8 months in Asset II due to ROW issues was condoned. The time over-run of 5 months in case of Asset II, out of 13 months, attributable to rebidding was disallowed. The relevant portion of the order dated 25.4.2016 is extracted hereunder:-

" 14. We have considered the submission of the petitioner regarding delay due to annulment of bidding process. It is observed that the annulment of bidding process was on account of change in designed packages of Reactors at Vindhyachal Substation in Asset-I, rebidding of equipments to encourage better participation in 765 KV system causing consequent delay in 400 KV bays at Satna Sub-station and Bassi Sub-station under Asset-I and Asset-II respectively and staggered manner bidding process in Asset 2. As regards the bidding process of Asset 1, the bidding process was initiated by the petitioner in February, 2010. However, due to deletion of one number of 400 kV line bays at Vindhyachal Pooling station, the package was redesigned by the petitioner. The deletion of one number of bay was subsequent development and as such, the petitioner was constrained to redesign packages. We are of the view the delay of 4 months shall be condoned in Asset-I by considering generic timeline of three to four months for tendering process. Further, with regard to rebidding of equipments to encourage better participation in 765 KV system for Asset-I & Asset-II and staggered manner bidding process for Asset-II, we are of the view that the petitioner was aware of this fact from the beginning at the time of investment approval. As per industrial practice, these factors are taken care at the time of development and investment decision of new 765 kV system and Board of the Company approves the same by considering all these factors. In light of the above, the petitioner's claim for condoning delay on this count for is not justified. The delay from September, 2010 to February, 2011 is not condoned in case of Asset-II."



3. Aggrieved by the said order, the review petitioner has filed the instant review petition. The review petitioner has submitted that while disallowing the time over-run in Petition No. 113/TT/2013 with regard to Asset II, the Commission could not assess the ROW issues that were encountered for a period of 20 months.

4. The review petitioner has further submitted that there is delay of 74 days in filing the review petition and the delay is due to certain exigencies pertaining to seeking approval from the management authorities for filing the review petition and for want of engaging legal counsel. The review petitioner has requested to condone the delay in filing the review petition and requested to admit the review petition. We have considered the submissions of the review petitioner. We are of the view that the review petitioner should streamline its procedure for internal processing of the files so that the review petitions are filed within the time line prescribed in the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999. The delay in filing the review petition is condoned as a special case. IA is accordingly disposed of.

4. The grounds submitted by the review petitioner for review of the order dated 18.3.2016 are as under:-

- a) The aforesaid delay of 13 months with regard to Asset II was due to ROW issues which are beyond the control of the review petitioner. The delay in commissioning of Asset-II during November 2011 to July 2013 is mainly due to ROW issues at location nos. 42/0 to 43/0, 21/0, 9/2 to 9A/1, 1/0, 2/0, 25/0, 26/0 and the corroborating facts and evidences for which have already been placed on record, leading to a time over run of 13 months.

- b) The Commission has considered ROW issues persisting for 8 months (from December 2012 to July 2013) as the only period which could be condoned and has not taken cognizance of the averments made with regard to the ROW issues during the period from November, 2011 to November, 2012.
- c) Procurement process of the 765 kV equipment being in the nascent stage and in order to encourage better participation by major Sub-station erections contractors, the review petitioner excluded the supply of 765 kV circuit breakers from the scope of work and categorized it as a separate package for procurement.
- d) The time over-run delay of eight months in case of Asset II was on account of ROW issues was condoned while discounting the remaining five months required for erecting/ construction of the transmission lines.
- e) The Commission failed to appreciate the fact that even though ROW issues were encountered for a period of 20 months i.e., during November, 2011 to July, 2013, the review petitioner completed the line with a delay of only 13 months through effective and prudent project management.
- f) The force majeure event came to an end in July, 2013, the review petitioner has made efforts to complete the consequential balance work pertaining to the foundation and stringing of five towers, which took an additional five months for completion, which is well within the normative period for completion of such work. This period of construction has to be construed from the day the force majeure events cease to exist. Non-consideration of the same requires to be reviewed as the review

petitioner has been unjustly deprived of claiming an IDC and IEDC of ₹140.22 lakh towards the said delay of five months.

- g) The Commission while making an observation with regard to the delay on account of retendering process has further failed to take note of the fact that the aforesaid delay of thirteen months had no impact on the capital cost of the Asset-II vis-a-vis the apportioned approved DPR cost. On the contrary, the review petitioner finished its scope of work within the approved DPR cost, and as such, any disallowance of the said cost is an error apparent on the face of record.
- h) It is submitted that there was a reduction of about ₹1045 lakh in actual capital equipment cost of the asset leading to corresponding reduction of ₹443 lakh in IDC through judicious deployment of fund. Due to this, even though the project started late by five months, it resulted in reduction of cost due to reduction of IDC burden.
- i) The review petitioner has also submitted that there is a delay of 74 days in filing the review petition due to delay in seeking approval from the management authorities. The petitioner has submitted that being a Government company review petition requires approval from various level of management. The review petitioner has prayed for condoning the delay in filing and to admit the review petition.

5. The hearing in the matter was held on 19.9.2016. None of the respondents have filed their reply. The learned counsel for the review petitioner reiterated the submissions made in the review petition and requested to allow time over-run in case of Asset II, which was disallowed by the Commission in order dated 18.3.2016 in Petition No. 113/TT/2013.



6. We have heard the learned counsel of the review petitioner and perused the documents on the record. The review petitioner has submitted that commissioning of Asset II was delayed due to ROW issues from November, 2011 to July, 2013 and annulment of bidding process. It has however claimed that the overall delay is on account of only RoW issues.

7. The review petitioner has restated the facts that have already been submitted in Petition No. 113/TT/2013 and the issues have already been addressed in order dated 18.3.2016 in Petition 113/TT/2013. The bidding procedure initially commenced with the issue of IFB on 23.9.2010. However, as submitted by the review petitioner, the procurement for 765 kV assets were in nascent stage in India and to encourage better participation by major sub-station erection contractors in 765 kV, the petitioner decided to exclude the supply of 765 kV circuit breakers from the scope of work and procure them under separate package. Accordingly, the earlier bidding process was annulled and fresh bids for the subject package were invited. Thus, the bidding process with regard to Asset II was initiated on September, 2010 and IFB was published on 9.2.2011. Overall delay occurred from September, 2010 to February, 2011 due to rebidding and from November, 2011 to July, 2013 due to ROW. The time over-run due to ROW issues was beyond the control of the review petitioner and accordingly is was allowed. However, we are of the view that rebidding was due to redesigning of the packages, which is within the control of the review petitioner. As the time over-run of five months from September, 2010 to February, 2011 could have been avoided if care was taken by the review petitioner at the time of planning and development of the instant asset, we were of the view that the time over-run is attributable to the review petitioner and accordingly the time over-run was disallowed. We do not find any error in our order dated 18.3.2016 in Petition No.



113/TT/2013. Accordingly, the review petition is not maintainable and disposed at admission stage.

8. This order disposes of I.A No. 45/IA/2016 and Petition No. 43/RP/2016.

sd/-
(Dr. M.K. Iyer)
Member

sd/-
(A.S. Bakshi)
Member

