

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Review Petition No. 47/RP/2017

Coram:

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

Date of Order : 18.7.2018

In the matter of:

Petition under section 94 (1) (f) of the Electricity Act, 2003 read with order 47 rule 1 of the Code of Civil Procedure, 1907 for review of the order dated 18.10.2017 in Petition No. 26/TT/2017.

And in the matter of:

Rajasthan Rajya Vidyut Prasaran Nigam Limited,
Vidyut Bhawan, Jyoti Nagar,
Jaipur – 302005

.....

Review Petitioner

Vs

1. Power Grid Corporation of India Ltd.,
Saudamini, Plot No. 2, Sector-29,
Near IFFCO Chowk,
Gurgaon-122 001.
2. Haryana Vidyut Prasaran Nigam,
Shakti Bhawan, Sector-6,
Panchkula-134109.
3. Haryana Power Purchase Centre,
2nd Floor, Shakti Bhawan, Sector-6,
Panchkula (Haryana) 134 109.
4. M. P. Power Transmission Company Ltd.,
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur-482008.



5. M. P. Power Management Co. Ltd. (MPPMCL)
Block No. 11, 1st Floor, Shakti Bhawan,
Rampur, Jabalpur-482008.

..... Respondents

For petitioner : Ms. Ranjitha Ramachandran, Advcoate, RRVPNL
Ms. Poorva Saigal, Advocate, RRVPNL

For respondent : Shri Vivek Kumar Singh, PGCIL
Shri S.K. Venketash, PGCIL
Shri S.S. Raju, PGCIL
Shri A. Chaudhary, PGCIL
Shri Rakesh Prasad, PGCIL

ORDER

This review petition has been filed by Rajasthan Rajya Vidyut Prasaran Nigam Limited (RRVPNL) for review of the Commission's order dated 18.10.2017 in Petition No. 26/TT/2017 under Section 94(1)(f) of the Electricity Act, 2003 read with Order 47 Rule 1 of the Code of Civil Procedure, 1907.

Background of the case

2. The following six transmission lines of the Review Petitioner were identified as inter-State transmission lines, on the basis of the inputs provided by Northern Regional Power Committee (NRPC). The Review Petitioner was directed to file tariff petition in respect of these lines for the purpose of inclusion in the POC charges in terms of Commission's order dated 14.3.2012 in Petition No.15/SM/2012:-

Sl. No.	Name of Line	Connecting States
1.	220 kV S/C MIA (Alwar)-Badarpur line	Rajasthan-Delhi
2.	220 kV S/C Agra-Bharatpur line	Rajasthan-Uttar Pradesh
3.	220 kV S/C Kota (Sakatpura)-Badod line	Rajasthan-Madhya Pradesh
4.	220 kV S/C Modak-Badod line	Rajasthan-Madhya Pradesh



5.	220 kV S/C Khetri –Dadri line-I	Rajasthan-Haryana
6.	220 kV S/C Khetri –Dadri line-II	Rajasthan-Haryana

3. The Review Petitioner claimed tariff for twenty transmission lines under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (hereinafter "2009 Tariff Regulations") in Petition No. 213/TT/2013 for the period 2011-14. The Commission, however, allowed transmission tariff only for six transmission lines for the period 2011-14 vide order dated 18.3.2015 in Petition No. 213/TT/2013. The tariff was not granted to the remaining 14 lines as they were not certified by the Northern Region Power Committee (NRPC) as required under the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2010 ("2010 Sharing Regulations").

4. The Review Petitioner filed Petition No. 26/TT/2017 for approval of the transmission tariff of 7 transmission lines/system duly supported by the RPC certificate out of 14 transmission lines which were disallowed vide order dated 18.3.2015 in Petition No. 213/TT/2013. In the said order, the Commission observed that tariff of the subject transmission lines had already been recovered by the Review Petitioner on the basis of the tariff approved by the State Commission and fresh determination of tariff would call for revision of PoC charges retrospectively. The tariff of these lines was disallowed vide order dated 18.10.2017 is as under:-

"We have considered the submissions made by RRVPNL. RRVPNL has claimed transmission tariff for seven inter-State transmission lines retrospectively for the 2009- 14 tariff period. These transmission lines are part of the State network and are shared by STU. The State Commission has already granted ARR for the State network for the 2009-14 period which is inclusive of the tariff for the transmission lines covered in the instant petition. As such, RRVPNL has already recovered tariff for these lines. Further, PoC



charges for the 2011-14 period have already been processed and recovered. Granting of tariff for these transmission lines afresh by this Commission and inclusion in the PoC charges would lead to revision of the PoC charges retrospectively. Further, it would require revision/adjustment of the ARR already granted by the State Commission for the 2011-14 period. Hence, we are not inclined to allow tariff for these lines retrospectively for the period 2011-14. ”

5. Aggrieved by the impugned order, the Review Petitioner has filed the instant review petition seeking modification of the impugned order and sought approval of tariff for seven transmission lines/system.

Grounds for review

6. The Review Petitioner has submitted the following grounds for review of order dated 18.10.2017:-

(a) An erroneous conclusion has been made in the impugned order that the transmission charges should not be revised after the expiry of the control period. Tariff determination is a continuous and on-going process and the same is bound to be revised on account of various aspects including on account of fresh determination of tariff or decision of the Appellate Authority and, therefore, the revised tariff gets implemented under many circumstances, after the control period is over.

(b) The Commission itself determined the tariff for six transmission lines vide order dated 18.3.2015 in Petition No. 213/TT/2016 for the period 2011-14 after the expiry of the control period on 31.3.2014 and the same reasoning be applied for allowing the tariff for the seven transmission lines in Petition No. 26/TT/2017.



- (c) In order dated 18.3.2015 in Petition No. 213/TT/2013, the tariff determination process in respect of 14 transmission lines was deferred for want of certification from NRPC. On receipt of certification from the NRPC vide letter dated 9.11.2016, the petitioner filed petition for determination of tariff in respect of the 7 lines in Petition No. 26/TT/2017.
- (d) The revenue recovered would be adjusted in the ARR before the State Commission in the ensuing years and there will not be any excessive or double benefit to it. The amount recovered would eventually reduce the revenue requirements of the Review Petitioner and thereby the revenue requirements of the State Distribution Companies, benefitting the consumers at large.
- (e) The consumers of the State will suffer financial prejudice and loss if the transmission charges are not determined for the instant seven lines for the control period 2011-14 and allowed to be recovered by the Review Petitioner.
- (f) Disallowing the transmission tariff for the seven transmission lines covered in the main petition on the ground that the control period expired on 31.3.2014 is an apparent error and needs to be corrected. The Review Petitioner referred to judgments of Hon'ble Supreme Court in (a) Board of Control for Cricket in India v. Netaji Cricket Club (2005) 4 SCC 741, (b) Dhanani Shoes Limited v State of Assam and Others [2008] 16 VST 228 (Gau), (c) Moran Mar Basselios Catholicos and Anr. v. The Most Rev. Mar Poulouse Athanasius and Ors., (1955) 1 SCR 520, (d) Thungabhadra Industries Ltd. v. The Government



of Andhra Pradesh, (1964) 5 SCR 174, (e) Rajender Singh Vs. Lt. Governor, Andaman and Nicobar Islands and Ors., (2005) 13 SCC 289 and (f) Green View Tea and Industries v. Collector, Golaghat, Assam and Anr.(2004) 4 SCC 122 and requested to modify the impugned order by removing the apparent error as held by the Hon'ble Supreme Court in the above said judgments.

7. Reply to the Review Petition has been filed by MPPTCL, Respondent No.4. MPPTCL has submitted that the seven transmission lines in Petition No.26/TT/2017 include 132 kV Sheopur-Khandar line. The line from 132 kV Sub-station Sheopur upto the State border between M.P and Rajasthan falls under the jurisdiction of MPPTCL whose tariff has been claimed by the Review Petitioner for 35.24 km length. The Review Petitioner should have claimed the tariff for 12.262 km length of the line from 132 kV Sub-station Khandar upto M.P. boarder which falls in its jurisdiction. MPPTCL has further submitted that the aforesaid facts and discrepancy in the length of the line were informed to the Commission through communication dated 8.9.2017.

8. The Review Petitioner has not filed any rejoinder to the reply of MPPTCL.

9. The Review Petition was heard on 7.3.2018 and 3.7.2018. Learned counsel for the Review Petitioner reiterated the submissions made in the Review Petition.

Analysis and Decision

10. The basic contention of the Review Petitioner is that the Commission disallowed the transmission tariff of the seven transmission lines which were certified by NRPC as carrying inter-state power on the ground that tariff cannot be revised retrospectively



after the control period is over. The Review Petitioner has submitted that the Commission in Petition No. 213/TT/2013 approved the tariff vide order dated 18.3.2015 retrospectively for six transmission lines owned by the Review Petitioner for the period 1.7.2011 to 31.3.2014 after the expiry of control period 2009-14. However, the Commission has adopted a different approach while dealing with the 7 transmission lines in the impugned order. The Review Petitioner has submitted that disallowance of tariff in the impugned order is a departure from the earlier order which constitutes an error apparent on the face of record.

11. We have given our thoughtful consideration to the submissions of the Review Petitioner. In order dated 18.3.2015 in Petition No. 213/TT/2013, the Commission had returned the following finding while disallowing the tariff in respect of 14 transmission lines:-

“14. The certificate of NRPC is available in terms of the above Regulation in respect of six transmission lines which were included in the Commission’s order dated 14.3.2012. Since the certification is not available for the 14 transmission lines, we direct the petitioner to approach NRPC for the required certification of these lines for inclusion in the PoC Charges. Accordingly, only the six transmission lines are being considered in this petition for grant of annual transmission charges. Further, since the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2010 came into force with effect from 1st July, 2011, Yearly Transmission Charges (YTC) for these six transmission lines have been calculated for the year 2011-12 (1.7.2011 to 31.3.2012), 2012-13 and 2013-14.”

12. However, after that Petitioner filed Petition No. 26/TT/2017 supported by NRPC certificate, the petition was rejected on the ground that the control period is over and it would require retrospective revision of the PoC charges. However, in the past, the Commission had determined the tariff even after the expiry of the control period. Since the transmission lines are used for conveying inter-state power, tariff needs to be



included in the PoC charges. Otherwise, the Review Petitioner would be deprived of its legitimate charges for use of its transmission lines. Considering the above factors, we are of the view that rejection of the Petition No. 26/TT/2017 needs to be revisited. Accordingly, we withdraw our order rejecting the tariff petition of the Review Petitioner. The Petition No. 26/TT/2017 shall be listed for hearing and tariff of the assets concerned would be determined. The submission of MPPTCL with regard to 132 kV Sheopur-Khandar transmission line shall be dealt with at the time of determination of tariff of the said transmission lines.

13. In view of the above, Review Petition No. 47/RP/2017 filed by Review Petitioner is disposed of.

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

sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

