

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 44/RP/2016

in

Petition No. 236/MP/2015

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri A. K. Singhal, Member

Shri A. S. Bakshi, Member

Dr. M. K. Iyer, Member

Date of Order: 17th of October, 2017

IN THE MATTER OF

Review Petition under Section 94 of the Electricity Act, 2003 read with Regulations 103, 111 and 114 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 read with Order 47, Rule 1 of Code of Civil Procedure, 1908 for review of order dated 27.6.2016 in Petition No. 236/MP/2015 passed by the Commission.

And

In the matter of

- 1) NTPC Ltd.
NTPC Bhawan
Core-7, SCOPE Complex
7, Institutional Area
Lodhi Road
New Delhi-110003

....Review Petitioner

Vs

- 1) Kudgi Transmission Corporation Ltd.
Building No. 3, Second Floor
Sudeep Plaza, MLU Sector 11
Pocket-4, Dwarka
New Delhi-110075
- 2) Bangalore Electricity Supply Company Ltd (BESCOM)
Krishna Rajendra Circle
Bangalore-560009
- 3) Chamundeshwari Electricity Supply Corp. Ltd. (CESC Mysore)
Corporate Office, 927, L.J. Avenue
New Kantharajours Road
Saraswathi Puram, Mysore-570009



- 4) Hubli Electricity Supply Company Ltd
P.B. Road, Nava Nagar Hubli
Karnataka-580025
- 5) Mangalore Electricity Supply Company Ltd (MESCOM)
Paradingm Plaza, A.B. Shetty Circle
Mangalore-575001
- 6) Gulbarga Electricity Supply Company Ltd (GESCOM)
Main Road, Gulbarga, Karnataka
Gulbarga-585102
- 7) Power Company of Karnataka Ltd
Cauvery Bhavan, K.G. road
Bangalore-560001
- 8) Kerala State Electricity Board
Vydyuthi Bhavanam
Thiruvananthapuram-695004
- 9) Tamil Nadu Generation and Distribution Corporation Ltd
NPKRR Maaligai, 800, Anna Salai
Chennai-600002
- 10) Southern Power Distribution Company Ltd. of Andhra Pradesh Ltd. (APSPDCL)
H. No. 19-13-65/A, Srinivasapuram,
Tiruchanoor Road, Tirupati-517 503
- 11) Eastern Power Distribution Company of Andhra Pradesh Ltd.
P&T Colony, Seethammadhara,
Visakhapatnam-530 013
- 12) Southern Power Distribution Company of Telangana Ltd
6-1-50, Mint Compound
Hyderabad-500 063
- 13) Northern Power Distribution Company of Telangana Ltd
H. No. 2-5-31/2, Corporate Office
Vidyut Bhavan, Nakkalgutta
Hanamkonda
Warangal-506001
- 14) Power Grid Corporation of India Ltd
B-9, Qutab Institutional Area, Katwarai Sarai
New Delhi-110016
- 15) Power System Operation Corporation Limited
B-9, Qutab Institutional Area, Katwaria Sarai
New Delhi-110016

16) Central Electricity Authority
Sewa Bhawan, Sector-1
R.K. Puram, Delhi-110066

...Respondents

Parties Present:

- 1) Ms. Suparna Srivastava, Advocate, NTPC
- 2) Shri V.K. Jain, NTPC
- 3) Shri V.K. Garg, NTPC
- 4) Shri Sitesh Mukherjee, Advocate, PGCIL
- 5) Shri Gautam Chawla, Advocate, PGCIL
- 6) Ms. Akansha Tyagi, Advocate, PGCIL
- 7) Shri Aryaman Saxena, PGCIL
- 8) Shri Alok Shankar, Advocate, KTL
- 9) Ms. Pratiksha Mishra, Advocate, BESCOM
- 10) Shri S.S. Barpanda, NLDC

ORDER

This Review Petition has been filed by NTPC Ltd. under Section 94 (1) (f) of the Electricity Act, 2003 (hereinafter referred to as the Act) read with Regulation 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking review of the order dated 27.6.2016 in Petition No. 236/MP/2015 (impugned order).

Background of the case:

2. L&T Infrastructure Development Projects Limited (LTIDPL) was selected based on the international tariff based competitive bidding to execute the following transmission system on build, own, operate and maintain basis and to provide transmission service to the Long Term Transmission Customers (LTTCS) of the project:

(a) 2 Nos 400 kV D/C transmission line Kudgi TPS to Narendra (New);

(b) 765 kV D/C transmission line Narendra (New) to Madhugiri;



(c) 400 kV D/C transmission line Madhugiri to Bidadi.

3. LTIDPL acquired Kudgi Transmission Limited (KTL) as its wholly owned subsidiary and entered into a Transmission Service Agreement dated 14.5.2013 with the Long Term Transmission Customers of the transmission system. After adoption of tariff and grant of transmission licence for the said transmission asset, KTL executed the project. The effective date of the transmission system was 30.8.2013. The first element of the project was scheduled to be commissioned within 18 months from the effective date and the other two elements within 24 months of the effective date. Therefore, the scheduled SCOD of the first element was 28.2.2015. Since the project was proposed to be developed as evacuation facility for Kudgi TPS (3X800MW Phase-I) of NTPC, the Review Petitioner herein, the following inter-connection facilities were required to be developed prior to the commissioning of the first element of the project:

S. No.	Name of the Agency Responsible	Inter-connection facility
1.	NTPC Kudgi Power Plant (3 x 800MW)	400 kV Bays allotted to KTL for connecting Element- 1
2.	PGCIL	Narendra (New) 765/400kV Pooling station - Respective Bays allotted to KTL for connecting Element- 1
3.	PGCIL	Multi Circuit Tower for terminating 2 circuits (second 400kV D/C line) of Element -1

4. Even though entire scope of work for the first element was completed on 27.3.2015, the element could not be tested and charged due to non-availability of inter-connection facility required to be developed by NTPC and PGCIL. The first element was inspected by Electrical Inspector on 28.7.2015 and declared as ready for charging. As per Article 6.2 of the TSA, an element is deemed to be completed 7 days after the TSP declares the facility ready for charging. Therefore, in terms of the

TSA, KTL declared the transmission line to be under commercial operation from 4.8.2015 which was notified by the petitioner to all Long Term Transmission Customers vide its letter dated 6.8.2015. As per Article 10.1 of the TSA, the petitioner is entitled to tariff from the date of commercial operation of the element of the project. The petitioner, after declaring the COD of the first element, raised bills for transmission charges. Since the dispute arose as to whether the tariff of the first element shall be included in the PoC charges, KTL filed Petition No.236/MP/2015 seeking a direction that it is entitled to recover transmission charges from the date of completion of the first element of the transmission project. The Commission after hearing KTL, LTTCs, PGCIL, NTPC and POSOCO decided the following through the impugned order:

- (a) The transmission charges for the period from 4.8.2015 to 23.8.2015 shall be shared by both NTPC and PGCIL in the ratio of 50:50.
- (b) From the CEA letter dated 24.8.2015 (regarding energisation of the transmission line), it was observed that the bays of NTPC were ready in the month of August, 2015. However, PGCIL Narendra (New) sub-station was charged on 15.11.2015 and subsequently, 400 kV Kudgi Switchyard was charged on 16.11.2015. PGCIL was directed to pay the transmission charges to KTL for the period from 24.8.2015 to 15.11.2015 as KTL's transmission line could not be utilised due to non-completion of element under the scope of PGCIL.
- (c) For the period from the period 16.11.2015 till the COD of first unit of Kudgi STPS, NTPC was directed to pay the transmission charges to KTL in terms of the Regulation 8 (5) of the Sharing Regulations.

(d) NTPC was also directed to pay nodal charges for use of ISTS [other than Kudgi-Narendra (New)] towards drawl of start-up power as per rates prescribed under Sharing Regulations.

5. The Review Petitioner has sought the review of the following findings in the impugned order:

(a) Considering the deemed COD of the first element of the transmission system of KTL as 4.8.2015 even though the said element was charged on 16.11.2015.

(b) Directing the Review Petitioner's liability to pay the transmission charges of the first element of KTL in the ratio of 50:50 for the period from 4.8.2015 to 23.8.2015 and the transmission charges from 16.11.2015 till the COD of first unit of Kudgi STPP.

(c) Considering the associated transmission lines emanating from Kudgi STPP to New Narendra (PGCIL) as connectivity lines of Kudgi STPP and not as part of inter-State transmission network and directing the Review Petitioner to pay transmission charges for the said line in terms of Regulation 8(5) of the Sharing Regulations.

(d) Finding regarding payment of drawal of start-up power is erroneous.

6. The Petition was admitted and notices were issued to the respondents to file their replies. In response, KTL and BESCO have filed their replies to the review petition. The Review Petitioner has also filed its rejoinder. We have considered the

grounds of review pleaded by the Review Petitioner and the replies of the Respondents and recorded our decision under each ground of review.

(A) Approval of deemed COD of the transmission project associated with the Kudgi STPP:

7. The Review Petitioner has submitted that while approving the deemed COD of the first element of the transmission project as 4.8.2015, the Commission has relied on the proviso to Article 6.2.1 of the TSA which allows an element to be declared to have achieved COD if all the elements, if any, pre-required to have achieved COD as defined in Schedule 3 of the TSA, have also achieved COD. The Review Petitioner has submitted that the Commission has omitted to take into account the express pleadings made by the Review Petitioner in its affidavit dated 14.1.2015 that the transmission line cannot be declared under commercial operation unless it is test charged from both ends and put to regular use as has also been held by the Appellate Tribunal in Appeal No. 123/2011. The Review Petitioner has submitted that since KTL has not charges its first element, the actual COD of the said element cannot be before 16.11.2015. The Review Petitioner has relied upon Regulation 3(12)(c) of the 2009 Tariff Regulations and Regulation 4 of the 2014 Tariff Regulations and has submitted that for a transmission system to become commercially operational, the regulations of the Commission require that the said transmission system to be “in regular service after successful charging and trial operation”. The Review Petitioner has submitted that any trial and operation to demonstrate successful charging can take place only when all other elements such as bays etc. at both ends of the transmission line are ready and have been declared under commercial operation and without them, the transmission system cannot come under regular service. The Review Petitioner has submitted that the Tariff

Regulations are applicable in all cases where tariff for transmission system is determined by the Commission. The Review Petitioner has submitted that the COD of the first element of the transmission system is liable to be considered by the Commission in terms of the Tariff Regulations. Since this aspect has escaped the attention of the Commission, the finding of the Commission approving the deemed COD of the 400 kV D/C Kudgi STPP-Narendra (New) transmission line from 4.8.2015 in terms of the provisions of the Article 6.2.2 of the TSA is erroneous and is liable to be rectified in review.

8. KTL has submitted that the scope of review has been settled by the Hon'ble Supreme Court in Kamlesh Verma V. Mayawati {(2013) 8 SCC 320} wherein it has been held that "a review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error". KTL has submitted that grounds for review of the impugned order seeks to re-write the entire judgement which was heard and argued in detail by all parties and order was passed after carefully considering all submissions relevant for adjudication of the dispute. KTL has submitted that in para 7 of the impugned order, the submissions of the Review Petitioner were recorded which are similar to the submissions raised in the review petition and in fact, the grounds for present review are in juxtaposition to earlier submission of the Review Petitioner in the main petition. KTL has further submitted that the scheduled COD of the project was 28.2.2015 and 31.12.2015. Though KTL had completed the work for the first element on 27.3.2015, it could not test and charge the element due to non-availability of inter-connection facility required to be developed by the Review Petitioner and PGCIL. KTL has submitted that the project is being executed through tariff based competitive bidding and as per the provisions of the TSA, there is no pre-required element for COD of the instant line. Thus,

deemed COD of the 400 kV D/C Kudgi TPS-Narendra (New) Transmission line-A starts from 4.8.2015 in terms of provisions of Article 6.2.2 of the TSA i.e. 7 days after energisation of the transmission line.

9. Bangalore Electric Supply Company Limited (BESCOM), Respondent No.2 herein, has submitted that the Review Petitioner has not pointed out any error apparent on the face of record but is questioning the impugned order on merit and therefore, the review petition is liable to be dismissed on this ground alone. BESCOM has submitted that in a meeting held on 24.4.2015 presided over by Chief Engineer i/c (PSPM), Central Electricity Authority, the representatives of BESCOM expressed the view that the transmission charges should not be levied on Long Term Transmission Customers for default of other parties. BESCOM has submitted that as per Article 4.1(c) of the TSA, the TSP (KTL) shall at its own cost and expense observe, comply with, perform, undertake and be responsible for entering into a Connection Agreement with the CTU/STU (as applicable) in accordance with the Grid Code. BESCOM has further submitted that connection agreement as per the TSA shall mean the agreement between the CTU/STU and the TSP, setting out the terms relating to the connection of the project to the inter-connection facilities and use of the ISTS as per the IEGC/State Grid Code as the case may be. Further, Regulation 8(5) of the Connectivity Regulations provide for signing of the Connection Agreement with CTU or inter-State transmission licensee owning the sub-station or pooling station or switchyard or the transmission line as identified by the nodal agency where connectivity is being granted. BESCOM has also submitted that the Commission in its order dated 21.8.2012 in Petition No.169/SM/2012 directed all generating companies to sign connection agreement. BESCOM has submitted that the delay in commissioning of the project due to non-availability of inter-connection



facility cannot be attributed to BESCO whose role is limited to the use of the available transmission capacity of the Project and to pay to KTL the transmission charges determined in accordance with the TSA. BESCO has submitted that it being not a part of any of the processes in respect of which delay is alleged cannot be made to pay the transmission charges when in fact, no actual transmission has taken place and BESCO has not benefited from such transmission. BESCO has submitted that since the first element had not achieved COD, the liability to transmission charges cannot be on the Long Term Transmission Customers.

10. The Review Petitioner in its rejoinder to the reply of Respondent No.2 (BESCO) has submitted that as per 33rd Meeting of the Steering Committee on Power System Planning of Southern Region held on 15.11.2011 and 15th Meeting of Southern Region Constituents regarding Long Term Access and Connectivity Applications held on 25.11.2011, the Associated Transmission System (ATS) of Kudgi STPP has been approved to be implemented as ISTS and Kudgi TPS-Narendra (New) 400 kV 2xD/c quad lines for evacuating power from the Kudgi STPP (Element 1). The Review Petitioner has submitted that in its affidavit dated 14.12.2015 filed in the main petition, the Review Petitioner had submitted that inter-connection facilities at its end were ready in the month of July 2015; however the charging of Element 1 took place on 15.11.2015 for reasons solely attributable to CTU. The Review Petitioner has submitted that it entered into a Tripartite Connection Agreement with CTU and KTL on 28.7.2015. The Review Petitioner has submitted that in so far as liability to pay the transmission charges for Element 1 of KTL is concerned, it reiterates that the said element being implemented as part of ISTS, the transmission charges for the same are necessarily to be shared in accordance with the PoC mechanism.

Analysis and Decision

11. The Review Petitioner has submitted that the Commission declared the deemed COD of element 1 of the transmission system of KTL with effect from 4.8.2015 by overlooking the pleadings of the Review Petitioner that the transmission line cannot be put to regular use unless it is test charged at both ends. KTL has submitted that the Commission has decided the COD correctly in accordance with the provisions of the TSA and that the provisions of Tariff Regulations relied upon by the Review Petitioner are misplaced. KTL has submitted that the Review Petitioner is re-arguing the matter on merit which is outside the scope of review.

12. We have considered the submissions of the Review Petitioner and KTL. According to Review Petitioner, the provisions of the Tariff Regulations are applicable in all cases where the tariff is determined by the Commission and since the Commission has adopted the tariff of KTL, declaration of COD with effect from 4.8.2015 is in violation of Regulation 4 of 2014 Tariff Regulations and the judgement of the Appellate Tribunal in Appeal No.123/2011. In our view, the contention of the Review Petitioner is not correct. Regulation 2 of 2009 Tariff Regulations provides that “these regulations shall apply in all cases where tariff for a generating station or unit thereof (other than those based on non-conventional energy sources) and the transmission system is to be determined by the Commission under Section 62 of the Act read with Section 79 thereof”. Regulation 2(1) of the 2014 Tariff Regulations provides that “these regulations shall apply in all cases where tariff for a generating station or unit thereof and a transmission system or element thereof including communication system used for inter-State transmission of electricity”. Further, sub-clause (a) of clause (2) of Regulation 2 of 2014 Tariff Regulations provides that these regulations shall not apply to determination of tariff in case of “generating

stations or inter-State Transmission Systems whose tariff has been discovered through tariff based competitive bidding in accordance with the guidelines issued by the Central Government and adopted by the Commission under Section 63 of the Act.” Therefore, the Tariff Regulations of the Commission are not applicable in case of the projects whose tariff has been adopted by the Commission under Section 63 of the Act. That being the case, the Review Petitioner is not correct in its submission that the Commission overlooked the provisions of the 2014 Tariff Regulations while deciding the deemed COD of the Element 1 of the project of KTL as 4.8.2015. It is further pertinent to mention that the judgement of the Appellate Tribunal in Appeal No.123/2011 was in the context of the interpretation of the provisions of Regulation 3(12)(c) of the 2009 Tariff Regulations which has been upheld by the Hon’ble Supreme Court. However, since the Tariff Regulations are not applicable in case of TBCB projects, the judgement of the Appellate Tribunal will not come to the aid of the Review Petitioner. The TSA in case of TBCB projects contains all provisions including provisions relating to the commercial operation of an element or the transmission system. The Commission considered the issue of declaration of COD of first element of the transmission system of KTL in the light of the various provisions of the TSA as under:

“26. We have considered the submissions of the petitioner and the respondents. Article 2 of the TSA defines the Effective Date as under:

“2.1 Effective Date

This agreement shall be effective from later of the dates of the following events:

- (a) The agreement is executed and delivered by the Parties; and
- (b) The selected Bidder has acquired for the Acquisition Price one hundred percent (100%) of the equity shareholding of REC Transmission Projects Company Ltd. In Kudgi Transmission Limited along with all its related assets and liabilities as per the provisions of the Share Purchase Agreement; and

(c) The Selected Bidder on behalf of the TSP, has provided the Contract Performance Guarantee, as per terms of Article 3.1 of this agreement.

As per the said provisions, the TSA would be effective from the date of execution of TSA, successful bidder acquired the TSP as its fully owned subsidiary and successful bidder provided Contract Performance Guarantee whichever is later. It is noted that the TSA was entered into between the parties on 14.5.2013. LTIDPL acquired KTL as its fully owned subsidiary on 30.8.2013. Therefore, the effective date for implementation of the project is 30.8.2013. According to the petitioner, the scheduled commercial operation date of the first element of the transmission system was on 28.2.2015 and the petitioner completed its entire work for the first element on 27.3.2015. However due to non-availability of inter-connection facility required to be developed by NTPC and PGCIL, the transmission asset could not be tested and charged.

Scheduled COD has been defined as under:

“Scheduled COD” in relation to an Element(s) shall mean the date(s) as mentioned in Schedule 3 as against such Element(s) and in relation to the Project, shall mean the date as mentioned in Schedule 3 as against such Project, subject to the provisions of Article 4.4 of this Agreement, or such date as may be mutually agreed among the Parties.”

27. Scheduled COD has been given in Schedule 3 of the TSA with overall SCOD as 28 months from the effective date. As per schedule 3 of the TSA, the first element of the project was contemplated to be completed within a period of 18 months and other two elements were contemplated to be completed within a period of 28 months. Therefore, the Scheduled COD of the project was 28.2.2015 and 31.12.2015. However, the petitioner completed the entire scope of work for the first element on 27.3.2015 and due to non-availability of inter-connection facility required to be developed by NTPC and PGCIL, it could not test and charge the same.

28. Article 4.3 of the TSA provides for the time for commencement and completion of the project as under:

“(a) The TSP shall take all necessary steps to commence work on the project from the effective date of the agreement and shall achieve Scheduled COD of the project in accordance with the time schedule specified in Schedule 3 of this Agreement.

(b) The COD of each element of the project shall occur not later than the Scheduled COD or within such extended time to which the TSP shall be entitled under Article 4.4 hereto.”

29. Article 6.2.1 and Article 6.2.2 of the TSA which deal with the commercial operation of the project provides as under:

“6.2.1 An element of the project shall be declared to have achieved COD seventy two (72) hours following the connection of the elements with the interconnection facilities or seven (7) days after the date on which it is declared by the TSP to be ready for charging but is not able to be charged for reasons not attributable to the TSP or seven (7) days after the date of deferment, if any, pursuant to Article 6.1.2.

Provided that an element shall be declared to have achieved COD only after all the elements(s), if any, which are pre-required to have achieved COD as defined in Schedule 3 of this Agreement, have been declared to have achieved their respective COD.

6.2.2 Once any element of the project has been declared to have achieved deemed COD as per Article 6.2.1 above, such element of the project shall be deemed to have availability equal to the target availability till the actual charging of the element and to this extent, shall be eligible for payment of the monthly transmission charges applicable for such element.”

30. The commissioning of various elements considered are as under:

S. No	Name of element	Implement agency	COD
1.	Kudgi TPS-Narendra(New) 400 kV 2xD/C lines	KTL	4.8.2015 (Deemed COD) Line-A charged on 16.11.2015
2.	NTPC Kudgi STPP Switchyard	NTPC	2 24.8.2015 (Got CEA clearance) 16.11.2015 Charged after PGCIL sub-station ready.
3	Kudgi TPS stage-I (Unit I)	NTPC	May 2016 (Anticipated)
4	400 kV Narendra (New) sub-station	POWERGRID	Charged on 15.11.2015
5	400 kV D/C Kolhapur-Narendra (New) line	POWERGRID	Charged on 15.11.2015

31. It is noted that CEA vide its letter dated 28.7.2015 approved the energisation of 400 kV D/C Kudgi TPS-Narendra (New) Transmission line-A belonging to Kudgi Transmission Limited. Relevant portion of the said letter is extracted as under:

“...Therefore, the approval for energisation is hereby accorded to 400 kV D/C Kudgi TPS-Narendra (New) Transmission line (Line-A) (Line

length:09.0 kms) belonging to M/s Kudgi Transmission Limited terminating one ends at Super Thermal Power State, Kudgi of M/s NTPC and other ends at 400 kV GIS Narendra (New) sub-station of M/s PGCIL subject to consistent compliance of relevant provisions of CEA (Measures Relating to Safety and Electric Supply) Regulations, 2010 by M/s Kudgi Transmission Limited.

Once the erection of multi-circuit tower at location No.MC 1 which is in the scope of M/s PGCIL is completed, the compliance of item No.1 of regulation 12 of our inspection report in respect of 400 kV D/C Kudgi TPS-Narendra (New) Transmission Line(Line B) shall be submitted to this office to obtain the approval in respect of the Line-B”.

32. From the above letter, it emerges that the petitioner was ready to charge Line-A in terms of Article 6.2 of the TSA, but could not charge the same due to non-availability of required interconnection facility. It is noted that as per the provision of the TSA, there is no pre-required element for COD of the instant line. Therefore, we consider deemed COD of the 400 kV D/C Kudgi TPS – Narendra (New) Transmission line-A from 4.8.2015 in terms of the provisions of the 6.2.2 of the TSA i.e., 7 days after the energisation of the transmission lines. It is further noted from the letter of CEA that the Line-B was ready in all respects other than Multi circuit tower. However, due to nonavailability of multi-circuit tower, Line-B (400 kV D/C Kudgi TPS-Narendra (New) Transmission line) could not be charged. Since, the multi circuit tower is within the scope of PGCIL, we allow deemed COD of 400 kV D/C Kudgi TPS-Narendra (New) Transmission line-B from 4.8.2015 as there is no pre required element for COD of the instant line.”

13. The Commission after detailed examination of the various provisions of the TSA came to the conclusion that KTL could not charge the transmission lines on account of failure of both the Review Petitioner and PGCIL to provide the inter-connection facility. In terms of Article 6.2.1 of the TSA, the Commission has declared the deemed COD of the 1st element of the project of KTL as 4.8.2015. The Commission in Para 33 of the impugned order has rejected the submission of the Review Petitioner that the deemed COD of the first element of the transmission system should be approved in terms of 2014 Tariff Regulations. The Review Petitioner is re-agitating the same issue which has been extensively dealt with by the Commission in the impugned order. We agree with both KTL and BESCO that the

Review Petitioner wants to re-argue the case on merit which is beyond the scope of review. Accordingly, review on this ground is rejected.

(B) Liability of the Review Petitioner to pay transmission charges for the first element of Kudgi STPP:

14. The Review Petitioner has submitted that while fixing the liability for payment of transmission charges for the first element of the transmission system on the Review Petitioner, the Commission has relied on the provisions of Clause (5) of Regulation 8 of the Sharing Regulations. The Review Petitioner has submitted that third proviso under Clause (5) of Regulation 8 of the Sharing Regulations is applicable with respect to a dedicated transmission line whereas the transmission lines being executed by KTL are ISTS lines. The Review Petitioner has argued that the Commission in the impugned order has taken a view that the first element of the subject transmission system is a connectivity line and not a part of ISTS, and has accordingly, applied the proviso under Regulation 8 (5) of the Sharing Regulations which is an error apparent in the impugned order. The Review Petitioner has further submitted that Associated Transmission System (ATS) for Kudgi STPP was approved in the 33rd Standing Committee Meeting on Power System Planning in Southern Region to be implemented as an ISTS and therefore, all the three elements of the system are part of ISTS and the said facts were kept on record vide affidavits dated 14.1.2015 and 21.1.2016 in the main petition. The Review Petitioner has submitted that the associated transmission lines emanating from Kudgi STPP to New Narendra (PGCIL sub-station) are ISTS lines and are part of meshed network planned for evacuation of power to Southern Region States from Kudgi STPP and therefore, the transmission charges for the same should be recovered through the PoC mechanism.

15. KTL has submitted that 400 kV Kudgi-Narendra Transmission line has been built as a connectivity line for Kudgi STPP. KTL has submitted that since, the construction of dedicated transmission line has been taken up by the CTU or the transmission licensee, the Review Petitioner is required to pay the transmission charges for such dedicated transmission line in terms of Regulation 8 (8) of the Connectivity Regulations. KTL has submitted that it completed its entire scope of work on 27.3.2015 and obtained clearance from CEA on 28.7.2015. However, the Review Petitioner obtained clearance from CEA for its switchyard on 24.8.2015 and charged the switchyard on 15.11.2015 after the sub-station of PGCIL was made ready. KTL has submitted that on account of non-availability of inter-connection facility required to be developed by the Review Petitioner and PGCIL at each end, the liability of the Review Petitioner to pay transmission charges has been rightly decided by the Commission. BESCOM has submitted that the Commission has rightly held that the transmission charges are to be paid by NTPC and PGCIL and such liability cannot be fastened on the LTTCs including BESOM when power from Kudgi STPP is not flowing on the said line to the LTTCs.

Analysis and Decision

16. The main grievance of the Review Petitioner is that the Commission has taken a view in the impugned order that the first element of the transmission system of KTL, namely, Kudgi-Narendra (New) D/C line has been planned as connectivity line of Kudgi-STPP by the CTU and accordingly, directed payment of the transmission charges by the Review Petitioner under third proviso to Regulation 8(5) of the Sharing Regulations till the first unit of Kudgi STPP is put under commercial operation. The Review Petitioner has submitted that the said line cannot be treated

as a connectivity line as it was approved in the 33rd Standing Committee on Power System Planning in Southern Region to be implemented as ISTS.

17. The Review Petitioner has placed on record the minutes of the 13th Meeting of Southern Region Constituents regarding LTA and Connectivity applications in Southern Region held on 20.10.2011 and Minutes of the 33rd Standing Committee on Power System Planning in Southern Region held on 15.11.2011 (Annexure R-2/2 and R-2/1). In para 6.2.4 of the minutes dated 20.10.2011 as well as in para 10.4 of the Minutes dated 15.11.2011, the following has been recorded:

“10.4 As regards Kudgi Transmission System following system was agreed:

Transmission system for kudgi Phase I Generation project of NTPV (3X800 MW)

To be provided by NTPC

- (i) Stepping up of power at geeration project to 400 kV.
- (ii) Poision of Bus reactor of 2X125 MVA at generation switchyard.
- (iii) Provision of 2X500 MVA, 400/220 kV transformers at generation switchyard and 6 nos. of 220 kV bays.

To be implemented as ISTS (as evacuation system for Kudgi TPS Phase-I)

- (i) Kudgi TPS- Narendra (New) 400 kV 2XDC quad lines.
- (ii) Narendra (New) –Madhugiri 765 kV D/C line (initially charged at 400 kV).
- (iii) Madhugiri-Bangalore 400 kV D/c (quad) line. (the terminal point at Bngalore is yet to be decided, for which POWERGRID would take action and inform CEA/SCPSPSR)

From the above, it is clear that the transmission system being implemented for Kudgi STPP is basically evacuation system which is in the nature of dedicated transmission line or connectivity line. These lines are also called associated

transmission system. Under Regulation 8(8) of the Connectivity Regulations, thermal generating stations of 500 MW and above shall not be required to construct dedicated transmission line to the point of connection and such lines will be taken into account for coordinated transmission planning by CEA/CTU. Therefore, dedicated transmission lines can be executed as part of ISTS if the same is included in coordinated transmission planning by CEA/CTU. Third Proviso under Regulation 8(8) of the Connectivity Regulations says that “the transmission charges for such dedicated transmission line shall be payable by the generator even if the generation project gets delayed or is abandoned”. Let us consider Regulation 8(5) of the Sharing Regulations which is extracted as under:-

“8(5) Where the Approved Withdrawal or Approved Injection in case of a DIC is not materializing either partly or fully for any reason whatsoever, the concerned DIC shall be obliged to pay the transmission charges allocated under these regulations:

Provided that in case the commission of a generating station or unit thereof is delayed, the generator shall be liable to pay Withdrawal Charges corresponding to its Long Term Access from the date the Long Term Access granted by CTU becomes effective. The Withdrawal Charges shall be t the average withdrawal rate of the target region:

Provided further that where the operationalization of LTA is contingent upon commissioning of several transmission lines or elements an only some of the transmission lines or elements have been declared commercial, the generator shall pay the transmission charges for LTA operationalized corresponding to the transmission system commissioned:

Provided also that where the construction of dedicated transmission line has been taken up by the CTU or the transmission licensee, the transmission charges for such dedicated transmission line shall be payable by the generator as provided in the Regulation 8 (8) of the Connectivity Regulations:

Provided also that during the period when a generating station draws start-up power or injects infirm power before commencement of LTA, withdrawal or injection charges corresponding to the actual injection or withdrawal shall be payable by the generating station and such amount

shall be adjusted in the next quarter, from the ISTS transmission charges to be recovered through PoC mechanism from all DICs.”

The first condition of applicability of the third proviso is that the construction of the dedicated transmission line should have been taken up by the CTU or an inter-State transmission licensee. The said proviso needs to be read in the context of the main provision of Regulation 8(5) which says that “where the approved withdrawal or approved injection is not materializing either partly or fully for any reasons whatsoever”. If the approved withdrawal or approved injection is not materializing on account of the failure of the generating station to achieve COD matching with the COD of the dedicated or connectivity line, then in terms of third proviso to Regulation 8(5) of the Sharing Regulations, the transmission charges shall be borne by the generating company as provided in Regulation 8(8) of the Connectivity Regulations. After the commercial operation of the unit of the generating station which will result in utilization of the connectivity or dedicated transmission line by the LTTCs, the transmission charges shall be included under the PoC mechanism. In this connection sub-clause (c) of clause (1) of Regulation 7 of the Sharing Regulation is relevant which provides that “the dedicated transmission lines constructed, owned and operated by the ISTS Licensees shall be considered to be part of the Basic Network” for the purpose of computation of PoC charges. If the various provisions of the Connectivity Regulations, Sharing Regulations and provisions of TSA relating to transmission projects executed through Tariff Based Competitive Bidding are harmoniously constructed, it will lead to the conclusion that the connectivity or dedicated line constructed by an inter-State licensee shall be serviced in tariff by the generating company till materialization of approved withdrawal or approved injection and thereafter it shall be included in the Basic Network for computation of PoC charges.



18. In view of the above discussion, the contention of the Review Petitioner that the Commission by considering the subject transmission line as dedicated transmission line or connectivity line has treated these lines differently from ISTS lines is misplaced. These lines remain part of ISTS, though the generator is required to pay the transmission charges from the date of commercial operation of these lines till they are used for evacuation of power from the generating stations. In other words, the transmission charges of the connectivity line shall be borne by the LTA Customers after the commercial operation of the units of the generating stations for which such line had been made. Prior to the COD of the generating stations or unit thereof, since, the LTA Customers are not drawing any benefit, they are not liable to pay the transmission charges for the connectivity line and the generator concerned has to bear the same. Accordingly, in the present case, the transmission charges are to be payable by the generator till COD of first unit of the generating station or date of start of LTA, whichever is earlier. Therefore, we do not find merit in the submission of the Review Petitioner that the liability of NTPC for the first element is liable to be restricted till the commissioning of the generating station or power flow into 220 kV network, whichever is earlier. The Commission in Para 42 of the impugned order clearly mentioned that since the switchyard of Kudgi STPP was charged on 15.11.2015, the transmission charges shall be payable in the manner decided in sub-para (a) to (d) of Para 42 of the impugned order. We do not find any infirmity in the impugned order on this ground and accordingly, review on this aspect is rejected.

C. The liability of the Review Petitioner should be limited till power flow starts from 400/220 kV ICTs to 220 kV network of KPTCL.

19. The Review Petitioner has submitted that two nos. 400/220 kV ICTs were put under the scope of KTL while approving ATS in the 33rd Standing Committee Meeting on Power System Planning in Southern Region so that KPTCL can draw its share from 6 nos. 220 kV lines emanating from Kudgi STPP switchyard and terminating at various 220 kV sub-stations/load centers of KPTCL. The system of 400/220 kV was introduced at the request of KPTCL made vide letter dated 7.10.2011. The Review Petitioner has further submitted that an average 200-300 MW power is already flowing through 400 kV Kolhapur-Narendra (New) transmission line as is evident from the daily PSP Report issued by Power System Operation Corporation Limited. The Review Petitioner has submitted that the Commission has wrongly applied the third proviso to Clause (5) of Regulation 8 of the Sharing Regulations to the first element of the subject transmission project and has fixed the liability for payment of charges for “connectivity line of NTPC” to be paid by the Petitioner till the date of COD of first unit of Kudgi STPP or date of commencement of LTA whichever is earlier which is an error and needs to be rectified.

20. The Review Petitioner has submitted that in line with the decision of the Commission in order dated 25.5.2016 in Petition No. 254/TT/2015 where the liability of payment of transmission charges by the Petitioner was confined till commissioning of the first unit of the Lara-generation project of the Petitioner in the Western Region, the liability of the Petitioner for the first element of the subject transmission line is liable to be restricted till the commissioning of the first unit of Kudgi STPP or date of start of power flow into 220 kV network, whichever is earlier.

21. The Review Petitioner has submitted that the system of 400/200 kV ICT were put under the scope of the Petitioner while approving the ATS in 33rd Standing

Meeting on Power System Planning in Southern Region to enable KPTCL to draw its share from 6 nos. of 220 kV lines emanating from Kudgi STPP switchyard and terminating at various 220 kV sub-stations/load centre of KPTCL. The Review Petitioner has further submitted that average 200-300 MW power is already filled through 400 kV Kolapur-Narendra (New) transmission line which is evident from Delhi PSP Report issued by POSOCO. The Review Petitioner has submitted that in terms of second proviso to Clause 5 of Regulation 8 of the Sharing Regulations, the Petitioner is liable to pay transmission charges till the date of COD of first unit of Kudgi STPP or the date of start of LTA whichever is earlier.

22. As regards the claim of the Review Petitioner that about 200-300 MW power was flowing to Karnataka on the subject transmission line and therefore, the transmission charges from the date of flow of power should be included in the PoC, it is pertinent to note that the Commission has dealt with this issue in order dated 31.7.2017 in Petition No. 51/RP/2016 after taking into account comments of CEA on the issue. The observations of the Commission in the said order are as under:

“9. We have considered the submissions of the Review Petitioner. As regards the Review Petitioner’s contention that the Kudgi-Narendra (New) 400 kV lines can be utilized for drawal by Karnataka through 400/220 kV ICTs in the generation switchyard of Kudgi TPS and hence its liability should be limited upto the charging of the 400/220 kV ICT, comments of CEA were sought. CEA furnished its comments vide letter dated 20.12.2016, which are as under:-

(i) The 400/220 kV ICTs are part of Kudgi TPS generation facility and not part of a transmission system. The associated transmission system (ATS) for this generation project consists of the 400 kV lines emanating from 400 kV bus of Kudgi TPS, i.e. Kudgi TPS – Narendra(New) 2xD/C lines, Narendra(New)- Madhugiri 765kV line, MadhugiriBidadi 400kV lines and six number of 220 kV lines to be drawn from 220kV bus of Kudgi TPS. These six number of 220 kV lines from 220 kV bus of Kudgi TPS are to be implemented by KPTCL and thus the 220kV bus at Kudgi TPS serves as interface of ISTS and Karnataka state network. In nutshell, the 400/220 kV ICTs is part of Kudgi TPS generation facility and not part of an ATS.

(ii) The ATS for a generating station is not a standalone system, but is part of the interconnected grid, and as such it transmits electricity not only from the associated generation plant but also of other facilities connected in the grid. This is the base principle of sharing of transmission charges through POC mechanism. The transmission charges are to be ultimately paid by drawing entities/States, and they do so because ISTS serves them with flow of power from generating stations. It would, however, be unfair to drawing entities/States if they are loaded with additional transmission charges of an ATS when its associated generating station has not been commissioned.

(iii) In the present case, KPTCL has yet to commission its six number of 220kV lines, and even if they do prior to commissioning of the Kudgi generation, the power flow on these lines would be incidental flow of interconnected grid and not because of Kudgi generation. It may also be noted that - at present, Karnataka is meeting its load in that area (i.e north of Karnataka area around Kudgi, Basvanabagewadi, Bijapur etc.) from the existing interconnections.

(iv) The states may also raise the issue of utilization of 400/220kV ICT of generating switchyard even after commissioning of the Kudgi generation, if KPTCL does not implement its planned six lines. This would then be similar to the case where, the downstream 220kV system from an ISTS 400/220kV S/S is not built by the state.

(v) A generation can also not be absolved of paying transmission charges by merely building a generation switchyard and not commissioning its generating units.”

10. CEA has stated that the 400/220 kV ICTs are part of Kudgi TPS generation facility and not part of an Associated Transmission System (ATS) and ATS of a generating station is not a standalone system and it is a part of interconnected grid and it enables transmission of electricity not only of the associated generation but also other facilities connected to the grid. CEA has stated that it would be unfair if entities are loaded with transmission charges of an ATS when its associated generating station has not been commissioned. In the present case, KPTCL has not commissioned its six number of 220 kV lines, and even if they are commissioned prior to commissioning of the Kudgi generation, the power flow on these lines would be incidental flow of interconnected grid and not because of Kudgi TPS generation. CEA has further stated that a generator cannot be absolved of its responsibility just by constructing the generation switchyard in place of commissioning of generating units. We agree with the comments of CEA. The charging of the 400/220 kV ICTs in Kudgi TPS generation facility by the Review Petitioner will not serve any useful purpose to the grid without the commissioning of the associated generating station as contended by the Review Petitioner. As such, the charges as decided by the Commission in Petition No. 201/TT/2015 have to be borne by Review Petitioner. Accordingly, review on this count is not allowed.”

23. In the light of above quoted decision in Review Petition No. 51/RP/2016 that



in the absence of the CoD of Kudgi STPP, the charging of the 400/220 kV ICTs in Kudgi TPS generation facility by PGCIL will not serve any useful purpose to the grid, we are of the view that same consideration holds good for the incidental flow of power on Kudgi TPS-Narendra Transmission line and therefore, it will not absolve the Review Petitioner from payment of transmission charges for the said transmission line till its first unit of the generating station is commissioned. We are of the view that there is no merit in the contention of the Review Petitioner that the Kudgi-Narendra (New) 400 kV lines can be utilized for drawal by Karnataka through 400/220 kV ICTs in the generation switchyard of Kudgi STPP and hence, the Review Petitioner's liability should be limited upto the charging of the 400/220 kV ICT. As regards the submission of the Review Petitioner that its liability should be decided in the light of the decision of the Commission in order dated 25.5.2016 in Petition No. 254/TT/2015, we have considered the same in the light of the order in Petition No.254/TT/2015. The relevant para of the said order is extracted as under:

“44. The transmission charges for the instant assets shall be borne by NTPC till the commissioning of the generating station. Once the generating station is commissioned, the billing, collection and disbursement of the transmission charges approved shall be governed by the provisions of Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010, as amended from time to time as provided in Regulation 43 of the 2014 Tariff Regulations.”

We are of the view that the decision in the impugned order is in alignment with the decision in Petition No.254/TT/2015 in that the liability for payment of the transmission charges for the connectivity line has been limited till the date of commercial operation of the generating station.

24. In the light of the above discussion, we find no merit in submission of the Review Petitioner for review of the impugned order on this ground.

(D) Payment of charges by the Review Petitioner for start-up power for Kudgi STPP:

25. The Review Petitioner has submitted that the fourth proviso to Clause (5) of Regulation 8 of the Sharing Regulations makes provision for payment of charges for drawal of start-up power, which are to correspond to the actual drawl and are payable by the generating station and the said charges are to be adjusted in the next quarter from ISTS transmission charges to be recovered through PoC mechanism from all DICs. The Review Petitioner has submitted that instead of applying the said provision with regard to drawal of start-up power, the Commission has proceeded to treat the first element as the connectivity line and has accordingly fixed the liability of the Petitioner to pay transmission charges for the same as also nodal charges for use of other elements towards drawl of start-up power. Since, the finding of the Commission of the first element being a connectivity line is erroneous, the consequential finding regarding payment for drawl of start-up power is also erroneous and is liable to be rectified through review.

26. We have already held that consideration of the first element of the transmission line as a connectivity line is not erroneous since the said line is meant for evacuation of power from Kudgi STPP and the said element is a part of ISTS, though the transmission charges for the said element is recoverable from the generator till the commercial operation of first unit of the generating station. Further, as per the fourth proviso of Regulation 8(5) of the Sharing Regulations, a generator is liable to pay the transmission charges for drawal of start-up power as under:

“Provided also that the period when a generating station draws start-up power or injects infirm power before commencement of LTA, withdrawal or injection charges corresponding to the actual injection or withdrawal shall be payable by the generating station and such amount shall be adjusted in the next

quarter, from the ISTS transmission charges to be recovered through PoC mechanism from all DICs;”

Thus as per the above provision, the generator is liable to pay the withdrawal charges for actual drawal of start-up power and injection charges for the actual injection of infirm power. Such charges recovered from the generator shall be adjusted in the next quarter against the ISTS Transmission charges to be recovered from the DICs through the PoC mechanism. The charges for drawal of start-up power and injection of infirm power are different for payment of transmission charges for the connectivity line. Accordingly, the Commission has decided the issue as under:

“47. We have considered the submission of NTPC. In our view, NTPC is liable to pay transmission charges for the connectivity line as decided in preceding para in terms of Regulation 8 (5) of the Sharing Regulations. In addition to this, NTPC shall be liable to pay nodal charges for use of ISTS [other than Kudgi-Narendra (New)] towards drawl of start-up power as per rates prescribed under Sharing Regulations.”

27. The Review Petitioner has further submitted that it has started drawing start-up power from 16.11.2015 through one number double circuit line of the first element, whereas the bays of PGCIL at New Narendra associated with the first element have been declared under commercial operation only on 11.12.2015 vide order dated 29.7.2016 in Petition No. 201/TT/2015. As such, there is an error of facts in the impugned order by passing on the entire liability of payment of transmission charges to the Review Petitioner during this period, even though both the Review Petitioner and PGCIL were partially ready.

28. We have considered the submissions of the Petitioner. The impugned order was passed on 26.7.2016 in which the date of COD for PGCIL system was considered as 15.11.2015. However Review Petitioner has submitted that COD for

PGCIL system occurred only on 11.12.2015. A Review Petition No. 42/RP/2016 has also been filed by PGCIL against the same impugned order in Petition No. 236/MP/2015. By order dated 11.10.2017 in the aforesaid Review Petition No. 42/RP/2016, the Commission has already held that PGCIL shall bear transmission charges for the period from 16.11.2015 to 10.12.2015 also. In view of this, NTPC shall bear the charges from 11.12.2015 till the commercial operation of first unit of Kudgi STPP as decided in impugned order in 236/MP/2015. Therefore, review of the impugned order is allowed to this extent.

Miscellaneous aspects

29. The Review Petitioner, vide its affidavit dated 17.5.2017, has submitted as under:-

- (a) The Central Electricity Regulatory Commission (Indian Electricity Grid Code) (Fourth Amendment) Regulations, 2016 provides that date of commercial operation in relation to an inter-State Transmission System or an element thereof shall mean the date declared by the transmission licensee from 00.00 hours of which an element of the transmission system is in regular service after successful trial operation for transmitting electricity and communication signal from the sending end to the receiving end. The above provisions reveal that for a transmission system (or an element thereof) to become commercially operational, the Regulations of this Commission require the said transmission system to be "in regular service after successful charging and trial operation". Therefore, any trial operation to demonstrate successful charging can take place only when all other elements such as bays, etc. at both ends of the line are also ready and have been declared under

commercial operation; without them the transmission system cannot come under regular service. The above Regulations are applicable in all cases where tariff for transmission system is determined by this Commission.

(b) The Element-1 (Kudgi-New Narendra) consist of 4 no of 400 kV line to be developed by KTL. CEA vide its letter dated 2.9.2016 accorded the approval of NTPC for energization of bay No. 3 and bay No. 4 associated with line -3 and 4 of Element-1.

(c) NTPC could not apply to SRLDC for charging of line 3 and line 4 as both lines were not ready for charging due to phase sequence correction and conductor clearance issues pending at KTL/PGCIL end. The Review Petitioner has submitted that detailed sequence of events in the respect of charging of line-3 and 4 as under:

Date	Event
9.8.2016	Letter from KTL to PGCIL Regarding phase sequence issue
02.09.16	CEA approval to NTPC for energization of Bay no -3 and Bay No - 4 of Element -1
24.11.16	Letter from PGCIL to NTPC regarding phase sequence correction issue
15.12.16	PTW (Permit to work) issued to KTL for Line 3 and 4 phase sequence correction work
01.02.17	NTPC applied to SRLDC for charging of line-3 & 4
24.02.17	Line -3 & 4 was charged

(d) PGCIL applied to SRLDC on 18.2.2017 for charging of line-3 and 4 after resolving the issue of phase sequence which was connected with the multi circuit tower being installed by PGCIL at New Narendra sub-station.

(e) In view of grid security, NTPC applied to SRLDC for charging of line-3 and line 4 only after clearance of issues of phase sequence and NTPC was ready to charge the same immediately after receiving the clearance from CEA on

2.9.2016. However, these lines could not be charged till 24.2.2017 due to multiple issues of phase sequence of KTL/PGCIL end and conductor clearance issue in multiple circuit tower at PGCIL end.

(f) NTPC is paying for all the 4 no lines of Element-1 w.e.f. 16.11.2015 as per the impugned order. Applying the principle for *pro-rata*, transmission charge of one line of Element-1 shall be one fourth of the charges as determined by the Commission in the impugned order.

(g) Line Nos. 3 and 4 were not in regular service from 2.9.2016 till 24.2.2017 and NTPC is nowhere liable for payment for transmission charges for these lines because the bays required for charging were made available after getting clearance from CEA.

(h) NTPC should not be burdened and penalized without any fault in delay of charging of Line Nos. 3 and 4 of Element-1 and transmission charges pertaining to Line Nos. 3 and 4 (50% charges of Element-1) should not be passed on to NTPC for the period from 2.9.2016 till the charging of the line on 24.2.2017 i.e. when the line was put in regular service.

30. As regards the Fourth Amendment to Grid Code, it came into force with effect from 29.4.2016 when it was notified in the Gazette. Proviso to Regulation 6.3A(4) of the Grid Code (as amended) says that “in case of inter-State Transmission System executed through Tariff Based Competitive Bidding, the transmission licensee shall declare COD of the ISTS in accordance with the provisions of the Transmission Service Agreement.” Therefore, other provisions of Regulation 6.3A(4) are not applicable in case of the transmission system of KTL which was implemented

through tariff based competitive bidding. In the impugned order, the Review Petitioner was directed to pay the transmission charges for the period from the period 16.11.2015 till the COD of first unit of Kudgi STPS in terms of the Regulation 8 (5) of the Sharing Regulations. Most of the events mentioned in the affidavit dated 17.5.2017 are either documents which were not placed on record in the main petition or are developments post issue of the impugned order. Therefore, consideration of these documents or developments would amount to rearguing the matter on merit which cannot be entertained in Review Petition on merit. However, if any developments post 11.12.2015 till the date of commercial operation of the first unit of Kudgi STPP has adversely affected the interest of the Review Petitioner, they give rise to fresh cause of action for which the Review Petitioner is at liberty to pursue the appropriate remedy in accordance with law.

31. The Review Petition No. 44/RP/2016 is disposed in terms of above

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

sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson