

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Review Petition No. 4/RP/2017 in Petition No. 156/TT/2015

Subject : **Review Petition No. 4/RP/2017 seeking review of order dated 29.12.2016 in Petition No. 156/TT/2015.**

Date of Hearing : 20.9.2018

Coram : Shri P.K. Pujari, Chairperson
Dr. M. K. Iyer, Member

Petitioner : Parbati Koldam Transmission Company Limited

Respondents : Rajasthan Rajya Vidyut Prasaran Nigam Limited 19 Others

Parties present : Shri Amit Kapur, Advocate, PKTCL
Ms. Abiha Zaidi, Advocate, PKTCL
Ms. Aparajita Upadhyay, Advocate, PKTCL
Shri Azad Akbar, PKTCL
Shri Rakesh Prasad, PGCIL
Shri S. K. Venkatesan, PGCIL
Shri Jyoti Prasad, PGCIL
Shri S. S. Raju, PGCIL
Shri B. Dash, PGCIL
Shri R.B. Sharma, Advocate, BRPL & BYPL
Shri Mohit Mudgal, Advocate, BRPL & BYPL
Shri Sachin Datta, Sr. Advocate, NHPC
Shri Piyush Kumar, Advocate, NHPC
Shri Rajiv Shankar Dvivedi, Advocate, NHPC
Shri S.K. Sarkar, Advocate, NHPC
Shri Jitender Kumar, Advocate, NHPC
Shri A.K. Pandey, NHPC

Record of Proceedings

The Commission reserved the order in the instant review petition after hearing the parties on 3.7.2018. Hon'ble Appellate Tribunal for Electricity (APTEL) in judgment dated 16.7.2018 in Appeal Nos. 281 of 2016 and 81 of 2017 directed the Commission to reconsider the matter afresh based on its findings which are as follows:-

- (i) The Central Commission has to take cognizance of the Indemnification Agreement executed between NHPC and PGCIL.



- (ii) The matter needs to be re-examined afresh to arrive at the actual COD of PGCIL's asset.
- (iii) The Central Commission must take a uniform view regarding the liability for delay in COD of respective assets in all such cases.

2. Learned counsel for PKTCL has made the following submissions:-

- (a) APTEL's judgment dated 16.7.2018 relates to the inter-se disputes between NHPC and PGCIL and the said judgment is not applicable to the case of PKTCL.
- (b) APTEL did not decide the principle of payment of full transmission charges in the said judgment and directed the Commission to take a uniform view in all the cases regarding time over-run in COD of the respective assets of the parties concerned.
- (c) PKTCL filed Review Petition No. 4/RP/2017 seeking review of order dated 29.12.2016 in Petition No. 156/TT/2015 contending that delay in actual power flow in PKTCL's transmission line from 30.6.2015 to 2.11.2015 was attributable to NHPC. PKTCL claimed the COD of Ckt. I and Ckt. II line as 30.6.2015 while the Commission approved the COD of the assets as 3.11.2015. The Commission imposed the liability of IDC and IEDC on NHPC for the period starting from 30.6.2015 till 2.11.2015 as the delay in COD of the instant assets was attributed to NHPC. PKTCL has claimed recovery of full transmission charges from NHPC for the period of delay i.e. from 30.6.2015 to 2.11.2015 in the review petition. PKTCL in support of its claim relied on Commission's order dated 7.9.2016 in Petition No. 19/RP/2015, order dated 27.6.2016 in Petition No. 236/MP/2015 and order dated 29.7.2016 in Petition No. 201/TT/2015.
- (d) As per the Minutes of Connectivity/Long Term Access meeting dated 31.8.2018 alongwith 32nd Standing Committee on Power System Planning for Northern Region PKTCL was to extend a portion of Parbati-III to Parbati Pooling Station transmission line upto Sainj HEP by December, 2014 matching with commissioning of Sainj HEP. Further, as per the same minutes PKTCL's transmission line section was to enter Parbati-II HEP at one end for which NHPC's Switchyard at Parbati-III HEP was to be available in the same time frame to meet the N-1 condition for evacuation of power.
- (e) Status of PKTCL's transmission line was in the knowledge of NHPC and it is apparent from 26th Technical Co-ordination Sub-Committee meeting dated 29th North Region Power Committee meeting dated 13.9.2013 and 12.9.2013 respectively wherein NHPC was also present.



3. Learned senior counsel for NHPC referring to impugned order submitted that COD of the instant assets could be reckoned from the date on which actual power flow started or the date when the assets were ready, which in the instant case is 2.11.2015. The liability of NHPC's would be limited to IDC and IEDC. He submitted that this part of the impugned order is inconsistent with the earlier view taken by the Commission and so APTEL remanded back the matter to the Commission to take a uniform view.
4. Learned counsel for PKTCL in response submitted that PKTCL has filed the petition for review of the COD from the date the element is put into commercial operation and the Commission has granted the COD from the date the element is complete. He further submitted that in the facts and circumstances of the case, the COD of the element be reckoned as 30.6.2015.
5. On the request of NHPC and PKTCL, the Commission gave time upto 25.10.2018 to file their written submissions.
6. Subject to the above, the Commission reserved order in the petition.

By order of the Commission

sd/-
(T. Rout)
Chief (Law)

