

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 34/RP/2017 alongwith 61/IA/2017

Coram:

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

Date of Order : 19.03.2018

In the matter of:

Petition for review and modification of the order dated 18.3.2016 in Petition No. 15/TT/2014 under section 94(1)(f) of the Electricity Act, 2003

And in the matter of:

Power Grid Corporation of India Limited

.....**Petitioner**

Vs

1. Rajasthan Rajya Vidyut Prasan Nigam Limited
Vidyut Bhawan, Vidyut Marg,
Jaipur – 302005
2. Ajmer Vidyut Vitran Nigam Limited
400 kV GSS Building (Ground Floor),
Ajmer Road, Heerapura, Jaipur
3. Jaipur Vidyut Vitran Nigam Limited
400 kV GSS Building (Ground Floor),
Ajmer Road, Heerapura, Jaipur.
4. Jodhpur Vidyut Vitran Nigam Limited
400 kV GSS Building (Ground Floor),
Ajmer Road, Heerapura, Jaipur
5. Himachal Pradesh State Electricity Board
Vidyut Bhawan
Kumar House Complex Building II
Shimla-171004



6. Punjab State Electricity Board
The Mall, Patiala-147001
7. Haryana Power Purchase Centre
Shakti Bhawan, Sector-6
Panchkula (Haryana) 134 109
8. Power Development Department
Government of Jammu & Kashmir
Mini Secretariat, Jammu-180 006.
9. Uttar Pradesh Power Corporation Limited
(Formerly Uttar Pradesh State Electricity Board)
Shakti Bhawan, 14, Ashok Marg Lucknow -
226001
10. Delhi Transco Ltd. Shakti
Sadan, Kotla Road, New
Delhi-110002
11. BSES Yamuna Power Ltd.
BSES Bhawan, Nehru Place,
New Delhi-110 019.
12. BSES Rajdhani Power Ltd.
BSES Bhawan, Nehru Place,
New Delhi-110 019.
13. North Delhi Power Ltd.,
Power Trading and Load Dispatch Group
Cennet Building, Adjacent to 66/11 kV Pitampura-3
Pitampura, New Delhi-110 034.
14. Chandigarh Administration
Sector- 9, Chandigarh-160 022.
15. Uttarakhand Power Corporation Ltd.
Urja Bhawan, Kanwali Road,
Dehradun-248001.
16. North Central Railway,
Allahabad-211001.
17. New Delhi Municipal Council
Palika Kendra, Sansad Marg,
New Delhi-110002.

.....Respondents



For petitioner: Shri Sitish Mukherjee, Advocate, PGCIL
Shri Deep Rao, Advocate, PGCIL
Shri S.S. Rao, PGCIL
Shri S.K. Venkatesh, PGCIL

For respondents: None

ORDER

Power Grid Corporation of India (PGCIL) has filed Petition No.34/RP/2017 seeking review and modification of order dated 18.3.2016 in Petition No. 15/TT/2015 (“Impugned Order”) wherein the tariff for 2009-14 period was trued up and tariff for 2014-19 period was allowed for 400 kV D/C Twin Conductor Kanpur-Ballabgarh transmission line alongwith its associated bays (Asset-I) and 40% FSC at Ballabgarh on 400 kV D/C Kanpur-Ballabgarh transmission line (Asset-II). Earlier, tariff for 2009-14 for Assets-I and II was allowed vide orders dated 1.8.2011 in Petition No.329/2010 and 23.5.2012 in Petition No.17/2011 respectively. The Commission while allowing the transmission tariff for Asset-II for 2009-14 tariff period in order dated 23.5.2012 in Petition No.17/2011 allowed the cost over-run subject to prudence check at the time of truing-up. As PGCIL did not submit the RCE, the Commission restricted the cost of Asset-II to the FR apportioned approved cost in the impugned order. The capital cost of Asset-II was restricted to ₹3040.55 lakh as against the completion cost of ₹3630.39 lakh. The relevant portion of the impugned order is extracted as under:-

“Cost Overrun

13. There is cost overrun in respect of Asset-II. The Commission in its previous order dated 23.5.2012 in Petition No. 17/2011 had allowed the cost overrun in respect of Asset-II subject to prudence check during truing up. Further, in response to query of the Commission dated 16.1.2016 and 20.1.2016 regarding the Revised Cost Estimate (RCE) for Asset-II, the petitioner has submitted that the same is under management approval. In the absence of RCE, the capital cost of Asset-II has been restricted to the apportioned approved cost. Thus,



the total capital cost in respect of Asset-II is restricted to ₹3040.55 lakh.”

2. The Review Petitioner has submitted that apportionment of the FR approved cost on individual elements is done at the site/regional offices and during the process of preparation of RCE, it was observed that there was an inadvertent arithmetic error while apportioning the cost of individual elements at the FR stage. The Review Petitioner has submitted that the approved apportioned cost of Asset-II was wrongly submitted as ₹3040.55 lakh whereas it was actually ₹4210 lakh. The Review Petitioner has submitted that if the correct approved apportioned cost is considered, there is no cost over-run in case of Asset-II. The Review Petitioner has prayed for revision of the tariff allowed for Asset-II for 2009-14 and 2014-19 period based on the correct apportioned approved cost of ₹4210 lakh. The Review Petitioner has submitted that disallowance of this expenditure would cause grave injustice to the Review Petitioner leading to loss of tariff and financial hardship. The Review Petitioner has requested the Commission to consider the corrected apportioned cost by exercising its Power to Relax under Regulation 44 of the 2014 Tariff Regulations.

3. The Review Petitioner has submitted that there is delay in filing of the review petition by 396 days and has accordingly filed an Interlocutory Application No. 61 of 2017 for condonation of the said delay. The Review Petitioner has given the following reasons for delay in filing the review petition:-

“It is humbly submitted that the Applicant had *bona fide* intentions to file the review petition by 02.07.2016. However, there was an unintended delay in filing the review petition. It is submitted that pursuant to this Hon’ble Commission’s order in *NTPC limited v Uttar Pradesh Power Corporation Limited & Ors.*, 53/RP/2016, on 21.02.2017 and order of the Hon’ble Appellate Tribunal for Electricity in *Power Grid Corporation of India Limited v Central Electricity Regulatory Commission*, Appeal No. 127 of 2015, on 15.03.2017, the Applicant had internal meetings to discuss the possibility of filing a review petition against the



Impugned Order. The final approval from the management was granted only on 14.07.2017, and thereafter, the Applicant engaged the advocates and gave them instructions to prepare and file the review petition.”

4. We have considered the submission of the Review Petitioner. The Review Petitioner has submitted that the delay of 396 days is on account of the time taken for decision by the Management to file the review petition. The impugned order was issued on 18.3.2016 and was posted on the Commission’s website on 21.3.2016. As per Regulation 103(1) of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 (CBR), a petition for review has to be filed within 45 days of making the Commission’s decision, directions and orders. Accordingly, the period of 45 days would start from the date it was posted on the website, which was 21.3.2016. The review petition was filed on 3.8.2017. Thus, there is delay of 455 days in filing of the instant review petition and not 396 as contended by the Review Petitioner. As regards the reasons for delay, the Review Petitioner has submitted that it was decided by the Review Petitioner to file the instant review petition after the issue of Commission’s order dated 17.2.2017 in the Review Petition No. 53/RP/2016 filed by NTPC and judgment dated 15.3.2017 of the Hon’ble Appellate Tribunal for Electricity in Appeal No.127 of 2015. Without going into the details, it is observed that the Commission’s order and the APTEL’s judgement were issued after the issue of the impugned order dated 18.3.2016. Developments subsequent to the issue of the impugned order cannot be a ground for filing of the review petition. In any case, despite the knowledge about the statutory bar of 45 days for filing the review petition, the Review Petitioner did not file the review petition. We are of the view that the reasons given by the Review Petitioner for the delay in filing the instant review are not satisfactory. Hence, we are not inclined to condone the delay of 455 days in filing the



Review Petition. IA No. 61 of 2017 is disallowed and consequently, the Review Petition is rejected for not being filed within the statutory period of 45 days from the date of issue of the order.

5. As we have disallowed the review petition on the ground of non-compliance with the statutory time limit for filing the review petition, we are not expressing any opinion on the merit of the review petition.

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

sd/-
(A.S. Bakshi)
Member

