

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.15/RP/2019**

Subject : Review Petition under Section 94(1)(f) of the Electricity Act, 2003 read with Order 47 Rule 1 of the Code of Civil Procedure, 1908 and Regulation 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking review of order dated 1.7.2019 in Petition No. 327/MP/2018.

Review Petitioner : Dhariwal Infrastructure Limited (DIL)

Respondent : Tamil Nadu Generation and Distribution Corporation Limited

Date of hearing : 26.11.2019

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

Parties present : Shri Sanjay Sen, Senior Advocate, DIL  
Ms. Diviya Chaturvedi, Advocate, DIL  
Ms. Sishti Rai, Advocate, DIL  
Shri Aweek Chaterjee, DIL  
Shri Ashwin Ramanthan, Advocate, Objector

**Record of Proceedings**

At the outset, learned senior counsel for the Review Petitioner submitted that the Commission in its order dated 1.7.2019 has upheld its jurisdiction to adjudicate upon the 'Change in Law' claims of the Review Petitioner in respect of PPA entered into with TANGEDCO and consequently the maintainability of the Petition. However, the Commission in paragraph 28 of the impugned order, has observed that Section 64(5) of the Electricity Act, 2003 (the Act) requiring "involving the territories of two States" is not attracted in the instant case as the generation and sale of electricity by the Review Petitioner involves three States i.e., Maharashtra, Tamil Nadu and Uttar Pradesh. Learned senior counsel submitted that the same is an error apparent on the face of record. Since the present case relates to the tariff discovered and adopted under Section 63 of the Act, there was no occasion of invoking Section 64(5) of the Act which relates to determination of tariff under the cost-plus method under Section 62 read with Section 64 of the Act.

2. Learned senior counsel for the Review Petitioner further submitted that the aforesaid observation of the Commission is being used against the Review Petitioner before the Uttar Pradesh Regulatory Commission (UPERC) wherein the Review Petitioner along with the procurer, Noida Power Company Limited (NPCL) has invoked the jurisdiction of UPERC under Section 64(5) of the Act with respect to the PPA entered into with NPCL under Section 62 of the Act. Learned senior counsel further submitted that issue of exercise of jurisdiction by UPERC under Section 64 (5) of the Act is already pending before the APTEL and requested the Commission to clarify that the observation of the Commission at para 28 of the order dated 1.7.2019 is in respect to TANGEDCO PPA and not in respect of NPCL PPA.

3. Learned counsel for the Objector, Sh. Awasthi objected the Review Petition and submitted that the Objector had never submitted that this Commission did not have jurisdiction to entertain the Petition No. 327/MP/2018 but the contention was that since the Review Petitioner had invoked the jurisdiction of UPERC under Section 64(5) of the Act, this Commission may not proceed with the matter.

4. After hearing the learned senior counsel for the Petitioner and the learned counsel for the Objector, the Commission reserved order on the maintainability of the Review Petition.

**By order of the Commission**  
**Sd/-**  
**(T.D. Pant**  
**Deputy Chief (Law)**