

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Review Petition No. 20/RP/2018 in Petition No. 13/TT/2017
with I.A. Nos. 48/IA/2019 and 49/IA/2019**

Subject : Petition for review and modification of the order dated 22.2.2018 in Petition No. 13/TT/2017 under section 94(1)(f) of the Electricity Act, 2003.

Date of Hearing : 30.5.2019

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

Petitioner : Power Grid Corporation of India Ltd. (PGCIL)

Respondents : Rajasthan Rajya Vidyut Prasaran Nigam Limited & 34
Others

Review Petition No. 3/RP/2019 in Petition No. 205/TT/2017

Subject : Petition for review and modification of the order dated 6.11.2018 in Petition No. 205/TT/2017.

Petitioner : Power Grid Corporation of India Ltd. (PGCIL)

Respondents : Rajasthan Rajya Vidyut Prasaran Nigam Limited & 37
Others

Parties present : Ms. Superna Srivastava, Advocate, PGCIL
Shri M.G. Ramachandran, Sr. Advocate, Dhariwal
Shri Sumeet Sharma, Advocate, Dhariwal
Ms. Poorva Saigal, Advocate, RRVPNL
Ms. Tanya Sareen, Advocate, RRVPNL
Ms. Swapna Seshadri, Advocate KSKMPL
Shri Ashwin Ramanathan, Advocate, KSKMPL
Shri Amol Nair, Advocate, KSKMPL
Shri Shreshth Sharma, Advocate, MB(MP) Ltd.
Ms. Molshree Bhatnagar, Advocate, MB (MP) Ltd.
Shri Basava Prabhu S. Patil, Advocate, MB (MP) Ltd.
Shri Geet Ahuja, Advocate, MB (MP) Ltd.



Shri Matrugupta Mishra, Advocate, MCCPL
Shri Shourya Malhotra, Advocate, MCCPL
Shri Samyak Mishra, Advocate, MCCPL
Shri Buddy A. Ranganadhan, Advocate, TPDDL
Shri R.B. Sharma, Advocate, BRPL & BYPL
Shri Mohit Mudgal, Advocate, BRPL & BYPL
Shri Ashish Gupta, MB (MP) Ltd.
Shri Sandeep Kumar, Advocate, TPDDL
Ms. Shefali Sobti, TPDDL
Shri Manish Garg, CA, UPPCL
Shri Shekhar Saklani, BYPL
Shri Sameer Singh, BYPL
Shri V. Srinivas, PGCIL
Shri S.S. Raju, PGCIL
Shri Jyoti Prasad, PGCIL

Record of Proceedings

Learned counsel for the Review Petitioner submitted that Petition No. 20/RP/2018 is filed for modification of the order dated 22.2.2018 in Petition No. 13/TT/2017 wherein the Commission did not approve the COD of Assets-II and III and for modification of the directions in the impugned order regarding sharing of transmission charges. She submitted that the Commission in the impugned order allowed tariff for only Asset-I. The tariff for Assets-II and III was disallowed as Asset-II was not put into use as contemplated and in case of Asset-III the downstream assets of HVPNL were not ready. Relying on Commission's order dated 24.2.2017 in Petition No. 85/TT/2015, she submitted that the consistent view of the Commission in case of mismatch on account of non-execution of the downstream or upstream asset is that the defaulting party is liable to pay the transmission charges. She submitted that non-approval of COD of Assets-II and III in the impugned order is an error apparent on record due to which the Review Petitioner has been denied substantial tariff of ₹183.18 crore.

2. On the aspect of sharing of transmission charges, she submitted that the subject transmission system was planned as a part of High Capacity Power Transmission Corridor-V, for evacuation and transfer of power from IPP generation projects in Raigarh (Kotra), Champa, Raigarh (Tamnar) and Raipur generation complex in Chhattisgarh. She further submitted that the Commission in its provisional tariff order dated 11.4.2017 in Petition No. 13/TT/2017 realizing that the instant HVDC transmission is anticipated to be utilized against the LTA having firm PPA and target region, ordered that the transmission charges shall be shared by the DICs in the NR as provided under Regulation 11(4)(3)(i) of 2010 Sharing Regulations. She, however, submitted that in the impugned order, the Commission observed that the instant transmission system has been developed based on the request of 13 generating companies for the purpose of evacuation of power from the IPP generation project and accordingly observed that the



transmission charges of the subject HVDC line shall be shared as per Regulation 11(4) (3)(iii) of 2010 Sharing Regulations.

3. As regards HVDC charges, the learned counsel for the review petitioner submitted that inter-State Transmission System consists of both HVDC and AC lines and the power flows through any of these lines. Some of the LTAs are granted on HVDC line and some on AC lines and ultimately when these LTAs are operationalized, they may get operationalized on the same systems or they may be upgraded and operationalized on some other systems. She submitted that the regulations do not make any distinction whether the LTA grant has to be on HVDC systems or on AC systems. As it is a meshed network of transmission lines, the sharing is done on pooled basis. She submitted that the system is not made only for the benefit of 13 IPPs at whose request it was created but it is also for the benefit of all those who are connected to the system in the Northern Region. She submitted that the benefits of HVDC system is far reaching as it enhances the reliability of power supply to the Northern Region through stabilization of the parallel HVDC between WR and NR and therefore all the beneficiaries in the Northern Region should be considered as users and they should be billed accordingly.

4. In 3/RP/2019, learned counsel made an additional submission that the Review Petitioner should be allowed to bill the State Utilities directly for the reason that it bills to the generators who in turn bill State Utilities but the State Utilities do not pay the bills as a result of which regulation of power supply is implemented qua the generators.

5. Learned counsel for M.B. Power Limited submitted that it has been impleaded as one of the respondents through I.A. No. 48 of 2019 in Petition No. 20/RP/2018. He further submitted that the submissions made by him in the said IA may be considered while deciding the present Review Petition. He, however, supported the submissions of the Review Petitioner.

6. Learned senior counsel appearing for Dhariwal Power and counsels for Rajasthan Discoms, M.B. Power, KSK, Rajasthan Discoms, MCCPL and representative for UPPCL supported the submissions of the Review Petitioner particularly the sharing of the transmission charges by all the beneficiaries of the Northern Region.

7. Learned counsel for KSK submitted that the capital cost of Pole-I is high as it has many assets while the capital cost of Pole-II is low as it has few assets. The tariff for Pole-I and other transmission elements was determined in order dated 22.2.2018 in Petition No.13/TT/2017 and the tariff for only Pole-II was determined in order dated 6.11.2018 in Petition No.205/TT/2017. The Champa-Kurukshetra HVDC transmission line is one corridor and both the Poles have capacity of 1500 MW each. The Review Petitioner is charging KSK in excess of its quantum of grant of LTA of 1000 MW and the same is inequitable. The Review Petitioner be directed to restrict the total billing to the quantum of grant of LTA of the respective generators and should consider the tariff of Pole-I and Pole-II as a whole and should not bifurcate between Pole-I and Pole-II.



8. The representative of UPPCL, in Review Petition No. 3/RP/2019, submitted that the submission of the Review Petitioner for direct billing by it to State Utilities may not be agreed to as it would be against the terms of PPA which provide that payment of transmission charges/wheeling charges to the CTU/STU from injection point to the delivery point shall be paid by the seller and would be reimbursed by the procurer. He further submitted that direct payment to CTU/STU would be against the terms of PPA.

9. Learned counsel for BRPL and BYPL submitted that there is no error apparent in the impugned orders dated 22.2.2018 in Petition No.13/TT/2017 and 6.11.2018 in Petition No. 205/TT/2017. Relying on the case of Parsion Devi and Ors. Vs. Sumitra Devi and Others (1997) 8 SCC 715, he submitted that provisions of Order 47 Rule 1 of CPC are not attracted in the present Review Petitions as there is no error apparent on record as review by no means is an appeal in disguise whereby an erroneous decision is re-heard and corrected but it lies only for the patent error. He, however, submitted that the submission of the Review Petitioner in Review Petition No. 3/RP/2019 to bill the State Utility directly may not be agreed to.

10. Learned counsel appearing for TPDDL relying on the judgment of Hon'ble Supreme Court in the case of Kamlesh Verma v. Mayawati reported in (2013) 8 Supreme Court Cases 320 submitted that mere disagreement with the view of the judgment cannot be a ground for invoking the review jurisdiction, as long as the point is already dealt with and answered, and the parties are not entitled to challenge an order in the guise that an alternative view is possible under the review jurisdiction. He submitted that the instant review petitions do not satisfy the test for maintainability of the review laid down by the Hon'ble Supreme Court.

11. He further submitted that in terms of para 20.2 of the judgment in the case of Kamlesh Verma v. Mayawati (supra) the review will not be maintainable unless there is material error on the face of the order. Learned counsel referring to the paragraphs 80-82 and conclusion in para 102 of the impugned order dated 22.2.2018 in Petition No. 13/TT/2017 submitted that it is a complete re-hearing of the matter. Referring to para 94-95 of the impugned order dated 22.2.2018 he submitted that there is no error apparent on the face of record which requires review.

12. In response, learned counsel for the Review Petitioner submitted that whenever any particular line is executed and is put into commercial operation it is not meant for only those at whose instance it was executed but for the beneficiaries of the region as a whole and as such all those beneficiaries in the region have to share its transmission charges.



13. The Commission allowed the request of all the parties who wish to file their respective written submissions and directed them to do so by 28.6.2019. Subject to this, the Commission reserved order in the Review Petitions.

By order of the Commission

sd/-
(V. Sreenivas)
Dy. Chief (Law)

