

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 7/RP/2019
in
Petition No. 195/MP/2017

Subject : 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(1) of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 read with Order 47 Rule 1 of the Code of Civil Procedure, 1908 seeking review of order dated 29.3.2019 in Petition No. 195/MP/2017.

Petitioner : NRSS XXXI (B) Transmission Limited

Respondents : U.P. Power Corporation Limited and Ors.

Date of Hearing : 16.9.2019

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

Parties Present : Shri M. G. Ramachandran, Sr. Advocate, NRSS
Shri Shubham Arya, Advocate, NRSS
Shri Neeraj Verma, NRSS
Ms. Swapna Seshadri, Advocate, PSPCL
Ms. Suparna Srivastava, Advocate, PGCIL
Shri Tushar Mathur, Advocate, PGCIL
Ms. Sanjana Dua, Advocate, PGCIL
Shri Nehal Sharma, Advocate, PGCIL
Shri A. K. Verma, PGCIL
Shri Nitish Kumar, PGCIL
Shri Siddharth Sharma, PGCIL
Ms. Swati Verma, PGCIL

Record of Proceedings

Learned senior counsel for the Review Petitioner, NRSS XXXI (B) Transmission Limited, submitted that the present Review Petition has been filed seeking the review of the order dated 29.3.2019 in Petition No. 195/MP/2017 to the extent it erroneously disallowed (i) Interest During Construction (IDC)/ Incidental Expenses During Construction (IEDC) from SCOD to actual COD, (ii) additional expenditure incurred on account of change in the gantry coordinates, and (iii) conversion charges paid by the Review Petitioner to Punjab State Power Corporation Limited. Learned senior counsel further submitted as under:



(a) The Commission in the impugned order has held that the requirement of obtaining forest clearance falls within the ambit of Change in Law and the time spent in obtaining it was beyond the control of the Review Petitioner. However, the Commission did not allow the IDC and IEDC in order to restore the Review Petitioner to the same economic position as if change in law had not occurred.

(b) The Commission did not consider additional expenditure of Rs. 6.88 crore incurred by the Review Petitioner towards increase in the length of transmission line due to change in gantry co-ordinates. The actual coordinates of the terminating point were different from those specified in the RfP/bid documents based on which bids were invited and submitted by the Review Petitioner.

(c) The Commission erroneously held that there was slackness on the part of the Review Petitioner pursuant to gantry coordinate confirmation with CTU and did not consider the implication of letter dated 15.1.2016 of Chief Engineer, CEA addressed to PGCIL which, among others, advises PGCIL to finalize the bays and its location coordinates to Review Petitioner to enable Review Petitioner to finalize route of transmission line.

(d) While extending SCOD of each element, the Commission did not consider that the tariff for the first year (Rs.124.37 crore) was higher than the second year tariff (Rs.88.30 crore), by differential amount of Rs.58.67 crore and such differential amount for seven months could not be realised due to force majeure event.

(e) The Commission in the impugned order dated 29.3.2019 allowed the Review Petitioner to recover the amount paid by it to the forest authorities for obtaining the forest clearance and other legitimate expenditure incurred due to change in several taxes and duties from LTTCs. However, the Commission did not quantify the amount in terms of Article 12 of the TSA.

2. Learned counsels for the Respondents, Power Grid Corporation of India Limited and Punjab State Power Corporation Limited opposed the admission of the Review Petition.

3. After hearing the learned senior counsel of the Review Petitioner and the learned counsels for the Respondents, the Commission reserved order in the Review Petition.

By order of the Commission

**sd/-
(T.D. Pant)
Deputy Chief (Law)**

