

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 1/RP/2019

In

Petition No. 7/TT/2018

Coram:

Shri P. K. Pujari, Chairperson

Dr. M. K. Iyer, Member

Date of Order: 31.5.2019

In the matter of

Review under Section 94 (1) (f) of the Electricity Act, 2003 read with Regulation 103 of the CERC (Conduct of Business) Regulations, 1999 for review of the order dated 5.11.2018 passed by the Hon'ble Commission in Petition No. 7/TT/2018.

And in the matter of:

Power Grid Corporation of India Limited

"Saudamini", Plot No. 2,

Sector-29, Gurgaon -122 001

...Review Petitioner

Vs

1. Rewa Ultra Mega Solar Ltd
Urja Bhawan, Link Road No 2
Shivaji Nagar, Bhopal 462016
2. Madhya Pradesh Power Management Company Ltd.
Shakti Bhawan, Rampur
Jabalpur - 482 008
3. Maharashtra State Electricity Distribution Co. Ltd.
Prakashgad, 4th Floor
Andheri (East), Mumbai - 400 052
4. Gujarat Urja Vikas Nigam Ltd.
Sardar Patel Vidyut Bhawan,
Race Course Road



Vadodara - 390 007

5. Electricity Department
Government of Goa
Vidyut Bhawan, Panaji,
Near Mandvi Hotel, Goa - 403 001
6. Electricity Department
Administration of Daman & Diu
Daman - 396 210
7. Electricity Department
Administration of Dadra Nagar Haveli
U.T., Silvassa - 396 230
8. Chhattisgarh State Electricity Board
P.O.Sunder Nagar, Dangania, Raipur
Chhatisgaarh-492013
9. Madhya Pradesh Audyogik Kendra
Vikas Nigam (Indore) Ltd.
3/54, Press Complex, Agra-Bombay Road,
Indore-452 008

.....**Respondents**

For petitioner : Ms. Swapna Seshadri, Advocate, PGCIL
Shri Pankaj Sharma, PGCIL
Shri S. S. Raju, PGCIL
Shri K. Venkatesan, PGCIL

For respondent : None

ORDER

Power Grid Corporation of India Limited (PGCIL) has filed this Petition seeking review of Order dated 5.11.2018 in Petition No. 7/TT/2018 (“original Petition”) wherein the Commission has determined transmission charges from anticipated COD to 31.3.2019 for LILO of Vindhyachal-Jabalpur 400 kV 2nd D/C line (Ckt 3 & 4) along with associated bays and equipments at 400/220 kV Rewa Pooling Station under Transmission System for Ultra Mega Solar Park (750 MW) in Rewa District, Madhya



Pradesh in Western Region for the 2014-19 tariff block based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as the “2014 Tariff Regulations”).

2. Aggrieved by the said order dated 5.11.2018, the Review Petitioner in the present Review Petition has submitted that non-condonation of the time over-run is an error apparent on the face of the record and has sought review of the same.

3. The case was last heard on 7.3.2019. None of the respondents have filed reply to the Review Petition. Based on the submissions of the Review Petitioner and the documents available on record, we proceed to examine the issue raised by the Review Petitioner as detailed in the subsequent paragraphs.

Background

4. The Investment Approval for the scheme was accorded on 15.1.2016, as per which the scheduled COD (SCOD) of the transmission scheme was 15.3.2017. The actual COD of the instant asset was declared on 6.7.2018 i.e. with a time over-run of 478 days. As per the Energisation Certificates dated 24.1.2018 and 31.1.2018 as issued by CEA, some of the elements of the instant asset were ready on 24.1.2018 and some on 31.1.2018. The petitioner had claimed combined tariff for the elements of the instant asset. Therefore, the instant asset was claimed to be ready on 31.1.2018.

5. Initially, the petitioner vide affidavit dated 5.3.2018, had claimed 31.1.2018 as COD under proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations. However, the petitioner vide affidavit dated 21.8.2018 preferred to match the COD of the instant asset as 6.7.2018 instead of claiming 31.1.2018 as COD under proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations.



6. The Commission while deciding on the delay in achieving the COD, disallowed the entire time over-run from 15.3.2017 to 5.7.2018 (478 days). Accordingly, the IDC and IEDC for the period from 15.1.2016 to 15.3.2017 (426 days), i.e. from the Investment Approval date to the scheduled COD only was allowed to be capitalised.

Submission by the Review Petitioner

7. The Review Petitioner has submitted in the instant review petition that the scheduled COD of the transmission scheme was 15.3.2017, against which the COD of the instant asset was approved as 6.7.2018 i.e. with a time over-run of 478 days. While deciding on the time over-run, the Commission condoned the delay only for the period from 15.1.2016 to 15.3.2017, i.e. from the Investment Approval date to the scheduled COD and IDC/ IEDC for such period was only allowed to be capitalised.

8. The Review Petitioner has further submitted that all the documents with regard to the delay placed by the Petitioner and by the Respondent No.1- Rewa Ultra Mega Solar Ltd. (RUMSL) have been noted by the Commission while deciding on the COD. It has been further submitted that the Regulatory Approval of instant project was accorded by the Commission vide an Order dated 24.11.2015 in Petition No. 228/MP/2015 wherein the Commission had specifically directed as under –

“In regard to development of transmission system matching with generation projects in the Solar Park at Rewa, CTU is directed to coordinate with the SPPD who is responsible for development of internal transmission system. CTU shall pace the development of transmission system matching with the progress of different phases of the Solar Park. We further direct the CTU to submit quarterly progress report as per Annexure to this order which shall also contain the status of execution of the transmission system for which regulatory approval has been accorded, the progress of solar based generation projects in the Solar Power Park and the internal transmission system within the solar park”.

9. It has been further submitted that the Ministry of Power had assigned to the



Petitioner the construction of transmission system for 9 solar parks to be set up in 7 States including Rewa Solar Park in Madhya Pradesh in compressed time schedule matching with the commissioning schedule of solar parks for evacuation of power. The Petitioner rescheduled the implementation of its transmission system matching with the revised time line of commissioning schedule of Associated Generation as October, 2017.

10. Further, RUMSL vide its letter dated 9.12.2016 to the Petitioner had indicated the date of its commissioning and accordingly, the tariff petition was filed with anticipated DOCO as 1.11.2017.

11. The commissioning schedule of generation was subsequently revised by RUMSL from November, 2017 to February, 2018 and subsequently from February, 2018 to April, 2018.

12. As desired by the Commission vide ROP of hearing dated 1.3.2018, RUMSL vide affidavit dated 18.5.2018 submitted the generation schedule as May, 2018. Subsequently, the RUMSL started generation of power from 5.7.2018 and accordingly Asset-1 was charged and put under Commercial operation from 6.7.2018 matching with the Commissioning of Generation by the RUMSL.

13. According to the Review Petitioner, the error has occurred in not taking these reasons as justification for the time overrun in the project. The Review Petitioner has cited order dated 22.11.2017 in Petition No. 208/TT/2016 and order dated 19.9.2017 in Petition No. 233/TT/2016 by the Commission wherein the Commission has directed that the Appellant should coordinate its transmission assets with the generation schedules.

14. The Review Petitioner has further cited Order dated 20.7.2018 in Petition no. 116/TT/2017, order dated 29.4.2016 in Petition No. 247/TT/2015 and order dated



6.7.2018 in Petition No. 249/TT/2017 wherein the Commission observed the mismatch between the Petitioner's system and the upstream/ downstream system but approved the COD under Regulation 4 (3) (ii) proviso and directed the defaulting entity to pay the IDC/ IEDC/ Transmission charges for the period when the Petitioner's assets could not be utilized. The petitioner has stated that in none of the orders, has the Commission disallowed the capitalisation of IDC / IEDC, such as in the present matter.

Analysis and decision

15. We have considered the submissions made by the Review Petitioner and perused the documents on record. The Review Petitioner has contended that the entire time over-run from the SCOD to the actual COD should have been allowed by the Commission considering the reasons for the time over-run submitted by the petitioner. It is the submission of the Review Petitioner that the commissioning schedule of the instant asset had to be matched with the generation schedule of RUMSL. As the generation of power at RUMSL started from 5.7.2018, the Asset-1 was charged and put under commercial operation from 6.7.2018 matching with the commissioning of generation by the RUMSL.

16. As has been stated, the instant asset was claimed to be ready on 31.1.2018 as against the SCOD of 15.3.2017. In this regard, we observe that the petitioner has not explained the reasons for delay for the said period. The Commission has observed the same at para 26 of the order dated 5.11.2018 as below:-

“.....The petitioner has neither explained the time over-run from the scheduled COD of 15.3.2017 to 30.1.2018 nor submitted any documentary evidence to justify the time delay for this period. As such, we are of the view that the time over-run from 15.3.2017 to 30.1.2018 is attributable to the petitioner.”

17. As regards the delay from 31.1.2018 to 5.7.2018, the Commission has observed at para 27 of the order dated 5.11.2018 as below:-



27..... it is noted that on the basis of CEA energisation certificate, the asset was ready on 31.1.2018. The petitioner vide affidavit dated 5.3.2018, had initially claimed 31.1.2018 as COD under proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations. However, vide affidavit dated 21.8.2018, the petitioner instead preferred to match the COD of the instant asset as 6.7.2018 instead of claiming 31.1.2018 as COD under proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations. Accordingly, entire time over-run from 15.3.2017 to 5.7.2018 (478 days) is not condoned. Hence, the IDC and IEDC for the period from 15.1.2016 to 15.3.2017 (426 days), i.e. from the Investment Approval date to the scheduled COD are only allowed to be capitalised.

18. It is noted that though the transmission asset was ready on 31.1.2018 and the petitioner had earlier claimed 31.1.2018 as COD under proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations, the petitioner vide affidavit dated 21.8.2018 preferred to revise the claimed COD to 6.7.2018 to match the generation schedule at RUMSL. Proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations provides as below for the cases such as the present one, where the transmission system could not be put to regular use due to the reasons not attributable to the transmission licensee but is due to the delay in commissioning of the concerned generating station:-

“in case a transmission system or an element thereof is prevented from regular service for reasons not attributable to the transmission licensee or its supplier or its contractors but is on account of the delay in commissioning of the concerned generating station or in commissioning of the upstream or downstream transmission system, the transmission licensee shall approach the Commission through an appropriate application for approval of the date of commercial operation of such transmission system or an element thereof.”

19. As such, the petitioner has not claimed the COD under Proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations in the instant case wherein the transmission system could not be put to regular service for the reasons not attributable to the transmission licensee but is on account of the delay in commissioning of the concerned generating station. However, the petitioner though had earlier claimed the COD under the said proviso, revised the same afterwards. It is also noted that the petitioner did not provide any reasons for such revision of the claim regarding COD.

20. The Review Petitioner has cited Order dated 22.11.2017 in Petition No. 208/TT/2016 and Order dated 19.9.2017 in Petition No. 233/TT/2016 by the Commission wherein the Commission has directed that the Appellant should coordinate its transmission assets with the generation schedules. It is the submission of the Review Petitioner that commissioning of the asset was matched with the generation schedule only in line with the direction of the Commission in these cases.

21. The petitioner has further cited order dated 20.7.2018 in Petition no. 116/TT/2017, order dated 29.4.2016 in Petition No. 247/TT/2015 and order dated 6.7.2018 in Petition No. 249/TT/2017 wherein the Commission had directed the defaulting entity to pay the IDC/ IEDC/ Transmission charges for the period when the Petitioner's assets could not be utilized. The petitioner has stated that in none of these orders, has the Commission disallowed the capitalisation of IDC / IEDC, such as in the present matter.

22. We have perused the cited orders. It is observed that the Commission vide these orders, had allowed COD under Proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations and directed the defaulting entity to pay IDC/ IEDC/ transmission charges. In the impugned petition as well, the Generating Station would have been liable to pay the IDC/ IEDC/ transmission charges towards the delay, had the petitioner invoked Proviso (ii) of Regulation 4(3). In the instant case, however, the petitioner has not claimed the COD under this proviso.

23. Thus, the Commission, while deciding on the issue of time overrun, has taken a conscious view of allowing the capitalisation of the IDC/ IEDC only for the period from investment approval to the SCOD. The entire time overrun (i.e. the period from SCOD to actual COD) has been disallowed in absence of reasons for delay till the period

31.1.2018 and thereafter till 6.7.2018, as the petitioner himself preferred to defer the COD to match with the generation at RUMSL.

24. Thus, in our view, the prayer of the PGCIL is devoid of merit, as there is no apparent error in the impugned Order.

25. Petition No. 1/RP/2019 is disposed of in terms of the above.

Sd/-

(Dr. M.K.Iyer)
Member

Sd/-

(P.K.Pujari)
Chairperson

