

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELH**

Review Petition No.20/RP/2019

in

Petition No. 23/MP/2019

Coram:

Shri P.K. Pujari, Chairperson

Dr. M.K. Iyer, Member

Shri I. S. Jha, Member

Date of Order: 09.12.2019

In the matter of

Review under Section 94(1)(f) read with Regulation 103 (1) of the Central Electricity Regulatory Commission (Conduct of Business) Regulations 1999 of Order dated 9.8.2019 of the Central Electricity Regulatory Commission in Petition No. 23/MP/2019 with regard to grant of regulatory approval for execution of transmission system for solar energy zones in Rajasthan.

AND

IN THE MATTER OF:

1. Ajmer Vidyut Vitran Nigam Limited
Vidyut Bhawan, Panchsheel Nagar,
Makarwali Road, Ajmer 305 004
2. Jaipur Vidyut Vitran Nigam Limited
Vidhyut Bhawan, Janpath
Jaipur – 302005, Rajasthan
3. Jodhpur Vidyut Vitran Nigam Limited
New Power house, Industrial area
Jodhpur- 342003, Rajasthan

versus

Review Petitioners

1. Power Grid Corporation of India Limited
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi
Corporate office: "Saudamini", Plot No: 2,
Sector-29, Gurgaon (Haryana) - 122001



2. Delhi Transco Ltd
Shakti Sadan, Kotla Road,
New Delhi-110 002
3. BSES Yamuna Power Ltd.
Through its CEO,
BSES Bhawan, Nehru Place,
New Delhi- 110019
4. BSES Rajdhani Power Ltd.
Through its CEO
BSES Bhawan, Nehru Place,
New Delhi- 110019
5. Tata Power Delhi Distribution Limited
Power Trading & Load Dispatch Group
Cennet Building, Adjacent to 66/11 kV Pitampura-3
Grid Building, Pitampura, New Delhi – 110034
6. Rajasthan Rajya Vidyut Prasaran Nigam Limited
Vidyut Bhawan, Vidyut Marg,
Jaipur - 302 005
7. Himachal Pradesh State Electricity Board
Vidyut Bhawan,
Kumar House Complex Building II,
Shimla-171 004
8. Punjab State Transmission Corporation Ltd
The Mall, Patiala 147 001
9. Haryana Vidyut Prasaran Nigam Ltd
Shakti Bhawan, Sector No-6,
Panchkula-134109
10. Power Development Department,
Government of Jammu & Kashmir
Through its Commissioner
Mini Secretariat, Jammu - 180006
10. Uttar Pradesh Power Corporation Ltd
(formerly Uttar Pradesh State Electricity Board)
Shakti Bhawan, 14, Ashok Marg
Lucknow – 226001



11. Chandigarh Electricity Department
4th Floor, U.T. Secretariat, Sector 9,
Chandigarh – 160017
12. Uttarakhand Power Corporation Ltd.
Urja Bhawan, Kanwali Road,
Dehradun-248001
13. North Central Railway
Allahabad-211 033
14. New Delhi Municipal Council
Palika Kendra, Sansad Marg,
New Delhi-110002

Respondents

ORDER

The Review Petitioner, Ajmer Vidyut Vitran Nigam Limited, Jaipur Vidyut Vitran Nigam Limited and Jodhpur Vidyut Vitran Nigam Limited (hereinafter collectively to be referred as Review Petitioners) has filed the present Review Petitions seeking review of the order dated 9.8.2019 in Petition No. 23/MP/2019. The Review Petitioners have made the following prayers:

- (a) Admit the Review Petition;
 - (b) Allow the Review Petition and decide on the aspects mentioned in Paras 6 and 8 of the Reply dated 16.04.2019 filed by the Review Petitioner in the Petition No. 23/MP/2019; and
 - (c) pass any such further order or orders as this Hon'ble Commission may deem just and proper in the circumstances of the case.
2. The Review Petitioners have made the following submissions :



a) PGCIL had filed Petition No. 23/MP/2019 seeking regulatory approval for execution of the transmission system for Solar Energy Zones in Rajasthan, wherein PGCIL had estimated a total power transfer of 8900 MW solar generation from Western Region. Initially only 3100 MW related to LTA quantum and PPA has been signed for 1300 MW. Subsequently it has been noted in the impugned order dated 9.8.2019, that LTA has been granted for approximately 4000 MW and PPA has been signed for 2000 MW. None of the power of 8900 MW is intended or envisaged for consumption within Rajasthan at this stage.

b) The Review Petitioners, being discoms of the State of Rajasthan are concerned with the adverse financial implication on them both in terms of load flow and transmission charges merely because the solar energy projects are located in Rajasthan even though there is no consumption within the state.

c) The Rajasthan Utilities should not be made to bear the burden either by way of transmission charges or load flow resulting in higher POC charges or otherwise for facilitating the above renewable generation for other states as there is no consumption in the State of Rajasthan and therefore, Rajasthan Discoms should not bear the burden of transmission charges related to the transmission system being built by PGCIL for which the Commission had already given regulatory approval vide impugned order dated 9.8.2019.

d) The Review Petitioners in its reply vide affidavit dated 15.4.2019 filed in the Petition No. 23/MP/2019 had raised the concern that there should be some proper



mechanism or methodology to share transmission charges of ISTS assets created for evacuating power from solar rich states. The Commission in the impugned order dated 9.8.2019 had considered the concerns raised for the burden on the distribution companies/consumers related to unused transmission assets i.e. prior to the commissioning of the solar power projects and held that the distribution companies should not bear such burden. However, the Commission has not addressed the concerns on sharing of the transmission charges after the commissioning of the solar power projects. The Commission has not specified which Distribution Companies should bear the burden and how the burden is to be shared after the commissioning of the solar project. Further the Commission has not addressed the concerns of impact of load flow due to the solar power being injected in Rajasthan.

e) Rajasthan Discoms are not beneficiaries of the solar power and they should not bear the burden either by way of increase in transmission charges or impact on load flow and grid instability. There are errors apparent on the face of the record and further there are otherwise sufficient cause for reviewing the said Order in respect of the non-consideration of the concerns raised by the Petitioners which relate to period after the commissioning of the solar power projects.

Analysis and Decision

3. We have considered the submission of the Petitioner and perused the impugned order and documents on record. The Review Petitioner has filed the instant Review Petition on the premise that the Commission in the impugned Order dated 9.8.2019 has considered the concerns raised for the burden on the distribution companies/consumers related to



unused transmission assets i.e. prior to the commissioning of the solar power projects and held that the distribution companies should not bear such burden but the Commission has not addressed the concerns on sharing of the transmission charges after the commissioning of the solar power projects.

4. Order 47, Rule 1 of Civil Procedure Code, 1908 read with Section 91 of the Act lays down the following conditions for preferring a w Petition:

- a) Discovery of new and important matter or evidence which, after exercise of due diligence was not within the knowledge of the person seeking review or could not be produced by him at the time when order was made, or
- b) On account of some mistake or error apparent on face of record, or
- c) For any other sufficient reason.

5. The Review Petitioner has filed the instant review petition stating that there are errors apparent on the face of record and other sufficient cause for reviewing the impugned order dated 9.8.2019 in Petition No. 23/MP/2019. The Review Petitioner has pointed out that despite the fact brought on record that Rajasthan Discoms are not beneficiaries of the solar power and they should not the burden either by way of increase in transmission charges or impact on load flow and grid instability. The Review Petitioner has pointed out the following errors :

- a) The Commission has not addressed the concern on sharing of the transmission charges after the commissioning of solar power projects.



b) The Commission has not specified which distribution companies should bear the burden and how the burden is to be shared after the commissioning of solar power projects.

c) The Commission has not addressed the concerns of impact of load flow due to the solar power being injected in Rajasthan.

6. We observed that what constitutes an error apparent on the face of record is a matter to be found in context of the facts of each case. It should be something more than a mere error and it must be one which must be manifest on the face of the record. When does an error cease to be mere error and becomes an error apparent on the face of the record depends upon the materials placed before the court. Under the guise of review, the parties are not entitled to rehearing of the same issue but the issue can be decided just by a perusal of the records and if it is manifest can be set right by reviewing the order. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. A review petition has a limited purpose and cannot be allowed to be an appeal in disguise.

7. With regard to concern of Review Petitioners that the Commission has not addressed the concerns on sharing of the transmission charges after the commissioning of the solar power projects and devising of equitable mechanism for sharing of transmission charges of the proposed assets and that the charges should be socialized amongst the States which procure Solar power for fulfilment of their respective RPOs, we are of the view that at



present, the allocation of transmission charges and losses is prescribed under Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010. The Commission has already issued draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2019 on 31.10.2019. The Review Petitioner is at its liberty to file comments on the same.

8. The Review Petitioners have failed to prove or establish any error or mistake apparent on the face of record. In the light of the discussion herein above, we do not find any substance in the present Review Petition and accordingly, the Review Petition No. 20/RP/2019 is dismissed.

Sd/-
(I. S. Jha)
Member

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

Sd/-
(P. K. Pujari)
Chairperson

