

**Central ELECTRICITY REGULATORY COMMISSION NEW DELHI**

**Review Petition No. 26/RP/2018**  
**in Petition No. 222/TT/2016**

**Coram:**

**Shri P.K. Pujari, Chairperson**  
**Dr. M.K. Iyer, Member**

**Date of Order: 12.02.2019**

**In the matter of:**

Petition for review and modification of order dated 14.5.2018 in Petition No. 222/TT/2016 under Section 94(1)(f) of the Electricity Act, 2003 read with Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999.

**And in the matter of:**

Power Grid Corporation of India Limited,  
"Saudamini", Plot No. 2, Sector 29,  
Gurgaon-122001 (Haryana)

.. Review Petitioner

**Vs.**

1. Karnataka Power Transmission Corporation Ltd. (KPTCL),  
Kaveri Bhawan, K. G. Road,  
Bangalore—560 009.
2. Transmission Corporation of Andhra Pradesh Ltd. (APTRANSCO),  
Vidyut Soudha, Khairatabad,  
Hyderabad-500 082.
3. Kerala State Electricity Boards (KSEB),  
Vydyuthi Bhavanam,  
Thiruvananthapuram-695 004
4. Tamil Nadu Electricity Board (TNEB)  
NPKRR Maaligai, 800, Anna Salai,  
Cennai-600 002.



5. Electricity Department,  
Government of Goa  
Vidyuti Bhawan, Panaji, Goa-403 001.
6. Electricity Department, Government of Pondicherry,  
Pondicherry -605 001.
7. Eastern Power Distribution Company of Andhra Pradesh Limited (APEPDCL)  
APEPDCL, P&T Colony,  
Seethmmadhara, Vishakhapatnam, Andhra Pradesh.
8. Southern Power Distribution Company of Andhra Pradesh Limited(APSPDCL),  
Srinivasasa Kalyana Mandapam Backside,  
Tiruchanoor Road, Kesavayana Gunta,Tirupati-517 501,  
Chittoor District, Andhra Pradesh.
9. Central Power Distribution Company of Andhra Pradesh Limited (APCPDCL)  
Corporate Office, Mint Compound,  
Hyderabad-500 063.
10. Northern Power Distribution Company of Andhra Pradesh Limited (APNPDCL),  
NIT Petrol Pump, Chaitanyapuri,  
Kazipet, Warangal– 506 004,  
Andhra Pradesh
11. Bangalore Electricity Supply Company Ltd. (BESCOM)  
Corporate Office, K. R. Circle, Bangalore-560 001.
12. Gulbarga Electricity Supply Company Ltd. (GESCOM)  
Station Main Road, Gulbarga, Karnataka
13. Hubli Electricity Supply Company Ltd. (HESCOM),  
P.B. Road, Nava Nagar  
Hubli, Karnataka.
14. Mangalore Electricity Supply Company Ltd. (MESCOM)  
Paradingm Plaza, A.B. Shetty Circle,  
Mangalore-575 001.
15. Chamundeshwari Electricity Supply Corp. Ltd.  
(CESC Mysore), Corporate Office,  
927, L. J. Avenue, Ground Floor,  
New Kantharaj Urs Road,  
Saraswathi Puram, Mysore-570 009.



16. Transmission Corporation of Telangana Limited,  
Vidhyut Sudha, Khairatabad, Hyderabad, 500082

.....Respondents

**For Petitioner** : Ms. Swapna Seshadri, Advocate, PGCIL  
Ms. Parichita Choudhury, Advocate, PGCIL  
Shri S.S. Raju, PGCIL  
Shri S.K. Venkatesan, PGCIL  
Shri Zafrul Hasan, PGCIL  
Ms. Anita A. Shrivastava, PGCIL

**For Respondent** : None

### Order

The instant review petition has been filed by Power Grid Corporation of India Ltd. ("PGCIL") seeking review of the order dated 14.5.2018 in Petition No. 222/TT/2017 whereby the tariff was determined in respect of 1x125 MVAR Bus Reactor at 400 kV Nagapattinam GIS along with associated bays and equipment (hereinafter referred to as "transmission asset") under Transmission System associated with Common Transmission Scheme associated with ISGS Projects in Nagapattinam/Cuddalore area of Tamil Nadu Part-A1 (a)", in Southern Region for 2014-19 was determined in terms of the provisions of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as "the 2014 Tariff Regulations"). The Review Petitioner has prayed for condonation of the full time over-run and accordingly allow the IDC and IEDC claimed.



## **Brief background**

2. As per the Investment Approval dated 3.1.2012 of the Board of Directors of the Review Petitioner, the instant transmission assets were scheduled to be put into commercial operation within 21 months. Accordingly, the scheduled COD of the instant asset was 3.10.2014. However, the instant transmission asset was put into commercial operation on 1.8.2016 and thus there is a time over-run of 21 months and 30 days. The time over-run of 13 months and 4 days was not condoned and the remaining period of time over-run was condoned. The relevant portion of the impugned order is extracted hereunder:-

“20. In the instant case, there is a time over-run of 21 months and 30 days. The petitioner has submitted that for economical procurement of reactors, the procurement of the instant reactor was clubbed with other projects under implementation at that point of time. Consequently, the contract for procurement of bus reactors was awarded in the month of January, 2015. The date of Investment Approval was 3.1.2013 and scheduled date of COD of the asset was 3.10.2014 and actual COD was 1.8.2016. It is observed that the petitioner after ensuring that the possession of the land for Nagapattinam Sub-station would be given in August, 2013, placed award for the sub-station package in July, 2013. However, the award for the instant package was placed only in January, 2015 much after the scheduled COD of 3.10.2014. We are of the view that the petitioner should have placed the award for the instant Bus Reactor alongwith the award for sub-station package soon after land was handed over i.e. in July, 2013. As per the petitioner’s submission, the award was placed for the instant Bus Reactor in January, 2015 to avail the benefits of combined procurement of the reactors. However, the petitioner has not submitted the details of the benefits accrued due to the combined procurement of the reactors. If the petitioner had placed the award for instant Bus Reactor in July, 2013 alongwith the sub-station package, the instant Bus Reactor may have been put into commercial operation alongwith the bays. The petitioner being aware of the scheduled COD of the instant reactor, had taken a conscious decision to postpone the date of placing the award for the instant reactor which has resulted in delay. Accordingly, we are of the view that the cost of delay in placing the award for the instant asset should be borne by the petitioner and could not be passed on to the beneficiaries of the instant assets. Therefore, we are not inclined to condone the time over-run from the date of the COD of the second Bay at Nagapattinam Sub-station on 28.6.2015 to the actual COD of the instant Bus Reactor on 1.8.2016, which is 13 months and 4 days. Accordingly, the IDC and IEDC for the period 28.6.2015 to 1.8.2016 are not allowed to be capitalised. To sum up, the time over-run of 13 months and 4 days is not condoned and as stated in para 19 of this order, time over-run of 8 months and 26 days is condoned.”



3. Aggrieved by the above order, the Review Petitioner has filed the present review petition.

4. The first ground for review is that the reasons submitted by the Review Petitioner for condonation of time over-run were not considered by the Commission in the impugned order. According to the Review Petitioner, the following factors contributed to the time over-run:-

(a) Delay in getting possession of land for sub-station from State Government

(b) Delay in awarding sub-station package and

(c) Delay in completion of 125 MVAR Bus Reactor at Nagapattinam.

The Review Petitioner has submitted that since these reasons have not been considered there is an error on the face of record in the impugned order.

5. The second ground of review is on account of non-consideration of the actual deployment of funds for the purpose of calculation of IDC and IEDC. The Review Petitioner has submitted that the project was put into commercial operation within 21 months from the date of infusion of funds and therefore, the delay in COD of the assets has no bearing on the accrual of IDC and IEDC as infusion of funds has only started from 21.10.2014 which was 21 months from the date of Investment Approval and after the scheduled COD. The Review Petitioner has submitted that since it did not infuse any funds in the project until October, 2014, there is no possibility of inclusion of the time period of 21 months (i.e. from the date of Investment Approval till the date of infusion of equity) for the purpose of calculation of IDC and IEDC. The Review



Petitioner has submitted that the Commission overlooked the principle of calculation of IDC and IEDC which necessitates deployment of funds into projects after placement of awards for starting the IDC and IEDC component and non-consideration of the same is an error apparent on the face of record.

6. We have considered the submissions of the Review Petitioner regarding the reasons for time over-run and denial of IDC and IEDC for the period of delay not condoned.

### **Time over-run**

7. The Commission has already considered the time over-run attributed to the delay in getting possession of land for sub-station at Nagapattinam and the delay in awarding the sub-station package while granting the tariff for the Nagapattinam Sub-station and held it is beyond the control of the Review Petitioner in order dated 22.8.2016 in Petition No.416/TT/2014 and accordingly partially condoned the time over-run. This aspect and the delay in completion of 125 MVAR Bus Reactor at Nagapattinam was taken into cognizance by the Commission in the impugned order and accordingly time over-run of 8 months and 26 days was condoned. The relevant portion of the impugned order is as follows:-

“19. We have considered the submissions of the petitioner. The time over-run of 5 months 28 days in case of Bay-1 and 8 months 26 days in case of Bay-2 in Nagapattinam Sub-station was condoned by the Commission vide order dated 22.8.2016 in Petition No. 416/TT/2014 as it was due to delay in getting possession of land. As the delay in getting possession of land for the Nagapattinam Sub-station was not attributable to the petitioner, the time over-run was condoned. The relevant portion of the order is as under:-

“37 (i) Delay occurred in handing over possession of land for sub-station by the State Government Authorities. Application for allotment of land was submitted on 11.11.2011 and after the receipt of letter from RDO for payment dated 3.4.2012, payment of tentative cost of Rs.363 lakh was made on 7.4.2012. However, handing over possession



of land was completed in August, 2013 after a delay of nearly one and half year. This contributed to delay in awarding the sub-station package and consequently delayed the activities of supply and erection of GIS equipment for establishment of Nagapattinam substation.

(ii) Tendering process of sub-station package was initiated much in advance, however, the award was kept on hold considering the delay in land acquisition. Sub-station package for Nagapattinam could be awarded in August, 2013 i.e. at the time when it emerged that possession of land would be given very soon for establishment of sub-station. Accordingly, as per the LOA, Nagapattinam GIS Sub-station was scheduled to be completed by February, 2015, but, the same has been commissioned on 1.4.2015. Thus, even though there was delay of more than 1.5 years in land acquisition, the total overall delay was reduced to 6 months only. As such, the delay was beyond its control.

(iii) Land acquisition problem, as land owners filed case in Hon'ble High Court of Madras vide WP No.35096 of 2012 for 10.36 acres and WP No. 4618 of 2013 for 13.017 acres, in which the Hon'ble High Court of Madras had ordered interim stay for 4 weeks for dispossession of land vide order dated 27.6.2012 and 22.2.2013 respectively. The cases continued till 1.8.2013. On 2.8.2013, the cases were dismissed by the Hon'ble High Court of Madras.

38. We have considered the submissions of TANGEDCO and the petitioner. It is observed that the time over-run in commissioning of the instant assets is due to the delay occurred in handing over possession of land for sub-station by the State Government Authorities. Application for allotment of land was submitted on 11.11.2011 and after making payment of tentative cost, within three days of the receipt of letter from RDO, possession of land was completed in August, 2013, after a delay of nearly one and half year, which resulted in delay in awarding the substation package which, consequently delayed the activities of supply and erection of GIS equipment for establishment of Nagapattinam Sub-station. In our opinion, the delay due to land acquisition and court cases is beyond the control of the petitioner. Hence, we are inclined to condone the delay of 5 months and 28 days in case of Asset-1 (Bay-1) and 8 months and 26 days in case of Asset-2 (Bay-2) respectively.”

The justifications given by the Review Petitioner in the instant review petition for time over-run have already been considered in the impugned order and accordingly part of the time over-run not attributable to the Review Petitioner was condoned. The Review Petitioner is re-agitating the issue of time over-run by submitting the same information which is not allowed in a review petition. There is no error in the impugned order as



regards the findings pertaining to time over-run, which warrants the Commission's intervention. Accordingly, the Review Petitioner's prayer for condonation of entire time over-run is rejected.

### **Disallowance of IDC and IEDC**

8. The Review Petitioner has submitted that the timeline for completion of instant assets is 21 months and the IDC and IEDC claimed by the Review Petitioner is also for only 21 months. The Review Petitioner has submitted that usually the timelines are seen from the date of Investment Approval since the fund deployment starts from the date of Investment Approval. However, the instant case is an exception since the IDC incurred is only ₹122.73 lakh when compared to the IDC approved in the FR and RCE which were ₹219.27 lakh and ₹284.38 lakh respectively. The IEDC incurred was ₹320.75 lakh when compared to the IEDC of ₹338 lakh and ₹351.73 lakh in FR and RCE were respectively. The Review Petitioner has further submitted that no additional burden will be cast upon the beneficiaries in the form of IDC due to time over-run. The Review Petitioner has submitted that as the funds were infused at a later date, IDC is booked only for 21 months, and not for 43 months. However, the entire IDC and IEDC have been disallowed assuming that the funds have been spent from the date of Investment Approval. The Review Petitioner has submitted that IEDC was estimated at 10.75% of the total cost of instant assets and accordingly the IEDC works out to ₹333 lakh but the Review Petitioner has claimed IEDC of only ₹320.75 lakh. The Review Petitioner has further submitted that it is only seeking what is validly due to the Review Petitioner.





8. The basic contention of the Review Petitioner is that since the instant assets were put into commercial operation within 21 months from the date of infusion of funds which was 21.10.2014, IDC and IEDC claimed by the Review Petitioner for 21 months should be allowed.

9. We have referred to the provisions of the 2014 Tariff Regulations for calculation of IDC and IEDC. Regulation 11 of 2014 Tariff Regulations provides as under: -

**“11. Interest During Construction (IDC), Incidental Expenditure During Construction (IEDC)**

**(A) Interest during Construction (IDC):**

(1) Interest during construction shall be computed corresponding to the loan from the date of infusion of debt fund, and after taking into account the prudent phasing of funds up to SCOD.

(2) In case of additional costs on account of IDC due to delay in achieving the SCOD, the generating company or the transmission licensee as the case may be, shall be required to furnish detailed justifications with supporting documents for such delay including prudent phasing of funds:

XXXX  
XXXX

Provided further that only IDC on actual loan may be allowed beyond the SCOD to the extent, the delay is found beyond the control of generating company or the transmission licensee, as the case may be, after due prudence and taking into account prudent phasing of funds.

XXXX

**(B) Incidental Expenditure during Construction (IEDC):**

(1) Incidental Expenditure During Construction shall be computed from the zero date and after taking into account pre-operative expenses up to SCOD:

XXXX

XXXX



(2) In case of additional costs on account of IEDC due to delay in achieving the SCOD, the generating company or the transmission licensee as the case may be, shall be required to furnish detailed justification with supporting documents for such delay including the details of incidental expenditure during the period of delay and liquidated damages recovered or recoverable corresponding to the delay:

XXXXX

XXXXX

(3) In case the time over-run beyond SCOD is not admissible after due prudence, the increase of capital cost on account of cost variation corresponding to the period of time over run may be excluded from capitalization irrespective of price variation provisions in the contracts with supplier or contractor of the generating company or the transmission licensee.”

10. As per Regulation 11 of the 2014 Tariff Regulations, the IDC shall be computed from the date of infusion of funds. Accordingly, in the instant case, IDC was computed from the date of infusion of funds by the Review Petitioner which was 20.10.2014 and not from the date of Investment Approval as contended by the Review Petitioner. The IDC and IEDC were allowed for the period of time over-run condoned, i.e. 8 months and 26 days out of the total period of time over-run 21 months and 30 days. IDC and IEDC for the remaining period of time over-run i.e. for 13 months and 4 days was not condoned. The Review Petitioner has contended that the instant assets were executed within the period of 21 months from the date of infusion of funds, which is the timeline specified in the Investment Approval and hence IDC and IEDC should be allowed for 21 months. In our view, time over-run is considered with reference to the timeline specified in the Investment Approval and not from the date of infusion of funds. Admittedly the Review Petitioner has infused the funds after the expiry of the period of execution specified in the Investment Approval. By delaying the infusion of funds, the Review Petitioner cannot extend the period of execution of the project specified in the



Investment Approval. Since the project has been executed in the extended timeline beyond the period of execution specified in the Investment Approval, the Review Petitioner has been correctly denied the IDC and IEDC for the period of time over-run not condoned. No error apparent has been shown by the Review Petitioner in the treatment of IDC and IEDC in the instant case. We find no reason to review our order on this score and therefore reject review of the order on this ground as well.

11. Accordingly, Petition No. 26/RP/2018 is disposed of.

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

**Sd/-**  
**(P. K. Pujari)**  
**Chairperson**

