

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Review Petition No. 42/RP/2018 in Petition No.
264/TT/2017 along with IA No. 91/IA/2018**

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

Date of Order: 13.02 .2019

In the matter of:

Petition for review and modification of order dated 20.7.2018 in Petition No. 264/TT/2017 under section 94(1)(f) of the Electricity Act, 2003.

And in the matter of:

Power Grid Corporation of India Limited,
'SAUDAMINI', Plot No-2,
Sector-29, Gurgaon – 122001 (Haryana).

... Review Petitioner

Vs

1. Rajasthan Rajya Vidyut Prasaran Nigam Limited,
Vidyut Bhawan, Vidyut Marg, Jaipur.
2. Ajmer Vidyut Vitran Nigam Limited
400 kV GSS Building, Ajmer Road,
Heerapura, Jaipur.
3. Jaipur Vidyut Vitran Nigam Limited
400 kV GSS Building, Ajmer Road,
Heerapura, Jaipur.
4. Jodhpur Vidyut Vitran Nigam Limited
400 kV GSS Building, Ajmer Road,
Heerapura, Jaipur.
5. Himachal Pradesh State Electricity Board
Vidyut Bhawan, Kumar House Complex Building II,
Shimla- 171004.
6. Punjab State Electricity Board,
The Mall, Patiala-147001.



7. Haryana Power Purchase Centre
II Floor Shakti Bhawan, Sector-6
Panchkula (Haryana) 134109.
8. Power Development Department
Govt. of Jammu & Kashmir,
Mini Secretariat, Jammu.
9. Uttar Pradesh Power Corporation Limited
10th Floor Shakti Bhawan, 14, Ashok Marg,
Lucknow - 226001.
10. Delhi Transco Limited
Shakti Sadan, Kotla Road,
NewDelhi-110002.
11. BSES Yamuna Power Limited
BSES Bhawan, Nehru Place, New Delhi.
12. BSES Rajdhani Power Ltd,
BSES Bhawan, Nehru Place, New Delhi.
13. North Delhi Power Ltd.
Power Trading & Load Dispatch Group Cennet Building,
Adjacent to 66/11 kV, Pitampura, Grid Building,
Near PP Jewellers, Pitampura, New Delhi-110034.
14. Chandigarh Administration
Sector -9, Chandigarh.
15. Uttarakhand Power Corporation Limited
Urja Bhawan, Kanwali Road, Dehradun.
16. North Central Railway, Allahabad.
17. New Delhi Municipal Council
Palika Kendra, SansadMarg,
New Delhi-110002

... Respondents

For Petitioner : Shri Sitesh Mukherjee, Advocate, PGCIL
Shri Deep Rao, Advocate, PGCIL
Shri Divyanshu Bhatt, Advocate, PGCIL
Shri S.K. Venkatesan, PGCIL
Shri S.S. Raju, PGCIL
Shri S.K. Niranjana, PGCIL



ORDER

The instant Review Petition has been filed by Power Grid Corporation of India Limited (“the Review Petitioner”) seeking review of the order dated 20.7.2018 in Petition No. 264/TT/2017, wherein the Commission while determining the transmission tariff for 400 kV Anta Bay at Kota sub-station (hereinafter referred to be as ‘instant asset’) for 400 kV S/C Anta-Kota line (line owned by RVPNL) disallowed the time over run from the scheduled COD of 6.8.2014 to the deemed COD of 19.3.2016 and therefore, the IDC and IEDC for the said period was not capitalized. The Review Petitioner has made the following prayers:

- a) Review and modify the Impugned Order dated 20.07.2018 passed by this Hon'ble Commission in Petition No. 264/TT/2017, in terms of the submissions set out in the present petition; and
- b) allow the time-over run in the instant transmission asset on the basis of the submissions made and include IDC and IEDC as part of capital cost of the instant transmission project.

Background of the case

1. The Review Petitioner had filed the Petition No.62/TT/2015 for the determination of tariff for the instant asset. The Commission vide its order dated 27.5.2016 observed that the downstream asset of the instant asset is being executed by RRVPNL and the status of commissioning of the downstream is also not clear. Accordingly, the Commission directed the Review Petitioner to file fresh Petition along with updated commissioning status of the corresponding downstream asset.



2. Accordingly, the Review Petitioner filed the Petition No. 264/TT/2017, wherein the Commission observed that the instant transmission asset of the Review Petitioner was not put to regular service due to delay on the part of RRVPNL and directed that the transmission charges from the date of approved COD of the instant asset upto COD of the downstream system shall be borne by RRVPNL. However, the Commission did not allow the time over run of the instant asset on the sole ground that the Review Petitioner failed to show that COD of the instant bays were postponed to match with the downstream asset of RRVPNL.

3. The Review Petitioner has submitted the following grounds for review of order dated 20.07.2018 in Petition No. 264/TT/2017 :

a) The instant asset was constructed for 400 kV S/C Anta-Kota Line being implemented by RRVPNL. Since, the 400 kV S/C Anta-Kota line could not get commissioned, the Review Petitioner was unable to put its corresponding bays into commercial operation. Despite various communications from the Review Petitioner to RRVPNL, no response was received from RVPNL. Therefore, the Review Petitioner sought approval of COD of the instant asset as 19.3.2016 in terms of the proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations.

b) RRVPNL through its reply in the original tariff petition submitted that the delay in implementation of the downstream transmission asset was attributable to RoW constraints, retendering and forest clearances issues. Considering the submissions of RRVPNL, the Commission observed that the instant transmission



asset of the Review Petitioner was unable to be put to regular service due to delay on part of RRVPNL and directed that transmission charges from the date of approved COD of the instant asset up to COD of the downstream system shall be borne by RRVPNL. However, the Commission did not allow time over run from the date of SCOD to the deemed COD and observed that the petitioner had not produced any documents to show that the COD of the instant bay was postponed to match with the downstream assets under the scope of RRVPNL.

c) The Review Petitioner in the first petition i.e. Petition No. 62/TT/2015 had submitted that, RRVPNL, in 31st and 33rd NRPC meeting, had stated that 400 kV S/C Anta-Kota line was scheduled to be commissioned by August, 2015. Taking into consideration of matching with the line, the Review Petitioner had postponed the COD of the instant asset. Further, the Review Petitioner vide its letters dated 7.11.2014, 27.11.2014, 15.12.2014, 24.10.2015 and 2.8.2017 to RRVPNL had inquired about the commissioning status of their line for commissioning of the instant asset matching with Anta-Kota Transmission Line of RRVPNL, but RRVPNL did not give any response to the said letters.

d) Despite the fact that RRVPNL failed to give reply to Petitioner's correspondences, the Commission in its order dated 20.7.2018 observed that Review Petitioner attributed the time over-run purely to the time taken for matching the COD of the instant bay with the COD of the associated transmission lines under the scope of RRVPNL and no other reason has been given by the Review Petitioner for the time over-run. The Commission has also



observed that the Review Petitioner did not produce documents to show that the COD of the instant bay was postponed to match with the downstream assets under the scope of RRVPNL. Therefore, the Commission did not condone the time-over run.

e) The Commission has failed to consider the correspondences of the Review Petitioner, wherein the Review Petitioner had informed RRVPNL that the corresponding bay is ready for commissioning and also sought the status of RRVPNL's downstream transmission system. The Commission while disallowing the time over run also failed to consider various minutes of RPC meetings which shows that 400kV bays were ready but could not be commissioned due to delay in downstream assets.

f) Since the delay is not attributable on the part of the Review Petitioner, the disallowed IDC and IEDC should be capitalised or directed to be recovered from RRVPNL.

4. The Review Petitioner has also filed Interlocutory Application No. 91 of 2018 seeking condonation of delay of 30 days in filing the said review petition. The Commission after hearing the Review Petitioner on 18.12.2018 , reserved the order on the maintainability of the Review Petition.

Analysis and Decision

5. The Review Petitioner has filed the petition after 75 days of the issue of the impugned order dated 20.7.2018 and therefore, a delay of 30 days has taken place after



the statutory period of 45 days allowed under the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 (hereinafter to be referred as 'CBR') for filing review petition. The Review Petitioner has submitted that the delay in filing of the review petition is due to the time taken for obtaining documentary evidence for commissioning of bays on SCOD. Since the bays were delayed to match the COD of the transmission lines, no documentary evidence was found for completion of works on SCOD. Thereafter, the Review Petitioner waited for NRPC meeting which was scheduled for 28.7.2018. The Review Petitioner has contended that in the NRPC meeting held on 28.7.2018, the Review Petitioner came to know about revised status of associated transmission network of RRVPNL and the minutes of the same could be available only in August, 2018. Therefore, the Review Petitioner came to know about the revised status of associated transmission line of RRVPNL only after three weeks of passing the impugned order dated 20.7.2018.

6. In our view, the Review Petitioner i.e. PGCIL being a Central PSU and a Navaratna company, it is expected to have a well-defined procedure for dealing with the orders after it is issued including the examination and inter-divisional consultation, seeking legal opinion and engagement of legal counsel. In fact, a period of 45 days has been prescribed in the CBR after taking into account the time involved in meeting the procedural requirements by the aggrieved party before filing the review petition. Even after receiving of Minutes of NRPC meeting 28.7.2018 on 13.8.2018, the Review Petitioner had sufficient time for preferring the instant Review Petition. It is observed that the Review Petitioner has not taken any steps to streamline its procedure for filing the review petitions inspite of directions issued by the Commission to that effect in some



of the earlier review petitions. However, we are allowing the application for condonation of delay as a last chance and direct the Review Petitioner to streamline its procedure to ensure that the review applications are filed within stipulated time. Accordingly, IA No. 91 of 2018 stands disposed off.

7. Next we proceed to consider whether the Review Petitioner has made out a case for review. The Review Petitioner has contended that the Commission while disposing of the Petition No. 264/TT/2017 did not take into account the various minutes of RPC meetings, which proves that the instant assets were ready and could not be commissioned due to delay in downstream assets. The Commission also did not take into account the various correspondences from the petitioner to RRVPNL, wherein the Review Petitioner inquired RRVPNL about the commissioning status of their line for matching the commissioning of the instant asset. Accordingly, the Review Petitioner has sought review of the order dated 20.7.2018 in Petition No. 264/TT/2017 and prayed to condone the time over-run from 6.8.2014 (SCOD) to 19.3.2016 (Deemed COD).

8. Let's first consider order dated 20.7.2018 in Petition No. 264/TT/2017. The relevant portion of the order is extracted as under :

“We have considered the submissions of the petitioner, RRVPNL and BRPL. The petitioner has attributed the time over-run purely to the time taken for matching the COD of the instant bay with the COD of the associated transmission lines under the scope of RRVPNL and no other reason has been given by the petitioner for the time over-run. The petitioner has not produced document to show that the COD of the instant bay was postponed to match with the downstream assets under the scope of RRVPNL. We are of the view that the time over-run from the scheduled COD of 6.8.2014 to the deemed COD of 19.3.2016 cannot be condoned and therefore, the IDC and IEDC for the said period is not capitalised.”



In the above order, we observe that the Review Petitioner had failed to produce document to show that the COD of the instant bay was postponed to match with the downstream assets under the scope of RRVPNL.

9. The Review Petitioner has contended that the Commission, while disposing of the Petition No. 264/TT/2017, did not take into account the Review Petitioner's letters dated 7.11.2014, 27.11.2014, 15.12.2014, 24.10.2015 and 2.8.2017. Let's consider the Review Petitioner's various correspondences to RRVPNL in detail. The first letter in this regard has been written on 7.11.2014 i.e. three months after the date of SCOD. The relevant portions of the Review Petitioner's letter dated 7.11.2014 is extracted as under:

"Respected Sir,

This is to bring in your knowledge that **the 400 kV bays related to 400 kV Anta – Kota Line is near to its commissioning. The 400 kV Main and Tie bay will be ready for charging very soon.** Therefore, you are kindly requested to intimate the status of 400 kV Line and bay at Anta end."

The relevant portions of the Review Petitioner's letter dated 27.11.2014 is extracted as under:

"Respected Sir,

With reference to above said letters we have asked you regarding preparedness of 400 kV Anta-Kota transmission line and its bays at Anta end. **The work of erection and commissioning of 400 kV Anta-Kota line bays at Kota end are almost complete.** Hence, you are once again requested to provide an update of status of construction of 400 kV Anta-Kota line and its bays at Anta end."

The relevant portions of the Review Petitioner's letter dated 15.12.2014 is extracted as under:

Respected Sir,

With reference to .above said letters we have asked you regarding preparedness of 220 kV Anta-Kota transmission line and its bays at Anta end. Unfortunately we have not received any communication from your side. Kindly tell us about the statue of the above said line and bay at. Anta end. The PLCC panels of Anta end are also



lying at Kota substation. You are requested to tell us whom should we contact for handing over of the PLCC panels of ANTA end -:

The relevant portions of the Review Petitioner's letter dated 24.10.2015 is extracted as under:

Respected Sir,

With reference to above said letters we have asked you regarding preparedness of 400 kV Ant;-Kota transmission line and its bays at Anta -end. The work of erection and commissioning of 400 kV Anta-Kota line bays at Kota end are almost complete. Hence you are once again requested to provide an update of status of construction of 400 kV Anta- Kota line and its bay at Anta end.

A perusal of the above letters of the Review Petitioner reveals that the instant asset i.e. a 400 kV bay at Kota S/S, was not even ready till 24.10.2015 but was only about to be ready. In fact, CEA certificate of completion was issued only on 15.3.2016. We are of the view that the consideration of letters of the Review Petitioner has no bearing on this Review Petition.

10. We have approved the COD of the instant asset after taking into account RLDC certificate dated 4.4.2016 certifying the successful completion of trial operation of the instant asset and CEA letter dated 15.3.2016 approving the energization of the instant asset. The relevant portion of order dated 20.7.2018 in Petition No. 264/TT/2017 is extracted as under :

“15. The petitioner has submitted the self-declaration COD letter dated 28.4.2016, RLDC certificate dated 4.4.2016 in accordance with Regulation 5(2) of the 2014 Tariff Regulations and the CEA letter dated 15.3.2016 approving the energisation under Regulation 43 of the CEA (Measures relating to safety and Electric Supply) Regulations, 2010 for the instant bays. Taking into consideration the RLDC certificate dated 4.4.2018 certifying the successful completion of trial operation of the transmission element, we approve the COD of the instant bays as 19.3.2016 under proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations and Regulation 6.3A(4) of the Grid Code, as the petitioner was prevented from putting the bay into commercial operation as the downstream assets under the scope of RRVPNL was not ready.”



A perusal of the above order reveals that the RLDC certificate was given only on 4.4.2016 and CEA energization certificate was given on 15.3.2016. Thus, the instant asset was not ready for COD till 15.3.2016.

11. In the light of the above discussion, we observe that the contention of the Review Petitioner that the time over-run i.e. from 6.8.2014 (SCOD) to 19.3.2016 (Deemed COD) was purely due to the time taken for matching with the commissioning of the 400 kV S/C Anta – Kota line (downstream line), being constructed by RRVPNL is not sustainable. Accordingly, the contention of the Review Petitioner to either capitalise the IDC & IEDC during the delay or reimbursement of IDC & IEDC for the delay from RRVPNL is rejected. No case has been made out by the Review Petitioner for review of our Order. Rather the Review Petitioner is agitating new issues which cannot be considered at review stage.

12. We are of the considered view that no case has been made out by PGCIL for review of order dated 20.7.2018 in Petition No. 264/TT/2017. Accordingly, the Review Petition No. 42/RP/2018 along with IA No. 91/2018 is disposed of.

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

Sd/-
(P. K. Pujari)
Chairperson

