

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. : 2/RP/2021 along with 5/IA/2021

Subject : Petition seeking review of order dated 5.2.2020 in Petition No.129/MP/2017 alongwith Interlocutory Application No.5/IA/2021 seeking condonation of delay in filing Review Petition

Date of Hearing : 18.6.2021

Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member,

Petitioner : Central Transmission Utility (CTU)

Respondents : Simhapuri Energy Limited (SEL)

Parties present : Ms. Suparna Srivastava, Advocate, CTU
Mr. Mr. Tushar Mathur, Advocate, CTU
Mr. Durga Bose Gandham, Advocate, (SEL)

Record of Proceedings

The matter was called out for virtual hearing.

2. The learned counsel for the Review Petitioner submitted that the instant Review Petition is filed against the order dated 5.2.2020 passed by the Commission in the Petition No. 129/MP/2017. She also submitted that I.A. No. 5/IA/2021 has been filed for condonation of the delay in filing in the review petition and requested to condone the delay and admit the review petition. The Review Petition is limited to the aspect of date of effectiveness of the LTA granted to the Respondent, which has been erroneously considered by the Commission as 16.6.2016 based on which the Respondent has been held liable to pay transmission charges only for the period between 16.6.2016 and the date of relinquishment. She submitted that the Respondent, Simhapuri Energy Limited (SEL) is a 600 MW generator in Andhra Pradesh and was granted LTA of 546 MW and the associated transmission system (ATS) was completed on 11.12.2015. After commissioning of the transmission system for evacuation of power from the Respondent/ generator project, CTU requested the Respondent to open letter of credit (LC) and the same was opened on 13.6.2016. The Review Petitioner/ CTU operationalized the 546 MW LTA w.e.f. 16.6.2016. CTU realized the transmission charges for the month of August, 2016, September, 2016 and part of October 2016 through invocation of LC in January 2017. The Respondent reinstated the LC and made payment of transmission charges till January 2017. Thereafter, Respondent stopped the payment of transmission charges from February 2017 and approached the Commission through



Petition No. 103/MP/2017 seeking suspension of payment transmission charges to the Review Petitioner on the ground of *force majeure*. The Commission declined the relief to the Respondent and held that the liability to pay transmission charges commenced from the date of commissioning of the transmission system based on which the LTA was granted which was 11.12.2015.

3. The learned counsel for the Review Petitioner submitted that Petition No. 129/MP/2017 was filed by the Respondent seeking surrender of 146 MW out of the total LTA of 546 MW. Therefore, relinquishment of 146 MW was the subject matter of Petition No. 129/MP/2017. The Commission vide order dated 5.2.2020, has wrongly considered the date of LTA operationalization (i.e., 16.6.2016) instead of the date on which the last transmission line/ sub-station was commissioned (i.e. 11.12.2015). She submitted that in compliance of the directions of the Commission issued in Petition No.103/MP/2017, bills and supplementary bills were issued in 2020. However, after the passing of the order dated 5.2.2020, when the computation of relinquishment charges were being made as per the order dated 5.2.2020 in Petition No. 103/MP/2017, it was discovered that there is a difference in the date from which the liability to pay transmission charges is to commence and the Commission has wrongly considered the date of LTA operationalization of 16.6.2016 instead of the date on which the last transmission line/ sub-station achieved COD (i.e. 11.12.2015). She further submitted that the said date has been considered without taking into account the earlier orders of the Commission passed in Petition No. No.103/MP/2017, Petition No.229/RC/2015 and Petition No. 92/MP/2015 which has led to an error apparent in the instant order dated 5.2.2020.

4. In response to a query of the Commission regarding the error in the impugned order, the learned counsel for the Review Petitioner submitted that the Respondent is liable to pay the transmission charges from COD of the transmission line, based on which the LTA was granted, to the date of relinquishment of the LTA. However, the Commission in the impugned order considered the date of operationalization instead of the COD of the transmission line. She accepted that the error has crept into the impugned error due to the inaction on the part of Review Petitioner for not placing the facts correctly i.e. the date of commissioning of transmission system and date of LTA operationalization before the Commission.

5. In response to another query of the Commission as to whether the Review Petitioner has revised the date of LTA operationalization as per the order passed in Petition No. 103/MP/2017, the learned counsel for the Review Petitioner submitted that a formal letter regarding the same has not been issued yet. However, the bills were raised on the generator as per the revised date of LTA operationalization and the same has been accepted by the generators.

6. The learned counsel appearing on behalf of SEL submitted that the SEL is under insolvency proceedings since June, 2020. He further submitted that there has been a considerable delay in filing of the Review Petition and sought time to file its reply to the Review Petition.



7. After hearing the learned counsel for the Review Petitioner, the Commission observed that the impugned order was passed on the basis of the submissions made by the Review Petitioner and there is no apparent error on the face of the record in the impugned order. The alleged error pointed out by the Review Petitioner occurred due to non-submission of the correct facts by the Review Petitioner. However, taking into consideration the peculiar circumstances in the matter, the Commission condoned the delay in filing the review petitioner and disposed I.A. No. 5/IA/2021 and admitted the petition. The Commission further directed to issue notice to the Respondents and directed the Petitioner to serve a copy of the petition on the Respondents by 30.6.2021.

8. The Commission directed the Review Petitioner to place on record all the relevant documents on affidavit, by 5.7.2021, with a copy to the Respondents and the Respondents to file their reply by 19.7.2021 and the Petitioner to file its rejoinder, if any, by 30.7.2021. The Commission further directed the parties to comply with the directions with the timeline specified and observed that no extension of time shall be granted.

9. The Petition shall be listed for final hearing in due course for which separate notice will be issued.

By order of the Commission

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(V. Sreenivas)
Deputy Chief (Law)

