

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Review Petition No. 25/RP/2021  
in Petition No. 135/MP/2021**

- Subject : Review Petition seeking review of order dated 31.8.2021 passed in Petition No. 135/MP/2021 under Regulation 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999.
- Date of Hearing : 20.1.2022
- Coram : Shri P. K. Pujari, Chairperson  
Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member
- Review Petitioner : Warora Kurnool Transmission Limited (WKTL)
- Respondents : Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) and Ors.
- Parties Present : Shri Amit Kapur, Advocate, WKTL  
Ms. Poonam Verma, Advocate, WKTL  
Ms. Aparajita Upadhyay, Advocate, WKTL  
Ms. Sakshi Kapoor, Advocate, WKTL  
Shri S. Vallinayagam, Advocate, TANGEDCO  
Shri Bhavesh Kundalia, WKTL  
Shri Afak Pothiawala, WKTL  
Dr. R. Kathiravan, TANGEDCO  
Ms. R. Ramalakshmi, TANGEDCO  
Shri R. Srinivasan, TANGEDCO

**Record of Proceedings**

Case was called out for virtual hearing.

2. The learned counsel for Review Petitioner, WKTL submitted that the present Review Petition has been filed seeking review of the Commission's order dated 31.8.2021 in Petition No. 135/MP/2021 ('Impugned order'). The learned counsel further referring to his note of arguments mainly submitted as under:

(a) Petition No. 135/MP/2021 was filed by WKTL under Section 17 of the Electricity Act, 2003 seeking approval for creation of security interest over WKTL's transmission assets in order to secure the rights of WKTL's new lender i.e. State Bank of India ('SBI').

(b) SBI's rights were to be secured by adequate security for all the loan facilities availed by WKTL amounting to Rs. 2368 crore, which included term loan facility of Rs. 2254 crore, Performance Bank Guarantee (PBG) facility of Rs.110 crore and hedging/ loan equivalent risk facility of Rs. 4 crore and the same has also been recorded by the Commission in the Impugned order.



(c) However, by way of Impugned order, the Commission has allowed creation of security interest only with respect to term loan facility of Rs. 2254 crore and has excluded (i) PBG facility of Rs. 110 crore and (ii) hedging facility of Rs. 4 crore from the total facilities availed by WKTL.

(d) The aforesaid finding of the Commission, as recorded in the paragraphs 18 and 25 of the Impugned order, whereby the Commission has permitted creation of security interest with respect to loan facility of Rs. 2254 crore instead of Rs. 2368 crore as sanctioned by SBI and also recorded in the Impugned order is, according to WKTL, an error apparent on the face of record.

(e) As a result of the aforesaid findings of the Commission, WKTL is not able to create security over the entire loan amount of Rs. 2368 crore. Consequentially, SBI can execute security documents relating to facility of Rs. 2254 crore only and not for the PBG facility and hedging facility sanctioned to WKTL. SBI by its e-mail dated 6.10.2021 has requested WKTL to seek approval from the Commission for entire facility of Rs. 2368 crore. In order to secure rights of SBI who has sanctioned total loan facilities of Rs. 2368 crore, it is imperative that adequate security for such facilities is created in favour of SBI.

(f) The Commission vide earlier order dated 24.5.2018 in Petition No. 78/MP/2017 in the case of WKTL had granted approval for creation of security interest towards entire loan facility of Rs. 2900 crore including PBG facility of Rs. 110 crore and had not made any distinction between the term loan facility and additional facility.

(g) Inclusion of PBG facility and hedging facility in the total loan amount to the Project for creation of security will not in any way impact the tariff payable by the LTTCs.

3. The learned counsel for the Respondent, TANGEDCO objected to the maintainability of the Review Petition and submitted that at paragraph 18 of the Impugned order, the Commission has categorically recorded the submission made by WKTL that it has not sought creation of security on Contract Performance Bank Guarantee as per the terms of sanction letter dated 11.8.2020 and Article 8.1 of the Facility Agreement dated 30.1.2021 and, accordingly, the Commission observed that since WKTL cannot avail loan facility more than the loan component of the Project, its request with regard to PBG and hedge facilities is not considered. The learned counsel submitted that there is no error apparent on face of record of the Impugned order as alleged by WKTL and, therefore, the present Review Petition is not maintainable. The learned counsel sought liberty to file its reply on the maintainability of the Review Petition.

4. In rebuttal, the learned counsel for WKTL submitted that there cannot be any securitization on PBG furnished by WKTL and, accordingly, the Impugned order records the submission made by WKTL that it had not sought creation of security on PBG as per the terms of sanction letter dated 11.8.2020 and Article 8.1 of the Facility Agreement dated 30.1.2021. In the said Petition, WKTL had sought creation of security interest over its assets to cover for the facilities availed from SBI which included PBG and hedging facilities. The learned counsel further submitted that apart from the order dated 24.5.2018, the Commission has also permitted creation of

security interest for entire loan facilities including PBG facilities in various other cases in the past.

5. Considering the request of the learned counsel for the Respondent, TANGEDCO, the Commission permitted TANGEDCO to file its reply within a week with a copy to the Petitioner, who may file its rejoinder, within a week thereafter.

6. Subject to the above, the Commission reserved the order on 'admissibility' of the Review Petition.

**By order of the Commission**

**Sd/-  
(T.D. Pant)  
Joint Chief (Law)**