

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 36/RP/2022  
along with IA No. 57/2022**

**Coram:  
Shri I.S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member**

**Date of Order: 23<sup>rd</sup> September, 2022**

**In the matter of**

Petition seeking review of the order dated 28.8.2022 passed by this Commission in Petition No.182/MP/2020 titled as 'OGPTL v. WBSEDCL & Ors.' as per Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999.

**And  
In the matter of**

Odisha Generation Phase II Transmission Limited,  
F-1, The Mira Corporate Suites,  
1 & 2, Ishwar Nagar, Okhla Crossing,  
Mathura Road, New Delhi-110 065

**.....Review Petitioner**

**Vs**

1. West Bengal State Electricity Distribution Company Limited,  
Bidyut Bhawan, A-Block,  
3rd Floor, Bidhannagar, Kolkata- 700 091.

2. North Bihar Power Distribution Company Limited,  
2nd Floor, Vidyut Bhawan,  
Bailey Road, Patna- 800 001.

3. South Bihar Power Distribution Company Limited,  
2nd Floor, Vidyut Bhawan,  
Bailey Road, Patna- 800 001.

4. Damodar Valley Corporation,  
DVC Head Quarters, DVC Towers,  
VIP Road, Kolkata- 700 054.

5. Jharkhand Bijli Vitran Nigam Limited,  
Engineer's Building, Dhurwa,  
Ranchi- 834 004.

6. GRIDCO Limited,  
Grid Corporation of Orissa Limited,  
Janpath, Bhubneshwar-751 011.

7. Energy and Power Department, Govt. of Sikkim,  
Power Secretariat, Sonam Gyatso Marg,  
Gangtok, Sikkim -737 101.

8. Power Grid Corporation of India Limited,  
HVDC Rihand, "Saudamini" Plot No-2  
Sector-29, Gurgaon-122 001.

9. Odisha Power Generation Corporation Limited,  
Zone-A, 7th Floor, Fortune Towers,  
Chandrasekharapur,  
Bhubaneshwar, Odisha – 751 023.

10. SKS Power Generation (Chhattisgarh) Limited,  
B-501, Elegant Business Park,  
Andheri Kurla Road, J.B. Nagar,  
Andheri East, Mumbai,  
Maharashtra – 400 059.

11. PFC Consulting Limited,  
1st Floor, Urja Nidhi,  
1, Barakhamba Lane,  
Connaught Place, New Delhi – 110 001.

12. Central Transmission Utility of India Limited,  
Plot No. 2, Sector-29, Gurgaon,  
Haryana – 122 001.

13. Central Electricity Authority,  
Power System Project Monitoring Division,  
36, Sector 5, Rama Krishna Puram,  
New Delhi - 110 066

.....Respondents

**The following were present:**

Shri Amit Kapur, Advocate, OGPTL  
Ms. Aparajita Upadhyay, Advocate, OGPTL  
Ms. Gayatri Aryan, Advocate, OGPTL  
Shri Aryaman Saxena, Advocate, OGPTL  
Shri Ajay Upadhya, CTUIL

**ORDER**

The Review Petitioner, Odisha Generation Phase II Transmission Limited

('OGPTL') has filed the present Review Petition seeking review of the Commission's order dated 28.8.2022 in Petition No. 182/MP/2020 ('Impugned order') rejecting the early commissioning of its 765 kV D/C Jharsuguda (Sundargarh)- Raipur Pool line ('JR Line') and consequently, directing the Central Transmission Utility of India Limited ('CTUIL') to raise adjustment bills on the Review Petitioner to recover the amounts disbursed considering the COD as approved vide the Impugned order within a month. The Review Petitioner has made the following prayers:

*“(a) Allow the present Petition and review the Impugned Order dated 28.08.2022 in Petition No. 182/MP/2020 as prayed in the present Petition;*

*(b) Review and recall the directions issued to CTUIL at Para 46 of the Impugned Order to recover the amounts disbursed to the Petitioner prior to the SCOD of JR Line as per the submissions made in this petition;*

*(c) Pass any such and further orders that this Commission deems fit in the facts of the present Petition...”*

**Interlocutory Application (IA) No. 57/2022**

2. The Review Petitioner has filed IA No. 57/2022, *inter-alia*, praying for grant of interim protection to the Review Petitioner from any coercive action by CTUIL including recovery/future adjustment of transmission charges from 6.4.2019 till 8.8.2019 as directed by the Commission in the Impugned order (paragraph 46) during the pendency of the Review Petition.

3. The matter was heard for 'admission' on 20.9.2022. During the course of the hearing, the learned counsel for the Petitioner submitted there is an error apparent in the order in appreciating as under:

(a) The early commissioning of JR Line was duly recognized by the Central Electricity Authority in the minutes of meetings held on 26.10.2016, 27.12.2016, 19.2.2019 and 12.9.2018, which were placed on records of Petition No. 182/MP/2020.

(b) The fact that the early commissioning was encouraged/incentivised by

the Ministry of Power's Policy dated 15.7.2015.

(c) The intent of aforesaid MoP Policy was adopted by the Commission in the Central Electricity Regulatory Commission (Indian Electricity Grid Code) (Fourth Amendment) Regulations, 2015 dated 6.4.2016 in the Statement of Reasons, whereby it has been provided that the early commissioning of the transmission asset must be done along with upstream and downstream elements associated with the line and the objective of establishing a transmission asset is for it to be connected at both ends and transmit the electricity which must be fulfilled.

(d) The upstream and downstream elements connected to the JR Line were commissioned before 6.4.2019 i.e. actual commissioning of JR Line and undisputedly, the JR Line was put to use on the said date. The usage is also admitted in the order dated 11.1.2022 in PGCIL's Petition No. 665/TT/2020 where the Commission allowed the recovery of transmission charges for PGCIL's bays associated with JR Line from the PoC Pool w.e.f. 7.4.2019.

(e) It was allowed on the basis of CEA energization certificate and RLDC charging certificate for the bays and similar certificates were also placed on record by the Review Petitioner for the JR Line. Pertinently, PGCIL's terminal bays could not have been put to use if the connecting JR Line was not put to use.

(f) The issue of early commissioning of JR Line was never pleaded by any party nor there was any prayer with respect to COD of the JR Line. The Petitioner had only sought Change in Law relief with respect to the JR Line.

(g) Impugned order imposes an undeserved liability of approximately Rs 51.6 crore on the Review Petitioner to be recovered by CTUIL within a month in terms of paragraph 46 of the Impugned order. Accordingly, the Commission may grant the interim protection from any coercive action by CTUIL including recovery/future adjustment of transmission charges from 6.4.2019 till 8.8.2019.

4. The representative of CTUIL pointed out that though the JR Line of the Review Petitioner was considered for inclusion in the PoC Pool for application period

October to December, 2018, the disbursement of transmission charges was done only after the actual power flow from the said line i.e. from 6.4.2019.

5. Considering the submissions made by the learned counsel for the Review Petitioner, the Review Petition is admitted. Notice shall be issued to the Respondents. The Review Petitioner is directed to serve copy of the Review Petition, along with this order, to the Respondents within a week. The Respondents shall file their reply, if any, by 18.10.2022 after serving copy to Review Petitioner, who may file its rejoinder, if any, by 4.11.2022.

6. The Petitioner and the Respondents, CEA and CTUIL are directed to clarify/include, in their reply/rejoinder, as to whether there was any specific/categorical approval of CEA for early commissioning of the JR Line considering its requirement/ usefulness at the relevant point of time and whether any mutual Indemnification Agreement has been signed between the parties in terms of Office Memorandum dated 15.1.2016 (MOP OM) issued by the Ministry of Power pursuant to Policy of Ministry of Power dated 15.7.2015. The Petitioner is directed to submit whether as per MOP OM, in any meeting of such Committee, LTTCs and CEA have agreed for early commissioning of JR Line.

7. CTUIL is directed not to take any coercive action against the Review Petitioner including recovery/future adjustment of transmission charges (mentioned in Paragraph 46 of the Impugned order) in respect of JR Line from 6.4.2019 to 8.8.2019 till further order. The said direction was pronounced in presence of the Representative of CTUIL . Accordingly, IA No. 57/2022 is disposed of.

8. CEA is directed to depute the officer well conversant with the subject matter in the next date of hearing.

9. The Review Petition shall be listed for hearing on 25.11.2022.

Sd/-  
**(P. K. Singh)**  
Member

sd/-  
**(Arun Goyal)**  
Member

sd/-  
**(I.S. Jha)**  
Member