

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 318/MP/2022

Subject : Petition under Section 79(1)(c) & 79(1)(f) of the Electricity Act, 2003 and all other enabling provisions in this regard, seeking a direction to NRPC to certify availability factor for the months of January 2022 and February 2022 by excluding the outage of the Transmission Line (from 20.1.2022 to 8.2.2022) from the total time of the said Transmission Line.

Date of Hearing : 6.12.2023

Coram : Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Petitioners : NRSSXXIX Transmission Limited (NTL)

Respondent : NRPC & Ors.

Parties present : Shri Sanjay Sen, Sr. Advocate, NTL
Shri Aman Anand, Advocate, NTL
Shri Aman Dixit, Advocate, NTL
Ms. Natasha Deb Roy, Advocate, NTL
Ms. Aparajita Upadhyay, Advocate, NTL
Shri Ruth E Levin, Advocate, NTL
Ms. Neha M Dabral, Advocate, NTL
Shri Apurva Kurup, Advocate, BRO
Shri Akhil Hasija, BRO, Advocate, BRO
Shri Lokendra Singh, NTL
Shri Vivek Karthikeyan, NTL

Record of Proceedings

NRSS XXIX Transmission Limited (NTL) has filed the instant petition seeking directions to NRPC to issue revised availability certificates for the months of January 2022 and February 2022 by excluding the outage from 20.1.2022 to 8.2.2022 in respect of 400 kV D/C Twin Moose Sambha-Amargarh Transmission Line of the Petitioner.

2. Learned senior counsel for the Petitioner submitted that the outage was due to the unauthorized and negligent act of BRO during the widening of the road since they did not follow the set protocol and did not seek prior approval for excavation at the site as stipulated in the Regulation 63(1) of the Central Electricity Authority (Measures relating



to Safety and Electric Supply) Regulations, 2010. The affidavit dated 20.2.2023 filed by CEA brings out the facts in this regard. The finding of the CSIR team, appointed at the behest of BRO and CEA, also indicates that at the time of the road expansion, there was a cutting on the slope where the tower existed and this resulted in the reduction of the strength of the slope leading to the occurrence of cracks.

3. In response to a query of the Commission regarding the basis on which the condonation of the outage is sought and whether the same was condoned by NRPC and CEA, the learned senior counsel submitted that the approval of the outage is sought under the Regulation 5 (Appendix-II) of the 2019-24 Tariff Regulations which was approved in the 191st OCC meeting. The shutdown was not condoned by both, NRPC and CEA and the availability remained below the benchmark.

4. In response to another query of the Commission on whether the Petitioner has raised the same issue in the petition filed before the Hon'ble High court and the amount involved because of the shortfall in deemed availability, the learned senior counsel submitted that the issue has since been withdrawn and that the amount involved due to availability shortfall is Rs.20 crore.

5. Learned counsel for BRO submitted that the arguments from their side may be deferred for another day due to some personal difficulty on the part of the counsel. The Commission observed that in the matter, the order was reserved and it has been reopened at the instance of BRO. However, the Commission gave one last opportunity to the BRO to submit their arguments.

6. The Commission directed the Petitioner to furnish on affidavit the report of soil investigation/ geo investigation done at the time of installation of the site of tower no. 286 by 22.12.2023 with a copy to the Respondents.

7. The final hearing in the matter will held on 8.12.2023.

By order of the Commission

sd/-
(V. Sreenivas)
Joint Chief (Law)

