

**CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi**

Petition No. 318/MP/2022

- Subject** : Petition under Section 79(1)(c) and Section 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, in accordance with Appendix II - clause 5(i) of the Central Electricity Regulatory Commission, Tariff Regulations (Procedure for Calculation of Transmission System Availability Factor for a Month).
- Date of Hearing** : 17.1.2023
- Coram** : Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner** : NRSSXXIX Transmission Limited (NTL)
- Respondents** : NRPC & Ors.
- Parties Present** : Shri Sanjay Poovayya, Senior Advocate, NTL
Shri Raksha Agrawal, Advocate, NTL
Shri Aman Anand, Advocate, NTL
Shri Abhimanyu Maheshwari, Advocate, NTL
Shri Lokendra Singh Rawat, NTL
Shri Aditi Halder, NTL

Record of Proceedings

The case was called out for virtual hearing.

2. Learned senior counsel appearing for the Petitioner submitted that the instant petition has been filed by the Petitioner as it is aggrieved by the availability certification given by NRPC, for the months of January, 2022 and February, 2022, in respect of 400 kV D/C Twin Moose Sambha-Amargarh Transmission Line (transmission line) being implemented by the Petitioner. He further submitted that the transmission line was successfully executed in the year 2018 and target availability was also achieved. In the year 2021, the Petitioner noticed the development works of new Border Roads Organization (BRO) road project (expansion of the Rajouri Thanamandi Surankot road) alongside Petitioner's line. The Petitioner immediately made a representation to

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BRO, regarding the procedure to be followed by a person before carrying out construction work in the vicinity of a transmission line as per Regulation 63 of the CEA Safety Regulations, 2010. However, BRO did not follow the procedure and a massive hill cutting was carried out for the road expansion under the hill where Tower No. 286 was erected. At Tower No. 286 cracks were noticed making the structure unsafe and unstable. Consequently, the Petitioner sought intervention of CEA and CEA convened two joint meetings and came to the conclusion that the tower must be removed. In view of the dangerous condition of Tower No. 286, the Petitioner requested NRPC for an outage for de-stringing and re-stringing of the tower which was approved by NRPC from 20.1.2022 to 1.2.2022. However due to heavy snowfall, the work as planned could not make progress, resulting in a delay of about 7 days in restoration of the element. Thereafter, transmission line was restored. Accordingly, the Petitioner in the above circumstances requested NRPC for certification of availability considering the outage to be a *force majeure* events not attributable to the Petitioner as the Petitioner is required to show overall availability in a year of 98% failing which it is penalized. However, NRPC for the months of January, 2022 and February, 2022 showed availability of the Petitioner of 85% and 87% respectively without considering the reasons given by the Petitioner. Hence, the present petition is filed.

3. After hearing learned senior counsel for the Petitioner, the Commission admitted the petition and directed to implead all the beneficiaries including BRO as Respondents. The Commission further directed the Petitioner file revised 'Memo of Parties' and serve notice of the petition on all the Respondents along with documents by 10.2.2023. The Commission further directed the Petitioner to submit the following information on an affidavit by 10.2.2023 with advance copy of the same to the Respondents:

- a) Complete copy of TSA as page Nos.160-168 are missing in the petition.
- b) Whether the Petitioner is governed by the 2019 Tariff Regulations or by its TSA? The relevant provision of TSA under which it is seeking the relief may be intimated.
- c) Whether the Petitioner raised any such prayers before any High Court and later withdrew the same?
- d) What was the availability of the Petitioner excluding the disputed period in January, 2022 and February 2022?

4. The Commission further directed NRPC to submit its reply to the petition by 24.2.2023 and also to submit reasons for not considering outage period of 20.1.2022 to 8.2.2022 in respect of 400 kV D/C Sambha-Amargarh transmission line under *force majeure* event.

5. The Commission directed the Respondents to file their reply by 24.2.2023 with advance copy to the Petitioner, who may file its rejoinder, if any, by 3.3.2023. The Commission further directed the parties to comply with the directions within the timelines specified above and observed that no extension of time shall be granted.



6. The matter shall be listed for further hearing on 28.3.2023.

By order of the Commission

sd/-
(Rajendra Kumar Tiwari)
Bench Officer

