

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Review Petition No.51/RP/2022 in  
Petition No. 30/TT/2021**

- Subject** : Petition for review of order dated 13.3.2022 in Petition No. 30/TT/2021.
- Date of Hearing** : 8.11.2023
- Coram** : Shri Jishnu Barua, Chairperson  
Shri I.S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member
- Petitioner** : Power Grid Corporation of India Ltd.
- Respondents** : Madhya Pradesh Power Management Company Limited & 13 Others
- Parties present** : Ms. Swapna Seshadri, Advocate, PGCIL  
Shri Utkarsh Singh, Advocate, PGCIL  
Shri Surbhi Gupta, Advocate, PGCIL  
Shri Sneha Singh, Advocate, PGCIL  
Shri Mohd. Mohsin, PGCIL  
Shri Zafrul Hasan, PGCIL  
Shri Pankaj Sharma, PGCIL  
Shri Hemant Singh, Advocate, RRWTL  
Shri Lakshyajit Singh, RRWTL  
Ms. Lavanya Panwar, RRWTL  
Shri Ayush Raj, RRWTL

**Record of Proceedings**

The matter was heard and admitted on 27.4.2023.

2. Learned counsel for the Review Petitioner made the following submissions:
- a) In the instant review petition, the issue that needs to be decided on merits is with regard to the payment of transmission charges for the disputed period from 30.11.2018 to 31.3.2019 with respect to 2 Nos. 765 kV line bays at 765/400 kV Raipur Pooling Station (Powergrid) for Raipur Pooling Station (Powergrid)-Rajnandgaon (TBCB) 765 kV D/C line.



- b) When the Review Petitioner filed the original tariff petition i.e. Petition No. 16/TT/2019, RRWTL was the implementing agency of the associated transmission line under the TBCB route, and Adani Power Limited (APL) was the bidder of the Project and was impleaded as a party to the original petition.
  - c) The Review Petitioner raised a bill on RRWTL, which was not paid by RRWTL on the premise that it was not a party to the petition, and the holding Company took the defence that it was not the agency which implemented the transmission line and as such. it was not responsible for the payment of transmission charges.
  - d) The Review Petitioner filed Petition No. 30/TT/2021 for truing up of transmission tariff from COD to 31.3.2019 and determination of tariff for the 2019-24 period. In the truing up petition, the Review Petitioner made the bidder of the Project, the ultimate Holding Company of SPV, as well as SPV, as parties to the petition. Simultaneously, the Review Petitioner also filed a Miscellaneous Petition No. 31/MP/2021 for adjudication of the issue of non-payment of transmission charges. In the truing up petition, RRWTL contended that the Review Petitioner cannot correct an error of the original tariff petition in the truing up petition. In the said truing up petition, the Commission, vide its order dated 13.3.2022 in Petition No. 30/TT/2021, did not decide the issues on merits and observed that the same would be considered in Petition No. 31/MP/2021. However, the Commission, vide its order dated 6.6.2022, dismissed Petition No. 31/MP/2021, observing that the said petition was not maintainable.
  - e) In the present Review Petition, a decision may be taken on merits after considering all objections of RRWTL and APL with regard to the payment of transmission charges for the mismatch period i.e. from 30.11.2018-30.3.2019 as per the Commission's order dated 10.5.2020 in Petition No. 16/TT/2019. In the alternative, the Review Petitioner may be directed to file a fresh truing up-cum-tariff petition for the aforesaid disputed period only in order that all objections of APL and RRWTL may be considered and decided on merits as to why they should not made liable to pay the transmission charges to the Review Petitioner for the disputed period.
3. Main submissions of learned counsel for RRWTL are as follows:
- a) RRWTL executed a Transmission Service Agreement (TSA) dated 24.6.2015 for the purpose of implementation of the Raipur PS (Powergrid)-Rajnandgaon 765 kV D/C line with associated sub-station. As per the TSA, the SCOD of the transmission system under the scope of RRWTL was 30.11.2018, against which COD of the transmission system was achieved



on 30.3.2019, with a time over-run of around four months on account of *force majeure* events.

- b) RRWTL filed Petition No. 326/MP/2018 seeking condonation of the time over-run and extension of COD from 30.11.2018 to 30.3.2019. The Commission vide order dated 9.10.2019 in Petition No. 326/MP/2018 allowed extension of the SCOD on account of *force majeure* events and as such, there is no mismatch qua RRWTL. Since the plea of RRWTL of *force majeure* has been accepted by the Commission in the said order for extension of SCOD, RRWTL is not liable to pay for the period of mismatch. APL is not the parent Company of RRWTL. As per the Share Purchase Agreement (SPA), the shareholding of RRWTL is taken over by ATL as an investing affiliate, and as such, PGCIL cannot seek monetary relief against APL and RRWTL.
  - c) As per the Hon'ble Supreme Court judgment in the matter of *Ramrao v. All India Backward Class Bank Employees Assn., reported in (2204) 2 SCC 76*, non-joinder of a necessary party goes to the root of an order and such a defect is fatal which cannot be corrected in the present proceedings.
  - d) The Review Petitioner should have filed a Review Petition against the Commission's order dated 6.6.2022 in Petition No. 31/MP/2021 wherein all the issues were raised and not against the truing up order dated 13.3.2022 in Petition No. 30/TT/2021. The said mistake on the part of the Review Petitioner is also fatal to its case.
4. In addition to the above, learned counsels for RRWTL and the Review Petitioner made elaborate legal submissions and sought time to file their detailed Written Submissions.
  5. The Commission allowed RRWTL to file its Written Submissions by 30.11.2023, with an advance copy to the Review Petitioner and the Review Petitioner to file its Written Submissions by 8.12.2023 with a copy of the same to RRWTL.
  6. Subject to the above, the Commission reserved the order in the matter.

**By order of the Commission**

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(V. Sreenivas)  
Joint Chief (Law)

