

CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Petition No. 7/TT/2018

Coram:

Shri Jishnu Barua, Chairperson

Shri Arun Goyal, Member

Shri Ramesh Babu V., Member

Date of Order: 19th June, 2024

In the matter of:

Re-consideration of the order dated 5.11.2018 in Petition No. 7/TT/2018 pursuant to the directions of the Appellate Tribunal for Electricity vide judgment dated 14.3.2023 in Appeal No. 422 of 2019.

And

In the matter of:

Power Grid Corporation of India Limited,
SAUDAMINI, Plot No-2,
Sector-29, Gurgaon-122 001

..... Petitioner

Vs.

1. Rewa Ultra Mega Solar Limited,
Urja Bhawan, Link Road No. 2
Shivaji Nagar, Bhopal 462016
2. Madhya Pradesh Power Management Company Limited,
Shakti Bhawan, Rampur
Jabalpur - 482 008
3. Maharashtra State Electricity Distribution Company Limited,
Prakashgad, 4th Floor,
Andheri (East), Mumbai - 400 052
4. Gujarat Urja Vikas Nigam Limited,
Sardar Patel Vidyut Bhawan,
Race Course Road,
Vadodara - 390 007
5. Electricity Department,
Government of Goa,
Vidyut Bhawan, Panaji,
Near Mandvi Hotel, Goa - 403 001
6. Electricity Department,
Administration of Daman & Diu,



Daman - 396 210

7. Electricity Department,
Administration of Dadra Nagar Haveli,
U.T., Silvassa - 396 230
8. Chhattisgarh State Electricity Board,
P.O.Sunder Nagar, Dangania, Raipur
Chhatisgaarh-492013
9. Madhya Pradesh Audyogik Kendra,
Vikas Nigam (Indore) Limited
3/54, Press Complex, Agra-Bombay Road,
Indore-452 008

... Respondent(s)

For Petitioner: Ms. Swapna Seshadri, Advocate, PGCIL
Shri Utkarsh Singh, Advocate, PGCIL
Shri Zafrul Hasan, PGCIL
Shri Pankaj Sharma, PGCIL

For Respondents: Shri Varun K. Chopra, Advocate, MPPMCL
Shri Dipu Kumar Jha, Advocate, MPPMCL
Shri Aditya Singh, Advocate, RUMSL

ORDER

The Appellate Tribunal for Electricity (hereinafter referred to as the 'APTEL') has remanded back Petition No. 7/TT/2018 vide its judgment dated 14.3.2023 in Appeal No. 422 of 2019, filed by Power Grid Corporation of India Limited (PGCIL), for fresh consideration of the order dated 5.11.2018 in Petition No. 7/TT/2018 in the light of the affidavit dated 13.3.2023 filed by PGCIL before the APTEL in Appeal No. 422 of 2019. The relevant portions of the APTEL's judgment dated 14.3.2023 are as follows:

"ORDER

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11. *The interests of the Respondents would be adequately safeguarded on the CERC being directed to examine the matter afresh in the light of the aforesaid documents making it clear that, while doing so, it is always open to the CERC to ascertain whether or not these documents formed part of the original records before it. Needless to state that the 2nd and 3rd Respondents can also avail their legal remedies in-case the contents of the affidavit dated 13.03.2023 are found not to be true.*

12. *In light of the aforesaid observations, the order under appeal is set aside, and the matter is remanded to the CERC for consideration of the Petition afresh, in the*



light of the affidavit dated 13.03.2023 filed by the Appellant-Petitioner, after giving all the parties to the proceedings a reasonable opportunity of being heard.”

2. Accordingly, Petition No. 7/TT/2018 was heard.

BACKGROUND

3. The Petitioner, Power Grid Corporation of India Limited, filed Petition No. 7/TT/2018 for approval of the transmission tariff for LILO of Vindhyachal-Jabalpur 400 kV 2nd Double Circuit (“D/C”) line (Circuits 3 and 4) along with associated bays and equipment at 400/220 kV Rewa Pooling Station (hereinafter referred to as the “transmission asset/Asset-I”) under the transmission system for Ultra Mega Solar Park (750 MW) in Rewa District, Madhya Pradesh in Western Region (hereinafter referred to as the “transmission system”) from the date of commercial operation (COD) to 31.3.2019 in terms of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as “the 2014 Tariff Regulations”).

4. The Commission, vide order dated 5.11.2018 in Petition No. 7/TT/2018, did not condone the time over-run of 478 days from the SCOD of Asset-I, i.e., 15.3.2017 to COD, i.e., 6.7.2018 as the Petitioner neither explained the reasons for time over-run nor submitted any documentary evidence to justify the time over-run for the said period. The relevant portions of the order dated 5.11.2018 in Petition No. 7/TT/2018 are as follows:

“26. We have considered the submissions of the petitioner and MPPMCL. As per the investment approval dated 15.1.2016, the scheduled COD of the transmission scheme was 15.3.2017, against which the COD of the instant asset was declared on 6.7.2018 i.e. with a time over-run of 478 days. Further, the Energisation Certificates dated 24.1.2018 and 31.1.2018 as issued by CEA show that the some of the elements of the instant asset were ready on 24.1.2018 and some on 31.1.2018. The petitioner has claimed combined tariff for the elements of the instant asset, therefore, the instant asset was claimed to be ready on 31.1.2018. The petitioner has neither explained the time over-run from the scheduled COD of 15.3.2017 to 30.1.2018 nor submitted any documentary evidence to justify the time delay for this period. As such, we are of the view that the time over-run from 15.3.2017 to 30.1.2018 is attributable to the petitioner.



27. As regards the delay from 31.1.2018 to 5.7.2018, it is noted that on the basis of CEA energisation certificate, the asset was ready on 31.1.2018. The petitioner vide affidavit dated 5.3.2018, had initially claimed 31.1.2018 as COD under proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations. However, vide affidavit dated 21.8.2018, the petitioner instead preferred to match the COD of the instant asset as 6.7.2018 instead of claiming 31.1.2018 as COD under proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations. Accordingly, entire time over-run from 15.3.2017 to 5.7.2018 (478 days) is not condoned. Hence, the IDC and IEDC for the period from 15.1.2016 to 15.3.2017 (426 days), i.e. from the Investment Approval date to the scheduled COD are only allowed to be capitalised.”

5. Being aggrieved with the aforesaid order of the Commission dated 5.11.2018, the Petitioner filed Appeal No. 422 of 2019 before the APTEL. The APTEL, vide its judgment dated 14.3.2023 in the said Appeal, set aside the Commission’s order dated 5.11.2018 in Petition No. 7/TT/2018 and directed the Commission to examine the matter afresh in the light of the Petitioner’s affidavit dated 13.3.2023, filed before the APTEL in the said Appeal. The APTEL, in its aforesaid judgment, observed that it is open to the Commission to ascertain whether the documents stated in the affidavit dated 13.3.2023 formed part of the original record placed before it in the instant petition.

6. As per paragraph 8 of the APTEL’s judgment dated 14.3.2023 in Appeal No. 422 of 2019, the description of the documents stated in the affidavit dated 13.3.2023 is as follows:

“a. Letter dated 08.01.2015 issued by the Ministry of Power (‘MOP’) to the Appellant approving the implementation of the transmission corridor connecting to the solar park and also implementing the same in compressed time schedule. (Page 21 of the Pleadings)

b. The Order dated 24.11.2015 passed by the Central Commission in Petition No. 228/MP/2015 and I.A. NO. 30/2015 granting Regulatory Approval and directing the Appellant to match its transmission system with the upcoming generation projects in the solar park. (Pages 22-33 of the Pleadings)

c. Relevant extracts from the 38th SCM (WR) Meeting held on 17.07.2015. (Pages 40-43 of the Pleadings)

d. Relevant extracts from the 39th SCM (WR) Meeting held on 28.12.2015. (Pages 44-45 of the Pleadings)

e. Relevant extracts from the 30th Meeting (WRPC) held on 08.01.2016 (Pages 47-48 of the Pleadings)



- f. *Relevant extracts from the 40th SCM (WR) Meeting held on 01.06.2016 (Pages 49-56 of the Pleadings)*
- g. *Long Term Access Agreement ('LTA') dated 09.12.2016 signed between the Appellant and the Respondent No. 2 - Rewa Ultra Mega Solar Limited (hereinafter referred to as 'RUMSL'). (Pages 57-66 of the Pleadings)*
- h. *Letter dated 09.12.2016 of RUMSL to the Appellant to defer the commissioning of the transmission system till October 2017. (Page 67 of the Pleadings)*
- i. *The Minutes of the 15th Joint Coordination Committee ('JCC') Meeting for High Capacity Corridor for IPPs in the Western Region held on 27.03.2017: Minutes issued on 28.04.2017. (Pages 70-71 of the Pleadings)*
- j. *The Minutes of the 16th Joint Coordination Committee ('JCC') Meeting for High Capacity Corridor for IPPs in the Western Region held on 16.06.2017: Minutes issued on 09.08.2017. (Pages 68-69 of the Pleadings)*
- k. *Letter dated 03.10.2017 of RUMSL to the Appellant to defer the commissioning of the transmission system from October 2017 to February 2018. (Page 160-161 of the Pleadings)*
- l. *The CEA Energization Certificate dated 31.01.2018 for Asset-1 (LILO of 400 KV D/C Vindhyachal-Jabalpur Line 3-4 at Rewa Pooling Station).(Page 162 of the Pleadings)*
- m. *Minutes of the Meeting held on 27.02.2018 : Minutes issued on 28.01.2018 between several entities including RUMSL and the Appellant where RUMSL informed its further deferment of the solar park. (Pages 170-182 of the Pleadings)*
- n. *Additional Affidavit filed by the Appellant on 05.03.2018 before the Central Commission specifically stating that it is making its best efforts to match the commission of the transmission system with the expected generation at Rewa. (Pages 156-157 of the Pleadings)."*

7. APTEL, in the aforesaid judgment dated 14.3.2023, also granted Rewa Ultra Mega Solar Limited (RUMSL) and Madhya Pradesh Power Management Company Limited (MPPMCL) the liberty to seek legal remedies in case the contents of the affidavit dated 13.3.2023 are found not to be true.

8. Pursuant to the remand, Petition No. 7/TT/2018 was heard by the Commission on 27.9.2023 and 8.11.2023, and the Commission directed the Respondents to file their replies. The hearing in this matter was further held on 15.12.2023, and the order was reserved. However, an order in the petition could not be issued before Shri P. K. Singh,



Member, demitting the office. Therefore, the petition was heard again on 29.5.2024, and the order was reserved.

9. RUMSL, in its affidavit dated 28.11.2023, has submitted that the Commission has rightly held in an order dated 5.11.2018 in Petition No. 7/TT/2018 that no documents were provided by the Petitioner to demonstrate that the transmission asset was ready on 31.1.2018. Instead, the Petitioner merely relied on a letter issued by RUMSL. The Petitioner has failed to substantiate that the time over-run is attributable to RUMSL or that the assets were ready by 15.3.2017. RUMSL has also submitted that the Commission, in its order dated 5.11.2018, has already considered the various documents produced by the Petitioner, and there is no documentary evidence to show that there were cogent reasons for time over-run beyond 31.10.2017. RUMSL has further submitted that the Commission cannot go beyond what has already been decided, though the instant remand is in accordance with the APTEL judgment.

10. In response, the Petitioner, vide affidavit dated 15.1.2024, has made the following submissions:

a. The Central Electricity Authority (CEA) Certificate dated 31.1.2018 in respect of the commissioning of the transmission asset was part of the pleadings in Petition No. 7/TT/2018 (Page No. 219).

b. As per the IA dated 15.1.2016, the transmission scheme was scheduled to be commissioned by 15.3.2017, matching with the commissioning of Ultra Mega Solar Park (750 MW) in Rewa District, Madhya Pradesh, i.e., 14 months from IA, against which the petition was filed with an anticipated COD of 1.11.2017 to match with the revised timeline of generation of RUMSL. RUMSL achieved the COD on 5.7.2018.



c. RUMSL, vide letter dated 9.12.2016, informed that its timeline for the project has been revised, and it will be connected with the transmission system in October, 2017. Accordingly, thereafter in the 16th JCC Meeting dated 16.6.2017, the anticipated commissioning of RUMSL was indicated as November, 2017.

d. RUMSL, vide its letter dated 3.10.2017 (Page No. 160 of the Petition), requested for revision of the timeline for operationalization of the Long Term-Access (LTA) and connectivity of RUMSL Project to February, 2018. Subsequently, a meeting on Grid integration of RUSML and related issues was held on 27.2.2018, wherein RUSML informed that the 220 kV lines from RUMSL Mahindra to REWA Pooling Station (PGCIL) were delayed due to certain forest clearance issues. Accordingly, RUMSL informed that an interim arrangement had been made to evacuate the Unit-1 generation through the unit-3 (ARINSUN) switchyard using an internal 33 kV line from the RUMSL-Mahindra bus to the RUMSL- ARINSUN bus.

e. RUMSL, vide its affidavit dated 18.5.2018, submitted the status of the cumulative capacity commercial operation as follows:

“8. That, as per the information received from the SPDs, the status of the project with the cumulative capacity to be commissioned is as under:

<i>Date</i>	<i>Cumulative commercial execution (in MW)</i>
<i>May-18</i>	<i>05</i>
<i>June-18</i>	<i>20</i>
<i>July-18</i>	<i>65</i>
<i>August-18</i>	<i>95</i>
<i>September-18</i>	<i>150</i>
<i>October-18</i>	<i>305</i>
<i>November-18</i>	<i>360</i>
<i>December-18</i>	<i>610</i>
<i>January-18</i>	<i>715</i>



- f. The transmission asset under the scope of the Petitioner was ready and energised on 31.1.2018. The Petitioner has to delay the COD to match with the commissioning of the RUMSL Project.
- g. The Petitioner's decision to coordinate and endeavour to match its commercial operation with RUMSL follows the 4th Amendment of the Central Electricity Regulatory Commission (Indian Electricity Code) Regulations.
- h. The documents submitted by the Petitioner demonstrate that the delay in the commercial operation of the transmission asset till 6.7.2018 was due to the delay in the commissioning of RUMSL which was part of the pleadings in Petition No. 7/TT/2018 but was not considered by the Commission while disallowing the claim of time over-run vide order dated 5.11.2018 in Petition No. 7/TT/2018. The Petitioner, in its affidavits dated 26.7.2018 and 21.8.2018, has submitted that the COD of the transmission asset was revised to match the commissioning of the RUMSL Project. Further, in the meeting dated 13.12.2017, RUMSL sought a revision of the timeline of connectivity and LTA to February 2018.
11. Maharashtra State Electricity Distribution Company Limited (MSEDCL), in its reply affidavit dated 30.11.2023, made the following submissions :
- a. As per the IA dated 15.1.2016, the COD of the transmission scheme was within 14 months from the date of IA. Accordingly, the scheduled COD of the transmission asset was 15.3.2017.
- b. The Commission, in its order dated 24.11.2015 in Petition No. 228/MP/2015, filed by the Petitioner for the grant of regulatory approval for the execution of the transmission system associated with 750 MW Ultra Mega Solar Power Project in Rewa, Madhya Pradesh, while granting the regulatory approval

had directed to implement the transmission system in matching time schedule so that the generation from Ultra Mega Solar Power Project in Madhya Pradesh does not get stranded.

c. RUMSL is to bear the transmission charges for the delay period as the COD was extended by the Petitioner at the request of the RUMSL.

d. The Petitioner has claimed that it had compressed the time schedule to 14 months from the IA dated 15.1.2016 for the completion of the transmission asset. The Petitioner has further claimed that it took only 22.5 months as against the 30 months' time limit provided in the 2014 Tariff Regulations. The Petitioner was well aware of the compressed time schedule as IA dated 15.1.2016 was accorded by its Board of Directors. Even after that, the Petitioner agreed to the transmission scheme. The claim of the Petitioner now that the delay occurred to match the COD with the generation of RUMSL is an after-thought.

e. The Hon'ble Supreme Court vide its judgment dated 3.3.2016 in Civil Appeal No. 9302 of 2012 and the APTEL vide its judgment dated 2.7.2012 in Appeal No. 123 of 2011, in the matter of PGCIL Vs. PSPCL and Ors., have settled that until the transmission asset is put into service, the beneficiaries are not liable to pay the transmission charges of such assets.

f. The components of the tariff that are related to the COD of the transmission asset, such as IDC and IEDC, etc., should not be loaded upon the beneficiaries.

12. In response, the Petitioner, vide affidavit dated 13.12.2023, has made the following submissions:

a. In compliance with the Commission's order dated 24.11.2015 in Petition No. 228/MP/2015, the Petitioner has taken all the steps to match the execution of its transmission system with the generation of RUMSL.



b. The Petitioner is entitled to recover the cost incurred due to ACE, IDC, and IEDC as provided in the 2014 Tariff Regulations. The same is to be re-determined in terms of APTEL's judgment, taking into consideration the supporting documents submitted by the Petitioner.

13. MPPMCL in its reply filed vide affidavit 1.12.2023, has refuted the submissions of the Petitioner. The submissions of MPPMCL are similar to those of MSEDCL, and the same are not repeated herein for the sake of brevity. MPPMCL has, however, submitted that the Commission's order dated 5.11.2018 in the instant petition is in accordance with law and should not be interfered with in the remand proceedings. MPPMCL has further submitted that in view of the fact that the transmission asset was declared under commercial operation on 6.7.2018, matching with the generation of RUMSL, the burden of ACE, IDC, or IEDC, etc., should not be passed on to the long-term beneficiaries.

14. In response, the Petitioner has reiterated the submissions made in the rejoinder to MSEDCL's reply.

Analysis and Decision

15. We have considered the submissions of the Petitioner, MPPMCL, and MSEDCL and have perused the documents available on record.

16. The main contention of the Petitioner before the APTEL was that several letters were addressed by the RUMSL, and several meetings were held to match the commissioning of the transmission system with the expected generation at Rewa, and the minutes of meetings show that the transmission asset of the Petitioner was ready on 31.1.2018, but the Petitioner had to delay COD of its asset till 6.7.2018 to match with the COD of RUMSL. To buttress its contention, the Petitioner has relied on certain



documents which have been perused by us. A brief description of the documents relied upon by the Petitioner and their perusal shows the following:

- i. A letter dated 8.1.2015 issued by the Ministry of Power, Government of India, shows that the Petitioner is assigned to take up the construction of the transmission line, including the pooling station from the Solar Generating Parks, at a compressed time schedule.
- ii. The Commission's order dated 24.11.2015 in Petition No. 228/MP/2015 shows that regulatory approval was granted for the transmission system with the observation of the Commission to implement the transmission system matching with the time schedule so that the generation from the Ultra Mega Solar Power Project in MP is not stranded.
- iii. Extracts of the 38th SCM (WR) dated 17.7.2015 confirm that the transmission system for Ultra Mega Solar Power Parks in Rewa, M.P. (750 MW) was discussed between WR constituent and as per discussion, it was to be constructed in a short period of about 12-15 months wherein the subject transmission system was finalized. Further, as per the Ministry of Power letter dated 8.1.2015, the Petitioner was required to take up the construction of the transmission project.
- iv. The 39th SCM (WR) dated 28.12.2015 shows that the subject transmission system was agreed upon and its implementation was to be undertaken only after receipt of the LTA application.
- v. The 30th meeting (WRPC) dated 8.1.2016, confirms the minutes of the 39th SCM (WR) dated 28.12.2015.
- vi. The 40th SCM (WR) dated 1.6.2016 indicates the confirmation of CEA for the transmission system.



- vii. A letter dated 9.12.2016 from RUMSL addressed to the Petitioner shows that the project timeline was revised, and by the said letter, it was further informed that the project would be connected to the Petitioner by October 2017.
- viii. Minutes of the 15 Joint Co-ordination Committee (JCC) of WR dated 27.3.2017 record that, at the request of RUMSL's letter dated 4.12.2016, the connectivity and LTA start dates were required to be revised to 31.10.2017.
- ix. The Minutes of the 16th JCC meeting dated 9.8.2017 show that the generation of Rewa Solar Park was delayed and it was expected by November 2017.
- x. A letter dated 3.10.2017 from RUMSL to the Petitioner wherein JCC was requested for revision of the timeline for operationalization of the LTA and connectivity of the Rewa project to February 2018.
- xi. Minutes of the meeting dated 27.2.2018, *inter alia*, show that the transmission asset of the Petitioner was ready from its side. It further records that Unit-1 (Mahandra): 220 kV lines from RUMSL Mahandra to REWA PS (PGCIL) were delayed due to forest clearance issues. Accordingly, RUMSL informed that an interim arrangement was made to evacuate unit-1 generation through the unit-3 (ARINSUN) switchyard using an internal 33 kV line from the RUMSL Mahandra bus to RUMSL ARINSUN bus. RUMSL further informed that this interim arrangement shall be expected to be in place till June 2018. Mahandra (unit-1) shall use one 220/33 kV transformer of Unit-3. The unit-1 is expected to be ready to do its first synchronization by 30.3.2018. Unit 2 (ACME) (2x220 kV lines, 2 x 220/33 kV ICTs) expected by 15.4.2018. Unit-3 (ARINSUN) by 30th April 2018, and power will be evacuated through the other transformer at Unit-3 (ARINSUN) switchyard.



17. As per the Investment Approval dated 15.1.2016, the scheduled COD of the transmission system was 15.3.2017, against which the transmission asset was put into commercial operation on 6.7.2018, with a time over-run of 478 days. The Petitioner has submitted the Energisation Certificate dated 31.1.2018 issued by the CEA shows that the transmission asset was ready on 31.1.2018. The Petitioner did not produce any documentary evidence to show that the transmission asset was ready on the SCOD. The Petitioner has submitted that as per the regulatory approval granted, vide order dated 24.11.2015 in Petition No. 228/MP/2015, the transmission system was to be implemented matching with the progress of different phases of the solar park and accordingly, the Petitioner matched the transmission asset with the generating units of RUMSL. The Petitioner has submitted that RUMSL, vide letter dated 9.12.2016, after the grant of regulatory approval, informed the Petitioner that the SCOD of the assets has been extended to 31.10.2017.

18. The issue of re-scheduling of the COD of the other related transmission assets of the Petitioner under the transmission system, matching with the proposed commissioning of RUMSL's generation on 31.10.2017, was discussed in the Commission's order dated 24.2.2023 in Petition No. 6/TT/2020 wherein the Commission approved the rescheduling of the COD of the transmission assets as 31.10.2017. The relevant portion of the order dated 24.2.2023 in Petition No. 6/TT/2020 is as follows:

"We have considered the submissions of the Petitioner, MPPMCL and RUMSL and have perused the documents available on record. As per the Investment Approval dated 12.1.2016, the scheduled COD of the transmission system was 12.3.2017, against which Asset-1, Asset-2 and Asset-4 have been put into commercial operation on 25.7.2018, 16.10.2018 and 8.2.2019 respectively with time over-run of 500 days, 583 days and 698 days respectively. The COD of Asset-3 has been approved as 22.11.2018 under proviso (ii) to Regulation 4(3) of the 2014 Tariff Regulations, thus there is time over-run of 620 days. Further, the Petitioner has submitted CEA Energisation Certificate dated 24.1.2018 in case of Asset-1, Asset-2 and Asset-3 and certificate dated 4.2.2019 in case of Asset-4 issued by CEA to show that some of the elements of the transmission assets were ready on 24.1.2018 and on 4.2.2019. The Petitioner has not produced any document to show that the transmission assets were ready on the SCOD i.e. 12.3.2017. The Petitioner has submitted that as per the regulatory approval vide order dated 24.11.2015 in Petition No. 228/MP/2015, the transmission system has to be



implemented with matching with the progress of different phases of the solar park and accordingly matched the transmission assets with the generating units of Rewa Ultra Mega Solar Limited (RUMSL). The Petitioner has submitted that RUMSL vide letter dated 9.12.2016, after the grant of Regulatory approval, has informed the Petitioner that the Scheduled COD of the asset is extended to 31.10.2017. Accordingly, the Petitioner has rescheduled the COD as 31.10.2017. The relevant extracts of the letter dated 9.12.2016 is as follows:

“Sub: Change of capacity in the Region for Long Term Access (LTA)

Dear Sir,

REWA Ultra Mega Solar Limited (RUMSL), a JV between Solar Energy Corporation of India, Gol and Madhya Pradesh Urja Vikas Nigam Limited, GoMP, has been granted connectivity and LTA vide letter under reference (1&2) respectively for its 750 MW (3X250 MW) Rewa Ultra Mega Solar Park project being developed under MNRE solar park scheme.

2) It is requested that, ‘Intimation for grant of Connectivity (CON-3) dt 29.7.2016 refers at pt.11 to ‘Commissioning schedule of the Generating station’ as June 2017-Oct 2017. As against that, ‘Intimation for grant of Long-term Access (LTA-5) dt 29.7.2016 provides at pt.9 that LTA will be from 30.6.2017 till 29.6.2042. As PPA is for a 25 year period, the same needs to be rationalised. The project timelines too have been revised and now power plant would be connected with PGCIL by October 2017. As such, connectivity and open access shall now be required by 31st October, 2017.’”

b. In view of the above, the Petitioner has rescheduled the COD of the transmission assets covered in the instant petition. The Petitioner also rescheduled the infusion of the funds, out of the total loan amount of ₹283.93 lakh, ₹246.90 lakh, ₹301.78 lakh, ₹1670.20 lakh, an amount of ₹19.60 lakh, ₹3.31 lakh, ₹1.43 lakh, ₹9.85 lakh only incurred towards IDC for Asset-1, Asset-2, Asset-3 and Asset-4 respectively. We are of the view that the time over-run from 12.3.2017 to 31.10.2017 is beyond the control of the Petitioner and the same has been condoned.

c. As regards time over-run beyond 31.10.2017, the Petitioner has neither submitted any letter for extension of COD nor submitted the valid reasons for time over-run. Therefore, the time over-run for the period between the revised SCOD i.e. 31.10.2017 to COD of the Asset-1, Asset-2, Asset-3 and Asset-4 is not condoned.”

19. Further, considering the revised COD of the transmission assets of the Petitioner as 31.10.2017, the Commission condoned the time over-run in case of the transmission assets covered in Petition No.6/TT/2020 from the scheduled COD to the revised COD of 31.10.2017. Accordingly, we are of the view that the time over-run with respect to the instant transmission asset, i.e., LILO of Vindhychal-Jabalpur 400 kV 2nd Double Circuit (“D/C”) line (Circuit 3 and 4) along with associated bays and equipment at 400/220 kV Rewa Pooling Station from 15.3.2017 to 31.10.2017 was beyond the control of the Petitioner and the same is hereby condoned.



20. The Petitioner has placed on record the copy of the letter dated 3.10.2017 of RUMSL addressed to it requesting therein for revision of the time-line for operationalization of the LTA and connectivity of Rewa Project from October 2017 to February 2018. The Petitioner vide affidavit dated 5.3.2018 has invoked the provisions of Regulation 4(3)(ii) of the 2014 Tariff Regulations and claimed thereunder COD of the transmission asset as 31.1.2018 since the associated generation under the control of RUMSL was not ready. The Petitioner has further submitted that it made its best efforts to match the commissioning of the transmission system with the generation of REWA UMPP. However, due to the contractual obligations, it was not feasible for the Petitioner to stop/delay the construction activities beyond a specified period.

21. The Petitioner, vide affidavit dated 26.3.2018, had submitted as follows:

*“That the all efforts and coordination is being made to commission the transmission system matching with Generation of REWA Ultra Mega Solar limited (RUMSL). But M/s REWA Ultra Mega Solar limited (RUMSL) has revised the target completion of its generation several times from 30.6.2017 to 01.11.2017 from 1.11.2017 to Feb. 18 and afterwards Feb, 18 to March, 18. (All the letters has been submitted in petition at page no. 67-71 and affidavit dated 05.03.2018 at page no. 5-6). **The requisite data desired in ROP shall be provided on actual commissioning of the transmission system.**”*

22. The Petitioner, vide affidavit dated 26.7.2018 has claimed the COD of the transmission asset/Asset-I as 6.7.2018, which matches the commissioning of the associated capacity of RUMSL.

23. We have gone through the submissions of the Petitioner and have perused the documents available on record. In the present circumstances, we would like to advert to Regulation 3(25) and Regulation 12(2) of the 2014 Tariff Regulations, which are as follows:

“Regulation 3

(25) ‘Force Majeure’ for the purpose of these regulations means the event or circumstance or combination of events or circumstances including those stated below which partly or fully prevents the generating company or transmission licensee to complete the project within the time specified in the Investment Approval, and only if such events or circumstances are not within the control the generating company or



transmission licensee and could not have been avoided, had the generating company or transmission licensee taken reasonable care or complied with prudent utility practices:

a) Act of God including lightning, drought, fire and explosion, earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, tornado, geological surprises, or exceptionally adverse weather conditions which are in excess of the statistical measures for the last hundred years; or

(b) Any act of war, invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action; or

(c) Industry wide strikes and labour disturbances having a nationwide impact in India;”

24. Regulation 12(2) of the 2014 Tariff Regulations provides as follows:

“ 12. Controllable and Uncontrollable factors:

(2) The “uncontrollable factors” shall include but shall not be limited to the following:

(i) Force Majeure events; 19

(ii) Change in law.

Provided that no additional impact of time overrun or cost over-run shall be allowed on account of non-commissioning of the generating station or associated transmission system by SCOD, as the same should be recovered through Implementation Agreement between the generating company and the transmission licensee:

Provided further that if the generating station is not commissioned on the SCOD of the associated transmission system, the generating company shall bear the IDC [and IEDC] or transmission charges if the transmission system is declared under commercial operation by the Commission in accordance with second proviso of Clause 3 of Regulation 4 of these regulations till the generating station is commissioned:

Provided also that if the transmission system is not commissioned on SCOD of the generating station, the transmission licensee shall arrange the evacuation from the generating station at its own arrangement and cost till the associated transmission system is commissioned.

25. On perusal of the record, we note that as regards the time over-run beyond 31.10.2017, the Petitioner itself agreed that it had made the online application on 29.12.2017 for approval of the CEA (Measures relating to Safety and Electric Supply) Regulations, 2010 and CEA vide letters dated 24.1.2018 and 31.1.2018 had accorded the energisation of the electrical installation for the electrical apparatus. The relevant CEA Energisation Certificates are extracted as under:

“CEI/3/EI/RIO(W)/Insp./2018

Dated: 24.1.2018

Electrical Installation: -



Electrical Apparatus: - 400/220 kV PGCIL, REWA POOLING SUBSTATION, REWA (MP). The details equipment list is given in Annexure-I.

Inspected by: - Deputy Director, CEI, CEA, New Delhi on 29.12.2017

Location: - M/s PGCIL, REWA POOLING SUBSTATION, REWA (MP)

Reference: -

- 1. Online Application No. A/2017/02855 dated 29.12.2017*
- 2. Our letter No. CEI/3/EI/RIO (W)/Insp/2017/ dated 3.1.2018-Insp. Rep.*
- 3. Your letter dated: WRTS-II/Rewa/CEA/346 dated 15.1.2018- Compliance Rep.*

With reference to the above, approval under Regulation 43 of CEA (Measures relating to Safety and Electric Supply) Regulations 2010 (as amended) is hereby accorded for energisation of the above mentioned electrical installation.

The consistent compliance of relevant provisions of CEA (Measures relating to Safety and Electric Supply) Regulations, 2010 (as amended) shall be ensured for safety in operation and maintenance of the above electrical installation.

Periodical inspection of the above electrical installation shall be due after 02 years from the date of this inspection under Regulation 30 of CEA (Measures relating to safety and Electric Supply) Regulations 2010 (as amended). This periodicity is subject to change by government notification.

*Sd/-
(R K Meena)
Electrical Inspector to the GOI*

CEI/3/EI/RIO(W)/Insp./2018

Dated: 31.1.2018

Electrical Installation: -

Electrical Apparatus: - LILO of 400 kV D/C Vindhyachal-Jabalpur Line 3-4 at Rewa Pooling Substation (length-57.8 Km)

Inspected by: - Deputy Director, CEI, CEA, New Delhi on 29.12.2017

Location: - M/s PGCIL, 400/220 kV Pooling Substation, Village Barsaita Desh, Tehsil Gurh, Rewa (M.P.)

Reference: -

- 4. Online Application No. B/2017/00302 dated 28.12.2017*
- 5. Our letter No. CEI/3/EI/RIO (W)/Insp/2017/ dated 3.1.2018-Insp. Rep.*
- 6. Your letter dated: WRTS-II/REWALILO/CEA/446 dated 29.1.2018- Compliance Rep.*

With reference to the above, approval under Regulation 43 of CEA (Measures relating to Safety and Electric Supply) Regulations 2010 (as amended) is hereby accorded for energisation of the above mentioned electrical installation.



The consistent compliance of relevant provisions of CEA (Measures relating to Safety and Electric Supply) Regulations, 2010 (as amended) shall be ensured for safety in operation and maintenance of the above electrical installation.

Periodical inspection of the above electrical installation shall be due after 02 years from the date of this inspection under Regulation 30 of CEA (Measures relating to safety and Electric Supply) Regulations 2010 (as amended). This periodicity is subject to change by government notification.

Sd/-
(R K Meena)
Electrical Inspector to the GOI"

26. Based on the above CEA Energisation Certificates, it is observed that the Petitioner was ready to charge the transmission asset on 31.1.2018.

27. The Petitioner completed a successful trial operation of the transmission asset/Asset-I, which was completed on 27.3.2018 and 29.3.2018. The relevant extracts of the RLDC charging certificates are as follows:

"Certificate Number: WRLDC/WR-2/95

Dated: 3.5.2018

Certificate of Completion of Trial Operation of Transmission Element(s)/bays(s)

Reference:

- i. WRTS-2 Communication (email) dated 20.2.2018 (Format-I and IA)*
- ii. WRLDC Communication to WRTS-2 dated 22.2.2018 (Format-II-Acknowledgment)*
- iii. WRTS-2 Communication (email) dated 24.2.2018 & 24.3.2018 (Formats-III, IIIA, IIIB, IIIC, IIID)*
- iv. WRLDC Communication to WRTS-2 dated 24.3.2018 & 25.3.2018 (Provisional Approval)*
- v. WRTS-2 request for charging & trial operation dated 24.3.2018 & 25.3.2018*
- vi. Codes from WRLDC to WRTS-2 on 24.3.2018 & 25.3.2018 for charging & trial operation.*
- vii. Communication (email) dated 5.4.2018 & 24.4.2018 from WRTS-2 (Post charging documents)*
- viii. WRTS-2 undertaking (email) dated 2.5.2018 for ratification of Event Logger time*

Based on the above documents under reference, it is hereby certified that the following Transmission elements/bays have successfully completed trial operation:



Name of the Transmission Asset	<ol style="list-style-type: none"> 1. 400 kV Rewa-Sasan with associated bays (418,417) at Rewa PS (LILO of Vindhychal-SPL-Jabalpur-3) 2. 400 kV Rewa-Vindhychal line with associated bays (421,420) at Rewa PS (LILO of Vindhychal-Jabalpur-4) 3. 400 kV Rewa-Jabalpur line-1 with associated bays (415,414) at Rewa PS (LILO of Vindhychal-Sasan-Jabalpur-3) 4. 400 kV Rewa-Jabalpur line-2 with associated bays (412,411) at Rewa PS (LILO of Vindhychal-Jabalpur-4) 5. 125 MVAR Bus Reactor with associated bays (416,417) at 400 kV Rewa Pooling Station
Asset Owner	WRTS-2, POWERGRID
Period of Trial Operation (From Date/Time to Date/Time)	From: 26.3.2018 00.00 hours To: 27.3.2018 00.00 hours (For all the above mentioned transmission elements/bays)

This certificate is being issued in accordance with Regulation 6.3A (5) of CERC (Indian Electricity Grid Code) Regulations to certify trial operation of transmission element. Usage of this certificate for any other purpose is prohibited.

Sd/
(V.K. Shrivastava)
Executive Director

Certificate Number: WRLDC/WR-2/97

Dated: 16.5.2018

Certificate of Completion of Trial Operation of Transmission Element(s)/bays(s)

Reference:

- i. WRTS-2 Communication (email) dated 20.2.2018 (Format-I and IA)
- ii. WRLDC Communication to WRTS-2 dated 22.2.2018 (Format-II-Acknowledgment)
- iii. WRTS-2 Communication (email) dated 24.2.2018, 24.3.2018 & 27.3.2018 (Formats-III, IIIA, IIIB, IIIC, IIID)
- iv. WRLDC Communication to WRTS-2 dated 27.3.2018 (Provisional Approval)
- v. WRTS-2 request for charging & trial operation dated 28.3.2018
- vi. Codes from WRLDC to WRTS-2 on 28.3.2018 for charging & trial operation.
- vii. Communication (email) dated 2.5.2018 & 15.5.2018 from WRTS-2 (C1-C4 & related documents)

Based on the above documents under reference, it is hereby certified that the following Transmission elements/bays have successfully completed trial operation:

Name of the Transmission Asset	<ol style="list-style-type: none"> 1. 400/220 kV, 500 MVA ICT-1 with 400 kV bays (Main 419, Tie 420) & 220 kV bay (210) at Rewa PS 2. 400/220 kV, 500 MVA ICT-2 with 400 kV bays (Main 413, Tie 414) & 220 kV bay (207) at Rewa PS
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	<i>3. Bus Coupler bay 206 at Rewa PS</i>
<i>Owner of the Transmission Asset</i>	<i>WRTS-2, POWERGRID</i>
<i>Date and Time of Energisation for commencement of trial operation</i>	1. 28.3.2018 11:48 hours 2. 28.3.2018 12:19 hours 3. 28.3.2018 12:39 hours
<i>Date and time of completion of trial operation</i>	1. 29.3.2018 11:48 hours 2. 29.3.2018 12:19 hours 3. 29.3.2018 12:39 hours

This certificate is being issued in accordance with Regulation 6.3A (5) of CERC (Indian Electricity Grid Code) Regulations to certify trial operation of transmission element. Usage of this certificate for any other purpose is prohibited.

*Sd/-
(V.K. Shrivastava)
Executive Director”*

28. As per the above RLDC charging certificates, it is observed that the Petitioner completed a successful trial operation on 27.3.2018 and 29.3.2018. However, the Petitioner has not claimed the COD of the transmission asset from the date of successful trial operation, i.e., 29.3.2018, but claimed the COD of the transmission asset matching with the generation and claimed as 6.7.2018.

29. Perusal of the CEA energisation certificates and RLDC charging certificates, as mentioned above, reveal that the transmission asset from 31.10.2017 to COD of the asset was not impacted by any force majeure events. Thus, the time over-run for the period between the revised SCOD, i.e., 31.10.2017, to the COD of the transmission asset/Asset-1, does not come within the purview of uncontrollable factors. Besides, the Petitioner has not claimed the COD of the transmission asset/Asset-I under proviso (ii) to Regulation 4(3) of the 2014 Tariff Regulations as 31.01.2018 for the reasons best known to it. The condonation of time over-run of the transmission asset can be considered if it is impacted on account of Change in Law/Force Majeure events. Therefore, we are of the view that the Petitioner was not impacted by any Change in Law or Force Majeure events after 31.10.2017 till the COD of the transmission asset, i.e., 6.7.2018.



30. For the reasons mentioned above and after considering the submissions of the parties, we are not inclined to condone the time over-run from the revised SCOD of the transmission asset/Asset-1, i.e., 31.10.2017, to its COD. As discussed in para 17, the time period from 15.03.2017 to 31.10.2017 is condoned. Hence, the IDC and IEDC allowed for the period from the SCOD of the asset, i.e., 15.03.2017, to the revised SCOD of the transmission asset, i.e., 31.10.2017, are only allowed to be capitalized. It is observed that the Petitioner is yet to file a true-up of tariff for 2014 -19, and the Petitioner is hereby granted liberty to claim revision in capitalization of IDC and IEDC at the time of truing up of tariff for 2014-19.

31. With this order, the directions of APTEL in Appeal No. 422 of 2019 stand implemented in terms of the above, and the Petition is disposed of to the extent of the remand.

**sd/-
(Ramesh Babu V.)
Member**

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

**sd/-
(Jishnu Barua)
Chairperson**

