

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 21/RP/2024 in Petition No. 54/MP/2024

Coram:

**Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member**

Date of Order: 3.01.2025

In the matter of:

Review of Order dated 05.04.2024 passed by this Commission in Petition No. 54/MP/2024 under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103 of the CERC (Conduct of Business) Regulations, 1999 and Order 47 Rule 1 of the Code of Civil Procedure, 1908

And in the matter of:

Khandukhal Rampura Transmission Limited

1st Floor, Urjanidhi, 1 Barakhamba Lane,
Connaught Place New Delhi, Delhi Central 110001

.....Review Petitioner

Versus

1. Central Transmission Utility of India Limited (CTUIL)

Saudamini", 1st Floor, Plot no.2, Sector -29,
Gurgaon 122001, Haryana

2. Power Transmission Corporation of Uttarakhand Limited (PTCUL)

Vidyut Bhawan, Near ISBT Crossing,
Saharanpur Road, Majra, Dehradun – 248002

3. PFC Consulting Limited (PFCCL)

9th Floor, A-Wing, Statesman House,
Connaught Place, New Delhi -110001.

.....Respondents

Parties Present:

Ms. Abhiha Zaidi, Advocate, KRTL
Shri Anuj Bhave, Advocate, KRTL
Ms. Suriti Chowdhary, Advocate, KRTL
Shri Pritam Giriya, Advocate, KRTL
Shri Siddharth Sharma, CTUIL
Shri Akshayvat Kislay, CTUIL



ORDER

Khandukhal Rampura Transmission Limited (hereinafter referred to as 'KRTL'/ 'Review Petitioner') has filed the present Petition seeking review of Order dated 05.04.2024 passed by this Commission in Petition No. 54/MP/2024 (hereinafter referred to as 'impugned Order'). The review Petitioner has made the following prayers:

- (a) Admit the present Review Petition.
- (b) Review the Order dated 05.04.2024 passed by this Ld. Commission in Petition No. 54/MP/2024, in terms of the submissions of the present Review Petition.
- (c) Pass any such order(s) as this Ld. Commission may deem fit in the facts and circumstances of the present case.

Submissions of the review Petitioner:

2. The review Petitioner has mainly submitted as follows:

- (a) The review Petitioner is acting as the Transmission Service Provider ("TSP") for establishing the Transmission System -"400 kV Khandukhal (Srinagar) -Rampura (Kashipur) D/C Line.
- (b) On 07.10.2022, KRTL entered into a Transmission Service Agreement with Central Transmission Utility of India Limited (CTUIL) for the development and operation of an Inter-State Transmission System and for transmission of electricity through Tariff Based Competitive Bidding ("TBCB") for 400 KV Khandukhal (Srinagar) – Rampura (Kashipur) D/C Line.
- (c) Subsequent to the bid submission date and execution of the TSA, on 16.02.2023 and on 31.05.2023, the Government of Uttarakhand revised the Circle Rate for Khandukhal from Rs 530/- per sq. mtr. To Rs 556/- per sq. mtr and for Rampura from Rs. 4200/- per sq. mtr. To Rs. 10,780/- per sq. mtr.
- (d) On 05.01.2024, the review Petitioner filed Petition No. 54/MP/2024 before this Commission under Section 79(1)(f) of the Electricity Act, 2003 read with Article 12.2 of the Transmission Service Agreement dated 07.10.2022, seeking approval of Change in Law event due to increase in the Circle Rate for Khandukhal and Rampura. This Commission in the Order dated 05.04.2024, observed as under: -

"PTCUL has observed that MEIL has not deposited the amount in time. Due to a delay on the part of MEIL, new State Government Orders revising the circle rates



upwards have come into force. Further, we also observe that Petitioner has not given any notice to the Nodal Agency under Article 12.3.1 of the TSA.”

The above view taken by this Commission is incorrect. The Commission made the aforesaid observations without getting into the merits of the case and deserves that part of it, as mentioned above, be expunged from the Order as it lacks the sanctity of law where the view may prejudice the review Petitioner and may cause irreparable harm to the review Petitioner. The remarks made by the Commission in the order dated 05.04.2024 contradict the statement of the Commission wherein the Commission for instance refuses to take a view on the matter as the same is premature.

- (e) In view of the above, there is an error apparent on the face of the record while passing the Impugned Order. As such, the Commission may review the impugned Order to the extent challenged in the present Review Petition and allow the same.

Hearing dated 28.10.2024:

3. The matter was heard for admission on 28.10.2024. The learned counsel for the Review Petitioner submitted that the Commission vide impugned Order held that the said Petition was premature and that no view on the claimed Change in Law event could be taken at that stage, and accordingly, the said Petition was disposed of while granting the liberty to the Petitioner to approach the Commission seeking an appropriate Change in Law relief after the completion of the Project. However, at the same time, the observations by the Commission in the Impugned Order, are without getting into the merits of the case and may severely prejudice the review Petitioner and cause irreparable harm. Accordingly, review Petitioner is seeking the expunging of such observations from the impugned Order. The representative of the CTUIL submitted that the Commission may take an appropriate view as may deemed fit. Considering the submissions made by the learned counsel for the review Petitioner and the representative of CTUIL, the Commission reserved the instant Petition for order.

Analysis and Decision:

4. We have considered the submission of Petitioner.
5. The issue that arises for our consideration is ***“Whether the Order dated 05.04.2024 in Petition No. 54/MP/2024 is required to be reviewed in terms of the submissions of the present Review Petition ?”***

6. The issue is discussed in subsequent paragraphs.
7. The review Petitioner filed Petition No. 54/MP/2024 seeking in-principle declaration of “increase in construction cost for establishing interconnection facilities because of the orders of the Government of Uttarakhand increasing the Circle Rate of Khandukhal and Rampura” as a change in law event and subsequent relief with carrying cost and revision in tariff. The Commission vide order dated 05.04.2024 disposed of the said Petition with the following observations:

“14. From the above, we observe that Petitioner is yet to enter into an agreement with PTCUL for bays at Rampur and Srinagar. It is not clear on what terms and conditions, it will enter into such an agreement, which may be at some rate or free of cost (as suggested by CTUIL). PTCUL has observed that MEIL has not deposited the amount in time. Due to a delay on the part of MEIL, new State Government Orders revising the circle rates upwards have come into force. Further, we also observe that Petitioner has not given any notice to the Nodal Agency under Article 12.3.1 of the TSA. We are of the view that the present Petition is premature, and no view on the claimed Change-in-Law event may be taken at this stage. We observe that Petitioner’s Project is still under implementation with a scheduled COD of 30.09.2024. We direct the Petitioner to complete the project within the specified timelines, and after completing the project, the Petitioner is at liberty to approach the Commission to seek appropriate relief for Change in Law in accordance with law under the provisions of TSA and other applicable provisions of the Law, Rules, and Regulations.”

As per above, the Commission observed that the Petition is premature, and no view on the claimed Change-in-Law event may be taken at that stage. Further, the Commission directed the Petitioner to approach the Commission to seek appropriate relief for Change in Law in accordance with law under the provisions of TSA and other applicable provisions of the Law, Rules, and Regulations, after completing the project. Accordingly, the Commission has indeed not taken any view on the merits of the case.

8. The Petitioner has submitted that the following observations made by the Commission in the Order dated 05.04.2024 in Petition No. 54/MP/2024 may be expunged:

“PTCUL has observed that MEIL has not deposited the amount in time. Due to a delay on the part of MEIL, new State Government Orders revising the circle rates upwards have come into force. Further, we also observe that Petitioner has not given any notice to the Nodal Agency under Article 12.3.1 of the TSA.”

On the above aspect, it is clarified that the observations regarding delay on the Part of MEIL are the views of PTCUL in its letter dated 19.09.2023 addressed to CEA, which has been recorded in Paragraph 14 of the impugned Order; hence, it is clarified that no view has been taken by the Commission in this regard in the abovesaid Order.

Further, with regard to observations regarding notice to the Nodal Agency under Article 12.3.1 of the TSA, we are of the view that since we have already directed that Petition

No. 54/MP/2024 was premature and that the review Petitioner to approach the Commission to seek appropriate relief for Change in Law after completing the project, therefore the Petitioner may approach to the Commission with all relevant documents to seek appropriate relief for Change in Law after completing the project.

Accordingly, we are of the considered view that the above-quoted extracts in this paragraph shall stand expunged from the Order dated 05.04.2024 in Petition No. 54/MP/2024.

9. In view of the above discussions, the Para No. 14 of the Order dated 05.04.2024 in Petition No. 54/MP/2024 shall be read as under:

“14. From the above, we observe that Petitioner is yet to enter into an agreement with PTCUL for bays at Rampur and Srinagar. It is not clear on what terms and conditions, it will enter into such an agreement, which may be at some rate or free of cost (as suggested by CTUIL). We are of the view that the present Petition is premature, and no view on the claimed Change-in-Law event may be taken at this stage. We observe that Petitioner’s Project is still under implementation with a scheduled COD of 30.09.2024. We direct the Petitioner to complete the project within the specified timelines, and after completing the project, the Petitioner is at liberty to approach the Commission to seek appropriate relief for Change in Law in accordance with law under the provisions of TSA and other applicable provisions of the Law, Rules, and Regulations.”

10. The Review Petition No. 21/RP/2024 in Petition No. 54/MP/2024 is disposed of in terms of the above.

Sd/
(Harish Dudani)
Member

Sd/
(Ramesh Babu V.)
Member

Sd/
(Jishnu Barua)
Chairperson