

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Review Petition No. 27/RP/2024
in
Petition No. 377/MP/2022**

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

Date of order: 13th October, 2025

In the matter of:

Review Petition under Section 94(1)(f) of the Electricity Act, 2003, read with Regulation 52 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 2023, seeking review of the order dated 19.5.2024 passed by the Commission in Petition No. 377/MP/2022.

**And
In the matter of**

**POWERGRID Khetri Transmission System Limited (PKTSL),
765/400 kV Substation,
Village-Jasrapur, Tehsil-Khetri,
District-Jhunjhunu, Rajasthan**

..... **Petitioner**

Vs.

**1. Bikaner Khetri Transmission Limited (BKTL),
Adani Corporate House, Shantigram,
S.G. Highway, Ahmedabad,
Gujarat.**

**2. Central Transmission Utility of India Limited,
Plot No. 2, Sector 29,
Gurugram-122001, Haryana**

**3. Mahoba Solar (UP) Private Limited,
Adani House, Near Mithakhali Six Roads,
Navrangpura, Ahmedabad-380009
Gujarat**

4. ACME Solar Holdings Limited,

Plot No. 152, Sector 44,
Gurgaon-122001, Haryana,

5. Hero Solar Energy Private Limited,
201, 1st Floor,
Okhla Industrial Estate Phase – III,
New Delhi – 110 020.

6. Mahindra Susten Private Limited,
Embassy 247 Park, Tower B, 6th Floor,
Lal Bahadur Shastri Marg,
Vikhroli West, Mumbai-400083

7. Azure Power India Private Limited,
5th Floor, Southern Park,
D-II, Saket Place,
Saket, New Delhi - 110017

8. Renew Solar Power Private Limited,
Commercial Block-1, Zone 6,
Golf Course Road, DLF City Phase-V,
Gurugram-122009, Haryana

9. PFC Consulting Limited,
1st Floor, “Urjanidhi” 1,
Barakhambha Lane, Connaught Place,
New Delhi – 110 001

..... Respondents

Parties present:

Ms. Swapna Seshadri, Advocate, PKTSL
Shri Utkarsh Singh, Advocate, PKTSL
Ms. Sneha, Advocate, PKTSL
Shri Hemant Singh, Advocate, BKTL
Shri Lakshyajit Singh, Advocate, BKTL
Ms. Lavanya Panwar, Advocate, BKTL
Shri Jay Lal, Advocate, BKTL
Shri Arun Lal, Advocate, BKTL
Shri Nirhant Kumar, Advocate, BKTL
Shri Prashant Kumar, PKTSL

ORDER

POWERGRID Khetri Transmission System Limited (hereinafter referred to as ‘Review Petitioner/PKTSL’) has filed the present Petition under section 94(1)(f) of the Electricity Act, 2003, read with Regulation 52 of the Central Electricity Regulatory

Commission (Conduct of Business) Regulations, 2023 seeking review of order dated 19.5.2024 passed by this Commission in Petition No. 377/MP/2022. The Review Petitioner has made the following prayers in the Review Petition:

- “(a) Admit the review petition;*
- (b) Review Para 48 of the Order under Review dated 19.05.2024 with respect to the declaration of deemed COD for BKTl as 05.09.2021 and levy of transmission charges from 05.09.2021 to 03.10.2021 (along with interest) upon the Review Petitioner;*
- (c) Review Para 69 of the Order under Review dated 19.05.2024 with respect to the levy of recovery of cost incurred on account of non-levelled land for allocating bays towards the Review Petitioner;*
- (d) Pass such further order(s) as deemed fit and proper.”*

Review Petitioner’s submission in Review Petition

2. The Review Petitioner has mainly submitted as under:

(a) Pursuant to Tariff Based Competitive Bidding process conducted by PFC Consulting Limited (‘PFCCL’), the Respondent, Bikaner-Khetri Transmission Limited (BKTl), executed a Transmission Service Agreement (‘TSA’) on 23.4.2019, with Long-term Transmission Customers to implement the following transmission system:

- (i) Bikaner (PG) – Khetri S/s 765kV D/c line;*
- (ii) 765kV Bays at Bikaner (PG) & Khetri for Bikaner (PG) – Khetri S/s 765kV D/c line; and*
- (iii) 1x240 MVar Switchable line reactor for each circuit at each end of Bikaner – Khetri 765kV D/c line along with reactor bays.*

(b) In compliance with the TSA, BKTl sent a prior notice on 28.3.2021 to LTTCs, informing them of the project’s expected commissioning date. BKTl declared the COD of the transmission system as 4.9.2021, as stated in a letter dated 28.8.2021. The COD was delayed by 247 days from the SCOD of 31.12.2020.

(c) The Review Petitioner was to implement the following Transmission System, i.e. 765/400 kV Khetri S/s, as part of the “Transmission system associated with LTA application from Rajasthan SEZ (Part -C)” under TBCB Scheme. The following was to

be provided by the Review Petitioner to BKTL:

- (i) 1 no. of 1x80 MVAR, 1-Ph, 765kV spare unit of Reactor; and*
- (ii) space for construction of 2 nos of 765kV bays at Khetri S/s & for 2x240 MVAR switchable line reactors for termination of Bikaner(PG) — Khetri S/s 765kV D/c line at 765kV Khetri S/S*

(d) Both BKTL and the Review Petitioner's projects were under implementation with the same SCOD, i.e. 31.12.2020. However, BKTL declared the deemed CoD on 4.9.2021 and sought recovery of the transmission charges from the Review Petitioner from the Deemed CoD, i.e. 4.9.2021, till the actual CoD of the interconnection facility, i.e. 3.10.2021, which was within the scope of the Review Petitioner, on a bilateral basis in terms of Regulation 13(12) of the Sharing Regulations, 2020.

(e) The Commission, while approving the Deemed COD for BKTL Transmission System as on 5.9.2021 through the impugned order, failed to appreciate that there were numerous events and documents on record in Petition No. 377/MP/2022 and evidenced that BKTL was in fact not ready on the claimed Deemed COD of the Transmission Project either on 4.9.2021 or 5.9.2021. No proper documents were provided to claim Deemed COD by BKTL in terms of the TSA.

(f) The Commission has erred in relying on the CEA Certificate dated 28.8.2021, which was a provisional certificate with observation for compliance, to state that BKTL was ready for charging as on 28.8.2021. The Commission failed to appreciate that the said CEA Certificate recorded that "Regulation 44(1&3) requires installation of firefighting system in respect of 3x80 MVAR reactors and the same has not been complied with. Project head, BKTL, had expressed the urgency of charging the substation and had indicated that "Fire tender & movable mechanical foam trolley fire extinguisher, which is a temporary arrangement for firefighting has been arranged." In fact, this provisional certificate issued by the CEA was valid up to only 28.10.2021, and BKTL did not provide a final certificate, which was a mandatory requirement to claim Deemed DOCO under the TSA and BKTL had not provided the final CEA Certificate.

(g) The Commission failed to appreciate that even if it is assumed that BKTL's firefighting system was incomplete due to delays caused by the Review Petitioner,

though not admitting, the approval of BKTL's Deemed COD cannot be justified because the CEA Certificate clearly documented that BKTL's firefighting works were not ready and no liability can be imposed prior to deemed COD.

(h) BKTL's transmission line was connected with the Bikaner end, and a no-load trial run operation was possible, but the same was not complied with by BKTL. BKTL has not produced the RLDC 'No Load Certificate' to substantiate its claim for Deemed COD on 4.9.2021 even after a specific direction passed by this Commission vide RoP dated 8.12.2023 in Petition No. 377/MP/2022, wherein the Commission has categorically directed BKTL to file "(a) 'No load' charging certificate and 'on load' certificate for all elements issued by the RLDC in the scope of the Petitioner." In the ROP Compliance Affidavit dated 8.12.2023, BKTL failed to provide such a Certificate on record. This categorically evidences the fact that BKTL was not ready on 4.9.2021 or 5.9.2021. There are no documents placed on record to show that BKTL was ready as on 4.9.2021.

(i) On several occasions, this Commission has provided the methodology and requisites of Certificate(s) for the declaration of deemed COD. In this regard, reliance has been placed on the Order dated 19.5.2024 in Petition No. 90/MP/2020 titled "Gurgaon Palwal Transmission Limited v. UTC Chandigarh & Ors."

(j) The Commission failed to appreciate that BKTL's transmission line was connected with the Bikaner end, and a no-load trial run operation and obtaining a no-load trial run certificate were possible, but the same was not complied with by BKTL. BKTL merely stated that the line was charged for anti-theft purposes and did not provide any certificate to support this claim. Despite the absence of the requisite certificate (RLDC no-load trial operation certificate), this Commission did not consider this aspect and approved the deemed COD for BKTL.

(k) As per the Monthly Report of Northern Region issued by POSOCO for the month of October 2021, power flow in the Review Petitioner Khetri 400 kV substation commenced with effect from 26.9.2021, and the power flow in the Review Petitioner's complete system started with effect from 2.10.2021. However, the power flow from BKTL's Transmission System commenced only after 7.10.2021, which, *prima facie*,

demonstrates the non-readiness of BKTL's Transmission System as against the alleged deemed COD on 4.9.2021.

(l) The start of power flow in the BKTL transmission system on 7.10.2021, which was five days after the Review Petitioner's Khetri substation began operations on 2.10.2021 and therefore, the Commission erred in considering that BKTL needed an additional five days to commence power flow. This decision was based on an email from BKTL to the Review Petitioner dated 12.8.2021, in which BKTL provided a timeline for completing certain tasks. However, it is important to note that the activities outlined in BKTL's email were not directly linked to the power flow in the Review Petitioner's system and could have been completed along with/prior to the Review Petitioner's Transmission System. The email detailed general timelines for project tasks, but did not specify that any particular activity would delay the synchronization of BKTL's system with the Review Petitioner Khetri substation.

(m) The Commission has wrongly allowed the Deemed COD from 5.9.2021, as there is no document on record substantiating the same. Even the power-flow from the BKTL Transmission System is from 7.10.2021, therefore the levy of the transmission charges of around Rs. 10.60 crores along with interest from the period 5.9.2021 till 3.10.2021, by the way of bilateral billing in terms of Regulation 13(12) of the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020 is also wrongful considering that the Review Petitioner was ready on 2.10.2021. There cannot be a levy of transmission charges for the mismatch period when BKTL itself commenced its power flow on 7.10.2021, i.e. after the power flow in the Review Petitioner transmission system on 2.10.2021 and consequently claimed COD on 4.10.2021.

(n) The Commission erred in the levy of costs incurred allegedly on account of non-levelled land for allocating bays. In this regard, the Commission has given the finding that the Review Petitioner has not made any submissions or disputed the contentions with regard to the responsibility of providing the levelled land, which is wrong.

(o) The scope of work for Review Petitioner was only to provide levelled land for the construction of 2 nos.. of 765kV line bays, space for 2 nos.. of 240MVar switchable line

reactors & reactor bays at Khetri substation for Bikaner (PG) - Khetri 765kV D/c line and 1 no. of 1x80 MVAR, 1-Ph, 765kV spare unit of Reactor at 765kV Khetri S/S as provided under RfP & TSA.

(p) BKTL itself vide letter dated 22.9.2020 has submitted that the Review Petitioner has provided the levelled land. The levelled land provided by the Review Petitioner was as per the terms of the TSA/RfP. The portion of the switchyard to be developed by the Review Petitioner was at +98.1 Mtr, and the land given to the BKTL was at +101.5 Mtr, which was levelled as per industry standard practice in case of an AIS requiring a larger area of the land with different natural gradation of the land. In such cases, it may also happen that the TSP for its own works may have two or more FGLs, depending on the natural gradation of the land, and this is a standard practice. In the present case also, the Review Petitioner's 765 kV switchyard and 400 kV switchyard are at different ground levels depending on the topography of the location.

(q) The Review Petitioner was responsible only for providing the levelled land as per relevant clarifications to the RfP issued during the bidding process, and the same was duly provided by the Review Petitioner with FGL at +101.5 Mtr, and BKTL has also constructed its bays at the same level of +101.5 Mtr.

(r) Regarding BKTL's contention that it had to go to higher depths (beyond 2.5mtr) for placement of the foundations, as a result of which there was an increase in the civil works quantities, is wrong, as foundation work at higher depths is solely the decision of BKTL, and the Review Petitioner is not responsible for the same at all.

(s) Accordingly, the Review Petitioner acted in terms of the TSA/RFP without any violation of the same and cannot be penalised on this aspect. BKTL has misrepresented the fact that the land provided by the Review Petitioner was not levelled. Further, an additional cost of Rs 0.67 lakh has been incurred by BKTL due to the foundation at higher depths, for which the Review Petitioner is not responsible at all.

3. The matter was heard on 28.11.2024. The Respondent and the Review Petitioner were directed to file their reply and rejoinder, respectively. The Respondent, BKTL, was

directed to file, on an affidavit, a copy of the 'No load' charging certificate for all its elements and, if no load charging certificate is not available, the reason for non-availability of the same may be submitted along with the relevant documents.

4. The Respondent, BKTL, vide its compliance affidavit dated 24.12.2024, has submitted as under:

(a) All prudent efforts were made by BKTL qua issuance of the charging certificate. However, since the Khetri end of the Bikaner-Khetri line was not ready, the transmission system was anti-theft charged. Therefore, "No load" charging certificates were not issued by the concerned authorities.

(b) On 18.8.2021, BKTL issued intimation with respect to anticipated charging of new elements of its projects on 22.8.2021 and 23.8.2021. Pursuant to which the North Regional Load Despatch Centre (NRLDC) issued an acknowledgement of the same on 23.8.2021 (Format II). Accordingly, the Petitioner vide Format III issued the request for the first time, charging and start of trial operation on 29.8.2021.

(c) In terms of the requests dated 29.8.2021, the NRLDC on 30.8.2021 issued a letter (Format IV), permitting BKTL to charge its elements subject to the availability of real-time data and grid conditions. The charging certificate was not provided on 'no load' conditions, and anti-theft charging was approved.

(d) Subsequently, after complete power flow, BKTL submitted a Format V requesting NRLDC to issue the First Time Charging Certificate to BKTL. Accordingly, on 11.11.2021, NRLDC issued the certificate of completion of Trial Operation of 765 kV Bikaner (PG)- Khetri (PKTSL) (BKTL) Ckt-1, along with 3*80 MVAR Switchable Line Reactors and associated bays at Bikaner (PG) & Khetri (PKTSL).

Reply by the Respondent, BKTL

5. The Respondent BKTL, in its reply dated 14.2.2025, has mainly submitted as under

a) None of the submissions of the Review Petitioner fall within the scope of the grounds of review as encapsulated under Order 47 Rule 1 of CPC, 1908, as the said averments are merely an appeal in disguise. On this basis alone, the said averments deserve to be outrightly rejected by the Commission.

b) The Commission has given a detailed reasoning in its order in Petition No. 377/MP/2022 on every aspect which PKTSL is questioning in the present Review Petition. Clearly, there is no error on the face of the record which could entitle this Commission to review the impugned order. The Commission has not committed any error by relying on a provisional energization certificate granted by the CEA. Under Section 73 of the Electricity Act 2003 ('the Act'), CEA has been assigned the responsibility to specify the technical standards for the construction of electrical plants, lines and connectivity to the grid. As such, being a technical expert as well as a statutory body, the certificate was granted to BKTL after examination of the modalities.

c) BKTL made all reasonable efforts to obtain a no-load charging certificate. However, since the Khetri end of PKTSL was not ready, the transmission system was anti-theft charged. Therefore, "No load" charging certificates were not issued to the BKTL by the concerned authorities, as there was a delay at the end of PKTSL. Furthermore, there was no infirmity in declaring the deemed COD as on 4.9.2021 (i.e., 7 days after the date on which it is declared by the TSP to be ready for charging) in terms of Article 6.2.1 of the TSA. However, it is only on account of the non-availability of the inter-connection facility to be developed by PKTSL, due to which the BKTL was not able to charge, and the same is not at all attributable to the BKTL.

d) The averment of PKTSL that the BKTL's scope of work was not complete is completely false and misleading, as the Commission had adjudicated this issue in Petition No. 377/MP/2022 and passed a detailed and well-reasoned order. Therefore, the same argument cannot be raised in the Review Petition as there is no 'error apparent' in the said findings. The delay caused by the Review Petitioner is clearly evident from the site pictures, where it is seen that the inter-connection

facility of the Review Petitioner was not even ready up till 21.9.2021 (i.e., till the date, the pictures/ snapshots were taken). This aspect has already been analyzed by this Commission under para 46 of the impugned order. As such, neither is there any mistake/error on the face of the record nor is there any sufficient reason for this Commission to review the impugned order.

e) As regards the allegation of PKTSL that the Commission allegedly erred in passing its decision based on an email dated 12.8.2021 issued by BKTL, as the activities outlined therein were not directly linked to the power flow in PKTSL's Transmission System, the same is completely baseless, as the above email dated 12.8.2021 was placed by BKTL in its Petition No. 377/MP/2022. However, PKTSL did not make any allegation/ counter qua the said email. Thus, the same acted as an 'acceptance' on the part of PKTSL qua the works carried out by BKTL, which were duly informed in the aforesaid email dated 12.8.2021. The Commission analyzed this aspect in the impugned order, whereby it was concluded that PKTSL did not place on record any communication disputing the aforesaid email and neither did it dispute the timeline specified by BKTL for completion of the activity.

(f) Regarding recovery of cost on account of non-levelled land, the Commission had categorically recorded the submissions PKTSL made in its reply to the aforesaid issue of non-levelled land provided by PKTSL. Thus, it is clear that whatever submissions were made by PKTSL in its reply under affidavit, the same were duly considered by the Commission, and only after analysing the said submissions, the Commission passed the impugned order. As such, the grounds urged by the Review Petitioner in the present Review Petition amount to new facts/ grounds, which cannot at all be entertained under a review jurisdiction.

Rejoinder by Review Petitioner to the Reply filed by BKTL

6. The Review Petitioner, vide its rejoinder dated 28.2.2025, has submitted as under:

a) BKTL has misinterpreted the scope of review jurisdiction by asserting that a review cannot be entertained unless there is a discovery of new evidence. The present Review is not an Appeal but falls within permissible grounds under the ambit

of the broader principles of Order 47 Rule 1 of the CPC, 1908. The Review Petitioner is not seeking re-examination of the merits but correction of errors that are apparent from the record itself. The present Review Petition is on a limited ground, and this, by no stretch of imagination, can be construed as an Appeal in disguise as sought to be projected by BKTL in the reply.

b) The Commission, while approving the Deemed COD of BKTL's Transmission System as 5.9.2021, failed to consider crucial material evidence that demonstrates that BKTL was not ready on the alleged Deemed COD date. This Commission erroneously relied on a provisional CEA certificate dated 28.8.2021, which itself recorded that essential works, such as the firefighting system for 3x80 MVAR reactors under the scope of BKTL, were incomplete. The Commission failed to take into account the absence of an RLDC No-Load Charging Certificate, which is a mandatory requirement for Deemed COD as per the Commission's orders in similar matters.

c) The erroneous declaration of Deemed COD on 5.9.2021 has resulted in wrongful imposition of transmission charges on the Review Petitioner for the period from 5.9.2021 to 3.10.2021. The power flow in BKTL's system commenced only after 7.10.2021, i.e. 5 days after the power flow in Review Petitioner's Transmission system on 2.10.2021, which clearly indicates that it was not in a position to be declared as deemed COD on 5.9.2021.

d) The Commission incorrectly concluded that the Review Petitioner failed to provide levelled land, despite the fact that BKTL itself admitted through a letter dated 22.9.2020 that land was provided in accordance with TSA requirements. The Commission overlooked BKTL's own contractual obligations and misattributed additional costs to the Review Petitioner, thereby wrongfully penalizing it for an obligation it had already fulfilled.

e) The present Review Petition is maintainable as it raises errors apparent on the face of the record, i.e. the erroneous findings on Deemed COD, wrongful levy of transmission charges, and incorrect conclusions on levelled land constitute errors warranting review under Order 47 Rule 1 CPC.

f) BKTL's reliance on the provisional energisation certificate granted by the CEA is misplaced. The certificate was conditional and subject to compliance with safety regulations, which BKTL failed to fulfil. The said CEA certificate recorded that "Regulation 44(1&3) requires installation of firefighting system in respect of 3x80 MVAR reactors and the same has not been complied. Project head, BKTL, has expressed the urgency of charging the substation and has indicated that "Fire tender & movable mechanical foam trolley fire extinguisher, which is a temporary arrangement for firefighting has been arranged." In fact, this provisional certificate issued by the CEA was valid up to only 28.10.2021, and BKTL did not provide a final certificate, which was a mandatory requirement to claim the Deemed DOCO under the TSA, and BKTL had not provided the final CEA certificate.

g) BKTL has admitted that it did not receive a no-load charging certificate, which is a fundamental prerequisite for achieving deemed COD. BKTL's contention that PKTSL's non-readiness caused the delay is misleading. The fact remains that BKTL was required to independently complete and certify its system, which it failed to do. BKTL has not produced the RLDC No Load Certificate to substantiate its claim for Deemed COD on 4.9.2021. This certainly is an error apparent on the face of the record in terms of Order 47 rule 1 CPC, as the term 'record' includes the documentary evidence, and BKTL failed to produce the RLDC certificate despite clear directions of the Commission.

h) BKTL's transmission line was connected with the Bikaner end, and a no-load trial run operation and obtaining a no-load trial run certificate were possible, but the same was not complied with by BKTL. BKTL merely stated that the line was charged for anti-theft purposes and did not provide any certificate to support this claim. This categorically evidences the fact that BKTL, in fact, was not ready on 4.9.2021 or 5.9.2021. There are no documents placed on record to show that BKTL was ready as on 4.9.2021. Therefore, BKTL is making misleading arguments that a No-load charging certificate could not be issued as the Review Petitioner's end was not ready. However, a 'no load certificate' is required to be obtained in cases similar to the present matter, wherein the line is connected with one end only and the other end is not ready.

- i) BKTL's reading of Article 6.2.1 of the TSA is selective in the teeth of what has transpired in the present case. The provision requires that the system be ready for charging in all respects. However, in the present case, the same was not the case and a certain scope was not completed by BKTL.
- j) The contention of BKTL that the Review Petitioner accepted the contents of the email dated 12.8.2021 is erroneous and misplaced. It was argued before the Commission in Petition No. 377/MP/2022 that the start of power flow in the BKTL transmission system on 7.10.2021, which was five days after the Review Petitioner's Khetri substation began operations on 2.10.2021. The Commission in the Order under Review considered that BKTL needed an additional five days to commence power flow. This decision was based on the email dated 12.8.2021, wherein BKTL provided a timeline for completing certain tasks. However, it is important to note that the activities outlined in BKTL's email were not directly linked to the power flow in the Review Petitioner's system and could have been completed prior to the Review Petitioner's Transmission System. The email detailed general timelines for project tasks, but did not specify any particular activity that would delay the synchronization of BKTL's system with the Review Petitioner Khetri substation.
- k) Further, the Review Petitioner was responsible only for providing the levelled land as per relevant clarifications to the RfP issued during the bidding process and the same was duly provided by the Review Petitioner with FGL at +101.5 Mtr, and BKTL has also constructed its bays at the same level of +101.5 Mtr. However, expenditure incurred by BKTL on account of going to higher depths (beyond 2.5mtr) for placement of the foundations, resulting in an increase in the civil works quantities, was solely the decision of BKTL and Review Petitioner cannot be made liable for payment of such expenditure.
- l) The Review Petitioner acted in terms of the TSA/RFP without any violation of the same and cannot be penalised on this aspect. BKTL has misrepresented the fact that the land provided by the Review Petitioner was not levelled. Further, Review Petitioner is not responsible at all for the additional cost of Rs 0.67 lakh incurred by BKTL due to the foundation at higher depths. All these were not

considered by the Commission while passing the Order under Review.

Hearing dated 8.4.2025

7. During the course of the hearing, the learned counsels for the Review Petitioner and the Respondent, BKTL, argued at length and reiterated the submissions made in the pleadings. Based on the request of the learned counsels for the parties, the Commission directed the Petitioner and the Respondents to file their respective Written Submissions / Notes of Arguments, not exceeding three pages and reserved the matter for Order..

Analysis and Decision

8. We have considered the submissions made by the parties and perused the documents on record. Now, we proceed to consider whether any case for review has been made out by the Review Petitioner in terms of Order 47 Rule 1 of the CPC read with Regulation 52 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 2023 (hereinafter “Conduct of Business Regulations”).

9. Under Order 47 Rule 1 of CPC, a person aggrieved by an order of a Court can file a review on the following grounds, if no appeal against the said order has been filed:

- (a) Discovery of new and important matter of evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made.
- (b) On account of some mistake or error apparent on the face of the record, and
- (c) For any other sufficient reason.

10. The Review Petitioner has contended that it is seeking review of the impugned order to the following limited extent:

- (a) The Commission has erroneously relied upon the “Provisional Approval for Energization” Certificate dated 28.08.2021 issued by CEA for allowing the deemed

CoD of BKTL.

(b) BKTL did not furnish a 'no load' charging certificate of RLDC.

(c) PKTSL has not placed on record any communication disputing the email dated 12.8.2021 of BKTL and has not disputed the timeline specified by BKTL for completion of the activity.

(d) The Commission in the impugned order has erroneously held that PKTSL did not make any submission, much less dispute the contentions made by BKTL regarding the responsibility of providing levelled land and therefore, BKTL is entitled to recover the cost incurred on account of non-levelled land of allotted bays from PKTSL.

11. We have perused the order dated 19.5.2024 in Petition No. 377/MP/2022. As regards CEA's provisional energization certificate, the Review Petitioner had raised the said contention in Petition No. 377/MP/2022, which was dealt with in the impugned order as under:

37. Further, the Respondent No. 1 POWERGRID Khetri has challenged the deemed COD declared by the Petitioner on the ground that the transmission system of the Petitioner was not ready as on 4.9.2021. POWERGRID Khetri has also contested the reliance of the Petitioner on the approval for energisation granted by the CEA on 28.8.2021. As per POWERGRID Khetri, the certificate issued by the CEA for energization of some of the elements was only a provisional certificate which was valid upto only 28.10.2021. The relevant portion of the CEA certificate is extract hereunder:

"Whereas the Inspection of Electrical Installation of 6 no 765 kV bays [2 no. Line bays Bikner-I (710) & II(713) & 2 No. tie bays (711,714) and 2 No Future bays (712,715) with switchable line reactor 3×80MVA 1-Phase 765 kV (Bank of three) for each line I & II along with associated equipment of M/s. Bikaner Khetri Transmission Ltd. (BKTL) (Subsidiary of Adani Transmission Ltd.) installed in the premises of 765/400 kV Khetri Sub station, Village-Geja Sarapur, Teh.-Khetri, Distt. Jhunjhunu (Raj.) of M/s PKTSL was carried out on 11th August 2021 by the undersigned. Non-compliance of certain provisions stipulated in the Regulations were conveyed to you vide our letter under reference at Sl. No. (2) and the partial compliance of the same has been received under your email under reference at Sl. No. (3) above. Regulation 44(1&3) requires installation of

firefighting system in respect of 3x80 MVAR reactors and same has not been complied. Project head, M/s BKTL has expressed the urgency of charging the substation and has indicated that “Fire tender & movable mechanical foam trolley fire extinguisher which is temporary arrangement for firefighting has been arranged.

In view of the above, provisional approval for energization of Electrical Installation of 6 no 765 kV bays 12 no. Line bays Bikaner-I (710) & II (713) & 2 No. tie bays (711,714) and 2 No Future bays (712,715) with switchable line reactor 3x80 Mvar 1-Phase 765 kV (Bank of three) for each line I & II along with associated equipment of M/s Bikaner Khetri Transmission Ltd. (BKTL) (Subsidiary of Adani Transmission Ltd.) installed in the premises of 765/400 kV Khetri Sub Station, Village-Geja Sarapur, Teh.-Khetri, Distt. Jhunjhunu (Raj.) of M/s PKTSL (As per Annexure encloses) is hereby accorded up to 28th October, 2021 subject to consistent compliance of relevant provisions of CEA (Measures relating to Safety and Electric Supply) Regulations, 2010 (as amended) by M/s BKTL.”

38. It is observed that the above certificate dated 28.8.2021 was issued for the Petitioner’s assets being installed in Bikaner I and Khetri sub-station of POWERGRID Khetri which was valid till 28.10.2021. It is also apparent that the provisional approval for energization was accorded by the CEA based on the urgency expressed by the Petitioner and making a temporary arrangement by installation of Fire Tender and movable mechanical foam trolley Fire Extinguisher for the firefighting system in respect of the 3x80 MVAR reactors. We also observe that the Petitioner has placed on record the final energization certificate dated 18.8.2021 in respect of other elements of its project such as 765 kV D/C Bikaner-Khetri transmission line implemented by it from the 765/400 kV substation of PGCIL (Bikaner) to the 765/400 kV substation of PGCIL (Khetri). The Petitioner has also placed on record the energization certificate dated 9.7.2021 for electrical installation of the 2 nos of the 765 kV line bays Khetri-I and II with switchable line reactor 3x80 MVar 1-Phase 765 kV (Bank of three) for each line I & II and one spare reactor along with the associated equipment of the Petitioner installed in the premises of the 765/400 kV sub-station of PGCIL at Bikaner. Thus, it is established that the Petitioner had completed the entire scope of work except the firefighting work associated with the Khetri sub-station.

.....

42. We have considered the submissions of Respondents regarding “Provisional Approval for Energization”. In terms of Section 73 of the Act, CEA has been assigned the responsibility to specify the technical standards for construction of electrical plants, electric lines and connectivity to the grid. The relevant portion of the Act is extracted as under:

“Section 73 (Functions and duties of Authority): The Authority shall perform such functions and duties as the Central Government may prescribe or direct, and in particular to –

(a) advise the Central Government on the matters relating to the national electricity policy, formulate short-term and perspective plans for development of the

electricity system and co- ordinate the activities of the planning agencies for the optimal utilisation of resources to subserve the interests of the national economy and to provide reliable and affordable electricity for all consumers;

(b) specify the technical standards for construction of electrical plants, electric lines and connectivity to the grid; ...”

43. We have also perused the Central Electricity Authority (Measures relating to Safety and Electric supply) Regulations, 2010 which provides as under:

“43. Approval by Electrical Inspector. –

(1) Voltage above which electrical installations will be required to be inspected by the Electrical Inspector before commencement of supply or recommencement after shutdown for six months and above shall be as per the notification to be issued by the Appropriate Government, under clause (x) of subsection (2) of section 176 and sub-section (1) of section 162 of the Act.

(2) Before making an application to the Electrical Inspector for permission to commence or recommence supply after an installation has been disconnected for six months and above at voltage exceeding 650 V to any person, the supplier shall ensure that electric supply lines or apparatus of voltage exceeding 650 V belonging to him are placed in positions properly joined and duly completed and examined and the supply of electricity shall not be commenced by the supplier for installations of voltage needing inspection under these regulations unless the provisions of regulations 12 to 29, 33 to 35, 44 to 51 and 55 to 77 have been complied with and the approval in writing of the Electrical Inspector has been obtained by him:

Provided that the supplier may energise the aforesaid electric supply lines or apparatus for the purpose of tests specified in regulations 46.”

As per the above, approval of the Electrical Inspector is required under Section 43 of the quoted Regulations of the CEA.

We observe that in the present case, the Electrical Inspector of the CEA with full responsibility has issued the Provisional Energization Certificate to the Petitioner. Therefore, we are not inclined to agree to the Respondents’ contention that it is not a valid Certificate. For all purposes, it is up to Electrical Inspector of the CEA to issue the Energisation Approval and for purpose of the TSA we shall consider the same a valid Energisation Approval.”

12. Evidently, while passing the impugned order, the Commission was aware that the CEA certificate was provisional, and it is up to the Electrical Inspector of the CEA to issue the Energisation Approval, and for the purpose of the TSA, it shall be considered as a valid

Energisation Approval. The Commission also noted the final energization certificate dated 18.8.2021 in respect of other elements of BKTL's project such as 765 kV D/C Bikaner-Khetri transmission line implemented by it from the 765/400 kV substation of PGCIL (Bikaner) to the 765/400 kV substation of PGCIL (Khetri) and the energization certificate dated 9.7.2021 for electrical installation of the 2 nos of the 765 kV line bays Khetri-I and II with switchable line reactor 3×80 MVAR 1-Phase 765 kV (Bank of three) for each line I & II and one spare reactor along with the associated equipment of the Petitioner installed in the premises of the 765/400 kV sub-station of PGCIL at Bikaner. The Commission had further noted in the impugned order that the Petitioner had completed the entire scope of work except the firefighting work associated with the Khetri sub-station. The said fact regarding the non-readiness of the firefighting system has also been noted by the Electrical Inspector of CEA while issuing the CEA energisation certificate dated 28.08.2021.

13. As regards the “no load” charging certificate, BKTL has submitted that all prudent efforts were made qua the issuance of the charging certificate. However, since the Khetri end of the Bikaner-Khetri line was not ready, the transmission system was anti-theft charged. Therefore, “No load” charging certificates were not issued by the concerned authorities. In this regard, BKTL has placed on record a copy of the request for the first time, charging and start of trial operation request dated 29.08.2021. The relevant extract is as under:

Format III

Bikaner Khetri Transmission

1st Floor South Wing, Adani House, Shantigram, SG Highway, Ahmedabad 382421, Gujarat, India.

Request by Transmission Licensee for first time charging and start of Trail Operation

Past references : Acknowledgement from NRLDC dtd 23-Aug-21 (Format II) and 29-Aug-21 (Format IV)

Name of Transmission Element : 1. 765 kV Line/ Main Bay No. 716 (Khetri Line 2) at Bikaner (PG)
2. 765 kV Line Reactor (1x240 MVar) associated with Line/ Main Bay No. 716 (Khetri line - 2) at Bikaner (PG)
3. Khetri line - 2 of 765 kV D/C Bikaner (PG) - Khetri S/s Transmission Line {Antitheft - Charging upto Khetri Gantry}

Type of Transmission Element : AC_TRANSMISSION_LINE_CIRCUIT,LINE_REACTOR,BAYS

Voltage Level (KV): 765 - AC

Owner of the Transmission Asset : BKTL

Proposed Date and time of first time Charging : 29-08-2021 - 19:00

Proposed Date and time of Trail Operation : 29-08-2021 - 19:00

Details of Standing Committee / Scheme Approval -

Date of Meeting	Standing Committee meeting Number	MOM Item no. / Point No. /Serial No	Page No
24-05-2019 - 10:30	Third	22.10/ 5	82 (As per CEA MOM)

Place : Ahmedabad

Date : 29-Aug-2021




Hitesh Vaghasiya
Project Director

As per the above, BKTL proposed for the first time charging and a trial run with effect from 29.08.2021. Subsequently, NLDC on 30.08.2021 allowed the anti-theft charging of elements of the BKTL's transmission system up to Khetri Gantry only.

Approval for charging and trial operation/run

NRLDC

Approval no: NRLDC/SO-1/2021/203

To,

Bikaner Khetri Transmission,

1st Floor South Wing, Adani House, Shantigram, SG Highway, Ahmedabad 382421, Gujarat, India,

Sub: Charging and trial run of 1. 765 kV Line/ Main Bay No. 716 (Khetri Line 2) at Bikaner (PG)2. 765 kV Line Reactor (1x240 MVar) associated with Line/ Main Bay No. 716 (Khetri line - 2) at Bikaner (PG)3. Khetri line - 2 of 765 kV D/C Bikaner (PG) - Khetri S/s Transmission Line {Antitheft - Charging upto Khetri Gantry} Provisional approval

Ref: 1) Your application dated - 19 Aug 2021 15:37, 18 Aug 2021 21:03 in Format-I

2) RLDC response dated - 19 Aug 2021 11:18, 23 Aug 2021 16:30 in Format-II

3) Your request and details forwarded on dated - 27 Aug 2021 17:10, 29 Aug 2021 16:57 in Format III, IIIA, IIIC, and IIID

Madam/Sir,

1) The above documents have been examined by RLDC and permission for charging of 1. 765 kV Line/ Main Bay No. 716 (Khetri Line 2) at Bikaner (PG)2. 765 kV Line Reactor (1x240 MVar) associated with Line/ Main Bay No. 716 (Khetri line - 2) at Bikaner (PG)3. Khetri line - 2 of 765 kV D/C Bikaner (PG) - Khetri S/s Transmission Line {Antitheft - Charging upto Khetri Gantry} on or after 30 Aug 2021 11:43 is hereby accorded. **Consent is hereby accorded for charging of above mentioned elements subjected to availability of real time data and grid conditions.** This approval is provisional and in the intervening period, if any of the conditions given in the undertakings submitted by you are found to be violated, the approval stands canceled. Kindly obtain a real time code from the appropriate RLDC for each element switching as well as commencement of trial operation.

Thanking you,

Date : 30 Aug 2021 11:43

Signature

Name: Kamaldeep

Designation: Chief Manager

NRLDC

From the above, it can be substantiated that the BKTL transmission system was ready for charging as on 28.08.2021.

14. As regards reliance on the email dated 12.8.2021 of BKTL, we observe that the Review Petitioner had raised the same contention in the impugned Petition and the Commission had dealt with the above contentions in the impugned order as under:

39. We further observe that the Petitioner intimated the POWERGRID Khetri about completion of bay extension work except the interfacing part vide email dated 12.8.2021. Vide the same email, the Petitioner further sought clearance to complete the each of the interfacing activity with details regarding the number of days required to complete each of the activity from clearance as under:

Sl No	Activity	No. of days required to complete the activity from Clearance
1	Splicing at 400kV end	2
2	Splicing at 765kV end	2
3	Bus Bar panel cable termination work (Cable laying and Glanding completed)	3
4	SCADA configuration at Power Grid End (Relay and SCADA engineer available at site)	6
5	Relay signal witness from Power Grid (Relay and SCADA engineer available at site)	
6	Bus Bar Stability	4
7	Firefighting system cable termination in DCDB and annunciation panel located in the Pump House. (Cable laying done, glanding and termination balance)	5
8	Availability of main Pump house and main line taping of water.	5

40. POWERGRID Khetri has not placed on record any communication disputing the aforesaid email of the Petitioner. Neither did POWERGRID Khetri dispute the timeline specified by the Petitioner for completion of the activity. Thus, if the interconnection facility at Khetri sub-station could be completed by the POWERGRID Khetri, the Petitioner could complete the readiness its system by 28.8.2021.

41. We have also perused the Petitioner's letter dated 25.8.2021, addressed to the POWERGRID Khetri regarding the availability of common/ interconnection points for the 765 kV Bay extension works at 765 kV Khetri SS (PG) under Rajasthan SEZ PART D Package, which states as under:

.....

It is evident that some of the interface works related to Bus Bar Protection Panel, SCADA, Earthing, and Firefighting System, which were in the scope of POWERGRID Khetri were not complete as on 25.8.2021. Therefore, the Petitioner requested

POWERGRID Khetri to expedite availability of common/ interconnection points and provide timeline/ schedule for firefighting system readiness and balance activity (common/ interconnection facilities) completion so as to enable the BKTL to complete the extension works & to put the assets in operation.

46. Respondent No.1 POWERGRID Khetri has further submitted that the power flow in the POWERGRID Khetri's 400 kV sub-station at Khetri commenced with effect from 26.9.2021 and the power flow in the complete system occurred with effect from 2.10.2021. As per POWERGRID Khetri, the power flow in the Petitioner's Transmission System commenced after 7.10.2021 which clearly demonstrates the non-readiness of the Petitioner's Transmission System as on the alleged COD on 4.9.2021. We do not find merit in the said contention of POWERGRID Khetri which, in fact, goes against the Respondent 1. The Petitioner has not disputed the power flow through its transmission system in October, 2021. The case of the Petitioner is that the Petitioner could not commence power flow in August, 2021 as POWERGRID Khetri had delayed its transmission system at Khetri sub-station. In this regard, it is noted that the power flow from the system of the Petitioner commenced from 7.10.2021 i.e. about 5 days after the power flow started from the complete system of POWERGRID Khetri. The time of 5 days taken by the Petitioner to complete its work matches with the time sought by the Petitioner vide email dated 12.8.2021. If the flow from the Petitioner's system had started much later than 2.10.2021, it could be established that the Petitioner's system was not ready. In fact, the Petitioner vide its letter dated 24.9.2021 had also submitted pictures of the sub-station to show the status of completion of work by both the TSPs.

15. We observe that the entire Review Petition is premised on the non-readiness of BKTL's system. As observed by the Commission in Para 46 of the impugned order quoted above, BKTL had not disputed the power flow through its transmission system commenced in October 2021. It is evident from the impugned order that the declaration of deemed COD by the Petitioner w.e.f. 5.9.2021 was allowed by the Commission, considering that BKTL was prevented from completing its scope of work at Khetri sub-station on account of the delay by POWERGRID Khetri. The Commission had held that it was the Review Petitioner's liability to plan and complete its system in a timely manner to allow BKTL to complete the interface work and commission its system as per the revised SCOD. The relevant extracts of the impugned judgment are as under

"47. In view of the above, we are of the opinion that it was the Respondent No. 1's liability to plan and complete its system in a timely manner to allow the Petitioner to complete inter-facing work and commission its system as per the revised SCOD. In

fact, both the TSPs were aware of the revised SCOD of 31.8.2021 as evident from the minutes of the meeting held on 2.7.2021 amongst CEA, CTUIL, TSPs, associated LTTCs, POWERGRID and SECI which has been placed on record by POWERGRID Khetri vide its affidavit dated 3.1.2024. **In light of the interdependency of both the systems on each other, POWERGRID Khetri ought to have completed the work of sub-station on priority to allow the Petitioner adequate time to complete its system by 31.8.2021. Instead, as admitted by POWERGRID Khetri in the present Petition, it was under the misconception that, its system being pre-requisite to the Petitioner's system, the Petitioner could not declare COD.** In fact, the stipulation regarding commissioning of pre-requisite elements for declaration of COD was removed in the Amendment No.2 to the TSA to safeguard the Petitioner from delay in commissioning of the POWERGRID Khetri's system. Thus, the Petitioner was prevented from completing its scope of work at Khetri sub-station on account of the delay by POWERGRID Khetri.

48. In light of the above, we allow the declaration of deemed COD by the Petitioner w.e.f. 5.9.2021 as per the Regulations provisions of the TSA and, consequently, for the period from 5.9.2021 till the actual COD of the interconnection facility of POWERGRID Khetri i.e. 3.10.2021, the Petitioner is entitled to get tariff along with applicable interest as per applicable Tariff or provisions of the TSA from POWERGRID Khetri, on bilateral basis, in terms of Regulation 13(12) of the 2020 Sharing Regulations.”

16. In our view, the Review Petitioner has sought to reargue the case on merits and has prayed for re-appreciation of the same in this Review Petition. The Review Petition has a limited purpose and cannot be an appeal in disguise.

17. In view of the above, the grounds raised in the present Review Petition are devoid of merit.

18. Further, the Review Petitioner has argued that the Commission's findings in the impugned order on the issue of non-levelled land for allocating bays are erroneous. The Review Petitioner has submitted that BKTL itself, vide letter dated 22.9.2020, has submitted that the Review Petitioner has provided the levelled land. As per the Review Petitioner, it was responsible only for providing the levelled land as per the relevant clarifications in the RfP issued during the bidding process and the same was duly provided

by the Review Petitioner with FGL at +101.5 Mtr, and BKTL has also constructed its bays at the same level of +101.5 Mtr. The Review Petitioner has also submitted that BKTL's contention that it had to go to higher depths (beyond 2.5mtr) for placement of the foundations, as a result of which there was an increase in the civil works quantities is wrong and denied as foundation work at higher depths are solely the decision of BKTL and the Review Petitioner is not responsible for the same at all.

19. We have considered the submissions made by the Review Petitioner. We observe that the letter dated 22.9.2020, relied upon by the Review Petitioner, was not written by BKTL but by the Review Petitioner itself; therefore, the contention of the Review Petitioner that BKTL itself, vide letter dated 22.9.2020, has submitted that the Review Petitioner has provided the levelled land is factually not correct. Further, the Review Petitioner had admitted that the land provided to BKTL was at the level of +101.5 Mtr. It is apparent from the impugned order that BKTL had revealed the said information in Petition No. 377/MP/2022. The relevant extract of the order is as under

"64

Change in level of land of allotted bays

.....

k) However, upon finalization of land for Khetri S/s, Respondent 1 provided land with differential finished ground levels (FGL). The portion of switchyard to be developed by Respondent 1 was at +98.1 Mtr and the land given to the Petitioner was at +101.5 Mtr with filled up soil of depth 3.4mtr (approx.). This forced the Petitioner to go to higher depths (beyond 2.5mtr) for placement of the foundations, as a result of which there was an increase in the civil works quantities. Further, the Petitioner also intimated the same to the LTTCs vide its letter dated 6.1.2020."

20. The Commission had accepted the claim of BKTL in the impugned order in light of the clarification provided in the RfP on 28.5.2019 and the fact that the Review Petitioner had not disputed the claim of BKTL. The relevant extract of the impugned order is as under

69. However, as regards change in level of land of allotted bays, the BPC clarified vide clarifications issued on 28.5.2019 that the Khetri s/s developer i.e. POWERGRID Khetri will provide levelled land for 2 nos of bays. The said clarification was provided in response to the specific query that land development shall be in the scope of TSP and not the existing substation owner. POWERGRID Khetri has not made any submission much less dispute the contentions made by the Petitioner with regards to the responsibility of providing levelled land. Therefore, the Petitioner is entitled to recover the cost incurred on account of non-levelled land of allotted bays from POWERGRID Khetri. Accordingly, the increase in cost on account of this aspect (duly certified by the auditor) shall be paid by the Respondent 1 along with interest as per the applicable CERC Tariff Regulations or as per the provisions of TSA, whichever is lower.

21. In the Review Petition, the Review Petitioner has mainly contended that the land given to the BKTL was at +101.5 Mtr, which was levelled as per industry standard practice in case of an AIS requiring a larger area of the land with different natural gradation of the land. The Review Petitioner has also submitted that the TSP for its own works may have two or more FGLs, depending upon the natural gradation of the land, and the same is a standard practice. The Review Petitioner has admitted that in the present case, the Review Petitioner's 765 kV switchyard and the 400 kV switchyard are at different ground levels depending upon the topography of the location.

22. We note that in the Review Petition, the Review Petitioner is trying to justify that the land provided to BKTL was as per industry practice; however, no such submission was made by the Review Petitioner in its reply dated 16.06.2023 and written submissions dated 12.02.2024 in Petition No. 377/MP/2022.

23. We also reject the contention of the Review Petitioner that it had made a submission with respect to non-levelled land in its reply dated 16.06.2023 and written submissions dated 12.02.2024 in Petition No. 377/MP/2022, as the Review Petitioner has not made any submissions disputing the contentions of BKTL regarding the handing over of non-levelled land.

24. In light of the above, we reject the review sought by the Review Petitioner on the above ground.

25. The Review Petitioner is disposed of in terms of the above.

Sd/-
(Harish Dudani)
Member

sd/-
(Ramesh Babu V.)
Member

sd/-
(Jishnu Barua)
Chairperson