

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

1. Shri Ashok Basu, Chairman
2. Shri D.P. Sinha, Member
3. Shri G.S. Rajamani, Member
4. Shri K.N. Sinha, Member

**Review Petition No. 97/2002 in
Petition No. 9/1999**

In the matter of

Review of order dated 3.6.2002 in Petition No. 9/99.

And in the matter of

Power Grid Corporation of India Ltd.	Petitioner
Vs		
Karnataka Power Transmission Corporation Ltd. and others	Respondents

The following were present:

1. Shri R.K. Vohra, GM, PGCIL
2. Shri S.S. Sharma, AGM, PGCIL

**ORDER
(DATE OF HEARING 22.10.2002)**

This application has been filed for review of order dated 3.6.2002 in Petition No. 9/1999 wherein the Commission had approved the transmission charges in respect of 400 KV Jeypore-Gazuwaka line and 500 MW HVDC back to back station at Gazuwaka in the Southern and Eastern regions. While approving transmission charges, the Commission had ordered pro-rata reduction of Rs.11.95 crores in IDC component of the completed cost of the project as the

Commission found that there was an unexplained delay of 5 months in the commissioning of the project.

2. The petitioner in the present application for review has submitted that the time over-run in the completion of the project was on account of the fact that the Asian Development Bank had not agreed to award of contract to the lowest tenderer and the matter remained unsettled for a period of about 9 months. Subsequently, the contract was awarded to the second lowest tenderer. This resulted in delay of about 5 months in commissioning of the project. According to the representatives of the petitioner, this information was not available in the Commercial Division of the petitioner company when the petition was filed or it was initially heard. The representatives of the petitioner submitted that, the new evidence now placed on record could not be made available despite exercise of due diligence during the pendency of the petition and, therefore, this is a ground for review of the order by the Commission, covered under Order XLVII, Rule 1, CPC. The representative of the petitioner further explained that the completion schedule is normally counted from the date of award of contract and in this case the lender Viz. ADB did not agree with the placement of order on the lowest bidder and approved the placement of order on 2nd lowest bidder in April 1997. In the light of this, the petitioner argued that there was no time overrun in commissioning the project attributable to him. Representative of PGCIL also stated that the CERC has certain additional powers as per Section 12 of ERC Act, 1998 as compared to a Civil Court.

3. We have considered the matter very carefully. Prima facie, we are of the opinion that a case for invoking powers under Section 12 of the Electricity Regulatory Commissions Act, 1998 read with Order XLVII, Rule 1, CPC for review of the order dated 3.6.2002 has been made out. We accordingly direct that the application for review of order dated 3.6.2002 be admitted. The petitioner is directed to serve a copy of the review petition on the respondents by 5.11.2002 who may file their counter reply by 30.11.2002 with an advance copy to the petitioner who may file its rejoinder, if any, by 15.12.2002.

4. List the petition for disposal on 19th December, 2002.

Sd/-
(K.N. SINHA)
MEMBER

Sd/-
(G.S. RAJAMANI)
MEMBER

Sd/-
(D.P. SINHA)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRMAN

New Delhi dated the 29th October 2002