

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Review Petition No. 05/RP/2014**

**Coram:**

**Shri Gireesh B. Pradhan, Chairperson  
Shri M. Deena Dayalan, Member  
Shri A.K. Singhal, Member**

**Date of Hearing : 27.02.2014**

**Date of Order : 25.03.2014**

**In the matter of:**

Review Petition under Section 94(1) (f) of the Electricity Act, 2003 read with Regulation 17 of the Central Electricity regulatory Commission (Conduct of Business) Regulations, 1999, seeking review of order dated 18.12.2013 in Petition No. 289/TT/2013

**And in the matter of:**

Aryan MP Power Generation Pvt. Ltd.  
Registered Office:  
129, Transport Centre, Rohtak Road,  
Punjabi Bagh,  
New Delhi- 110035

.....Petitioner

vs

1. Power Grid Corporation of India Limited,  
"Saudamani", Plot No.2,  
Sector-29, Gurgaon -122 001.
2. Madhya Pradesh Power Management Company Ltd.,  
Shakti Bhawan, Rampur  
Jabalpur-482 008.
3. Maharashtra State Electricity Distribution Company Limited,  
Prakashgad, 4th floor  
Andehri (East), Mumbai-400 052.
4. Gujarat Urja Vikas Nigam Ltd.,  
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 and 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  
Chhattisgarh-492 013.
9. Madhya Pradesh Audyogik Kendra Vikas Nigam (Indore) Ltd.,  
3/54, Press Complex, Agra-Bombay Road  
Indore -452 008.
10. Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,  
Vidyut Bhawan, Vidyut Marg,  
Jaipur- 302 005.
11. Ajmer Vidyut Vitran Nigam Ltd.,  
400 kV GSS Building (Ground Floor), Ajmer Road,  
Heerapura, Jaipur.
12. Jaipur Vidyut Vitran Nigam Ltd.,  
400 kV GSS Building (Ground Floor), Ajmer Road,  
Heerapura, Jaipur.
13. Jodhpur Vidyut Vitran Nigam Ltd.,  
400 kV GSS Building (Ground Floor), Ajmer Road,  
Heerapura, Jaipur.
14. Himachal Pradesh State Electricity Board,  
Vidyut Bhawan, Kumar House Complex Building II,  
Shimla-171 004.
15. Punjab State Electricity Board  
The Mall, Patiala-147 001.
16. Haryana Power Purchase Centre,  
Shakti Bhawan, Sector-6,  
Panchkula (Haryana)-134 109.
17. Power Development Department,  
Govt. of Jammu and Kashmir,  
Mini Secretariat, Jammu.



18. Uttar Pradesh Power Corporation Ltd.,  
Shakti Bhawan, 14, Ashok Marg,  
Lucknow-226 001.
19. Delhi Transco Ltd.,  
Shakti Sadan, Kotla Road,  
New Delhi-110 002.
20. BSES Yamuna Power Ltd.,  
BSES Bhawan, Nehru Place,  
New Delhi.
21. BSES Rajdhani Power Ltd.,  
BSES Bhawan, Nehru Place,  
New Delhi.
22. North Delhi Power Ltd.,  
Power Trading and Load Dispatch Group,  
Cennet Building, Adjacent to 66/11kV Pitampura-3,  
Grid Building, Near PP Jewellers,  
Pitampura, New Delhi-110 034.
23. Chandigarh Administration,  
Sector-9, Chandigarh.
24. Uttarakhand Power Corporation Ltd.,  
Urja Bhawan, Kanwali Road,  
Dehradun.
25. North Central Railway,  
Allahabad.
26. New Delhi Municipal Council,  
Palika Kendra, Sansad Marg,  
New Delhi-110 002.
27. Maruti Clean Coal and Power Ltd.,  
Hira Arcade, Ground Floor,  
New Bus Stand, Pandri,  
Raipur, Chhattisgarh-492 001.
28. Dheeru Power Gen. Pvt. Ltd.,  
2nd Floor, Capital Court,  
Olof Palme Marg, Munirka,  
New Delhi-110 067.
29. Jaiprakash Power Ventures Ltd.,  
Sector-128, Gautam Buddha Nagar,  
NOIDA-201 304.

30. Bina Power Supply Company Ltd.,  
Sector-128, Gautam Buddh Nagar,  
NOIDA-201 304.

31. Chhattisgarh State Power Trading Company Ltd.,  
2nd Floor, Vidyut Sewa Bhawan,  
Danganiya, Raipur-492 013.

.....**Respondents**

For petitioner : Shri Sanjay Sen, Advocate, AMPPGPL  
Shri Matrugupta Mishra, Advocate, AMPPGPL  
Shri Satish Sharma, AMPPGPL

### **ORDER**

This is a review petition filed by Aryan MP Power Generation Pvt. Ltd. (AMPPGPL) seeking review of the order dated 18.12.2013 in Petition No.TT/289/2013, wherein provisional tariff was granted to 400 kV D/CD Vadodara–Pirana Transmission Line along with associated at Pirana Sub-station (for direct inter-connection with 400 kV D/C Vadodara Asoj T/L under interim contingency) scheme under transmission system for IPP generation projects ( hereinafter referred to as "transmission assets") in Madhya Pradesh and Chattisgarh in Western Region for the tariff block 2009-14. The review petitioner has made the following prayers:-

- a. Review the order dated 18.12.2013 passed in TT/289/2013 to the extent provided in paragraph 7 of the petition;
- b. Grant opportunity to the review petitioner to substantiate its case on merit by bringing its objections on record;
- c. Hold that the review petitioner is not liable to pay proportionate transmission charges in accordance with the BPTA and Sharing Regulations as provided in paragraph 9 of the impugned order without hearing the matter on merits after completion of necessary pleadings;



- d. Pass such other and further order or orders which may deem fit and proper under the facts and circumstances of the present case and in the interest of justice.

### **Brief facts of the case**

2. Power Grid Corporation of India Limited (PGCIL) filed Petition No.TT/289/2013 seeking transmission tariff for the instant transmission assets for the tariff block. The petitioner also prayed for provisional tariff for the transmission assets. The matter was listed on 3.12.2013 for consideration of petitioner's prayer for provisional tariff with a notice to all the respondents. After taking into consideration the submission made by PGCIL and all the respondents present, including the representative of the review petitioner, provisional tariff was allowed vide order dated 18.12.2013. The present review petition has been filed against the said order.

3. The review petitioner has submitted as follows:-

- a. A Memorandum of Understanding (MOU) has been entered into with the Government of Madhya Pradesh for establishing and operating 500 MW (2X500) thermal power station at Amelia, District Siddhi, Madhya Pradesh and this MOU was further amended on 26.12.2007, whereby the capacity of the project was enhanced to 1200 MW (4X300).
- b. An application for long term open access was made on 28.5.2008 to PGCIL. PGCIL informed that there is a necessity for augmentation/strengthening of transmission network, for which extensive systematic studies need to be carried out. Accordingly,

₹1643518 was paid for carrying out studies to identify the strengthening requirement along with consultancy charges.

- c. PGCIL granted open access for 1200 MW power project vide its letter dated 29.7.2009. The review petitioner entered into a BPTA with PGCIL on 24.2.2010 along with five other IPPs. As per BPTA, the transmission system shall be built, owned and operated by PGCIL. The Common Transmission System is to be shared by Maruti Clean Coal and Power Limited (300 MW), Dheeru Powergen (450 MW), Jaiprakash Power Venture Ltd. (1320 MW), the review petitioner, Arayan MP Power Generation Pvt. Ltd. (1200 MW), Bina Power (500 MW), Chattisgarh State Power Trading Co. Ltd. (432 MW) in proportion to allocation to Western Region.
- d. As per clause 7 of the BPTA, a Joint Coordination Committee (JCC) meeting with the representatives of each of the developers and PGCIL is required to be held at regular intervals and the accordingly, JCC meetings were held on 24.9.2010, 17.2.2011, 9.7.2012, 19.2.2013. During these meetings, the review petitioner has brought to the notice of PGCIL that it has acquired the required land, water linkage and forest clearances and as it has not received coal linkage and the environmental clearance, the commissioning of generation project would be delayed. After the fourth JCC meeting held on 9.7.2012, a representation was made to PGCIL on the status of the project. In response, PGCIL informed that if the project does not make any progress till 1.11.2012, the LTOA application of the review petitioner would be closed.

- e. As it was not in a position to commission the project as scheduled due to circumstance beyond its control, PGCIL was requested by the petitioner to amend the BPTA revising the commissioning of the first and second units of the project to March, 2017 and September, 2017 respectively. PGCIL was further requested not to make any further investment in erecting the transmission system associated with the project.
  - f. The Central Water Commission, Irrigation Planning (North), Government of India, withdrew the no objection issued for using the water from Banas river for the project, vide its letter dated 11.9.2013.
  - g. The review petitioner has diligently discharged its obligations and inspite of all efforts and diligence, the project could not be commissioned for reasons beyond its control.
4. The review petitioner has submitted that it has not been given an opportunity to present its objections on record and it amounts to violation of the principles of natural justice.
5. We have considered the submissions made by the review petitioner. During the hearing on 3.12.2013, the counsel for the review petitioner was present and submitted that on account of coal shortage, the generation project is not coming up. The submissions made by the review petitioner has been taken note of by the Commission in para 6 of the impugned order. In para 9 of the impugned order, the Commission has clarified that the transmission system was built on the basis of the requirement of the IPPs in Chattisgarh and Madhya Pradesh, including the review petitioner and hence the review petitioner is liable to pay the transmission charges in

accordance with the BPTA and the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 (Sharing Regulations). The submissions made by the review petitioner were considered in the impugned order and hence it is incorrect to say that the review petitioner has not been given sufficient opportunity to make its submissions.

6. The review petitioner has applied for and availed long term open access. On the basis of the requirement of the review petitioner and other IPPs in Chattisgarh and Madhya Pradesh, PGCIL has strengthened the transmission system. Accordingly, the review petitioner is required to pay the inter-State transmission charges. If the review petitioner was not able to come up with generation as planned because of various reasons, it could have sought relinquishment of the long term open access as provided under Regulation 18 of the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Open Access in inter-State Transmission and related matters) Regulations, 2009. The review petitioner has not taken any such steps and the long term open access granted to the review petitioner subsists and hence the review petitioner is required to pay the inter-State transmission charges.

7. Further, as per clause (6) of Regulation 8 of the Sharing Regulations, reproduced below, it is the responsibility of the review petitioner, as a generator, to bear the transmission charges till the commercial operation of the generating station.

"(6) For Long Term customers availing supplies from inter-State generating stations, the charges payable by such generators for such Long Term supply be billed directly to the respective Long Term customers based on their share of capacity in such generating stations. Such mechanism shall be effective only after "commercial operation" of the generator. Till then, it shall be the responsibility of generator to pay these charges."

8. We are of the considered view that there is no error apparent on the face of the record and, accordingly, the review petition is rejected.

sd/-  
**(A. K. Singhal)**  
**Member**

sd/-  
**(M. Deena Dayalan)**  
**Member**

sd/-  
**(Gireesh B. Pradhan)**  
**Chairperson**

