

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Review Petition No. 26/RP/2022

**in
Petition No. 719/TT/2020**

Coram:

**Shri I.S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member**

Date of Order: 14.11.2023

In the matter of:

Petition seeking review of the Commission's order dated 25.11.2021 in Petition No. 719/TT/2020 whereby transmission tariff for the 2014-19 period in respect ATS of Meja Thermal Power Project was trued up and transmission tariff for 2019-24 period was determined.

And in the matter of:

Meja Urja Nigam (P) Limited,
NTPC Bhawan,
Core 7, SCOPE Complex,
7, Institutional Area,
Lodhi Road, New Delhi, 110003

..... Review Petitioner

Vs

1. Power Grid Corporation of India Limited,
"Soudamini", Plot No. 2, Sector 29,
Gurgaon – 122001.
2. Rajasthan Rajya Vidyut Prasaran Nigam Limited,
Vidyut Bhawan Vidyut Marg,
Jaipur- 302005.
3. Ajmer Vidyut Vitran Nigam Limited,
132 kV, GSS RVPNL Sub-station Building,
Caligiri Road, Malviya Nagar,
Jaipur – 302017.



4. Jaipur Vidyut Vitran Nigam Limited,
132 kV, GSS RVPNL Sub-station Building,
Caligiri Road, Malviya Nagar,
Jaipur – 302017.
5. Jodhpur Vidyut Vitran Nigam Limited,
132 kV, GSS RVPNL Sub-station Building,
Caligiri Road, Malviya Nagar,
Jaipur – 302017.
6. Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Kumar House Complex,
Building II,
Shimla – 171004.
7. Punjab State Electricity Board,
Thermal Shed Tia, Near 22 Phatak,
Patiala -147001.
8. Haryana Power Purchase Centre,
Shakti Bhawan, Sector-6,
Panchkula – 134109.
9. Power Development Department,
Government of Jammu & Kashmir,
Mini Secretariat, Jammu
10. Uttar Pradesh Power Corporation Limited,
(Formerly Uttar Pradesh State Electricity Board),
Shakti Bhawan, 14, Ashok Marg,
Lucknow – 226001.
11. Delhi Transco Limited,
Shakti Sadan, Kotla Road,
New Delhi – 110002.
12. BSES Yamuna Power Limited,
B-Block, Shakti Kiran Bldg.
(Near Karkardooma Courts),
Karkardooma 2nd Floor,
New Delhi – 110092.
13. BSES Rajdhani Power Limited,
BSES Bhawan, Nehru Place,
New Delhi – 110019.



14. Tata Power Delhi Distribution Limited,
NDPL House, Hudson Lines Kingsway Camp,
Delhi – 110009.
15. Chandigarh Administration,
Sector-9, Chandigarh
16. Uttarakhand Power Corporation Limited,
Urja Bhawan, Kanwali Road, Dehradun.
17. North Central Railway,
Allahabad (Uttar Pradesh)
18. New Delhi Municipal Council,
Palika Kendra, Sansad Marg,
New Delhi – 110002.
19. Uttar Pradesh Power Transmission Corporation
Limited, Shakti Bhawan, 14, Ashok Marg,
Lucknow – 226001.
20. UPRVUNL,
Shakti Bhawan, 14, Ashok Marg,
Lucknow – 226001.

....Respondents

For Review Petitioner : Ms. Shikha Ohri, Advocate, MUNPL
Shri Kartilk Sharma, Advocate, MUNPL
Shri Sayan Ghosh, MUNPL

For Respondents : Shri Pallav Mongia, Advocate, PGCIL
Ms. Supriya Singh, PGCIL
Shri B. B. Rath, PGCIL

ORDER

The instant Review Petition is filed by the Review Petitioner, Meja Urja Nigam (P) Limited (MUNPL) under Section 94 of the Electricity Act, 2003 read with Regulations 103, 111 and 114 of the Central Electricity Regulatory (Conduct of Business) Regulations,



1999 and order 47 Rule 1 of the Code of Civil Procedure, 1908 for review of the Commission's order dated 25.11.2021 in Petition No. 719/TT/2020, whereby the Commission approved the truing up of transmission tariff from COD to 31.3.2019 and determination of transmission tariff for 2019-24 period of the Transmission System associated with Meja Thermal Power Station in Northern Region.

Background

2. Power Grid Corporation of India Limited (PGCIL) filed tariff Petition No. 203/TT/2016 for determination of tariff in respect of Asset-1 (a) i.e. 400 kV D/C Meja-Allahabad Transmission Line-I alongwith 1 number 400 kV bay at Allahabad and Asset-1(b) i.e. 400 kV Meja-Allahabad Line-II alongwith 1 number 400 kV bay alongwith associated bays at Allahabad (hereinafter referred to as 'the transmission assets') under 'Transmission System Associated with Meja TPS' in Northern Region under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as 'the 2014 Tariff Regulations').

3. The Commission in its order dated 5.10.2017 and subsequent corrigendum order dated 28.5.2018 in Petition No. 203/TT/2016, observed that IDC and IEDC of Asset-1(a), i.e. 400 kV Meja-Allahabad Line-I along with 1 number 400 kV bay at Allahabad and Asset-1(b), i.e. 400 kV Meja-Allahabad Line-II along with 1 number 400 kV bay at Allahabad from 5.5.2016 (the date of anti-theft charging) to the respective CODs of the transmission assets shall be borne by MUNPL and the IDC and IEDC for the period from 5.4.2016 to 4.5.2016 shall be capitalized.



4. With regard to sharing of the transmission charges of the transmission assets, the following arrangement was decided by the Commission in its aforesaid order dated 5.10.2017 in Petition No. 203/TT/2016 followed by corrigendum order dated 28.5.2018:

“59. We have considered the submissions of the petitioner and respondents. With regard to sharing of the transmission charges from 10.11.2016, MUNPL to bear the transmission charges till COD of 1st unit of Meja Generating station or date of start of LTA whichever is earlier. The transmission charges of the instant transmission line from the date of COD of the transmission line till date of start of LTA of Meja Generating Station shall be borne by MUNPL as directed in para 27 and thereafter the transmission charges shall be shared as per Regulation 43 of the 2014 Tariff Regulations.”

5. Aggrieved with the Commission's order dated 5.10.2017 in Petition No. 203/TT/2016, on the issue of sharing of transmission charges of the transmission assets, MUNPL preferred Appeal No. 6 of 2018 before the Appellate Tribunal for Electricity (APTEL). APTEL in its judgment dated 28.9.2018 in Appeal No. 6 of 2018, remanded the matter back to the Commission with direction to re-consider the matter afresh on the issue of sharing of transmission charges.

6. In line with the directions of APTEL in its said judgment dated 28.9.2018, the Commission re-considered the matter afresh with reference to sharing of transmission charges of the transmission assets in Petition No. 203/TT/2016. However, on re-consideration of the matter afresh, the Commission in its order dated 7.11.2019 in Petition No. 203/TT/2016, inter *alia*, held that IDC and IEDC of the transmission assets shall be borne by MUNPL as decided earlier vide order dated 5.10.2017 in Petition No. 203/TT/2016.

7. PGCIL filed Petition No. 719/TT/2020 for truing up of transmission tariff of 2014-19 tariff period and determination of tariff of 2019-24 tariff period submitting, inter alia,



that there was an inadvertent error wherein the date of issuance of CEA Energization certificate was reflected as 5.4.2016 instead of 11.4.2016. Accordingly, the Commission in its order dated 25.11.2021 in Petition No. 719/TT/2020, on consideration of the aforesaid CEA Certificate, observed that IDC and IEDC shall be borne by MUNPL from 11.4.2016 to the respective CODs of Asset-1(a) and Asset-1(b).

8. According to the Review Petitioner, the instant Review Petition has been filed for reviewing the period for which the liability of IDC and IDEC of the transmission assets has been imposed on it and the same is an error apparent on record.

9. The Review Petitioner has made the following prayers:

*“(a) Admit the present review petition.
(b) Review and rectify the order dated 25.11.2021 passed in Petition No. 719/TT/2020 on the aspects mentioned hereinabove; and
(c) Pass such other further order(s) as this Hon'ble Commission may deem just and proper in the circumstances of the case.”*

10. The matter was admitted on 28.3.2023 and notice was issued to the Respondents. After hearing, the Review Petitioner and the Respondent, PGCIL on 30.8.2023, order in the matter was reserved.

Submissions of the Review Petitioner

11. The Review Petitioner has made the following submissions:

- a) On re-consideration of the matter afresh in Petition No. 203/TT/2016, on the direction of APTEL's judgment dated 28.9.2018 in Appeal No. 6 of 2018, the Commission in its order dated 7.11.2019, inter alia, observed that IDC and IEDC of the transmission assets shall be borne by MUNPL as decided



earlier vide order dated 5.10.2017 and as such PGCIL did not revise its invoices in this regard. Accordingly, MUNPL continued to pay transmission charges to PGCIL as per the Commission's order dated 7.11.2019 in Petition No. 203/TT/2016 till COD of Unit-II of Meja TPS Stage-I.

- b) The Commission in its order dated 25.11.2021 in Petition No. 719/TT/2020 while truing up the transmission tariff for 2014-19 period and determination of tariff for 2019-24 period of the transmission assets, on consideration of submission of PGCIL that issuance of the CEA certificate may be read as 11.4.2016 instead of 5.4.2016, observed that IDC and IEDC shall be borne by MUNPL from 11.4.2016 (i.e. CEA certificate date) to the respective COD of Asset-1(a) and Aset-1 (b)
- c) The liability of bearing the IDC and IEDC on MUNPL is effective from the date of CEA approval for energization of the transmission assets is against the Commission's orders dated 5.10.2017 read with corrigendum dated 28.5.2018 in Petition No. 203/TT/2016. According to the Review Petitioner, as per the Commission's orders dated 5.10.2017 and 28.5.2018 the liability of bearing the IDC and IEDC on MUNPL was effective from the date of anti-theft charging/energization of the transmission assets i.e. from 5.5.2016.
- d) In view of above, there is an error apparent on the face of record with respect to the period for which liability of IDC and IEDC of the transmission assets is impinged upon MUNPL. Therefore, the impugned order dated 25.11.2021 in Petition No. 719/TT/2020 is required to be reviewed and modified to the effect that the liability of IDC and IEDC of the transmission



assets be borne by MUNPL for the period from the date of anti-theft charging/energization of the transmission assets i.e. from 5.5.2016 to the CODs of the transmission assets as already decided by the Commission in its orders dated 5.10.2017 read with corrigendum dated 28.5.2018 in Petition No. 203/TT/2016.

12. PGCIL, Respondent No.1, in its reply to the Review Petition filed vide affidavit dated 14.9.2023, has made the following submissions:

- a) The Commission in its order dated 25.11.2021 in Petition No. 719/TT/2020 directed that the calculation of IDC and IEDC would be from issuance of CEA energization certificate dated 11.4.2016, with respect to CODs of Asset-1(a) and Asset-1(b), the charges for which have to be borne by MUNPL.
- b) The purpose and basis of above-mentioned calculation notifying such change in date was in light of an inadvertent error in the issuance date of the energization certificate of CEA. The CEA in its corrigendum issued on 18.4.2018, rectified the energization certificate date from 5.4.2016 to 11.4.2016. Thus, as on today, the calculation of IDC and IEDC would be from 11.4.2016.
- c) The Review Petitioner was duly mapped and served in the proceedings of Petition No. 719/TT/2020, before the Commission. However, the Review Petitioner had failed to object the corrigendum issued by the CEA. Moreover, the said Corrigendum was marked as Enclosure 5 in Petition No. 719/TT/2020



and based on the corrigendum, the subsequent correction was sought by the PGCIL. Hence, the Review Petition should be dismissed on this ground alone.

- d) APTEL in its judgment dated 28.9.2018 in Appeal No. 6 of 2018, directed the Commission to consider the matter afresh. The Commission in its order dated 7.11.2019 in Petition No. 203/TT/2016, with regard to payment of IDC and IEDC for the period between the date of approval of energization of charging of the line and the date of commercial operation observed that the same shall be borne by MUNPL as per the order dated 5.10.2017 in Petition No. 203/TT/2016.
- e) The Commission has categorically laid down that the CEA energization certificate date will be the de-facto date for the calculations of the IDC and IEDC.

13. The Review Petitioner in its rejoinder affidavit dated 22.9.2023 has reiterated the submissions as made by it its Review Petition. The Review Petitioner has, however, submitted that the corrigendum issued by CEA dated 18.4.2018, by way of which the date on which the CEA granted approval for energization of the line was revised from 5.4.2016 to 11.4.2016 is not relevant for the purposes of the present dispute. The case of the Review Petitioner is that the Commission has inadvertently held that starting date for liability of bearing IDC and IEDC would be the CEA approval date instead of the date of anti-theft charging, as was directed vide order dated 5.10.2017 in Petition No. 203/TT/2016 read with the corrigendum dated 28.5.2018 and its order dated 7.11.2019 in Petition No. 203/TT/2016.



Analysis and Decision

14. The case of the Review Petitioner is that the Commission's order dated 25.11.2021 in Petition No. 719/TT/2020, is erroneous to the extent it holds that the liability of the Review Petitioner for bearing the IDC and IEDC, in respect of Asset-1(a) and Asset-1 (b) transmission assets, would be effective from the date of issuance of the energization letter by Central Electricity Certificate (CEA) on 11.4.2016 till the CODs of the transmission assets. It is against the Commission's own orders dated 5.10.2017 in Petition No. 203/TT/2016 read with corrigendum dated 28.5.2016 as well as order dated 7.11.2019 in Petition No. 203/TT/2016, wherein the Commission, in unequivocal terms, has considered the date of anti-theft charging as 5.4.2016 for commencement of imposition of bearing the burden of IDC and IEDC by the Review Petitioner on consideration of the fact that the transmission asset was made available for conducting trial operation only after anti-theft energization of the asset was completed on 5.5.2016. It is further contended that the CEA corrigendum dated 18.4.2018 by way of which the date on which the CEA granted approval for energization of the line was revised from 5.4.2016 to 11.4.2016 is irrelevant for the purposes of the present dispute.

15. As against this, the Respondent, PGCIL has submitted that CEA has issued a Corrigendum dated 18.4.2018, wherein it has referred to its letter dated 5.4.2016 with reference to approval for energization of 400 kV D/C (Twin) Meja-Allahabad transmission line of Power Grid under Regulation 43 CEA (Measures relating to Safety and Electric Supply) Regulations, 2010, stating therein that the date of issue of the letter under reference is 11.4.2016 instead of 5.4.2016 and as such the issue of approval letter for the



subject transmission line from CEA may be construed as 11.4.2016. PGCIL has contended that on consideration of the aforesaid corrigendum letter dated 18.4.2018 issued by CEA, the Commission in its order dated 25.11.2021 in Petition No. 719/TT/2020, rectified the energization certificate date from 5.4.2016 to 11.4.2016. Accordingly, the Commission in its order dated 25.11.2021 in Petition No. 719/TT/2020, capitalized the IDC and IEDC upto 10.4.2016, and that IDC and IEDC from issuance of CEA energization certificate dated 11.4.2016 with respect to CODs of Asset-1(a) and Asset-1(b) shall be borne by MUNPL.

16. We have considered the rival submissions and have gone through the record carefully. The Commission in order dated 5.10.2017 in Petition No. 203/TT/2016 approved the COD of Asset-1(a), i.e. 400 kV Meja-Allahabad Line-I along with 1 number 400 kV bay at Allahabad and Asset-1(b), i.e. 400 kV Meja-Allahabad Line-II along with 1 number 400 kV bay at Allahabad as 10.11.2016 and 10.2.2017, respectively and held that the IDC and IEDC from the date of issue of CEA Energization Certificate dated 5.4.2016 to the COD of Asset-1(a) and Asset-1(b) shall be borne by the Review Petitioner. The relevant portion of the order is as follows:

“Delay in commissioning of the associated bays under the scope of Meja TPS:

27. The petitioner has submitted that the transmission line was ready and obtained CEA Clearance Certificate on 31.3.2016 and also communicated letter to CEA on 3.4.2016 with regard to inspection of transmission line. The petitioner vide letter dated 3.4.2016 intimated NTPC about the completion of the line. On 5.4.2016, CEA accorded the approval for energisation of charging of the line and antitheft charging was done from Allahabad end on 5.5.2016. One bay of Meja TPS at Meja was ready and successful trial operation was completed on 9.11.2016 and asset was declared commissioned on 10.11.2016 by charging from Allahabad end. However, this arrangement was not adequate as it did not provide intended use of the transmissions system. Therefore, the time taken from 5.4.2016 to 10.11.2016 is attributable to the Meja TPS. Accordingly, the IDC and IEDC is to be borne by the Meja Urja Nigam Private Ltd. for the following period:



IDC and IEDC from 5.4.2016 to 10.11.2016 for both the circuits shall be borne by the Meja Urja Nigam Power Ltd; Further, IDC and IEDC from 10.11.2016 to 9.2.2017 of Circuit II shall be borne by the Meja Urja Nigam Pvt. Ltd;”

17. Later, the Commission in a corrigendum dated 28.5.2018 in Petition No.203/TT/2016, held that the IDC and IEDC from 5.5.2016, i.e. the date of anti-theft charging, to the COD of the Asset-1(a) and Asset1(b), shall be borne by MUNPL and from 5.4.2016 to 4.5.2016 shall be capitalized. The relevant portion of the corrigendum order dated 28.5.2018 is as follows:

“b. The 11th line of para 27, starting with the words “Therefore” to the end of para 27 of the order shall be read as under:-

“... Therefore, the time taken from 5.5.2016 to date of COD of Asset-1(a) and Asset-1(b) is attributable to Meja Urja Nigam Private Limited and hence the IDC and IEDC for this period shall be borne by MUNPL. The IDC and IEDC for the period 5.4.2016 to 4.5.2016 shall be capitalized.””

18. PGCIL filed Petition No. 719/TT/2020 for truing up of the transmission tariff of the transmission assets of the period from COD to 31.3.2019 and determination of tariff for 2019-24 tariff period and the same was allowed by the Commission vide order dated 25.11.2021. In Petition No. 719/TT/2020, PGCIL brought to the notice of the Commission the fact of an inadvertent error committed by CEA in the date of issuance of its energization certificate, as a result of which the Commission in its previous orders considered the date of energization of CEA certificate as 5.4.2016 instead of 11.4.2016. In support of its contention, PGCIL also submitted the corrigendum letter dated 18.4.2018 issued by CEA, wherein CEA has categorically stated that with reference to approval of energization of 400 kV D/C (Twin) Meja-Allahabad transmission line of Power Grid under Regulation 43 of CEA (Measures relating to safety and Electric Supply) Regulations,



2010, the date of issue of the letter dated 5.4.2016 was an inadvertent error and the same was required to be read as 11.4.2016.

19. Taking into consideration the revised CEA energization certificate and the order dated 5.10.2017 in Petition No.203/TT/2016, inadvertently ignoring the subsequent corrigendum dated 28.5.2018 in Petition No.203/TT/2016, the Commission vide order dated 25.11.2021 in Petition No. 719/TT/2020 held that the IDC and IEDC of Asset-1(a) and Asset-1(b) from 11.4.2016 to the actual COD of Asset-1(a) and Asset-1(b) shall be borne by MUNPL. The relevant portion of the order dated 25.11.2021 is as follows:

“41. We have considered the submissions of the Petitioner and noted that the Commission vide order dated 7.11.2019 in Petition No. 203/TT/2016 had held that the IDC and IEDC from the date of issue of CEA energisation certificate to actual COD of Asset-1(a) and Asset-1(b) shall be borne by MUNPL. However, the Petitioner in the instant petition has submitted the date of CEA certificate as 11.4.2016 that was in Petition No. 203/TT/2016 was inadvertently mentioned as 5.4.2016. On perusal of the CEA certificate submitted in the instant petition, it has been observed that the CEA has issued corrigendum dated 18.4.2018 in respect of CEA Certificate dated 5.4.2016 issued for approval for energisation of 400 kV D/C Meja-Allahabad transmission line of Powergrid. In the said Corrigendum dated 18.4.2018, CEA has clearly stated that the date of issuance of the CEA Certificate may be read as 11.4.2016 instead of 5.4.2016. Accordingly, IDC and IEDC upto 10.4.2016 has been capitalised and IDC and IEDC from 11.4.2016 (CEA Certificate date) to the respective COD of Asset-1(a) and Asset- 1(b) shall be borne by MUNPL.”

20. As submitted by review petitioner, in the corrigendum order dated 28.5.2018 issued in Petition No.203/TT/2016, the Commission held that the IDC and IEDC from the date of issue of CEA Energisation certificate upto the date of anti-theft charging shall be capitalized and from the date of anti-theft charging to the COD of Asset-1(a) and Asset-1(b) shall be borne by MUNPL. However, the Commission vide order dated 25.11.2021 in true up Petition No. 719/TT/2020 held that the IDC and IEDC of Asset-1(a) and Asset-1(b) from 11.4.2016 to the actual COD of Asset-1(a) and Asset-1(b) shall be borne by MUNPL inadvertently ignoring the corrigendum dated 28.5.2018 in Petition



No.203/TT/2016. This is an error apparent on the face of record and we are inclined to rectify the same by invoking jurisdiction under Regulation 103A of the Central Electricity Regulatory Commission, (Conduct of Business) Regulations, 2010. Accordingly, the last sentence in paragraph 41 of the Commission's order dated 25.11.2021 in Petition No.719/TT/2020, which reads as "*Accordingly, IDC and IEDC upto 10.4.2016 has been capitalised and IDC and IEDC from 11.4.2016 (CEA Certificate date) to the respective COD of Asset-1(a) and Asset- 1(b) shall be borne by MUNPL.*" shall stand revised and be read as under:

"....Accordingly, IDC and IEDC from the date of issue of the revised CEA energization certificate, i.e. 11.4.2016 upto the date of anti-theft charging, i.e. 4.5.2016 shall be capitalized and the IDC and IEDC from 5.5.2016 to the respective COD of Asset-1(a) and Asset- 1(b) shall be borne by MUNPL."

21. Consequent upon the findings above, the tariff of Asset-1(a) and Asset-1(b) shall be revised through a separate order shortly.

22. In view of above discussions and findings, the Review Petition No. 26/RP/2022 is disposed of.

**sd/-
(P. K. Singh)
Member**

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

**sd/-
(I. S. Jha)
Member**

