

Rajasthan Electricity Regulatory Commission

Petition No. 1931/21

In the matter of Petition filed by M/s Rajasthan Rajya Vidyut Prasaran Nigam Limited under Section 86 of the Electricity Act, 2003 read with Regulation 15 and 16 of Rajasthan Electricity Regulatory Commission (Standards of Performance of Transmission Licensee) Regulation, 2021 for deferment and amendment of Regulations.

Coram:

Dr. B.N. Sharma, **Chairman**

Sh. S.C. Dinkar, **Member**

Petitioner : Rajasthan Rajya Vidyut Prasaran Nigam Ltd. (RVPN)

Respondents :

1. Jaipur Vidyut Vitran Nigam Ltd.
2. Ajmer Vidyut Vitran Nigam Ltd.
3. Jodhpur Vidyut Vitran Nigam Ltd.

Date of Hearing : 26.10.2021, 25.11.2021 & 01.02.2022

Present :

1. Sh. Rahul Lodha, Advocate for Petitioner.
2. Ms. Parineetu Jain, Advocate for Respondent.

Order Date:

21.02.2022

ORDER

1. Rajasthan Rajya Vidyut Prasaran Nigam Limited (hereinafter referred as 'RVPN' or "Petitioner"), has filed this Petition on 06.09.2021, under Section 86 of the Electricity Act, 2003 read with Regulation 15 and 16 of Rajasthan Electricity Regulatory Commission (Standards of Performance of Transmission Licensee) Regulation, 2021 (in short SOP Regulations, 2021) for removal of difficulties and amendment/deferment of Regulations.

2. Notices were issued through online portal to Respondents to file reply to the petition. Respondent Jaipur Discom filed reply on dated 19.11.2021 on which rejoinder was filed by the Petitioner on 15.12.2021.
3. The matter was finally heard through video conferencing on 01.02.2022. Sh. Rahul Lodha, Advocate appeared for Petitioner and Ms. Parineetu Jain, Advocate, appeared for Respondent JVVNL.
4. Petitioner in its Petition, rejoinder and during hearing has submitted as under:
 - 4.1 Transmission Tariff is being approved by Commission for overall transmission system of RVPN so, there is no need of element wise availability as per this regulation. As per provisions of RERC (Transmission Licensee Standard of Performance), Regulations, 2004 [now repealed by RERC (Standard of Performance for Transmission Licensee), Regulations, 2021], the system availability was calculated for overall transmission system of RVPN & generally RVPN is achieving overall transmission system availability more than 99 % which was quite higher compared to normative availability prescribed by Commission. Therefore, there is no need to consider Element wise (i.e. EHV lines, EHV Transformers & Reactors) Transmission System Availability.
 - 4.2 Availability of power supply is not affected by operation of Reactor, Static VAR series Compensator, so, this should be excluded. Simultaneously when Element wise availability and restoration time is specified then there is no relevance of SAIFI & SAIDI.
 - 4.3 Time limit for restoration for different types of failure of transmission line, power transformers and reactors as specified in Regulation No. 8 of SOP Regulations, 2021 is very less and prima facie impractical for execution. Therefore, to meet out the requirement of time limit for restoration time RVPN is required to maintain extra inventory of material in regional stores

of all three T&C Zones to minimize transportation time and have to develop a mechanism of rate contract to attend/rectification of any failure within schedule time limit.

4.4 There shall be extra financial burden of Rs. 251.80 Cr. approx. on RVPN for its inventory to meet out the requirement of time limit for restoration time for different types of failure of transmission line, power transformers and reactors as specified in Regulation no. 8 of SOP Regulations, 2021 which is to be sanctioned and processed before the work to maintain extra inventory of material in regional stores of all three T&C Zones is commenced.

4.5 Sufficient inventory of material is to be created and rate contract mechanism for repair is also to be developed which will require at least 18 months' time.

4.6 EHV underground XLPE power cables of voltage class 132 KV & 220 KV is also being used by RVPN for establishment of its 220 KV & 132 KV GIS S/S and also for deposit work of Indian Railway & NHAI. The XLPE power cable joints of said voltage class are not manufactured in India and are imported as per requirement. The repair of such damaged EHV underground XLPE power cables require 12 months. Therefore, it is very difficult for STU i.e. RVPN to restore power supply earlier than this unless sufficient inventory of cable joints is maintained by RVPNL.

4.7 The implementation of the Regulation without completing the infrastructure and extra inventory will only result in wastage of public exchequer in the form of compensation. Furthermore, no loss shall be caused to the Respondents if the implementation of the Regulation is deferred by two years. Allowing of deferment is in consonance with the scheme of the Regulation as power for the same has been given to RERC under Regulation 15 and 16 of the SOP Regulation, 2021.

4.8 The present Petition is ex-facie maintainable as Regulations 16 of SOP Regulations, 2021 clearly provides the Commission with the power to vary, alter, modify or amend any provisions of SOP Regulations, 2021. The Petitioner has approached the Commission with its grievances and practical problems which are coming in way of the smooth implementation of the SOP Regulations, 2021 by the Petitioners.

4.9 No actual loss is caused to the Discom if the method of annual availability of the overall system is adopted as in case of fault in a particular element, transmission is provided from a alternate source.

4.10 The prayer of the Petitioner for deferment of SOP Regulations, 2021 is completely in the interest of consumer as the immediate implementation will result in excess burden upon the public exchequer amounting to approximately Rs. 251.80 crores and compensation later on if any shall also have to be borne by public exchequer as STUs being govt PSUs have no other source of revenue & ultimately this burden has to be borne by public at large.

4.11 The Commission on 19.02.2021 has issued RERC (Standard of Performance of Distribution Licensee) Regulations, 2021 (in short 'Discom Performance Standards 2021') wherein under Regulation 11 it has been categorically stated that the said regulations will not be applicable in case of outages due to grid failure or outage of supply from RVPN/Transmission Licensee grid sub-station for any reason. Furthermore, the said regulations also provide for a maximum cap on total compensation of 30% of the total fixed charges/demand charges payable by the Consumer in a given financial year.

5. In view of above the Petitioner has prayed to issue following directions:

- (i) For implementing SOP Regulations, 2021 with the availability of total RVPN system instead of Element wise availability.

(ii) For amending / revising the restoration time envisaged under Regulation 8 of SOP Regulations, 2021 as per the suggested timeline and other objections/suggestion proposed by the Applicant on draft SOP Regulations, 2020.

(iii) To defer the implementation of SOP Regulations, 2021 by two years.

(iv) To stay the operation and implementation of SOP Regulations, 2021 until the final disposal of the present application.

6. Respondent JVVNL in its reply and during the hearing submitted as under:

6.1 The Respondents had initially filed a Petition bearing No. 1454/2019 for appropriate modification/revision of RERC (Transmission Licensee's Standards of Performance) Regulation, 2004.

6.2 There were instances where the Discom faced losses and increased dissatisfaction amongst the consumers due to the failure of the Transmission Licensee to meet its obligation in time.

6.3 Discom had raised an issue about setting availability standards for individual transmission system because due to unavailability of many GSS Sub-Station and Line, the Discom had to resort to power cuts of profitable consumer category. Hence, it was prayed that a minimum standard be set by the Commission for individual transmission system and compensation be fixed in case of failure to meet the standards which would result in improving the system at the earliest.

6.4 The SOP Regulations, 2004 recognized the transmission system in aggregate and did not take into account failure of individual line or sub-station. The prayer was made to amend such Regulations because the failure / breakdown results into great hardships to the affected persons

leading not only to the consumer dissatisfaction but also huge revenue loss to the Discom.

6.5 SAIFI and SAIDI are calculated for whole network and did not take into consideration individual sub-station wise impact. The reason was that since there were large number of sub-stations so the impact of breakdown of few large and critical sub-stations was not visible in the overall SAIFI and SAIDI calculation. Resultantly the transmission licensee may project good overall SAIFI and SAIDI but the Discom faced huge revenue loss and consumer dissatisfaction due to major interruption on critical sub-stations and failure of the transmission licensee to timely rectify the problem.

6.6 The Commission initiated the process of amendment of the SOP and the draft Regulations were reflected on the website of Commission for inviting public comments. It has been admitted by the Petitioner in the instant Petition that the Petitioner had submitted detailed objections/suggestions on various provisions of draft Regulations and specifically raised certain objections regarding Regulation 8. Thus, the Commission has already framed the Regulations after dealing with the objections raised by the Petitioner so therefore the Petitioner has now again raised these issues which is not justified.

6.7 The Petitioner cannot invoke the jurisdiction of the Commission to seek amendment or revision of the Regulations. The Commission frames the Regulations while discharging the delegated legislative function and the Regulations legislated by the Hon'ble Commission has statutory force. Moreover, the legislative / administrative function of the Commission cannot be interrupted by filing of such Petition. The perusal of the prayer clause of the Petition would reveal that the Petitioner is dissatisfied with the SOP Regulation 2021 and wants the Commission to scrap it and let the SOP Regulations, 2004 to continue. Therefore, the Petitioner cannot pray for revision or modification of the Regulations.

6.8 The Petitioner is running away from its accountability and does not want the SOP on the basis of the norms specified by the CERC (SOP of Inter-state Transmission Licensees) Regulations, 2012.

6.9 The Petitioner is further seeking amendment in the restoration time stated under Regulation 8. The Commission in its wisdom, after considering the CERC Regulations, objections and suggestions of the stake holders, Petitioner and the Discom have legislated the restoration time for various types of failure. The quick restoration will not only help in curtailing the financial losses of the Discoms but will also increase the consumer satisfaction. Moreover, the Petitioner would also be quick in rectifying the faults.

6.10 The Petitioner has also prayed that the implementation of the Regulations be deferred by further two years which is not justified. Regulation 15 of these Regulations simply states that if there is any difficulty in giving effect to these Regulations then the Commission 'may' issue such directions as may be considered necessary in furtherance of the objective and purpose of these Regulations. It is an absurd prayer made to defer the implementation of these Regulations under the garb of Regulation 15. It is pertinent to mention here that on one hand deferment is being prayed for and on the other hand Petition is being preferred under the same Regulations so therefore the Petition is not maintainable. These Regulations have now been issued and simply because the Petitioner has to arrange for the logistics cannot be a reason to delay the implementation of the Regulations.

6.11 Before the SOP Regulations 2021, since there were no fetters on the functioning of the Petitioner, there was no compensation mechanism, they had no accountability and were not responsible / answerable to anyone so therefore considering the CERC Regulations and the Regulations made by other states fixing responsibility of the transmission licensee, this Commission felt the necessity of framing such Regulations

and hence these Regulations do not call for any amendment and should be followed in letter and spirit by the Petitioner and hence this Petition for amendment of Regulations 6 & 8 and also deferment of implementation deserves to be dismissed at the outset.

6.12 Discoms are also the instrumentality of state and the revenue loss which the Discoms incur on account of laxity, negligence and inefficiency of the Petitioner is also the wastage of funds of public ex-chequer. It is needless to emphasize that the Discoms not only have to bear the financial loss but also have to face the brunt of the consumer dissatisfaction at the behest of the Petitioner.

6.13 The Petitioner is making diagonally opposite submissions where at one hand it is praying for the delay of implementation of the Regulations and on the other hand Petition is being preferred under these Regulations only. Also, it is praying under removal of difficulty clause and on the contrary, it is submitting that the difficulty would be removed if the Regulations are deferred for two years.

6.14 In view of above, the Respondent has prayed that Petitions filed by the Petitioner may be dismissed.

Commission's view

7. Commission has considered the submissions, reply, rejoinder and oral arguments made on behalf of the Petitioner and Respondents.

8. Petitioner is requesting for amendment in SOP Regulation 2021 with regard to the availability of 'total RVPN system' instead of 'Element wise' availability and in the restoration time as per the suggested timeline proposed by the Applicant. Petitioner is further requesting to defer the implementation of SOP Regulation 2021 for two years.

9. Per contra Respondent JVVNL has submitted that the provisions of Regulations should not be changed as the Petitioner has filed Petition without substantial evidence and justifications.
10. JVVNL further submitted that the Petitioner is making diagonally opposite submissions where at one hand it is praying for the deferment of implementation of the Regulations and on the other hand Petition is being preferred under these Regulations only. Also, it is praying under removal of difficulty and on the contrary, it is submitting that the difficulty would be removed if the Regulations are substantially amended.
11. Commission observes that Petitioner is seeking amendment in the SOP Regulation 2021 by way of the present Petition. It is observed that the Petitioner is seeking amendment in Regulation 6 & 8 of the RERC Regulations, 2021 and requesting to defer the implementation of SOP Regulation 2021 for two years.
12. Regarding deferment of SOP Regulation 2021 for two years, Commission looked into the relevant provisions of the SOP Regulation 2021 which read as under:

“15. Power to remove difficulties:

If any difficulty arises in giving effect to these regulations, the Commission may suo moto or on an application filed by any affected party, issue such directions as may be considered necessary in furtherance of the objective and purpose of these regulations.

16. Power to amend

The Commission may, at any time, vary, alter, modify or amend any provision of these Regulations.”

13. In view of above provisions of Regulations, it is observed that Regulations 15 provides for directions in furtherance of objective and purpose of these regulations.

14. Whereas, Regulation 16 empowers Commission to amend the Regulations. The proposal of change/amendment in RERC SOP Regulation, 2021 could be considered only after following the due procedure as per Electricity Act, 2003 which includes previous publication.

15. Commission has noted the suggestions of the Petitioner regarding amendment in RERC (Standards of Performance of Transmission Licensee) Regulation, 2021. Accordingly, as and when Commission initiates the process for amendment in the matter, it would treat the proposal of Petitioner as a suggestion/input. However, Petitioner is at liberty to give more inputs when Commission invites comments/suggestions on further amendment in RERC Rajasthan Electricity Regulatory Commission (Standards of Performance of Transmission Licensee) Regulation, 2021.

16. The Petition is disposed of accordingly.

(S.C. Dinkar)
Member

(Dr. B.N. Sharma)
Chairman