

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 22/RP/2025

in

Petition No. 263/MP/2024

Coram:

**Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member
Shri Ravinder Singh Dhillon, Member**

Date of Order: 24th March, 2026

In the matter of:

Review Petition under Section 94(1)(f) of the Electricity Act, 2003 read with Section 114 and Order 47 Rule 1 of the Civil Procedure Code, 1908 and Regulations 52 (1) and (2) of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 2023, seeking partial review of the Order dated 16.08.2025 passed by this Hon'ble Commission in Petition No. 263/MP/2024.

And

In the matter of:

**Dhariwal Infrastructure Limited,
CESC House, Chowringhee Square,
Kolkata, West Bengal- 700 001**

..... **Petitioner**

Versus

**Tamil Nadu Power Distribution Corporation Limited
6th Floor, Eastern Wing,
144, Anna Salai,
Chennai, Tamil Nadu- 600 002**

.....**Respondents**

Parties Present:

Ms. Divya Chaturvedi, Advocate, DIL
Ms. Srishti Rai, Advocate, DIL
Mr. Chandan Kumar, Advocate, DIL

ORDER

The present Review Petition has been filed by the Review Petitioner, Dhariwal Infrastructure Limited (DIL), seeking a partial review of the Commission's order dated



16.8.2025 in Petition No. 263/MP/2024 (hereinafter referred to as “the impugned order”). By the said order, the Commission had, *inter alia*, approved the capital cost towards installation of the De-NOx system in Unit 2, disallowed the O&M expenses towards the said system, and, in terms of the order dated 13.8.2021 in Petition No. 6/SM/2021 and the order dated 29.11.2024 in Petition No. 4/SM/2024, permitted the recovery of supplementary tariff. The Review Petition has made the following prayers:

- a. *Admit the present Review Petition;*
- b. *Review, modify and rectify the Impugned Order dated 16.08.2025 passed in the Petition No. 263/MP/2024, to the extent assailed herein above;*
- c. *Allow the Normative O&M Expenses as claimed by the Review Petitioner in the Petition No. 263/MP/2024, in terms of the Suo-Motu Order dated 13.08.2021 and Suo-Motu Order dated 29.11.2024;*
- d. *Grant liberty to the Review Petitioner to approach this Hon’ble Commission after incurring the actual O&M Expenses for approval of the same at a later date; and*
- e. *Pass such further or other order(s) as this Commission may deem fit in the facts and circumstances of the case.”*

Submissions of the Review Petitioner:

2. In justification of the above prayers, the Review Petitioner has submitted as under:

a. The De-Nox system and its auxiliaries require installation of various capital equipment, *inter alia*, new separated over-fire air (in short, ‘SOFA’) nozzles with separate damper, actuator sets, and ducting arrangements. The new SOFA dampers, along with nozzles and actuators, are part of new capital equipment that requires regular maintenance and the allocation of manpower resources for carrying out such maintenance activities.

b. Furthermore, prior to installation of the De-NOx system, equipment such as SOFA nozzle tips, insulation, distribution control system (‘DCS’) card and controller, transmitters, actuators, positioners, expansion joints, and ducting arrangements were earlier not part of the boiler. The Review Petitioner is required to incur these additional O&M expenses towards the repair, maintenance, and upkeep of this equipment. In other words, these additional O&M Expenses are incurred only on account of the installation of the new and unique components as part of the De-NOx system, and no such expenditure as mentioned above has been incurred prior to the installation of the De-NOx system and the auxiliaries in Unit 2.



c. The impugned order has inadvertently erred in disallowing the O&M expenses towards the De-NOx system, on the ground that the installation of the De-NOx system does not entail any substantial capital equipment but merely involves the replacement of nozzle tips. However, the Review Petitioner contends that the De-NOx system does not involve mere replacement of nozzle tips, but is accompanied by additional maintenance activities and associated costs, requiring O&M expenses which are recurring in nature, and expected to escalate on a year-on-year basis.

d. Furthermore, in terms of the order dated 13.8.2021 in Petition No. 6/SM/2021 and order dated 29.11.2024 in Petition No. 4/SM/2024, the impugned order is required to be reviewed, limited to the disapproval of the O&M expenses and allowing the normative O&M expenses.

e. In the above backdrop, there is an error apparent on the face of the record, thereby providing sufficient reasons for review of the findings in the impugned order and merits exercise of review jurisdiction under Section 94 (1) (f) of the Electricity Act, 2003 (hereinafter referred to as 'the Act').

Hearing dated 27.11.2025

4. The matter was heard on 'admission' on 27.11.2025, and the learned counsel for the Petitioner requested that the notice be issued and further made submissions in support of the prayers made in the present Review Petition. After hearing the learned counsel for the Review Petitioner, an order in the matter was reserved.

Analysis and Decision:

5. We have examined the submissions of the Review Petitioner. The Review Petitioner has sought a partial review of the impugned order. The relevant excerpts of the impugned order are as follows:

*"23. In the present case, the Commission observes that the nature of the De-NOx installation in the present case involved only the replacement of the specific nozzle tips within the boiler system and did not involve the addition of standalone capital-intensive equipment like SCR or SNCR modules requiring continuous auxiliary operations or dedicated maintenance staff. As such, this activity does not give rise to incremental O&M requirements distinct from the station's regular O&M functions. It is noted that the Commission in Para 31 of Order dated 29.11.2024 in Petition No. 04/SM/2024, has laid down that the O&M expenses shall be allowed only in cases where actual ECS systems are installed and involve standalone capital equipment, with the norm being 2% of ACE (excluding IDC, IEDC, and FERV). **Since the present installation involved no such capital equipment but merely the***



replacement of nozzle tips, the Commission is of the considered view that no O&M expenses are admissible for this activity. Accordingly, no separate provision towards O&M shall be allowed in the Supplementary Tariff computation in the present case.

Xxx

30. The summary of the Commission's decision is as follows:

.....

b) No O&M expenses shall be admissible towards the De-NOx system installed, as it constitutes mere replacement of nozzle tips."

6. It was held in the impugned order that the De-NOx installation, in Petition No. 263/MP/2024, is limited to the replacement of specific nozzle tips within the boiler system and does not involve the addition of standalone capital-intensive equipment such as SCR/SNCR modules requiring continuous auxiliary operations or dedicated maintenance staff. Therefore, the said activity does not result in incremental O&M requirements distinct from the regular O&M functions of the generating station.

7. Furthermore, the Review Petitioner has submitted that the Commission's order dated 29.11.2024 in Petition No. 4/SM/2024 is required to be reviewed, which is misconceived. It is noted that in the impugned order, the Commission has already clarified that in the absence of actual O&M expense data, normative O&M expenses for Emission Control Systems (ECS) are admissible at 2% of the admitted capital cost, computed on the ACE (excluding IDC, IEDC and FERV). O&M expenses shall be allowed only when actual standalone capital equipment is installed. However, in the present case, the claim of the Review Petitioner does not satisfy the said criteria, and the prayer for grant of O&M expenses on a normative basis is unwarranted and devoid of merit.

8. We further observe that the Petitioner has relied upon estimated annualised O&M expenses based on projected periodic replacement and maintenance of



components. However, the same was not part of the original proceedings. It is well-settled law that review jurisdiction cannot be invoked to introduce new pleas or fresh material which were not placed on record at the time of the original adjudication.

9. By virtue of Section 94(1) (f) of the Act, the Commission derives its power, similar to that vested in a Civil Court under the Civil Procedure Code, in respect of reviewing its decisions, directions and orders. The relevant extract of the said provision is extracted below:

“94. Powers of Appropriate Commission– (1) The Appropriate Commission shall, for the purposes of any inquiry or proceedings under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely: –

*.....
(f) reviewing its decisions, directions and orders;”*

10. In terms of Regulations 52(1) and 52(2) of the CERC Conduct of Business Regulations, 2023 (“COB Regulations”), any person may file a review, subject to the provisions of CPC, within 40 (forty) days of the date of such direction, decision or order. The relevant extracts of the COB Regulations are set out below:

“52. Review of Orders, Decisions and Directions

(1) The Commission shall exercise jurisdiction to review its own orders, decisions, and directions in accordance with Clause (f) of sub-section (1) of Section 94 of the Act read with Section 114 and Order 47 of the Civil Procedure Code.

(2) Any person aggrieved by a direction, decision, or order of the Commission, from which no appeal has been preferred, may file a review petition on the following grounds within forty days of the making of such decision, direction, or order:

(a) Upon the discovery of new and important matter or evidence that, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the direction, decision, or order was passed or;

(b) On account of some mistake or error apparent from the face of the record, or;

(c) If there is any other sufficient reason to review the matter.”

In the present case, we observe that the present Review Petition does not comply with Regulations 52(1) and 52(2) of the COB Regulations, which allow review only on limited grounds. The issues raised in the present review petition amount to re-



agitation of matters already decided and do not satisfy the provisions of Regulation 52 of the COB Regulations. In continuation thereof, it is also observed that the conclusions in the impugned order are based on due consideration of the nature and scope of the De-NOx system installed. The Review Petitioner, by way of the present Review Petition, is seeking reconsideration of the same issue on the merits, which is not permissible in the review jurisdiction.

11. In our considered view, the Review Petitioner has sought to re-argue the case on its merits, which is not permissible in review. The Review Petition has a limited purpose and cannot be an appeal in disguise. The principles of review have also been enunciated by the Hon'ble Supreme Court in its judgment in the case of Kamlesh Verma v. Mayawati and ors. [AIR 2006 SC 75]. We, therefore, find no reason to allow the Review Petition on this count. Accordingly, we hold that the prayer of the Review Petitioner for review of the impugned order on these counts is not maintainable.

12. Review Petition No. 22/RP/2025 is disposed of in terms of the above.

Sd/-
(Ravinder Singh Dhillon)
Member

Sd/-
(Harish Dudani)
Member

Sd/-
(Ramesh Babu V.)
Member

Sd/-
(Jishnu Barua)
Chairperson

