

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

REVIEW PETITION NO.21 OF 2025

Dated: 08.11.2025

Present: Hon'ble Ms. Seema Gupta, Technical Member (Electricity)
Hon'ble Mr. Virender Bhat, Judicial Member

In the matter of:

Rajasthan Rajya Vidyut Utpadan Nigam Limited

Through its Executive Engineer (Commercial)

Vidyut Bhawan, Janpath,

Jyoti Nagar, Jaipur – 302005

Email: se.comml@rrvun.com

... Petitioner(s)

Versus

1. Jaipur Vidyut Vitran Nigam Limited

Through its Managing Director

Vidyut Bhawan, Jaipur – 302005, Rajasthan

Email: md@jvvn.org

2. Ajmer Vidyut Vitran Nigam Limited

Through its Managing Director

Hathi Bhata City Power House

Ajmer – 305001, Rajasthan

Email: avvn0145@yahoo.com

3. Jodhpur Vidyut Vitran Nigam Limited

Through its Managing Director

New Power House, Industrial Area,

Jodhpur – 342003, Rajasthan

Email: mdjodhpurdiscom@gmail.com

4. Rajasthan Electricity Regulatory Commission

Through its secretary

Vidyut Viniyamak Bhawan,

(Near State Motor Garage),
Sahakar Marg, Jaipur – 302005, Rajasthan
Email: rercjpr@yahoo.co.in

... Respondent (s)

Counsel on record for the Petitioner(s) : Poorva Saigal
Shubham Arya
Pallavi Saigal
Reeha Singh
Rishabh Saxena
Shirin Gupta
Harshvardhan Singh
Shree Dwivedi

Counsel on record for the Respondent(s) : Shivani Verma
Anand K. Ganesan
Amal Nair
Swapna Seshadri
Devyani Prasad
for Res. 1 to 3

ORDER

PER HON'BLE MR. VIRENDER BHAT, JUDICIAL MEMBER

1. By way of the instant petition, the petitioner Rajasthan Rajya Vidyut Utpadan Nigam Limited (in short "RRVUNL") has sought review of the judgment dated 14.07.2025 passed by this Tribunal in appeal No.80 of 2018 filed by the petitioner.

2. The petitioner had filed petition No.1035 of 2017 before the Commission for determination of tariff for FY 2017-18 and true up of annual performance review for FYs 2014-15 and 2015-16 in accordance with the

provisions of RERC Tariff Regulations, 2014 as well as Tariff Regulations, 2009. The petition was disposed off by the Commission vide order dated 20.06.2017.

3. Aggrieved by certain portions of the order dated 20.06.2017, the petitioner had preferred petition no.1240 of 2017 before the Commission seeking review of the said order. The review petition was partially allowed by the Commission vide order dated 09.01.2018 thereby modifying some portion of the order dated 20.06.2017 as sought by the petition but rejecting the claim of the petitioner on following two aspects: -

- (a) Additional capitalization for Financial Year (FY) 2014-15 and 2015-16;
- (b) Deemed generation for RGTPS 110.5MW for FYU 2014-15.

4. Aggrieved by rejection of its claim on these two aspects, the petitioner approached this Tribunal by way of appeal no.80 of 2018. However, this Tribunal did not find any error or infirmity in the said order dated 09.01.2018 of the Commission and accordingly dismissed the appeal.

5. We may note here that the scope of the appeal was limited to the claim of the appellant with regards to additional capitalization for FY 2014-15 and 2015-16, which had been rejected by the Commission vide orders dated 20.06.2017 and 09.01.2018.

6. The said claim of the petitioner was rejected by the Commission in the order dated 20.06.2017 on the following reasoning: -

"4.100. Regarding the additional capitalisation claimed towards KTPS (Unit 7) STPS (Unit 6) and CTPP (Unit 1-2), the Commission is of the view that in accordance with Regulation 2(17) of RERC Tariff Regulations, 2014, the cut-off date of all these units has already been over as KTPS Unit 7 achieved COD on 30.05.2009, STPS (Unit 6) achieved COD on 30.12.2009, CTPP (Unit 1) achieved COD on 11.06.2010 and CTPP (Unit 2) achieved COD on 15.10.2011. Regulation 2 (17) of the RERC, Tariff Regulations, 2014 states as follows:

"2. Definitions

(17) "cut-off date" means 31st march of the year closing after 365 days from the date of commercial operation of the project, and in case the project is declared under commercial operation in the last quarter of a year, the cut-off date shall be 31st march of the year closing after 730 days from the date of commercial operation:

Provided that the cut-off date may be extended by the Commission if it is proved on the basis of documentary evidence that the capitalisation could not be made within the cut-off date for reasons beyond the control of the project developer"

4.101. Further, the Petitioner has not taken any in-principle approval for the additional capitalisation claimed for FY 2014-15 and FY 2015- 16 for KTPS (Unit 7), STPS (Unit 6) and CTPP. Therefore, the Commission in this order has not approved any additional capitalisation for KTPS (Unit 7), STPS (Unit 6) and CTPP for FY 2014- 15 and FY 2015-16."

7. The reasons given by the Commission in disallowing the said claim of the petitioner in the order dated 09.01.2018 passed on the review petition are extracted hereinbelow: -

"Commission's Analysis

15. Commission has considered the submissions of both the parties.

16. The Commission in the order, sought to be reviewed, had approved the additional capitalization in accordance with the Tariff Regulations of 2014 based on the submissions of RVUN. Regulation 17(2) of 2014 Regulations does not provide for the approval of the additional capitalisation towards the original scope of works, after the cut-off date. Further Regulation 17(2) of the Tariff Regulations, 2014 provides for the approval of additional capitalisation beyond the cut-off date subject to satisfying the grounds provided in the Regulation. Petitioner had not submitted in the True up petition the ground on which the expenditure beyond the cut-off date shall be allowed. Commission had disallowed the additional capitalisation claimed towards the original scope of work, as RVUN had not sought for prior approval for the same.

17. As regards applicability of cut-off date, Tariff Regulations, 2009 specifically define cut-off date as the date of the first financial year closing after three hundred and sixty-five days (365) days of the date of

commissioning of a generating station. Tariff Regulations, 2014 defines cut-off date as the 31st March of the year closing after 365 days from the date of commercial operation of the project and in case the project is declared under commercial operation in the last quarter of a year, the cut-off date shall be 31st March of the year closing after 730 days from the date of commercial operation. Therefore, the cutoff date in the present petition shall be the date of commercial operation and not the date of applicability of the Tariff Regulations as being interpreted by the Petitioner. Therefore, the prayer of the Petitioner to determine the cut-off date from the date of applicability of the Tariff Regulations has no merits and has to be rejected.”

8. In the judgment under review, this Tribunal concurred with the reasoning given by the Commission and the finding arrived at in these two orders dated 20.06.2017 and 09.01.2018.

9. It is vehemently argued by the learned counsel for the petitioner that the specific case of the petitioner in the appeal was that the petitioner has

arranged its affairs in accordance with the provisions of Tariff Regulations, 2009 and with the introduction of the Tariff Regulations, 2014, there being no specific stipulation in regard to additional capitalization for power plants which have already achieved commercial operation, the Commission ought to have relaxed the provision of cutoff date in the Tariff Regulations, 2014, and provide for this peculiar situation. She submitted that the case of the petitioner was a fit case where the Commission ought to have extended the cutoff date and these submissions have been ignored and have remained to be dealt with even by this Tribunal in the judgment under review. She also argued that even otherwise also, the Commission ought to have exercised its functions under Regulation 94 of the Tariff Regulations, 2014 which permit the Commission to deviate from the regulations on a case-to-case basis.

10. It is true that the proviso attached to Regulation 2(17) of Tariff Regulations, 2014 bestows upon the Commission power to extend the cutoff date if it is proved on the basis of documentary evidence that the capitalization could not be made within the cutoff date for the reasons beyond the control of the project developer. It also cannot be gainsaid that the Regulation 94 of these regulations permits the Commission to deviate from any of the provisions contained in those regulations having regard to the circumstances of the particular case.

11. Perusal of the original tariff petition filed by the petitioner before the Commission would reveal that the petitioner had nowhere prayed for extension or relaxation of the cutoff date as provided in the Tariff Regulations, 2014. Similarly, no such submission or prayer was made by the petitioner in the review petition filed before the Commission.

12. The proviso attached to Regulation 2(17) of Tariff Regulations, 2014 would come into play only when a project developer approaches the Commission for extension of the cutoff date on the ground that the additional capitalization could not be made within the cutoff date for the reasons beyond the control of the project developer. That is not the case herein. It is nowhere the contention of the petitioner that the additional capitalization could not be made before the cutoff date for the reasons beyond its control.

13. Similarly, no case was setup by the petitioner before the Commission either in the original petition or in the review petition seeking deviation from the provisions of Tariff Regulations, 2014 as permitted under Regulation 94 thereunder.

14. It was for the petitioner to plead and setup a specific case before the Commission for extension/relaxation of the cutoff date as provided under Tariff Regulations, 2014 and to seek indulgence of the Commission in this

regard but the petitioner has failed to do so. The Commission was not expected to provide any such extension/relaxation in the cutoff date to the petitioner when there were no pleadings/prayer in this regard.

15. Having regard to these facts and circumstances of the case, no error or infirmity could be found in the orders dated 20.06.2017 and 09.01.2018 of the Commission. As a logical corollary, we are unable to find any glaring mistake or error on the face of record in the judgment dated 14.07.2025 passed by this Tribunal in the appeal no.80 of 2018, thereby affirming the above noted two orders of the Commission.

16. The review petition is sans any merit and is hereby dismissed.

Pronounced in the open court on this the 08th day of November, 2025.

(Virender Bhat)
Judicial Member

(Seema Gupta)
Technical Member (Electricity)

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REPORTABLE / NON-REPORTABLE

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