

Rajasthan Electricity Regulatory Commission

Petition No. RERC-2153/2023

Petition filed under Section 61 and 86(1)(a) of the Electricity Act, 2003 as read with Regulation 17(5) of RERC Tariff Regulation, 2019 seeking In-Principle approval for installation of Sewage Treatment Plant at Kota Super Thermal Power Station (KSTPS) to comply the guideline of Rajasthan State pollution Control board under the Water (Prevention and control of pollution) Act, 1974.

Coram:

Dr. B. N. Sharma,	Chairman
Sh. Hemant Kumar Jain,	Member
Dr. Rajesh Sharma,	Member

Petitioner : Rajasthan Rajya Vidyut Utpadan Nigam Ltd.

Respondents :

1. Jaipur Vidyut Vitran Nigam Ltd.
2. Ajmer Vidyut Vitran Nigam Ltd.
3. Jodhpur Vidyut Vitran Nigam Ltd.
4. Rajasthan Urja Vikas Nigam Ltd.

Date of hearing : 05.09.2023, 04.10.2023 and 07.12.2023.

Present :

1. Sh. Ankit Sharma, Representative for Petitioner
2. Sh. Amitabh Gupta, Representative for Respondents
3. Sh. G.L. Sharma, Stakeholder

Date of Order:

12.12.2023

ORDER

1. Rajasthan Rajya Vidyut Utpadan Nigam Ltd. (hereinafter referred as 'RVUNL' or 'Petitioner'), has filed the instant Petition under Section 61 and 86 (1) (a) of the Electricity Act, 2003 as read with Regulation 17(5)(a)&(b) of RERC tariff Regulations, 2019 seeking In-Principle approval for installation of Sewage Treatment Plant (STP) at KSTPS, Kota station to comply with the guideline of Rajasthan State pollution Control board under the Water (Prevention and control of pollution) Act, 1974.
2. Notice was issued through Online Portal to Respondents to file reply to the petition. Accordingly, Respondents submitted their common reply on 04.10.2023, RVUNL filed its rejoinder on 20.10.2023.
3. Commission vide ROP dated 05.09.2023 directed to publish the comments/suggestions from the stakeholders, accordingly the petition was published in the following news papers on the dates mentioned against each.

Sr. No.	Name of News Paper	Date of publishing
(i)	Dainik Navjyoti	14.09.2023
(ii)	Rajasthan patrika	14.09.2023
(iii)	Times of India	14.09.2023

4. The Petition was also placed on the websites of the Commission and the Petitioner. The objections/comments/suggestions were received from Sh. G. L. Sharma, stakeholder. RVUNL submitted its reply to stakeholder's comments on 20.10.2023.
5. The matter was heard finally on 07.12.2023. Sh. Ankit Sharma, Authorised Representative appeared for Petitioner. Sh. Amitabh Gupta, Authorised Representative appeared for Respondents. Sh. G. L. Sharma, stakeholder also made his appearance.

6. Petitioner in its petition, rejoinder and during hearing has submitted as under:
 - 6.1. Petitioner RVUNL filed this petition under Section 61 and 86 (1) (a) of the Electricity Act, 2003 and read with Regulation 17(5)(a)&(b) of RERC tariff Regulations, 2019 seeking in-principle approval of the Commission for installation of Sewage Treatment Plant (STP) at Kota Super Thermal Power Station (KSTPS) to comply with the statutory direction of Rajasthan State Pollution Control Board (RSPCB) vide letter dated 12.12.2005 and 12.01.2017. Regulation 17(5) (a) allows additional capital expenditure for any direction of a statutory authority.
 - 6.2. Rajasthan State Pollution Control Board (RSPCB) vide letter dated 12.12.2005 issued Environment Clearance with Terms and Conditions that the domestic waste water generated from the residential colony and plant area shall be treated in adequately designed sewage treatment plant and the treated effluent will be utilized for developing the green belt within the plant premises.
 - 6.3. Further, RSPCB vide letter dated 12.01.2017, observed that quantity of domestic effluent generation is more than 10 kld but unit has not provided separate STP for the plant as per RSPCB order.
 - 6.4. Thereafter on 08.09.2022 RVUN filed an application for renewal of consent to operate under section 25/26 of the Water Act, 1974 & subsequent amendments thereon in 1988 and under section 21 of the Air Act 1981 before state pollution control board for KSTPS.
 - 6.5. The SEE & GIC(CPP), RSPCB vide letter dated 23.06.2023 issued a show cause notice under the section 27(2) of Water ACT, 1974 and under section 21(6) of the Air act, 1981, which empowered State pollution board

to review anyone or all the necessary conditions required for consent to operate. In this show cause notice RSPCB observed that installation of sewage treatment plant as mandated in earlier consent to operate has not been installed therefore consent to operate unit 7 of KSTPS may not be renewed.

- 6.6. Thereafter, in view of show cause notice, RVUN hired the consultant M/s Vistaar Infratech India Pvt. Ltd for Engineering, Surveying and further preparation of DPR for supply, erection, testing and commissioning of well-designed sewage treatment plant at KSTPS, Kota. The consultant M/s Vistaar prepared the complete detailed project report (DPR) of sewage treatment plant and the estimated cost for the entire sewage treatment plant is Rs. 700 Lakh exclusive of taxes.
- 6.7. The DPR has been prepared to treat the complete sewage water of KSTPS power plant. Hence, the cost towards STP shall be distributed among all the units of KSTPS. Further, STP plant having Capacity of 1692 KLD is already in operation for treating sewage water of KSTPS colony.
- 6.8. The WTD of RVUN on 15.06.2023 has accorded approval of Rs. 884 Lacs inclusive of GST for design, engineering and ETC of sewage treatment plant of 100 KLD and sewage network for KSTPS. The detailed bifurcation of cost along with IDC are as under:-

S.No.	Description	Amount in Lakh	Total Amount (GST+ other taxes) @25% in lakh
1.	Appointment of Consultant for Engineering, surveying and further preparation of DPR	6.88	8.61
2.	Cost estimation as per the DPR furnished by consultant Vistaar Infra Ltd.	700	875
Interest During Construction			51.66
Total Cost			935.27

6.9. The work of STP was never included in the original scope of work of KTPS Unit #7. However, the work of Effluent Treatment Plant (ETP) was in the in the DPR with cost of Rs. 2.0 Cr but it was also not done during the execution of Unit#7, accordingly not capitalized in the final capital cost of the Unit#7 of KTPS.

6.10. The estimated/tentative time schedule for completion of work has been considered as 12 months from the award of work order.

6.11. In the view of above submissions Petitioner prayed as under:-

a) Accord in-principle approval for installation of sewage Treatment Plant at KSTPS, Kota.

b) Approve the estimated total cost of Rs. 935.27 Lakh as proposed in the present petition for installation of sewage Treatment Plant at KSTPS, Kota.

7. Respondents in their reply and during the hearing have submitted as under:

7.1. Petitioner has not provided complete facts, figures, adequate and appropriate data in support of seeking in-principal approval. Petitioner is required to submit proper and requisite details before final adjudication of this petition can take place.

7.2. Petitioner has not provided clarity regarding the specific unit for which the sewage treatment plant (STP) is intended, nor have they indicated if there is an ongoing STP in operation, along with its respective capacity.

7.3. Further Petitioner engaged the services of consultant M/s Vistaar Infratech India Pvt. Ltd. for preparation of DPR for STP with a capacity of 150 KLD, but, WTD of RVUN granted permission for a capacity of 100 KLD. However, the total flow specified by M/s Vistaar Infratech India Pvt. Ltd. in its DPR is

105 KLD. Petitioner has not provided clarification regarding the actual capacity of the plant to be installed.

- 7.4. Petitioner has submitted only partial information, and the approval has been sought based on limited facts. No specific timeline has been provided for the completion and commencement of operations for the Sewage Treatment Plant (STP). Furthermore, no details have been provided regarding the water intake of the cooling tower and the specific area designated for horticulture gardening to which the treated water from the STP will be supplied.
- 7.5. It is submitted that the Commission while considering this petition for approval of installation of sewage treatment plant at KSTPS may also direct the Petitioner to undertake activities in time bound manner and to take all necessary measures to minimize the project's costs. This approach aims to prevent future cost escalation and ensure that the sewage treatment plant's installation does not impose an unwarranted burden on Rajasthan Discoms and its end consumers.
8. Stakeholder Sh. G. L. Sharma in its Comments and during the hearing has submitted as under:
 - 8.1. The condition for installation of sewage treatment plant was well known to the Petitioner and it was one of the conditions for NOC issued for environment clearance in the year 2005. Further Petitioner was well aware about the consequences of non-compliance of the statutory conditions and still not complied.
 - 8.2. Further, RSPCB directions vide letter dated 12.01.2017 are neither a new directions of any statutory authority for installation of STP nor it is a new law which has come into force now. Hence, this petition is not covered under

Regulations 17(5) (a) & (b) of RERC Tariff Regulations, 2019, for any additional capitalization, therefore needs to be rejected.

- 8.3. Petitioner received the environment clearance from MOEF containing the conditions of installation of STP and for providing the necessary Cost in the Project Cost.
- 8.4. The Petitioner accepted the conditions imposed by the RSPCB for installation of STP and for providing the necessary Cost in the Project Cost, but instead of complying those directions Petitioner made other arrangements in their own way and incurred certain expenditures in this regard at their own risk.
- 8.5. Since the arrangements made by the RVUN have not been considered as sufficient by the Pollution Control Board and has asked them to comply with the directives already given, any expenditure now to be incurred by the Petitioner cannot be considered as additional capital expenditure. No expenditure can be allowed once again for the same work for which expenditure has already been considered.

Commission's view

9. Commission has considered the submissions, reply and oral arguments made on behalf of the Petitioner, Respondents and stakeholder.
10. Petitioner has filed this petition under Section 61 and 86 (1) (a) of the Electricity Act, 2003 as read with Regulation 17(5)(a)&(b) of RERC tariff Regulations, 2019 seeking in-principle approval of the Commission for installation of Sewage Treatment Plant (STP) at Kota Super Thermal Power Station (KSTPS) to comply with the statutory direction of Rajasthan State Pollution Control Board (RSPCB).

11. Petitioner further submitted that RSPCB vide letter dated 23.06.2023 issued show cause notice for intended refusal of consent to operate in respect of unit 7 of KSTPS. In this show cause notice RSPCB observed that unit has not installed STP to treat the domestic waste water as mandated in the earlier issued consent to operate.
12. The Petitioner also submitted that proposed additional capitalization work was not covered under the original scope of work.
13. Per Contra Respondent has submitted that the Petitioner didn't provide complete facts, figures, adequate and appropriate data in support of seeking in-principle approval.
14. Respondents further submitted that the Commission may also direct the Petitioner to undertake activities in time bound manner and to take all necessary measures to minimize the project's costs. This approach will prevent future cost escalation and ensure it does not impose an unwarranted burden on Rajasthan Discoms.
15. Stakeholder Sh. G. L. Sharma submitted that this petition is not covered under Regulations 17(5) (a) & (b) of RERC Tariff Regulations, 2019, for claiming any additional capitalization. As RSPCB direction is neither a new direction of any statutory authority nor it is a new law which has come into force now, therefore, this expenditure can't be considered as additional capitalization and may be covered under O&M expenditure.
16. Commission observes that Rajasthan State Pollution Control Board (RSPCB) vide letter dated 12.12.2005 issued Environment Clearance with Terms and Conditions that the domestic waste water generated from the residential colony and a plant area shall be treated in adequately designed sewage

treatment plant and the treated effluent shall be utilized for developing the green belt within the plant premises.

17. RSPCB vide letter dated 12.01.2017 further observed that quantity of domestic effluent generation is more than 10 kld but unit has not provided separate STP for the plant as per its earlier order.
18. It is further observed that RSPCB vide letter dated 23.06.2023 issued show cause notice under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 in respect of unit 7 of KSTPS. In this show cause notice RSPCB observed that installation of sewage treatment plant as mandated in earlier consent to operate has not been installed therefore consent to operate unit 7 of KSTPS may not be renewed.
19. We observe that Petitioner has filed this petition under Regulation 17(5) (a) & (b) of RERC Tariff Regulations, 2019, which reads as under:-

"17. Additional Capitalization

(5) The capital expenditure incurred on the following counts beyond the original scope of the project, may be admitted by the Commission, subject to prudence check:

(a) Liabilities to meet award of arbitration or for compliance of the order or directions in the order of any statutory authority, or order or decree of any court of law;

(b) Change in law"

20. As per RERC Tariff Regulations, 2019 'Change in law' has been defined as under:-

"2. Definitions

(11) "Change in Law" means occurrence of any of the following events:

(i) the enactment, bringing into effect or promulgation of any new Indian law;

(ii) adoption, amendment, modification, repeal or re-enactment of any existing Indian law; or

(iii) change in interpretation of any Indian law by a competent Court, Tribunal or Indian Governmental Instrumentality, which is the final authority under Indian law for such interpretation or application; or

(iv) change by any competent statutory authority, in any condition or covenant of any consent or clearances or approval or licence available or obtained for the project;"

21. On joint reading of Regulation 17(5) (a) & (b) and 2(11) it is evident that additional capital expenditure incurred to comply with the directions of any statutory body, may be admitted by the Commission, subject to prudence check. As the work proposed in KSTPS is to comply with the direction of RSPCB, the same should be admitted in Additional capitalization.
22. In view of above, Commission deems it appropriate to approve the in-principle additional capitalization as sought by the Petitioner in respect of installation of sewage treatment plant at KSTPS, Kota.
23. Commission is presently not approving any specific amount of additional expenditure as proposed by the Petitioner at this stage. Commission shall consider the additional capital expenditure on the basis of actual expenditure subject to prudence check. Accordingly, Petitioner is directed to approach the Commission after completion of works for approval of cost incurred on account of installation of sewage treatment plant at KSTPS.
24. Commission also directs the Petitioner to undertake project activities in a time bound manner and take all necessary measures to minimize the project cost.
25. The petition is disposed of accordingly.

(Dr. Rajesh Sharma)
Member

(Sh. Hemant Kumar Jain)
Member

(Dr. B. N. Sharma)
Chairman