

Rajasthan Electricity Regulatory Commission

Petition No. RERC-2020/2022

In the matter of Petition filed by Rajasthan Rajya Vidyut Utpadan Nigam Ltd. for In-Principle Approval of additional capital expenditure before incurring additional capital expenditure after cut-off date for CSCTPP unit 5&6.

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 : 24.05.2022, 20.10.2022 & 03.01.2023

Present : 1. Sh. Ankit Sharma, Representative for Petitioner
2. Sh. Sandeep Pathak, Advocate for Respondents
3. Sh. G. L. Sharma, Stakeholder

Date of Order:

24.01.2023

ORDER

1. Rajasthan Rajya Vidyut Utpadan Nigam Ltd. (hereinafter referred as 'RVUN' or "Petitioner"), has filed the instant Petition dated 30.04.2022 Under Section 62 and 86(1)(a) of the Electricity Act, 2003 read with Regulation 17(2)(e) of RERC Regulations, 2019 for In-Principle Approval of additional capital

expenditure within the original scope of work after cut-off date for CSCTPP unit 5&6.

2. Notices were issued through Online Portal to Respondents to file reply to the petition. Accordingly, Discoms submitted their common reply on 03.08.2022, RVUN submitted its rejoinder on 02.09.2022.
3. Commission vide ROP dated 20.10.2022 directed to publish the petition for inviting the comments/ suggestions from the stakeholders. Accordingly petition was published in the following newspapers and was also placed on the website of Petitioner and the Commission.

Table 1: Details of Newspapers

Sr. No.	Name of News Paper	Date of publishing
(i)	Dainik Navajyoti	05.11.2022
(ii)	Dainik Bhaskar	05.11.2022
(iii)	Times of India	05.11.2022

4. Stakeholder Sh. G. L. Sharma filed comments/suggestions on 24.11.2022, RVUN submitted its reply to stakeholder's comments on 16.12.2022.
5. The matter was heard finally on 03.01.2023. Sh. Ankit Sharma, Representative appeared for the Petitioner. Sh. Sandeep Pathak, Advocate, appeared for the Respondents and Sh. G. L. Sharma, appeared as Stakeholder.
6. Petitioner in its petition, rejoinder, written submission and during hearing has submitted as under:
 - 6.1. Commission has determined the final Capital cost of CSCTPP Unit 5&6 in its order dated 28.12.2021. The Commission has also approved the Additional Capitalization up to the 31.03.2022.

6.2. The capital works of Rs. 3070.26 Cr in the matter of CSCTPP were envisaged to be capitalized after 31.03.2021 amounting to Rs 127.03 Crs has been capitalized up to cut off date i.e. 30.4.2022. The expenditure of approx Rs 2943.23 Crs pertaining to certain balance works within original scope of work are envisaged to get spilled over beyond cut-off date on account of various reasons beyond the reasonable control of the Petitioner and despite regular monitoring & follow-up by the Petitioner. Major works like Railway siding works, Colony, Parwan Dam (water System), FGD and other pending works.

6.3. The prime concern of the RVUN was to commence the commercial operation of the unit to serve the beneficiaries at the earliest by supplying affordable and reliable power. Therefore, the generator should not be penalized for its work-efficiency in declaring the COD at the earliest and also when the Non-COD related balance works got delayed due to the reasons not attributable to the RVUN. Further, such non-COD related expenditures spilling over the cut-off date will not impose any additional burden on beneficiaries.

6.4. Capital Expenditure of original scope will be incurred after cut-off date for as follow:

(Rs. In Cr.)

S.No.	Head of Expenditure	Approved by BoD	Approved by Commission as on Station COD (02.04.2019)	Approved by Commission upto 31.03.2020	Approved by Commission upto 31.03.2021	Addition During 01.4.2021 to 31.03.2022		Addition During 01.4.2022 to 30.04.2022		Addition after cut-off date i.e. After 30.04.2022
						Unit# 5	Unit# 6	Unit# 5	Unit# 6	
1	2	3	4	5	6	7	8	9	10	11
1	EPC Contract	6147.03	5934.79	6008.00	6066.08		68.09		0.14	12.72

2	River Water System (Supply)	512.40	466.41	558.54	578.87	8.94	2.97	7.79
	Intake Well							
	Lhasi Dam	60.00						
	Raising of height of Anicut	26.17						
3	Land	57.36	56.07	56.07	56.44			0.92
4	Town Ship	98.30	5.66	5.66	5.66			92.64
5	Other Civil Work (railway siding)	270.00	81.92	90.50	104.50	20.00		145.50
6	Pre-operative (including others)	317.23	204.96	234.30	247.55	13.12	13.77	42.79
	Hard Cost	7488.49	6749.81	6953.07	7059.10	110.15	16.88	302.36
7	IDC	2395.79	1793.39	1793.39	1793.39			
8	Finance Charges (loan process charge)	4.29	0.00	0.00	0.00			4.29
9	Sub Total (a)	9888.57	8543.20	8746.46	8852.49	110.15	16.88	306.65
10	Less: LD		284.44	284.44	284.44			
11	Sub Total	9888.57	8258.76	8462.02	8568.05	110.15	16.88	306.65
12	FGD	1360.00						1360.00
13	Parwan Dam	1276.58						1276.58
14	Total	12525.15						2943.23

6.5. The reasons for delay in incurring the additional capitalization of original scope after cut-off date are as under:

A. PARWAN DAM

6.6. The water allocated to CSCTPP unit 5&6 by WRD was 1570 mcft (Lhasi irrigation project 300 mcft, Andheri irrigation project 500 Mcft and parwan

major irrigation 770 mcft). Further WRD vide letter dated 22.11.2010 water allocated to Andheri Dam was reallocated from parwan dam due to delay in construction of Andheri Dam on account of inter-state issue and hence total allocation from parwan dam became 1270 mcft for CSCTPP Unit 5&6.

- 6.7. But, due to delay of construction of Parwan Dam the alternate arrangement of water has been made as under:-

Source	Total (mcft)	Time period
Lhasi Dam (water allocation by WRD)	300	12 months used as requirement
Anicut 18000 RD mtr and 7000 mtr (from raising 1.2 mtr height of both anicuts) from Parwati Anicut	128	Flowing water
Akawad Anicut (from Raising of height of 1.9 mtr) allocation by WRD	400	Flowing water
Remaining required water comes from flowing Parwati and Hinglot dam in rainy season (Using water for Unit # 5&6 in contingency plan as per MOM) from flow	742	July to Oct (Monsoon season) and flowing water.
Total Water Requirement	1570	

- 6.8. The Justification for not continuing the present sources of water allocation is that, insufficient water inflow in case of less rain during Monsoon season. During summer season acute shortage of water arises causing units to be kept under force shutdown (outage) and the operation of thermal power plant gets adversely effected due to the poor water quality. The river water contains industrial waste, higher turbidity, hardness, chloride and toxic chemicals which are harmful for plant machinery and consequently increases O&M cost.
- 6.9. The infrastructure developed for water transportation system shall be utilized in future for transportation of water from Parwan Dam (68 Km

away from the plant) and water from Lhasi dam (45 Km away from the plant). The Parwan dam is likely to be completed by 31.12.2023 as per the WRD letter dated 23.03.2022

- 6.10. In the meeting of Group of Secretaries on Infrastructure committee held on 26.04.2022 under the Chairmanship of Chief Secretary it was decided to release Share cost by Energy Department to Water Resource Department (WRD) for the water allocated to RVUN from Parwan dam for Chhabra Super Critical Power Project.
- 6.11. WRD has raised the demand for transfer of Parwan dam share cost amounting of Rs. 1276.58 Cr and accordingly RVUN is seeking in-principle approval for Dam cost before incurring the expenditure as per the provisions of Regulations, 2019.
- 6.12. The works of Parwan dam are being carried out by WRD on deposit basis and the construction of the dam is not in control of RVUN and hence, delay is not attributable to RVUN. Therefore, RVUN requests the Commission to allow the cost of Rs.1276.58 Cr. for Parwan Dam beyond cut-off date.

B. Township

- 6.13. The process of disinvestment of Chhabra (Unit1-6) was in progress at that time, therefore the proposal of Rs.200 Cr towards estimated cost of township work was deleted. However, in view of consideration of dropping of the proposal to transfer of Chhabra Units to NTPC by GoR, the BoD in their meeting dated 27.03.2019 has considered the proposal of construction of residential quarter at CSCTPP. Accordingly, in the 287th meeting of BoD dated 27.03.2019, Rs 41.98 cr was approved for township.

6.14. LOIs for R-3 and R-4 type quarters were issued on 26.04.2022 and work order has been placed for the work of 100 nos. R-3 and 100 nos. R-4 type quarters have been placed.

6.15. The works of Township got delayed due to the disinvestment plan of GoR during the construction of plant and hence, delay is not attributable to RVUN. Therefore, RVUN request the Commission to allow the cost of Rs 92.64 Cr. towards Township beyond the cut-off date.

C. Other Civil Work (Railway Siding)

6.16. The works of railways siding is being carried by railway on deposit basis. The M/s RITES was awarded consultancy service on dated 21.10.13. M/s RITES prepared DPR for Railway siding work as expertise in the work railway siding for 2x660 MW Unit 5&6.

6.17. Numerous correspondence were made and various meets were held to approve DPR of railway siding but the DPR was not approved by railway authorities due to demand of flyover and RVUN was trying to avoid the construction of flyover since it had huge cost implication of around Rs. 300 Crores.

6.18. In the meeting, held on 23.11.16 with CMD, RVUN and Chief Operations Manager, WCR Jabalpur it was finally decided to dispense of flyover and provision of two additional loop lines.

6.19. The revised concept plan was submitted by M/s RITES on 24.01.17 and approved by railway on 07.03.17. Thereafter, M/s RITES submitted final DPR on 26.04.17 which was approved on 31.05.17. The certain works of railway are still to be carried which is beyond the control of RVUN.

6.20. The approval process delayed the completion of work under the package to avoid the fly over construction amounting to Rs 300.00 Cr. Hence, the delay in obtaining approvals from Railway authorities is not attributable to the RVUN. Therefore, RVUN requests the Commission to allow the remaining cost of Rs 145.50 Cr. towards railway siding beyond the cut-off date.

D. FGD

6.21. The commission had accorded in-principle approval for installation of FGD for CSCTPP vide order dated 21.08.2019. Tender for installation of FGD system has already been floated and techno-commercial bid is also opened.

6.22. As regards to National and International benchmark for costs for FGD to be implemented, the award for the work of FGD is being made through open tendering basis and in due compliance to the Commission direction as passed in the above order dated 21.08.2019 and also an officer is nominated by the Discoms for monitoring the bidding process.

E. EPC Contract

6.23. The firm has not submitted any testing and commissioning documents for Electrical and Mechanical system. Further, the firm has also not submitted any erection documents of Plant Communication system and VPN server for remote data access with internet lease line and static IP. Therefore, the amount has been held and shall be released or booked whenever all the documents related to testing & Commissioning are provided by the firm.

6.24. EPC contract works are vast in nature and involves lot of activities. Hence, the process of closure of the contract takes time and is likely to be

finalized soon. Therefore, RVUN requested the Commission to allow the cost of Rs 12.72 Cr. towards EPC Contract beyond the cut-off date.

F. River Water System Supply

6.25. Resolution of some punch points the payment of works are pending. Therefore, RVUN request the Commission to allow the cost of Rs 7.79 Cr. towards River water system beyond the cut-off date.

G. Land

6.26. In the absence of some clarification an amount of Rs. 0.92 Crore is pending against lease rent of free hold land of Unit #5&6. Therefore, RVUN request the Commission to allow the cost of Rs 0.92 Cr. towards Land beyond the cut-off date.

H. Pre-operative (including others)

6.27. The certain payments on account of clarification are to be incurred. Therefore, RVUN has requested the Commission to allow the cost of Rs. 42.79 Cr. towards pre operative beyond the cut-off date.

I. Finance Charges

6.28. The finance charges on account of loan process charges are to be incurred. Therefore, RVUN request the Commission to allow the cost of Rs 4.29 Cr. towards finance charges beyond the cut-off date.

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

7.1. Petitioner has filed the present petition without disclosing complete and correct facts, figures and documents, therefore, the petition is liable to be

dismissed on that ground alone. Further, the expenditure of Rs 2943.23 Crs pertaining to certain balance works within original scope of work are claimed by the Petitioner beyond cutoff date and for this reason, the petition is not maintainable.

- 7.2. The Petitioner has stated that Lhasi Dam, Anicut 18000 RD mtr and 7000 mtr from Parwati Anicut, Akawad Anicut and Parwati and Higlote dam are currently being used as alternate arrangement for water resources due to delay in construction of Parwan Dam. However, Petitioner does not want to continue water supply from the current water sources because it has poor water quality.
- 7.3. Therefore, the Petitioner may be directed to provide chemical analysis of water certified by an independent agency for all water sources it has been using.
- 7.4. Further the share cost of RVUNL has been mentioned to be 34.25% as per letter dated 12.01.2021. However, methodology and assumptions for this share cost have not been provided.
- 7.5. The Petitioner has attributed the delay in the construction of Township due to disinvestment plan of Government of Rajasthan. But the Cabinet decision to drop disinvestment of CSCTPP was made on 27.06.2019, however, the Lol has been issued after a period of approximately 2 years 10 months.
- 7.6. Petitioner should submit the date on which they applied for the Environmental/Forest Clearance for the Railway Siding along with the PERT chart to understand how the time overrun under this head delayed the matter.

- 7.7. The Petitioner may be directed to provide the national and international benchmark costs for FGD to be installed and detailed sub-head wise cost overview along with justification for the amount of Rs 1360 Cr claimed towards FGD installation by the Petitioner.
- 7.8. The Petitioner should also provide a detailed list of all finalized EPC contracts and pre operative expenses along with due justification.
- 7.9. The Petitioner has not provided the detailed list of "punch points" and the payment of works which are currently pending for river water system supply. The Petitioner may be directed to provide the detailed list of "punch points" and the payment of works which are currently pending. Further, adequate justification for such delay in payment may be provided failing which the Commission may reject the Petitioner's claim.
- 7.10. As per the Regulation 23 of RERC Tariff Regulations, 2019, the lease charges shall be considered as per the lease agreement provided they are considered reasonable. But the lease agreement has not been provided in the instant petition. Further, as submitted by the Petitioner itself, there is no clarification on the claimed amount against lease rent.
- 7.11. Petitioner has claimed Finance Charges under the Clause 17(2)(e) of RERC Regulations, 2019. This clause mentions "works admitted by Commission"; however, the Petitioner is claiming loan process charges which is not covered under this Regulation. The Commission may therefore disallow the claim.
8. Stakeholder Sh. G. L. Sharma in it's reply and during hearing have submitted as under:
 - 8.1. Petitioner has filed this petition under Section 62 and 86(1)(a) of the Electricity Act, 2003 read with Regulation 17 (2) (e) of RERC Regulations,

2019 but the above Section and Regulation are related to the matters or not, is in the question.

- 8.2. It is further state that all the matters mentioned in the present petition have already been decided by the Commission and therefore question of Reconsideration does not arise. Hence the petition is not maintainable.
- 8.3. Commission in its previous orders has already accorded in-principle approval for installation of FGD and clearly said that commission is not going to approve any specific amount in in-principle but will allow the additional capitalization only on the basis of actual expenditure incurred and that too after exercising prudent check. It is not understood for what reasons Petitioner is trying to obtain approval for a specific amount without incurring any expenditure.
- 8.4. All the present data as submitted in the present petition are those which have already been submitted in their earlier petition regarding determination of final capital cost of CSCTPP unit 5&6 and the Commission after considering this issue in order dated 28.12.2021, directed RVUN to continue with present sources of water allocation and accordingly optimize the expenditure against it and advised for its claim on additional capital expenditure for Parwan Dam RVUN is required to submit its detailed computation with justification for the same in its forthcoming year Tariff Petition.
- 8.5. Petitioner has not provided any detailed computation, with justification for the same and instead seeking in-Principle approval of Rs. 1276.58 Cr. without any base, therefore question of according any In-principle approval for the work does not arise. Petitioner is trying to mislead the Commission.

- 8.6. BOD approval was accorded for total cost of Rs. 41.98 Cr., whereas In-principle approval is being sought for Rs. 92.64 Cr. reasons for the same are to be stated by RVUN. Further copy of approval of BOD for Rs. 92.64 Cr. may also be supplied by the RVUN.
- 8.7. Disinvestment was dropped in March, 2019 or so and proposal of construction of residential quarters was also approved by BOD in its meeting 27.03.2018 and Lol for the work has been issued on 26.04.2022, i.e., after a period of 3 years and still RVUN says delay is not attributable to them. This needs to be clarified by the Petitioner.
- 8.8. In order dated 28.12.2021 (in Para 4.68) it has been mentioned that there were no undischarged liabilities under head, further no amount in respect of Other Civil Works (railway siding) after cut-off date was also claimed by the Petitioner. Therefore, Petitioner should justify their present claim in this head.
- 8.9. RVUN should provide the revised plan prepared by M/s RITES and approved by the Railways, the Agenda of BOD, 277th meeting held on dated 21.02.2018 for the revised cost of Rs 270.00 Cr. and plan for works to be carried out.
- 8.10. RVUN should clarify that whether the cost of Rs. 18.22 Cr. used for construction of RoB at LC1A has been included in the cost of Railway siding work for unit 5&6 and if so, for what reason.
- 8.11. Petitions should provide the details of work costing 12.72 Cr. and further has to substantiate its claim with proper justification and relevant Regulations under which approval is being sought. Same information also should be provide for 7.79 Cr. regarding river water system, for Rs. 0.92Cr. regarding land and for Rs. 42.79 Cr. regarding pre-operative.

Commission's view

9. Commission has considered the submissions, reply and oral arguments made on behalf of the Petitioner, Respondents and stakeholder.
10. Petitioner, is seeking in-principle approval before incurring additional capital expenditure within the original scope of work after cut-off date under Section 62 and 86(1)(a) of the Electricity Act, 2003 read with Regulation 17(2)(e) of RERC Regulations, 2019, for EPC contract, River water system, township, land, FGD, Parwan Dam, finance charges, other civil work and pre-operative.
11. Petitioner has submitted that the expenditure of approx Rs 2943.23 Crs pertaining to certain remaining works within original scope of work are envisaged to get spilled over beyond cut-off date on account of various reasons beyond the reasonable control of the Petitioner.
12. The Petitioner therefore has prayed to accord in-principle approval before incurring Additional Capital Expenditure within the original scope of work, after cut off date, i.e., 30.04.2022 of CSCTPP unit #5&6 under Regulation 17(2) (e) of RERC Regulations, 2019.
13. Per Contra Respondents have contended that the expenditure of Rs. 2943.23 Cr. claimed by the Petitioner pertaining to certain balance works within original scope of work are beyond cutoff date and for this reason, the petition is not maintainable.
14. Further the Lhasi Dam, Parwati Anicut, Akawad Anicut and Parwati and Higlot dam are currently being used as alternate arrangement for water resources due to delay in construction of Parwan Dam. However, Petitioner does not want to continue water supply from the current because it has poor water quality. Such averment raised by the Petitioner is denied.

15. Responded further submitted that, the Cabinet decision to drop disinvestment of CSCTPP was made on 27.06.2019, however, the Lol has been issued after a period of approximately 2 years 10 months for the township. Further, the Petitioner has not provided the detailed list of "punch points" and the payment of works which are currently pending regarding river water system. On the other issues such as railway slidings FGD, EPC contract, lease rent and finance charges the Petitioner has not provided the details with the supporting documents.
16. The stakeholder submitted that this petition has been filed under Section 62 and 86(1)(a) of the Electricity Act, 2003 read with Regulation 17 (2) (e) of RERC Regulations, 2019 but none of the above Section and Regulation are related to the matters. And all the matters mentioned in the petition have already been decided by the Commission and therefore question of Reconsideration does not arise. Hence the petition is not maintainable.
17. Commission observes that the matter of FGD has already been decided by this Commission in order dated 21.08.2019 in petition no. 1459/19, as under:
- "19. Commission is presently not approving any specific amount of additional expenditure at this stage in view of the provisions of Regulation 17 (2) (ii) of Tariff Regulations, 2014. 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 implementation of revised norms.*
- 20. Commission directs Petitioner to discover the cost of retrofitting FGD for its plant through open competitive bidding in consultation with Discoms. Commission also directs Discoms to depute an appropriate officer to monitor the bidding process as per requirement of approval of CEA."*
18. In view of above, it can be observed that the Commission has already decided the matter of FGD in above mentioned order dated 21.08.2019 and directed the Petitioner to approach the Commission after completion

of works for approval of cost incurred on account of implementation of revised norms. Commission also noted that it shall consider the additional capital expenditure on the basis of actual expenditure subject to prudence check. The Petitioner may act accordingly.

19. Further, the issue of the Parwan Dam was considered by the Commission and appropriate directions were issued by the Commission in order dated 28.12.2021 in petition no. 1879/21 as under:

"4.43 For the cost to be incurred towards Parwan Dam, the Commission does not find it appropriate to consider anything on it at this stage, when RVUN has not incurred any expenditure against it. Further, the Commission directs RVUN to continue with the present sources of water allocation for Units 5&6 and accordingly, optimize the expenditure and proportionate quantum of water allocation from Parwan Dam (1270 Mcft) considering total water requirement for CSCTPP Units 5&6 as 1570 Mcft and present sources of water allocation. RVUN with its claim on additional capital expenditure for Parwan Dam is required to submit its detailed computation with justification for the same in its forthcoming year Tariff Petition."

20. On perusal of the above order, it can be observed that on the issue of Parwan Dam, the Commission had directed the RVUN to optimize the proportion of quantum of water allocation from Parwan Dam and accordingly reduce the RVUN's share of expenditure on prorata basis on Parwan Dam.
21. RVUN is again directed to request the State Government to reduce the revised share cost of Parwan Dam since 315 mcft water allocated to 3x110 MW Gas Power Project is no more required and to work out RVUN share on the basis of 75 % dependability instead of 100% dependability as RVUN has developed some alternative water storage arrangements due to delay in readiness of Parwan Dam.
22. RVUN, therefore may act accordingly and details of payment made under this head certified by the Statutory auditor may be submitted alongwith

next true up petition. The Commission will carry out the prudence check of it at that time and accordingly revise the capital cost for CSCTPP Units 5&6.

23. On remaining issues, the Commission in its earlier order dated 28.12.21 in the Petition no. 1879/2021 in the matter of capital cost & Tariff for FY 2018-19 to FY 2021-22 has observed as under:

"4.128. For the expected additional capitalization beyond 31.03.2021, the Commission directs RVUN to submit the actual audited figures against it, certified by the Statutory auditor. The details of the same can be submitted by RVUN through the true-up petition of FY 2021-22. The Commission will carry out the prudence check of it at that time and accordingly revise the capital cost for CSCTPP Units 5&6."

24. In view of above, it is clear that these issues were already raised by the Petitioner before this Commission and appropriate directions were issued by the Commission. Now the Petitioner is again submitting the additional capital works which were filed by the Petitioner in the above petitions and were considered by the Commission.
25. Further, it is also observed that these issues are related to final Capital Cost of the project and Tariff hence cannot be dealt with in isolation. As already held by the Commission in its order dated 28.12.2021, RVUN to submit the actual audited figures against these additional capital expenditure, certified by the Statutory auditor to be dealt with in the next true-up/tariff petition.
26. The petition is disposed of accordingly.

(Dr. Rajesh Sharma)
Member

(Sh. Hemant Kumar Jain)
Member

(Dr. B. N. Sharma)
Chairman