

2. In the review petition, the Petitioner requested the Commission to review Para No. 12 of the Order dated 09.01.2014 and permit it to recover generation cost of the partnership project from DISCOMs.
3. The Petitioner in its review petition as well as during the hearing on 09.10.2014 made the following submissions:
 - (i) Since the enforcement of the Electricity Act, 2003, RVPN used to pay the generation cost of electricity to the partnership projects to the extent of share of the State of Rajasthan and the same was being reimbursed/ repaid to RVPN by the Distribution Companies in the State of Rajasthan (Discoms) till March-2013.
 - (ii) In the petition filed on 15.02.2013 for approval of ARR and determination of tariff for FY 2013-14 for RVPN, it was requested to approve recovery of generation expenses amounting to Rs. 123.26 Crore relating to partnership project for FY 2013-14 from the DISCOMS based on their share in capacity allocations in the partnership projects. The Commission in its Order dated 09.01.2014 did not consider the proposal for approval of expenses for shared generation project stating that CERC is the competent authority to determine the tariff of shared generation projects in accordance with the APTEL judgment in appeal no. 183 of 2011 in the matter of BBMB. It was also mentioned by the Commission that generation cost and revenue from partnership projects are direct pass through to DISCOMS and these will not affect transmission tariff.
 - (iii) On account of the observation made by the Commission as above DISCOMS are not remitting expenses incurred by RVPN for generation and supply of power by shared generating stations stating that the Commission in its Order dated 09.01.2014 has not allowed these claims.
 - (iv) Before the Order dated 09.01.2014 was passed by the Commission, RVPN had already paid an amount of Rs. 123.26 Crore on account of generation cost to the generating projects. The same had to be reimbursed by the Discoms in the proportion of the electricity consumed by them, as otherwise the same will be burden to it and affect its finances.

- (v) In the tariff petition filed by the distribution companies, the cost of power of these generating stations for FY 2013-14 was claimed and allowed by the Commission vide its Order dated 06.06.2013. The energy of shared projects has been utilized by Discoms whereas payment of monthly charges of the same is being borne by RVPN. Despite the fact that the Commission has allowed the Discoms, the expenses incurred on account of partnership projects, nothing is being paid by them to RVPN.
- (vi) Since the matter does not pertain to fixing of the tariff and it is just the reimbursement of the actual cost incurred by RVPN on the behalf of Discoms, Petitioner requested to review Para No. 12 of the Order dated 09.01.2014 and allow RVPN to recover the generation cost of partnership projects from Discoms as was being allowed in the previous years.
- (vii) There is an error apparent on the face of the record which is required to be reviewed. Further, the non reimbursement of generation cost by the Discoms which has already paid by RVPN is an unjust enrichment by the Discoms.
- (viii) The Commission while passing the order dated 09.01.2014 has not considered the statutory provisions regarding contractual obligations for remitting the generation cost of the partnership projects. As such, there is an error apparent on the face of the record which is required to be reviewed.

Submission by Respondents

4. In reply to the review petition, respondents during the hearing submitted that the Commission may pass the appropriate order.

Commission's analysis and decision

5. The Commission has considered the submissions of the review petitioner and the respondents.
6. It is observed that the Commission in its Order dated 09.01.2014 has stated that CERC is the competent authority to regulate and determine the tariff of the generating stations of BBMB. Further the Commission also stated that generation cost and revenue from partnership projects is a direct pass through to Discoms. Para 12 of Order dated 09.01.2014 for ready reference is extracted below:

"12. The Commission has already stated in its order of approval of Investment Plan for FY 2013-14 that in accordance with the Hon'ble APTEL

Judgment in Appeal No 83 of 2011 in the matter of Bhakra-Beas Management Board, CERC is the competent authority to regulate and determine the tariff of the generating stations of BBMB. Further, one of the stakeholder, Shri G. L. Sharma has also stated that CERC is the competent authority to determine the tariff of shared generation projects. Thus, in light of above Judgment and taking into consideration the suggestion of stakeholder, Commission in this Order has not considered the proposal for approval of expenses for shared generation project and related comments/suggestions of the stakeholders. Further, Commission observes that generation cost and revenue from partnership projects are direct pass through to Discoms and these will not affect the transmission tariff."

7. From the above order though it is clear that the Tariff of these projects shall have to be determined by CERC as they are inter-State projects and the generation cost and revenue from partnership projects are a direct pass through to Discoms and these will not affect the transmission tariff, the Commission did not direct the Discoms not to pay to RVPN the generation cost of partnership projects, it has paid to the generator.

8. The Commission while dealing with similar issue in the recent tariff order of RVPN dated 09.10.2014 has taken view that Discoms are liable to pay charges incurred by RVPN on Partnership Projects at actuals. The extract of the same is as under:

"357. The Commission has already clarified in the Tariff Order for FY 2013-14 dated 09.01.2014 that CERC is the competent authority to regulate and determine the tariff of the generating stations of Partnership Projects. However, the charges being incurred by RVPN on the partnership projects shall continue to be reimbursed from the Discoms at actuals. However, RVPN is directed to submit the status of filing tariff petition in CERC by the competent authority for partnership projects in their petition for FY 2015-16."

9. In the light of what is stated above, the Commission is of the considered view that the contention of respondents taken that as per order of the Commission dated 09.01.14 they are not liable to pay to RVPN the generation cost incurred by it towards shared projects is patently incorrect. This contention is on account of mis-reading of the order. Discoms having recovered the cost of power of shared projects from its consumers can not turnaround and deny the payment in turn on the wrong reading of the order of the Commission dated 9.01.14.

10. The Commission, therefore, deems it proper not to review its order dt 9.01.14. Instead clarify that the Commission in its order did not bar the Discoms for making the payment to RVPN for the generation cost incurred by it in the shared projects. Consequently Discoms are hereby directed to reimburse the cost incurred by RVPN towards generation cost of partnership projects withheld, based on the order of the Commission dated 09.01.14 within a period of eight (8) weeks from date of this order.

11. The review petition stands disposed of accordingly.

**(Raghuvendra Singh
Rathore)**

Member

(Vinod Pandya)

Member

(Vishvanath Hiremath)

Chairman