



Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi –110 017.

F.11(2381)/DERC/2025-26/8615

I.A. No. 6 of 2026
in
Review Petition No. 54/2025

In the matter of: Application for Condonation of Delay

Government of NCT of Delhi **... Petitioner**

vs.

BSES Yamuna Power Ltd. **...Respondent**

And
I.A.No. 7 of 2026
in
Review Petition No. 55/2025

In the matter of: Application for Condonation of Delay.

Government of NCT of Delhi **... Petitioner**

vs.

BSES Rajdhani Power Ltd. **...Respondent**

Coram:

Sh. Surender Babbar, Member and Sh. Ram Naresh Singh, Member

Appearance:

1. Ms. Swapna Seshadri, Ld, Counsel for the Petitioner
2. Ms. Harsha V.Rao, Ld. Counsel for the Petitioner
3. Ms. Aishwarya Subramani, Ld. Counsel for the Petitioner
4. Mr. Buddy A. Ranganadhan, Ld. Sr. Advocate for the Respondent
5. Mr. Amit Kapur, Ld. Counsel for the Respondent
6. Mr. Rahul Kinra, Ld. Counsel for the Respondent
7. Mr. Aditya Ajay, Ld. Counsel for the Respondent
8. Mr. Adanya Ojha, Ld. Counsel for the Respondent
9. Ms. Mahima Kaur, Ld. Counsel for the Respondent
10. Mr. Anupam Varma, Ld. Counsel for the Respondent

ORDER

Date of Order: 11.03.2026)

1. The instant two Review Petitions have been filed by the Government of NCT of Delhi seeking review of the Commission's Orders dated 19.07.2024 passed in Tariff Petition No. 04 of 2022 and Tariff Petition No. 03 of 2022. The Review Petitioner has also filed an application seeking condonation of delay in filing the Review Petitions.
2. The Respondents, BSES DISCOMs, have opposed the admission of the Review Petitions primarily on the ground of delay and laches and has contended that the petitions are liable to be dismissed but has chosen not to assail the

application for condonation of delay filed by the Petitioner by filing the replies to the IAs but by way of averments and assertions in the reply to the Review Petitions.

3. The Commission has heard the learned counsels for the parties and proceed to firstly dispose of IA No. 06 and 7 of 2026 by way of this Order.
4. The subject matter of both the applications being similar and seeking similar reliefs; both the applications are being disposed of by way of the instant common Order.

Submissions of the Petitioner

5. The Learned Counsel for the Petitioner submitted that the Review Petitions have been necessitated on account of serious financial and regulatory consequences arising from the Order dated 19.07.2024. It is contended in IAs that the impugned order results in additional financial liability of approximately Rs.2655 crores for BYPL and Rs.3630 crores for BRPL, which would ultimately have to be borne by the residents (Electricity Consumers) of National Capital Territory of Delhi.
6. It is further submitted by the applicant that the Review Petitioner has sufficient interest in the order that is sought to be reviewed in the present Review Petition as the same may affect the interest of public at large and therefore the petitioner is under the constitutional obligation to protect the interests of public and therefore the delay in moving the present Review Petition may be condoned.
7. It is also submitted that, the Government of NCT of Delhi is not involved on a day to day basis in the tariff and other regulatory processes before this Commission. However, it is only because of the public interest involved in the issue that the Review Petitioner was apprised of the issue and a decision to seek a review was taken. The above process was also *bonafide* since the Government of NCT of Delhi typically restrains itself in issues of electricity tariff determination before the Commission and has only been moved to seek a review on account of the huge financial burden which may be imposed on the residents of Delhi.
8. The Petitioner herein applicant placing reliance on *Sheo Raj Singh (Deceased) through L.Rs. and Ors vs. Union of India (UOI) and Ors. (2023(10) SCC531)*, has submitted that it is settled law that 'sufficient cause' must be interpreted liberally to ensure justice. The authority adjudicating on condoning delay must exercise its discretion based on whether the delay resulted from a *bonafide* mistake rather than a deliberate attempt to avoid justice. The Hon'ble Supreme Court has held that each case must be decided on its facts, and that negligence or lack of *bonafides* should not be imputed unless it is evident. The Supreme Court had further also held that the presence of a genuine cause for the delay, and not merely the length of delay, should guide the decision on condonation.

Submissions of the Respondents

9. The Learned Senior Counsel appearing for the Respondents BYPL & BRPL have opposed the applications for condonation of delay and submitted that the Review Petitions are liable to be dismissed at the threshold on the ground of delay and laches alone.
10. The Respondents further submitted that GoNCTD ought to have filed the present Review Petitions within thirty (30) days from the date of the Order under Review. From the Order under review to 24.10.2025 (i.e. date of filing), around 462 days have elapsed.
11. DERC (Conduct of Business) Regulations, 2001 do not provide for a limitation period for filing a review. Therefore, reliance is placed on Article 124 of the Schedule to Limitation Act, 1963, which provides limitation period of thirty (30) days for "...review of judgement by a court other than the Supreme Court from the date of the decree or order."
12. In terms of the law laid down by the Hon'ble Supreme Court in catena of judgements, delays caused solely by negligence or lack of diligence are generally not to be condoned. There is no explanation provided by GoNCTD for delay and laches in filing the review after more than a year [Ind Bharath Power (Madras) Ltd. V. CERC, 2012 SCC OnLine APTEL 141 (Paras 5-6) & Gulbarga Electricity Supply Co. Ltd. V. Narayanpur Power Company Ltd. 2016 SCC OnLine APTEL 88(Para 11)].
13. The Commission by its Order dated 16.01.2025 in Review Petitions has held that, if the filing of Review Petition was within the control of the Review Petitioner, the same ought to be rejected.
14. There is an unexplained delay of 462 days in filing the present Review Petition from 19.07.2024 to 24.10.2025. Review ought to have been filed within thirty (30) days from 19.07.2024 i.e. by 18.08.2024. However, no averment or justification has been put forth by GoNCTD, either in the Petition or in their application for condonation of delay, to explain the inordinate delay and laches.
15. Reliance was placed upon *Basawaraj & Anr. v. Special Land Acquisition Officer, (2013) 14 SCC 81* to contend that limitation is founded on public policy and courts/tribunals cannot extend limitation merely on equitable considerations. Reliance was also placed upon *P.K. Ramachandran v. State of Kerala, (1997) 7 SCC 556* to submit that delay cannot be condoned in a routine manner and sufficient cause must be strictly established.
16. The Respondents further argued that acceptance of such belated review would create regulatory uncertainty and therefore the petition should be rejected on the ground of delay and laches alone.

Analysis of the Commission

17. After going through the IAs filed by the Review Petitioner for the Condonation of delay, Replies of the Respondents and the arguments advanced by the Review Petitioner and the Respondents, the Commission observes as under:
- i. That the Commission has the power to review its decisions, directions and orders as per Section 94(1)(f) of the Electricity Act, 2003 (the Act). As per the provisions of the Section 94(1) of the Act, this Commission is vested with the power of the review as is vested with a civil court under the Code of Civil Procedure, 1908 (CPC). Therefore, this Commission has the statutory power of review of its Order in terms of the provisions of Section 114 read with Order XLVII Rule 1 of CPC. Moving further, the exercise of this power of review by this Commission is circumscribed in respect of period of limitation by the provisions of Limitation Act, 1963. But the said period of limitation is extendable/relaxable under the provisions of Section 5 of the said Act, if the Petitioner/applicant satisfies that he had sufficient cause for making/filing the application/petition for review within the extended period of limitation.
 - ii. Therefore, the power of review of the Commission under Section 94 (1) (f) is not only inherent one to serve and ensure consumer interest by removing error in the tariff order issued by the Commission but is specifically provided and derived from the statute itself.
 - iii. Besides, as per the legal principles decided and framed by Hon'ble Supreme Court and other courts, the extension of the period of limitation is a matter of adjudication by the courts (this Commission) exercising discretion based on facts & merits of each case, judicial and regulatory prudence.
 - iv. As per the Review Petitioner, the Review Petitions have been filed with a delay of 462 days. This Commission, therefore, needs to examine whether sufficient cause has been shown by the Review Petitioner to justify the condonation of the said delay.
18. Accordingly, this Commission needs to ascertain whether there was sufficient cause for the delay of 462 days in filing these Review Petitions by the Review Petitioner or in the alternative whether the public interest at large shall be prejudiced or adversely affected if the condonation of said delay is rejected by this Commission taking its predominant view based on the technical considerations about the delay in filing the present Review Petition.
19. In this regard the Commission notes that in its present IA, the Review Petitioner has shown the necessity for filing of these Review Petitions due to the need for the protection of large public interest which is the constitutional obligation of the Review Petitioner. The Commission further notes the contention of the Review Petitioner that this Commission should exercise its discretion based on whether the delay resulted from *bonafide* mistake rather than a deliberate attempt to avoid

justice. In this regard, the Review Petitioner has relied upon *Sheo Raj Singh (Deceased) through L.Rs. and Ors. Vs Union of India (UOI) and Anr.(2023(10) SCC 531)*.

20. Further, the Commission also notes the interpretation of the term “sufficient cause” used in Section 5 of the Limitation Act 1963 for the extension and relaxation of the period of limitation for filing these Review Petitions/applications in *Basawaraj and Ors. Vs. The Spl Land Acquisition Officer (2013 (14) SCC 81)* also relied on by the Review Petitioner in this IA. The Commission notes the principles of law culled out in the said case as per which the expression “sufficient cause” should be given liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of *bonafide* cannot be imputed to the party concerned. Therefore, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case.
21. The Commission also notes that the Review Petitioner has also relied upon the decisions in other cases by filing the compilation of such cases during the course of the hearing before this Commission. However, this Commission needs to focus and discuss here on the decisions only in two cases from the said compilation namely “Sheo Raj Singh V UOI” which has also been noted and referred above by the Commission and “*Inder Singh Vs. State of Madhya Pradesh 2025 SCC online SC 600*” as these two cases involving the public interest matters being handled and executed by the government/s are akin in nature of the case in the present Review Petition.
22. The other decisions in the said compilation basically include and relate to the condonation of delay in filing the appeal before the Hon'ble APTEL which is governed by the specific provisions of Section 120 of the Electricity Act, 2003 which are self-contained and may not need the support or reference of the Limitation Act, 1963 the reference of which as explained above is needed for considering the condonation of delay in the filing of the Review Petition before the Regulatory Commission under Section 94(1) (f).
23. The first case of “Sheo Raj Singh” deals with the delay of 479 days by the Union of India in filing the Appeal by it with the Hon'ble High Court of Delhi in the matter of land acquisition which concerns public issue. The Commission notes that in this case the Hon'ble Supreme Court of India had affirmed the condonation of delay of 479 days granted by Delhi High Court recognising the delays implicit in the very nature of the governmental functioning and the procedural delays incidental to decision making process in the bureaucratic methodological working. The Hon'ble Supreme Court laid emphasis on its consideration about the impersonal machinery in contrast to the private parties due to which it is common and difficult to understand and explain the delays by the governmental public and collective cause machinery.

Therefore, the Hon'ble Supreme Court while considering the fact that the state represents the collective and public cause, agreed with the need for giving liberal approach in condoning the delays in filing the petitions/ appeals by the government and affirmed the order of Hon'ble Delhi high court condoning the delay of 479 days in filing the Appeal by the Union of India.

24. The second case of "*Inder Singh vs. State of Madhya Pradesh*" deals with matter related to allotment of the public land by the government body to the Appellant Inder Singh and the State of Madhya Pradesh had to first file the Review Petition and later Appeal, which were filed with the delay of 2 years and 4 months and about a year respectively. On overall consideration of various pronouncements, the Hon'ble Supreme Court of India allowed the condonation of delay of about a year in filing the second Appeal by the state and dismissed the Appeal of Inder Singh. In this case the Hon'ble Supreme Court of India agreed with the contention of the Appellant that there is no doubt that all the parties, whether or not State under Article 12 of the Constitution are required to act with due diligence and promptitude. However, the Hon'ble Supreme Court further stated that if in a particular case, the merits have to be examined, it should not be scuttled merely on the basis of limitation. The Hon'ble court stated that in this case the dispute is not between two private parties but between the private party and the government and when the government had taken the possession of the land and allotted the same to its department, the ownership of the same to the private litigant cannot be decided without hearing and deciding the matter in dispute on merits, which would require the condonation of delay in filing the Appeal by the state so that the case of the government can be heard on merits.
25. The Commission also considers it relevant to refer to the case of "*Collector (LA) vs. Katiji, (1987) (2) SCC 107*" which has been referred in the above case of Inder Singh as an authority in the matter of condonation of delay to serve justice on merits. In this case the Hon'ble Supreme Court explained principles for considering condonation of delays –(1) The legislature has conferred the power to condone delay by enacting Section 5 of the Indian Limitation Act of 1963 in order to enable the Courts to do substantial justice to parties by disposing of matters on 'merits'; (2) The expression "sufficient cause" employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice--that being the life-purpose for the existence of the institution of Courts; (3) Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties. (4) When substantial justice and technical considerations of delay are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

26. In *State of Nagaland v. Lipok Ao*, (2005) 3 SCC 752, it was held that in matters involving public interest a justice-oriented approach should be adopted. Similarly, in *Improvement Trust, Ludhiana v. Ujagar Singh*, (2010) 6 SCC 786, the Court held that a hyper-technical approach should be avoided where refusal to condone delay may result in public injury.

27. The Commission also observes that the determination of tariff by the regulatory Commissions is a dynamic process in the sense that the tariff determined in an order passed by the Regulatory Commission for a particular financial year is subject to change based on change in any parameter/s or component of the tariff if those parameters or the component are disputed by the petitioner/ Appellant.

If the Petitioner/ Appellant succeeds, the effect of such success leading to change in the tariff already determined by the Commission is given effect (along with carrying cost) by the latter in the tariff order/s of the subsequent financial year/s, if the Commission decides not to revise the tariff during the same financial year.

In such cases mostly, the Petitioner is none other than the DISCOMs like the respondents in the present Review Petitions, they cannot claim aggrieved by the mere fact that their tariff order/s is/are subject to change due to the proceedings of appeal/ review by the Appellant/ Review Petitioner.

This inherent legal and regulatory aspect in tariff determination process is different from the adjudication of the civil matters by the civil courts, where the change/ correction in the decree or judgements upon review or appeal may affect the rights already acquired by the *bonafide* third parties.

Accordingly, the Commission observes that the review of any orders like the True-up of tariff order 19.07.2024 sought to be reviewed by the Review Petitioner in the present Review Petition will not affect the legal rights of the *bonafide* third parties. Even otherwise, likelihood of dilution of such rights does not bar institution of the proceedings of Review or Appeal.

Therefore, the Commission is of the considered view that the condonation of delay in the present case will pave the way for the Commission to review the order dated 19.07.2024 on merits to consider the interest of the electricity consumers of Delhi while not affecting the legal right of the third party/ies.

28. The Commission now also needs to examine the Submissions made by the respondent in their Reply to the present Review petitions. In this regard, the Commission observes that the adjudication of the Review Petitions on merits is one thing and the adjudication of the applications for the condonation of delay in filing the said Review Petitions is other thing. In this order the Commission are disposing of the applications filed by the Review Petitioner for condonation of delay in filing the said Review Petitions after 462 days and since the Respondents have chosen not to file the separate replies on the said applications of the Review Petitioner, this

Commission will examine the Replies and arguments of the Respondents which pertain & are relevant to the condonation of the delay.

29. With regard to the Replies of the Respondents to the present Review Petitions which is relevant for consideration by this Commission with reference to the condonation of the delay, the Commission notes as under:

- (i) In para-6 of the replies, the respondents contend that in various judgements, the delay caused solely by negligence or lack of diligence are generally not to be condoned and no explanation has been provided by GNCTD i.e. the Review Petitioner for delay and laches in filing the review after more than a year. In this regard, the respondents have relied upon *Ind Bharath Power (Madras) Ltd., v. CERC, 2012 SCC Online APTEL 141 (Para 5-6)* & *Gulbarga Electricity Supply Co. Ltd. V. Narayanpur Power Company Ltd., 2016 SCC Online APTEL 88 (Para 11)*. In *Ind Bharath Power (Madras) Ltd.*, the delay was in the filing of appeal claiming the time lost by the appellant in the review proceedings against the impugned order. Therefore, the facts of this case are altogether different to the facts of the present Review Petition and accordingly, the reliance of decision in this case by the respondent is unacceptable and is rejected by the Commission. In *Gulbarga Electricity Supply Co. Ltd. V. Narayanpur Power Company Ltd. & Ors., 2016 SCC Online APTEL 88 (Para 11)*, the Hon'ble APTEL has emphasised the need to condone the delay for effecting the justice but has not condoned the delay taking a view that there was casual approach of the appellant which caused the delay. The Commission considers the large public interest as paramount and therefore, weigh the same more than the technical consideration of the delay which is a settled legal principle.
- (ii) In para 7 of the Replies the Respondents have referred to the Order dated 16.01.2025 of this Commission and have stated by quoting the said Order, that if the filing of the Review was within the control of the Review Petitioner the same ought to be rejected. The Commission notes that in the said case the Review of the Petitioner was dismissed by Hon'ble APTEL and the Hon'ble Supreme Court of India and it is only on the dismissal of the review by Hon'ble APTEL and Hon'ble Supreme Court of India, the Petitioner (in that case) filed the Review Petition before this Commission. The Commission notes that the review filed in that case before the Hon'ble APTEL, Hon'ble Supreme Court of India and this Commission, the Petitioner sought the similar relief with the similar ground whereas in the present Review Petition the review is for correction of errors as to the applicability of the rate of carrying cost on RA determined for the period covered under the tariff regulations, 2007 for the period covered under tariff Regulations, 2011, which is different from the review filed previously by the Petitioner before the Hon'ble Supreme Court of India. Therefore, the facts of the case

of the Review cited by the Respondents are not the same as the facts of the present Review Petition. Since, it is settled legal position that the condonation of delay by the courts depends on the facts and merits of each case, the condonation of delay may be allowed in one case and may be rejected in another case based on facts and merits of each case. Therefore, the submissions of Respondents in para 7 of the Reply are not relevant and tenable for challenging the condonation of delay prayed by the Review Petitioner in present Review Petitions and do not support the case of the Respondents.

- (iii) The contention of the Respondents in para 09 of their Replies, that GNCTD is not the aggrieved person cannot be accepted by this Commission as the Section-114 read with Order 47 of CPC allow the review of the Order/ Appeal by any person and therefore, GNCTD being the caretaker of the welfare of electricity Consumers is very much an interested and aggrieved party to approach this Commission for the correction of any error in the Order dated 19.07.2024 which would have effect on the electricity tariff.
- (iv) With reference to the contentions of the respondents in para-10 of their Replies, the Commission will like to clarify that the review of the orders is a separate and independent remedy and legal proceeding, and nothing prevents the Review Petitioner from filing the present Review Petition before the Commission even if the review petitioner has not participated in the proceedings culminated in MA Order in as much as the said proceedings (leading to MA) raised separate issue and sought different relief from the Hon'ble Supreme Court. Whereas, the proceedings before the Hon'ble Supreme Court were related to and challenged the methodology for funding of RA through debt equity in 70:30 and carrying cost on the basis of SBI PLR, the present review petition seeks to correct the error in the Tariff Order dated 19.07.2024 in which the carrying cost on RA for the period beyond financial year 2012-13 was wrongly applied as per the Tariff Regulations, 2007 whereas the said carrying cost was to be calculated and applied as per Tariff Regulations, 2011 and in the present review petition the said methodology *per se* has not been challenged. In the present review petition, the Commission is required to examine whether there is sufficient cause for delay in filing the same and whether the grounds exist for the review of the order dated 19.07.2024 by considering the provisions of Section 114 and Order 47 of CPC and applying the legal principle formulated by the Hon'ble Supreme Court and other Courts.
- (v) The contentions of the respondents in para- 10.2, 10.3, 10.4, 10.5, and 10.6 of the Replies can at the most be the merits for consideration of review and not for the condonation of the delay as both the aspects of the matter are distinct.

- (vi) With reference to the submissions made by the respondents in its Replies through comparative tabulation in para- 10.6(f) and 11.2 of the reply, this Commission has clarified in para (iv) above as to why the said submission is not relevant to the question about the condonation of delay in filing the present Review Petition. Therefore, for the sake of brevity, the Commission does not consider it necessary to repeat the same in this para.
- (vii) The Commission also noted the common additional brief submissions of BSES DISCOMs. In the said submission, the respondents have referred to the decisions in the following cases:
- (i) PTC India Ltd. V. GERC ("PTC Judgment")
 - (ii) Balkrishna Sadashiv Thakur v. Prabhakar Sadashiv Thakur, 2021 SCC Online Bom 176

It is noted that all these cases deal with the issue that condonation of delay is to be considered by the court before deciding the petitions/ appeals on merits. However, it is crystal clear that the present order itself is dealing with the condonation of delay and the maintainability of Review Petition. Therefore, the facts and the decision in all above cases are not relevant for consideration by this Commission in this Order which itself deal with the condonation of delay before deciding the Review Petition.

With reference to the contentions of the respondents in para-7,8 & 9, the Commission observes that the knowledge of the Review Petitioner about financial implications of the funding of RA in equity and debt at the rate of 30% and 70% respectively is one thing and knowledge of the Review Petitioner about the giving effect of the said parameters for calculating the carrying cost on RA beyond the financial year 2011-12 which was governed by the Regulations, 2011, is another thing. The Present Review Petition is about the correction of error in applying the said carrying cost for the period beyond 2012-13 in the True Up Tariff Order dated 19.07.2024 for the FY 2020-21 which certainly would come to the knowledge of the Review Petitioner only after passing the said True Up Order dated 19.07.2024 and not before. Therefore, the contentions of the respondents in these paras are untenable for consideration by this Commission. The Commission, further, notes that even the rest of the other contentions/ submissions made in the additional common brief submissions do not counter to the settled legal position, as per which, where substantial public interest is involved the delay in condonation need to be granted to the petitioner/ review petitioner in order to decide the review on merits. Of course, in such cases there should not be any deliberate or intentional delay or *malafide* intention on the part of the petitioner/ Review Petitioner for delay in filing the petition/ review petition. Since in their Replies and pleadings, the Respondents have not been able to prove that there was any intentional or deliberate delay or

negligence on the part of the Review Petitioner in filing the Review Petition beyond the period specified under the Limitation Act,1963 except through simple conjectures that there was intentional delay, the averments made in the pleadings of the respondents that there was deliberate or intentional delay on the part of Review Petitioner deserve to be rejected by this Commission.

Conclusion: -

30. In view of the above and upon consideration of the facts and circumstances of the present case, the Commission is satisfied that the delay of 462 days in filing the Review Petitions does not appear to be deliberate, *mala fide* or attributable to gross negligence. The issues raised in Review Petition concern the correctness of the Tariff Determination and have a substantial bearing on consumers of NCT of Delhi which is a matter of large public interest. The Commission is of the considered opinion that a hyper-technical application of the law of limitation would defeat substantial justice, whereas condoning the delay would enable adjudication of the matter on merits. Further, the Review Petitions are specifically provided under the provisions of Electricity Act,2003 read with the provisions of CPC and the jurisdiction of the Commission to consider and adjudicate the said Review Petitions is conferred by Section 94 (1) (f) of the Electricity Act,2003. Therefore, the present Review Petitions are maintainable.
31. Accordingly, the delays in filing Review Petition No. 54 of 2025 and Review Petition No. 55 of 2025 are condoned and the Review Petitions are admitted for further consideration and decision by this Commission.
32. The main Petitions be listed for further proceedings on a date to be notified.
33. Ordered accordingly.

Sd/-
(Surender Babbar)
Member

Sd/-
(Ram Naresh Singh)
Member