

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 78/MP/2013

Coram:

Shri V.S.Verma, Member

Shri M. Deena Dayalan, Member

Date of Hearing: 9.7.2013

Date of Order : 3.2.2014

In the matter of

Petition under Section 79 (1) (c), (d) & (f) of the Electricity Act, 2003 read with Regulation 24 & 211 of CERC (Conduct of Business) Regulation, 1999 for directions to the respondent beneficiaries/DICs to perform the obligations under the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2010.

And

In the matter of

Power Grid Corporation of India Limited
'Saudamini', Plot No. 2, Sector-29,
Gurgaon-122 001

...Petitioner

Vs

1. Bihar State Electricity Board
Vidyut Bhawan, Bailey Road,
Patna-800 021
2. Grid Corporation of Odisha Ltd,
Shahid Nagar, Bhubanewshwar-751 007
3. West Bengal State Electricity Board,
Bidyut Bhawan, Bidhan Hagar,
Block DJ, Sector-II, Salt Lake City,
Kolkata-700 091
4. Jharkhand State Electricity Board,
Engineering Bldg, HEC, Dhurwa,
Ranchi-834 004



5. Damodar Valley Corporation,
DVC Tower, Maniktala,
Civic Tower, VIP Road,
Kolkata-700 054
6. (a) Power Department,
Govt. of Sikkim,
Kazi Road, Gangtok- 737 101

(b) Smt. Rinchen Ongmu Bhutia, Advocate,
C-563, 2nd Floor, Defence Colony,
New Delhi- 110 024
7. Maithon Power Ltd,
MA-5, Gogna Colony,
Maithon Dam Post Office,
Distt- Dhanbad, Jharkhand- 828 207
8. Assam State Electricity Board,
Bijulee Bhawan, Paltan Bazar,
Guwahati- 781 001, Assam
9. Meghalaya State Electricity Board,
Short Round Road, Lumjingshai,
MEECL, Shillong- 793 001
10. Government of Arunachal Pradesh,
Vidyut Bhawan, Itanagar,
Arunachal Pradesh- 793 001
11. Power & Electricity Dept.,
Govt. of Mizoram,
Mizoram, Aizwal
12. Electricity Department,
Govt. of Manipur, Keishampat,
Imphal
13. Department of Power,
Govt. of Nagaland,
Kohima, Nagaland
14. Tripura State Electricity Corporation Ltd.,
Banamalipur, Agartala-799 001

15. Rajasthan Rajya Vidyut Prasaran Nigam Limited,
Vidyut Bhawan, Vidyut Marg,
Jaipur-302 005
16. Ajmer Vidyut Vitran Nigam Ltd,
Old Power House, Hathi Bhata,
Jaipur Road,
Ajmer, Rajasthan
17. Jaipur Vidyut Vitran Nigam Ltd,
Vidyut Bhawan, Janpath,
Jaipur- 302 005
18. Jodhpur Vidyut Vitran Nigam Ltd,
400 kV GSS Building Ajmer Road,
Heerapaura,
Jaipur, Rajasthan
19. Himachal Pradesh State Electricity Board
Vidyut Bhawan,
Kumar House Complex Building II,
Shimla
20. Punjab State Power Corporation Ltd.,
Shed No.- T-1 A, Thermal Design,
Near 22 No. Phatak, Patiala
21. Haryana Power Purchase Centre,
Shakti Bhawan, Energy Exchange,
Room No. 446, Top Floor,
Sector-6, Panchkula- 134 109
22. Power Development Dept.,
Govt. of Jammu & Kashmir,
SLDC Building, 1st Floor,
Gladani Power House, Narwal, Jammu
23. Uttar Pradesh Power Corporation Ltd,
Shakti Bhawan, 14, Ashok Marg,
Lucknow-226 007
24. Delhi Transco Ltd.,
Shakti Sadan, Kotla Road,
New Delhi-110 002

25. Chandigarh Administration,
UTC- Chandigarh,
DIV-11, Opposite Transport Nagar,
Indl, PH-I, Chandigarh
26. Uttarakhand Power Corporation Ltd,
Urja Bhawan, Kanwali Road,
Near Balli Wala Chowk, Dehradun
27. BSES Yamuna Power Ltd.,
2nd Floor, B Block,
Shakti Kiran Building,
Near Karkardooma Court, New Delhi
28. BSES Rajdhani Power Ltd.,
BSE Bhawan, 2nd Floor,
B-Block, Behind Nehru Place Bus Terminal,
Nehru Place, New Delhi
29. TDPPL,
33 kV S/S Building,
Hudson Lane, Kings Way Camp,
New Delhi-110 019
30. NDMC,
Palika Kendra, Sansad Marg,
New Delhi- 110 001
31. North Central Railway
DRM Office, Nawab Yusuf Road,
Allahabad
32. Jaiprakash Power Ventures Limited
A Block, Sector- 128,
Noida, U.P.-201 304.
33. Lanco Green Power Pvt. Ltd.
Plot No. 397, Udyog Vihar Phase - III,
Gurgaon, Haryana
34. Adani Power Limited
3RD Floor, Achalraj, Opposite
Mayors Bungalow, Law Garden,
Ahmadabad, Gujarat - 380 006

35. Himachal Sorang Power Pvt. Ltd
D-7, Sector-I, Lane-I, 2ND Floor,
New Shimla, Shimla, H.P - 171 009
36. Bangalore Electricity Supply Company Limited (BESCOM)
Corporate office, K R Circle,
Bangalore 560 001, Karnataka
37. Gulbarga Electricity Supply Company Limited (GESCOM)
Station Main Road Gulbarga, Karnataka
38. Hubli Electricity Supply Company Limited (HESCOM)
Navanagar, PB Road, Hubli, Karnataka
39. Mangalore Electricity Supply Company Limited (MESCOM)
Corporate Office, Paradigm Plaza AB Shetty Circle,
Mangalore- 575001, Karnataka
40. Chamundeshwari Electricity Supply Corporation Limited
927, U Avenue, GF New Kanthraj URS Road Saraswathipuram,
Mysore - 570009 Karnataka
41. Andhra Pradesh Power Co-Ordination Committee
Room No. 547, 5TH Floor, Block-A,
Vidyut Soudha, Somajiguda, Khairatabad, Hyderabad, A. P. - 500 082
42. Kerala State Electricity Board
Cabin No. 817, 8TH Floor, Vaidyuthi Bhavanam,
Pattom, Thiruvananthapuram - 695 004
43. TANGEDCO, 7th Floor Eastern Wing,
NPKRR Maligao, TNEB,
144, Anna Salai Chennai - 600 002
44. Electricity Department,
Govt. of Puducherry, No. 137,
Netaji Subhash Chandra Bose Salai,
Pondicherry - 605 001
45. Electricity Department,
Govt. of Goa,
Vidyut Bhavan, 3RD Floor,
Panji, Goa

46. Madhya Pradesh Tradeco (MPTRADECO)
(Erstwhile Madhya Pradesh Electricity Board)
Shakti Bhawan, Rampur , P.O. Box 34,
Jabalpur - 482 008
47. Madhya Pradesh Audyogik Kandra Vikas Nigam (INDORE) Ltd.,
3/54, Press Complex,
Agra-Bombay Road, Indore-452 008
48. Maharashtra State Electricity Distribution Co Ltd
Prakashgad, 4th Floor
Bandra (East), Mumbai - 400 052
49. Gujarat Urja Vikas Nigam Ltd Vidyut Bhawan,
Race Course Baroda - 390 007
50. Electricity Department,
Administration of Daman & Diu Daman-396 210
51. Electricity Department,
Administration of Dadra Nagar Haveli,
U.T., Silvassa - 396 230
52. Chhattisgarh State Electricity Board,
P.O. Sunder NGR, Dangania, Raipur
Chhatisgaarh-492013
53. Powerlinks Transmission Limited
10th Floor, DLF Tower A,
District Centre Jasola,
New Delhi 110025
54. Jaypee Powergrid Limited,
JA House,
63, Basant Lok,
Vasant Vihar,
New Delhi-110057
55. Reliance Power Transmission Limited,
12th Floor Tower,
10B DLF City, Gurgaon,
Haryana (East) – 122002
56. Lanco Kondapalli Power Limited,
Lanco House, Plot No.-4,
Software Units Layout, HITEC City,

- Madhapur, Hyderabad - 500 081,
Andhra Pradesh
57. M/s Torrent Power Generation Limited,
Sugen Mega Power Project,
Off National Highway No.8,
Taluka: Kamrej, DIST.: Surat-394155
58. PTC INDIA Ltd.
2nd Floor, NBCC Tower,
15, Bhikaji Cama Place,
New Delhi-110 066
59. M/s Jindal Power Ltd.,
12, Bhikaji Cama Place,
New Delhi -110 066
60. M/s Heavy Water Board,
Vikram Sarabhai Bhavan,
5th Floor, Anushaktinagar, Mumbai - 400 094
61. M/s Adani Power Limited,
Sambhav Press Building,
6th Floor, B Wing,
Judges Bungalow, Ahmedabad-380 015
62. AD Hydro,
Bhilwara Towers,
A-12, Sector-1, Noida-201 301
Uttar Pradesh
63. Lanco Anpara Power Private Limited,
Plot No. 397, Udyog Vihar, Phase 3,
Gurgaon, Haryana - 122016
64. Everest Power Private Limited,
2nd Floor, NBCC Tower
15, Bhikaji Cama Place, New Delhi- 110 016
65. General Manager,
National Load Despatch Centre,
B-9 Qutub Institutional Area, Katwaria Sarai,
New Delhi-110016
66. General Manager,
Northern Region Load Despatch Centre,

18-A, Shaheed Jeet Singh Sansanwal Marg,
Katwaria Sarai, New Delhi -110016

67. Addl. General Manager,
North Eastern Regional Load Despatch Centre,
Dongtiah, Lower Nongrah, Lapalang,
Shillong-793006

68. General Manager,
Eastern Regional Load Despatch Centre,
14, Golf Club Road,
Tollygunge, Kolkata - 700033 (W.B)

69. General Manager,
Southern Regional Load Despatch Centre,
29, Race Course Cross Road,
Benguluru- 560009, Karnataka

70. General Manager,
Western Regional Load Despatch Centre,
F-3, M.I.D.C Area, Marol, Andheri (East),
Mumbai -400093

71. Member Secretary,
Northern Regional Power Committee,
18-A, Shaheed Jeet Singh Sansanwal Marg,
Katwaria Sarai, New Delhi -110016

72. Member Secretary,
Southern Regional Power Committee,
29, Race Course Cross Road,
Benguluru- 560009, Karnataka

73. Member Secretary,
Eastern Regional Power Committee,
14, Golf Club Road,
Tollygunge, Kolkata - 700033 (W.B)

74. Member Secretary,
Western Regional Power Committee,
F-3, M.I.D.C Area, Marol, Andheri (East),
Mumbai -400093

75. Member Secretary,
North Eastern Regional Power Committee,
Meghalaya State Housing Finance,

Nongrim Hills, Shillong -793003, Meghalaya

76. Head (Operation),
Clearing & Settlement & Membership,
Power Exchange India Limited,
3rd Floor, 'B' Wing, Exchange Plaza,
Bandra Kurla Complex, Bandra (East),
Mumbai 400051, India
77. Senior Vice President,
Indian Energy Exchange Limited,
100A/1 Ground Floor, Capital Court,
OLOF Palme Marg, Munirka, New Delhi-110067
78. Tata Power Trading Company Ltd.,
Tata Power Mahalaxmi Receiving Station,
Senapati Bapat Marg, Lower Parel,
Mumbai-400013
79. Adani Enterprises Ltd.,
Adani Corporate House, Plot No. 83,
Sector-32, Institutional Area, Gurgaon-122 001 (Haryana)
80. Senior Vice President,
PTC India Limited,
2nd Floor, NBCC Tower,
15 Bhikaji Cama Place,
New Delhi-110066
81. CEO,
Reliance Energy Trading Ltd.,
2/22A, Shanti Niketan, New Delhi - 110021
82. NTPC Vidyut Vyapar Nigam Ltd.,
Ground Floor, Core -5, Scope Complex,
7, Institutional utional Area,
Lodhi Road, New Delhi-110 003
83. Head-Power Trading,
National Energy Trading and Services Ltd.,
Lanco House, Plot No.397, Phase-3,
Udyog Vihar, Gurgaon-122016
84. Vice President,
Karam Chand Thapar & Bros. (Coal Sales) Limited,
KCT Block, Rishyamook Building, 85-A,

Panchkuin Road, New Delhi-110 001

85. Subhash Kabini Power Corporation Ltd.,
8/2, Ulsoor Road,
Bangalore-560 042
86. Instinct Infra & Power Limited,
C-201, Naraina Industrial Area, Phase-I,
New Delhi-110 028
87. ESSAR Electric Power Development Corporation Limited,
ESSAR House, 11, Keshavrao Khadye MARG,
Mahalaxmi, Mumbai-400 034
88. Suryachakra Power Corporation Ltd. 3-6-725,
1st Floor, Street No.1, Himayathnagar, Hyderabad-500 029
89. JSW Power Trading Company Limited,
Jindal Mansion, 5-A, G Deshmukh Marg,
Mumbai- 400 026
90. VISA Power Limited,
9, Shakespeare Sarani, Kolkata-700 071
91. Pune Power Development Private Limited,
Anmol, 25, Yashwant Nagar,
Range Hill Corner,
Pune, Maharashtra-411 007
92. Greenko Energies Private Limited,
#1071, Road No. 44,
Jubilee Hills, Hyderabad- 500 033
93. Vandana Vidhyut Limited "Vandana
Bhawan", M.G. Road, Raipur-492 001,
Chhattisgarh
94. Indrajit Power Technology Pvt. Ltd.,
1, Pearl Mansion (N),
91, M. Karveroad, Mumbai-400 020
95. Adhunik Alloys & Power Ltd.,
Crescent Tower (3rd Floor),
229, A. J. C. Bose Road,
Kolkata-700 020

96. Indiabulls Power Trading Limited,
Indiabulls House,
448-451, Udyog Vihar, Phase, Phase- V
Gurgaon- 122 001
97. Jindal Power Trading Company Limited,
12, Bhikaji Cama Place,
New Delhi- 110 066
98. RPG Power Trading. Co. Ltd.
6th Floor, Agrawal House,
Kolkata-700 022
99. GMR Energy Trading Limited,
IBC Knowledge Park, Phase-2,
Tower D, 4/1, 9th Floor, Bannerghatta Road,
Near Dairy Circle, Bangalore-560 029
100. Shyam Indus Power Solutions Pvt. Ltd.,
129, Transport Centre, Rohtak Road,
Punjabi Bagh, New Delhi 110 035
101. Global Energy Private Limited,
1st Floor, Shangri La's Eros Corporate Plaza,
19, Ashoka Road, Connaught Place, New Delhi-110 001
102. Knowledge Infrastructure Systems Pvt. Ltd.
G-02, Salcon Aurum Complex,
4, Commercial Centre, Jasola, New Delhi-110 076
103. Mittal Processors Private Limited,
Panipat, GF-71, Vardman Apartment, AbhaKhand-III,
Indira Puram, Ghaziabad-201010, UP
104. Shree Cement Ltd.,
101, Hans Bhawan,
Bahadur Shah Zafar Marg,
New Delhi-110 002
105. PCM Power Trading Company Ltd.,
Darbariwala House, 10-C,
Middleton Row, 4th Floor,
Block-C, Kolkata-700071
106. Abellon Clean Energy Limited,
Sangeeta Complex, Near Parimal Crossing,

Ellisbridge, Ahmedabad- 380006

107. Jay Polychem (India) Ltd.,
D-143, Defence Colony,
New Delhi-110 024
108. Jaiprakash Associates Ltd.,
JA House, 63, Basant Lok,
Vasant Vihar, New Delhi- 110 057
109. Home Power Limited,
3rd Block, 5th Floor,
"My Home Hub", Madhapur
Hyderabad- 500 081
110. Customized Energy Solutions India Private Ltd.,
A-50L GO Square,
Waquad, Hinjewadi Link Road,
Pune-411 057.
111. CEO,
BS Transcomm Ltd,
#504, 5th Floor, Trendset Towers Road No.2,
Banjara Hills, Hyderabad-500 034
112. DLF Energy Private Ltd.,
10th Floor, Gateway Tower, DLF City,
Phase-III, Gurgaon - 122002, Haryana, India
113. GEMAC Engineering Services Private Limited,
3rd Floor, Wescare Towers,
No. 16 Cenotaph Road, Teynampet,
Chennai - 600 018, Tamil Nadu, India
114. CEO,
World Solar Power Private Limited,
261, 2nd Floor, New Cloth Market,
Outside Saharanpur Gate, Ahmedabad, 380 002

Following were present:

Shri M.G. Ramchandran, Advocate, PGCIL
Shri N.K. Jain, PGCIL
Shri M.M. Mondal, PGCIL
Shri A.M. Pavgi, PGCIL



Shri R.B. Sharma, Advocate, JSEB and BRPL
Shri Ishan Khokar

ORDER

In this petition, the petitioner, Power Grid Corporation of India Limited has made the following prayers, namely:

"(a) Direct DICs availing services of ISTS network to pay the transmission charges towards tariff in compliance with the extant regulations at first place, irrespective of pendency of any case disputing Point of Connection (PoC) mechanism etc so that viability of ISTS network is not disturbed;

(b) To entitle petitioner acting in its capacity as the Central Transmission Utility and as the authorized entity under the Transmission Charges Regulations, 2010 to take action against the defaulting beneficiaries/DICs;

(c) To disconnect the supply at the appropriate point isolating the defaulting beneficiaries/DICs;

(d) Direct that the Regional Load Dispatch Centre and State Load Dispatch Centre not to schedule electricity to the defaulting beneficiaries/DICs without prejudice to the rights of the generating companies and others dealing with such defaulting beneficiaries and without creating any liability on part of CTU for initiating such action;

(e) Permit the Petitioner to approach this Hon'ble Commission to pass an order for appropriation of PSDF Fund to liquidate dues of defaulting DICs in special circumstances;

(f) Pass an order for implementation of the amendment to Rule 37 BA of the IT Rules 1962 by DICs deducting TDS on transmission charges; and

(g) Pass ad interim ex-parte Orders as prayed for in para (a) and (b) above; and Pass such further Order or Order as this Hon'ble Commission may deem just and proper in the circumstances of the case."

2. The petitioner has submitted that the Regulations 11 and 12 of the Central Electricity Regulatory Commission (Sharing of inter-State Transmission charges and Losses) Regulations, 2010 (hereinafter referred to as 'Sharing Regulations'), *inter-alia*,



provides for Billing and Collection of transmission charges. He further submitted that Regulation 13 of the Sharing Regulations provides for the execution of the Transmission Service Agreement dealing with various aspects including payment security mechanism, default in payment and its consequences, dispute resolution mechanism, termination provision etc. The Regulation 14 of Sharing Regulations provides that all the existing contracts of the transmission licensees are to be aligned to the Sharing Regulations.

3. As per the Sharing Regulations, there is a common billing of all inter-State Transmission Service Licensees including Power Grid. He further submitted that the petitioner in its capacity as the Central Transmission Utility has been authorized to raise bills for transmission charges based on the Point of Connection (PoC) mechanism to various designated ISTS Customers, collect transmission charges and disburse them to various ISTS Transmission Licensees.

4. The petitioner has submitted that at present, there are 13 service providers of Inter-State Transmission Services including Power Grid who have to share transmission charges collected under the Sharing Regulations and on the basis of Point of Connection charges mechanism.

5. Transmission Service Agreement (TSA) approved by the Commission vide its order dated 29.4.2011 *inter-alia* provides for Event of Default of DIC as failure on the part of DIC to comply with the prevailing regulations. In terms of the TSA and Tariff

Regulations notified by the Hon'ble Commission, the monthly bills for transmission charges are to be paid within 60 days from the date of the billing and all the beneficiaries of the transmission services have to comply with the same. TSA also provides for Delayed Payment Surcharge for payments made beyond 60 days. In the event of payment being made within 60 days of billing, an attractive rebate on the payment is also allowed. In addition to the above obligation to make payment, the beneficiaries are required to establish a Letter of Credit (LC) as Payment Security Mechanism (PSM) in favour of the petitioner as per the provisions of the Sharing Regulations. Further, the payment to be made by the beneficiaries are subject to tax deduction at source by the beneficiaries in terms of the provisions of the Income Tax Act, 1961 amended from time to time and there is an obligation on the beneficiaries to provide the requisite Tax Deduction-Certificate (TDS) to the petitioner to enable it to use the Tax Deduction Certificate and also provide the certificate to other inter State Transmission Licensees who participate in the sharing of transmission charges.

6. The petitioner has submitted that there have been serious defaults on the part of number of beneficiaries in making payment of the amount due as Point of Connection charges. According to the petitioner, as on 15.4.2013 following amount is outstanding from various beneficiaries is as under:

Outstanding dues of all ISTS Licensee	
Days	₹ (in crore)
Less than 60 days	1035
More than 60 days	756
Total	1792

Surcharge Billing and payment	
	₹ (in crore)
Billed	69
Received	16
Balance	53

7. The petitioner has submitted that from 1.7.2011, ₹253 crore and ₹112 are outstanding against Bihar State Electricity Board and Grid Corporation of Orissa (GRIDCO), respectively. However, both beneficiaries are making payment only as per previous method of tariff determination (Pre POC method) on the ground that they have challenged the amended Sharing Regulations which is presently pending before Hon`ble High Court of Delhi. West Bengal State Electricity Board is making payment as per POC mechanism under protest pending disposal of its writ petition which is also pending before Hon'ble High Court of Delhi. Similarly, Jharkhand State Electricity Board has challenged the amended Sharing Regulations before the High Court of Jharkhand. However, JSEB has started making payment of outstanding dues in installments under protest and subject to final outcome of its appeal pending before the High Court of Jharkhand. As a consequence of above, the petitioner and other ISTS licensees to whom both the methods of tariff calculations are revenue neutral and further tariff recovery is the only source of their revenue, are suffering from financial losses.

8. The petitioner has submitted that he has not been able to implement the Regulation of Power Supply effectively through intimation to generating companies including Central Sector Generating Companies such as NTPC etc. The petitioner has submitted that it has also not been able to get proper Letter of Credit to secure the amount becoming due and also to get tax deduction certificate to file the same before the Income Tax Authorities. Further, number of DICs are making late payments.

However, they do not admit the verified amount towards surcharge applicable for delayed payment.

9. The petitioner has submitted that in view of above, there is no other way to ensure due payment of charges by the beneficiaries/DICs except to adopt (a) the measures of not providing the transmission services to the defaulting beneficiaries in such manner as the petitioner being Central Transmission Utility considers appropriate, and (b) to deny any open access, long term, medium term or short term to any of the defaulting beneficiaries and to persons dealing with the defaulting beneficiaries for sale or supply of power to or purchase of power from such defaulting beneficiaries.

10. Reply to the petition has been filed by the Powerlinks Transmission Limited, Madhya Pradesh Power Management Company Limited (MPPMCL) and AD Hydro Power Limited.

11. M/s Powerlinks Transmission Limited (PTL) in its reply affidavit dated 14.5.2013 has supported the petitioner`s prayers and has submitted that after implementation of POC charges, dues are accumulating to the extent of ₹1 crore per month approximately and as on 30.4.2013, around ₹34.28 crore were outstanding against the beneficiaries. Further, the beneficiaries are also not ready to pay the surcharge as per applicable relevant regulations. PTL has requested to direct the DICs to make payment on time and adhere Rule 37 BA of Income Tax Rules from financial year 2013-14 onwards and on prospective basis.

12. MPPMCL in its reply dated 2.3.2013 has submitted as under:

(i) It is not running in dues to the petitioner towards transmission charges.

(ii) As per Annexure C of the petition, it is maintaining LC of ₹ 32 crore and is in the process of validity and value extension of LC. It is negotiating with bankers and by July 2013, MPPMCL would be in a position to provide LC for desired amount.

(iii) With regard to TDS on transmission charges, Rule 37BA (2) (ii) of the Income Tax Rules stipulates that the declaration filled by deductee (petitioner) under clause (i) shall contain the name, address, PAN of the person to whom credit is to be given. However, MPPMCL has not been receiving such details regularly during financial year 2012-13; therefore, it was not possible for it to implement deduction of TDS in the name of ISTS licensee other than petitioner.

(iv) The position of each respondent differs in regard to allegations of the petitioner. The petitioner has approached the Commission without taking steps to settle issues with individual respondents and for getting the issue resolved in the RPCs. The respondents which are not at fault will also have to suffer the cost of litigation, and this will have ultimate impact of higher tariff to the consumer.

(v) Since the petition No. 142/MP/2012 similar to the present petition is pending before the Commission, institution of present petition is unwarranted.

(vi) With regard to prayer (a), the petitioner does not require any specific directions as the respondents are liable to pay surcharge in case of delayed payments and/or face consequences thereof. With regard to prayer (b) and (c) even otherwise, for grant of such reliefs, the respective STUs are not parties to present petition. With regard to prayer (d), RLDCs and SLDCs are bound by law and regulations in vogue and as such no specific directions are required in this regard. With regard to prayer (e), it is strongly opposed warranting appropriation of PSDF fund to liquidate dues of defaulting DICs. With regard to prayer (f), any law in force, including "amendment to rule 37BA of IT Rules, 1962" doesn't require specific order in favour of the petitioner.

13. AD Hydro Power Limited (ADHPL) in its reply affidavit dated 6.7.2013 has submitted that in pursuance of the provisions of Sharing Regulations, ADHPL is making the payment on the due date under protest. The petitioner has shown ₹2 crore outstanding as on 15.4.2013 against ADPHL whereas ADPHL has paid full amount for financial year 2012-13 to the petitioner.

14. We have considered the submissions of the petitioner and respondents. It is noted that only Powerlinks Transmission Limited, AD Hydro Power Limited and Madhya Pradesh Power Management Company Limited have filed their replies. Other respondents have not filed their replies despite notices. We do not approve of the practice of respondents in not filing their response in such a matter.

15. The petitioner has submitted that out of 41 DICs, 20 DICs have outstanding dues ranging from ₹1 crore to ₹253 crore aggregating ₹756 crore for more than 60 days. Out of this, ₹ 253 crore, ₹112 crore and ₹117 crore are outstanding against Bihar, Odisha, and BYPL, respectively. BSEB, GRIDCO and Odisha have challenged the Sharing Regulation and the matter is pending before Hon`ble High Court of Delhi. The petitioner has further submitted that against the total LC requirement of ₹1065 crore, LCs aggregating ₹906 crore have been opened by DICs, leaving a shortfall of ₹159 crore.

16. Regulation 12 (5) of the Sharing Regulations provides as under:

"(5) The payment by various Designated ISTS Customers and disbursement to various ISTS Licensees and the owners of deemed inter-State transmission system shall be executed through RTGS.

(6) Every Designated ISTS Customer shall ensure that the charges payable by them are fully discharged within the time-frame specified in the Transmission Service Agreements. Disputes, if any shall be resolved as per the provisions of the Transmission Service Agreement or the amended Bulk Power Transmission Agreements as specified in Chapter 6 of these regulations.

(7) Delayed payment in a month by Designated ISTS Customer shall result in pro-rata reduction in the payouts to all the ISTS Licensees and other non-ISTS Licensees whose assets have been certified as being used for inter-State transmission by the RPCs.

(d) Designated ISTS Customers shall provide payment security as determined through detailed procedures developed by the CTU. The level of such payment security shall be related to the Approved Withdrawal or Approved Injection.

(e) CTU shall prepare a detailed procedure for Billing, Collection and Disbursement and present the same to the Commission for approval within 30 days of the notification of these regulations."

17. Clause 12.5 of the TSA provides as under:

"12.5 If payment by a DIC against any invoice raised under Billing, Collection and Disbursement procedure is outstanding beyond thirty (30) days after the due date or in case the required Letter of Credit or any other agreed payment security mechanism is not maintained by the DIC, the CTU is empowered to undertake Regulation of Power

Supply on behalf of all the ISTS Licensees so as to recover charges under the provisions of CERC (Regulation of Power Supply) Regulations, 2010 and any amendment thereof."

18. BSEB, Odisha and West Bengal have challenged the Sharing Regulations which are presently being heard by the Hon`ble High Court of Delhi. Hon`ble High Court of Delhi vide its interim order dated 30.7.2013 observed as under:

"15. Dealing next with the applications for the Power Grid Corporation, the claim made is for appropriate directions to the petitioners to pay the charges which they have to bear in terms of the impugned directions. This court is of opinion that with the dismissal of the petitioner's application, there really should be no need for such directions. Nevertheless, to put the matter beyond the pale of controversy, **the writ petitioners are hereby directed to abide by the conditions in the impugned regulations, with regard to payments to the Power Grid Corporation. In case any of the petitioners makes a request for payment of arrears of charges, the respondents should consider the same reasonably,** and in the light of the applicable rules and regulations, including those pertaining to CM 16060/11, in WP (C) 7071/11, CM11667/12, 572/13 in WP (C) 4867/12, 12129/12 in WP(C) 5396/12, 11666/12, 2999/12 in WP(C) paying such amounts through instalments, subject to prescribed conditions in that regard."

19. Consequent to direction of Hon`ble High Court, some of the DICs have started making payment of transmission charges as per the Sharing Regulations. The petitioner has submitted details of DICs having outstanding dues beyond 60 days as on 23.1.2014 as under:

(₹ in crore)		
S.No.	Name of DICs	Outstanding dues more than 60 days (PoC Billing)
1.	Bihar	292.94
2.	Odisha	71.94
3.	BRPL	15.15
4.	BYPL	32.31
5.	Himachal Pradesh	17.61
6.	Himachal Sorang	12.32
7.	Jammu and Kashmir	71.24
8.	Lanco Budhil	2.23
9.	Lanco Kondapalli	3.21
10.	Corporate Power (MTOA)	10.09
11.	Meghalaya	12.62

20. Non-payment of transmission charges or partial payment of transmission charges by the DICs for the transmission services availed by them is a matter of grave concern as it will cripple the financial viability of the petitioner and other inter-State transmission licensees. It will bring to a standstill the entire regulatory mechanism which has been evolved and put in place in order to supply safe, reliable and quality power to the consumers and will act as a dampener to the investment in the transmission sector which the country needs keeping in view the power requirement in future. This Commission has been vested with the function to regulate the inter-State transmission of electricity and has the mandate of the Parliament to ensure that inter-State transmission is regulated in a smooth and efficient manner and is not crippled on account of non-payment or partial payment of transmission charges. We direct all DICs to make timely payment of transmission charges and other charges to the petitioner in accordance with the bills raised by the CTU and provide requisite payment security mechanism in compliance with the Sharing Regulations so that viability and sustainability of ISTS network is not disturbed. We also direct the DICs mentioned in para 19 above to liquidate the outstanding amount at the earliest, preferably by 31.3.2014.

21. With regard to prayers (b), (c) and (d), we are of the view that under Regulation 12 of the Sharing Regulations and clause 12.5 of TSA, CTU is empowered to enforce regulation of power supply against defaulting DICs for non-compliance with Sharing Regulations and for non-maintenance of LC. Therefore, no further specific directions in this regard is warranted. With regard to the petitioners' prayer regarding appropriation

from PSDF fund, it is clarified that PSDF fund has been created to enhance and create entire power system and not for making payments for the outstanding transmission charges due to the petitioner. Therefore, the petitioner's prayers cannot be acceded. With regard to the petitioner's prayers for implementation of amendment to Rule 37 BA of Income Tax Rules, 1962 by DICs deducting the TDS on the transmission charges, the petitioner has filed separate Petition No. 337/2010, in this regard. Therefore, no further direction regarding TDS is considered necessary and same will be dealt with in said petition.

22. The petition is disposed of with the above directions.

Sd/-

(M. Deena Dayalan)
Member

sd/-

(V.S.Verma)
Member