

**CENTRAL ELECTRICITY REGULATORY COMMISSION,
NEW DELHI**

Petition No. 126/MP/2017

Coram:

**Shri P.K. Pujari, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M. K. Iyer, Member**

Date of Order: 4th May, 2018

In the matter of:

Petition under Section 79(1) (c) and (d) of the Electricity Act, 2003 read with Regulations 20 and 21 of the Central Electricity Regulatory Commission (Sharing of inter State transmission charges and losses) Regulations, 2010 for declaration and direction with regard to the status of the 400kV D/C Transmission Line from Indira Gandhi Super Thermal Power Station (Aravali Power Station) to Daulatabad owned, operated and maintained by Haryana Vidyut Prasaran Nigam Limited (HVPNL).

And

In the matter of

1. Uttar Haryana Bijli Vitran Nigam Limited
C-6, Vidyut Sadan, Sector-6, Panchkula, Haryana
2. Dakshin Haryana Bijli Vitran Nigam Limited
Vidyut Sadan, Vidyut Nagar, Hissar

Both represented by Haryana Power Purchase Centre
A joint forum set up by Uttar Haryana Bijli Vitran Nigam and
Dakshin Haryana Bijli Vitran Nigam
Room No. UH 305, 2nd floor, Shakti Bhawan
Sector 6 Panchkula

3. Haryana Vidyut Prasaran Nigam Limited
Shakti Bhawan Sector-6 Panchkula - **Petitioners**

Versus

1. Power System Operation Corporation Limited,
B-9, First Floor, Qutab Industrial Area,



Katwaria Sarai, New Delhi – 110 016

2. Central Transmission Utility,
Powergrid Corporation of India Limited,
'Saudamini', Plot No. 2,
Sector-29, Gurgaon-122001, Haryana
3. Aravali Power Company Pvt Limited
NTPC Bhawan, Scope Complex, 7,
Institutional area, Lodhi Road,
New Delhi 110003

- Respondents

Parties present:

Shri M.G. Ramachandran, Advocate, Haryana Discoms
Ms.Ranjitha Ramachandran, Advocate, Haryana Discoms
Ms.Anushree Bardhan, Advocate, Haryana Discoms
Ms.Poorva Saigal, Advocate, Haryana Discoms
Shri Ravi Juneja, HPPC
Shri U.K. Agarwal, UHBVNL
Shri Munish Satija, HVPNL
Ms.Swapna Seshadri, Advocate, APCPL
Shri Anand K. Ganesan, Advocate, APCPL
Shri Rajiv Porwal, POSOCO

ORDER

The present petition has been filed by Uttar Haryana Bijli Vitran Nigam Limited, Dakshin Haryana Bijli Vitran Nigam Limited and Haryana Vidyut Prasaran Nigam Limited (hereinafter referred to as "Petitioners") seeking a declaration that the 400kV D/C transmission line from Indira Gandhi Super Thermal Power Station (IGSPTS) to Daulatabad is outside the scope of the jurisdiction of the Power System Operation Corporation Limited (POSOCO) and Central Transmission Utility (CTU) as well as the Central Electricity Regulatory Commission (Sharing of inter-State transmission charges and losses) Regulations, 2010 (hereinafter "Sharing Regulations").



2. The Petitioner Nos.1 and 2 are distribution licensees in the State of Haryana and are engaged in the distribution and retail supply of electricity to the consumers within the State in their respective areas of operation. The Petitioners have established the Haryana Power Purchase Centre as their joint forum to undertake the procurement of electricity and trading of electricity on their behalf as per Haryana Government Notification dated 11.4.2008. The Petitioner No. 3 is the State Transmission Utility of Haryana and is undertaking the functions as provided in Section 39(2) of the Electricity Act, 2003 (“the Act”). The Petitioner No. 3 owns, operates and maintains the intra-State Transmission System in the State of Haryana which includes the 400kV D/C Transmission Line from IGSPS to Daulatabad Substation of Petitioner No.3.

3. The grievances of the Petitioners as culled out from the submissions made in the petition are as under:

(a) Indira Gandhi Super Thermal Power Station (IGSPS) is an inter-State generating station of Aravali Power Company Limited (APCL). The 400 kV Transmission Line from IGSPS to Daulatabad emanates from the bus bar of the Jhajjar power Station in the State of Haryana and is connected to the 400kV Daulatabad Substation, also located in the State of Haryana. The said transmission line is an intra-State Transmission system within the scope of Clause 37 of Section 2 of the Act and therefore, comes under the regulatory jurisdiction of Haryana Electricity Regulatory Commission under Section 86 of the Act. Accordingly, regulatory issues related to the transmission line including framing of regulations, deciding on methodology for recovery of tariff and the sharing of charges and losses have all been undertaken by the Haryana Electricity Regulatory Commission (HERC). The Petitioner No. 3



which owns, operates and maintains the 400 kV Transmission Line from IGSTPS to Daulatabad has been filing tariff Petitions before HERC for its revenue requirements.

(b) The Central Commission decided Petition No. 239 of 2010 filed by Aravali Power Company Limited for approval of the tariff for 400kV D/C Jhajjar-Mundka Transmission Line vide orders dated 8.6.2013 and 13.5.2014, treating the said line belonging to Aravali Power Company as an inter-State Transmission System (ISTS) from 1.3.2011. At the time of issue of these, 400 kV Transmission Line from IGSTPS to Daulatabad, was also in operation. However, the Commission did not then consider the 400 kV Transmission Line from IGSTPS to Daulatabad for being included under the point of connection charges (referred as 'POC charges") or otherwise as a line for which the tariff is required to be determined by the Commission. Moreover, none of the Petitioners herein were even made parties to the said Petitions. This was obviously so as the above 400 kV Transmission Line IGSTPS to Daulatabad was an intra-State Transmission Line, outside the jurisdiction of the Commission.

(c) Since July, 2011, the Petitioners have been receiving the bills from Central Transmission Utility (Respondent No. 2) including for the 400 kV Transmission Line from IGSTPS to Daulatabad under the Sharing Regulations. Since the 400 kV Transmission Line from IGSTPS to Daulatabad under the Sharing Regulations is owned, maintained and operated by Petitioner No.3 which the State Transmission Utility and a deemed licensee of HERC, the actions of Respondent Nos.1 and 2 for including the said



transmission line under the purview of Sharing Regulations is illegal and is liable to be set aside.

(d) Respondent Nos. 1 and 2 have wrongly treated the transmission system operated and maintained by Petitioner No. 3 as deemed ISTS which would necessarily lead to the application of POC Mechanism provided for in the Sharing Regulations. Such an interpretation and application from July 2011 is not only leading to financial hardship for Petitioner Nos. 1 and 2 but also causing undue burden on the 59 lakh consumers in the state of Haryana.

4. Against the above background, the Petitioners have made the following prayers:

- (a) Declare that the 400 kV Transmission Line from Indira Gandhi Super Thermal Power Station (Aravali Power Station) to Daulatabad is outside the scope of the jurisdiction of the Respondent 1 and 2 as well as the Sharing of Transmission Charges and Losses provided under the Sharing Regulations, 2010;
- (b) Set aside the bills raised by Respondent No. 2 since the month of July, 2011 to the extent the claim therein related to Sharing of inter-state transmission Charges and Losses for the 400 KV Transmission Line from Indira Gandhi Thermal Power Station to Daulatabad;
- (c) Restrain Respondent no. 1 and 2 from recovering any charges from the Petitioners in regard to the 400 kV Transmission Line from Indira Gandhi Super Thermal Power Station (Aravali Power Station) to Daulatabad;
- (d) Pass ad-interim ex-parte Orders in terms of prayers (a) to (c) above; and
- (e) Pass any such further order or Orders as this Commission may deem just and proper in the circumstances of the case.

5. Notices were issued to the respondents to file their replies. Replies to the Petition have been filed by Aravali Power Company Private Limited (APCPL), Power



System Operation Corporation Limited (POSOCO) and Power Grid Corporation of India Limited (PGCIL).

Replies of the Respondents:

6. Aravali Power Company Private Limited (APCPL) vide its reply dated 8.9.2017 has submitted as under:

(a) Out of the installed capacity of 1500 MW, 693 MW (46.2 %) of power from IGSTPS is allocated to Haryana, 693 MW (46.2%) is allocated to Delhi and rest of the power is allocated to other states of Northern Region. IGSTPS is connected to both the ISTS and STU system through 400 kV D/C Jhajjar-Mundka Line and 400 kV Jhajjar- Daultabad D/C line. 400 KV D/C Jhajjar-Mundka Line owned by APCPL was commissioned on 5.3.2011 as dedicated line for transfer of Delhi's share of power from Jhajjar to Delhi and was subsequently declared as an ISTS by the Commission with effect from 7.11.2013 vide order dated 7.11.2013 in Petition no 169/TL/2013. Transmission charges of this line are being paid to APCPL from PoC pool with effect from 7.11.2013. 400 kV Jhajjar- Daultabad D/C line is owned by Petitioner No.3 which is the State Transmission Utility of Haryana and distribution companies of Haryana are drawing their share of power through this line.

(b) Even though 400kV Transmission Line from IGSTPS to Daulatabad is an intra-State Transmission System, distribution companies of Haryana are being levied PoC charges (ISTS Transmission charges) corresponding to their share of power from IGSTPS even though Haryana is not using ISTS. The Haryana drawal from IGSTPS is also calculated after deducting PoC losses. The



inclusion of Haryana's share of power from IGSTPS in approved withdrawal of Haryana and levy of PoC losses on Haryana's share of power from IGSTPS is not correct since the said transmission line is owned, operated and maintained by Petitioner No. 3, it transmits electricity from Jhajjar to Daulatabad i.e. within the State of Haryana and the Petitioner No. 3 has not opted for the said line to be treated as a deemed ISTS.

(c) The CTU and CEA during the proceedings of IA Nos.10/2011 and 57/2012 in Petition No 239/2010 had admitted that Jhajjar – Daulatabad transmission line is an intra-State transmission line constructed by HVPNL in its capacity as STU which has been recorded in the order dated 8.6.2013 in Petition No. 239 of 2010.

(d) Haryana's share of power from Jhajjar is being injected at Jhajjar bus and it is being drawn at the same bus. Therefore, PoC charges and losses should not be applicable on this drawal. There is also similar case of the Simhadri Generating Station Stage-I of NTPC which is connected simultaneously to the STU and to ISTS System through Simhadri Stage-II. Simhadri Stage-I is an Inter State Generating Station (ISGS) and is being scheduled by SRLDC. The Commission in order dated 30.3.2017 in Petition No. 291/MP/2015 (Transmission Corporation of Andhra Pradesh Limited and others vs Southern Region Load Despatch Centre and others) has held that “since the injection point and drawal point for evacuation of power to Andhra Pradesh are the same, there cannot be losses and therefore, for computation of drawal schedule of Andhra Pradesh from Simhadri STPS Stage-I, PoC injection losses and drawal losses shall not be applied. Further, ISTS transmission



charges shall not be leviable on Andhra Pradesh for drawal of its share from Simhadri STPS Stage-I as ISTS is not used for transmission of power."

(e)The PoC charges and losses are not applicable on drawl of Haryana's share of power from Jhajjar. Therefore, the bills raised by the Respondent No.1 and 2 with respect to this drawal are liable to be set aside.

7. Power System Operation Corporation Limited (POSOCO), vide its reply dated 18.9.2017, has submitted as under:

(a) Two 400 kV Double Circuit Transmission lines have been constructed for evacuation of power from IGSTPS as under:-

1) 400 kV D/C IGSTPS - Mundka Line: It is an inter-state line, owned by APCPL, an ISTS licensee. Transmission charges of this line are paid to APCPL from the ISTS pool;

2) 400 kV D/C IGSTPS - Daultabad Line: It is an intra-state line of Haryana.

(b) Presently, 400 kV D/C IGSTPS - Daulatabad line is not a part of PoC mechanism as approved tariff of the line is not available;

(c) Clause 2 (1)(m) of Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 provides as under:

"Long-Term Customer" means a person who has been granted long-term access and includes a person who has been allocated Central Sector generation that is electricity supply from a generating station owned or controlled by the Central Government;"

(d) IGSTPS is a central generating station connected to ISTS and is a regional entity, under NR Pool. 693 MW (46.2 %) of power from IGSTPS is allocated to Haryana, 693 MW (46.2%) is allocated to Delhi and balance quantum is



allocated to other states. The power allocated by Ministry of Power from such central generating station is treated as deemed LTA for sharing of ISTS charges. Therefore, the LTA of 693 MW to Haryana from IGSTPS cannot be excluded;

- (e) Second proviso to definition of Approved Injection stipulated in the Sharing Regulations provides as under:

"Provided further that where long term access (LTA) has been granted by the CTU, the LTA quantum, and where long term access has not been granted by the CTU, the installed capacity of the generating unit excluding the auxiliary power consumption, shall be considered for the purpose of computation of approved injection."

Based on the above proviso, approved injection from IGSTPS is computed and corresponding allocations are added to the withdrawal quantum of beneficiaries;

- (f) Regulation 3 of Sharing Regulations provides as under:

"Yearly Transmission Charges, revenue requirement on account of foreign exchange rate variation, changes in interest rates etc. as approved by the Commission and Losses shall be shared amongst the following categories of Designated ISTS Customers who use the ISTS:-

- (a) Generating Stations (i) which are regional entities as defined in the Indian Electricity Grid Code (IEGC) or (ii) are having LTA or MTOA to ISTS and are connected either to STU or ISTS or both."

- (g) In case of inter-State transmission lines, the transmission charges are taken from the approved tariff of CERC. However, in case of non-ISTS lines which form apart of All India composite load flow for the validated base case, the cost is considered as zero, since no revenue has to be recovered for such lines. For instance, the cost is taken as zero for 400 kV D/C IGSTPS-



Daulatabad line, and hence the zonal PoC charge computed for Haryana and others does not contain any amount on account of power flow on it. The participation factors of various DICs for 400 kV D/C IGSTPS- Daultabad line have no monetary significance. On the other hand, IGSTPS – Mundka line is an ISTS line and its charges are allocated as per the provisions of the regulations;

- (h) The PoC methodology directly provides the PoC charge for each node/ zone in rupees for the month. After this, the monthly PoC charges are divided by sum of approved LTA and MTOA for respective zone for finding the monthly rates in Rs/MW/month. As per the methodology provided in the Sharing Regulations, these individual rates are further fit into nine slabs. The monthly invoice is prepared by multiplying the slab rate of a particular DIC with the sum of its approved LTA and MTOA;
- (i) CERC (Sharing of Inter State Transmission Charges and Losses) (Third Amendment) Regulations, 2015 provides for Certification of non-ISTS lines carrying inter-State power on the basis of load flow studies by RPCs in consultation with RLDCs. There are number of non-ISTS lines or STU lines in the country which have been certified by RPCs as deemed ISTS.
- (j) In fact, Petitioners in the present case had submitted a proposal to the NRPC for certifying the lines in question as deemed ISTS. These were approved as deemed ISTS based on study results as per methodology provided in the regulations. However, finally Haryana withdrew their proposal and therefore, these have not been taken into account for computation of PoC charges. The same has been recorded in the minutes of 35th TCC and 39th NRPC meeting.



- (k) As per the provisions of the extant regulations, a STU line carrying ISTS power can be declared as ISTS line provided it is certified by RPC and tariff can be recovered through PoC mechanism. But, there is no provision in the Sharing Regulations to exclude the share of a State from PoC calculation of charges and losses, if an STU line is directly connected to an ISGS.
- (l) IGSTPS is connected to both ISTS and STU system through 400 kV D/C IGSTPS -Mundka and 400 kV D/C IGSTPS - Daultabad respectively. It can never be ensured that Haryana will draw its entire share of power from IGSTPS through 400 kV D/C IGSTPS - Daultabad line only. In an inter-connected meshed network, power flows as per law of physics and not as per contract. Further, in case of non-availability of 400 kV D/C IGSTPS - Daultabad line, the power from IGSTPS can be evacuated through 400 kV D/C IGSTPS-Mundka line and vice versa.
- (m) Regulations issued by the Commission should be followed in entirety by all the entities. Any exemption on case to case basis may lead to demand for more such exemptions. If all such entities are exempted, the transmission charges would have to be shared by less quantum of LTA/MTOA, resulting in increase in per MW transmission charges.

8. Power Grid Corporation of India Limited (PGCIL), vide its reply dated 26.9.2017, has submitted as under:-

- (a) The transmission system for the delivery of share from the project to Haryana and Delhi was discussed in a meeting conducted by CEA on 25.7.2007 and following evacuation programme was evolved:-



- Jhajjar-Mundka 400 kV D/C line
- Jhajjar-Daulatabad 400 kV D/C line
- Daulatabad 400 kV Sub-station of HVPNL
- Daulatabad-Gurgaon (PG S/S) 400 kV D/C line

(b) It was decided that HVPNL would construct Jhajjar-Daulatabad and Daulatabad-Gurgaon Line. Accordingly, Haryana's share of 50% of the power from IGSTPP, Jhajjar shall be considered to be evacuated by Haryana at the bus bar of IGSTPS and hence no transmission charges for availing power from the IGSTPP were payable by Haryana. These transmission lines were constructed by HVPNL as intra-State Transmission line and till date it is intra-State transmission line only. Further the contention made by Petitioners that the transmission system operated and maintained by HVPNL is being considered by Respondent Nos. 1 and 2 as deemed inter-State transmission system is not correct. The tariff for the same has not been considered under the PoC computation;

(c) The Commission in its order dated 8.6.2013 in Interlocutory Applications No.10/2011 and 57/2012 in Petition No. 239/2010 at para 11 has recorded the submissions of CTU as under:

“(a) The CTU has submitted, vide its affidavit dated 10.12.2012, that no connectivity or Long Term Access application was received from the petitioner. Haryana constructed the Jhajjar-Daulatabad 400 kV D/C line for drawal of its share of power and the petitioner constructed the transmission asset as dedicated line for delivering power to Delhi.”

(d) PoC bills to the Petitioners are being served based on the Regional Transmission Account prepared by the NRPC. CTU has not granted LTA to IGSTPP and the LTA for the same is covered under the deemed LTA category based on the allocation of power and CTU has categorically made its stand



clear that HVPNL (Haryana STU) constructed the Jhajjar-Daulatabad 400 kV D/C line for drawal of its share of power.

Rejoinder of the Petitioner to reply of POSOCO

9. The Petitioners in their rejoinder dated 22.1.2018 to the reply of POSOCO have submitted as under:

- (a) It was the STU Network that was planned to be used to evacuate the Haryana Share of power through the 400kV IGSTPS- Daulatabad STU line. No ISTS network is used for evacuation of Haryana share from the Indira Gandhi Super Thermal Power Station (IGSTPS) of Aravali Power. Further, the Haryana Utilities had started availing power from the IGSTPS from March, 2011 but have been charged for the use of ISTS w.e.f July, 2011 i.e. the day when Sharing Regulations came into force. This demonstrates that prior to the coming into force of the Sharing Regulations, the Haryana Utilities was not being charged any ISTS charges for availing its share of power from IGSTPS. POSOCO is misconstruing the provisions of the Sharing Regulations, to fasten such liability on the Haryana Utilities, when admittedly, prior to the Sharing Regulations, no such liability existed. The Sharing Regulations cannot possibly change the use of the Transmission System by Haryana Utilities in regard to evacuation of power from IGSTPS from Intra State to Inter State, when under the provisions of the Electricity Act, 2003, such evacuation through the STU Line is only an intra State Transmission.
- (b) The 400 KV Transmission Line from IGSTPS to Daulatabad is an intra State Transmission System of the Haryana Utilities and not an Inter State Transmission System within the scope of Section 2 (36) of the Electricity Act,



2003. Accordingly, there cannot be any claim for the transmission charges, either as a part of the PoC Mechanism or otherwise in regard to the said transmission asset. The tariff for the said transmission asset is as per the determination to be made by the Haryana Electricity Regulatory Commission for the Haryana Vidyut Prasaran Nigam Limited. Even POSOCO itself has admitted that the transmission asset in question is not a part of the PoC Mechanism, as the approved tariff of the line is not available;

- (c) POSOCO is relying upon the definition of Long Term customers under the Connectivity Regulations, 2009 to indicate that IGSTPS, being a central generating station whose power has been allocated by the Ministry of Power, the beneficiaries thereof are deemed LTA Customers under the Sharing Regulations. The above contention of POSOCO does not consider the fact that the transmission system for availing the power has been developed by Haryana Utilities (HVPNL) itself, and therefore, the Haryana Utilities are not using the ISTS line for delivery of its share of power from the IGSTPS. Under some misconception, POSOCO is however proceeding on the basis that once the generating station is of a Central Sector Undertaking, the evacuation of power should be treated as inter State irrespective of the system used. This is patently erroneous and capricious;
- (d) The transmission system between IGSTPS located in Haryana at Jhajjar to Daulatabad (also in Haryana) is an intra State Transmission System. The said transmission system is intended for evacuation of power generated at the generating station and declared available to the Haryana Utilities. The quantum of power so declared available to Haryana Utilities is scheduled by the Haryana Utilities for conveyance through the said system. Thus, for the
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purpose of declaration of availability, scheduling and despatch, the line used is only the intra State Transmission Line. In regard to the above, the Petitioners are not concerned with evacuation of power from the generating station to Delhi which is transferred by the transmission line from the generating station to Mundka located in Delhi. The above two evacuation are to be considered distinct and separate.

- (e) POSOCO is relying upon Regulation 3 to demonstrate the Yearly transmission charges and the revenue requirement methodology. However, since the inception of the IGSTPS, the share of the Haryana Utilities from the project is planned to be evacuated through the STU line and hence, the Haryana Utilities cannot be considered as deemed LTA/LTC for Approved Injection as per the Sharing Regulations for the IGSTPS project. Accordingly, the quantum of Haryana share from IGSTPS (693 MW) cannot be considered under the PoC mechanism.
- (f) POSOCO in its reply is mixing up the issue of the liability of the procurer of electricity from Central Sector Generating Units where the quantum of power is allocated by the Central Government and therefore, being entitled to LTA (open access) automatically and liability to pay the LTA charges, for use of the ISTS Line, with a situation where such procurer of electricity from the Central Sector Generating Units, in pursuance of the allocation of power by the Central Government is not using any part of the ISTS. The use of the ISTS cannot be deemed only because of the allocation of power in the Central Sector Generating Units;



- (g) Haryana Utilities never applied for LTOA for the said project and the same was never approved by the Validation Committee for the said contracted capacity. Further, as regard the 2nd Proviso to the definition of approved injection, the Haryana Utilities (as per the original plan at the time of conception of the generation project) have constructed adequate transmission system for drawing their share and do not lean on even a single element of ISTS for drawl of its share. Accordingly, as far as the Haryana Utilities are concerned, their share of power from IGSTPS cannot qualify for "Approved Injection". It is also a matter of fact and admitted by POSOCO as well as Powergrid that the Haryana Utilities have their own evacuation system for drawl of its share of power, right from the bus-bar of ISGTPS and no "Segment" or "element" of ISTS is utilized for the drawl of share of Haryana. Hence, the Haryana Utilities do not qualify as a Designated ISTS Customer (DIC) for the share of power drawn from the IGSTPS;
- (h) In the circumstances, the intra state transmission line from the Generating Station - Daulatabad, not being an ISTS line, cannot be deemed to be an ISTS Line in the manner contended by POSOCO;
- (i) POSOCO is taking such a stand despite a clear decision of the Commission dated 30.3.2017 in Petition No. 291/MP/2015 in the case of Transmission Corporation of Andhra Pradesh Limited and Ors. v. Southern Region Load Despatch Centre and Ors where a similar issue of power allocated by the Central Government to Andhra Pradesh from Simhadri TPS, Stage I evacuated through the AP Transco (STU) Transmission Line was considered and it has been held that the same shall not be a deemed ISTS Line.



- (j) It is further not rational for POSOCO to proceed with treating the power supply from the Generating Station to Haryana Utilities to be subjected to PoC charges or being conveyed through ISTS system, after clearly admitting that the cost of the IGSTPS-Daulatabad line has been treated as zero, while calculating the PoC charges. As such, the PoC charges on the power flow for the IGSTPS-Daultabad line should also be taken as zero and should not be levied on Haryana. This means that only the share of other beneficiaries (other than Haryana) who are using the Inter State Line from IGSTPS to Mundka should be treated as approved injection into the ISTS system and PoC charges should be levied on the said beneficiaries only.
- (k) The stand taken by POSOCO leads to the anomalous result that the evacuation of power from the generating station to the Haryana Utilities is through the Line belonging to STU, the charges for such Line will not be added to the PoC regime and still, the Haryana utilities will be liable to pay the Inter State Transmission Charges.
- (l) The liability to pay the transmission charges under the Sharing Regulations is conditional upon the use of ISTS Line and cannot possibly be applicable when only an intra State Transmission Line is used and no part of ISTS is used. In this regard, in terms of Sharing Regulations which deals with DICs, LTOA and ISTS Line, POC charges are to be computed only for the DICs and LTOA customers with reference to ISTS, whereas the Haryana Utilities, insofar as the IGSTPS is concerned, are neither a DIC nor an LTOA customer and also the evacuation of power is through an Intra State Line. Hence, levying of PoC charges on the Haryana Utilities is violative of the Sharing Regulations.



- (m) The mistake in the approach adopted by POSOCO has been that it has proceeded on the basis that the procurement of electricity from the Central Sector Generating company where the capacity is allocated by the Central Government ipso facto leads to payment of transmission charges under the Sharing Regulations, even when no part of the ISTS Line is used and no open access is sought for. In this regard, it is also relevant that in the order dated 5.10.2017 passed by the Commission, a similar plea raised by POSOCO in regard to the electricity supplied by NTPC Sail Limited to Bhilai Steel Plant of SAIL has been considered in detail and rejected. It is also submitted that once it is established that the Haryana Utilities are not the LTA customers for the said project through ISTS, the question of levying of charges as per PoC charge methodology doesn't arise.
- (n) It is well settled that the law of physics cannot be implied while calculating the PoC charges and only the actual approved injection in ISTS needs to be considered. In the case of Simhadri TPS, Stage-I, it has been settled that where the point of injection and withdrawal is from bus bar, there can be no loss of any type, and hence, there is no basis for considering POC losses. Similarly, even in the present case, the injection and withdrawal is from the bus bar of the IGSTPS through the STU, and accordingly, no charges in respect of PoC are leviable on the Haryana Utilities.
- (o) In the minutes of 39th NRPC, HVPNL's proposal for considering the IGSTPS Daulatabad Line as a deemed ISTS Line was withdrawn. In any event, the Haryana Utilities had objected to the inclusion of the said Line as deemed ISTS Line, even at the relevant time.



(p) The claim made by POSOCO is again patently erroneous. It is submitted that the 400 D/C IGSTPS - Daulatabad Line belonging to HVPNL is the intended evacuation Line and has sufficient capacity to transmit the power from the generating station to the Haryana Utilities. The actual power flow which is based on law of physics cannot be taken as a relevant factor. The Petitioners do not dispute that the IGSTPS is connected to both - the ISTS and STU networks, but this is so because that is how the evacuation system was planned at the inception of IGSTPS. What is important is that one connection was duly recognized as the STU Network and another connection was recognized as ISTS Network. The transmission charges to begin with was restricted to the ISTS network, namely, IGSTPS -Mundka. As per the planning, HVPNL constructed a direct evacuation line from the project. The entire associated transmission system planned and constructed by HVPNL for the delivery of Haryana's share of power is adequate for availing its share of power from IGSTPS. Therefore, the mere fact that the generator bus bar connects to the ISTS network cannot be a reason for holding that the entire share of power being evacuated by the Haryana Utilities is through the ISTS line. In fact, the ISTS usage as per the POSOCO's own PoC computation reveals a pattern of usage, wherein it may be seen that the IGSTPS - Daultabad is showing full usage for delivery of the 46.2% share of Haryana in IGSTPS. But, POSOCO is considering the entire share as delivered, using the ISTS network and multiplying the entire capacity of 693 MW with the PoC rate for raising the bill on the Haryana Utilities. This is causing grave injustice to the end consumers of both the Distribution Companies (UHBN and DHBN).



- (q) There are several instances where there is no flow of power on the ISTS line and the complete power flow is through the STU network as per the load constrained on Mundka side. Accordingly, if the law of physics are to be construed for levying PoC Charges, then the STU is liable to get the share of revenue on the power flow on these lines in excess of the Haryana Share. There is no dispute that the flow of power in interconnected network is based on the laws of the physics and not based on contract. But such flow of power based on the laws of the physics cannot rewrite the contract as POSOCO is purportedly claiming. The interconnected Indian Grid keeps on expanding and with each additional element - either generator or transmission line, there are some readjustments in the power flow but this cannot be reason to give deemed LTA effect to the share of power which had all along been planned to be evacuated and delivered using the State network.

Analysis and Decision:

10. We have considered the submissions of the Petitioners and the Respondents.

The following issues arise for our consideration:

- (a) **Issue No.1: What is the status of 400kV D/C IGSTPS- Daulatabad Transmission Line i.e. whether inter-State or intra-State?**
- (b) **Issue No.2: Whether transmission charges and losses under PoC are applicable to the evacuation of its share of power by Haryana Utilities from IGSTPS, Jhajjar through 400 kV D/C IGSTPS to Daulatabad Transmission Line?**
- (c) **Issue No.3: Whether any direction is required to be issued with regard to the bills raised on Haryana Utilities since July 2011?**

11. The above issues have been dealt with in the succeeding paragraphs.



Issue No.1: What is the status of 400kV D/C IGSPS-Daulatabad Transmission Line i.e. whether inter-State or intra-State?

12. The Petitioners have submitted that 400kV D/C IGSPS – Daulatabad transmission line emanates from the bus bar of the Indira Gandhi Super Thermal Power Station (IGSPS) and is connected to the 400kV Daulatabad Substation in the State of Haryana. Further, the subject transmission line has been constructed, maintained and operated by Haryana STU and therefore, it is an intra-State Transmission system within the scope of Clause (37) of Section 2 of the Act. The regulatory jurisdiction with regard to the said transmission line vests HERC in terms of Clause (1) of Section 86 of the Act and therefore, the determination and sharing of transmission charges and losses of the transmission line are governed by the regulations and orders of HERC. The Petitioners have submitted that since July, 2011, they have been receiving bills from Respondent No. 2 for transmission charges and losses for the 400 kV IGSPS-Daulatabad Transmission Line in accordance with the Sharing Regulations of the Commission which is not correct.

13. The Respondents No.3 has supported the contentions of the Petitioners that IGSPS is connected to both the ISTS and STU system through Jhajjar- Mundka Line (ISTS connection) and Jhajjar- Daultabad Line (STU) respectively. Respondent No.3 has submitted that the distribution companies in Haryana have not applied for any LTA for drawal of power from the IGSPS nor has any LTA been granted by the CTU. Therefore, the inclusion of Haryana's share of power from Jhajjar in approved withdrawal of Haryana and levy of PoC losses on Haryana's share of power from Jhajjar is not correct as the PoC charges and losses are not applicable on drawl of Haryana's share of power from Jhajjar.



14. POSOCO in its reply has submitted that 400 kV D/C IGSTPS - Daulatabad Line is an intra-State line of Haryana and is not a part of PoC mechanism as approved tariff of the line is not available. However, POSOCO has submitted that since IGSTPS is connected to both ISTS and STU system, it can never be ensured that Haryana will draw its entire share of power from IGSTPS through 400 kV D/C Daulatabad line. Further, according to POSOCO, in an interconnected meshed network, power flows as per law of physics and not as per contract and therefore, in case of non-availability of Daulatabad line, the power from IGSTPS can be evacuated through 400 kV D/C Mundaka line and vice versa and if all such entities are exempted, the transmission charges would have to be shared by less quantum of LTA/MTOA, resulting in increase in per MW transmission charges.

15. CTU in its reply has submitted that CTU has categorically made its stand clear that HVPNL (Haryana STU) constructed the Jhajjar-Daulatabad 400 kV D/C line for drawal of its share of power. Though CTU has not granted LTA to IGSTPP, the LTA for IGSTPS is covered under the deemed LTA category based on the allocation of power by Ministry of power in terms of the provisions in Connectivity Regulations. Accordingly, PoC bills to the Petitioners are being raised on the Petitioners based on the Regional Transmission Account prepared by the NRPC.

16. We have considered the submissions of the Petitioners and Respondents. IGSTPS is an ISGS supplying power to more than one State and its tariff is being determined by this Commission. IGSTPS is connected to both the ISTS network of CTU through Jhajjar- Mundka Line and STU network of Haryana through Jhajjar-Daulatabad Line (STU). Out of the installed capacity of 1500 MW of IGSTPS, the share of Haryana is 693 MW (46.2 %) of power from IGSTPS and share of Delhi is



693 MW (46.2%) and balance power is allocated to other states of Northern Region. The Jhajjar- Daultabad Line is intra-State transmission line constructed, maintained and operated by STU of Haryana and its tariff is being determined by HERC. Delhi discoms were drawing their share from the IGSTPS through Jhajjar-Mundka line which was initially constructed as a dedicated transmission line and was subsequently converted as ISTS line vide order dated 7.11.2013 in petition 169/TL/2013. As regards the status of 400 kV IGSTPS-Daulatabad Transmission Line, the Petitioners claim that it is an intra-State transmission line. Clause (37) of Section 2 of the Act defines “intra-State transmission system” as any system for transmission of electricity other than an inter-State transmission system”. Clause (36) of section 2 of the Act defines ISTS as under:

“(36) “ inter-State transmission system” includes -

- (i) any system for the conveyance of electricity by means of main transmission line from the territory of one State to another State;
- (ii) the conveyance of electricity across the territory of an intervening State as well as conveyance within the State which is incidental to such inter-State transmission of electricity;
- (iii) the transmission of electricity within the territory of a State on a system built, owned, operated, maintained or controlled by a Central Transmission Utility.”

The subject transmission line emanates and terminates within the territory of Haryana and therefore, is not covered under Section 2(36)(i) of the Act. Secondly, this transmission line is not directly connected to ISTS and therefore, cannot be considered as incidental to ISTS and cannot be covered under section 2(36)(ii) of the Act. Further, section 2(36)(iii) is not attracted as undisputably the transmission line has been developed, maintained and operated by Haryana STU. Moreover, the tariff of the said line is determined by HERC. Therefore, the legal status of the 400 kV IGSTPS-Daulatabad Transmission line is that it is an intra-State Transmission line covered under section 2(37) of the Act.



Issue No.2: Whether transmission charges and losses under PoC are applicable to the evacuation of its share of power by Haryana Utilities from IGSTPS, Jhajjar through 400 kV D/C IGSTPS-Daulatabad Transmission Line?

17. The main issue for consideration is whether under the Sharing Regulations, PoC transmission charges and losses are applicable in case of 400 kV D/C IGSTPS to Daulatabad Transmission Line in proportion to the share of power of Haryana in IGSTPS. POSOCO has included the 400 kV D/C IGSTPS to Daulatabad Transmission Line for computation of transmission charges and losses under PoC mechanism. Bills are raised by CTU on the Haryana Utilities since July 2011 when the Sharing Regulations came into force.

18. POSOCO has submitted that inclusion of the 400 kV D/C IGSTPS-Daulatabad Transmission Line is on account of the prevailing regulatory regime. In this connection, POSOCO has relied on Regulation 2(m) of Connectivity Regulations, Regulation 3 and 2(1)(c) of the Sharing Regulations.

19. POSOCO has submitted that since Haryana Utilities have share in IGSTPS, they are deemed LTA Customers in terms of Regulation 2(m) of the Connectivity Regulations and their share shall be considered as deemed LTA for the purpose of computation of PoC charges. Regulation 2(m) provides as under:

“(m) ‘Long Term Customer’ means a person who has been granted long term access and includes a person who has been allocated central sector generation i.e. electricity supply from a generating station owned or controlled by the Central Government.”

As per the above provision, a person who has been allocated power from a Central Generating Station is a deemed LTA Customer. It is pertinent to mention that as per Regulation 3 of the Connectivity Regulations, the said Regulations are applicable for grant of connectivity, long term access and medium term open access



in respect of inter-State transmission system. Therefore, Regulation 2 (m) shall be applicable only if the power from the generating station owned or controlled by the Central Government is evacuated through the ISTS. In a case where the bus-bar of the generating station is connected to the STU network for evacuation of power to a particular beneficiary, such beneficiary cannot be considered as a deemed LTA customer in terms of Regulation 2 (m) of the Connectivity Regulations.

20. POSOCO has further submitted that IGSTPS is a regional entity and therefore, it is liable to share the transmission charges in terms of Regulation 3 of the Sharing Regulations. Regulation 3 of the Sharing Regulation is extracted as under:

“3. Yearly Transmission Charges, revenue requirement on account of foreign exchange rate variation, charges in interest rates etc. as approved by the Commission and losses shall be shared amongst the following categories of Designated ISTS Customers who use the ISTS:-

(a) Generating Stations (i) which are regional entities as defined in the Indian Electricity Grid Code (IEGC) or (ii) are having LTA or MTOA to ISTS and are connected either to STU or ISTS or both.”

As per the above provision, the transmission charges as approved by the Commission and losses shall be shared by the DICs who use the ISTS. Such DICs include ISGSs which are regional entities as defined in the Grid Code or are having LTA or MTOA to ISTS and are connected either to STU or ISTS or both. Therefore, the prime consideration is that the DIC must be using the ISTS in order to share the transmission charges and losses under the Sharing Regulations. If the DIC is an ISGS, it must satisfy the condition of Regional Entity as defined in the Grid Code. Alternatively, the DIC must be having LTA or MTOA to ISTS and is connected either through STU or ISTS or both. Regional Entity has been defined in the Grid Code as “persons who are in the RLDC control area and whose metering and energy



accounting is done at the regional level”. Though, IGSTPS is a regional entity being within the control area jurisdiction of RLDC and its energy accounting is done by NRPC, it does not fulfill the requirement of the Regulation for sharing of the transmission charges and losses in so far as 400 kV IGSTPS-Daulatabad Transmission Line, since the said line is an intra-State transmission system and use of ISTS is not involved for evacuation of power to Haryana Utilities. IGSTPS also does not fulfill the alternative requirement, since neither IGSTPS nor Haryana Utilities have obtained LTA or MTOA for evacuation of power from IGSTPS to Haryana Utilities. In our view, transmission charges and losses under the Sharing Regulations cannot be fastened on the Haryana Utilities in terms of Regulation 3 of the Sharing Regulations.

21. POSOCO has further submitted that in terms of 2nd proviso to Regulation 2 (1) (c) of the Sharing Regulations, since CTU has not granted LTA to IGSTPS for evacuation of the share of Haryana Utilities, the installed capacity of IGSTPS corresponding to the share of Haryana Utilities excluding the auxiliary power consumption shall be considered for the purpose of computation of approved injection. The said proviso is extracted as under:-

“Provided further that where long term access (LTA) has been granted by the CTU, the LTA quantum, and where long term access has not been granted by the CTU, the installed capacity of the generating unit excluding the auxiliary power consumption, shall be considered for the purpose of computation of approved injection.”

As per the above provision, where long term access has not been granted by the CTU, the installed capacity excluding auxiliary consumption shall be considered for the purpose of computation of approved injection. In our view, this provision does not enable POSOCO to include the Haryana share of power in IGSTPS towards deemed LTA to ISTS. Since, the Haryana share of power is evacuated from the bus-



bar of the IGSTPS through 400 kV IGSTPS-Daulatabad transmission line, the corresponding capacity cannot be considered for the purpose of computation of approved injection.

22. It is a fact that IGSTPS is connected to both ISTS and STU network for evacuation of power to its beneficiaries. Since both networks are connected to the common bus bar, the flow of power can be disproportionate flow irrespective of the commercial arrangement and allocation of power. The Commission has examined similar situation in Petition No.291/MP/2015 (Andhra Pradesh Limited versus Southern Region Load Dispatch Center), Petition No.211/MP/2011 (Steel Authority of India Limited s. Western Regional Load Despatch Centre) and in Petition No. 20/MP/2017 (Kanti Bijlee Utpadan Nigam Limited versus Central Transmission Utility & others).

23. The Commission in order dated 30.3.2017 in Petition No. 291/MP/2015 (Andhra Pradesh Limited V/S Southern Region Load Dispatch Centers) considered the case where the bus bar of the generating station has been connected to both CTU and STU networks and observed as under:-

"11. As per the Regulation 6.4.2(a) of the 2010 Grid Code, Central Generating Stations (except where full share is allocated to the host State) shall come under the jurisdiction of the respective RLDC. After bifurcation of the erstwhile State of Andhra Pradesh into Andhra Pradesh and Telangana, Simhadri STPS Stage-I is supplying power to two States and hence its control area, falls within the jurisdiction of SRLDC Accordingly, we direct that the scheduling of Simhadri STPS Stage-I shall be carried out by SRLDC. Both Telangana and Andhra Pradesh have now agreed that the scheduling of Simhadri STPS Stage-I should be done by SRLDC. The only caveat put forth by the petitioners is that on scheduling of power by SRLDC, the transmission charges and losses of ISTS from Simhadri STPS Stage-I should not be fastened on Andhra Pradesh as the State is connected to Simhadri STPS Stage-I though the transmission system owned by Andhra Pradesh. The concern of the petitioner with regard to allocation of transmission charges and losses of ISTS has been dealt with in later part of the order. Issue No (ii): Whether PoC charges & losses shall be applicable on Andhra Pradesh to the extent of share of Andhra Pradesh from Simhadri STPS Stage-I STPS generating station? 12. The petitioner has submitted that Simhadri STPS Stage-I STPS station is within Andhra Pradesh and is electrically



connected to State of Andhra Pradesh by a transmission system built, owned and operated by APTRANSCO. Transmission of power from Simhadri STPS Stage-I STPS to the sub-station of Andhra Pradesh is not through ISTS lines and power is transferred through state owned dedicated lines. After bifurcation, Andhra Pradesh is availing its share of allocated power through 400 kV feeders of the transmission system of Andhra Pradesh from Simhadri STPS Stage-I STPS to Kalpaka Sub-station switchyard which is also owned and operated by Andhra Pradesh and no part of the regional transmission system is used by the Andhra Pradesh for transfer of power from Simhadri STPS Stage-I STPS. The power flow of 1000 MW from Simhadri STPS Stage-I STPS generation before and after bifurcation of erstwhile Andhra Pradesh is through the transmission system of Andhra Pradesh. There is no change in flow of power i.e. the power flow path is same before and after the reorganization. Accordingly, Andhra Pradesh is not liable to pay the transmission charges. Further, no transmission losses are incurred in the regional transmission system on account of drawal of power from Simhadri STPS Stage-I. Therefore, there is no pooled regional transmission loss and no such loss could be appropriated to Andhra Pradesh. If the methodology of calculation is changed as PoC model, the PoC charges & losses on Simhadri STPS Stage-I power will be imposed on State of Andhra Pradesh for 461.10 MW of power irrespective of the fact that the power is evacuated from the CGS using transmission system of the State of Andhra Pradesh. In the instant case, point of injection and point of withdrawal is same and both are within Andhra Pradesh and hence, there is no loss in the system and further there is no loss along the Deemed ISTS."

24. In the above order, it has been decided that since the power is evacuated exclusively through STU network and no part of the regional transmission system is used by the Andhra Pradesh for transfer of power from Simhadri STPS Stage-I STPS, PoC charges are not payable by Andhra Pradesh for such transfer of power. Further point of injection and point of withdrawal is same and both are within Andhra Pradesh and hence, there is no loss in the system. Hence transmission charges and losses under PoC mechanism shall not be applicable in that case.

25. The Commission in Petition No.211/MP/2011 was considering whether a dedicated transmission line from an ISGS to its captive consumer can be considered as ISTS for the purpose of computation of PoC charges. The Commission vide order dated 5.10.2017 in petition No. 211/MP/2011 has observed as under:



"23. In another case involving NSPCL where NSPCL-Bhilai was being scheduled by SLDC, Chhattisgarh and was an intra-state entity, SLDC was levying UI charges at the rate of 105% and 95% on NSPCL. NSPCL filed a petition no. 53/MP/2012 before the Commission stating that it is not using any STU system and hence should be levied UI rates as per CERC, UI Regulations, 2010 only. The Commission vide Order dated 1.10.2014 directed as under:

"Further the station is directly connected to the ISTS for transfer of 170 MW and STU network is not being used. The application of UI Charges @105% and 95% of UI charges under Regulation 30 (5) of the Connectivity Regulations in case of intra-State entity was provided to account for losses in the STU network, if used by the intra-State entity embedded in the State. Since 170 MW is being transferred through ISTS directly, there should not be any question of taking losses into account. Therefore, for the period from 1.1.2010 till 31.7.2011, the petitioner shall be governed by the provisions applicable under UI Regulations. Regulation 30 (5) of the Connectivity Regulations which prescribes the UI rates applicable to intra-State entities would not be applicable in this case."

In the above order, it was directed that in case STU network is not used, its losses should not be considered for accounting. Similarly, in this case ISTS is not being used to wheel power from NSPCL to SAIL-BSP in normal circumstances and therefore, PoC losses should not be charged to SAIL-BSP for supply of power from NSPCL to SAIL-BSP through the dedicated transmission lines. For sample checking, calculations for POC charges for a few quarters was perused whereby it emerged that BSP is drawing its entire share through dedicated line between NSPCL and BSP. Therefore, since the ISTS is not utilized for drawal of power by SAIL-BSP from NSPCL, no transmission losses will be levied on SAILBSP.

Issue No. (3): Whether the case of SAIL-BSP has larger implications on other ISGS/Regional Entity in the matter of calculation of transmission charges and losses under PoC mechanism?

24. In our view, the present case has implication to similarly placed entities like SAILBSP and the States which draw power from the bus-bar of an ISGS through the transmission systems of STU without utilizing the ISTS. We direct the staff to examine the issue and propose amendment to the Sharing Regulations for clarity."

26. The Commission in the above quoted order directed that since ISTS is not used for wheeling power in that case, ISTS losses shall not be applicable and that the order shall have implications on similarly placed entities which draw power from bus-bar of an ISGS through the transmission systems of STU without utilizing the ISTS. Accordingly, the Commission directed the staff to examine the issue and propose amendment to the Sharing Regulations.



27. The Commission in order dated 9.3.2018 in Petition No. 20/MP/2017 (Kanti Bijlee Utpadan Nigam Limited versus Central Transmission Utility & others) had dealt with the generic issue of applicability of PoC Regulations where the ISGS is connected to both ISTS and STU network. The relevant observations are extracted as under:

“Treatment of generic issue where generator is connected to both STU System and ISTS system:

56. Grid Code recognizes that a generator may be connected to both State network and ISTS. Further, Regulation 6.4 of the Grid Code deals with the framework for scheduling jurisdiction of RLDCs and SLDCs in so far as Central Generating Stations and inter-State generating stations are concerned.

57. Regulation 8 (1) of the Connectivity Regulations provides as under:

“8. Grant of Connectivity

(1) The application for connectivity shall contain details such as, proposed geographical location of the applicant, quantum of power to be interchanged that is the quantum of power to be injected in the case of a generating station including a captive generating plant and quantum of power to be drawn in the case of a bulk consumer, with the inter-State transmission system and such other details as may be laid down by the Central Transmission Utility in the detailed procedure.”

58. It would be pertinent to mention that in accordance with the Detailed Procedure, the application for grant of connectivity to ISTS is required to be submitted along with above details as per the Format CON-2. The details sought in the application also include the capacity (MW) for which connectivity is required and the installed capacity of the generation station. Therefore, CTU has the information about installed capacity of the generating station and capacity (MW) for which connectivity is sought from ISTS. In case, a generator plans to get connected to both ISTS and State network, while granting connectivity CTU should ensure that adequate State system is available or shall be made available. In such cases, scheduling may be either with RLDC or SLDC as per applicable provisions of the Grid Code. In case, SLDC carries out scheduling, STU charges and losses shall not be applicable to schedules on ISTS. In case, RLDC carries out scheduling, ISTS charges and losses shall not be applicable to schedules on State network. It is also pertinent to mention that an associated issue may arise regarding treatment of UI/deviation charges. We are of the view that Deviation charges shall be considered pro-rata on the schedules on the State network and ISTS network.”

28. The above decisions of the Commission establish that an ISGS can be connected to both CTU/ISTS network and STU network. Secondly, where an ISGS is connected to both ISTS and STU networks, the scheduling and energy accounting of such ISGS shall be carried out by either the RLDC or SLDC concerned as per



Regulation 6.4.2 of the Grid Code. Thirdly, where RLDC carries out scheduling, ISTS charges and losses shall not be applicable to schedules on the State network involved for evacuation of power from ISGS. Fourthly, Deviation charges shall be considered pro-rata on the schedules on the State network and ISTS network.

29. In the light of the principle laid down in order dated 9.3.2018 in Petition No.20/MP/2017, we are of the view that since IGSTPS is connected to both CTU network and STU network and its scheduling is being carried out by NRLDC, the ISTS charges and losses shall not be applicable for evacuation of the share of power of Haryana Utilities through 400 kV D/C IGSTPS-Daulatabad Transmission Line. The deviation charges shall be considered on pro-rata basis on the schedules corresponding to ISTS and STU networks. POSOCO has submitted that in case of non-availability of 400 kV D/C IGSTPS - Daultabad line, the power from IGSTPS can be evacuated through 400 kV D/C IGSTPS-Mundka line. We find substance in the submission of POSOCO as power may flow to Haryana Utilities through 400 kV D/C IGSTPS-Mundka line in the event of shut down or outage of 400 kV D/C IGSTPS - Daultabad line. Accordingly, we direct that in such an eventuality, ISTS charges and losses shall be applicable on schedules of Haryana from IGSTPS.

Issue No. 3: Whether any direction is required to be issued with regard to the bills raised on Haryana Utilities since July 2011?

30. The Petitioner has prayed that the bills raised by Respondent No. 2 since the month of July, 2011 be set aside to the extent the claim therein related to sharing of inter-state transmission Charges and Losses for the 400 KV IGSTPS-Daulatabad Transmission Line.



31. It is noticed that the Petitioners have been paying the transmission charges and losses since July 2011 when the Sharing Regulations came into effect. However, the Petitioners have approached Commission for relief only in 2017 and have claimed relief in the light of the decision in order dated 30.3.2017 in Petition No. 291/MP/2015. In other words, the Petitioners did not have any objection to the 400 KV IGSTPS-Daulatabad Transmission Line being included under PoC mechanism. POSOCO has brought to our notice the regulatory provisions under which Long term Access for IGSTPS was being considered and the bills for POC charges and losses were being raised on the Petitioners. In the light of the decisions in Petition No.291/MP/2015, 211/MP/2011 and 20/MP/2017, the Commission has decided in this order to exempt the 400 KV IGSTPS-Daulatabad Transmission Line from payment of transmission charges and losses under PoC mechanism. In other words, the relief has been granted to the Petitioners by virtue of interpretation of various provisions of the regulations which makes a departure from the prevailing regulatory regime. The Commission in its order dated 5.10.2017 in Petition No. 211/MP/2011 granted relief to the Petitioner therein prospectively from date of issue of the order. In the said order, the Commission also directed the staff to examine the matter and propose suitable amendment for the purpose of clarity. In PTC India Limited & Others Vs. Central Electricity Regulatory Commission, the Hon'ble Supreme Court has observed as under:

“37. On the above analysis of various sections of the 2003 Act, we find that the decision-making and regulation-making functions are both assigned to CERC. Law comes into existence not only through legislation but also by regulation and litigation. Laws from all three sources are binding.....”

In the light of the above, law can be laid down by the Commission through its decisions in the litigations brought before it. In the present case as also in the



previous cases quoted in this order, the Commission has laid down the principles for allocation of transmission charges and losses under the PoC mechanism in case of STU lines used exclusively to evacuate power from ISGS by a State for which there was no clarity in the Sharing Regulations. The Commission is of the view that relief in the present case should also be granted prospectively keeping in view the fact that the bills were raised by POSOCO as per the prevailing regulatory regime and the Commission by way of interpretation of various provisions of the regulations has exempted the Petitioners from payment of PoC charges and losses in this order in the light of the decisions in the earlier cases, pending amendment of Sharing Regulations as directed in Petition No.211/MP/2011. We direct that the relief granted in this order shall be applicable prospectively from date of issue of this order. Therefore, we are not inclined to set aside the bills raised on the Petitioners since July 2011 in respect of 400 KV IGSTPS-Daulatabad Transmission Line as prayed for by the Petitioners.

32. In the light of the above discussion, the prayers of the Petitioner are disposed of as under:

(a) As regards the first prayer seeking declaration that 400 kV Transmission Line IGSTPS-Daulatabad Transmission Lines should be outside the scope of the jurisdiction of the Respondent 1 and 2 as well as Sharing Regulations, it is directed that the subject transmission line being an intra-State Transmission Line shall not be subject to sharing of transmission charges and losses under the PoC mechanism. In the instant case, while RLDC shall continue to carry out scheduling of power from IGSTPS, ISTS charges and losses shall not be applicable to schedules on State network of Haryana. Respondent Nos.1 & 2



are directed not to include the LTA capacity corresponding to the share of Haryana in IGSPTS which computing PoC charges and Losses.

(b) The Petitioner, in the Second prayer, has sought direction to set aside the bills raised by CTU since the month of July, 2011 to the extent the claim related to ISTS Charges and Losses for the 400 KV IGSPTS-Daulatabad Transmission Line. In our view, POSOCO and CTU were raising the bills on the basis of the premise that the subject transmission line is connected to ISGS and therefore, Haryana is a deemed LTA holder corresponding to its share in IGSPTS. After considering the hardship faced by Haryana and in the light of the decision of the Commission in Petition No.20/MP/2017, relief is being granted to the Petitioners exempting them from payment of ISTS charges and losses. In our view, the decision shall operate prospectively.

(c) In the third prayer, the Petitioners have sought directions to restrain Respondent Nos. 1 and 2 from recovering any charges from the Petitioners in regard to the 400 kV IGSPTS-Daulatabad Transmission Line. In the light of our decision with regard to first prayer exempting the Petitioner to pay the transmission charges and losses qua 400 kV IGSPTS-Daulatabad Transmission Line, no further direction is required to be issued with regard to third prayer.

33. Petition No.126/MP/2017 is disposed of in terms of the above.

Sd/-
(Dr. M.K. Iyer)
Member

Sd/-
(A.S. Bakshi)
Member

Sd/-
(A.K. Singhal)
Member

Sd/-
(P.K.Pujari)
Chairperson

