

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Review Petition No. 2/RP/2018**

**Coram:**

**Shri P.K. Pujari, Chairperson**

**Shri A.K. Singhal, Member**

**Shri A.S. Bakshi, Member**

**Dr. M.K. Iyer, Member**

**Date of Order : 16.7.2018**

**In the matter of:**

Petition under section 94 (1) (f) of the Electricity Act, 2003 read with order 47 rule 1 of the Code of Civil Procedure, 1907 for review of the order dated 3.11.2017 in Petition No. 87/TT/2017.

And in the matter of:

Madhya Pradesh Power Transmission Company Limited,  
Block No. 2, Shakti Bhawan,  
Rampur, Jabalpur – 482 008.

.....

Review Petitioner

**Vs**

1. Power Grid Corporation of India Limited,  
Through its Managing Director,  
Saudimini, Plot no. 2, Sector 29  
Near IFFCO Chowk, Gurgaon  
Haryana– 122001.
2. Chhattisgarh State Power Transmission  
Company Ltd., (CSPTCL),  
SLDC Building  
CSEB, Daganiya,  
Raipur, Chhattisgarh – 492013
3. Gujrat Energy Transmission Corporation Ltd.  
Sardar Patel “Vidyut Bhawan”,  
Race Course, Vadodara,  
Gujarat – 390007.



4. Maharashtra State Electricity Transmission Co. Ltd.,  
4th Floor, A wing Prakashganga E-Block,  
Plot No. C-19 BKC Bandra (East), Mumbai  
Maharashtra – 400051

5. Rajasthan Rajya Vidhyut Prasaran Nigam Ltd.  
Room No. 223, Vidhyut Bhawan, Jan Path, Jaipur  
Rajasthan - 302005

..... Respondents

**For petitioner** : Shri M.G. Ramachandran, Advocate, MPPTCL  
Shri Pulkit Aggarwal, Advocate, MPPTCL  
Ms. Ranjitha Ramachandran, Advocate, MPPTCL  
Ms. Poorva Saigal, Advocate, MPPTCL  
Shri Anand K. Dubey, MPPTCL  
Shri Vincent D'Souza, MPPTCL  
Shri S.R.Sharma, MPPTCL

**For respondent** : None

### **ORDER**

This review petition has been filed by Madhya Pradesh Power Transmission Company Limited (“MPPTCL”) for review of the Commission’s order dated 3.11.2017 in Petition No. 87/TT/2017 under Section 94(1)(f) of the Electricity Act, 2003 read with Order 47 Rule 1 of the Code of Civil Procedure, 1907.

2. The Review Petitioner has made the following prayers:-

“(a) review the Order date d03.11.2017 passed in Petition No.87/TT/2017 and modify the same providing for determination and allowance of the tariff for 2 lines mentioned in Para4(a) above in terms of the CERC (Sharing of Transmission Charges and Losses) Regulations, 2010 read with the CERC (Terms and Conditions of Tariff), 2009;

(b) direct the amount so determined to be added to the PoC Charges in future and the amount to be recovered and paid to the Review Petitioner; and

(c) pass any such further order or orders as this Hon’ble Commission may deem just and proper in the circumstances of the case.”



### **Background of the case**

3. The Review Petitioner claimed transmission tariff for the two ISTS lines i.e. (i) 400 kV Seoni (MP)-Sarni (MP) line and (ii) 400 kV Seoni (MP)-Bhilai (Chhattisgarh) line alongwith 9 other ISTS lines for 2011-14 period in Petition No.217/TT/2013. The Commission did not approve the tariff for the said two lines as they were not certified by RPC as ISTS lines. The Commission, however, approved the tariff of the remaining 9 transmission lines for inclusion in the PoC charges.

4. The Review Petitioner later filed Petition No.87/TT/2017 alongwith the certificate from RPC claiming tariff for the said two ISTS lines for the 2011-14 period after the end of control period 2009-14. However, tariff was not approved by the Commission in the impugned order dated 3.11.2017 observing that MPERC has already granted ARR for the State network for the 2011-14 period which is inclusive of the YTC of the two transmission lines and PoC charges for the 2011-14 period have already been recovered. Further, granting of tariff for the instant lines afresh and inclusion in the PoC charges would have led to revision of the PoC charges retrospectively. The relevant portion of the impugned order is as under:-

“We have considered the submissions made by MPPTCL. MPPTCL has claimed transmission tariff for two inter-State transmission lines retrospectively for the 2009-14 tariff period. As in the case of RRVPNL, the instant transmission lines are part of the State network. MPERC has already granted ARR for the State network for the 2009-14 period which is inclusive of the YTC of the transmission lines covered in the instant petition. As such, MPPTCL has already recovered tariff for these lines. Further, PoC charges for the 2011-14 period have already been processed and recovered. Granting of tariff for these transmission lines afresh by this Commission and inclusion in the PoC charges would lead to revision of the PoC charges retrospectively. It would also require revision/adjustment of the ARR already granted by MPERC for 2009-14 period. Hence, we are not inclined to allow YTC for these lines for the period 2011-14. MPPTCL has already filed the petition claiming tariff for the inter-State transmission lines owned by it for the 2014-19 tariff period under the 2014 Tariff Regulations and accordingly tariff will be allowed as per the relevant regulations.”



5. Aggrieved by the impugned order, the Review Petitioner has filed the instant review petition seeking modification of the impugned order by approving the tariff for the two lines and inclusion in the POC charges.

**Grounds for review**

6. The Review Petitioner has submitted the following grounds for review of order dated 3.11.2017:-

- (a) An erroneous conclusion has been made in the impugned order that the transmission charges should not be revised after the expiry of the control period. Tariff determination is a continuous and on-going process and the same is bound to be revised on account of various aspects including on account of fresh determination of tariff or decision of the Appellate Authority and, therefore, the revised tariff gets implemented under many circumstances, after the control period is over.
- (b) The Commission itself approved the tariff for the 9 transmission lines for inclusion in the computation of the PoC charges vide order dated 15.10.2015 in Petition No 217/TT/2013.
- (c) In order dated 15.10.2015 in Petition No. 217/TT/2013, the tariff determination process in respect of the subject transmission lines was deferred for want of certification from RPC. On receipt of certification from the WRPC vide letter dated 7.6.2016, the Review petitioner filed petition



for determination of tariff in respect of the 2 lines in Petition No. 87/TT/2017.

- (d) The revenue recovered would be adjusted in the ARR before the State Commission in the ensuing years and there will not be any excess or double benefit to it. The amount recovered would eventually reduce the revenue requirements of the Review Petitioner and thereby the revenue requirements of the State Distribution Companies, benefitting the consumers at large.
- (e) The consumers of the State will suffer financial prejudice and loss if the transmission charges are not determined for the instant two lines for the control period 2011-14 and allowed to be recovered by the Review Petitioner.
- (f) Disallowing the transmission tariff for the two transmission lines covered in the main petition on the ground that the control period expired on 31.3.2014 is an apparent error and needs to be corrected. The Review Petitioner referred to judgments of Hon'ble Supreme Court in (a) Board of Control for Cricket in India v. Netaji Cricket Club (2005) 4 SCC 741, (b) Dhanani Shoes Limited v State of Assam and Others [2008] 16 VST 228 (Gau), (c) Moran Mar Basselios Catholicos and Anr. v. The Most Rev. Mar Poulouse Athanasius and Ors., (1955) 1 SCR 520, (d) Thungabhadra Industries Ltd. v. The Government of Andhra Pradesh, (1964) 5 SCR 174, (e) Rajender Singh Vs. Lt. Governor, Andaman and Nicobar Islands and Ors., (2005) 13 SCC



289 and (f) Green View Tea and Industries v. Collector, Golaghat, Assam and Anr.(2004) 4 SCC 122 and requested to modify the impugned order by removing the apparent error as held by the Hon'ble Supreme Court in the above said judgments.

7. No reply to the Review Petition has been filed by any of the respondents.
8. The Review Petition was heard on 12.6.2018 and 3.7.2018. Learned counsel for the Review Petitioner reiterated the submissions made in the Review Petition.

### **Analysis and Decision**

9. The basic contention of the Review Petitioner is that the Commission disallowed the transmission tariff of the two transmission lines which were certified by WRPC as carrying inter-State power on the ground that tariff cannot be revised retrospectively after the control period is over. The Review Petitioner has submitted that the Commission in Petition No. 217/TT/2013 approved the tariff vide order dated 15.10.2015 retrospectively for nine transmission lines owned by the Review Petitioner for the period 2011 to 2014 after the expiry of control period on 31.3.2014. However, the Commission has adopted a different approach while dealing with the 2 transmission lines in the impugned order. The Review Petitioner has submitted that disallowance of tariff in the impugned order is a departure from the earlier order which constitutes an error apparent on the face of record.



10. We have considered the submissions of the Review Petitioner. In order dated 15.10.2015 in Petition No. 217/TT/2013, the Commission had returned the following finding while disallowing the tariff in respect of 2 transmission lines:-

“5. Madhya Pradesh Power Trading Company Limited renamed as Madhya Pradesh Power Management Company Limited (MPPMCL), Respondent No. 2 has submitted in its reply dated 9.7.2015 that the petitioner has not included Bhilai-Seoni and 400 kV Seoni-Sarni lines in the petition. MPPMCL has further submitted that these two lines were considered as inter-state transmission lines between the State of Chhattisgarh and the State of Madhya Pradesh in the Commissions’ order dated 20.2.2012 in Petition No. 193/MP/2012, which was upheld by the Hon’ble Appellate Tribunal for Electricity vide order dated 18.2.2015 in Appeal No. 95/2014. As such, it is prudent to consider these two lines also, belonging to the petitioner, in the instant petition. The petitioner in its rejoinder dated 29.6.2015 has submitted that the Commission may also consider to direct the Regional Power Committee and implementing agency of PoC charges to include all such lines belonging to the petitioner.

6. We have considered the submissions of both the respondent and the petitioner. The STU lines used for carrying inter-State power can be considered for inclusion in the PoC charges only if it is certified by RPC in terms of para 2.1.3 of the Annexure-I to Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulation, 2010, .....

11. However, after that Review Petitioner filed Petition No. 87/TT/2017 supported by WRPC certificate, the petition was rejected on the ground that the control period is over and it would require retrospective revision of the PoC charges. However, in the past, the Commission had determined the tariff even after the expiry of the control period. Since the transmission lines are used for conveying inter-state power, tariff needs to be included in the PoC charges. Otherwise, the Review Petitioner would be deprived of its legitimate charges for use of its transmission lines. Considering the above factors, we are of the view that rejection of the Petition No. 87/TT/2017 needs to be revisited. Accordingly, we withdraw our order rejecting the tariff petition of the Review Petitioner. The Petition No. 87/TT/2017 shall be listed for hearing and tariff of the assets covered would be determined.



12. In view of the above, Review Petition No. 2/RP/2018 filed by Review Petitioner is disposed of.

**sd/-**  
**(Dr. M.K. Iyer)**  
**Member**

**sd/-**  
**(A.S. Bakshi)**  
**Member**

**sd/-**  
**(A.K. Singhal)**  
**Member**

**sd/-**  
**(P.K. Pujari)**  
**Chairperson**

