

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

I.A.No.14/IA/2020

in

Petition No. 124/MP/2017

Coram:

Shri P. K. Pujari, Chairperson

Shri I.S.Jha, Member

Shri Arun Goyal, Member

Date of Order: 24th June, 2020

In the matter of

Application under section 94 (2) of the electricity act, 2003 on behalf of the petitioner seeking appropriate directions.

And

In the matter of

M/s. Kanchanjunga Power Company Private Limited
B – 37, 3rd Floor, Gautam Budh Nagar
Sector 1, Noida – 201301

...Applicant

Vs

1. Himachal Pradesh Power Transmission Corporation Limited
Himfed Bhawan, Panjari (Below Old MLA Quaters)
Shimla – 171 005
2. Allain Duhangan Hydro Power Limited
Bhilwara Towers, A-12
Sector-1, Noida – 201 301
3. Power Grid Corporation of India Limited
Central Transmission Utility
B-9, Qutab Institutional Area
Katwaria Sarai, New Delhi – 110016
4. Directorate of Energy



Government of Himachal Pradesh
Shanti Bhawan, Phase-3,
Sector-6, New Shimla – 171 009
Himachal Pradesh

5. Government of Himachal Pradesh
Armsdale Building, H.P. Secretariat
Shimla – 171 002
Himachal Pradesh

...Respondents

The following parties were present:

Shri Sanjay Sen, Senior Advocate, KPCPL
Shri Hemant Singh, Advocate, KPCPL
Shri Kumar Uday Pratap, KPCPL
Ms.Swapna Seshadri, Advocate, HPPCL

ORDER

The Applicant, Kanchanjunga Power Company Private Limited, has filed the present Interlocutory Application (IA) along with the following prayers:

- a) *Stay/ quash the NRPC minutes of meetings dated 29.10.2018 and 30.10.2018 in terms stated in the present application;*
- b) *Hold that this Hon'ble Commission has the necessary jurisdiction for determination of tariff of the transmission assets of the Respondent No. 1, as detailed in the present application; and*
- c) *Pass such further or other order(s) or direction(s) as this Hon'ble Commission may deem fit and proper in the facts and circumstances of the instant case as well as in the interest of justice.*

Background

2. The Applicant has filed Petition No. 124/MP/2017 inter-alia seeking declaration that the terms of the Interim Power Transmission Agreement dated 28.4.2016 entered into between the Applicant and Himachal Pradesh Power Transmission Corporation Limited (HPPTCL) and Allain Duhangan Hydro Power Limited (ADHPL) as well as the invoices issued thereunder are void and non est in



so far as they are inconsistent with the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008; Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2010 (hereinafter referred to as the 2010 Sharing Regulations); and Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014.

Submissions of the Applicant

3. The Applicant has submitted that the present application has been filed seeking appropriate interim directions against the Respondent No. 1 (HPPTCL).

4. The Applicant has submitted that the Respondent No. 1 approached this Commission for determination of transmission tariff, by way of filing Petition No. 244/TT/2017 wherein it sought approval of capital cost of the 220 kV D/c Transmission line from Phozal Sub-station to LILO at Patlikul with 220 kV AD Hydro Transmission line & 33/ 220 kV, 80/100 MVA GIS Sub-station Phozal. However, this Commission vide its order dated 08.10.2018 dismissed the said Petition, on account of non-furnishing of certain documents, such as the certification from Northern Regional Power Committee (NRPC) to the effect that the said transmission line carries inter-State power, non-furnishing of audited capital cost etc.

5. The Applicant has submitted that pursuant to order dated 08.10.2018 of the Commission in Petition No. 244/TT/2017, the Respondent No. 1 approached NRPC for certification of the aforementioned transmission assets, for certification as ISTS wherein it was claimed by Respondent No. 1 that the said transmission assets carried inter-State power. However, NRPC vide its Minutes of Meeting (MOM) dated



29.10.2018 and 30.10.2018 declined to certify those lines as carrying inter-State power on the ground that the average flow of inter-State power on the said line was only 36.55%. The said conclusion was arrived at on account of the letter dated 17.12.2015 of the 36th meeting of NRPC and 32nd meeting of Technical Coordination Sub-committee (TCC), wherein it was decided as under:

“A transmission line would be construed as inter-state line only if average utilization for inter-state purposes based on the studies for 2nd and 4th quarter comes out to be more than 50%.”

6. The Applicant has submitted that the aforesaid decision of NRPC is erroneous, and is liable to be set aside, as the said decision was taken on the basis of consideration of only a part of the asset, and not the entire asset.

7. The Applicant has submitted that the procedure adopted by NRPC for the purpose of certifying a transmission line as an ISTS, is completely baseless, as the same is *de hors* the statutory mandate of the Electricity Act, 2003 (hereinafter referred to as the “Act”). Section 2(36) of the Act provides for the definition of an Inter-State Transmission System (ISTS) wherefrom it is evident that any transmission system, which is used for conveyance of electricity in more than one State, is to be treated as an ISTS. There is no provision in the Electricity Act, 2003, which contemplates that in a particular transmission system, there has to be more than 50% flow of power for inter-State purpose, for it to be treated as ISTS. Hence, the procedure adopted by NRPC is completely illegal and baseless.

8. The Applicant has submitted that 1st Amendment to the 2010 Sharing Regulations provides that for the purpose of certifying a transmission line as an ISTS line, the same has to be done through load flow studies. After conducting such load



flow analysis, if a particular line carries more than 50% inter-State power, the same can be certified as an ISTS line by the respective RPC.

9. The Applicant has submitted that 3rd Amendment to the 2010 Sharing Regulations, removed the condition of carrying more than 50% of inter-State power for a transmission system to be certified as ISTS. This clearly indicates that this Commission is also of the view that there cannot be any condition of carrying 50% inter-State power to certify a transmission line as an ISTS. The fact that a particular transmission system carries power for the purpose of inter-State use, the same has to be considered as an ISTS. This is also evident from the Statement of Reasons (SoR) for the 3rd Amendment to the 2010 Sharing Regulations issued by this Commission on 26.10.2015, wherein it was observed that as per the mandate of the Act, as well as the policies under the Act, all lines which are incidental to inter-State flow of power are to be considered as ISTS. The Applicant has submitted that on account of SoR dated 26.10.2015 alone, the procedure adopted by the NRPC has to be set aside, and the subject line has to be treated as ISTS.

10. The Applicant has submitted that post the aforementioned decision of NRPC conveyed vide Minutes of Meeting dated 29.10.2018 and 30.10.2018, the Respondent No. 1 proceeded to file a Multi-Year Tariff (MYT) petition before the Himachal Pradesh Electricity Regulatory Commission (HPERC) seeking approval of capital cost and determination of tariff for the period starting from the Date of Commercial Operations (COD) i.e. 05.06.2016 to FY 2023-24 for 220 kV D/c Transmission line from Phozal Sub-station to LILO at Patlikul with 220 kV AD Hydro Transmission line & 33/ 220 kV, 80/100 MVA GIS Sub-station Phozal. In this context, the Applicant has submitted that it has already filed an application before the



HPERC, seeking dismissal of the above petition, on account of lack of jurisdiction.

11. The Applicant has submitted that the aforesaid assets are ISTS and that this Commission has jurisdiction to adjudicate the present petition. It has provided the following details to substantiate its claim:

- i. The term “Deemed Inter State Transmission System (Deemed ISTS)” has been defined under Regulation 2(1)(k) of the 2010 Sharing Regulations as any transmission system which is being used for the purpose of inter-State transmission of power and fulfils the criteria of being an ISTS, and the same has been approved by the Commission for the purpose of the 2010 Sharing Regulations, unless specified otherwise.
- ii. As per Part 2.1.3 of the Annexure I of the 2010 Sharing Regulations, allocation of overall charges is to be computed by adoption of Yearly Transmission Charges (YTC) of transmission assets of ISTS licensees, deemed ISTS licensees and owners of non-ISTS lines certified by the Regional Power Committee (RPC) as carrying inter-State power. However, in case of non-ISTS lines carrying inter-State power, YTC needs to be approved by the Appropriate State Electricity Regulatory Commission.
- iii. In case of non-certification by RPC of non-ISTS lines carrying inter-State power, on the date of notification of the 2010 Sharing Regulations, the same shall be done based on load flow studies using WebNet software, which shall determine the percentage of usage of lines as home State or other than home State.
- iv. Based on the above mandate of the 2010 Sharing Regulations, the Northern Regional Power Committee (NRPC) in its 36th meeting, and the Technical Coordination Sub-committee (TCC) in its 32nd meeting dated 17.12.2015 decided that “*a transmission line would be construed as inter-state line only if average utilization for inter-state purposes based on the studies for 2nd and 4th quarter comes out to be more than 50%*”;



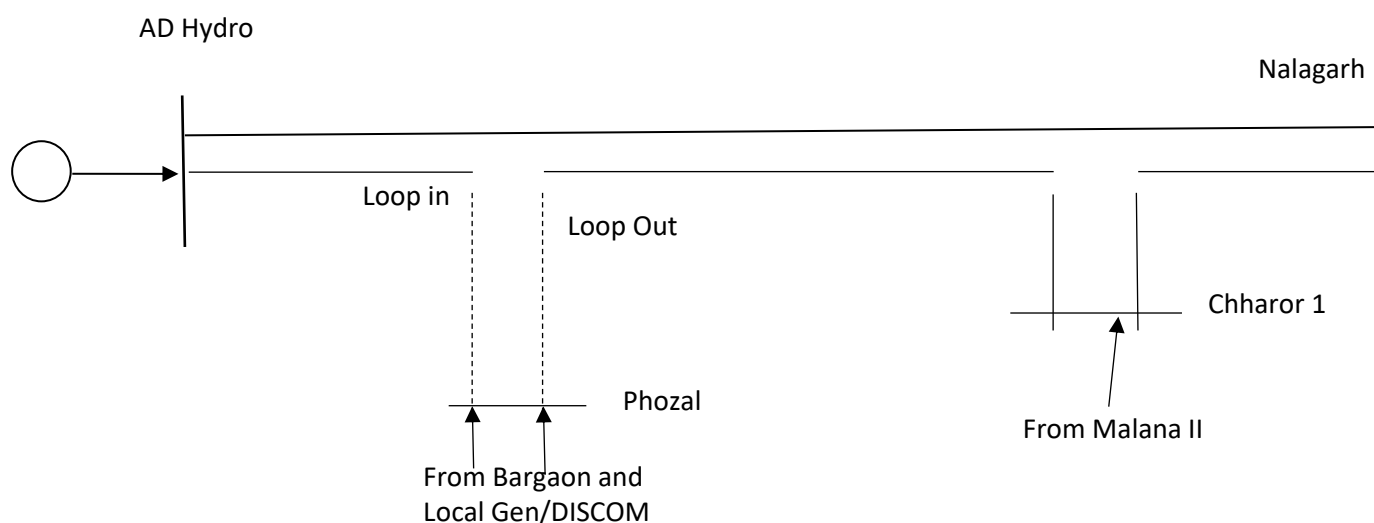
v. The entire asset of the Respondent No. 1, for which it has filed the petition before HPERC, has to be treated as ISTS, as the said asset comprises of a transmission line from Phozal Sub-station which is connected to LILO at Patlikul, which further connects 220 kV D/c AD Hydro Transmission line, wherein more than 50% power of the beneficiaries, other than Himachal Pradesh State Electricity Board (HPSEB), is flowing outside the State of Himachal Pradesh.

12. The Applicant has submitted that the transmission assets of the Respondent No. 1 comprise of following elements:

S.No.	Transmission line/ Sub-station
1.	220 Kv D/c Transmission Line from Phozal Sub-station to LILO at Patlikul
2.	Line from LILO at Patlikul with 220 kV D/c AD Hydro Transmission line
3.	33/ 220 kV, 80/100 MVA GIS Sub-station Phozal

13. The Applicant has submitted that the certificate issued by NRPC is erroneous, and has to be set aside, on account of the following:

i. The section of transmission line considered for ISTS certification by NRPC, is only a part of the entire transmission asset which is 220 kV D/c Transmission line from Allain Duhangan Substation to 400 kV Nalagarh substation through LILO of one circuit at Patlikul as shown in Diagram below:



(Note: Asset in question in the present context is shown as dotted lines)



- ii. NRPC in its study has considered only the LILO Section (shown dotted in the above diagram) and has ignored the fact that the LILO at Patlikul is further connected to 220 kV D/c AD Hydro Transmission line, which is an ISTS for the purpose of determining ISTS status of the LILO section.
- iii. NRPC has failed to consider that according to Kirchhoff's Law, the flow on Patlikul (Loop in point) to Phojal section would have to be same as the flow on AD Hydro to Loop in point at Patlikul. If flow on AD Hydro – Patlikul section is Inter-State in nature (as held by this Commission in its orders dated 01.06.2011 and 17.10.2019 passed in Petition No. 259 of 2010 and Petition No. 209/MP/2017, respectively, that both circuits of AD Hydro – Nalagarh line are ISTS) then the flow on remaining section between Patlikul and Phojal would have to be inter-State. Similarly, quantum as well as nature of flow on Phojal – Patlikul section of line and Patlikul – Chharor section would have to be same.
- iv. NRPC made its recommendation based on share of transmission charges paid by the beneficiaries of line. NRPC failed to appreciate that, while majority of power flowing on the section belongs to Respondent No. 2 (AD Hydro), the transmission charges for this section are not being shared by AD Hydro. NRPC failed to take into account the flow of power/ utilization of the above transmission line of Respondent No. 2 (AD Hydro), without which the entire ISTS asset is incomplete.
- v. Had NRPC carried proper load flow studies for various conditions taking into account power generated by AD Hydro and then evaluated the nature flow of power on 220 kV D/C AD Hydro transmission line, NRPC would have concluded that the total utilization of the said transmission asset by inter-State power comes to more than 50%, which makes the said transmission asset as an ISTS asset, for which only this Commission has the jurisdiction for determination of tariff.
- vi. Further, NRPC has also not taken into account the actual utilization of inter-State power utilized by HPSEB. HPSEB, at the time of winter season, draws



inter-State power from the transmission asset of the Respondent No. 1, on account of huge demand of power. Further, in the summer season, the said Discom injects surplus power into the transmission asset of the Respondent No. 1, for the purpose of inter-State sale of such power. NRPC, while certifying the above transmission asset of the Respondent No. 1 as an InSTS (Intra-State Transmission System), nowhere considers such crucial aspect which proves that the subject line is part of ISTS.

14. The Applicant has submitted that from the table at paragraph 12 and submissions at paragraph 13 above, it can be seen that the tariff that is required to be determined, is related to the entire transmission asset which includes the ISTS line, which emanates from LILO at Patlikul, with 220 kV AD Hydro Transmission line. Therefore, the load flow has to be seen by considering the said line as well. In other words, the load of transmission asset has to be seen in totality and cannot be determined/ ascertained by ignoring one part of the transmission line.

15. The Applicant has submitted that it is evident from the Minutes of Meeting dated 29.10.2018 and 30.10.2018 of NRPC and TCC, as well as from the petition filed by the Respondent No. 1 before the HPERC, that the transmission asset considered for the purpose of ISTS certification by NRPC is only the line which emanates from 220 kV D/c transmission line from Phozal Sub-station to LILO at Patlikul. Accordingly, NRPC considered only part of the line for certification as ISTS. Further, the Respondent No. 1 without taking into consideration the above fact and based on non-certification of transmission lines as ISTS by NRPC, decided to file petition before HPERC.

16. The Applicant has submitted that since the actual utilization of the entire transmission asset is more than 50%, only this Commission has the necessary



jurisdiction to determine the tariff of the transmission assets of Respondent No. 1, as per Sections 2(36), 12, 61, 62 and 79(1)(c) of the Electricity Act, 2003. As such, the Respondent No.1 ought to file an appropriate petition before this Commission for the purpose of determination of tariff of its assets, as mentioned hereinbefore.

17. The instant interlocutory application was listed for hearing on 14.5.2020 and the Commission after hearing the parties reserved the order.

Analysis and Decision

18. We have considered the submissions of the Applicant. The only issue that we need to decide is whether the instant transmission assets of HPPTCL should be considered as Inter-State Transmission System (ISTS) and whether decision of non-certification of these assets by NRPC as ISTS should be declared as void. The Applicant's contention that this Commission has necessary jurisdiction in the matter of deciding tariff of the instant transmission assets is consequential upon these transmission assets being declared ISTS.

19. The Applicant has submitted that the transmission assets of Respondent No. 1 consist of 220 kV D/c Transmission Line from Phozal Sub-station to LILO at Patlikul; transmission line from LILO at Patlikul with 220 kV D/c AD Hydro transmission line; and 33/ 220 kV, 80/100 MVA GIS Sub-station Phozal. The section of transmission line considered for ISTS certification by NRPC was 220 kV D/c transmission line from Allain Duhangan Substation to 400 kV Nalagarh substation through LILO of one circuit at Patlikul, which is only a part of the entire transmission asset.

20. The Applicant has submitted that NRPC while certifying the transmission line



of the Respondent No. 1 as an intra-State transmission system (and not ISTS), did not take into account the actual utilization/ flow of power from the 220 kV D/C AD Hydro transmission line, which is the part of the instant transmission asset of the Respondent No. 1. It has submitted that NRPC has failed to consider that according to Kirchhoff's Law, the flow on Patlikul (Loop in point) to Phozal section would have to be same as the flow on AD Hydro to Loop in point at Patlikul. NRPC failed to take into account the flow of power/ utilization of the above transmission line of Respondent No. 2 (AD Hydro), without which the entire ISTS asset is incomplete.

21. The Applicant has also submitted that NRPC has also not taken into account the actual utilization of inter-State power by HPSEB. HPSEB, during winter season, draws inter-State power from the transmission asset of the Respondent No. 1, on account of huge demand of power while in summer season, it injects surplus power into the transmission asset of the Respondent No. 1. NRPC, while certifying the transmission asset of Respondent No. 1 as InSTS (Intra-State Transmission System), has not considered this crucial aspect of power flow that is important in deciding whether the transmission lines are ISTS.

22. The Applicant has submitted that Respondent No. 1 had approached the Commission for determination of transmission tariff, by way of filing Petition No. 244/TT/2017, in respect of 220 kV D/c Transmission line from Phozal Sub-station to LILO at Patlikul with 220 kV AD Hydro Transmission line and 33/ 220 kV, 80/100 MVA GIS Sub-station Phozal. However, the Commission vide order dated 08.10.2018 declined to grant tariff for the said transmission assets on account of, inter-alia, non-furnishing of certification from Northern Regional Power Committee (NRPC) to the effect that the said transmission line carries inter-State power.



Consequently, Respondent No. 1 approached NRPC that considered the proposal of Respondent No. 1 and vide minutes of meeting dated 29.10.2018 and 30.10.2018, declined to certify the instant transmission assets of HPPTCL as ISTS.

23. The relevant extract of additional agenda considered by NRPC during meetings dated 29.10.2018 and 30.10.2018 is extracted below:

“Additional Agenda:

B.33 Certification of Non-ISTS line for inclusion in PoC Charges

Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) (Third Amendment) Regulations, 2015 provides as under:

“Certification of non-ISTS lines carrying inter-State power, which were not approved by the RPCs on the date of notification of the Central Electricity Regulatory Commission (Sharing of Transmission Charges and Losses) Regulations, 2009, shall be done on the basis of load flow studies. For this purpose, STU shall put up proposal to the respective RPC Secretariat for approval. RPC Secretariat, in consultation with RLDC, using WebNet Software would examine the proposal. The results of the load flow studies and participation factor indicating flow of Inter State power on these lines shall be used to compute the percentage of usage of these lines as inter State transmission. The software in the considered scenario will give percentage of usage of these lines by home State and other than home State. For testing the usage, tariff of similar ISTS line may be used. The tariff of the line will also be allocated by software to the home State and other than home State. Based on percentage usage of ISTS in base case, RPC will approve whether the particular State line is being used as ISTS or not. Concerned STU will submit asset-wise tariff. If asset wise tariff is not available, STU will file petition before the Commission for approval of tariff of such lines. The tariff in respect of these lines shall be computed based on Approved ARR and it shall be allocated to lines of different voltage levels and configurations on the basis of methodology which is being done for ISTS lines.”

Based on the methodology suggested by a group formulated based on the decision of 31st TCC and 35th NRPC meeting for carrying out the certification of the non-ISTS lines carrying inter-State power, the study was carried out for certification of non-ISTS lines submitted by HP, Rajasthan, Uttarakhand and Punjab for FY 2018-19.

The transmission lines, which fulfil the criteria recommended by the group and are recommended for certification as ISTS for the current Financial Year (2018-19) by NRPC Secretariat are listed below:

S.No.	Name of Transmission Line	Owner STU
1.	400kV S/C Jodhpur – Merta Line - I	RVPN
2.	400kV S/C Jodhpur – Merta Line - II	RVPN
3.	400kV S/C Merta – Ratangarh Line	RVPN
4.	400kV S/C Merta – Heerapura Line	RVPN
5.	400kV D/C Chhitorgarh-Bhilwara line	RVPN
6.	400 kV Bhilwara-Ajmer line	RVPN



The complete list of transmission lines submitted by STU can be sub-divided in following categories:

- i. Transmission lines, which fulfil the criteria recommended by the Group and hence are recommended to be certified as ISTS.
- ii. Transmission lines, which do not fulfil the criteria recommended by the Group and hence may not be certified as ISTS.
- iii. The lines, which were claimed to be used for inter-state transmission by STUs but were not modelled in the PoC transmission charge calculation and hence exercise to see whether or not these lines carry inter-state power could not be carried out. It may be mentioned that the responsibility to submit the requisite details for modelling the lines in PoC transmission charge study rests with STU concerned.
- iv. The transmission lines are, which are natural inter-state lines and hence need not be certified as ISTS.

The complete category wise list of transmission lines submitted by STUs is enclosed at Annexure B.33.1

Fresh claims for certification of non-ISTS lines being used for inter-state power for the FY 2019-20 shall be submitted by end of December 2018.

TCC/NRPC may approve proposal to certify the transmission lines in table above.

Annexure B.33.1:

.....
2. Transmission Lines which do not fulfil the criteria (as finalized by the Group) to be certified as ISTS

S.No.	Name of Transmission Line	Owner STU	Average % Utilization (of 2 nd and 4 th Qtr of 2017-18) by states other than the home state of owner STU
1.	220 kV Patlikul-Phozal	HPPTCL	36.55
2.	220 kV AD Hydro-Patlikul	HPPCL	36.55
3.	220 kV S/C Anta-Kota line	RVPN	37.4
4.	220 kV RAPP(B)-Kota	RVPN	18.15
5.	220 kV RAPP (B)-RAPP(A)	RVPN	11.02
6.	220 kV D/C RAPP(A)-Sakatpura Line	RVPN	18.7

.....”

24. Relevant extract of Minutes of Meeting held on 29.10.2018/30.10.2018 is



extracted as under:

“B.32 Certification of Non-ISTS line for inclusion in PoC Charges:

TCC Deliberations

B.32.1 MS, NRPC stated that Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) (Third Amendment) Regulations, 2015 provides for certification of non-ISTS lines carrying Inter-state power by NRPC.

B.32.2 Based on the already approved methodology the study was carried out for certification of non-ISTS lines submitted by HP, Rajasthan, Uttarakhand and Punjab for FY 2018- 19. The transmission lines, which fulfil the criteria recommended by the group and are recommended for certification as ISTS for the current Financial Year (2018-19) by NRPC Secretariat are listed below:

S.No.	Name of Transmission Line	Owner STU
1.	400kV S/C Jodhpur – Merta Line - I	RVPN
2.	400kV S/C Jodhpur – Merta Line - II	RVPN
3.	400kV S/C Merta – Ratangarh Line	RVPN
4.	400kV S/C Merta – Heerapura Line	RVPN
5.	400kV D/C Chhitorgarh-Bhilwara line	RVPN
6.	400 kV Bhilwara-Ajmer line	RVPN

B.32.3 MS, NRPC further informed the committee that the complete list of transmission lines submitted by STU can be sub-divided in following categories:

- i. Transmission lines, which fulfil the criteria recommended by the Group and hence are recommended to be certified as ISTS.
- ii. Transmission lines, which do not fulfil the criteria recommended by the Group and hence may not be certified as ISTS.
- iii. The lines, which were claimed to be used for inter-state transmission by STUs but were not modelled in the PoC transmission charge calculation and hence exercise to see whether or not these lines carry inter-state power could not be carried out. It may be mentioned that the responsibility to submit the requisite details for modelling the lines in PoC transmission charge study rests with STU concerned.
- iv. The transmission lines, which are natural inter-state lines and hence need not be certified as ISTS.

B.32.4 The complete category-wise list of transmission lines submitted by STUs was enclosed at **Annexure B.33.1** of the agenda note.

B.32.5 TCC recommended 6nos of RVPNL lines mentioned by NRPC for certification for Non-ISTS line as deemed ISTS for inclusion in PoC Charges. Rest of the non-ISTS lines do not qualify the criteria formulated by the group constituted by NRPC in its 31st TCC/35th NRPC meetings.

B.32.6 However, HPPTCL requested that they wish to verify the calculations made by NRLDC/NRPC for their 2 lines namely 220 kV Patlikul-Phozal and 220 kV AD Hydro-Patlikul.

B.32.7 TCC advised HPPTCL to send their representative to NRPC/NRLDC to verify the same.



*B.32.8 All the utilities were advised to submit fresh claims for certification of non-ISTS lines being used for inter-state power for the **FY 2019-20** by end of December 2018 after which the same shall not be considered.*

NRPC Deliberations

B.32.9 NRPC approved the lines mentioned in the above table for inclusion in PoC Charges for the FY 2018-19.”

25. We have perused the additional agenda and minutes of meeting of NRPC dated 29.10.2018 and 30.10.2018. It is observed that NRPC, in its meetings held on 29.10.2018/30.10.2018, did not certify the transmission assets of Respondent No. 1 as being used for inter-State transfer of power as they did not qualify the criteria formulated by the group constituted by NRPC in the 31st TCC/ 35th NRPC meetings.

26. Based on decision in NRPC, Respondent No. 1 has filed a petition before HPERC for determination of tariff of its transmission assets.

27. As regards use of non-ISTS transmission assets as ISTS, owners of such transmission assets were directed by the Commission to file petition before it vide order dated 14.3.2012 in petition No. 15/SM/2012, for determination of tariff.

Relevant extract of the order is as under:-

“6. As a first step towards inclusion of non-ISTS lines in the PoC transmission charges, the Commission proposes to include the transmission lines connecting two States, for computation of PoC transmission charges and losses. However, for the disbursement of transmission charges, tariff for such assets needs to be approved by the Commission in accordance with the provisions of Sharing Regulations. Accordingly, we direct the owners of these inter-State lines to file appropriate application before the Commission for determination of tariff for facilitating disbursement.”

28. Subsequently, the Commission vide order dated 5.9.2018 in petition No. 7/SM/2017 held as under:-

“2. Since the tariff period 2014-19 is drawing a close in the next seven months and the State Utilities as mentioned above have not filed the tariff petitions, the present petition was listed for hearing and for further directions on 21.8.2018. However, none of the State Utilities appeared on the schedule date of hearing. We direct the above utilities to file the tariff petitions within two months in



respect of the transmission lines connecting two States which are within their purview in terms of the 2014 Tariff Regulations.”

29. In the instant case, the Respondent No. 1 (HPPTCL) is the owner of the instant transmission assets. HPPTCL had filed Petition No. 244/TT/2017 before the Commission for determination of tariff for 2016-19 period for 33/220kV, 80/100 MVA GIS Sub-Station Phozal along with 220kV D/C LILO transmission line. The Commission vide order dated 08.10.2018 disposed of the Petition No. 244/TT/2017 since HPPTCL had not approached the Commission with requisite documents. In this regard, we note that in terms of order dated 14.3.2012 in petition No. 15/SM/2012 and order dated 5.9.2018 in petition No. 7/SM/2017, it is the owners of transmission assets/ State utilities that have to approach the Commission for declaration of transmission assets owned by them as ISTS and request for determination of tariff of such transmission assets. The aforesaid orders of the Commission are not applicable to entities other than owners of transmission assets. Therefore, in our considered view, the Applicant has no *locus standi* to contest that the instant transmission assets are ISTS. Also, in the instant matter, the owner of the transmission asset (Respondent No. 1) has decided to approach HPERC for determination of tariff based upon minutes of meetings of NRPC dated 29.10.2018 and 30.10.2018. Thus, HPPTCL has accepted decision of NRPC that instant transmission assets are not ISTS. Therefore, we find no reason to interfere with decision of NRPC.

30. In the second prayer, the Applicant has submitted that the Commission has the necessary jurisdiction for determination of tariff of the transmission assets of the Respondent No. 1, HPPTCL. It is noted that the instant transmission line was



developed by HPPTCL and is located within the territory of Himachal Pradesh. It is further noted that the instant transmission assets have not been certified as ISTS by NRPC and consequent upon such decision of NRPC, HPPTCL has already approached HPERC for determination of tariff and presently, HPERC is seized with the matter. In view of the fact that HPPTCL, accepting the decision of NRPC that the instant transmission assets are not ISTS, has already approached HPERC for determination of tariff of the instant transmission assets, any exercise of jurisdiction by this Commission to determine tariff for the instant transmission assets does not arise.

31. IA No. 14/2020 in Petition No. 124/MP/2017 is disposed of in terms of the above. Petition No. 124/MP/2017 shall be listed for hearing in due course for which separate notice will be issued.

sd/-
(Arun Goyal)
Member

sd/-
(I.S.Jha)
Member

sd/-
(P.K.Pujari)
Chairperson

