

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 211/MP/2011**

- Subject : Petition under Regulations 20 and 21 of the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 and against the arbitrary action of Western Regional Load Despatch Centre by loading transmission losses on the 220 kV lines being used for transfer of power from the generating station of NSPCL to Bhilai Steel Plant.
- Date of Hearing : 26.3.2021
- Coram : Shri P. K. Pujari, Chairperson  
Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member
- Petitioner : Steel Authority of India Limited (SAIL)
- Respondent : Western Regional Load Despatch Centre (WRLDC)
- Parties Present : Shri M. G. Ramachandran, Sr. Advocate, SAIL  
Ms. Anushree Bardhan, Advocate, SAIL  
Ms. Srishti Khindaria, Advocate, SAIL  
Shri Sitesh Mukherjee, Advocate, WRLDC  
Shri Abhishek Kumar, Advocate, WRLDC  
Ms. Lakshmi, SAIL

**Record of Proceedings**

Case was called out for virtual hearing.

2. Learned senior counsel for the Petitioner, SAIL submitted that the present Petition has been remanded by the Appellate Tribunal for Electricity (in short, “the Appellate Tribunal”) vide its order dated 30.1.2020 in Appeal No.116 of 2018 for the limited extent of ‘prospective application’ of the Commission’s decision dated 5.10.2017.
3. Learned senior counsel for the Petitioner circulated note of arguments and made extensive submissions in support of his contentions and relied upon the various judgments/ orders of the Hon’ble Supreme Court, the Appellate Tribunal for Electricity and this Commission. Learned senior counsel mainly submitted the following:
- (a) While vide order dated 5.10.2017, the Petition has been allowed in the favour of the Petitioner, the relief has been granted to the Petitioner only prospectively.
- (b) The dedicated lines from NSPCL to SAIL-BSP were wrongly treated as ISTS and consequently transmission losses were wrongly loaded on to the Petitioner by WRLDC. There was no use of ISTS in the transmission of power

from NSPCL to SAIL-BSP and the line squarely qualified as an intra-State system. The Petitioner had consistently followed up this issue with WRLDC and RPC forum and before the Petitioner had filed matter in the Commission.

(c) The relief to the Petitioner ought to be applied retrospectively, because the Petitioner has been wronged by order of WRLDC and it has been successful before the Commission in showing that it was a wrongful action of WRLDC. Thus, the Petitioner has suffered a legal prejudice and the compensation is an automatic remedy and it should get relief retrospectively with effect from August 2011.

(d) The contention of WRLDC that giving retrospective effect to the order dated 5.10.2017 would lead to substantial adjustments and re-opening of already settled PoC accounts and difficulty for WRLDC in calculation or settlement cannot be a ground for denying the Petitioner's legitimate dues.

(e) The Commission itself has determined the tariff for different utilities relating to the control period after the expiry of the control period. The revised tariff is always given effect to by providing for recovery of the amount for the past period in a prospective manner by increasing or decreasing the amount of recovery from the persons availing the services in future.

(f) The Petitioner has claimed compensation not on market rate but only to the extent of loss of power due to loading of transmission losses at a rate at which NSPCL was supplying power to the Petitioner.

4. Learned counsel of Respondent No. 1, WRLDC made detailed submissions in support of his contentions and relied upon the Commission's order dated 5.10.2017, judgment of the Appellate Tribunal and reply of WRLDC. The learned counsel referred to the Commission's order dated 4.5.2018 in Petition No. 126/MP/2017 wherein the Commission has directed that a deviation from present regulatory regime is taken in typical circumstances of the case. Learned counsel mainly submitted the following:

(a) Since the matter relates to neither determination of tariff nor interpretation of any regulation dealing with applicability of tariff, the proposition of the Petitioner that the tariff is a continuous process will not apply in this case.

(b) The order which is remanded back does not interpret any regulation, but enunciate a new regulatory principle that has been required on account of certain hardships that the Commission noticed ex-post where a generating station is connected to both CTU and STU system. Therefore, it is a regulatory measure which shall be in all circumstances prospective and not retrospective. In this regard, reliance was placed on various judgments of the Appellate Tribunal and the Hon'ble Supreme Court.

(c) The principle 'where there is right there is remedy' may not apply in the present case as the right had been created only by the order of the Commission. The principle 'act of Court will prejudice no one' also does not apply to this case when the Commission, acting as a regulator, has found that there is a gap in the regulations in a particular circumstance where the apportionment of transmission losses is done on the STU network, which was addressed by the Commission after examining that there is no power flow in the ISTS network for the said power.

(d) If a real and true picture of accounting cannot be done by setting the clock back, exercising any other measure for giving money back to the Petitioner again will be regulatory measure and that cannot be given retrospective effect. Money goes into consolidated fund of Government of India and doing a rough calculation for compensation and granting relief to the Petitioner would have to be borne by somebody. This situation has resulted because a new principle was given effect by the order of the Commission and so it should be prospective only. The way the Petitioner has proposed to calculate the loss due to less scheduling is not the correct way because actual drawl is not going to change retrospectively and deviation settlement charges are applicable on actual schedule and drawal difference.

5. Based on the request of learned senior counsel for the Petitioner, the Commission permitted the Petitioner to file short note on the judgments referred to by the Respondent, WRLDC within a week with copy to the Respondents who may file their response, if any, within a week thereafter. The Commission further directed WRLDC to file its written submissions within ten days.

6. After hearing the learned senior counsel for the Petitioner and learned counsel for the Respondent, WRLDC, the Commission reserved the order in the matter.

**By order of the Commission**

**Sd/-  
(T.D. Pant)  
Joint Chief (Legal)**