

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 191/MP/2019

Coram:

**Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member**

Date of Order: 27th January 2021

In the matter of:

Petition under Section 79(1)(d) of the Electricity Act, 2003 read with Regulations 54 and 55 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 seeking relaxation of Operation and Maintenance norms specified under Regulation 29 (4) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014.

And

In the matter of:

North East Transmission Company Ltd.
VIII-Champamura, Khayerpur By-Pass Road,
P.O. & PS- old Agartala,
Distt. -West Tripura- 799008

Also At:

2C, 3rd Floor, D-21,
DMRC Building, Corporate Park,
Dwarka, Sector-21, Delhi-110077

.....Petitioner

Versus

1. Power Grid Corporation of India Ltd.
Executive Director, Commercial Deptt.,
"Saudamini" Plot No-2, Sector – 29,
Gurgaon- 122001

2. Tripura State Electricity Corporation Ltd.,
Bidyut Bhawan, North Banamaliupr,
Agartala- 799001

3. Assam Electricity Grid Corporation Ltd.,
Bijulee Bhawan, Paltan Bazar,
Guwahati- 781001
4. Meghalaya State Electricity Board,
Lumjingshai, Short Round Road, Shillong -1
5. Department of Power, Government of Nagaland,
Office at Kohima- 797001
6. Power & Electricity Department,
Government of Mizoram, Aizwal- 796001
7. Electricity Department, Government of Manipur,
Keishampat, Imphal- 795001
8. Department of Power,
Government of Arunachal Pradesh,
Itanagar-791111
9. ONGC Tripura Power Company Ltd.,
Udaipur, Karkraban Road, Palatana P.O.
Distt-Gomati, Tripura – 799105
10. North Eastern Regional Power Committee,
Nongrim Hills, Shillong- 793003

Parties Present:

Shri M. G. Ramachandran, Sr. Advocate, NETCL
Shri Shubham Arya, Advocate, NETCL
Shri Satyajit Ganguly, NETCL
Shri Navneen Kr. Mishra, NETCL

ORDER

The instant petition has been filed by North East Transmission Company Limited (hereinafter to be referred as 'the Petitioner' or 'NETCL') in pursuance of the liberty granted by the Commission in its order dated 16.4.2019 in Petition No. 224/MP/2017 seeking relaxation of the Operation and Maintenance (O&M) norms

specified under Regulation 29(4) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter to be referred as the 2014 Tariff Regulations). The Petitioner has made the following prayers:

a) *Relax the O&M norms specified under Regulation 29 (4) of the CERC (Terms and Conditions of Tariff) Regulations, 2014 and allow additional O&M charges to the extent mentioned in the present petition;*

b) *Pass such other order(s), as this Hon'ble Commission may deem appropriate in the facts and circumstances of the present case.*

c) *Approve the reimbursement of expenditure by the beneficiaries towards petition filing fee, and publishing of notices in newspapers in terms of Regulation 42 CERC (Terms and Conditions of Tariff) Regulations, 2014, and other expenditure (if any) in relation to the filing of petition*

Background

2. The Petitioner is a joint venture company of Power Grid Corporation of India Limited (PGCIL), ONGC Tripura Power Company Limited (OTPC) and entities in six States of north east region of the Country, which was incorporated with an objective of developing and operating a transmission system to evacuate power from OTPC's 2x363.3 MW gas based combined cycle power project at Palatana, Tripura. The shareholding pattern of the Petitioner is as follows:

Name of the Stake holders	Shareholding
OTPC	26%
PGCIL	26%
AEGCL	13%
Govt. of Tripura	10%
Govt. of Mizoram	10%
Govt. of Manipur	6%
Govt. of Meghalaya	5%
Govt. of Nagaland	4%
Total	100%

3. The Commission granted transmission license to the Petitioner vide its order dated 11.6.2009 in Petition No. 16/2009. The Petitioner has successfully completed

and commissioned the Palatana – Bongaigaon 400 kV D/C Transmission System which is operational since September 2012 and which runs through the States of Tripura, Meghalaya and Assam. The said Transmission System has a route length of 662.8 km and is divided into five assets which were commissioned between September 2012 and February 2015, as under:

Asset	Details of the Asset	Line Length (in km)	COD
Asset-I	Palatana-Silchar D/C	247.39	1.9.2012
Asset -II	Silchar – Byrnihat (one circuit on D/C)	214.41	1.3.2013
Asset -III	Byrnihat - Bongaigaon (one circuit on D/C)	201	22.2.2015
Asset -IV	Silchar - Azara (one circuit on D/C)	256.41	27.7.2014
Asset -V	Azara-Bongaigaon (one circuit on D/C)	159	16.1.2015

4. The Commission vide order dated 16.8.2016 in Petition No. 213/TT/2015 determined the transmission charges for the control period 2014-19, as under:

(Rs in lakhs)

Asset	Control Period				
	2014-15	2015-16	2016-17	2017-18	2018-19
Asset 1	174.90	180.84	186.78	192.96	199.40
Asset-2	75.79	78.36	80.94	83.62	86.40
Asset-3	7.11	73.46	75.88	78.39	81.00
Asset-4	61.86	93.72	96.79	100.00	103.33
Asset-5	11.55	58.11	60.02	62.01	64.07
Total	331.21	484.49	500.41	516.98	534.20

5. Subsequently, the Petitioner filed Petition No. 224/MP/2017 seeking relaxation of Operation and Maintenance norms specified under Regulation 29(4) of the 2014 Tariff Regulations. The Commission vide order dated 16.4.2019, granted liberty to the Petitioner to file a fresh petition, containing the following details:

- (a) O&M charges paid for maintenance of the assets.
- (b) O&M expenditure incurred by the Petitioner on items other than the maintenance of the bays.
- (c) Efforts made by the Petitioner to optimize the expenditure.
- (d) Any additional expenditure incurred by the Petitioner on maintaining the safety and security of the transmission assets.

Submissions of the Petitioner

6. In pursuance of the liberty granted by the Commission vide order dated 16.4.2019 in Petition No.224/MP/2017, the Petitioner has filed instant Petition and has submitted information as sought by the Commission in that Order as under:

A. O&M charges paid for maintenance of the assets

- a) The total O&M charges incurred by the Petitioner and corresponding O&M Expenses allowed by the Commission for a given year during the control period 2014-19 are as under:

(Rs. in lakhs)			
Sl. No.	Year	Total O&M Charges Allowed	Actual O&M Expenses
1	2014-15	331.21	817.44
2	2015-16	484.49	908.73
3	2016-17	500.41	1126.98
4	2017-18	516.98	1090.22
5	2018-19	534.20	1251.15

- b) The operations and maintenance becomes challenging on account of landslides due to higher than average annual rainfall. The transmission system passes through almost 200 km of hilly region and around 550 towers are located in the hilly regions, which resulted into increased maintenance cost.
- c) The said transmission system passes through Brahmaputra River, Barak and Champavati River. About 2.5 km of the transmission system is located in the river areas thereby making operations and maintenance

challenging. Further, the lines traverse about 52 km through reserve forest that has difficult terrain.

d) O&M expense norms for hilly terrains are not explicitly covered under the norms provided by the 2014 Tariff Regulations. The Petitioner being a single project company, it does not enjoy the vast economies of scale that are available with other Central/ State transmission utilities like PGCIL.

e) The normative O&M expenses specified in the Clause 29(4) of the 2009 Tariff Regulations are primarily based on the transmission systems operated by PGCIL that have been arrived at by aggregating the O&M expenses across various projects in all five regions. This process, thus, normalizes any region-specific issues under O&M expenses. In NER (north-eastern region), PGCIL operates around 5000 ckt km of transmission lines as compared to its overall network length of 1,53,635 ckt km. Thus, NER contributes to only 3% of PGCIL's overall network size. Hence, higher O&M expenses in NER gets marginalized/ subsumed while calculating O&M expense norms based on country-wide data. The normative O&M expenses are determined on the basis of vast economies of scale available with the Central Utility such as PGCIL.

f) The State Electricity Regulatory Commissions (SERCs) in the North Eastern Region are determining O&M expenses on basis of actual expenses incurred in the previous control period. A comparison of the allowed O&M Expenses per ckt km indicates the increased O&M charges' requirement in NER for 2018-19:

Particulars	Approved by CERC (O&M per ckt km)	Assam Electricity Grid Corporation Ltd	Meghalaya Power Transmission Ltd	TP&MZ, Arunachal Pradesh
Total Expense Allowed (in Rs crore)		181.52	62	15.09
% allocated towards transmission lines		25% (Assumption based on CERC apportionment)		
Ckt km		5367	1413	357
Allowed O&M	0.403	0.85	1.09	1.06

(in Rs. lakhs per ckt km)				
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g) The break-up of the O&M expenses in respect of the Petitioner are as follows:

(Rs. in lakhs)					
Year	O&M Expenses towards PGCIL	O&M Expenses towards Pioneer Constructions	Other Site related Expenses	Corporate Expenses	Total
2014-15	470.46	-	66.49	280.49	817.44
2015-16	465.25	-	59.78	383.71	908.73
2016-17	577.80	12.81	61.24	475.13	1126.98
2017-18	422.34	109.53	110.39	447.96	1090.22
2018-19	429.21	120.01	152.60	549.33	1251.15

h) The Petitioner outsourced responsibility of O&M for 461.8 km (Palatana to Byrnihat) to PGCIL and for the remaining 201 km (Byrnihat to Bongaigaon), it was outsourced to M/s Pioneer through a Domestic Competitive Bidding process.

i) The Petitioner outsourced the O&M responsibility for 461.8 km (Palatana to Byrnihat) to Powergrid on account of the following considerations:

i. Reliability of power transmission being paramount and that the transmission system under consideration is extremely critical for North Eastern Region. The said transmission system is critical for evacuating almost 1/3rd of the power requirement in the North Eastern region.

ii. Incidents of insurgency required trained manpower- Following incidents occurred during construction of the said transmission system:

- The Petitioner had to take services of Tripura State Rifles (TSR) as escorts for the labour and executives during construction stage. It required arrival of TSR personnel by 09:00/ 10:00 am and return of TSR personnel by 05:00 pm.

- In the state of Meghalaya, there were numerous occasions wherein contractors' labour from States other than NER were attacked by locals in their residential camps and were also prevented to work at site. In one of the incidents, one person was killed by locals of Meghalaya resulting into labour from other States fleeing

away from Meghalaya for a period of about one month thereby obstructing the work.

- Frequent Bandhs, strikes and disturbances occurred during construction in the State of Assam which continuously disrupted the work.
- Owing to the difficulties faced during the construction phase, specialized manpower was required in order to maintain the transmission lines in such a difficult terrain.
- Additionally, being a single project company, the Petitioner found it difficult to procure trained manpower to actively manage O&M activities.

iii. Appointing a trained agency was critical to ensure availability of transmission system. PGCIL is operating around 5000 ckt kms of transmission assets in NER thereby having sufficient expertise along with availability of spares and connectivity across the regions. It was perceived that the Petitioner could benefit from the economies of scale of PGCIL which otherwise would have led to costly overheads.

j) For the remaining 201 km (Byrnihat to Bongaigaon), the Operations and Maintenance responsibility was outsourced to M/s Pioneer through a Domestic Competitive Bidding process in view of following:

- The stretch from Byrnihat to Bongaigaon is less arduous compared to Palatana to Bongaigaon which is currently managed by PGCIL.
- The terms achieved through Domestic Competitive Bidding could not be agreed with PGCIL for the given stretch.

k) Despite the difficult terrain and the difficulties as elaborated in the subsequent sections, the Petitioner has been able to maintain the Availability above 99%. The average annual Availability for each year of the control period is as follows:

S.No.	Year	Availability
1	2014-15	99.35%
2	2015-16	99.92%
3	2016-17	99.89%
4	2017-18	99.90%
5	2018-19	99.97%

B. O&M expenditure incurred by the Petitioner on items other than the maintenance of the bays

a) Besides site-related expenses, the Petitioner is maintaining a corporate office in New Delhi. Expenses incurred on corporate office are as follows:

(Rs. in Lakhs)

Year	Corporate Expenses
2014-15	280.49
2015-16	383.71
2016-17	475.13
2017-18	447.96
2018-19	549.33

C. Efforts made by the Petitioner to optimize the expenditure

a) As per the standard practice, PGCIL charged an additional 10% as consultancy charges. However, in order to limit the O&M expenses, the Petitioner has successfully negotiated the removal of consultancy charges. This has led to an annualized reduction in O&M expenses of almost Rs. 30 lakhs.

b) It maintains a skeleton manpower in order to control the O&M Expenses. Manpower details as on 01.04.2019 at various locations are as follows:

Location	Manpower	
	On roll	Off roll
Silchar, Assam	2	-
Agartala	2	-

Golpara, Assam	2	-
Guwahati, Assam	5	-
HO, Delhi	9	2

c) By distributing the O&M responsibility between two agencies, the Petitioner has reduced O&M expenses by almost 36% per km. This has led to an annualized savings of almost Rs.70 lakhs.

D. Any additional expenditure incurred by the Petitioner on maintaining the safety and security of the transmission assets

a) In spite of many Right of Way issues and insurgency threats in NER, it has managed to maintain high availability of the transmission system and has provided reliable supply to its beneficiaries.

b) By successfully employing the services of experienced agencies like PGCIL and Pioneer, the Petitioner has managed to ensure safety of the transmission assets.

Hearing dated 30.06.2019

7. Commission vide Record of Proceedings (RoP) dated 30.6.2019 directed the Petitioner to furnish the following information :

a) *Details of corporate expenses along with justification for increase in such expenses from the years 2014-15 to 2018-19;*

b) *Asset-wise details of O&M charges including expenses on account of safety and security of the assets, if any, incurred on account of work outsourced to PGCIL and Pioneer for each year of control period 2014-19; and*

c) *Details of additional expenditure incurred by the Petitioner on maintaining the safety and security of the transmission assets along with details and proof of payments made to security personnel, if any.*

8. In response to the Commission's query pertaining to details of corporate expenses along with justification of increase in such expenses from the years 2014-

15 to 2018-19, the Petitioner has submitted year-wise break-up of corporate office expenses as under :

(₹ in Lakhs)

SI. No.	Particulars	2014-15	2015-16	2016-17	2017-18	2018-19	Total
1.	Vehicle Expenses	0.69	9.30	14.22	23.56	18.03	64.80
2.	Office Rent	45.31	77.41	67.59	42.95	77.10	310.36
3.	Salaries, Wages and Allowance	155.67	179.15	266.17	236.38	276.15	1113.52
4.	Others	78.82	117.86	127.15	145.07	178.05	646.94
		280.49	383.72	475.13	447.96	549.33	2136.61

9. The Petitioner has furnished following reasons for escalation in corporate expenses:

a) Part Capitalization in FY 2014-15: The last element of the transmission system i.e. Byrnihat - Bongaigaon (one circuit on D/C) was commissioned on 22.02.2015. Hence, the data/ amount shown in the above table for FY 2014-15 are not completely reflective of the corporate expenses that the Petitioner had to incur since part of these expenses were capitalized in IEDC. Actual expenditure incurred in FY 2014-15 was Rs. 454.76 lakhs having following details:

(₹ in lakhs)

Particulars	Expenses booked in O&M	Expenses Capitalized	Total Expenses
Vehicle Expenses	0.69	7.23	7.92
Office Rent	45.31	31.74	77.05
Employee Expenses	155.67	82.02	237.69
Other Expenses	78.82	53.28	132.10
Total	280.49	174.27	454.76

b) The year-wise actual O&M expenditure related to corporate office expenses is as follows:

(₹ in lakhs)

Sl. No.	Particulars	2014-15	2015-16	2016-17	2017-18	2018-19	Total
1.	Vehicle Expenses	7.92	9.30	14.22	23.56	18.03	73.03
2.	Office Rent	77.05	77.41	67.59	42.95	77.10	342.10
3.	Salaries, Wages and Allowance	237.69	179.15	266.17	236.38	276.15	1195.54
4.	Others	132.10	117.86	127.15	145.07	178.05	700.23
		454.76	383.72	475.13	447.96	549.33	2310.90

c) Increase in vehicle expenses in the period 2014-19 is primarily on account of enactment of Goods and Services Tax Act, 2017 (GST Laws) on 01.07.2017 and on account of inflation in the prices. In 2015-16, the Petitioner managed its entire operation using a single vehicle only. However, due to requirements faced subsequently during board meetings, coordination meetings with CTU for billing related issues, meeting with lenders, coordination for regulatory purposes, the Petitioner identified the need for minimum two vehicles which was eventually implemented from 2016-17 onwards.

d) Increase in office rent in 2015-16 has been primarily on account of inflation in the rentals. However, in order to mitigate the expenditure, the Petitioner managed to optimize the office rent in 2016-17 by shifting from Ambience mall (Gurugram, Haryana) to an economical premise in Dwarka, Delhi on sub-lease basis. In this process, it had to bear the cost of 3 additional months in 2016-17 in order to obtain the lease. During 2017-18, rent of Rs.42.95 lakhs was paid for the new office thereby reducing the cost by Rs.24.64 lakhs as compared to 2016-17. The Petitioner further optimized the office rent by directly leasing through Delhi Metro Rail Corporation (DMRC) and would incur an annual rent of Rs. 38.22 lakhs and thereby, save of Rs. 4.73 lakhs. However, in order to do so, it had to incur an additional outgo of Rs. 23.38 lakhs on account of amicable settlement towards the sub-lease contract. Therefore, in 2018-19, the rental expenses were primarily on account of sub-

lease rent till December (Rs. 33.91 lakhs), rent to DMRC (Rs. 19.39 lakhs) and final settlement towards sub-lease contract (Rs. 23.38 lakhs).

e) The Petitioner is carrying out its entire work by utilising skeleton manpower to carry out its operations. Further, the manpower deployed at corporate office level is strictly in accordance with the organizational structure approved by the Board of Directors. The decrease in employee expenses in FY 2015-16 by an amount of Rs 58.32 lakhs was primarily on account of vacancy of 11 months for the position of Managing Director. Corporate expenses increased in FY 2016-17 by Rs.87.02 lakhs due to filling up of the position of Managing Director and new employees required for conducting further operations. The expenditure on account of employees was reduced by an amount of Rs. 29.79 lakhs in FY 2017-18 primarily on account of employee turnover and subsequent replacement by low cost employees. During FY 2018-19, total amount spent was Rs.276.15 lakhs and was higher by Rs. 39.77 lakhs as compared to the amount spent in FY 2017-18 i.e. 236.38 lakhs on account of pay revision and annual increments.

f) Details of other expenses year-wise are given below:

Particulars	(₹ in lakhs)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Audit Fees	2.53	3.47	4.89	2.95	2.95
Out of Pocket Expenses	0.47	-	-	-	-
Certification Fee	0.84	2.28	0.86	3.19	3.19
Advertisement Expenses	0.81	0.15	0.27	3.50	2.09
Internal Audit Expenses	0.11	1.30	1.20	1.01	1.17
Cost Audit Expenses	0.61	0.57	0.64	0.43	0.41
AGM Expenses	2.99	3.91	3.34	5.49	5.88
Recruitment Exp	-	-	7.95	3.06	2.10
Printing & Stationery	3.58	3.29	4.28	4.63	3.83
Rates & Taxes	0.33	0.28	0.36	0.33	1.29
Legal, Professional and Meeting Expenses	12.32	44.68	47.05	53.59	79.39
Office Expenses	6.03	10.07	21.45	27.96	36.16
Electricity Expenses	2.30	3.17	2.79	5.69	2.89
Communication Expenses	5.86	7.20	7.13	7.27	6.56
Travelling and Conveyance exp.	34.67	36.54	22.83	22.35	26.83

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Repair & Maintenance Expenses	0.67	0.65	1.65	2.40	3.23
Bank Charges & Other Financial charges	4.69	0.29	0.47	1.22	0.09
Total	78.82	117.86	127.15	145.07	178.05

g) The increase in other expenses was primarily on account of legal expenses and the cases are mainly in regard to compensation claims made in regard to land used for laying down the transmission network. The Petitioner is currently involved in over 100 cases at different courts on Right of Way and compensation issues which are clearly beyond the control of the Petitioner.

10. In response to the Commission's query pertaining to asset-wise details of O&M charges including expenses on account of safety and security of the assets, if any, incurred on account of work outsourced to PGCIL and Pioneer for each year of control period 2014-19, the Petitioner has submitted the detail as under:

2014-15

Asset	O & M paid to PGCIL	O & M paid to Pioneer	Site Office Expenses	Corporate Expenses	Total	Allowed by the Commission	Shortage	% of Shortage
Asset I	255.74	0.00	20.97	104.68	381.39	174.90	-206.49	218.06%
Asset II	110.82	0.00	14.50	45.35	170.68	75.79	-94.89	225.20%
Asset III	103.89	0.00	10.83	42.52	157.25	7.11	-150.14	2211.64%
Asset IV	0.00	0.00	11.06	54.27	65.33	61.86	-3.47	105.61%
Asset V	0.00	0.00	9.13	33.66	42.79	11.55	-31.24	370.47%
	470.46	0.00	66.49	280.49	817.44	331.21	-486.23	246.80%

2015-16

Asset	O & M paid to PGCIL	O & M paid to Pioneer	Site Office Expenses	Corporate Expenses	Total	Allowed by the Commission	Shortage	% of Shortage
Asset I	173.65	0.00	13.94	143.20	330.79	180.84	-149.95	182.92%
Asset II	75.25	0.00	18.82	62.05	156.11	78.36	-77.75	199.22%
Asset III	70.55	0.00	4.90	58.17	133.62	73.46	-60.16	181.89%
Asset IV	89.99	0.00	11.37	74.25	175.61	93.72	-81.89	187.37%
Asset V	55.80	0.00	10.76	46.04	112.61	58.11	-54.50	193.78%
	465.25	0.00	59.78	383.71	908.73	484.49	-424.24	187.56%

2016-17

Asset	O & M paid to PGCIL	O & M paid to Pioneer	Site Office Expenses	Corporate Expenses	Total	Allowed by the Commission	Shortage	% of Shortage
Asset I	215.66	0.00	14.31	177.32	407.29	186.78	-220.51	218.06%
Asset II	93.46	0.00	18.69	76.83	188.98	80.94	-108.04	233.48%
Asset III	87.61	0.00	3.26	72.03	162.90	75.88	-87.02	214.68%
Asset IV	111.76	6.40	13.14	91.94	223.24	96.79	-126.45	230.65%
Asset V	69.30	6.40	11.85	57.02	144.57	60.02	-84.55	240.87%
	577.80	12.81	61.24	475.13	1126.98	500.41	-626.57	225.21%

2017-18

Asset	O & M paid to PGCIL	O & M paid to Pioneer	Site Office Expenses	Corporate Expenses	Total	Allowed by the Commission	Shortage	% of Shortage
Asset I	229.58	0.00	27.72	167.18	424.48	192.96	-231.52	219.98%
Asset II	99.49	0.00	21.39	72.43	193.31	83.62	-109.69	231.18%
Asset III	93.27	0.00	23.57	67.91	184.74	78.39	-106.35	235.67%
Asset IV	0.00	54.77	19.48	86.68	160.92	100.00	-60.92	160.92%
Asset V	0.00	54.77	18.24	53.75	126.76	62.01	-64.75	204.43%
	422.34	109.53	110.39	447.96	1090.22	516.98	-573.24	210.88%

2018-19

Asset	O & M paid to PGCIL	O & M paid to Pioneer	Site Office Expenses	Corporate Expenses	Total	Allowed by the Commission	Shortage	% of Shortage
Asset I	233.32	0.00	30.32	205.01	468.65	199.40	-269.25	235.03%
Asset II	101.11	0.00	25.20	88.83	215.13	86.40	-128.73	248.99%
Asset III	94.78	0.00	26.49	83.28	204.55	81.00	-123.55	252.53%
Asset IV	0.00	60.01	25.77	106.30	192.07	103.33	-88.74	185.88%
Asset V	0.00	60.01	44.82	65.92	170.75	64.07	-106.68	266.50%
	429.21	120.01	152.60	549.33	1251.15	534.20	-716.95	234.21%

11. In response to the Commission's query pertaining to details of additional expenditure incurred by the Petitioner on maintaining the safety and security of the transmission assets along with details and proof of payments made to security personnel, if any, the Petitioner has submitted that by deploying the services of experienced O&M contractors like PGCIL and M/s Pioneer Constructions, the Petitioner has managed to control the O&M expenses and has been benefitted through their prudent practices. As per the O&M contracts, the O&M contractors are responsible for:

- a) Maintenance of stores
- b) Routine O&M and preventive maintenance
- c) Breakdown rectification work

12. In addition to the above, the Petitioner had to develop and maintain a competent manpower at site locations for continuous monitoring and control of the transmission assets of NETCL. Outsourcing enabled the Petitioner to coordinate with all local agencies like district administration, village panchayat, police, Forest and Revenue Department and law enforcing agency etc. thereby minimizing incidents of theft and sabotage. These additional manpower/ deployment was able to effectively resolve Right of Way issues, inspect the likely damage to tower foundations due to

heavy monsoon/ landslides in hilly area, inspect the critical tower locations of river/ rail/ highway crossing/ various State-owned HT/LT line crossings, inspect lightning prone areas and suitably advise for rectification work of foundation by temporary/ permanent protection work, earthing improvement work, stub encashment works and was instrumental for maintaining high line availability of more than 99.8% as well as maintaining the safety and security of the transmission assets.

13. The additional expenditure incurred by the Petitioner in deploying PGCIL/ Pioneer Constructions was Rs.66.49 lakhs, Rs.59.78 lakhs, Rs.61.24 lakhs, Rs.110.39 lakhs & Rs.152.60 lakhs during 2014-15, 2015-16, 2016-17, 2017-18 and 2018-19 respectively and is reflected as "Site office expenses" head in the Petition. Further, since the Petitioner's stores were constructed in 2019-20, the Petitioner had not incurred any security personnel related expenses during 2014-19 period. However, some security personnel related expenses were incurred by the Petitioner's contractors but the same is part of their O&M expenses.

Analysis and Decision

14. The Petitioner has sought relaxation of O&M norms specified under Regulation 29(4) of the 2014 Tariff Regulations on account of various aspects, namely, insurgency issues in North East Region requiring deployment of experienced agency for O&M, landslides due to higher rainfall, transmission towers being located in hilly regions and hardship on account of river crossing and reserved forests.

15. The total O&M expenses incurred by the Petitioner and corresponding O&M expenses allowed by the Commission on normative basis, for each year of control period 2014-19 is as under:

(Rs. in lakhs)

S.No.	Financial Year	Total O&M Expenses Allowed by the Commission	Actual O&M Expenses Incurred	Difference between O&M Expenses Incurred and Normative O&M Expenses
1	2014-15	331.21	817.44	486.23
2	2015-16	484.49	908.73	424.24
3	2016-17	500.41	1126.98	626.57
4	2017-18	516.98	1090.22	573.24
5	2018-19	534.20	1251.15	716.95

16. The Petitioner has submitted that normative O&M expenses specified in Regulation 29(4) of the 2014 Tariff Regulations are primarily based on aggregating of O&M expenditure of PGCIL's transmission assets across various projects in five regions of the country, thereby averaging out and normalizing any region-specific issues under O&M expenses. Since PGCIL operates only 3% of its overall network size in North Eastern Region, any O&M escalation gets subsumed while calculating the O&M charges. However, such economies of scale are not available with single project companies such as the Petitioner. The Petitioner has also submitted that State Electricity Regulatory Commissions in the North Eastern Region allow O&M expenses on the basis of actual expenditure incurred in the previous control period and not on normative basis.

17. We are not agreeable to the contention of the Petitioner that normative O&M charges specified in Regulation 29(4) of the 2014 Tariff Regulations are primarily based on aggregating O&M expenditure of PGCIL's transmission assets across

various projects. The norms are finalized based on data collected for actual O&M Expenses for all the transmission licensees. Vide Order dated 10.11.2017 in Petition No. L-1/225/2017/CERC, the Commission sought the data for actual O&M expenditure from all generating companies and transmission licensees including the Petitioner. However, the Petitioner had failed to submit the data regarding O&M Expenses while formulation of norms for 2019-24 period. It is not correct on part of the Petitioner to suggest that the norms were finalized based on data of PGCIL only.

18. The Petitioner has submitted a comparison of the O&M Expenses per ckt km allowed by the Commission vis-à-vis the O&M requirement in NER for 2018-19:

Particulars	Approved by CERC (O&M per ckt km)	Assam Electricity Grid Corporation Ltd	Meghalaya Power Transmission Ltd	TP&MZ, Arunachal Pradesh
Total Expense Allowed (Rs Cr)		181.52	62	15.09
% allocated towards transmission lines		25% (Assumption based on CERC apportionment)		
No. of Ckt km		5367	1413	357
Allowed O&M lakhs per ckt km	0.403	0.85	1.09	1.06

19. The Petitioner has relied on order dated 29.9.2014 in Petition No. 164/MP/2014 and has submitted that the Commission has taken cognizance of the difficult security scenario prevalent in North Eastern Region and had accordingly relaxed the O&M provisions and allowed the reimbursement of expenses on CISF incurred. The relevant extract of the said order is reproduced as under:

“8. We have considered the submissions made. While laying down norms for O & M expenses in the 2009 Regulations, abnormal security expenses were excluded on the understanding that such expenses could be considered on case to-case basis. On consideration of the facts available on record, and taking cognizance of the general law and order situation prevailing in the North-eastern Region, we are satisfied that the petitioner was required to make special arrangements and take preventive measures, to ensure safety and security of its personnel and property, facilitating maintenance of continuous supply of electricity in the region. The normative O&M

expenses for Eastern Region do not include such abnormal expenses. Therefore, in our view the petitioner is entitled to reimbursement of these additional expenses incurred.

9. In exercise of power under Regulation 44 of the 2009 Regulations, we allow the expenses on CISF incurred by the petitioner in relaxation of Regulation 19 (g) of the 2009 Regulations and direct that the expenses for the year 2013-14 as claimed by the petitioner shall be reimbursed by the respondents.”

20. However, we note that the expenses claimed in the instant Petition do not relate to security expenses and, therefore, the reliance on the above order is misplaced.

21. The Petitioner has submitted that it has outsourced the O&M responsibility for 461.8 km (Palatana to Byrnihat) to PGCIL and for the remaining 201 km (Byrnihat to Bongaigaon), to M/s Pioneer through a Domestic Competitive Bidding process. The Petitioner has submitted that it being a single project company, found it difficult to procure trained manpower to actively manage the O&M activities and that appointing a trained agency such as PGCIL was critical to ensure availability of transmission system since PGCIL is operating around 5000 ckt km of transmission assets in NER and has sufficient expertise along with availability of spares and connectivity across the regions. It was perceived by the Petitioner that it would benefit from outsourcing to PGCIL due to advantages of economies of scale enjoyed by the PGCIL. It has been submitted by the Petitioner that M/s Pioneer has been engaged for the 201 km (Byrnihat to Bongaigaon) stretch through a Domestic Competitive Bidding process since that stretch is less arduous compared to Palatana to Bongaigaon which is currently managed by PGCIL and also because the terms achieved through Domestic Competitive Bidding could not be agreed with PGCIL for the given stretch.

22. In Order dated 16.4.2019 in Petition No. 224/MP/2017, following submission of the Petitioner was noted:

“2(h)Accordingly, the Petitioner entered into an agreement dated 16.1.2013 with PGCIL under which the Petitioner was required to pay O&M charges for the transmission system as per CERC norms under the Tariff Regulations, 2009. The petitioner has paid an amount of ₹ 74,100/- and ₹78,300/- per KM respectively for 2012-13 and 2013-14. Further, in addition to the said O & M charges, the petitioner was also required to pay a consultancy fee @ 10% of the O&M charges plus applicable service tax @ 12.36%.

.....

(j) The Petitioner has also negotiated with PGCIL for more favorable terms for O & M contract which resulted in waiver of 10% consultancy charges in its new agreement dated 30.5.2016. However, due to enactment of Goods & Services tax (GST) w.e.f. 1.7.2017, the total cost payable to PGCIL has become at ₹92,040/- per km w.e.f. 1.7.2017.”

23. We have considered the submissions of the Petitioner and the documents available on record. In this regard, the Commission vide Statement of Reasons to CERC (Terms and Conditions of Tariff) Regulations, 2009 observed as follows:

“...23.2 Powerlinks Transmission Ltd (PTL) has submitted that unlike PTL, POWERGRID is operating substations along with the transmission lines. Hence, POWERGRID enjoys benefit of economies of scale in operation and maintenance of the transmission lines. It has stated that PTL is a single project company with a project which is unidirectional and spread over 1166 Km and requires more project offices to maintain the line. PTL has recommended that a maximum percentage of 1.5% of the Gross Block in case of transmission line 79 and 3% in case of substations subject to actual expenses incurred by the transmission licensee may be allowed as O&M expenditure. PTL has also contended that being a single project company, its corporate office expenses should not be compared with that of the POWERGRID.

.....

23.8.....The suggestion of PTL regarding linking O&M expenditure to capital cost has not been found acceptable in the previous tariff period 2001-04 and 2004-09. Reasons for de-linking have also been discussed in detail while finalizing norms for earlier tariff periods. We would not like to revisit the same issue again. With regard to statement of Jaipur VVNL that norms fixed by State Commission is much lower than the norms proposed for ISTS, we can only say that two transmission systems are not straightway comparable. Intra-State system predominantly contains network of 132kV and even lower voltages with mostly single conductor configuration.”

24. Further, the Commission vide Statement of Reasons to CERC (Terms and Conditions of Tariff) Regulations, 2014 observed as follows:

“31.8 Association of Power Producers, M/s. TATA Power Company Limited, Confederation of Indian Industry, Powerlinks and others submitted that the proposed

O&M norms are inadequate for a single project transmission company and the normative O&M costs allowed are less than the actual expenditure incurred by the Company. They further submitted that there is need to give separate consideration to the licensees as such companies do not enjoy economies of scale.

....

31.10 TPGL further submitted that as per the MoU with POWERGRID, TPGL is required to pay O&M charges at the rate determined by the Commission towards the maintenance of bays installed at POWERGRID substation. However, TPGL is required to pay Service Tax (current applicable service tax rate is 12.36%) on payment of such O&M expenses to POWERGRID. It submitted that material for maintenance of bays is also being provided by TPGL and hence, consumption of such material should be considered at actual over and above the charges payable to POWERGRID for maintenance of bays. Hence, the Commission should give due consideration to such additional expenses.

....

31.12 Powerlinks submitted that the Commission should reconsider the norms for O&M expenses by fixing higher level of entitlement for FY 2014-15 and allow escalation between 8% to 10% for single transmission project companies like Powerlinks, where the cost per ckt-km does not go down due to economy of scale.

...

31.17 Adani Power Ltd. submitted that O&M expenses norms for single-project licensees should be fixed on case to case basis. It suggested that the O&M norms for AC lines and substation be specified considering FY 2013-14 as base and escalation of 5.72% as considered during FY 2009-10 to FY 2013-14.

31.34... The Commission has analysed the asset configuration of the single project companies and observed that though the single project transmission licensees are not comparable with the other licensees in terms of asset configuration, there should not be significant difference in O&M expenses in terms of cost drivers. The norms for O&M expenses have been derived giving due consideration to the suggestions of stakeholders. Further, single project companies need to undertake more efficient measures to contain the O&M expenses within industry benchmarks.

31.44 As regards payment of service tax as per the MoU between POWERGRID and TPGL, the Commission is of the view that this is a matter to be decided mutually between POWERGRID and TPGL.

25. It is observed from the above that the issue of single project companies and associated expenditure has been raised while finalizing norms for O&M Expenses during 2009-14 as well as 2014-19 tariff periods. However, the Commission has not agreed to such suggestions of allowing higher O&M Expenses and has been of the view that single project companies need to undertake more efficient measures to contain the O&M expenses within industry benchmarks.

26. A comparison of the O&M charges paid to M/s Pioneer vs normative O&M Expenses allowed as per the 2014 Tariff Regulations is as follows:

Year	Line Length 'A'	O&M charges paid to M/s Pioneer (Rs lakh) 'B'	O&M charges paid per ckt km 'C'='B'/'A'	O&M Expenses allowed as per 2014 Tariff Regulations (Rs lakh) 'D'	O&M norms as per 2014 Tariff Regulations (for Double Circuit-twin or triple conductor (Rs lakh/ ckt km) 'E'	Equivalent km declared COD by Petitioner and considered for grant of O&M as per norms 'F' = 'D'/'E'
2017-18	201 km	109.53	0.545	516.98	0.780	662.8
2018-19	201 km	120.01	0.597	534.20	0.806	662.8

27. From the above, it is observed that the Petitioner has paid O&M charges to M/s Pioneer @ 0.55-0.60 lakh/km, against the norms of 0.78-0.81 lakh/km as per the 2014 Tariff Regulations. Hence, the Petitioner has been able to reduce the O&M expenditure/km due to award placed to M/s Pioneer.

28. On the other hand, the normative O&M Expenses as per the 2014 Tariff Regulations and that paid by the Petitioner to PGCIL is as under:

Year	Line length 'A'	O&M Charges Paid to PGCIL (Rs lakhs) 'B'	O&M Charges paid per ckt km to PGCIL 'C' = 'B'/'A'	O&M Expenses Allowed as per the 2014 Tariff Regulations (Rs lakh) 'D'	O&M norms as per the 2014 Tariff Regulations (for Double Circuit-twin or triple conductor (Rs Lakh/km) 'E'	Equivalent km declared COD by Petitioner and considered for grant of O&M as per norms 'F' = 'D'/'E'
2014-15	662.8 km COD – 468.5 km (from 'F')	470.46	1.004	331.21	0.707	468.5
2015-16	662.8 km	465.25	0.702	484.49	0.731	662.8
2016-17	662.8	577.80	0.872	500.41	0.755	662.8

	km					
2017-18	461.8 km	422.34	0.915	516.98	0.780	662.8
2018-19	461.8 km	429.21	0.929	534.20	0.806	662.8

29. From the above table, we observe that the Petitioner has paid O&M charges to PGCIL at a much higher rate than the normative O&M Expenses allowed as per the 2014 Tariff Regulations. The Petitioner has submitted that it has entered into an agreement with PGCIL for O&M as per norms under 2014 Tariff Regulations plus 10% consultancy charge plus service tax out of which consultancy charge was waived off in 2016 and GST became effective from 1.7.2017.

30. The O&M contract entered into between the Petitioner and PGCIL submitted in Petition No. 224/MP/2017 provides the following under responsibility of the Petitioner:

“8.7 Services like Hot-line maintenance of Transmission lines, tack welding of fasteners etc., which are not in the scope of this contract can be availed by NETC, If so desired by them, on mutually agreed rates, terms and conditions.

8.8 NETC, being owner of the line, will lodge FIR with the concerned police station in case of theft, which will be informed immediately by POWERGRID on identification of such incident. The record of theft shall be maintained & if it is frequent, the matter shall be discussed with the Owner for facilitating mitigating measures.

8.9 Right of way and crop compensation etc. shall be the responsibility of the Owner (NETC) Wherever required. However necessary assistance for co-ordination with Government / Statutory authorities shall be extended by POWERGRID.

8.10 The Owner (NETC) shall grant to POWERGRID or its authorized representatives, access to and possession of the site after effectiveness of this Agreement. The representatives of the Owner shall be present at site as and when required by POWERGRID for any assistance.

8.11 NETC shall be responsible for co-ordination with all Government/Statutory authorities, whenever required.

8.12 To ensure proper co-ordination between POWERGRID and NETC for carrying out the works under the scope of this Agreement, both NETC and POWERGRID shall nominate their respective Project Managers Who shall be the focal point for all matters relating to this Agreement.”

31. We observe that despite awarding contract for O&M to PGCIL and M/s Pioneer, the Petitioner has to maintain a site office to carry out various functions and, therefore, need to incur expenditure on site office. We also observe that the Petitioner has incurred significant amount in Corporate Expenses head. The Petitioner was aware of the norms of O&M Expenses under the 2014 Tariff Regulations and despite that such expenditures have been incurred. This in our view is not a prudent expenditure.

32. In the light of our observations made above, we do not find any reason to invoke provisions of power to relax as requested by the Petitioner to allow it higher O&M expenses. The Commission expects the Petitioner to be more prudent and restrict its O&M Expenses within the stipulated norms.

33. This order disposes of Petition No. 191/MP/2019.

sd/-
(Arun Goyal)
Member

sd/-
(I. S. Jha)
Member

sd/-
(P. K. Pujari)
Chairperson