

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petitions No.
153/MP/2019
206/MP/2019
225/MP/2019
291/MP/2019**

**Coram:
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member**

Date of Order: 15th December 2022

Petition No. 153/MP/2019

In the matter of:

Petition under Section 79(1)(c) and 79(1)(f) of the Electricity Act, 2003 for refund of amounts wrongly recovered by Powergrid Corporation of India Limited under PoC Charges for the ISTS lines operated and maintained by BBMB.

And in the matter of

Rajasthan Urja Vikas Nigam Limited
Vidhan Sabha Rd, Janpath, Jyothi Nagar, Lalkothi,
Jaipur, Rajasthan 302005

Petitioner

Versus

Power Grid Corporation of India Limited
B-9, Qutub Institutional Area,
Katwaria Sarai,
New Delhi – 110016

Bhakra Beas Management Board (BBMB)
Sector 19-B Madhya Marg,
Chandigarh – 160019

Rajasthan Rajya Vidyut Prasaran Nigam Limited,
VidyutBhawan, Janpath,
Jaipur, Rajasthan-302 005

Haryana Vidyut Prasaran Nigam Limited,

Shakti Bhawan, Sector 6,
Chandigarh

Punjab State Power Corporation Limited,
The Mall, Patiala-147 001

Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Shimla 171 004,
Himachal Pradesh

Union Territory of Chandigarh,
Sector 9D, UT Secretariat,
Chandigarh

Respondents

Petition No. 206/MP/2019

In the matter of:

Petition under Section 79(1)(c) and 79(1)(f) of the Electricity Act, 2003 for refund of amounts wrongly recovered by Powergrid Corporation of India Limited under PoC Charges for the ISTS lines operated and maintained by BBMB.

And in the matter of:

Punjab State Power Corporation Limited,
The Mall, Patiala-147 001

Petitioner

Versus

Power Grid Corporation of India Limited
B-9, Qutub Institutional Area,
Katwaria Sarai,
New Delhi – 110016

Bhakra Beas Management Board (BBMB)
Sector 19-B Madhya Marg,
Chandigarh – 160019

Rajasthan Urja Vikas Nigam Ltd.,
Vidhan Sabha Rd, Janpath,
Jyothi Nagar, Lalkothi,
Jaipur, Rajasthan 302005

Haryana Vidyut Prasaran Nigam Limited,
Shakti Bhawan, Sector 6,
Chandigarh

Rajasthan Rajya Vidyut Prasaran Nigam Limited,

Vidyut Bhawan, Janpath,
Jaipur, Rajasthan-302 005

Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Shimla 171 004,
Himachal Pradesh

Union Territory of Chandigarh,
Sector 9D, UT Secretariat,
Chandigarh

Respondents

Petition No. 225/MP/2019

Petition under Section 79(1)(c) and 79(1)(f) of the Electricity Act, 2003 for refund of amounts wrongly recovered by Powergrid Corporation of India Limited under PoC Charges for the ISTS lines operated and maintained by BBMB.

And in the matter of:

Haryana Power Purchase Centre
Shakti Bhawan, Sector-6,
Panchkula.

Petitioner

Versus

Power Grid Corporation of India Limited
B-9, Qutub Institutional Area,
Katwaria Sarai,
New Delhi – 110016

Bhakra Beas Management Board (BBMB)
Sector 19-B Madhya Marg,
Chandigarh – 160019

Rajasthan Rajya Vidyut Prasaran Nigam Limited,
Vidyut Bhawan, Janpath,
Jaipur, Rajasthan-302 005

Punjab State Power Corporation Limited,
The Mall, Patiala-147 001

Rajasthan Rajya Vidyut Prasaran Nigam Limited,
Vidyut Bhawan, Janpath,
Jaipur, Rajasthan-302 005

Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Shimla 171 004,
Himachal Pradesh

Union Territory of Chandigarh,
Sector 9D, UT Secretariat,
Chandigarh

Respondents

Petition No. 291/MP/2019

In the matter of:

Petition under Section 79(1)(c) and 79(1)(f) of the Electricity Act, 2003 for refund of amounts wrongly recovered by Powergrid Corporation of India Limited under PoC Charges for the ISTS lines operated and maintained by BBMB.

And in the matter of:

Himachal Pradesh State Electricity Board Ltd.
Vidyut Bhawan, Shimla 171 004,
Himachal Pradesh

Petitioner

Versus

Power Grid Corporation of India Limited
B-9, Qutub Institutional Area,
Katwaria Sarai,
New Delhi – 110016

Bhakra Beas Management Board (BBMB)
Sector 19-B Madhya Marg,
Chandigarh – 160019

Rajasthan Urja Vikas Nigam Ltd.,
Vidhan Sabha Rd, Janpath,
Jyothi Nagar, Lalkothi,
Jaipur, Rajasthan 302005

Haryana Vidyut Prasaran Nigam Limited,
Shakti Bhawan, Sector 6,
Chandigarh

Rajasthan Rajya Vidyut Prasaran Nigam Limited,
Vidyut Bhawan, Janpath,
Jaipur, Rajasthan-302 005

Punjab State Power Corporation Limited
The Mall, Patiala – 147001, Punjab.

Union Territory of Chandigarh,
Sector 9D, UT Secretariat,
Chandigarh

Respondents

Parties present:

Shri Anand K Ganesan, Advocate, RUVNL, PSPCL, HPPC and HPSEBL
Ms. Swapna Seshadri, Advocate, RUVNL, PSPCL, HPPC and HPSEBL
Shri Ashwin Ramanathan, Advocate, RUVNL, PSPCL, HPPC and HPSEBL
Shri V Srinivas, CTUIL
Shri Ajay Upadhyay, CTUIL
Shri Yogeshwar, CTUIL
Shri Narendra Sharma, BBMB

ORDER

The Petitioners have filed the present Petitions for seeking refund of amounts wrongly collected by Power Grid Corporation of India Limited (PGCIL) towards POC Charges for certain ISTS lines systems of Bhakra Beas Management Board (BBMB) which are used exclusively, for transfer of power from Bhakra and Beas Projects belonging to the Participating States under BBMB. Since all the petitions are based on similar set of facts and law, we have bunched the petitions for convenience of these discussions.

2. The Petitioner i.e. Rajasthan Urja Vikas Nigam Limited has made the following prayers in Petition No. 153/MP/2019:

a) Direct PGCIL to refund amounts wrongfully recovered from RUVNL during the period between October 2016 to March 2017;

b) Direct PGCIL to pay an interest of 18 % per annum on the refund amounts;

c) Hold and direct PGCIL not to raise any further POC bills on RUVNL by including the transmission system and lines operated and maintained by BBMB and

d) Pass such further order(s) as deemed fit and proper

3. The Petitioner i.e. Punjab State Power Corporation Limited has made the following prayers in Petition No. 206/MP/2019

a) Direct PGCIL to refund amounts wrongfully recovered from PSPCL during the period between October 2016 to March 2017;

b) Direct PGCIL to pay an interest of 18 % per annum on the refund amounts in view of the fact that PGCIL on several occasions threatened to regulate the power to PSPCL in case of non-payment;

c) Hold and direct PGCIL not to raise any further POC bills on PSPCL by including the transmission system and lines operated and maintained by BBMB;

d) Pass such further order(s) as deemed fit and proper;

4. The Petitioner i.e. Haryana Power Purchase centre has made the following prayers in Petition No. 225/MP/2019 :

a) Direct PGCIL to refund amounts wrongfully recovered from HPPC during the period between October 2016 to March 2017;

b) Direct PGCIL to pay an interest of 18 % per annum on the refund amounts;

c) Pass such further order(s) as deemed fit and proper

5. The Petitioner i.e. Himachal Pradesh State Electricity Board Ltd. has made the following prayers in Petition No. 291/MP/2019

a) Direct PGCIL to refund amounts wrongfully recovered from HPSEBL during the period between October 2016 to March 2017;

b) Direct PGCIL to pay an interest of 18 % per annum on the refund amounts in view of the fact that PGCIL on several occasions threatened to regulate the power to HPSEBL in case of non-payment;

- c) Hold and direct PGCIL not to raise any further POC bills on HPSEBL by including the transmission system and lines operated and maintained by BBMB;
- d) Pass such further order(s) as deemed fit and proper;

6. Since the issues and submissions made are common in the present batch Petition, and therefore, pleadings related to Petition No. 153/MP/2019 are being captured leading to analysis and decision in combined manner. The petitioner of this petition shall be known as the petitioner hereinafter,

7. In support of its prayer, the Petitioner has made the following submissions in order to explain the backdrop

a) On re-organisation of the erstwhile State of Punjab, BBMB was constituted under Sections 76 –79 of the Punjab Re-organisation Act and the administration, maintenance and operation of Bhakra Nangal Projects were handed over to the Bhakra Management Board with effect from 01.11.1966.

b) Among other assets, BBMB has a transmission network of 3708.21 ckt-km of 400 kV, 220 kV, 132 kV and 66 kV transmission lines for supply of power to States of Rajasthan, Punjab, Haryana, Himachal Pradesh, Delhi and Union Territory of Chandigarh.

c) The Commission vide its order dated 15.09.2011 in Petition No. 181/2011 (suo-motu) held that the regulation and determination of tariff for generation and inter-State transmission of electricity by BBMB are vested in the Commission by virtue of the provisions of Section 174 of the Electricity Act, 2003 and directed the BBMB to file appropriate applications for approval of tariff of its generating stations and transmission systems, in accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (hereinafter referred to as the “2009 Tariff Regulations”) for the period 2009-14, which has been confirmed by the Appellate Tribunal also.

d) Further, the Commission vide its Order dated 14.03.2012 in Petition No. 15/SM/2012 directed the developers of the non-ISTS lines to file the tariff petitions for transmission lines connecting two States, for inclusion in POC transmission charges and losses.

e) Thereafter, the Commission vide its Order dated 10.01.2013 in Petition No.181/2011 (suo-motu) directed BBMB to file the tariff petitions in accordance with the provisions of the 2009 Tariff Regulations, separately for the generating stations and for the transmission systems. Accordingly, BBMB had filed Petition No. 251/GT/2013 for determination of tariff of generation and transmission activities, as per the 2009 Tariff Regulations.

f) Further, in compliance with the directions of the Commission in order dated 14.03.2012 in Petition No. 15/SM/2012, BBMB filed Petition No. 200/TT/2013 for approval of transmission charges for certain transmission lines connecting two States for the 2009-14 period. For the purpose of inclusion in POC charges, BBMB had filed the petition only with respect to the lines which are used for transfer of power for entities other than the participating states.

g) Since the assets covered in Petition No. 200/TT/2013 had already been included in inter-State transmission lines in Petition No. 251/GT/2013, the Commission by Order dated 07.08.2015 disposed of the Petition No. 200/TT/2013 as infructuous.

h) Thereafter, the Commission vide Order dated 12.11.2015 in Petition No. 251/GT/2013, granted O&M Expenses for the transmission elements of BBMB for the period 2009-14. The Commission in the said Order also directed BBMB to file necessary petition for determination of transmission tariff for the period 2014-19 in accordance with the provisions of the 2014 Tariff Regulations.

i) While the Commission in the Order dated 12.11.2015, determined O&M expenses for all transmission elements of BBMB for the period 2009-

14, it is relevant to note that most of the transmission lines of BBMB are used by the participating states and BBMB exclusively, for transfer of power from the Bhakra and Beas Projects belonging to the participating states. The transmission systems including the lines and sub-stations are all used in a dedicated manner for conveyance of power to the participating states. These transmission lines are used only by the participating states for conveyance of power and nobody other than the participating states is using these lines.

j) Therefore, there could be no question of including the transmission charges of lines owned by BBMB in POC, except to the extent that the lines are used by entities other than the participating states. This is particularly in view of the fact that BBMB operates as a joint venture between the Participating States only, and the costs and revenues are shared among themselves.

k) Though the transmission systems operated and maintained by BBMB (belonging to the participating States including RUVNL) can be described as an inter-State Transmission System, as the said transmission lines are operated across two or more States, they are dedicated for the use of the participating States. BBMB is not operating such transmission systems as an inter- State Transmission Licensee or otherwise in pursuance of business of transmission of electricity.

l) However, PGCIL has for the period between October 2016 to March 2017 wrongfully charged transmission charges/POC for BBMB lines, to the tune of Rs. **157.054** Crores from RUVNL. The detail of the same is as under:

Sr. No.	Month	Total PoC 1 bill raised by PGCIL (Rs.)	Bill Verified by RUVNL (Rs.)	Amount Deducted against BBMB LTA (Rs.)
1	Oct'16	1376961833	1376961833	250539539
2	Nov'16	1376971763	1376971763	250539539
3	Dec'16	1376971762	1376971762	250539539
4	Jan'17	1420587542	1420587542	255809238
5	Feb'17	1479090312	1479090312	253238757

6	Mar'17	1479090312	1479090312	253238757
Total		8509673525	8509673525	1513905369

Sr. No.	Period	Total PoC bill 3 raised by PGCIL (Rs.)	Bill Verified (Rs.)	Amount Deducted against BBMB LTA (Rs.)
1	Oct'16 to Dec'16	725378585	725378585	39580499
2	Jan'17 to March'17	141117206	141117206	17051371
Total		866495791	866495791	56631870

m) Further, while BBMB had filed Petition No. 16/TT/2017 for determination of its tariff of its inter-state transmission system for the period 2014-19 in terms of the 2014 Tariff Regulations, the issue of transmission charges for the lines being included in POC was also raised.

n) The Participating States including Rajasthan had raised objections stating that they had been charged the transmission charges of the entire transmission system operated and maintained by BBMB since October, 2016.

o) The Commission after considering the matter in detail vide Order dated 09.01.2019 held as under:

*“38. We have examined the matter in detail. The transmission charges of the ISTS and the intra-State transmission system carrying inter-State power were included in the PoC based on the tariff determined by the Commission and State Commissions in case of intra-State transmission system. In these cases, the tariff of the transmission system is determined based on the capital cost and after taking into account all elements of tariff. However, in case of BBMB on account of non-availability of the capital cost of the transmission system and taking into account that the participating States have made investment in the transmission system of BBMB, the Commission has confined its tariff determination to O&M Expenses only. **Including this tariff in the POC will result in distortion of the tariff of the participating States as they would be charged in proportion to their allocation of power at the PoC***

rate of the region. Accordingly, the Commission has decided to exclude the tariff (only O&M Expenses) of the transmission system of BBMB out of the purview of the PoC computation

39. RUVNL and HPPCL which have filed the affidavit on behalf of the Discoms of Rajasthan and Haryana have contended that they have paid the transmission charges of the transmission lines used by the participating States since October, 2016, for which they were not liable and hence, the excess payment collected from them through PoC charges should be returned to them. The said issue shall be dealt with separately on a petition for the same.

- p) Therefore, the Commission accepted the position that the charges for the use of transmission systems and lines operated and maintained by BBMB, ought not to be included in POC.
- q) The Commission vide order dated 28.04.2017 in Petition No. L-1/44/2010-CERC, while determining POC rates, observed that the assets of BBMB and LTA in respect of BBMB shall not be included under PoC mechanism and a view on inclusion of these assets under PoC shall be taken after determination of final tariff of these assets.”
- r) The Commission has in principle confirmed the position that PGCIL cannot include the charges for use of BBMB’s transmission system in POC. The present Petition is only confined to the question of refund of amounts that have been wrongfully collected by PGCIL.
8. PGCIL in its reply vide affidavit 16.8.2019 has submitted as under:
- a) The power allocations from BBMB (approx. 2800MW) to the 5 states have been included in the POC computations w.e.f October,2016. Based on the RTAs, the POC billing of these states included the transmission charges for the Petitioners power allocation also.
- b) The Status of acceptance of billing transmission charges for BBMBs power allocation by the 5 States is given hereunder:
- i) Himachal Pradesh, Delhi & Chandigarh: Accepted the billing and making payment of transmission charges regularly.

ii) Rajasthan : Vide letter dated 29.11.2016 to CERC (with a copy of CTU & MOP, Rajasthan requested CERC for directions to Implementing Agency (NLDC) not to treat the access of power allocation from BBMB as an LTOA for POC computations, citing the dedicated nature of BBMB transmission system for evacuation of power from BBMB generation. Further, CERC vide letter dated 27.01.2017 convened a meeting on 08.02.2017 to deliberate the above issue and agreed to have comprehensive review on the subject matter. Rajasthan made payment of transmission charges for the power allocation from BBMB under protest.

iii) Punjab : Vide letter dated 02.02.2017 to CERC expressed their concern on applicability of transmission charges for power allocation from BBMB generation due to dedicated nature of BBMB transmission system and requested for direction to NLDC not to treat the power allocation as LTA for POC computations. Punjab disputed the above billing of transmission charges and deducted the corresponding transmission charges from the regular monthly payments since Oct'16. On issuing the notice for regulation of power supply, Punjab liquidated the dues.

iv) Haryana made the payment of transmission charges regularly.

c) That in the Validation Committee meeting for Q1-POC (April'17-June'17) held in 24.03.2017 Rajasthan raised its concern over inclusion of power allocation from BBMB projects for POC computations. On deliberation, Chief (Engg.), CERC advised that the power allocation is not to be included further in the POC computations from Q1 of 2017-18 (April'17-June'17) till a view taken by CERC in the matter.

d) Accordingly, the dispute of payment of transmission charges for BBMB system is now limited to the period October 2016-March 2017 only and subsequently CTU has stopped billing for the same from April 2017 onwards.

e) In view of the above, it is clear that CTU has raised POC bills for the power allocations from BBMB (approx. 2800MW) to above 5 states w.e.f October 2016 to March 2017 based on the RTAs issued by NRPC. The POC billing of these states included the transmission charges for RUVNL power allocation also.

f) Based on the minutes of Validation Committee meeting for Q1POC (April'17-June'17) held in February'17 and subsequent exclusion from RTA, POC billings have been stopped from April' 2017 onwards. That for the period mentioned above, CTU has raised bills as per RTA published and as per CERC Regulations and Procedures.

g) That BBMB Tariff along with sharing mechanism is to be decided by the Commission, upon which only the NR-RTAs for the dispute period Oct'16-Mar'17 can be modified and CTU can raise the adjustment bills, if required.

9. The Petitioner in its rejoinder vide affidavit dated 28.8.2019 has reiterated its earlier submissions.

10. POSOCO in its written submission dated 3.3.2021 has submitted as under :

a) PoC charges and losses had been computed as per CERC (Sharing of inter-state transmission charges and losses) Regulations, 2010. National Load Despatch Centre, POSOCO had been designated as the Implementing Agency for the computation of PoC charges and Losses. PoC Charges and losses had been computed on the basis of forecasted generation and demand of DICs for a particular application period. The computation process also had required total Monthly Transmission Charges (MTC) to be recovered (provided by ISTS Licensees), approved injection and approved withdrawal for the said application period, new generating units to be commissioned, new transmission lines to be commissioned, line length and conductor types of these transmission lines, indicative cost level for each conductor type (provided by CTU) etc. Monthly transmission charges had to be provided by various ISTS Licensees computed on the basis of provisional/final tariff orders issued by Hon'ble Central Electricity Regulatory Commission.

b) Nodal PoC charges had been computed using Hybrid method (Average Participation method and Marginal participation method) as explained in Annexure-1 of the "Sharing Regulations 2010". After computation of nodal charges based on Hybrid method, nodal charges had

been aggregated in zonal charges then aggregate PoC rate had been calculated by dividing zonal charges by LTA/MTOA. Further, Aggregate PoC rates had been used for determination of nine slabs. In case of over/under recovery, slab rates are scaled on pro-rata basis.

c) As per Commission's order dated 21.03.2016 in Petition no. 251/GT/2013, BBMB stations had come under ABT mechanism w.e.f. 01.06.2016. Accordingly, share of Rajasthan, Haryana, Punjab and Himachal Pradesh from BBMB stations as received from BBMB had been included for the computation of transmission charges for Q3 (Oct-Dec) of 2016-17. However, in absence of the required details of Yearly Transmission Charges (YTC) from BBMB, transmission assets of BBMB had not been included for recovery of transmission charges.

d) BBMB vide email dated 04.01.2017 had furnished revised share allocation along with YTC data for Q4 (Jan-Mar) of 2016-17. Implementing Agency had included the share allocation and YTC data of BBMB for computation of transmission charges for Q4 of 2016-17.

e) The matter of inclusion of BBMB capacity in LTA for computation of transmission charges had been discussed in the Validation Committee Meeting for Q1 (Apr-June) of 2017-18 held on 21.02.2017. After deliberations, it was concluded that the LTA for BBMB project shall not be considered under PoC for transmission charges for the quarter Q1 2017-18 and a view on inclusion of these assets of BBMB in POC Mechanism shall be taken by the CERC after determination of tariff.

f) Subsequently, Implementing Agency had calculated the Slab rates for PoC charges, Reliability Support Charge rate and HVDC Charges rate for the period April 2017 to June 2017 (Q1 of 2017-18) and submitted to the Commission for approval. The Commission vide order dated 28.04.2017 had approved the Slab rates for PoC charges, Reliability Support Charge rate, HVDC Charges rate for the period April 2017 to June 2017. In the above order also, it was also mentioned that the assets of BBMB and LTA in respect of BBMB shall not be included under PoC mechanism and a view on

inclusion of these assets under PoC shall be taken after determination of final tariff of these assets.

g) Inclusion of YTC of BBMB assets and share of Rajasthan, Haryana, Punjab and Himachal Pradesh from BBMB stations as received from BBMB has been discontinued for the computation of transmission charges from Q1 of 2017-18.

h) Revision in LTA for the computation of transmission charges for Q3 and Q4 of 2016-17 as sought by the petitioners will result in increase of the transmission charges of other DICs in the country.

Analysis and Decision

11. We have heard the submissions of the parties. The issue for our consideration is refund of the amounts collected by PGCIL towards PoC charges charged towards share allocation from Bhakra Beas Management Board ('BBMB') to participating states and inclusion of transmission system of BBMB under POC.

12. The Petitioner has stated that most of the transmission lines of BBMB are used by the participating states and BBMB exclusively, for transfer of power from the Bhakra and Beas Projects belonging to the participating states. Petitioner has sought refund of charges collected under Bill 1 and Bill 3 along with interest of 18% from PGCIL.

13. PGCIL has submitted that CTU has raised PoC bills for the power allocations from BBMB (approx. 2800MW) to above 5 states w.e.f. October 2016 to March 2017 based on the RTAs issued by NRPC. Further, based on the minutes of Validation Committee meeting for Q1POC (Apr'17-Jun'17) held in February 2017 and subsequent exclusion from RTA, POC billings have been stopped from April 2017 onwards.

14. POSOCO has submitted that as per Commission's order dated 21.03.2016 in Petition no. 251/GT/2013, BBMB stations had come under ABT mechanism w.e.f. 01.06.2016. Accordingly, share of Rajasthan, Haryana, Punjab and Himachal Pradesh from BBMB stations as received from BBMB had been included for the computation of transmission charges for Q3 (Oct-Dec) of 2016-17. However, in absence of the required details of Yearly Transmission Charges (YTC) from BBMB, transmission assets of BBMB had not been included for recovery of transmission charges. Further, BBMB vide email dated 04.01.2017 had furnished revised share allocation along with YTC data for Q4 (Jan-Mar) of 2016-17, and Implementing Agency had included the share allocation and YTC data of BBMB for computation of transmission charges for Q4 of 2016-17.

15. We note that while determining Point of Connection (PoC) rates and transmission losses for the period of April to June, 2017, the Commission vide its order dated 28.4.2017 observed that the assets of BBMB and LTA in respect of BBMB shall not be included under PoC mechanism, and the view on inclusion of these assets under PoC shall be taken after determination of final tariff of these assets.

16. We also observe that Bhakra Beas Management Board had approached this Commission vide Petition No. 16/TT/2017 for approval of tariff of its transmission system for the period 2014-19. Commission vide order dated 9.1.2019 in Petition No. 16/TT/2017 has observed the following:

“Sharing of Transmission Charges of BBMB Transmission System

37. The Commission vide order dated 28.4.2017 in No. L-1/44/2010-CERC has observed the following:-

“10. The assets of BBMB and LTA in respect of BBMB shall not be included under PoC mechanism and a view on inclusion of these assets under PoC shall be taken after determination of final tariff of these assets.”

Rajasthan and Haryana have submitted that except a few lines, all the transmission lines of the Petitioner are dedicated to participating States and hence should not be included in PoC.”

*38. We have examined the matter in detail. The transmission charges of the ISTS and the intra-State transmission system carrying inter-State power were included in the PoC based on the tariff determined by the Commission and State Commissions in case of intra-State transmission system. In these cases, the tariff of the transmission system is determined based on the capital cost and after taking into account all elements of tariff. However, in case of BBMB on account of non-availability of the capital cost of the transmission system and taking into account that the participating States have made investment in the transmission system of BBMB, the Commission has confined its tariff determination to O&M Expenses only. Including this tariff in the POC will result in distortion of the tariff of the participating States as they would be charged in proportion to their allocation of power at the PoC rate of the region. **Accordingly, the Commission has decided to exclude the tariff (only O&M Expenses) of the transmission system of BBMB out of the purview of the PoC computation.***

44. Summary of the decisions in the instant order is as under:-

(a) As the information submitted by BBMB is not sufficient to calculate all the components of the transmission charges for the 2014-19 tariff period, transmission charges are restricted to O&M Expenses for the transmission system and the SLDC assets owned by the Petitioner.

(b) The O&M Expenses allowed in the instant order shall not be included in the PoC charges and shall be claimed by the Petitioner from the participating States in proportion to the allocation of power of BBMB.

(c) The Petitioner is directed to claim the tariff for the transmission system and SLDC assets for the 2019-24 period strictly as per the Tariff Regulations and Fees and Charges Regulations for the period 2019-2024 which shall be notified in due course.

(d) Rajasthan is liable to pay the transmission and wheeling charges of RFF over and above the charges payable by Rajasthan.

(e) The filing fees and publication expenses as admissible in terms of Regulation 52 of the 2014 Tariff Regulations shall be shared by the participating States in proportion to the allocation of power from the generating station of BBMB

As per above it was concluded that transmission assets of BBMB shall not be included in POC computation.

17. The dispute of payment of transmission charges for BBMB system is limited to the period October 2016 - March 2017, for which POC rates were notified prior to our Order dated 28.4.2017, considering LTA equivalent to allocated power from

BBMB projects. Inclusion of YTC of BBMB assets and share of Rajasthan, Haryana, Punjab and Himachal Pradesh from BBMB stations has already been discontinued for the computation of transmission charges from Q1 of 2017-18. Since, we have already taken a view with respect to non-consideration of transmission system of BBMB and LTA in respect of BBMB projects under POC, we hereby direct NLDC, POSOCO to revise the PoC calculations for Quarter-3 and Quarter-4 of 2016-2017 after excluding the transmission charges towards transmission system of BBMB and LTA for BBMB projects, and submit the same to Commission within 1 month of issue of this Order, to enable issuance of revised Orders by Commission for respective quarters.

18. The Petitioners have also prayed that PGCIL be directed to pay an interest of 18% per annum on the refund amounts. We are of the view that PoC bills have been raised in accordance with the Orders of Commission for respective quarters. PGCIL in its capacity as CTU raised the POC bills in accordance with the 2010 Sharing regulations on behalf of all ISTS licensees, as per RTA issued by RPCs. The transmission charges so collected from DICs are reimbursed to various ISTS licensees in accordance with the 2010 Sharing regulations. The POC rates are determined in a manner that Yearly transmission charges are recovered fully and exactly. We find that the act of the PGCIL was based on the order of this commission, further, it is not the case that PGCIL wrongly appropriated the transmission charges recovered from the Petitioners and allegations of wrongful gain cannot be even presumed.. In fact, it is only after Implementing Agency (NLDC) revises the calculation for the two quarters (October 2016 - March 2017), it would be clear as to what shall be the revised POC charges for the Petitioners.

Therefore, the prayer of the Petitioners for the payment of interest of 18 % per annum on the refund amounts is unwarranted and is disallowed.

19. Petitions No.153/MP/2019, 206/MP/2019, 225/MP/2019 and 291/MP/2019 are disposed of in terms of above.

**Sd/
(P. K. Singh)
Member**

**Sd/
(Arun Goyal)
Member**

**Sd/
(I. S. Jha)
Member**