

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 266/TT/2019

Coram:

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

Date of Order: 11.05.2022

In the matter of:

Identification of Maharashtra State Electricity Transmission Company Limited (MSETCL) 132 kV Neapanagar (from 220 kV Neapanagar Sub-station, Madhya Pradesh) to Dharni (132/33 kV Dharni Sub-station, MSETCL Amaravati Zone, Maharashtra) line as inter-State transmission system and further determination of inter-State transmission tariff for the tariff period 2019-24 under Section 79(1)(d) of the Electricity Act, 2003 read with Regulation 86 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and in accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 for inclusion in POC transmission charges as determined by the Central Electricity Regulatory Commission (CERC) time to time.

And in the matter of:

Maharashtra State Electricity Transmission Company Limited (MSETCL),
Prakashganga, Plot No. C-19, E-Block,
Bandra Kurla Complex, Bandra (East),
Mumbai-400051.

.....Petitioner

Vs.

1. Power Grid Corporation of India Limited,
"Saudamini", Plot No. 2,
Sector 29, Gurgaon-122 001 (Haryana).
2. Western Regional Power Committee,
Karniveer Lakhuji Salve Marg,
Santacruz Electronic Export Processing Zone, Jogeshwari East,
Mumbai-400093, Maharashtra.
3. Western Regional Load Despatch Centre,
Karniveer Lakhuji Salve Marg,
Santacruz Electronic Export Processing Zone, Jogeshwari East,
Mumbai-400093, Maharashtra.



4. Madhya Pradesh Power Transmission Company Limited,
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur-482008, Madhya Pradesh.
5. Maharashtra State Electricity Distribution Company Limited,
Prakashgadh, Plot No. G-9, Anant Kanekar Marg, Bandra (East),
Mumbai-400051, Maharashtra.
6. Madhya Pradesh Power Management Company Limited,
Shakti Bhawan, Rampur,
Jabalpur, Madhya Pradesh.

.....Respondents

For Petitioner : Shri Sudhanshu Choudhari, Advocate, MSETCL
Shri Mahesh Shinde, Advocate, MSETCL

For Respondents : Shri M.G. Ramachandran, Sr. Advocate, MPPTCL
Shri Sajan Poovayya, Sr. Advocate, MSEDCL
Ms. Poorva Saigal, Advocate, MPPTCL
Shri G. Umamathy, Advocate, MPPMCL
Ms. Pavitra Balakrishnan, Advocate, MPPMCL
Shri Anup Jain, Advocate, MSEDCL
Shri Pratibhanu, Advocate, MSEDCL
Shri Vincent D Souza, MPPTCL
Shri Dilip Singh, MPPMCL
Shri Dinesh Agarwal, MSEDCL
Ms. S. Usha, WRLDC
Shri Aditya Das, WRLDC

ORDER

The Petitioner, Maharashtra State Electricity Transmission Company Limited (MSETCL), has filed the instant petition for declaring the 132 kV Neapanagar-Dharni Transmission Line (hereinafter referred to as “transmission line”) owned by it as Inter-System Transmission System (ISTS) and determine tariff from its COD on 10.2.2017 to 31.3.2019 under Section 79(1)(d) of the Electricity Act, 2003 (hereinafter referred to as the “Act”) read with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 and for inclusion in Point of Connection (PoC) transmission charges.



2. The Petitioner has made the following prayers in this petition:

“1. To identify and provide the Status of Inter-State Transmission System to the 132 kV Neapanagar-Dharni Transmission Line in accordance with the statutory provisions provided under the Electricity Act, 2003.

2. To admit the application for determination of Annual Transmission Tariff for the 132 kV Neapanagar –Dharni Transmission Project of MSETCL, which shall form part of the Inter-State Transmission System, which achieved CoD on 10 February, 2017

3. To approve the Capital Cost of Rs.37.24 Crore for the 132 kV Neapanagar –Dharni Transmission Project of MSETCL.

4. To approve the estimated Annual Transmission Charges determined for the Tariff Period 2019-24.

5. To condone any inadvertent omissions, errors, short comings and permit the Petitioner to add/change/modify/alter this filing and make further submissions as may be required by the Hon'ble CERC.

6. Pass such Order and further Orders as are deemed fit and proper in the facts and circumstances of the case.”

Background

3. The Commission vide order dated 14.3.2012 in Petition No. 15/SM/2012 directed the developers/ owners of the non-ISTS lines connecting two States to file petitions for determination of tariff for inclusion in PoC charges in accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009. The Commission vide order dated 12.5.2017 in Petition No. 7/SM/2017 directed the State utilities to file tariff petitions for ISTS lines connecting two States, along with certificate from the concerned Regional Power Committee (RPC) for determination of tariff of 2014-19 tariff period as per the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014. MSETCL has filed the instant petition for declaration of the transmission line owned by it as ISTS in terms of above orders and to determine tariff from its COD on 10.2.2017 to 31.3.2019 and inclusion of the same in the PoC computation.



Submissions of the Petitioner, MSETCL

4. The gist of the submissions made by the Petitioner is as follows:

- a) Dharni is situated in Melghat area which is very close to Madhya Pradesh State border. Prior to execution of 132 kV Nepanagar–Dharni Transmission Line Project, Dharni area was supplied power through two 33/11 kV sub-stations both of which were fed from MSETCL's 132 kV/33 kV Hiwarkhed Sub-station. The 33 kV line of MSEDCL passes through a dense forest to reach Dharni city area. Frequent break-downs on these lines passing through dense forest area caused severe supply interruptions and always posed a major challenge for the staff of MSEDCL for restoration. The situation was worse during rainy seasons.
- b) MSEDCL faced technical challenges in terms of quality of power as there used to be voltage drop at receiving end i.e. at Dharni Sub-station. Sending end voltage at Hiwarkhed Sub-station is 33 kV, the voltage at receiving end always ranged between 23 kV to 25 kV. MSEDCL made its best efforts to improve the voltage profile. However, there was no satisfactory improvement.
- c) For reliable and uninterrupted power supply, it was proposed to erect 132/33 kV Sub-station at Dharni whose primary source of 132 kV supply was identified to be sourced from 220/132 kV Nepanagar Sub-station in Madhya Pradesh which is approximately 55 km from the proposed 132 kV Dharni Sub-station.
- d) In order to discuss various issues involved in extending supply from Madhya Pradesh to the proposed 132 kV Dharni Sub-station, MSETCL and MPPTCL



held a joint meeting on 10.5.2011 at MPPTCL Office, Jabalpur, where following points were discussed and decided:

- (i) MPPTCL suggested that Neapanagar is nearest to Dharni Sub-station for sourcing of 132 kV Dharni Sub-station and 132 kV bay is available at Neapanagar Sub-station to source power to Dharni Sub-station.
- (ii) MSETCL would construct transmission line and all statutory approvals from Forest Department, PTCC and other clearances will be obtained by MSETCL from the concerned authorities. MPPTCL agreed to provide assistance to MSETCL in seeking official approvals needed to be obtained from Madhya Pradesh Government and the Central Government.
- (iii) With regard to procurement of power from transmission line, MPPTCL suggested that MSEDCL should approach Madhya Pradesh Electricity Regulatory Commission (MPERC) for grant of Long Term Open Access (LTOA) from MPPTCL.
- (iv) MPPTCL suggested that Operation & Maintenance charges of the proposed 132 kV bay and line will be applicable and will be finalized by a separate mutual agreement.
- (v) Feasibility of the project was confirmed by MSETCL and MPPTCL in the Minutes of Meeting of the Joint meeting. Based on consensus between MSETCL and MPPTCL, its (MSETCL) Board approved the said transmission project vide Resolution No. 65/17 on 30.8.2011.



- (vi) MSETCL filed Detailed Project Report (DPR) vide Letter No. MSETCL/CO/Trans.Proj/S&C-II/ MERC/01/15969 dated 31.10.2011, with an estimated project cost of ₹3398.00 lakh before MERC (Maharashtra Electricity Regulatory Commission) seeking in-principle approval. MPERC vide Letter No. MERC/CAPEX/20132014/0451 dated 22.5.2013 gave in principle approval for DPR on the estimated cost of ₹3398.00 lakh.
- (vii) MSETCL declared commercial operation of the transmission line on 10.2.2017. After COD of the line, MSEDCL vide letter dated 26.4.2017 asked the State Transmission Utility (STU) for initiating procedure for declaration of the transmission line as inter-State line as there is ease in drawl of power from Madhya Pradesh and Power Purchase Agreement (PPA) arrangement at inter-State level may be initiated.
- (e) The matter was deliberated before WRPC during various Technical Co-ordination Sub-Committee (TCC)/WRPC meetings as well as during Commercial Committee Meeting (CCM) and the same was attended by representatives of MSETCL, MPPTCL, MSEDCL, WRPC, WRLDC and MPPMCL. Brief account of deliberations with WPRC is as follows:
- (i) **Minutes of 33rd TCC/ WRPC meeting held on 31.1.2017 and 1.2.2017**
- MSETCL sought WRPC to grant approval for execution of the transmission line subject to commercial settlement as per bilateral agreement. WRPC was of the view that for accounting purpose, the line can either be treated as deemed ISTS line as per PoC



regulations and be accounted for in the accounts of WRPC or arrangement can be considered as a standalone transmission line/network where energy drawn by Maharashtra through this line is settled bilaterally between Maharashtra and Madhya Pradesh for which MPPMCL and MSEDCL may sign an Agreement. WRLDC opined that deemed ISTS status is given to those lines which were in system before the PoC regulations came into being. The transmission line was executed after PoC regulations came into existence, therefore, it cannot be considered as deemed ISTS line. Accordingly, TCC members deliberated the issue and gave the following opinion:

- a) Nepanagar-Dharni line will be operated in radial mode.
- b) Commercial settlement of power between MSEDCL and MP Discom will be decided as per mutual agreement.
- c) This line will not be treated as ISTS or deemed ISTS line and the same was agreed by MSETCL.

WRPC agreed to the recommendations of the TCC in this meeting.

(ii) **Minutes of the 75th CCM held on 28.6.2017**

CCM opined that the transmission line will not be treated as ISTS line and it was agreed by MSETCL. MPPMCL also objected to the declaration of the transmission line as ISTS line as it is a radial line and as such there is no reverse power flow. WRLDC stated that the issue of Nepanagar-Dharni line has already been decided in 33rd WRPC meeting. Hence, CCM cannot take further decision on this matter. In view of above, the Committee recommended that



MPPMCL and MSETCL should resolve the commercial issue bilaterally and intimate the progress in the next CCM.

(iii) **Minutes of 34th WRPC meeting held on 11.9.2017**

MSETCL raised the issue with regard to declaration of the transmission line as ISTS line. WRLDC stated that ownership of the transmission line is with Maharashtra, Maharashtra only can opt whether it can be considered as ISTS line or STU line. WRPC recommended MSETCL to approach Central Commission to address this issue.

(iv) **Minutes of 42nd Standing Committee Meeting (SCM) held on 17.11.2017**

The Committee Members opined that the transmission line inter-connects two States, therefore, it is a natural ISTS line and MSETCL should approach Central Commission to address this issue.

(v) **Minutes of 77th CCM meeting held on 20.4.2018**

MSEDCL has requested WRPC to certify the transmission line as ISTS line in order that scheduling of Central Sector (ISGS) power to MSEDCL is possible through this line. MSEDCL submitted that as per Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, the line has to be certified by WRPC as ISTS line. SE (C), WRPC opined that as per Section 2(36) of the Act, transmission line qualifies as natural ISTS line. Therefore, no separate ISTS certification from WRPC was required for this line. MPPTCL representative was not present during the meeting. WRPC requested MPPTCL to send its comments on



issues raised during this meeting. MPPTCL in its comments submitted that no Central Sector power is flowing on the transmission line from MP to Maharashtra. Therefore, it cannot be considered as ISTS line for installation of meters by PGCIL at Nepanagar. MPPTCL informed that WRPC certification is necessary in respect of all the inter-State lines as natural ISTS lines to file tariff petition before the Central Commission. Once these lines are certified as natural ISTS lines by WRPC, MPPTCL shall approach Central Commission for approval of tariff in respect of these lines.

- (vi) **Minutes of 36th WRPC meeting held on 22.6.2018 and 23.6.2018**
- MPPTCL stated that the transmission line connects two States and therefore it is a radial line. Portion of Maharashtra is radial to MP network. The power which flows through this line also flows through MP network. Therefore, MP should get transmission charges and losses for the intervening network. In case it is agreeable to Maharashtra, MP will not have any problem. CGM, MPPMCL submitted that as per Section 2(36)(i) of the Act natural ISTS is applicable for 'main' transmission line and not for radial line. Therefore, the transmission line cannot be considered as natural ISTS line. As there was no consensus between Madhya Pradesh and Maharashtra on the issue of declaration of the line as ISTS line, WRPC stated that Maharashtra may take up the matter before the Central Commission.



- (f) The Commission in its order dated 14.3.2012 in Petition No. 15/SM/2012 dated 14.3.2012 has referred to the provisions of Section 2(36)(i) of the Act and acknowledged that the conveyance of electricity from one State to another State is also considered to be part of inter-State transmission system and in terms of Section 79(1) (d) of the Act, tariff of these lines is also required to be determined by the central Commission.
- (g) No classification between 'main' or 'radial' transmission network is provided under Section 2(42) of the Act. Section 2(42) of the Act with reference to 'main' means that any electric supply line through which electricity is, or is intended to be supplied. The Commission vide order dated 21.7.2018 in Petition No. 237/TT/2016 provided ISTS status to all 38 transmission lines of APTRANSCO and acknowledged that definition given under Section 2(36) of the Act does not differentiate between meshed or radial network of the transmission line.
- (h) Therefore, MSETCL has prayed that the transmission line qualifies the criteria for getting the status of natural ISTS line as per the provisions of the Act and the annual transmission charges in respect of the transmission line for 2019-24 period may be approved as per the 2019 Tariff Regulations.

Proceedings before the Commission

5. The Respondents are State Transmission Utilities, distribution licensees, power departments who are procuring transmission services from the Petitioner, mainly beneficiaries of the Western Region. WRLDC is the Regional Power Committee which facilitates integrated operation of power system.



6. The Petitioner has served the petition on the Respondents and notice regarding filing of this petition has also been published in the newspapers in accordance with Section 64 of the Act. No comments or suggestions have been received from the general public in response to the aforesaid notices published in the newspapers. MSEDCL vide affidavit dated 7.2.2020 has filed reply to the Petition and the Petitioner vide affidavit dated 20.10.2020 has filed rejoinder to the reply of MSEDCL. Similarly, MPPTCL has filed reply vide affidavit dated 22.8.2020 and the Petitioner vide affidavit dated 3.9.2020 has filed rejoinder to the reply of MPPTCL. MPPMCL vide affidavit dated 3.9.2020 has filed its reply and the Petitioner vide affidavit dated 4.9.2020 has filed its rejoinder to the reply of MPPMCL. The issues raised by the Respondents and clarifications thereto have been discussed in the subsequent paragraphs of this order.

7. Hearing in this matter was held on 25.11.2021 through video conference and order was reserved.

8. Having heard the representatives of the Petitioner, learned Senior Advocate for MSEDCL, learned Senior Advocate for MPPTCL, learned counsels MSEDCL and MPPMCL and having perused the material on record, we proceed to dispose of the petition.

9. This order is issued considering the submissions made by the Petitioner in the petition vide affidavit dated 26.6.2019, Petitioner's additional affidavits dated 18.8.2020, 12.11.2020 and 1.7.2021; reply of MSEDCL filed vide affidavit dated 7.2.2020 and Petitioner's rejoinder affidavit dated 20.10.2020; reply of MPPTCL filed vide affidavit dated 22.8.2020 and the Petitioner's rejoinder affidavit dated 3.9.2020 to the reply of



MPPTCL; reply of MPPMCL filed vide affidavit dated 3.9.2020 and the Petitioner's rejoinder affidavit dated 28.9.2020.

10. During hearing of the matter on 13.7.2020, learned counsel for MPPTCL requested to implead Madhya Pradesh Power Management Company Limited (MPPMCL) as party to the present petition as the Petitioner is seeking declaration of the transmission line as ISTS line and in case the line is declared as ISTS line by the Commission, MPPMCL would be liable to pay ISTS charges. Accordingly, the Commission vide Record of Proceedings (RoP) of the hearing dated 13.7.2020, permitted the Petitioner to implead MPPMCL as party to the instant Petition and MPPMCL was accordingly impleaded as Responded No. 6.

11. The Commission in RoP of hearing dated 13.7.2020 directed the Petitioner to submit certain information. In response, the Petitioner vide affidavit dated 18.8.2020 has submitted the information. The Petitioner has clarified that the transmission line was executed by it to cater to the demand of Dharni city as there was no nearest intra-State transmission connectivity available for Discom to connect and wheel power for meeting the growing energy demand of Dharni. MSETCL was accorded in-principle approval by MERC for capital expenditure of the line. After declaration of commercial operation of the transmission line, MSEDCL vide letter dated 26.4.2017 took up the matter with MSETCL (STU) for declaring the transmission line as ISTS. The matter was deliberated in the 36th WRPC held on 22.6.2018 and 23.6.2018, wherein it was suggested to take up the matter with the Central Commission. It was not clear right from the date of commercial operation of the transmission line on 10.2.2017, whether the line is intra-State or ISTS, the Petitioner included tariff of the line in the ARR of



MSETCL for the financial years 2017-18 and 2018-19. Therefore, no tariff petition was filed before the Commission for financial years 2017-18 and 2018-19. In view of statutory provisions already explained in the petition, the Petitioner has prayed to declare the transmission line as ISTS line and allow tariff for 2019-24 tariff period in accordance with the 2019 Tariff Regulations.

12. The Commission vide Technical Validation (TV) letter dated 3.11.2020, directed the Petitioner to clarify whether the RPC has certified the instant asset as natural ISTS. In response, the Petitioner vide affidavit dated 12.11.2020 has clarified that WRPC has not certified the transmission line as natural ISTS line. The Petitioner has further submitted that in the 42nd Standing Committee Meeting (SCM) dated 17.11.2017, the Committee Members were of the view that the transmission line connects two States and, therefore, it is a natural ISTS line and the Petitioner should approach the Central Commission to address this issue. As no consensus was arrived at between MP and Maharashtra on the issue of declaration of the transmission line as ISTS line in the 36th WRPC meeting on 22.6.2018, WRPC opined to take up the matter before the Central Commission.

13. The Commission during the hearing on 15.6.2021 directed the Petitioner to place on record relevant documents based on which "in principle" approval for the transmission line was given by MERC. In response, the Petitioner vide affidavit dated 1.7.2021 has submitted that in principle capital expenditure approval was given by MSETCL vide Board Resolution 65/17 and the Petitioner submitted its Detailed Project Report (DPR) in respect of the transmission project for "Establishment of 2x25 MVA,



132/3 kV Sub-station at Dharni, District-Amravati, Maharashtra” before MERC vide letter dated 31.10.2011, with an estimated project cost of ₹3398.00 lakh.

14. The Petitioner clarified to MERC vide letter dated 24.1.2013 that 132 kV line proposed from 220 kV Neapanagar Sub-station is in the State of Madhya Pradesh. MSETCL was trying to explore the possibility to extend 132 kV line from nearby 220/132 kV Sub-station in Maharashtra. Therefore, MERC was requested to keep the proposed scheme on hold. The Petitioner further submitted that Dharani is situated in thick forest and hilly area of Maharashtra. The construction of line through this area is not feasible. It was, therefore, decided to extend the source line for 132/33 kV Dharani Sub-station from 220 kV Neapanagar Sub-station in Madhya Pradesh as proposed earlier. The Petitioner vide letter dated 16.2.2013 addressed to Secretary, MERC on the issue of laying of source line from Madhya Pradesh submitted as follows:

- a) Construction of line: MSETCL executes the works from outside agency through open bidding. The license and other documents of the agencies are verified before allotment of particular work. Similar procedure will also be followed in the present case.
- b) Assets i.e. 132 kV line bay at 220 kV Neapanagar Sub-station and 132 kV line from 220 kV Neapanagar Sub-station to 132 kV Dharani Sub-station will be constructed by MSETCL. Therefore, these assets will be with MSETCL.
- c) Maintenance: Maintenance of line and bay will be carried out by MSETCL. Madhya Pradesh Transmission Company has assured to extend all the co-operation in construction/maintenance of the line and bay. The modalities will



be worked out with MPPTCL for maintenance of assets falling in the jurisdiction of Madhya Pradesh.

d) Brief scope of work is as follows:

- i) Establishment of 2x25 MVA, 132/33 kV transformers with bays
- ii) Construction of 132 kV line from 220 kV Nepanagar (MP) Sub-station to proposed 132 kV Dharni Sub-station (inter-State line) 55 km
- iii) 132 kV line bays – two numbers
- iv) 33 kV outlets- six numbers

e) The scheme is included in STU plan for the year 2014-15.

f) MERC accorded 'in principle' approval vide Letter No. MERC/CAPEX/20132014/0451 dated 22.5.2013 subject to the following terms:

"1. The scheme has been evaluated with reference to the guidelines circulated by the Commission on 9th Feb. 2005. I am directed to convey in-principle clearance of the scheme. The particulars of the scheme as approved in principle are outlined in the Annexure A and the break-up of the project cost is given in Appendix A.

2. Please note that this in principle clearance should not be construed as final approval for ARR purpose and the scheme will be open for scrutiny during the tariff determination process. ARR review, particularly in the context of actual cost incurred, scope and objective achieved etc. ex post after implementation of the scheme. MSETCL will be required to submit the status of implementation of the scheme with cost incurred till date, likely completion date etc. along with their ARR petition or during the tariff determination process at the appropriate time.

3. Before commissioning of the above 132/33 kV Sub-station at Dharni, MSETCL should ensure that connection of feeders to 33 kV outlets and all works at consumer Sub-station for drawl of anticipated load are completed by MSEDCL. This would ensure that the Sub-station is put to use for consumer benefit as soon as the same is commissioned.

4. MSETCL should submit quarterly progress report by 20th day of the first month of next quarter giving the status of implementation of the scheme in terms of expenditure incurred and item wise physical progress achieved during the implementation of the scheme.

5. Asset created after execution of the scheme should be maintained separately in the Asset register.



6. Immediately after completion commissioning of the respective scheme, should communicate to the Commission the date of completion of the scheme, item-wise actual cost incurred as per Appendix A, escalation in cost, if any with reasons, the scope and objectives of the scheme and to what extent they have been achieved, etc. so as to facilitate a comparison between the in-principle clearance and the actuals.”

Submissions by Respondent No.4, MPPTCL

15. MPPTCL, Respondent No. 4, vide affidavit dated 22.8.2020 has mainly made the following submissions:

- a. The transmission line is neither connected to intra-State Transmission System of Maharashtra at Dharni nor to Transmission System of CTU. Since the COD of the transmission line in 2017, the line has been used under radial mode. However, the Petitioner now seeks to change the status of the transmission line to ISTS and its inclusion in POC. The Petitioner has already claimed tariff of the Neapanagar-Dharni line as part of the ARR under intra-State transmission tariff of Maharashtra for the financial years 2017-18 and 2018-19. The Petitioner cannot now seek to change the status to ISTS line.
- b. The Petitioner never indicated its intention to use the transmission line as ISTS line including in 33rd WRPC meeting. However, it was agreed in the said WRPC meeting by the Petitioner that MSETCL would not claim ISTS status for Neapanagar-Dharni line and commercial settlement of power and other issues shall be settled bilaterally between MPPMCL and MSETCL/MSEDCL.
- c. The Commission vide order dated 8.6.2013 in Petition No. 44/TL/2012 interpreted that point to point connection cannot be considered as ISTS unless it is intertwined with intra/inter-State transmission system in course of



the line. The transmission line is solely for the purpose of supplying power to Maharashtra and is not further extended from Dharni (load Centre) to any point of intra-State transmission system of Maharashtra. Thus, character of the line remains point to point connection. As long as the transmission line is in isolation mode, this line cannot be considered as main transmission line for the purpose of the Sharing Regulations. Since the transmission line is not main transmission line, it does not qualify for deemed ISTS status under the Sharing Regulations. Therefore, the claim of the Petitioner for declaring the transmission line as ISTS may be disallowed.

Submissions by Respondent No.5, MSEDCL

16. MSEDCL, Respondent No.5, vide affidavit dated 7.2.2020 has submitted that approval for charging/execution of the transmission line was accorded in the 33rd WRPC meeting held at Diu on 8.2.2017 with the conditions that 132 kV Neapanagar-Dharni inter-State line from Dharni Sub-station to Neapanagar Sub-station would be operated in radial mode and the commercial settlement of power between MSEDCL and MP Discom will be decided as per mutual agreement between them in due course of time. MSEDCL has further submitted that after declaration of commercial operation (COD) of the transmission line, MSEDCL vide letter dated 26.4.2017 asked MSETCL (Maharashtra STU) for initiating procedure for declaration of the transmission line as ISTS line for ease of MSEDCL's contracted ISGS power drawl from Madhya Pradesh. MSEDCL has submitted that in terms of provision of Section 2(36)(i) of the Act, the transmission line qualifies as natural ISTS line and as such it should be given the status of ISTS. MSEDCL has submitted in the 34th WRPC meeting dated 28.7.2017 at Mumbai, WRLDC stated that ownership of the line is with Maharashtra and as such



Maharashtra should decide whether the transmission line is to be construed as ISTS line or STU line. However, WRPC recommended MSETCL to approach the Central Commission for redressal of the issue.

Submissions by Respondent No. 6, MPPMCL

17. MPPMCL, Respondent No.6, *vide* affidavit dated 3.9.2020 has submitted that the Petitioner's claim that the transmission line is a natural ISTS line because the system is used from one State to another State within the meaning and scope of Section 2(36)(i) and Section 2(42) of the Act is untenable. MPPMCL referring to Section 2(70) of the Act has submitted that the term 'supply' is in relation to sale of electricity to a licensee or consumer. Thus, essential condition being supply of electricity from a person to a licensee or consumer which is sale of electricity is absent in the present case. In the present case, MSEDCL is itself acting as seller and purchaser. MPPMCL has submitted that power flow in the transmission line is in radial mode. MPPMCL has further submitted that the transmission line is used for self-consumption and same is being under-utilised at present. Hence, in terms of paragraph 15.21 of Statement of Reason (SOR) dated 26.10.2015 of the Sharing Regulations (Third Amendment) as brought out in order dated 12.5.2017 in Suo-motu Petition No. 7/SM/2017, the claim of MSETCL to convert the Nepanagar-Dharni line as ISTS may not be judicious. Therefore, the claim of the Petitioner for declaring the transmission line as ISTS line may be disallowed.

Response of Respondent No. 5, MSEDCL

18. MSEDCL *vide* affidavit dated 20.10.2020 in response to the reply of MPPMCL has submitted that contention of MPPMCL that MSEDCL is acting as buyer and seller is incorrect. MSEDCL has clarified that it is scheduling its pool power through the



transmission line which is purchased from its contracted generators. Hence, sellers in the said transaction are MSEDCL's contracted generators and buyer is MSEDCL. Hence, buyer and sellers are in fact different. MSEDCL has submitted that due to non-declaration of this line as ISTS line, MSEDCL is being compelled to schedule its pool power purchased from its contracted generators through Short Term Open Access (inter-State). MSEDCL has further submitted that the Commission has considered physical flow and not contractual flow in its order dated 14.3.2012 in Petition No. 15/SM/2012, wherein it directed the transmission licensees whose lines connect two States to file petition for determination of tariff. The issue of declaration of the transmission line as ISTS line was discussed in 38th and 42nd meeting of Standing Committee of Power Planning of Western Region held on 25.8.2015 and 17.11.2017, respectively wherein the members observed that as per the definition of ISTS (i.e. any system for the conveyance of electricity by means of main transmission line from the territory of one State to another State), the proposed line of MSETCL is an ISTS. MSEDCL has also submitted ISTS line inter-connects two States, therefore, it is a natural ISTS line. However, MSETCL was suggested to approach the Central Commission for redressal of this issue.

Response of the Petitioner, MSETCL

19. The Petitioner has submitted following justification in support of its prayer to declare the transmission line as ISTS and allow its tariff under POC mechanism for 2019-24 tariff period:

- (i) The line is connected to 220/132 kV Neapanagar Sub-station which is a part of Madhya Pradesh State intra-State network and in turn also connected to ISTS network of CTU.



(ii) As per Section 2(36) of the Act and in terms of Commission's order dated 14.3.2012 in Petition No. 15/Suo-Motu/2012 conveyance of electricity from the territory of one State to another State is also considered to be a part of ISTS. In terms of Section 79(1)(d) of the Act, tariff of these lines is required to be determined by the Central Commission.

(iii) The Commission in order dated 21.7.2018 in Petition No 237/TT/2016 in case of APTRANSCO observed as follows:

“a. The 132 kV lines are inter-state lines as per Section 2(36)(i) of the Electricity Act, 2003 as the instant lines are the interconnecting transmission lines between two States. The said definition does not differentiate between part of meshed network and radial lines. SRPC has also certified the above mentioned lines as inter-State lines vide letters dated 31.10.2016 and 23.11.2016. As per the Section 79(1)(d) of the Electricity Act, 2003, the Central commission has an obligation to determine tariff for inter-State transmission of electricity. Hence, the tariff of these lines is to be determined by the Commission. In view of the above, APTRANSCO has filed the instant petition for determination of tariff for the same and the 132 kV lines need to be included in the PoC methodology, so that the yearly transmission charges of the said lines be recovered.”

(iv) During 42nd SCM of Western Region, the Committee members opined that the transmission line inter-connects two States, hence it is a natural ISTS line. However, MSETCL should approach the Central Commission to address the issue of declaration of the transmission line ISTS line as there was no consensus between the two States.

(v) The Petitioner qualifies the eligibility criteria of being an ISTS licensee under Regulation 6(b) of the Central Electricity Regulatory Commission Transmission License Regulations, 2009, as Petitioner is a State owned Company identified as a project developer on or before 5.1.2011. Being a transmission licensee, all the transmission lines owned by Petitioner are mandated to allow non-discriminatory open access as per statutory provisions contained under the Act. Thus, MPPTCL's contention of being a sole beneficiary



of drawing power at Dharni Sub-station is not correct as there can be multiple beneficiaries who may wish to become a beneficiary through Open Access. Further, Regulation 7(c) of the 2010 Sharing Regulations provides that dedicated transmission lines constructed, owned and operated by ISTS licensees shall be considered as part of basic network except the dedicated lines of generator. Thus, combined reading of Regulation 6(b) of the Central Electricity Regulatory Commission Transmission License Regulations, 2009 and Regulation 7(c) of the 2010 Sharing Regulation would enable the transmission line to be treated as ISTS line and for determination of tariff by the Commission.

(vi) Power wheeled by MSEDCL as a buyer at the periphery of Madhya Pradesh i.e. at Nepanagar to Dharni Sub-station could be through an arrangement with a different source or trader. Therefore, there ought to be no commercial agreement with MPPMCL. Thus, the contention that absence of commercial agreement between MSETCL/MSEDCL and MPPMCL is a mandatory condition for the transmission line to be considered as ISTS line is not sustainable.

(vii) As regards under-utilisation of the transmission line, demand at Dharni city is expected to increase in the ensuing years and in order to provide firm supply, the line was constructed from Nepanagar to Dharni. Under Section 43 of the Act, DISCOMs are under obligation to provide un-interrupted and reliable power to its consumers at economical cost. In view of lack of clarity of the status of the transmission line, no fixed long term commercial agreement is in place and the power is currently wheeled under open access to meet the demand of Dharni city. With regard to self-consumption by Maharashtra utility, this line was



intended to fulfil the demand of Dharni city by feeding firm power to 33 kV Dharni Sub-station from a higher voltage transmission network. Further, the Petitioner being Maharashtra STU is mandated to allow non-discriminatory open access as per the statutory provisions under the Act. In addition, the transmission line can also be utilized by multiple beneficiaries connected at EHV and HT voltage level at Dharni area for wheeling power under open access. At present, Dharni Sub-station is the only source of wheeling power at higher voltage. Hence, MPPMCL's contention of utilising this line for self-consumption purpose is incorrect.

(viii) In view of above facts, 132 kV Nepanagar–Dharni transmission system evidently qualifies the criteria for getting the status of natural ISTS.

Analysis and decision

20. Based on the submissions of the parties and documents on record, we proceed to decide the present matter.

21. The issue for consideration before the Commission is whether the transmission line of MSETCL can be declared as an ISTS line in view of the fact that the Petitioner considers the transmission line as natural ISTS line as it is traversing through the States of Madhya Pradesh (MP) and Maharashtra. The Petitioner is before the Commission as no consensus could be arrived at between Madhya Pradesh and Maharashtra in various Standing Committee Meetings and WRPC on the issue of conferring the status of ISTS line to Nepanagar-Dharni line.

22. MSEDCL has requested for declaration of the transmission line as ISTS for ease of MSEDCL's contracted ISGS power drawl from Madhya Pradesh. According to



MSEDCL, in terms of the provisions of Section 2(36)(i) of the Act, the transmission line qualifies as a natural ISTS line and as such the transmission line is required to be given the status of ISTS.

23. MPPTCL has submitted that since the COD of the transmission line in 2017, the line has been used in radial mode. However, the Petitioner now seeks to change the status of line to ISTS and its inclusion in POC. The Petitioner has already claimed the tariff of the transmission line as part of ARR under intra-State transmission tariff of Maharashtra for the financial years 2017-18 and 2018-19. The Petitioner cannot now seek to change the status of the transmission line to ISTS line. Therefore, claim of the Petitioner for declaring the transmission line as ISTS line may be disallowed.

24. MPPMCL has submitted that power flow in the transmission line is in radial mode and this line is not connected to any intra-State system or any ISTS point in between Neapanagar and Dharni. MPPMCL has also submitted that the transmission line is used by Maharashtra for self-consumption and the same is being under-utilised at present. Therefore, in terms of paragraph 15.21 of SOR dated 26.10.2015 of the 2010 Sharing Regulations (Third Amendment) as brought out in order dated 12.5.2017 in Petition No. 7/SM/2017, the claim of MSETCL to convert the instant transmission line as ISTS may not be just, proper and equitable. Therefore, the claim of the Petitioner for declaring the transmission line as ISTS may be disallowed.

25. The Petitioner has submitted that the transmission line was put under COD on 10.2.2017. Further, it was not clear since the COD of the transmission line whether this line is intra-state line or ISTS. Therefore, the Petitioner included tariff of the transmission line in the ARR of MSETCL for the financial years 2017-18 and 2018-19.



Now, the Petitioner has approached the Commission for declaration of the transmission line as ISTS and to allow its tariff for 2019-24 tariff period in accordance with 2019 Tariff Regulations.

26. We have considered the submissions of the Petitioner and Respondents. The Petitioner has submitted that the transmission line is an ISTS line and the Commission in the past has accorded ISTS status to various lines of STUs. There is diverse opinion amongst the constituents of WRPC and stake-holders for treating the transmission line as ISTS and, therefore, WRPC in the 42nd SCM held on 17.11.2017 and in the 36th WRPC meeting held on 22.6.2018 asked MSETCL to approach the Commission. Accordingly, MSETCL has filed the instant petition for declaring the transmission line as an ISTS. It is observed that MSETCL had approached MPPTCL for laying a transmission line from Neapanagar in Madhya Pradesh to Dharni in Maharashtra to supply power to Dharni area. It has been stated that the 33 kV line of MSEDCL to Dharni passes through dense forest and it caused serious disruptions of power especially during monsoon season and efforts by MSEDCL did not improve the situation. Hence, MSETCL proposed power supply from Neapanagar to Dharni by constructing 132 kV Neapanagar to Dharni Transmission Line, which was agreed to by MPPTCL. It is observed that in the 33rd TCC meeting held on 31.1.2017, the issue of granting ISTS status was discussed and it was decided that the transmission line would not be treated as an ISTS. The TCC came to the following conclusion:

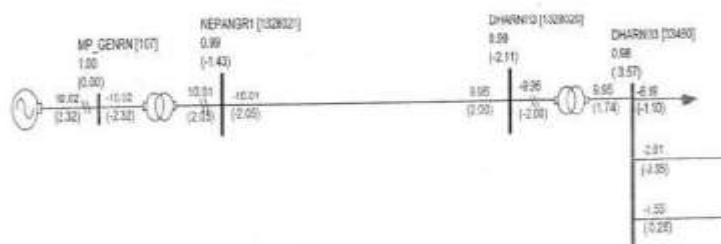
- a) Neapanagar-Dharni line will be operated in radial mode.
- b) Commercial settlement of power between MSEDCL and MP Discom will be decided as per mutual agreement.
- c) This line will not be treated as ISTS or deemed ISTS line and the same was agreed by MSETCL.



27. Further, in the 75th CCM held on 28.6.2017, CCM opined that the transmission line will not be treated as an ISTS line and MSETCL agreed to it. The Committee also recommended that MPPMCL and MSETCL should resolve the commercial issues bilaterally.

28. Thus, it is observed that the transmission line has been conceived to supply power to Dharni in Maharashtra as the existing transmission system of Maharashtra does not meet the power requirements of Dharni. Accordingly, MSETCL entered into bilateral agreement with MPPMCL. It is observed from the minutes of the various WRPC, SCM and CCM meetings that the transmission line was envisaged to be an intra-State Transmission System. Moreover, the tariff of the transmission line for the 2017-18 and 2018-19 was also approved by MERC in the ARR of MSETCL. MSETCL wants the status of the transmission line changed from intra-State transmission system to inter-State transmission system and include the transmission line in the PoC computation charges and to socialise transmission charges which shall not be consistent and in conformity with the purpose for which the transmission line was envisaged and conceived.

29. It is further observed that the power flow is uni-directional from Nepanagar in Madhya Pradesh to Dharni in Maharashtra and there is no bi-directional power flow as shown in the diagram below.



30. Thus, the sole beneficiary of the transmission system is MSETCL, as 100% power of the system is being utilised by MSETCL.

31. The Petitioner has contended that the instant transmission system should be considered as an inter-state transmission system as per Section 2(36)(i) of the Act, which provides as follows:

“2 (36) inter-State transmission system” includes –
(i) any system for the conveyance of electricity by means of main transmission line from the territory of one State to another State;
(ii) the conveyance of electricity across the territory of an intervening State as well as conveyance within the State which is incidental to such inter-State transmission of electricity; iii) the transmission of electricity within the territory of a State on a system built, owned, operated, maintained or controlled by a Central Transmission Utility.”

32. A transmission line can be considered as an inter-State transmission line in three circumstances, as mentioned under Section 2(36) of the Act. Even though the instant transmission line i.e. 132 kV Neapanagar (MPPTCL)-Dharani (MSETCL) line is from the territory of one State to another State as required under Section 2(36)(i) of the Act, the instant transmission line is radially connected and the subject line does not connect to any inter-State or intra-State network of Maharashtra and it terminates at Dharni, which is connected to the distribution network under the control of MSEDCL. As the transmission line is not connected to any inter-State transmission system, we are of the view that the instant transmission line does not qualify to be declared as an ISTS line.

33. The Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 (hereinafter referred to as “2010 Sharing Regulations”) which was in force till 31.10.2020, provided for consideration of an intra-State transmission system as inter-State transmission system on the basis of power flow. The relevant portion of paragraph 2.1.3 of Annexure-I to the 2010 Sharing Regulations provides as follows:



“ 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 Web Net 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.”

34. Thus, in accordance with paragraph 2.1.3 of Annexure-I, the certification of a non-ISTS lines used for carrying inter-State power shall be done on the basis of load flow studies of a line if STU puts up a proposal to RPC and RPC, based on the percentage of usage of these lines as inter-State transmission, approves the said lines as being used as ISTS. However, in the instant case, RPC has not approved the subject line as an ISTS or deemed ISTS line.

35. The Commission vide order dated 14.3.2012 in Petition No. 15/SM/2012 observed that in terms of Section 2(36) of the Act, conveyance of electricity from the territory of one State to another State is also considered to be a part of inter-State transmission system and in terms of Section 79(1)(d) of the Act, the tariff of such lines is required to be determined by the Central Commission. Accordingly, the Commission vide order dated 14.3.2012 directed the owners/developers of the inter-State transmission lines of 132 kV and above for including their transmission assets in computation of point of connection transmission charges and losses under the 2010 Sharing Regulations. The Commission vide order dated 12.5.2017 in Petition No.7/SM/2017 directed the State utilities whose lines have been certified by respective RPCs to be considered under PoC should also file the tariff petitions under the 2014



Tariff Regulations. Consequently, the Commission vide order dated 21.6.2018 in Petition No 237/TT/2016 of APTRANSCO approved tariff of transmission lines between the States of Andhra Pradesh and Telangana, Karnataka, Puducherry and Tamil Nadu, on the basis of SRPC certification. The Commission vide order dated 21.6.2018 in Petition No. 237/TT/2016 considered the transmission lines of APTRANSCO as natural ISTS, i.e. connecting two States, as they were duly certified by RPC. As per the PoC methodology, only net power flow capacity i.e. actual usage is considered and the beneficiaries of ISTS lines share the charges in accordance with their utilisation.

36. As per the Statement of Reason (SOR) dated 26.10.2015 of the Sharing Regulations (Third Amendment) with regard to utilization of line capacity and STU's proposal for declaring its own line being utilized fully by themselves, this Commission, vide its order dated 12.5.2017 in Petition No.7/SM/2017, observed as under:

"7. Further, Statement of Reason (SOR) dated 26.10.2015 of Sharing Regulations (Third Amendment) provides as follows:-

"15.21 A question arises for consideration is whether to fix a minimum percentage figure to consider a STU line as an ISTS line or not. As per Electricity Act and Tariff Policy, all lines which are incidental to Inter-state flow of power are to be considered as ISTS. In a meshed transmission system, many intra state transmission lines carry inter-State power and therefore become incidental to inter-State transmission system. However, as Electricity Grid is being operated in a cooperative manner, for a minor fraction of ISTS power, it is expected that STU would not insist on considering its line(s) to be inter-State as on the one hand it will receive payment for its own lines, on the other it has to pay for usage of other State's lines. If a STU puts up a proposal for considering its line as ISTS and it is found that it is being utilized to a large extent by its own drawee nodes, then it would be merely an academic exercise as major part of tariff would be allocated to home State only. So keeping in view the regulatory process involved in getting a line certified as carrying ISTS power, getting its tariff approved and then adjustment from STU's ARR, it is expected that this claim will be raised judiciously. An interesting situation happened during 2011 when in Eastern and Northern Regions, many lines were submitted to RPCs for approval as ISTS, Southern States realizing that they all are using each other State's line, decided that they will not put up any line for certification by RPC as ISTS. While Commission wants to consider legitimate claims but this must not result in making process too complex. The RPC may therefore uniformly decide a percentage below which (say 10%) such a line would not be considered as an ISTS. Further, it is intended that for assessment of a particular line being used



for carrying interstate power, technical know how and tools will be provided by Secretariat of RPCs and NLDC/ RLDCs shall provide all necessary support to States.””

37. From the pleadings of the parties, it is apparent that power flow in 132 kV Nepanagar (MP)-Dharni (Maharashtra) is uni-directional from Madhya Pradesh to Maharashtra. In other words, only Maharashtra is utilising the full capacity of the transmission line. Therefore, the transmission charges of the transmission line have to be borne by MSETCL and it cannot be socialised as sought by MSETCL.

38. As the sole beneficiary of the transmission system is MSETCL and 100% power of the system is being utilised by MSETCL, even if the contentions of the Petitioner is accepted, it would merely be an academic exercise as major part of tariff would only be allocated to Maharashtra.

39. Therefore, keeping in view the regulatory process involved in getting a line certified as carrying ISTS power, the Petitioner’s claim does not appear to be reasonable and equitable. Accordingly, we are unable to consider the transmission line to be treated as ISTS and its tariff sharing to be under the PoC mechanism. The Petitioner is directed to continue its claim of tariff with respect to the transmission line under the ARR methodology of MERC as was done by it in the financial years 2017-18 and 2018-19.

40. This order disposes of Petition No. 266/TT/2019 in terms of above discussions and findings.

sd/-
(P. K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I. S. Jha)
Member

sd/-
(P. K. Pujari)
Chairperson

