

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 158/MP/2023**

- Subject** : Petition under Section 79(1)(f) read with Section 79(1)(c) of the Electricity Act, 2003 for recovery of deemed transmission charges from the date of deemed commercial operation being 31.3.2017 up to 15.4.2017 of 2x500 MVA, 400/220 kV Darbhanga Sub-station and Muzaffarpur-Darbhangha 400 kV D/C line with triple snowbird forming part of the “Eastern Region System Strengthening Scheme-VI”.
- Date of Hearing** : 6.12.2023
- Coram** : Shri Jishnu Barua, Chairperson  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member
- Petitioner** : Darbhanga-Motihari Transmission Company Limited
- Respondent** : Bihar State Power Transmission Company Limited & 3 others
- Parties present** : Ms. Anusha Nagarajan, Advocate, DMTCL  
Ms. Aakansha Bhola, Advocate, DMTCL  
Ms. Rohini Prasad, Advocate, BSPHCL

**Record of Proceedings**

The present petition has been filed by Darbhanga-Motihari Transmission Company Limited (DMTCL), which is an inter-state transmission licensee and has implemented the (a) 2x500 MVA, 400/220 kV GIS Sub-station at Darbhanga along with Muzaffarpur-Darbhangha 400 kV D/C line with triple snowbird conductor (‘Darbhanga Element’) and (b) 2 x 200 MVA, 400/132 kV Sub-station at Motihari along with the LILO of Barh-Gorakhpur 400 kV 2X D/C quad line at Motihari (‘Motihari Element’) elements on a build, own, operate, and maintain basis as part of ‘Eastern Region System Strengthening Scheme-VI’ (ERSS VI) (the ‘Project’).

2. The learned counsel for the Petitioner made the following submissions:
- a) As directed vide RoP dated 11.8.2023, all the LTTCs have been impleaded as a party to the petition, and notices were served on all the LTTCs.



b) The issue of mismatch and date of the Deemed commercial operation of Darbhanga Element was discussed in the ERPC meeting.

c) The BSPTCL did not complete its downstream network, due to which, the Darbhanga Element of the Petitioner could not be put to use between 31.3.2017 and 15.4.2017. As the distribution companies are handling the commercial aspects, they are liable to pay transmission charges. Accordingly, for Darbhanga Element, the Petitioner is entitled to recovery of transmission charges from discoms, namely, SBPDCL and NBPDCCL, as unrecovered transmission charges for the period from 31.3.2017 to 15.4.2017.

d) The Commission may also determine the applicable carrying cost in respect of the differential unrecovered transmission charges computed on the basis of enhancement of the transmission tariff of the Petitioner pursuant to order dated 13.5.2022 passed by this Commission and direct NBPDCCL and SBPDCL to pay such carrying cost.

e) As regards the proportion in which the distribution companies will make the payment, it is Bihar's internal matter.

f) Intimation/notices for energization of the Petitioner's transmission asset were given well in advance as per TSA. No information as to deferment was received from Bihar State Transmission Utilities.

g) Rejoinder to the reply of BSP(H)CL has been filed vide affidavit dated 24.10.2023.

h) Requested permission to place on record the judgments on Order 2 Rule 2 of CPC in the matter.

3. In response, the learned counsel for the Respondent, BSP(H)CL submitted as follows:

a) The notices for the energization of the transmission asset were not clear, as no date was mentioned in the notice regarding the energizing of the transmission asset. In one of the notices, the date was, however, mentioned but the assets were never energized on that date. Therefore, the notices cannot be relied upon as the same became infructuous.

b) Apportionment of liability of transmission charges between the distribution companies has been denied, and a letter to this effect has been sent to ERPC, and the same is annexed in the pleadings.

c) The Petitioner should have claimed the transmission charges in one go in Petition No.238/MP/2017 and subsequent Review Petition No.8/RP/2019, wherein it claimed extension of SCOD up to the date on which the deemed COD was achieved, on account of force majeure and change in law events. Claiming the transmission charges/unrecovered charges for the period from 31.3.2017 to 15.4.2017 by filing a new petition cannot be entertained under Order 2 Rule 2 of CPC.



d) It was submitted that since the other distribution companies have not yet filed a reply in the matter, they be given a last chance to file a reply in the matter.

e) Also requested to place on record the judgments on Order 2 Rule 2 of CPC in the matter.

f) Reply in the matter has been filed vide affidavit 6.10.2023.

4. The Commission observed that sufficient time has already been given to the Respondents to file a reply in the matter. However, it gave a last opportunity to all Respondents to file their reply/written submissions/supporting judgements, etc., by 29.12.2023, with an advance copy to the Petitioner, who may file its rejoinder, etc., if any, by 12.1.2024. The Commission further observed that no request for an extension of time will be entertained and directed the parties to strictly comply with the above directions within the specified timeline.

5. Subject to the above, the Commission reserved the order in the matter.

**By order of the Commission**

sd/-  
(V. Sreenivas)  
Joint Chief (Law)

