

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

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

**Coram:**

**Shri Jishnu Barua, Chairperson  
Shri Ramesh Babu V, Member  
Shri Harish Dudani, Member**

**Date of Order: 30.09.2024**

**In the matter of:**

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 31.03.2017 up to 15.04.2017 of 2 x 500 MVA, 400/220kV Darbhanga sub-station and Muzaffarpur-Darbhanga 400kV D/C line with triple snowbird forming part of the "Eastern Region System Strengthening Scheme-VI" established under tariff based competitive bidding, which remained unrecovered due to non-availability of 220 kV Downstream transmission Network developed by Bihar State Power Transmission Company Limited.

**And**

**In the matter of:**

Darbhanga-Mothihari Transmission Company Limited  
504 & 505, Windsor, Off CST Road,  
Kalina, Santacruz (E), Mumbai- 400098

..... Petitioner

**Versus**

1. Bihar State Power Transmission Company Limited (BSPTCL)  
Registered Office: 04<sup>th</sup> Floor, Vidyut Bhavan-I,  
Bailey Road, Patna-800001 Bihar.
2. South Bihar Power Distribution Company Limited (SBPDCL)  
Registered Office: 02<sup>nd</sup> Floor Vidyut Bhawan-I,  
Bailey Road, Patna-800001 Bihar
3. North Bihar Power Distribution Company Limited (NBPDCCL)  
Registered Office: 03<sup>rd</sup> Floor Vidyut Bhawan-I,  
Bailey Road, Patna-800001



4. Bihar State Power Holding Company Limited (BSPHCL)  
Registered Office: 01<sup>st</sup> Floor, Vidyut Bhawan-I,  
Bailey Road, Patna-800001 Bihar.  
B-9, Qutab Institutional Area, 1<sup>st</sup> Floor Katwaria Sarai,  
New Delhi-110016
  5. Maithon Power Limited  
MA-5, Gogna, P.O. – Maithan DAM,  
District Dhanbad-828207, Jharkhand, India
  6. GRIDCO Limited  
Regd. Office, Janpath, Bhubaneswar-751022
  7. Power Grid Corporation of India Limited  
HVDC Pusauli Saudamini, Plot No.2, Sector 29,  
Near IFFCO Chowk, Gurgaon,  
(Haryana) 122001, India
  8. Damodar Valley Corporation  
DVC HEADQUARTES, DVC Towers,  
VIP Road Kolkata-700054
  9. Power Department Government of Sikkim  
Power Secretariat, Kazi Road,  
Gangtyok, East Sikkim-737101
  10. Jharkhand Bijli Vitran Nigam Ltd  
Registered Office: Engineering Building, H.E.C.,  
Dhurwa, Ranchi – 834004, Jharkhand
  11. Jharkhand Urja Vikas Nigam Ltd  
Registered Office: Engineering Building, H.E.C.,  
Dhurwa, Ranchi – 834004, Jharkhand
  12. Jharkhand Urja Sancharan Nigam Ltd  
Registered Office: JUSNL Building, Kosai Colony,  
Doranda, Ranchi – 834002, Jharkhand
  13. Jharkhand Urja Utpadan Nigam Ltd  
Registered Office: Engineering Building, H.E.C.,  
Dhurwa, Ranchi – 834004, Jharkhand
  14. West Bengal State Power Distribution Company Ltd  
Vidyut Bhavan, Block- DJ Sector-II,  
Bidhannagar, Kolkata-700091
- .....Respondents



## Parties Present:

Ms. Aakansha Bholra, Advocate, DMTCL  
Mr. Neeraj Verma, DMTCL  
Ms. Rohini Prasad, Advocate, BSPHCL  
Mr. Anup Kashyap, Advocate, BSPHCL

## ORDER

Darbhanga-Motihari Transmission Company Limited (herein referred as DMTCL) has filed instant petition under Section 79(1)(f) read with Section 79(1)(c) of the Electricity Act, 2003 for recovery of transmission charges from the date of deemed Commercial Operation being 31.03.2017 up to 15.04.2017 of 2x500 MVA, 400/220kV Darbhanga sub-station And Muzaffarpur-Darbhanga 400kV D/C line with triple snowbird forming part of the “Eastern Region System Strengthening Scheme-VI” established under tariff based competitive bidding, which remained unrecovered due to non-availability of 220 kV Downstream transmission Network developed by Bihar State Power Transmission Company Limited.

2. Petitioner has made the following prayers:

- i. *Declare that the Petitioner is entitled to the recovery of transmission charges from SBPDCL and NBPDC (Bihar Discoms) for the Darbhanga Element of INR 2,65,75,819.00/-, being the unrecovered transmission charges in respect of the period from 31.03.2017 up to 15.04.2017, during which the Darbhanga Element was deemed available but could not be put to use due to non-availability of the BSPTCL downstream network, which have already been included in the Regional Transmission Account by the ERPC along with applicable Late payment surcharge until payment thereof.*
- ii. *Declare that the Petitioner is entitled to recover the differential unrecovered transmission charges of INR35,06,263/-, computed on the basis of enhancement of the transmission tariff of the Petitioner pursuant to Order dated 13.05.2022 passed by this Hon'ble Commission, from SBPDCL and NBPDC in the ratio of 60% and 40% respectively, being the prevalent ratio for the year 2017, in terms of the RTA issued by the ERPC*
- iii. *Direct NBPDC and SBPDCL to pay the sums referred to in prayers (i) and (ii) above .*
- iv. *Determine the applicable carrying cost in respect of the differential unrecovered transmission charges of INR35,06,263 ,computed on the basis of enhancement of the transmission tariff of th e Petitioner pursuant to Order dated 13.05.2022 passed by this Hon'ble Commission, and direct NBPDC and SBPDCL to pay such carrying cost*
- v. *Award costs against SBPDCL and NBPDC and in favour of the Petitioner.*
- vi. *Pass any other Order(s) as this Hon'ble Commission may deem fit and proper in the facts and circumstances of the present case*

## Submission of Petitioner:



3. Petitioner has made the following submissions:

- a) Petitioner, Darbhanga-Motihari Transmission Company Limited is an inter-state transmission licensee that has implemented the following transmission elements on the build, own, operate, and maintain basis as part of “Eastern Region System Strengthening Scheme-VI” (ERSS VI):
  - a. 2x500 MVA, 400/220kV GIS sub-station at Darbhanga along with Muzaffarpur-Darbhanga 400kV D/C line with triple snowbird conductor (“**Darbhanga Element**”).
  - b. 2x200 MVA, 400/132 kV sub-station at Motihari along with LILO of Barh-Gorakhpur 400 kV 2X D/C quad line at Motihari (“**Motihari Element**”).
- b) The project was awarded pursuant to a tariff-based competitive bidding (“TBCB”) process. The deemed Commercial Operation Date (“COD”) for the Darbhanga Element was declared on 31.03.2017. Vide Order dated 29.03.2019 passed in Petition No. 238/MP/2017 and Order dated 13.01.2020 passed in Review Petition No. 8/RP/2019, the Commission allowed DMTCL’s claim for extension of Scheduled Commercial Operation Date (“SCOD”) up to the date of actual COD.
- c) DMTCL was constrained to declare deemed commercial operation of the Darbhanga Element, as although the Darbhanga Element was complete and ready for operation, power flow through the Darbhanga Element could not be commenced, as the 220 kV downstream network of Bihar State Power Transmission Company Limited (“BSPTCL”) was not ready for charging until 16.04.2017, and BSPTCL had failed to interconnect the 220kV downstream transmission line and installation of PLCC equipment (“BSPTCL downstream network”). Therefore, for the period between 31.03.2017 and 15.04.2017, the Darbhanga Element was deemed available, for which period DMTCL is entitled to receive transmission charges.
- d) CERC, in its Order dated 04.01.2017 in Petition No. 155/MP/2016 (“CERC Patran Order”), has held that for the failure of the STU to complete downstream transmission facilities, the concerned State discom, which is liable to bear the transmission charges in terms of the TSA, would also be liable to pay the unrecovered transmission charges. Commission has also laid down the methodology for billing and recovery of such transmission charges. CERC Patran Order has been upheld by the Appellate Tribunal for Electricity in judgment dated



27.03.2018 in APL No. 390 of 2017, wherein the Tribunal held that although the STU, which defaulted in completing the downstream transmission facilities was not party to the transmission services agreement, the concerned State Discoms would be liable, as it was only such Discoms amongst the other LTTCs, who could be said to be responsible for completion of the Inter-connection Facilities.

- e) The erstwhile Bihar State Electricity Board was one of the Long-Term Transmission Customers in the transmission services agreement executed by the Petitioner in respect of the Project. The said entity has since been unbundled, and BSPHCL, BSPTCL, NBPDCCL, and SBPDCL are among the successor entities.
- f) BSPTCL was in default of completion of the BSPTCL downstream network, due to which, the Darbhanga Element could not be put to use between 31.03.2017 to 15.04.2017. Commercial settlement of charges under the TSA is being undertaken by the Bihar DISCOMs -SBPDCL and NBPDCCL, which entities, pursuant to unbundling of the Bihar State Electricity Board, are parties to the TSA, and hence the Bihar Discoms that are liable to pay the unrecovered transmission charges.
- g) Pursuant to Orders in Petitions 238/MP/2017 and 8/RP/2019, Petitioner was entitled to recover transmission charges to the tune of INR 2,65,75,819.00 for the period between 31.03.2017 to 15.04.2017.
- h) Petitioner on 19.02.2020, submitted its claim for unrecovered transmission charges to the Implementing Agency/ POSOCO, which were then scrutinized by the Eastern Region Power Committee ("ERPC") and included in the Regional Transmission Accounts by the ERPC for the month of May 2020 and apportioned between SBPDCL and NBPDCCL on the basis of the prevalent ratio for the year 2017. On this basis, invoices dated 17.06.2020 were raised by the CTU upon SBPDCL and NBPDCCL for INR 1,59,45,492.00 and INR 1,06,30,328.00 respectively.
- i) In Appeal No. 276 of 2021, preferred by the Petitioner before the Appellate Tribunal, the Petitioner's claims for IDC and IEDC were allowed, and the matter was remanded vide Order dated 03.12.2021. This Commission, by way of an Order dated 13.05.2022, revised the tariff recoverable by the Petitioner for the project, out of which, an additional sum of INR 35,06,263.00 is recoverable from the Bihar Discoms. Hence, the Bihar Discoms are liable to pay the aforesaid amounts towards



unrecovered transmission charges along with applicable Late Payment Surcharge and/ or carrying cost.

- j) On 02.01.2017, Petitioner sent a letter intimating the LTTCs, CEA, BSPTCL, and CTU for interconnection of the Darbhanga Element with the Grid. Further, by way of letters dated 27.02.2017, 20.03.2017, 02.04.2017, and email dated 18.03.2017, the Petitioner requested BSPTCL to expedite the installation of PLCC and other necessary equipment at the Darbhanga Sub-station 220 kV end, for seven (7) nos. of 220kV line bays, for termination of the 220 kV transmission lines for smooth power flow into BSPTCL network.
- k) On 20.03.2017, Petitioner issued a letter to BSPTCL intimating that the Darbhanga Element would be charged by 31.03.2017 and reiterated its request, and by a separate notice of even date, the Petitioner requested BSPTCL to interconnect the 220 kV Transmission Lines and install the PLCC equipment at DMTCL end, latest by 29.03.2017 for smooth flow of power.
- l) Central Electricity Authority (“CEA”) vide letter dated 29.03.2017, granted approval for energizing all components of the Darbhanga Element forming part of the project. On 31.03.2017, the Petitioner communicated to the ERPC & others that the Darbhanga Element was ready for charging on 30.03.2017 and that the Deemed COD of the Darbhanga Element was being declared with effect from 00:00 hrs of 31.03.2017 as the BSPTCL downstream transmission network was not ready for charging and power flow.
- m) The BSPTCL downstream network was incomplete at this time, and the status of the BSPTCL downstream network (in Mar 2017) is summarized below:

<b>S. No.</b>	<b>BSPTCL Transmission Line</b>	<b>Status (as on Mar-2017)</b>
1	220 kV D/C Darbhanga (TBCB) – Darbhanga Transmission Line	Under construction
2	220 kV D/C Darbhanga (TBCB) – Motipur Transmission Line	Under construction & subsequently charged on 18 <sup>th</sup> Apr 17
3	220 kV D/C Darbhanga (TBCB) – Supaul/ Lokhi Transmission Line	Under construction
4	220 kV S/C Darbhanga (TBCB) – Samastipur Transmission Line	Under construction & subsequently charged on 16 <sup>th</sup> Apr 17



- n) Out of 07 nos. of BSPTCL 220 kV intra-state transmission lines, the BSPTCL 220kV S/C Darbhanga (TBCB)-Samastipur Transmission Line was only ready with effect from 16.04.2017. On 18.04.2017, 220 kV D/C Darbhanga (TBCB)-Motipur Transmission Line was also charged. The balance 220 kV Transmission Lines of BSPTCL (220 kV Darbhanga-Supaul/ Loki Transmission Line and 220 kV Darbhanga-Darbhanga Transmission Line) were still under construction at that point of time. As a result, despite the Darbhanga Element having been ready for operation since 31.03.2017, power could only be fed into the BSPTCL transmission system with effect from 16.04.2017. Such commencement of power flow was communicated to BSPTCL and the CTU by the Petitioner by way of letter dated 18.04.2017.
- o) BSPTCL and BSPHCL were arrayed as Respondents in Petition no 238/MP/2017 but did not oppose the declaration of deemed Commercial Operation Date having been achieved on 31.03.2017, due to the non-availability of BSPTCL downstream network. Neither has the said decision been challenged by BSPTCL or BSPHCL.
- p) The transmission charges to be included in the RTA were computed on the basis of the bid tariff as increased by virtue of the Petitioner's change in law claims to the extent accepted and allowed by this Commission by way of its Order dated 13.01.2020 in Petition bearing no. 8/RP/2020, as under:

<b>S. No.</b>	<b>Period to be considered under RTA</b>	<b>Transmission Charges (INR)</b>
1.	March 2017 (for 31.03.2017)	18,29,983.00
2.	April 2017 (01.04.2017 to 15.04.2017)	2,47,45,837.00
	<b>Total</b>	<b>2,65,75,819.00</b>

- q) The said amount was apportioned between NBPDC and SBPDCL in the ratio of 40% and 60% respectively, based on the prevalent ratio of transmission charges applicable in 2017.
- r) SBPDCL and NBPDC vide letters dated 22.12.2020 and 28.12.2020, respectively, responded to the CTU with a copy to the Petitioner, making the following observations with regard to the CERC Patran Order:
- a. The Bihar Discoms, BSPTCL, and DMTCL were not parties to the CERC Patran Order.



- b. The CERC Patran Order only sets out the methodology in cases where there are unrecovered transmission charges.
- c. There are no Orders that determine the transmission charges being claimed under the invoices of 17.06.2020 as unrecovered transmission charges.
- s) Bihar DISCOMs returned the invoices and denied their liability to pay the unrecovered transmission charges in the absence of any adjudication in the instant matter, notwithstanding the fact that ERPC issued the RTA and the CTU raised invoices on the DISCOMs/ BSPTCL after following due procedure and verification.
- t) CTU vide email dated 25.01.2021, stated that the invoice had been raised strictly in terms of the RTA issued by the ERPC and that it was open to the Bihar Discoms to approach DMTCL/ NLDC/ ERPC for seeking any clarifications.
- u) Petitioner vide letter dated 20.03.2021 to CTU, provided justification for recovery of the unrecovered transmission charges from the Bihar Discoms. The said clarifications were also forwarded to the Bihar Discoms by way of email dated 21.03.2021. In light of the clarifications so issued, Petitioner sent a reminder to the CTU by way of email dated 28.04.2021, which further sent a reminder to the Bihar Discoms by way of email dated 30.04.2021 to take necessary action.
- v) The issue was raised by Bihar DISCOMs in the 43<sup>rd</sup> TCC meeting of the ERPC dated 26.03.2021, for which MoM was issued on 09.04.2021. Technical Coordination Committee (TCC) opined that the unrecovered transmission charges had to be liquidated by the Bihar State utilities, in line with the CERC Patran Order. An objection was raised by SBPDCL that the bill was to be raised on BSPTCL (the STU) rather than the Bihar Discoms. ERPC Secretariat observed that all commercial accounts pertaining to the State of Bihar are being apportioned between NBPDC and SBPDCL. TCC advised that the apportionment being an internal matter of the State of Bihar, a separate meeting may be convened between BSPHCL, BSPTCL, Bihar Discoms, NLDC, CTU, and DMTCL to resolve the issue.
- w) A virtual meeting was convened on 21.06.2021 amongst the entities suggested by the TCC of the ERPC in the presence of the ERPC Secretariat. The Bihar Discoms again raised issues with respect to the applicability of the CERC Patran Order. As a result, the meeting remained inconclusive, and minutes of this meeting could not



be issued. The issue was discussed at various fora on different occasions but did not achieve resolution.

- x) On 17.11.2021, at the 3<sup>rd</sup> interaction of this Commission with the Chairperson and Member Secretaries of the various RPCs, the interpretation of the CERC Patran Order was discussed. The ERPC raised the issue that when the downstream network of the State was delayed, compensation was not being paid. The Chairperson of this Commission observed that the party which was causing the delay was liable to pay the compensation. The minutes of such interaction were included in the minutes of the 45<sup>th</sup> meeting of the ERPC dated 26.03.2022, issued on 11.04.2022.
- y) Vide letters dated 27.05.2022 issued to SBPDCL and NBPDCCL, the Petitioner summarised its cumulative claim from the Bihar DISCOMs for unrecovered transmission charges along with LPS, which, as on 15.11.2022 amounted to INR 3,72,92,519.
- z) At the 47<sup>th</sup> TCC meeting of the ERPC held on 24.11.2022, it has been noted that the Petitioner has an outstanding claim of INR 3,72,92,519.00 (including LPS) as on that date. The Bihar DISCOMs, however, this time raised an objection that the previous DMTCL orders did not identify and adjudicate upon the issue as to which entity was the defaulting party for settling the claims of DMTCL towards unrecovered transmission charges, and hence the CERC Patran orders could not be followed in the instant case. The TCC observed that since there was no consensus amongst the parties, the aggrieved party may approach this Commission.
- aa) DMTCL is entitled to recover transmission charges as per RTA of May 2020, including applicable LPS from the Bihar State utilities, which as on the date of filing of the Petition, may be computed as under:

Sr.	Particulars	UOM	Quantum	
			NBPDCCL	SBPDCL
1	DMTCL Total claim as per RTA dt. 05 <sup>th</sup> June 2020	INR	2,65,75,819	
1.1	Amount to be recovered from NBPDCCL	40%	1,06,30,328	-
1.2	Amount to be recovered from SBPDCL	60%	-	1,59,45,492
2	Invoice raised on	Date	17-06-2020	17-06-2020
3	Invoice due date	Date	16-08-2020	16-08-2020



Sr.	Particulars	UOM	Quantum	
			NBPDCL	SBPDCL
4	Delay beyond due date & upto 31-10-2020	No. of Days	75	75
4.1	Applicable Rate of LPS	%	1.25%	1.25%
4.2	LPS between 17-08-2020 to 31-10-2020 for recovery	INR	3,32,198	4,98,297
5	Delay between 01-11-2020 to 25-03-2023	No. of Days	874	874
5.1	Applicable Rate of LPS	%	1.50%	1.50%
5.2	LPS between 01-11-2020 to 25-03-2023 for recovery	INR	46,45,453	69,68,180
6	RTA claim to be recovered	INR	1,06,30,328	1,59,45,492
7	Total LPS (17-08-2020 to 25-03-2023) for recovery	INR	49,77,651	74,66,476
	<b>Grand Total</b>	<b>INR</b>	<b>1,56,07,979</b>	<b>2,34,11,968</b>

Note: The LPS computation has been done basis of the CERC Sharing Regulations as applicable from time to time

- bb) By virtue of the enhancement in tariff in terms of Order dated 13.05.2022, passed by this Commission upon remand, the differential amount to be recovered from the Bihar DISCOMs is INR 35,06,263. The relevant computation for the differential amount is provided below:

S. No.	Period to be considered under RTA	Revised Transmission Charges (INR) post CERC Order 13.01.2020 (A)	Revised Transmission Charges (INR) post CERC Order 13.05.2022 (B)
1.	March 2017 (for 31.03.2017)	18,29,983.00	20,71,420.00
2.	April 2017 (01.04.2017 to 15.04.2017)	2,47,45,837.00	2,80,10,662.00
3.	<b>Total</b>	<b>2,65,75,819.00</b>	<b>3,00,82,082.00</b>
4	<b>Differential Unrecovered Transmission Charges (B-A)</b>	<b>35,06,263.00</b>	

- cc) Since the Bihar Discoms had already been raising objections with respect to the claim made by the Petitioner for recovery of unrecovered transmission charges, the invoices raised pursuant to RTA issued in May 2020 have not been revised further. In case the Commission adjudicates upon and determines that the Bihar Discoms are liable for such unrecovered transmission charges, then the Petitioner would also be entitled to recover carrying cost in respect of the differential amount.



dd) The principle that defaulters would be liable is now well-settled, having been recognised by the Supreme Court in *Power Grid Corporation of India vs. Punjab State Power Corporation Limited*, (2016) 4 SCC 797. Further, in similar cases where the State utilities have defaulted in operationalizing the downstream transmission network, the Appellate Tribunal has upheld recovery of transmission charges for the period that the TBCB licensee was unable to put the line to use from the concerned defaulting parties. In fact, even where there was no privity of contract, the Appellate Tribunal has upheld such recovery on the basis of decisions taken by the Standing Committee on Power System Planning.

**Hearing dated 11.08.2023:**

4. The Petition was admitted, and the Commission directed the Petitioner to implead all Long-Term Transmission Consumers (LTTCS) and file a revised memo of parties. The petitioner was also directed to submit the SLD of both transmission elements, viz. Darbhanga Element and Motihari Element.

**Submissions of Petitioner:**

5. Petitioner vide Affidavit dated 04.09.2023, filed 'Revised Memo of Parties' after impleading Long-Term Transmission Consumers and vide Affidavit dated 11.09.2023 has submitted the SLD of both transmission elements.

**Submissions of Respondent:**

6. Respondent No.4, Bihar State Power Holding Company Limited (BSPHCL) vide Affidavit dated 06.10.2023 has submitted as follows:

a) Order dated 29.03.2019 passed in Petition no. 238/MP/2017, the relief sought by the Petitioner, amongst others, was to "Extend the scheduled COD of the instant assets up to actual COD to enable the Petitioner to take benefit of the tariff which it could not earn due to delay in implementation of the project as per the TSA and allow additional costs and waive any liquidated damages or any other consequences thereof under the TSA." In this, Petitioner omitted to claim and sue in respect of the alleged claim of payment of any alleged unrecovered transmission charges from Bihar DISCOMs/ State utilities for the period between the date it claimed to have achieved deemed COD and the charging of BSPTCL



network. Thus, this claim and reliefs sought in the present petition are barred by Order 2 Rule 2 of CPC, which is as under:

**Order 2 Rule 2 of CPC is hereunder:**

**“2. Suit to include the whole claim:**

- (1) *Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.*
- (2) *Relinquishment of part of claim—Where a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.*
- (3) *Omission to sue for one of several reliefs—A person entitled to more than one relief in respect of the same cause of action may sue for all or any of such reliefs, but if he omits except with the leave of the court, to sue for all such reliefs, he shall not afterwards sue for any relief so omitted.*

*Explanation: For the purposes of this rule an obligation and a collateral security for its performance and successive claims arising under the same obligation shall be deemed respectively to constitute but one cause of action.*

- b) In the orders dated 29.03.2019 and 13.01.2020 passed in Petition nos. 238/MP/2017 and 8/RP/2019, respectively, there can be said to be no adjudication concerning the approval of the declaration of deemed COD claimed by the Petitioner and the rights and obligations of the parties in this regard, the relevant provisions of the TSA were not noticed in the said orders, no issue was framed and there was no consideration in this regard. The claim of the Petitioner as having achieved deemed COD on 31.03.2017 is not in accordance with the TSA dated 06.08.2013, and the Petitioner has failed to act in accordance with the relevant provisions of the TSA regarding connection with the inter-connection facilities.
- c) With respect to connection with inter-connection facilities, it was mandatory for the TSP to give RLDC(s), CTU/STU, as the case may be, the Long-Term Transmission Customers and any other agencies at least sixty (60) days advance written notice of the date on which it intends to connect an Element of the Project. Petitioner failed to give such notice. It was only 10 days prior to charging that the Petitioner vide letter dated 20.03.2017 intimated that Darbhanga Element would be charged by 31.3.2017.
- d) After the Petitioner's letter dated 20.03.2017, BSPTCL had requested for clearance to be provided for the commissioning of PLCC equipment for 220kV



transmission lines of BSPTCL at DMTCL Darbhanga GIS to which the Petitioner had responded vide letter dated 02.04.2017. Within 15 days after the date notified by the Petitioner, w.e.f. 16.04.2017, BSPTCL 220 kV S/C Darbhanga (TBCB)-Samastipur Transmission Line equipment was operational. The Petitioner was aware of the reason for the deferral of connection, and the STU could defer the connection for up to fifteen days from the date notified by the TSP pursuant to Article 6.1.1. The claim of the Petitioner that it achieved actual COD on 31.3.2017 is not in accordance with the TSA.

- e) Work related to high velocity sprinkler systems as firefighting arrangements for Transformers and Reactors was still in progress, and a fire tender was arranged as a temporary measure. It was provisional clearance for energization that was accorded for a period of two months, i.e. up to 28.05.2017. The Petitioner was advised to comply with the observation by completing the aforesaid pending work and submitting the work completion report with signed photographs on or before 28.05.2017. Some work was still pending on the part of the Petitioner, yet instead of synchronizing it with BSPTCL line/ equipment, the Petitioner proceeded with charging its line to cover up its own lapse and pending work and raise claims unjustifiably.
- f) For claiming relief pertaining to the period 31.03.2017 to 15.04.2017, the present petition has been filed after an inordinate delay in April 2023. Relief of recovery of alleged unrecovered transmission charges was not sought in Petition No. 238/MP/2017. The Petitioner, as an afterthought belatedly sought to send a letter dated 19.02.2020 raising such a claim.
- g) Vide Letter dated 02.01.2017, the Petitioner intimated that the Darbhanga Element would be ready for charging and interconnection with the Grid system by 15.02.2017. This letter, too, was not a 60-day advance notice and, in any case, became infructuous. Further, in this letter, CTU has not been mentioned as one of the recipients. Additionally, in the other letters, no mention was made by the Petitioner of the date on which it intends to connect the Element of the Project.
- h) Darbhanga Element cannot be considered as deemed to be available for the period from 31.03.2017 up to 15.04.2017, and the submissions of the Petitioner in this regard are denied.



## **Rejoinder by Petitioner:**

7. Petitioner vide Affidavit dated 21.10.2023 has filed a rejoinder to the reply BSPHCL as follows:
- a) The cause of action leading to the present Petition is entirely distinct and separate from the cause of action that led to the filing of Petition No. 238/MP/2017. Commission vide Order dated 29.03.2019, in petition 238/MP/2017, allowed the extension to the Scheduled COD and also allowed recovery of increased costs claimed by the Petitioner as a consequence of the Change in Law and force majeure events. As certain inclusions disallowed by this Commission in its Order dated 29.03.2019, the Petitioner filed Review Petition No. 8/RP/2019 before this Commission. In the Review Order dated 13.01.2020, the Commission expressly declared that the Petitioner was entitled to an increase in transmission charges from the LTTCs.
  - b) Petitions 238/MP/2017 and 8/RP/2019 were for extension of COD and recovery of additional costs, while the present Petition has been necessitated because of the Bihar Discoms' refusal to pay transmission charges. The cause of action of filing the present Petition did not arise at the time of filing the former petitions, as the Bihar Discoms only conveyed their refusal to pay transmission charges upon the demand being raised by the Petitioner in accordance with the orders of this Commission in the said former petitions. Order II Rule 2 of the CPC has no application in the present case, and the present reliefs are not barred under the said provision.
  - c) In the Orders dated 29.03.2019 and 13.01.2020, it was recorded that the deemed COD of the Darbhanga element was 31.03.2017 and has not been challenged by the answering Respondent. Therefore, the issue of COD has attained finality. It is for the first time in the present reply that the answering Respondent has sought to dispute that the deemed COD was 31.03.2017 or that deemed COD was achieved contrary to the provisions of the TSA. The said plea is barred by the principles of res judicata and issue estoppel.
  - d) The Petitioner, for the very first time on 02.01.2017, had intimated to the LTTCs, CEA, BSPTCL, and CTU that the Darbhanga Element was ready for interconnection. Several letters dated 27.02.2017, 20.03.2017, 02.04.2017, and



an email dated 18.03.2017 were also sent in this regard. The LTTCs, including the answering Respondent, had been put to notice much prior to 60 days before the deemed COD that the Darbhanga Element was ready for interconnection. The requirement of Article 6.1 of the TSA has been substantially complied with.

- e) Under Article 6.1.2 of the TSA, the LTTCs or STU can defer connection by up to 15 days upon notifying the transmission licensee in writing of the reason for deferral and of the date of connection. However, in the present case, none of the LTTCs, including the answering Respondent, or the STU, issued any such notice. Thus, the said provisions for deferral have no application in the present case.
- f) Admittedly, some final work was in progress on the high-velocity water sprinkler system at the time of the CEA Officer visit, as the Petitioner had additional temporary arrangements for the Fire Tender in place, CEA issued Provisional Energization Approval of the Darbhanga element on 29.03.2017. The plea taken by the answering Respondent is tantamount to a challenge to the approval granted by CEA for energization, which is not permissible. It is not the answering Respondent's case that because of some final work is in progress on the high velocity water sprinkler system of the Darbhanga Element had any bearing upon or in any manner affected the commissioning of the downstream transmission network.
- g) Answering Respondent has alleged that the present Petition is barred by delay and laches, as it was filed in April 2023 for claiming transmission charges for the period between 31.03.2017 to 15.04.2017. The deemed COD from which the Petitioner was entitled to recover transmission charges was recognized as 30.03.2017 by this Commission dated 29.03.2019 in Petition 238/MP/2017. Thus, prior to such an order being passed, the question of recovery of transmission charges for the period between deemed COD and actual power flow did not arise. Order dated 13.01.2020, this Commission expressly recognized that the transmission charges arrived at on the basis of additional costs allowed by this Commission could be recovered from all LTTCs. Thereafter, the Petitioner requested for inclusion of the unrecovered transmission charges in the regional transmission account. It is not the answering Respondent's case that the present Petition is barred by limitation.



- h) The answering Respondent and the Bihar Discoms are the lead LTTCs, and the delay in keeping the PLCC and other equipment ready was on the part of the answering Respondents and its subsidiaries. As the subject matter in the present Petition is the recovery of unrecovered transmission charges due to delay in commissioning downstream equipment part of the Darbhanga Element, relief has only been sought against the Bihar State Utilities, that is, Respondents No. 1-4.
- i) At the 43<sup>rd</sup> TCC meeting of the ERPC, it was specifically recorded that the transmission charges included in the RTA will have to be liquidated by Bihar, the only issue remaining was whether the payment would be made by Bihar Discoms or the STU, which was raised by SBPCL, one of the Bihar Discoms, itself. Thus, the CERC Patran Order was expressly recorded to be applicable.
- j) The only issue in the virtual meeting convened on 21.06.2021 was the payment of transmission charges by Bihar as per the RTA and not the applicability of the Patran Order, which had already been clarified in the 43<sup>rd</sup> TCC meeting in March 2021. The purported letter issued by SBPDCL to the ERPC on 16.07.2021 for correction of minutes of the 43<sup>rd</sup> TCC meeting held in March 2021 was an afterthought. SBPDCL alleged that the issue was not put before the TCC in the “right spirit,” and amendment of the minutes was sought. The said letter was merely a feeble attempt by SBPCL to avoid liability for transmission charges payable to the Petitioner and was without any basis. ERPC did not amend the minutes of the 43<sup>rd</sup> TCC meeting despite the said letter. The stance of SBPDCL in the letter dated 16.07.2021 with reference to the Patran Order is wholly misconceived.

**Hearing dated 06.12.2023:**

8. The Commission reserved the matter for Order and directed the Petitioner and Respondents to file their written submissions, if any.

**Submission of Respondent (BSPTCL):**

9. Respondent No.1, Bihar State Power Transmission Company Limited (BSPTCL) vide affidavit dated 26.12.2023 has mainly submitted as under:
- a) Vide letter dated 01.04.2017, BSPTCL informed DMTC that 220 KV DCSS Transmission Line had been charged successfully on 31.03.2017 at 14:55 hrs





from 220/132/33 KV GSS Samastipur up to dead end tower of 400/220 KV GSS Darbhanga (DMTCL). PLCC had also been installed at both ends, but the termination of the power cable at 400/200/132 KV GIS Darbhanga end is incomplete, which is under the scope of DMTCL. BSPTCL is ready to commission PLCC equipment at 400/200/132 KV GIS, Darbhanga to evacuate power after getting clearance from DMTCL. The request was made to provide clearance for the early commissioning of PLCC equipment. The relevant extract of the letter dated 01.04.2017 is as under:

*“220KV DC (s/s) transmission line has been charged successfully on dated 31.03.2017 at 14.45 Hr. from 220/132/33 kV GSS Samastipur up to dead end tower of 400/220 kV GIS, Darbhanga (DMTCL).*

*PLCC have also been installed at both ends but termination of power cable at 400/220 kV GIS Darbhanga end is incomplete.*

*We are ready to commission PLCC equipment at 400/220 kV GIS, Darbhanga to evacuate power after getting clearance from DMTCL.*

*You are requested to kindly provide clearance for early commissioning of PLCC equipment.”*

- b) DMTCL vide e-mail dated 08.04.2017, informed BSPTCL that 400 KV D/c Muzaffarpur- Darbhanga Transmission Line with 400 KV GIS had been successfully charged on 07.04.2017 and DMTCL wants to charge 400/220 KV ICTs along with BSPTCL 220 KV lines connected with DMTCL Darbhanga Substation on 08.04.2017.
- c) After receiving mail and readiness of bays related to 400/220 Darbhanga GIS by DMTCL, the 220 KV DCSS Transmission Line from Darbhanga 400/220 KV GSS to 220/132/33 KV Samastipur was finally charged on 09.04.2017. This is evident from a letter dated 15.06.2017 of L&T and letters dated 29.08.2017 and 31.08.2017 of BSPTCL (Transmission Circle/Division) regarding the Taking over Certificate.
- d) Though the 220 KV DCSS Transmission Line, under the scope of BSPTCL, could be finally charged only on 09.04.2017 after the completion of 400/220 KV Darbhanga GIS, under the scope of DMTCL. On account of the non-readiness of bays at DMTCL 400/220 KV GSS, power flow at 220 KV level could not be established. The work of construction of bays at DMTCL was under the scope of DMTCL.



10. Respondent No.4 Bihar State Power Holding Company Limited (BSPHCL) vide written submission dated 29.12.2023 has submitted a copy of the Civil Procedure Code, 1908 and mainly reiterated its previous submission. Additionally, it has been submitted that as per Article 6.2 of the TSA, the element of projects shall be declared to have achieved COD seventy-two hours following the connection of the element with interconnection facilities or seven days after the date on which it has been declared by TSP to be ready for charging but was not able to be charged for reasons not attributable to TSP, etc. Thus, the Petitioners' claim as having achieved COD on the very date of its purported charging cannot be accepted.

**Submissions by the Petitioner:**

11. Petitioner vide written submission dated 12.01.2024 has mainly submitted as follows:

a) BSPTCL has alleged that on 31.03.2017, the 220 kV DCSS Transmission Line, which was under its scope, was ready. However, power could not flow till 16.04.2017 on account of the non-readiness of bays at DMTCL 400/220 kV GIS. In support of this assertion, the answering Respondent has placed reliance on certain letters. It is submitted that this assertion is wholly incorrect.

(i) Email dated 27.03.2017 from Chief Engineer, BSPTCL, to the Petitioner, stating that cable trench from CVT to PLCC room is incomplete and requesting the Petitioner to complete this work so that the PLCC equipment may be commissioned. It is submitted that the cable trench from CVT to PLCC room was not pending on the Petitioner's end. This was communicated by the Petitioner immediately to BSPTCL in its email dated 27.03.2017. The Petitioner also informed BSPTCL that the L Drop Clamps and Connector are under the scope of BSPTCL. It is pertinent that these are essential elements forming an integral part of the PLCC equipment, the installation of which was admittedly within BSPTCL's scope of work. This has been made clear from the Clarification issued by PFC Consulting Ltd., the Bid Process Coordinator, as part of the bid processing of "Eastern Region System Strengthening Scheme - VI". The Petitioner had also notified BSPTCL that BSPTCL had not shared any drawing or documents on how many panels would come for one bay. The Petitioner had not received any scheme drawing for protection and communication for



BSPTCL's bay and the Petitioner had not received any confirmation about the fixing of wave trap in which phases for 220KV Transmission Line for 7 bays. BSPTCL did not respond to this email at all.

- (ii) Email dated 29.03.2017 from Assistant Executive Engineer, BSPTCL, to Electrical Superintending Engineer, BSPTCL, updating about certain pending works. This email is an internal communication of BSPTCL, whereby the Assistant Executive Engineer appears to be giving updates to the Superintending Engineer about the remaining work. In this email, it is expressly admitted that L Drop Clamps and Connectors are to be provided by BSPTCL. Contrary to the specific confirmation given by the Petitioner by way of its email dated 27.03.2017 that the cable trench from CVT to PLCC room had already been completed, the Assistant Executive Engineer has suggested that the said work has not been completed. The said email does not categorically state at whose end, the works referred to therein are pending. Had there been any works pending at the end of the Petitioner, BSPTCL would have intimated the Petitioner of the same and responded to the Petitioner's email of 27.03.2017, which it failed to do. Therefore, such an email, which is clearly an internal communication, does not advance the case of BSPTCL any further. If at all, it should be construed to demonstrate the pendency of works at the end of BSPTCL.
- (iii) Letter dated 01.04.2017 was sent by Electrical Superintending Engineer, BSPTCL seeking clearance for commissioning of the PLCC equipment. It is submitted that this clearance for PLCC installation was already given by the Petitioner on 20.03.2017. The Petitioner specifically responded to the letter dated 01.04.2017 on 02.04.2017, informing BSPTCL that approval for the installation of PLCC equipment had already been granted on 20.03.2017.
- (iv) 08.04.2017 is an email from the Petitioner to BSPTCL, reiterating its request to BSPTCL to install the PLCC element. It further records that the 400 kV GIS was charged on 07.04.2017 and that the Petitioner wants to charge 400/ 220 kV ICTs and the BSPTCL 220 kV transmission lines on that day. It is submitted that although the Petitioner was still awaiting connection of the downstream network within BSPTCL's scope with the Darbhanga Element, in order to ensure that there was no theft of overhead conductor/ other electrical installations, it was



constrained to charge its 400kV line and other elements under its scope as per available grid conditions, consistent with the general practice of ensuring safety & security of its electrical installations. However, the Petitioner was unable to achieve the full flow of power due to the non-readiness and availability of the downstream network, specifically, the BSPTCL 220 kV transmission lines, as communicated in this letter itself. In fact, this letter establishes that the Petitioner's system was ready, and power could have flown, but for the downstream network within BSPTCL's scope.

(v) Letters dated 15.06.2017, 29.08.2017, 31.08.2017 between BSPTCL's contractor (L&T) and BSPTCL, recorded that the 220 kV DCSS Samastipur – Darbhanga (New) line was successfully commissioned on 09.04.2017 after completion of the 400/220 kV Darbhanga GIS on 09.04.2017. It is submitted that these letters only deal with BSPTCL's contractor's work completion report of 220kV Darbhanga-Samastipur line, which was back charged from BSPTCL 220kV Samastipur substation on 31.03.2017.

12. Petitioner vide Affidavit dated 12.01.2024 had filed a rejoinder to the reply of BSPHCL, stating that the CEA provisional energization certificate was extended on 26.05.2017 and was also made final on 27.06.2017 when the Petitioner achieved completion of under progress high velocity water sprinkler firefighting system work at the Darbhanga Substation. The Petitioner had the requisite CEA energization approval for the Darbhanga Element since 29.03.2017.

**Hearing dated 09.09.2024:**

13. Since the order in the matter, which was reserved on 6.12.2023, could not be issued prior to the Members of the Commission, who formed part of Coram, demitting office, the matter has been re-listed for the hearing. Learned counsel for the Respondent, BSPHCL, submitted that while the Petitioner has alleged the non-availability of BSPTCL's 220 kV downstream network, the Respondent, BSPTCL, has, in its reply, demonstrated that 220 kV DCSS transmission line under its scope was in fact ready on 31.3.2017 but the termination of power cable at GIS Darbhanga end, which was under the scope of DMTCL, was incomplete. Also, as per DMTCL's own e-mail dated 8.4.2017, the 400 kV Muzzafarpur- Darbhanga line with 400 kV GIS was charged



only on 7.4.2017. In response, learned counsel for the Petitioner, DMTCL, submitted that all these averments of BSPTCL have already been addressed by the Petitioner in its rejoinder, which may be considered by the Commission. Considering the submissions made by the learned counsel for the parties, the Commission reserved the matter for Order.

**Analysis and Decision:**

14. Petitioner, DMTCL is an Inter-State Transmission Licensee that has implemented the following elements as part of the scheme “Eastern Region System Strengthening Scheme-VI” (ERSS VI):
  - (a) 2 x 500 MVA, 400/220kV GIS sub-station at Darbhanga along with Muzaffarpur-Darbhangha 400kV D/C line with triple snowbird conductor (“**Darbhangha Element**”).
  - (b) 2 x 200 MVA, 400/132 kV sub-station at Motihari along with LILO of Barh-Gorakhpur 400 kV 2X D/C quad line at Motihari (“**Motihari Element**”).
15. The erstwhile Bihar State Electricity Board (BSEB) was one of the Long-Term Transmission Customers in the TSA executed by the Petitioner. Later on, BSEB was unbundled, constituting BSPHCL, BSPTCL, NBPDC, and SBPDCL as successor entities.
16. Petitioner has submitted that as per the TSA, the Scheduled COD of the ‘Darbhanga Element’ was 9.6.2016. Petitioner declared it deemed COD w.e.f. 31.3.2017 because power flow through the Darbhanga Element could not commence, as the 220kV downstream network being implemented by the Bihar State Power Transmission Company Limited (“BSPTCL”) was not ready for charging until 16.04.2017.
17. CTUIL raised invoices dated 17.06.2020 for the transmission charges for instant assets for the period from 31.03.2017 to 15.04.2017 to the Bihar DISCOMs- SBPDCL and NBPDC in terms of Regional Transmission Account (RTA) issued by ERPC. Vide the 43<sup>rd</sup> TCC meeting of ERPC dated 26.03.2021, the Technical Coordination Committee (TCC) opined in its deliberations that the unrecovered transmission charges had to be liquidated by the Bihar State utilities. The Bihar



DISCOMs- SBPDCL and NBPDCCL denied their liability by raising the issue of the absence of any adjudication in the instant matter.

18. Petitioner, aggrieved by the non-payment of said transmission charges in respect of 'Darbhanga Element' by the Bihar DISCOMs (SBPDCL and NBPDCCL), is seeking direction from the Commission to Bihar DISCOMs to pay transmission charges for the period from 31.03.2017 to 15.04.2017 during which it was not put to use due to the non-availability of BSPTCL downstream network.
19. The Respondents have contested the declaration of deemed COD of Darbhanga Element by stating that there was no adjudication regarding approval of declaration of deemed COD in Order dated 29.03.2019 in Petition No. 238/MP/2017 or Order dated 13.01.2020 in Petition No. 8/RP/2019, and Petitioner has not complied with the provisions of TSA, such as 60 days advance notice and declaration of COD seven days after the date on TSP declared ready for charging.
20. Respondent, BSPTCL, has also claimed that 220 KV DCSS Transmission Line to Samastipur was successfully charged on 31.03.2017, and PLCC had been installed on both ends, but termination of power cable at GIS Darbhanga end, under the scope of DMTCL, was incomplete and the said line was finally charged on 09.04.20217 after completion of 400/220 KV Darbhanga GIS. Therefore, the claim of DMTCL for recovery tariff/transmission charges for said interstate transmission system of DMTCL from 31.03.2017 to 15.04.2017 is not justifiable and is liable to be rejected.
21. Petitioner has rejected the claims of BSPTCL that the BSPTCL downstream network was ready on 31.03.2017, referring to various email communications between Petitioner and BSPTCL. Petitioner has stated that vide an email dated 08.04.2017 Petitioner reiterated its request to BSPTCL to install the PLCC element. The said email records that the 400 kV GIS was charged on 07.04.2017 and that the Petitioner wants to charge 400/ 220 kV ICTs and the BSPTCL 220 kV transmission lines on that day and that although the Petitioner was still awaiting connection of the downstream network within BSPTCL's scope with the Darbhanga Element, in order to ensure that there was no theft of overhead conductor/ other electrical installations, it was constrained to charge its 400kV line and other elements under its scope as



per available grid conditions, consistent with the general practice of ensuring safety & security of its electrical installations. However, the Petitioner was unable to achieve the full flow of power due to the non-readiness and availability of the downstream network, specifically the BSPTCL 220 kV transmission lines, as communicated in this letter itself. In fact, this letter establishes that the Petitioner's system was ready, and power could have flown, but for the downstream network within BSPTCL's scope.

22. We have considered the submissions of the Petitioner and Respondents and perused all relevant documents on record. The issue which arises for our consideration is as follows:

**Issue No.1: Whether the declaration of deemed COD of 'Darbhanga Element' was in conformity with the provisions of TSA? Whether the COD of the Petitioner has been adjudicated and approved vide Order dated 29.3.2019 in Petition No. 238/MP/2017?**

**Issue No.2: Who should pay transmission charges for the Darbhanga Element in respect of the period from deemed COD up to 15.04.2017? Whether enhanced tariff and carrying cost, is payable in respect of differential transmission charges of the period from deemed COD up to 15.04.2017?**

The same is dealt with in subsequent paragraphs.

**Issue No.1: Whether the declaration of deemed COD of 'Darbhanga Element' was in conformity with the provisions of TSA? Whether the COD of the Petitioner has been adjudicated and approved vide Order dated 29.3.2019 in Petition No. 238/MP/2017?**

23. Petitioner declared its deemed COD w.e.f. 31.3.2017 because power flow through the Darbhanga Element could not commence, as the 220kV downstream network being implemented by the Bihar State Power Transmission Company Limited ("BSPTCL") was not ready for charging until 16.04.2017. The Petitioner is seeking direction from the Commission to Bihar DISCOMs to pay transmission charges for the period 31.03.2017 to 15.04.2017 during which it was not put to use due to the non-availability of the BSPTCL downstream network.



24. Bihar State Power Holding Company Limited (BSPHCL) has contested the declaration of deemed COD of Darbhanga Element on the following grounds:
- (i) Petitioner has failed to serve the 60-day advance Written Notice as per TSA.
  - (ii) The CEA has only granted Provisional Approval for energization.
  - (iii) Deemed COD was not declared as per Article 6.2 of TSA, i.e., Petitioner must have declared 'deemed COD, seven days after the date on which it was declared to be ready for charging.
25. Petitioner has submitted that vide Orders dated 29.03.2019 in Petition No. 238/MP/2017 and Order dated 13.01.2020 in Petition No. 8/RP/2019, it was recorded that the deemed COD of the Darbhanga element was 31.03.2017, which have not been challenged by the answering Respondent . Therefore, the issue of COD has attained finality.
26. Respondent Bihar Discoms has submitted that in the Orders dated 29.03.2019 and 13.01.2020 passed in Petition Nos. 238/MP/2017 and 8/RP/2019, respectively, there can be said to be no adjudication concerning the approval of the declaration of deemed COD claimed by the Petitioner and the rights and obligations of the parties in this regard, the relevant provisions of the TSA were not noticed in the said orders, no issue was framed, and there was no consideration in this regard. The claim of the Petitioner as having achieved deemed COD on 31.03.2017 is not in accordance with the TSA dated 06.08.2013.
27. Respondents Bihar Discoms have further submitted that in Order dated 29.03.2019 passed in Petition no. 238/MP/2017, the relief sought by the Petitioner, amongst others, was to "Extend the scheduled COD of the instant assets up to actual COD" to enable the Petitioner to take benefit of the tariff which it could not earn due to delay in implementation of the project as per the TSA and allow additional costs and waive any liquidated damages or any other consequences thereof under the TSA. In the said petition, Petitioner omitted to claim and sue in respect of the alleged claim of payment of any alleged unrecovered transmission charges from Bihar DISCOMs/State utilities for the period between the date it claimed to have achieved



deemed COD and the charging of BSPTCL network. Thus, this claim and relief sought in the present petition are barred by Order 2 Rule 2 of CPC.

28. Petitioner, in response, has submitted that the deemed COD from which the Petitioner was entitled to recover transmission charges was recognized as 30.03.2017 by this Commission dated 29.03.2019 in Petition 238/MP/2017. Thus, prior to such an order being passed, the question of recovery of transmission charges for the period between deemed COD and actual power flow did not arise.
29. We have considered the submissions of Petitioner and Respondents. Let us peruse the Order dated 29.03.2019 in Petition No. 238/MP/2017 to determine whether COD for the Petitioner's elements has been approved by the Commission.
30. Petitioner, affected by the impact of Force Majeure and Change in Law, filed Petition No. 238/MP/2017, seeking the following reliefs from the Commission:

*"a) Allow increase in transmission charges of the transmission project on account of (i) Change in law (ii) Force Majeure events, and to offset the cost of Rs. 21.75 crore incurred on account of the additional IDC and unforeseen and uncontrollable events;*

*(b) Extend the scheduled COD of the instant assets upto actual COD to enable the Petitioner to take benefit of the tariff which it could not earn due to delay in implementation of the project as per the TSA and allow additional costs and waive any liquidated damages or any other consequences thereof under the TSA."*

In terms of the above prayers, an increase in transmission tariff, *inter alia* extension of SCOD, was dealt with in the Order of aforesaid Petition no. 238/MP/2017. The Commission partly allowed the Petitioner's prayers vide Order dated 29.3.2019 in Petition No. 238/MP/2017, including the extension of SCOD to the actual COD and on remand from the APTEL, allowed IDC and IEDC vide Order dated 13.05.2022 in Petition 8/RP/2019.

31. Vide Order dated 29.03.2019 in Petition No. 238/MP/20217, the SCOD of Darbhanga and Motihari transmission elements was extended till actual COD, as claimed by the Petitioner, on account of force majeure events. The relevant extract of said Order is as under:



*“65. In our view, the Petitioner was prevented from discharging its obligations under the TSA on account of unexpected requirement and delay in grant of forest clearance which was not there in the RFP documents and as such delay beyond one year in grant of forest clearance is covered under Force Majeure. Accordingly, the SCOD shall stand extended till the actual CODs of Darbhanga and Motihari transmission elements which are 31.3.2017 and 10.8.2017 respectively.”*

As per the above, the Commission dealt with the issue of extension of SCOD arising due to Force Majeure and Change in Law events, and there was no adjudication on the merits of whether deemed COD has been declared in terms of the TSA. We observe that neither the Petitioner made any prayer for approval of its “deemed COD” nor the Commission framed any issue for approval of “deemed COD” nor the Commission approved the “deemed COD.”

Therefore, the Petitioner’s argument that the Commission approved deemed COD for the Petitioner is incorrect. We also observe that the Petitioner did not submit the CEA Energization certificate under Petition No. 238/MP/2017.

32. In terms of the above contentions, we proceed to examine whether the declaration of deemed COD of ‘Darbhanga Element’ by the Petitioner is as per the terms of TSA.

33. The Transmission Service Agreement (TSA) dated 06.08.2013 provides as follows:

*“**Commercial Operation Date**” or “**COD**” shall mean the date as per Article 6.2; Provided that the COD shall not be a date prior to the Scheduled COD mentioned in the TSA, unless mutually agreed to by all Parties;”*

.....

*4.2 Long Term Transmission Customers obligation in implementation of the Project:*

*4.2.1 (b) for arranging and making available the Interconnection Facilities to enable the TSP to connect the Project.*

.....

*“6. 1 Connection with the inter-Connection Facilities*

*6.1.1 The TSP shall give the RLDC(s), CTU/STU, as the case may be, the Long Term Transmission Customers and any other agencies as required at least sixty (60) days advance written notice of the date on which it intends to connect an Element of the Project, which date shall be not earlier than its Scheduled COD or Schedule COD extended as per Article 4.4.1 of this Agreement, unless the Lead Long Terms Transmission customer otherwise agrees.”*

*“6.1.2 The RLDC/SLDC (as the case may be) or the CTU/STU (as the case may be) or the Lead Long Term Transmission Customer may, for reasonable cause, including failure to arrange for Interconnection Facilities as per Article 4.2, defer the connection for up to fifteen days from the date notified by the TSP pursuant to Article 6.1.1 if*



*it notifies to the TSP in writing, before the date of connection, of the reason for the deferral and when the connection is to be rescheduled. However, no such deferment on one or more occasions would be for more than an aggregate period of 30 days. Further, the Scheduled COD would be extended as required, for all such deferments on day for day basis.”*

As per above, the petitioner was required to serve at least a sixty (60) day advance Written Notice of the date on which it intends to connect an Element of the Project.

34. We observe that Petitioner vide letter dated 02.01.2017 intimated CTUIL and BSPTCL that ‘Darbhanga Element’ shall be ready for charging and interconnection with the Grid System by 15.02.2017; the letter is quoted as follows:

**Darbhang-Motihari Transmission Company Limited**  
CIN: U40300DL2012GOI246371 • Tel.: +91 11 47523100 • Website: www.esselinfraprojects.com

---

**Ref:** DMTCL/DEL/2017/02-01 **Date:** 02<sup>nd</sup> Jan. 2017

**To,**

**Chief Operating Officer (CTU Planning)**  
**Power Grid Corporation of India Ltd.**  
Sector – 29, Near IFFCO Chowk,  
Gurgaon (Haryana) - 122001.

**Chief Engineer – Transmission (Lead LTTC)**  
**Bihar State Power Transmission Co. Ltd.**  
Transmission Vidyut Bhawan, 4th Floor,  
Bailey Road, Patna,  
Bihar - 800021

**Sub:** Eastern Region System Strengthening Scheme VI developed by Darbhanga–Motihari Transmission Company Ltd. – **Interconnection of Darbhanga Transmission Element.**

Dear Sir,

This is in reference to the Eastern Region System Strengthening Scheme VI being implemented by Darbhanga Motihari Transmission Company Ltd.

Further, this is to intimate that 400 kV D/C Muzaffarpur (PG) – Darbhanga Transmission Line and 2X500 MVA , 400/220 kV Darbhanga GIS, which are covered in ERSS VI Transmission Scheme shall be ready for charging and interconnection with the Grid system by 15<sup>th</sup> Feb 2017.

This intimation is for your information and necessary action in this regard please.

Thanking You,  
Yours’ faithfully  
For **Darbhang-Motihari Transmission Company Ltd.**

(Authorised Signatory)



As per above, Petitioner on 2.1.2017 informed that its elements shall be ready for charging on 15.2.2017.



35. Petitioner, vide letter dated 20.03.2017, informed BSPTCL that Darbhanga S/s is in an advanced stage of commissioning and will be charged by 31<sup>st</sup> March 2017. The relevant extract of the letter dated 20.03.2017 is as under:

*“As per RfP Documents, the PLCC equipment for BSPTCL 220kV Transmission Lines at DMTCL Darbhanga S/s end is to be provided by BSPTCL. Vide our letter dated 27.02.2017 and email dated 18.03.2017, we have already requested BSPTCL to expedite the installation of PLCC equipment at DMTCL Darbhanga S/s.*

*In this regard, this is to inform you that 400/200 kV Darbhanga S/s is in advanced stage of **commissioning and will be charged by 31.03.2017.**”*

We observe that the letter dated 2.1.2017, along with the letter dated 20.03.2017, constitute a 60-day notice since the expected commissioning was stated as 31.03.2017.

36. We observe that CEA issued approval for to the Petitioner vide letter dated 29.03.2017 as follows:



भारत सरकार  
Govt. of India  
विद्युत मन्त्रालय, केन्द्रीय विद्युत प्राधिकरण  
Ministry of Power, Central Electricity Authority  
क्षेत्रीय निरीक्षण संगठन

ANNEXURE P4 206

REGIONAL INSPECTORIAL ORGANISATION

14, गोल्फ क्लब रोड, टॉलीगंज, कोलकाता-700032  
14 Golf Club Road, Tollygunj, Kolkata-700032

RIO/ER/DMTCL/400/220KV SS/DBG/1370-1371

Date: 29.03.2017

Shri Murari Sharma,  
Darbhanga Motihari Transmission Company Ltd.,  
A-26/3, Mohan Co-operative Industrial Estate,  
Mathura Road  
New Delhi - 110 044

Subject: Provisional Approval for energisation of Electrical installations of 400/220KV Darbhanga S/S of DMTCL at Darbhanga, Bihar under Regulation 43 of CEA (Measures Relating to Safety and Electric Supply), Regulations, 2010.

Ref:

1. Your on line application No. A/2017/01792 Dated: 17.02.2017
2. Our Inspection Report No. RIO/ER/DMTCL/400/220KV SS/DBG/1340-1341 dated 20.03.2017.
3. Your Compliance Report No. DMTCL/BTL/2017/Darbhanga/02 dated 27.03.2017

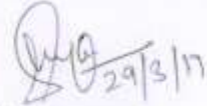
Whereas the inspection of the installations mentioned in the subject was carried out by the undersigned on 01.03.2017 and observations were conveyed to you vide our Inspection Report under reference at Sl. No. (2) above.

Compliance of our observations have been received vide your Compliance Report under reference at Sl. No. (3) above. However, it seems work related to High velocity sprinkler system as firefighting arrangement for Transformers and Reactors are still in progress and a fire tender has been arranged as a temporary measure.

Keeping in view of the urgency of DMTCL, the Provisional Clearance for energisation of Electrical installations of 400/220KV Darbhanga S/S of DMTCL at Darbhanga, Bihar under regulation 43 & 32 of CEA (Measures Relating to Safety and Electric Supply), Regulations, 2010 is accorded, herewith, for a period of two months i.e upto 28.05.2017 subject to consistent compliance of relevant provisions of CEA (Measures Relating to Safety and Electric Supply), Regulations, 2010.

DMTCL is advised to fully comply with our observations by completing the pending work related to High velocity sprinkler system as firefighting arrangement for Transformers and Reactors and submitting the work completion report along with the signed photographs on or before 28.05.2017.

**This Provisional Approval is valid till 28.05.2017.**



As per the above, CEA issued Provisional Approval for energization under Regulation 43 of CEA (Measures relating to Safety and Electric Supply) Regulations 2010". We also note that CEA issued final approval for energization on 27.06.2017 quoted as follows:



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Ministry of Power, Central Electricity Authority  
क्षेत्रीय निरीक्षण संगठन

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**REGIONAL INSPECTORIAL ORGANISATION**

14, गोल्फ क्लब रोड, टॉलीगंज, कोलकाता-700033  
14 Golf Club Road, Tollygunj, Kolkata-700033

RIO/ER/DMTCL/400/220KV SS/DBG/337-338

Date: 27.06.2017

Shri Murari Sharma,  
Darbhanga Motihari Transmission Company Ltd.,  
A-26/3, Mohan Co-operative Industrial Estate,  
Mathura Road  
New Delhi - 110 044

Subject: Final Approval for energisation of Electrical installations of 400/220KV Darbhanga S/S of DMTCL at Darbhanga, Bihar under Regulation 43 of CEA (Measures Relating to Safety and Electric Supply), Regulations, 2010.

**Ref:**

1. Your on line application No. A/2017/01792 Dated: 17.02.2017
2. Our Inspection Report No. RIO/ER/DMTCL/400/220KV SS/DBG/1340-1341 dated 20.03.2017.
3. Your Compliance Report No. DMTCL/BTL/2017/Darbhanga/02 dated 27.03.2017
4. Our Provisional Clearance No. RIO/ER/DMTCL/400/220KV SS/DBG/1370-1371 dated 29.03.2017
5. Your Letter no. DMTCL/BTL/2017/Darbhanga/02 dated 22.05.2017
6. Status Report vide your letter no. DMTCL/BTL/2017/Darbhanga/02 dated 22.05.2017
7. Our approval for extension vide RIO/ER/DMTCL/400/220KV SS/DBG/235 dated 26.05.2017
8. Your Letter no. DMTCL/BTL/2017/Darbhanga/03 dated 23.06.2017

Whereas the provisional clearance for energization of the installations mentioned in the subject was extended vide our letter under reference at Sl. No. (7) above wherein it was advised to submit final compliance along with work completion report and photographs in respect of installation of High velocity sprinkler system as firefighting arrangement for Transformers and Reactors at Darbhanga S/S on or before 28.06.2017.

It has been conveyed vide your letter under Sl. No. (8) of reference above that the pending work in respect of installation of High velocity sprinkler system as firefighting arrangement for Transformers and Reactors at Darbhanga 400/220KV S/S has been completed.

Hence final approval is hereby granted to energize the Electrical installations (as per list of equipment submitted for inspection in application mentioned in Sl. No. 1 above) of 400/220KV Darbhanga S/S of DMTCL at Darbhanga, Bihar.

This approval is strictly subject to your consistent full compliance with the relevant provisions of Central Electricity Authority (Measures Relating to Safety and Electric Supply), Regulation, 2010 in every respect.

As per above, after completion of firefighting work, CEA issued final approval for energization for Petitioner's elements.

37. We have perused the "deemed COD" declared by the Petitioner vide letter dated 31.03.2017, quoted as follows:



## Darbhanga-Motihari Transmission Co. Ltd.

Ref: DMTCL/DEL/2017/19

Date: 31<sup>st</sup> Mar 2017

To,  
The Member Secretary,  
Eastern Region Power Committee (ERPC),  
14, Golf Club Road, Tollygunj, Kolkata – 700033

Subject: Eastern Region System Strengthening Scheme VI (ERSS VI) being developed by Darbhanga-Motihari Transmission Co. Ltd. (DMTCL) – Intimation of Deemed Commercial Operation Date of 400 kV D/C Muzaffarpur – Darbhanga Transmission Line and 2 X 500 MVA, 400/220 kV Darbhanga GIS Sub-station.

Ref: 1) Transmission Service Agreement of Darbhanga-Motihari Transmission Co. Ltd., dated 06<sup>th</sup> August 2013.  
2) Transmission License vide no. 24/Transmission/2014/CERC, dated 30<sup>th</sup> May 2014.  
3) DMTCL Intimation dated 02<sup>nd</sup> Jan 2017 to Lead LTTC and CTU.  
4) DMTCL Intimation dated 20<sup>th</sup> Mar 2017 to BSPTCL, CTU and Lead LTTC.

Dear Sir,

This is in reference to the Eastern Region System Strengthening Scheme VI (ERSS VI) being developed by Darbhanga-Motihari Transmission Company Ltd. (DMTCL).

This is to inform you that CEA vide their following letters, has granted the approval to energize the Elements:

Sl. No.	Transmission Element	CEA Letter
1	400 kV D/C Triple Snowbird Muzaffarpur – Darbhanga Transmission Line	Letter No. RIO/ER/DMTCL/400KV TL/MZP-DBG/1366-1367 dated 29 <sup>th</sup> Mar 2017
2	2 X 500 MVA 400/220 kV GIS Sub-station at Darbhanga	Letter No. RIO/ ER/ DMTCL /400/220KV SS/DBG/1370-71 dated 29 <sup>th</sup> Mar 2017

This is further to intimate you that the above Transmission Elements covered under the ERSS VI Transmission Scheme are ready for charging w.e.f. 30<sup>th</sup> Mar 2017 and as such, as per terms of Transmission Service Agreement dated 06<sup>th</sup> August 2013, we hereby declare the Deemed Commercial Operation date of the following Transmission Elements w.e.f 00:00 Hrs. of 31<sup>st</sup> Mar 2017:

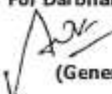
- 1) 400 kV D/C Triple Snowbird Muzaffarpur – Darbhanga Transmission Line
- 2) 2 X 500 MVA 400/220 kV GIS Sub-station at Darbhanga

In view of above, DMTCL shall be entitled for all benefits as envisaged in Transmission Service Agreement.

Thanking You,

Yours faithfully

For Darbhanga-Motihari Transmission Co. Ltd.

  
(General Manager)



As per above, the Petitioner declared deemed COD on 31.03.2017 citing CEA energization letters.

38. Respondents have contended that since CEA had only issued “Provisional Approval for energization, Petitioner could not have declared deemed COD when the work related to high-velocity sprinkler system as firefighting arrangement for Transformers and Reactors was still in progress and fire tender was arranged as a temporary measure.

39. We have considered the submissions of Respondents regarding “Provisional Approval for Energization.” We have perused the functions of CEA as provided in the Electricity Act, quoted as follows:

**“Functions and Duties of Authority**

*73. The Authority shall perform such functions and duties as the Central Government may prescribe or direct, and in particular to –*

*(a) advise the Central Government on the matters relating to the national electricity policy, formulate short-term and perspective plans for development of the electricity system and co- ordinate the activities of the planning agencies for the optimal utilisation of resources to subserve the interests of the national economy and to provide reliable and affordable electricity for all consumers;*

*(b) specify the technical standards for construction of electrical plants, electric lines and connectivity to the grid;*

*...”*

As per the above, CEA has been assigned the responsibility of specifying the technical standards for the construction of electrical plants, electric lines, and connectivity to the grid.

40. We have perused the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010, which provides as follows:



## Chapter VI

### Safety provisions for electrical installations and apparatus of voltage exceeding 650 volts

**43. Approval by Electrical Inspector.** – (1) Voltage above which electrical installations will be required to be inspected by the Electrical Inspector before commencement of supply or recommencement after shutdown for six months and above shall be as per the notification to be issued by the Appropriate Government, under clause (x) of sub-section (2) of section 176 and sub-section (1) of section 162 of the Act.

(2) Before making an application to the Electrical Inspector for permission to commence or recommence supply after an installation has been disconnected for six months and above at voltage exceeding 650 V to any person, the supplier shall ensure that electric supply lines or apparatus of voltage exceeding 650 V belonging to him are placed in position, properly joined and duly completed and examined and the supply of electricity shall not be commenced by the supplier for installations of voltage needing inspection under these regulations unless the provisions of regulations 12 to 29, 33 to 35, 44 to 51 and 55 to 77 have been complied with and the approval in writing of the Electrical Inspector has been obtained by him:

Provided that the supplier may energise the aforesaid electric supply lines or apparatus for the purpose of tests specified in regulation 46.

(3) The owner of any installation of voltage exceeding 650 V shall, before making application to the Electrical Inspector for approval of his installation or additions thereto, test every circuit of voltage exceeding 650 V or additions thereto, other than an overhead line, and satisfy himself that they withstand the application of the testing voltage set out in sub-regulation (1) of regulation 46 and shall duly record the results of such tests and forward them to the Electrical Inspector:

Provided that an Electrical Inspector may direct such owner to carry out such tests as he deems necessary or accept the manufacturer's certified tests in respect of any particular apparatus in place of the tests required by this regulation

(4) The owner of any installation of voltage exceeding 650 V who makes any addition or alteration to his installation shall not connect to the supply his apparatus or electric supply lines, comprising the said alterations or additions unless and until such alteration or addition has been approved in writing by the Electrical Inspector.

As per the above, approval of the Electrical Inspector is required under Section 43 of the quoted Regulations of CEA. We observe that the Electrical Inspector of CEA, with full responsibility, has issued the Provisional Energization Certificate to the Petitioner. Hence, we are not inclined to agree with the Respondents' contention that it is not a valid Certificate. For all purposes, it is up to the Electrical Inspector of



CEA to issue the Energisation Approval, and, for the purpose of TSA, we shall consider the same a valid Energisation Approval.

41. BSPTCL has submitted that the 220 kV DCSS Transmission Line under its scope was ready as on 31.3.2017, and power flow was delayed due to non-readiness 400/220 KV Darbhanga GIS under the scope of DMTCL. Petitioner has averted the claims of BSPTCL, stating that BSPTCL was not ready as on 31.3.2017, due to which power flow in Petitioner's system could be established only on 9.4.2017. We observe that BSPTCL has itself agreed that PLCC under BSPTCL scope was not commissioned as on 01.04.2017. Also, BSPTCL has not placed any document on record, such as approval of energization of 220 kV S/C Darbhanga- Samastipur transmission line by the Electrical Inspectorate, whereas Petitioner was issued a CEA energization certificate. Accordingly, considering the CEA approval and facts on record, we are not inclined to agree to the contention of BSPTCL that Petitioner was not ready as on 31.3.2017.

42. Now we proceed to analyse whether Petitioner declared deemed COD after obtaining CEA Energisation approval as per TSA or not. TSA provides as follows with respect to the declaration of Commercial Operation of the project:

**“6.2 Commercial Operation:**

**6.2.1 An Element of the Project shall be declared to have achieved COD seventy two (72) hours following the connection of the Element with the Interconnection Facilities pursuant to Article 6.1 or **seven (7) days after the date on which it is declared by the TSP to be ready for charging but is not able to be charged for reasons not attributable to the TSP** subject to Article 6.1.2.**

*Provided that an Element shall be declared to have achieved COD only after all the Element(s), if any, which are pre-required to have achieved COD as defined in Schedule 2 of this Agreement, have been declared to have achieved their respective COD”*

As per the above, TSP can declare COD 'seven days after the date on which it is declared to be ready for charging. Vide the above-mentioned letter dated 31.3.2017, Petitioner has stated that it was ready for Charging with effect from 30.03.2017. Accordingly, the Petitioner could have declared deemed COD only after 7 days, which comes out as 8.4.2017 [ next day of 7 days + 30.3.2017 (claimed as the date



when it was ready for charging). Hence, the date of 'deemed COD' for the Petitioner is approved as 8.4.2017, and transmission charges shall only be payable from this date.

**Issue No.2: Who should pay transmission charges for the Darbhanga Element in respect of the period from deemed COD up to 15.04.2017? Whether enhanced tariff and carrying cost, is payable in respect of differential transmission charges of the period from deemed COD up to 15.04.2017?**

43. We have perused the TSA signed between the Petitioner and the LTTCs, where Bihar State Electricity Board is one of the LTTCs. The TSA provides as follows:

### **Schedule : 2**

#### **Project Description and Scope of Project**

Future demand projection given by Bihar indicates a power demand of about 5600 MW by the year 2016-17. Out of this, about 2100 MW power demand is in the Northern part and about 3500MW power demand is in Southern part of the state. Regarding power availability in 2016-17 time-frame, it is to mention that Bihar would have additional share of about 2500 MW from Central generating stations (e.g.Barh-I&II, Nabinagar-I&II, Tilaiyya UMPP). In addition, there are no. of generation capacity additions planned under state and private sector which are expected to come up in next 5-6 years.

Northern part of Bihar has only 2 nos. of 400kV sub-stations (Purnea & Muzaffarpur) with total capacity of 1260MVA as against projected demand of about 2100 MW in 2016-17 time frame. Keeping in view the load growth requirement, following 2 nos. 400kV ISTS sub-station need to be established in North Bihar:

#### **400/220 kV Substation at Darbhanga**

Keeping in view the location of existing 400kV sub-stations (Purnea & Muzaffarpur) in North Bihar, it is found desirable to establish one 400kV sub-station at Darbhanga In between Purnea and Muzaffarpur. This substation would be utilized to cater to future power demand projected for 2016-17 time frame of Darbhanga, Madhubaniand Samastipur district.The Darbhanga substation of POWERGRID has been planned to be connected to existing Muzaffarpur sub-station of POWERGRID through 400kV high capacity D/c line.

As per the above, the transmission system of the Petitioner has been executed to cater to the demand of Bihar. Further, Clause 4.2.1 of the TSA provides as follows:



*“4.2.1 Subject to the terms and conditions of this Agreement, Long Term Transmission Customers, at their own cost and expenses, undertake to be responsible:*

.....

*b. for arranging and making available the Interconnection Facilities to enable the TSP to connect the Project.*

.....”

As per above, LTTCs are responsible for arranging an interconnection facility. We observe that in the present case the downstream network is to be built by the BSPTCL, and in terms of 4.2.1 of the TSA dated 06.08.2013, it is the LTTC, i.e., BSEB who should have coordinated with BSPTCL to make the availability of the downstream network.

44. Considering the provisions of the TSA and the deemed COD of the Petitioner as 8.4.2017, we direct that transmission charges for the Darbhanga element shall be payable by distribution licensees of Bihar from 8.4.2017 till 15.04.2017. In light of the directions of transmission charges for the period 8.4.2017-15.4.2017, the enhanced tariffs in terms of Order dated 13.05.2022 in Petition 8/RP/2019 for the period from 8.4.2017 up to 15.04.2017 are also allowed. We are not inclined to direct the ratio of payment between the two distribution licensees of Bihar, and the same shall be as per the principle followed by ERPC while issuing the RTA. We also observe that post 16.04.2017, when the actual power flow started in the transmission system of the Petitioner, on commissioning of the downstream system of Bihar, there is no dispute with respect to the instant transmission system.

45. The issue is answered accordingly.

46. The Petition No. 158/MP/2023 is disposed of in terms of the above.

Sd/  
**(Harish Dudani)**  
Member

Sd/  
**(Ramesh Babu V.)**  
Member

Sd/  
**(Jishnu Barua)**  
Chairperson

