

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI
Petition No. 344/MP/2020**

Coram:

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

Date of Order: 20.6.2025

In the Matter Of:

Petition under Section 79 (1) (c) and (f) of the Electricity Act, 2003 seeking adjudication of transmission charges by Respondent No.1, MSETCL.

AND

In The Matter Of:

Ratnagiri Gas and Power Private Limited
NTPC Bhawan, Core-7, Scope Complex 7, Institutional Area,
Lodhi Road, New Delhi 110003

..... Petitioner

Versus

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

2) Indian Railways
Government of India
Central Railway CST, Mumbai- 400001

3) Western Regional Load Dispatch Centre,
F-3, Krantiveer Lakhuj Salve Marg,
Seepz, Andheri East, Mumbai 400096

4) Western Regional Power Committee,
F-3, MIDC Andheri (East), Mumbai 400093

.....Respondent(s)

Parties Present:

Ms. Swapna Seshadri, Advocate, RGPPL
Ms. Ritu Apurva, Advocate, RGPPL



Ms. Rucha Pande, Advocate, MSETCL
Shri Shaida Dass, Advocate, MSEDCL
Shri Akash Lamba., Advocate, MSEDCL
Shri S. P. Kesarwani, RGPPL

ORDER

The present Petition is filed under Section 79 (1) (c) and (f) of the Electricity Act, 2003 with the following prayers:

- (a) Direct MSETCL to charge the transmission charges on 330 MW inter-state power from RGPPL to Indian Railways at Rs. 0.73 Lakhs/MW/month in the terms of the WRPC communication dated 17.8.2010.*
- (b) Direct MSETCL to refund the transmission charges levied in excess of Rs. 0.73 Lakhs/MW/month for the period from 01.04.2017 onwards and continuing till date.*
- (c) Direct MSETCL to refund the above amounts along with the interest of SBI MCLR Rate applicable plus 4 %.*
- (d) Direct that in future, MSETCL shall levy transmission charges on the 330 MW RGPPL power flowing on inter-state basis based on Rs. 0.73 Lakhs /MW/month.*
- (e) Pass such other further orders which the Hon'ble Commission may deem just in the facts and circumstances of the present case.*

Submissions of Petitioner:

2. The Petitioner has mainly submitted as follows:

- (a) Petitioner RGPPL operates a 1967.08 MW gas-based combined cycle power project consisting of three power blocks of capacity, namely Power Block-1 of 640MW (2*205+1*230), Power Block 2 & 3 of 663.54 MW (2*213+1*237.54) each, respectively. While 95% of the electricity is allocated to the Maharashtra State Electricity Distribution Company Limited (MSEDCL), the remaining 5% is allocated to the Union Territories of Daman & Diu (DD), Dadra & Nagar Haveli (DNH), and Goa. 540 MW of capacity has been allocated to Indian Railways out of Maharashtra's share for 5 years commencing on 01.04.2017.
- (b) RGPPL is seeking directions to the Respondent No. 1 to charge transmission charges on 330 MW inter-state power from RGPPL to Indian Railways at Rs. 0.73 Lakhs/MW/month in terms of the WRPC communication dated 17.8.2010 and to refund the transmission charges levied in excess of Rs. 0.73 Lakhs/MW/month for the period

from 01.04.2017 onwards and continuing till date with the interest of SBI MCLR Rate applicable plus 4%.

- (c) Transmission charges for inter-state power levied by Maharashtra State Electricity Transmission Company Limited (MSETCL) on Indian Railways are, in turn, recovered by Indian Railways from RGPPL. The transmission charges are for the use of 400 KV lines of MSETCL, namely, Dabhol - Nagothane lines, which were set-up more than 20 years ago and are being used for the conveyance of electricity of Indian Railways from RGPPL on an inter-state basis (330 MW) as an intervening transmission system.
- (d) The Ministry of Power has allocated 540 MW of electricity from RGPPL to Indian Railways effective from 01.04.2017 onwards. The scheduling of this 540 MW allocation is being done by WRLDC as under:

210 MW	Central Railways
90 MW	Western Railways
85 MW	West Central Railways
70 MW	South Eastern Railways
50 MW	North Central Railways
35 MW	South Western Railways

- (e) RGPPL has signed a Power Purchase Agreement (PPA) with Indian Railways on 29.03.2017. PPA was signed after the intervention of Gol to ensure the sustainability of RGPPL. It is stated that the PPA was entered into with an understanding that MSETCL would waive off STU charges and losses in the state system. This proposal has been approved by the Maharashtra Cabinet and is pending consideration by the Maharashtra Electricity Regulatory Commission. This should not affect the Petitioner's right to claim a waiver. It was stated that the present Petition is without prejudice to RGPPL's rights to claim waiver on the STU transmission charges and losses.
- (f) The transmission of power beyond the bus-bar of RGPPL's station up to the interface point, as well as the transmission charges for the utilisation of the transmission system owned by the STU/CTU, shall be borne by RGPPL, if not waived. The mechanism that operates is that the Indian Railways pays the bills raised by STU/CTU and deducts the amount from the next bill paid to the RGPPL. As and when Indian Railways receives any refund from CTU/STU, the said amount gets refunded to RGPPL.

- (g) There are only two lines that are being used by Maharashtra State Electricity Transmission Company Limited for the evacuation of electricity from the RGPPL generating station to the CTU periphery at Padghe. These are the Dabhol - Nagothane and Nagothane - Padghe lines. These transmission lines were commissioned in the year 2000 & 2001, respectively, as per the details submitted by MSETCL to WRPC during the calculation of transmission charges for the transmission of RGPPL power to DD and DNH through the above MSETCL transmission system. As far back as on 17.08.2010, WRPC had communicated the manner of calculation of transmission charges for the transmission of RGPPL power to DD and DNH through the above MSETCL transmission system.
- (h) The WRPC had examined all details furnished by MSETCL and identified the contract path for the delivery of power to DNH and DD through the RGPPL – Nagothane route and thereafter calculated the transmission charges as Rs 700.23 Lac/year for 80 MW or 0.73 Lakhs / MW / month. This methodology has been accepted by MSETCL and all other constituents. In fact, MSETCL had filed two petitions before this Commission, namely, 153/MP/2018 and 154/MP/2018, seeking directions to Goa and DNH to pay the transmission charges as per the communication dated 17.8.2010 issued by WRPC. Thus, MSETCL has clearly accepted that the transmission charges for use of its network to deliver the RGPPL's electricity outside the state work out to be 0.73 lakhs / MW / month.
- (i) Transmission charges being billed by MSETCL to Indian Railways (and thereafter deducted by Indian Railways from RGPPL) for 330 MW power, which were not based on the contract path method. The charges were exorbitant and much more than what was being levied on DD and DNH for the evacuation of the very same power.
- (j) In these circumstances, on 16.09.2019, RGPPL wrote a letter to MSETCL to review transmission charges being applied by it for conveying the interstate power of Indian Railways to the CTU system from 01.04.2017 onwards. Since there was no response to the above communication, RGPPL on 08.11.2019 wrote to WRPC to include this issue in the agenda note for the forthcoming WRPC commercial committee meeting.
- (k) On 19.11.2019, RGPPL emailed MSETCL requesting early resolution of the issue on applicable transmission charges on the power flowing out of the MSETCL system (330MW). Despite the persuasion of RGPPL, MSETCL has not reverted to the issue

of transmission charges to be levied for use of its system for conveying the electricity outside the state (330 MW). RGPPL wrote once again to WRPC on 22.01.2020 to resolve the same at the WRPC level.

- (l) In the facts and circumstances mentioned above, there is no satisfactory resolution to the issue of high transmission charges being levied by MSETCL on Indian Railways and RGPPL for use of its transmission system.

Hearing dated 25.08.2020:

3. Counsel for the Petitioner reiterated their claims as stated in the Petition. In response to the Commission's specific query on the jurisdiction of the Commission, the learned counsel for the Petitioner submitted that the use of MSETCL's transmission lines/ system is clearly an intervening transmission system for the supply of inter-State power (330 MW) to Indian Railways. Thus, the Commission has jurisdiction in the present case under Section 79(1)(c) read with Sections 35 and 36 of the Electricity Act, 2003.
4. The Commission directed to the Petitioner to issue notice to the Respondents on the admissibility of the Petition.

Submissions of Respondent MSETCL:

5. The Respondent, MSETCL vide affidavit dated 25.02.2021, has mainly submitted as below:
- (a) Indian Railways is a deemed distribution licensee and has entered into a Power Purchase Agreement with the Petitioner on 29.03.2017; MSETCL was not a party to said agreement.
- (b) As requested by Indian Railways, the State Transmission Utility ("STU") granted Long Term Open Access (LTOA) on the InSTS network. It is pertinent to note that the LTOA granted to Indian Railways is on the whole InSTS network and not just on a specific path dependent on the present PPA executed by Indian Railways. Indian Railways during the period of granted LTOA, may change the points of injection as required by them. Hence, STU charges for this total access given to Indian Railways.

- (c) The Petitioner has not entered into any agreement whatsoever with the MSETCL, and hence there is no legal right to file the instant Petition against the answering Respondent. The Commission ought to dismiss the instant petition. Power is transmitted through the InSTS network of the state to various destinations of Indian Railways spread through the States of Maharashtra, Gujarat, Jharkhand, Madhya Pradesh, Uttar Pradesh, and Karnataka.
- (d) MERC had waived off transmission charges to Indian Railways for FY 2015-16 and 2016-17 under the MERC (Implementation of Gas-based power generation capacity) Regulations, 2016, and Indian Railways availed the said benefit. MSETCL is raising bills to Indian Railways as per the tariff determined by the Maharashtra Electricity Regulatory Commission ("MERC") in the respective years.

Rejoinder by the Petitioner to the reply of MSETCL:

6. Petitioner vide affidavit dated 15.03.2021 has filed a rejoinder and mainly submitted as below:

- (a) Jurisdiction is no longer res-integra, and the present matter is within the jurisdiction of this Commission as the use of MSETCL's transmission lines/ system is clearly an intervening transmission system for the supply of inter-State power (330 MW) to Indian Railways. Thus, this Commission has the jurisdiction in the present case under Section 79(1)(c) read with Sections 35 and 36 of the Electricity Act, 2003. That being so, this Commission also has jurisdiction to adjudicate the dispute under Section 79(1)(f) of the Electricity Act, 2003.
- (b) The present matter may not require any further consideration on the merits since the principle for determination of tariff for the intervening transmission system of the very same transmission lines for the purpose of wheeling of electricity to another State has also been settled by this Commission in Petition No. 153/MP/2018 and 154/MP/2018 vide the common Order dated 04.02.2021- *Maharashtra State Electricity Transmission Company Limited vs Electricity Department of Dadra & Nagar Haveli*. The relevant portion of the Judgement is quoted below-

"57. The Petitioner /DNHED/GED are directed to approach WRPC for revision of calculation of transmission charges for years 2012-13 onwards and revise the bills accordingly. Once WRPC is approached by the Petitioner/DNHED/GED, WRPC

shall revise the calculation of payable transmission charges based on methodology used for calculating charges for the year 2011-12 and that shall be done as soon as possible. The Petitioner shall raise the revised bills based upon calculations done by WRPC."

The 330 MW share of Indian Railways from RGPPL is flowing on the transmission corridor of the 400 KV Dabhol-Nagothane-Padghe lines. Further, a clear contract path has been identified, which is applicable to Goa, DD, and DNH. This Commission has only directed WRPC to recompute the charges from 2012-13 onwards based on the methodology approved in the Order dated 04.02.2021. The same can be applied to the flow of Indian Railways' electricity from RGPPL, since there is no other valid basis to charge any other transmission charges for use of the MSETCL network. This Petition can be disposed of as being covered by the Order dated 04.02.2021 in Petition No. 153/MP/2018 and 154/MP/2018.

- (c) Out of Allocated power of 540MW to Indian Railways, 210MW is being consumed within the state of Maharashtra wherein the transmission/distribution network of MSETCL is being utilized and the charges for wheeling are being reimbursed by RGPPL to Indian Railways as per the rates approved by MSETCL, RGPPL has not raised any issue regarding the charges levied by MSETCL for the 210 MW which is being utilized by Railways at their different traction substation in the State of Maharashtra. However, the remaining power of 330MW, which is wheeled outside the state of Maharashtra to be utilized in different Railway zones situated in different states.
- (d) Indian Railways is recovering the entire transmission charges being billed by MSETCL from RGPPL. Therefore, the financial impact of the incorrect billing by MSETCL is on RGPPL, and RGPPL is the only aggrieved party in the entire matter. As an aggrieved party, RGPPL surely has the legal right to approach this Commission for appropriate relief.
- (e) The State Commission (MERC) has no power to determine the charges for incidental use of MSETCL's network when the power from the RGPPL generating station is flowing on an inter-state basis as per section 2 (38) of the Electricity Act, 2003
- (f) The fact that MSETCL is not a signatory to the PPA dated 29.03.2017 is not relevant. RGPPL is not raising any claims or counterclaims under the PPA on MSETCL. The

issue is simply on the charges to be paid by Indian Railways to MSETCL for the use of its network to convey the inter-state electricity. These charges are, in turn, recovered by Indian Railways from RGPPL.

Hearing dated 20.04.2023:

7. Learned counsel for the Petitioner submitted that Maharashtra State Electricity Distribution Company Limited (MSEDCL) has filed Interlocutory Application No. 45 of 2021, for its impleadment in the present petition, which is opposed by the Petitioner on the grounds that MSEDCL is neither a necessary nor a proper party to the present dispute. She further submitted that the present dispute is with regard to the manner of transmission charges for the power flowing on inter-State basis using the transmission lines of MSETCL and MSETCL is charging the Petitioner as per the tariff determined by MERC in the respective years while, in the facts and circumstances of the case, MERC is not vested with the jurisdiction to determine the tariff.
8. Learned counsel for MSEDCL requested the Commission to allow it to file Written Submissions. The Commission allowed MSEDCL to submit its Written Submissions by 25.05.2023. Further, the Commission directed Respondent No.1, MSETCL, to submit the following information on affidavit:
 - (a) Copy of BPTA signed with Indian Railways for 330 MW power.
 - (b) Copy of tariff order issued by MERC based on which MSETCL has raised bills on the Indian Railways.
 - (c) Copy of LTOA granted to Indian Railways with respect to 330 MW power.
9. Petitioner was also directed by the Commission to clarify on an affidavit, whether it has availed waiver of transmission charges for FY 2015-16 and FY 2016-17 under Maharashtra State Electricity Regulatory Commission (Implementation of Gas Based Power Generation Capacity) Regulations, 2016 and whether Western Region Power Committee's methodology provided for such waiver.

Submissions of Respondent MSETCL

10. The Respondent, MSETCL vide affidavit dated 23.05.2023, has submitted copies of BPTA dated 14.06.2019 for 335.20 MW power, LTOA granted to Indian Railways with

respect to 300 MW (reduced to 230MW) power, and a copy of MERC tariff Order based on which MSETCL has raised bills on the Indian Railways.

Submissions of the Petitioner

11. Petitioner vide affidavit dated 19.05.2023 has submitted that RGPPL has availed waiver of Transmission Charges for FY 2015-16 and FY 2016-17 under Maharashtra State Regulatory Commission (Implementation of Gas Based Power Generation Capacity) MERC Order dated 20.01.2016. No separate methodology was provided by WRPC during the waiver. The waiver was as per the PSDF scheme for stranded gas power plants under e-bid RLNG.

Written Submissions by the MSEDCL:

12. MSEDCL in furtherance of RoP dated 20.04.2023 vide Written Submissions dated 25.05.2023 has mainly submitted as under:

(a) Distribution Licensees, i.e., transmission system users in Maharashtra, pay transmission charges to STU as per their Base Transmission Capacity Rights (TCR) for use of the InSTS network of Maharashtra approved by the State Commission. Indian Railway is one of the Transmission System Users (TSU) in Maharashtra. These transmission charges are the revenue income for MSETCL. Any change in such charges for Indian Railways will, in turn, affect the total transmission charges recoverable from InSTS users.

(b) MSEDCL is a major user of the InSTS network of Maharashtra, having a share of @ 85%-86% as determined by the State Commission. MSEDCL pays charges to MSETCL as determined by the State Commission from time to time, as per the MSEDCL share. Being a major stakeholder in the InSTS network of Maharashtra, MSEDCL will be impacted more if the transmission charges presently paid by Indian Railways are changed/ reduced.

(c) Petitioner has relied on the Commission's Order dated 04.02.2021 in Petitions 153/MP/20218 and 154/MP/20218. In the said Orders, the Commission has held that the wheeling charges are to be paid by DNH or Goa to the MSETCL on actual drawl as calculated by the WRPC based on methodology approved by the

Commission in Petition 64/2008 and 67/2008. The Commission has accordingly directed the parties to approach WRPC for revision of transmission charges payable for FY 2012-13 onwards. It is submitted that the said approach cannot be adopted in the present case, as here the Indian Railways is a TSU in Maharashtra and is utilising power received from RGPPL to its network in various States. Whereas DNH, DD, or the State of Goa are not TSUs in Maharashtra State. Therefore, Indian Railways is obligated to pay the transmission charges of the InSTS network of Maharashtra State as per its share based on the allotted TCR issued as per MERC MYT Regulations, 2019, and subsequent tariff Order issued by MERC. As per the recent Order dated 31.03.2023 of MERC, the Base TCR of Indian Railways is 1.643%, 1.599%, and 1.557% for FY 2022-23, FY 2023-24, and FY 2024-25, respectively.

Hearing dated 11.08.2023:

13. During the hearing dated 11.08.2023, the Petitioner opposed the impleadment of MSEDCL in the case.

The learned counsel for the Petitioner submitted that he Ministry of Power has allocated 540 MW of electricity from RGPPL to Indian Railways, effective from 01.04.2017 onwards. Out of 540 MW, WRLDC allocated 210 MW to Central Railways and the balance 330 MW to other Railways for which there is no BPTA..Initially, the power allocation to Central Railways was 250 MW, which came down to 210 MW. 330 MW of power is flowing outside the State of Maharashtra; therefore, The Commission may direct them to charge the petitioner or the Railways accordingly because that money gets deducted from the Petitioner's bills as per the methodology approved by the MERC.

14. Petitioner submitted that there is only one BPTA with Central Railways for a power quantum of 335 MW. This 335 MW power is different from the 330 MW that is flowing out of the State of Maharashtra. BPTA between MSETCL and Railways includes 210 MW of power. Further, there are two more allocations which are coming from Nabi Nagar as well as a certain power plant of NALCO. Further, this 335 MW of power includes 110 MW of power that is allocated within the State of Maharashtra.
15. Petitioner referred to the Commission's order dated 04.02.2021 in Petition No. 153/MP/2018 & 154/MP/2018 wherein the Commission allowed WRPC to revise the

transmission charges and directed MSETCL to raise the revised bills based upon calculations done by WRPC.

16. Petitioner submitted the information sought vide RoP dated 20.4.2023 vide affidavit dated 19.5.2023, wherein it is submitted that the Petitioner has availed of a waiver of transmission charges for 2015-16 and 2016-17 under MERC order dated 20.1.2016. No separate methodology has been provided by WRPC during the waiver period.
17. The learned counsel for MSEDCL submitted that, in compliance with RoP dated 20.4.2023, MSEDCL has filed written submissions vide affidavit dated 23.5.2023. He submitted that MSEDCL is a distribution licensee. MSEDCL pays charges to MSETCL as determined by MERC. Any change in the transmission charges being paid by Indian Railways will impact MSEDCL, a major stakeholder in the ISTS network in Maharashtra.
18. The Commission directed the Petitioner to file copy of the 330MW PPA with Indian Railways and to implead MSEDCL. The Commission further directed MSETCL to file a copy of the 330MW LTOA to Indian Railways for conveyance of power out of the State of Maharashtra, and a copy of BPTA, if any, in this regard. Petitioner was also directed to file the Provisions of BPTA or any other MERC Regulations or MERC's orders under which bills for transmission charges have been raised by MSETCL for 330 MW to Indian Railways (other than Central Railway).

Submissions of Respondent MSEDCL:

19. The Respondent, MSEDCL vide affidavit dated 13.09.2023, reiterated submissions made vide the Written Submissions and submitted that determination of state transmission charges and share of any TSU in the State of Maharashtra is the jurisdiction of MERC. Petitioner, vide the present petition, is requesting this Commission to intervene in the adjudicatory powers of MERC. This attempt of the Petitioner shall not be allowed by this Commission. MSEDCL is also bringing interstate power to Maharashtra from generating stations outside of Maharashtra. For this interstate power, MSEDCL is paying ISTS (PoC) charges as well as STU charges (state transmission charges), as this power is flowing through the STU network. Likewise, Indian Railways, even if sourcing power of 330MW for its uses in other states from RGPPL through the STU network, Indian Railways is also liable to pay STU charges as determined by the State Commission.

Submissions of Respondent MSETCL:

20. Respondent MSETCL vide affidavit dated 18.09.2023 in compliance with RoP dated 11.08.2023 submitted copies of the LTOA granted to Western Railways, Gujarat (70MW), South Eastern Railways, Jharkhand (100MW), West Central Railways, Madhya Pradesh (150MW), South Western Railways, Karnataka (35MW). MSETCL has also submitted a copy of the 35MW BPTA signed with South Western Railways, Karnataka, and mainly submitted as under:

- (a) The STU/ MSETCL has not granted LTOA/ MTOA to North Central Railway (Uttar Pradesh). In fact, STU/ MSETCL had communicated to North Central Railway (Uttar Pradesh) regarding the grant of LTOA/MTOA with respect to 50 MW Power with several reminders, but North Central Railway (Uttar Pradesh) did not respond to STU/ MSETCL. RGPPL power had been scheduled to the North Central Railway (Uttar Pradesh) as per MoP allocation. Hence, STU/MSETCL raised bills to North Central Railway (Uttar Pradesh), as per the allocation of the Ministry of Power for the use of the Intra-State Transmission System (InSTS) of Maharashtra and collected the transmission charges as per the transmission tariff determined by MERC in its transmission tariff Order issued from time to time.
- (b) STU/ MSETCL has communicated with several reminders to Indian railways (other than Central Railways) for the execution of BPTA as per Clause 4.1 of the Transmission Open Access Regulations, 2016, but Indian Railways (other than Central Railways) have not executed BPTA with STU/ MSETCL except South Western Railway (Karnataka).
- (c) The Petitioner/ RGPPL power was scheduled to Indian Railways as per the MoP allocations, and in view thereof, Indian Railways was using InSTS of Maharashtra State. Hence, STU/ MSETCL was raising bills to Indian Railways for payment of transmission charges for use of InSTS of Maharashtra stated calculated as per the MERC Transmission Open Access Regulations, 2016, and the tariff Order issued by the MERC.

Rejoinder by Petitioner to the reply of MSEDCL:

21. Petitioner vide affidavit dated 22.09.2023 has reiterated its earlier submissions and has submitted as below:

- (a) Instant Petition will not affect the charges payable by MSEDCL, the distribution licensee, in any manner. MSEDCL is not a party to the BPTA between RGPPL and MSETCL. It is not clear how the charges payable by MSEDCL will be affected by the decision in the present Petition. The network set up by MSETCL to service MSEDCL or other distribution licensees within the State of Maharashtra is not even within the jurisdiction of this Commission. It is pertinent to note that the transmission charges are subject to being calculated as per the mechanism adopted in similarly placed transactions. RGPPL has a BPTA with MSETCL and not with MSEDCL.
- (b) MERC has no power to determine the charges for incidental use of MSETCL's network when the power from RGPPL's generating station is flowing on an inter-State basis.

Submissions of the Petitioner

22. The Petitioner impleaded MSEDCL and filed an amended Memo of Parties dated 28.09.2023. Further, vide Written Submissions dated 28.09.2023, have been submitted as under:

- (a) RGPPL has already placed on record the umbrella PPA signed between it and the Central Railways, dated 29.03.2017, which recognizes the Ministry of Power ('MoP') allocation made by a letter dated 17.03.2017 allocating 540 MW power from RGPPL to the Indian Railways. This PPA, however, was for the power to be scheduled in the State of Maharashtra, which was allocated (210 MW) for a period of 5 years with effect from 01.04.2017 ending in 31.03.2022. The said allocation was to Central Railways.

- (b) The balance 330 MW was allocated as under-

90 MW	Western Railways
85 MW	West Central Railways
70 MW	South Eastern Railways
50 MW	North Central Railways
35 MW	South Western Railways

Since the above allocation was to the Railways in the various regions, separate PPAs were signed to recognize the above.

(c) In the case of each of the above PPAs, the power of RGPPL was flowing outside the State of Maharashtra beyond the bus bar of RGPPL's station. The only path for this power to flow was the RG Dabhol- Nagothane- Padghe lines, which were commissioned in the years 2000 and 2001. All that RGPPL is seeking is that the Transmission Charges calculated by Western Regional Power Committee ('WRPC') as far back as on 17.08.2010 and accepted by Maharashtra State Electricity Transmission Company Limited ('MSETCL') in two Petitions filed by it before this Hon'ble Commission, namely 153/MP/2018 and 154/MP/2018 maybe followed for charging and levying the Transmission Charges for this 330MW flowing outside the State.

(d) In fact, the issue on merits is covered by the Order dated 04.02.2021 of this Commission in Petition No. 153/MP/2018 and 154/MP/2018. MSETCL needs to be directed to charge the Transmission charges on this 330 MW inter-state power at the rate of Rs. 0.73 Lakhs/MW/Month and refund any Transmission Charges levied in excess of the above from 01.04.2017 onwards till date, along with interest at the SBI MCLR Rate plus 4%.

Hearing dated 21.02.2024

23. The Commission observed that Maharashtra State Electricity Distribution Company Limited (MSEDCL) has been impleaded by the Petitioner as Respondent No. 5 and has filed the amended 'Memo of Parties'. Therefore, IA No. 45/IA/2021 stands disposed of. The Commission directed parties to file their Written Submission in the matter.

Hearing dated 16.04.2024

24. The learned counsel for MSEDCL submitted that there is no formal contract between the Petitioner and MSETCL. He further submitted that the determination of the state transmission charges is the jurisdiction of MERC. Therefore, the instant petition is not maintainable and is liable to be dismissed. The Commission directed the parties to file their written submissions in the matter by 29.4.2024, with an advance copy to each other. Subject to this the Commission reserved the Order in the matter.

Submissions of the MSETCL:

25. The Respondent, MSETCL vide Written Submissions dated 26.04.2024, has reiterated its earlier submissions and mainly made the following submissions:

- (a) The Petitioner has not entered into any agreement whatsoever with the Respondent No.1 and hence has no legal right to file the instant Petition against the Respondent No.1; therefore, this Commission ought to dismiss the instant petition *in limine*.
- (b) The Contract Path method suggested by M/s RGPPL being used for DD, DNH and Goa is not applicable, as the path of the transmission of M/s RGPPL power to various states of Indian Railway divisions, i.e., Jharkhand, Karnataka, UP, MP, and Gujrat are different and cannot be identified. It needs to be noted that the Contract Path method has not been agreed by STU/MSETCL for transmission of power from RGPPL to Indian Railways. The Transmission Charges by the contract path method may increase the contribution of other TSUs of Maharashtra in the Total Transmission System Cost (TTSC) and subsequently will burden the consumers of Maharashtra.
- (c) Furthermore, there was no agreement between Railways and STU regarding the collection of transmission charges from the Railway at Rs. 0.73 Lakhs/MW/month. Thus, the petitioner's prayers are not maintainable.
- (d) As requested by the Indian Railways, the State Transmission Utility has granted Long Term Open Access (LTOA) on the InSTS network. The LTOA granted to Indian railways is on the whole InSTS network and not just on a specific path dependent on the present-day contract made by Indian Railways. Indian railways, during the period of granted access, may change the points of injection as required by them. Hence, the Respondent No. 1 needs to charge for this total access given to Indian Railways.

Submissions by Petitioner:

26. The Petitioners vide written submissions dated 29.04.2024 have reiterated most of the contents already submitted above. Apart from that following was submitted:

(a) During the hearing held on 16.04.2024, the Respondent, MSETCL had also relied on the Order dated 22.07.2016 passed by MERC for determining the transmission tariff of intra-State transmission system for 3rd Control period FY 2016-17 to FY 2019-20 to contend that MERC has the jurisdiction to determine the State Transmission Charges and therefore this Commission has no jurisdiction to entertain the present petition. A perusal of the MERC Order clarifies that it is for the determination of transmission charges for the intra-State transmission system and not for the inter-State transmission system, as is the present case. MERC has no power to determine the charges for incidental use of MSETCL's network when the power from RGPPL's generating station is flowing on an inter-state basis.

(b) Two lines which are being used by the MSETCL for evacuation of electricity from the RGPPL generating station to the CTU periphery at Padghe. These are the Dhabol-Nagothane and Nagothane- Padghe lines. These transmission lines were commissioned in the year 2000 & 2001, respectively, as per the details submitted by MSETCL to WRPC during the calculation of transmission charges for the transmission of RGPPL power to DD and DNH through the above MSETCL transmission system. This is clear from the WRPC communication dated 17.08.2010 on the subject of calculation of transmission charges for transmission of RGPPL power to Goa, Daman and Diu and Dadra Nagar Haveli through MSETCL transmission system for the period 2010-11. The relevant portion is quoted below-

“WRPC have calculated the transmission charges in respect of MSETCL Transmission System which is incidental for transmission of Central Sector Power to Goa for the year 2010-11 in line with the methodology given by Commission in petition No. 64/2008 and in Petition No. 67/2008 in the matter of fixation of and adjudication on the transmission charges for use of the Gujarat transmission system for conveyance of Central Sector power to Union Territory of Daman & Diu (DD) and to Union Territory of Dadra and Nagar Haveli (DNH) respectively vide CERC order dated 3rd February 2009. Following contract path have been considered:

RGPPL power to Goa

*400 kV RGPPL-New Koyana
400 kV New Koyana-Karad
400/220 kV ICTs at Karad
220 kV Karad-Kolhapur
220 kV Kolhapur-Amona*

RGPPL power to DD & DNH

Hearing dated 17.09.2024:

27. Since the order in the present Petition, which was reserved on 16.04.2024, could not be issued prior to the Members of this Commission, who formed part of the Coram, demitted office, the matter was relisted for hearing. Learned counsels for parties have submitted that the pleadings had been completed and arguments were heard, and accordingly requested the Commission to issue the Order based on the information already on record. Considering the above, the Commission reserved the matter for Order.

Analysis and Decision:

28. The Petitioner, RGPPL, owns and operates a 1967.08 MW gas-based combined cycle power station in the State of Maharashtra. Ministry of Power had allocated 540 MW of power from RGPPL to Indian Railways effective from 01.04.2017 onwards. The scheduling of this 540 MW allocation is being done by WRLDC in following manner:

210 MW	Central Railways
90 MW	Western Railways
85 MW	West Central Railways
70 MW	South Eastern Railways
50 MW	North Central Railways
35 MW	South Western Railways

A Power Purchase Agreement (PPA) with the Indian Railways was signed by the Petitioner (RGPPL) on 29.03.2017. Out of the above allocation, 330 MW of power flows from RGPPL to Indian Railways outside the state of Maharashtra.

29. Petitioner has submitted that the power allocated from RGPPL to Indian Railways (other than Central Railways), primarily flows outside Maharashtra via specific transmission lines viz *400 kV RGPPL-Nagothane and 400 kV Nagothane – Padghe* and hence Respondent No. 1 should charge transmission charges at Rs. 0.73 Lakhs/MW/month in the terms of the WRPC communication dated 17.8.2010 and to refund the transmission charges levied in excess of Rs. 0.73 Lakhs/MW/month for the period from 01.04.2017 onwards with the interest of SBI MCLR Rate applicable plus 4%.

30. The Respondent No. 1 (MSETCL) has objected to the claim of the Petitioner by submitting that the Petitioner has not entered into any agreement with MSETCL and hence has no legal right to file the instant Petition against MSETCL; therefore, the instant petition may be dismissed. MSETCL has also contested that the contract path method suggested by RGPPL is not applicable because the transmission path for RGPPL power under MoP allocation to various states for drawl by Indian Railways cannot be identified, and LTOA to Indian Railways was granted on the whole InSTS network and not on any specific transmission path. Indian railways, during the period of granted access, may change the points of injection as required by them; hence, MSETCL needs to charge for the total access given to Indian Railways. MSETCL has also stated that there is no agreement between Indian Railways and STU regarding the collection of transmission charges at the rate of Rs. 0.73 Lakhs/MW/month.
31. The Respondent, MSEDCL, in a nutshell, has submitted that a significant 85.85% share of transmission charges in the InSTS network of Maharashtra is being paid by them, as determined by the State Commission. Any alteration in transmission charges shall impact all the transmission licensees of the State, including itself. The Indian Railways is a Transmission System User (TSU) in Maharashtra. The determination of state transmission charges and the share of any TSU in the state of Maharashtra is the jurisdiction of MERC. Petitioner, vide the present petition, is requesting this Commission to intervene in the adjudicatory powers of MERC.
32. We have considered the submissions of the Petitioner and Respondents and perused all relevant documents on record. The issue that arises for our consideration is as follows:

Issue No. 1: Whether this Commission is an appropriate forum to determine transmission charges for the use of the intra-state transmission system of MSETCL by the Indian Railways?

Issue No.2: Whether MSETCL is required to be directed to charge the transmission charges on 330 MW inter-state power from RGPPL to Indian Railways at Rs. 0.73 Lakhs/MW/month in terms of the WRPC communication dated 17.8.2010.

Both issues are dealt with together in subsequent paragraphs.

33. Petitioner vide the instant Petition has sought direction from the Commission to MSETCL, a Maharashtra STU to impose transmission charges on the 330MW power, allocated by MoP to Indian Railways, based on Contract Path Method as per decision taken by the Commission in Order dated 04.02.2021 in Petition 153/MP/2018 and 154/MP/2018.

34. Order dated 04.02.2021 in Petition 153/MP/2018 and 154/MP/2018 is quoted as under:

“20. The transmission charges towards wheeling of power from RGPPL’s generating station to DNHD and GED through MSETCL network were calculated by the WRPC vide letter dated 17.8.2010 and the same was continued thereafter as discussed in 64th and 65th Commercial Committee Meeting. The calculation of transmission charges by WRPC for year 2010-11 is stated to be in line with the methodology given by the Commission in its Order dated 3.2.2009 in Petition No. 64/2008 and in Petition No. 67/2008. The relevant extracts of WRPC letter dated 17.8.2010 is reproduced as under:

“7. The following methodology adopted for calculation of transmission charges for transmission of, RGPPL power to Goa, DD & DNH through MSETCL transmission system for year 2010-11:

(a) WRPC have calculated the transmission charges in respect of MSETCL Transmission System which is incidental for transmission of Central Sector Power to Goa for the year 2010-11 in line with the methodology given by Commission in petition No. 64/2008 and in Petition No. 67/ 2008 in the matter of fixation of and adjudication on the transmission charges for use of the Gujarat transmission system for conveyance of Central Sector power to Union Territory of Daman & Diu (DD) and to Union Territory of Dadra and Nagar Haveli (DNH) respectively vide CERC order dated 3rd February 2009.

*Following contract path have been considered:
RGPPL power to Goa*

*400 kV RGPPL-New Koyna
400 kV New Koyria-Karad
400/220 kV ICTs at Karad
220 kV Karad-Kolhapur
220 kV Kolhapur-Amona*

RGPPL power to DD & DNH

*400 kV RGPPL-Nagothane
400 kV Nagothane-Padghe”*

....

26. From a combined reading of the judgment of APTEL dated 17.12.2007 (in I.A. No. 206 and 207 in Appeal No.150 of 2007) and the Commission’s order dated 3.2.2009 (in Petition No. 64/2008 and Petition No. 67/2008), we infer that determination of tariff for use of the transmission network of a State for the purpose of wheeling of electricity to another State is within jurisdiction of the Commission in terms of Section 79(1)(c) and (d) read with Section 2(36) of the Act. That being so, the Commission also has jurisdiction to adjudicate the dispute under Section 79(1)(f) of the Act.

27. In the instant matter, power is being transmitted to DNHED and GED from RGPPL located in the State of Maharashtra using intra-State transmission network of MSETCL and inter-State network of PGCIL and is thus, inter-State transmission of power. Therefore, adjudication of dispute in the present Petitions lies within the jurisdiction of the Commission.

43. We have considered the submissions of the parties. The relevant extracts from BPTAs are as under:

a. BPTA executed between the Petitioner and DNHED

“b) Electricity Department, Dadra and Nagar Haveli, Government of India, having its Head Office at Amli, Silvassa- 396 230. (hereinafter called "ED-DNH" or Transmission System User), which expression shall unless repugnant to the context or meaning thereof shall include its successors and permitted assigns as party of first part agrees to pay the transmission charge of Rs. 29.17 Lacs per month for 2% of RGPPL power as per the transmission charges calculated by WRPC vide Letter No.WRPC/(Comm-I-J)/4/Corr/2010-1038 Dated 17/08/2010. These transmission charges will be valid for the Financial Year 2011-12 and subsequently will be reviewed on year to year basis based on the calculations of WRPC.”

b. BPTA executed between the Petitioner and GED

“b) EDG agrees to pay the transmission charges of Rs. 22.16 Lacs per month for 1% of RGPPL power as per the transmission charges calculated by WRPC vide Letter No.WRPC/(Comm-I-J)/4/Corr/2010/1058 Dated 17/08/2010. These transmission charges will be valid for the Financial Year 2011-12 and subsequently will be reviewed on year to year basis based on the calculations of WRPC.”

48. It is observed that in terms of order in Petition Nos. 64/2008 and 67/2008, the applicable transmission charges for the usage of intervening transmission system of GETCO was based on the actual/ anticipated power drawn from the grid and wheeled using the transmission system of GETCO.

49. A combined reading of BPTAs read with letter of WRPC dated 17.8.2010 (wherein calculation of transmission charges was based on Order of the Commission dated 31.7.2009 in Petition No. 64/2008 and Petition No. 67/2008) leads us to the conclusion that wheeling charges to be paid by DNHED or GED was to be based on actual drawl (in MU) which was to be calculated by WRPC. WRPC had made calculations that were applicable for 2011-12 and WRPC was required to make calculation of transmission charges for subsequent years, but same was not done by WRPC.

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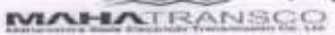
53. In the instant matter, “BPTA for the use of transmission system of Maharashtra State Electricity transmission Company Limited” signed with the Petitioner on 6.9.2011 (DNHED) and 21.11.2011 (GED) specifies that the calculation done by WRPC in its letter dated 17.8.2010 was applicable for the year 2011-12 and thereafter the charges payable by DNHED and GED was subject to review on year to year basis based on the calculation of WRPC. As per documents available on record, we note that the calculations have not been revised. We also note that the BPTA was signed post coming into force of the 2010 Intervening Facility Regulations, but BPTA did not refer to it and provided that charges payable by DNHED and GED would be based on the calculations of

WRPC. As per Regulation 3(2) of the 2010 Intervening Facility Regulations, in case of mutual agreement between contracting parties, the provisions of the 2010 Intervening Facility Regulations are not applicable. Therefore, as long as BPTAs exist between the contracting parties, they would be guided by provisions of BPTAs.

...

As per the above, it was held that transmission charges payable by DNHED/ GED for the use of the transmission system of Maharashtra State Electricity Transmission Company Limited (MSETCL) were in terms of BPTA dated 6.9.2011 (DNHED) and 21.11.2011 (GED), which specifically provides for the calculation of transmission charges to be carried out as per WRPC letter dated 17.8.2010.

35. We have observed that in the instant case, various LTOAs viz. 70MW, 100MW, 150MW, and 35MW were granted to Indian Railways, and the drawl location is marked as Gujarat State, Jharkhand State, Madhya Pradesh State, Karnataka State, respectively. The relevant extract of a sample LTOA granted for 100MW is as under:

	
MAHARASHTRA STATE ELECTRICITY TRANSMISSION COMPANY LIMITED CIN No.: U40109MH2005GCL53646	
Name of Office: Office of the Chief Engineer (State Transmission Utility)	
Office Address: Prakashganga, 4 th floor / 'A' Wing, Plot C-19, E - block, BKC, Bandra (E), Mumbai - 400051.	
Contact No.: (O) 022 - 2659 5176, (P) 022 - 2659 5175, Fax: 022 - 26591222	
E-Mail Id: cestu@mahatransco.in , cestumsetcl@gmail.com	
Website: www.mahatransco.in	
Ref: MSETCL/CO/STU/LTOA/Railway/	No 00671 Long Term Open Access (LTOA)
Date: 29 DEC 2015	
To, Dy Chief Electrical Engineer Western Railway Chief Electrical Distribution Engineer Churchgate Station Building, Churchgate Mumbai-400020	
Sub: Grant of Long Term Open Access to Indian Railways for drawal of 100 MW Power through InSTS from RGPPL Plant to the Jharkhand State.	
Ref: 1) CERC Order in Petition No. 197/MP/2015 dated 05/11/2015. 2) Application for issuing NOC Vide Letter No EL 84/17/1/NTPC Vol. VI dated 28.12.2015	
Nature of Applicant: Full Long Term Open access to the InSTS	
Details of Long Term Open Access: Quantum of Power for which LTOA is granted: 100MW Date from which LTOA is granted: Date of 1 st scheduling Period of LTOA: 01-12-2015 to 30-11-2027	
Point of Injection Details: Name of the Generator: Ratnagiri Gas & Power Pvt. Ltd. (RGPPL). Interstate Generating station coming under the control area of WRLDC, connected to InSTS of Maharashtra. Project Location (Site, Taluka, District): Dabhol, Ratnagiri.	
Quantum of Power (MW) to be injected for LTOA: 100 MW	
Point of Drawal Details: Name of Consumer: Indian Railways. Project Location (Site, Taluka, District): Jharkhand State	



Page 1 of 3

Sub: Grant of Long Term Open Access to Indian Railways for drawal of 70 MW Power through InSTS from RGPPL Plant to the Jharkhand State.

Quantum of Power (MW) to be drawn for LTOA: 100 MW.

The Long Term open access shall be governed by the

- 1) Indian EA-2003
- 2) IEGC-2005
- 3) MERC (TOA)-2014
- 4) MERC SGC reg-2006, Part-B, C, D and F
- 5) CERC Order in Petition No. 197/MP/2015 dated 05/11/2015.
- 6) Amendments in regulations if any, issued by appropriate commission from time to time

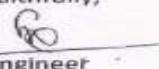
Details of Documents to be submitted by the Applicant within 15 days from the date of this letter:

- a. A bipartite Bulk Power Transmission Agreement (BPTA) executed between MSETCL and Indian Railways.
- b. Letter of credit equivalent to estimated two month transmission charges amounting Rs.3,89,58,000/-.

Further, A Long-term Open Access consumer may relinquish the Long-term Open Access rights fully or partly before the expiry of the full term of Long-term Open Access, by making payment of compensation for stranded capacity as per clause 32 of MERC Transmission open access regulation 2014. Also, it is once again requested to comply all the directives as per the CERC Order in the Petition No. 197/MP/2015, dtd. 05.11.2015.

Thanking you.

Yours Faithfully,


Chief Engineer
State Transmission Utility

FORMAT-MTOA-3

"No Objection Certificate of Maharashtra State transmission utility"

<<Format in which NOC is to be given by SLDCs to a State Utility or intra-state Entity for submission to CTU>>

NOC No. 00671 Dated. 29/12/15

1. Name of the SLDC issuing NOC : Maharashtra State
2. Region : North / West / South / East / North-East
3. Name of the Entity : Indian Railway
4. Status of Entity (e.g. : State Utility/CPP/IPP/Discom etc.) : deemed Distribution Licensee
5. Point(s) of Connection : Jharkhand State
6. Max. MW ceiling allowed for Injection* : 100 MW
7. Max. MW ceiling allowed for Drawal* : _____
- (* SLDCs may specify different MW ceilings for different time blocks, if required.)
8. Validity Period : From : 01-12-2015 to 30-11-2027
9. Transmission losses (besides Regional Transmission losses)

	Whether Applicable or not (Yes/No)	(%) loss
State Transmission losses	Yes	3.84%
Distribution Licensees losses	No	
Any other losses	No	

10. Transmission charges (besides Regional Transmission charges)

	Whether Applicable or not (Yes/No)	Rate (Rs./kW/month)
State Transmission Charges	Yes	194.79
Distribution Licensees Charges	No	
Any other charges	No	



As per above, LTOA was granted to Indian Railways without specifying any specific contract path, and LTOA for the intrastate transmission system was granted. Further, the NOC granted by Maharashtra SLDC mentioned the applicable State Transmission Charges and losses. LTOA grants have also recorded that MERC Transmission Open Access Regulations, 2014 shall be applicable for such LTOA and that in case of relinquishment, payment for compensation for stranded capacity shall be in terms of MERC Transmission Open Access Regulations, 2014.

36. MSETCL has referred to MERC Transmission Open Access Regulations, 2016, which provides that transmission charges for use of the intra-state transmission system shall be as determined by the State Commission. The relevant extract of the said Regulations is as follows:

**14. Transmission Charges*
14.1. A Transmission System User shall pay the following charges to the Nodal Agency:
(a) For use of the Inter-State Transmission System – As stipulated by the Central Commission from time to time;
(b) For use of the Intra State Transmission System – As stipulated by the Commission from time to time.

37. MSETCL has also referred to the provision of the BPTA as under:

“D) AND WHEREAS Long term transmission/ MTOA customers have agreed to share and pay all transmission charges of MSETCL in accordance with the regulation/tariff order issued by Maharashtra Electricity Regulatory Commission from time to time for the use of its Transmission System including SLDC charges and any additions thereof in proportion to their proposed capacity addition as indicated at Annexure-1 of this agreement. These charges would be shared and paid from the scheduled date of commissioning of respective generating units.”

“7. TARIFF, BILLING, PAYMENT AND PAYMENT SECURITY MECHANISM

7.2 Tariff

7.2.1 Transmission charges and other related charges mentioned in the various *MERC orders are to be paid to the State Transmission Utility (STU) and State Load Dispatch Centre (SLDC).*

7.2.2 The transmission tariff shall be as per the tariff orders issued by MERC from time to time.

7.3 Billing

7.3.1 The charges for the access and use of the Intra-State Transmission System shall be determined and settled on a monthly basis.

7.3.2 State Transmission Utility (STU) shall raise monthly bill for Intra-State Transmission Charges on every Transmission System User (TSU) on 1st working day of the Month. (i.e. 1st day of month or next working day in event of 1st day being weekly off or public holiday) for the Transmission charges of preceding Month.

Monthly transmission charges bill shall comprise of the following components:

- a) Monthly calculation of Transmission charges for the billing period as per the tariff order of the commission;*
- b) Late payment surcharge;*
- c) Outstanding amounts (Arrears);*
- d) Any other charges as may be specified by MERC from time to time.*

7.4 Payment

7.4.1 All the payments related to transmission charges for a particular month shall be due for payment on 30th day of subsequent calendar month as per MERC orders issued from time to time.”

As per above, the Transmission Charges are to be paid by the Indian Railways in accordance with the tariff Order issued by the State Commission (MERC). MSETCL has stated that BPTA for 35 MW was signed with SW Railways dated 15.11.2018, but was not signed by Indian Railways for the balance quantum, despite follow-up by MSETCL, and that MSETCL has charged them intra-State transmission charges as per MERC Regulations and Orders issued from time to time.

38. Petitioner has signed the PPA with Indian Railways, according to which the responsibility to apply for open access was on Railways, and transmission charges to STU/ CTU shall initially be paid by Indian Railways; thereafter, Railways shall deduct from the monthly energy bills. The relevant extract of PPA is under:

“3 TRANSMISSION / WHEELING OF ELECTRICITY

3.1 Delivery of electricity shall be at the interconnection point of generating station, subject to other conditions of this PPA.

3.2 Railways shall apply for the open access from CTU/STU, wherever required for evacuation of electricity from such interconnection Point of the station up to the interface point at STU GSS/ TSSs. However, both the parties shall jointly follow up with the concerned authorities (CTU/Regulatory Commissions/STUs) for obtaining open access. In case open access is not granted, Railways will not have any obligation under this PPA of any type including any obligations incurred by RGPPL in the case of taking power from RGPPL under this PPA.

3.3 As per the applicable CEA/CERC/SERC regulations (as applicable), ABT metering is to be provided at respective drawl points by respective

STU/CTU for which Railways shall apply, wherever required, and the same shall be followed jointly by RGPPL and Railways.

3.4 For transmission of the power beyond busbars of the station upto interface point of STU DSS/TSS, transmission charges for utilisation of transmission system owned by STU or CTU shall be borne by RGPPL. These transmission charges, if not waived and as applicable will initially be paid by Railways for the bills raised by CTU/STU for transmission charges for power under this PPA on Railways, and will be deducted by Railways from next electricity bill payment to RGPPL. However, the same shall be refunded back to RGPPL after receipt of refund, if any, from CTU/STU to Railways as a result of implementation of any waivers. This refund to RGPPL shall be done within 15(Fifteen) working days of receipt by Railways.

3.5 For transmission of the power beyond busbars of the station up to interface point of STU GSS/ TSSs, the transmission losses, if not waived and as applicable shall be to RGPPL account”

As per above, the responsibility to obtain open access was of Indian Railways, who have to pay the transmission charges to STU (MSETCL) and deduct the same from the energy bill payment to RGPPL. This provision has been made irrespective of the amount of transmission charges and any transmission path for the drawl of power.

39. MSETCL has submitted that it is billing and collecting transmission charges from Indian Railways, considering it as a Transmission System User (TSU) of the Maharashtra Network, based on MoP allocation as per the transmission tariff determined by MERC. We have also noted the rival contention that any change in the liability of Indian Railways transmission charges would impact all other Transmission System Users (TSUs) of the State.
40. Based on the discussions above, we are of the considered view that since Indian Railways has obtained LTOA for drawl of power from RGPPL power plant and the BPTA entered into between Indian Railways and MSETCL does not specify any contract path or does not contain any reference to WRPC letter dated 17.08.2010, the contention of Petitioner to levy charges for intra-State transmission system based on WRPC letter dated 17.08.2010 does not hold any water. The reliance of the Petitioner on the Order dated 04.02.2021 in Petition 153/MP/2018 and 154/MP/2018 is misplaced since in the referred cases, there was an express BPTA between MSETCL and the other party identifying the contract path. For the transaction under the instant Petition, there is no agreement between MSETCL and Indian Railways identifying any contract path, and the LTOA grant and the NOC refer to MERC Regulations and specify the transmission

charges rate. We are of the considered view that Indian Railways is a Transmission System User (TSU) in Maharashtra in terms of MERC Regulations and is liable to pay the applicable transmission charges. Therefore, if the petitioner has any issue with the determination of transmission charges for use of the Intra State Transmission System (InSTS) by the Indian Railways in terms of LTOAs, in that case, the Maharashtra Electricity Regulatory Commission (MERC) is the appropriate Commission to adjudicate upon the matter ..

41. The Petition No. 344/MP/2020 is disposed of in the above terms.

Sd/
(Harish Dudani)
Member

Sd/
(Ramesh Babu V.)
Member

Sd/
(Jishnu Barua)
Chairperson