

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

1. Shri Ashok Basu, Chairperson
2. Shri Bhanu Bhushan, Member
3. Sh A.H.Jung, Member

Petition No.94/2006

In the matter of

Petition for deciding the (i) "Appropriate Commission" having jurisdiction to determine the Transmission charges of the Gujarat transmission system being used incidental to transmission system of CTU for transmission of Central Sector and Bilateral power to the Union Territories of Daman & Diu and Dadra Nagar Haveli and/or (ii) determination of transmission charges for using GETCO system.

And in the matter of

Gujarat Urja Vikas Nigam Ltd. **Petitioner**

Gujarat Energy Transmission Corporation Ltd., Vadodara **Co-Petitioner**

Vs

1. Madhya Pradesh State Electricity Board, Jabalpur
 2. Maharashtra State Electricity Board, Mumbai
 3. Chhattisgarh State Electricity Board, Raipur
 4. Electricity Department, Admn. of Dadra and Nagar Haveli, Silvassa
 5. Electricity Department, Admn. of Daman & Diu, Daman
 6. Electricity Department, Govt of Goa, Panaji, Goa
 7. M/s Power Grid Corporation of India Ltd., Nagpur
 8. Western Regional Power Committee, Mumbai
 9. Western Regional Load Despatch Centre, Mumbai
- ...Respondents**

The following were present:

1. Shri Kamlesh P. Jangio, COA (Comml), GUVNL
2. Shri P.J. Jani, DE, GETCO

**ORDER
(DATE OF HEARING : 21.9.2006)**

The petition has been filed jointly by Gujarat Urja Vikas Nigam Ltd and Gujarat Energy Transmission Corporation Ltd. (GETCO) for deciding the "Appropriate

Commission” having jurisdiction to determine the transmission charges for the transmission system, owned by GETCO and being used incidental to the transmission system of the Central Transmission Utility for transmission of central sector and bilateral power to the Union Territories of Daman & Diu and Dadra and Nagar Haveli, collectively referred to as “the Union Territories” and for determination of transmission charges for use by them of the transmission system owned by GETCO. The specific prayers made in the petition are as under:

- “1. The Hon’ble Commission may kindly clarify that the “Appropriate Commission” having jurisdiction to determine the Transmission charges of the GETCO system being used incidental to transmission system of CTU for transmission of Central Sector and Bilateral power to the Union Territories of Daman & Diu and Dadra Nagar Haveli is GERC or CERC.
2. The Hon’ble Commission may direct Respondents 1 to 7 to make the payment of transmission charges as determined by Hon’ble Gujarat Electricity Regulatory Commission for the year 2005-06 and 2006-07 to GUVNL for utilization of Gujarat Energy Transmission Corporation Network for transmission of Central Sector and Bilateral power to DD DNH as agreed in the 110th WRE Board Meeting held at Aurangabad on 22.5.99 and since the transmission charges as worked out by erstwhile WREB secretariat for the year 2004-05 were provisionally applicable.
3. The Hon’ble Commission may direct the Respondents 1 to 7 to pay interest @ 18% per annum to GUVNL on differential amount for the period from the date on which amount actually due till the date on which the amount is actually paid by the respondents to GUVNL.
4. The Hon’ble Commission may also dispose off this petition at the cost of Respondent no.1 who has forced the petitioner to file this petition and deprived the petitioner from its legitimate right to recover transmission charges as determined by Hon’ble Gujarat Electricity Regulatory Commission.
5. In case according to Hon’ble Commission, the “Appropriate Commission” in the instant case is CERC, the transmission charges may be determined for the GETCO transmission system being used incidental to transmission system of CTU for transmission of Central Sector and Bilateral power to the Union Territories of Daman & Diu and Dadra Nagar Haveli.

6. The Hon'ble Commission may pass any other order as may be deemed fit."

2. The submissions made by the petitioner in this regard are given in the succeeding paragraphs.

3. The Union Territories, geographically located adjacent to the State of Gujarat are presently not connected to transmission network owned by Power Grid Corporation of India, the CTU and accordingly their share from the central generating stations is conveyed through the transmission system owned by GETCO, a successor entity of the erstwhile Gujarat Electricity Board. As on 1st July, 2006 allocation of Daman & Diu and Dadra and Nagar Haveli is stated to be 60.62 MW and 330.46 MW respectively.

4. It has been stated that the central sector power (including that allocated to the Union Territories) is received in Gujarat State at 11 drawal points connected to the CTU network. The share of Daman & Diu is delivered through one 220 kV D/C transmission line and four 66 kV transmission lines. The share of Dadra and Nagar Haveli is delivered through one 220 kV D/C transmission line and three 66 kV transmission lines. All these transmission lines are presently owned by GETCO. Though the petitioners have not mentioned, but we understand that the transmission lines connecting the transmission network of GETCO with the Union Territories are owned by the Union Territories themselves. In this manner, GETCO transmission network is stated to be incidental to the transmission of central sector power to the Union Territories.

5. The petitioners have submitted that Gujarat Electricity Board was earlier compensated through payment of wheeling charges and wheeling losses for use of its transmission system. This arrangement was agreed at the meeting of Western Regional Electricity Board held on 22.5.1999. Under this arrangement, WREB Secretariat worked out the rates of wheeling charges payable to the erstwhile Maharashtra State Electricity Board for wheeling central sector power to the State of Goa and to the erstwhile Gujarat Electricity Board for wheeling of central sector power to the Union Territories. The wheeling losses of 4% were considered for wheeling central sector power to the Union Territories through the Gujarat Electricity Board transmission system. It is stated that in accordance to WREB decision, the wheeling charges were pooled with the transmission charges payable to Power Grid Corporation of India Ltd. and net charges payable by each constituent were worked out. This procedure was being followed till recently.

6. The petitioners have stated that the Commission vide its order dated 21.7.2004 in Petition No.6/2004, in the matter of wheeling charges for GRIDCO transmission system used for wheeling of power to MPSEB (Respondent No.1), directed that subsequent to the notification dated 5.2.2004 on open access in inter-State transmission, wheeling charges are payable in accordance with that notification. Consequently, the matter was discussed in the TCC and WRE Board meetings held in May 2005 when it was agreed that the constituents of Western Region would take up the matter with 'Appropriate Commission' for determination of wheeling charges for wheeling of central sector power through the transmission system owned by them. At those meetings the wheeling charges applicable for the year 2004-05 as worked out by WREB Secretariat were adopted provisionally.

7. It has been stated that Gujarat Electricity Regulatory Commission (GERC), vide its order dated 28.2.2006 determined transmission charges of Rs.3262.36 per MW per day and transmission losses of 4.4% for Gujarat State transmission network. Subsequently, based on an application made by GETCO for approval of Aggregate Revenue Requirement (ARR), GERC, vide order dated 6.5.2006 determined the transmission charges of Rs.2832 per MW per day (total transmission charges of Rs.842.99 crore) and transmission losses @ 4.27% for the year 2006-07 and Rs.2762 per MW per day (total transmission charges of Rs.811.26 crore) for the year 2005-06.

8. The petitioners have alleged that Respondent No.1, Madhya Pradesh State Electricity Board has refused to share the transmission charges determined by GERC, on the ground that the matter pertains to wheeling charges for transfer of central sector power which is an inter-State power, for which this Commission and not GERC is the 'Appropriate Commission' for determination of the transmission charges.

9. According to the petitioners, Regulation 16 of the regulations on open access in inter-State transmission issued by the Commission provides that the annual transmission charges payable by a long-term customer for use of the transmission system are to be determined in accordance with terms and conditions of tariff notified by the Appropriate Commission from time to time, after deducting the adjustable revenue received from the short-term customers. By adverting to Regulation 16, the petitioners have concluded that in the instant case GERC is required to determine the transmission charges.

10. The petitioners vide letter dated 23 June, 2006 reportedly brought to the notice of Member-Secretary, WRPC in accordance with regulation 35 of the regulations on open access in inter-State transmission the default on the part of beneficiaries opposed to pay wheeling charges determined by GERC. Since, however, no specific relief has been provided by the Member-Secretary, WRPC, the petitioners have approached the Commission with prayers noted in the opening para of this order.

11. We heard the representatives of the petitioners on admission.

12. It is to be noticed that the petitioners seek directions to Respondents No.1 to 7 for sharing and making payment of the transmission charges determined by GERC for the transmission network owned by GETCO and used for conveyance of power to the Union Territories. The petitioners have also sought directions for recovery of interest @ 18% per annum for delay in making payments, along with costs. The petitioners have not brought to our notice any provision of law conferring jurisdiction on this Commission to give directions for enforcement of the order issued by a State Commission. Therefore, the petitioners have to explore other remedies provided under the law to seek implementation of the orders of GERC. Accordingly, the prayers at (2), (3) and (4) are not maintainable.

13. The petitioners during the hearing argued that in their view, GERC is the "Appropriate Commission" for determination of the transmission charges for the transmission system owned by GETCO and, according to the petitioners, the transmission charges were correctly determined by that Commission. It was, however, submitted that they would abide by the decision of this Commission in the

present petition. It appears that the petitioners have been vacillating on the question of jurisdiction to determine the wheeling charges. On the one hand, they submit to the jurisdiction of CERC, but on the other, they have prayed this Commission to determine the transmission charges for GETCO network.

14. Without expressing any opinion on the issue at this stage, we dispose of the present petition, without admitting, with the directions to the petitioners to examine the question of jurisdiction afresh, based on the interpretation of the provisions of the Electricity Act, 2003. The petitioners need to consider the different provisions of the Act and on being satisfied about the question of jurisdiction, make an appropriate application in accordance with the terms and conditions for determination of transmission charges notified by the Commission.

Sd/-
(A.H. JUNG)
MEMBER

Sd/-
(BHANU BHUSHAN)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRPERSON

New Delhi dated the 4th October, 2006