

**BEFORE THE HIMACHAL PRADESH ELECTRICITY  
REGULATORY COMMISSION SHIMLA**

<b>Petition No.</b>	<b>11 of 2025</b>
Date of Institution:	09.10.2024
Arguments Heard on:	01.04.2025
<b>Decided on:</b>	<b>28.04.2025</b>

**CORAM**

DEVENDRA KUMAR SHARMA  
**CHAIRMAN**

YASHWANT SINGH CHOGAL  
**MEMBER (Law)**

SHASHI KANT JOSHI  
**MEMBER**

The Himachal Pradesh Power  
Transmission Corporation Limited (HPPTCL)  
Himfed Bhawan, Below Old MLA's Quarters,  
Tutikandi (Panjiri), Shimla-05. .... **Petitioner.**

Versus

The HP State Electricity Board Ltd. (HPSEBL)  
Vidyut Bhawan, Shimla, HP-171004.  
  
.... **Respondent.**

**Petition under Section 94(1)(f) seeking direction to HPSEBL to pay transmission charges in accordance with the charges determined by this Commission vide its Order dated 01.11.2021 under Petition No. 98 of 2020 for 33/220 kV, 50/63 MVA GIS Substation at Karian (Asset-1) and 220 kV Transmission line from KarianGIS Substation to PGCIL Pooling Substation at Chamera-II (Rajera) (Asset-2) read with Hon'ble CERC order dated 18/05/2024 under Petition No. 05/MP/2022.**

Present:-

Sh. Virender Kumar, DGM for the Petitioner.  
Sh. Kamlesh Saklani, Authorised Representative for the  
Respondent.

## ORDER

This Petition has been filed by the Himachal Pradesh Power Transmission Corporation Limited (the Petitioner or the HPPTCL for short) seeking direction to the Himachal Pradesh State Electricity Board Limited (the Respondent/ HPSEBL for short) to pay transmission charges in accordance with the charges determined by this Commission vide its Order dated 01.11.2021 under Petition No. 98/2020 for 33/220 kV, 50/63 MVA GIS Substation at Karian (Asset-1) and 220 kV Transmission line from KarianGIS Substation to PGCIL Pooling Sub-station at Chamera-II (Rajera) (Asset-2) read with the Hon'ble Central Electricity Regulatory Commission (CERC) order dated 18/05/2024 under Petition No. 05/MP/2022.

2. The Commission, vide Order dated 01.11.2021 in Petition No. 98 of 2020 (Annexure-1), has approved the Annual Transmission Charges for both the Assets from CoD (FY 2018-19) to FY 2023-24 and directed the HPPTCL to file suitable Application before the Hon'ble CERC for recovery of ARR approved for the period from FY 2018-19 to FY 2023-24 under the PoC Mechanism as under:-

### **“4.8      *Transmission Charges***

**Petitioner Submission**

4.8.1 The Petitioner has submitted that the line has been declared as ISTS hence the Petitioner shall make an application before the CERC for recovery of Aggregate Revenue Requirement (ARR) under the POC mechanism. Commission's Analysis.

**Commission's Analysis**

4.8.2 As discussed in the section 'Energy Flow and Nature of the Asset' in Chapter 3, the project has already been certified by NRPC as ISTS for FY 2019-20 with 98% utilization by other states.

4.8.3 Further, the Petitioner has submitted that it will approach the CERC for recovery under the POC mechanism in reply to the 2<sup>nd</sup> deficiency letter shared with the Petitioner. The relevant extract of submission has been provided as follows:

*"As per the established procedure to determine the nature of an asset(s), actual data of second and fourth quarter has to be studied to declare the asset as ISTS asset by NRPC. Accordingly, considering the data of second and fourth quarter of FY 2018-19, the instant assets have been declared as ISTS assets for inclusion in POC for FY 2019-20 by the NRPC in 45th and NRPC Meeting held on 02.09.2020. It is humbly submitted that since the data for FY 2018-19 demonstrates that the line was carrying Inter-State Power, once the tariff is approved, the Petitioner shall approach the Hon'ble CERC for inclusion of transmission charges for both FY 2018-19 and FY 2019-20."*

4.8.4 Accordingly, the Petitioner is directed to file suitable application before the CERC for recovery of ARR approved in this Order for the period FY 2018-19 to FY 2023-24 under the POC mechanism. In case of laxity or failure to pursue the inclusion of the ARR in PoC mechanism, the Commission shall not allow recovery of the ARR from HPSEBL. In the event the line is not declared as inter-state in any of the future years, appropriate application should be made before the Commission along with justification and evidence for recovery of transmission charges from HPSEBL."

3. The Hon'ble CERC, vide Order dated 18.05.2024 has disposed off the Petition No. 05/MP/2022 (Annexure-2).

**FACTS OF THE CASE**

4. The Petitioner owns, operates and maintains the assets under consideration, namely 33/220 kV, 50/63 MVA GIS Sub-station at Karian, and 220 kV Transmission line from Karian to

PGCIL Pooling Sub-station at Chamera-II (Rajera) in District Chamba of Himachal Pradesh. The Scheme was also approved in the 29<sup>th</sup> Standing Committee Meeting for the Northern Region held on 29.12.2020.

5. As per the Petition, the above project was envisaged to evacuate power developed from Hydro generating stations within the State of Himachal Pradesh connected to PGCIL's 220 kV Pooling Station which will further evacuate power through PGCIL's Jalandhar line. The works for the Sub-station and Transmission Line were awarded in the months of March 2011 and September 2011 and were scheduled to be completed in 6 months and 18 months respectively. However, owing to various factors, the project was energized on load on 12.05.2018.

6. The HPPTCL filed a Petition (550/TT/2014) on 16.12.2014 before the Hon'ble CERC seeking determination of tariff of the above transmission system, anticipating it to be commissioned by December 2014. The Hon'ble CERC had disposed of the above Petition (550/TT/2014) vide Order dated 23.09.2015 with a liberty to file a fresh Petition for inclusion of line in PoC mechanism after the Commercial Operation of the line and approval of the tariff of the assets by the State Commission. The Hon'ble CERC further

directed the Petitioner to obtain a certificate from the NRPC to the effect that the instant assets are being used for inter-state transmission of power.

7. As per the methodology of certification, a transmission line would be construed as an inter- state line only if average utilization for inter-state purposes based on the studies for 2<sup>nd</sup> (July-September) and 4<sup>th</sup> (January to March) quarters comes out to be more than 50%. The studies based on the 2<sup>nd</sup> and 4<sup>th</sup> quarter for a particular year were to be used for certification of Stateowned lines as inter-state lines for next year.

8. The assets under the instant Petition were commissioned in the month of May 2018. Accordingly, the complete actual data of Q2 and Q4 was available for FY 2018-19, and the Petitioner was eligible to apply for certification of its assets as non-ISTS lines carrying ISTS power for FY 2019-20.

9. Since the above methodology of certification, considering the actual data would take time, and there shall be no recovery of tariff until the certification, the HPPTCL simultaneously requested the NRPC for certification and also filed a Petition for approval of Capital Cost and determination of tariff for the period from CoD,

i.e., May 12, 2018, till FY 2023-24 before the Commission in July, 2020.

10. During the proceedings of the Petition before the Commission, NRPC vide 45<sup>th</sup> TCC and 48<sup>th</sup> NRPC meeting dated September 2, 2020, approved the inclusion of 220 kV Karian-Rajera transmission line under PoC mechanism for FY 2019-20. Even though NRPC had only certified that the transmission line carries Inter-state power, it is to be noted that both the transmission line and GIS Sub-station were commissioned simultaneously and are part of the same scheme. Accordingly, the ARR corresponding to both the Sub-station and transmission line were to be included under the PoC mechanism.

11. The Commission vide Order dated 01.11.2021 in Petition No. 98 of 2020 approved the Annual Transmission Charges from CoD (FY 2018-19) to FY 2023-24 and directed HPPTCL to file suitable Application before the Hon'ble CERC for recovery of ARR approved for the period from FY 2018-19 to FY 2023-24 under the PoC Mechanism.

12. Accordingly, the HPPTCL filed Petition No. 05/MP/2022 prayed before the Hon'ble CERC to include the

instant assets under PoC mechanism for recovery of transmission charges for the period from COD to FY 2023-24.

13. The Hon'ble CERC, vide Order dated 18.05.2024 in Petition No. 05/MP/2022, has held the following in paras 24, 25, 26 and 35 as under:-

*"24. In light of the above-quoted provisions of the 2010 Sharing Regulations and certification by NRPC for the 220 kV Rajera-Karian line for FY 2019-20, we observe that the said transmission line becomes eligible to be considered under ISTS for the period from 1.4.2019 to 31.3.2020.*

*25. We observe that one circuit of 220 kV D/C transmission line from Karian -Rajera had not been charged as per records filed in the Petition. We also note that the COD certificate and approval of charging by NRLDC in 2018 have not been filed by the Petitioner. As only one circuit of 220kV Karian -Rajera line had been charged during the period 1.04.2019- 31.03.2020, only half of the tariff approved by the State Commission for the D/C line shall be considered in the ISTS pool for the period 1.04.2019 - 31.03.2020. There is no certification from NRPC beyond this period, and accordingly, it has not been considered.*

*26.... We find that the Sub-station is a separate transmission element for which the Petitioner has obtained a separate charging certificate from the HP electrical inspectorate and charging from SLDC. We are of the view that the Karian substation cannot be included in PoC since it has not been certified by NRPC for any period prior to 1.11.2020."*

*....*

*35. In view of above discussions, we are not inclined to consider the 33/220 kV GIS Sub Station at Karian along with 220 kV D/C transmission line from Karian to Rajera as an inter-State system. We hold that it shall continue to be an intra-State system under the jurisdiction of the State Commission. Accordingly, the Petitioner's prayer on this issue is rejected."*

14. Based on the decision of Hon'ble CERC in Petition No. 05/MP/2022 and in compliance to directions of the Commission in Order dated 01.11.2021 in Petition No. 98 of 2020, the HPPTCL vide its letter dated 21.06.2024 intimated this Commission regarding the decision in Petition No. 05/MP/2022 and requested

for directions to the HPSEBL to pay the transmission charges in accordance with the charges determined by this Commission in its Order dated 01.11.2021 read with the Hon'ble CERC's Order dated 18.05.2024 along with the carrying cost. The Commission in response to the Petitioner's letter dated 21.06.2024 directed the Petitioner to approach the Commission by way of a separate Petition for seeking the recovery of the transmission charges.

15. According to the Petitioner, the Hon'ble CERC has not considered the instant Assets for the period from 01.04.2020 to 31.03.2024, as part of Intra-State Transmission System (ISTS) and that the same is the part of ISTS and from the period from CoD to 31.03.2020, 33/220 kV, 60/63 MVA GIS Sub-station Karian (Asset-1) has not been considered as Inter-State Transmission System and the order of the Hon'ble CERC is silent about the period prior to 01.04.2019 and tariff for the period FY 2018-19 shall be recovered. Further for the period FY 2019-20, the Hon'ble CERC has ruled that only one circuit of 220 kV Karian-Rajera line had been charged during the period 01.04.2019 to 31.03.2020 and only half of the tariff approved by the Commission for the D/C line shall be considered for the ISTS.



16. The Petitioner has submitted that the Hon'ble CERC has inadvertently overlooked the fact that the data on the basis of which the asset was certified as carrying Inter-state was for FY 2018-19 and, therefore, the transmission charges of the Asset for FY 2018-19 should also have been recovered through POC mechanism. Further, the Hon'ble CERC has allowed recovery of only half of the transmission charges of transmission line assuming that the tariff determined by the Commission for FY 2019-20 pertains to Double circuit line even though the second circuit was charged in FY 2020-21 and the tariff of second circuit is allowed by the Commission from FY 2020-21 onwards (balance 50% of the ARR is to be recovered from HPSEBL).

17. The Petitioner has submitted that it is in process of filing Review Petition before the Hon'ble CERC on the matter which will be filed shortly and expect the same to be allowed. However, in case the CERC does not accept the issue during review, the Petitioner may be allowed to recover the said transmission charges by providing a conditional approval in the Review Order to recover such amounts from the HPSEBL which will only reduce the lead time and shall avoid unnecessary carrying cost and regulatory overburden.

### **REPLY OF THE RESPONDENT**

18. The Petition has been resisted by filing the reply raising preliminary submissions, *inter-alia*, that the present Petition is not maintainable under section 94 (1)(f) of the Electricity Act, 2003 for the reason that the aforesaid provision deals with power of the Commission to reviewing its decisions, directions or orders. It is submitted that the present case does not warrant any kind of review of decision of the Hon'ble Commission or the direction or orders. As such, the petition is not maintainable in the eyes of law and liable to be dismissed.

19. The Petition is also not maintainable as the HPPTCL has explicitly stated its intention to file a review Petition before the Hon'ble CERC against its Order dated 18.05.2024. The pendency of a review or appeal before the appropriate forum bars the initiation of parallel proceedings under the principle of *lis pendens*. It is submitted that the Hon'ble Supreme Court in K.K. Modi v. K.N. Modi (1998) 3 SCC 573 has held that parallel proceedings in different forums on the same issue undermine the sanctity of judicial processes and lead to conflicting decisions. The Petitioner's stated intention to challenge the CERC's order precludes this Commission from entertaining the matter until the

classification of the asset as ISTS or Intra STS is conclusively decided. Additionally, jurisdiction to classify assets as ISTS or Intra STS lies exclusively with the CERC under Section 79(l)(c) of the Electricity Act, 2003, as held in "Energy Watchdog v. CERC" (2017) 14 SCC 80, wherein, the Hon'ble Supreme Court has clarified the regulatory boundaries of the Central Commission in inter-state matters. Therefore, the Commission lacks jurisdiction to adjudicate issues arising directly from the CERC's decision.

20. According to the Respondent, the Karian GIS Sub-station and the associated double circuit line from Karian to Rajera were conceptualized and constructed to facilitate inter-state power transmission. Imposing transmission charges exclusively on the HPSEBL under the Intra-state framework violates the principles of equity and fairness. The Respondent has submitted that if it alone is made to bear these charges, it will result in higher tariffs for electricity consumers in Himachal Pradesh, which is contrary to public interest.

21. Further, the asset in question meets the criteria for ISTS, as it was designed to cater to Inter-state transmission and the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020 (CERC

Sharing Regulations, 2020 for short), provide a robust framework for equitable recovery of transmission charges under the Point of Connection (PoC) mechanism for assets serving inter-state power flows.

22. The Petitioner/HPPTCL, having previously sought classification of the assets as ISTS before the Hon'ble CERC, is stopped from now claiming recovery under the Intra-state transmission framework. It is settled law that a party cannot approbate and reprobate by taking inconsistent stands in different forums. Hence, the Petitioner/HPPTCL's shift in position undermines regulatory certainty and fairness. As such, the instant petition is liable to be dismissed.

23. It is averred that it is due to the omission on the part of the Petitioner that the certification of the NRPC was not taken beyond the FY 2019-20. The findings of the Hon'ble CERC are very much clear which clearly demonstrate the failure of the Petitioner qua the certification.

24. The HPSEBL has further submitted that a decision remains under judicial consideration until all remedies, including reviews, are exhausted. Entertaining the present Petition at this stage

would amount to pre-empting the outcome of the Review Petition, which is impermissible.

25. The HPSEBL has submitted that in the event the HPPTCL fails to diligently pursue its Review Petition or an Appeal against the Hon'ble CERC's Order, the Respondent/HPSEBL reserves its right to file an appeal before the Hon'ble Appellate Tribunal for Electricity (APTEL) under Section 111 of the Electricity Act, 2003. As a directly affected party, the HPSEBL has *locus standi* to challenge the Hon'ble CERC's Order and seek classification of the assets as ISTS to ensure recovery of charges under the PoC mechanism. It is submitted that utilities adversely affected by regulatory decisions have the right to seek judicial redress to protect their financial and operational interests. As such, keeping in view the above position, the Petition by the Petitioner is devoid of merits and liable to be dismissed.

#### **REJOINDER FILED BY THE PETITIONER**

26. With regard to maintainability of the Petition, the HPPTCL has submitted that the instant Petition has already been admitted by the Commission vide order dated 22.11.2024 under Section 86 (1) (f) of the Act. Therefore, the question of maintainability does not arise. It is further submitted that the instant petition has been

filed in compliance to the direction of the Commission vide its letter dated 16.07.2024 wherein the Commission had directed the Petitioner to approach the Commission by way of separate Petition for seeking the recovery of the transmission charges.

27. With regards the Respondent's assertion regarding parallel proceedings, it is submitted that the recovery of transmission charges have been requested as per the decision of the Hon'ble CERC since the instant assets except the transmission line for FY 2019-20 are Intra-State assets and thus fall under this Commission's jurisdiction.

28. With regard to recovery of transmission charges from the HPSEBL, it is mentioned that the assets in question were commissioned on 12.05.2018 and since then have been utilised solely by the HPSEBL and therefore, transmission charges as determined by this Commission in Petition No. 98/2020 are required to be paid by the Respondent.

29. With regard to recovery through PoC mechanism, the Respondent is not the deciding authority with regards to classification of the assets as Intra or Inter-State. The nature of the assets has been decided by the Hon'ble CERC and in terms of the same, the Petitioner has sought the recovery of the transmission

charges which has been determined by the Commission vide Order dated 01.11.2021 in Petition No. 98 of 2020.

30. According to the Petitioner, it had initially filed Petition No. 550/TT/2014 before the Hon'ble CERC for determination of tariff of the Karian transmission system which was disposed off with liberty to file fresh Petition for inclusion of assets under PoC mechanism after the approval of tariff by the State Commission. Accordingly, the Petitioner filed Petition No. 98 of 2020 before this Commission and the Commission vide Order dated 01.11.2021 approved the transmission charges and directed the Petitioner to file suitable application before the Hon'ble CERC for inclusion of asset under PoC mechanism with liberty to file appropriate application for recovery of transmission charges in case the assets are not declared Inter-state. In compliance to the same, the Petitioner had filed a Petition before the Hon'ble CERC seeking inclusion of instant assets under PoC mechanism for recovery of the transmission charges from COD to FY 2023-24 wherein the Hon'ble CERC vide its order in Petition No. 05/MP/2022 has held that from 01.04.2020, the instant assets, are part of intra-State system and recovery is to be done accordingly. The said Order of the Hon'ble CERC is effective and applicable and thus, the

submission made by the Respondent is factually incorrect, misleading and devoid of merit. The same are therefore categorically denied.

31. During the proceedings before the Hon'ble CERC in Petition No. 05/MP/2022, the Respondent/ HPSEBL, has not made any representation regarding the classification of the subject assets, despite being fully aware that such classification could have a significant impact on the HPSEBL, particularly if the assets were declared as part of ISTS. The Respondent has not even sought or initiated any remedial measures post the Hon'ble CERC' s Order and it is the HPPTCL which has sought review of the decision of the Order in Petition No. 05/MP/2022 and therefore, the submissions made by the Respondent are superficial and liable to be rejected.

32. It is submitted that the Hon'ble CERC has classified the assets as Intra-State, yet the recovery of the transmission charges are still pending and the delay continues to adversely affect the financial position of the Petitioner.

33. In reply to the averments made with respect to the certification from NRPC, the HPPTCL has submitted that the certification process post FY 2019-20 was withdrawn due to



notification of the CERC Sharing Regulations, 2020. Therefore, there is no omission on the part of the Petitioner. It has been further submitted that in reply to the HPPTCL's letter dated 06.08.2020, in a similar matter of certification of 220kV Charor-Banala Transmission line as ISTS, the NRPC, vide letter dated 24.08.2021, has informed that the work of certification of non-ISTS lines carrying ISTS power had been withdrawn with effect from notification of the 2020 Sharing Regulations from 01.11.2020. NRPC had categorically stated that HPPTCL may approach the CERC for getting the certification of the instant asset as an Inter-state asset, which was promptly done by the HPPTCL.

34. We have heard Sh. Virender Kumar, DGM alongwith Tariff Consultant, for the Petitioner and Sh. Kamlesh Saklani, Authorised Representative for the Respondent and have perused the submissions made by the parties and the entire record carefully.

#### **POINTS FOR DETERMINATION**

35. We have gone through the submissions of the parties and the record. The following points arise for determination in the present Petition:

**Point No. 1:** Whether the Respondent is liable to pay the transmission charges for the period from 01.04.2020 to 31.03.2024 alongwith carrying cost?

**Point No. 2:** Whether the Respondent is liable to pay the transmission charges for the period from COD to 31.03.2020 in respect of 33/220 kV, 50/63 MVA GIS Karian Sub-station (Asset-1)alongwith the carrying cost?

**Point No. 3:** Whether the Respondent is liable to pay the transmission charges for the period prior to 01.04.2019 for Karian-Rajera Transmission line (Asset-2)?

**Point No. 4:** Whether the Respondent is liable to pay the balance half of the transmission charges of transmission line (Asset-2) for the period 01.04.2019 to 31.03.2020?

**Point No. 5: Final Order**

36. For the reasons to be recorded hereinafter in writing, our point wise findings are as under:-

**Point No. 1:** Partly Yes

**Point No. 2:** Partly Yes

**Point No. 3:** No

**Point No. 4:** No

**Point No. 5:** Petition partly allowed as per operative part  
of the Order

### **REASONS FOR FINDINGS**

#### **Point No. 1**

37. It is evident from the record that the Hon'ble CERC has declined to consider the 33/220 kV GIS Sub-station at Karian along with 220 kV D/C transmission line from Karian to Rajera as an Inter-State Transmission System vide order dated 18.05.2024 in Petition No. 05/MP/2022 and has held that it shall continue to be an Intra-state Transmission System under the jurisdiction of the State Commission.

38. Apparently, the jurisdiction to classify transmission assets as Inter-state or Intra-state lies exclusively with the Hon'ble CERC, under Section 79(l)(c) of the Electricity Act, 2003, as held in Energy Watchdog v. CERC (2017) 14 SCC 80, wherein, the Hon'ble Supreme Court has clarified the regulatory boundaries of the Central Commission in Inter-state matters. Therefore, this Commission lacks jurisdiction to adjudicate issues arising directly from the jurisdiction of the Hon'ble CERC.

39. Though the Petition is silent about the agreement signed by the Petitioner with the beneficiaries but if such agreements have been signed, the beneficiaries are liable to pay the transmission charges for the use of the transmission system as per the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2011, as amended from time to time (HPERC Transmission Tariff Regulations, 2011 for short). Accordingly, the Commission allows the Petitioners to recover the transmission charges of the transmission system from the Respondent and the beneficiaries provided the Transmission Service Agreements are duly signed with them, in accordance with the tariff order dated 1<sup>st</sup> November, 2021 in Petition No. 98/2020, as per the provisions of the HPERC Transmission Tariff Regulations, 2011 for the period 01.04.2020 to 31.03.2024.

40. However, with respect to the carrying cost, the Commission observes that the Petitioner took significant time for filing the Petition after achieving COD and also for responding to the queries of the Commission. Therefore, the Commission is of the view that the beneficiaries should not be made to bear the carrying cost for the lack of promptness of the Petitioner till issuance of the

Order dated 01.11.2021 by this Commission in Petition No. 98/2020. Further, the process for classification of the Transmission Assets as Inter-state or Intra-state before the Hon'ble CERC has also taken a considerable time. Therefore, this time period too cannot be attributed to the Respondent or the beneficiaries of the system. As such, there are no reasons for allowing the carrying cost to the Petitioner as claimed. Point No. 1 is accordingly decided partly in favour of the Petitioner and partly against it.

**Point No. 2**

41. It is observed that even though NRPC has certified that the transmission line carries Inter-state power, it is to be noted that both the transmission line and GIS Sub-station were commissioned simultaneously and are part of the same scheme. Accordingly, the ARR corresponding to both the Sub-station and transmission line were to be included under the PoC mechanism.

42. However, as observed above, the jurisdiction to classify assets as Inter-state or Intra-state lies exclusively with the Hon'ble CERC under Section 79(1)(c) of the Electricity Act, 2003, as held in *Energy Watchdog v. CERC* (2017) 14 SCC 80, wherein, the Hon'ble Supreme Court has clarified the regulatory boundaries of the Central Commission in inter-state matters. Therefore, this

Commission lacks jurisdiction to adjudicate the issues where the Hon'ble CERC has its exclusive jurisdiction. The Hon'ble CERC in its order dated 18.05.2024 in Petition No. 05/MP/2022 has clearly held that the Sub-station is separate transmission element for which the Petitioner had obtained a separate charging certificates from the HP Electrical Inspectorate and the SLDC. Therefore, Karian Sub-station cannot be included in POC having not been certified by the NRPC. Para 26 of the order of the Hon'ble CERC is reproduced as under:-

*“26.... We find that the Sub-station is a separate transmission element for which the Petitioner has obtained a separate charging certificate from the HP electrical inspectorate and charging from SLDC. We are of the view that the Karian substation cannot be included in PoC since it has not been certified by NRPC for any period prior to 1.11.2020.”*  
....”

43. Since, said asset continued to be an Intra-state system under the jurisdiction of this Commission, the Petitioner is required to recover the transmission charges from the Respondent/ beneficiaries of the system provided the HPPTCL had signed agreements with them. Accordingly, the Commission decides to permit recovery of the transmission charges by the Petitioner from the Respondent/ beneficiaries for the period from COD to 31.03.2020, as determined by this Commission in tariff order dated 1<sup>st</sup> November, 2021 in Petition No. 98/2020, as per the provisions

of the HPERC Transmission Tariff Regulations, 2011, in respect of 33/220 kV, 50/63 MVA GIS Karian Sub-station (Asset-1). However, no carrying cost is allowed for the period from COD to 31.03.2020 as discussed under Point No. 1 above. Point No. 2 is accordingly decided partly in favour of the Petitioner and partly against it.

### **Point No. 3**

44. Clause 2.1.3 of Annexure-I of the Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010, as amended from time to time, provides as follows:

*“Certification of non-ISTS lines carrying inter-state power, which were not approved by the RPCs on the date of notification of the Central Electricity Regulatory Commission (Sharing of Transmission Charges and Losses) Regulations, 2009, shall be done on the basis of load flow studies. For this purpose, STU shall put up proposal to the respective RPC Secretariat for approval. RPC Secretariat, in consultation with RLDC, using WebNet software would examine the proposal. The results of the load flow studies and participation factor indicating flow of Inter State power on these lines shall be used to compute the percentage of usage of these lines as interstate transmission. The software in the considered scenario will give percentage of usage of these lines by, home state and other than home state for testing the usage, tariff of similar ISTS line may be used. The tariff of the line will also be allocated by software to the home state and other than home state. Based on percentage usage of ISTS in base case, RPC will approve whether the particular state line is being used as ISTS or not.”*

45. As per the above, lines owned by STUs but being used for carrying Inter-state power as certified by respective RPCs is to be

considered under the POC calculations as per asset-wise tariff approved by the respective State Commission.

46. It is apparent that data on the basis of which the asset was certified as carrying Inter-state power was of FY2018-19, which clearly indicates that the nature of power flow for the Karian-Rajera Transmission line (Asset-2) has Inter-state flow, as has also been noted by the NRPC. However, the Hon'ble CERC, in its Order dated 18.05.2024 in Petition No. 05/MP/2022, has ruled that based on the certification of NRPC, the said Transmission Line becomes eligible to be considered as Inter-state line for the period from 01.04.2019 to 31.03.2020 only.

47. A careful perusal of the Hon'ble CERC order dated 18.05.2024 in Petition No. 05/MP/2022 shows that the Hon'ble CERC is silent on the treatment of the line in question as Inter-state or Intra-state line for the period prior to 01.04.2019. No record of the review preferred before the Hon'ble CERC has been placed on record. Therefore, this Commission finds no valid reasons to allow recovery of the transmission charges for the said line from the Respondent for this period prior to 01.04.2019, particularly, when the Asset has been considered as Inter-state line for the next financial year based on the data pertaining to the



period in question. Point No. 3 is accordingly decided against the Petitioner.

48. The Petitioner, if so advised, may file Review Petition before the Hon'ble CERC and seek appropriate clarification whether the line in question is to be treated as Inter-state or Intra-state for the period prior to 01.04.2019.

**Point No. 4**

49. The Hon'ble CERC has held that out of two circuits of the transmission line. One circuit is inter-state and the second circuit is Intra-state. In the circumstances, the Hon'ble CERC has allowed recovery of only half of the transmission charges of transmission line for FY 2019-20 assuming that the tariff determined by this Commission for FY 2019-20 pertains to Double circuit line even though the second circuit was charged in FY 2020-21 and the tariff of second circuit is allowed by the Commission from FY 2020-21 onwards only.

50. No record of the review preferred before the Hon'ble CERC has been placed on record.

51. Therefore, in view of the above, the Commission feels that the Beneficiaries are not liable to pay the transmission charges for the second circuit of the Karian-Rajera Transmission line (Asset-2)

for FY 2019-20. Point No. 4 is accordingly decided against the Petitioner.

### **Final Order**

52. In view of the aforesaid discussions and findings, the Petition partly succeeded and partly allowed. The Respondent is directed to pay the transmission charges for both the Assets for the period from 01.04.2020 to 31.03.2024 and for the period from COD to 31.03.2020 in respect of 33/220 kV, 50/63 MVA GIS Karian Substation (Asset-1) in accordance with this Commission's Order dated 01.11.2021 in Petition No. 98/ 2020 to the Petitioner, as per the provisions of the HPERC (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2011, as amended from time to time. However, in case the Petitioner has signed the Transmission Service Agreements with the other beneficiaries of the transmission system, such charges shall be recovered from the Respondent and the beneficiaries of the system as per Regulations.

53. However, the Petition for allowing recovery of transmission charges for the period prior to 01.04.2019 for Asset-1, recovery of balance half of transmission charges for Asset-2 for the period

01.04.2019 to 31.03.2020 and for allowing carrying cost is dismissed.

54. The pending applications, if any, are also deemed to have been disposed off.

Let a copy of this Order be supplied to the parties forthwith.

The file after needful be consigned to records.

Announced  
**28.04.2025**

-Sd-  
(Shashi Kant Joshi)  
Member

-Sd-  
(Yashwant Singh Chogal)  
Member (Law)

-Sd-  
(Devendra Kumar Sharma)  
Chairman