APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI
(APPELLATE JURISDICTION)

APPEAL NO. 267 OF 2018,
APPEAL NO. 274 OF 2018
&
APPEAL NO. 415 OF 2019 &
IA NOS. 1226 & 347 OF 2021

Dated : 14.11.2022

Present: Hon'ble Mr. Justice R. K. Gauba, Officiating Chairperson
Hon'ble Mr. Sandesh Kumar Sharma, Technical Member

APPEAL NO. 267 OF 2018

In the matter of:
Rajasthan Rajya Vidyut Prasaran Nigam Limited
Through its Managing Director
Vidyut Bhawan, Jyoti Nagar,
Jaipur – 302005 **………Appellant**

Versus

1. **Power Grid Corporation of India Ltd.**
Through its Managing Director
Saudamini, Plot No. 2, Sector-29,
Near IFFCO Chowk,
Gurgaon-122 001.

2. **Haryana Vidyut Prasaran Nigam**
Through its Managing Director
Shakti Bhawan, Sector-6,
Panchkula-134109.

3. **Haryana Power Purchase Centre**
Through its Managing Director
2nd Floor, Shakti Bhawan, Sector-6
Panchkula (Haryana) 134 109

4. **M. P. Power Transmission Company Ltd.**
Through its Managing Director
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur-482008.

5. **M. P. Power Management Company Ltd.**
Through its Managing Director
Block No. 11, 1st Floor, Shakti Bhawan,
Rampur, Jabalpur-482008.

6. **Delhi Transco Ltd.**
Through its General Manager (Commercial)
2nd Floor, 33 kV Grid Sub-Station,
I.P. Estate, Near Vikas Bhawan,
New Delhi-110 002

7. **BSES Yamuna Power Ltd.**
Through its Managing Director
BSES Bhawan, Nehru Place,
New Delhi - 110019

8. **BSES Rajdhani Power Ltd,**
Through its Managing Director
BSES Bhawan, Nehru Place,
New Delhi - 110019

9. **Tata Power Delhi Distribution Limited**
(Formerly known as North Delhi Power Ltd.)
Through its Managing Director
Power Trading and Load Dispatch Group,
CENNET Building, Pitampura,
New Delhi – 110034

10. **U.P. Power Transmission Corporation Ltd,**
Through its Managing Director
Shakti Bhawan, 14, Ashok Marg,
Lucknow – 226001.

11. **U.P. Power Corporation Ltd,**
Through its Managing Director
Shakti Bhawan, 14, Ashok Marg,
Lucknow – 226001

12. **Central Electricity Regulatory Commission**
Through its Secretary
3rd and 4th Floor, Chandralok Building,
36, Janpath, New Delhi – 110 001 **………Respondents**

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APPEAL NO. 274 OF 2018

In the matter of:
Rajasthan Rajya Vidyut Prasaran Nigam Limited
Through its Managing Director
Vidyut Bhawan, Jyoti Nagar,
Jaipur – 302005 **………Appellant**

Versus

1. **Power Grid Corporation of India Ltd.**
   Through its Managing Director
   Saudamini, Plot No. 2, Sector-29,
   Near IFFCO Chowk,
   Gurgaon-122 001.

2. **Haryana Vidyut Prasaran Nigam Limited**
   Through its Managing Director
   Shakti Bhawan, Sector-6,
   Panchkula-134109.

3. Haryana Power Purchase Centre
Through its Managing Director
2nd Floor, Shakti Bhawan, Sector-6
Panchkula (Haryana) 134 109

4. M. P. Power Transmission Company Ltd.
Through its Managing Director
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur-482008.

5. M. P. Power Management Company Ltd.
Through its Managing Director
Block No. 11, 1st Floor, Shakti Bhawan,
Rampur, Jabalpur-482008.

6. Delhi Transco Ltd.
Through its General Manager (Commercial)
2nd Floor, 33 kV Grid Sub-Station,
I.P. Estate, Near Vikas Bhawan,
New Delhi-110 002

7. BSES Yamuna Power Ltd.
Through its Managing Director
BSES Bhawan, Nehru Place,
New Delhi-110019

8. BSES Rajdhani Power Ltd,
Through its Managing Director
BSES Bhawan, Nehru Place,
New Delhi-110019

9. Tata Power Delhi Distribution Limited
(Formerly known as North Delhi Power Ltd.)
Through its Managing Director
Power Trading and Load Dispatch Group,
CENNET Building, Pitampura,
New Delhi – 110034

10. U.P. Power Transmission Corporation Ltd,
Through its Managing Director
Shakti Bhawan, 14, Ashok Marg,
Lucknow – 226001.

11. U.P. Power Corporation Ltd,
Through its Managing Director
Shakti Bhawan, 14, Ashok Marg,
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12. Central Electricity Regulatory Commission
Through its Secretary
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Mr. Ravi Sharma
Mr. Ravinder Khare
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APPEAL NO. 415 OF 2019 &
IA NOS. 1226 & 347 OF 2021

In the matter of:
Madhya Pradesh Power Transmission Company Limited
Block No. 2, Shakti Bhawan,
Rampur, Jabalpur - 482008 **………Appellant**

Versus

1. Central Transmission Utility of India Ltd.,
(Erstwhile Powergrid Corporation of India Ltd.)
Through its Managing Director
Saudamini, Plot No. 2, Sector-29,

Gurgaon, Haryana-122 001

2. **Maharashtra State Electricity Transmission Co. Ltd. (MSETCL),**
Through its Managing Director
4th Floor, A wing Prakashganga E-Block,
Plot No. C-19 BKC Bandra (East), Mumbai
Maharashtra – 400051

3. **Gujarat Energy Transmission Corporation Ltd.,**
Through its Managing Director
Sardar Patel Vidyut Bhawan, Race Course,
Vadodara, Gujrat-390007

4. **Chhattisgarh State Power Transmission Company Ltd., (CSPTCL),**
Through its Managing Director
SLDC Building, CSEB,
Daganiya, Raipur, Chhattisgarh – 492013

5. **Rajasthan Rajya Vidhyut Prasaran Nigam Ltd. (RVPNL),**
Through its Managing Director
Room No. 223, Vidhyut Bhawan, Janpath,
Jaipur, Rajasthan-302005

6. **Uttar Pradesh Power Corporation Limited (UPPCL)**
Through its Managing Director
"Shakti Bhawan", 14 Ashok Marg,
Lucknow, Uttar Pradesh-226001

7. **Central Electricity Regulatory Commission**
Through its Secretary
3rd and 4th Floor, Chandralok Building,
36, Janpath, New Delhi – 110 001 ………Respondents

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Mr. Sitesh Mukherjee
Ms. Abiha Zaidi
Ms. Harneet Kaur
Mr. Arjun Agarwal
Mr. Aryaman Saxena
Mr. Abhishek Kumar for R-1

Mr. Nirnay Gupta for R-4

Mr. Rajiv Srivastava
Ms. Gargi Srivastava for R-6

J U D G M E N T

PER HON'BLE MR. SANDESH KUMAR SHARMA, TECHNICAL MEMBER

1. The captioned appeals have been filed by M/s. Rajasthan Rajya Vidyut Prasaran Nigam Limited (RRVPNL) (the "Appellant" in the first and the second captioned appeals) and Madhya Pradesh Power Transmission Company Limited (the "Appellant" in the third captioned appeal) having grievances against the orders passed by the Central Electricity Regulatory Commission (hereinafter referred as "Central Commission" or "CERC),whereby the transmission lines of the said Appellants have been held as deemed Inter-State Transmission Lines ("ISTS") for which tariff is determined through the Point of Connection ("POC") mechanism in accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2014 (hereinafter referred to "Tariff Regulations 2014) and Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses), Regulations 2010 (hereinafter referred to as "Sharing Regulations, 2010")*inter alia* deciding the useful life of the said transmission lines for the purpose of tariff determination.

2. The first and second captioned Appeals Nos. 267 of 2018 and 274 of 2018 have been filed by M/s. Rajasthan Rajya Vidyut Prasaran Nigam Limited

(in short “RRVPNL”or “Appellant”)assailing the Order dated 20.06.2018 passed in Petition No. 215/TT/2017determining the transmission tariff for Financial Year (FY) 2017-18 and Order dated 04.05.2018 passed in Petition No.112/TT/2017 for FY 2014-15 to FY 2016-17 respectively by the Central Electricity Regulatory Commission wherein the Central Commission has determined the POC Charges for twenty Transmission Lines of RRVPNL.

3. The third captioned Appeal No. 415 of 2019 has been filed by M/s. Madhya Pradesh Power Transmission Company Limited (in short “MPPTCL” or “2nd Appellant”)challenging the Order dated 19.12.2017 passed by the Central Electricity Regulatory Commissionin Petition No. 88/TT/2017 read with the Order dated 12.06.2019 passed in Review Petition 11/RP/2018**,**by the said impugned orders, the Central Commission has determined the transmission tariff for the FY 2014-15 to FY 2018-19 under POC Charges methodology for eleven Transmission Lines of MPPTCL.

4. The Appellant, M/s. RRVPNL is a company incorporated under the Company Act, 1956, a State Government owned Undertaking vested with the functions ofTransmission Licensee in the State of Rajasthan. The Appellant-2 i.e. MPPTCL is a company owned by the Government of Madhya Pradesh and is a Transmission Licensee in the State of Madhya Pradesh.

5. The Central Electricity Regulatory Commission, Respondent No. 12 in the first two captioned appeals and Respondent No. 7 in the third captioned appeal is a Statutory Body constituted under Section 76 of the Electricity Act, 2003 (the “Act”) having powers to adjudicate the disputes as raised in the captioned appeals under the provisions of the Act.

6. The other respondents in the three captioned appeals are the Generating

Companies or the Transmission/Distribution Licensees of various State Governments and also the Respondent Power Grid Corporation of India Limited (in short “PGCIL”), vested with the functions of Central Transmission Utility (in short “CTU”) before the CTU was carved out as a separate Government Company.

7. All the captioned appeals are challenging only one issue that the Central Commission has adopted a new methodology for determination of tariff of the transmission linesas considered in its earlier Order dated 19.12.2017, wherein the useful life of the State Transmission Lines has been taken as 25 years as against the 35 years defined for ISTS lines of PGCIL and other ISTS licensees as mandated in the CERC Tariff Regulations.

8. It was submitted that for such Deemed ISTS lines which are more than and equal to 25 years old,the tariff is restricted to only O&M expenses and Interest on Working Capital (IWC) as per the Tariff Regulations. Further the methodology as adopted provides that the assets put into the commercial operation on or after 01.04.2014 than their tariff shall be determined on the basis of the audited financial capital cost of each asset.

9. Separately the Central Commission has directed the Appellants to file a fresh petition in respect of Deemed ISTS lines which are placed under commercial operation on or after 01.04.2014.

10. During the hearing, the Appellants had submitted that the only issue which they are challenging is the consideration of useful life of the said deemed ISTS lines as 25 years for the purpose of computing the Transmission Charges under POC mechanism as against the 35 years of useful life as prescribed in the Tariff Regulations, 2014 and the earlier notified regulations for the ISTSlines

owned by the ISTSlicensees,this having resulted into a curtailment of useful life which have not completed even their 35 years of service as on 01.04.2014 and the tariff is restricted to O&M expenses and IWC only.

11. It is the grievance raised before us that the Central Commission has not determined the tariff in accordance with the Tariff Regulations, 2014 framed under the Act and thus acted against the well settled principles governing that the Electricity Regulatory Commission is bound by the Regulations, if notified.

12. It was also added by the Appellants that the Central Commission has not considered the fact that any deemed ISTS line if not completed its useful life of 35 years and also not covered under the POC mechanism to be decided by the Central Commission, the State Commission would have decided the tariff till completion of 35 years of useful life resulted into reconsideration of the depreciation of the asset till the end of the useful life i.e. 35 years which now have been curtailed to a shorter period thus denying the legitimate dues to the Appellants as per the prevailing regulatory regime.

13. The Appellants also argued that the Central Commission while passing the impugned orders have not taken ainconsistent stand in regard to its earlier order dated 18.03.2015 in Petition No. 213/TT2013 relating to the Deemed ISTS Lines owned and operated by the Appellants wherein the Central Commission has determined the Tariff on the following basis:

a) Considering the useful life of the Transmission Asset to be 35 years.

b) The audited capital cost for the instant Transmission Line was not available even at the time of passing of the order dated

18.03.2015 and in the absence of the audited capital cost, the State Commission determined the only revenue requirement considering the useful life of the Transmission Line as 35 years in accordance with the useful life prescribed in the Tariff Regulations, 2009.

14. Therefore, in the light of the above, the Appellants are assailing the impugned orders wherein the useful life of the Deemed ISTS lines has been limited to 25 years instead of 35 yeas reason being that the audited accounts are not available.

15. Our attention was invited to the CERC's Sharing Regulations, 2010 which provide that in the absence of asset wise tariff by the State Commission, '*the methodology for computation of tariff of individual asset shall be similar to the methodology adopted for the ISTS transmission licensees and shall be based on ARR of the STU as approved by the respective State Commission*'.

16. The Appellants have submitted that the Central Commission has acted contrary to its own Regulations by not considering the tariff methodology, as determined by the State Commission in its ARR, the Central Commission should have determined the tariff by considering the methodology being followed by the State Commission i.e. consideration of the useful life of an asset as 35 years.

17. In addition to above, the Appellants also submitted that the methodology was conceptualized and adopted by the Central Commission without affording an opportunity of being heard to the Appellants, thus failed in upholding theprinciples of transparency and natural justice as expectedfrom the Electricity Regulatory Commission by giving an opportunity to the stakeholdersfor

submitting their comments/ suggestions, also added thatin the present case, no public hearing was held, even no opportunity was given to make suggestions, comments and objections in respect of the above methodology, as mandated by Section 64 and 79(3) of the Electricity Act 2003.

18. Further, added that the Central Commission has not considered that both the old and the new Transmission Lines are providing the same level of service and should be serviced equally, as observed by the Central Commission in the Statement of Reasons to the Sharing Regulations (Third Amendment), 2015, reproduced as under:

> *"15.22 As both old and new lines give same transmission service, the proposal to give O&M charges only for the very old lines is dropped"*

19. The Appellant, thus argued that the old transmission for providing the same service as new lines than should not be deprived from servicing of all of their tariff components.

20. During the hearing it has been prayed by the Appellants that while deciding the impugned methodology for recovery of the Transmission Charges, the same has been changed giving effect retrospectively w.e.f. 01.04.2014 whereas the Impugned Orders are passed after a gap of almost 3 to 4 years, additionally in the case of Appellant-2, vide Order dated 15.10.2015, the Appellant-2 was permitted by the Central Commission to recover the tariff for the above 11 assets at a specified rate, however, the tariff now determined under the impugned order dated 19.12.2017 is much lower which will result in substantial financial adjustments adverse to the Appellant-2.

21. During the final hearing, there was no representation for the Central Commission as also remained absent from the earlier proceedings in these matters, also have not submitted its reply even after given many chances in the previous proceedings.

22. Therefore, it was decided to adjudicate the matter on the basis of the impugned orders passed by the Central Commission. The relevant extract from the impugned order dated 20.06.2018 passed in Petition no. 215/TT/2017 is reproduced as under:

> *"13. Some of the State Utilities have filed similar petitions claiming tariff of inter-State transmission lines connecting two States for the 2014-19 tariff periods as per the directions of the Commission. The information submitted by the State Utilities is incomplete and inconsistent. Further, some of the lines were more than 25 years old and the States were not having the details of the capital cost, Funding, etc. To overcome these difficulties, the Commission evolved a methodology for allowing transmission charges for such transmission lines connecting two States in orders dated 19.12.2017 in Petition Nos. 88/TT/2017, 173/TT/2016 and 168/TT/2016 filed by Madhya Pradesh Power Transmission Corporation Limited, Maharashtra State Electricity Regulatory Commission and Uttar Pradesh Power Transmission Corporation Limited respectively. The Commission adopted the same methodology in order dated 4.5.2018 in Petition No.112/TT/2017, while granting tariff for ISTS connecting Rajasthan with other States and owned by Rajasthan Rajya Vidyut Prasaran Limited. The Commission derived the benchmark cost on the basis of the transmission lines owned by PGCIL. The useful life of the transmission line was considered as 25*

years and for lines more than or equal to 25 years, only O & M Expenses and Interest on Working Capital (IWC) is decided to be allowed as per the existing Tariff Regulations. For assets put into commercial operation on or after 1.4.2014, tariff is decided to be allowed on the basis of the audited financial capital cost. The relevant portion of the order dated 4.5.2018 is extracted hereunder: -

> *"13. It is observed that the information submitted by the petitioner States for computation of transmission charges for the deemed ISTS lines are not uniform, thereby causing divergence in working out the tariff. In some cases, the data related to funding and depreciation was not available and in some cases the assets have already completed, or nearing, their useful life. In most of the petitions, the states have expressed their inability to furnish the audited capital cost of transmission lines as the lines are old. As a result, tariff workings for old assets are ending in skewed results. It is further observed that the YTC figures emerging out by the existing ARR methodology are on the higher side. Considering these facts, we have conceptualized a modified methodology for determining the tariff of the inter-State transmission lines. The methodology is broadly based on the following: -*
>
> *(a) PGCIL's Annual Report data has been used as the reference data; based on which, year wise benchmark cost has been derived.*
>
> *(b) Useful life of Transmission Line has been considered as 25 years. Thus, if life is more than or equal to 25 years as on 1.4.2014, only O & M Expenses and Interest on Working*

Capital (IWC) shall be allowed as per the existing Tariff Regulations, in lieu of complete tariff.

(c) It is expected that the States do have the audited financial data of recently commissioned (i.e. on or after 1.4.2014) lines.

<u>Tariff Methodology</u>

14. As per the petitions filed by the states, their ISTS lines generally have the configuration of 132 kV, 220 kV or 400 kV. In the absence of an established tariff data base, in order to develop this methodology Annual Reports of PGCIL from 1989-90 to 2013-14 have been referred to. The Annual Reports depict, inter alia, the information pertaining to year wise total length of transmission lines in ckt-km and corresponding Gross Block. This pan-India data represents all the five transmission regions and is a composite mix of parameters like terrains, wind-zones, tower and conductor type etc. +/- 500 kV HVDC and 765 kV and above voltage level AC lines too have come up in between and the data also includes those lines. Voltage level-wise data as on 30th April 2017, obtained from PGCIL indicates that the percentage of 220 kV, 132 kV and 66 kV Transmission Line taken together makes it around 8.3 % of the total line length owned by PGCIL. Further, 132 kV Transmission Lines were established in NER prior to 1990, and Transmission Lines of 220 kV voltage levels were last commissioned in around the year 2004 in NR. Majority of the transmission lines consist of 400 kV which corresponds to 66% of the total transmission line lengths. Thus, the 400 kV and lesser voltage levels account for approximately 75% of the transmission lines.

Assuming the above referred spread of voltage wise percentages for earlier years too, it can be said that the year wise average Transmission Line cost figures derived from PGCIL data, when further reduced by 25%, fairly represent the average transmission line capital cost corresponding to a 400 kV S/C line. Considering 400 kV S/C transmission line cost as reference cost, analysis of PGCIL's indicative cost data (P/L Feb 2017) suggests the following: -

	Reference cost of 400 kV S/C TL	***` X lakh/km***
1.	*400 kV D/C TL*	*1.39 X*
2.	*220 kV D/C TL*	*0.57 X*
3.	*220 kV S/C TL*	*0.36 X*
4.	*132 kV D/C TL*	*0.43 X*
5.	*132 kV S/C TL*	*0.31 X*

15. Therefore, for arriving at the costs of transmission lines of other voltage levels and circuit configurations, the average transmission line cost data shall be multiplied by the factors illustrated in the above table. Lower voltage levels can be treated as part of 132 kV. The above table contemplates Twin Moose conductor which is widely used in State transmission lines.

16. Based on respective year end data, average transmission line length during the year has been worked out. Difference between a particular year's average transmission line length figures and that for the immediate preceding year provides us the transmission line length added during that year. Average *gross block corresponding to transmission lines has been divided by the average transmission line length to arrive at the Average Cost of transmission line (in ` lakh per ckt-km) during the year. Thus, considering the year of COD of a State's ISTS line and its ckt-km, its cost would be worked out by relating it to PGCIL's transmission line cost during that year. Although the Commission has relied on PGCIL's Annual Reports, there are certain deviations in the cost data worked out. The year 1989-90 was the year of incorporation for PGCIL, and the transmission assets of NTPC, NHPC, NEEPCO etc. were taken over by PGCIL by mid 1991-92. Thus, as the base data for these years was not available, the corresponding average cost of transmission line could not be worked out. The average cost from 1992-93 onwards up to 2013-14 shows an increasing trend at a CAGR of 5.17%. Therefore, for the years 1989-90, 1990-91 and 1991-92, the average cost of transmission line has been back derived considering the 1992-93 average cost. Similarly, abnormal dip/spikes in the transmission line cost for the years 1996-97, 2001-02 and 2004-05 has been corrected by considering the average values of the transmission line costs in the immediate preceding and succeeding years.*

17. While calculating tariff, the following has been considered:-

(i) Useful life of the transmission line shall be deemed to be 25 years.

(ii) Prevailing depreciation rates as per the 2014 Tariff Regulations shall be considered uniformly for all the previous tariff periods so as to do away with the Advance Against

Depreciation which was in vogue during earlier tariff periods. Notwithstanding the depreciation considered as recovered earlier, for the purpose of these tariff calculations, remaining depreciable value shall be spread over theremaining useful life of the transmission line, where the elapsed life is more than or equal to 12 years.

(iii) Normative Debt-Equity ratio shall be 70:30.

(iv) Normative loan repayment during a year shall be deemed to be equal to the depreciation allowed for that year.

(v) Rate of Interest on normative loan shall be the weighted average rate of interest as derived on the basis of PGCIL's Balance Sheet.

(vi) In order to avoid complexity, grossing up of rate of Return on Equity with tax rate is being dispensed with.

(vii) Bank rate as defined in 2014 Tariff Regulations, 2014 as on 1.4.2014 shall be applied for calculating the rate of interest on working capital on normative basis.

(viii) O & M Expenses as per the 2014 Tariff Regulations shall be considered.

(ix) Where the life of transmission line is more than or equal to 25 years as on 1.4.2014, only O & M Expenses and IWC shall be allowed in lieu of complete tariff.

18. Thus, in effect, this is a normative tariff working methodology which shall be applied in those cases where the audited capital cost information is not available."

23. From the above, the Central Commission has adopted the methodology wherein the useful life of the Deemed ISTS lines has been taken as 25 years as against the 35 years as specified in the regulations relevant i.e. Tariff Regulations 2014and the Sharing Regulations, 2010, without giving any

reasoning, even if the useful life would have been taken as 35 years, there could not have been any difficulty in determining the tariff.

24. It is settled principle that the Electricity Regulatory Commissions including the Central Commission are bound by the Regulations notified and once the notified Regulations specify useful life as 35 years, the Central Commission is bound to consider the useful life as 35 years for the Transmission Tariff.

25. The Respondent no. 5 (Madhya Pradesh Power Management Company Limited) has also submitted that:

> (i) That, the tariff determined for asset X is not in line with the CERC (Terms and Condition of Tariff) Regulations, 2014 (Tariff Regulation 2014), and CERC (Sharing of Interstate Transmission Charges and Losses) Regulations, 2010 (Sharing Regulation, 2010), i.e., useful life of the Assets should have been taken as 35 years in place of 25 years.
>
> (ii) That, the methodology was conceptualized and adopted by CERC without affording an opportunity of being heard to the affected stake holders. There was no public hearing or an opportunity to make suggestions, amend and objection in respect of new methodology adopted by CERC which is mandated by Section 64 and 79 (3) of Electricity Act, 2003.

26. The Respondent no. 1, PGCIL submitted that the Central Commission in the impugned order dated 12.06.2019 in Review Petition No. 11/RP/2018 has held that:

"11. We have examined the submissions of the Review Petitioner. On perusal of the record, we find that the tariff of inter-State transmission lines owned by the States, for 2011-12 to 2013-14 period, was determined after taking into consideration the ARR approved by respective State Regulatory Commissions and on examination the same was found on higher side. We further observe that during 2014-19 tariff period, some of the States expressed their inability in furnishing the capital cost of the lines and in many cases, the information furnished was not uniform, resulting in divergence in working out of the tariff. On account of the aforesaid complexities, the Commission modified its earlier methodology.

As regards the alleged delay in issuing the tariff order for the 2014-19 period, it is observed that there was delay on the part of the Review Petitioner in filing Petition No.88/TT/2017. The said petition was filed by the Review Petitioner on 24.3.2017, almost after three years of the start of the 2014-19 tariff period. Further, we are of the view that difficulties in implementation of an order cannot be a ground of review of the impugned order. Accordingly, the petitioner's prayer for review on this ground is rejected.

12. The second contention of the Review Petitioner is that the Commission should consider the useful life of the transmission assets as 35 years and not 25 years and as such the transmission tariff of Assets-IV,VII,X and XI should be allowed with all the elements of tariff. We have carefully examined this contention of the Review Petitioner. We have, after due consideration of all the facts, held that the useful life of these transmission lines would be 25 years. ***Our finding was***

> ***premised on the fact that the transmission lines which were commissioned way back, were treated as dedicated transmission lines associated with generating stations and the useful life of generating stations was considered as 25 years. Keeping these facts in mind, the life of old transmission lines was also considered and fixed as 25 years. In order to bring uniformity in working out the tariff of State-owned transmission lines carrying inter-State power, the Commission evolved the modified methodology with useful life as 25 years and the same has been applied uniformly on all the States.*** *We, however, observe that the concept of useful life of the assets contemplated under this methodology is at variance with the Commission's Tariff Regulations, but these are a separate class of transmission assets and is being applied uniformly across all the States. For these reasons, we do not consider it appropriate to enhance the useful life of the transmission lines as 35 years as submitted by the Review Petitioner. Consequently, we do not find any rationale to allow all the components of tariff for the Assets-IV, VII, X and XI. Thus, we see no error apparent on record on this ground. Review of the impugned order on this ground is accordingly rejected."*

27. From the above, it is observed that the only reason for considering the life of the State owned transmission as 25 years is that these lines were constructed as dedicated transmission lines associated with generating stations and the useful life of generating stations was considered as 25 years, however, on such an assumption, the Central Commission is bound to decide whether such lines were commissioned as dedicated transmission lines or not, a

concept which was brought into only in 2003 as one of the provisions introduced in the Act.

28. Further, the Central Commission has not examined and given a reasoned answer on whether the State Commissions have considered the useful life of these lines as 25 years or 35 years in the determination of ARR for these lines.

29. We strongly decline to accept such a contention without complete justification, even as transmission line constructed as associated transmission lines may not be the dedicated transmission lines.

30. Accordingly, as observed above, it is opined that the decision of the Central Commission for considering the useful life of the State owned Deemed ISTS lines as 25 years is not correct.The useful life of the subject transmission lines shall be the same as for the ISTS lines as specified in the Tariff Regulations 2014 and the Sharing Regulations, 2010 which is 35 years.

ORDER

For foregoing reasons as stated supra, we are of the considered view that the captioned Appeal No. 267 of 2018, Appeal No. 274 of 2018 and Appeal No. 415 of 2019 have merit and are allowed.

The impugned orders dated 20.06.2018 in Petition No. 215/TT/2017, dated 04.05.2018 in Petition No.112/TT/2017 and dated 19.12.2017 in Petition No. 88/TT/2017 read with the order dated 12.06.2019 in Review Petition 11/RP/2018 passed by the Central Electricity Regulatory Commission are set aside.

The Central Electricity Regulatory Commission is directed to revisit the impugned orders and pass the consequential orders in accordance with the observations made in the foregoing paragraphs.

PRONOUNCED IN THE OPEN COURT ON THIS 14th DAY OF NOVEMBER, 2022.

(Sandesh Kumar Sharma)
Technical Member

(Justice R. K. Gauba)
Officiating Chairperson

REPORTABLE / ~~NON-REPORTABLE~~

pr/mkj