

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY

(Appellate Jurisdiction)

DFR NO.378 OF 2021

Dated: **08.07.2022**

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

In the matter of:

TRANSMISSION CORPORATION OF ANDHRA PRADESH LTD.

[Through the Chief Engineer]

Power Systems, Planning & Designs

Vidyut Soudha,

Vijayawada-520004.

...APPELLANT

VERSUS

1. CENTRAL ELECTRICITY REGULATORY COMMISSION

[Through Secretary]

3rd & 4th Floor,

Chanderlok Building,

36, Janpath, New Delhi- 110001

2. TRANSMISSION CORPORATION OF TELANGANA LTD.

[Through Secretary]

6th Floor, A Block,

Vidyut Soudha,

Khairathabad, Hyderabad 500082

3. KARNATAKA POWER TRANSMISSION CORPORATION LTD.

[Through Secretary]

Kaveri Bhavan,

Kempegowda Road,

Bangalore-560 009

4. TAMIL NADU TRANSMISSION CORPORATION LTD.

[Through Secretary]

No. 144, Anna Salai,

Chennai-600002

5. ANDHRA PRADESH POWER COORDINATION COMMITTEE

[Through Secretary]

Through Chief Engineer (Commercial)

451 A Block, 4th Floor,

Vidyut Soudha,

Khairathabad, Hyderabad-500 082

6. GOVERNMENT OF PONDICHERRY

[Through the Head of Department]

Electricity Department,
137, NSC Bose Salai,
Puducherry - 605 001.

... RESPONDENTS

Counsel for the Appellant (s) : Mr. Sidhant Kumar
Ms. Manyaa Chandok
Counsel for the Respondent (s) : Mr. Anand K. Ganesan
Ms. Swapna Seshadri
Ms. Ritu Apurva for R-3

J U D G M E N T (O R A L)

PER HON'BLE JUSTICE R.K. GAUBA, OFFICIATING CHAIRPERSON

1. The appeal at hand assails the view taken by Central Electricity Regulatory Commission (*CERC*) by order dated 05.02.2020 in Petition No.10/TT/2019 and order dated 11.08.2021 in Petition No.18/RP/2020, the effect whereof essentially was that the prayer of the appellant – Transmission Corporation of Andhra Pradesh Limited (*AP Transco*) for determination of transmission tariff for 40 Inter-state Transmission Lines (ISTS) was declined for the period 2014-16. The second impugned order dated 11.08.2021 was passed on the petition seeking review of the first impugned decision dated 05.02.2020, the appellant herein having sought to point out that certain documents – SRPC certificates issued on 31.10.2016 and 23.11.2016 – had been glossed over and having also relied on fresh SRPC Certificates dated 11.09.2019 and 20.04.2020.

2. Simply put, the 40 ISTS lines are stated to have been in existence and use for transmission of electricity in the erstwhile State of Andhra Pradesh from prior to its bifurcation upon reorganization w.e.f. 01.04.2014. Post the bifurcation of the State, it is stated the transmission lines carry electricity from the State of Andhra Pradesh into the State of Telangana,

and also used by certain other neighbouring States of the southern region. The CERC, by its order dated 05.02.2020, had determined the transmission tariff for the period 2016-17 onwards accepting the proof that these are Inter-State Transmission lines. It, however, did not accept the contention for similar determination of transmission tariff by it declining to accept the lines as ISTS for the period 2014-16 on the ground that there was no proper certification from Southern Regional Power Committee (SRPC). It may be mentioned here that Regional Power Committee (RPC) is part of the establishment of the Central Electricity Authority, a statutory body established by the Electricity Act, 2003.

3. The first order did not accept the SRPC certificates issued on 31.10.2016 and 23.11.2016 for the reason, as explained by the review order, that they could not be given effect to for a retrospective period. Nonetheless, the appellant had relied on similar certificates issued by SRPC subsequently on 11.09.2019 & 20.04.2020. The Central Commission has rejected the certificate dated 11.09.2019 on the ground that it was issued to some other entity (TS Transco) and has also declined to look into the certificate dated 20.04.2020 on the ground that it is a document which came into existence subsequent to the original order dated 05.02.2020.

4. We find the approach of the Central Commission wholly inappropriate. It was the obligation of the Central Commission to inquire into the character of the transmission lines in question from the date of bifurcation of the State of Andhra Pradesh, it being an admitted fact that these transmission lines would carry electricity from geographical area of State of Andhra Pradesh into the geographical area of State of Telangana. The transmission lines are static and obviously would not have moved. If such position vis-à-vis these lines has been accepted from the period 2016-17 onwards, it defies logic as to how similar position could not have been

accepted for the previous two years, particularly when a statutory authority had supported the case to that effect by appropriate certificates.

5. What we notice as a disturbing fact in the impugned decision is that the Central Commission has refused to look into the certificate or examine their effect on the controversy. This seems to be unfair, creating a vacuum leading to uncertainty.

6. For the above reasons, we set aside the impugned orders to the extent thereby the CERC has failed to determine the transmission charges vis-à-vis the 40 lines in question for the period 2014-16. The matter to that extent is remanded to the Central Commission for fresh consideration in light of the RPC certificates referred to above. The needful shall be done after hearing all stakeholders and in accordance with law. We would expect the Central Commission to deal with the matter expeditiously.

7. We direct the Central Commission to take up the matter for further hearing in terms of above remand order on 06.09.2022.

8. The appeal and the pending applications are disposed of in above terms.

(Sandesh Kumar Sharma)
Technical Member

pr/tp

(Justice R.K. Gauba)
Officiating Chairperson