

**JOINT ELECTRICITY REGULATORY COMMISSION  
FOR THE STATE OF GOA AND UNION TERRITORIES  
GURGAON**

Quorum  
Shri S.K.Chaturvedi, Chairperson  
Smt. Neerja Mathur, Member  
**Petition No. 202/2016**  
**Date of Order: 26.07.2016**

**In the matter of:**

Application for directions to be issued to the Respondent to treat certain assets as part of the transmission assets and be taken out of the assets of the DNHPDCL.

**And in the matter of:**

Rajan Solanki, President, Lok Janshakti Party, 3, Jalaram Complex, Opp. Idea Care, I.T.I. Road, Silvassa – 396230  
**....Applicant**

**And in the matter of:**

DNH Power Distribution Corporation Ltd., Vidyut Bhawan, Secretariat, Silvassa  
**...Respondent**

**Present**

**For the Respondent**

1. Shri Anand K. Ganeshan, Advocate, DNHPDCL, Dadra & Nagar Haveli
2. Shri R.B. Choubel, Asstt. Engineer, DNHPDCL, Dadra & Nagar Haveli

**ORDER**

The applicant filed a miscellaneous application on April 11, 2016. The applicant through this miscellaneous application sought directions to be issued to the Respondent DNH Power Distribution Corporation Limited (DNHPDCL) to treat certain assets as part of the transmission assets and take them out of its own assets. He submitted that DNHPDCL has treated / claimed the assets and /or Liabilities belonging to the transmission licensee as its own and on that basis sought ARR and tariff for FY 2016-17 to be determined by the Commission. The applicant further submitted that Section 2 (72) of the Electricity Act, 2003 defines as under:

**Quote**

*“Transmission Lines”; means “all high pressure cables and overhead lines (not being an essential part of the distribution system of a licensee) transmitting electricity from a generating station to another generating station or a sub-station, together with any step-up and step-down transformers, switch-gear and other works necessary to and used for the control of such cables or over-head lines, and*

such buildings or part thereof as may be required to accommodate such transformers, switch gear and other works;”

Section 30 of the Electricity Act, 2003 provides that:

**Quote**

*“The State Commission shall facilitate and promote transmission, wheeling and inter-connection arrangements within its territorial jurisdiction for the transmission and supply of electricity by economical and efficient utilization of the electricity.”*

Section 34 of the Electricity Act, 2003 mandates that

**Quote**

*“every transmission licensee shall comply with such technical standards, of operation and maintenance of transmission lines, in accordance with the Grid standards as may be specified by the Authority.”*

Section 40 of the Electricity Act, 2003 provides that it is duty of every transmission licensee.

**Quote**

*(a) to build, maintain and operate an efficient, coordinated and economical inter-State transmission system or intra-State transmission system, as the case may be:*

Regulation 1.1 of the JERC (State Grid Code) Regulations, 2010, defines transmission system

as follows:”

**Quote**

*“The system consisting of high pressure cables and over head lines of transmission licensee including electrical sub-stations, for transmission of electrical power from generating station up to connection point/interface point with the distribution system. This shall not include any part of the distribution system.”*

The applicant further submitted that DNHPDCL had informed the Commission that though the transfer scheme was notified on 07.03.2013, the actual bifurcation of assets would be completed only by the FY 2014-15.

The applicant further submitted that DNHPDCL filed a Petition for determination of tariff on February 9, 2016 wherein it had claimed assets, liabilities and accounts pertaining to the transmission business as its own. The details of those assets are as follows:-

SL.NO.	NAME OF ASSETS	AREA	COST
1.	66/11 kv substation	Amlı	15 crore
2.	66/11 kv substation	Pıparıya	15 crore
3.	66/11 kv substation	Vaghcip	15 crore
4.	66/11 kv substation	Dadra	15 crore
5.	66/11 kv substation	Sıllı	15 crore
6.	66/11 kv substation	Rakholi	15 crore
7.	66/11 kv substation	Masat	15 crore
8.	66/11 kv substation	Khadoli	15 crore
9.	66/11 kv substation	Velugaon	15 crore
10.	66/11 kv substation	Kala	15 crore
11.	66/11 kv substation	Khanvel	15 crore
12.	66/11 kv substation	Athal	15 crore
13.	66/aa KV substation	Naroli	15 crore
14.	All 66 Kv Lines of above all Substation		65 crore
15.	All 66 Kv Consumers of above all station		302 crore
		<b>Total</b>	<b>562 crore</b>

The applicant further submitted that in accordance with the Electricity Act, 2003 and the JERC (State Grid Code) Regulations, 2010 it is clear that all high pressure cables and overhead wires including substation etc. that are used for transmission of electricity up to the interface point are assets of the transmission utility. It is an admitted fact that in UT of DNH, transmission of electricity is done at 66 kV level and distribution of electricity happens at 11 kV level. Thus all assets utilized for transmission of electricity are the assets of the transmission utility.

Shri Anand K. Ganeshan Learned Counsel for DNHPDCL (Respondent) opposed the submissions of the Applicant. He submitted that DNHPDCL was incorporated and vested with the functions of distribution of electricity in terms of DNH Electricity Reforms Transfer Scheme 2013 notified in the Extra Ordinary Gazette of Government of India on March 7, 2013 in terms of Section 131 of the Electricity Act, 2003. The said Transfer Scheme being statutory in nature is binding on all including the Applicant, Respondent and the Commission.

The Learned Counsel for DNHPDCL further submitted that as per the said Transfer Scheme all sub-stations and lines of 66/11 kV and below shall be owned by DNHPDCL which includes business of electricity sub transmission, distribution and retail supply in the UT of Dadra and Nagar Havelı.

The Learned Counsel further submitted that the Electricity Act, 2003 does not place any restriction on the voltage level which can be handled by the transmission licensee and the distribution licensee. The Electricity Act, 2003 only provides for high pressure lines, (not forming an essential part of the distribution system), to be transmission lines. In fact in Dadra & Nagar Haveli many consumers use 66 kV lines and substation and they constitute an essential part of the distribution network. The same is the case in many other States and it is not that there is a provision in the Electricity Act, 2003 for bifurcation of assets based on particular voltages. The power for such bifurcation is given to the State Government under the Transfer Scheme.

The Learned Counsel further submitted that the present proceedings have been initiated by the Applicant without even disclosing the prejudice that is caused to him, and is liable to be dismissed for this reason itself.

The Learned Counsel further submitted that no wrong practices are undertaken by the Respondent and all actions taken by the Respondent are in consonance with the Transfer Scheme and the Electricity Act, 2003. It is not correct to say that Respondent is seeking tariff on assets which are not vested in DNHPDCL.

The Commission has considered the submissions made by the Applicant and the Respondent. The Commission has also examined the entire record placed before it along with the relevant provisions of the Electricity Act, 2003 and Rules and Regulations made thereunder.

The Commission observes that the definition of ‘Transmission Lines’ provides that all high pressure cables and overhead lines not being an essential part of the distribution system of a Licensee to be termed as transmission lines. Hence, there is no restriction of voltage level which can be handled by the distribution licensee.

Section 131 of Electricity Act, 2003 provides for vesting of property of Board in State Government as below:

**Quote**

*“ (1) With effect from the date on which a transfer scheme, prepared by the State Government to give effect to the objects and purposes of this Act, is published or such further date as may be stipulated by the State Government (hereinafter in this Part referred to as the effective date), any property, interest in property, rights and liabilities which immediately before the effective date belonged to the State Electricity Board (hereinafter referred to as the Board) shall vest in the State Government on such terms as may be agreed between the State Government and the Board.*

*(2) Any property, interest in property, rights and liabilities vested in the State Government under sub-section (1) shall be re-vested by the State Government in a Government company or in a company or companies, in accordance with the transfer scheme so published along with such other property, interest in property, rights and liabilities of the State Government as may be stipulated in such scheme, on such terms and conditions as may be agreed between the State Government and such*

*company or companies being State Transmission Utility or generating company or transmission licensee or distribution licensee, as the case may be.*

*Provided that the transfer value of any assets transferred hereunder shall be determined, as far as may be, based on the revenue potential of such assets at such terms conditions as may be agreed upon the State Government and the State Transmission Utility or generating Company or transmission licensee or distribution licensee, as the case may be.*

- (3) *Notwithstanding anything contained in this section, where, -*
- (a) *the transfer scheme involves the transfer of any property or rights to any person or undertaking not wholly owned by the State Government, the scheme shall give effect to the transfer only for fair value to be paid by the transferee to the State Government.*
  - (b) *a transaction of any description is effected in pursuance of a transfer scheme, it shall be binding on all persons including third parties and even if such persons or third parties have not consented to it.*
- (4) *The State Government may, after consulting the Government company or company or companies being State Transmission Utility or generating company or transmission licensee or distribution licensee, referred to in sub-section (2) (hereinafter referred to as the transferor), require such transferor to draw up a transfer scheme to vest in a transferee being any other generating company of transmission licensee or distribution licensee, the property, interest in property, rights and liabilities which have been vested in the transferor under this section, and publish such scheme as statutory transfer scheme under this Act.....”.....*

*Section 133 of the Electricity Act, 2003 provides that:*

*“The State Government may, by a transfer scheme, provide for the transfer of the officers and employees to the transferee on the vesting of properties, rights and liabilities in such transferee as provided under section 131.”*

(2) *Upon such transfer under the transfer scheme, the personnel shall hold office or service under the transferee on such terms and conditions as may be determined in accordance with the transfer scheme.”*

On perusal of Section 131 and 133 of the Electricity Act, 2003 it is amply clear that the power pertaining to the unbundling of Electricity Board vests with the appropriate Government.

The Applicant has based his submissions on Section 30, 34 and 40 of the Electricity Act, 2003. These Sections do not provide the required legal support to his submissions. Even the JERC (State Grid Code) Regulations, 2010 were not given correct interpretation. Thus, the Commission is not inclined to accept the submissions of the applicant. At the same time, the Commission is convinced with the submissions of the Respondent. The Respondent argued that power to transfer assets during unbundling from one licensee to another vests with an appropriate Government only.

In view of the above, the Commission feels that there is no merit in the case of applicant and the same is liable to be dismissed.

The Commission dismiss this Petition.

Ordered accordingly.

**Sd/-**  
**(NEERJA MATHUR)**  
**MEMBER**

**Sd/-**  
**(S.K.CHATURVEDI)**  
**CHAIRPERSON**

**CERTIFIED COPY**

**Sd/-**  
**(KEERTI TEWARI )**  
**SECRETARY**