

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

Quorum  
Smt. Neerja Mathur, Member  
**Petition No. 217/2016**  
**Date of Hearing: 25.10.2016**  
**Date of Order: 06.01.2017**

**In the matter of:**

Application for Recall of the Order of the Commission dated 26.07.2016 in the matter of filing of ARR for Multi Year Tariff Determination for the Control Period FY 2015-16 to FY 2017-18 under Sections 61, 62 and 64 of the Electricity Act, 2003.

**And in the matter of:**

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

**Versus**

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

**Present**

**For the Petitioner**

Shri Mukund P. Unny, Advocate

**For the Respondent**

Shri Sandeep Rajpurohit, Advocate

**ORDER**

The Commission heard the Learned Counsel for the Petitioner and the Respondent.

Learned Counsel for the Petitioner submitted that Dadra & Nagar Haveli Power Distribution Corporation Limited (DNHPDCL) has treated / claimed certain assets and / or liabilities belonging to the transmission licensee as its own for the purpose of determination of its tariff which is in violation of certain specific provisions of the Electricity Act, 2003.

The Learned Counsel further submitted that Section 131 (3) of the Electricity Act, 2003 does not begin with a non-obstante clause vis-à-vis the Act as a whole and it does not curtail the powers of the State Commission to issue directions /investigate wrongful classification of the transmission assets as distribution assets under Section 128 of the Act.

Section 128 (1) provides as follows:-

(1) *The Appropriate Commission may, on being satisfied that a licensee has failed to comply with any of the conditions of licence or a generating company or a licensee has failed to comply with any of the provisions of this Act or the rules or regulations made thereunder, at any time, by order in writing, direct any person (hereafter in this section referred to as "Investigating Authority)" specified in the order to investigate the affairs of any generating company or licensee and to report to that Commission on any investigation made by such Investigating Authority:*

*Provided that the Investigating Authority may, wherever necessary, employ any auditor or any other person for the purpose of assisting him in any investigation under this section."*

The Learned Counsel further submitted that Section 2 (72) of the Electricity Act, 2003 provides as follows:-

*"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;"*

The Learned Counsel further submitted that Clause 1.2 of the JERC (State Grid Code) Regulations, 2010 defines a transmission system as:-

*"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 Learned Counsel further submitted that the transfer scheme itself became inconsequential due to Section 131 (3) which provides as follows:-

*"(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."*

The Learned Counsel further submitted that Schedule 'B' of the Transfer Scheme provides that all service stations and lines of 66/kV and below shall form part of the assets of the Distribution Licensee. However Schedule 'C' of the Transfer Scheme provides that unless otherwise specified by the Administration, the assets, liabilities, personnel and proceedings relating to transmission of electricity shall not be transferred to the Distribution Company. Schedule 'C' of the Transfer Scheme clearly provides that nothing relating to transmission of electricity, including all the assets, liabilities etc. shall be transferred to the Distribution Licensee. Thus, the contents of Schedule 'B' and Schedule 'C' of the Transfer Scheme are contradictory to each other.

The Learned Counsel further submitted that around 19 bays of 66 kV are being maintained by the Transmission Division of the Electricity Department of Dadra & Nagar Haveli Administration at 220/66 kV substations at Kharadpada. Further, 14 bays of 66 kV are also maintained by the Transmission Division at 480 MVA in 220/66 kV substations at Khadoli area. At the same time, 120 bays of 66 kV substations are under the distribution network. Thus this different treatment of 66 kV assets under two different networks i.e. Distribution and Transmission, indicates arbitrariness on the part of the Respondent.

The Learned Counsel further submitted that theories and practices followed in the rest of the country as mentioned in textbook Electrical Technology cannot be altered / changed by way of a Transfer Scheme to the benefit of the Distribution Licensee. It is further submitted that 66 kV lines and service stations are classified as the assets of the transmission business in many States and it is not correct to suggest that 66 kV lines and Service Stations are part of the distribution network in other States including Gujarat and Maharashtra.

The Learned Counsel for the Respondent submitted that the claim of the Petitioner that all 66 kV lines are high voltage transmission lines and are assets of the Transmission Licensee are totally misconceived and wrong. He submitted that DNHPDCL was incorporated and vested with the function of distribution of electricity in terms of Dadra & Nagar Haveli Electricity Reforms Transfer Scheme, 2013 in terms of Section 131 of the Electricity Act, 2003, the said Transfer Scheme being statutory in nature and binding on all including the Petitioner, Respondent and the Commission.

The Learned Counsel for the Respondent further submitted that as per the said Transfer Scheme all service 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 & Nagar Haveli.

The Learned Counsel further submitted that 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 provides for high pressure lines, (not performing an essential part of the distribution system), to be transmission lines. In fact, in Dadra & Nagar Haveli many consumers use 66 kV lines and service stations 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 has been given to the State Government under the Transfer Scheme.

The Learned Counsel further submitted that the contention of the Petitioner that the differential treatment of the 66 kV line is arbitrary and baseless is devoid of logic and in violation of the Transfer Scheme which is statutory in nature. It is reiterated that the bifurcation of assets are as per the Transfer Scheme notified by the Central Government.

The Learned Counsel further submitted that no wrong practices are undertaken by the Respondent and all action taking by the Respondent are in consonance with the Transfer Scheme and the Electricity Act, 2003.

The Commission has considered the submissions made on behalf the Petitioner and the Respondent. The Commission has again examined the records placed before it along with the relevant provisions of the Electricity Act, 2003, Rules and Regulations made thereunder and noticed that the arguments advanced by the Petitioner are a mere reiteration of its earlier submissions advanced before the Commission during the first hearing on 12.05.2016. The Respondent again opposed the arguments advanced by the Petitioner and reiterated its submissions made before the Commission earlier.

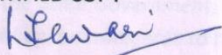
The Commission observes that the submissions advanced by the Petitioner are based on Section 33, 34 and 40 of the Electricity Act, 2003 and these sections do not provide the required legal support to his submissions. Even the JERC (State Grid Code) Regulations, 2010 were not given correct interpretation.

The Commission is of the view that submissions of the Petitioner lacks merit and he has failed to make out any case to recall / set aside the said impugned Order dated 26.07.2016. Thus, there is no need to amend / change the said impugned Order dated 26.07.2016.

Ordered accordingly.

Sd/-  
(NEERJA MATHUR)  
MEMBER

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(KEERTI TEWARI)  
SECRETARY