

**Before the  
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION  
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005  
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**Case No. 58 of 2017**

**Dated: 5 October, 2017**

**CORAM: Shri. Azeez M. Khan, Member  
Shri. Deepak Lad, Member**

**Petition of Hindustan Petroleum Corporation Ltd. for refund of wheeling charges and losses wrongfully levied by The Tata Power Co. Ltd.**

Hindustan Petroleum Corporation Ltd. (HPCL) ...Petitioner

V/s

1) The Tata Power Co. Ltd. (TPC-D)  
2) Sai Wardha Power Generation Ltd. (SWPGL)  
3) Maharashtra State load Despatch Centre (MSLDC) ...Respondents

**Appearance:**

|                                      |                                |
|--------------------------------------|--------------------------------|
| Representative for HPCL:             | Shri. Varun Pathak (Adv.)      |
| Representative for TPC-D:            | Shri. Amit Kapur (Adv.)        |
| Representative for SWPGL:            | Shri. Anand K. Ganeshan (Adv.) |
| Representative for MSLDC:            | Shri. A. P. Revagad ( Rep)     |
| Authorised Consumer Representatives: | Dr. Ashok Pendse (TBIA)        |

**Daily Order**

Heard the Advocates / Representatives of the Petitioner and Respondents.

1. The Advocate of the Petitioner stated that:

- (i) HPCL is a partial Open Access consumer of TPC-D connected at 110 kV Transmission System and sourcing power under Open Access from SWPGL.

- (ii) TPC-D has been levying wheeling charges on power being supplied by it to HPCL and also levying wheeling charges and wheeling losses on Open Access power being supplied by SWPGL.
- (iii) Transmission Licence No. 1 of 2014 dated 14 August, 2014 granted to TPC-T shows that 110 kV Trombay – HPCL line is a part of the Transmission System. HPCL is directly connected to the Transmission System and not to the distribution network.
- (iv) TPC-D also admitted that HPCL is connected to the 110 kV lines which are part of Transmission Licence No. 1 of 2014 of TPC-T and that these lines were included as part of the Transmission Licence inadvertently. TPC-T has sought amendment of the Transmission Licence after lapse of two years, which is pending before the Commission.
- (v) MSLDC in its email dated 11 December, 2015 has stated that HPCL is connected at 110 kV level and hence no wheeling losses are applicable to it.
- (vi) TPC-D in its revised Roll Out Plan submission had stated that the existing distribution network of TPC-D is only up to 33 KV. This clearly indicates that the 110 kV line connected to HPCL is a part of the Transmission Licensee and does not form part of the distribution network of TPC-D.
- (vii) TPC-D has wrongfully levied and collected the wheeling charges and wheeling losses for the use of the transmission network for Open Access and retail power to HPCL, and hence TPC-D is liable to refund such charges.

2. The Advocate of SWPGL stated that:

- (i) 110 kV transmission network of HPCL is a part of Transmission Licence of TPC-T, and consumers may be connected to transmission network also.
- (ii) The in- principle capex approval for the 110 kV transmission network to HPCL is only for construction of lines and it does not mention whether these are Transmission or Distribution lines.
- (iii) Appellate Tribunal For Electricity (ATE) in Appeal No. 28 of 2005 (Kalyani Steels Limited versus Karnataka Power Transmission Corporation Limited) has held that wheeling charges are not applicable if a consumer is connected to the transmission network.

- (iv) To a query of the Commission, Advocate of SWPGL stated that, if the 110 kV line is merged in the distribution network, the Commission is required to determine the wheeling charges at 110 kV voltage level. TPC-D cannot recover the wheeling charges for past period in such case.

3. The Advocate of TPC-D stated that:

- (i) HPCL had been receiving power supply from TPC-D at 22 kV level since 1956. It sought load extension of 70 MW in 2005, and hence the power supply was given on 110 kV.
- (ii) The Commission granted in principle approval to TPC's scheme to supply power to HPCL at 110 kV level stating that the 110 kV cable being laid for releasing additional load to HPCL can be used to cater to the load of other consumers in nearby area in future. This shows that the line is of the Distribution Licensee because Transmission Licensee cannot have consumers.
- (iii) The 110 kV Trombay to HPCL line does not fit in the definition of a Transmission line as per Section 2 (72) of the Electricity Act, 2003, but qualifies as a Distribution line as per Section 2 (19).
- (iv) Inadvertently, TPC had included the lines in the Transmission Licence proposal which was subsequently granted by the Commission. Now, TPC has sought an amendment for removing these lines from the Licence.
- (v) This inadvertent mistake does not change the nature of the Asset. TPC-D has booked these lines in the books of the Distribution Licensee and has been considering it as its Distribution Assets while filing its Tariff Petition before the Commission.
- (vi) The APTEL Judgment in Appeal No. 30 of 2012 has held that it would be the duty of the Distribution Licensee to erect, operate and maintain the EHV lines as a part of the distribution network
- (vii) To a query of the Commission, the Advocate of TPC-D stated that it would submit the details and treatment given to all such other consumers connected on EHV lines within two weeks.
- (viii) The Roll Out Plan submitted by TPC-D does not include the EHV lines because it is a broad base plan for consumers who are connected and likely to be connected at or below the 33 kV level.

- (ix) On a query of the Commission about Trombay EHV Substation, TPC-D replied that the entire EHV Substation at Trombey Generation plant is on generation asset. However, two bays for BARC are on Transmission Licensee (TPC-T)'s assets. The Commission directed TPC-D to explain this deviation.

On request of SWPGL, the Commission allowed it to make its additional submission limited to the issue within a week.

The Commission directs TPC-D to make its submissions on the issues raised during the hearing within two weeks, alongwith copies to all other parties.

**The Case is reserved for Order.**

**Sd/-  
(Deepak Lad)  
Member**

**Sd/-  
(Azeez M. Khan)  
Member**