

**Before the Appellate Tribunal for Electricity
Appellate Jurisdiction**

Appeal Nos. 19 of 2006

**M.P. State Electricity Board
Versus**

...Appellant

Powergrid Corporation of India Ltd. & Ors.

...Respondent(s)

Under Section 111 (2) of Electricity Act, 2003

**Present: Hon'ble Mr. Justice Anil Dev Singh, Chairperson
Hon'ble Mr. A. A. Khan, Technical Member**

14th November, 2006

Counsels for Appellant : Mr. Sukesh Kumar,
Mr. Rohit Singh
Counsels for Respondent : Mr M.G. Ramachandran,
Ms. Taruna S. Baghel,
Mr. Krishnanand Pandey,
Mr. R.B. Sharma

Madhya Pradesh State Electricity Board,
P.O. Box. No. 34, Rampur, Jabalpur-482 008.

Appellant

Versus

1. Powergrid Corporation of India Ltd.
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi-110 016.

Respondents

2. Bihar State Electricity Board,
Vidyut Bhawan, Baily Road,
Patna- 800 001.

3. West Bengal State Electricity Board,
Bidyut Bhawan, Bidhan Nagar,
D Block DJ, Sector-II, Salt Lake City,
Kolkata-700 091.

4. Grid Corporation of Orissa Limited,
Shahid Nagar, Bhubaneshwar-751 007.
5. Damodar Valley Corporation,
DVC Tower, Maniktala, Civil Centre,
VIP Road, Kolkata-700 054.
6. Power Department,
Govt. of Sikkim, Gangtok-737 101.
7. Jharkhand State electricity Board,
Engineering Bhawan,
Dhurwa, Ranchi-834 004.
8. Gujarat Electricity Board,
Vidyut Bhawan, Race Course,
Baroda-390 007.
9. Chhattisgarh State Electricity Board,
P.O. Sunder Nagar, Dangania,
Raipur-492 013.
10. Maharashtra State Electricity Board,
Prakashgad, 4th Floor, Bandra (East),
Mumbai-400 052.
11. Electricity Department,
Government of Goa,
Vidyut Bhawan, Panaji,
Goa- 403 001.
12. Electricity Department,
Administration of Daman & Diu,
Daman- 396 210.
13. Electricity Department,
Administration of Dadra Nagar Haveli UT,
Silvassa-396 230.

JUDGEMENT

Per Hon'ble Mr. A.A. Khan, Member Technical

The instant appeal is filed against the order dated 26.09.05 of the Central Electricity Regulatory Commission (herein after called 'Commission').

Facts of the case.

1. Korba-Budhipadar and inter-regional transmission link connecting the Eastern Region and Western Region was constructed and commissioned by M/s Powergrid Corporation of India Ltd (herein after called 'PGCIL') on 01.09.1999. At that point of time the regulation specifying the tariff norms for the PGCIL was as notified by the Ministry of Power, Govt. of India by notification dated 16.12.1997. This notification was amended by the Government of India's Notification dated 03.03.1998, to include at para 11, the "principles of sharing of transmission charges of the inter-regional transmission lines including HVDC system by the beneficiaries". Para 7 and 11 of the said notification read as under:

"7. Full annual transmission charges shall be recoverable at 95% Availability of operation. Payment of transmission charge below 95% shall be on pro-rata basis. There shall not be any payment of annual transmission charges for availability level above 95%. The transmission charge shall be calculated on monthly basis. In case of more than one beneficiaries of the transmission system, the monthly

transmission charge leviable to each beneficiary shall be computed as per the following formula.

$$\text{Transmission Charges} = \frac{TC}{12} \times \frac{EB}{ES}$$

Where TC = Annual Transmission Charges payable by the beneficiaries.

EB = Monthly energy sale from Central Sector Stations as may come in the system to each beneficiary individually as per Regional Energy Account.

ES = Total monthly energy sale from Central Sector Stations.

Note:- When availability based generation tariff and unscheduled interchange tariff is introduced for payment of generation/interchange Charges by the beneficiaries, the monthly transmission charges leviable to each beneficiary shall be computed as per their respective allocation as agreed to in the transmission service agreement in place of the above formula”.

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“11. Principle of sharing transmission charge of the inter-regional transmission lines including HVDC system by the beneficiaries

11.1 The sharing of monthly transmission charges for the inter-regional lines including HVDC systems utilized for firm power exchange between one

region to another contiguous region shall be as follows:

- (a) One third (1/3) by the beneficiaries of one region.*
- (b) One third (1/3) by the beneficiaries of other region.*
- (c) Remaining one third (1/3) as per use, i.e. the beneficiaries of the importing contiguous region which have received the power as per the commitment.*

11.2 The sharing of monthly transmission charges for the inter-regional lines including the HVDC systems utilized for non-firm exchange of power between the regions or wheeling of any power to third region shall be made equally i.e. 50:50 basis between the contiguous region”

- 2. It is also observed that the amended notification provides for conditional deviation from the specified norms and its para 12.1 reads as under:*

“12.1 The tariff for transmission of electricity by ‘Transmission Utility’ to a ‘Board may also be determined in deviation of the norms other than the norm specified in this notification subject to the condition that:-

- a) *The overall tariff of electricity transmitted calculated on the basis of the norms in deviation does not exceed the tariff calculated on the basis of the norms specified in this notification.*
- b) *The concerned State Government(s) has, after satisfying itself, recommended that the deviations made are justified; and*
- c) *The Central Government after satisfying itself that the overall per unit tariff is in accordance with condition (a) above approves the deviation”.*

3. The Commission in its order dated 19.6.2002 in petition No. 9 of 2000 while deciding the transmission charges for the period from the date of commercial operation (01.09.1999) of the project to 31.03.2001 (i.e. financial years 1999-2000 and 2000-01), held that appellant being a major beneficiary in the Western Region in a meeting, held on 17.12.1999 at Western Regional Electricity Board (herein after called WREB), had agreed to bear 50% of the transmission charges of Korba-Budhipadar 220 KV S/C transmission line before its construction. The order stated that the constituents of Eastern Region have agreed to share $\frac{1}{3}$ of the transmission charges and designated Gujarat Electricity Board (herein after called 'GEB') in Western Region also as a beneficiary of the transmission system from 03.04.2001 because of its regular usage. The Commission in violation of the Govt. of India's notifications dated 16.12.1997 and 03.03.1998 decided that the

transmission charges of the transmission lines shall be shared by the constituents of Eastern and Western Region in the following manner:-

(a) $\frac{1}{2}$ by MPSEB from the date of commercial operation of the assets till the date of the constitution of the state of Chhattisgarh subject to the condition that the liability on this account shall be shared between MPSEB and Chhattisgarh State Electricity Board (herein after called 'CSEB') in accordance with the notification No. 238 dated 12.04.2001 issued by Ministry of Power, Govt. of India. After constitution of the state of Chhattisgarh the transmission charges shall be shared by MPSEB and CSEB in proportion of energy transmitted.

(b) $\frac{1}{3}$ by constituents of Eastern Region.

(c) $\frac{1}{6}$ by Gujarat Electricity Board.

4. Paragraph 24 of Commission's order dated 19.06.2002 directs as under

"The transmission tariff for Eastern Region approved by us shall be included in the regional transmission tariff of that region and shall be shared by the regional beneficiaries in accordance with para 7 of notification dated 16.12.1997."

5. In the meanwhile the Commission notified the CERC (terms and conditions of tariff) Regulations, 2001 (herein after called Regulations 2001) on 26.3.2001 effective from 1.4.2001 for a period of 3 years unless reviewed earlier or extended by the Commission. The subject transmission link is, therefore, subjected to the

aforesaid regulations for sharing of transmission charges between the two regions and the beneficiaries within the respective region Para 4.8 of the Regulations 2001 reads as under:-

“4.8 The transmission charges of the inter-regional assets including HVDC system shall be shared in the ratio of 50:50 by the two contiguous regions. The transmission charges shall be recovered from the beneficiaries by pooling 50% of the transmission charges for such inter-regional assets with the transmission charges for transmission system of the respective regions”.

6. It may be noted here that the allocation of transmission charges to various constituents in Eastern and Western Region for the subject transmission line, for the periods 1999-2000 and 2000-01, are in deviation from the Notifications dated 16.12.1997 and 03.03.1998 in so far as the principles of sharing of transmission charges between the regions and amongst the constituents of the respective region are concerned. The order of the Commission dated 19.06.2002 is also not in conformity with to para 12.1 of the Government Notification in so far as the fulfillment of the conditions for deviation from the norms specified is concerned. It is seen that the Commission while taking cognizance of the aforesaid notifications has consciously deviated from the norms on the ground that the appellant had agreed to bear 50% of the transmission charges for the subject transmission line in WREB meeting held on 17.12.1998.

7. The sharing of inter-state transmission link between the Eastern Region and Western Region was decided on the principle as mentioned in para 4 above.

8. The first respondent filed a review petition No. 117/2002 in regard to sharing of transmission charges decided for the period prior to 31.03.2001 by Commissions order dated 19.06.2002 in petition No. 9/2002. In the review petition PGCIL sought the direction to the beneficiaries of Western Region and Eastern Region to share the transmission charges as specified in para 24 of the order dated 19.06.2002 (extract at para 4 above) and also for clearing of the arrears of the past billing. The petition in reality dealt with limited issue of sharing of $\frac{1}{3}$ Eastern Region transmission charges by the MPSEB and GEB in addition to their share of $\frac{1}{2}$ and $\frac{1}{6}$ of the total transmission charges respectively. The petition was disposed of by the Commission by its order dated 04.04.2003. While disposing of the petition the Commission observed that, in view of the special circumstances, wherein the appellant, MPSEB agreed to share 50%; Eastern Region agreed to share $\frac{1}{3}$ of the transmission charges and GEB having been allocated surplus power from the central generating stations in the Eastern Region and becoming a regular user of the line since 31.04.2001, it has decided to depart from the principles contained in the notification dated 03.03.1998.

9. It may be pointed out that the appellant in its additional affidavit dated 17.07.2006, filed before the Tribunal, has affirmed that since it has consented to

the payment of 50% of transmission charges for the ‘particular period’ it could not challenge the Commission’s Order dated 19.06.2002.

10. In petition No. 49/2002 the first respondent i.e. PGCIL requested for approval of tariff for Korba-Budhipadar transmission system for the period 01.04.2001 to 31.03.2004. Sharing of transmission charges for the transmission lines are to be determined in line with the para 4.8 of Regulations – 2001 (refer para 6 above). The Commission in para 57 of its order dated 18.07.2003 directed that:

“57. The transmission charges approved by us shall be included in the transmission tariff for Western Region and Eastern Region and shall be shared amongst regional constituents in accordance with the notification dated 26.03.2001 read with Commission’s order dated 04.04.2003 in review petition No.117/2002”.

11. The appellant brought up the issue before the 39th Commercial Committee of WERB held on 10.03.2005. The relevant item no. 9 of the minutes of the meeting dated 24.03.2005 set out below, did not give any relief with regard to the issue of sharing of transmission charges to

12. the appellant.

*“ITEM NO. 9: SHARING OF TRANSMISSION CHARGES OF
220 KV KORBA BUDHIPADAR 3RD CKT.*

*MPSEB representative stated that as per para 57 of CERC
order dated 18.07.2003 in the petition NO. 49/2002 for*

approval of tariff for Korba – Bodhipadar transmission system in Western Region for the period from 01.04.2001 to 31.03.2004, the transmission charges approved shall be included in the regional transmission tariff for WR and ER and shall be shared by the regional constituent in accordance with the Notification dated 26.03.2001 read with the Commission's order dated 04.04.2003 in review petition no 117/2002; MPSEB further stated that in accordance with the clause 4.8 of the CERC Notification dated 26.03.2001 the transmission charges of inter-regional assets is to be shared in the ratio 50:50 by the two contiguous regions. Transmission charges shall be recovered from the beneficiaries by pooling 50% of the transmission charges for such inter-regional assets with the transmission charged for the transmission system of respective regions and accordingly it may be included in the intra-regional transmission system and charged.

In this connection, POWERGRID, WRTS representative clarified that as per Orders issued by Hon'ble CERC, the transmission charges in respect of 220 KV Korba – Budhipadar Ckt.III are to be shared as 1/3 by ER, 1/2 by MPSEB and 1/6 by GEB. Accordingly, POWERGRID are raising the bil.l

Superintending Engineer (Coml.), WREB said that from PARA 7 of CEREK order dated 04.04.2003 in Review Petition No. 117/2002 it may be seen that the principles adopted by the Commission for sharing of Transmission Charges for 220 KV S/C Budhipadar – Korba line is different because of the peculiar facts and circumstances of the case.

MPSEB representative stated that they would make the payment towards transmission charges to POWERGRID under protest and may seek clarification from CERC”.

12. The appellant filed petition No. 82/2005 for seeking clarification of the order dated 18.07.2003 regarding the transmission tariff for Korba-Budhipadar transmission system.
13. The Commission by its order dated 22.09.2005 dismissed the petition filed by the appellant holding:-

“So far as the sharing of the transmission charges for Korba-Budhipadar transmission line at regional basis is concerned, the methodology has been approved by the Commission in its orders dated 19.06.2002 read with order dated 04.04.2003. To that extent, in view of the specific

direction in these orders, the principles of sharing of transmission charges for inter-regional assets on 50:50 basis shall not apply. For similar reason, in view of specific allocation of transmission charges between the petitioner (MPSEB) and 8th respondent (GEB), these charges are not be shared by other beneficiaries in the Western Region. As regards $\frac{1}{3}$ of the transmission charges allocated to Eastern Region, further sharing by the beneficiaries is to be regulated under para 4.8 of the notification dated 26.03.2001 by pooling them with the transmission charges of Eastern Region. The Commissions' direction in the order dated 18.7.2003 is to be understood accordingly and this has been so understood by the first respondent who has billed the petitioner and other beneficiaries in Eastern and Western Regions”.

Learned Commission further held:

*“we may point out that the above methodology for sharing of transmission charges for the transmission line was considered by the Commission in slight deviation of the provisions of para 4.8 of the notification dated 26.03.2001 for particular reasons. **The first reason for such treatment was that the line was constructed at the behest of the petitioner and petitioner had agreed to sharing of 50% of the transmission when the***

transmission line was to be constructed. The other reason is that the Commission adopted the methodology for sharing of charges approved by the Commission earlier for the period ending 31.03.2001. From the table extracted under para 6 above, it is noted that 8th respondent (GEB) has availed of the transmission line for conveyance of electricity from 30.04.2001 onwards on regular basis. It is on this consideration only that 1/6th of the transmission charges have been allocated to GEB. Further, some other states are shown to have also availed of the transmission line consequent to allocation to them of unallocated quota from NTPC stations in Eastern Region. This arrangement has become effective from 23.04.2003 onwards as per the information placed on record by the petitioner. However, this was not brought to the Commission/s notice before issue of order dated 18.07.2003 when transmission charges for the period 01.04.2001 to 31.03.2004 were approved, or immediately thereafter. The present petition has been filed nearly two years after the issue of order. The position on record rules out revision of transmission charges atleast for the period till 23.04.2003. In case, any other State has availed of the transmission line for conveyance of electricity from 23.04.2003 to 31.03.2004 (the period in question), they may become liable to pay the wheeling charges in accordance with the notification

dated 26.03.2001. However, since the matter is not specifically raised before, us we are not expressing any definite view on this issue”.(Emphasis supplied)

14. It is pointed out that the second respondent, Bihar State Electricity Board, while rebutting the appellant's challenge to the Order passed by the Commission on merit, has raised a legal issue and submitted that the Commission has not been vested with the power to make regulation laying down the principle of sharing of transmission charges as specified in regulation 4.8 of the Regulations 2001. The second respondent has further submitted that the Eastern Region is connected to each of the other four regions by inter-regional transmission links and the said Regulation has burdened the constituents with the transmission charges of such links which are not even utilized by the respondents.
15. Aggrieved by the order dated 22.09.2005 the appellant has filed the instant appeal before this Tribunal.

DISCUSSION AND ANALYSIS

Having narrated the facts of the case, we find it appropriate to frame the following issues whose resolution will be pivotal to the decision of the case:

- (A) Is the Central Commission empowered to formulate regulation for sharing of transmission charges, of inter-state transmission assets?

- (B) Did the Commission follow the norms notified by the Ministry of Power, Government of India's notification dated 16.12.1997 and 03.03.1998 while determining the sharing transmission charges, for the period 1999-2000 and 2000-2001, relating to Korba- Budhipadar 220 KV S/C transmission line?
- (C) What is the effect of Regulations- 2001 on sharing of the transmission charges for the period 01.04.2001 to 31.03.2004?

Point (A) : Section 86 of Electricity Act- 2003 empowers the Central Commission to determine tariff for the inter-state transmission of electricity and regulation thereof. Empowerment to the Commission to determine tariff for transmission and wheeling of electricity is provided by Section 62 1(b) and 1(c) of the Act. Further Section 61 of Electricity Act – 2003 provides that the Commission shall, based on certain guiding factors, specify the terms and conditions for determination of tariff of generating companies and transmission licensees. Section 61 of the Electricity Act- 2003 reads as under:

*“ 61. **Tariff regulations** :- The Appropriate Commission shall, subject to the provisions of this Act, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the following, namely:-*

- (a) the principles and methodologies specified by the Central Commission for determination of the tariff applicable to generating companies and transmission licensees;*

- (b) *the generation, transmission, distribution and supply of electricity are conducted on commercial licensees;*
- (c) *the factors which would encourage competition, efficiency, economical use of the resources, good performance and optimum investments”.*

From Section 61 (a) it is clear that the Commission has power to specify regulations dealing with methodologies and norms (i.e. transmission charges & wheeling charges) of transmission licensees based on commercial principles and the factors which would encourage competition, efficiency, economical use of the resources, good performance and optimum investments.. The factors of conducting transmission of electricity on commercial principles; encouraging efficiency; economical use of the resources and optimum investment directly mean that since sharing of a transmission line amongst the beneficiaries will necessarily ensure an efficient and optimal utilization of the assets leading to an optimum investment will obviously be a major consideration. In order to protect the interest of the beneficiaries of the inter-state transmission lines, the Central Commission, therefore, besides determining the transmission charges is, logically, expected to lay down the principles of sharing of charges between the beneficiaries. Thus, we are of the view that the Central Electricity Regulatory Commission was empowered to formulate Regulations for sharing of transmission lines by the beneficiaries.

Point ‘A’ is, answered accordingly.

Point 'B': It is noted that the appellant in the WREB meetings held on 14.10.1998 and 17.12.1999 had agreed to share 50% of the transmission charges of Korba-Budhipadar 220 KV S/C transmission line before its construction and the same has not been denied by the appellant. The transmission line is, therefore, said to have been built at the behest of the appellant. The Eastern Region constituents of EREB in its 88th EREB meeting held on 15.04.1998 agreed only to share $\frac{1}{3}$ of the transmission charges of the line prior to its construction and Gujarat Electricity Board (herein after called GEB) in Western Region was allocated $\frac{1}{6}$ th of the transmission charges because of the usage of the line on regular basis from 30.04.2001 onwards. It is also observed that the Govt. of India's notification dated 16.12.1997 did not provide any regulation about sharing of transmission charges but by notification date 03.03.1998, the extract of which will be found at para 2 above, inter alia , provided that the sharing of monthly transmission charges for the inter-regional lines between one region to another contiguous region shall be $\frac{1}{3}$ of the beneficiaries of one region; $\frac{1}{3}$ by the beneficiaries of the other region and remaining $\frac{1}{3}$ as per use by the beneficiaries of the importing region which have received power as per the commitment. Thus, the sharing of transmission charges between the two regions would be in the ratio of $\frac{1}{3}:\frac{2}{3}$.

16. Applying the aforesaid principle, without any limitation and restriction, will lead to Eastern Region and Western Region each sharing $\frac{1}{3}$ of the transmission charges and $\frac{1}{3}$ by the beneficiaries of Western Region who have received the power as per the commitment. Therefore, in the normal course, had the constraint

of pre-existing agreement of the appellant to share $\frac{1}{2}$ of the transmission charges of Korba-Budhipadar 220 KV S/C transmission line before its computation did not exist, the Eastern Region had to share $\frac{1}{3}$ (i.e. 33%) and Western Region $\frac{2}{3}$ (i.e. 66%) of the transmission charges. On the basis that the appellant agreed to bear $\frac{1}{2}$ (i.e. 50%) of the transmission charges, however, left $\frac{1}{6}^{\text{th}}$ (i.e. 16%) to be shared by Western Region constituents. Accordingly, GEB was to contribute $\frac{1}{6}^{\text{th}}$ of the transmission charges. Thus, while the sharing of transmission charges, at the first level, between Eastern Region and Western Region has been done in consonance to the notification dated 03.03.1998, the constraint of the pre-existing agreement of the appellant for sharing of transmission charges, at the second level, between the beneficiaries in the Western Region could not be achieved. The Central Commission in its tariff order dated 19.06.2002 had consciously deviated from the specified principles of sharing of transmission charges and decided the sharing as indicated in para 3 (a), 3 (b) and 3 (c) above.

17. It appears to us that the consent/agreement of the appellant to share 50% charges for the subject transmission line was not limited to a 'particular period' as submitted by the appellant in its additional affidavit dated 17.07.2006, but was subject to any Regulations being framed. Moreover, from the data furnished we also observe that till April 2003, the capacity utilization of the subject inter-regional transmission was very low, main users being the appellant and GEB. The appellant also has submitted that because of the aforesaid consent, it could

- not challenge the Central Commission's order dated 19.06.2002 implying that it has accepted the said order.
18. The line of argument from the respondent seems to be that since the investment made on the transmission line was based on the prior commitment of appellant for sharing 50% transmission charges and $\frac{1}{3}$ by the constituents of the Eastern region, they cannot share the burden particularly when they are not utilizing the line. It may be pointed out that regulations must be given primacy over agreement/commitment. The sharing of charges for the transmission line is to be governed by the regulations and not by agreement between the appellant and the first respondent. Therefore, notwithstanding the level of utilization of the Korba-Budhipadar 220 KV S/C transmission line by the specific beneficiaries, the sharing of transmission charges between the Eastern and the Western Regions and the beneficiaries within the respective region is to be determined in accordance with the Regulation, 2001 w.e.f. 01.04.2001. It is also clear that the Central Commission has not followed the norms for determining the sharing of transmission charges as notified by the Ministry of Power, Govt. of India's notification dated 16.12.1997 and 03.03.1998 for Korba-Budhipadar 220 KV S/C transmission line. The point 'B' is accordingly answered in favour of the appellant.
19. We now take up Point 'C'. According to para 4.8 of the Regulations, 2001 (extract at para 5 above) applicable for the period from 01.04.2001 to 31.03.2004, provides that the transmission charges of the inter-regional assets shall be shared

- in the ratio of 50:50 by the two contiguous regions and the transmission charges shall be recovered from the beneficiaries by pooling 50% of the transmission charges for such inter-regional assets with the transmission charges for transmission system of the respective regions.
20. Yet, again, this regulation 4.8 was not implemented on the Korba-Budhipadar 220 KV S/C transmission line because of the constraint mentioned in the impugned order dated 22.09.2005 and indicated herein above at para 13. The first level of sharing of transmission charges for the line between the Eastern and Western Regions was retained in the ratio of $\frac{1}{3}$: $\frac{2}{3}$ for the period from 01.04.2001 to 31.03.2004 also. The sharing of $\frac{2}{3}$ of the transmission charges by the constituents of WREB by merging the charges with the pool of the transmission charges for other lines also could not be made operative. In case of the subject transmission line, the Central Commission's order dated 18.07.2003 for the period from 01.04.2001 to 31.03.2004 has deviated from the Regulations, 2001 retaining the same ratio of sharing of transmission charges between the regions and between the beneficiaries of the respective region as for the period 1999-2000 and 2000-01. The Regulations have a statutory flavour. They have been framed under Section 61 of the Electricity Act, 2003. The agreement of the appellant to contribute 50% of the transmission charges for the aforesaid transmission line in the meeting held on 17.12.1998, was made at a point of time when there were no regulations. After the Regulations came into effect from 01.04.2001 the parties are required to share the transmission charges as per the Regulations. The

agreement of the appellant can not supercede the statutory Regulations. The appellant can not be said to have contracted out of the Regulations as they did not exist then. Even though the agreement of the appellant was not hedged in by any limitation of time, it can not be pressed into service since after the Regulations came into force. The sharing of charges for the transmission line are governed by the Regulations and not by the agreement of the appellant. The Regulations must be given primacy over the agreement.

21. Thus, the sharing of transmission charges for the subject line between Eastern and Western regions in the ratio of $\frac{1}{3} : \frac{2}{3}$ is in violation of the regulation 4.8 of the Regulations, 2001 in that neither the sharing of transmission charges by the Eastern Region was increased from $\frac{1}{3}$ to $\frac{1}{2}$ nor its sharing by the Western Region lowered from $\frac{2}{3}$ to $\frac{1}{2}$ purportedly on account of commitment made by EREB and the appellant prior to the construction of the line. Thus, the point 'C' stands answered accordingly.
22. From the above it emerges that points (A), (B) and (C) stand answered in favour of the appellant.
23. In view of the aforesaid we allow the appeal and set aside the Central Commission's tariff order dated 18.07.2003 and direct the Central Commission to revise the sharing of transmission charges of the Korba-Budhipadar 220 KV S/C inter-regional transmission line linking Eastern and Western Region in

accordance with Regulation 4.8 of the Regulation 2001. Charges so arrived at will be made effective w.e.f. 01.04.2001 the date from which Regulations, 2001 came into effect.

Dated: 14th November, 2006.

(A. A. Khan)
Member (Technical)

(Justice Anil Dev Singh)
Chairperson