IN THE APPELLATE TRIBUNAL FOR ELECTRICITY

(Appellate Jurisdiction)

APPEAL No. 296 OF 2021

Dated: 08th July, 2026

Present: Hon`ble Ms. Seema Gupta, Officiating Chairperson
Hon`ble Mr. Virender Bhat, Judicial Member

IN THE MATTER OF:

NORTH EAST TRANSMISSION COMPANY LIMITED
Registered office:
Village- East Champamura, Bypass Road,
Near Asian Paint Godown, P/O – Old Agartala
Agartala, West Tripura, Tripura -799008

Corporate Office:
2C, 3rd Floor, D-21, DMRC Building,
Corporate Park, Dwarka,
Sector – 21, Delhi – 110077. … Appellant(s)

VERSUS

1. **CENTRAL ELECTRICITY REGULATORY COMMISSION**
   Through its Secretary,
   3rd and 4th Floor, Chandralok Building,
   36 Janpath, New Delhi – 110001.

2. **POWER GRID CORPORATION OF INDIA LIMITED,**
   Through its Executive Director,
   "Saudamini" Plot No.2, Sector – 29,
   Gurgaon, Haryana - 122001

3. **TRIPURA STATE ELECTRICITY CORPORATION LIMITED**
   Through its Managing Director,
   Bidyut Bhawan, North Banamalipur,
   Agartala, Tripura- 799001.

4. **ASSAM ELECTRICITY GRID CORPORATION LIMITED**
   Through its Managing Director,
   Bijulee Bhawan, Paltan Bazar,
   Guwahati, Assam-781001

5. **MEGHALAYA ENERGY CORPORATION LIMITED**
   (Previously known as Meghalaya State Electricity Board)
   Through its Executive Director,
   Lumjingshai, Short Round Road,
   Shillong, Meghalaya - 793001

6. **DEPARTMENT OF POWER**
   Government of Nagaland
   Through its Chief Engineer
   Electricity House, A.G. Colony,
   Kohima, Nagaland – 797001.

7. **POWER & ELECTRICITY DEPARTMENT**
   Government of Mizoram,
   Through its Engineer in Chief
   Kawlphetha Building,
   New Secretariat Complex, Khatla,
   Aizwal, Mizoram - 796001

8. **MANIPUR STATE POWER DISTRIBUTION COMPANY LTD.**
   (Previously known as Electricity Department Government of Manipur)
   Through its Joint Secretary,
   3rd Floor, New Directorate Building,
   Near 2nd MR Gate, Imphal Dimapur Road,
   Imphal West, Imphal, Manipur – 795001.

9. **DEPARTMENT OF POWER**
   Government of Arunachal Pradesh,
   Through its Chief Engineer,
   Vidyut Bhawan, O-Point Tinali,
   Itanagar, Arunachal Pradesh – 791111.

10. **ONGC TRIPURA POWER COMPANY LIMITED**
    Through its GM Commercial
    10th floor, Core IV & Central,

Scope Minar Laxmi Nagar,
Delhi – 110092.

11. NORTH EASTERN REGIONAL POWER COMMITTEE
Through its Secretary,
NERPC Complex, Dong Parmaw, Lapalang
Shillong, Meghalaya – 793006

12. CENTRAL TRANSMISSION UTILITY OF INDIA LIMITED
Through its Chief Operating Officer,
Plot No.2, Sector 29,
Gurgaon, Haryana – 122001. …. Respondent(s)

Counsel on record for the Appellant(s)	:	Ms. Poorva Saigal Mr. Shubham Arya Ms. Tanya Sareen Mr. Ravi Nair Ms. Srishti Khindaria for App. 1
Counsel on record for the Respondent(s)	:	for Res. 1

JUDGEMENT

PER HON'BLE MRS. SEEMA GUPTA, OFFICIATING CHAIRPERSON

1. The present Appeal has been filed by North East Transmission Company Limited **("Appellant")** under Section 111 of the Electricity Act, 2003 challenging the Order dated 27.01.2021 **("impugned order")** passed by Central Electricity Regulatory Commission (hereinafter referred as **"Central Commission/CERC"**) in Petition No.191/MP/2019**,** whereby the Central Commission rejected the Appellant's claim for relaxation of the normative Operation and Maintenance ("O&M") expenses prescribed under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014.

FACTUAL MATRIX OF THE CASE:

2. The Appellant-North East Transmission Company Limited ("NETCL") is a transmission licensee incorporated under the provisions of the Companies Act, 1956 and is engaged in the business of developing, operating and maintaining a 662.8 kms of inter-State transmission system for evacuation of power from the 2 x 363.3 MW Palatana Gas Based Power Project of ONGC Tripura Power Company Limited (Respondent No. 10) in the North-Eastern Region. The system comprises five transmission assets commissioned between 01.09.2012 and 22.02.2015.

Asset-I: Palatana–Silchar D/C, 247.39 km, COD 01.09.2012,
Asset-II: Silchar–Byrnihat, 214.41 km, COD 01.03.2013,
Asset-III: Byrnihat–Bongaigaon, 201 km, COD 22.02.2015,
Asset-IV: Silchar–Azara, 256.41 km, COD 27.07.2014, and
Asset-V: Azara–Bongaigaon, 159 km, COD 16.01.2015.

3. The Respondent No.1, i.e. Central Electricity Regulatory Commission is the statutory body functioning under Section 76 of the Electricity Act, 2003. The Respondent Nos. 2 to 11 are the concerned transmission utilities, distribution utilities and other stakeholders/beneficiaries of the Appellant's transmission system.

4. On 11.09.2015, NETCL filed Petition No. 233/TT/2015 before the CERC seeking determination of tariff for Asset-I and Asset-II for the Control Period 2009-14, which was decided by the CERC vide Order dated 29.07.2016. On the same date, NETCL also filed Petition No. 213/TT/2015 seeking determination of tariff

for Asset-I to Asset-V under the CERC Tariff Regulations, 2014, which was subsequently determined by the CERC vide Order dated 16.08.2016.

5. Aggrieved by the inadequacy of the normative O&M expenses specified under Regulation 29(4) of the Tariff Regulations, 2014, Appellant filed Petition No. 224/MP/2017 before the Central Commission under Regulations 54 and 55 of the Tariff Regulations, 2014, seeking relaxation of the O&M norms applicable to its transmission system, inter alia, on the ground that it is a single-project company operating in the difficult terrain of the North-Eastern Region.

6. By Order dated 16.04.2019 in Petition No. 224/MP/2017, the Central Commission observed that the Appellant, being a single asset company operating in the North-Eastern Region, required consideration distinct from transmission licensees having multiple assets. Accordingly, the Central Commission granted liberty to the Appellant to file a fresh petition furnishing details regarding actual O&M expenditure, efforts undertaken to optimize expenditure, and additional costs incurred towards safety and security of the transmission assets.

7. On 04.07.2019, pursuant to the liberty granted by the Central Commission, the Appellant filed Petition No. 191/MP/2019 before the Central Commission providing details as sought under order dated 16.04.2019 and seeking exercise of the power to relax under Regulation 54 of the Tariff Regulations, 2014, to give appropriate O&M expenses commensurate with the actual requirements arising from its unique operational circumstances.

8. By order dated 27.01.2021, CERC passed the order in Petition No. 191/MP/2019, and did not invoke provisions of power to relax to allow higher

O&M charges to the Appellant for control period 2014-19. Aggrieved by the rejection of its claim, the Appellant filed Review Petition No. 08/RP/2021 before the Central Commission seeking review of the Order dated 27.01.2021 on the ground that there existed errors apparent on the face of the record and that relevant material facts had not been duly considered.

9. The Central Commission, by Order dated 06.08.2021, dismissed the Review Petition at the admission stage, holding that the Appellant had failed to demonstrate any error apparent on the face of the record warranting review of the earlier order

10. Aggrieved by the Orders dated 27.01.2021 passed in Petition No. 191/MP/2019 and 06.08.2021 passed in Review Petition No. 08/RP/2021, the Appellant has preferred the present Appeal.

ANALYSIS & DISCUSSION

11. Despite due service of notice, and matter having been listed on several occasions, none appeared on behalf of the Respondents nor was vakalatnama filed on behalf of any of the respondents. It appears that Respondents were not keen to contest the present proceeding before this Tribunal. Accordingly, we heard Ms. Poorva Saigal, learned counsel appearing for the Appellant, and perused Impugned Order, written submission filed, and other documents on record. Appellant has mainly contended that the i) impugned order contradicts the central commission's own order dated 16.04.2019, ii) the normative O&M benchmark is structurally inapplicable for a single project company in the North

Eastern Region (NER), besides making other submissions on the observation made against the Appellant in the Impugned Order.

12. The Appellant has relied upon the observation made by Central Commission in its order dated 16.04.2019. The Relevant extract from CERC Order dated 16.04.2019 passed in Petition No 224/MP/2017, seeking relaxation in the O&M norms under Tariff Regulation 2014, for the control period 2014-19, are reproduced below: :

> *"6. Considering the fact that the Petitioner is a single asset company and is located in the North-Eastern Region, the Commission is of the view that the case of the Petitioner needs to be considered differently from the transmission assets of transmission licensees having multiple number of assets. Accordingly, we grant liberty to the Petitioner to file a fresh petition containing the following details:*
>
> *(a) O&M charges paid for maintenance of the assets.*
>
> *(b) O&M expenditure incurred by the Petitioner on items other than the maintenance of the bays.*
>
> *(c) Efforts made by the Petitioner to optimize the expenditure.*
>
> *(d) Any additional expenditure incurred by the Petitioner on maintaining the safety and security of the transmission assets."*

13. In pursuance of the liberty granted, Appellant filed the petition along with the requisite particulars, culminating in the Impugned Order whereby relaxation in O&M charges was declined. Upon careful scrutiny, we find substance in the contention of the Appellant that the Impugned Order does not advert to or deliberate upon the applicability of normative charges, derived on a pan-India basis, to the peculiar circumstances of the Appellant, notwithstanding the Commission's earlier observation dated 16.04.2019 that special consideration

may be warranted given the Appellant's status as a single-project company operating in the North-Eastern Region.

14. It is, however, trite law that a Regulatory Commission, being a statutory authority, is not bound in perpetuity by every observation made in its earlier orders, particularly where such observations are incidental or obiter dicta. The binding force attaches to the operative directions and conclusions inter se the parties, unless modified or set aside in appeal. Mere reasoning or incidental remarks in one order do not create estoppel against the Commission in subsequent proceedings.

15. Equally, it is well-settled that the judgments and observations of Regulatory Commissions are not binding upon this Tribunal. The Tribunal's remit under Section 111 of the Electricity Act, 2003 is to test the legality, propriety, and correctness of the impugned order on its own merits, in conformity with the parent statute and applicable regulations. Accordingly, we shall proceed to decide the issue on its own merit.

16. It is submitted that the data of Respondent No.2- POWERGRID, substantially forms the basis of the normative benchmark, which operates approximately 5,000 circuit kilometres of transmission lines in the North Eastern Region as against its pan-India transmission network of over 1,53,635 circuit kilometres, with the NER constituting merely 3.25% of its total network, which was contended before CERC as well. Consequently, when POWERGRID's O&M expenses are aggregated at the national level to derive the normative per circuit kilometre benchmark, the distinctly higher costs associated with the NER are diluted within the national average. Appellant provided following data of

POWERGRID, region-wise O&M expenditure for 2014–15, from the Statement of Reasons for the Tariff Regulations, 2014, is as under:

Particulars	**NER**	**Northern Region**	**Western Region**	**Southern Region**	**Eastern Region**
Total O&M Expenses (Rs. lakh)	17,114	81,446	48,668	37,228	39,756
O&M attributable to transmission lines @ 25% (Rs. lakh)	4,279	20,361	12,167	9,307	9,939
Total Circuit Kilometres	5,674	35,739	36,601	22,195	16,749
O&M per ckt. km (Rs. lakh)	**0.75**	**0.57**	**0.33**	**0.42**	**0.59**

17. It is submitted that though the NER O&M cost per circuit kilometre is higher by 32 % to 127% as compared to other regions, normative benchmark of Rs. 0.403 lakh per circuit kilometre, derived from the national aggregate, is applied to the Appellant, which operates entirely in the North Eastern Region having the highest O&M charges. Even the Central Commission has subsequently taken cognizance of the difficulties being faced by the Licensees operating in the NER and hilly region and has applied a factor of 1.5 to the O&M expenses applied for the other regions. It is, however, submitted that even with the application of 1.5 factor for the control period 2014-19, the Appellant would still be in a deficit as under (in Rs Lacs):

Financial Year	O&M allowed by CERC (A)	Actual O&M Expenses (B)	1.5 X O&M allowed by CERC (C)	Difference between (B) and (C)
2014-15	331	817	497	320
2015-16	484	908	727	181
2016-17	500	1,126	751	375
2017-18	517	1,090	775	315
2018-19	534	1,251	801	450
Total	**2,367**	**5,192**	**3,551**	**1,641**

18. Appellant further submitted that while the Central Commission allowed O&M expenses at the rate of Rs. 0.403 lakh per circuit kilometre, the corresponding rates allowed for utilities operating in the North Eastern Region were Rs. 0.85 lakh per circuit kilometre for AEGCL (Assam) and Rs. 1.09 lakh per circuit kilometre for MEPTCL (Meghalaya). This clearly establishes that the State Commissions regulated utilities operating under identical geographical, climatic and operational conditions in the NER, including difficult terrain, high rainfall, insurgency-related challenges and workforce constraints, for whom the O&M norms were independently determined are approximately twice the normative rates prescribed by the Central Commission.

19. In the Impugned Order, refuting the contention of Appellant, that Norms were based only on POWERGRID O&M data, it is stated that norms are finalised based on data collected for actual O&M expenses for all the transmission licensee. Regarding the contention of Appellant with regard to higher O&M charges being single project company, Impugned Order after noting the

Statement of reasons to CERC Tariff Regulation 2014, that such aspect has been clearly deliberated, following observations is made.

> *"25. It is observed from the above that the issue of single project companies and associated expenditure has been raised while finalizing norms for O&M Expenses during 2009-14 as well as 2014-19 tariff periods. However, the Commission has not agreed to such suggestions of allowing higher O&M Expenses and has been of the view that single project companies need to undertake more efficient measures to contain the O&M expenses within industry benchmarks."*

20. Though, it may generally be true that single project company, may not enjoy the economies of scale as other licensee with multiple project, however it is observed from the record that while finalising the Tariff Regulations, 2014, the Central Commission undertook detailed deliberation and consideration of the suggestions advanced by stakeholders, including the plea for a differentiated methodology or higher normative O&M charges for single-project companies. The Central Commission, however, consciously decided not to introduce differentiation on the basis of the number of projects operated by a company. Instead, the normative framework was anchored on circuit-kilometre (ckt-km) parameters, which were considered to be a more objective and uniform basis for determination of O&M charges across the sector for the period under consideration. Once such Regulations are notified under Section 178/181 of the Electricity Act, 2003, they acquire the force of subordinate legislation and are binding upon the Commission itself, the licensees, and all stakeholders, until modified or struck down by a competent judicial authority. Any departure from the normative framework prescribed in the Regulations must be justified strictly within the contours of the enabling provisions, and not on the basis of mere observations in prior orders.

21. With regard to statement in the Impugned Order that O&M norms under tariff Regulation 2014 were based on data of all the Transmission Licensees and not on POWERGRID alone, we find that it is not discernible from the Impugned Order that what other transmission licensee data was considered while forming the norms for FY 2014-19 and percentage share of asset base of these transmission licensee in the overall inter- State transmission network asset base operating prior to 2014-19 control period. It is not difficult to reach to the conclusion as also submitted by Appellant, that no operational data could have been provided by the Appellant at the time of finalization of the Tariff Regulations, 2014, because the assets had not been commissioned by that time. Equally, we cannot be oblivious to the fact that prior to Control period 2014-19, POWERGRID, as the inter-state transmission licensee was operating major portion of the inter-State Transmission network. In such circumstances, it can be easily assumed that the overall O&M charges of POWERGRID for the control period prior to 2014-19 would have had a controlling impact and constituted contributing factor in arriving at benchmark or normative O&M data for control Period 2014-19.

22. It is observed from the CERC Tariff Regulation 2014, that the normative operation and maintenance expenses were same Pan India, with no differentiation for the different terrain i.e, plain, hilly, snowy, difficult etc. In the Tariff Regulation 2014, the normative O&M charges for substation, is bay wise based on voltage level whether 765 kV /400 kV /220 kv and so on; higher the voltage- higher the O&M charges and for transmission lines it is on the basis of number of conductors used in single circuit or double circuit ; more the number of conductors – more O&M charges.

23. Further, from the region-wise POWERGRID data submitted by Appellant and as noted above, it is evident that the O&M cost per circuit kilometer varies significantly between different regions, which in our view is primarily attributable to the type of terrain and topography involved. The data clearly indicates that the O&M charges per kilometer of transmission line are highest for the North Eastern Region as compared to other regions. Specifically, the O&M cost per circuit kilometer in the North Eastern Region (Rs. 0.75 lakh) is 127% higher than the Western Region, 32% higher than the Northern Region, and 79% higher than the Southern Region. For a transmission licensee operating on a pan-India basis, such aberrations in regional O&M costs can be mitigated when evaluated at the company level, even if uniform normative O&M charges are applied across regions. However, the same mitigation is not feasible for a licensee whose operations are confined solely to the North Eastern Region, such as the Appellant. In such a case, the application of pan-India normative O&M charges, without relaxation, may result in inequitable treatment and compromise operational sustainability, given the demonstrably higher costs inherent to the region's terrain and topology.

24. Further, the Impugned Order records an observation that the *"However, the Petitioner had failed to submit data regarding O&M expenses while the Central Commission was engaged in formulating the norms for the control period 2019-24. It is not correct on the part of the Petitioner to suggest that the norms were finalised based on data of PGCIL only."* This assertion has been strongly refuted by the Appellant. Upon careful scrutiny, we find substance in the submissions advanced.

25. From the records placed before us, it appears that the Appellant did, in fact, submit detailed operational and financial data on 24.01.2019 in response to the

Central Commission's Public Notice dated 10.11.2017, which had invited stakeholder comments on the Draft Tariff Regulations, 2019 for the control period 2019-24. The submission of such data evidences the Appellant's participation in the consultative process and contradicts the Commission's finding that no data was furnished. We have observed some variation between the data submitted by the Appellant on 24.01.2019 and the audited data subsequently filed in Petition No. 191/MP/2019. However, the existence of such variation does not negate the fact of submission itself.

26. In these circumstances, the observation in the Impugned Order that no data was submitted by the Appellant for finalising the O&M norms for the control period 2019-24 is contrary to the record and cannot be sustained. The Commission's finding on this aspect is accordingly set aside.

27. Appellant has contended the observations in Para 31 of the Impugned Order, that Appellant was aware of the applicable O&M norms under tariff regulation and incurring expenditure on both site offices and corporate functions is not a prudent expenditure, being erroneous in law and on facts. It is submitted that the expenditure incurred on site offices was unavoidable, as the scope of the O&M Agreement with POWERGRID specifically excluded several critical activities, including maintenance of terminal bays, hot-line maintenance, payment of forest lease rent, liaison with Government authorities, procurement of spares, payment of crop/tree compensation within the Right of Way corridor, and emergency coordination with the RLDC; and accordingly these functions necessarily required dedicated on-site personnel and could not have been effectively discharged through remote administration. Further, after the O&M agreement entered between the Appellant and POWERGRID came to an end on 31.07.2021, O&M activities have been carried out by the Appellant itself. The

maintenance of site offices was therefore not a permanent overhead but an interim operational necessity during the transition to in-house O&M. This was specifically placed before the Central Commission but has not been considered in the Impugned Order. Appellant placed reliance on the Judgment dated 04.05.2026 passed by this Tribunal in **"M/s Everest Power Pvt. Ltd. v. Punjab State Electricity Regulatory Commission"** Appeal No. 430 of 2019, to contend that prudence review must be undertaken with reference to the necessity and reasonableness of the expenditure in the facts and circumstances of the case. With regard to high corporate expenses, as observed in the Impugned Order, it is submitted that the entire corporate expenses of Appellant were divided into limited number of assets/ single project resulting in higher percentage when compared with other transmission licensee like POWERGRID which has over 400 assets spread across five regions.

28. Our attention has been drawn to the fact that Central Commission has subsequently taken cognizance of the difficulties being faced by the Licensees operating in the NER and hilly region and has applied a factor of 1.5 to the O&M expenses applied for the other regions and the relevant extracts from the Explanatory Memorandum to the Draft Tariff Regulations, 2024 reads as under:

> ***Approval of O&M Expenses for North East/Hilly Regions***
> *16.5.23 The Commission, with regard to whether additional O&M expenses can be given for transmission assets being operated in the North Eastern and Hilly Regions, based on the actual data submitted, observes that the actual expenses incurred in the NER region are higher than compared to other regions and therefore, the Commission acknowledges the elevated costs associated with transmission projects in hilly terrains. Factors such as increased logistic, erection, labour, and transportation costs contribute to higher O&M expenses in these regions compared to mainland projects. The Commission, therefore, proposes to allow O&M expenses by applying a factor of 1.5 to the O&M expenses determined under Regulation 36. As the O&M norms have been worked out considering the actual O&M expenses of all the regions of PGCIL which includes NE, NER and other hilly regions, therefore*

it is clarified that the factor of 1.50 shall be applicable only to those transmission licensees whose transmission assets are located solely in NE Region, States of Uttarakhand and Himachal Pradesh, the Union Territories of Jammu and Kashmir and Ladakh.

29. The 1.5 factor has been incorporated as a Proviso to Regulation 36(3) of the Tariff Regulations, 2024 as noted under:

"Provided further that the O&M expenses for Transmission Licensees whose transmission assets are located solely in NE Regions, State of Uttarakhand and Himachal Pradesh, the Union Territories of Jammu and Kashmir and Ladakh shall be worked out by multiplying 1.50 to the normative O&M expenses prescribed above".

From the above, it is clear that CERC, appreciating the difficulties faced by Transmission Licensee in O&M of transmission Assets solely operating in NER and/or other hilly regions, and involving additional expenditure, a multiplication factor of 1.5 to the normative O&M has been adopted for such licensees in Tariff Regulation 2024.

30. We take cognizance of the fact that the transmission corridor operated by the Appellant is critical for evacuation of power in the North-Eastern Region and caters to approximately one-third of the power demand of the region, as recorded in CERC order dated 16.04.2019. It is submitted on behalf of Appellant that it consistently maintained a transmission system availability in excess of 99.90%, with an average availability of approximately 99.92% during the relevant tariff period, despite operating in difficult geographical conditions characterized by hilly terrain, heavy rainfall, forest areas, river crossings and insurgency-related challenges.

31. Appellant has made specific contention with regard to Section 5.11(h)(2) of the Tariff Policy, 2016 – 'Multi Year Tariff' which provides as under:

"In cases where operations have been much below the norms for many previous years, the initial starting point in determining the revenue requirement and the improvement trajectories should be recognized at 'relaxed' levels and not the 'desired' levels. Suitable benchmarking studies may be conducted to establish the 'desired' performance standards."

Further, the Section 61 of the Electricity Act, 2003 requires that the Appropriate Commission, while determining terms and conditions for tariff, shall be guided by principles that safeguard the consumer's interest and ensure recovery of cost of electricity in a reasonable manner.

32. It is also of relevance to extract para 15 of the Impugned Order, which details the allowed normative O&M charges for Control period 2014-19 and actual O&M Charges of the Appellant Company based on audited accounts is extracted hereunder :

"15 The total O&M expenses incurred by the Petitioner and corresponding O&M expenses allowed by the Commission on normative basis, for each year of control period 2014-19 is as under:-

S.No.	Financial Year	Total O & M Expenses Allowed by the Commission	Actual O & M Expenses Incurred	Difference between O&M Expenses Incurred and Normative O&M Expenses
1	2014-15	331.21	817.44	486.23
2	2015-16	484.49	908.73	424.24
3	2016-17	500.41	1126.98	626.57
4	2017-18	516.98	1090.22	573.24
5	2018-19	534.20	1251.15	716.95

33. Admittedly, the O&M expenditure incurred by Appellant for the Control Period FY 2014-19 were considerably higher, more than double, as compared to what is allowed to them applying Normative O&M charges for the period. While turning down the request of Appellant for relaxation in the O&M norms, it is observed that Commission expects the Petitioner to be more prudent and restricts its O&M charges within the stipulated norms.

34. It is axiomatic that the Regulatory Commissions, while discharging their statutory functions, must emphasise efficiency improvement and safeguard consumer interest. The underlying normative framework is designed to balance cost recovery with efficiency gains, thereby ensuring that consumer interest is protected while simultaneously allowing a reasonable return to the licensee. However, it cannot be gainsaid that every element of extra expenditure incurred by a utility can be curtailed by efficiency improvement. Equally, relaxation cannot be granted merely on the basis of actual higher expenditure unless such expenditure is demonstrably linked to prudence and necessity. A balanced approach, therefore, requires the Commission to weigh both sides of the equation. In circumstances where a licensee operates under peculiar conditions—such as geographical remoteness or region-specific challenges—the Commission must deliberate whether strict adherence to pan-India norms would result in inequitable treatment, compromise operational sustainability, or vitiate the licensee’s viability.

35. Regulation 54 of the Tariff Regulations, 2014 confers upon the Central Commission the enabling power to relax any provision of the Regulations in exceptional circumstances, subject to the requirement that reasons for such relaxation be recorded in writing. This relaxation power is not to be exercised lightly or in routine manner, but only where the factual matrix discloses

circumstances of such peculiar nature that strict adherence to the regulatory norm would result in manifest hardship or inequity. The Electricity Act, 2003, while mandating the Commission to safeguard the interests of consumers, simultaneously obliges it to ensure that the cost of electricity is recovered in a reasonable manner, thereby striking a balance between consumer protection and viability of regulated entities.

36. In the present case, the Appellant's operations are confined exclusively to the North Eastern Region, as also observed by CERC in its earlier order, which is characterised by hilly terrain, difficult accessibility, and operational challenges not ordinarily encountered in other regions. The peculiar geographical and logistical constraints faced by the Appellant, coupled with the fact that it is solely operating in North Eastern Region, constitute exceptional circumstances within the meaning of Regulation 54. To insist upon a rigid application of the normative O&M charges in such a situation would be inequitable and contrary to the statutory mandate of ensuring reasonable recovery of costs. We accordingly find merit in the submissions advanced by the Appellant and hold that the case warrants favourable consideration for relaxation in the norms of O&M charges for the control period under consideration.

CONCLUSION

37. In view of the foregoing deliberations, the Impugned Order is set aside. The matter is remanded to the Central Commission with a specific direction to exercise its power to relax under Regulation 54 of the Tariff Regulations, 2014, for the limited purpose of working out the O&M charges for the assets of the Appellant for the control period 2014-19. While undertaking this exercise, the Commission shall carry out a prudence check of the O&M data submitted by the Appellant, ensuring that only such expenditure as is demonstrably necessary and

reasonable is factored into the determination. In doing so, the Commission shall also take into account the special dispensation accorded in subsequent regulations for hilly and similarly placed licensees in the North Eastern Region, so that the peculiar geographical and operational constraints faced by the Appellant are duly recognised.

Needless to state, the Appellant shall provide any further information or document as may be required by the Central Commission expeditiously, so as to facilitate an early determination of the matter. The Commission shall thereafter pass a reasoned order, recording the grounds for relaxation.

The Captioned Appeal and pending IAs, if any, are disposed of in above terms.

PRONOUNCED IN THE OPEN COURT ON THIS 08th DAY OF JULY, 2026.

(Virender Bhat) **Judicial Member**	**(Seema Gupta)** **Officiating Chairperson**

REPORTABLE / ~~NON-REPORTABLE~~

Pr/dk/ag/ak