

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram

1. Shri D.P. Sinha, Member
2. Shri G.S. Rajamani, Member
3. Shri K.N. Sinha, Member

Petition No.3/2002

In the matter of

Approval under Clause (c) of Section 13 of Electricity Regulatory Commissions Act, 1998, for finalisation of norms for application of wheeling charges/losses on inter-state trading of power by Power Trading Corporation of India Ltd.

And in the matter of

Power Trading Corporation of India Ltd. Petitioner

VS

Rajasthan Rajya Vidyut Prasaran Nigam Ltd. & Others Respondents

The following were present:

1. Shri S. Seth Vedantham, Consultant, PTC
2. Shri M. Kumar, Sr. Vice President PTC
3. Shri G.S. Gupta, Vice President, PTC
4. Shri P. Vashnay, PTC
5. Shri Sanjeev Mehra, PTC
6. Shri S. Jindal, PTC
7. Shri Santosh Kumar, Member Secretary, NREB
8. Shri T.P. Singh, SE(C), NREB
9. Shri D.D. Chopra, Advocate, UPPCL
10. Shri A.K. Tandon, Sr. AE, UPPCL
11. Shri S.P. Srivastava, UPPCL
12. Shri A.K. Jain, CE(Comm), RVPNL

13. Shri D. Chandra, NREB
14. Shri Prashant Kaul, NHPC
15. Shri T.P.S. Bawa, Addl. SE, PSEB
16. Shri A. Velayutham, Member Secretary, WREB.

**ORDER
(DATE OF HEARING 7-3-2002)**

This petition has been filed by Power Trading Corporation of India Ltd. under Clause (c) of Section 13 of the Electricity Regulatory Commissions Act 1998, with a prayer for finalization of norms for application of wheeling charges/losses on inter-state trading of power.

2. This petition is listed for hearing on admission after notice.
3. We have heard Shri Mahendra Kumar, Sr. Vice-President on behalf of the petitioner. The representatives of Uttar Pradesh Power Corporation Ltd. (UPPCL), Rajasthan Rajya Vidyut Prasaran Nigam Ltd. (RRVPL), Punjab State Electricity Board (PSEB) have been heard. In addition, Member Secretary, Northern Regional Electricity Board and Western Regional Electricity Board have also been heard.
4. The Commission in its order dated 8-12-2000 in petition No.86/2000 had considered the question of sharing of transmission and wheeling charges for Inter-state transmission, and gave certain directions. These directions were subsequently incorporated in the notification issued by the Commission on 26-3-2001. The relevant portions of the notification are extracted below:-

"4.9 Wheeling Charges for inter-state transmission :

4.9.1 Wheeling on POWERGRID/Licensee's system:

4.9.1.1 *In case of inter-regional transmission of power through the transmission system belonging to POWERGRID or any Licensee, the total monthly charges payable to them by the importing, exporting and intermediary regions (if any) shall remain the same.*

4.9.1.2 *Till introduction of ABT, the sharing of monthly transmission charges shall be in proportion to energy drawal. In case of importing region, the monthly transmission charges payable to POWERGRID/Licensee shall be shared in proportion to energy drawal as per Regional Energy Accounting including energy drawn from exporting region. In case of exporting region, the monthly transmission charges payable to POWERGRID/Licensee shall be shared by its constituents and beneficiaries (importing utilities) outside the region in proportion to energy drawal as per Regional Energy Accounting. Subsequent to introduction of ABT, sharing of the monthly transmission charges shall be on the basis of capacity allocation and contracted power. No transmission charges shall, however, be payable by the importing utility for utilisation of POWERGRID/Licensee system in intermediary region(s).*

4.9.1.3 *The transmission losses shall be payable for utilisation of the POWERGRID/Licensee's system.*

4.9.2 Wheeling through SEB/State Utility system:

4.9.2.1 *In case of wheeling of power through SEB/state utility system, the importing utility and the wheeling utility shall endeavour to mutually agree on wheeling charges as well as transmission losses. In such cases, approval of the Commission shall not be required. However, the wheeling utility shall not deny use of its system merely on the basis of non-agreement on wheeling charges.*

4.9.2.2 *If the parties are not able to agree on the wheeling charges, the Contract Path method shall be used for calculation of wheeling charges. Monthly transmission charges of this path would be payable in proportion to contracted power vis-à-vis SIL of the lines in the contracted path. The monthly transmission charges for the contract path shall be calculated as per the provisions of this notification.*

4.9.2.3 *In case, wheeling utility makes some special arrangement (such as backing down cheaper generation) to facilitate exchange, the verifiable opportunity cost or the charges calculated as per contract path method, which ever is higher, shall be payable to the wheeling utility. In any case, the wheeling charges shall not exceed the charges*

corresponding to a new transmission line of adequate capacity along the contracted path. The Member Secretary, REB of the region in which wheeling utility is located, shall calculate wheeling charges by applying the principles enumerated above.

4.9.2.4 *The incremental transmission losses on account of wheeling shall be payable in kind i.e. the transmission losses shall be compensated by an equivalent amount of energy charged to the importing utility. In case of non-agreement on the issue of transmission losses, the studies to determine incremental transmission losses in the wheeling utility system shall also be carried out by the Member Secretary of the region concerned.*

4.9.2.5 *The Commission may be approached in case of disagreement with the decision of Member Secretary, REB. Pending the final order of the Commission, decision of the Member Secretary, REB shall be implemented on provisional basis."*

5. The petitioner by making certain assumptions on the question of payment of Regional Transmission Charges and transmission losses has submitted that based on norms prescribed in the Commission's order dated 8-12-2000, in case of transfer of power from Western Region to Northern Region, the transmission charges and transmission losses added up to 26 paise/ kWh. Similarly, in case of transfer of power from Eastern Region to Southern Region through the system owned by GRIDCO, Chhattisgarh Electricity Board, Regional Transmission System of the Western Region, these charges worked out to the tune of 85 paise/kWh. Further, in case of transfer of power generated by an IPP in the Eastern Region, the additional cost on account of transmission charges and transmission losses was to the extent of 116 paise/kWh. It has been submitted that the transmission/wheeling charges as prescribed, put a clog on trading since these result in extra burden on the consumers. According to the petitioner, in case of use of regional transmission system or the system owned

by state utilities having spare capacity, in the process of trading no additional transmission/wheeling charges should be payable since such a use is just "incidental" and not on regular basis. However, the utilities can be compensated for the incremental losses as may be determined by an appropriate authority decided by the Commission. In the view of the petitioner, in this manner existing generating capacity and transmission system can be used for better economic advantage and will have the effect of reducing the average cost of power to state utilities and the ultimate consumers. It is the perception of the petitioner that through this process quality of power, grid frequency and voltage parameters will also improve. Thus, the petitioner has prayed that in the normal course of trading no additional transmission/wheeling charges should be payable, unless any new system is required to be added for the purpose of trading in which the cases of transmission/wheeling charges could be levied. The petitioner feels that adoption of the norms for payment of transmission/wheeling charges as prayed for would give impetus to trading of power.

6. Shri D.D. Chopra, Advocate, appearing on behalf of the UPPCL raised a preliminary issue regarding maintainability of the petition. He pointed out that in fact the petitioner sought a review of the Commission's order dated 8-12-2000, which is legally impermissible in the present proceedings. We take note of the fact that the present petitioner was not a party to the proceedings in petition No.86/2000. Therefore, as a third party it could seek the review of the order

within a period of two months. However, the law declared by the Supreme Court in Gopal Bandhu Biswal Vs. Krishna Chandra Mohanty- (1998)4 SCC 447 is that:

"The only remedy for a person who wants to challenge the judgment is to file a separate application before the Tribunal in his own case and persuade the Tribunal either to refer the question to a larger Bench or, if the Tribunal prefers to follow its earlier decision, to file an appeal from the Tribunal's judgment and have the Tribunal's judgment set aside in appeal but review cannot be sought."

7. We are, therefore, satisfied that the petitioner can approach the Commission for appropriate relief in case it is not satisfied with the directions contained in the earlier order of the Commission dated 8-12-2000. In view of this we over-rule the preliminary objection taken on behalf of the UPPCL.

8. We, therefore, proceed to consider the matter in the light of submissions made in the petition. The assets for transmission of power have been created by PGCIL and the state utilities. These assets bear costs, which also include maintenance cost. It goes without saying that transmission/wheeling of extra power through the transmission system would add to the maintenance costs. In case the transmission/wheeling charges are not recovered while resorting to trading of power, the additional costs have to borne either by the owners of the transmission system or other beneficiaries in the region from which the power is traded. In this process, they would be in a disadvantageous position. This makes the proposal of the petitioner inequitable. We are of the opinion that the concessions prayed for by the petitioner in the interest of promotion of trading are

not warranted in the present day situation. The person involved in the trading and the user of the assets created for transmission of power have to bear the costs and the trading of electricity should be left to the market forces without any concessional support. We are satisfied that the petitioner has not been able to make out even a *prima facie* case in support of the proposal contained in the petition. Accordingly, the present petition is dismissed at the admission stage. The payment of transmission/wheeling charges shall be governed in terms of the Commission's notification dated 26-3-2001.

**Sd/-
(K.N. Sinha)
Member**

**Sd/-
(G.S. Rajamani)
Member**

**Sd/-
(D.P. Sinha)
Member**

New Delhi dated: 11th March, 2002.