

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 449/MP/2014**

Subject : Petition under Section 79 (1) (f) read with section 60 of the Electricity Act, 2003.

Date of hearing : 16.4.2015

Coram : Shri Gireesh B. Pradhan, Chairperson  
Shri A.K. Singhal, Member  
Shri A.S. Bakshi, Member

Petitioner : M/s Malana Power Company Limited

Respondents : Himachal Pradesh State Electricity Board Limited and other

Parties present : Ms. Seema Jain, Advocate, MPCL  
Shri Sumit Garg, MPCL  
Shri Anand K Ganesan, Advocate, HPSEBL  
Shri Deepak Uppal, HPSEBL  
Shri Joginder Singh, HPSEBL

**Record of Proceedings**

Learned counsel for the petitioner argued at length and submitted as under:

(a) Since the wheeling charges are not in dispute in the present petition, the respondent, Himachal Pradesh State Electricity Board Limited (HPSEB) cannot raise the issue in the present petition. If the respondent is aggrieved, it may approach the Commission through a separate petition.

(b) The petitioner has been paying the SLDC charges separately at the rates notified by the Commission from time to time in addition to the Handling Charges.

(c) Learned counsel requested the Commission to pass interim order restraining the respondents from demanding/recovering/billing the "handling charges". None of the Regulations prescribed SLDC charges at the rate of 3 paise per KWh which was charged by the respondent as Handling Charges for sale of power in inter-State.

2. Learned counsel for the Himachal Pradesh State Electricity Board Limited (HPSEB) submitted as under:

(a) As per clause 16.8 of the Implementation Agreement, it was agreed that the wheeling charges is to be levied for use of transmission system for evacuation of power.

(b) Since the power flow of the petitioner was through the network of HPSEB which is an intra-State transmission system, the charges were being levied for such transmission. The Wheeling Agreement entered between the petitioner and HPSEB on 3.3.1999 and all subsequent agreements including the agreements dated 24.8.2011, 22.2.2012, 20.3.2013 were on the same basis. Under these agreements, the wheeling charges and losses were being charged by HPSEB. These agreements were in continuation of the Implementation Agreement and remain valid as far as wheeling charges and losses/ UI charges and handling charges is concerned.

(c) If the Commission comes to the conclusion that only the Open Access Regulations and UI Regulations are to apply, the same should apply in its entirety and all charges should be reworked as per the Commission's Regulations from the dates applicable.

(d) Learned counsel relied upon judgment of Supreme Court in Nagubai Ammal and others Vs Shama Rao and others [AIR 1956 SC 593] and submitted that the petitioner having elected to be governed by the UI Regulations of the Commission cannot be allowed to say that other regulations of the Commission are not applicable to the petitioner.

3. The respondent, HPSEB was allowed to file a petition regarding the wheeling charges within one week and the petitioner was directed to file the reply within one week thereafter.

4. The Commission directed to list both petitions on 12.5.2015.

**By order of the Commission**  
**Sd/-**  
**(T. Rout)**  
**Chief (Law)**