

**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 : 6.2.2015

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

Petitioner : 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 Praveen Kumar Giri, MPCL
Ms. Swapna Seshadri, Advocate, HPSEBL
Shri Deepak Uppal, HPSEBL
Shri Joginder Singh, HPSEBL
Shri Vinod K. Verma, HPSEBL

Record of Proceedings

Learned counsel for the petitioner submitted as under:

(a) The petitioner has set up a 86 MW Malana Hydro Electric generating station (the project) in district Kullu, Himachal Pradesh having a dedicated transmission line upto inter-connection point at Bajaura sub-Station of Himachal Pradesh State Electricity Board Ltd. (HPSEBL).

(b) The petitioner is an intra-State entity in terms of Regulation 2 (h) of the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008 (Open Access Regulations) having a 40 years wheeling agreement and having modalities for payment of wheeling charges and State losses with HPSEBL for transfer of power upto inter-State point i.e. Nalagarh sub-station of PGCIL in terms of Implementation Agreement dated 13.3.1997 signed with Govt. of Himachal Pradesh and selling power in inter-State region.

(c) Despite the fact that UI charges has been prescribed under Central Electricity Regulatory Commission (Unscheduled Interchange charges and related matters) Regulations, 2009 (UI Regulations), HPSEBL vide its letter dated 20.4.2009 informed the petitioner that as per approved new method for calculating UI charges, the petitioner is required to pay UI charges at different rates and handling charges @ 3 paisa per unit w.e.f 1.4.2008.

(d) The levying of handling charges is illegal and unsustainable as per Regulation 20 (6) of the Open Access Regulations which prohibited the State utilities from charging any charges other than those applicable in accordance with the Regulations.

(d) HPSEBL evolved a new concept of UI charges which was not only the highest of the sale rate in bilateral transaction/ exchange transaction or UI rate but also as high as ₹ 17.46 paise per unit in case if the schedule has been deviated for more than 3 hours without any mention of the frequency besides the charging of the handling charges which are nowhere prescribed in the regulations. Therefore, charging the UI at the highest of the applicable rate irrespective of frequency is unlawful.

(e) On several occasions, the petitioner was threatened for denial of NOC and scheduling of power. The act of the SLDC, HP is illegal as refusing the NOC could be only on the technical reasons as per the Open Access Regulations.

(f) Since 2014, HPSEBL is levying UI charges as per UI Regulations. However, handling charges levied by HPSEBL are not as per the Regulations.

2. Learned counsel for the petitioner submitted that the petitioner has filed IA to refrain HPSEBL from billing handling charges. The Commission was not inclined to pass any order in this regard without hearing the parties. The Commission observed that all charges including UI charges should be recovered and paid as per UI Regulations.

3. Learned counsel for Himachal Pradesh State Electricity Board Limited submitted that the petitioner is not making payment on account of UI/deviation charges w.e.f. 1.4.2014 and is liable to pay UI charges for the current year.

4. After hearing the learned counsels for the parties, the Commission directed to admit the petition and issue notice to the respondents.

5. The Commission directed the petitioner to serve copy of the petition on the respondents by 13.2.2015. The respondents were directed to file their replies by 27.2.2015 with an advance copy to the petitioner, who may file its rejoinder, if any, on or before 13.3.2015.

6. The Commission directed that due date of filing the reply and rejoinder should be strictly complied with. Reply and rejoinder filed after due date shall not be considered.
7. The petition shall be listed for hearing on 24.3.2015.

By order of the Commission

**Sd/-
(T. Rout)
Chief (Law)**