

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 439/MP/2019

Subject : Petition under Section 79(1) of the Electricity Act, 2003 seeking clarification of order dated 12.2.2019 in Petition No. 205/MP/2018.

Date of Hearing : 27.8.2020

Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member

Petitioner : JSW Hydro Energy Limited (JSWHEL)

Respondent : PTC India Limited (PTC) and 2 Ors.

Parties present : Shri Aman Anand, Advocate, JSWHEL
Ms. Swapna Seshadri, Advocate, PSPCL
Shri Amal Nair, Advocate, PSPCL
Shri Anurag Agarwal, PSPCL

Record of Proceedings

The matter was heard through video conferencing.

2. Learned counsel for the Petitioner submitted that the present Petition has been filed seeking clarification of the Commission's order dated 12.2.2019 in Petition No.205/MP/2018 to the effect that full capacity charges are payable by the beneficiaries based on the Plant Availability Factor achieved for a Month (PAFM) certified by Northern Regional Load Despatch Centre (NRLDC)/Northern Regional Power Committee (NRPC). Learned counsel submitted that in terms of paragraphs 19 and 23 of the order dated 12.2.2019, the Respondents/ beneficiaries are required to pay the capacity charges on the basis of PAFM certified by NRLDC/ NRPC which also includes the overload capacity. However, the Respondents, PSPCL and UPPCL have refused to pay capacity charges for overload capacity on the ground that they did not opt for such capacity during financial year 2018-19. Moreover, the Respondent, UPPCL vide its letter dated 23.7.2019 advised the Petitioner to seek the Commission's clarification regarding payment of capacity charges for the overload capacity.
3. In response to the Commission's specific observation that the primary issue involved in the Petition No. 205/MP/2018 pertained to Long-Term Access quantum corresponding to the overload capacity and not capacity charges, learned counsel for



the Petitioner submitted that in that case, the Petitioner may be granted liberty to raise its claim through a separate Petition.

4. Learned counsel for the Respondent, PSPCL submitted that in Petition No. 205/MP/2018, the Petitioner had sought a specific direction to the beneficiaries to schedule for the overload capacity, which was not granted by the Commission. Thus, having not succeeded in getting such direction in the original Petition itself, the Petitioner cannot seek the very same relief in clarification Petition. She further submitted that the Petitioner is barred from seeking such clarification in terms of Rule 2 of the Code of Civil Procedure, 1908. Learned counsel submitted that in paragraphs 25 and 26 of the order dated 12.2.2019, the Commission has clearly held that the Respondent/beneficiary has a right to refuse to avail the overload capacity and in case where the beneficiary decides not to avail such power under overload capacity, the generating station shall be free to seek alternate avenues to sell its power. Learned counsel further submitted that the Petitioner ought not to be granted any liberty to raise its claim through separate Petition.

5. After hearing the learned counsel for the parties, the Commission reserved the order in the matter.

By order of the Commission
Sd/-
(T.D. Pant)
Deputy Chief (Law)

