

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
New Delhi**

**Petition No. 23/TT/2023**

- Subject** : Petition for approval of transmission charges and losses as well as other conditions for use of 24.23 km long 132 kV Double Circuit Dedicated Transmission Line of Malana Power Company Limited from its 86 MW Malana-I HEP Generating Station at Village-Chowki Post Jari Distt. Kullu Himachal Pradesh upto 33/132 kV Bajaura Sub-station of HPSEBL situated at Sarabhai Distt. Kullu Himachal Pradesh
- Date of Hearing** : 30.8.2023
- Coram** : Shri Jishnu Barua, Chairperson  
Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member
- Petitioner** : Malana Power Company Limited (MPCL)
- Respondents** : Himachal Pradesh State Electricity Board Limited (HPSEBL) and Anr.
- Parties Present** : Dr. Seema Jain, Advocate, MPCL  
Shri Vimlesh Kumar, Advocate, MPCL  
Ms. Swapna Seshadri, Advocate, HPSEBL  
Ms. Shivani Verma, Advocate, HPSEBL  
Shri Sumit Garg, MPCL  
Shri Sanjay Jana, MPCL  
Shri Chetram Sharma, HPSEBL

**Record of Proceedings**

Malana Power Company Limited (MPCL) has filed the instant petition for approval of transmission charges and losses as well as other conditions for the use of its 24.23 km D/C 132 kV Transmission Line from Chowki (86 MW Malana-I HEP Generating Station of MPCL) to Bajaura (Sub-station of HPSEBL) under Regulation 6 of the 2009 Tariff Regulations based on the actual capital expenditure for the period from COD to 31.3.2014, from 1.4.2014 to 31.3.2019 and from 1.4.2019 to 31.3.2024 under the 2009 Tariff Regulations, the 2014 Tariff Regulations and the 2019 Tariff Regulations respectively.

2. The representative of the Petitioner made the following submissions:

- a) HPSEBL has been using the D/C 132 kV Transmission Line from Chowki (86



MW Malana-I HEP Generating Station of MPCL) to Bajaura of the Petitioner since August, 2009 for evacuation of its energy. It is a dedicated and radial transmission line with no loop-in and loop-out.

- b) As per the Agreement executed between the Petitioner and HPSEBL dated 3.3.1999, HPSEBL was authorized to use the dedicated transmission line for evacuation of power up to 132/33 kV at Bajaura Sub-station of HPSEBL and it was agreed that the modalities for apportioning of the transmission charges and losses payable by HP shall be mutually decided at the appropriate time.
- c) As per Minutes of the Meetings (MoM) dated 27.7.2009 which was held on 6.6.2009 between the Petitioner and the Respondents, the power of Toss HEP (10 MW) was to be evacuated through the instant transmission asset as an interim arrangement till a permanent EHV system is set up by HPSEBL and wheeling charges shall be paid to the Petitioner as per the regulations of Himachal Pradesh State Electricity Regulatory Commission (HPSERC) for transfer of HPSEB power from Malana to Bajaura.

HPSEBL agreed in the meeting on 22.5.2015, which was recorded in MoM dated 9.7.2015, to release 30% of the outstanding amount to the Petitioner against wheeling charges accumulated up to October, 2014. The Petitioner vide letter dated 18.11.2015 submitted its claim of ₹94.34 lakh (30% of total claim of ₹314.47 lakh) against which HPSEBL paid ₹86.53 lakh on 4.12.2015 and stated that the balance payment would be made after finalization of charges by HPERC. The Petitioner vide letter dated 2.2.2016 has submitted the details of wheeling charges from November, 2014 to January, 2016 amounting to ₹350.68 lakh. However, no payment was received from HPSEBL.

- d) The Petitioner filed a Writ Petition before the Hon'ble High Court of Himachal Pradesh seeking directions to HPSEBL to pay the entire outstanding wheeling charges to the Petitioner w.e.f. August, 2009 to March, 2016 with interest. The Hon'ble High Court of Himachal Pradesh vide order dated 30.7.2018 directed HPSEBL to make the payment of the outstanding amount to the Petitioner and also directed the parties to approach this Commission for further adjudication. Accordingly, HPSEBL paid amount of ₹5,06,28,843 in three instalments, the first instalment of ₹86,53,500 pursuant to the meeting dated 22.5.2015 with Government of Himachal Pradesh and other two payments were made on the directions of Hon'ble High Court of ₹2,01,91,500 on 12.8.2016 and of ₹2,17,83,843 on 16.5.2017.
- e) The Petitioner has not invoked the provision of dispute settlement through Arbitration as there is no dispute between the Petitioner and HPSEBL regarding the terms of the Agreement with respect to the agreed sharing of transmission charges and losses.
- f) The major quantum of power i.e. 93.25 MW (being 84% of the total power) is being transmitted through this dedicated line for inter-State sale and as such this Commission has the jurisdiction to decide all issues relating to the generating plant of the Petitioner.



- g) The Petitioner is before the Commission at the directions of the Hon'ble High Court of Himachal Pradesh. The Petitioner initially filed a Miscellaneous Petition for the determination of transmission charges and losses. However, on the directions of the Commission, the Petitioner has filed a petition for transmission tariff.
3. Learned counsel for HPSEBL submitted as follows:
- a) The Commission has no jurisdiction to adjudicate the present petition in terms of the Commission's order dated 4.5.2023 in Petition No. 57/MP/2022.
  - b) HPSEBL is required to pay the wheeling charges as agreed in the tripartite agreement dated 3.3.1999.
  - c) The Petitioner and HPSEBL are bound by the terms of Arbitration Clause 16 of the Agreement dated 3.3.1999. Before referring the dispute to arbitration, the Chief Executives of both parties should meet and endeavour to settle the dispute through mutual reconciliation.
4. The Commission directed HPSEBL to file its reply on affidavit by 20.9.2023 with an advance copy to the Petitioner and the Petitioner to file its rejoinder, if any, by 3.10.2023.
5. The Commission directed to list the matter for further hearing on 27.10.2023.

**By order of the Commission**

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(V. Sreenivas)  
Joint Chief (Law)

