

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 23/TT/2023

Subject : Petition for approval of transmission charges, transmission losses and other conditions for use of the 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

Petitioner: : Malana Power Company Limited (MPCL)

Respondents : Himachal Pradesh State Electricity Board Limited (HPSEB) and Anr.

Date of Hearing : 21.2.2024

Coram : Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri P.K. Singh, Member

Parties Present : Dr. Seema Jain, Advocate, MPCL
Shri Vimlesh Kumar, Advocate, MPCL
Shri Tushar Srivastava, Advocate, SHPPBPL
Ms. Surbhi Pandey, Advocate, SHPPBPL
Shri Amal Nair, Advocate, HPSEBL
Shri Anand K. Ganesan, HPSEBL
Ms. Shivani Verma, HPSEBL
Shri Sumit Garg, MPCL
Shri Mahadevan, MPCL

Record of Proceedings

Learned counsel and the representative of the Malana Power Company Limited (MPCL), the Petitioner, a hydro-generating company, made elaborate submissions. The gist of the submissions made by them are as follows:

- a) The Petitioner owns the 24.23 km long 132 kV double circuit dedicated transmission line from its project up to the inter-connection point i.e. 132 kV



- Bajaura Sub-station of HPSEB, for transmission of its power outside the State of Himachal Pradesh. The line was constructed by HPSEB on behalf of the Petitioner, and the capital cost was paid by the Petitioner.
- b) The Petitioner and HPSEB had entered into an agreement dated 3.3.1999. In terms of the Agreement, HPSEB could use the Petitioner's dedicated transmission line for evacuation of its power up to Bajaura at mutually decided rates at the appropriate time.
 - c) The Petitioner had filed CWP No. 1109 of 2016 in the High Court of Himachal Pradesh seeking wheeling charges from HPSEB and other Respondents. The Hon'ble High Court, while disposing of the above writ Petition, directed the Petitioner to approach this Commission for determination of transmission tariff.
 - d) The instant petition has been filed in terms of the Commission's letter dated 19.11.2020 and 16.12.2020 for the determination of tariff in respect of its dedicated line being used for evacuation of inter-State power.
 - e) Sandhya Hydro Power Projects Balarga Pvt. Limited (Sandhya Power), Respondent No. 2, started using the Petitioner's dedicated transmission line w.e.f. 7.1.2018. Sandhya Power is making ad hoc payments. However, HPSEB paid a certain amount and ₹3 crore is still outstanding from HPSEB as on August 2020.
 - f) The instant petition is similar to Petition No. 209/MP/2017, filed by AD Hydro Power Ltd., for the determination of the tariff of its dedicated transmission line.

2. The learned counsel for HPSEB also made detailed submissions. The gist of the submissions made are as follows:

- a) There is no similarity between the instant matter and that of AD Hydro.
- b) The instant transmission line is an intra-State transmission line.
- c) The Hon'ble High Court has not decided the jurisdiction, and arbitration may not lie in the instant petition. The Petitioner should approach the HPERC seeking a tariff in the matter as the Commission has no jurisdiction in the matter.

3. In response to a query of the Commission regarding non-submission of tariff forms, the learned counsel of the Petitioner submitted that the instant transmission asset was developed as part of the generating station and they can provide the entire cost of the project as no separate cost for transmission asset was envisaged. The Commission observed that the Petitioner should consider the cost paid by the Petitioner to HPSEB for execution of the transmission asset as the capital cost of the transmission asset and on that basis, the Petitioner should file the tariff forms notified along with the Tariff Regulations, which are mandatory in nature.

4. After hearing the parties, the Commission directed the Petitioner to file the mandatory tariff forms specified in the tariff regulations and the Petitioner and the Respondents to file their written submissions by 15.3.2024, with emphasis on the following aspects:



- a) Whether the instant transmission line is an ISTS line?
 - b) The jurisdiction in the matter. Whether CERC or the HPERC is the appropriate Commission in the matter?
 - c) Why the matter should not be referred for arbitration?
 - d) Similarity of the instant matter with that of AD Hydro matter.
5. The Commission further observed that the parties should file the written submissions within the specified time and no further extension of time will be entertained.
6. The matter will be listed for final hearing on 24.5.2024.

By order of the Commission

sd/-
(V. Sreenivas)
Joint Chief (Law)

