

**Case No.197/04**

Present : For HP Govt. None  
HPSEB: Sh.Bimal Gupta, Adv.  
Consumer Representative: None

**ORDER**

Heard. Suo-motu show cause notice for the sale of share of power from various hydro electric projects in the State to the HPSEB and the procurement of the same from the Government of HP for distribution and supply within the State, in contravention of the provisions of sections 62,64,86 (1)(b) of the Electricity Act, 2003 was issued on 14.12.2004. On the pleadings/ submissions made on behalf of the HP Government, the Commission observed that under the provisions of the Act, the status of the State Government in dealing with its share of the power from the various hydro electric projects is not clear and advised the State Government to approach the Central Government to clarify the position under section 183 of the Act. Simultaneously the Commission also initiated the steps to seek the said clarification from the Central Government in the Ministry of Power and also proposed amendment in the HPERC (Conduct of Business) Regulations, 2005 to accord to the State Government some status of law in the disposal of its share in power from various hydro projects. The State Government, in the first instance objected the said amendment, but subsequently has withdraw its objections. In the meanwhile on 8<sup>th</sup> June, 2005, in exercise of the powers conferred under section 183 of the Electricity Act, 2003, the Ministry of Power in the Central Government made the Electricity (Removal of Difficulty) (Third Order) 2005, in respect of the discretion of the State Government to dispose off the free electricity from the power generated by various hydro generating companies. Para 2 of the said order reads as under:-

**“2. Disposal of free electricity received by a State Government from hydro power generation stations.- The State Government receiving free electricity from hydro power generating stations shall have discretion to dispose off such electricity in the manner it deems fit according to the provision of the Act:**

Provided that if such electricity is sold by the State Government to a distribution licensee, the concerned State Commission shall have power to regulate the price at which such electricity is procured by the distribution licensee”.

The said order is silent over the matter of share of power. Harmonious leading of the provisions i.e. section 86(1)(b), 62(1)(a) and sub-section (28) of section 2 of the Act and the aforesaid Removal of Difficulties Order makes amply clear that there is no need for the Commission to fix the tariff for such sale by the State Government, but the Commission has the power to regulate the price at which the electricity shall be purchased by the Board. The respondent Board has contended that it has filed petition under sub-section(3) of section 64 of the Act and this Commission issued Tariff Order on 2<sup>nd</sup> July,2004 for FY 2004-05 whereby 70 paise was fixed as the cost of free power made available by the State Government to the Board. Thus there is no contravention of the provisions of sections 86(1) (b) and (c), 62 and 64 of the Act.

The Commission after serious consideration to the pleadings made, and arguments, advanced, during the hearing discharges the notices issued under section 142 of the Act on 14.12.2004 and orders that the amendment proposed in HPERC (Conduct of Business) Regulations, 2005 be processed further in accordance with the provisions of the Electricity Act, 2003. After sending the copy of this order to the concerned Wing of the Commission, the file may be consigned to the record room.

Announced in the Open Court.

Dated:22.04.2006.

(Yogesh Khanna)  
Chairman.