

**BEFORE THE HIMACHAL PRADESH ELECTRICITY  
REGULATORY COMMISSION SHIMLA**

**Petition No: 29 of 2023**  
**Date of Institution: 22.09.2022**  
**Arguments Heard on: 19.08.2023**  
**Decided on: 16.10.2023**

**CORAM**

Devendra Kumar Sharma  
**CHAIRMAN**

Yashwant Singh Chogal  
**MEMBER (Law)**

Shashi Kant Joshi  
**MEMBER**

**In the matter of:-**

The Bonafide Himachalies Hydro  
Power Developers Association, through its  
General Secretary,  
Sai Bhawan, Sector-4,Phase-II,  
New Shimla, HP-171009.

**.....Petitioner**

Versus

1. The Chief Engineer (Comm.),  
HPSEBL, Vidyut Bhawan,  
Shimla-171004.
2. The HPPTCL through its,  
Managing Director,  
Himfed Bhawan, Below Old MLA's Quarters,  
Panjari, Tutikandi, Shimla-171005.
3. The HPPCL through its,  
Managing Director,  
Himfed Building, BCS, New Shimla-171009.
4. The Director,  
Directorate of Energy, HP,  
Shanti Bhawan, Phase III, Sector VI,  
New-Shimla -171009.

5. The HIMURJA, Govt. of HP, through its Director,  
SDA Complex, Kasumpti, Shimla -171009.
6. Sh. Kameshwar Singh Dhaulta,  
(Consumer Representative u/s 94(3) of the Act, 2003),  
House No. A-62, Phase-I, Sector 2,  
Main Road, New Shimla-171009. ....**Respondents**

**Petition under Section 86 of the Electricity Act, 2003 read with Regulation 68 of the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 for adjudication of the existing dispute with respect to the Operation and Maintenance Charges being levied/ raised by the Respondent HPSEBL in respect of the Interconnection facility/ Bay provided to the Generating Companies who have set up and are operating Small Hydro Electric Projects in the State of Himachal Pradesh and for issuance of directions thereof.**

**Present:**

Sh. Vikas Chauhan, Ld. Counsel for the Petitioner.  
Sh. Kamlesh Saklani, Authorised Representative for Respondent No. 1 with Sh. Anup Ram, Chief Engineer (Commercial).  
Ms. Vandana Thakur Advocate vice Sh. Surinder Saklani, Ld. Counsel for Respondent No. 2.  
None for the Respondent No.3.  
Sh. Shanti Swaroop, Ld. Legal Consultant for Respondent No.4.  
Sh. Vivek Thakur, Ld. Counsel for Respondents No.5.  
Sh. K.S. Dhaulta, Consumer Representative of the Commission.

**ORDER**

This Petition has been filed by the Bonafide Himachalies Power Developer Association (the Petitioner for short) under Section 86 (1) (f) of the Electricity Act, 2003 (Act for short) read with

Regulation 68 of the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005, as amended from time to time, for adjudication of dispute qua Operation and Maintenance Charges (O & M Charges for short) being levied /raised by the Respondent No.1 in respect of the interconnection facility/bay provided to the Generating Companies who have set up and are operating Small Hydro Electric Projects (SHEPs for short) in the State of Himachal Pradesh.

### **PETITIONER'S CASE**

2. The Petitioner, is a Society registered under the Himachal Pradesh Societies Registration Act, 2006, having registration number 10/2007, consists of association of Independent Power Producers (IPPs) who have set up and operating Small Hydro Electric Projects (SHPs) in the State. The Members of Petitioner have entered into Power Purchase Agreements (hereinafter called as "PPA"), with Respondent No. 1 for the sale and purchase of entire electric energy (excluding the Government Supply as defined in the PPA) received from the Project at the Interconnection Point.

3. According to the Petitioner, the Commission has laid down the guidelines (commonly known as "Astha Guidelines") to work out the

cost of O&M Charges for interconnection facilities for SHPs (upto 25 MW) in Petition No. 81/2010 titled as M/s Astha Project (India) Ltd. Vs. HPSEBL vide Order dated 23.11.2010. It is averred that Respondents have failed to abide by the said guidelines and have gone to the extent of wrongly interpreting the said Order on their own whims and fancies resulting in raising erroneous demand towards the O&M expenses for the Interconnection facility from the Generating Companies. The copy of order dated 23.11.2010 has been annexed with the petition as Annexure P-2.

4. As per the Petitioner, a separate agreement for execution, operation and maintenance of interconnection facilities is to be executed under the standard clause of the PPA between the generating company and the Respondent No. 1. The copy of relevant extract of one of the O&M agreements executed between the Generating Company and the Respondent No. 1 has been placed at Annexure P-3. The Petitioner has reproduced clauses 6.3, 6.5 and 6.6 of the standard agreement for Operation and Maintenance of interconnection facilities executed between the Petitioner and the Respondent No.1. According to the Petitioner, despite the very clear provisions of the Agreement, the Respondent No.1 is charging the

employee cost which is running into lakhs from the Generating Companies under the garb of Astha Guidelines with regard to the O&M Charges of the Interconnection Facility, though the said guidelines nowhere allows the Respondent No. 1 (the Respondent No. 1/ HPSEBL for short) to charge employee cost from the IPPs/Generating Companies. The Petitioner has further stated that the Commission under the HPERC (Promotion of Generation from the Renewable Energy Sources and the Terms and Condition for Tariff Determination) Regulations has time and again laid down the principles /regulations in respect of renewable energy sources in the State of Himachal Pradesh and the Operation & Maintenance Agreement of the interconnection facilities executed between the Generating Companies and the Respondent No. 1 was well within the principles of the said Regulations, however, the Respondent No. 1 had failed to adhere to the said Regulations as well as the O&M Agreements and has been wrongly and arbitrarily raising demand from the Generating Companies till date. A consolidated list of Estimate for O&M Charges for interconnection facility/ bay as demanded/raised by the Respondent No. 1 from some of the members has been attached with the Petition as Annexure P-4.

5. The Petitioner under Para 10 of the petition has challenged the arbitrary demand raised by the Respondent No. 1 towards the estimate of interconnection facilities/ bay provided (in joint mode or separately) to the Generating Companies on the grounds, that the Respondent No. 1 has been wrongly calculating/imposing the full employee cost of the workforce deployed at the Sub-station and in some cases the workforce deployed at other places as well for the complete year on the Generating Companies despite the fact the said huge employee cost cannot be inflicted upon an interconnection facility/bay provided which could have been easily handled/ taken care of by two-three employees on a regular basis. Further that earlier also the Respondent No. 1 on several occasions has calculated the Departmental Charges @ 11% separately, apart from the employee cost, as referred above, despite the fact that both departmental charges as well as the complete employee cost cannot be charged from the Generating Companies being of same nature.

6. It is also averred that the Respondent No. 1 has failed to take into account the Capacity of the Project and has been wrongfully charging the same amount/estimate for O&M Charges of interconnection facility/bay from the Generating Companies for

providing similar facilities e.g. a Project of 2 MW capacity on one hand and a 10 MW capacity project on the other hand under similar interconnection facility/bay are being charged equally and the said unwarranted arrangement has made the existence of the Generating Companies uncertain. Further averred that though Para 6.6 of the O&M Agreement provides for only normal and incidental costs, the respondent has been charging even those expenses from the Generating Companies in the name of O&M facility that in no event can be related to the interconnection facility/bay.

7. According to the Petitioner, the Respondent No. 1 has been wrongly calculating the O&M Charges for the interconnection facilities in grave violation of the Terms and Condition of O&M Agreements executed between the parties as also the HPERC Regulations and the Astha Guidelines. Further, the Petitioner has averred that the Commission as per HPERC (RE Tariff) Regulations, 2012 had assumed the Operation and Maintenance of the Project to the tune of Rs. 22 lacs/MW for the Category of Project above 2 MW to 5 MW capacity (i.e. approx. 3 % of the project cost of Rs. 750 lac/MW for such capacity SHPs) with an annual escalation of 5.72%. Although, the interconnection facility is also included in the definition of the word

'Project' still no fixed criteria or formula stood developed or applied while calculating the O&M Charges specifically for the interconnection facility. Further that the year wise O&M cost of the interconnection facility as claimed by the Respondent No. 1 from the Generating Companies is on the higher side, especially, when the tariff from energy sale is fixed. It is further averred that the tariff for the Project is levelised for 40 years and the O&M cost of the entire Project (as considered during tariff determination) is escalated @ 3.84% for the entire life of the project, therefore, it is difficult to accept that the O&M Charges of the interconnection facility/bay are left open and evasive and the enclosed data (Annexure P-4), shows that the escalation in the O&M Charges of the bay is between 10% to 40%.

8. As per the Petitioner, the issue of Exorbitant O&M Charges of bay was taken with the Respondent No. 1 and a meeting was held on 21.08.2018 under the Chairmanship of Additional Chief Secretary (Power) wherein it was agreed that a Committee to rationalize the O&M Charges of bay to be paid by the IPPs be formed. Further, it was also suggested in the meeting that the maintenance of bay can be done by the IPPs themselves and Respondent No. 1 can do the Operational work of the bay. It was also



suggested in the meeting that IPPs may file, the Petition before the Commission to revisit the Astha Guidelines to work out the cost of O&M for SHPs upto 25 MW. Copy of the proceedings of the meeting is annexed as Annexure P-5. Therefore, in order to redress the grievances raised by the Petitioners, a Committee was constituted to resolve the issue of O&M Charges of the interconnection facility/bay. In its meeting held on 31.03.2022 the following recommendations were made:-

*“a) Charging of bay Costs and O&M Charges from the IPPs at the rates as worked out at Annexure-C shall be subject to approval by Hon’ble HPERC.*

*b) These bay and O&M Charges are for AIS bay only. Since there is no approved Cost data for GIS sub-stations, the capital cost shall be levied as per actual basis by the Utilities till the approved Cost Data for GIS is placed on record.*

*c) The IPPs will continue to pay HPSEBL the O&M Charges as raised by HPSEBL based on presently applicable methodology i.e. as per Astha Guidelines till approval of above rates by HPERC.*

*d) IPPs may take up the matter through petition with Hon’ble HPERC w.r.t. their concerns of higher O&M Charges being charged as per Astha Guidelines. Parties will act as per the decision of Hon’ble HPERC and till then present methodology charging of O&M Charges from IPPs will continue.*

The copy of Minutes of Meeting dated 31.03.2022 is annexed at Annexure P-6.”

9. Further averred that in order to resolve the issue of rationalization of O&M Charges of bay, a meeting was also held under the Chairmanship of the Power Minister (Govt. of HP), with the stakeholders in the month of August, 2022 wherein Respondent No. 1 apprised that the Commission has been requested to consider the O&M Charges as per the computation worked out in consultation with the IPPs as referred therein. It was also decided in the meeting to file a Joint Petition within one month before the Commission. Further, the Respondent No. 1 was also directed to true up the due amount in respect of O&M Charges within one month. The copy of proceedings of Meeting is annexed at Annexure P-7.

10. Also averred that the Respondent No. 1 is charging/levying O&M Charges for the interconnection facilities arbitrarily without fixing a set criteria/formula/ basis upon the Generating Company which adds additional financial burden on the Generating Company. Further, due to the non-fixation of the criteria/ basis for levying the O&M Charges for the interconnection facilities, there are severe ambiguities in the same and in some cases the O&M Charges levied by the Respondent No. 1 vary upto the extent of 10 times in the

projects in the same capacity at different location which is neither justifiable nor rational.

11. As per the Petitioner, in some of the cases, the O&M Charges have decreased and in some cases the charges have increased beyond imagination whereas in some cases, the increase is at a very low yearly escalation rate. Further that a generating company with the return of debt much more than the normative debt assumed for the levelised tariff cannot bear such vagaries of defective and deficient planning of the Respondent No.1.

#### **IMPLEADMENT OF NECESSARY PARTIES**

12. On first hearing of the Petition on 17.12.2022, it was observed that the Petitioner has not impleaded necessary stakeholders i.e. Himachal Pradesh Power Transmission Corporation Limited, Himachal Pradesh Power Corporation Limited, State of HP through Department of Energy, the HIMURJA and the Consumers Representative as parties to the Petition. As such, being the necessary parties, the same were impleaded as Respondents No. 2 to 6.

13. The Petition has been resisted and contested by the Respondents No. 1 and 2 by filing separate replies.

### **REPLY OF THE RESPONDENT No. 1**

14. The Respondent No. 1 in its reply has averred that matter regarding bay and maintenance Charges being levied by the Respondent No. 1 and the Respondent No. 2 have been deliberated at various levels and in pursuance of various deliberations, a High Powered Committee was constituted by the State Government and final Minutes of Meeting of the said Committee were submitted by the Replying Respondent on 31.03.2022 to the Special Secretary (Power) to the Government of Himachal Pradesh and the Govt. has approved the proposal on 29.04.2022 which are already annexed with the Petition (Annexure P-6).

15. Further, the Respondent No. 1 on the issues of Bays and Maintenance Charges has submitted its report before the said Committee as under:-

*"1) Capital cost for different voltage categories has been worked out on the basis of cost data for FY 2021-22 which is under approval from Hon'ble HPERC.*

*2) Hon'ble HPERC has not worked out the Operation and Maintenance (O&M) Charges and escalation factor particularly for interconnection-facilities being provided by HPSEBL or STU. However, the Commission has considered the normative O&M to the tune of 3% of capital cost of project and escalation of 3.84% thereon in the order for determination of generic levelled tariff in respect of Small Hydro Projects. In this regard, it is mentioned that the capital cost of small hydro projects comprises of civil work (40-*

*50%), Electro Mechanical work (25-30%). Transmission works (5-8%) and Misc. works (10-15%), whereas the operation and maintenance of civil structure is very low in comparison to electro-mechanical equipments.”*

16. As per the Replying Respondent, the normative O&M cost considered by the Commission the Astha Guidelines is almost 8% to 10% of capital cost other than the cost incurred against civil works and, as such, it shall not be appropriate to consider the normative O&M of interconnection facility on similar analogy of SHPs and in view of the same, the O&M @ 5% with annual escalation of 5% has been considered appropriate and hence not required to be revised.

17. It is further averred that the capital cost for 33 kV bay has been calculated by the IPPs considering individual components from the cost data of HPSEBL for the FY 2021-22 in respect of sub-transmission and distribution system and thus, the various cost components are at variance to what the Committee has proposed. For the sake of component wise uniformity, the Voltage wise O&M Charges (Annexure-A) have been worked out by the Committee for FY 2021-22 strictly on the basis of cost data of HPSEBL for the FY 2021-22 in respect of EHV system and components which are pending approval with HPERC and hence, requires no modification. Further, averred that the figures are normative and to be more

specific, it can be subjected to adjustments as per actual expenses incurred and the draft Minutes on the above lines were shared with the IPPs, HPPTCL and other Committee Members but the same were not acceptable to the IPPs who reiterated their earlier stand. After considering the comments from the IPPs, the Committee worked out the methodology for working out the O&M Charges by considering the following Charges:-

- “(i) The Land for bays at 220kV, 132kV, 66kV and 33kV level has been revised to 17x17 Sqm for 220kV, 11x11 sqm for 132kV, 9x9 Sqm for 66kV and 5.5x5.5 Sqm for 33kV. For solid tap at 33kV and below no cost towards land will be considered. The cost of land has been considered based on the latest purchase for erecting the electrical infrastructure.*
- (ii) For apportioning the cost of Land, Control & residential building etc. number of bays will be considered 10(ten) for sub-stations at all voltages.*
- (iii) The costs of equipment's/accessories have been considered based on the Cost data for the FY 21-22 which is under approval.*
- (iv) O&M Charges will be @3% of cost calculated based on above methodology with yearly escalation @ 3.84% as per the HPERC (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for tariff Determination) (Fourth Amendment) Regulations, 2020 as amended from time to time.”*

18. It is submitted that presently O&M Charges are being levied as per Astha Guidelines.

19. In its reply on merits, it is denied that any grave injustice has been done to the Petitioner on account of the act and conduct of the

Respondent No.1 as the O&M Charges are being recovered strictly in terms of Astha Guidelines and in terms of the O&M Agreements executed by the IPPs with the Replying Respondent. It is denied that HPSEBL has failed to abide by the said guidelines or by wrongly interpreting the said guidelines on its own whims & fancies, erroneous demands towards the O&M Expenses for the interconnection facilities are being raised from the Generating Companies. It has also been averred that the Astha Guidelines are being adhered to in its letter and spirit and the allegations of charging abnormal employee cost are totally wrong and baseless. Further that the data, as prepared by the Petitioner, lacks rationality or basis, thus has no relevance and the Replying Respondent has already submitted the revised calculations of O&M Charges to the Commission which may be appreciated for the purpose of adjudication of the present controversy. It is denied that the Respondent No. 1 has failed to redress the grievance of the Petitioner.

### **REPLY OF THE RESPONDEN No. 2**

20. The Respondent No. 2, in its reply has averred that the present Petition is neither competent nor maintainable in its present form in

as much as the Operation and Maintenance Charges are being charged in view of Astha Guidelines issued by the Commission and present Petition is nothing but an abuse of process of law. The Respondent No. 2 has further stated that the Petitioner has unnecessarily dragged the Replying Respondent No. 2 to this unwarranted litigation. The Petitioner has failed to pin point as to which action of the Respondent No. 2, the petitioner is aggrieved of. As such, the Petition lacks material foundation against the Respondent No. 2 and consequently deserves to be dismissed. Further, the Respondent No. 2 has stated that the Petitioner is a Society registered under the HP Society Registration Act, 2006, and function through resolutions. In the present petition, there is no such resolution annexed with the petition whereby its General Secretary has been authorized to file and maintain the Petition and in the absence of such resolution, the Petition deserves to be dismissed.

21. In its reply on merits, the Respondent No. 2 has contended that no grave injustice has been meted out to the Petitioner and the Petitioner has no locus to file and maintain the present Petition.

22. The Respondent No. 2 has further averred that the Commission has issued the Astha Guidelines for working out



Operation and Maintenance Charges for the interconnection facilities and the same are being implemented as per the knowledge of the Respondent No. 2. It has further been averred that the present Petition is nothing but a review under the garb of Petition u/s 86 of the Electricity Act and is not maintainable and liable to be dismissed. The Respondent No. 2 has further stated that total amount of normal Operation and Maintenance Charges of the interconnecting manned system shall be on the basis of ratio of number of feeders for which interconnection facilities are provided to SHPs for the total number of interconnecting and outgoing feeders irrespective of voltage level of such feeders. Further, the Astha Guidelines at para No. 18 (i) (Annexure P-2) refer to O&M cost, wherein employee cost is integral part of the same and nowhere state that employee cost shall not be charged from IPPs. Furthermore, the guidelines (for Annual O&M Estimates and Budgeting) issued by HPPTCL vide office order No. HPPTCL/Proj./F-9/2022-23-11769-90 on dated 06.10.2022 (Annexure R-2/A), clearly stipulate that while preparation and finalization of the annual O&M estimates and budget requirement, the O&M Expenses shall, inter-alia, comprise the employee cost associated with O&M works.

23. Also averred that the Operation and Maintenance Charges are being recovered in view of the Astha Guidelines and that a Committee was also constituted by the State Govt. to study and examine this aspect. The Petitioner by way of this frivolous Petition is trying to over reach the Astha Guidelines. Further averred that the Petition is hopelessly time barred and deserves to be dismissed.

24. The Respondents No. 3, 4 and 5 have not filed any reply to the petition.

25. The Respondent No. 6, the Consumer Representative, in its reply to the Petition has averred that the Petition is not maintainable either in facts or law and the same is liable to be dismissed. Further, the parties are bound to adhere to the terms of the PPAs and cannot be allowed to take up the issue of cost sharing by misinterpreting the terms of agreements. It is also averred that the Consumers cannot be burdened with the cost of employees/O&M Costs etc., in terms of Estimates for O&M Charges of interconnection facility/bay etc., to be regulated as per agreement entered into between the parties (Annexure P-1 and Annexure P-3). As per the Respondent No. 6, no prejudice, whatsoever, has been caused to the Petitioner by raising a legal and proper demand in terms of the agreements P-1 and P-3 for

O&M Charges of interconnection facility/bay etc., to be regulated as per agreement entered between the parties. Further, the Respondent has endorsed the submissions of the Respondent No. 1 qua raising of demand for O&M Charges. It has been further clarified that the O&M Charges are raised by the Respondent No. 1 after taking into consideration all the factors of permissible costs and the methodology applicable as per Astha Guidelines, which was agreed to by the parties in a meeting held on 30.03.2022 with Special Secretary (Power), therefore, the Petition deserves outright dismissal.

### **REJOINDERS**

26. The Petitioner has also filed rejoinders to the replies filed by the Respondent Nos. 1 & 2 by denying the averments made in the replies and reasserting and reaffirming the averments made in the Petition.

27. We have heard the Ld. Counsel for the Petitioner and Respondents in detail and perused the record carefully.

### **ISSUES FOR CONSIDERATION**

28. On the basis of Pleadings and submissions of the parties, the following issues arise for determination in the matter:-

- (1) Whether the Astha Guidelines have lost their relevance in today's scenario and the demands raised/ being raised by the HPSEBL from the generating companies in

respect of estimate for O&M charges of inter-connection facility/ bay are violative of terms and conditions of the O&M agreements and the already paid amount is required to be adjusted towards the O&M charges of the inter-connection facility/ bay?

- (2) Whether the normative cost of the inter-connection facility/ bay for all voltage levels including the cost for GIS based bay is required to be firmed up and the O&M charges for the inter-connection facilities are required to be rationalized?
- (3) Final order.

29. For the reasons to be recorded hereinafter in writing, our issue wise findings are as under:-

Issue No. 1 : No

Issue No. 2 : No

Final Order: Petition disposed off per operative part of the order.

### **REASONS FOR FINDINGS**

#### **Issues No. 1 and 2 :**

30. Both these issues being interlinked and interconnected are being taken up together for adjudication.

31. Before discussing these issues, it is relevant to briefly refer to the background of the matter. The Commission has laid down the guidelines to work out the cost of O&M Charges for providing interconnection facilities to various IPPs (upto 25.00 MW) vide Order dated 23.11.2010 passed in the Petition No. 81 of 2010 titled as M/s

Astha Projects (India) Ltd. Vs. HPSEBL & another. Para 18 of the Order is reproduced as under:-

*“18. The Commission, therefore, lays down the guidelines to work out the cost of O&M for interconnecting facilities for the SHP’s (up 25 MW) as under:-*

- (i) The total amount of normal O&M cost of the interconnecting manned substation shall be apportioned in the ratio of number of feeders for which interconnection facilities are provided to SHPs to the total number of incoming and outgoing feeders irrespective of the voltage level of such feeders. The normal O&M cost of substation shall also include the maintenance costs of the infrastructure works, such as approach roads, staff quarters, sanitation, repair of buildings etc., as per provisions of the agreement;*
- (ii) The prorata amount worked out on the above lines in respect of the interconnection facilities shall be suitably increased to account for the applicable departmental Charges as stipulated in the agreement;*
- (iii) The other provisions including those relating to detailed mechanism for payment of the Charges in this regard as contained in the agreement executed by the petitioner with the respondent Board shall remain unchanged. However, the amount billed/recovered by the Board on account of normal O&M Charges in excess of that determined as per the above formulation shall be withdrawn/ refunded alongwith the penalty, if any charged on such excess amount.”*

32. It is also relevant to refer here that the Department of MPP & Power, Govt. of HP, vide office order No. MPP-F(10)-28/2018 dated 21.01.2021 reconstituted the working group under the chairmanship of Special Secretary (Power) to study and examine the existing bay and maintenance charges paid by the IPPs to the HPSEBL/ HP

Power Transmission Corporation Limited. On the basis of the meetings held on 18.06.2021 and 30.03.2022, the following recommendations have been made on 30.03.2022 by the working group:-

- i) Charging of Bay Costs and O&M charges from the IPPs at the rates as worked out at Annexure-C shall subject to approval by Hon'ble HPERC.*
- ii) These Bay and O&M charges are for AIS bay only. Since there is no approved Cost Data for GIS sub-stations, the capital cost shall be levied as per actual basis by the Utilities till the approved Cost Data for GIS is placed on record.*
- iii) The IPPs will continue to pay HPSEBL the O&M charges as raised by HPSEBL based on presently applicable methodology i.e. as per Astha guidelines till approval of above rates by HPERC.*
- iv) IPPs may take up matter through petition with Hon'ble HPERC w.r.t. their concerns of higher O&M charges being charged as per Astha guidelines. Parties will act as per the decision of Hon'ble HPERC and till then present methodology charging of O&M charges from IPPs will continue.*

33. As discussed in Para 31 above, the Astha Guidelines were laid down by the Commission vide Order dated 23.11.2010 in Petition No. 81 of 2010. Significantly, neither the Petitioner, nor any other Stakeholders have objected to the principles inserted/envisaged in the aforesaid Astha Guidelines. The Astha Guidelines, in fact, simply facilitated the uniform interpretation of the provisions made in the

connection agreements, as agreed and signed, by the Distribution Licensee and Developers.

34. Though the Petitioner has pointed out some discrepancies in working out the Charges as per the Astha Guidelines, being arbitrary and without fixing a set criteria/ formula/ basis causing additional financial burden on the IPPs, but no specific dispute has been raised. In fact, in order to raise the dispute under Section 86 of the Act, specific detail is required to be provided which can only be done by the individual IPP and not by the Association as the Association can't be said to be representing all the RE generators. Thus, in the absence of any specific individual IPP detail or grievance, the Commission is not in a position to examine the same that the charges are arbitrary or have been levied contrary to the principles stated in the above guidelines or have operated as a hardship to any particular individual IPP.

35. Significantly, the agreements signed with the Distribution Licensee contain a dispute resolution mechanism clause for the redressal of grievances and it is believed that IPPs are resorting to said clause of the dispute resolution. However, the entire Petition is silent about the same. So much so, there is no mention in the Petition

that any individual IPP had raised any issue of hardship on account of levying O&M charges on the basis of Astha Guidelines during dispute resolution mechanism which was not addressed by the Respondent No. 1. In fact, it was for the individual IPP to approach the Commission soon after the laying down the above guidelines that some anomaly has occurred in working out the O&M charges on the basis of the principles stated therein by raising a dispute that the guidelines as laid by the Commission have been operating as a hardship to them and the grievances, if any, were not redressed by the Distribution Licensee. Strangely, no IPP has come forward and rather, the Hydro Power Developer Association has approached the Commission that too without any specific detail and after lapse of a period of about 12 years.

36. Though much thrust has been laid on inclusion of employee cost and departmental charges while calculating the O&M charges on the basis of Astha Guidelines but in the absence of any specific detail in this regard in the Petition, the Commission is not inclined to accept the plea that employee cost and departmental Charges should not be included for working out the annual O&M Charges, as the Operation and Maintenance of the inter-connection facilities, being the



manpower intensive activity, such charges cannot be excluded. Similarly, the departmental Charges, which pertain to the proportional Charges other than the employees cost, cannot be excluded. Further, the expenses in relation to the residential colony for the staff posted at the respective Sub-stations also form the part and parcel of the O&M expenses and have to be shared by the IPPs and these aspects have been adequately clarified in the Astha Guidelines. Thus, the Astha Guidelines were laid down by the Commission, taking into consideration each and every aspect of the matter and in the absence of any specific detail of hardship, infirmity and anomaly in the principles inserted and envisaged in the said guidelines, the Commission is of the view that the Astha Guidelines have not become irrelevant and are still relevant for calculating O&M charges of interconnection facilities. Similarly, the Petitioner has not been able to substantiate that the demands raised/ being raised by the HPSEBL from the generating companies are arbitrary and violative of the terms and conditions of the O&M agreements signed by the IPPs with the HPSEBL or that the already paid amount(s) is required to be adjusted towards the O&M charges.

37. No doubt the working group/ committee, as constituted by the Department of MPP & Power, Govt. of HP on 21.01.2021 has recommended the methodology for calculating the O&M charges in the meeting held on 31.03.2022 but it has been mentioned therein that the recommendations and the rates suggested at Annexure C, annexed to the said recommendations, are subject to the HPERC (Commission) approval. It was recommended by the Committee that IPPs would continue paying existing Charges as per the Astha Guidelines until HPERC's approval of the new rates, with provisions for IPPs to address concerns through Petitions to the HPERC. As observed above, the IPPs have not filed individual Petitions raising dispute of any grievance or hardship in calculating/ working out of the O&M charges of interconnection facilities by the Distribution Licensee as per the Astha Guidelines. Here, it is also relevant to refer to Para 18 of the Petition that in some given cases, the O&M charges have decreased whereas in some cases, it has been increased but in the absence of any individual IPP approaching the Commission with specific detail, it is not feasible to held that the guidelines are operating as hardship.

38. Significantly during the proceedings, the Commission vide Orders dated 22.03.2023, 25.04.2023, 15.05.2023, 22.06.2023, 19.07.2023 directed the HPSEBL to file complete details of O&M charges, being recovered currently from all the IPPs utilizing the infrastructure of HPSEBL and normative cost of 33/66/132/220 kV Sub-stations with standard bays with and without transformation and detailed calculation sheet alongwith bills for FY 2021-2022 of recovery of O&M charges being currently recovered from all IPPs utilizing infrastructure of HPSEBL having value more than 5 lakhs. Said detail has been furnished by the HPSEBL to the Commission. A perusal of the actual O&M Charges data submitted by HPSEBL suggests that if the O&M Charges are to be recovered on the basis of methodology recommended by the Working Group/Committee in its meeting held on 31.03.2022, the HPSEBL would not be able to recover actual O&M expenses and would suffer losses which in turn would be detrimental to the interest of Consumers.

39. The Petitioner has also produced on record the summary of discussion held in a meeting dated 21.08.2018 between the Add. Chief Secretary (Power) with Bonafide Himachalies Hydro Power Developer Association as also the proceedings of meeting held under

the chairmanship of Hon'ble Power Minister, Govt. of H.P. with the Respondents No. 1 to 5 and the Petitioner (Annexure P-7) on the issue but said proceedings too are not conclusive. Significantly, all the stakeholders were not associated and heard in the meeting with the Hon'ble Power Minister, meeting with Add. Chief Secretary Power dated 21.08.2018 and the working group meeting held on 31.03.2022. Thus, the Commission does not find it appropriate and feasible to accept the recommendations of the working group dated 31.03.2022.

40. The Petitioner has contended that the wrong interpretation of the Astha Guidelines by HPSEBL on its own whims and fancies has resulted in raising erroneous demands towards O&M charges but as observed above, no IPP has come forward by filing the Petition before the Commission of such unreasonable or erroneous demand. As observed above, the guidelines were laid in the year, 2010 and since the no IPP has come forward with any kind of hardship ever since 2010, it can safely be believed that the demands are being raised as per the principles stated in the guidelines. The other contention of the Petitioner that departmental charges and employee cost, being of the same nature can't be charged separately but said

contention too is untenable as departmental charges are independent of the employee cost consisting of equipments for the interconnection facility/bay, civil works and maintenance of roads and other overhead charges etc. associated with the interconnection facility/bay and, thus, have to be charged separately. The another contention of the Petitioner that the Respondent No. 1 has been charging the same amount/estimate of O&M charges from the generating companies for providing similar facilities i.e. a project of 2 MW capacity on one hand and a 10 MW capacity on the other hand under similar interconnection facility/bay are being charged equally which has made the existence of generating companies uncertain. Since no individual IPP has come forward with such grievance, the Commission is not inclined to believe that the guidelines are operating as hardship and different yardsticks are being used. Further contention that no fixed criteria is fixed for calculating the O&M charges but the Astha Guidelines have stated broader principles which have worked well ever since guidelines were laid. Hence, this contention too is without any basis. The next contention that tariff is levelled for 40 years and O&M cost of the entire Project (as considered during tariff determination) is escalated @ 3.84% for the

entire life of the Project and thus, it is difficult to accept that the O&M charges of the interconnection facility/bay are left open but said contention is also not tenable for the reasons that the O&M charges considered during determination of levellised tariff pertain to the maintenance of the Project whereas the interconnection facility/bay is different. The O&M charges for all such equipments, so provided at the interconnection point(s), primarily to meet the technical requirements, shall also have to be charged to the beneficiaries i.e. the person seeking such interconnection.

41. In view of the above, the Petitioner has not been able to substantiate that the Astha Guidelines have lost their relevance in today's scenario and the demands raised/ being raised by the HPSEBL from the generating companies in respect of estimate for O&M charges of inter-connection facility/ bay are violative of terms and conditions of the O&M agreements and the already paid amount is required to be adjusted towards the O&M charges of the inter-connection facility/ bay. Similarly, the Petitioner has not been able to substantiate that the normative cost of the inter-connection facility/ bay for all voltage levels including the cost for GIS based bay is required to be firmed up and that the O&M charges for the inter-

connection facilities are required to be rationalized. Issues No. 1 and 2 are accordingly decided against the Petitioner.

42. However, the Astha Guidelines laid in the year 2010 pertain to the manned Sub-stations only and are not automatically applicable in case of solid tap connections, which are obviously unmanned. The Central Electricity Authority (CEA) has specified the technical requirements to be met for connectivity to the distribution system as well as for the transmission system in their various Regulations. The equipments to be provided at the interconnection point(s) in all such cases involving connectivity with distribution system in so called solid tap mode which essentially has to be identified by the Distribution Licensee based on the site specific situation in each case.

43. The Commission is also of the view that there are quite a few variable factors which may, directly or indirectly, impact the quantum of the charges recoverable from the RE generators below 25 MW for operation and maintenance of the bays. Such factors may broadly include the voltage level, capacity of the Sub-station, number of bays and loading pattern etc. In view of the above, it may not be feasible to fix the normative O&M charges for all situations / all voltage levels including the cost for GIS based bay. The Commission is also of the

firm opinion that the basic idea of the rationalization is to provide uniform base for simplification and not to fix the rates at level which may put the additional financial burden on the Distribution Licensee and in turn on the Consumers.

44. Therefore, in order to bring the equity, fairness in cost recoveries and to make a transparent and fair process for determining the O&M expenses as well as Infrastructure Development Charges (IDC) of interconnection facilities, the Commission is of the view that there is need to establish normative O&M Charges for the Sub-stations owned and operated by Distribution Licensee/ HPSEBL, where maximum nominal voltage doesn't exceed 33 kV, in furtherance of mandate the Act for promoting RE generation.

45. However, proposal to fix the normative O&M charges of bay(s), to be recovered by the Distribution Licensee for the use of its system, from the RE generator, shall require to go through a prior publication process, by floating the proposal on the HPERC website to give an opportunity to all stakeholders to file their objections/ suggestions.



46. Thus, in spite of constraints, the Commission, in order to promote RE generation in the State, agrees in principle to fix the normative O&M charges of bays for the SHPs (upto 25 MW) and other RE generator connected at such Sub-stations as are owned and operated by the Distribution Licensee i.e. HPSEBL (Respondent No.1) and the maximum nominal voltage level at any point in such Sub-station does not exceed 33 kV.

#### **Final Order**

47. In view of the above discussion and findings, the Commission, in order to promote RE generation in the State, agrees in principle to fix the normative O&M charges of bays for the SHPs (upto 25 MW) and other RE generator connected at such Sub-stations as are owned and operated by the Distribution Licensee i.e. HPSEBL (Respondent No.1) and the maximum nominal voltage level at any point in such Sub-station does not exceed 33 kV. However, such normative charges shall not be applicable for Sub-stations owned and operated by the transmission licensee/STU or for the Sub-stations having GIS.

48. The proposal to fix the normative O&M charges of bay(s), to be recovered by the Distribution Licensee for the uses of its system, from the RE generator, shall require to go through a prior publication process, by floating the proposal on the HPERC website to give an opportunity to all stakeholders to file their objections/ suggestions.

49. The Technical Division of the Commission is directed to formulate a proposal within 15 days from this order for fixing the normative operation and maintenance charges of bays (including solid tap), to be recovered by the Respondent No.1 from the SHPs (upto 25 MW) and other REs generators, connected at 33 kV or lower voltage at the Discom's Sub-stations having maximum nominal voltage of 33 kV by taking into account the data/inputs submitted by the Respondent No. 1 in this Petition, which shall be finalized by the Commission after following the prior publication process.

50. The petition is disposed off in view of the aforesaid terms.

51. Before parting with this case, the Commission would like to make it clear that though the matter was last heard on 19.08.2023 and every endeavour was made to dispose off the Petition

expeditiously but due to some administrative reasons, the pronouncement of this Order has taken some time.

The file after needful be consigned to the records.

**Announced**  
**16.10.2023**

**-Sd-**  
**(Shashi Kant Joshi)**  
**Member**

**-Sd-**  
**(Yashwant Singh Chogal)**  
**Member (Law)**

**-Sd-**  
**(Devendra Kumar Sharma)**  
**Chairman**