

M/S Kapil Mohan & Associates Hydro Power Private Ltd.,
Having its registered and Head Office
At Mohan Meakin LTD PO Shimla Hills, Solan H.P.
Through Sh. Pushpinder Singh (Consultant).

...Petitioner

V/s

1. Himachal Pradesh State Electricity Board
Kumar House, Shimla.
2. The HP Power Transmission Corporation Ltd.,
Barowalia House, Kahlini,
Shimla-171002,H.P.

...Respondents

Petition No. 115 of 2009

(Decided on 11.12.2009)

CORAM
YOGESH KHANNA,
CHAIRMAN

Counsels:-

for the petitioner

Sh. Ajay Vaidya,
Advocate

for the respondent No.1

Sh. Narinder Singh Thakur,
Advocate.

for the respondent No.2

Er. H.S. Bishtoo
G.M.

ORDER

(Last heard on 5.12.2009 and Order reserved)

M/S Kapil Mohan and Associates Hydro Power Private Co. Limited, incorporated under the Companies Act, 1956 , having its registered and Head office at Mohan Meakin P.O. Shimla Hills, Solan H.P. (hereinafter referred as “the Petitioner Company”), through its authorized representative Shri. Pushpinder Singh, has moved the above cited petition stating that the petitioner Company is in the process of establishing Jirah Hydro Generating Project with installed capacity of 4 MW at village Toss in Kullu District in

Himachal Pradesh and in the Implementation Agreement executed by it with the Government of Himachal Pradesh on 25th July, 2006, it was stipulated that the power from this project is to be evacuated through a 33 kV transmission line upto the interconnection point at 33 kV Barsiani Sub-station of the Himachal Pradesh State Electricity Board (hereinafter referred as “the Board”). The petitioner Company after obtaining all the clearances, has started the construction of the said Hydel Project at Jirah and is likely to commission the said project by May, 2010. According to the petitioner Company, the transmission network from Barsiani Sub-station to Jari Sub-station and beyond is already evacuating power/energy to its full capacity and the current carrying capacity of these lines is not sufficient to evacuate the power from the Jirah Hydro Electric Project, and the existing transmission line and Sub-station requires immediate up-gradation/augmentation, so that the power generated from the said project could be transmitted through these up-graded transmission lines. The petitioner Company stated that they have approached the Board for the up-gradation of the said 33 kV transmission lines beyond the interconnection point at 33 kV Barsiani Sub-station of the Board. It is alleged that despite several reminders, the Board has not taken any initiative. The petitioner Company apprehends that if the said transmission lines are not up-graded in time upto March, 2010, it will not be able to evacuate the energy to be generated from Jirah Hydro Project, which will definitely result in loss of generation of electricity ultimately causing financial loss to the petitioner Company.

2. The petitioner Company further submits that by virtue of the provisions contained in clause (b) of sub-section (3) of section 10, and sub-section (2) of section 39 of the Electricity Act, 2003 (hereinafter referred to as “the Act”) read with the National Electricity Policy issued on 12.2.2005 and para 7.1(4) of the Tariff Policy dated 6.1.2006 and the Himachal Pradesh Electricity Regulatory Commission (Power Procurement from Renewable Sources and Co-generation by Distribution Licensee) Regulations, 2007 issued under clause (e) of sub-section (1) of section 86 of the Act, the State Transmission Utility is duty bound to ensure development of an efficient, co-ordinated and economical system of intra-State transmission lines for smooth flow of electricity from a generating station to the local centers. The State

Transmission Utility is also to provide non-discriminatory open access to the transmission system for use of any licensee or generating Company, of course on payment of transmission charges. Thus the State Transmission Utility has to provide its transmission network to the generators in a non-discriminatory manner irrespective of the fact that whether the generator sells its power to DISCOM located within the State or outside the State. Network expansion is to be planned and implemented, keeping in view the anticipated transmission needs that would be incident on the system in the open access regime. Prior agreement with the beneficiaries would not be pre condition for network expansion. The intent of these provisions is to ensure timely and optimal augmentation of the network expansion. Apart from this the Act, casts duty on the Commission to promote and develop renewable energy in the State, by incentivising the generation of power from renewal sources of energy by providing suitable measures for connectivity with the Grid.

3. With the background, as set out in the foregoing paragraphs, the petitioner Company has approached this Commission to direct the Board to up-grade the existing transmission lines beyond interconnection point at 33 kV Barsiani Sub-Station so that on the commissioning of the project in April, 2010, the power generated from Jirah Hydro Electric Project could be evacuated

4. The petitioner Company upto the time of filing this petition has neither entered into any power purchase agreement nor has applied for the Long term open access

5. In response to the petition, the respondent Board submits that in relation to the Jirah Hydro Power Project, different dates have been given by the petitioner company. In para 11 of the petition itself the said date has been mentioned as March.2010 and April, 2010 and in the Annexure A-III to the petition it is stated as May,2010 and on the other hand HIMURJA has given the same as October,2010 and as per the planning in DPR it is mentioned as December,2010. According to the Board since the projects are not uniformly located across the entire terrain of the State and the extent of connectivity of transmission system is varying significantly in different pockets/ areas of the State, transmission plan for execution of power from the Small HEPs has been prepared and approved by the Board and has been forwarded to the Himachal

Pradesh Power Transmission Corporation Ltd (in short HPPTCL) for its further implementation as the work of transmission system for evacuation for power generated from HEPs has been assigned by the State Government vide its notification dated 3.12.2008, to the HPPTCL. The Board has also informed that Bridge loan amounting to Rs.423.00 Crores has been sanctioned by the REC. The efforts have also been made to evacuate additional 5.00 MW power of Toss HEP by installing 16 MVA, 132/33 kV Transformer at Malana Switchyard in joint venture with HPPTCL.

6. The HPPTCL which as aforesaid has been assigned the work in relation to the laying the transmission net work and augmentation /strengthening, thereof, has also been made party to these proceedings and has been called upon to file its response to the petition. The HPPTCL, in its reply to the petition submits that 33 kV existing S/C line between 33 kV sub-stations of the Board at Barsaini and Jari has a thermal capacity of 15 MW at present, Toss HEP is evacuating 5 MW of power up to 33 kV Jari sub-station through this line. The arrangement is as per the TEC accorded by the Board to the Toss HEP (5 MW). However, Toss HEP is ready to generate additional 5 MW for which interim arrangement beyond Jari is being made by installing 132/33 kV, 16 MVA Transformer at 132 kV Switchyard of Malana-I (86 MW) Power House of M/S Malana Power Company Ltd. The transmission plan finalized by the Board for Kullu and Chamba areas, which has also been sanctioned by REC for an amount of 423 Crores, envisages construction of additional 33 kV S/C line on double structures between Barsaini and Jari and Jari and Bajaura which were sufficient for evacuation of power from various projects, including Toss HEP with capacity of 5 MW. In view of decision to drop Parbati-I HEP (750 MW), Toss HEP shall be able to generate about 70 MW (in various stages) by using water available from the Parbati river which otherwise would have been diverted for Parbati-I Project. In view of changed generation scenario in respect of the Toss HEP, 33/132 kV Sub-station at Barsaini with 132 kV D/C connectivity up to 132/220 kV Jari (proposed Sub-station)/ Malana-I Power House has been proposed in first phase. In the 2nd phase either 220 kV D/C line is to be constructed from Jari 132/220 kV pooling station to Bajaura or alternatively, 132 kV Malana-I Bajaura line is planned to be upgraded by replacing the existing conductor by High capacity

(HTLS) conductor. The above arrangement will help in avoiding mesh of lines in the Parbati Valley. The minimum system requirement for evacuation of power from Jirah HEP i.e. 132 kV D/C line from Barsaini to Malana-I Power House shall not be ready by March, 2010. Though as claimed by the IPP, Jirah HEP is programmed for commissioning in March, 2010 confirmation received from HIMURJA indicates that the project is likely to be commissioned in October,2010 by which the minimum system required for evacuation of power from Toss (20 MW), Jirah (4 MW) and Chaksi (2 MW) can be put in place . Tender documents for the above transmission system have been finalized and bids are being invited very shortly.

7. During the hearing of this petition Sh. Pushpinder Singh, representing the petitioner Company, stated that at the initial stage, the power is to be generated by July, 2010. The Commission, to make clear itself, directed Sh. H.S. Bishtoo, G.M., HPPTCL to make available the information detailing the steps/ arrangements intended to be taken/made to ensure the completion of 132 kV line from Barsaini and Jari well before July, 2010,

8. In the mean while the Government of Himachal Pradesh allotted the Toss-Parbati Project (400 MW) to the Himachal Power Corporation (i.e. HPPCL) as result of which and keeping in the acute corridor constraints in the area, the 132 kV system planned for the area needed to be reviewed. The HPPTCL therefore, put the execution of 132 system on hold.

9. During the subsequent hearing, the petitioner expressed its intention to avail short-term open access through the existing system of the Board, to the extent of availability of spare capacity till such time the system is strengthened and to avail long-term open access after strengthening of the system. To facilitate evacuation of power from the Project. The HPPTCL was accordingly asked to submit its long-term plan for providing system in the area.

10. The General Manager HPPTCL, representing respondent 2, has also submitted that with the allotment of Toss-Parbati HEP (400 MW) to HP Power Corporation Limited (HPPCL), the evacuation system proposed earlier from Barsaini area at 132 kV level needs to be revised to a higher voltage level. He has also stated that in Barsaini area, the upcoming Jirah HEP (4 MW) and the expected additional power from existing Toss HEP can not perhaps be evacuated to their full capacity after including possible over

generation on existing 33 kV system and that the proposed transmission system for ultimate evacuation of power from Parbati-Toss (400 MW) may also take some time as its execution is to be matched with the commissioning of said HEP and the construction of such high capacity transmission system at this stage to evacuate only SHEPs initially, shall not be economically viable proposition. He has suggested that in order to take care of evacuation constraints in Barsaini area on immediate basis, it may be a viable solution to provide for :-

- (i) 33 kV D/C line of the highest capacity, to be treated as project line (cost to be borne by IPP) for the upcoming projects, to the 33/132 kV sub- station of the Board at Jari (Malana) . As regards the line route for the proposed 33kV line, it has been stated that the same can be constructed along the corridor of 132 kV line earlier proposed from Barsaini to 132 kV Switchyard of Malana –I HEP for which detailed survey has already been carried out and is available. He has further stated that the evacuation system for 400 MW Parbati-Toss HEP is likely to involve the same right of way as is being proposed now for erection of 33 kV double circuit line up to the existing 33/132 kV sub- station of the Board at Jari (Malana) , the proposed 33 kV double circuit line of IPPs or the existing 33 kV single circuit line of the Board will have to be dismantled to pave the way for erection of high capacity transmission system by making suitable arrangement(s) at such point of time;
- (ii) suitable augmentation of transformer capacity (to be done by the Board) at the said 33/132 kV sub-station of the Board at Jari (Malana)

11. The petitioner company, keeping in view the fact that it will not be possible for the HPPTCL to build a transmission line, has prayed for Commission to direct :-

- (a) the concerned authorities to build a new 33 KV line from Barsaini to Jari or effective evacuation of Power from Jirah project by 31st May,2010;
- (b) the TRANSCO to suitably augment the transformer installed at Jari for evacuation of power from Jirah project.

12. During the course of hearing on 05.12.2009, the petitioner offered that a 33 kV line from the Jirah and Toss projects up to the Board's sub-station in the Switchyard of Malana-I HEP can be constructed, operated and maintained by them at their cost as a joint dedicated line. The petitioner also agreed to carry out survey for the proposed line, jointly with the Board and the HPPTCL to identify and optimize the route as well as to maximise the capacity of the proposed line so that it does not interfere with the route identified for construction of EHT line in the area. The petitioner further agreed that in case the line route of the proposed 33kV line interferes with the same for the EHT line, they shall dismantle their 33kV line as and when required by the HPPTCL for paving the way for construction of EHT line in the area, by making suitable arrangements. The representative of Toss HEP, though not a party to the petition, was also present at the time of hearing in connection with this petition. On being asked about the status of Toss HEP, he informed that his company has executed an Implementation Agreement with the Government of Himachal Pradesh for the implementation of the 20 MW Toss HEP and the power from this project is to be sold to the Board. He further stated that out of this 20 MW capacity, 10 MW has already been commissioned and the remaining 10 MW capacity is under execution. He concurred with the proposal, given by the petitioner during the course of hearing on 05.12.2009, and also agreed to share the costs of the joint dedicated system.

13. The Board as well as the HPPTCL also agreed to the construction, operation and maintenance of 33kV double circuit line on WOLF conductor by the IPP's as a joint dedicated line. Sh. R.K.Dhiman, the Chief Engineer (Commercial) of the Board, however prayed that the cost of augmentation of 33 kV/132 kV 16 MVA Transformer at the Board's sub-station in the Switchyard of Malana-I HEP should also be borne by the above mentioned two IPPs. He further stated that since the proposed evacuation system shall also involve usage of the dedicated system of Malana-I HEP, the charges and losses on account of flow of power from these projects through the dedicated system of Malana- HEP(i.e.132 kV line from Malana HEP to the Board's sub

-station at Bajaura and the interconnection facilities/arrangements at both ends) shall also have to be borne by the concerned beneficiaries i.e. by Jirah HEP for the power evacuated from the Jirah project and the Board or the Toss HEP for the power generation from Toss HEP depending on the terms and conditions of the PPA to be executed by the Toss HEP with the Board. The petitioner was however of the view that the cost of augmentation of the aforesaid transformer should be borne by the Board and that they should also not be asked to pay any charges for the usage of the dedicated system of Malana-I HEP which is already existing. It was also stated on behalf of the Board that the developers of Jirah HEP have also submitted an application to the Board for long term open access for the power from Jirah HEP.

14. The issue regarding defining the interconnection point for flow of power from these projects was also discussed and it was decided that the same for Jirah HEP shall be at the Board's Sub-Station in the Switchyard of Malana-I HEP. The same for power generated from the Toss HEP, shall be as may be stipulated in the PPA to be executed by the Toss HEP with the Board.

15. In the light of the above submissions made by the parties and arguments addressed on their behalf, the Commission orders:-

- i) that the petitioner Company (i.e. the developer of Jirah HEP), alongwith the developer of the Toss HEP, shall construct, operate and maintain a joint dedicated system comprising of (a) 33 kV line which shall carry minimum two circuits with at least WOLF conductor from these Projects upto the existing 33/132kV Board at the Switchyard of Malana -I HEP, and (b) suitable pooling arrangements. This shall, however, be subject to the usual conditions applicable for the joint dedicated systems in other similar cases from time to time;
- ii) that in view of acute constraints of the transmission corridor in the area, these two IPPs, the Board and the HPPTCL shall carry out a joint survey on priority in a time bound manner so as to identify and optimize the route and also to maximize the line capacity of the proposed 33kV line without interfering with the route for the construction of EHT line in the area. However, if the interference with the route of the proposed EHT line is unavoidable, the IPPs shall have to dismantle the proposed 33 kV line, as and when required, so as to pave the

way for construction of High Capacity EHV Transmission System in the area, by making suitable arrangements at that point of time. For this purpose, the IPPs shall give undertakings to the HPPTCL and the Board wherein acceptable time frames will be stated;

- iii) that the Board shall take necessary steps to suitably augment the 33/132 kV, 16 MVA Transformer at its sub-station in the Switchyard of Malana-I HEP in the time frame matching with the commissioning of Jirah HEP. The issue regarding allocation of costs on this account be decided separately by the Board with the petitioner Company . If after above due diligence, the matter is not resolved amicably, a reference will be made to the Commission;
- iv) that the Board shall process the application submitted by the developers of Jirah HEP for long term intra-State open access expeditiously after duly taking into account the contents of this order and shall finalize the requisite agreements with the petitioner Company as per the relevant regulations. The location of interconnection point shall also be specified clearly in the said agreement;
- v) that the charges and losses for the intervening system (i.e. the dedicated system Malana-I HEP broadly comprising of 132kV line from Malana HEP to the Board sub-station at Bajaura and the interconnection facilities/arrangements on both ends of this line) shall be borne by the concerned beneficiaries i.e. the petitioner Company for the power evacuation from Jirah HEP and the Board for the power purchased by it. The Chief Engineer (Commercial) of the Board shall sort out the matter regarding usage of the dedicated system of Malana-I HEP with the concerned authorities of Malana-I HEP within a period of three weeks and incorporate the related aspects in the open access agreement (s) to be finalized as per the preceding sub-para .

The Commission orders accordingly.

(Yogesh Khanna)
Chairman