

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

Petition No: 10 of 2023
Instituted on: 10.01.2023
Heard on: 15.05.2023
Decided on: 06.07.2023

CORAM

DEVENDRA KUMAR SHARMA
CHAIRMAN

YASHWANT SINGH CHOGAL
MEMBER (LAW)

SHASHI KANT JOSHI
MEMBER

In the matter of:

The HP State Electricity Board Limited, through its
Chief Engineer (Commercial),
Vidyut Bhawan, Shimla-171004.

.....Petitioner

Versus

M/s DSL Hydrowatt Ltd. (Sarbari-II HEP),
Vill. Naghughiore, P.O. Dogri,
Tehsil & Distt. Kullu (HP) 175102

.....Respondent

Petition for Approval of Capital expenditure to be paid to M/s DSL Hydrowatt Pvt. Ltd. on account of transferring of ownership of 33 kV Transmission Line (from 33/11 kV Sub-station Kullu to tapping point at 33/11 kV Sub-station Bhutti) of M/s DSL Hydrowatt Pvt. Ltd. to the HPSEBL against already approved Scheme for Construction of 33/11 kV, 2x1.6 MVA un-manned Sub-station at Bhutti (Lug Valley) under Electrical Division, Kullu, District Kullu, Himachal Pradesh and shifting of 33 kV Interconnection & Metering Point from 33/11 kV Sub-station Kullu to Bhutti Sub-station.

Present:

For the Petitioner: Sh. Kamlesh Saklani,
Authorised Representative.
For the Respondent: Sh. Vikas Chauhan, Ld. Counsel

ORDER

This Petition for Approval of Capital Expenditure on account of transferring of ownership of 33 kV transmission line (from 33/11 kV Sub-station Kullu to Tapping point of 33/11 kV Sub-station Bhutti) of M/s DSL Hydrowatt Private Limited to the HP State Electricity Board Limited (the HPSEBL for short) against already approved Scheme for Construction of 33/11 kV, 2x1.6 MVA un-manned Sub-station at Bhutti (Lug Valley) under Electrical Division, Kullu, Distt. Kullu and shifting of 33/11 kV Interconnection and Metering Point of the Respondent from 33/11 Sub-station Kullu to Bhutti Sub-station.

2. As per the Petitioner, the Administrative Approval and Expenditure Sanction for system improvement Scheme "Construction of 33/11 kV, 2x1.6 MVA un-manned Sub-station at Bhutti (Lug Valley) under Electrical Division, Kullu, Distt. Kullu Himachal Pradesh amounting to Rs. 474.93 lakh (Annexure-1) was accorded vide CE(P&M) Office Order No. HPSEBL(Sectt.)402-11(885)/2015-16-45578-82 Dated 25.08.15. The abstracts of the approved Scheme are as under:

Sn	Name of Item	Unit	Qty	Rate	Amount
1	Cost of 2X1.6 MVA , 33/11 KV S/stn with 4 No. outgoing feeders	Job	1	15838172.01	15838172.01
2	Cost of Construction of 33 KV Single Circuit on Double Pole Structure line with ACSR 6/1/4.72 Sq.mm conductor Equivalent for wind pressure upto 150kg/msq on	Km	6.5	941146.12	6117449.78

	10 mtr ST Poles				
3	Cost of Construction of 33 KV Line on S/T Single pole/Structure line with AB Cable 3X185 Sq mm	Km	2.00	1438622.62	2877245.24
4	Cost of Construction of 11 KV single Circuit line(50 sqmmequivalent for wind pressure 150 kg/msq on ST poles with ACSR 6/1/3.35 Sqmm(Reorganisation of existing 11 KV Feeders)	Km	3.840	413119.04	1586377.10
5	SCADA for un-manned S/stn	Job	1	17379000.10	17379000.10
6	Cost of Civil Works	Job	1	3694652.37	3694652.37
	Total Cost of Project				47492896.59

3. Out of the aforesaid six components of the Scheme, Component No.1, 4 and 6 have been fully executed, whereas Component No. 2 has been partially executed to the extent to erection of 33 KV Double Circuit line uptill the tapping point of the existing 33 KV Double Circuit Evacuation Line of M/S DSL Hydrowatt Ltd with line length of 0.265 Km. However, component no. 5 is in progress and component no. 3 has not been executed. The funding mechanism has been detailed as under:-

- i. REC Loan: Rs 427.44 Lacs
- ii. Board Share: Rs 47.49 Lacs
1. Total: Rs 474.93 Lacs

4. The component wise actual expenditure details have been furnished as under:-

Sr. No.	Name of Item	Sanctioned Amount	Expenditure Incurred excluding interest on deposit(IDC)
1	Cost of 2X1.6 MVA , 33/11 KV S/stn with 4 No. outgoing feeders including SCADA	15838172.01	32388794.66

	for un-manned S/stn		
2	Cost of Construction of 33 KV Single Circuit on Double Pole Structure line with ACSR 6/1/4.72 Sq.mm conductor Equivalent for wind pressure upto 150kg/msq on 10 mtr ST Poles	6117449.78	4241723.12*
3	Cost of Construction of 33 KV Line on S/T Single pole/Structure line with AB Cable 3X185 Sq mm	2877245.24	
4	Cost of Construction of 11 KV single Circuit line(50 sqmm equivalent for wind pressure 150 kg/msq on ST poles with ACSR 6/1/3.35 Sqmm(Reorganisation of existing 11 KV Feeders)	1586377.10	5461921.18
5	SCADA for un-manned S/stn	17379000.10	Included in sr.no 1
6	Cost of Civil Works	3694652.37	2641621.64
	Total Cost of Project	47492896.59	44734060.60

5. It is averred that the aforesaid details include the depreciated cost of the asset amounting to Rs. 2768577/- on account of compensation for transferring of ownership of 33 KV Dedicated Transmission line from 33/11 kV Sub Station Kullu to Tapping point (P-108) at 33/11 kV Sub Station, Bhutti (Single Line Diagram annexed as Annex- B).

6. It is averred that the Scheme was envisaged and approved to execute the work of 33/11 KV, 2X1.6 MVA Sub-station, Bhutti on account of following reasons and benefits:

1. Reliability of power supply to the area will increase 4 times as the area was to be fed from 4 No. 11 KV feeders instead of current single feeder.

2. The low voltage problem will be solved with reduction in line length and there will be considerable reduction in line losses and saving in energy as well as revenue.
3. Quality un-interrupted supply will be made available to the people of Lug Valley.
4. Load of 33/11 KV, 2X10 MVA Sub-station, Kullu shall be shifted to 33/11 KV Sub-station Bhutti which would relieve already overloaded 33/11 KV Kullu, Sub-station.
5. One number additional 11 KV feeder will be available to cope with the growing load of Kullu Town.
7. It is averred that the efforts were made to complete the execution of the approved Scheme in a time bound manner. However, the component of 33 KV Transmission line, as proposed under the sanctioned Scheme could not be executed in totality due to the following reasons:
 1. The 33/11 KV Sub-station at Kullu is in the heart of the town. The area is densely populated with District Offices and general public houses all around. Even presently, the entire 33 KV network feeding the Sub-station is through underground cables. Construction of new line through the same is not possible as there is no right of way.
 2. The Lug Valley area beyond the town is a narrow valley with steep terrain and rough topography. The 33 KV evacuation lines for M/S

DSL Hydrowatt Ltd. Sarbari-I and Sarbari-II HEP and Osaka Hydro already runs through the valley. Erection of new 33 KV transmission line in the area had series of challenges including opposition from local people.

8. It is averred that Lug Valley region is currently suffering acute low voltage problem during winters and in order to resolve this issue, the current Scheme was envisaged and initiated but in the absence of 33KV Transmission Line, the overall work under the Scheme would remain technically incomplete for availing the desired results. Thus, in order to resolve the issue, the Petitioner took up the matter with Respondent M/s DSL Hydrowatt Pvt. Ltd. and initially it was agreed that the connectivity to the Bhutti Sub-station can be achieved by tapping the 33 KV Transmission line of the Respondent with the ownership of line to be retained by the Respondent on the analogy that in case of drawl of power from 33/11 KV Sub-station, Kullu in the event of low generation or increase in the installed capacity of Bhutti Sub-station, due to enhanced load requirement, losses on account of drawl of power from 33/11 KV Kullu Sub-station shall be borne by the HPSEBL. However, losses on account of excess generation to the consumption at Bhutti Sub-station, injected at Kullu Sub-station shall be borne by the Respondent as per the existing arrangement. Further, in case of force majeure leading to

breakdown of transmission line, the HPSEBL shall not penalize the Respondent and the O&M charges for the usage of the 33 kV transmission line of the Respondent would be deposited by the HPSEBL to the Respondent on the same analogy as is being paid by them for injection in Kullu Sub-station. Also averred that one number additional metering point for Bhutti Sub-station shall be required at the tapping point for Joint Meter Reading for recording consumption at Bhutti Sub-station.

9. It is averred that on detailed deliberation, the initial arrangement was deferred and it was decided to take over the above said 33 kV Transmission Line free of cost and shift the Interconnection and Metering Point from Kullu to Bhutti Sub-station and vide letter dated 07.08.2021 (Annex-5) the Respondent was requested to convey its consent. Consequently, during a meeting on 17.02.2022 (Annex-7) it was decided as under:-

1. At the first instance the connectivity of 33/11kV Bhutti Sub-station will be done with dedicated transmission line of the IPP with appropriate protection arrangement along with shifting of interconnection point of the IPP from 33/11kV Kullu Sub-station to the switchyard of Sarbari-II SHEP along with its cordial formalities.
2. The IPP would transfer its dedicated transmission line from Sarbari-II SHEP's switchyard to 33/11kV Kullu Sub-station to HPSEBL and the O&M of the line will be taken care by the HPSEBL.
3. A Committee shall be constituted with all the stakeholders for deciding appropriate compensation for transfer of the dedicated transmission line to HPSEBL.

10. It is averred that a committee was constituted on 04.03.2022 (Annexure-8) for deciding the appropriate compensation for transfer of dedicated transmission line and in a meeting held on 20.04.2022, the representatives of the Respondent offered the depreciated cost of their asset as Rs. 67,80,800/- whereas the Petitioner offered the cost of Rs. 27,68,577/- as calculated on cost data of 2006-07 (Annexure-9).

11. Another meeting was held on 20.07.2022 with the representatives of the Respondent and in said meeting, the Respondent agreed to the aforesaid amount of Rs. 27,68,577/- as a compensation for transfer of their dedicated 33kV Transmission line from Sarvari-II Switch yard to 33/11kV Sub-station, Kullu and submitted consent letter No. DSLHPL/SML/2022/Sarbari-II/02 dated 21 July 2022 (Annex-10).

12. Accordingly, the matter was placed before the Whole Time Directors (WTDs for short) of the HPSEBL in its 110th meeting held on 08.09.2022 under Agenda No. 110.09 (Annex-11) and the Chief Engineer(P&M) vide Sanction Order No. HPSEBL(Sectt.)402-11 (Miscellaneous)/2022-23-1611-20 dated 17.09.2022 (Annex-12) conveyed the approval of the HPSEBL Management as follows:

1. To make payment amounting to Rs 27,68,577/- on account of compensation for transferring of ownership of 33 KV Dedicated line from M/S DSL Hydrowatt Limited to HPSEBL. The expenditure incurred on the said payment shall be charged to "Scheme for 33/11 KV, 2X1.6 MVA un-manned Sub Station at Bhutti(Lug Valley) under

Electrical Division, HPSEBL, Kullu of District Kullu, Himachal Pradesh”.

2. To revise metering arrangement and shifting of metering points of Sarbari-I and II HEPs from 33/11 KV S/station Kullu to 33/11 KV Sub-Station Bhutti.
3. To revise connection agreement with Sarbari-I and Sarbari-II HEPs by Chief Engineer(SP), HPSEBL, Shimla-4.
4. To incorporate revised connection agreement of Sarbari-I & Sarbari-II HEPs in the respective PPAs of HEPs by Chief Engineer(SO), HPSEBL, Shimla-4.

13. It is averred that the Respondent had entered into two (2) No. Long Term Power Purchase Agreements with the HPSEBL for the sale/purchase of power from Sarbari-I (4.50 MW) HEP and Sarbari-II (5.40 MW). The Power Purchase Agreement for Sarbari-I HEP (4.50 MW) was executed on 18-03-2006 (Annex-13) at a tariff of Rs. 2.50 per kWh. However, the Respondent had filed a Petition No. 29 of 2010 before the Commission which was disposed off on 28.04.2016 (Annexure-15) whereby the project specific tariff of Rs. 2.92 per kWh (with benefit of 1% LADF) was determined in respect of Sarbari-II HEP (5.40 MW).

14. As per the Petitioner, the interconnection point in respect of both the Projects is defined as 33/11 kV Sub-station of HPSEBL at Kullu and the power from the aforesaid Projects is being evacuated through 33 kV line in a joint mode upto 33/11 kV Sub-station at Kullu in accordance with the approval granted by the Commission vide Order dated 04-04-2009

(Annexure-16) passed in Petition No. 278/ 2008 titled as M/s DSL Hydrowatt Ltd Vs. the HPSEBL.

15. It is averred that the interconnection point of both the projects shall be changed from 33/11 kV Kullu Sub-station to 33/11 kV Bhutti Sub-station of HPSEBL, which is required to be incorporated in the PPA by signing supplementary PPA. However, the tariff of Rs. 2.50 per kWh of Sarbari HEP (4.50 MW) is firm and fixed and shall not be changed due to any reason, however, the tariff of Sarbari-II HEP is project specific, as mentioned above, and the same shall be necessitated to be re-determined on account of reduction in line losses as well as capital cost and its associated factors in consequence of taking over of 33 kV Transmission line by the HPSEBL from 33/11kV Sub-station Kullu to Tapping point at 33/11 kV Sub-station Bhutti and the Respondent may get the benefit of Deemed Generation.

16. The Petition has been resisted by the Respondent by filing reply.

17. It is averred by way of preliminary submissions that the Respondent owns and maintains the dedicated transmission line to evacuate the power from Sarbari-I and II HEPs to 33/11 kV Sub-station Kullu, having a total length of 8.5 kms, out of which 7 kms is a double circuit 33 kV overhead line and the remaining 1.5 kms is 3x300 sq mm 33 kV cable. However, in order to relieve the low voltage problem during

winters and also to relieve an overloaded 33/11 kV Kullu, Sub-station as requested by Petitioner, the Respondent is ready and willing to transfer the ownership of the aforesaid transmission line to the Petitioner on receiving compensation of Rs. 27,68,577/- as calculated and agreed. Further, the Respondent is also ready and willing to have its interconnection and metering point of Sarbari-I and II HEPs shifted from the existing 33/11 kV Sub-station, Kullu to 33/11 kV Sub-station, Bhutti and the Commission may grant the prayer of the Petitioner without burdening the Respondent with any kind of financial implication in future. Also averred that the prayer of the Petitioner for filing separate Petition for Supplementary Power Purchase Agreement may only be granted to the extent of amendment in the interconnection and metering point from existing 33/11kV Sub-station, Kullu to 33/11 kV Sub-station, Bhutti.

18. As per the Respondent, the Petition is the outcome of the mutually agreed terms and conditions and the issue of re-determination of tariff for Sarbari-II HEP, being project specific, was never deliberated between the parties during the proposal for transfer of the aforesaid asset and the same is not tenable. Also averred that the Respondent may not be charged by the Petitioner in any manner for shifting of the Interconnection point and Metering Point.

19. On merits, it is averred that the averments to the extent of re-determination of the tariff of Sarbari-II, being project specific, on account of reduction in line losses as well as capital cost and its associated factors on taking over of 33 kV transmission line, are contrary to the deliberations made between the parties and, therefore, such proposal be restricted by the Commission.

20. In rejoinder, the averments made in the Petition are re-affirmed averring that line losses in 33/11 kV line upto the existing interconnection point i.e. 33/11 kV Kullu, Sub-station, which constitute yearly 1.452% on average for last 5 years data may also be taken into consideration by the Commission.

21. We have heard Sh. Kamlesh Saklani, Authorised Representative for the Petitioner and Sh. Vikas Chauhan, Ld. Counsel for the Respondent No. 1.

22. The Petitioner has sought the approval of the Capital Expenditure amounting to Rs. 27,68,577/- on account of mutually agreed compensation in lieu of taking of ownership of 33 kV transmission line of the Respondent from 33/11 kV Sub-station, Kullu to tapping point at 33/11 kV Sub-station, Bhutti against the already approved Scheme for construction of 33/11 kV, 2 x1.5 MVA un-manned Sub-station, at Bhutti (Lug Valley) and for shifting of 33 kV Interconnection and Metering Point

of the Respondent from 33/11 kV Sub-station, Kullu to the switchyard of the Projects.

23. Sh. Kamlesh Saklani, Authorised Representative of the Petitioner has submitted that as per the site condition, there is no right of way and it is difficult to construct another 33 kV line from 33/11 kV Kullu Sub-station to provide grid connectivity to Sub-station, Bhutti due to narrow valley with steep valley and rough terrain. Besides, there is also resistance from the local people. According to him, the Respondent in Petition No. 278/2008 titled as M/s DSL Hydrowatt Pvt. Ltd. V/s the HPSEBL, decided on 04.04.2009 had also mentioned this aspect in the Petition that there is no space to make additional Bay at Kullu Sub-station and a common import/export meter at Sub-station, Kullu can record the power imported from Sarbari-I and Sarbari-II HEPs and that in order to make optimum utilization of corridor facility, it is necessary to provide grid connectivity to Sub-station Bhutti in order to overcome the low voltage problem in the winters in the Lug Valley, it is necessary to tap the power from the aforesaid line. According to him, as per the revised TEC dated 19.05.2010 granted in respect of Sarbari-II HEP 5.40 MW, the arrangement of evacuation has been granted subject to various conditions and one of the conditions i.e. condition No. xviii is as under:-

“xviii) the above mentioned evacuation arrangement shall be subject to the HPERC approval of “comprehensive system for evacuation of power from small HEPs” which has already been submitted to HPERC. The transmission/ Distribution Licensee may, however, also evolve alternate system(s) depending on the site conditions and subsequent developments, with the approval of HPERC.”

24. Sh. Vikas Chauhan, Ld. Counsel for the Respondent on the other hand has submitted that the Double Circuit 33 kV overhead line, measuring 8.5 Km for evacuation of power from Sarbari-I & Sarbari-II HEPs to 33/11 kV Sub-station, Kullu was laid by the Respondent, out of which 7 Km is Double Circuit Line and the remaining 1.5 Km is 3x300 sq mm 33 kV cable which is Dedicated Project Line, but in view of the large public interest of the people of Lug Valley, who are suffering on account of low voltage problem during winters, the Respondent has agreed to accept the capital expenditure, as calculated by the Petitioner, amounting to Rs. 27,68,577/- being mutually agreed compensation for handing over the ownership of the above line. He has also submitted that the Respondent has also agreed for getting the Interconnection and Metering Points of the Projects of the Respondents shifted to 33 kV Sub-station, Bhutti from 33 kV Sub-station, Kullu. According to him, there were no deliberations on re-determination of tariff on account of shifting of the Interconnection and Metering Points, therefore, the Respondent cannot be burdened with any kind of financial implications in the future on account of taking over the

ownership of line and shifting of the Interconnection and Metering Point. He has reiterated that the prayer of the Petitioner for re-determination of the tariff is beyond the mutually agreed terms and conditions of transfer of 33 kV transmission line on payment of compensation.

25. We have carefully gone through the entire record and the submissions including the written submissions filed by the Petitioner.

26. Section 2 (16) of the Electricity Act, 2003 defines the Dedicated Transmission Line which is reproduced as under:-

“dedicated transmission lines” means any electric supply-line for point to point transmission which are required for the purpose of connecting electric lines or electric plants of a captive generating plant referred to in Section 9 or generating station referred to in Section 10 to any transmission lines or Sub-stations or generating stations, or the load centre, as the case may be;”

27. Undisputedly, the 33 kV transmission line, was constructed by the Respondent as a Project specific line for the evacuation of Power from Sarbari-I and Sarbari-II HEPs which is not in dispute. It is none of the case of the Petitioner that it had constructed the above line. Therefore, the aforesaid Line is a dedicated transmission Line.

28. Apparently, the people of the area of Lug Valley are suffering on account of low voltage problem in the winters and there is no right of way

to erect/ lay another transmission line to overcome said problem. It is also apparent from the file that the Administrative approval and expenditure sanction for Constitution of 33/11 kV, 2x1.6 MVA unmanned Sub-station at Bhutti amounting 'Rs, 474.93 Lac' had been accorded by the Petitioner vide letter dated 25.08.2015 and accordingly, the 33/11 kV Sub-station at Bhutti has been constructed. It is also apparent from the file that due to non availability of right of way due to steep valley and tough terrain, it was not possible to lay another line for providing connectivity to the above station with the grid. Thus, in order to provide connectivity to the Sub-station at Bhutti with the grid and alleviate the sufferings of people of Lug Valley area, both the parties have mutually agreed for transferring the ownership of the above transmission line to the HPSEBL on payment of compensation of Rs. 27,68,577/- and for shifting of metering points from 33 kV Sub-station, Kullu to 33 kV Sub-station Bhutti and to carry out consequent changes in the PPAs.

29. As per the Petitioner, initially it had been agreed by the parties that the connectivity to the Bhutti Sub-station can be achieved by tapping the aforesaid 33 kV transmission line of the Respondent without disturbing the ownership of the line on the analogy that in case of drawl of power from 33/11 KV Sub-station, Kullu in the event of low generation or increase in installed capacity of Bhutti Sub-station due to enhanced load

requirement, losses on account of drawl of power from 33/11 KV Kullu Sub-station shall be borne by the HPSEBL. However, losses on account of excess generation to the consumption at Bhutti Sub-station, injected at Kullu Sub-station shall be borne by the Respondent as per the existing arrangement. On further deliberation over the matter, the Respondent agreed to transfer the ownership of the above Transmission line to the Petitioner, on payment of compensation of Rs. 27,68,577/- calculated on the basis of cost data of the year 2006-2007.

30. None of the parties have disputed the aforesaid arrangement of transfer of line. What is disputed by the Respondent is that consequent upon the shifting of Interconnection and Metering Points from Sub-station, Kullu to Sub-station Bhutti, neither the tariff is to be re-determined nor any financial burden should be occurred to the Respondent.

31. As per the Petition, as a sequel to the shifting of Interconnection and Metering Points, there would be consequent reduction in the line losses and reduction in O&M cost, Capital cost, Deemed Generation and associated factors which require re-determination of the tariff in respect of Sarbari-II HEP as the tariff in respect of Sarbari-I HEP is firm and fixed.

32. It is apparent from the record that the Respondent had filed the Petition No. 29 of 2010 before the Commission for determination of tariff in respect of Sarbari-II HEP which was allowed vide order dated

28.04.2016, whereby Project specific tariff was determined for the Sarbari-II HEP, though the provisional tariff of Rs. 2.95/kWH was allowed vide Order dated 07.07.2010. A careful perusal of the order dated 28.04.2016 shows that while determining the Project specific tariff in respect of Sarbari-II HEP, the Respondent had submitted estimated Project cost, which was inclusive of Rs. 1.50 Crores in respect of the transmission and distribution line, as evident from Chapter 14 of the Order dated 28.04.2016. While determining the total Capital Cost, the Commission has determined the tariff of Sarbari-II HEP by considering the Capital Cost of Rs. 1.15 Crore of laying the transmission line. Para 4.6.15 of Chapter IV of the Order dated 28.04.2016 is reproduced as under:-

“The Commission in this matter is of the view that since the transmission line is being utilized by the plant, therefore, the apportioned capital cost for laying the transmission line should also be considered along with the total capital cost of the Project. The Commission finds it prudent to apportion the total capital cost on the basis of length of transmission system utilized and, therefore, approved the cost of Rs. 1.15 Crore on this account.”

33. Here it is relevant to mention that the Respondent had already been evacuating the Power of Sarbari-I HEP through the above said dedicated transmission line when Sarbari-II HEP was commissioned. It is also apparent from the record that the Commission vide Order dated

4.4.2009 in Petition No. 278/2009 had allowed the Respondent to evacuate the Power of both the Projects i.e. Sarbari-I and Sarbari-II HEPs in a joint mode. As such, the cost of Rs. 1.15 Crore out of the total cost of Rs. 3.28 crore, incurred for laying the above said dedicated transmission line was apportioned in respect of Sarbari-II HEP. As observed above, the tariff in respect of Sarbari-I HEP is firm and fixed.

34. Now a question arises whether the aforesaid firm and fixed tariff of Rs. 2.50/kWh is inclusive of the cost of laying the Transmission Line. The answer to the question is in affirmative. The Respondent had signed the PPA in respect of Sarbari-I HEP on 18.03.2016 on the basis of tariff provided in the "Hydro Policy of Himachal Pradesh, 2006" in Sub-para (i) of Para 3.1 of chapter IV of the above policy is reproduced as under:-

"(i) HPSEB shall purchase power from private parties/joint sector companies setting up the Small Hydel Power Stations @ Rs. 2.50 per unit."

35. The useful life of the Hydro Project is 40 years as mentioned in Sub-para (vi) of Para 3.1 of chapter IV of the above policy is reproduced as under:-

(vi) The Developer will be permitted to establish, own, operate and maintain the Project for a period of 40 (forty) years and the date shall be reckoned after 30 months from the date of the signing of the Implementation Agreement (irrespective of

extensions in the time period of the Implementation Agreement granted on any account). Therefore, the Project shall revert to the State Government free of cost and free from all encumbrances.

36. Sub-para (viii) of Para 3.1 of chapter IV of the above Hydro Policy, 2006 further provides as under:-

(viii) Interfacing including transformers, panels, kiosks, protection, metering, H.T. Lines from the points of generation to the HPSEB's nearest feasible H.T. Sub-station as well as maintenance shall be undertaken by the Developer as per the specifications and requirements of the HPSEB for which the Developer shall bear the entire cost. Alternatively, these works and their maintenance could be undertaken by the HPSEB, at charges to be decided by the HPSEB payable by the Hydro Project Developer.

37. In this regard, it is also relevant to reproduce Para 4.6.12 of the tariff Order dated 28.04.2016 in Petition No. 29 of 2010 as under:-

"The Petitioner further submitted that the expenditure of Rs. 23.14 Crore include Rs. 1.15 Crore on account of expenditure incurred towards construction of transmission line for the purpose of connecting the plant to the grid network. The Petitioner submitted that the total cost incurred in construction of transmission line was Rs. 3.28 Crore and accordingly Rs. 1.15 Crore has been apportioned to Sarbari-II on the basis of length of the transmission network utilized by Sarbari-II.

38. It is thus clear that the total cost incurred in construction of transmission line was Rs. 3.28 Crore when Sarbari-I HEP had been

constructed out of which Rs. 1.15 Crore has been apportioned in respect to Sarbari-II HEP on the basis of length of transmission network utilized for Sarbari-II HEP, whereas the rest of cost was on account of Sarbari-I HEP. As per the Hydro Policy of Himachal Pradesh 2006, the HT line from the point of generation to the HPSEBL's nearest grid is to be laid by the developer and per para (f) of the Policy, the Project free from all encumbrances shall revert to the State of H.P., meaning thereby that above tariff of Rs. 2.50 per unit is inclusive of Project cost and Transmission Line.

39. Therefore, though the transmission line was laid down by the Respondent as a dedicated Project line, when the above Projects were constructed but while claiming the tariff of Rs. 2.50/kWh, as per Hydro Policy of Himachal Pradesh 2006 in respect of Sarbari-I HEP and Project specific tariff in respect of Sarbari-II HEP, the Respondent has started recovering the cost of the above transmission line through the tariffs from the Petitioner. Undisputedly, this cost of line by way of tariffs will be recovered by the Respondent during the span of useful life of the Project which is 40 years after the Synchronization Date of the first units of the Projects as per Clauses 10.1 of PPA dated 18.03.2006 in respect of Sarbari-I HEP 4.50 MW and PPA dated 23.08.2010 in respect of Sarbari-II HEP 5.40 MW signed between the HPSEBL and M/s DSL Hydrowatt

Limited. The Project specific tariff of Sarbari-II HEP was approved by the Commission on 28.04.2016, whereby the tariff of Rs. 2.92/kWh has been allowed. Therefore, part of the cost of the aforesaid line has already been recovered by the Respondent from the tariffs of both the Projects. Hence, technically speaking, the aforesaid 33 kV Transmission Line has lost the character of a dedicated Project line. However, the Respondent has a lien over the same till the recovery of entire tariff till useful life of the Project. Thereafter, the Project as well as the transmission line would revert to the Government of HP free from all encumbrances. However, this vital aspect, has escaped the attention of the Parties, while working out the modalities of handing over and taking over of the aforesaid line on mutually agreed terms of payment of compensation of Rs. 27,68,577/- and perhaps for the said reason, the Petitioner has come out with a plea of re-determination of the tariff in respect of Sarbari-II HEP.

40. Here, it relevant to mention that as per the Preamble of the Electricity Act, 2003, one of the objects of enacting the same is to protect the interest of the Consumers. Therefore, any approval of Capital Expenditure has a direct bearing on the Consumers and the Commission has a duty to protect their interest as per the mandate of the Electricity Act, 2003. Though, the parties have mutually agreed for the transfer of the asset (Transmission Line) on payment of compensation of Rs. 27,68,577/-

but the cost of the asset/ transmission line having been included in the costs of the Projects (Sarbari-I and Sarbari-II), as observed above, the proposed arrangement is not factually correct and the Consumers of the State cannot be burdened with the aforesaid depreciated cost of Rs. 27,68,577/- of line, which is being recovered by way of tariffs by the Respondent.

41. The Respondent in its reply has stated that there is no right of way to construct another line from 33/11 kV Sub-station, Kullu to connect 33/11 kV Sub-station Bhutti with the grid. Similarly, it has not been disputed that the people of Lug Valley are not suffering from low voltage problem during winters. It is apparent from the Petition that the Scheme was envisaged and approved to execute the work of 33/11 kV, 2x1.6 MVA Sub-station at Bhutti on account of following reasons and benefits:

- i. Reliability of power supply to the area will increase 4 times as the area was to be fed from 4 No. 11 kV feeders instead of current single feeder.
- ii. The low voltage problem will be solved with reduction in line length and there will be considerable reduction in line losses and saving in energy as well as revenue.
- iii. Quality un-interrupted supply will be made available to the people of Lug Valley.

- iv. Load of 33/11 kV, 2x10 MVA Sub-station, Kullu shall be shifted to 33/11 kV Sub-station Bhutti which would relieve already overloaded 33/11 kV Kullu, Sub-station.
- v. One number additional 11 kV feeder will be available to cope with the growing load of Kullu Town.

42. It is the prime responsibility of the HPSEBL to supply quality and un-interrupted power to its Consumers. However, as observed above, the people of Lug Valley region are currently suffering due to acute low voltage problem during winters. A sum of Rs. 4.50 Crore has been incurred in the construction of Bhutti, Sub-station but in the absence of right of way on account of limited corridor and no possibility of construction of other line, the overall work under the Scheme i.e. Transmission Line could not be completed. Resultantly, the sub-station Bhutti has not become functional.

43. Manifestly, the Respondent has not objected to the connectivity of the grid and energisation of Sub-station, Bhutti, as parties mutually agreed for transferring the ownership of the above line on payment of compensation of Rs. 2768,577/-. However, with the proposed arrangement of transferring of ownership of the aforesaid line, the shifting of Interconnection and Metering Points were proposed to be made. The Petitioner has insisted for redetermination of tariff but said proposal of

redetermination of tariff of Sarbari-II HEP has been objected to by the Respondent that neither the said proposal is part of the deliberations nor the Respondent had consented for the same. Not only this, the Respondent has categorically mentioned in the reply that no additional financial burden is to be borne by the Respondent. We have carefully analysed the rival claims and are of the view that once, the cost of the above line is being recovered as part of the tariff by the Respondent from the HPSEBL in respect of both the Projects, we are not inclined to interfere with the current arrangement of Transmission, Interconnection and Metering Points and Maintenance of the line beyond Bhutti Sub-station to Sub-station, Kullu.

44. Now the question arises whether the Petitioner could have energized the 33 kV Bhutti, Sub-station by tapping the Power from the aforesaid line. The answer to the question is also in affirmative for the reason that no loss, whatsoever, will accrue to the Respondent as, whatever drawl of energy from the tapping point will be made, the same will be metered and accounted for in the account of the Respondent. Here the Submissions of Sh. Kamlesh Saklani, Authorised Representative assume importance as while granting the Revised Techno Economic Clearance to the Respondent in respect of Sarbari-II HEP, vide letter No.

HPSEBL/CE(PCA)/CC-Sarbari-II/2010-989-1000 dated 19.05.2010, it was specifically mentioned in Clause (xviii) as under:-

xviii)) The above mentioned evacuation arrangement shall be subject to the HPERC approval of "Comprehensive area wise plan for augmenting and establishing the transmission/sub-transmission system for evacuation of power from small HEPs" which has already been submitted to HPERC. The Transmission/ Distribution Licensee may however also evolve alternate system(s) depending on the site conditions and subsequent developments, with the approval of HEPRC."

45. Therefore, in the revised Techno Economic Clearance (TEC), it had been specifically mentioned that with the approval of the Commission, the Distribution Licensee i.e. HPSEBL may evolve alternate system of evacuation depending on site condition and subsequent developments. The Respondent has admitted the problem of low voltage in the area and the non availability of the corridor for laying another transmission line. Therefore, in view of the limited corridor and no possibility of laying another line from 33/11 kV Sub-station Kullu to 33/11 kV Sub-station Bhutti, the energisation of the 33 kV Sub-station, Bhutti by tapping the Power from the above Line is the only alternative to connect the Sub-station Bhutti to the grid in order to alleviate the sufferings of Lug Valley people. Thus, unless the tapping arrangement from the above said transmission line is made, the 33 kV Sub-station at Bhutti shall remain

unfunctional. The Respondent, therefore, cannot deny for the Grid connectivity to the Sub-station Bhutti from the above Project line.

46. Now the another question which arises for consideration is the payment of the operation and maintenance cost of the above evacuation system from the generating station to the tapping point at 33/11 kV Bhutti Sub-station and beyond 33/11 kV Bhutti Sub-station to 33/11 kV Sub-station Kullu the consequent line losses. Apparently, the HPSEBL shall draw the power from the above line at the tapping point at 33/11 kV Sub-station Bhutti. Therefore, the HPSEBL shall bear the O&M cost of the above line and consequent line loss from the generating station of Sarbari-II HEP to the tapping point at 33/11 kV Sub-station Bhutti in proportion to the drawl of power at tapping point at 33/11 kV Sub-station Bhutti. The rest of the O&M cost and line losses from the tapping point at 33/11 kV Sub-station Bhutti to 33/11 kV Sub-station at Kullu shall be borne by the Respondent DSL Hydrowatt Limited.

47. Though the Petitioner has approached the Commission for approval of the Capital Expenditure amounting to Rs. 27,68,577/- (Rs. Twenty Seven Lakh Sixty Eight Thousands Five Hundred Seventy Seven only) on account of mutually agreed Compensation to take over and Transfer Ownership from M/s DSL Hydrowatt Private Limited to HPSEBL of 33 kV Transmission Line from 33/11kV Sub-station Kullu to Tapping

point of 33/11 Sub-station Bhutti against already approved scheme for “Construction of 33/11 kV, 2x1.6 MVA un-manned Sub-station at Bhutti (Lug Valley) under Electrical Division Kullu of District Kullu Himachal Pradesh” amounting to Rs. 474.93 Lac and for approval of shifting of Interconnection and Metering point of M/s DSL Hydrowatt Private Limited (Sarbari-I and II HEPs) from 33/11 kV Sub-station Kullu to 33/11 kV Sub-station Bhutti and also to allow submission of separate Petition for signing of supplementary PPA with M/s DSL Hydrowatt private Limited but keeping in view the aforesaid discussion and finding, the only relief which is permissible in the present facts and circumstances is to permit the Petitioner to provide grid connectivity to 33/11 kV Sub-station Bhutti by tapping the Power from aforesaid line and granting other reliefs is not in the interest of the Consumers. Accordingly, the Petitioner is permitted to provide grid connectivity to 33/11 kV Sub-station Bhutti by tapping the power from aforesaid Line. The other reliefs prayed in the Petition are declined.

Final Order

48. In view of the above, the Petitioner/ HPSEBL is permitted to tap the energy at a tapping point from the aforesaid transmission line of the Projects of Sarbari-I and II HEP by making proper technical arrangements and by taking requisite precautions. The Petitioner is directed to energize

the Sub-station, Bhutti in order to provide grid connectivity and supply quality and uninterrupted supply to the Consumers of Lug Valley area. The Petitioner is further directed to install proper main and check meters, proper protection with breakers of suitable capacities, if required, at the tapping point and, whatever, energy is drawn from the above line, the same be recorded and accounted for billing purpose. The Petitioner shall also proportionately bear the O&M cost of Line from the Sarbari-II generating station to the tapping point of the above line at 33/11 kV Bhutti Sub-station and consequent line loss from Sarbari-II generating station to the tapping point at 33/11 kV Bhutti Sub-station. The consequent changes in the PPA, if required, be carried out by signing supplementary Power Purchase Agreements.

49. Before parting, we are at great pain and express our anguish in the manner the aforesaid compensation of Rs. 27,68,577/- was approved and agreed to be paid, which is unwarranted and uncalled for. In future, wherever such decisions are taken, the proper scrutiny of all such proposals shall be carried out before approval by the HPSEBL and if any such proposal is cleared contrary to the factual position, the HPSEBL shall fix the responsibility of the erring officials/officers.

50. The Petition is disposed of in view of the above terms and conditions. Pending CMAs are also disposed off. The file after needful be consigned to record.

Announced
06.07.2023

-Sd-
(Shashi Kant Joshi)
Member

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

-Sd-
(Devendra Kumar Sharma)
Chairman