

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

**Petition No: 45 of 2022**  
Instituted on: 11.07.2022  
Heard on: 17.11.2022  
Decided on: 27.01.2023

**CORAM**

Devendra Kumar Sharma

**CHAIRMAN**

Yashwant Singh Chogal

**MEMBER (Law)**

Shashi Kant Joshi

**MEMBER**

**In the matter of:**

1. M/s Swadeshi Distributors LLP and
2. M/s Jagdambey Hydro Projects LLP  
Both having registered office at  
One, First Floor Building, Village Gaganh,  
Tehsil & Distt. Chamba, H.P.

**Petitioners**

**Versus**

1. The HPPTCL through its  
Managing Director,  
Himfed Bhawan, Panjari,  
Tutikandi, Shimla 171004.
2. The HP State Electricity Board Ltd. through its  
Chief Engineer (Sys. Op.),  
Vidyut Bhawan, Shimla-171004.
3. Govt. of Himachal Pradesh through its  
Additional Chief Secretary (MPP & Power)  
to the Govt. of Himachal Pradesh, Shimla 171002.

**Respondents**

**Petition under Section 86 of the Electricity Act 2003 read with Himachal Pradesh Electricity Regulatory Commission (Power Procurement from Renewable Sources and co-generation by distribution licensee) Regulations, 2007, HPERC (Grant of connectivity long term access & medium-term open access in Intra-state transmission &**

**related matters) Regulations, 2010, Central Electricity Authority (Technical Standards for connectivity to the Grid) Regulations, 2007 (as amended upto date), Central Electricity Authority (Technical Standards for construction of electrical plants& Electric Lines), Regulations, Central Electricity Authority (Grid Standards) Regulations, Indian Electricity Grid Code and other relevant statutory provisions (as amended upto date) for directing the Respondent No. 1 to construct 220/66 kV Grid Sub-station Heiling at Dalli and to construct the remaining 4 km line from interface point tower No. 10 to Heiling Sub-station and for reimbursing the cost of evacuation line from pooling Sub-station to Tower No. 10 and access line loss suffered due to non-generation during the period of disconnection of temporary evacuation, Grid failure on account of interim evacuation arrangement, excessive line loss.**

Present:-

- Sh. Sapan Dhir and Ms. Nancy Vashistha, Ld. Counsel for the Petitioners.
- Sh. Vikas Chauhan, Ld. Counsel for the Respondent No. 1.
- Sh. Kamlesh Saklani, Authorised Representative for Respondent No. 2.
- Sh. Shanti Swaroop, Ld. Legal Consultant for the Respondent No. 3.

### **ORDER**

The Petitioners are limited liability partnership firms, engaged in developing Small Hydro Projects (SHP for short) in the State of Himachal Pradesh. The Respondent No. 1, Himachal Pradesh Power Transmission Corporation Ltd. (hereinafter to be referred as HPPTCL for Short) is the State Transmission Licensee responsible for developing the transmission system of above 33 kV voltage system for transfer of power from generating stations within the State and transferring the power from the Grid to the Distribution Licensee's distribution system. The Respondent No. 2, Himachal Pradesh State Electricity Board Limited (hereinafter to be referred as HPSEBL for short) is the Distribution Licensee. The HPPTCL is responsible for providing permanent evacuation system for the evacuation of the power from the Hydro generating stations. The Respondent No. 3 is responsible for implementing the State

policies for development of the Hydro Power and optimum utilization of Hydro resources and is the controlling authority of Directorate of Energy (DoE for short) and HIMURJA.

### **FACTUAL MATRIX**

2. The Petitioner No. 1 signed Implementation Agreement (IA for short) on 17.08.2010 for executing 4.50 MW Hydro Electric Project (HEP for short) at Salun Khad in Distt. Chamba and the Petitioner No. 2 signed Implementation Agreement (IA for short) on 09.01.2013 (Annexure P-5) for setting up 5 MW Kuwarsi-II SHP located at Kuwarsi Khad in Distt. Chamba respectively. The interconnection points as per IAs for the Projects were defined as the physical touch points where the Project shall interface at 33/132 kV, 2x25/31.5 MVA Sub-station at Gharola through 33 kV single circuit dedicated line alongwith terminal bay. Beyond Gharola, creation of 132 kV single circuit line on D/C tower was planned between Gharola and Chamba alongwith terminal bays. In the meanwhile, the capacity of the Kuwarsi-II SHP was enhanced to 15 MW and fresh IA was signed on 25.02.2015 (Annexure P-6). The Petitioners requested HPPTCL for providing facilities for evacuation of power and permission for connecting to the Intra-state Transmission System vide letter dated 22.09.2015 (Annexure P-7) as the Petitioners and their sister concerns and some other Projects were developing the SHPs i.e. Kuwarsi-II (15 MW), Chate ka Nalla (5 MW), Toral Kundli (5 MW), Kuwarsi-I (5MW) and Salun (4.5 MW) having

total capacity of 34.5 MW. Meanwhile, the capacity of Salun Project was enhanced to 9 MW and the fresh IA was signed on 29.01.2016, (Annexure P-8).

3. On 07.04.2016, the Petitioners submitted request for connectivity of Projects i.e. Kuwarsi-II (15 MW), Salun (9 MW), Chate Ka Nalla (9 MW) and Toral Kundli (18 MW) aggregating to 51 MW+20% continuous overload (COL) as the Scheduled Date of Commissioning of the Projects were between March 2017 to December 2018. It was agreed between the Petitioners and other Project developers that the Centralized Pooling Station for all the above Projects will be setup at Salun which will aggregate the power and step up to 66 kV and inject the power at Heiling Sub-station, through 1.5 km 66 kV line to be constructed by the Petitioners. The HPPTCL was to build up 66 kV/220 kV Sub-station at Heiling and provide evacuation line at 220 kV voltage level from Heiling to 220/400 kV Grid Sub-station at Lahal. The Connection Agreement was signed between the parties on 07.04.2016 (Annexure P-9). It is averred that though at the one hand, the HPPTCL executed the connection agreement dated 07.04.2016 with the Petitioners for providing evacuation of power from Heiling Sub-station to 220/400 kV Grid Sub-station at Lahal but on the other hand, as conveyed through the minutes of meeting of the 43<sup>rd</sup> meeting of STU held on 16.06.2016 (Annexure P-10) the Lahal Sub-station was targeted for completion in June 2018. However, there was no reference of Heiling Sub-station during 44<sup>th</sup> meeting of STU (Annexure P-11) held on 04.03.2017 and the Committee took serious note of severe transmission constraints in Bharmour valley and

impressed upon the authorities to expedite the evacuation of power from the Projects of the Petitioners. On 20.09.2017 during the 45<sup>th</sup> meeting of the STU (Annexure P-12), the HPPTCL admitted of granting connectivity to Salun and Kuwarsi-II HEPs at 66/220 kV Sub-station of the HPPTCL planned at Heiling and that the Projects have also applied for LTA but the Heiling Sub-station cannot come up before commissioning of Salun and Kuwarsi-II Projects and an interim arrangement need to be planned by the HPSEBL. It was also resolved in the meeting that strengthening of 33 kV Holi-Gharola and Gharola-Bharmaur lines be put on fast track by HPSEBL and must be commissioned before commissioning of 33/220 kV Lahal Sub-station and that the Petitioner shall enter into interim evacuation arrangement with the HPSEBL. Meanwhile, DoE inspected the Kuwarsi Project on 19.04.2018 and observed that 70% of the Project work had been completed and submitted report (Annexure P-13). In the 46<sup>th</sup> meeting of STU held on 29.05.2018, the evacuation of power from the Projects of the Petitioner and some other Projects was discussed, wherein the HPPTCL admitted of the delay in providing the evacuation system and the HPSEBL was directed to provide interim connectivity for both the Projects.

4. It is averred that 1.5 km 66 kV line from Centralized Pooling Station (CPS for short) at Salun to HPPTCL Heiling Sub-station was to be constructed by the Petitioners but later on, the location of Heiling Sub-station was shifted to Dalli before its start and thus, it was decided by the HPPTCL that being joint line, HPPTCL shall construct this line and the line was included in GEC-I

Scheme. Not only this, the land was also acquired and diverted in favour of HPPTCL under FCA. However, since there was an abnormal delay in the construction of Sub-station and the Transmission line and the Projects of the Petitioners were nearing completion, the Petitioners offered to construct the line upto Heiling Sub-station under self execution on reimbursement basis. The HPSEBL was also directed to provide interim evacuation arrangement for the Projects. It is averred that the issue of construction of line was discussed in the 46<sup>th</sup> meeting of STU coordination committee and it was decided that the Petitioners shall be allowed to construct said line (line from CPS to Heiling Sub-station at Dalli) under self execution mode. As per the Petitioners, since 33 kV line was passing near tower number 10 of the proposed line, the Petitioners constructed 4 km line upto tower number 10 from where the Petitioners are injecting the power on second circuit of Lahal– Gharola-Holi line. The copies of letters dated 07.11.2016 (wrongly mentioned as 09.11.2016), 19.11.2016 and agenda of minutes of 46<sup>th</sup> meeting are annexed as Annexure P-14 Colly.

5. The HPSEBL submitted its proposal in the 47<sup>th</sup> meeting of STU held on 25.07.2018 proposing to evacuate the power of Salun & Kuwarsi-II SHPs through second circuit of 33 kV Holi-Gharola line to 33/400 kV Lahal Sub-station which was subsequently confirmed by the HPSEBL vide letter dated 13.09.2018. As per the Petitioners, they delayed commissioning of their Projects due to the incomplete evacuation arrangement. However, the proposal as submitted by the HPSEBL did not materialize as neither Gharola- Lahal line nor

Gharola- Holi second circuit was constructed as per the schedule nor the targeted commissioning of Lahal Sub-station of June, 2018 was met which further delayed the commissioning of the Projects of Petitioners resulting in sustaining the additional interest. The minutes of 47<sup>th</sup> meeting are annexed as (Annexure P-15). As per the Petitioners, due to delay in acquiring land for Heiling Sub-station at Dalli by HPPTCL, as an interim arrangement, they were allowed to interconnect the CPS on 2<sup>nd</sup> Circuit of 33 kV Holi-Gharola-Lahal line (under construction) through solid tap with appropriate protection equipment after commissioning of 220/33 kV Sub-station Lahal for two years or till the commissioning of 220/66 kV Sub-station Heiling, whichever is earlier. Further on completion on Holi-II SHP, the Salun and Kuwarsi-II Projects had to back down to the capacity available in 33 kV line and a condition was also imposed that Project developer shall have to bear the losses upto 220/33 kV Sub-station Lahal and shall also not be entitled to any benefit of deemed generation in case of breakdown of second Circuit of 33 kV Holi-Gharola-Lahal line and shall have to back down the power generation on account of system constraints. Further vide interim connectivity dated 02.11.2018 (Annexure P-16), a condition was imposed that during interim evacuation period, 2<sup>nd</sup> Circuit of 33 kV Holi-Gharola-Lahal line will not be connected at existing 33/11 kV Sub-station, Gharola and using the distribution and communication system of the Distribution Licensee/SLDC to transmit electricity as well as real time data to and or from the facility through the electrical system of the Distribution

Licensee was also not allowed. On 30.09.2019 and 25.10.2019 (Annexure P-17 Colly), the Petitioners delayed the commissioning of Projects due to non-availability of evacuation system and since the Heiling Sub-station was not matching the commissioning schedule of the Projects and interim evacuation arrangements was also not in sight, the Petitioners requested for temporary evacuation of Power of Salun and Kuwarsi-II Projects which was allowed vide letter dated 25.10.2019 upto Feb. 2020 (lean period) on existing 1<sup>st</sup> Circuit of 33 kV Holi-Gharola-Karian line with certain conditions that no evacuation will be allowed beyond 28.02.2020 and the temporary arrangement will be disconnected after commissioning of 220/33 kV Sub-station at Lahal or on 28.02.2020, whichever is earlier.

6. However, despite all these constraints, the Petitioners commissioned the Projects on 13.12.2019 and 22.12.2019 respectively. Letter of DoE dated 30.09.2019, letter of HPSEBL dated 25.10.2019 and documents of commissioning are attached as Annexure P-17. As per the Petitioners, since the 2<sup>nd</sup> Circuit of 33 kV Holi-Gharola-Lahal line was under construction and could not be commissioned before 28.02.2020, the Petitioners were forced to shut down the commissioned Projects due to non-availability of transmission line w.e.f. 01.03.2020. The 2<sup>nd</sup> Circuit of 33 kV Holi-Gharola-Lahal line was commissioned on 09.07.2020 and till the commissioning of 2<sup>nd</sup> Circuit, in which the interim interconnection by Respondent No. 2 was allowed, the Petitioners suffered loss of 5,62,96,704 kwh (3,42,21,189 kwh at Kuwarsi-II and



2,20,75,515 kwh at Salun) of energy which was communicated to ACS (Power) vide letter dated 12.04.2021 (Annexure P-18).

7. It is averred that the Petitioners approached the Respondents from time to time for evacuation arrangement vide letters dated 30.04.2018, 30.06.2018, 27.08.2018, 27.09.2019, 05.11.2019 and 09.12.2019 (Annexure P-19 Colly) but in vain. On 23.12.2020 (Annexure P-20), the Petitioners had to approach the HPPTCL for allowing the connectivity on one of the Circuits of 220 kV Holi-Bajoli line and for taking over the transmission line already constructed from Centralized Pooling Station (CPS) upto interfacing point which request was allowed vide letter dated 31.03.2021 (Annexure P-21) with conditions.

8. It is averred that the conditions imposed in letter dated 31.03.2021 were impractical and, therefore, vide letter dated 12.04.2021 (annexure P-22), the Respondent No. 3 was requested to have a relook on the proposal. The HPPTCL vide letter dated 11.02.2022 (Annexure P-23) asked the Respondent No. 2 to sign the supplementary TSA with HPPTCL for allowing connectivity to the Petitioners. The HPSEBL vide letter dated 23.03.2022 (Annexure P-24) replied that the TSA shall be borne by the HPPTCL which had failed to commission the Sub-station at Heiling from where permanent connectivity has been provided to be Petitioners. The Respondent No. 1 vide letter dated 30.04.2022 (Annexure P-25) intimated that in case the power has to be evacuated from one of the circuits of 220 kV Holi-Bajoli line at 33 kV, IPTA/TSA has to be signed and the charges are to be borne by the HPSEBL/Project developers. Since there has been many

conditions to be met by both the departments and there was no go ahead on the connectivity, the Petitioners deemed it fit to sign the Interim Power Transmission Service Agreement (IPTA for short) on 21.05.2022 (Annexure P-26) allowing connectivity till 31.10.2022 subject to conditions that the charges on account of TSA shall be as finalized by the Commission.

9. As per the Petitioners, due to inadequate transmission lines to evacuate power on 33 kV line during peak season, the Petitioners were incurring huge losses. The 2<sup>nd</sup> circuit was not capable of evacuating full generation of the two Projects and due to transfer of 24 MW+10% COL, over a voltage of 33 kV, the losses were very high. During 2020-2021, transmission losses of 3495074 units were recorded against 34% PLF which was also on account of non availability of transmission line from March 2020 to 09.07.2020.

10. It is averred that the Petitioner are being compelled to inject the power through the interim arrangement since November 2019, despite execution of a valid connectivity agreement as early as on 07.04.2016 and deposit of fees alongwith application for LTA submitted on 21.12.2016. Had the Petitioners not pursued for the connectivity to the Projects in the month of November 2019, the commissioning of the Projects would have been delayed on account of non-evacuation arrangement and in that event, the Petitioners would have got the better preferential tariff of Rs. 4.49 per unit (instead of Rs. 4.04 per unit) apart from longer period of lower percentage of royalty and extended period of operation. Also in case the interim evacuation arrangement as provided to the

Projects is not continued, the Petitioner will have to move back to interim connectivity granted by HPSEBL on 2<sup>nd</sup> circuit of 33 kV Holi-Gharola-Lahal line with additional conditions specified in the interim connectivity agreement. As per the Petitioners, Lahal Sub-station from CPS is 22 km. The billing is being done at Lahal, thus, the line losses of 22 km. which could have been for 1.5 km at 33 kV or 8.5 km at 66 kV at the maximum are being borne by the Petitioners for no fault of theirs which as per Regulations are only 0.7%.

11. It is averred that the Petitioner have suffered from the very beginning due to delay on the part of HPPTCL and a letter dated 12.04.2021 (Annexure P-27) was also written by the Petitioners to Respondent No. 3 with calculation of losses and a reminder dated 08.07.2021 was also sent but no response has been received. On 07.06.2022 (Annexure P-28) the Petitioners have further requested the HPPTCL for construction of the transmission line from tower no. 10 to Heiling Sub-station at Dalli but no response has been received. It is averred that on account of default on the part of HPPTCL, no amount is required to be charged from the Petitioners and the Petitioners are required to be compensated for excessive line losses upto Lahal and loss of generation. Further the evacuation line for permanent evacuation system from CPS to Heiling Sub-station was only 1.5 km at 33 kV as per Connectivity Agreement duly signed which has now been increased to 8.5 km at 66 kV with relocation of Heiling Sub-station at Dalli, thus, the Petitioners should be charged only for 1.5 km TSA and the expenditure incurred by them on temporary arrangement from tower no.

10 to 220kV line tower no. 15 and at Lahal Sub-station to make arrangements for connectivity alongwith construction of 4 km double circuit 66 kV line upto tower no. 10 is required to be reimbursed alongwith excessive line losses for extended line length. Further there is no case of paying charges under TSA for using transmission assets of 220 kV Holi-Bajoli line at 33 kV under temporary evacuation arrangement which are liable to be paid by the HPSEBL, as their connectivity agreement is only upto Heiling Sub-station. Also that the HPPTCL need to compensate the Petitioners in case the Projects of the Petitioner have to back down after commissioning of Holi- Bajoli SHP and due to reliability issues, the Petitioners need to be allowed to continue with the temporary arrangement on one circuit of 220 kV Holi-Bajoli on 33 kV line till commissioning of permanent evacuation system. Hence, the Petition.

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

**REPLY OF RESPONDENT NO.1/HPPTCL**

13. The HPPTCL/Respondent No. 1 in its reply has averred that the Petition is not maintainable in view of the Power Purchase Agreement dated 01.12.2020 executed by the Petitioners for their respective Projects with HPSEBL whereby the Petitioners have been granted/allowed the interim arrangement for the evacuation of the energy generated till the commissioning of Heiling Sub-station. As per HPPTCL, Sub Clauses 2.2.46, 2.2.46 (A), 2.2.47, 2.2.59, 2.2.60

of the Power Purchase Agreement and Clause 4.4 of interim arrangement of evacuation of power pertain to interconnection facilities, interconnection point etc., Project lines, and interim arrangements for evacuation of power which have been reproduced verbatim in the reply and on the strength of aforesaid clauses, it has been submitted that the Petitioners are not entitled for the reliefs. As per the HPPTCL, though as per the IAs, the interconnection point was granted at 33 kV Sub-station at Gharola, however, due to subsequent events and in order to provide smooth and efficient energy evacuation arrangement in the vicinity of the Projects of the Petitioners, Heiling Sub-station was proposed which is under construction and the Petition is liable to be dismissed. As per the HPPTCL, the Petitioners vide letter dated 26.02.2016 (Annexure R-1/A) had applied for connectivity for quantum of 51 MW+20% overload for the Projects likely to be connected with the proposed Heiling Sub-station and the HPPTCL vide letter dated 08.03.2016 (Annexure R-1/B) informed the Petitioners for the grant of connectivity and as per Serial No. 6(C) of the letter, the date from which connectivity was applicable was on commissioning of 66/220kV Sub-station at Heiling.

14. Further the HPPTCL vide letter dated 28.03.2016 (Annexure R-1/C) intimated the Petitioners regarding allotment of one number of 66 kV feeder Bay to the Project developers in Joint mode at the proposed Heiling Sub-station, thus, the Petitioners were well aware that the connectivity to their Projects at Heiling Sub-station will only be provided after commissioning of the Sub-

station. Also averred that in terms of application for connectivity CON-2, intimation of connectivity CON-3 and connection details CON-5 for connection to Intra-state Transmission System, the Petitioner No. 2 and the HPPTCL signed Connection Agreement on 07.04.2016 to the STU system at connection point 66/220 kV Sub-station at Heiling and Clauses 1.2, 2 and 2.2 of the said agreement have been reproduced in verbatim.

15. It is averred that it is the responsibility of the Petitioners to construct the transmission line upto interconnection point at their own cost and, therefore, the prayer of the Petitioners to direct the HPPTCL to construct remaining 4 km line from interface point at tower no. 10 to Heiling Sub-station at Dalli is incorrect. Also averred that as per the Procedure for making Applications for Grant of Connectivity to Intra-state Transmission System, the HPPTCL is required to construct the transmission line upto the point of connectivity for Hydro Projects having capacity greater than 100 MW only and not otherwise. The copy of the Procedure is annexed as Annexure R-1/D.

16. As per the HPPTCL, the Petitioner No. 2 vide letter dated 27.10.2016 (Annexure R-1/E) had applied for LTA for Kuwarsi-II (15 MW) in joint mode with other SHPs (Total capacity 51+20% overload) at 220/66 kV Heiling Sub-station and as per Serial No. 5b of the Format LTA-2 (Format for making application for LTA) the date from which the LTA is required shall not be earlier than 3 years from the last date of the month in which the application has been made but the Petitioner No. 2 had applied for LTA from September 2017

vide letter dated 27.10.2016 which was contrary to the time line provided in the procedure for making application for grant of connectivity in Intra-state Transmission System. It is submitted that the Heiling Sub-station is likely to be commissioned in March 2023 and that the initial site selected for the construction of the Heiling Sub-station was located in a river terrace and, therefore, the construction on said site could not take place and the matter was discussed in the 46<sup>th</sup> meeting of STU Co-ordination Committee held on 29.05.2018 and the committee was apprised that the matter was proposed to be examined by the consultants from IIT Roorkee, NIT Hamirpur and HPPCL and the proposed site for Sub-station was to be finalized after their recommendations and it was also approved by the MD of HPPTCL that the route of 66 kV line from Salun Pooling Station to 66/220 kV Sub-station at Heiling may undergo some changes. The meeting was attended by the representative of the Petitioners. The minutes of the meeting are annexed as Annexure R-1/F.

17. It is averred that in view of the recommendations of the consultants, the site for construction of Heiling Sub-station was finalized at Dalli, Sub Tehsil Holi and the work of Design, Engineering, Manufacture, Fabrication, Testing at Manufacturers Works, Transportation to Site, Insurance, Storage, Erection, Testing and Commissioning of 66/220 kV GIS Sub-station at Heiling on turnkey basis was awarded to M/s GE T&D India Ltd. vide letter dated 30.08.2019 with completion time of 24 months w.e.f. date of contract i.e. 18.11.2019 with completion date as 17.11.2021. Further the land for the construction of Heiling

Sub-station was finalized at Dalli measuring 1.5541 Ha comprising Forest land containing more than 160 trees and efforts were made to obtain the permissions for diversion of Forest land. It is averred that though the HPPTCL was able to get Stage-I and Stage-II Forest clearances, as evident from letters dated 05.05.2020 and 22.01.2021 (Annexure R-1/H Colly) from the Ministry of Environment, Forest and Climate Change, yet the Hon'ble Supreme Court vide Order dated 20.01.2021 (Annexure R-1/J) in I.A No. 71789/2020, permitted the diversion of the Forest land subject to compliance of the conditions imposed by the Ministry of Environment, Forest and Climate Change and directed the State Government for issuing formal orders which were issued on 22.02.2021. It is mentioned in the reply there was delay in handing over the site of the construction of Heiling Sub-station to the executing agency M/s GE T&D India Limited as per terms of the Contract but on getting the clearances, the firm/executing agency was requested to start the work at site.

18. Also averred that the Petitioners vide letter dated 23.12.2020 requested the HPPTCL to allow evacuation of power from Kuwarsi-II (15 MW) and Salun (9MW) through one circuit of 220 kV Bajoli-Holi-Lahal D/C line by charging it at 33 kV that they were facing power evacuation constraints on the interim connectivity provided by the HPSEBL and in the interest of the Petitioners, the permission for evacuation of Power through one circuit of 220 kV Bajoli-Holi-Lahal D/C line by charging it at 33 kV was granted with the consent of M/s GMR Bajoli Holi Hydro Power Pvt. Ltd. being signatory to the LTA Agreement



dated 03.09.2015 whereby it is obligatory on the part of the HPPTCL to make available the system as agreed upon vide LTA agreement which includes 220 kV D/C Twin Moose Transmission line from Bajoli-Holi Project to Lahal Sub-station.

19. As per the HPPTCL, the Interim Power Transmission Service Agreement (IPTA) dated 21.05.2022 (Annexure P-26) for the use of 220 kV Bajoli-Holi Lahal D/C line was signed uptill 31.10.2022 and from 01.11.2022, the Petitioner were liable to evacuate the power through the existing 33 kV interim arrangement provided by the HPSEBL through its own 33 kV System. Therefore, the Petitioners have no right of continuance on the said interim arrangement on Holi-Bajoli line beyond 31.10.2022. Otherwise also, the claim of Petitioners cannot be entertained in the absence of impleadment of M/s GMR Bajoli-Holi Hydro Power Pvt. Ltd. which has not been arrayed as a party to the Petition deliberately and any relief without their impleadment will not only lead to multiplicity of litigation but is also violative of terms of the LTA. Also averred that the Petitioners in terms of IPTA (Annexure P-26) have agreed to pay the transmission charges for the use of 220 kV Bajoli-Holi-Lahal line alongwith the cost on account of making the interim arrangement, wherever required including O&M cost, and the Petitioner had also agreed that M/s GMR Bajoli-Holi Hydro Power Pvt. Ltd. shall have the first right to evacuate the power through 220 kV D/C Bajoli-Holi-Lahal Transmission line. It is denied that the Projects of the Petitioners were ready for commissioning on 25.07.2018

or the Petitioners have suffered financial losses due to non-availability of evacuation system. It is denied that there was any delay on the part of HPPTCL in acquiring the land for re-located Sub-station. Also averred that the Petitioners cannot challenge the terms and conditions of the Annexure P-16 which is binding on them and that the benefit of deemed generation had specifically been denied in said agreement. It is denied that Petitioners had completed their targets within stipulated time and the Projects were ready for commissioning only during September and October, 2019.

20. As per the HPPTCL the continuation of evacuation of power on one circuit of 220 kV Bajoli-Holi-Lahal line will hamper the evacuation of power from Bajoli-Holi HEP which would lead to multiplicity of litigation on the given transmission line.

### **REPLY OF RESPONDENT NO. 2 HPSEBL**

21. The Respondent No. 2 in its separate reply has averred that the Petitioner has no enforceable cause of action to maintain the Petition against the HPSEBL as only an interim power evacuation arrangement was granted to the Petitioners by HPSEBL on 2<sup>nd</sup> circuit of 33 kV Holi-Gharola line and the evacuation on 220/33 kV Sub-station of HPPTCL was valid for the period of two years or till commissioning of Heiling Sub-station, whichever is earlier. Further that the Petitioners have signed interim connectivity agreement dated 01.11.2017 (infact it is 01.11.2018, though shown to be annexed as Annexure R-I but has not been

annexed) agreeing to bear losses upto 220/33 kV Sub-station Lahal as per Clause (B) of said Agreement which is reproduced as under:

*“(B) the distribution Licensee has agreed to interim connectivity of the Kawasi-II SHP (15MW) in joint mode with Salun SHEP (9MW) facility to the Distribution licensee/s Wheeling and Communication system (via the applicant’s site-related connection Equipment) on 2<sup>nd</sup> circuit of 33 kV Holi-Gharola- Lahal line (under construction) through Solid Tap with appropriate protection equipments after commissioning of 220/33 kV Sub-station Lahal for two years or till the commissioning of 220/66 kV Sub-station Heiling whichever is earlier up to the available capacity line. On the completion of the Holi II SHEP (7MW), Salun and Kuwarsi-II SHEPs have to back down to the capacity available in 33 kV line. IPP shall have to bear the losses up the 220/33 kV Sub-station Lahal. IIP shall not be entitled to any benefit of deemed generation in case of breakdown of 2<sup>nd</sup> circuit of 33 kV Holi-Gharola Lahal Line and shall have to back down the power generation on account of system constraints.”*

22. As per the HPSEBL, the Petitioners vide undertaking dated 05.11.2019 (Annexure R-2 not placed on record) have undertaken that losses upto Karian/Chamba station shall be borne by them, on the basis as being calculated in case of Chirchind SHP (5MW). Further the Petitioners have signed the Power Purchase Agreements under REC Mechanism on 16.11.2019 with HPSEBL wherein the interconnection facilities have been defined in Clause 2.2.46 and a bare perusal of the PPAs leaves no manner of doubt qua the obligation of the

Petitioners to pay the losses and other charges. Hence, the contention of the Petitioners that they are not liable to pay the charges is bad in law and contrary/contradictory to the agreements. Further that the terms and conditions of the contracts have to be given full effect and the courts can not re-write the agreed terms and conditions by interpreting the same. Further that the Petitioners have to bear losses up to 220/33 kV Sub-station Lahal during the interim connectivity and the benefit of deemed generation during interim connectivity was not available as agreed in the PPAs.

23. No reply has been filed by the Respondent No. 3.

#### **REPLICATION/REJOINDER TO THE REPLIES**

24. In replication to the reply of HPPTCL, the contents thereof have been denied and those of the Petition have been reaffirmed. It is reiterated that the HPPTCL could not fulfill its obligation to build up 66 kV/220kV Sub-station at Heiling within the deadline provided by it and that the HPPTCL could also not construct the line from CPS to Heiling Sub-station despite being covered under GEC-I Scheme and also that even Lahal Sub-station could not be commissioned upto June 2018 as agreed. Also reiterated that the Petitioners were forced to evacuate the Power through interim evacuation arrangement by constructing 4.5 km additional line.

25. In replication to the reply of HPSEBL/Respondent No. 2, the contents of reply have been denied and those of Petition have been re-affirmed that the HPSEBL had provided temporary evacuation arrangement for two years only

and from 01.04.2020 to 20.07.2020, there was no evacuation arrangement, as a result, the Projects had to be shut down.

### **SUBMISSIONS OF THE PARTIES**

26. We have heard Sh. Sapan Dhir, Ld. Counsel for the Petitioners, Sh. Vikas Chauhan, Ld. Counsel for Respondent No. 1, Sh. Kamlesh Saklani Authorised Representative for Respondent No. 2 HPSEBL and Sh. Shanti Swaroop Ld. Legal Consultant for Respondent No. 3.

27. Sh. Sapan Dhir Ld. Counsel for the Petitioners has submitted that despite depositing the fee and signing connectivity agreement on 07.04.2016, the HPPTCL has failed to provide permanent evacuation system for the evacuation of power to the Projects of the Petitioner, as a result of which, the Petitioners have suffered huge financial losses on account of generation, excessive line losses and forced back down which are required to be reimbursed by the Respondents. It is also submitted that as per the maps annexed to the connectivity agreement dated 07.04.2016, distance of CPS to Heiling Sub-station was only 1.5 km which has now been increased to 8.5 km at 66 kV line with relocation of Heiling Sub-station at Dalli causing huge burden on the Petitioners. Also submitted that under the temporary evacuation arrangement, the Petitioners are being made to suffer line losses of about 22 km at 33 kV at Lahal Sub-station whereas the Petitioner should have been charged for 1.5 km only under TSA for which the Petitioners are required to be compensated. Further submitted that the expenditure incurred by the Petitioners on temporary

arrangement from tower no. 10 to 220 kV line tower no. 15 and at Lahal Sub-station to make an arrangement for connectivity alongwith construction of 4 km. double circuit 66 kV line upto tower no. 10 are required to be reimbursed to the Petitioners. Also submitted that the charges for using transmission assets of 220 kV Holi-Bajoli line at 33 kV under temporary arrangement are required to be paid by the HPSEBL as the connectivity agreement is only upto Heiling Sub-station. The Ld. Counsel for the Petitioners has also submitted that for the sake of reliability transmission issue, the interim arrangement of evacuation on Holi-Bajoli line be continued with temporary arrangement on 33 kV till commissioning of permanent evacuation system of Sub-station Heiling at Dalli. He has also submitted that the HPPTCL had agreed to construct the 8.5 km line under GEC-I Scheme and the Forest clearance for such construction was also granted to the HPPTCL and, therefore, the HPPTCL only is required to construct the same but in order to expedite the line, the Petitioners had agreed to construct the same on reimbursement basis and there is no occasion for the Petitioners to bear the cost of construction of said line.

28. Sh. Vikas Chauhan, Ld. Counsel for the HPPTCL on the other hand has submitted that the Petitioners have suppressed the vital aspect of signing of Power Purchase Agreements dated 01.12.2020 (it is 16.11.2019) whereby they have been granted/allowed interim connectivity for the evacuation of Power till the commissioning of Heiling Sub-station and, therefore, the Petitioners are not entitled for the relief as claimed. Also submitted that as per the initial

Implementation Agreements dated 17.10.2010 and 09.01.2013, the interconnection point was provided to the Projects of the Petitioners at 33 kV Sub-station Gharola but later on, in order to provide smooth and sufficient energy evacuation for the Projects of the Petitioners and other upcoming Projects in the vicinity, Heiling Sub-station was proposed which is under construction. According to him, the construction of the transmission line upto interconnection point is required to be constructed by the Petitioners, at their own cost, therefore, the Petitioners only have to construct the remaining 4 km line from the interface point no. 10 to Heiling Sub-station at Dalli as per the approved procedure for making application for grant of connectivity in Intra-state Transmission System. According to him, the initial site selected for the construction of Heiling Sub-station had to be changed being located in a river terrace for the betterment of the Petitioners and new site at Dalli was selected but a significant time was consumed in obtaining the requisite clearances and making other preparations and there is no intentional delay on the part of the HPPTCL as projected. It is also submitted that the temporary evacuation arrangements as per IPTA dated 21.05.2022 (Annexure P-26) for the use of 220 kV Bajoli-Holi-Lahal double circuit line was only up till 31.10.2022 and from 01.11.2022, the Petitioners were supposed to revert back to the existing 33 kV interim arrangement provided by HPSEBL and, thus, the Petitioners have no right for continuation on the above arrangement of 220 kV Bajoli-Holi-Lahal

double circuit line. Also submitted that M/s GMR Bajoli-Holi Hydro Power Project is a necessary party which has the first the right to evacuate the power.

29. Sh. Kamlesh Saklani, Authorised Representative for the HPSEBL on the other hand has submitted that the Petitioners have agreed to bear the transmission charges and other losses upto Lahal Sub-station and their connectivity being interim, the Petitioners are not entitled for the reimbursement of amount as claimed. He has also submitted that the transmission charges for using 220 kV Bajoli-Holi line are to be borne by the Petitioners as agreed and the contention of the Petitioners is devoid of merits.

30. Sh. Shanti Swaroop, Ld. Legal Consultants for Respondent No. 3 has submitted that the terms and the conditions of the agreements are binding upon the parties and the charges are required to be paid as agreed.

### **POINTS FOR CONSIDERATION**

31. We have carefully gone through the submissions, as also the written submissions and have also carefully gone through the record. Out of the pleadings and submissions of the Ld. Counsel, the following points arise for determination:-

#### **Point No. 1:**

Whether the 8.5 km line from Centralised Pooling Station to Heiling Sub-station at Dalli is/was required to be constructed by the Respondent No.1 HPPTCL?

#### **Point No. 2:**



Whether the Petitioners have suffered huge revenue losses and are entitled for the reimbursement of cost of evacuation line, excess line losses, reimbursement on account of revenue loss due to non-generation during the period of disconnection of temporary evacuation from March to July 2020, reimbursement of revenue loss due to non generation on account of Grid failure from July 2020 to October, 2021, shutting down of the commissioned Projects and delay in providing permanent evacuation arrangement at Heiling?

**Point No. 3:**

Whether the Petitioners may be allowed to continue with the existing interim evacuation arrangement at 220 kV Holi-Bajoli Double Circuit line at 33 kV?

**Point No. 4: Final Order**

32. For the reasons to be recorded hereinafter in writing, our point wise findings are as under:

Point No. 1: No

Point No. 2: No

Point No. 3: Yes

Point No. 4: The Petition partially allowed per operative part of the Order.

**Reasons for finding**

**Point No. 1 to 3**

33. All these points being interlinked and interconnected are being taken up together for adjudication.

34. At the very outset, it is relevant to refer to the undisputed facts. It is admitted case of the Petitioners that they have signed the interim connectivity agreement with the HPSEBL on 01.11.2018 Annexure P-16 (Date wrongly written by the HPSEBL as 01.11.2017). It is also not disputed that the Petitioners have signed Power Purchase Agreements with HPSEBL on 16.11.2019. It is also not in dispute that the permanent connectivity to both the Projects of the Petitioners has been provided at Heiling, initially at distance of about 1.5 km from CPS at Salun but the site at Heiling been unsafe, the Sub-station had to be re-located at Dalli which has increased the span of line from original 1.5 km to 8.5 km. It is also not in dispute that the IPTA (Annexure P-26) was only upto 31.10.2022 by way of temporary evacuation arrangement on 220 kV Bajoli-Holi line which is a dedicated line of Ms. GMR Bajoli-Holi Power Project. It is also not in dispute that the combined capacity of the Power to be injected at CPS Salun is 51 MW+20% overload which is less than 100 MW.

35. It is evident from the record that on the request of the Petitioners, connectivity to Intra-state Transmission System for the Project of Petitioner No. 2 Kuwarsi 15 MW was granted on 22.09.2015 by HPPTCL (Annexure P-7) on joint mode with Salun and other Hydro Electric Projects to 66/220 kV Sub-station planned at Heiling. Meanwhile, the Petitioner and other Project

developers agreed for Centralized Pooling Station (CPS) to be set up by them at Salun where all the Project developers of the vicinity will aggregate the power and step up to 66 kV and inject at Heiling Sub-station at a distance of 1.5 km. from CPS. As per the connectivity to the Intra-state Transmission System provided to the Petitioners vide letter dated 22.09.2015 (Annexure P-7) from Centralised Pooling Station to Heiling Sub-station was to be constructed by the Petitioners (Page 177 of the paperbook). The HPPTCL had to construct 66 kV/220 kV Sub-station at Heiling and to provide evacuation line at 220 kV voltage level from Heiling to 220/400 kV Grid Sub-station at Lahal. A connectivity agreement was signed on 07.04.2016 (Annexure P-9) by the HPPTCL and Petitioners. It is evident from the connection agreement dated 07.04.2016 that the HPPTCL agreed to connect the Projects of the Petitioners and other projects in the vicinity at the connection point at 66/220 kV Sub-station at Heiling using the (wave length) transmission and communication system of HPPTCL. It was nowhere agreed in the connection agreement dated 07.04.2016 that the interconnection point to the Projects of Petitioners was provided at Salun HEP or CPS Salun. A perusal of the record also shows that the maps of evacuation plan/arrangement were also annexed with the agreement dated 07.04.2016 which show that the original distance from CPS Salun to Heiling Sub-station was 1.50 km. which stand increased to 8.50 km on relocation of Sub-station Heiling at Dalli.

36. It is evident from minutes of the 43<sup>rd</sup> meeting of STU Annexure P-10 that the 220/400 kV Grid Sub-station at Lahal was targeted for completion in June 2018 but fact remains that said Sub-station could not come up till June 2018.

37. Now the first question which arises for consideration is as to whether the HPPTCL has voluntarily relocated the site of Sub-station from Heiling to Dalli or there were good reasons for shifting the same. In this regard, it is relevant to refer to the reply of the HPPTCL that in order to facilitate the power evacuation of the Projects of the Petitioners and their sister concern Projects in the vicinity, the Heiling Sub-station was planned, though the original interconnection/injection point was at 33 kV Sub-station at Gharola. But the site at Heiling was not found suitable being at the river terrace and the HPPTCL in consultation with the experts of IIT Roorkee and NIT Hamirpur relocated the same at Dalli. Here it is relevant to mention that the Petitioners have not come out with any contrary stand that the site at Heiling was not unsafe or was not at River terrace and there were no reasons for shifting the same or the HPPTCL had some ulterior motive for shifting the same. Thus, being not a feasible and stable site, it was prudent on the part of HPPTCL to relocate the same at a safer place at Dalli for the better and secure power evacuation arrangements for the Petitioners and other Projects in the vicinity.

38. The next question which arises for consideration is whether the 8.5 km. 66 kV line from CPS Salun to Heiling Sub-station at Dalli had been agreed to be constructed by the HPPTCL and the HPPTCL had authorized the Petitioners to

construct the same on reimbursement basis. In this regard, the Petitioners have come out with a stand that firstly they were made to construct 1.5 km line and now they have been burdened with construction of 8.5 km line and the cost of additional line of 8.5 km should be borne by the HPPTCL and the HPPTCL should only construct the same from CPS Salun to Sub-station Heiling at Dalli. It is also the contention of the Petitioners that they have partially constructed the line of 4 km upto interface point tower no. 10 on second circuit of Lahal-Gharola-Holi line and the construction of the additional line of 4.5 km is the responsibility of the HPPTCL. Supporting their assertion, the Petitioners have invited the attention of the Commission to the Agenda note for the 46<sup>th</sup> meeting of STU (Annexure P-14) wherein the HPPTCL apprised the Committee that 1.5 km line was to be constructed by the Petitioners from Centralised Pooling Station to Heiling Sub-station but it has been decided to shift Heiling Sub-station to Dalli and being Joint line, HPPTCL has decided to construct the same and has included said line in the GEC-I Scheme. The construction of this line was specifically included as item no. 6 in the Agenda note. It is evident from Agenda item 6 of the 46<sup>th</sup> meeting that from Salun Pooling Station, the Project developers shall construct 66 kV joint double circuit line upto Heiling Sub-station but being joint line, it was agreed that the HPPTCL shall construct this line and accordingly the line has been included in GEC-I Scheme. Agenda note further states that since the Projects are targeted for commissioning in the year 2018, whereas the work of Heiling Sub-station was yet to be awarded, the

developer of Salun HEP offered to construct said line on reimbursement basis as per the Regulations framed by the Commission.

39. Though Agenda item of 6 has been placed on record by the Petitioners but they have not placed on record the minutes of meeting of 46<sup>th</sup> STU Co-ordination Committee held on 29.05.2018. On the other hand, the HPPTCL has annexed the same as Annexure R-1/F which clearly shows that the Agenda No. 6 was not approved as submitted and rather, the ACS (Power) directed the developers of Salun HEPs to go ahead with construction of 66 kV line from Salun Pooling Station to Heiling Sub-station at its own cost. The relevant Para 8 of the minutes of meeting of 46<sup>th</sup> STU meeting is reproduced as under:

**“Evacuation arrangement for Salun (9 MW) and Kuwarsi-II (15 MW) SHEPs:**

- *Developer of Salun HEP (9 MW) and Kuwarsi-II (15 MW) SHEPs informed that Salun HEP in Distt. Chamba shall be commissioned in June, 2018. It was also apprised that their permanent connectivity is at 66/220 kV Heiling Sub-station which cannot be commissioned by the completion time lines of Salun & kuwarsi-II HEPs. HPSEBL has granted interim connectivity to Salun at 33 kV but denied connectivity to Kuwarsi-II on the 2<sup>nd</sup> circuit between Holi and Gharola as it is being constructed with lower size conductor.*
- *ACS (Power) directed HPSEBL to study and come up with the proposal to construct 2<sup>nd</sup> circuit with WOLF conductor with in one week.*

- ACS (Power) directed the developer of Salun HEP to go ahead with construction of 66 kV line from Salun PS to Heling substation at his own cost.
- *M.D, HPPTCL that there are issues in construction of Heling substation as the currently selected site is located in river terrace. In this context, HPPTCL is seeking consultancy from IT, Roorkee and NIT Hamirpur/HPPCL. It was also apprised that after the recommendations of the consultant, site shall be finalized and the route of 66 kV line from Salun PS to 66/220 kV substation of HPPTCL may undergo some changes.*
- *ACS (Power) directed that issued be resolved within 10 days.”*

(Emphasis supplied)

40. It is clearly evident from the above Para 8 of the minutes of meeting (Annexure R-1/F) that the Petitioners were specifically asked to construct the line and rightly so, there is no provision in the Regulations framed by the Commission that the STU is required to construct the line upto the permanent connection point from the Project or from CPS Salun. Here it is relevant to refer that CPS at Salun has been setup by the Petitioners and other Project developers for their convenience and has not been constructed by the HPPTCL. Similarly the CPS at Salun is not the injection/permanent point of connectivity. Therefore, there is no substance that HPPTCL had agreed to construct the line or that the line was included in GEC-I Scheme.

41. Significantly, the minutes of meeting Annexure R/1/F also do not mention that the construction cost for constructing the line from CPS to Heling Sub-

station had also to be borne by the HPPTCL. Much reliance has been placed by the Petitioners in the letters dated 07.11.2016 and 19.11.2016 (Annexure P-14 Colly) that the HPPTCL had agreed to bear the cost of construction of said line. In so far as the letter dated 07.11.2016 is concerned, it is the letter written by the Petitioner No. 2 to HPPTCL that they be permitted to construct the line on reimbursement basis at the cost fixed by the Commission and requested for the consent of HPPTCL. This letter was responded by the HPPTCL vide letter dated 19.11.2016, Annexure P-14 (Colly) that the HPPTCL is approaching HPERC (Commission) for approval of the Commission for reimbursement of cost to be incurred by the Petitioner No. 2. It is not clear as to under which provisions of the Regulations framed by the Commission, the HPPTCL is required to construct the line from the Project to permanent connection point or HPPTCL can construct the line for the use of beneficiaries upto connection point. No authorization of the Commission has been placed on record that the Commission was approached or the Commission has accorded the approval for the reimbursement of cost as projected. As a matter of fact the interconnection point of the Petitioners was fixed at Heiling Sub-station. As mentioned above, the Centralised Pooling Station has been fixed by the Petitioners and other power producer as per their convenience. Even the Agenda note that the construction of line was approved to be constructed under GEC-I Scheme has not been approved in the 46<sup>th</sup> meeting of STU Co-ordination Committee held on 29.05.2018. Therefore, it is the responsibility of the Petitioners to evacuate the



power upto permanent interconnection point which is at Heiling Sub-station at Dalli. Apparently, the Heiling Sub-station had to be shifted to Dalli on account of Safety norms which was not attributed to the HPPTCL and rather, was for the betterment of the power producers as not only the Petitioner but as many as 3-4 other power producers will evacuate their energy from their respective Projects. Therefore, it is not substantiated from the record that the HPPTCL had agreed to construct the line of 8.5 km as projected.

42. The another stand of the Petitioners that they had already constructed 1.5 km of line upto Heiling Sub-station is without any substance as no plan of site, cost details etc. have been placed on record that such line was ever constructed. Even if such line was constructed, the same does not absolve the Petitioners from their responsibility to construct the line for the re-located Sub-station. Rather, the site had been re-located to Dalli and the construction of Sub-station had not begin, therefore, construction of line of 1.5 km was not advisable. Since the power is to be evacuated from the Projects of the Petitioners, certainly as per the Regulations and the procedure, the cost of construction of the line has to be borne by the Petitioners. Off course, the HPPTCL may construct said line but the cost thereof has to be reimbursed by the Petitioners to the HPPTCL. Infact, it may be reiterated that the Petitioners have not been able to invite attention of the Commission to any of the Regulations which authorize the HPPTCL to construct the line upto interconnection point for the power producers.

43. The Commission has framed Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from Renewable Energy Sources and Terms & Conditions for Tariff Determination) Regulations, 2017 and as per Regulations 2 (t) of the said Regulations, the Project line has been defined as under:-

*“(t) Project line’ means the evacuation infrastructure from the generating station to the interconnecting sub-station of the licensee, to be provided, operated and maintained as a part of the project by the renewable energy generator(s) for the purpose of evacuation of power from the project;*

44. It is, thus, evident from the aforesaid Regulation that it is the responsibility of the power developer to build line upto interconnection point. Moreover, Regulation 6 of the said Regulations also makes the situation more clear and is reproduced as under:

*Grid Connectivity. – Mechanism for grid connectivity shall be as under- (a) the renewable energy generator shall construct, operate and maintain the project line(s) at his cost; (b) the licensee shall, at the cost of renewable energy generator, provide, operate and maintain the interconnection facilities; (c) the transmission licensee and/or the distribution licensee shall bear the cost of augmentation/establishment of network beyond the interconnection point under the CAPEX PLAN and the new or the augmented*

*network shall form part of the assets of the transmission or the distribution licensee, as the case may be.*

45. Thus, there is no matter of doubt regarding the construction of line upto interconnection point at Sub-station Heiling at Dalli from CPS and it is the Petitioners who only have to construct the same.

46. Even the another contention of the Petitioners that the HPPTCL had to construct the line from CPS to Heiling Sub-station under GEC-I Scheme is devoid of merits as a careful perusal of the said Scheme nowhere shows that said scheme was meant for construction of line for the power developers upto interconnection point which is the responsibility of the power developers being beneficiaries.

47. Apparently, the Petitioners were repeatedly told of construction of the line upto Heiling Sub-station on their own cost and about 4 km line has been constructed by them. However, they have left the same in between for the reasons best known to them. The sooner the Petitioners construct the remaining line, the better it would be for them so that their power is smoothly evacuated through the system on commissioning of Heiling Sub-station to avoid the energy line losses.

48. Now the another question which arises for consideration is whether the Petitioners are entitled for the reimbursement of charges on account of generation loss, line losses shutting and back down the Projects. In order to

answer this question, it is relevant to refer to Clause (B) of Interim connectivity agreement dated 01.11.2011 which is reproduced as under:-

*“(B) the distribution Licensee has agreed to interim connectivity of the Kawasi-II SHP (15MW) in joint mode with Salun SHEP (9MW) facility to the Distribution licensee/s Wheeling and Communication system (via the applicant’s site-related connection Equipment) on 2<sup>nd</sup> circuit of 33 kV Holi-Gharola- Lahal line (under construction) through Solid Tap with appropriate protection equipments after commissioning of 220/33 kV Sub-station Lahal for two years or till the commissioning of 220/66 kV Sub-station Heiling whichever is earlier up to the available capacity line. On the completion of the Holi II SHEP (7MW), Salun and Kuwarsi-II SHEPs have to back down to the capacity available in 33 kV line. IPP shall have to bear the losses up the 220/33 kV Sub-station Lahal. IIP shall not be entitled to any benefit of deemed generation in case of breakdown of 2<sup>nd</sup> circuit of 33 kV Holi-Gharola Lahal Line and shall have to back down the power generation on account of system constraints.”*

49. It is, thus, apparent from the aforesaid that during the interim arrangement, the Petitioner had agreed, *interalia*, that they shall back down to the capacity available in 33 kV line on completion to Holi-II SHP and that they shall bear the losses upto 220/33 kV Sub-station at Lahal and that they shall not be entitled to any benefit of deemed generation in case of breakdown of second

circuit of 33 kV Holi-Gharola-Lahal line and shall have to back down the power generation on account of system constraints.

50. Still further the Petitioners signed Power Purchase Agreements with the HPSEBL on 16.11.2019 wherein the interconnection facilities were clearly defined in Clause 2.2.46. It was clearly agreed by the Petitioners in the PPA that as an interim arrangement they are being connected in joint mode on 2<sup>nd</sup> circuit of 33 kV Holi-Gharola-Lahal line (under construction) through solid tap for two years or till commissioning of Heiling Sub-station, whichever is earlier, and almost to identical terms and conditions as agreed in the interim connection agreement dated 01.11.2018. The Petitioners have voluntarily signed the agreements and, thus, the terms and conditions of the agreements are binding on them. Once they have specifically agreed for not claiming the benefits of deemed generation in case of system constraints and the Heiling Sub-station has been delayed for the reasons beyond the control of the HPPTCL, the claim of the Petitioners for the reimbursement of cost of evacuation line, reimbursement of excess line losses, reimbursement on account of revenue loss due to non-generation during the period of disconnection of temporary evacuation from March to July 2020, reimbursement of revenue loss due to non generation on account of Grid failure from July 2020 to October, 2021 etc. is not substantiated.

51. Significantly, in order to facilitate the evacuation of full generation, the Petitioners have been provided temporary evacuation arrangement on 220/33 kV Bajoli-Holi line with an option to revert back to the existing system as provided

by the HPSEBL. Hence, the prayer for the reimbursement on account of line losses, generation losses or loss on account of shutting/back down of the Projects is not sustainable. The temporary evacuation arrangement on 220/33 kV Holi-Bajoli line was only upto 31.10.2022 and this Commission during pendency of this Petition has extended the same so that there is no loss of generation to the Petitioner.

52. The Commission in order to ascertain the actual position of construction of the Heiling Sub-station and the other construction issues relating to the evacuation of power of the Projects of the Petitioners constituted a committee under the Chairmanship of the Sh. V.D. Sharma, Retd. E.D. HPPCL. Sh. V.D. Sharma has submitted a detailed report on 15.10.2022. The sum and substance of the said report is that the Heiling Sub-station can be commissioned only in the months of August/September, 2023 and that there is a deadlock between HPPTCL and the IPPs (Petitioners) over the construction of remaining portion of line upto Heiling Sub-station at Dalli from CPS and as an alternate interim evacuation arrangement, in case of emergency, the power can be injected to 33 kV Sub-station Gharola but due to the smaller size of conductor (Dog), the full generation i.e. 24 MW + 10% overload cannot be evacuated. The expert has suggested that due to delay in commissioning of 66/220 kV Heiling Sub-station at Dalli and its associated transmission line, the present arrangement for evacuation of the power of IPPs (Petitioners) through one of the circuits of 220

kV Holi-Bajoli-Lahal line be continued till the commissioning of the 66/220 kV Heiling Sub-station at Dalli.

53. Apparently, the 220kV Holi-Bajoli-Lahal line is a dedicated Project line of M/s GMR Bajoli-Holi Hydro Power Project Pvt. Ltd. The IPTA (Annexure P-26) was only up to 31.10.2022 which was executed with the consent of M/s GMR Bajoli-Holi Hydro Power Project Pvt. Ltd. Undisputedly, the Petitioners and the HPPTCL have not encountered any problem in the temporary evacuation through this line. Thus, as prayed by the Petitioners and also recommended by the expert Sh. V.D. Sharma, the Commission in the larger interest of the Petitioners, HPPTCL and also taking into consideration the production of green energy, deems it proper and appropriate for continuance with the present evacuation arrangement through the 2<sup>nd</sup> circuit of Holi-Bajoli 220 kV line at 33 kV, as was being done as per IPTA (Annexure P-26). The HPPTCL and Petitioners, in this regard, are given three months from the date of issuance of this order to decide this issue with M/s GMR Bajoli-Holi Hydro Power Project. Till this period, the existing arrangement would continue. This would be, however, subject to reserving the first right of evacuation of power of M/s GMR Bajoli-Holi Hydro Power Project Pvt. Ltd. and that in the case of any difficulty in evacuation of such power or in the line, the Petitioners shall have to back down the generation and switch over to the existing 33 kV arrangement of HPSEBL for which the HPSEBL shall make the arrangement forthwith. The Petitioner shall have to pay to M/s GMR Bajoli-Holi Hydro Power Project Pvt.

Ltd. for the generation loss due to switching over to the second circuit in any eventuality. In case during switching over arrangement, the Projects of the Petitioners remain shut down, the Petitioner shall not be entitled for generation loss, if any, from the HPPTCL or the HPSEBL. It is also made clear that the charges for such evacuation on 220 kV Holi-Bajoli Double Circuit line at 33 kV shall also have to be borne by the Petitioners. It is also made clear that in the event of M/s GMR Hydro Power Project Pvt. Ltd. not agreeing to the proposal, the Petitioners shall have to switch over to the existing 33kV arrangement of HPSEBL at the end of three months.

54. In view of the aforesaid, the Petitioners have failed to substantiate that the 8.5 km line from Centralised Pooling Station to Heiling Sub-station at Dalli is/was required to be constructed by the Respondent No.1 HPPTCL or that the Petitioners have suffered huge revenue losses and are entitled for the reimbursement of cost of evacuation line, excess line losses, reimbursement on account of revenue loss due to non-generation during the period of disconnection of temporary evacuation from March to July 2020, reimbursement of revenue loss due to non generation on account of Grid failure from July 2020 to October, 2021, shutting down of the commissioned Projects and delay in providing permanent evacuation arrangement at Sub-station Heiling at Dalli. However, the Petitioners have established on record that there are sufficient reasons to allow them to continue with the existing interim evacuation arrangement at 220 kV Holi-Bajoli Double Circuit line at 33 kV. Points No. 1



and 2 are accordingly decided against the Petitioners and in favour of the Respondents. The Point No. 3 on the other hand is decided in favour of the Petitioners.

**Point No. 4 (Final Order)**

55. In view of our aforesaid discussion and findings, the Petition partly succeeds and allowed partly. The Petition qua construction of 8.5 km line from Centralised Pooling Station, Salun to Heiling Sub-station at Dalli by HPPTCL/Respondent No. 1 and for the reimbursement qua the loss allegedly suffered by the Petitioners on account of revenue losses, cost of evacuation line, excess line losses, reimbursement on account of revenue loss due to non-generation during the period of disconnection of temporary evacuation from March to July 2020, reimbursement of revenue loss due to non generation on account of Grid failure from July 2020 to October, 2021, shutting down of the commissioned Projects and the delay in providing permanent evacuation arrangement at Sub-station Heiling at Dalli is dismissed. But the Petition qua the continuance of the present interim evacuation arrangement at 220 kV Holi-Bajoli D/C line at 33 kV is allowed, however, subject to getting the issue settled with M/s GMR Bajoli-Holi Hydro Power Project Pvt. Ltd. within a period of three months from the issuance of this order.

56. The pending applications, if any, are also disposed off.

57. As observed in Para 53 above, in the larger interest of green energy, HPPTCL and the Petitioners, the HPPTCL and the Petitioners shall jointly

approach M/s GMR Bajoli-Holi Hydro Power Project Pvt. Ltd. for continuance of the existing interim arrangement on 220 kV Holi-Bajoli D/C line at 33 kV, as being allowed, as per agreement dated 21.05.2022 (Annexure P-26) and the HPPTCL and the Petitioners are directed to decide the issue with M/s GMR Bajoli-Holi Hydro Power Project Pvt. Ltd. within a period of three months from issuance of this order.

The file after the needful be consigned to records.

Announced  
**27.01.2023**

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

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

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