BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION SHIMLA

Petition No: 140 of 2025
Date of Institution: 18.11.2024
Arguments Heard on: 01.07.2025
Decided on: 18.07.2025

CORAM

Devendra Kumar Sharma
CHAIRMAN

Yashwant Singh Chogal
MEMBER (Law)

Shashi Kant Joshi
MEMBER

In the matter of:-

M/s Kanchanjunga Power Company Private Limited,
B-37, 3rd Floor, Sector-1, Noida,
Uttar Pradesh-201301. **………Petitioner**

Versus

The HP Power Transmission Corporation Limited,
Himfed Bhawan, Below Old MLA's Quarters,
Tutikandi (Panjiri), Shimla, H.P.-171005. **……….Respondent No. 1**

The HP State Electricity Board Limited,
Vidyut Bhawan,
Shimla, H.P.171004. **……….Respondent No. 2**

Petition under Sections 86(1)(a), (f), (k) and 62(6) of the Electricity Act, 2003, for quashing the invoices dated 21.10.2024 and 07.11.2024 raised by the Respondent/ HPPTCL towards the transmission charges on account of wheeling of 20.4 MW power through the 33/220 kV, 80/100 MVA GIS Sub-station at Phojal and 220 kV D/C LILO Transmission Line.

Present:

Sh. Buddy Raganadhan, Ld. Senior Counsel duly assisted by Sh. Nishant Kumar, Sh. Piyush Kumar and Sh. Virender Sharma, Ld. Counsel for the Petitioner.

Sh. Vikas Chauhan, Ld. Advocate for the Respondent No. 1.
Sh. Kamlesh Saklani, Authorized Representative for the Respondent No. 2.

ORDER

This Petition has been filed by M/s Kanchanjuga Power Company Private Limited (hereinafter to be referred as Petitioner) for quashing invoices dated 21.10.2024 and 07.11.2024 (hereinafter to be referred as Impugned Invoices) raised by the Himachal Pradesh Power Transmission Corporation Limited (HPPTCL/Respondent No. 1 for short) on account of the transmission charges for wheeling of power from its Hydro Electric Project (HEP) through 33/220 kV, 80/100 MVA GIS Sub-station at Phojal and 220 kV Double Circuit (D/C) LILO Transmission Line (Transmission System for short).

FACTS OF CASE

2. The Petitioner own and operates a 24 MW Baragaon Hydro Electric Plant (Baragaon HEP) situated at Village Shila Hallan-II Road, Post Office Patlikuhal, Tehsil Manali, Distt. Kullu, H.P. (Project for short). The Unit-I thereof was commissioned on 12.10.2015, Unit-II was commissioned on 13.10.2015, whereas Unit-III was commissioned on 30.11.2015. The Respondent No. 1 is the Transmission Utility, whereas, the Himachal Pradesh State Electricity

Board is the Distribution Licensee (the HPSEBL/ Respondent No. 2 for short).

3. According to the Petitioner, the total utilized capacity of the transmission system is 51 MW out of total capacity of 100 MW but the HPPTCL vide Impugned Invoices is claiming the excess transmission charges from the Petitioner beyond the transmission charges allowed by the Commission in Petition No. 2 of 2020. Apart from the Petitioner, the Respondent No. 2 also utilizes the above transmission system for procurement of power to the extent of 27 MW.

4. The Transmission System was envisaged to evacuate approximately 100 MW power from various Small Hydro Electric Projects from Kullu region. A detail of the Projects envisaged for utilization of the transmission system has been given as under:-

Sr. No.	**Name of Project**	**Capacity (MW)**
1.	Kathi	3.50
2.	Baloot Fozal	5.00
3.	Kukri	5.00
4.	Kesta	4.50
5.	Galang	3.50
6.	Baragaon (KPCPL)	24.00
7.	Fozal	16.00
8.	HPSEBL	11.40

However, only the Petitioner and the HPSEBL have developed their respective Projects and are utilizing the transmission system, whereas, the rest of the Projects have not yet come up.

5. The Commission passed the ARR/ Tariff order on 10.09.2024 in Petition No. 2 of 2020, wherein the transmission charges for the transmission system were approved and recovery of the same was ordered to be made as per the provisions of Regulation 33 (1) of the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2011, (Transmission Tariff Regulations, 2011 for short), as amended from time to time. The summary of the ARR approved by the Commission (in Rs. Lakhs) has been reproduced as under:-

Particulars	**FY17**	**FY18**	**FY19**	**FY20**	**FY21**	**FY22**	**FY23**	**FY24**
O&M Expenses	233.82	294.90	304.74	144.09	149.13	154.40	159.78	165.42
Depreciation	309.43	370.64	370.64	370.64	370.64	370.64	370.64	370.64
Interest Expense	728.71	796.00	722.95	670.47	610.03	571.11	532.20	493.28
IOWC	31.36	32.85	32.21	27.40	24.51	22.25	21.73	24.47
Return on Equity	104.63	127.73	127.73	127.73	127.73	127.73	127.73	127.73
Aggregate Revenue Requirement	1,407.95*	1,622.10	1,.558.26	1,340.32	1,282.03	1,246.12	1,212.07	1,181.53

6. Paras 4.8.4, 4.9.1, 4.9.2 and 4.9.3 of the tariff order dated 10.09.2024 in Petition No. 2 of 2020 have also been reproduced as under:-

"4.8.4 The Commission observes that the tariff petition was filed in August 2019, as against the COD of the asset as 05.06.2016, which is a delay of almost 03 years. Also, a significant delay was on account of the ongoing legal matters with the beneficiaries pending at the Hon'ble APTEL.

Further, the Petitioner has also taken considerable time in responding to the various queries raised by the Commission resulting in further delays. Given the concerns regarding the status of transmission assets which led to the significant delays, the Commission feels it appropriate to allow recovery to the extent of ARR and corresponding tariff determined against the transmission assets.

4.9.1 The Petitioner has submitted that Kanchanjunga Power Company Private Limited (KPCPL) and HPSEBL are the sole beneficiaries of the project. Further, the project was envisaged for the evacuation of approx. 100MW of power from the upcoming small hydroelectric power generating stations in the Kullu region.

4.9.2 In the para no 3.4 of this order, it is observed that the transmission assets was primarily planned to cater to the evacuation needs of approx. 100 MW of power from upcoming small hydroelectric power generating stations in the Kullu region and as per the submission of the Petitioner, M/s KPCPL and HPSEBL are the current beneficiaries of the transmission assets.

4.9.3. Also, an interim power transfer agreement has been executed between the Petitioner and the two beneficiaries. Therefore, the Commission is of the view that the key beneficiaries of the project 33/220kV, 80/100MVA GIS Sub-Station at Phojal along with 220kV D/C LILO Transmission Line are KPCPL and HPSEBL and the ARR determined above is required to be recovered as per the Regulation 33 of the HPERC Transmission Tariff Regulations, 2011:

"33. Allocation of Transmission Service Charge and Losses (1) The Annual Transmission Service Charge (ATSC) shall be shared between the long and medium-term customers of the transmission system on monthly basis based on the allotted transmission capacity or contracted capacity, as the case may be."

7. It is averred that Section 62 (6) of the Electricity Act, 2003 provides that a licensee is entitled to charge amounts/ tariff as approved by the Commission and cannot charge anything in excess of the amount thus approved. The Commission has approved the recovery of tariff of the ARR in terms of Regulation 33 (ibid) which provides that the transmission tariff can be recovered based on the

allotted/ contracted capacity after sharing the ARR/ Tariff between the long and medium term customers of the transmission system on monthly basis. However, the Respondent No. 1 is seeking payment of transmission tariff beyond the contracted capacity dehors the order issued by the Commission.

8. Further, the Petitioner executed an Interim Power Transmission Agreement (IPTA) dated 28.04.2016 for evacuation of power from its Project (Annexure P-1) with the HPPTCL. The transmission system was energized on 05.06.2016 and the Petitioner started evacuation of power from 07.06.2016 onwards in terms of IPTA.

9. Giving background of the system, the Respondent No. 1 filed a Petition being Petition No. 244/TT/2017 before the Hon'ble Central Electricity Regulatory Commission (CERC for short) for the approval of capital cost of the transmission system alongwith 220 kV AD Hydro Transmission line and 33/220 kV, 80/100 MVA GIS Sub-station at Phojal which was disposed of on 08.10.2018 due to lack of certification from Northern Region Power Committee (NRPC) that the line carries the Inter-state power. However, the CERC allowed the HPPTCL to file a new Petition once the NRPC certificate is available. The HPPTCL accordingly applied for the certification from the NRPC

for recognizing the line as Inter-state but NRPC in its meetings dated 29.10.2018 and 30.10.2018 declined to certify the line as Inter-state because the average Inter-state power flow in the line was only 36.55% as against the requirement of above 50%.

10. Post rejection of the NRPC certification, the HPPTCL filed Petition No. 02 of 2020 before this Commission for approval capital cost and determination of the tariff of the transmission system for the 3rd and 4th control periods, mentioning that the Petitioner and the HPSEBL are the only users of the transmission system.

11. Meanwhile, an Interlocutory Application being IA No. 14/IA/2020 in Petition No. 124/MP/2017 was filed by the HPPTCL before the CERC seeking Inter-state status for the respective assets against the rejection of certificate by NRPC and determination of tariff in the transmission system. This application was also dismissed by the CERC.

12. The Petitioner filed an appeal before the Hon'ble Appellate Tribunal for Electricity (APTEL) against the decision of the CERC and the Hon'ble APTEL vide judgment dated 29.01.2024 in Appeal No. 111 of 2022 dismissed the Appeal. Feeling aggrieved, the Petitioner

filed an Appeal before the Hon'ble Supreme Court of India being Civil Appeal No. 5146 of 2024 which was also dismissed on 03.05.2024.

13. In the meanwhile, the Petitioner also executed the Bulk Power Transmission Agreement with the HPPTCL on 07.07.2021 (Annexure P-2) for evacuation of 20.4 MW power upto 07.06.2028 and 18.96 MW power from 08.06.2028 to 07.06.2041 on long term basis from the Project through the transmission system of the HPPTCL.

14. In the circumstances, the Commission proceeded to decide Petition No. 2 of 2020 vide order dated 10.09.2024 (Annexure P-3) and determine the tariff/ ARR of the transmission system with the mechanism for recovery of ARR.

15. According to the Petitioner, the Commission vide order dated 10.09.2024 has declined to allow the recovery of entire ARR/ transmission charges of the transmission system from the Petitioner and directed that ARR/ Tariff is to be recovered by sharing the ARR amongst all the beneficiaries of the Intra-state Transmission System (ISTS) as observed in para 4.9.3.

16. Further, the transmission tariff can be recovered in terms of the mechanism approved by the Commission and thus, the recovery from the Petitioner can only be made after sharing the ARR amongst all

long and medium term beneficiaries based on their allotted/ contracted capacity and not otherwise. However, in violation of the aforesaid order and complete disregard to the provisions of Section 62 (6) of the Electricity Act, 2003, the Impugned demand notice dated 21.10.2024 (Annexure P-4), demanding excess transmission charges to the tune of Rs. 53,27,08,501/- dehoring the mechanism of recovery, as provided by the Commission in order dated 10.09.2024, has been issued for the period w.e.f COD (05.06.2016) to September, 2024. Further, vide notice dated 07.11.2024 (Annexure P-5), charges for the month of October, 2024 to the tune of Rs. 43,73,630/- have been demanded dehoring the tariff order dated 01.09.2024. These notices are liable to be quashed to the extent the same are in violation of Regulations and order of the Commission.

17. According to the Petitioner, the Hon'ble APTEL vide order dated 27.08.2024 in Appeal No. 196 of 2024 while dealing with similar issue has observed the following:-

> *"The observations of this Tribunal in its order in DFR No. 473 of 2023 dated 14.08.2023, were made in the context of a direction issued by the Commission to the Appellant to pay 35% of the transmission charges. Such observations could not have been extrapolated by the Commission to uphold the action of the Respondents in directing the appellant to pay transmission charges, for the entire capacity of the transmission line of 289 MW of power, on the ground that they alone are using the transmission line as at present, and on the Commission's understanding of the order passed by this Tribunal in DFR No. 473 of 2023 dated 14.08.2023.*

Yet another aspect, which ought to have been borne in mind, is that the Appeal preferred before this Tribunal, in DFR No. 473 of 2023 dated 14.08.2023, is against an Interlocutory Order passed by the Commission. The observations made in such an order would, like the interim order against which the appeal was filed, only reflect the prima-facie view of this Tribunal. The observations of this Tribunal, in the said order, cannot be read out of context or be held to automatically apply even at the stage of hearing of the main petition.

As the order, impugned in the present Appeal, relies mainly on the order passed by this Tribunal in DFR No. 473 of 2023 dated 14.08.2023, we are satisfied, in the light of the afore-said observations, that the Order under Appeal must be set aside, and the matter remanded to the Commission for its consideration afresh and in accordance with law.

Suffice it to make it clear that we have not examined the Appeal on its merits. It is open to the parties, to the proceedings before the Commission, to raise all such contentions as are available to them in law, including on the interpretation to be placed on Regulation 33(1) and other applicable Regulations. The Commission shall consider the submissions urged on behalf of the parties un-influenced by either the observations made in this order, or those in DFR No. 473 of 2023 dated 14.08.2023, and pass an order afresh, consequent on remand, in accordance with law.

The Appellant shall continue to pay 35% transmission charges, as directed by the Commission in its order dated 04.08.2023, till the main Petition is finally heard and decided by the Commission. The Commission is requested to hear and decide the Petition with utmost expedition, and we expect parties to the said proceedings to assist the Commission in early adjudication of the lis. The Appeal and the I.As' therein stand disposed of."

The copy of the order dated 27.08.2024 passed by the Hon'ble APTEL in Appeal No. 196 of 2024 is annexed as Annexure P-6.

18. According to the Petitioner, the Commission vide tariff order dated 10.09.2024 determined and approved the ARR for the period commencing from COD i.e. 05.06.2016 to 31.03.2024 but the HPPTCL has levied the transmission charges even beyond 31.03.2024 which is illegal and arbitrary as the HPPTCL has already filed MYT Petition being Petition No. 30 of 2024 (Annexure P-7) for

the 5th Control Period (FY 2024-25 to FY 2028-29) which also includes determination of tariff for the subject transmission system wherein the Petitioner is being depicted as a long term beneficiary of the transmission system. The interim order dated 03.05.2024 (Annexure P-8) in MYT Petition No. 30 of 2024 passed by the Commission has been reproduced as under:-

> *"The Commission in its Multi Year Tariff Order for Himachal Pradesh Power Transmission Corporation Limited (HPPTCL) for the 4th MYT Control Period (FY 2019-20 to 2023-24) issued on 29th June, 2019 in Petition No. 31/2019 had specified that in terms of Sub-regulation (10) of Regulation 9 of the HPERC (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2011, read with amendment thereof, the Tariff shall, unless amended or revoked, continue to be in force up to March 31, 2024.*
>
> *The HPPTCL has filed the Captioned Petition for the approval of Business Plan and determinations of tariff for the 5th MYT Control Period (FY2024-25 to FY2028-29) on 15th January, 2024. The process of analyzing the said Petition is under way and its disposal will take some time in view of the Model Code of Conduct, as applicable with effect from 16.03.2024.*
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> *The Commission, therefore, orders that the Multi Year Tariff Order for the 4th Control Period (FY2019-20 to FY2023-24), issued on 29th June, 2019 in Petition No. 31/2019, shall continue after March 31, 2024, till the Petition bearing No. 30/ 2024 is disposed off and the Tariff is determined for the 5th Control Period (FY2024-25 to FY2028-29), subject to the condition that the tariff allowed by this Order, shall be adjusted against the final tariff to be approved by the Commission."*

19. Therefore, as per the above order dated 03.05.2024 in Petition No. 30 of 2024, the transmission charges are required to be recovered in terms of order dated 29.06.2019 passed in Petition No. 31 of 2019 for the period starting form 01.04.2024 till the outcome of

the Petition No. 30 of 2024 but the HPPTCL in complete disregard has started levying the charges as per order dated 10.09.2024 in Petition No. 02 of 2020. Further, in case of higher capacity transmission lines, the transmission charges are levied on the allotted capacity.

20. It is further averred that vide the Impugned Invoices, the Petitioner has sought to recover almost 50% of ARR from the Petitioner in the transmission system despite that the same has to be on the allotted/ contracted capacity after sharing all the charges amongst long and medium term beneficiaries of the system.

21. Further, the HPPTCL in complete disregard to Interim order dated 03.05.2024 in Petition No. 30 of 2024 has continued to levy transmission charges even beyond 31.03.2024 as per tariff order dated 10.09.2024. Thus, the act of the HPPTCL is in blatant violation of the order of the Commission. Further, the tariff of the transmission system is required to be recovered as per Regulation 33 of Transmission Tariff Regulations, 2011 and transmission charges are to be shared amongst long and medium term Inter-state transmission customers, thus, the Impugned Invoices are illegal and contrary to the Regulations.

22. Further, the HPPTCL by raising the excess demand of transmission tariff upon the Petitioner without applying the methodology for recovery of transmission charges has violated the provisions of the Electricity Act, 2003. The Impugned Invoice are also in blatant violation of tariff order dated 10.09.2024. Further, the element or asset wise determination of tariff of the transmission system under Regulation 12 (1) of the Transmission Tariff Regulations, 2011 would not necessarily mean that the transmission charges are only to be recovered from the users of said asset especially when no such bifurcation has been carved out as per Regulation 33 of the Transmission Tariff Regulations, 2011. Not only this, as per the HPERC Transmission Tariff Regulations, 2011 all Long Term Open Access (LTOA) and Medium-term Open Access (MTOA) must bear the burden of the transmission charges without being restricted to specific transmission demand. Reference to Regulation 27 of the Himachal Pradesh Electricity Regulatory Commission (Grant of Connectivity, Long-term and Medium-term Intra-state Open Access and Related matters) Regulations, 2010 has also been made that the action of the Petitioner to recover the ARR from the Petitioner is against the settled principles of law. Further, the

National Tariff Policy, 2016 mandates that the transmission charges be shared amongst the LTOA and MTOA customers based on their utilization of the transmission system. The Petitioner has also paid higher transmission charges as per IPTA as compared to other HEPs in the State. It is claimed that 90% of the transmission charges cannot be borne by the user and are required to be shared by all the long-term and medium-term transmission customers of the State. The Petitioner being a Small HEP cannot be saddled with all the transmission charges, jeopardizing the financial viability and existence of the Petitioner.

23. Further, the HPPTCL have admitted before the Commission in Petition No. 2 of 2020 that the transmission charges are to be shared amongst long-term and medium-term open access consumers. Para 2.2.4 has been reproduced as under:-

> *"2.2.4 The Petitioner also stated that while it is true that transmission charges are to be shared among Long Term and Medium-Term Open Access consumers, the regulation specifies that these charges are to be apportioned based on the allocated transmission capacity."*

24. Since, the Petitioner is only utilizing the capacity of 20.4 MW out of 100 MW, it cannot be saddled with transmission charges beyond 20.4 MW. Hence, the Petition.

REPLY OF THE RESPONDENTS

25. The Petition has been resisted by the Respondents by filing separate replies.

26. The Respondent No.1/ HPPTCL in its reply has submitted by way of preliminary submissions that the Petitioner has no cause of action to maintain the Petition which has been filed to avoid the liability accrued upon the Petitioner. The Commission vide tariff order dated 10.09.2024 in Petition No. 2 of 2020 (Annexure P-3) has approved the ARR of the transmission system for FY 2017 to FY 2024, owned and operated by the Replying Respondent. The Commission in said order has held that the key beneficiaries of the transmission system are the Petitioner and the HPSEBL/ Respondent No. 2 and the ARR is required to be recovered from them as per Regulation 33 of the Transmission Tariff Regulations, 2011. Further, according to the LTOA dated 07.07.2021 (Annexure P-2) signed by the Petitioner with the HPPTCL and as per the prevailing Regulations, the Petitioner is required to bear the transmission charges alongwith the HPSEBL till such time, the system is utilized by other Projects in the area and that the Impugned Invoices have been rightly raised. The Regulation 3 (3) and Regulations 31, 32 and 33 of

the Transmission Tariff Regulations, 2011 have been reproduced as under:-

"3. Definitions:
(3) "aggregate revenue requirement" or "ARR" means the costs pertaining to the licensed business which are permitted, in accordance with these regulations, to be recovered from the tariffs and charges determined by the Commission;"

"31. Transmission Tariff / Charges
(1) The transmission charges payable by the transmission customers of the transmission system shall be designed to recover the aggregate revenue requirement computed as annual transmission charges by the Commission for each year of the control period.
(2) In addition to transmission charges, charges for reactive energy, as may be determined by the Commission in the MYT order, shall also be payable by all the transmission customers of the system.

32. Annual Transmission Service Charge
(1) The fixed cost of the transmission system shall be computed on annual basis, in accordance with norms contained in these regulations, aggregated as appropriate, and recovered on monthly basis as transmission charge from the users.
(2) The transmission charge (inclusive of incentive) payable for a calendar month for a transmission system or part thereof shall be-
AFC x (NDM / NDY) x (TAFM / NATAF)
Where,
AFC = Annual fixed cost specified for the year, in Rupees;
NATAF = Normative annual transmission availability factor, in per cent specified in regulation 11;
NDM = Number of days in the month;
NDY = Number of days in the year; and
TAFM = Transmission system availability factor for the month, in percent, computed in accordance with Appendix-II to these Regulations.
(3) The transmission licensee shall raise the bill for the transmission charge(inclusive of incentive) for a month based on its estimate of TAFM. Adjustments, if any, shall be made on the basis of the TAFM to be certified by the SLDC within 30 days from the last day of the relevant month:
Provided that wherever it is necessary or expedient to incentivise the open access, the Commission may, by order, cap the transmission charges calculated under this sub-regulation.

33. Allocation of Transmission Service Charge and Losses
(1) The Annual Transmission Service Charge (ATSC) shall be shared between the long and medium term customers of the transmission system on monthly basis
based on the allotted transmission capacity or contracted capacity, as the case may be."

Therefore, being the joint user with the HPSEBL, the ARR is liable to be paid by the Petitioner and the HPSEBL as approved by the Commission vide order dated 10.09.2024 in Petition No. 2 of 2020 for the period from CoD i.e. 05.06.2016 to FY 2023-24, as also the interim order dated 03.05.2024 in Petition No. 30 of 2024 (Annexure P-8).

27. According to the HPPTCL, the Commission has issued the 5th MYT Tariff Order on 22.01.2025 in Petition No. 30 of 2024, determining the ARR of pooled Intra-state Assets including the transmission system for FY 2024-25 to FY 2028-29 w.e.f. 01.04.2024 and prior to the 5th MYT order the billing for FY 2024-25 was carried out in accordance with interim order dated 03.05.2024 in Petition No. 30 of 2024 based on the ARR of the transmission system approved for FY 2023-24 vide order dated 10.09.2024. Further, following issuance of the 5th MYT Order dated 22.01.2025, the transmission charges recovered for FY 2024-25 shall be adjusted against the applicable transmission charges as per approved 5th MYT ARR for

the same period and arrears amount shall be recoverable from the Petitioner in three equal installments. Thus, the Petitioner is liable to pay the transmission charges as per the directions of the Commission in the 5th MYT Order.

28. Further, as per the Agreement for Long Term Open Access (LTOA) dated 07.07.2021 executed by the Petitioner with the HPPTCL, the Long Term Access was granted on 07.06.2016 for the period of 25 years upto 07.06.2041 which reads as under:-

> *"2.0 (b) Long term transmission customer shall share and pay the transmission charges of the transmission system detailed in Annexure 3 in accordance with the applicable regulations, and tariff order(s), of the Appropriate Commission governing sharing and payment of transmission charges. In case, in future, any other long-term transmission customer(s) is/are granted open access through the transmission system detailed at Annexure-3 (subject to technical feasibility), he/they would also share the applicable transmission charges in accordance with the above regulations, and tariff order(s)."*

Thus, in view of the aforesaid agreement, the Petitioner cannot be allowed to dispute the payment of transmission system.

29. It is also averred that the Petitioner has been using the transmission asset since 07.06.2016 but has paid only a sum of Rs. 9.17 Crores against the IPTA since 07.06.2016, therefore, the outstanding transmission charges till October, 2024 aggregating to Rs. 53.70 Crores, as mentioned in invoice dated 07.11.2024

(Annexure P-5), are well within its rights to recover the same. It is averred that in case the charges are not paid, the same would result in severe shortage of necessary funds for smooth operation and maintenance of the transmission system. A reference has also been invited to order dated 23.01.2025 passed by the Commission in Petition No. 46 of 2021 (M/s Everest Power Pvt. Ltd. versus the HPPTCL) in this regard.

30. On merits, it is denied that the impugned invoices dated 21.10.2024 and 07.11.2024 are arbitrary, unjust and in violation of the provisions of the Electricity Act, 2003 and rather, the invoices are in terms of tariff order dated 10.09.2024 and Regulation 33 of the Transmission Tariff Regulations, 2011. It is denied that the Respondent is claiming excess payment of transmission charges as allowed by the Commission vide order dated 10.09.2024. It is reiterated that the HPSEBL and the Petitioner are the only beneficiaries of the transmission system and the entire transmission charges are to be borne by them. It is also submitted that the capacity of the Project of the Petitioner is 24 MW and the total capacity as per LTOA dated 07.07.2021 including 20% overload shall be 24 MW + 4.8 MW = 28.8 MW and the capacity of the HPSEBL is 27 MW. Thus,

the total capacity being transmitted through the transmission system is 55.8 MW which is around 73% of the total Sub-station capacity of 80 MVA at 0.95 Power Factor (pf) i.e. 76 MW. Further, the system planning has to incorporate the above capacities and that the Sub-station capacity is 80 MVA with normal cooling and 100 MVA with forced cooling. Also, with 100 MVA capacity (i.e. 95 MW capacity considering 0.95 pf, the total capacity utilization of the asset comes to around 59%.

31. According to the Respondent, the system has been planned keeping in view the Petitioner, the HPSEBL and the following Projects:-

Sr. No.	Name of HEP (as per Phozal DPR)	Capacity (MW)	Commissioning Status	Remarks
1.	Kathi	3.50	FY 2027-28	Under Clearance
2.	BalootFozal	5.00	FY 2027-28	Under Clearance
3.	Kukri	5.00	FY 2027-28	Under Clearance
4.	Kesta	4.50	-	Under Construction
5.	Galang	3.50	FY 2027-28	Under Clearance
6.	Fozal	16.00	FY 2026-27	-
	Total	37.50		

32. Further, as per latest status obtained from the Directorate of Energy (DoE) and the HIMURJA, the 16 MW Fozal HEP shall be commissioned in the year 2026-27 alongwith 4 MW Kesta HEP under construction and, therefore, total aggregate capacity through the

asset shall arrive at 75.8 MW (55.8+16+4) which is around 100% utilization of the Sub-station considering normal capacity of transformer (80 MVA at 0.95 pf i.e. 76 MW).

33. According to the HPPTCL, the Regulation 33 is being misinterpreted by the Petitioner and the approved ARR of the transmission system has to be borne by the Petitioner and the HPSEBL. It is denied that the Commission has declined to allow the recovery of the entire ARR transmission charges from the Petitioner and the HPSEBL and has directed that the ARR/ Tariff is to be recovered by sharing ARR amongst all the beneficiaries of ISTS. Para 4.9.1, 4.9.2 and 4.9.3 of the order dated 10.09.2024 in Petition No. 2 of 2020 have also been reproduced.

34. A reference has also been invited to Sr. No. 3.6 of the Central Electricity Authority (CEA) Planning Criteria, 2013 as under:-

> *"In case of highly constrained areas like congested urban / semi-urban area, very difficult terrain etc., the transmission corridor may be planned by taking long term perspective of optimizing the right-of-way and cost. This may be done by adopting higher voltage levels for final system and operating one level below in the initial stage, or by using multi-circuit towers for stringing circuits in the future, or using new technology such as HVDC, GIS etc."*

35. Therefore, the transmission system in hilly State like Himachal Pradesh is to be developed keeping in view the long term goals and future evacuation requirements and thus, 100 % utilization in the

initial stage cannot be ensured. Since, the STU has the responsibility to keep margin for future load growth, load drawl and power evacuation needs, the infrastructure is planned and constructed keeping in view the region's total potential. Thus 80/100 MVA, 220/33 kV Phojal Sub-station was constructed keeping in view the above.

36. According to the Respondent, the Petitioner cannot draw any similarity with the facts of the Appeal No. 196 of 2024 and order dated 27.08.2024 passed by the Hon'ble APTEL. Moreover, the Petition No. 46 of 2021 has been disposed off by the Commission vide order dated 23.01.2025. It is further averred that MYT order dated 29.06.2019 only relates to 12 No. of Intra-state transmission lines and the charges in said order are not the true reflection of the HPPTCL's transmission systems. Further, the Transmission Tariff Regulations, 2011 have been replaced with the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions of Transmission Tariff) Regulations, 2023 (HPERC Transmission Tariff Regulations, 2023 for short) and the order dated 22.01.2025 in Petition No. 30 of 2024 is based on the HPERC Transmission Tariff Regulations, 2023. Order dated 22.01.2025 in Petition No. 30 of 2024, pertained to consolidated/ all the assets constructed by

HPPTCL (including the transmission system) along with assets due for commissioning. As per interim order dated 03.05.2024 in Petition No. 30 of 2024, the charges of the transmission system have to be recovered as per order dated 29.06.2019 in Petition No. 31 of 2019 till the tariff for the 5th Control Period is determined in Petition No. 30 of 2024. The said approach is in line with the CERC Tariff Regulations that in the absence of tariff for the existing assets, last available ARR is continued till the issuance of a Tariff Order. The relevant clause of CERC Tariff Regulations 2024-29 is as under:

> "*In the case of the existing projects, the generating company or the transmission licensee, as the case may be, shall continue to bill the beneficiaries or the long-term customers at the capacity charges or the transmission charges, respectively, as approved by the Commission and applicable as on 31.3.2024 for the period starting from 1.4.2024 till approval of final capacity charges or transmission charges by the Commission in accordance with these regulations*".

37. The HPSEBL/ Respondent No. 2 in its separate reply has averred that issues raised in the Petition primarily revolve around regulatory and technical interpretations of the applicable transmission Regulations. The HPSEBL has supported the Petitioner's contention regarding billing based on quantum of utilization as mandated under Regulation 33 of the Transmission Tariff Regulations, 2011 and Regulation 45 of the HPERC Transmission Tariff Regulations, 2023

emphasizing the need for equal apportionment of the transmission charges among beneficiaries.

38. It is averred that the transmission charges to be recovered by the Transmission Licensee shall be borne on allotted/ contracted capacity shall not be based on the ARR as the system is built to evacuate power of 8 more Projects against the aggregate capacity of approximately 73 MW as mentioned in Para No. 4 and 12 of the Petition. Further, the transmission system has been built to cater multiple beneficiaries and the HPSEBL is beneficiary upto the extent of 27 MW only, whereas, the Petitioner operate a 24 MW HEP and both utilize the transmission system of the Respondent No. 1.

39. It is reiterated that the Respondent No. 1 is required to recover charges from the beneficiaries based on the allotted/ contracted capacity and the HPSEBL and the Petitioner should not be burdened with ARR of the transmission system designed to evacuate approximately 73 MW power.

40. Further, the action of the Respondent No. 1 in applying the ARR uniformly to the current users while ignoring the evacuation of power from other projects contravenes the regulatory mandate and results in inequitable recovery which amounts to penalizing the

consumers who have commissioned their Projects on time. Thus, the contention of the Respondent No. 1 is illegal and unlawful and the invoices qua the transmission charges are required to be aligned with mandate of the Regulations. Also the contracts/ agreements are required to be in conformity with the Regulations. It has been prayed that the Respondent No. 1 be directed to raise the invoices strictly as per the mandate of the Regulation 45 of the HPERC Transmission Tariff Regulations, 2023 and Regulation 33 of Transmission Tariff Regulations, 2011.

REJOINDER

41. In rejoinder, the contents of the reply have been denied and those of the Petition have been reaffirmed.

SUBMISSIONS OF THE LD. COUNSEL FOR THE PARTIES

42. It has been submitted by the Ld. Sr. Counsel appearing for the Petitioner that the subject Transmission asset was never created solely for the Petitioner and rather was envisaged to serve various upcoming hydro generators in the Kullu region aggregating around 100 MW but due to non-commissioning of several such projects, the Petitioner and the HPSEBL have remained the only beneficiaries and by holding the Petitioner liable for a disproportionate share (approx.

50%) of the total charges for the Subject Transmission asset, the HPPTCL has breached and violated the regulatory framework. According to the Ld. Sr. Counsel, the Petitioner utilizes only 20.4 MW capacity (out of 100 MW), which represents only 1/5th or 20.4% of the system's total designed capacity by the HPPTCL but in the current billing, the Respondent No. 1 has computed the liability on a 50% basis, resulting in huge monthly charges of approx. Rs. 62–63 lakhs as against the actual computation in the range of Rs. 8–9 lakhs per month approximately for the period starting from 2016 to 2024. According to him, the HPPTCL has sought to recover more than 700% increased transmission charges from the Petitioner which is in violation of the Regulation 33 as the Transmission Tariff Regulations, 2011 which casts an obligation upon the user of the transmission system to pay the transmission charges commensurate to its allotted or contracted capacity. As per the Ld. Counsel, the Petitioner, despite being compliant with its obligations and commissioning its project on time, is being unfairly burdened with the cost of the entire transmission system beyond its allotted/ contracted capacity alongwith the HPSEBL which has been created for multiple beneficiaries, most of whom have not commissioned their projects.

43. The Ld. Sr. Counsel has further submitted that Clause 2.0(b) of the LTA Agreement is being misinterpreted and misconstrued which has to be read in conjunction of Regulation 33 of the Transmission Tariff Regulations, 2012 as the LTA framework inherently recognizes cost-sharing and cost socialization among all long-term users and the Petitioner cannot be asked to bear the cost more than the allotted/ contracted capacity.

44. According to the Ld. Sr. Counsel, the impugned invoices raised by HPPTCL reflect a significant departure from the applicable regulations and are thus, illegal and arbitrary and liable to be quashed and set aside to the extent the same are in violation of Regulation 33 (ibid). According to him, the Commission has repeatedly upheld the principle that tariff may be determined element-wise as envisaged in HPERC Tariff Regulations, 2011 but the recovery of the subject transmission system must follow Regulation 33 (ibid), i.e., from all long-term users based on allotted/ contracted capacity and this distinction between tariff determination and tariff recovery must be maintained and that there is no provision in the HPERC Tariff Regulations, 2011 enabling the HPPTCL to recover element-wise tariff beyond the allotted/ contracted capacity and

without sharing it amongst all the long term and medium term customers.

45. It is also contended that Regulation 45 of the HPERC Tariff Regulations, 2023 is in *pari materia* to Regulation 33 of the HPERC Tariff Regulations, 2011 and by applying the methodology and principle contained under Regulation 45 (ibid) which is applicable for the 5th Control Period, transmission charges are being levied and collected after sharing the entire ARR amongst all the Long Term and Medium Term customers of the transmission system within the State of Himachal Pradesh strictly based on their allotted/ contracted capacity, therefore, the HPPTCL cannot be permitted to make any departure from the same methodology and principle for levy and collection of transmission charges for the 3rd and 4th Control Periods and the transmission charges are required to be collected after sharing the ARR of the subject transmission assets amongst all the Long Term and Medium Term Customers strictly based on their allotted/ contracted capacity and not otherwise.

46. Sh. Vikas Chauhan, Ld. Counsel for the Respondent No. 1 on the other hand has submitted that the key beneficiaries of the transmission system are the Petitioner and the HPSEBL/ Respondent

No. 2 and the ARR is required to be recovered from them as per Regulation 33 of the Transmission Tariff Regulations, 2011. Further, according to the LTOA dated 07.07.2021 (Annexure P-2) signed by the Petitioner with the HPPTCL and as per the prevailing Regulations, the Petitioner being the key beneficiary with the HPSEBL, is required to bear the transmission charges alongwith the HPSEBL till such time, the system is utilized by other Projects in the area and that the Impugned Invoices have been rightly raised.

47. According to him, the Petitioner while signing the LTOA on 07.07.2021 has agreed under Clause 2.0 to pay the charges of the subject transmission assets till any other long term transmission customer(s) is/ are granted open access in the system but since 07.06.2016 has paid only a sum of Rs. 9.17 Crores against the IPTA since 07.06.2016. According to him, the outstanding transmission charges till October, 2024 have aggregated to Rs. 53.70 Crores as mentioned in invoice dated 07.11.2024 (Annexure P-5), therefore, in case the charges are not paid, the same would result in severe shortage of necessary funds for smooth operation and maintenance of the transmission system. He has further submitted that the transmission system in hilly state like Himachal Pradesh is to be

developed keeping in view the long term goals and future evacuation requirements and thus, 100 % utilization in the initial stage cannot be ensured and that the Respondent No. 1 has the responsibility to keep margin for future load growth, load drawl and power evacuation needs, therefore, the infrastructure is planned and constructed keeping the region's total potential, as such, 80/100 MVA, 220/33 kV Phojal Sub-station was constructed.

48. Sh. Kamlesh Saklani, Authorised Representative for the HPSEBL on the other hand has supported the contention of the Petitioner that the Respondent No. 1 is required to recover charges from the beneficiaries based on the allotted/ contracted capacity and the HPSEBL and the Petitioner should not be burdened with ARR of the transmission system designed to evacuate approximately 73 MW power. Also the contracts/ agreements are required to be in conformity with the Regulations. He has submitted that the Respondent No. 1 be directed to raise the invoices strictly as per the mandate of the Regulation 45 of the HPERC Transmission Tariff Regulations, 2023 and Regulation 33 of Transmission Tariff Regulations, 2011.

POINTS FOR DETERMINATION

49. We have gone through the submissions including the written submissions filed by the Petitioner and perused the record carefully. On the basis of the pleadings and submissions, the following points arise for determination:-

Point No. 1: Whether the Petitioner is not liable to pay the transmission charges as raised vide invoices dated 21.10.2024 and 07.11.2024 demanding the transmission charges beyond the allotted/ contracted capacity from the Petitioner qua transmission system are wrong, illegal and null and void?

Point No. 2: **Final Order**

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

Point No. 1: No.

Point No. 2: (Final Order) The Petition dismissed per operative part of the Order.

REASONS FOR FINDINGS

Point No. 1

51. It is the case of the Petitioner that the transmission system was envisaged to evacuate approximately 100 MW power from various Small Hydro Electric Projects from Kullu region. A detail of the

Projects envisaged for utilization of the transmission system has been given as under:-

Sr. No.	Name of Project	Capacity (MW)
1.	Kathi	3.50
2.	Baloot Fozal	5.00
3.	Kukri	5.00
4.	Kesta	4.50
5.	Galang	3.50
6.	Baragaon (KPCPL)	24.00
7.	Fozal	16.00
8.	HPSEBL	11.40

As per the Petitioner, only the Petitioner and the HPSEBL have developed their respective Projects and are utilizing the transmission system, whereas, the rest of the Project have not yet come up. This fact has also not been disputed by the Respondent but the contention of the Respondent No. 1 is that other Projects are likely to come up in a phased manner.

52. The transmission system has been commissioned on 05.06.2016 but the Petition for the approval of Capital Cost and determination of tariff in respect of the transmission system being Petition No. 02 of 2020 was filed in the year, 2019. It is apparent from the Petition that the Respondent No. 1 filed a Petition being Petition No. 244/TT/2017 before the Central Electricity Regulatory Commission (CERC) for the approval of capital cost of the transmission system alongwith 220 kV AD Hydro Transmission line

and 33/220 kV, 80/100 MVA GIS Sub-station at Phojal which was disposed off on 08.10.2018 due to lack of certification from Northern Region Power Committee (NRPC) that the line carries the Inter-state power. However, the CERC had allowed the HPPTCL to file a new Petition once the NRPC certificate is available. The HPPTCL accordingly applied for the certification from the NRPC for recognizing the line as Inter-state but NRPC in its meetings dated 29.10.2018 and 30.10.2018 declined to certify the line as Inter-state because the average Inter-state power flow in the line was only 36.55% as against the requirement of above 50%. The Petitioner filed an appeal before the Hon'ble Appellate Tribunal for Electricity (APTEL) against the decision of the CERC but the Hon'ble APTEL vide judgment dated 29.01.2024 in Appeal No. 111 of 2022 dismissed the Appeal. Feeling aggrieved, the Petitioner filed an Appeal before the Hon'ble Supreme Court of India being Civil Appeal No. 5146 of 2024 which was also dismissed on 03.05.2024.

53. In the circumstances, the Commission proceeded to decide Petition No. 2 of 2020 vide order dated 10.09.2024 (Annexure P-3) and determine the tariff/ ARR of the transmission system with the

mechanism for recovery of ARR observing the following in paras 4.8.4, 4.9.1, 4.9.2 and 4.9.3:-

"4.8.4 The Commission observes that the tariff petition was filed in August 2019, as against the COD of the asset as 05.06.2016, which is a delay of almost 03 years. Also, a significant delay was on account of the ongoing legal matters with the beneficiaries pending at the Hon'ble APTEL. Further, the Petitioner has also taken considerable time in responding to the various queries raised by the Commission resulting in further delays. Given the concerns regarding the status of transmission assets which led to the significant delays, the Commission feels it appropriate to allow recovery to the extent of ARR and corresponding tariff determined against the transmission assets.

4.9.1 The Petitioner has submitted that Kanchanjunga Power Company Private Limited (KPCPL) and HPSEBL are the sole beneficiaries of the project. Further, the project was envisaged for the evacuation of approx. 100MW of power from the upcoming small hydroelectric power generating stations in the Kullu region.

4.9.2 In the para no 3.4 of this order, it is observed that the transmission assets was primarily planned to cater to the evacuation needs of approx. 100 MW of power from upcoming small hydroelectric power generating stations in the Kullu region and as per the submission of the Petitioner, M/s KPCPL and HPSEBL are the current beneficiaries of the transmission assets.

4.9.3. Also, an interim power transfer agreement has been executed between the Petitioner and the two beneficiaries. Therefore, the Commission is of the view that the key beneficiaries of the project 33/220kV, 80/100MVA GIS Sub-Station at Phojal along with 220kV D/C LILO Transmission Line are KPCPL and HPSEBL and the ARR determined above is required to be recovered as per the Regulation 33 of the HPERC Transmission Tariff Regulations, 2011:

"33. Allocation of Transmission Service Charge and Losses (1) The Annual Transmission Service Charge (ATSC) shall be shared between the long and medium-term customers of the transmission system on monthly basis based on the allotted transmission capacity or contracted capacity, as the case may be."

54. The above Petition No. 2 of 2020 had been filed for tariff determination and approval of transmission charges of the

transmission system and recovery from the Petitioner and the HPSEBL being the key beneficiaries of the transmission system.

55. According to the Petitioner, the Commission vide order dated 10.09.2024 in Petition No. 2 of 2020 has declined to allow the recovery of entire ARR/ transmission charges of the transmission system from the Petitioner and had directed that ARR/ Tariff is to be recovered by sharing the ARR amongst all the beneficiaries of the Intra-state Transmission System (ISTS) as per Regulation 33 of the HPERC Transmission Tariff Regulations, 2011 as observed in para 4.9.3. Regulation 33 (1) of the HPERC Transmission Tariff Regulations, 2011 reads as under:-

> *"33. Allocation of Transmission Service Charge and Losses*
>
> *(1) The Annual Transmission Service Charge (ATSC) shall be shared between the long and medium term customers of the transmission system on monthly basis based on the allotted transmission capacity or contracted capacity, as the case may be."*

56. On the other hand, the Respondent No. 1 has submitted that the key beneficiaries of the transmission system are the Petitioner and the HPSEBL/ Respondent No. 2 and, therefore, the ARR is required to be recovered from them as per Regulation 33 of the Transmission Tariff Regulations, 2011. It is also the case of the Respondent No. 1 that according to the LTOA dated 07.07.2021 (Annexure P-2) signed by the Petitioner with the HPPTCL and as per

the prevailing Regulations, the Petitioner is required to bear the transmission charges alongwith the HPSEBL till such time, the system is utilized by other Projects in the area and that the impugned invoices have been rightly raised against the Petitioner being the joint user and key beneficiary with the HPSEBL and the ARR is liable to be recovered from the Petitioner and the HPSEBL, as approved by the Commission vide order dated 10.09.2024 in Petition No. 2 of 2020 for the period from CoD i.e. 05.06.2016 to FY 2023-24, as also the interim order dated 03.05.2024 in Petition No. 30 of 2024.

57. According to the HPPTCL, the Long Term Access was granted on 07.06.2016 for the period of 25 years upto 07.06.2041 vide agreement dated 07.07.2021 executed by the Petitioner with the HPPTCL, which reads as under:-

> *"2.0 (b) Long term transmission customer shall share and pay the transmission charges of the transmission system detailed in Annexure 3 in accordance with the applicable regulations, and tariff order(s), of the Appropriate Commission governing sharing and payment of transmission charges. In case, in future, any other long-term transmission customer(s) is/are granted open access through the transmission system detailed at Annexure-3 (subject to technical feasibility), he/they would also share the applicable transmission charges in accordance with the above regulations, and tariff order(s)."*

It is apparent from the above Clause 2.0 (b) of the agreement signed by the Petitioner that the Petitioner has agreed to share and pay the transmission charges of the system as per Regulations and tariff order and in case, in future, any other long term transmission customer(s) are granted open access, they would also share the applicable transmission charges. This agreement dates back to 07.07.2021, whereas the tariff order in Petition No. 02 of 2020 has been passed on 10.09.2024. In the circumstances, once the Petitioner has agreed to pay the transmission charges being key beneficiary, till other customer(s) share the system, the HPPTCL is well within its right to recover the ARR from the Petitioner and the Respondent No. 2. Thus, in view of the aforesaid agreement, the Petitioner is not permitted to dispute the payment of transmission system as raised vide impugned invoices.

58. Undisputedly, the transmission system is situated in a hilly area and difficult terrain having limited corridor facility. Here, it is quite relevant to refer to Sr. No. 3.6 of the Planning Criteria of the Central Electricity Authority (CEA), 2013 that the transmission corridor in very difficult terrain, may be planned by taking long term perspective of optimizing the right of way and cost. Sr. No. 3.6 thereof reads as under:-

> *"In case of highly constrained areas like congested urban / semi-urban area, very difficult terrain etc., the transmission corridor may be*

planned by taking long term perspective of optimizing the right-of-way and cost. This may be done by adopting higher voltage levels for final system and operating one level below in the initial stage, or by using multi-circuit towers for stringing circuits in the future, or using new technology such as HVDC, GIS etc."

59. The capacity of the Project of the Petitioner is 24 MW and the total capacity as per LTOA dated 07.07.2021 including 20% overload shall be 24 MW + 4.8 MW = 28.8 MW and the capacity of the HPSEBL is 27 MW as mentioned by the HPPTCL in its reply. It is further evident from the reply of the Respondent No. 1 that the total capacity being transmitted through the transmission system is 55.8 MW which is around 73% of the total Sub-station capacity of 80 MVA at 0.95 Power Factor (pf) i.e. 76 MW. Further, the system planning has to incorporate the above capacities and the Sub-station capacity is 80 MVA with normal cooling and 100 MVA with forced cooling. Also, with 100 MVA capacity (i.e. 95 MW capacity considering 0.95 pf, the total capacity utilization of the asset comes to around 59%. Therefore, the transmission system in hilly state like Himachal Pradesh is to be developed keeping in view the long term goals and future evacuation requirements, as also contained in CEA Planning Criteria, 2013 and thus, 100 % utilization in the initial stage cannot be ensured. The HPPTCL being the sole transmission licensee in the State has the responsibility to keep margin for future load growth,

load drawl and power evacuation needs and it appears that the transmission system has been planned and constructed by the Respondent No. 1, being the sole STU in the State, keeping the region's total potential. Clause 2.0 of the LTOA dated 07.07.2021 has to be read alongwith CEA Planning Criteria, 2013, as mentioned above and requirement for the HPPTCL to envisage the transmission system keeping in view the limited corridor having hilly and difficult terrain.

60. As observed above, the Petitioner has categorically agreed to pay the transmission charges till the system is joined and shared by other long-term transmission customers. Hence, the Petitioner cannot be allowed to dispute the payment of transmission system.

61. The Respondent No. 1 has not disputed that the transmission system was not envisaged for the capacities as mentioned by the Petitioner. The Petitioner's Project has been commissioned and HPSEBL is also utilizing part of the transmission system. The Respondent No. 1 has stated that the other Projects are likely to come up and the said contention of the Respondent No. 1 is not in isolation as it is mentioned in the reply that as per latest status obtained from the Directorate of Energy (DoE) and the HIMURJA, the

16 MW Fozal HEP shall be commissioned in the year 2026-27 alongwith 4 MW Kesta HEP under construction and, therefore, total aggregate capacity through the asset shall arrive at 75.8 MW (55.8+16+4) which is around 100% utilization of the Sub-station considering normal capacity of transformer (80 MVA at 0.95 pf i.e. 76 MW).

62. In the circumstances the Regulation 33 of the HPERC Transmission Tariff Regulations has to be interpreted in conjunction with Clause 2.0 of LTOA dated 07.07.2021 and limited corridor scope in the State due difficult terrain on account of which the Respondent No. 1 had to plan a system keeping in view the future requirements. In the circumstances, the ARR of the transmission system is required to be recovered from the Petitioner and the HPSEBL. Therefore, the Commission is of the considered view that being the key beneficiary of the transmission system with the HPSEBL, the ARR of the transmission system, as determined by the Commission vide order dated 10.09.2024 in Petition No. 02 of 2024, is required to be recovered from the Petitioner and the HPSEBL till the other long-term customers join and share the system. In case of unnecessary withholding of transmission charges for the usage of the transmission

system, there would be severe shortage of funds to ensure smooth operation and maintenance of the transmission system. The Regulation 33 of the HPERC MYT Regulations, 2011 would come in the aid of the Petitioner only in case when the transmission system is shared by other generators. Undisputedly, the transmission system is being used by the Petitioner to evacuate the power from Baragaon HEP (24 MW) with the HPSEBL since 07.06.2016. However, except a small sum of Rs. 9.17 Crore, the due transmission charges have not been paid. Therefore, the demand raised vide invoices dated 21.10.2024 and 07.11.2024 is perfectly as per the LTOA dated 07.07.2021. In the circumstances, the Petitioner cannot escape the liability to pay the transmission charges.

63. In view of the above, the Petitioner has not been able to establish on record that the Petitioner is not liable to pay the transmission charges of the transmission system or that the Petitioner is liable to pay the transmission charges for its project of 24 MW i.e. Baragaon HEP only to the extent of the allotted/ contracted capacity. Similarly, the Petitioner has failed to establish on record that the Impugned Invoices dated 21.10.2024 and 07.11.2024 demanding the

transmission charges are wrong and illegal. Point No. 1 is accordingly decided against the Petitioner.

Final Order

64. In view of the aforesaid discussions and findings, the Petition fails and is accordingly dismissed. The pending applications, if any, are also deemed to have been dismissed.

The file after needful be consigned to the records.

Announced
18.07.2025

-Sd-	**-Sd-**	**-Sd-**
(Shashi Kant Joshi)	**(Yashwant Singh Chogal**	**(Devendra Kumar Sharma)**
Member	**Member (Law)**	**Chairman**