

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

Petition No: 25 of 2025
Date of Institution: 05.02.2025
Arguments Heard on: 07.08.2025
Decided on: 27.09.2025

CORAM

Yashwant Singh Chogal
MEMBER (Law)-cum-CHAIRMAN

Shashi Kant Joshi
MEMBER

In the matter of:-

M/s Dera Hydro Power Private Limited,
Registered Office at K.H. No.-18/1 and 18/2,
Jainantu Niwas, First Floor, Below Shree Mahun Nag Brothers,
Bye Pass Road, B.C.S. New Shimla,
Shimla, H.P.-171009.**Petitioner**

Versus

M/s Himachal Hydel Projects Private Limited,
SCO 3, Sector16, Panchkulla,
Haryana-134108.**Respondent No.1**

The HP Power Transmission Corporation Limited,
Himfed Bhawan, Below Old MLA's Quarters,
Tutikandi (Panjiri), Shimla, H.P.-171005.**Respondent No. 2**

The HP State Electricity Board Limited, through its,
Chief Engineer (System Planning)
Vidyut Bhawan, Shimla, H.P.171004.**Respondent No.3**

The HIMURJA, through its,
Director,
Urja Bhawan, Kasumpti, Shimla-171009.**Respondent No.4**

The Directorate of Energy, through its,
 Director (DoE),
 MC Parking Building, 2nd Floor near Tutikandi Crossing,
 Shimla, H.P.-171005.

.....**Respondent No. 5**

Petition Under Sections 86(1)(f) read with Section 35 of Electricity Act, 2003 and the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2024 for directing the Respondent No. 1 to allow the Petitioner/ Dera Hydro Power Private Limited to utilize the Project line of the Respondent No. 1 for evacuation of power of the Dera HEP in joint mode.

Present:

Sh. Ashok Verma, Ld. Counsel for the Petitioner.
 Sh. Nimesh Gupta and Sh. Anil Kapoor, Ld. Counsel for the Respondent No. 1.
 Smt. Deepica Gautam, Ld. Vice Counsel for the Respondent No. 2
 Sh. Kamlesh Saklani, Authorized Representative for the Respondent No. 3.
 Respondent No. 4 ex-parte.
 Sh. Shanti Swaroop, Ld. Legal Consultant for the Respondent No. 5.

ORDER

This Petition has been filed by M/s Dera Hydro Power Private Limited (the Petitioner for short) under Sections 86(1)(f) read with Section 35 of Electricity Act, 2003 (Act for short) and the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2024 (CBR, 2005 for short) for directing the Respondent No. 1 to allow the Petitioner to utilize its Project line for

evacuating power of its Project upto the interfacing/ interconnection point i.e. Holi Sub-station, Chamba.

2. The case of the Petitioner is that on 31.10.2013 the Government of Himachal Pradesh (GoHP for short) entered into an Implementation Agreement (IA for short) (Annexure P-1), with M/s Bharmani Hydro Power Private Limited for establishing 5.0 MW capacity Small Hydro Electric Project at Dera at Urna Nallah, a tributary of River Ravi, Distt. Chamba (Project for short). Subsequently, M/s Bharmani Hydro Power Private Limited applied to the State Government for the change in shareholding and name of the Project in order to create a new special purpose vehicle for implementing the said Project and the project was renamed as Dera Hydro Power Pvt. Ltd. A tripartite agreement dated 22.06.2015 (Annexure P-2) was also signed changing name of the Project from Bharmani Hydro Power Pvt. Ltd. to M/s Dera Hydro Power Pvt. Ltd.

3. Pursuant thereto, a Supplementary Implementation Agreement (SIA for short) was also signed on 22.06.2015 for implementing 5 MW capacity Project.

4. The Himachal Hydel Projects Private Limited (the Respondent No. 1 for short), a generating company owns and operates Kurhed-I

SHEP (4.5 MW) Distt. Chamba which has constructed a dedicated transmission line of 33 kV with DOG Conductors for evacuation of power from Kurhed-I SHEP upto interconnection point at Holi Sub-station.

5. The Himachal Pradesh Power Transmission Corporation Limited (the HPPTCL/ Respondent No. 2 for short), a transmission licensee is responsible for maintaining and developing an efficient transmission network for smooth transmission of power Intra-state. The Himachal Pradesh State Electricity Board Limited (the HPSEBL/ Respondent No. 3 for short), a distribution licensee maintains and distributes the power across the State. The HIMURJA (Respondent No. 4 for short) is a Nodal Agency responsible for promoting renewable energy upto 5.0 MW. The Respondent No. 5/ DoE is responsible for promoting renewable energy above 5.0 MW.

6. On 22.06.2016, the Petitioner requested the Respondent No. 1 for the power evacuation of the Project (5.0 MW) to the Holi Sub-station via the Kurhed-I SHEP transmission line in a joint mode and submitted the documents in respect of the Project and sought the concurrence on said arrangement as directed by the HPPTCL/ Respondent No. 2. Initially, the Respondent No. 1 appreciated the

proposed arrangement and agreed to send its technical team for evaluation. On 14.02.2017, the Petitioner followed up with the Respondent No. 1 and was informed that the arrangement is under the review of the technical team.

7. According to the Petitioner, in a meeting of STU Sub-committee held on 21.03.2017 under the Chairmanship of the Special Secretary (Power), GoHP, the issue regarding power transmission and evacuation arrangement in Bharmour Valley was discussed, where it was emphasized that the Govt. would ensure proper arrangement for evacuation of power generated by all hydro power developers.

8. On 04.04.2017, the Petitioner sent a letter to the Respondent No. 1 for meeting at a mutually convenient location either at Chandigarh or Delhi to discuss the power evacuation of the Project in joint mode with the Project of the Respondent No. 1. The Petitioner proposed inspecting the transmission line from Kurhed-I SHEP to Holi Sub-station for technical feasibility and suitability. A technical consultant was also engaged by the Petitioner who confirmed on evaluation that the line was technically fit to hold the additional load of the Project including additional load due to peak generation. A copy

of the feasibility report (Annexure P-3 Colly) was also shared with the Respondents No. 1 to 4.

9. Further, the HPPTCL vide letter dated 25.06.2018 addressed to the Chief Engineer (System Planning) HPSEBL made it clear that connectivity to Dera SHEP at Holi Sub-station may be given due consideration because of its early commissioning than the other Projects. Copies of letters dated 02.04.2018 and 25.06.2018 are annexed as Annexure P-4 and Annexure P-5 (Colly).

10. On 12.07.2018 (Annexure P-6), the HPSEBL conveyed the HPPTCL that the interfacing arrangement of other SHEPs including Kunkali (5 MW), Goroh (3.5 MW), Kurhed (7.5 MW) and Gug (1.5 MW) are required to be reviewed and revised at 220 kV Heiling Sub-station before signing the connection agreement with Dera SHEP.

11. Meanwhile, an Interim Connectivity Agreement (Annexure P-7) was signed between the HPPTCL, Dera SHEP and the HPSEBL on 22.11.2018. Clause (B) thereof has been reproduced in the Petition.

12. The Petitioner after complying with all the formalities applied for Long-Term Open Access (LTOA). Additionally, the Petitioner also availed the benefit of the One Time Amnesty Scheme notified by the GoHP revising the zero date of the Project and the Petitioner also

signed the 2nd Supplementary Implementation Agreement (2nd SIA for short) on 13.01.2021 (Annexure P-8) with the GoHP

13. Vide letter dated 17.01.2022 (Annexure P-9), the HPPTCL asked the Petitioner to provide NOC from Kurhed-I HEP for evacuation of power in joint mode with the Respondent No. 1, upto 33 kV Holi Sub-station enabling for proceeding with the LTA agreement.

14. Pursuant thereto, the Petitioner took steps for obtaining the necessary NOC from the Respondent No. 1 and requested the MD, HPPTCL vide letter dated 28.01.2022 (Annexure P-10) for the NOC for the evacuation of its power from the Project in joint mode with Kurhed-I HEP upto Holi Sub-station inviting attention to the feasibility report that the evacuation in joint mode has been confirmed by the technical team. However, no response was gathered from the Respondent No. 1 and the Petitioner informed the HPPTCL vide letters dated 18.05.2022 and 05.07.2022 (Annexure P-11 Colly) in this regard.

15. The HPPTCL taking note of the above, convened a meeting on 23.06.2022 between the Petitioner and the Respondent No. 1 for resolving the issue of evacuation of power in joint mode as evident

from letter dated 17.06.2022 (Annexure P-12). However, the meeting was not attended by the Respondent No. 1.

16. The matter of evacuation of power of the Project was thereafter discussed in the 50th STU Coordination Committee Meeting held on 05.09.2022 under the chairmanship of Chief Secretary, GoHP as per Item No. 7 wherein the DoE informed that efforts would be made for amicable settlement of issue between the two parties failing which the matter would be brought on the next meeting.

17. The Petitioner again requested the Respondent No. 1 vide letter dated 14.11.2022 for amicable settlement of the dispute but on 13.12.2022, the Respondent No. 1 rejected the request for NOC by mentioning as under:-

"It is submitted to you that this is not matter of desire if our line is designed to bear only 5MW capacity then it is not possible for us to evacuate 5MW more power load through our line. Even if we also desire to increase the load capacity in our Power house and evacuate from our line then it is also not possible for us too. Therefore, the NOC is not possible and we also reiterate to you that our line is solely used to evacuate our power which is evacuating 5 MW. We also want to suggest you that find any other possibilities besides to relay on our Line which is incapacitate to bear more than 5MW power evacuation load which have already communicated every time."

Copies of letters dated 14.11.2022 and 13.12.2022 have been annexed as Annexure P-14 (Colly).

18. It is averred that Government of India (GoI) accorded forest clearance in respect of 4.3483 hectares of Forest Land for construction of the Project vide letter dated 02.04.2023 (Annexure P-15 colly). On declining the NOC by the Respondent No. 1 and as resolved in the 50th STU Coordination Committee Meeting held on 05.09.2022, the Petitioner vide letter dated 24.08.2023 requested the HPPTCL to place the agenda in the 51st STU Co-ordination Committee Meeting. Also vide letter dated 20.12.2023, the Petitioner further requested to convene a meeting for amicable settlement for joint evacuation of power. Copies of letters dated 24.08.2023 and 20.12.2023 are annexed as Annexure P-16 (Colly).

19. The HPPTCL vide letter dated 12.01.2024, 24.01.2024 and 01.03.2024 had also asked the Respondent No. 1 to attend the meeting to be held on 19.04.2024, 19.02.2024 and 12.03.2024 respectively but in vain. However, on 27.03.2024, in a meeting held under the Chairmanship of MD, HPPTCL, representations of the Respondent No. 1 appeared and informed that the power of the Petitioner cannot be evacuated due to power constraints in 33 kV transmission line from Kurhed-I HEP to 33 kV Holi Sub-station. The Copy of the Minutes of Meeting (MoM) has been annexed as

Annexure P-17. Based on the meeting dated 27.03.2024, the Respondent No. 1 vide letter dated 03.05.2024 (Annexure P-18) informed the HPPTCL that the Respondent No. 1 is not interested in allowing any evacuation in joint mode with Dera SHEP on its 33 kV transmission line and the issue be closed.

20. The Petitioner vide letter dated 12.04.2024 (Annexure P-19) again requested the Respondent No. 1 for amicable settlement by informing that the Petitioner is willing to share the cost of the transmission line of the Respondent No. 1 to 33 kV Sub-station, Holi.

21. On 25.04.2024, the Petitioner further requested for resolving the issue of joint evacuation and vide letter dated 21.06.2024 it requested the HPPTCL to place the agenda before the 51st STU Meeting to be held on 16.08.2024. Accordingly the matter of joint evacuation of power of the Dera HEP with Kurhed-I HEP was placed in the 51 STU meeting on 16.08.2024 at Item No. 2 but keeping in view the adamant behavior of the Respondent No. 1, it was decided in the STU meeting to approach the Commission for Redressal of grievances of the Petitioner. The relevant extract of the MoM (Annexure P-20) has been reproduced as under:-

“MD, HPPTCL informed the chair that since the matter is related to dedicated transmission line and for optimum utilization of the resources/ROW, HPPTCL/STU is of the opinion that multiple dedicated lines are not in the interest of state. Furthermore, there is sufficient capacity in the corridor and developers either may settle the case mutually or may approach the Hon’ble HPERC through filing a petition. Keeping in view that M/S Himachal Hydel Projects Pvt. Ltd. is not interested to settle the issue through mutual agreement as conveyed through various correspondence, it was decided that the developers may approach the regulator for resolution by filing a petition before Hon’ble HPERC. Accordingly agenda shall be dropped from future discussions.”

22. According to the Petitioner, the power evacuation from its Project switchyard (Dera HEP) to Kurhed-I HEP (the Project of the Respondent No. 1) crossing river Ravi around 7 km long transmission line will be constructed by the Petitioner upto Kurhed-I HEP and thereafter the power evacuation will be in joint mode from Kurhed-I HEP to Holi Sub-station of HPSEBL which is around 8 km. In case the NOC is not granted by the Respondent No. 1, the Petitioner will have to construct a dedicated 8 km long transmission line through very tough terrain which will not be environmentally and technically feasible. Thus, the power evacuation in joint mode with the Respondent No. 1 is in the interest of justice.

23. The following questions of law have been formulated:-

- i. Whether the refusal by Respondent No. 1 to share its transmission line for joint mode despite having sufficient capacity to carry power of both projects which violates the principle of the optimum utilization of the existing right-of-way corridor to their

optimum capacity to ensure minimal social and environmental impacts and underline resources of the State (ROW)?

- ii. Whether the denial of transmission access to the Petitioner's renewable energy project constitutes arbitrary and discriminatory behavior under the Electricity Act, 2003.
- iii. Whether the generator has an absolute right to deny the use of its dedicated transmission line to another generator, especially in cases where corridor constraints make constructing a separate line infeasible.
- iv. Whether public interest and efficient utilization of transmission infrastructure override the exclusive rights of a generator over its dedicated transmission line.
- v. Whether the delay in commissioning the Petitioner's renewable energy project due to non-cooperation by Respondent No. 1 is arbitrary and contrary to settled principles of law.
- vi. Whether the refusal to allow shared use of a dedicated transmission line contravenes the HPERC (Promotion of Generation from Renewable Energy Sources) Regulations, 2007, which encourage joint project lines in corridor constrained areas.
- vii. Whether the Respondent's refusal undermines the objectives of the National Electricity Policy and the Electricity Act, 2003, particularly with respect to promoting renewable energy and ensuring non-discriminatory access to transmission systems.
- viii. Whether the Commission has the authority under Section 86 (1) (f) of the Electricity Act, 2003 to direct the sharing of a dedicated transmission line in the interest of efficient infrastructure use and timely project commissioning.
- ix. Whether allowing shared use of the transmission line would align with Himachal Pradesh's renewable energy targets and facilitates clean energy integration into the grid.
- x. Whether the Commission can impose equitable terms and conditions, including wheeling charges or other financial arrangements, to facilitate the shared use of a transmission line.

24. According to the Petitioner, the Electricity Act, 2003 promotes non-discriminatory access to transmission line and infrastructure.

Section 10 of the Act allows generating companies to transmit power

through available transmission line subject to technical feasibility and necessary charges. Section 42 of the Act ensures that the transmission licensee and the distribution licensee operate in such a manner that provide open access to all the generators but the action of the Respondent No. 1 by not allowing evacuation through its dedicated line is against aforesaid provisions and undermines the objectives of the Act. Section 40 of the Act further provides that the transmission line should be made available for use by all the generators under fair and equitable terms, ensuring efficient grid operation subject to just conditions and charges. Not only this, the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from Renewable Energy Sources) Regulations, 2007 explicitly allow the joint use of Project lines in cases where corridor constraints exists.

25. It is averred that the Principle of optimal utilization of right of way corridor mandates the use of existing infrastructure to avoid social, environmental and financial costs but the action of the Respondent No. 1 would involve constructing a new transmission line by spending huge amount, clearances delay and land acquisition challenges which are impractical and economically inefficient,

besides, duplication of resources and environmental degradation which would be against the public interest.

26. It is averred that the Petitioner has agreed to share the cost of using the transmission line of the Respondent No. 1 including any necessary modification and upgradation to the transmission line for smooth evacuation of power and as enshrined under the Electricity Act, 2003 so that the financial burden is distributed fairly between the users. Also that the Commission is empowered to impose reasonable wheeling charges to facilitate shared use of transmission line.

27. According to the Petitioner, constructing a new 15 km transmission line through challenging terrain would impose significant financial burden and environmental costs on the Petitioner making the Project unviable. Therefore, the joint evacuation of power from the transmission line of the Respondent No. 1 is a practical and feasible solution. Further, Section 35 of the Act provides that the transmission licensee and the line owners are under an obligation to provide non-discriminatory open access to its users subject to technical feasibility and payment of applicable charges, thus, the refusal on the part of the Respondent No. 1 to not allow joint

evacuation of power contravenes the mandate under Section 35 of the Act.

28. According to the Petitioner, sharing of electricity transmission line among the hydro power developers is governed by the Regulatory framework established by the Central Electricity Authority (CEA) and the Central Electricity Regulatory Commission (CERC) with an aim to optimize the utilization of transmission infrastructure and ensure efficient power evacuation and sharing transmission infrastructure among renewable energy developers which is a widely accepted practice. Further, the Swaran Jayanti Policy of the GoHP outlines the development of Small Hydro Projects and encourages the use of dedicated lines for joint evacuation of power from two or more hydro projects.

29. Also that the refusal by the Respondent No. 1 has caused significant delay in the commissioning of the Petitioner's Project which is arbitrary, discriminatory and contrary to the principles of fairness and equity and not only jeopardizes the financial viability of the Petitioner's Project but also result in loss of energy generation causing national loss.

REPLY OF THE RESPONDENTS

30. The Petition has been resisted by the Respondents No. 1, 2, 3 and 5 by filing the separate replies. No reply has been filed by the Respondent No. 4.

REPLY OF RESPONDENT NO. 1

31. The Respondent 1 in its reply has averred that Petition is not maintainable qua the Replying Respondent as the transmission infrastructure in question is a dedicated transmission line as defined under Section 2 (16) of the Act which has been developed by the Respondent No. 1 for its exclusive use and is not part of the State or Central Transmission system and not subject to open access under normal regulatory provisions.

32. According to the Respondent No. 1, the jurisdiction under Section 86 (1) (f) by the Commission must be exercised within the framework of rights and obligations under the law and the Regulatory Commission cannot compel a generator to allow use of its private assets. Also that the use of another party's infrastructure as mentioned under Section 35 and 36 of the Act may be permitted only through express consent or statutory acquisition process and not by regulatory directive. According to the Respondent No. 1, the open

access is available only on transmission line forming part of a licensee's network and not on dedicated lines privately owned by another generator. Even Section 42 (2) of the Act enables non-discriminatory open access to the system of the distribution licensee and not to private assets held by another generator.

33. Also averred that the Petitioner has not approached the Commission with clean hands and has suppressed material facts. The Petitioner has already been granted permission by the forest department for underground and overhead transmission lines till the main station. Thus, there is no question of topographical viability or public interest and rather, the Petitioner is intending to achieve private interest/ gain by pushing the Respondent No. 1 for joint evacuation of power by using the process of law.

34. According to the Respondent No. 1, the Project of the Petitioner is at ground zero stage as no acquisition of private land has been carried out and no construction of the Project has started and the Petitioner has been misleading the authorities by alleging that he has suffered huge losses on account of non issuance of NOC by the Replying Respondent. The Petitioner has forest clearances for the transmission line which has no concern with the Project line of the

Respondent No. 1. It is further averred that the Replying Respondent shall suffer heavy losses on account of energy loss and grid failures, in case the joint evacuation (through Project line) is allowed. Further, the Petitioner was allotted the Project much before the allotment of Project to the Replying Respondent and could have approached the Respondent at the preliminary stage of execution of its Project and now the Petitioner cannot be allowed to take a U-turn to decide the transmission route for its Project line on its whims and fancies.

35. According to the Respondent No. 1, there is no privity of contract between the Respondent No. 1 and the Petitioner and the Petitioner has deliberately misled the Commission, by heavily relying on the Interim Connectivity Agreement dated 22.11.2018 executed between the Petitioner and the Respondent No. 2 and the Respondent No. 3 proposing evacuation of power at Sub-station Lahal with interfacing at Holi Sub-substation to Gharola line in joint evacuation with Kurhed-I but said Interim Connectivity Agreement has no concern with the dispute for which the Petitioner is asking for NOC. The arrangement as per the said Interim Connectivity Agreement is from the Holi Sub-station to Gharola line till Lahal which is part of the transmission system, whereas, the proposed

arrangement of joint evacuation with the Petitioner and the Replying Respondent is from Kurhed-I HEP to Holi Sub-station on a dedicated transmission line owned, managed and controlled by the Replying Respondent. The Petitioner is deliberately intermingling the lis with the approvals under the Interim Connectivity Agreement as evident from various communications made with the Replying Respondent from time to time.

36. According to the Respondent, the existing evacuation system (dedicated line) constructed by the Respondent No. 1 is not supporting the existing evacuation load because of which the Petitioner is already suffering losses due to unstable grid. Thus, keeping in view the technical viability of line, the answering Respondent cannot be asked for joint evacuation. Not only this, the private land owners whose lands are utilized for construction of the transmission line from Kurhed to Holi i.e. existing lines have after negotiations signed agreements with the Respondent No. 1, whereby NOC have been given by them solely to the Respondent No. 1 and granting the assent to the Petitioner would tantamount to jeopardizing the rights of the Respondent No. 1 resulting in the entire process of acquiring the land afresh which may drag the Respondent No. 1 to

various kinds of litigation. Therefore, the prayer is not practically viable.

37. According to the Respondent No. 1, the perusal of feasibility report as appended by the Petitioner shows that maintenance of existing 33 kV transmission line, as specified in report shall incur more cost than the new line. Further, there is no explanation as to why the Petitioner is not interested in constructing the dedicated transmission line when the clearances have been given by the Forest department.

38. Also averred that the permission for joint evacuation requires major re-erection of structure which may take years together and on account of which, the Replying Respondent shall suffer heavy losses requiring shutting down of power house of the Replying Respondent. According to the Replying Respondent, the Project site is 10 km away from the Project of the Respondent and in the event of defect in line on account of the Project of the Petitioner, the Replying Respondent shall suffer major losses and entire exercise will create multiplicity of disputes which shall be contrary to the public interest. Otherwise also, the existing evacuation system is not in a position to support

evacuation load which may unstable the grid. Moreover, even assuming that the usage could be permitted, it would require:-

1. Technical feasibility study (load flow, stability, capacity utilization).
2. Commercial arrangement for O&M, losses, metering, scheduling injection limits.
3. Safety and liability provisions.
4. Financial Provisions on account of various losses as specified here in above.

However, no framework has been worked out or agreed between the Respondent No. 1 and the Petitioner and permitting the usage without addressing the above concern will compromise the operation and commercial viability of the Project of the Replying Respondent.

39. As per the Replying Respondent, the dedicated line constructed by a generator is considered part of the generation infrastructure and not a part of the transmission system and cannot be used by others without a transmission licensee. The sharing of the transmission line may involve technical complexities, safety issues and power quality concerns. The principle of optimal utilization of Right of Way (ROW) is a policy objective and not a binding legal duty enforceable against private entities not designated as licensees.

40. Reference has also been invited to Sections 2 (16), 10 and Section 12 of the Electricity Act that the ownership and operational control of the dedicated line rests with the generating company and any third party usage thereof requires mutual agreement and appropriate legal arrangement and the Commission cannot compel a generator to allow third party usage of a dedicated transmission line without a statutory basis or mutual consent.

41. Replying to the question of law, it is averred that there is no legal compulsion to share the infrastructure and the refusal by the Replying Respondent to share the transmission line or permit joint use having spare capacity does not violate the Principle of optimal utilization of the existing Right of Way (ROW) and the Principles stated under Sections 38, 39, 40 and 42 primarily apply to Central and State Transmission Utilities and Transmission and Distribution Licensees and the Electricity Act does not impose a legal duty on an independent power generator on its privately funded and maintained transmission line.

42. Also averred that the Commission has no authority under Section 86 (1)(f) of the Act to direct the Respondent No. 1 for sharing of dedicated transmission line, as Section 86 (1)(f) is limited to

adjudication of disputes and if sharing is to be directed, the same must be done under other regulatory power like Section 86(1)(c) and must follow principles of natural justice, technical feasibility and fair compensation. As per the Electricity Act, 2003, a generator has the exclusive right over the dedicated transmission lines that are constructed and maintained for its own use. Such lines are typically built to connect the generator's power plant to the grid and their primary purpose is for the generator's exclusive use.

43. Further, the HPERC (Promotion of Generation from Renewable Energy Sources) Regulations, 2007 primarily aim to promote renewable energy generation within Himachal Pradesh and facilitate to aim development of infrastructure for transmission of power. These Regulations focus on incentivizing renewable generation, ensuring grid stability and promoting efficient infrastructure. While the Regulations encourage use of different transmission corridors, wherever feasible but the Regulations do not impose an absolute obligation the generator to allow its dedicated transmission lines.

44. Further, if a generator has constructed a dedicated transmission line for its own use and the line is technically incapable of handling additional connections, or if the capacity is already fully

utilized, there is no violation of the Regulations in refusing access to another party. Further, the HPERC Regulations do not contain specific provisions that compel a private generator to share its infrastructure unless:

- There is a directive from the regulatory body, or
- There is a specific contractual or operational arrangement requiring sharing.

45. The Electricity Act, 2003 does not provide automatic or compulsory sharing of dedicated transmission lines owned by generators, even if it is in the interest of public efficiency or optimal infrastructure use. Such sharing can only occur if there is a regulatory order or directive compelling the generator to share, which is based on:

- Capacity availability,
- Grid optimization goals,
- Commercial agreements, or
- Specific regulations or orders issued by the Regulatory Commission.

46. Also averred that the Hon'ble APTEL has recognized that private transmission lines owned by a generator are not part of the common carrier network and, therefore, the generator's right to

control its lines is not subject to mandatory sharing under the public interest provisions of the Act.

47. Further, though the National Electricity Policy encourages:

- Coordination among developers,
- Optimal use of infrastructure, and
- Minimizing the environmental and social impact of transmission corridors.

but does not pose a binding obligation on private generators to share their dedicated lines.

48. In a nutshell, the case of the Petitioner has been denied.

REPLY OF RESPONDENT NO. 2

49. The Respondent No. 2 HPPTCL in its separate reply has averred that the Petitioner has been granted interim connectivity with interfacing at 33/11 kV Holi Sub-station of the Respondent No. 3/ HPSEBL in joint mode with Kurhed-I HEP/ Respondent No. 1 through 2nd circuit of Holi-Gharola transmission line after commissioning of 66/220 kV Heiling Sub-station of the HPPTCL. Accordingly, the Petitioner will construct 33 kV S/C (Single Circuit) transmission line upto Kurhed-I HEP from Dera HEP and thereafter the power shall be evacuated from the existing 33 kV transmission line of Kurhed-I HEP in joint mode upto 33 kV Holi Sub-station.

50. Further, the Petitioner has applied for LTOA to the HPPTCL and the Petitioner has been asked to provide NOC from the Respondent No. 1 for evacuation of power in joint mode through the Project line of the Respondent No. 1 upto 33 kV Sub-station at Holi, so that the evacuation arrangement can be confirmed for further processing of the LTOA. However, the Respondent No. 1 has not provided the consent/ NOC. The matter was also discussed in the 50th STU Coordination Committee Meeting held on 05.09.2022 when the Respondent No. 5/ DoE suggested that suitable steps for amicable settlement of dispute between the two HEPs will be taken and in case of non-resolution, the matter will be brought to the next STU meeting. Further, the Petitioner had also approached the HPPTCL for resolving the matter and accordingly, a meeting was held on 27.03.2024 for evacuation of power from the Project of the Petitioner in joint mode with Kurhed-I HEP to Holi Sub-station but in vain. Copy of Minutes is annexed as Annexure P-17.

51. The matter was also taken up on 16.08.2024 in the 51st STU Co-ordination Committee meeting (Annexure P-20) but the Respondent No. 1 was not interested in settling the issue through

mutual agreement and, therefore, it was decided that the developer may approach the Commission for resolution of matter.

52. According to the HPPTCL, in view of the refusal of Respondent No. 1, as mentioned above, for the optimum utilization of resources/ ROW, multiple distribution lines are not in the interest of the State and therefore, the existing ROW/ corridors shall be used to their optimal capacity to ensure minimal social and environmental impact and underlying resources of the State and ROW cannot be kept underutilized. Further, the said 33 kV line (line of Kurhed-I HEP) is on Dog Conductor as per information available and shall be sufficient to carry power of both the Projects.

REPLY OF RESPONDENT NO. 3

53. The Respondent No. 3 HPSEBL in its separate reply has averred that the HPSEBL is responsible for ensuring the seamless and efficient distribution of power within its jurisdiction and supports the request for the use of dedicated transmission line (belonging to the Respondent No. 1) subject to necessary technical and regulatory compliance.

54. According to the HPSEBL, as per the feasibility assessment conducted by the Petitioner, the evacuation of power of Dera HEP is

feasible through the HPSEBL Network subject to modification/ up-gradation of some infrastructure i.e.:-

- i. Augmentation of existing bus Bar and construction of parallel Bus Bar at 33/11 kV Sub-station Holi with suitable capacity.
- ii. Augmentation of existing 33 kV CTs and associated equipments of 33/11 kV Sub-station Holi with suitable capacity.
- iii. Augmentation of 33 kV Holi-Gharola line (Ckt. No.-1) from Dog conductor to Wolf Conductor.
- iv. Construction of LILO of 33 kV Holi-Lahal Line (Ckt. No.-II) at 33 kV Sub-station Gharola.

55. According to the HPSEBL, the feasibility study is based on established technical parameters and system load analysis that allowing the utilization of the transmission line of the Respondent No. 1 will not impact the stability and reliability of the grid post modification/ upgradation of existing network. Further, the HPSEBL grants connectivity to Hydro Electric Projects based on the technical feasibility in line with the HPERC prevailing Grant of Connectivity Regulations.

56. It is averred that the Respondent No. 2/ State Transmission Utility has also taken a view favouring utilization of the dedicated

transmission line considering the availability of spare capacity and technical feasibility. However, the usage has to be aligned with the Regulatory framework as per the Electricity Act, 2003 and the relevant policies governing transmission infrastructure sharing and the Commission may consider the operational, financial and legal implications of such utilization.

57. Further averred that the para-wise comments to the Petition are not required and leave of the Commission has been sought for sub-para-wise reply/ additional submissions/ clarifications, if so required to be submitted in the future. Further, the interim agreement was signed between the HPSEBL/ HPPTCL and the Petitioner on 22.11.2018 with the evacuation arrangement at 33/220 kV Sub-station Lahal with interfacing at 33/11 kV Sub-station Holi in joint mode with Kurhed-I HEP through 2nd circuit of Holi-Gharola line (under construction) after commissioning of 66/220 kV Sub-station Heiling. The detail of IPPs connected/ proposed at 33/11 kV Holi Sub-station on permanent connectivity arrangement through 33 kV Holi-Gharola-Dinka line Ckt. No. 1 is given as under:-

I) IPPs connected:-

a) Holi-I	-	3.0 MW
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b) Holi-II	-	7.0 MW
c) Kurhed	-	4.5 MW
d) Tulang	-	3.0 MW
e) Proposed Dera SHEP	-	5.0 MW
Total	-	22.5 MW

Copy of feasibility report alongwith Single Line Diagram furnished by the Chief Engineer (Generation), HPSEBL Sundernagar has been annexed as Annexure R-3/1.

58. Similarly, the details of the present loading position of 33 kV Holi-Gharola-Dinka line Ckt. No.-I is as under:-

II) Present loading position of 33 kV Holi-Gharola-Dinka line Ckt. No.-I:-

a) Size of Conductor	-	Dog (100 mm ²)
b) Maximum current carrying capacity	-	291 Amp (14 to 15 MW)
c) Maximum demand on the feeder	-	14 MW
d) Minimum demand on the feeder	-	2 MW

59. According to the HPSEBL, the detail of IPPs connected/ propped at 33/ 11 kV Sub-station Holi on interim connectivity arrangement through 33 kV Holi-Lahal line Ckt. No.-II is as under:-

I) IPPs connected:-

a) Kuwarsi-I	-	9.9 MW
b) Kuwarsi-II	-	15 MW
c) Salun	-	9 MW

Total - 33.9 MW
II) Present loading position of 33 kV Holi-Lahal line Ckt.

No.-II:-

- a) Size of Conductor - Wolf (150 mm²)
- b) Maximum current carrying capacity - 405 Amp (17 to 21 MW)
- c) Maximum demand on the feeder - 24 MW
- d) Minimum demand on the feeder - 4.5 MW

Copy of the feasibility report alongwith single line diagram furnished by Sr. Executive Engineer, Electrical Division HPSEBL, Chamba has been annexed as Annexure R-3/2.

60. Also averred that the two IPPs namely Kuwarsi-II (15 MW) and Salun (9 MW) have been connected with 33 kV line from 33/11 kV Sub-station Holi to 22/33 kV Sub-station Lahal as an interim arrangement and their permanent connectivity in joint mode will be at 220/66 kV Sub-station Heiling.

REPLY OF RESPONDENT NO. 5

61. The Respondent No. 5/ DoE in its separate reply has submitted that while granting the Techno Economic Clearance (TEC) in respect of the Project of the Petitioner vide endorsement No. DoE/CE(TEC)/TEC-Dera/2012-6232-40 dated 03.12.2012, it was mentioned in Sub-clause (xvi) of Clause 2 of the TEC as under:-

“For evacuation of power the IPP shall interface this project with 33 kV Sub-station at Holi Power House through 33 kV line build on double circuit structures with zero 0.15 sq.in. “WOLF” conductor in joint mode with downstream projects namely Garoh SHP and Kunkali SHP. The cost of joint transmission line and terminal equipment at Holi Power House Sub-station shall be shared by the IPPs of these projects on proportionate basis.”

The copy of the office order dated 03.12.2012 has been enclosed as Annexure R-5/A.

REJOINDERS

62. In rejoinder to the reply of the Respondent No. 1, the contents of the written statement filed by the Respondent No. 1 have been denied and those of the Petition have been reaffirmed.

ORAL SUBMISSIONS

63. We have heard Sh. Ashok Verma, Ld. Counsel for the Petitioner, Sh. Nimesh Gupta, Ld. Counsel for the Respondent No. 1, Smt. Deepica Gautam, Ld. Vice Counsel for the Respondent No. 2, Sh. Kamelsh Saklani, Authorised Representative for Respondent No. 3 and Sh. Shanti Swaroop, Legal Consultant for the Respondent No. 5 and have gone through the record carefully.

64. Sh. Ashok Verma, Ld. Counsel for the Petitioner has submitted that constructing a transmission line of 15 KM for evacuation of power of a small project was not feasible for the Petitioner due to difficult

terrain and high cost, as such, the Petitioner had requested the Respondent No. 1 several times regarding the power evacuation of its Project (5.0 MW) upto Holi Sub-station by the transmission line belonging to Kurhed-I (4.5 MW) in joint mode with the Respondent No. 1 but the Respondent No. 1 for the reasons best known to it has not acceded to its requests despite the fact that the transmission line belonging to the Respondent No. 1 has sufficient evacuation/ carrying capacity to accommodate the evacuation of power of the Project of the Petitioner. According to him, even a technical consultant was engaged by the Petitioner and a detailed inspection was carried out and the feasibility report was shared with the Respondent No. 1 that the evacuation is technically feasible but still the Respondent No. 1 has not agreed to the same and refused to provide the NOC and as a result thereof, the Petitioner has suffered huge loss. He has also submitted that there is a limited corridor facility and difficult terrain and right of way constraints and, therefore, constructing a new line of 15 KM from the Project of the Petitioner upto 33 kV Holi Sub-station will be very difficult, besides economically unviable. Therefore, in order to make optimal use of corridor in the eco-sensitive zone, it is in the interest of the Petitioner and the Respondents to make optimum

utilization of the corridor. He has also submitted that the Petitioner has signed an Interim Evacuation Agreement with the HPSEBL and the HPPTCL on 22.11.2018 with the proposed arrangement of evacuation of power in joint mode with the Respondent No 1 but the Respondent No. 1 has refused to honour the same.

65. Sh. Nimesh Gupta, Ld. Counsel for the Respondent No. 1 on the other hand has submitted that a transmission line has been constructed by the Respondent No. 1 for evacuation of power of its Project i.e. Kurhed-I HEP which is a dedicated line ,as defined under Section 2 (16) of the Electricity Act and does not form part of the Central/ State Transmission System and the same is also not open under normal open access provisions. He has also submitted that the open access is only applicable on transmission line/ system belonging to the State Transmission Utility (STU) and not on the dedicated transmission line owned and operated by the generator. Further Sections 42 (2), 35 and 36 of the Electricity Act, 2003 permit use of the another party's infrastructure through express consent or statutory power and not by regulatory directives.

66. According to him, the Petitioner has already been granted permission for construction of underground and overhead

transmission line by the Forest Department, therefore, there is no question of topographical viability as projected but the Petitioner is trying to achieve the gain by pushing the Respondent No. 1 to agree to joint evacuation. He has also submitted that the Respondent No. 1 will suffer heavy losses on account of system reliability, coordination issues and grid failure, if joint evacuation is allowed through its line which is not capable of transmitting additional load. According to him, the Project of the Petitioner was allotted much prior to the allotment of the Project to the Respondent No. 1 but the Petitioner has failed to approach the Respondent No. 1 at preliminary stage of execution of the Project by the Respondent No. 1. Further, the interim Connectivity Agreement dated 28.11.2022 has no bearing with the controversy at hand and that the private land owners whose lands were utilized for construction of the transmission line from Kurhed-I to Holi Sub-station have given the NOCs solely to the Respondent No. 1 and thus, the evacuation as prayed cannot be allowed as the same would result in multiple litigation. He has also submitted that existing evacuation system is not supporting the additional evacuation load, as such, it is not feasible to opt for joint evacuation through the transmission line belonging to the Respondent No. 1.

67. Smt. Deepica Gautam, Ld. Vice Counsel for the Respondent No. 2 and Sh. Kamlesh Saklani, Authorised Representative for the Respondent No. 3 have submitted that in case there is carrying capacity in the line of the Respondent No. 1, the power can be evacuated upto 33 kV Holi Sub-station with the consent of the Respondent No. 1.

68. Sh. Shanti Swaroop, Ld. Legal Consultant for the Respondent No. 5 has submitted that power arrangement has been provided for evacuation of power while granting the Techno Economic Clearance.

POINTS FOR DETERMINATION

69. 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 Respondent has illegally refused the No Objection Certificate (NOC) to the Petitioner to evacuate the power of its Project in joint mode with the Project line of the Respondent No. 1 upto 33 kV Holi Sub-station?

Point No. 2: Whether the Petitioner is unable to construct a transmission line from its Project i.e. Dera HEP upto the Inter-connection Point owing to difficult terrain and constraints of right of way rendering the Project of the Petitioner economically unviable?

Point No. 3: Whether the Petitioner can be permitted to evacuate the power from its Project through the Project line of the Respondent No. 1 upto Holi Sub-station?

Point No. 4: **Final Order**

70. 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: No.

Point No. 4: The Petition dismissed per operative part of the
(Final Order) Order.

REASONS FOR FINDINGS

Points No. 1, 2 and 3:

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

72. Before we advert to the merits of the case, it is relevant to refer that the Respondent No. 1 has constructed its own 33 kV

transmission line from its Project i.e. Kurhed-I HEP upto the interface point at 33 kV Holi Sub-station belonging to the HPSEBL. It is also not in dispute that the Petitioner has not invested even a single penny on the construction of said line by the Respondent No. 1 for evacuation of power of its Project to 33 kV Holi Sub-station. Similarly, it is none of the case of the Respondents No. 2 and 3 that said line from Kurhed-I HEP to 33 kV Sub-station Holi belongs to them or form part of the STU network.

73. It is the case of the Petitioner that the power from the Project of the Petitioner can be conveniently evacuated in joint mode through the Project line of the Respondent No. 1 upto the Holi Sub-station of the HPSEBL and in case such evacuation is not allowed by the Respondent No. 1, the Petitioner will have to construct a dedicated transmission line of about 8 KM from Kurhed-I (Project of the Respondent No. 1) to the Holi Sub-station of the HPSEBL, through very tough terrain which will not be technically and environmentally feasible and would make the Project unviable. In the circumstances, the evacuation of power of the Project of Petitioner in joint mode from Kurhed-I HEP through the transmission line of the Respondent No. 1/ Kurhed-I HEP is unavoidable.

74. It is also the case of the Petitioner that the Project line belonging to the Respondent No. 1 from Kurhed-I HEP to Holi Substation of the HPSEBL has sufficient capacity for evacuation/ carry the power of the Project of the Respondent No. 1 as also the power of the Project of the Petitioner, therefore, the Respondent No. 1 was approached by the Petitioner with all the documents and requested for the concurrence of the proposal and though the Respondent No. 1 appreciated the proposed arrangement initially but has not issued the "No Objection Certificate (NOC)". Not only this, the Petitioner also hired a technical consultant for assessing the technical feasibility of the Project line to carry the power of both HEPs and the technical consultant that in its detailed report dated 19.01.2018 has confirmed that the Project line of the Respondent No. 1 was technically 100% fit to handle the additional load of the Project of the Petitioner upto 6.0 MW in addition to its own load subject to certain change/ modification and strengthening of the system. According to him, said feasibility report was also shared with the Respondents but despite all this, the Respondent No. 1 has not issued the NOC.

75. A careful perusal of the record shows that a series of correspondence was exchanged between the Petitioner, the Respondent No. 1 and other Respondents. On the refusal of NOC by the Respondent No. 1, the matter was also discussed in the 50th and 51st STU Coordination Committee Meetings held on 05.09.2022 and 16.08.2024, respectively, but no consensus could be reached. The relevant extract of the MoM dated 05.09.2022 of the 50th STU Meeting is being reproduced as under:-

“7. Power evacuation of Dera SHEP (5 MW) in District Chamba. The matter was discussed in detail. Director (Energy) DoE suggested that suitable steps for amicable settlement of the dispute between the two HEPs will be taken up. In case of no-resolution, the same may be brought again in the next STU meeting.”

76. Though, there is no detailed reference in the Petition as to what steps were taken by the DoE, GoHP (Respondent No. 5) for the amicable settlement of the matter for evacuation in joint mode between the Petitioner and the Respondent No. 1, as discussed in the 50th STU Meeting, but it appears that no consensus could be reached. In the circumstances, as agreed in the 50th STU Meeting on 05.09.2022, the matter was again taken up in the 51st STU Co-ordination Committee Meeting held on 16.08.2024 but still no outcome could be reached and rather, the Petitioner was asked to

approach the Commission. The relevant minutes of the 51st STU meeting have been reproduced as under:-

“MD, HPPTCL informed the chair that since the matter is related to dedicated transmission line and for optimum utilization of the resources/ ROW, HPPTCL/ STU is of the opinion that multiple dedicated lines are not in the interest of State. Furthermore, there is sufficient capacity in the corridor and developers either may settle the case mutually or may approach the Hon’ble HPERC through filing a Petition.

Keeping in view that M/s Himachal Hydel Projects Pvt. Ltd. is not interested to settle the issue through mutual agreement as conveyed through various correspondence, it was decided that the developers may approach the regulator for resolution by filing a Petition before the Hon’ble HPERC. Accordingly agenda shall be dropped from future discussions.”

In the aforesaid premise, the Petitioner has approached the Commission.

77. The stand of the Respondent No. 1 is that the line constructed by it from its Project i.e. Kurhed-I HEP to the Inter-connection Point is a dedicated transmission line as defined under Section 2 (16) of the Electricity Act, 2003 and is not part of the Central/ State transmission system and is also not subject to open access under normal regulatory provisions. It is also the stand of the Respondent No. 1 that the Project line is not even supporting the existing load of the Project as a result, the Respondent No. 1 is suffering huge losses and, therefore, the joint evacuation is not possible.

78. The Project in question i.e. Dera HEP was initially allotted to the predecessor in the interest of the Petitioner. An IA was signed on 31.10.2013. Thereafter, M/s Bharmani Hydro Power Limited approached the GoHP for change in shareholding and name of Project which request was allowed by the GoHP and a Supplementary Implementation Agreement (SIA for short) was signed on 22.06.2015 for implementing 5.0 MW capacity Project. Further, a tripartite agreement was also signed between the HIMURJA, M/s Bharmani Hydro Power Private Limited and M/s Dera Hydro Power Private Limited on the same day i.e. 22.06.2015 and thereby the Project was named as Dera HEP.

79. As mentioned above, the predecessor interest of the Petitioner had signed the IA with the GoHP on 31.10.2013. As per Clause 2.1 (I) of the IA dated 31.10.2013, the interconnection point for the Project of the petitioner was defined as under:-

“Interconnection-Point shall mean the physical touch point(s) where the Project shall be interfaced with 33 kV Sub-station at HOLI Power House through 33 kV line built on D/C structures with 0.15 sq. in. “WOLF” conductor in joint mode with down stream projects namely GAROH SHP and KUNKALI SHP. The cost of the joint transmission line and terminal equipment at HOLI Power House Sub-station shall be shared by the IPPs of these

projects on proportionate basis, subject to the approval of HPERC, as per Clause-XIV & XVI of TEC.”

80. When the Petitioner signed for the SIA on 22.06.2015 after changing the shareholding and name of the Project, the definition of the Interconnection Point as contained in Clause 2.1 (I) was substituted as under:-

“2.1 Existing Clause 2.1 (I) of already signed Implementation Agreement shall stand modified and be read as under:-

“Inter-connection Point” shall mean the physical touch point(s) where the Project shall be interfaced with switchyard of DUG (1.50 MW) SHEP at 33 kV level for further evacuation of power in joint mode with DUG (1.50 MW) SHEP upto 33 kV Sub-station at Holi Power House of the HPSEBL. The expenditure of 33 kV line from DUG SHEP to HOLI Power House of HPSEBL will be shared by both the IPPs on proportionate basis subject to the approval of HPERC: as per corrigendum issued by Directorate of Energy vide letter No. DOE/CE/ Corrigendum/TEC-Dera(SHP)/2014-4750-58, dated 25.08.2014.”

81. It is, thus, evident that a proper power evacuation arrangement was made in respect of the Project of the Petitioner in the IA and SIA, as mentioned above. However, no explanation has been offered by the Petitioner as to how and why said evacuation arrangement as proposed in SIA dated 22.06.2015 is not viable or feasible for the Project. In fact, the Project of the Petitioner was proposed to be interfaced with switchyard of DUG (1.50 MW) SHEP at 33 kV level for further evacuation of power in joint mode with DUG

(1.50 MW) SHEP upto 33 kV Sub-station at Holi Power House of the HPSEBL as per the SIA dated 22.06.2015. Not only this, it is further provided in the SIA dated 22.06.2015 that the expenditure of 33 kV line from DUG SHEP to HOLI Power House of HPSEBL will be shared by both the IPPs i.e. Dera HEP and Dug HEP on proportionate basis subject to the approval of HPERC as per the corrigendum issued by the Directorate of Energy vide letter No. DOE/CE/ Corrigendum/TEC-Dera(SHP)/2014-4750-58, dated 25.08.2014. It is, therefore, evident that a proper evacuation arrangement of the power upto interconnection point at 33 kV Holi Sub-station has already been made for the Dera HEP but the Petitioner has not mentioned even an iota in the Petition about said evacuation arrangement. There is not even a mention in the Petition that DUG HEP has not come up or has been cancelled. This explanation was necessary and withholding of such vital information shows that material facts have been suppressed.

82. The Petitioner has not placed on record the Techno Economic Clearance dated 03.12.2012 in respect of its Project. However, the Respondent No. 5/ DoE alongwith its reply has placed on record the

copy of TEC (Annexure R-5/A) which shows the interconnection point in respect of the Project was proposed as under:-

“xiv) For evacuation of power the IPP shall interface this project with 33 kV Sub-station at Holi Power House through 33 kV line build on double circuit structures with zero 0.15 sq.in. “WOLF” conductor in joint mode with downstream projects namely Garoh SHP and Kunkali SHP. The cost of joint transmission line and terminal equipment at Holi Power House Sub-station shall be shared by the IPPs of these projects on proportionate basis.”

83. Surprisingly, the entire Petition is silent whether the Petitioner had applied for the revised TEC to the DoE that the arrangement as proposed in IA, SIA and TEC was not feasible and the evacuation arrangement be changed or modified. Though, vide the SIA dated 22.06.2015, the interconnection point was changed that the Project shall be interfaced with switchyard of DUG (1.50 MW) SHEP at 33 kV level for further evacuation of power in joint mode with DUG (1.50 MW) SHEP upto 33 kV Sub-station at Holi Power House of the HPSEBL but no explanation has come forward from the Petitioner as to why said arrangement was not availed or feasible especially when the expenditure of 33 kV line from DUG SHEP to Holi Power House of the HPSEBL has to be shared by both the IPPs on proportionate basis subject to the approval of the Commission. So much so, even DUG HEP has not been arrayed as a party to the Petition.

84. The aforesaid arrangement of evacuation of power contained in the IA, SIA and TEC have been proposed after carrying out the system study and feasibility at the spot. However, it appears that the Petitioner at its own has proposed to evacuate its power in joint mode through the Project line of the Respondent No. 1 without there being any study in this regard by the DoE, GoHP.

85. The replies of the HPSEBL, the HPPTCL and the DoE, GoHP are silent that the authorities have permitted the Petitioner to evacuate power of Dera HEP in joint mode with Kurhed-I HEP. Rather, the replies of the Respondents No. 2 and 3 simply state that such power can be evacuated from 33 kV Sub-station Holi. The HPPTCL in its reply has mentioned that the Petitioner shall construct 33 kV Single Circuit line upto Kurhed-I HEP and therefrom, the power of both HEPs shall be evacuated in a joint mode upto 33 kV Holi Sub-station but said stand of the HPPTCL is contrary to the evacuation arrangement as provided in the SIA dated 22.06.2015. It is further mentioned by the HPPTCL in its reply that for optimum utilization of the capacity of the line of HEP and constraints of ROW, such arrangement can be allowed but as per SIA dated 22.06.2015,

there is no such issue of ROW. If such arrangement, as proposed by the Petitioner without any study by the DoE is allowed, what will happen to DUG HEP, which has to evacuate the power in joint mode with Dera HEP, no explanation has come forward from the HPPTCL, the HPSEBL and the DoE. Apparently, no feasibility study has been carried out by the DoE, GoHP, the HPSEBL and the HPPTCL about the joint evacuation of power of the Dera HEP with the Project of the Respondent No. 1. Therefore, in absence of such feasibility study and permission by the concerned authorities, it can be safely stated at the very outset that the arrangement as proposed by the Petitioner for evacuation of its power through the Project line of the Respondent No. 1 is not feasible.

86. No doubt, the Petitioner has claimed that it took up the matter with the Respondent No. 1 allowing it to transmit its power through the Project line of the Respondent No. 1 in joint mode and though the Respondent No. 1 initially agreed for such arrangement but has not issued the NOC but why the Petitioner not approached the DoE, in this regard, no explanation has come forward. In this regard, the Petitioner claims that a consultant was also hired by it, who in its

report dated 19.01.2018 has opined that the existing transmission line from Kurhed HEP to HPSEB Sub-station at Holi is technically 100% fit to cater the load of Dera HEP i.e. 6 MW in addition to its own load of 5.4 MW (considering 20% overload of existing capacity), subject to changes and strengthening of the system but said feasibility report is of no consequence as a proper evacuation arrangement of power has already been made in respect of Dera HEP alongwith DUG HEP by the DoE, GoHP as evident from SIA dated 22.06.2015 and unless said evacuation arrangement is changed or modified, no other arrangement can be allowed by the Commission. Therefore, the report of the consultant dated 19.01.2018 is of no consequence.

87. Thus, it can be safely concluded that unless a revised TEC and evacuation arrangement in respect of Dera HEP is issued after carrying out the detailed system study by the DoE, it cannot be said that the power of the Project of the Petitioner can be evacuated through the Project line of the Respondent No. 1 in joint mode.

88. The Respondent No. 1 has submitted that the Petitioner has not approached the Commission with clean hands and has suppressed

material facts. The Petitioner has already been granted permission by the forest department for underground and overhead transmission lines till the main station. Thus, there is no question of topographical viability or public interest as claimed.

89. The Petitioner has also relied upon the Interim Connectivity Agreement dated 22.11.2018 executed between the Petitioner, the Respondent No. 2 and the Respondent No. 3 evacuation of power but said Interim Connectivity Agreement has no concern with the dispute for which the Petitioner is asking the NOC. The arrangement, as per the said Interim Connectivity Agreement, is from the Holi Substation to Gharola line till Lahal which is part of the transmission system of the Respondents No. 2 and 3, whereas, the issue of joint evacuation with the Petitioner and the Respondent No. 1 is from Kurhed to Holi on the dedicated transmission line owned, managed and controlled by the Respondent No. 1. Therefore, the Respondent No. 1 being not a party to the agreement dated 22.11.2018, said arrangement too cannot be pressed into any service by the Petitioner.

90. Therefore, the Petitioner has not violated the principle of optimal utilization of ROW and the action of the Respondent No. 1 denying the NOC is neither arbitrary nor discriminatory. It is also not

established by the Petitioner that the Respondent No. 1 is responsible in any manner for the delay in commissioning of the Project of the Petitioner. Similarly, the Petitioner has not been able to substantiate that the Respondent No. 1 has violated the provisions of the HPERC (Promotion of Generation from Renewable Energy Sources) Regulations, 2007 or any provisions of the Act.

91. Since, the Petitioner intends to change the evacuation arrangement for its Project as provided to it under the SIA dated 22.06.2015, the Petitioner, if so advised, may approach the GoHP in this regard so that alternate evacuation arrangement for Dera HEP is allowed, in case of any hardship.

92. In view of the above the Petitioner has not been able to establish on record that the Respondent has illegally refused the NOC to the Petitioner to evacuate the power of its Project in joint mode with the Project line of the Respondent No. 1 upto 33 kV Holi Sub-station. Similarly, the Petitioner has failed to establish on record that the Petitioner is unable to construct a transmission line from its Project i.e. Dera HEP upto the Inter-connection Point owing to difficult terrain and constraints of right of way rendering the Project of the Petitioner economically unviable. The Petitioner has also failed to

establish on record that the Petitioner can be permitted to evacuate the power from its Project through the Project line of the Respondent No. 1 upto Holi Sub-station. Points No. 1, 2 and 3 are accordingly decided against the Petitioner.

Final Order

93. 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 disposed off.

The file after needful be consigned to the records.

Announced
27.09.2025

-Sd-
(Shashi Kant Joshi)
Member

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