BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION SHIMLA

Miscellaneous Application No: 415 of 2025
Instituted on: 01.05.2025
Heard on: 19.09.2025
Decided on: 15.11.2025

CORAM:

YASHWANT SINGH CHOGAL
MEMBER (Law)-cum-CHAIRMAN.

SHASHI KANT JOSHI
MEMBER.

In the matter of:-

M/s J.B. Rolling Mills Limited.
Village Kheri, Trilokpur Road,
Kala Amb, Tehsil Nahan,
Distt. Sirmaur, through its Director,
Sh. Sh. Surender Jain. …….**Applicant**

Versus

The Himachal Pradesh State Electricity Board Ltd.
Thro' its Executive Director (Personnel),
Vidyut Bhawan, Shimla, H.P.-171004. ……**…Respondent**

Application seeking clarification on interpretation of Clause 16.6.3 of Mid Term Performance Review Order for 4th MYT Control Period (FY 20-24) and determination of Tariff for FY 23 dated 29.03.2022 as to whether the HPSEBL (Distribution Licensee) is entitled to retain IDC at the revised rate of Rs. 200/- per KVA for additional contract demand of 5000 KVA, released on 05.04.2022, though paid at the rate of Rs. 2000/- per KVA at the time of issuance of PAC dated 25.09.2021.

Present:-

Sh. O.C. Sharma, Ld. Counsel for the Joint Petitioner.
Sh. Kamlesh Saklani, Authorised Representative for the Respondent.

ORDER

This Application has been filed seeking clarification on Clause 16.6.3 of Mid Term Performance Review Order dated 29.03.2022 for 4th

MYT Control Period (FY 20-24) and determination of Tariff for FY 23 dated 29.03.2022 as to whether the HPSEBL/ Distribution Licensee is entitled to retain of IDC at the revised rate of Rs. 200/- per KVA for additional contract demand of 5000 KVA, released on 05.04.2022, though paid at the rate of Rs. 2000/- per KVA at the time of issuance of PAC dated 25.09.2021.

2. According to the Applicant, the exiting connected load of the Applicant was 37336.310 kW on 24.09.2021, with a contract demand of 37475 KVA. The Applicant applied online for grant of Power Availability Certificate (PAC) for additional contract load of 10000 kW with additional contract demand of 10000 KVA, making the total connected load as 47336 kW with a contract demand of 47475 KVA. The Applicant also deposited Rs. 1,00,00,000/- (Rs. One Crore Only) on 24.09.2021 and Rs. 1,00,00,000/- (Rs. One Crore Only) on 30.09.2021 on account of IDC @ Rs. 2000/- per KVA for the additional contract demand of 10,000 KVA. The copy of PAC dated 25.09.2021 and copies of Deposit Receipts have been annexed as Annexure A-1, Annexure A-2 and Annexure A-3.

3. According to the Applicant, the rate of IDC at the relevant time of applying for the PAC for the additional connected load and additional contract demand was Rs. 2000/- per KVA and accordingly, an amount

of Rs. 2,00,00,000/- (Rs. Two Crore Only) was deposited as IDC @ Rs. 2,000/- per KVA for additional contract demand of Rs. 10,000 KVA.

4. According to the Applicant, the Superintending Engineer (Operation) Circle, HPSEBL Nahan (S.E. (Op.) for short) on 07.10.2021 (Annexure A-4), wrote a letter to the Chief Engineer (Operation) South (C.E. (Op.) for short) seeking clarification for sanction of additional connected load and additional contract demand. The Himachal Pradesh State Electricity Board Limited (the HPSEBL/ Respondent for short) pursuant to the application, sanctioned the additional connected load of 10000 kW with additional contract demand of 10000 KVA in terms of office order dated 08.10.2021 (Annexure A-5). However, it is mentioned in Clause 30 of the office order dated 08.10.2021 that additional connected load of 10 MW with additional contract demand of 10 MVA will be released after seeking clarification from the competent authority. The competent authority of the HPSEBL clarified and directed the S.E. (Op.) Nahan for the release of additional connected load of 5 MW with additional contract demand of 5 MVA. Accordingly, the S.E. (Op.) Circle Nahan directed the Senior Executive Engineer, HPSBEL Division, Nahan (Sr. XEN, Nahan for short) vide letter dated 12.10.2021 (Annexure A-6) to release the Additional Connected load of 5 MW with additional 5 MVA contract demand in favour of the Applicant.

5. It is averred that the Assistant Engineer, Electrical Sub-Division Kala Amb (A.E. Kala Amb for short) issued sundry job order dated 14.12.2021 (Annexure A-7) and released the additional contract demand of 5000 KVA in favour of the Applicant.

6. It is also averred that the Applicant was in dire need of the remaining additional contract demand of 5000 KVA and requested the concerned authorities of the Respondent for the release of the same. Ultimately, the HPSEBL decided to release the additional contract demand of 5000 KVA in favour of the Applicant and the A.E. Kala Amb and issued sundry job order dated 05.04.2022 (Annexure A-8) for release of the balance additional contract demand of 5000 KVA.

7. According to the Applicant, the Commission on 29.03.2022, issued the Mid-Term Performance Review Order for the 4th MYT Control Period (FY 20-24) and Determination of Tariff for FY 23 (Tariff order for short) and in terms of para 16.6.3, the Commission approved the normative rates of IDC for the consumers falling under two part tariff as Rs. 200/- per KVA. The abstract of the copy of tariff order dated 29.03.2022 has been annexed as Annexure A-9.

8. It is averred that since the Commission had approved the revised rates of IDC on contract demand as Rs. 200/- per KVA vide order dated 29.03.2022, the HPSEBL is justified in retaining only the amount of Rs.

10,00,000/- on the additional contract demand of 5000 KVA, which was released on 05.04.2022 and to refund the amount of Rs. 90,00,000/- (Ninety lacs only) to the Applicant forthwith. It is also averred that the HPSEBL being a commercial organization is required to act fairly and judiciously in its functions and to comply with order dated 29.03.2022.

9. As per the Applicant, on 22.06.2023, it approached the HPSEBL for refund of excess amount of Rs. 90,00,000/- (Ninty Lakhs only) deposited at the time of PAC for additional contract demand of 5000 KVA, which was released on 05.04.2022 (Annexure A-10) but the HPSEBL has remained negligent in doing the needful. The Applicant vide letter dated 27.12.2023 again requested the HPSEBL for refunding the excess amount of Rs. 90,00,000/- but no response was gathered.

10. In the meanwhile, the Applicant filed a complaint before the Consumer Grievances Redressal Forum (CGRF for short) for the refund of excess amount of Rs. 90,00,000/- deposited as IDC towards the additional contract demand of 5000 KVA, which was released on 05.04.2022. The said complaint No. 1515/202403/04 was disposed off on 13.03.2024 by the CGRF, Shimla observing the following:-

> *"However, Forum falls short of understanding the treatment to the recovery of expenditure under the normative structure as is presented before the Forum in the peculiar situation carried in the complaint, as to whether under the said normative structure, the rates of IDC given in the Orders/ Tariff Order have to be considered from the*

date of application or from the date of release of Contract Demand, which is matter of interpretation;

Forum is aware that it is not within its authority or scope to interpret Orders/ Tariff Orders passed by the Ld. H.P. Electricity Regulatory Commission and accordingly the Forum holds that the complaint is not maintainable before this Forum;

On aforesaid terms, the complaint is disposed with liberty to the complainant to approach the Hon'ble H.P. Electricity Regulatory Commission in the matter."

11. According to the Applicant, on 09.04.2024 (Annexure A-13) the Applicant filed an application with the Secretary, HPERC seeking clarification/ interpretation regarding the applicability of Normative rates of IDC. However, the Commission vide letter dated 18.05.2024 (Annexure A-14) intimated the Applicant that the Commission passed the tariff order dated 29.03.2022 discharging the statutory adjudicatory functions and, as such, no clarification on administrative side can be given and advised the Applicant to file a proper Petition. Hence, the present Application.

<u>REPLY OF RESPONDENT</u>

12. The Application has been resisted by the Respondent by filing reply that the primary contentions of the Applicant are that:-

(i) Whether the IDC are applicable at the time of the release of load or at the time of the sanction of the Demand Notice under Clause 3.1.3. of the HP Electricity Supply Code, 2009?

(ii) Whether the Petitioner is entitled for refund of Rs. 90,00,000/- as prayed for?

13. According to the HPSEBL, the Regulations 2 (d), 3 and 4 of the Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure of Supply of Electricity) Regulations, 2012, provide as under:-

> ***"2 (d) "Demand Notice"*** *means the notice to be issued by the licensee to the applicant in accordance with the regulation 3 of the Himachal Pradesh Electricity Regulatory Commission (Licensee's Duty for supply of Electricity Request) Regulations, 2004 and Clause 3.1.4 of Himachal Pradesh Electricity Supply Code, 2009, read with the provisions of these Regulations.*
>
> ***3. Power to recover expenditure.-*** *Subject to the provisions of the Act and these Regulations and subject further to such directions, orders or guidelines which the Commission may issue, the distribution licensee is authorised to recover such expenses as may be reasonably incurred by it in providing any electric line and the electrical plant used for the purpose of giving supply of electricity and the recoverable expenditure shall be computed in accordance with the principles contained in these Regulations and at the rates approved by the Commission pursuant to these Regulations.*
>
> ***4. Expenses for providing service line.-*** *The distribution licensee shall recover all expenses reasonably incurred on the works related to laying of service line to the premises of the applicant as well as the cost of providing terminal equipment and other arrangements (except the cost of meter, CT and PT) at the applicant's premises :*
>
> *Provided that the distribution licensee may, with the approval of the Commission, recover the expenses on the basis of average or normative rates for providing the service lines for the purpose of giving supply of electricity to one or more categories of applicants based on connected load or contract demand, voltage level, nature of load, tariff classification and length and specification of service lines:*
>
> *Provided further that in cases where the normative rates have been approved by the Commission for a particular period for a particular type of service line, the recovery for laying of that type of service line shall be made by the distribution licensee only in accordance with the rates and terms and conditions so approved by the Commission for that period:*
>
> *Provided further that the Commission may direct the licensee to recover the cost of service line under this regulation at fixed per*

kilometer rates, based on the standard cost data, for all or any of the categories:

Provided further that the average or normative rates shall, unless specifically approved by the Commission, not apply to the temporary connections."

14. A further reference to the statement of objects and reasons of order dated 18.05.2012 regarding the finalization of the Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for the Supply of Electricity) Regulations, 2012 has been made by reproducing Clause 9.3.5 as under:-

"9.3.5 The Commission does not find it appropriate to recover IDC on the basis of contract demand in cases where sanction is given for a particular contract demand keeping in view the fact that in such cases the licensee is obliged to supply electricity only to the extent of sanctioned contract demand. The existing regulations also provide for charging the proportionate cost on the basis of contract demand. Even the demand charges and security charges are being charged on the basis of contract demand. The Commission shall however like to clarify that intention here is to charge the Infrastructural Development Charges on the basis of total contract demand which is sanctioned initially at the time of release of connection and not on the contract demand to be availed by the consumer from time to time under the mechanism available to him for changing the same twice during the year. The sanctioned contract demand shall remain unchanged till such time the consumer gets the same changed after completing all the formalities applicable for a new connection. Moreover, even if the suggestion of the licensee is agreed, the per KVA rates shall have to be correspondingly reduced on a normative basis and the total recovery by the licensee, may remain at same level. Accordingly, the Commission may fix the normative rates in terms of per kW of connected load in case where single part tariff is applicable and in terms of per KVA of contract demand where two part tariff is applicable. In order to provide clarity a suitable provision has been made in the Regulations also."

15. The HPSEBL has also referred to Clauses 3.1.3 and 3.1.4, 3.2.1 and 3.2.22 of the HP Electricity Supply Code, 2009 by reproducing the same as under:-

> *"3.1.3 The licensee shall, after receipt and scrutiny of the Application and Agreement form, inform the applicant through a Demand Notice issued under the Himachal Pradesh Electricity Regulatory Commission (Licensee's Duty for Supply of Electricity on Request) Regulations,2004, the initial security payable under the Himachal Pradesh Electricity Regulatory Commission (Security Deposit) Regulations,2005 and amount of the charges required to be deposited by the applicant as per Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005; requirement of other supporting documents as per para 3.1.2 and/or discrepancies observed, if any, and acceptance, in writing, of the additional terms as per para 3.7 of this Code.*
>
> *3.1.4 On the receipt of an Application and Agreement form from the applicant, licensee shall, within the time lines tabulated in the following Table, issue, by a registered post/speed post or through any faster and latest electronic mode and intimation has also been sent through SMS, a demand notice to the applicant, clearly indicating–*
>
> *(a) all deficiencies to be made good and the codal formalities to be completed by the applicant; and*
>
> *(b) the exact amount of charges and security to be deposited by the applicant."*

> ***"3.2 Power Availability Certificate.-***
>
> *3.2.1 Where the contract demand for a new or additional load exceeds 100 KVA, the applicant will submit the feasibility clearance i.e. Power Availability Certificate (PAC) along with the Application and Agreement Form which will be available free of cost at the designated offices of the licensee and on its website.*
>
> *3.2.2 The consumer shall apply for the grant of Power Availability Certificate, on payment of advance cost share towards infrastructural developmental charges, calculated @ Rs.1000 per KVA of the contract demand applied for:*
>
> *Provided that the advance share towards infrastructure development charges to be recovered for the grant of PAC shall*

not exceed the amount of infrastructural development charges receivable by the licensee under the provisions of the Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2012"

16. According to the HPSEBL, a conjoint reading of the IDC Regulations and Supply Code and Statement of Reasons for finalization of HPERC (Recovery of Expenditure for supply of Electricity) Regulations, 2012 leads to a conclusion that normative rates of IDC are liable to be paid seeking new connection or applying for extension of contract demand and connected load entirely/ in totality as per the demand notice issued by the Distribution Licensee and not at the time of release of balance load and contract demand, which was not availed at once.

17. Further averred that the core issue of the Applicant revolves around the interpretation as to whether the Applicant who had applied for 10 MVA contract demand, and at first instance, only 5 MVA was released, and balance 5 MVA was released after sometime in the future, and at the time of release of balance quantum of demand of 5 MVA, the IDC were to be levied at the rates applicable at the time of release of balance contract demand. In this regard, Clause 3.1.3 of the H.P. Electricity Supply Code, 2009 provides that the amount of charges under IDC Regulations are statutorily required to be levied at the time of preparation of demand notice pursuant to request to supply electricity.

Though, the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 have been repeated by 2012 Regulations but the expression '2005' (as appearing in Clause 3.1.3 of the Electricity Supply Code 2009) is required to be construed as '2012' for the purpose of demand notice. Hence, it is abundantly clear that the charges under IDC Regulations are statutorily required to be levied at the time of preparation of demand notice pursuant to request to supply the electricity.

18. Also, the issue having vide ramification is whether at the time of submitting an application for the PAC, the amount which is advance cost share towards IDC calculated @ 1000 per KVA of the contract demand are considered as Charges of Infrastructural Development or otherwise. In this regard, the Respondent also seeks clarification from the Commission as to whether the demand notice as defined under clause 3.1.3 of the Supply Code and Regulation 2 (d) of the IDC Regulations, 2012 has lost its significance, if the rates of IDC were less than the rate of amount of PAC.

19. On merits, contents of the Application have been denied averring that at the time of applying PAC, only advance cost share towards IDC is leviable, which is subject to further adjustment against the Demand Notice issued under clause 3.1.3 of the HP Electricity Supply Code,

2009. It is denied that the Petitioner is entitled for the refund of Rs. 90,00,000/- (Rs. Ninety Lacs only) and submissions made in this regard by way of preliminary submissions may be read. It is denied that the Respondent is entitled only for Rs. 10,00,000/- against the demand notice of IDC as Clause 3.1.3 of the H.P. Electricity Supply Code, 2009 is clear that the normative charges are required to paid in terms of demand notice to enable the licensee to issue sanction order.

20. We have heard Sh. O.C. Sharma, Ld. Counsel for the Applicant and Sh. Kamlesh Saklani, Authorised Representative for the Respondent and have perused the entire case file carefully.

21. A clarification has been sought by the Applicant pursuant to order dated 13.03.2024 passed by the CGRF in Complaint No. 1515/202403/04 titled M/s J.B. Rolling Mills Limited versus the Himachal Pradesh State Electricity Board Limited and Others in respect of applicability of rates of IDC as to whether the same should be applicable from the date of application or from the date of actual release of contract demand. Relevant portion of the order dated 13.03.2024 passed by the Ld. CGRF is reproduced as under:-

> *"However, Forum falls short of understanding the treatment to the recovery of expenditure under the normative structure as is presented before the Forum in the peculiar situation carried in the complaint, as to whether under the said normative structure, the rates of IDC given in the Orders/ Tariff Order have to be considered from the date of*

application or from the date of release of Contract Demand, which is matter of interpretation;

Forum is aware that it is not within its authority or scope to interpret Orders/ Tariff Orders passed by the Ld. H.P. Electricity Regulatory Commission and accordingly the Forum holds that the complaint is not maintainable before this Forum;

On aforesaid terms, the complaint is disposed with liberty to the complainant to approach the Hon'ble H.P. Electricity Regulatory Commission in the matter."

22. The Applicant has made the following prayer:-

a) A clarificatory order may kindly be passed to the effect that the HPSEBL (Licensee) can retain IDC @ Rs. 200/- per KVA for additional contract demand of 5000 KVA released on 05.04.2022, though paid @ Rs. 2000/- per KVA at the time of issuance of PAC, in terms of clause 16.6.3 of the Mid Term Performance Review Order for 4th MYT Control Period (FY20 - FY24) and Determination of Tariff for FY-2023 dated 29.03.2022.

b) A Clarificatory order may kindly be passed to the effect that the HPSEBL/ Licensee can recover or retain the IDC at the rates prevailing at the time of release of contract demand/ connected load.

23. The Commission in exercise of the powers vested in it under Section 181 of the Electricity Act, 2003 has framed the HP Electricity Supply Code, 2009, amended from time to time. Clause 3.1.3 of the same provides that after receipt/ scrutiny of application (application for IDC), the Distribution Licensee shall inform the Applicant through Demand Notice for deposit of initial security payable under the Himachal Pradesh Electricity Regulatory Commission (Security Deposits) Regulations, 2005 (amended in the year 2012) and amount of the charges required to be deposited by the applicant as per

Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005; requirement of other supporting documents as per para 3.1.2 and/or discrepancies observed, if any, and acceptance, in writing, of the additional terms as per para 3.7 of this Code. Clause 3.1.3 is reproduced as under:-

> *"3.1.3 The licensee shall, after receipt and scrutiny of the Application and Agreement form, inform the applicant through a Demand Notice issued under the Himachal Pradesh Electricity Regulatory Commission (Licensee's Duty for Supply of Electricity on Request) Regulations,2004, the initial security payable under the Himachal Pradesh Electricity Regulatory Commission (Security Deposit) Regulations,2005 and amount of the charges required to be deposited by the applicant as per Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005; requirement of other supporting documents as per para 3.1.2 and/or discrepancies observed, if any, and acceptance, in writing, of the additional terms as per para 3.7 of this Code."*

24. Further Clause 3.1.4 of the HP Electricity Supply Code, 2009 further provides that on receipt of application, the licensee shall issue a demand notice clearly indicating the deficiencies to be made good by the Applicant and the exact amount of charges/ security to be deposited by the Applicant. Clause 3.1.4 reads as under:-

> *"3.1.4 On the receipt of an Application and Agreement form from the applicant, licensee shall, within the time lines tabulated in the following Table, issue, by a registered post/speed post or through any faster and latest electronic mode and intimation has also been sent through SMS, a demand notice to the applicant, clearly indicating–*
> *(a) all deficiencies to be made good and the codal formalities to be completed by the applicant; and*
> *(b) the exact amount of charges and security to be deposited by the applicant."*

25. Not only this, Clause 3.2.2 of the above supply code further provides that the consumer shall apply for the PAC on payment of advance cost share towards IDC. Clause 3.2.2 is reproduced as under:-

> *"3.2.2 The consumer shall apply for the grant of Power Availability Certificate, on payment of advance cost share towards infrastructural developmental charges, calculated @ Rs.1000 per KVA of the contract demand applied for:*
>
> *Provided that the advance share towards infrastructure development charges to be recovered for the grant of PAC shall not exceed the amount of infrastructural development charges receivable by the licensee under the provisions of the Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2012"*

26. The Applicant had applied for the grant of additional connected load of 10000 KW with additional contract demand of 10000 KVA and deposited Rs. 1,00,00,000/- on 24.09.2021 and Rs. 1,00,00,000/- on 30.09.2021 aggregating to Rs. 2,00,00,000/- on account of IDC @ Rs. 2,000/- per KVA for additional contract demand of 10000 KVA as per Annexure A-1. At the time of submission of application, the rate of IDC for additional connected load and additional contract demand was Rs. 2,000/- per KVA. However, the Commission vide order dated 29.03.2022 reduced the rates of IDC to Rs. 200/- per KVA of the contract demand under two part tariff. Though, additional load of 5000 KVA was released on 14.12.2021 when the IDC charges were Rs. 2000/- per KVA but when the balance additional load was released on

05.04.2022 as per sundry job order Annexure A-8, the IDC were Rs. 200/- per kVA of the contract demand.

27. The Applicant therefore approached the HPSEBL for refund of excess charges over and above Rs. 200/- per KVA i.e. Rs. 90,00,000/- (Rs. Ninety Lacs Only) and once no action was taken by the HPSEBL, the Applicant approached the CGRF vide Complaint No. 1515/202403/04.

28. In the circumstances, a clarification has been sought by the CGRF, as to whether the rates of IDC given in the Orders/ Tariff Order have to be considered from the date of application or from the date of release of Contract Demand, which is matter of interpretation. The operative part of the order dated 13.03.2024 is reproduced as under:-

> *"However, Forum falls short of understanding the treatment to the recovery of expenditure under the normative structure as is presented before the Forum in the peculiar situation carried in the complaint, as to whether under the said normative structure, the rates of IDC given in the Orders/ Tariff Order have to be considered from the date of application or from the date of release of Contract Demand, which is matter of interpretation;*
>
> *Forum is aware that it is not within its authority or scope to interpret Orders/ Tariff Orders passed by the Ld. H.P. Electricity Regulatory Commission and accordingly the Forum holds that the complaint is not maintainable before this Forum;*
>
> *On aforesaid terms, the complaint is disposed with liberty to the complainant to approach the Hon'ble H.P. Electricity Regulatory Commission in the matter."*

29. Undisputedly, the Applicant had requested for release of additional Load of 10000 KW with additional 10000 KVA contract

demand for its premises. On the request of the Applicant, the HPSEBL issued PAC on 25.09.2021 (Annexure A-1) for additional load of 10 MW with additional contract demand of 10 MVA that the same will be made available/ released with a condition that 5 MVA load will be released after fulfilment of pending load commitments from existing 132/33 KV Substation, Johron, Kala Amb and the remaining 5 MVA Load will be released after reorganization of 33 KV feeders from 132/33 KV Substation, Johron, Kala Amb after observing behaviour of the system and that the seniority for release of load will be considered as fresh and at the bottom and as per the existing pending load commitments. It was also mentioned in the PAC dated 25.09.2021 that request was considered after deposit of IDC in advance pursuant to demand notice that the recovery of expenditure for supply of electricity shall be as per HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2012.

30. It is also not in dispute that the Superintendent Engineer (OP) Circle, HPSEBL Nahan intimated the Chief Engineer (OP) South, Shimla vide letter dated 07.10.2021 that the re-organization will take about 2 months time to complete and, therefore, firstly 5 MVA load release at 132 KV level be allowed to be released and as requested by

the Applicant, the balance 5 MVA be permitted to be released in steps of 1 MVA each before re-organisation of 33 kV feeders.

31. It has been mentioned in the present application that the Competent Higher Authority of the HPSEBL clarified and directed the SE (Op.) Circle Nahan for release the additional connected load 5 MW with additional contact demand of 5 MVA and SE (Op.) Nahan accordingly, intimated Senior Executive Engineer HPSEBL Division Nahan vide letter dated 12.10.2021 that initially 5 MW load with 5 MVA contract demand be released and the remaining 5 MW load shall be released after re-organization of 33 KV feeder from 132/33 KV Sub-station Johron, Kala Amb and the sundry job order was accordingly issued on 14.12.2021 (Annexure A-7).

32. Though, the applicant has not made the demand notice available for the perusal of the Commission yet it appears that pursuant to the demand notice, a sum of Rs. 1,00,00,000/- (Rs. 1 Crore only) was deposited on 24.09.2021 and the remaining Rs. 1,00,00,000/- (Rs. 1 Crore only) was deposited on 30.09.2021 on account of IDC as per the prevailing rates of Rs. 2000/- per KVA.

33. This Commission in exercise of powers vested in the Commission under Section 181 of Electricity Act has framed Himachal Pradesh Electricity Regulatory Commission (Licensee Duty for supply of

Electricity on request) Regulations, 2004. Regulation 3 of the above Regulations provides that on receipt of an application from the owner or occupier of the premise, the Distribution Licensee shall within the time frame specified under the Regulation, issue a demand notice to the applicant indicating:-

a) All deficiency to be made good and codal formalities to be completed by the applicant
b) Necessity to furnish test report from the approved Wiring contractor;
c) The exact amount of charges and security to be deposited by applicant.

34. It is also clear from Regulation 3 of the above Regulations i.e. Licensee Duty for supply of Electricity on request Regulations, 2004 that upon making the compliance of aforesaid three conditions, the Distribution Licensee/ HPSEBL is bound to supply the electricity within the time specified in Sub-regulation 3 of Licensee Duty for supply of Electricity on request Regulations, 2004.

35. The demand notice has been defined under Regulation 2 (d) of the Himachal Pradesh Electricity Regulation Commission (Recovery and Expenditure for Supply of Electricity), Regulations, 2012 as under:-

> *"Demand Notice" means the notice to be issued by the licensee to the applicant in accordance with the regulation 3 of the Himachal Pradesh Electricity Regulatory Commission (Licensee's Duty for supply of Electricity Request) Regulations, 2004 and Clause 3.1.4 of Himachal*

Pradesh Electricity Supply Code, 2009, read with the provisions of these Regulations."

36. The Regulations 5 and 7 of the above Regulations i.e. Recovery and Expenditure for Supply of Electricity, Regulations, 2012 permit the Distribution Licensee to recover the expenses in the shape of infrastructure development charges as may be approved by the Commission based on the Connected Load or Contract demand. Regulations 5 (1) and 7 (1) of the Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2012 are reproduced as under:-

"5. Expenses for the distribution system other than service lines.- (1) The distribution licensee shall also be authorised to recover such proportion, as may be considered reasonable by the Commission, of the expenses incurred, or to be incurred, for creation, including augmentation or additions, of the distribution system, other than those for the service lines, for the infrastructural development as a continuous and co-ordinated process, so as to meet its obligations for supply of power to the applicants for permanent connections under the Himachal Pradesh Electricity Regulatory Commission (Licensee's Duty for Supply of Power on Request) Regulations, 2004 and such recovery shall be regulated under the provisions of this regulation and also other relevant provisions of these regulations."

"7. Recovery of expenditure for additional loads.- (1) Save as provided in sub-regulation (2), where an existing consumer availing permanent connection for electricity applies for additional connected load or contract demand, as the case may be, in excess of the connected load or contract demand, already sanctioned in his favour, the recovery shall be made as under:-

(a) in relation to the expenses/charges for the cost of service line under regulation 4-

(i) if the existing service line has sufficient spare capacity, after meeting the requirements of all the connections released and/or committed to be released through the same service line and redundancy of about

30% of the total capacity of such line, no additional cost shall be recovered for the service line;

(ii) if sufficient spare capacity is not available, in accordance with the preceding sub-clause (i), in the service line for meeting the additional connected load or contract demand, the cost of strengthening the existing service line, or of providing a new service line, shall be recovered from the applicant:

Provided that the cost to be recovered under sub-clause (ii) shall not exceed the cost of providing a new service line for the total connected load or contract demand under regulation 4 of these Regulations;

(b) in relation to the infrastructural development charges under regulation 5:-

(i) if the supply voltage for the total load remains unchanged as per the standard supply voltages fixed by the Commission under the applicable Tariff Order of the Commission and the provisions of sub-regulation (3) of regulation 5 are not attracted, then, subject to succeeding sub-clause (iii), such charges shall be recovered only for the additional connected load/contract demand in accordance with sub-regulations (2) and (9) of regulation 5, regulations 14 and 15 of these Regulations; and

(ii) if the supply voltage gets changed, but provisions of sub-regulation (3) of regulations 5 are not attracted, then the recoverable amount shall be worked out and recovered in accordance with sub-regulations (2) and (9) of regulation 5 for the total revised connected load or contract demand, as the case may be, sanctioned at the new voltage; and

(iii) if the supply of additional connected load or contract demand, as the case may be, requires execution of works referred to in sub-regulation (3) of regulation 5, the recovery shall be made for the total revised load or contract demand, as the case may be, in accordance with the provisions of the sub-regulations (3) and (9) of regulation 5."

37. It is apparent from the above that the IDC is required to be recovered for augmentation and addition of the distribution system in case any request for additional load or contract demand is received by the distribution licensee from any consumer. Further, paras 3.1.3, 3.1.4 and 3.2.2 of the HP Electricity Supply Code, 2009 clearly indicate that the distribution licensee on scrutiny of application, inform the applicant

through a demand notice of the amount of charges required to be deposited for availing the additional load and that the consumer shall apply for the PAC on payment of advance cost towards IDC. Paras 3.1.3, 3.1.4 and 3.2.2 of the HP Electricity Supply Code, 2009 are reproduced as under:-

> *"3.1.3 The licensee shall, after receipt and scrutiny of the Application and Agreement form, inform the applicant through a Demand Notice issued under the Himachal Pradesh Electricity Regulatory Commission (Licensee's Duty for Supply of Electricity on Request) Regulations,2004, the initial security payable under the Himachal Pradesh Electricity Regulatory Commission (Security Deposit) Regulations,2005 and amount of the charges required to be deposited by the applicant as per Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005; requirement of other supporting documents as per para 3.1.2 and/or discrepancies observed, if any, and acceptance, in writing, of the additional terms as per para 3.7 of this Code."*
>
> *"3.1.4 On the receipt of an Application and Agreement form from the applicant, licensee shall, within the time lines tabulated in the following Table, issue, by a registered post/speed post or through any faster and latest electronic mode and intimation has also been sent through SMS, a demand notice to the applicant, clearly indicating–*
>
> *(a) all deficiencies to be made good and the codal formalities to be completed by the applicant; and*
>
> *(b) the exact amount of charges and security to be deposited by the applicant."*
>
> *"3.2.2 The consumer shall apply for the grant of Power Availability Certificate, on payment of advance cost share towards infrastructural developmental charges, calculated @ Rs.1000 per KVA of the contract demand applied for:*
>
> *Provided that the advance share towards infrastructure development charges to be recovered for the grant of PAC shall not exceed the amount of infrastructural development charges receivable by the licensee under the provisions of the Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2012"*

38. The purpose of indicating the amount of IDC in the demand notice is that on deposit of such amount of IDC, the Distribution Licensee is able to augment the system so that the additional load is released to applicant within time line as prescribed in Regulation 3 Himachal Pradesh Electricity Regulatory Commission (Licensee Duty for Supply of Electricity on Request) Regulations, 2004. The recovery of capital expenditure likely to be incurred by the licensee at the time of planning and sanction of supply is worked out in advance and indicated in the demand notice and only thereafter the addition/ augmentation is carried out in the Distribution System which is necessary for release of connection. The IDC is a one-time charge meant to cover infrastructure strengthening costs in advance for release of supply connection. Once, the consumer deposits the IDC, it enables the HPSEBL to undertake necessary works for network augmentation as the connection can only be released after necessary augmentation of system network is complete. The depositing of advance cost has also a purpose/ significance to make the consumer aware upfront of the costs obligations at the time of applying for connection. Once the IDC is deposited, the licensee is assured of cost recovery as per approved regulatory norms at the time of planning and execution.

39. Therefore, immediately on receipt of the application for release of addition load, the system is augmented with a view to make it feasible to release such additional load which, of course, can be carried out on advance deposit of IDC.

40. In the present case, the PAC was issued 25.09.2021 after the Applicant deposited the IDC of Rs. 2,00,00,000/- pursuant to demand notice meaning thereby that the augmentation and addition of the system was to be carried out after such deposit which is also evident from Clause 18 of the PAC dated 25.09.2021. This Commission as observed, above had reduced the IDC to Rs. 200/- per KVA vide tariff order dated 29.03.2022 in Petition No. 02 of 2022 and the balance additional load of 5 MW and additional contract demand of 5 MVA was released on 05.04.2022, as evident from sundry job order Annexure A-8. Certainly, the system was not augmented in a span of seven days and rather, the system augmentation was started pursuant to deposit of IDC by the Applicant after the demand notice. Thus, it is the demand notice which is to be reckoned for purpose of applicability of IDC and not the date on which the additional load or contract demand was actually released.

41. Here, it relevant to mention that the Commission has increased the IDC vide order dated 05.06.2024 in Petition No. 22 of 2024 for the

capacities under two part tariff and it is clearly provided in said order at para 21 (A) (ii) (iii) that the rates of IDC shall be applicable for the demand notices to be issued under HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2012 and that all demand notices issued under IDC Regulations, 2012 prior to the date of issuance of this order shall be considered as final and no adjustment/ recovery shall be made on this account for the demand notices issued during said period.

42. In the circumstances, it is clarified that the normative rates of IDC have to be considered from the date of demand notice and not from the date of release of contract demand. The query is, therefore answered accordingly.

43. Let a copy of this order be supplied to the parties forthwith.

44. The Application is disposed off accordingly. The file after needful be consigned to records.

<u>Announced</u>
15.11.2025

-Sd-	**-Sd-**
(Shashi Kant Joshi)	**(Yashwant Singh Chogal)**
Member	**Member (Law)-cum-Chairman**