The HPSEBL Versus M/s Darjleeing Power Pvt. Ltd. and Others

CMA No. 465 of 2025

04.12.2025

Present: Sh. Kamlesh Saklani, Authorized Representative for the Petitioner.
Sh. Vikas Chauhan, Ld. Counsel for the Respondent No. 1.
Ms. Gayatri Aryan, Sh. Shubham Bhut and Sh. L.S. Mehta, Ld. Counsel for the Respondent No. 2.
Sh. Ashish (Law Officer) for the Respondent No. 3 alongwith Sh. Rohit Sharda, General Manager.

ORDER

Matter heard for a while.

2. On the last date of hearing on 27.11.2025, the HPSEBL has placed on record copy of the Minutes of Meeting held 20.11.2025 and approval of the Whole Time Directors (WTDs) of the Himachal Pradesh Electricity Board Limited (the Petitioner/ HPSEBL for short) of Agenda Item No. 170.01. Based on the decision taken by the WTDs of the HPSEBL on 26.11.2025 and taking into consideration that an application for early hearing of the matter was filed on 10.11.2025 that Ministry of New and Renewable Energy has extended the time for commissioning of the Intra-state Transmission System (Shong Sub-station), uptill, 31.12.2025, the Commission persuaded the parties to amicably resolve the matter so that the HPSEBL is able to charge the 66 kV Shong Sub-station

to overcome the low voltage problem at Sangla and Shong Valley regions and evacuate the power from the commissioned/ proposed Power Projects in the region at 22 kV.

3. The following prayers have been made in the Petition:-

> "a) To allow the instant Petition for approval of LILOing of the 66 kV S/C Shong-Brua-Urni transmission line jointly constructed by private entities (M/s Darjeeling Power Pvt. Ltd and M/s Brua Hydrowatt Pvt. Ltd.) with the newly constructed 66/22 kV, 10 MVA AIS Sub-station at Shong under Electrical Division Bhabanagar of District Kinnaur, Himachal Pradesh.
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> b) To approve modification of Interconnection & Metering point and revision of Power Purchase Agreement (PPA) of M/s Darjeeling Power Pvt. Ltd and M/s Brua Hydrowatt Pvt. Ltd. and to decide reasonable cost of O&M on proportionate to energy wheeled through the line as per HPERC Regulations.
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> c) To allow submission of separate Petition for signing of Supplementary PPA with M/s Darjeeling HEP and M/s Brua Hydrowatt Pvt. Ltd. and the HPPTCL.
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> d) To condone any error/ omission and to give opportunity to modify/ rectify the same."

4. In so far as the charging of Interconnection Point and revision of PPA are concerned, the Respondents No. 1 and 2 have stated that such proposal is not tenable. The Commission is also of the firm opinion that the PPAs entered into between the HPSEBL and the Respondents No. 1 and 2 cannot be reopened and tariff as agreed cannot be revised.

5. However, regarding transfer of the line and changing the Sub-station, both Respondents No. 1 and 2 have stated that both

are ready to settle the matter with the HPSEBL on the following terms and conditions:-

> *"2.1. **DT Line CAPEX**:*
>
> *(a) HPSEBL has already computed depreciated capital cost of the DT Line viz.**Rs. 7.11 Cr** (DPL's share) and **Rs. 7.29 Cr** (Brua's share) [See HPSEBL's proposal dated 18.10.2024(Annexure R1/1 @pg. 13-15, DPL's Reply)].*
>
> *(b) Further, on 26.11.2025 HPSEB's board has accorded approval for takeover of the DTL Line upon payment of its capex as per depreciated rates.*
>
> *(c) HPSEBL's computation (as above) shall be considered as base rate for computing the depreciated capital cost of the DT Line.*
>
> *2.2. **Mode of payment**:*
>
> *(a) Payment by HPSEBL to Brua and DPL be made as upfront payment or in a time bound manner as deemed fit by this Hon'ble Commission.*
>
> *(b) Any failure on part of HPSEBL to pay as per Hon'ble Commission's direction shall invite adequate penalty to HPSEB and liberty to Brua and DPL to seek appropriate recourse before this Hon'ble Commission.*
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> *2.3. **Interconnection point**: Upon take over of the DT Line the interconnection point for the DT Line at Urni shall not change.*
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> *2.4. **O&M cost of DT Line and Urni Bay**: O&M cost of both, the DT Line and Urni Bay, to be proportionately shared by all users including any future beneficiaries .Appropriate directions to be issued to HPPTCL in this regard.*
>
> *2.5. **Priority rights of Brua and DPL**: Among all users/beneficiaries (which may now include other generating stations), Brua and DPL shall have the 1st right of use over the DT Line including priority rights of scheduling and injection in case of any contingency.*
>
> *2.6. There shall be **no revision/re-opening of the PPAs** qua the present issue of HPSEBL's takeover of the DT Line."*

-Sd-	***-Sd-***
Sh. Suresh Kumar Tiwari	*Sh. Deepak Bhandari*
Brua Hydrowatt Pvt. Ltd.	***Darjeeling Power Pvt. Ltd.***

6. The Ld. Counsel for the Respondents No. 1 and 2 have submitted that based on the above joint statement, appropriate order be passed by the Commission.

7. It has been submitted in the present application that the 66/22 kV, 10 MVA AIS, Sub-station at Village Shong, Tehsil Sangla, Distt. Kinnaur, H.P. (Sub-station for short) was implemented under kfW, Green Energy Corridor enabling the evacuation of renewable energy from Small Hydro Projects and enhancing the reliability of electricity supply to the consumers in Sangla, Rakcham, Batseri, Karcham, Tapri and other surrounding regions as the existing system of the HPSEBL was not sufficient to cater to such reliability of power. The line of 66 kV could not be taken up for the execution due to problem of right of way and thus, it was envisaged to use the 66 kV line from Shong to Urni constructed by the IPPs of Brua and Shong HEPs.

8. The Petition further contains that the Senior Executive Engineer, Electrical System Division, HPSEBL Bhabanagar vide letter dated 11.04.2025 (Annexure-8) had requested the IPPs to provide consent for sharing of 66 kV S/C Shong-Brua-Urni transmission line but said proposal was declined by the Respondent No. 1 vide letter dated 17.04.2025 requesting for a joint meeting with the representatives of both the Respondents No. 1 and 2 to discuss and finalize the cost sharing mechanism. The application further shows that the HPSEBL had also constituted a committee to resolve the issue and finalize the modalities

regarding charging of 66 kV Shong Sub-Station and a meeting with the representatives of the Respondent No. 1 and Respondent No. 2 was held and the following was concluded:-

> *"1. That for Commissioning/ Energizations of 66/22 kV, 10 MVA Sub-Station constructed by HPSEBL can be done if it is connected to the 66 kV project Transmission line, operated and maintained by the IPPs(Brua and Darjiling HEPs) in joint mode in view of the geographical conditions prevailing at the location as there is no other source of supply.*
>
> *2. That HPSEBL cannot bear any cost the project line as claimed by the IPPs since its cost is being recovered as part of tariff by the IPPS from the HPSEBL. However, HPSEBL shall bear the proportional cost of O&M Charges in line with the prevailing HPERC regulations.*
>
> *3. Since the IPPS are not in agreement with the said proposal of HPSEBL, HPSEBL should file a petition before HPERC in this regard to decide the issue."*

9. It is also mentioned in the Petition that the Representatives of both the IPPs, who attended the meeting, refused to give consent/ NOC for charging of 66/22 kV, 10 MVA Sub-station, Shong, through the above line until a cost sharing agreement is signed as the Commission had not considered the cost of the transmission line while considering the tariff for their Projects.

10. The Respondents No. 1 (M/s Darjeeling Power Private Ltd.) in its reply has mentioned that the transmission line constructed by the Respondent No. 1 jointly with the Respondent No. 2 cannot be taken over unless payment towards entire cost of the line is made by the HPSEBL. Further, the mandatory takeover of the line cannot be permitted by the Commission as per the Himachal

Pradesh Electricity Regulatory Commission (Grant of Connectivity, Long-Term and Medium-Term Intra-State Open Access and Related Matters) Regulations, 2010 (HPERC Grant of Connectivity Regulations, 2010 for short) and the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2023 (Transmission Tariff Regulations, 2023 for short) do not envisage compulsory acquisition of transmission line. Further, the line is for the exclusive use of the Respondents No. 1 and 2 and unless an agreement is finalized between them for usage rights, cost sharing, O&M charges etc., the same cannot be taken over. It is also mentioned that instead of constructing a line for the Shong Sub-station, as part of sanction (Annexure-2 of the Petition), the Petitioner is eyeing upon the dedicated line of the Respondents No. 1 and 2. Also that the efforts had been made by the Petitioner for taking over the 66 kV dedicated transmission line of the Respondents No. 1 and 2 vide proposal dated 18.10.2024 for finalizing the total cost of the transmission line to be paid to the Respondents No. 1 and 2 and the modalities of taking over.

11. Not only this, the HPSEBL vide letter dated 23.10.2024 sought consent of the Respondent No. 1 for a sum of Rs. 7,11,21,930/-, after depreciation, towards its share in the joint

dedicated transmission line which was consented vide letter dated 23.10.2024 for the amount offered. However, now the Petitioner has come up with a fresh proposal against the earlier proposal to pay the cost towards 66 kV dedicated transmission line. The proposal of the HPSEBL dated 18.10.2024, letter of the HPSEBL dated 23.10.2024 and reply of the Respondent No. 1 vide letter dated 23.10.2024 have been annexed as Annexures R1/1 to R1/3.

12. The Respondent No. 2 (M/s Brua Hydrowatt Pvt. Ltd.) in its reply has mentioned that the HPSEBL has no right to compel the Respondent No. 2 to share its dedicated transmission line or to amend the PPA dated 06.04.2009. Further, the tariff as agreed under the PPA does not include capital cost of dedicated transmission line and sharing thereof, cannot be claimed by the HPSEBL as a matter of right without sharing the cost of dedicated transmission line. As per the Respondent No. 2, the power is being evacuated through a 9.8 KM long 66 kV S/C dedicated transmission line erected and maintained by the Respondents No. 1 and 2 at their own cost which was constructed in September, 2021, whereas, the PPA had been signed on 06.04.2009.

13. On 11.04.2025, the HPSEBL informed the Respondent No. 2 that the above dedicated transmission line is the only line for energizing the newly constructed Sub-station at Shong and

requested them to provide formal consent for sharing the dedicated transmission line. On 16.04.2025, the Respondent No. 2 requested for cost sharing arrangement for utilizing the line which was not agreed upon. Further, in terms of Section 10 of the Electricity Act, 2003, a dedicated transmission line belongs to the generator and the Commission cannot authorize the DISCOM to claim any right on the same, as in case the same is allowed to be shared, the same will lose its character as a dedicated line. Further, the right of the Respondent No. 2 cannot be expropriated without adequate compensation for taking over the line. However, the Respondent No. 2 acknowledges the issues being faced by the HPSEBL for arranging evacuation arrangement upto Shong Sub-station and had approached the Respondent No. 1 vide letter dated 16.04.2025 but in a meeting held on 03.06.2025, the HPSEBL agreed to pay only the O&M cost and not the capital cost for the dedicated transmission line, leading to refusal of consent and filing of the present application.

14. It is also the case of the Respondent No. 2 that the tariff allowed to the Respondent No. 2 does not include capital cost incurred for the dedicated transmission line. The following submissions have been made by the Respondent No. 2:-

(a) Brua incurred total Rs. 10.68 Cr. towards construction of the DT Line in question.

(b) Brua's original tariff (Rs. 2.87 per unit) was agreed under the PPA in lines with the generic tariff determined by this Ld. Commission in Order dated 18.12.2007 in "Small Hydro Power Projects Tariff and Other Issues" ("Tariff Order") [see, Recital (v) of PPA). Copy of the relevant extracts of the Tariff Order is annexed herewith as Annexure R-2/3.

(c) As per the definition clause of the PPA, the dedicated transmission line is defined as 'Project Line' which states as under: -

"Project Line means 22 kV single circuit transmission line from the Station to the 22 kV proposed control point (Unmanned) at Karcham, Distt. Kinnaur (H.P.). to be constructed, operated and maintained, as a part of the Project by the Company for the purpose of evacuation of power from the Project. This shall however not include the Interconnection Facilities."

(d) The definition of 'Project Line' specifically excludes 'Interconnection Facilities'.

(e) Notably, while the Tariff Order passed by this Ld. Commission considered the capital cost of the 'Interconnection Facilities' [see, **Para 4.37**], it did not include the capital cost of the dedicated transmission line.

(f) There is no provision in the PPA which states that the tariff in the PPA includes the capital cost of Brua's dedicated transmission line.

(g) Except for a bald averment, HPSEB has failed to produce any provision or documentary proof to allege that Brua's tariff includes the capital cost of Brua's DT Line.

In view of the above, there is no basis for HPSEB to claim that Brua's tariff includes capital cost of the DT Line and accordingly the petition deserves to be dismissed.

A reference has been made to the minutes of meeting dated 20.01.2017, 19.02.2019 and letter dated 08.07.2022 (Annexure R-2/4, R-2/5 and R-2/6) and letter dated 27.08.2024 (Annexure R-2/7) and various other documents (Annexure R-2/8) to substantiate its claim.

15. The Respondent No. 3/ HPPTCL in its reply has stated that the HPPTCL has already entered into a joint connection

agreement dated 02.07.2021 with M/s Brua Hydrowattt Private Limited (9.00 MW), Shaung SHEP (3.00 MW) and Raura-II SHEP (24.00 MW) to the STU's system and communication system at the connection point i.e. 66 kV feeder Bay at 66 kV Switching Station Urni through 66 kV S/C line in joint mode with Shaung and Raura-II SHPs and any modification of the interconnection and metering point would be contrary to the subsisting agreement. Further, the HPSEBL is mandatorily required to sign the Connection Agreement with the HPPTCL before proceeding with any physical interconnection pursuant to the proposed LILOing, clearly stipulating that the interconnection and metering point shall remain at 66 kV Urni Switching Station of the HPPTCL in respect of HPSEBL in joint mode with Brua SHEP (9.0 MW), Shaung SHEP (3.0 MW) and Raura-II SHEP (24.00 MW) in terms of HPERC (Grant of Connectivity) Regulations, 2010 subject to approval of the Commission.

16. Further, the HPPTCL has signed the O&M agreements with the Respondents No. 1 and 2 in terms of Connection Agreement dated 02.07.2021 and recovering the O&M charges as per the executed agreements.

17. Upon submitting the aforesaid joint statement by the Respondents No. 1 and 2, Sh. Rohit Sharda, General Manager,

HPPTCL stated that subject to not interfering the interconnection and metering point and recovery of O&M charges being recovered by the HPPTCL, the appropriate order may be passed.

18. Undisputedly, the line in question is a dedicated transmission line. No doubt, it is mentioned in the Petition that the cost of construction of the line is included in the tariff provided to the Respondents No. 1 and 2 per separate PPAs but the Ld. Counsel for the Respondents No. 1 and 2 have stated that the PPAs with the Respondents No. 1 and 2 were signed on 20.05.2016 and 06.04.2009 respectively, but the dedicated transmission line was constructed much after the same in the year 2021, after the commissioning of Urni Sub-station of the HPPTCL incurring huge cost and once the same is dedicated, the same cannot be acquired unless cost thereof is paid to them. It is further submitted that the dedicated line, cannot be allowed to be transferred and belongs to the generators as provided under Section 10 of the Electricity Act, 2003.

19. The HPSEBL in its WTD meeting held on 26.11.2025 has accorded approval for acquiring the aforesaid dedicated line at a depreciated rates prescribed by the HPERC. The decision taken by the WTDs against the Item No. 170.01 is reproduced as under:-

"The Memorandum alongwith the comments received from the F & Accounts Wings were deliberated at length. After considering all the aspects, the Whole Time Directors accorded its approval for taking over of 66 kV Transmission line constructed by private entities i.e., M/S Darjeeling Power Pvt. Ltd. & M/S Brua Hydrowatt Pvt. Ltd. subject to following conditions:-

1) *HPSEBL take over both lines from IPPs at depreciated rates prescribed by the HPERC by obtaining relevant documents from IPPs subject to verification of same from F & A Wing & concerned engineers of HPSEBL.*
2) *The taking over cost of above lines shall be approved by Hon'ble HPERC under Capex.*
3) *HPSEBL shall bear only permissible O&M expenses as per HPERC Regulations.*
4) *Any further financial liability arising out of change in interconnection or metering arrangement shall be first examined and approved by HPERC.*
5) *The revised PPAs, O&M cost structure and shifting of interconnection point shall be processed for normative rates of power from HPERC.*

CE (Comm.) and CE (ES) were hereby authorised to take all necessary action in this regard"

20. It is apparent from the record that the Sub-station Shong cannot be energised except through aforesaid dedicated line. The energization of Shong Sub-station would facilitate adequate supply of power to Sangla and Shong Valley areas and would also help in evacuation of power of other SHPs either commissioned or under construction. Here it is relevant to mention that as a matter of abundant caution and planning, the HPSEBL was required to construct the Sub-station after making arrangement for transmission line. However, the Sub-station has been constructed but no **provision for its connectivity** for its energization has been made. It is also apparent that construction of other line for the

Shong Sub-station at this stage is not possible due to right of way constraint and the process will also be highly time consuming and involve additional expenditure which will defeat the very purpose of construction of the Sub-station Shong. It is also evident from the record that the MNRE has extended the time only till 31.12.2025 for making the Sub-station functional. Thus, the acquisition of aforesaid dedicated transmission line is necessary in the interest of the consumers and the HPSEBL.

21. Undisputedly, the line is a dedicated line belonging to the Respondents No. 1 and 2. The sharing thereof by others would bring some complications for the Respondents No. 1 and 2. It is evident from the documents placed on record by the Respondent No. 2 with its reply i.e. Annexure-R/-2/4, Annexure-R-2/5, Annexure-R-2/6, Annexure-R-2/7 and Annexure-R-2/8 that the proposal for taking over the aforesaid line was under consideration for a very long time as on account of right of way problem, it is not possible to construct a new line. In so far as depreciated cost of the line is concerned, the Respondent No. 1 has placed on record HPSEBL's internal communication dated 18.10.2024 and 23.10.2024 which show that the depreciated cost of the above dedicated line as on 18.10.2024 is Rs. 14,41,13,732/-. It is also evident that initially, the HPSEBL was reluctant to pay the

depreciated cost but when the matter was placed before the WTDs, it has agreed to acquire the dedicated transmission line on payment of depreciated cost of the above dedicated transmission line. It appears that the above depreciated cost, as mentioned in the internal communications dated 18.10.2024 has been worked out taking into consideration the Regulations framed by the Commission.

22. Therefore, taking into consideration the approval/ decision of the WTD dated 26.11.2025, MNRE deadline dated 31.12.2025, as mentioned in the application for early hearing of matter, low voltage issue of Sangla and Shong Valley, right of way issue and the joint statement of the Respondents No. 1 and 2 dated 04.12.2025, the application is allowed. The aforesaid dedicated line belonging to the Respondents No. 1 and 2 i.e. M/s Darjeeling Power Pvt. Ltd. and M/s Brua Hydrowatt Pvt. Ltd. is ordered to be taken over by the HPSEBL for LILOing the 66/22 kV, 10 MVA AIS Sub-station at Shong subject to the following conditions:-

(i) The above Shong-Brua-Urni transmission line, constructed by the Respondents No. 1 and 2 shall be handed over by the Respondents No. 1 and 2 immediately to the HPSEBL so that the HPSEBL is able to charge the 66/22 kV, 10 MVA Sub-station Shong.

(ii) The depreciated cost as worked out by taking the cost of Rs. 14,41,13,732/- (Rs. 7.11 Crore share of the Respondent No. 1 and Rs. 7.29 Crore share of the

Respondent No. 2) on 18.10.2024, shall be further depreciated from 18.10.2024 onwards, till today and shall be paid to the Respondents No. 1 and 2, which shall be eligible for a pass through.

(iii) The said payment shall be paid well before 31.03.2026, failing which the HPSEBL shall be liable to pay Late Payment Surcharge.

(iv) The interconnection point of the Respondents No. 1 and 2 shall remain the same i.e. Urni Sub-station.

(v) The Respondents No. 1 and 2 shall pay the Operation and Maintenance Charges of the aforesaid line and shall also share the losses proportionately.

(vi) The O&M charges of the HPPTCL shall be paid as usual.

(vii) The Respondents No. 1 and 2 shall have first right of scheduling any injection of power in case of any contingency.

(viii) The depreciated cost as worked out by taking the cost of Rs. 14,41,13,732/- on 18.10.2024 which shall be further depreciated from 18.10.2024 till today shall be eligible for a pass through.

23. The parties shall be at liberty to approach the Commission in case of clarification on any of the aforesaid conditions.

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

25. The application disposed off. The file after needful be consigned to records.

<u>Announced</u>
04.12.2025

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