BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION SHIMLA

Miscellaneous Application No: 487 of 2025
Date of Institution: 15.09.2025
Arguments Heard on: 08.04.2026
Decided on: 13.05.2026

CORAM

Yashwant Singh Chogal
MEMBER (Law)-cum-CHAIRMAN

Shashi Kant Joshi
MEMBER

In the matter of:-

The Himachal Pradesh Power
Transmission Corporation Limited (HPPTCL)
Himfed Bhawan, Below Old MLA's Quarters,
Tutikandi (Panjiri), Shimla, H.P-171005. **………Petitioner**

Versus

The Himachal Pradesh State Electricity Board Limited,
Vidyut Bhawan, Shimla, H.P-171004. **……….Respondent No. 1**

The Himachal Pradesh Power
Corporation Limited (HPPCL),
Himfed Building, Shimla, H.P-171009. **……….Respondent No. 2**

M/s Tranda Hydro Power Private Limited
Gyamba House, South End, Lane-IV, Sector-IV,
New Shimla, H.P-171009. **……….Respondent No. 3**

Statkraft Markets Private Limited,
(formerly known as Tidong Power Generation Pvt. Ltd.),
Unit 401, 4th Floor Salcon Rasvilas Building,

Saket District Centre, New Delhi-110017. **……….Respondent No. 4**

Miscellaneous Petition under Regulation 75 of Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2024 read with Section 151 of the Code of Civil Procedure, 1908, seeking directions to all the beneficiaries of 400/220/66 kV GIS Pooling Sub-station Wangtoo (Sherpa Colony) to pay the transmission charges in accordance with the charges determined by the Commission vide order dated 28.09.2022 in Petition No. 29 of 2022 read with the Ld. CERC order dated 20.03.2025 in Petition No. 38/MP/2023.

Present:-

Sh. Tapan Kumar, Tariff Consultant for the Petitioner.
Sh. Kamlesh Saklani, Authorised Representative for the Respondent No. 1.
Sh. Jitender Dogra, DGM (SoP) for the Respondent No. 2.
Ms. Shreya Dubey, Ld. Counsel for the Respondent No. 4.
Respondent No. 3: Ex-parte.

ORDER

This Miscellaneous Petition has been filed by the Himachal Pradesh Power Transmission Corporation Limited (the Petitioner/ HPPTCL for short) under Regulation 75 of the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2024 (CBR, 2024 for short) read with Section 151 of the Code of Civil Procedure (CPC for short) seeking directions against the beneficiaries to pay the transmission charges from COD to FY

2023-24 in accordance with the charges determined by the Commission vide order dated 28.09.2022 in Petition No. 29 of 2022 in respect of 400/220/66 kV GIS Pooling Sub-station Wangtoo (Sherpa Colony).

2. A Petition was filed by the Petitioner before the Commission for determination of tariff for the period starting from CoD (29.09.2019) to FY 2023-24 in respect of 400/220/66 kV GIS Pooling Sub-station at Wangtoo (Sherpa Colony) (GIS Pooling Sub-station at Wangtoo for short) under the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2011 (Transmission Tariff Regulations, 2011 for short). The said Petition was registered as Petition No. 29 of 2022 and was disposed off vide order dated 28.09.2022, approving the capital cost and the following Annual Transmission Charges:-

Table 1: Annual Transmission Charges approved by HPERC (Rs. Lakh)

Particular	FY2019-20	FY2020-21	FY2021-22	FY2022-23	FY2023-24
Depreciation	1,049.72	2,186.01	2,187.99	2,190.41	2,190.89
Interest on Loan	1,697.15	3,393.24	3,177.78	2,962.85	2,744.59
turn on Equity	667.93	1,397.91	1,399.17	1,400.71	1,401.02

Particular	FY2019-20	FY2020-21	FY2021-22	FY2022-23	FY2023-24
O&M	213.89	437.99	453.42	469.27	485.78
Interest on Working Capital	73.64	139.87	126.76	123.61	120.37
ARR	**3,702.32**	**7,555.02**	**7,345.12**	**7,146.86**	**6,942.65**

3. However, the Commission in the aforesaid order directed the Petitioner to approach the Central Electricity Regulatory Commission (Ld. CERC for short) for recovery of appropriate transmission charges through PoC Mechanism in line with the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020 (CERC Regulations, 2020 for short) observing that the DPR does not specify the beneficiaries of the system. Paras 4.8.6 and 4.8.7 of the order dated 28.09.2022 are reproduced as under:-

"4.8.6 Further, in response to one of the stakeholders comments, the Petitioner has submitted the following: "The work of certification of non ISTS assets was withdrawn vide issuance of CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020. Therefore, on account of change in Regulations, the Petitioner expresses its inability in getting the assets incidental to inter-state Transmission system certified as inter-state or intra-state asset. However, once the tariff is determined by the Hon'ble Commission, the Petitioner shall approach Hon'ble CERC for appropriate recovery of transmission charges through POC mechanism in line with CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020."

> *4.8.7 Since, the DPR does not clearly specifies the beneficiaries of the system, TSAs for the Sub-station are not yet in place and the Petitioner itself has communicated that once the tariff is determined, the Petitioner shall approach Hon'ble CERC for appropriate recovery of transmission charges through POC mechanism in line with CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020. Accordingly, the Petitioner is directed to file suitable application before the CERC for recovery of ARR approved in this Order for the period from COD to FY 2023-24 under the CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020."*

4. According to the Petitioner, the system was envisaged to evacuate about 328 MW of power from various HEPs, which were planned to be developed in the Satluj Basin in a phased manner. These HEPs include Kashang-I, II, and III HEP (65 MW each), Tidong-I HEP (100 MW), Rala HEP (13 MW), Wanger-Homte HEP (24.60 MW), Silti-Masrang HEP (24 MW) and various upcoming HEP's. The current beneficiaries include Kashang-I, II, and III HEP (195 MW), Tidong-I HEP (100 MW), Rala HEP (13 MW), Wanger Homte HEP (24.60 MW) and the HPSEBL. The above project was envisaged to evacuate power developed from Hydro generating stations within the State of Himachal Pradesh and for both drawl & injection by HPSEBL through its Intra-State System using S/C LILO of 220 kV D/C Bhaba-Kunihar transmission line.

5. It is averred that as directed by the Commission, the Petitioner filed Petition No. 38/MP/2023 before the Ld. CERC for inclusion of GIS Pooling Station at Wangtoo developed by it as Intra-State (InSTS) Transmission System and recovery of transmission charges under PoC Mechanism under the CERC Regulations, 2020.

6. However, the Ld. CERC vide order dated 20.03.2025 in Petition No. 38/MP/2023 observed that the GIS Pooling Station at Wangtoo cannot be included for sharing of transmission charges under the CERC Regulations, 2020 and such charges cannot be levied on beneficiaries on all India basis. Accordingly, Petition No. 38/MP/2023 was disposed off vide order dated 20.03.2025.

7. In the circumstances, the present application has been filed, inter alia, seeking the following reliefs:-

a) Admit and allow the present Petition/ Application;
b) Allow the Petitioner/ Petitioner to recover the transmission charges for a period from COD to FY 2023-24 in respect of the instant Asset alongwith the carrying cost as claimed herein;
c) Allow the Petitioner/ Petitioner to make further submissions, addition and alteration to the Petition/ Application as may be necessary from time to time;
d) Pass any such further or other order(s).

8. It is averred that since the GIS Pooling Station at Wangtoo has been considered as Intra-State Transmission System, the Petitioner be permitted to recover the transmission charges from the beneficiaries of the GIS Pooling Station at Wangtoo from the period w.e.f. COD to FY 2023-24 based on the allotted/ contracted capacity in line with the Transmission Tariff Regulations, 2011. Also averred that from FY 2024-25, the Petitioner has already proposed to recover the transmission charges from the beneficiaries as part of the pooled Intra-State Transmission System vide Business Plan Petition filed before the Commission but the Commission in MYT Order dated 22.01.2025 in Petition No. 30 of 2024 has not considered the same as part of the Intra-State Transmission System. On the premise that the nature of the asset i.e. GIS Pooling Sub-station at Wangtoo as Inter-State Transmission System (ISTS) was yet to be decided by the Ld. CERC. Further averred that since, the nature of the asset i.e. GIS Pooling Sub-station at Wangtoo has now been decided, the Petitioner has sought review of the issue though Review Petition No. 311 of

2025 and proposed to include the same under pooled mechanism for recovery of transmission charges from FY 2024-25.

9. It is mentioned that for effecting the recovery, the Commission has considered the transmission charges for FY 2019-20 to FY 2023-24, as approved vide order dated 28.09.2022 and for sharing said charges, the quantum of contracted capacities has been considered based on the agreements executed with the beneficiaries. The copy of the Long Term Agreement/ Transmission Service Agreement (LTA/TSA for short) executed with the beneficiaries have been annexed as Annexure-3.

10. The detail of LTA/TSAs signed with the Himachal Pradesh State Electricity Board Limited (the Respondent No. 1/ HPSEBL for short)/ beneficiaries has been summarized as under:-

> ***"20.*** *The details of the TSA/ LTAs signed with HPSEBL/ Beneficiaries is summarized below for the ready reference of the Hon'ble Commission.*
> ***I.M/s Taranda Hydro Power Private Ltd.***
>
> *(a) The relevant extracts from the LTA dated 26.02.2019 signed with M/s. Taranda Hydro Power Private Limited is reproduced as below:*
> *" …*
> ***Due dated from which the open access is granted is 30.06.2019 for a period of twenty (20) years i.e upto 29.06.2039.***
> *…*

I) AND WHEREAS Long term transmission customers have agreed to share and pay all the transmission charges of HPPTCL. in accordance with the regulation/tariff order issued by State Electricity Regulatory Commission from time to time for the use of its Transmission System of the concerned Regions including inter State links/ULDC/NLDC charges and any additions thereof in proportion to their proposed capacity addition as indicated at Annexure-I of this Agreement. These charges would be shared and paid from the scheduled date of commissioning of respective generating units as indicated at Annexure-I.

…

Sl. No.	*Application*	*Gen. Project Capacity (MW)*	*LTOA Applied for (MW)*	*Location*	*Time Frame (Unit wise)*	*Long Term Access Granted (NR)*
1	*Taranda hydro Power Private limited*	*13.00 MW*	*13.00 MW*	*Rala 13 MW SHP, village Panvi, District Kinnaur,HP*	*Unit 1: 30.06.2019 (Tentative) Unit 2: 30.06.2019 (Tentative)*	*13.00*

…"

However, on 12.01.2022 amendment to said Agreement was signed and contracted capacities of M/s Taranda Hydro Power Private Limited were amended as under:-

"

Injection Utility
Name: - Ms Taranda Hydro Power Private Limited
Location:-Rala Small Hydro Electrie Projeet, Village Panvi, District Kinnaur, HP State/ Region: HP/ North India
Capacity (MW):- i) 12.87 MW for first 12 years
ii) 9.57 MW for next 18 years
iii) 8.01 MW for last 10 ycars

"

From the above it can be observed that the quantum of 12.87 MW is tied-up with Taranda Hydro Power Private Limited for Rala HEP from

30.06.2019/ actual COD of the Transmission Asset. Accordingly, the Contracted Capacity for the purpose of recovery of transmission charges has been considered as 12.87 MW from the date of COD to 31.03.2024.

II. Himachal Pradesh Power Corporation Ltd.

(b) The relevant extracts from the LTA dated 10.01.2020 signed with HPPCL is reproduced as below:

" …

Due dated from which the open access is granted 02.11.2019 for a period of 25 years i.e upto and 01.11.2044.

…

I) AND WHEREAS Long term transmission customers have agreed to share and pay all the transmission charges of HPPTCL. in accordance with the regulation/tariff order issued by State Electricity Regulatory Commission from time to time for the use of its Transmission System of the concerned Regions including inter State links/ULDC/NLDC charges and any additions thereof in proportion to their proposed capacity addition as indicated at Annexure-1 of this Agreement. These charges would be shared and paid from the scheduled date of commissioning of respective generating units as indicated at Annexure-3.

…

Sl. No.	*Application*	*Gen. Project Capacity (MW)*	*LTOA Applied for (MW)*	*Location*	*Time Frame (Unit wise)*	*Long Term Access Granted (NR)*
1	*Himachal Pradesh Power Corporation Limited*	*65.00 MW*	*65.00 MW*	*Kashang-Stage –I 65 MW SHP village, District Kinnaur, HP*	*Unit 1: Already in operation*	*65.00*

…”

From the above it can be observed that the quantum of 65 MW is tied-up with HPPCL for Kashang HEP Stage I from 02.11.2019. Accordingly, the Contracted Capacity for the purpose of recovery of transmission charges has been considered as 65 MW from the date of 2.11.2019 to 31.03.2024.

III. Tidong Power Generation Private Ltd.

(c)The relevant extracts from the LTA dated 03.06.2022 signed with M/s Tidong Power Generation Private Limited is reproduced as below:

“ …

H) AND WHEREAS Long term transmission customers have agreed to share and pay all the transmission charges of HPPTCL. in accordance with the regulation/tariff order issued by State Electricity Regulatory Commission from time to time for the use of its Transmission System of the concerned Regions including inter State links/ULDC/NLDC charges and any additions thereof in proportion to their proposed capacity addition as indicated at Annexure-1 of this Agreement. These charges would be shared and paid from the scheduled date of commissioning of respective generating units as indicated at Annexure-1.

…

Sl. No.	*Application*	*Gen. Project Capacity (MW)*	*LTOA Applied for (MW)*	*Location*	*Time Frame (Unit wise)*	*Long Term Access Granted (NR)*
1	*M/s Tidong Power Generation Private Limited*	*100 MW*	*100 MW*	*NR*	*25.03.2023*	*100 MW*

…”

From the above it can be observed that the quantum of 100 MW is tied-up with Tidong Power Generation Private Limited for Tidong HEP from

25.03.2023. Accordingly, the Contracted Capacity for the purpose of recovery of transmission charges has been considered as 100 MW from 25.03.2023 to 31.03.2024.

IV. HPSEBL

(d) The relevant extracts from the Supplementary TSA 14.07.2022 signed with HPSEBL is reproduced as below:

"AND WHEREAS, HPPTCL is transmitting the power of HPSEBL through its system mentioned in original Transmission Service Agreement executed between parties on dated- 10.02.2012, supplementary transmission agreement dated- 29.05.2018 and a separate Agreement signed between parties on dated 12.04.2021. The revised list of HPPTCL system used by HPSEBL whose Transmission Service Agreement has been signed till date is placed at revised Annexure-A of this agreement.

…

AND WHEREAS, HPPTCL has signed Long Term Open Access (LTOA) Agreement with other beneficiaries for usage of STU system. As per Clause (33) of HPERC (Terms and Conditions for determination of Transmission Tariff) Regulations, 2011 and subsequent amendments thereof, Annual Transmission Service Charge (ATSC) shall be shared between long and medium term customers of Transmission system on monthly basis based on the allotted transmission capacity or contracted capacity, as the case may be. The maximum capacity utilization of HPPTCL system for HPSEBL after addition/inclusion of following assets mentioned at Sr. No. 1 to 7 shall remain 670 MW on intra-state system.

However, the methodology to ascertain the contracted capacity of HPSEBL in future on the HPPTCL's Transmission lines shall be as under:

"The contracted capacity of HPSEBL will be ascertained on the basis of the average of 'A' for the last three financial years.

Where, 'A'= (0.5 x maximum of HPSEBL drawl in a time block during the year) + (0.5 x [average of (maximum HPSEBL drawl in a time block in a day) during the year])."

…

AND WHEREAS, HPPTCL has commissioned the following Transmission assets (Annexure-B) which are being used by HPSEBL as per the contracted capacity or allotted capacity as such it is agreed between the parties as under: -

…

3. 400/220/66kV Wangtoo Substation.-

HPPTCL has commissioned 400/220/66kV Wangtoo Substation on dated 29.09.2019. Presently, Wangtoo Substation is evacuating power of Rala HEP (13MW), Kashang HEP (65MW) and small HEPs baying PPA with HPSEBL. This Substation is meant for evacuating power of HEP's pooling their power in the instant asset and will also ensure reliable & quality *power supply. The filing of Tariff petition of this asset before Hon'ble HPERC is in process and upon determination of tariff, ARR (Aggregate Revenue Requirement) approved for instant asset will be recovered from beneficiaries of asset in-line with the tariff order approved by the Commission. However, this asset may form part of interstate Transmission system based on petition to be filed before CERC, in case of declaration as ISTS, the transmission charges for this asset will be recovered as per CERC Sharing of Transmission Charges Regulations, 2020 as amended from time to time.*

…

AND WHEREAS, the HPPTCL transmission asset(s) earlier not included in HPPTCL common ARR whose ARR have been got approved separately, shall be included in the HPPTCL common ARR and shall be shared among all the beneficiaries of the assets to the extent of utilization of these assets. The petition to this effect shall be filed before HPERC by HPPTCL.

AND WHEREAS, if Transmission Asset(s) included in Transmission Service Agreement are declared as interstate asset(s) in future, transmission tariff of such asset will be recovered in accordance with CERC Sharing of Transmission Charges Regulations, 2020 as amended from time to time…"

21. *It is humbly submitted that HPSEBL has also been using the asset to draw power specially during the winter months to meet the State power demand. As HPSEBL has not contracted specific quantum of power, the contracted capacity for allocating transmission charges has been worked out as under:-*

(i) Period wise quantum of LTAs available at Wangtoo Substation calculated upto FY 2023-24

(ii) Recorded maximum HPSEBL drawl data during each month from COD to FY 2023-24 listed out

(iii) Capacity left out after deducting yearwise quantum of LTAs available at Wangtoo Substation from 315MW(considering power factor as unity) worked out

(iv)HPSEBL capacity for period from COD to FY 2023-24 considered as minimum of left out capacity as per (iii) above and recorded periodwise maximum HPSEBL drawl data as per (ii) above.

Table depicting HPSEBL capacities proposed to be considered upto FY 2023-24 is as under:-

Sl. No.	Description	29.09.2019 to 01.11.2019	02.11.2019 to 31.03.2020	FY 2020-21	FY 2021-22	01.04.2022 to 24.03.2023	25.03.2023 to 31.03.2023	FY 2023-24
1	*Rala*	*12.87*	*12.87*	*12.87*	*12.87*	*12.87*	*12.87*	*12.87*
2	*Kashang Stage I*		*65*	*65*	*65*	*65*	*65*	*65*
3	*Tidong*						*100*	*100*
4	***Sub-Total (A)***	***12.87***	***77.87***	***77.87***	***77.87***	***77.87***	***177.87***	***177.87***
4	*Balance Capacity* ***B= 315 MW-(A)****	***302.13***	***237.13***	***237.13***	***237.13***	***237.13***	***137.13***	***137.13***
	Max HPSEBL Usage (Peak) ***(C)***	*181*	*236*	*316*	*280*	*286*	*256*	*346*
4	*HPSEBL-Contracted Capacity(in MW)= [Min of (B,C)]*	*181*	*236*	*237.13*	*237.13*	*237.13*	*137.13*	*137.13*

22. In order to arrive at capacity for HPSEBL as per Table above, maximum drawl data of HPSEBL has been gathered and same is reiterated as under: -

Month/Year	***Monthly Peak Drawl***
	220 kV Wangtoo - Kunihar Ckt
Sep-19	*145.6*
Oct-19	*180.6*
Nov-19	*210.8*
Dec-19	*225.6*
Jan-20	*210.3*
Feb-20	*230.5*
Mar-20	*235.6*
Apr-20	*139.39*
May-20	*118.47*

Jun-20	*112.93*
Jul-20	*112.05*
Aug-20	*Shutdown by ALDC(Jumper opened at T-100)*
Sep-20	
Oct-20	
Nov-20	*218.67*
Dec-20	*237.12*
Jan-21	*316.01*
Feb-21	*235.08*
Mar-21	*257.07*
Apr-21	*170.6*
May-21	*172.5*
Jun-21	*145.53*
Jul-21	*123.26*
Aug-21	*Shutdown by ALDC(Jumper opened at T-100)*
Sep-21	
Oct-21	
Nov-21	*279.66*
Dec-21	*275.85*
Jan-22	*255.2*
Feb-22	*273.57*
Mar-22	*154.76*
Apr-22	*208.96*
May-22	*162.53*
Jun-22	*158.34*
Jul-22	*224.03*
Aug-22	*286.31*
Sep-22	*168.88*
Oct-22	*237.07*
Nov-22	*233.78*
Dec-22	*196.8*
Jan-23	*201.57*
Feb-23	*176.7*
Mar-23	*255.64*
Apr-23	*166.19*
May-23	*177.65*
Jun-23	*224.21*

Jul-23	230.7
Aug-23	176.34
Sep-23	215.35
Oct-23	230.95
Nov-23	271.68
Dec-23	239.95
Jan-24	345.76
Feb-24	234.33
Mar-24	200.24

23. Based on the above clauses of the TSA/LTAs, the capacity tied up with HPPTCL for the relevant period is summarized as below:

Table 2: Summary of Capacity Tied up (MW)

Sl. No.	***Description***	***29.09.2019 to 31.10.2019***	***31.10.2019 to 31.03.2020***	***FY 2020-21***	***FY 2021-22***	***01.04.2022 to 24.03.2023***	***25.03.2023 to 31.03.2023***	***FY 2023-24***
1	*HPSEBL*	*181.00*	*236.00*	*237.13*	*237.13*	*237.13*	*237.13*	*237.13*
2	*Rala*	*12.87*	*12.87*	*12.87*	*12.87*	*12.87*	*12.87*	*12.87*
3	*Kashang Stage I*		*65*	*65*	*65*	*65*	*65*	*65*
4	*Tidong*						*100*	*100*
5	***Total***	***193.87***	***313.87***	***315.00***	***315.00***	***315.00***	***315.00***	***315.00***

24. The Petitioner would like to submit that since the subject asset has not been considered as a part of Inter-State Transmission System for the purpose of recovery of Transmission Charges under PoC Mechanism for the Period from COD to FY 2023-24 by Hon'ble CERC, accordingly, HPPTCL prays the Hon'ble Commission to direct HPSEBL and other Beneficiaries to pay the transmission charges in accordance with the charges determined by this Commission vide its order dated 28.09.2022 under Petition No. 29/2022 as summarized below:

Table 3: Annual Transmission Charges approved by HPERC (Rs. Lakh)

Particular	***FY2019-20***	***FY2020-21***	***FY2021-22***	***FY2022-23***	***FY2023-24***
Depreciation	*1,049.72*	*2,186.01*	*2,187.99*	*2,190.41*	*2,190.89*
Interest on Loan	*1,697.15*	*3,393.24*	*3,177.78*	*2,962.85*	*2,744.59*
Return on Equity	*667.93*	*1,397.91*	*1,399.17*	*1,400.71*	*1,401.02*
O&M	*213.89*	*437.99*	*453.42*	*469.27*	*485.78*
Interest on Working Capital	*73.64*	*139.87*	*126.76*	*123.61*	*120.37*
ARR	***3,702.32***	***7,555.02***	***7,345.12***	***7,146.86***	***6,942.65***

25. Based on the ARR approved by the Commission for FY 2019-20 to FY 2023-24 and the Summary of beneficiary wise Capacity tied-up (available in ***Table 2****) for each year, the Petitioner proposes before Hon'ble Commission to recover Transmission Charges from each Beneficiary in proportion to the days for which such capacity was tied-up.*

26. It is humbly submitted that the Petitioner is gravely prejudiced by the delay in recovery of transmission charges, which has severely affected the finances of the Petitioner. HPPTCL has therefore sought carrying cost on the above recovery at the rate of 11.16% for FY 2019-20, 10.07%for FY 2020-21, 10.00% for FY 2021-22, 10.80% for FY 2022-23 and 11.57% for FY 2023-24 in accordance with Regulation 10-A of HPERC Tariff Regulations, 2011. It is further submitted that the purpose of carrying cost is not to enrich the affected party but is compensating in nature and therefore should be allowed. Further, allowing carrying cost is a well-established regulatory mechanism designed to make the utility recover cost corresponding to time-value of money on prudently incurred costs that are not recovered in a timely manner. This carrying cost represent the real financial cost the Petitioner incurs by having to finance the revenue shortfall through short-term debt or other financing facilities. Without this recovery, the shareholders of the Petitioner and the State Government are *unfairly burdened with financing costs."*

11. It is averred that the Commission, while approving the Tariff for FY 2019-20 to FY 2023-24, has approved a capital cost of Rs. 405.00 Crore as on COD and an additional capitalization of Rs. 50.35 Crore for the period from COD till FY 2022-23. However, there has been no recovery from this asset of Rs. 450 Crore for the past 6 years due to regulatory uncertainty. It is also averred that the Petitioner is burdened with the responsibility to pay interest on the loan drawn and to keep the asset under operation for the past five years without any revenue realization and, therefore, be allowed to recover the Transmission Charges as determined including the carrying cost to compensate the loss on delayed recovery of the Transmission Charges in an expeditious manner.

REPLY OF THE RESPONDENTS

12. The Application/ Petition has been resisted by the Respondents No. 1, 2 and 4 by filing separate replies.

REPLY OF RESPONDENT NO. 1

13. The Respondent No. 1/ HPSEBL in its reply has submitted that the Ld. CERC vide Order dated 20.03.2025 in Petition No.

38/MP/2023 has not allowed the recovery of the GIS Pooling Sub-station at Wangtoo under the CERC Sharing Regulations, 2020.

14. According to it, the HPSEBL has signed TSA with the HPPTCL and in order to recover the Transmission charges from the HPSEBL, the methodology detailed in Para No. 20 (IV) of the petition be considered instead of the methodology as worked out in Para no. 21 of the petition to ascertain the contracted capacity of the HPSEBL on the HPPTCL lines which is reproduced as below:-

> *"The contracted capacity of the HPSEBL, will be ascertained on the basis of the average of A' for the last three financial years.*
> *Where A'= (0.5 x maximum of HPSEBL drawl in a time block during the year) + (0.5 x (maximum HPSEBL drawl in a time black in a day) during the year)."*

15. It is averred that the Petitioner has raised bills without any approval of the Commission and that the financial implications of the (Asset) on the HPSEBL is substantially high and, therefore, the HPSEBL has prayed that the Commission may allow recovery of charges in six equal monthly installments as per Regulation 10 (6) of the CERC (Terms and Conditions of Tariff) Regulations, 2024.

REPLY OF RESPONDENT NO. 2

16. The Himachal Pradesh Power Corporation Limited (the HPPCL/ Respondent No. 2 for short) in its reply has submitted that the HPPTCL, vide letter No. 693577 dated 19.09.2025 (Annexure-R2/A) has raised an invoice of ₹67.04 crore on the HPPCL pertaining to the 4th Control Period for the 400/220/66 kV GIS Pooling Sub-Station, Wangtoo, covering the period from COD to FY 2023-24.

17. According to it, the Long-Term Open Access (LTOA) Agreement between the HPPTCL and the HPPCL was executed on 10.01.2020 (Annexure-R2/B) for the 220 kV double circuit transmission line from Kashang HEP to Wangtoo, granting open access for 25 years from 02.11.2019 to 01.11.2044. The Kashang HEP achieved Commercial Operation on 30.09.2016 and initially it supplied power to HPSEBL up to 06.05.2018 and from 07.05.2018 to 30.04.2022 the power was sold through the Indian Energy Exchange (IEX). During the period from 02.11.2019 (COD of 220 kV GIS Pooling Wangtoo Sub-Station) to 30.04.2022, transmission charges were incurred. According to it, a Power Purchase Agreement (PPA)

between the HPPCL and the HPSEBL has been executed for Kashang HEP for the period 01.05.2022 to 31.03.2023 on an Ex-Bus delivery basis. In the meeting held on 26.07.2022 between the HPSEBL and the HPPCL, it was mutually agreed that since the delivery obligation of the HPPCL ends at the Ex-Bus point, the Transmission Service Agreement (TSA) execution and corresponding liability for transmission charges shall rest with the HPSEBL and a long-term PPA for Kashang HEP has been signed on 29.03.2023 with the HPSEBL (Annexure-R2/C) for a period of 40 years on 17.01.2023, duly approved by the Commission, which also clearly stipulates Ex-Bus delivery.

18. According to it, the HPSEBL, vide its letter dated 24.03.2025, has confirmed that the drawals from Kashang HEP and Sawra Kuddu HEP form part of its contracted capacity. The HPSEBL has executed a TSA on 17.01.2023 (Annexure-R2/D) with HPPTCL and is already bearing the associated transmission charges as part of its contracted capacity, including drawal from Kashang and Sawra Kuddu HEPs. Accordingly, the transmission charges for Kashang HEP for the

period w.e.f. 01.05.2022 to 31.03.2024 are to be billed directly to the HPSEBL and not to the HPPCL.

19. According to the Respondent No. 2, vide letter No. 11228-38 dated 11.09.2025 (Annexure-R2/E), it has requested the HPSEBL to furnish documentary proof confirming inclusion of Kashang HEP's quantum in HPSEBL's contracted capacity of 1248.75 MW under the TSA dated 17.01.2023. It has been prayed that the transmission charges and carrying cost for the 400/220/66 kV GIS Pooling Sub-Station, Wangtoo (Sherpa Colony), for the period from COD to FY 2023-24, corresponding to Kashang HEP (in proportion to its contracted capacity as per the LTOA and the Order dated 28.09.2022), be billed directly to HPSEBL for the PPA duration i.e., 01.05.2022 to 31.03.2024.

<u>REPLY OF RESPONDENT NO. 4</u>

20. The Statkraft Markets Private Limited (the Respondent No. 4) in its reply has averred that the Respondent No. 4 has been wrongly impleaded as party to the Petition and since Petition No. 29 of 2022 had been disposed off vide order dated 28.09.2022, the Commission

is “functus officio” and the present proceedings are not tenable. According to it, the Electricity Act, 2003 does not allow the Commission to issue directions in a disposed off matter and thus, it is not open to the Petitioner to file present Petition seeking direction for asset-wise transmission charges in such disposed off proceedings and that too after the expiry of tariff proceedings. According to it, any gap in the ARR has to be worked out through the process of true-up. Further, the claim of Rs. 22.90 Crore against the Respondent No. 4, being participant of GIS Pooling Sub-station at Wangtoo is excessive and unwarranted.

21. It is claimed that the HPSEBL has utilized upto 346 MW of capacity of the transmission system and thus, it would be unfair to charge the HSPEBL only for 137.13 MW and that the Petitioner intends to recover the charges for the usage by the HPSEBL from the Respondent No. 4 which would amount to unfair, unjust and cross subsidization of the HPSEBL at the cost of the Replying Respondent.

22. According to the Respondent No. 4, there is ongoing dispute between the Petitioner and the Respondent No. 4 in respect of the

LTA for deferment of the long term open access charges due to delay in completion of Tidong HEP and no charges can be levied against the Respondent No. 4 till the matter is sub-judice before the Hon'ble Appellate Tribunal of Electricity (APTEL for short).

23. While giving brief factual background of the LTA agreement signed by the Replying Respondent with the Petitioner, though the same was granted by the Petitioner, yet the HPPTCL did not sign the Long-Term Access Agreement for the transmission line from Tidong - I HEP through Kashang Bhaba line, as according to the Petitioner the Kashang-Bhaba transmission line was set up exclusively for the HPSEBL. Accordingly, the Respondent No.4 approached the Commission for necessary directions to the Petitioner for signing of the LTA Agreement under the Petition No. 12 of 2021 and while the LTA was granted for 25 years, the same was modified by the Ld. Commission and the period of open access was made conditional. Further, the Kashang Bhaba Line was initially constructed for the purpose of evacuation of power of Kashang HEP and the Tidong-1 was to be connected to the Jangi Sub-station, once the same was

commissioned. It is on this factum, the Commission vide Order dated 02.05.2022 in Petition No. 12 of 2021 has clearly and unambiguously observed that the arrangement of evacuation of power of Tidong 1 HEP that the Kashang Bhaba line is temporary in nature till commissioning of Jangi pooling substation whereafter, the Tidong HEP would be connected to the Jangi pooling substation through 220kV D/C line. As such, the open access arrangement was interim in nature. Further, there was no assured evacuation for the entire 100MW of Tidong I, as the associated transmission system was to be shared with Kashang II and III. Considering the aforementioned facts and events, the Commission was pleased to observe that there was flaw in the LTA dated 29.10.2019 granted to Tidong - I HEP as it was contrary to the minutes of CEA and letter of CEA dated 18.06.2020 as on commissioning of the Jangi Sub-station, the Tidong - I HEP would be connected to the same. Further, the Commission vide Order dated 02.05.2022 directed that the LTA dated 29.09.2019 was liable to be revised to the extent that the same shall be till the commissioning of the Jangi pooling substation and thereafter the

Tidong-I HEP will have to seek fresh LTA. Furthermore, the quantum of open access was also made conditional to the Kashang II and III generating units. In case of any constraint in transmission capacity, the open access for the Tidong Project was to be restricted proportional to the Kashang II and III units.

24. It is averred that on 03.06.2022, an agreement for Long Term Access was signed between the Petitioner and the Respondent No.4 for a period of 25 years and vide letter dated 12.06.2023, the Respondent No. 4 had sought recourse to Clause 9.0 of the LTA Agreement dated 03.06.2022 and revision of SCOD from 25.03.2023 to 31.12.2024, as the Tidong Project continued to be hit by force majeure events. The Directorate of Energy vide Letter dated 25.11.2023 (Annexure R-2), has also revised the construction schedule and consequently the SCOD was also revised as 31.10.2024. Yet the Petitioner has raised Provisional Transmission charges for the period 25.03.2023 to 30.04.2023, due to which the Respondent No.4 was constrained to file Petition No. 71 of 2023 before the Commission which was disposed off vide Order dated

12.04.2024 rejecting the prayer of the Replying Respondent for deferment of SCOD and consequential deferment of transmission charges, which was the subject matter of review under Review Petition No. 105 of 2024. While the said review petition was pending adjudication before the Commission, the Petitioner issued an Office Order dated 29.04.2024 seeking payment towards the transmission charges in respect of 220kV D/C Kashang Bhabha Line accrued up to February 2024 amounting to Rs. 4,59,42,274/-. It thereafter issued notice dated 14:06.2024 seeking payment of Rs. 5,14,48,274/- for transmission charges accruing upto 31.05.2024 (along with surcharge) and threatened to encash the LTA Bank Guarantee amounting to Rs. 5,00,00,000/-. A sum of Rs. 3,10,00,000/- was paid by Respondent No.4 on 26.06.2024 under protest that the matter is sub judice in Review Petition pending before the Commission and balance amount will be reconciled. On 25.06.2024, the BG invocation notice was withdrawn by Petitioner, after which the parties re-conciled the accounts and the Respondent No.4 made further remittances. The Review Petition was dismissed by the Commission vide Order dated

10.10.2024, and the matter is now sub judice before the Hon'ble Appellate Tribunal under Appeal No. 15 of 2025.

25. As per the Replying Respondent, it has further paid a sum of Rs.3,61,23,930/-(including TDS of Rs. 67,12,393/- (Rupees Sixty Seven Lakhs Twelve Thousand on 18.09.2024 towards invoices raised by the Petitioner till July 2024 and Rs. 90,80,748/-(inclusive of TDS of Rs. 9,08,075/-) on 18.10.2024 towards invoices raised by the Respondent No. 2 for August 2024 and September 2024.

26. As per the Respondent No. 4, by way of the present application the transmission charges for the GIS Sub-station at Wangtoo which was commissioned in 2019 are sought to be recovered, being Intra-State system which was, earlier claimed as an Inter-state asset by the Petitioner in terms of the LTA Agreement dated 03.06.2022. According to it, once the HPPTCL having opted for treatment of the GIS Sub-station at Wangtoo as part of ISTS, it cannot now seek to recover the charges from the alleged beneficiaries / respondents. The liability of the Replying Respondent towards the payment of the transmission charges under the LTA Agreement is the subject matter

of adjudication under Appeal No. 15 of 2025 before the Hon'ble APTEL and the main issue in contention is whether the extension of SCOD by the Government of Himachal Pradesh (GoHP) under the Implementation Agreement, the effective date of LTA is to be correspondingly extended.

27. The Replying Respondent has submitted that the amendment in the milestones with the COD of the Project has a direct bearing on the LTA operationalization date. Recital (E) of the LTA Agreement has been reproduced as under:-

> *"(E) Each of the project developers le.. the long term transmission customer has agreed to share and bear the applicable transmission charges as decided by H.P. State Electricity Regulatory Commission of the total transmission scheme as per Annexure-3 from the Scheduled date of commissioning of respective generating units, corresponding to the capacity of power contracted from the said Generation project through open access as indicated at Annexure-1 irrespective of their actual date of commissioning. The sharing mechanism for these transmission charges has been agreed to be as per Annexure- 4 of this agreement."*

28. It is averred that the SCOD of the project has been provided under the Implementation Agreement and since, the SCOD of the Tidong HEP has been revised by the DoE, Govt of HP vide letter dated 25.11.2023 to 31.10.2024, any liability of pay transmission

charges under the LTA Agreement, if at all, could have accrued after the revised SCOD i.e. 31.10.2024.

29. On para-wise reply, the contents of the Application have been denied that from FY 2024-25, the Petitioner has proposed to recover the transmission charges as part of the pooled Intra-State Transmission System vide Business Plan Petition filed before the Commission vide Petition No. 30 of 2024 which is pending adjudication before the Commission.

30. It is averred that since the GIS Pooling Sub-station at Wangtoo has been considered as Intra-State system, the Petitioner cannot blame for the regulatory uncertainty for justifying its claim for carrying cost under the present Petition and that the Respondent No. 4 cannot be made liable for carrying cost due to regulatory adventurism of the Petitioner and the inconsistent stand of the Petitioner in respect of the assets and the methodology applied for the recovery of the transmission charges.

31. It is averred that in view of the inconsistent pleas that GIS Pooling Sub-station at Wangtoo is to be included in the pooled

mechanism for recovery of transmission charges from the year 2025 onwards, the claim of the Petitioner for the revision of tariff after the expiry of MYT period cannot be allowed. It is denied that the Replying Respondent is liable to pay the transmission charges w.e.f. 25.03.2023 being subject matter of consideration in Appeal No. 15 of 2025.

32. It is denied that the Petitioner is gravely prejudiced by the delay in recovery of the transmission charges. In this regard, the observations made by the Ld. CERC in para 13 have been reproduced as under:-

"13. The Commission vide TV letter dated 18.09.2023 directed the Petitioner to furnish as to what has changed which makes the assets under consideration in the instant petition an inter-State Transmission System, as it was originally planned as an intra-state system to be implemented by STU."

HPPTCL's submission is recorded as under:-

*a) The subject asset may have initially been envisaged to be implemented by PGCIL/CTU; however, in view of the CEA letter dated 06.04.2011, the scope and space for future integration of the ISTS system was kept by STU on advice of CEA to conserve ROW and limited availability of space thereby avoiding duplicity of construction of a separate 400 kV pooling/ Switching Station by PGCIL/CTUIL. The Switchyard capacity of the substation has been kept as advised in the 30th meeting of the Standing Committee on Power System Planning of Northern Region held on 19/12/2011, keeping in view the overall power handling requirements. Even the transmission system for evacuation of power from Shongtong Karcham HEP (450 MW) and Tidong HEP *(150*

> *MW) has been finalized considering 400kV D/C line from proposed 400 kV Sub-station Jhangi to 400/220/66 kV GIS Sub-station Wangtoo which implies that Wangtoo Sub-station is an integral part of the system which facilitates evacuation of the power out of the state as ISTS. Therefore, the subject asset ought to be included in the POC mechanism since it will be used as an ISTS asset to service generators supplying their electricity outside the State."*

33. It is averred that the Petitioner cannot burden the Respondents with its decision to approach the Ld. CERC for treating the asset as Inter-State system and having been denied the same, the contention cannot be accepted that no recovery has been made in the last 6 (six) years due to regulatory uncertainty as correct regulatory provision was not adopted.

34. Also averred that in case the transmission charges, if ultimately found payable by the Respondent No. 4 have to be spread over a period of atleast 13 months without any carrying cost since, the claim of the Petitioner is towards March, 2023 to March, 2024.

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

REJOINDER

36. In separate rejoinders, the contents of the replies have been denied and those of the Petition have been reaffirmed.

SUBMISSIONS OF THE PARTIES

37. We have heard Sh. Tapan Kumar, Tariff Consultant for the Petitioner, Sh. Kamlesh Saklani, Authorised Representative for the Respondent No. 1, Sh. Jitender Dogra, DGM (SoP) for the Respondent No. 2 and Ms. Shreya Dubey, Ld. Counsel for the Respondent No. 4.

38. It has been submitted by Sh. Tapan Kumar, Tariff Consultant for the Petitioner that the mode of recovery was not made in the order dated 28.09.2022 while disposing off Petition No. 29 of 2022 for the reason that the nature of the asset was not clearly understood and therefore, the Commission had directed the Petitioner to approach the Ld. CERC for getting the nature of the asset determined under the provisions of the CERC Regulations, 2020 that the same forms part of the Inter-State Transmission system. According to him, the Ld. CERC vide order dated 20.03.2025 in Petition No. 38/MP/2023 has held that the subject asset is not Inter-State and rather, the same is Intra-State and hence, the present Application has been filed for recovery of tariff so that the cost of asset is recovered and the

Petitioner is in a position to operate and maintain the subject asset and in case the recovery mechanism is not provided, it would be difficult for the Petitioner to maintain the subject asset which would result in power disruptions etc. He has also submitted that the subject asset is being utilized by the Respondents and, therefore, the Respondents are liable to pay the transmission charges as per the Transmission Tariff Regulations, 2011, as amended from time to time, as per the allotted/ contracted capacity and since the Respondents have signed the TSA with the Petitioner, they cannot escape the liability.

39. Sh. Kamlesh Saklani, Authorised Representative for the Respondent No. 1 has submitted that there is regulatory uncertainty to ascertain the contracted capacity for the recovery of transmission charges for the usage of such STU asset wherein the State DISCOM uses for both drawl and injection of power at the same time and, therefore, the Petitioner and the HPSEBL have signed Supplementary Transmission Service Agreement (STSA for short) on 14.07.2022 agreeing to consider the methodology provided in the

Central Electricity Regulatory Commission (Connectivity and General Network Access to the Inter-State Transmission System) Regulations, 2022 to ascertain the contracted capacity for the usage of the asset in question. It is also submitted that the Petitioner has raised the bills by apportioning the charges to the HPSEBL by taking maximum drawl of the HPSEBL at any time in the year which is contrary and against the agreed terms in the STSA. It is also submitted that the contention of the Respondent No. 4 that the HPSEBL having recorded the maximum drawl from the subject asset is misconceived, untenable and contrary to the governing Transmission Tariff Regulations and recovery mechanism provided under the same. According to him, the Transmission Network includes subject asset forming part of an integrated grid system designed for shared use by the beneficiaries and the system is neither dedicated to the HPSEBL nor capable of being apportioned on the basis of instantaneous or historical drawl as the transmission charges are recoverable on the basis of availability of the system and right to access the same. According to him, once a beneficiary is connected to the transmission system or has been granted capacity allocation/ access rights, it is liable to share the transmission charges irrespective of the extent of actual drawl and the contrary interpretation would defeat the very basis of the transmission planning which is undertaken to meet aggregate system demand and contingencies, and not merely actual scheduled drawl at a given point in time. Further, the drawl is not a static or independent parameter but is influenced by voltage profile at the node, system constraints, load characteristics and real-time grid conditions and the beneficiary may record lower drawl not due to non-utilization of the system but due to voltage conditions or operational limitations and that the drawl data cannot be equated with actual utilization of transmission capacity. According to him, the funding of the Project as claimed is contrary to the underlined funding structure which has resulted in unjustified escalation in Project cost which would burden the consumers of the State.

40. Sh. Jitender Dogra, DGM (SoP) for the Respondent No. 2 has submitted that the HPPCL has signed the PPA with the HPSEBL in

respect of Kashang HEP and thus, the liability to pay the transmission charges is of the HPSEBL and the HPPCL is not liable to pay any charges.

41. Ms. Shreya Dubey, Ld. Counsel for the Respondent No. 4 has submitted that the Petition No. 29 of 2022 has been finally disposed off by the Commission on 28.09.2022 and since, the matter has attained finality, the Commission has become “functus officio” to the extent of the tariff order dated 28.09.2022 and since, the Petitioner had not prayed for recovery of tariff and carrying cost in the main Petition and since no relief was accorded to the Petitioner for approaching the Commission on a future date, the Petition is not maintainable and no such relief can be granted to the Petitioner. It is also submitted that neither Regulation 75 nor Section 151 of the CPC, 1908 contemplate passing of substantive judicial orders after any judgment, decree or order. According to her, since no mechanism has been provided in the tariff order dated 28.09.2022 for recovery of tariff, the application is not maintainable and the remedy if any lies to claim such charges at the time of true up. She has also

submitted that the claim of Rs. 22.90 Crore against the Respondent No. 4 is not in accordance with the usage of the subject asset as the Respondent No. 4 has signed the LTA Agreement on 03.06.2022 with the Petitioner effective from 25.03.2023 and thus, the liability of the Respondent No. 4 if at all is limited to the period from 25.03.2023 to 31.03.2023 and for FY 2023-24. Further, the Petitioner has permitted the HPSEBL to use the capacities committed to the other beneficiaries including the Respondent No. 4 and the transmission charges to such extent of usage are payable by the HPSEBL and cannot be invoiced to the Respondent No. 4 and thus, the action/ methodology adopted by the Petitioner to selectively invoiced three beneficiaries on contracted capacity and one beneficiary on balance capacity is not recognized under the Transmission Tariff Regulations, 2011 which recognize the levy of the transmission charges on the contracted/ allotted capacity. According to her, the claim for the carrying cost is misplaced as there was delay of almost two years in approaching the Commission for determination of ARR and subsequent delay of six months in approaching the Commission after

Ld. CERC disposed off the Petition No. 38/MP/2023. Thus, the Petitioner cannot be compensated for delay which is self attributable. Further, there is also no case for regulatory uncertainty. According to her, the LTA dated 03.06.2022 does not recognize the carrying cost nor the carrying cost was awarded in Petition No. 29 of 2022. According to her, since the MYT order in FY 2024-25 to FY 2028-29, the Petitioner has treated the capital granted by the GoHP to the HPPTCL as 90% grant and 10% debt rationale, thus, the same is required to be adopted by the Commission in similar situated Petitions to maintain the regulatory consistency in the interest of the consumers and other beneficiaries.

42. We have done through the submissions of Ld. Counsel and Authorised Representative of the parties as also the written submissions made by the Respondents No. 1 and 4 and perused the entire record carefully. On the basis of pleadings, submissions and record, the following points arise for determination in the present Petition:-

Point No.1: Whether the Petitioner is entitled to recover the transmission charges for the period from COD to FY 2023-24 in respect of the GIS Pooling Sub-station at Wangtoo along with carrying cost?

Point No. 2: Final Order.

43. For the reasons to be recorded herein after in writing out point wise finding also as under:-

Point No. 1: Yes.

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

REASONS FOR FINDINGS

Point No. 1:

44. The Petitioner has claimed that due to the uncertainty about the nature of GIS Pooling Sub-station at Wangtoo (asset) whether the same was Inter-state or Intra-state, the Petitioner approached the Ld. CERC by filing Petition No. 38/MP/2023 as per the order of the Commission. The Ld. CERC, however, refused to accede to the prayer made in the Petition by the HPPTCL that the GIS Pooling Sub-station at Wangtoo cannot be included in the Sharing Transmission

Charges under CERC Regulations, 2020 and the charges cannot be levied on the beneficiaries on all India basis and disposed off said Petition vide order dated 20.03.2025. Para 41 of the order dated 20.03.2025 is reproduced as under:-

> *"41.We observe that the instant substation was planned to evacuate the power of intraState generating stations and drawl/injection of HPSEBL. As recorded in minutes and submitted by CTUIL, it was Petitioner's proposal to construct the substation as an intraState transmission system for which it had tied up ADB funding. We observe that Petitioner has developed 9 bays under 400 kV, and interconnecting 400 kV transmission lines provides an evacuation path to intra-State generating stations. Further, as per HPERC analysis, the maximum capacity that can be handled by Wangtoo 400/220 kV substation is 315 MVA with n-1 contingency condition, and HSEBL has already utilized approx. 316 MW of peak power from Wangtoo substation. We note that Petitioner has developed the instant substation as an intra-State transmission system with intra-State generating stations as its beneficiaries and does not qualify as inter-State transmission system. We do not agree with Petitioner's contention that the substation should be recovered under POC since actual power flow from three HEPsKarcham Wangtoo/ Baspa/ Naphtha Jhakri may flow on an inter-state basis through the Subject Asset. We observe that load flow varies in a transmission system on a continuous basis depending on the load-generation balance scenarios. A transmission system planned as an intra-State transmission system cannot be termed as inter-State for one month and then intra-State for another month. There are cases where intrastate power flows through inter-State lines where such inter-State lines cannot be declared as intra-State. Since the network is meshed, it is not appropriate to identify an intraState transmission system as inter-State and levy its transmission charges on beneficiaries of other States. We are of the considered opinion that the instant substation cannot be included for the sharing of transmission charges under the 2020 Sharing Regulations, and such charges cannot be levied on beneficiaries on an all India basis. In view of the above, discussions, the prayers of the Petitioner cannot be acceded to."*

45. Undisputedly, the Commission vide order dated 28.09.2022 approved the ARR of the GIS Pooling Sub-station at Wangtoo in Petition No. 29 of 2022 but since the Petitioner was directed to approach the Ld. CERC for deciding the GIS Pooling Sub-station at Wangtoo as Inter-State, no order for recovery of transmission charges/ tariff was made by the Commission.

46. Regulation 33 of the Transmission Tariff Regulations, 2011 provides for recovery of transmission tariff. Sub-regulations (1) and (6) of Regulation 33 of the above Regulations read as under:-

> ***"33. Allocation of Transmission Service Charge and Losses***
> *(1) The Annual Transmission Service Charge (ATSC) shall be shared between the long and medium term customers of the transmission system on monthly basis based on the allotted transmission capacity or contracted capacity, as the case may be.*
> *(6) Notwithstanding anything contained in these regulations, the Commission after conducting study and due regulatory process may notify the revised sharing and recovery of annual transmission service charge of the transmission licensee."*

47. As per the Petitioner, due to non-recovery of the transmission charges/ tariff for the last six years, the Petitioner is gravely prejudiced which has severely affected the finances of the Petitioner and the HPPTCL is burdened with responsibility to pay the interest on loan drawn and keep the asset under operation for the last five years

without any revenue realization and, therefore, the transmission charges are required to be paid by the beneficiaries of GIS Pooling Sub-station at Wangtoo as per the above regulations framed by the Commission.

48. As mentioned above, the Commission has approved the ARR of the subject asset vide order dated 28.09.2022 in Petition No. 29 of 2022. A careful perusal of the order dated 28.09.2022 shows that on the request of the Petitioner, the Commission directed the Petitioner to approach the Ld. CERC to decide the nature of the GIS Pooling Sub-station at Wangtoo and declare the same as Inter-State Transmission System and due to said reason, the order regarding recovery of transmission charges was not made. Paras 4.8.6 and 4.8.7 of the aforesaid order dated 28.09.2022 are reproduced as under:-

> *"4.8.6 Further, in response to one of the stakeholders comments, the Petitioner has submitted the following: "The work of certification of non ISTS assets was withdrawn vide issuance of CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020. Therefore, on account of change in Regulations, the Petitioner expresses its inability in getting the assets incidental to inter-state Transmission system certified as inter-state or intra-state asset. However, once the tariff is determined by the Hon'ble Commission, the Petitioner shall approach Hon'ble CERC for*

appropriate recovery of transmission charges through POC mechanism in line with CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020."

4.8.7 Since, the DPR does not clearly specifies the beneficiaries of the system, TSAs for the Sub-station are not yet in place and the Petitioner itself has communicated that once the tariff is determined, the Petitioner shall approach Hon'ble CERC for appropriate recovery of transmission charges through POC mechanism in line with CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020. Accordingly, the Petitioner is directed to file suitable application before the CERC for recovery of ARR approved in this Order for the period from COD to FY 2023-24 under the CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020."

49. Upon disposal of the Petition No. 38/MP/2023 by the Ld. CERC, the Petitioner has filed the present application allowing recovery of transmission charges of GIS Pooling Sub-station at Wangtoo from the beneficiaries.

50. The Ld. Counsel for the Respondent No. 4 at the very outset has submitted that no leave was accorded by the Commission in order dated 28.09.2022 to the Petitioner for approaching the Commission for appropriate tariff. Once, the Commission has finally disposed of the Petition No. 29 of 2022 vide order dated 28.09.2022, the Commission has become "functus officio" to the extent of the tariff order dated 28.09.2022 in Petition No. 29 of 2022 and also that the

Petitioner had not prayed for recovery of tariff and carrying cost in the main Petition and the Petitioner may approach the Commission for recovery of transmission charges at the time of truing up.

51. The submissions though very attractive but are liable to be rejected for the reason that there was uncertainty about the nature of the asset whether or not the same was Inter-State and thus, the Petitioner had rightly prayed before the Commission to accord the liberty to it to approach the Ld. CERC for recovery of transmission charges as per CERC Regulations, 2022. Further, as allowed, the Petitioner approached the Ld. CERC in Petition No. 38/MP/2023 but the Ld. CERC did not accede to the prayer of the Petitioner that the subject asset is part of the Inter-State transmission system and, therefore, no recovery can be made from the beneficiaries of other State. Since the nature of the asset was yet to be determined by the Ld. CERC, the Commission had no occasion to order recovery of transmission charges while disposing of Petition No. 29 of 2022 and once the Ld. CERC has not acceded to the request of the Petitioner for declaring the asset as Inter-State, the Petitioner had no option but

to approach the Commission for recovery of tariff from the beneficiaries of the system. In the circumstances, the present application is in continuation of the earlier order dated 28.09.2022 in Petition No. 29 of 2022 and the Commission is not functus officio as claimed by the Ld. Counsel for the Respondent No. 4.

52. Even otherwise, as per Regulation 15 of the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2024 (CBR, 2024 for short), the Commission may initiate any proceeding Suo Moto or on a Petition filed by any affected or interested person. Regulation 15 of the CBR, 2024 reads as under:-

> *"**15. Initiation of proceedings.-** (1) The Commission may initiate any proceeding suo motu or on a petition filed by any affected or interested person.*
>
> *(2) When the Commission initiates the proceeding, it shall be by a notice issued by the office of the Commission and the Commission may give such orders and directions as may be deemed necessary, for service of notice to the affected or interested parties and for the filing of replies and rejoinders in opposition or in support of the petition in such form as the Commission may direct: Provided that where the Commission initiates suo-motu proceeding, the notice inviting public response shall clearly indicate the proposal of the Commission and shall be inserted/uploaded/published in public domain for seeking suggestions and objections of the public.*

> *(3) The Commission may, if it considers it to be appropriate, issue orders for advertisement of the petition inviting comments on the issues involved in the proceedings in such form as the Commission may direct.*
> *(4) While issuing the notice, the Commission may, in suo motu proceedings and in other appropriate cases, designate an officer of the Commission or any other person whom the Commission considers it to be appropriate to present the matter in the capacity of a petitioner in the case."*

53. The asset in question has been constructed by the Petitioner which has been commissioned on 29.09.2019. However, ever since its commissioning, the recovery of the transmission charges has not been effected for the reasons that the lis for the declaration of the asset as Inter-State was pending before the Ld. CERC. Soon after rejection of the prayer of the Petitioner by the Ld. CERC, the instant application has been filed so that the cost of asset is recovered and the Petitioner is in a position to operate and maintain the subject asset and in case the recovery mechanism is not provided, it would be difficult for the Petitioner to maintain the subject asset which would result in power disruptions etc.

54. The Respondent No. 4 has signed the LTA with the Petitioner on 03.06.2022 agreeing to pay the transmission charges w.e.f. 25.03.2023. The SCOD of the Tidong HEP was 23.11.2019 and as

per the Respondent No. 4, the said SCOD has been revised to 31.10.2024. As per the contention of the Respondent No. 4, the Petition No. 71 of 2023 was filed before the Commission for deferment of transmission charges due to revision of SCOD but the said Petition was dismissed by the Commission vide order dated 12.04.2024. A Review Petition No. 105 of 2024 was filed against said order by the Respondent No. 4 before the Commission but said review Petition was also dismissed vide order dated 10.10.2024. As per the Respondent No. 4, an appeal being Appeal No. 15 of 2025 has been preferred against order dated 10.10.2024 before the Hon'ble APTEL which is pending adjudication and, therefore, pending adjudication of the Appeal No. 15 of 2025, no recovery can be affected from the Respondent No. 4. The Respondent No. 4 has neither produced on record any order staying the operation of the order of the Commission dated 28.09.2022 in Petition No. 29 of 2022 nor any order prohibiting the recovery of transmission charges of the subject asset from the Respondent No. 4. In the circumstances, the

Respondent No. 4 cannot take shelter behind the pendency of Appeal No. 15 of 2025 before the Hon'ble APTEL.

55. Another contention of the Respondent No. 4 that the HPSEBL is both injecting and drawing the power through the subject asset and, therefore, the Petitioner is liable to recover the charges from the HPSEBL as per the utilization of the asset. In this regard, the Commission vide daily order dated 10.03.2026 in the present Petition directed the HPSEBL to file the status of drawl of power from the subject asset and the HPSEBL has submitted the compliance affidavit on 31.03.2026 detailing as under:-

> *"3. The Hon'ble Commission vide order dated 28.09.2022 in petition No 29 of 2022 directed the petitioner to approach Hon'ble CERC for seeking inclusion of the instant asset i.e. 400/220/66kV GIS pooling Sub-Station Wangtoo (Sherpa Colony) under PoC mechanism for recovery of Transmission charges for the period beginning from COD to FY 2023-24 under the CERC (Sharing of Interstate Transmission charges and losses) Regulation, 2020 as the power flow from three HEPs is on interstate basis from this asset.*
>
> *4 Hon'ble CERC vide its Order dated 20.03.2025 in Petition No. 38/MP/2023 did not allow the recovery of the said transmission system under Sharing Regulation and of such opinion that these charges cannot be levied on beneficiaries on an all India basis since the asset was envisioned to be developed as an Intra- state Transmission Asset.*
>
> *5. It submitted that the Hon'ble Commission vide order dated 10.03.2026 directed HPSEBL to file the status of Drawl of power from Wangtoo pooling Sub-station by HPSEBL. In this context, it is submitted that the Wangtoo sub-station is under control of HPPTCL and HPSEBL has to*

arranged the drawl/injection data from HPSLDC which has been received vide email dated 16.03.2026 (Annexure-A). The detail of SCADA data as provided by HPSLDC analyzed and gathered the data maximum injection/drawl for FY2024-25 and FY2025-26 upto 28.02.2026 as detailed hereunder:

Drawl of HPSEBL from Wangtoo S/stn. as per SCADA data received from HPSLDC		
Description	***FY2024-25***	***FY2025-26 (Upto 28.02.2026)***
Maximum Injection (MW)	*143.3*	*183.4*
Maximum Drawl (MW)	*-230.1*	*-340.0*
Average Annual Drawal/injection (MW)	*-63.3*	*-79.6*

In addition to above, it is submitted that additional submissions as already been made by HPSEBL before the Hon'ble commission may kindly taken into consideration while determining the ARR. However the same are reproduced hereunder:

That the respondent-1/HPSEBL humbly and respectfully submits that HPSEBI. has signed TSA with HPPTCL and to recover the Transmission charges from HPSEBL, the methodology detailed in Para No. 20 (IV) of the petition be considered instead of as worked out in Para no. 21 of the petition to ascertain the contracted capacity of HPSEBL on HPPTCL lines which is reproduced as below:

"The contracted capacity of HPSEBL, will be ascertained on the basis of the average of A' for the last three financial years. Where, A' (0.5xmaximum of HPSEBL drawl in a time block during the year) + (0.5x(maximum HPSEBL drawl in a time block in a day) during the year))."

II. That the respondent-1/HPSEBL humbly and respectfully submits that the petitioner has raised bills without any approval from Hon'ble commission and financial impact of the Wangtoo S/stn. on HPSEBL is substantially high. Therefore, the respondent-1 humbly prays that Hon'ble Commission may allow the recovery of charges, over an period of 5 years. So that sudden shock of tariff on account of transmission charges arrear to the HPSEBL/consumers of the state can be avoided.

III. That ARR approved by Hon'ble commission for Wangtoo s/stn. is not in line with the ARR approved for other assets funded through ADB grant/loan by considering 80% normative grant, whereas in the ARR of Wangtoo the same has not been considered which may also be looked into and it is prayed to consider the same as 80% normative grant as approved for other assets in the interest of the consumers of the state in order to avoid contradictory order by Hon'ble Commission on same issues."

56. Both the Petitioner and the HPSEBL have submitted that there is regulatory uncertainty in the Transmission Tariff Regulations, 2011 for ascertaining the contracted capacity for the recovery of transmission charges for the usage of such STU asset wherein the State DISCOM uses for both drawl and injection of power at the same time and, therefore, the Petitioner and the HPSEBL have signed Supplementary Transmission Service Agreement (STSA for short) on 14.07.2022 agreeing to consider the methodology provided in the Central Electricity Regulatory Commission (Connectivity and General Network Access to the Inter-State Transmission System) Regulations, 2022 to ascertain the contracted capacity for the usage of the asset in question. Further, the HPSEBL has raised the bills by apportioning the charges to the HPSEBL by taking maximum drawl of the HPSEBL at any time in the year which is contrary and against the

agreed terms in the STSA. It is also submitted that the contention of the Respondent No. 4 that the HPSEBL having recorded the maximum drawl from the subject asset is misconceived, untenable and contrary to the governing Transmission Tariff Regulations, 2011 and recovery mechanism provided under the same. According to the HPSEBL, the Transmission Network includes subject asset forming part of an integrated grid system designed for shared use by the beneficiaries and the system is neither dedicated to the HPSEBL nor capable of being apportioned on the basis of instantaneous or historical drawl as the transmission charges are recoverable on the basis of availability of the system and right to access the same and once a beneficiary is connected to the transmission system or has been granted capacity allocation/ access rights, it is liable to share the transmission charges irrespective of the extent of actual drawl and the contrary interpretation would defeat the very basis of the transmission planning which is undertaken to meet aggregate system demand and contingencies, and not merely actual scheduled drawl at a given point in time. It is further the case of the HPSEBL that the drawl is not a static or independent parameter but is influenced by voltage profile at the node, system constraints, load characteristics and real-time grid conditions and the beneficiary may record lower drawl not due to non-utilization of the system but due to voltage conditions or operational limitations and the drawl data cannot be equated with actual utilization of transmission capacity.

57. From the above submissions of the Petitioner as well as the Respondent No. 1/ HPSEBL, it appears that they have not understood the provisions of the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2011, as amended from time to time, regarding the recovery mechanism for recovery of the transmission charges correctly. It is thus necessary and appropriate to make the provisions of the Regulations amply clear to the Petitioner as well as to the beneficiaries.

58. First and foremost, a distinction is required to be made in the nature of the transmission assets being built up by the Petitioner. The Petitioner being a State Transmission Utility (STU) can construct the

intra-state transmission assets only and for constructing the inter-state assets, the Petitioner has to take the consent/ license from the Ld. Central Electricity Regulatory Commission (CERC). It has been observed that in the past years, the Petitioner has commissioned a lot of the transmission assets without taking any prior regulatory investment approval either from the HPERC and or from the Ld. CERC. However, most of these transmission assets executed by the Petitioner have been approved by the Central Electricity Authority (CEA). These transmission assets were constructed primarily for evacuation of the power outside the State from the Hydro Power Projects being planned for execution within the State. But, many of these Hydro Projects could not get commissioned due to one reason or the other. The Petitioner has not even entered into the Transmission Service Agreements (TSA) with these Hydro Developers. Therefore, some of the transmission assets of the Petitioner have become redundant due to under utilization or not being utilized at all. Subsequently, the Petitioner has entered into TSAs with the distribution licensee i.e. the HPSEBL for many of the transmission assets that these assets are being utilized by the HPSEBL for the drawal/ injection of power.

59. In view of the fact that many of the transmission assets were planned and executed by the Petitioner as inter-state assets for the evacuation of power outside the State, the Petitioner accordingly approached the Ld. CERC by way of Petition No. 550/TT/2014 for seeking approval of transmission tariff for one of such assets namely 220/33 kV sub-station at Karian and 220 kV transmission line from Karian to Chamera-II associated with 220 kV system for Northern Grid for tariff block 2014-19. The Ld. CERC vide order dated 23.09.2015 has disposed off the said Petition with the following remarks:-

> *9. These assets can be considered for inclusion in the PoC only if they are certified by NRPC that these lines are used for evacuation of inter-state power. The tariff of such lines is determined by respective State Commissions by way of ARR. The Commission has worked out a methodology for the purpose of calculation of PoC charges and apportionment of transmission lines and charges to the transmission system of different configurations of the STU and this methodology has adopted in case of all the natural inter-state transmission lines. Similar procedure will be adopted in the instant case. The Commission in its order dated 18.3.2015 in Petition No. 213/TT/2015 has observed as follows:-*
>
> > *"17. We have not carried out any due diligence of the tariff of these lines (for consideration of PoC calculations) as the jurisdiction to determine the tariff of the lines owned by STU rests with the State*

> *Regulatory Commission. We have considered the ARR of the STU as approved by the State Regulatory Commission and have adopted the methodology as discussed in paras 15 and 16 of this order for the purpose of calculation of PoC charges and apportionment of transmission lines and charges to the transmission system of different configurations of the STU. This methodology shall be adopted uniformly for the lines owned by other STUs used for inter-State transmission of power duly certified by respective RPCs for the purpose of inclusion in the PoC mechanism."*

10. We have considered the submissions of the petitioner. As the instant assets are likely to be commissioned only after December, 2015, the instant petition is disposed of with a liberty to the petitioner to file fresh petition for inclusion of line in PoC computation ***after the commercial operation of the lines and approval of the tariff of the instant asset by the State Commission****. The petitioner is further directed to obtain the necessary certificate from the NRPC to the effect that the instant assets are being used for inter-state transmission of power. The petition filing fees deposited along with this petition will be adjusted towards the fees to be deposited by the petitioner in future petitions.*

60. As highlighted above, the Petitioner was directed by the Ld. CERC to approach it after the commercial operation of the lines and approval of the tariff of the instant asset by the State Commission. Accordingly, the Petitioner came up with the appropriate tariff petitions before the HPERC for approving the capital cost and determination of tariff for those transmission assets which were envisaged as inter-state. In the circumstances, the Commission/ HPERC approved the capital cost of such assets. Thereafter, the Petitioner approached the Ld. CERC for inclusion of the assets under

POC mechanism for recovery of tariff but the Ld. CERC has not accepted majority of these transmission assets of the Petitioner as inter-state.

61. Regarding the subject asset i.e. 400/220/66 kV GIS Pooling Sub-station at Wangtoo (Sherpa Colony), the Petitioner approached the Ld. CERC by filing Petition for inclusion of subject asset under PoC mechanism being Petition No. 38/MP/2023 but the Ld. CERC in order dated 20.03.2025 has refused to consider subject asset under PoC mechanism. Thus, the Petitioner had no option but to approach the Commission/ HPERC for the recovery of the tariff from the beneficiaries of these assets.

62. From the careful perusal of record, it is quite evident that the GIS Pooling Sub-station at Wangtoo is being utilized by the HPSEBL for drawal of power and by other beneficiaries/ generators for injection of power. Further, these beneficiaries have also entered into TSA/ LTA with the Petitioner. Therefore, the instant asset being intra-state asset, the Annual Revenue Requirement (ARR) of the asset is required to be recovered from the beneficiaries. However, the

Commission does not agree with the approach adopted by the Petitioner regarding the recovery of transmission charges. Any intra-state transmission asset which is used for drawal of power by the distribution licensee, the ARR of the such asset has to be clubbed with the overall intra-state transmission ARR as approved by the Commission vide order dated 29.06.2019 in Petition No. 31 of 2019 and, therefore, the ARR/ transmission charges has to be recovered in a pooled manner from the beneficiaries as per the provisions of the HPERC Terms and Conditions for Determination of Transmission Tariff) Regulations, 2011, as amended from time to time. The ARR of those dedicated transmission assets, which are built for the specified Generator(s)/ User(s) by the Petitioner and where the distribution licensee is not a beneficiary, has to be recovered exclusively from the identified users/ beneficiaries. However, for rest of the transmission system of the Petitioner, the beneficiary connected with any intra-state transmission element of the Petitioner is deemed to be a beneficiary of the complete intra-state transmission system.

63. The Commission has already approved the ARR of all the intra-state transmission assets of the Petitioner for the period FY20 to FY24, in MYT tariff order dated 29th June, 2019 in Petition No. 31/2019 except the subject asset as its status was not known. The recovery of the total ARR of the intra-State transmission assets of the Petitioner have to be in a pooled manner from all the beneficiaries of the system as per the HPERC Transmission Tariff Regulations, 2011, as amended from time to time. The recovery mechanism of the subject asset i.e. 400/220/66 kV GIS Pooling Sub-station at Wangtoo (Sherpa Colony) (subject asset) was not known at the time of pendency of Petition No. 29 of 2022, therefore, the Commission has not considered the subject asset for inclusion under Intra-state assets for recovery of transmission charges under the pooled mechanism. It is now clear from the order dated 20.03.2025 in Petition No. 38/MP/2023 of the Ld. CERC that this asset is an intra-state asset and its ARR recovery has to be in a pooled manner from COD to FY 2023-24.

64. Otherwise also, the Regulations 31 and 33 of the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2011, as amended from time to time, elaborately provide the recovery mechanism of the transmission charges which are reproduced as under:-

> *"31. Transmission Tariff/ Charges (1) The transmission charges payable by the transmission customers of the transmission system shall be designed to recover the aggregate revenue requirement computed as annual transmission charges by the Commission for each year of the control period.*
> *33. Allocation of Transmission Service Charge and Losses (1) The Annual Transmission Service Charge (ATSC) shall be shared between the long and medium term customers of the transmission system on monthly basis based on the allotted transmission capacity or contracted capacity, as the case may be."*

65. It is apparent form the above that the transmission charges of the transmission system are to be shared by the customers based on the allotted transmission capacity or contracted capacity. Hence, the submissions raised by the Petitioner, the Respondents No. 1 and 4 are not tenable.

66. Here it is pertinent to mention that the transmission allotted capacity/ contracted capacity has to be considered for recovering the

ARR of the Petitioner. The “allotted transmission capacity” has been defined in Regulation 2 (65) of the HPERC (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2011, as amended from time to time, which is reproduced as under:-

> *“allotted transmission capacity” means and includes the power transfer in MW between the specified point(s) of injection and point(s) of drawal allowed to a long-term customer on the intra-State transmission system under the normal circumstances and allotted transmission capacity to a long-term transmission customer shall be sum of the generating capacities allocated to the long-term transmission customer from the State generating stations and inter-State* generating stations and the expression *"allotment of capacity" shall be construed accordingly;”*

67. From the above, it is evident that the transmission capacity has to be taken as sum total of the generating capacity allocated through the intra-state transmission system i.e. the Petitioner’s transmission network. Also, any other contracted transmission capacity, if any, by the Petitioner has to be considered additionally.

68. It is also necessary to clarify that there is no concept of recovery of the intra-state transmission charges based on the quantum of drawal of power in the HPERC Regulations, whereas, the principle of the recovery of the transmission charges based on the drawal is provided under the CERC Regulations for the inter-state

transmission system. HPSEBL, being a distribution licensee and a drawee entity is liable to pay the intra-state transmission charges based on the PPA capacity it has signed with the Generators/Traders and for utilizing the same through the Petitioner's network. The Petitioner cannot claim the transmission charges from both the Generator and the drawee entity for the same Generating Capacity and the entity which has entered into LTA/MTOA is liable to pay the transmission charges.

69. Undisputedly, the Respondent No. 4 has signed the LTA with the Petitioner on 03.06.2022 w.e.f. 25.03.2022 and thus, the Respondent No. 4 is liable to pay the transmission charges as per said agreement. Similarly, the other beneficiaries including the Respondent No. 1 are also liable to pay the transmission charges as per the Transmission Tariff Regulations.

70. The Petitioner has also claimed the carrying cost in the Petition. This has been opposed by the Respondents No. 1 and 4 for the reason that the delay is solely attributable to the Petitioner and since no carrying cost had been claimed in the original Petition, the claim

for awarding the carrying cost is not maintainable. We have carefully considered the submissions. Apparently, after the disposal of Petition No. 38/MP/2023 by the Ld. CERC vide order dated 20.03.2025, there is a delay of about six months in filing the present application/ Petition. As observed above, the nature of the asset in question was uncertain whether the same was part of the Inter-state or Intra-state transmission system. The Petitioner was allowed by the HPERC to approach the Ld. CERC vide order dated 28.09.2022 in Petition No. 29 of 2022. In the circumstances, there are no merits in the submissions of the Respondents No. 1 and 4 that no liberty had been accorded to the Petitioner for approaching the Ld. CERC. Once, the present application has been filed after disposal of the Petition by the Ld. CERC vide order dated 20.03.2025 in Petition No. 38/MP/2023 that the subject asset is not a part of Inter-state transmission system. Certainly, some time might have been taken by the Petitioner in obtaining certified copies, collecting the material and drafting the Petition. Therefore, the claim of the Petitioner for carrying cost appears to be bonafide. However, the entire carrying cost from the

COD till date cannot be allowed for the reasons that the Petitioner would have been very sure that the subject asset was not part of the Inter-state transmission system as based on the injection and drawal it was evident that the subject asset was Intra-state. Hence, the carrying cost from the COD till the disposal of Petition No. 38/MP/2023 by the Ld. CERC cannot be allowed.

71. It is relevant to mention here that the Respondent No. 4 has requested that if at all it is held liable for the payment of the transmission charges, the same are liable to be spread over a period of 13 months. This submission of the Respondent No. 4 cannot be accepted for the reason that the Respondent No. 4 has already entered into LTA with the Petitioner and cannot escape its contractual obligations under the same. Therefore, the recovery cannot be spread over a period of 13 months after the commissioning of the Project as projected by the Respondent No. 4.

72. The Respondent No. 2/ HPPCL in its submissions has submitted that it has signed a PPA with the HPSEBL in respect of Kashang HEP and since the power from HEP is being utilized by the

HPSEBL, it is not liable to pay the transmission charges. It is apparent from the reply of the Respondent No. 2 that it supplied the power to IEX from 07.05.2018 to 30.04.2022. The Project has been commissioned on 30.09.2016 and the Respondent No. 2/ HPPCL has entered into LTA with the Petitioner. Thus, the Respondent No. 2 is liable to pay the transmission charges as per the provisions of the LTA. However, if the PPA entered by the Respondent No. 2 with the HPSEBL provides that the transmission charges are to be borne by the HPSEBL, then the LTA allotted to the HPPCL has to be reassigned to the HPSEBL as per the provisions of the relevant HPERC (Grant of Connectivity, Long Term and Medium Term Intra-State Open Access and Related Matters) Regulations, 2010, as amended from time to time. Alternatively, the HPPCL can get the reimbursement of the transmission charges paid by it from the HPSEBL if the PPA provides for the same. In no circumstances, the transmission charges are payable twice for the same generating capacity.

73. As observed above, the Regulation 33 of the Transmission Tariff Regulations, 2011 provides for recovery of transmission tariff. Sub-regulations (1) of Regulation 33 of the above Regulations reads as under:-

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

74. Thus, the Respondents are liable to pay the transmission charges for the usage of subject asset as per Regulation 33 of the Transmission Tariff Regulations, 2011 for the period from COD to FY 2023-24 in respect of the GIS Pooling Sub-station at Wangtoo.

75. Though the Respondents No. 1 and 4 in written submissions have come out with a plea that the subject asset has been funded through a multilateral arrangement involving the Asian Development Bank in collaboration with the GoI and the GoHP, wherein the funds were available to the State of H.P. in the ratio of 90% grant and 10% loan, however, the GoHP while extending such financial assistance to the HPPTCL/ Petitioner has treated the entire amount including the grant component as a loan carrying interest @ 10% per annum,

which is contrary to the underlying funding structure and results in unjustified escalation of Project cost and treatment of the same in the tariff determination would result in undue financial burden upon the consumers of the State of H.P and thus, the same are liable to be dismissed in order to uphold regulatory prudence and protection of consumer's interest. However, said aspect cannot be considered in the present application/ Petition which is exclusively for the recovery of the transmission charges pursuant to dismissal of Petition No. 38/MP/2023 by the Ld. CERC. However, a liberty is reserved to the Respondents No. 1 and 4 that they may raise such plea at the time of truing up of subject asset.

76. In view of the above, the Petitioner has established that it is entitled to recover the transmission charges of the subject asset. It is also established that the Petitioner is also entitled for the carrying cost from date of order of the Ld. CERC dated 20.03.2025 in Petition No. 38/MP/2023. Point No 1 is accordingly decided in favour of the Petitioner.

FINAL ORDER

77. In view of the aforesaid discussions and findings, the Petition succeeds and allowed. The transmission charges in respect of GIS Pooling Sub-station at Wangtoo from COD to FY 2023-24 are ordered to be recovered from the Respondents No. 1 to 4 as approved by the Commission in order dated 28.09.2022 in Petition No. 29 of 2022, as per Regulation 33 (1) of the HPERC Transmission Tariff Regulations, 2011, as amended from time to time. Similarly, the carrying cost is also ordered to be recovered from the Respondents No. 1 to 4 w.e.f. from the date of order 20.03.2025 passed by the Ld. CERC in Petition No. 38/MP/2023.

78. The present Petition/ Application is disposed off accordingly.

79. Pending applications, if any are also deemed to have been disposed off.

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

The file after needful be consigned to the records.

Announced
13.05.2026

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