BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION SHIMLA

Petition No.	**25 of 2024**
Date of Institution:	**03.06.2023/** 05.08.2026
Arguments Heard on:	03.11.2026
Decided on:	**17.11.2026**

CORAM

SHASHI KANT JOSHI
MEMBER –cum-CHAIRMAN

In the matter of:-

The Himachal Pradesh Power Corporation Limited,
Himfed Building, BCS,
New Shimla, Shimla, H.P. 171009. **…. Petitioner.**

Versus

The HP State Electricity Board Ltd. (HPSEBL),
Vidyut Bhawan, Shimla, HP-171004. **.... Respondent.**

Petition for Review under Section 94 (1) (f) of the Electricity Act, 2003 read with Regulation 63 of the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 against the Order dated 05.06.2024 passed in Petition No. 25 of 2024.

Present:- Sh. Jitinder Dogra, DGM (SoP) for the Petitioner.
Sh. Rajesh Kashyap Ld. Counsel with Sh. Kamlesh Saklani, Authorised Representative for the Respondent.

ORDER

A Petition for determination of Project Specific tariff was filed by the Petitioner/ Himachal Pradesh Power Corporation Limited (HPPCL

for short) bearing Petition No 25 of 2024 for the approval of Capital Cost alongwith Additional Capitalization and Determination of Tariff in respect of Sainj Hydro Electric Project (SHEP) (2 x 50 MW) from Date of Commercial Operation (COD) to Financial Year 2023-24 which was decided by the Himachal Pradesh Electricity Regulatory Commission (Commission for short) vide Order dated 05.06.2024.

2. Feeling aggrieved by the Order dated 05.06.2024, the Petitioner filed a Review Petition before the Commission bearing Petition No. 113 of 2024 under Section 94 (1) (f) of the Electricity Act, 2003 (Act for short) read with Regulation 63 of the HPERC (Conduct of Business) Regulations, 2005, as amended from time to time, seeking review of order dated 05.06.2024. The Review Petition was dismissed vide Order dated 05.11.2024.

3. Feeling aggrieved by the Orders dated 05.06.2024 and 05.11.2024, the Petitioner filed an appeal before the Hon'ble APTEL bearing Appeal No. 89 of 2025 & IA No. 456 of 2025 which has been decided by the Hon'ble APTEL vide Judgment/Order dated 03.07.2026 by setting aside the order of the Commission dated 05.06.2024 qua the issue of treatment of loan as grant and corresponding reduction in Capital Cost. The matter has been remanded back to the Commission for fresh consideration of the

treatment of the loan in capital cost strictly in terms of the applicable Regulations and for passing consequential Order in Petition No. 25 of 2024. The operative part of the Judgment/ Order of the Hon'ble APTEL dated 03.07.2026 is reproduced as under:-

> *"In view of the foregoing deliberations and findings, we hold that the Impugned Orders of the State Commission, insofar as it treats 90% of the loan advanced the Government of Himachal Pradesh to the Appellant as grant and correspondingly reducing the cost for determination of tariff for all the three HEPs, is unsustainable in law and is accordingly set aside on this issue.*
>
> *The matter is remanded to the State Commission for fresh consideration of the treatment of the loan in capital cost strictly in terms of the applicable Regulations. It is however, clarified that the exercise shall, remain subject to review in the event the Government of Himachal Pradesh, by subsequent policy decision, converts the loan extended to the Appellant into grant. The State Commission is directed to pass the consequential order in remand expeditiously, preferably within two months from the date of receipt of this judgment."*

4. On the receipt of copy of the Judgment on 05.08.2026, notices were issued to the parties to appear before the Commission on 11.08.2026 at 11:00 AM and re-registered the Petition in its original number. Notices were also issued to the major Stakeholders to file their objections /suggestion, if any, within two weeks.

5. Despite ample opportunities, the HPSEBL has not filed any response. However, Consumers' Representative Sh. K.S. Dhaulta filed objections/suggestions on behalf of the Electricity Consumers. Sh. K. S. Dhaulta, Consumers Representative, has strongly opposed and resisted any change/modification in the Order dated 05.06.2024

passed by the Commission and submitted that the impugned order has been passed by the Hon'ble Commission after detailed examinations/consideration of the material facts, record, Regulations/laws on the matter and pleadings of the parties and warrants no interference, as petitioner has failed to make out any case for review of the said order.

6. He has further submitted that the order of the Commission dated 05.06.2024, is a well reasoned and detailed order passed after taking into consideration all the factors like multilateral funding received from the GoI in the ratio of 90% grant and 10% debt, the E & M Contracts, price escalations etc. and that order warrants no interference or review on the basis of untenable grounds of the petitioner which lacks in supporting material and plausible facts.

7. Further, he has submitted that the State Government should treat the ADB /Central Government grant (90%) and debt (10%) on the analogy of the finance passed through by it to the Petitioner as interest free loan. The Petitioner should be treated by the State Government on the same pattern while passing through the ADB funding of the project to Petitioner. No two different treatments in funding and pass through of ADB finance received in the shape of grant can be made by the State in cases of similarly situated

organisations. The Government needs to justify such disparities while passing through the ADB funding of the projects and correct it.

8. He has further added that the Government of India (GoI) has provided multilateral funding to the State in the ratio of 90% grant and 10% debt for the HEPs to ensure promotion of clean energy at cheaper and affordable rates to benefit the Electricity Consumers of the State. Thus, to pass on the funds as entire loan to the HPPCL by the State Govt. at 10% interest rate is wrong and its burden cannot be allowed to be passed on to the consumers by allowing the claim of the petitioner to this effect. Therefore, in the interest of the consumers of the State, it is vehemently opposed to allow the tariff rate on the entire capitalization amount of loan and equity, as prayed for. He has submitted that the GoHP should refrain from assuming the role of a financial institution and instead should pass on the grant received under this arrangement to the Petitioner as grant only for the benefit of the Electricity consumers, as well as, to promote clean energy in the State. The Consumers cannot be burdened for this arrangement between the State Government and the Petitioner. The issue should be resolved at State Government level to settle it for good.

9. As per him, the Commission has rightly approved the amount of price escalation on pro-rated basis. Thus, there are no justiceable reasons to review the order and allow the amount of price escalation corresponding to the completion period stipulated in the E & M and Civil contracts to be considered as part of the Approved Project Cost. Further, any time overrun, costs overrun etc., should not be allowed to be compensated by the Electricity Consumers of the State while determining the additional tariff for the HEPs. Otherwise this will amount to rewarding inefficiency and penalizing the consumers for their inefficiencies and negligence.

10. Heard Sh. Jitinder Dogra, DGM (SoP) for the Petitioner and Sh. Rajesh Kashyap, Ld. Counsel for the Respondent/HPSEBL and have perused the record carefully.

Analysis and Findings

11. In its Order dated 05.06.2024 in Petition No. 25 of 2024, while discussing the project funding the Commission had noted as under:-

"3.8.16 The Commission takes serious note against consideration of the amount which is available as grant (90% of overall amount) to the State as loan which shall unnecessarily burden the consumers of the State due to such treatment. It is also observed that the Petitioner is already facing financial challenges and has been unable to service the loans against which deferment has been sought time and again. The Commission feels that it would be prudent that the Petitioner takes up the matter with the GoHP regarding restructuring of the loan amount availed against the project on same terms and conditions as envisaged under the original scheme of funding i.e., 90% of the amount to be converted to grant. This would be in interest of the utility as well as the consumers of the State which

would have to bear the burden of the additional interest cost and repayment of such loan which has been provided as grant.

3.8.17 Accordingly, the Commission has provisionally considered the debt amount availed under the ADB scheme as 90% grant and 10% debt. Further, after reducing such amount of grant from the total approved capital cost, the Commission has consider debt:equity as 70:30 for the balance amount in line with Regulation 10(C) of the HPERC Tariff Regulations, 2011 which specify the following:

"(b) the debt to equity ratio shall be considered in accordance with Regulation 16, after deducting the amount of financial support provided through consumer contribution, deposit work, capital subsidy or grant;""

3.8.18 The details of the same is tabulated below:

Table 50: Debt, Grant and Equity on Approved Cost for Sainj HEP (Rs. Cr.)

S. No.	Particulars	Approved Cost	Remarks
I	Total Project Cost Approved	1096.84	As per Table No. 41
II	Normative Debt	767.79	As per Table No. 49
III	Actual Debt	733.28	As per Table No. 47
IV	**Grant (90% of the ADB Scheme Loan)**	**659.95**	**Minimum (II and III) x 90%**
V	Balance Requirement	436.89	(I-IV)
VI	Debt (70%)	305.82	(V x 70%)
VII	Equity (30%)	131.07	(V x 30%)
VIII	**Total**	**1096.84**	**(IV+VI+VII)**

"

12. The Hon'ble APTEL has held that the Impugned Order of the Commission, insofar as it treats 90% of the loan advanced by the Government of Himachal Pradesh to the Appellant as grant and correspondingly reducing the cost for determination of tariff for the HEP, is unsustainable in law and has accordingly set aside the Order dated 05.06.2026 on this issue.

13. The Commission, after careful consideration of submissions of the parties and in compliance of the judgment dated 03.07.2026 of the APTEL in Appeal No.89 of 2025, hereby modify its order dated 05.06.2024 in Petition No. 25 of 2024 only to the limited extent of the treatment of the GoHP loan and the consequential revision expressly recorded in this order. The revised project financing, depreciation, interest and finance charges on loan, interest on working capital, return on equity, annual fixed charges, and energy and capacity charges shall be governed by the tables and findings contained in this consequential order. All other determinations in the order dated 05.06.2024, insofar as not modified herein, shall remain undisturbed and same.

14. After analyzing the submissions of the Consumers' Representative, the following issues are addressed as per the directions of the Hon'ble APTEL as under: -

i. Project Funding:

15. As per the directions of the APTEL, the Commission allows the debt and equity in the ratio of 70:30 of the approved Capital cost of Rs. 1096.84 Crores. Since the Petitioner has infused more than 30% equity capital in the Project, the equity portion however has been restricted to 30% as per the provisions of the HPERC Regulations. The equity more than 30% has been considered as normative debt.

The revised detailed calculation of the capital cost, debt and equity allowed are as under: -

Table: Debt, Grant and Equity on Approved Cost for Sainj HEP (Rs. Cr.)

S. No.	Particulars	Approved Cost	Remarks
I	*Total Project Cost Approved*	*1096.84*	*As per Table No. 41*
II	*Normative Debt*	*767.79*	*As per Table No. 49*
III	*Actual Debt*	*733.28*	*As per Table No. 47*
IV	***Grant***	***0***	
V	*Balance Requirement*	*1096.84*	*(I-IV)*
VI	*Debt (70%)*	*767.79*	*(V x 70%)*
VII	*Equity (30%)*	*329.05*	*(V x 30%)*
VIII	***Total***	***1096.84***	***(IV+VI+VII)***

ii. Depreciation:

16. Based on the revised debt and equity for the Project, the Commission allows the revised working with respect to the opening GFA for depreciation as under:-

Table: Opening GFA for Depreciation (Rs. Cr.)

Particulars	Details
Approved Capital Cost (Rs. Cr)	1096.84
Less: Land Cost (Rs. Cr)	32.47
Less: Grant (Rs. Cr.)	0
Net Capital cost for Depreciation or Opening GFA (Rs. Cr)	**1064.37**
WAROD (%)	4.80%

17. Based on the Weighted Average Rate of Depreciation (WAROD) above, the Commission approves the depreciation for each year from the date of COD upto FY 2023-24 as under:-

Table: Depreciation approved by the Commission

Particular	FY18	FY19	FY20	FY21	FY22	FY23	FY24
Opening GFA	1064.37	1064.37	1064.37	1064.37	1064.37	1064.37	1064.37
Addition during the year	-	-	-	-	-	-	-
Closing GFA	1064.37	1064.37	1064.37	1064.37	1064.37	1064.37	1064.37
Depreciation	**29.11***	**51.09**	**51.09**	**51.09**	**51.09**	**51.09**	**51.09**

**Depreciation corresponding to the period from COD to end of the financial year*

iii. Interest and Finance Charges on Loan:

18. Based on the revised debt and equity for the Project, the Commission allows the revised interest and Finance Charges on Loan as under:-

Table: Interest on Loan approved by the Commission (Rs. Cr.)

Particulars	FY18	FY19	FY20	FY21	FY22	FY23	FY24
Opening Loan	**767.79**	**738.67**	**687.58**	**636.49**	**585.40**	**534.31**	**483.22**
Repayment	29.11	51.09	51.09	51.09	51.09	51.09	51.09
Addition	-	-	-	-	-	-	-
Closing Loan	**738.67**	**687.58**	**636.49**	**585.40**	**534.31**	**483.22**	**432.13**
Rate of Interest	*10%*	*10%*	*10%*	*10%*	*10%*	*10%*	*10%*
Interest Cost	**42.92***	**71.31**	**66.20**	**61.09**	**55.99**	**50.88**	**45.77**

**Interest corresponding to the period from COD to end of the financial year*

iv. Interest on Working Capital (IOWC)

19. Based on the revised debt and equity for the Project, the Commission allows the revised interest on Working Capital as under:-

Table: Interest on Working Capital approved by the Commission (Rs. Cr.)

Particulars	FY18	FY19	FY20	FY21	FY22	FY23	FY24
O&M Expenses for 1 Month	1.82	1.92	2.04	2.13	2.27	2.42	2.56
Maintenance Spares Equivalent to 15% of O&M	3.28	3.45	3.67	3.83	4.08	4.36	4.61
Receivable Equivalent of 2 Months of Fixed Cost	34.03	33.52	32.87	32.13	31.51	30.96	30.49
Total Working Capital Requirement	**39.13**	**38.89**	**38.58**	**38.08**	**37.86**	**37.74**	**37.67**
Interest on Working Capital %	*12.60%*	*12.20%*	*11.55%*	*10.75%*	*10.00%*	*10.00%*	11.50%
Interest on Working Capital	**2.81***	**4.74**	**4.46**	**4.09**	**3.79**	**3.77**	**4.33**

**IOWC corresponding to the period from COD to end of the financial year*

v. Return on Equity (RoE)

20. Based on the revised debt and equity for the Project, the Commission allows the revised Return on Equity as under:-

Table: ROE approved by the Commission (Rs. Cr.)

Particulars	FY18	FY19	FY20	FY21	FY22	FY23	FY24
Opening Equity	329.05	329.05	329.05	329.05	329.05	329.05	329.05
Addition	-	-	-	-	-	-	-
Closing Equity	329.05	329.05	329.05	329.05	329.05	329.05	329.05
RoE (%)	*15.50%*	*15.50%*	*15.50%*	*15.50%*	*15.50%*	*15.50%*	*15.50%*
RoE	**29.06***	**51.00**	**51.00**	**51.00**	**51.00**	**51.00**	**51.00**

**RoE corresponding to the period from COD to end of the financial year*

21. Based on the discussions held in the previous paras and the revision in Project Funding, Depreciation, Interest and Finance Charges on Loan, Interest on Working Capital and the Return on Equity, the Commission allows the revised Annual Fixed Charges as under:-

Table: AFC approved by the Commission (Rs. Cr.)

Particulars	FY18	FY19	FY20	FY21	FY22	FY23	FY24
O&M expense	12.45*	23.00	24.46	25.51	27.21	29.04	30.76
Depreciation	29.11*	51.09	51.09	51.09	51.09	51.09	51.09
Interest & Finance charges	42.92*	71.31	66.20	61.09	55.99	50.88	45.77
Interest on working capital	2.81*	4.74	4.46	4.09	3.79	3.77	4.33
Return on equity	29.06*	51.00	51.00	51.00	51.00	51.00	51.00
Annual Fixed Cost (AFC)	**116.37***	**201.14**	**197.21**	**192.79**	**189.08**	**185.79**	**182.95**

**Corresponding to the period from COD to end of the financial year*

22. Based on the revised Annual Fixed Charges approved by the Commission, the revised Energy and Capacity Charges for FY 2023-24 are approved by the Commission as under:-

Table: Approved Energy and Capacity Charges by the Commission

S. No.	Particulars	-	FY 2023-24	Unit
a)	Approved Annual Fixed Cost		182.95	(Rs. Cr.)
b)	Net Saleable Energy		276.98	(MU)
c)	Energy Charge	*(a*50%/b)*	3.30	(Rs. /kWh)
d)	Capacity Charge	*(a*50%/12)*	7.62	(Rs. Cr./Month)
e)	Energy Charge payable by HPSEBL	*(a*50%/b)*	3.30	(Rs. /kWh)
f)	Capacity Charge payable by HPSEBL	*(d*50%)*	3.81	(Rs. Cr./Month)

23. The Commission has accordingly determined the tariff by passing the consequential order in view of the directions issued by the Hon'ble APTEL vide Order dated 03.07.2026 in Appeal No. 89 of 2025 & IA No. 456 of 2025. The implementation of this order shall remain subject to review in the event that GoHP, by a subsequent policy decision, converts the loan extended to HPPCL into a grant, in accordance with the express clarification of the Hon'ble APTEL. The Petitioner and the Respondent shall give effect to the revised tariff determination in accordance with the applicable Regulations and contractual arrangements, subject to reconciliation of bills and payments already made. No finding is rendered in this order on other issues already decided in the impugned order of the Commission dated 05.06.2024 and are beyond the scope of the remand. Accordingly, the Petition No. 25 of 2024 stand disposed of in the above terms, pursuant to the order of the APTEL dated 03.07.2026. Ordered accordingly.

FINAL ORDER

24. In view of the above discussions and findings, the Petition succeeds and allowed subject to the conditions stipulated in this Order.

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

The file after needful be consigned to the records.

The file after needful be consigned to records.

Announced
17.11.2026

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(Shashi Kant Joshi)
Member-cum-Chairman