

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 124/MP/2017**

Subject : Petition under Section 79(1)(f) read with Section 79 (1)(c) and (d), Section 38, Section 39, Section 40 and Section 60 of the Electricity Act, 2003 concerning the unjust, arbitrary and illegal terms imposed by Himachal Pradesh Power Transmission Corporation Limited and Allain Duhangan Hydro Power Limited for transmission of power by the Petitioner on inter-State transmission lines operated by them.

Petitioner : Kanchanjunga Power Company Private Limited (KPCPL)

Respondents : Himachal Pradesh Power Transmission Corporation Limited and Ors.

Date of Hearing : 12.2.2020

Coram : Shri P. K. Pujari, Chairperson  
Shri I.S. Jha, Member

Parties present : Shri Sanjay Sen, Sr. Advocate, KPCPL  
Shri Hemant Singh, Advocate, KPCPL  
Shri Mridul Chakravarty, Advocate, KPCPL  
Shri Lakshyajit Singh Bagdwal, Advocate  
Ms. Swapna Seshadri, Advocate, HPPTCL  
Dr. Seema Jain, Advocate, AD Hydro  
Shri Sumit Garg, AD Hydro  
Ms. Kakoli, AD Hydro

**Record of Proceedings**

Learned senior counsel for the Petitioner submitted that the present Petition has been filed by the Petitioner, *inter-alia*, seeking declaration that the terms of Interim Power Transmission Agreement dated 28.4.2016 entered into between the Petitioner and Respondent 1, Himachal Pradesh Power Transmission Company Limited (HPPTCL) and Respondent 2, AD Hydro are void and that 220 kV Fozal pooling station and 220 kV D/C line from Fozal to the LILO point on 220 kV Pirni-Nallagarh D/C transmission line operated by HPPTCL and 220 kV Pirni-Nallagarh D/C transmission line ('AD line') operated by AD Hydro, form part of inter-State Transmission System managed by CTU. Learned senior counsel further submitted as under:

- (a) During the pendency of the present Petition, the Petitioner was directed to pay 60% of the monthly transmission charges to AD Hydro and HPPTCL for the aforesaid transmission lines in terms of the order dated 9.8.2019 in IA No. 71/2019.
- (b) As far as the AD line is concerned, the Commission vide its order dated 17.10.2019 in Petition No.209/MP/2017 filed by AD Hydro seeking determination of tariff for AD line has, *inter-alia*, held that the said line is incidental to the inter-State Transmission System and has accordingly, determined the transmission charges for the said line.



(c) However, Petition No. 244/TT/2017 filed by HPPTCL for determination of tariff in respect of transmission line operated by it was disposed by the Commission in its order dated 8.10.2018 in absence of RPC certification, audited capital cost and un-discharged liabilities position as on COD. In the said order, the Commission granted liberty to HPPTCL to file fresh Petition after NRPC certification.

(d) Subsequently, NRPC in its Minutes of Meetings dated 29.10.2018 and 30.10.2018 declined to certify the same as the average inter-State power flow on the said line was 36.55% only. Accordingly, HPPTCL has filed the Petition before the State Electricity Regulatory Commission for determination of tariff for the said line and has moved IA No. 82/2019 in the instant Petition seeking vacation of Commission's interim direction dated 9.8.2019.

(e) The First Amendment to the Central Electricity Regulatory Commission (Sharing of Transmission Charges and Losses) Regulations, 2010 (Sharing Regulations) provides that for certifying the non-ISTS line as ISTS line, load flow studies on annual average basis should indicate that such lines are carrying inter-State power that is more than 50% of total power. However, such restriction has been removed through Third Amendment to the Sharing Regulations. Conjoint reading of Third Amendment to Sharing Regulations along with Statement of Reasons, indicate that there cannot be any cap in respect of its usage and the said line has to be treated as ISTS line.

(f) Since the said line is connected to AD line, which has been held to be ISTS line by the Commission, has to be treated on the same footing as the ISTS line.

2. Learned counsel for the Respondent, HPPTCL mainly submitted as under:

(a) Petition No. 244/TT/2017 filed by HPPTCL seeking determination of tariff in respect of the said line has been disposed of by the Commission in absence of NRPC certification with liberty to file fresh Petition after NRPC certification that the said line is ISTS line.

(b) Pursuant to the said order, HPPTCL had approached NRPC. In its 43<sup>rd</sup> Meeting held on 30.10.2018, based on the power flow studies, NRPC did not certify the said line as ISTS line and treated the same as Intra-State transmission system (InSTS). Accordingly, HPPTCL has filed the Petition before the Himachal Pradesh Electricity Regulatory Commission.

(c) Having been held the said line as InSTS, it does not come under the jurisdiction of this Commission. Accordingly, the interim order dated 9.8.2019, capping the payment @ 60%, has to be vacated.

(d) For any interim relief in respect of tariff for the said line, the Petitioner now has to approach HPERC and cannot ask this Commission to continue its interim direction dated 9.8.2019 till tariff for the said line is determined.

3. Based on the request of the learned counsel for the parties, the Commission allowed the Petitioner and the Respondents to file their respective written submission by 21.2.2020.

4. Subject to the above, the Commission reserved order in Petition.

**By order of the Commission**  
**Sd/-**  
**(T.D. Pant)**  
**Deputy Chief (Legal)**

