CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Petition No. 57/MP/2022

Coram:

Shri I.S. Jha, Member

Shri Arun Goyal, Member

Shri P.K Singh, Member

Date of Order: 4.5.2023

In the matter of:

Petition for approval of Central Electricity Regulatory Commission for inclusion of 220 kV D/C Charor- Banala Transmission line of H.P. Power Transmission Corporation Limited under PoC mechanism for recovery of transmission charges under Central Electricity Regulatory Commission (Sharing of Inter- State Transmission Charges and Losses) Regulations, 2020

And

In the matter of:
H.P. Power Transmission Corporation Limited,
Himfed Bhawan, Panjari,
Shimla-171005.....**Petitioner**

Versus

1. **Everest Power Private Limited (EPPL),**
First House, Bhumian Estate, Navbahar Road, Chota Shimla, Shimla,
Himachal Pradesh - 171002

2. **Northern Regional Load Despatch Centre (NRLDC),**
18-A, Shaheed Jeet Singh Sansalwal Marg, Katwaria Sarai,
New Delhi – 110016

3. **Central Transmission Utility (CTU),**
Plot No.2, Sector 29, Gurugram, HARYANA – 122001 **……Respondents**

Parties Present

Ms. Swapna Seshadri, Advocate, HPPTCL

Shri. Amal Nair Advocate, HPPTCL

Ms. Kritika Khanna Advocate, HPPTCL

Mr. Aditya Dubey Advocate, HPPTCL

Shri Swapnil Verma, Advocate, CTUIL

Shri Ranjeet S Rajput, Advocate, CTUIL

Shri Priyansi Jadya, Advocate, CTUIL

Shri Gajendra Singh, Advocate, NRLDC

Shri Prashant Garg, Advocate, NRLDC

Ms. Anisha Chopra, Advocate, NRLDC

Shri Yatin Sharma, CTUIL

Shri Rakesh Shukla, CTUIL

ORDER

H.P. Power Transmission Corporation (hereinafter to be referred as 'the Petitioner') has filed the present petition for inclusion of 220 kV D/C Charor-Banala Transmission Line ("transmission line") under PoC mechanism and recovery of transmission charges under Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020 (2020 Sharing Regulations"). The Petitioner has made the following prayers:

a) *Admit the instant Petition.*

b) *Approve the request of HPPTCL to include the instant asset in PoCmechanism for recovery of transmission charges of the instant asset.*

c) *Allow for recovery of payment made for filing of instant Petition andPetition filed before Hon'ble HPERC.*

d) *Pass suitable directions, with regard to the Appropriate Commissionwhich shall determine the true up of the instant asset.*

e) *And pass such other relief as Hon'ble Commission deems fit andappropriate under the circumstances of the case and in the interest of justice.*

Submissions of the Petitioner:

2. Petitioner has mainly submitted as follows:

a) H.P. Power Transmission Corporation Limited has been declared as State Transmission Utility (STU) vide notification dated 10.6.2010 by the Government of Himachal Pradesh and as a result thereof the H.P. Electricity Regulatory Commission (HPERC) recognized the Petitioner as deemed "Transmission Licensee".

b) The State Government also transferred and vested in the Petitioner ownership, operation and maintenance of Transmission lines of 66 kV and above earlier owned by the Himachal Pradesh State Electricity Board Limited (HPSEBL) including the co- ordination of the lines owned and operated by Power Grid Corporation of India, (PGCIL), Independent Power Producers (IPPs), Haryana Vidyut Prasaran Nigam Limited (HVPNL) and Punjab State Electricity Board (PSEB) vide its notification No. MPP-A (3)-1/2001-IV, dated 21 June, 2010 read with earlier notification of even number dated 10 June, 2010.

c) The asset under consideration for this Petition before the Commission is a 220 kV transmission line from Charor to Banala substation of PGCIL. The Petitioner's Board of Director had approved the proposal for construction of 220 kV D/C Charor- Banala transmission line in the 15th Board Meeting held on 22.5.2012. Thereafter, CEA accorded its approval on the Detailed Project Report (DPR) submitted vide letter dated 5.6.2012.

d) Further, details of the transmission scheme are as follows:

Name of the Line	**Type of Line**	**S/C or D/C**	**No. of Sub-Conductor**	**Voltage Level (kV)**	**Line Length (Ckt. km)**	**Line Length (km)**	**CoD**
220 kV D/C Transmission line from Charor to 400/220kV Banala Substation of PGCIL	AC	D/C	Twin Moose Conductor	220	2x18	18	July 24, 2019 (Energization date)

e) The above project was envisaged to evacuate 289 MW of power from HEPs in Parvati Valley including Malana-II (100MW). The project was also envisaged to improve the reliability and redundancy of the system to evacuate power in case of outage of any of the transmission lines owing to any unforeseen conditions. The works of above project were to be started in the month of August 2015 and were to be completed in 18 months from thereon. However, owing to various factors the project was energized on no load on 24.7.2019.

f) Even though the asset was envisaged to evacuate 289 MW of power from Small HEPs in Parvati Valley including Malana-II (100MW), currently Malana-II of M/s Everest Power Private Limited is the only beneficiary of the transmission system as most of the Small HEPs are under various stages of construction and some of SHEPs which are Commissioned are not connected to the instant transmission line as Transmission system till the connection point of instant asset are under construction. Currently, the power of SHEPs which are commissioned is being evacuated through HPSEBL system.

g) As per Minutes of Meeting of 32nd TCC and 36th NRPC Meeting held on 23rd & 24th December 2015, a transmission line would be construed as inter-state line only if average utilization for inter-state purposes based on the studies for 2nd (July- September) and 4th (January to March) quarter comes out to be more than 50 %. The studies based on 2nd and 4th quarter for a particular year will be used for certification of state-owned lines as inter-state lines for next year.

h) In the case of instant asset, even though the asset was energized in the month of July 2019 on no load and the actual power flow in the line only started in the month of December 2019. Accordingly, in the absence of data of Q2 of FY 2019-20, the Petitioner could not apply for certification for the year FY 2020-21 and had to wait till the availability of complete actual data of Q2 and Q4.

i) Since the above methodology of actual data would take time and there shall be no recovery of tariff till the certification and approval of the ARR by the appropriate Commission and also considering that the line was envisaged for power evacuation with no drawal points or interfaces of distribution work and

other intra-state transmission system, even before the energization date of the above project, HPPTCL had approached NRPC in 42nd TCC & 45th NRPC Meetings held on 7th & 8th June 2019 for certification of the above asset as deemed inter-state line.

j) In the above meeting, TCC pointed out that as per CERC (Sharing of Inter State Transmission Charges and Losses) (Third Amendment) Regulations, 2015, the line shall be certified based on actual flow of power and accordingly was advised to wait till the commissioning of the line and thereafter submit their request for certification of line which would require that the data of previous year (Q2 and Q4) and the line could only be certified during the next years.

k) In the aforesaid meeting, NRPC requested the Petitioner to submit their request to NRPC Secretariat after commissioning of the line and NRPC would act on the same accordingly. The Petitioner, in the subsequent meeting i.e., 43rd TCC & 46th NRPC Meetings held on 23rd & 24th September 2019 also raised the similar issue and it was again advised to file the request for certification before NRPC with actual data for two quarters.

l) Subsequently, the Petitioner filed a Petition for approval of capital cost and ARR for the period from 24.7.2019 till FY 2023-24 before the HPERC in the month of May 2020 after the availability of the audited capital cost figures. In the said Petition, the Petitioner had submitted the relevant rulings of this Commission and the references of applicable Regulations with regard to certification of non-ISTS lines and jurisdiction of approval of ARR by the State Commission. The HPERC admitted the instant Petition and performed the prudence check of the claims of capital cost and ARR. Subsequently, after the prudence check of the claims made by the Petitioner, the HPERC vide Order dated 12.8.2021 approved Annual Transmission Charges for the period 2019-20 to 2023-24 as under:

(in Rs lakhs)

Particular	**FY 2019-20**		**FY 2020-21**		**FY 2021-22**		**FY 2022-23**		**FY 2023-24**	
ARR		**606.78**		**1214.76**		**1178.72**		**1144.26**		**1109.80**

m) With regard to the recovery of transmission charges, HPERC ruled as follows:

"4.8.4 As discussed in the section 'Energy Flow and Nature of the Asset' above, it is observed that the final status update from NRPC is still awaited with respect to the nature of the asset. The Petitioner itself has submitted that the final approval to establish the nature of asset is expected from NRPC. Therefore, it cannot be established currently whether the Charor-Banala lineis inter-state or intra-state. Therefore, the Commission directs the Petitioner to follow-up with NRPC in an expeditious manner as power is already beingwheeled since December 2019 and the requisite information has already been submitted as per the submission of Petitioner.

4.8.5 The Petitioner is directed to take up the matter of recovery of the line under PoC mechanism with CERC in case the Charor-Banala line is declaredas inter-state by NRPC. In case of denial of inter-state status, the recovery of the approved ARR is required to be undertaken as per Clause 33 of HPERC MYT Transmission Regulations, 2011:

"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."

.."

n) Simultaneous to the tariff proceedings before the HPERC, the Petitioner vide its letter dated 6.8.2020 had requested a study for certification of the above asset stating that there were no drawal points/transmission/sub-transmission/ distribution feeders connected at 220/132 kV Charor Substation of EPPL or even at 400/220 kV Banala Substation. HPPTCL further submitted that it is requesting the study for certification as deliberated in 43rd TCC and 46th NRPC meeting and the line will be completing one year of operation on December 2020.

o) In reply to the Petitioner's letter dated 6.8.2020, NRPC vide its letter dated on August 24, 2021 replied that study for certification of the asset for 2020 could not be conducted due to unavailability of data for two quarters and also stated that the work of certification of non-ISTS lines was withdrawn with the effect from notification of CERC (Sharing of ISTS Charges and Losses) Regulations, 2020 from November 11,2020. Relevant extracts of the letter dated August 24,

21 are as follows:

"HPPTCL vide e-mail dated 06.08 2020 had requested NRPC Secretariat forcarrying out study for certification of non-ISTS 220 kV Chhaur-Banala transmission line. It was informed that the said line is evacuating power sinceDecember 2019.

As per the provisions of CERC (Sharing of ISTS Charges and Losses) Regulations (3rd amendment) 2015, NRPC had been certifying the non-ISTS lines of NR. In this regard, methodology as approved in the 36th NRPC meeting had been adopted in which average utilisation of line by consideringthe power flow scenario of Q2 and Q4 of preceding year was assessed. However, as 220kV Chhaur-Banala line was charged in December 2019 the required study could not be conducted in 2020 due to unavailability of data for two quarters.

Moreover, before conducting the study, CERC (Sharing of ISTS Charges and Losses) Regulations, 2020 came into force with effect from 01.11.2020 and the work of non-ISTS line certification by RPCs was withdrawn.

In view of the above, HPPTCL may kindly approach CERC for getting the certification of their 220kV D/C Chhaur-Banala."

p) From the above letter, the Petitioner was informed to approach the Commission for getting the certification of the instant asset as inter-state asset considering that theCERC (Sharing of Inter-State Charges and Losses) Regulations, 2020 (hereinafter referred to as CERC Sharing Regulations, 2020) which came in to effect from November 11, 2020 does not provide the mechanism for certification by RPC.

q) The issue of non-clarity of provisions with regard to certification of intra state lines by RPC was pointed out by some of the Utilities during the finalization of Draft Regulations and the same were explicitly recorded in the Statement of Reasons provided along with the notified CERC Sharing Regulations, 2020. As per this SOR, the Commission had specifically decided that the tariff for the intra-state schemes which are used for inter-state flow of power shall be approved by this Commission if such system is to be considered for recovery of transmission charges under the Sharing Regulations, 2020.

r) Accordingly, the Petitioner, through this Petition pleads to include the instant asset under PoC mechanism for recovery of transmission charges considering that the entire power flow from the line is going out of the State of Himachal Pradesh.

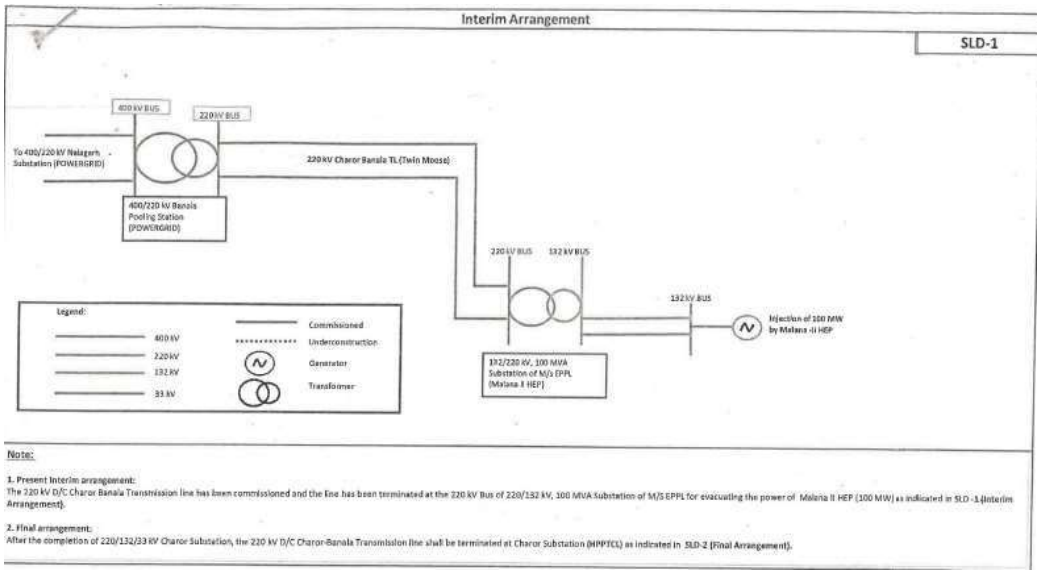
Hearing dated 10.3.2022:

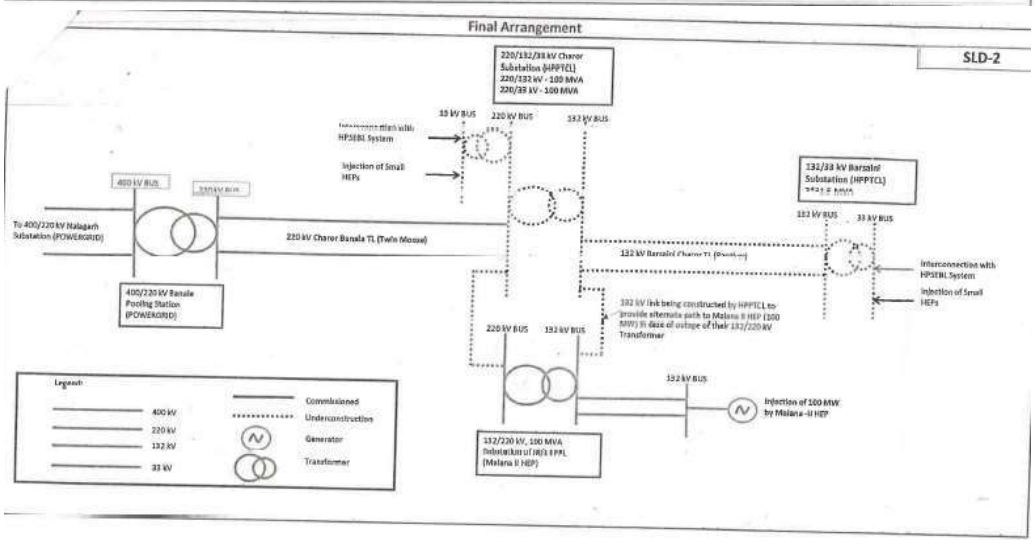
The matter was listed for hearing on 10.3.2022. Commission reserved the order on admissibility. The Commission directed the Petitioner to submit the complete schematic diagram of the instant transmission line along with its associated intra and inter-State transmission system.

Submissions of Petitioner:

3. In compliance of RoP dated 10.3.2022, the Petitioner has furnished the requisite information as under:

a) Schematic diagram of the instant transmission line along with its associated intra and intra-state transmission system (interim arrangement and final arrangement) is as follows:





Submissions by NRPC Secretariat:

4. In compliance to RoP of hearing dated 10.3.2022 pertaining to the nature of the subject transmission line (220 kV D/C Charor Banala), NRPC vide its letter dated 2.8.2022 has submitted as follows:

a) As per approved methodology of NRPC, an-intra-state transmission line is considered as ISTS line for a FY, only if average utilization of thatline for inter-state purpose is more that 50% in the 2nd and 4th quarter of past financial year. Based on the result of the studies for 220kV Charor- Banala line for FY 2021-22, the average percentage utilization for inter-state purposes during 2nd and 4th quarter comes out as 61%. Therefore, certification of 220kV D/C Charor-Banala line as ISTS for the FY 2022-23 is recommended.

b) The percentage usage of the subject line by HP during FY 2021-22 is as under:

Month	Utilization by HP
Apr-21	23%
May-21	27%
June-21	13%
July-21	16%
Aug-21	12%
Sep-21	36%
Oct-21	18%
Nov-21	23%
Dec-21	42%
Jan-22	47%
Feb-22	63%
March-22	61%

Interim Order dated 23.09.2022:

5. Vide the Interim Order dated 23.09.2022 instant Petition was admitted. The Commission vide order dated 23.09.2022 observed as follows:

"

38. In view of the details of power flow submitted by NRPC and submissions of the Petitioner on record, we are of the view that Petition needs to be heard in detail. Accordingly, the Petition is 'admitted'.

39. It is directed that NRLDC and CTUIL shall be impleaded by the Petitioner. NRLDC is directed to submit the following along with its reply to the petition:

(a) blockwise power flow in the instant line in MW from the date of COD till date of issue of this Order.
(b) The Surge Impedance Loading of the line and thermal limit of the line.
(c) The monthly % utilization of the said line by HP starting from date of COD till date of issue of this Order, clearly indicating the denominator used for finding out the % usage.

40. CTUIL is directed to submit the details of planning of the said line as inter-state line vs STU line along with its reply to the petition.

41. It is observed that the instant transmission line was originally envisaged to be constructed by Everest Power generating station as a dedicated line as per minutes of 30th NR SCM meeting. However, Petitioner during 31st NR SCM suggested that it also intends to inject 170 MW from small HEPs at Chaur. Petitioner is directed to file the status of such generating stations of 170 MW, details of transmission access sought on the instant line by the embedded generating stations or distribution licensee,the current mechanism of recovery of transmission charges of the instant transmissionline since its COD.

42. The Respondent, NRLDC and CTUIL are directed to file their replies along with specific information sought, if any, after serving copy to the Petitioner who shall file its rejoinder."

Additional Submissions of HPPTCL:

6. HPPTCL vide affidavit dated 02.11.2022 has submitted as follows:

a) HPPTCL had projected its intention to inject approx. 170 MW of power from the small Hydro Electric Projects situated at Charor during 31st Standing Committee Meeting of Northern Region held on 02.01.2013. The actual quantum of power as approved by CEA vide its letter dated 05.06.2012 which is to be transmitted through the instant Transmission Line is 289 MW.

b) At present, only M/s Everest Power Pvt. Ltd. (EPPL) having established Malana - II HEP of 100MW is evacuating its power through the Instant Transmission Line. The Connection Agreement was signed by M/s EPPL with HPPTCL on

30/05/2022. HPPTCL, vide letter dated 12/09/2022 had requested M/s EPPL to sign the Long-Term Agreement.

c) In response to the letter dated 12/09/2022, M/s EPPL *vide* its letter dated 22/09/2022 stated as under: -

"In this regard we wish to apprise that since, HPPTCL has filed a petition in CERC for finalising the nature of the transmission line as Intra-Interstate and the subject is sub-judice in the court, we request HPPTCL to kindly wait for the outcome of the said petition in CERC.

We assure you that in regard to LTA issue, we shall be taking suitable action based on outcome of the CERC order".

d) EPPL has since been evacuating power through Short Term Open Access for the quantum of 12.80 MW (free power share of 100MW power Malana-II HEP). Presently, the power of only M/s EPPL (Malana-II HEP) is flowing through Instant Transmission Line. However, the power of IPPs having connectivity at 132/33kV Barsaini Substation would also be flowing through the Instant Transmission Line *via* 132 kV Barsaini-Charor Transmission line.

e) The list of generators having connectivity at 132/33kV Barsaini Substation and their status as on date is as under:

Generating Stations	**Status of Connection Agreement / LTOA**
Chakshi-II HEP(3MW)	CON-3 issued
Barthi HEP (1 MW)	Connectivity Application received
Jigrai HEP(5MW)	CON-5 issued
Garthi HEP(1.25MW)	Connectivity Application received
- None of the IPPs have applied for LTOA at 132/33kV Barsaini Substation of HPPTCL	

f) On 05/09/2022, the matter of power evacuation of various SHEPs at 132/33 kV Barsaini Substation was discussed in 50th STU Coordination Committee Meeting wherein it was agreed that IPPs shall evacuate their power by LILO of

33 kV Barsaini to Malana Switchyard line of Himachal Pradesh State Electricity Board Limited (HPSEBL). In case any change is desired by any IPP, the same shall be evacuated by HPPTCL.

g) In the said meeting, the parties also agreed that Toss HEP (10MW) and Jirah HEP(4MW) should terminate their dedicated lines at 132/33 kV Barsaini Substation after their respective commissioning. One number of 33kV bay at Barsaini Substation shall be connected to HPSEBL system. The parties agreed that HPSEBL shall study the possibility of using 33kV Barsaini to Malana line for pooling power of SHEPs in the region after commissioning of Barsaini Substation and come up with proposal.

h) With regard to recovery of transmission charges for the Instant Transmission Line, it is submitted that prior to the passing of the Tariff Order dated 12/08/2021 by Himachal Pradesh Electricity Regulatory Commission (hereinafter being referred to as "HPERC"), no transmission charges have been raised to M/s EPPL (Malana-II HEP). However, pursuant to the Order dated 12/08/2021, HPPTCL began to issue invoices to EPPL in line with HPERC approved Tariff Order.

i) However, M/s EPPL filed a Petition No. 46 of 2021, titled "M/s Everest Power Pvt. Ltd. vs. HPPTCL", before the HPERC seeking direction against HPPTCL, not to raise monthly invoices till the nature of the line has been decided by this Commission in the present petition.

j) HPERC, vide Order dated 27/11/2021 directed M/s EPPL to deposit/pay to HPPTCL 35% of the demand/bill raised by HPPTCL pending disposal of the interim application in three equal installments in a span of 10 days.

k) M/s EPPL thereafter filed a writ petition being C.W.P No. 7763/2021 before Hon'ble High Court of Himachal Pradesh to quash and set aside the Order dated 27/11/2021. The Hon'ble High Court of Himachal Pradesh stayed the Order of HPERC dated 27/11/2021 vide interim Order dated 10/12/2021.

l) On account of above facts as well as pending final outcome in the matters before HPERC & Hon'ble High Court of Himachal Pradesh, HPPTCL is raising monthly provisional invoices. However, there is no recovery for utilisation of the instant Transmission Line as its nature is not decided yet.

Reply of NRLDC vide affidavit dated 02.11.2022:

7. In compliance to the Interim order dated 23.09.2022, NRLDC has submitted as follows:

a) The Power flow in the instant line reduces during the winter months while the power flow is maximum during the summer months. The surge impedance loading of the subject line is 185 MW per Circuit. The thermal limit of the subject is 480 MVA per circuit. The monthly % utilization of the said line by HP starting from the date of COD till date computed as per the CERC Regulations is shown in Table below:

S. No.	Month	% Utilization by HP
1	2019 Q3	11%
2	2019 Q4	56%
3	2020 Q1	34%
4	2020 Q2	29%
5	2020 Q3	50%
6	Nov-20	18%
7	Dec-20	15%
8	Jan-21	79%
9	Feb-21	74%
10	Mar-21	64%
11	Apr-21	66%
12	May-21	45%
13	Jun-21	35%
14	Jul-21	34%
15	Aug-21	32%
16	Sep-21	26%

17	Oct-21	10%
18	Nov-21	13%
19	Dec-21	25%
20	Jan-22	98%
21	Feb-22	85%
22	Mar-22	45%
23	Apr-22	37%
24	May-22	67%
25	Jun-22	21%
26	Jul-22	15%
27	Aug-22	26%

b) The data of percentage utilization by HP during the FY 2021-22 contained in Commission's order dated 23.09.2022 for Petition No. 57/MP/2022 para 36 was given to NRPC secretariat by NRLDC. The same data was submitted by NRPC Secretariat to the Commission. However, there is slight change in data submitted now through this Affidavit and that submitted earlier for the period April 2021 to March 2022 due to minor change observed in the network considered.

c) The following extracts from the Minutes of Standing Meetings are relevant w.r.t. the planning of the instant line:

d) Point 6 of the Minutes of 31st Standing Committee Meeting on Power System Planning of Northern Region, held on 02nd January 2013 is quoted below:

"6. Evacuation of Power from Malana-II

……

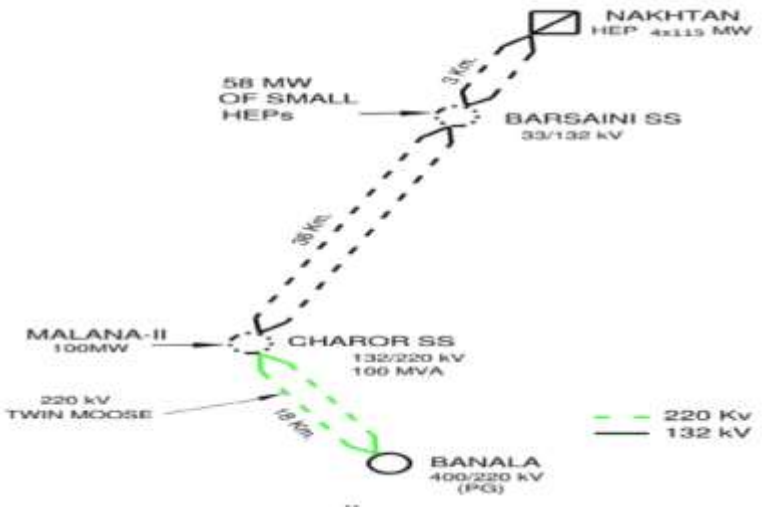
HPPTCL also intends to inject about 170 MW power from Small HEPs at Chhaur substation for its further transfer to Parbati Pooling station……."

e) Point 21.1 and 21.2 of Minutes of 39th Meeting of Standing Committee on Power System Planning of Northern Region held on 29-30th May 2017 are quoted below:

*"**21.0 Power evacuation plan for Nakhtan HEP (4x115 MW)***

21.1 CEA stated that Himachal Pradesh Power Corporation Limited (HPPCL) vide their letter HPPCL/EC/Nakhtan/EoP/2016/2673-79 dated 11.1.2017 has informed that they are in the process of taking up Nakhtan HEP (4x115 MW) for execution in near future and the DPR of the same is in the final stage. Therefore, they have requested to finalize the power evacuation plan for the project.

21.2 Director, HPPTCL informed that this hydroelectric project is located on Tosh Nallah and Parbati river tributaries of Beas River in District Kullu of Himachal Pradesh. This project is 30-45 km away from Charor 132kV S/s. He further stated that the project is about 3km away from the Barsaini 132/33kV S/s, where 58 MW of small hydro projects are connected. Barsaini S/s is connected to Malana 220/132kV S/s through 132kV D/c line of 36km. 220 kV Charor-Banala D/C (Twin Moose) line (18 Kms) is under construction and is targeted for completion by 31.10.2017 on bests effort basis. The evacuation plan of the project was also considered while preparation of the report on "Transmission system for upper part of Satluj Basin and Chandrabhaga Basin and following was suggested for evacuation of power from Nakhtan HEP:"



f) It is evident that more Hydro power plants may be connected to Chaur in future and the 220 kV Chaur-Banala transmission line was planned as an intra-state line. Therefore, the subject line may be treated as an intrastate line.

g) There is also a need to distinguish between inter-state transaction and inter-state transmission of power. As per the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009, any generator connected with State Transmission Network can sell power to any buyer connected to either Inter State Transmission System or State

Transmission System. However, availing the facility of transmission access for sale of power to other state does not mean that the state transmission system qualifies for becoming the Inter State Transmission System.

Reply of CTU:

8. In compliance to interim order dated 23.09.2022 CTU vide affidavit dated 07.11.2022 has submitted as follows:

a) The evacuation of power from Malana-II HEP was planned through LILO of one ckt of AD HEP – Nalagarh 220 kV D/c line of M/s AD Hydro at Charor (Chhaur) 220/132 kV substation of M/s Everest Power Pvt. Ltd. (EPPL) and power from the generation project was to be injected at Charor (Chhaur) by 132 kV D/c line. However, the AD HEP – Nalagarh 220 kV D/c line was not adequate for reliable evacuation of power from both the projects, especially during any contingency condition. Accordingly, the matter was discussed in the 30th and 31st Standing Committee Meetings on Power System Planning of NR held on 19.12.2011 and 02.01.2013 respectively.

b) In the 30th Standing Committee Meeting on Power System Planning of NR held on 19.12.2011, it was agreed to construct a 220 kV D/c line from Charor (Chhaur) S/s to Parbati Pooling Station enabling injection of power from Malana-II HEP at Parbati Pooling Station (ISTS). The line was decided to be constructed by M/s EPPL at their own cost. From Parbati Pooling Station, power was to be evacuated over the ISTS system. During the above meeting, HPPTCL also informed that 2 nos. of 220kV line bays are required by them at Parbati Pooling Station. However, during the 31st Standing Committee Meeting on Power System Planning held on 02.01.2013, HPPTCL informed that only one 220 kV line could be constructed from Charor (Chhaur) to Parbati Pooling Station due to ROW constraints and that HPPTCL also intended to inject about 170 MW power from Small HEPs at Charor (Chhaur) substation for its further transfer to Parbati Pooling station. HPPTCL proposed that they would construct the 220kV D/c line from Charor (Chhaur) substation to Parbati Pooling station. Further, HPPTCL would also take the ownership of 132/220kV Charor (Chhaur)

S/s from M/s EPPL to make it a part of their STU system. On this, it was informed that Malana-II generation is directly connected to ISTS grid, for which LTOA has been granted. In case, this line is constructed by HPPTCL, direct connectivity of Malalna-II with ISTS would be lost and M/s EPPL would have to bear STU charges in addition to PoC charges. It was also discussed that under present proposal Malana-II would be treated as State-embedded generator and would have to pay applicable charges accordingly and M/s EPPL gave their consent to the proposal. Subsequently, HPPTCL has also granted connectivity to M/s EPPL for their Malana-II HEP. Accordingly, the transmission line covered under present petition was planned under intra-state (STU) by HPPTCL.

Hearing dated 10.11.22:

9. The Order in the Petition was reserved vide ROP for hearing held on 10.11.2022. Vide the ROP following has been noted:

"The learned counsel for the Petitioner submitted that the Commission vide order dated 23.9.2022 had directed the Petitioner to submit the status of generating stations, details of transmission access sought on the 220 kV D/C Charor-Banala Transmission line ("transmission line") by the generating stations and the current recovery mechanism of transmission charges of the transmission line since its COD. The learned counsel for the Petitioner submitted that the said information has been submitted vide affidavit dated 2.11.2022. The gist of the submissions made by her is as follows:

a. *HPPTCL had planned to inject 170 MW of power from the Small Hydro ElectricProjects ('SHEP') situated at Charor and it was discussed in the 31st Standing Committee Meeting (SCM) of Northern Region held on 2.1.2013. The actual quantum of power approved by CEA which is to be transmitted through the transmission line is 289 MW*

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b. *The Petitioner has submitted the status of the generating stations, power from whom was planned to be evacuated through transmission line. Few generating stations are under construction or clearance stage and few have been commissioned.*
The Connection Agreement (CA) was signed between EEPPL and HPPTCL on30.5.2022.

c. *Presently, the power of only EPPL (Malana-II HEP) is flowing through instant transmission line. Power of IPPs having connectivity at 132/33 kV Barsaini Sub-station would also be flowing through the transmission line via 132 kV Barsaini-Charor transmission line. The details of the generators having connectivity at 132/33 kV Barsaini Sub-station and their status has also been submitted vide affidavit dated 2.11.2022.*

d. *On 5.9.2022, the matter of power evacuation of various SHEPs at 132/33 kV Barsaini sub-station was discussed in 50th STU Coordination Committee Meeting wherein it was agreed that IPPs shall evacuate their power by LILO of33 kV Barsaini to Malana Switchyard line of Himachal Pradesh State ElectricityBoard Limited ('HPSEBL')*

e. *Prior to the passing of the tariff order dated 12.8.2021 by Himachal Pradesh Electricity Regulatory Commission ("HPERC"), no transmission charges have been raised on EPPL (Malana-II HEP). However, pursuant to the order dated 12.8.2021, HPPTCL issued invoices to EPPL.*

f. *EPPL filed petition before HPERC against the Petitioner seeking directions to HPPTCL not to raise monthly invoices till the nature of the line has been decided by the Commission.*

g. *HPERC, vide order dated 27.11.2021, directed EPPL to deposit/pay 35% of thedemand/bill*

raised by HPPTCL pending disposal of the interim application in three equal instalments. Subsequently, EPPL has filed a Writ Petition before High Court of Himachal Pradesh to quash and set aside the order dated 27.11.2021 passed by HPERC. The Hon'ble High Court vide order dated 10.12.2021 has stayed the order dated 27.11.2021.

2. The representative of CTUIL submitted that pursuant to the directions of the Commission vide order dated 23.9.2022, to submit the details of planning of the transmission line as inter-State vs STU line, CTUIL has filed the details vide affidavit dated 7.11.2022. The gist of the submissions are as follows:

a) *The evacuation of power from Malana-II HEP was planned through LILO of oneckt of AD HEP-Nalagarh 220 kV D/C line of AD Hydro at Charor (Chhaur) 220/132 kV sub-station of EPPL and power from the generation project was tobe injected at Charor (Chhaur) by 132 kV D/C line. However, the AD HEP- Nalagarh 220 kV D/C line was not adequate for reliable evacuation of power from both the projects, especially during any contingency condition. Accordingly, the matter was discussed in the 30th and 31st Standing Committee Meetings (SCM) on Power System Planning of NR held on 19.12.2011 and 2.1.2013 respectively.*
b) *During the 30th SCM on Power System Planning of Northern region, it was decided that Chhaur-Parbati pooling station 220 kV D/C line shall be implemented by EPPL at their cost. However, during the 31st SCM on Power System Planning of Northern region, HPPTCL informed that only one 220 kV line could be constructed from Chhaur to Parbati Pooling Station due to RoW constraints and HPPTCL also intends to inject about 170 MW power from SmallHEPs at Chhaur Sub-station for its further transfer to Parbati Pooling station. Further, HPPTCL proposed that they would construct the 220 kV D/C line fromChhaur Sub-station to Parbati Pooling station.*
c) *HPPTCL would also take the ownership of 132/220 kV Charor (Chhaur) Sub- station from EPPL to make it a part of their STU system. On this, it was informedthat Malana-II generation is directly connected to ISTS grid, for which LTOA has been granted. In case, this line is constructed by HPPTCL, direct connectivity of Malalna-II with ISTS would be lost and EPPL would have to bear STU charges in addition to PoC charges.*
d) *Under present proposal Malana-II would be treated as State-embedded generator and would have to pay applicable charges and EPPL gave their consent to the proposal. Subsequently, HPPTCL has also granted connectivityto EPPL for their Malana-II HEP.*
e) *Thus, the instant transmission line covered under present petition was originallyenvisaged to be constructed by EPPL as dedicated line. However, consideringfuture injection of about 170 MW power from Small HEPs at Charor (Chhaur) Sub-station by HPPTCL as well as RoW constraints for transmission corridor, HPPTCL proposed that they would construct the 220 kV D/C line from Charor (Chhaur) Sub-station to Parbati Pooling station and would also take the ownership of 132/220 kV Charor (Chhaur) Sub-station from EPPL to make it apart of their STU system. Accordingly, present line i.e. Charor (Chhaur)-Banala220 kV D/C line was planned under intra-state (STU) by HPPTCL.*

3. In response to the query of the Commission regarding the change of circumstances/situation which led to the subject transmission line being considered from intra-State to inter-State line, the learned counsel for the Petitioner submitted thatthere were several HEPs who wanted to evacuate power from the said transmission line. Placing reliance on the data provided by NRLDC which reflects the percentage usage of the subject transmission line by HP, she submitted that the utilization by H.P. varies from 10% to 98% and accordingly prayed to the Commission to grant the reliefas claimed by the Petitioner.

4. The representative appearing on behalf of NRLDC while supporting the reply/submissions filed by CTUIL submitted that the said transmission line was planned as intra-State line and the same may be treated as an intra-State line.

5. The learned counsel appearing for EPPL sought time to file reply in the matter. He submitted that EPPL has approached the Hon'ble High Court of Himachal Pradesh being aggrieved by the bills raised by the Petitioner for the entire capacity of transmission line i.e 289 MW when power evacuated is only 100 MW. He further submitted that High Court vide order dated 10.12.2021 has stayed the order dated 27.11.2021 passed by HPERC.

6. The Commission directed the Respondents including EPPL to file their replies by9.12.2022 and the Petitioner to file its rejoinder, if any, by 19.12.2022. The Commission further directed the parties to comply with the above directions within thespecified timeline and observed that no time extension

shall be granted.

7. *Subject to the above, the Commission reserved the order in the matter."*

Submissions of EPPL:

10. EPPL vide affidavit dated 08.12.2022 has submitted as follows:

a) EPPL had signed power Purchase Agreement (PPA) with M/s PTC India Limited, an inter-state trading licensee, on 25.07.2005 for entire capacity and electricity generated by the Project excluding the Auxiliary Consumption, Free Power, the transmission, and transformation losses incurred up to Delivery Point. The Project was declared under commercial operation on 12.07.2012 and since then selling its entire energy generated, excluding free power, to PSPCL, Punjab. EPPL is wheeling power from its 100 MW Malana -II HEP through subject matter 220 kV D/C Charor – Banala Transmission Line of HPPTCL, for onward sale to beneficiaries located in Punjab state since 03.12.2019.

b) With regard to NRLDC's contentions, EPPL submits that the evacuation of power from 100 MW Malana-II HEP was originally envisaged at 132 KV level only and the 220/132 kV Charur S/S was planned to be constructed at the cost of EPPL as there was mismatch between the voltage level of CTU Parbati Pooling Station and Malana-II HEP Project. Further, as an interim arrangement Malana-II HEP got connected to AD Hydro to Nalagarh 220 KV D/ C line by LILO of one ckt of AD HEP – Nalagarh 220 kV D/c line of M/s AD Hydro at 220/132 kV, Chhaur substation of M/s Everest Power Private Limited. Power from 100 MW Malana-II HEP was supposed to be injected at Chhaur by a 132 kV D/c line. It was also planned and agreed during the 30th meeting of Northern Region that the Charur to Banala (Parbati Pooling Station) 220 KV D/C line would be implemented by EPPL as dedicated line. Keeping in view the 100 MW capacity of Malana-II, EPPL was to implement this 220 KV D/c line as single Zebra conductor line like any conventional 220 KV lines being implemented in the country.

c) Keeping in view the ROW issue and also considering power evacuation from

other hydro projects up to CTU's Parbati Pooling Station, HPPTCL constructed this line 220KV D/C line as twin moose conductor line in place of conventional 220 KV line of single zebra conductor. This 220 KV D/c line with higher capacity is to be utilized by multiple projects for transfer of power up to CTU's Parbati Poling Station with multi beneficiaries. It means that from the beginning the subject line was planned to evacuate hydro power generation outside the Himachal Pradesh State.

d) In the present case, if the common system was not be developed, EPPL would have planned 132 KV dedicated line with direct interconnection with CTU S/S. In that case the cost of this dedicated 132 KV line would have been part of Generation tariff and only one ISTS charges would have been levied.

e) 220 KV D/C line is envisaged for power evacuation only with no drawl point or interfaces with distribution and intra state transmission network. The hydro projects like Malana-II and other expected future hydro projects will export its power outside the state of Himachal Pradesh like in case of Malana-II, 86 MW is being transferred to the State of Punjab and 12 MW free power, GOHP is selling to Power Exchanges. In regard to utilization, the calculation/ figures as submitted by NRLDC need to be relooked as at present only Malana-II power is flowing on this 220 KV line and out of this only 12 % power is allocated to HP which also in all the time is being exported outside HP.

f) Issue of considering this 220 KV D/c line as part of deemed ISTS was also mentioned by HPPTCL during a meeting held on 26.03.2019 by CEA. During the said meeting HPPTCL stated that since this line would be carrying mostly the ISTS power, they have plans to get deemed ISTS status of the line. In line with the above, even before energization of the said line HPPTCL took this issue with NRPC during 42nd and 43rd TCC and 45th and 46th NRPC meetings held in June, 2019 and September, 2019 respectively.

g) This line was commissioned in December 2019 and by the time data is available for two quarters post commissioning of the line, the CERC regulation 2020 came up. Here it is to mention that since the certification could not be obtained

due to time taken for accomplishing the procedure, the nature and characteristics of the line should be given due considerations. Accordingly, this 220 KV line which is radially connecting hydro generation to CTU network without any interim connectivity with the state and exporting power outside the home state shall be consider as deemed ISTS.

h) Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, 2020 which has repealed the earlier Regulations doesn't deny for declaring an intra-state line as deemed inter-state line if it is used for inter-state flow of power. The Statement of Reasons Order dated 10.08.2020 issued by the Commission, while notifying the Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, 2020, has specifically retained power to declare deemed inter-state lines.

i) Section 2(36)(i) and (ii) of the Act, 2003 clearly states that the subject matter transmission line to be considered to be part of inter-State transmission system and in terms of Section 79(1) (d) of the Act, tariff of these lines is also required to be determined by the Central Commission. The said 220 KV D/C line which does not have any drawl point or interconnection with State transmission or distribution network and connected to hydro generator from where 100% power is flowing outside the state of Himachal Pradesh, is of interstate in nature.

11. EPPL vide affidavit dated 18.01.2023 has further submitted as follows:

a) The decision on planning and implementation of this 220 KV D/C Charor-Banala line by HPPTCL was taken in the planning meeting where the central planning bodies like CTU and CEA along with different state planning bodies including that of Himachal Pradesh were present. All the above planning bodies knowing fully that the nature of transmission line which would be utilized for exporting power outside the state of Himachal Pradesh and required to be made of higher power carrying capacity to conserve ROW for evacuating power for multiple hydro power generation projects, allowed the Petitioner, HPPTCL to make such transmission line despite of the nature of the line as inter-state transmission line. There is need to see that such decision should not have financial

implication on a single hydro project developer.

b) In regard to cost of the line, CERC may examine it keeping in view the type of terrain and also cost of the similar transmission lines of CTU.

c) In the past, keeping in view the similar nature of different intra- state transmission lines have been given status of inter- state transmission lines. Since the subject matter transmission line which exports more than 88 % power outside the state of HP, is planned for multi-projects and is having no interconnection in between with the State transmission System of Himachal Pradesh, the 220 kV D/C Charor - Banala is of inter-state nature and the commission may consider it keeping in view optimal development of transmission corridors as well as the viability of the hydro projects.

Analysis and Decision

12. We have considered the submissions of the Petitioner and Respondents and have also perused the record. Petitioner has prayed to include the instant asset in PoC mechanism for recovery of transmission charges of the instant asset. We observe that the Sharing Regulations, 2020 has been issued on 4.5.2020 effective from 1.11.2020. CERC (Sharing of inter-State transmission charges and losses) Regulations,2010 under which 'PoC mechanism' was notified has been repealed with effectiveness of Sharing Regulations,2020 and there is no PoC mechanism post 1.11.2020. However, considering the submissions of petitioner we find that the issue which arises for our consideration is that **whether the 220 kV D/C Charor-Banala Transmission Line is to be considered as an inter-State transmission system for purpose of recovery of transmission charges under the Sharing regulations, 2020**?

13. Petitioner has submitted that that 220 kV D/C Charor- Banala was energized

on no load on 24.7.2019 and the actual flow on the said line started in the month of December 2019.

14. CTUIL has contended that the Charor-Banala line was originally envisaged to be constructed by EPPL as dedicated line at their own cost. However, considering future injection of about 170 MW power from Small HEPs at Charor Sub-station by HPPTCL as well as RoW constraints for transmission corridor, HPPTCL proposed that they would construct the 220 kV D/C line from Charor Sub-station to Parbati Pooling Station and would also take the ownership of 132/220 kV Charor Sub-station from EPPL to make it a part of their STU system. Therefore, Charor– Banala line was planned as intra-state line by HPPTCL.

15. EPPL has contended that the evacuation of power from 100 MW Malana-II HEP was originally envisaged at 132 KV level only and the 220/132 kV Charur S/S was planned to construct at the cost of EPPL. Keeping in view the 100 MW capacity of Malana-II, EPPL was to implement this 220 KV D/c line as single Zebra conductor line like any conventional 220 KV lines being implemented in the country. However, HPPTCL constructed this line 220KV D/C line as twin moose conductor line in place of conventional 220 KV line of single zebra conductor. This 220 KV D/c line with higher capacity is to be utilized by multiple projects for transfer of power up to CTU's Parbati Poling Station with multi beneficiaries. It means that from the beginning the subject line was planned to evacuate hydro power generation outside the Himachal Pradesh State. The said 220 kV D/C line which does not have any drawl point or inter-connection with State transmission or distribution network and connected to hydro

generator from where 100% power is flowing outside the State of Himachal Pradesh is inter-state in nature.

16. NRPC vide its letter dated 2.8.2022 has submitted that based on the result of the studies for 220kV Charor- Banala line for FY 2021-22, the average percentage utilization for inter-state purposes during 2nd and 4th quarter comes out as 61%. Therefore, certification of 220kV D/C Charor-Banala line as ISTS for the FY 2022-23 is recommended.

17. NRLDC has submitted the monthly % utilization of the said line by HP starting from the date of COD till date computed as per the CERC Regulations as under:

S. No.	Month	% Utilization by HP
1	2019 Q3	11%
2	2019 Q4	56%
3	2020 Q1	34%
4	2020 Q2	29%
5	2020 Q3	50%
6	Nov-20	18%
7	Dec-20	15%
8	Jan-21	79%
9	Feb-21	74%
10	Mar-21	64%
11	Apr-21	66%
12	May-21	45%
13	Jun-21	35%
14	Jul-21	34%
15	Aug-21	32%
16	Sep-21	26%

17	Oct-21	10%
18	Nov-21	13%
19	Dec-21	25%
20	Jan-22	98%
21	Feb-22	85%
22	Mar-22	45%
23	Apr-22	37%
24	May-22	67%
25	Jun-22	21%
26	Jul-22	15%
27	Aug-22	26%

NRLDC has also submitted that the data of percentage utilization by HP during the FY 2021-22 considered by NRPC while certifying it as inter-State and as contained in Commission's order dated 23.09.2022 for Petition No. 57/MP/2022 para 36 was given to NRPC secretariat by NRLDC and there is slight change in data submitted for the period April 2021 to March 2022 due to minor change observed in the network considered. NRLDC has suggested that 220 kV Chaur-Banala transmission line was planned as an intra-state line and therefore may be treated as an intrastate line.

18. Petitioner has submitted that as on date only M/s EPPL (100 MW) is evacuating its power through the aforesaid line and none of other generators is connected to this line or utilizing it. Some of the HEPs which were planned to be connected to this line are still not connected despite of they are commissioned.

19. We have considered the submissions of Petitioner and Respondents. While admitting the instant petition vide order dated 23.09.2022, following has been observed :

"34. Petitioner has submitted that the instant project has been constructed toevacuate power from 289 MW of Small HEPs in Parvati Valley and other HEP such asMalana-II (100 MW), awarded to various IPP's by HP Govt. The major contribution upstream of Charor to the Parvati valley Power potential is from Barsaini (58.2 MW), up stream of

Malana-II (46 MW), Jari (23.7 MW), Lower Parvati valley (56) MW including Malana-II (100 MW). Petitioner has further submitted that as number of projects are coming in Parvati valley (Beas basin) in Himachal Pradesh, therefore HPPTCL is intending to construct Integrated Transmission System in the area due to the limited availability of corridors and as such too many circuits cannot be constructed. Total available potential in the Parvati valley is about 289 MW which willbe evacuated through the present transmission system.

35. We observe that the evacuation of power from Malana-II was discussed in 30th and 31st Standing Committee on Power System Planning of Northern region held on 19.12.2011 and 2.1.2013 respectively. The relevant extracts of the minutes of these meeting are as under:

Extracts of Minutes of 30th Standing Committee Meeting held on 19.12.2011:

"17. Evacuation of Power from Malana-II

Director (SP&PA), CEA informed that the evacuation of power from Malana II HEP was evacuated by LILO of one ckt of AD HEP – Nalagarh 220 kV D/c line of M/s AD Hydro at 220/132 kV, Chhaur substation of M/s Everest Power Pvt. Ltd. and power from generation project was injected at Chhaur by a 132 kV D/c line. He mentioned that for reliable evacuation of power from both the projects (300 MW), it was proposed to construct a 220 kV D/c line from Chhaur to Parbati Pooling station enabling injection of power from the Malana-II HEP at Parbati Pooling Station (ISTS). From Parbati Pooling Station, power can be evacuated over ISTS system. He further proposed that a 400/220 kV ICT along with its bays would also be needed as 220 kV level has not been planned at Parbati Pooling Station earlier.

HPPTCL representative informed that 2 nos. 220 kV line bays were required by them at Parbati Pooling Station.

After detailed deliberation, it was decided to provide 2 nos. of 315 MVA ICTs (7x105 MVA single phase units) along with 4 nos. of 220 kV line bays (2 bays for Everest power and 2 bays for HPPTCL). POWERGRID representative informed that space was available at Parbati Pooling Station switchyard for accommodating 2 nos 400/220 kV ICTs and 4 nos 220 kV line bays only. Regarding cost sharing of the above works, following was proposed:

- *Chhaur – Parbati pooling station 220 kV D/c line – **to be implemented by M/s Everest Power at their cost.***
- *The cost of switchyard extension including 2 nos. of 400 kV ICT bays and complete 220 kV switchyard with 4 nos of 220 kV line bays, 1 bus coupler bay and 2 nos ICT bays - **50% cost to be borne by Everest Power and 50% cost as ISTS scheme.***
- *400/220 kV ICTs - 4x105 MVA single phase ICTs to be provided under ISTS and 3x105 MVA single phase ICTs to be provided at the cost of M/s Everest Power Members agreed to the above proposal.*

Extracts of Minutes of 31st Standing Committee Meeting held on 2.1.2013:

"6. Evacuation of Power from Malana-II

Director (SP&PA), CEA stated that the evacuation of power from Malana-II HEP was planned by LILO of one circuit of AD HEP – Nalagarh 220 kV D/c line of M/s AD Hydro at 220/132kV Chhaur substation of M/s Everest Power Pvt. Ltd.(EPPL) and power from generation project was to be injected at Chhaur S/s through a 132 kV D/c line. Further, AD HEP – Nalagarh 220 kV D/c line is not adequate for reliable evacuation of power from both the projects especially under contingency condition. In the 30th Standing Committee Meeting of Northern Region, it was agreed to construct a 220 kV D/c line from 220/132kV Chhaur to Parbati Pooling Station enabling injection of power from Malana-II HEP at Parbati Pooling Station (ISTS). From Parbati Pooling Station, power can be evacuated over ISTS system. It was also decided to provide 2 nos. of 400/220 kV, 315 MVA ICTs (7x105 MVA single phase units) along with 4 nos. of 220 kV line bays (2 bays for M/s EPPL and 2 bays for HPPTCL).

He further mentioned that HPPTCL had informed that only one 220 kV line could be constructed from Chhaur to Parbati Pooling Station due to ROW constraints and HPPTCL also intends to inject about 170 MW power from Small HEPs at Chhaur substation for its further transfer to Parbati Pooling station. As such, HPPTCL proposed that they would construct the 220kV D/c line from Chhaur substation to Parbati Pooling station for which funds are also being tied up with ADB. Further, HPPTCL would also take up the ownership of 132/220 kV Chhaur S/s from M/s EPPL to make it a part of their STU system.

Member (PS), CEA enquired HPPTCL about the expected commissioning schedule of the above 220kV line. HPPTCL informed that the same would be ready by 2015.

POWERGRID stated that Malana-II generation is directly connected to ISTS grid, for which Long Term Open Access has been processed and granted by CTU. Incase this line is constructed by HPPTCL (STU), the direct connectivity of Malana-II with ISTS would be lost and M/s EPPL would have to bear STU charges in addition to PoC charges.

Member (PS) stated that under proposed proposal Malana-II would be treatedas State-embedded generator and would have to pay applicable charges accordingly. He enquired M/s EPPL for their consent to the above proposal.

M/s EPPL informed that they are agreeable to the proposal and they would sort out all commercial issues with HP.

While finalizing the proposal it was also decided that 400/220 kV, 2x315 MVA ICTs (7x105 MVA single- phase units) along with the associated bays and 2 nos. of 220 kV line bays would be provided at Parbati pooling station (PG) under ISTS scheme

and since it is augmentation work in existing switchyard of POWERGID S/s, the same would be carried out by POWERGRID.

Members agreed to the above proposal."

From the above minutes, we observe that during the 30th meeting of Standing Committee on Power System Planning of Northern region, it was decided that Chhaur – Parbati pooling station 220 kV D/c line shall be implemented by M/s Everest Power at their cost. However, during the 31st meeting of Standing Committee on Power System Planning of Northern region, HPPTCL informed that only one 220 kV line could be constructed from Chhaur to Parbati Pooling Station due to ROW constraints and HPPTCL also intends to inject about 170 MW power from Small HEPs at Chhaur substation for its further transfer to Parbati Pooling station. Further, HPPTCL proposed that they would construct the 220kV D/c line from Chhaur substation to Parbati Pooling station for which funds are also being tied up with ADB. There is no direction from CTU to the Petitioner to construct the said line and it was Petitioner's choice and it's proposal to construct the said line as STU line.

……"

As per the above, it was observed that during the 30th meeting of Standing Committee on Power System Planning of Northern region, it was decided that Chhaur – Parbati pooling station 220 kV D/c line shall be implemented by M/s Everest Power at their cost. However, during the 31st meeting of Standing Committee on Power System Planning of Northern region, HPPTCL proposedthat they would construct the 220kV D/c line from Chhaur substation to Parbati Pooling station for which funds are also being tied up with ADB and hence it was Petitioner's choice and it's proposal to construct the said line as STU line.

20. The Sharing regulations, 2020 effective from. 01.11.2020, provides following at Regulation 13 (13):

"(13) An intra-State transmission system for which tariff is approved by the Commission shall be included for sharing of transmission charges of DICs in accordance with Regulations 5 to 8 of these regulations, only for the period for which such tariff has been approved."

21. We have perused Electricity Act 2003 which provides as follows:

(36) " inter-State transmission system" includes –
(i) any system for the conveyance of electricity by means of main transmission line from the territory of one State to another State;
(ii) the conveyance of electricity across the territory of an intervening State as well as conveyance within the State which is incidental to such inter-State transmission of electricity;
(iii) the transmission of electricity within the territory of a State on a system built, owned, operated, maintained or controlled by a Central Transmission Utility.

(37) "intra-State transmission system" means any system for transmission of electricity other than an inter-State transmission system."

……

Section 38. (Central Transmission Utility and functions): *---- (1) The CentralGovernment may notify any Government company as the Central Transmission Utility:*

Provided that the Central Transmission Utility shall not engage in the business of generation of electricity or trading in electricity:

Provided further that the Central Government may transfer, and vest any property, interest in property, rights and liabilities connected with, andpersonnel involved in transmission of electricity of such Central Transmission Utility, to a company or companies to be incorporated under the Companies Act,1956 to function as a transmission licensee, through a transfer scheme to be effected in the manner specified under Part XIII and such company or companies shall be deemed to be transmission licensees under this Act.

(2) The functions of the Central Transmission Utility shall be -

(a) to undertake transmission of electricity through inter-State transmission system;
(b) to discharge all functions of planning and co-ordination relating to inter-State transmission system with -

(i) State Transmission Utilities;
(ii) Central Government;
(iii) State Governments;
(iv) generating companies;
(v) Regional Power Committees;
(vi) Authority;
(vii) licensees;
(viii) any other person notified by the Central Government in this behalf;

(c) to ensure development of an efficient, coordinated andeconomical system of inter-State transmission lines for smoothflow of electricity from generating stations to the load centres;

(d) to provide non-discriminatory open access to its transmission system for use by-
(i) any licensee or generating company on payment of the transmission charges; or

(ii) any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the Central Commission:

……..

Section 39. (State Transmission Utility and functions):

(1) The State Government may notify the Board or a Government company asthe State Transmission Utility:

Provided that the State Transmission Utility shall not engage in the business of trading in electricity:

Provided further that the State Government may transfer, and vest any property, interest in property, rights and liabilities connected with, andpersonnel involved in transmission of electricity, of such State TransmissionUtility, to a company or companies to be incorporated under the Companies Act,1956 to function as transmission licensee through a transfer scheme to be effectedin the manner specified under Part XIII and such company or companies shall be deemed to be transmission licensees under this Act.

(2) The functions of the State Transmission Utility shall be -

(a) to undertake transmission of electricity through intra-Statetransmission system;

(b) to discharge all functions of planning and co-ordination relating tointra-State transmission system with -

(i) Central Transmission Utility;
(ii) State Governments;
(iii) generating companies;
(iv) Regional Power Committees;
(v) Authority;
(vi) licensees;
(vii) any other person notified by the State Government inthis behalf;

(c) to ensure development of an efficient, co-ordinated and economical system of intra-State transmission lines for smooth flowof electricity from a generating station to the load centres;

(d) to provide non-discriminatory open access to its transmission system for use by-

(i) any licensee or generating company on payment of thetransmission charges ; or
(ii) any consumer as and when such open access is provided by theState Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission:
……"

22. The Electricity Act 2003 lays down the framework of transmission system development in our Country as divided into intra-State transmission and inter-State transmission. The responsibility of development of inter-State transmission system lies with CTU, while the development of intra-State transmission system with STU. Inter-State transmission system is planned by CTU for evacuation and transmission of inter-state power after consultation with CEA and the concerned RPC, and mode of

implementation of inter-state transmission system is either Tariff Based Competitive Bidding(TBCB) route or Regulated Tariff Mechanism(RTM) route, as decided by the committee constituted by MOP, Govt. of India. However, there are some transmission lines connecting the systems of two neighboring states which have been constructed over the years by concerned States under bilateral arrangement or the intra-state lines converted into inter-state lines due to bifurcation of a State. Such transmission lines connecting two states are eligible as inter-State lines under Section 36(i) of the Act and they are being approved by the Commission as inter-State transmission system upon application by the Concerned States. Commission had also introduced identification of intra-State transmission lines as inter-State based on load flow under Sharing Regulations, 2010. However, load flow varies in a transmission system on continuous basis depending on the load-generation balance scenarios. A transmission system planned as intra-State transmission system cannot be termed as inter-State for one month and then intra-State for another month. There are cases where intra-state 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 intra-State transmission system as inter-State and levy its transmission charges on beneficiaries of other States.

23. We have considered both the planning aspect of subject transmission line as well as load flow data submitted by NRLDC. As far as planning is concerned, the subject transmission line has been planned as intra-State transmission line on insistence of Petitioner which is STU of Himachal Pradesh keeping in view of potential development of intra-state hydro projects. Petitioner has not submitted anything on record to substantiate that what has changed from the day of planning, when this transmission line was envisaged and constructed as Intra-State, that now it is being

proposed as Inter-State. It is observed from the power flow data submitted by NRLDC that the power flow on the instant line reduces during the winter months while the power flow is maximum during the summer months and % utilisation by H.P. for the said line is also varying over the months from 11% to 98%. Further for the Period July-Sept. 2021 (2nd quarter) and January-March 2022 (4th Quarter), the average % utilization by H.P. works out to be 53% which is more than 50% within the State:

S. No.	Month	% Utilization by HP
1	Jul-21	34%
2	Aug-21	32%
3	Sep-21	26%
4	Jan-22	98%
5	Feb-22	85%
6	Mar-22	45%

24. In view of the above discussions, the instant line cannot be considered as Inter-State line and it continues to be an intra-State line under jurisdiction of the State Commission. Accordingly, the prayers of the petitioner are rejected.

25. Petition No. 57/MP/2022 is disposed of in terms of the above.

sd/-
(P. K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I.S.Jha)
Member