

COURT-1

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APL No. 264 OF 2025 & IA No. 1230 OF 2025

Dated: 16th September, 2025

Present: Hon`ble Mr. Justice Ramesh Ranganathan, Chairperson
Hon`ble Ms. Seema Gupta, Technical Member (Electricity)

In the matter of:

Kanchanjunga Power Company Private Limited		Appellant(s)
Versus		
Himachal Pradesh Electricity Regulatory Commission & Ors.		Respondent(s)

Counsel on record for the Appellant(s) : Nishant Kumar
Animesh Kumar
Sumit Kumar
for App. 1

Counsel on record for the Respondent(s) : Anand K. Ganesan
Swapna Seshadri
Amal Nair
Shivani Verma
Devyani Prasad
for Res. 2

Ankur Gupta
for Res. 3

ORDER

IA NO. 1230 OF 2025
(For interim relief)

Appeal No. 264 of 2025 has been filed by the Petitioner in Petition No. 140 of 2024 aggrieved by the order passed by the Himachal Pradesh Electricity Regulatory Commission on 18.07.2005. The second Respondent herein had raised invoices on the Appellant on 21.10.2024 and 07.11.2024 claiming transmissions charges on account of wheeling of 20.4 MW power through the 33/220 kV, 80/100 MVA GIS Sub-Station at Phojal along with 220 kV D/c LILO Transmission Line. The Appellant

herein had invoked the jurisdiction of the Himachal Pradesh Electricity Regulatory Commission ("HPERC" for short) under Section 86(1)(a), (f), (k) and Section 62(6) of the Electricity Act, 2003. By the order impugned in Appeal No. 264 of 2025, the HPERC dismissed the petition filed by the Appellant herein holding that they had failed to establish that they were not liable to pay transmission charges or that they were liable to pay the transmission charges for its project of 24 MW i.e. Baragaon HEP only to the extent of the allotted/ contracted capacity. Aggrieved thereby, the present appeal.

By office order dated 02.08.2025, the 2nd Respondent HPPTCL had directed the Appellant to deposit the outstanding amount claimed by them as due ie Rs.53,39,29,810/- within a period of fifteen days. By way of I.A.No.1230 of 2025, the Appellant-Applicant seeks (a) stay of operation of the office order dated 02.08.2025 issued by the 2nd Respondent-HPPTCL; (b) to restrain the 2nd Respondent-HPPTCL from taking coercive action against the Appellant-Applicant on the basis of the order dated 02.08.2025 or on the basis of the impugned order passed by the HPERC in Petition No. 140 of 2024 dated 18.07.2025 including disconnection of the Applicant's small hydro electric plant from the grid; and (c) stay the operation and effect of the impugned order passed by the Respondent-Commission in Petition No.140 of 2024 dated 18.07.2025.

Mr. Sajan Poovayya, Learned Senior Counsel appearing on behalf of the Appellant-Applicant, would submit that the subject transmission line is not a dedicated transmission line meant exclusively for the Appellant-Applicant herein; the transmission line was conceived on the basis that the said line would be used not only by the Appellant but, among others, also by the Himachal Pradesh State Electricity Board ("HPSEBL" for short) and six other generators; the generating capacity of the Appellant was around 24 MW; they were allotted a capacity of 20.4

MW on a long term basis with respect to the subject transmission line; the installed capacity of all the eight generating plants, which were to utilize this transmission line for evacuation, was 72.9 MW; and the transmission charges for the subject transmission line ought to have been socialized over the entire State, since this line was intended for evacuation of power by all generators, and not merely by the Appellant-Applicant herein.

On the other hand, Mr. Anand K. Ganesan, Learned Counsel for the 2nd Respondent, would submit that, in terms of the applicable Regulations, it is only the Appellant and HPSEBL which are presently using the subject transmission line; it is they alone who are liable to pay the transmission charges, more so since they alone have been granted long term open access; the HPERC has rightly held that the invoices raised by the 2nd Respondent on the Appellant-Applicant is strictly in terms of the applicable Regulations and had, therefore, expressed their disinclination to interfere therewith; and since the entitlement of the 2nd Respondent to receive transmission charges for the subject transmission line is not in dispute, this Tribunal ought not be persuaded to pass any interlocutory order, in the Appellant-Applicant's favour, pending adjudication of the main appeal.

It is not in dispute that the subject transmission line was conceived to enable eight generators including the Appellant and HPSEBL to evacuate power through the subject transmission line. While Mr. Anand K. Ganesan, Learned Counsel for the 2nd Respondent, would contend that this transmission line was required to be built in any event in terms of the CEA Regulations, we are of the view that these and other issues must await a final adjudication of the main appeal. We are, as at present, concerned only with the interim arrangement to be put in place till the main appeal is finally heard and disposed of.

The total capacity of all the eight generators, for whose benefit, among others, the subject transmission line was envisaged to enable them to evacuate power through the said line, was 72.9 MW of which the Appellant's generating capacity was 24 MW.

As the entitlement of the 2nd Respondent to receive transmission charges is not in dispute, the only question which would arise for consideration is whether the transmission charges should be socialized or it should be borne only by the Appellant-Applicant and HPSEB who have obtained long term open access to evacuate power through the subject transmission line. The question whether the transmission charges should be socialized, that too for the entire State of Himachal Pradesh, as claimed by the Appellant-Applicant herein, must await final adjudication of the main appeal, as these and other contentions would involve an interpretation of the applicable Regulations.

Prima-facie, there appears little justification in mulcting the entire transmission charges only on the Appellant-Applicant and HPSEB on the ground that they alone are utilizing the subject transmission line as at present, the other six generators having failed to even establish their generating plants.

We are, therefore, of the view that, as an interim measure and pending disposal of the main appeal, the Appellant-Applicant should be called upon to pay transmission charges in the ratio of 24/72.9 i.e. approximately 33% of the transmission charges which the 2nd Respondent is entitled to. In the affidavit filed by them on 08.09.2025, the Appellant states that applying this ratio the transmission charges payable by them would be around Rs.35.82 Crores of which they have already made payment of Rs.8.89 Crores. While Mr. Anand K. Ganesan, Learned Counsel for the 2nd Respondent, would contend that this sum of Rs.8.89 Crores represents not only the principal amount but also Late Payment Surcharge, the submission urged by Mr. Nishant

Kumar, Learned Counsel for the Appellant, is that the said amount of Rs.8.89 Crores represents only the principal payable in terms of the interim arrangement put in place earlier. That leaves a balance of Rs.26.93 Crores payable towards transmission charges on the basis of the 33% computation referred to hereinabove.

While the affidavit filed by the Appellant on 08.09.2025 is not free from ambiguity, it is un-necessary for us to place reliance there upon in the light of the submission of Mr. Sajan Poovayya, Learned Senior Counsel appearing on behalf of the Appellant, that, during the previous hearing, the submission urged by them, on behalf of the Appellant-Applicant, was that a sum of Rs.13.31 Crores would be deposited by them with the 2nd Respondent; and that they had only sought the indulgence of this Tribunal to deposit the said sum of Rs.13.31 Crores in three monthly instalments.

That would still leave a balance of Rs.13.62 Crores due towards transmission charges on application of the 33% norm detailed hereinabove. In the affidavit dated 08.09.2025, it is stated on behalf of the Appellant-Applicant that a sum of Rs.20,73,31,459/- is due and payable to them by CTUIL; and the Appellant-Applicant undertakes to assign the said amount in its entirety to the 2nd Respondent in case this Tribunal were to so direct. Deposit of this amount of Rs.20.73 Crores, by the Appellant-Applicant with the 2nd Respondent, would also protect the 2nd Respondent's interest with respect to their claim for carrying cost on the amounts due from the Appellant-Applicant.

As an interim measure, and with a view to protect the interests of both the Appellant-Applicant and the 2nd Respondent, we pass the following interim order which shall remain in force till the main appeal is finally heard and decided. The Appellant-Applicant shall, in three equal monthly instalments commencing from the first of October, 2025, pay around Rs.4.44 Crores each month, i.e. they shall pay Rs.4.44 Crores on

the first of October, 2025 and the first of November, 2025 and the balance Rs.4.43 Crores on the first of December 2025. In addition, the Appellant shall assign and deposit the entire amount of Rs.20,73,31,459/-, with the 2nd Respondent, immediately on receipt of the said amount from CTUIL.

The amount of Rs.13.31 Crores paid by the Appellant-Applicant in terms of the interim order now passed by us, and assignment/ deposit of Rs.20,73,31,459/-, by the Appellant-Applicant with the 2nd Respondent on receipt of the said amount from CTUIL, shall both be subject to the result of the main appeal. We also record the assurance of Mr. Sajan Poovayya, Learned Senior Counsel, appearing on behalf of the Appellant-Applicant, that they would pursue the matter with CTUIL for early payment to them of the afore-said amount, to enable them, in turn, to forthwith assign and deposit the said amount with the 2nd Respondent. It is also made clear that the 2nd Respondent's claim that the principal amount due and payable to them, by the Appellant-Applicant, is Rs.53.27 Crores shall be considered when the main appeal is finally heard and decided.

With the afore-said directions, the IA stands disposed of accordingly.

APPEAL NO. 264 OF 2025

It is represented by learned Counsel on both sides that pleadings are otherwise complete. Registry to verify whether pleadings are complete and, thereafter, include this appeal in the '**List of Finals**' to be taken up from there for hearing, in its turn.

Seema Gupta
Technical Member (Electricity)

Justice Ramesh Ranganathan
Chairperson