

# BEFORE UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

**In the matter of:**

Petition dated 30.11.2012

**In the matter of:**

Dispute between M/s Bhilangana Hydro Power Limited (Bhilangana-III SHP) and Power Transmission Corporation of Uttarakhand Ltd., regarding the obligation to make payment of additional transmission charges for the alleged dedicated transmission network.

**AND**

**In the matter of:**

**M/s Bhilangana Hydro Power Limited**

**Petitioner**

**VERSUS**

**Power Transmission Corporation of Uttarakhand Ltd**

**Respondent**

**Coram**

**Shri Jag Mohan Lal      Chairman**

**Shri C.S. Sharma      Member**

**Shri K.P. Singh      Member**

**Date of Order: 11<sup>th</sup> December 2012**

**ORDER**

The Petitioner, M/s Bhilangana Hydro Power Limited has a 24 MW small hydro project (SHP) located at village Ghuttu, Tehsil Ghansali, District Tehri Garhwal in the State of Uttarakhand.

2. This Petition has been filed seeking reliefs which are reproduced below:
- i. *restrain the Respondent from taking any coercive measure in enforcing its demand for transmission charges in terms indicated in the letters dated 02.11.2012 and 22.11.2012; and*
  - ii. *restrain the Respondent from taking any coercive measure in enforcing its demand for opening LC in terms indicated in the letters dated 12.11.2012 and 22.11.2012; and*
  - iii. *direct the SLDC to issue NOC/Consent for open access for sale of power outside the state, pending final disposal of the petition;*

3. **Background & History**

PTCUL, State transmission utility & also transmission licensee of the State had earlier filed a Petition dated 03.07.2009 for approval of capital investment covered under loan assistance from REC. The Commission while according no objection to the licensee for going ahead with their proposed investment vide Order dated 24.11.2011, excluded the following projects from the investment scheme proposed by the licensee then, for reasons provided therein

1. 200 kV S/C Chamba-Ghansali line
2. 01 No. 220 kV bay at 220 kV S/s Chamba
3. 220 kV D/C Bhilangana-III- Ghansali line
4. 220 kV S/s Ghansali

The Commission had then taken a view in the said order dated 24.11.2011 for excluding the above projects which is reproduced below:

*“ With regard to the integrated transmission projects, within the scheme, which are proposed to be developed for evacuation of power from the Generators for sale of electricity outside the State cannot be considered in the system strengthening schemes proposed by the Petitioner. The transmission/wheeling charges for these dedicated lines and sub-stations used only for evacuation of such power shall be borne by the beneficiary generators in accordance with UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations, 2010 and UERC (Terms & Conditions of Intra-State Open Access)*

*Regulations, 2010. However, in case of more than 50% of the total power carried through such system is inter-state power and the system is duly certified by RPC, then these lines shall be non ISTS or deemed inter-state lines in accordance with the provisions of the Electricity Act, 2003 and CERC (Sharing of Inter-state Transmission charges and losses) Regulations, 2010 read with various Removal of Difficulty Order of CERC issued under the aforesaid Regulations. Accordingly, the Commission has decided to exclude the following projects, mentioned in Table-2 below, from REC-IV investment proposal of the Petitioner."*

4. Further, the Commission considered the request made by PTCUL in its ARR & Tariff Petition for FY 2012-13 wherein licensee had stated that as the submission of the proposal under PoC mechanism would take some time, it requested the Commission for approval of ARR for associated transmission system of Bhilangana-III SHP and accordingly, the Commission issued directions vide letter dated 23.03.2012 to PTCUL and the same are reproduced below:

*"... Considering the request of licensee that completion of formalities/procedures under PoC mechanism, may take a longer time, the Commission directs PTCUL to submit a proposal in the form of Petition for determination of provisional ARR/transmission charges for these transmission assets in accordance with the Regulations of the Commission for recovery of the same from the beneficiary generator till transmission charges are decided by CERC under PoC mechanism."*

5. Thereafter PTCUL submitted a Petition vide letter no. 703/MD/PTCUL/UERC dated 30.04.2012 for determination of provisional ARR for the FY 2011-12 & FY 2012-13 for the associated transmission system for Bhilangana SHP.

6. Meanwhile, PTCUL submitted a Petition vide letter dated 17.04.2012 seeking investment approval for 220 kV S/s at Ghansali. The Commission reiterated its earlier decision with regard to the transmission system including the aforesaid sub-station at Ghansali associated with Bhilangana-III SHP and directed PTCUL vide letter dated 18.09.2012 to include these four schemes namely 220 kV D/C Bhilangana-III- Ghansali line, 220 kV S/s Ghansali, 200 kV S/C Chamba-Ghansali line & 01 No. 220 kV bay at 220 kV S/s Chamba and submit a separate petition for seeking investment approval in accordance with the CBR.

7. A Petition dated 24.08.2012 has also been filed by M/s Bhilangana III SHP for adjudication of dispute between M/s Bhilangana Hydro Power Limited and Power Transmission Corporation of Uttarakhand Limited regarding the obligation to make payment of additional transmission charges for the alleged dedicated transmission network. The Petitioner in this Petition has, inter-alia, made the following prayer:

*“a. direct that the Petitioner is not liable to make payment for the implementation of the 220 KV Integrated Transmission Network;*

*b. direct that Petitioner is liable to pay only the transmission charges for wheeling of power outside the State of Uttarakhand under the open access, as determined by the Hon'ble Commission from time to time;*

*c. hold that the Petitioner is not liable to pay any transmission charges for supplying power to a distribution licensee within the State as per the UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations, 2010, and the order dated 03.08.12 passed by this Hon'ble Commission in Petition no. Nil, which was filed by the Petitioner against the UPCL;*

.....

*h. direct the Respondent No. 1 to refund the transmission and SLDC charges, for the power supplied to UPCL from November 2011 to April 2012, which have been paid by the Petitioner under protest, alongwith interest:”*

8. The Petitioner, in the current Petition dated 30.11.2012, has requested the Commission for urgent listing of the matter as the Respondent has served 15 days notice w.e.f. 22.11.2012 to it for making the payment as claimed by Respondent otherwise it will direct SLDC to stop scheduling of power from Petitioner's generating plant and disconnect it from the Grid. Considering the urgency of the matter, the Commission fixed hearing in the matter which was held on 10.12.2012. The representatives of both the Petitioner & Respondent appeared before the Commission.

9. During the course of hearing the Petitioner submitted before the Commission that the Respondent vide letter no. 593 dated 18.10.2012 has unilaterally raised bills for recovery of transmission charges of the whole transmission system treating it as a dedicated transmission corridor from November 2011 to September 2012. The Petitioner

also informed the Commission that Respondent vide letter no. 592 issued on the same date asked the Petitioner for submission of revised LC in favour of the Respondent. Further, the Respondent vide letter no. 633 dated 02.11.2012 raised the bill for transmission charges for October 2012 month also. The Petitioner further submitted before the Commission that since the Respondent's petition in the matter of determination of ARR of the transmission system associated with Bhilangana-III SHP is still under consideration before the Commission and therefore, the Respondent under the Act/Regulations is not authorised to charge the same from the Petitioner. Further, the Petitioner also brought to the notice of the Commission the fact that since it has never defaulted in payment of Open Access and SLDC/Scheduling charges claimed by Respondent, in accordance with the Open Access Regulations, then what were the compulsions that the Respondent in the month of October 2012 resorted to issue of bills claiming additional transmission charges from retrospective period when the Petition of Respondent for determination of provisional transmission charges is under the consideration of the Commission. The Petitioner also informed that the Respondent went further ahead and resorted to subsequent coercive action against the Petitioner by issuing a 15 days notice to the Petitioner for making the payment as claimed by Respondent failing which it will direct SLDC to stop scheduling of power from the Petitioner's generating stations and disconnect it from the Grid. They further mentioned that pursuant to aforesaid notice, Respondent has since stopped scheduling of power generated by their SHP. Accordingly, the Petitioner requested the Commission for issuing immediate restraining order and grant interim relief to the Petitioner as stated above.

10. During the course of hearing the respondent submitted before the Commission that since they are unable to recover the cost for servicing their investment made on the transmission system associated with the SHP, they have started billing transmission charges based on the provisional ARR Petition dated 30.04.2012 filed by them with the Commission. It was enquired by the Commission whether the Respondent had authority to do so. To this, the Respondent stated that they have commenced billing of transmission charges to protect their financial interest. The Respondent could not proffer any satisfactory reply to the Commission's aforesaid query in the matter.

11. Based on the above, the Commission holds that the bills raised for transmission charges, for the transmission system from Bhilangana-III SHP to 220 kV S/s Chamba, by Respondents are not backed by proper authority. Consequently, their subsequent coercive actions of issue of notice for disconnection, placing embargo on scheduling of power etc. are not valid and deserve to be struck down. On the other hand, the Commission also takes note of concern expressed by the Respondent that no payment for the cost towards servicing of the investment on this transmission system is creating financial hardship to them and that these charges need to be paid by the Petitioner as they are the sole user of these assets.

12. In view of this, Commission, ad-interim, directs that till such time a view is taken on the extent to which petitioner is liable to pay transmission charges, status-quo be maintained and scheduling of power being generated by the SHP be continued as hitherto. The Petitioner shall furnish an undertaking to the Respondent that on determination of transmission charges, as aforesaid, by the Commission backlog of payment shall be cleared within 30 days of receipt of Order of the Commission to be issued by the Commission at a later date. The Commission further directs that all the Petitions filed by both the Parties and the compliance of direction of the Commission as below be clubbed together to be dealt for further proceedings in the matter.

- (i) Petition vide letter no. 703/MD/PTCUL/UERC dated 30.04.2012 for determination of provisional ARR for the FY 2011-12 & FY 2012-13 for the associated transmission system for Bhilangana III.
- (ii) Petition dated 24.08.2012 filed by M/s Bhilangana III SHP for adjudication of dispute between M/s Bhilangana Hydro Power Limited and Power Transmission Corporation of Uttarakhand Limited regarding the obligation to make payment of additional transmission charges for the alleged dedicated transmission network.
- (iii) In the matter of direction issued by the Commission vide letter dated 18.09.2012 to include the four schemes namely 220 kV D/C Bhilangana-III- Ghansali line, 220 kV S/s Ghansali, 200 kV S/C Chamba-Ghansali line & 01 No. 220 kV bay at 220 k/V S/s Chamba and submit a separate Petition for seeking investment approval in accordance with the CBR.

13. The Commission has decided to issue notice to MD, UPCL to furnish load profile of Ghansali and nearby area and to indicate whether they have given any justification to the Respondent seeking strengthening of the existing 33 kV network by creating a transmission substation at Ghansali. The Commission has further decided to issue notice to MD, UJVNL directing the generating company to indicate status of their proposed hydro generating plant in that area.

Ordered accordingly.

(K.P. Singh)  
Member

(C.S. Sharma)  
Member

(Jag Mohan Lal)  
Chairman