

Before
UTTARAKHAND ELECTRICITY REGULATORY COMMISSION
Petition No. 19 of 2021

In the matter of:

Petition under Section 86(1) (c), (f) and (k) read with Section 30, Section 39(2) (c), Section 40(a) and Section 42(1) of Electricity Act, 2003 seeking directions to Respondents to ensure efficient and effective evacuation of power from the Petitioner's Motighat (5MW) and Tanga (5MW) small hydro plants using 33/11 kV Darati Sub-station.

In the matter of:

M/s Himalaya Hydro Private Limited

... Petitioner

AND

In the matter of:

Uttarakhand Power Corporation Ltd. (UPCL)

....Respondent No. 1

Power Transmission Corporation of Uttarakhand Ltd. (PTCUL)

....Respondent No. 2

UJVN Ltd.

....Respondent No. 3

Coram

Shri D.P. Gairola, Member-Chairman

Shri M.K.Jain, Member (Technical)

Date of Hearing June 15, 2021

Date of Order: June 30, 2021

ORDER

This Order relates to the Petition filed by M/s Himalayan Hydro Pvt. Ltd. (hereinafter referred to as "the Petitioner") under Section 86(1)(c), (f) and (k) read with Section 30, Section 39(2)(c), Section 40 (a) and Section 42(1) of the Electricity Act, 2003 seeking direction to Respondents No. 1 and Respondent No. 2 to ensure efficient and

effective evacuation of power from the Petitioner's Small Hydro Plants using the 33/11 kV Darati Sub-Station of UPCL.

1. Background

- 1.1 As per the Petitioner, M/s Himalayan Hydro Pvt. Ltd is an electricity generating company which has developed two Small Hydro Plant, Motighat and Tanga, (hereinafter referred to as SHPs) having installed capacity of 5 MW each. The Petitioner has been selling its power to Uttarakhand Power Corporation Ltd. (hereinafter referred to as "Respondent No. 1" or "UPCL") from Motighat SHP & Tanga SHP since May 2011, and March 2017, respectively.
- 1.2 The Petitioner entered into two power purchase agreements dated 05.02.2003 with Respondent No. 1, Uttarakhand Power Corporation Limited, for sale of electricity from its two SHPs, having capacity of 3 MW each.
- 1.3 Subsequently, the Petitioner entered into two Implementation Agreements dated 28.04.2004 with the Government of Uttarakhand to implement the Motighat SHP and Tanga SHP each with an installed capacity of 3 MW. Thereafter, Respondent No. 1, vide Letter No. 3046/CMD/UPCL/P4 dated 10.05.2005 informed the Petitioner that power from Motighat SHP and Tanga SHP will be evacuated into Respondent No.1, then upcoming 33/11 Darati kV Sub-Station.
- 1.4 Thereafter, the Petitioner entered into supplementary Implementation Agreements dated 28.04.2004 with Government of Uttarakhand by which the installed capacity of each project was enhanced to 5 MW. Subsequently, the Petitioner entered into two Supplementary PPAs, dated 07.12.2009, with UPCL for sale of enhanced capacity of 5 MW (plus 10% overload), from both Motighat and Tanga SHPs such that Respondent No. 1 is obligated to purchase total installed capacity of 10MW (plus 10% overload) from the two SHPs. The PPAs, executed between the Petitioner and Respondent No. 1/UPCL, are valid for a period of a 35 years from the date of commissioning of the SHPs.

- 1.5 The Petitioner commissioned its Motighat SHP, of installed capacity of 5 MW, in May, 2011 and since then has been evacuating power through the Respondent No. 1's 33 kV Darati Sub-station. The Commission vide its Order dated 10.02.2015, approved the previously executed PPAs and directed Respondent No. 1, i.e. UPCL to amend the PPA and Supplementary PPA, executed with the Petitioner, with respect to the Motighat SHP. Consequently, the Petitioner executed second Supplementary PPA dated 12.06.2015 with UPCL.
- 1.6 The Petitioner commissioned its Tanga SHP, of installed capacity of 5 MW, on 20.03.2017 and has since been evacuating the generated power into the Respondent No. 1, 33/11 kV Darati Substation. Subsequently, the Petitioner executed second Supplementary Agreement, dated 16.03.2018, with Respondent No. 1/UPCL pursuant to the Commission's Order dated 23.01.2018 approving Tanga SHP's PPAs.
- 1.7 Earlier, it was brought to the knowledge of the Commission by the Petitioner that it has been facing issues relating to power evacuation from the 33/11 kV Darati Sub-station due to frequent line break down and extremely high voltage in UPCL's local 33 kV grid because of which the Petitioner is unable to evacuate full 10 MW installed capacity of its SHPs. The Petitioner has therefore, requested that no upcoming SHP should be allowed to be connected to 33/11 kV Darati Sub-station till the 220 kV Sub-station at Baram is commissioned by PTCUL. In the 7th Co-ordination Forum meeting held on 12.12.2019 at Commission Office, the power evacuation issues relating to Petitioner's SHPs and Suringad SHP (5MW) of UJVN Ltd. were discussed. In the said meeting, the Petitioner while mooted its concerns over evacuation of power at 33/11 Darati Sub-station of UPCL, referred to the system feasibility study by UPCL. The relevant para of the minutes of meeting of the aforesaid meeting is reproduced hereunder:

"... that UPCL has conducted technical feasibility study for analysing the power evacuation issues from other upcoming small hydro project namely Suringad on the existing 33 kV system with connectivity at 33 kV Sub-station Darati

(including study of the loads and currents in the system) and as per the said feasibility study, UPCL has categorically stated the following:

- a. That Motighat and Tanga SHPs were already suffering generation losses due to extremely high voltage and overloading of Darati 33 kV Sub-station.*
- b. That there is no capacity for any upcoming project to evacuate power at Darati Sub-station.*
- c. That any upcoming project could be connected to Darati 33 kV Sub-station only after the proposed 220 kV/33 kV Sub-station Baram is commissioned and the evacuation of power from Motighat and Tanga SHPs is done through it."*

1.8 Accordingly, the Commission decided that *status quo* with respect to connectivity as well as exclusive evacuation of power from Moti Ghat and Tanga SHPs of the Petitioner through 33/11 kV Darati Sub-station shall be maintained till the next meeting, proposed to be convened in February 2020. However, no subsequent meeting could be convened in the matter.

1.9 Subsequently, M/s Himalayan Hydro Power Pvt. Ltd. filed the instant petition vide letter dated 20.02.2021 before the Commission on the apprehension that UPCL is planning to evacuate power from the upcoming Suringad SHP (5 MW) of Respondent No. 3 i.e. UJVN Ltd. from its 33/11 kV Darati Sub-station and that such move would completely jeopardize its ability to evacuate the full 10 MW of installed capacity of its Motighat (5MW) and Tanga (5MW) SHPs, as the said Sub-station of UPCL is already capacity constrained, thereby, rendering them unviable and resulting in the very collapse of the Petitioner's company. Thus, the Petitioner has prayed that UPCL be stopped from connecting any other upcoming SHP to the 33/11 kV Darati Sub-station to evacuate power till such time the proposed 220/33 kV Baram Sub-station is commissioned together with the 220 kV transmission line from 220/33 kV Baram Sub-station to 400/220 kV Sub-station at Bagadihat of Power Grid Corporation of India Ltd. and when Respondent No. 1 is actually able to demonstrably evacuate the Petitioner's full installed capacity of 10 MW from

the said Baram Sub-station. Further, the Petitioner requested that Respondent No. 2 be directed to inform about the actual status of its 220/33 kV Baram Sub-station and the 220 kV transmission line.

1.10 Accordingly, the Commission decided to admit the Petition on 05.03.2021, and further, decided to hear the parties on 12.03.2021 and issued notice for hearing to the Petitioner, Respondent No. 1 and Respondent No. 2 on 08.03.2021. On the said date of hearing the Commission vide daily order dated 12.03.2021 directed UPCL “...to maintain status quo with respect to connectivity as well as exclusive evacuation of power from Moti Ghat and Tanga SHPs of the Petitioner through 33/11 kV Darati Sub-station till final disposal of the Petition in accordance with the decision of the 7th Co-ordination Forum Meeting dated 12.12.2019.”

1.11 Meanwhile, an application for impleadment dated 07.04.2021 was submitted by UJVN Ltd. requesting the Commission to implead it as one of the Respondent in the matter. Accordingly, the Commission vide Order dated 15.04.2021 decided to implead UJVN Ltd. as Respondent No. 3 in the matter (hereinafter referred to as “Respondent No. 3” or “UJVN Ltd.”) and vide letter dated 16.04.2021 communicated the same to UJVN Ltd. with the directions to submit its comments on the petition, if any, with a copy to the Petitioner and Respondent No. 1. Besides this, a reply dated 09.04.2021 was submitted by Respondent No. 2.

1.12 Subsequently, the Commission vide letter dated 01.06.2021 communicated to the parties i.e. the Petitioner and the three Respondents (including UJVN Ltd.) to be present on the hearing scheduled to be held on 15.06.2021. Meanwhile UPCL submitted its comments on 31.05.2021.

1.13 On the said date of hearing the Commission heard the parties in detail and vide its Order dated 15.06.2021 reserved the judgement. On the said date i.e. 15.06.2021, the Petitioner submitted its written comments on the reply submitted by Respondent No. 1 and Respondent No. 2 and raised his objections against impleadment of UJVN Ltd. as Respondent No. 3. in the matter.

2. Submission by Petitioner

- 2.1 The Petitioner vide the aforesaid petition has submitted that all 3 units of the Petitioner and UJVN Ltd. cannot be connected to 33/11 kV Darati Substation, even during the lean season as 33/11 kV Darati Substation is located at a hilly terrain where there is no large consumption load nearby. Therefore, even when Petitioner's SHPs are generating well below their total capacity of 10 MW power, there are many occasions almost every day where UPCL's 33 kV system has tripped due to increase in voltage level, and the Petitioner was forced to throttle down or reduce power generation in its SHPs leading to water spillage. Since, the power gets evacuated from 33/11 kV Darati substation to Pithoragarh 132/33 kV substation which is at a distance of more than 120 kms and even with injection at a lower capacity of all 3 plants, would eventually lead to tripping of the system, due to Ferranti effect, which has also been mentioned in Respondent No.1's technical feasibility letter dated 11.01.2018 (issued by its Superintending Engineer, Pithoragarh). There is no control mechanism, by virtue of which the individual injection from these plants can be continuously and automatically monitored or controlled at Darati Substation and Respondent No.1 is fully aware of this.
- 2.2 Further the Petitioner stated that it is suffering generation loss, since the commissioning of its SHPs, due to extremely high voltage and overloading on 33kV transmission lines and 33 kV Darati Sub-station and that the said transmission lines suffers from frequent breakdowns due to which the Petitioner is unable to evacuate full 10 MW of power from its SHP's to UPCL, causing the Petitioner huge financial losses. Further, the Petitioner submitted that in such circumstances, Respondent No. 1 is planning to use the already stressed 33/11 kV Darati Sub-station to evacuate power from the upcoming Suringad SHP, without considering the negative impact it would have on the Petitioner's SHPs in their ability to generate full 10 MW of power.
- 2.3 Further, the Petitioner submitted that Respondent No.1 is trying to connect upcoming Suringad SHP to 33/11 kV Darati Sub-Station and evacuate power from it, which would further aggravate the voltage problem in the existing 33

kV system, causing irreparable harm to the Petitioner. That Respondent No.1 has been repeatedly pointing out that solution to the power evacuation problems can only be solved upon Commissioning of 220/33 kV Baram Sub-station being developed by Respondent No. 2. Now suddenly, Respondent No.1 is trying to connect yet another generating station to 33/11 kV Darati substation when neither 220/33 kV Baram Sub-station has been commissioned nor has Respondent No.2 given any binding commitment as to when it would commission the said 220/33 kV Baram Sub-station along with its 220 kV transmission line from PGCIL's Bagadihat 400/220 kV Sub-station.

2.4 In continuation to the above, the Petitioner submitted that office of Superintendent Engineer (UPCL), Pithoragarh conducted a study (submitted vide UPCL's letter dated 11.01.2018) on technical feasibility of evacuating power from upcoming projects on the existing 33/11 kV Darati Sub-station. In this study, Office of Superintendent Engineer (UPCL) clearly submitted that the Petitioner's SHPs were already suffering generation losses due to extremely high voltage and lack of capacity in 33/11 kV Darati Sub-station. The Office of Superintendent Engineer (UPCL) further categorically stated that it was not technically feasible to evacuate power from upcoming projects on the existing network unless the proposed 220/33 kV Baram Sub-station is commissioned.

2.5 The Petitioner further submitted that UPCL is now preparing to execute power purchase agreement with UJVN Ltd., for evacuation of power from its Suringad SHP and planning to evacuate this power through the 33/11 kV Darati Sub-station which is already capacity constrained and that if the upcoming Suringad SHP is connected to the 33/11 kV Darati Sub-Station then the Petitioner would be unable to evacuate the total installed capacity of its SHPs, resulting in non-recovery of AFC. In addition to this, the Petitioner submitted that the Petitioner is a prior user having a vested right over the evacuation system in comparison to the State owned project of UJVN Ltd., the latter has more than 1000 MW capacity scattered all around the State, if Suringhad SHP of 5 MW is not connected to Darati Substation until 220/33 kV

Baram Sub-station and its related 220 kV transmission line is commissioned, it is not going to jeopardize the existence of the State owned generating utility.

2.6 The Petitioner submitted that vide the MoM dated 19.01.2021 of the Inter-Corporation co-ordination committee meeting dated 07.01.2021, it had been decided that a tripartite agreement would be executed between the Petitioner, Respondent No. 1 and UVJN Limited, after conducting a joint inspection of the Suringad SHP. That the Petitioner was neither informed nor invited to participate in the said meeting and that the so-called tripartite agreement is in contravention of the PPA between UPCL and Petitioner, and also against the Electricity Act, 2003 as well as Hon'ble Commissions Regulations.

2.7 In its prayer the Petitioner has requested: -

“direct the Respondent No. 1/ UPCL to use the 33/ 11 kV Darati Sub-station to evacuate power exclusively from the Petitioner’s SHPs till such time the 220/33 kV Baram Sub-station together with the 220 kV transmission line from PGCIL’s Bagadihat 400/220 kV sub-station to Baram 220/33kv substation is commissioned;

- a. direct the Respondent No. 2 to expedite the commissioning of 220/33 kV Baram Sub-station and its associated 220 kV transmission line; and*
- b. pass such other and further order or orders as this Hon’ble Commission may deem fit and proper under the facts and circumstances of the present case and in the interest of justice.”*

3. Submission by Respondent No. 1

3.1 UPCL has submitted that the petition is based on mere apprehensions and that there is no need of filing the present petition. That the contention of the Petitioner is primarily concerned with their apprehension that UPCL is planning to evacuate power from the upcoming Suringad SHP of UVJN Ltd. from 33/11 kV Darati substation where the plants of the Petitioner are connected for the evacuation of the power. The Petitioner is assuming that such act of the Respondent No. 1 shall jeopardize the full evacuation of 10 MW power from its Motighat and Tanga SHPs.

3.2 Further, UPCL has submitted that the Petitioner has no cause of action and the relief prayed by the Petitioner is infructuous and non-grantable.

4. Submission by Respondent No. 2

4.1 The Respondent No. 2 has submitted that:

"...the project 220/33 kV GIS Baram Sub-station is lying in extremely typical hilly terrain near Indo-Nepal Border. Previously project was planned to be connected to LILO of Dhauliganga Pithoragarh PGCL line but as 400 KV PGCIL Substation is also near completion so now efforts are being made for connecting the 220 kV GIS Substation Baram to 400 kV PGCIL sub-station. Further, it is also humbly submitted that targeted Commissioning of the 220 kV GIS Substation Baram alongwith the associated line is April 2022."

5. Submission by Respondent No. 3

5.1 The Respondent No. 3 has submitted that it has serious objections to the grant of exclusive connectivity as well as exclusive evacuation of power from SHP's of the Petitioner, through existing network of 33/11 kV Darati Sub-station.

5.2 Further, UJVN Ltd. submitted that it is developing 2x2.5 MW SHP at Suringad which is almost complete and testing/Commissioning of the same is to be done for which connectivity is essential at the earliest from the 33/11 kV Darati Sub-station and that if connectivity and evacuation to Suringad SHP is not provided by UPCL the applicant would suffer irreparable financial loss.

5.3 In continuation to this UJVN Ltd. submitted that request for PPA is pending with UPCL due to connectivity issue since October, 2020 and that UJVN Ltd. has been pursuing UPCL for connectivity of Suringad at 33/11 kV Darati Sub-station of UPCL for last 3 years.

5.4 Further, UJVN Ltd. has submitted that under the prevailing Regulations it is the responsibility of UPCL to provide connectivity to a RE based generating stations having capacity upto 25 MW at it nearest distribution sub-station, within a range of 10 Kms, and that in this light, UJVN Ltd. has already constructed a line of 6 Km from Suringad SHP upto 33 kV Darati Sub-station.

Therefore, it is incumbent upon UPCL to grant connectivity to its Suringad SHP in compliance of the Regulations.

- 5.5 On the submissions of the Petitioner and UPCL, UJVN Ltd. has submitted that no adequate power flow study has been conducted so far by UPCL or the Petitioner and that 33/11 kV Darati Sub-station is not overloaded.

6. Rejoinder by the Petitioner

- 6.1 On the submission of UPCL the Petitioner has submitted that the reply submitted by UPCL is not in conformity with legal procedures as the same is not filed under affidavit before the Commission. Further, the Petitioner has submitted that with regard to the question on the cause of action stated by UPCL, the cause of action is bundle of facts which cumulatively or otherwise gives rise to a right of claim to enforce a statutory right or a civil right of a person.
- 6.2 On the submission of PTCUL the Petitioner has submitted that PTCUL's reply too is not as per law as the same is not filed under affidavit. Further, the Petitioner has submitted that PTCUL is violating its statutory duty provided under Section 40 of Electricity Act 2003.
- 6.3 On the submission of UJVN Ltd. the Petitioner has submitted that UJVN Ltd. should not be impleaded as a party to the instant petition and therefore, UJVN Ltd.'s application for impleadment cannot be admitted. Further, the Petitioner has submitted that the Commission can implead a necessary and proper party to a petition only by passing a judicial order.

7. Commission Observations, View & Decision

- 7.1 The Commission has heard the parties in detail and has taken the submissions on record made by the parties. On examinations of the submissions, the Commission has found the following issues forming the core of the *lis* between the parties, and same are as follows: -

- (a) Whether there exist a justified cause of action which forms the basis of filing the instant Petition or whether the Petition is mere apprehension without being supplemented by any corollary events.
- (b) Whether the Petitioner can purportedly claim and enjoy exclusive evacuation right over the 33/11 kV Darati Sub-station of UPCL by the virtue of being connected to it and having a PPA with UPCL prior to any other generating power plant existing in and around the 10 km radius of the said Sub-station. And, whether UPCL can allow any other party besides the Petitioner to get connected to the 33/11 kV Darati Sub-station for evacuation of power under the prevailing circumstances.
- (c) Whether UJVN Ltd. can be impleaded as a necessary party in the matter.

7.2 The issues are being examined in the sequence of their listing above and are being discussed below:

- (a) *Whether there exist a justified cause of action which forms the basis of filing the instant Petition or whether the Petition is mere apprehension without being supplemented by any corollary events.*

For addressing the above issue, it is relevant to trace the source of the apprehension of the Petitioner which can be found in the MoM dated 12.12.2019 of the 7th Coordination Forum Meeting held at this Commission's office regarding the power evacuation issues relating to the SHPs of Petitioner and the Suringad SHP of UJVN Ltd. In the said meeting the Petitioner had raised concerns over the frequent breakdown and high voltage in the 33/11 kV Darati Sub-station due to which the Petitioner is suffering loss. On the other hand, UJVN Ltd. also put forth its concerns for getting connectivity at the said Sub-station for its Suringad SHP. The Commission then decided to convene another meeting in February 2020 to discuss the issues relating to inter connection and evacuation of these SHPs in the region and till then *status quo* was to be maintained. Since then, the subsequent meeting could not take place, however, as submitted by the Petitioner, an inter-corporation co-ordination committee meeting dated 07.01.2021 was held. In the said

inter-corporation meeting, it had been decided that a tripartite agreement would be executed between the Petitioner, UPCL and UJVN Ltd. allowing power evacuation from Suringad SHP through 33/11 kV Darati Sub-station to the extent of maximum allowable capacity of 33 kV system of UPCL and also to ensure that no financial liability devolves upon UPCL on account of power evacuation from Suringad SHP. Consequently, the Petitioner filed the instant petition vide letter dated 20.02.2021 re-agitating its concerns for not allowing connectivity to any other SHP at the aforesaid Darati Sub-station. Thereafter, vide Order dated 12.03.2021, the Commission directed the parties to maintain *status quo* in the matter in accordance with the decision of the 7th Co-ordination Forum Meeting.

From the above, it is observed that the reasons for apprehensions are valid and cannot be ruled out completely as there has been efforts by UJVN Ltd. to ensure connectivity of its Suringad SHP at 33/11 kV Dartati Sub-station for evacuation of power and there has been repeated discussion, time and again, on providing connectivity to Suringad SHP of UJVN Ltd. From the petition itself it is evident that UJVN Ltd. is compelling UPCL to give connectivity to its Suringad SHP, even though 33 kV existing network of UPCL is already overloaded. Further, the discussion held in the inter-corporation meeting and the proposal for entering into a tripartite agreement between the parties is evident enough to substantiate the locus of the instant petition. Moreover, it is evident from the petition and the subsequent replies, that the Petitioner acknowledges UJVN Ltd.'s project as a threat, leading to conflict of interest between Petitioner and UJVN Ltd. and therefore, has requested the Commission to not allow UJVN Ltd. to evacuate power from its 5 MW Suringad project by 33/11 kV Darati Sub-station which again forms a recipe to this *lis*.

Hence, in light of the above, the instant petition appears to be a cargo of legitimate concerns of the Petitioner which cannot be overlooked, and the

instant petition is an attempt by the Petitioner to protect its interest which is also within the purview of its legal right.

- (b) *Whether the Petitioner can purportedly claim and enjoy exclusive evacuation right over the 33/11 kV Darati Sub-station of UPCL by virtue of being connected to it and having a PPA with UPCL prior to any other generating power plant existing in and around the 10 km radius of the said Sub-station. And, whether UPCL can allow any other party besides the Petitioner to get connected to the 33/11 kV Darati Sub-station for evacuation of power under the prevailing circumstances.*

On the above issue, it is to clarify that the 33/11 kV Darati Sub-station is not a dedicated Sub-station for any one generating power plant and hence, its connectivity can be provided to any generating station provided that it has enough capacity. Therefore, let alone the claim of Petitioner, no other generating company can claim its exclusive right over the 33/11 kV Darati Sub-station.

Further, it is observed that 33/11 kV Darati Sub-station has been facing difficulties in evacuating power from the already connected SHPs of Petitioner. In the 7th Co-ordination Forum Meeting (Supra) the issues pertaining to evacuation of power from the 33/11 kV Darati Sub-station were highlighted by the Petitioner, moreover, on examining the internal correspondences of UPCL it is observed that the said Sub-station of UPCL and the existing 33 kV network cannot take further load. Hence, the Commission is of the view that even though UPCL is obligated to provide connectivity to the SHPs under the prevailing scheme of law, the same cannot be fulfilled by jeopardizing the stability of the existing system due to lack of capacity in the existing 33 kV system of UPCL in the said area.

- (c) *Whether UJVN Ltd. can be impleaded as a necessary party in the matter.*

On this issue, it is relevant to draw attention on the submission by the Petitioner objecting impleadment of UJVN Ltd. as one of the parties in the matter. The Commission on examining the Petition filed by M/s Himalaya Hydro Private Limited, has observed that the Petitioner has

requested it for not allowing evacuation of power from UPCL's 33/11 kV Darati sub-station to any other SHP, and the said request was made in reference to the 5 MW Suringad SHP of UJVN Ltd. The Petitioner in its Petition has stated that:

"...UPCL is now preparing to execute power purchase agreement with the upcoming 5 MW Suringad SHP, being developed by State generating company Uttarakhand Jal Vidyut Nigam Ltd. (UJVN Ltd.), and planning to evacuate power from the Suringad SHP through the 33/11 kV Darati Sub-station. It is submitted that since the 33/11 kV Darati Sub-station is already capacity constrained and presently struggling to evacuate power from the Petitioner's SHPs, power from any other SHP should not be evacuated from it."

In continuation to the above, the Petitioner at para 26 of its Petition has stated that:

"...It is not Petitioner's fault that Respondent No. 1 and UJVN Ltd. did not plan for proper evacuation of power from the Suringad SHP all these years when they knew fully well that Darati Sub-station is already clogged and does not have capacity to evacuate power, and now they suddenly want to connect to Darati SS causing irreparable injury to the Petitioner."

From the above, the Commission can see through the inchoate conflict arising between Petitioner and UJVN Ltd. with regard to connectivity for evacuation of power at 33/11 kV Darati Sub-station. This conflict of interest also forms the cause of action for filing the instant petition as is established at clause 7.2 (a) above. Hence, for determining the questions which have arisen for consideration of this Commission, it is imperative that all necessary/affected parties be heard. UJVN Ltd. appears to be a necessary party in the matter, any judgement in the same may affect its interest and therefore, it shall be unjust to conclude the proceedings without giving UJVN Ltd. a reasonable opportunity of being heard. Therefore, the Commission decided to add UJVN Ltd. as a necessary party in the proceedings and mark it as Respondent No. 3 in the matter.

7.3 Notwithstanding the above, the Commission observes that, the investment approval for 220kV/33 kV Baram Sub-station was accorded by the Commission on 25.10.2016. PTCUL in the 7th Co-ordination Forums meeting (Supra) had given May 2020 as the date for Commissioning of the Baram Sub-station, however, PTCUL has now in its submission before the Commission revised the commissioning date to April 2022. It has been almost 5 years since the Investment Approval was accorded by the Commission. Non-commissioning of 220 kV sub-station has led to the instant dispute and evacuation of cheap RE power from 5MW Suringad SHP is being affected. The sufferers are the consumers of the State who are bereft of cheap RE power and also the Distribution Licensee i.e., UPCL who shall now have to procure expensive power from the grid together with RE certificates to fulfil its Renewable Purchase Obligation. This is disheartening that nearly all the projects being undertaken by PTCUL are getting delayed much beyond the expected completion date. Delay in completion of projects has wide ranging repercussions affecting all the stakeholders, be it the Distribution Licensee, IPPs or the State generating company. The Commission believes that PTCUL as a Transmission Licensee of the State has failed miserably in providing an efficient, coordinated and economical intra-State transmission system as stipulated in Section 40 of the Electricity Act, 2003. The Commission has taken a serious view over the lackadaisical approach of PTCUL and warns that in future PTCUL may have to bear the consequences of any losses accruing either to UJVN Ltd./IPPs/UPCL due to its negligent approach leading to delayed commissioning of any of its transmission projects.

7.4 In the view of the above discussion it is evident that Petitioner has a valid PPA with UPCL for 35 years life of Motighat and Tanga SHP duly approved by the Commission and UPCL has given TFR application vide letter dated 10.05.2005 to evacuate power at 33/11 kV Darati Sub-station and UPCL is struggling to evacuate the 10 MW of power from Petitioner's aforesaid SHPs and in this manner there is no capacity at the said Darati Sub-station to evacuate power more than that it is already agreed to from Petitioner's SHP. There is no provision in

the Act and Regulations to give temporary connectivity as submitted on behalf of UJVN Ltd. during the final hearing before the Commission. Further, it will not be out of place to mention that UPCL in its letter dated 04.03.2021 by Executive Engineer, Dharchula has categorically stated that it is not technically feasible to evacuate power from Suringad SHP at Darati Sub-station and till date no technical feasibility report has been given by UPCL to connect Suringad SHP at 33/11 kV Darati Sub-station. In light of this, the Commission is of the view that in the prevailing circumstances it is not feasible to allow connectivity to any other SHP viz-a-viz UJVN Ltd.'s Suringad SHP to 33/11 kV Darati Sub-station and the existing 33 kV network besides the Petitioner's SHPs.

7.5 Hence, the petition filed by the Petitioner succeeds and consequently allowed. Further, the Commission directs:

- (i) Respondent No. 1 not to connect any other SHP to the 33/11 kV Darati Sub-station and/or existing 33 kV network till 220 kV Baram S/s alongwith associated lines is ready for evacuation.
- (ii) PTCUL shall submit, under affidavit, a compressed project execution schedule/programme considering completion time not later than December 2021, in the form of Pert-CPM Chart with respect to completion of 220 kV Baram Sub-station and its associated line before the Commission within 15 days of the issuance of this Order. PTCUL shall submit on regular basis monthly progress report of 220 kV Baram Sub-station and its associated 220 kV line by 7th of the following month positively to the Commission.

The petition stands disposed.

Ordered Accordingly.

(M. K. Jain)
Member (Technical)

(D.P. Gairola)
Member-Chairman