

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Misc. Application No. 77 of 2025

In the matter of:

An Application for Stay of the Order dated 13.05.2025 passed by the Commission in the Suo-moto proceedings in the matter of implementation of the Hon'ble APTEL's Judgment dated 28.08.2024 in Appeal No. 100 of 2017 and Appeal No. 389 of 2018 pending adjudication of Misc. Application No. 68 of 2025 filed under Section 94(2) of the Electricity Act, 2003 read with Regulation 18(2) read with Regulation 59 of the Uttarakhand Electricity Regulatory Commission (Conduct of Business) Regulations, 2014.

In the matter of:

Uttarakhand Power Corporation Ltd.

... Petitioner

AND

M/s Greenko Budhil Hydro Power Pvt. Ltd.

... Respondent

CORAM

Shri M.L. Prasad

Chairman

Shri Anurag Sharma

Member (Law)

Shri Prabhat Kishor Dimri

Member (Technical)

Date of Hearing: October 06, 2025

Date of Order : October 16, 2025

Uttarakhand Power Corporation Ltd. (hereinafter referred to as "UPCL" or "the Petitioner" or "Distribution licensee") has filed a Stay application under the provisions of Section 94(1)(f) of the Electricity Act, 2003 read with Section 94(2) of the Electricity Act, 2003 read with Regulation 18(2) and Regulation 59 of Uttarakhand Electricity Regulatory Commission (Conduct of Business) Regulations, 2014.

1. Petitioner's submission

1.1 The Petitioner submitted that it had filed a Review Petition (Misc. Application no. 68 of 2025) seeking review of the Order dated 13.05.2025 passed by the Commission in the Suo-moto proceedings in the matter of implementation of the Hon'ble APTEL's Judgement dated 28.08.2024 in Appeal no. 100 of 2017 and Appeal no. 389 of 2018 and prayed as follows:

- “(i) Admit the petition and direct open hearing thereof.*
- (ii) Reconsider/review the Order dated 13.05.2025 so that the following amounts allowed to the Respondent may be subjected to prudence check as directed by the Hon'ble APTEL vide its Order dated 28.08.2024 in Appeal No. 100 of 2017:*
 - i. Allowance of Rs. 71.51 crores towards escalation in hard costs.*
 - ii. Further allowance of Rs. 9.11 crores towards Design, Engineering, Construction, and Supervision Charges.*
 - iii. IDC, if any, incurred by the Respondent, in case the Respondent had obtained debt financing with respect to the additional hard cost of Rs. 71.51 crores or the additional soft cost of Rs. 9.11 crores;*
 - iv. Additional amount of Rs. 1.80 crores towards "Other Bank Charges" allowed to Respondent under the said Order, insofar as the relevant Bank Charges were incurred by the Respondent while financing the costs mentioned above;*
 - v. Additional amount of Rs. 11.22 crores towards "Establishment Charges" allowed to the Respondent under the said Order, insofar as the same were incurred by the Respondent in connection with the costs mentioned above;*
- (iii) Pass such other order(s) that may be deemed fit and proper in the facts and circumstances of the case.”*

1.2 The Petitioner submitted that from the above-mentioned review Petition it had also requested for stay of the Order dated 13.05.2025 till the disposal of the Review Petition as an interim relief. The Petitioner also submitted that the Commission passed a daily order on 06.08.2025 admitting the Review Petition and reserving final order herein.

1.3 The Petitioner also submitted that M/s Greenko Budhil Hydro Power Pvt. Ltd. (hereinafter referred to as “M/s GBHPPL” or “the Generator” or “Respondent”) raised invoice dated 17.05.2025 of Rs. 233 Crore (approximately) and Rs. 74 Crore (approximately) in lieu of increase in overall cost and carrying cost respectively, in terms of the subject Order dated 13.05.2025 and simultaneously raised request on the PRAAPTI Portal for release of payment of invoices.

1.4 The Petitioner submitted that it has updated the status of request on PRAAPTI portal on 14.08.2025 stating that UPCL has filed a review Petition against the Order dated 13.05.2025

issued by the Commission which has been admitted by the Commission vide its Order dated 06.08.2025 which shows that the contentions of UPCL has merit and further informed that since the matter is sub-judice before the appropriate forum, the invoices cannot be processed. The Petitioner also submitted that the Respondent again on 19.08.2025 raised another request for release of payment of above-mentioned invoices stating that *"there is no stay has been given in the order dated 06.08.2025 and accordingly, requested to release the payment."*

- 1.5 The Petitioner prayed the Commission to stay the operation of the Order dated 13.05.2025 since the Commission has admitted the Review Petition through its Order dated 06.08.2025, until the final decision therein and that the Respondent is directed to withdraw its request from the PRAAPTI Portal until then.
- 1.6 The Petitioner submitted that it would suffer irreparable harm, including reputational harm, in case the stay and other directions prayed for vide the present Petition are not granted.
- 1.7 The copy of the Petition was forwarded to the Respondent for comments, and a hearing was fixed on 06.10.2025 in the matter. The Respondent through its submission dated 04.10.2025 submitted its reply which has been dealt in subsequent paragraphs of this Order.

2. Respondent's Submissions

- 2.1 The Respondent submitted that the present Petition is not maintainable and warrants outright dismissal by the Commission. The present Petition is devoid of any grounds for grant of stay on operation of the impugned Order and in effect, is an ill-fated attempt and abuse of process of law, since similar interim prayer was made earlier in the Review Petition which was not allowed/granted by the Commission
- 2.2 The Respondent submitted that the Hon'ble APTEL passed a judgement in Appeal no. 100 of 2017 and 389 of 2018 and allowed the claims of time overrun and cost overrun of GBHPPL and had directed the Commission to pass consequential orders determining tariff in terms of the same. Thereafter, UPCL had filed a civil appeal before the Hon'ble Supreme Court, being Diary no. 51610/2024, which was dismissed vide final order dated 13.12.2024. Consequently, in compliance of the aforesaid APTEL Judgement and the final order of the Hon'ble Supreme Court, on 13.05.2025, the Commission issued its Order in the remand proceedings directing payment of revised tariff alongwith carrying cost to GBHPPL in 11

installments. The Respondent further submitted that it raised an invoice on 17.05.2025 for the payable amounts on UPCL and uploaded the invoices on PRAAPTI Portal with trigger date as 16.08.2025. UPCL without responding to the invoice of the Respondent, filed a review Petition against the Order dated 13.05.2025 before the Commission on 11.07.2025.

2.3 The Respondent submitted that the Commission heard the matter on 06.08.2025 and reserved the Order in the matter. The Respondent also submitted that through the review Petition, UPCL had also sought stay on operation of the Order dated 13.05.2025. However, through the daily Order dated 06.08.2025, the Commission did not grant any interim relief qua stay on operation of the impugned Order.

2.4 The Respondent submitted that considering no stay was granted by the Commission and having left with no option qua receiving its legitimate due/payments, GBHPPL was compelled to again upload Invoices on PRAAPTI Portal on 14.08.2025 with renewed trigger date of 29.10.2025.

2.5 The Respondent submitted that on 19.09.2025, UPCL filed a Petition before the Commission seeking stay on the Suo-moto Order dated 13.05.2025 which was not granted by the Commission vide daily order dated 06.08.2025 in the matter of review Petition of above-mentioned Suo-moto Order dated 13.05.2025.

2.6 The Respondent submitted that despite the Commission and Hon'ble APTEL holding that GBHPPL is entitled to re-determined capital cost of the Project, which was also upheld by the Hon'ble Supreme Court, UPCL has consistently been making efforts to delay the legitimate claims of GBHPPL. Further, despite raising of invoices on 17.05.2025 by GBHPPL, UPCL has failed to make any payments towards the same and is abusing the process of law to initiate simultaneous litigations, thereby, delaying the payments.

3. Commission's Analysis and Findings

3.1 The present Petition dated 19.09.2025 has been filed by UPCL seeking stay on the operation of the Order dated 13.05.2025 passed by the Commission in the Suo-moto Order in the matter of implementation of the Hon'ble APTEL's Judgement dated 28.08.2024 in Appeal No. 100 of 2017 and Appeal No. 389 of 2018 till the disposal of review of the aforesaid Suo-moto Order dated 13.05.2025 bearing Miscellaneous Application no. 68 of 2025 filed under

Section 94(2) of the Electricity Act 2003 read with Regulation 18(2) and Regulation 59 of UERC (Conduct of Business) Regulations, 2014.

3.2 The Commission fixed a hearing on 06.10.2025 in the matter and also directed the Respondent to submit its comments before the Commission. The Respondent submitted its comments on 04.10.2025. The Commission conducted a hearing where both the parties reiterated their submissions before the Commission. The Commission heard both the parties and carefully considered their written submissions. After examining the relevant material available on records, issues raised by the parties have been dealt in the subsequent paragraphs of this Order.

3.3 The Respondent vide its submission has submitted that the request by the Petitioner for stay is an ill-fated attempt and abuse of process of law since similar interim prayer was made earlier in the Review Petition which was not allowed/granted by the Commission.

In the matter, it is pertinent to mention that during the hearing of the Review Petition bearing Misc. Application No. 68 of 2025, UPCL did not press its prayer seeking stay on the operation of the Suo Motu Order dated 13.05.2025 till the disposal of the Review Petition and instead argued on the merits on the Review Petition. Accordingly, the Commission issued the Daily Order without considering the said prayer for stay.

3.4 During the hearing, UPCL submitted that M/s GBHPPL has raised a single invoice amounting to Rs. 233 whereas as per the direction given to the generator through Order dated 13.05.2025, it was required to recover the arrear amount alongwith carrying cost in 11 equal installments. In reply, the generator submitted that this issue has been raised by the distribution licensee first time through its letter dated 03.10.2025 which itself shows the frivolousness of their contention, UPCL was fully aware about the implication of the order and how it was to be executed, nothing stopped UPCL from making the payment in 11 equal installments yet till date no payment has been made and the present application has been filed to delay the rightful payment to the generator .

These contentions of the parties may give rise to the dispute, the Commission at the present stage does not consider it proper to express its view on the same, however, the generator may consider raising the revised invoices if they deem it proper.

3.5 The Petitioner had neither pleaded for stay of Suo-moto Order dated 13.05.2025 during the hearing of Review Petition nor had approached the Commission after issuance of daily order dated 06.08.2025 wherein the Commission had not stayed the execution of said Suo-moto Order. In fact, during the hearing, the Petitioner has not provided any reason for stay except that the Respondent has raised the request on PRAAPTI portal and non-payment to the Respondent within due time may lead to restriction or curtailment of power supply by NLDC which will result in power shortage in the State.

The reasons advanced by the Petitioner bears no correlation with the prayer for stay of the Suo-moto Order, as the said Order was passed in compliance with the directions of the Hon'ble APTEL vide its Judgment dated 28.08.2024. The Petitioner ought to have made appropriate provisions to ensure timely payment. Furthermore, the Commission, vide its Suo-moto Order dated 13.05.2025, had approved a capital cost of Rs. 673.37 Crore, against which the Petitioner has sought review for an amount of approximately Rs. 100 Crore which is 14.85% only. UPCL could have made the payment in a timely manner in accordance with the Suo-moto Order dated 13.05.2025, and any adjustment thereof could have been made subsequently, subject to the final outcome of the Review Petition, if required. However, UPCL deliberately chose not to make any payment, as a result of which it now finds itself in a situation where the generator has raised its claim on the PRAAPTI Portal and NLDC has cautioned that failure to make payment within the revised stipulated due date, i.e. by 29.10.2025, would lead to restriction of power supply to Uttarakhand.

It is pertinent to note that the Review Petition filed by UPCL against the Commission's Suo-moto Order dated 13.05.2025 has already been held to be not maintainable and dismissed by the Commission vide its Order dated 06.10.2025. Since the Petitioner has in the present Petition prayed for granting of interim stay on the operation of Order dated 13.05.2025 until the disposal of the Review Petition bearing Misc. Application No. 68 of 2024 and has also sought the direction against the Respondent to withdraw the request raised on the PRAAPTI portal until the disposal of Review Petition and as the said Review Petition has been disposed of vide Order dated 06.10.2025, therefore, the Commission does not consider it necessary to express its views upon the admissibility and merits of the Petition as once the Review Petition itself stands disposed of, the prayer for

stay on the operation of the Suo-moto Order dated 13.05.2025 till the disposal of the Review Petition is rendered infructuous. Further, the Commission has already dealt with the issue regarding the invoices in the para above, therefore, the above para is not being reiterated again. Accordingly, the Petition is hereby rejected.

3.6 Ordered Accordingly.

(Prabhat Kishor Dimri)
Member (Technical)

(Anurag Sharma)
Member (Law)

(M.L. Prasad)
Chairman