

**BEFORE THE HIMACHAL PRADESH ELECTRICITY
REGULATORY COMMISSION SHIMLA**

Petition No: 38 of 2021
Instituted on: 28.09.2021
Heard on: 10.03.2022
Decided on: **28.03.2022**

In the matter of:-

The HP State Electricity Board Ltd.
through its Chief Engineer (SO),
Vidyut Bhawan, Shimla-171004

....Joint Petitioner No.1

AND

M/s Om Energy Generation Pvt. Ltd.
through its Director,
Village Gwala, Post Kuleth,
Sub-Tehsil Holi, Distt.Chamba-176310

.....Joint Petitioner No.2

CORAM

DEVENDRA KUMAR SHARMA
CHAIRMAN

BHANU PRATAP SINGH
MEMBER

YASHWANT SINGH CHOGAL
MEMBER (Law)

Approval of Long-term Power Purchase Agreement under Generic Levellised Tariff in respect of Holi-II HEP (7.00MW).

Present:-

Sh. Kamlesh Saklani, Authorised Representative for Joint Petitioner No.1.
Sh. Dalip Dua, Authorised Representative for Joint Petitioner No.2.

ORDER

The present Joint Petition has been filed by the Himachal Pradesh State Electricity Board Ltd. and M/s Om Energy Generation Pvt. Ltd. for the approval of Long Term Power Purchase Agreement under Section 86(1)(b) of the Electricity Act, 2003, read with Regulations 50 and 50-A of the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 on Generic Levellised Tariff in respect of Holi-II Hydro

Electric Project (7.00MW) situated in Distt. Chamba, Himachal Pradesh (Project for short).

2. Implementation Agreement are 1st and 2nd Supplementary Agreements (IA and SIA for short) have been signed by the Joint Petitioner No.2 with GoHP on 08.10.2010, 04.08.2018 and 22.12.2020 respectively for implementation of the Project. The Govt. of HP vide notification dated 07.11.2020 has allowed one time amnesty by redefining the Zero date for the Projects which are under investigation and clearance stage where IAs have already been executed by defining Scheduled Commercial Operation Date (SCOD) of the Project which has paved the way for the signing of second SIA on 22.12.2020. As per timelines of second SIA, the parties have to sign the Power Purchase Agreement (PPA) within six months of the signing of the SIA. As per the Petitioner, a sum of Rs.2.50 Crore has been released by the Ministry of New and Renewable Energy Sources (MNRE) to the Project and the MNRE has also informed that balance amount of Rs.2.50 Crore would be released on achieving 80% of DPR projected generation and performance testing of the Project. As per the Petitioners, the applicable rate of the saleable energy payable by the HPSEBL to the Project as per clause 6.2 in the proposed PPA has been finalised after making adjustments on account of admissible subsidy of Rs.5.00 Crore of MNRE and on the basis of the generic levellised tariff as determined by the Commission vide order dated 22.12.2020. Further, as per Hydro Power Policy, 2006 as amended vide notification dated 15.05.2018, the HPSEBL is mandated to purchase entire power of the project having capacity upto 25 MW on generic levellised tariff and the Commission has also given in principle approval for purchase of SHP power by HPSEBL vide letter dated 23.11.2018. As per the Petitioners, the proposed PPA is based on the Model PPA approved by the Commission with modifications to the extent of the 3rd Control Period. In so far as benefits under the incentive Scheme titled "Industrial Development Scheme for Himachal Pradesh and Uttrakhand" are

concerned, a miscellaneous application being MA No.6 of 2022 has been filed by the parties that Joint Petitioner No.2 has got the project registered on the Portal of Ministry of Commerce and Industry for such benefits/incentives. Though, it is mentioned that in a meeting with HPSIDC, it was gathered by the officials of the project that the incentives will be available for only those projects which are commissioned on or before 31.03.2022 and since the project in hand will be commissioned on or before 15.02.2023, it has been told to them that the benefits under the scheme may not be available under the above scheme. Therefore, the Commission may consider necessary adjustment in tariff at appropriate stage upon receiving further clarification and updates from HPSIDC on the status of application for such incentives/benefits.

3. We have heard the authorized representatives of the parties and have perused the record carefully.

4. Undisputedly, the entire power of the project will be purchased by Joint Petitioner No.1 as per the notification dated 15.05.2018 of GoHP. It is mentioned in the Petition that the applicable tariff is to be finalized after making adjustment of the subsidy of Rs.5.00 Crore of MNRE. Therefore, the entire subsidy of Rs.5.00 Crore is required to be adjusted while making order in respect of tariff.

5. In so far as another subsidy/incentive of Rs.5.00 Crore of Ministry of Commerce and Industry, Govt. of India is concerned the Joint Petitioner No.1 has already got the registration done with the Ministry and, therefore, the request of the Joint Petitioner No.2 is pending consideration and the final decision on said request to be taken by the Ministry of Commerce and Industry, GoI. As such, observations of the officials of HPSIDC are insignificant at this stage. Hence, it is appropriate to make adjustment of an amount of Rs.5.00 Crore of the subsidy of Ministry of Commerce and Industry on the premise that said subsidy will be allowed and deemed to have been availed by the Joint Petitioner No.2. However, in case the proposal/request of Joint Petitioner No.2

is not considered by the Ministry, we reserve the right to the Joint Petitioners to approach the Commission for suitable modification in the PPA.

6. Therefore, in view of the powers vested in the Commission under Section 86 (1)(b) of the Electricity Act, the Joint Petitioners have made out a case for approval of PPA on the basis of Provisional Tariff as per the provisions of applicable Renewable Energy Regulations as under:-

- (i) Applicable Tariff without considering the subsidy under Generic levellised tariff of 3rd Control Period: Rs.4.49 per unit. *
- (ii) Considering Rs.5.00 Crores subsidy from Ministry of New and Renewable Energy (MNRE): Rs.4.28 per unit.
- (iii) Considering additional Rs.5.00 Crores Central Assistance/Subsidy from the Ministry of Commerce & Industry (MCI): Rs. 4.06 per unit.

* As per Commission's Order dated 22.12.2020 in Suo Motu Petition No. 76/2019 for the determination of Generic Levellised Tariffs for Small Hydro Projects for 3rd Control Period (i.e. 01.04.2020 to 30.09.2023).[Project Capacity =7.00 MW].

7. Thus, the tariff which shall be applicable to the project of Petitioner comes to **Rs.4.06** per unit. Therefore, the draft PPA is ordered to be approval accordingly subject to the following conditions:-

- (i) The SCOD of the project is 15.2.2023 and considering that the issue relating to adjustment of financial assistance/subsidy under "Industrial Development Scheme for Himachal Pradesh & Uttarakhand" notified by the Ministry of Commerce & Industry is yet to be resolved, this provisional tariff shall be applicable for a maximum period of 2 (two) years.
- (ii) The petitioners shall approach the Commission at least 1 (one) month before completion of the period of 2 (two) years from the issuance of this Order or immediately after the settlement of such adjustment as per item (i) above, whichever is earlier, for continuation of this tariff or for any other tariff as may become applicable to the project.
- (iii) The Company shall intimate to the joint Petitioner No. 1 i.e. HPSEBL, about the receipt of financial assistance/subsidy released to the Project, by the State/Central Government or its designated

Department(s)/agency(ies), within 15 days of receipt of the same and an affidavit to this effect shall be furnished by the Company i.e. joint Petitioner No. 2 which shall form part of the PPA.

- (iv) The matter regarding adjustment of financial assistance/subsidy shall be governed as per the orders as may be issued by the Commission after receipt of Petition as per item (ii) of this para.
- (v) The clause 6.2 of PPA shall be modified to the extent that the levellised provisional tariff shall be subject to further adjustment as per the order(s) as may be issued by the Commission after receipt of Petition as per item (ii) of this para.
- (vi) In case of delay of the project beyond 15.2.2023, the tariff, subject to further adjustment as per item (v) of this para, shall be applicable and the same shall be firm and final.
- (vii) The Construction Schedule submitted by way of MA No. 6 of 2022 shall form part of PPA.

5. Necessary additions and alternations in the draft PPA be carried out by the Technical Division before the same is sent to the parties. The Petitioners are directed to execute the Power Purchase Agreement accordingly within a period of 30 days from the date of this order. Three copies of the executed Power Purchase Agreement be submitted to the Commission for record.

It is so ordered.

-Sd- (Yashwant Singh Chogal) Member(Law)	-Sd- (Bhanu Pratap Singh) Member	-Sd- (Devendra Kumar Sharma) Chairman
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