

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA

Petition No. 09/2021

CORAM
Sh. Devendra Kumar Sharma
Chairman
Sh. Bhanu Pratap Singh
Member

Date of Order: 31.03.2021

IN THE MATTER OF:-

Determination of Average Pooled Power Purchase Cost (APPC) for the financial year 2020-21 under REC mechanism.

ORDER

1. This order pertains to determination of Average Pooled Power Purchase Cost (APPC) for the financial year 2020-21 under Renewable Energy Certificate (REC) mechanism.
2. The Distribution Licensee (hereinafter referred as “HPSEB Ltd.”) has filed Petition No. 09/2021 for approval of Average Power Purchase Cost (APPC) as under:-

Power Purchase Cost for FY 2020-21		
Details	MUs	Rs. (in Crore)
HPSEBL Stations	1726.50	230.27
BBMB Stations	677.80	39.42
NTPC Stations	1824.15	686.73
NHPC Stations	305.52	59.68
From other Stations	4369.80	1039.32
Free Power and Equity Power of GoHP	627.73	160.70
SHP under REC mechanism	299.14	74.44
Bilateral Purchase	(0.01)	0.00
IEX Purchase	273.15	87.35
Total	10103.78	2377.90

The APPC rate proposed by the HPSEB Ltd. is 235.35 paise per unit of energy.

3. The HPSEBL’s calculations of the APPC rates for FY 2020-21 are based on the following:-
 - (i) The arrears pertaining to past periods, which were paid in FY 2019-20, have been excluded as these are not recurring in nature;
 - (ii) Unscheduled Interchange (UI) has also not been included in line with the philosophy approved by the Commission in APPC Order for the FY 2012-13;

- (iii) The PGCIL/Transmission Charges/ULDC/Other Charges have also been excluded in line with the philosophy approved by the Commission in APPC Order for the FY 2012-13;
- (iv) The approved rates of Own generating stations have been taken from Multi Year Tariff Order dated 29.06.2019 for 4th Control Period for Distribution Business of HPSEBL;
- (v) The Forward (inward) Banking at zero cost has been considered as approved by the Commission in previous order;
- (vi) Methodology laid down in the Commission's Orders dated 16.07.2012.

4. The Commission issued a public notice on 01.03.2021 in the Newspapers, namely "Indian Express" and "Danik Bhaskar", inviting suggestions/objections on the aforesaid proposal from the stakeholders. The complete text of the petition filed for the approval of the APPC by the HPSEBL was also made available on the Commission's website www.hperc.org as well as on the HPSEBL website www.hpseb.in.
5. The Commission vide letter dated 05.03.2021, requested the major stakeholders, including the Small Hydro Power Associations of the State, State Government, Directorate of Energy and HIMURJA to send their suggestions/objections as per the aforesaid public notice.
6. M/s Ginni Global Pvt. Ltd., 2nd Floor, Shanti Chamber, 11/6B Pusa Road, New Delhi-110005 has filed their written suggestions/objections on the said petition. It has been submitted that the Association of Small Hydro Projects of Himachal Pradesh Developers have already filed an Appeal in Hon'ble Appellate Tribunal for Electricity, New Delhi, (APTEL) bearing Appeal No 120 of 2019 titled "The Bonafide Himachali Hydro Power Developers Association Versus Himachal Pradesh State Electricity Regulatory Commission & Others" challenging the Order of the HPERC in Petition No. 34 of 2018, whereby the HPERC had determined the Average Pooled Power Purchase Cost (APPC) for the year 2018-19. The next date of the hearing in the matter is 27.07.2021. Since HPSEBL has filed the subject Petition for determination of APPC for 2020-21 on the same methodology which are under challenge vide Appeal No 120 of 2019 before the Hon'ble APTEL, the decision of the same shall be applicable in the subject petition also.

7. Apart from para wise comments on the petition, M/s Ginni Global Pvt. Ltd. have also submitted that the APPC approved by the Commission for the FY 2019-20 was Rs. 2.49 per unit which has now been proposed as Rs. 2.35 per unit for 2020-21. Thus the proposal will result in reduction of Rs. 0.14 per unit. It has been submitted that the CERC has also drastically lowered the floor and forbearance price of non-solar RECs and such reductions will severally hit the SHP developers selling power under REC mode and make their operation unviable.
8. The para wise objections/suggestions on the petition received from the stakeholder i.e. M/s Ginni Global Pvt. Ltd. and reply by the HPSEBL thereon are given as under:-

Sr. No.	Objections/suggestions	Reply of HPSEBL
A.	Ginni Global Private Limited	
1	<p>HPSEBL has stated in the sub-para 3 of Para 1 on Page 4 that APPC is to be determined as per Explanation below Regulation 5 (1) (e) of the CERC (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificates for Renewable Energy Generation) Regulation, 2010 which provides as under:-</p> <p>Explanation.- for the purpose of these regulations “Pooled Cost of Purchase” means the weighted average pooled price at which the distribution license has purchased the electricity including cost of self generation, if any, in the previous year from all the energy suppliers long-term and short- term, but excluding those based on renewable energy sources, as the case may be.</p> <p>Thus APPC means</p> <ol style="list-style-type: none"> The weighted average pooled price of power actually purchased by distribution licensee from all source, Long and Short term including cost of self-generation but excluding those based on renewable energy sources in the previous year. <p>Since it is the purchase price, it has to be at the boundary of the distribution licensee. However, the petition has calculated the APPC on the boundary of the generator which is not agreeable as the power is not available for usage in the State unless transmitted to the State boundary.</p>	<p>Consideration of Power purchase at Ex-bus and not at Distribution/State periphery, exclusion of past arrears, non-consideration of UI, non-consideration of transmission charges/ PGCIL charges/ULDC & SLDC charges/ other charges, consideration of banking power at zero cost are strictly in accordance with the methodology approved by the Commission vide Order dated 16.07.2012 and APPC Order dated 04.08.2017.</p>
2	<p>The petition also states the Pooled Cost of Purchase in sub para 4 of para 1 on page 4 of the petition as Pooled Cost of Purchase i.e. the weighted average pooled price at which the distribution licensee has purchased the electricity in the previous year from long-term</p>	

	and short-term suppliers including own generation but excluding renewable energy sources. However we submit that it should be at the State boundary.
3	<p>Para 1 of page 4 of the petition states as under:- “The arrears pertaining to past periods, which were paid in FY 2019-20, have been excluded as these are not recurring in nature.”</p> <p>Thus HPSEBL has neither considered these costs of power purchase in the year to which it belonged for the purpose of determination of APPC nor in the year 2019-20 and has just ignored these costs. It is evident that if considered, it would have increased the APPC either of the relevant year of 2019-20. This is totally unjustified, illegal and unwarranted as the CERC regulations, clearly provide that the power purchase cost of previous year has to be considered. Therefore, the Commission is requested to consider these costs either in the relevant year and pay arrears or consider in the present petition of 2019-20.</p>
4	<p>Similarly para 2 of the petition page 3 states as under:- “(2) Unscheduled Interchange (UI) has also not been included in line with the philosophy approved by the Commission in APPC order for FY 2012-13.”</p> <p>This is also not as per the definition of APPC which clearly provides that all the power purchase including short term power is to be accounted for, If it is not being taken since 2012-13 does not mean that the wrong practice can be continued on the same pretext. Therefore UI essentially being the power purchased by the licensee needs to be accounted for. Thus, UI of 148.45 MUs @ Rs. 6.93 per unit as per actuals of 2019-20 also needs to be included. (HPSEBL has not uploaded the 2nd APR for 4th MYT on its web site whereas the last date of submission of comments is 15.03.2021. Hence data has been taken from the advertisement of HPSEBL appearing in newspapers).</p>
5	<p>The CERC Regulations further clearly lay down that while calculating the APPC, power purchase cost of distribution licensee is to be considered. This clearly implies that the power from the generating plant up to the boundary of the HPSEBL also need to be included in the power purchase cost on proportional basis.</p> <p>However para 3 of page 3 of the petition states as under:- “(3) The PGCIL/Transmission Charges/ULDC/ Other Charges have also been excluded in line with the philosophy approved by the Commission in APPC order of FY 2012-13.”</p> <p>This exclusion is contrary to the CERC Regulations extracted in para 1 and definition</p>

	<p>given by HPSEBL extracted in para 2 above. It is clear from the petition that the cost taken is at the dispatch end i.e. generation end and does not reflect the cost of procurement at HPSEBL periphery.</p> <p>Thus proportionate transmission and other charges including SLDC charges as per 2nd APR petition for 4th MYT period also need to be included in the power purchase cost. Further transmission losses of CTU (Power Grid) for interstate/inter regional power and of STU (HPPTCL) be also deducted from the power purchase quantum to arrive at the quantum of power received by HPSEBL at its periphery. These charges as per advertisement appearing in press note for ARR of HPSEBL as Rs. 346.80 Cr. Rs. 12.74 Cr of HPPTCL and Rs. 4.01 Cr for ULDC for 12178.20 MUs of energy for 2019-20.</p> <p>Similarly the interstate Transmission Losses and intra State losses at for 2019-20 also need to be accounted for appropriately to arrive at the cost of power at the boundary of HPSEBL.</p> <p>The argument that this methodology is being followed since 2012 does not hold as the action is void ab initio and remains so and cannot be continued on the plea that this was not challenged/commented up on in 2012 and has attained finality. HPERC is requested to set right the procedure now and give justice to the generators selling power under REC mode.</p>	
6	<p>It is also observed from para 4 of page 3 of the petition that rates for own generating stations have been taken for 2019-20 as per MYT order dated 29-06.2019. These rates had been worked out on the basis of Annual Fixed Charges for HPSEBL's own generating stations with normative yearly escalation and Design Energy. These normative rates do not reflect the actual cost of the preceding year i.e. 2019-20. This is clear violation of the CERC order which clearly provides that the actual cost of power purchase of the preceding year approved by HPERC is to be taken. This is a deliberate attempt on the part of HPSEBL to bring down the APPC to the detriment of the Generators selling power to HPSEBL under REC mechanism. We request the HPERC to take the costs as per latest APR order. We have to submit that HPSEB's stand that the methodology is continuing for the last many years cannot be justified since the discrepancy has to be corrected as and when it comes into notice. An action which is not as per the regulations cannot be justified being in practice for last many years.</p>	<p>Non-consideration of own generation costs on actual basis is due to the fact that the True-up for generation business for the 3rd Control Period is yet to take place and therefore the non-availability of actual costs for FY 20 is the reason for consideration of costs as per the MYT Order dated 29.06.2019.</p>
7	<p>With regard to para 5 on page 4, it is noted from the item "H" on page 6 that advance banking has been considered as zero.</p>	<p>Consideration of Power purchase at Ex-bus and not at Distribution/State periphery, exclusion of past arrears, non-consideration of UI, non-consideration of transmission charges/PGCIL charges/ULDC &</p>

		SLDC charges/other charges, consideration of banking power at zero cost are strictly in accordance with the methodology approved by the Commission vide Order dated 16.07.2012 and APPC Order dated 04.08.2017.
8	It is also not clear as to why cost of Shanan PH of 1.00 MW is being considered whereas power from projects less than 25 MW is not to be considered being renewable energy.	Cost of Shanan Power House has been considered because Shanan 60 MW project is not a Renewable source. HPSEBL has a fixed share of 1MW in the Shanan (60 MW) Power House and this is not RE power and it is for this reason that Shanan Power has been considered for APPC calculations.
9	In view of the above, the APPC needs to be reviewed by the Commission based on the actual figures as per APR now submitted by HPSEBL for true up of 2019-20 after including figures of UI, Losses and transmission charges etc. It is also seen that the quantum of power of Central Generating Stations etc is gross and Inter State/Intra State losses are to be deducted for working out the quantum at the boundary of HPSEBL.	Consideration of Power purchase at Ex-bus and not at Distribution/State periphery, exclusion of past arrears, non-consideration of UI, non-consideration of transmission charges/PGCIL charges/ULDC & SLDC charges/other charges, consideration of banking power at zero cost are strictly in accordance with the methodology approved by the Commission vide Order dated 16.07.2012 and APPC Order dated 04.08.2017.
10	The APPC approved by the Commission for the last year 2019-20 was Rs. 2.49 per unit which has been proposed as Rs. 2.35 per unit for 2020.21. Thus the proposal will result in a reduction of Rs. 0.14 per unit. Apart from this CERC has also drastically lowered the Floor and Forbearance price of non-solar RECs . Such reductions will severally hit the SHP developers selling power to HPSEBL under REC mode and make their operations unviable. In fact we were hoping for compensation in APPC for the loss of REC selling prices which are likely to settle down at around Rs. 0.50 to 0.60 per unit. The objector may please be allowed to submit additional data etc. on availability of APR petition filed by HPSEBL for true up of 2019-20 in Public Domain. It is therefore requested that the Commission may consider the above comments/suggestions and work out the APPC accordingly.	-----

9. A public hearing in the matter was also held through video conferencing on 26th March, 2021. The following representatives of stakeholders were present in the public hearing:-

- (i) Shri Alok Malhotra, CMD, M/s Ginni Global Pvt. Ltd., 2nd Floor, Shanti Chamber, 11/6B Pusa Road, New Delhi-110005.

- (ii) Er. S.N. Kapur, Sr. Vice President, Himalaya Power Producers Association, B-7, Sector-1, New Shimla- 171009.
- (iii) Shri Rajesh Kumar Sharma, President, the Bonafide Himachalies Hydro Power Development Association, Sai Bhawan, Sector-IV, Phase-II, New Shimla-171009.
- (iv) Er. Manoj Kumar, Superintending Engineer (Electrical), Directorate of Energy, Shanti Bhawan, Phase-III, Sector-6, New Shimla-171009.
- (v) Er. Joginder Singh, Chief Engineer (SO) HPSEBL, Vidyut Bhawan, Shimla-171004.
- (vi) Er. Tushar Gupta, SE (SERC), Vidyut Bhawan, Shimla-171004.

10. During the public hearing the participants expressed the following views:-

- (i) The representative of M/s Ginni Global Pvt. Ltd. stated that they have already filed the written submissions on the proposal and the same may be considered accordingly. He also stated that since the related matter is already sub-judice before the Hon'ble APTEL, their decision shall be binding in this subject matter.
- (ii) The representative of the Bonafide Himachalies Hydro Power Development Association stated that the UI (DSM) charges, losses, transmission charges and ULDC charges are not being considered in the calculations of APPC resulting in lower APPC in the State and also the banking at zero cost considered in the calculation needs to be looked into since the HPSEBL is taking all these cost in their power procurement cost for ARR of the respective year. He stated that the related matter is already sub-judice before the Hon'ble APTEL so the decision of Hon'ble APTEL shall also be binding in this subject matter. He further stated that with the proposed APPC rate, the per unit rate of energy to be sold to the HPSEBL under REC mechanism may be about Rs. 2.85 per unit (i.e. Rs. 2.35 per unit + tentative 50 to 60 paise per unit for REC certificate). He also stated that running the project with this tariff may not be viable and requested the Commission to allow these projects to sell their power on preferential tariff. He also stated that the energy share of 1.00 MW from Shanan Hydro Project should not be included in the APPC calculations.
- (iii) The representative of the Himalaya Power Producers Association stated that he has no specific point but the APPC price in the State is the lowest in the

country and this difference may be about one rupee or more. The Commission may examine for such lower APPC in the State.

(iv) The representative of DoE and HPSEBL have not offered any comments.

11. Commission's Analysis.-

(a) In order to promote generation from renewable sources, the Central Electricity Regulatory Commission framed regulations and issued orders for giving effect to the Renewable Energy Certificates (REC) framework. The Himachal Pradesh Electricity Regulatory Commission (hereinafter referred as the Commission) has also framed the Himachal Pradesh Electricity Regulatory Commission (Renewable Power Purchase Obligations and its Compliance) Regulations, 2010 in line with the Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificates for Renewable Energy Generation) Regulations, 2010, which specify that generation from renewable sources will be eligible for REC if it, inter-alia:

“sells the electricity generated either (i) to the distribution licensee of the area in which the eligible entity is located, at the pooled cost of power purchase of such distribution licensee as determined by the Appropriate Commission (ii) to any other licensee or to an open access consumer at a mutually agreed price, or through power exchange at market determined price.

Explanation:- “For the purpose of these regulations, ‘Pooled Cost of Purchase’ means the weighted average pooled price at which the distribution licensee has purchased the electricity including cost of self generation, if any, in the previous year from all the energy suppliers, long-term and short-term, but excluding those based on renewable energy sources, as the case may be.”

(b) The issue of APPC has already been discussed in detail by the Commission in its previous Orders while determining APPC i.e. in the Order dated 16.07.2012 for the year 2012-13 in petition No. 137/2011 and Order dated 22.06.2013 for the year 2013-14 in the petition No. 63/2013. In these Orders, the Commission adopted the following principles:-

- (i) The average pooled cost of purchase of power has three components relevant to the present context i.e. it has to be weighted average pooled price of power purchased; it has to be of the previous year and further that it has to be from the energy suppliers, both long term and short term;
- (ii) The quantum and rate of power, purchased from the State Govt., out of its free power share shall be taken into account for pooled cost of purchase;

- (iii) The unscheduled interchanges (U.I.) are not included in the power purchase cost. U.I. as a system mechanism is not a platform for power purchase or sale but is transaction/system of over-drawl or under-drawl against the power scheduled from the source. The under-drawl is a situation where the purchaser has paid price of power scheduled to him to the suppliers but he has not drawn from the system and if someone-else over-draws, charges will be reimbursed as per the pricing mechanism under U.I. Similarly, the over-drawl is from the system and is beyond the power purchased from the supplier and so scheduled and therefore, it does not amount to purchase of power on long term or short term basis from energy supplier. It can be argued that quantum of under-drawl should be reduced from the total power purchase which can further lead to issues of pricing of under-drawls as to whether such price should be on the principles of costly power at the margin in the merit order purchase. Therefore, U.I. over-drawls cannot be treated as power purchase for the purpose of pooled cost of purchase. Similarly PGCIL/ Transmission/ULDC charges etc. are not applicable when power is being supplied to the local Discom at the APPC;
- (iv) Total power purchased is disposed off/utilized by way of sale, within and outside State and by way of banking. Power purchase only is relevant for APPC and disposal/utilization of power is not relevant to the context of determination of the APPC;
- (v) Where the outward banking (banking sale) is from out of power purchased during the year from energy suppliers (long term and short term), its cost is already paid. Therefore, if the same quantum, or part of such quantum, is received as inward banking (contra banking purchase), such quantum and price should not be included over and above the quantum or price already taken into account, out of which such power has been banked. The Commission had taken cost of banking power, whether purchase or sale, as zero, because, in the absence of firm cost of such power, any notional cost leads to distorted results in profit/loss in the balance sheet. Banking arrangement, as a practice in the State, is rolling arrangement involving contra, forward and return banking with various Discoms in the region. There is no criteria for determination of rate and as a prudent practice, the Commission had taken such banking sale and purchase at zero cost. Therefore, any quantum of energy received during the year in excess of purchased energy banked in the same year, under banking arrangement, shall be treated as additional quantum of power purchase, but at zero cost. Hence, only the quantum of inward/forward banking (banking purchase) in excess of quantum of contra-banking, in the previous year will be taken as additional power purchase at zero cost;
- (vi) The arrears pertaining to past periods will be excluded as these are not recurring in nature;

- (vii) The PGCIL/Transmission charges/ULDC/other charges will not be included;
- (viii) Purchases under REC framework on the APPC will be included.

The APPC rates have been worked out for the previous financial years as per the above principles.

- (c) The principles and methodologies applied in calculating the APPC for year 2012-13 and 2013-14 have already attained finality, and therefore, we decide to apply the same for computation of the APPC under this Order also.
 - (d)
 - (i) As far as comment made by the stakeholders against the inclusion of energy quantum of Shanan project is concerned, we observe that the Shanan Hydro Project (60MW) does not fall under the category of renewable energy for computation of APPC. The HPSEBL is procuring the quantum of energy (MUs) equivalent to State share in the project which has rightly been taken into account. However, the procurement of power from renewable sources, including purchase of free power from such sources, shall be excluded.
 - (ii) The small hydro project(s) selling power under REC mechanism, at APPC, may opt for switching to the preferential tariff as per the applicable provisions of the relevant Renewable Tariff Regulations and Power Purchase Agreement(s).
 - (iii) As regards the low APPC in the State, we observe that the APPC of the State is bound to be low, as HPSEBL is meeting its requirement predominantly from large hydro stations mostly having taper tariff during their useful life except in the cases where any major R&M takes place. We also observe that APPC has otherwise been worked out in line with the provisions of the related regulations.
 - (iv) Since the true-up of 3rd control period and ARR for 4th MYT control period of generation business of the HPSEBL has not yet been carried out, the generation cost of plants as fixed by the Commission in its MYT Order for 4th control period dated 29.06.2019, shall be considered for the APPC calculation in this order.
12. Accordingly, the Commission, after duly considering the submissions made by the stakeholders, reply given by the HPSEBL thereon, discussion held during public hearing and the Commission's analysis as per para 11 of this Order and the relevant power purchase expenses of the licensee for FY 2019-20, eligible for calculation of weighted average pooled price for FY 2020-21, as submitted in the

Petition No. 09/2021, the rate of APPC for FY 2020-21 is hereby determined as under:-

Power Purchase Cost for FY 2020-21		
Details	MUs	Rs. (in Crore)
HPSEBL Stations	1726.50	230.27
BBMB Stations	677.80	39.42
NTPC Stations	1824.15	686.73
NHPC Stations	305.52	59.68
From other Stations	4369.80	1039.32
Free Power and Equity Power of GoHP	457.28	117.07
SHP under REC mechanism	299.14	74.44
IEX Purchase/Bilateral Purchase	273.14	87.35
Total	9933.33	2334.28

Based on the above, the APPC for FY 2020-21 shall be 234.99 paise per unit, say Rs. 2.35 per unit of energy. This rate is firm and final and shall not be trued up.

13. This Order shall be applicable for the FY 2020-21 and shall continue for further period with such variation or modification as may be ordered by the Commission for the next financial year.

This petition is disposed of in terms of the above.

Sd/-
(Bhanu Partap Singh)
Member

Sd-
(Devendra Kumar Sharma)
Chairman

Place: Shimla
Dated: 31st March, 2021.