

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

Petition No: 10 of 2022
Instituted on: 23.02.2022
Heard on: 18.05.2022
Decided on: **21.05.2022**

In the matter of:-

The HP State Electricity Board Ltd. through,
Chief Engineer (System Operation),
Vidyut Bhawan, Shimla-171004 **....Joint Petitioner No.1**

AND

M/s Dev Bhumi Hydro Power Pvt. Ltd. through,
Ms. R.K. Sharma, Director, Bodh Niwas,
Ward No. 4, Bhuntar, Distt. Kullu, HP-175125 **.....Joint Petitioner No.2**

CORAM

DEVENDRA KUMAR SHARMA
CHAIRMAN

BHANU PRATAP SINGH
MEMBER

YASHWANT SINGH CHOGAL
MEMBER (Law)

**Petition for approval of Long-term Power Purchase Agreement under
Generic Levellised Tariff in respect of Nazonga SHEP (0.90MW).**

Present:-

Sh. Kamlesh Saklani, Authorised Representative for Joint Petitioner No.1.
Ms. R.K Sharma, 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 Dev Bhumi Hydro Power 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 Nazonga Small Hydro Electric Project (0.90MW) on Nazonga Nallah, a tributary of river Parwati, situated at Gram Panchyat, Barshani, Tehsil Bhunter in Distt. Kullu, Himachal Pradesh (Project for short).

2. An Implementation Agreement (IA for short) has been signed by the Joint Petitioner No.2 with the Government of Himachal Pradesh (the GoHP for Short) on 20.07.2013 for implementation of the Project. The GoHP vide notification dated 07.11.2020 has allowed one time Amnesty whereby the Zero Date for the Projects which were under investigation and clearance stage where IAs had already been executed have been re-defined and the Scheduled Commercial Operation Date (SCOD) for the Projects which were under construction stage has also been re-defined which has paved the way for the signing of the Supplementary Implementation Agreement (SIA for short) on 12.01.2021. As per the Supplemenatory Implementation Agreement, the Zero Date which was 19.01.2014 has now been rescheduled as 11.01.2022. It is mentioned in the Petition that SCOD of the Project shall be 11.01.2024, but restricted to 30.09.2023, and to this effect a certificate dated 10.07.2021 has been issued by the HIMURJA on prescribed format. Construction Schedule has also been submitted by Joint Petitioner No.2 and connection agreement dated 25.10.2021 has also been signed by the Joint Petitioners.

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

4. As per directions of the Commission vide Orders dated 10.03.2022 and 02.04.2022, the Joint Petitioner No.2 has filed detailed affidavit with supporting documents stating the reasons for delay on account of clearances/NOC issued by the various Departments. It is evident from the documents that soon after signing of IA, the Joint Petitioner No.2 started taking steps for getting clearances. The diversion of Forest land was allowed only on 01.02.2019 by the Govt. of HP as evident from Order dated 01.02.2019 issued by Additional Chief Secretary (Forest) to the Govt of HP. The component wise land requirements of the Project dated 16.07.2021 shows that the possession of land in favour of the Project has been handed over only on 16.07.2021.

5. It has been mentioned in the Joint Petition that the Project is eligible for Subsidy/Financial assistance given under Industrial Development Scheme notified by Govt. of India on 23.04.2018 and the Joint Petitioner No.2 is in the process of applying for the same and that the tariff be finalized after adjusting the eligible Subsidy amount of Rs.1.50 Crore which would be subject to further adjustment on getting the additional amount of Subsidy. Therefore, adjustment of the Subsidy amount in the tariff is required to be made while approving the draft PPA.

6. It is mentioned in the affidavit dated 23.03.2021 that the Project was not eligible for the MNRE Subsidy which is evident from the Order dated 01.02.2019 of Govt. of HP vide which the Forest land was diverted in favour of the Project and possessions was handed over only on 16.07.2021 as evident from the handing over and taking over of land as per component wise land requirement sheet dated 16.07.2021. Therefore, no adjustment on account of MNRE Subsidy is required to be made.

7. As per timelines of SIA, the parties have to sign the Power Purchase Agreement (PPA) within six months of the signing of the SIA and as per the Petitioners, the proposed PPA is based on the Model PPA approved by the Commission. It is mentioned in the Petition that Govt. of HP vide notification dated 15.05.2018, further amended vide order dated 10.10.2018, has made it mandatory for the HPSEBL to purchase the entire power generated from the Hydro Projects upto 25MW capacity.

8. The record shows that the SCOD of the Project falls within the tariff of 3rd control period.

9. In view of what is stated above and the powers vested in the Commission under Section 86 (1)(b) of the Electricity Act, 2003 read with Regulation 50 & 50-A of the HPERC Conduct of Business, Regulations, 2005, the Joint Petitioners have made out a case for approval of the PPA on the basis of Provisional Tariff, as per the provisions of the HPERC (Promotion of

Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017.

10. Thus, the tariff shall be as under:-

- (i) The Applicable Tariff without considering the Industrial Subsidy under Generic levelled tariff of 3rd Control Period would be Rs.4.54 per unit. *
- (ii) Tariff after considering/adjusting the Central Assistance/Subsidy Rs.1.50 Crores from the Ministry of Commerce & Industry (MCI) would be Rs. 4.09 per unit.

* As per Commission's Order dated 22.12.2020 in Suo Motu Petition No. 76/2019 for the determination of Generic Levelled Tariffs for Small Hydro Projects for 3rd Control Period (i.e. 01.04.2020 to 30.09.2023).[Project Capacity =0.90 MW].

11. Thus, the tariff which shall be applicable to the project of Petitioner will be **Rs.4.09** per unit. This tariff shall be subject to further adjustment on getting actual amount of subsidy and other permissible deductions, if any, required to made.

12. Therefore, the Joint Petition is allowed. The draft PPA is ordered to be approved subject to the following conditions:-

- (i) The SCOD of the project is 30.09.2023 and considering that the financial assistance/subsidy under "Industrial Development Scheme for Himachal Pradesh & Uttarakhand" notified by the Ministry of Commerce & Industry is yet to be released, this provisional tariff shall be applicable for a maximum period of 2 (two) years or the tariff for 3rd control period, whichever is earlier.

- (ii) The Petitioners shall approach the Commission at least 1 (one) month before completion of the period of 2 (two) years or 3rd Control Period, whichever is earlier, from the issuance of this Order or immediately after the release of financial assistance as per item (i) above, for continuation of this tariff or for any other tariff as may become applicable to the project.
- (iii) The Joint Petitioner No. 2 shall intimate 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 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 deduction or any other permissible deduction.
- (v) The clause 6.2 of the PPA shall be modified to the extent that the levellised provisional tariff of Rs. 4.09 per unit shall be subject to further adjustment as per the order(s) as may be passed by the Commission after receipt of Petition as per item (ii) of this para and any other permissible deduction.

(vi) In case of delay of the project beyond 30.09.2023, the above 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, if any, shall form part of PPA.

12. The Petitioners are directed to execute the Power Purchase Agreement 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.

Announced
21.05.2022

-Sd-
(Yashwant Singh Chogal)
Member(Law)

-Sd-
(Bhanu Pratap Singh)
Member

-Sd-
(Devendra Kumar Sharma)
Chairman