

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

Petition No: 115 of 2023
Date of Institution: 17.11.2023
Arguments Heard on: 29.11.2023
Decided on: 30.12.2023

CORAM

DEVENDRA KUMAR SHARMA
CHAIRMAN

YASHWANT SINGH CHOGAL
MEMBER (Law)

SHASHI KANT JOSHI
MEMBER

In the matter of:

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

AND

**M/s Solding Hydrowatt Pvt. Ltd. through,
Sh. Deepak Bhandari (Authorised Signatory),
Sarbari Small Hydro Project,
Village Nagujhore, P.O. Dogri,
Distt. Kullu, HP-175102.Joint Petitioner No. 2**

Joint Petition under Section 86 (1) (b) of the Electricity Act, 2003 read with Regulation 50-A of the Conduct of Business Regulations, 2005, as amended from time to time, for approval of the Power Purchase Agreement under Generic Levellised Tariff to be executed by the HPSEBL with M/s Solding Hydrowatt Pvt. Ltd. in respect of the Soldan HEP (7.0 MW).

Present:-

**Sh. Kamlesh Saklani, Authorised Representative for the Joint
Petitioner No. 1.**

**Sh. Deepak Bhandari, Authorised Signatory for the Joint Petitioner
No. 2.**

ORDER

This Joint Petition has been filed under Section 86 (1) (b) of the Electricity Act, 2003 (Act for short) read with Regulations 50 and 50-A of the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005, as amended from time to time, (CBR for short) by the Himachal Pradesh State Electricity Board Limited (HPSEBL or Joint Petitioner No. 1 for short) and M/s Solding Hydrowatt Private Limited (Joint Petitioner No. 2 for short) for the approval of Long Term Power Purchase Agreement at Generic Levellised Tariff in respect of Soldan HEP (7.00 MW) situated at Solding Khad, a tributary of the Satluj river, Distt. Kinnaur, Himachal Pradesh (Project for short).

2. The Joint Petitioner No. 2 has signed the Implementation Agreement (IA for short) on 12.04.2023 (Annexure-III) for the implementation of the Project of 7.0 MW with the Government of Himachal Pradesh (GoHP for short) wherein, the Government supply has been dealt with under Clause 5.26.

3. As per the Petition, the Scheduled Commercial Operation Date (SCOD for short) of the Project is 15.04.2024, as per the certificate issued by the Directorate of Energy (DoE for short) vide letter No. HPDoE/CE (Energy) Soldan HEP/2023-7740 dated 17.10.2023 (Annexure-V) for the purpose of the tariff and other terms and

conditions. The Techno Economic Clearance (TEC for short) has been accorded to the Project by the Directorate of Energy, GoHP vide Order No. DoE/CE(Energy)/TC-Soldan SHEP (Rev.)/ 2022-9064-71 dated 31.01.2023 (Annexure VI).

4. It is averred that the Commission has notified the order for determination of the generic levellised tariff for Small Hydro Projects for 4th control the SCOD of the Project on 17.11.2023 (w.e.f. 01.10.2023 to 31.03.2027) and since the SCOD of the project is on 15.04.2024 which falls under the ambit of the 4th Control Period (i.e. 01.10.2023 to 31.03.2027) the tariff as determined for the 4th control period shall be applicable for the project and be granted.

5. It is averred that the provisions regarding free power/ royalty have been made in Clauses 5.26, 5.26.1 to 5.26.3 in the IA.

6. As per the Petition, the GoHP vide notification dated 15.05.2018 read with amended notification dated 10.10.2018 has mandated that the entire power generated from the Projects having capacity upto 25MW will be purchased by the HPSEBL on the tariff as determined by the Commission. It is also averred that both the parties have agreed for sale and purchase of the power from the Project at generic levellised tariff, to be determined by the Commission for the control period, where SCOD of the project falls, in accordance with the Himachal Pradesh

Electricity Regulatory Commission (Promotion of Generation from Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017 (RE Regulations, 2017 for short) or the prevalent tariff Regulations at any later stage.

7. As per the Joint Petition, the Ministry of Commerce and Industry vide notification No. 2 (2)/ 2018-SPS dated 23.04.2018 has notified the 'Industrial Development Scheme for the States of Himachal Pradesh and Uttarakhand' whereby the Central Capital Investments Incentive is being given for access to credit @ 30% of the investment in plant & machinery with an upper limit of Rs. 5 Crores. Accordingly, the Joint Petitioner No. 2 has applied online on the web portal of the Industry Department vide application No. IDS/HP/3059 on 31.03.2022 for availing the Central Capital Investments Incentive and the amount of subsidy to be released under this Scheme shall be adjusted in accordance with the provisions of the SHP tariff Order, as may be notified by the Commission, for the Control Period in which SCOD of the Project falls.

8. Also that a Connection Agreement has been signed by the Joint Petitioners on 03.11.2023 (Annexure-IV) whereby the Joint Petitioner No. 1 has agreed to the connection of the project to its wheeling and communication system at interconnection point i.e. LILO of 66kV

Nathpa-Kotla line near Solding Nallah using Transmission and Communication System of the Distribution Licensee, to transmit electricity from the Project.

9. It is averred that no case has been filed in respect of determination/ hike of tariff or challenging the Regulations and that the draft PPA is based on Model PPA approved by the Commission.

10. We have heard Sh. Kamlesh Saklani, Authorised Representative for Joint Petitioner No. 1 and Sh. Deepak Bhandari, Authorised Signatory for Joint Petitioner No. 2 and have perused the record carefully.

11. It is evident from Form-A annexed to the Petition that the capacity of the Project is 7.0 MW which is being constructed on Soldan Khad, which is a tributary of Beas river, Distt. Kangra, H.P. with completion/ commissioning schedule as 15.04.2024 but as per the IA and TEC, the Project is situated on Soldan Khad, a tributary of river Satluj in Distt. Kinnaur, H.P. which is being taken as correct.

12. It is apparent from the IA dated 12.04.2023 (Annexure-III) that the Joint Petitioner No. 2 was initially allotted a Project of 2.50 MW on 19.03.1999 but the capacity of the Project was subsequently enhanced to 5.00 MW on 24.09.2004 and an IA to this effect was signed on 19.05.2009. It is also apparent from IA dated 12.04.2023 that on further

detailed investigation of the Project, the capacity of the Project was enhanced to 7.0 MW and accordingly, IA dated 12.04.2023 has been signed.

13. The parties have placed on record Connection Agreement dated 03.11.2023 signed between the Himachal Pradesh Power Transmission Corporation Limited (HPPTCL for short) and the Joint Petitioners No. 1 and 2 agreeing to connect the Project to the STUs Transmission and Connection System at Interconnection Point LILO of 66 kV Nathpa-Kotla line near Solding Nallah using the transmission and communication system of the Distribution licensee to transmit electricity as well as real time data to and or from the facility through the Distribution Licensee Transmission and Communication System.

14. The DoE, GoHP has also issued TEC vide Order No. DoE /CE (Energy)/TC-Soldan SHEP (rev.)/ 2022-9064-71 dated 31.01.2023 (Annexure-VI) and the SCOD certificated has also been issued vide letter No. HPDoE/CE (Energy) Soldan HEP/2023-7740 dated 17.10.2023 (Annexure-V) annexed as Annexure-I to the letter which shows that the SCOD of the Project is 15.04.2024 and, therefore, the Project shall be entitled to the tariff prevalent under the 4th control period i.e. w.e.f. 01.10.2023 to 31.03.2027 as determined by the

Commission vide order dated 17.11.2023 in Suo Moto Petition No. 07/2023.

15. The Joint Petitioner No. 2 has also submitted an undertaking (Annexure-VII) that no case is pending in any Court, HPERC, CERC, H.P. High Court, Supreme Court or any other court of law with respect to commissioning of Soldan SHEP (7.0 MW). Also an undertaking (Annexure-VIII) has also been placed on record that the Joint Petitioner No. 2 shall intimate the HPSEBL of the receipt of subsidy by the State/ Central Government or its designated department(s)/ agency(ies) within 15 days of the receipt of subsidy.

16. It is apparent from the Petition that the Joint Petitioner No. 2 has applied online on the web portal of the Industrial Department vide application No. IDS/HP/3059 on 31.03.2022 for availing the Central Capital Investments Incentive and the amount of subsidy to be released under this Scheme shall be adjusted in accordance with the provisions of the SHP tariff Orders for the 4th Control Period in which SCOD of the Project falls, as notified by the Commission on 17.11.2023 in Suo Moto Pet. No. 07/2023. As per the GoHP notification dated 15.05.2018 read with amended notification dated 10.10.2018, it has been mandated that the entire power generated from the Hydro Projects having capacity

upto 25MW shall be purchased by the HPSEBL on the tariff as determined by the Commission.

17. The Petition is duly supported by affidavits of the Joint Petitioners.

18. Therefore, taking into consideration the aforesaid facts and circumstances and in exercise of the powers vested in the Commission under Section 86 (1) (b) of the Electricity Act, 2003 and Regulations 50 & 50-A of the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005, as amended from time to time, and also taking into consideration the notifications dated 15.05.2018 and 10.10.2018 of the GoHP, Swaran Jayanti Policy, 2021, Techno-Economic Clearance dated 31.01.2023, the Implementation Agreement dated 12.04.2023, the SCOD Certificate dated 17.10.2023 (Annexure-V) annexed as Annexure-I and Connection Agreement dated 03.11.2023, the Joint Petitioners have made out a case for the approval of the Long Term PPA under the Generic Levelled Tariff.

19. Accordingly the Petition succeeds and allowed. The PPA is ordered to be approved subject to the following terms and conditions:-

(a) At the end of first paragraph of the sub-clause 2.2.46 of the PPA, following shall be added, namely:-

“The Company shall also bear the cost of all equipments including metering arrangement and interconnecting facilities at 66kV switching sub-station on 66kV Nathpa-Kotla line”.

(b) The sub-clause 2.2.51 of the PPA, i.e., "Net Saleable Deemed Generation", is a valid clause in context of this PPA and therefore, the existing strikethrough from the whole text of clause 2.2.51 of the PPA shall be cleared.

(c) At the end of sub-clause 2.2.60 of the PPA, the following shall be added, namely:-

"The Company shall construct the 66kV line from its Power House to interconnection point at its own cost."

(d) For clause 6.2 of the PPA, the following shall be substituted, namely:-

- (i) *The Provisional tariff of Rs. 4.56 (Rupee four and Fifty Six paise only) per Kilowatt hours shall be applicable to the project of Petitioner after the adjustment of Rs. 5.0 Crore financial assistance/subsidy on provisional basis, notified by the ministry of commerce and Industry dated 23.04.2018 under "Industrial Development Scheme for Himachal Pradesh and Uttrakhand";*
- (ii) *The Company shall intimate the HPSEBL of the receipt of financial assistance/subsidy released to it by the State/Central Government or its designated Department(s) agency(ies), within 15 days of receipt of the same as per the affidavit annexed at Annexure-VIII;*
- (iii) *Both the parties shall approach the Commission immediately after the release of financial assistance/subsidy as per item (ii) ibid or communication, if any, received in this regard from the respective agency/government so as to make appropriate order of tariff which shall be applicable to the Project;*

- (iv) *The water cess, as levied by the Govt. of H.P. for the Hydro Electric Projects shall be dealt as per sub-clause (4) of Clause 8.8 of the PPA and provisions of the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017; and*
- (v) *This tariff shall be further subject to adjustment on account of financial assistance /subsidy as per provision of the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017.”*
- (e) In clause 8.8, in sub-clause (2) of the PPA, for the word, sign and figures “36-B”, the word, sign and figure “36-C” shall be substituted.
- (f) In clause 8.8, in sub-clause (3) in item (iii) of the PPA, for the word, sign and figures “22-B”, the word, sign and figures “22-C” shall be substituted.
- (g) In clause 8.8, in sub-clause (3) in item (iv) of the PPA, for the word, sign and figures “29-B”, the word, sign and figures “29-C” shall be substituted.
- (h) In clause 8.8, in sub-clause (4) of the PPA, for the word, sign and figures “36-C”, the word, sign and figures “29-CC” shall be substituted.
- (i) For the words, sign and figures “RE Tariff Regulations, 2017”, wherever appearing in different clauses of the PPA, the words, sign and figures “Himachal Pradesh Electricity Regulatory

Commission (Promotion of Generation from Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017” shall be substituted.

20. The Joint Petitioners are directed to execute the PPA as per the above order after carrying out the necessary additions and alteration within 30 days from the date of this order. Three copies of the executed Power Purchase Agreement be submitted to the Commission for record.

Let a copy of this order be supplied to the Joint Petitioners forthwith.

The file after needful be consigned to records.

Announced
30.12.2023

-Sd- (Shashi Kant Joshi) Member	-Sd- (Yashwant Singh Chogal) Member (Law)	-Sd- (Devendra Kumar Sharma) Chairman
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