

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

**Petition No: 120 of 2024**  
Instituted on: 24.09.2024  
Heard on: 30.11.2024  
**Decided on: 14.01.2025**

**CORAM:**

DEVENDRA KUMAR SHARMA  
CHAIRMAN.

YASHWANT SINGH CHOGAL  
MEMBER (Law).

SHASHI KANT JOSHI  
MEMBER.

**In the matter of:-**

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

AND

M/s V.B. Hydro Projects Limited,  
Shahil Plaza, Dalhousie Road, Pathankot  
Punjab, India-0145001, through its,  
Sh. Narender Kumar, Authorised Signatory.

.....**Joint Petitioner No.2.**

**Petition/Application under Section 86 (1) (b) of the Electricity Act, 2003  
for approval Supplementary Power Purchase Agreement to be executed  
between the Himachal Pradesh State Electricity Board Limited and M/s  
V.B. Hydro Projects Limited in respect of Kuwarsi Hydro Electric  
Project (9.90 MW).**

Present:-

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

Sh. Ashok Verma, Ld. Counsel for the Joint Petitioner No. 2.

## ORDER

This Joint Petition has been filed under Section 86 (1) (b) of the Electricity Act, 2003 and Regulation 50 and 50-A of the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 (the CBR, 2005 for short) seeking approval to execute Supplementary Power Purchase Agreement (SPPA for short) to be executed between the Himachal Pradesh State Electricity Board Ltd. (the HPSEBL/ Joint Petitioner No. 1 for short) and M/s V.B. Hydro Projects Limited (the Joint Petitioner No. 2 for short) in respect of Kuwarsi Hydro Electric Project (9.90 MW) on Salun Khad, a tributary of Ravi river in Tehsil Bharmour, Distt. Chamba, Himachal Pradesh (Project for short) under the generic levelised tariff.

2. It is averred that a PPA was signed on 18.09.2023 under generic levelised tariff as determined by the Commission for the 4<sup>th</sup> Control Period according to the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from Renewable Energy Sources and Terms & Conditions for Tariff Determination) Regulations, 2017 (RE Regulations, 2017 for short) vide Order dated 17.11.2023 in Suo Moto Petition No. 07 of 2023.

3. Both parties had previously filed a Joint Petition (Petition No. 43/2023) for approval of PPA in respect of the Project which was allowed by the Commission vide order dated 06.09.2023. The SCOD of

the Project is 22.07.2025 which was in the 4<sup>th</sup> Control Period, as such, provisional tariff of Rs. 4.49 per kWh was allowed to the Project vide order dated 06.09.2023 as per the 3<sup>rd</sup> Control Period because the tariff for the 4<sup>th</sup> Control Period was yet to be determined. The PPA was approved subject to the following terms and conditions:-

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

*(i) The Provisional tariff which shall be applicable to the project of Petitioner shall be Rs. 4.49 (Rupee four and forty nine paise only) per unit, which is further subject to the adjustment on account of the financial assistance/subsidy, as per the provisions of Regulations (ibid). However, the SCOD of the project is 22.07.2025 i.e. beyond 3<sup>rd</sup> Control Period, from which date the generation of Power and sale & purchase will commence, the Joint Petitioner No. 2/ Project shall be entitled to the tariff which shall be prevalent at the time of the SCOD, which may be less or more and in case the tariff is less, the Joint Petitioner No. 2/ Project will have to supply the power to the HPSEBL on the said tariff only and if the tariff is more, the Joint Petitioner No. 2 shall be entitled to the same and considering that the release/ availability of financial assistance/subsidy under “Industrial Development Scheme for Himachal Pradesh & Uttarakhand” notified by the Ministry of Commerce & Industry is yet to be received, the tariff shall be subject to adjustment of subsidy as mentioned above.*

*(ii) The Joint Petitioner No. 2 shall intimate the Joint Petitioner No.1 i.e. the HPSEBL of 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.*

*(iii) The petitioners shall approach the Commission immediately after the release of Financial assistance/subsidy as per item (ii) above or atleast one month before the SCOD of the Project so as to make appropriate order of tariff which shall be applicable to the Project after adjustment of admissible subsidy. However, the Joint Petitioner No. 2 shall also have the liberty to approach the Commission, individually for the appropriate tariff in respect of the Project after adjustment of subsidy.*

(iv) *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 passed by the Commission after receipt of Petition as per item (iii) of this para.*

(v) *In case of delay of project beyond the SCOD i.e. 22.07.2025, the tariff of the Control Period in which the SCOD falls, subject to further adjustment as per item (ii) of this para, shall be applicable and the same shall be firm and final.*

(vi) *The Joint Petitioner No. 2 is directed to pursue the matter of Subsidy/Central Capital Investment Incentive with the Industries Department. However, in case no response is gathered from the Joint Petitioner No. 2 by the Joint Petitioner No. 1, till one month before the SCOD, the Joint Petitioner No. 1 shall also intimate the Commission in this regard.*

(vii) *The Interconnection Point for the Project as per the connection agreement dated 16.08.2023 is at 66/220kV switching sub-station of HPPTCL at Heiling.*

(viii) *The entire cost of common 66kV terminal bay and 66kV Transmission line from the Power house to HPPTCL Sub-station including metering arrangements shall be shared by the IPPs in proportionate to their individual generating capacities as per the agreement dated 16.08.2023 executed between the parties.*

(ix) *The cost of O&M of the interconnection facilities at the HPPTCL grid shall be borne by the IPPs in proportionate to installed capacity of their respective Projects for which separate agreement shall be executed between HPPTCL and parties.*

(x) *The water cess, as made applicable by the Govt. of H.P. for the Hydro Electric Projects, shall be dealt accordingly as per the notification of the Government.”*

4. It is averred that the parties were directed vide order dated 06.09.2023 to approach the Commission on release of subsidy or atleast one month before the Scheduled Commercial Operation Date (SCOD for short) of the Project. Though the SCOD of the Project is scheduled for 22.07.2025 yet the Joint Petitioner No. 2 aimed to commission the Project in the month of October, 2024.

5. It is also averred that the Commission vide order dated 17.11.2023 in Suo Moto Petition No. 07 of 2023 has determined the generic levellised tariff for Small Hydro Projects (SHPs) above 100 kW to 25 MW under Regulation 14 of the RE Regulations, 2017 for 4<sup>th</sup> Control Period (01.10.2023 to 31.03.2027) and since, the SCOD of the Project falls on 22.07.2025 which is within the ambit of the 4<sup>th</sup> Control period, the Project is entitled for the tariff of Rs. 4.78 per kWh being Project of 9.90 MW which is subject to adjustment on account of following:-

- Adjustment on account of Incentive and/ or subsidy and/ or grant available to Project;
- Additional tariff on account of O&M;
- Variation in free power structure; and
- Rounding.

6. As per the Joint Petition, the Ministry of Commerce and Industry vide notification No. 2 (2)/ 2018-SPS dated 23.04.2018 had notified the 'Industrial Development Scheme (IDS) for the States of Himachal Pradesh and Uttarakhand' whereby the Central Capital Investment Incentive (Industry subsidy) was being given for access to credit @ 30% of the investment in plant & machinery with an upper limit of Rs. 5 Crores. The Joint Petitioner No. 2 had applied online on the web portal of the Industry Department vide application No. IDS/HP/3059 on 31.03.2022 for availing the Industrial subsidy. The amount of Industrial

subsidy to be released is adjustable in accordance with the provisions of the tariff Order dated 17.11.2023. It is averred that the Industry subsidy has not been received by the Joint Petitioner No. 2.

7. It is also averred that as per the para 7.14 (ii) of the tariff Order dated 17.11.2023, the adjustment on account of Industry subsidy of Rs. 5.00 crore, as may be available is required to be made at appropriate stage. However, since the Industry subsidy of Rs. 5.00 Crore was available under the IDS, 2017 the same has been adjusted as per the tariff order and after adjustment, the provisional tariff in respect of the Project comes to Rs. 4.62 per kWh. It has been emphasized that the tariff of Rs. 4.62 per kWh should be considered provisional pending actual receipt of such subsidy.

8. Also averred that no additional tariff on account of O&M is required as the Project is of the capacity of more than 6.50 MW. Averments in respect of free power, royalty, rounding and water cess have also been made in the Petition.

9. We have heard Sh. Kamlesh Saklani, Authorised Representative for the Joint Petitioner No. 1 and Sh. Ashok Verma, Ld. Counsel for the Joint Petitioner No. 2 and have perused the entire record carefully.

10. During hearing of the Petition, the authorised representative of the Joint Petitioner No. 2 pointed out that no Industry Subsidy under IDS, 2017 has been received by the Joint Petitioner No. 2. Therefore, the

Commission vide Order dated 25.09.2024 directed the Joint Petitioner No. 2 to submit the status of Industry Subsidy alongwith supporting documents from the Ministry of Industry and Commerce within two weeks.

11. Pursuant thereto, the requisite status of Industry subsidy was filed on 09.10.2024 alongwith letter of Director of Industry as under:-

*“1. I am submitting this affidavit in compliance with the directions issued by the Commission on 25.09.2024 to provide the status of the Industrial Subsidy along with supporting documents from the Ministry of Industry and Commerce.*

*2. As per the Directorate of Industries letter dated 04.10.2024, the status of application submitted by us is reflected as “Closed”. Since pre-registration has not been granted by the DPIIT, hence M/s V.B. Hydro Projects Limited is not eligible for grant of CIIAC under IDS-2017.*

*3. Attached to this affidavit are the supporting documents received from the Ministry of Industry and Commerce, which include:*

*i. Directorate of Industries letter dated 04.10.2024.”*

12. The letter dated 04.10.2024 of the Director of Industries addressed to the Joint Petitioner No. 2 shows that registration in respect of the Project is reflected as “closed” on the DIPP portal as the pre-registration was not granted by the DPIIT, hence, the Project is not eligible for CIAC under IDS-2017.

13. The Commission observed that the detail submitted by the Joint Petitioner No. 2 pursuant to order dated 25.09.2024 was highly cryptic and incomplete, as such, the Joint Petitioner No. 2 was again directed vide order dated 22.11.2024 to file chronology of events since the signing of interim agreement till the filing of application for Industrial

subsidy under IDS. Such detail has been filed by way of affidavit on 27.11.2024 which is reproduced as under:-

<b>Date</b>	<b>Event</b>
27-08-1996	Project allotment
09-07-2003	TEC was accorded
30-04-2002	Implementation Agreement was signed with GoHP
16-01-2006	GoHP cancelled the allotment of the project
20-12-2006	Project was re-allotted by the GoHP by imposing penalty.
29-09-2007	Project was restored after depositing the penalty.
14-11-2008	Fresh IA was signed with the GoHP Kuwarsi SHP (5.00 MW) located in District Chamba, HP.
07-06-2012	Final approval of the Forest clearance was accorded.
01-02-2021	SIA was signed with the GoHP and the zero date of the project was redefined.
03-05-2021	Directorate of Energy vide office order dated 03-05-2021 was pleased to accord Revised Concurrence to Kuwarsi SHP (5.00 MW)
23-07-2021	Shareholding of the Project was changed in October, 2020 and the project was taken over by the Joint Petitioner No.2. Accordingly <b>HIMURJA conveyed approval of GoHP for change of the Shareholding.</b>
15-07-2021	The HIMURJA issued a letter to the enclosing therein the certificate which was issued to the effect that the Scheduled Commercial Operation Date of the Project for the purpose of tariff applicability within the frame work of the State Hydro Policy, is 30.04.2024.
20-07-2022	Approval of the DOE was conveyed to the Petitioner for the enhancement of the capacity from 5 MW to 9.9 MW.
<b>31.03.2022</b>	<b>Applied for IDS Subsidy scheme for Kuwarsi HEP (9.9 MW)</b>
<b>26.07.2022</b>	Implementation Agreement (IA) was executed between the Directorate of Energy and M/s V.B. Hydro Projects Limited for 9.9 MW capacity and achieved zero date as on signing of IA.
05.08.2022	Directorate of Energy accorded revised Technical Concurrence (TC) for 9.9 MW.
08.10.2022	Company letter dated 08-10-2022 requested Directorate of Energy, GoHP to issue the SCOD Certificate, enable to apply for the PPA with the HPSEBL.
22.01.2023	In response to this letter, the Directorate of Energy intimated the as per progress report submitted by the letter dated 08.12.2022, the zero date of the project for (9.9 MW) is 22.07.2022 and accordingly as per IA, the SCOD of the project worked out to be 22.07.2025.
03.04.2023	The Construction Schedule was approved by Directorate of Energy and fix SCOD by July, 2025.



16.08.2023	As per the direction of Hon'ble HPERC the connection agreement was executed between HPPTCL, M/s V.B. Hydro Projects Limited, M/s Jagdambey Hydro projects LLP & M/s Swadeshi Distributers LLP.
18.09.2023	Power Purchase Agreement was executed between HPSEBL & M/s V.B. Hydro Projects Limited in respect of Kuwarsi HEP (9.9 MW).
14.03.2024	As per the direction of Hon'ble HPERC interim Connection Agreement was executed between HPSEBL and M/s V.B. Hydro Projects Limited.
01.10.2024	As per the direction imparted by Hon'ble HPERC sought status of ISD subsidy scheme from Directorate of Industries in respect of Kuwarsi HEP (9.9 MW).
14.10.2024	In response, the status of ISD subsidy scheme was furnished by Directorate of Industries stating that as on date the status of application on DPIIT portal for registration is reflected as "Closed". Since, pre-registration has not been granted by DPIIT, hence we are not eligible for grant of CIIAC under IDS-2017.
06.11.2024	HPSEBL (M&T) team visited project site on 01.11.2024 and furnished test report.
13.11.2024	Certification of validation of telemetry system in respect of Kuwarsi HEP (9.9 MW) was issued by HPSLDC.
14.11.2024	HPSEBL (P&T) team visited project site on 12.11.2024 and furnished the test report.
14.11.2024	Operation and Maintenance (O&M) agreement was executed between Chief Engineer(OP), HPSEBL.
22.11.2024	No objection Certificate as per clause-e of Annexure-IV of Swaran Jayanti Energy Policy-2021 issued vide Govt. of HP Notification no. MPP-F(1)2/2005-XV dated 20.02.2022 to the extent to establishment of telemetry connectivity with HPSLDC.
25.11.2024	Inspection of electrical installations under Regulation 34& 35 of the Central Electricity Authority was conducted by Chief Electrical Inspectorate team on 15.11.2024 and report furnished.
25.11.2024	Superintending Engineer (Designs) visited the project site and recommended Kuwarsi HEP (9.9 MW) to be ready for trial run of 15 days w.e.f. 15.11.2024.

14. It is submitted on behalf of the Joint Petitioner No. 2 that the IDS, 2017 stands closed on 31.03.2022 and that the application for registration had been submitted during the currency of the scheme but on closure of the scheme, the Industry subsidy is not available and, as

such no deduction of tariff as per para 7.13 (ii) of the order dated 17.11.2023 is required to be made.

15. In so far as para 7.13 (ii) of SHP order is concerned, the same was pertaining to the determination of tariff for the third control period as per RE Tariff Regulations, 2013 in which it was mentioned that the deduction of the subsidy was to be made at appropriate stage. However, RE Tariff Regulations, 2017 were amended vide the Seventh Amendment, notified on 22.09.2023, vide which clause 22(C) has been inserted. Pursuant to the above amendment, Generic Levelled tariff for SHPs has been determined vide order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023 and para 7.13 thereof provides that the adjustment of subsidy is to be made irrespective of whether the same is actually availed or not.

16. Therefore, a question arises for consideration in the Present Petition as to whether the deduction of the subsidy amount of Rs. 5.00 Crore is required to be made and the tariff is required to be worked out after adjustment of said amount of Rs. 5.00 Crore.

17. A careful perusal of the IDS, 2017 shows that the same was notified on 23.04.2018 and was effective uptill 31.03.2022. The chronology of events, as furnished by way of affidavit by the Joint Petitioner No. 2 shows that the Joint Petitioner No. 2 was eligible for applying for the Industrial Subsidy on the portal of DIPP soon after the

launch of the scheme as the Petitioner had all the approvals before 07.06.2012. Although, the Petitioner signed the SIA on 01.02.2021 but the IA had been signed on 14.11.2008. Further, as per HIMURJA letter dated 15.07.2021, the SCOD was fixed on 30.04.2024 which has been extended to 22.07.2025 after the enhancement of capacity of the Project from 5.0 MW to 9.90 MW.

18. It is relevant to mention here that the Commission has taken a consistent stand in various Petitions that the adjustment of subsidy will be made irrespective of the fact whether subsidy is availed or not. Though, in some cases, the Project Developers approached the Commission with a proposal for adjustment of admissible subsidy without actual release of such subsidy so that post release hassles of re-adjustment of tariff may be avoided. In some other cases, where the Project Developers have not volunteered for such adjustment, the Commission had been making appropriate adjustment as per the admissible subsidy as per RE Regulations, 2017, as amended vide seventh amendment. Since, the SCOD of the Project was in the 4<sup>th</sup> control period and the Petition for approval of PPA had been filed during the 3<sup>rd</sup> control period, the provisional tariff as per the 3<sup>rd</sup> control period had been granted.

19. The Regulation 22-C of the RE Regulations, 2017, as inserted by the (Seventh Amendment) Regulations, 2023 notified on 22.09.2023

provides for the adjustment of generation based incentive/ subsidy which reads as under:-

*“22-C Subsidy or incentive or grant/budgetary support by the Central/ State Government.-*

*(1) While determining the generic levellised or project specific levellised tariff, as the case may be, for the renewable energy project(s) under these Regulations, the Commission shall take into consideration any incentive and/or subsidy and/or grant and/or budgetary support available, irrespective of whether the same is actually availed or not, under the schemes of the Central or State Government or their agencies, but excluding accelerated depreciation benefit under the Income Tax Act:*

*Provided that the capital subsidy under the schemes of the Central or State Government or their agencies shall be adjusted in the normative capital cost and the cost so arrived, after such adjustment, shall be considered for computing Debt-Equity Components for the purposes of determination of generic levellised tariffs:*

*Provided further that where the Central Government or the State Government notifies, or has notified, any generation based incentive (GBI) scheme for a particular kind of renewable technology, such technology based generating station shall be assumed to have availed the benefit of such a scheme and their tariffs shall be reduced by the amount of generation based incentive (GBI) per unit for the period during which such incentive remains applicable.*

*(2) Where any additional project specific grant or budgetary support is available to any project, apart from the incentive and/or subsidy and/or grant available under Sub-regulation (1) of this regulation, the Commission shall account for such budgetary support also, while determining project specific levellised tariff.*

*(3) The amount of subsidy shall be considered for each renewable source as per the applicable policy of the MNRE/State Government/Central Government and if the amount and/or mechanism of subsidy is changed by the MNRE/ State Government/Central Government, consequent corrections in tariffs may be carried out by the Commission in accordance with Regulation 20.”*

20. As mentioned above, when the PPA was approved vide Order dated 06.09.2023 in Petition No. 43 of 2023, the 3<sup>rd</sup> Control Period was under progress whereas the SCOD of the Project is in the 4<sup>th</sup> Control

Period i.e. 22.07.2025. The validity of the 4<sup>th</sup> Control Period is from 01.10.2023 to 31.03.2027.

21. This Commission has determined the tariff for the 4<sup>th</sup> Control Period w.e.f. 01.10.2023 to 31.03.2027 vide Order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023 and as per the said tariff Order, the tariff for the Project(s) having installed capacity of 5 MW to 25 MW is Rs. 4.78 per kWh.

22. Para 7.13 (i) and (ii) of said Order provides for adjustment of incentive/ subsidy as under:-

*“7.13 Incentive and/or subsidy and/or grant/budgetary support by the Central/ State Government.-*

*(i) The Regulation 22-C of the RE Tariff Regulations, 2017 provides as under:-*

*“(1) While determining the generic levellised or project specific levellised tariff, as the case may be, for the renewable energy project(s) under these Regulations, the Commission shall take into consideration any incentive and/or subsidy and/or grant and/or budgetary support available, irrespective of whether the same is actually availed or not, under the schemes of the Central or State Government or their agencies, but excluding accelerated depreciation benefit under the Income Tax Act:*

*Provided that the capital subsidy under the schemes of the Central or State Government or their agencies shall be adjusted in the normative capital cost and the cost so arrived, after such adjustment, shall be considered for computing Debt-Equity Components for the purposes of determination of generic levellised tariffs:*

*Provided further that where the Central Government or the State Government notifies, or has notified, any generation based incentive (GBI) scheme for a particular kind of renewable technology, such technology based generating station shall be assumed to have availed the benefit of such a scheme and their tariffs shall be reduced by the amount of generation based incentive (GBI) per unit for the period during which such incentive remains applicable.*

*(2) Where any additional project specific grant or budgetary support is available to any project, apart from the incentive and/or subsidy and/or grant available under Sub-regulation (1) of this regulation, the Commission shall account for such budgetary support also, while determining project specific levellised tariff.*

*(3) The amount of subsidy shall be considered for each renewable source as per the applicable policy of the MNRE/State Government/Central Government and if the amount and/or mechanism of subsidy is changed by the MNRE/State Government/Central Government, consequent corrections in tariffs may be carried out by the Commission in accordance with Regulation 20.”*

*(ii) No adjustment of incentive and/or subsidy and/or grant is being made in the tariff calculations being carried out in this order. However, adjustment to be made in the rate on per Crore of subsidy for each MW capacity have been worked out and mentioned in the attached calculation sheets for each category of the project and adjustment, if any, on account of the same shall be made at appropriate stage while applying the tariff after taking into account the eligibility conditions in each case. Similarly, adjustment on account of subsidy available under the Ministry of Commerce & Industry, Government of India and/or any other subsidy scheme(s) of Government (Central/State) shall also be made at appropriate stage(s) after taking into account the extent of subsidy(ies) available under such scheme(s). The adjustments on account of subsidies, where available, are to be made at the rates indicated in the calculation sheets on normative basis by considering the provisions of regulations 20-C, 23-C, 24-C, 25-C and 26-C.”*

23. Admittedly, the Project stands registered successfully in the DIPP Portal as evident from receipt of registration dated 31.03.2022 i.e. the last date of validity of the scheme, though the relevant clearances were obtained much earlier. The Ministry of Commerce & Industry has not yet decided the case for subsidy of the Project. Para 7.13 (i) of Order dated 17.11.2023 and Regulation 22-C of the RE Tariff Regulations, 2017, as inserted vide the Seventh Regulations, 2023, clearly provide that the subsidy is required to be adjusted irrespective of the fact that the same

has been released or not and shall be assumed to have been availed. The chronology as furnished by the Petitioner shows that the Project was initially allotted on 27.08.1996 and the IA was signed on 30.04.2002. The Project was thereafter cancelled but was re-allotted on 20.12.2006 and fresh IA was signed on 14.11.2008 which was for the capacity of 5.0 MW. The Petitioner signed SIA with the GoHP on 01.02.2021 but in between 07.06.2012 to 01.02.2021, no activity is shown to have been done. The chronology further shows that after SIA, shareholding of the Project was changed and approval was conveyed on 23.07.2021.

24. In the meanwhile, the capacity of the Project was enhanced to 9.90 MW from 5.0 MW and approval in this regard was conveyed on 20.07.2022. The Industrial Development Scheme, 2017 was launched on 01.04.2017 and was valid upto 31.03.2022. The Petitioner has applied for the subsidy only on 31.03.2022 on the portal of DIPP which was the last date of the validity of the IDS, 2017. The entire chronology is silent as to why no action was taken by the Petitioner for claiming the subsidy after signing the SIA on 01.02.2021. Once the IA for 5.0 MW capacity had been signed and the Petitioner had all the clearances on 07.06.2012, the Petitioner could have applied for claiming the subsidy on the first day of the launch of IDS, 2017. Even the approval of capacity enhancement to 9.90 MW was accorded on 20.07.2022 but

still no efforts were made for submitting the application for claiming the subsidy. In fact, no explanation for delay has come on record. The record reveals that sufficient time was there with the Petitioner for applying to the Ministry of Commerce and Industry for claiming the subsidy for the Project initially for 5.0 MW capacity and subsequently for 9.90 MW capacity and had the application been submitted in time, the Ministry could have processed the application in time and would have processed/ considered the case but with the submission of the application on the last date of the validity of the scheme, there was hardly any time for considering the same.

25. Significantly, the industrial subsidy has twin effect as on the one hand it was to facilitate the Petitioner/ Project Developer to complete the construction without arranging the loan which was non-refundable, and on the other hand, the cost of the Project would have been reduced and thereby the impact of tariff on the consumers would have been less. Therefore, this is the case where Commission can safely presume that the Petitioner has not intentionally submitted the application in time so as to claim the higher tariff which certainly can't be permitted being contrary to the interest of the Consumers. Thus, the subsidy of Rs. 5.0 Crore is being considered as deemed availed as per para 7.13 of the tariff order dated 17.11.2023 in Suo Moto Petition No. 07 of 2023.



26. Significantly, it is averred in the Joint Petition that the parties have volunteered for adjustment of subsidy of Rs. 5.0 Crore and payment of provisional tariff of Rs. 4.62 per kWh pending actual disbursement of subsidy. The case of the Joint Petitioner No. 2 has not been finally rejected by the Ministry of Commerce and Industry. Keeping in view of the aforesaid, the contention of the Joint Petitioner No. 2 that the subsidy is not available to the Project is not tenable at this stage.

27. The SCOD of the Project is 22.07.2025 but as per the information gathered from the Joint Petitioner No. 1, the same has been synchronized on 15.11.2024 meaning thereby that the SCOD falls within the 4<sup>th</sup> Control Period. The capacity of the Project is 9.90 MW. As per SHP Order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023, the tariff of the Projects from 5 MW to 25 MW is Rs. 4.78 per kWh which is subject to adjustment of subsidy as per Regulation 22-C of the RE Regulations, 2017, as inserted by Seventh Amendment Regulations, 2023 and Para 7.13 of the SHP Order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023. After making adjustment of Industry Subsidy of Rs. 5.00 Crore, as deemed available, the provisional tariff after such adjustment comes to Rs. 4.62 per kWh. Thus, the provisional tariff of Rs. 4.62 per kWh shall be applicable to the Project.

28. The Joint Petitioners have already agreed for the sale and purchase of Power and have already executed the PPA as per Order

dated 06.09.2023 in Petition No. 43 of 2023. Therefore, the Commission in exercise of powers vested in it under Sub-section (1) (b) of Section 86 of the Electricity Act, 2003 read with Regulations 56 and 57 of the CBR, 2024 and RE Regulations, 2017, as amended vide Seventh Amendment Regulations, 2023 notified on 22.09.2023 and SHP Order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023 accords approval for execution of Supplementary Power Purchase Agreement in continuation of PPA executed on 18.09.2023 as approved vide Order dated 06.09.2023 in Petition No. 43 of 2023 subject to the following terms and conditions:-

- (i) The provisional tariff of 4.62 per kWh (Four Rupees and Sixty Two Paise only) is allowed after adjustment of the above Industry subsidy.
- (ii) The provisional tariff as allowed shall be applicable for 1 (one) year from the date of issuance of this order. The parties may approach the Commission for the appropriate tariff on actual release of subsidy or after completion of one year, whichever is earlier.
- (iii) The Joint Petitioner No. 2 is directed to approach the Ministry of Commerce and Industry for grant of subsidy as per registration of the Project on the DIPP portal and intimate the Commission/ HPSEBL about the release of subsidy and the appropriate tariff shall be worked out after the decision of the Ministry of Commerce and industry with

respect to the grant of subsidy as per the registration under IDS, 2017.

29. All other terms and conditions of Order dated 06.09.2023 in Petition No. 43 of 2023 shall remain unchanged.

30. The Joint Petitioners are directed to execute the Supplementary Power Purchase Agreement (SPPA) as per the above order after carrying out the necessary additions and alterations within a period of 30 days from the date of this Order. Three copies of the executed SPPA 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**

**14.01.2025**

-Sd-

(Shashi Kant Joshi)  
Member

-Sd-

(Yashwant Singh Chogal)  
Member(Law)

-Sd-

(Devendra Kumar Sharma)  
Chairman