

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

Petition No. 13 of 2025
Date of Institution: 13.01.2025
Arguments heard on: 20.01.2025
Decided on: 10.02.2025

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

....Joint Petitioner No. 1.

AND

M/s OM Energy Generation Pvt. Ltd.,
Village Gwala, Post Office Kuleth,
Sub-Tehsil Holi, District Chamba, HP-176310,
through its Authorized Signatory, Sh. Gopal Verma.

....Joint Petitioner No. 2.

**Petition/ Application under Regulation 75 of the Himachal Pradesh
Electricity Regulatory Commission (Conduct of Business)
Regulatory, 2024 read with Section 151 of the Code of Civil
Procedure, 1908 for appropriate order in furtherance to order dated
28.03.2022 in Petition No. 38 of 2021.**

CORAM

**DEVENDRA KUMAR SHARMA
CHAIRMAN**

**YASHWANT SINGH CHOGAL
MEMBER (Law)**

**SHASHI KANT JOSHI
MEMBER**

Present:-

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

Sh. Vikas Chauhan, Ld. Counsel for the Joint Petitioner
No. 2.

ORDER

This Joint Petition has been filed by the Himachal Pradesh State Electricity Board Ltd. (the Joint Petitioner No.1 or the HPSEBL for short) and M/s OM Energy Generation Pvt. Ltd. (the Joint Petitioner No. 2 for short) pursuant to the Commission's order dated 28.03.2022 in Petition No. 38 of 2021.

2. According to the Joint Petition, a Petition being Petition No. 38 of 2021 for approval of long term Power Purchase Agreement (PPA) under generic levelled tariff was filed by the parties in respect of Holi-II HEP (7.0 MW) situated at Village Gwala, Post Office Kuleth, Sub-Tehsil Holi, Distt. Chamba, H.P. which was decided by the Commission on 28.03.2022 and accordingly the PPA was executed on 04.04.2022.

3. The Unit-I (3.50 MW) of the Project was commissioned on 27.03.2024 and Unit-II (3.50 MW) got commissioned on 23.01.2024.

4. Paras 6 and 7 of the order of the Commission dated 28.03.2022 in Petition No. 38 of 2021 has been reproduced as under:-

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 levelled 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."

The copy of order dated 28.03.2022 in Petition No. 38 of 2021 is annexed as Annexure A-1.

5. As per the Petition, the balance subsidy of Rs. 2.50 Crores under the scheme for financial support to setup up new SHP Projects upto 25 MW capacity notified on 02.07.2014 by the MNRE, Government of India was to be released on achieving 80% of the DPR projected generation and performance testing of the Project. The release of the balance MNRE subsidy is still awaited.

6. It is also averred that the Joint Petitioner No. 2 has also applied for the central capital investment incentive (subsidy) under the Industrial Development Scheme for Himachal Pradesh and Uttarakhand notified on 23.04.2018 by the Ministry of Commerce and Industry but the release is still awaited. However, the Commission vide order dated 28.03.2022 in Petition No. 38 of 2021 has allowed provisional tariff of 4.06 per kWh for a period of two years and till the issues relating to adjustment of MNRE subsidy and Industrial subsidy are put to rest by the concerned Ministry/ Authority, the provisional tariff may be continued further.

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

8. A perusal of the order dated 28.03.2022 in Petition No. 38 of 2021 shows that provisional tariff of Rs. 4.06 per kWh in respect of

project was allowed for a period of two years or till the settlement of issues of subsidy, whichever is earlier, and the parties were directed to approach the Commission accordingly.

9. A perusal of order dated 28.03.2022 further shows that a sum of Rs. 2.50 Crore, out of the admissible MNRE subsidy of Rs. 5.0 Crore had been released by the MNRE to the Project and the balance subsidy of Rs. 2.50 Crore was to be released on achieving 80% of the DPR Projected generation and performance testing. Both units have been commissioned on 27.03.2024 and 23.01.2024, respectively but the balance subsidy of Rs. 2.50 Crore is yet to be received.

10. It is also apparent that the Joint Petitioner No. 2 has also applied for the industrial subsidy under Industrial Development Scheme of the Ministry of Commerce and Industry but till date, no update has been gathered about the release of said subsidy. It is thus prayed that till all the issues relating to Industrial subsidy and balance subsidy amount of Rs. 2.50 Crores of the MNRE subsidy are put to rest, the provisional tariff of Rs. 4.06 per kWh be continued.

11. The Application is duly supported by the affidavits of the respective parties.

12. While allowing the provisional tariff of Rs. 4.06 per kWh, the Commission has made adjustment of the entire subsidy amounts of Rs. 5.0 Crore each in respect of MNRE and Industrial subsidy. Since,

the issues of balance subsidy amount of MNRE subsidy and whole subsidy amount of Rs. 5.0 Crore of industrial subsidy are yet to be resolved and there is no change in status of the subsidy of the Project, the prayer of the Joint Petitioners is genuine. Accordingly, the prayer is considered and allowed. The provisional tariff of Rs. 4.06 per kWh is allowed to be continue for a further period of one year subject to the following terms and conditions:-

- (i) The petitioners shall approach the Commission at least 1 (one) month before completion of the period of 1 (one) year 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.
- (ii) The Company shall intimate the Joint Petitioner No. 1 i.e. HPSEBL, on receipt of financial assistance/subsidy to the Project, 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.
- (iii) 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 (i) of this para.
- (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 issued by the Commission after receipt of Petition as per item (ii) of this para.
- (v) Other terms and conditions of order dated 28.03.2022 shall remain the same.

13. The Joint Petitioners are directed to execute the Supplementary Power Purchase Agreement as per the above order after carrying out

the necessary additions and alterations within 30 days from the date of this order. Three copies of the executed Supplementary 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
10.02.2025

-Sd-
(Shashi Kant Joshi)
Member

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

-Sd-
(Devendra Kumar Sharma)
Chairman