

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

**Petition No:** 132 of 2024  
**Date of Institution:** 27.09.2024  
**Arguments Heard on:** 25.10.2024  
**Decided on:** 09.12.2024

**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 Shareshtha Hydro Projects Pvt. Ltd. through  
Sh. ESVVS Narayana Murty (Authorised Singatory),  
# 643, Penta VIP Towers, VIP Road,  
Zirakpur, Distt. Mohali, Pubjab-140603.

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

**Joint Petition under Section 86 (1) (b) of the Electricity Act, 2003 read with Regulation 50 and 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 Sharestha Hydro Projects Pvt. Ltd. in respect of the Nain Hydro Electric Project (1.0 MW).**

Present:-

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

Sh. Vikas Chauhan, 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 (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 Sharestha Hydro Projects Private Limited (Joint Petitioner No. 2 for short) for the approval of Long Term Power Purchase Agreement at Generic Levellised Tariff in respect of Nain HEP (1.00 MW) situated at Nain Nallah, a tributary of Luni Khad in Beas Basin, Distt. Kangra, Himachal Pradesh (Project for short).

2. As per the Petition, the Directorate of Energy, Government of Himachal Pradesh (DoE for short) has accorded the Techno Economic Clearance (TEC) for the Nain HEP (1.00 MW) vide Office Order No. DoE/CE/TEC-Nain/2012-6097-6105 dated 26.11.2012 (Annexure-VII, wrongly referred as Annexure VI whereas it is Annexure VII)

3. The Joint Petitioner No. 2 had signed the Implementation Agreement (IA for short) on 16.07.2013 (Annexure-III) for the implementation of the Project of 1.0 MW with the Government of Himachal Pradesh (GoHP for short).

4. On the notification of one time Amnesty Scheme dated 07.11.2020 by the GoHP, the Supplementary Implementation Agreement (SIA for short) was also signed by the Joint Petitioner No. 2 with the GoHP on 02.02.2021 (Annexure-IV) to avail the benefit of one time amnesty, whereby the Zero Date of the Projects has been redefined for the Projects which are under clearance stage where the IAs had been signed but zero date has not been achieved and the Scheduled Commercial Operation Date (SCOD for short) has been redefined for the Projects which are under construction stage.

5. It is averred that the Connection Agreement has been signed by the Joint Petitioners on 28.12.2021 (Annexure-V) whereby the Joint Petitioner No. 1 has agreed to the connection of the project to its wheeling and communication system at interconnection point by way of Solid tap on 11 kV Utrala feeder with appropriate protection arrangement and further upto 33/11 kV Sub-station, Baijnath using Distribution and Communication System of the Distribution Licensee, to transmit electricity as well as real time data from the Project.

6. It is averred that as per the provisions of the IA/SIA, the Joint Petitioner No. 2 has opted to sell the entire net saleable energy from the Project to the Joint Petitioner No. 1 at generic levellized tariff, as may be applicable as per the provisions of 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), as amended from time to time.

7. As per the Petition, the GoHP vide notification dated 15.05.2018 amended vide notification dated 10.10.2018 has mandated the purchase of entire power generated from the Projects having capacity upto 25MW 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 levelled tariff, as determined by the Commission for the control period, where SCOD of the project falls, in accordance with the RE Regulations, 2017 or the prevalent tariff Regulations at any later stage.

8. It is also averred that till date, no agreement has been executed by the Joint Petitioner No. 2 for the disposal/ use of energy from the Project on long term basis or under REC Mechanism. Hence, the norms and provisions specified by the Commission under the RE Regulations, 2017 shall be applicable for the Project.

9. As per the Petition, the SCOD of the Project is 01.02.2024 as per the certificate issued by the Chief Executive Officer, HIMURJA vide letter No. HIMURJA/SHP-IA/ Nain(NDHP)/2009-2813 dated 20.07.2021

(Annexure-VI). The SCOD certificate further provides that the construction period shall be 24 months as approved in the TEC accorded on 26.11.2012.

10. It is also averred that the Commission has notified the order for determination of the generic levelled tariff for Small Hydro Projects (SHPs) for the 4<sup>th</sup> control period on 17.11.2023 (w.e.f. 01.10.2023 to 31.03.2027) and since the SCOD of the project is on 01.02.2024, which falls under the ambit of the 4<sup>th</sup> Control Period (i.e. 01.10.2023 to 31.03.2027), the tariff as determined for the 4<sup>th</sup> control period shall be applicable for the project and be granted.

11. As per the Petition, the SHP Order dated 17.11.2023 provides that the generic levelled tariff for SHPs having installed capacity above 100 kW to 2 MW shall be Rs. 4.93 per kWh. However, the tariff is subject to adjustment on account of the 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.

12. 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 for the States of Himachal Pradesh and Uttarakhand' whereby the Central Capital Investments Incentive

(Industrial 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 also 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 to be released under the said Scheme is required to 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.

13. It is averred that considering the scope of scheme, the Joint Petitioner No. 2 was eligible for incentive of Rs. 98.40 lacs, calculated by taking into account the 30% incentive rate to the electro-mechanical cost mentioned in the Technical Concurrence dated 26.11.2012. Further, as per the para 7.14(ii) of the SHP Order dated 17.11.2023 in Suo Moto Petition No. 07 of 2023, the adjustment on account of subsidy is to be made and as such the incentive (Industrial Subsidy) of Rs. 98.40 lacs, calculated by taking into account the 30% incentive rate to the electro-mechanical cost mentioned in the Technical Concurrence dated 26.11.2012 has been considered as deemed availed by the Joint Petitioner No. 2 and the same is required to be adjusted as per the above SHP Order. After adjustment, the tariff in respect of the Project

comes to Rs. 4.65 per kWh. Also averred that no additional tariff on account of O&M is required as the Project is of the capacity of less than 5.0 MW.

14. Averments in respect of free power, royalty, rounding and water cess have also been made in the Petition but it is averred that no adjustment in tariff is to be made on account of variation in free power structure.

15. 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 record carefully.

16. It is apparent from the record that the Joint Petitioner No. 2 had signed the IA with the GoHP on 16.07.2013 (Annexure-III) for the implementation of the Project for the capacity of 1.00 MW. It is evident from the Supplementary Implementation Agreement (SIA for short) dated 02.02.2021 that one time amnesty to the Project was allowed by the GoHP in terms of notification dated 07.11.2020 annexed to the letter of the HIMURJA/SHP-IA/Nain (NDHP)/2009-2813 dated 20.07.2021 (Annexure-VI). The Certificate, Annexure-I shows that the SCOD of the Project is 01.02.2024. It is also evident from the record that the Joint Petitioner No. 2 has signed the Connection Agreement with the HPSEBL on 28.12.2021 which shows that the HPSEBL has agreed to

the connection of the Project to its wheeling and communication system at interconnection point i.e. Solid tap on 11 kV Utrala feeder with appropriate protection arrangement and further upto 33/11 kV Substation, Baijnath using Transmission and Communication system of the Distribution Licensee, to transmit electricity from the Project.

17. The record also shows that the Joint Petitioner No. 2 had applied for the incentive (Industrial Subsidy) available under the “Industrial Development Scheme for Himachal Pradesh & Uttarakhand” but submitted the application only on the last date of closure of scheme i.e. 31.03.2022 as evident from application No. IDS/HP/3059. In the circumstances, there was no occasion for the application being considered. In the present case, the Joint Petitioner No. 2 has agreed for adjustment of incentive (Industrial Subsidy) of Rs. 98.40 lakhs being deemed availed. Therefore, the Industrial subsidy of Rs. 98.40 lakhs under the Industrial Development Scheme shall be deemed to have been availed as per Para 7.14 of the SHP Order dated 17.11.2023 and Regulation 22-C of the RE Regulations, 2017, as amended by the Seventh Amendment.

18. It is evident from the record that connection agreement has been signed by the Joint Petitioners on 28.12.2021 (Annexure-V) 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. Solid tap on 11 kV Utrala feeder with appropriate protection arrangement and further upto 33/11 kV Sub-station, Baijnath using Transmission and Communication System of the Distribution Licensee, to transmit electricity from the Project.

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

20. Both the parties have agreed for the sale and purchase of the power from the Project. Thus, 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 56 and 57 of the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2024 and also taking into consideration the notifications dated 15.05.2018 and 10.10.2018 of the GoHP, Swaran Jayanti Policy, 2021, 'One Time Amnesty' Scheme dated 07.11.2020, the Connection Agreement dated 28.12.2021, the Implementation Agreement dated 16.07.2013, the Supplementary Implementation Agreement dated 02.02.2021, the SCOD Certificate dated 19.07.2021 (Annexure-I), the Industrial Development Scheme, the SHP Order dated 17.11.2023 and Regulation 22-C of the RE Regulations, 2017, as amended by the Seventh Amendment, the Joint

Petitioners have made out a case for the approval of the Long Term PPA under the Generic Levellised Tariff.

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

- (i) After considering the financial assistance (Industrial Subsidy) of Rs. 98.40 Lakh as deemed availed and with adjustment of said amount as per the provisions of Regulation 22-C of the HPERC RE Regulations 2017, as amended by the Seventh Amendment, the provisional tariff of Rs. 4.65 per kWh is applicable to the Project of the Joint Petitioner No. 2.
- (ii) In case the financial assistance or subsidy is granted to the Joint Petitioner No. 2 after the order, the intimation thereof shall be given to the Joint Petitioner No. 1/ the HPSEBL, within 15 days of receipt thereof by the Joint Petitioner No. 2 and the parties shall approach the Commission either jointly or individually for appropriate tariff adjustment in this regard.
- (iii) The deferment of free power shall be applicable to the Joint Petitioner No. 2 in accordance with the provisions notified by the State Govt. in this regard. Therefore, Clause 6.1 of the draft PPA shall be retained or modified accordingly.
- (iv) At the end of Clause 7.1 of Article 7, following shall be inserted:-  
“7.1A. In case the meter is installed in the premises of the Nain Hydro Electric Project (1.0 MW), the notional line losses up to the injection point shall be borne by the M/s Nain Hydro Electric Project (1.0 MW).”

