

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

**Petition No: 135 of 2024**  
Instituted on: 23.10.2024  
Heard on: 16.12.2024  
**Decided on: 14.01.2025**

**CORAM:**

DEVENDRA KUMAR SHARMA  
CHAIRMAN.

YASHWANT SINGH CHOGAL  
MEMBER (Law).

SHASHI KANT JOSHI  
MEMBER.

**In the matter of:-**

M/s Solding Hydrowatt Private Limited,  
Sarbari Small Hydro Project,  
Village Nagujhore, Post Office Dogri,  
Distt. Kullu, H.P-175102, through its,  
Sh. Deepak Bhandari, Authorised Signatory.

.....Petitioner.

Versus

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

.....Respondent.

**Petition/Application under Regulation 68 of the HPERC (Conduct of Business) Regulations, 2005 read with Section 151 of the Code of Civil Procedure, 1908 for the appropriate order in furtherance of Commission's order dated 30.12.2023 in Petition No. 115 of 2023.**

Present:-

Sh. Vikas Chauhan, Ld. Counsel for the Petitioner.  
Sh. Sumit Dhiman, Authorised Representative for the Respondent.

**ORDER**

This Application has been filed by M/s Solding Hydrowatt Private Limited (the Applicant for short) under Regulation 68 of the Himachal

Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 (the CBR, 2005 for short) read with Section 151 of the Code of Civil Procedure, 1908 pursuant to order dated 30.12.2023 in Petition No. 115 of 2023 passed by the Commission for allowing tariff of Rs. 4.78 per kWh w.e.f. 17.01.2024 as per the tariff determined for the 4<sup>th</sup> control period.

2. A Joint Petition for approval of long term Power Purchase Agreement (PPA for short) under generic levelized tariff being Petition No. 115 of 2023 in respect of Soldan Hydro Electric Project (7.00 MW) situated on Solding Khad, a tributary of Satluj river in Distt. Kinnaur, Himachal Pradesh (Project for short) was allowed by the Commission on 30.12.2023 and accordingly PPA was executed by the parties on 09.02.2024. The Project has been commissioned on 17.01.2024.

3. According to the Applicant, the Commission vide Order dated 30.12.2023 in Petition No. 115 of 2023 has observed as under:-

*“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.”*

The copy of Order dated 30.12.2023 in Petition No. 115 of 2023 has been annexed as Annexure P-1.

4. It is averred that the Ministry of Commerce and Industry vide notification No. 2 (2)/ 2018-SPS dated 23.04.2018 had notified the ‘Industrial Development Scheme (IDS, 2017) for the States of Himachal Pradesh and Uttarakhand’ whereby the Central Capital Investment Incentive was being given for access to credit @ 30% of the investment

in plant & machinery with an upper limit of Rs. 5.00 Crores (subsidy for short). The Applicant had applied online on the web portal of the Industry Department vide application No. IDS/HP/3059 on 31.03.2022 for availing the subsidy and on submission of the application, the Applicant was intimated vide email dated 31.03.2022 that the application has successfully been submitted for registration under IDS, 2017.

5. The Applicant vide letter dated 23.08.2024 approached the Director of Industries, Himachal Pradesh to ascertain the status of Application No. IDS/HP/3059 but the Applicant was informed vide letter dated 05.09.2024 by the Director of Industries, Govt. of Himachal Pradesh as under:-

*“In this regard, it is stated that as on date the status of application submitted by you on DPIIT portal for registration is reflected as “closed.” Since pre-registration has not been granted by DPIIT, hence you are not eligible for grant of CCIAC under IDS-2017.”*

The copy of letter dated 23.08.2024 and 05.09.2024 have been annexed as Annexure P-2 to P-4.

6. The Applicant has also annexed copy of letter dated 23.04.2018 and IDS, 2017 as Annexure P-5 and Annexure P-6 alongwith copy of letters dated 30.07.2024 and 09.11.2023 i.e. letters of Department of Promotion of Industry and Internal Trade (DPIIT) as Annexure P-7 (Colly).

7. According to the Applicant, the Applicant had signed the Implementation Agreement (IA for short) on 12.04.2023 for implementation of the Project with the GoHP. Further the SCOD of the Project was 15.04.2024 as per the certificate issued by the Directorate of Energy (DoE) vide letter dated 17.10.2023. Also, the TEC was accorded to the Project by the DoE on 31.01.2023.

8. It is averred that the Commission vide order dated 30.12.2023 in Petition No. 115 of 2023 in para 14 has held that the Project shall be entitled to the tariff prevalent under the 4<sup>th</sup> Control Period (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 of 2023.

9. According to the Applicant, taking into consideration the provisions of the IDS, 2017, non-grant of registration by the DPIIT under IDS and intimation dated 05.09.2024 by the Director of Industries, the Applicant is not entitled for the subsidy under the IDS, 2017 and, therefore, the Project is entitled for the tariff of Rs. 4.78 per kWh as prevalent for the 4<sup>th</sup> control period as against provisional tariff of Rs. 4.56 per kWh allowed by the Commission vide order dated 30.12.2023 in Petition No. 115 of 2023.

### **REPLY OF THE RESPONDENT**

10. The application has been resisted by the Himachal Pradesh State Electricity Board Limited (Respondent for short) by filing reply that the

Applicant applied for subsidy under the IDS, 2017 on 31.03.2022 i.e. the last eligible day which had left little room for the Petitioner to follow up or address the issues which might have arisen for sanctioning the subsidy. Thus, the contention that the Applicant was not eligible for the subsidy is not tenable. The Respondent has also highlighted the chronological events as under:-

- i. On 26/09/2002, TEC was issued to Soldan SHP (2 x 2.50 MW) Soldan HEP allotted to M/s Continental Components, Kolkata.
- ii. On 14/05/2003, an IA was executed between GoHP and M/s Continental Components (P) Ltd. for Soldan HEP (5.00 MW).
- iii. On 14/12/2005, the IA signed on 14-05-2003 was cancelled by GoHP.
- iv. On 04/01/2007, GoHP restored the project.
- v. On 19/05/2009, GoHP executed an Tri-partite Agreement for change in name of company from M/s Continental Components (P) Ltd. to M/s Soding Hydrowatt (P) Ltd. and signed fresh IA with M/s Soding Hydrowatt (P) Ltd. for implementation of Soldan HEP (5.00 MW).
- vi. On 28/01/2021, an SIA was signed under one time amnesty for Soldan HEP (5.00 MW).
- vii. On 23/02/2021, M/s Soding Hydrowatt Pvt. Ltd. approached HPSEBL for signing of PPA for Soldan HEP 5.00 MW.
- viii. On 16/03/2021, HPSEBL intimated the M/S SOLDING HYDROWATT PVT. LTD. about the procedure for signing the PPA and requested to submit the draft joint petition alongwith supporting documents.
- ix. On 26/08/2021, HPSEBL issued reminder to M/S SOLDING HYDROWATT PVT. LTD. to expedite the process of signing PPA.

- x. On 26/09/2023, the M/S SOLDING HYDROWATT PVT. LTD. approached HPSEBL for signing of PPA and intimated HPSEBL that their project capacity has been enhanced to 7 MW.

11. It is averred that on signing of IA on 12.04.2023, the Applicant approached the Respondent for execution of PPA and a Joint Petition being Petition No. 115 of 2023 was filed which was allowed vide order dated 31.12.2023 allowing provisional tariff of Rs. 4.56 per kWh after adjustment of Rs. 5.00 Crore towards subsidy under IDS, 2017 and in compliance of the said order, the PPA was signed on 09.02.2024.

12. It is also averred that no reasons in the letter dated 05.09.2024 have been assigned for not considering the application of the Applicant under the scheme. Further, letter dated 05.09.2024 clearly demonstrates that the registration was made on the last date of the currency of the scheme, therefore, refusal by the Ministry to grant the subsidy is on account of acts and conduct of the Applicant. Thus, the subsidy of Rs. 5.00 Crore has rightly been adjusted in the tariff vide order dated 30.12.2023.

13. On merits, the contents have been denied that the Petitioner had applied for subsidy on last date of closure of the scheme and had the Petitioner applied for the subsidy within time, the subsidy would have been available and on this count, the consumers cannot be burdened. Further, on account of lapse on part of the Applicant, the Applicant

cannot escape from the adjustment of admissible subsidy as per the mandate of the Regulations.

14. It is denied that the IA was signed in the year of 2023, and rather as per the record, the implementation agreement was signed between the GoHP and the petitioner on 14/05/2003 for the installed capacity of 5 MW. Further in the year of 2005, the IA was cancelled by the GoHP but the project was restored on 04.01.2007. Further, vide tripartite agreement dated 19.05.2009, change in name from M/s Continental Components (P) Ltd to M/s Solding Hydrowatt (P) Ltd was effected. The Supplementary Implementation Agreement was signed on 28.01.2021 under the one time amnesty scheme and on 23.02.2021 petitioner approached the respondent for the signing of the PPA for Soldan HEP (5.0 MW). Further on 26.09.2023, the Applicant again approached the Respondent for the signing of PPA for the enhanced capacity of 7 MW and fresh IA was signed on 12.04.2023 for the implementation of the Soldan HEP (7.0 MW). It is submitted that the Applicant cannot take advantage of the fresh IA dated 12.04.2023, and to plead for the non-applicability of the IDS, 2017. Hence the admissible subsidy is required to the adjusted.

15. During hearing of the Application, the Ld. Counsel of the Applicant pointed out that no Industry Subsidy under IDS, 2017 has been received by the Applicant being not eligible. The Commission, therefore,



vide Order dated 22.11.2024 directed the Applicant to file the affidavit of chronology of events ever since the signing of the interim agreement till the filling of application for availing the subsidy under IDS, 2017 within 15 days.

16. Pursuant thereto, the Applicant has filed the supplementary affidavit giving chronology of the events ever since the signing of the IA till the filing of the Application for availing the subsidy under IDS, 2017.

17. A careful perusal of the contents of supplementary affidavit shows that though the IA for 5.0 MW Project was signed on 19.05.2009 but a significant time was consumed thereafter on obtaining various clearances and NOC's from the various instrumentalities of the State including the forest clearances and the construction could not be commenced for want of such clearances. In the meanwhile, when the Govt. of HP introduced One Time Amnesty Scheme, the Petitioner applied for the concession under said scheme which was granted and the Petitioner signed the SIA on 28.01.2021. However, even thereafter the Petitioner had to sign an agreement with the Gram Sangarsh Samiti/ Panchayat Bari on 12.02.2021 agreeing to pay Rs. 3.0 Crores and to carry out additional development works of Rs. 15 lakhs in the area. The FRA certificate was issued on 23.06.2021 and the Petitioner received the Stage-I and Stage-II approvals for the diversion of the Forest Land from the MOEF & Climate Change on 21.12.2021 and

27.01.2022 and final approval for diversion of the land for construction works was accorded on 31.03.2022 as evident from the Order No. – FFE-B-F(2)-1/2022 dated 31.03.2022 (Annexure P-40).

18. On receipt of the final diversion order dated 31.03.2022, the Petitioner submitted the application for claiming the subsidy under IDS, 2017 on the same day. The supplementary affidavit further shows that the technical concurrence was granted by the DoE on 31.01.2023. The affidavit further shows that the Project capacity was enhanced to 7.0 MW from 5.0 MW and the Petitioner signed SIA with the GoHP on 12.04.2023 and the SCOD of the Project was fixed on 15.04.2024. However, the Project has been commissioned on 17.01.2024.

19. It is also mentioned in the affidavit that the Petitioner has made all efforts for availing the subsidy under IDS, 2017 but the status of subsidy is reflected as closed without grant of subsidy. Therefore, deduction in tariff is not required to be made as the Petitioner is not availing the subsidy under IDS, 2017. It is mentioned that the Petitioner has not availed the benefit of subsidy and is entitled for the tariff of Rs. 4.78 per kWh.

20. We have heard Sh. Vikas Chauhan, Ld. Counsel for the Petitioner and Sh. Sumit Dhiman, Authorised Representative for the Respondent and have perused the entire record carefully.

21. A Joint Petition being Petition No. 115 of 2023 was filed by the HPSEBL and M/s Solding Hydrowatt Pvt. Ltd. for approval of PPA which was allowed by the Commission vide order dated 30.12.2023. Since, the status of Industrial subsidy was not clear at that time, the Commission proceeded to deduct/ adjust the admissible subsidy of Rs. 5.0 Crore as an application for claiming the subsidy had been made and it was averred in the Petition that the adjustment of subsidy shall be made in accordance with the provisions of the SHP order for the 4<sup>th</sup> Control Period regarding determination of generic levelized tariff to be finalized by the Commission and that an undertaking had also been placed on record in said Petition that the Joint Petitioner No. 2 shall intimate the HPSEBL on receipt of financial assistance/ subsidy, if any, released to the Project. Accordingly, the deduction of Rs. 5.0 Crore was made and provisional tariff of Rs. 4.56 per kWh was allowed to the Petitioner.

22. The Project has been commissioned on 17.01.2024 against the SCOD which was on 15.04.2024. The Commission has determined the generic levelized tariff in respect of 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. 07 of 2023. The Para 7.13 of the SHP order dated 17.11.2023 and Regulation 22-C of the of the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the

Renewable Energy Sources and Terms and Conditions for Tariff Determination), Regulations 2017, as amended by the (Seventh Amendment) Regulations, 2023 dated 22.09.2023 provide for adjustment of subsidy as deemed availed but a careful perusal of supplementary affidavit dated 13.12.2024 and all the supporting documents from Annexure P-1 to P-40 show that there was no clearance in respect of the Project for commencing the construction. Even the benefit of one time amnesty scheme was granted to the Petitioner and SIA dated 28.01.2021 was signed but still the Project had no clearance for commencing the construction. The final diversion of land for the construction of the Project was granted on 31.03.2022 as evident from letter No.-FFE-B-F(2)-1/2022 dated 31.03.2022 (Annexure P-40). The Petitioner without wasting any time had applied for the subsidy on the same day. The IDS, 2017 was valid from 01.04.2017 till 31.03.2022 as evident from the Scheme dated 23.04.2018 (Annexure P-5).

23. The Petitioner has placed on record copy of letter No. Ind. Dev. IDS-Portal Issue-2024 dated 05.09.2024 issued by the Director of Industries, GoHP that the application submitted by the Petitioner is reflected as 'closed', since pre-registration had not been granted by DPIIT and that the Petitioner is not eligible for grant of CCIAC under IDS, 2017.

24. Since, the Applicant had submitted the application without wasting even a single day after getting the final approval for diversion of forest land, no fault whatsoever, can be ascribed to the Petitioner for non-grant of subsidy under IDS, 2017. Thus, the case of the Petitioner is beyond the scope deemed availed subsidy as mentioned in Para 7.13 of the SHP Order dated 17.11.2023 and no adjustment of subsidy in tariff is required to be made. Though, it has been mentioned by the Respondent in the reply that the Project capacity was 5.00 MW and IA was signed on 14.05.2003 followed by SIA on 28.01.2021 and thus, there is delay in applying for the subsidy, which has been applied on 31.03.2022 but said averments are of no substance as no permission for diversion of forest land was granted till 31.03.2022 as evident from order dated 31.03.2022. Hence, the Applicant without any clearance was not able to commence the construction and apply for the subsidy.

25. The capacity of the Project is 7.0 MW. Though, the SCOD of the Project was 15.04.2024 but has been commissioned on 17.01.2024. The tariff as per the 4<sup>th</sup> Control Period for projects having installed capacity of 5 MW to 25 MW w.e.f. 01.10.2023 to 31.03.2027 is Rs. 4.78 per kWh, and, thus, the Project is entitled for the tariff of Rs. 4.78 per kWh.

26. Hence, the Petition succeeds and allowed. A tariff of Rs. 4.78 per kWh is allowed for the Project from the date of the commissioning of the

Project. However, it is made clear the in case any subsidy is granted for the Project of the Applicant, by the State/ Central Government in future, the Applicant shall intimate the HPSEBL and the Commission and appropriate adjustment of tariff shall be made on receipt of the same.

27. The parties are accordingly directed to execute the Supplementary Power Purchase Agreement (SPPA) as per the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) (Seventh Amendment) Regulations, 2023 SHP Order dated 17.11.2023 in Suo Moto Petition No. 07 of 2023 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 Petition is disposed off accordingly. 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**