

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

Petition No: 14 of 2023
Date of Institution: 04.02.2023
Heard on: 22.02.2023
Decided on: 07.03.2023

CORAM

**DEVENDRA KUMAR SHARMA
CHAIRMAN**

**YASHWANT SINGH CHO GAL
MEMBER (Law)**

**SHASHI KANT JOSHI
MEMBER**

In the matter of:

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

AND

**M/s G R Auditya Renewable Energies Pvt. Ltd. through,
Sh. Ali Abbas Siraj (Authorised Signatory),
White House Cottage, Cottage No. 1,
Prini Palace Road Prini,
Manali Distt. Kullu, H.P.Joint Petitioner No. 2**

Joint Petition under Section 86 (1) (b) of the Electricity Act, 2003 for approval of Long-Term Power Purchase Agreement under Generic Levellised Tariff to be executed by the HPSEBL with M/s G R Auditya Renewable Energies Pvt. Ltd. in respect of Kala Nao Top HEP (5.0 MW) situated in District Kullu, Himachal Pradesh.

Present:-

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

Sh. Mohit Sharma, Ld. Counsel for the Joint Petitioner No. 2.

ORDER

The present Joint Petition has been filed by the Himachal Pradesh State Electricity Board Limited (the HPSEBL or Joint Petitioner No. 1 for short) and M/s G R Auditya Renewable Energies Private Limited (Joint Petitioner No. 2 for short) under Section 86 (1) (b) of the Electricity Act, 2003 (Act for short) for the approval of Long-Term Power Purchase Agreement under Generic Levellised Tariff in respect of Kala Nao Top Hydro Electric Project (5.00 MW) (Project for short) situated on Duhangan Khad, a tributary of river Parvati in Beas Basin in Distt. Kullu of Himachal Pradesh.

2. The Petitioner has annexed copies of the Implementation Agreement (IA for short) and Supplementary Implementation Agreement (SIA for short) dated 02.11.2013 and 12.01.2021 (Annexure-III A and B) respectively entered with the Government of Himachal Pradesh (GoHP for short) and has mentioned that the aspect of free power to the Government has specifically been dealt in the said documents. Also averred that the SCOD of the Project is 11.07.2024 for the purpose of applicability of tariff which falls beyond the current tariff control period, as such, the tariff as applicable for the next control period shall be applicable for the Project.

3. It is averred that the Joint Petitioner No. 2 requires the Power Purchase Agreement (PPA for short) in order to achieve financial closure and meet the timelines specified in the SIA executed on 12.01.2021 (Annexure-III-B) with the GoHP.

4. Also averred that GoHP vide notification dated 15.05.2018, further amended vide order dated 10.10.2018 has made it mandatory for the HPSEBL to purchase the entire power generated from the Projects having capacity upto 25 MW on Generic Levelled Tariff and both the parties have agreed for the sale and purchase of energy from the Project at Generic Levelled Tariff.

5. As per the Joint Petition, the Joint Petitioner No. 2 has applied online on the web portal of the Industry department vide Application No. IDS/HP/233 for availing the Central Capital Investment Incentive and the amount of subsidy to be released under the Scheme shall be adjusted in accordance with the provisions of SHP tariff order as may be notified by the Commission for the control period in which SCOD of the Project falls.

6. Also averred that the Petitioners have also signed Connection Agreement on 18.11.2021 (Annexure-IV) for the said

project that the Project shall be connected at 33 kV Bay (proposed) at 33/11 kV Prini Sub-station.

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

8. It is apparent from the record that the Joint Petitioner No. 2 has signed the IA with the GoHP on 02.11.2013 (Annexure-III-A) for implementation of the Project. It is evident from the SIA dated 12.01.2021 (Annexure-III-B) executed by the Joint Petitioner No. 2 with the GoHP that pursuant to notification dated 07.11.2020 GoHP has allowed one time amnesty by redefining zero date for the Projects which are under investigation and clearances stage where IAs have been signed and by redefining SCOD for the Project under construction stage and pursuant to application date 03.12.2020 made by the Joint Petitioner No. 2, the benefit of the One Time Amnesty Scheme dated 07.11.2020 has been allowed in respect of the Project and pursuant thereto, the SIA has been signed which defines the timelines. It is evident from office Order No. DoE/CE(Energy)/TEC-Kala Nao Top (R)/2021-9117-26 dated 11.02.2021 issued by the Department of Energy, GoHP that the revised Techno Economic Clearance has been accorded in

respect of the Project. The record also shows that the SCOD of the Project is 11.07.2024 as evident from Certificate (Annexure-I) to letter No. HIMURJA/SHP-IA/KALA NAO TOP (GRARG)/2009 2651 dated 15.07.2021. It is also evident from the record that the Joint Petitioner No. 2 has signed the Connection Agreement with HPSEBL on 18.11.2021 which shows that the HPSEBL has agreed to the connection of the Project (Kala Nao Top 5 MW) at 33 kV Bay (Proposed) at 33/11 kV Prini Sub-station.

9. It is also evident from the Petition that the Joint Petitioner No. 2 has applied for availing the Central Capital Investment Incentive (subsidy) on the Web Portal of the Industry Department vide Application No. IDS/HP/233 and has agreed for adjustment of the actual amount of subsidy released under the aforesaid Scheme. It is also evident from the Petition that though the SCOD of the Project falls on 11.07.2024 and the tariff of said period is yet to be determined by the Commission but the Joint Petition is necessitated as the Joint Petitioner No. 2 requires PPA for achieving the financial closure failing which it would not be possible to complete the Project within stipulated period and one of the timelines of the SIA also stipulate that the Joint Petitioner No. 2 was required to sign the Power Purchase Agreement within 6 months from the date of signing of SIA.

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

11. 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 Act and Regulations 50 & 50-A of the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 and also taking into consideration the notifications dated 15.05.2018, 10.10.2018 of the Govt., of HP, Swaran Jayanti Policy, 2021, 'One Time Amnesty' Scheme dated 07.11.2020, the Implementation Agreement dated 02.11.2013, the Supplementary Implementation Agreement dated 12.01.2021, the Connection Agreement dated 18.11.2021 and the SCOD Certificate, the Joint Petitioners have made out a case for the approval of the Long Term PPA under the Generic Levellised Tariff . Since the present tariff determined as per the provisions of Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017 is only upto 30.09.2023 and SCOD of the Project is 11.07.2024, from which date the generation of power will commence and will be supplied to the Joint Petitioner No. 1, the Joint Petitioner No.2 shall be entitled for

the tariff which would be prevalent at the relevant control period where SCOD of the Project falls. Hence, the Petition is allowed. The PPA is ordered to be approved subject to the following terms and conditions:-

- (i) The SCOD of the Project is 11.07.2024, therefore, the Joint Petitioner No. 2 would be entitled for the tariff which would be prevalent in the control period, where the SCOD of the Project falls, which may be higher or less and if, the tariff in the prevalent control period, when the SCOD of the Project falls, is less, Joint Petitioner No.2 will have to supply the power to the Joint Petitioner No.1 on the said tariff only.
- (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 which shall form part of the PPA and the Joint Petitioner No. 1 shall carry out the adjustment in the tariff accordingly.

- (iii) The Joint Petitioner No. 2 is directed to pursue the matter of Subsidy/ Central Capital Investment Incentive with the Industry Department. However, in case no response is gathered from the Joint Petitioner No. 2 by the Joint Petitioner No. 1, the adjustment in the tariff as per applicable amount of Central Capital Investment Incentive shall be carried out by the Joint Petitioner No. 2 on commissioning of the Project.
- (iv) The additions and alterations qua **'Base Rate of Late Payment Surcharge', 'Default Trigger Date', 'Due Date', 'Outstanding Dues', 'Payment Security Mechanism' and Regulations 31-B, and Regulation 31-BB**, as per Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) (Sixth Amendment) Regulations, 2023 shall be carried out at appropriate places in the draft PPA before draft approved PPA is sent to the parties. Similarly, any other necessary additions and alterations, if any, required to be carried out as per Connection Agreement dated 18.11.2021 or any other additions and alterations as per prevailing Regulations be also carried out before approved draft PPA is sent to the parties.

- (v) 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.

12. The Joint Petitioners are directed to execute the Power Purchase Agreement accordingly within a period of 30 days from the date of this order. Three copies of the executed Power Purchase Agreement be submitted to the Commission for record.

Announced

07.03.2023

-Sd-

(Shashi Kant Joshi)
Member

-Sd-

(Yashwant Singh Chogal)
Member(Law)

-Sd-

(Devendra Kumar Sharma)
Chairman