

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

Petition No: 21 of 2022
Date of Filing: 25.04.2022
Arguments Heard on: 30.04.2022
Decided on: 17 .05.2022

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 Himalaya Hydel Energy Pvt. Ltd.
 Village Jarar, P.O. Piplage Tehsil Bhuntar,
 Distt. Kullu, HP-175125

Joint Petitioner No. 2

Joint Petition under the provisions of Section 86 (1) (b) of The Electricity Act, 2003, read with Regulations 50 and 50A the HPERC (Conduct of Business) Regulations for the approval of Long Term Power Purchase Agreement (under Generic Levellised Tariff) to be executed by the HPSEBL and M/s Himalaya Hydel Energy Pvt. Ltd. in respect of Thuchaning SHEP (1.0MW).

CORAM

DEVENDRA KUMAR SHARMA
CHAIRMAN

BHANU PRATAP SINGH
MEMBER

YASHWANT SINGH CHOGAL
MEMBER (Law)

Present:-

Sh. Kamlesh Saklani, Authorised Representative for Joint Petitioner No. 1
 Sh. L. S. Mehta, Ld. Counsel for Joint Petitioner No. 2

ORDER

This Joint Petition has been filed under Section 86 (1) (b) of the Electricity Act 2003 (Act for short) by the Joint Petitioners for approval of the Power Purchase Agreement (PPA for short) in respect of Thuchaning Hydro Power Project (1.0 MW) situated at Village Nirang, near Malana on the Thuchaning Khad a tributary of Beas river in Tehsil Bhuntar, Distt. Kullu, HP (the Project for short). As per Joint Petition, after the Project was allotted to Joint Petitioner No. 2,

the Joint Petitioner No. 2 and Government of Himachal Pradesh (GoHP) has signed an Implementation Agreement (IA for short) on 29.06.2015. Meanwhile, the GoHP vide notification dated 15.05.2018 has amended the existing provisions of Hydro Power Policy, 2006 deferring the free Power share of the GoHP to be recovered subsequently. It is averred that the GoHP vide notification dated 07.11.2020 has allowed one time amnesty by redefining the Zero Date for the Projects which are under investigation and clearance stage where IAs have been entered and by redefining the Scheduled Commercial Operation Date for the Projects at construction stage. Accordingly, the GoHP and Joint Petitioner No. 2 have signed a Supplementary Implementation Agreement (SIA for short) on 23.12.2020 whereby the GoHP has redefined the time line of Scheduled Commercial Operation Date (SCOD for short). Further, the HIMURJA vide letter dated 15.07.2021 has issued the SCOD certificate which provides that the SCOD of the Project shall be 31.12.2023, as per the construction period of 24 months approved in the concurrence accorded on 20.01.2014. However SCOD has been restricted to 31.08.2023 as per the construction Schedule submitted by Joint Petitioner No. 2.

2. It is averred that the GoHP vide notification dated 15.05.2018 amended vide order dated 10.10.2018, has made it mandatory for the HPSEBL to purchase entire Power of the Hydro Projects upto 25 MW.

3. It is also averred that the Project is eligible for the subsidy/Financial Assistance given under the Industrial Development Scheme for States of Himachal Pradesh and Uttarakhand notified by the Government of India (GoI for short) vide Notification No. 2(2)/2018-SPS dated 23.04.2018 and the Joint Petitioner No. 2 has applied for the same with the Himachal Pradesh State Industrial Development Corporation Ltd. (HPSIDC for short) and shall intimate the Joint Petitioner No. 1 about the actual amount of subsidy released under above Scheme after receipt of the same within a period of 15 days and that the Generic Levellised Tariff be allowed by adjusting the tentative admissible subsidy amounting to Rs. 96 lakhs

worked out on the basis of electro-mechanical cost of the Project prescribed in Techno-Economic Clearance (TEC for short). Further, the tariff shall be subject to further adjustment on actual amount of subsidy released against the above project by the GoI/ GoHP.

4. We have heard Sh. Kamlesh Saklani, Authorised Representative of Joint Petitioner No. 1 and Sh. L.S. Mehta, Ld. Counsel for Joint Petitioner No. 2 and have perused the record carefully.

5. Since there was no mention of MNRE subsidy in the Petition, this Commission vide order dated 02.04.2022 directed the Joint Petitioner No. 2 to file a detailed affidavit in respect of grant/subsidy of the Ministry of New and Renewable Energy, GoI (MNRE for short). Such detailed affidavit was filled on 21.04.2022.

6. It is evident from the affidavit that though after the allotment of Project, Joint Petitioner No. 2 initiated the process for taking approval from the concerned authorities for the transfer of land and the Joint inspection of site was carried out on 12th July, 2012 for diversion of 0.895 hectare of land under the Forest Conservation Act 1980 (FCA for short) as evident from Annexure-A but the actual transfer of land has taken a significant time. It is also mentioned in the affidavit that GoHP vide order dated 21.06.2018 has accorded approval for diversion of 0.822 hectare Forest Land in favour of the Joint Petitioner No. 2 i.e M/s Himalaya Hydel Energy Pvt. Ltd. for setting up the Project on certain terms and conditions. The affidavit also shows that possession of land was handed over to the Joint Petitioner No. 2 only on 24.12.2018.

7. It is also evident from the affidavit that the Joint Petitioner No. 2 on getting approval of land and possession applied for the MNRE subsidy but the Joint Petitioner No. 2 was informed by concerned Ministry of GoI vide letter dated 28.06.2019 that there is no subsidy scheme for new Small Hydro Electric Project in the Ministry. As per affidavit, after the execution of second SIA dated

23.12.2020, Joint Petitioner No. 2 applied for term loan from the UCO bank but the bank vide letter dated 04.12.2021 has intimated that loan amount will be disbursed on receipt of duly signed and approved PPA.

8. It is, thus, evident from the aforesaid that the Joint Petitioner No. 2 was not in possession of the land till 24.12.2018 and, as such, he was not in position to start the construction after the signing of IA on 29.06.2015 for want of clearance from the Forest Department therefore, the MNRE subsidy could not be availed by him.

9. However in so far as an Industrial subsidy is concerned, the Joint Petitioner No. 2 has already availed a sum of Rs. 94 lakh from the HPSIDC, and the same is required to be adjusted while setting the tariff.

10. Therefore, the tariff after adjusting the subsidy of Rs. 94 Lakh, comes to Rs. 4.28 per unit. Thus, the tariff in respect of the Project shall be Rs. 4.28 per kWh, which shall be subject to further the adjustment on account of the actual financial assistance/subsidy.

11. Therefore in view of the Powers vested in the Commission under Section 86(1) (b) of the Electricity Act, 2003, the Joint Petitioners have made out a case for approval of the PPA. Hence, the Petition succeeds and allowed. The PPA is ordered to be approved subject to the following conditions:-

- (i) The SCOD of the project is 31.03.2023 and considering that the actual release/ availability of financial assistance/subsidy under the Government Scheme mentioned in para-3 & 9 of this order is yet to be received/ applied, so 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 release of financial assistance/subsidy 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.

