

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

**Petition No:** 25 of 2022  
**Date of Filing:** 05.04.2022  
**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 Shiva Power  
Lower Ground No. 4,  
Highland Marg Bhavat Road, Zirakpur,  
Distt. SAS Nagar, Punjab-140603

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

**CORAM**

**DEVENDRA KUMAR SHARMA  
CHAIRMAN**

**BHANU PRATAP SINGH  
MEMBER**

**YASHWANT SINGH CHOGAL  
MEMBER (Law)**

**Joint Petition under the provisions of Section 86 (1) (b) of the Electricity Act, 2003, for the approval of Long Term Power Purchase Agreement under Generic Levelised Tariff to be executed by the HPSEBL and M/s Shiva Power in respect of Kapru Baner SHEP (3.0MW).**

Present:-

Sh. Kamlesh Saklani, Authorized Representative for Joint Petitioner No. 1.  
Sh. Vijay Kumar, Authorised Representative for Joint Petitioner No. 2.

**ORDER**

This Joint Petition has been filed by the Himachal Pradesh State Electricity Board Ltd. (HPSEBL or Joint Petitioner No.1 for short) and M/s Shiva Power (Joint Petitioner No.2) for approval of the Power Purchase Agreement (PPA for short) under Generic Levellised Tariff in respect of Kapru Baner Hydro Electric Project (3.0MW) situated at Gram Panchayat Barsar, Tehsil Palampur, Distt. Kangra on Baner Khad, a tributary on river Beas (the Project for short). According

to the Joint Petition, pursuant to allotment of the Project by the Government of Himachal Pradesh (GoHP) in favour of Joint Petitioner No. 2, an Implementation Agreement (IA for short) was signed between the GoHP and Joint Petitioner No. 2 on 16.11.2017. According to the Joint Petition, the GoHP vide Notification dated 15.05.2018, amending the Hydro Power Policy 2006, has deferred the free Power quantum to be received on account of free Power share of the State for the critical period of initial 12 years from the date of achieving Scheduled Commercial Operation Date (SCOD for short) or Commercial Operation Date (COD for short) whichever is earlier. The deferred quantum as per the policy shall be recovered during the balance agreement period in a uniform percentage rate for all the ongoing private sector projects which are under construction and at various stages of clearances. As per the notification dated 15.05.2018, a Supplementary Implementation Agreement (SIA for short) was signed by the Joint Petitioner No. 2 with the GoHP on 12.09.2018.

2. According to the Joint Petition, the GoHP vide Notification 07.11.2020 has allowed One Time Amnesty to the Hydel Power Projects by redefining the Zero Date for the Projects which are under investigation and clearance stage where IAs have already been signed and by redefining SCOD for Projects under construction stage. Accordingly, the Joint Petitioner No.2 has signed the Second SIA on 13.01.2021 with the GoHP whereby the GoHP has redefined the timelines for SCOD in respect of the Project and the Joint Petitioner No. 2 has also furnished the SCOD certificate issued by the HIMURJA on 08.07.2021 in order to ascertain the applicable control period specified under RE Tariff Regulations 2017 which shows that the SCOD of the Project is 31.03.2023.

3. As per the Joint Petition, the Project is eligible for Subsidy/Financial Assistance given under the Industrial Development Scheme for the State of Himachal Pradesh and Uttrakhand notified by the Government of India (GoI) vide Notification No. 2 (2)/2018-SPS dated 23.04.2018 and the Project has applied for the same with 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 within a period of 15 days and that the Generic Levellised Tariff be allowed by adjusting the tentative admissible subsidy amounting of Rs. 2.69 Crore 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 account of actual amount of subsidy released against above Project by GoI/GoHP.

4. It is the case of Joint Petitioners that the GoHP vide the 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 Hydro Projects having capacity upto 25 MW on Generic Levellised Tariff as determined by the Commission and the Commission has given in Principle approval for the same vide letter dated 23.11.2018.

5. We have heard Sh. Kamlesh Saklani, Authorised Representative for Joint Petitioner No. 1 and Sh. Vijay Kumar, Authorised Representative for Joint Petitioner No. 2 and have perused the record carefully.

6. It is apparent from the Petition that the Joint Petitioner No.2 has applied for availing the financial assistance under Industrial Development Scheme and it has been mentioned that available subsidy to the extent of Rs. 2.69 Crore may be adjusted while settling the tariff in respect of the Projects. Therefore, the subsidy of Rs. 2.69 Crore is being adjusted as deemed availed.

7. Therefore, in view of the powers vested in the Commission under Section 86 (1) (b) of the Act and taking into consideration the admendments made vide notifications dated 15.05.2018 and 10.10.2018 of the GoHP, the Joint Petitioners have made out a case for the approval of the 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 levellised tariff of 3<sup>rd</sup> Control Period: Rs.4.67 per unit. \*

- (ii) Considering and adjusting Central Assistance/Subsidy of Rs.2.69 Crore from the Ministry of Commerce & Industry (MCI): Rs. 4.42 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 3<sup>rd</sup> Control Period (i.e. 01.04.2020 to 30.09.2023).[Project Capacity =3.00 MW].

8. Thus, the tariff which shall be applicable to the project of Petitioner comes to **Rs.4.42** per unit. Therefore, the Petition succeeds and the draft 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 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 released, 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 Joint Petitioner No. 2 shall intimate 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 Joint Petitioner No. 2 which shall form part of the PPA.
- (iv) The clause 6.2 of PPA shall be modified to the extent that the levellised provisional tariff of Rs. 4.42 per unit shall be subject to further adjustment as per the order(s) as may be passed by the Commission after receipt of Petition as per item (ii) of this para.
- (v) In case of delay of project beyond 31.3.2023, the tariff of Rs. 4.42 (Rupee four and forty two paise only) subject to further adjustment as per item (iv) of this para shall be applicable and the same shall be firm and final.
- (vi) Connection Agreement shall be executed and would form part of PPA. Since power of this project is to be evacuated in joint mode so the definition in sub-clause 2.2.60 i.e. 'Project Line' may be reconciled accordingly.

9. It is ordered that the Joint Petitioner No. 2 shall make an endeavor to avail the admissible subsidy/financial assistance as mentioned in Paras 6 and 8 above. In case the subsidy/Central financial assistance is not availed the same shall be deemed to have been availed by Joint Petitioner No.2.

10. Other terms and conditions of the PPA shall be subject to 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 Tariff Order issued thereunder on 22.12.2020 in Suo-Motu Petition No.76 of 2020 for the determination of Generic Levellised Tariffs for Small Hydro Projects for 3<sup>rd</sup> Control Period (i.e. 01.04.2020 to 30.09.2023).

11. The 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  
17.05.2022

-Sd-	-Sd-	-Sd-
<b>(Yashwant Singh Chogal)</b>	<b>(Bhanu Pratap Singh)</b>	<b>(Devendra Kumar Sharma)</b>
<b>Member(Law)</b>	<b>Member</b>	<b>Chairman</b>