

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

Petition No: 31 of 2022
Instituted on: 29.04.2022
Heard on: 27.10.2022
Decided on: **15.11.2022**

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

....Joint Petitioner No.1

AND

M/s Mahamai Hydro Power Pvt. Ltd. through,
Sh. Naresh Kumar Chadha, Director,
1st Floor Jayant Dhall Devi Enterprises,
Juani-Ropa, P.O. Neoli,
Distt. Kullu, HP-175125.

.....Joint Petitioner No.2

Petition under Section 86(1) (b) of the Electricity Act, 2003, read with Regulations 50 and 50-A of the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005, for the approval of the Long-term Power Purchase Agreement under Generic Levellised Tariff in respect of Garthi HEP (1.25 MW).

CORAM

**DEVENDRA KUMAR SHARMA
CHAIRMAN**

**YASHWANT SINGH CHOGAL
MEMBER (Law)**

**SHASHI KANT JOSHI
MEMBER**

Present:-

Sh. Kamlesh Saklani, Authorised Representative for Joint Petitioner No.1.
Sh. Naresh Kumar Chadha, Director for 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 Mahamai Hydro Power Pvt. Ltd. (Joint Petitioner No.2 for short) under Section 86 (1) (b) of the Electricity Act, 2003 (Act for short) for approval of the Long term PPA under Generic Levellised Tariff in respect of Garthi Hydro Electric Project (1.25 MW) (the Project for short) situated at Garthi and Tulga Khad, the tributaries of River Parvati, Distt. Kullu, H.P.

2. The case of the parties is that Joint Petitioner No. 2 had signed an Implementation Agreement (IA for short) with the Government of Himachal Pradesh (GoHP for short) on 27.06.2013 for implementation of the Project of 1 MW. Meanwhile revised Techno Economic Clearance was accorded to the Project by Directorate of Energy (DOE for short) vide letter No. DOE.CE (Energy)/Tec-Garthi/2018-1464-72 dated 26.05.2018 for 1.25 MW capacity. It is averred that the GoHP has consented for extension in time period of IA/Schedule Commercial Operation Date (SCOD for short) w.e.f. 27.12.2013 till NOC is issued by the Ministry of Environment and Forest, Government of India without extension charges in terms with Clause 5.1 of the IA dated 27.06.2013 and Notification No. MPP-F(1)2/2005-VIII dated 04.03.2014 which has paved the way for signing the Supplementary Implementation Agreement (SIA for short) dated 20.06.2018 as evident from the SIA dated 20.06.2018. It is stipulated in Clause 5.1 of the SIA dated 20.06.2018 that the Project developer shall start the construction of the Project after meeting the requirement as stipulated in Clauses 5.1 a to d. It is also provided in Clause 5.1 of the SIA that the extension charges will not be applicable for grant of

extension where the delay is not attributable to the developer on account of Forest clearance, PCB clearances and lease of Government land.

3. 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 already been signed and has redefined the SCOD for the Projects which are under construction stage. Further averred that pursuant to the aforesaid Notification dated 07.11.2020 of the GoHP (whereby one time amnesty scheme was notified), the Joint Petitioner No. 2 has signed a 2nd SIA with the GoHP on 12.01.2021 whereby the GoHP has redefined the timelines for SCOD in respect of the Project.

4. It is averred that SCOD certificate has been issued by HP Government Energy Development Agency (HIMURJA) vide letter No. HIMURJA/SHP-IA/Garhi/(MHPPL)/2009-2647 dated 15.07.2021 Annexure-VII and HIMURJA/SHP-IA/Garhi/(MHPPL)/2009-7473 dated 20.01.2022 (Annexure-VII B), which shows that the SCOD of the Project shall be 11.01.2024. Meanwhile the Joint Petitioner No. 2 made a request to the HIMURJA for revising the construction schedule and the HIMURJA vide letter No. HIMURJA/SHP-IA/Garhi(MHPPL)/2009-7473 dated 20.01.2022 (Annexure-VII-B) has issued the revised SCOD of the Project which is 31.08.2023 i.e. within the 3rd control period.

5. It is averred that the Project is eligible for subsidy/financial assistance given under the industrial development scheme for the States of Himachal Pradesh and Uttarakhand notified by the Government of India vide Notification No. 2(2)/2018-SPS dated 23.04.2018 and the Project is in process of applying for the same in the office of Himachal Pradesh State Industrial Development Corporation Ltd. (HPSIDC) and shall intimate the Joint Petitioner No. 2 within 15 days of the receipt of the same. The Joint Petitioner has prayed that the Generic Levellised Tariff in respect of the Project be made adjusting and considering the tentative admissible subsidy amounting to Rs. 1.10 Crore, worked out on the basis of electro-mechanical cost of the project as per Techno-Economic clearance, which shall be further adjustable on account of actual receipt of the subsidy amount.

6. It is averred that the connectivity to the Project has been provided at 33 kV level with 33/132 kV Sub-station of HPPTCL planned at Barsaini and the Joint Petitioner No. 2 had applied for Connection Agreement, which has been declined by HPPTCL vide letter No. HPPTCL/TEC-VOL-IV/2019-7384 dated 18.09.2019 (**Annexure-VI**) that the project is less than 2 MW capacity. 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 the entire power generated from the Projects having capacity upto 25 MW. Hence, the Petition.

7. We have heard Sh. Kamlesh Saklani, Authorised Representative for Joint Petitioner No. 1 and Sh. Naresh Kumar Chadha, Director of Joint Petitioner No. 2 and perused the record carefully.

8. It is apparent from the Notification No. MPP-F(1)-2/2005-XIII-L dated 07.11.2020 that the GoHP has allowed one time amnesty by redefining the Zero date for the Projects which are under investigation and clearance stage where IAs have already been signed and has redefined the SCOD for the Projects which are under construction stage. Pursuant thereto, the amnesty was also accorded to the Project, which is evident from the 2nd SIA dated 12.01.2021. As per the SIA, the zero date for the Project shall be redefined as per notification dated 07.11.2020 and the SIA shall in no way affect the other terms and conditions of the IA dated 27.06.2013 and SIA dated 20.06.2018. The HIMURJA vide letter dated HIMURJA/SHP-IA/GARTHI (MHPPL)/2009-2647 dated 15.07.2021 (Annexure VII) has issued certificate that the SCOD of the Project shall be 11.01.2024 which has been revised to 31.08.2023 vide subsequent letter No. HIMURJA/SHP-IA/Garthi (MHPPL) 20097473 dated 20.01.2022 (Annexure VII B).

9. It is also apparent that the Joint Petitioner No. 2 is in process of applying for the Industrial subsidy and it is specifically averred in the Petition that the generic levelled tariff be fixed after adjusting the tentative admissible subsidy of Rs. 1.10 Crore. Since the SCOD of the Project is 31.08.2023, the Project falls under the 3rd control period for the purchase of

power under the generic levelled tariff, which is up to 30.09.2023. The Petition is duly supported by the affidavits of parties and the documents as discussed above.

10. The connection agreement as ordered vide order dated 27.10.2022 has been signed by the parties on 10.11.2022.

11. Therefore, taking into account 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 GoHP, Swaran Jayanti Policy, 2021, the tentative admissible subsidy of Rs. 1.10 Crore and One Time Amnesty notification dated 07.11.2020 and the connection agreement dated 10.11.2022, the Joint Petitioners have made out a case for the approval of the PPA under the Generic Levelled Tariff 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, hence, the Petition is allowed. The PPA is ordered to be approved subject to the following terms and conditions:

- (i) The Provisional tariff after adjusting the tentative admissible subsidy of Rs. 1.10 Crore as mentioned in Para 9 above applicable to the project of Petitioner shall be Rs. 4.30 (Rupees Four and thirty paise only) per unit,

which shall be subject to the further adjustment on account of the actual financial assistance/subsidy as may be released.

- (ii) The SCOD of the project is 31.08.2023 and considering that the release/availability of financial assistance/subsidy under “Industrial Development Scheme for Himachal Pradesh & Uttarakhand” notified by the Ministry of Commerce & Industry is yet to be received, this provisional tariff shall be applicable for a maximum period of 2 (two) years.
- (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 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 release of Financial assistance/subsidy as per item (iii) above, whichever is earlier, for continuation of this tariff or for any other tariff as may become applicable to the project.
- (v) The clause 6.2 of PPA shall be modified to the extent that the levellised provisional tariff of Rs. 4.30 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 (iv) of this para.

12. It is ordered that the Joint Petitioner No. 2 shall make an endeavor to avail the admissible subsidy/financial assistance as mentioned in Para 9 and 11 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.

13. 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 there under on 22.12.2020 in Suo-Motu Petition No. 76 of 2020 for the determination of Generic Levellised Tariffs for Small Hydro Projects for 3rd Control Period (i.e. 01.04.2020 to 30.09.2023).

14. The necessary additions and alterations in the draft PPA be carried out as per the aforesaid discussion, connection agreement dated 10.11.2022 and the prevailing Regulations. 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
15.11.2022

-Sd-
(Shashi Kant Joshi)
Member

-Sd-
(Yashwant Singh Chogal)
Member(Law)

-Sd-
(Devendra Kumar Sharma)
Chairman