

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

**Petition No: 47 of 2021**  
Instituted on: 18.11.2021  
Heard on: 18.05.2022  
Decided on: **21.05.2022**

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 Gopal Hydrogen Pvt. Ltd.,  
C/o Uasaka Hydro Power (P) Ltd.,  
Suman Sarwari P/H, Khalara Nallah,  
Lug Valley, Kullu-HP-175101

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

**CORAM**

**DEVENDRA KUMAR SHARMA  
CHAIRMAN**

**BHANU PRATAP SINGH  
MEMBER**

**YASHWANT SINGH CHOGAL  
MEMBER (Law)**

**Joint Petition under section 86 (1) (b) of the Electricity Act 2003, read with Regulation 50 and 50-A of the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 for long term approval of the Power Purchase Agreement at Generic Levellised Tariff, in respect of Beas Kund Top Hydro Electric Project (4.00 MW).**

Present:-

Sh. Kamlesh Saklani, Authorised Representative of Petitioner No. 1.  
Sh. Vikas Chauhan, Ld. Counsel for Petitioner No.2.

**ORDER**

This Joint Petition has been filed by Himachal Pradesh State Electricity Board Ltd. (HPSEBL for short) and M/s Gopal Hydrogen Pvt. Ltd., C/o Uasaka Hydro Power (P) Ltd., Suman Sarwari P/H Khalara Nallah, Lug Valley, Kullu-

HP-175101 (hereinafter to be referred as Joint Petitioner No. 1 and 2 respectively) under Section 86 (1) (b) of the Electricity Act, 2003 (Act for short) read with Regulations 50 and 50-A of HPERC (Conduct of Business) Regulations, 2005 for approval of the Long Term Power Purchase Agreement on Generic Levellised Tariff in respect of Beas Kund Top Small Hydro Electric Project (4.00 MW) situated on Beas Kund Nallah, a tributary of River Beas in Beas basin Distt. Kullu, Himachal Pradesh (Project for short). As per Petitioners, the Joint Petitioner No. 2 had signed the Implementation Agreement dated 21.09.2013 with the Government of Himachal Pradesh for the implementation of the Project. It is averred that Government of Himachal Pradesh (GoHP for short) vide notification dated 15.05.2018 has made a provision of deferment of the free power component to be recovered within the life span of the Project.

2. As per the Petitioners, the Government of Himachal Pradesh vide notification dated 07.11.2020 has allowed One Time Amnesty by redefining the Zero date for the Hydro Projects which are under investigation and clearance stage and where Implementation Agreements have already been signed and by redefining the Scheduled Commercial Operation Date (SCOD) for the Projects which are at construction stage which has paved the way for signing of the Second Supplementary Implementation Agreement with the GoHP on 23.12.2020 in respect of the Project. As per the Petition, the Certificate of the Scheduled Commercial Operation Date (SCOD) has been issued by Himurja vide letter no.

HIMURJA/SHP-IA/Beas Kund Top (NDHP)/2009-8520 dated 24.12.2020 on prescribed proforma that the SCOD of the Project is 30.06.2023.

3. It is mentioned in the Petition that Joint Petitioner No.2 is in process of applying for the Subsidy/Financial Assistance under Industrial Development Scheme for the States of Himachal Pradesh and Uttarakhand notified by the GoI vide notification No.2 (2)/2018-SPS dated 23.04.2018 and will intimate the HPSEBL of the release of actual amount of Subsidy within 15 days. The Joint Petitioner No. 2 has also mentioned that the Generic levelled Tariff in respect of the project be worked out by adjusting the tentative admissible subsidy amount of Rs.2.98 Crore, worked out on the basis of Electro-mechanical Cost prescribed in the Techno-Economic Clearance.

4. According to the Petitioners, GoHP vide notification dated 15.05.2018, amended vide order dated 10.10.2018, has made it mandatory for the Joint Petitioner No. 1 (HPSEBL) to purchase entire power on Generic Levelled Tariff from the Hydro Projects upto 25 MW capacity. Hence, the Petition for Long Term Power Purchase Agreement.

5. We have heard the authorized representatives of the Petitioner No. 1 and Ld. Counsel for the Petitioner No. 2 and have perused the record carefully.

6. Undisputedly, the entire power of the project will be purchased by Joint Petitioner No.1 as per the notification dated 15.05.2018 of GoHP as amended. It is mentioned in the Petition that the applicable tariff be finalised after

making adjustment of the subsidy of Rs.2.98 Crore available under the Industrial Development Scheme for the States of Uttarakhand and HP as notified by the GoI. Therefore, the subsidy of Rs.2.98 Crore, as worked out by Joint Petitioner No.1 is required to be adjusted while making order in respect of tariff.

7. This Commission vide Order dated 02.04.2022 directed the Joint Petitioner No.2 to file a detailed affidavit in respect of availability the MNRE Subsidy as also the status of work which had been done when Zero date of the Project was extended. Such affidavit has been filed on 18.04.2022 that no construction activities had been carried out prior to 01.04.2021 by Joint Petitioner No.2 nor his predecessor-in-interest. The Joint Petitioner No.2 was further directed to file a detailed affidavit vide Order dated 30.04.2022 explaining the delay leading to non-commencement of construction as per the IA. Such affidavit has been filed on 17.05.2022 with documents. The letter dated 03.12.2011 shows that the predecessor-in-interest of Joint Petitioner No.2 had applied for Joint inspection of the Project site and record shows that Joint inspection of site was carried out on 18.04.2012 meaning thereby that the steps had been taken by the predecessor-in-interest or Joint Petitioner No.2 at the very beginning. The Supplementary Implementation Agreement dated 23.12.2020 shows that the Project has been taken over by Joint Petitioner No.2 from M/s Harindi Nallah Hydro Power Project Co-operative Society Ltd. as evident from 1<sup>st</sup> Supplementary Implementation Agreement dated 30.05.2019.

The copy of the Order dated 15.05.2019 issued by Additional Chief Secretary (Forest) Govt. of HP shows that the diversion of 2.9233 ha of Forest land was granted in favour of M/s Harindi Nallah Hydro Power Project Co-operative Society Ltd. (predessor-in-interest) of the Joint Petitioner No.2 only on 15.05.2019. Therefore, till 15.05.2019, there was no Forest Clearance and land for construction of the Project with Joint Petitioner No.2. The MNRE Subsidy, therefore, is not available in the present case.

8. In view of what is stated above and the powers vested in the Commission under Section 86 (1) (b) of the Electricity Act, Conduct of Business Regulations, 2005, notification dated 15.05.2018 of the Government of HP, as amended vide order dated 10.10.2018 and the Forest Clearance accorded on 15.05.2019, 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, 2017 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 Central Assistance/Subsidy of Rs.2.98 Crore from the Ministry of Commerce & Industry (MCI): Rs.4.46 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=4.00 MW].

9. Thus, the tariff which shall be applicable to the project of Petitioner comes to **Rs.4.46** per unit. This tariff shall be subject to further adjustment on

getting actual amount of Industrial Subsidy and other permissible deductions, if any, required to be made.

10. The Joint Petition is accordingly allowed. The draft PPA is ordered to be approved subject to the following conditions:-

- (i) The SCOD of the project is 30.06.2023 and considering that the 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 or upto 3<sup>rd</sup> Control Period, whichever, is earlier.
- (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 matter regarding adjustment of financial assistance/ subsidy shall be governed as per the orders as may be passed by the Commission after receipt of Petition as per item (ii) of this para.
- (iv) The clause 6.2 of PPA shall be modified to the extent that the levellised provisional tariff of Rs.4.46 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 and any other permissible deduction.
- (v) In case of delay of the project beyond 30.06.2023, the tariff, subject to further adjustment as per item (iv) of this para, shall be applicable and the same shall be firm and final.

- (vi) The Construction Schedule shall form part of PPA.  
(viii) The connection agreement dated 19.08.2020 shall forms part of PPA.

11. 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. 76/2020 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).

12. 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.

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

**-Sd-**  
**(Bhanu Pratap Singh)**  
**Member**

**-Sd-**  
**(Devendra Kumar Sharma)**  
**Chairman**