

BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY
COMMISSION SHIMLA

Petition No: 47 of 2024
Instituted on: 01.03.2024
Heard on: 22.03.2024
Decided on: 10.04.2024

CORAM:

DEVENDRA KUMAR SHARMA
CHAIRMAN.

YASHWANT SINGH CHO GAL
MEMBER (Law).

SHASHI KANT JOSHI
MEMBER.

In the matter of:-

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

AND

M/s New Dhauladhar Techno Power Pvt. Ltd.,
BB/2F, Munirka, DDA Flats, New Delhi, through
Sh. E.S.V.V.S. Narayana Murty Authorised Signatory.
.....Joint Petitioner No.2.

**Petition/Application under Regulation 68 of the Himachal Pradesh
Electricity Regulatory Commission (Conduct of Business) Regulations,
2005 read with Section 151 of the Code of Civil Procedure, 1908 on
behalf of the Joint Petitioner's for the appropriate order in furtherance
to the Commission's order dated 23.12.2021 passed in Petition No. 41
of 2021.**

Present:-

Sh. Mandeep Singh, Chief Engineer (System Operation) for
Joint Petitioner No. 1
Ms. Deepica Gautam, Advocate for the Joint Petitioner No.
2.

ORDER

This joint Petition/Application has been filed under Regulation 68 of the
Himachal Pradesh Electricity Regulatory Commission (Conduct of

Business) Regulations, 2005 (the CBR, 2005 for short) read with Section 151 of the Code of Civil Procedure, 1908 in furtherance to the Commission's order dated 23.12.2021 passed in Petition No. 41 of 2021 by the Himachal Pradesh State Electricity Board Ltd. (the HPSEBL/ Joint Petitioner No. 1 for short) and M/s New Dhauladhar Techno Power Pvt. Ltd. (the Joint Petitioner No. 2 for short) in respect of Sethu Small Hydro Electric Project (1.0 MW) situated in Kangra Distt., Himachal Pradesh (Project for short) for extension of long term Power Purchase Agreement under generic levelised tariff passed vide Order dated 23.12.2021 in Petition No. 41 of 2021.

2. As per the Joint Petitioners, the parties have signed long term Power Purchase Agreement (PPA for short) under generic levelised tariff for the sale and purchase of Power on 21.01.2022 pursuant to Order dated 23.12.2021. Copy of the order dated 23.12.2021 has been annexed along with the Petition. It is also averred that Project has been synchronized with grid on 24.06.2023. Both the parties have now agreed to extend the terms of PPA dated 21.01.2022 on provisional basis.

3. As per the averments made in the Joint Petition, the project is eligible under the Central Assistance / Subsidy under "Industrial Development Scheme for Himachal Pradesh & Uttarakhand" notified by the Ministry of Commerce & Industry on 23.4.2018 and the Joint Petitioner No.2 has applied for Central Capital Investment Incentive

available to its project as per the aforesaid Scheme but no incentive/ subsidy has been received till date.

4. The Joint Petitioner No. 2 further submitted that the Joint Petitioner No. 2 has not applied for financial subsidy under the “Scheme for Financial support to set up new SHP projects up to 25 MW capacity” notified by the Ministry of New and Renewable Energy (MNRE for short), Govt. of India for want of clearance from the MOEF, Govt. of India as it was only on 08.12.2017, the Stage-I approval for diversion of Forest Land was granted by the MOEF (Annexure A-2) and the construction activities commenced in the year 2021. It is averred that Joint Petitioner No. 2 was not eligible for MNRE subsidy.

5. It is also averred that vide Order dated 23.12.2021 passed in Petition No. 41 of 2021, the Project has been allowed the provisional tariff of Rs. 4.26 (Rupees Four and Twenty Six Paise only) for a period of one year from the date of issuance of the said order, hence the present petition.

6. It is averred that Joint Petition No. 2 has wrongly interpreted the Order dated 23.12.2021 and was under the impression that Petition is to be filed after receiving the industrial subsidy. However, it was only after Joint Petitioner No. 1 intimated the filing of the petition without receiving the subsidy in the given time frame as per the Order. Hence the delay in filing the present petition.

7. We have heard Sh. Mandeep Singh, Chief Engineer (System Operation) for the Joint Petitioner No. 1 and Ms. Deepica Gautam, Ld. Counsel for the Joint Petitioner No. 2 and have perused the entire record carefully.

8. As per the order dated 23.12.2021 in Petition No. 41 of 2021, a provisional tariff of Rs. 4.26 pwer kWh for a period of one year was granted and pursuant thereto, PPA dated 21.01.2022 has been signed. The Project has been synchronized on 24.06.2023. No subsidy from the Ministry of Commerce & Industry has been received so far. The Petitioner has claimed that MNRE subsidy has not been applied for want of Forest Clearance as the Forest clearance was granted only on 08.12.2017, whreras the MNRE subsidy was in existince only till 30.09.2017. The construction after forest clearance commenced in the year, 2021 and loan had been sanctioned on 12.12.2022.

9. The Joint Petitioners have agreed for the sale and purchase of Power on similar terms and conditions as per previous PPA. The Petition is duly supported by the affidavits of Joint Petitioners No. 1 and 2. Since the subsidy is awaited, there are merits in the Petition. The Commission under Sub-section (1)(b) of Section 86 of the Act, read with Regulation 50 and 50-A of the CBR, 2005 is empowered to grant consent for the approval of Power Purchase Agreement. Hence, the Petition succeeds and allowed and the PPA is order to be approved subjected to the following terms and conditions:-

- (i) The Commission accords its approval for continuation of provisional Tariff of the Project as fixed vide Order dated 23.12.2021 in Petition No. 41 of 2021 w.e.f. 20.01.2023 on the conditions as stipulated in the Order dated 23.12.2021.
- (ii) The provisional tariff of Rs. 4.26 (Rupee four and twenty six paisa only) is allowed subject to further adjustment of actual amount of subsidy released to the Sethu SHEP (1.00MW).
- (iii) Since the issues relating to adjustment of Financial Assistance/ Subsidy Incentive available under the various Government Schemes mentioned above are yet to be resolved by the Joint Petitioners i.e. HPSEBL and M/s New Dhauladhar Techno Power Pvt. Ltd. as per the provisions of HPERC Renewable Energy Regulations, therefore, the provisional tariff shall be applicable for 2 (two) years from the date of issuance of this order or immediately after the receiving subsidy, whichever is earlier.
- (iv) The Petitioners shall approach the Commission on completion of two year from the date of issuance of this Order or immediately after receiving such subsidy, whichever is earlier, for continuation of this tariff or for any other tariff as may become applicable to the project.
- (v) The Joint Petitioner No.2 shall intimate, the HPSEBL (Petitioner No.1), 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 also form a part of the Power Purchase Agreement.

- (vi) The matter regarding adjustment of Financial Assistance/ Subsidy shall be governed as per the orders as may be issued by the Commission after receipt of Petition as per item (iii) of this para.
- (vii) The final tariff shall be determined, after taking into account the Financial Assistance/ Subsidy(ies) available to the project developer, which shall be firm and shall not be subject to any indexation, escalation and change in case of delay in commencement of operation of the project beyond 3rd control period i.e. 1.4.2020 to 30.9.2023.

11. All the terms and conditions of the Power Purchase Agreement 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.

12. The Joint Petitioners are directed to execute the Supplementary Power Purchase Agreement (SPPA) as per the above order after carrying out the necessary additions and alterations within a period of 30 days from the date of this Order. Three copies of the executed SPPA be submitted to the Commission for record.

Let a copy of this order be supplied to the Joint Petitioners forthwith.

The file after needful be consigned to records.

Announced

10.04.2024

-Sd-

**(Shashi Kant Joshi)
Member**

-Sd-

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

-Sd-

**(Devendra Kumar Sharma)
Chairman**