

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

Petition No: 52 of 2023
Date of Institution: 21.09.2023
Arguments Heard on: 25.09.2023
Decided on: 19.10.2023

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

AND

M/s N.B. Power Project Pvt. Ltd.,
Village Chatrot (Dhamot), P.O. Majhwar,
Tehsil and Distt. Mandi, H.P. through its,
Proprietor, Sh. Naresh Kumar, ...**Joint Petitioner No. 2**

Joint Petition under the provisions of Section 86 (1) (b) of the Electricity Act 2003 read with Regulations 50 and 50-A of the HPERC (Conduct of Business) Regulations, 2005, as amended from time to time, for the approval of Power Purchase Agreement (Solar) in respect of N.B. Power Solar PV Project (2.0 MW).

CORAM

DEVENDRA KUMAR SHARMA
CHAIRMAN

YASHWANT SINGH CHOGAL
MEMBER (Law)

SHASHI KANT JOSHI
MEMBER

Present:-

Sh. Kamlesh Saklani, Authorised Representative for the Joint
Petitioner No. 1.

Sh. Naresh Kumar, Proprietor for the Joint Petitioner No. 2.

ORDER

The present Joint Petition has been filed by the Himachal Pradesh State Electricity Board Ltd. (the Joint Petitioner No.1 or the HPSEBL for the short) and M/s N.B. Power Project Pvt. Ltd.

(the Joint Petitioner No. 2 for the short) for the approval of the Power Purchase Agreement (PPA for short) under Section 86 (1) (b) of the Electricity Act, 2003 (Act for short) read with Regulations 50 & 50-A of the HPERC (Conduct of Business) Regulations, 2005, as amended from time to time, (CBR, 2005 for short) in respect of M/s N.B. Power Project Pvt. Ltd. (2.00 MW).

2. The case of the Petitioners is that a Solar PV Project (2.0 MW) known as M/s N.B. Power Project Pvt. Ltd., situated at Village Chatrot (Dhamot), Post Office Majhwar, Tehsil and Distt. Mandi, H.P (Project for short) is being setup pursuant to the approval accorded by the HIMURJA (HP Govt. Energy Development Agency) vide letter No. HIMURJA (F-7)/SPV Projects/2023-1857 dated 19.05.2023 Annexure-IV. As per the Joint Petition, the date of Completion/ Commissioning Schedule of the Project is 19.05.2024 as evident from Schedule-I, annexed to the Draft PPA.

3. As per the Joint Petition, the Commission vide Order dated 29.02.2016 passed in Suo Moto Petition No. 104/2015 has finalized the Model Power Purchase Agreement for Solar PV Projects and the draft PPA has been prepared on the lines of the aforesaid model PPA.

4. It is averred that parties have signed the connection agreement on 31.08.2023 providing that the interconnection point

shall be at existing 11 kV- Majhwar feeder emanating from 2x5 MVA, 33/11 kV Sub-Station, Souli Khad through solid tap with appropriate Protection arrangement (Annexure-III).

5. As per the Petition, the HIMURJA has notified a Scheme for harnessing of Solar Power through Projects ranging from 250kW to 5MW in the State (Scheme for short). As per the Swaran Jayanti Energy Policy-2021, the HPSEBL is mandated to purchase all the power from the Solar Projects upto 5 MW. It is averred that the HIMURJA vide letter dated 19.05.2023, has provisionally registered the Project of the Joint Petitioner No. 2 under said Scheme. A copy of the provisional registration letter is attached as Annexure-IV to the draft PPA.

6. It is also averred that the Commission vide Order dated 31.03.2023 (Suo-Moto Petition No. 11/2023) has determined the generic levellised tariff in respect of Solar PV Projects for FY 2023-24 under the HPERC (Promotion of Generation from Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017 (RE Regulations, 2017 for short). The Joint Petitioner No. 2 has submitted an affidavit (Annexure-VI to the draft PPA), wherein it has been declared that the said project is situated in a rural area. It is also averred that the tariff for the Projects to be set up in areas other than Industrial and

Urban areas upto 5 MW is Rs. 3.72 per kWh as determined by the Commission vide Order dated 31.03.2023 (Suo-Moto Petition No. 11/2023) which shall be applicable to the Project which has been incorporated in Clause 6.2 of the draft PPA.

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

8. It is evident from the record that the connection agreement in respect of the Project has been signed by the Joint Petitioners on 31.08.2023, a copy whereof is annexed to the Petition as Annexure-III. As per the connection agreement, the Interconnection Point of the project has been provided at existing 11 kV- Majhwar feeder emanating from 2x5 MVA, 33/11 kV Sub-Station, Souli Khad, through solid tap with appropriate Protection arrangement (Annexure-III).

9. As per clause (ii) of sub-clause (b) of Para 4.3.5 of the Swaran Jayanti Energy Policy-2021, notified on 20.01.2022, energy generated from Solar Power Projects of capacity greater than 1 MW upto 5MW, if commissioned on or before 31.03.2030, shall be purchased by the HPSEBL on the tariff fixed by HPERC.

10. It is also evident from the letter of the HIMURJA dated 19.05.2023 that the tariff in respect of the Project shall be as per the rates determined by the HPERC and that the Project has been provisionally registered. As per Schedule-I attached to the draft PPA, the SCOD of the project is 19.05.2024. Thus, the SCOD is being taken as 19.05.2024. It has been submitted that a significant time was taken for obtaining connection agreement and preparation of Joint Petition for approval of PPA.

11. The Commission vide Order dated 31.03.2023 in Suo Moto Petition No. 11 of 2023 has determined the generic levelised tariff for Solar PV Power Projects for FY 2023-24 (for a period w.e.f. 01.04.2023 to 30.09.2023) as under :-

Sr. No.	Capacity	Generic levelised tariff (Rs. Per kWh)
1.	Projects to be set up in other than industrial areas and urban areas.	
(a)	Upto 1.00 MW	3.75
(b)	Above 1.00 MW & upto 5.00 MW	3.72
2.	Projects to be set up in industrial areas and urban areas	
(a)	Upto 1.00 MW	3.81
(b)	Above 1.00 MW & upto 5.00 MW	3.78

12. This Project is situated in rural area as per affidavit (Annexure-VI) and the capacity of the Project is 2.00 MW. Thus, the Project is entitled to the tariff of Rs. 3.72 per kWh, which is subject to adjustment of capital subsidy, if any. However, in case commissioning of the Project is delayed beyond SCOD i.e. 19.05.2024, and the tariff in the said prevalent control period is

less, the Joint Petitioner No. 2 shall have to provide power to the Joint Petitioner No. 1 on said tariff only.

13. The Petition is supported by the affidavits of the respective parties.

14. Therefore, in view of the powers vested in the Commission under Section 86 (1) (b) of the Act, read with Regulations 50 and 50-A of the CBR, 2005, as amended from time to time, the Joint Petitioners have made out a case for approval of the Power Purchase Agreement (Solar) in respect of the Project. Hence, the Petition succeeds and allowed. The draft PPA is ordered to be approved subject to the following conditions:-

- (i) The tariff of Rs. 3.72 per kWh will be applicable to the Project of the Joint Petitioner No. 2 which will be subject to further adjustment of subsidy, if any and this provisional tariff shall be valid for a period of two years.
- (ii) The affidavit of the Joint Petitioner No. 2 that the Project is at rural area shall form the part of the PPA.
- (iii) The Joint Petitioner No. 2 shall apply to the State/Central Government or its designated department(s)/agency(ies), for grant of applicable subsidy/financial assistance to the Solar Power Project immediately on receipt of this Order, if not already applied, and shall intimate the Joint Petitioner No.1 i.e. HPSEBL of 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 Joint Petitioner No. 2 shall make an endeavor to avail the admissible subsidy/financial assistance (if any). In case the subsidy/financial assistance is not availed or the Joint Petitioner No. 2 fails to approach the State/Central Government or its designated Department(s)/agency(ies), the same shall be deemed to have been availed by the Joint Petitioner No. 2 and the Joint Petitioner No. 1 shall carry out the adjustment of such benefit, if any, admissible to the project after a period of 2 years from the date of the Order, as per order dated 31.03.2023 passed by the Commission in Suo Moto Petition No. 11/2023. The Joint Petitioner No. 1 shall also intimate the Commission in this regard on making adjustment.
- (v) In case the meter is installed in the premises of the Joint Petitioner No. 2, the notional line losses upto the injection point shall be borne by the Joint Petitioner No. 2. In case the metering point is in the facilities of the HPSEBL, the notional line losses from injection point to the metering location have to be borne by the HPSEBL and credit for the losses from the injection point to the metering location shall be given to the Joint Petitioner No. 2 by the HPSEBL.
- (vi) The Scheduled Date of Synchronisation of the Project is 04.05.2024 and Scheduled Commercial Operation Date (SCOD) of the project is 19.05.2024 which has been specified in Schedule-I which shall form a part of the PPA. In case commissioning of the Project is delayed beyond SCOD

i.e. 19.05.2024, and the tariff in the said prevalent control period is less, the Joint Petitioner No. 2 shall have to provide power to the Joint Petitioner No. 1 on said tariff only.

- (vii) The additions and alterations qua 'Base Rate of Late Payment Surcharge', 'Default Trigger Date', 'Due Date', 'Outstanding Dues', 'Payment Security Mechanism' and Regulations 31-B, and Regulation 31-BB, as per Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) (Sixth Amendment) Regulations, 2023 shall be carried out at appropriate places in the draft PPA before approved draft PPA is sent to the parties. Similarly, any other necessary addition and alteration, if any, required to be carried out as per Connection Agreement dated 31.08.2023 or the prevailing Regulations, etc. be also carried out before approved draft PPA is sent to the parties.

15. 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 Terms & Conditions for the Tariff Determination) Regulations, 2017 and Order dated 29.02.2016 in Suo-Moto Petition No. 104/2015 whereby Model PPA for Solar PV Projects has been finalized and the Order of Commission dated 31.03.2023 in Suo-Motu Petition No. 11 of 2023 issued under the aforesaid Regulations.

16. Necessary additions and alterations as per the above and the prevailing Regulations be carried out in the draft PPA. The Petitioners are directed to execute the Power Purchase Agreement (Solar) 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.

The file after needful be consigned to records.

Announced
19.10.2023

-Sd-	-Sd-	-Sd-
(Shashi Kant Joshi)	(Yashwant Singh Chogal)	(Devendra Kumar Sharma)
Member	Member (Law)	Chairman