

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

Petition No: 58 of 2022

Instituted on: 25.08.2022

Heard on: 24.09.2022

Decided on: 27.09.2022

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

....Joint Petitioner No.1

AND

M/s Manikaran Hydro Pvt.. Ltd.. through,
Sh. Pawan Kumar Soni, DGM,
Room No.301/1, 3rd Floor D-1,
Corporate Park Dwarka, Sector-21,
Delhi South-West-110075.

.....Joint Petitioner No.2

Petition under Section 86(1) (b) of the Electricity Act, 2003 for approval of Long-Term of Second Supplementary Power Purchase Agreement under Generic Levellised Tariff in respect of the Upper Khauli HEP(5.00 MW).

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**DEVENDRA KUMAR SHARMA
CHAIRMAN**

**BHANU PRATAP SINGH
MEMBER**

**YASHWANT SINGH CHOGAL
MEMBER (Law)**

Present:-

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

Sh. L.S. Mehta, Advocate for Joint Petitioner No.2.

ORDER

The present Joint Petition has been filed by the Himachal Pradesh State Electricity Board Ltd. (hereinafter to be referred as Joint Petitioner No. 1) and M/s Manikaran Hydro Pvt. Ltd. (hereinafter to be referred as Joint Petitioner

No. 2) for the approval of Long-Term Second Supplementary Power Purchase Agreement under Section 86(1)(b) of the Electricity Act, 2003, in respect of the Upper Khauli Hydro Electric Project (5.00 MW) situated at Khauli Khad, a tributary of Beas River in Distt. Kangra (Project for short).

2. It is the case of the Joint Petitioners that the Implementation Agreement dated 22.11.2005 was executed between the Government of Himachal Pradesh (GoHP for short) and M/s Vamshi Industrial Power Limited for implementation of the Upper Khauli Hydro Electric Project (5.00 MW) and pursuant thereto, the Power Purchase Agreement (PPA for short) was executed on 01.12.2006 between the H.P. State Electricity Board Ltd. (HPSEBL for short) and M/s Vamshi Industrial Power Limited in respect of the Project with prior approval of the Commission vide Order dated 13.07.2006 in Petition No. 66/2006. Further, the PPA was supplemented by a Supplementary Power Purchase Agreement dated 06.12.2010 between the parties.

3. Further, the GoHP, M/s Vamshi Industrial Power Ltd. and M/s Lanco Thermal Power Ltd. entered into a tripartite agreement dated 01.07.2013, whereby the GoHP transferred all the assets, obligations, liabilities, rights, privileges and benefits accrued under Implementation Agreement (IA for short) dated 22.11.2005 in respect of the project from M/s Vamshi Industrial Power Ltd. to M/s Lanco Thermal Power Ltd. and, as such, the name of the

company as mentioned in the said IA was changed from M/s Vamshi Industrial Power Ltd. to M/s Lanco Thermal Power Ltd. by signing of Supplementary Implementation Agreement (SIA for short) on 01.07.2013. Thereafter, the project was transferred to M/s Lanco Thermal Power Ltd. as approved by the Commission vide Order dated 16.12.2014 in Petition No. 218 of 2014.

4. It is averred that M/s Lanco Thermal Power Ltd. underwent the NCLT Corporate Insolvency Resolution Process (CIRP) in accordance with the provisions of Insolvency and Bankruptcy Code, 2016. As per the Scheme of Arrangement approved by the Hon'ble NCLT vide Order dated 26.04.2021, M/s Lanco Thermal Power Ltd. demerged into the resulting company namely M/s Manikaran Hydro Pvt. Ltd. Afterwards, the GoHP has signed a Tripartite Agreement dated 29.06.2022 with M/s Lanco Thermal Power Ltd. and M/s Manikaran Hydro Pvt. Ltd. for transfer of all the assets, obligations, liabilities, rights, privileges and benefits accrued under the IA dated 22.11.2005, SIA dated 01.07.2013 in respect of the Upper Khauli SHEP (5.00 MW) from M/s Lanco Thermal Power Ltd. to M/s Manikaran Hydro Pvt. Ltd. Accordingly, 2nd Supplementary Implementation Agreement dated 29.06.2022 has been executed between the GoHP and M/s Manikaran Hydro Pvt. Ltd. Hence, the Petition.

5. We have heard Sh. Kamlesh Saklani, Authorised Representatives of the Joint Petitioner No. 1, Sh. L.S Mehta, Ld. Counsel for the Joint Petitioner No. 2 and have perused the record carefully.

6. It is mentioned in the Petition that the Department of Non-Conventional Energy Sources, the GoHP vide letter No. NES-F(2)14/2011 dated 29.03.2022, has granted approval for transfer of 100% share (immovable assets) of M/s Lanco Thermal Power Limited i.e. the Upper Khauli SHEP (5.00 MW) in favour of Joint Petitioner No.2. It is apparent from the 2nd Supplementary Implementation Agreement dated 29.06.2022 (Annexure-S2-IV) that the change of name has been approved by the GoHP and all the terms and conditions as stipulated by the GoHP have been complied with and incorporated in the said agreement.

7. Therefore, in exercise of the powers vested in the Commission under Section 86 (1) (b) of the Electricity Act, 2003, read with the HPERC (Conduct of Business) Regulations, 2005, the Joint Petitioners have made out a case for approval of the Second Supplementary Power Purchase Agreement. Accordingly, the Petition is allowed. The Second Supplementary Power Purchase Agreement, as prayed, is allowed to be executed between the Joint Petitioner No.1 and Joint Petitioner No.2 by incorporating all the necessary changes of the name and address of M/s Lanco Thermal Power Ltd. in the PPA and SPPA wherever required. It is made clear that the tariff and all other terms and conditions of already executed PPA dated 01.12.2006 and further

supplemented on 06.12.2010 by SPPA shall remain unchanged and will be binding on the parties. The IA dated 22.11.2005 and the SIA dated 01.07.2013 and Second Supplementary Implementation Agreement dated 29.06.2022 shall form a part of Second Supplementary Power Purchase Agreement.

8. The following changes are also ordered to be carried out in the Second Supplementary Power Purchase Agreement: -

- (i) The word “Board” wherever appearing in the executed Power Purchase Agreement dated 01.12.2006 and the Supplementary Power Purchase Agreement dated 06.12.2010 shall be substituted with the words and signs “Himachal Pradesh State Electricity Board Ltd. (HPSEBL)”.
- (ii) The word “M/s Lanco Thermal Power Ltd.” wherever appearing in the executed PPA dated 01.12.2006 and the SPPA dated 06.12.2010 shall be substituted with the words “M/s Manikaran Hydro Pvt. Ltd.”.
- (iii) Clause 2.2.16 of the executed PPA dated 01.12.2006 shall be substituted with the following, namely.-

“2.2.16 **“Company”** means M/s Manikaran Hydro Private Limited, a generating company within the meaning under Section 2(28) of the Electricity Act, 2003 and registered under the Companies Act, 1956 having its registered office at Room No. 301/1, 3rd Floor, D-21, Corporate Park, Dwarka, Sector 21, Delhi South West-110075 and shall unless repugnant to the context or meaning thereof, also include their successors, permitted assigns and legal representatives.”

- (iv) Clause 2.2.42 of the executed PPA dated 01.12.2006 shall be substituted with the following, namely.-

“2.2.42 **“Implementation Agreement/ Supplementary Implementation Agreement”** means the Agreement dated 22.11.2005 entered into between the Company and the Government for implementation of the Upper Khauli Hydro Electric Project and also includes Supplementary Implementation Agreement dated 01.07.2013 and 2nd Supplementary Implementation Agreement dated 29.06.2022 and subsequent modifications or amendments thereto.”

- (v) In Clause 14.1 of Article-14 of the executed Power Purchase Agreement dated 01.12.2006, the details of communication of the Company and the HPSEBL shall be substituted with the following, namely.-

“For HPSEBL: Chief Engineer (System Operation),
HPSEBL, Vidyut Bhawan, Shimla-171004” and

“For Company: M/s Manikaran Hydro Private Limited,
having its registered office at:
Room No. 301/1, 3rd Floor, D-21,
Corporate Park, Dwarka,
Sector 21, Delhi South West-110075.”

- (vi) The 2nd Supplementary Implementation Agreement dated 29.06.2022 shall form a part of the executed PPA dated 01.12.2006 and SPPA dated 06.12.2010.

9. All other terms and conditions of the executed PPA and SPPA shall remain unchanged.

10. The Petitioners are directed to execute the Second Supplementary Power Purchase Agreement accordingly within a period of 30 days from the

date of this order. Three copies of the executed Second Supplementary Power Purchase Agreement be submitted to the Commission for record.

The file after needful be consigned to records.

Announced
27.09.2022

-Sd- (Yashwant Singh Chogal) Member (Law)	-Sd- (Bhanu Pratap Singh) Member	-Sd- (Devendra Kumar Sharma) Chairman
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