

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

Petition No: 58 of 2024
Date of Institution: 29.03.2024
Arguments Heard on: 30.03.2024
Decided on: 10.04.2024

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

AND

M/s BRK Green Tech. Solar Power Project,
Village Kalheli, Post Office Bajaura,
Tehsil Bhuntar, Distt. Kullu, H.P., H.P.175125.
through its Authorized Signatory Sh. Brij Mohan.

....**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, for approval of the Power
Purchase Agreement (Solar) in respect of M/s BRK Green Tech. Solar
Power Project, (250 kW).**

CORAM:

**DEVENDRA KUMAR SHARMA
CHAIRMAN.**

**YASHWANT SINGH CHOGAL
MEMBER (Law).**

Present:-

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

Sh. Vivek Grover, Authorised Representative 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 short) and M/s BRK Green Tech. Solar Power Project

(the Joint Petitioner No. 2 for 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 BRK Green Tech. Solar Power Project (250 kW).

2. The case of the Petitioners is that a Solar PV Project (250 kW) known as M/s BRK Green Tech. Solar Power Project, situated at Village Kalheli, Post Office Bajaura, Tehsil Bhuntar, Distt. Kullu, 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- 12405 dated 04.11.2023 (Annexure-IV). As per the Joint Petition, the date of Completion/ Commissioning Schedule of the Project is 03.11.2024, as evident from Schedule-I, annexed to the Draft PPA.

3. As per Joint Petition, the Commission vide Order dated 29.02.2016 passed in Suo Moto Petition No. 104 of 2015 has finalized the Model Power Purchase Agreement for Solar PV Project and the HIMURJA has also approved the Project inventory vide letter No. HIMURJA (F-7)/SPV Projects/ 2023- 17985 dated 30.01.2024 (Annexure-VIII).

4. It is averred that parties have signed the connection agreement on 23.03.2024 providing that the interconnection point shall be at existing 11 kV Kalheli feeder emanating from 2x3.15 MVA, 33/11 kV Sub-Station, Sarabhai through solid tap with appropriate Protection arrangement. It is also averred that the joint Petitioner No. 2 shall apply for the admissible subsidy and shall intimate the Joint Petitioner No. 1 to that effect.

5. It is also averred that the Commission vide Order dated 04.11.2023 has determined the generic levelled tariff in respect of Solar PV Projects for FY 2023-24 (01.10.2023-31.03.2024) 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 undertaking (Annexure-VI) that the project is situated in a rural area and averred that the tariff for the Projects to be set up in areas other than Industrial and Urban areas upto 1 MW is Rs. 3.65 per kWh as determined by the Commission vide Order dated 04.11.2023, which shall be applicable to the Project which has been incorporated in Clause 6.2 of the draft PPA.

6. We have heard Sh. Kamlesh Saklani, Authorised Representative for the Joint Petitioner No. 1 and Sh. Vivek Grover,

Authorised Representative for the Joint Petitioner No. 2 and have perused the entire record carefully.

7. It is evident from the record that the connection agreement in respect of the Project has been signed by the Joint Petitioners on 23.03.2024, a copy whereof has been placed on record. As per the connection agreement, the Interconnection Point of the project has been provided at existing 11 kV Kalheli feeder emanating from 2x3.15 MVA, 33/11 kV Sub-Station, Sarabhai through solid tap with appropriate Protection arrangement.

8. As per clause (ii) of sub-clause (a) of Para 4.3.5 of the Swaran Jayanti Energy Policy- 2021, notified on 20.01.2022, Solar Power Projects ranging from 250 kW - 1 MW capacity shall be allotted to bonafide Himachalies only and the energy generated from these Solar Power Projects shall mandatorily be purchased by the HPSEBL, if commissioned on or before 31.03.2030 at HPERC approved tariff applicable on the date of allotment of the Project.

9. It is also evident from the letter of the HIMURJA dated 04.11.2023 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 03.11.2024.

10. The Commission vide Order dated 04.11.2023 in Suo Moto Petition No. 06 of 2023 has determined the generic levelised tariff for Solar PV Power Projects for FY 2023-24 (for a period w.e.f. 01.10.2023 to 31.03.2024) 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	3.65
(b)	Above 1.00 MW & upto 5.00 MW	3.62
2.	Projects to be set up in industrial areas and urban areas	
(a)	Upto 1.00 MW	3.70
(b)	Above 1.00 MW & upto 5.00 MW	3.67

11. This Project is situated in the rural area as per undertaking (Annexure-VI). The capacity of the Project is 1000 kW. Thus, the Project is entitled to the tariff of Rs. 3.65 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. 03.11.2024, and the tariff in the said control period is less, the Joint Petitioner No. 2 shall have to provide power to the Joint Petitioner No. 1 on said tariff only.

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

13. 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 the approval of the Power Purchase Agreement (Solar) in respect of the Project. Hence, the

Petition succeeds and allowed. The PPA is ordered to be approved subject to the following conditions:-

- (i) The tariff of Rs. 3.65 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 is provisional.
- (ii) The undertaking of the Joint Petitioner No. 2 that the Project is at rural area shall form the part of the PPA. Similarly, the Connection Agreement dated 23.03.2024 shall also form 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 undertaking 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 endeavour 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 04.11.2023 passed by the Commission in Suo-Moto Petition No. 06/2023. The Joint Petitioner No. 1 shall also intimate the Commission in this regard on making adjustment.

(v) The Scheduled Date of Synchronisation of the Project is 26.10.2024 and Scheduled Commercial Operation Date (SCOD) of the project is 03.11.2024 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. 03.11.2024, and the tariff in the said control period is less, the Joint Petitioner No. 2 shall have to provide power to the Joint Petitioner No. 1 on said tariff only.

(vi) Clause 2.2.57 of the draft PPA shall be deleted.

(vii) Clause 7.1A of Article 7 of the draft PPA shall be deleted.

14. Other terms and conditions of the PPA shall be subject to provisions of the RE 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 04.11.2023 in Suo-Motu Petition No. 06 of 2023 issued under the aforesaid Regulations.

15. The Joint Petitioners are directed to execute PPA as per the above order after carrying out the necessary additions and alterations within 30 days from the date of this order. Three copies of the

executed Power Purchase Agreement 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-
(Yashwant Singh Chogal)
Member (Law)

-Sd-
(Devendra Kumar Sharma)
Chairman

HPERC