

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

Petition No: 6 of 2022
Date of filing: 07.02.2022
Arguments Heard on: 02.04.2022
Decided on: **19.04.2022**

In the matter of:-

The Himachal Pradesh State Electricity Board Ltd.
Vidyut Bhawan, Shimla-171004.

....**Joint Petitioner No.1**

AND

M/s Kin Hydro Power Developers,
Regd. Office at Syogi Niwas, VPO Chura,
Tehsil Nichar, Distt. Kinnaur-172101 (HP)

....**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 Sailan Hydro Electric Project (2.00 MW).

Present:-

Sh. Kamlesh Saklani, Authorised Representative of Petitioner No. 1.
Sh. Mohit Sharma, Ld. Counsel for Petitioner No.2.

ORDER

This joint Petition has been filed by Himachal Pradesh State Electricity Board Ltd. (HPSEBL) and M/s Kin Hydro Power Developers, Syogi Niwas, VPO Chura, Nichar, Distt. Kinnaur, H.P. (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 at Generic Levellised Tariff in respect of Sailan Hydro Electric Project (2.00 MW) (Project for short).

As per Petitioners, the Joint Petitioner No. 2 had signed an Implementation Agreement dated 08.05.2018 with the Government of Himachal Pradesh for the implementation of the Project (Annexure-III). 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 of 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) which has paved the way for signing of the Supplementary Implementation Agreement with the GoHP on 18.12.2020 in respect of the Project (Annexure IV). As per Petition, the Joint Petitioner No.2 has furnished the Scheduled Commercial Operation Date (SCOD) certificate issued by Himurja vide letter no. HIMURJA/SHP-IA/Sailan (252)/2015-2599 dated 15.07.2021 on prescribed proforma (Annexure-VI) that the SCOD of the Project is 17.06.2023. 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 levellised Tariff in respect of the project be worked out by adjusting the tentative admissible subsidy amount of Rs.1.92 Crore, worked out on the basis of Electro-mechanical Cost prescribed in the Techno-Economic Clearance. 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 Levellized Tariff from the Hydro Projects upto 25 MW capacity. Hence, the Petition for Long Term

Power Purchase Agreement based on the Model PPA approved by the Commission vide order dated 19.03.2012.

2. 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.

4. 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 is to be finalised after making adjustment of the subsidy of Rs.1.92 Crore available under the Industrial Development Scheme for the States of Uttarakhand and HP as notified by the GoI. Therefore, the subsidy of Rs.1.92 Crore as worked out by Joint Petitioner No. 1 is required to be adjusted while making order in respect of tariff.

5. Therefore, in view of the powers vested in the Commission under Section 86 (1) (b) of the Electricity Act and the notification dated 15.05.2018 of the Government of HP, as amended vide order dated 10.10.2018, 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 as under:-

- (i) Applicable Tariff without considering the subsidy under Generic levellised tariff of 3rd Control Period: Rs.4.54 per unit. *
- (ii) Considering Central Assistance/Subsidy of Rs.1.92Crore from the Ministry of Commerce & Industry (MCI): Rs. 4.28 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 3rd Control Period (i.e. 01.04.2020 to 30.09.2023).[Project Capacity =2.00 MW].

6. Thus, the tariff which shall be applicable to the project of Petitioner comes to **Rs.4.28** per unit. Therefore, the draft PPA is ordered to be approved accordingly subject to the following conditions:-

- (i) The SCOD of the project is 17.06.2023 and considering that the issue relating to adjustment of 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.
 - (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 Company shall intimate the joint Petitioner No. 1 i.e. HPSEBL, about 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 Company i.e. joint Petitioner No. 2 which shall form part of the PPA.
 - (iv) 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.
 - (v) The clause 6.2 of PPA shall be modified to the extent that the levellised provisional tariff of Rs. 4.28 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.
 - (vi) In case of delay of the project beyond 17.06.2023, the tariff, subject to further adjustment as per item (v) of this para, shall be applicable and the same shall be firm and final.
7. 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 3rd Control Period (i.e. 01.04.2020 to 30.09.2023).

8. Necessary additions and alternations in the draft PPA be carried out by the Technical Division before the same is sent to the parties. 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.

It is so ordered.

--Sd--

(Yashwant Singh Chogal)
Member(Law)

--Sd--

(Bhanu Pratap Singh)
Member

--Sd/--

(Devendra Kumar Sharma)
Chairman