

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

Petition No: 48 of 2024
Date of Institution: 21.10.2023
Arguments Heard on: 22.03.2024
Decided on: 12.04.2024

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

AND

The HP Power Corporation Limited, through
General Manager (Gen.),
Himfed Building, BCS, New Shimla, HP-171009.
.....**Joint Petitioner No. 2**

Versus

The HP State Load Despatch Center, through
Chief Engineer,
SLDC, Totu, Shimla, HP-171011.
.....**Respondent**

**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 the approval of the
Power Purchase Agreement (Solar) to be executed by the HPSEBL
with HPPCL in respect of Pekhubella Solar Power Project (32 MWac).**

CORAM

**DEVENDRA KUMAR SHARMA
CHAIRMAN**

**YASHWANT SINGH CHOGAL
MEMBER (Law)**

**SHASHI KANT JOSHI
MEMBER**

Present:-

Sh. Mandeep Singh, Chief Engineer (System Operation)
for Joint Petitioner No. 1.

Sh. Rohit Sharda, GM (Gen.) for the Joint Petitioner No.
2.

Sh. Surinder Saklani, Advocate for the Respondent.

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 the Himachal Pradesh Power Corporation Limited, (the Joint Petitioner No. 2 or the HPPCL 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 (CBR, 2005 for short), as amended from time to time, in respect of Pekhubella Solar Power Project (32 MW).

2. The Joint Petitioner No. 2 was incorporated in the year, 2006 under the Companies Act, 1956 with an objective to plan, promote and organize the development of all aspects of hydroelectric and solar power on behalf of the Government of Himachal Pradesh (GoHP for short) and the HPSEBL. As per Section 10 (2) of the Electricity Act, 2003 (Act for short) the generating company shall establish, operate and maintain generating stations, tie-lines, Sub-stations and dedicated transmission lines connected therewith in accordance with the Act, Rules and Regulations framed thereunder.

3. Pekhubella Solar Power Project, (32 MW) is located at Village Pekhubella, Distt. Una, H.P. and the power is to be evacuated through construction of 3.7 KM new 132 kV D/C transmission line, for LILO with existing 132 kV Nehrian Tahliwal Rakkar line. The land is mostly barren and flat with minor low lying patches and approximately 49 hectares of land is available for evacuation of solar power project.

4. In a meeting held between the parties on 29.06.2022 with regard to sale and purchase of power from the Project it was agreed to tie up the upcoming hydro and solar power projects of the HPPCL depending upon their COD (Annexure-A).

5. The National Tariff Policy, 2016 provides that all future requirement of power should continue to be procured competitively by distribution licensee except in case of expansion of existing Projects or companies owned or controlled by the State Government as an identified developers and where regulators need to resort to tariff determination based on norms provided that expansion of generating capacity by private developer for this purpose would be restricted to one time addition of not more than 100% of the existing capacity.

6. Also averred that the GoHP vide Notification No. MPP-F (10)-43/2023 dated 21.09.2023 has notified that the solar power

produced by the HP State Govt. entities i.e. HPPCL and HIMURJA from the solar power projects shall mandatorily be purchased by the HPSEBL at HPERC rate discovered through competitive bidding process. However, if a hybrid project has solar power as component, the tariff for purchase of Solar Power by HPSEBL exceeding 5 MW shall be as determined by the HPERC.

7. It is averred that the HPSEBL is deficient in power as per APSP attached at Annexure-B. Hence, in order to bridge the gap between the demand and availability, the HPSEBL has agreed to tie up the Pekhubella Solar Power Project as the HPSEBL has the mandate to purchase, as per the latest amendment in Swaran Jayanti Policy, 2021. It is averred that the draft PPA has been prepared as per mutually agreed terms and conditions and the salient features of Pekhubella SPP 32 MWac are enclosed at Form-A. Hence, the application.

8. The Petitioner have placed on record a copy of DPR, letter of HIMURJA dated 18.03.2023, Connection Agreement dated 31.07.2023

9. During the course of hearing, the commission vide order dated 01.02.2024 ordered to array the State Load Despatch Centre (SLDC) as Respondent to the Petition. The Respondent/ SLDC in its reply to the Petition has not opposed the Petition.

10. We have heard Sh. Mandeep Singh, Chief Engineer (System Operation) for the Joint Petitioner No. 1, Sh. Rohit Sharda, GM (Gen.) for the Joint Petitioner No. 2 and Sh. Surinder Saklani, Advocate for the Respondent and have perused the entire record carefully.

11. The Petitioners in para 6.1.5 of the draft PPA have proposed interim tariff @ 3 per kWh but there is no mention in the Petition as to how the said tariff of Rs. 3 per kWh had been calculated. The calculation of tariff is not in the domain of the Petitioners as according to the provisions of Electricity Act, 2003 this power is exclusively vested with the Commission. In any case, the Pekhubella Solar Generating Station should be cost effective as the land has been provided by the GoHP. Certainly, the high cost tariff shall not be in the interest of consumers, thus, said tariff should be more or less in line with the tariff discovered by the Solar Energy Corporation of India (SECI) on tariff based competitive bidding process.

12. This Commission vide interim Order dated 29.11.2023 had directed the HPSEBL, Joint Petitioner No. 1 to negotiate with the HPPCL to arrive at a cost nearer to the national average cost determined by the SECI and that the detail based on said negotiation be submitted to the Commission.

13. Pursuant to the directions, a meeting was held on 24.01.2024 by the parties wherein the Joint Petitioners No. 1 agreed to purchase the entire power from the Pekhubella Solar Power Project at the minimum tariff of Rs 3.50 per unit, however, subject to the approval of the Commission but it has also been mentioned in minutes of meeting dated 24.01.2024 that the reduction of cost per unit below Rs. 3.49/unit shall not be possible as the government may demand the cost of land, at a later stage.

14. The above minutes of meeting have been filed before the Commission on 01.02.2024. In view of the aforesaid report/minutes of meeting dated 24.01.2024, the Chief Engineer (System Operation) of the Joint Petitioner No. 1 was directed to file a detail affidavit as to how a cost of Rs. 4.72 per unit at the discom periphery has been arrived at and how the benefit of evaluation of renewal power for Solar Projects in the GNA has been worked out. Similarly, it was also directed that the affidavit must also disclose the basis of purchase of the entire power at Rs. 3.49 per unit and how the said cost will be in the interest of consumers.

15. The affidavit as directed vide Order dated 01.02.2024 has been filed on 26.02.2024. A careful perusal of the aforesaid affidavit shows that the Petitioners have claimed Rs. 3.00 per unit as sale cost without any reference or logic. To support the claim made in the

affidavit, the Chief Engineer (System Operation) of HPSEBL has placed on record the calculations for landing cost of electricity at Discom periphery from ISTS connected Solar Power Projects. It is observed that the calculations are in total derogation of Procedure enunciated by Grid Controller of India/POSOCO for Computation and Sharing of Interstate Transmission System Charges in compliance of CERC Sharing of Inter State Transmission Charges and Losses Regulation 2020, and amendments thereof.

16. This Commission vide order dated 20.05.2023 in Petition No. 17 of 2023 has laid down the guidelines about the manner in which the Solar power exceeding 5 MW has to be procured by the DISCOM.

17. As per the Electricity Act, 2003, the Commission is mandated to protect the interest of the consumers while allowing any power procurement. No doubt, the parties have arrived at a consensus to purchase the entire power from the Pekhubella Solar Power Purchase @ Rs. 3.50 per unit but according to the Commission and in view of the Order dated 20.05.2023 in Petition No. 17 of 2023, any procurements of the Solar Power exceeding 5 MW need be by way of open bidding and that too on the SECI approved/discovered rates. However, the Commission keeping in view the peculiar geographical, topographical and climatic conditions has authorized

such power procurement with an additional 15% cost, over and above the SECI determined rate.

18. The petition has been filed on 21.10.2023. The SECI has called for the tenders on 13.10.2023 for tariff based competitive bidding and the rate discovered pursuant thereto was Rs. 2.52 /- unit as available on the website of SECI, i.e. tender Rfs No. SECI/C&P/IPP/11/0007/23-24 Dated 13.10.23. Therefore the SECI discovered rate was Rs. 2.52/- per unit when the petition had been filed. The Commission has permitted 15% additional cost over and above the SECI determined rate vide order dated 20.05.2023 in Petition no. 17 of 2023 and thus, the solar power in respect of the Pekhubella Solar Power Project may be procured at the rate of Rs. 2.90/- per unit.

19. The Joint Petitioner No. 1 is in dire need of power procurement. Since a Joint Petition has been filed that the procurement shall be on the rate approved by the Commission, the Petitioners have made out a case for the approval of PPA. In the circumstances, the PPA is ordered to be approved on the aforesaid rate of Rs. 2.90 per unit. In case said rate is acceptable to the Joint Petitioners, the PPA may be signed on said rate within 15 days. In any case, said rate is not acceptable, the Joint Petitioner No. 2 shall be open to sell the same in open market through power exchanges.

The decision of signing the PPA be taken within 30 days, failing which, the permission shall be deemed to have been denied.

20. 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.

21 It is made clear that it being a special case shall not be quoted as precedent in future. It is also made clear that the DISCOM shall follow the proper procedure for procurement of solar power for the future so that consumers of the State can avail benefit of solar power available at much cheaper rates and are not burdened with higher rates of power purchase. We also make it clear that the exemptions / waiver of transmission charges, available under GNA regulations, shall be availed as usual so that consumers of the State are benefited. **Sd/-**

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

The file after needful be consigned to records.

Announced

12.04.2024

Sd/-
(Shashi Kant Joshi)
Member

sd/-
(Yashwant Singh Chogal)
Member (Law)

sd/-
(Devendra Kumar Sharma)
Chairman