# BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION SHIMLA

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| **Petition No.** | **175 of 2025** |
| Date of Institution: | 23.07.2025 |
| Arguments heard on: | 07.08.2025 |
| **Decided on:** | **26.08.2025** |

**CORAM**

YASHWANT SINGH CHOGAL
**MEMBER (Law)-cum-Chairman**

SHASHI KANT JOSHI
**MEMBER**

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

**….Joint Petitioner No. 1.**

AND

M/s Himalaya Hydel Energy Pvt. Ltd.,
Registered Office at Village Jarar,
Post Office Piplage, Tehsil Bhuntar,
Distt. Kullu,H.P. **....Joint Petitioner No. 2.**

**Petition under Section 86 (1) (b) of the Electricity Act, 2003, read with Regulation 56 and 57 of Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2024 and Regulation 17 of the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017 for approval of Supplementary Power Purchase Agreement and Determination of Composite Tariff for Thuchaning Hydro Electric Project (1.50 MW).**

Present:-

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

Sh. L.S. Mehta, Ld. Counsel for the Joint Petitioner No. 2.

**ORDER**

This 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 Himalayan Hydel Energy Pvt. Ltd. (the Joint Petitioner No. 2 for short) under Section 86 (1) (b) of the Electricity Act, 2003, read with Regulation 56 and 57 of Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2024 and Regulation 17 of the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017, for the approval of Supplementary Power Purchase Agreement and Determination of Composite Tariff for Thuchaning Hydro Electric Project (1.50 MW) (Project for short).

2. According to the Joint Petition, the Joint Petitioner No. 2 and the Government of Himachal Pradesh (GoHP for short) signed Implementation Agreement (IA) on 29.06.2015, 1$^{st}$ Supplementary Implementation Agreement (SIA) on 18.09.2017 and 2$^{nd}$ Supplementary Implementation Agreement (2$^{nd}$ SIA) on 23.12.2020 for availing the One Time Amnesty Scheme in respect of Thuchaning Hydro Electric Project situated in District Kullu, Himachal Pradesh. Pursuant to the above IA and SIAs, the Joint Petitioners signed a

PPA on 30.05.2022 for sale and purchase of power from Thuchaning HEP (1.0 MW) at Rs. 4.28 per kWh with approval of the Commission accorded vide order dated 17.05.2022 in Petition No. 21 of 2022.

3. Subsequently, the capacity of the Project was enhanced from 1.0 MW to 1.50 MW qua which the DoE accorded the revised Technical Concurrence (TC) on 17.05.2022 (Annexure P-3) and a 3rd Supplementary Implementation Agreement (3rd SIA) was signed on 01.03.2024 by the Joint Petitioner No. 2 with the GoHP.

4. The Project has been synchronized with the grid on 26.06.2024 for the entire capacity of the Project (1.50 MW).

5. It is averred that as per the provisions of IAs and SIAs, the company opted to sell the entire net saleable energy from the Project to the HPSEBL on generic levellized tariff, as may be applicable, as per the provisions of the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017 (RE Regulations, 2017 for short).

6. According to the Petition, the Joint Petitioner No. 2 had applied for the incentive/ subsidy (subsidy for short) under the Industrial Development Scheme for the States of Himachal Pradesh and Uttarakhand (IDS for short) notified by the Ministry of Commerce and

Industry vide notification No. 2(2)/2018-SPS dated 23.04.2018 which was effective from 01.04.2017 till 31.03.2022 on DPIIT Portal and has placed on record copy of online application on 18.12.2022 (Annexure P-5). However, when the Joint Petitioner No. 2 sought the status of the application from the General Manager, Industries Department, Kullu it was intimated vide letter No. Ind.Klu.CCIIAC/17/Misc-968 dated 03.08.2024 that though the Joint Petitioner No. 2 had applied for subsidy but the status on the application of the DPIIT portal is reflected as 'closed'. so the Project is not eligible for any subsidy under IDS, 2017. Copies of letter dated 08.07.2024, 03.08.2024 and 25.07.2024 are annexed as Annexure P-6.

7. It is claimed that the Commission in its order dated 17.05.2022 in Petition No. 21 of 2022 has erroneously mentioned that the Project has availed subsidy of a sum of Rs. 94 lakhs from the Himachal Pradesh State Industrial Development Corporation (HPSIDC) and adjusted the same to work out the tariff of Rs. 4.28 per kWh for Thuchaning HEP. Therefore, the tariff of Rs. 4.28 per kWh after taking into account subsidy of Rs. 94 lakhs warrants re-consideration.

8. According to the Joint Petitioners, Sub-regulations (3) of Regulation 13 of the RE Regulations, 2017 provides that the tariff shall be regulated under Regulation 17, in cases where after

execution of a long-term PPA, the capacity of the Project is enhanced with the approval of the State Government. Regulation 17 of the RE Regulations, 2017 regarding capacity enhancement has been reproduced as under:-

*17.Capacity enhancement.- (1) Where, after the allotment of the original project, the capacity of a small hydro project is enhanced, with the approval of the State Government, the tariff for sale of net saleable energy from such projects, shall be governed by the relevant provisions of sub-regulations (2) to (8), as applicable.*

*(2) xxxx*

*(3) Where, prior to commencement of Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017,-*

*(a) in relation to the original capacity of the project or a part thereof,- (i) either synchronization of the same with the Grid has taken place at least once, or (ii) a joint petition for the approval of PPA for purchase/sale of net saleable energy has been filed before the Commission, or (iii) the PPA for the sale/purchase of net saleable energy from the same, whether under REC mechanism or on long term basis, has been signed by the developer of the concerned project with the Distribution Licensee; and*

*(b) in relation to the additional capacity of the project or a part thereof,- (i) neither any synchronization of the same, with the Grid has taken place even once, nor (ii) any joint petition for approval of any PPA (or supplementary PPA), in relation for such additional/enhanced capacity, whether under REC mechanism or long term basis, has been filed before the Commission, nor (iii) any PPA, or supplementary PPA, for such additional/enhanced capacity has been signed by the developer of the concerned project with the distribution licensee for such additional/enhanced capacity;*

*the tariff for the net saleable energy in relation to the original capacity shall be determined as per the provisions of Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2012 and the same for the additional capacity shall be determined as per the provisions of Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017 as applicable on the date on which the joint petition for approval of PPA in* *relation to the additional capacity/enhanced capacity is filed before the Commission or on the date on which such additional capacity, or a part thereof, is synchronized with the grid for the first time, whichever is earlier.*

*(4) xxxx*

*(5) Where different sets of Commission's regulations as per sub-regulation 3 of this regulation, or different sets of provisions/ norms of Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017 as per the provisions under Sub-Regulations (4) of this regulation, are applicable for the net saleable energy corresponding to the original capacity and for the additional capacity, a composite rate shall be worked out, on normative basis, for the net saleable energy corresponding to the enhanced capacity, as follows, namely;-*

*(i) the generic levellised tariff applicable for the net saleable energy in relation to the original capacity as per the sub regulation (3) or sub regulation (4) as applicable, shall be considered for the net saleable energy in relation to the annual energy generation corresponding to 75% dependable year as per the Detailed Project Report for the original capacity, irrespective of the date of signing of the power purchase agreement for the original capacity;*

*(ii) for the net saleable energy in relation to the annual incremental energy generation due to enhancement of capacity i.e. the annual additional energy generation which is expected to take place in the 75% dependable year as per the detailed project report for the enhanced capacity, the generic levellised tariff applicable for the net saleable energy in relation to the additional capacity as per the provisions of sub-regulation (3) or sub-regulation (4), of this regulation, as applicable, shall be considered:*

*Provided that the tariffs considered for the respective energy quantums as per clauses (i) and (ii) of this sub-regulation shall be governed by the respective associated terms and conditions as per the respective power purchase agreements and the applicable provisions for respective capacities:*

*Provided further that in case the applicable provisions for the respective capacities provide for any adjustment of the corresponding tariff, such adjustment(s) shall also be made only for the respective energy quantums as per clauses (i) and (ii) of this sub-regulation under this regulation and the adjusted composite rate shall be calculated accordingly:*

*Provided further that while computing such composite rate, the free power( in percentage) shall, save as provided in sub-regulation (7) , be accounted for as follows, namely:-*

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| *A* | *if no separate rates of free power (in percentage) are* | *composite rate of free power (in percentage), not exceeding the* |

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| | *provided in supplementary IA for the original capacity and for the additional capacity and only composite rate is provided for the enhanced capacity;* | *limits specified in regulation 36, for the entire capacity i.e. in relation to the original capacity as well as additional capacity;* |
| *B* | *if separate rates for original capacity and for the additional capacity are provided in the supplementary Implementation Agreement;* | *Separate adjustments in accordance with the limits specified in regulation 36 shall be made for the net saleable energy in relation to the two capacities i.e. original capacity and additional capacity at corresponding rates of free power (in percentage). In such cases the limits as per regulation 36 shall be applicable separately for the two capacities* |

*Provided further that the composite rate for the entire net saleable energy shall, in no case, be higher than the generic levellised rate applicable under Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017 as on the date of approval of the PPA for the additional/enhanced capacity or the date on which any part of additional capacity is synchronized, whichever is earlier, for the small hydro project category under which the enhanced capacity falls:*

*Provided further that in cases where the incremental capacity is commissioned in phases, the tariff(s) during such interim stages shall be 10 computed based on such incremental energy generation corresponding to the additional capacity actually installed from time to time."*

*(6) xxxx*

*(7) xxxx*

*(8) Where the parties fail to arrive at an understanding for sale/ purchase of energy in the manner specified in sub-regulations (3) to (6), the right of the distribution licensee for the net saleable energy as per the original power purchase agreement, duly taking into account the data contained in the Detailed Project Report for the original capacity and power generation on real time basis, shall remain protected and the renewable energy generator shall be eligible to dispose off only the net incremental saleable energy (i.e. after duly adjusting the licensee's first right as aforesaid and the total quantum of free energy for the enhanced capacity of the project):*

*Provided that in such a case, the renewable energy generator shall also arrive at an understanding with the distribution licensee about the modalities for energy accounting on real time basis as well as on monthly and* *annual basis and based on the same, the renewable energy generator shall also make the distribution licensee a party to any such agreement for disposal of such incremental energy:*

*Provided further that in case the licensee and the renewable energy generator mutually agree to purchase/sell the net incremental saleable energy at a specific rate and jointly make an application to the Commission for determination of such rate, the Commission may determine the specific levellised rate for such net incremental saleable energy as per the provisions of this sub-regulation and by taking into account the provisions of the regulations/practices prevalent in the time frame during which the capacity enhancement was permitted by the State Government."*

9. It is averred that as per Regulation 17 (ibid), a composite tariff is required to be worked out by considering the following:-

*"(a) For annual energy generation corresponding to 75% of dependable year as per DPR of original capacity, the tariff as mentioned in PPA dated 30.05.2022 shall be applicable; and*

*(b) For annual additional energy generation which is expected to take place in the 75% dependable year as per the detailed project report for the enhanced capacity, the generic levellized tariff as determined by this Commission under the provisions of be determined as per the provisions of Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017 as applicable on the date on which the Joint Petition for approval of PPA in relation to the additional capacity/ enhanced capacity is filed before the Commission or on the date on which such additional capacity, or part thereof, is synchronized with the grid for the first time, whichever is earlier, shall be considered."*

10. It is averred that the Commission vide order dated 17.11.2023 in Suo Moto Petition No. 07 of 2023 has determined the generic levellized tariff for Small Hydro Projects (SHPs) above 100 kW under Regulation 14 of the RE Regulations, 2017 for 4$^{th}$ Control Period i.e. 01.10.2023 to 31.03.2027 (SHP Tariff Order). The SCOD of the original capacity of the Project was 22.12.2023 as fixed by the GoHP

and certified by the Chief Executive Officer, HIMURJA vide letter 15.07.2021. Further, the HIMURJA vide letter dated 09.11.2023 (Annexure P-7) has extended the SCOD of the Project from 31.08.2023 to 30.04.2024. Also that the Petitioner and the GoHP executed the SIA for the enhanced capacity on 01.03.2024. Hence, the additional capacity of the Project, as per RE Regulations, 2017, is required to be considered under the 4th Control Period defined under the RE Regulations, 2017 which shall be applicable to the Project.

11. It is also averred that in view of the differential tariff rates, as applicable to the original capacity and enhanced capacity, the Commission may determine the composite tariff for the entire 1.50 MW capacity of Tuchaning HEP in accordance with the RE Regulations, 2017 by taking into consideration following parameters:-

(A) That the Annual Energy Generation corresponding to 75% dependable year, as per the Detailed Project Reports (DPR) for the original capacity of 1.00 MW is 5.47 MUs .A copy of the relevant extract of the said DPR is annexed herewith and marked as Annexure P-8 for the kind perusal of this Commission.

(B) That the Annual Energy Generation corresponding to 75% dependable year, as per the DPR for the revised capacity of 1.50 MW, is 7.50 MUs. A copy of the relevant extract of this DPR is annexed herewith and marked as Annexure P-9 for the kind consideration of this Commission.

(C) That the incremental energy generation attributable to the enhancement in capacity by 0.50 MW is 2.03 MUs annually.

(D) That the provisional tariff applicable to the original capacity of 1.00 MW as per the Power Purchase Agreement dated 30.05.2022, duly approved by this Commission, is 24.28 per kWh.

(E) That the generic levellised tariff applicable to the enhanced capacity of 0.50 MW, as determined by this Commission vide Order dated 17.11.2023 for Small Hydro Projects under the 4th Control Period (01.10.2023 to 31.03.2027), is Rs. 4.93 per kWh.

(F) That there is no variation in free power structure specified under IA dated 29.06.2015 (executed for original capacity) and SIA dated 01.03.2024 (executed for enhanced capacity).

12. The draft SPPA has been placed on record. Hence, the Petition.

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

14. A Joint Petition being Petition No. 21 of 2022 was filed by the HPSEBL and M/s Himalaya Hydel Energy Pvt. Ltd. for approval of PPA which was allowed by the Commission vide order dated 17.05.2022 allowing tariff of Rs. 4.28 per kWh. It was mentioned in the Joint Petition No. 21 of 2022 that a sum of Rs. 94 Lakh has been

worked out towards the Electro Mechanical Cost of the Project as per Techno Economic Clearance which may be adjusted and accordingly, a sum of Rs. 94 Lakhs was adjusted towards Industrial Subsidy while working out provisional tariff of Rs. 4.28 per kWh.

15. It is apparent from the record that the Petitioner has not availed the Industrial Subsidy and now the status of the application as submitted, is reflected as 'closed' as evident from the letter No. Ind.Dev.IDS/Portal Issue-2024-7425 dated 25.07.2024 of Directorate of Industries, Himachal Pradesh.

16. The Project has been synchronized with the grid on 29.06.2024.

17. The Commission has determined the generic levellized tariff in respect of the 4th Control Period w.e.f. 01.10.2023 to 31.03.2027 vide order dated 17.11.2023 in Suo Moto Petition No. 07 of 2023 (SHP Order for short). The Para 7.13 of the SHP order dated 17.11.2023 and Regulation 22-C of the of the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination), Regulations 2017, as amended by the (Seventh Amendment) Regulations, 2023 dated 22.09.2023 provide for adjustment of subsidy, as deemed availed, but a careful perusal of

letter dated 25.07.2024 of the Industries Department shows that the subsidy has not been made available for the Project.

18. Thus, the case of the Petitioner is beyond the scope deemed availed subsidy as mentioned in Para 7.13 of the SHP Order dated 17.11.2023 and no adjustment of subsidy of Rs. 94 Lakh in tariff, as considered in Petition No. 21 of 2022 is required to be made.

19. Apparently, the Petitioner has signed the PPA with the HPSEBL on 30.05.2022 in respect of original capacity of the Project i.e. 1.0 MW. The SCOD of the Project of the original capacity was 31.08.2023.

20. The Commission had determined the generic levellized tariff for the Small Hydro Electric Projects above 100 kW and upto 25 MW for the 3rd Control Period, commencing from 01.04.2020 to 30.09.2023 vide order dated 22.12.2020 which is as under:-

| **Category** | **Capacity** | **Generic levellised Tariff in Rs./kWh of net saleable energy without considering subsidy.** |
|---|---|---|
| Col. 1 | Col. 2 | Col. 3 |
| (i) | Above 100 kW to 2 MW capacity | 4.54 |
| (ii) | Above 2 MW but below 5 MW capacity | 4.67 |
| (iii) | 5 MW to 25 MW capacity | 4.49 |

21. The original capacity of the Project is 1.0 MW qua which the PPA has already been signed. The tariff of Rs. 4.28 per kWh was allowed as per the above generic levellized tariff order after

adjustment of Industrial Subsidy of Rs. 94.00 Lakhs, which has not been availed by the Joint Petitioner No. 2.

22. As per the Petitioner, the additional capacity of 0.50 MW capacity was added subsequently qua which the SIA (3rd SIA) was signed on 01.03.2024 which falls within the 4th Control Period w.e.f. 01.10.2023 to 31.03.2027. This Commission vide order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023 has determined the generic levellized tariff for the 4th Control Period (01.10.2023 to 31.03.2027) as under:-

| Sr. No. | Capacity | Generic levellised tariff in Rs. /kWh of net saleable energy without considering subsidy |
|---|---|---|
| (i) | Above 100 kW to 2 MW capacity | 4.93 |
| (ii) | Above 2 MW but below 5 MW capacity | 5.03 |
| (iii) | 5 MW to 25 MW capacity | 4.78 |

23. Therefore, while working out a composite tariff, a weighted average of the two i.e. the tariff applicable under the 3rd Control Period for 1.0 MW capacity and the tariff applicable under the 4th Control Period for 0.50 MW capacity, as per the Regulation 17 of the RE Regulations, 2017, as amended, is required to be worked out by taking into account the energy generation at 75% dependable year for 1.50 MW capacity. While applying the weighted average of 1.0 MW capacity as per the tariff applicable for the 3rd control period and 0.50 MW capacity as per the 4th control period, the composite/ weighted

average tariff without considering subsidy/ incentive under the IDS, 2017 of Rs. 94.00 Lakhs comes as under:-

| | | |
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| 1 | Total annual design energy for 1.5 MW capacity for 75% of dependable year **( as per joint petition )** | 7.50 MUs |
| 2 | Total annual design energy for 75% dependable year corresponding to 1 MW **( as per joint petition )** | 5.47MUs |
| 3 | Annual design energy attributed to 0.5 MW capacity (1-2) | 2.03 MUs |
| 4 | Energy for 1 MW capacity expressed as % of total energy for 1.5 MW capacity (item 2/1*100) | 72.93% |
| 5 | Energy attributed to 0.5 MW capacity expressed as % of the total energy generated for 1.5 MW (item 3/ 1*100) | 27.07% |
| 6 | Rate applicable for the net saleable energy corresponding to 1 MW capacity (item 4) | Rs. 4.54 /kWh |
| 7 | Rate applicable for the net saleable energy corresponding to 0.5 MW capacity (item 5) | Rs. 4.93 /kWh |
| 8 | Weighted average rate for the net saleable energy to be purchased by respondent Board from the Petitioner's 1.5 MW project | Rs. 4.65/ kWh |

Thus, the composite tariff of Rs. 4.65 per kWh shall be applicable to the Project from the date of commercial operation of the Project.

24. Hence, the Petition succeeds and allowed. A tariff of Rs. 4.65 per kWh is allowed for the Project from the date of the commissioning of the 2nd unit of 0.50 MW capacity of the Project. However, it is made clear the in case any subsidy is granted for the Project of the Applicant, by the State/ Central Government in future, the Applicant shall intimate the HPSEBL and the Commission immediately and the appropriate adjustment of tariff shall be made on receipt of the same.

25. The parties are accordingly directed to execute the Supplementary Power Purchase Agreement (SPPA) as per the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) (Seventh Amendment) Regulations, 2023 within a period of 30 days from the date of this Order. Three copies of the executed SPPA be submitted to the Commission for record.

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

The Petition is disposed off accordingly. The file after needful be consigned to records.

Announced
**26.08.2025**

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| **-Sd-** | **-Sd-** |
| **(Shashi Kant Joshi)** | **(Yashwant Singh Chogal)** |
| **Member** | **Member (Law)-cum-Chairman** |