

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

Petition No: 171 of 2025
Instituted on: 30.06.2025
Heard on: 29.08.2025
Decided on: 04.09.2025

CORAM:

YASHWANT SINGH CHOGAL
MEMBER (Law)-cum- CHAIRMAN.

SHASHI KANT JOSHI
MEMBER .

In the matter of:-

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

AND

M/s Galaxy Hydrel Energy Development Company Ltd.,
Registered Office at Bajaura,
Tehsil and Distt. Kullu, H.P.-175101,
through Sh. Ram Singh Rana, Authorised Representative
.....**Joint Petitioner No.2.**

Joint Petition under Section 86 (1) (b) of the Electricity Act, 2003 for the approval of Supplementary Power Purchase Agreement to be executed by the HPSEBL with M/s Galaxy Hydrel Energy Development Company Ltd. in respect of Baresu Hydro Electric Project (5.00 MW).

Present:-

Sh. Kamlesh Saklani, Authorised Representative for Joint
Petitioner No. 1
Sh. Vikas Chauhan, Ld. Counsel for the Joint Petitioner No.
2.

ORDER

This Joint Petition has been filed under Section 86 (1)(b) of the Electricity Act, 2003 (Act for short) read with Regulations 56 and 57 of the Himachal Pradesh Electricity Regulatory Commission (Conduct of

Business) Regulations, 2024 (the CBR, 2024 for short) by the Himachal Pradesh State Electricity Board Limited (the HPSEBL/ Joint Petitioner No. 1 for short) and M/s Galaxy Hydel Energy Development Company Ltd. (the Joint Petitioner No. 2 for short) for the approval of Supplementary Power Purchase Agreement (SPPA for short) in continuation of existing Power Purchase Agreement (PPA) dated 29.10.2005 in respect of Baresu Hydro Electric Project (3.00 MW) situated on Juphar Khad, a tributary of river Beas, in Distt. Kullu, Himachal Pradesh (Project for short).

2. According to the Petition, initially the Project was allotted to the Joint Petitioner No. 2 on 14.11.2000 for the capacity of 3.00 MW and the Techno-Economic Clearance (TEC for short) was granted by the Directorate of Energy (DoE), Government of Himachal Pradesh (GoHP for short) on 16.12.2002 (Annexure P-2) which was further revised on 02.08.2018 (Annexure P-3).

3. The Joint Petitioner No. 2 had signed the Implementation Agreement (IA for short) on 14.05.2003 (Annexure P-4) for the implementation of the Project of 3.0 MW with the Government of Himachal Pradesh (GoHP for short). Subsequently, a Joint Petition being Petition No. 153 of 2004 was filed before the Commission for the sale/ purchase of power from the Project which was approved vide

order dated 04.01.2005 and accordingly, a PPA was executed between the parties on 29.10.2005 (Annexure P-5) for supplying energy at the tariff of Rs. 2.50 per kWh.

4. The GoHP vide order dated 16.07.2016 terminated the IA dated 14.05.2003 and cancelled the Project allotment due to non-execution of the Project (3.0 MW).

5. The Joint Petitioner No. 2 made representation to the GoHP and subsequently the Project was restored and a fresh IA was signed between the GoHP and the Joint Petitioner No. 2 on 28.12.2017 (3.0 MW) (Annexure-III).

6. The DoE, GoHP on 07.12.2021 accorded Technical Concurrence (TC) to Baresu SHEP (5.0 MW) (Annexure-VIII). Further, a Supplementary Implementation Agreement (SIA) was signed between the GoHP and the Joint Petitioner No. 2 on 23.12.2022 (Annexure-IV) under One Time Amnesty Scheme to redefine the zero date of the Project as per notification dated 07.11.2020.

7. Further, the Joint Petitioner No. 2 signed the 2nd SIA with the GoHP on 24.06.2022 for the enhanced capacity of the Project from 3.00 MW to 5.00 MW, incorporating the terms and conditions on account of change of capacity of the Project.

8. It is averred that as per the provisions of IA/ SIA's, the Joint Petitioner No. 2 has agreed to sell entire net saleable energy from project to the Joint Petitioner No. 1/ HPSEBL at the generic levellised tariff, as may be applicable to the Project, as per the provisions of the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from Renewable Energy Sources and Terms & Conditions for Tariff Determination) Regulations, 2017, as amended from time to time, (RE Regulations 2017).

9. It is also averred that Sub-regulation 3 of Regulation 13 and Regulation 17 of the RE Regulations, 2017, are applicable to the Projects where the capacity is enhanced after execution of long-term PPAs and prescribe a methodology for determining composite tariff by considering the tariff applicable to original and enhanced capacities separately. The Regulation 17 of the RE Regulations, 2017 has also been reproduced and it has been averred that as per the provisions of the RE Regulations, 2017, a composite tariff is to be worked out considering the following:

- (a) For annual energy generation corresponding to 75% of dependable year as per the DPR of original capacity, the tariff as mentioned in PPA dated 29/10/2005 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 levellised tariff as determined by

this Hon'ble Commission under 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, shall be considered.

10. Further, Regulation 17 of the RE Regulations, 2017 provides a provision for adjustment of tariff in case the percentage rate of free power undergoes change due to any change in general policy during the intervening period between the dates of execution of Implementation Agreement for the original capacity and the Supplementary Implementation Agreement for the enhanced capacity.

11. It is further averred that the Commission vide order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023 has determined the generic levellised tariff for Small Hydro Projects (SHPs) above 100 kW and upto 25 MW for the 4th control period i.e. 01/10/2023 to 31/03/2027 (SHP Tariff Order). The Scheduled Commercial Operation Date (SCOD) of the Project is 22.12.2024 as certified by the Chief Executive Officer, HIMURJA, Shimla vide letter No. HIMURJA/SHP-IA/GHE (30)/20009961 dated 04.01.2023 (Annexure-VII). Hence, the additional capacity of the Project clearly falls within the ambit of the 4th Control

Period and the generic levelized tariff determined by the Commission for the 4th control period for the category of SHP having capacity of 5 MW and upto 25 MW shall be applicable to the enhanced capacity.

12. It is averred that in view of the differential tariff rates applicable to the original and enhanced capacities of the project, the Commission may determine the composite tariff for the entire capacity of 5.00 MW of the Project, in accordance with the provisions of the RE Regulations, 2017, duly taking into consideration the following project-specific parameters:

- (A) That the Annual Energy Generation corresponding to 75% dependable year, as per the Detailed Project Report (DPR) (Annexure P-6) approved by the DoE, GoHP, for the original capacity of 3.00 MW is 14.930 Million Units (MUs).
- (B) That the Annual Energy Generation corresponding to 75% dependable year, as per the DPR (Annexure P-7) approved by the DOE for the revised capacity of 5.00 MW, is 24.94 MUs.
- (C) That the incremental energy generation attributable to the enhancement in capacity by 2.00 MW is 10.01 MUs annually.
- (D) That the tariff applicable to the original capacity of 3.00 MW as per the PPA dated 29.10.2005, duly approved by the Commission, is Rs. 2.50 per kWh.
- (E) That the generic levelized tariff applicable to the enhanced capacity of 2.00 MW, as determined by the Commission vide its Order dated 17.11.2023 for Small Hydro Projects under the 4th Control Period (01.10.2023 to 31.03.2027), is Rs. 5.04 per kWh.

(F) That the free power structure in respect of the original capacity (3.00 MW), as per the IA dated 14.05.2003 (Annexure P-4), is as under:

(i) Royalty in the form of free power @10% of deliverable energy from the Commercial Operation Date (COD) of the project, with a waiver of such royalty for the initial 15 years from the COD.

(ii) That the revised free power structure for the enhanced capacity (5.00 MW), as delineated in the 2nd SIA dated 14.06.2022 (Annexure-V of the draft PPA), is as follows:

a. Royalty @ 6% of deliverable energy for a period of 12 years, reckoned after 42 months from the date of execution of the IA/ SIA or such extended period as may be allowed by the GoHP for achieving COD;

b. Thereafter, Royalty @15% for the next 18 years;

c. Subsequently, Royalty @24% until the date of takeover of the project by the GoHP;

d. Further, the free power quantum shall be deferred for the critical initial period of 12 years from the SCOD or COD, whichever is earlier, and the deferred quantum shall be recovered uniformly during the remaining agreement period.

13. The Joint Petitioners have submitted that enhancement of capacity of the Project by 2.00 MW was duly approved by the GoHP through the execution of the 2nd SIA dated 24.06.2022. Accordingly, the said enhanced capacity qualifies for applicability of the generic levellised tariff determined by the Commission for SHPs falling under the 4th Control Period (01.10.2023 to 31.03.2027), as per the SHP Tariff Order dated 17.11.2023. It is also submitted that on the date of

execution of the 2nd SIA dated 24.06.2022, there exists no financial assistance scheme/ subsidy/ incentive mechanism under which the Company could have availed any benefit of subsidy for the enhanced capacity of 2.00 MW, therefore, no adjustment on this account is required to be made while determining the tariff for the Project.

14. We have heard Sh. Sh. Kamlesh Saklani, Authorised Representative for the Joint Petitioner No. 1 and Sh. Ashok Kumar Verma, Ld. Counsel for the Joint Petitioner No. 2 and perused the case file carefully.

15. It is apparent from the record that the Project was allotted to the Joint Petitioner No. 2 on 14.11.2000 for the initial capacity of 3.00 MW and an IA was signed on 14.05.2003 (Annexure P-4) for the implementation of the Project of 3.0 MW with the Government of Himachal Pradesh (GoHP for short). Subsequently, a Joint Petition being Petition No. 153 of 2004 was filed before the Commission for the sale/ purchase of power from the Project which was approved vide order dated 04.01.2005 and accordingly, a PPA was executed between the parties on 29.10.2005 (Annexure P-5) for supplying energy at the tariff of Rs. 2.50 per kWh. It is also mentioned in the Petition that due to non-execution of the Project, the GoHP vide order dated 16.07.2016 terminated the IA and cancelled the allotment of the Project but on a

representation to the GoHP by the Joint Petitioner No. 2 for restoration of the Project, the Project was re-allotted to the Joint Petitioner No. 2 and a fresh IA was signed between the GoHP and the Joint Petitioner No. 2 on 28.12.2017.

16. The Joint Petitioner No. 2 and the GoHP signed SIA on 23.12.2020 (wrongly written as 23.12.2022) under One Time Amnesty Scheme, notified by the GoHP on 07.11.2020 whereunder the zero date of the Project was redefined. A careful perusal of the record shows that the Project capacity was enhanced from 3.0 MW to 5.0 MW for which the DoE, GoHP accorded TEC in respect of the Project of 5.0 MW on 07.12.2021. Subsequently, a 2nd SIA was signed on 24.06.2022 for the enhanced capacity of the Project from 3.0 MW to 5.0 MW.

17. The record also shows that the Project is not eligible for any incentive available at the moment in view of the enhanced capacity of the Project for which the 2nd SIA was signed on 24.06.2022, when no subsidy scheme was in existence. In view of the above, no adjustment on account of subsidy/incentive is required to be made.

18. The SCOD of the Project is 22.12.2024 meaning thereby that the SCOD in respect of the enhanced capacity falls within the 4th Control Period of generic levelled tariff which has been determined by the Commission for 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. 7 of 2023 under RE Regulations, 2017, as amended. The enhanced capacity of the Project is 5.00 MW. As per the SHP Tariff Order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023, the applicable tariff for the enhanced capacity of the 2.0 MW of the Project shall be Rs. 4.93 per kWh without any adjustment of Royalty/ free power. However, after adjustment of free power/ royalty, the tariff shall be Rs. 5.07 per kWh.

19. The record reveals that though the IA dated 14.05.2003 was terminated by the GoHP vide letter dated 27.06.2016 but on the representation of the Joint Petitioner No. 2, the Project allotment was subsequently restored by a cabinet decision subject to deposit of all pending dues. This Commission in Petition No. 79 of 2019 decided on 28.01.2021, titled as M/s Gehra Hydro Power Private Limited (Erstwhile M/s Gehra Hydro Power Limited) Versus the H.P. State Electricity Board Limited and others has concluded that the cancellation and subsequent allotment of the original allottee subject to certain conditions cannot be considered as a fresh allotment and thus, the IA dated 28.12.2017 is in continuation of the earlier IA dated 14.05.2003 and the PPA signed on 29.10.2005 is valid for all intents and purposes and is still in force and binding on the parties.

20. Admittedly, both the parties have claimed in the Joint Petition that the benefit of the tariff of the 4th control period is to be given in respect of the enhanced capacity of the Project i.e. 5.0 MW and a composite tariff is to be worked out as per the original capacity of the Project i.e. 3.0 MW and enhanced capacity of the Project i.e. 2.0 MW. Undisputedly, the Petitioner has signed the PPA with the HPSEBL on 29.10.2005 in respect of original capacity of the Project i.e. 3.0 MW for supplying the power @ Rs. 2.50 per kWh.

21. As per the Petitioner, the additional capacity of 2.0 MW capacity was added subsequently qua which the SIA (2rd SIA) was signed on 24.06.2022 which falls within the 4th Control Period w.e.f. 01.10.2023 to 31.03.2027 as the SCOD of the Project is 22.12.2024. This Commission vide order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023 has determined the generic levelled tariff for the 4th Control Period (01.10.2023 to 31.03.2027) as under:-

Sr. No.	Capacity	Generic levelled 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

22. Therefore, while working out a composite tariff, a weighted average of the two i.e. the tariff applicable as per the PPA dated 29.10.2005 for 3.0 MW capacity i.e. Rs. 2.50 per kWh and the tariff

applicable under the 4th Control Period for 2.0 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 the enhanced capacity of the Project of 2.0 MW. While applying the weighted average of 3.0 MW capacity, as per the tariff applicable as per PPA dated 29.10.2005 i.e. Rs. 2.50 per kWh, and tariff for the enhanced 2.0 MW capacity as per the 4th control period, the composite/ weighted average tariff, without considering subsidy/ incentive, is required to be considered in the manner as under:-

1	Total annual design energy for 5.00 MW capacity for 75% of dependable year (DPR 28.02.2019)	24.94 MUs
2	Total annual design energy for 75% dependable year corresponding to 3 MW (DPR February, 2018)	14.93 MUs
3	Annual design energy attributed to 2.00 MW capacity (1-2)	10.01 MUs
4	Energy for 3 MW capacity expressed as % of total energy for 5.00 MW capacity (item 2/1*100)	59.86%
5	Energy attributed to 2.00 MW capacity expressed as % of the total energy generated for 5.00 MW (item 3/ 1*100)	40.14%
6	Rate applicable for the net saleable energy corresponding to 3 MW capacity (item 4)	Rs. 2.50 /kWh
7	Rate applicable for the net saleable energy corresponding to 2.00 MW capacity (item 5)	Rs. 5.07/kWh
8	Weighted average rate for the net saleable energy to be purchased by respondent Board from the Petitioner's 5.00 MW project	Rs. 3.53/ kWh

23. Thus, the composite tariff of Rs. 3.53 per kWh comes out which shall be applicable to the Project from the date of commercial operation of the Project.

24. However, the Commission is of the considered view that the free power structure at the time of signing PPA dated 29.10.2005 for 3.00 MW capacity at a tariff of Rs. 2.50 per unit is in variance with the free power structure applicable for the Project of 5.00 MW capacity as per IA/ SIAs dated 24.06.2022. Since, there is variance in the free power structure in respect of IA dated 14.05.2003 and the revised SIA, the project developer (Joint Petitioner No. 2), if so advised, may approach the State Government to modify/rectify the royalty/ free power structure in respect of the Project.

25. Hence, the Petition succeeds and allowed. A composite tariff of Rs. 3.53 per kWh is allowed for the Project from the date of the commissioning of the Project.

26. It is made clear that in case any subsidy is granted for the Project, by the State/ Central Government, in future, the Joint Petitioner No. 2 shall intimate the HPSEBL and the Commission immediately and the appropriate adjustment of tariff shall be made on receipt of the same.

27. 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
04.09.2025

-Sd-
(Shashi Kant Joshi)
Member

-Sd-
(Yashwant Singh Chogal)
Member (Law)-cum-Chairman