

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

Petition No: 207 of 2025
Instituted on: 21.08.2025
Heard on: 29.08.2025
Decided on: 09.09.2025

CORAM:

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

SHASHI KANT JOSHI
MEMBER.

In the matter of:-

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

AND

M/s A. Himalayan Hydro Project,
Registered Office at House No. 123,
Ward No. 4, Raghunathpur,
Tehsil and Distt. Kullu, H.P-175101, through its,
Sh. Tilak Raj Thakur, Authorised Signatory.
.....**Joint Petitioner No. 2.**

**Petition/Application under Regulation 70 of the Himachal Pradesh
Electricity Regulatory Commission (Conduct of Business) Regulations,
2024 read with Section 151 of the Code of Civil Procedure, 1908 for the
appropriate order in furtherance of Commission's order dated
24.08.2022 in Petition No. 43 of 2022.**

Present:-

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

ORDER

This Joint Petition/ Application has been filed by the Himachal Pradesh State Electricity Board Limited (the HPSEBL/ Joint Petitioner No. 1 for short) and M/s A. Himalayan Hydro Project (the Joint Petitioner No. 2 for short) under Regulation 70 of the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2024 (the CBR, 2024 for short) read with Section 151 of the Code of Civil Procedure, 1908 pursuant to order dated 24.08.2022 in Petition No. 43 of 2022 passed by the Commission wherein the Joint Petitioners were directed to approach the Commission as per Clause 8(iv) of order dated 24.08.2022 to approach the Commission seeking continuation of tariff of Rs. 4.29 per kWh or for any other tariff as may become applicable to the Project considering the status of subsidy.

2. A Joint Petition for approval of long term Power Purchase Agreement (PPA for short) under generic levelized tariff being Petition No. 43 of 2022 in respect of Phindri Hydro Electric Project (1.20 MW) situated on Phindri Nallah, a tributary of Beas river in Distt. Kullu, Himachal Pradesh (Project for short) was allowed by the Commission vide order dated 24.08.2022 and pursuant thereto, a PPA was executed by the parties on 08.09.2022. The Project has been commissioned on 03.04.2023.

3. According to the Joint Petitioners, the Commission vide Order dated 24.08.2022 in Petition No. 43 of 2022, has observed as under:-

8. Therefore, in view of the powers vested in the Commission under Section 86 (1) (b) of the Act and taking into consideration the notifications dated 15.05.2018 and 10.10.2018 of the GoHP and Swaran Jayanti Policy, 2021 and the tentative admissible subsidy of Rs. 1.09 Crore, the Joint Petitioners have made out a case for the approval of the PPA under the generic levelled tariff 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. Hence, the Petition is allowed. The PPA is ordered to be approved subject to the following terms and conditions:

- (i) The Provisional tariff which shall be applicable to the project of Petitioner shall be Rs. 4.29 (Rupees Four and twenty nine paise only) per unit, which shall be subject to the adjustment on account of the financial assistance/subsidy, as per the provisions of ibid Regulations.
- (ii) The SCOD of the project is 24.05.2023 and considering that the release/availability of financial assistance/subsidy under "Industrial Development Scheme for Himachal Pradesh & Uttarakhand" notified by the Ministry of Commerce & Industry is yet to be received, this provisional tariff shall be applicable for a maximum period of 2 (two) years.
- (iii) The Joint Petitioner No. 2 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 Joint Petitioner No. 2 which shall form part of the PPA.
- (iv) 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 release of Financial assistance/subsidy as per item (iii) above whichever is earlier for continuation of this tariff or for any other tariff as may become applicable to the project.
- (v) The matter regarding adjustment of financial assistance/subsidy shall be governed as per the Orders as may be issued by the Commission after receipt of Petition as per item (iv) of this para.

- (vi) The clause 6.2 of PPA shall be modified to the extent that the levellised provisional tariff of Rs. 4.29 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 (iv) of this para.*
- (vii) In case of delay of project beyond 24.05.2023, the tariff of Rs. 4.29 (Rupee four and paise twenty nine only) subject to further adjustment as per item (iii) of this para shall be applicable and the same shall be firm and final.*

The copy of Order dated 24.08.2022 in Petition No. 43 of 2022 has been annexed as Annexure A-1.

4. It is averred that the Ministry of Commerce and Industry, Government of India (GoI) vide Notification No. 2 (2)/ 2018-SPS dated 23.04.2018 had notified the 'Industrial Development Scheme (IDS, 2017) for the States of Himachal Pradesh and Uttarakhand' whereby the Industrial Subsidy was being given to the Industrial Units which was effective from 01.04.2017 till 31.03.2022. The Joint Petitioner No. 2 had applied online on the portal of the DPIIT (Department for Promotion of Industry and Internal Trade) vide application No. IDS/HP/2510 on 22.03.2022 (Annexure A-2) for availing the subsidy. However, the Joint Petitioner No. 2 later discovered that the status of its Application on the DPIIT Portal is marked as "closed".

5. The Joint Petitioner No. 2 vide letter dated 08.07.2024 approached the General Manager, Distt. Industry Department, Kullu, Himachal Pradesh to ascertain the status of Application No.

IDS/HP/2510 but the Joint Petitioner No. 2 was informed vide letter No. Ind.Knu.CCIIAC/17/Misc-959 dated 03.08.2024 by the General Manager, Distt. Industry Department, Kullu, Himachal Pradesh as under:-

“M/s Phindri SHEP (IDS/HP/2510) and Thuchaning SHEP (IDS/HP/2355) had applied for registration on DPIIT portal under Industrial Development Scheme-2017. Now as on date the status of application is reflected on DPIIT portal as “closed”, so the said units are not eligible for any kind of incentive under IDS-2017.”

The copy of letters dated 08.07.2024 and 03.08.2024 have been annexed as Annexure A-3 and A-4.

6. It is averred that the Joint Petitioner No. 2 is not eligible for the Industrial Subsidy under the IDS, 2017, as mentioned above by the Directorate of Industries, Himachal Pradesh in the letter. Thus, the tariff of Rs. 4.29 per kWh, as approved by the Commission, after adjustment of admissible subsidy/ incentive of Rs. 1.09 Crore, warrants reconsideration. It is also averred that the Project's ineligibility under IDS, 2017 cannot be attributed to any lapse on part of the Joint Petitioner No. 2 as the scheme was closed on 31.03.2022. Therefore, the Joint Petitioner has left the matter regarding adjustment of subsidy in the tariff to the wisdom of the Commission and may be adjudicated in accordance with the applicable Regulations and the peculiar facts and circumstances of the present case.

7. It is averred that the Commission vide order dated 24.08.2022 in Petition No. 43 of 2022 allowed the provisional tariff of Rs. 4.29 per kWh only for a period of two years and the Joint Petitioners were directed to approach the Commission atleast one month before completion of two years from the date of issuance of the aforesaid order or immediately upon release of subsidy but there is some delay in approaching the Commission which may be condoned. Hence, the Petition.

8. We have heard Sh. Kamlesh Saklani, Authorised Representative for the Joint Petitioner No. 2 and Sh. Mohit Sharma, Ld. Counsel for the Joint Petitioner No. 2 and have perused the entire record carefully.

9. A Joint Petition being Petition No. 43 of 2022 was filed by the HPSEBL and M/s A. Himalayan Hydro Project for approval of PPA in respect of Phindri SHEP (1.20 MW) which was allowed by the Commission vide order dated 24.08.2022. Since, the status of grant of Industrial subsidy was not clear at that time, the Commission proceeded to deduct/ adjust the admissible subsidy of Rs. 1.09 Crore, as deemed availed, as an application for claiming the subsidy had been made. Moreover, it was averred in the Joint Petition that the tentative adjustment of subsidy be made in accordance with the relevant provisions. Accordingly, the tentative adjustment of Rs. 1.09 Crore as

Industrial Subsidy was made and provisional tariff of Rs. 4.29 per kWh was allowed to the Joint Petitioner No. 2 with the terms and conditions, as mentioned above.

10. The Project has been commissioned on 03.04.2023 against the SCOD which was on 24.05.2023. The Commission had determined the generic levelled tariff in respect of the 3rd Control Period w.e.f. 01.04.2020 to 30.09.2023 vide order dated 22.12.2020 in Suo Moto Petition No. 76 of 2020. The Para 8.14 of the SHP order dated 22.12.2020 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, (RE 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 Joint Petition shows that the Joint Petitioner No. 2 had applied for the subsidy on 22.03.2022 under the IDS, 2017 which was valid from 01.04.2017 till 31.03.2022.

11. The Joint Petitioners has placed on record copy of letter No. Ind. Knu. CCIIAC/17/Misc-969 dated 03.08.2024 issued by the General Manager, Distt. Industry, GoHP that the application submitted by the Petitioner is reflected as 'closed', since pre-registration had not been

granted by DPIIT and that the Joint Petitioner No. 2 is not eligible for grant of CCIAC under IDS, 2017 (Industrial Subsidy).

12. Since, the Joint Petitioner No. 2 had applied on DPIIT Portal through application No. IDS/HP/2510 dated 22.03.2022 in time, no fault whatsoever, can be ascribed to the Petitioner for non-grant of subsidy under IDS, 2017. Thus, the case of the Petitioner is beyond the scope deemed availed subsidy as mentioned in Para 8.14 of the SHP Order dated 22.12.2020 and Regulation 22-C of the RE Regulations, 2017.

13. The Commission had determined the generic levelled 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 in Suo Moto Petition No. 76 of 2020 which is as under:-

Category	Capacity	Generic levelled 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

14. The capacity of the Project is 1.20 MW qua which the PPA has already been signed on 08.09.2022. The tariff of Rs. 4.29 per kWh was allowed as per the above generic levelled tariff order in respect of the Project after adjustment of Industrial Subsidy of Rs. 1.09 Crore, being deemed availed, which has not been availed by the Joint Petitioner No.

2 as evident from letter dated 03.08.2024 of the General Manger, District Industry Centre, Kullu based on the letter dated 08.07.2024 of Department of Industries, H.P.

15. Though, the SCOD of the Project was 24.05.2023 but has been commissioned on 03.04.2023. The tariff as per the 3rd Control Period for projects having installed capacity of 100 kW to 2 MW w.e.f. 01.04.2020 to 30.09.2023 was Rs. 4.54 per kWh, and, thus, the Project is entitled for the tariff of Rs. 4.54 per kWh as no adjustment on account of Industrial subsidy is required to be made.

16. Hence, the Petition succeeds and allowed. A tariff of Rs. 4.54 per kWh is allowed for the Project from the date of the commissioning 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 and appropriate adjustment of tariff shall be made on receipt of the same.

17. 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 and SHP Order dated 22.12.2020 in Suo Moto Petition No. 76 of

2020 within a period of 30 days from the date of this Order after making appropriate additions and alterations. Three copies of the executed SPPA be submitted to the Commission for record.

18. Other terms and conditions of order dated 24.08.2022 in Petition No. 43 of 2022 shall remain the same.

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
09.09.2025

-Sd-
(Shashi Kant Joshi)
Member

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