BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION SHIMLA

Petition No: **218 of 2025**
Instituted on: 09.10.2025
Heard on: 19.12.2025
Decided on: **14.01.2026**

CORAM:

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

SHASHI KANT JOSHI
MEMBER .

In the matter of:-

M/s Varun Jal Vidyut Shakti Pvt. Ltd
Thro' its Authorized signatory Skipton Pilla,
The Ridge, Shimla H.P .... **Petitioner**

Versus

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

Application/Petition under Section 86 (1) (b) of the Electricity Act, 2003 for the approval of 2nd Supplementary Power Purchase Agreement in respect of M/s Banu Small Hydro Electric Project (5.00MW).

Present:-

Sh. Dinesh Kumar, Ld. Counsel for the Petitioner.
Sh. Kamlesh Saklani, Authorised Representative for the Respondent.

ORDER

This Petition has been filed under Section 86 (1)(b) of the Electricity Act, 2003 read with Regulations 50 and 50A of the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005, seeking approval for executing 2nd Supplementary

Power Purchase Agreement (2nd SPPA for short) at generic levellised tariff in respect of M/s Banu Hydro Electric Project (5.0 MW), situated on Banu Khad, a tributary of Beas river in Tehsil Baijnath, District Kangra H.P.(Project for short)

2. The Petitioner and the Himachal Pradesh State Electricity Board Limited (HPSEBL/Respondent for short) signed the 1st Supplementary Power Purchase Agreement (1st SPPA for short) in April 2025, pursuant to order issued by the Commission on 25.03.2025 in Review Petition No. 130 of 2024 and order dated 09.09.2024 passed in Petition No. 103 of 2024, allowing generic levellised tariff as per the 4th Control Period, as per the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from Renewable Energy Sources and Terms & Conditions for Tariff Determination Regulation, 2017 (RE Regulations, 2017 for short). The copy of the proposed draft 2nd SPPA has been annexed as **Annexure-P-1.**

3. As per the Petitioner, Petition No. 49 of 2021 was filed before the Commission seeking approval of Power Purchase Agreement (PPA for short) in respect of the Project which was allowed by the Commission vide order dated 24.03.2022 but order dated 24.03.2022 in Petition No. 49 of 2021 was reviewed vide order dated 18.05.2022 in Suo-Moto Review Petition No. 23 of 2022 and a provisional tariff of Rs. 4.28 per

kWh was granted in respect of the Project and parties signed the PPA on 10.06.2022.

4. Thereafter, a Joint Petition No. 103 of 2024 was filed by the parties for the approval of the 1st Supplementary Power Purchase Agreement which was allowed vide order dated 09.09.2024. However, a Review Petition was filed against order dated 09.09.2024 being Petition No. 130 of 2024 which was allowed vide order dated 25.03.2025 allowing provisional tariff of Rs. 4.62 per kWh. Copy of orders dated 09.09.2024 and 25.03.2024 have been annexed as **Annexure P-2A and P-2B.** Para 33 of order dated 25.03.2025 has been reproduced as under:-

> *"33. ... ... A provisional tariff of Rs. 4.62 per kWh is allowed to the project of the Respondent. The parties are directed to sign the Supplementary Power Purchase Agreement within a period of 30 days from today. The other terms and conditions as mentioned in the order dated 09.09.2024 in Petition No. 103 of 2024 shall remain the same."*
>
> *The extracts of the terms and conditions order dated 09.09.2024 are produced as under:*
>
> > *"17. ... ...*
> >
> > *(ii) The provisional tariff as allowed shall be applicable for 1 (one) year from the date of issuance of this order.*
> >
> > *(iii) The joint petitioners either jointly or individually shall approach the Commission on completion of one year from the date of issuance of this order or immediately after receiving such subsidy or rejection of the claim of industry subsidy in favour of the project, whichever, is earlier, for continuation of the above provisional tariff or any other tariff as may become applicable to the project.*
> >
> > *(iv). The final tariff shall be determined after taking into account the financial assistance/subsidy(ies) available to the project, which shall be firm and shall not be subject to any indexation, escalation and change in case of delay in commencement of operation of the project beyond 4th Contract Period."*

5. As per the Petitioner, the parties were required to approach the Commission jointly or individually after release of financial assistance or on completion of one year from the date of issuance of the Order dated 09.09.2024 for the determination of the final tariff. Accordingly, the Petitioner approached the Respondent for filing a Joint Petition but on 25.09.2025, the Respondent communicated that it is unable to file a Joint Petition and the Petitioner may approach the Commission in respect of the matter concerning adjustment of subsidy in tariff. The copy of letter dated 25.09.2025 has been annexed as **Annexure-P-3**.

6. According to the Petitioner, no financial assistance/subsidy is available from Industry Department and since the Petitioner has commissioned the Project on 22.04.2025, the Petition is being filed for the appropriate tariff after denial of capital investment/ subsidy as the Project falls under the ambit of 4^{th} control period for the category of Small Hydro Projects of 5.00 MW and above. Email/letter from the Department of Industry has been annexed as **Annexure-P-4.**

7. According to the Petitioner, as per the Technology Specific Parameters and other terms and conditions specified in Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2023 (Seventh Amendment), the tariff for

the small hydro projects of 5.00 MW and above is Rs. 4.78 per kWh, subject to adjustment on account of the following:-

- Adjustment on account of Incentive and/or subsidy and/or available to project.
- Additional Tariff on Account of O & M
- Variation of Free Power Structure
- Rounding

8. On adjustment on account of incentive/subsidy or grant, it is averred that, though the Ministry of Commerce and Industry notified 'Industrial Development Scheme for the States of Himachal Pradesh & Uttrakhand' vide Notification No. 2(2)/2018-SPS dated 23.04.2018 (IDS, 2017 for short) whereby Central Capital Investment Incentive for access to credit @30% of the investment in plant & machinery with an upper limit of Rs.5.00 Crore was being provided but said scheme has expired on 31.03.2022 and is not applicable for the Project. Further, presently no other incentive/subsidy or grant is available for the Small Hydro Projects. Further, the Department of Industry, Govt. of H.P. has confirmed that the Project is not registered under the IDS Scheme as per data available on IDS portal. Therefore, no adjustment on account of Industrial Subsidy is required to be made.

9. **On Additional Tariff on Account of O&M, it has been averred as under:-**

i) O&M Charges for category 5 MW & above project @ Rs. 35.09 per year- Rs 1.291 per kWh (Tariff Order dated 17.11.2023).

Therefore, O&M charges for 5MW Rs 45.844 per year = 1.291 45.844/35.09 = Rs 1.687 per kWh.

ii) Increase in O&M charges for 5 MW project increases working capital interest as under:
WC interest for 5 MW & above is Rs 0.107 (order dated 17.11.2023).
Increased WC interest due to the increase in O&M charges is 0.107×(1+45.844/35.09/3)=Rs 0.117 per kWh.
Therefore, net increase due to O & M charges =1.687+0.117-1.291-0.107=Rs 0.406 Say Rs 0.41 per kWh.

10. Averments regarding variation in Power Structure and rounding has also been made and that after considering all the adjustment in tariff, the final tariff for the project works out to be Rs. 4.955 per kWh, rounded off to Rs. 4.96 per kWh, which is required to be allowed and hence, the Petition.

REPLY OF RESPONDENT

11. The Petition has been resisted by the Respondent by filing reply that the Petition is not maintainable as it seeks reopening, modification and enhancement of the tariff without identifying any enabling provisions under the Electricity Act, 2003, the RE Regulations, 2017, Tariff Order dated 17.11.2023 or the terms of the executed in PPA/SPPA. As per the HPSEBL, the jurisdiction of the Commission over tariff is circumscribed by the governing Regulations and a generator cannot invoke a general right to seek tariff revision without any statutory authority.

12. Further, the Petitioner has laid challenge to the tariff order dated 17.11.2023 in Suo-Moto Petition No. 7 of 2023, order dated 09.09.2024 passed in Petition No. 103 of 2024 and order dated 25.03.2025 passed in Review Petition No. 130 of 2024 whereby, the tariff has been determined after considering all the aspects and material factors and reopening of the findings through a fresh Petition is impermissible.

13. As per the Respondent, the limited liberty granted by the Commission under order dated 09.09.2024 was only for a narrow and specific purpose of reconciliation of tariff upon actual receipt of industrial subsidy but the Commission has not allowed reopening of tariff methodology, alteration of normative components, or removal of subsidy adjustment already directed to be deemed availed.

14. Further the attempt to revise the O&M (Operational and Maintenance) computation methodology was rejected by the Commission in Suo-Moto Petition No. 7 of 2023 which has not been challenged by the Petitioner and the rejection of the earlier proposal of the Petitioner forms part of the binding tariff determination, and the Petitioner cannot now re-introduce the same methodology which was adjudicated and rejected after hearing all the stakeholders.

15. Further averred that the Petitioner, having voluntarily executed the original PPA at Rs. 4.28 per kWh, and the 1st SPPA at Rs. 4.62 per

kWh is estopped from challenging the tariff structure as both the Contractual documents were executed under the applicable Regulatory framework and tariff orders. Thus, the Petitioner cannot extricate from the contractual obligations which have been consciously undertaken and acted upon. Further, the Petition is devoid of merits, frivolous and vexatious and the Petitioner cannot be allowed to reopen and re-litigate the concluded issues.

16. As per the Respondent, the approval of PPA @ tariff of Rs. 4.28 per kWh was allowed vide order dated 24.03.2022 in the Petition No. 49 of 2021 and order dated 18.05.2022 in Suo Moto Review Petition No. 23 of 2022 as per the 3rd Control Period. However, the Project qualified for the tariff of 4th Control Period, but the same had not been determined. Consequently, a Joint Petition No. 103 of 2024 was filed seeking approval of the SPPA. Since the parties were at disagreement over adjustments of subsidy, vide order dated 09.09.2024 a provisional tariff of Rs. 4.84 per kWh was allowed for the project after accounting for

(i) additional O & M tariff of Rs. 26.1 paise per kWh; and
(ii) adjustment of Industrial subsidy of Rs. 329.86 lakhs, though tariff for project above 5.00 MW to 25 MW was Rs. 4.78 per kWh.

17. On determination of generic levelized tariff for 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 by the Commission and examining order dated 09.09.2024, the HPSEBL identified that the Commission has not factored in the variation in free power structure applicable to the project vis-a-vis considered in the Tariff Order dated 17.11.2023 and, therefore, a Review Petition No. 130 of 2024 was filed by HPSEBL which was decided by the Commission vide order dated 25.03.2025 and provisional tariff of Rs. 4.62 per kWh was allowed for the Project after adjusting the free power structure as provided under the Supplementary Implementation Agreement dated 18.09.2019 by setting out a detailed computational methodology as under:-

1. Tariff Calculation after adjustment of Free Power as per Para 7.15 (iv):			
A	Generic Levellized Tariff of 5 MW SHEP (Rs./ Unit):	4.78	(As per Tariff Order)
B	Additional Tariff on account of O&M Charges, as per Para 7.19 (B)(b) (Rs./ Unit):	0.261	
C	Total Tariff for the 5 MW SHEP Category (Rs./ Unit):	5.041	A+B
D	Generic Levellized Net Saleable Energy (MU) with free power @ 13% for 1st 12 years:	4.123518	(As per Tariff Model)
E	Levellized Net Saleable Energy at Discounted Rate of 9.52% corresponding to the free power structure of Banu SHEP (MU) i.e. (6+1)% for first 12 years:	4.317509	
F	**Tariff for Banu SHEP** after adjustment of Free Power (Rs./Unit):	4.814501	(C x D) / E
2. **Adjustment of Incentives/ Subsidy**			
G	Incentives @ 30% of the investment in plant & machinery i.e., of Rs. 1099.53/- Lakhs (for total	329.86	

	capacity of 5 MW) (Rs. In Lakhs):		
H	Incentives for 1 MW Capacity (Rs. in Lakhs):	65.972	
I	Adjustment for 1 MW against 1 Cr incentives (Rs.):	0.29	(As per Tariff Model)
J	Adjustment for 1 MW against 1 Lakh incentives (Rs.)	0.0029	(I/100)
K	Adjustment for 1 MW against 65.972 lakh incentives (Rs.):	0.1913	(H x J)
3.	**Final Tariff after adjustment of 0.1913 (Rs.):**	4.6232	(F-K)

18. Accordingly, the 1st Supplementary Power Purchase Agreement was executed by the Parties incorporating provisional tariff of Rs. 4.62 per kWh. However, the Commission has clarified in para 15 of order dated 09.09.2024 that Regulation 22-C of RE Regulations, 2017 and Para 7.13 (ii) of Tariff order dated 17.11.2023 mandates the adjustment of subsidy irrespective of whether it has been actually released, as the subsidy is deemed to have been availed for purpose of the tariff determination.

19. It is averred that the Commission has conclusively held that the admissible industrial subsidy of Rs. 329.86 lakhs must be treated as deemed availed and thus, tariff of Rs. 4.62 per kWh requires no alternation. Thus, the re-determination of tariff by the Petitioner by excluding the subsidy adjustment in untenable, contrary to the Regulations and binding order and the tariff of Rs. 4.62 per kWh though termed as provisional be declared as final.

20. Further, the Petitioner has introduced entirely a new methodology for Computation of O&M charges, seeking a tariff increase of Rs. 0.41 per kWh which is at variance with PPA, RE Regulations, 2017 and Tariff Order dated 17.11.2023 as the same methodology was earlier proposed by the Petitioner and rejected by the Commission in Suo-Moto Petition No. 07 of 2023 after recording the reasons.

21. On merits, the contents of the Petition have been denied by reiterating the submissions made by way of preliminary submissions.

REJOINDER

22. In rejoinder, the contests of the reply have been denied and those of the Petition have been reaffirmed.

POINTS FOR DETERMINATION

23. We have heard Sh. Dinesh Kumar, Ld. Counsel for the Petitioner and Sh. Kamlesh Saklani, Authorised Representative for the Respondent and have perused the entire case file carefully. On the basis of the Pleadings, the following points arise for determination in the present Petition:

Point No. 1: Whether the Industrial subsidy has not been provided to the Petitioner despite submission of application in time and no adjustment on account of Industrial subsidy is required to be made, while allowing the final tariff in respect of project?

Point No. 2: Whether the generic levellized tariff of Rs. 4.96 per kWh is liable to be allowed for the Project as per the terms and conditions specified for the 4th control period vide tariff order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023 under RE Regulations, 2017, as amended?

Point No. 3: **Final Order**

24. For the reasons to be recorded hereinafter in writing, our point wise findings are as under:-

Point No. 1: Yes.

Point No. 2: No.

Point No. 3: Petition partly allowed per operative part of the order.
(Final Order)

REASONS FOR FINDINGS

Point No. 1

25. It is simple case of the Petitioner that the IDS, 2017 expired on 31.03.2022 and the same is not applicable for the Project which has been commissioned in the month of April, 2023. It has also been claimed that no other subsidy or incentive is available for the Project. The Petitioner has further claimed that the Department of Industry, Govt. of H.P. has confirmed that the Project was not registered under the IDS, 2017 as per the data available on IDS Portal.

26. Though the Petitioner has not given any detail of registration of the Project on the DPIIT Portal yet such detail had been given by the Petitioner in Joint Petition No. 103 of 2024, wherein the Commission has observed in para 15 of order dated 09.09.2024 as under:-

> *“15. Admittedly the Project stands registered successfully in the DIPP Portal as evident from receipt of registration dated 29.03.2022. The Ministry of Commerce & Industry has not yet decided the case for subsidy of the Project. Therefore, merely because Clause 5(g) of the Notification dated 23.04.2015 (Notification No. 2(2)/2018-SPS) provides that the Commercial production/ operation needs to be commenced within 18 months of registration, it can’t be presumed that the subsidy for the Project is not available. Para 7.13 (ii) of Order dated 17.11.2023 and Regulation 22-C of the RE Tariff Regulations, 2017, as amended by the Seventh Regulations, 2023 clearly provide that the subsidy is required to be adjusted irrespective of the fact that the same has been released or not and shall be deemed to have been availed. Keeping in view of the aforesaid, the contention of the Joint Petitioner No. 2 has no merits at this stage.”*

27. Now the Petitioner has placed on record copy of e-mail dated 20.05.2025 sent by the General Manager, District Industries Center, Kangra to the Petitioner that the Project had not been registered under the IDS, 2017 and that as per the cabinet approval, the competent authority had taken a decision that the incentives under the IDS, 2017 for the States of Himachal Pradesh and Uttarakhand will only be extended to the already registered units and no claims will be entertained from the unregistered units. The petitioner has also placed on record copy of letter dated 30.07.2024 of the Department of

Promotion of Industry of Internal Trade, Ministry of Commerce and Industry, Government of India in this regard.

28. No doubt, the Respondent in its reply has mentioned that the subsidy is deemed to be availed as per the RE Regulations, 2017 and Tariff order dated 17.11.2023 and no revision or modification in the tariff is permissible but the reply of the Respondent nowhere suggests that there was any irregularity in the application submitted by the Petitioner or that subsidy has been denied due to some defects or insufficient documents on the part of the Petitioner. Sh. Dinesh Kumar, Ld. Counsel for the Petitioner has submitted that the application submitted by the Petitioner was complete in all respect and no communication in writing was sent to the Petitioner for any deficiency. In the circumstances, since the Petitioner had submitted the application for Industrial subsidy within the validity of the IDS, 2017, which was valid uptill 31.03.2022, no fault can be attributed to the Petitioner as the benefits of the industrial subsidy were extended only to the units registered upto a particular date and the units which were not registered on the portal of DPIIT by the Ministry after a particular date have been excluded though the applications for the same were received during the validity of the scheme. The Commission while approving the provisional generic levellized tariff for the Project has taken into account the Industrial

subsidy of Rs. 329.86 lakhs. Since said Industrial subsidy has not been granted, no adjustment on account thereof is required to be made in the tariff to be provided to the Project of the Petitioner. Point 1 is accordingly decided in favour of the Petitioner.

<u>Point No. 2</u>

29. The Commission while allowing the provisional tariff of Rs. 4.62 per kWh in respect of the Project has given the following computation in para 30 of order dated 25.03.2025 in Petition No. 130 of 2024 reviewing order dated 09.09.2024 in Petition No. 103 of 2024:-

"30. ……………………………………………………..

1. Tariff Calculation after adjustment of Free Power as per Para 7.15(iv) :			
A	Generic Levellized Tariff of 5MW SHEP (Rs./Unit):	4.78	(As per Tariff Order)
B	Additional Tariff on account of O&M Charges, as per Para 7.19 (B)(b) (Rs./Unit):	**0.261**	
C	Total Tariff for the 5MW SHEP Category (Rs./Unit):	**5.041**	A+B
D	Generic Levellized Net Saleable Energy (MU) with free power @13% for 1st 12 years:	4.1235 18	(As per Tariff Model)
E	Levellized Net Saleable Energy at Discounted Rate of 9.52% corresponding to the free power structure of Banu SHEP (MU) i.e. (6+1)% for first 12 years:	4.3175 09	
F	**Tariff for Banu SHEP** after adjustment of Free Power(Rs./Unit):	**4.8145 01**	(CXD)/E
2. Adjustment of Incentives/Subsidy			
G	Incentives @30% of the investment in plant & machinery i.e., of Rs. 1099.53/- Lakhs (for total capacity of 5MW) (Rs. in Lakhs):	329.86	
H	Incentives for 1 MW Capcity (Rs. in Lakhs):	65.972	(G/5)
I	Adjustment for 1 MW against 1 Cr incentives (Rs.):	0.29	(As per Tariff Model)

J	Adjustment for 1 MW against 1 lakh incentives(Rs.):	0.0029	(I/100)
K	Adjustment for 1 MW against 65.972 lakh incentives(Rs.):	**0.1913**	(H*J)
3.Final Tariff After adjustment of 0.1913 (Rs.):		**4.6232**	(F-K)

(emphasis added)

30. The Petitioner has claimed that the additional tariff on account of O&M is required to be calculated as under:-

i) O&M Charges for category 5 MW & above project @ Rs. 35.09 per year- Rs 1.291 per kWh (Tariff Order dated 17.11.2023).
Therefore, O&M charges for 5MW Rs 45.844 per year = 1.291 45.844/35.09 = Rs 1.687 per kWh.

ii) Increase in O&M charges for 5 MW project increases working capital interest as under:
WC interest for 5 MW & above is Rs 0.107 (order dated 17.11.2023).
Increased WC interest due to the increase in O&M charges is 0.107×(1+45.844/35.09/3)=Rs 0.117 per kWh
Therefore, net increase due to O & M charges =1.687+0.117-1.291-0.107=Rs 0.406 Say Rs 0.41 per kWh.

The Petitioner has, therefore, claimed that net increase due to O&M charges comes to Rs. 0.41 paise per kWh as against Rs. 0.26 paise per kWh, as allowed by the Commission.

31. This Commission has determined the tariff for the 4th Control Period vide order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023 wherein the detailed computation of O&M expenses has been given. Significantly, the Commission had invited objections and suggestions from the stakeholder while finalizing the generic levellized tariff and the

Petitioner had also submitted its objections in the said Petition. The objections filed by the Petitioner were duly considered but were not concurred by the Commission and rejected. Para 6.5 of order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023 is being reproduced as under:-

> *"**6.5 Operation & Maintenance (O&M) Expenses for SHPs of smaller capacity.-***
> *(i) M/s Jaya Hydro Power Pvt. Ltd. and M/**s Varun Jal Vidyut Shakti Pvt. Ltd**. have submitted that the additional tariff of 26.1 paisa has been provided for 5.00 MW project but the calculations for the same has not been provided. Therefore, it cannot be ascertained whether, this increase is according to the Regulations or as not, in the calculations sheet, the difference in tariff because of O&M charges is Rs. 1.661 - Rs.1.291 =Rs.0.370 against which only 26.1 paise has been provided. It is therefore, suggested that calculations for such project may be done on specific project basis.*
> *(ii) The HPSEBL has submitted that the additional tariff of SHP having capacity of 5 MW and above, but not exceeding 6.5 MW seems to be at higher side and it is suggested that a suitable provision may be incorporated in the tariff order considering above.*
>
> ***Commission's View:-***
>
> *The RE Tariff Regulations, 2017 provide that in case of SHPs having capacity of 5 MW and above, but not exceeding 6.5 MW, the aggregate annual O&M charges of not less than Rs. 229.222 Lacs shall be provided and for the purpose, the Commission shall, while determining the generic levellised tariff, evolve suitable mechanism.*
> *The Commission feels that there can be different methodologies for facilitating the minimum annual O&M charges. As brought out in the draft order itself, there can be different methodologies for working out the additional tariff. In fact, the additional tariff of about 8 paise per unit may also be able to meet the minimum requirement of Rs. 229.222 Lacs as specified in the Regulations. However, this may involve offsetting the escalation amount available to the developers under this category as per the normal base case. Significantly on one hand, the developers have suggested for the additional tariff of about 0.37 paise per unit whereas on the other hand, the Distribution Licensee is of the view that the proposed additional tariff is on the higher side.*
> *The Commission has worked out the additional tariff by considering the requirement of the additional O&M charges for the 1st year and the annual net normative saleable energy. As mentioned in the draft order, the*

additional tariff has been proposed by taking a balanced view. Therefore the suggestions do not merit consideration and the Commission decides to retain the additional tariff as proposed in the draft proposal.”

(emphasis added)

32. Significantly, the Petitioner has not challenged the order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023 which has attained finality. Hence, the Petitioner cannot be allowed to re-agitate the same by way of present Petition. Moreover, the Commission vide order dated 09.09.2024 in Petition No. 103 of 2024, has allowed the parties to approach the Commission on completion of one year from the date of order dated 09.09.2024 reviewed vide order dated 25.03.2025 in Petition No. 130 of 2024 or on receipt/ rejection of claim of industrial subsidy, whichever is earlier. The Tariff of Rs. 4.62 per kWh, as allowed, was provisional and the impact of O&M was duly considered in para 16 of order dated 09.09.2024 whereby additional tariff of Rs. 0.26 paise per kWh was allowed on account of O&M. Para 16 of order dated 09.09.2024 in Petition No. 103 of 2024 is being reproduced as under:-

“16. Manifestly, the SCOD of the Project is 12.01.2025 which falls within the 4th Control Period. The capacity of the Project is 5.0 MW. As per SHP Order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023 the tariff of the Projects from 5 MW to 25 MW is Rs. 4.78 per kWh and an additional tariff to the maximum extent of Rs. 26.1 paisa per kWh shall also be applicable to SHPs having installed capacity of 5 MW but not exceeding 6.5 MW. Since, the installed capacity of the Project is 5.0 MW, thus, the tariff of the Project comes to Rs. 5.04 (Rs. 4.78 + 26.1 paise) per kWh which is subject to adjustment of subsidy as per Regulation 22-C of the RE Regulations, 2017, as amended by Seventh Amendment Regulations, 2023 and Para 7.13 (ii) of the SHP Order

dated 17.11.2023 in Suo Moto Petition No. 7 of 2023. After making adjustment of Industry Subsidy of Rs. 329.86 Crore, the provisional tariff after such adjustment comes to Rs. 4.84 per kWh. Thus, the provisional tariff of Rs. 4.84 per kWh shall be applicable to the Project."

33. Thus, the claim of the Petitioner for the additional tariff of Rs. 0.41 paise per kWh is untenable. Point No. 2 is accordingly decided against the Petitioner and in favour of the Respondent.

APPLICABLE TARIFF

34. While working out the provisional tariff of Rs. 4.62 per kWh, the Commission has taken into account the industrial subsidy of Rs. 329.86 lakhs which has not been availed, being not sanctioned. Thus, no adjustment of said subsidy is required to be made. Hence, by not adjusting the industrial subsidy of Rs. 329.86 lakhs, the applicable tariff for the Project comes to Rs. 4.81 per kWh which shall be applicable to the Project of the Petitioner from the date of commissioning of the Project which also finds mention in para 30 of order dated 25.03.2025 in Petition No. 130 of 2024.

FINAL ORDER

35. In view of our aforesaid discussion and findings, the Petition partly succeeds and allowed. A tariff of Rs. 4.81 per kWh is granted to the Project from the date of the commissioning of the Project after excluding the Industrial Subsidy of Rs. 329.86 lakhs. However, the

claim of the Petitioner for enhanced tariff of Rs. 4.96 per kWh by allowing O&M charges of Rs. 0.41 per kWh is rejected.

36. The parties are accordingly directed to execute the appropriate 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) Regulations, 2017, as amended, from time to time, within a period of 30 days from the date of this Order after making necessary additions and alterations. Three copies of the executed SPPA be submitted to the Commission for record.

37. It is made clear that in future, if any subsidy/ incentive is released to the Project by the GoI, the Petitioner shall intimate the same to the HPSEBL and consequent deduction in tariff shall be made with the approval of the Commission.

38. Let a copy of this order be supplied to the parties forthwith.

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

Announced
14.01.2026

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