

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

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| <b>Petition No.</b>  | <b>78 of 2024</b> |
| Date of Institution: | 24.03.2024        |
| Arguments Heard on:  | 12.06.2024        |
| <b>Decided on:</b>   | <b>13.06.2024</b> |

**CORAM:**

DEVENDRA KUMAR SHARMA  
**CHAIRMAN.**

YASHWANT SINGH CHOGAL  
**MEMBER (Law).**

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

The HP Power Corporation Limited,  
Himfed Building, BCS New Shimla, HP- 171009.  
through DGM (SOP) Sh. Sangram Singh

.....**Joint Petitioner No. 2.**

**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 approval of the Power Purchase Agreement (Solar) in respect of the Bhanjal Solar Power Plant (5.0 MW<sub>ac</sub>).**

Present:-

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

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

**ORDER**

The present Joint Petition had been filed by the Himachal Pradesh State Electricity Board Ltd. (the Joint Petitioner No.1 or the HPSEBL for short) and the HP Power Corporation Limited (the Joint Petitioner No. 2 or the HPPCL for 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, as amended from time to time, (CBR, 2005 for short) in respect of the Bhanjal Solar Power Plant (5.0 MW<sub>AC</sub>).

2. The case of the Petitioners is that a Solar PV Project (10.0 MW<sub>AC</sub>) known as the Bhanjal Solar Power Plant, situated at Village Bhanjal and Khad, Tehsil Ghanari, Distt. Una, H.P. was proposed to be setup pursuant to the approval accorded by the HIMURJA (HP Govt. Energy Development Agency) vide letter No. HIMURJA (F-7) /Energy Policy- 2022-2573 dated 06.06.2023 (Annexure-IV). However, during site survey conducted by the EPC contractor, it was found feasible to provisionally accommodate a 5 MW<sub>AC</sub> capacity project at the site with a 20% overloading margin. Accordingly, the HPPCL vide letter dated 27.03.2024 requested HIMURJA for revised registration/allotment of Bhanjal Solar Power Project for the capacity 5 MW<sub>AC</sub> as per the DPR. The HIMURJA on said basis vide letter No. HIMURJA (F-7)/ Energy Policy- 2022- 376 dated 24.04.2024, has amended/revised the registration/allotment of Bhanjal Solar Power Project for a capacity of 5MW<sub>ac</sub> from 10 MW<sub>AC</sub> (Annexure-IX). As per the Joint Petition, the date of Completion/ Commissioning Schedule of the Project is 10.09.2024, as evident from Schedule-I, annexed to the Draft PPA.

3. As per Joint Petition, the Commission vide Order dated 29.02.2016 passed in Suo Moto Petition No. 104 of 2015 has finalized the Model Power Purchase Agreement for Solar PV Project and the HIMURJA has also approved the Project inventory vide letter No. HIMURJA (F-7)/Energy Policy-2022 dated 22.08.2023 (Annexure-VIII).

4. It is averred that parties the HPSEBL has provided connectivity to the project on 26.03.2024 that interconnection point shall be at LILO of 33 kV Amb-Daulatpur line and that the Bhanjal Solar Power Project shall neither be connected to control sub-station of HPSEBL nor at 33 kV/EHV sub-station of HPSEBL. Instead, the connectivity has been obtained at 33kV distribution feeder, therefore, the provisions of deemed generation shall not be applicable for Bhanjal Solar Power Project. It is averred that the parties have difference of opinion regarding applicability of deemed generation and the Commission may decide the same.

5. It is also averred that the Commission vide Order dated 04.11.2023 has determined the generic levellised tariff in respect of Solar PV Projects for FY 2023-24 (01.10.2023-31.03.2024) under the HPERC (Promotion of Generation from Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017 (RE Regulations, 2017 for short). The Joint Petitioner No. 2 has submitted an undertaking (Annexure-VI) that the project is situated in a rural area and averred that the tariff for the Projects to be set up in

areas other than Industrial and Urban areas above 1 MW and upto 5 MW<sub>AC</sub> is Rs. 3.62 per kWh as determined by the Commission vide Order dated 04.11.2023, which shall be applicable to the Project which has been incorporated in Clause 6.2 of the draft PPA.

6. We have heard Sh. Kamlesh Saklani, Authorised Representative for the Joint Petitioner No. 1 and Sh. Rohit Sharda GM (Generation) for the Joint Petitioner No. 2 and have perused the entire record carefully.

7. The perusal of record shows that the HIMURAJ vide provisional registration letter No. HIMURJA (F-7)/Energy Policy- 2022-2573 dated 06.06.2023 had allotted the project for 10 MW<sub>AC</sub>. However, during the site survey by the EPC contractor, the feasibility was found at site only to accommodate a solar power plant of 5 MW<sub>AC</sub> with 20% overloading margin. The Joint Petitioner No. 2 on taking up the matter with the HIMURJA for the revised capacity, the HIMURJA vide provisional registration vide letter No. HIMURJA (F-7) / Energy Policy- 2022- 376 dated 24.04.2024 has registered the project for a capacity of 5 MW<sub>AC</sub>. Accordingly, an application for amending the Petition was filed by the Joint Petitioners, which was allowed vide order dated 12.06.2024 and amended Petition has been taken on record. Thus, the project capacity is only 5MW<sub>AC</sub> and the Petition is within the ambit of HPERC (Promotion of Generation from Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017, as

amended from time to time, (RE Regulations, 2017 for short) and order dated 04.11.2023 in Suo Moto Petition No.06/2023 determining the generic leveled tariff for solar PV project for a period w.e.f 01.10.2023 to 31.03.2024.

8. It is evident from the record that the connection agreement in respect of the Project has been signed by the Joint Petitioners on 28.03.2024, a copy whereof has been placed on record. As per the connection agreement, the Interconnection Point of the project has been provided at proposed 33 kV switching station through LILO arrangement on 33 kV Amb-Daulatpur line emanating from 132/33kV sub-station Amb with appropriate Protection arrangement and that no deemed generation shall be claimed by the Joint Petitioner No. 2 in case of break down/shut down of 33 kV Amb-Daulatpur feeder.

9. As per clause (ii) of sub-clause (b) of Para 4.3.5 of the Swaran Jayanti Energy Policy- 2021, notified on 20.01.2022, Solar Power Project of capacity greater than 1 MW upto 5 MW and the energy generated from these Solar Power Projects shall mandatorily be purchased by the HPSEBL, if commissioned on or before 31.03.2030 at HPERC approved tariff applicable on the date of allotment of the Project.

10. It is evident from the letter of the HIMURJA dated 24.04.2024 that the tariff in respect of the Project shall be as per the rates

determined by the HPERC. As per Schedule-I attached to the draft PPA, the SCOD of the project is 10.09.2024.

11. The Commission vide Order dated 04.11.2023 in Suo Moto Petition No. 06 of 2023 has determined the generic levelised tariff for Solar PV Power Projects for FY 2023-24 (for a period w.e.f. 01.10.2023 to 31.03.2024) as under :-

| Sr. No.   | Capacity                                                                     | Generic levelised tariff (Rs. Per kWh) |
|-----------|------------------------------------------------------------------------------|----------------------------------------|
| <b>1.</b> | <b>Projects to be set up in other than industrial areas and urban areas.</b> |                                        |
| (a)       | Upto 1.00 MW                                                                 | 3.65                                   |
| (b)       | Above 1.00 MW & upto 5.00 MW                                                 | 3.62                                   |
| <b>2.</b> | <b>Projects to be set up in industrial areas and urban areas</b>             |                                        |
| (a)       | Upto 1.00 MW                                                                 | 3.70                                   |
| (b)       | Above 1.00 MW & upto 5.00 MW                                                 | 3.67                                   |

12. This Project is situated in the rural area as per undertaking (Annexure-VI). The capacity of the Project is 5.0 MW<sub>AC</sub>. Thus, the Project is entitled to the tariff of Rs. 3.62 per kWh, which is subject to adjustment of capital subsidy, if any. However, in case commissioning of the Project is delayed beyond SCOD i.e. 10.09.2024, and the tariff in the said control period is less, the Joint Petitioner No. 2 shall have to provide power to the Joint Petitioner No. 1 on said tariff only.

13. It is evident from the letter No. HIMURJA (F-7) / Energy Policy-2022- 376 dated 24.04.2024 that 5 paisa per unit will be levied as royalty by the State Government. The Government of Himachal Pradesh vide notification No. MPP-F(10)-43/2023 dated 21<sup>st</sup> September, 2023 amending clause 4.3.11 of the Swaran Jayanti Energy Policy, 2021 has levied a tariff based royalty of 5 paise per unit

on commissioning Solar Power Project having capacity of more than 1 MW. Since, this provision has come into being w.e.f 21.09.2023, the tariff based royalty has to be paid in the manner provided in the policy to the State Government. Accordingly, the royalty as provided i.e. 5 paise per unit shall be worked out by the HPSEBL from the generation of the project and shall be payable @ 5 paise per unit to the Government of HP over and above the approved tariff of the project which shall be eligible for the pass through.

14. The parties are at a dispute over the deemed generation benefit. The connection agreement dated 28.03.2024 clearly provides that no deemed generation shall be claimed by the Joint Petitioner No. 2 in case of breakdown / shut down of 33 kV Amb-Daulatpur feeder. Once both the parties have signed the connection agreement and have bilaterally agreed that the deemed generation will not be applicable, the Commission is not inclined to offer any other interpretation to the Agreement.

15. Though, it has also been mentioned in the Petition that the feasibility at the site is only for a project of 5 MW<sub>AC</sub> with a 20% overloading margin. However, the provisional registration letter dated 24.04.2024 do not provide for the same. The generic levellised tariff is only in respect of the project upto 5 MW<sub>AC</sub> only. Therefore, any energy over and above 5 MW<sub>AC</sub> shall not be eligible for generic levellised tariff and no generation over and above 5 MW<sub>AC</sub> shall be allowed to be

generated. In case of the project is found to be generating energy over and above 5 MW<sub>AC</sub>, the generic levellised tariff shall be deemed to have been denied and in such eventuality, the tariff shall be revisable to the latest SECI determined tariff. Similarly, the Joint Petitioner No. 2 shall also not setup the solar power plant adjacent to the above site of 5 MW<sub>ac</sub> and if such project is setup, the same will amount to the denial of the generic levellised tariff in respect of Bhanjal Solar Power Plant.

16. The Petition is supported by the affidavits of the respective parties.

17. Therefore, in view of the powers vested in the Commission under Section 86 (1) (b) of the Act, read with Regulations 50 and 50-A of the CBR, 2005, as amended from time to time, the Joint Petitioners have made out a case for the approval of the Power Purchase Agreement (Solar) in respect of the Project. Hence, the Petition succeeds and allowed. The PPA is ordered to be approved subject to the following conditions:-

- (i) The tariff of Rs. 3.62 per kWh will be applicable to the Project of the Joint Petitioner No. 2 which will be subject to further adjustment of subsidy, if any, and is provisional.
- (ii) The undertaking of the Joint Petitioner No. 2 that the Project is at rural area shall form the part of the PPA. Similarly, the connection agreement dated 28.03.2024 shall also form part of the PPA.
- (iii) The Joint Petitioner No.2 shall apply to the State/Central Government or its designated department(s)/agency(ies), for grant

of applicable subsidy/financial assistance to the Solar Power Project immediately on receipt of this Order, if not already applied, and shall intimate the Joint Petitioner No.1 i.e. HPSEBL of 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 undertaking to this effect shall be furnished by the Joint Petitioner No. 2 which shall form part of the PPA.

- (iv) The Joint Petitioner No. 2 shall make an endeavour to avail the admissible subsidy/financial assistance (if any). In case the subsidy/financial assistance is not availed or the Joint Petitioner No. 2 fails to approach the State/Central Government or its designated Department(s)/agency(ies), the same shall be deemed to have been availed by the Joint Petitioner No. 2 and the Joint Petitioner No. 1 shall carry out the adjustment of such benefit, if any, admissible to the project after a period of 2 years from the date of the Order, as per order dated 04.11.2023 passed by the Commission in Suo-Moto Petition No. 06/2023. The Joint Petitioner No. 1 shall also intimate the Commission in this regard on making adjustment.
- (v) The Scheduled Date of Synchronisation of the Project is 30.08.2024 and Scheduled Commercial Operation Date (SCOD) of the project is 10.09.2024 which has been specified in Schedule-I which shall form a part of the PPA. In case commissioning of the Project is delayed beyond SCOD i.e. 10.09.2024, and the tariff in the said control period is less, the Joint Petitioner No. 2 shall have to provide power to the Joint Petitioner No. 1 on said tariff only.
- (vi) The generic levellised tariff is only in respect of the project upto 5 MW<sub>AC</sub> only. Therefore, any energy over and above 5 MW<sub>AC</sub> shall not be eligible for generic levellised tariff and no generation over and above 5 MW<sub>AC</sub> shall be allowed to be generated. In case of the project is found to be generating

energy over and above 5 MW<sub>AC</sub>, the generic levellised tariff shall be deemed to have been denied and in such eventuality, the tariff shall be revisable to the latest SECI determined tariff. Similarly, the Joint Petitioner No. 2 shall also not setup the solar power plant adjacent to the above site of 5 MW<sub>AC</sub> and if such project is setup, the same will amount to the denial of the generic levellised tariff in respect of Bhanjal Solar Power Plant and in such eventuality the tariff shall be revisable to the latest SECI determined tariff.

- (vii) Accordingly, the royalty as provided i.e. 5 paise per unit shall be worked out by the HPSEBL from the generation of the project and shall be payable @ 5 paise per unit to the Government of HP over and above the approved tariff of the project which shall be eligible for the pass through.
- (viii) Clause 2.2.43, 2.2.44, 2.2.56 of Article 2, Clause 5.7 of Article 5 and Clause 9.1 (k) of Article 9 of the Draft PPA, shall be strictly aligned with connection agreement is to be signed by the Joint Petitioners.
- (ix) Clause 2.2.57 of Article 2 and Clause 7.1A of Article 7 of the draft PPA shall be deleted.
- (x) Note specified in second para clause 8.1 of Article 8 of the draft PPA shall be deleted.
- (xi) Clause 6.4.1, 6.4.2 and 6.4.3 of the Article of 6 of the draft PPA shall be deleted and following and substituted as under:  

“No deemed generation shall be applicable to Bhanjal Solar Power Plant”.
- (xii) In sub-clause (2) clause 8.8 of Article 8 of the draft PPA, the word and figure “22-B” shall be substituted with the word and figure “22-C”.

18. Other terms and conditions of the PPA shall be subject to provisions of the RE Regulations, 2017 and Order dated 29.02.2016 in

Suo-Moto Petition No. 104/2015 whereby Model PPA for Solar PV Projects has been finalized and the Order of Commission dated 04.11.2023 in Suo-Motu Petition No. 06 of 2023 issued under the aforesaid Regulations.

19. 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.

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

The file after needful be consigned to records.

Announced  
**13.06.2024**

-Sd-  
(Shashi Kant Joshi)  
Member

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

-Sd-  
(Devendra Kumar Sharma)  
Chairman