



## Sikkim State Electricity Regulatory Commission

**Coram: Shri K.B. Kunwar, Hon'ble Chairperson**

**Case No. P-01/PPA/2021-22**

**In the matter of:**

**An application under section 86(1) (b) read with Section 61,62 and 64 of the Electricity Act, 2003 and other enabling provisions for Approval of Power Purchase Agreement executed by and between M/s Hanuman Ganga Hydroprojects Pvt. Limited and Power Department, Government of Sikkim on 04.03.2021 for purchase of power from 7 (seven) small hydropower projects of Sikkim.**

**Present:**

**For the Power Department, Government of Sikkim:**

1. Shri P.M. Sharma, Principal Chief Engineer
2. Shri Dilip Kr. Sharma, Chief Engineer

**For the Petitioner :**

1. Shri Vishnu Kumar, Bhargava Project Head (Commercial), M/s Hanuman Ganga Hydro projects Pvt Limited.
2. Shri Gaurav Agarwal, DGM (Power Sales).
3. Shri Shashwat Kumar, Advocate
4. Shri Naman Mittal, Advocate

**Date of Hearing: 08.12.2021**

**Date of Order: 10<sup>th</sup> December 2021**

- (a) The Principal Chief Engineer cum Secretary, Power Department, Government of Sikkim filed an application before the Sikkim State Electricity Regulatory Commission (Commission) on 06.09.2021 under Section 86 of the Electricity Act, 2003 and other enabling provisions for approval of the Power Purchase Agreement executed by and between M/s Hanuman Ganga Hydroprojects Pvt Limited (HGHPL) and Power Department, Govt. of Sikkim (PDS) for purchase of power from 7 (seven) small hydropower projects leased to HGHPL by the PDS. The Commission vide its letter No. 381/SSERC/2021-22/186 dated 08.09.2021 directed the PDS to file a fresh application/petition before the Commission duly following the procedures laid out in the COMMISSION (Conduct of Business) Regulations, 2012 and COMMISSION (Terms and Conditions for Determination of Tariff for Generations from Renewable Sources) Regulations, 2012. Thereafter, the PDS vide its letter No. 09/CE/FPP/E&P/2021/16 dated 15.09.2021 informed the Commission it had authorized HGHPL to appear, represent file and submit petition before the Commission for approval of the Power Purchase Agreement (PPA) dated 04.03.2021. Accordingly, HGHPL filed a petition before the Commission on 06.10.2021. The Commission admitted the petition on



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11.10.2021 and the matter was registered as Case No. P-01/PPA/2021-22. The salient features of the PPA are as follows:

- (b) PDS had issued a notice on 26.08.2020 inviting Expression of Interest and Request for Proposal for selection of a Technical Partner to “renovate, operate, maintain and transfer (ROMT)” seven existing small hydroelectric projects in the State of Sikkim.
- (c) HGHPL and other bidders participated in the bid and after evaluation of the bids, HGHPL was selected as the “Technical Partner” and a Letter of Award was issued by the PDS on 07.12.2020 to HGHPL for submission of financial offer. HGHPL submitted their financial offer to the PDS on 05.01.2020
- (d) The PDS, after evaluation of the financial offer, issued another Letter of Award on 24.02.2021 to HGHPL awarding the seven Hydroelectric Projects (HEPs) to HGHPL and after rounds of discussions and negotiations, a Power Purchase Agreement (PPA) was executed on 04/03/2021 by and between the PDS and HGHPL, leasing 7(seven) HEPs with total generating capacity of 26.2 MW to HGHPL for a period of 35 years from Commercial Operation Date (COD) of each HEP unless extended on mutually agreed terms. The PPA dated 04.03.2021 outline the terms and conditions, tariff, and other items agreed by the parties.
- (e) As per the terms of the PPA, the PDS shall purchase the entire energy at the Interconnection Point, i.e. Net Saleable Energy, from the 7 HEPs from the COD of the HEPs. In the event of the PDS defaults in payments for the power supplied, HGHPL shall sell power to third party after giving notice of 30 days to the PDS. The PDS shall also be entitled for free power (at no cost) from the total energy generated in the 7 (seven) HEPs as indicated below:
  - (i) 12% of total energy for 1<sup>st</sup> 10 years from COD
  - (ii) 15% of total energy from 11<sup>th</sup> to 20<sup>th</sup> years from COD
  - (iii) 18% of total energy from 21<sup>st</sup> to 35<sup>th</sup> years from COD
  - (iv) In the event of HGHPL enhancing the capacity of any of the HEPs beyond the present capacity, then 5% (five percent) free power (at no cost) out of the total energy generated from such enhanced capacity shall be given to PDS.
- (f) The maximum allowable period for achieving the COD shall be 72 (seventy two) calendar months from the date of signing of the PPA.
- (g) PDS being a State Government Department, the provisions/terms and conditions of the PPA dated 04.03.2021 required approval of the State Government and thus the PPA was filed before Commission for approval after due concurrence by the State Government.
- (h) The negotiated levelised tariff agreed by the Parties under the PPA is Rs. 3.91/KWh. The tariff has been arrived based on Generic Tariff for Small Hydropower Projects for North Eastern States for the Financial Year 2020-21 issued by the Central Electricity Regulatory Commission(CERC) through order dated 21<sup>st</sup> July, 2020 in Petition No. 13/SM/2020 (Suo-moto)
- (i) As per the terms agreed by the Parties, the tariff shall be revised depending on the date of achieving COD in accordance with Clause (6) of CERC (Terms and Conditions for Tariff Determination from Renewable Energy Sources) Regulations, 2020 as given below:



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- For the units achieving COD by 31<sup>st</sup> March, 2022, the tariff shall be Rs. 3.91/kWh for the entire term of the PPA.
  - For the units achieving COD after 31<sup>st</sup> March, 2022, the tariff shall be 81 (Eighty One) paise less than CERC Tariff for Renewable Energy for generating capacity between 5MW to 25MW and 125 paise less than CERC Tariff for Renewable Energy for units with generating capacity less than 5MW, for the entire term of the PPA.
- (j) In case due to change in law, there is increase or decrease in the generator's costs directly attributable to the project during construction period, or by one percent (1%) of the estimated revenue from electricity for the contract year, for which such cost becomes applicable or more, during operation period, the tariff payable to the generator shall be appropriately increased or decreased with due approval of the Commission and the State Government.
- (k) In case of change in law (modification, amendment, variation, introduction, enactment or repeal of any tax, resulting in a change in the incidence of tax liability), the generator shall be allowed an increase/decrease in tariff of 1(one) paise per unit for every increase/decrease of Rs. 2.00 (Two) Lakh per MW, pro-rated for amount less than 2 (Two) Lakh per MW, in the Project Cost incurred up to the Commercial Operation Date upon submission of proof of payment made by the generator to the concerned authority and with due approval of the Commission and the State Government.
- (l) In view of the above, HGHPL prayed before the Commission to approve the Power Purchase Agreement executed on 04.03.2021 by and between HGHPL and PDS for purchase of power from 7(seven) Small HEPs with an installed capacity of 26.2 MW for a contract period of 35 (Thirty five) years from the Commercial Operation Date of each HEP on negotiated non-preferential tariff agreed by the Parties.
- (m) Commission placed the petition of HGHPL in its official website along with a Public Notice dated 11.10.2021, soliciting suggestions and objections from stake holders latest by 3.00 pm of 26<sup>th</sup> October, 2021. No suggestion and objection was received by the Commission within the stipulated time-period.

### Observations of the Commission

- (i) The Commission observed that approval of the Commission is required as per Section 86 and other enabling sections of the Electricity Act, 2003, vis-a-vis in terms of Regulation (6) sub-regulations (3) of SSERC (Terms and Condition for Determination of Tariff for Generation from Renewable Energy Sources) Regulations, 2012.
- (ii) The Commission noted that the Government of Sikkim had taken a decision to lease the 7 (seven) HEPs to HGHPL on '**as is where is**' condition and that no any investments will be made in the HEPs by the Government of Sikkim or the PDS. The Commission also noted that out of the 7 (seven) HEPs leased to HGHPL, only 2 (Two) HEPs (Meyong Chu and Rabom Chu HEPs) were partially operational and rest of the HEPs are lying non-operational for the last many years.




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- (iii) The Commission noted that the Government of Sikkim had accorded concurrence for purchase of total power from the 7(seven) HEPs at negotiated levelised tariff as agreed by the Parties and provided under Clause 30 sub-clauses (1) and (2) and Clause 27 sub-clauses (a) and (b) of the PPA.
- (iv) The Commission also noted that as per Clause 30 sub-clause (5) of the PPA, if HGHPL enhances the capacity of any of the HEPs, the Parties have agreed that the PDS shall consider the request of the Generator (HGHPL) to increase the tariff relating to the CERC Generic Tariff for such enhanced capacity on merit.
- (v) The Commission scrutinized the PPA dated 04.03.2021 and also sought clarification/justifications and supporting documents from the petitioner vide letter No. 381/SSERC/2021-22/263 dated 24.11.2021.
- (vi) The Petitioner (HGHPL) vide its rejoinder dated 3<sup>rd</sup> December 2021 filed/submitted its clarifications/justifications and other supporting documents to the Commission.
- (vii) The Commission heard the parties on 08.12.2021 and noted the submissions and clarifications given by the Parties.
- (viii) The Commission observed that the negotiated non-preferential tariff of Rs. 3.91/KWh agreed between the parties is lower than the Average Power Purchase Cost (APPC) of Rs. 4.03/kWh for F.Y 2020-21 approved by the Commission.

### ORDER

- (I) The Commission after considering the above facts approves the Power Purchase Agreement executed on 04.03.2021 by and between HGHPL and PDS for sell/purchase of entire quantum of power from 7(seven) Hydropower Projects totalling 26.2 MW for the period of 35 (thirty Five) years from the Commercial Operation Date of respective HEPs.
- (II) PDS and HGHPL shall comply with the provisions of applicable law regarding Scheduling and Dispatching, State Grid Code, Electricity Supply Code, Intra-State Open Access etc.
- (III) Any changes/modifications or alterations of the terms and conditions of the PPA dated 04.03.2021 shall be done with prior approval of the Commission.
- (IV) The case No. P-01/PPA/2021-22 is disposed.
- (V) Copies of this order be served to the PDS and HGHPL.

  
(K.B.Kunwar) 10/12/2021  
Chairperson