

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

Petition No. 44 of 2024
alongwith IA No. 21 of 2024
Date of Hearing: 16.10.2024
Date of Order: 21.10.2024

Petition under section 86(1)(b) and 86 (1)(e) of the Electricity Act, 2003, as read with the Applicable provisions under the Punjab State Electricity Regulatory Commission (Power Purchase and Procurement Process of Licensees) Regulations, 2012; Regulation 46 of the Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 for approval of power procurement from the grid connected 2 MW Mini Hydel Plant owned and operated by M/s Aqua Power Limited in the State of Punjab and approval of the Supplementary Power Purchase Agreement in respect thereof.

And

In the matter of: Punjab State Power Corporation Limited, The Mall, Patiala, Punjab- 147001.

...Petitioner

Versus

1. M/s Aqua Power Limited, Head Office: SCO 140-141 Sector 34-A, Chandigarh, Punjab-160022
2. Punjab Energy Development Agency, Solar Passive Complex, Plot No. 1 & 2, Sector 33-D, Chandigarh-160020.

...Respondents

Commission: Sh. Viswajeet Khanna, Chairperson
Sh. Paramjeet Singh, Member

PSPCL: Ms. Poorva Saigal, Advocate (through VC)
Ms. Harmohan Kaur, CE/ARR&TR, (through VC)

M/s Aqua
Power Ltd.: Sh. Puneet Tangri/APPL

PEDA: None

ORDER

1. Punjab State Power Corporation Limited (PSPCL) has filed the instant petition for seeking approval of extension in its power procurement arrangement from the grid connected 2 MW (2 plants of 1MW each) MHPs of M/s Aqua Power Limited (APL). It has been submitted that:

1.1 PSPCL is a distribution licensee and has been procuring electricity including from RE Sources to meet the power supply requirements of the State. And, the Respondent No. 1 (APL) owns and operates 2 MW MHPs (1 MW each at Chakhbai and Dadahur) set-up under the Implementation Agreement (IA) signed with the State Nodal Agency PEDDA.

1.2 As per the Clause 4.3 of the IA, the term of the IA is of 30 (thirty) years from the Commencement of Commercial Operations of the Project (i.e. till 13.11.2034). Further, the IA specifies that a valid and enforceable PPA with PSPCL shall exist at all times during the Agreement Period. Accordingly, PSPCL (erstwhile PSEB) and APL entered into a Power Purchase Agreement (**PPA**) dated 19.07.2004, to cover the sale of power from APL's 2 MW MHPs. The relevant extracts of the PPA are reproduced below:

*“2.1.1 The Board shall purchase and accept all energy made available at the interconnection point from the Generating Company's facility, pursuant to the terms & conditions of this Agreement at the rate approved by the Commission, which is set out below
Rs.3.01 per KWH (base year 2000-01) with 5% annual escalation on yearly basis up to 2004-05. No escalation in the rates will be allowed beyond 2004-05.*

The escalated tariff will be applicable from 1 day of April of each year. The rate would be uniform throughout the day for the entire year. No additional payment shall on any account, be payable by the Board

.....

“12.0.0 TERM OF THE AGREEMENT

12.1.0 Except where terminated by default, this Agreement shall remain in force for a period of 20 (twenty) years from the date of commissioning of the Project, which would be extended by another 10 (ten) years through mutual agreement.”

These projects were commissioned on 14.11.2004, accordingly the period of 20 years is going to expire on 13.11.2024.

1.3 On 12.12.2022, this Commission notified that Renewable Purchase Obligations (**RPO**), to be fulfilled in energy terms as a percentage of total consumption of electricity, as under :

Financial Year	RPO
2023-24	27%
2024-25	30%
2025-26	33%
2026-27	36%
2027-28	39%
2028-29	41%
2029-30	43%

1.4 On 26.02.2024, APL requested PSPCL for extension of the PPA dated 19.07.2004 by another 20 years from 13.11.2024 to 13.11.2044, submitting that its request for increasing the tenure of the IAs from the existing term of 30 years to 40 years, in line with

the useful life considered in the revised CERC Regulations, is already pending with PEDDA.

1.5 That, on 06.03.2024, PEDDA intimated PSPCL that:

“...it is informed that the Implementation Agreement dated 30.8.2001 is still valid upto 17.11.2034. As far as extension in the validity of IA beyond 17.11.2034 is concerned, it is informed that PEDDA vide letter no. 884 dated 27.2.2024 had forwarded the request letter dated 25.9.2023 of M/s. Aqua Power Private Limited to Chief Engineer (Canals) WRD, with the request to convey their concurrence for extending the tenure of Implementation Agreement dated 30.08.2001 from 18.11.2034 to 18.11.2044.”

1.6 On 30.04.2024, a meeting was held between APL and PSPCL, wherein , after negotiations, it was agreed as under:

“2.The Company representative in the meeting requested the committee members to extend the PPA dated 19.07.2004 for another 20 years from 14.11.2024 onwards at the existing tariff of Rs. 3.658 without any escalation.....

3. PSPCL Committee Members has requested for the reduction in tariff in view of the present pricing scenario of available NRSE projects.

4. After long deliberations, the firm agreed and has given their consent vide its letter dated 30.04.2024 to extend the PPA for 10 years at tariff of Rs. 3.50/KWh without any escalation and further conveyed that if the firm is able to submit the extended IA from PEDDA upto 2044 then the tariff of Rs. 3.50/KWh should be given to them for entire implementation Agreement period.”

1.7 That, the negotiated tariff of Rs. 3.50/kWh is in consonance with the recent tariffs allowed by the Commission in case of the following MHPs located in the State:

Sr. No.	Name of Firm	Installed Capacity	Date of PPA	Fixed Tariff (without any escalation)
1	M/s Thind Power Pvt. Ltd.	2 MW	11.01.2023	Rs. 3.75/KWh for 35 years.
2	Punjab Genco Limited (for an extended period of 15 years)			
a)	MHP-Chupki	1.5 MW	09.02.2024	Rs. 3.75/KWh
b)	MHP-Narangwal	1.5 MW		
c)	MHP-Tugal	1.5 MW		
d)	MHP-Dalla	1.0 MW		
e)	MHP-Bowani	1.0 MW		
f)	MHP-Khatra	1.0 MW		
g)	MHP-Kanganwal	1.3 MW		
h)	MHP-Jagera	1.0 MW		Rs. 3.65/KWh

Further, the said power procurement shall also help PSPCL in fulfilling its RPO targets notified by the Commission.

2. After considering the averments made in the Petition, the same was admitted vide the Commission's Order dated 18.09.2024 with the direction that notice be issued to the Respondents to file a reply to the petition with a copy to the Petitioner, who may file its rejoinder thereto, if any, thereafter. In compliance thereto, APL submitted its reply dated 23.09.2024, reiterating the facts submitted by PSPCL and requesting that the prayers made by the Petitioner PSPCL may be accepted/ allowed. APL also filed IA Nos. 20 & 21 of 2024, seeking an amendment in the memorandum of parties from 'M/s Aqua Power Limited' to 'M/s Aqua Power Private Limited' and praying for an early hearing of the matter as the existing contract period of 20 years would come to an end on 13.11.2024.
3. The Petition was taken-up for hearing on 16.10.2024 and the APL's submission regarding its conversion to Private Limited Company was also taken on record, thereby disposing of the IAs filed by the APL. After

hearing the parties, the Commission allowed the prayer in the Petition as per the detailed order below:

4. Observations and Decision of the Commission:

The Commission has examined the submissions made by the parties. The Petition is for seeking approval for extension in PSPCL's power procurement arrangement with APL's 2 MW MHPs set up in the State. The Commission refers to the relevant provisions of the Electricity Act and PSERC Regulations framed there under for regulating the Power Purchase and Procurement process of the Licensee, which mandates the Commission to examine the same primarily on the criteria of its 'Necessity and Conformity with the Government Policies' and 'Reasonability of Cost'. The Commission examines the same as under:

a) Issue of 'Necessity' and 'Conformity with the Government Policies':

PSPCL's plea is that the proposed extension in period of the impugned contracted capacity of 2 MW Hydro power shall benefit it towards fulfilling the RPO targets in terms of the PSERC (Renewable Purchase obligations and its compliance) Regulations 2022.

The Commission observes that PSPCL's impugned power procurement arrangement, from APL's MHPs, set-up under the Implementation Agreement (IA) signed with the State Nodal Agency, is in place since 2004 and is accounted towards fulfillment of its RPO obligations mandated under the Electricity Act read with PSERC Regulations. Since, PSPCL is still striving hard to meet its mandated RPO targets, the extension in period of procurement of RE power from APL's MHPs for the balance period of 10 years of the Implementation

Agreement fulfils the criteria of 'Necessity' and 'Conformity with the Government Policies'.

b) Issue of the 'Reasonability of Cost':

The Commission observes that Article 12.1.0 of the PPA signed between the parties, reproduced above in Para 1.2 of this Order, provides that the term of the agreement is for a period of 20 (twenty) years from the date of commissioning of the Project which would be extended by another 10 (ten) years through mutual agreement. In terms of the same, the parties have mutually agreed to a negotiated tariff of Rs. 3.50/kWh without escalation for the extended period of 10 years. This tariff is lower than the last applicable tariff of Rs. 3.658/kWh to APL's projects as well as the tariff of Rs. 3.65-3.75/kWh allowed recently for the balance useful life 15 years of M/s Punjab Genco's MHPs in Petition No. 40 of 2023.

In view of above, the Commission allows PSPCL's proposed power procurement arrangement of 2 MW from APL's MHPs at a fixed tariff of Rs. 3.50/kWh, without any escalation, for the extended period of 10 years in term of the PPA read with the IA. The Commission also wishes to point out that it does not approve the detailed terms and conditions of the 'PPA/SPPA', which are to be decided by the contracting parties with mutual consent.

The Petition is disposed of in terms of the above observations.

Sd/-

(Paramjeet Singh)
Member

Sd/-

(Viswajeet Khanna)
Chairperson

Chandigarh

Dated: **21.10.2024**