

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 45 of 2016

In the matter of:

Petition seeking determination of provisional tariff in anticipation of completion of Tanga Small Hydropower Project (5MW) of Himalaya Hydro Pvt. Ltd., as per Regulation 13, sub-clause (2) and Regulation 10, sub-clause (2) (option for fixation of "Project Specific Tariff") of UERC (Tariff and other terms for supply of electricity from non-conventional and renewable energy sources) Regulations, 2013.

In the matter of:

M/s Himalaya Hydro Pvt. Ltd.

...Petitioner

AND

In the matter of:

Uttarakhand Power Corporation Ltd.

...Respondent

CORAM

Shri Subhash Kumar Chairman

Date of Hearing: October 4, 2016

Date of Order: February 6, 2017

The Order relates to the Petition dated 14.09.2016 filed by M/s Himalaya Hydro (P) Ltd. (hereinafter referred to as "the Petitioner") for determination of provisional tariff in anticipation of the completion of Tanga Small Hydropower Project (5MW) (hereinafter referred to as "the project") in accordance with sub-Regulation (2) of Regulation 13 and Regulation 10(2) (option for fixation of "Project Specific Tariff") of UERC (Tariff and other terms for supply of electricity from non-conventional and renewable energy sources) Regulations, 2013 (hereinafter referred to as "the RE Regulations, 2013").

1. Background and Petitioner's submission

1.1 The Petitioner is a company incorporated under the Companies Act, 1956. The Petitioner is in the process of implementation of 5 MW Tanga SHP project at Seraghat Village,

Pithoragarh. The Petitioner had already intimated the distribution licensee, Uttarakhand Power Corporation Limited (hereinafter referred to as “the Respondent” or “UPCL”) its option to seek “Project Specific Tariff” as per Regulation 10(2) of the RE Regulations, 2013 vide letter dated 18.06.2016 for its 5 MW Tanga SHP project.

- 1.2 The Petitioner has prayed for the provisional tariff for the project under Regulation 13(2) of the RE Regulations, 2013 based on the capital expenditure of Rs. 67.98 Crore actually incurred as on 31.08.2016 supported by the auditor’s certificate. The Petitioner further submitted that it shall make a fresh application for the determination of the final tariff after commissioning of the project.
- 1.3 The Petitioner submitted that the project was to be commissioned in the second half of the year 2013 and the project had achieved substantial progress to meet the target. However, the project suffered extensive damage during the unprecedented floods of June, 2013 and as a result the project work was interrupted. The Petitioner had expected to complete the project at an approximate cost of about Rs. 49.90 Crore (including Interest During Construction - IDC) prior to the floods.
- 1.4 The Petitioner submitted that due to the flash floods in 2013 the estimated completion cost of the project was worked out to Rs. 67.94 Crore and IREDA has approved the project cost as Rs. 68.73 Crore. The Petitioner submitted that the increase in project cost was primarily due to the increase in IDC, which was about 33% of total project cost, and the same was on account of delay in commissioning caused by the flood and its aftermath i.e. a force majeure event. The Petitioner further submitted that upon its expected completion in November, 2016, the final completion cost is estimated to be about Rs. 72.40 Crore.
- 1.5 The Petitioner submitted that it will not be able to recover its Annual Fixed Charges (AFC) with the generic tariff as specified in UERC Tariff Regulations, 2013. The normative capital cost as per the Regulations, 2013 is Rs. 7.85 Crore/MW working out to a normative project cost of Rs. 39.25 Crore against the expenditure incurred of Rs. 67.98 Crore till August, 2016. The Petitioner submitted that the project would be financially unviable and it will not be able to service its debt obligations to its lending agency M/s Indian Renewable Energy Development Agency Ltd, a public sector company or to operate the plant under the generic tariff, and therefore, has prayed that project specific tariff may be fixed on a provisional basis on the actual cost of Rs. 67.98 Crore incurred till 31.08.2016, with the final

tariff to be fixed after the project is completed based on its actual final cost as per the Regulations. The Petitioner accordingly, has claimed the provisional tariff of Rs. 6.49/ kWh calculated as per RE Regulations, 2013.

2. Respondent's reply

2.1 UPCL, the Respondent, vide its letter dated 06.01.2017 submitted that the capital cost claimed by the Petitioner should be scrutinized, PERT chart showing the daily progress of the project, plant lay out drawing before and after the calamity, details of order placed for the damaged equipments, statement showing the civil work done, records pertaining to the installation of new equipments, copy of FIR stating machines/generators was missing, investigation report of the insurance company and the amount of insurance claimed should be sought from the Petitioner along with the other information necessary for the scrutiny of the capital cost of the Project.

2.2 The comments of the Respondent were sent to the Petitioner seeking its rejoinder on the same. The Petitioner vide its letter dated 20.01.2017 submitted its reply on the issues raised by UPCL. The Petitioner submitted that the reply had been filed by the Respondent almost three months after the Commission had admitted the petition. The Respondent did not file any objection to the petition prior to the date of hearing and further, had made no objection whatsoever during the hearing before the Commission and therefore the reply filed by the Respondent three months after the matter was heard and admitted was clearly an afterthought and untenable in law. The Petitioner further submitted that the petition was filed for determination of provisional tariff in anticipation of the completion of the Petitioner's Tanga Small Hydropower Project (5MW), as per the Regulations and was not merely for additional capital expenditure incurred for restituting and reconstruction as erroneously contended by the Respondent. The Petitioner submitted that all the capital cost incurred was necessary for power generation by Tanga SHP and its long term safety and operations. The tariff regulations clearly states that the Commission while determining the Project Specific Tariff shall be guided by the provisions of chapters 4 & 5 of RE Regulations, 2013 which includes prudence check of the capital cost. Moreover, the Commission had allowed the option of seeking project specific tariff in case the capital cost of the project exceeds the normative capital cost specified by the Commission in RE Regulations, 2013, hence, the averment of the Respondent that the Petitioner did not give

the option of seeking project specific tariff till June, 2013 and accordingly, the claim about substantial progress in the project and commissioning in 2013 is fabricated is outrightly denied. The project was in advanced stages in June, 2013, however, the same does not imply that the project was to be commissioned in June, 2013. The Petitioner is well aware of the provisions in the Regulations regarding the option to be exercised and would have done so adequately before three months of commissioning of the project or first unit as required in the Regulations.

The Petitioner submitted that the comments of the Respondent relates to the prudence of the capital cost which can only be countered by it when the Petitioner is able to file its petition for final tariff fixation after commercial operations of Tanga SHP. Hence, it craves leave to submit the same at that time.

2.3 The copies of the Petitioner's response were sent to UPCL for its reply on the same latest by 01.02.2017. However, no response from the Respondent has been received.

3. Commission's views & Decisions

- 3.1 Regulation 13(2) of the RE Regulations, 2013 provides the generator an option to either accept the generic tariff as provisional tariff or make an application for determination of provisional tariff in advance of the anticipated date of completion of the project based on the capital expenditure actually incurred upto the date or prior to the date of making the application duly audited and certified by the statutory auditors. The Petition has been filed by the Petitioner seeking determination by the Commission of the provisional tariff.
- 3.2 The Commission observes that the capital cost of Rs. 13.60/MW has been claimed by the Petitioner based on the capital expenditure incurred till 31.08.2016, whereas, the RE Regulations, 2013 provides normative capital cost of Rs. 7.85/MW for such projects. Primarily, increase in the cost of the project as submitted by the Petitioner is due to increase in the IDC due to time overruns caused by the flash floods in 2013. Further, as per the submissions of the Petitioner, the capital cost of Rs. 67.98 Crore includes hard cost of Rs. 45.05 Crore and IDC amounting to Rs. 22.92 Crore.
- 3.3 The Respondent in this regard has raised certain issues with regard to the detailed scrutiny of the capital cost. However, in this regard the Commission is of the view that the present petition has been filed for determination of provisional tariff only. A fresh petition shall be filed by the Petitioner for determination of the final tariff of the project once it is

commissioned. Even if the detailed scrutiny of the project is carried out in the instant petition it will further lead to consideration of provisional capital cost only since project is yet to be commissioned and audited capital cost as per Regulations is yet to be provided by the Petitioner. Accordingly, the Commission is of the view that the detailed scrutiny of the Capital cost will be conducted when a separate petition for determination of final tariff based on the actual capital cost is filed by the Petitioner. The Respondent may make fresh submission on the basis of the Petition to be filed by the Petitioner for determination of final tariff based on the actual cost of the Project. However, the Petitioner is directed to incorporate in the Petition the point wise replies on the issues raised by the Respondent in its written submissions.

- 3.4 In accordance with the norms specified in the RE Regulations, 2013 and considering the provisional Capital Cost of Rs. 67.98 Crore submitted by the Petitioner, tariff for the first year of commissioning works out to Rs. 7.44/kWh. However, at present since the provisional tariff is being specified and final tariff shall be determined once the Petitioner files fresh application based on the actual capital cost as on CoD of the project. Finalization of tariff would take time and in the interim, the Petitioner would be requiring funds to meet its debt obligations and also the O&M expenditure, hence, the Commission has decided to allow a provisional tariff of Rs. 5.43/kWh as worked out in the Table below, to it after excluding the RoE component from the AFC for the first year of commissioning. This provisional tariff shall be replaced by the final tariff from the date of the Commissioning of the project.

Annual Fixed Charges & Tariff for First Year from the date of commissioning

S. No.	Particulars	Unit	Amount
1.	Interest on Loan	(Rs. Lakh)	552.30
2.	Depreciation	(Rs. Lakh)	382.55
3.	O&M Expenses	(Rs. Lakh)	132.15
4.	Interest on Working Capital	(Rs. Lakh)	37.52
5.	Annual Fixed Charges excluding RoE	(Rs. Lakh)	1104.52
6.	Saleable Energy	(MU)	20.337
7.	Tariff	(Rs. per unit)	5.43

- 2.1 Further, it is hereby, directed that the Petitioner would file a fresh petition on completion of its project based on the audited capital cost in accordance with the Regulations for determination of final tariff. The Respondent is at liberty to make additional comments on

the tariff petition and may also raise the similar issues as has been made in the present petition. However, the Petitioner is directed to incorporate the point wise replies on the issues raised by the Respondent in its written submissions, in the Petition.

2.2 Ordered accordingly.

(Subhash Kumar)
Chairman