

**True-Up for FY 2019-20 to FY 2021-22
and Mid Term Review for FY 2022-23 to FY
2023-24, for BASPA-II HEP**



**Himachal Pradesh Electricity Regulatory
Commission**

16-May-2023

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

PETITION NO. 02/2023

DECIDED ON: 16-MAY-2023

CORAM

Sh. DEVENDRA KUMAR SHARMA
Sh. YASHWANT SINGH CHOGAL
Sh. SHASHI KANT JOSHI

IN THE MATTER OF:

True-Up of tariff for FY 2019-20 to FY 2021-22 and Mid Term Review for FY 2022-23 and FY 2023-24 for sale of power from Baspa II HEP to HPSEBL

AND

IN THE MATTER OF:

JSW Hydro Energy Limited,
Karcham Wangtoo H.E. Project
Sholtu Colony, PO, Tapri 172104
District Kinnaur (H.P.).....

APPLICANT/ PETITIONER

The Applicant has filed a Petition with the Himachal Pradesh Electricity Regulatory Commission seeking True-Up of the tariff for sale of power from Baspa II HEP to HPSEBL Ltd. for the FY 2019-20 to FY 2021-22 approved by HPERC vide MYT Order dated 29.6.2019 and Mid-Term performance review for FY 2022-23 and FY 2023-24.

The Commission, after considering the Petition filed by the Applicant, the facts presented in its various submissions/filings, objections/suggestions received by the Commission from the stakeholders, the responses of the Applicant to the objections/suggestions and documents available on record and in exercise of the powers vested in it under Section 62 and Section 86 of the Electricity Act, 2003 (Act No. 36 of 2003) read with HPERC (Terms & Conditions for Determination of Hydro Generation Supply Tariffs) Regulations, 2011 passes the following Order for True-Up of tariff for Baspa II Hydro Power Plant for the period FY 2019-20 to FY 2021-22 and Mid Term performance review for FY 2022-23 and FY 2023-24.

Place: Shimla

Dated: 16-May-2023

-Sd-
(Shashi Kant Joshi)
Member

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

-Sd-
(Devendra Kumar Sharma)
Chairman

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1. BACKGROUND

- 1.1 M/s JSW Hydro Energy Limited (hereinafter referred to as the “Petitioner” or “Applicant”), having its registered address at Karcham Wangtoo H.E. Project, Sholtu Colony, PO, Tapri 172104, District Kinnaur H.P. is a “generating company” falling within the definition of Section 2 (28) of the Electricity Act, 2003 (hereinafter referred to as the “Act”), operating Baspa II HEP in the State of Himachal Pradesh.
- 1.2 The Baspa II Hydro Electric Project (hereinafter referred to as “Baspa II” or “Project”) is a 300 MW plant situated on River Baspa (a tributary of River Satluj, District Kinnaur, Himachal Pradesh) with three units each of 100 MW which was commissioned by M/s Jai Prakash Power Ventures Limited (JPVL) in the FY 2003-04. Last unit of the project was commissioned on 08.06.2003.
- 1.3 On 04.06.1997, a Power Purchase Agreement (PPA) was executed between Jaiprakash Hydro-Power Limited and Himachal Pradesh State Electricity Board Ltd. (HPSEBL) for sale of Power from Baspa II HEP to HPSEBL. Pursuant to a Scheme of arrangement approved by Hon’ble High Court, Shimla, 300 MW Baspa II Hydro Electric Project (Hydro Electric Project or HEP for short) located in Himachal Pradesh has been transferred by M/s. Jaiprakash Power Ventures Limited to the Petitioner w.e.f. 01.09.2015.
- 1.4 The Commission had approved the tariff for sale of electricity from BASPA II plant vide Multi Year Tariff (MYT) Order dated 29.06.2019 (Case no. 30/2019) for the control period from FY 2019-20 to FY 2023-24.
- 1.5 In this Order, the Commission has reviewed the operational and financial performance of the Applicant based on the PPA between the Petitioner and HPSEBL, review and analysis of the past records, information filed by the Applicant in the Petition and various other submissions in response to queries raised by the Commission and views expressed by the stakeholders.

MYT Regulations

- 1.6 The Commission, in view of the changes in the principles and methodologies specified by the Central Electricity Regulatory Commission, has issued Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Hydro Generation Tariff) Regulations, 2011 vide notification dated 1.04.2011 (hereinafter referred to as “MYT Generation Tariff Regulations 2011” or “Regulations”).
- 1.7 Subsequently, the Commission has made the following amendments to the above Regulations:
 - a. HPERC (Terms and Conditions for determination of Hydro Generation Tariff) (First Amendment) Regulation, 2011 dated 30.07.2011

- b. HPERC (Terms and Conditions for determination of Hydro Generation Tariff) (Second Amendment) Regulation, 2013 dated 01.11.2013
 - c. HPERC (Terms and Conditions for Determination of Hydro Generation Tariff) (Third Amendment) Regulations, 2018 dated 22.11.2018
- 1.8 Accordingly, the tariff for BASPA-II generating station was fixed by the Commission vide Tariff Order dated 29.06.2019, for the Control Period i.e. FY 2019-20 to FY 2023-24 in line with the provisions of these Regulations and PPA.
- 1.9 Regulation 37 of MYT Tariff Regulations 2011 as amended form time to time reads as under:-
- "(3) The generation company shall make a Petition / application for mid-term performance review on the controllable / uncontrollable factors not less 120 days before the commencement of the year after the mid year of the control period as per principles laid down as follows:-*
- (a) In the mid-term performance review, the Commission shall make a comparison of the actual performance and expected revenue from tariff and charges vis-à-vis that approved in the first year of the Control period and the generation company shall submit to the Commission all information together with audited account statements, extracts of books of account and such other details in such form and in such manner as may be laid down by the Commission by an Order and also as per the provisions of the Conduct of Business Regulations. The mid-term performance review shall comprise of the following:-*
- (i) True-Up of previous control period;*
 - (ii) True-Up of previous years of control period for which audited accounts are made available by the generator company;*
 - (iii) review of ARR for the balance years of the control period in case of any major change in uncontrollable and/ or controllable parameters;*
 - (iv) review of generation tariff on account of modification in ARR for the balance years of the control period."*
- 1.10 In line with the provisions of the MYT Generation Tariff Regulations 2011 as amended form time to time, the Petitioner has filed this Petition on 28.07.2022 seeking True-Up of tariff for FY 2019-20 to FY 2021-22 and Mid Term Review for FY 2022-23 and FY 2023-24.

Procedural Background

- 1.11 The Commission had issued an Order dated 24.02.2007, approving the Capital Cost of the Baspa II 300 MW Hydro Electric Project at Rs.1533.96 Cr. for the purpose of determination of tariff and had approved the tariff for the initial 5 years from FY 2003-04 to FY 2007-08.

- 1.12 Subsequently, the Commission vide its Order dated 30.03.2009 and vide Review Orders dated 10.09.2009 and 23.06.2010 approved the tariff for the First Control Period FY 2008-09 to FY 2010-11 and trued up the tariff for the period FY 2003-04 to FY 2007-08.
- 1.13 The Commission vide Order dated 24.01.2011 (passed in Petition No. 11/2010), revised the Annual Revenue Requirement for the period FY 2006-07 to FY 2010-11, on account of additional capitalizations.
- 1.14 Subsequently, the Commission issued the Second MYT Order dated 15.07.2011 approving the tariff for sale of power from 300 MW Baspa II HEP to the HPSEBL for each year of the Control Period i.e. FY 2011-12 to FY 2013-14.
- 1.15 The Petitioner had also moved a Petition bearing No. 135/2011 on 08.02.2011 before the Commission to revise the tariff for the Control Period (FY2011-12 to FY2013-14) in compliance to the Order dated 21.10.2011 passed by Hon'ble Appellate Tribunal for Electricity in Appeal No. 39 of 2010 and re-compute the arrears payable by the HPSEBL to the Petitioner from FY 2003-04 onwards till date of actual payment by the HPSEBL to the Petitioner. The Commission issued an Order dated 06.09.2012 on the said Petition and revised the tariff for Second MYT Control Period taking into consideration new facts brought on record by the Petitioner, which were unavailable at the time of issuance of MYT Order dated 15.07.2011.
- 1.16 Subsequently, the Commission has also trued-up the ARR for the first Control Period i.e. FY 2008-09 to FY 2010-11 vide its Order dated 23.04.2012 and for the second Control Period i.e. FY 2011-12 to FY 2013-14 vide its Order dated 30.03.2015.
- 1.17 The Commission has issued third MYT Order dated 06.06.2014 approving the tariff for sale of power from 300 MW Baspa II HEP to the HPSEBL for each year of the Control Period i.e. FY 2014-15 to FY 2018-19.
- 1.18 The True-Up of tariff for the period FY 2014-15 to FY 2016-17 was performed by the Commission vide Order dated 31.10.2018 in Case No. 21/2018. Also True-Up for the period FY 2017-18 to FY 2018-19 was done by the Commission vide Order dated 07.07.2020 in Petition No. 6/2020.
- 1.19 In the Order dated 29.06.2019 in Petition no. 30/2019, the Commission has approved tariff for Baspa II Plant for the fourth Control Period i.e. FY 2019-20 to FY 2023-24.
- 1.20 The Commission has admitted the Petition vide Order dated 11.01.2023 and directed the Petitioner to publish the salient features of the Petition on or before 16.01.2023 in a manner and as per the disclosure formats attached with the Order dated 11.01.23. The Petition was registered as Petition Number 02/2023.
- 1.21 A detailed scrutiny of the Petition has been made and clarifications/ information have been sought by the Commission from the Petitioner from time to time. The

submission made by the Petitioner in response there to, as detailed hereunder, have been taken into consideration:

Table 1: Communication with the Petitioner

Sl.	Letter from Commission	Response from Petitioner
1.	Letter. No. HPERC/-F(1)-40/2022-1757 dated 15.10.2022	M.A. No. 196/2022 dated 27.10.2022
2.	Letter No. HPERC/-F(1)-40/2022-2357 dated 07.12.2022	Filing dated 26.12.2022
3.	Letter No. HPERC/-F(1)-40/2022-3205 dated 20.02.2023	Filing dated 02.03.2023

Public Hearing

- 1.22 The Petitioner published the salient features of the Petition by the way of a Public Notice in the following newspapers:

Table 2: Details of public notices in newspapers

Sl.	Name of News Paper	Date of Publication
1.	Dainik Bhasker	15.01.2023
2.	The Tribune	15.01.2023
3.	Dainik Bhasker	16.01.2023
4.	The Tribune	16.01.2023

- 1.23 The Commission invited suggestions and objections from the public on the Petition filed by the Petitioner in accordance with Section 64(3) of the Electricity Act, 2003 (hereinafter to be referred as Act for short) subsequent to the publication of salient features by the Petitioner. The public notice, issued by the Commission, inviting objections/ suggestions was published in the following newspapers:

Table 3: List of Newspapers in which Notice inviting objections from Stakeholders and conveying the date of Public Hearing were published

Sl.	Name of News Paper	Date of Publication
1.	Indian Express	19.01.2023
2.	Divya Himachal	19.01.2023

- 1.24 Through the aforementioned publications, the interested parties/ stakeholders were asked to file their objections and suggestions on the Petitions and rejoinders to the Replies filed by the Petitioner for which dates were specified by the Commission in the publications.

- 1.25 A public hearing in the Petition was held in the Commission on 07.03.2023 for providing adequate opportunity to all the stakeholders for expression of their opinions, suggestions and objections in the matter.
- 1.26 The Commission has received objections/ suggestions from the HPSEBL which are discussed in subsequent chapter of this Order.

2. SUMMARY OF THE PETITION

2.1 This Chapter summarizes the Petition filed by the Applicant for True up of period FY 2019-20 to FY 2021-22 and Mid Term Review of FY 2022-23 to FY 2023-24, and the submissions made subsequently for sale of power from the Baspa II, 300 MW HEP.

Details of the Project

2.2 The Baspa II Hydro Electric Project is a 300 MW Plant with three units each of 100 MW which was commissioned by M/s JPVL in the FY 2003-04 and transferred to the Petitioner in FY 2015-16.

2.3 It is a diurnal peaking plant with 4 hours of peaking supported by diurnal pondage. The Power House is underground with static excitation. The Government of Himachal Pradesh receives 12% of energy generated as free energy. The details of the Plant submitted by the Petitioner are as given below:-

Table 4: BASPA II HEP - Project Details

Particular	Details
Name of the Company	Himachal Baspa Power Company Limited
Name of the Station	Baspa II Hydro Electric Project
Installed Capacity (MW)	3 X 100 = 300
Free power to home state	12%
Date of Commercial Operation	
Unit-1	24.05.2003
Unit-2	29.05.2003
Unit-3	08.06.2003
Type of Station	
Surface/underground	Underground
Purely ROR/ Pondage/Storage	Diurnal Pondage
Peaking/non-peaking	Diurnal Peaking
No. of hours of peaking	4
Type of excitation	Static excitation
Design Energy	1213.18 MU
Transformation Losses (as per PPA)	0.50%
Auxiliary Losses	0.50%
Transmission Losses	0.65%

Details of the True-Up Petition

2.4 The Petitioner has filed total Annual Fixed Charges (AFC) for True-Up of period FY 2019-20 to FY 2021-22 in the Petition dated 28.07.2022. The Commission observed certain discrepancies in the calculations submitted under MYT forms and directed the

Petitioner to submit revised figures. Accordingly, the Petitioner vide submissions dated 27.10.2022, has provided revised figures for total AFC as follows:

Table 5: Summary of True-Up filed by Petitioner for FY20 to FY22 (Rs. Cr.)

	True-Up Petition			MYT Approved		
	FY20	FY21	FY22	FY20	FY21	FY22
Capacity Charges						
Interest on Outstanding Loan	0.41	0.35	0.32	0.42	0.40	0.38
Depreciation + AAD	32.13	70.45	70.45	32.12	70.46	70.46
Application Fees	0.20	0.05	0.05	0.05	0.05	0.05
Publication Expenses	0.13	-	-	0.06	-	-
Total Capacity Charges	32.87	70.85	70.81	32.65	70.91	70.89
Primary Energy Charges						
O&M Expenses	44.51	45.84	49.47	43.68	45.42	47.23
Return on Equity	78.66	78.65	78.64	78.66	78.66	78.65
Interest on Working Capital	6.53	7.41	6.64	5.34	6.53	6.62
Sub- Total Primary Charges	129.70	131.90	134.75	127.68	130.61	132.50
Incentive and Taxes						
Income tax claimed/true up	16.54	47.16	20.55	18.34	26.78	26.95
Change in Law: TCS new prov.	-	0.12	0.08	-	-	-
Incentive for Higher Plant Avail.	9.83	9.83	9.83	-	-	-
Incentive for Secondary Energy	40.45	28.81	31.43	-	-	-
Sub-Total Incentive and taxes	66.82	85.92	61.89	18.34	26.78	26.95
Total Annual Fixed Charges	229.40	288.68	267.44	178.67	228.30	230.34

2.5 The explanations provided by the Petitioner, for variations in Annual Charges approved and those claimed in True-Up Petition, are summarized below.

- a. The commission allowed an additional capitalization of Rs.1.59 crore on account of change in law, against the decapitalization of old assets worth Rs.2.07 crore. The Petitioner incorporated the actual amount of Rs. 1.41 crore in the tariff forms, incurred against the additional capitalization.
- b. The change in interest on loans has been calculated based on the actual rate of interest applicable year wise for the term loans availed by the Company
- c. The tariff application fees amounting to Rs. 15 lakhs claimed to be paid towards the True up Petition No. 6 of 2020 related to FY 2017-18 & 2018-19, which was deferred by the Commission to be allowed during true up of FY 2019-20.
- d. An amount of Rs 6.89 lakhs was incurred during FY 2019-20 by the Petitioner towards newspaper publication of salient features of the True up Petition No. 6 of 2020. The Petitioner has submitted that the aforesaid expenditure of Rs 6.89