

**KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM**

**Present : Shri T K Jose, Chairman
Adv. A.J Wilson, Member
Shri B Pradeep, Member**

OP No 77/2022

In the matter of : Petition under Section 94(1) (f), Section 86(1)(b) of the Electricity Act, 2003, seeking review of the directives issued by KSERC vide letter No. 1106/D(T)/KSERC /2022/701 dated 16.08.2022 in the matter of extension of Interim tariff approved by the Commission vide Order dated 14.09.2020 in OP No.56/2019 for a further period of 1 year from 01.04.2022 to 31.03.2023.

Petitioner : Kerala State Electricity Board Ltd (KSEB Ltd)

KSEBL represented by : Shri M.P Rajan, Dy. Chief Engineer, TRAC
Shri. Shine Raj, Asst: Executive Engineer

Respondent : M/s Hydro Power Ltd, Kothamangalam

Respondent represented by : Shri. Ajay Abraham, Chief Executive Officer

First hearing on : 18.01.2023, 02:30 PM

Second hearing on : 14.02.2024, 03:30 PM

Venue : Court Hall of the Commission

Order dated 28.02.2024

1. M/s Kerala State Electricity Board Ltd (hereinafter referred as KSEB Ltd or petitioner) on 14.11.2022 has filed a petition before the Commission with the prayer to *“re-examine the criteria fixed by the Commission for determining interim tariff in connection with the Extension of Interim Tariff approved by the Commission vide Order dated 14.09.2020 in petition OP No:56/2019 for a further period of 1 year from 01.04.2022 to 31.03.2023”*.

2. Back ground of the petition

(1) M/s Hydropower, had established a micro hydel plant namely Deviar Micro Hydro Electric Project of capacity 50 kW (2 x 25kW) at their own land at Neriamangalam, Idukki District. The project declared CoD on 23.11.2017. Since then, the electricity generated from the plant is injected into the State grid. Draft PPA was initialed between KSEB Ltd and M/s Hydropower.

- (2) M/s Hydropower on 16.07.2019, had filed a petition before the Commission for approval of draft Power Purchase Agreement (PPA) duly initiated by the petitioner and KSEB Ltd.
- (3) Since M/s Hydropower could not produce necessary and sufficient details, the Commission vide the Order dated 14.09.2019 had decided to approve an interim tariff for the period up to 31.03.2022, and directed M/s Hydropower to submit the necessary details for determining the project specific tariff. The relevant portion of the Order of the Commission dated 14.09.2020 in OP No.56/2019 is extracted below;

“(1) Since the petitioner has not submitted the authenticated documents to the Commission, the prayer to approve the draft PPA is not agreed to due to the reasons explained under paragraphs 20 to 24 above, till such time the project specific tariff is determined and incorporated in the PPA.

- (2) The petitioner is hereby directed to submit complete details of the capital cost of the project along with authenticated supporting documents within the time limit specified under paragraph 24 above. The petitioner is also permitted to file a fresh petition for determination of project specific tariff and approval of the Draft PPA as per the provisions of the KSERC (Conduct of Business) Regulations, 2003, but not later than 31.03.2022. As a special case the petitioner is exempted from remitting the petition fee for filing this petition for determination of tariff as per this Order of the Commission.*
- (3) The request of the petitioner to approve an interim tariff for claiming payments for the energy injected into the grid since the date of connection i.e. 05.07.2016 is approved subject to the following*

(i) Till such time the project specific tariff is determined, KSEB Ltd shall pay Hydropower an interim tariff at the rate of the average cost of power purchase from sources other than from KSEB Ltd.'s own plants as applicable for each of the Financial Years.

- (ii) KSEB shall, within two weeks from the date of this order, communicate the APPC as explained in Para-26 above to enable the petitioner to claim the interim payments for the energy injected since 05.07.2016.*
- (iii) Hydropower shall within one month of the date of this Order and before receiving the first interim payment execute an undertaking that any overpayment detected at a later stage shall be deducted from the payments due to Hydropower.*
- (iv) Similarly, any payment due to Hydropower on account of this interim tariff being lower than the final tariff fixed shall be paid by KSEB Ltd based on an invoice raised by Hydropower.*
- (v) Once the invoice is raised by the petitioner, KSEB Ltd shall make the payments within one month from the date of the invoice raised by the petitioner. If KSEB Ltd make delay the payments, it shall pay interest @1.25% per month for the delay from the due date, i.e., delay counted from one month after the date of invoice.*
- (vi) Petitioner is not eligible for interest for the delay in raising the invoice. Petitioner is also not eligible for the interest for the delay in claiming the interim tariff for the energy injected into the grid since 05.07.2016 till date, for want of approved tariff.*
- (vii) Petitioner is allowed to claim interim tariff only for the energy injected into the grid till 31.03.2022. Within the said period, i.e., by 31.03.2022, the*

petitioner shall get the approval of the project specific tariff of the project by filing proper petition as detailed under paragraph 24 above.”

- (4) As above, the Commission had approved the interim tariff up to 31.03.2022 @the Average Power Purchase Cost (APPC) of KSEB Ltd excluding its cost of own plants. KSEB Ltd has been making payments to M/s Hydropower, at the APPC as approved by the Commission.
- (5) However, M/s Hydropower had not filed the necessary details for determining the project specific tariff as directed by the Commission vide the Order dated 14.09.2020. M/s Hydropower vide the letter dated 19.03.2022 submitted that due to COVID-19 pandemic and the restrictions imposed in the State consequent to the COVID-19 pandemic, they could not fulfill the directives of the Commission to file a proper petition with all relevant details for the determination of project specific tariff and requested to extend the interim tariff to one more year up to 31.03.2023.
- (6) The Commission had examined the request of M/s Hydropower and vide the letter dated 16.08.2022, had decided to extend interim tariff upto 31.03.2023, with the condition that any further extension of interim tariff shall not be extended further under any circumstances.
- (7) Against the said direction of the Commission to extend the interim tariff approved by the Commission vide the Order dated 14.09.2020, the respondent KSEB Ltd filed the present petition dated 14.11.2022, citing the following grounds.
 - (1) The Commission vide the order dated 14.09.2020, had approved the interim tariff @Average Power Purchase Cost of KSEB Ltd excluding the cost of generation of its own stations applicable for each year of the financial years concerned. The interim tariff is applicable only till 31.03.2022.

KSEB Ltd has been making the payments to M/s Hydropower at the interim tariff approved by the Commission till 31.03.2022.

M/s Hydropower could not file the necessary details for determining the project specific tariff as directed by the Commission within 31.03.2022. This is a fault from the part of the generator M/s Hydropower.
 - (2) There is no specific provision in the KSERC (Renewable Energy & Net Metering) Regulations, 2020, whether to include self generation also while computing the APPC. Hence the licensee has not objected to the interim tariff approved @APPC excluding its cost of internal generation.
 - (3) The Commission vide the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021, and also KSERC (Renewable Energy and Net Metering) (1st amendment) Regulations, 2022, defines the “Average Power Purchase Cost or “APPC” as follows.

“Average Power Purchase Cost” or “APPC” during a year means the weighted average cost of the power purchased by KSEB Ltd including the cost of self-generation by KSEB Ltd, for the previous financial year as approved by the Commission.

As above, as per the prevailing Regulations in force, the APPC of KSEB Ltd is inclusive of its self-generation.

- (4) KSEB Ltd further submitted that, as per the Order of the Commission dated 25.06.2022, the provisional APPC excluding the cost of self-generation for the year 2022-23 is Rs 4.34/unit. However, as per the audited accounts of KSEB Ltd for the year 2021-22, the APPC including the cost of self generation is Rs 2.69/unit only. Accordingly, the APPC excluding cost of self generation is much higher than the APPC as per the prevailing Regulations.
- (5) KSEB Ltd submitted that, the delay in determining the project specific tariff is due to the fault of M/s Hydropower in submitting the necessary details for determining the project specific tariff. Hence the interim tariff approved by the Commission vide the Order dated 14.09.2020 @APPC excluding cost of self generation valid up to 31.03.2022 may not be extended for the year 2022-23.

Since the prevailing KSERC (Terms and Conditions of Tariff Determination) Regulations, 2021, and also KSERC (Renewable Energy and Net Metering) (1st amendment) Regulations, 2022, clearly defines the APPC, which is including cost of self generation of KSEB Ltd, the licensee requested to re-examine the criteria fixed for determining the interim tariff in connection with the extension of interim tariff approved by the Commission vide the Order dated 14.09.2020 in petition OP No. 56/2019 for a further period of ‘one’ year from 01.04.2022 to 31.03.2023.

As above, the only issue raised by the KSEBL in the instant petition is the criterion/ methodology to be adopted for the determination of APPC for extending the interim tariff to the developer M/s Hydro Power Ltd, i.e, whether the cost of own generation also to be considered while determining APPC as per the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021 and KSERC (Renewable Energy and Net Metering) (1st amendment) Regulations, 2022.

3. The Commission admitted the Petition as OP No:77/2022 and conducted the 1st hearing on 18.01.2023 through hybrid mode. KSEBL presented the matter and requested before the Commission to clarify the criterion to be adopted for the determination of the APPC for allowing interim tariff.

Shri. Ajay Abraham, presented the details of the Deviar Micro Hydel Project.

4. During the hearing the Commission had directed the developer M/s Hydro Power Ltd to file the details of the capital cost incurred for the project immediately for determining the tariff for the electricity generated from the 50KW Deviar Micro Hydel Project of the developer.
5. In compliance of the direction of the Commission, the developer has submitted the invoices and other details of the capital cost incurred for the project through an affidavit on 16.11.2023. The summary of the cost claimed by the developer is discussed below;
 - (i) The total cost claimed by the developer is Rs 75.96 Lakhs. It is noted that on ₹75.96 lakhs for the 50 KW Micro Hydel Project, in MW scale this cost is about 15.19Cr/MW.
 - (ii) Out of the above the developer has submitted invoices for Rs 67.71 Lakhs and not submitted the invoices for Rs 8.25 lakhs claimed to be incurred by the developer.
 - (iii) It is also noted that out of the 75.96 lakhs claimed by the developer ₹3.04 lakhs is incurred for the rehabilitation works done during the flood in August 2018 i.e., this amount was incurred subsequently after the CoD and hence the same cannot be considered as part of the capital cost of the project.

The Commission has directed the developer to forward the copies of the invoice and other details to the petitioner KSEBL. Shri. Ajay Abraham, CEO vide the email dated 23.11.2023 submitted a copy of the mail forwarded to KSEBL.

The respondent M/s Hydropower has also submitted the month wise details of the generation from Deviar MHEP, the details are given below;

Month	2016	2017	2018	2019	2020	2021	2022	2023
Jan		382	5,307		2,854	9,909	5,742	6,768
Feb		4,470	564		0	0	0	0
Mar			0		0	0	0	0
Apr			0		0	0	3,108	0
May			0		765	9,438	3,147	1,344
Jun		1,498	156	8,550	13,758	18,042	12,795	10,614
Jul	1,158	1,444	60	12,770	11,562	18,378	5,373	18,225
Aug	776	7,053	0	6,240	10,707	16,014	9,433	22,359
Sep	1,120	7,096	0	524	11,466	18,885	14,934	19,209
Oct	1,822	5,601	938	3,990	12,801	15,327	13,257	18,507
Nov	12,938	6,378	6,662	7,398	17,841	16,179	10,644	21,672
Dec	14,274	3,587	6,086	12,412	12,006	9,852	15,843	12,909
Total	32,088	37,509	19,773	51,884	93,760	1,32,024	94,276	1,31,607

As above, the maximum annual generation is in the year 2021, that too is about 0.132MU only.

6. The second hearing on the matter was scheduled on 14.02.2024. Shri. Rajan M.P, Deputy Chief Engineer and Shri. Shine Raj, AEE presented the matter on behalf of the petitioner KSEBL. Shri. Ajay Abraham appeared through online and presented the details on behalf of the respondent M/s Hydro Power. The summary of the deliberations during the hearing is given below.

(1) KSEBL submitted that, the present petition is filed before the Commission for seeking clarification on the determination of the Average Pooled Power Purchase for providing interim tariff for the electricity generated and supplied from the 50kW Deviar Micro Hydel Project. KSEBL further submitted that the Commission vide the Order dated 14.09.2020 in Petition OP No. 56/2019 has approved the interim tariff at the Average Cost of Power Purchase from sources other than the cost of own generation of KSEBL. However, the Commission vide the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021 and also vide the KSERC (Renewable Energy and Net Metering) (1st Amendment) Regulations, 2022, has defined the 'Average Power Purchase Cost or APPC' during a year means the weighted average cost of power purchased by KSEBL including the cost of self generation by KSEBL, for the previous financial year as approved by the Commission. Since the Commission has issued the direction to extend the interim tariff upto 31.03.2023, subsequent to the notifications of the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021 and the KSERC (Renewable Energy and Net Metering) (1st Amendment) Regulations, 2022, KSEBL has sought the clarifications on the determination of APPC for making payments to the respondent for the electricity generated and supplied to KSEBL from the 50kW.

KSEBL further submitted that, the respondent has not submitted the tax invoices for the capital cost claimed for the project. KSEBL also submitted that, the project cost claimed for the 50kW micro hydel project is Rs 75.96 lakh and this make the per MW cost of the project @Rs 15.19 Crore.

The respondent has claimed cost of land as part of the project cost. However, the Government has allotted the project to M/s Hydro Power under 'Projects identified by the Private person on their own land' category. Hence the land cost cannot be claimed for tariff determination.

KSEBL further submitted that, certain invoices are submitted by the respondent even without any authorized signatory.

MNRE grant to the extent of Rs 1,25,000/- per kW is available for micro hydel projects with capacity up to 100 MW commissioned upto 31.03.2017. The respondent had been injecting electricity from the Deviar Micro Project from 05.07.2016 onwards. If the respondent could

submit the application for MNRE grant in time, the respondent could get Rs 62.50 lakh for the project. However, the respondent has not availed the MNRE grant.

- (2) Shri. Ajai Abraham admitted that, the developer is not in a position to get all the tax invoices of the project since the construction of the project was done during the period from 2014-15 to 2016-17 period. Further, being a micro hydro, the developer was expecting generic tariff for the electricity generated and supplied to KSEBL.

The respondent further submitted that, being a micro hydel project with an installed capacity of 50kW, the capital cost may be higher than the MW scale small hydel projects in the State.

The Central Commission vide the Order dated 18.04.2017 had determined the generic tariff for SHP having capacity less than 5MW commissioned during the year 2017-18 @Rs 6.00/unit (without the benefit of accelerated depreciation)

The Commission vide the KSERC (Renewable Energy & Net Metering) (1st Amendment) Regulations, 2022 has approved the generic tariff for SHP having capacity less than 2MW @Rs 5.39/unit. The Commission may approve the generic tariff approved by Central Commission for the year 2017-18, or at least the generic tariff determined by the Commission vide the KSERC (Renewable Energy & Net Metering) (1st amendment) Regulations, 2022 for the project.

The respondent further submitted that, though electricity is being generated and injected into the grid from the project, no payment was received from 01.04.2022 onwards till date. Hence, the respondent is facing severe financial crisis even for meeting day to day expenses. It may result in complete closure of the plant. Hence the respondent requested to issue direction to KSEBL to effect the payment at the earliest.

7. KSEBL vide the letter dated 16.02.2024 has submitted the written comments on the invoices raised by the respondent for claiming capital cost of the project. All the issues raised in the written comments were presented during the hearing held on 14.02.2024.

Analysis and Decision of the Commission

8. The Commission having examined in detail the petition filed by KSEBL dated 14.11.2022, the comments of the respondent M/s Hydropower, deliberations of the subject matter during the hearings held on 18.01.2023 and 14.02.2024, the provisions of the Electricity Act, 2003, other relevant Rules and Regulations in force, decide as follows;

9. M/s Hydro Power, had established a 50kW (2 x 25kW) micro hydel plant at their own land at Neriamangalam, Idukki District. The project was connected to the grid on 05.07.2016 and declared CoD on 23.11.2017. Since then, electricity is being generated and injected into the KSEBL grid. M/s Hydro Power and KSEBL has initialed the draft power purchase agreement (PPA) in the year 2019. As per the Clause 5.4 of the draft initialed PPA, *‘the tariff for power generated from the project shall be project specific tariff as determined by the Commission or generic tariff notified by the Commission, whichever is lower.’*

M/s Hydropower on 16.07.2019, had filed a petition before the Commission for approval of draft Power Purchase Agreement (PPA) duly initialed by the petitioner and KSEB Ltd.

Since M/s Hydropower could not produce necessary and sufficient details, the Commission vide the Order dated 14.09.2019 had approved an interim tariff for the period up to 31.03.2022, and directed M/s Hydropower to submit the necessary details for determining the project specific tariff. The relevant portion of the Order of the Commission dated 14.09.2020 in OP No.56/2019 is extracted below;

“....

- (3) *The request of the petitioner to approve an interim tariff for claiming payments for the energy injected into the grid since the date of connection i.e. 05.07.2016 is approved subject to the following*

(i) Till such time the project specific tariff is determined, KSEB Ltd shall pay Hydropower an interim tariff at the rate of the average cost of power purchase from sources other than from KSEB Ltd.'s own plants as applicable for each of the Financial Years....”

It is also specified in the Order that, the interim tariff approved is allowed only for the energy generated and injected into the grid till 31.03.2022. It is also specified in the Order that, within the said period, M/s Hydropower shall get the approval of the project specific tariff of the project by filing proper petition before the Commission.

10. However, M/s Hydropower vide the letter dated 19.03.2022 submitted that due to COVID-19 pandemic and the restrictions imposed in the State consequent to the COVID-19 pandemic, they could not fulfill the directives of the Commission to file a proper petition with all relevant details for the determination of project specific tariff and requested to extend the interim tariff to one more year up to 31.03.2023. The Commission had examined the request of M/s Hydropower and vide the letter dated 16.08.2022, had decided to extend interim tariff upto 31.03.2023, with the condition that any further extension of interim tariff shall not be extended under any circumstances.
11. KSEBL has filed the instant petition to re-examine the criteria fixed for the determination of the interim tariff vide the Order dated 14.09.2020, since the same interim tariff was allowed to extend upto 31.03.2023, citing the definition

of the 'Average Power Purchase Cost' vide the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021 and KSERC (Renewable Energy & Net Metering) (1st amendment) Regulations, 2022.

12. The Commission has examined the issues raised by the petitioner. The paragraph 26 of the Order of the Commission dated 14.09.2020 in petition OP No. 56/2019, had explained in detail the rationale adopted for determining the interim tariff at 'Average Cost of Power Purchase excluding the cost of own generation'. The relevant portion of the Order is extracted below for ready reference.

"26. Prayer of the petitioner to approve an interim tariff: The Commission also examined the request of the petitioner to approve an interim tariff for the power generated from the project for claiming payments, till the Commission is able to determine the project specific tariff of the project.

As per the details provided by the petitioner, the project was connected to the grid on 05.07.2016 and has been injecting energy into the grid since then. However, till date the petitioner could not raise an invoice to KSEB Ltd for payments for the energy supplied, due to want of an approved tariff. This has adversely impacted the financial position of the developer and also adversely affecting even the day to day expenses of the project. Considering this, the Commission vide Daily Orders dated 16.06.2020 and 30.07.2020 had directed KSEB Ltd to consider proposing a suitable interim tariff towards provisional payments for the energy supplied by the petitioner to KSEB Ltd.

In compliance to the Commission direction, KSEB Ltd vide their letter dated 27.08.2020 has recommended an interim tariff of Rs 3.12/unit, i.e. the Weighted Average Cost of Power Purchase approved by the Commission for the year 2019-20 vide the Commission's Order dated 08.07.2018. On the other hand, Hydropower vide their email dated 07.09.2020 has pointed out that the Commission vide Tariff Order dated 17.04.2017 has approved Rs.3.90 per unit as the average cost of power purchase of KSEB Ltd. for the year 2017-18.

The Commission also noted that vide Kerala State Electricity Regulatory Commission (Power Procurement from Renewable Sources by Distribution Licensee) Regulations, 2013, the Commission had notified the levelled tariff for Small Hydro Projects @ Rs. 4.16/ Unit. Thereafter, vide KSERC (Renewable Energy) Amendment Regulations, 2017, the Commission had revised this levelled tariff to Rs.5.54 per unit for Small hydro-electric projects having installed capacity below 5MW.

The Commission has duly considered both the submissions. As mentioned above, KSEB Ltd.'s proposal @ Rs. 3.12 per unit is based on the Weighted Average Cost of Power Purchase which includes the cost of power generated from KSEB Ltd.'s own plants. Further, this "weighted average cost of power purchase" has been notified by the Commission for the purpose of determining the cross-subsidy surcharge payable by open access consumers. On the other hand, Hydropower's proposal @ Rs. 3.90 per unit is based on the Commission's Tariff Order dated 17.04.2017, wherein the average cost of power to be purchased from sources other than from KSEB Ltd's own stations was estimated.

The Commission also noted that the transaction between KSEB Ltd and Hydropower is not a related party transaction, instead qualifies as power purchase from sources other than from self-generation. Hence, it will only be fair to treat the power purchase from Hydropower on par with power purchases from sources other than from KSEB Ltd's own generation and make the interim tariff payment accordingly. Further, the power supply is continuing since FY 2016-17 and till date Hydropower has neither claimed nor received any payment for the power injected into the grid. Hence, the Commission hereby directs that till such time the tariff of this project is determined, KSEB Ltd shall pay Hydropower the average cost of power purchase from sources other than from KSEB Ltd's own plants as applicable for each of the Financial Years. Though highly improbable, in order to safeguard from any overpayment, the petitioner shall give an undertaking that in case at a later stage it is found that any overpayment on this account has occurred, the same can be deducted from payments due to Hydropower.

.....”

13. As extracted above, the Commission vide the Order dated 14.09.2020 in petition OP No. 56/2019, has approved the interim tariff at Average Cost of Power Purchase from sources other than the cost of generation from KSEBL's own plant, duly considering the fact that, though being small, the power purchase from the developer 'M/s Hydropower' also treated at par with the purchase of power from other sources.
14. The Commission has also examined the definition of 'Average Power Purchase Cost or APPC' as per the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021, and also as per KSERC (Renewable Energy & Net Metering) (1st Amendment) Regulations, 2022, and also examined the intended purpose of usage of APPC under these Regulations. The details are given below.
 - (1) The definition of APPC as per the above Regulations are extracted below.

“Average Power Purchase Cost” or “APPC” during a year means the weighted average cost of the power purchased by KSEB Ltd including the cost of self-generation by KSEB Ltd, for the previous financial year as approved by the Commission”.
 - (2) The APPC as defined in the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021 is used for the purpose of determining the cross subsidy surcharge payable by the open access consumers as per Regulation 86 of the said Regulations.
 - (3) Similarly, the APPC as defined in the KSERC (Renewable Energy & Net Metering) (1st Amendment) Regulations, 2022 is for settling the net energy banked at the end of the settlement period by the prosumers and captive consumers under the RE Regulations.

As discussed above, the term APPC defined in the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021, and also as per KSERC (Renewable Energy & Net Metering) (1st Amendment) Regulations, 2022 is for different purposes. The APPC as above, has not used as a reference tariff for purchase of power.

15. In the present case, the respondent M/s Hydropower is generating and injecting the entire energy into the KSEBL grid. In turn the petitioner KSEBL is using the same as a source of power for supply of electricity to its consumers, though the capacity of the plant is very small. As clarified by the Commission in its earlier Order dated 14.09.2020, the transaction between Hydropower and KSEBL is a power purchase and the same cannot be considered as settlement of energy transaction between the developer Hydropower and KSEBL.

Considering the entire aspects in detail, the Commission is of the considered view that the 'Average Power Purchase Cost' as defined in the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021, and also as per KSERC (Renewable Energy & Net Metering) (1st Amendment) Regulations, 2022 cannot be adopted for determining the interim tariff for the electricity generated and supplied from the 50kW micro hydel plants of the developer M/s Hydropower.

16. However, KSEBL during the hearing submitted that, the cost of power purchase excluding internal generation is increasing year after year due to various reasons including the excessive increase in the cost of imported coal, exorbitant cost of power exchanges and day ahead markets, increase in inter-state transmission charges etc. The Commission has noted the submission of KSEBL. Considering these aspects in detail, the Commission has decided to fix the ceiling rate on the interim tariff @Rs 4.50 /unit.

Accordingly, the Commission here by approve the interim tariff for the electricity generated and supplied to KSEBL from the 50kW Deviar Micro Hydel project of M/s Hydropower at the Average Cost of Power Purchase from sources other than from its own sources of KSEBL in the financial years concerned subject to a ceiling of Rs 4.50/unit.

17. The Commission also examined the capital cost claimed by the project developer and the difficulties faced by the developer for submitting tax invoices of the project.

The Commission noted that, the capacity of the plant is 50kW only, i.e., in MW scale the capacity of the plant is just 5% of 1MW capacity. The capital cost of such a small micro hydel plant with capacity of 50kW cannot be compared to the Small Hydro Projects established on MW scale. Considering these aspects only, the MNRE had offered a grant of Rs 1,25,000/- per kW (Rs 12.50 crore

per MW in MW scale) for micro hydel projects having capacity upto 100kW commissioned upto 31.03.2017. However, the developer could not get the MNRE subsidy for the project.

18. The Commission has been repeatedly directing the petitioner to produce the tax invoices for determining the project specific tariff. The petitioner has claimed a total capital cost of Rs 75.96 lakh for the project. On MW scale, the capital cost claimed by the developer is about Rs 15.19 crore per MW.

Out of the above, the petitioner has produced invoices for about Rs 67.71 lakhs, even with this amount, the per MW cost works out to be Rs 13.54 crore. However, with the details submitted by the petitioner, the Commission could not verify the authenticity of the invoices claimed by the project at this stage, which was commissioned seven years back.

19. However, one has to be kept in mind that, the 50kW small hydel project was developed by the small entrepreneur M/s Hydropower at its own land and its cost. The plant was synchronized with the grid on 05.07.2016 and declared CoD on 23.11.2017. Since then, the developer is generating and injecting electricity to the State Grid. The details of the electricity generated and supplied to KSEBL since the year 2016-17 is given bellow.

Annual generation- claimed by M/s Hydropower

Year	Annual generation (units)	CUF (%)
2016	32088	7.33%
2017	37509	8.56%
2018	19773	4.51%
2019	51884	11.85%
2020	93760	21.41%
2021	132024	30.14%
2022	94276	21.52%
2023	131607	30.05%

KSEBL as the incumbent licensee has been accounting the electricity generated and injected into the grid from the project as part of its power purchase, though the quantum of generation from the plant is small.

The developer has to be reasonably compensated for the energy used by KSEBL, for meeting its operation and maintenance expenses including loan repayment etc of the developer. KSEBL as the SBU-G, STU and distribution licensee, has to be aware that it cannot deny reasonable expenses to the developer for the electricity generated and supplied to KSEBL.

The inability of the developer to produce tax invoice cannot be considered as a reason for denying reasonable expenses for a project, which commissioned seven years back.

20. The Commission also noted that, the year of CoD of the project is on 23.11.2017. As per the prevailing Regulations, the year 2017-18, i.e., the year of CoD has to be considered as the first year of operation for the determination of tariff. The Commission has not determined the generic tariff for the SHPs in the year 2017-18. However, the Central Electricity Regulatory Commission (CERC) vide the Order dated 18.04.2017 had determined the generic tariff for the electricity generated from the Small Hydro Projects having capacity less than 5MW, which commissioned in the year 2017-18 at Rs 6.00/unit (without availing the benefit of accelerated depreciation). In view of these facts, the interim tariff ordered by the Commission balance the interests of the buyer and seller.
21. The Commission after appraising the entire matter in detail, considers it just and proper to apply the interim tariff approved by the Commission vide the paragraph 16 above as the tariff applicable for the project during the period of mutually agreed PPA, in the facts and circumstances reported. However, the respondent M/s Hydropower, at its liberty, can file separate petition for the determination project specific tariff, if they could submit all the necessary and sufficient details with all supporting documents along with the petition for the determination of the project specific tariff.

Orders of the Commission

22. The Commission after examining the petition filed by KSEBL dated 14.11.2022, the comments of the respondent generator M/s Hydropower, deliberations during the hearings held on 18.01.2023 and 14.02.2024, the provisions of the Electricity Act, 2003 and other relevant Rules and Regulations in force, hereby orders the following;
 - (1) The tariff for the electricity generated and supplied to KSEBL from the 50kW Deviar Micro Hydel plant of the developer M/s Hydropower shall be the 'average cost of power purchase of KSEBL from sources other than its own plants as applicable for each financial years concerned, subject to a ceiling of Rs 4.50/unit, subject to orders, if any, on determination of project specific tariff.
 - (2) The above rate(s) shall be applicable for the entire electricity generated and supplied from 05/07/2016 i.e., the date of synchronisation, subject to orders, if any, on determination of project specific tariff.

- (3) The developer M/s Hydropower, at its liberty, can file separate petition for the determination project specific tariff, provided the developer could submit all the necessary and sufficient details with all supporting documents along with the petition for the determination of the project specific tariff.

The petition disposed of. Ordered accordingly.

**Sd/-
T K Jose
Chairman**

**Sd/-
Adv. A J Wilson
Member**

**Sd/-
B Pradeep
Member**

Approved for issue

**Sd/-
C R Satheesh Chandran
Secretary**