

**Before**

**UTTARAKHAND ELECTRICITY REGULATORY COMMISSION**

**In the matter of:**

Application of Swasti Power Engineering Limited in respect of its Bhilangana Hydro Power Project (BHPP) (3 x 7.5 MW) generating station for grant of open access for evacuation of power upto the CTU/ Grid.

Swasti Power Engineering Limited ..... Applicant

**And**

Uttarakhand Power Corporation Ltd. & others ..... Respondent

**Coram**

<b>Shri V.J. Talwar</b>	<b>Chairman</b>
<b>Shri Anand Kumar</b>	<b>Member</b>

**ORDER**

**Date of Order : 30.12.2009**

1. Swasti Power Engineering Ltd (hereinafter referred to as "SPEL" or Applicant) filed an application on 10.08.2009 in respect of its Bhilangana Hydro Power Project (BHPP) (3 x 7.5 MW) generating station for grant of open access for evacuation of power upto the Central Transmission Utility (CTU)/ Grid.
2. The Applicant Company had signed an Implementation Agreement with Government of Uttarakhand (hereinafter referred to as "GoU") on 16.10.2003. The Applicant company

also signed a Power wheeling Agreement with Power Transmission Corporation of Uttarakhand Limited (hereinafter referred to as "PTCUL") on 30.09.2005 for wheeling of the power from the place of generation to the CTU grid. It also entered into a MoU with PTCUL on 12.06.2007 with regard to use of PTCUL's system for evacuation of power to the delivery point in CTU grid.

3. The Applicant Company entered into a Power Purchase Agreement with Power Trading Corporation of India Limited (PTC) on 24.08.2005 for sale of the entire power generated at the Bhilangana generating station excluding the free royalty power of 18% to be given to be given to GoU from 16<sup>th</sup> year after the date of commercial operation (COD).
4. In addition, PTC entered into a power sale agreement for sale of power purchased from the Applicant to Punjab State Electricity Board (PSEB).
5. In its Application, the Applicant submitted before the Commission to permit it to sell electricity to PTC consistent with the Power Purchase Agreement dated 24.08.2005 entered into by Swasti with PTC and that no restriction should be imposed on grounds of sale of power to person outside the State. Further, the Applicant also requested the Commission to direct UPCL and PTCUL to give connectivity to their system for evacuation of the power upto the CTC grid.
6. A Petition on a similar issue was also filed by UPCL on 14.05.2009 in respect of 15 MW Vanala Small Hydro Project of Him Urja Pvt. Ltd. (HUPL) (i) to include 66 kV voltage level to evacuate power upto 20 MW and (ii) to grant of permission of open access for carrying electricity outside the State of Uttarakhand for sale to PTC. The Commission passed an Interim Order in this matter on dated 10.06.2009 and had sent a copy of the Interim Order to the Applicant for seeking the information listed in the Interim Order. In place of specific information, the Applicant filed an Application seeking open access permission for its own plant and which was returned to it. Hence, it filed the present independent Application for its plant.
7. Meanwhile, on 10.08.2009 (**Annexure 1**), the Commission sought GoU's views on the issue of sale of power outside the State by the developers in light of Clause 4 of the Implementation Agreement entered into by GoU with the small hydro developers.
8. The Commission held a hearing on 18.08.2009 in which it heard the Applicant, UPCL and

PTCUL in the matter and, before admission of the Application, the Commission asked the Applicant to establish its *locus-standi* for filing this Application and Commission's jurisdiction to permit sale of electricity outside the State. The Applicant was not able to establish the same and, hence, the Applicant was told that its Application is not being admitted. The order was, however, reserved as Government's decision on permissibility of sale outside the State in terms of the Implementation Agreement was awaited.

9. Subsequently, PSEB also filed an application before the Commission on 05.10.2009 in which it requested to be impleaded in the matter as its interest was also directly involved in the matter.
10. The clarification from Government has been received and, in its letter dated 10.11.2009 (enclosed as **Annexure 2**), the Government has informed the Commission that the State is having power shortages and HUPL has proposed to sell the electricity generated to PTC, which is a trading company and does not fall within the category of consumer and, hence, the Government is of the view that it would not be appropriate to consider the open-access proposal of the developer. Accordingly, the Commission has passed a detailed Order dated 30.12.2009 in the matter of M/s HUPL. In this Order, based on clarification given by the Government, the Commission has concluded that as per Clause 4 of the Agreement the sale of electricity outside the State is not permissible to a licensee. Copy of the said Order may be sent to the Applicant alongwith this Order. The clarification of the Government is applicable to all similarly placed generators including the Applicant.
11. The Commission, therefore, dismisses the Application filed by SPEL.

**(Anand Kumar)**  
**Member**

**(V.J. Talwar)**  
**Chairman**



**UTTARAKHAND ELECTRICITY REGULATORY COMMISSION**

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No. 652 /UERC/Vanala SHP/09-10

Date: 10 August 2009

To,

The Secretary (Energy),  
Government of Uttarakhand,  
Dehradun.

**Sub: Application of Vanala Small Hydro Project of 15 MW in District Chamoli for grant of permission of Open Access for carrying electricity from Vanala SHP to outside the State of Uttarakhand filed by UPCL**

Sir,

Uttarakhand Electricity Regulatory Commission (Commission) has received an application dated 14.05.2009 (Copy enclosed as Annexure-I) from Uttarakhand Power Corporation Ltd. (UPCL) for grant of permission of Open Access for carrying electricity from Vanala SHP being commissioned by M/s. Him Urja Pvt. Ltd. (HUPL) to outside the State of Uttarakhand. The Commission has issued an Interim Order dated 10.06.2009 (Copy enclosed as Annexure-II), which is self explanatory, wherein it has pointed out that disposal of power from the project outside the State is permissible only to a consumer as per clause - 4.1 of Implementation Agreement, which is reproduced below:

**"ARTICLE IV**

**SALE OF POWER AND ROYALTY ENERGY**

*4.1 Disposal of Power*

*4.1.1 The Company may utilize the option to dispose off power from the project, after allowing for Royalty Energy, in any one or more of the following modes:*

- i) Sell power to the UPCL, and such sales shall be mutually negotiated between the UPCL and the Company; and/or*
- ii) Sell power to any High Tension (HT) consumer within the State of Uttaranchal; and/or*
- iii) Sell power to local rural grids within the State of Uttaranchal, which are not connected to the UPCL's main grid; and/or*
- iv) Sell power to rural power distribution entities (i.e. those which sell power to predominantly rural areas); and/or*

v) Sell power to any consumer outside the State of Uttaranchal

It is clear from the above clause that the first four modes are for sale within the State and only fifth one is for sale outside the State. However, such sale is permitted only to a consumer situated outside the State. ....”

Accordingly, the Commission sought the status and details of the proposed purchaser and also the confirmation from the developer that the proposed sale is permissible under clause 4.1 of the implementation agreement. In response M/s. HUPL has filed its reply dated 02.07.2009, copy of which is enclosed herewith as Annexure-III, wherein it has stated that it has entered into agreements for sale of power to PTC. The same issue is also to other SHPs of the State namely Bhilangana-I and Bhilangana-III being developed by M/s. Swasti Power Engineering Ltd. & M/s. Polyplex Corporation Ltd. respectively. The Commission has fixed a hearing in this matter on 18.08.2009 (copy of letter dated 07.08.2009 stating the facts of the case is enclosed as Annexure IV).

In this regard, I have been directed to seek Government's views on the issue of permissibility of sale outside the State of Uttarakhand from such projects as per the terms of implementation agreement.

Yours sincerely,

Encl: As above

  
(Pankaj Prakash)  
Secretary

Copy to:

1. Managing Director, UJVNL, GMS Road, Maharani Bagh, Dehradun for appearing before the Commission in the hearing on 18.08.2009 at 3.00 PM for clarifying the position with respect to activities related to UJVNL in the implementation agreement of this project. Copy of implementation agreement is enclosed for ready reference.
2. Managing Director, PTCUL, 7-B, Lane No. 1, Vasant Vihar Enclave, Dehradun for appearing before the Commission in the hearing on 18.08.2009 at 3.00 PM for clarifying the position with respect to activities related to STU/Transmission licensee in the implementation agreement of this project. Copy of implementation agreement is enclosed for ready reference.

o/c

  
Secretary

Annexure 2

संख्या: 2299 /1(2)/2009-04(8)/55/2004

प्रेषक,

सौरभ जैन,  
अपर सचिव,  
उत्तराखण्ड शासन।

सेवा में,

सचिव,  
उत्तराखण्ड विद्युत नियामक आयोग,  
देहरादून।

ऊर्जा अनुभाग-2,

देहरादून: दिनांक: 10 नवम्बर, 2009

विषय:- बनाला जल विद्युत परियोजना से उत्पादित विद्युत के सम्बन्ध में।

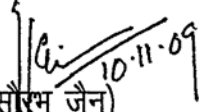
महोदय,

उपरोक्त विषय पर कृपया अपने पत्र संख्या 652/UERC/VanalaSHP/09-10, दिनांक 10.08.2009 का सन्दर्भ ग्रहण करने का कष्ट करें।

इस सम्बन्ध में अवगत कराना है कि राज्य में विद्युत की अत्यधिक कमी है तथा कम्पनी के द्वारा मै0 पी0टी0सी0 को उत्पादित विद्युत विक्रय करने का प्रस्ताव किया गया है, जोकि एक ट्रेडिंग कम्पनी है तथा उपभोक्ता की श्रेणी में नहीं आता है।

उक्त के दृष्टिगत राज्य सरकार के अभिमत "विकासकर्ता के Open access के अनुरोध पर विचार किया जाना उचित नहीं है" से मुझे आपको अवगत कराने का निदेश हुआ है।

भवदीय,

  
(सौरभ जैन)  
अपर सचिव