

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the matter of:

Application seeking approval of the Uttarakhand Electricity Regulatory Commission on the Draft Power Purchase Agreement between Uttarakhand Power Corporation and M/s Regency Gangani Energy Pvt. Ltd.

AND

In the matter of:

Uttarakhand Power Corporation Ltd. ... Petitioner

AND

In the matter of:

M/s Regency Gangani Energy Pvt. Ltd. ... Respondent

CORAM

Shri Jag Mohan Lal	Chairman
Shri C.S. Sharma	Member

Date of Hearing: April 01, 2014

Date of Order: April 03, 2014

The Order relates to the Petition filed by Uttarakhand Power Corporation Ltd. (hereinafter referred to as "UPCL" or "Licensee" or "Petitioner") seeking approval of draft Power Purchase Agreement for purchase of power from Gangani SHP (8 MW) of M/s Regency Ganagani Energy Pvt. Ltd. (hereinafter referred to as "M/s RGEPL" or "Generator" or "Respondent").

1. Background

The Petitioner filed a Petition dated 13.03.2014 under Section 86(1)(b) of the Electricity Act, 2003 and Clause 5 of the Distribution & Retail Supply License in the matter of seeking

approval on draft Power Purchase Agreement for the purchase of power from Gangani SHP (8 MW) of M/s RGEPL .The Commission also held a hearing in the matter on 01.04.2014. Submissions made by the both the parties are as following:

- 1.1 M/s RGEPL had signed an Implementation Agreement dated 29.04.2004 with GoU for execution of Gangani SHP (8MW) Village Kharadi, Tehsil Barkot, Distt. Uttarkashi in the State of Uttarakhand. UPCL is desirous of purchasing entire generated energy from above referred 8MW SHP (plus 10% overload) in accordance with terms and conditions agreed in draft PPA to be executed between both the parties. UPCL has also submitted a copy of “Connection Agreement” dated 06.06.2013 signed between M/s RGEPL & UPCL.
- 1.2 During the hearing the Respondent under affidavit submitted that its Gangani SHP (8MW) was synchronised with the grid on 12.06.2013 after the sealing of Panel & Electric Meters by the Petitioner on 09.06.2013, however, due to incident of heavy flood/natural-calamity on 16.06.2013 its project components got damaged. The Respondent further submitted that, now, the restoration work has been completed and the Petitioner has resealed its meter cubical on 08.03.2014, and also, the Project is generating power & supplying to the Petitioner w.e.f. 08.03.2014.
- 1.3 During the hearing Respondent was asked to submit issue/reservation, if any, on the draft PPA submitted by the Petitioner. The Respondent stated that as all the terms & conditions made in the draft PPA are in accordance with the existing UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations, 2013 hence, there is no issue to be put forward on the same. However, it requested the Commission that effective date of PPA should be reckoned from the date of power supplying to the Petitioner i.e. 08.03.2014. The Commission also asked the generator at what rate it is supplying power to UPCL, to which, it replied that power is being supplied to the Petitioner at the levelised rate as specified in the aforesaid RE Regulations, 2013.
- 1.4 The Commission asked the Petitioner whether it is receiving supply of power from the aforesaid Project of the Respondent since 08.03.2014, to which it accepted the facts as submitted by the Respondent. However, the Petitioner submitted that since prior to

declaration of the date of commercial operation of any project power received by it has to be considered as the infirm power.

2. Commission's views & decision

- 2.1 The Commission observed that the Project had been synchronised during the month of June, 2013. As of now, after the flash flood/natural calamity in June, 2013 it has been restored for generation and is supplying power to UPCL w.e.f. 08.03.2014. Further, the Respondent has accepted that it has agreed to sell the power to the Petitioner at the levelised tariff as specified in the existing RE Regulations, 2013.
- 2.2 In accordance with the definition specified in the RE Regulations, 2013 "Infirm Power" means electricity generated during trial runs prior to commercial operation of a unit of a generating station. The Commission has also taken note of the written submission made under affidavit by the Respondent, wherein, at s.no. 1 it has submitted as following:

"After panel and electric meters were sealed by U.P.C.L., on 9th June 2013 Gangani SHP was synchronised with 33kV Grid on 12th June, 2013. Upon Commissioning while the Electricity was being successfully injected to the Grid, on the night of 16th June, 2013 unprecedented floods in District Uttarkashi had severely damaged the project components of Gangani SHP which was duly reported to all the Government Agencies and Financial Institutions."

(Emphasis Added)

- 2.3 In view of the above, the Commission is of the opinion that since the Project had already been synchronised & commissioned once i.e. before the occurrence of flash flood/ natural calamity, hence, declaration of commercial operation date (i.e. CoD) for a second time after the restoration of the Project has no relevance. Since the generation from the project has started post restoration works, therefore, the date of effectiveness of PPA shall be reckoned from the date of commencement of supply of power to UPCL i.e. 08.03.2014.
- 2.4 However, the Petitioner is required to make necessary correction in respect of the following observations made in the draft PPA:
- i. Definition of "Interconnection Point" in Clause 1.15 has been shown in accordance with the RE Regulations, 2010 which has already been repealed by existing RE Regulations, 2013. It should be replaced by : " *"Inter-connection Point" shall mean interface point of renewable energy*

generating facility with the transmission system or distribution system which shall be line isolator on outgoing feeder on HV side of generator transformer;" as mentioned in RE Regulations, 2013. Consequent changes are also required to be incorporated in Clause nos. 8.2, 8.3 & 14.1 of draft PPA.

- ii. Since the generator has already agreed and is supplying power to UPCL at generic levelled rate specified in the RE Regulations, 2013, accordingly, Clause 2.1 of the draft PPA shall stand modified as under:

"2.1 UPCL shall accept and purchase 8 MW (plus 10% overloading) of power made available to UPCL system from Generating Company at the levelised rate specified by Uttarakhand Electricity Regulatory Commission in Uttarakhand Electricity Regulatory Commission (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations, 2013 as amended from time to time based on sources and technologies as mentioned at point no. (i) below:-

*i) **Small Hydro with capacity upto 25 MW***

ii) Wind

....

vii) ... "

- iii. Clause 2.2 of draft PPA provides that supply of electricity by UPCL to the Generating Co. shall be as per the tariff determined by the Commission under appropriate "Rate Schedule of Tariff". The above referred Clause is to be clarified in light of the Regulations 45 of the RE Regulations, 2013 reproduced as under :

"45. Purchase of Electricity by the Generating station/Start up Power

(1) Any person, who establishes, maintains and operates a generating station and normally does not need power from the licensee round the year, may purchase electricity from a generating company or a distribution licensee in case his plant is not in a position to generate electricity to meet the requirement of his own use or for start up and consequently power is required to be drawn from distribution licensee.

(2) In case electricity generated from the plant is being exclusively sold to the State Distribution Licensee, the electricity (in kWh) procured by the Generating Station from the State Distribution Licensee to meet its requirement of his own use or for startup power, will be adjusted from the

electricity sold to the Distribution Licensee on month to month basis. The Distribution Licensee shall make the payment for net energy sold to it by the Generating Company, i.e. difference of the total energy injected into the grid and energy drawn from the grid by the Generating Company. In case the energy supplied by the distribution licensee is more than the energy injected by the generating company, the net energy (in kWh) thereof shall be billed by the distribution licensee in accordance with sub-Regulation (3) below.

(3) In case electricity generated from the plant is sold to third party other than the State Distribution Licensee, then such purchase of electricity by the generating company from the State distribution licensee, shall be charged as per the tariff determined by the Commission for temporary supply under appropriate "Rate Schedule of tariff" for Industrial Consumers considering maximum demand during the month as the contracted demand for that month. The Fixed/Demand charges for that month shall be payable for the number of days during which such supply is drawn. Such Generating Company shall, however, be exempted from payment of monthly minimum charges or monthly minimum consumption guarantee charges or any other charges."

Since the above referred regulation clearly specifies that if electricity generated from the plant is being exclusively sold to the State Distribution Licensee, the electricity (in kWh) procured by the Generating Station from the State Distribution Licensee to meet its requirement of his own use or for startup power, will be adjusted from the electricity sold to the Distribution Licensee on month to month basis. Therefore, Clause 2.2 should be elaborated in accordance with of the Regulation 45.

Similarly, S.no. 5 of the Annexure-II to the draft PPA is also required to be amended in view of the above referred regulation.

The Petition is disposed off accordingly.

(C.S. Sharma)
Member

(Jag Mohan Lal)
Chairman