

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the matter of:

Petition seeking approval of the Draft Power Purchase Agreement between Uttarakhand Power Corporation Ltd. and M/s Super Hydro Electric Pvt. Ltd.

AND

In the matter of:

Uttarakhand Power Corporation Ltd.

Petitioner

AND

In the matter of:

M/s Super Hydro Electric Pvt. Ltd.

Respondent No. 1

Power Transmission Corporation Uttarakhand Ltd.

Respondent No. 2

CORAM

Shri C.S. Sharma

Member-Chairman

Shri K.P. Singh

Member

Date of Hearing: March 25, 2014

Date of Order: May 05, 2014

The Order relates to the Petition filed by Uttarakhand Power Corporation Ltd. (hereinafter referred to as "Petitioner" or "UPCL") seeking approval of the Commission on the draft Power Purchase Agreement between UPCL and M/s Super Hydro Electric Pvt. Ltd. (hereinafter referred to as "Respondent No. 1" or "M/s SHEPL" or "Generator"). Since the evacuation of power from the HEP of the generator is proposed through 220 kV sub-station

Joshimath, therefore, Power Transmission Corporation Uttarakhand Ltd. (hereinafter referred to as "Respondent No. 2" or "PTCUL") was also made a party in the matter.

1. Background

- 1.1. The Petitioner filed a Petition seeking approval of the Commission on the draft Power Purchase Agreement for the purchase of energy generated from 24.30 MW HEP at Govindghat, Chamoli to be established by M/s Super Hydro Electric Pvt. Ltd. In accordance with the aforesaid draft PPA scheduled date of commissioning of the HEP is 01.01.2016.
- 1.2. The Commission held a hearing in the matter on 25.03.2014, wherein, the generator raised the issue of evacuation of power generated from its upcoming HEP as the proposed interconnection point, i.e. 220 kV sub-station Joshimath is expected to become operational after the date of commissioning of his HEP. The generator on its own proposed connection at the existing 66 kV sub-station, Joshimath until the 220 kV system becomes ready to evacuate the power. The generator also agreed to bear the cost of required modifications in the 66 kV system for evacuation of power from its aforesaid HEP for the interim period.
- 1.3. The Commission during the hearing & also vide Order dated 27.03.2014 directed both UPCL & PTCUL to jointly explore suitable alternatives for evacuation of power from the aforesaid HEP till connectivity to the proposed 220 kV network is provided as per Connectivity Agreement and to file written submission on outcome of the same latest by 01.04.2014. However, both the licensees submitted their individual replies in the matter on 09.04.2014.
- 1.4. UPCL vide its reply furnished the details of existing load on 66 kV line from Srinagar to Marwari, Joshimath and submitted that at present total generation of 45.8 MW load is being carried by this line. UPCL submitted that in case of breakdown of all the 66/33 kV & 33/11 kV sub-stations connected with this 66 kV line, there would be a current of 400.65 Ampere in the line on account of the above referred generation

capacity. UPCL also submitted that since the line is made of ACSR Dog conductor having current carrying capacity of 320 Ampere only, therefore, in case of above mentioned eventuality the line would become overloaded. UPCL further submitted that at 132 kV sub-station Srinagar the capacity of 132/66 kV transformer is 30 MVA only, hence, capacity of the same would be required to be increased from existing level. UPCL also submitted that when 132 kV sub-station Simli becomes operational then 13 MVA load of 66/33 kV sub-station Karanprayag shall be shifted to 132 kV sub-station, Simli, thereby, local load being fed by the generating stations shall get reduced and the surplus power will go to 132 kV sub-station Srinagar through 66 kV line on account of the shifting of aforesaid 13 MVA load resulting in additional spare capacity in 66 kV Joshimath-Srinagar line. However, UPCL recommended that the generation of M/s Super Hydro Electric at Govindghat should be evacuated at 132 kV or at higher voltage. UPCL also informed that PTCUL did not propose any alternative for evacuation of power from the said project.

- 1.5. PTCUL vide its reply dated 09.04.2014 submitted that DPR of 220 kV sub-station, Joshimath is under preparation and shall be forwarded to CEA for approval. PTCUL further submitted that construction of 400 kV DC Tapovan-Pipalkoti line has started w.e.f. January, 2014 and the final testing & completion of this line would be done by December, 2015. In respect of construction of 220 kV DC Joshimath-Pipalkoti line PTCUL submitted that the schedule date of start of construction is April, 2015 and the final testing & completion of this line would be done by June, 2018. PTCUL also submitted the status of the bids made for 400 kV GIS Pipalkoti sub-station. In this regard, PTCUL submitted that the bids for the said sub-station are under technical evaluation and the sub-station would be completed by September, 2017. PTCUL informed that construction of 132 kV Srinagar-Simli line is expected to be completed by January, 2015 and 132 kV sub-station Simli will be charged in January, 2015.

2. Commission's Views and Decision

- 2.1. From the above submissions of both the licensees, it is apparent that PTCUL has not made any suggestion/proposal on the alternate evacuation of power, however, UPCL

has stated that on charging of 132 kV sub-station Simli, load of 13 MVA of 66/33 kV substation Karanprayag shall be shifted from 132 kV sub-station Srinagar to 132 kV Substation Simli. Further, on examination of the information submitted by PTCUL of the maximum export and import of 66 kV Karanprayag feeder, it is evident that the maximum export on the 66 kV line has been to the extent of 246 Ampere (23.89 MW) and maximum import has been 96.80 Ampere (9.3 MW) and the capacity of the said line is 300 Ampere. Further, based on the submission made by UPCL it is also evident that a load of 13 MVA would be shifted from this line after charging of 132 kV sub-station Simli, and which is likely to be charged by January, 2015, i.e. almost a year prior to the commissioning of the generating station which is 01.01.2016.

- 2.2. The Commission has perused the connection agreement executed on 6th December 2013, i.e. barely two months before filing of the instant petition. Format 5 forming part of the Connection Agreement stipulates that the connectivity to the SHP shall be available after commissioning of 220 kV switching sub-station Joshimath, commissioning of 220 kV D/c Joshimath-Pipalkoti line, commissioning of 400 kV sub-station Pipalkoti and commissioning of LILO of one circuit of 400 kV Vishnuprayag-Muzaffarnagar line at 400 kV sub-station at Pipalkoti and the expected date of commissioning of the said transmission system is mentioned as March, 2016 which again was subject to grant of RoW and forest clearance and investment approvals by appropriate Commission/authority. In this regard, it would be relevant to refer to the Commission's letter dated July 22, 2011 wherein the Commission had allowed PTCUL to adopt the model connection agreement approved by CERC with the condition that in case PTCUL deviates from any condition of the Model document, that would only be with the prior approval of the Commission.

Clause E of the Connection Agreement specifies as under:

"The parties shall separately take up modalities for implementation of the works on mutually agreed terms and conditions. The scope of works, time schedule for completion of works, including the timelines for the various milestones to be reached for completion of works (PERT chart), shall form an appendix to this agreement, and shall form the

basis for evaluating if the works by the parties is being executed in time. Penalties for non-completion of works in time by one party resulting in financial losses to the other party may be appropriately priced, as per mutual agreement, for indemnification of each other against losses incurred in this regard, and form a part of this Agreement. Similarly, for the regular O&M of the connection equipments owned by the applicants and located in the STU's premises/switchyard, the parties shall separately take up the O&M agreement on mutually agreed terms and conditions."

The Connection Agreement has been examined. It is observed that no Appendix as required in Clause E referred hereinto above is annexed. A Format 5 is found annexed which states expected completion by March, 2016 and is subject to numerous conditions as mentioned above. The approval accorded by the Commission for the Model Agreement required PTCUL to obtain prior approval of the Commission, if any changes in the Model Connection Agreement were needed. In the instant case, material deviations have been taken by PTCUL from the Model Connection Agreement without any reference to this Commission. On the face of record this is a clear violation of the directions of the Commission and prima-facie PTCUL has rendered itself liable to be proceeded under Section 142 of the Act.

It is also seen that now in the present proceedings, PTCUL has shown the expected completion date as June, 2018. The shifting of completion date by over two years within a span of 3 to 4 months is alarming. The actions in the instant case by PTCUL are frivolous and demonstrate utter casualness in discharging its duties and obligations imposed on it by the Act. PTCUL, as STU, has been entrusted by the Central Act the functions of planning and co-ordination relating to intra-state transmission system with CTU, State Government, generating companies, etc. and also to ensure development of an efficient, co-ordinated and economical system of intra-State transmission lines for smooth flow of electricity from a generating station to the load centres. Further, as a transmission licensee, it is the duty of PTCUL to build, maintain and operate an efficient, co-ordinated and economical inter-State transmission system or intra-State transmission system, as the case may be.

The Connection Agreement has been executed with the generating station likely to come on bar in January, 2016 at 220 kV for which, as stated by PTCUL, the required infrastructure would be ready by June, 2018. The Commission directs PTCUL as follows:

- (a) Sign with the generator an Appendix as required in Clause E within 15 days of this Order clearly indicating as to how and when connectivity would be provided by it. PTCUL is not at liberty to impose conditions in the timelines as has been done in Format 5. Appropriate penalty in consultation with the generator should be included in the Appendix as required in Clause E for failure to achieve the agreed timelines.
- (b) Hereafter, PTCUL should demonstrate earnestness while executing the Connection Agreement as it is bound by Law to create or provide through existing facilities, evacuation of power within the State.
- (c) Furnish an explanation within 15 days as to why it should not be proceeded against under Section 142 for violating directions of the Commission and this should be treated as a notice issued under the Electricity Act, 2003.

Reverting now to the instant case, the faux-pas has been created due to defective connection agreement executed by PTCUL, the Commission being bounden to the mandate of the Act, would not allow generation getting bottled up because of dilly dallying by PTCUL in execution of work. It has been mentioned that the DPR for the 220 kV sub-station through which generation of this HEP is to be evacuated is under preparation though HEP is likely to come on bar January 2016. Further, as per the submission made by PTCUL on 09.04.2014 other component of the transmission system which are contingent in granting of connectivity like commissioning of 220 kV D/c Joshimath-Pipalkoti line would take place by June, 2018, after which connectivity would be granted to the generator, a good two and half year after expected commissioning of the HEP in January 2016.

- 2.3. As such to avoid bottling up of power, the Commission allows the generator, as an interim measure, to evacuate its power generated from the aforesaid HEP till

connectivity to the proposed 220 kV network is provided as per Connection Agreement, through the existing 66 kV network. However, both UPCL and the generator are directed to co-ordinate amongst themselves and carry out the study for required protection system to be implemented at the generator end so as to insulate the existing system from overloading and other system stability issues through proper measures like protections to be provided at the generator end, relay settings and co-ordination thereof. The generator will also abide by such directions of the SLDC to lower the generation if so warranted by the system constraints.

- 2.4. The Commission also takes note of the fact that the charging of 132 kV sub-station Simli has already been delayed way beyond its scheduled date of commissioning. The Respondent No. 2, i.e. PTCUL is hereby directed to ensure actions in real earnest to complete the line for charging the aforesaid sub-station and also to submit quarterly progress report on the same to the Commission within 15 days of the end of each quarter. Further, PTCUL is also directed to submit quarterly progress report alongwith the status of the commissioning of 220 kV Switching sub-station at Joshimath at which connectivity to the generator is proposed, commissioning of 220 kV D/c Joshimath-Pipalkoti line, commissioning of 400 kV sub-station Pipalkoti and commissioning of LILO of one circuit of 400 kV Vishnuprayag-Muzaffarnagar line at 400 kV sub-station at Pipalkoti in accordance with the connectivity agreement, within 15 days of the end of each quarter.
- 2.5. The Commission has observed that some of the provisions made in the draft PPA are in deviation from that of the existing RE Regulations, 2013. Accordingly, the Petitioner is required to make necessary correction in the draft PPA as per the following observations:
- i. Definition of "Regulations" in Clause 1.13 has been referred to RE Regulations, 2010 which has already been repealed by existing RE Regulations, 2013. Hence, all the definitions in draft PPA should be consistent with the existing Regulations, i.e. RE Regulations, 2013.

ii. 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 specified in RE Regulations, 2013. Consequent changes are also required to be incorporated in Clause nos. 8.2, 8.3 & 14.1 of draft PPA.

iii. Clause 2.1 of the draft PPA stipulates sale of power at levelised rate to be determined in accordance with the RE Regulations, 2013. In this regard, the generator during the hearing submitted that it would opt for the generic tariffs specified under RE Regulations, 2013. The RE Regulations 2013, specifies that the generator has the option to either opt for project specific tariffs or to opt the generic tariffs specified in the Regulations. Accordingly, to remove any ambiguity regarding the same, Clause 2.1 of the draft PPA needs modification as under:

“UPCL shall accept and purchase 24.3 MW (plus 10% overloading) of power made available to UPCL system from Generating Company at the levelised generic tariff specified by Uttarakhand Electricity Regulatory Commission as provided in ...”

iv. Clause 2.2 of the 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 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 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 amended in view of the Regulation 45.

2.6. The Commission, therefore, orders:

(a) The generator be afforded evacuation of power by Petitioner for the interim

period, i.e. till commissioning of 220 kV sub-station at Joshimath, at 66 kV on fulfillment of conditions mentioned in Para 2.3 of this order.

- (b) The Petitioner shall execute the power purchase agreement after modifying various clauses in accordance with observations in Para 2.5 of this order.
- (c) PTCUL shall take actions as per sub-para a, b and c of Para 2.2 of this Order.
- (d) PTCUL shall furnish progress of works, relating to charging of 132 kV sub-station Simli and commissioning of 220 kV sub-station Joshimath, commissioning of 220 kV D/c Joshimath-Pipalkoti line, commissioning of 400 kV sub-station Pipalkoti and commissioning of LILO of one circuit of 400 kV Vishnuprayag-Muzaffarnagar line at 400 kV sub-station Pipalkoti, each quarter as directed hereto above in para 2.4 of this order.

2.7. Ordered accordingly.

(K.P. Singh)
Member

(C.S. Sharma)
Member-Chairman