

**Before**

**UTTARAKHAND ELECTRICITY REGULATORY COMMISSION**

**In the matter of:**

23 Petitions filed by UPCL seeking approval of the Commission on the Power Purchase Agreement entered into between:

1. UPCL & M/s Impex India.
2. UPCL & M/s Devishi Renewable Energy Pvt. Ltd.
3. UPCL & M/s Devishi Solar Power Pvt. Ltd.
4. UPCL & M/s PL Solar Renewable Ltd.
5. UPCL & M/s Bindookhadak Solar Projects Pvt. Ltd.
6. UPCL & M/s Haridwar Solar Projects Pvt. Ltd.
7. UPCL & M/s Haridwar Solar Projects Pvt. Ltd.
8. UPCL & M/s Shakumbhari Solar Power Projects Pvt. Ltd.
9. UPCL & M/s Ballupur Solar Projects Pvt. Ltd.
10. UPCL & M/s Bhagwanpur Solar Projects Pvt. Ltd.
11. UPCL & M/s Technique Solaire Invest 1 India Pvt. Ltd.
12. UPCL & M/s PL Sunrays Power Ltd.
13. UPCL & M/s PL Surya Vidyut Ltd.
14. UPCL & M/s Emami Power Ltd.
15. UPCL & M/s Sunworld Energy Pvt. Ltd.
16. UPCL & M/s Eminent Solar Power Pvt. Ltd.
17. UPCL & M/s Chudiala Solar Power Projects Pvt. Ltd.
18. UPCL & M/s A.R. Solar Power.
19. UPCL & M/s Hydro Power Engineers.
20. UPCL & M/s A.R. Solar Power.
21. UPCL & M/s Makin Developers Pvt. Ltd.
22. UPCL & M/s RP Infrapower (P) Ltd.
23. UPCL & M/s Vishal Techno Commerce Ltd.

AND

**In the matter of:**

Uttarakhand Power Corporation Ltd.

... Petitioner

AND

**In the matter of:**

1. M/s Impex India
  2. M/s Devishi Renewable Energy Pvt. Ltd.
  3. M/s Devishi Solar Power Pvt. Ltd.
  4. M/s PL Solar Renewable Ltd
  5. M/s Bindookhadak Solar Projects Pvt. Ltd.
  6. M/s Haridwar Solar Projects Pvt. Ltd.
  7. M/s Haridwar Solar Projects Pvt. Ltd.
  8. M/s Shakumbhari Solar Power Projects Pvt. Ltd.
  9. M/s Ballupur Solar Projects Pvt. Ltd.
  10. M/s Bhagwanpur Solar Projects Pvt. Ltd.
  11. M/s Technique Solaire Invest 1 India Pvt. Ltd.
  12. M/s PL Sunrays Power Ltd.
  13. M/s PL Surya Vidyut Ltd.
  14. M/s Emami Power Ltd.
  15. M/s Sunworld Energy Pvt. Ltd.
  16. M/s Eminent Solar Power Pvt. Ltd.
  17. M/s Chudiala Solar Power Projects Pvt. Ltd.
  18. M/s A.R. Solar Power.
  19. M/s Hydro Power Engineers.
  20. M/s A.R. Solar Power.
  21. M/s Makin Developers Pvt. Ltd.
  22. M/s RP Infrapower (P) Ltd.
  23. M/s Vishal Techno Commerce Ltd.
- ..... Respondents

**CORAM**

<b>Shri Subhash Kumar</b>	<b>Chairman</b>
<b>Shri K.P. Singh</b>	<b>Member</b>

**Date of Order: July 29, 2016**

This Order relates to the Petitions filed by Uttarakhand Power Corporation Ltd. (hereinafter referred to as "UPCL" or "Petitioner" or "Licensee") seeking approval of PPAs executed by it with the project developers for procurement of power from Solar Photovoltaic based Power Plants.

## **1. Background**

- 1.1 The Petitioner had filed a Petition on 21.12.2015 for the approval of the draft PPA to be executed with 23 Solar PV based project developers selected through tariff based competitive bidding process in accordance the "Solar Energy Policy of Uttarakhand-2013" notified by GoU. The Commission had vide its Order dated 22.01.2016 approved the draft PPA to be executed in respect of 23 Solar PV based project developers subject to certain modifications and directed the Petitioner to incorporate those modification while entering into the PPA with the project developers.
- 1.2 The Petitioner filed 21 PPAs vide Petitions dated 18.06.2016, and thereafter, the Petitioner submitted remaining 2 PPAs vide separate Petitions dated 05.07.2016 for the approval of the Commission. Accordingly, licensee has executed all the PPAs with the 23 Solar PV based projects allocated to the developers. Since the draft PPA had already been approved with certain modifications vide the Commission's above referred Order dated 22.01.2016, hence, the same has been duly considered in this instant Order.

## **2. Submissions made by Petitioner & Respondents**

- 2.1 UPCL filed Petitions containing all the 23 aforesaid PPAs seeking approval of the Commission for purchase of energy generated from Grid Connected Solar PV Plant under Section 86(1)(b) of the Electricity Act, 2003 and clauses 5.1, 5.2 & 5.4 of the license conditions of the Distribution and Retail Supply License dated 20.06.2003 issued by the Commission.
- 2.2 The Petitioner submitted that as per the provisions of the Electricity Act, 2003 read with provisions of UERC (Conduct of Business) Regulations, 2014 and Distribution and Retail Supply License, the Petitioner is required to get the approval of the Commission on the Power Purchase Agreement entered into with the Generating Company.
- 2.3 The Petitioner further submitted that the Respondents were desirous to sell entire energy scheduled to be generated from their respective projects and the Applicant company was desirous of purchasing entire energy on the terms and conditions as agreed between the parties as per the terms and condition laid down in the PPAs.
- 2.4 The Respondents also made a request for approval of the PPA, which was an essential requirement for financial closure of the projects by 31.07.2016.

### 3. Commission's Views & Decisions

#### 3.1 Legal Requirement for approval of PPA

3.1.1 A PPA is a legal document incorporating operational, technical & commercial provisions to be complied in accordance with the relevant rules & regulations.

3.1.2 Section 86(1)(b) of the Electricity Act, 2003 stipulates that one of the function of the Commission is to regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State.

3.1.3 Further, the Distribution and Retail Supply Licence issued by the Commission lays down certain conditions of license, which amongst others also has the following:

*"5.1 The Licensee shall be entitled to:*

*(a) ...*

*(b) Purchase, import or otherwise acquire electricity from any generating company or any other person under Power Purchase Agreements or procurement process approved by the Commission; ..."*

*(Emphasis added)*

3.1.4 Further, Regulations 7(2) & 7(3) of both the UERC (Tariff and other Terms for Supply of Electricity from Non-Conventional and Renewable Energy Sources) Regulations, 2013 (RE Regulations, 2013) specifies that:

*"(2) The distribution licensee on an offer made by the said RE based Generating Stations and Co-generating Stations shall enter into a power purchase agreement in conformity with these Regulations and relevant provisions of other Regulations and the Act. The distribution licensee shall sign the PPA within two months of offer made by the generating company, failing which the generating company may approach the Commission for suitable remedy.*

*(3) The distribution licensee shall make an application for approval of power purchase agreement entered into with the generating station in such form and manner as specified in these regulations and Uttarakhand Electricity Regulatory Commission (Conduct of Business) Regulations, 2004 as amended from time to time."*

*(Emphasis added)*

3.1.5 Accordingly, in accordance with the requirement of the Act and Regulations

referred above, UPCL as a distribution licensee was required to seek approval of the PPA entered or proposed to be entered by it from the Commission.

### 3.2 Commission's Analysis of the PPAs and Order on the same

3.2.1 Details of the capacity of the 23 projects for which PPAs have been executed by the UPCL with the Respondents and submitted before the Commission for approval are as follows:

S. No.	Name of Developers	Project Capacity	Rate
1.	M/s Devishi Renewable Energy Pvt. Ltd.	12.5 MW	Rs. 5.58/kWh
2.	M/s Devishi Solar Power Pvt. Ltd.	12.5 MW	Rs. 5.63/kWh
3.	M/s PL Surya Vidyut Ltd.	10 MW	Rs. 5.64/kWh
4.	M/s Technique Solaire Invest 1 India Pvt. Ltd.	5 MW	Rs. 5.75/kWh
5.	M/s Eminent Solar Power Pvt. Ltd.	12.5 MW	Rs. 5.78/kWh
6.	M/s Sunworld Energy Pvt. Ltd.	12.5 MW	Rs. 5.78/kWh
7.	M/s PL Sunrays Power Ltd.	10 MW	Rs. 5.99/kWh
8.	M/s PL Renewable Pvt Ltd	10 MW	Rs. 5.84/kWh
9.	M/s A.R. Solar Power.	1 MW	Rs. 5.67/kWh
10.	M/s Emami Power Ltd.	20 MW	Rs. 5.74/kWh
11.	M/s Makin Developers Pvt. Ltd.	1 MW	Rs. 5.97/kWh
12.	M/s Vishal Techno Commerce Ltd.	5 MW	Rs. 5.79/kWh
13.	M/s RP Infrapower Pvt. Ltd.	5 MW	Rs. 5.99/kWh
14.	M/s Impex India	2.4 MW	Rs. 5.60/kWh
15.	M/s Hydro Power Engineers.	1 MW	Rs. 5.67/kWh
16.	M/s A.R. Solar Power.	1 MW	Rs. 5.69/kWh
17.	M/s Haridwar Solar Projects Pvt. Ltd.	10 MW	Rs. 5.57/kWh
18.	M/s Haridwar Solar Projects Pvt. Ltd.	10 MW	Rs. 5.58/kWh
19.	M/s Ballupur Solar Projects Pvt. Ltd.	10 MW	Rs. 5.82/kWh
20.	M/s Bindookhadak Solar Projects Pvt. Ltd	5 MW	Rs. 5.93/kWh
21.	M/s Bhagwanpur Solar Projects Pvt. Ltd.	5 MW	Rs. 5.98/kWh
22.	M/s Chudiala Solar Power Projects Pvt. Ltd.	10 MW	Rs. 5.91/kWh
23.	M/s Shakumbhari Solar Power Projects Pvt. Ltd	10 MW	Rs. 5.95/kWh

3.2.2 The PPAs submitted by the UPCL have been examined in light of the relevant rules & Regulations and also the Draft PPA approved by the Commission vide its Order dated 22.01.2016. The Commission observed that certain clauses in the PPAs submitted by UPCL were inconsistent with the provisions of the draft PPA already approved by the Commission. Such observations have been discussed in the subsequent paragraphs. UPCL is required to take note of the same and incorporate necessary corrections in the respective PPAs.

3.2.3 Further, all the PPAs submitted by UPCL which have been executed with the above mentioned Respondents' Grid Interactive Solar PV Plants are similar. Hence, the Commission has decided to club all the Petitions in the instant Order.

3.2.4 Moreover, since all the PPAs submitted by UPCL executed with the above

mentioned Respondents are same. Accordingly, the Commission's decisions in respect of PPAs shall be equally applicable for all such PPAs submitted by UPCL. The observations/ modification to be made in the PPAs are as follows:

- a) It has been observed that the name of the 15 developers/successful bidders with whom UPCL has entered into Power Purchase Agreement are not in line with the name of the successful bidders mentioned in the Order dated 22.01.2016 pertaining to the approval of the Draft PPA.

In this regard, clarification was sought from UREDA, Nodal Agency. UREDA vide its letter dated 19.07.2016 submitted that as per clause 2.10.1.1 of the RfP, there was a provision of formulation of Project Company by the successful bidder and UREDA while issuing LoA to 23 successful bidders has informed that the interested developers in provisions to the clause 2.10.1.1 may formulate the Project Company. UREDA also provided copy of "Certificate of Incorporation" in respect of all the 15 companies incorporated subsequent to the allotment of Solar PV Capacity to their parent organization.

Accordingly, names of the 23 successful bidders as per Order dated 22.01.2016 and as informed by UREDA consequent to formation of a new project company are as follows:

S. No.	Original Name of the Developers to whom projects allotted	Project Capacity	PPA entered into with (successful bidder/ Project Company)
1	M/s ACME Solar Holdings Pvt. Ltd., Gurgaon	12.5 MW	M/s Devishi Renewable Energy Pvt. Ltd.
2	M/s ACME Solar Holdings Pvt. Ltd., Gurgaon	12.5 MW	M/s Devishi Solar Power Pvt. Ltd.
3	M/s Punj Llyod Infrastructure Ltd.,Gurgaon	10 MW	M/s PL Surya Vidyut Ltd.
4	M/s JLTM Energy India Pvt. Ltd., Varanasi, UP	5 MW	M/s Technique Solaire Invest 1 India Pvt. Ltd.
5	M/s ACME Solar Holdings Pvt. Ltd., Gurgaon	12.5 MW	M/s Eminent Solar Power Pvt. Ltd.
6	M/s ACME Solar Holdings Pvt. Ltd., Gurgaon	12.5 MW	M/s Sunworld Energy Pvt. Ltd.
7	M/s Punj Llyod Infrastructure Ltd.,Gurgaon	10 MW	M/s PL Sunrays Power Ltd.
8	M/s Punj Llyod Infrastructure Ltd.,Gurgaon	10 MW	M/s PL Solar Renewable Pvt Ltd
9	M/s AR Solar Power, Dehradun	1 MW	M/s A.R. Solar Power.
10	M/s Emami Power Ltd., Kolkata	20 MW	M/s Emami Power Ltd.
11	M/s Makin Developers Pvt. Ltd., Ballupur, Dehradun	1 MW	M/s Makin Developers Pvt. Ltd.

S. No.	Original Name of the Developers to whom projects allotted	Project Capacity	PPA entered into with (successful bidder/ Project Company)
12	M/s Vishal Techno Commerce Ltd., Mumbai	5 MW	M/s Vishal Techno Commerce Ltd.
13	M/s RP Infrapower Pvt. Ltd., Dehradun	5 MW	M/s RP Infrapower Pvt. Ltd.
14	M/s Impex India, Kolkata	2.4 MW	M/s Impex India
15	M/s Hydro Power Engineers, Dehradun	1 MW	M/s Hydro Power Engineers.
16	M/s AR Solar Power, Dehradun	1 MW	M/s A.R. Solar Power
17	M/s Rays Power Infra Pvt. Ltd., Jaipur	10 MW	M/s Haridwar Solar Projects Pvt. Ltd.
18	M/s Rays Power Infra Pvt. Ltd., Jaipur	10 MW	M/s Haridwar Solar Projects Pvt. Ltd.
19	M/s Omkar Power Tech. India Pvt. Ltd., Dehradun	10 MW	M/s Ballupur Solar Projects Pvt. Ltd.
20	M/s Profigate Infra Gasoline, Roorkee	5 MW	M/s Bindookhadak Solar Projects Pvt. Ltd
21	M/s Profigate Infra Gasoline, Roorkee	5 MW	M/s Bhagwanpur Solar Projects Pvt. Ltd.
22	M/s Omkar Power Tech. India Pvt. Ltd., Dehradun	10 MW	M/s Chudiala Solar Power Projects Pvt. Ltd.
23	M/s Omkar Power Tech. India Pvt. Ltd., Dehradun	10 MW	M/s Shakumbhari Solar Power Projects Pvt. Ltd.

- b) The Commission observed from the preamble of the PPAs that in case of few projects, mentioned at S. No. 11 & 14 to 23 of the above Table, a separate agreement has also been executed amongst the developers for construction of required evacuation system/facility and the said agreement has been made an integral part of the PPAs. However, these agreements, in the matter of evacuation system, had not been enclosed along with the respective PPAs. Accordingly, UPCL was directed to submit the said agreement which have been submitted by the Petitioner vide letter dated 18.07.2016.
- c) Further, the Commission observed that the preamble of the PPA executed with M/s Shakumbhari Solar Power Projects Pvt. Ltd. mentions Agreement entered into with "M/s Shakumbhari Solar Power Projects Pvt. Ltd.". However, from the above submission of UPCL it has been noted that the Agreement dated 30.03.2016 has actually been executed with "M/s Chudiala Solar Power Projects Pvt. Ltd.". Accordingly, the Petitioner is required to make necessary correction at preamble of the PPA.
- d) The Preamble of the aforesaid PPAs provide that the Generating Company agrees to purchase power for its auxiliaries from UPCL in a situation when the Generating

Company is not in a position to generate electricity to meet its own requirement or for start up of the plant and UPCL agrees to supply such power to plant at retail tariff as per Regulations/Orders specified by the Commission. The said Clause is not consistent with Regulation 45 of RE Regulations, 2013 as the Regulations provides for netting of energy which the Generating Station procures from Distribution Licensee to meet its own requirement or for startup power, from the electricity sold to the Distribution Licensee on month on month basis. Hence, the said conditions in the PPAs are required to be modified in accordance with the Regulations.

- e) In Clause 1.5, i.e. Definition of “Energy Account Month”, definition needs modification as under:

*‘Energy Account Month’ means period from 00 hrs of 1st day to 24 hrs of last day of the billing month.*

- f) The Commission observes that vide Fifth Amendment to the RE Regulations, 2013 dated 29.04.2016 definition of Inter-connection Point has been modified as follows:

*“(v) “Inter-connection Point” in respect of all the RE based generating stations, except Grid interactive Roof Top and Small Solar PV Power Projects, 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;*

*However, in respect of Grid interactive Roof Top and Small Solar PV Power Projects, Inter-connection Point shall mean the interface of solar power generation facility under net metering arrangement with the network of licensee and shall normally be the point where export/import meter is installed to measure the energy transfer between the licensee and the eligible consumer;”*

The above mentioned definition is also required to be incorporated in the PPAs in place of the definition given at Clause 1.15 of the PPAs.

- g) Further, in Clause 2.1 of the PPA with most of the developers, the commissioning date has been stipulated as 31.03.2016. However, the Commission vide its Order dated 31.03.2016 on the Petition filed by UREDA to extend the benchmark capital cost and generic tariff as declared vide Order dated 23.07.2015, i.e. upto 30 Oct, 2016 for 23 Solar PV Power Plants (cumulative capacity of 181.40 MW) had extended the date of commissioning to 31.10.2016. Accordingly, the date of



commissioning of the project as occurring in Clause 2.1 of the PPA and elsewhere in the PPA be corrected to 31.10.2016.

4. **Accordingly, keeping in view the requirement of financial closure to be achieved by the project developers by 31.07.2016, both UPCL and the generators are directed to incorporate the changes discussed above in the respective PPAs by executing a Supplementary PPA within 2 days of the issuance of the Order and submit the compliance immediately.**

Ordered Accordingly.

**(K.P. Singh)**  
Member

**(Subhash Kumar)**  
Chairman