

Before

# UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

**Petition No. 27 of 2016**

**In the matter of:**

Application seeking prior approval of the Commission on the Draft Power Purchase Agreement for short term power purchase between Uttarakhand Power Corp. Ltd. and M/s Tata Power Trading Company Ltd. (TPTCL), M/s PTC India Ltd. & M/s Adani Enterprises Ltd.

**In the matter of:**

Uttarakhand Power Corporation Ltd.

... Petitioner

**CORAM**

**Shri Subhash Kumar Chairman**

**Shri K.P. Singh Member**

**Date of Hearing: June 21, 2016**

**Date of Order: July 15, 2016**

This Order relates to the Petition filed by Uttarakhand Power Corporation Ltd. (hereinafter referred to as "UPCL" or "Petitioner") seeking approval of three draft PPAs to be executed for short term purchase with M/s Tata Power Trading Company Ltd. (TPTCL), M/s PTC India Ltd. & M/s Adani Enterprises Ltd.

## **1. Background & Submissions**

- 1.1 The Licensee under Section 86(1)(b) of the Electricity Act, 2003 and in accordance with Regulation 74(1) of the UERC (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2015 submitted a Petition dated 13.06.2016 seeking approval of three draft PPAs to be executed for short term purchase with M/s Tata Power Trading Company Ltd. (TPTCL), M/s PTC India Ltd. & M/s Adani Enterprises Ltd.
- 1.2 The Petitioner submitted that as per the power purchase plan, UPCL was facing a deficit in the month of July, August and September, 2016 and for meeting out the same a tender was floated on dated 23.04.2016. Vide its Petition the licensee also submitted details of quantum required which are as follows:

| Month  | Quantum                  |                          |                          |
|--------|--------------------------|--------------------------|--------------------------|
| Jul-16 | 150 MW<br>00:00 to 24:00 | 200 MW<br>07:00 to 11:00 | 200 MW<br>19:00 to 22:00 |
| Aug-16 | 150 MW<br>00:00 to 24:00 | 200 MW<br>07:00 to 12:00 | 200 MW<br>18:00 to 21:00 |
| Sep-16 | 100 MW<br>00:00 to 24:00 | 200 MW<br>07:00 to 10:00 | 200 MW<br>18:00 to 21:00 |

1.3 The comparative statement showing rates and quantum quoted by the firms in respect of the above mentioned tender which was opened on 29.04.2016 was also submitted by the Petitioner. The licensee submitted that after evaluation of the tender, M/s Tata Power Trading Corporation Ltd. (TPTCL), M/s PTC India Ltd. and M/s Adani Enterprises Ltd. has been selected as the successful bidder for supply of power on the following rates and quantum:

| Month  | Name of the Bidder | Quantum as per tender (MW) | Quantum offered by bidder (MW) | Timings (Hrs.) | Rate (₹ / kWh) |
|--------|--------------------|----------------------------|--------------------------------|----------------|----------------|
| Jul-16 | PTC India Ltd.     | 150                        | 150                            | 00:00 to 24:00 | 2.59           |
|        | TPTCL              | 200                        | 200                            | 07:00 to 11:00 | 2.72           |
|        | PTC India Ltd.     | 200                        | 50                             | 19:00 to 22:00 | 3.2            |
|        | TPTCL              |                            | 150                            | 19:00 to 22:00 | 3.24           |
| Aug-16 | TPTCL              | 150                        | 150                            | 00:00 to 24:00 | 2.69           |
|        | TPTCL              | 200                        | 200                            | 07:00 to 12:00 | 2.78           |
|        | PTC India Ltd.     | 200                        | 50                             | 18:00 to 21:00 | 3.2            |
|        | Adani              |                            | 50                             | 18:00 to 21:00 | 3.25           |
|        | TPTCL              |                            | 100                            | 18:00 to 21:00 | 3.3            |
| Sep-16 | TPTCL              | 100                        | 100                            | 00:00 to 24:00 | 2.66           |
|        | TPTCL              | 200                        | 200                            | 07:00 to 10:00 | 3.05           |
|        | PTC India Ltd.     | 200                        | 50                             | 18:00 to 21:00 | 3.2            |
|        | Adani              |                            | 50                             | 18:00 to 21:00 | 3.25           |

1.4 UPCL issued LoI to M/s Tata Power Trading Corporation Ltd. (TPTCL), M/s PTC India Ltd. and M/s Adani Enterprises Ltd.

1.5 The Commission held a hearing in the matter on 21.06.2016 and the Petition was admitted vide the Commission's Order dated 21.06.2016.

## 2. Commission's Views & Decisions

### 2.1 Legal Requirement for approval of PPA

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

2.1.2 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.

2.1.3 Further, the Distribution and Retail Supply License 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)***

2.1.4 Regulation 39 of UERC (Conduct of Business) Regulations, 2014 specifies as under:

*“(1) The distribution licensee shall file with the Commission in complete form copies of all Power Purchase Agreements already entered into by it.*

*(2) The distribution licensee to establish to the satisfaction of the Commission that the purchase of power by it is under a transparent power purchase procurement process and is economical and the power is necessary to meet its service obligation.*

*(3) The Distribution licensee shall apply to the Commission for approval of the draft Power Purchase agreement that it proposes to enter into with the suppliers. The Commission may pass orders:*

*(a) Approving the agreement; or*

*(b) Approving the agreement with modifications proposed to the terms of the agreement; or*

*(c) Rejecting the agreement.*

*....”*

2.1.5 Ministry of Power vide its notification dated 30.03.2016 issued “Guidelines for short-term (i.e. for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process”. Clause 4.1 of these guidelines provides that:

*“The Procurer(s) shall procure short term power as per the plan approved by Appropriate*

*Commission or appropriate body as may have been constituted for the purpose by the Appropriate Commission. In such case the Distribution Licensees will intimate about the initiation of the procurement process to the Appropriate Commission. "*

In addition, Regulation 72 & 73 of the UERC (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2015 also provide for preparation of power procurement plan and approval of the same by the Commission. However, till now, no such power procurement plan has been submitted by the licensee despite explicit provisions of the regulations and categorical directions by the Commission in this regard.

2.1.6 Clause 11.4 of the MoP guidelines provides that:

*"If the quantum of power procured and tariff determined are within the blanket approval granted by the Appropriate Commission in Annual Revenue Requirement (ARR) of the respective year, then the same will be considered to have been adopted by the Appropriate Commission."*

The Commission observed that while approving power purchases vide the ARR/Tariff Order dated 05.04.2016 about 2670 MUs deficit power @ ₹ 3.64 PU has been approved for FY 2016-17. It is apparent that the quantum and rate of short-term power procurement from M/s Tata Power Trading Corporation Ltd. (TPTCL), M/s PTC India Ltd. and M/s Adani Enterprises Ltd., as submitted by the Petitioner, are within the specified limits. Accordingly, in line with the above clause of the guidelines, the same is being considered and adopted by the Commission.

2.1.7 The draft PPAs have been examined which are in accordance with the Regulations. However, compliance of the guidelines issued by the MoP including the one mentioned in Para 2.1.5 above is mandatory for all short-term procurements of power by the Petitioner in future.

2.1.8 Ordered accordingly.

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

**(Subhash Kumar)**  
**Chairman**