

**Before**

## **UTTARAKHAND ELECTRICITY REGULATORY COMMISSION**

**In the matter of:**

Application seeking prior approval of the Commission on the Draft Power Purchase Agreement between Uttarakhand Power Corp. Ltd. and M/s Manikaran Power Ltd. for procuring Non-Solar RE Energy on short term basis.

**In the matter of:**

Uttarakhand Power Corporation Limited

... Petitioner

**CORAM**

**Shri Subhash Kumar      Chairman**

**Shri K.P. Singh              Member**

**Date of Hearing: July 19, 2016**

**Date of Order: July 19, 2016**

This Order relates to the Petition filed by Uttarakhand Power Corporation Ltd. (hereinafter referred to as "UPCL" or "Petitioner" or "Licensee") seeking approval of Draft Power Purchase Agreement between Uttarakhand Power Corp. Ltd. and M/s Manikaran Power Ltd. for procuring Non-Solar RE Energy on short term basis.

### **1. Petitioner's Submissions**

- 1.1. UPCL had filed the Petition dated 05.07.2016 seeking approval of the Commission on the Draft Power Purchase Agreement on with M/s Manikaran Power Ltd. for procuring Non-Solar RE Energy on short term basis under Section 86(1)(b) of the Electricity Act, 2003 and Regulation 74(1) of UERC (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2015, Regulation 39(3) of the UERC (Conduct of Business) Regulations, 2014 & Regulation 9 of UERC (Tariff and Other Terms for Supply of Electricity from Non-conventional and Renewable Energy Sources) Regulations, 2013.

1.2. UPCL submitted that it had achieved RPO compliances for the period upto FY 2014-15, however, there was unmet compliances of 8.15 MUs Solar and 699.60 MUs non-Solar RPO. The Petitioner submitted that so as to fulfill pending RPO compliances, it had floated a tender dated 02.06.2016 as per following requirements:

Period	Source of energy	Quantum in MW
15th Jun-16 to 30th Jun-2016	Non-Solar	150
Jul-16 to March-17	Non-Solar	150

The above mentioned tender was opened on 07.06.2016. After evaluation of the tender, M/s Manikaran Power Limited has been selected as the successful bidder for supply of power. UPCL issued LoI dated 14.06.2016 to M/s Manikaran Power Ltd. on the following rate and quantum:

Month	Quantum of power (MW)	Delivery Point	Source of power	Rate quoted at delivery point (Rs./kWh)
15 Jun to 30 Jun-16	24	Northern Regional/ State Periphery	24 MW Baragaon HEP	4.725
Jul-16	24			4.725
Aug-16	24			4.725
Sep-16	24			4.725
Oct-16	24			4.725

1.3. The Commission held a hearing in the matter on 19.07.2016, wherein, the Petitioner made its submissions before the Commission.

## 2. Commission's Views & Decisions

2.1. Regulation 74 of the MYT Regulations, 2015 provides that :

***"74. Approval of power purchase agreement/arrangement***

*(1) Every agreement or arrangement for power procurement by a Distribution Licensee from a Generating Company or Licensee or from other source of supply entered into after the date of effectiveness of these Regulations shall come into effect only with the prior approval of the Commission:*

*Provided that the prior approval of the Commission shall be required in respect of any agreement or arrangement for power procurement by the Distribution Licensee from a Generating Company or Licensee or from any other source of supply on a standby basis:*

*Provided further that the prior approval of the Commission shall also be required for any change to an existing arrangement or agreement for power procurement, whether or not such existing arrangement*

*or agreement was approved by the Commission.*

*(2) The Commission shall review an application for approval of power procurement agreement/arrangement having regard to the approved power procurement plan of the Distribution Licensee and the following factors:*

- a) Requirement for power procurement under the approved power procurement plan;*
- b) Adherence to a transparent process of bidding in accordance with guidelines issued by the Central Government;*
- c) Adherence to the terms and conditions for determination of tariff specified under these Regulations where the process specified in (b) above has not been adopted;*
- d) Availability (or expected availability) of capacity in the intra-State transmission system for evacuation and supply of power procured under the agreement/arrangement;*
- e) Need to promote co-generation and generation of electricity from renewable sources of energy."*

The regulations explicitly require licensee to obtain prior approval of the Commission for procurement of power from any source as well as for change in existing arrangement or agreement.

- 2.2. The Commission noted that the Petitioner had already issued LoI 14.06.2016 to M/s Manikaran Power Ltd. and the drawl of power has also been initiated by the licensee without seeking any approval from the Commission. The Petitioner came up with this petition on 05.07.2016, i.e. post issuance of LoI to the trader and without prior approval of the Commission it had gone ahead for drawl of power. It is apparent that the licensee failed to comply with the above provisions of the regulation. This shows uncaring attitude of the officers of the licensee towards existing provisions of rules and regulations which licensee ought to have followed.
- 2.3. Notwithstanding the above, the Commission also observed that LoI issued to M/s Manikaran Power Ltd. mentions rate of power as Rs. 4.725 per unit at the delivery point. However, Annexure-2 of the Petition depicts landed price of power at State periphery as Rs. 5.093 per unit. The licensee in its Petition neither mentioned the location of delivery point nor the landed price of Rs. 5.093 at State periphery. The Commission on approval of ARR/Tariff Order dated 05.04.2016 had already specified the ceiling rate for procurement of non-solar power in respect of UPCL's RPO compliances as Rs. 4.75 per unit, hence, the landed price of Rs. 5.093 per unit is apparently higher and cannot be accepted by the Commission.

- 2.4. During the hearing the Commission asked UPCL regarding its awareness about the approved ceiling rate for procurement of non-Solar RE power. In response, licensee itself accepted that landed price of the power from M/s Manikaran Power Ltd. shall be more than Rs. 4.75 per unit and also submitted about the fact being missed by it inadvertently.
- 2.5. In this regard, the Commission is of the view that the licensee may negotiate with M/s Manikaran Power Ltd. for supplying of power at State periphery within the ceiling rate of Rs. 4.75 per unit as already approved vide the ARR Order. In the event, rate as mentioned above, are not revised then cost implication over and above Rs. 4.75 per unit shall not be allowed in truing up proceedings for the relevant financial year.
- 2.6. The Petition in present form is hereby rejected.
- 2.7. Ordered accordingly.

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

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