

**Before**

## **UTTARAKHAND ELECTRICITY REGULATORY COMMISSION**

**In the matter of:**

Application seeking prior approval of Uttarakhand Electricity Regulatory Commission on the Draft Power Purchase Agreement between Uttarakhand Power Corporation Limited and M/s Manikaran Power Limited 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 Order: October 4, 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 the Draft Power Purchase Agreement for procuring Non-Solar RE Energy on short term basis from M/s Manikaran Power Ltd.

### **1. Petitioner's 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, Regulation 39(3) of the UERC (Conduct of Business) Regulations, 2014, Regulation 9 of the UERC (Tariff and Other Terms for Supply of Electricity from Non-conventional and Renewable Energy Sources) Regulations, 2013 & Chapter-II of the Uttarakhand Electricity Regulatory Commission (Conduct of Business) Regulations, 2014 filed a Petition dated 30.08.2016 seeking approval of the Commission on the Draft Power Purchase Agreement.
- 1.2. The aforesaid PPA is being executed by UPCL for procurement of Non-Solar Renewable Energy on short term basis with M/s Manikaran Power Ltd.

- 1.3. The Petitioner submitted that it has fulfilled RPO upto FY 2014-15, whereas, for FY 2015-16 unmet non-solar & solar RPO is 699.60 MUs & 8.15 MUs respectively.
- 1.4. 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

- 1.5. That 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

- 1.6. UPCL had submitted the draft PPA for approval of the Commission. The Commission while observing that the tariff for the aforesaid arrangement of power was exceeding the ceiling rate approved vide its Order dated 19.07.2016 rejected the UPCL's application in the matter. However, the Commission vide the above mentioned Order also held that UPCL 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.
- 1.7. UPCL submitted that in compliance of the directions issued in the Order dated 19.07.2016 UPCL had vide its letter dated 26.07.2016 intimated M/s Manikaran Power Ltd. as follows:

*"Now in compliance of the above Order both parties would be bound to adhere with the Order dated 19 July 2016 and thereafter the clarification from Hon'ble UERC. In case of your denial, the LoI will be null & void and would be treated as Force majeure."*

In response, M/s Manikaran Power Ltd. had vide its letter no. dated 26.07.2016 agreed to supply the aforesaid power at Rs. 4.75/kWh at State periphery.

- 1.8. UPCL submitted that it desired to purchase the energy from M/s Manikaran Power Ltd. on

the terms and conditions as agreed between both the parties as per the terms and condition laid down in draft Power Purchase Agreement. In this regard, UPCL also submitted a copy of the Draft Power Purchase Agreement to be entered with M/s Manikaran Power Ltd.

## 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 the 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. In accordance with the RE Regulations, 2013 licensee is required to comply with the renewable purchase obligation as provided in the Regulations.

2.1.6. 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.

2.1.7. 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 while approving UPCL’s power purchases in its Tariff Order dated 05.04.2016 has specified the ceiling rate for procurement of non-solar power in respect of UPCL’s RPO compliances as Rs. 4.75 per unit.

2.1.8. Since the quantum and rate of short-term non-solar RE as being procured from M/s Manikaran Power Ltd., as submitted by the Petitioner, are within the aforesaid specified limits both in terms of quantum & per unit cost. Hence, in accordance with the above condition of the MoP guidelines, the same is being considered and adopted by the Commission.

2.1.9. The draft PPA has been examined which is in accordance with the Regulations. However, compliance of the guidelines issued by the MoP and the Regulations is mandatory for all short-term procurements of power by the Petitioner in future.

2.1.10. Ordered accordingly.

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

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