

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 27 of 2018 (Suo-Motu)

In the matter of:

Suo-moto proceedings in the matter of request made by Mr. Dhirendra Singh Rawat for issuance of appropriate directions to release Grant/Subsidy sanctioned by Central Government and payment in accordance with solar Tariff fixed for FY 2015-16 for supply of solar energy from allocated grid connected Solar Rooftop power plant.

In the matter of:

Mr. Dhirendra Singh Rawat (“Developer”)

Uttarakhand Power Corporation Ltd. (“UPCL”)

Uttarakhand Renewable Energy Development Agency (“UREDA”) ... Respondents

CORAM

Shri Subhash Kumar, Chairman

Date of Order: June 15, 2018

The Order relates to the suo-moto proceedings initiated by the Commission in the matter of request made by Mr. Dhirendra Singh Rawat (hereinafter referred to as “Developer”) for issuance of appropriate directions to UREDA and UPCL to release Grant/subsidy sanctioned by Central Government and payment in accordance with the tariff fixed for FY 2015-16 by the Commission for supply of solar energy from allocated Grid-connected Rooftop Solar PV plants.

1. Background

- 1.1 As a part of Clean Climate Commitment initiative, MNRE had sanctioned a capacity of 51 MWp of Rooftop Solar Systems to UREDA. In accordance & furtherance to the same, UREDA invited applications for installation of Grid Interactive Rooftop Solar PV & small

Solar PV power plants for total capacity of 10 MW out of which a capacity of 4.90 MW was reserved for plain terrain, capacity of 2.10 MW was reserved for hill terrain and balance capacity of 3 MW was reserved for Gram Panchayats and Government premises.

- 1.2 Meanwhile, the Commission received a complaint from Mr. Dharendra Singh Rawat on 15.03.2018, regarding delay in commissioning of its power plant (having a capacity of 500 kV Grid Interactive Rooftop Solar PV & small Solar PV) on account of the actions of UREDA & UPCL and thus requesting the Commission to allow recovery of tariff for the supply of energy based on the allotment year FY 2015-16.
- 1.3 Thereafter, the Commission vide letter dated 23.03.2018 forwarded the complaint to UPCL & UREDA seeking their comments/factual position in the matter. Accordingly, UPCL & UREDA submitted their comments in the matter which were forwarded to the Developer for his reply which was submitted before the Commission vide letter dated 27.04.2018. The said reply of the Developer was forwarded to UPCL & UREDA for their counter-replies in the matter which are discussed in the following paras of this Order.

2. Submission's of the Developer & Respondents

- 2.1 The Developer submitted that UREDA issued Letter of Award (LOA) to him for his power plant having to be commissioned under the aforesaid scheme and subsequently the Developer executed a PPA with UPCL on 30.03.2016 for the supply of power from the said plant. Further, the Developer submitted that allotment was done in FY 2015-16 and his plant was ready in FY 2016-17 for supply of power however, despite the request made by the Developer to UPCL for grid connectivity on 24.10.2016, the plant could not be commissioned by 30.04.2017, i.e. in FY 2017-18 due to the lackadaisical approach of the officials of UPCL.

In reply to the above submission of the Developer UPCL submitted that the Developer vide letter dated 24.10.2016 informed UPCL that the scheduled date of commissioning of plant was 31.10.2016. The officials of UPCL inspected the area and it was found that necessary works such as construction of 11 kV line and other security equipments were not available due to which grid connectivity was not possible.

- 2.2 Further, the Developer submitted that the officials of UPCL asked him to deposit Rs. 4.33

Lakh for the construction of 500 m length of 11 kV line, whereas, as per the Technical report dated 21.03.2016, the length of the said proposed line was only 200m. Accordingly, after following up the matter, the officials of UPCL asked him to deposit Rs. 1.51 Lakh based on the line length of 200m and the same was deposited by the Developer on 11.01.2017 and consequently the construction of line was done by UPCL on 29.03.2017.

In reply to the above submission of the Developer, UPCL submitted that, considering the ROW issues, a survey for construction of 11 kV line was conducted and finalised through the roadway and accordingly the estimation was prepared. However, it was only on the information served by the Developer vide letter dated 02.01.2017 that the land between the site location of the plant and the nearest 11 kV line is owned by the Developer, a revised estimate was prepared and served to the Developer vide letter dated 09.01.2017 which was deposited by the Developer by 11.01.2017 and construction of the line was completed on 29.03.2017.

- 2.3 The Developer further submitted that subsequent to the construction of line on 29.03.2017 the plant of the Developer could not be connected to the grid due to non availability of meters. Therefore, the Developer requested Mr. Digambar Singh Bisht, whose 2 nos. of meters were at UPCL's lab for testing, to transfer the same on his name which was agreed by Sh. Bisht vide NoC dated 30.03.2017. However, UPCL issued a letter wherein, the name of Sh. Rakesh Kumar, Village Pradhan, Seeku, Pauri Garhwal was mentioned in place of Sh. Digambar Singh Bisht which raises questions of the working of UPCL. That the Developers's solar PV power plant could not be connected to grid due to non availability of bi-directional meters and the Developer failed to commission the project in FY 2016-17. The Developer also submitted that he purchased the meters on 20.04.2017 which should have been provided by UPCL. After testing the meters by the concerned department, the plant was commissioned on 30.04.2017.

In reply to the above submission of the Developer regarding the application for transfer of meters of Sh. Digambar Singh Bisht in favour of the Developer, UPCL submitted that the said application was received from Mr. Rakesh Kumar, therefore, in the concerned letter to the Developer for the transfer of 2 nos. of meters, the name of Mr. Rakesh Kumar was mentioned. UPCL also submitted that 2 nos. tested meters were not

available with UPCL for connecting the plant with grid for which required fees was deposited by the Developer on 30.03.2017. With regard to meter testing, UPCL submitted that there was no facility available for testing 11 kV meters at the nearest testing lab, i.e. Srinagar and accordingly, meters were sent to Dehradun lab for testing, however, as the officials/employees of the section were busy in meeting revenue collection targets due to last day of the FY 2016-17, the meters could not be tested on 31.03.2017 and thus, the meters were installed on 30.04.2017 on the said plant. With regard to procurement of meters, UPCL submitted that as per clause 3.2 of PPA executed, developer is required to arrange the main meter and there is also a provision for procuring the check meter by the developer for which distribution licensee shall refund the amount to such developer.

- 2.4 The Developer in its submission has submitted that MNRE provided an advance subsidy of Rs. 16.80 Crore, i.e. 30% of the total subsidy amount under Phase-I for installation of Grid Connected Rooftop & small Solar PV plants of total allocated capacity of 10 MW. However, UREDA distributed the subsidy amount in such a manner that a certain group of people were benefited by it whose solar PV plants were not even properly installed. Whereas, no subsidy was provided to other beneficiaries ignoring the guidelines issued by MNRE for releasing subsidy. Therefore, UREDA should submit the details of utilisation of advance subsidy released by MNRE, i.e. Rs. 16.80 Crore. The Developer also submitted that because of lenient approach of UREDA, some of the Solar PV Rooftop plants could not be installed and the plants which have been commissioned, owners were facing financial crunch because of non receipt of subsidy.

In reply to the above submission of the Developer, UREDA has submitted that no guidelines have been prescribed by MNRE for distribution of advance subsidy to the allottees. MNRE releases 30% of the total approved subsidy in advance and balance subsidy is released only after the Utilisation certificate and statement of expenditure is submitted to MNRE. Accordingly, UREDA requested MNRE to release the balance subsidy for the installed plants till January, 2017 by submitting utilisation certificate and statement of expenditure for the advance subsidy. UREDA has also submitted that the allowable subsidy was released to allottees only after the physical verification of the installed plants. All the plants against which subsidy was allowed were completely installed and has been

put under commercial operation.

- 2.5 The Developer in its complaint has submitted that MNRE vide its letter dated 13.01.2017 had informed the Secretary Energy, Govt. of Uttarakhand that MNRE had sanctioned capacity of 51 MW of Solar PV plants to UREDA, however, only capacity of 4.9 MW had been uploaded by UREDA till date on SPIN portal, which suggests that the balance subsidy has been released without actually commissioning of the plants of remaining capacity.

In reply to the above submission of the Developer, UREDA has submitted that Solar PV plants having total capacity of 6.075 MW had been installed till January, 2017 against which UREDA released the subsidy for Solar PV plants having total capacity of 4.925 MW. Further, no subsidy has been released to any other plants which were not commissioned under the scheme of the Government. Details of the plants are uploaded on the SPIN portal only after the commissioning and physical verification of the same by UREDA. UREDA has also submitted that balance plants having total capacity of 1.15 MW (6.075 MW less 4.925 MW) have been commissioned prior to the introduction of SPIN portal, therefore, all the details regarding commissioning of such plants were sent to MNRE through post/courier.

- 2.6 The Developer further submitted that as per MNRE guidelines, Solar power plants should be commissioned within 18 months from the allotment of the project. The Developer also submitted that the tariff rates for the supply of the power should be fixed based on the date of allotment of the project instead of date of commissioning of the project otherwise the solar plant developer will not be able to make monthly instalment to the bank. Accordingly, the Developer requested the Commission to allow the recovery of tariff for supply of energy based on the allotment year FY 2015-16.

In reply to the above submission of the Developer, UPCL submitted that Tariff is to be applicable based on the year of commissioning of the plant and accordingly, the tariff of the said Solar PV plant is covered under the Order dated 03.08.2018 issued by the Commission. Hence, the Developer's demand for the tariff as per FY 2015-16 is baseless and void.

UREDA submitted that timeline for the commissioning of the Solar PV plant fixed

by MNRE is 15 months. Accordingly, the schedule date of commissioning of the Developer's Solar PV plant was 07.06.2017 whereas the Developer's plant was commissioned on 30.04.2017. UREDA also submitted that the Developer provided relevant documents regarding commissioning of the project in September, 2017. However, MNRE vide letter dated 19.09.2017 directed UREDA to release subsidy to only Rooftop based solar PV plants. The Plant developed by the Developer is not a Rooftop solar PV plant, therefore, no further process could be followed by UREDA for release of the subsidy. In addition, UREDA took reference of the meeting dated 01.02.2018 held at Commission's office wherein, Sh. Rawat was required to conduct physical verification of its plant. However, no such report of physical verification has been submitted before UREDA.

A sur reply to the reply of UREDA was submitted by the Developer stating that UREDA was well aware of the guidelines of MNRE dated 04.03.2016 regarding installation of the plants on the roof and only after that UREDA invited application for the installation of the plants on roof as well as premises of the building.

In reply to the above sur reply of the Developer, UREDA submitted that there was no specific direction under the guidelines dated 04.03.2016 regarding installation of solar plants only on the roofs. Moreover, UREDA had received directions from MNRE vide letters dated 09.12.2016 & 13.01.2017 for installation of Solar PV plants on rooftop as well as unused premises of the building. Further, MNRE vide guidelines dated 24.01.2017 clarified that the definition of Roof Top System includes small solar plants on the grounds as well. Subsequently, MNRE vide letter dated 19.09.2017 directed UREDA to release subsidy to only Rooftop solar PV plants.

- 2.7 The Developer submitted that all the documents pertaining to the solar plant of the developer had already been provided to UREDA in September, 2017 and physical examination of the plant after commissioning of such plant would be irrelevant.

In reply to the above submission of the Developer, UREDA submitted that the Developer had not submitted Joint Inspection Report while submitting other documents in September, 2017. Accordingly, information regarding the Developer's plant could not be uploaded on SPIN Portal.

3. Commission's views and decision

The Commission has analysed the submissions made by the Developer, UPCL & UREDA and based on the same has made following observation:-

- 3.1 It appears from UPCL's letter dated 21.03.2016 in the matter of Technical Feasibility for Evacuation of Power that UPCL was well apprised and aware that only a 200m line length was required to be constructed for the purpose of evacuation of power from the solar PV plant of the Developer. Despite the aforesaid, UPCL vide its letter dated 20.12.2016 asked the Developer to deposit a payment towards construction of 500 m length line. This however, was subsequently corrected by UPCL vide its letter dated 09.01.2017 and the construction of the said line was completed by 29.03.2016.
- 3.2 The Commission also observed that the Developer had requested UPCL to use the already available meters of one Mr. Digambar Singh Bisht for providing connectivity of his plant and for the purpose had also provided an NoC from Mr. Digambar Singh Bisht in relation thereto. However, erroneously UPCL vide its letter dated 30.03.2017 directed its concerned field officials to utilise the meters of one Mr. Rakesh Kumar, Gram Pradhan of the concerned village and install the same at Developer solar plant.
- 3.3 The Commission has gone through the documents submitted by UPCL as well as the Developer and is of a concerted view that letter received by UPCL from Mr. Rakesh Kumar, Gram Pradhan clearly specified that the meters of Mr. Digambar Singh Bisht were to be transferred in favour of Mr. Dharendra Singh Rawat, i.e. the Developer. In light of the same, UPCL's justification for issuing the impugned letter in favour of Mr. Rakesh Kumar is not acceptable. Further, it seems that the callous approach of UPCL towards discharge of its public duties, well evidenced from instances as the aforesaid, has resulted in the delay in commissioning of the project, which otherwise could have been commissioned in FY 2016-17 itself. Moreover, the reply of UPCL in this regard reveals carelessness on the part of UPCL and reflects towards its frivolous manner in which the licensee reads/examines the critical correspondences which in this case has caused an absolutely unwarranted delay.
- 3.4 This Commission takes note of the submission by UPCL that it was the Generator's onus to procure meters as per the terms of the PPA and that the staff of the concerned division of

UPCL was too engaged in revenue collection for it to have tested the metres. While the Commission agrees with UPCL that the Generator was required to procure the meters, nevertheless, the fact cannot be ignored that the Developer had arranged the meters from other developers which were not tested by UPCL in a time bound manner. It is clearly unfair and imprudent for the licensee to escape from its duty by giving implausible excuses of being over-burdened by work, which is well within its scope.

- 3.5 The Commission has also taken cognizance of the fact that UPCL has approached the Commission several times in the past, almost as a matter of tendency, with a request to carry forward the unmet Solar RPO due to delay in commissioning of the solar PV plants. Concerning such instances, it is to be noted that one among the reasons for delay in commissioning of such solar PV plants is lack of enthusiasm/coordination on the part of UPCL. It is therefore, preferred and directed that UPCL, in its role as a licensee, should promptly perform its duties under the Act/Regulations in a time bound manner so that installation and commissioning of plants are ensured within the scheduled time and generation from such RE plants may also be used to meet its RPO. Having said this, the Commission is of the view that in the instant matter, UPCL has shown a lackadaisical approach in dealing with the matter of testing and providing grid connectivity to solar PV plant of the Developer.
- 3.6 With regard to the request of the Developer to direct UREDA for releasing of the subsidy, the Commission takes note of the MNRE letter dated 19.09.2017 vide which only Rooftop Solar PV plants on buildings pertaining to residential, institutional and social sectors are eligible for receipt of subsidy, in accordance with MNRE guidelines dated 04.03.2016. Moreover, issuance of directions to UREDA for release of the subsidy does not come under the ambit of the powers vested in this Commission. It is thus, for the aforesaid reasons, that the Developer is advised to approach appropriate authorities, i.e. MNRE or the State Government to seek a redressal of its grievances occasioned due to non-release of subsidy.
- 3.7 The Developer has also submitted that the tariff rates for supply of power should be fixed based on the date of allotment of the project instead of date of commissioning of the project. In this regard, the Commission agrees with UPCL that the tariff rate are applicable based on the year of commissioning of the plant. However, in the instant matter, the Solar

plant of the Developer was commissioned on 30.04.2017. Had the meters been checked by UPCL in a time bound manner and connectivity to the plant been granted within the reasonably expected timeframe, the Solar Plant would have been commissioned on or before 31.03.2017. Since this was not the case and based on the discussions in the Order, the Commission is of the view that Tariff with zero subsidy (owing to the non-receipt of subsidy by the Developer) as approved by the Commission vide its Suo-Motu Order dated 16.06.2016 for solar PV plants shall be applicable for the energy supplied or to be supplied from the Solar PV plant of the Developer. Further, in case any subsidy is released by the competent authorities, the rates, based on the applicable subsidy, will then be applied as per the aforesaid Order of the Commission.

4. Ordered accordingly.

(Subhash Kumar)
Chairman