

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Misc. Application No. 02 of 2020

In the matter of:

Petition to extend the settlement of Net Energy from billing period to yearly basis on captive use by Rooftop Solar PV generator under the NOC model.

In the matter of:

Uttarakhand Renewable Energy Development Agency ... Petitioner

AND

In the matter of:

Uttarakhand Power Corporation Ltd. (UPCL) ... Respondent

CORAM

Shri D.P. Gairola Member (Law)

Shri M.K. Jain Member (Technical)

Date of Hearing: March 02, 2020

Date of Order: March 11, 2020

This Order relates to the application dated 21.01.2020 filed by Uttarakhand Renewable Energy Department (hereinafter referred to as "UREDA" or "Petitioner") under the provisions of Regulation 3(d), 36(3), 51 and 52 of UERC (Tariff And Other Terms for Supply of Electricity from Non-conventional and Renewable Energy Sources and non-fossil based Co-generation stations) Regulations, 2018 (hereinafter referred to as "RE Regulations, 2018") for the settlement of Net Energy from billing period to yearly basis on captive use by Rooftop Solar PV generators.

1. Background

- 1.1. UREDA had earlier approached the Commission requesting for appropriate direction to Uttarakhand Power Corporation Limited (hereinafter referred to as "UPCL" or "Respondent") to provide connectivity under net metering arrangement to the grid

interactive rooftop solar PV plant without entering into any Power Purchase Agreement (PPA) under SECI scheme of grid-connectivity and net-metering for Rooftop Solar PV Plants.

- 1.2. In the matter, a meeting was conducted at the Commission's office on 30.01.2017 with the officials of SECI, UREDA and UPCL wherein it was decided that UPCL shall provide grid connectivity under net metering arrangement and UREDA shall draft a format of NoC with the approval of the Commission. The same will be issued by UPCL to such rooftop solar power developers for connectivity.
- 1.3. UREDA vide its e-mail dated 21.02.2017, in accordance with the decision taken during the meeting held on 30.01.2017 for providing the grid feasibility and net-metering from UPCL, submitted a draft format of NoC for the approval of the Commission wherein one of the condition was that the net-metering of energy shall be done in accordance with the billing cycle provided in the Regulations and if in a billing period the supplied energy by the licensee is less than the energy injected by the rooftop solar PV sources of the beneficiaries, than the excess energy injected into the grid would be deemed to be injected free of cost.
- 1.4. The Commission vide its letter dated 06.03.2017 forwarded the modified drat format of NoC to UREDA and UPCL to be issued to the developers installing plants under SECI scheme. Subsequently, UREDA vide its letter dated 07.07.2017 approached the Commission requesting for issuance of appropriate directions to UPCL for issuing NoC to various Govt & Private Institutions, Organisation, Commercial & Industrial users for allowing grid connectivity and net-metering arrangement by UPCL for Rooftop Solar PV Plants to be installed by them for their captive use other than that sanctioned by SECI. In the matter, the Commission directed UPCL vide its letter dated 01.09.2019 to issue NoC to the applicants for the Solar Rooftop projects to be implemented under various schemes of Govt. of Uttarakhand/UREDA in line with procedures followed for SECI approved projects.
- 1.5. Subsequently, based on the comments of UPCL, the Commission vide its letter dated 01.11.2017 issued modified NoC format to UPCL and UREDA for consideration taking cognizance of the comments submitted by UPCL.

2. Petitioner's submissions

- 2.1. The Petitioner filed the present Petition on 21.01.2020. The Petitioner submitted that the draft NOC, approved by the Commission vide its letter dated 01.11.2017, states at point 7 as follows:

“metering of energy should be done in accordance with billing cycle provided in the Regulation. If in billing period the supplied energy by the licensee is less than the energy injected by the rooftop solar PV sources of the beneficiary, than the excess energy injected into the Grid would be deemed to be injected free of cost. If the beneficiary draws excess energy from the grid in a billing period than the beneficiary would bay UPCL as per prevalent tariff/rates applicable on such category of consumers.”

- 2.2. The Petitioner submitted that the power generated from solar power plant is directly proportion to the solar radiation which is not uniform throughout the year and varies drastically at different weather condition. In case of export of surplus power to the Grid during the period of clear sunny days no payments/adjustment are made to the solar generator, hence, the solar generator have a tendency to opt for the minimum size of solar power plant, so that the plant does not generate surplus solar power which is causing a hurdle in promotion of installation of adequate size of solar power plant.
- 2.3. The Petitioner submitted that the solar generators approached UREDA to seek carry forward of excess energy to the next billing period and settlement of the excess energy on financial year basis. Therefore, the Petitioner, being State Nodal Agency for development and promotion of renewable energy source in the State of Uttarakhand, requested the Commission to allow the excess energy (after settlement of Net Energy in billing period) from captive use by Rooftop Solar PV generators to be carried forward to the next billing period as energy credit and shown as energy exported by the consumer for adjustment against the energy consumed in subsequent billing period within the settlement period. Each financial year may be consideration to be a settlement period. At the end of each settlement period (Financial year), any net energy credits which remain unadjusted, shall be deemed to be injected free of cost into the UPCL grid.

3. Respondents' submissions

- 3.1. The Commission forwarded a copy of the Petition to UPCL for comments. In response,

UPCL submitted its comments on the admissibility of the Petition vide its submission dated 02.03.2020.

- 3.2. The Respondent submitted that billing of consumers under aforesaid net-metering arrangement is governed by the provision of UERC (The Electricity Supply Code) Regulation, 2007 as amended from time to time. It further submitted that such request would lead to amendment in billing methodology and UERC (The Electricity Supply Code) Regulation, 2007 and other applicable regulation where UREDA has no right to file Petition for the same.
- 3.3. The Respondent submitted that the connectivity has been granted to the Solar Power Plants developed under net metering model after accepting the terms and conditions of NoC. Any modification in the conditions of NoC subsequent of issuance of same for grant of connectivity cannot be permitted.

4. Commission's Analysis and view

- 4.1. The present Petition has been filed under Regulation 3(d), 36(3), 51 and 52 of RE Regulations, 2018 for seeking settlement of Net Energy from billing period to yearly basis on captive use by Rooftop Solar PV generator. Regulation 3(d) of RE Regulations, 2018 specifies the definition of Billing Period which is as follows:

““Billing cycle or Billing period” means a period of one month for which electricity bills shall be prepared for each Eligible Consumers by the licensee.”

Regulation 36(3) of RE Regulations, 2018 specifies as follows:

“Injection from Roof-Top Solar PV plant owned by the Eligible consumer or by third party shall be settled on Net Energy basis at the end of each Billing period.”

Further, Regulation 51 and 52 of RE Regulations, 2018 specifies as follows:

“51. Power to Remove Difficulties

If any difficulty arises in giving effect to these regulations, the Commission may, of its own motion or otherwise, by an order and after giving a reasonable opportunity to those likely to be affected by such order, make such provisions, not inconsistent with these regulations, as may appear to be necessary for removing the difficulty.

52. Power to Relax

The Commission, for reasons to be recorded in writing, may vary any of the provisions of these regulations on its own motion or on an application made before it by an interested person."

The Petitioner requested the Commission to allow the excess energy (after settlement of Net Energy in billing period) after captive use by Rooftop Solar PV generators to be carried forward to the next billing period as energy credit and shown as energy exported by the consumer for adjustment against the energy consumed in subsequent billing period within the settlement period. Each financial year may be considered to be a settlement period. At the end of each settlement period (Financial year), any net energy credits which remain unadjusted, shall be deemed to be injected free of cost into the UPCL grid.

- 4.2. With regard to the power of the Commission to remove difficulties in the implementation of the RE Regulations, 2018 and relaxation of any provisions of the said Regulations, it is worth mentioning that the said regulations can be invoked only if enactment of any provision of RE Regulations, 2018 is technically or financially not feasible in the state of Uttarakhand. In the present case, the Petitioner has sought relaxation of the provisions of RE Regulations to provide incidental financial benefit to beneficiaries who have installed rooftop solar PV plants under net metering for captive consumption.

Further, the terms & conditions for the connectivity and net-metering were implicitly clear to all the rooftop solar plant developers under SECI Scheme that no consideration shall be available to the rooftop solar power plants for injection of surplus energy into grid after captive use. Moreover, based on the said terms and conditions of NoC, UPCL has provided connectivity to the beneficiaries. Therefore, the Commission does not find it prudent to invoke Regulations 51 or 52 of RE Regulations, 2018 in the present Petition as no difficulty seems to have arisen in giving effect to the RE Regulations, 2018. Besides, the same will also be against the principle of Estoppel as these consumers had agreed to inject surplus energy into the grid free of cost and now they are seeking annual adjustment of the same through UREDA which will also be against the financial interests of UPCL.

- 4.3. During the hearing, the Petitioner also requested the Commission to amend the said provisions of RE Regulations, 2018 allowing annual adjustment of surplus solar energy

injected in the grid by the rooftop solar power plants installed for captive use under net metering arrangement. Here, it is pertinent to mention that regulations are framed considering various aspects including but not limited to government policies, public comments, evacuation system of the distribution licensee etc. Since the regulations are subordinate legislation and certain legal procedures are required to be followed for carrying out any amendment to the regulations, such amendments cannot be done through a Petition. Besides, it is to be understood that Regulations in Chapter 4 & 5 do not apply to the generators who do not have a PPA with UPCL and the Commission for promotion of solar in the State allowed special dispensation to the consumers who were installing solar rooftop plants under the SECI scheme. The adjustment of surplus energy in excess of self-consumption into the grid is not allowed to those consumers who have a PPA with UPCL, hence, allowing the same only to the developers under SECI model would lead to discrimination amongst two set of consumers which will be unwarranted.

- 4.4. This issue also came up before the Commission while finalising the draft RE Regulations, 2018 wherein the Commission in its SoR had held as under:

“1.33.6Under SECI scheme generation is adjusted in one billing cycle, and if a customer has to generate more, he should be allowed to utilize his surplus generation in one year. Under SECI or any other scheme NET METER should be provided by UPCL not by EPC Contractor/ Customers as it is the responsibility of DISCOM to provide metering.

...

1.33.12 ... Further, on the request of beneficiaries of SECI scheme that adjustment of generation should be done on yearly basis instead of monthly billing cycle basis, the Commission of the view that this proposal needs to be analysed before taking any decision in this regard and accordingly, the Commission directs UPCL to collect monthly generation as well as consumption data, of such SECI and other schemes' beneficiaries who do not have PPA with UPCL and are supplying excess power to UPCL free of cost, for atleast one complete year and submit the same before the Commission for taking further view in the matter.”

- 4.5. As one year has already elapsed from the issuance of RE Regulations, 2018, the Commission directs its staff through its Secretary to collect from UPCL the monthly generation as well as consumption data of beneficiaries of SECI and other schemes supplying excess solar energy into grid, for atleast one complete year and examine the

issue with practices followed in other States, alongwith the implications on UPCL and put up the same before the Commission for taking appropriate view in the matter separately.

4.6. Based on the above, the Commission is of the opinion that the request of the Petitioner to amend the Regulations or relax the regulation to provide benefit to the beneficiaries is not acceptable and accordingly, the Petition filed by the Petitioner is rejected.

4.7. Ordered accordingly.

(M.K. Jain)
Member (Technical)

(D.P. Gairola)
Member (Law)