

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Final Order (Suo-moto)

In the matter of:

Petition filed by M/s Him Urja Pvt. Ltd. under UERC (Compliance of Renewable Purchase Obligation) Regulation, 2010 seeking accreditation and issuance of Renewable Energy Certificates for Rajwakti Generating Station.

In the matter of:

M/s Him Urja Pvt. Ltd

...Petitioner

AND

In the matter of:

1. Uttarakhand Electricity Regulatory Commission
2. Uttarakhand Renewable Energy Development Agency
3. Uttarakhand Power Corporation Ltd

... Respondents

AND

In the matter of:

Appeal No. 193 of 2014

CORAM

Shri Subhash Kumar Chairman

Shri C.S. Sharma Member

Date of Order: January 07, 2016

The Order relates to the suo-moto proceedings initiated by the Commission for compliance of the directions of the Hon'ble ATE issued vide its Judgment dated 20.11.2015 to grant accreditation and consequent registration to M/s Him Urja Pvt. Ltd. (M/s HUPL) for Renewable Energy Certificates (RECs) under UERC (Compliance of Renewable Purchase Obligation) Regulation, 2010 in respect of its Rajwakti SHP (4.4 MW) and to all the Respondents to ensure compliance of the same.

1 Background

1.1 M/s HUPL established its Rajwakti SHP having capacity of 4.4 MW on river Nandakini in

the year 2002 which is connected to 66 kV Srinagar-Joshimath transmission line at Mangrauli sub-station.

- 1.2 The Petitioner had applied for accreditation under REC mechanism before Uttarakhand Renewable Energy Agency (hereinafter referred to as "UREDA" or "State Agency" or "Respondent-1") on 22.06.2012 as the selling price of power from its Rajwakti SHP was lower than the Average Pooled Cost of Power Purchase (APPC) determined by the Commission. UREDA rejected its request for accreditation of Rajwakti HEP for Renewable Energy Certificates as according to them the RE Project was not eligible under REC mechanism as UPCL was also considering power purchased from Rajwakti HEP towards compliance of its RPO.
- 1.3 The Petitioner then filed a Petition on 19.11.2012 before the Commission seeking relief against UREDA's rejection for REC accreditation. The Commission vide its Order dated 28.05.2014 upheld the contentions advanced by both the UREDA and UPCL that Rajwakti SHP of the Petitioner did not meet the eligibility criteria for accreditation under REC mechanism and, hence, was not entitled for RECs.
- 1.4 The Petitioner went in Appeal in Hon'ble ATE against the Order of the Commission for not allowing accreditation to it for Renewable Energy Certificates. Hon'ble ATE vide its Judgment dated 20.11.2015 while allowing the Appeal set aside the Order of the Commission and directed the Commission to grant accreditation and consequent registration for issuance of REC to the Petitioner.
- 1.5 The Commission issued a draft suo-moto Order on 18.12.2015 seeking comments from the parties to the petition and the appeal. The Petitioner and Respondent No. 2 & 3 have submitted their comments. The comments submitted by the Petitioner & Respondents have been discussed at enclosed Annexure-I.

2 Commission's views and decision

- 2.1 The Commission in its earlier Order issued on May 28, 2014 observed that the Petitioner was not entitled to REC accreditation and had rejected the application filed by the Petitioner. However, Hon'ble ATE vide its Judgment dated 20.11.2015 had set aside the Order of the Commission. Further, Hon'ble ATE after having heard all the parties and going through their contentions decided that the Petitioner/Appellant was entitled to REC

accreditation in accordance with the provisions of the Regulations.

2.2 The directions given by Hon'ble ATE in the Judgment are reproduced hereunder:

"... 9.11 In view of the above discussions, we find and clearly hold that all the conditions in order to become eligible to apply for accreditation as per Regulation 8 of the State RPO Regulations, 2010 are fully satisfied/fulfilled by the Appellant/petitioner and the Appellant/petitioner is fully entitled for accreditation and subsequent registration and issuance of RECs under REC mechanism. Consequently, the issue is decided in favour of the Appellant and the application seeking accreditation filed by the Appellant/petitioner before the State Commission is liable to be allowed.

ORDER

The present Appeal, being Appeal No. 193 of 2014, is hereby allowed and the impugned order, dated 28.5.2014, passed by the Uttarakhand Electricity Regulatory Commission, is hereby set-aside along with the findings recorded therein. Since, we have, in our abovementioned conclusion, held that the Appellant/petitioner is fully eligible for accreditation as per Regulation 8 of the State RPO Regulations, 2010 since all the conditions provided in the said Regulations are fully satisfied/fulfilled by the Appellant/petitioner, the Appellant/petitioner is fully entitled for accreditation and consequent registration and issuance of the Renewable Energy Certificates under REC mechanism, the Respondent No.1/State Commission is directed to grant accreditation to the Appellant/petitioner for Renewable Energy Certificates within two months from today and all the respondents are, further, directed to ensure the compliance of the directions given in this judgment without fail. There shall be no order as to costs."

2.3 It has been argued by the Petitioner that since the order of the Commission rejecting their application for issuance of REC (actually accreditation) has been set aside by the Hon'ble ATE, they are entitled for issuance of REC (actually accreditation) from the date of application. Their argument is accepted in light of observations made by Hon'ble APTEL in judgment dated 20.11.2015.

2.4 Therefore, the Commission in compliance of the Order issued by Hon'ble ATE directs Respondent No. 2 to grant accreditation to the Petitioner based on their application dated 22.06.2012 in accordance with the UERC (Compliance of Renewable Purchase Obligation) Regulation, 2010 and procedures issued therein.

2.5 Ordered accordingly.

(C.S. Sharma)
Member

(Subhash Kumar)
Chairman

1. Submission made by Petitioner vide letter dt. 21.12.2015

The Petitioner submitted as follows:

“The directions given by Hon’ble ATE in the Order are reproduced hereunder:

“... 9.11 In view of the above discussions, we find and clearly hold that all the conditions in order to become eligible to apply for accreditation as per Regulation 8 of the State RPO Regulations, 2010 are fully satisfied/fulfilled by the Appellant/petitioner and the Appellant/petitioner is fully entitled for accreditation and subsequent registration and issuance of RECs under REC mechanism. Consequently, the issue is decided in favour of the Appellant and the application seeking accreditation filed by the Appellant/petitioner before the State Commission is liable to be allowed.”

(Emphasis Supplied)

We had filed appeal against the order rejecting our application for issuance of REC and Hon’ble ATE has specifically allowed the application filed by us before UREDA and Hon’ble UERC. Therefore, the UREDA has to act on the application of Him Urja already filed before UREDA on the basis of the information already provided in the application. It may be brought to your kind notice that the application was not rejected by UREDA for want of any information.

Therefore, we request you to kindly direct UREDA to complete the proceedings of registration as early as possible.

We may also mention here that we shall be entitled to issuance of REC with effect from the date of application of REC i.e. 22.06.2012. For the purposes of computation of any limitation period provided under any regulation, the period spent during the appeal proceedings before Hon’ble UERC and Hon’ble ATE shall be excluded as per existing law on the subject. Draft order may kindly be revised to that extent.”

The above submission of the Petitioner has been considered in the Order.

2. Submission made by Respondent No. 2

(a) UREDA vide its letter dated 17.12.2015 had asked M/s Him Urja Pvt. Ltd., with a copy of the same to the Commission, for filing of fresh application for accreditation as follows:

“In this regard, you are requested to submit the fresh application for the said project alongwith all the required documents/information as per the UERC (RPO) Regulation, 2010 (copy enclosed), UERC (Compliance of RPO) (First Amendment) Regulation, 2013 (copy enclosed) and Procedure under the UERC (Compliance of RPO) Regulation, 2010 for Accreditation of RE Generation project

by State Agency (copy enclosed) at the earliest, so that the accreditation process shall be completed timely."

(b) After issuance of draft Order dated 18.12.2015, UREDA vide its letter dated 23.12.2015 submitted that:

" It is to inform you that as per the Judgment of Hon'ble APTEL dated 20.11.2015 on the Appeal No. 193 of 2014 vide which Hon'ble APTEL directed the respondents to give REC accreditation to Rajwakti Hydro Generating station of M/s Him Urja Pvt. Ltd. in the time period of 2 months from the date of issuance of the order.

This is to inform you that UREDA already initiated the process of REC Accreditation for Rajwakti Hydro Generating station and UREDA has no comment to submit on the Suo-moto draft order dated 18.12.2015 issued in the above subjected matter by the Hon'ble Commission."

The Commission noted that Respondent No.2 has initiated process of accreditation subsequent to issuance of draft Order and it has no further comments to be submitted in the matter.

3. Submission made by Respondent No. 3 vide letter dt. 23.12.2015

UPCL submitted that:

"The draft order has been issued in compliance of the order dated 20.11.2015 of Hon'ble APTEL. UPCL further kindly requests Hon'ble Commission to issue directions based on the merits of the case."