

Before

# UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 40 of 2016

**In the matter of:**

Application seeking approval of the Commission on the Draft Power Purchase Agreement between Uttarakhand Power Corporation Ltd. and Sh. Rakesh Kumar.

**In the matter of:**

Uttarakhand Power Corporation Ltd. ... Petitioner

AND

**In the matter of:**

Sh. Rakesh Kumar ... Respondent

CORAM

**Shri Subhash Kumar      Chairman**

**Shri K.P. Singh          Member**

**Date of hearing: June 21, 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 PPA to be executed by it with the project developer for procurement of power from Grid Interactive Rooftop & Small Solar PV Plant.

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

- 1.1. UPCL had filed the Petition dated 14.06.2016 seeking approval of the Commission on the Power Purchase Agreement for purchase of energy generated from the Respondent's Rooftop and Small Solar PV Plant under Section 86(1)(b) of the Electricity Act, 2003 and clauses 5.1, 5.2 & 5.4 of the license conditions of the Distribution and Retail Supply license dated 20.06.2003 issued by the Commission.

- 1.2. The Petitioner submitted that as per the provisions of the Electricity Act, 2003 read with provisions of UERC (Conduct of Business) Regulations, 2014 and Distribution and Retail Supply License, the Petitioner is required to get the approval of the Commission on the Power Purchase Agreement entered into by it with the Generating Company.
- 1.3. The Petitioner further submitted that the Respondent was desirous to sell the entire energy scheduled to be generated from its project and the applicant company is desirous of purchasing entire energy on the terms and conditions as agreed between the parties as per the terms and condition laid down in the PPA.

The Petitioner & the Respondent were heard on 21.06.2016 and during the hearing, Petitioner was asked regarding the status & the scheme under which the Respondent's project was covered. The Petitioner requested the Commission to allow time of one week to file the reply. The Commission allowed the Petitioner one week time to file its submission.

- 1.4. UPCL vide its letter dated 12.07.2016 submitted that the project has been allotted by UREDA vide letter no. 550/UREDA/03(1)-1/44 MW/SPP Scheme/2015-16 dated 28-05-2016 for installation of 500 kW Solar Power Plant at Adhyaksha (UP & SS) Vill-Sheeku, Patti-Khatshyoun, P.O. Sheeku Khal, Pauri. Further, the plant is Grid Interactive Rooftop and small Solar PV Plant and shall comply with all the guidelines for "Off-grid and Decentralized Solar Applications" of the Jawaharlal Nehru National Solar Mission (JNNSM) of Ministry of New and Renewable Energy (MNRE).
- 1.5. The Respondent vide its written submission dated 17.06.2016 submitted its comments on the draft PPA which are dealt with at appropriate places in the subsequent Paras.

## **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 Licence 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. Further, Regulations 7(2) & 7(3) of both the UERC (Tariff and other Terms for Supply of Electricity from Non-Conventional and Renewable Energy Sources) Regulations, 2013 (RE Regulations, 2013) specifies that:

*“(2) The distribution licensee on an offer made by the said RE based Generating Stations and Co-generating Stations shall enter into a power purchase agreement in conformity with these Regulations and relevant provisions of other Regulations and the Act. The distribution licensee shall sign the PPA within two months of offer made by the generating company, failing which the generating company may approach the Commission for suitable remedy.*

*(3) The distribution licensee shall make an application for approval of power purchase agreement entered into with the generating station in such form and manner as specified in these regulations and Uttarakhand Electricity Regulatory Commission (Conduct of Business) Regulations, 2004 as amended from time to time.”*

*(Emphasis added)*

- 2.1.5. Accordingly, in accordance with the requirement of the Act and Regulations referred above, UPCL as a distribution licensee was required to seek approval of the PPA entered or proposed to be entered by it from the Commission.

## **2.2. Commission’s Analysis of the PPA and Order on the same**

- 2.2.1. The draft PPA submitted by UPCL has been examined in light of the relevant rules & regulations. The Commission observed that certain clauses in the draft PPA submitted by UPCL are inconsistent with the provisions of Act/Regulation. Such observations

have been discussed in the subsequent sub-Paras. UPCL is required to take note of the same and incorporate necessary corrections in the draft PPA while executing the PPA with the project developers.

- a. In the first Para of the Preamble of the draft PPA location of the plant has been mentioned as *"7 Heaven Resort, Khutani, Bhimtal, Dist-Nainital"*. The Respondent submitted that the address of plant location is incorrect and should be substituted by *"Village- Seeku, Patti- Khatshyun, P.O. Seeku Khal, District- Pauri, Uttarakhand"*.

The Commission observes that UREDA, State Agency vide its letter dated 28.05.2016 allocated 500 kW capacity Grid Connected Rooftop and Small Solar Power Plant to Sh. Rakesh Kumar. UREDA's letter also specifies location of the plant as *"Adhyaksha (UP & SS) Vill-Sheeku, Patti-Khatshyuom, P.O. Sheelu Khal, Pauri"*. The spelling of the village as proposed by the Respondent differs from that provided by UPCL & UREDA. Accordingly, location of the plant mentioned in the draft PPA needs to be corrected with correct spelling of village.

- b. In the first Para of the Preamble of the draft PPA date of commissioning of the plant has been mentioned as 31.08.2016. The Respondent submitted that the time period for commencement of project should be six months after signing of the PPA. In this regard, the Commission observes that UREDA, State Agency while allocating the project capacity to the Respondent also provided timeline of commissioning of project by 31.10.2016 in accordance with the guidelines issued by MNRE. The Commission is of the view that timeframe decided by the project allocating agency shall be applicable, hence, the same shall be incorporated in the PPA.
- c. In the first Para of the Preamble the stated capacity is 500 kW whereas, in the second para of the Preamble the stated capacity is 20 kW. As discussed above capacity allocated to Sh Rakesh Kumar is 500 kW. Hence, 20 kW mentioned in the draft PPA is incorrect and is required to be substituted by 500 kW.
- d. Sub-Clause (g) of the Clause 1.1 of the draft PPA specifies *"Interconnection Point"* as follows:

*""Inter-connection Point" shall mean interface point of renewable energy generating*

*facility with the transmission system or distribution system.”*

The Commission observes that vide notification dated 29.04.2016 Fifth Amendment to the RE Regulations, 2013 definition of Inter-connection Point has been modified as follows:

*“(v) “Inter-connection Point” in respect of all the RE based generating stations, except Grid interactive Roof Top and Small Solar PV Power Projects, shall mean interface point of renewable energy generating facility with the transmission system or distribution system which shall be line isolator on outgoing feeder on HV side of generator transformer;*

*However, in respect of Grid interactive Roof Top and Small Solar PV Power Projects, Inter-connection Point shall mean the interface of solar power generation facility under net metering arrangement with the network of licensee and shall normally be the point where export/import meter is installed to measure the energy transfer between the licensee and the eligible consumer;.”*

The above mentioned definition is required to be incorporated in the PPA.

- e. Name of “M/s Chandra Shekhar Bhatt” appearing at first & last Para of Clause 2.2 of the draft PPA appears to be misplaced and is required to be substituted by the name of the owner of the 500 kW Grid Interactive rooftop & small solar PV power projects.
3. UPCL is required to take note of the above mentioned discrepancies in the draft PPA and make necessary corrections before execution of PPA with the Respondent and submit compliance of the same.
4. Ordered Accordingly.

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

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