

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 13 of 2016

In the matter of:

Petition to extend the benchmark capital cost and generic tariff as declared by on UERC vide order dated 23-07-2015, i.e. up to 30 Oct, 2016 for 23 Solar PV Power Plants (cumulative capacity of 181.40 MW).

In the matter of:

Uttarakhand Renewable Energy Development Agency ...Petitioner

AND

In the matter of:

Uttarakhand Power Corporation Ltd. ...Respondent

CORAM

Shri Subhash Kumar Chairman

Shri K.P. Singh Member

Date of Hearing : February 26, 2016

Date of Order : March 31, 2016

The Order relates to the Petition filed by Uttarakhand Renewable Energy Development Agency (hereinafter referred to as "the Petitioner" or "UREDA" or "State Nodal Agency") seeking approval to extend the benchmark capital cost and generic tariff as determined by the Commission vide its Order dated July 27, 2015 upto October 30, 2016 for 23 Solar PV Power Plants having cumulative capacity of 181.40 MW.

1. Background

- 1.1 The Petitioner filed a Petition dated 03.02.2016 seeking extension of the benchmark capital cost & generic tariff as determined by the Commission vide its order dated 27.07.2015 up to 30.10.2016 in respect of total 181.40 MW Grid-Connected Solar PV

based Power Projects in the State of Uttarakhand.

1.2 The Petitioner submitted that Government of Uttarakhand (GoUK) vide its notification no. 1044/I/2013-5/14/2009 dated 27.6.2013 issued Uttarakhand Solar Power Policy, 2013 with a target to install 500 MW Solar Power Projects by 2017. The Petitioner had been designated as Nodal Agency for implementation of Solar Policy. UREDA, after taking the approval from the GoU invited RfP on 17.9.2015 for procurement of power Grid Connected Solar PV Power Projects through Tariff Based Competitive Bidding Process under Type-I of Uttarakhand Solar Power Policy, 2013. Further, revised RfP was published on 3.10.2015 after pre-bid meeting. The Petitioner submitted that total 102 bids were received against which 92 were shortlisted by Technical Appraisal Committee, thereafter, financial bids were opened on 28.10.2015 and, subsequently, the Project Approval Committee approved total 23 numbers of projects of cumulative capacity 181.40 MW. Details of the successful bidders selected for implementation of grid connected Solar PV based Power Projects for sale of power to the licensee are as follows:

S. No.	Name of Developer	Project Capacity	Rate
1	M/s Rays Power Infra Pvt. Ltd., Jaipur	10 MW	Rs. 5.57/kWh
2	M/s ACME Solar Holdings Pvt. Ltd., Gurgaon	12.5 MW	Rs. 5.58/kWh
3	M/s Rays Power Infra Pvt. Ltd., Jaipur	10 MW	Rs. 5.58/kWh
4	M/s Impex India, Kolkata	2.4 MW	Rs. 5.60/kWh
5	M/s ACME Solar Holdings Pvt. Ltd., Gurgaon	12.5 MW	Rs. 5.63/kWh
6	M/s Punj Llyod Infrastructure Ltd.,Gurgaon	10 MW	Rs. 5.64/kWh
7	M/s AR Solar Power, Dehradun	1 MW	Rs. 5.67/kWh
8	M/s Hydro Power Engineers, Dehradun	1 MW	Rs. 5.67/kWh
9	M/s AR Solar Power, Dehradun	1 MW	Rs. 5.69/kWh
10	M/s Emami Power Ltd., Kolkata	20 MW	Rs. 5.74/kWh
11	M/s JLTM Energy India Pvt. Ltd., Varanasi, UP	5 MW	Rs. 5.75/kWh
12	M/s ACME Solar Holdings Pvt. Ltd., Gurgaon	12.5 MW	Rs. 5.78/kWh
13	M/s ACME Solar Holdings Pvt. Ltd., Gurgaon	12.5 MW	Rs. 5.78/kWh
14	M/s Vishal Techno Commerce Ltd., Mumbai	5 MW	Rs. 5.79/kWh
15	M/s Omkar Power Tech. India Pvt. Ltd., Dehradun	10 MW	Rs. 5.82/kWh
16	M/s Punj Llyod Infrastructure Ltd.,Gurgaon	10 MW	Rs. 5.84/kWh
17	M/s Omkar Power Tech. India Pvt. Ltd., Dehradun	10 MW	Rs. 5.91/kWh
18	M/s Profigate Infra Gasoline, Roorkee	5 MW	Rs. 5.93/kWh
19	M/s Omkar Power Tech. India Pvt. Ltd., Dehradun	10 MW	Rs. 5.95/kWh
20	M/s Makin Developers Pvt. Ltd., Ballupur, Dehradun	1 MW	Rs. 5.97/kWh
21	M/s Profigate Infra Gasoline, Roorkee	5 MW	Rs. 5.98/kWh
22	M/s RP Infrapower Pvt. Ltd., Dehradun	5 MW	Rs. 5.99/kWh
23	M/s Punj Llyod Infrastructure Ltd.,Gurgaon	10 MW	Rs. 5.99/kWh

1.3 The Petitioner submitted that Letter of Intent and letter of allotment were issued to

the successful bidder on 7.11.2015 and 1.12.2015 respectively. Further, as per the revised RfP, commissioning of the projects was required to be achieved by 30.10.2016 and Uttarakhand Power Corporation Ltd. (UPCL) should start signing of PPA with successful bidders from 01.12.2015. However, the PPA could only be signed after taking necessary approval from the Commission. In this regard, the Commission issued the Order dated 22.01.2016 in Petition No. 01 of 2016. Vide the above mentioned Order, the Commission instructed to comply its order dated 23.07.2015 in Petition no. 09 of 2015 and directed that the tariff quoted by successful bidders shall apply if successful bidders execute their PPA with UPCL and commission their projects on or before 31.3.2016. Further, if the successful bidders failed to commission their projects on or before stipulated time, tariff incorporated in the PPA entered into with by UPCL & such project developers shall apply only if the rate determined by the Commission for the year of commissioning of the plant is higher than the PPA tariff rate.

- 1.4 UREDA submitted that the Commission had bound the successful bidders to commission their projects by 31.03.2016. However, as per RfP schedule, the date of financial closure of the project has been taken as 30.04.2016 which is one month beyond the date of commissioning as stipulated by the Commission. The Petitioner submitted that LoA was issued to the successful bidders in Nov, 2015 and UPCL, after the Commission's Order asked the successful bidders for execution of PPA by 05.02.2016. Considering all the above said matters, UREDA submitted that, expecting successful bidders to commission their project by 31.03.2106 would not be practicable.
- 1.5 The Petitioner submitted that the Commission vide its Order dated 20.03.2015 had relaxed Regulation 11(1) of RE Regulations, 2013 for 12 solar power plant developers of cumulative capacity 30 MW selected through tariff based competitive bidding process in first phase. The Commission vide the above mentioned Order allowed applicability of benchmark capital cost and generic tariffs thereof as ceiling tariffs, as provided in RE Regulations, 2013 for these 12 developers of Solar PV Plants during FY 2015-16.
- 1.6 UREDA vide its Petition requested the Commission for relaxing the stipulation of

timeline of commissioning of above mentioned 23 projects by 31.03.2016 as specified vide the Commission's Orders dated 23.07.2015 & 22.01.2016 for applicability of benchmark capital cost & corresponding tariffs approved for FY 2015-16. UREDA requested the Commission for extending the above mentioned timeline from 31.03.2016 to 30.10.2016.

- 1.7 M/s ACME Solar Holdings Pvt. Ltd. (ACME), one of the successful bidder, vide its letters dated 27.01.2016, 15.02.2016 and 26.02.2016 also made representation in the matter. M/s ACME submitted that as per the clause no. 2.28.1 of RfP, the commissioning date of Solar PV Power Plant shall be 12 months from the date of project allotment and as per the time schedule given in the clause 2.26, date of commissioning of Solar PV Power Plant is 30.10.2016. M/s ACME has also referred to the Commission's Order dated 20.03.2015 vide Petition no. 07 of 2015, wherein, the Commission had allowed extension of applicability of benchmark capital cost and corresponding tariffs to selected 12 project developers.
- 1.8 M/s ACME submitted that it would be impractical to commission the project on or before 31.03.2016 as the PPA(s) are to be executed by 31.03.2016. M/s ACME, expressed its inability to commission the project on 31.03.2016 or even by 30.10.2016. Further, ACME prayed to the Commission to extend the applicability of the benchmark capital cost and generic tariff as given by the Commission in its Order dated 23.07.2015 for the projects whose PPA have been signed on or before 31.03.2016 and also allow the commissioning of the project till 31.03.2017.
- 1.9 UPCL, vide its letter dated 25.02.2016 submitted that the Petitioner was aware of Regulation 11(1) of RE Regulations, 2013 wherein, it is mentioned that the benchmark capital cost for Solar PV projects may be reviewed annually by the Commission. The developers will be affected only in case, if after reviewing the benchmark capital cost, the capital cost is lower with respect to the benchmark capital cost of the previous year and, consequently the tariffs are lower than the tariff discovered/derived from bidding process.
- 1.10 UPCL further submitted that the Petitioner in its Petition has sought relaxation in the Orders dated 23.07.2015 & 22.01.2016 of the Commission. UPCL submitted that the

Petitioner cannot take liberty to assume as to what will be the effect or whether the Commission would or will not consider the review the existing benchmark capital cost and no financial closure of the projects has occurred till date. UPCL submitted that, the present Petition is premature and should not be admitted.

1.11 The hearing on the Petition was held on 26.02.2016 and during the hearing, the Petitioner reiterated its submissions made in the Petition. During the hearing Commission enquired from the successful bidders present during the hearing regarding progress of power plants. In reply M/s Impex India submitted that land had been acquired and EPC contractor & consultant have been shortlisted. M/s Punj Llyod Infrastructure Ltd submitted that agreement has been signed with farmers near Gadarpur sub-station. Further, M/s Emami Power Ltd. and M/s ACME submitted that they are in talks with SIDCUL for land procurement and alternatively private land parcels have also been identified. Subsequently, the Commission, vide its Order dated 26.02.2016 in the instant Petition, directed the Petitioner to submit the status report on the progress made by various developers on each of these 23 Solar PV Power Plants. The Petitioner vide letter dated 02.03.2016 submitted the Status Report on the progress of the same.

2. Commission's View and Decisions

2.1 Regulation 11 of the RE Regulations, 2013 specifies as under:

"11. Control Period or Review Period

(1) The Control Period or Review Period under these Regulations shall be of five years, of which the first year shall be the financial year 2013-14.

Provided that the benchmark capital cost for Solar PV, Solar thermal and grid interactive roof top and small solar PV projects may be reviewed annually by the Commission.

Provided further that the tariff determined as per these Regulations for the RE projects commissioned during the Control Period, shall continue to be applicable for the entire Tariff Period (Useful life of the plant) as specified under Regulation 3(1)(nn). "

(Emphasis added)

2.2 In view of the above provision of the Regulation, benchmark capital cost of Solar

based projects had been reviewed by the Commission vide its Order dated 23.07.2015 and the generic tariff was determined based on the benchmark capital cost which are applicable during FY 2015-16.

- 2.3 While approving the draft PPA between UPCL and the selected bidders for setting up of Grid connected Solar PV Projects, the Commission vide Order dated 22.01.2016 in Petition no. 01 of 2016 observed that UREDA, without approaching the Commission, on its own extended the tariff quoted by the bidders and made it applicable up to 30.10.2016 which was not accepted by the Commission. The selected Power Plant developers vide order dated 22.01.2016, were, accordingly, directed to execute their PPA with UPCL and commission their projects on or before 31.03.2016 with the condition that in case of failure to meet the stipulated timeline, i.e. 31.03.2016, the tariff incorporated in the PPA entered into by UPCL and such project developers shall apply only if the rate determined by the Commission for the year of commissioning of plant is higher than the PPA tariff rate, if such notified rates are lower than the tariffs agreed in the PPA such lower notified rates shall apply. However, if the plant is commissioned after 31.03.2016, the rate of sale of power would be as determined by the Commission for the year of commissioning, if such rates are lower than the tariffs agreed to in the PPA otherwise tariffs agreed in the PPA shall continue to be applicable.
- 2.4 In the present Petition, UREDA has prayed to relax the Commission's Order dated 23.07.2015 in Petition no. 09 of 2015 and Order dated 22.01.2016 in Petition no. 01 of 2016 and to extend the benchmark capital cost and generic tariff up to 30.10.2016 so that 23 Solar PV Power Plants would not be affected if the developers commission their projects on or before 30.10.2016.
- 2.5 The Commission observed that the tariff claimed by the project developers for sale of power to UPCL are lower than that of the generic tariff specified in the Order dated 23.07.2015 in Petition no. 09 of 2015 for such projects. Further, the Commission has also observed that being a licensee UPCL is required to comply with Solar-RPO and the solar power being generated in the State is estimated to be much less than required to meet the Renewable Purchase Obligation (RPO) prescribed due to inadequate development of such plants in the State. Further, draft PPA has been

approved by the Commission on 22.01.2016 and as per RfP financial closure date is 30.04.2016 which is one month beyond 31.03.2016.

2.6 Further, M/s ACME referred to the Commission's Order dated 20.03.2015 in Petition no. 07 of 2015 wherein, then existing benchmark capital cost and generic tariffs as provided in the RE Regulations, 2013 was allowed to be applicable in respect of 12 developers if they get commissioned by 31.03.2016. M/s ACME vide its submission prayed to extend the benchmark capital cost and generic tariff as declared by the Commission vide order dated 23.07.2015 upto 31.03.2017.

2.7 The Commission perused the status report submitted by UREDA in respect of the above referred 23 project developers. From the report submitted by UREDA, critical issues essential for implementation of the projects are summarized as follows:

- The Commission noted that around 19 project developers, with total capacity of 131 MW, either have signed lease agreement or they are in the advance stage of finalization of the same. Remaining project developers are also in the process of discussion with the government authorities and also with private parties for procurement of land. Further, total 8 developers have been issued TFR and the remaining developers have already applied for the same. However, with the finalization of land, TFR is expected to be issued soon by the licensee. Further, 6 projects are under implementation stage. The Commission also noted that only 1 developer has been able to execute PPA with UPCL.

2.8 The Commission noted that the date of issuance of LoA(s) to the developers was in November-December, 2015 and also that some of the developers have been able to initiate implementation of their project. Moreover, majority of project developers have finalized the land for implementation of plants which is the most essential part of solar project implementation.

2.9 As discussed above, Letter of Intent and Letter of Allotment was issued to the successful 23 developers on 07.11.202015 and 01.12.2015 respectively. Further, most of the developers have acquired land using internal accruals or are in the final stage of acquiring land for construction of the plant. Some of the developers have been able to illustrate considerable progress and may achieve CoD of their plant soon.

Further, targets fixed by the Central Government for implementation of Solar Plant cannot be achieved given the scenario/difficulties for implementation of projects as put forth by some of the developers. If the commissioning date is extended till 31.03.2017, as requested by the developers, it would impact UPCL adversely resulting in shortfall of meeting Solar-RPO as the Commission considering the development had increased the RPO of UPCL for FY 2016-17. Hence, allowing extension for commissioning of the power plants till 31.03.2017 would not be prudent. Compliance of RPO by the obligated entities is not the sole intent of achieving timely commissioning of such projects, the Commission is also of the view that commissioning of Solar Power Plants shall also add to bridge the gap of demand and supply in the State, hence, the developers should also consider themselves that they too are obliged to ensure completion of projects once they are allotted certain capacity of Solar plants.

2.10 The Commission in Petition no. 7 of 2015 vide its Order dated 20.03.2015 also held that:

“3.4 In view of the facts and circumstances as discussed above, the Commission has decided to relax the stipulation made in Regulation 11(1) as reproduced above as the LoA was issued to the successful bidders in January 2015 and the gestation period for commissioning of a solar PV plant is atleast a year, hence, expecting them to commission the project by 31.03.2015 would not be practicable. The Commission therefore decides that the benchmark capital cost and generic tariffs thereof as ceiling tariffs, as provided in RE Regulations, 2013 shall remain applicable for these 12 developers of Solar PV Plants during FY 2015-16 and the tariff quoted by them shall apply subject to the condition that:

....”

2.11 Considering the status of projects submitted by UREDA and also keeping in view the progress achieved by some of the developers, and also the consistent with the Commission’s approach as mentioned at para 2.10 above, the Commission has decided to relax the stipulation made in Regulation 11(1) and therefore, decides that the benchmark capital cost and generic tariff thereof as ceiling tariffs, as provided in Suo-moto order dated 23.07.2015 in Petition no. 9 of 2015, shall remain applicable for these successful bidders of Solar PV Plants till 31.10.2016 subject to the conditions

that:

- (a) They execute their PPA with UPCL by 10.04.2016, and
- (b) They commission their projects on or before 31.10.2016.

Provided if these developers do not comply with the above conditions (a) & (b) both, tariff incorporated in the PPA entered into by UPCL & such project developers shall not be applicable, and in such cases rate of sale of power from such projects to the licensee shall be as may be determined by the Commission after reviewing the benchmark capital cost for Solar PV Plants as provided for in the RE Regulations, 2013 if such notified rates are lower than the tariffs agreed in the PPA. The proceedings for reviewing of the benchmark capital cost for solar plants are underway in the Commission. Accordingly, UPCL is directed to provide in clause 2.1 of the draft PPA that rate of sale of power shall be applicable on such developers who commission their plants on or before 31.10.2016, however, if the plant is commissioned after 31.10.2016, the rate of sale of power would be as determined by the Commission for the year of commissioning if such rates are lower than the tariffs agreed to in the PPA otherwise tariffs agreed in the PPA shall continue.

- 2.12 Further, the Commission has noted that draft PPA submitted by Licensees have already been approved vide the Commission's Order dated 22.01.2016, however, only one PPA has been executed between UPCL & project developer. In this regard, Licensee and project developers are, hereby, directed to execute their respective PPA within the timeline as stipulated at Para 2.11 above.
- 2.13 With this, Petition no. 03 of 2016 stands disposed.
- 2.14 Ordered accordingly.

(K.P. Singh)
Member

(Subhash Kumar)
Chairman