

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 50 of 2016

In the matter of:

Application seeking prior approval of the Commission on the Draft Power Purchase Agreement for short term power purchase between Uttarakhand Power Corp. Ltd. and M/s Tata Power Trading Company Ltd. (TPTCL), M/s NTPC Vidyut Vyapar Nigam Ltd. (NTPC VVN Ltd.), M/s PTC India Ltd. and M/s GMR Energy Trading Ltd.

In the matter of:

Uttarakhand Power Corporation Ltd.

... Petitioner

CORAM

Shri Subhash Kumar Chairman

Shri K.P. Singh Member

Date of Hearing: November 4, 2016

Date of Order: November 9, 2016

This Order relates to the Petition filed by Uttarakhand Power Corporation Ltd. (hereinafter referred to as "UPCL" or "Petitioner") seeking approval of four draft PPAs to be executed for short term purchases with M/s Tata Power Trading Company Ltd. (TPTCL), M/s NTPC Vidyut Vyapar Nigam Ltd. (NTPC VVN Ltd.), M/s PTC India Ltd. and M/s GMR Energy Trading Ltd.

1. Background & Submissions

- 1.1 The Petitioner submitted a Petition dated 24.10.2016 seeking approval of four draft PPAs to be executed for short term purchases with M/s TPTCL, M/s PTC India Ltd. , M/s NTPC VVN Ltd. and M/s GMR Energy Trading Ltd. under Section 86(1)(b) of the Electricity Act, 2003 and in accordance with Regulation 74(1) of the UERC (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2015 and Regulation 39(1) of UERC (Conduct of Business) Regulations, 2014.
- 1.2 The Petitioner submitted that as per the power purchase plan, there would be deficit in the month of November 2016, December 2016, January 2017, February 2017, March 2017 and April 2017 and for meeting out the same a tender was floated on dated 07.10.2016. Vide its

Petitioner the licensee also submitted details of quantum required which are as follows:

Month	Quantum (MW)
Nov-16	150
Dec-16	350
Jan-17	325
Feb-17	125
Mar-17	75
Apr-17	200

1.3 The comparative statement showing rates and quantum quoted by the firms in respect of the above mentioned tender opened on 17.10.2016 was also submitted by the Petitioner. The licensee submitted that after evaluation of the tender M/s TPTCL, M/s PTC India Ltd., M/s NTPC VVN Ltd. and M/s GMR Energy Trading Ltd. have been selected as the successful bidder for supply of RTC power on the following rates and quantum:

Month	Company	Quantum (MW)	Rate at delivery Point (Rs./kWh)
Nov-16	M/s TPTCL	45	2.49
		105	2.57
Dec-16	M/s TPTCL	30	2.49
		200	2.58
	M/s GMR	20	2.70
	M/s NTPC VVN Ltd.	25	2.64
Jan-17	M/s PTC	75	2.59
	M/s TPTCL	200	2.67
	M/s GMR	50	2.70
Feb-17	M/s PTC	75	2.66
		125	2.65
Mar-17	M/s PTC	125	2.65
April-17	M/s TPTCL	75	2.67
	M/s PTC	25	2.43
		175	2.49

1.4 UPCL issued LoI to M/s TPTCL, M/s PTC India Ltd., M/s NTPC VVN Ltd. and M/s GMR Energy Trading Ltd.

1.5 The Commission held a hearing in the matter on 04.10.2016.

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 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 License 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 Regulation 39 of UERC (Conduct of Business) Regulations, 2014 specifies as under:

“(1) The distribution licensee shall file with the Commission in complete form copies of all Power Purchase Agreements already entered into by it.

(2) The distribution licensee to establish to the satisfaction of the Commission that the purchase of power by it is under a transparent power purchase procurement process and is economical and the power is necessary to meet its service obligation.

(3) The Distribution licensee shall apply to the Commission for approval of the draft Power Purchase agreement that it proposes to enter into with the suppliers. The Commission may pass orders:

(a) Approving the agreement; or

(b) Approving the agreement with modifications proposed to the terms of the agreement; or

(c) Rejecting the agreement.

....”

2.1.5 Ministry of Power vide its notification dated 30.03.2016 issued “Guidelines for short-term (i.e. for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process”. Clause 4.1 of these guidelines provides that:

*“The Procurer(s) shall procure short term power as per the plan approved by **Appropriate Commission or appropriate body** as may have been constituted for the purpose by the Appropriate Commission. In such case the Distribution Licensees will intimate about the*

initiation of the procurement process to the Appropriate Commission. “

In addition, Regulation 72 & 73 of the UERC (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2015 also provide for preparation of power procurement plan and approval of the same by the Commission.

2.1.6 The Commission during the hearing asked the Petitioner that when it had surplus power during summer/monsoon months then why it did not conduct advance banking to other States facing shortage of power during these months and get back this banked power during winter months when the Petitioner faces shortage of power. Agreeing to the views of the Commission, the Petitioner submitted that in the coming year it has already planned to carry out advance banking of its surplus power during summer/monsoon months and later on reap the benefit of receiving back such banked power alongwith 5% additional power during winters months when it faces acute deficit of power.

2.1.7 Clause 11.4 of the Ministry of Power, GoI guidelines provides that:

“If the quantum of power procured and tariff determined are within the blanket approval granted by the Appropriate Commission in Annual Revenue Requirement (ARR) of the respective year, then the same will be considered to have been adopted by the Appropriate Commission.”

The Commission takes cognizance of the fact that while approving the cost of power purchase for FY 2016-17 in its Tariff Order dated 05.04.2016 for UPCL, it had approved purchase of 2670 MUs of deficit power @ Rs. 3.64/unit. Since the quantum and rate of short-term power procurement from M/s TPTCL, M/s PTC India Ltd., M/s NTPC VVN Ltd. and M/s GMR Energy Trading Ltd. in the Petition are within the specified limits, the same is being considered and adopted by the Commission in accordance with the above guidelines of MoP, GoI.

2.1.8 The draft PPAs have been examined which are in accordance with the Regulations. However, compliance of the guidelines issued by the MoP including the one mentioned in Para 2.1.5 above is mandatory for all short-term procurements of power by the Petitioner in future.

2.1.9 Ordered accordingly.

(K.P. Singh)
Member

(Subhash Kumar)
Chairman