

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 28 of 2018 (Suo-Moto)

In the matter of:

Suo-moto proceedings in the matter of request made by Mr. Digambar Singh Bisht for issuance of appropriate directions for releasing Grant/Subsidy sanctioned by Central Government, payment in accordance with solar Tariff fixed for FY 2015-16 and immediate grid connectivity for allocated solar power plant to Mr. Digambar Singh Bisht.

In the matter of:

Mr. Digambar Singh Bisht (“Developer”)

Uttarakhand Power Corporation Ltd. (“UPCL”)

Uttarakhand Renewable Energy Development Agency (“UREDA”)

... Respondents

CORAM

Shri Subhash Kumar Chairman

Date of Order: June 15, 2018

The Order relates to the suo-moto proceedings initiated by the Commission in the matter of request made by Mr. Digambar Singh Bisht (hereinafter referred to as “Developer”) for issuance of appropriate directions to UREDA for releasing Grant/subsidy sanctioned by Central Government and direction to UPCL for immediate grid connectivity to the Solar plant of the Developer & payment in accordance with the tariff fixed for FY 2015-16 by the Commission for supply of solar energy from allocated Grid-interactive Rooftop Solar PV plant.

1. Background and submissions

1.1 MNRE had sanctioned a capacity of 51 MW of Rooftop Solar PV power plants to UREDA. In this regard, UREDA invited applications for installation of grid interactive Rooftop & small Solar PV power plants for total capacity of 10 MW out of which capacity of 4.90 MW was reserved for plain terrain, capacity of 2.10 MW was reserved for hill terrain and

balance capacity of 3 MW was reserved for gram panchayats and government premises.

- 1.2 The Commission received a letter dated 15.03.2018 from Mr. Digambar Singh Bisht, the Developer, stating that UREDA had published an advertisement inviting applications for development of solar plants of total capacity of 7.9 MW for plain terrain and 2.1 MW for hill terrain. The Applications were to be selected on first come first serve basis. The Developer submitted that on the first day of advertisement, applications for total capacity of 7.9 MW for plain terrain was received which shows that the applicants had already been informed regarding the scheme. Further, most of the plants were commissioned on 31.03.2016 whereas the PPAs were executed on 28.03.2016. The Developer submitted that he had applied for installation of 500 kW capacity solar plant which was rejected stating that applicant had applied involving third party although he was the domicile of Seeku village and electricity connection was in the name of his father. Thereafter, the Developer once again applied for the solar plant in the name of his father. In this regard it also submitted that the Gram Panchayat had allowed the allotment of land in favour of the Developer.

In reply, UREDA submitted that applications had been invited based on the predetermined selection procedures and applicants were selected only after technical analysis for suitability of the plant, allocation of the capacity was done. Further, the Application of Mr. Dharendra Singh Rawat was also received on the first day of publication of the advertisement for establishment of rooftop solar PV plant in hill terrain. Further, the commissioning of the plant is done by UPCL. UREDA also submitted that the Developer applied for the capacity of 500 kW solar power plant in village Seeku alongwith a proposal of Gram Panchayat for allocation of land in favour of the Developer to install solar power plant, however, no lease documents had been submitted. The ownership/lease of the land was a pre-requisite, therefore, the Developer was asked to submit ownership/lease related document.

- 1.3 The Developer submitted that UREDA issued Letter of Award (LOA) to the Developer for the capacity of 500 kW grid interactive Solar PV power plant. However, officials of UREDA gave a negative comment stating that there was shortage of land for installation of solar plant whereas Gram Panchayat of village Seeku has allotted the land on 02.01.2016 and under the democratic and Panchayati Raj setup, decisions taken by the Village Panchayat for the betterment and development of the village are paramount and officials of UPCL also

had given a positive comment. The Developer further added that based on the negative comment, the Developer approached the concerned authority and got approval of the government on allotment of said land. Thereafter, once again LOA was issued to the Developer on 24.09.2016 and same day PPA was executed with UPCL for the supply of power from the said plant.

In reply, UREDA submitted that the Developer was not the owner of the proposed land for the installation of the plant, accordingly, the Developer was given sufficient time to procure land on lease. The lease documents were submitted by the Developer on 23.09.2016 and thereafter LOA was issued to the Developer.

- 1.4 The Developer submitted that he approached UPCL for the construction of HT line, however, no response was made by UPCL. Accordingly, line was constructed by him as per provision of PPA and he informed UPCL regarding the construction and submitted prescribed fees for the inspection of the line. The Developer also submitted that UPCL in February, 2018 asked him to submit the prescribed fee for the inspection of line.

In reply, UPCL submitted that the Developer vide letter dated 16.12.2016 requested UPCL to provide estimates for the construction of 11 kV line, however, the Developer constructed the line by its own before the estimates could be provided to him. Further, as the line had already been constructed by the Developer in accordance with the provisions of PPA, there was no requirement for providing estimates. UPCL also submitted that the officials visited the site for inspection and found that report of electrical inspector, security equipments were not available and installation work was under process. Further, the Developer was asked for the Purchase Orders and Work Order pertaining to construction of line which he failed to produce. Thereafter, the Developer was asked to submit supervision charges vide letter dated 06.02.2018 on the presentation of required documents on 03.02.2018.

- 1.5 The Developer submitted that for the purpose of development of land and for procurement of solar equipment, payment was made to EPC contractor from own resources. The Developer also submitted that due to limited internal resources the Developer approached many banks, however, banks expressed their inability to provide funds due to lack of knowledge regarding the MNRE Scheme. UCO Bank wrote a letter to UREDA to know about the subsidy to be provided by MNRE under the scheme. However, UREDA did not

reply to the said letter.

In reply, UREDA submitted that it has not received any letter enquiring about the allowable central subsidy for the Developer's solar plant. Although it is not responsibility of UREDA to provide assistance for arrangement of funds from banks, UREDA provided all the information regarding allottees as sought by the various banks for approving loans to the solar developers/allottees.

- 1.6 The Developer submitted that he had approached MNRE for tax exemption in procurement of various solar plant equipments, however, due to procedural delay exemption certificate could not be arranged till February, 2017. Subsequently, MNRE was requested for extension which was approved by MNRE vide email dated 15.02.2017. The Developer also submitted that UREDA vide its letter dated 09.03.2017 levied penalty of 1% monthly deduction from the subsidy for delay in commissioning of the plant ignoring the extension approved by MNRE and subsequently, vide letter dated 12.06.2017 informed that the subsidy is not admissible for the Developer's solar power plant which was a contravention of the guidelines of MNRE that provides 15 months for installation of a solar plant.

In reply, UREDA submitted that no information has been provided by the Developer to UREDA regarding time extension approved by MNRE for the installation of solar plant of the Developer. Further, MNRE has also not informed UREDA regarding this matter. UREDA also submitted that schedule commissioning date for such solar plants is 15 months as per guidelines of MNRE and accordingly, based on the LoA dated 08.03.2016 issued to the Developer, the scheduled commissioning date of the Developer's plant was 07.06.2017. UREDA further submitted that based on the request made by the Developer, UREDA allowed the time extension till 31.03.2017 for the completion of the said solar plant. However, no information was provided by the Developer till 31.03.2017 regarding installation of the plant. Thereafter, UREDA vide e-mail dated 03.04.2017 enquired regarding status of installation of the plant. In reply, the Developer vide email dated 05.04.2017 informed that solar panels of capacity of 30 kW have been installed against approved capacity of 500 kW and informed that the plant will be ready by May, 2017. UREDA also submitted that as per MNRE guidelines the said project should be completed within 15 months i.e. by 07.06.2017. No information was submitted by the Developer regarding installation of the plant and therefore, UREDA vide letter dated 12.06.2017

informed the Developer regarding non applicability of the MNRE subsidy.

- 1.7 The Developer submitted that 2 nos. meters were provided to UPCL for testing on 20.01.2017. UPCL found the meters unfit and returned the same after 13 months.

In reply, UPCL submitted that its officials informed that the necessary installation work was not completed till February, 2018.

- 1.8 In view of the geographical conditions, the Developer requested the Commission to approve 30% more tariff for hilly terrain based solar power plants than what is approved for plain terrain solar power plant. The Developer also requested the Commission that tariff rates for the supply of the power should be fixed based on the date of allotment of the project instead of date of commissioning of the project otherwise the solar plant developer will not be able to make monthly instalment to the bank. Accordingly, the Developer requested the Commission to allow the recovery of tariff for supply of energy based on the allotment year FY 2015-16.

2. Commission's views and decision

- 2.1 The Commission analysed the submissions made by the Developer, UPCL & UREDA and based on the same is of the view that UREDA as well as UPCL have shown a lackadaisical approach in dealing with the matter of development of the plant including testing & providing grid connectivity.
- 2.2 It appears from the submission of the Developer that UPCL took approximately 13 months for testing Bi-directional meters provided by the Developer. Moreover, UPCL has not submitted any justification for taking so much time in testing the meters in its submissions during proceedings which clearly shows that such processes in UPCL have substantial inertia resulting in the delay of services providing by UPCL.
- 2.3 The Commission has also taken cognizance of the fact that UPCL has approached the Commission several times in the past, almost as a matter of tendency, with a request to carry forward the unmet Solar RPO due to delay in commission of the solar PV plants. Concerning such instances, it is to be noted that one among the reasons for delay in commissioning of such solar PV plants is lack of enthusiasm/coordination on the part of UPCL. It is therefore, preferred and directed that UPCL, in its role as a licensee, should promptly perform its duties under the Act/Regulations in a time bound manner so that

installation and commissioning of plants are ensured within the scheduled time and generation from such RE plants may also be used to meet its RPO. Having said this, the Commission is of the view that in the instant matter, UPCL has shown a lackadaisical approach in dealing with the matter of testing and providing grid connectivity to solar PV plant of the Developer.

- 2.4 The Commission has also gone through the submissions made by UREDA. It has been observed that UREDA vide its letter dated 02.04.2018 submitted that it has not received any letter from the banker seeking information on the subsidy scheme for the project. Notwithstanding that UREDA has submitted that it always strives to provide all information as desired by the financial institutions. However, later on reversing its stand UREDA vide its letter dated 09.05.2018 submitted that it had received a letter from the banker, however, UREDA has submitted that no action was taken by it as it was not its responsibility to arrange funds for the applicants.

In this regard, it is to be noted that UREDA is a nodal agency for development of renewable energy sector in the State of Uttarakhand. Accordingly, UREDA has a major role to inform all stakeholders about various policies/regulations & schemes including benefits thereof so that applicants/developers can be motivated to develop such projects and financial institutions can provide funds without any unnecessary delay.

- 2.5 With regard to the ownership documents for land, the Commission is of the opinion that the same is beyond its jurisdiction. Furthermore, the RfP also states as under:

“16. Power to remove difficulties

If any difficulty arises in giving effect to this scheme, Principal Secretary/Secretary, Renewable Energy Department, GoUK/Chairman UREDA is authorized to issue clarification as well as interpretation to such provisions, as may appear to be necessary for removing the difficulty either on its own motion or after hearing those parties who have represented for change in any provision.”

Thus, any relief in the matter, if allowable, can only be granted by the competent authority as provided in the above Clause of the RfP.

- 2.6 Moreover, with regard to completion period of 15 month and penalty of 1% of subsidy on account of delay in commissioning of the project, the Commission has analysed all the documents submitted by UREDA and the Developer. It has been observed that as per Letter

of Award (LoA) issued in favour of the Developer, the subsidy was admissible only after the commissioning of the project on or before 31.10.2016 in accordance with the guidelines issued by MMNRE vide notification no. 30/11/2012-16/NSM dated 26.06.2014 and subsequent guidelines, if any, and as per MNRE letter no. 03/106/2015/GCRT dated 16.05.2017, all the projects under the scheme were expected to be commissioned within 15 months from the date of the sanction letter. Further, UREDA vide letter dated 09.03.2017 also extended the time limit for completion of the project till 31.01.2017 on the Developer's request and also informed that 1% penalty per month on the admissible subsidy shall be imposed for any delay beyond 31.03.2017.

Based on the submissions, it is to be noted that as per LoA the Developer was eligible for subsidy only on completion of the allocated project by 31.10.2016. Factually on the ground even after the extension given by UREDA till 31.01.2017 for completion of the plant, the same could not be completed. Further, examining the e-mail dated 15.02.2017 received by the Developer from MNRE regarding extension of commissioning date is concerned, there appears to be an ambiguity in the said e-mail wherein no date or time limit of extension has provided by MNRE. Also it is not clear from the e-mail whether the subsidy will be released after commissioning of the project. Notwithstanding the policies/guidelines or any such relaxation given by competent authorities in this regard, the Commission is of the view that the matter of subsidy does not come under the ambit of the Commission. The Developer may like to approach appropriate authority, i.e. MNRE and/or the State Government for the same.

Hence, in accordance with Clause 16 of the RfP, the Developer is advised to take up this issue with the competent authorities in this regard.

- 2.7 With regard to the Developer's requested for approving 30% more tariff for hilly terrain based solar power plants than what is approved for plain terrain solar power plant taking into consideration geographical condition, it is to be noted that the RE Regulations, 2013 does not provided any provision for determination of generic or project specific tariff, as the case may be, for the Solar Power Plant based on the geographical conditions. The Commission in accordance with the first proviso of Regulation 11 of RE Regulations, 2013 reviews the benchmark capital cost of the grid interactive rooftop & small solar PV plants alongwith other solar based projects on annual basis and the Regulation does not provide

any dispensation for allowing separate tariffs for projects installed in hilly or plain region. Accordingly, the Developer's request for approving different tariff for hilly terrain is not in accordance with the RE Regulations, 2013 and hence, not acceptable.

- 2.8 The Developer has submitted that tariff rates for supply of power should be fixed based on the date of allotment of the project instead of date of commissioning of the project whereas UPCL has submitted that the tariff rate applicable for the plant should be the tariff approved by the Commission for the year in which the plant is declared as commissioned. In this regard, the Commission agrees with the submission of UPCL. However, since the plant of the Developer has not been commissioned till date therefore applicability of tariff cannot be conclusively inferred.

With regard to expeditious development of RE/Solar projects in the State, UREDA, being Nodal Agency is responsible for such development activities including providing guidance to prospective developer. Therefore, the Commission directs UREDA to provide guidance to the developer to commission the plant in coordination with UPCL. UPCL is also directed to provide grid-connectivity once the project of the Developer is completed and ready for commissioning.

Accordingly, the generic tariff, without subsidy, shall be applied to the grid interactive rooftop & small solar PV plant based on the year of commissioning. Further, in case, any subsidy is released by MNRE in future, generic tariff shall be replaced based on the percentage of subsidy released.

3. Ordered accordingly.

(Subhash Kumar)
Chairman