

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 43 of 2021

In the matter of:

Application seeking prior approval of the Commission on the draft Power Purchase Agreement between Uttarakhand Power Corporation Limited and M/s PTC India Ltd. on short term basis.

In the matter of:

Uttarakhand Power Corporation Limited ... Petitioner

AND

In the matter of:

M/s PTC India Ltd. ... Respondent

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Shri D.P. Gairola Member (Law) / Chairman (I/c)

Shri M.K. Jain Member (Technical)

Date of Order: January 21, 2022

This Order relates to the Petition filed by Uttarakhand Power Corporation Ltd. (hereinafter referred to as "UPCL" or "Petitioner" or "Licensee") seeking approval of the draft Power Purchase Agreement for short term power purchase from M/s PTC India Ltd. (hereinafter referred to as "M/s PTCIL").

1. Background and Petitioner's Submissions

- 1.1. The Licensee 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, Regulation 39(3) of the UERC (Conduct of Business) Regulations, 2014 & Chapter-II of the Uttarakhand Electricity Regulatory Commission (Conduct of Business) Regulations, 2014 filed a Petition dated 23.11.2021 seeking approval of the

Commission on the Draft Power Purchase Agreement to be executed by UPCL for procurement of short term power with M/s PTCIL.

12. The Petitioner submitted that, it has been noticed in the month of July and August 2021 that energy demand in the State had increased as compared to the projected availability of power and therefore it was observed that it may affect the power scenario in the month of Sep & Oct-21. Moreover, hydro power stations of UJVNL/IPPs located in the State were going under breakdown/maintenance due to silt by heavy rainfall continuously and thereby affecting generation of power.
13. The Petitioner submitted that, to meet the deficit, UPCL on regular basis placed bids on IEX, however, the rate of power in exchange platform was also increasing due to which power was not being cleared in IEX as per the requirement of State, due to which UPCL remained in deficit of 150 MW RTC power.
14. The Petitioner submitted that in view of power deficit scenario and fluctuating rates on IEX, UPCL had planned to go for Short Term Tender of 150 MW RTC Power for the month of September and October 2021 in order to meet its demand. Accordingly, a tender was floated in the month of August 2021, as per the following requirement:

Month	Period	Timings		Quantum of Power (MW)	Minimum Bid Quantum (MW)	Delivery Point
		From	To			
Sep-2021	08-09-21 to 30-09-21	00:00	24:00	150	50	Uttarakhand State periphery
Oct-2021	01-10-21 to 31-10-21	00:00	24:00	100	50	

15. The Petitioner submitted that the tender was opened on dated 04-09-2021. The initial price offer (IPO) was opened on 06-09-2021 and e-Reverse Auction (e-RA) was conducted on dated 06-09-2021 itself. The Petitioner submitted that after evaluation of the tender, LoA was issued to M/s PTC India Ltd. for supplying 100 MW power to UPCL in the month of October 2021 @ Rs. 3.74/Unit at Uttarakhand State Periphery. The Petitioner further submitted that for the month of September 2021 the rates quoted by the bidders were very high and therefore, UPCL did not consider the same.
16. UPCL submitted that it intends to purchase the entire energy from the aforesaid bidder on the terms and conditions as agreed between both the parties as per the terms and condition laid down in the draft Power Purchase Agreement. In this regard, UPCL also submitted a

copy of the Draft Power Purchase Agreement to be entered with M/s PTCIL.

17. Meanwhile, M/s PTCIL vide its submission dated 29.12.2021 submitted that the draft PPA proposed by UPCL for procurement of power on short term basis is in line with the terms & conditions of the respective tender specification and may kindly be considered for approval.
18. The Petitioner's submission, M/s PTCIL reply and the Commission's views on the same is discussed in the subsequent paras.

2. Commission's Views & Decisions

21. Legal Requirement for approval of PPA

211. A PPA is a legal document incorporating operational, technical & commercial provisions to be complied in accordance with the relevant rules & regulations.
212. Section 86(1)(b) of the Electricity Act, 2003 stipulates that one of the functions 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.
213. 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)

214. 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.*
- ...”

215. In accordance with the RE Regulations, 2018 licensee is required to comply with the renewable purchase obligation as provided in the Regulations.

216. 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, 2021 also provides for preparation of power procurement plan and approval of the same by the Commission.

217. Clause 11.4 of the MoP 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 2021-22 in its Tariff Order dated 26.04.2021 for UPCL, it had

approved purchase of 801.76 MUs (approx. 107 MW RTC) of deficit power @ Rs. 4.00/unit. Since the quantum and rate of short-term power procurement from M/s PTCIL 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.

218. The provisions of the draft PPA has been examined which are in accordance with the Regulations. However, UPCL and M/s PTCIL are hereby directed to incorporate the date in the draft PPA before signing the same and submit the same to the Commission within 15 days of the date of order.

3. Ordered accordingly.

(M.K. Jain)
Member (Technical)

(D.P. Gairola)
Member (Law)/Chairman (I/c)