

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No.: 35 of 2025 (Suo-Moto)

In the matter of:

Suo-moto proceedings in the matter of time extension in Scheduled Commissioning Date of Solar PV Plants to be developed by various developers in the State of Uttarakhand under “Tariff Based Competitive Bidding Process under Type-I Projects of Solar Energy Policy of Uttarakhand, 2013”.

CORAM

Shri M.L. Prasad	Chairman
Shri Anurag Sharma	Member (Law)

Date of Order: March 27, 2025

This Order relates to the representations received from various Solar PV plant developers requesting for additional time till 31.03.2025 for development/commissioning of the solar power plants allotted to them under “Tariff Based Competitive Bidding Process under Type-I Projects of Solar Energy Policy of Uttarakhand 2013”.

1. Background

1.1 UPCL vide its letter dated 02.06.2018 had requested UREDA for arrangement of 200 MW solar power to achieve its RPO for FY 2018-19 and onwards. Accordingly, UREDA had invited bids for setting up Solar PV plants of cumulative capacity of 200 MW in the hilly region of Uttarakhand for procurement of power on long term basis by UPCL through tariff based competitive bidding under Type-I category, i.e. *“Projects selected as per the competitive bidding process for selling power to Uttarakhand DISCOM, i.e. UPCL for meeting their RPO Obligations as specified by UERC from time to time”*, of Solar Energy Policy of Uttarakhand, 2013.

1.2 Subsequently, UREDA vide its Petition dated 10.12.2018, had sought approval to extend the Control Period of the benchmark capital cost & generic tariff as determined by the

Commission vide RE Regulations, 2018 for Solar PV Plants for FY 2018-19, upto March 2020 for Solar PV plants having cumulative capacity of 200 MW. In the matter, the Commission vide its Order dated 01.02.2019, had extended the Control Period of the generic tariff as determined by the Commission for FY 2018-19 till June, 2020 for plants to be commissioned under 200 MW scheme. Accordingly, the tariff discovered through competitive bidding was to be applicable only if the proposed plants got commissioned by June, 2020 otherwise the lower of the tariff determined by the Commission for the year of commissioning of the proposed plant or discovered through competitive bidding would be applicable.

1.3 Thereafter, UREDA vide its Petition dated 22.07.2019 submitted that it had invited bids for development of Solar PV plant having cumulative capacity of 200 MW, however, bids having cumulative capacity of 148.85 MW were found eligible for the establishment of such solar plants and, accordingly, UREDA invited bids for the remaining capacity of 51.85 MW (say 52 MW). Therefore, UREDA vide the said Petition had requested the Commission to extend the benchmark capital cost and generic tariff determined by the Commission for FY 2019-20 till October, 2020. In the matter, the Commission vide its Order dated 18.09.2019 accepted the request of UREDA and extended the Control Period of the benchmark capital cost and generic tariff determined for FY 2019-20 upto October, 2020 as ceiling tariff for competitive bidding purpose for the upcoming Solar PV plants having cumulative capacity of 52 MW. Accordingly, the tariff discovered through competitive bidding would be applicable only if the proposed plants got commissioned by October, 2020 otherwise the lower of the tariff determined by the Commission for the year of commissioning of the proposed plant or discovered through competitive bidding would be applicable.

1.4 Subsequently, the Commission on the request of the successful bidders through its Suo-moto Order dated 23.06.2020 had allowed the Solar Power developers (200 MW) to develop and commission their respective plants by 31.03.2021 due to impact of COVID-19 pandemic which was further extended by the Commission upto 31.08.2021 vide its Order dated 31.03.2021 at the tariff rates as specified in the respective PPAs of the Solar Power plant developers. Thereafter, the Commission vide its Suo-moto Order dated 21.09.2021 had extended the time upto 15.11.2021 to get the tariff specified in respective PPAs.

1.5 Subsequently, UREDA vide its letters dated 30.07.2022 had allowed the developers to commission their projects by 31.03.2023. Thereafter, vide letter dated 30.05.2023 UREDA again allowed extension till 31.03.2024 subject to the condition that minimum of tariff mentioned in PPA or generic tariff as determined by the Commission shall be applicable. UREDA once again vide its letter dated 27.06.2024 allowed additional time upto 31.12.2024 for commissioning of the projects allotted under 200 MW with the same condition, i.e. minimum of tariff mentioned in the PPA or generic tariff as determined by the Commission, shall be applicable.

1.6 Subsequently, some of the developers approached UREDA requesting for additional time upto 31.03.2025 for development/ commissioning of the Solar Power capacity allotted to them. In the matter, UREDA through its letter dated 10.01.2025 approached the Commission for seeking necessary directions in the matter. Thereafter, a few developers approached the Commission requesting for time extension till 31.03.2025 for commissioning of the Solar PV plants allotted to them.

1.7 In the matter, the Commission directed UPCL to submit its comments on the request raised by developers for additional time for commissioning of the solar power plants allotted under 200 MW Scheme.

Further, UREDA was also directed to submit physical and financial status of those plants seeking extension duly substantiated by documentary evidence, such as copy of invoices pertaining to equipment, bank loan agreement, geotagged photographs of the plants alongwith the basis of allowing time extensions in the past.

1.8 In the matter, UPCL vide its letter dated 24.02.2025 submitted that UPCL executes PPAs and supplementary PPAs with the generators only after issuance of LoA by UREDA. UPCL also submitted that UPCL has an implicit mandate in the Uttarakhand Solar Policy, 2023 to assist in the solar power development in the state so as to reach the target of 1100 MW by December 2027 as mentioned in Solar Policy, 2023 and also to promote the green energy in the state of Uttarakhand. In line with the same, UPCL has been entering into the Solar PPAs within the state. UPCL also submitted that if the developers are not given extension under 200 MW scheme, they are likely to pursue for issuance of LoA under Mukhyamantri Sour Swarozgar Yojna (MSSY) in which the tariff will be equivalent to the

generic tariff determined by the Commission from time to time which will be at the higher side in comparison to the tariff applicable in 200 MW Scheme where the generic tariff determined by the Commission is ceiling tariff.

1.9 UREDA vide its letter dated 22.02.2025 submitted that 40 nos. of successful bidders whose quoted tariff rates are lower than the tariff specified by the Commission, were asked to submit progress of the solar plant. Out of these 40 nos. of successful bidders, no reply has been submitted by 24 nos. of successful bidders against the allotted cumulative capacity of 5.6 MW. UREDA also requested the Commission to allow re-bid against 5.6 MW capacity along with earlier surrendered capacity of 2.5 MW through tariff based reverse competitive bidding.

2. Commission's view and decision

2.1 UREDA had invited bids for setting up Solar PV plants having cumulative capacity of 200 MW in the hilly region of Uttarakhand for procurement of power on long term basis by UPCL through tariff based competitive bidding under Type-I category, i.e. *"Projects selected as per the competitive bidding process for selling power to Uttarakhand DISCOM i.e. UPCL for meeting their RPO Obligations as specified by UERC from time to time"*, of Solar Energy Policy of Uttarakhand, 2013.

2.2 The Commission has gone through the provisions of RfP and observed that with regard to timeline for completion of the allotted project, Clause 2.19.5 of RfP document specifies as follows:

"In case successful developer fails to achieve commercial operation within 12 months from the date of Project Allotment, the allotment of project will be cancelled, and deposited CPG amount shall be forfeited. However, the CPG shall be refunded if successful developer achieves commercial operation within time period."

Further, with regard to additional time for completion of the project other than force majeure, clause 2.21.A.4 of the RfP document specifies as follows:

"For other justified cases also, not covered under force majeure conditions, UREDA may consider the request of Bidder and additional time for completion of work may be granted. However, in such cases the developer shall pay UPCL an amount equivalent to cost of REC against energy to be provided by generator against allotted capacity (MW) considering CUF of

19% as provided in UERC RE Regulation 2018 for the whole period of delay. Further the tariff admissible to such Bidders shall be either the tariff quoted by the Bidder or the prevailing tariff at the time of COD as declared by Hon'ble UERC, whichever is lower."

It is explicitly clear from the above provisions of RfP that the allotment of the project should have been cancelled if the successful developer failed to achieve commercial operation within 12 months from the date of project allotment. However, for justified cases, UREDA may consider the request of bidders and additional time for completion of the work may be granted provided that the tariff admissible to such successful bidders shall be lower of the bid tariff or prevailing tariff specified by the Commission for the year in which CoD falls. However, in such cases the developer was required to pay UPCL an amount equivalent to cost of REC against energy to be provided by the generator against allotted capacity (MW) considering CUF of 19% as provided in UERC RE Regulation 2018 for the whole period of delay. However, no compliance was made by UREDA with respect to the said provisions of the RfP nor any reasons were submitted for deviation from the same.

In the matter, UREDA was directed to submit the basis of allowing multiple extensions to the successful developers alongwith physical and financial status of the plants duly substantiated by documentary evidence. UREDA submitted the details of 40 nos. of successful bidders whose quoted rates are lower than the tariff specified by the Commission. It is observed from the information submitted by UREDA that 24 nos. of developers having cumulative capacity of 5.6 MW have not responded to UREDA and 12 nos. of developers having cumulative capacity of 15.7 MW are in initial stage of project commissioning with some have only acquired land & executed PPA with UPCL. Further, none of the 12 nos. of developers have submitted invoices for supply and erection of the solar plant. Only 4 nos. of developers having cumulative capacity of 7.1 MW have installed their projects and have got meter sealed as well as electrical safety certificate.

However, no satisfactory justification has been submitted by UREDA with regard to multiple extensions allowed to all the successful developers who were unable to develop/commission Solar PV plants allotted to them.

2.3 Further, the Commission, based on the Petition filed by UPCL seeking approval of the

Model PPA to be executed by it with the selected bidders for procurement of power from selected bidders under 200 MW Scheme, had approved the Model PPA vide Order dated 02.09.2019. With regard to termination of PPA, Clause 21.4 of the approved Model PPA specifies as follows:

“UPCL reserves the right to terminate this agreement upon one months notice to the Solar Photovoltaic Power Plant, if the Solar Photovoltaic Power Plant's facility fails to commence production of electric power within three months from the planned commercial operation date mentioned in Annexure 1”

In the matter, UPCL was also directed to submit comments on the status of PPAs in accordance with the above-mentioned provision of PPA, after developers failed to commission the plants, even after multiple extensions. Further, UPCL was also directed to submit reasons for entering into fresh PPAs when UPCL is already fulfilling its renewable purchase obligation.

In reply, UPCL submitted that UPCL executes PPAs and supplementary PPAs with the generators only after issuance of LoA by UREDA and further extension granted by UREDA on the same. UPCL also submitted that such projects will help to achieve a target of 1100 MW specified in Solar Policy, 2023. UPCL also submitted that if the developers are not given extension under 200 MW scheme, they are likely to pursue for issuance of LoA under MSSY in which the tariff will be equivalent to the generic tariff determined by the Commission time to time which will be at the higher side in comparison to the tariff applicable in 200 MW Scheme where the generic tariff determined by the Commission is ceiling tariff. However, the Commission is dismayed at this lacklustre approach of UPCL in not enforcing the provisions of the PPA.

2.4 It is to be noted that the scheme of 200 MW was launched under Type-I category, i.e. *Projects selected as per the competitive bidding process for selling power to Uttarakhand DISCOM i.e. UPCL for meeting their RPO Obligations as specified by UERC from time to time*, of Uttarakhand Solar Energy Policy, 2013 on the request made by UPCL to UREDA for fulfilment of its renewable purchase obligation as specified by the Commission from time to time.

2.5 UPCL has already met its RPO upto FY 2023-24 in accordance with the provisions of

prevailing regulations. Further, it is observed from the quarterly reports on renewable purchase obligation compliance submitted by UPCL for the first three quarters of FY 2024-25 that it has met its renewable purchase obligation specified by the Commission for FY 2024-25 vide RE Regulations, 2023 as amended from time to time.

2.6 Further, it is worth mentioning that the scheme for 200 MW was launched under Solar Energy Policy of Uttarakhand, 2013 which has been repealed in entirety after coming into effect of Uttarkhand State Solar Policy, 2023. Based on the above discussion, the Commission does not find any justified ground to allow extension to successful bidders who are yet to develop solar PV projects because the sole purpose of 200 MW Scheme was to develop solar power plant to meet out the renewable purchase obligation of UPCL and the same is being met by UPCL as discussed in the above paragraphs of this Order. Besides numerous time extensions allowed to the bidders defeats the sole purpose of bidding. Accordingly, UREDA is directed to cancel the LoA issued to such developers in accordance with the relevant provisions of RfP.

2.7 With regard to UREDA's request for allowing retendering against 5.6 MW capacity of 24 nos. of successful bidders who have not submitted any information regarding physical and financial status of allotted capacity alongwith earlier surrendered capacity of 2.5 MW through reverse tariff based competitive bidding, the Commission would like to reiterate that the said capacity was part of the Scheme that was launched under Solar Energy Policy of Uttarakhand, 2013 which has already been repealed by Uttarakhand State Solar Policy, 2023. Since the quantum of re-tendering is also part of the aforementioned 200 MW Scheme (under Solar Energy Policy of Uttarakhand, 2013), i.e. for fulfilling the renewable purchase obligation of UPCL, which in light of the aforementioned discussion does not find any relevance. Hence, such request also cannot be acceded to.

3. Ordered accordingly.

(Anurag Sharma)
Member (Law)

(M.L. Prasad)
Chairman