

**Before**

# **UTTARAKHAND ELECTRICITY REGULATORY COMMISSION**

**Petition No. 15 of 2024**

**In the matter of:**

Petition seeking prior approval of the Commission for Advance & Return Energy Banking to M/s Uttar Pradesh Power Corporation Limited under an Energy Banking Agreement with the Uttarakhand Power Corporation Ltd.

**In the matter of:**

Uttarakhand Power Corporation Ltd.

... Petitioner

AND

**In the matter of:**

M/s Uttar Pradesh Power Corporation Limited

... Respondent

**CORAM**

**Shri M.L. Prasad**

**Member (Technical)-Chairman (I/c)**

**Date of Order: May 13, 2024**

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 Energy Banking Agreement (hereinafter referred to as "EBA") with M/s Uttar Pradesh Power Corporation Limited (hereinafter referred to as "M/s UPPCL" or "Respondent") for advance and return energy banking.

## **1. Petitioner's Submissions**

- 1.1 The Licensee under Section 63 and 86(1)(b) of the Electricity Act, 2003 and in accordance with Regulation 81(1) and 82 of the UERC (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2021, filed a Petition dated 21.03.2024 seeking approval of the Commission for advance banking of 49.20 MU (under 'Firm Basis' arrangement) for the period from 05.02.2024 to 29.02.2024, which would be returned back during the period from 01.04.2024 to 31.05.2024, under an Energy Banking Agreement to be executed with M/s UPPCL.
- 1.2 The Petitioner submitted that as per the demand and availability projection for the winter

months in the State, UPCL had an overall deficit of around 800 to 900 MW. Further, to mitigate the deficit, UPCL had given a consent to State based gas generators for the supply of 321 MW (Maximum) for the period of December, 2023 to July, 2024, however, despite the above arrangement UPCL was expected to have a short fall of approx. 300 to 600 MW RTC power in the winter season, i.e. from Nov-23 to Mar-24.

- 1.3 The Petitioner submitted that it had put its sincere effort to secure power on reasonable rates and, accordingly, explored the option of reverse banking, i.e. UPCL had proposed to take power in advance during the month of November, 2023 to March, 2024 and return the same with some premium between July, 2024 to September, 2024, wherein UPCL always remain in power surplus position.
- 1.4 The Petitioner submitted that, for better utilization of power, it was proposed that banking may be sought by UPCL as advance banking during the period from 21.11.2023 to 29.02.2024 and the intake power may be returned during the period from June, 2024 to September, 2024. The Petitioner submitted that it floated a tender (tender specification no. 11/CE (COMM)/UPCL-11/2023-2024 (Banking of Energy) for the advance and return banking of power, and after the finalization of the tendering process and after taking the in-principle approval from the Commission, UPCL had placed the LoI to M/s Arunachal Pradesh Power Corporation Pvt. Ltd.
- 1.5 The Petitioner further submitted that after placing the LoI for the month November, 2023 to February, 2024, the following quantum was leftover as per proposed plan for banking:

| Month         | RTC Quantum (MW) |
|---------------|------------------|
| November 2023 | 40 MW            |
| December 2023 | 40 MW            |
| January 2024  | 90 MW            |
| February 2024 | 40 MW            |

The Petitioner submitted that for the above left over quantum, UPCL again emailed its required quantum to M/s HPPC vide email dated 22-11-2023, and after various level of negotiations M/s HPPC had accepted the UPCL's offer, and after the finalization of the offer submitted by M/s HPPC and after taking the in-principle approval from the Commission, UPCL had placed the LoI to M/s Haryana Power Purchase Center (HPPC) for the following quantum.

| Month  | RTC Quantum (MW) | Return % | Return Period               |
|--|------------------|----------|-----------------------------|
| 20 <sup>th</sup> Dec 2023 to 31 <sup>st</sup> Dec 2023 | 40 MW            | 105%     | July 2024 to September 2024 |
| 1 <sup>st</sup> Jan 2024 to 31 <sup>st</sup> Jan 2024  | 90 MW            |          |                             |
| 1 <sup>st</sup> Feb 2024 to 29 <sup>th</sup> Feb 2024  | 40 MW            |          |                             |

1.6 The Petitioner submitted that still there was a substantial deficit of power during the peak hours of the February month and the average exchange prices varied from Rs. 6.50 to 6.80 per unit, and the peak hours exchange prices reached the threshold limit of Rs. 10.0 per unit, and in spite of bidding at that rate the whole quantum of bid did not get cleared. UPCL submitted that it received a proposal for banking from M/s UPPCL vide letter No. SPATC/UPCL-banking of power/33 dated 18.01.2024 in which a discussion meeting was held on 23.01.2024 under the chairmanship of Director (Project) UPCL and in the presence of Chief Engineer (Commercial), SE(Commercial), EE (Commercial) and representatives of Quenext Decision Science Technology Pvt Ltd, wherein it was decided that following offers should be placed to M/s UPPCL.

- (A) Intake banking (UPPCL to UPCL) of 100 MW of power for a period from 01.02.2024 to 29.02.2024 between 08:00 hrs. to 11:00 hrs. and the same (with zero percent premium) will be returned during the period from 01.07.24 to 31.08.2024 between 08:00 hrs. to 11:00 hrs.
- (B) Intake banking (UPPCL to UPCL) of 100 MW of power for a period from 01.02.2024 to 29.02.2024 on RTC basis and the same (with zero percent premium) will be returned during the period from 01.07.24 to 31.08.2024 on RTC basis.

1.7 UPCL submitted that in response to the same, UPPCL gave the following proposal for consideration of UPCL:

- (A) Intake banking (UPPCL to UPCL) of 100 MW of power for a period from 01.02.2024 to 29.02.2024 on RTC basis and the UPCL may return power to UPPCL on RTC basis in either of the month of Apr/May/Jun, 2024.
- (B) Intake banking (UPPCL to UPCL) of 100 MW of power for a period from 01.02.2024 to 29.02.2024 on RTC basis and the UPCL may return power to UPPCL from 19:00 hrs. to 24:00 hrs. in either of the month of Jul/ Aug/Sep, 2024.

1.8 UPCL submitted that after considering the revised offer of M/s UPPCL, UPCL had issued a letter vide letter no. 448/UPCL/CE(Comm)/Banking dated 29.01.2024, in which UPCL had again requested to accept the power swapping arrangement as mentioned below:

(A)

| Forward Banking from UPPCL to UPCL on firm RTC basis |              |              |
|--|--------------|--------------|
| Date   | Quantum (MW) | Quantum (MU) |
| <b>Period-1</b><br>05-02-2024 to 20-02-2024          | 100          | 38.4         |
| <b>Period-2</b><br>21-02-2024 to 29-02-2024          | 50           | 10.8         |

(B)

| Return Banking from UPCL to UPPCL on firm RTC basis |              |              | Return percentage                            |
|---|--------------|--------------|--|
| Date  | Quantum (MW) | Quantum (MU) |  |
| 01-04-2024 to 30-04-2024                            | 53.33        | 38.40        | 100% of the total received power in Period-1 |
| 01-05-2024 to 31-05-2024                            | 14.516       | 10.80        | 100% of the total received power in Period-2 |

The Petitioner submitted that, in reply to the above offer, M/s UPPCL had provided its consent, alongwith the terms and conditions, against the power swapping arrangement between M/s UPPCL and UPCL as per table below:-

(i) Supply of Advance power by M/s UPPCL to UPCL:

| Period                   | Duration (Hrs.) | Quantum (MW) |
|--------------------------|-----------------|--------------|
| 05-02-2024 to 20-02-2024 | RTC Basis       | 100          |
| 21-02-2024 to 29-02-2024 | RTC Basis       | 50           |

(ii) UPCL shall return 100% of the banked energy (Firm) to M/s UPPCL as per details below:

| Period                   | Duration (Hrs.) | Quantum (MW) |
|--------------------------|-----------------|--------------|
| 01-04-2024 to 30-04-2024 | RTC Basis       | 53.33        |
| 01-05-2024 to 31-05-2024 | RTC Basis       | 14.516       |

1.9 The Petitioner submitted that after evaluation UPCL had submitted a letter before the Commission vide letter no. 498/UPCL/CE(Com)/Misc dated 02.02.2024 and the Commission vide letter no. UERC/6/TF-533(A)/2023-24/2024/1206 dated 12.02.2024 had also accorded in-principle approval for the above banking arrangement.

1.10 The Petitioner submitted that pursuant to the in-principle approval from the Commission, UPCL had placed LoI to M/s UPPCL for the period and quantum as agreed by M/s UPPCL and shown in the above table.

1.11 The Petitioner submitted that in order to ensure consistent electricity supply to its consumers,

the best way to utilize the surplus power is to bank it and utilize it during the power deficit period. The Petitioner after evaluating the proposals has proposed to enter into an Energy Banking Agreement with M/s Uttar Pradesh Power Corporation Limited.

- 1.12 The Petitioner submitted that the Commission in its various orders had laid down that banking of power will be the most cost-effective arrangement, and accordingly, UPCL will take power in advance in the month of December, 2023 to March, 2024 and return the same with some premium between July, 2024 to September, 2024. Moreover, if the said arrangement is not considered then the Petitioner will have to either procure power from the power exchange or to go for short term power procurement which may be an expensive proposition and may consequently & unnecessarily burden the consumers.
- 1.13 The Petitioner submitted that in view of facts and circumstances mentioned above, the Commission may like to approve the draft Energy Banking Agreement and allow Advance & Return banking of energy with M/s Uttar Pradesh Corporation Limited so that the necessary Energy Banking Agreement in this regard may be signed.
- 1.14 The copy of the Petition was forwarded to M/s UPPCL for comments. In the matter, M/s UPPCL vide its submission dated 23.04.2024 submitted that M/s UPPCL has issued LoI dt. 01.02.2024 to UPCL for energy banking between M/s UPPCL and UPCL.

## **2. Commission's Views & Decisions**

### **2.1 Legal Requirement for approval of PPA**

- 2.1.1 A power banking agreement is a legal document incorporating operational, technical & commercial provisions to be complied in accordance with the relevant rules & regulations.
- 2.1.2 Regulation 81(1) of the UERC Tariff Regulations, 2021 provides that power purchase/banking/trading agreements as approved by the Commission shall be considered to determine the power purchase cost of the distribution licensee. Further, 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.
- 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 The Commission in its Tariff Orders has been directing UPCL to bank the surplus energy and withdraw the same during the peak period as it is the most cost-effective arrangement. The Petitioner considering the demand and availability projection for the winter months of FY 2023-24 in the State of Uttarakhand floated a tender for the advance and return banking of power, and accordingly, after following due process and taking necessary approvals, placed LoI to M/s APPCPL and M/s HPPC as discussed in the preceding paras of this Order.

Further, the Petitioner earlier received a proposal for banking of power from M/s UPPCL vide their letter dated 18.01.2024 and after taking necessary approvals, UPCL had placed LoI to M/s UPPCL. The Petitioner through the current Petition had come before the Commission seeking approval on the draft energy banking agreement to be executed by it with M/s UPPCL for the same.

Accordingly, in accordance with the requirement of the Act, Regulations and Orders passed by the Commission, UPCL is required to seek approval of the draft EBA proposed to be entered by it, from the Commission. In the matter, UPCL vide its letter dated 02.02.2024 had apprised the Commission about the power situation and its proposal to enter into an EBA with M/s UPPCL and further requested the Commission to accord the in-principle approval for advance banking of power with M/s UPPCL, and the Commission vide letter dated 12.02.2024 had accorded the in-principle approval for the Banking of Power.

## **2.2 Commission's Analysis of the EBA and Order on the same**

- 2.2.1 The Draft Energy Banking Agreements is to be entered into between UPCL and M/s UPPCL for supply of 49.20 MUs of power on firm basis from 05.02.2024 to 29.02.2024, which will be returned with zero percent premium during the months of 01.04.2024 to 31.05.2024 on the prescribed terms and conditions.
- 2.2.2 The draft EBA submitted by UPCL has been examined in light of the relevant rules & regulations. The Commission observed that the Respondent has not raised any objections on the proposed draft energy banking agreement to be executed with the Petitioner.
- 2.2.3 The Commission observed that Para 1 of the draft EBA provides the day on which EBA is brought into effect. The place for dates has been left blank. The above-mentioned Para needs to be corrected and completed before signing the final EBA.
- 2.2.4 The other provisions of the draft EBA have been examined which are in accordance with the Regulations.
- 2.2.5 Ordered accordingly.

**M.L. Prasad**  
**Member (Technical) - Chairman (I/c)**