

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 10 of 2024

In the matter of:

Application seeking approval of the Commission on the Draft Power Purchase Agreement between Uttarakhand Power Corporation Limited and M/s UJVN Limited for 2.5 MW Canal Bank Solar Power Plant on Yamuna Power Channel in between Dhalipur HEP to Dakpathar Barrage.

Petition No. 11 of 2024

In the matter of:

Application seeking approval of the Commission on the Draft Power Purchase Agreement between Uttarakhand Power Corporation Limited and M/s UJVN Limited for 9.5 MW Canal Bank Solar Power Plant on Yamuna Power Channel near Dhakrani HEP.

Petition No. 15 of 2024

In the matter of:

Application seeking approval of the Commission on the Draft Power Purchase Agreement between Uttarakhand Power Corporation Limited and M/s UJVN Limited for 1.5 MW Solar PV Plant situated at Vyasi Power Channel House, Dakpathar.

Petition No. 16 of 2024

In the matter of:

Application seeking approval of the Commission on the Draft Power Purchase Agreement between Uttarakhand Power Corporation Limited and M/s UJVN Limited for 4 MW Solar PV Plant situated at Dharasu Powerhouse, Chinyalisaur, Distt. Uttarkashi.

Petition No. 17 of 2024

In the matter of:

Application seeking approval of the Commission on the Draft Power Purchase Agreement between Uttarakhand Power Corporation Limited and M/s UJVN Limited for 4 MW Solar PV Plant situated near Village Bhatwari, Maneri, Distt. Uttarkashi.

Petition No. 18 of 2024

In the matter of:

Application seeking approval of the Commission on the Draft Power Purchase Agreement between Uttarakhand Power Corporation Limited and M/s UJVN Limited for 7.75 MW Solar PV Plant situated near Aungi, Maneri, Distt. Uttarkashi.

In the matter of:

Uttarakhand Power Corporation Ltd. (UPCL) ... Petitioner
AND

In the matter of:

UJVN Limited. ... Respondent

CORAM

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

Date of Order: May 16, 2024

This Order relates to the Petitions filed by Uttarakhand Power Corporation Ltd. (hereinafter referred to as "UPCL" or "Petitioner" or "Licensee") seeking approval of the Draft Power Purchase Agreements (PPA) to be executed by it with UJVN Ltd. for procurement of energy to be generated from the following proposed Canal Bank Solar PV Plants and ground mounted Solar PV Plants:

- i) 2.5 MW Canal Bank Solar PV Plant on Yamuna Power Channel in between Dhalipur HEP to Dakpathar Barrage.
- ii) 9.5 MW Canal Bank Solar PV Plant on Yamuna Power Channel near Dhakrani HEP.
- iii) 1.50 MW Solar PV Plant situated at Vyasi Power Channel House, Dakpathar, Distt. Dehradun.
- iv) 4 MW Solar PV Plant situated at Dharasu Powerhouse, Chinyalisaur, Distt. Uttarkashi.
- v) 4 MW Solar PV Plant situated at village Bhatwari, Maneri, Uttarkashi.
- vi) 7.75 MW Solar PV plant situated near Aungi, Maneri, Distt. Uttarkashi.

As the nature of the Petitions are similar, the Commission has decided to merge both the Petitions.

1. Background

- 1.1** The Petitioner has filed the Petitions under Section 86(1)(b) of the Electricity Act, 2003, Regulation 39(3) of UERC (Conduct of Business) Regulations, 2014 and clause 5.1, 5.2 & 5.4 of the license conditions of the Distribution and Retail Supply license dated 20.06.2003 issued by the Commission, seeking approval of the Commission on the Draft PPAs to be executed with UJVN Ltd. for procurement of energy to be generated from UJVN Ltd.'s Canal Bank Solar PV Plants and ground mounted Solar PV plants situated at different locations of Uttarakhand.
- 1.2** M/s UJVN Ltd. desires to sell the entire energy scheduled to be generated from its Canal Bank Solar PV Plants and ground mounted Solar PV Plants and UPCL is desirous of purchasing the entire energy on the terms and conditions as agreed between the parties as laid down in the draft PPA of the respective canal bank solar plant and ground mounted solar PV plants.
- 1.3** Accordingly, UPCL prepared the Draft PPAs to be signed with UJVN Ltd. and has requested the Commission to approve the Draft PPAs and allow UPCL to sign the PPAs with UJVN Ltd. in accordance with the provision of the applicable Regulations.

2. Petitioner's submission

- 2.1** The Petitioner submitted that as per the provisions of the Electricity Act, 2003 read with provisions of UERC (Conduct of Business) Regulations, 2014 and Distribution and Retail Supply License, it is required to get the prior approval of the Commission on the Draft Power Purchase Agreement proposed to be entered into with the Generating Company.
- 2.2** UPCL submitted that UJVN Ltd. is a company registered under the Company's Act, 1956 and engaged in the business of power generation.
- 2.3** UPCL submitted that UJVN Ltd. desires to sell entire energy scheduled to be generated from its upcoming solar Plants and UPCL is desirous of purchasing the entire energy on the terms and conditions as agreed between both the parties as per the terms and conditions laid down in draft PPAs.
- 2.4** UPCL submitted that UPCL has to fulfill the Solar RPO in accordance with the provisions

of UERC (Tariff and other terms for supply of Electricity from Renewable Energy Sources and Non-Fossil fuel based Co-generating Stations) Regulations, 2023 and, therefore, UPCL intends to purchase the power from the above proposed solar power plants of UJVN Ltd.

- 2.5** UPCL submitted that as per the provisions of the Electricity Act, 2003 read with the provisions of UERC (Conduct of Business) Regulations, 2014 and Distribution and Retail Supply License, UPCL is required to get the approval of the Commission. Therefore, the present Petition has been filed seeking approval of the Commission on the draft PPAs to be executed between UPCL and UJVN Ltd.

3. Respondent's reply and Petitioner's rejoinder

- 3.1** The Commission had forwarded the copy of the Petition to UJVN Ltd. for its comments. UJVN Ltd. vide its letter dated 29.02.2024 proposed to change the commercial operation date from 31.03.2024 to 31.03.2025 in Annexure-I of the PPA to be executed for supply solar power from Canal Bank Solar PV plants on Yamuna Power Channel near Dhakrani HEP having capacity of 9.5 MW. Further, with regard to interconnection facility for 1.5 MW ground mounted Solar PV plant situated at Vyasi Power Channel House, Dakpathar, UJVN Ltd. submitted that power from Solar PV Plant is to be transmission at 11 kV voltage level as mentioned in Technical Feasibility Report.

The Petitioner vide its rejoinder dated 08.05.2024 agreed with the comments of UJVN Ltd. and agreed to make necessary changes in the draft PPA.

4. Commission's Views & Decisions

4.1 Legal Requirement for approval of PPA

- 4.1.1** A PPA is a legal document incorporating operational, technical & commercial provisions to be complied in accordance with the relevant rules & regulations.
- 4.1.2** 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.
- 4.1.3** 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)

4.1.4 As per Regulation 39(1) of the UERC (Conduct of Business) Regulations, 2014 the distribution licensee is required to file with the Commission in complete form copies of all the Power Purchase Agreements already entered by it. The relevant portion of the Regulation is reproduced hereunder:

"39. Regulation of Distribution Licensee's Purchase of Power

(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.

(4) Nothing contained herein shall affect the obligations of distribution licensee under the existing contract and arrangement for purchase, import or acquisition of electricity from generating companies, electricity trader and from other persons with whom the licensee has agreements or arrangements of power purchase or procurement of energy in accordance with the terms and conditions of such agreement and arrangement consented to or approved by the Commission.

(5) The provisions of sub-regulations (2) and (3) above or any action taken therein shall not, in any manner, prejudice the exercise of functions and powers of the Commission under any of

the other provisions of the applicable law, the Regulations and Orders issued from time to time."

4.1.5 Further, Regulations 7(2) & 7(3) of UERC (Tariff and other Terms for Supply of Electricity from Non-Conventional and Renewable Energy Sources) Regulations, 2023 (RE Regulations, 2023) specifies that:

"(2) The distribution licensee on an offer made by the said RE based Generating Stations and Co-generating Stations may enter into a power purchase agreement in conformity with these Regulations and relevant provisions of other Regulations and the Act. However, if the distribution licensee intends to purchase power from such generator it shall sign the PPA within two months of offer made by the generating company. Otherwise, if the distribution licensee is not willing to purchase power from such generator it shall intimate the same to the generating company within one month of offer made by it.

Provided that where a GRPV/GSPV plant, is installed in the Premises, by a third party who intends to sell net energy (i.e. after adjustment of entire consumption of owner of the premise) to the distribution licensee, a tripartite agreement will have to be entered into amongst the third Party, the Eligible Consumer and such Distribution Licensee.

(3) The distribution licensee shall make an application for approval of power purchase agreement entered into with the generating company in such form and manner as specified in these regulations and UERC (Conduct of Business) Regulations, 2014 as amended from time to time within one month of the date of signing the PPA.

Provided further that the application for approval of PPA should be accompanied with an unconditional Technical Feasibility Report and the connectivity agreement signed with the Transmission/Distribution Licensee shall form part of the PPA"

(Emphasis added)

4.1.6 Accordingly, in accordance with the requirements of the Act and Regulations referred above, UPCL as a distribution licensee is required to seek approval from the Commission of the PPAs entered or proposed to be entered by it with the power generators.

4.2 Consistency of the PPA with the Regulations

4.2.1 Regulation 6(7) of RE Regulations, 2023 specifies as under:

"All Power Purchase Agreements signed by the generating stations existing on the date of notification of these regulations shall be amended in accordance with these regulations, if

inconsistent with these Regulations and such amended PPAs shall be valid for entire life of the RE Based Generating Stations and Co-generating Stations.”

4.2.2 Hence, all the PPAs to be entered into by UPCL are required to be amended in accordance with RE Regulations if they are inconsistent with the provisions of RE Regulations, 2018. Accordingly, PPAs proposed to be executed between UPCL and the generators are examined for consistency and conformity with the relevant provisions of the Electricity Act, 2003 & RE Regulations, 2023.

4.3 Commission’s Analysis of the Model PPA and Order on the same

4.3.1 The draft PPAs are to be executed between UPCL and the UJVN Ltd. for supply of power to UPCL from the Canal Bank Solar PV Plants and ground mounted Solar PV Plants situated at different locations of Uttarakhand.

4.3.2 The Draft PPAs submitted by UPCL and the submissions of the Respondent have been examined in light of the relevant Act, rules & regulations. The Respondent has submitted certain observations on the draft PPAs. Further, UPCL also submitted its rejoinder on the same. UPCL is required to take note of the same and incorporate necessary corrections in the respective draft PPA while executing the final PPAs with UJVN Ltd.

- a) Para 1 of the draft PPAs provides the day on which the PPAs is brought into effect. The Place for dates has been left blank. The above-mentioned Para needs to be completed while the final PPAs are being signed.
- b) Clause 2.1 under Para 2, i.e. “Power Purchase and Sale” provides the completion period of the respective projects which has been left blank in all the draft PPAs. The scheduled completion period needs to be filled when the final PPAs are being signed duly reconciling the same with the schedule completion period specified in the respective RfP of the projects.
- c) Sub-Clause 8.2 of the draft PPA to be executed between UPCL and UJVN Ltd. for procurement of power from solar power plant of 1.50 MW Capacity situated at Vyasi Power Channel House, Dakpathar provides as follows:

“Power from the Solar Photovoltaic Power Plant shall be transmitted at 33 kV voltage connected to UJVN Ltd. 33/11 kV Sub-station at Vyasi Sub-Station, Uttarakhand, owned, maintained and operated by UJVN Ltd.”

UJVN Ltd. proposed that the evacuation of power from the solar PV plant may be done at 11 kV because the capacity of the said plant is only 1.50 MW.

The Petitioner agreed with the proposal made by UJVN Ltd. Accordingly, Sub-Clause 8.2 shall be read as:

“Power from the Solar Photovoltaic Power Plant shall be transmitted at 11 kV voltage connected to UJVN Ltd. 33/11 kV Sub-station at Vyasi Sub-Station, Uttarakhand, owned, maintained and operated by UJVN Ltd.”

- d) Annexure-I of the draft PPA to be executed between UPCL and UJVN Ltd. for procurement of power from 9.5 MW Canal Bank Solar PV Plant situated on Yamuna Power Channel near Dhakrani HEP provides that the expected date of commercial operation is 31.03.2024. UJVN Ltd. vide its reply dated 29.02.2024 submitted that ‘March, 2024’ should be replaced with ‘March, 2025’ in Annexure-I as the proposed timeline to achieve COD is 13 months from the date of start of Work.

The Commission has gone through the RfP of the proposed plant and observed that as per RfP, the scheduled commercial operation date is twelve months from the date of signing of the PPA. Accordingly, as mentioned earlier in this order, UPCL is directed to consider the expected date of commercial operation taking into cognizance of the expected completion period specified under the RfP of the respective plant.

- e) All Annexures mentioned in the clauses of the draft PPA needs to be completed before signing the final PPA.

4.3.3 UPCL is directed to amend the draft PPA in accordance with the observations of the Commission in this Order and sign the PPA with UJVN Ltd. after incorporating the same and submit the same to the Commission within fifteen working days of signing of each PPA.

5. Ordered accordingly.

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