

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 02 of 2023

In the matter of:

Application seeking prior approval of the Commission on the Draft Power Purchase Agreement for short term between Uttarakhand Power Corp. Ltd. and M/s Tata Power Trading Company Ltd. (TPTC Ltd.) under an Energy Banking Agreement with Uttarakhand Power Corporation Ltd.

In the matter of:

Uttarakhand Power Corporation Ltd.

... Petitioner

AND

In the matter of:

M/s Tata Power Trading Company Ltd.

... Respondent

CORAM

Shri D.P. Gairola

Member (Law)-Chairman (I/c)

Shri M.K. Jain

Member (Technical)

Date of Order: February 13, 2023

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 Tata Power Trading Company Ltd. (hereinafter referred to as "M/s TPTCL").

1. 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, 2021, 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 30.12.2022 seeking approval of the Commission on the Draft Power Purchase Agreement.

- 1.2. The Petitioner submitted that during FY 2022-23 the overall demand & availability scenario of Uttarakhand has changed substantially. Moreover, the State based gas power plant, i.e. M/s Shravanthi Energy Pvt. Ltd. (M/s SEPL) and M/s Gama Infraprop Pvt. Ltd. (M/s GIPL), were stranded due to non-availability of gas at reasonable rates which created substantial difference in demand and availability of power in the State and further the chances of getting the gas in near future is also very low.
- 1.3. The Petitioner submitted that the State's demand has increased substantially post COVID (in the range of 8% to 15%) which increased the overall deficit of power in the State. The Petitioner also submitted that due to the international coal crises and higher gas prices, the consent for procurement of gas to the intra-state gas generators M/s SEPL and M/s GIPL was also not issued and, therefore, in the absence of 321 MW of gas power and due to the increase in demand there is no availability of substantial surplus power in the months of May 2022 to September 2022 due to which no forward banking of power was done during these months and the chances of utilizing the surplus power of monsoon season in the winter months when UPCL is in deficit conditions gets zero.
- 1.4. The Petitioner submitted that in ongoing power crisis UPCL was widely exposed to purchase from exchange to supply 24x7 power to the consumers of the State which caused excessive financial burden on UPCL and the APPC of UPCL increased to Rs. 4.78/kWh.
- 1.5. The Petitioner submitted that in view of the tight situation of power availability and to secure power on economical rates UPCL had floated a short-term tender for RTC power through DEEP Portal for the months from October 2022 to March 2023. Accordingly, a tender was floated as per the following requirement:

Month/Period	Timing		Quantum of Power (MW)	Minimum Bid Quantity (MW)	Delivery Point at Uttarakhand State periphery
	From	To			
15.10.2022 to 31.10.2022	00:00	24:00	75	20	
Nov-22	00:00	24:00	100	20	
Dec-22	00:00	24:00	200	20	
Jan-23	00:00	24:00	400	20	
Feb-23	00:00	24:00	300	20	
Mar-23	00:00	24:00	150	20	

- 1.6. The Petitioner submitted that initial price offer (IPO) was opened on 14.10.2022 and e-Reverse Auction (e-RA) was also conducted on the same day. M/s Power Finance Corporation Consulting Ltd. provided the results of e-RA after carrying out bucket filling procedure.
- 1.7. The Petitioner submitted that UPCL vide its letter dated 21.11.2022 had apprised the Commission about the power situation and the detailed list of offers received against the above-mentioned tender and further requested the Commission to accord in-principle approval for procurement and the Commission vide letter dated 23.11.2022 had accorded the in-principle approval for procurement of said power. Subsequently in-principle approval accorded by the Commission, LoA was issued to M/s TPTCL on 23.11.2022.
- 1.8. The Petitioner submitted that taking cognizance of the facts mentioned above and in-principle approval accorded by the Commission, the Petitioner was desirous of purchasing the entire energy on the terms and conditions as agreed between the parties as per the terms and conditions laid down in the draft PPA. In this regard, UPCL also submitted a copy of draft Power Purchase Agreement to be entered with M/s TPTCL.
- 1.9. Meanwhile, the Respondent vide its submission dated 18.01.2023 submitted that it does not have any comments on the said matter.

2. Commission's Views & Decisions

2.1. Legal Requirement for approval of PPA

- 2.1.1. A PPA is a legal document incorporating operational, technical & commercial provisions to be complied in accordance with the relevant rules & regulations.
- 2.1.2. 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.
- 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. 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.

2.1.6. 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 2022-23 in the tariff Order dated 31.03.2022, the Commission had approved power purchase rate of Rs. 3.56/kWh to meet the deficit power purchase. However, the LOA's were issued to respective bidder by the Petitioner over and above the rates approved by the Commission for deficit power purchase in FY 2022-23, as tabulated below:

Month/Period	Name of Bidder	Quantum of Power (MW)	Rate at Delivery Point (Rs./kWh)	Delivery Point
Dec-22	M/s TPTCL	150	5.26	Uttarakhand State periphery
		50	5.50	
Jan-23		150	5.88	
Feb-23		50	5.64	

In this regard, as also submitted by the Petitioner, the Commission vide its letter dated 23.11.2022 on the request made by UPCL, owing to scenario of coal shortage and high rate of gas prices, had accorded the in-principle approval to UPCL for procurement of power during the aforesaid months at the rates and quantum stated above. Accordingly, the same is being considered and adopted by the Commission.

2.1.7. The draft PPAs submitted by UPCL has been examined in light of the relevant rules & regulations. The Commission observed that all the clauses in the draft PPA submitted by UPCL are in accordance with the provisions of the Act/Regulations and hence, the Commission approves the draft PPA submitted by UPCL.

2.1.8. Ordered accordingly.

(M.K. Jain)
Member (Technical)

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