

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 04 of 2023

In the matter of:

Application seeking approval of the Commission for advance and return energy banking to M/s Uttar Haryana Bijli Vitran Nigam (through Haryana Power Purchase Centre (HPPC)) 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 Uttar Haryana Bijli Vitran Nigam Ltd.

... Respondent

CORAM

Shri D.P. Gairola

Member (Law)-Chairman (I/c)

Shri M.K. Jain

Member (Technical)

Date of Order: March 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 for advance and return energy banking to M/s Uttar Haryana Bijli Vitran Nigam (through Haryana Power Purchase Centre (HPPC)) (hereinafter referred to as "M/s UHBVN") under an Energy Banking Agreement with Uttarakhand Power Corporation Ltd.

1. Petitioner's Submissions

- 1.1. The Licensee under Section 63 and Section 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 13.01.2023 seeking approval of the Commission on the draft Energy Banking Agreement.

- 1.2. The Petitioner submitted that it had from time to time informed the Commission regarding the power demand & availability position in the State. UPCL submitted that this year the overall demand & availability scenario of Uttarakhand has changed substantially, and also the State Based Gas Power Plant (M/s Shravanthi Energy Pvt. Ltd. (214 MW) & M/s Gamma Infraprop Pvt. Ltd. (107 MW)) 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 also the chances of getting the gas in near future is very bleak.
- 1.3. The Petitioner submitted that with regard to banking of power as approved in the Tariff Order for FY 2022-23, the State demand has increased substantially after post COVID crises scenario (in the range of 8-15%) which led to increase of the overall deficit of power in the State. The Petitioner further 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 the exchange purchase to supply 24x7 power to the consumers of the State, which caused excessive financial burden on UPCL and the APPC of UPCL reached to Rs. 4.78 per KWh.
- 1.5. The Petitioner submitted that considering all the aspects of power markets, UPCL has prepared its demand and availability scenario for upcoming months after considering Advance Banking, and in demand and availability forecast the availability of gas power from M/s SEPL and M/s GIPL has not been considered as both the plants are under shutdown state since October 2021 due to exorbitant high gas prices.
- 1.6. The Petitioner submitted that in view of the tight situation of power availability and to secure power on economical rates UPCL has floated tender for Advance Banking of Power as summarized in the table below:

Banking on 'Firm Basis'
(Month-wise Banking on RTC Basis)

Advance Energy Banking to be taken by UPCL first on "Firm RTC Basis"			
Month	Duration	Quantum of Power (MW)	Energy (MU)
Nov-22	21-11-2022 to 30-11-2022	100	24
Dec-22	01-12-2022 to 31-12-2022	150	111.6
Jan-23	01-01-2023 to 31-01-2023	250	186
Feb-23	01-02-2023 to 15-02-2023	200	72
Total			393.6

Return of Banking on Firm Basis (@ 105%)

Return Energy Banking to be given by UPCL on "Firm RTC Basis"			
Month	Duration	Quantum of Power (MW)	Energy MU
Jun-23	21-06-2023 to 30-06-2023	50	12
Jul-23	01-07-2023 to 31-07-2023	175	130.2
Aug-23	01-08-2023 to 31-08-2023	210	156.24
Sep-23	01-09-2023 to 30-09-2023	175	126
Total A			412.44

Note: Quantum of "Return Power" (MW) mentioned above is tentative and shall be finalized based on return percentage to be quoted by the successful bidder and as per suitability of UPCL. Request for modifying/altering the forward/return banking source will not be considered under normal conditions against 'Firm basis' of banking by UPCL during the currency of banking contract.

- 1.7. The Petitioner submitted that in the aforesaid tender, only 01 no. bidder namely M/s Arunachal Pradesh Power Corporation Pvt. Ltd. had participated and it provided power from 02 nos. sources (M/s BYPL & M/s PSPCL), and after the detailed evaluation of the offer received by the Petitioner, Uttarakhand Power Corporation Limited issued LoI to M/s Arunachal Pradesh Power Corporation Pvt. Ltd. from 01 nos. sources only i.e. through M/s BYPL for month-wise Energy Banking on "Firm Basis" based on return premium percentage and quantum of power.
- 1.8. The Petitioner submitted that apart from the above tender Chief Engineer, Haryana Power Purchase Centre, Uttar Haryana Bijli Vitran Nigam (UHBVN) has also forwarded a proposal for banking of power as per the requirement of UPCL as floated in the tender. The Petitioner submitted that the said transaction will take place directly between UPCL & UHBVN, i.e. utility to utility with 5% return, and since the proposal is in accordance with tender floated and was also economical, therefore, UPCL considered the same for banking arrangement and accordingly issued LoI to M/s Chief Engineer, HPPC.

- 1.9. The Petitioner submitted that in order to ensure consistent Electricity supply to its consumers, best way to utilize the surplus power was to bank it and utilize it during power deficit period. The Petitioner submitted that after evaluating the proposals it has proposed to enter into an Energy Banking Agreement with M/s Uttar Haryana Bijli Vitran Nigam for quantum of power, mode, percentage return, trading margin etc. as detailed below:

Supply of Power by UHBVNL to UPCL (Advance Banking) and Supply of Power by UPCL to UHBVNL (Return Banking)

Months	Quantum (MW)	Trader/ Source	Return (%)	Trading Margin (Paisa/KWh)	Effective Return (%)
21 st Nov 2022 to 30 th Nov 2022	100	HPPC	105	0	105.00
Dec 2022	150	HPPC	105	0	105.00
Jan 2023	150	HPPC	105	0	105.00
1 st Feb 2023 to 15 th Feb 2023	150	HPPC	105	0	105.00

The Petitioner further submitted that the actual and final quantum of power to be banked with M/s UHBVN will be known after the month of February 2023 and accordingly UPCL would be required to return energy (in MU) to M/s UHBVN based on return percentage & margin as quoted by M/s UHBVN during the period from June 2023 to September 2023, and the clause to this effect has already been incorporated in the Draft Energy Banking Agreement.

- 1.10. The Petitioner submitted that it had vide letter no. 4647/UPCL/Com dated 15.11.2022 had apprised the Commission about the power situation and the detailed list of offers received against the above-mentioned tender and requested the Commission to accord in-principle approval for procurement, and the Commission vide letter no. UERC/6/TF-533(A)/2022-23/2022/1021 dated 16.11.2022 had accorded the in-principle approval for Banking of Power.
- 1.11. The Petitioner submitted that the Commission in its various orders has laid down that banking of power is the most cost-effective arrangement, and accordingly, UPCL in prevailing circumstances had planned to take the power from November 2022 to February 2023 and return the same from June 2023 to September 2023 when UPCL remains in surplus position. The Petitioner further submitted that 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.

1.12. The Petitioner in view of the facts and circumstances mentioned above, requested the Commission to approve the draft Energy Banking Agreement and allow Advance & Return banking of energy with M/s Uttar Haryana Bijli Vitran Nigam so that the necessary Energy Banking Agreement in this regard may be signed.

1.13. The Petitioner further submitted that it has anticipated a deficit of around 150 MW RTC during the months of November 2022 to February 2023 and the same is to be returned back in surplus months, i.e. during June 2023 to September 2023 to ensure consistent availability of power to its consumer in best possible cost effective arrangement. The Petitioner submitted that Regulation 81(1) of Uttarakhand Electricity Regulatory Commission (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2021, in short, UERC Tariff Regulations, 2021 lays down that the power purchase/banking/trading agreement as approved by the Commission shall be considered to determine the power purchase cost of the distribution licensee, and Regulation 82 of UERC Tariff Regulations, 2021 lays down that any power purchased by distribution licensee over and above the requirement of power approved by the Commission or variation in the mix of power purchased in any year shall be considered by the Commission if it is for reasons beyond the reasonable control of the Distribution Licensee and the resultant financial loss or gain shall be adjusted in next years' tariff. The Petitioner further submitted that the Tariff Order for FY 2022-23 lays down that any variation during any quarter of a financial year in excess of 5 percent of the quantum or cost of power procurement for such quarter, as approved by the Commission in the power procurement plan of the distribution licensee shall be done only with the prior approval of the Commission, and accordingly, in compliance of above provisions, the Petitioner is filing the present petition for approval of the Commission.

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 with 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. 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 vide its Tariff Order dated 31.03.2022 directed the Petitioner to bank the surplus energy during the month of May, 2022 to September, 2022 and withdraw the same in the month of October, 2022 to March, 2023. The relevant extract of the said Tariff Order is as follows:

“The Commission directs the Petitioner to bank the surplus energy available during the months of May 2022 to September 2022 and withdraw the same in the months of October 2022 to March 2023.”

The Petitioner submitted that with regard banking of power as approved in T.O. dated 31.03.2022, the State demand has increased substantially after post COVID crisis due to which the overall deficit in the power has increased, and due to international coal crisis 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. 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 due to which no forward banking of power was done and chances of utilizing the surplus power in the winter months when UPCL is in deficit gets zero. UPCL submitted that in ongoing power crises, to secure the power on economical rates UPCL had floated a tender for advance banking of power.

Accordingly, in accordance with the requirement of the Act, Regulations and Order referred above, 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 15.11.2022 had apprised the Commission about the power situation and the detailed list of offers received against the tender and further requested the Commission to accord the in-principle approval for procurement, and the Commission vide letter dated 16.11.2022 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

UHBVN (through Haryana Power Purchase Centre (HPPC)) for supply of power on firm RTC basis as summarized in the table below:

Month/Period	Trader/ Source	Quantum of Power (MW)	Return (%)	Trading Margin (Paisa/kWh)	Delivery Point
21.11.2022 to 30.11.2022	HPPC	100	105	0	Northern Region Periphery
01.12.2022 to 31.12.2022		150	105	0	
01.01.2023 to 31.01.2023		150	105	0	
01.02.2023 to 15.02.2023		150	105	0	

UPCL submitted that actual and final quantum of power to be banked with M/s UHBVN will be known after the month of February, 2023 and UPCL will be required to return energy to M/s UHBVN based on return percentage & margin as quoted by M/s UHBVN during the period from June 2023 to September 2023, the clause to the same effect has been incorporated in the draft EBA.

- 2.2.2. M/s UHBVN vide its mail dated 01.02.2023 submitted its comments on the Petition filed by UPCL for approval of draft EBA and stated that the commencement of supply (with quantum) by M/s HPPC and return of power by UPCL to M/s HPPC be considered in line with the LoI issued by M/s HPPC vide memo no. Ch-05/CE/HPPC/STP/22-07 dt. 25.11.2022, as summarized in the table below:

Supply of Power by M/s HPPC to UPCL

Month	Quantum (MW)	Total Energy to be supplied (MU)	Delivery Point
27.11.2022 to 30.11.2022	100	9.60	NR Periphery
01.12.2022 to 31.12.2022	150	111.6	
01.01.2023 to 31.01.2023	150	111.6	
01.02.2023 to 15.02.2023	150	54	
Total Energy		286.80	

Return of Power by UPCL to M/s HPPC

Month	Quantum (MW)	Total Energy to be supplied (MU)	Delivery Point
21.06.2023 to 30.06.2023	38	9.120	NR Periphery
01.07.2023 to 31.07.2023	131	97.464	
01.08.2023 to 31.08.2023	156	116.064	
01.09.2023 to 29.09.2023	110	76.560	
30.09.2023	80.5	1.932	
Total Energy		301.140	

UPCL accepted the same and agreed to make the necessary amendments in the final EBA to be executed between UPCL and M/s HPPC.

In this regard, the Commission accepts the submission made by M/s UHBVN (through M/s HPPC) that supply and return of power to be in line with LoI issued by M/s HPPC vide memo no. Ch-05/CE/HPPC/STP/22-07 dt. 25.11.2022 as discussed above, and the Commission adopts the same. The Commission directs UPCL to carry out necessary modification in the draft EBA to incorporate the aforesaid changes.

- 2.2.3. Further, UPCL has proposed to enter the draft EBA with M/s Haryana Power Purchase Centre. In this regard, the Commission observed that UPCL has filed the current Petition for approval of EBA proposed to be entered with M/s Uttar Haryana Bijli Vitran Nigam (through Haryana Power Purchase Centre (HPPC)), and accordingly, the Commission directs the Petitioner to carry out necessary amendments in the draft EBA to modify the name of party to the EBA from “Haryana Power Purchase Centre” to “Uttar Haryana Bijli Vitran Nigam, through Haryana Power Purchase Centre”.
- 2.2.4. The other clauses of the draft EBA submitted by UPCL have been examined in light of the relevant rules & regulations. The Commission observed that the clauses of draft EBA submitted by UPCL are consistent with the provisions of the Act/Regulations, however, UPCL should ensure that blanks for dates are duly filled and completed while signing the final EBA.
- 2.2.5. UPCL is directed to make the necessary changes in the draft EBA and submit the final signed EBA within 2 weeks of the date of Order.
- 2.2.6. Ordered accordingly.

(M.K. Jain)
Member (Technical)

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