

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 26 of 2023

In the matter of:

Application seeking approval of the Draft Power Purchase Agreement between Uttarakhand Power Corporation Limited and UJVN Limited for Madhyamaheshwar Small Hydro Plant (3x5 MW).

In the matter of:

Uttarakhand Power Corporation Ltd. ... Petitioner

AND

In the matter of:

UJVN Ltd. ... Respondent

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

Shri M.K. Jain Member (Technical)

Date of Order: September 15th, 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 (PPA) to be executed by it with Uttarakhand Jal Vidyut Nigam Ltd. (hereinafter referred to as "UJVN Ltd." or "Respondent") for procurement of power from Madhyamaheshwar Small Hydro Power Plant (SHP) of UJVN Ltd. having capacity of 15 MW (3x5 MW).

1. Petitioner's Submissions

1.1 UPCL has filed the Petition dated 16.05.2023 seeking approval of the Commission on the draft Power Purchase Agreement (PPA) for purchase of energy generated from the

Respondent's SHP under Section 86(1)(b) of the Electricity Act, 2003 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.

- 1.2 The Petitioner submitted that UJVN Ltd. is engaged in the business of power generation through its SHP having installed capacity of 15 MW (3x5 MW) situated in village Chunni, Tehsil- Ukhimath, District- Rudraprayag in the State of Uttarakhand.
- 1.3 The Petitioner submitted that the Respondent desires to sell entire energy scheduled to be generated from its project and the Petitioner 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 PPA.
- 1.4 The Petitioner 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, the Petitioner is required to get the approval of the Commission on the PPA entered with the Generating Company.
- 1.5 The copy of the Petition was forwarded to the Respondent for providing an opportunity to it to submit its comments, if any, before the Commission. The Respondent submitted its comments, vide its letter dated 02.06.2023, on the clauses of the draft PPA which were forwarded to UPCL for its counter reply. UPCL submitted its rejoinder on 04.07.2023. Comments of the Respondent and rejoinder of the Petitioner have been dealt in the subsequent Paras.

2. Respondent's reply and Petitioner's rejoinder

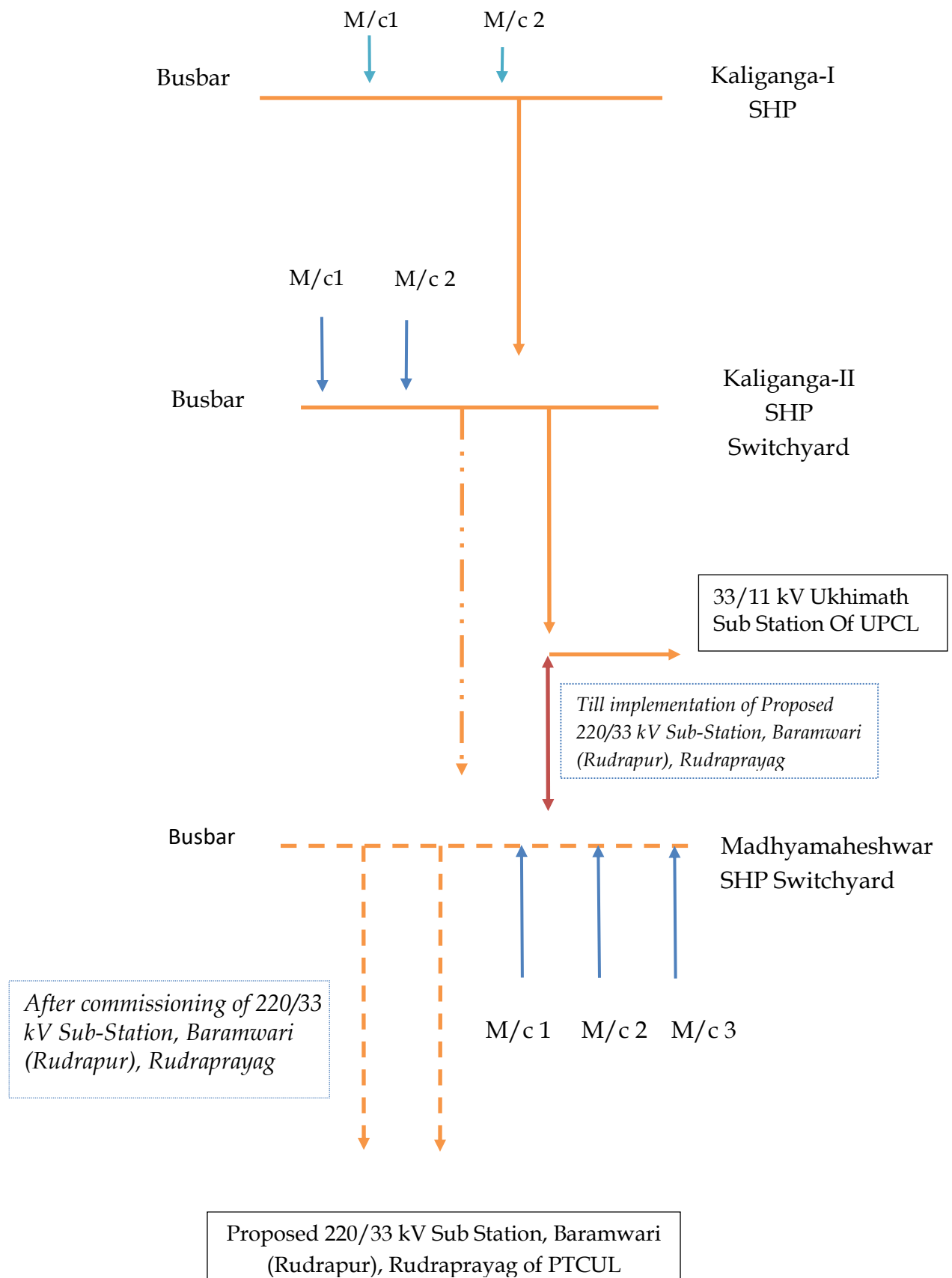
- 2.1 The Respondent submitted that the power from Madhyamaheshwar SHP is proposed to be evacuated from 220/33 kV Sub-station, Baramwari (Rudrapur), Rudraprayag of PTCUL, however, construction of 220/33 kV Baramwari Sub-station will take time, therefore, Madhyamaheshwar SHP is proposed to be connected to 33/11 kV Ukhimath Sub-station of UPCL for partial power evacuation. After construction of 220/33 kV Sub-station Baramwari (Rudrapur), Rudraprayag complete power of Madhyamaheshwar SHP would be evacuated through Baramwari (Rudrapur), Rudraprayag Sub-station of PTCUL. Accordingly, the Respondent requested to replace the definition of sub-station provided under Clause 1.6 of the draft PPA with the following:





“‘Sub-Station’ means, 33/11 kV Ukhimath Sub-station of UPCL owned, maintained and operated by UPCL, till commissioning of proposed 220/33 kV Sub-station, Baramwari (Rudrapur), Rudraprayag, thereafter 220/33 kV Sub-station, Baramwari (Rudrapur), Rudraprayag, owned, maintained and operated by PTCUL.”

In reply, UPCL disagreed with the suggestions of UJVN Ltd. UPCL submitted that due to such interim arrangement higher voltage issue will persist and, therefore, the interim arrangement will lead to grid instability.

- 2.2 With regard to Clause 2.1(vii) of draft PPA, UJVN Ltd. requested to delete “is based on scientifically proven technology” and accordingly, Clause 2.1(vii) should be read as “Any new source or technology would qualify as ‘Renewable Energy’ only after such source/technology approved by MNRE or any competent authorities under the central ministry. Further, the Commission shall determine tariffs separately for each technology after the approval of such scientifically proven technology by competent authority under the central ministry.” UPCL agreed to the same.
- 2.3 With regard to Clause 5 i.e. ‘Billing Procedure and Payments’, UJVN Ltd. submitted that UPCL has suggested rebate rate in draft PPA as per draft RE Regulations, 2023 which is yet to be finalized by the Commission. Therefore, the rebate should continue as per RE Regulations, 2018. UPCL disagreed to the same and submitted that the same has to be adopted, whenever, RE Regulations, 2023 are finalised.
- 2.4 With regard to Clause 8 ‘Interconnection Facilities’ of the Draft PPA, UJVN Ltd. requested the Commission to replace ‘proposed 220/33 kV Sub-station, Baramwari (Rudrapur), Rudrapraya’ with ‘33/11 kV Ukhimath Sub-station owned, maintained and operated by UPCL, till commissioning of proposed proposed 220/33 kV Sub-station, Baramwari (Rudrapur), Rudrapraya’ as construction of 220/33 kV Baramwari Sub-station will take time, therefore, Madhyamaheshwar SHP is proposed to be connected to 33/11 kV Ukhimath Sub-station of UPCL for partial power evacuation.
- UPCL opposed the proposal made by the Respondent stating that due to such interim arrangement, higher voltage issue will persist and therefore, it will lead to grid instability.
- 2.5 With regard to sub-clause 14.2 of Clause 14 ‘Metering’, UJVN Ltd. submitted that power of Kaliganga-I SHP and Kaliganga-II SHP is to be pooled at Switchyard of

Madhyamaheshwar SHP as follows:



Legend:	
	Operational
	Constructed but not operational
	Proposed
	To be connected at the time of commissioning of Madhyamaheshwar SHP

UPCL disagreed with the proposal of UJVN Ltd.

3. Commission's Views & Decisions

3.1 Legal Requirement for approval of PPA

- 3.1.1 A PPA is a legal document incorporating operational, technical & commercial provisions to be complied in accordance with the relevant rules & regulations.
- 3.1.2 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.
- 3.1.3 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)

- 3.1.4 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.”*

3.1.5 Regulations 7(2) & 7(3) of the UERC (Tariff and other Terms for Supply of Electricity from Non-Conventional and Renewable Energy Sources) Regulations, 2023 as amended from time to time (hereinafter referred to as “RE Regulations, 2023”) specifies that:

“7. Sale of Power

(1) xxx

(2) The distribution licensee on an offer made by the said RE based Generating Stations and

Cogenerating 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.

...

(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."

(Emphasis added)

3.1.6 Accordingly, in accordance with the requirement of the Act and the Regulations referred above, UPCL as a distribution licensee is required to seek approval of the PPA entered or proposed to be entered by it from the Commission.

3.2 Consistency of the PPA with the Regulations

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

"All Power Purchase Agreements (PPAs) 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."

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

3.3 Commission's Analysis of the draft PPA and Order on the same

3.3.1 The PPA is to be entered into between UPCL and the Respondent for supply of power

from the Respondent's Madhyamaheshwar SHP having capacity of 15 MW (3x5MW) situated at village Chunni, Tehsil Ukhimath, Rudraprayag, Uttarakhand.

3.3.2 The PPA submitted by UPCL and the submissions of the Respondent have been examined in light of the relevant Act, rules & regulations. The Commission observed that certain clauses in the PPA submitted by UPCL are inconsistent with the provisions of the Act/Regulations. Such observations have been discussed in the subsequent sub-Paras. UPCL is required to take note of the same and incorporate necessary corrections in the draft PPA while executing the final PPA with the project developer.

a) Para 1 of the draft PPA provides the date on which PPA is brought into effect. In the draft PPA, date, month and year needs to be filled up and completed while the final PPA is being signed.

b) Clause 1.6 under 'Definitions' of the Draft PPA, specifies as follows:

"'Sub Station' means Proposed 220/33 KV Sub-Station, Baramwari (Rudrapur), Rudraprayag, owned, maintained and operated by PTCUL."

The Respondent requested for interim/temporary connectivity at 33/11 kV Ukhimath Sub-station of distribution licensee till commissioning of the proposed 220/33 kV Sub-station, Baramwari, Rudrapur (Rudraprayag) of PTCUL. However, distribution licensee submitted that due to such arrangement higher voltage issue will persist and will lead to grid instability.

To resolve the issue w.r.t. connectivity of the proposed Madhyamaheshwar SHP, the Commission conducted a meeting with the officials of both the parties on 02.08.2023. During the meeting, it was agreed that the Respondent shall submit the technical arrangement at Madhyamaheshwar SHP to address the concern of the Petitioner w.r.t. voltage profile of 33/11 kV Sub-station at Ukhimath and declaration of not claiming deemed generation till evacuation of power through interim arrangement within one week from the date of the meeting. Further, UPCL agreed to submit action plan for evacuation of power from Madhyamaheshwar SHP within one week from date of the meeting.

In the matter, UJVN Ltd. vide its letter M-859/UJVN Ltd./02/D(O)/C-20 dated 03.08.2023 submitted that distribution licensee network shall be safeguarded from over

voltage by implementation of necessary protection system and the generation from Madhyamaheshwar shall not be guided by the available discharge, but it would be regulated as per voltage conditions of 33 kV line. Further, the Respondent also submitted that it shall not claim any deemed generation during the interim connectivity from 33/11 kV Ukhimath Sub-station till connectivity is given at 220/33 kV Baramwari Sub-Station by PTCUL. UJVN Ltd. also submitted that to strengthen 33 kV network, UPCL will be required to take up the work of replacement of Racoon conductors at the cost of UJVN Ltd.

UPCL vide its letter dated 10.08.2023 submitted that a total of 17 km conductors between Augustmuni-Ukhimath 33 kV line was proposed to be changed, out of which 14 km conductors have been changed and balance would be changed between 15.01.2024 to 30.01.2024 as it is not possible to take shutdown due to the reconstruction work going on at Shri Kedarnath Dham. Further, a demand of Rs. 110.01 Lakh has been raised to UJVN Ltd. on 08.08.2023 for changing the conductors of Rudhraprayag-Augustmuni 33 kV line. After depositing the said amount by UJVNL Ltd., it will take four months to complete the work.

For the purpose of utilization of available renewable resource and in the interest of the consumers of the State and based on the above discussion, the Commission allows connectivity to 33/11 kV Ukhimath Sub-station of UPCL on temporary basis till commissioning of 220/33 kV Baramwari Sub-station (Rudrapur), Rudraprayag of PTCUL provided that UJVN Ltd. shall not be entitled to any deemed generation till the period of interim connectivity. Besides this UJVN Ltd. shall also be required to implement the necessary protection system so that the generation from Madhyamaheshwar would be regulated as per the voltage conditions of 33 kV line. Accordingly, the aforesaid clause of the draft PPA shall be read as follows:

“‘Sub Station’ means, 33/11 kV Ukhimath Sub-station of UPCL owned, maintained and operated by UPCL, till commissioning of proposed 220/33 kV Sub-station, Baramwari (Rudrapur), Rudraprayag, thereafter, 220 kV Sub-station, Baramwari (Rudrapur), Rudraprayag, owned, maintained and operated by PTCUL.

Provided that UJVN Ltd. shall not be entitled to any deemed generation till the period of interim connectivity.

Provided further that UJVN Ltd. shall also be required to implement the necessary protection system so that the generation from Madhyamaheshwar would be regulated as per the voltage conditions of 33 kV line."

c) Clause 2.1 (vii) of the draft PPA specifies as follows:

"Any new source or technology which would qualify as 'renewable energy', only after such source/technology is based on scientifically proved technology approved by MNRE or any competent authorities under the central ministry. Further, the Commission shall determine tariffs separately for each technology after the approval of such scientifically proven technology by competent authority under the central ministry."

With regard to the aforesaid clause of the draft PPA, the Respondent submitted that Clause 2.1(vii) of the draft PPA should be in accordance with the provisions of RE Regulations, 2018. In the matter, the Petitioner agreed that clauses of PPA should be in consonance with the provisions of RE Regulations.

In the matter, it is pertinent to mention that the Commission has issued RE Regulation, 2023 on 16.08.2023 which shall be applicable in the present case. The Clause specified in the draft PPA is in accordance with the provisions of Regulation 4(3) of RE Regulations, 2023. Accordingly, no change is required.

d) Clause 1.13 of the draft PPA specifies the definition of Regulations as follows:

"Regulation means the Uttarakhand Electricity Regulatory Commission (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based co-generating stations) Regulations, 2018 as amended from time to time."

It is pertinent to mention that the Commission has issued RE Regulations, 2023 on 16.08.2023 which shall supersede the RE Regulations, 2018 for projects to be commissioned after 01.04.2023. Accordingly, the Petitioner is directed to make necessary changes in the aforesaid clause.

e) Clause 2.3 of the draft PPA specifies as follows:

"Energy accounting for supply of electricity by UPCL to the Generating Company shall be as per Regulation 47 of the Uttarakhand Electricity Regulatory Commission as provided in Uttarakhand Electricity Regulatory Commission (Tariff and other terms for supply of Electricity from Renewable Energy Sources and non-fossil fuel based co-

generating stations) Regulations, 2018 and as amended from time to time.”

In the matter, it is pertinent to mention that Regulation 49 of RE Regulations, 2023 specifies the provision regarding purchase of electricity by the generating company including start up power. Accordingly, the Petitioner is directed to make necessary corrections in Clause 2.3 of the draft PPA.

f) Clause 5.3 and Clause 5.4 of the Draft PPA specifies as follows:

“5.3 UPCL shall make full payment against such Monthly Bills to the Generating Company from the date of the receipt of original monthly bill along with complete documents mentioned in 5.1. & 5.2 with following rebate options:-

<i>Sl. No</i>	<i>No. of Days from the date of presentation of bill within which payment is credited in generating company account</i>	<i>Applicable Rebate (%)</i>
1.	<i>Within 7 days</i>	<i>1.65</i>
2.	<i>From 8th day to 15th Day</i>	<i>1.50</i>
3.	<i>From 16th day to 23rd Day</i>	<i>1.35</i>
4.	<i>From 24th Day to 30th Day</i>	<i>1.25</i>

5.4 In case of payment of bills is delayed beyond a period of 45 days from the date of billing, a late payment surcharge at the rate of 1.25% per month or part thereof shall be levied by the generating company.”

In the matter, UJVN Ltd. requested to consider the provisions of rebate and late payment surcharge in accordance with RE Regulations, 2018. As discussed earlier, the Commission has specified the RE Regulations, 2023. Accordingly, the above provision shall be amended to align with Regulation 23 (Rebate) and Regulation 24 (Late Payment Surcharge) of RE Regulations, 2023.

g) Sub-Clause 8.1 to 8.5 of Clause 8 i.e. ‘Interconnection Facilities’ of Draft PPA specify as follows:

“8.1 Interconnection Facilities means all the facilities which shall include without limitations, Proposed 220/33 KV Sub-Station, Baramwari (Rudrapur), Rudraprayag owned, maintained and operated by PTCUL, switching equipment, communication, protection, control, meters and metering devices etc, for the incoming bay(s) for the Project Line(s) to be installed and maintained by

Generating Company at the cost to be borne by the Generating company, to enable the evacuation of electrical output from the project in accordance with the Agreement.

- 8.2 Power from the Generating Company shall be transmitted at 33 KV voltage connected to Proposed 220/33 KV Sub-Station, Baramwari (Rudrapur), Rudraprayag, owned, maintained and to be operated by PTCUL.*
- 8.3 The cost of laying the dedicated transmission line owned, maintained and to be operated by UJVN Ltd. from the Generating Station to the Proposed 220/33 KV Sub-Station, Baramwari (Rudrapur), Rudraprayag, the required bay, terminal equipment's and associated synchronization equipment's etc. shall be borne as per clause 41 (3) of UERC regulation 2018 as amended from time to time.*
- 8.4 Technical standards for construction of electrical lines and connectivity with the grid shall be as per clause 41 (1) of UERC regulation 2018.*
- 8.5 Maintenance of terminal equipment at the generating end and the dedicated transmission line owned by such generating station shall be governed by clause 42 of UERC regulation 2018 as amended from time to time."*

As discussed earlier, Madhyamaheshwar SHP is allowed to connect on temporary basis at 33/11 kV Ukhimath Sub-station till the commissioning of 220/33 kV Baramwari Sub-station of PTCUL subject to certain conditions as specified above in this Order. Hence, sub-clauses 8.1, 8.2 and 8.3 shall be amended accordingly.

Further, the Commission has issued RE Regulations, 2023 on 16.08.2023 and with regard to connectivity, Regulation 43 of RE Regulations, 2023 specifies as follows:

"43. Evacuation of Power

- (1) Distribution Licensees shall provide connectivity to the RE Based Generating Stations having capacity upto 25 MW at its nearest distribution sub-station preferably within a range of 10 kilometers from the location of such generating station. They may further mutually agree to provide connectivity at appropriate voltage level subject to technical feasibility and technical standards for construction of electrical lines and connectivity with the grid as may be specified by CEA.*

Provided further that where more than one RE based Generating Stations having cumulative installed capacity less than 25 MW are located in a cluster/area and for the purpose of evacuation, these generating stations agree to pool their generation at a common pooling switching station to be constructed by them at their own cost and further beyond such pooling switching station, the Distribution Licensee shall provide connectivity at its nearest sub-station. They may further mutually agree to provide connectivity at appropriate voltage level subject to technical feasibility and technical standards for construction of electricity lines and connectivity with the grid as may be specified by CEA. However, such generating stations shall be eligible for additional levelised tariff as specified under Regulation 16(1)(c) of these Regulations, only if they construct the line from pooling sub-station to the nearest sub-station at their own costs.

(2) XXX

(3) *In case RE based Generating Stations exercise the option to construct the evacuation system including the line upto the nearest substation of Transmission/Distribution Licensee, the required bay, terminal equipments, associated synchronization equipments and above pooling switching station, if any, etc. the cost of such evacuation system shall be borne by such generating stations:*

Provided that such Generating Stations may also get the work of construction of the power evacuation system carried out by State transmission/distribution licensee;

Provided further that the land for extending the bay shall be provided by the owner of the transmission or distribution sub-station, as the case may be, free of cost."

It is to be noted that although RE based generators have an option to construct the evacuation system including the line upto the nearest sub-station of the distribution licensee, it is the responsibility of the distribution licensee to provide the connectivity to the RE Based Generating Stations having capacity upto 25 MW at its nearest distribution sub-station as per the aforesaid regulation.

Further, it is pertinent to mention that if the generator opts to construct the

evacuation infrastructure, at its own cost, it shall be allowed a normative tariff of 7 paise/kWh over and above the generic tariff in accordance with the RE Regulations, 2023. Accordingly, based on the above discussions, the Petitioner is advised to amend Clause 8.3 of the draft PPA, if required, considering the financial viability of both the connectivity arrangements after providing an option to the developer in accordance with the RE Regulations, 2023.

Further, it is worth mentioning that Regulation 44 of RE Regulations, 2023 deals with maintenance of Transmission lines and equipments whereas the Petitioner has mentioned in sub-clause 8.5 of draft PPA that the same shall be governed by clause 42 of UERC regulation 2018 as amended from time to time. The Petitioner is directed to make necessary corrections in the same before signing the PPA as for new stations commissioned after 01.04.2023 RE Regulations 2023 shall be applicable.

h) Sub-Clause 12.2 of Clause 12 of the draft PPA provides about 'Synchronisation' as follows:

"The Generating Company shall synchronize its power generating set in consultation with the Executive Engineer, Electricity Distribution Division, Rudraprayag and in-charge of the Proposed 220/33 KV Sub-Station, Baramwari (Rudrapur), Rudraprayag of PTCUL and as per provisions of the SGC as amended from time to time."

As discussed earlier, the proposed Madhyamaheshwar SHP will be connected to 33/11 Ukhimath Sub-station of UPCL till commissioning of the proposed 220/33 kV Baramwari Sub-station of PTCUL. Accordingly, the generating company shall be required to synchronize its power generating in consultation of UPCL when it will connect to UPCL's above mentioned sub-station till commissioning of proposed sub-station of PTCUL. Therefore, the Petitioner is directed to make necessary corrections in the aforesaid sub-clause.

i) Sub-clause 14.2 of Clause 14 i.e. *Metering*, of the draft PPA specifies as follows:

"The joint meter reading shall be recorded in the format given in Annexure V & VI. The JMR would be recorded taking into consideration of power from Madhyamaheshwar SHP for determining the sale of power from Madhyamaheshwar SHP."

In the matter, UJVN Ltd. submitted that power of Kaliganga-I and Kaliganga-II

SHP is to be pooled at Switchyard of Madhyamaheshwar SHP. Accordingly, it requested to replace the same with the following:

“The joint meter readings shall be recovered in the format given in Annexure V & VI.

The JMR would be recorded taking into consideration the pooling of power from Kaliganga-I SHP and Kaliganga-II SHP at switchyard of Madhyamaheshwar SHP for determining the sale of power from Madhyamaheshwar SHP.”

In the matter, ULCL disagreed with the suggestions made by the Respondent.

It is pertinent to mention that the Commission vide Order 22.06.2022 in Petition no. 17 of 2022 while approving the PPA for Kaliganga-II SHP, allowed pooling of power from Kaliganga-I SHP at switchyard of Kaliganga-II SHP as the same arrangement was agreed by UPCL and UJVN Ltd.

In the present case, as mentioned above, the Respondent has requested for pooling of power of Kaliganga-I and Kaliganga-II at Madhyamaheshwar SHP switchyard which will be temporarily connected to 33/11 Sub-station, Ukhimath till the commissioning of 220/33 kV Sub-station Baramwari (Rudrapur), Rudraprayag. It is incomprehensible as to why the Respondent has requested for recording of the JMR taking into consideration the pooling of power from Kaliganga-I SHP and Kaliganga-II SHP at switchyard of Madhyamaheshwar SHP for determining the sale of power from Madhyamaheshwar SHP CEA (Installation and Operations of Meters) Regulations, 2006 read with the amendments issued from time to time provides that meters in case of a generation station shall be located at all the outgoing feeders of the generating station and the power is distributed to the outgoing feeders from the bus bar. Thus, since the Madhyamaheshwar SHP as well as Kaliganga-I and Kaliganga-II shall have a dedicated meter at their outgoing feeders the proposal submitted by the Respondent is not accepted as has also been denied by UPCL.

j) Sub-Clause 16.1 of Clause 16 i.e. ‘Continuity of Service’ of draft PPA specifies as follows:

“The supply of electricity by the Generating Company shall be governed by instructions from the State load dispatch centre, as per the provisions of the SGC as amended from time to time. However, UPCL may require the Generating Company to temporarily

curtail or interrupt deliveries of power only when necessary in the following circumstances: -

- a. Repair and/or Replacement and/or Removal of UPCL's equipment or any part of its system that is associated with the Generating Company's facility; and/or*
- b. Endangerment of Safety: If UPCL determines that the continued operation of the facility may endanger the safety of UPCL's personnel or integrity of UPCL's electric system, or have an adverse effect on the provision of electricity to UPCL's other consumers/customers; and/or*
- c. Force Majeure Conditions as defined in para 25 below."*

The above clause specifies that the supply of electricity by the generating company can be curtailed or interrupted by UPCL only in case of repair/remove/replacement of UPCL's equipment or in case of endangerment of safety or due to Force Majeure events.

In the matter, it is pertinent to mention that during the meeting conducted by the Commission on 02.08.2023 regarding evacuation of power from Madhyamaheshwar SHP, it was agreed between the parties that UJVN Ltd. shall make technical arrangement to address the concerns of UPCL regarding high voltage which may lead to grid instability and no deemed generation shall be claimed till evacuation of power through interim arrangement. Accordingly, the Petitioner is directed to make necessary changes in the draft PPA to incorporate the conditions based on which interim connectivity at 33/11 Ukhimath Sub-station is approved.

k) Sub-clause 19.1 of Clause 19 i.e. 'Duration' of draft PPA specifies as follows:

"Unless terminated by default described in clause 20 below, this agreement shall be valid till the expiry of 35 years from the date of commercial operation of the project."

Regulation 3(1)(lxv)(iv) of RE Regulations, 2023 specifies that the life of Small Hydro Projects shall be 40 years. Further, as per proviso of aforesaid regulation, where the operation of a plant was stopped due to a force majeure event, the life of the plant shall be extended by the period of such stoppage and, accordingly, the PPA shall be extended accordingly.

Based on the above regulation, sub-clause 16.1 of the PPA shall be read as

follows:

“Unless terminated by default described in clause 20 below, this agreement shall be valid till the expiry of 40 years from the date of commercial operation of the project.

Provided that if the operation of a plant is stopped due to any force majeure event, the life of the plant shall be extended by the period of such stoppage and, accordingly, the PPA shall be extended.”

l) After Clause 40 of the PPA, the place for dates have been left blank and year specified is 2023. The above-mentioned Para needs to be completed while the final PPA is being signed between the Petitioner and the Respondent in the presence of the witnesses.

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

3.3.3 UPCL is directed to take note of the above observations/corrections/modifications pointed out in the PPA and carry out the same in the PPA. UPCL is directed to submit the amended PPA to the Commission within 15 working days of the date of the Order.

4. Ordered Accordingly.

(M.K. Jain)
Member (Technical)

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