

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 41 of 2023

In the matter of:

Application seeking approval on the Power Usage Agreement signed between UPCL and M/s SJVN Green Energy Limited.

In the matter of:

Uttarakhand Power Corporation Ltd. ...Petitioner

AND

M/s SJVN Green Energy Ltd. ...Respondent

CORAM

Shri D.P. Gairola	Member (Law) / Chairman (I/c)
Shri M.K. Jain	Member (Technical)

Date of Order: October 31, 2023

This Order relates to the Petition filed by Uttarakhand Power Corporation Ltd., a distribution licensee (hereinafter referred to as “UPCL” or “Petitioner”) seeking approval of Power Usage Agreement (PUA) for purchase of power from SJVN Green Energy Limited. (hereinafter referred to as “the Respondent”).

1. Background

- 1.1 The Petitioner filed the Petition on 18.09.2023 seeking approval of the PUA executed with the Respondent for procurement of 200 MW of solar power under CPSU Scheme. The Petition has been filed under Section 86(1)(b) of the Electricity Act, 2003, license conditions issued to UPCL, Regulation 74(1) of MYT Regulations, 2021, Regulation 39(3) of UERC (Conduct of Business) Regulations, 2014.
- 1.2 MNRE had issued “Central Public Sector Undertaking (CPSU) Scheme Phase-II for setting up 12000 MW grid connected Solar PV power projects by the Government

producers with Viability Gap Funding support for self-use of use by government entities on 05.03.2019. Further, MNRE identified Indian Renewable Energy Development Agency Ltd. (IREDA) as the Nodal Agency for handling the CPSU Scheme on behalf of MNRE vide OM dated 13.04.2020. IREDA issued RfS document on 29.01.2021 for selection of solar power developer for setting up of 5000 MW grid connected Solar PV plants in India under CPSU Scheme. M/s SJVN Green Energy Limited has been declared as a successful bidder under the Scheme and Letter of Award was awarded on 04.10.2021 for development of Solar PV project having capacity of 1000 MW.

- 1.3 SJVN Green Energy Limited, is a wholly-owned subsidiary of SJVN Ltd, works in the verticals of power generation from renewable energy sources such as solar parks, wind & hybrid projects, battery storage system, assets creation in wave, biomass, small hydro and green hydrogen business ventures.
- 1.4 The Petitioner submitted that the Respondent vide its letter dated 24.07.2023 informed about their upcoming 1000 MW solar power plant and further requested UPCL to sign Power Usage Agreement for procurement of 200 MW of solar power.
- 1.5 The Petitioner submitted that after evaluation and considering the requirement in the upcoming years for achieving the increasing Solar RPO targets, considered the procurement of 200 MW Solar @ 2.57/kWh (Ex-Bus) with waiver of full transmission charges for life of the project.
- 1.6 The Petitioner submitted that they are 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 the Power Usage Agreement. The Petitioner also submitted that the Commission vide its letter no. UERC/6/TF-533(B)/2022-23/2023/512 dated 08.08.2023 accorded the in-principle approval for procurement of 200 MW of solar power from the Respondent under CPSU Scheme.
- 1.7 The Petitioner, accordingly, requested the Commission to grant approval on the PUA executed between the Respondent and UPCL for sale/purchase of electricity as discussed in preceding paras.
- 1.8 The Commission admitted the Petition and forwarded a copy of the Petition to the Respondent for submission of its comments on the same. The Respondent vide its email

dated 05.10.2023 submitted that they have offered 200 MW power to UPCL from its upcoming CPSU Scheme solar project @ Rs. 2.57/kWh and do not have any comment to offer on the Petition. The Petitioner vide its letter dated 21.10.2023 submitted that due to typographical error, the Clause 7.4 has been inadvertently mentioned as 7.3.3 and requested to consider the same as Clause 7.4 “Establishment of Letter of Credit (LC) and Payment Security Mechanism”. It further requested to read Clause 7.6 as Clause 7.5 “Regulation of Power”.

2. Commission’s Views & Decisions

2.1 Legal Requirement for approval of PUA

- 2.1.1 A PUA 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”

... (Emphasis added)

2.1.5 Further, Uttarakhand Electricity Regulatory Commission (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2021, provides as:-

“74. Approval of power purchase agreement/arrangement

(1) Every agreement or arrangement for power procurement by a Distribution Licensee from a Generating Company or Licensee or from other source of supply entered into after the date of effectiveness of these Regulations shall come into effect only with the prior approval of the Commission:

Provided that the prior approval of the Commission shall be required in respect of any agreement or arrangement for power procurement by the Distribution Licensee from a Generating Company or Licensee or from any other source of supply on a standby basis:

Provided further that the prior approval of the Commission shall also be required for any change to an existing arrangement or agreement for power procurement, whether or not such existing arrangement or agreement was approved by the Commission.

(2) The Commission shall review an application for approval of power procurement agreement/arrangement having regard to the approved power procurement plan of the Distribution Licensee and the following factors:

a) Requirement for power procurement under the approved power procurement plan;

b) Adherence to a transparent process of bidding in accordance with guidelines issued by the Central Government;

- c) Adherence to the terms and conditions for determination of tariff specified under these Regulations where the process specified in (b) above has not been adopted;*
- d) Availability (or expected availability) of capacity in the intra-State transmission system for evacuation and supply of power procured under the agreement/arrangement;*
- e) Need to promote co-generation and generation of electricity from renewable sources of energy."*

2.1.6 The Commission has analyzed the submissions made by the Petitioner and the Respondent and is of the view that the aforesaid procurement of 200 MW appears reasonable as not only it would aid in meeting the RPO but also in meeting the power deficit. Moreover, the rate at which the power has been offered to the Petitioner appears to be very competitive as the same is with the waiver of ISTS charges for life of the project.

2.1.7 In view of the above and in accordance with the requirement of the Act and Regulations referred above, UPCL as a distribution licensee is required to seek approval of the Commission on the PUA entered or proposed to be entered into by it. Accordingly, the draft PUA between UPCL and the Respondent is being examined for consistency and conformity with the relevant provisions of the Electricity Act, 2003, Regulations and also in light of the Schemes/guidelines issued by MoP in this regard.

2.2 Consistency of the PUA with the Regulations

2.2.1 The PUA submitted by UPCL have been examined in light of the relevant rules & regulations. As mentioned earlier, UPCL vide its letter dated 21.10.2023 has submitted that Clause 7.4 has been inadvertently mentioned as Clause 7.3.3. UPCL requested the Commission to read the same as Clause 7.4 "Establishment of Letter of Credit (LC) and Payment Security Mechanism". Further, UPCL also requested to read Clause 7.6 "Regulation of Power" as Clause 7.5.

The Commission directs the Petitioner to make necessary modification in the final PUA in this regard.

2.2.2 Clause 7.4.5 of the draft PUA mentions that M/s SJVN Green Energy Ltd. reserves

the right to implement regulation of power supply as per Clause 7.6. However, the Petitioner vide its submission dated 21.10.2023 requested the Commission to read Clause 7.5 in place of Clause 7.6.

Accordingly, the Petitioner is directed to make necessary amendment in Clause 7.4.5 of the PUA.

2.2.3 The other provisions of the draft PUA have been examined which are in accordance with the provisions of Act and Regulations. However, UPCL is hereby directed to incorporate the changes proposed in the draft PUA and submit the same to the Commission within 15 days of the date of Order.

2.3 With this, Petition no. 41 of 2023 stands disposed.

2.4 Ordered accordingly.

(M.K. Jain)
Member (Technical)

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