

**Before**

# **UTTARAKHAND ELECTRICITY REGULATORY COMMISSION**

**Petition No. 40 of 2023 (Suo-Moto)**

**In the matter of:**

Suo-moto proceedings in the matter of removal of difficulties under UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Source and non-fossil fuel based Co-generation Stations) Regulations, 2023.

**CORAM**

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

**Shri M.K. Jain        Member (Technical)**

**Date of Order: October, 09<sup>th</sup> 2023**

The Order relates to the Suo-moto proceedings initiated by the Commission in the matter of request made by UJVN Ltd. that implementation of all Solar PV projects in addition to Canal Bank and Canal Top may be included in first proviso of Regulation 2(3) of RE Regulations, 2023.

## **1. Background**

- 1.1 The Commission vide its notification dated 16.08.2023 issued UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Source and non-fossil fuel based Co-generation Stations) Regulations, 2023 (hereinafter referred to as "RE Regulations, 2023) which came into force with effect from the date of notification, and unless reviewed earlier or extended by the Commission, shall remain in force for a period of 5 years from the date of commencement.
- 1.2 Through the RE Regulations, 2023, the Commission specified that implementation of Canal Bank and Canal Top Solar Power Plants by the eligible government organisation shall be done through tariff based competitive bidding process. In such cases, PPA for sale of

power from these plants shall be signed with distribution licensee at a tariff which shall be 8% higher than the tariff quoted by L-1 bidder, however, the tariff plus a margin of 8% shall not exceed the generic tariff determined by the Commission for the year of commissioning. The relevant extract of the RE Regulations, 2023 is as follows:

***“2. Scope and extent of application***

(1) xxx

(2) xxx

(3) *The generic tariff specified for Wind, Solar PV and Solar Thermal power projects under these Regulations shall be the maximum tariff and the distribution licensee/UREDA shall invite tariff based competitive bids from generators/developers for procurement of power from these generators/developers. The distribution licensee shall enter into a PPA with the generators/developers bidding lower tariff.*

*Provided that implementation of Canal Bank and Canal Top Solar Power Plants by the eligible government organisation shall be done through tariff based competitive bidding process. In such cases PPA for sale of power from these plants shall be signed with distribution licensee at a tariff which shall be 8% higher than the tariff quoted by L-1 bidder, however, the tariff plus a margin of 8% shall not exceed the generic tariff determined by the Commission for the year of commissioning.*

*Provided further that in no case PPA for purchase of power by the distribution licensee shall be executed at a tariff exceeding the ceiling tariff as specified by the Commission in accordance with the regulations.”*

**2. Submission of UJVN Ltd.**

2.1 UJVN Ltd. vide its letter dated 23.08.2023 requested that Commission to allow implementation of all Solar PV plants including Canal Bank and Canal Top Solar PV Plants by the eligible government organisation in the first proviso of Regulation 2(3) of RE Regulations, 2023.

2.2 UJVN Ltd. submitted that Solar Policy, 2023 promotes the establishment of Solar PV Plants on unutilised land available with various government organisation. However, non-inclusion of Solar PV projects other than Canal Bank and Canal Top Solar PV Plant, does not resonate with Solar Policy, 2023.

- 2.3 UJVN Ltd. submitted that as per first proviso of Regulation 2(3) of RE Regulations, UJVN Ltd. as an eligible government organisation can invite tariff-based biddings only for Solar Projects which falls under the category of Canal Bank and Canal Top while as per earlier RE Regulations, 2018, government organisations were allowed to invite tariff-based bidding for all type of Solar Power Plants.
- 2.4 UJVN Ltd. submitted that Government of Uttarakhand vide its letter no. 324/I/2022/05(14)2003 dated 10.05.2023 has entrusted UJVN Ltd. with the responsibility of developing Solar Power Projects on unutilised government land of all government department/institutions on mutually agreed terms. In compliance to said approval of GoUk, UJVN Ltd. has prepared DPR of 117 MW of various Solar Projects. The construction of 17 MW Solar Projects has already started and the projects of 12 MW are at advance stage of bidding process.

However, as per first proviso of Regulation 2(3) of RE Regulations, 2023 UJVN Ltd. cannot implement the Solar PV projects on unutilised land through competitive bidding except Canal Bank and Canal Top Solar PV plants. Thus, the efforts made so far by UJVN Ltd. for implementation of more than 100 MW Solar PV projects in the State would not materialise. Therefore, UJVN Ltd. requested the Commission to allow implementation of Solar PV plants also in accordance with the first proviso of Regulation 2(3) of RE Regulations, 2023.

### **3. Submissions of UPCL**

- 3.1 The letter of UJVN Ltd. was forwarded to UPCL for comments on the request made by UJVN Ltd. to include Solar PV Plants under first proviso of Regulation 2(3) of RE Regulations, 2023. In reply, UPCL vide its letter dated 12.09.2023 submitted that under Regulation 2(3) of RE Regulations, 2023 margin allowed to the Government Organization for installation of canal bank and canal top solar power plants is 8% of the quoted tariff. This is on higher side and should not be more than 1-2% as submitted during the public hearing on draft RE Regulations, 2023.
- 3.2 UPCL submitted that eligible government organization shall be incurring cost only on survey, DPR formalities and bidding process and after allotment of projects to the eligible bidders, all the cost from installation to upkeep and maintenance of plant shall be carried

out by the bidders/developers, therefore, the margin cost has to be kept to a bare minimum otherwise, the high margin will ultimately increase the consumers tariff.

- 3.3 UPCL submitted that it has tied up for Solar + Wind power in RTC as well as normal Solar through SECI and SJVN to the tune of 400 MW @ Rs. 2.50 to Rs. 3.00 per unit. This cost-effective power shall help in keeping UPCL's average power purchase cost within control. On the other hand, average generic tariff of solar power as per RE Regulations, 2023 is on a higher side and UPCL has a mandate to sign the PPAs with the State based solar plants which will increase the average power purchase cost for RE power in comparison to procurement through SECI & other Central Agencies. Therefore, the margin money for eligible government organization is to be kept at bare minimum to avoid over burden on consumers.
- 3.4 UPCL requested the Commission to not amend the RE Regulations, 2023 except reduction of margin from 8% to 1%-2% allowed to eligible government organizations in Regulation 2(3) of the aforesaid RE Regulations, 2023.

#### **4. Commission's views and decision**

- 4.1 The Commission analysed the submissions made by UJVN Ltd. and letter issued by Government of Uttarakhand entrusting UJVN Ltd. with the responsibility of developing Solar Power Plants on unutilised government land.
- 4.2 The Commission has gone through the submissions made by UPCL. In the matter, it is to be noted the request of UJVN Ltd. is to allow implementation of Solar PV plants alongwith Canal Top and Canal Bank Solar PV plants in accordance with first proviso of Regulation 2(3) of RE Regulations, 2023. However, UPCL instead of submitting its comments on the request made by UJVN Ltd., has requested the Commission to reduce the margin of 8% to 1%-2%. The Commission does not find it prudent to make deliberations on the request made by UPCL in its comments as the same has already been dealt while finalising the RE Regulations, 2023 and reasons for the same have been placed in Statement of Reasons of RE Regulations, 2023.
- 4.3 With regard to the request of UJVN Ltd., it is pertinent to mention that Solar Policy, 2023 promotes installation of solar power plants on unutilised land available with various

government organisation under CAPEX, RESCO or OPEX model. Any government organisation can install solar power plant in accordance with the provisions of Solar Policy, 2023 and provisions of RE Regulations, 2023. Furthermore, the government organisations can provide their unutilised land on lease to the potential developers for development of solar power plant. The model being proposed to be implemented by UJVN Ltd. falls in the category of an intermediary procurer wherein plants are installed by some contactor with whom UJVN Ltd. has an agreement to procure power at the bid tariffs and the power is then sold to UPCL with additional margin over and above the bid tariff. In this regard, Rule 19(g) of the Electricity (Amendment) Rules, 2022 stipulates that the trading margin, as notified by the Appropriate Commission or Central Government shall be payable by the end procurer to the intermediary procurer.

- 4.4 In this regard, it is to be noted that the margin of 8% has been fixed by the Commission which works out to around Rs. 0.36 per unit at the bid tariff. This appears to be on a higher side considering the MW scale implementation of solar projects and also the fact cannot be ignored that the Central Commission has fixed a ceiling of trading margin at Rs. 0.07/unit. Thus, there needs to be a balance between the promotion of solar development in the State and its impact on the consumer tariff.

The RE Regulations, 2023 do not allow any additional tariff over and above the tariff determined through competitive bidding process for development of Solar PV Plant by eligible government organisation in absence of which they may not be able to recover the costs incurred for such development. Hence, to facilitate such arrangement which can be beneficial for the State and can add up in solar generation of the State, it is imperative that this difficulty be removed. In this regard, Regulation 53 of RE Regulations, 2023 provides as follows:

***“51. Power to Remove Difficulties***

*If any difficulty arises in giving effect to these regulations, the Commission may, of its own motion or otherwise, by an order and after giving a reasonable opportunity to those likely to be affected by such order, make such provisions, not inconsistent with these regulations, as may appear to be necessary for removing the difficulty.”*

From the above, the Commission is of the view that in order to facilitate the

arrangement of development of solar power plants on unutilised land available with various government organisations within the State and also to balance the consumer tariffs, the Commission finds it necessary to invoke its powers under Regulation 53 of RE Regulation, 2023. Accordingly, the Commission decides to allow UJVN Ltd. and other Government organisations the following margins over and above the bid tariffs subject to the ceiling of the generic tariff specified by the Commission for the year of commissioning:

<b>Particulars</b>	<b>Margin</b>
Upto 100 MW cumulative capacity of solar power procured by intermediary procurer and sold to UPCL.	8%
Upto 200 MW cumulative capacity of solar power procured by intermediary procurer and sold to UPCL.	6%
Above 200 MW cumulative capacity of solar power procured by intermediary procurer and sold to UPCL.	4%

Further, the intermediary procurer shall be required to float bids in accordance with the relevant Standard Bidding Guidelines issued by the Government of India abiding with the MNRE's advice in relation with tenders for RE projects.

Accordingly, Regulation 2(3) of RE Regulations, 2023 shall read as under:

*“The generic tariff specified for Wind, Solar PV and Solar Thermal power projects under these Regulations shall be the maximum tariff and the distribution licensee/UREDA shall invite tariff based competitive bids from generators/developers for procurement of power from these generators/developers. The distribution licensee shall enter into a PPA with generators/developers bidding lower tariff.*

*Provided that implementation of Canal Bank, Canal Top Solar PV Plants and ground mounted Solar PV plants by the eligible government organisation as an intermediary procurer shall be done through tariff based competitive bidding process. In such cases, PPA for sale of power from intermediary procurer shall be signed with distribution licensee at the tariff quoted by L-1 bidder with as trading margin as follows:*

<b>Particulars</b>	<b>Margin</b>
<i>Upto 100 MW cumulative capacity of solar power procured by intermediary procurer and sold to UPCL.</i>	<i>8%</i>
<i>Upto 200 MW cumulative capacity of solar power procured by intermediary procurer and sold to UPCL.</i>	<i>6%</i>
<i>Above 200 MW cumulative capacity of solar power procured by intermediary procurer and sold to UPCL.</i>	<i>4%</i>

*Provided further that in no case PPA for purchase of power by the distribution licensee shall be executed at a tariff exceeding the ceiling tariff as specified by the Commission in accordance with the regulations."*

5. Order accordingly.

**(M.K. Jain)**  
**Member (Technical)**

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