

Before

# UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 28 of 2023

**In the matter of:**

Petition seeking to allow approximate cumulative capacity of 246.5 MW to be allotted to eligible applicants against ground mounted solar power plants having capacity size of 20/25/50/100/200 kW under the scheme Mukhyamantri Saur Swarojgar Yojna at prefixed tariff of Rs. 4.49/kWh OR as per the gross generic tariff for Solar PV plants decided by the Commission for FY 2023-24 whichever is higher and subsequently fix such gross tariff for a tariff period of three years.

**In the matter of:**

Uttarakhand Renewable Energy Development Agency

... Petitioner

**AND**

**In the matter of:**

Uttarakhand Power Corporation Ltd.

... Respondent

**CORAM**

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

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

**Date of Hearing: July 03, 2023**

**Date of Order: August 16, 2023**

This Order relates to the Petition filed by Uttarakhand Renewable Energy Development Agency (hereinafter referred to as "UREDA" or "Petitioner") seeking fixation of tariff for approximately cumulative capacity of 246.50 MW to be allotted to the eligible applicants against ground mounted solar power plants having capacity size of 20/25/50/100/200 kW under "Mukhyamantri Saur Swarojgar Yojna" at prefixed tariff of Rs. 4.49/kWh or as per the gross generic tariff for Solar PV plants decided by the Commission for FY 2023-24 whichever is higher and subsequently fix such gross tariff for a tariff period of three years and issuance of necessary directions to UPCL to conduct Technical Feasibility Report for the beneficiaries to be selected by

UREDA under MSSY Scheme.

## 1. Background

- 1.1. UREDA, Department of Renewable Energy Govt. of Uttarakhand is the State Nodal Agency (SNA) of Ministry of New and Renewable Agency, Govt. of India for deployment of renewable energy and State Designated Agency (SDA) of Bureau of Energy (BEE), Govt. of India for implementation of various energy conservation activities and programs in the State of Uttarakhand.
- 1.2. Govt. of Uttarakhand vide notification no. 697/I-1/2021/03/02/2020-TC dated 25.09.2020, and subsequent notification no.72/I-1/2021/03/02/2020-TC dated 25.01.2021, launched a scheme namely मुख्यमंत्री सौर स्वरोजगार योजना, (hereinafter referred as 'MSSY scheme') for self-employment through Solar Farming. UREDA was designated as the nodal agency for implementation of the scheme. Under MSSY Scheme 10,000 small solar power plants of 20/25 kW were originally proposed to be allotted, out of which a total 150 no. of solar power plant having capacity 20/25 kW (cumulative capacity approx. 3.5 MW) have been installed/commissioned till March, 2023.
- 1.3. Subsequently, the Govt. of Uttarakhand vide its notification no. 569/I/05/14/2009TC (E-41794) dated 13.04.2023 issued Uttarakhand State Solar Policy 2023 (hereinafter referred to as "Solar Policy, 2023"). The solar power projects proposed to be setup under this Policy are categorized under 5 (five) types. Under the Type-V projects, projects shall be set up on private land for selling power to DISCOM (UPCL) for meeting its RPO obligation as specified by UERC from time to time. The deployments carried out under MSSY are considered under this category. Under this type, small size grid-connected solar power plants of capacity above 50 kW and upto 200 kW shall be allowed. As per Solar Policy, 2023, Solar Power Plants to be installed, under Type-V, in the State of Uttarakhand shall be eligible for incentives, including the benefits provided to MSME industries from time to time. As per the policy, the power generated under the Type V category projects shall be purchased by the DISCOM on prefixed tariff determined by the UERC from time to time. Solar Plants set up under this category V are exempt from competitive bidding process.

## 2. Petitioner's Submissions

- 2.1. UREDA filed the Petition dated 02.06.2023 seeking fixation higher of tariff of Rs. 4.49/kWh or the gross generic tariff to be decided for Solar PV plants for FY 2023-24 for a period of three years for cumulative capacity of 246.50 MW to be allotted to eligible applicants against ground mounted solar power plants having capacity specified under MSSY Scheme.
- 2.2. The Petitioner submitted that MSSY Scheme was launched by GoUk in September, 2020 with a target to install 10000 small solar power plants of 20/25 kW capacity each in the State of Uttarakhand. The scheme was launched with an aim to generate self-employment opportunities for farmers and youth seeking employment outside their home district and other States and to stop migration of manpower out of the State of Uttarakhand.
- 2.3. Subsequently, GoUk notified Solar Policy, 2023 and projects proposed to be setup under the said policy are categories in five types. Development carried out under MSSY Scheme are considered under this category and power generated shall be purchased by the distribution licensee at pre-fixed tariff determined by the Commission from time to time.
- 2.4. The Petitioner submitted that under the said scheme 10,000 nos. of small solar power plants of 20/25 kW were originally proposed to be allowed, out of which a total of 150 nos. of solar power plants having cumulative capacity of 3.50 MW have been installed/commissioned till March, 2023. The GoUk vide notification dated 13.03.2023 amended the MSSY Scheme so as to allot solar power plants of capacity 50/100/200 kW in addition to solar plants of 20/25 kW capacity. The Solar PV plants shall be allotted to the prospective allottees without any competitive bidding process purely on first come first serve basis subject to technical feasibility of the site.
- 2.5. The Petitioner submitted that successful implementation of MSSY Scheme shall be adversely affected if the gross generic tariff of Solar PV Plants determined by the Commission falls below the prevailing tariff of Rs. 4.49/kWh as cost of module cost has increased due to imposition of GST and Custom Duty by GoI.
- 2.6. The Petitioner requested the Commission to fix the tariff of Rs. 4.49/kWh or the gross generic tariff for Solar PV Plants decided by the Commission for FY 2023-24 whichever is higher and subsequently fix such tariff for a period of three years. The Petitioner also

requested the Commission to direct UPCL to conduct a Technical Feasibility Report for the beneficiaries to be selected by UREDA under MSSY Scheme and enter into PPA after successful installation/commissioning of the allotted solar power plants.

- 2.7. 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 01.07.2023, on the admissibility of the Petition and prayers of the Petitioner. The same have been dealt in the subsequent Paras.

### **3. Respondent's reply**

- 3.1. The Respondent submitted that the Regulation 11 and Regulation 12 of RE Regulations, 2018 mandates for annual revision of solar benchmark capital cost and the tariff and PPA Period respectively and, therefore, cannot be just fixed for period of three years.
- 3.2. The Respondent submitted that the regulations casts a duty upon the Commission to annually determine the benchmark capital cost which may reflect the actual cost and ensure the proper recovery to the generator and the benchmark capital cost is determined after public hearing, creating a separate category of solar generators and keeping a special tariff for them may require amendment in the regulations.
- 3.3. The Respondent submitted that the Petitioner has filed the present Petition for fixation of tariff determined for FY 2022-23 or as determined for FY 2023-24 whichever is higher for a period of three years which is not justified as well as barred by the Regulations. Further, as such there is no specific timelines given by the Petitioner for implementation of the Scheme and, therefore, the requirement of fixation of tariff for three years seems unreasonable.
- 3.4. Regulation 11 of RE Regulations, 2018 provides for annual revision of the benchmark capital cost of Solar PV, Grid interactive Rooftop and Small Solar PV Projects considering that the solar PV technology has witnessed continuous improvements over the period of time and this fast changing technology and its costs needs to be assessed on annual basis so that at one end the RE power could be promoted but at the same time common consumers are not unnecessarily burdened.
- 3.5. UPCL submitted that any fixation of tariff, i.e. Rs. 4.49/kWh or as determined for FY 2023-24 whichever is higher for upcoming three years may result in a situation where simultaneously two benchmark tariffs will prevail and that too when installation period

for both the types will be same. This situation may discriminate two set of generators who belong to the same State and decides to install the plants at the same point of time but their tariffs will be entirely different.

#### **4. Commission's Views & Decisions**

4.1. The Present Petition has been filed by the Petitioner on 02.06.2023 for fixation of higher of gross generic tariff of Rs. 4.49/kWh or gross generic tariff to be determined for FY 2023-24 for upcoming three years for the solar power plants to be installed under MSSY Scheme. The prayers of the Petitioner are as follows:

- a. To admit the Petition,
- b. To allow approximate cumulative capacity of 246.50 MW to be allotted to eligible applicants against ground mounted solar power plants having capacity size of 20/25/50/100/200 kW under the Scheme of Mukhyamantri Saur Swarojgar Yojna at prefixed tariff of Rs. 4.49/kWh or as per the gross generic tariff of Solar PV Plants decided by the Commission for FY 2023-24 whichever is higher and subsequently, fix such gross generic tariff for a tariff period of three years.
- c. To direct UPCL to conduct Technical Feasibility Report for the beneficiaries to be selected by UREDA under MSSY Scheme and enter into PPA after successful installation/commissioning the allotted solar power plants.
- d. Condone any inadvertent omissions/errors/ shortcomings and permit Petitioner to add/change/modify/alter the Petition and make further submissions as may be required at a future date.
- e. Pass such further order, as the Commission may deem fit and proper keeping in view of the facts and circumstances of the case.

4.2. The copy of the Petition was forwarded to the Respondent for comments on admissibility of the Petition to which the Respondent vide its letter dated 01.07.2023 submitted its comments. A hearing was conducted by the Commission on 03.07.2023 on admissibility of the Petition. During the hearing, both the parties reiterated their submission before the Commission. The Commission after hearing the parties in the matter, vide Order dated 03.07.2023 admitted the Petition. Subsequently, the

Commission vide letter dated 10.07.2023 directed the Respondent to submit its comments on the merit of the Petition by 18.07.2023. However, till the date of the Order, no comments have been submitted by UPCL. Accordingly, the Commission has decided to issue the Order in the matter based on the information available with it.

4.3. The GoUk had launched MSSY Scheme vide notification dated 25.09.2020 for self-employment through solar farming. The scheme addressed the problem of lack of resources for residents and farmers in the State of Uttarakhand due to which their land is not being utilized and is becoming barren. The scheme offers encouragement to such small and marginal farmers to generate self-employment by installing small solar power plants on unused/barren land and sell the electricity so generated to UPCL. Under the said scheme capacity limit of 20 kW was fixed for a single Solar PV plant. Subsequently, the GoUk vide its notification dated 13.03.2023 modified the said policy and increased the capacity limit and allowed capacity of 50/100/200 kW for solar power plants to be installed under MSSY Scheme.

4.4. Subsequently, the GoUk vide its notification dated 13.04.2023 issued Uttarakhand Solar Policy, 2023. Under the said Solar Policy, 2023. The GoUk has categorised the Utility Scale solar power plants (commercial solar plants) in five categories based on the purpose of development. Details of the same as follows:

<b>Type</b>	<b>Description</b>
Type-I	Projects selected as per the competitive bidding process for selling power to Discom for meeting its RPO Obligations as specified by Commission from time to time.
Type-II	Projects setup on private land for captive use or sale of power to third party within or outside the state or project setup on private land under REC Mode.
Type-III	Projects set up on government land for captive use or sale of power to third party within or outside the state of projects setup on government land under REC Mode.
Type-IV	Projects setup outside the state for selling power to Discom for meeting its RPO Obligation as specified by the Commission from time to time.
Type-V	Projects setup on private land for selling power to Discom for meeting its RPO Obligation as specified by the Commission from time to time.

4.5. With regard to Type-V projects, Solar Policy, 2023 specifies that development carried out under MSSY Scheme are considered under this category and the power generated from solar power plants under this category shall be purchased by Discom at pre-fixed tariff determined by the Commission from time to time.

4.6. The Petitioner has prayed to give appropriate direction to UPCL to conduct Technical

Feasibility Report for the beneficiaries to be selected by UREDA under MSSY Scheme and enter into PPA after successful installation/commissioning of the allotted solar power plant.

In this regard, it is to affirm that the Commission does not direct UPCL to enter into any PPA with any generator. Infact one of the functions of the Commission is to approve the power purchase agreements proposed to be entered by the distribution company. Being a commercial organization UPCL has to see from where it intends to procure power. However, in the matter, the Commission gone through the MSSY Scheme and observes that Point 3(8) i.e. '*Technical Parameters for Mukhyamantri Saur Swarojgar Yojna*', of the scheme specifies that permission will be granted to the selected beneficiaries for development of solar power plant under the scheme on the basis of UPCL's Technical Feasibility Report and available land. Accordingly, the Commission advises UPCL to take necessary action in accordance with the provision specified in MSSY Scheme and relevant provisions of RE Regulations notified by the Commission.

- 4.7. The Petitioner has also requested the Commission to fix the gross generic tariff of Rs. 4.49/kWh or as per gross generic tariff for Solar PV Plants decided by the Commission for FY 2023-24, whichever is higher and subsequently fix such tariff for period of three years.

In the matter, UPCL submitted that Regulation 11 of RE Regulations, 2018 provides for annual revision of benchmark capital cost of solar energy based power plants considering the fact that the solar PV technology has witnessed continuous improvements over the period of time and this fast changing technology and its costs needs to be assessed on annual basis so that at one end the RE power could be promoted but at the same time common consumers are not unnecessarily burdened. Further, fixation of tariff, i.e. Rs. 4.49/kWh or as determined for FY 2023-24 whichever is higher for upcoming three years may result in a situation where simultaneously two benchmark tariffs will prevail and that too when installation period for both the types will be same. This situation may discriminate two set of generators who belong to the same State and decides to install plant at the same point of time but their tariffs will be grossly different.

In the matter, the Commission analysed the MSSY Scheme and observed that Point 7(6), i.e. '*Miscellaneous*' of the Scheme explicitly mentions that generic tariff determined

by the Commission for financial year in which date of commercial operation falls, shall be the tariff for UPCL to procure power generated from the solar power plant allotted to the beneficiaries under the scheme.

Further, the Commission agrees with the comments of the Respondent. The Commission annually determines the generic levelized tariff for solar energy based power plants considering the applicable financial parameters and market price of modules. Further, it would be inappropriate to have different tariff rates for solar power plants installed under different schemes under Type-V of the Solar Policy, 2023 having similar technology and financial parameters.

Based on the above discussion and taking cognizance of the provisions specified under MSSY Scheme w.r.t. applicability of Tariff, the Commission observes that the proposal of the Petitioner for fixation of higher of the gross generic tariff of Rs. 4.49/kWh applicable for FY 2022-23 or gross generic tariff to be determined for FY 2023-24 does not hold any merit. The GoUk vide its notification dated 13.03.2023 amended the MSSY Scheme so as to allot solar power plants of capacity 50/100/200 kW in addition to solar plants of 20/25 kW capacity. Hence, the levelised generic tariff specified by the Commission for Solar PV Plants for FY 2023-24 of Rs. 4.64/kWh shall be applicable till three years, i.e. till 31<sup>st</sup> March, 2026 for projects to be allotted under MSSY Scheme so as to address the concern of the proposed generators/investors regarding change in tariff in case of any slight delay due to force majeure conditions and also to prevent any delay on their part in expectation of higher tariffs in future. Thereafter, tariff as applicable for the year of commissioning shall be applicable. UREDA is also advised to ensure that the allottees of the projects commission their projects within the timelines and also render full support to them to ensure timely commissioning of the projects.

5. Ordered Accordingly.

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

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