

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 19 of 2020

In the Matter of:

Application seeking approval of the Commission for investment on Under grounding of HT & LT Electrical Networks in Haridwar Town under IPDS Program- a flagship program of Ministry of Power under Govt. of India (GoI).

And

In the Matter of:

Uttarakhand Power Corporation Ltd.,
VCV Gabar Singh Bhawan, Kanwali Road,
Dehradun.

...Petitioner

Coram

Shri D.P. Gairola Member (Law)

Shri M.K.Jain Member (Technical)

Date of Order: December 08, 2020

ORDER

This Order relates to the Petition filed by Uttarakhand Power Corporation Limited (hereinafter referred to as "UPCL" or "the Petitioner" or "the licensee") seeking approval of the Commission for investment on the Under grounding of HT & LT Electrical Networks in Haridwar Town under IPDS Program Ministry of Power, Govt. of India (GoI).

Background & Submissions

2. The Petitioner vide its letter No. 1167/UPCL/Com/RM-6 (IPDS_UG_HR)/D(F) dated 12.05.2020 submitted its Petition for investment approval under the provisions of the Clause 11 of Distribution and Retail Supply Licence and Clause 40 of UERC (Conduct of Business) Regulations, 2014.
3. The Petitioner has filed its Petition under following legal Provisions: -

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1. **Specific Legal Provision under which Petition is being filed:**

That present petition is filed under the following provisions:

- (i) *Hon'ble UERC has issued a Distribution and Retail Supply License to the applicant on 20th June, 2003, the clause 11 of the said license stipulates that the licensee shall make an application to the Hon'ble Commission for obtaining prior approval of the Commission for schemes involving major investments as per procedure which the Commission may specify from time to time. Here, major investment means any planned investment in or acquisition of distribution facilities, the cost of which, when aggregated with all other investments or acquisitions (if any) forming part of the same overall transaction equals or exceeds Rs. 250.00 lacs.*
- (ii) *Clause-40 of Uttarakhand Electricity Regulatory Commission (Conduct of Business) Regulations, 2014 stipulates that licensee shall obtain prior approval of the Commission for making investment in the licensed business if such investment is above the limits laid down by the Commission in the Licensee Conditions."*

4. The Petitioner under the facts of the case has submitted that: -

- (1) Government of India has launched Integrated Power Development Scheme (hereinafter referred to as "IPDS") for strengthening of sub-transmission and distribution network in the urban areas. The scheme also includes laying of under-ground cables in densely populated areas and areas of tourism and religious importance.
- (2) The Central Government has designated Power Finance Corporation as the Nodal Agency, for implementation of IPDS programme, under the guidance of Ministry of Power (MoP).
- (3) A Tripartite Agreement has been signed between Government of India through Power Finance Corporation, Uttarakhand Government and Uttarakhand Power Corporation Limited on 07th December-15. Moreover, recommendations of the Distribution Reforms Committee (DRC) have been taken as desired in IPDS Guidelines.

- (4) Detailed project report for Undergrounding and Strengthening of HT & LT Electrical Network in Haridwar Town was prepared following the PFC guidelines. A summary of the same is detailed below:-

Sl. No.	Work Description	Scope of major works of initial (1 st) approved DPR	Scope of major works of additional (2 nd) approved DPR	Total Scope of major works
1	Under grounding of all 33 KV lines and other related works under the project area	25 Kms	29 Kms	54 Kms
2	Under grounding of all 11 KV lines and other related works under the project area	62 Kms	60 Kms	122 Kms
3	Under grounding of all LT lines and other related works under the project area	70 Kms	70 Kms	140 Kms
4	Providing electricity supply to all street light point within the project area including heritage poles & meter	-	50 Kms 2000 Nos Lighting Point	50 Kms 2000 Nos Lighting Point
5	No. of CSS	26	12	38
6	RMUs	174	192	366
7	Proposed DPR Value	215.18 Cr.	215.88 Cr.	431.06 Cr.
8	DPR Value approved by Nodal Agency	188.75 Cr.	199.74 Cr.	388.49 Cr.

- (5) With regard to financing of the project, the Petitioner has submitted that 85% amount of the total project cost will be provided as GoI grant, which shall be released through M/s P.F.C Ltd, 10% of the total project cost have to be arranged by UPCL either from its internal resources or is to be raised from PFC/REC/or any other financial institution as a counterpart loan and rest 5% amount of the total project cost is to be arranged by UPCL from its own fund/source as per IPDS guidelines.

- (6) As per DPR, the project is to be executed in two Phases i.e. Phase-I (₹188.75 Cr) & Phase-II (₹199.74 Cr) and sanction for the same has been obtained from M/s PFC Ltd. totaling to an amount ₹388.49 Cr.
5. The Petitioner in its Petition has enclosed certified True Copy of the resolution passed by UPCL's Board of Directors for the project in 90th BoD meeting held on 19.06.2019. Further, Petitioner has submitted that Haridwar being an important religious place and in view of upcoming KUMBH Mela in 2021, the Petitioner has initiated the process for implementing the scheme. Accordingly, after finalization of the tender, the Petitioner had issued Letter of Intent (LoI) to M/s Vindhya TeleLinks Ltd. for Phase-I & Phase-II.
6. On examination of the Petition, it has been observed that UPCL had invited the bids of the proposed works on 01.01.2019 and issued LOIs for the Package-A and Package-B on 06.03.2019 & 28.05.2019 respectively to M/s Vindhya TeleLinks Ltd. and thereafter, filed the instant Petition before the Commission on 12.05.2020 for seeking investment approval in the matter i.e., after an elapse of more than one year. The Commission observed this act of UPCL as a clear non-compliance of the licence conditions, Regulations and directions of the Commission issued in this regard from time to time. Accordingly, the Commission vide its letter dated 08.06.2020 directed UPCL to explain the cause of the delayed filing despite numerous directions issued by the Commission in past and also directed it to furnish its reply explaining as to why its Petition should not be rejected for non-compliance of Distribution and Retail Supply Licence conditions, Regulations and Commission's directions issued from time to time.
7. In compliance to the Commission's letter dated 08.06.2020, UPCL vide its letter dated 28.07.2020 submitted that:-

"...The approval was accorded by BOD, UPCL on dated 19.06.2019. However, the MOM of the BOD was issued on dated 19.07.2019.

In the meantime, site survey was carried out by the PMA and BOQ for tendering was finalized in December 2019. Therefore, keeping in view the applicability of Code of Conduct due to General Elections 2019, the tendering for the work was started in January, 2019 in order to save tender processing time and to ensure completion of the

project prior to start of holy event of Kumbh Mela 2021 as the work was to be carried out in Kumbh area of Haridwar town. The tendering was finalized by May, 2019. The completion period of the project was kept 18 months due to huge scope of work. Thus the project is scheduled to be completed by Nov, 2020 i.e. just before the holy event of Kumbh Mela, 2021. Had the tendering were not started in Jan 2019, it would have been very difficult to complete the work timely.

After receiving the MOM of BOD on dated 19.07.2019, the petition was prepared but due to some procedural delays and time consumed in confirming the right fee for the petition as recently, the fees and fines regulation was amended. It was not clear whether the percentage of 15% was to be taken on complete cost of project or only equity invested by UPCL, however, after due verification from Hon'ble UERC officials, the fee against the total cost was arranged and Accordingly the petition was filed on dated 15.05.2020."

8. Thereafter, the Commission vide its letter dated 11.08.2020 issued a notice for hearing on admissibility in the matter and fixed the same on **25.08.2020**. The hearing was held on the scheduled date and during the course of hearing, the licensee reiterated its submissions made in the Petition and elaborated the reasons for the undue delay incurred in filing of the instant Petition. During the hearing, the Commission allowed to admit the Petition in the interest of electricity consumers of the State as well as of the Distribution licensee and reprimanded the licensee that it should strictly adhere to the provisions of the Regulations & Licence conditions and cautioned the licensee that any laxity on the same in future shall not be condoned.
9. Subsequently, the Commission directed UPCL vide its letter dated 29.10.2020 to make a Power Point Presentation on 20.11.2020 covering the various issues of the Petition viz. scope of work and expenditure details, project schedule covering start date, end date and current status of various activities of the project, details of project financing and details of key riders of the funding agency, key benefits expected after implementation of the project, etc.
10. Accordingly, on 20.11.2020, a Power Point Presentation was presented by UPCL in the matter. During the presentation, the Petitioner submitted that Uttarakhand being a special category State is eligible for 85% grant from M/s Power Finance Corporation, New Delhi which is the Nodal Agency of Government of India for

the Integrated Power Development Scheme of MoP, GoI. Rest 15% is to be arranged by Discom through its own funds or financial institutions/Banks. An additional 5% grant [50% of total loan/own fund] is also admissible on achievement of prescribed milestones.

11. During the presentation, UPCL also highlighted the following key benefits of the project: -
- (1) Reduction in AT&C losses.
 - (2) Improvement in reliability of the power supply.
 - (3) Improvement in quality of supply like voltage level, PF etc.
 - (4) Lower maintenance cost.
 - (5) Less prone to the impacts of severe weather.
 - (6) Minimization of theft / pilferage & unaccounted usages.
 - (7) Prevention of the electrical accident / breakdowns etc.
 - (8) Decreased risk of fire. Overhead power lines can draw high fault currents from vegetation-to-conductor, conductor-to-conductor, or conductor-to-ground contact, which result in large, hot arcs.
 - (9) It will be beneficial for the safety of pilgrims visiting the Kumbh area of the town.
 - (10) Dismantling of existing overhead line will result in more space alongside the road and beautification of the area.
 - (11) Approximately 25 sq.km area shall be covered under the projects and approximately 24000 consumers shall be benefitted from the project.

Commission's Observations, Views & Directions: -

12. On examination of the Petition and subsequent submissions made by Petitioner made during the presentation following has been observed: -
- (1) In the instant case, UPCL has blatantly failed in adhering to the provisions of clause 11 of the Distribution and Retail Supply Licence dated 20.06.2003 and Regulation 40 of UERC (Conduct of Business) Regulations, 2014 and has filed a Petition before the Commission neither acknowledging the same nor has requested for condonation. Similar acts of the Petitioner have also been highlighted by the Commission in its past Orders and the Petitioner was categorically directed not to repeat such lapses in its future

submissions. Repetition of such act of the Petitioner clearly shows that it is not paying heed to the directives/advisories/reprimands of the Commission. Though the Commission has already expressed its serious concern in its admittance Order dated 25.08.2020 of the instant Petition, however, again cautions the Petitioner not to repeat such acts in future investment proposals else the Commission would take coercive action against the Petitioner under the provisions of the Act/Regulations/Licence conditions.

- (2) With regard to the explanation furnished by the Petitioner against the delay in filing of the Petition wherein, UPCL has tried to justify the delay stating the baseless reasons viz. confirmation of filing fee and other procedural delays, the Commission expresses its deep concern over the lackadaisical approach of the licensee in ensuring the compliance and warns the Petitioner that such indifferent approach of the Petitioner towards ensuring the compliance shall not be accepted in future.
- (3) The entire project of under grounding and strengthening of HT & LT electrical network in Haridwar town is to be executed in Phase-1 & Phase-2 for which the cost sanctioned by Power Finance Corporation (PFC) was ₹188.75 Crore & ₹199.74 Crore respectively. Subsequently, post selection of the lowest bidder, the contract was awarded to M/s Vindhya TeleLinks Ltd. in two packages i.e. Package-A & Package-B as detailed below: -

<i>Amount in ₹</i>				
Sl. No.	Description	Total amount as per award for Package-A	Total amount as per award for Package-B	Total
1	Supply of material	1,01,21,82,401.80	1,07,71,59,824	2,08,93,42,225.80
2	Installation, Testing, Commissioning, Transport, Insurance & other incidental services	33,47,64,141.77	31,74,78,137	6,52,24,2,278.77
Grand Total		1,34,69,46,543.57	1,39,46,37,961	2,74,15,84,504.57

Further, in addition to the above, UPCL awarded additional contract for ₹13,37,96352.33 and ₹13,67,99,319.93 under cost/quantity variation to M/s Vindhya TeleLinks Ltd. for Package-A & Package-B respectively. Hence, the total amount of contract issued to M/s Vindhya TeleLinks Ltd. including additional contract amount for cost/quantity variation is **₹3,01,21,80,177.00 (₹1,48,07,42,896.00 for Package-A + ₹1,53,14,37,281.00 Package-B).**

13. Further, on detailed examination of the Petition, following has been observed: -

- (1) As per Fund Disbursement Guidelines for the Implementation of Integrated Power Development Scheme (IPDS), any slackness in implementation of the scheme will have an impact on the Petitioner's financial position. The same has been elaborated at clause 15 of the aforesaid guidelines, which stipulates that:

"15 Pre Closure/Recall of Grant:

15.1 In case the utility fails to submit the Project Completion Certificate within a period of one year from the approved project completion date (approved by Monitoring Committee), or not completed project within project completion date due to poor progress, the Nodal Agency shall send a team suo-moto to assess the works and expenditure and submit its recommendation to the Monitoring Committee for closure and also refund of excess grant by utility if any released against the project.

15.2 In case the utility fails to award the project within nine months from release of first tranche of grant component viz. 10% the project will be deemed as closed/cancelled and the grant component released shall be refunded by the utility within three months.

15.3 In case the utility fails to refund the grant as in above cases, the Nodal Agency has the right to adjust the already released grant against future releases of grant pertaining to other approved projects under the scheme. If there are no such eligible future releases, the same shall be adjusted against the Central Plan Assistance for the state by Govt. of India."

- (2) Further, the additional grant (50% of loan / own fund i.e. 5% of the total cost for special category states) under the Scheme will be released subject to achievement of specified milestones.

Therefore, the Commission firmly opines that the Petitioner should put its all endeavor to achieve maximum benefit from the Integrated Power Development Scheme (IPDS).

14. The Commission acknowledges that with implementation of the proposed works under the Scheme would bring an overall improvement in quality and reliability of power in the Haridwar Town area covered under the Project. However, the Commission cautions the Petitioner that albeit underground system provides the benefits as mentioned in para 11 above, it may pose immense challenges with respect to Operation & Maintenance of the underground system in case of break downs. Therefore, the Commission opines that the licensee should ensure the compliance of relevant standards and the Project should be executed with due diligence so that minimal incidents of break downs/fault occurrences/hindrances are faced during operation and maintenance of the underground electrical network.
15. Further, the Commission is of the strong view that schemes like IPDS, which provides grant from Central Government should be availed/encouraged in the State, as it not only provides early availability of funds but also it is an initiative to modernize and renovate the sub-transmission & distribution electrical network which ultimately helps in providing reliable & quality power supply to consumers in an efficient and sustainable manner. However, the Commission cautions the Petitioner that if such schemes are not implemented in the right earnest/intent and within the specified time schedule then it would result in recalling of grant as mentioned in para 13 (1) above. Hence, any adverse financial impact on the Petitioner on account of such reasons shall not be allowed as a pass through in the tariffs.
16. Therefore, considering the submissions made by the Petitioner, the Commission hereby grants in-principle approval to the Petitioner for going ahead with the proposed works pertaining to undergrounding of HT & LT Electrical Networks in Haridwar Town under IPDS Program subject to fulfillment of the following conditions:
 - (1) Any slackness in the part of Petitioner which results in disallowance of issuance of additional 5% grant from the PFC shall be treated as laxity on its part and shall not be allowed as pass through in tariff.

- (2) All the loan conditions as may be laid down by the funding agency i.e. PFC in their detailed sanction letter should strictly be complied with. However, the Petitioner is directed to explore the possibility of swapping the loan with cheaper debt option if any, available in the market.
- (3) The Petitioner shall, within one month of the Order, submit letter from the State Government or any such documentary evidence in support of its claim for equity funding agreed by the State Government or any other source in respect of the said works.
- (4) All the terms and conditions of tripartite agreement amongst PFC, GoU and UPCL dated 07.12.2015 including obligations/commitments should be strictly complied with by the Petitioner.
- (5) On completion of the project, the Petitioner shall submit the completed cost of each of the works.
- (6) The additional cost burden due to any failure on the part of Petitioner in achieving the targets, if any, arising out of the cost or time over runs or variation in scope of work under the project or on any other account may not be allowed by the Commission in the Annual Revenue Requirement of the licensee.

Ordered accordingly.

(M.K. Jain)
Member (Technical)

(D.P. Gairola)
Member (Law)