

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 27 of 2017

In the matter of:

Application seeking prior approval of the Commission on the Draft Power Purchase Agreement between Uttarakhand Power Corporation Ltd. and M/s Mittal Processors Pvt. Ltd. (MPP Ltd.), M/s GMR Energy Trading Ltd. (GMRET Ltd.) and M/s Tata Power Trading Company Ltd. (TPTC Ltd.) for procurement of Non-Solar RE Energy on Short term basis.

In the matter of:

Uttarakhand Power Corporation Ltd. ... Petitioner

In the matter of:

M/s Mittal Processors Pvt. Ltd.

M/s GMR Energy Trading Ltd.

M/s Tata Power Trading Company Ltd. ... Respondents

CORAM

Shri Subhash Kumar Chairman

Date of Hearing: May 2, 2017

Date of Order: May 16, 2017

This Order relates to the Petition filed by Uttarakhand Power Corporation Ltd. (hereinafter referred to as "UPCL" or "Petitioner") seeking approval of three draft PPAs to be executed for short term purchases with M/s Mittal Processors Pvt. Ltd. (MPP Ltd.), M/s GMR Energy Trading Ltd. (GMRET Ltd.) and M/s Tata Power Trading Company Ltd. (TPTC Ltd.).

1. Petitioner's Submissions

- 1.1. The Licensee under Section 86(1)(b) of the Electricity Act, 2003 and in accordance with Regulation 74(1) of the UERC (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2015, Regulation 39(3) of the UERC (Conduct of Business) Regulations,

2014, Regulation 9 of the UERC (Tariff and Other Terms for Supply of Electricity from Non-conventional and Renewable Energy Sources) Regulations, 2013 & Chapter-II of the Uttarakhand Electricity Regulatory Commission (Conduct of Business) Regulations, 2014 filed a Petition dated 12.04.2017 seeking approval of the Commission on the Draft Power Purchase Agreement.

- 1.2. The aforesaid PPAs are being executed by UPCL for procurement of Non-Solar Renewable Energy on short term basis with M/s Mittal Processors Pvt. Ltd. (MPP Ltd.), M/s GMR Energy Trading Ltd. (GMRET Ltd.) and M/s Tata Power Trading Company Ltd. (TPTC Ltd.)
- 1.3. The Petitioner submitted that it has to fulfill RPO for FY 2016-17 as per the Commission's directions in Order dated 12.01.2017. In the compliance of the same, UPCL submitted an action plan for FY 2016-17 which was around 1000 MU. UPCL proposed to meet its unmet demand of renewable energy source in 10 months instead of achieving it on or before 31.03.2017 so as to avoid financial impact on UPCL.
- 1.4. The Petitioner submitted that M/s Mittal Processors Pvt. Ltd. (M/s MPP Ltd), M/s Manikaran Power Ltd., M/s GMRETL and M/s APPCPL informed it that Himachal Pradesh State Electricity Board Ltd. had floated a tender for sale of Non-Solar Power for the period 16.04.2017 to 20.09.2017 and offered UPCL the same. Only M/s Mittal Processors Pvt. Ltd. had offered no trading margin in addition to energy charges from UPCL. UPCL provided the rate for bidding @ Rs. 4.22/kWh at Himachal State Periphery to M/s MPP Ltd. for purchase of power. UPCL intimated that M/s MPP Ltd. has successfully secured 50 MW Non-Solar RE power at the above mentioned rate.
- 1.5. The Petitioner further submitted that so as to fulfill pending RPO compliances, it had floated a tender dated 16.12.2016 for the requirement of 150 MW each month in FY 2017-18.
- 1.6. That after evaluation of the tender, M/s GMRET Ltd. and M/s TPTC Ltd. has been selected as the successful bidders for supply of power. UPCL issued LoI dated 31.03.2017 to the successful bidders at the following rate and quantum:

Month	Delivery point	M/s GMRET Ltd.		M/s TPTC Ltd.	
		Quantum of Power (MW)	Rate (Rs./kWh)	Quantum of Power (MW)	Rate (Rs./kWh)
Apr,17 to Oct, 17	State Periphery	24 plus overload	4.58	24 plus overload	4.42
Nov, 17 to Feb, 18			4.60		4.42
Mar, 18			4.58		4.42

1.7. UPCL submitted that it desired to purchase the energy from M/s Mittal Processors Pvt. Ltd., M/s GMR Energy Trading Ltd. and Tata Power Trading Company Ltd. on the terms and conditions as agreed between both the parties as per the terms and condition laid down in the respective draft Power Purchase Agreement. In this regard, UPCL also submitted copies of the Draft Power Purchase Agreements to be entered into with the Respondents.

2. Commission's Views & Decisions

2.1. Legal Requirement for approval of PPA

2.1.1. A PPA 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 function 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.

....”

2.1.5. In accordance with the RE Regulations, 2013 licensee is required to comply with the renewable purchase obligation as provided in the Regulations.

2.1.6. Ministry of Power vide its notification dated 30.03.2016 issued “Guidelines for short-term (i.e. for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process”. Clause 4.1 of these guidelines provides that:

*“The Procurer(s) shall procure short term power **as per the plan approved by Appropriate Commission or appropriate body** as may have been constituted for the purpose by the Appropriate Commission. In such case the Distribution Licensees will intimate about the initiation of the procurement process to the Appropriate Commission.”*

In addition, Regulation 72 & 73 of the UERC (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2015 also provide for preparation of power procurement plan by discom and approval of the same by the Commission.

2.1.7. Clause 11.4 of the MoP guidelines provides that:

“If the quantum of power procured and tariff determined are within the blanket approval granted by the Appropriate Commission in Annual Revenue Requirement (ARR) of the respective year, then the same will be considered to have been adopted by the Appropriate Commission.”

The Commission while approving UPCL’s power purchases in its Tariff Order dated 29.03.2017 has specified the ceiling rate for procurement of non-solar power for fulfillment of UPCL’s RPO compliances as Rs. 4.75 per unit at the State periphery.

2.1.8. Since the quantum and rate of short-term non-solar RE as being procured from M/s Mittal Processors Pvt. Ltd., M/s GMR Energy Trading Ltd. and M/s Tata Power Trading Company Ltd., as submitted by the Petitioner, are within the aforesaid

specified limits both in terms of quantum & per unit cost, hence, in accordance with the above condition of the MoP guidelines, the same is being considered and adopted by the Commission.

2.1.9. The draft PPAs submitted by UPCL has been examined in light of the relevant rules & regulations. The Commission observed that clause 2 in the draft PPA submitted by UPCL is inconsistent with the provisions of the Act/Regulations. Hence, UPCL is required to take note of the same and incorporate necessary corrections in the respective draft PPAs while executing the PPA with all the traders as given below.

(a) The following para shall be inserted after clause 2, i.e. "Tariff Structure and Delivery Point" of all the three draft PPA:

"If the power is being supplied through alternate source, any additional charges and losses, if any, due to cancellation of existing corridor and booking of new corridor etc., shall be to the account of(name of supplier/trader). Power from alternate source should be of same nature."

2.1.10. All the blank spaces/annexure in the draft PPAs needs to be completed while signing the final PPAs between the Petitioner and the Respondents.

2.1.11. Ordered accordingly.

(Subhash Kumar)
Chairman