

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the matter of:

Application seeking prior approval of the Commission on the Draft Power Purchase Agreement for short term between Uttarakhand Power Corp. Ltd. and M/s Manikaran Power Ltd.

In the matter of:

Uttarakhand Power Corporation Limited

... Petitioner

CORAM

Shri Subhash Kumar Chairman

Shri K.P. Singh Member

Date of Order: September 6, 2016

This Order relates to the Petition filed by Uttarakhand Power Corporation Ltd. (hereinafter referred to as “UPCL” or “Petitioner” or “Licensee”) seeking approval of Draft Power Purchase Agreement for short term between Uttarakhand Power Corp. Ltd. and M/s Manikaran Power 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 & Chapter-II of the Uttarakhand Electricity Regulatory Commission (Conduct of Business) Regulations, 2014 submitted a Petition dated 25.07.2016 seeking approval of the Commission on the Draft Power Purchase Agreement for short term basis with M/s Manikaran Power Ltd.
- 1.2. The Petitioner submitted that for procurement of short term power in the month of July, August and September, 2016, a tender was floated on 23.06.2016. The licensee submitted the details of quantum of power required which are as follows:

Month	Quantum		
Jul-16	150 MW 00:00 to 24:00	200 MW 07:00 to 11:00	200 MW 19:00 to 22:00
Aug-16	150 MW 00:00 to 24:00	200 MW 07:00 to 12:00	200 MW 18:00 to 21:00
Sep-16	100 MW 00:00 to 24:00	200 MW 07:00 to 10:00	200 MW 18:00 to 21:00

- 1.3. The licensee submitted that after evaluation of the tender, M/s Manikaran Power Ltd. was selected as the successful bidder for supply of power on the following rates and quantum:

Quantum (MW)	Month	Timings	Rate (Rs./kWh)	Source/Region
100	Jul-2016	00:00 to 24:00	3.13	VS Lignite(NR)
100	Aug-2016	00:00 to 24:00	3.13	VS Lignite(NR)
100	Sep-2016	00:00 to 24:00	3.13	VS Lignite(NR)

- 1.4. UPCL issued LoI to M/s Manikaran Power Ltd. vide its letter dated 04.07.2016.
- 1.5. UPCL submitted that it desired to purchase the energy from M/s Manikaran Power Ltd. on the terms and conditions as agreed between both the parties as per the terms and condition laid down in draft Power Purchase Agreement. In this regard, UPCL also submitted a copy of the Draft Power Purchase Agreement to be entered with M/s Manikaran Power Ltd.

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 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. 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 and approval of the same by the Commission. However, till date, no such power procurement plan has been submitted by the licensee despite explicit provisions of the regulations and categorical directions by the Commission in this regard.

2.1.6. 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 05.04.2016 has approved purchase of 2670 MUs of deficit power @ ₹ 3.64 per unit for FY 2016-17. It is apparent that the quantum and rate of short-term power procurement from M/s Manikaran Power 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.

- 2.1.7. The draft PPA has been examined which is in accordance with the Regulations. However, compliance of the guidelines issued by the MoP including the one mentioned in Para 2.1.5 above is mandatory for all short-term procurements of power by the Petitioner in future.
- 2.1.8. Ordered accordingly.

(K.P. Singh)
Member

(Subhash Kumar)
Chairman