Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 23 of 2013

In the Matter of:

Application filed by UPCL for approval of procurement of 200 MW (+/- 20%) power on Medium term basis with respect to Guidelines for Determination of Tariff by Bidding Process by Distribution Licensee as notified by MoP Govt. of India vide No. 23/11/2004-R&R dated 19.01.2005 and its amendments from time to time.

AND

In the Matter of:

Uttarakhand Power Corporation Limited. … Petitioner

Coram

Shri Jag Mohan Lal **Chairman**
Shri C.S. Sharma **Member**

Date of Order: January 08, 2014

ORDER

This Order relates to the Petition filed by Uttarakhand Power Corporation Limited (hereinafter referred to as "UPCL" or "Petitioner" or "licensee") for approval of procurement of 200 MW (+/- 20%) power on Medium term basis for three years w.e.f 01.04.2014 under Case-1 bidding procedure for meeting its base load power requirement.

The procurement is proposed to be done in accordance with "Guidelines for Determination of Tariff by Bidding Process for procurement of power by Distribution Licensees" hereinafter referred to as "Guidelines" issued by Govt. of India Ministry of Power and as amended from time to time.

2. Earlier, UPCL had filed an application for seeking deviations in RFP document for procurement of 300 MW(+/-20%) of power for 05 years under Case-1 bidding procedure, commencing from 01.04.2014.

3. According to the Petitioner the Clause 3.1(i) of the Bidding Guidelines requires that the bidding documents are to be prepared in accordance with the said guidelines, however any deviations in the Standard Bidding Document issued by the Central Government can only be made with prior approval of the appropriate Regulatory Commission.

4. The Petitioner has stated that Standard RFP provides for submission of Financial as well as Non-financial bids in hard copy in paper envelops. However, UPCL has decided to accept the financial bid through e-tendering mode only while Non-financial bid would continue to be accepted in hard copy. Accordingly, Petitioner has stated that it requires approval of the Commission to make changes in the relevant clauses of Standard RFP to this extent only.

5. With regard to the quantum of 300 MW of power to be procured through Case-1 bidding procedure, UPCL had referred to the following provisions of the Bidding Guidelines:

"3. Preparation for inviting bids

3.1 To expedite the bid process, the following conditions shall be met by the procurer:

(i)…

(ii)…

(iii) Approval of the Appropriate Commission shall be sought prior to initiating the bidding process in respect of the following aspects:

For the quantum of capacity/ energy to be procured, in case the same is exceeding the projected additional demand forecast for next three years following the year of expected commencement of supply proposed to be procured. Such demand forecast shall be based on the latest available(at the time of issue of RFQ) Electric Power Survey published by Central Electricity Authority (both for Case-1 and Case-2)."

6. According to the Petitioner the additional demand forecast as per the draft 18th EPS is as under:

Procurement Year/FY	**2013-14**	**2014-15**	**2015-16**	**2016-17**	**2017-18**	**2018-19**
Additional Demand Forecast	376	384	393	400	424	449

7. According to the Petitioner as the quantum of procurement of 300 MW does not exceed the additional demand forecast for next three years from the expected commencement of supply i.e. 01.04.2014 hence as per the aforesaid clause it is not required to seek approval for procurement of said quantum of power.

8. The Petitioner in the said petition has prayed the Commission to allow the proposed deviations in the RFP. This contention of the Petitioner is not valid as if does not take in to account improvement in availability from firm sources during these years. Mere increases in demand cannot be a basis for procurement of medium or short term power.

9. The Commission vide its letter dated UERC/Misc.APP.NO.03/2013/85 dated 12.04.2013 made it very clear to the Petitioner that as per condition 5.4 of the Distribution and Retail Supply Licence [Licence No. 2 of 2003], prior to purchase of **additional** power i.e. quantum of power required to be purchased by the licensee over and above the power available to the licensee from Central and State generating stations allocations, free share allocation and other firm sources, they require to seek authorization from the Commission duly justifying that such additional power is necessary to meet the licensee's service obligation under the Electricity Act, 2003 and the conditions of the Licence. UPCL was directed to submit

a comprehensive report justifying the need for purchase of additional power including year wise projection of overall availability (source wise), licensee's unrestricted requirement/demand of power, deficit, if any, etc.

10. In compliance of the above directives of the Commission, UPCL submitted a report justifying the need for purchase of 300 MW of power for medium term. The report included month-wise and year-wise projections of restricted and unrestricted demand, source-wise overall availability and estimates for demand deficit and quantum of power to be procured.

11. The deficiencies/shortcomings were informed to the licensee vide Commission's letter dated 27.06.2013. The same are reproduced below:

   "1 Methodology for estimation of category-wise monthly Restricted Sales for each year i.e. FY 2014-15 to 2018-19 is not included in the proposal

   2. Methodology for estimation of monthly Un-restricted sales for each year FY i.e. 2014-15 to FY 2018-19 is also found missing

   3. Submit the basis for consideration of minimum off-take of 75% for estimating deficit in MW

   4. In your business plan for the period FY 2013-14 to 2015-16 and also in para 4.5 of volume-1 of the report, the availability has been projected based on the excepted CoD, expect PLF and after taking into account norms of auxiliary consumption and State share. However, further in your submission vide para 4.6 of volume 1 you have gone ahead and projected revised availability from new Stations applying some probability factor on the previously worked out estimated availability as per para 4.5 of your submission discussed above. In the absence of any justification you are required to clarify on this new approach which was not even proposed in your business plan for the control period FY 2013-14 to 2015-16.

   5. Sales for FY 2010-11& 2011-12 as shown at page 9 of your rep[ort and shown at page 12 of your report are different. Reason for the same be indicated."

12. UPCL vide its letter dated 11.07.2013 submitted its reply on the deficiencies/shortcomings pointed out by the Commission. Finding the reply ambiguous, the same was returned in original to UPCL. The Commission further directed MD,UPCL to depute an officer not below the rank of Chief Engineer (Commercial), for discussion with the concerned Officers of the Commission on the deficiencies earlier pointed in the proposal.

13. Thereafter, UPCL vide its letter dated 13.09.2013 submitted a revised proposal for procurement of 200 MW (+/- 20%) of power for 3 years w.e.f. from 01.04.2014 to be procured through Case-1 bidding procedure. Licensee has stated that the proposal is based on the methodology adopted by UPCL in its Business Plan for the first control period and Commission's MYT Order dated 06.05.2013. The Commission accordingly, decided to hold hearing in the matter on 28.10.2013 as part of the proceedings.

14. MD, UPCL along with other officers of UPCL appeared before the Commission on the stipulated date. The Commission asked UPCL to explain the manner of projecting deficit of average 230 MW for 3 financial years i.e. FY 2014-15, FY 2015-16, FY 2016-17 (term of power procurement). The Commission further observed that UPCL has projected deficit of 301 MW, 223 MW and 166 MW for FY 2014-15, FY 2015-16 and FY 2016-17 respectively and has accordingly derived annual average deficit for the period as 230 MW. The Commission does not accept the methodology proposed by the licensee for estimating the annual deficit. The Commission also inquired from UPCL whether the projected demand was restricted or unrestricted to which MD,UPCL informed the Commission that the said average deficit was derived from unrestricted demand. The Commission during the hearing asked MD,UPCL to ensure that from FY 2014-15 to 2016-17 there shall be no scheduled load shedding/power cuts in the State.

15. In the daily Order dated 29.10.2013 the Commission Ordered that:

"The Petitioners should submit details and basis of estimation of demand and availability for FY 2016-17 especially from new sources of power within a week of date of this Order."

16. UPCL vide its letter dated 06.11.2013 submitted a supplementary report with the revised deficit calculations for FY 2016-17. UPCL stated that the re-calculated deficit for FY 2016-17 was coming to 213 MW after excluding expected energy from Vyasi Hydro Electric Project of UJNN Ltd. which is excepted to be commissioned in the month of June 2017. On examination of the above report it was found that the basis of projection of energy availability from new sources of power for FY 2016-17 was based on "Broad Status Report of CEA". However, copy of any such report was not submitted or enclosed alongwith the report. Since the critical aspects of the directions issued in the aforesaid daily order could not be validated by the information submitted by UPCL, the Commission directed UPCL to submit relevant information/ documents for validating the energy availability from new sources of power for FY 2016-17.

17. UPCL vide letter dated 19.12.2013 submitted the relevant information/documents for validating the energy availability from new sources of power for FY 2016-17. According to UPCL the plants which are expected to be commissioned in the year 2016-17 are considered to be generating from the middle of the year. UPCL stated that it has no documentary evidence available to project energy availability for FY 2016-17 from 550 MW unit of Unchahar Stage-III project. However, for calculating the energy availability from the said unit, UPCL has considered its share in the plant as 4%, PLF as 85% and auxiliary consumption as 9%. For calculating energy availability from SHPs scheduled to commence generation in FY 2016-17 namely Kaliganga SHP, Badyar SHP, Jhala koti SHP, Kote Budha Kedar SHP, Khirao Ganga SHP, UPCL has considered PLF as 45% and auxiliary consumption as 1%. According to UPCL the expected energy availability from these plants shall be approximately 108 MU during FY 2016-17.

18. As these projections are for FY 2016-17 substantial variations in actual and projections cannot be ruled out. Based on historical data it is more likely that slippage occur rather than improvement in the status or pre-ponement of commissioning schedules of these upcoming projects. The report filed by the Petitioners of CEA does not mention commissioning schedule of power plants and hence does not support their projections. Present indications of schedule of commissioning of these projects appear to be later than that assessed by the Petitioner. Thus, their projection of more than 200 MW expected shortfall appear to be reasonable for FY 2016-17.

19. Based on the above discussions the Commission hereby allows UPCL to procure 200 MW (+/- 20%) power on Medium term basis for three years w.e.f 01.04.2014 under Case-1 bidding procedure for meeting its base load power requirements in accordance with the "Guidelines" issued by Govt. of India, Ministry of Power and as amended from time to time. The Commission also permits deviations of seeking financial bids through e-tendering as sought by the Petitioner subject to UPCL adhering to the guidelines of CVC on e-procurement. This Approval is subject to the Petitioner ensuring that all provisions of "Guidelines" are fully complied with except for deviation permitted hereto above.

(C.S. Sharma) **Member**	**(Jag Mohan Lal)** **Chairman**